

Section 1. It is proposed to amend Article 6, Section 33 of the constitution of New Mexico to read:

"A. Each justice of the supreme court, judge of the court of appeals, district judge or metropolitan court judge shall have been elected to that position in a partisan election prior to being eligible for a nonpartisan retention election. Thereafter, each such justice or judge shall be subject to retention or rejection on a nonpartisan ballot. Retention of the judicial office shall require at least fifty-seven percent of the vote cast on the question of retention or rejection.

B. Each justice of the supreme court or judge of the court of appeals shall be subject to retention or rejection in like manner at the general election every eighth year.

C. Each district judge shall be subject to retention or rejection in like manner at the general election every sixth year.

D. Each metropolitan court judge shall be subject to retention or rejection in like manner at the general election every fourth year.

E. Every justice of the supreme court, judge of the court of appeals, district judge or metropolitan court judge holding office on January 1 next following the date of the election at which this amendment is adopted shall be deemed to have fulfilled the requirements of Subsection A of this section and the justice or judge shall be eligible for retention or rejection by the electorate at the general election next preceding the end of the term of which the justice or judge was last elected prior to the adoption of this amendment."

Section 2

Section 2. It is proposed to amend Article 6, Section 34 of the constitution of New Mexico to read:

"The office of any justice or judge subject to the provisions of Section 33 of Article 6 of this constitution becomes vacant on January 1 immediately following the general election at which the justice or judge is rejected by more than forty-three percent of those voting on the question of his retention or rejection or on January 1 immediately following the date he fails to file a declaration of candidacy for the retention of his office in the general election at which the justice or judge would be subject to retention or rejection by the electorate. Otherwise, the office becomes vacant upon the date of the death, resignation or removal by impeachment of the justice or judge. The date for filing a declaration of candidacy for retention of office shall be the same as that for filing a declaration of candidacy in a primary election."

Section 3

Section 3. The amendment proposed by this resolution shall be submitted to the people for their approval or rejection at the next general election or at any special election prior to that date which may be called for that purpose.

SENATE JOINT RESOLUTION 1

CONSTITUTIONAL AMENDMENT 11

PROPOSING AN AMENDMENT TO ARTICLE 7, SECTION 1 OF THE CONSTITUTION OF NEW MEXICO TO CHANGE CERTAIN VOTER QUALIFICATION RESTRICTIONS.

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

Section 1

Section 1. It is proposed to amend Article 7, Section 1 of the constitution of New Mexico to read:

"Every citizen of the United States, who is over the age of eighteen years and who meets residency requirements established by law, except persons found by a court to be incapacitated for this purpose and persons convicted of a felonious or infamous crime unless restored to political rights, shall be qualified to vote at all elections for public officers. The legislature may enact laws providing for absentee voting by qualified electors. All school elections shall be held at different times from other elections.

The legislature shall have the power to require the registration of the qualified electors as a requisite for voting, and shall regulate the manner, time and places of voting. The legislature shall enact such laws as will secure the secrecy of the ballot, the purity of elections and guard against the abuse of elective franchise. Not more than two members of the board of registration, and not more than two judges of election shall belong to the same political party at the time of their appointment."

Section 2

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

SENATE JOINT RESOLUTION 3, aa

CONSTITUTIONAL AMENDMENT 12

PROPOSING AN AMENDMENT TO ARTICLE 8, SECTION 10 OF THE CONSTITUTION OF NEW MEXICO TO INCREASE THE SEVERANCE TAX

PERMANENT FUND BY REQUIRING EARNINGS OF THE FUND TO BE DEPOSITED IN IT AND PROVIDING FOR LIMITED DISTRIBUTIONS FROM THE FUND.

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

Section 1

Section 1. It is proposed to amend Article 8, Section 10 of the constitution of New Mexico to read:

"A. There shall be deposited in a permanent trust fund known as the "severance tax permanent fund" that part of state revenue derived from excise taxes that have been or shall be designated severance taxes imposed upon the severance of natural resources within this state, in excess of that amount that has been or shall be reserved by statute for the payment of principal and interest on outstanding bonds to which severance tax revenue has been or shall be pledged. Money in the severance tax permanent fund shall be invested as provided by law. Distributions from the severance tax permanent fund shall be made only in accordance with the provisions of Subsections B and C of this section.

B. All additions to the severance tax permanent fund and all earnings, including interest, dividends and capital gains, from investment of the fund shall be credited to the corpus of the fund. During each fiscal year, distributions from the severance tax permanent fund shall be made to the general fund. Distributions from the severance tax permanent fund shall be appropriated by the legislature as other general operating revenue is appropriated for the benefit of the people of the state.

C. The distribution from the severance tax permanent fund to the general fund in a fiscal year shall not exceed the amount distributed in the immediately preceding fiscal year plus eight percent of that amount. Within that limitation, during each fiscal year there shall be distributed to the general fund the greater of:

(1) four and seven-tenths percent of the average fiscal year-end market values of the severance tax permanent fund for the five-year period immediately preceding the fiscal year in which a distribution is made; or

(2) the amount distributed during the immediately preceding fiscal year plus two percent of that amount.

D. The frequency and the time of the distribution made pursuant to Subsection C of this section shall be as provided by law."

Section 2

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

election prior to that date which may be called for that purpose.

SENATE JOINT RESOLUTION 7, aa

CONSTITUTIONAL AMENDMENT 13

PROPOSING AMENDMENTS TO ARTICLE 12, SECTIONS 2, 4 AND 7 OF THE CONSTITUTION OF NEW MEXICO TO INCREASE THE LAND GRANT PERMANENT FUNDS BY REQUIRING EARNINGS OF THE FUNDS TO BE DEPOSITED TO THE CREDIT OF THOSE FUNDS AND PROVIDING FOR LIMITED DISTRIBUTIONS FROM THE FUNDS.

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

Section 1

Section 1. It is proposed to amend Article 12, Section 2 of the constitution of New Mexico to read:

"The permanent school fund of the state shall consist of the proceeds of sales of sections two, sixteen, thirty-two and thirty-six in each township of the state, or the lands selected in lieu thereof; the proceeds of sales of all lands that have been or may hereafter be granted to the state not otherwise appropriated by the terms and conditions of the grant; such portion of the proceeds of sales of land of the United States within the state as has been or may be granted by congress; all earnings, including interest, dividends and capital gains, from investment of the permanent school fund; also all other grants, gifts and devises made to the state, the purpose of which is not otherwise specified."

Section 2

Section 2. It is proposed to amend Article 12, Section 4 of the constitution of New Mexico to read:

"All forfeitures, unless otherwise provided by law, and all fines collected under general laws; the net proceeds of property that may come to the state by escheat; and the rentals of all school lands and other lands granted to the state, the disposition of which is not otherwise provided for by the terms of the grant or by act of congress shall constitute the current school fund of the state."

Section 3

Section 3. It is proposed to amend Article 12, Section 7 of the constitution of New Mexico to read:

"A. As used in this section, "fund" means the permanent school fund described in Section 2 of this article and all other permanent funds established for beneficiaries and derived from lands granted in trust to the state pursuant to the provisions of the Enabling Act or the Ferguson Act.

B. The fund shall be invested by the state investment officer in accordance with policy regulations promulgated by the state investment council.

C. In making investments of the fund, the state investment officer, under the supervision of the state investment council, shall exercise the judgment and care under the circumstances then prevailing that businessmen of ordinary prudence, discretion and intelligence exercise in the management of their own affairs not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital.

D. The following restrictions apply to the investment of the fund:

(1) no more than fifty percent of the cost of the assets in the fund shall be invested at any given time in corporate stocks;

(2) no more than ten percent of the voting stock of a corporation shall be held; and

(3) stocks eligible for purchase shall be restricted to those stocks of businesses incorporated within the United States that are listed upon a national stock exchange or included in a nationally recognized list of stocks, provided that the legislature, by a three-fourths vote of the members elected to each house, may provide by law for investment in stocks of businesses incorporated or organized outside of the United States.

E. All additions to the fund and all earnings, including interest, dividends and capital gains, from investment of the fund, shall be credited to the corpus of the fund. Four and seven-tenths percent of the average of the year-end market values of the fund for the five-year period immediately preceding the fiscal year in which a distribution is made shall be distributed annually to the beneficiaries of the fund; provided that an annual distribution shall not exceed in any fiscal year the amount distributed in the immediately preceding fiscal year plus eight percent of that amount and shall not be less than the amount distributed in the immediately preceding fiscal year plus two percent of that amount. The distribution shall be made at times and in the manner provided by law."

Section 4

Section 4. The amendments proposed by this resolution shall be submitted to the people for their approval or rejection at the next general election or at any special election prior to that date which may be called for that purpose.

Section 5

Section 5. The amendments proposed by this resolution shall not become effective unless the United States congress enacts amendments to the Enabling Act for New Mexico permitting changes in the constitution of New Mexico as proposed in this resolution.

HTRC/ HOUSE JOINT RESOLUTION 8

CONSTITUTIONAL AMENDMENT 14

PROPOSING AN AMENDMENT TO ARTICLE 4, SECTION 10 OF THE CONSTITUTION OF NEW MEXICO TO PROVIDE LEGISLATIVE PER DIEM AND MILEAGE AND OTHER EXPENSES AT AN AMOUNT NOT TO EXCEED RATES ADOPTED UNDER THE INTERNAL REVENUE CODE.

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

Section 1

Section 1. It is proposed to amend Article 4, Section 10 of the constitution of New Mexico to read:

"A. Each member of the legislature shall receive:

(1) per diem at the Internal Revenue Code per diem rate for the city of Santa Fe for each day's attendance during each session as defined by Article 4, Section 5 of this constitution and the Internal Revenue Code standard mileage rate for each actual mile traveled in going to and returning from the seat of government by the usual traveled route for each week of a session as defined by Article 4, Section 5 of this constitution;

(2) during each month when the legislature is not in regular session, for expenses incurred in the serving of constituents and performing the duties of office, the sum of one day's per diem as provided in this subsection; provided that if a member represents a multicounty district, that member shall receive a sum equal to two days' per diem; and

(3) for out-of-state travel, the sum of not more than the per diem rate authorized by the Internal Revenue Code for that out-of-state municipality or place of destination.

B. In addition to the per diem provided in Subsection A of this section, during each month when the legislature is not in regular session:

(1) the speaker of the house of representatives and the president pro tempore of the senate shall receive a sum equal to six days' per diem;

(2) the floor leaders in the house of representatives and the senate shall receive a sum equal to four days' per diem; and

(3) each whip and caucus chairman in the house of representatives and the senate shall receive a sum equal to three days' per diem.

C. Each member of the legislature shall receive per diem expense and mileage at the same rates as provided in Paragraphs (1) and (2) of Subsection A of this section for service at meetings required by legislative committees established by the legislature to meet in the interim between sessions.

D. Each member of the legislature shall receive no other compensation, perquisite or allowance."

Section 2

Section 2. Constitutional Amendment No. 5 proposed by the first regular session of the forty-first legislature is withdrawn from submission to the people, and the secretary of state is directed not to place that proposal on the ballot.

Section 3

Section 3. The amendment proposed by this resolution shall be submitted to the people for their approval or rejection at the next general election or at any special election prior to that date which may be called for that purpose.

CHAPTER 1

RELATING TO THE LEGISLATIVE BRANCH OF GOVERNMENT; APPROPRIATING FUNDS FOR THE EXPENSES OF THE FORTY-FIRST LEGISLATURE, SECOND SESSION, 1994 AND FOR LEGISLATIVE EXPENSES FOR THE LEGISLATIVE COUNCIL SERVICE, THE LEGISLATIVE FINANCE COMMITTEE, THE LEGISLATIVE EDUCATION STUDY COMMITTEE, THE SENATE RULES COMMITTEE, THE HOUSE CHIEF CLERK'S OFFICE AND THE SENATE CHIEF CLERK'S OFFICE; DECLARING AN EMERGENCY.

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

Section 1

Section 1. There is appropriated for the expense of the legislative department of the state of New Mexico for the forty-first legislature, second session, for per diem and mileage of the members, for salaries of employees and for other expenses of the legislature, the sum of two million six hundred ninety thousand ninety-nine dollars (\$2,690,099) or so much thereof as may be necessary for such purposes.

Section 2

Section 2. The expenditures referred to in Section 1 above are as follows:

- A. per diem for members of the senate----- \$ 94,500;
- B. per diem for members of the house of representatives----- \$157,500;
- C. mileage traveled by members of the senate going to and returning from the seat of government by the usually traveled route, one round trip-----\$ 2,960;
- D. mileage traveled by members of the house of representatives going to and returning from the seat of government by the usually traveled route, one round trip -----
----- \$ 4,927;
- E. salaries and employee benefits of senate employees ----- \$714,083;
- F. salaries and employee benefits of house of representatives employees -----
----- \$821,496;
- G. for expense of the senate not itemized above, one hundred fifty-nine thousand four hundred dollars (\$159,400). No part of this item may be transferred to salaries or employee benefits;
- H. for expense of the house of representatives not itemized above, two hundred twenty thousand dollars (\$220,000). No part of this item may be transferred to salaries or employee benefits;
- I. the expenditures for the house shall be disbursed on vouchers signed by the speaker and chief clerk of the house; the expenditures for the senate shall be disbursed on vouchers signed by the chairman of the committees' committee and the chief clerk of the senate; and
- J. for session expenses of the legislative council service, the joint billroom and joint legislative switchboard, five hundred fifteen thousand two hundred thirty-three dollars (\$515,233) to be disbursed upon vouchers signed by the director of the legislative council service. Following adjournment of the session, expenditures authorized under Subsections E through H of this section shall be disbursed upon vouchers signed by the director of the legislative council service.

Section 3

Section 3. Typewriters and computers purchased by the legislature are to be placed in the custody of the legislative council service by the chief clerks of the respective houses as soon after the session as practicable. Typewriters and computers used for two consecutive regular sessions and not needed for legislative use may be offered for resale to state agencies public officials, public institutions and local public bodies at the original price paid by the legislature less ninety dollars (\$90.00), and the proceeds shall be deposited in the legislative information system fund. Any typewriters and computers purchased by the legislature and held for a period of more than two consecutive regular sessions may be sold at a price found to be the fair market price by the New Mexico legislative council.

Section 4

Section 4. Under the printing contracts entered into for the forty-first legislature, second session, the chairman of the committees' committee of the senate, subject to the approval of the committee, and the speaker of the house of representatives are authorized and directed to provide for the printing of all bills, resolutions, joint resolutions, memorials and joint memorials introduced in the senate or house, the printing of the weekly bill locator and the printing of all necessary stationery required for use in the respective houses. They are further directed to provide for the purchase of all supplies necessary for use in the respective houses within the appropriation provided. The orders for printing, stationery and supplies shall be approved by the chairman of the committees' committee in the senate or by the speaker for the house.

Section 5

Section 5. For the second session of the forty-first legislature, bills, resolutions, joint resolutions, memorials and joint memorials delivered to the printer shall be returned by the printer to the joint billroom within forty-two hours after they are ordered to be printed. The billroom personnel shall supply a complete file of bills, resolutions, joint resolutions, memorials, joint memorials and other printed distribution materials to the following:

- A. two copies to each member of the house and senate;
- B. one copy to each county clerk, district judge, radio or television station and newspaper and to the general library of each state-supported institution of higher learning; and
- C. upon written request therefor, one copy to each state department, commission, board, institution or agency, each elected state official, each incorporated municipality, each district attorney, each ex-governor, each member of congress and each public school district in the state.

Section 6

Section 6. Any person not enumerated in the preceding section may secure a complete file of the bills, resolutions, joint resolutions, memorials and joint memorials of the legislature by depositing with the legislative council service the amount of two hundred fifty dollars (\$250), which deposit shall be paid to the state treasurer to the credit of the legislative expense fund. Additional single copies of items of legislation shall be sold for fifty cents (\$.50) unless the director of the legislative council service shall, because of its length, assign a higher price not to exceed ten cents (\$.10) per page. Copies of a daily bill locator, other than those copies furnished each member of the respective houses, shall be supplied by the legislative council service at a charge of seventy-five dollars (\$75.00) for the entire session.

Section 7

Section 7. There is appropriated from the general fund to the legislative council service for the eighty-third fiscal year, unless otherwise indicated, to be disbursed on vouchers signed by the director of the legislative council service, the following:

| | |
|-----------------------|--------------|
| A. Personal Services | \$ 1,724,400 |
| Employee Benefits | 439,600 |
| Travel | 51,000 |
| Maintenance & Repairs | 72,700 |
| Supplies & Materials | 41,200 |
| Contractual Services | 179,900 |
| Operating Costs | 213,100 |
| Other Operating Costs | 70,000 |
| Capital Outlay | 77,500 |
| Out-of-State Travel | 58,000 |
| Total | \$2,927,400; |

B. for travel expenses of legislators other than New Mexico legislative council members, on legislative council business, for committee travel, staff and other necessary expenses for other interim committees and for other necessary legislative expenses for the eighty-third fiscal year, the sum of four hundred twenty thousand two hundred dollars (\$420,200); provided that the New Mexico legislative council may transfer amounts from the appropriation in this subsection, during the fiscal year for which appropriated, to any other legislative appropriation where they may be needed; and

C. for pre-session expenditures and for necessary contracts, supplies and personnel for interim session preparation, the sum of three hundred fifty-two thousand three hundred dollars (\$352,300).

Section 8

Section 8. There is appropriated from the general fund to the legislative finance committee for the eighty-third fiscal year, to be disbursed on vouchers signed by the chairman of the committee or his designated representative, the following:

| | |
|-----------------------|--------------|
| Personal Services | \$1,284,800 |
| Employee Benefits | 354,800 |
| Travel | 101,900 |
| Maintenance & Repairs | 11,200 |
| Supplies & Materials | 25,200 |
| Contractual Services | 268,000 |
| Operating Costs | 101,200 |
| Capital Outlay | 25,400 |
| Out-of-State Travel | 17,600 |
| Total | \$2,190,100. |

Section 9

Section 9. There is appropriated from the general fund to the legislative education study committee for the eighty-third fiscal year, to be disbursed on vouchers signed by the chairman of the committee or his designated representative, the following:

| | |
|-----------------------|-------------|
| Personal Services | \$ 390,000 |
| Employee Benefits | 114,500 |
| Travel | 37,500 |
| Maintenance & Repairs | 14,000 |
| Supplies & Materials | 11,500 |
| Contractual Services | 11,500 |
| Operating Costs | 13,000 |
| Capital Outlay | 17,700 |
| Out-of-State Travel | 11,000 |
| Total | \$ 620,700. |

Section 10

Section 10. There is appropriated from the general fund to the legislative council service for the interim duties of the senate rules committee the sum of forty-six thousand six hundred dollars (\$46,600) for the eighty-third fiscal year.

Section 11

Section 11. There is appropriated from the general fund to the legislative council service for expenditure in the eighty-third fiscal year three hundred thirty-nine thousand two hundred dollars (\$339,200) to be disbursed upon vouchers signed by the director of the legislative council service, for the following purposes and in the following amounts:

A. one hundred sixty-nine thousand six hundred dollars (\$169,600) for the operation of the house chief clerk's office; and

B. one hundred sixty-nine thousand six hundred dollars (\$169,600) for the operation of the senate chief clerk's office.

Any unexpended or unencumbered balance remaining at the end of the eighty-third fiscal year shall revert to the general fund.

Section 12

Section 12. CATEGORY TRANSFER.--Amounts set out in Sections 7, 8 and 9 of this act are provided for informational purposes only and may be freely transferred among categories.

Section 13

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

HOUSE BILL 1

EMERGENCY CLAUSE -- SIGNED JANUARY 24, 1994.

CHAPTER 2

RELATING TO ELECTIONS; AMENDING CERTAIN SECTIONS OF THE PRIMARY ELECTION LAW PERTAINING TO FILING DATES; DECLARING AN EMERGENCY.

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

Section 1

Section 1. Section 1-8-26 NMSA 1978 (being Laws 1975, Chapter 295, Section 12, as amended by Laws 1994, Chapter 55, Section 3 and by Laws 1994, Chapter 314, Section 45 and also by Laws 1994, Chapter 316, Section 45) is amended to read:

"1-8-26. PRIMARY ELECTION LAW--DECLARATION OF CANDIDACY--TIME OF FILING.--

A. Declarations of candidacy by preprimary convention designation for any statewide office or for the office of United States representative and declarations of candidacy for retention of a justice of the supreme court or a judge of the court of appeals shall be filed with the proper filing officer on the second Tuesday in February of each even-numbered year between the hours of 9:00 a.m. and 5:00 p.m.

B. Declarations of candidacy for statewide office or office of the United States representative for candidates not seeking preprimary convention designation shall be filed with the proper filing officer on the first Tuesday in March of each even-numbered year between the hours of 9:00 a.m. and 5:00 p.m.

C. Declarations of candidacy for any other office and declarations of candidacy for retention for all affected district judicial offices shall be filed with the proper filing officer on the third Tuesday of March of each even-numbered year between the hours of 9:00 a.m. and 5:00 p.m.

D. Certificates of designation shall be submitted to the secretary of state on the first Tuesday following the preprimary convention at which the candidate's designation took place between the hours of 9:00 a.m. and 5:00 p.m.

E. No candidate's name shall be placed on the ballot until the candidate has been notified in writing by the proper filing officer that the declaration of candidacy, the petition and the certificate of registration of the candidate on file are in proper order and that the candidate, based on such documents, is qualified to have his name placed on the ballot. The proper filing officer shall mail such notice no later than 5:00 p.m. on the Tuesday following the filing date."

Section 2

Section 2. Section 1-8-36.1 NMSA 1978 (being Laws 1981, Chapter 156, Section 1, as amended by Laws 1994, Chapter 314, Section 48 and also by Laws 1994, Chapter 316, Section 48) is amended to read:

"1-8-36.1. PRIMARY ELECTION LAW--WRITE-IN CANDIDATES.--

A. Write-in candidates are permitted in the primary election only for the offices of United States representative, members of the legislature, district judges, district attorneys, state board of education, magistrates and any office voted upon by all voters of the state.

B. A person may be a write-in candidate only for nomination by the major political party with which he is affiliated as shown by his certificate of registration, and such person shall have the qualifications to be a candidate in the primary election for the political party for which he is a write-in candidate.

C. A person desiring to be a write-in candidate for one of the offices listed in Subsection A of this section in the primary election shall file with the proper filing officer a declaration of intent to be a write-in candidate. Such declaration of intent shall be filed before 5:00 p.m. on the second Tuesday in March.

D. A write-in vote shall be counted and canvassed only if:

(1) the name written in is the name of a declared write-in candidate and shows two initials and last name; first name, middle initial or name and last name; first and last name; or the full name as it appears on the declaration of intent to be a write-in candidate and misspellings of the above combinations that can be reasonably determined by a majority of the members of the precinct board to identify a declared write-in candidate; and

(2) the name is written in the proper slot on the voting machine or on the proper line provided on an absentee ballot or emergency paper ballot for write-in votes for the office for which the candidate has filed a declaration of intent.

E. At the time of filing the declaration of intent to be a write-in candidate, the write-in candidate shall be considered a candidate for all purposes and provisions relating to candidates in the Election Code, including the obligations to report under the Campaign Reporting Act, except that he shall not be entitled to have his name printed on the ballot.

F. No unopposed write-in candidate shall have his nomination certified unless he receives at least the number of write-in votes in the primary election as he would need signatures on a nominating petition pursuant to the requirements set out in Section 1-8-33 NMSA 1978.

G. A write-in vote shall be cast by writing in the name. As used in this section, "write-in" does not include the imprinting of any name by rubber stamp or similar device or the use of preprinted stickers or labels."

Section 3

Section 3. CONTINGENT EFFECTIVE DATE.--If this act does not become effective on or before noon, January 31, 1994, the effective date of the provisions of this act is July 1, 1994.

Section 4

Section 4. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

HOUSE BILL 138

EMERGENCY CLAUSE -- SIGNED JANUARY 31, 1994, 11:35 A.M.

CHAPTER 3

RELATING TO ELECTIONS; AMENDING PROVISIONS OF THE PRIMARY ELECTION LAW PERTAINING TO BALLOT POSITION; REPEALING THE BALLOT POSITIONING ACT; DECLARING AN EMERGENCY.

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

Section 1

Section 1. Section 1-8-43 NMSA 1978 (being Laws 1969, Chapter 240, Section 180, as amended) is amended to read:

"1-8-43. PRIMARY ELECTION LAW--ORDER OF CANDIDATES ON BALLOT.--

A. Candidates designated and certified by state convention for a statewide office or the office of United States representative shall be placed on the primary election ballot in the order of the vote received at the state convention. The candidate receiving the highest vote shall be placed first in order on the ballot, followed by the candidate receiving the next highest vote, and so on until all the candidates designated for that office have been placed on the ballot, provided that the names of two or more candidates receiving an equal number of votes for designation by convention for the same office shall be placed on the primary ballot in the order determined by lot. Names of candidates for statewide office or the office of United States representative who do not receive preprimary convention designation but who are qualified candidates by declaration of candidacy shall be placed on the ballot as determined by lot following convention designated candidates.

B. The names of candidates for any other office in the primary election who are candidates by declaration of candidacy shall be arranged on the ballot as determined by lot.

C. The determination by lot shall be made immediately following the closing time for filing declarations of candidacy and all candidates or their agents shall be entitled to be present at such time.

D. The order of preference for position on the ballot shall be first, the top name position on the left-hand column for each office, and thereafter, consecutively down each name position in that column to the last name position. If the number of candidates filing for the office so requires, the order of preference shall continue consecutively from the top name position on the left-hand column to the top name position on the right-hand column, thence to the second name position on the left-hand column, then to the second name position on the right-hand column and thereafter continuing in the same manner until all the candidates are positioned on the ballot."

Section 2

Section 2. REPEAL.--Sections 1-10A-1 through 1-10A-3 NMSA 1978 (being Laws 1988, Chapter 17, Sections 1 through 3) are repealed.

Section 3

Section 3. CONTINGENT EFFECTIVE DATE.--If this act does not become effective on or before noon, January 31, 1994, the effective date of the provisions of this act is July 1, 1994.

Section 4

Section 4. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

HOUSE BILL 554

EMERGENCY CLAUSE -- SIGNED JANUARY 31, 1994 11:35 A.M.

CHAPTER 4

RELATING TO THE LOCAL HOSPITAL GROSS RECEIPTS TAX ACT; AMENDING SECTION 7-20C-11 NMSA 1978 (BEING LAWS 1991, CHAPTER 176, SECTION 11) TO MAKE CERTAIN PROVISIONS FOR LOCAL HOSPITAL REVENUE BONDS; DECLARING AN EMERGENCY.

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

Section 1

Section 1. Section 7-20C-11 NMSA 1978 (being Laws 1991, Chapter 176, Section 11) is amended to read:

"7-20C-11. REVENUE BONDS--TERMS.--Local hospital revenue bonds:

A. may have interest, appreciated principal value or any part thereof payable at intervals or at maturity as may be determined by the governing body in the ordinance;

B. may be subject to a prior redemption at the option of the county at such time or times and upon such terms and conditions, with or without the payment of such premium or premiums, as may be provided by the ordinance authorizing the bonds;

C. may mature at any time not exceeding ten years after the date of issuance;

D. may be serial in form and maturity or may consist of one bond payable at one time or in installments or may be in any other form as may be provided in the ordinance authorizing the bonds;

E. shall be sold for cash at, above or below par and at a price that results in a net effective interest rate that does not exceed the maximum permitted by the Public Securities Act; and

F. may be sold at a public or negotiated sale."

Section 2

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

HOUSE BILL 521
EMERGENCY CLAUSE SIGNED FEBRUARY 9, 1994

CHAPTER 5

RELATING TO TAXATION; RESTRUCTURING THE INCOME TAX RATE TABLES; AMENDING THE INCOME TAX ACT BY RESTRUCTURING AND EXPANDING THE LOW-INCOME COMPREHENSIVE TAX REBATE AND PROVIDING A PRESCRIPTION DRUG TAX CREDIT; PROVIDING A THREE- YEAR REDUCTION IN THE GASOLINE TAX RATE; PROVIDING FOR DISTRIBUTION OF GASOLINE AND MOTOR VEHICLE EXCISE TAX REVENUES; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

Section 1

Section 1. Section 7-1-6.7 NMSA 1978 (being Laws 1983, Chapter 211, Section 12, as amended by Laws 1994, Chapter 357, Section 1 and also by Laws 1994, Chapter 364, Section 3) is amended to read:

"7-1-6.7. DISTRIBUTIONS--STATE AVIATION FUND.--

A. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the state aviation fund in an amount equal to three and fifty-nine hundredths percent of the gross receipts tax attributable to the sale of fuel specially prepared and sold for use in turboprop or jet-type engines as determined by the department.

B. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the state aviation fund in an amount equal to three and fifty-nine hundredths percent of

the compensating tax attributable to the use of fuel specially prepared and sold for use in turboprop or jet-type engines as determined by the department.

C. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the state aviation fund in an amount equal to twenty-two hundredths of one percent of gasoline taxes, exclusive of penalties and interest, collected pursuant to the Gasoline Tax Act."

Section 2

Section 2. Section 7-1-6.7 NMSA 1978 (being Laws 1983, Chapter 211, Section 12, as amended and as further amended by Section 1 of this act) is repealed and a new Section 7-1-6.7 NMSA 1978 is enacted to read:

"7-1-6.7. DISTRIBUTIONS--STATE AVIATION FUND.--

A. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the state aviation fund in an amount equal to two and fifteen hundredths percent of the gross receipts tax attributable to the sale of fuel specially prepared and sold for use in turboprop or jet-type engines as determined by the department.

B. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the state aviation fund in an amount equal to two and fifteen hundredths percent of the compensating tax attributable to the use of fuel specially prepared and sold for use in turboprop or jet-type engines as determined by the department.

C. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the state aviation fund in an amount equal to twenty-two hundredths of one percent of gasoline taxes, exclusive of penalties and interest, collected pursuant to the Gasoline Tax Act."

Section 3

Section 3. Section 7-1-6.7 NMSA 1978 (as enacted by Section 2 of this act) is repealed and a new Section 7-1-6.7 NMSA 1978 is enacted to read:

"7-1-6.7. DISTRIBUTIONS--STATE AVIATION FUND.--

A. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the state aviation fund in an amount equal to two and fifteen hundredths percent of the gross receipts tax attributable to the sale of fuel specially prepared and sold for use in turboprop or jet-type engines as determined by the department.

B. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the state aviation fund in an amount equal to two and fifteen hundredths percent of the

compensating tax attributable to the use of fuel specially prepared and sold for use in turboprop or jet-type engines as determined by the department.

C. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the state aviation fund in an amount equal to two-tenths of one percent of gasoline taxes, exclusive of penalties and interest, collected pursuant to the Gasoline Tax Act."

Section 4

Section 4. Section 7-1-6.8 NMSA 1978 (being Laws 1983, Chapter 211, Section 13, as amended) is amended to read:

"7-1-6.8. DISTRIBUTION--MOTORBOAT FUEL TAX FUND.--A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the motorboat fuel tax fund in an amount equal to eleven hundredths of one percent of the net receipts attributable to the gasoline tax."

Section 5

Section 5. Section 7-1-6.8 NMSA 1978 (being Laws 1983, Chapter 211, Section 13, as amended and as further amended by Section 4 of this act) is repealed and a new Section 7-1-6.8 NMSA 1978 is enacted to read:

"7-1-6.8. DISTRIBUTION--MOTORBOAT FUEL TAX FUND.--A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the motorboat fuel tax fund in an amount equal to one-tenth of one percent of the net receipts attributable to the gasoline tax."

Section 6

Section 6. Section 7-1-6.9 NMSA 1978 (being Laws 1991, Chapter 9, Section 11, as amended) is amended to read:

"7-1-6.9. DISTRIBUTION OF GASOLINE TAXES TO MUNICIPALITIES AND COUNTIES.--

A. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made in an amount equal to eight and eighty-two hundredths percent of the net receipts attributable to the taxes, exclusive of penalties and interest, imposed by the Gasoline Tax Act.

B. The amount determined in Subsection A of this section shall be distributed as follows:

(1) ninety percent of the amount shall be paid to the treasurers of municipalities and H class counties in the proportion that the taxable motor fuel sales in

each of the municipalities and H class counties bears to the aggregate taxable motor fuel sales in all of these municipalities and H class counties; and

(2) ten percent of the amount shall be paid to the treasurers of the counties, including H class counties, in the proportion that the taxable motor fuel sales outside of incorporated municipalities in each of the counties bears to the aggregate taxable motor fuel sales outside of incorporated municipalities in all of the counties.

C. This distribution shall be paid into the municipal treasury or county general fund for general purposes or for any special purposes designated by the governing body of the municipality or county. Any municipality or H class county that has created or that creates a "street improvement fund" to which gasoline tax revenues or distributions are irrevocably pledged under Sections 3-34-1 through 3-34-4 NMSA 1978 or that has pledged all or a portion of gasoline tax revenues or distributions to the payment of bonds shall receive its proportion of the distribution of revenues under this section impressed with and subject to these pledges."

Section 7

Section 7. Section 7-1-6.9 NMSA 1978 (being Laws 1991, Chapter 9, Section 11, as amended and as further amended by Section 6 of this act) is repealed and a new Section 7-1-6.9 NMSA 1978 is enacted to read:

"7-1-6.9. DISTRIBUTION OF GASOLINE TAXES TO MUNICIPALITIES AND COUNTIES.--

A. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made in an amount equal to eight and two hundredths percent of the net receipts attributable to the taxes, exclusive of penalties and interest, imposed by the Gasoline Tax Act.

B. The amount determined in Subsection A of this section shall be distributed as follows:

(1) ninety percent of the amount shall be paid to the treasurers of municipalities and H class counties in the proportion that the taxable motor fuel sales in each of the municipalities and H class counties bears to the aggregate taxable motor fuel sales in all of these municipalities and H class counties; and

(2) ten percent of the amount shall be paid to the treasurers of the counties, including H class counties, in the proportion that the taxable motor fuel sales outside of incorporated municipalities in each of the counties bears to the aggregate taxable motor fuel sales outside of incorporated municipalities in all of the counties.

C. This distribution shall be paid into the municipal treasury or county general fund for general purposes or for any special purposes designated by the governing body of the municipality or county. Any municipality or H class county that

has created or that creates a "street improvement fund" to which gasoline tax revenues or distributions are irrevocably pledged under Sections 3-34-1 through 3-34-4 NMSA 1978 or that has pledged all or a portion of gasoline tax revenues or distributions to the payment of bonds shall receive its proportion of the distribution of revenues under this section impressed with and subject to these pledges."

Section 8

Section 8. Section 7-1-6.10 NMSA 1978 (being Laws 1983, Chapter 211, Section 15, as amended by Laws 1994, Chapter 272, Section 1 and also by Laws 1994, Chapter 357, Section 4) is amended to read:

"7-1-6.10. DISTRIBUTIONS--STATE ROAD FUND.--

A. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the state road fund in an amount equal to the net receipts attributable to the taxes, surcharges, penalties and interest imposed pursuant to the Gasoline Tax Act and to the taxes, surtaxes, fees, penalties and interest imposed pursuant to the Special Fuels Tax Act and the Special Fuels Supplier Tax Act less:

(1) the amount distributed to the state aviation fund pursuant to Subsection C of Section 7-1-6.7 NMSA 1978;

(2) the amount distributed to the motorboat fuel tax fund pursuant to Section 7-1-6.8 NMSA 1978;

(3) the amount distributed to municipalities and counties pursuant to Subsection A of Section 7-1-6.9 NMSA 1978;

(4) the amount distributed to the county government road fund pursuant to Section 7-1-6.19 NMSA 1978;

(5) the amount distributed to the corrective action fund pursuant to Section 7-1-6.25 NMSA 1978;

(6) the amount distributed to the municipalities pursuant to Section 7-1-6.27 NMSA 1978;

(7) the amount distributed to the municipal arterial program and the local governments road fund pursuant to Section 7-1-6.28 NMSA 1978; and

(8) the amount distributed to the general fund pursuant to Section 7-1-6.37 NMSA 1978.

B. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the state road fund in an amount equal to the net receipts attributable to the taxes, fees, interest and penalties from the Weight Distance Tax Act."

Section 9

Section 9. Section 7-1-6.19 NMSA 1978 (being Laws 1991, Chapter 9, Section 15, as amended) is amended to read:

"7-1-6.19. DISTRIBUTION--COUNTY GOVERNMENT ROAD FUND CREATED.-

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A. There is created in the state treasury the "county government road fund".

B. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the county government road fund in an amount equal to four and nine-tenths percent of the net receipts attributable to the gasoline tax."

Section 10

Section 10. Section 7-1-6.19 NMSA 1978 (being Laws 1991, Chapter 9, Section 15, as amended and as further amended by Section 9 of this act) is repealed and a new Section 7-1-6.19 NMSA 1978 is enacted to read:

"7-1-6.19. DISTRIBUTION--COUNTY GOVERNMENT ROAD FUND CREATED.-

-

A. There is created in the state treasury the "county government road fund".

B. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the county government road fund in an amount equal to four and forty-six hundredths percent of the net receipts attributable to the gasoline tax."

Section 11

Section 11. Section 7-1-6.27 NMSA 1978 (being Laws 1991, Chapter 9, Section 20, as amended) is amended to read:

"7-1-6.27. DISTRIBUTION--MUNICIPAL ROADS.--

A. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to municipalities for the purposes and amounts specified in this section in an aggregate amount equal to four and nine-tenths percent of the net receipts attributable to the gasoline tax.

B. The distribution authorized in this section shall be used for the following purposes:

(1) reconstructing, resurfacing, maintaining, repairing or otherwise improving existing alleys, streets, roads or bridges, or any combination of the foregoing; or laying off, opening, constructing or otherwise acquiring new alleys, streets, roads or bridges, or any combination of the foregoing; provided that any of the foregoing improvements may include, but are not limited to, the acquisition of rights-of-way; and

(2) for expenses of purchasing, maintaining and operating transit operations and facilities, for the operation of a transit authority established by the municipal transit law and for the operation of a vehicle emission inspection program. A municipality may engage in the business of the transportation of passengers and property within the political subdivision by whatever means the municipality may decide and may acquire cars, trucks, motor buses and other equipment necessary for operating the business. A municipality may acquire land, erect buildings and equip the buildings with all the necessary machinery and facilities for the operation, maintenance, modification, repair and storage of the cars, trucks, motor buses and other equipment needed. A municipality may do all things necessary for the acquisition and the conduct of the business of public transportation.

C. For the purposes of this section:

(1) "computed distribution amount" means the distribution amount calculated for a municipality for a month pursuant to Paragraph (2) of Subsection D of this section prior to any adjustments to the amount due to the provisions of Subsections E and F of this section;

(2) "floor amount" means four hundred seventeen dollars (\$417);

(3) "floor municipality" means a municipality whose computed distribution amount is less than the floor amount; and

(4) "full distribution municipality" means a municipality whose population at the last federal decennial census was at least two hundred thousand.

D. Subject to the provisions of Subsections E and F of this section, each municipality shall be distributed a portion of the aggregate amount distributable under this section in an amount equal to the greater of:

(1) the floor amount; or

(2) eighty-five percent of the aggregate amount distributable under this section times a fraction, the numerator of which is the municipality's reported taxable gallons of gasoline for the immediately preceding state fiscal year and the

denominator of which is the reported total taxable gallons for all municipalities for the same period.

E. Fifteen percent of the aggregate amount distributable under this section shall be referred to as the "redistribution amount". Beginning in August 1990, and each month thereafter, from the redistribution amount there shall be taken an amount sufficient to increase the computed distribution amount of every floor municipality to the floor amount. In the event that the redistribution amount is insufficient for this purpose, the computed distribution amount for each floor municipality shall be increased by an amount equal to the redistribution amount times a fraction, the numerator of which is the difference between the floor amount and the municipality's computed distribution amount and the denominator of which is the difference between the product of the floor amount multiplied by the number of floor municipalities and the total of the computed distribution amounts for all floor municipalities.

F. If a balance remains after the redistribution amount has been reduced pursuant to Subsection E of this section, there shall be added to the computed distribution amount of each municipality that is neither a full distribution municipality nor a floor municipality an amount that equals the balance of the redistribution amount times a fraction, the numerator of which is the computed distribution amount of the municipality and the denominator of which is the sum of the computed distribution amounts of all municipalities that are neither full distribution municipalities nor floor municipalities."

Section 12

Section 12. Section 7-1-6.27 NMSA 1978 (being Laws 1991, Chapter 9, Section 20, as amended and as further amended by Section 11 of this act) is repealed and a new Section 7-1-6.27 NMSA 1978 is enacted to read:

"7-1-6.27. DISTRIBUTION--MUNICIPAL ROADS.--

A. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to municipalities for the purposes and amounts specified in this section in an aggregate amount equal to four and forty-six hundredths percent of the net receipts attributable to the gasoline tax.

B. The distribution authorized in this section shall be used for the following purposes:

(1) reconstructing, resurfacing, maintaining, repairing or otherwise improving existing alleys, streets, roads or bridges, or any combination of the foregoing; or laying off, opening, constructing or otherwise acquiring new alleys, streets, roads or bridges, or any combination of the foregoing; provided that any of the foregoing improvements may include, but are not limited to, the acquisition of rights-of-way; and

(2) for expenses of purchasing, maintaining and operating transit operations and facilities, for the operation of a transit uthority established by the municipal transit law and for the operation of a vehicle emission inspection program. A municipality may engage in the business of the transportation of passengers and property within the political subdivision by whatever means the municipality may decide and may acquire cars, trucks, motor buses and other equipment necessary for operating the business. A municipality may acquire land, erect buildings and equip the buildings with all the necessary machinery and facilities for the operation, maintenance, modification, repair and storage of the cars, trucks, motor buses and other equipment needed. A municipality may do all things necessary for the acquisition and the conduct of the business of public transportation.

C. For the purposes of this section:

(1) "computed distribution amount" means the distribution amount calculated for a municipality for a month pursuant to Paragraph (2) of Subsection D of this section prior to any adjustments to the amount due to the provisions of Subsections E and F of this section;

(2) "floor amount" means four hundred seventeen dollars (\$417);

(3) "floor municipality" means a municipality whose computed distribution amount is less than the floor amount; and

(4) "full distribution municipality" means a municipality whose population at the last federal decennial census was at least two hundred thousand.

D. Subject to the provisions of Subsections E and F of this section, each municipality shall be distributed a portion of the aggregate amount distributable under this section in an amount equal to the greater of:

(1) the floor amount; or

(2) eighty-five percent of the aggregate amount distributable under this section times a fraction, the numerator of which is the municipality's reported taxable gallons of gasoline for the immediately preceding state fiscal year and the denominator of which is the reported total taxable gallons for all municipalities for the same period.

