

**Laws 2020 (1st S.S.)**

**1st Special Session, Fifty-Fourth Legislature**



# LAWS 2020 (1ST S.S.), CHAPTER 1

House Bill 5, aa, w/ec  
Approved June 26, 2020

## AN ACT

RELATING TO CIVIL RIGHTS; CREATING THE NEW MEXICO CIVIL RIGHTS COMMISSION; PROVIDING RECOMMENDATIONS ON A PRIVATE RIGHT OF ACTION FOR VIOLATIONS OF STATE CONSTITUTIONAL RIGHTS; PROVIDING RECOMMENDATIONS FOR THE USE OF QUALIFIED IMMUNITY; REQUIRING A REPORT BY NOVEMBER 15, 2020; DECLARING AN EMERGENCY.

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

### Chapter 1 Section 1 Laws 2020 (1st S.S.)

SECTION 1. TEMPORARY PROVISION--NEW MEXICO CIVIL RIGHTS COMMISSION--APPOINTMENT--PROVIDING RECOMMENDATIONS--REPORTING REQUIRED.--

A. The "New Mexico civil rights commission" is created and shall function from the date of its appointment until March 31, 2021.

B. The New Mexico civil rights commission consists of nine members, no more than five of which shall be from the same political party, appointed as follows:

- (1) the governor shall appoint three members;
- (2) the New Mexico legislative council shall appoint six members; and
- (3) the appointing authorities shall make every effort to ensure economic, geographic, gender, cultural and racial diversity among the appointed members as well as at least one member experienced in law enforcement.

C. The commission shall elect a chair and may elect such officers as it deems necessary to carry out its duties.

D. Two absences from meetings of the commission constitutes grounds for removal of a member of the commission. Upon the request of the chair of the commission, the appointing authority shall replace the member who has failed to attend two meetings of the commission.

E. A majority of the members appointed constitutes a quorum for the transaction of business. The support of a majority of the members appointed is required for adoption of any action by the commission.

F. The members of the commission shall review policies and develop policy proposals for laws for the creation of a civil right of action for the deprivation, by a public body or a person acting on behalf of or under the authority of a public body, of any right, privilege or immunity secured by the constitution of New Mexico. The commission shall consider whether such right of action shall provide for monetary damages, including punitive damages, and other equitable relief, including injunctive relief. The commission shall consider whether attorney fees shall be mandated for a prevailing plaintiff, the statute of limitations for the right of action and indemnification of employees of a public body in cases involving the right of action.

G. The commission shall review the use of qualified immunity as a defense to liability by an employee of a public body for a claim that would be brought either under 42 U.S.C. Section 1983 or pursuant to the right of action considered by the commission in Subsection F of this section.

H. The commission shall review and assess the need for and costs of additional insurance policies for public employees and public bodies, or for persons acting on behalf of or under the authority of public bodies, if the policies or laws proposed pursuant to Subsections F and G of this section are adopted.

I. The commission shall submit a report of its findings, including specific recommendations and proposed legislation, to the governor, the New Mexico legislative council and the appropriate legislative interim committee dealing with courts, corrections and justice by November 15, 2020.

J. The commission may hire or contract for appropriate staff. Staff shall assist the commission as directed by the chair, including conducting interviews with parties that wish to express their views to the commission and synthesizing this information for the commission. The commission may request assistance from the legislative council service and the risk management division of the general services department.

K. Members of the commission are entitled to compensation pursuant to the provisions of the Per Diem and Mileage Act and shall receive no other perquisite, compensation or allowance.

L. As used in this section, "public body" means the executive, legislative and judicial branches of state and local governments and all advisory boards, commissions, committees, agencies or entities created by the constitution of New Mexico or any branch of government that receives public funding, including political subdivisions, special taxing districts, school districts and institutions of higher education.

## **Chapter 1 Section 2 Laws 2020 (1st S.S.)**

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

# LAWS 2020 (1ST S.S.), CHAPTER 2

Senate Bill 4, aa, w/o ec  
Approved June 26, 2020

## AN ACT

RELATING TO ELECTIONS; PROVIDING TEMPORARY PROCEDURES FOR THE CONDUCT OF THE 2020 GENERAL ELECTION; CREATING THE LEGISLATIVE ELECTORAL HEALTH AND SAFETY TASK FORCE TO AUTHORIZE EMERGENCY ACTIONS BY THE SECRETARY OF STATE UNDER CERTAIN CONDITIONS; ALLOWING VOTERS THAT ARE NOT AFFILIATED WITH A MAJOR POLITICAL PARTY TO CHANGE PARTY REGISTRATION AT A VOTING LOCATION BEFORE VOTING; PROVIDING FOR A DELAYED REPEAL.

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

### **Chapter 2 Section 1 Laws 2020 (1st S.S.)**

SECTION 1. Section 1-4-5.7 NMSA 1978 (being Laws 2019, Chapter 67, Section 1) is amended to read:

"1-4-5.7. REGISTRATION AT VOTING LOCATION PRIOR TO VOTING.--

A. Notwithstanding the provisions in Section 1-4-8 NMSA 1978 providing for the closing of registration prior to an election, a qualified elector seeking to register to vote or update an existing certificate of registration in the state shall be allowed to do so at a voting location immediately before voting in that election after signing an affidavit under oath that the elector has not voted in the election in this state or elsewhere, and as further provided in this section.

B. During a statewide election, a qualified elector may register to vote or update an existing certificate of registration 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; provided that if the county clerk establishes an additional alternate voting location near the clerk's office in lieu of voting at the office of the county clerk, a qualified elector may register to vote or update an existing certificate of registration at that location during the regular hours and days of business beginning on the twenty-eighth day preceding the election and during the hours for voting at alternate voting locations commencing on the third Saturday prior to the election through the Saturday immediately prior to the election.

C. During a statewide election, a qualified elector may register to vote or update an existing certificate of registration at an alternate voting location only if the county clerk has assigned a county clerk employee to be the clerk's authorized deputy

to serve as a registration officer at the alternate voting location; provided that ninety days before the election, the county clerk shall post the location of each alternate voting location where a qualified elector may register to vote or update an existing certificate of registration immediately before voting.

D. Beginning January 1, 2021 and upon the approval of the voting system certification committee, during a statewide election, a qualified elector may register to vote or update an existing certificate of registration at an election day voting location; provided that the secretary of state shall establish procedures to ensure that a registration officer has an opportunity to review the information of a qualified elector who registers to vote or updates an existing certificate of registration immediately before the qualified elector votes on election day.

E. A voter whose political party affiliation on the voter's certificate of registration is with a major political party shall not be allowed to change party affiliation when updating an existing certificate of registration or registering to vote at an early voting site or polling place during a primary election.

F. During a special election, a qualified elector may register to vote or update an existing certificate of registration at the county clerk's office during the regular hours and days of business beginning on the twenty-eighth day preceding the election until the last regular business day the week prior to the date of the election.

G. A qualified elector seeking to register to vote or update an existing certificate of registration immediately before voting shall provide:

(1) a New Mexico driver's license or New Mexico identification card issued through the motor vehicle division of the taxation and revenue department;

(2) any document that contains an address in the county together with a photo identification card; or

(3) a current valid student photo identification card from a post-secondary educational institution in New Mexico accompanied by a current student fee statement that contains the student's address in the county.

H. If an early voting site or polling place does not have real-time access to the statewide electronic voter file, a voter desiring to update an existing certificate of registration or to register to vote shall be issued a provisional ballot.

I. No later than June 30, 2021 and upon the approval of the voting system certification committee, the secretary of state and the secretary of taxation and revenue shall develop a procedure for importing the list of eligible but unregistered persons with a driver's license or state-issued identification card into the voter registration electronic management system prior to an election to facilitate processing a new voter registration pursuant to this section."

## Chapter 2 Section 2 Laws 2020 (1st S.S.)

SECTION 2. A new Section 1-12-72 NMSA 1978 is enacted to read:

"1-12-72. CONDUCT OF ELECTION--2020 GENERAL ELECTION--SPECIAL PROVISIONS AND CONTINGENCIES.--

A. This section regulates the conduct of the 2020 general election. To the greatest extent possible, the provisions of this section are to be read as supplemental to and in harmony with the provisions of the Election Code; provided, however, that if a direct conflict exists with other provisions in the Election Code, the provisions of this section shall apply.

B. Each election day polling location established in the 2019 polling place resolution for each county or a location established by any subsequent amendment to such a resolution shall operate as a voter convenience center; provided that the secretary of state may authorize an election day polling location that is not located on Indian nation, tribal or pueblo land to operate as a mail ballot election precinct if:

(1) the county clerk has requested a written waiver from the requirements of this subsection at least ninety days before the general election; and

(2) the request is for a specific election day polling location that is unable to meet the data connectivity requirements for voter convenience centers or is located in a remote area of a county.

C. A polling place located on Indian nation, tribal or pueblo land shall not be closed or consolidated with other polling locations, nor shall the days and times of voting be modified, without the written agreement of the Indian nation, tribe or pueblo where the polling location is located. If, as a result of public health concerns, voters registered within the Indian nation, tribe or pueblo are unable to leave the Indian nation, tribe or pueblo during the time when voting occurs for the 2020 general election, regardless of whether voters residing outside the boundaries of the Indian nation, tribe or pueblo are able to access such polling locations, there shall be at least one polling location within the boundaries of the Indian nation, tribe or pueblo.

D. Each county clerk may automatically deliver to each mailable voter in the county a mailed ballot application. The determination by each county clerk to automatically deliver to each mailable voter in the county a mailed ballot application shall have been communicated in writing to the secretary of state no later than ninety days before the 2020 general election; provided that no county clerk is obligated to automatically deliver a mailed ballot application to each mailable voter of the county. If a county clerk automatically delivers to each mailable voter of the county a mailed ballot application, the applications shall be mailed beginning on the fiftieth day before the 2020 general election. As used in this subsection, a "mailable voter" is a voter of a county other than a voter:

(1) to whom a notice was sent pursuant to Subsection C of Section 1-4-28 NMSA 1978 in 2016, 2018 or 2020, and subsequent to the sending of the most recent notice:

(a) did not return the prepaid and pre-addressed return card provided pursuant to that section;

(b) has not filed a new or amended certificate of registration with a new address at which election-related mail is to be sent; or

(c) has not otherwise notified the secretary of state or county clerk of a desire to participate in the 2020 general election at the address of registration;

(2) who registered to vote on or before December 31, 2015, has not submitted a new certificate of registration at any time since January 1, 2016 and has not voted in any election since January 1, 2016; or

(3) whose ballot is delivered pursuant to the provisions of the Uniform Military and Overseas Voters Act or the Intimate Partner Violence Survivor Suffrage Act.

E. The secretary of state shall implement the United States postal service intelligent barcode system to be utilized on the envelope containing the unvoted mailed ballot sent to a voter and on the official mailing envelope for use by a voter to return the voted mailed ballot. In addition, each mailed ballot sent to a voter in the 2020 general election shall contain the following notice: "This ballot may be returned to the office of the county clerk or any open polling location in the county where you are registered to vote at any time up to and including the day of the general election. If this ballot is returned by mail, to ensure timely postal delivery to the county clerk, the ballot should be mailed no later than Tuesday, October 27, 2020."

F. An application for a mailed ballot from a voter who is not a federal qualified elector is timely if received by the county clerk no later than Tuesday, October 20, 2020. An application for a mailed ballot from a voter who is not a federal qualified elector that is received by the county clerk after Tuesday, October 20, 2020 shall be rejected, and if the application was received by the county clerk by Saturday, October 31, 2020, the county clerk shall within twenty-four hours of receipt of the application send a rejection notice to the voter that shall include a list of the early and election day polling locations in the county.

G. If the application for a mailed ballot from a voter who is not a federal qualified elector indicates that the mailed ballot is to be delivered to an address other than an address listed on the voter's certificate of registration, the county clerk shall prepare a notice of requested mailed ballot. The notice of requested mailed ballot shall inform the voter of the address to which the ballot was mailed along with the phone number of the county clerk's office and the internet address of the voter web portal provided by the secretary of state. The notice of requested mailed ballot shall be

delivered to the address provided on the voter's certificate of registration on the same day the county clerk delivers the mailed ballot to the address requested by the voter.

H. An application for a mailed ballot from a voter who is a federal qualified elector is timely if received by the county clerk no later than Tuesday, October 27, 2020; provided that the voter provides information permitting secured electronic delivery of the ballot to the voter. An application for a mailed ballot from a voter who is a federal qualified elector who does not provide information permitting secured electronic delivery of the ballot is timely if received by the county clerk no later than Tuesday, October 20, 2020.

I. To return a mailed ballot, each voter shall provide in the space provided for that purpose under the privacy flap of the official mailing envelope the voter's signature on a line located under the required attestation and the last four digits of the voter's social security number, which shall constitute the required voter identification. The attestation shall include the pre-printed name of the voter to whom the mailed ballot was sent. No additional information shall be required of a voter to return a mailed ballot.

J. Upon receipt of a mailed ballot, the county clerk shall remove the privacy flap to verify that the voter signed the official mailing envelope and confirm that the last four digits of the social security number provided by the voter matches the information on the voter's certificate of registration. If the signature is present and the last four digits of the voter's social security number match, the county clerk shall note in the absentee ballot register that the ballot was accepted and shall transfer the ballot to the special deputy for mailed ballots for delivery to the absent voter election board. If either the voter's signature is missing or the last four digits of the voter's social security number are not provided or do not match, the county clerk shall reject the mailed ballot and make the appropriate notation in the absentee ballot register and shall transfer the ballot to the special deputy for mailed ballots for delivery to the absent voter election board. If the mailed ballot is rejected, the county clerk shall within one day send the voter a notice of rejection, along with information regarding how the voter may cure the reason for the rejection. The determination of the county clerk to accept or reject a mailed ballot is subject to a later interposition of a challenge before the absent voter election board. In addition to existing procedures in the Election Code for qualifying a previously rejected absentee ballot after election day, a previously rejected absentee ballot may be qualified by the presiding judge and election judges of the absent voter election board before the day of the 2020 general election if the ballot was rejected for the lack of a signature or missing required voter identification if the voter provides such information pursuant to procedures established by the secretary of state.

K. On election night, the absent voter election board shall recess upon the earlier of completion of its work or 11:00 p.m. An absent voter election board that recesses at 11:00 p.m. shall continue its work only between the hours of 9:30 a.m. and 8:00 p.m. on each subsequent day until the board has completed its work.

L. When preparing the county canvass report, each county clerk shall appoint an election board to conduct a machine-tabulation or hand-tally if the county clerk has received and logged any:

- (1) paper ballots not previously tabulated;
- (2) mailed ballots delivered to an election board not previously tabulated;
- (3) provisional paper ballots that have been qualified and contain votes that are to be counted; or
- (4) ballots with write-in votes not previously counted.

M. Certificates of registration and cancellations of existing voter registrations not processed until after the election pursuant to existing law may be processed by the county clerk beginning the first Monday following the election; provided that such certificates of registration and cancellations of existing voter registrations shall be processed beginning the first business day following approval of the report of the county canvass by the county canvassing board.

N. No later than September 21, 2020 and in consultation with the department of health, the secretary of state shall procure sufficient personal protective equipment and sanitizing supplies for distribution to each county clerk and for each early, mobile and election day polling location.

O. The secretary of health may issue public health orders regarding the conduct of the 2020 general election. A public health order issued regarding the conduct of the 2020 general election shall specify areas of the state to which the order applies and shall specify for each county in the areas covered by the order the severity of the public health issues necessitating the public health order and make specific recommendations to mitigate the health issues described. The recommendations shall be consistent with guidelines issued by the federal centers for disease control and prevention or be otherwise evidence-based. If the secretary of health issues a public health order regarding the conduct of the 2020 general election on or before the sixtieth day before the 2020 general election, the secretary of state shall, in consultation with each county clerk in an area identified in the public health order, implement changes in the conduct of the 2020 general election only to the extent necessary for the preservation of the health and safety of county clerks and their staffs, election board members and voters. If the secretary of health issues a public health order after the sixtieth day before the 2020 general election, the secretary of state may provide guidance to county clerks on best practices for the preservation of the health and safety of county clerks and their staffs, election board members and voters; and in addition, the secretary of state may call a meeting of the legislative electoral health and safety task force. The legislative electoral health and safety task force may meet using remote means and is composed of the president pro tempore of the senate, who shall serve as chair, the speaker of the house of representatives, who shall serve as vice chair, and

the majority floor leaders and minority floor leaders of each house; provided that each member may appoint a legislator of the member's chamber and political party to serve as the member's designee on the task force. The legislative electoral health and safety task force may, in response to and in accordance with recommendations in the public health order as provided in this subsection, authorize the secretary of state to institute procedures and measures to ensure the health and safety of county clerks and their staffs, election board members and voters in the conduct of the election.

P. Nothing in this section shall alter or modify the time lines or procedures provided in the Uniform Military and Overseas Voters Act except for the deadlines provided in this section for the request of a military-overseas ballot by a voter who is a federal qualified elector. Nothing in this section shall alter or modify the time lines or procedures provided in the Intimate Partner Violence Survivor Suffrage Act.

Q. The secretary of state shall reimburse each county clerk for necessary and reasonable expenses incurred pursuant to this section.

R. The secretary of state shall deposit sufficient funds in the business reply mail account for each county clerk to ensure delivery of all certificates of voter registration, mailed ballot applications and returned mailed ballots.

S. The secretary of state shall conduct and coordinate a public information campaign educating voters of the benefits of ensuring the address of registration is accurate in advance of the 2020 general election.

T. Notwithstanding any limitations to the contrary, the state board of finance shall authorize sufficient funds to be timely distributed to the secretary of state and the department of health for necessary and reasonable expenses incurred pursuant to this section."

## **Chapter 2 Section 3 Laws 2020 (1st S.S.)**

SECTION 3. DELAYED REPEAL.--Section 1-12-72 NMSA 1978 is repealed effective December 31, 2020.

## **Chapter 2 Section 4 Laws 2020 (1st S.S.)**

SECTION 4. APPLICABILITY.--The provisions of Section 1-12-72 NMSA 1978 apply to the conduct of the 2020 general election.

# **LAWS 2020 (1ST S.S.), CHAPTER 3**

**Senate Bill 5, aa, w/ec, w/cc, partial veto  
Approved June 26, 2020**

AN ACT

RELATING TO PUBLIC FINANCE; VOIDING GENERAL FUND APPROPRIATIONS MADE FOR CERTAIN PROJECTS, UNDER CERTAIN CIRCUMSTANCES; AUTHORIZING THE ISSUANCE OF SHORT-TERM SEVERANCE TAX BONDS, SHORT-TERM SUPPLEMENTAL SEVERANCE TAX BONDS AND STATE TRANSPORTATION PROJECT BONDS; PROVIDING FOR CERTAIN TRANSFERS TO THE GENERAL FUND AND TO THE APPROPRIATION CONTINGENCY FUND FROM OTHER FUNDS; REPEALING LAWS 2020, CHAPTER 64, SECTIONS 1 THROUGH 5; MAKING APPROPRIATIONS; DECLARING AN EMERGENCY.