E. Fifteen percent of the aggregate amount distributable under this section shall be referred to as the "redistribution amount". Beginning in August 1997, and each month thereafter, from the redistribution amount there shall be taken an amount sufficient to increase the computed distribution amount of every floor municipality to the floor amount. In the event that the redistribution amount is insufficient for this purpose, the computed distribution amount for each floor municipality shall be increased by an amount equal to the redistribution amount times a fraction, the numerator of which is the

difference between the floor amount and the municipality's computed distribution amount and the denominator of which is the difference between the product of the floor amount multiplied by the number of floor municipalities and the total of the computed distribution amounts for all floor municipalities.

F. If a balance remains after the redistribution amount has been reduced pursuant to Subsection E of this section, there shall be added to the computed distribution amount of each municipality that is neither a full distribution municipality nor a floor municipality an amount that equals the balance of the redistribution amount times a fraction, the numerator of which is the computed distribution amount of the municipality and the denominator of which is the sum of the computed distribution amounts of all municipalities that are neither full distribution municipalities nor floor municipalities."

Section 13

Section 13. Section 7-1-6.28 NMSA 1978 (being Laws 1991, Chapter 9, Section 22, as amended) is amended to read:

"7-1-6.28. DISTRIBUTIONS--LOCAL GOVERNMENTS ROAD FUND.--

A. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the municipal arterial program of the local governments road fund created in Section 67-3-28.2 NMSA 1978 in an amount equal to one and twenty-two hundredths percent of the net receipts attributable to the gasoline tax.

B. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the local governments road fund in an amount equal to ten and thirty-seven hundredths percent of the net receipts attributable to the gasoline tax."

Section 14

Section 14. Section 7-1-6.28 NMSA 1978 (being Laws 1991, Chapter 9, Section 22, as amended and as further amended by Section 13 of this act) is repealed and a new Section 7-1-6.28 NMSA 1978 is enacted to read:

"7-1-6.28. DISTRIBUTIONS--LOCAL GOVERNMENT ROAD FUND.--

A. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the municipal arterial program of the local governments road fund created in Section 67-3-28.2 NMSA 1978 in an amount equal to one and eleven hundredths percent of the net receipts attributable to the gasoline tax.

B. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the local governments road fund in an amount equal to nine and forty-three hundredths percent of the net receipts attributable to the gasoline tax."

Section 15

Section 15. Section 7-1-6.37 NMSA 1978 (being Laws 1994, Chapter 357, Section 8) is amended to read:

"7-1-6.37. DISTRIBUTION OF GASOLINE AND SPECIAL FUEL EXCISE TAXES TO THE GENERAL FUND.--A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the general fund in an amount equal to four and sixty-four hundredths percent of the net receipts attributable to the taxes, exclusive of penalties and interest, imposed by the Gasoline Tax Act and eleven and eleven hundredths percent of the net receipts attributable to the taxes, exclusive of penalties and interest, from the special fuel excise tax imposed by the Special Fuels Supplier Tax Act."

Section 16

Section 16. Section 7-1-6.37 NMSA 1978 (being Laws 1994, Chapter 357, Section 8, as amended by Section 15 of this act) is repealed and a new Section 7-1-6.37 NMSA 1978 is enacted to read:

"7-1-6.37. DISTRIBUTION OF GASOLINE AND SPECIAL FUEL EXCISE TAXES TO THE GENERAL FUND.--A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the general fund in an amount equal to thirteen and thirty-one hundredths percent of the net receipts attributable to the taxes, exclusive of penalties and interest, imposed by the Gasoline Tax Act and eleven and eleven hundredths percent of the net receipts attributable to the taxes, exclusive of penalties and interest, from the special fuel excise tax imposed by the Special Fuels Supplier Tax Act."

Section 17

Section 17. A new section of the Income Tax Act is enacted to read:

"CREDIT--PRESCRIPTION DRUGS.--

A. Except as otherwise provided in Subsection E of this section, any resident who files an individual New Mexico income tax return and who is not a dependent of another individual may claim a credit for state and local gross receipts taxes imposed on the receipts from the sale of prescription drugs to the resident in New Mexico.

B. The amount of the credit that may be claimed pursuant to this section shall be three percent of the taxpayer's actual unreimbursed expenditures for prescription drugs purchased in New Mexico during the taxable year for which the return is filed, but the amount of the credit claimed shall not exceed one hundred fifty dollars (\$150) per exemption allowable for federal income tax purposes for each individual included in the return or three hundred dollars (\$300) per return, whichever is less. As used in this subsection, the term "drugs purchased in New Mexico" excludes drugs

purchased from any out-of-state source unless the New Mexico compensating tax has been paid on the purchase.

C. The credit provided under this section may be deducted from the taxpayer's New Mexico income tax liability for the taxable year. If the credit exceeds the taxpayer's income tax liability for the taxable year, the excess shall be refunded to the taxpayer.

D. A husband and wife who file separate returns for a taxable year in which they could have filed a joint return may each claim only one-half of the credit provided under this section that would have been allowed on a joint return.

E. No claim for the credit provided under this section shall be filed by a resident who was an inmate of a public institution for more than six months during the taxable year for which the credit could be claimed or who was not physically present in New Mexico for at least six months during the taxable year for which the credit could be claimed.

F. As used in this section:

(1) "dependent" means "dependent" as defined by Section 152 of the Internal Revenue Code, but also includes a minor child or stepchild of the resident who would be a dependent for federal income tax purposes if the public assistance contributing to the support of the child or stepchild was considered to have been contributed by the resident; and

(2) "prescription drugs" means insulin and substances that are:
(a) dispensed by or under the supervision of a licensed pharmacist or other person authorized under state law to dispense the substance;
(b) prescribed for a specified individual by a person authorized under state law to prescribe the substance; and
(c) subject to the restrictions on sale contained in 21 U.S.C. 353(b)(1)."

Section 18

Section 18. Section 7-2-7 NMSA 1978 (being Laws 1969, Chapter 152, Section 3, as amended) is amended to read:

"7-2-7. INDIVIDUAL INCOME TAX RATES.--The tax imposed by Section 7-2-3 NMSA 1978 shall be at the following rates for any taxable year beginning in 1994:

A. For married individuals filing separate returns:

If the taxable income is: The tax shall be:

| | |
|-------------------------------------|---|
| Not over \$4,000 | 2.2% of taxable income |
| Over \$4,000 but not over \$8,000 | \$88.00 plus 3.2% of excess over \$4,000 |
| Over \$8,000 but not over \$12,000 | \$216 plus 4.7% of excess over \$8,000 |
| Over \$12,000 but not over \$18,000 | \$404 plus 6.0% of excess over \$12,000 |
| Over \$18,000 but not over \$24,000 | \$764 plus 7.1% of excess over \$18,000 |
| Over \$24,000 but not over \$32,000 | \$1,190 plus 7.9% of excess over \$24,000 |
| Over \$32,000 | \$1,822 plus 8.5% of excess over \$32,000. |

B. For surviving spouses and married individuals filing joint returns:

If the taxable income is: The tax shall be:

| | |
|-------------------------------------|---|
| Not over \$8,000 | 2.2% of taxable income |
| Over \$8,000 but not over \$16,000 | \$176 plus 3.2% of excess over \$8,000 |
| Over \$16,000 but not over \$24,000 | \$432 plus 4.7% of excess over \$16,000 |
| Over \$24,000 but not over \$36,000 | \$808 plus 6.0% of excess over \$24,000 |
| Over \$36,000 but not over \$48,000 | \$ 1,528 plus 7.1% of excess over \$36,000 |
| Over \$48,000 but not over \$64,000 | \$ 2,380 plus 7.9% of excess over \$48,000 |
| Over \$64,000 | \$3,644 plus 8.5% of excess over \$64,000. |

C. For single individuals and for estates and trusts:

If the taxable income is: The tax shall be:

| | |
|-------------------------------------|---|
| Not over \$5,500 | 1.7% of taxable income |
| Over \$5,500 but not over \$11,000 | \$93.50 plus 3.0% of excess over \$5,500 |
| Over \$11,000 but not over \$16,000 | \$258.50 plus 4.7% of excess over \$11,000 |
| Over \$16,000 but not over \$26,000 | \$493.50 plus 6.0% of excess over \$16,000 |
| Over \$26,000 but not over \$31,200 | \$1,093.50 plus 7.1% of excess over \$26,000 |
| Over \$31,200 but not over \$41,600 | \$1,462.70 plus 7.9% of excess over \$31,200 |
| Over \$41,600 | \$2,284.30 plus 8.5% of excess over \$41,600. |

D. For heads of household filing returns:

If the taxable income is: The tax shall be:

| | |
|-------------------------------------|---|
| Not over \$7,000 | 1.7% of taxable income |
| Over \$7,000 but not over \$14,000 | \$119 plus 3.2% of excess over \$7,000 |
| Over \$14,000 but not over \$20,000 | \$343 plus 4.7% of excess over \$14,000 |
| Over \$20,000 but not over \$33,000 | \$625 plus 6.0% of excess over \$20,000 |
| Over \$33,000 but not over \$48,000 | \$1,405 plus 7.1% of excess over \$33,000 |
| Over \$48,000 but not over \$64,000 | \$2,470 plus 7.9% of excess over \$48,000 |

excess over \$32,000
Over \$50,000 \$3,158 plus 8.5% of
excess over \$50,000.

B. For surviving spouses and married individuals filing joint returns:

If the taxable income is: The tax shall be:

Not over \$8,000 2.2% of taxable income
Over \$8,000 but not over \$16,000 \$176 plus 3.2% of
excess over \$8,000
Over \$16,000 but not over \$24,000 \$432 plus 4.7% of
excess over \$16,000
Over \$24,000 but not over \$40,000 \$808 plus 6.0% of
excess over \$24,000
Over \$40,000 but not over \$56,000 \$1,768 plus 7.1% of
excess over \$40,000
Over \$56,000 but not over \$88,000 \$2,904 plus 7.9% of
excess over \$56,000
Over \$88,000 \$5,432 plus 8.5% of
excess over \$88,000.

C. For single individuals and for estates and trusts:

If the taxable income is: The tax shall be:

Not over \$5,500 1.7% of taxable income
Over \$5,500 but not over \$11,000 \$93.50 plus 3.2% of
excess over \$5,500

| | |
|-------------------------------------|--|
| Over \$11,000 but not over \$16,000 | \$269.50 plus 4.7% of excess over \$11,000 |
| Over \$16,000 but not over \$26,000 | \$504.50 plus 6.0% of excess over \$16,000 |
| Over \$26,000 but not over \$42,000 | \$1,104.50 plus 7.1% of excess over \$26,000 |
| Over \$42,000 but not over \$65,000 | \$2,240.50 plus 7.9% of excess over \$42,000 |
| Over \$65,000 | \$4,057.50 plus 8.5% of excess over \$65,000. |

D. For heads of household filing returns:

If the taxable income is: The tax shall be:

| | |
|-------------------------------------|---|
| Not over \$7,000 | 1.7% of taxable income |
| Over \$7,000 but not over \$14,000 | \$119 plus 3.2% of excess over \$7,000 |
| Over \$14,000 but not over \$20,000 | \$343 plus 4.7% of excess over \$14,000 |
| Over \$20,000 but not over \$33,000 | \$625 plus 6.0% of excess over \$20,000 |
| Over \$33,000 but not over \$53,000 | \$1,405 plus 7.1% of excess over \$33,000 |
| Over \$53,000 but not over \$83,000 | \$2,825 plus 7.9% of excess over \$53,000 |
| Over \$83,000 | \$5,195 plus 8.5% of excess over \$83,000. |

E. The tax on the sum of any lump-sum amounts included in net income is an amount equal to five multiplied by the difference between:

(1) the amount of tax due on the taxpayer's taxable income; and
(2) the amount of tax that would be due on an amount equal to the taxpayer's taxable income and twenty percent of the taxpayer's lump-sum amounts included in net income."

Section 20

Section 20. Section 7-2-7 NMSA 1978 (as enacted by Section 19 of this act) is repealed and a new Section 7-2-7 NMSA 1978 is enacted to read:

"7-2-7. INDIVIDUAL INCOME TAX RATES.--The tax imposed by Section 7-2-3 NMSA 1978 shall be at the following rates for any taxable year beginning on or after January 1, 1996:

A. For married individuals filing separate returns:

| If the taxable income is: | The tax shall be: |
|-------------------------------------|---|
| Not over \$4,000 | 1.7% of taxable income |
| Over \$4,000 but not over \$8,000 | \$68.00 plus 3.2% of excess over \$4,000 |
| Over \$8,000 but not over \$12,000 | \$196 plus 4.7% of excess over \$8,000 |
| Over \$12,000 but not over \$20,000 | \$384 plus 6.0% of excess over \$12,000 |
| Over \$20,000 but not over \$32,000 | \$864 plus 7.1% of excess over \$20,000 |
| Over \$32,000 but not over \$50,000 | \$1,716 plus 7.9% of excess over \$32,000 |
| Over \$50,000 | \$3,138 plus 8.5% of excess over \$50,000. |

B. For surviving spouses and married individuals filing joint returns:

If the taxable income is: The tax shall be:

| | |
|--------------------------------------|--|
| Not over \$8,000 | 1.7% of taxable income |
| Over \$8,000 but not over \$16,000 | \$136 plus 3.2% of excess over \$8,000 |
| Over \$16,000 but not over \$24,000 | \$392 plus 4.7% of excess over \$16,000 |
| Over \$24,000 but not over \$40,000 | \$768 plus 6.0% of excess over \$24,000 |
| Over \$40,000 but not over \$64,000 | \$1,728 plus 7.1% of excess over \$40,000 |
| Over \$64,000 but not over \$100,000 | \$3,432 plus 7.9% of excess over \$64,000 |
| Over \$100,000 | \$6,276 plus 8.5% of excess over \$100,000. |

C. For single individuals and for estates and trusts:

If the taxable income is: The tax shall be:

| | |
|-------------------------------------|---|
| Not over \$5,500 | 1.7% of taxable income |
| Over \$5,500 but not over \$11,000 | \$93.50 plus 3.2% of excess over \$5,500 |
| Over \$11,000 but not over \$16,000 | \$269.50 plus 4.7% of excess over \$11,000 |
| Over \$16,000 but not over \$26,000 | \$504.50 plus 6.0% of |

| | |
|-------------------------------------|--|
| | excess over \$16,000 |
| Over \$26,000 but not over \$42,000 | \$1,104.50 plus 7.1% of excess over \$26,000 |
| Over \$42,000 but not over \$65,000 | \$2,240.50 plus 7.9% of excess over \$42,000 |
| Over \$65,000 | \$4,057.50 plus 8.5% of excess over \$65,000. |

D. For heads of household filing returns:

If the taxable income is: The tax shall be:

| | |
|-------------------------------------|---|
| Not over \$7,000 | 1.7% of taxable income |
| Over \$7,000 but not over \$14,000 | \$119 plus 3.2% of excess over \$7,000 |
| Over \$14,000 but not over \$20,000 | \$343 plus 4.7% of excess over \$14,000 |
| Over \$20,000 but not over \$33,000 | \$625 plus 6.0% of excess over \$20,000 |
| Over \$33,000 but not over \$53,000 | \$1,405 plus 7.1% of excess over \$33,000 |
| Over \$53,000 but not over \$83,000 | \$2,825 plus 7.9% of excess over \$53,000 |
| Over \$83,000 | \$5,195 plus 8.5% of excess over \$83,000. |

E. The tax on the sum of any lump-sum amounts included in net income is an amount equal to five multiplied by the difference between:

(1) the amount of tax due on the taxpayer's taxable income; and
(2) the amount of tax that would be due on an amount equal to the taxpayer's taxable income and twenty percent of the taxpayer's lump-sum amounts included in net income."

Section 21

Section 21. Section 7-2-14 NMSA 1978 (being Laws 1972, Chapter 20, Section 2, as amended) is amended to read:

"7-2-14. LOW-INCOME COMPREHENSIVE TAX REBATE.--

A. Except as otherwise provided in Subsection B of this section, any resident who files an individual New Mexico income tax return and who is not a dependent of another individual may claim a tax rebate for a portion of state and local taxes to which the resident has been subject during the taxable year for which the return is filed. The tax rebate may be claimed even though the resident has no income taxable under the Income Tax Act. A husband and wife who file separate returns for a taxable year in which they could have filed a joint return may each claim only one-half of the tax rebate that would have been allowed on a joint return.

B. No claim for the tax rebate provided in this section shall be filed by a resident who was an inmate of a public institution for more than six months during the taxable year for which the tax rebate could be claimed or who was not physically present in New Mexico for at least six months during the taxable year for which the tax rebate could be claimed.

C. For the purposes of this section, the total number of exemptions for which a tax rebate may be claimed or allowed is determined by adding the number of federal exemptions allowable for federal income tax purposes for each individual included in the return who is domiciled in New Mexico plus two additional exemptions for each individual domiciled in New Mexico included in the return who is sixty-five years of age or older plus one additional exemption for each individual domiciled in New Mexico included in the return who, for federal income tax purposes, is blind plus one exemption for each minor child or stepchild of the resident who would be a dependent for federal income tax purposes if the public assistance contributing to the support of the child or stepchild was considered to have been contributed by the resident.

D. The tax rebate provided for in this section may be claimed in the amount shown in the following table:

Modified Gross And the total number of exemptions
Income is: is:

| | |
|--------------------------|------|
| But Not | 6 or |
| Over Over 1 2 3 4 5 More | |

\$ 0 \$ 500 \$120 \$150 \$175 \$200 \$225 \$320

500 1,000 135 185 225 265 300 415

1,000 1,500 135 190 235 290 325 435

1,500 2,000 135 190 235 290 325 450

2,000 2,500 135 190 240 290 325 450

2,500 3,000 135 190 240 290 325 450

3,000 3,500 135 190 240 290 325 450

3,500 4,000 135 190 240 300 335 450

4,000 4,500 135 190 240 300 355 450

4,500 5,000 115 150 205 300 355 450

5,000 5,500 95 130 165 260 355 430

5,500 6,000 75 110 145 220 315 410

6,000 6,500 55 90 125 180 275 370

6,500 7,000 35 70 105 140 235 330

7,000 7,500 15 50 85 120 195 290

7,500 8,000 10 20 50 80 130 220

8,000 8,500 10 20 30 60 90 180

8,500 9,000 10 20 30 40 70 140

9,000 9,500 10 20 30 40 60 100

9,500 10,000 10 20 30 40 50 80

10,000 10,500 10 20 30 40 50 60

10,500 11,000 10 20 30 40 50 60

11,000 11,500 10 20 30 40 50 60

11,500 12,000 5 10 15 20 25 30

12,000 12,500 5 10 15 20 25 30

12,500 13,000 5 10 15 20 25 30

13,000 13,500 5 10 15 20 25 30

13,500 14,000 5 10 15 20 25 30.

E. If a taxpayer's modified gross income is zero, the taxpayer may claim a credit in the amount shown in the first row of the table appropriate for the taxpayer's number of exemptions.

F. The tax rebates provided for in this section may be deducted from the taxpayer's New Mexico income tax liability for the taxable year. If the tax rebates exceed the taxpayer's income tax liability, the excess shall be refunded to the taxpayer.

G. For purposes of this section, "dependent" means "dependent" as defined by Section 152 of the Internal Revenue Code of 1986, as that section may be amended or renumbered, but also includes any minor child or stepchild of the resident who would be a dependent for federal income tax purposes if the public assistance contributing to the support of the child or stepchild was considered to have been contributed by the resident."

Section 22

Section 22. Section 7-13-3 NMSA 1978 (being Laws 1971, Chapter 207, Section 3, as amended by Laws 1994, Chapter 32, Section 2 and also by Laws 1994, Chapter 357, Section 9) is amended to read:

"7-13-3. IMPOSITION AND RATE OF TAX--DENOMINATION AS "GASOLINE TAX".--

A. For the privilege of receiving gasoline in this state, there is imposed an excise tax at a rate provided in Subsection B of this section on each gallon of gasoline received in New Mexico.

B. The tax imposed by Subsection A of this section shall be twenty cents (\$.20) per gallon received in New Mexico.

C. The tax imposed by this section may be called the "gasoline tax".

Section 23

Section 23. Section 7-13-3 NMSA 1978 (being Laws 1971, Chapter 207, Section 3, as amended and as further amended by Section 22 of this act) is repealed and a new Section 7-13-3 NMSA 1978 is enacted to read:

"7-13-3. IMPOSITION AND RATE OF TAX--DENOMINATION AS "GASOLINE TAX".--

A. For the privilege of receiving gasoline in this state, there is imposed an excise tax at a rate provided in Subsection B of this section on each gallon of gasoline received in New Mexico.

B. The tax imposed by Subsection A of this section shall be twenty-two cents (\$.22) per gallon received in New Mexico.

C. The tax imposed by this section may be called the "gasoline tax"."

Section 24

Section 24. Section 7-13-3.2 NMSA 1978 (being Laws 1979, Chapter 166, Section 8, as amended) is amended to read:

"7-13-3.2. GASOLINE INVENTORIES.--

A. On the day prior to the day that the excise tax imposed by Section 7-13-3 NMSA 1978 is increased, each distributor, wholesaler and retailer shall take inventory of the gallons of gasoline on hand.

B. Distributors and wholesalers shall report total gallons of gasoline in inventory on the day prior to the day that an increase in the gasoline tax rate is effective and pay any tax due imposed by Section 7-13-3.1 NMSA 1978.

C. Retailers shall maintain a record of the total gallons of gasoline in inventory on the day prior to the day that an increase in the gasoline tax rate is effective and shall not increase the price of the gasoline sold until the inventory is disposed of in the ordinary course of business.

D. The department shall promulgate regulations required to administer this section."

Section 25

Section 25. Section 7-14-10 NMSA 1978 (being Laws 1988, Chapter 73, Section 20, as amended) is amended to read:

"7-14-10. DISTRIBUTION OF PROCEEDS.--The receipts from the tax and any associated interest and penalties shall be deposited in the "motor vehicle suspense

fund", hereby created in the state treasury. As of the end of each month, the net receipts attributable to the tax and associated penalties and interest shall be distributed to the general fund."

Section 26

Section 26. Laws 1994, Chapter 364, Section 4 is amended to read:

"Section 4. DELAYED REPEAL.--Sections 7-9-83 and 7-9-84 NMSA 1978 (being Laws 1994, Chapter 364, Sections 1 and 2) are repealed effective July 1, 1995."

Section 27

Section 27. REPEAL.--Section 7-13-3.3 NMSA 1978 (being Laws 1979, Chapter 166, Section 9, as amended) is repealed.

Section 28

Section 28. APPLICABILITY.--

A. The provisions of Sections 17 and 21 of this act apply to taxable years beginning on or after January 1, 1994.

B. The provisions of Section 18 of this act apply to taxable years beginning in 1994.

C. The provisions of Section 19 of this act apply to taxable years beginning in 1995.

D. The provisions of Section 20 of this act apply to taxable years beginning on or after January 1, 1996.

Section 29

Section 29. EFFECTIVE DATE.--

A. The effective date of the provisions of Section 22 of this act is July 1, 1994.

B. The effective date of the provisions of Sections 1, 4, 6, 8, 9, 11, 13, 15 and 25 of this act is August 1, 1994.

C. The effective date of the provisions of Section 19 of this act is January 1, 1995.

D. The effective date of the provisions of Section 2 of this act is August 1, 1995.

E. The effective date of the provisions of Section 20 of this act is January 1, 1996.

F. The effective date of the provisions of Section 23 of this act is July 1, 1997.

G. The effective date of the provisions of Sections 3, 5, 7, 10, 12, 14 and 16 of this act is August 1, 1997.

HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE FOR HOUSE BILLS 6, 7, 8 AND 62

CHAPTER 6

MAKING GENERAL APPROPRIATIONS AND AUTHORIZING EXPENDITURES BY STATE AGENCIES AND DISTRIBUTIONS FOR PUBLIC EDUCATION REQUIRED BY LAW.

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

Section 1

Section 1. SHORT TITLE.--This act may be cited as the "General Appropriation Act of 1994".

Section 2

Section 2. DEFINITIONS.--As used in the General Appropriation Act of 1994:

A. "general fund" means that fund created by Section 6-4-2 NMSA 1978 and includes the severance tax income fund and federal Mineral Lands Leasing Act receipts;

B. "internal service funds" means:

(1) revenue available to state agencies for the financing of goods or services provided by one state agency to another state agency on a cost-reimbursement basis; and

(2) unencumbered balances in state agency internal service fund accounts appropriated by the General Appropriation Act of 1994;

C. "interagency transfers" means revenue transferred from one state agency to another through contracts or joint powers agreements;

D. "federal funds" means payments by the United States government to state government or state agencies for specific purposes or in lieu of taxes, including grants, reimbursements and payments made in accordance with contracts or cooperative agreements, and shared revenue except those payments made in accordance with the federal Mineral Lands Leasing Act;

E. "other state funds" means:

(1) unencumbered balances in state agency accounts, other than in internal service funds accounts, appropriated by the General Appropriation Act of 1994; and

(2) all revenue available to state agencies from sources other than the general fund, internal service funds, interagency transfers and federal funds;

F. all amounts under the "internal service funds/interagency transfers" column indicate an intergovernmental transfer and do not represent a portion of total state government appropriations;

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

H. "expenditures" means all money, other than refunds authorized by law, paid out or encumbered for payment by a state agency other than for investment in securities or as agent or trustee for other governmental entities or private persons;

I. "revenue" means all money restricted and unrestricted received by a state agency from sources external to that agency, net of refunds and other correcting transactions, other than from issue of debt, liquidation of investments or as agent or trustee for other governmental entities or private persons;

J. "restricted revenue" means all revenue, the use of which is restricted by statute, legal or contractual agreement or revenue from gifts, donations or bequests;

K. "unrestricted revenue" means all revenue that is not restricted revenue;

L. "full-time equivalent" or "FTE" means one or more authorized positions which together receive compensation for not more than two thousand eighty-eight hours worked in the eighty-third fiscal year. The calculation of hours worked includes compensated absences but does not include overtime, compensatory time or sick leave paid pursuant to Section 10-7-10 NMSA 1978;

M. "term position" means a position established for a one-time project or program, where the term contains a specific ending date, and positions associated with a nonrecurring or unstable revenue source;

N. "item" means the value of goods or services or grants to be purchased or grants planned by a state agency during a specific period of time;

O. "category" means an aggregation of related items that represents the object of an appropriation;

P. "approved budget adjustment request" means a budget adjustment request that is approved as provided by law;

Q. "budget increase" means an approved budget adjustment request to increase budget appropriations from other state funds, internal service funds or interagency transfers;

R. "category transfer" means an approved budget adjustment request to transfer budget appropriations between the personal services, employee benefits, travel, maintenance and repairs, supplies and materials, contractual services, operating costs, other costs, capital outlay and out-of-state travel budget categories contained within the approved operating budget of a state agency or a division of the state agency; and

S. "division transfer" means an approved budget adjustment request to transfer budget appropriations from one organizational unit of a state agency to other organizational units of that state agency; provided, however, the cumulative effect of transfers shall not exceed seven and one-half percent of the amount appropriated to that organizational unit.

Section 3

Section 3. GENERAL PROVISIONS.--

A. Amounts set out under column headings are expressed in thousands of dollars.

B. Amounts set out under column headings "General Fund", "Other State Funds" and "Internal Service Funds/Interagency Transfers" are appropriated from the source indicated by the column heading. Amounts set out under the column heading "Federal Funds" are provided for information only and are not appropriations. All amounts designated as "Totals" are also provided for information and are not appropriations.

C. For the eighty-third fiscal year, appropriations are made as set out in Section 4 of the General Appropriation Act of 1994 from the general fund, other state

funds or internal service funds/interagency transfers as indicated to state agencies named or for the purposes expressed, or so much as may be necessary, within available revenues and unencumbered balances.

D. Unencumbered balances in state agency accounts remaining at the end of the eighty-second and eighty-third fiscal years from appropriations made from the general fund shall revert to the general fund unless otherwise indicated in the General Appropriation Act of 1994 or otherwise provided by law. Unencumbered balances of revenues from sources other than the general fund remaining in state agency accounts at the end of the eighty-third fiscal year shall remain to the credit of the state agency, but shall not be expended unless appropriated by the legislature.

E. Expenditure of eighty-third fiscal year appropriations shall not exceed the amounts authorized in the General Appropriation Act of 1994. Expenditures shall be made only in accordance with budgets approved by the state budget division in accordance with the provisions of Section 6-3-7 NMSA1978.

F. The state budget division shall monitor revenue received by state agencies from sources other than the general fund and shall order reductions in the operating budget of any state agency whose revenue from such sources is not meeting budgeted projections.

G. Except as otherwise specifically stated in the General Appropriation Act of 1994, appropriations are made in that act for the expenses of state agencies and for other purposes as required by existing law. If any other act of the forty-first legislature, second session, approved by the governor, changes existing law with regard to the name or responsibilities of a state agency or the name or purpose of a fund or distribution, the appropriation made in the General Appropriation Act of 1994 shall be transferred from the state agency, fund or distribution to which an appropriation has been made as required by existing law to the appropriate state agency, fund or distribution provided by the new law.

H. During the eighty-third fiscal year, the department of finance and administration shall prepare and present quarterly revenue estimates to the legislative finance committee. If at any time these revenue estimates indicate that the state will be in a deficit position, the department shall present a contingency plan that outlines the methods by which the administration intends to address the deficit.

~~I. Authorization for category transfers, division transfers and budget increases for the eighty-third fiscal year are specifically set forth in Section 4 of the General Appropriation Act of 1994. [OVERSTRUCK MATERIAL HAS BEEN LINE-ITEM VETOED.]~~

J. The state budget division may approve budget increases for the eighty-third fiscal year for state agencies whose revenues from federal funds, from state board of finance loans, from revenues appropriated by acts of the legislature or from

gifts, donations, bequests, insurance settlements, refunds or payments into revolving funds that exceed specifically appropriated amounts. Such gifts, donations, bequests, insurance settlements, refunds and payments into revolving funds are appropriated. In approving a budget increase from federal funds, the director of the state budget division shall advise the legislative finance committee as to the source of the federal funds and the source and amount of any matching funds required.

K. For the eighty-third fiscal year, the number of permanent and term full-time equivalent positions specified for each agency shall be exceeded only in accordance with the provisions of the General Appropriation Act of 1994 unless additional personnel are authorized by other acts of the legislature. In case of an emergency or availability of federal funds, other state funds, internal service funds or interagency transfers that do not affect the general fund and in conjunction with the state personnel office or the state agency's governing personnel office, the state budget division may approve additional term positions beyond the number specified in the General Appropriation Act of 1994 or other acts of the legislature. In approving such increases, the state budget division shall file with the legislative finance committee a written statement of the conditions under which the additional positions are approved, along with the duration of the emergency or availability of funds. The operating budget for each state agency shall reflect the number of positions authorized by the legislature. It is not the intent of this provision to prohibit intra-agency position transfers.

L. Eighty-third fiscal year compensation increases are included in appropriations contained in Section 4 of the General Appropriation Act of 1994 as follows:

(a) an average four and one-half percent compensation increase in the eighty-third fiscal year to be distributed to classified employees in state agencies governed by the State Personnel Act in accordance with the compensation plan approved by the state personnel board to include a structural salary adjustment and a merit increase; and an average four and one-half percent compensation increase in the eighty-third fiscal year to be distributed to exempt employees under the governor's exempt plan in accordance with Section 10-9-5 NMSA 1978;

(b) all district attorney employees shall receive a three percent structural salary increase effective in the first full pay period of the eighty-third fiscal year and all district attorney employees other than temporary employees, term employees and employees whose salaries are set by statute shall receive a salary increase equivalent to three percent of the midpoint value of their salary range effective on the anniversary date of their appointment to current class if their job performance has been evaluated as fully effective unless otherwise provided by law;

(c) all judicial employees other than temporary employees, term employees and employees whose salaries are set by statute shall receive a three percent structural salary increase effective in the first full pay period of the eighty-third fiscal year and all judicial employees other than temporary employees, term employees

and employees whose salaries are set by statute shall be eligible for increases on their hire date in accordance with the judicial compensation plan provided that the average hire date increase for all judicial employees shall not exceed three percent; justices of the supreme court shall receive a three percent salary and benefit increase, from seventy-seven thousand two hundred fifty dollars (\$77,250) to seventy-nine thousand five hundred sixty-seven dollars (\$79,567); the chief justice of the supreme court, the chief judge of the court of appeals, judges of the court of appeals, district court judges, metropolitan court judges and magistrate court judges shall also receive a salary and benefit increase pursuant to the provisions of Section 34-1-9 NMSA 1978;

(d) the new pay plan for state police officers shall be implemented not later than July 2, 1994; and

(e) the appropriations in Subsections J and K of Section 4 of the General Appropriation Act of 1994 are sufficient to provide an average five and eight-tenths percent cost-of-living salary increase for public school employees and an average four and one-half percent cost-of-living increase for higher education employees.

M. Except for gasoline credit cards used solely for operation of official vehicles, none of the appropriations contained in the General Appropriation Act of 1994 may be expended for payment of credit card invoices.

N. To prevent unnecessary spending, expenditures from the General Appropriation Act of 1994 for gasoline for state-owned vehicles at public gasoline service stations shall be made only for self-service gasoline; provided that a state agency head may provide exceptions from the requirement to accommodate disabled persons or for other reasons the public interest may require.

O. When establishing operating budgets based on appropriations in the General Appropriation Act of 1994, the department of finance and administration is specifically authorized to establish those budgets in accordance with generally accepted accounting principles for the purpose of properly classifying other financing sources and uses: interfund, intrafund and interagency transfers.

P. Laws 1994, Chapter 365, Section 4 is repealed effective July 1, 1994.

Section 4

Section 4. EIGHTY-THIRD FISCAL YEAR APPROPRIATIONS.--

A. LEGISLATIVE

LEGISLATIVE COUNCIL SERVICE:

(1) Legislative maintenance department:

| Item | Fund | General | Total |
|-----------------------------|-------|---------|---------|
| (a) Personal services | | 1,021.1 | 1,021.1 |
| (b) Employee benefits | 387.0 | | 387.0 |
| (c) Travel | 3.1 | | |
| (d) Maintenance and repairs | 161.9 | | 161.9 |
| (e) Supplies and materials | 12.0 | 12.0 | |
| (f) Contractual services | 59.8 | 59.8 | |
| (g) Operating costs | 598.9 | 598.9 | |
| (h) Capital outlay | 19.9 | 19.9 | |
| (i) Out-of-state travel | 2.0 | 2.0 | |

Authorized FTE: 35.00 Permanent; 4.00 Term

Category transfers are specifically authorized for the legislative maintenance department.

| Item | Fund | General | Total |
|--------------------------------------|-------|---------|-------|
| (2) The energy council dues | 34.9 | 34.9 | |
| (3) Health care task force | 200.0 | 200.0 | |
| (4) School transportation task force | 20.0 | 20.0 | |

The general fund appropriation to the legislative council service includes twenty thousand dollars (\$20,000) for the school transportation task force to carry out the provisions of Senate Bill 138 of the forty-first legislature, second session.

Subtotal 2,520.6

TOTAL LEGISLATIVE 2,520.6 2,520.6

B. JUDICIAL

SUPREME COURT LAW LIBRARY:

General

| Item | Fund | Total |
|-----------------------------|-------|-----------|
| (a) Personal services | 223.8 | 223.8 |
| (b) Employee benefits | 70.4 | 70.4 |
| (c) Travel | 1.5 | 1.5 |
| (d) Maintenance and repairs | 11.5 | 11.5 |
| (e) Supplies and materials | 4.1 | 4.1 |
| (f) Contractual services | 60.8 | 60.8 |
| (g) Operating costs | 188.4 | 188.4 |
| (h) Capital outlay | 85.1 | 85.1 |
| (i) Out-of-state travel | 1.6 | 1.6 |
| Authorized FTE: | 8.00 | Permanent |
| Subtotal | 647.2 | |

NEW MEXICO COMPILATION COMMISSION:

| | Other State Funds | Total |
|-----------------------------|-------------------------|-------|
| (a) Personal services | 104.5 | 104.5 |
| (b) Employee benefits | 35.5 | 35.5 |
| (c) Travel | 9.6 | 9.6 |
| (d) Maintenance and repairs | 27.6 | 27.6 |

(e) Supplies and materials 12.5 12.5

(f) Contractual services 823.0 823.0

(g) Operating costs 59.2 59.2

(h) Capital outlay 32.6 32.6

Authorized FTE: 4.00 Permanent

Subtotal 1,104.5

JUDICIAL STANDARDS COMMISSION:

Ohter

| General | State | |
|-----------|-------|-------|
| Item Fund | Fund | Total |

(a) Personal services 61.0 61.0

(b) Employee benefits 15.9 15.9

(c) Travel 4.0 4.0

(d) Maintenance and repairs 1.2 1.2

(e) Supplies and materials .8 .8

(f) Contractual services 4.7 4.7

(g) Operating costs 10.7 10.7

(h) Capital outlay 4.0 4.0

(i) Out-of-state travel 2.0 2.0

Authorized FTE: 1.50 Permanent

Subtotal 104.3

JUDGES PRO TEMPORE: 38.9 38.9

The judges pro tempore fund is a nonreverting fund and shall not be expended for any other purpose.

COURT OF APPEALS:

General

Item Fund Total

(a) Personal services 2,052.4 2,052.4

(b) Employee benefits 559.6 559.6

(c) Travel 10.2 10.2

(d) Maintenance and repairs 30.3 30.3

(e) Supplies and materials 31.0 31.0

(f) Contractual services 38.4 38.4

(g) Operating costs 195.6 195.6

(h) Capital outlay 45.3 45.3

(i) Out-of-state travel 2.0 2.0

Authorized FTE: 51.00 Permanent

Subtotal 2,964.8

SUPREME COURT:

Intrnl Svc

General Funds/Inter-

Item Fund Agency Trnsf Total

(a) Personal services 1,249.4 1,249.4

(b) Employee benefits 348.7 348.7

(c) Travel 7.1 50.0 57.1

(d) Maintenance and repairs 13.0 290.0 303.0

(e) Supplies and materials 25.9 50.0 75.9

(f) Contractual services 52.5 100.0 152.5

(g) Operating costs 136.1 200.0 336.1

(h) Capital outlay 15.7 40.0 55.7

(i) Out-of-state travel 4.0 20.0 24.0

Authorized FTE: 40.00 Permanent

Subtotal 2,602.4

ADMINISTRATIVE OFFICE OF THE COURTS:

(1) Administration:

General

Item Fund Total

(a) Personal services 1,853.3 1,853.3

(b) Employee benefits 279.2 279.2

(c) Travel 23.8 23.8

(d) Maintenance and repairs 13.8 13.8

(e) Supplies and materials 25.8 25.8

(f) Contractual services 88.0 88.0

(g) Operating costs 85.3 85.3

(h) Capital outlay 17.7 17.7

(i) Out-of-state travel 4.0 4.0

Authorized FTE: 26.00 Permanent

The general fund appropriation to the administrative office of the courts includes eighty-eight thousand dollars (\$88,000) in the personal services and employee benefits categories to hire an internal auditor and a management analyst and seventy thousand dollars (\$70,000) in the contractual services category for a study regarding judicial resource allocation.

(2) Magistrate courts:

General

Item Fund Total

- (a) Personal services 5,307.9 5,307.9
- (b) Employee benefits 1,600.6 1,600.6
- (c) Travel 52.9 52.9
- (d) Maintenance and repairs 18.4 18.4
- (e) Supplies and materials 253.7 253.7
- (f) Contractual services 22.5 22.5
- (g) Operating costs 1,485.2 1,485.2
- (h) Capital outlay 119.8 119.8

Authorized FTE: 185.75 Permanent

The general fund appropriation to the magistrate courts includes two hundred eighty-five thousand one hundred dollars (\$285,100) to hire ten clerks.

The general fund appropriation to the magistrate courts includes thirty thousand dollars (\$30,000) for the Eunice magistrate court; twenty-eight thousand dollars (\$28,000) for an additional full-time clerk and associated expenses in the Gallup magistrate court; twenty-five thousand dollars (\$25,000) for a court clerk for the Grant county magistrate division; and sixteen thousand four hundred dollars (\$16,400) for a half-time court clerk for the Cibola county magistrate division in Grants.

The general fund appropriation to the magistrate courts shall not be transferred into any other activity of the administrative office of the courts.

Subtotal 11,251.9

SUPREME COURT BUILDING COMMISSION:

General

Item Fund Total

- (a) Personal services 185.9 185.9
- (b) Employee benefits 80.4 80.4
- (c) Travel 1.2 1.2
- (d) Maintenance and repairs 59.3 59.3
- (e) Supplies and materials 2.9 2.9
- (f) Contractual services 32.5 32.5
- (g) Operating costs 92.7 92.7

Authorized FTE: 12.00 Permanent

Subtotal 454.9

JURY AND WITNESS FEE FUND: 2,579.9 2,579.9

The appropriation to the jury and witness fee fund shall be expended only to pay costs of jurors, prospective jurors, witnesses and court interpreters and to pay costs of expert witnesses for grand juries and magistrate courts. Juror costs shall include suitable refreshments.

Unexpended or unencumbered balances in the jury and witness fee fund remaining at the end of the eighty-third fiscal year from appropriations made from the general fund shall not revert.

Subtotal 2,579.9

General

Fund Total

COURT-APPOINTED ATTORNEY FEES FUND: 1,863.5 1,863.5

The general fund appropriation to the court-appointed attorney fees fund shall be expended only to pay attorneys representing clients under the Mental Health and Developmental Disabilities Code, including initial commitment hearings; to pay guardian ad litem fees and other costs associated with cases filed pursuant to the Uniform Parentage Act and for indigent representation in civil contempt cases for child support enforcement; to pay court-appointed attorneys representing clients under the Adult Protective Services Act and to pay those attorney fees not associated with specific codes and acts named in this item.

Subtotal 1,863.5

DISTRICT COURTS:

(1) First judicial district:

Other Intrnl Svc
General State Funds/Inter-
Fund Funds Agency Trnsf Total

(a) Personal services 1,332.3 42.5 94.4 1,469.2

(b) Employee benefits 425.0 17.6 27.0 469.6

(c) Travel 19.0 .6 19.6

(d) Maintenance and repairs 17.0 .3 .5 17.8

(e) Supplies and materials 38.5 2.7 .6 41.8

(f) Contractual services 71.5 37.0 .5 109.0

(g) Operating costs 86.1 5.8 5.2 97.1

(h) Capital outlay 25.6 25.6

Authorized FTE: 46.50 Permanent; 3.00 Term

Included in the general fund appropriation to the first judicial district court is one hundred ninety thousand dollars (\$190,000) for a domestic violence division.

(2) Second judicial district:

Other Intrnl Svc

General State Funds/Inter-

Item Fund Funds Agency Trnsf Total

(a) Personal services 5,609.6 291.8 181.1 6,082.5

(b) Employee benefits 1,851.4 98.7 57.6 2,007.7

(c) Travel 10.8 1.3 4.2 16.3

- (d) Maintenance and repairs 113.8 13.0 4.6 131.4
- (e) Supplies and materials 158.0 24.5 7.9 190.4
- (f) Contractual services 66.8 43.1 42.5 152.4
- (g) Operating costs 199.5 69.2 17.1 285.8
- (h) Other costs 1.5 7.5 9.0
- (i) Capital outlay 63.5 45.0 19.2 127.7
- (j) Out-of-state travel 4.0 5.5 7.0 16.5

Authorized FTE: 200.50 Permanent; 12.00 Term

(3) Third judicial district:

Other Intrnl Svc

General State Funds/Inter-

| Item | Fund | Funds | Agency | Trnsf | Total |
|-----------------------------|-------|-------|---------|-------|-------|
| (a) Personal services | 935.3 | 74.2 | 1,009.5 | | |
| (b) Employee benefits | 296.5 | 23.9 | 320.4 | | |
| (c) Travel | 11.3 | 1.1 | 12.4 | | |
| (d) Maintenance and repairs | 5.1 | .5 | .5 | 6.1 | |
| (e) Supplies and materials | 24.7 | 1.5 | 2.5 | 28.7 | |
| (f) Contractual services | 53.5 | 45.0 | 6.0 | 104.5 | |
| (g) Operating costs | 58.3 | 2.0 | 9.1 | 69.4 | |
| (h) Capital outlay | 18.3 | 1.0 | 2.7 | 22.0 | |

Authorized FTE: 30.00 Permanent; 2.00 Term

(4) Fourth judicial district:

General

Fund Total

- (a) Personal services 444.7 444.7
- (b) Employee benefits 154.9 154.9
- (c) Travel 4.8 4.8
- (d) Maintenance and repairs 9.2 9.2
- (e) Supplies and materials 9.1 9.1
- (f) Contractual services 5.0 5.0
- (g) Operating costs 27.1 27.1
- (h) Capital outlay 12.4 12.4

Authorized FTE: 15.50 Permanent

(5) Fifth judicial district:

Other

General State

Fund Funds Total

- (a) Personal services 1,610.7 1,610.7
- (b) Employee benefits 523.7 523.7
- (c) Travel 34.3 34.3
- (d) Maintenance and repairs 30.2 30.2
- (e) Supplies and materials 51.0 51.0
- (f) Contractual services 248.9 50.0 298.9
- (g) Operating costs 175.5 175.5
- (h) Capital outlay 78.3 78.3

Authorized FTE: 55.00 Permanent

Included in the general fund appropriation to the fifth judicial district court is one hundred twenty-seven thousand nine hundred dollars (\$127,900) for a district court judge, a court clerk and a bailiff, contingent upon enactment into law of ~~Senate Bill 599~~ of the forty-first legislature, second session.

[OVERSTRUCK MATERIAL HAS BEEN LINE-ITEM VETOED.]

(6) Sixth judicial district:

General

Fund Total

- (a) Personal services 451.8 451.8
- (b) Employee benefits 144.9 144.9
- (c) Travel 15.0 15.0
- (d) Maintenance and repairs 5.1 5.1
- (e) Supplies and materials 16.6 16.6
- (f) Contractual services 7.5 7.5
- (g) Operating costs 81.7 81.7
- (h) Capital outlay 64.6 64.6

Authorized FTE: 16.00 Permanent

(7) Seventh judicial district:

General

Fund Total

- (a) Personal services 450.4 450.4
- (b) Employee benefits 157.0 157.0
- (c) Travel 11.0 11.0
- (d) Maintenance and repairs 8.0 8.0
- (e) Supplies and materials 13.9 13.9
- (f) Contractual services 5.0 5.0
- (g) Operating costs 48.2 48.2

(h) Capital outlay 36.2 36.2

Authorized FTE: 15.50 Permanent

(8) Eighth judicial district:

Other
General State

Fund Funds Total

(a) Personal services 461.3 461.3

(b) Employee benefits 152.6 152.6

(c) Travel 8.8 8.8

(d) Maintenance and repairs 6.0 6.0

(e) Supplies and materials 12.5 12.5

(f) Contractual services 11.0 13.5 24.5

(g) Operating costs 41.9 41.9

(h) Capital outlay 30.1 30.1

Authorized FTE: 15.00 Permanent

(9) Ninth judicial district:

| General | Intrnl Svc Funds/Inter- Agency Trnsf | Total | Fund |
|---------|--|-------|------|
|---------|--|-------|------|

(a) Personal services 631.5 76.0 707.5

(b) Employee benefits 203.9 25.6 229.5

(c) Travel 9.6 9.2 18.8

(d) Maintenance and repairs 13.0 .6 13.6

(e) Supplies and materials 12.1 2.0 14.1

(f) Contractual services 48.9 3.1 52.0

(g) Operating costs 41.6 3.5 45.1

(h) Capital outlay 63.6 63.6

Authorized FTE: 21.00 Permanent; 2.00 Term

(10) Tenth judicial district:

General

Fund Total

(a) Personal services 247.9 247.9

(b) Employee benefits 74.6 74.6

(c) Travel 7.3 7.3

(d) Maintenance and repairs 6.3 6.3

(e) Supplies and materials 9.4 9.4

(f) Contractual services 8.0 8.0

(g) Operating costs 25.7 25.7

(h) Capital outlay 17.6 17.6

Authorized FTE: 8.14 Permanent

(11) Eleventh judicial district:

Other

General State

Fund Funds Total

(a) Personal services 825.9 9.2 835.1

(b) Employee benefits 259.4 .7 260.1

(c) Travel 14.0 14.0

(d) Maintenance and repairs 13.2 .5 13.7

(e) Supplies and materials 13.9 16.6 30.5

(f) Contractual services 111.0 32.6 143.6

(g) Operating costs 75.7 4.3 80.0

(h) Capital outlay 25.4 1.4 26.8

Authorized FTE: 28.00 Permanent; .50 Term

Included in the general fund appropriation to the eleventh judicial district court is sixty thousand dollars (\$60,000) for a court clerk and a financial specialist.

(12) Twelfth judicial district:

Other

General State

Fund Funds Total

(a) Personal services 688.9 688.9

(b) Employee benefits 195.6 195.6

(c) Travel 8.5 8.5

(d) Maintenance and repairs 7.4 7.4

(e) Supplies and materials 12.1 .5 12.6

(f) Contractual services 35.0 25.0 60.0

(g) Operating costs 68.8 68.8

(h) Capital outlay 12.3 12.3

Authorized FTE: 21.00 Permanent

The general fund appropriation to the twelfth judicial district court in the contractual services category includes fifteen thousand dollars (\$15,000) for the court-appointed special advocates program.

(13) Thirteenth judicial district:

Other

General State

Fund Funds Total

(a) Personal services 999.9 999.9

(b) Employee benefits 326.1 326.1

(c) Travel 16.0 16.0

(d) Maintenance and repairs 24.9 24.9

(e) Supplies and materials 41.0 41.0

(f) Contractual services 14.0 18.0 32.0

(g) Operating costs 68.7 68.7

(h) Capital outlay 25.0 25.0

Authorized FTE: 35.00 Permanent

Subtotal 24,099.3

BERNALILLO COUNTY METROPOLITAN COURT:

Other

General State

Fund Funds Total

(a) Personal services 4,674.0 222.5 4,896.5

(b) Employee benefits 1,487.2 71.1 1,558.3

(c) Travel 6.4 6.4

(d) Maintenance and repairs 251.4 251.4

(e) Supplies and materials 229.0 229.0

(f) Contractual services 429.3 47.0 476.3

(g) Operating costs 647.9 647.9

(h) Capital outlay 61.8 61.8

Authorized FTE: 176.00 Permanent; 9.00 Term

Included in the general fund appropriation to the Bernalillo county metropolitan court is eighty-four thousand dollars (\$84,000) to hire a procurement specialist and a court clerk for the traffic division.

Subtotal 8,127.6

DISTRICT ATTORNEYS:

Intrnl Svc

General Funds/Inter-

Fund Agency Trnsf Total

(1) First judicial district:

(a) Personal services 1,146.3 55.0 1,201.3

(b) Employee benefits 384.3 17.3 401.6

(c) Travel 13.7 13.7

(d) Maintenance and repairs 14.8 14.8

(e) Supplies and materials 27.9 1.8 29.7

(f) Contractual services 9.9 14.4 24.3

(g) Operating costs 98.9 1.2 100.1

(h) Capital outlay 9.4 9.4

(i) Out-of-state travel 1.4 1.4

Authorized FTE: 35.00 Permanent; 2.50 Term

(2) Second judicial district:

| | Other Intrnl Svc | | | | |
|--|------------------------------------|--------------|-------------|-------|--|
| | General State Funds/Inter- Federal | | | | |
| | Fund | Funds Agency | Trnsf Funds | Total | |

(a) Personal services 4,498.8 109.5 176.8 44.2 4,829.3

(b) Employee benefits 1,452.6 33.2 48.0 12.6 1,546.4

(c) Travel 54.3 5.3 59.6

(d) Maintenance and repairs 87.3 4.8 92.1

(e) Supplies and materials 74.4 .4 74.8

(f) Contractual services 62.9 62.9

(g) Operating costs 499.4 1.5 500.9

(h) Capital outlay 13.6 13.6

(i) Out-of-state travel 1.4 1.4

Authorized FTE: 150.50 Permanent; 12.00 Term

(3) Third judicial district Other Intrnl Svc

General State Funds/Inter- Federal
Fund Funds Agency Trnsf Funds Total

- (a) Personal services 733.3 21.4 24.0 95.0 873.7
- (b) Employee benefits 227.4 6.6 34.3 268.3
- (c) Travel 7.4 .3 2.5 10.2
- (d) Maintenance and repairs 6.0 2.5 8.5
- (e) Supplies and materials 8.1 1.0 3.0 12.1
- (f) Contractual services 4.0 4.0
- (g) Operating costs 36.9 4.5 41.4
- (h) Capital outlay 20.2 5.4 25.6
- (i) Out-of-state travel .5 2.8 3.3

Authorized FTE: 24.00 Permanent; 5.00 Term

Included in the general fund appropriation to the third judicial district attorney is fifty thousand dollars (\$50,000) for a deputy district attorney.

The secretary of finance and administration is authorized to transfer up to seventy-two thousand nine hundred dollars (\$72,900) from the general fund operating reserve to the third judicial district attorney in the event that upon application to any federal program, federal funds are not available to the third judicial district attorney. The use of the general fund operating reserve is contingent upon certification by the district attorney to the secretary of finance and administration that all reasonable efforts to obtain federal funds were made and that general fund support is necessary to maintain the current level of services previously provided by the third judicial district attorney.

(4) Fourth judicial district:

General

Fund Total

- (a) Personal services 527.0 527.0
- (b) Employee benefits 188.2 188.2
- (c) Travel 11.3 11.3

(d) Maintenance and repairs 3.3 3.3

(e) Supplies and material 8.1 8.1

(f) Contractual services 57.5 57.5

(g) Operating costs 31.6 31.6

(h) Capital outlay 15.3 15.3

Authorized FTE: 17.00 Permanent

Included in the general fund appropriation to the fourth judicial district attorney in the contractual services category is thirty thousand dollars (\$30,000) for land use legal services for Mora county.

(5) Fifth judicial district:

General

Fund Total

(a) Personal services 1,037.4 1,037.4

(b) Employee benefits 333.3 333.3

(c) Travel 38.2 38.2

(d) Maintenance and repairs 6.1 6.1

(e) Supplies and materials 18.4 18.4

(f) Contractual services 75.8 75.8

(g) Operating costs 104.5 104.5

(h) Capital outlay 25.0 25.0

(i) Out-of-state travel 2.0 2.0

Authorized FTE: 35.00 Permanent

(6) Sixth judicial district

| | Other | Intrnl Svc | |
|------|----------------------------|--------------|-------------|
| | General State Funds/Inter- | Federal | |
| Fund | Funds | Agency Trnsf | Funds Total |

| | | | | | |
|-----------------------------|-------|------|-----|------|-------|
| (a) Personal services | 465.9 | 52.6 | 7.7 | 57.1 | 583.3 |
| (b) Employee benefits | 173.8 | 19.3 | 1.7 | 15.2 | 210.0 |
| (c) Travel | 16.5 | .7 | | | 17.2 |
| (d) Maintenance and repairs | 5.5 | | | | 5.5 |
| (e) Supplies and materials | 10.0 | .2 | | | 10.2 |
| (f) Contractual services | 3.9 | .3 | | | 4.2 |
| (g) Operating costs | 38.4 | .3 | | | 38.7 |
| (h) Capital outlay | 1.5 | | | | 1.5 |
| (i) Out-of-state travel | 1.2 | | | | 1.2 |

Authorized FTE: 14.00 Permanent; 4.00 Term

(7) Seventh judicial district:

| | Intrnl Svc | General Funds/Inter- | Fund Agency Trnsf | Total |
|--|------------|----------------------|-------------------|-------|
|--|------------|----------------------|-------------------|-------|

| | | | | |
|-----------------------------|-------|------|--|-------|
| (a) Personal services | 598.8 | 15.5 | | 614.3 |
| (b) Employee benefits | 204.6 | 4.5 | | 209.1 |
| (c) Travel | 17.8 | | | 17.8 |
| (d) Maintenance and repairs | 3.1 | | | 3.1 |
| (e) Supplies and materials | 11.2 | | | 11.2 |
| (f) Contractual services | 4.0 | | | 4.0 |
| (g) Operating costs | 33.6 | | | 33.6 |
| (h) Capital outlay | 12.9 | | | 12.9 |
| (i) Out-of-state travel | 2.0 | | | 2.0 |

Authorized FTE: 19.00 Permanent; 1.00 Term

(8) Eighth judicial district:

Other Intrnl Svc
 General State Funds/Inter- Federal
 Fund Funds Agency Trnsf Funds Total

- (a) Personal services 727.3 .2 14.0 50.0 791.5
- (b) Employee benefits 247.1 10.9 4.0 262.0
- (c) Travel 24.7 24.7
- (d) Maintenance and repairs 4.7 4.7
- (e) Supplies and materials 14.0 14.0
- (f) Contractual services 11.1 2.4 13.5
- (g) Operating costs 61.4 1.5 62.9
- (h) Capital outlay 15.2 15.2
- (i) Out-of-state travel 1.0 1.0

Authorized FTE: 21.00 Permanent; 3.00 Term

(9) Ninth judicial district:

Other Intrnl Svc
 General State Funds/Inter-
 Fund Funds Agency Trnsf Total

- (a) Personal services 522.2 20.0 9.6 551.8
- (b) Employee benefits 193.8 193.8
- (c) Travel 10.8 1.0 11.8
- (d) Maintenance and repairs 1.7 1.7
- (e) Supplies and materials 8.8 1.0 9.8
- (f) Contractual services 3.4 2.4 5.8
- (g) Operating costs 43.8 1.0 44.8
- (h) Capital outlay 13.3 13.3
- (i) Out-of-state travel 1.2 1.2

Authorized FTE: 17.00 Permanent; 1.00 Term

(10) Tenth judicial district:

| | General | |
|-----------------------------|---------|-------|
| | Fund | Total |
| (a) Personal services | 178.8 | 178.8 |
| (b) Employee benefits | 53.0 | 53.0 |
| (c) Travel | 5.4 | 5.4 |
| (d) Maintenance and repairs | 1.7 | 1.7 |
| (e) Supplies and materials | 4.4 | 4.4 |
| (f) Contractual services | 3.0 | 3.0 |
| (g) Operating | 16.2 | 16.2 |
| (h) Capital outlay | 3.0 | 3.0 |

Authorized FTE: 5.00 Permanent

(11) Eleventh judicial district--

Farmington office:

| | | Intrnl Svc | |
|-----------------------------|----------------------|------------|-------|
| | General Funds/Inter- | | |
| Item | Fund Agency | Trnsf | Total |
| (a) Personal services | 728.8 | 48.6 | 777.4 |
| (b) Employee benefits | 246.2 | 10.7 | 256.9 |
| (c) Travel | 14.7 | 14.7 | |
| (d) Maintenance and repairs | 10.8 | 10.8 | |
| (e) Supplies and materials | 12.7 | 1.2 | 13.9 |
| (f) Contractual services | 3.5 | 3.5 | |

(g) Operating costs 42.4 2.5 44.9

(h) Capital outlay 17.3 17.3

(i) Out-of-state travel 1.0 1.0

Authorized FTE: 24.00 Permanent; 2.00 Term

Included in the general fund appropriation to the eleventh judicial district attorney Farmington office is seventy-one thousand three hundred dollars (\$71,300) for a juvenile diversion officer and an investigator.

(12) Eleventh judicial district--

Gallup office:

Intrnl Svc

General Funds/Inter-

Item Fund Agency Trnsf Total

(a) Personal services 430.8 10.2 441.0

(b) Employee benefits 124.8 3.0 127.8

(c) Travel 9.5 9.5

(d) Maintenance and repairs 3.3 3.3

(e) Supplies and materials 9.9 9.9

(f) Contractual services 38.4 38.4

(g) Operating costs 26.3 26.3

(h) Capital outlay 25.9 25.9

(i) Out-of-state travel .2 .2

Authorized FTE: 14.00 Permanent; .50 Term

Included in the general fund appropriation to the eleventh judicial district attorney Gallup office is ninety-seven thousand one hundred dollars (\$97,100) for a senior trial prosecutor and two secretaries.

(13) Twelfth judicial district:

| Item | Intrnl Svc | | | |
|-----------------------------|-------------------------------|-----------------|------------------|-------|
| | General Funds/ Fund Agency | Inter- Trnsf | Federal Funds | Total |
| (a) Personal services | 626.2 | 13.0 | 123.6 | 762.8 |
| (b) Employee benefits | 208.4 | 6.2 | 36.7 | 251.3 |
| (c) Travel | 12.5 | .3 | .4 | 13.2 |
| (d) Maintenance and repairs | 9.8 | .6 | | 10.4 |
| (e) Supplies and materials | 7.8 | 1.8 | | 9.6 |
| (f) Contractual services | 4.0 | .5 | | 4.5 |
| (g) Operating costs | 48.4 | .1 | 7.5 | 56.0 |
| (h) Capital outlay | 28.4 | | | 28.4 |
| (i) Out-of-state travel | 2.0 | .9 | | 2.9 |

Authorized FTE: 20.00 Permanent; 4.50 Term

The secretary of finance and administration is authorized to transfer up to ninety-five thousand three hundred dollars (\$95,300) from the general fund operating reserve to the twelfth judicial district attorney in the event that upon application to any federal program, federal funds are not available to the twelfth judicial district attorney. The use of the general fund operating reserve is contingent upon certification by the district attorney to the secretary of finance and administration that all reasonable efforts to obtain federal funds were made and that general fund support is necessary to maintain the current level of services previously provided by the twelfth judicial district attorney.

(14) Thirteenth judicial district:

| Item | Other Intrnl Svc | | | |
|-----------------------|-------------------------------------|-----------------|------------------|-------|
| | General State Funds/ Fund Agency | Inter- Trnsf | Federal Funds | Total |
| (a) Personal services | 761.8 | 23.9 | 7.7 | 793.4 |

(b) Employee benefits 249.1 8.9 2.8 260.8

(c) Travel 15.7 15.7

(d) Maintenance and repairs 2.3 2.3

(e) Supplies and materials 10.3 10.3

(f) Contractual services 4.5 4.5

(g) Operating costs 56.0 56.0

(h) Capital outlay 24.7 24.7

(i) Out-of-state travel 2.0 2.0

Authorized FTE: 22.00 Permanent; .50 Term

Subtotal 20,907.7

ADMINISTRATIVE OFFICE OF THE DISTRICT ATTORNEYS:

Other

General State

Item Fund Funds Total

(a) Personal services 1,088.1 105.6 1,193.7

(b) Employee benefits 308.5 32.8 341.3

(c) Travel 28.3 28.3

(d) Maintenance and repairs 2.5 2.5

(e) Supplies and materials 2.0 2.0

(f) Contractual services 1.1 1.1

(g) Operating costs 24.3 24.3

(h) Out-of-state travel 21.0 21.0

Authorized FTE: 3.00 Permanent

The general fund appropriation to the administrative office of the district attorneys includes six hundred sixty-seven thousand dollars (\$667,000) for the district attorney parity package.

Except as otherwise provided, category transfers, division transfers and budget increases from other state funds and internal service funds/interagency transfers are specifically authorized for each agency in Subsection B of this section. Such other state funds and internal service funds/interagency transfers are appropriated.

Subtotal 1,614.2

Other Intrnl Svc

General State Funds/Inter- Federal
Fund Funds Agency Trnsf Funds Total

TOTAL JUDICIAL 72,938.2 2,926.3 1,995.5 501.1 78,361.1

C. GENERAL CONTROL

ATTORNEY GENERAL:

(1) Regular operations:

Other Intrnl Svc

General State Funds/Inter-

Item Fund Funds Agency Trnsf Total

(a) Personal services 4,585.3 200.0 42.6 4,827.9

(b) Employee benefits 1,307.5 64.1 12.5 1,384.1

(c) Travel 103.1 103.1

(d) Maintenance and repairs 61.9 61.9

(e) Supplies and materials 84.1 84.1

(f) Contractual services 102.0 102.0

(g) Operating costs 623.0 118.2 741.2

(h) Capital outlay 55.4 55.4

(i) Out-of-state travel 41.4 41.4

Authorized FTE: 126.00 Permanent; 2.00 Term

Included in the general fund appropriation to the attorney general is seventy-four thousand two hundred dollars (\$74,200) to carry out the provisions of the Natural Resources Trustee Act to be reimbursed to the general fund via interest and earnings accrued by the natural resources trustee fund.

The internal service funds/interagency transfers appropriation to the attorney general for regular operations includes one hundred seventy-three thousand three hundred dollars (\$173,300) from the risk management division of the general services department.

Five percent of all money recovered from antitrust cases through the attorney general on behalf of the state, political subdivisions or private citizens shall be deposited in the antitrust litigation fund. Money in the antitrust litigation fund shall not revert.

(2) Major litigation:

General

| Item | Fund Total |
|----------------------------|-------------|
| (a) Personal services | 468.7 468.7 |
| (b) Employee benefits | 126.2 126.2 |
| (c) Travel | 7.6 7.6 |
| (d) Supplies and materials | 1.6 1.6 |
| (e) Contractual services | 330.0 330.0 |
| (f) Operating costs | 36.2 36.2 |
| (g) Out-of-state travel | 9.5 9.5 |

Authorized FTE: 14.00 Term

The general fund appropriation of nine hundred seventy-nine thousand eight hundred dollars (\$979,800) to the attorney general for major litigation shall be expended only for costs related to major litigation cases and to hire term personnel in major litigation cases.

(3) Medicaid fraud division:

General Federal
Fund Funds Total

- (a) Personal services 128.2 384.5 512.7
- (b) Employee benefits 41.2 123.4 164.6
- (c) Travel 4.9 14.8 19.7
- (d) Maintenance and repairs 1.8 5.4 7.2
- (e) Supplies and materials 1.9 5.6 7.5
- (f) Contractual services 8.7 26.3 35.0
- (g) Operating costs 25.8 77.4 103.2
- (h) Capital outlay 5.1 15.2 20.3
- (i) Out-of-state travel 3.0 9.2 12.2

Authorized FTE: 15.00 Term

The general fund appropriation of two hundred twenty thousand six hundred dollars (\$220,600) to the medicaid fraud division of the attorney general is contingent upon receipt of federal matching funds for investigation and prosecution of medicaid fraud.

The attorney general shall report annually to the legislative finance committee on the receipt of all federal funds allocated to the office of the attorney general and on the expenditure of such funds by program category.

Category transfers and budget increases from other state funds and internal service funds/interagency transfers are specifically authorized for the attorney general in the eighty-third fiscal year. Such other state funds and internal service funds/interagency transfers are appropriated.

Subtotal 9,263.3

STATE AUDITOR:

Other Intrnl Svc

General State Funds/Inter-

Item Fund Funds Agency Trnsf Total

- (a) Personal services 850.5 20.8 158.0 1,029.3
- (b) Employee benefits 235.9 15.7 43.6 295.2
- (c) Travel 28.8 2.2 6.1 37.1
- (d) Maintenance and repairs 9.4 .6 1.6 11.6
- (e) Supplies and materials 14.4 1.1 3.0 18.5
- (f) Contractual services 101.0 7.5 20.7 129.2
- (g) Operating costs 147.8 10.5 17.0 175.3
- (h) Out-of-state travel 11.0 11.0

Authorized FTE: 27.00 Permanent; 2.00 Term

Budget increases from other state funds and internal service funds/interagency transfers are specifically authorized for the state auditor. Such other state funds and internal service funds/interagency transfers are appropriated.

Category transfers are specifically authorized for the state auditor.

Subtotal 1,707.2

TAXATION AND REVENUE DEPARTMENT:

(1) Office of the secretary:

Intrnl Svc

General Funds/Inter-

Item Fund Agency Trnsf Total

- (a) Personal services 1,334.3 315.1 1,649.4
- (b) Employee benefits 421.0 94.5 515.5
- (c) Travel 12.2 18.2 30.4
- (d) Maintenance and repairs .6 .3 .9
- (e) Supplies and materials 9.6 1.1 10.7

(f) Contractual services 203.0 12.0 215.0

(g) Operating costs 79.5 12.8 92.3

(h) Capital outlay 24.0 24.0

(i) Out-of-state travel 17.0 2.0 19.0

Authorized FTE: 47.00 Permanent

(2) Administrative services division:

Other Intrnl Svc

General State Funds/Inter-

Item Fund Funds Agency Trnsf Total

(a) Personal services 3,936.7 76.5 326.6 4,339.8

(b) Employee benefits 1,216.9 23.0 98.0 1,337.9

(c) Travel 23.1 23.1

(d) Maintenance and repairs 235.4 235.4

(e) Supplies and materials 1,056.6 .5 1,057.1

(f) Contractual services 73.2 73.2

(g) Operating costs 4,280.5 194.0 4,474.5

(h) Capital outlay 26.2 26.2

(i) Out-of-state travel 22.4 22.4

Authorized FTE: 140.00 Permanent

(3) Audit and compliance division:

Other

General State Federal

Item Fund Funds Funds Total

(a) Personal services 7,308.3 26.6 243.2 7,578.1

(b) Employee benefits 2,393.8 6.1 62.7 2,462.6

(c) Travel 257.1 8.9 266.0

(d) Maintenance and repairs 24.1 24.1

(e) Supplies and materials 120.2 7.2 127.4

(f) Contractual services 175.0 175.0

(g) Operating costs 1,040.5 18.1 1,058.6

(h) Other costs 1.0 1.0

(i) Capital outlay 60.5 60.5

(j) Out-of-state travel 398.6 103.0 501.6

Authorized FTE: 261.00 Permanent; 9.00 Term; 9.00 Temporary

(4) Revenue processing division:

Other Intrnl Svc

General State Funds/Inter-

Item Fund Funds Agency Trnsf Total

(a) Personal services 3,925.3 308.0 43.1 4,276.4

(b) Employee benefits 1,337.0 92.5 12.9 1,442.4

(c) Travel 9.1 9.1

(d) Maintenance and repairs 171.8 171.8

(e) Supplies and materials 185.6 14.7 200.3

(f) Contractual services 18.0 18.0

(g) Operating costs 2,160.2 115.3 2,275.5

(h) Capital outlay 20.6 20.6

(i) Out-of-state travel 1.9 3.8 5.7

Authorized FTE: 179.00 Permanent; 43.00 Temporary

(5) Property tax division:

Other

General State

| Item | Fund | Funds | Total |
|-----------------------------|-------|-------|---------|
| (a) Personal services | 888.4 | 464.9 | 1,353.3 |
| (b) Employee benefits | 401.3 | 140.8 | 542.1 |
| (c) Travel | 115.2 | 163.5 | 278.7 |
| (d) Maintenance and repairs | 2.1 | 2.1 | |
| (e) Supplies and materials | 11.3 | 5.7 | 17.0 |
| (f) Contractual services | 61.8 | 5.0 | 66.8 |
| (g) Operating costs | 43.5 | 22.8 | 66.3 |
| (h) Capital outlay | 4.5 | 1.5 | 6.0 |
| (i) Out-of-state travel | 4.5 | 4.5 | |

Authorized FTE: 49.00 Permanent

The other state funds appropriation to the property tax division of the taxation and revenue department for the delinquent property tax bureau includes fifty-eight thousand six hundred dollars (\$58,600) to hire two permanent FTE, thirty-seven thousand four hundred dollars (\$37,400) for vehicles and thirty thousand dollars (\$30,000) for travel.

(6) Motor vehicle division:

Intrnl Svc

General Funds/Inter-

| Item | Fund | Agency | Trnsf | Total |
|-----------------------|---------|---------|-------|---------|
| (a) Personal services | 2,817.8 | 2,782.6 | | 5,600.4 |

(b) Employee benefits 1,054.4 1,040.4 2,094.8

(c) Travel 39.3 38.7 78.0

(d) Maintenance and repairs 37.1 36.5 73.6

(e) Supplies and materials 182.3 180.1 362.4

(f) Contractual services 309.1 305.3 614.4

(g) Operating costs 546.0 539.6 1,085.6

(h) Capital outlay 25.7 25.3 51.0

(i) Out-of-state travel 3.7 3.6 7.3

Authorized FTE: 248.00 Permanent; 10.00 Temporary

(7) Motor transportation division:

Intrnl Svc

Funds/Inter- Federa
I Agency Trnsf Funds Total

(a) Personal services 5,004.5 255.2 5,259.7

(b) Employee benefits 1,846.8 76.3 1,923.1

(c) Travel 331.7 55.5 387.2

(d) Maintenance and repairs 126.2 .5 126.7

(e) Supplies and materials 238.0 34.5 272.5

(f) Contractual services 24.0 24.0

(g) Operating costs 390.0 9.6 399.6

(h) Other costs .9 .9

(i) Capital outlay 170.3 58.0 228.3

(j) Out-of-state travel 19.1 20.9 40.0

Authorized FTE: 193.00 Permanent; 13.00 Term

(8) ONGARD service center:

Intrnl Svc

General Funds/Inter-

| Item | Fund | Agency | Trnsf | Total |
|-----------------------------|-------|--------|-------|-------|
| (a) Personal services | 327.0 | 168.5 | | 495.5 |
| (b) Employee benefits | 100.3 | 51.6 | | 151.9 |
| (c) Travel | 2.8 | 1.4 | | 4.2 |
| (d) Maintenance and repairs | 3.5 | 1.8 | | 5.3 |
| (e) Supplies and materials | 12.5 | 6.5 | | 19.0 |
| (f) Contractual services | 23.6 | 12.1 | | 35.7 |
| (g) Operating costs | 330.4 | 170.2 | | 500.6 |
| (h) Capital outlay | 8.0 | 4.1 | | 12.1 |
| (i) Out-of-state travel | 8.4 | 4.4 | | 12.8 |

Authorized FTE: 15.00 Permanent

The internal service funds/interagency transfers appropriation of thirteen million eight hundred eighty-seven thousand eight hundred dollars (\$13,887,800) to the taxation and revenue department shall be made from the state road fund.

Unexpended or unencumbered balances in the taxation and revenue department remaining at the end of the eighty-third fiscal year from appropriations made from the state road fund shall revert to the state road fund.

The balance of the computer systems enhancement fund appropriation to the taxation and revenue department in Subsection C, Section 2, Chapter 366, Laws 1994 to further develop the taxation and revenue information system is reappropriated for expenditure in the eighty-third fiscal year contingent upon the taxation and revenue department coordinating development of this system with the judicial information system council with respect to the motor vehicle records and databases. Unexpended or unencumbered balances in the taxation and revenue department remaining at the end of the eighty-third fiscal year from this appropriation made from the computer systems enhancement fund shall revert to the computer systems enhancement fund.

Category transfers, division transfers and budget increases from other state funds and internal service funds/interagency transfers are specifically authorized for the taxation and revenue department. Such other state funds and internal service funds/interagency transfers are appropriated.

Subtotal 57,024.9

INVESTMENT COUNCIL:

Other Intrnl Svc

General State Funds/Inter-

| Item | Fund | Funds | Agency | Trns | Total |
|-----------------------------|-------|-------|--------|------|-------|
| (a) Personal services | 228.7 | 547.3 | 45.0 | | 821.0 |
| (b) Employee benefits | 76.4 | 172.7 | 10.0 | | 259.1 |
| (c) Travel | 4.0 | 10.7 | 1.4 | | 16.1 |
| (d) Maintenance and repairs | 6.0 | 12.0 | | | 18.0 |
| (e) Supplies and materials | 2.5 | 10.9 | 3.0 | | 16.4 |
| (f) Contractual services | 241.2 | 482.0 | | | 723.2 |
| (g) Operating costs | 43.5 | 96.9 | 5.0 | | 145.4 |
| (h) Other costs | 94.8 | 189.4 | | | 284.2 |
| (i) Capital outlay | 5.4 | 12.0 | | | 17.4 |
| (j) Out-of-state travel | 4.6 | 9.0 | | | 13.6 |

Authorized FTE: 22.00 Permanent

The appropriation to the investment council in the contractual services category includes forty-two thousand four hundred dollars (\$42,400) from the general fund and eighty-four thousand six hundred dollars (\$84,600) from other state funds to be expended specifically for investment services previously acquired with soft dollars.

The general fund appropriation of ninety-four thousand eight hundred dollars (\$94,800) and the other state funds appropriation of one hundred eighty-nine thousand four hundred dollars (\$189,400) to the investment council in the other costs category shall

be transferred to the state board of finance to be expended only for custody services associated with the fiscal agent contract. Unexpended or unencumbered balances in the state board of finance remaining at the end of the eighty-third fiscal year from this appropriation shall revert proportionately to the general fund and the permanent fund, respectively.

Budget increases from internal service funds/interagency transfers are specifically authorized for the investment council. Such internal service funds/interagency transfers are appropriated.

Category transfers are specifically authorized for the investment council.

Subtotal 2,314.4

DEPARTMENT OF FINANCE AND ADMINISTRATION:

(1) Office of the secretary:

Item General Fund Total

(a) Personal services 355.9 355.9

(b) Employee benefits 115.9 115.9

(c) Travel 6.3 6.3

(d) Maintenance and repairs 3.0 3.0

(e) Supplies and materials 8.2 8.2

(f) Contractual services 101.9 101.9

(g) Operating costs 66.2 66.2

(h) Capital outlay 4.1 4.1

(i) Out-of-state travel 6.0 6.0

Authorized FTE: 8.00 Permanent

~~The department of finance and administration shall be responsible for assuring that reimbursement for community-based service organizations shall be made in a timely manner, no more than thirty days after receipt of billing from the provider of service. Reimbursements paid by the department of finance and administration thirty days after receipt of billing from the provider shall include the amount of reimbursement requested~~

~~plus interest paid at the prime rate.~~

[OVERSTRUCK MATERIAL HAS BEEN LINE-ITEM VETOED.]

(2) Administrative services division:

Item General Fund Total

- (a) Personal services 497.3 497.3
- (b) Employee benefits 145.8 145.8
- (c) Travel 1.0 1.0
- (d) Maintenance and repairs 27.8 27.8
- (e) Supplies and materials 16.3 16.3
- (f) Contractual services 60.0 60.0
- (g) Operating costs 82.2 82.2
- (h) Capital outlay 21.4 21.4
- (i) Out-of-state travel 2.0 2.0

Authorized FTE: 15.00 Permanent

(3) Board of finance:

Intrnl Svc

General Funds/Inter-

Item Fund Agency Trnsf Total

- (a) Personal services 278.9 278.9
- (b) Employee benefits 78.3 78.3
- (c) Travel 5.0 5.0
- (d) Maintenance and repairs 4.0 4.0
- (e) Supplies and materials 3.6 3.6
- (f) Contractual services 36.6 36.6

- (g) Operating costs 16.9 16.9
- (h) Capital outlay 5.3 5.3
- (i) Out-of-state travel 4.0 4.0
- (j) Emergency fund 250.0 250.0
- (k) Emergency water fund 75.0 75.0
- (l) Fiscal agent contract 964.2 835.1 1,799.3

Authorized FTE: 7.00 Permanent

Upon certification by the state board of finance that a critical emergency exists that cannot be addressed by disaster declaration or other emergency or contingency funds and review by the legislative finance committee, the secretary of finance and administration is authorized to transfer from the general fund operating reserve to the board of finance emergency fund the amount necessary to meet the emergency. Such transfers shall not exceed an aggregate amount of one million dollars (\$1,000,000) in the eighty-third fiscal year. Funds transferred to the state board of finance emergency fund shall be disbursed in accordance with Section 6-1-2 NMSA 1978.

The appropriation of one million seven hundred ninety-nine thousand three hundred dollars (\$1,799,300) to the state board of finance for the fiscal agent contract is contingent upon the state board of finance compensating the fiscal agent with appropriated funds only. In the event this appropriation is insufficient, the state board of finance shall access the emergency fund for this purpose and not use compensating balances or other nonappropriated funding sources.

(4) State budget division:

Item General Fund Total

- (a) Personal services 846.7 846.7
- (b) Employee benefits 244.8 244.8
- (c) Travel 9.0 9.0
- (d) Maintenance and repairs 4.0 4.0
- (e) Supplies and materials 16.1 16.1
- (f) Contractual services 57.4 57.4

- (g) Operating costs 76.8 76.8
- (h) Capital outlay 29.5 29.5
- (i) Out-of-state travel 5.0 5.0
- (j) Judicial compensation 309.0 309.0
- (k) State employee compensation 3,581.7 3,581.7
- (l) Managed care pool 1,400.0 1,400.0

Authorized FTE: 21.00 Permanent

The general fund appropriation of three million eight hundred ninety thousand seven hundred dollars (\$3,890,700) to the state budget division of the department of finance and administration for state employee compensation shall be distributed to judicial and executive branch agencies and district attorneys to provide salary increases, adjustments and compensation in accordance with the general provisions of the General Appropriation Act of 1994. For those state agencies whose funds are substantially derived from state funds other than the general fund, the department of finance and administration shall transfer from the appropriate fund to the appropriate agency the amount required for the salary increases or adjustments for those employees of the executive branch, effective the first full pay period of the fiscal year or as otherwise specified in the general provisions of the General Appropriation Act of 1994.

The general fund appropriation to the state budget division includes one million four hundred thousand dollars (\$1,400,000) for transfer to the children, youth and families department only after certification by the secretary of children, youth and families that a statewide policy detailing eligibility criteria both in terms of client profiles and income eligibility for mental health treatment has been developed in conjunction with the department of health and the human services department.

(5) Local government division:

Other

| | General | State | Federal | |
|------|---------|-------|---------|-------|
| Item | Fund | Funds | Funds | Total |

- | | | | | |
|-----------------------|-------|-------|-------|---------|
| (a) Personal services | 936.6 | 147.3 | 242.7 | 1,326.6 |
| (b) Employee benefits | 290.7 | 45.7 | 75.4 | 411.8 |
| (c) Travel | 60.2 | 5.6 | 9.2 | 75.0 |

(d) Maintenance and repairs 9.2 1.4 2.4 13.0

(e) Supplies and materials 15.9 2.5 4.1 22.5

(f) Contractual services 69.6 7.8 12.6 90.0

(g) Operating costs 96.9 15.6 25.3 137.8

(h) Out-of-state travel 6.9 1.1 1.8 9.8

(i) Council of governments 275.0 275.0

(j) Leasehold community

assistance 60.0 60.0

(k) Acequia commission 50.0 50.0

Authorized FTE: 25.00 Permanent; 15.00 Term

The general fund appropriation to the local government division of the department of finance and administration in the contractual services category includes fifty thousand dollars (\$50,000) to monitor the Terrero mine cleanup efforts.

(6) Financial control division:

Item General Total Fund

(a) Personal services 1,879.1 1,879.1

(b) Employee benefits 573.9 573.9

(c) Travel 6.2 6.2

(d) Maintenance and repairs 27.8 27.8

(e) Supplies and materials 88.2 88.2

(f) Contractual services 227.2 227.2

(g) Operating costs 1,539.1 1,539.1

(h) Capital outlay 109.3 109.3

(i) Out-of-state travel 9.2 9.2

Authorized FTE: 63.00 Permanent

Intrnl Svc
General Funds/Inter-
Item Fund Agency Trnsf Total

(7) Citizens review board 229.5 70.5 300.0

Category transfers and division transfers are specifically authorized for the department of finance and administration.

Budget increases from other state funds and internal service funds/interagency transfers are specifically authorized for the department of finance and administration. Such other state funds and internal service funds/interagency transfers are appropriated.

(8) Dues and membership fees:

Item General Fund Total

(a) National association of
state budget officers 6.5 6.5

(b) Council of state planning
agencies 4.7 4.7

(c) Council of state governments 59.8 59.8

(d) Western interstate commission
on higher education 79.0 79.0

(e) Education commission of
the states 35.0 35.0

(f) Rocky Mountain corporation
for public broadcasting 13.1 13.1

(g) National conference of
state legislatures 71.4 71.4

(h) Western governors'

association 36.0 36.0

(i) Cumbres and Toltec scenic

railroad commission 10.0 10.0

(j) Commission on inter-

governmental relations 5.0 5.0

(k) Governmental accounting

standards board 14.2 14.2

(l) National center for state

courts 57.2 57.2

(m) National governors'

association 46.2 46.2

Subtotal 18,327.8

PUBLIC SCHOOL INSURANCE AUTHORITY:

(1) Operations division:

Intrnl Svc

Funds/Inter-

Item Agency Trnsf Total

(a) Personal services 367.7 367.7

(b) Employee benefits 112.5 112.5

(c) Travel 44.8 44.8

(d) Maintenance and repairs 24.9 24.9

(e) Supplies and materials 18.7 18.7

(f) Contractual services 161.5 161.5

(g) Operating costs 61.3 61.3

(h) Other costs .2 .2

(i) Out-of-state travel 4.5 4.5

Authorized FTE: 9.00 Permanent

Category transfers are specifically authorized for the operations division of the public school insurance authority.

Intrnl Svc

Funds/Inter-

Item Agency Trnsf Total

(2) Benefits division 82,448.6 82,448.6

Budget increases from internal service funds/interagency transfers are specifically authorized for the benefits division of the public school insurance authority. Such internal service funds/interagency transfers are appropriated.

Intrnl Svc

Funds/Inter-

Item Agency Trnsf Total

(3) Risk division 22,131.1 22,131.1

Budget increases from internal service funds/interagency transfers are specifically authorized for the risk division of the public school insurance authority. Such internal service funds/interagency transfers are appropriated.