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

### **Chapter 3 Section 1 Laws 2020 (1st S.S.)**

SECTION 1. REVERSION OF BALANCES FROM LAWS 2019 GENERAL FUND APPROPRIATIONS FOR CERTAIN CAPITAL PROJECTS.--Except as otherwise provided in Section 2 of this 2020 act, the requirements for reversion contained in Section 6-29-9 NMSA 1978 or in Laws 2019, Chapter 277, Section 1, on the date occurring ninety days after the effective date of this act, the unexpended or unencumbered balances of appropriations made from the general fund in Laws 2019, Chapter 277 to the following agencies for the following described projects shall revert to the general fund and the department of finance and administration shall transfer such unexpended or unencumbered balances to the general fund:

A. to the economic development department, one hundred thousand dollars (\$100,000) for upgrades and repairs to the mobile livestock slaughter unit for the Taos county economic development corporation in Taos county;

B. to the public education department:

(1) seventy-three thousand dollars (\$73,000) to plan, design, construct, renovate, demolish, furnish, equip and install improvements to science classrooms at East Mountain high school in the Albuquerque public school district in Bernalillo county;

(2) two hundred thousand dollars (\$200,000) to purchase and equip an activity bus for the Gadsden independent school district in Dona Ana county;

(3) ten thousand dollars (\$10,000) to plan, design, construct, purchase, renovate, furnish and equip improvements to the New America school-Las Cruces buildings and grounds, including information technology and related equipment, vehicles and infrastructure, in Las Cruces in Dona Ana county;

(4) ten thousand dollars (\$10,000) to plan, design, construct and equip an early childhood playground for the west Las Vegas public school district head start program in San Miguel county;

(5) thirty-five thousand dollars (\$35,000) to plan, design, construct, equip, furnish and install a Kiva outdoor classroom and seating area at Nina Otero community school in the Santa Fe public school district in Santa Fe county;

(6) ten thousand dollars (\$10,000) for development of an educational specification plan for alternative site facilities and to plan, design, construct, purchase and make improvements for permanent facilities at these sites in the Santa Fe public school district in Santa Fe county;

(7) ten thousand dollars (\$10,000) to acquire property and to plan, design and construct a school facility for the Tierra Encantada charter school in Santa Fe in Santa Fe county;

(8) thirty-five thousand dollars (\$35,000) to plan, design, construct, purchase, equip, furnish and install improvements to Kearny elementary school, including basketball court improvements and shade structures for the bus area and playgrounds, in the Santa Fe public school district in Santa Fe county;

(9) ten thousand dollars (\$10,000) to plan, design, construct, equip, furnish and install improvements to Mandela international magnet school, including the entrance and the main hall flooring, in the Santa Fe public school district in Santa Fe county;

(10) fifty thousand dollars (\$50,000) to purchase resources for the library at Milagro middle school in the Santa Fe public school district in Santa Fe county; and

(11) three hundred thousand dollars (\$300,000) to plan, design and construct a building for the Red River Valley charter school in Red River in Taos county;

C. to the department of environment:

(1) sixty thousand dollars (\$60,000) to plan, design and construct water system improvements for the Puerto de Luna mutual domestic water consumers and mutual sewage works association in Guadalupe county;

(2) two hundred fifty thousand dollars (\$250,000) to plan, design, construct, purchase and install water meters for the water system in Vaughn in Guadalupe county;

(3) six hundred thousand dollars (\$600,000) to plan, design, construct, purchase and equip wells and well houses for Carrizozo in Lincoln county;

(4) eighty-five thousand dollars (\$85,000) to plan, design and construct water system improvements for the Buena Vista mutual domestic water consumer's and sewage works association in Mora county;

(5) twenty-five thousand dollars (\$25,000) to plan, design and construct water system improvements for the Plaza Blanca mutual domestic water consumers association in Rio Arriba county;

(6) two hundred thousand dollars (\$200,000) to purchase, equip and install radio read meters for the Agua Sana water users association in Rio Arriba county;

(7) four hundred thousand dollars (\$400,000) to plan, design and construct a regional pipeline connection to the Flora Vista water system from the North Star domestic water consumers and mutual sewage works cooperative in San Juan county;

(8) five hundred thousand dollars (\$500,000) to plan, design and construct a water line extension from the Blanco mutual domestic water consumers and mutual sewage works association to the Turley and San Juan and Las Vegas communities in San Juan county;

(9) eighty thousand dollars (\$80,000) to plan, design and construct water system improvements for the Rowe mutual domestic water consumers association in San Miguel county;

(10) twenty-five thousand dollars (\$25,000) to plan, design and construct water system improvements for the Rowe mutual domestic water consumers association in San Miguel county; and

(11) fifty thousand dollars (\$50,000) to plan, design and construct water system improvements for La Bajada mutual domestic water consumers association in Santa Fe county;

D. to the Indian affairs department:

(1) one hundred ninety thousand dollars (\$190,000) to plan, design, construct and equip the Laguna K'awaika community center in the Pueblo of Laguna in Cibola county;

(2) three hundred sixty thousand dollars (\$360,000) to plan, design, construct, furnish and equip an education complex, including a library, for the Pueblo of Santa Ana in Sandoval county; and

(3) twenty-five thousand dollars (\$25,000) to purchase furniture, information technology and equipment for the leadership institute at the Santa Fe Indian school in Santa Fe in Santa Fe county;

E. to the local government division of the department of finance and administration:

- (1) one hundred seventy-five thousand dollars (\$175,000) to acquire property for a Crestview bluffs open space area and to match funds for a national park service land and water conservation fund grant for the purchase of Crestview bluffs in Bernalillo county;
- (2) five hundred sixty thousand dollars (\$560,000) to plan, design, construct, furnish and equip buildings and infrastructure at the South Valley commons in Bernalillo county;
- (3) seven thousand dollars (\$7,000) to purchase tools and equipment for a community bicycle recycling program in the Atrisco community and southwest area of Albuquerque in Bernalillo county;
- (4) six hundred thousand dollars (\$600,000) to plan, design and construct phase 1 of the Cibola loop community complex, including a library and multigenerational center, in Albuquerque in Bernalillo county;
- (5) seventy-five thousand dollars (\$75,000) to plan, design, construct, purchase, equip and install improvements, including heating, ventilation and air conditioning systems, at a community dental program in Albuquerque in Bernalillo county;
- (6) three hundred sixty thousand five hundred dollars (\$360,500) to acquire property and to plan, design and construct an urban green space along the Crestview bluff area off the Arenal drain from west Central avenue to Bridge boulevard both within and outside the city limits of Albuquerque in Bernalillo county;
- (7) fifty thousand dollars (\$50,000) to plan, design, construct, equip and install electronic digital display signs in Albuquerque in Bernalillo county;
- (8) twenty thousand dollars (\$20,000) to plan, design, construct, furnish and equip a covered accessible bus stop at Golf Course road serving southbound commuter route 92 at Homestead trail in Albuquerque in Bernalillo county;
- (9) eight hundred twenty-three thousand eight hundred ninety-eight dollars (\$823,898) to plan, design, construct and renovate a facility for the Holocaust and Intolerance museum in Albuquerque in Bernalillo county;
- (10) ninety-five thousand dollars (\$95,000) to furnish, equip and purchase information technology for a flamenco institute headquarters in Albuquerque in Bernalillo county;
- (11) one hundred twenty-five thousand dollars (\$125,000) to plan, design, construct, renovate, furnish, equip and install phase 3 improvements, including a basketball court, to the Joan Jones community center in Albuquerque in Bernalillo county;

(12) one hundred forty-five thousand dollars (\$145,000) to purchase and install equipment and furnishings, including sound and audiovisual systems, seating, lighting, musical instruments and furniture, for a performance and art space in Albuquerque in Bernalillo county;

(13) one hundred thirty-five thousand dollars (\$135,000) to plan, design and equip construction of outdoor public murals in Albuquerque in Bernalillo county;

(14) fifty thousand dollars (\$50,000) to plan, design, construct and install route 66 signage at the Central avenue and Lomas boulevard intersection area in Albuquerque in Bernalillo county;

(15) one hundred five thousand dollars (\$105,000) to plan, design, construct, furnish and equip a driver's room at the Spanish Bit transit station in Albuquerque in Bernalillo county;

(16) four hundred ninety thousand dollars (\$490,000) to plan, design, construct, furnish and equip a bicycle repair education facility in Villela park in Albuquerque in Bernalillo county;

(17) two hundred forty thousand dollars (\$240,000) to purchase property for the development of a park near the Wells Park community center in Albuquerque in Bernalillo county;

(18) one hundred thousand dollars (\$100,000) to acquire land for and to plan, design, construct and equip the Westgate little league complex in Albuquerque in Bernalillo county;

(19) sixty-eight thousand dollars (\$68,000) to plan, design, construct, install and equip a recreational vehicle park on the common lands of the Canon de Carnue land grant-merced in Bernalillo county;

(20) one hundred fifty thousand dollars (\$150,000) to plan, design and construct improvements, including heating, ventilation and air conditioning systems, to a community center in Vaughn in Guadalupe county;

(21) twenty thousand dollars (\$20,000) to plan, design, construct, renovate, purchase, equip and install improvements, including fencing, to a veterans memorial park in Mosquero in Harding county;

(22) two hundred forty thousand dollars (\$240,000) to plan, design, construct, furnish and equip improvements, including a new screen, projection equipment, seats, restrooms and a concession area, to the Chief theater in Mora county;

(23) thirty-eight thousand dollars (\$38,000) to plan, design, construct and equip a rural electric vehicle charging network for the Greentree solid waste authority and the Mescalero Apache Tribe in Lincoln and Otero counties;

(24) one hundred eighty-five thousand dollars (\$185,000) to purchase property and to plan, design and construct new recreational spaces and trails in Espanola in Rio Arriba and Santa Fe counties;

(25) twelve thousand ninety-five dollars (\$12,095) to plan, design and construct improvements to the Sacramento mountains museum and pioneer village in Cloudcroft in Otero county;

(26) one hundred thousand dollars (\$100,000) to purchase and equip vehicles for the boys and girls club of Santa Fe/del norte in Rio Arriba county;

(27) fifty thousand dollars (\$50,000) to plan, design, construct, renovate, furnish and equip improvements to the Tecolote land grant-merced multipurpose center, including the roof and septic system, in San Miguel county;

(28) thirty thousand dollars (\$30,000) to plan and design improvements to a community park in Jemez Springs in Sandoval county;

(29) ninety-five thousand dollars (\$95,000) to plan, design, construct and equip a yurt for the Santa Fe mountain center youth and adult programs in Santa Fe county;

(30) eighty-four thousand five hundred dollars (\$84,500) to plan, design, construct and equip improvements to the Santa Fe mountain center urban adventure center building in Santa Fe in Santa Fe county;

(31) one hundred thousand dollars (\$100,000) to plan, design, renovate, construct, equip and furnish a multipurpose center in Cerro in Taos county; and

(32) fifty thousand dollars (\$50,000) for the land grant council to acquire land within and for the Cristobal de la Serna land grant-merced in Taos county;

F. to the department of transportation:

(1) twenty-five thousand dollars (\$25,000) to plan, design and construct pedestrian walkways and bicycle paths along New Mexico highway 14 in Bernalillo county;

(2) one hundred fifty-two thousand dollars (\$152,000) to acquire rights of way for and to plan, design and construct improvements, including accessibility, to sidewalks in the Parkland Hills neighborhood in Albuquerque in Bernalillo county;

(3) seventy-five thousand dollars (\$75,000) to plan, design and construct pedestrian and traffic calming improvements to the Santa Barbara-Martineztown area of Albuquerque in Bernalillo county;

(4) one hundred thousand dollars (\$100,000) to plan and design improvements to Palomas avenue NE from Louisiana boulevard to San Pedro road in Albuquerque in Bernalillo county;

(5) one hundred thousand dollars (\$100,000) to acquire rights of way for and to plan, design and construct sidewalks in La Union in Dona Ana county;

(6) sixty-six thousand seven hundred fifty dollars (\$66,750) to plan, design, construct, repair and improve the infrastructure for roads and storm drainage in Corrales in Sandoval county;

(7) one hundred thousand dollars (\$100,000) to purchase easements and rights of way for and to plan, design, extend and construct Zafarano drive from Rufina street to Agua Fria street in Santa Fe county; and

(8) one hundred fifteen thousand dollars (\$115,000) for a drainage master plan and to plan, design and construct drainage improvements in Rio Communities in Valencia county;

G. to the higher education department:

(1) three hundred thousand dollars (\$300,000) to plan, design and construct the central New Mexico community college film production center of excellence at the rail yards in Albuquerque in Bernalillo county;

(2) seven hundred fifty thousand dollars (\$750,000) for the expansion of the trades program facility at the Crownpoint campus of Navajo technical university in McKinley county; and

(3) ten thousand dollars (\$10,000) to plan, design, construct, renovate, purchase, equip and install infrastructure improvements to Santa Fe community college adult education facilities, including flooring, equipment and training and laboratory space improvements, in Santa Fe county; and

H. to the board of regents of eastern New Mexico university, six hundred fifty thousand dollars (\$650,000) to construct a president's residence and public event venue for eastern New Mexico university in Portales in Roosevelt county.

### **Chapter 3 Section 2 Laws 2020 (1st S.S.)**

SECTION 2. EXCEPTION TO REVERSION OF BALANCES FROM LAWS 2019 GENERAL FUND APPROPRIATIONS FOR CERTAIN CAPITAL PROJECTS.--A reversion of an appropriation, as provided pursuant to Section 1 of this 2020 act, shall

be void if the agency for which the appropriation was made certifies to the secretary of finance and administration, before a date occurring ninety days after the effective date of this 2020 act, that the agency has incurred a substantial binding obligation to a third party to expend at least five percent of the appropriation for the project.

### **Chapter 3 Section 3 Laws 2020 (1st S.S.)**

SECTION 3. REVERSION OF BALANCES FROM LAWS 2019 GENERAL FUND APPROPRIATION TO THE BORDER AUTHORITY.--Notwithstanding the requirements for reversion contained in Laws 2019, Chapter 277, Section 1, on the effective date of this act, two million four hundred thousand dollars (\$2,400,000) of the unexpended or unencumbered balance of the appropriation to the border authority to plan, design and construct a road between Santa Teresa and Sunland Park in Dona Ana county as provided in Subsection 1 of Section 6 of Chapter 277 of Laws 2019 shall revert to the general fund, and within thirty days of the effective date of this act, the department of finance and administration shall transfer such unexpended or unencumbered balance to the general fund.

### **Chapter 3 Section 4 Laws 2020 (1st S.S.)**

SECTION 4. SHORT-TERM SEVERANCE TAX BONDS AND SHORT-TERM SUPPLEMENTAL SEVERANCE TAX BONDS--ISSUANCE--APPROPRIATION OF PROCEEDS.--

A. In addition to the bonds issued in accordance with Section 7-27-14 NMSA 1978, and notwithstanding the limitations of that section, Section 7-27-10.1 NMSA 1978 or Section 7-27-12.5 NMSA 1978, in fiscal year 2020, the state board of finance shall, in compliance with the Severance Tax Bonding Act, issue and sell severance tax bonds with a term that does not extend beyond the end of the fiscal year or supplemental severance tax bonds with a term that does not extend beyond the end of the fiscal year, or a combination of those severance tax bonds and supplemental severance tax bonds, up to the total amount calculated pursuant to Subsection C of this section, when the:

(1) secretary of finance and administration certifies the need for the severance tax bonds pursuant to Subsection B of this section and upon a finding by the secretary that the projects for which the bonds are to be issued have been developed sufficiently to justify the issuance and that the projects can proceed to contract within a reasonable time; and

(2) public school capital outlay council certifies the need for the supplemental severance tax bonds, subject to the limitations of Subsection H of this section.

B. The secretary of finance and administration shall certify the need for the severance tax bonds issued pursuant to this section only if the balance in the severance tax bonding fund as of the date the bonds are issued exceeds the sum of the:

(1) debt service on the severance tax bonds and supplemental severance tax bonds issued in accordance with this section; and

(2) amount necessary to meet all principal and interest payments on outstanding bonds payable from the severance tax bonding fund on the next two ensuing semiannual payment dates.

C. The secretary of finance and administration shall, prior to the end of fiscal year 2020, determine the amount of money in the severance tax bonding fund, less the amount necessary to meet all principal and interest payments on the:

(1) severance tax bonds and supplemental severance tax bonds issued in accordance with this section; and

(2) bonds payable from the severance tax bonding fund on the next two ensuing semiannual payment dates.

D. The state board of finance shall issue and sell the bonds in the most expeditious and economical manner possible. The state board of finance shall further take the appropriate steps necessary to comply with the United States Internal Revenue Code of 1986, as amended.

E. Except as provided in Subsection G of this section, proceeds from the sale of the severance tax bonds issued and sold pursuant to this section shall be appropriated up to the amounts, to the entities and for the projects as provided pursuant to:

(1) Laws 2020, Chapter 81, Sections 4, 6 through 32 and 34 through 48;

(2) Item (2) of Section 25 and Items (4) and (6) of Section 26 of Chapter 80 of Laws 2018; and

(3) Laws 2019, Chapter 280, Sections 4 and 114.

F. The agencies for which appropriations are made pursuant to Subsection E of this section shall certify the need for severance tax bonds when proceeds from the bonds appropriated in this section are needed for the purposes for which the appropriations are made.

G. The following percentages of the proceeds from the severance tax bonds are appropriated as follows:

(1) nine percent of the proceeds is appropriated to the water project fund to fund water projects statewide, pursuant to the provisions of Subsection C of Section 7-27-10.1 NMSA 1978;

(2) four and one-half percent of the proceeds is appropriated to the tribal infrastructure project fund to fund tribal infrastructure projects, pursuant to the provisions of Subsection E of Section 7-27-10.1 NMSA 1978; and

(3) four and one-half percent of the proceeds is appropriated to the colonias infrastructure project fund to fund colonias infrastructure projects in accordance with the provisions of Subsection B of Section 7-27-12.5 NMSA 1978.

H. Provided that the secretary of finance and administration makes the certification pursuant to Subsection B of this section, in addition to proceeds from any other supplemental severance tax bonds issued in fiscal year 2020, the public school capital outlay council may, in fiscal year 2020, certify the need for supplemental severance tax bond proceeds in an aggregate principal amount not to exceed fifty-five million dollars (\$55,000,000).

I. Except as otherwise specifically provided by law:

(1) the unexpended balance from the proceeds of severance tax bonds appropriated in this section for a project shall revert to the severance tax bonding fund no later than the following dates:

(a) for a project for which severance tax bond proceeds are appropriated to match federal grants, six months after completion of the project;

(b) for a project for which severance tax bond proceeds are appropriated to purchase vehicles, including emergency vehicles and other vehicles that require special equipment; heavy equipment; books; educational technology; or other equipment or furniture that is not related to a more inclusive construction or renovation project, at the end of the fiscal year two years following the fiscal year in which severance tax bond proceeds were made available for the purchase; and

(c) for any other project for which severance tax bonds were appropriated, within six months of the completion of the project, but no later than the end of fiscal year 2024; and

(2) all remaining balances from the proceeds of severance tax bonds appropriated for a project pursuant to this section shall revert to the severance tax bonding fund three months after the latest reversion date specified for that type of project in Paragraph (1) of this subsection.

J. Except for appropriations to the capital program fund, money from severance tax bond proceeds provided pursuant to this section shall not be used to pay indirect project costs.

K. 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 3 Section 5 Laws 2020 (1st S.S.)**

SECTION 5. Section 67-3-59.2 NMSA 1978 (being Laws 1999 (1st S.S.), Chapter 9, Section 3, as amended) is amended to read:

"67-3-59.2. HIGHWAY INFRASTRUCTURE FUND CREATED--PURPOSE.--

A. The "highway infrastructure fund" is created in the state treasury and shall be administered by the department. The fund shall consist of money from various fees and taxes distributed to the fund. Earnings on investment of the fund shall be credited to the fund. Balances in the fund at the end of any fiscal year shall not revert and shall remain in the fund for the purposes authorized in this section.

B. Money in the fund shall be used solely for acquisition of rights of way or planning, design, engineering, construction or improvement of state highway projects authorized pursuant to the provisions of Laws 1998, Chapter 84, Subsections C through H of Section 1 of Chapter 85 of Laws 1998, Laws 2003 (1st S.S.), Chapter 3, Sections 27 and 28 and Section 8 of this 2020 act and is appropriated to the department for expenditure for those purposes.

C. The taxes and fees required by law to be distributed to the highway infrastructure fund may be pledged for the payment of bonds issued pursuant to Sections 67-3-59.1, 67-3-59.3 and 67-3-59.4 NMSA 1978 and Section 8 of this 2020 act for the highway projects authorized in the laws specified in Subsection B of this section."

## **Chapter 3 Section 6 Laws 2020 (1st S.S.)**

SECTION 6. Section 67-3-59.3 NMSA 1978 (being Laws 2003 (1st S.S.), Chapter 3, Section 24) is amended to read:

"67-3-59.3. STATE TRANSPORTATION PROJECT BONDS--ISSUANCE--PROCEDURES--APPROVAL.--

A. In order to provide funds to finance state transportation projects, the New Mexico finance authority, when directed by the state transportation commission, is authorized, subject to the limitations of this section, Section 67-3-59.4 NMSA 1978 and Section 8 of this 2020 act, to issue state transportation project bonds from time to time, payable from:

(1) federal funds not otherwise obligated that are paid into the state road fund;

(2) proceeds of the collection of taxes and fees that are required to be paid into the state road fund and not otherwise pledged exclusively to the payment of outstanding bonds and debentures; and

(3) taxes and fees required by law to be paid into the highway infrastructure fund.

B. The New Mexico finance authority, when directed by the state transportation commission, may issue bonds to refund other bonds issued by or at the direction of the state transportation commission pursuant to this section or Section 67-3-59.1 NMSA 1978 by exchange or current or advance refunding.

C. In consultation with the state transportation commission, the New Mexico finance authority shall determine all terms, covenants and conditions of the bonds; provided that the project design life of a project meets or exceeds the life of the bond issued for that project, and each series of bonds shall be sold, executed and delivered in accordance with the provisions of the New Mexico Finance Authority Act. The New Mexico finance authority may enter into interest rate exchange agreements, interest rate swap contracts, insurance agreements, remarketing agreements and any other agreements deemed necessary in connection with the issuance of the bonds.

D. Proceeds of the bonds and amounts on deposit in the state road fund and the highway infrastructure fund may be used to pay expenses incurred in the preparation, administration, issuance and sale of the bonds and, together with the earnings on the proceeds of the bonds, may be used to pay rebate, penalty, interest and other obligations relating to the bonds and the proceeds of the bonds under the Internal Revenue Code of 1986, as amended.

E. This section is full authority for the issuance and sale of the bonds, and the bonds shall not be invalid for any irregularity or defect in the proceedings for their issuance and sale and shall be incontestable in the hands of bona fide purchasers or holders of the bond for value.

F. The bonds shall be legal investments for a person or board charged with the investment of public funds and may be accepted as security for a deposit of public money and, with the interest thereon, are exempt from taxation by the state and a political subdivision or agency of the state.