Subtotal 105,375.8

RETIREE HEALTH CARE AUTHORITY:

(1) Administration:

Intrnl Svc

Funds/Inter-

Item Agency Trnsf Total

- (a) Personal services 403.4 403.4
- (b) Employee benefits 109.7 109.7
- (c) Travel 35.7 35.7
- (d) Maintenance and repairs 9.6 9.6
- (e) Supplies and materials 20.0 20.0
- (f) Contractual services 118.0 118.0
- (g) Operating costs 223.1 223.1
- (h) Capital outlay 9.5 9.5
- (i) Out-of-state travel 7.0 7.0

Authorized FTE: 10.00 Permanent

Category transfers are specifically authorized for the administration component of the retiree health care authority.

Intrnl Svc

Funds/Inter-

Item Agency Trnsf Total

(2) Benefits division 48,699.6 48,699.6

Budget increases from internal service funds/interagency transfers are specifically authorized for the benefits division of the retiree health care authority. Such internal service funds/interagency transfers are appropriated.

Subtotal 49,635.6

COMMISSION ON INFORMATION AND COMMUNICATION MANAGEMENT:

Item General Fund Total

- (a) Personal services 318.3 318.3
- (b) Employee benefits 89.7 89.7
- (c) Travel 12.2 12.2

(d) Maintenance and repairs 1.1 1.1

(e) Supplies and materials 1.0 1.0

(f) Operating costs 33.9 33.9

(g) Capital outlay 25.0 25.0

(h) Out-of-state travel 5.3 5.3

Authorized FTE: 7.00 Permanent

Category transfers are specifically authorized for the commission on information and communication management.

Subtotal 486.5

GENERAL SERVICES DEPARTMENT:

(1) Office of the secretary:

Item General Fund Total

(a) Personal services 286.0 286.0

(b) Employee benefits 74.6 74.6

(c) Travel 5.7 5.7

(d) Maintenance and repairs .6 .6

(e) Supplies and materials 1.5 1.5

(f) Operating costs 13.4 13.4

(g) Capital outlay 5.4 5.4

(h) Out-of-state travel 1.2 1.2

Authorized FTE: 7.00 Permanent

(2) Administrative services division:

Other Intrnl Svc

General State Funds/Inter-

Item Fund Funds Agency Trnsf Total

- (a) Personal services 264.5 874.0 1,138.5
- (b) Employee benefits 79.1 261.4 340.5
- (c) Travel 2.6 8.8 11.4
- (d) Maintenance and repairs 1.6 5.2 6.8
- (e) Supplies and materials 7.2 23.8 31.0
- (f) Contractual services 17.4 1,322.6 57.6 1,397.6
- (g) Operating costs 118.1 390.4 508.5
- (h) Capital outlay 48.4 160.0 208.4
- (i) Out-of-state travel .2 .8 1.0

Authorized FTE: 37.00 Permanent

(3) Purchasing division:

Other Intrnl Svc

General State Funds/Inter- Federal Item
Fund Funds Agency Trnsf Funds Total

- (a) Personal services 443.3 271.1 1,084.0 127.1 1,925.5
- (b) Employee benefits 147.4 90.1 360.3 42.3 640.1
- (c) Travel 18.4 11.2 45.0 5.3 79.9
- (d) Maintenance and repairs 20.8 12.8 51.0 6.0 90.6
- (e) Supplies and materials 181.2 110.9 443.3 52.0 787.4
- (f) Contractual services 66.0 40.3 161.3 18.9 286.5
- (g) Operating costs 53.9 32.9 131.7 15.4 233.9
- (h) Capital outlay 12.5 7.6 30.5 3.6 54.2

(i) Out-of-state travel 5.3 3.3 12.9 1.5 23.0

Authorized FTE: 70.00 Permanent; 6.00 Term

(4) Information systems division--regular:

Intrnl Svc

Funds/Inter-

Item Agency Trnsf Total

(a) Personal services 7,331.0 7,331.0

(b) Employee benefits 2,215.4 2,215.4

(c) Travel 100.1 100.1

(d) Maintenance and repairs 2,569.2 2,569.2

(e) Supplies and materials 381.2 381.2

(f) Contractual services 6,252.7 6,252.7

(g) Operating costs 8,767.0 8,767.0

(h) Capital outlay 376.2 376.2

(i) Out-of-state travel 46.7 46.7

Authorized FTE: 215.00 Permanent; 3.00 Term

(5) Information systems division--funds:

Intrnl Svc

Funds/Inter-

Item Agency Trnsf Total

(a) Data processing equipment

replacement 7,456.8 7,456.8

(b) Radio equipment replacement 973.9 973.9

(c) Communications equipment

replacement 2,030.0 2,030.0

(6) Risk management division--regular:

Intrnl Svc

Funds/Inter-

Item Agency Trnsf Total

(a) Personal services 1,266.4 1,266.4

(b) Employee benefits 415.8 415.8

(c) Travel 29.6 29.6

(d) Maintenance and repairs 6.6 6.6

(e) Supplies and materials 37.8 37.8

(f) Contractual services 197.6 197.6

(g) Operating costs 225.3 225.3

(h) Other costs 550.0 550.0

(i) Capital outlay 21.0 21.0

(j) Out-of-state travel 4.8 4.8

Authorized FTE: 37.00 Permanent

Five hundred fifty thousand dollars (\$550,000) of internal service funds/interagency transfers is appropriated from the public liability fund to be expended by the risk management division--regular in the eighty-third fiscal year to pay certain litigation costs incurred by the state.

Intrnl Svc

Funds/Inter-

Item Agency Trnsf Total

(7) Risk management division--funds:

- (a) Public liability 17,984.5 17,984.5
- (b) Surety bond 213.1 213.1
- (c) Public property reserve 2,737.7 2,737.7
- (d) Local public bodies
unemployment compensation 608.9 608.9
- (e) Workers' compensation
retention 14,625.7 14,625.7
- (f) State unemployment
compensation 3,116.8 3,116.8

Authorized FTE: 8.00 Permanent

The internal service funds/interagency transfers appropriation to the workers' compensation retention fund includes eight permanent positions and sufficient funding for a workers' compensation claims adjusting bureau in the risk management division.

General

Item Fund Total

- (8) Property control division:
 - (a) Personal services 869.3 869.3
 - (b) Employee benefits 255.4 255.4
 - (c) Travel 19.3 19.3
 - (d) Maintenance and repairs 56.4 56.4
 - (e) Supplies and materials 8.9 8.9
 - (f) Contractual services .2 .2
 - (g) Operating costs 60.5 60.5
 - (h) Capital outlay 4.0 4.0

Authorized FTE: 28.00 Permanent

General

Item Fund Total

(9) Building services division:

(a) Personal services 2,365.4 2,365.4

(b) Employee benefits 1,036.2 1,036.2

(c) Travel 11.6 11.6

(d) Maintenance and repairs 270.2 270.2

(e) Supplies and materials 16.9 16.9

(f) Contractual services 90.2 90.2

(g) Operating costs 1,808.0 1,808.0

(h) Capital outlay 22.7 22.7

Authorized FTE: 134.00 Permanent

Intrnl Svc

Funds/Inter-

Item Agency Trnsf Total

(10) State transportation pool:

(a) Personal services 238.9 238.9

(b) Employee benefits 85.2 85.2

(c) Travel 425.0 425.0

(d) Maintenance and repairs 3.8 3.8

(e) Supplies and materials 1.8 1.8

(f) Contractual services 168.2 168.2

(g) Operating costs 108.4 108.4

(h) Capital outlay 377.9 377.9

(i) Out-of-state travel .8 .8

Authorized FTE: 12.00 Permanent

Category transfers, division transfers and budget increases from other state funds and internal service funds/interagency transfers are specifically authorized for the general services department. Such other state funds and internal service funds/interagency transfers are appropriated.

Subtotal 97,000.2

Other

State

Item Funds Total

EDUCATIONAL RETIREMENT BOARD:

(a) Personal services 1,067.5 1,067.5

(b) Employee benefits 332.6 332.6

(c) Travel 17.2 17.2

(d) Maintenance and repairs 40.3 40.3

(e) Supplies and materials 26.6 26.6

(f) Contractual services 401.9 401.9

(g) Operating costs 144.3 144.3

(h) Other costs 196.9 196.9

(i) Capital outlay 56.1 56.1

(j) Out-of-state travel 14.0 14.0

Authorized FTE: 38.00 Permanent

The other state funds appropriation of one hundred ninety-six thousand nine hundred dollars (\$196,900) to the educational retirement board in the other costs category shall be transferred to the state board of finance to be expended only for custody services

associated with the fiscal agent contract. Unexpended or unencumbered balances in the state board of finance remaining at the end of the eighty-third fiscal year from this appropriation shall revert to the educational retirement board fund.

The other state funds appropriation to the educational retirement board includes one hundred sixty thousand five hundred dollars (\$160,500) to hire four field service counselors and associated operating expenses.

Budget increases from other state funds are specifically authorized for the educational retirement board. Such other state funds are appropriated.

Category transfers are specifically authorized for the educational retirement board.

Subtotal 2,297.4

Other

General State

Item Fund Funds Total

PUBLIC DEFENDER DEPARTMENT:

- (a) Personal services 6,368.2 6,368.2
- (b) Employee benefits 1,957.3 1,957.3
- (c) Travel 156.5 156.5
- (d) Maintenance and repairs 66.8 66.8
- (e) Supplies and materials 73.9 73.9
- (f) Contractual services 3,212.1 137.4 3,349.5
- (g) Operating costs 1,272.0 1,272.0
- (h) Capital outlay 115.7 150.0 265.7
- (i) Out-of-state travel 5.5 5.5

Authorized FTE: 215.00 Permanent

The general fund appropriation to the public defender department includes three hundred sixty-nine thousand dollars (\$369,000) to hire nine FTE for the Albuquerque office, one FTE for the appellate division and two FTE for the mental health unit.

Included in the general fund appropriation to the public defender department is three hundred thirty-three thousand dollars (\$333,000) for the public defender parity package.

The general fund appropriation to the public defender department includes two hundred sixty-one thousand nine hundred dollars (\$261,900) to establish a Las Vegas office with eleven FTE.

Category transfers and budget increases from other state funds and internal service funds/interagency transfers are specifically authorized for the public defender department. Such other state funds and internal service funds/interagency transfers are appropriated.

Unexpended or unencumbered balances in the public defender department remaining at the end of the eighty-second and eighty-third fiscal years from appropriations made from the general fund shall not revert and shall be expended only to pay contract attorney fees.

Subtotal 13,515.4

General

Item Fund Total

GOVERNOR:

- (a) Personal services 1,322.5 1,322.5
- (b) Employee benefits 367.9 367.9
- (c) Travel 48.2 48.2
- (d) Maintenance and repairs 20.2 20.2
- (e) Supplies and materials 72.1 72.1
- (f) Contractual services 81.0 81.0
- (g) Operating costs 233.1 233.1
- (h) Other costs 210.0 210.0
- (i) Capital outlay 89.2 89.2
- (j) Out-of-state travel 77.9 77.9

Authorized FTE: 39.00 Permanent

The general fund appropriation to the governor includes one hundred fifty thousand dollars (\$150,000) to hire two FTE for a border liaison office.

The general fund appropriation to the governor in the other costs category includes one hundred thousand dollars (\$100,000) for the adult services task force and twenty-five thousand dollars (\$25,000) for the volunteer program.

Category transfers and budget increases from other state funds and internal service funds/interagency transfers are specifically authorized for the governor. Such other state funds and internal service funds/interagency transfers are appropriated.

Subtotal 2,522.1

General

Item Fund Total

LIEUTENANT GOVERNOR:

(a) Personal services 204.8 204.8

(b) Employee benefits 52.4 52.4

(c) Travel 19.9 19.9

(d) Maintenance and repairs 1.1 1.1

(e) Supplies and materials 6.3 6.3

(f) Contractual services 81.6 81.6

(g) Operating costs 22.6 22.6

(h) Capital outlay 7.2 7.2

(i) Out-of-state travel 20.0 20.0

Authorized FTE: 7.00 Permanent

Category transfers are specifically authorized for the lieutenant governor.

Subtotal 415.9

Other

State

Item Funds Total

PUBLIC EMPLOYEES RETIREMENT ASSOCIATION:

(1) Administrative division:

(a) Personal services 1,523.7 1,523.7

(b) Employee benefits 465.0 465.0

(c) Travel 26.3 26.3

(d) Maintenance and repairs 37.9 37.9

(e) Supplies and materials 38.7 38.7

(f) Contractual services 2,796.1 2,796.1

(g) Operating costs 449.1 449.1

(h) Other costs 354.0 354.0

(i) Capital outlay 18.5 18.5

(j) Out-of-state travel 12.8 12.8

Authorized FTE: 48.00 Permanent; 2.00 Term

The other state funds appropriation of three hundred fifty-four thousand dollars (\$354,000) to the public employees retirement association in the other costs category shall be transferred to the state board of finance to be expended only for custody services associated with the fiscal agent contract. Unexpended or unencumbered balances in the state board of finance remaining at the end of the eighty-third fiscal year from this appropriation shall revert to the public employees retirement fund.

Budget increases from other state funds in an amount not to exceed seven hundred fifty thousand dollars (\$750,000) for the investment manager contract are specifically authorized for the public employees retirement association.

Other

State

Item Funds Total

(2) Maintenance division:

(a) Personal services 416.2 416.2

(b) Employee benefits 175.8 175.8

(c) Travel 4.5 4.5

(d) Maintenance and repairs 119.5 119.5

(e) Supplies and materials 1.7 1.7

(f) Operating costs 419.8 419.8

(g) Capital outlay 17.8 17.8

(h) Out-of-state travel 1.0 1.0

Authorized FTE: 23.00 Permanent

Budget increases from other state funds in an amount not to exceed three hundred thousand dollars (\$300,000) for building maintenance are specifically authorized for the public employees retirement association. Funds are contingent upon the agency adopting a five-year comprehensive maintenance plan subject to review and approval by the property control division of the general services department.

Other

State

Item Funds Total

(3) Deferred compensation:

(a) Personal services 27.3 27.3

(b) Employee benefits 6.7 6.7

(c) Travel 2.2 2.2

(d) Maintenance and repairs .2 .2

(e) Supplies and materials .3 .3

(f) Operating costs 5.0 5.0

(g) Out-of-state travel 1.0 1.0

Authorized FTE: 1.00 Permanent

General

Item Fund Total

(4) Legislative retirement and matching

contribution 51.5 51.5

Category and division transfers are specifically authorized for the public employees retirement association

Subtotal 6,972.6

Other Intrnl Svc

General State Funds/Inter-

Item Fund Funds Agency Trnsf Total

STATE COMMISSION OF PUBLIC RECORDS:

(a) Personal services 820.6 820.6

(b) Employee benefits 289.6 289.6

(c) Travel 5.4 3.0 4.0 12.4

(d) Maintenance and repairs 18.6 6.0 6.5 31.1

(e) Supplies and materials 5.0 4.0 9.4 18.4

(f) Contractual services 3.0 3.0 6.0 12.0

(g) Operating costs 160.0 6.0 9.5 175.5

(h) Other costs 27.0 27.0

(i) Capital outlay 20.1 8.0 12.5 40.6

(j) Out-of-state travel 4.0 4.0

Authorized FTE: 31.50 Permanent

Category transfers and budget increases from internal service funds/interagency transfers are specifically authorized for the state commission of public records. Such internal service funds/interagency transfers funds are appropriated.

Subtotal 1,431.2

General

Item Fund Total

SECRETARY OF STATE:

(a) Personal services 952.7 952.7

(b) Employee benefits 309.7 309.7

(c) Travel 17.9 17.9

(d) Maintenance and repairs 25.7 25.7

(e) Supplies and materials 50.7 50.7

(f) Contractual services 36.5 36.5

(g) Operating costs 538.6 538.6

(h) Other costs 79.8 79.8

(i) Capital outlay 78.7 78.7

(j) Out-of-state travel 10.0 10.0

Authorized FTE: 35.00 Permanent; 1.00 Term; 1.33 Temporary

Category transfers are specifically authorized for the secretary of state.

Subtotal 2,100.3

Intrnl Svc

General Funds/Inter

Item Fund Agency Trnsf Total

PERSONNEL BOARD:

- (a) Personal services 2,237.5 273.1 2,510.6
- (b) Employee benefits 686.2 79.3 765.5
- (c) Travel 33.0 10.9 43.9
- (d) Maintenance and repairs 95.0 2.8 97.8
- (e) Supplies and materials 44.5 19.4 63.9
- (f) Contractual services 91.2 64.3 155.5
- (g) Operating costs 659.0 149.3 808.3
- (h) Capital outlay 10.0 14.6 24.6
- (i) Out-of-state travel 8.0 1.9 9.9

Authorized FTE: 80.60 Permanent

The department of finance and administration is authorized to transfer to the personnel board from each executive branch agency an amount based on an assessment per authorized FTE to fund the four hundred eighty thousand two hundred dollars (\$480,200) appropriated from internal service funds/interagency transfers for employee training programs and the one hundred thirty-five thousand four hundred dollars (\$135,400) appropriation from internal service funds/interagency transfers for the employee assistance program.

Category transfers are specifically authorized for the personnel board.

Subtotal 4,480.0

General

Item Fund Total

PUBLIC EMPLOYEE LABOR RELATIONS BOARD:

- (a) Personal services 101.8 101.8
- (b) Employee benefits 29.9 29.9
- (c) Travel 20.5 20.5
- (d) Maintenance and repairs 2.0 2.0

(e) Supplies and materials 6.0 6.0

(f) Contractual services 53.8 53.8

(g) Operating costs 37.8 37.8

(h) Capital outlay 7.0 7.0

(i) Out-of-state travel 3.0 3.0

Authorized FTE: 3.00 Permanent

Category transfers are specifically authorized for the public employee labor relations board.

Subtotal 261.8

General

Item Fund Total

STATE TREASURER:

(a) Personal services 1,212.7 1,212.7

(b) Employee benefits 366.0 366.0

(c) Travel 11.9 11.9

(d) Maintenance and repairs 25.0 25.0

(e) Supplies and materials 25.1 25.1

(f) Contractual services 64.4 64.4

(g) Operating costs 489.6 489.6

(h) Out-of-state travel 6.0 6.0

Authorized FTE: 37.00 Permanent

Category transfers are specifically authorized for the state treasurer.

Subtotal 2,200.7

Other Intrnl Svc

General State Funds/Inter- Federal

Fund Funds Agency Trnsf Funds Total

TOTAL GENERAL

CONTROL 102,266.0 15,196.3 257,609.8 2,261.0 377,333.1

D. COMMERCE AND INDUSTRY

Other

State

Item Funds Total

BOARD OF EXAMINERS FOR ARCHITECTS:

(a) Personal services 76.3 76.3

(b) Employee benefits 27.1 27.1

(c) Travel 17.1 17.1

(d) Maintenance and repairs 3.6 3.6

(e) Supplies and materials 4.8 4.8

(f) Contractual services 31.5 31.5

(g) Operating costs 34.4 34.4

(h) Capital outlay 8.5 8.5

(i) Out-of-state travel 7.2 7.2

Authorized FTE: 3.00 Permanent

Category transfers and budget increases from other state funds are specifically authorized for the board of examiners for architects. Such other state funds are appropriated.

Subtotal 210.5

General

Item Fund Total

BORDER AUTHORITY:

- (a) Personal services 84.6 84.6
- (b) Employee benefits 25.1 25.1
- (c) Travel 25.7 25.7
- (d) Supplies and materials 4.3 4.3
- (e) Contractual services 4.0 4.0
- (f) Operating costs 30.7 30.7
- (g) Capital outlay 4.6 4.6
- (h) Out-of-state travel 13.8 13.8

Authorized FTE: 2.00 Permanent

Category transfers and budget increases from other state funds and internal service funds/interagency transfers are specifically authorized for the border authority. Such other state funds and internal service funds/interagency transfers are appropriated.

Subtotal 192.8

Other

General State

Item Fund Funds Total

TOURISM DEPARTMENT:

- (1) Travel and marketing division:
 - (a) Personal services 499.1 637.1 1,136.2
 - (b) Employee benefits 162.1 198.2 360.3
 - (c) Travel 26.9 12.4 39.3
 - (d) Maintenance and repairs 8.5 15.6 24.1
 - (e) Supplies and materials 55.8 15.9 71.7

(f) Contractual services 205.0 30.0 235.0

(g) Operating costs 2,806.1 78.2 2,884.3

(h) Other costs 550.0 550.0

(i) Capital outlay 39.6 41.9 81.5

(j) Out-of-state travel 31.5 1.0 32.5

Authorized FTE: 40.00 Permanent; 11.50 Temporary

The general fund appropriation to the travel and marketing division of the tourism department in the operating costs category includes one million eight hundred fifty thousand dollars (\$1,850,000) for generic advertising; seventy-five thousand dollars (\$75,000) for promotion of the six regions of New Mexico; and ten thousand dollars (\$10,000) for promotion of the museum of the horse at Ruidoso Downs in Lincoln county.

The other state funds appropriation to the travel and marketing division shall be made from the state road fund for operation of the welcome centers.

Unexpended or unencumbered balances in the travel and marketing division remaining at the end of the eighty-third fiscal year from appropriations made from the state road fund shall revert to the state road fund.

Other

State

Item Funds Total

(2) New Mexico Magazine division:

(a) Personal services 662.2 662.2

(b) Employee benefits 215.4 215.4

(c) Travel 9.0 9.0

(d) Maintenance and repairs 6.0 6.0

(e) Supplies and materials 29.2 29.2

(f) Contractual services 815.0 815.0

(g) Operating costs 2,301.4 2,301.4

(h) Other costs 180.0 180.0

(i) Capital outlay 23.0 23.0

(j) Out-of-state travel 5.5 5.5

Authorized FTE: 22.00 Permanent

Budget increases from other state funds are authorized for the New Mexico Magazine division of the tourism department in the eighty-second and eighty-third fiscal years if the division demonstrates to the department of finance and administration and the legislative finance committee the availability of sufficient revenue to offset expenditures.

Budget increases from other state funds are authorized for the tourism department. Such other state funds are appropriated.

Category and division transfers are specifically authorized for the tourism department.

Subtotal 9,661.6

General

Item Fund Total

ECONOMIC DEVELOPMENT DEPARTMENT:

(1) Office of the secretary:

(a) Personal services 291.9 291.9

(b) Employee benefits 108.3 108.3

(c) Travel 30.9 30.9

(d) Maintenance and repairs .5 .5

(e) Supplies and materials 7.3 7.3

(f) Contractual services 132.7 132.7

(g) Operating costs 47.3 47.3

(h) Out-of-state travel 21.9 21.9

Authorized FTE: 7.00 Permanent

The general fund appropriation to the office of the secretary of economic development in the contractual services category includes eighty-two thousand seven hundred dollars (\$82,700) to establish a New Mexico's own program.

General Federal

Item Fund Funds Total

(2) Administrative services division:

(a) Personal services 756.5 20.0 776.5

(b) Employee benefits 236.4 8.1 244.5

(c) Travel 8.0 8.0

(d) Maintenance and repairs 25.1 25.1

(e) Supplies and materials 27.2 27.2

(f) Contractual services 84.4 84.4

(g) Operating costs 54.1 54.1

(h) Capital outlay 43.8 43.8

(i) Out-of-state travel 9.4 9.4

Authorized FTE: 25.00 Permanent; 1.00 Term

General

Item Fund Total

(3) Economic development division:

(a) Personal services 650.8 650.8

(b) Employee benefits 200.2 200.2

(c) Travel 76.6 76.6

(d) Maintenance and repairs 6.1 6.1

(e) Supplies and materials 28.4 28.4

(f) Contractual services 697.0 697.0

(g) Operating costs 707.2 707.2

(h) Other costs 197.1 197.1

(i) Capital outlay 7.6 7.6

(j) Out-of-state travel 39.1 39.1

Authorized FTE: 19.50 Permanent

The general fund appropriation to the economic development division of the economic development department in the personal services and employee benefits categories includes fifty thousand dollars (\$50,000) to hire two FTE for administration and fiscal management of the development training fund.

The general fund appropriation to the economic development division in the contractual services category includes forty-five thousand dollars (\$45,000) for northern New Mexico economic development.

The general fund appropriation to the economic development division in the operating costs category includes five hundred forty-eight thousand dollars (\$548,000) for generic advertising, of which ninety thousand dollars (\$90,000) is for promotion of New Mexico wine.

General

Item Fund Total

(4) Film division:

(a) Personal services 189.2 189.2

(b) Employee benefits 53.3 53.3

(c) Travel 8.5 8.5

(d) Maintenance and repairs 3.7 3.7

(e) Supplies and materials 9.4 9.4

(f) Operating costs 150.1 150.1

(g) Out-of-state travel 15.5 15.5

Authorized FTE: 6.00 Permanent

General

Item Fund Total

(5) Technology enterprise division:

(a) Personal services 356.8 356.8

(b) Employee benefits 121.3 121.3

(c) Travel 18.1 18.1

(d) Maintenance and repairs 5.0 5.0

(e) Supplies and materials 7.0 7.0

(f) Contractual services 958.3 958.3

(g) Operating costs 47.4 47.4

(h) Capital outlay .5 .5

(i) Out-of-state travel 11.9 11.9

Authorized FTE: 9.00 Permanent

The general fund appropriation to the technology enterprise division of the economic development department includes two hundred twenty-five thousand dollars (\$225,000) and three FTE for the office of space.

The general fund appropriation to the technology enterprise division in the contractual services category includes forty thousand dollars (\$40,000) for project uplift and fifty thousand dollars (\$50,000) for the governor's science advisor.

General

Item Fund Total

(6) Trade division:

(a) Personal services 233.8 233.8

- (b) Employee benefits 69.2 69.2
- (c) Travel 17.2 17.2
- (d) Maintenance and repairs 8.0 8.0
- (e) Supplies and materials 13.9 13.9
- (f) Contractual services 294.1 294.1
- (g) Operating costs 155.7 155.7
- (h) Capital outlay 23.8 23.8
- (i) Out-of-state travel 45.2 45.2

Authorized FTE: 6.00 Permanent

Other

General State Federal

Item Fund Funds Funds Total

- (7) State housing division:
 - (a) Personal services 329.9 78.5 408.4
 - (b) Employee benefits 106.5 24.6 131.1
 - (c) Travel 8.1 9.3 17.4
 - (d) Maintenance and repairs 1.0 1.0
 - (e) Supplies and materials 8.0 8.0
 - (f) Contractual services 7.0 10.0 18.0 35.0
 - (g) Operating costs 22.9 45.6 68.5
 - (h) Other costs 1,016.7 3,696.5 4,713.2
 - (i) Capital outlay 2.7 2.7
 - (j) Out-of-state travel 2.0 14.5 16.5

Authorized FTE: 10.00 Permanent; 3.00 Term

The general fund appropriation to the state housing division of the economic development department includes three hundred ninety-two thousand two hundred dollars (\$392,200) for state match program funding associated with the HOME program.

Category transfers, division transfers and budget increases from other state funds and internal service funds/interagency transfers are specifically authorized for the economic development department. Such other state funds and internal service funds/interagency transfers are appropriated.

Subtotal 12,742.6

REGULATION AND LICENSING DEPARTMENT:

Other Intrnl Svc
General State Funds/Inter-
Item Fund Funds Agency Trnsf Total

(1) Administrative services division:

(a) Personal services 855.7 229.0 1,084.7

(b) Employee benefits 273.7 68.9 342.6

(c) Travel 2.1 5.4 7.5

(d) Maintenance and repairs 26.0 8.9 34.9

(e) Supplies and materials 14.0 3.6 17.6

(f) Contractual services 22.6 .9 23.5

(g) Operating costs 171.7 54.1 225.8

(h) Capital outlay 78.8 20.1 41.9 140.8

(i) Out-of-state travel 1.9 3.5 5.4

Authorized FTE: 33.00 Permanent; 2.00 Term

Category transfers and budget increases from internal service funds/interagency transfers are specifically authorized for the boards and commissions bureau of the regulation and licensing department. Such internal service funds/interagency transfers are appropriated. Transfers by this unit for the indirect cost allocation and payroll for the twenty-eight boards and commissions are authorized.

General

Item Fund Total

(2) Construction industries division:

(a) Personal services 2,624.3 2,624.3

(b) Employee benefits 968.2 968.2

(c) Travel 283.0 283.0

(d) Maintenance and repairs 13.6 13.6

(e) Supplies and materials 34.0 34.0

(f) Contractual services 2.0 2.0

(g) Operating costs 341.6 341.6

(h) Other costs 23.0 23.0

(i) Out-of-state travel 2.0 2.0

Authorized FTE: 90.00 Permanent; 9.00 Term

Included in the general fund appropriation to the construction industries division of the regulation and licensing department in the personal services and employee benefits categories is sufficient funding to hire an additional inspector for southern New Mexico.

General

Item Fund Total

(3) Manufactured housing division:

(a) Personal services 395.4 395.4

(b) Employee benefits 137.7 137.7

(c) Travel 51.0 51.0

(d) Maintenance and repairs 2.2 2.2

(e) Supplies and materials 7.5 7.5

(f) Operating costs 51.4 51.4

(g) Other costs 3.7 3.7

(h) Capital outlay 7.5 7.5

(i) Out-of-state travel 1.0 1.0

Authorized FTE: 14.00 Permanent

General
Item Fund Total

(4) Financial institutions division:

(a) Personal services 746.3 746.3

(b) Employee benefits 248.9 248.9

(c) Travel 98.3 98.3

(d) Maintenance and repairs 6.7 6.7

(e) Supplies and materials 16.1 16.1

(f) Operating costs 81.7 81.7

(g) Out-of-state travel 16.9 16.9

Authorized FTE: 24.00 Permanent

Other
State
Item Funds Total

(5) New Mexico state board of
public accountancy: 241.7 241.7

Authorized FTE: 3.00 Permanent

Other
State
Item Funds Total

(6) Acupuncture board: 65.3 65.3

Authorized FTE: 1.00 Permanent

Other
State
Item Funds Total

(7) New Mexico athletic commission: 37.8 37.8

Authorized FTE: .30 Permanent

Other
State
Item Funds Total

(8) Athletic trainers: 16.1 16.1

Authorized FTE: .20 Permanent

Other
State
Item Funds Total

(9) Board of barbers and cosmetologists: 450.6 450.6

Authorized FTE: 7.00 Permanent; 1.00 Term

Other
State
Item Funds Total

(10) Chiropractic board: 72.1 72.1

Authorized FTE: 1.05 Permanent

Other
State
Item Funds Total

(11) Board of dentistry: 187.8 187.8

Authorized FTE: 3.00 Permanent

Other
State
Item Funds Total

(12) Hearing aid advisory board: 20.6 20.6

Authorized FTE: .25 Permanent

Other
State
Item Funds Total

(13) Landscape architects board: 29.8 29.8

Authorized FTE: .30 Permanent

Other
State
Item Funds Total

(14) State board of nursing home
administrators: 36.0 36.0

Authorized FTE: .49 Permanent

Other
State
Item Funds Total

(15) Occupational therapy board: 28.4 28.4

Authorized FTE: .40 Permanent

Other
State
Item Funds Total

(16) Board of optometry: 34.9 34.9

Authorized FTE: .49 Permanent

Other
State
Item Funds Total

(17) Board of osteopathic medical examiners: 46.0 46.0

Authorized FTE: .45 Permanent

Other
State
Item Funds Total

(18) Board of pharmacy: 852.7 852.7

Authorized FTE: 12.00 Permanent

Other
State
Item Funds Total

(19) Physical therapists licensing board: 70.5 70.5

Authorized FTE: 1.10 Permanent

Other
State
Item Funds Total

(20) New Mexico state board of podiatry: 21.4 21.4

Authorized FTE: .20 Permanent

Other
State
Item Funds Total

(21) Board of private investigators and

polygraphers: 143.3 143.3

Authorized FTE: 1.70 Permanent; 1.00 Term

Other
State
Item Funds Total

(22) New Mexico state board of psychologist

examiners: 100.6 100.6

Authorized FTE: 1.30 Permanent

Other
State
Item Funds Total

(23) New Mexico real estate commission: 751.8 751.8

Authorized FTE: 12.00 Permanent

Included in the other state funds appropriation to the New Mexico real estate commission is twenty-five thousand dollars (\$25,000) to enhance mandatory core course requirements.

Other
State
Item Funds Total

(24) Respiratory care advisory board: 34.0 34.0

Authorized FTE: .52 Permanent

Other
State
Item Funds Total

(25) Speech, language and audio visual advisory
board: 35.4 35.4

Authorized FTE: .55 Permanent

Other
State
Item Funds Total

(26) State board of thanatopractice: 57.8 57.8

Authorized FTE: .85 Permanent

Other
State
Item Funds Total

(27) Nutrition and dietetics practice board: 25.2 25.2

Authorized FTE: .30 Permanent

Other
State
Item Funds Total

(28) Board of social work examiners: 159.7 159.7

Authorized FTE: 2.00 Permanent

Other
State
Item Funds Total

(29) Interior design board: 35.4 35.4

Authorized FTE: .40 Permanent

Other
State
Item Funds Total

(30) Real estate commission recovery: 250.0 250.0

Other
State
Item Funds Total

(31) Real estate appraisers board: 117.6 117.6

Authorized FTE: 1.50 Permanent

Other
State
Item Funds Total

(32) Board of massage therapy: 118.7 118.7

Authorized FTE: 2.15 Permanent

Other
State
Item Funds Total

(33) Counseling and therapy practice board: 174.7 174.7

Authorized FTE: 2.00 Permanent

Category transfers and budget increases from other state funds are specifically authorized for the boards and commissions listed in items (5) through (33). Such other state funds are appropriated.

Item Fund Total General

(34) Alcohol and gaming division:

(a) Personal services 427.3 427.3

(b) Employee benefits 134.6 134.6

(c) Travel 4.2 4.2

(d) Maintenance and repairs 8.4 8.4

(e) Supplies and materials 10.2 10.2

(f) Contractual services 6.5 6.5

(g) Operating costs 75.9 75.9

(h) Capital outlay 2.5 2.5

(i) Out-of-state travel 4.1 4.1

Authorized FTE: 14.00 Permanent

Item Fund Total General

(35) Securities division:

(a) Personal services 619.2 619.2

(b) Employee benefits 183.7 183.7

(c) Travel 3.5 3.5

(d) Maintenance and repairs 1.6 1.6

(e) Supplies and materials 11.9 11.9

(f) Contractual services 5.0 5.0

(g) Operating costs 102.1 102.1

(h) Out-of-state travel 10.0 10.0

Authorized FTE: 19.00 Permanent

Other
State
Item Funds Total

(36) Securities division education and
training fund:

(a) Travel 1.5 1.5

(b) Supplies and materials .5 .5

(c) Contractual services 10.0 10.0

(d) Operating costs 11.5 11.5

(e) Capital outlay 2.0 2.0

Category transfers and division transfers are specifically authorized for the regulation
and licensing department.

Subtotal 13,898.9

STATE CORPORATION COMMISSION:

Other Intrnl Svc

General State Funds/Inter-

Item Fund Funds Agency Trnsf Total

(1) Administration division:

(a) Personal services 694.7 334.4 1,029.1

(b) Employee benefit 211.3 101.7 313.0

(c) Travel 4.1 1.7 5.8

(d) Maintenance and repairs 16.6 6.7 23.3

(e) Supplies and materials 10.0 3.0 1.0 14.0

(f) Contractual services 115.3 115.3

(g) Operating costs 239.6 105.0 73.0 417.6

(h) Capital outlay 8.0 2.0 10.0

(i) Out-of-state travel 8.0 2.0 10.0

Authorized FTE: 30.00 Permanent

Budget increases from internal service funds/interagency transfers are specifically authorized for the administration division of the state corporation commission. Such internal service funds/interagency transfers are appropriated.

General

Item Fund Total

(2) Corporations division:

(a) Personal services 493.5 493.5

(b) Employee benefits 187.7 187.7

(c) Travel .5 .5

(d) Maintenance and repairs 5.2 5.2

(e) Supplies and materials 6.3 6.3

(f) Contractual services 3.3 3.3

(g) Operating costs 330.9 330.9

(h) Capital outlay 6.0 6.0

Authorized FTE: 22.00 Permanent

General

Item Fund Total

(3) Telecommunications division:

(a) Personal services 307.7 307.7

(b) Employee benefits 90.2 90.2

- (c) Travel 2.6 2.6
- (d) Maintenance and repairs .6 .6
- (e) Supplies and materials 2.0 2.0
- (f) Contractual services 1.0 1.0
- (g) Operating costs 47.7 47.7
- (h) Capital outlay 5.7 5.7
- (i) Out-of-state travel 2.0 2.0

Authorized FTE: 10.00 Permanent

Other

State

Item Funds Total

- (4) Transportation division:
 - (a) Personal services 566.7 566.7
 - (b) Employee benefits 210.1 210.1
 - (c) Travel 24.1 24.1
 - (d) Maintenance and repairs 4.5 4.5
 - (e) Supplies and materials 3.7 3.7
 - (f) Contractual services 2.0 2.0
 - (g) Operating costs 209.5 209.5
 - (h) Capital outlay 42.4 42.4
 - (i) Out-of-state travel .8 .8

Authorized FTE: 23.00 Permanent

The other state funds appropriation of one million sixty-three thousand eight hundred dollars (\$1,063,800) to the transportation division of the state corporation commission shall be made from the state road fund.

Unexpended or unencumbered balances in the state corporation commission remaining at the end of the eighty-third fiscal year from appropriations made from the state road fund shall revert to the state road fund.

General Federal

Item Fund Funds Total

(5) Pipeline division:

(a) Personal services 84.5 84.6 169.1

(b) Employee benefits 29.1 29.2 58.3

(c) Travel 6.9 6.9 13.8

(d) Maintenance and repairs 1.5 1.6 3.1

(e) Supplies and materials 3.0 2.9 5.9

(f) Contractual services .5 .5 1.0

(g) Operating costs 21.3 21.2 42.5

(h) Capital outlay 6.6 6.6 13.2

(i) Out-of-state travel 2.2 2.1 4.3

Authorized FTE: 5.00 Permanent

Other

State

Item Funds Total

(6) State fire marshal:

(a) Personal services 478.9 478.9

(b) Employee benefits 156.5 156.5

- (c) Travel 61.4 61.4
- (d) Maintenance and repairs 16.3 16.3
- (e) Supplies and materials 21.1 21.1
- (f) Contractual services 4.3 4.3
- (g) Operating costs 222.5 222.5
- (h) Capital outlay 5.7 5.7
- (i) Out-of-state travel 4.0 4.0

Authorized FTE: 18.00 Permanent

Other

State

Item Funds Total

- (7) Firefighter training academy:
 - (a) Personal services 339.0 339.0
 - (b) Employee benefits 107.6 107.6
 - (c) Travel 20.6 20.6
 - (d) Maintenance and repairs 81.5 81.5
 - (e) Supplies and materials 70.2 70.2
 - (f) Contractual services 35.3 35.3
 - (g) Operating costs 92.6 92.6
 - (h) Other costs 24.0 24.0
 - (i) Capital outlay 23.3 23.3
 - (j) Out-of-state travel 1.2 1.2

Authorized FTE: 13.00 Permanent

Other

General State

Item Fund Funds Total

(8) Department of insurance:

(a) Personal services 1,799.7 68.9 1,868.6

(b) Employee benefits 610.2 24.4 634.6

(c) Travel 13.1 10.7 23.8

(d) Maintenance and repairs 3.1 9.3 12.4

(e) Supplies and materials 5.1 14.9 20.0

(f) Contractual services 31.9 677.6 709.5

(g) Operating costs 340.9 180.0 520.9

(h) Other costs 7,000.0 7,000.0

(i) Capital outlay 13.9 4.5 18.4

(j) Out-of-state travel 10.4 7.5 17.9

(k) New Mexico health

insurance alliance 150.0 150.0

Authorized FTE: 66.00 Permanent

The general fund appropriation to the department of insurance includes one hundred fifty thousand dollars (\$150,000) to establish the New Mexico health insurance alliance and to carry out the provisions of the Health Insurance Alliance Act.

Budget increases from other state funds are specifically authorized for the department of insurance. Such other state funds are appropriated.

The other state funds appropriation to the department of insurance includes twenty thousand dollars (\$20,000) from the insurance examination fund, forty thousand two hundred dollars (\$40,200) from the insurance licensee continuing education fund, one hundred fifty-eight thousand three hundred dollars (\$158,300) from the title insurance maintenance fund, five million two hundred sixty-two thousand five hundred dollars

(\$5,262,500) from the patient's compensation fund and two million five hundred sixteen thousand eight hundred dollars (\$2,516,800) from the subsequent injury fund.

Category transfers and division transfers are specifically authorized for the state corporation commission.

Subtotal 17,548.1

NEW MEXICO BOARD OF MEDICAL EXAMINERS:

Other

State

Item Funds Total

(a) Personal services 224.6 224.6

(b) Employee benefits 75.3 75.3

(c) Travel 13.8 13.8

(d) Maintenance and repairs 4.3 4.3

(e) Supplies and materials 5.3 5.3

(f) Contractual services 174.7 174.7

(g) Operating costs 34.9 34.9

(h) Capital outlay 3.5 3.5

(i) Out-of-state travel 5.0 5.0

Authorized FTE: 7.75 Permanent; 2.00 Term

Category transfers and budget increases from other state funds are specifically authorized for the New Mexico board of medical examiners. Such other state funds are appropriated.

Subtotal 541.4

BOARD OF NURSING:

Other

State

Item Funds Total

(a) Personal services 241.7 241.7

(b) Employee benefits 78.5 78.5

(c) Travel 14.0 14.0

(d) Maintenance and repairs 8.9 8.9

(e) Supplies and materials 8.0 8.0

(f) Contractual services 76.8 76.8

(g) Operating costs 97.5 97.5

(h) Other costs .2 .2

(i) Capital outlay 21.0 21.0

(j) Out-of-state travel 3.8 3.8

Authorized FTE: 8.00 Permanent; 1.00 Term

Category transfers and budget increases from other state funds are specifically authorized for the board of nursing. Such other state funds are appropriated.

Subtotal 550.4

STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND SURVEYORS:

Other

State

Item Funds Total

(a) Personal services 106.9 106.9

(b) Employee benefits 36.4 36.4

- (c) Travel 19.0 19.0
- (d) Maintenance and repairs 5.9 5.9
- (e) Supplies and materials 5.5 5.5
- (f) Contractual services 81.1 81.1
- (g) Operating costs 105.5 105.5
- (h) Capital outlay 14.6 14.6
- (i) Out-of-state travel 7.7 7.7

Authorized FTE: 5.00 Permanent

Category transfers and budget increases from other state funds are specifically authorized for the state board of registration for professional engineers and surveyors. Such other state funds are appropriated.

Subtotal 382.6

NEW MEXICO RACING COMMISSION:

General

Item Fund Total

- (a) Personal services 609.9 609.9
- (b) Employee benefits 201.4 201.4
- (c) Travel 39.1 39.1
- (d) Maintenance and repairs 3.1 3.1
- (e) Supplies and materials 16.9 16.9
- (f) Contractual services 587.8 587.8
- (g) Operating costs 97.5 97.5
- (h) Capital outlay 1.0 1.0
- (i) Out-of-state travel 3.9 3.9

Authorized FTE: 16.79 Permanent; 2.33 Temporary

Included in the general fund appropriation to the New Mexico racing commission in the contractual services category is thirty thousand dollars (\$30,000) to contract for services to provide alcohol and substance treatment, including preventive and counseling programs for persons in or associated with the racing industry.

Subtotal 1,560.6

BOARD OF VETERINARY MEDICINE:

Other

State

Item Funds Total

(a) Personal services 20.0 20.0

(b) Employee benefits 8.4 8.4

(c) Travel 11.5 11.5

(d) Maintenance and repairs 1.0 1.0

(e) Supplies and materials 2.3 2.3

(f) Contractual services 55.2 55.2

(g) Operating costs 23.3 23.3

(h) Other costs 3.0 3.0

(i) Capital outlay 6.5 6.5

(j) Out-of-state travel 6.8 6.8

Authorized FTE: 1.00 Permanent

Category transfers and budget increases from other state funds are specifically authorized for the board of veterinary medicine. Such other state funds are appropriated.

Subtotal 138.0

| | | | |
|----------------------------|---------|------------|--|
| Other | | Intrnl Svc | |
| General State Funds/Inter- | Federal | | |
| Fund Funds Agency Trnsf | Funds | Total | |

TOTAL COMMERCE AND INDUSTRY 30,066.9 22,873.1 490.2 3,953.1 57,383.3

E. AGRICULTURE, ENERGY AND NATURAL RESOURCES

OFFICE OF CULTURAL AFFAIRS:

(1) Administrative services division:

| | | |
|--|---------------|-------|
| | | Other |
| | General State | |

| Item | Fund | Funds | Total |
|-----------------------------|-------|-------|-------|
| (a) Personal services | 740.8 | | 740.8 |
| (b) Employee benefits | 232.9 | | 232.9 |
| (c) Travel | 9.4 | | 9.4 |
| (d) Maintenance and repairs | 6.9 | | 6.9 |
| (e) Supplies and materials | 17.0 | | 17.0 |
| (f) Contractual services | 50.0 | | 50.0 |
| (g) Operating costs | 30.2 | 60.0 | 90.2 |
| (h) Out-of-state travel | 2.0 | | 2.0 |

Authorized FTE: 23.00 Permanent

(2) Hispanic cultural division:

| | |
|--|---------|
| | General |
|--|---------|

| Item | Fund | Total |
|------|------|-------|
|------|------|-------|

| | | |
|-----------------------|------|------|
| (a) Personal services | 71.1 | 71.1 |
|-----------------------|------|------|

- (b) Employee benefits 15.9 15.9
- (c) Travel 3.0 3.0
- (d) Maintenance and repairs 1.0 1.0
- (e) Supplies and materials 5.0 5.0
- (f) Contractual services 30.0 30.0
- (g) Operating costs 34.5 34.5
- (h) Capital outlay 25.0 25.0

Authorized FTE: 5.00 Permanent

(3) Museum division:

Other

General State

Item Fund Funds Total

- (a) Personal services 3,982.3 131.4 4,113.7
- (b) Employee benefits 1,486.8 114.1 1,600.9
- (c) Travel 37.3 37.3
- (d) Maintenance and repairs 30.0 304.7 334.7
- (e) Supplies and materials 125.0 125.0
- (f) Contractual services 85.6 85.6
- (g) Operating costs 635.0 635.0
- (h) Other costs 232.6 232.6
- (i) Capital outlay 50.4 50.4
- (j) Out-of-state travel 5.9 5.9

Authorized FTE: 151.00 Permanent; 11.50 Term

(4) Contract archeology:

Intrnl Svc

Funds/Inter-

Item Agency Trnsf Total

(a) Personal services 792.2 792.2

(b) Employee benefits 282.3 282.3

(c) Travel 76.7 76.7

(d) Maintenance and repairs 10.2 10.2

(e) Supplies and materials 23.1 23.1

(f) Contractual services 251.5 251.5

(g) Operating costs 31.8 31.8

(h) Capital outlay 10.5 10.5

(i) Out-of-state travel 1.5 1.5

Authorized FTE: 32.00 Term

(5) Natural history museum:

Other

General State Federal

Item Fund Funds Funds Total

(a) Personal services 1,282.3 199.7 84.8 1,566.8

(b) Employee benefits 444.7 69.5 31.6 545.8

(c) Travel 15.5 15.5

(d) Maintenance and repairs 117.6 117.6

(e) Supplies and materials 71.5 71.5

- (f) Contractual services 110.0 110.0
- (g) Operating costs 250.1 102.6 352.7
- (h) Other costs 200.0 200.0
- (i) Capital outlay 25.0 25.0
- (j) Out-of-state travel 5.5 5.5

Authorized FTE: 51.50 Permanent; 12.75 Term

(6) Arts division:

Other

General State Federal

Item Fund Funds Funds Total

- (a) Personal services 376.2 48.7 424.9
- (b) Employee benefits 117.6 14.6 132.2
- (c) Travel 31.9 31.9
- (d) Maintenance and repairs 1.6 1.6
- (e) Supplies and materials 16.0 16.0
- (f) Contractual services 70.0 150.0 40.0 260.0
- (g) Operating costs 83.1 83.1
- (h) Other costs 959.9 15.0 540.1 1,515.0
- (i) Capital outlay 50.0 50.0
- (j) Out-of-state travel 4.0 4.0

Authorized FTE: 12.50 Permanent; 2.50 Term

(7) Library division:

Other

General State Federal

| Item | Fund | Funds | Funds | Total |
|-----------------------------|---------|-------|-------|---------|
| (a) Personal services | 1,298.6 | 281.9 | | 1,580.5 |
| (b) Employee benefits | 439.1 | 97.5 | | 536.6 |
| (c) Travel | 14.9 | 61.0 | 75.9 | |
| (d) Maintenance and repairs | 40.4 | 7.6 | | 48.0 |
| (e) Supplies and materials | 68.6 | 35.8 | 9.0 | 113.4 |
| (f) Contractual services | 605.0 | 77.0 | | 682.0 |
| (g) Operating costs | 223.9 | 3.7 | 99.8 | 327.4 |
| (h) Other costs | 300.0 | 276.2 | | 576.2 |
| (i) Capital outlay | 10.0 | | 10.0 | |
| (j) Out-of-state travel | 1.0 | 5.0 | | 6.0 |

Authorized FTE: 44.00 Permanent; 15.00 Term

The general fund appropriation to the library division of the office of cultural affairs in the other costs category includes fifty thousand dollars (\$50,000) to establish an office of Native American community libraries that will provide comprehensive consultation services for Native American community libraries.

(8) Historic preservation division:

| | | Other | | |
|-----------------------------|-------|---------|---------------|-------|
| | | General | State Federal | |
| Item | Fund | Funds | Funds | Total |
| (a) Personal services | 372.5 | 20.0 | 204.4 | 596.9 |
| (b) Employee benefits | 122.9 | 5.0 | 69.1 | 197.0 |
| (c) Travel | 13.1 | | 13.1 | |
| (d) Maintenance and repairs | 25.0 | | 25.0 | |

(e) Supplies and materials 18.1 18.1

(f) Contractual services 496.0 496.0

(g) Operating costs 35.0 35.0

(h) Other costs 285.0 285.0

(i) Capital outlay 17.7 17.7

(j) Out-of-state travel 5.0 5.0

Authorized FTE: 10.00 Permanent; 10.00 Term

The general fund appropriation to the historic preservation division of the office of cultural affairs in the contractual services category includes forty-six thousand dollars (\$46,000) and one term FTE to carry out the provisions of the New Mexico Mining Act; one hundred fifty thousand dollars (\$150,000) for the endowment for the humanities; and two hundred fifty thousand dollars (\$250,000) for emergency stabilization and restoration of historic properties.

(9) Space center:

Other

General State

Item Fund Funds Total

(a) Personal services 644.8 92.3 737.1

(b) Employee benefits 212.0 30.3 242.3

(c) Travel 12.5 12.5

(d) Maintenance and repairs 29.3 65.0 94.3

(e) Supplies and materials 99.7 99.7

(f) Contractual services 7.8 7.8

(g) Operating costs 79.3 118.9 198.2

(h) Capital outlay 11.0 11.0

Authorized FTE: 25.00 Permanent; 5.00 Term

(10) Farm and ranch heritage museum:

General

Item Fund Total

(a) Personal services 126.2 126.2

(b) Employee benefits 35.5 35.5

(c) Travel 5.0 5.0

(d) Maintenance and repairs 1.1 1.1

(e) Supplies and materials 3.0 3.0

(f) Operating costs 5.0 5.0

(g) Capital outlay 10.5 10.5

Authorized FTE: 5.00 Permanent

Category transfers, division transfers and budget increases from other state funds and internal service funds/interagency transfers are specifically authorized for the office of cultural affairs. Such other state funds and internal service funds/interagency transfers are appropriated.

Unexpended or unencumbered balances in the office of cultural affairs remaining at the end of the eighty-third fiscal year from appropriations made from the general fund shall not revert.

Subtotal 22,798.7

NEW MEXICO LIVESTOCK BOARD:

Other

General State Federal

Item Fund Funds Funds Total

(a) Personal services 253.4 1,538.8 253.4 2,045.6

(b) Employee benefits 87.6 569.1 87.7 744.4

(c) Travel 24.5 250.9 24.5 299.9

- (d) Maintenance and repairs .4 2.8 .4 3.6
- (e) Supplies and materials 4.2 91.7 4.2 100.1
- (f) Contractual services 20.0 123.3 20.0 163.3
- (g) Operating costs 7.0 132.6 7.0 146.6
- (h) Other costs 65.0 65.0
- (i) Capital outlay 16.4 182.9 16.4 215.7
- (j) Out-of-state travel 1.0 5.4 1.0 7.4

Authorized FTE: 77.80 Permanent

The general fund appropriation to the New Mexico livestock board for its meat inspection program, including administrative costs, is contingent upon a dollar-for-dollar match of federal funds for that program.

Category transfers and budget increases from other state funds are specifically authorized for the New Mexico livestock board. Such other state funds are appropriated.

Subtotal 3,791.6

DEPARTMENT OF GAME AND FISH:

- (1) Administration:
- Other

General State Federal

Item Fund Funds Funds Total

- (a) Personal services 32.0 5,036.0 2,568.8 7,636.8
- (b) Employee benefits 9.0 1,864.7 951.2 2,824.9
- (c) Travel 5.0 663.2 338.3 1,006.5
- (d) Maintenance and repairs 235.8 120.3 356.1
- (e) Supplies and materials 638.2 325.5 963.7
- (f) Contractual services 973.6 496.6 1,470.2

(g) Operating costs 1,218.7 621.6 1,840.3

(h) Other costs 879.2 448.5 1,327.7

(i) Capital outlay 379.1 193.3 572.4

(j) Out-of-state travel 31.4 16.0 47.4

(k) Conservation services 500.0 500.0

Authorized FTE: 225.00 Permanent; 7.00 Term; 9.50 Temporary

The general fund appropriation to the department of game and fish administration of five hundred thousand dollars (\$500,000) for conservation services ~~shall be used only for management, enhancement, research and conservation of wildlife habitat; lease, purchase, enhancement and management of wildlife habitat; assisting landowners in improving wildlife habitat; development of conservation educational programs and publications; and coordination with government and private organizations responsible for habitat, wilderness, recreation, water quality and environmental protection to ensure comprehensive conservation services for hunters, anglers and nonconsumptive wildlife users. The appropriation for conservation services [OVERSTRUCK MATERIAL HAS BEEN LINE-ITEM VETOED.]~~ may be used to employ appropriate conservation services staff and the department's authorized FTE may be increased.

The general fund appropriation to the department of game and fish administration of forty-six thousand dollars (\$46,000) shall be used to carry out the provisions of the New Mexico Mining Act.

Category transfers and budget increases from other state funds and internal service funds/interagency transfers are specifically authorized for the department of game and fish. Such other state funds and internal service funds/interagency transfers are appropriated.

(2) Share with wildlife program:

| Other | | State Federal | |
|-------|-------|---------------|-------|
| Funds | Funds | | Total |
| 50.0 | 12.0 | | 62.0 |

Category transfers and budget increases from other state funds are specifically authorized for the share with wildlife program. Such other state funds are appropriated.

(3) Endangered species program:

| Item | General Fund | Federal Funds | Total |
|-----------------------------|--------------|---------------|-------|
| (a) Personal services | 50.0 | 119.7 | 169.7 |
| (b) Employee benefits | 15.0 | 39.7 | 54.7 |
| (c) Travel | 6.0 | 12.8 | 18.8 |
| (d) Maintenance and repairs | .3 | .7 | 1.0 |
| (e) Supplies and materials | 1.0 | 3.7 | 4.7 |
| (f) Contractual services | 15.0 | 33.8 | 48.8 |
| (g) Operating costs | 4.0 | 9.4 | 13.4 |
| (h) Capital outlay | 5.0 | 12.2 | 17.2 |
| (i) Out-of-state travel | 1.0 | 1.2 | 2.2 |

Authorized FTE: 5.00 Permanent

The general fund appropriation to the endangered species program includes twenty thousand dollars (\$20,000) to be used only to provide the required state match in the event that additional federal funds become available.

Category transfers and budget increases from other state funds are specifically authorized for the endangered species program. Such other state funds are appropriated.

Subtotal 18,938.5

ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT:

(1) Office of the secretary:

| | General | Funds Total |
|-----------------------|---------|-------------|
| (a) Personal services | 485.3 | 485.3 |
| (b) Employee benefits | 158.2 | 158.2 |
| (c) Travel | 15.3 | 15.3 |

(d) Maintenance and repairs 2.8 2.8

(e) Supplies and materials 11.4 11.4

(f) Contractual services 722.5 722.5

(g) Operating costs 118.7 118.7

(h) Capital outlay 4.0 4.0

(i) Out-of-state travel 24.9 24.9

Authorized FTE: 12.00 Permanent

The general fund appropriation to the office of the secretary of energy, minerals and natural resources in the contractual services category includes two hundred nine thousand dollars (\$209,000) for youth conservation corps projects and one hundred seventy-five thousand dollars (\$175,000) to carry out the provisions of the Natural Lands Protection Act and fifty thousand dollars (\$50,000) to establish an energy research alliance to facilitate energy technology development for commercialization in New Mexico.

(2) Administrative services division:

| Item | Funds | General | Federal | Total |
|-----------------------------|---------|---------|---------|-------|
| (a) Personal services | 1,204.2 | 141.8 | 1,346.0 | |
| (b) Employee benefits | 424.5 | 43.7 | 468.2 | |
| (c) Travel | 5.1 | 13.9 | 19.0 | |
| (d) Maintenance and repairs | 18.0 | 4.4 | 22.4 | |
| (e) Supplies and materials | 20.1 | 18.5 | 38.6 | |
| (f) Contractual services | 20.8 | 1.9 | 22.7 | |
| (g) Operating costs | 228.1 | 106.1 | 334.2 | |
| (h) Capital outlay | 89.6 | 20.2 | 109.8 | |
| (i) Out-of-state travel | 3.5 | 3.5 | | |

Authorized FTE: 38.00 Permanent; 5.00 Term

(3) Energy conservation and management division:

| Item | Funds | Funds | General | Federal |
|-----------------------------|-------|---------|---------|---------|
| | | Total | | |
| (a) Personal services | 615.4 | 224.2 | 839.6 | |
| (b) Employee benefits | 173.0 | 73.6 | 246.6 | |
| (c) Travel | 5.2 | 18.7 | 23.9 | |
| (d) Maintenance and repairs | 3.0 | 3.6 | 6.6 | |
| (e) Supplies and materials | 8.1 | 12.4 | 20.5 | |
| (f) Contractual services | 1.1 | 2,522.3 | 2,523.4 | |
| (g) Operating costs | 87.1 | 86.7 | 173.8 | |
| (h) Other costs | 280.0 | | 280.0 | |
| (i) Capital outlay | 1.4 | 35.6 | 37.0 | |
| (j) Out-of-state travel | 3.4 | 10.0 | 13.4 | |

Authorized FTE: 15.00 Permanent; 9.00 Term

(4) Forestry division:

| Item | Other | General | State | Federal |
|-----------------------------|---------|---------|-------|---------|
| | Funds | Funds | Funds | Total |
| (a) Personal services | 1,270.8 | 107.5 | 261.3 | 1,639.6 |
| (b) Employee benefits | 439.3 | 16.3 | 77.2 | 532.8 |
| (c) Travel | 68.5 | 80.0 | | 148.5 |
| (d) Maintenance and repairs | 48.6 | 4.5 | 6.0 | 59.1 |
| (e) Supplies and materials | 2.4 | 8.0 | 43.0 | 53.4 |
| (f) Contractual services | 63.2 | 267.0 | | 330.2 |
| (g) Operating costs | 198.5 | 174.5 | | 373.0 |

- (h) Other costs 40.1 33.9 74.0
- (i) Capital outlay 142.0 78.2 220.2
- (j) Out-of-state travel .3 7.0 7.3
- (k) Soil and water conservation districts 265.0 265.0

Authorized FTE: 40.00 Permanent; 11.00 Term; 2.00 Temporary

The general fund appropriation to the forestry division of the energy, minerals and natural resources department in the soil and water conservation districts category includes two hundred sixty-five thousand dollars (\$265,000) to conduct soil and water conservation district activities and projects.

(5) State park and recreation division:

| Other | General State | Federal | Total | |
|-----------------------------|---------------|---------|-------|---------|
| Item Funds | Funds | Funds | Funds | |
| (a) Personal services | 3,273.8 | 1,762.7 | 126.2 | 5,162.7 |
| (b) Employee benefits | 1,368.0 | 739.5 | 55.9 | 2,163.4 |
| (c) Travel | 262.4 | 143.3 | 22.3 | 428.0 |
| (d) Maintenance and repairs | 439.4 | 239.9 | 8.3 | 687.6 |
| (e) Supplies and materials | 200.0 | 109.2 | 42.5 | 351.7 |
| (f) Contractual services | 148.1 | 80.9 | 265.7 | 494.7 |
| (g) Operating costs | 793.1 | 433.2 | 1.2 | 1,227.5 |
| (h) Other costs | 11.1 | 6.0 | | 17.1 |
| (i) Capital outlay | 573.7 | 313.3 | 90.0 | 977.0 |
| (j) Out-of-state travel | 1.8 | 1.0 | 4.0 | 6.8 |

Authorized FTE: 174.00 Permanent; 32.00 Term; 59.00 Temporary

The general fund appropriation to the state park and recreation division of the energy, minerals and natural resources department in the personal services and employee

benefits categories includes sixty thousand dollars (\$60,000) for two additional full-time permanent positions at the Rio Grande nature center.

(6) Mining and minerals division:

| Item | Other | | State | Federal | Total |
|-----------------------------|---------------|-------|---------|---------|-------|
| | General Funds | Funds | | | |
| (a) Personal services | 424.7 | 72.8 | 705.1 | 1,202.6 | |
| (b) Employee benefits | 128.0 | 25.8 | 243.9 | 397.7 | |
| (c) Travel | 33.7 | 4.7 | 46.4 | 84.8 | |
| (d) Maintenance and repairs | 1.4 | .3 | 6.6 | 8.3 | |
| (e) Supplies and materials | 8.2 | 1.5 | 22.4 | 32.1 | |
| (f) Contractual services | 38.3 | 3.2 | 1,559.7 | 1,601.2 | |
| (g) Operating costs | 56.3 | 11.3 | 122.1 | 189.7 | |
| (h) Capital outlay | 74.7 | 4.0 | 43.0 | 121.7 | |
| (i) Out-of-state travel | .5 | 13.5 | 14.0 | | |

Authorized FTE: 16.00 Permanent; 20.00 Term

The general fund appropriation to the mining and minerals division of the energy, minerals and natural resources department includes three hundred fifteen thousand three hundred dollars (\$315,300) to carry out the provisions of the New Mexico Mining Act.

(7) Oil conservation division:

| Item | Other Internl Svc | | State | Federal | Total |
|-----------------------------|-------------------|--------------------------|-------|---------|---------|
| | General Funds | Funds/Inter-Agency Trnsf | | | |
| (a) Personal services | 1,885.0 | 21.5 | 50.0 | 157.2 | 2,113.7 |
| (b) Employee benefits | 628.3 | 7.1 | 16.5 | 47.3 | 699.2 |
| (c) Travel | 68.4 | .7 | 2.1 | 11.8 | 83.0 |
| (d) Maintenance and repairs | 36.7 | .4 | .9 | 4.5 | 42.5 |

- (e) Supplies and materials 46.5 .5 1.2 2.6 50.8
- (f) Contractual services 86.0 1.5 3.2 90.7
- (g) Operating costs 602.7 6.7 9.7 3.0 622.1
- (h) Other costs 103.7 103.7
- (i) Capital outlay 176.0 2.8 178.8
- (j) Out-of-state travel 16.5 1.6 .1 3.3 21.5

Authorized FTE: 64.00 Permanent; 4.00 Term

Category transfers, division transfers and budget increases from other state funds and internal service funds/interagency transfers are specifically authorized for the energy, minerals and natural resources department. Such other state funds and internal service funds/interagency transfers are appropriated.

Subtotal 30,950.0

INTER-TRIBAL INDIAN CEREMONIAL ASSOCIATION:

Other

General State

Item Funds Funds Total

- (a) Personal services 71.0 38.2 109.2
- (b) Employee benefits 23.5 12.7 36.2
- (c) Travel 6.0 3.9 9.9
- (d) Maintenance and repairs 2.0 3.6 5.6
- (e) Supplies and materials 10.0 32.9 42.9
- (f) Contractual services 7.5 130.0 137.5
- (g) Operating costs 16.5 79.3 95.8
- (h) Other costs 8.0 193.4 201.4
- (i) Capital outlay 12.0 12.0
- (j) Out-of-state travel 1.5 1.5

Authorized FTE: 3.00 Permanent; 2.60 Term

Category transfers and budget increases from other state funds are specifically authorized for the inter-tribal Indian ceremonial association. Such other state funds are appropriated.

Subtotal 652.0

COMMISSIONER OF PUBLIC LANDS:

Other

State

Item Funds Total

- (a) Personal services 4,318.1 4,318.1
- (b) Employee benefits 1,292.2 1,292.2
- (c) Travel 97.3 97.3
- (d) Maintenance and repairs 116.9 116.9
- (e) Supplies and materials 77.2 77.2
- (f) Contractual services 213.0 213.0
- (g) Operating costs 408.5 408.5
- (h) Other costs 56.0 56.0
- (i) Capital outlay 169.0 169.0
- (j) Out-of-state travel 59.9 59.9

Authorized FTE: 139.00 Permanent; 2.00 Term; 4.00 Temporary

Budget increases from other state funds are specifically authorized for the commissioner of public lands. Such other state funds are appropriated.

Category transfers are specifically authorized for the commissioner of public lands.

Subtotal 6,808.1

NEW MEXICO PEANUT COMMISSION:

Other

State

Item Funds Total

- (a) Travel .6 .6
- (b) Maintenance and repairs 2.0 2.0
- (c) Supplies and materials 1.0 1.0
- (d) Contractual services 20.0 20.0
- (e) Operating costs 2.8 2.8
- (f) Capital outlay 6.0 6.0
- (g) Out-of-state travel 5.5 5.5

The appropriation to the New Mexico peanut commission is contingent upon compliance with the Open Meetings Act.

Category transfers are specifically authorized for the New Mexico peanut commission.

Subtotal 37.9

STATE ENGINEER:

(1) Administration:

Other

General State

Item Funds Funds Total

- (a) Personal services 5,195.2 91.5 5,286.7
- (b) Employee benefits 1,622.8 26.4 1,649.2
- (c) Travel 195.7 6.4 202.1
- (d) Maintenance and repairs 46.0 46.0
- (e) Supplies and materials 100.0 .2 100.2
- (f) Contractual services 885.2 885.2
- (g) Operating costs 891.2 7.5 898.7
- (h) Capital outlay 178.6 178.6
- (i) Out-of-state travel 37.9 37.9

Authorized FTE: 161.00 Permanent; 1.00 Term; .69 Temporary

In addition to the other state funds appropriation to administration, all receipts from the Pecos valley artesian conservancy district for repayment of the cost of the Roswell basin water master to the state engineer for expenditure in accordance with the budget submitted pursuant to the provisions of the decree in State ex rel. Reynolds v. Lewis (Chaves county cause nos. 20294 and 22600 consolidated) are appropriated to the state engineer.

(2) Special litigation fund:

General

Item Fund Total

(a) Personal services 516.2 516.2

(b) Employee benefits 158.7 158.7

(c) Travel 12.1 12.1

(d) Maintenance and repairs .5 .5

(e) Supplies and materials 13.2 13.2

(f) Contractual services 534.4 534.4

(g) Operating costs 48.0 48.0

(h) Out-of-state travel 5.6 5.6

Authorized FTE: 16.00 Permanent

Other Intrnl Svc

State Funds/Inter-

Funds Agency Trnsf Total

(3) Ute Dam operation 40.6 54.0 94.6

Authorized FTE: 1.00 Permanent

The other state funds appropriation to the state engineer for Ute Dam operation includes forty thousand six hundred dollars (\$40,600) from the game protection fund and the internal service funds/interagency transfers appropriation to the state engineer for Ute Dam operation includes five thousand dollars (\$5,000) from the Ute Dam operating fund and forty-nine thousand dollars (\$49,000) from the Ute Dam construction fund.

(4) Irrigation works construction fund programs

Other
State

Funds Total

1,725.0 1,725.0

The appropriation from the irrigation works construction fund includes: a) one hundred twenty-five thousand dollars (\$125,000) to plan watershed projects benefiting irrigation in cooperation with the United States department of agriculture pursuant to the Watershed Protection and Flood Prevention Act (P.L. 83-566); b) two hundred thousand dollars (\$200,000) to cooperate with the United States department of agriculture in designing and supervising construction of projects for improving, repairing and protecting from floods the dams, reservoirs, ditches, flumes and appurtenances of community ditch associations in the state; c) one hundred fifty thousand dollars (\$150,000) to cooperate with the United States in programs authorized by congress to reduce the nonbeneficial evaporation and transpiration of water in the Pecos river basin in New Mexico; and d) two hundred thousand dollars (\$200,000) to construct, improve, repair and protect from floods the dams, reservoirs, ditches, flumes and appurtenances of community ditch associations in the state. Not more than fifteen percent of the total cost of any one project shall be paid out of the appropriation in item d) of this paragraph, and not more than fifteen thousand dollars (\$15,000) of the appropriation in item d) of this paragraph shall be granted to any one community ditch. The state engineer may enter into cooperative agreements with the owners or commissioners of ditch associations to ensure that the work will be done in the most efficient and economical manner and may contract with the federal government or any of its agencies or instrumentalities that provide matching funds or assistance.

(5) Improvement of Rio Grande income fund programs Other

State

Funds Total

1,348.0 1,348.0

All unexpended balances in the irrigation works construction fund and the improvement of the Rio Grande income fund are appropriated for the purpose of those funds, subject to the approval of the department of finance and administration.

None of the money appropriated to the state engineer for operating or trust purposes shall be expended for primary clearing of vegetation in a phreatophyte removal project, except insofar as is required to meet the terms of the Pecos river compact between Texas and New Mexico. However, this prohibition shall not apply to removal of vegetation incidental to the construction, operation or maintenance of works for flood control or carriage of water or both.

Category transfers and budget increases from other state funds are specifically authorized for the state engineer. Such other state funds are appropriated.

Subtotal 13,740.9

PUBLIC UTILITY COMMISSION:

| | Other | |
|-----------------------------|---------|---------|
| State | | |
| Item | Funds | Total |
| (a) Personal services | 1,974.5 | 1,974.5 |
| (b) Employee benefits | 618.1 | 618.1 |
| (c) Travel | 20.8 | 20.8 |
| (d) Maintenance and repairs | 123.1 | 123.1 |
| (e) Supplies and materials | 31.7 | 31.7 |
| (f) Contractual services | 181.5 | 181.5 |
| (g) Operating costs | 184.3 | 184.3 |
| (h) Capital outlay | 11.0 | 11.0 |
| (i) Out-of-state travel | 31.7 | 31.7 |

Authorized FTE: 51.00 Permanent

The general fund appropriation to the public utility commission in the contractual services category includes seventy-two thousand five hundred dollars (\$72,500) for court reporting and shall not be expended for any other purpose.

Category transfers are specifically authorized for the public utility commission.

Subtotal 3,176.7

NEW MEXICO ORGANIC COMMODITY COMMISSION:

Other

General State

Item Fund Funds Total

(a) Personal services 20.6 20.6

(b) Employee benefits 9.5 9.5

(c) Travel 4.3 1.5 5.8

(d) Supplies and materials 1.3 .5 1.8

(e) Contractual services 7.8 5.0 12.8

(f) Operating costs 5.0 5.0

(g) Out-of-state travel 1.0 1.0

Authorized FTE: 1.00 Term

Category transfers are specifically authorized for the New Mexico organic commodity commission.

Subtotal 56.5

Other Internl Svc

General State Funds/Inter- Federal

Funds Funds Agency Trnsf Funds Total

TOTAL AGRICULTURE,

ENERGY AND

NATURAL RESOURCES 48,984.8 32,918.5 1,620.3 17,427.3 100,950.9

F. HEALTH, HOSPITALS AND HUMAN SERVICES

COMMISSION ON THE STATUS OF WOMEN:

General

Item Funds Total

(a) Personal services 208.6 208.6

(b) Employee benefits 61.5 61.5

- (c) Travel 14.4 14.4
- (d) Maintenance and repairs 2.7 2.7
- (e) Supplies and materials 6.5 6.5
- (f) Contractual services 2.0 2.0
- (g) Operating costs 65.0 65.0
- (h) Capital outlay 1.5 1.5
- (i) Out-of-state travel 2.0 2.0

Authorized FTE: 8.00 Permanent

Category transfers are specifically authorized for the commission on the status of women.

Subtotal 364.2

COMMISSION FOR DEAF AND HARD OF HEARING PERSONS:

- | | General | |
|-----------------------------|---------|-------|
| Item | Funds | Total |
| (a) Personal services | 166.9 | 166.9 |
| (b) Employee benefits | 56.0 | 56.0 |
| (c) Travel | 11.1 | 11.1 |
| (d) Maintenance and repairs | 3.5 | 3.5 |
| (e) Supplies and materials | 11.8 | 11.8 |
| (f) Contractual services | 28.6 | 28.6 |
| (g) Operating costs | 53.4 | 53.4 |
| (h) Other costs | 3.5 | 3.5 |
| (i) Capital outlay | 5.0 | 5.0 |
| (j) Out-of-state travel | 3.0 | 3.0 |

Authorized FTE: 6.00 Permanent

Category transfers and budget increases from internal service funds/interagency transfers are specifically authorized for the commission for deaf and hard of hearing persons. Such internal service funds/interagency transfers are appropriated.

Subtotal 342.8

MARTIN LUTHER KING, JR. COMMISSION:

General

Item Funds Total

- (a) Personal services 50.3 50.3
- (b) Employee benefits 13.6 13.6
- (c) Travel 2.6 2.6
- (d) Maintenance and repairs 1.0 1.0
- (e) Supplies and materials 5.0 5.0
- (f) Contractual services 50.0 50.0
- (g) Operating costs 19.8 19.8
- (h) Capital outlay 1.0 1.0
- (i) Out-of-state travel 2.0 2.0

Authorized FTE: 2.00 Permanent

The general fund appropriation to the Martin Luther King, Jr. commission in the contractual services category includes twenty-five thousand dollars (\$25,000) for the youth at-risk outreach program.

Category transfers are specifically authorized for the Martin Luther King, Jr. commission.

Subtotal 145.3

COMMISSION FOR THE BLIND:

Other

General State Federal

Items Funds Funds Funds Total

- (a) Personal services 515.7 303.9 1,496.0 2,315.6
- (b) Employee benefits 138.7 154.6 407.0 700.3
- (c) Travel 44.4 19.9 44.8 109.1
- (d) Maintenance and repairs 8.1 27.8 9.5 45.4
- (e) Supplies and materials 31.7 61.2 48.0 140.9
- (f) Contractual services 30.4 38.0 4.8 73.2
- (g) Operating costs 67.9 95.6 181.2 344.7
- (h) Other costs 516.2 357.4 742.4 1,616.0
- (i) Capital outlay 44.6 18.0 99.1 161.7
- (j) Out-of-state travel 3.7 3.6 4.4 11.7

Authorized FTE: 103.50 Permanent; 3.00 Term; 1.20 Temporary

Category transfers and budget increases from other state funds are specifically authorized for the commission for the blind. Such other state funds are appropriated.

Unexpended or unencumbered balances in the commission for the blind remaining at the end of the eighty-third fiscal year from appropriations made from the general fund shall not revert.

Subtotal 5,518.6

OFFICE OF INDIAN AFFAIRS:

Internl Svc

| | |
|--|-------------------------------|
| | General Funds/Inter- |
| | Item Funds Agency Trnsf Total |

- (a) Personal services 320.6 320.6
- (b) Employee benefits 88.7 88.7
- (c) Travel 15.2 15.2
- (d) Maintenance and repairs 1.0 1.0

- (e) Supplies and materials 6.0 6.0
- (f) Contractual services 5.0 519.6 524.6
- (g) Operating costs 24.0 24.0
- (h) Other costs 200.0 200.0
- (i) Capital outlay 6.0 6.0
- (j) Out-of-state travel 2.0 2.0

Authorized FTE: 11.00 Permanent

Category transfers and budget increases from internal service funds/interagency transfers are specifically authorized for the office of Indian affairs. Such internal service funds/interagency transfers are appropriated.

Subtotal 1,188.1

STATE AGENCY ON AGING:

(1) Administration:

| Items | General Funds | Federal Funds | Total |
|-------|------------------|------------------|-------|
|-------|------------------|------------------|-------|

- | | | | |
|-----------------------------|-------|-------|-------|
| (a) Personal services | 505.3 | 253.4 | 758.7 |
| (b) Employee benefits | 153.8 | 86.8 | 240.6 |
| (c) Travel | 18.2 | 12.9 | 31.1 |
| (d) Maintenance and repairs | 1.5 | .5 | 2.0 |
| (e) Supplies and materials | 8.4 | 2.9 | 11.3 |
| (f) Contractual services | 11.1 | 5.6 | 16.7 |
| (g) Operating costs | 39.6 | 28.9 | 68.5 |
| (h) Other costs | 1.4 | 1.4 | |
| (i) Capital outlay | 17.1 | 3.1 | 20.2 |
| (j) Out-of-state travel | 2.5 | 2.2 | 4.7 |

Authorized FTE: 24.00 Permanent

(2) Special programs:

| | General | Federal | Total |
|-------|---------|---------|-------|
| Items | Funds | Funds | Funds |

| | | | |
|-----------------------|-------|-------|-------|
| (a) Personal services | 127.3 | 125.6 | 252.9 |
|-----------------------|-------|-------|-------|

| | | | |
|-----------------------|------|------|------|
| (b) Employee benefits | 43.8 | 36.2 | 80.0 |
|-----------------------|------|------|------|

| | | | |
|------------|------|------|------|
| (c) Travel | 13.8 | 11.8 | 25.6 |
|------------|------|------|------|

| | | | |
|-----------------------------|----|----|--|
| (d) Maintenance and repairs | .5 | .5 | |
|-----------------------------|----|----|--|

| | | | |
|----------------------------|-----|-----|-----|
| (e) Supplies and materials | 3.4 | 2.5 | 5.9 |
|----------------------------|-----|-----|-----|

| | | | |
|--------------------------|-----|-----|-----|
| (f) Contractual services | 1.0 | 3.0 | 4.0 |
|--------------------------|-----|-----|-----|

| | | | |
|---------------------|------|------|------|
| (g) Operating costs | 16.0 | 35.0 | 51.0 |
|---------------------|------|------|------|

| | | | |
|-----------------|------|------|------|
| (h) Other costs | 48.8 | 12.4 | 61.2 |
|-----------------|------|------|------|

| | | | |
|-------------------------|----|-----|-----|
| (i) Out-of-state travel | .6 | 7.5 | 8.1 |
|-------------------------|----|-----|-----|

Authorized FTE: 8.00 Permanent; 1.00 Term

The general fund appropriation to special programs in the state agency on aging in the other costs category includes five thousand dollars (\$5,000) for agency administration.

Other

| | General | State | Federal | Total |
|-------|---------|-------|---------|-------|
| Items | Funds | Funds | Funds | Funds |

| | | | | |
|-------------------------|-------|-------|--|---------|
| (3) Employment programs | 774.3 | 366.9 | | 1,141.2 |
|-------------------------|-------|-------|--|---------|

| | | | | |
|------------------------|----------|------|---------|----------|
| (4) Community programs | 10,058.2 | 72.2 | 5,245.2 | 15,375.6 |
|------------------------|----------|------|---------|----------|

The general fund appropriation to community programs in the state agency on aging includes sixty-six thousand six hundred dollars (\$66,600) for health insurance and retirement benefits for employees in public service area two in northwestern New Mexico; twenty-five thousand dollars (\$25,000) to support and administer the Alamogordo intergenerational group home that houses young mothers and older individuals at risk of institutionalization; fifty-four thousand dollars (\$54,000) for a new mental health peer counseling program; thirty thousand dollars (\$30,000) to increase services to Navajo Nation elders; fifty thousand dollars (\$50,000) for nutritional, transportation, health promotion, respite care for the frail elderly and homemaker

services for senior citizens in Bernalillo county; fifty thousand dollars (\$50,000) for the Barelas senior center nutrition program in Bernalillo county; and one million five hundred thirty-five thousand dollars (\$1,535,000) to enhance community programs statewide.

~~The general fund appropriation to community programs in the state agency on aging shall not be required to comply with federal Older Americans Act regulations except that portion required as state matching funds. [OVERSTRUCK MATERIAL HAS BEEN LINE-ITEM VETOED.]~~

The amount from the general fund for community programs included in the appropriation to the stateagency on aging to supplement federal Older Americans Act programs shall be contracted to the designated area agencies on aging.

| | General | |
|------|---------|-------|
| Item | Fund | Total |

| | | |
|------------------------|---------|---------|
| (5) Volunteer programs | 2,588.3 | 2,588.3 |
|------------------------|---------|---------|

The general fund appropriation to volunteer programs in the state agency on aging includes twenty thousand dollars (\$20,000) to implement a foster grandparent and senior companion program in Colfax county and eighteen thousand dollars (\$18,000) to increase foster grandparent programs in Dona Ana county.

Category transfers, division transfers and budget increases from other state funds and internal service funds/interagency transfers are specifically authorized for the state agency on aging. Such other state funds and internal service funds/interagency transfers are appropriated.

Unexpended or unencumbered balances in the state agency on aging remaining at the end of the eighty-third fiscal year from appropriations made from the general fund shall revert to the general fund sixty days after eighty-third fiscal year audit reports have been approved by the state auditor.

Subtotal 20,749.5

HUMAN SERVICES DEPARTMENT:

(1) Administrative services division:

| Other | General | State | Federal | |
|-------|---------|-------|---------|-------|
| Items | Funds | Funds | Funds | Total |

| | | | | |
|-----------------------|---------|---------|--|---------|
| (a) Personal services | 2,074.6 | 2,569.9 | | 4,644.5 |
|-----------------------|---------|---------|--|---------|

- (b) Employee benefits 680.3 840.7 1,521.0
- (c) Travel 58.9 72.1 131.0
- (d) Maintenance and repairs 121.4 148.5 269.9
- (e) Supplies and materials 135.7 167.2 302.9
- (f) Contractual services 1,073.7 1,312.8 2,386.5
- (g) Operating costs 3,360.6 39.3 4,109.5 7,509.4
- (h) Capital outlay 35.5 45.9 81.4
- (i) Out-of-state travel 18.0 22.0 40.0

Authorized FTE: 135.50 Permanent; 4.00 Term

(2) Child support enforcement division:

Other

| | General | State | Federal | |
|-------|---------|-------|---------|-------|
| Items | Funds | Funds | Funds | Total |

- | | | | | |
|-----------------------------|-------|---------|---------|---------|
| (a) Personal services | 264.0 | 1,548.7 | 3,613.1 | 5,425.8 |
| (b) Employee benefits | 83.7 | 512.5 | 1,188.9 | 1,785.1 |
| (c) Travel | 2.2 | 30.5 | 65.4 | 98.1 |
| (d) Maintenance and repairs | .4 | 5.6 | 12.0 | 18.0 |
| (e) Supplies and materials | 10.4 | 57.3 | 134.9 | 202.6 |
| (f) Contractual services | 27.8 | 373.0 | 800.8 | 1,201.6 |
| (g) Operating costs | 53.5 | 457.1 | 1,018.9 | 1,529.5 |
| (h) Capital outlay | 10.4 | 19.8 | 30.2 | |
| (i) Out-of-state travel | .1 | 1.6 | 3.3 | 5.0 |

Authorized FTE: 223.00 Permanent

(3) Medical assistance division:

Other
 General State Federal
 Items Funds Funds Funds Total

- (a) Personal services 910.2 1,148.4 2,058.6
- (b) Employee benefits 323.4 323.5 646.9
- (c) Travel 11.0 10.9 21.9
- (d) Maintenance and repairs 4.0 4.0 8.0
- (e) Supplies and materials 58.0 57.9 115.9
- (f) Contractual services 3,121.9 447.5 9,483.2 13,052.6
- (g) Operating costs 234.2 759.0 993.2
- (h) Capital outlay 3.9 3.7 7.6
- (i) Out-of-state travel 3.0 5.7 8.7

Authorized FTE: 67.00 Permanent

Other Internl Svc
 General State Funds/Inter- Federal
 Funds Funds Agency Trnsf Funds Total

- (4) Medicaid payments 169,285.4 20,055.9 14,570.9 577,447.8 781,360.0

Included in the general fund appropriation to the human services department for medicaid payments is two million three hundred seventy-nine thousand dollars (\$2,379,000) to provide the state share necessary to expand the federal medicaid program to cover children up to age eighteen if their family income is equal to or less than one hundred eighty-five percent of the federal poverty level and to support sixty-six additional positions.

One million four hundred thousand dollars (\$1,400,000) is appropriated from the eighty-third fiscal year general fund operating reserve to the human services department, medicaid payments program, contingent upon the secretary of the human services department providing expenditure reports showing that the eighty-third fiscal year combined medicaid program expenditures for in-patient psychiatric hospitals, out-patient psychiatric services, day treatment and residential treatment have exceeded a total of twenty-seven million two hundred sixty-three thousand nine hundred dollars (\$27,263,900).