G. Any law authorizing the imposition or distribution of taxes or fees paid into the state road fund or the highway infrastructure fund or that affects those taxes and fees shall not be amended or repealed or otherwise directly or indirectly modified so as to impair outstanding bonds secured by a pledge of revenues from those taxes and fees paid into the state road fund or the highway infrastructure fund, unless the bonds have been discharged in full or provisions have been made for a full discharge. In addition, while any bonds issued by the New Mexico finance authority pursuant to the provisions of this section remain outstanding, the powers or duties of the state transportation commission or the authority shall not be diminished or impaired in any manner that will affect adversely the interests and rights of the holder of such bonds.

H. In contracting for state transportation projects to be paid in whole or in part with proceeds of bonds authorized by this section, the department shall require that any

sand, gravel, caliche or similar material needed for the project shall, if practicable, be mined from state lands. Each contract shall provide that the contractor notify the commissioner of public lands of the need for the material and that, through lease or purchase, the material shall be mined from state lands if:

(1) the material needed is available from state lands in the vicinity of the project;

(2) the commissioner determines that the lease or purchase is in the best interest of the state land trust beneficiaries; and

(3) the cost to the contractor for the material, including the costs of transportation, is competitive with other available material from nonstate lands.

I. Bonds issued pursuant to this section shall be paid solely from federal funds not otherwise obligated and taxes and fees deposited into the state road fund and the highway infrastructure fund and shall not constitute a general obligation of the state.

J. For purposes of this section, "state transportation project bonds" includes only those bonds issued pursuant to this section and excludes transportation bonds as defined in Section 67-3-72 NMSA 1978."

### **Chapter 3 Section 7 Laws 2020 (1st S.S.)**

SECTION 7. Section 67-3-59.4 NMSA 1978 (being Laws 2003 (1st S.S.), Chapter 3, Section 26) is amended to read:

"67-3-59.4. STATE TRANSPORTATION PROJECT BONDS--AUTHORIZATION AND APPROPRIATION--PRIORITIES--CRITERIA--REPORTS.--

A. It is the intent of the legislature to authorize the New Mexico finance authority to issue state transportation project bonds pursuant to Section 67-3-59.3 NMSA 1978 for projects specified in Laws 2003 (1st S.S.), Chapter 3, Sections 27 and 28 and in Section 8 of this 2020 act in the total aggregate principal amount of one billion five hundred eighty-five million dollars (\$1,585,000,000).

B. The state transportation commission may authorize the New Mexico finance authority to issue and sell state transportation project bonds. The proceeds of the bonds are appropriated to the department of transportation for projects listed in Laws 2003 (1st S.S.), Chapter 3, Sections 27 and 28 and in Section 8 of this 2020 act.

C. The department of transportation shall provide to the legislature and the governor a report on transportation priorities and progress. The report shall include:

(1) justification of priority ranking of projects, including the following for each highway project enumerated in Laws 2003 (1st S.S.), Chapter 3, Sections 27 and 28:

- (a) traffic counts and accident rates and the expected improvements to traffic flow, health and safety;
  - (b) the ranking of the pavement and substructure conditions;
  - (c) an assessment of economic development impacts; and
  - (d) other information deemed significant by the department;
- (2) the expected life of the proposed improvement;
- (3) sufficiency of revenue to pay the principal and interest of all outstanding and proposed bonds based on a five- and twenty-year financial forecast for the state road fund and the effect of the bond program on the department's construction and maintenance program;
- (4) status report of ongoing major construction;
- (5) the relationship between the requested projects and the statewide transportation improvement program; and
- (6) any other information requested by the legislature or the executive.

D. The department of transportation shall provide quarterly progress reports to the department of finance and administration and the legislative finance committee.

E. The department of transportation shall adopt and enforce rules with the goal that no less than seventy percent of the work force of an exclusively state-funded project authorized in Laws 2003 (1st S.S.), Chapter 3, Sections 27 and 28 shall be residents of New Mexico."

### **Chapter 3 Section 8 Laws 2020 (1st S.S.)**

#### **SECTION 8. DEPARTMENT OF TRANSPORTATION PROJECTS-- APPROPRIATION REVERSION--AUTHORIZATION TO ISSUE STATE TRANSPORTATION PROJECT BONDS.--**

A. Notwithstanding the provisions of Laws 2019, Chapter 271, Section 9, seventy-five million dollars (\$75,000,000) of the unexpended or unencumbered balance of the appropriation provided pursuant to that law from the general fund to the department of transportation for acquisition of rights of way, planning, design and construction and to match federal and other state funds for projects shall not be expended or encumbered and shall revert to the general fund at the end of fiscal year 2020.

B. Of the aggregate principal amount of one billion five hundred eighty-five million dollars (\$1,585,000,000) for state transportation project bonds that the New

Mexico finance authority is authorized to issue pursuant to Sections 67-3-59.3 and 67-3-59.4 NMSA 1978, the New Mexico finance authority may, on or after July 1, 2022, issue and sell state transportation project bonds in a principal amount not to exceed seventy-five million dollars (\$75,000,000) for acquisition of rights of way, planning, design and construction and to match federal and other state funds for projects for which general fund appropriations were made pursuant to Laws 2019, Chapter 271, Section 9.

C. The department of transportation may use the net proceeds of state transportation project bonds issued by the New Mexico finance authority pursuant to Subsection B of this section for the projects for which general fund appropriations were made pursuant to Laws 2019, Chapter 271, Section 9.

D. Any unexpended or unencumbered balance after the completion of the projects authorized in this section shall revert to the state road fund.

### **Chapter 3 Section 9 Laws 2020 (1st S.S.)**

SECTION 9. FUND AND OTHER ACCOUNT TRANSFERS AND REVERSIONS TO THE GENERAL FUND--FISCAL YEAR 2020.--Notwithstanding any restriction on or use of money in the funds or accounts, the following unexpended or unencumbered balances from the following amounts from the following funds or accounts are transferred to the fiscal year 2020 appropriation account of the general fund:

A. one million dollars (\$1,000,000) from the consumer settlement fund of the office of the attorney general;

B. one million dollars (\$1,000,000) from the local DWI grant fund;

C. two million dollars (\$2,000,000) from the enhanced 911 fund;

D. four million dollars (\$4,000,000) from the public liability fund;

E. one million dollars (\$1,000,000) from the public property reserve fund;

F. one million dollars (\$1,000,000) from the New Mexico youth conservation corps fund;

G. seven hundred fifty thousand dollars (\$750,000) from the medical cannabis fund;

H. two million dollars (\$2,000,000) from the corrective action fund;

~~I. four million dollars (\$4,000,000) from the rural infrastructure revolving loan fund;~~ *LINE-ITEM VETO*

J. two million dollars (\$2,000,000) from the college affordability endowment fund;

K. two million dollars (\$2,000,000) from the student financial aid special programs fund of the higher education department;

L. two million dollars (\$2,000,000) from the local government planning fund of the New Mexico finance authority;

M. five million three hundred thousand dollars (\$5,300,000) from the water project fund of the New Mexico finance authority;

N. two million five hundred thousand dollars (\$2,500,000) from the drinking water state revolving loan fund of the New Mexico finance authority; and

O. three million dollars (\$3,000,000) from the primary care capital fund of the New Mexico finance authority.

### **Chapter 3 Section 10 Laws 2020 (1st S.S.)**

SECTION 10. TRANSFER TO APPROPRIATION CONTINGENCY FUND.-- Notwithstanding any restriction on or use of money in the executive order fund of the homeland security and emergency management department, two million dollars (\$2,000,000) is transferred from that fund to the appropriation contingency fund of the general fund.

### **Chapter 3 Section 11 Laws 2020 (1st S.S.)**

SECTION 11. TEMPORARY PROVISION--OUTSTANDING STATE HIGHWAY REVENUE BONDS.--

A. Nothing in this act shall be deemed to impair state highway revenue bonds previously issued by the state transportation commission and outstanding on the effective date of this act.

B. If required by the terms, covenants and provisions of state highway revenue bonds previously issued by the state transportation commission and outstanding on the effective date of this act, additional bonds issued by the state transportation commission or the New Mexico finance authority when directed by the state transportation commission pursuant to this act shall contain any required terms, covenants and provisions required to avoid impairment of the previously issued bonds.

### **Chapter 3 Section 12 Laws 2020 (1st S.S.)**

SECTION 12. REPEAL.--Laws 2020, Chapter 64, Sections 1 through 5 are repealed.

## **Chapter 3 Section 13 Laws 2020 (1st S.S.)**

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

## **LAWS 2020 (1ST S.S.), CHAPTER 4**

**House Bill 6, aa, w/ec**  
**Approved June 29, 2020**

### **AN ACT**

RELATING TO TAXATION; INCREASING A TEMPORARY DISTRIBUTION TO MUNICIPALITIES AND COUNTIES IF CERTAIN FEDERAL FUNDS ARE NOT MADE AVAILABLE FOR MUNICIPALITIES AND COUNTIES; AMENDING THE DEFINITION OF "NET OPERATING LOSS DEDUCTION" IN THE CORPORATE INCOME AND FRANCHISE TAX ACT TO ADDRESS CERTAIN CHANGES MADE BY THE FEDERAL CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY ACT; EXEMPTING CERTAIN FEDERAL CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY ACT PAYMENTS TO CERTAIN HEALTH CARE PROVIDERS FROM THE GROSS RECEIPTS TAX; PROVIDING A TEMPORARY WAIVER OF PENALTIES AND INTEREST ON CERTAIN TAX LIABILITIES DUE IN 2020; DECLARING AN EMERGENCY.

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

## **Chapter 4 Section 1 Laws 2020 (1st S.S.)**

SECTION 1. Section 7-1-6.64 NMSA 1978 (being Laws 2019, Chapter 270, Section 9) is amended to read:

"7-1-6.64. DISTRIBUTION--MUNICIPALITIES AND COUNTIES.--

A. Except as provided in Subsection C of this section, beginning July 1, 2020 and prior to July 1, 2021, a distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to municipalities from the net receipts attributable to the gross receipts tax in an amount equal to two million five hundred thousand dollars (\$2,500,000). The amount to be distributed to each municipality shall be in proportion to the population of each municipality in the proportion that the population of each municipality is to the total population of all municipalities, according to the most recent federal decennial census.

B. Except as provided in Subsection D of this section, beginning July 1, 2020 and prior to July 1, 2021, a distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to counties from the net receipts attributable to the gross receipts tax in an amount equal to one million five hundred thousand dollars (\$1,500,000). The amount to be distributed to each county shall be in the proportion that the population of each

county is to the total population of all counties, according to the most recent federal decennial census.

C. If, on or after the effective date of this 2020 act, the federal government provides money for each municipality in the state for revenue declines attributable to the coronavirus disease 2019 pandemic, as determined by the secretary, beginning on the first day of the month after the date in which each municipality receives the money and prior to July 1, 2021, a distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to municipalities from the net receipts attributable to the gross receipts tax in an amount equal to one million two hundred fifty thousand dollars (\$1,250,000). The amount to be distributed to each municipality shall be in proportion to the population of each municipality in the proportion that the population of each municipality is to the total population of all municipalities, according to the most recent federal decennial census.

D. If, on or after the effective date of this 2020 act, the federal government provides money for each county in the state for revenue declines attributable to the coronavirus disease 2019 pandemic, as determined by the secretary, beginning on the first day of the month after the date in which each county receives the money and prior to July 1, 2021, a distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to counties from the net receipts attributable to the gross receipts tax in an amount equal to seven hundred fifty thousand dollars (\$750,000). The amount to be distributed to each county shall be in the proportion that the population of each county is to the total population of all counties, according to the most recent federal decennial census."

## **Chapter 4 Section 2 Laws 2020 (1st S.S.)**

SECTION 2. Section 7-2A-2 NMSA 1978 (being Laws 1986, Chapter 20, Section 33, as amended) is amended to read:

"7-2A-2. DEFINITIONS.--For the purpose of the Corporate Income and Franchise Tax Act and unless the context requires otherwise:

A. "bank" means any national bank, national banking association, state bank or bank holding company;

B. "apportioned net income" or "apportioned net loss" means net income allocated and apportioned to New Mexico pursuant to the provisions of the Corporate Income and Franchise Tax Act or the Uniform Division of Income for Tax Purposes Act, but excluding from the sales factor any sales that represent intercompany transactions between members of the filing group;

C. "base income" means the federal taxable income or the federal net operating loss of a corporation for the taxable year calculated pursuant to the Internal Revenue Code, after special deductions provided in Sections 241 through 249 of the Internal Revenue Code but without any deduction for net operating losses, as if the corporation filed a federal tax return as a separate domestic entity, modified as follows:

(1) adding to that income:

(a) interest received on a state or local bond exempt under the Internal Revenue Code;

(b) the amount of any deduction claimed in calculating taxable income for all expenses and costs directly or indirectly paid, accrued or incurred to a captive real estate investment trust; and

(c) the amount of any deduction, other than for premiums, for amounts paid directly or indirectly to a commonly controlled entity that is exempt from corporate income tax pursuant to Section 7-2A-4 NMSA 1978;

(2) subtracting from that income:

(a) income from obligations of the United States net of expenses incurred to earn that income;

(b) other amounts that the state is prohibited from taxing because of the laws or constitution of this state or the United States net of any related expenses;

(c) an amount equal to one hundred percent of the subpart F income, as that term is defined in Section 952 of the Internal Revenue Code, as that section may be amended or renumbered, included in the income of the corporation; and

(d) an amount equal to one hundred percent of the income of the corporation under Section 951A of the Internal Revenue Code, after allowing the deduction provided in Section 250 of the Internal Revenue Code; and

(3) making other adjustments deemed necessary to properly reflect income of the unitary group, including attribution of income or expense related to unitary assets held by related corporations that are not part of the filing group;

D. "captive real estate investment trust" means a corporation, trust or association taxed as a real estate investment trust pursuant to Section 857 of the Internal Revenue Code, the shares or beneficial interests of which are not regularly traded on an established securities market; provided that more than fifty percent of any class of beneficial interests or shares of the real estate investment trust are owned directly, indirectly or constructively by the taxpayer during all or a part of the taxpayer's taxable year;

E. "common ownership" means the direct or indirect control or ownership of more than fifty percent of the outstanding voting stock, ownership of which is determined pursuant to Section 1563 of the Internal Revenue Code, as that section may be amended or renumbered, of:

(1) a parent-subsidary controlled group as defined in Section 1563 of the Internal Revenue Code, except that fifty percent shall be substituted for eighty percent;

(2) a brother-sister controlled group as defined in Section 1563 of the Internal Revenue Code; or

(3) three or more corporations each of which is a member of a group of corporations described in Paragraph (1) or (2) of this subsection, and one of which is:

(a) a common parent corporation included in a group of corporations described in Paragraph (1) of this subsection; and

(b) included in a group of corporations described in Paragraph (2) of this subsection;

F. "consolidated group" means the group of entities properly filing a federal consolidated return under the Internal Revenue Code for the taxable year;

G. "corporation" means corporations, joint stock companies, real estate trusts organized and operated under the Real Estate Trust Act, financial corporations and banks, other business associations and, for corporate income tax purposes, partnerships and limited liability companies taxed as corporations under the Internal Revenue Code;

H. "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;

I. "filing group" means a group of corporations properly included in a return pursuant to Section 7-2A-8.3 NMSA 1978 for a particular taxable year;

J. "fiscal year" means any accounting period of twelve months ending on the last day of any month other than December;

K. "grandfathered net operating loss carryover" means:

(1) the amount of net loss properly reported to New Mexico for taxable years beginning January 1, 2013 and prior to January 1, 2020 as part of a timely filed original return, or an amended return for those taxable years filed prior to January 1, 2020, to the extent such loss can be attributed to one or more corporations that are properly included in the taxpayer's return for the first taxable year beginning on or after January 1, 2020;

(2) reduced by:

(a) adding back deductions that were taken by the corporation or corporations for royalties or interest paid to one or more related corporations, but only to the extent that such adjustment would not create a net loss for such related corporations; and

(b) the amount of net operating loss deductions taken prior to January 1, 2020 that would be charged against those losses consistent with the Internal Revenue Code and provisions of the Corporate Income and Franchise Tax Act applicable to the year of the deduction; and

(3) apportioned to New Mexico using the apportionment factors that can properly be attributed to the corporation or corporations for the year of the net loss;

L. "Internal Revenue Code" means the United States Internal Revenue Code of 1986, as amended;

M. "net income" means:

(1) the base income of a corporation properly filing a tax return as a separate entity; or

(2) the combined base income and losses of corporations that are part of a filing group that is computed after eliminating intercompany income and expense in a manner consistent with the consolidated filing requirements of the Internal Revenue Code and the Corporate Income and Franchise Tax Act;

N. "net operating loss carryover" means the apportioned net loss properly reported on an original or amended tax return for taxable years beginning on or after January 1, 2020 by the taxpayer:

(1) plus:

(a) the portion of an apportioned net loss properly reported to New Mexico for a taxable year beginning on or after January 1, 2020, on a separate year return, to the extent the taxpayer would have been entitled to include the portion of such apportioned net loss in the taxpayer's consolidated net operating loss carryforward under the Internal Revenue Code if the taxpayer filed a consolidated federal return; and

(b) the taxpayer's grandfathered net operating loss carryover;  
and

(2) minus:

(a) the amount of the net operating loss carryover attributed to an entity that has left the filing group, computed in a manner consistent with the consolidated filing requirements of the Internal Revenue Code and applicable regulations, as if the taxpayer were filing a consolidated return; and

(b) the amount of net operating loss deductions properly taken by the taxpayer;

O. "net operating loss deduction" means the portion of the net operating loss carryover that may be deducted from the taxpayer's apportioned net income under the Internal Revenue Code as of January 1, 2018 for the taxable year in which the deduction is taken, including the eighty percent limitation of Section 172(a) of the Internal Revenue Code as of January 1, 2018 calculated on the basis of the taxpayer's apportioned net income;

P. "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;

Q. "real estate investment trust" has the meaning ascribed to the term in Section 856 of the Internal Revenue Code, as that section may be amended or renumbered;

R. "related corporation" means a corporation that is under common ownership with one or more corporations but that is not included in the same tax return;

S. "return" means any tax or information return, including a water's-edge or worldwide combined return, a consolidated return, a declaration of estimated tax or a claim for refund, including any amendments or supplements to the return, required or permitted pursuant to a law subject to administration and enforcement pursuant to the Tax Administration Act and filed with the department by or on behalf of any person;

T. "secretary" means the secretary of taxation and revenue or the secretary's delegate;

U. "separate year return" means a properly filed original or amended return for a taxable year beginning on or after January 1, 2020 by a taxpayer reporting a loss, a portion of which is claimed as part of the net operating loss carryover by another taxpayer in a subsequent return period;

V. "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 political subdivision thereof or any political subdivision of a foreign country;

W. "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;

X. "taxable income" means a taxpayer's apportioned net income minus the net operating loss deduction for the taxable year;

Y. "taxable year" means the calendar year or fiscal year upon the basis of which the net income is computed under the Corporate Income and Franchise Tax Act and includes, in the case of the return made for a fractional part of a year under the provisions of that act, the period for which the return is made;

Z. "taxpayer" means any corporation or group of corporations filing a return pursuant to Section 7-2A-8.3 NMSA 1978 subject to the taxes imposed by the Corporate Income and Franchise Tax Act;

AA. "unitary group" means a group of two or more corporations, including a captive real estate investment trust, but not including an S corporation, an insurance company subject to the provisions of the New Mexico Insurance Code, an insurance company that would be subject to the New Mexico Insurance Code if the insurance company engaged in business in this state or a real estate investment trust that is not a captive real estate investment trust, that are:

(1) related through common ownership; and

(2) economically interdependent with one another as demonstrated by the following factors:

(a) centralized management;

(b) functional integration; and

(c) economies of scale;

BB. "water's-edge group" means all corporations that are part of a unitary group, except:

(1) corporations that are exempt from corporate income tax pursuant to Section 7-2A-4 NMSA 1978; and

(2) corporations wherever organized or incorporated that have less than twenty percent of their property, payroll and sales sourced to locations within the United States, following the sourcing rules of the Uniform Division of Income for Tax Purposes Act; and

CC. "worldwide combined group" means all members of a unitary group, except members that are exempt from corporate income tax pursuant to Section 7-2A-4 NMSA 1978, irrespective of the country in which the corporations are incorporated or conduct business activity."

## **Chapter 4 Section 3 Laws 2020 (1st S.S.)**

SECTION 3. A new section of the Gross Receipts and Compensating Tax Act is enacted to read:

"EXEMPTION--GROSS RECEIPTS--CERTAIN HEALTH CARE PROVIDERS FROM FEDERAL CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY ACT PAYMENTS.--Exempted from the gross receipts tax are receipts of health care providers, other than hospitals licensed by the department of health, from payments by the United States department of health and human services from the federal public health and social services emergency fund to providers eligible to receive the payments pursuant to the federal Coronavirus Aid, Relief, and Economic Security Act."