(5) Income support division:

Other

| Items | General Funds | State Funds | Federal Funds | Total |
|-------|---------------|-------------|---------------|-------|
|-------|---------------|-------------|---------------|-------|

- | | | | | |
|-----------------------------|----------|----------|-----------|-----------|
| (a) Personal services | 10,305.9 | 12,699.2 | 23,005.1 | |
| (b) Employee benefits | 4,033.2 | 4,033.3 | 8,066.5 | |
| (c) Travel | 293.4 | 293.3 | 586.7 | |
| (d) Maintenance and repairs | 241.8 | 241.7 | 483.5 | |
| (e) Supplies and materials | 256.9 | 256.9 | 513.8 | |
| (f) Contractual services | 1,080.1 | 3,725.3 | 4,805.4 | |
| (g) Operating costs | 3,070.3 | 3,070.4 | 6,140.7 | |
| (h) Other costs | 40,116.1 | 5,264.5 | 124,895.6 | 170,276.2 |
| (i) Capital outlay | 150.2 | 150.3 | 300.5 | |
| (j) Out-of-state travel | 15.3 | 15.3 | 30.6 | |

Authorized FTE: 943.00 Permanent; 9.00 Term; 25.00 Temporary

Included in the general fund appropriation to the income support division of the human services department in the contractual services category is ten thousand dollars (\$10,000) to provide services for the homeless in Los Alamos county and seventy-five thousand dollars (\$75,000) to contract with nonprofit legal services providers who regularly offer legal representation in social security matters to low-income families in order to obtain supplemental social security income for disabled children in those families.

Included in the general fund appropriation to the income support division in the other costs category is one hundred thirty-one thousand five hundred dollars (\$131,500) for project forward component costs and three million dollars (\$3,000,000) to increase the standard of need in the aid to families with dependent children and general assistance programs.

Category transfers, division transfers and budget increases from other state funds and internal service funds/interagency transfers are specifically authorized for the human services department. Such other state funds and internal service funds/interagency transfers are appropriated.

Subtotal 1,039,664.9

LABOR DEPARTMENT:

(1) Office of the secretary:

| | | Federal |
|-----------------------------|-------|---------|
| Items | Funds | Total |
| (a) Personal services | 676.6 | 676.6 |
| (b) Employee benefits | 201.5 | 201.5 |
| (c) Travel | 15.4 | 15.4 |
| (d) Maintenance and repairs | 5.2 | 5.2 |
| (e) Supplies and materials | 31.6 | 31.6 |
| (f) Contractual services | 2.8 | 2.8 |
| (g) Operating costs | 100.8 | 100.8 |
| (h) Other costs | 6.9 | 6.9 |
| (i) Capital outlay | 1.9 | 1.9 |
| (j) Out-of-state travel | 21.0 | 21.0 |

Authorized FTE: 20.00 Permanent; 1.00 Term; 1.00 Temporary

(2) Administrative services division:

| | | Federal |
|-----------------------------|---------|---------|
| Items | Funds | Total |
| (a) Personal services | 2,935.3 | 2,935.3 |
| (b) Employee benefits | 954.3 | 954.3 |
| (c) Travel | 16.9 | 16.9 |
| (d) Maintenance and repairs | 322.3 | 322.3 |
| (e) Supplies and materials | 110.0 | 110.0 |

(f) Contractual services 94.7 94.7

(g) Operating costs 571.4 571.4

(h) Other costs 28.8 28.8

(i) Capital outlay 232.4 232.4

(j) Out-of-state travel 30.9 30.9

Authorized FTE: 108.00 Permanent; 1.00 Term; 1.00 Temporary

(3) Employment security division:

| | Federal | |
|-----------------------|----------|----------|
| Items Funds Total | | |
| (a) Personal services | 11,482.4 | 11,482.4 |

(b) Employee benefits 3,874.7 3,874.7

(c) Travel 302.1 302.1

(d) Maintenance and repairs 346.1 346.1

(e) Supplies and materials 361.7 361.7

(f) Contractual services 282.0 282.0

(g) Operating costs 1,462.6 1,462.6

(h) Other costs 7,562.9 7,562.9

(i) Capital outlay 65.8 65.8

(j) Out-of-state travel 59.6 59.6

Authorized FTE: 477.00 Permanent; 2.00 Term; 10.00 Temporary

(4) Job training division:

| | General Federal | |
|------------------------|-----------------|---------|
| Items Fund Funds Total | | |
| (a) Personal services | 1,459.3 | 1,459.3 |

- (b) Employee benefits 462.5 462.5
- (c) Travel 86.4 86.4
- (d) Maintenance and repairs 10.9 10.9
- (e) Supplies and materials 92.2 92.2
- (f) Contractual services 450.0 32.9 482.9
- (g) Operating costs 351.4 351.4
- (h) Other costs 8,618.1 8,618.1
- (i) Out-of-state travel 45.8 45.8

Authorized FTE: 49.00 Permanent; 1.00 Temporary

Included in the general fund appropriation to the job training division of the labor department is fifty thousand dollars (\$50,000) to develop and implement or contract for implementation of a traditional skills and crafts training program for at-risk youth.

(5) Penalty and interest fund:

| | Other |
|-------------------|-------|
| State | |
| Items Funds Total | |

- (a) Personal services 92.6 92.6
- (b) Employee benefits 8.1 8.1
- (c) Supplies and materials 40.0 40.0
- (d) Contractual services 120.0 120.0
- (e) Other costs 235.2 235.2
- (f) Capital outlay 623.8 623.8

Authorized FTE: 8.47 Temporary

(6) Labor and industrial division:

| | General |
|-------------------|---------|
| Items Funds Total | |

- (a) Personal services 658.6 658.6
- (b) Employee benefits 220.3 220.3
- (c) Travel 27.4 27.4
- (d) Maintenance and repairs 5.4 5.4
- (e) Supplies and materials 11.5 11.5
- (f) Contractual services 4.5 4.5
- (g) Operating costs 129.5 129.5
- (h) Out-of-state travel .9 .9

Authorized FTE: 24.00 Permanent

(7) Human rights division:

| | General Federal | | |
|-------|-----------------|-------|-------|
| Items | Fund | Funds | Total |

- | | | | |
|-----------------------------|-------|------|-------|
| (a) Personal services | 393.3 | 98.8 | 492.1 |
| (b) Employee benefits | 167.7 | 41.5 | 209.2 |
| (c) Travel | 21.5 | 21.5 | |
| (d) Maintenance and repairs | 2.7 | 1.0 | 3.7 |
| (e) Supplies and materials | 6.3 | 3.1 | 9.4 |
| (f) Contractual services | 3.2 | .8 | 4.0 |
| (g) Operating costs | 71.1 | 52.6 | 123.7 |
| (h) Out-of-state travel | 2.2 | 2.2 | |

Authorized FTE: 19.00 Permanent

In addition to the authorized FTE for the labor department in the eighty-third fiscal year, the department of finance and administration is authorized to establish up to forty-four additional term FTE upon certification by the secretary of labor to the secretary of finance and administration and

notification to the legislative finance committee that federal funds are available to support the additional positions.

Category and division transfers are specifically authorized for the labor department.

Subtotal 46,813.7

WORKERS' COMPENSATION ADMINISTRATION:

(1) Office of the director:

| | Other | |
|-----------------------------|---------|---------|
| State | | |
| Items | Funds | Total |
| (a) Personal services | 1,420.5 | 1,420.5 |
| (b) Employee benefits | 422.2 | 422.2 |
| (c) Travel | 51.7 | 51.7 |
| (d) Maintenance and repairs | 8.1 | 8.1 |
| (e) Supplies and materials | 22.5 | 22.5 |
| (f) Contractual services | 68.0 | 68.0 |
| (g) Operating costs | 122.2 | 122.2 |
| (h) Capital outlay | 12.5 | 12.5 |
| (i) Out-of-state travel | 10.0 | 10.0 |

Authorized FTE: 47.00 Permanent

(2) Operations division:

| | Other | |
|-----------------------|---------|---------|
| State | | |
| Items | Funds | Total |
| (a) Personal services | 1,622.7 | 1,622.7 |
| (b) Employee benefits | 508.4 | 508.4 |
| (c) Travel | 43.2 | 43.2 |

(d) Maintenance and repairs 161.8 161.8

(e) Supplies and materials 42.2 42.2

(f) Contractual services 56.0 56.0

(g) Operating costs 687.6 687.6

(h) Capital outlay 95.6 95.6

(i) Out-of-state travel 4.2 4.2

Authorized FTE: 64.00 Permanent

(3) Regulations division:

| | Other | |
|-------|-------|-------|
| State | | |
| Items | Funds | Total |

(a) Personal services 834.6 834.6

(b) Employee benefits 249.3 249.3

(c) Travel 44.1 44.1

(d) Maintenance and repairs 8.9 8.9

(e) Supplies and materials 18.3 18.3

(f) Contractual services 665.0 665.0

(g) Operating costs 157.4 157.4

(h) Capital outlay 26.0 26.0

(i) Out-of-state travel 18.1 18.1

Authorized FTE: 32.00 Permanent

Category transfers, division transfers and budget increases from other state funds are specifically authorized for the workers' compensation administration. Such other state funds are appropriated.

Unexpended or unencumbered balances in the workers' compensation administration remaining at the end of the eighty-third fiscal year from appropriations made from the

(e) Supplies and materials .1 46.2 46.3

(f) Contractual services 763.4 763.4

(g) Operating costs 2.2 750.2 752.4

(h) Other costs 2,265.4 2,265.4

(i) Capital outlay .1 16.1 16.2

(j) Out-of-state travel .1 16.3 16.4

Authorized FTE: 84.00 Permanent; 11.00 Term

The division of vocational rehabilitation shall transfer to the general fund earnings generated by the statewide cost allocation plan.

Category transfers and budget increases from other state funds and internal service funds/interagency transfers are specifically authorized for the division of vocational rehabilitation. Such other state funds and internal service funds/interagency transfers are appropriated.

Unexpended or unencumbered balances in the division of vocational rehabilitation remaining at the end of the eighty-third fiscal year from appropriations made from the general fund shall not revert.

Subtotal 26,643.7

Intrnl Svc

General Funds/Inter-

Item Fund Agency Trnsf Total

GOVERNOR'S COMMITTEE ON CONCERNS OF THE HANDICAPPED:

(a) Personal services 212.6 35.9 248.5

(b) Employee benefits 66.7 9.3 76.0

(c) Travel 8.2 3.8 12.0

(d) Maintenance and repairs 1.2 1.1 2.3

(e) Supplies and materials 9.0 2.0 11.0

(f) Contractual services 119.7 16.3 136.0

(g) Operating costs 29.1 3.5 32.6

(h) Other costs 2.0 2.0

(i) Capital outlay 12.4 12.4

(j) Out-of-state travel 5.1 5.1

Authorized FTE: 7.00 Permanent; 1.50 Term

Budget increases from internal service funds/interagency transfers are specifically authorized for the governor's committee on concerns of the handicapped. Such internal service funds/interagency transfers are appropriated.

Category transfers are specifically authorized for the governor's committee on concerns of the handicapped.

Subtotal 537.9

Other

General State Federal

Item Fund Funds Funds Total

DEVELOPMENTAL DISABILITIES PLANNING COUNCIL:

(a) Personal services 162.1 9.3 73.3 244.7

(b) Employee benefits 54.4 2.7 20.3 77.4

(c) Travel 3.0 16.5 19.5

(d) Maintenance and repairs .3 .3

(e) Supplies and materials 5.0 .7 5.7

(f) Contractual services 27.5 27.5

(g) Operating costs 10.0 47.1 57.1

(h) Other costs 4.0 388.6 392.6

(i) Capital outlay 5.0 5.0

(j) Out-of-state travel 1.9 1.9

Authorized FTE: 6.00 Permanent; 2.00 Term

The general fund appropriation to the developmental disabilities planning council in the personal services and employee benefits categories includes thirty thousand dollars (\$30,000) for one intern term position from a Native American governmental or multi-tribal organization to assist in planning and implementation of developmental disabilities community services and in the contractual services category includes twenty-two thousand five hundred dollars (\$22,500) for the head injury task force program.

Category transfers are specifically authorized for the developmental disabilities planning council.

Subtotal 831.7

Other

State Federal

Item Funds Funds Total

MINERS' HOSPITAL:

(a) Personal services 4,904.2 46.5 4,950.7

(b) Employee benefits 1,756.6 20.0 1,776.6

(c) Travel 50.5 50.5

(d) Maintenance and repairs 331.0 331.0

(e) Supplies and materials 1,295.4 1,295.4

(f) Contractual services 784.0 58.5 842.5

(g) Operating costs 545.4 545.4

(h) Other costs 5.0 5.0

(i) Capital outlay 200.0 200.0

(j) Out-of-state travel 11.0 11.0

Authorized FTE: 187.50 Permanent; 13.50 Term

Category transfers, division transfers and budget increases from other state funds are specifically authorized for miners' hospital. Such other state funds are appropriated.

Subtotal 10,008.1

Other

General State

Item Fund Funds Total

DEPARTMENT OF HEALTH:

(1) Office of the secretary:

(a) Personal services 912.0 5.0 917.0

(b) Employee benefits 88.3 1.0 89.3

(c) Travel 5.5 5.5

(d) Maintenance and repairs 1.0 1.0

(e) Supplies and materials 3.0 3.0

(f) Contractual services 155.0 155.0

(g) Operating costs 14.0 14.0

(h) Capital outlay 1.5 1.5

(i) Out-of-state travel 3.0 1.0 4.0

Authorized FTE: 10.00 Permanent; 1.00 Term

The general fund appropriation to the office of the secretary of health in the personal services category includes one hundred thousand dollars (\$100,000) for two FTE to carry out the provisions of House Bill 702 of the forty-first legislature, second session, and five hundred thousand dollars (\$500,000) for two FTE to carry out the provisions of the Health Service Corps Act.

The general fund appropriation to the office of the secretary of health in the contractual services category includes ninety-five thousand dollars (\$95,000) to contract with the New Mexico finance authority for assistance to the department of health and administration of the primary care capital fund, contingent upon enactment of House Bill

702 of the forty-first legislature, second session, and fifty thousand dollars (\$50,000) for operational costs of the Mora health clinic.

Intrnl Svc

General Funds/Inter- Federal

Item Fund Agency Trnsf Funds Total

(2) Administrative services division:

(a) Personal services 1,833.2 45.5 878.7 2,757.4

(b) Employee benefits 635.1 13.0 291.1 939.2

(c) Travel 12.8 .1 6.3 19.2

(d) Maintenance and repairs 17.1 33.2 50.3

(e) Supplies and materials 49.0 1.1 23.6 73.7

(f) Contractual services 105.2 51.8 157.0

(g) Operating costs 554.0 1.7 273.7 829.4

(h) Capital outlay 47.2 47.2

(i) Out-of-state travel 3.2 3.2

Authorized FTE: 93.00 Permanent; 4.00 Term

General

Item Fund Total

(3) Internal audit:

(a) Personal services 180.1 180.1

(b) Employee benefits 53.9 53.9

(c) Travel 11.0 11.0

(d) Maintenance and repairs 1.0 1.0

(e) Supplies and materials 2.0 2.0

(f) Operating costs 32.2 32.2

(g) Capital outlay 4.0 4.0

(h) Out-of-state travel 2.0 2.0

Authorized FTE: 6.00 Permanent

General

Item Fund Total

(4) General counsel:

(a) Personal services 381.2 381.2

(b) Employee benefits 114.7 114.7

(c) Travel 7.0 7.0

(d) Maintenance and repairs 2.0 2.0

(e) Supplies and materials 6.8 6.8

(f) Contractual services 12.0 12.0

(g) Operating costs 25.1 25.1

(h) Capital outlay 5.0 5.0

(i) Out-of-state travel 1.0 1.0

Authorized FTE: 10.00 Permanent

General Federal

Item Fund Funds Total

(5) Epidemiology, evaluation and planning:

(a) Personal services 366.4 289.4 655.8

(b) Employee benefits 101.1 79.8 180.9

(c) Travel 7.3 5.8 13.1

- (d) Maintenance and repairs 3.0 2.3 5.3
- (e) Supplies and materials 8.9 7.0 15.9
- (f) Contractual services 693.9 70.2 764.1
- (g) Operating costs 41.4 32.7 74.1
- (h) Other costs .7 .6 1.3
- (i) Capital outlay 5.7 4.5 10.2
- (j) Out-of-state travel 5.0 4.0 9.0

Authorized FTE: 10.00 Permanent; 8.50 Term

The general fund appropriation to epidemiology, evaluation and planning of the department of health in the contractual services category includes eighty thousand dollars (\$80,000) for AIDS and human immune deficiency virus prevention and education programs; three hundred thirty-seven thousand five hundred dollars (\$337,500) to provide clinical services for persons with AIDS and the human immune deficiency virus; forty-five thousand dollars (\$45,000) for support services and housing for persons with AIDS and the human immune deficiency virus; and one hundred forty-two thousand five hundred dollars (\$142,500) for a medicaid waiver for clients with AIDS to provide medications, case management, home care and durable medical equipment.

Intrnl Svc

General Funds/Inter-

Item Fund Agency Trnsf Total

(6) Long-term care and restorative services

division:

- (a) Personal services 446.7 246.8 693.5
- (b) Employee benefits 138.0 65.0 203.0
- (c) Travel 14.9 7.6 22.5
- (d) Maintenance and repairs 2.9 1.4 4.3
- (e) Supplies and materials 10.3 5.3 15.6

(f) Contractual services 652.0 3.0 655.0

(g) Operating costs 22.5 16.7 39.2

(h) Capital outlay 2.2 6.4 8.6

(i) Out-of-state travel 3.0 3.0

Authorized FTE: 10.00 Permanent; 13.00 Term

The general fund appropriation to the long-term care and restorative services division of the department of health in the contractual services category includes one hundred fifty thousand dollars (\$150,000) for traumatic brain injury case management services and five hundred thousand dollars (\$500,000) for individual plans of care in the current disabled and elderly waiver program or separate waiver program for individuals between the ages of eighteen and fifty-five who are not currently in need of medical care.

General

Item Fund Total

(7) Health policy commission:

(a) Personal services 426.4 426.4

(b) Employee benefits 103.9 103.9

(c) Travel 63.9 63.9

(d) Maintenance and repairs 2.0 2.0

(e) Supplies and materials 14.0 14.0

(f) Contractual services 1,004.0 1,004.0

(g) Operating costs 53.7 53.7

(h) Capital outlay 10.0 10.0

(i) Out-of-state travel 2.0 2.0

Authorized FTE: 9.00 Permanent; 1.00 Term

The general fund appropriation to the health policy commission of the department of health in the personal services category includes fifty thousand dollars (\$50,000) for a

health information alliance coordinator and ninety-eight thousand three hundred dollars (\$98,300) for staff to review and develop recommendations on optimal software and hardware architecture for a comprehensive health information system.

The general fund appropriation to the health policy commission in the travel category includes thirty-eight thousand dollars (\$38,000) for per diem and mileage reimbursement of the advisory committee and task force.

The general fund appropriation to the health policy commission in the contractual services category includes two hundred fifty thousand dollars (\$250,000) for the center for population health at the university of New Mexico; fifty thousand dollars (\$50,000) to expand databases to include demographic data and other defined care data elements and to develop additional public reports; twenty-five thousand dollars (\$25,000) to contract for grant writing requests for federal and private funds for development of the health information system and for support of the health information alliance; three hundred seventy-five thousand dollars (\$375,000) to contract for development of various health information system models; and two hundred fifty thousand dollars (\$250,000) to contract for technical design assistance on the health information network.

Other Intrnl Svc

General State Funds/Inter- Federal

Item Fund Funds Agency Trnsf Funds Total

(8) Scientific laboratory

division:

(a) Personal services 2,169.3 32.6 435.0 48.4 2,685.3

(b) Employee benefits 689.6 11.5 139.0 7.2 847.3

(c) Travel 22.8 22.8

(d) Maintenance and

repairs 182.8 63.2 246.0

(e) Supplies and

materials 607.7 23.7 200.6 17.0 849.0

(f) Contractual services 357.7 9.4 69.2 436.3

(g) Operating costs 73.8 14.2 128.2 216.2

(h) Other costs 35.0 35.0

(i) Capital outlay 168.6 168.6

(j) Out-of-state travel 8.0 8.0

Authorized FTE: 79.00 Permanent; 23.00 Term

The general fund appropriation to the scientific laboratory division of the department of health includes fifty thousand dollars (\$50,000) to hire a full-time laboratory evaluation officer for milk inspection.

Other Intrnl Svc

General State Funds/Inter- Federal

Item Fund Funds Agency Trnsf Funds Total

(9) Public health

division:

(a) Personal serv-

ices 13,576.1 97.0 953.3 4,957.1 19,583.5

(b) Employee benefits 3,925.0 37.1 320.2 1,700.2 5,982.5

(c) Travel 442.3 14.5 71.8 240.2 768.8

(d) Maintenance and

repairs 142.5 1.0 3.8 24.5 171.8

(e) Supplies and

materials 3,005.9 156.0 38.7 481.9 3,682.5

(f) Contractual

services 20,465.3 28.3 17.2 3,238.9 23,749.7

(g) Operating costs 1,595.0 77.7 137.9 610.9 2,421.5

(h) Other costs 3,597.9 1,908.4 4,115.1 9,621.4

(i) Capital outlay 134.4 134.4

(j) Out-of-state

travel 29.8 1.5 7.2 41.5 80.0

Authorized FTE: 437.00 Permanent; 234.00 Term

The general fund appropriation to the public health division of the department of health in the personal services category includes one hundred seventy-five thousand dollars (\$175,000) for two FTE to increase public awareness of the need for immunizations along the border area, to expand immunization services, to expand screening and preventive treatment of tuberculosis and to develop a binational system to deal with prevention and control of communicable diseases; five hundred thousand dollars (\$500,000) for expenditure in the New Mexico-Mexico border area to implement a coordinated system of perinatal care, increase the use of lay health workers to link the community with the health care system and expand programs under the County Maternal and Child Health Plan Act; one hundred thousand dollars (\$100,000) for staff equipment and supplies at public health offices and community centers that provide family planning services, to determine the number and types of health professionals needed to deliver family planning services, to establish appropriate curricula on family planning services for border area schools and to expand continuing education on family planning services for the border area; two hundred thousand dollars (\$200,000) for three FTE to implement a border health surveillance system; and one hundred ninety-nine thousand dollars (\$199,000) for three FTE to increase operations at rural primary care clinics.

The general fund appropriation to the public health division in the contractual services category includes seventy thousand dollars (\$70,000) for home visiting programs; twenty thousand dollars (\$20,000) for battered women programs in Rio Arriba county; seventy-five thousand dollars (\$75,000) to staff and operate a state public health office in Los Alamos county; one hundred fifty thousand dollars (\$150,000) for a primary health care facility in Chaves county; five million dollars (\$5,000,000) to carry out the provisions of the Rural Primary Health Care Act which includes increasing the capacity of existing primary care clinics by providing funds for additional health care practitioners, providing retention incentives to currently employed health and dental health care practitioners in primary care clinics and providing operational support for primary care clinics; five hundred fifty thousand dollars (\$550,000) to hire five FTE and to provide statewide service coordination and reimbursement for asthma education and comprehensive medical care to children with moderate to severe asthma; one hundred thousand dollars (\$100,000) for planning, coordinating and delivering preventative and primary care services to women and children in the New Mexico-Mexico border region; one hundred ten thousand dollars (\$110,000) for expansion of existing community-based adolescent pregnancy prevention services; three hundred thousand dollars (\$300,000) to establish

rural diabetes education programs within primary care clinics and to establish a diabetes control program; forty thousand dollars (\$40,000) to expand sexual abuse prevention programs; seventy-eight thousand dollars (\$78,000) to expand youth support groups promoting self-esteem; two hundred thousand dollars (\$200,000) to increase support of dental clinics; twenty thousand dollars (\$20,000) to conduct a study on the feasibility of locating new dental clinics in Gallup, Grants, Hobbs and Silver City; six hundred twenty-five thousand dollars (\$625,000) to carry out the provisions of the Rural Primary Health Care Act; thirty-five thousand dollars (\$35,000) to establish a program of birth defects prevention through education; three hundred sixty thousand dollars (\$360,000) for maternal and child health services planning councils; three million dollars (\$3,000,000) to carry out the provisions of the Emergency Medical Services Act; and nineteen thousand dollars (\$19,000) for a drug program in Carlsbad in Eddy county. Included in the contractual services category is funding for family planning services in Deming, Las Cruces and Silver City.

Other Intrnl Svc

General State Funds/Inter-

| Item | Fund | Funds | Agency | Trnsf | Total |
|-----------------------------|---------|---------|--------|-------|---------|
| (10) Southern New Mexico | | | | | |
| rehabilitation center: | | | | | |
| (a) Personal services | 1,308.4 | 1,245.1 | 283.7 | | 2,837.2 |
| (b) Employee benefits | 494.6 | 467.2 | 106.8 | | 1,068.6 |
| (c) Travel | 9.6 | 9.0 | 2.1 | | 20.7 |
| (d) Maintenance and repairs | 58.3 | 55.4 | 12.7 | | 126.4 |
| (e) Supplies and materials | 102.3 | 97.8 | 22.2 | | 222.3 |
| (f) Contractual services | 95.7 | 91.2 | 20.8 | | 207.7 |
| (g) Operating costs | 133.9 | 124.1 | 28.7 | | 286.7 |
| (h) Other costs | 9.2 | 8.8 | 2.0 | | 20.0 |

(i) Capital outlay 31.1 17.3 19.2 67.6

(j) Out-of-state travel 2.2 2.2

Authorized FTE: 108.00 Permanent; 8.00 Term

| Item Fund | Other Intrnl Svc | | |
|-----------|------------------|--------------------|--------------------------|
| | General | State Funds/Inter- | Funds Agency Trnsf Total |

(11) Northern New Mexico

rehabilitation center:

(a) Personal services 786.9 616.3 442.8 1,846.0

(b) Employee benefits 312.3 244.6 175.9 732.8

(c) Travel 12.7 9.9 7.2 29.8

(d) Maintenance and

repairs 12.8 10.0 7.2 30.0

(e) Supplies and

materials 46.3 36.3 26.1 108.7

(f) Contractual services 76.6 60.0 43.2 179.8

(g) Operating costs 41.1 32.2 23.1 96.4

(h) Other costs 3.2 2.5 1.8 7.5

(i) Capital outlay 3.2 2.7 1.7 7.6

(j) Out-of-state travel 1.0 .7 .6 2.3

Authorized FTE: 76.00 Permanent; 8.00 Term

| Intrnl Svc | |
|----------------------|---------|
| General Funds/Inter- | Federal |

Item Fund Agency Trnsf Funds Total

(12) Women, infants and

children program:

(a) Personal services 169.8 198.9 2,854.7 3,223.4

(b) Employee benefits 53.9 62.5 1,004.4 1,120.8

(c) Travel 86.2 86.2

(d) Maintenance and

repairs 38.3 38.3

(e) Supplies and

materials 1,213.1 23,943.4 25,156.5

(f) Contractual services 7.2 2,198.0 2,205.2

(g) Operating costs 536.2 536.2

(h) Capital outlay 988.7 988.7

(i) Out-of-state travel 11.3 11.3

Authorized FTE: 160.00 Term

The general fund appropriation to the women, infants and children program in the department of health includes four hundred forty thousand dollars (\$440,000) to increase program services.

General

Item Fund Total

(13) Community coordinated in-home care

waivers 5,535.6 5,535.6

General Federal

Item Fund Funds Total

(14) Community programs--mental health 20,134.5 1,488.7 21,623.2

The general fund appropriation to community programs--mental health includes one hundred seventy-five thousand dollars (\$175,000) to expand services, including counseling, therapeutic and crisis prevention, to victims of rape in northern New Mexico; two million two hundred twenty-five thousand dollars (\$2,225,000) to expand the mental health in the 90s program for seriously disabled mentally ill persons; and one hundred thousand dollars (\$100,000) to conduct a study of mental health issues concerning Native Americans, including urban Native Americans.

General Federal

Item Fund Funds Total

(15) Community programs--substance abuse 7,484.6 5,621.0 13,105.6

The general fund appropriation to community programs--substance abuse includes three hundred thirty-one thousand dollars (\$331,000) for additional substance abuse treatment beds in planning district two.

General

Item Fund Total

(16) Community programs--developmental

disabilities 29,301.1 29,301.1

The general fund appropriation to community programs--developmental disabilities may be used as state match for expansion of the developmental disabilities waiver under community coordinated in-home care waivers.

The general fund appropriation to community programs--developmental disabilities includes one million dollars (\$1,000,000) for rate increases for community providers of services to persons with developmental disabilities; one hundred thousand dollars (\$100,000) to provide training to direct service staff; one hundred fifty thousand dollars (\$150,000) to provide early intervention services to children from birth to three years of age; and ninety thousand dollars (\$90,000) to provide preschool and infant evaluations of infants and toddlers who have developmental disabilities or are at risk of delay.

General

Item Fund Total

(17) Community programs--audit 115.0 115.0

The appropriation to the community-based programs shall not be applied for any other purpose and shall be contingent upon no transfers occurring between the substance abuse, mental health and developmental disabilities components.

General Federal

Item Fund Funds Total

(18) Behavioral health

services division:

(a) Personal services 499.5 132.8 632.3

(b) Employee benefits 148.4 37.1 185.5

(c) Travel 5.1 22.9 28.0

(d) Maintenance and

repairs 8.4 8.4

(e) Supplies and

materials 1.0 14.0 15.0

(f) Contractual services 20.0 20.0

(g) Operating costs 72.9 72.9

(h) Out-of-state travel 4.0 4.0

Authorized FTE: 15.00 Permanent; 3.00 Term

Intrnl Svc

General Funds/Inter- Federal

Item Fund Agency Trnsf Funds Total

(19) Mental health division:

(a) Personal services 584.3 75.7 260.7 920.7

(b) Employee benefits 175.6 22.8 78.4 276.8

(c) Travel 20.9 2.7 9.3 32.9

(d) Maintenance and

repairs 2.6 .3 1.1 4.0

(e) Supplies and

materials 13.5 1.7 6.0 21.2

(f) Contractual services 284.8 28.8 99.2 412.8

(g) Operating costs 59.0 7.6 26.3 92.9

(h) Out-of-state travel 3.3 .4 1.5 5.2

Authorized FTE: 22.00 Permanent; 5.00 Term

The general fund appropriation to the mental health division of the department of health in the contractual services category includes thirty-three thousand dollars (\$33,000) to expand existing community mental health services to include mental health services for children in the public schools system and thirty thousand dollars (\$30,000) to provide training of and educational programs for mental health treatment guardians.

Intrnl Svc

General Funds/Inter- Federal

Item Fund Agency Trnsf Funds Total
(20) Developmental disabilities

division:

(a) Personal services 1,952.3 366.6 187.2 2,506.1

(b) Employee benefits 549.6 106.4 54.3 710.3

(c) Travel 49.6 9.6 4.9 64.1

(d) Maintenance and

repairs 10.8 2.1 1.1 14.0

(e) Supplies and

materials 42.6 8.2 4.2 55.0

(f) Contractual services 1,705.4 293.1 149.6 2,148.1

(g) Operating costs 242.3 46.9 24.0 313.2

(h) Other costs 11.7 2.2 1.1 15.0

(i) Capital outlay 10.8 2.1 1.1 14.0

(j) Out-of-state travel 10.8 2.1 1.1 14.0

Authorized FTE: 49.00 Permanent; 35.00 Term

The general fund appropriation to the developmental disabilities division of the department of health in the personal services category includes sixty thousand dollars (\$60,000) for one FTE to provide assistance, training and support of staff and to provide services for persons with autism.

The general fund appropriation to the developmental disabilities division in the contractual services category includes sixty thousand dollars (\$60,000) for independent case management services; fifty-seven thousand dollars (\$57,000) to expand medicaid case management services; sixty thousand dollars (\$60,000) to contract for guardianship services; and fifteen thousand dollars (\$15,000) for a Native American internship to assist in the development of services for Native American communities throughout the state.

Other Intrnl Svc

General State Funds/Inter-
Item Fund Funds Agency Trnsf Total

(21) New Mexico state hospital:

(a) Personal services 15,347.0 1,165.9 5,660.5 22,173.4

(b) Employee benefits 5,839.4 442.8 2,153.6 8,435.8

(c) Travel 82.3 6.2 30.4 118.9

(d) Maintenance and
repairs 400.2 30.4 147.6 578.2

(e) Supplies and
materials 1,049.4 79.6 387.0 1,516.0

(f) Contractual services 1,176.7 89.3 434.0 1,700.0

(g) Operating costs 1,075.5 81.6 396.7 1,553.8

(h) Other costs 221.5 16.8 81.7 320.0

(i) Capital outlay 80.8 6.1 29.8 116.7

(j) Out-of-state travel 6.9 .5 2.6 10.0

Authorized FTE: 940.00 Permanent; 49.00 Term

Other Intrnl Svc

General State Funds/Inter-

Item Fund Fund Agency Trnsf Total

(22) Adolescent residential

treatment facility:

(a) Personal services 998.7 1,582.4 2,581.1

(b) Employee benefits 289.1 458.1 747.2

(c) Travel 5.1 8.0 13.1

(d) Maintenance and
repairs 23.8 37.6 61.4

(e) Supplies and
materials 101.2 32.6 160.4 294.2

(f) Contractual services 57.2 90.7 147.9

(g) Operating costs 60.2 95.4 155.6

(h) Other costs 6.7 10.5 17.2

(i) Capital outlay 8.2 13.0 21.2

(j) Out-of-state travel .7 1.3 2.0

Authorized FTE: 131.50 Permanent

Other Intrnl Svc

General State Funds/Inter- Federal

Item Fund Funds Agency Trnsf Funds Total

(23) Fort Bayard medical

center:

(a) Personal services 1,267.2 932.8 5,170.3 220.2 7,590.5

(b) Employee benefits 541.9 362.8 1,960.9 84.1 2,949.7

(c) Travel 7.8 7.3 39.3 1.4 55.8

(d) Maintenance and

repairs 45.5 44.3 236.6 14.2 340.6

(e) Supplies and

materials 168.1 167.8 920.6 33.9 1,290.4

(f) Contractual services 11.2 10.5 57.0 2.3 81.0

(g) Operating costs 74.2 72.6 398.0 14.0 558.8

(h) Other costs 2.4 2.2 11.9 .5 17.0

(i) Capital outlay 14.7 14.1 74.1 5.6 108.5

(j) Out-of-state travel .8 .4 2.2 .2 3.6

Authorized FTE: 325.00 Permanent; 25.00 Term

Other Intrnl Svc

General State Funds/Inter- Federal

Item Fund Funds Agency Trnsf Funds Total

(24) Turquoise lodge:

(a) Personal services 1,059.1 51.5 1,110.6

(b) Employee benefits 366.3 23.0 389.3

(c) Travel 5.0 2.1 7.1

(d) Maintenance and

repairs 39.4 2.1 41.5

(e) Supplies and

materials 91.6 25.5 117.1

(f) Contractual services 74.9 8.1 109.0 192.0

(g) Operating costs 26.0 19.3 20.7 66.0

(h) Other costs 1.5 1.5

(i) Capital outlay 14.4 14.4

(j) Out-of-state travel 1.0 1.0

Authorized FTE: 44.00 Permanent; 1.00 Term

Other Intrnl Svc

General State Funds/Inter- Federal

Item Fund Funds Agency Trnsf Funds Total

(25) Los Lunas hospital:

(a) Personal services 4,029.8 379.0 9,367.6 20.0 13,796.4

(b) Employee benefits 1,935.9 187.3 4,615.0 7.0 6,745.2

(c) Travel 18.0 1.7 42.9 62.6

(d) Maintenance and

repairs 82.5 8.0 196.8 287.3

(e) Supplies and

materials 295.5 28.6 704.5 1,028.6

(f) Contractual

services 377.8 49.6 1,222.5 1,649.9

(g) Operating costs 237.1 22.9 565.2 825.2

(h) Other costs 5.1 .5 12.1 239.6 257.3

(i) Capital outlay 33.8 3.3 80.5 117.6

(j) Out-of-state

travel 2.6 .3 6.2 9.1

Authorized FTE: 608.00 Permanent; 92.00 Term

The general fund appropriation to Los Lunas hospital of the department of health includes one million six hundred thousand dollars (\$1,600,000) to replace medicaid revenue lost as clients move into community-based services and is contingent upon certification by the secretary of health that funds are required and submission of a plan to the secretary of finance and administration detailing the number of clients transferred from the facility, the resulting loss of revenue and the court-ordered actions that required the additional expenditures.

Other Intrnl Svc

General State Funds/Inter-

Items Fund Funds Agency Trnsf Total

(26) Fort Stanton hospital:

(a) Personal services 1,922.6 35.6 3,021.5 4,979.7

(b) Employee benefits 725.7 14.2 1,203.2 1,943.1

(c) Travel 15.5 .3 25.6 41.4

(d) Maintenance and

repairs 71.9 1.4 119.1 192.4

(e) Supplies and

materials 215.4 4.2 357.2 576.8

(f) Contractual services 11.7 1.7 143.7 157.1

(g) Operating costs 185.2 3.6 307.2 496.0

(h) Other costs 4.1 6.5 10.6

(i) Capital outlay 18.6 .4 31.0 50.0

(j) Out-of-state travel .8 1.4 2.2

Authorized FTE: 216.00 Permanent; 17.00 Term

The general fund appropriation to Fort Stanton hospital of the department of health includes one million eight hundred thousand dollars (\$1,800,000) to replace medicaid revenue lost as clients move into community-based services and is contingent upon certification by the secretary of health that funds are required and submission of a plan to the secretary of finance and administration detailing the number of clients transferred from the facility, the resulting loss of revenue, the court-ordered actions that required the additional expenditures and the status of the transition to a long-term care facility.

Other Intrnl Svc

General State Funds/Inter- Federal

Item Fund Funds Agency Trnsf Funds Total

(27) New Mexico veterans'

center:

(a) Personal services 187.0 931.8 1,604.2 858.7 3,581.7

(b) Employee benefits 103.7 542.6 307.9 294.1 1,248.3

(c) Travel 5.9 10.3 5.2 6.0 27.4

(d) Maintenance and

repairs 53.1 93.8 44.8 53.4 245.1

(e) Supplies and

materials 95.6 277.8 154.0 147.0 674.4

(f) Contractual

services 54.0 96.0 45.7 54.3 250.0

(g) Operating costs 69.0 126.9 59.5 69.3 324.7

(h) Other costs 3.9 6.9 3.3 3.9 18.0

(i) Capital outlay 2.8 8.8 15.3 16.8 43.7

(j) Out-of-state travel 1.1 .4 1.5

Authorized FTE: 142.00 Permanent; 34.00 Term

Nine hundred twenty-five thousand dollars (\$925,000) is appropriated from the general fund operating reserve for the New Mexico veterans' center of the department of health, contingent upon certification by the secretary of health to the secretary of finance and administration that funds are required for replacement of unearned revenue and detailing the census status of the center that resulted in loss of revenue.

Category transfers, division transfers and budget increases from other state funds and internal service funds/interagency transfers are specifically authorized for the department of health. Such other state funds and internal service funds/interagency transfers are appropriated.

Subtotal 298,350.0

DEPARTMENT OF ENVIRONMENT:

Other Intrnl Svc

General State Funds/Inter- Federal

Items Fund Funds Agency Trnsf Funds Total

(1) Office of the secretary:

(a) Personal services 357.6 258.4 255.1 478.6 1,349.7

(b) Employee benefits 134.3 79.2 85.8 144.4 443.7

(c) Travel 12.6 1.6 4.4 18.6

(d) Maintenance and

repairs 1.3 .6 1.9 3.8

(e) Supplies and

materials 5.3 .7 3.5 9.5

(f) Contractual

services 40.7 23.8 24.0 88.5

(g) Operating costs 33.7 4.4 23.7 61.8

(h) Capital outlay 2.3 4.9 7.2

(i) Out-of-state travel 6.4 1.6 8.0

Authorized FTE: 13.00 Permanent; 29.00 Term

The general fund appropriation to the office of the secretary of the department of environment in the operating costs category includes five thousand dollars (\$5,000) to pay dues for the environmental council of the states.

Other

General State Federal

Item Fund Funds Funds Total

(2) Administrative services

division:

(a) Personal services 601.3 448.9 1,017.8 2,068.0

(b) Employee benefits 173.6 144.3 291.9 609.8

(c) Travel 2.4 1.8 9.1 13.3

(d) Maintenance and

repairs 79.7 58.6 107.6 245.9

(e) Supplies and

materials 6.6 5.0 15.8 27.4

(f) Contractual services 200.0 32.3 32.8 265.1

(g) Operating costs 71.2 14.0 33.1 118.3

(h) Capital outlay 57.9 36.6 65.7 160.2

(i) Out-of-state travel 1.6 1.0 9.0 11.6

Authorized FTE: 41.00 Permanent; 27.00 Term

The general fund appropriation to the administrative services division of the department of environment in the contractual services category includes one hundred fifty thousand dollars (\$150,000) to be expended only for the construction programs bureau of the administrative services division to enter into a contract for that amount with the infrastructure development assistance program at the university of New Mexico for work on community infrastructure needs.

Other Intrnl Svc

General State Funds/Inter-
Item Fund Funds Agency Trnsf Total

(3) Environmental protection

division:

(a) Personal services 1,475.0 2,279.6 1,605.7 5,360.3

(b) Employee benefits 487.0 885.3 296.9 1,669.2

(c) Travel 120.0 116.5 27.6 264.1

(d) Maintenance and
repairs 25.0 11.5 7.6 44.1

(e) Supplies and
materials 175.0 34.6 23.0 232.6

(f) Contractual services 150.0 8,406.1 8,556.1

(g) Operating costs 200.0 373.4 177.7 751.1

(h) Other costs 7,813.1 24.0 7,837.1

(i) Capital outlay 35.0 215.0 143.4 393.4

(j) Out-of-state travel 10.0 55.6 37.0 102.6

Authorized FTE: 75.00 Permanent; 115.00 Term

Included in the general fund appropriation to the environmental protection division of the department of environment is one hundred fifty thousand dollars (\$150,000) to provide

general fund match for federally funded programs.