## **Chapter 4 Section 4 Laws 2020 (1st S.S.)**

SECTION 4. TEMPORARY PROVISION--PENALTIES AND INTEREST WAIVED FOR CERTAIN TAXES DUE IN 2020.--

A. Notwithstanding Sections 7-1-67 and 7-1-69 NMSA 1978, no interest shall accrue and no penalty shall be assessed to a taxpayer for:

(1) tax liabilities pursuant to the Income Tax Act or the Corporate Income and Franchise Tax Act for failure to pay the tax that became due April 15, 2020 through July 15, 2020; provided that the failure to pay the tax was made without intent to evade or defeat the tax; and provided further that payment for the unpaid payments is made in full on or before April 15, 2021;

(2) tax liabilities pursuant to the Withholding Tax Act for failure to pay the tax that became due March 25, 2020 through July 25, 2020; provided that the failure to pay the tax was made without intent to evade or defeat the tax; and provided further that payment for the unpaid taxes is made in full on or before April 25, 2021;

(3) gross receipts tax, local option gross receipts tax or compensating tax liabilities for failure to pay any of those taxes that became due March 25, 2020 through July 25, 2020; provided that the failure to pay the tax was made without intent to evade or defeat the tax; and provided further that payment for the unpaid taxes is made in full on or before April 25, 2021; and

(4) tax liabilities assessed between September 3, 2019 and January 3, 2020 as the result of a managed audit performed in accordance with a managed audit agreement pursuant to Section 7-1-11.1 NMSA 1978; provided that payment for those liabilities is made pursuant to terms of the managed audit agreement on or before December 31, 2020.

B. Notwithstanding Sections 7-38-49 and 7-38-50 NMSA 1978, no interest shall accrue and no penalty shall be assessed to a property owner for unpaid property

taxes that became due April 10, 2020 pursuant to Section 7-38-38 NMSA 1978; provided that:

- (1) the unpaid property taxes did not become delinquent because of an intent to defraud by the property owner;
- (2) payment for the unpaid property taxes is made in full on or before May 10, 2021; and
- (3) the subject property does not have property taxes that became delinquent pursuant to Section 7-38-46 NMSA 1978 prior to May 10, 2020.

### **Chapter 4 Section 5 Laws 2020 (1st S.S.)**

SECTION 5. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

## **LAWS 2020 (1ST S.S.), CHAPTER 5**

**House Bill 1, aa, w/cc, partial veto  
Approved June 30, 2020**

### **AN ACT**

RELATING TO GENERAL APPROPRIATIONS; REDUCING APPROPRIATIONS FOR FISCAL YEARS 2020 AND 2021 MADE IN LAWS 2020, CHAPTERS 1 AND 83; CHANGING CERTAIN REQUIREMENTS PROVIDED FOR IN LAWS 2020, CHAPTER 83 AND LAWS 2019, SECTION 271; TRANSFERRING MONEY REMAINING FROM CERTAIN FEDERAL ALLOCATIONS TO THE STATE TO MEET EXISTING FEDERAL REQUIREMENTS AND FOR PUBLIC SCHOOL SUPPORT; ALLOWING THE DEPARTMENT OF FINANCE AND ADMINISTRATION TO MAKE CERTAIN TRANSFERS, REDUCE OPERATING BUDGETS AND REDUCE ALLOTMENTS TO MATCH APPROPRIATION REDUCTIONS; APPROPRIATING LEGISLATIVE CASH BALANCES FOR THE EXPENSES OF THE FIFTY-FOURTH LEGISLATURE, FIRST SPECIAL SESSION, 2020; EXTENDING THE EXPENDITURE PERIOD FOR AN APPROPRIATION FOR CENSUS OUTREACH; REQUIRING THE PUBLIC EDUCATION DEPARTMENT TO PRIORITIZE EXTENDED LEARNING TIME PROGRAMS TO ACCOUNT FOR INSTRUCTION LOST IN THE 2019-2020 SCHOOL YEAR; MAKING A TECHNICAL CORRECTION; MAKING AN APPROPRIATION.

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

### **Chapter 5 Section 1 Laws 2020 (1st S.S.)**

SECTION 1. LEGISLATIVE BRANCH APPROPRIATION REDUCTIONS.--The appropriations made from the general fund in Laws 2020, Chapter 1, Sections 3 and 5

through 8 are reduced by four percent rounded to the nearest one hundred dollars (\$100). To meet the reductions required by this section and maintain government efficiency, the New Mexico legislative council shall determine the amount of reduction applied to each legislative agency and purpose and may transfer amounts from any of the appropriations in Laws 2020, Chapter 1 to any other legislative expenditure where they may be needed.

## **Chapter 5 Section 2 Laws 2020 (1st S.S.)**

SECTION 2. A new section of the General Appropriation Act of 2020 is enacted to read:

### "GENERAL FUND APPROPRIATION REDUCTIONS--SECTION 4.--

A. Except as otherwise provided in this section, all amounts set out under the general fund column in Section 4 of the General Appropriation Act of 2020, except Subsection K of Section 4 of that act, are each reduced by four percent rounded to the nearest one hundred dollars (\$100).

B. The general fund appropriations to the human services department for the medical assistance program and the medicaid behavioral health program of the human services department in Section 4 of the General Appropriation Act of 2020 are each reduced by three percent, rounded to the nearest one hundred dollars (\$100).

C. The general fund appropriations to the department of health in Section 4 of the General Appropriation Act of 2020 are each reduced by two percent.

D. The following general fund appropriations in Section 4 of the General Appropriation Act of 2020 are reduced by six percent, rounded to the nearest one hundred dollars (\$100):

(1) appropriations to the department of finance and administration for dues and membership fees or special appropriations;

(2) appropriations to each institution of higher education, except appropriations for instruction and general purposes and appropriations to the New Mexico department of agriculture, cooperative extension service and agricultural experiment station, which shall be reduced as provided for in Subsection A of this section;

(3) appropriations for the regional education cooperatives; and

(4) appropriations to the public education department for special appropriations.

E. To meet the reductions required by this section and maintain government efficiency, each agency shall determine the amount of reduction applied to each specific

program or purpose. The department of finance and administration shall provide guidance to each agency provided for in this section to assist the agency in targeting program reductions that will minimize the impact of the reductions on direct services provided by the agency."

## Chapter 5 Section 3 Laws 2020 (1st S.S.)

SECTION 3. A new section of the General Appropriation Act of 2020 is enacted to read:

"ADDITIONAL APPROPRIATION REDUCTIONS AND CHANGES--SECTION 4.-

A. In addition to the general fund reductions in Sections 2, 4 and 5 of this 2020 act, the general fund appropriation in Section 4 of the General Appropriation Act of 2020 to:

(1) the facilities management program of the general services department is reduced by six hundred thousand dollars (\$600,000);

~~[(2) the elections program of the secretary of state is reduced by five hundred thousand dollars (\$500,000);] LINE ITEM VETO~~

(3) the marketing and promotion program of the tourism department is reduced by six hundred thousand dollars (\$600,000);

(4) the economic development program of the economic development department is reduced by five hundred thousand dollars (\$500,000);

(5) the spaceport authority is reduced by six hundred thousand dollars (\$600,000);

~~[(6) program support of the state engineer is reduced by four hundred thousand dollars (\$400,000);] LINE ITEM VETO~~

(7) the early childhood education and care program of the early childhood education and care department is reduced by three million three hundred thousand dollars (\$3,300,000);

(8) the public pre-kindergarten program of the early childhood education and care department is reduced by one million dollars (\$1,000,000);

(9) program support of the early childhood education and care department is reduced by six hundred seventy-one thousand four hundred dollars (\$671,400);

(10) the medical assistance program of the human services department is reduced by seventeen million dollars (\$17,000,000);

(11) the income support program of the human services department is reduced by one million one hundred twenty-seven thousand four hundred dollars (\$1,127,400);

(12) the behavioral health services program of the human services department is reduced by five hundred thousand dollars (\$500,000);

(13) program support of the human services department is reduced by five hundred seventy-two thousand six hundred dollars (\$572,600);

(14) the developmental disabilities support program of the department of health is reduced by two million four hundred thousand dollars (\$2,400,000);

(15) program support of the department of health is reduced by six hundred thousand dollars (\$600,000);

(16) the water protection program of the department of environment is reduced by four hundred thousand dollars (\$400,000);

(17) the protective services program of the children, youth and families department is reduced by one million dollars (\$1,000,000);

(18) program support of the children, youth and families department is reduced by five hundred thousand dollars (\$500,000);

(19) the law enforcement program of the department of public safety is reduced by one million dollars (\$1,000,000); and

(20) the opportunity scholarship program of the higher education department is reduced by seven million dollars (\$7,000,000).

B. Notwithstanding any other provision of the General Appropriation Act of 2020, the college of agriculture, consumer and environmental sciences of New Mexico state university shall not transfer the staff position and funding for the rodeo coach to the athletics department."

## **Chapter 5 Section 4 Laws 2020 (1st S.S.)**

SECTION 4. A new section of the General Appropriation Act of 2020 is enacted to read:

"REDUCTIONS ACCOUNTING FOR FEDERAL FUND ALLOCATIONS--  
SECTION 4.--

A. In addition to the general fund reductions in Sections 2, 3 and 5 of this 2020 act, to account for certain funds received through the federal Coronavirus Aid, Relief, and Economic Security Act, other state funds and federal funds, the general fund appropriations in Section 4 of the General Appropriation Act of 2020 to:

~~[(1) the early childhood education and care department is reduced by five million dollars (\$5,000,000);] *LINE ITEM VETO*~~

(2) the department of health is reduced by seven million dollars (\$7,000,000);

(3) the human services department is reduced by seventy-five million dollars (\$75,000,000);

(4) the instruction and general purposes appropriations to each higher education institution are reduced by eighteen million seven hundred ninety-five thousand four hundred dollars (\$18,795,400);

(5) the health sciences center of the university of New Mexico for instruction and general purposes is reduced by one million two hundred four thousand six hundred dollars (\$1,204,600);

~~[(6) the public education department special appropriations in Subsection I are reduced by ten million dollars (\$10,000,000), in proportion to each special appropriation's share of total public education department special appropriations to reflect funding support from the governor's emergency education relief fund of the federal Coronavirus Aid, Relief, and Economic Security Act;] and *LINE ITEM VETO*~~

(7) the state equalization guarantee distribution provided in Item (1) of Subsection K is reduced by forty-four million six hundred sixty-one thousand dollars (\$44,661,000) to reflect funding support from the elementary and secondary school emergency relief fund of the federal Coronavirus Aid, Relief, and Economic Security Act.

B. To administer the reductions provided in Paragraph (4) of Subsection A of this section, the department of finance and administration shall reduce the general fund allotment for instruction and general purposes appropriations to each higher education public college and university by thirty-three and one-half percent of the amount each institution received pursuant to the federal Coronavirus Aid, Relief, and Economic Security Act.

## **Chapter 5 Section 5 Laws 2020 (1st S.S.)**

SECTION 5. A new section of the General Appropriation Act of 2020 is enacted to read:

"ADDITIONAL PUBLIC EDUCATION AND PUBLIC SCHOOL SUPPORT  
APPROPRIATION REDUCTIONS AND CHANGES--SECTION 4.--

A. In addition to the general fund reductions provided in Section 4 of this 2020 act, the general fund appropriation to the state equalization guarantee distribution in Item (1) of Subsection K of the General Appropriation Act of 2020 is reduced by one hundred forty-six million one hundred ninety-eight thousand nine hundred dollars (\$146,198,900).

B. As provided in Item (1) of Subsection K of the General Appropriation Act of 2020, in lieu of the:

(1) six million dollars (\$6,000,000) for elementary physical education programs, no additional funding shall be included for elementary physical education programs;

(2) one hundred nineteen million eight hundred ninety-five thousand nine hundred dollars (\$119,895,900) for K-5 plus programs, seventy-nine million eight hundred ninety-five thousand nine hundred dollars (\$79,895,900) shall be included for K-5 plus programs;

(3) ten million dollars (\$10,000,000) to provide evidence-based structured literacy interventions and develop literacy collaborative models that lead to improved reading and writing achievement of students in kindergarten through second grade, eight million dollars (\$8,000,000) shall be included to provide evidence-based structured literacy interventions and develop literacy collaborative models that lead to improved reading and writing achievement of students in kindergarten through second grade;

(4) fifty-nine million one hundred eighty thousand two hundred dollars (\$59,180,200) to provide an average four percent salary increase to all licensed teachers whose primary duty is classroom instruction, no additional funding shall be included to provide salary increases for licensed teachers whose primary duty is classroom instruction, and the secretary of public education shall not require that the operating budget of a school district or charter school provide an average four percent salary increase for licensed teachers whose primary duty is classroom instruction; and

(5) thirty-three million four hundred forty-seven thousand four hundred dollars (\$33,447,400) to provide salary increases to all school personnel, other than licensed teachers whose primary duty is classroom instruction, no additional funding shall be included to provide salary increases for school personnel, other than licensed teachers whose primary duty is classroom instruction, and the secretary of public education shall not require that the operating budget of a school district or charter school provide an average four percent salary increase for all school personnel, other than licensed teachers whose primary duty is classroom instruction.

C. The changes provided in Subsection B of this section shall not be construed to require additional reductions to the total general fund appropriation to the state equalization guarantee distribution in Item (1) of Subsection K of the General Appropriation Act of 2020.

D. The general fund appropriation to the state equalization guarantee distribution includes sufficient funding to provide an average one percent salary increase for all school personnel, other than licensed school administrators who are employed as licensed school administrators and unlicensed school employees employed to perform primarily district-wide management functions. School districts and charter schools shall submit a plan to the public education department detailing the implementation of the salary increases.

E. An elementary school that provided all enrolled elementary school students at least twenty-five additional instructional days beyond the number of regular instructional days provided in the 2018-2019 school year is eligible to generate K-5 plus program units using the average number of elementary school students enrolled in that elementary school on the second and third reporting date of the 2019-2020 school year multiplied by the cost differential factor of three-tenths as established in Section 22-8-23.11 NMSA 1978.

F. Notwithstanding provisions of the K-5 Plus Act, the secretary of public education may waive up to ten days of a K-5 plus program in an elementary school that offers the program to all enrolled students and is closed due to a public health emergency in fiscal year 2021.

G. The public education department shall work with school districts and charter schools to prioritize additional instructional time for all students through participation in extended learning time programs authorized by Section 22-8-23.10 NMSA 1978 to recover instructional time that was lost to students during the 2019-2020 school year due to the public health emergency. A school district or charter school is eligible to generate additional program units using the average number of students enrolled in the school district or charter school on the second and third reporting date of the 2019-2020 school year multiplied by the cost differential factor of eleven-hundredths as established in Section 22-8-23.10 NMSA 1978 if the school district or charter school provides all enrolled students:

(1) ten additional instructional days beyond the number of regular instructional days provided in the 2018-2019 school year;

(2) a five-day school week and one hundred ninety instructional days during the 2020-2021 school year; or

(3) a four-day school week and one hundred sixty instructional days during the 2020-2021 school year.

H. A school district or charter school that chooses not to add the additional instructional time provided in Subsection G of this section shall provide written notification to the public education department, the legislative education study committee and the legislative finance committee of its intent not to participate and additional documentation detailing how the school district or charter school will recover instructional time that was lost to students during the 2019-2020 school year due to the public health emergency in its educational plan pursuant to Section 22-8-6 NMSA 1978.

I. In addition to the authority provided in Item (1) of Subsection K of Section 4 of the General Appropriation Act of 2020 to the secretary of public education to determine a program unit value, the secretary of public education shall adjust the preliminary unit value used to establish budgets for the 2020-2021 school year by August 1, 2020, to account for any changes to the state equalization guarantee distribution. In adjusting the preliminary unit value in August, the public education department shall consult with the department of finance and administration, the legislative finance committee and the legislative education study committee.

J. If the secretary of public education determines that ~~[all legal remedies have been exhausted and]~~ a ~~[final court]~~ decision prohibits the deduction of federal revenue pursuant to Paragraph (2) of Subsection C of Section 22-8-25 NMSA 1978 that includes payments to school districts and charter schools commonly known as "impact aid funds" pursuant to 20 U.S.C. 7701 et seq., and formerly known as "PL 874 funds" for fiscal years 2020 and 2021, the state board of finance shall approve a transfer from the state-support reserve fund to make payments to impact aid school districts and charter schools affected by the court decision. *LINE ITEM VETO*

K. The appropriation from the general fund to the transportation distribution provided in Item (2) of Subsection K of Section 4 of the General Appropriation Act of 2020 is reduced by five million six hundred seven thousand nine hundred dollars (\$5,607,900).

L. As provided in Item (2) of Subsection K of the General Appropriation Act of 2020, in lieu of the one million five hundred ninety-four thousand dollars (\$1,594,000) to provide an average four percent salary increase for all public school transportation personnel, no additional funding shall be included to provide salary increases for public school transportation personnel, and the secretary of public education shall not require that the operating budget of a school district or charter school provide an average four percent salary increase for all public school transportation personnel.

M. The change provided in Subsection L of this section shall not be construed to require additional reductions to the general fund appropriation to the transportation distribution in Item (2) of Subsection K of the General Appropriation Act of 2020.

N. A school district or charter school shall not pay an increase of more than six percent for group health insurance premium increases that take effect in fiscal year 2021.

O. The appropriations from the general fund to the supplemental distribution, dual-credit instructional materials, Indian education fund and standards-based assessments in Subsection K of Section 4 of the General Appropriation Act of 2020 are reduced by four million fourteen thousand dollars (\$4,014,000), as determined by the public education department.

P. The appropriations from the general fund to the public education department special appropriations in Subsection I of Section 4 of the General Appropriation Act of 2020 are reduced by three million four hundred fifteen thousand nine hundred dollars (\$3,415,900) in proportion to each appropriation's share of total public education department special appropriations."

## **Chapter 5 Section 6 Laws 2020 (1st S.S.)**

SECTION 6. A new section of the General Appropriation Act of 2020 is enacted to read:

"APPROPRIATION INCREASES--SECTION 4.--The appropriations in Section 4 of the General Appropriation Act of 2020 are each increased by the following:

A. the internal service funds or interagency transfers appropriation to the fiscal management and oversight program of the department of finance and administration in the other financing uses category is increased by seventeen million dollars (\$17,000,000) from the tobacco settlement program fund for medicaid programs; and

B. the internal service funds or interagency transfers appropriations to the medical assistance program of the human services department is increased by seventeen million dollars (\$17,000,000) from the department of finance and administration for medicaid programs."

## **Chapter 5 Section 7 Laws 2020 (1st S.S.)**

SECTION 7. A new section of the General Appropriation Act of 2020 is enacted to read:

"APPROPRIATION REDUCTIONS AND CHANGES--SECTION 5.--

A. The appropriations in Section 5 of the General Appropriation Act of 2020 are each reduced by the following:

(1) the general fund appropriation to the administrative office of the courts to purchase and install furniture and equipment and convert permanent and long-term retention case files to digitization at magistrate courts in Item (8) is reduced by five hundred thousand dollars (\$500,000);

(2) the general fund appropriation to the administrative office of the courts for a unified appropriation for magistrate court security personnel in Item (9) is reduced by two hundred thousand dollars (\$200,000);

(3) the general fund appropriation to the first judicial district attorney to purchase office furniture and telephones in Item (19) is reduced by twenty-five thousand dollars (\$25,000);

(4) the general fund appropriation to the public defender department to purchase vehicles in Item (24) is reduced by sixty thousand dollars (\$60,000);

(5) the general fund appropriation to the department of finance and administration for a youth symphony music program and concerts in Roswell, New Mexico in Item (31) is reduced by seventy-five thousand dollars (\$75,000);

(6) the general fund appropriation to the department of finance and administration for the civil legal services fund in Item (33) is reduced by fifty thousand dollars (\$50,000);

(7) the general fund appropriation to the department of finance and administration for the local government division to work with Los Lunas to plan for a new hospital in Item (34) is reduced by one hundred thousand dollars (\$100,000);

(8) the general fund appropriation to the general services department to purchase vehicles in Item (37) is reduced by two million dollars (\$2,000,000);

(9) the general fund appropriation to the department of information technology for the replacement or upgrade of outdated information technology equipment and software in Item (42) is reduced by one million dollars (\$1,000,000);

(10) the general fund appropriation to the economic development department for a twenty-year, statewide economic development plan in Item (47) is reduced by three hundred thousand dollars (\$300,000);

(11) the general fund appropriation to the economic development department for economic development projects in Cibola and McKinley counties in Item (48) is reduced by one million five hundred thousand dollars (\$1,500,000), including reductions of five hundred thousand dollars (\$500,000) to the New Mexico institute of mining and technology, five hundred thousand dollars (\$500,000) to New Mexico state university and five hundred thousand dollars (\$500,000) pursuant to the Local Economic Development Act;

~~[(12) the general fund appropriation to the economic development department for economic development projects pursuant to the Local Economic Development Act in Item (49) is reduced by five million dollars (\$5,000,000);~~

~~(13) the general fund appropriation to the economic development department to the development training fund for the job training incentive program in Item (51) is reduced by one million dollars (\$1,000,000);] LINE ITEM VETO~~

(14) the general fund appropriation to the energy, minerals and natural resources department to promote cost effective investments in clean energy production and management for the purposes of growing the economy in Item (62) is reduced by five hundred thousand dollars (\$500,000);

(15) the general fund appropriation to the state engineer for the interstate stream compact compliance and water development program to develop and fund a water management pilot project for the lower Rio Grande for fiscal years 2020 through 2023 in Item (67) is reduced by ten million dollars (\$10,000,000);

(16) the general fund appropriation to the aging and long-term services department for the Kiki Saavedra senior dignity fund in Item (81) is reduced by one million dollars (\$1,000,000);

(17) the general fund appropriation to the department of health for master planning assessments for five department of health hospitals in Item (93) is reduced by four hundred thousand dollars (\$400,000);

(18) the general fund appropriation to the office of the natural resources trustee for the natural resources trustee fund in Item (101) is reduced five hundred thousand dollars (\$500,000);

(19) the general fund appropriation to the corrections department for hepatitis c treatment and planning in Item (104) is reduced by three million dollars (\$3,000,000);

(20) the general fund appropriation to the department of public safety to purchase a robot for the New Mexico state police bomb squad in Item (109) is reduced by four hundred eleven thousand dollars (\$411,000);

(21) the general fund appropriation to the department of public safety to purchase and equip law enforcement vehicles in Item (113) is reduced by two million six hundred thousand dollars (\$2,600,000);

(22) the general fund appropriation to the homeland security and emergency management department for border security, public health and communications, including one hundred thousand dollars (\$100,000) for distribution to law enforcement agencies in border counties, in Item (114) is reduced by three hundred fifty thousand dollars (\$350,000);

(23) the general fund appropriation to the homeland security and emergency management department for office furniture in Item (116) is reduced by thirty-four thousand three hundred dollars (\$34,300);

(24) the general fund appropriation to the homeland security and emergency management department to purchase vehicles in Item (117) is reduced by five hundred fifty thousand dollars (\$550,000);

~~[(25) the appropriation made from the public education reform fund to the public education department to develop culturally and linguistically appropriate instructional materials and curricula in Item (120) is reduced by eight million dollars (\$8,000,000);] LINE ITEM VETO~~

(26) the appropriation made from the public education reform fund to the public education department for a school budget transparency website in Item (124) is reduced by three million dollars (\$3,000,000);

(27) the appropriation made from the public education reform fund to the public education department for school improvement grants at public schools previously identified as a more rigorous intervention school by the public education department in Item (127) is reduced by two million nine hundred thirty-three thousand one hundred dollars (\$2,933,100);

~~[(28) the appropriation made from the public education reform fund to the public education department for a statewide special education convening in Item (129) is reduced by seven hundred fifty thousand dollars (\$750,000);] LINE ITEM VETO~~

(29) the appropriation made from the public education reform fund to the public education department to place teachers in hard-to-staff schools and provide ongoing support and development in Item (131) is reduced by one million dollars (\$1,000,000);

(30) the appropriation made from the public education reform fund to the public education department for teacher residencies in Item (132) is reduced by one million dollars (\$1,000,000);

(31) the general fund appropriation to the higher education department for financial aid for low-income students in Item (135) is reduced by ~~ten million dollars (\$10,000,000), including reductions of~~ five million dollars (\$5,000,000) for the teacher preparation affordability scholarship fund ~~[and five million dollars (\$5,000,000) for the opportunity scholarship];~~ LINE ITEM VETO

(32) the general fund appropriation to New Mexico state university to the New Mexico department of agriculture for the soil and water conservation commission for a pilot agricultural and natural resources grant program in Item (138) is reduced by one million eight hundred thousand dollars (\$1,800,000);

(33) the general fund appropriation to the computer systems enhancement fund for transfer to the computer systems enhancement fund for system replacements or enhancements in Item (139) is reduced by six million seven hundred thirty-three thousand nine hundred dollars (\$6,733,900);

(34) the appropriation made from the public education reform fund to public school support to pilot summer extended learning opportunities in historically defined Indian impacted school districts or charter schools and school districts with a membership of fewer than two hundred, including early childhood education full-time-equivalent membership, in Item (140) is reduced by five million dollars (\$5,000,000);

(35) the appropriation made from the public education reform fund to public school support for instructional materials in Item (141) is reduced by four million five hundred thousand dollars (\$4,500,000); and

(36) the appropriation made from the public education reform fund to public school support to pilot K-12 plus programs and support public schools establishing partial K-5 plus programs that will comply with the K-5 Plus Act by fiscal year 2023 in Item (142) is reduced by thirty million dollars (\$30,000,000).

B. In addition to the special appropriations provided in Section 5 of the General Appropriation Act of 2020:

(1) five hundred thousand dollars (\$500,000) is appropriated from the general fund to the administrative office of the courts to distribute to district courts for the cost of new judgeships; and

(2) one million seven hundred thousand dollars (\$1,700,000) is appropriated to the department of finance and administration to distribute to executive, legislative and judicial agencies to provide a one percent salary increase to cover cost increases of employee benefits for employees earning an annual salary of less than fifty thousand dollars (\$50,000); provided that the agency is unable to provide these salary increases from the agency's operating budget.

C. The appropriations provided in Subsection B of this section may be expended in fiscal year 2021, and any unexpended balance of the appropriations remaining at the end of fiscal year 2021 shall revert to the general fund.

D. If funding from the federal Coronavirus Aid, Relief, and Economic Security Act is available, the department of finance and administration may use those funds to provide supplemental funding for the appropriations to the public education department or to public school support listed in Subsection A this section; provided that funding from the federal Coronavirus Aid, Relief, and Economic Security Act shall not exceed the total appropriation reduction for a purpose as provided by this section."

## **Chapter 5 Section 8 Laws 2020 (1st S.S.)**

SECTION 8. A new section of the General Appropriation Act of 2020 is enacted to read:

"DEVELOPMENTAL DISABILITIES SUPPORT PROGRAM--REVERSION--  
SECTION 5.--Notwithstanding any other provision of the General Appropriation Act of

2020, the total amount of funds that shall revert pursuant to Item (89) of Section 5 of the General Appropriation Act of 2020 shall be seven million dollars (\$7,000,000). Any unexpended balance over seven million dollars (\$7,000,000) in the developmental disabilities support program of the department of health remaining at the end of fiscal year 2020 shall not revert to the general fund."

### **Chapter 5 Section 9 Laws 2020 (1st S.S.)**

SECTION 9. A new section of the General Appropriation Act of 2020 is enacted to read:

"SUPPLEMENTAL AND DEFICIENCY APPROPRIATION REDUCTION--SECTION 6.--The general fund appropriation in Item (6) of Section 6 of the General Appropriation Act of 2020 to the public school insurance authority to the public school insurance fund to pay insurance claims is reduced by two million dollars (\$2,000,000)."

### **Chapter 5 Section 10 Laws 2020 (1st S.S.)**

SECTION 10. A new section of the General Appropriation Act of 2020 is enacted to read:

"INFORMATION TECHNOLOGY APPROPRIATION REDUCTIONS--SECTION 7.--The appropriations from the computer systems enhancement fund in Section 7 of the General Appropriation Act of 2020 are each reduced by the following:

A. the appropriation to the public defender department to implement an integrated document management system and a redundant storage system for digital archives in Item (3) is reduced by one million seventy thousand dollars (\$1,070,000);

B. the appropriation to the department of finance and administration to develop a web-based interface for the comprehensive annual financial report system software in Item (7) is reduced by two hundred fifty thousand dollars (\$250,000);

C. the appropriation to the personnel board to implement additional functionality in the human capital management module in the statewide human resource accounting and reporting system in Item (12) is reduced by two million five hundred thousand dollars (\$2,500,000);

D. the appropriation to the tourism department to purchase and install interactive technology at four statewide visitor information centers in Item (13) is reduced by five hundred eighty-two thousand nine hundred dollars (\$582,900);

E. the appropriation to the department of environment to implement an enterprise environmental information system for the department of environment

programs in Item (35) is reduced by one million five hundred eighty-one thousand dollars (\$1,581,000); and

F. the appropriation to the corrections department for the initiation and planning phase to implement an electronic health records system with a commercial off-the-shelf solution in Item (39) is reduced by seven hundred fifty thousand dollars (\$750,000)."

### **Chapter 5 Section 11 Laws 2020 (1st S.S.)**

SECTION 11. A new section of the General Appropriation Act of 2020 is enacted to read:

"COMPENSATION APPROPRIATIONS REDUCTION--SECTION 8.--The general fund appropriations for salary increases provided in Section 8 of the General Appropriation Act of 2020 are reduced by one hundred percent, and no salary increases shall be provided pursuant to that section."

### **Chapter 5 Section 12 Laws 2020 (1st S.S.)**

SECTION 12. A new section of the General Appropriation Act of 2020 is enacted to read:

"SPECIAL TRANSPORTATION APPROPRIATION REDUCTION--SECTION 9.--The general fund appropriation in Item (1) of Section 9 of the General Appropriation Act of 2020 to the department of transportation is reduced by forty-five million dollars (\$45,000,000)."

### **Chapter 5 Section 13 Laws 2020 (1st S.S.)**

SECTION 13. A new section of the General Appropriation Act of 2020 is enacted to read:

"FUND TRANSFER REDUCTIONS--SECTION 10.--The general fund appropriation to the department of finance and administration to the early childhood endowment fund in fiscal year 2021 in Item (1) of Section 10 of the General Appropriation Act of 2020 shall be made to the early childhood education and care fund and is reduced by twenty million dollars (\$20,000,000)."

### **Chapter 5 Section 14 Laws 2020 (1st S.S.)**

SECTION 14. A new section of the General Appropriation Act of 2020 is enacted to read:

"ALLOCATION OF FEDERAL STIMULUS MONEY.--The state of New Mexico, including political subdivisions of the state, did not anticipate expenditures for the operation of government in budgets for fiscal year 2020 or fiscal year 2021 to respond to the coronavirus disease 2019 public health emergency. Of the money available at the time of this 2020 act from the federal Coronavirus Aid, Relief, and Economic Security Act state and local relief fund allocation to the state of New Mexico:

~~A.—one hundred thirty million dollars (\$130,000,000) shall be used for necessary expenditures incurred due to the coronavirus disease 2019 public health emergency, including reimbursing agencies for eligible expenditures in fiscal year 2020 and ongoing public health emergency needs in fiscal year 2021;~~

~~B.—one hundred fifty million dollars (\$150,000,000) shall be allocated by the department of finance and administration to cities and counties with a population of less than five hundred thousand residents for necessary expenditures responding to the public health emergency such as public safety, health and other government expenditures necessary for mitigating the effects, including secondary effects, of the public health emergency in fiscal year 2021, including reimbursing unforeseen expenditures in fiscal year 2020; provided that if the department of finance and administration allocates funds to each eligible city or county in the proportion that the population of the eligible city or county is to the total population of all eligible cities and counties, the population of an eligible city or county or municipality shall be determined by the most recent population estimate published by the United States census bureau that includes adequate data for the eligible city or county;~~

~~C.—in addition to the amounts in Subsection B of this section, the department of finance and administration shall allocate an additional fifteen million dollars (\$15,000,000) to the counties of Cibola, McKinley and San Juan, and municipalities within those counties, for the same purposes as set out in Subsection B of this section due to the extraordinary impact of the public health emergency, and associated unforeseen costs, in those jurisdictions; provided that if the department of finance and administration allocates funds to each eligible county or municipality in the proportion that the population of the eligible county is to the total population of all eligible counties and municipalities, the population of an eligible county or municipality shall be determined according to the most recent population estimate published by the United States census bureau that includes adequate data for the eligible county or municipality;~~

~~D.—in addition to the amounts in Subsection B of this section, the department of finance and administration shall allocate an additional twenty three million dollars (\$23,000,000) for the governments of Indian nations, pueblos or tribes for the same purposes as set out in Subsection B of this section due to the extraordinary impact of the public health emergency, and associated unforeseen costs, in those jurisdictions;]~~  
*LINE ITEM VETO*

E. seven hundred fifty million dollars (\$750,000,000) shall be transferred to the appropriation account of the general fund for expenditure in fiscal year 2021 on expenditures reasonably necessary for the operation of government, including:

(1) necessary expenditures within state agencies, public schools and higher education to comply with the public health orders, including sanitation, alternative work and service delivery practices, and secondary effects to operations caused by the coronavirus disease 2019 public health emergency;

(2) public health, public health facilities, public safety, adult and juvenile corrections, human services, other non-medicaid health and behavioral health expenditures to comply with public health orders; and

(3) expenditures for public and higher education to deliver educational services, including facilitating social distancing and mitigating lost learning, and to facilitate economic support for businesses in New Mexico to have a skilled workforce; and

F. contingent on certification by the secretary of finance and administration of notice by the federal government disallowing the use of funds in the manner provided in Subsection E of this section, the department of finance and administration, public education department and higher education department shall specifically account for those expenses in Subsection E of this section in agency budgets, local education agency budgets and institutions of higher education budgets and account for the portion of the general fund allotment using the federal Coronavirus Aid, Relief, and Economic Security Act state relief fund instead."

## **Chapter 5 Section 15 Laws 2020 (1st S.S.)**

SECTION 15. A new section of the General Appropriation Act of 2020 is enacted to read:

"TAX STABILIZATION RESERVE--TRANSFER.--Pursuant to Subsection E of Section 6-4-2.2 NMSA 1978, money in the tax stabilization reserve may be transferred as follows:

A. if, after accounting for all transfers to the general fund authorized by the General Appropriation Act of 2020, including transfers from the general fund operating reserve and the appropriation contingency fund, revenue and transfers in the general fund at the end of fiscal year 2020 are insufficient to meet appropriations, the governor, with state board of finance approval, may transfer to the appropriation account of the general fund the amount necessary to meet that fiscal year's obligations from the tax stabilization reserve;

B. if, after accounting for all transfers to the general fund authorized by the General Appropriation Act of 2020, including transfers from the general fund operating reserve and the appropriation contingency fund, revenue and transfers in the general fund at the end of fiscal year 2021 are insufficient to meet appropriations, the governor, with state board of finance approval, may transfer to the appropriation account of the general fund the amount necessary to meet that fiscal year's obligations from the tax

stabilization reserve; provided that the total transferred pursuant to this subsection shall not exceed seven hundred fifty million dollars (\$750,000,000);

C. if the department of finance and administration certifies to the state board of finance that a portion or all of federal Coronavirus Aid, Relief, and Economic Security Act funds cannot be used, as provided for in Subsection E of Section 14 of this 2020 act, and if revenue and transfers to the general fund at the end of fiscal year 2021 are insufficient to meet appropriations, the governor, with the approval of the state board of finance, may transfer to the appropriation account of the general fund the amount necessary to meet that fiscal year's obligations from the tax stabilization reserve; provided that no more than seven hundred fifty million dollars (\$750,000,000) shall be transferred; and provided further that if any federal funds received by the state may be used to fund appropriations and transfers made pursuant to the General Appropriation Act of 2020 or this 2020 act, the transfer from the tax stabilization reserve made pursuant to this subsection shall be reduced by that amount of federal funds received; and

D. if the department of finance and administration determines that the federal government will not provide funding in the fourth quarter of calendar year 2020 to extend the enhancements provided to the medical assistance program provided in response to the coronavirus disease 2019 public health emergency, the governor, with the approval of the state board of finance, may transfer up to thirty-seven million five hundred thousand dollars (\$37,500,000) to the human services department for the medical assistance program."

## **Chapter 5 Section 16 Laws 2020 (1st S.S.)**

SECTION 16. A new section of the General Appropriation Act of 2020 is enacted to read:

"TOBACCO SETTLEMENT PERMANENT FUND--TRANSFER FOR THE MEDICAL ASSISTANCE PROGRAM.--Fifty percent of the fiscal year 2021 distribution to the state pursuant to the master settlement agreement entered into between tobacco product manufacturers and various states, including New Mexico, and executed November 23, 1998, shall be distributed to the tobacco settlement program fund; provided that this distribution is in addition to the annual distribution from the tobacco settlement permanent fund to the tobacco settlement program fund."

## **Chapter 5 Section 17 Laws 2020 (1st S.S.)**

SECTION 17. A new section of the General Appropriation Act of 2020 is enacted to read:

"DEPARTMENT OF FINANCE AND ADMINISTRATION--AUTHORITY TO REQUIRE ADDITIONAL BUDGET DECREASES.--

A. During fiscal year 2021, the department of finance and administration shall regularly consult with the legislative finance committee staff to compare revenue collections with the revenue estimate. If a general fund consensus revenue forecast projects that revenues and transfers to the general fund, including all transfers authorized pursuant to this 2020 act, will be insufficient to meet general fund appropriations for fiscal year 2021, general fund allotments shall be reduced as follows in the amount necessary to meet general fund appropriations for that fiscal year; provided that no allotment shall be reduced by more than two percent:

(1) the department of finance and administration, after review and an opportunity to comment by the legislative finance committee, shall reduce general fund allotments to each agency, program and other recipient that receives a general fund appropriation pursuant to Subsection C of Section 4 of the General Appropriation Act of 2020; provided that each agency shall be reduced by the same percentage;

(2) the administrative office of the courts shall reduce general fund allotments to each judicial agency, program and other recipient that receives a general fund appropriation pursuant to Subsection B of Section 4 of the General Appropriation Act of 2020; and

(3) the New Mexico legislative council shall reduce general fund allotments to each legislative agency, program and other recipient that receives a general fund appropriation pursuant to Laws 2020, Chapter 1, Sections 3 and 5 through 8.

B. The department of finance and administration shall provide guidance to each agency provided for in Paragraph (1) of Subsection A of this section to assist the agency in targeting program reductions that will minimize the impact of the reductions on direct services provided by the agency.

C. As used in this section, "general fund consensus revenue forecast" means the revenue estimates prepared by the career economists of the department of finance and administration, the taxation and revenue department, the department of transportation and the legislative finance committee."

## **Chapter 5 Section 18 Laws 2020 (1st S.S.)**

SECTION 18. A new section of the General Appropriation Act of 2020 is enacted to read:

"OPERATING BUDGETS AND ALLOTMENTS REDUCED TO COMPLY--  
OTHER REDUCTIONS TO CONFORM--OVER-ALLOTMENTS--DEPARTMENT OF  
FINANCE AND ADMINISTRATION.--

A. The department of finance and administration shall reduce fiscal year 2021 operating budgets and adjust allotments to comply with the provisions of this 2020 act and may reduce appropriations from other state funds, internal service or

interagency transfers and federal funds as necessary to match the general fund reductions in the fiscal year 2021 operating budgets. The legislative finance committee shall review the adjusted operating budgets no later than August 1, 2020.

B. If, in Sections 1 through 15 of this 2020 act, a general fund appropriation or budget is reduced and funds in excess of the amount of the reduced appropriation or budget have already been allotted to the state agency receiving the appropriation, the department of finance and administration may reduce any other general fund allotment to the state agency in order to recoup the over-allotment of the reduced appropriation or budget. In the case of an appropriation made to one state agency but disbursed or transferred to another state agency, the department of finance and administration may reduce any other general fund allotment to the agency to which the appropriation was disbursed or transferred in order to recoup the over-allotment of the reduced appropriation or budget. The authority provided in this section is additional to any other power the department of finance and administration has to remedy over-allotments, and the grant of authority in this section shall not be deemed to be a legislative determination that the department of finance and administration does not otherwise have the authority provided in this section.

C. As used in this section, "state agency" means any department, institution, board, bureau, commission, district or committee of the government of the state and means every office or officer of any of the above."

## **Chapter 5 Section 19 Laws 2020 (1st S.S.)**

### **SECTION 19. SPECIAL SESSION APPROPRIATION.--**

A. The following amounts are appropriated from the legislative cash balances for expenditure in fiscal years 2020 and 2021 for the following expenses of the first special session of the fifty-fourth legislature:

(1) for the expense of the house of representatives, one hundred twenty-four thousand dollars (\$124,000) to be disbursed on vouchers signed by the speaker and the chief clerk of the house of representatives or the chief clerk's designee;

(2) for the expense of the senate, one hundred six thousand five hundred dollars (\$106,500) to 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; and

(3) for the expense of the legislative council service, forty thousand dollars (\$40,000) to be disbursed on vouchers signed by the director of the legislative council service or the director's designee to reimburse the department of public safety for providing security and protection for the legislature pursuant to Section 29-2-27 NMSA 1978.

B. Following adjournment of the first special session of the fifty-fourth legislature, expenditures authorized in this section shall be disbursed on vouchers signed by the director of the legislative council service or the director's designee.

### **Chapter 5 Section 20 Laws 2020 (1st S.S.)**

SECTION 20. TEMPORARY PROVISION--EXTEND CENSUS APPROPRIATION--GENERAL APPROPRIATION ACT OF 2019.--The time of expenditure for the general fund appropriation to the department of finance and administration for planning to support local government complete count efforts and training for the 2020 census in Item (37) of Section 5 of the General Appropriation Act of 2019 is extended through fiscal year 2021.