Other
General State Federal
Item Fund Funds Funds Total

(4) Field operations division:

(a) Personal services 2,313.2 1,342.8 300.4 3,956.4

(b) Employee benefits 709.2 411.6 92.2 1,213.0

(c) Travel 120.0 69.6 15.6 205.2

(d) Maintenance and repairs 19.1 11.1 2.5 32.7

(e) Supplies and materials 63.7 36.9 8.3 108.9

(f) Contractual services 677.7 393.3 88.1 1,159.1

(g) Operating costs 430.0 249.5 55.9 735.4

(h) Capital outlay 110.9 64.4 14.4 189.7

(i) Out-of-state travel 21.0 12.2 2.7 35.9

Authorized FTE: 101.00 Permanent; 35.00 Term

Other Intrnl Svc
General State Funds/Inter- Federal
Item Fund Funds Agency Trnsf Funds Total

(5) Water and waste
management division:

(a) Personal services 1,668.7 134.9 120.3 2,761.0 4,684.9

(b) Employee benefits 546.5 38.9 34.7 776.6 1,396.7

(c) Travel 103.6 8.7 7.8 195.3 315.4

(d) Maintenance and
repairs 12.7 1.1 1.0 32.8 47.6

- (e) Supplies and materials 66.1 5.6 5.0 131.0 207.7
- (f) Contractual services 434.0 33.6 30.0 866.9 1,364.5
- (g) Operating costs 187.0 15.7 14.1 324.8 541.6
- (h) Capital outlay 104.6 8.8 7.9 270.1 391.4
- (i) Out-of-state travel 32.9 2.8 2.5 73.3 111.5

Authorized FTE: 66.00 Permanent; 95.00 Term

The general fund appropriation to the water and waste management division of the department of environment includes eighty-five thousand dollars (\$85,000) for two permanent FTE to carry out the provisions of the New Mexico Mining Act.

Included in the general fund appropriation to the water and waste management division of the department of environment is one hundred thousand dollars (\$100,000) to provide general fund match for federally funded programs in hazardous waste and surface water.

Category transfers, division transfers and budget increases from other state funds and internal service funds/interagency transfers are specifically authorized for the department of environment. Such other state funds and internal service funds/interagency transfers are appropriated.

Subtotal 47,418.6

Other Intrnl Svc

General State Funds/Inter-
Item Fund Funds Agency Trnsf Total

OFFICE OF THE NATURAL RESOURCES TRUSTEE:

- (a) Personal services 129.0 129.0
- (b) Employee benefits 36.9 36.9
- (c) Travel 8.4 8.4
- (d) Maintenance and repairs .5 .5
- (e) Supplies and materials 4.0 4.0
- (f) Contractual services 10.0 75.0 40.0 125.0
- (g) Operating costs 9.2 9.2

(h) Capital outlay 3.0 3.0

(i) Out-of-state travel 2.0 2.0

Authorized FTE: 3.00 Permanent

The general fund appropriation of two hundred three thousand dollars (\$203,000) to the office of the natural resources trustee shall be expended in the eighty-third fiscal year to carry out the provisions of the Natural Resources Trustee Act to be reimbursed to the general fund via interest and earnings accrued by the natural resources trustee fund.

Budget increases from other state funds and internal service funds/interagency transfers are specifically authorized for the office of the natural resources trustee. Such other state funds and internal service funds/interagency transfers are appropriated.

Category transfers are specifically authorized for the office of the natural resources trustee.

Subtotal 318.0

General

Items Fund Total

VETERANS' SERVICE COMMISSION:

(a) Personal services 713.3 713.3

(b) Employee benefits 246.9 246.9

(c) Travel 47.5 47.5

(d) Maintenance and repairs 8.1 8.1

(e) Supplies and materials 10.0 10.0

(f) Contractual services 224.5 224.5

(g) Operating costs 82.6 82.6

(h) Other costs 3.0 3.0

(i) Capital outlay 1.0 1.0

(j) Out-of-state travel 2.0 2.0

Authorized FTE: 27.50 Permanent

Category transfers are specifically authorized for the veterans' service commission.

Subtotal 1,338.9

CHILDREN, YOUTH AND FAMILIES DEPARTMENT:

General Federal

Item Fund Funds Total

(1) Office of the secretary:

(a) Personal services 929.5 36.9 966.4

(b) Employee benefits 260.3 18.5 278.8

(c) Travel 53.7 11.5 65.2

(d) Maintenance and repairs 1.0 1.0

(e) Supplies and materials 12.1 2.5 14.6

(f) Contractual services 26.7 122.6 149.3

(g) Operating costs 152.2 11.6 163.8

(h) Other costs 408.6 235.2 643.8

(i) Out-of-state travel 4.7 2.0 6.7

Authorized FTE: 23.00 Permanent; 2.00 Term; 1.00 Temporary

Intrnl Svc

General Funds/Inter- Federal

Item Fund Agency Trnsf Funds Total

(2) Managed care pool:

(a) Personal services 615.0 270.0 65.0 950.0

(b) Employee benefits 176.8 70.7 20.0 267.5

(c) Travel 2.5 2.0 12.0 16.5

(d) Supplies and materials 3.4 2.0 4.0 9.4

(e) Contractual services 2,061.2 326.7 2,387.9

(f) Operating costs 2.3 10.0 36.5 48.8

(g) Other costs 6,300.7 6,300.7

Authorized FTE: 27.00 Permanent; 2.00 Term

The general fund appropriation of eight hundred thousand dollars (\$800,000) to the managed care pool of the children, youth and families department in the personal services, employee benefits, travel, supplies and materials and operating costs categories to be matched with three hundred fifty-four thousand seven hundred dollars (\$354,700) in federal funds shown as internal service funds/interagency transfers is to be used only on the efforts of the managed care pool to provide a single point of entry for children to access mental health services and continue to divert children from costly, inappropriate inpatient psychiatric hospitals into more appropriate and less costly community-based treatment alternatives.

Included in the general fund appropriation to the managed care pool in the contractual services category is one hundred sixty-five thousand dollars (\$165,000) for outpatient drug and alcohol programs to treat adolescents with substance abuse problems.

General Federal

Item Fund Funds Total

(3) Administrative services division:

(a) Personal services 1,671.4 790.2 2,461.6

(b) Employee benefits 527.1 236.8 763.9

(c) Travel 36.7 16.5 53.2

(d) Maintenance and repairs 80.6 2.6 83.2

(e) Supplies and materials 38.5 17.3 55.8

(f) Contractual services 110.4 49.6 160.0

(g) Operating costs 1,031.1 463.2 1,494.3

(h) Capital outlay 3.9 1.8 5.7

(i) Out-of-state travel 2.8 1.2 4.0

Authorized FTE: 82.00 Permanent

Other Intrnl Svc

General State Funds/Inter- Federal
Item Fund Funds Agency Trnsf Funds Total

(4) Institutional care division director:

(a) Personal services 174.9 .1 .3 .1 175.4

(b) Employee benefits 68.5 68.5

(c) Travel 24.0 24.0

(d) Maintenance and
repairs .2 .2

(e) Supplies and
materials 4.5 4.5

(f) Contractual services 33.0 33.0

(g) Operating costs 29.7 29.7

(h) Out-of-state travel 1.7 1.7

Authorized FTE: 5.00 Permanent

Included in the general fund appropriation to the office of the director of the institutional care division of the children, youth and families department in the contractual services category is thirty-three thousand dollars (\$33,000) to establish a parenting skills program for juveniles incarcerated in state correctional facilities under the control of the children, youth and families department.

Intrnl Svc

General Funds/Inter- Federal
Item Fund Agency Trnsf Funds Total

(5) Juvenile reintegration centers:

(a) Personal services 1,607.4 600.0 2,207.4

(b) Employee benefits 735.4 168.0 903.4

(c) Travel 58.3 15.9 74.2

(d) Maintenance and repairs 70.0 19.0 89.0

(e) Supplies and materials 169.6 46.2 56.1 271.9

(f) Contractual services 37.5 11.3 48.8

(g) Operating costs 165.1 207.4 372.5

(h) Other costs 11.6 3.2 14.8

(i) Capital outlay 26.8 7.3 34.1

(j) Out-of-state travel 2.1 .6 2.7

Authorized FTE: 75.00 Permanent; 21.00 Term

Other Intrnl Svc

| General | State Funds/Inter- | Federal | |
|-----------|--------------------|-------------|-------|
| Item Fund | Funds Agency | Trnsf Funds | Total |

(6) New Mexico boys' school:

(a) Personal services 4,505.5 246.5 11.8 4,763.8

(b) Employee benefits 1,898.8 70.0 1,968.8

(c) Travel 76.0 8.0 84.0

(d) Maintenance and
repairs 191.0 191.0

(e) Supplies and
materials 321.4 290.0 611.4

(f) Contractual
services 202.3 10.0 212.3

(g) Operating costs 280.9 58.6 339.5

(h) Other costs 66.0 32.7 98.7

(i) Capital outlay 113.4 113.4

(j) Out-of-state travel 3.4 3.4

Authorized FTE: 196.00 Permanent

Other Intrnl Svc

General State Funds/Inter- Federal

Item Fund Funds Agency Trnsf Funds Total

(7) Youth diagnostic and development center:

(a) Personal services 2,902.5 196.7 7.5 3,106.7

(b) Employee benefits 1,050.5 55.0 1,105.5

(c) Travel 45.9 45.9

(d) Maintenance and repairs 65.8 65.8

(e) Supplies and materials 180.0 184.7 364.7

(f) Contractual services 118.2 118.2

(g) Operating costs 294.1 294.1

(h) Other costs 18.2 12.1 30.3

(i) Capital outlay 36.5 36.5

(j) Out-of-state travel 1.4 1.4

Authorized FTE: 121.00 Permanent

Other Intrnl Svc

General State Funds/Inter- Federal

Item Fund Funds Agency Trnsf Funds Total

(8) Community residential services

division director:

(a) Personal services 5,592.7 11.1 86.0 5,689.8

(b) Employee benefits 1,754.2 .9 27.3 1,782.4

(c) Travel 243.9 243.9

(d) Maintenance and repairs 25.6 25.6

(e) Supplies and materials 119.2 119.2

(f) Contractual services 1,055.8 678.6 1,734.4

(g) Operating costs 409.4 409.4

(h) Other costs 395.3 13.0 408.3

(i) Capital outlay 73.1 73.1

(j) Out-of-state travel 8.6 8.6

Authorized FTE: 194.00 Permanent; 12.50 Term

Included in the general fund appropriation to the office of the director of the community residential services division of the children, youth and families department in the personal services, employee benefits, supplies and materials, operating costs and capital outlay categories is one hundred sixty thousand dollars (\$160,000) for seven full-time term positions statewide to provide family services for clients who have been determined to need informal probation services.

Included in the general fund appropriation to the office of the director of the community residential services division in the contractual services category is sixty thousand dollars (\$60,000) for forensic evaluations of adjudicated youth to be performed in the community and in the other costs category is twenty thousand dollars (\$20,000) to expand the victim mediation program.

Other Intrnl Svc

General State Funds/Inter- Federal

Item Fund Funds Agency Trnsf Funds Total

(9) Juvenile community corrections 1,878.8 1,878.8

Other Intrnl Svc

General State Funds/Inter- Federal

Item Fund Funds Agency Trnsf Funds Total

(10) Risk reduction services division:

(a) Personal services 191.7 260.0 451.7

(b) Employee benefits 64.9 80.0 144.9

- (c) Travel 42.4 42.4
- (d) Maintenance and repairs .5 .5
- (e) Supplies and materials 18.7 2.9 21.6
- (f) Contractual services 3,511.0 57.0 3,568.0
- (g) Operating costs 61.2 9.0 70.2
- (h) Other costs 2,145.3 3,065.7 625.4 5,836.4
- (i) Out-of-state travel 12.0 12.0

Authorized FTE: 11.00 Permanent; 4.00 Term

~~Included in the general fund appropriation to the risk reduction services division of the children, youth and families department in the contractual services category is one hundred seventeen thousand dollars (\$117,000) to expand teenage pregnancy services. [OVERSTRUCK MATERIAL HAS BEEN LINE-ITEM VETOED.]~~

Included in the general fund appropriation to the risk reduction services division in the contractual services category is five hundred thousand dollars (\$500,000) to expand existing youth violence prevention and gang intervention efforts to produce a total of one million eight hundred sixty-seven thousand three hundred dollars (\$1,867,300) from the general fund, reflected in both the contractual services and the other costs categories, for programs and projects to reduce violent youth activities statewide.

Included in the general fund appropriation to the risk reduction services division in the other costs category is two hundred thousand dollars (\$200,000) to combine the services for families in need of services with the current children in need of supervision services.

Other Intrnl Svc

General State Funds/Inter- Federal

Item Fund Funds Agency Trnsf Funds Total

(11) Preventive services division director:

- (a) Personal services 219.3 66.0 285.3
- (b) Employee benefits 64.3 15.6 79.9
- (c) Travel 29.9 5.0 34.9

- (d) Maintenance and repairs 1.7 1.7
- (e) Supplies and materials 18.0 2.0 20.0
- (f) Contractual services 509.1 344.2 215.9 1,069.2
- (g) Operating costs 64.8 30.0 94.8
- (h) Out-of-state travel 2.0 2.5 4.5

Authorized FTE: 8.00 Permanent; 1.00 Term

The general fund appropriation to the preventive services division of the children, youth and families department in the contractual services category includes one hundred twenty-five thousand dollars (\$125,000) to expand early childhood programs.

Other Intrnl Svc

General State Funds/Inter- Federal

Item Fund Funds Agency Trnsf Funds Total

(12) Child care bureau:

- (a) Personal services 605.0 .5 1,263.1 1,868.6
- (b) Employee benefits 235.0 .2 423.7 658.9
- (c) Travel 36.5 33.8 70.3
- (d) Maintenance and repairs 7.1 6.4 13.5
- (e) Supplies and materials 31.7 30.0 61.7
- (f) Contractual services 49.1 .1 44.6 93.8
- (g) Operating costs 185.9 183.1 369.0
- (h) Other costs 7,189.3 400.4 14,467.3 22,057.0
- (i) Capital outlay 5.4 5.4 10.8
- (j) Out-of-state travel 3.1 3.1 6.2

Authorized FTE: 59.00 Permanent; 19.00 Term

Included in the general fund appropriation to the child care bureau of the children, youth and families department in the other costs category is one million one hundred sixty-three thousand one hundred dollars (\$1,163,100) for income eligible child care assistance to additional children on the waiting list; two hundred forty-eight thousand five hundred dollars (\$248,500) for additional child care resource and referral services; and forty-eight thousand four hundred dollars (\$48,400) for additional collaborative child development programs.

Other Intrnl Svc

General State Funds/Inter- Federal

Item Fund Funds Agency Trnsf Funds Total

(13) Family nutrition bureau:

(a) Personal services 629.6 629.6

(b) Employee benefits 201.2 201.2

(c) Travel 33.2 33.2

(d) Maintenance and repairs 5.5 5.5

(e) Supplies and materials 33.4 33.4

(f) Contractual services 80.0 80.0

(g) Operating costs 201.5 201.5

(h) Other costs 38,558.8 38,558.8

(i) Capital outlay 12.4 12.4

(j) Out-of-state travel 12.0 12.0

Authorized FTE: 25.00 Term

Other Intrnl Svc

General State Funds/Inter- Federal

Item Fund Funds Agency Trnsf Funds Total

(14) Child care licensure bureau:

- (a) Personal services 566.7 566.7
- (b) Employee benefits 177.5 177.5
- (c) Travel 29.6 29.6
- (d) Maintenance and repairs 3.0 3.0
- (e) Supplies and materials 13.8 13.8
- (f) Contractual services 38.0 38.0
- (g) Operating costs 92.2 92.2
- (h) Out-of-state travel .7 .7

Authorized FTE: 20.00 Permanent

Other Intrnl Svc

General State Funds/Inter- Federal

Item Fund Funds Agency Trnsf Funds Total

(15) Social services division:

- (a) Personal services 5,887.2 528.1 5,098.6 10,200.1 21,714.0
- (b) Employee benefits 3,285.4 400.0 1,085.7 2,588.4 7,359.5
- (c) Travel 378.0 300.0 200.0 300.0 1,178.0
- (d) Maintenance and repairs 40.0 45.8 25.0 25.0 135.8
- (e) Supplies and materials 108.3 83.9 100.0 292.2
- (f) Contractual services 3,553.6 264.2 4,218.8 8,036.6
- (g) Operating costs 2,497.8 62.5 585.2 585.2 3,730.7
- (h) Other costs 12,176.2 685.0 8,221.8 21,083.0
- (i) Capital outlay 10.8 91.1 101.9
- (j) Out-of-state travel 17.9 15.0 32.9

Authorized FTE: 796.70 Permanent; 20.00 Term

Included in the general fund appropriation to the social services division of the children, youth and families department in the personal services, employee benefits, supplies and materials, operating costs and capital outlay categories is three hundred twenty-five thousand dollars (\$325,000) for nine adult protective service social workers.

Included in the general fund appropriation to the social services division in the contractual services category is two hundred twenty-five thousand dollars (\$225,000) to help young persons move from substitute care to self-sufficiency through independent living programs; sixty-five thousand dollars (\$65,000) to increase adolescent shelter care beds for runaways; sixty thousand dollars (\$60,000) for family preservation services delivered to homes of adolescents at risk of out-of-home placement; one hundred fifty thousand dollars (\$150,000) for youth service programs throughout the state; seventy-five thousand dollars (\$75,000) for the prevention of adult abuse; one hundred fifty thousand dollars (\$150,000) to provide adult day care services for the frail elderly and other persons with disabilities to develop new adult day care programs and to increase unit cost rates; one hundred thousand dollars (\$100,000) to expand housekeeping and nonmedical personal care services for adults who are functionally impaired; and one hundred thirty thousand dollars (\$130,000) to increase unit cost rates and to expand statewide domestic violence services and programs.

Included in the general fund appropriation to the social services division in the other costs category is three hundred fifty thousand dollars (\$350,000) to increase base pay rates to foster parents of children in foster care.

Category transfers, division transfers and budget increases from other state funds and internal service funds/interagency transfers are specifically authorized for the children, youth and families department. Such other state funds and internal service funds/interagency transfers are appropriated.

Subtotal 188,938.2

Other Intrnl Svc

General State Funds/Inter- Federal

Item Fund Funds Agency Trnsf Funds Total

TOTAL HEALTH, HOSPITALS AND HUMAN SERVICES

540,998.7 88,339.8 78,682.9 988,531.9 1,696,553.3

G. PUBLIC SAFETY

Other Intrnl Svc

General State Funds/Inter- Federal

Item Fund Funds Agency Trnsf Funds Total

DEPARTMENT OF MILITARY AFFAIRS:

(a) Personal services 705.5 360.9 1,066.4

(b) Employee benefits 330.0 178.5 508.5

(c) Travel 64.0 8.6 72.6

(d) Maintenance and repairs 128.7 128.7

(e) Supplies and materials 9.2 2.4 11.6

(f) Contractual services 6.3 6.3

(g) Operating costs 148.4 273.4 421.8

(h) Other costs 2.5 2.5

(i) Out-of-state travel 4.9 2.8 7.7

Authorized FTE: 22.00 Permanent; 19.00 Term

The general fund appropriation to the department of military affairs in the personal services category contains sixty-four thousand six hundred eighty-four dollars (\$64,684) for the adjutant general's salary and forty-five thousand one hundred sixty-three dollars (\$45,163) for the deputy adjutant general's salary in the eighty-third fiscal year.

Category and division transfers are specifically authorized for the department of military affairs.

Subtotal 2,226.1

Other Intrnl Svc

General State Funds/Inter- Federal

Item Fund Funds Agency Trnsf Funds Total

STATE ARMORY BOARD:

(a) Personal services 202.4 317.2 519.6

- (b) Employee benefits 93.9 160.8 254.7
- (c) Travel 10.0 20.7 30.7
- (d) Maintenance and repairs 227.3 212.4 305.4 745.1
- (e) Supplies and materials 11.7 3.1 14.8
- (f) Contractual services 6.0 221.9 227.9
- (g) Operating costs 403.1 340.0 283.6 1,026.7
- (h) Out-of-state travel 4.0 48.8 52.8

Authorized FTE: 7.00 Permanent; 16.00 Term

Category transfers and budget increases from other state funds and internal service funds/interagency transfers are specifically authorized for the state armory board. Such other state funds and internal service funds/interagency transfers are appropriated.

Subtotal 2,872.3

Other Intrnl Svc

General State Funds/Inter- Federal

Item Fund Funds Agency Trnsf Funds Total

CRIME STOPPERS COMMISSION:

- (a) Personal services 101.4 101.4
- (b) Employee benefits 32.5 32.5
- (c) Travel 15.9 15.9
- (d) Maintenance and repairs 1.1 1.1
- (e) Supplies and materials 1.3 1.3
- (f) Contractual services 9.0 9.0
- (g) Operating costs 29.6 29.6
- (h) Out-of-state travel 1.3 1.3

Authorized FTE: 4.00 Permanent

Subtotal 192.1

TRANSPORTATION AND EXTRADITION OF PRISONERS:

Other Intrnl Svc

General State Funds/Inter- Federal

Fund Funds Agency Trnsf Funds Total

432.5

432.5

PAROLE BOARD:

Other Intrnl Svc

General State Funds/Inter- Federal

Item Fund Funds Agency Trnsf Funds Total

(a) Personal services 351.7 351.7

(b) Employee benefits 123.7 123.7

(c) Travel 16.3 16.3

(d) Maintenance and repairs .9 .9

(e) Supplies and materials 5.0 5.0

(f) Contractual services 4.5 4.5

(g) Operating costs 55.2 55.2

(h) Out-of-state travel 4.2 4.2

Authorized FTE: 10.00 Permanent

Category transfers are specifically authorized for the parole board.

Subtotal 561.5

JUVENILE PAROLE BOARD:

Other Intrnl Svc

General State Funds/Inter- Federal

Item Fund Funds Agency Trnsf Funds Total

(a) Personal services 145.3 145.3

(b) Employee benefits 49.6 49.6

(c) Travel 17.4 17.4

(d) Maintenance and repairs 1.0 1.0

(e) Supplies and materials 8.8 8.8

(f) Contractual services 3.1 3.1

(g) Operating costs 36.9 36.9

(h) Capital outlay 3.4 3.4

Authorized FTE: 6.00 Permanent

Category transfers are specifically authorized for the juvenile parole board.

Subtotal 265.5

CORRECTIONS DEPARTMENT:

(1) Administrative services division:

Other Intrnl Svc

General State Funds/Inter- Federal

Item Fund Funds Agency Trnsf Funds Total

(a) Personal services 2,030.3 112.9 2,143.2

(b) Employee benefits 664.8 28.2 693.0

(c) Travel 35.9 2.6 38.5

(d) Maintenance and repairs 70.0 70.0

(e) Supplies and materials 25.1 .9 26.0

- (f) Contractual services 110.0 110.0
- (g) Operating costs 554.5 1,277.3 5.1 1,836.9
- (h) Capital outlay 15.0 15.0
- (i) Out-of-state travel 7.0 7.0

Authorized FTE: 68.00 Permanent; 1.00 Term

The other state funds appropriation to the administrative services division of the corrections department is appropriated to the corrections department building fund.

(2) Training academy division: Other Intrnl Svc

General State Funds/Inter- Federal

Item Fund Funds Agency Trnsf Funds Total

- (a) Personal services 913.4 913.4
- (b) Employee benefits 504.7 504.7
- (c) Travel 19.0 19.0
- (d) Maintenance and repairs 35.8 35.8
- (e) Supplies and materials 98.3 98.3
- (f) Contractual services 107.0 107.0
- (g) Operating costs 61.6 61.6
- (h) Other costs 5.0 5.0
- (i) Out-of-state travel 1.0 1.0

Authorized FTE: 16.00 Permanent

(3) Field services:

Other Intrnl Svc

General State Funds/Inter- Federal

Item Fund Funds Agency Trnsf Funds Total

- (a) Personal services 6,710.5 818.3 7,528.8
- (b) Employee benefits 2,174.4 249.7 2,424.1
- (c) Travel 211.8 10.8 222.6
- (d) Maintenance and repairs 43.2 37.1 80.3
- (e) Supplies and materials 104.9 3.1 108.0
- (f) Operating costs 969.3 72.5 1,041.8
- (g) Other costs 1,105.2 129.8 1,235.0
- (h) Capital outlay 69.0 69.0
- (i) Out-of-state travel 4.0 4.0

Authorized FTE: 284.00 Permanent

The probation and parole division of the corrections department shall coordinate its family preservation efforts with the children, youth and families department.

Other Intrnl Svc

General State Funds/Inter- Federal

Item Fund Funds Agency Trnsf Funds Total

(4) Community corrections: 833.2 551.5 1,384.7

(5) Adult institutions division director:

Other Intrnl Svc

General State Funds/Inter- Federal

Item Fund Funds Agency Trnsf Funds Total

(a) Personal services 641.2 641.2

(b) Employee benefits 238.5 238.5

(c) Travel 7.1 7.1

(d) Maintenance and repairs 2.7 2.7

- (e) Supplies and materials 3.0 3.0
- (f) Contractual services 194.0 194.0
- (g) Operating costs 31.1 31.1
- (h) Other costs 6,767.0 6,767.0
- (i) Capital outlay 5.0 5.0
- (j) Out-of-state travel 2.2 2.2

Authorized FTE: 17.00 Permanent

(6) Los Lunas correctional center:

Other Intrnl Svc

General State Funds/Inter- Federal

Item Fund Funds Agency Trnsf Funds Total

- (a) Personal services 1,464.9 1,464.9
- (b) Employee benefits 599.3 599.3
- (c) Travel 44.4 44.4
- (d) Maintenance and repairs 122.0 122.0
- (e) Supplies and materials 584.3 55.0 639.3
- (f) Operating costs 213.3 213.3
- (g) Other costs 96.2 83.3 179.5
- (h) Capital outlay 17.0 17.0

Authorized FTE: 59.00 Permanent

(7) Roswell correctional center:

Other Intrnl Svc

General State Funds/Inter- Federal

Item Fund Funds Agency Trnsf Funds Total

- (a) Personal services 1,041.0 46.8 1,087.8
- (b) Employee benefits 433.1 15.4 448.5
- (c) Travel 56.3 56.3
- (d) Maintenance and repairs 93.0 93.0
- (e) Supplies and materials 332.5 61.9 .8 395.2
- (f) Operating costs 109.7 109.7
- (g) Other costs 86.8 95.5 3.5 185.8
- (h) Capital outlay 20.0 20.0
- (i) Out-of-state travel .9 .9

Authorized FTE: 43.00 Permanent; 2.00 Term

(8) Camp Sierra Blanca:

Other Intrnl Svc

General State Funds/Inter- Federal

Item Fund Funds Agency Trnsf Funds Total

- (a) Personal services 725.9 38.6 764.5
- (b) Employee benefits 287.2 11.8 299.0
- (c) Travel 22.6 22.6
- (d) Maintenance and repairs 46.3 46.3
- (e) Supplies and materials 129.1 31.2 .8 161.1
- (f) Operating costs 76.3 76.3
- (g) Other costs 40.5 39.7 3.5 83.7
- (h) Capital outlay 8.5 8.5

Authorized FTE: 29.00 Permanent; 2.00 Term

(9) Central New Mexico correctional facility:

Other Intrnl Svc
General State Funds/Inter- Federal

| Item | Fund | Funds | Agency | Trnsf | Funds | Total |
|-----------------------------|---------|---------|--------|-------|-------|---------|
| (a) Personal services | 6,914.8 | 51.0 | 102.0 | | | 7,067.8 |
| (b) Employee benefits | 3,329.6 | 15.6 | 31.2 | | | 3,376.4 |
| (c) Travel | 62.8 | 62.8 | | | | |
| (d) Maintenance and repairs | 341.0 | | | | | 341.0 |
| (e) Supplies and materials | 1,704.8 | 5.5 | 2.4 | | | 1,712.7 |
| (f) Contractual services | 32.5 | 32.5 | | | | |
| (g) Operating costs | 1,003.2 | 1,003.2 | | | | |
| (h) Other costs | 156.4 | 111.0 | 10.5 | | | 277.9 |
| (i) Capital outlay | 93.2 | 93.2 | | | | |
| (j) Out-of-state travel | 1.2 | 1.2 | | | | |

Authorized FTE: 320.00 Permanent; 9.00 Term

(10) Southern New Mexico correctional facility:

Other Intrnl Svc

General State Funds/Inter- Federal

| Item | Fund | Funds | Agency | Trnsf | Funds | Total |
|-----------------------------|---------|-------|--------|-------|-------|---------|
| (a) Personal services | 5,785.0 | | | | | 5,785.0 |
| (b) Employee benefits | 2,561.8 | | | | | 2,561.8 |
| (c) Travel | 63.7 | 63.7 | | | | |
| (d) Maintenance and repairs | 337.2 | | | | | 337.2 |
| (e) Supplies and materials | 1,225.7 | 3.3 | | | | 1,229.0 |

(f) Contractual services 32.0 32.0

(g) Operating costs 838.1 838.1

(h) Other costs 105.9 165.7 271.6

(i) Capital outlay 50.5 50.5

(j) Out-of-state travel 1.6 1.6

Authorized FTE: 257.00 Permanent

(11) Western New Mexico correctional facility:

Other Intrnl Svc

General State Funds/Inter- Federal

Item Fund Funds Agency Trnsf Funds Total

(a) Personal services 4,558.5 11.1 65.0 4,634.6

(b) Employee benefits 2,081.9 3.4 20.0 2,105.3

(c) Travel 82.6 82.6

(d) Maintenance and repairs 184.6 184.6

(e) Supplies and materials 1,063.3 3.6 3.0 1,069.9

(f) Contractual services 31.0 31.0

(g) Operating costs 745.2 745.2

(h) Other costs 25.5 129.3 13.3 168.1

(i) Capital outlay 46.0 46.0

(j) Out-of-state travel 1.5 1.5

Authorized FTE: 204.00 Permanent; 6.00 Term

(12) Penitentiary of New Mexico:

Other Intrnl Svc

General State Funds/Inter- Federal

Item Fund Funds Agency Trnsf Funds Total

- (a) Personal services 14,620.8 68.0 102.0 14,790.8
- (b) Employee benefits 6,562.7 20.8 31.2 6,614.7
- (c) Travel 97.1 97.1
- (d) Maintenance and repairs 661.8 212.7 874.5
- (e) Supplies and materials 3,062.8 2.4 3,065.2
- (f) Contractual services 37.3 37.3
- (g) Operating costs 1,801.7 1,801.7
- (h) Other costs 896.1 10.5 906.6
- (i) Capital outlay 79.0 79.0
- (j) Out-of-state travel 2.0 2.0

Authorized FTE: 661.00 Permanent; 8.00 Term

(13) Adult health services:

Other Intrnl Svc

General State Funds/Inter- Federal

Item Fund Funds Agency Trnsf Funds Total

- (a) Personal services 1,400.2 1,400.2
- (b) Employee benefits 569.8 569.8
- (c) Travel 7.7 7.7
- (d) Maintenance and repairs 17.0 17.0
- (e) Supplies and materials 57.1 57.1
- (f) Contractual services 9,170.0 9,170.0

(g) Operating costs 29.3 29.3

(h) Capital outlay 2.5 2.5

(i) Out-of-state travel 1.5 1.5

Authorized FTE: 47.00 Permanent

(14) Adult education:

Other Intrnl Svc
General State Funds/Inter- Federal

Item Fund Funds Agency Trnsf Funds Total

(a) Personal services 2,176.0 21.0 2,197.0

(b) Employee benefits 514.1 6.3 520.4

(c) Travel 29.4 .3 29.7

(d) Maintenance and repairs 11.7 11.7

(e) Supplies and materials 213.8 2.4 216.2

(f) Contractual services 770.0 770.0

(g) Operating costs 147.2 147.2

(h) Other costs 2.0 2.0

(i) Capital outlay 25.0 25.0

(j) Out-of-state travel 2.5 2.5

(k) County detention programs 40.0 40.0

Authorized FTE: 75.00 Permanent

Included in the general fund appropriation to the adult education program in the corrections department is forty thousand dollars (\$40,000) to establish inmate education programs at county detention facilities throughout New Mexico.

(15) Corrections industries:

Other Intrnl Svc

General State Funds/Inter- Federal

| Item | Fund | Funds | Agency | Trnsf | Funds | Total |
|------|-------------------------|---------|---------|-------|-------|---------|
| (a) | Personal services | 314.1 | 932.2 | | | 1,246.3 |
| (b) | Employee benefits | 499.2 | 499.2 | | | |
| (c) | Travel | 110.7 | 110.7 | | | |
| (d) | Maintenance and repairs | 90.7 | 90.7 | | | |
| (e) | Supplies and materials | 82.2 | 82.2 | | | |
| (f) | Contractual services | 134.0 | 134.0 | | | |
| (g) | Operating costs | 68.9 | 68.9 | | | |
| (h) | Other costs | 1,444.7 | 1,444.7 | | | |
| (i) | Capital outlay | 82.1 | 82.1 | | | |
| (j) | Out-of-state travel | 8.5 | 8.5 | | | |

Authorized FTE: 35.00 Permanent; 5.00 Term; 3.00 Temporary

Division transfers and budget increases from other state funds are specifically authorized for the corrections department. Such other state funds are appropriated.

Division transfers and category transfers are specifically authorized for the corrections department.

Budget increases from internal service funds/interagency transfers pursuant to highway and public works programs are specifically authorized for the corrections department in the eighty-third fiscal year. Such internal service funds/interagency transfers are appropriated.

Subtotal 117,275.4

CRIME VICTIMS REPARATION COMMISSION:

Other

General State Federal

Item Fund Funds Funds Total

- (a) Personal services 270.7 270.7
- (b) Employee benefits 85.8 85.8
 - (c) Travel 7.3 7.3
 - (d) Maintenance and repairs 1.6 1.6
 - (e) Supplies and materials 5.3 5.3
 - (f) Contractual services 31.6 31.6
 - (g) Operating costs 46.2 46.2
 - (h) Other costs 1,120.5 275.8 980.0 2,376.3
 - (i) Capital outlay 3.3 3.3
 - (j) Out-of-state travel 2.5 2.5

Authorized FTE: 9.00 Permanent; 2.00 Term

Category transfers are specifically authorized for the crime victims reparation commission.

Budget increases from restitution funds for victim reparation payments are specifically authorized for the crime victims reparation commission. Such restitution funds are appropriated.

Subtotal 2,830.6

DEPARTMENT OF PUBLIC SAFETY:

(1) Administration:

Other Intrnl Svc

General State Funds/Inter- Federal

Item Fund Funds Agency Trnsf Funds Total

- (a) Personal services 2,243.4 60.7 39.9 600.6 2,944.6
- (b) Employee benefits 778.9 14.8 13.7 141.5 948.9
- (c) Travel 29.8 .8 .1 112.0 142.7

(d) Maintenance and repairs 634.2 1.5 5.4 88.0 729.1

(e) Supplies and materials 59.1 2.3 .7 25.7 87.8

(f) Contractual services 79.2 2.4 997.8 1,079.4

(g) Operating costs 843.6 30.1 23.4 101.1 998.2

(h) Other costs 6,353.8 6,353.8

(i) Capital outlay 77.3 46.7 402.4 526.4

(j) Out-of-state travel 9.0 10.5 48.0 67.5

Authorized FTE: 75.00 Permanent; 21.00 Term

(2) Special investigations division:

Other Intrnl Svc

General State Funds/Inter- Federal

Item Fund Funds Agency Trnsf Funds Total

(a) Personal services 1,150.2 54.8 1,205.0

(b) Employee benefits 447.6 6.8 454.4

(c) Travel 135.0 2.0 137.0

(d) Maintenance and repairs .8 .8

(e) Supplies and materials 22.1 .6 22.7

(f) Contractual services 6.5 6.5

(g) Operating costs 33.3 1.8 35.1

(h) Other costs 12.5 57.0 69.5

(i) Capital outlay 7.5 .7 8.2

(j) Out-of-state travel 7.4 4.6 12.0

Authorized FTE: 35.00 Permanent; 1.00 Term

(3) Training and recruiting division:

Other Intrnl Svc

General State Funds/Inter- Federal

Item Fund Funds Agency Trnsf Funds Total

- (a) Personal services 744.4 20.2 764.6
- (b) Employee benefits 206.6 8.4 215.0
- (c) Travel 75.1 75.1
- (d) Maintenance and repairs 5.0 5.0
- (e) Supplies and materials 246.1 1.0 247.1
- (f) Contractual services 283.6 216.9 61.7 562.2
- (g) Operating costs 76.4 76.4
- (h) Other costs 14.9 14.9
- (i) Capital outlay 44.7 44.7
- (j) Out-of-state travel 20.5 20.5

Authorized FTE: 20.00 Permanent; 1.00 Term

(4) State police division:

Other Intrnl Svc

General State Funds/Inter- Federal

Item Fund Funds Agency Trnsf Funds Total

- (a) Personal services 16,655.5 25.5 82.4 16,763.4
- (b) Employee benefits 7,034.2 7,034.2
- (c) Travel 2,560.1 211.2 37.6 2,808.9
- (d) Maintenance and repai 199.3 199.3

(e) Supplies and materials 578.3 138.8 717.1

(f) Contractual services 155.7 155.7

(g) Operating costs 413.5 413.5

(h) Other costs 53.8 120.0 173.8

(i) Capital outlay 76.3 76.3

(j) Out-of-state travel 21.5 21.5

(k) Compensation plan 797.8 797.8

Authorized FTE: 574.00 Permanent

(5) Technical and emergency support division:

Other Intrnl Svc

General State Funds/Inter- Federal

| Item | Fund | Funds | Agency | Trnsf | Funds | Total |
|-----------------------------|---------|-------|--------|-------|---------|-------|
| (a) Personal services | 1,735.5 | 215.9 | 134.9 | 387.7 | 2,474.0 | |
| (b) Employee benefits | 570.5 | 72.4 | 23.7 | 119.5 | 786.1 | |
| (c) Travel | 50.0 | 19.4 | 46.4 | 115.8 | | |
| (d) Maintenance and repairs | 9.8 | 1.0 | 7.9 | 18.7 | | |
| (e) Supplies and materials | 65.8 | 41.8 | 6.0 | 10.2 | 123.8 | |
| (f) Contractual services | 32.5 | 10.0 | 29.5 | 72.0 | | |
| (g) Operating costs | 2,055.1 | 307.7 | 41.6 | 41.3 | 2,445.7 | |
| (h) Other costs | 38.7 | 22.5 | 592.2 | 653.4 | | |
| (i) Capital outlay | 48.3 | 30.8 | 4.8 | 83.9 | | |
| (j) Out-of-state travel | 10.5 | 11.0 | 22.5 | 44.0 | | |

Authorized FTE: 57.00 Permanent; 25.50 Term

Category transfers, division transfers and budget increases from other state funds and internal service funds/interagency transfers, excluding state forfeitures and forfeiture cash balances, are specifically authorized for the department of public safety. Such other state funds and internal service funds/interagency transfers are appropriated.

Subtotal 53,834.0

Other Intrnl Svc

General State Funds/Inter- Federal

Fund Funds Agency Trnsf Funds Total

TOTAL PUBLIC SAFETY

149,680.5 15,810.8 1,544.2 13,454.5 180,490.0

H. TRANSPORTATION

STATE HIGHWAY AND TRANSPORTATION DEPARTMENT:

(1) Office of the secretary:

Other Intrnl Svc

General State Funds/Inter- Federal

Item Fund Funds Agency Trnsf Funds Total

(a) Personal services 2,499.5 182.7 2,682.2

(b) Employee benefits 684.0 49.2 733.2

(c) Travel 87.1 26.1 113.2

(d) Maintenance and repairs 9.4 .6 10.0

(e) Supplies and materials 82.0 6.3 88.3

(f) Contractual services 1,095.0 85.0 1,180.0

(g) Operating costs 185.5 26.1 211.6

(h) Capital outlay 88.6 6.5 95.1

(i) Out-of-state travel 17.6 6.4 24.0

Authorized FTE: 77.00 Permanent

(2) Administrative division:

Other Intrnl Svc

General State Funds/Inter- Federal

Item Fund Funds Agency Trnsf Funds Total

- (a) Personal services 5,282.0 12.0 5,294.0
- (b) Employee benefits 8,275.8 4.5 8,280.3
- (c) Travel 454.1 11.4 465.5
- (d) Maintenance and repairs 1,767.1 1,767.1
- (e) Supplies and materials 242.3 19.5 261.8
- (f) Contractual services 867.5 10.5 878.0
- (g) Operating costs 4,345.0 67.5 4,412.5
- (h) Capital outlay 895.8 5.9 901.7
- (i) Out-of-state travel 14.4 .6 15.0

Authorized FTE: 182.00 Permanent; 1.00 Term

(3) Engineering design division:

Other Intrnl Svc

General State Funds/Inter- Federal

Item Fund Funds Agency Trnsf Funds Total

- (a) Personal services 7,072.2 4,531.9 11,604.1
- (b) Employee benefits 1,938.0 1,339.5 3,277.5
- (c) Travel 530.4 .6 531.0
- (d) Maintenance and repairs 37.2 37.2
- (e) Supplies and materials 212.6 212.6

(f) Contactual services 465.6 465.6

(g) Operating costs 224.5 224.5

(h) Capital outlay 299.7 299.7

(i) Out-of-state travel 20.0 20.0

Authorized FTE: 342.00 Permanent; 23.00 Term

(4) Field operations division:

Other Intrnl Svc

General State Funds/Inter- Federal

Item Fund Funds Agency Trnsf Funds Total

(a) Personal services 40,782.8 8,831.3 49,614.1

(b) Employee benefits 13,494.1 2,819.1 16,313.2

(c) Travel 11,678.6 11,678.6

(d) Maintenance and repairs 1,320.8 1,320.8

(e) Supplies and materials 1,175.8 5.5 1,181.3

(f) Contractual services 1,319.1 1,319.1

(g) Operating costs 3,538.6 4.0 3,542.6

(h) Capital outlay 13,308.6 3.6 13,312.2

(i) Out-of-state travel 15.0 1.0 16.0

Authorized FTE: 2,027.00 Permanent; 25.00 Term; 3.00 Temporary

(5) Road betterment division:

Other Intrnl Svc

General State Funds/Inter- Federal

Item Fund Funds Agency Trnsf Funds Total

- (a) Supplies and materials 24,500.0 24,500.0
- (b) Contractual services 92,680.3 173,829.5 266,509.8
- (c) Other costs 32,618.4 32,618.4

One million five hundred thousand dollars (\$1,500,000) of the other state funds appropriation to the road betterment division in the other costs category may be expended by local governments to match funds for cooperative, school bus route, municipal arterial or county arterial roads in the event of financial hardship as determined by the state highway commission.

Budget increases from other state funds, including the state road fund, are specifically authorized for the road betterment division. Such other state funds are appropriated.