### **Chapter 5 Section 21 Laws 2020 (1st S.S.)**

SECTION 21. TEMPORARY PROVISION--STATE EQUALIZATION GUARANTEE DISTRIBUTION REVERSION--GENERAL APPROPRIATION ACT OF 2019.--Any unexpended balances in the state equalization guarantee distribution remaining at the end of fiscal year 2020 made from the general fund to Item (1) of Subsection K of Section 4 of the General Appropriation Act of 2019 shall not revert to the general fund but shall instead revert to the state-support reserve fund.

## **LAWS 2020 (1ST S.S.), CHAPTER 6**

**Senate Bill 3, aa, w/ec, w/cc  
Approved July 7, 2020**

### **AN ACT**

RELATING TO PUBLIC FINANCE; ENACTING THE SMALL BUSINESS RECOVERY ACT OF 2020; CREATING THE SMALL BUSINESS RECOVERY LOAN FUND; PROVIDING SMALL BUSINESS RECOVERY LOANS FOR CERTAIN BUSINESSES; ESTABLISHING TERMS FOR SMALL BUSINESS RECOVERY LOANS; REQUIRING REPAYMENT; PROVIDING FOR THE INVESTMENT OF THE SEVERANCE TAX PERMANENT FUND IN CERTAIN LOANS; PROVIDING TERMS; REQUIRING A CERTAIN AMOUNT OF THE SEVERANCE TAX PERMANENT FUND TO BE INVESTED IN LOANS FOR LOCAL GOVERNMENTS THAT EXPERIENCE A DECLINE IN REVENUE DUE TO THE CORONAVIRUS DISEASE 2019 PANDEMIC; ALLOWING FOR AN INCREASE IN THE INVESTMENT OF THE SEVERANCE TAX PERMANENT FUND IN NEW MEXICO PRIVATE EQUITY FUNDS OR NEW MEXICO BUSINESSES; ESTABLISHING REPORTING REQUIREMENTS; OMITTING DATA FROM MARCH 1, 2020 THROUGH JUNE 30, 2021 FROM THE CALCULATIONS OF EMPLOYER CONTRIBUTIONS TO THE UNEMPLOYMENT COMPENSATION FUND, EXCESS CLAIMS PREMIUMS AND EXCESS CLAIMS RATES; USING THE 2019 COMPUTATION DATE RESERVE FACTOR FROM JANUARY 1, 2020 THROUGH JUNE 30, 2021; REPEALING LAWS 2020, CHAPTER 75, SECTION 1 TO MAKE

CONFORMING TECHNICAL CHANGES; MAKING AN APPROPRIATION;  
DECLARING AN EMERGENCY.

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

### **Chapter 6 Section 1 Laws 2020 (1st S.S.)**

SECTION 1. SHORT TITLE.--Sections 1 through 7 of this act may be cited as the "Small Business Recovery Act of 2020".

### **Chapter 6 Section 2 Laws 2020 (1st S.S.)**

SECTION 2. DEFINITIONS.--As used in the Small Business Recovery Act of 2020:

- A. "authority" means the New Mexico finance authority;
- B. "average adjusted monthly business expenses" means an amount equal to the quotient of:
  - (1) a business's total expenses for taxable year 2019, excluding expenses deducted pursuant to Section 179 of the United States Internal Revenue Code of 1986, as that section may be amended or renumbered, and expenses for depreciation and bonus depreciation deducted pursuant to the United States Internal Revenue Code of 1986, as determined from the business's federal income tax return for taxable year 2019, less the amount of any loan obtained by the business pursuant to Section 1102 of the federal Coronavirus Aid, Relief, and Economic Security Act; and
  - (2) twelve;
- C. "community development financial institution" means a legal entity operating within the state that is certified as a community development financial institution by the federal community development financial institutions fund;
- D. "loan servicer" means a federally insured depository institution or community development financial institution that assembles and submits the small business recovery loan documents to the authority;
- E. "New Mexico resident" means an individual who is domiciled in this state during any part of the year or an individual who is physically present in this state for one hundred eighty-five days or more during the taxable year;
- F. "ordinary and necessary business expenses" means all expenses, including expenses and capital expenses incurred to operate the business in compliance with a public health order;

G. "qualifying small business" means a business or nonprofit corporation that:

(1) has closed or reduced operations due to the public health order issued by the secretary of health on March 23, 2020;

(2) had an annual gross revenue of less than five million dollars (\$5,000,000) as determined from the business's federal income tax return for taxable year 2019;

(3) during the months of April and May 2020, experienced one of the following:

(a) for a business entity other than a nonprofit corporation, a decline in the business's monthly gross receipts by more than thirty percent from the business's monthly gross receipts for that month in 2019, as reported monthly by the business to the taxation and revenue department; or

(b) for a business entity that is organized and operated as a nonprofit corporation, a decline in the business's monthly revenue by more than thirty percent from the business's monthly revenue for that month in 2019, as determined through accounting information that is provided by the business and certified to be accurate and information reported by the business to the federal internal revenue service for the previous year; and

(4) is organized and operated as a nonprofit corporation or is owned as follows:

(a) for a sole proprietorship, one hundred percent of the assets of the business are owned or leased by a New Mexico resident; and

(b) for a corporation, partnership, joint venture, limited liability company, limited partnership or other business entity, at least eighty percent of the total voting power of the entity and at least eighty percent of the total value of the equity is owned by one or more New Mexico residents; and

H. "service provider" means a nonprofit or governmental organization that provides interactive, technical assistance to small businesses, including:

(1) developing sustainable business practices;

(2) training in marketing, administration and financial management;

and

(3) complying with legal requirements, licensing requirements and tax liabilities; and

I. "nonprofit corporation" means an entity organized pursuant to Section 501 (c)(3) or 501 (c)(6) of the Internal Revenue Service Code.

## **Chapter 6 Section 3 Laws 2020 (1st S.S.)**

### **SECTION 3. SMALL BUSINESS RECOVERY LOAN FUND--CREATED-- FUNDING SCHEDULE.--**

A. The "small business recovery loan fund" is created in the authority. The fund consists of appropriations, gifts, grants, deposits, transfers and donations to the fund. Money in the fund is appropriated to the authority to administer the provisions of the Small Business Recovery Act of 2020. The authority shall administer the fund. Balances remaining in the fund at the end of fiscal year 2022 shall revert to the severance tax permanent fund. The authority may expend no more than one percent of the balance of the fund for administering the Small Business Recovery Act of 2020.

B. Upon the effective date of this 2020 act, the authority and the state investment council shall coordinate to develop a funding schedule to ensure that sufficient funding, as provided for in Section 10 of this 2020 act, is made available to the authority to carry out the provisions of the Small Business Recovery Act of 2020.

## **Chapter 6 Section 4 Laws 2020 (1st S.S.)**

### **SECTION 4. LOANS--TERMS.--**

A. The authority shall receive and review applications for small business recovery loans pursuant to the Small Business Recovery Act of 2020. The authority shall review all small business recovery loan applications in the order in which the completed applications were received and shall provide a determination to the applicant as soon as practicable. The authority shall make loans to qualifying small businesses; provided that funds are available and the qualifying small business meets the requisite creditworthiness, as determined by the authority. The authority shall adopt rules to govern the application procedures and requirements for disbursing loans under the Small Business Recovery Act of 2020, including requirements consistent with the purpose of that act for determining the eligibility of qualifying small businesses for loans; provided that the authority shall not create additional requirements for eligibility other than those provided by that act.

B. The authority shall evaluate the creditworthiness of an applicant based on information received from the applicant, which may include an independent credit reporting agency report when available.

C. The authority may use funding made available for the Small Business Recovery Act of 2020 to contract with a loan servicer to assist in carrying out the provisions of the Small Business Recovery Act of 2020, including determining:

- (1) whether an entity meets the requirements to be considered a qualifying small business;
- (2) whether a qualifying small business is eligible for a small business recovery loan; and
- (3) the amount that the qualifying small business is eligible to receive for a small business recovery loan.

D. The authority shall make small business recovery loans in accordance with the following:

- (1) the loan amount shall be in an amount equal to two hundred percent of the qualifying small business's average adjusted monthly business expenses from the previous calendar or fiscal year; provided that the maximum loan amount shall be no greater than seventy-five thousand dollars (\$75,000);

- (2) the terms of the loan shall require that the loan recipient:

- (a) use a minimum of eighty percent of the proceeds of the loan for ordinary and necessary business expenses, including capital expenses, other than compensation for employees who own equity in the business;

- (b) provide a written certification signed by an appropriate officer of the qualifying small business that certifies that: 1) the officer understands that the business is receiving a loan under the Small Business Recovery Act of 2020 that must be repaid by the business with interest under the terms of the loan agreement; 2) all documents submitted in support of the loan application are true and accurate to the best of the officer's knowledge; 3) the officer has a reasonable basis to believe that, as of the date of origination of the loan and receipt of the loan proceeds, the business does not expect to permanently cease business operations or file for bankruptcy; 4) prior to the issuance of the public health order issued by the secretary of health on March 23, 2020, the business was current on all obligations pursuant to the Income Tax Act, the Corporate Income and Franchise Tax Act, the Withholding Tax Act, the Gross Receipts and Compensating Tax Act and the Unemployment Compensation Law applicable to the business's operations; and 5) all loan proceeds will be used for purposes as provided in the Small Business Recovery Act of 2020, including that no more than twenty percent of the proceeds may be used as compensation for employees who own equity in the business; and

- (c) provide the authority with ongoing information relevant to the reporting requirements of the authority provided in Section 7 of the Small Business Recovery Act of 2020;

- (3) the terms of the loan shall not require that the qualifying small business provide a personal guarantee or collateral to secure the loan; and

(4) the application for a loan must be received no later than December 31, 2020.

E. The authority may exercise any power provided to the authority in the New Mexico Finance Authority Act to assist in the administration of this; provided that the power is consistent with the provisions of this act.

## **Chapter 6 Section 5 Laws 2020 (1st S.S.)**

### **SECTION 5. REPAYMENT.--**

A. Small business recovery loans shall be made for an initial loan period of three years. The loans shall bear an annual interest rate equal to one-half of the Wall Street Journal prime rate on the date the loan is made.

B. Payment of the interest accrued on a small business recovery loan shall be due in annual installments, with the first interest payment due on the first anniversary of the funding date of the loan, and with each subsequent interest payment due on each subsequent anniversary of the funding date of the loan thereafter until the loan is paid in full. Payment on the outstanding principal of a small business recovery loan may be made on the third anniversary of the funding date of the loan, or the outstanding principal and interest on the loan may be converted to a loan, at the request of the borrower and with the consent of the authority, to be paid in monthly installments over a period of three additional years.

C. Receipts from the repayment of principal or interest accrued on the loans made pursuant to the Small Business Recovery Act of 2020 shall be deposited in the severance tax permanent fund.

D. No provision in a small business recovery loan or the evidence of indebtedness of the loan shall include a penalty or premium for prepayment of the balance of the indebtedness.

## **Chapter 6 Section 6 Laws 2020 (1st S.S.)**

### **SECTION 6. SMALL BUSINESS TECHNICAL ASSISTANCE--SERVICE PROVIDERS.--**

A. A qualified small business with an annual gross revenue of five hundred thousand dollars (\$500,000) or less that applies for and receives a small business recovery loan and that is receiving technical assistance from a service provider is eligible to receive additional funding in the amount of one-half percent of the loan amount to pay the service provider for continued technical assistance during the term of the loan or until the service provider certifies to the authority that the qualified small business no longer needs the assistance of the service provider; provided that the:

- (1) additional amount shall not be included in the small business recovery loan and shall not require repayment;
- (2) additional amount shall be provided to the service provider; and
- (3) authority shall use funding made available for the Small Business Recovery Act of 2020 to provide the service provider with the additional amount.

B. Nothing in this section shall be construed to require a small business with an annual gross revenue of five hundred thousand dollars (\$500,000) or less to contract with or use the services of a service provider to meet the qualifications of a small business recovery loan.

## **Chapter 6 Section 7 Laws 2020 (1st S.S.)**

### **SECTION 7. REPORTS--CONFIDENTIALITY.--**

A. Prior to October 1, 2021 and each October 1 for the proceeding four years, the authority shall submit a report to the legislature, the legislative finance committee, the New Mexico finance authority oversight committee, the revenue stabilization and tax policy committee and any other appropriate legislative interim committee. The report shall provide details regarding the loans made pursuant to the Small Business Recovery Act of 2020. The report shall include:

- (1) the total number of loans made pursuant to that act;
- (2) the total number of loan applications;
- (3) the average amount of money provided to loan applicants;
- (4) the total number of loans and the amount of those loans, if any, in a delinquent status or default;
- (5) the total number of loan recipients that are in the process of filing or have filed for bankruptcy;
- (6) the total number of employees currently employed by a business that received a loan; and
- (7) an overview of the industries and types of business entities represented by loan recipients.

B. Information obtained by the authority regarding individual loan applicants is confidential and not subject to inspection pursuant to the Inspection of Public Records Act; provided that nothing in this section shall prevent the authority from disclosing broad demographic information and information relating to the total amount of loans

made, the total outstanding balance of loans made pursuant to the Small Business Recovery Act of 2020 and the names of the loan recipients.

## **Chapter 6 Section 8 Laws 2020 (1st S.S.)**

SECTION 8. A new section of the Severance Tax Bonding Act is enacted to read:

### **"LOCAL GOVERNMENT EMERGENCY ECONOMIC RELIEF.--**

A. Within thirty days of the effective date of this 2020 act, the state investment officer shall make a commitment to the authority to invest one percent of the average of the year-end market values of the severance tax permanent fund for the immediately preceding five calendar years for the purpose of making loans to local governments pursuant to this section; provided that investments made pursuant to this section are in compliance with the prudent investor rule set forth in the Uniform Prudent Investor Act. The authority may expend no more than one percent of the funding made available to it pursuant to this section for administering the provisions of this section.

B. The authority shall receive and review applications for loans from the amount committed pursuant to Subsection A of this section to a local government that can demonstrate that the local government experienced at least a ten percent decline in local option gross receipts tax revenue for the last quarter of fiscal year 2020 due to the economic impacts of the coronavirus disease 2019 pandemic. The authority shall adopt rules to govern the application procedures and requirements for disbursing the loans.

C. The authority shall make loans from the amount committed pursuant to Subsection A of this section in accordance with the following:

(1) an application for a loan shall be received by the authority no later than December 31, 2020;

(2) the authority shall determine the proper amount for a loan in consultation with the local government division of the department of finance and administration and the local government; provided that:

(a) the authority shall take into consideration the local government's actual decline of local gross receipts tax revenue in the determination of a loan amount; and

(b) a loan shall not exceed fifty percent of the local government's actual decline of local gross receipts tax revenue; and

(3) terms of the loan shall include that:

(a) a local government may use loan proceeds for general operating expenses and revenue replacement;

(b) a local government shall dedicate future local option gross receipts tax revenue to secure the loan at a lien level as determined by the authority;

(c) a loan shall bear an annual interest rate equal to two percent;

(d) a loan shall be structured as an interest-only loan for a period of three years, at which time the local government shall begin making monthly payments on the principal and interest of any balance of the loan;

(e) interest on a loan shall not compound until twelve months following the date the loan proceeds are made available to the local government; and

(f) a loan shall be made for a period of no more than five years.

D. Receipts from the repayment of loans made pursuant to this section shall be transferred to the severance tax permanent fund.

E. No provision in a loan or the evidence of indebtedness of a loan shall include a penalty or premium for prepayment of the balance of the indebtedness.

F. On or before October 1 of a year that a loan made pursuant to this section is outstanding, the authority shall audit the loan program and submit a report of the findings to the New Mexico finance authority oversight committee, the legislative finance committee and the office of the governor. The report shall provide details regarding the loans made pursuant to this section, including:

(1) the name of each local government that received a loan, the loan amount, the balance owed and if the loan is in a delinquent status or default; and

(2) the number of jobs saved that can be attributed to receiving the loan, with evidence of how the loan saved each job.

G. The authority may exercise any power provided to the authority in the New Mexico Finance Authority Act to assist in the administration of section; provided that the power is consistent with the provisions of this section.

H. As used in this section:

(1) "authority" means the New Mexico finance authority;

(2) "local government" means a municipality or county; and

(3) "local option gross receipts tax revenue" means:

(a) for a municipality, revenue distributed to the municipality pursuant to Section 7-1-6.4 NMSA 1978 and transferred to the municipality pursuant to Section 7-1-6.12 NMSA 1978; and

(b) for a county, revenue transferred to the county pursuant to Section 7-1-6.13 NMSA 1978."

## **Chapter 6 Section 9 Laws 2020 (1st S.S.)**

SECTION 9. Section 7-27-5 NMSA 1978 (being Laws 1983, Chapter 306, Section 7, as amended) is amended to read:

"7-27-5. INVESTMENT OF SEVERANCE TAX PERMANENT FUND.--

A. The severance tax permanent fund shall be invested in separate differential rate and market rate investment classes. "Differential rate investments" are permitted in Sections 7-27-5.3 through 7-27-5.5, 7-27-5.13 through 7-27-5.17, 7-27-5.22, 7-27-5.24 and 7-27-5.26 NMSA 1978 and are intended to stimulate the economy of New Mexico and to provide income to the severance tax permanent fund. "Market rate investments" are investments that are not differential rate investments and are intended to provide income to the severance tax permanent fund. All market rate investments and differential rate investments shall be invested in accordance with the Uniform Prudent Investor Act and shall be accounted for in accordance with generally accepted accounting principles.

B. In addition to the investment classes described in Subsection A of this section, the severance tax permanent fund shall be invested in loans to provide emergency economic relief to local governments as provided by Section 8 of this 2020 act."

## **Chapter 6 Section 10 Laws 2020 (1st S.S.)**

SECTION 10. Section 7-27-5.15 NMSA 1978 (being Laws 1990, Chapter 126, Section 5, as amended) is amended to read:

"7-27-5.15. NEW MEXICO PRIVATE EQUITY FUNDS AND NEW MEXICO BUSINESS INVESTMENTS.--

A. In addition to the investments required by Subsections F and G of this section, no more than eleven percent of the market value of the severance tax permanent fund may be invested in New Mexico private equity funds or New Mexico businesses under this section.

B. In making investments pursuant to Subsection A of this section, the council shall make investments in New Mexico private equity funds or New Mexico

businesses whose investments or enterprises enhance the economic development objectives of the state.

C. The state investment officer shall make investments pursuant to Subsection A of this section only upon approval of the council and within guidelines and policies established by the council.

D. As used in this section:

(1) "New Mexico business" means, in the case of a corporation or limited liability company, a business with its principal office and a majority of its full-time employees located in New Mexico or, in the case of a limited partnership, a business with its principal place of business and eighty percent of its assets located in New Mexico; and

(2) "New Mexico private equity fund" means an entity that makes, manages or sources potential investments in New Mexico businesses and that:

(a) has as its primary business activity the investment of funds in return for equity in or debt of businesses for the purpose of providing capital for start-up, expansion, product or market development, recapitalization or similar business purposes;

(b) holds out the prospects for capital appreciation from such investments;

(c) has at least one full-time manager with at least three years of professional experience in assessing the growth prospects of businesses or evaluating business plans;

(d) is committed to investing or helps secure investing by others, in an amount at least equal to the total investment made by the state investment officer in that fund pursuant to this section, in businesses with a principal place of business in New Mexico and that hold promise for attracting additional capital from individual or institutional investors nationwide for businesses in New Mexico; and

(e) accepts investments only from accredited investors as that term is defined in Section 2 of the federal Securities Act of 1933, as amended (15 USCA Section 77(b)), and rules and regulations promulgated pursuant to that section, or federally recognized Indian tribes, nations and pueblos with at least five million dollars (\$5,000,000) in overall investment assets.

E. The state investment officer is authorized to make investments in New Mexico businesses to create new job opportunities and to support new, emerging or expanding businesses in a manner consistent with the constitution of New Mexico if:

(1) the investments are made:

(a) in conjunction with cooperative investment agreements with parties that have demonstrated abilities and relationships in making investments in new, emerging or expanding businesses;

(b) in a New Mexico aerospace business that has received an award from the United States government or one of its agencies or instrumentalities: 1) in an amount, not less than one hundred million dollars (\$100,000,000), that is equal to at least ten times the investment from the severance tax permanent fund; and 2) for the purpose of stimulating commercial enterprises; or

(c) in a New Mexico business that: 1) is established to perform technology transfer, research and development, research commercialization, manufacturing, training, marketing or public relations in any field of science or technology, including but not limited to energy, security, defense, aerospace, automotives, electronics, telecommunications, computer and information science, environmental science, biomedical science, life science, physical science, materials science or nanoscience, using research developed in whole or in part by a state institution of higher education or a prime contractor designated as a national laboratory by an act of congress that is operating a facility in the state, or an affiliated entity; and 2) has an agreement to operate the business on state lands;

(2) an investment in any one business does not exceed ten percent of the amount available for investment pursuant to this section; and

(3) the investments represent no more than fifty-one percent of the total investment capital in a business; provided, however, that nothing in this subsection prohibits the ownership of more than fifty-one percent of the total investment capital in a New Mexico business if the additional ownership interest:

(a) is due to foreclosure or other action by the state investment officer pursuant to agreements with the business or other investors in that business;

(b) is necessary to protect the investment; and

(c) does not require an additional investment of the severance tax permanent fund.

F. In addition to the investments required by Subsections A and G of this section, the state investment officer shall make a commitment to the small business investment corporation pursuant to the Small Business Investment Act to invest two 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 two percent of the market value of the severance tax permanent

fund. If the invested capital in the small business investment corporation equals less than two percent of the market value of the severance tax permanent fund, further commitments shall be made until the invested capital is equal to two percent of the market value of the fund.

G. In addition to the investments provided for in Subsections A and F of this section, the state investment officer shall make a commitment to the New Mexico finance authority to invest the lesser of four hundred million dollars (\$400,000,000) or ten percent of the market value of the severance tax permanent fund in investments made pursuant to the Small Business Recovery Act of 2020; provided that:

(1) investments made pursuant to and in compliance with the Small Business Recovery Act of 2020 shall be deemed to be in compliance with the prudent investor rule set forth in the Uniform Prudent Investor Act; and

(2) the New Mexico finance authority shall not be held liable for investments made pursuant to this subsection that do not provide a return on investment that is comparable to other differential rate investments made pursuant to the Severance Tax Bonding Act.

H. The state investment officer shall report semiannually on the investments made pursuant to this section. Annually, a report shall be submitted to the legislature prior to the beginning of each regular legislative session and a second report no later than October 1 each year to the legislative finance committee, the revenue stabilization and tax policy committee and any other appropriate interim committee. Each report shall provide the amounts invested in each New Mexico private equity fund, as well as information about the objectives of the funds, the companies in which each private equity fund is invested and how each private equity investment enhances the economic development objectives of the state. Each report also shall provide the amounts invested in each New Mexico business."

## **Chapter 6 Section 11 Laws 2020 (1st S.S.)**

SECTION 11. Section 51-1-11 NMSA 1978 (being Laws 2013, Chapter 133, Section 3, as amended) is amended to read:

"51-1-11. EMPLOYER CONTRIBUTION RATES--BENEFITS CHARGEABLE--UNEMPLOYMENT COMPENSATION FUND ADEQUATE RESERVE--RESERVE FACTOR--EXCESS CLAIMS PREMIUM--DEFINITIONS.--

A. Benefits paid to an individual shall be charged to the individual's base-period employers on a pro rata basis according to the proportion of the individual's total base-period wages received from each employer, except that no benefits paid to a claimant as extended benefits under the provisions of Section 51-1-48 NMSA 1978 shall be charged to any base-period employer who is not on a reimbursable basis and who is not a governmental entity and, except as the secretary shall by rule prescribe otherwise, in the case of benefits paid to an individual who:

(1) left the employ of a base-period employer who is not on a reimbursable basis voluntarily without good cause in connection with the individual's employment;

(2) was discharged from the employment of a base-period employer who is not on a reimbursable basis for misconduct connected with the individual's employment;

(3) is employed part time by a base-period employer who is not on a reimbursable basis and who continues to furnish the individual the same part-time work while the individual is separated from full-time work for a nondisqualifying reason; or

(4) received benefits based upon wages earned from a base-period employer who is not on a reimbursable basis while attending approved training under the provisions of Subsection E of Section 51-1-5 NMSA 1978.

B. The division shall not charge a contributing or reimbursing base-period employer with any portion of benefit amounts that the division can bill to or recover from the federal government as either regular or extended benefits.

C. The division shall not charge a contributing base-period employer with any portion of benefits paid to an individual for dependent allowance or because the individual to whom benefits are paid:

(1) separated from employment due to domestic abuse, as "domestic abuse" is defined in Section 40-13-2 NMSA 1978; or

(2) voluntarily left work to relocate because of a spouse, who is in the military service of the United States or the New Mexico national guard, receiving permanent change of station orders, activation orders or unit deployment orders.

D. All contributions to the fund shall be pooled and available to pay benefits to any individual entitled thereto, irrespective of the source of the contributions.

E. In the case of a transfer of an employing enterprise, notwithstanding any other provision of law, the experience history of the transferred enterprise shall be transferred from the predecessor employer to the successor under the following conditions and in accordance with the applicable rules of the secretary:

(1) except as otherwise provided in this subsection, for the purpose of this subsection, two or more employers who are parties to or the subject of any transaction involving the transfer of an employing enterprise shall be deemed to be a single employer and the experience history of the employing enterprise shall be transferred to the successor employer if the successor employer has acquired by the transaction all of the business enterprises of the predecessor; provided that:

(a) all contributions, interest and penalties due from the predecessor employer have been paid;

(b) notice of the transfer has been given in accordance with the rules of the secretary during the calendar year of the transaction transferring the employing enterprise or the date of the actual transfer of control and operation of the employing enterprise;

(c) the successor shall notify the division of the acquisition on or before the due date of the successor's first wage and contribution report. If the successor employer fails to notify the division of the acquisition within this time limit, the division, when it receives actual notice, shall effect the transfer of the experience history and applicable rate of contribution retroactively to the date of the acquisition, and the successor shall pay a penalty of fifty dollars (\$50.00); and

(d) where the transaction involves only a merger, consolidation or other form of reorganization without a substantial change in the ownership and controlling interest of the business entity, as determined by the secretary, the limitations on transfers stated in Subparagraphs (a), (b) and (c) of this paragraph shall not apply. A party to a merger, consolidation or other form of reorganization described in this subparagraph shall not be relieved of liability for any contributions, interest or penalties due and owing from the employing enterprise at the time of the merger, consolidation or other form of reorganization;

(2) the applicable experience history may be transferred to the successor in the case of a partial transfer of an employing enterprise if the successor has acquired one or more of the several employing enterprises of a predecessor but not all of the employing enterprises of the predecessor and each employing enterprise so acquired was operated by the predecessor as a separate store, factory, shop or other separate employing enterprise and the predecessor, throughout the entire period of the contribution with liability applicable to each enterprise transferred, has maintained and preserved payroll records that, together with records of contribution liability and benefit chargeability, can be separated by the parties from the enterprises retained by the predecessor to the satisfaction of the secretary or the secretary's delegate. A partial experience history transfer will be made only if the successor:

(a) notifies the division of the acquisition, in writing, not later than the due date of the successor's first quarterly wage and contribution report after the effective date of the acquisition;

(b) files an application provided by the division that contains the endorsement of the predecessor within thirty days from the delivery or mailing of such application by the division to the successor's last known address; and

(c) files with the application a form with a schedule of the name and social security number of and the wages paid to and the contributions paid for each employee for the three and one-half-year period preceding the computation date

through the date of transfer or such lesser period as the enterprises transferred may have been in operation. The application and form shall be supported by the predecessor's permanent employment records, which shall be available for audit by the division. The application and form shall be reviewed by the division and, upon approval, the percentage of the predecessor's experience history attributable to the enterprises transferred shall be transferred to the successor. The percentage shall be obtained by dividing the taxable payrolls of the transferred enterprises for such three and one-half-year period preceding the date of computation or such lesser period as the enterprises transferred may have been in operation by the predecessor's entire payroll;

(3) if, at the time of a transfer of an employing enterprise in whole or in part, both the predecessor and the successor are under common ownership, then the experience history attributable to the transferred business shall also be transferred to and combined with the experience history attributable to the successor employer. The rates of both employers shall be recalculated and made effective immediately upon the date of the transfer;

(4) whenever a person, who is not currently an employer, acquires the trade or business of an employing enterprise, the experience history of the acquired business shall not be transferred to the successor if the secretary or the secretary's designee finds that the successor acquired the business solely or primarily for the purpose of obtaining a lower rate of contributions. Instead, the successor shall be assigned the applicable new employer rate pursuant to this section. In determining whether the business was acquired solely or primarily for the purpose of obtaining a lower rate of contribution, the secretary or the secretary's designee shall consider:

- (a) the cost of acquiring the business;
- (b) whether the person continued the business enterprise of the acquired business;
- (c) how long such business enterprise was continued; and
- (d) whether a substantial number of new employees was hired for performance of duties unrelated to those that the business activity conducted prior to acquisition;

(5) if, following a transfer of experience history pursuant to this subsection, the department determines that a substantial purpose of the transfer of the employing enterprise was to obtain a reduced liability for contributions, then the experience rating accounts of the employers involved shall be combined into a single account and a single rate assigned to the combined account;

(6) the secretary shall adopt such rules as are necessary to interpret and carry out the provisions of this subsection, including rules that:

- (a) describe how experience history is to be transferred; and

(b) establish procedures to identify the type of transfer or acquisition of an employing enterprise; and

(7) a person who knowingly violates or attempts to violate a rule adopted pursuant to Paragraph (6) of this subsection, who transfers or acquires, or attempts to transfer or acquire, an employing enterprise for the sole or primary purpose of obtaining a reduced liability for contributions or who knowingly advises another person to violate a rule adopted pursuant to Paragraph (6) of this subsection or to transfer or acquire an employing enterprise for the sole or primary purpose of obtaining a reduced liability for contributions is guilty of a misdemeanor and shall be punished by a fine of not less than one thousand five hundred dollars (\$1,500) or more than three thousand dollars (\$3,000) or, if an individual, by imprisonment for a definite term not to exceed ninety days or both. In addition, such a person shall be subject to the following civil penalty imposed by the secretary:

(a) if the person is an employer, the person shall be assigned the highest contribution rate established by the provisions of this section for the calendar year in which the violation occurs and the three subsequent calendar years; provided that, if the difference between the increased penalty rate and the rate otherwise applicable would be less than two percent of the employer's payroll, the contribution rate shall be increased by two percent of the employer's payroll for the calendar year in which the violation occurs and the three subsequent calendar years; or

(b) if the person is not an employer, the secretary may impose a civil penalty not to exceed three thousand dollars (\$3,000).

F. Except as provided in Subsection Q of this section, for each calendar year, if, as of the computation date for that year, an employer has been a contributing employer throughout the preceding twenty-four months, the contribution rate for that employer shall be determined by multiplying the employer's benefit ratio by the reserve factor as determined pursuant to Subsection H of this section and, for each calendar year beginning in calendar year 2017, then multiplying that product by the employer's experience history factor as determined under Subsection I of this section; provided that an employer's contribution rate shall not be less than thirty-three hundredths percent or more than five and four-tenths percent. An employer's benefit ratio is determined by dividing the employer's benefit charges during the immediately preceding fiscal years, up to a maximum of three fiscal years, by the total of the annual payrolls of the same time period, calculated to four decimal places, disregarding any remaining fraction.

G. Except as provided in Subsection Q of this section, for each calendar year, if, as of the computation date of that year, an employer has been a contributing employer for less than twenty-four months, the contribution rate for that employer shall be the average of the contribution rates for all contributing employers in the employer's industry, as determined by administrative rule, but shall not be less than one percent or more than five and four-tenths percent; provided that an individual, type of organization or employing unit that acquires all or part of the trade or business of another employing unit, pursuant to Paragraphs (2) and (3) of Subsection E of Section 51-1-42 NMSA

1978, that has a rate of contribution less than average of the contribution rates for all contributing employers in the employer's industry, shall be entitled to the transfer of the contribution rate of the other employing unit to the extent permitted under Subsection E of this section.

H. The division shall ensure that the fund sustains an adequate reserve. An adequate reserve shall be determined to mean that the funds in the fund available for benefits equal the total amount of funds needed to pay between eighteen and twenty-four months of benefits at the average of the five highest years of benefits paid in the last twenty-five years. Except as provided in Subsection Q of this section, for the purpose of sustaining an adequate reserve, the division shall determine a reserve factor to be used when calculating an employer's contribution rate pursuant to Subsection F of this section by rule promulgated by the secretary. Except as provided in Subsection Q of this section, the rules shall set forth a formula that will set the reserve factor in proportion to the difference between the amount of funds available for benefits in the fund, as of the computation date, and the adequate reserve, within the following guidelines:

- (1) 1.0000 if, as of the computation date, there is an adequate reserve;
- (2) between 0.5000 and 0.9999 if, as of the computation date, there is greater than an adequate reserve; and
- (3) between 1.0001 and 4.0000 if, as of the computation date, there is less than an adequate reserve.

I. Except as provided in Subsection Q of this section, for each calendar year beginning in calendar year 2017, if, as of the computation date for that calendar year, an employer has been a contributing employer throughout the preceding twenty-four months, the employer's experience history factor shall be determined as of the computation date and shall be based on the employer's reserve. The employer's reserve shall be calculated as the difference between all of the employer's previous years' contribution payments and all of the employer's previous years' benefit charges, divided by the average of the employer's annual payrolls for the immediately preceding fiscal years, up to a maximum of three fiscal years.

If an employer's reserve is:	The employer's experience history factor is:
6.0% and over	0.4000
5.0%-5.9%	0.5000
4.0%-4.9%	0.6000
3.0%-3.9%	0.7000
2.0%-2.9%	0.8000
1.0%-1.9%	0.9000
0.0%-0.9%	0.9500
Under 0.0%	1.0000

J. Except as provided in Subsection Q of this section, if an employer's contribution rate pursuant to Subsection F of this section is calculated to be greater than five and four-tenths percent, notwithstanding the limitation pursuant to Subsection F of this section, the employer shall be charged an excess claims premium in addition to the contribution rate applicable to the employer; provided that an employer's excess claims premium shall not exceed one percent of the employer's annual payroll. The excess claims premium shall be determined by multiplying the employer's excess claims rate by the employer's annual payroll. An employer's excess claims rate shall be determined by multiplying the difference of the employer's contribution rate, notwithstanding the limitation pursuant to Subsection F of this section, less five and four-tenths percent by ten percent.

K. Effective calendar year 2017, any other provision of law notwithstanding, an employer's contribution rate plus the employer's excess claims rate, if any, shall increase by no more than two percentage points from one calendar year to the next.

L. Except as provided in Subsection Q of this section, the division shall promptly notify each employer of the employer's rate of contributions and excess claims premium as determined for any calendar year pursuant to this section. Such notification shall include the amount determined as the employer's annual payroll, the total of all of the employer's contributions paid on the employer's behalf for all past years and total benefits charged to the employer for all such years. Such determination shall become conclusive and binding upon the employer unless, within thirty days after the mailing of notice thereof to the employer's last known address or in the absence of mailing, within thirty days after the delivery of such notice, the employer files an application for review and redetermination, setting forth the employer's reason therefor. The employer shall be granted an opportunity for a fair hearing in accordance with rules prescribed by the secretary, but an employer shall not have standing, in any proceeding involving the employer's rate of contributions or contribution liability, to contest the chargeability to the employer of any benefits paid in accordance with a determination, redetermination or decision pursuant to Section 51-1-8 NMSA 1978, except upon the ground that the services on the basis of which such benefits were found to be chargeable did not constitute services performed in employment for the employer and only in the event that the employer was not a party to such determination, redetermination or decision, or to any other proceedings under the Unemployment Compensation Law in which the character of such services was determined. The employer shall be promptly notified of the decision on the employer's application for redetermination, which shall become final unless, within fifteen days after the mailing of notice thereof to the employer's last known address or in the absence of mailing, within fifteen days after the delivery of such notice, further appeal is initiated pursuant to Subsection D of Section 51-1-8 NMSA 1978.

M. The division shall provide each contributing employer, within ninety days of the end of each calendar quarter, a written determination of benefits chargeable to the employer. Such determination shall become conclusive and binding upon the employer for all purposes unless, within thirty days after the mailing of the determination to the employer's last known address or in the absence of mailing, within thirty days

after the delivery of such determination, the employer files an application for review and redetermination, setting forth the employer's reason therefor. The employer shall be granted an opportunity for a fair hearing in accordance with rules prescribed by the secretary, but an employer shall not have standing in any proceeding involving the employer's contribution liability to contest the chargeability to the employer of any benefits paid in accordance with a determination, redetermination or decision pursuant to Section 51-1-8 NMSA 1978, except upon the ground that the services on the basis of which such benefits were found to be chargeable did not constitute services performed in employment for the employer and only in the event that the employer was not a party to such determination, redetermination or decision, or to any other proceedings under the Unemployment Compensation Law in which the character of such services was determined. The employer shall be promptly notified of the decision on the employer's application for redetermination, which shall become final unless, within fifteen days after the mailing of notice thereof to the employer's last known address or in the absence of mailing, within fifteen days after the delivery of such notice, further appeal is initiated pursuant to Subsection D of Section 51-1-8 NMSA 1978.

N. The contributions and excess claims premiums, together with interest and penalties thereon imposed by the Unemployment Compensation Law, shall not be assessed nor shall action to collect the same be commenced more than four years after a report showing the amount of the contributions was due. In the case of a false or fraudulent contribution report with intent to evade contributions or a willful failure to file a report of all contributions due, the contributions and excess claims premiums, together with interest and penalties thereon, may be assessed or an action to collect such contributions may be begun at any time. Before the expiration of such period of limitation, the employer and the secretary may agree in writing to an extension thereof and the period so agreed on may be extended by subsequent agreements in writing. In any case where the assessment has been made and action to collect has been commenced within four years of the due date of any contribution, excess claims premium, interest or penalty, including the filing of a warrant of lien by the secretary pursuant to Section 51-1-36 NMSA 1978, such action shall not be subject to any period of limitation.

O. The secretary shall correct any error in the determination of an employer's rate of contribution during the calendar year to which the erroneous rate applies, notwithstanding that notification of the employer's rate of contribution may have been issued and contributions paid pursuant to the notification. Upon issuance by the division of a corrected rate of contribution, the employer shall have the same rights to review and redetermination as provided in Subsection L of this section.

P. Any interest required to be paid on advances to this state's unemployment compensation fund under Title 12 of the Social Security Act shall be paid in a timely manner as required under Section 1202 of Title 12 of the Social Security Act and shall not be paid, directly or indirectly, by the state from amounts in the state's unemployment compensation fund.

Q. The secretary shall omit data for March 1, 2020 through June 30, 2021 from calculations of an employing enterprise's experience history, excess claims premiums and excess claims rates. The secretary shall use the 2019 computation date reserve factor from January 1, 2020 through June 30, 2021.

R. As used in this section:

(1) "annual payroll" means the total taxable amount of remuneration from an employer for employment during a twelve-month period ending on a computation date;

(2) "base-period employers" means the employers of an individual during the individual's base period;

(3) "base-period wages" means the wages of an individual for insured work during the individual's base period on the basis of which the individual's benefit rights were determined;

(4) "common ownership" means that two or more businesses are substantially owned, managed or controlled by the same person or persons;

(5) "computation date" for each calendar year means the close of business on June 30 of the preceding calendar year;

(6) "employing enterprise" means a business activity engaged in by a contributing employing unit in which one or more persons have been employed within the current or the three preceding calendar quarters. An "employing enterprise" includes the employer's workforce;

(7) "experience history" means the benefit charges and payroll experience of the employing enterprise;

(8) "knowingly" means having actual knowledge of or acting with deliberate ignorance of or reckless disregard for the prohibition involved;

(9) "predecessor" means the owner and operator of an employing enterprise immediately prior to the transfer of such enterprise;

(10) "successor" means any person that acquires an employing enterprise and continues to operate such business entity; and

(11) "violates or attempts to violate" includes an intent to evade, a misrepresentation or a willful nondisclosure."

## **Chapter 6 Section 12 Laws 2020 (1st S.S.)**

SECTION 12. REPEAL.--Laws 2020, Chapter 75, Section 1 is repealed.

## **Chapter 6 Section 13 Laws 2020 (1st S.S.)**

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

## **LAWS 2020 (1ST S.S.), CHAPTER 7**

**Senate Bill 8, aa, w/o ec**  
**Approved July 8, 2020**

### **AN ACT**

RELATING TO LAW ENFORCEMENT; REQUIRING CERTAIN LAW ENFORCEMENT AGENCIES TO USE BODY-WORN CAMERAS; REQUIRING LAW ENFORCEMENT AGENCIES TO ADOPT CERTAIN POLICIES AND PROCEDURES; REVOKING A POLICE OFFICER'S CERTIFICATION AFTER CONVICTION OR MAKING CERTAIN PLEAS; ADDING A CAUSE OF ACTION FOR SPOILIATION BY A LAW ENFORCEMENT OFFICER IN THE TORT CLAIMS ACT.

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

## **Chapter 7 Section 1 Laws 2020 (1st S.S.)**

SECTION 1. REQUIRING CERTAIN LAW ENFORCEMENT AGENCIES TO USE BODY-WORN CAMERAS WHILE ON DUTY--ADOPTION OF POLICIES AND PROCEDURES GOVERNING USE.--

A. A law enforcement agency shall require peace officers the agency employs and who routinely interact with the public to wear a body-worn camera while on duty. Each law enforcement agency subject to the provisions of this section shall adopt policies and procedures governing the use of body-worn cameras, including:

- (1) requiring activation of a body-worn camera whenever a peace officer is responding to a call for service or at the initiation of any other law enforcement or investigative encounter between a peace officer and a member of the public;
- (2) prohibiting deactivation of a body-worn camera until the conclusion of a law enforcement or investigative encounter;
- (3) requiring that any video recorded by a body-worn camera shall be retained by the law enforcement agency for not less than one hundred twenty days; and
- (4) establishing disciplinary rules for peace officers who:
  - (a) fail to operate a body-worn camera in accordance with law enforcement agency policies;

(b) intentionally manipulate a body-worn camera recording; or

(c) prematurely erase a body-worn camera recording in violation of law enforcement agency policies.

B. Peace officers who fail to comply with the policies and procedures required to be adopted pursuant to Subsection A of this section shall be presumed to have acted in bad faith and shall be deemed liable for the independent tort of negligent spoliation of evidence or the independent tort of intentional spoliation of evidence.

C. As used in this section:

(1) "body-worn camera" means an electronic device worn on a person's body that records both audio and video data;

(2) "law enforcement agency" means the police department of a municipality, the sheriff's office of a county, the New Mexico state police or the department of public safety; and

(3) "peace officer" means any full-time salaried or certified part-time salaried officer who by virtue of office or public employment is vested by law with the duty to maintain the public peace.

## **Chapter 7 Section 2 Laws 2020 (1st S.S.)**

SECTION 2. A new section of the Law Enforcement Training Act is enacted to read:

"REVOKE POLICE OFFICER CERTIFICATION AFTER CONVICTION OR MAKING CERTAIN PLEAS.--Notwithstanding any other provision of law, if any police officer is convicted of or pleads guilty or nolo contendere to a crime involving the unlawful use or threatened use of physical force or a crime involving the failure to intervene in the use of unlawful force, the board shall permanently revoke the police officer's certification. The board shall not, under any circumstance, reinstate the police officer's certification or grant new certification to the police officer unless the police officer is exonerated by a court or pardoned by the governor."

## **Chapter 7 Section 3 Laws 2020 (1st S.S.)**

SECTION 3. Section 41-4-12 NMSA 1978 (being Laws 1976, Chapter 58, Section 12, as amended) is amended to read:

"41-4-12. LIABILITY--LAW ENFORCEMENT OFFICERS.--The immunity granted pursuant to Subsection A of Section 41-4-4 NMSA 1978 does not apply to liability for personal injury, bodily injury, wrongful death or property damage resulting from assault, battery, false imprisonment, false arrest, malicious prosecution, abuse of process, libel,

slander, defamation of character, violation of property rights, the independent tort of negligent spoliation of evidence or the independent tort of intentional spoliation of evidence, failure to comply with duties established pursuant to statute or law or any other deprivation of any rights, privileges or immunities secured by the constitution and laws of the United States or New Mexico when caused by law enforcement officers while acting within the scope of their duties. For purposes of this section, "law enforcement officer" means a public officer or employee vested by law with the power to maintain order, to make arrests for crime or to detain persons suspected of or convicted of committing a crime, whether that duty extends to all crimes or is limited to specific crimes."

# **2020 (1st S.S.) OFFICIAL ROSTER OF THE STATE OF NEW MEXICO**

## **LAWS of the State of New Mexico**

passed by the

FIRST SPECIAL SESSION

of the

FIFTY-FOURTH LEGISLATURE

STATE OF NEW MEXICO

Which convened in the city of Santa Fe, at the Capitol at the Hour of 12:00 Noon on the 18<sup>th</sup> day of June, 2020, and adjourned on the 22<sup>nd</sup> day of June, 2020.

Prepared for Publication by  
Maggie Toulouse Oliver, Secretary of State

## **OFFICIAL ROSTER OF THE STATE OF NEW MEXICO**

### **UNITED STATES SENATORS**

Martin Heinrich, Democrat, Albuquerque

Tom Udall, Democrat, Santa Fe

### **UNITED STATES REPRESENTATIVES**

Debra A. Haaland, Democrat, 1<sup>st</sup> Congressional District - Albuquerque

Xochitl Torres Small, Democrat, 2<sup>nd</sup> Congressional District - Las Cruces

Ben R. Lujan, Democrat, 3<sup>rd</sup> Congressional District - Santa Fe

## **STATE OFFICIALS**

Michelle Lujan Grisham, Democrat	Governor
Howie C. Morales, Democrat	Lieutenant Governor
Maggie Toulouse Oliver, Democrat	Secretary of State
Brian S. Colón, Democrat	State Auditor
Tim Eichenberg, Democrat	State Treasurer
Hector Balderas, Democrat	Attorney General
Stephanie Garcia Richard, Democrat	Commissioner of Public Lands
Cynthia B. Hall, Democrat	Public Regulation Commissioner, District 1
Jefferson L. Byrd, Republican	Public Regulation Commissioner, District 2
Valerie L. Espinoza, Democrat	Public Regulation Commissioner, District 3
Theresa A. Becenti-Aguilar, Democrat	Public Regulation Commissioner, District 4
Stephen H. Fischmann, Democrat	Public Regulation Commissioner, District 5

## **JUSTICES OF THE SUPREME COURT**

Judith K. Nakamura, Chief Justice  
Barbara J. Vigil  
Michael E. Vigil  
C. Shannon Bacon  
David K. Thomson

## **JUDGES OF THE COURT OF APPEALS**

J. Miles Hanisee, Chief Judge  
Linda M. Vanzi  
Julie J. Vargas  
Jennifer L. Attrep  
Kristina Bogardus  
Jacqueline R. Medina  
Megan P. Duffy  
Briana H. Zamora  
Zachary A. Ives  
Shammara H. Henderson

**DISTRICT COURTS  
DISTRICT JUDGES**

**FIRST JUDICIAL DISTRICT  
Santa Fe, Los Alamos and Rio Arriba Counties**

Division I	Francis J. Mathew	Santa Fe
Division II	Maria E. Sanchez-Gagne	Santa Fe
Division III	Shannon Broberick Bulman	Santa Fe
Division IV	Sylvia F. LaMar	Santa Fe
Division V	Jason C. Lidyard	Santa Fe
Division VI	Bryan Biedscheid	Santa Fe
Division VII	T. Glenn Ellington	Santa Fe
Division VIII	Mary L. Marlowe Sommer	Santa Fe
Division IX	Matthew J. Wilson	Santa Fe

**SECOND JUDICIAL DISTRICT  
Bernalillo County**

Division I	William Parnall	Albuquerque
Division II	Stan Whitaker	Albuquerque
Division III	Brett R. Loveless	Albuquerque
Division IV	Beatrice J. Brickhouse	Albuquerque
Division V	Nancy J. Franchini	Albuquerque
Division VI	Daniel E. Ramczyk	Albuquerque
Division VII	John J. Romero, Jr.	Albuquerque
Division VIII	Cristina T. Jaramillo	Albuquerque
Division IX	Cindy Leos	Albuquerque
Division X	Christina Argyres	Albuquerque
Division XI	Gerard Lavelle	Albuquerque
Division XII	Clay Campbell	Albuquerque
Division XIII	Lisa Chavez Ortega	Albuquerque
Division XIV	Marie Ward	Albuquerque
Division XV	Daniel J. Gallegos	Albuquerque
Division XVI	Carl Butkus	Albuquerque
Division XVII	Erin B. O'Connell	Albuquerque
Division XVIII	Denise Barela-Shepherd	Albuquerque
Division XIX	Benjamin Chavez	Albuquerque
Division XX	Jacqueline Flores	Albuquerque
Division XXI	Alisa Hart	Albuquerque
Division XXII	Amber Chavez Baker	Albuquerque
Division XXIII	Joshua A. Allison	Albuquerque

Division XXIV	Debra Ramirez	Albuquerque
Division XXV	Jane Levy	Albuquerque
Division XXVI	Charles Brown	Albuquerque
Division XXVII	Victor Lopez	Albuquerque

**THIRD JUDICIAL DISTRICT  
Doña Ana County**

Division I	Manuel I. Arrieta	Las Cruces
Division II	Marci E. Beyer	Las Cruces
Division III	Conrad F. Perea	Las Cruces
Division IV	Mary W. Rosner	Las Cruces
Division V	Lisa C. Schultz	Las Cruces
Division VI	James T. Martin	Las Cruces
Division VII	Douglas R. Driggers	Las Cruces
Division VIII	Grace B. Duran	Las Cruces

**FOURTH JUDICIAL DISTRICT  
Guadalupe, Mora and San Miguel Counties**

Division I	Gerald Baca	Las Vegas
Division II	Abigail P. Aragon	Las Vegas
Division III	Flora Gallegos	Las Vegas

**FIFTH JUDICIAL DISTRICT  
Lea, Eddy and Chaves Counties**

Division I	Raymond L. Romero	Carlsbad
Division II	Thomas E. Lilley	Roswell
Division III	William G.W. Shoobridge	Lovington
Division IV	Mark Sanchez	Lovington
Division V	Jane Shuler Gray	Carlsbad
Division VI	James M. Hudson	Roswell
Division VII	Michael H. Stone	Lovington
Division VIII	Jared G. Kallunki	Roswell
Division IX	Lisa Riley	Carlsbad
Division X	Dustin K. Hunter	Roswell
Division XI	Lee A. Kirksey	Lovington

**SIXTH JUDICIAL DISTRICT**  
**Grant, Hidalgo and Luna Counties**

Division I	Thomas F. Stewart	Silver City
Division II	Jennifer E. DeLaney	Deming
Division III	James B. Foy	Silver City
Division IV	Jarod K. Hofacket	Deming

**SEVENTH JUDICIAL DISTRICT**  
**Catron, Sierra, Socorro and Torrance Counties**

Division I	Mercedes C. Murphy	Socorro
Division II	Matthew Reynolds	Sierra
Division III	Shannon Murdock	Torrance

**EIGHTH JUDICIAL DISTRICT**  
**Colfax, Union and Taos Counties**

Division I	Emilio J. Chavez	Raton
Division II	Melissa Kennelly	Taos
Division III	Jeffrey Shannon	Taos

**NINTH JUDICIAL DISTRICT**  
**Curry and Roosevelt Counties**

Division I	Matthew E. Chandler	Clovis
Division II	Drew D. Tatum	Clovis
Division III	Fred T. Van Soelen	Clovis
Division IV	Donna J. Mowrer	Portales
Division V	David P. Reeb	Clovis

**TENTH JUDICIAL DISTRICT**  
**Quay, DeBaca, and Harding Counties**

Division I	Albert J. Mitchell, Jr.	Tucumcari
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**ELEVENTH JUDICIAL DISTRICT  
McKinley and San Juan Counties**

Division I	Bradford J. Dalley	Farmington
Division II	Louis E. DePauli, Jr.	Gallup
Division III	Sarah V. Weaver	Farmington
Division IV	Curtis R. Gurley	Aztec
Division V	Lyndy D. Bennett	Gallup
Division VI	Daylene A. Marsh	Aztec
Division VII	Robert A. Aragon	Gallup
Division VIII	Karen L. Townsend	Aztec

**TWELFTH JUDICIAL DISTRICT  
Lincoln and Otero Counties**

Division I	Steven Blankinship	Alamogordo
Division II	James W. Counts	Alamogordo
Division III	Daniel A. Bryant	Carrizozo
Division IV	Angie K. Schneider	Alamogordo

**THIRTEENTH JUDICIAL DISTRICT  
Cibola, Sandoval & Valencia Counties**

Division I	James Lawrence Sanchez	Los Lunas
Division II	George P. Eichwald	Bernalillo
Division III	Allen R. Smith	Los Lunas
Division IV	Amanda Sanchez	Grants
Division V	James A. Noel	Bernalillo
Division VI	Cindy M. Mercer	Los Lunas
Division VII	Christopher G. Perez	Bernalillo
Division VIII	Cheryl H. Johnston	Bernalillo

**DISTRICT ATTORNEYS**

First Judicial District	Marco Serna	Santa Fe, Los Alamos & Rio Arriba
Second Judicial District	Raul Torrez	Bernalillo
Third Judicial District	Mark D'Antonio	Doña Ana
Fourth Judicial District	Richard Flores	San Miguel, Mora & Guadalupe

Fifth Judicial District	Dianna Luce	Eddy, Chaves & Lea
Sixth Judicial District	Francesca Martinez-Estevez	Grant, Luna & Hidalgo
Seventh Judicial District	Clint Wellborn	Socorro, Torrance & Sierra
Eighth Judicial District	Marcus J. Montoya	Taos, Colfax & Union
Ninth Judicial District	Andrea Reeb	Curry & Roosevelt
Tenth Judicial District	Timothy Rose	Quay, Harding & DeBaca
Eleventh Judicial District	Rick Tedrow	San Juan
	Paula Pakkala	McKinley
Twelfth Judicial District	John Sugg	Otero & Lincoln
Thirteenth Judicial District	Lemuel Martinez	Cibola, Sandoval & Valencia

**STATE SENATORS SERVING IN THE FIFTY-FOURTH LEGISLATURE  
STATE OF NEW MEXICO  
FIRST SPECIAL SESSION  
CONVENED JUNE 18, 2020**

<u>District</u>	<u>County</u>	<u>Name</u>	<u>City</u>
1	San Juan	William E. Sharer	Farmington
2	San Juan	Steven P. Neville	Aztec
3	McKinley and San Juan	Shannon D. Pinto	Tohatchi
4	Cibola, McKinley and San Juan	George K. Muñoz	Gallup
5	Los Alamos, Rio Arriba, Sandoval and Santa Fe	Richard C. Martinez	Española
6	Los Alamos, Rio Arriba, Santa Fe and Taos	Roberto "Bobby" Gonzales	Ranchos de Taos
7	Curry, Quay and Union	Pat Woods	Broadview
8	Colfax, Guadalupe, Harding, Mora, Quay, San Miguel & Taos	Pete Campos	Las Vegas
9	Bernalillo and Sandoval	John M. Sapien	Corrales
10	Bernalillo and Sandoval	Candace Gould	Albuquerque
11	Bernalillo	Linda M. Lopez	Albuquerque
12	Bernalillo	Gerald Ortiz y Pino	Albuquerque
13	Bernalillo	Bill B. O'Neill	Albuquerque
14	Bernalillo	Michael Padilla	Albuquerque
15	Bernalillo	Daniel A. Ivey-Soto	Albuquerque
16	Bernalillo	Antoinette Sedillo Lopez	Albuquerque
17	Bernalillo	Mimi Stewart	Albuquerque
18	Bernalillo	Bill Tallman	Albuquerque

19	Bernalillo, Sandoval, Santa Fe and Torrance	James P. White	Albuquerque
20	Bernalillo	William H. Payne	Albuquerque
21	Bernalillo	Mark Moores	Albuquerque
22	Bernalillo, McKinley, Rio Arriba, San Juan and Sandoval	Benny Shendo	Jemez Pueblo
23	Bernalillo	Sander Rue	Albuquerque
24	Santa Fe	Nancy Rodriguez	Santa Fe
25	Santa Fe	Peter Wirth	Santa Fe
26	Bernalillo	Jacob R. Candelaria	Albuquerque
27	Chaves, Curry, De Baca, Lea and Roosevelt	Stuart Ingle	Portales
28	Catron, Grant and Socorro	Gabriel Ramos	Silver City
29	Bernalillo and Valencia	Gregory A. Baca	Belen
30	Cibola, Socorro, McKinley and Valencia	Clemente Sanchez	Grants
31	Doña Ana	Joseph Cervantes	Las Cruces
32	Chaves, Eddy and Otero	Cliff R. Pirtle	Roswell
33	Chaves, Lincoln and Otero	William F. Burt	Alamogordo
34	Doña Ana, Eddy and Otero	Ron Griggs	Alamogordo
35	Doña Ana, Hidalgo, Luna and Sierra	John Arthur Smith	Deming
36	Doña Ana	Jeff Steinborn	Las Cruces
37	Doña Ana	William P. Soules	Las Cruces
38	Doña Ana	Mary Kay Papen	Las Cruces
39	Bernalillo, Lincoln, San Miguel, Santa Fe, Torrance and Valencia	Elizabeth "Liz" Stefanics	Cerrillos
40	Sandoval	Craig W. Brandt	Rio Rancho
41	Eddy and Lea	Gregg Fulfer	Jal
42	Chaves, Eddy and Lea	Gay G. Kernan	Hobbs

**STATE REPRESENTATIVES SERVING IN THE FIFTY-FOURTH LEGISLATURE  
STATE OF NEW MEXICO  
FIRST SPECIAL SESSION  
CONVENED JUNE 18, 2020**

<u>District</u>	<u>County</u>	<u>Name</u>	<u>City</u>
1	San Juan	Rod Montoya	Farmington
2	San Juan	James R.J. Strickler	Farmington
3	San Juan	Paul C. Bandy	Aztec

4	San Juan	Anthony Allison	Fruitland
5	McKinley and San Juan	D. Wonda Johnson	Rehoboth
6	Cibola and McKinley	Eliseo Lee Alcon	Milan
7	Valencia	Kelly K. Fajardo	Los Lunas
8	Valencia	Alonzo Baldonado	Los Lunas
9	McKinley and San Juan	Patricia A. Lundstrom	Gallup
10	Bernalillo	G. Andrés Romero	Albuquerque
11	Bernalillo	Javier Martínez	Albuquerque
12	Bernalillo	Patricio Ruiloba	Albuquerque
13	Bernalillo	Patricia Roybal Caballero	Albuquerque
14	Bernalillo	Miguel P. Garcia	Albuquerque
15	Bernalillo	Dayan Hochman-Vigil	Albuquerque
16	Bernalillo	Antonio Maestas	Albuquerque
17	Bernalillo	Deborah A. Armstrong	Albuquerque
18	Bernalillo	Gail Chasey	Albuquerque
19	Bernalillo	Sheryl Williams Stapleton	Albuquerque
20	Bernalillo	Abbas Akhil	Albuquerque
21	Bernalillo	Debra M. Sariñana	Albuquerque
22	Bernalillo, Sandoval and Santa Fe	Gregg Schmedes	Tijeras
23	Bernalillo and Sandoval	Daymon Ely	Corrales
24	Bernalillo	Elizabeth "Liz" Thomson	Albuquerque
25	Bernalillo	Christine Trujillo	Albuquerque
26	Bernalillo	Georgene Louis	Albuquerque
27	Bernalillo	Marian Matthews	Albuquerque
28	Bernalillo	Melanie A. Stansbury	Albuquerque
29	Bernalillo	Joy Garratt	Albuquerque
30	Bernalillo	Natalie Figueroa	Albuquerque
31	Bernalillo	William "Bill" R. Rehm	Albuquerque
32	Grant, Hidalgo and Luna	Candie G. Sweetser	Deming
33	Doña Ana	Micaela Lara Cadena	Mesilla
34	Doña Ana	Raymundo Lara	Chamberino
35	Doña Ana	Angelica Rubio	Las Cruces
36	Doña Ana	Nathan P. Small	Las Cruces
37	Doña Ana	Joanne J. Ferrary	Las Cruces
38	Grant, Hidalgo and Sierra	Rebecca Dow	Truth or Consequences
39	Doña Ana, Grant and Sierra	Rodolpho S. Martinez	Bayard
40	Colfax, Mora, Rio Arriba and San Miguel	Joseph L. Sanchez	Alcalde
41	Rio Arriba, Santa Fe and Taos	Susan K. Herrera	Embudo
42	Taos	Daniel R. Barrone	El Prado

43	Los Alamos, Rio Arriba, Sandoval and Santa Fe	Christine Chandler	Los Alamos
44	Sandoval	Jane E. Powdrell-Culbert	Corrales
45	Santa Fe	Jim R. Trujillo	Santa Fe
46	Santa Fe	Andrea Romero	Santa Fe
47	Santa Fe	Brian Egolf	Santa Fe
48	Santa Fe	Linda M. Trujillo	Santa Fe
49	Catron, Socorro and Valencia	Gail Armstrong	Magdalena
50	Bernalillo, Santa Fe, Torrance and Valencia	Matthew McQueen	Santa Fe
51	Otero	Rachel A. Black	Alamogordo
52	Doña Ana	Doreen Y. Gallegos	Las Cruces
53	Doña Ana and Otero	Willie D. Madrid	Chaparral
54	Chaves, Eddy and Otero	James G. Townsend	Artesia
55	Eddy	Cathrynn N. Brown	Carlsbad
56	Lincoln and Otero	Zachary J. Cook	Ruidoso
57	Sandoval	Jason C. Harper	Rio Rancho
58	Chaves	Candy Spence Ezzell	Roswell
59	Chaves and Lincoln	Greg Nibert	Roswell
60	Sandoval	Tim D. Lewis	Rio Rancho
61	Lea	David M. Gallegos	Eunice
62	Lea	Larry R. Scott	Hobbs
63	Curry, DeBaca, Guadalupe, Roosevelt and San Miguel	Martin R. Zamora	Clovis
64	Curry	Randal S. Crowder	Clovis
65	Rio Arriba, Sandoval and San Juan	Derrick J. Lente	Sandia Pueblo
66	Chaves, Lea and Roosevelt	Phelps Anderson	Roswell
67	Colfax, Curry, Harding, Quay, Roosevelt, San Miguel and Union	Jack Chatfield	Mosquero
68	Bernalillo	Karen C. Bash	Albuquerque
69	Bernalillo, Cibola, McKinley, Socorro, San Juan and Valencia	Harry Garcia	Grants
70	San Miguel, Santa Fe and Torrance	Tomás E. Salazar	Las Vegas