(6) Aviation division:

Other Intrnl Svc

General State Funds/Inter- Federal

Item Fund Funds Agency Trnsf Funds Total

- (a) Personal services 255.7 255.7
- (b) Employee benefits 67.8 67.8
- (c) Travel 10.6 10.4 21.0
- (d) Maintenance and repairs 29.0 29.0
- (e) Supplies and materials 9.3 9.3
- (f) Contractual services 22.0 90.0 112.0
- (g) Operating costs 66.4 66.4
- (h) Other costs 989.5 989.5
- (i) Capital outlay 2.5 2.5
- (j) Out-of-state travel 3.5 1.5 5.0

Authorized FTE: 9.00 Permanent

(7) Transportation programs division:

Other Intrnl Svc

General State Funds/Inter- Federal

Item Fund Funds Agency Trnsf Funds Total

- (a) Personal services 803.4 291.7 1,095.1
- (b) Employee benefits 234.0 96.1 330.1
- (c) Travel 21.6 19.4 41.0
- (d) Maintenance and repairs 19.7 .5 20.2
- (e) Supplies and materials 137.3 62.2 199.5
- (f) Contractual services 1,644.0 3,022.0 4,666.0
- (g) Operating costs 210.4 28.1 238.5
- (h) Capital outlay 28.7 40.2 68.9
- (i) Out-of-state travel 2.1 30.9 33.0

Authorized FTE: 30.00 Permanent; 7.00 Term

(8) Planning division:

Other

State Federal

Funds Funds Total

- (a) Personal services 1,350.0 1,387.5 2,737.5
- (b) Employee benefits 369.0 414.9 783.9
- (c) Travel 34.7 166.3 201.0
- (d) Maintenance and repairs 12.3 150.4 162.7
- (e) Supplies and materials 48.4 33.9 82.3
- (f) Contractual services 318.8 1,381.2 1,700.0
- (g) Operating costs 64.2 175.8 240.0

(h) Capital outlay 42.8 365.4 408.2

(i) Out-of-state travel 17.0 17.0

Authorized FTE: 83.00 Permanent; 7.00 Term

Budget increases from other state funds, including the state road fund, are specifically authorized in the eighty-second fiscal year for the engineering design and field operations divisions to comply with per diem and mileage rates authorized by department of finance and administration rule 92-1, as amended, effective July 1, 1993. Such other state funds are appropriated.

Division transfers are specifically authorized for the office of the secretary, administrative, engineering design, field operations, aviation, transportation programs and planning divisions.

Budget increases from other state funds are specifically authorized from sources other than the state road fund for the office of the secretary, administrative, engineering design, field operations, aviation, transportation programs and planning divisions. Such other state funds are appropriated.

Budget increases from the state road fund are specifically authorized for the office of the secretary, administrative, engineering design, field operations, aviation, transportation programs and planning divisions to match federal funds. Such other state funds are appropriated.

Category transfers are specifically authorized for the state highway and transportation department.

Subtotal 480,594.9

STATE TRANSPORTATION AUTHORITY:

Other

State

Funds Total

(a) Personal services 108.0 108.0

(b) Employee benefits 35.0 35.0

(c) Travel 15.5 15.5

(d) Supplies and materials 6.0 6.0

(e) Contractual services 350.0 350.0

(f) Operating costs 17.4 17.4

(g) Other costs 190.3 190.3

(h) Out-of-state travel 5.0 5.0

Authorized FTE: 1.00 Permanent; 2.00 Term

Category transfers are specifically authorized for the state transportation authority.

Subtotal 727.2

| Other | State | Federal | Funds | Funds | Total |
|-------|-------|---------|-------|-------|-------|
|-------|-------|---------|-------|-------|-------|

TOTAL TRANSPORTATION 281,649.9 199,672.2 481,322.1

I. OTHER EDUCATION

STATE DEPARTMENT OF PUBLIC EDUCATION:

(1) Administration:

| Other Intrnl Svc | General State Funds/Inter- Federal | Fund Funds Agency Trnsf Funds Total |
|------------------|------------------------------------|-------------------------------------|
|------------------|------------------------------------|-------------------------------------|

(a) Personal services 4,830.3 42.0 31.0 2,321.0 7,224.3

(b) Employee benefits 1,274.2 10.0 8.0 611.0 1,903.2

(c) Travel 283.7 15.0 136.9 435.6

(d) Maintenance and repairs 96.1 46.5 142.6

(e) Supplies and materials 120.3 10.0 21.9 56.7 208.9

(f) Contractual services 589.2 25.0 451.2 1,065.4

(g) Operating costs 555.8 19.2 215.7 790.7

(h) Other costs 155.0 155.0

(i) Capital outlay 107.9 13.8 12.5 35.9 170.1

(j) Out-of-state travel 33.0 33.5 66.5

Authorized FTE: 167.00 Permanent; 53.00 Term; .20 Temporary

The general fund appropriation to the state department of public education in the contractual services category includes two hundred ninety-two thousand five hundred dollars (\$292,500) to support a joint powers agreement with the motor transportation division of the taxation and revenue department for the school bus inspection program and twenty thousand dollars (\$20,000) to fund the education for zero infection program.

The general fund appropriation to the state department of public education includes eighty-nine thousand two hundred dollars (\$89,200) for one FTE to revise the bilingual language proficiency examination and to develop alternative assessments for bilingual proficiency and three part-time coordinators for the university immersion institutes.

The appropriation to the state department of public education includes two hundred one thousand dollars (\$201,000) from federal Mineral Lands Leasing Act receipts.

Category transfers and budget increases from other state funds and internal service funds/interagency transfers are specifically authorized for the state department of public education.

Such other state funds and internal service funds/interagency transfers are appropriated.

General Fund Total

(2) Special projects: 3,268.0 3,268.0

~~The appropriation to the state department of public education for special projects shall be used only for special projects upon certification by the superintendent of public instruction that all special needs students are being transported in like timeframes as the regular students. [OVERSTRUCK MATERIAL HAS BEEN LINE-ITEM VETOED.]~~

The general fund appropriation to the state department of public education for special projects includes sixty-five thousand dollars (\$65,000) for the five schools authorized to be charter schools, one hundred eighty-three thousand dollars (\$183,000) to implement a school-based management and budgeting pilot program in accordance with Laws 1994, Chapter 224 and twenty thousand dollars (\$20,000) for substance abuse prevention and education programs in Bernalillo public schools.

The state department of public education shall conduct an application and review process to determine the specific dollar amounts for local school districts or individual projects and may apply an indirect cost rate of up to three percent for administering and

monitoring special projects.

(3) Regional education cooperatives:

Other Intrnl Svc

General State Funds/Inter- Federal
Fund Funds Agency Trnsf Funds Total

(a) Region IX 6.0 1,194.5 1,200.5

(b) High plains 1,187.4 634.4 288.5 2,110.3

(c) Central 396.0 955.7 1,351.7

Authorized FTE: 66.00 Term

Category transfers and budget increases from other state funds and internal service funds/interagency transfers are specifically authorized for regional education cooperatives. Such other state funds and internal service funds/interagency transfers are appropriated, contingent upon certification by the superintendent of public instruction to the secretary of finance and administration that the state board of education has authorized the existence and operation of the regional education cooperatives and has received approval by the appropriate local school board.

Unexpended or unencumbered balances in the state department of public education remaining at the end of the eighty-third fiscal year from appropriations made from the general fund shall not revert.

Subtotal 20,092.8

Other Intrnl Svc

General State Funds/Inter- Federal
Fund Funds Agency Trnsf Funds Total

ADULT BASIC EDUCATION: 1,862.5 1,741.5 3,604.0

**NEW MEXICO SCHOOL FOR THE VISUALLY
HANDICAPPED:** 6,713.3 6,713.3

**NEW MEXICO SCHOOL
FOR THE DEAF:** 1,231.8 6,212.0 349.8 7,793.6

**TOTAL OTHER
EDUCATION:** 14,252.8 14,634.7 2,873.0 6,443.2 38,203.7

J. HIGHER EDUCATION

Upon approval of the commission on higher education, the state budget division of the department of finance and administration may approve increases in budgets of state agencies in this subsection whose other state funds exceed amounts specified. Such other state funds are appropriated. In approving budget increases, the director of the state budget division shall advise the legislature through its officers and appropriate committees, in writing, of the conditions under which the increases are approved and the expenditures authorized, together with justification for the approval.

Except as otherwise provided, balances remaining at the end of the eighty-third fiscal year shall not revert to the general fund.

COMMISSION ON HIGHER EDUCATION:

(1) Administration:

Other Intrnl Svc

General State Funds/Inter- Federal

Fund Funds Agency Trnsf Funds Total

(a) Personal services 597.4 3.5 11.0 611.9

(b) Employee benefits 178.9 1.0 2.9 182.8

(c) Travel 41.9 1.0 42.9

(d) Maintenance and
repairs 10.7 10.7

(e) Supplies and materials 9.9 2.1 12.0

(f) Contractual services 205.1 25.0 230.1

(g) Operating costs 83.2 1.4 84.6

(h) Capital outlay 13.4 13.4

(i) Out-of-state travel 9.9 1.6 11.5

Authorized FTE: 16.00 Permanent

Category transfers are specifically authorized for the commission on higher education.

Unexpended or unencumbered balances in the commission on higher education remaining at the end of the eighty-third fiscal year from appropriations made from the general fund shall revert to the general fund.

Other
General State Federal
Fund Funds Funds Total

(2) State student incentive grant 6,609.6 54.0 369.5 7,033.1

(3) Nursing student loan program 374.9 110.3 485.2

(4) Medical student loan program 283.8 100.0 383.8

(5) Osteopathic student loan program 162.0 162.0

(6) Allied health student loan fund 200.0 200.0

(7) National health services

corps loan repayment fund 369.0 369.0 738.0

(8) Work-study program 4,554.3 4,554.3

(9) Student Choice Act 988.7 988.7

(10) Vietnam veterans'

scholarship fund 145.1 145.1

Other
General State Federal
Fund Funds Funds Total

(11) Graduate Fellowship Act 621.8 69.4 691.2

(12) New Mexico Scholars Act 1,781.8 5.5 1,787.3

(13) Minority doctoral assistance 200.0 200.0

(14) Student child care 500.0 500.0

(15) Southeastern New Mexico minority and
handicapped teachers scholarships 238.8 238.8

(16) Graduate student research 102.8 102.8

(17) System development fund 350.0 350.0

(18) Educational options information

campaign 119.4 119.4

(19) Small business development

centers 1,495.4 521.1 2,016.5

(20) Math, engineering and science

achievement 404.6 100.0 504.6

(21) Club sports equipment 75.0 75.0

(22) Additional compensation 3,614.4 3,614.4

Included in the general fund appropriation to the commission on higher education is two hundred twenty-six thousand dollars (\$226,000) for the allied health student loan fund created in Section 10 of the Allied Health Student Loan for Service Act.

Earnings from the investment of state financial aid appropriations shall be expended to offset unanticipated costs of the Vietnam veterans' and New Mexico scholars scholarship programs; thereafter, the earnings shall revert to the general fund upon certification by the commission on higher education.

The general fund appropriation to the commission on higher education in the graduate student research category shall be expended at the university of New Mexico, New Mexico state university, New Mexico highlands university, western New Mexico university, eastern New Mexico university and New Mexico institute of mining and technology for graduate student research.

The general fund appropriation to the commission on higher education in the educational options information category shall be expended for an adult campaign that embodies the preparation and dissemination of information on postsecondary opportunities in New Mexico.

The appropriation to the commission on higher education in the club sports equipment category is for any club sport at any two- or four-year institution.

The appropriation in item (22) shall be distributed by the commission on higher education to all two- and four-year institutions and the New Mexico school for the deaf to provide an average one percent compensation increase to faculty and staff which, when added to the three and one-half percent compensation increase included in the higher education appropriations will allow all two- and four-year institutions to provide an average four and one-half percent compensation increase to faculty and staff.

Subtotal 26,090.1

UNIVERSITY OF NEW MEXICO:

Other

General State Federal

Fund Funds Funds Total

(a) Instruction and general

purposes 108,291.7 64,237.5 6,205.0 178,734.2

(b) Medical school instruction

and general purposes 29,059.1 10,277.0 39,336.1

(c) Athletics 2,286.5 9,029.0 21.8 11,337.3

(d) Educational television 1,110.3 3,503.4 704.0 5,317.7

(e) Extended services

instruction 847.4 357.7 1,205.1

(f) Gallup branch 4,943.4 3,309.1 33.0 8,285.5

(g) Los Alamos branch 1,284.7 1,307.5 23.7 2,615.9

(h) Valencia county branch 2,420.0 1,585.8 1,939.6 5,945.4

(i) Cancer center 1,762.2 6,489.2 8,251.4

(j) State medical investigator 2,243.4 313.2 2,556.6

(k) Emergency medical services

academy 583.7 187.2 770.9

(l) Out-of-county indigent

fund 1,694.1 1,694.1

(m) Children's psychiatric

hospital 2,385.0 5,325.0 7,710.0

(n) Specialized perinatal

care 423.5 423.5

(o) Newborn intensive care 1,906.6 222.5 2,129.1

Other

General State Federal

Fund Funds Funds Total

(p) Pediatric oncology 174.0 174.0

(q) Hemophilia program 348.0 50.5 398.5

(r) Young children's health

center 125.2 126.1 251.3

(s) Pediatric pulmonary center 171.6 5.0 176.6

(t) Health resources registry 17.3 28.3 45.6

(u) Area health education

centers 216.2 216.2

(v) Grief intervention 162.7 162.7

(w) Carrie Tingley hospital 1,434.2 7,100.3 8,534.5

(x) Pediatric dysmorphology 137.0 137.0

(y) Locum tenens 200.0 200.0

(z) Substance abuse program 163.6 163.6

(aa) Poison control center 653.4 653.4

(bb) Student exchange program 2,046.5 229.0 2,275.5

(cc) Judicial selection 62.2 62.2

(dd) Southwest research center 681.4 681.4

(ee) Native American intervention 255.5 255.5

Other

General State Federal
Fund Funds Funds Total

(ff) Resource geographic

information system 187.7 187.7

(gg) Natural heritage program 101.4 101.4

(hh) Southwest Indian law clinic 82.2 82.2

(ii) BBER census and population
analysis 51.8 51.8

(jj) Taos off-campus center 257.0 298.7 555.7

(kk) Judicial education center 149.5 374.6 524.1

(ll) New Mexico historical
review 102.0 102.0

(mm) Ibero-American education
consortium 204.6 204.6

(nn) Geographic alliance 50.0 50.0

(oo) Youth education recreation
program 151.5 151.5

(pp) Advanced materials
laboratory 75.0 75.0

(qq) Manufacturing engineering
program 200.0 200.0

(rr) Other (medical center) 75,573.1 25,785.0 101,358.1

(ss) Other - main campus 107,355.4 55,222.5 162,577.9

The university of New Mexico shall conduct a thorough investigation of the performance

of the human resources department and the administrative response to ongoing allegations of discrimination and workplace harassment. The president of the board of regents shall report the findings of this investigation to the legislative finance committee by December 1, 1994. Included in the instruction and general purposes appropriation is funding to appoint an ombudsperson for the university and to retain an outside consultant to review personnel policies and practices. Written reports shall be presented by the ombudsperson and consultant to the legislative finance committee by October 15, 1994.

The instruction and general purposes appropriation to the university of New Mexico includes one hundred thousand dollars (\$100,000) for a Spanish resource center in the department of continuing education.

The instruction and general purposes appropriation to the university of New Mexico includes two hundred ninety-five thousand one hundred dollars (\$295,100) to expand the distance education program for nurse practitioners; seventy-five thousand dollars (\$75,000) to hire a director for the primary care physician assistant training program to provide consultants to assist the university in formalizing an interdisciplinary curriculum, applying for and obtaining accreditation and preparing grants requests for supplemental federal funding of the program; and two hundred two thousand four hundred dollars (\$202,400) to add ten students per year in the nurse practitioners program in the college of nursing.

The medical school instruction and general purposes appropriation to the university of New Mexico includes fifteen thousand dollars (\$15,000) to provide rural statewide AIDS and human immune deficiency virus education to professional and paraprofessional health care and mental health care providers.

The general fund appropriation to the university of New Mexico for athletics is contingent upon the basketball program scheduling at least one home game with one of New Mexico's regional universities during the 1994-95 season.

The general fund appropriation to the university of New Mexico for the southwest research center includes fifty-one thousand dollars (\$51,000) to the Don Diego de Vargas project; four hundred thousand seven hundred dollars (\$400,700) to the center for regional studies; and two hundred twenty-nine thousand seven hundred dollars (\$229,700) to the Spanish colonial research center.

Subtotal 556,922.8

NEW MEXICO STATE UNIVERSITY:

Other

General State Federal

Fund Funds Funds Total

(a) Instruction and general

purposes 69,329.4 37,135.5 2,961.6 109,426.5

(b) Athletics 2,147.7 3,566.7 31.2 5,745.6

(c) Educational television 909.0 262.8 404.9 1,576.7

(d) Extended services

instruction 167.8 158.4 326.2

(e) Alamogordo branch 4,087.9 1,634.1 370.4 6,092.4

(f) Carlsbad branch 2,293.8 1,161.9 370.8 3,826.5

(g) Dona Ana branch 5,905.6 2,747.7 830.2 9,483.5

(h) Grants branch 1,537.1 542.9 193.3 2,273.3

(i) Department of agriculture 5,249.7 1,200.0 488.6 6,938.3

(j) Agricultural experiment

station 9,065.3 2,050.5 5,250.7 16,366.5

(k) Cooperative extension

service 6,657.2 2,785.4 3,380.0 12,822.6

(l) Water resources research 391.1 230.0 290.5 911.6

(m) Border research institute 215.2 215.2

(n) Indian resources

development program 254.3 254.3

(o) International business

center 100.9 100.9

(p) Manufacturing development

program 307.2 307.2

(q) Other - main campus 133.0 40,728.2 78,178.9 119,040.1

The general fund appropriation to New Mexico state university for athletics is contingent

upon the basketball program scheduling at least one home game with one of New Mexico's regional universities during the 1994-95 season.

The general fund appropriation to New Mexico state university for the department of agriculture includes not more than three hundred four thousand dollars (\$304,000) for animal damage control, of which not more than three-fourths may be used for lethal control methods and one hundred forty thousand dollars (\$140,000) to expand the dairy inspection program.

The general fund appropriation to New Mexico state university for other - main campus is for establishment of the Tombaugh scholarship program.

Subtotal 295,707.4

NEW MEXICO HIGHLANDS UNIVERSITY:

Other

General State Federal

Fund Funds Funds Total

(a) Instruction and general

purposes 13,929.4 3,885.0 4,056.0 21,870.4

(b) Athletics 976.9 175.0 44.0 1,195.9

(c) Extended services

instruction 322.8 100.0 422.8

(d) Visiting scientist 19.9 19.9

(e) Upward bound 23.9 23.9

(f) Diverse populations studies 102.0 102.0

(g) Other 3,336.3 5,431.0 8,767.3

Subtotal 32,402.2

WESTERN NEW MEXICO UNIVERSITY:

Other

General State Federal

Fund Funds Funds Total

(a) Instruction and general

purposes 9,249.6 2,463.3 340.0 12,052.9

(b) Athletics 948.0 230.0 2.5 1,180.5

(c) Educational television 99.7 99.7

(d) Extended service

instruction 235.8 150.0 385.8

(e) Other 2,175.0 2,600.0 4,775.0

Subtotal 18,493.9

EASTERN NEW MEXICO UNIVERSITY:

Other

General State Federal

Fund Funds Funds Total

(a) Instruction and general

purposes 17,084.3 5,700.0 1,300.0 24,084.3

(b) Athletics 988.0 400.0 1,388.0

(c) Educational television 862.3 300.0 600.0 1,762.3

(d) Extended services

instruction 294.7 400.0 694.7

(e) Roswell branch 5,689.6 4,000.0 1,750.0 11,439.6

(f) Center for teaching

excellence 258.6 258.6

(g) Ruidoso off-campus center 253.0 300.0 100.0 653.0

(h) Blackwater Draw and museum 94.6 20.0 114.6

(i) Assessment team 147.5 147.5

(j) Other 9,480.0 5,250.0 14,730.0

Subtotal 55,272.6

NEW MEXICO INSTITUTE OF MINING AND TECHNOLOGY:

Other

General State Federal

Fund Funds Funds Total

(a) Instruction and general

purposes 14,381.5 6,050.1 2.0 20,433.6

(b) Athletics 133.5 133.5

(c) Extended services

instruction 76.2 76.2

(d) Geophysical research center 616.5 100.0 716.5

(e) Bureau of mines 2,795.5 50.0 2,845.5

(f) Petroleum recovery research

center 1,202.6 800.0 2,002.6

(g) Bureau of mine inspection 245.5 130.0 375.5

(h) Energetic research material

center 203.7 203.7

(i) Other 500.0 26,600.0 27,100.0

The appropriation to New Mexico institute of mining and technology for the bureau of mines includes one hundred thousand dollars (\$100,000) from federal Mineral Lands Leasing Act receipts.

Subtotal 53,887.1

NORTHERN NEW MEXICO STATE SCHOOL:

Other

General State Federal

Fund Funds Funds Total

(a) Instruction and general

purposes 5,441.7 2,075.2 2,333.2 9,850.1

(b) Extended services

instruction 19.3 19.3

(c) Northern pueblos institute 52.2 52.2

(d) Other 298.0 298.0

The instruction and general purposes appropriation to northern New Mexico state school includes eight thousand dollars (\$8,000) for hepatitis B immunizations for health sciences students.

Subtotal 10,219.6

SANTA FE COMMUNITY COLLEGE:

Other

General State Federal

Fund Funds Funds Total

(a) Instruction and general

purposes 4,466.1 5,540.0 786.0 10,792.1

(b) Other 7,281.0 1,724.0 9,005.0

Subtotal 19,797.1

TECHNICAL-VOCATIONAL INSTITUTE:

Other

General State Federal

Fund Funds Funds Total

(a) Instruction and general

purposes 24,526.8 22,000.0 1,200.0 47,726.8

(b) Other 6,000.0 5,300.0 11,300.0

Subtotal 59,026.8

LUNA VOCATIONAL TECHNICAL INSTITUTE:

Other

General State Federal

Fund Funds Funds Total

(a) Instruction and general
purposes 4,935.7 146.8 288.3 5,370.8

(b) Other 138.5 138.5

Subtotal 5,509.3

TUCUMCARI AREA VOCATIONAL SCHOOL:

Other
General State Federal
Fund Funds Funds Total

(a) Instruction and general
purposes 1,612.8 211.4 207.5 2,031.7

(b) Other 277.3 277.3

Subtotal 2,309.0

NEW MEXICO JUNIOR COLLEGE:

Other
General State Federal
Fund Funds Funds Total

(a) Instruction and general
purposes 3,172.4 4,384.1 1,071.8 8,628.3

(b) Athletics 33.0 357.9 390.9

(c) Other 1,416.5 1,493.8 2,910.3

Subtotal 11,929.5

Other
General State Federal
Fund Funds Funds Total

SAN JUAN COLLEGE: 4,197.0 10,822.6 1,790.7 16,810.3

CLOVIS COMMUNITY COLLEGE:

(a) Instruction and general

purposes 5,481.2 1,775.0 600.0 7,856.2

(b) Extended services

instruction 22.2 25.0 47.2

(c) Other 1,400.0 1,900.0 3,300.0

Subtotal 11,203.4

NEW MEXICO MILITARY INSTITUTE:

Other

General State Federal

Fund Funds Funds Total

(a) Instruction and general

purposes 12,014.4 12,014.4

(b) Athletics 669.0 669.0

(c) Other 5,612.0 5,612.0

Subtotal 18,295.4

TOTAL HIGHER EDUCATION 427,631.1 514,017.8 252,227.6 1,193,876.5

K. PUBLIC SCHOOL SUPPORT

Except as otherwise provided, balances of appropriations made in this subsection shall not revert at the end of the eighty-third fiscal year.

Upon approval of the state department of education, the department of finance and administration may authorize budget increases from other state funds in this subsection. Such other state funds are appropriated.

PUBLIC SCHOOL SUPPORT:

Other

General State

Fund Funds Total

(1) State equalization guarantee

distribution 1,086,515.6 1,100.0 1,087,615.6

(2) Transportation distributions:

(a) Salaries and benefits 28,517.1 28,517.1

(b) Operation, maintenance

and fuel 27,085.8 27,085.8

(c) Other costs 8,198.8 8,198.8

(d) Purchase and age allowance 8,996.6 8,996.6

(e) School owned bus

replacements 3,059.1 3,059.1

(3) Supplemental distributions:

Other

General State

Fund Funds Total

(a) Out-of-state tuition 310.9 310.9

(b) Emergency 1,195.8 1,195.8

(c) Emergency capital outlay 311.9 311.9

(d) Three-year-old develop-

mentally disabled 470.0 470.0

(e) Minimum teacher salary 5,587.9 5,587.9

(f) Training and experience 3,075.4 3,075.4

(g) Noncertified school

personnel 2,300.0 2,300.0

(h) Staff development programs 400.0 400.0

The rate of distribution of the state equalization guarantee distribution shall be based on a program unit value determined by the superintendent of public instruction. The

superintendent of public instruction shall establish a preliminary unit value that shall be used to establish tentative budgets for the 1994-95 school year. Upon completion of final budgets or verification of the number of units statewide for the eighty-third fiscal year, the superintendent of public instruction may adjust the program unit value.

The state equalization guarantee distribution includes one million seven hundred thousand dollars (\$1,700,000) to make distributions to local school districts to increase public school library collections. Distributions shall be made by the superintendent of public instruction on a per unit basis to each local school district that submits a written library collection development plan which adequately addresses acquisition criteria, curriculum coordination and coordination with other public facilities.

Included in the above distributions are sufficient funds for an average five and eight-tenths percent salary increase for all public school personnel.

~~Included in the supplemental distributions for emergencies is four hundred seventy thousand dollars (\$470,000) for distribution to school districts for mid-year increases in three-year-old developmentally disabled membership resulting from increases in student membership that occur as a result of eligible children reaching their third birthday. The superintendent of public instruction shall require written documentation from each participating district that the actual costs of providing services for all three-year-old developmentally disabled students equals or exceeds the current formula distribution for three-year-old developmentally disabled students. [OVERSTRUCK MATERIAL HAS BEEN LINE-ITEM VETOED.]~~

The general fund appropriation of five million five hundred eighty-seven thousand nine hundred dollars (\$5,587,900) shall be distributed to those school districts that the superintendent of public instruction determines will require additional funding from the state equalization guarantee distribution to provide a minimum salary level of twenty-two thousand dollars (\$22,000) per year to all classroom teachers.

The superintendent of public instruction shall certify to the secretary of finance and administration that the need exists before supplemental emergency funds can be released.

The general fund appropriation of three million seventy-five thousand four hundred dollars (\$3,075,400) for training and experience shall enable the superintendent of public instruction to make an additional distribution to certain local school districts. Any local school district that did not receive a waiver from the superintendent of public instruction in the calculation of the October 1992 training and experience index for instructional staff shall receive an additional distribution for the 1994-95 school year. That distribution shall be calculated as follows: number of membership program units in that district times (.007) times the unit value established by the superintendent of public instruction for the 1994-95 school year.

The general fund appropriation of two million three hundred thousand dollars (\$2,300,000) for noncertified school personnel shall be distributed to those school districts that the superintendent of public instruction determines will require additional funding to provide a minimum wage rate of six dollars (\$6.00) per hour to all noncertified school personnel.

Category transfers are specifically authorized for the state department of public education for the transportation distributions in the eighty-third fiscal year.

The general fund appropriation to the public school fund shall be reduced by the amounts transferred to the public school fund from the current school fund and from the federal Mineral Lands Leasing Act (30 U.S.C.A. 181, et seq.) receipts otherwise unappropriated.

Unexpended or unencumbered balances in the distributions authorized remaining at the end of the eighty-third fiscal year from appropriations made from the general fund shall revert to the general fund.

Subtotal 1,177,124.9

Other
General State
Fund Funds Total

INSTRUCTIONAL MATERIAL FUND: 23,612.9 500.0 24,112.9

The appropriation to the instructional material fund is made from the federal Mineral Lands Leasing Act receipts.

Subtotal 24,112.9

Other
General State Fund Funds Total

TOTAL PUBLIC SCHOOL SUPPORT 1,199,637.8 1,600.0 1,201,237.8

Other Intrnl Svc
General State Funds/Inter- Federal
Item Fund Funds Agency Trnsf Funds Total

GRAND TOTALEIGHTY-THIRD FISCAL YEAR

APPROPRIATIONS 2,589,021.6 989,967.2 344,815.9 1,484,471.9 5,408,276.6

Section 5

Section 5. SUPPLEMENTAL AND DEFICIENCY APPROPRIATIONS.--Appropriated from the general fund, or other funds as indicated, for expenditure in the eighty-second fiscal year, unless otherwise indicated, the amounts set out in this section. Disbursement of these amounts shall be subject to the following conditions: certification by the state agency to the department of finance and administration that no other funds are available in the eighty-second fiscal year for the purpose specified in the appropriation; approval by the department of finance and administration; and notification of such approval to the legislative finance committee. Unexpended or unencumbered balances remaining at the end of the eighty-second fiscal year shall revert to the appropriate fund.

General
Item Fund Total

(1) **SUPREME COURT LAW LIBRARY: 3.8 3.8**

For salaries and benefits.

General
Item Fund Total

(2) **ADMINISTRATIVE OFFICE OF THE COURTS
MAGISTRATE COURTS: 45.4 45.4**

For salaries and benefits.

Other
State
Item Funds Total

(3) **JURY AND WITNESS FEE FUND: 8.3 8.3**

To meet eightieth fiscal year expenses.

General
Item Fund Total

(4) **COURT APPOINTED ATTORNEY FEES FUND: 30.0 30.0**

To meet eighty-first fiscal year expenses.

General
Item Fund Total

(5) **SIXTH JUDICIAL DISTRICT COURT: 2.6 2.6**

To meet eighty-first fiscal year expenses.

General
Item Fund Total

(6) **TENTH JUDICIAL DISTRICT COURT:** 2.0 2.0

For salaries.

(7) **TAXATION AND REVENUE DEPARTMENT:**

General
Item Fund Total

(a) Administrative services
division 325.0 325.0

To pay information systems division costs in the eighty-first fiscal year.

Other
State
Item Funds Total

(b) Property tax division 80.0 80.0

To meet operating costs.

Other
State
Item Funds Total

(c) Motor transportation division 150.0 150.0

The other state funds appropriation to the motor transportation division for the school bus inspection program shall be made from the state road fund.

Subtotal 555.0

(8) **PUBLIC EMPLOYEES RETIREMENT
ASSOCIATION:**

Other
State
Item Funds Total

(a) Public employees retirement

information system 330.8 330.8

For completion of the public employees retirement information system to be expended in the eighty-second through eighty-fourth fiscal years. Unexpended or unencumbered balances remaining at the end of the eighty-fourth fiscal year shall revert to the public employees retirement association fund.

Other
State
Item Funds Total

(b) Investment manager fees 1,000.0 1,000.0

For investment manager fees.

Subtotal 1,330.8

General
Item Fund Total

(9) **OFFICE OF CULTURAL AFFAIRS:** 30.0 30.0

To pay salary expenses.

General
Item Fund Total

(10) **INTER-TRIBAL INDIAN CEREMONIAL ASSOCIATION:** 35.0 35.0

To meet a revenue shortfall in the eighty-second fiscal year.

Other
State
Item Funds Total

(11) **COMMISSIONER OF PUBLIC LANDS:** 75.0 75.0

From the land maintenance fund to provide economic and legal studies of the interstate natural gas market to improve the ability of New Mexico gas producers to compete in those markets.

General Federal
Item Fund Funds Total

(12) **HUMAN SERVICES DEPARTMENT:** 3,300.0 9,436.3 12,736.3

For the medicaid program.

(13) **DEPARTMENT OF HEALTH:**

General

Item Fund Total

(a) Los Lunas hospital 1,000.0 1,000.0

For expenditures related to the accelerated movement of clients and medicaid reimbursement rate reduction.

General

Item Fund Total

(b) Fort Stanton hospital 1,000.0 1,000.0

For expenditures related to the accelerated movement of clients and medicaid reimbursement rate reduction.

General

Item Fund Total

(c) New Mexico veterans'
center 500.0 500.0

For expenditures related to medicaid reimbursement rate reduction and census shortfall.

Subtotal 2,500.0

(14) **CHILDREN, YOUTH AND FAMILIES DEPARTMENT:**

General

Item Fund Total

(a) Children's trust fund 500.0 500.0

For the purpose of increasing the interest income generated by the fund.

General

Item Fund Total

(b) Direct day care 200.0 200.0

To provide direct day care to income eligible clients. In addition to this amount, nine hundred thousand dollars (\$900,000) of the general fund appropriation to the office of

the secretary, administrative services division, community residential services division and social services division of the children, youth and families department in the personal services and employees benefits categories in Laws 1994, Chapter 365, is reappropriated to the child care bureau to provide direct day care to income eligible clients.

Subtotal 700.0

General
Item Fund Total

(15) **CRIME VICTIMS REPARATION
COMMISSION:** 350.0 350.0

To pay victim claims.

(16) **STATE DEPARTMENT OF PUBLIC EDUCATION:**
General
Item Fund Total

(a) Public schools supplemental
distribution 550.0 550.0

For supplemental distributions to the Rio Rancho public schools for transitional costs and to the Wagon Mound public schools for increases in special education students, provided that prorated funds are transferred from school districts that received state equalization guarantee distributions to educate these students in the 1993-94 school year.

Other
General State Federal
Item Fund Funds Funds Total

**TOTAL SUPPLEMENTAL AND DEFICIENCY
APPROPRIATIONS** 7,873.8 1,644.1 9,436.3 18,954.2

Section 6

Section 6. TRANSFER AUTHORITY.--If revenues and transfers to the general fund, excluding transfers to the operating reserve, appropriation contingency fund and public school state-support reserve, as of the end of the eighty-second fiscal year, are not sufficient to meet appropriations, the governor, with state board of finance approval, may transfer at the end of that year the amount necessary to meet the year's obligations from the unencumbered balance remaining in the general fund operating reserve in a total not to exceed twenty million dollars (\$20,000,000).

Section 7

Section 7. FIRST APPROPRIATION REDUCTION.--All amounts set out under the general fund column in Subsections A through I of Section 4 of the General Appropriation Act of 1994 shall be reduced by one percent rounded to the nearest tenth of one thousand dollars. The department of finance and administration shall adjust all totals, rates of distribution and language accordingly.

Section 8

~~Section 8. SECOND APPROPRIATION REDUCTION.--All appropriations for each of the objects contained under the general fund column in Section 4 of the General Appropriation Act of 1994 to the right of the decimal point shall be reduced to zero. This provision shall not apply to any object of appropriation that would be eliminated. The department of finance and administration shall adjust all totals, rates of distribution and language accordingly. [OVERSTRUCK MATERIAL HAS BEEN LINE-ITEM VETOED.]~~

Section 9

Section 9. TEACHER SALARY ADJUSTMENT.--One million one hundred thirty-four thousand four hundred dollars (\$1,134,400) is appropriated from the general fund to the state equalization guarantee distribution in the eighty-third fiscal year to bring the average cost-of-living salary increase for public school teachers to six percent in the eighty-third fiscal year.

Section 10

Section 10. HIGHER EDUCATION DISTRIBUTION.--Three million four hundred thousand dollars (\$3,400,000) is appropriated from the general fund to the commission on higher education for the following distribution:

A. three hundred thousand dollars (\$300,000) to each of the six four-year institutions; and

B. one hundred thousand dollars (\$100,000) to each of the sixteen two-year branch, independent and vocational-technical institutions.

Section 11

Section 11. GENDER EQUITY.--Included in the appropriations for national collegiate athletic association athletics programs in Subsection J of Section 4 of the General Appropriation Act of 1994 is nine hundred eighteen thousand dollars (\$918,000) to be used for the purpose of gender equity adjustments.

Section 12

Section 12. CASH REQUIREMENT ACCOMMODATION.--The general fund operating reserve and appropriation contingency fund are current funds as that term is used in Section 6-10-42 NMSA 1978 and may be expended to meet cash requirements during the eighty-third fiscal year pursuant to that section.

Section 13

Section 13. SEVERABILITY.--If any part or application of this act is held invalid, the remainder or its application to other situations or persons shall not be affected.

HOUSE APPROPRIATIONS AND FINANCE COMMITTEE SUBSTITUTE
FOR HOUSE BILLS 2, 3, 4, 5 AND 9

CHAPTER 7

RELATING TO TAXATION; CHANGING CERTAIN PROVISIONS OF THE SPECIAL FUELS SUPPLIER TAX ACT TO MODIFY REQUIREMENTS FOR POSTING OF BONDS.

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

Section 1

Section 1. Section 7-16A-15 NMSA 1978 (being Laws 1992, Chapter 51, Section 15) is amended to read:

"7-16A-15. BOND REQUIRED OF SUPPLIER OR DEALER.--

A. Except as provided in Subsection H of this section, every supplier and dealer shall file with the department a bond on a form approved by the attorney general with a surety company authorized by the state corporation commission to transact business in this state as a surety and upon which bond the supplier or dealer is the principal obligor and the state the obligee. The bond shall be conditioned upon the prompt filing of true reports and the payment by the supplier or dealer to the department of all taxes levied by the Special Fuels Supplier Tax Act, together with all applicable penalties and interest thereon.

B. In lieu of the bond, the supplier or dealer may elect to file with the department cash or bonds of the United States or New Mexico or of any political subdivision of the state.

C. The total amount of the bond, cash or securities required of any supplier or dealer shall be fixed by the department and may be increased or reduced by the department at any time, subject to the limitations provided in this section.

D. In fixing the total amount of the bond, cash or securities required of any supplier or dealer required to post bond, the department shall require an equivalent in total amount to at least two times the amount of the department's estimate of the supplier's or dealer's quarterly special fuel excise tax, determined in such manner as the secretary may deem proper; provided, however, that the total amount of bond, cash or securities required of a supplier or dealer shall never be less than one thousand dollars (\$1,000).

E. In the event the department decides that the amount of the existing bond, cash or securities is insufficient to insure payment to this state of the amount of the special fuel excise tax and any penalties and interest for which the supplier or dealer is or may at any time become liable, then the supplier or dealer shall forthwith, upon written demand of the department mailed to the last known address of the supplier or dealer as shown on the records of the department, file an additional bond, cash or securities in the manner, form and amount determined by the department to be necessary to secure at all times the payment by the supplier or dealer of all taxes, penalties and interest due under the Special Fuels Supplier Tax Act.

F. Any surety on any bond furnished by any supplier or dealer as required by this section shall be released and discharged from all liability accruing on the bond after the expiration of ninety days from the date upon which the surety files with the department a written request to be released and discharged; provided, however, that such request shall not operate to release or discharge the surety from any liability already accrued or that shall accrue before the expiration of the ninety-day period, unless a new bond is filed during the ninety-day period, in which case the previous bond may be canceled as of the effective date of the new bond. On receipt of notice of such request, the department shall notify promptly the supplier or dealer who furnished the bond that the supplier or dealer shall, on or before the expiration of the ninety-day period, file with the department a new bond with a surety satisfactory to the department in the amount and form required in this section.

G. The supplier or dealer required to file bond with or provide cash or securities to the department in accordance with this section and who is required by any other state law to file another bond with or provide cash or securities to the department may elect to file a combined bond or provide cash or securities applicable to the provisions of both this section and the other law, with the approval of the secretary. The amount of the combined bond, cash or securities shall be determined by the department, and the form of the combined bond shall be approved by the attorney general.

H. On July 1, 1994, every supplier or dealer who, for the twenty-four month period immediately preceding that date, has not been a delinquent taxpayer and both has timely filed all tax returns due under the Special Fuels Supplier Tax Act or the Special Fuels Tax Act and has timely paid all taxes due under those acts is exempt from the requirement under this section to file a bond. A supplier or dealer required to file a bond under the provisions of this section who, for a twenty-four consecutive month

period ending after July 1, 1994, timely files all tax returns due under either the Special Fuels Supplier Tax Act or the Special Fuels Tax Act is exempt from the requirement to file a bond beginning with the first day of the first month following the end of the twenty-four month period. If a supplier or dealer exempted under this subsection subsequently becomes a delinquent taxpayer or twice fails in any twelve consecutive month period either to timely file a tax return or make timely payment of tax due under the Special Fuels Supplier Tax Act, the department may terminate the exemption and require the filing of a bond in accordance with this section. If the department terminates the exemption, the termination shall not be effective any earlier than ten days after the date the department notifies the supplier or dealer in writing of the termination."

Section 2

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1994.

HOUSE BILL 11

CHAPTER 8

RELATING TO CAPITAL EXPENDITURES; REAUTHORIZING UNEXPENDED BALANCES; CHANGING PURPOSES OF SEVERANCE TAX BONDS; MAKING AN APPROPRIATION; DECLARING AN EMERGENCY.

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

Section 1

Section 1. SEVERANCE TAX BONDS--CHANGE IN PURPOSE--APPROPRIATION.--The appropriation of one hundred twenty-five thousand dollars (\$125,000) in severance tax bond proceeds to the department of environment pursuant to Subsection B of Section 8 of Chapter 367 of Laws 1994 shall not be expended for its original purpose but is appropriated for the expansion of sewer and water systems for the town of Bernalillo located in Sandoval county. Any unexpended or unencumbered balance remaining six months after completion of the project shall revert to the severance tax bonding fund.

Section 2

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

HOUSE BILL 12

EMERGENCY CLAUSE -- SIGNED FEBRUARY 15, 1994

CHAPTER 9

RELATING TO TAXATION; PROVIDING A SEVEN-YEAR DELAY ON PROPERTY TAXATION OF CERTAIN LIVESTOCK; DECLARING AN EMERGENCY.

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

Section 1

Section 1. Section 7-35-2 NMSA 1978 (being Laws 1973, Chapter 258, Section 2, as amended) is amended to read:

"7-35-2. DEFINITIONS.--As used in the Property Tax Code:

A. "department" or "division" means the taxation and revenue department, the secretary of taxation and revenue or any employee of the department exercising authority lawfully delegated to that employee by the secretary;

B. "director" means the secretary;

C. "livestock" means cattle, buffalo, horses, mules, sheep, goats, swine and other domestic animals useful to man, excluding ratites;

D. "manufactured home" means a manufactured home as that term is defined in Section 66-1-4.11 NMSA 1978;

E. "net taxable value" means the value of property upon which the tax is imposed and is determined by deducting from taxable value the amount of any exemption authorized by the Property Tax Code;

F. "nonresidential property" means property that is not residential property;

G. "owner" means the person in whom is vested any title to property;

H. "person" means an individual or any other legal entity;

I. "property" means tangible property, real or personal;

J. "residential property" means property consisting of one or more dwellings together with appurtenant structures, the land underlying both the dwellings and the appurtenant structures and a quantity of land reasonably necessary for parking and other uses that facilitate the use of the dwellings and appurtenant structures; as used in this subsection, "dwellings" includes both manufactured homes and other structures when used primarily for permanent human habitation, but the term does not include structures when used primarily for temporary or transient human habitation such as hotels, motels and similar structures;

K. "secretary" means the secretary of taxation and revenue and, except for purposes of Section 7-35-6 NMSA 1978 and Paragraphs (1) and (2) of Subsection B of Section 7-38-90 NMSA 1978, also includes the deputy secretary or a division director or deputy division director delegated by the secretary;

L. "tax" means the property tax imposed under the Property Tax Code;

M. "taxable value" means the value of property determined by applying the tax ratio to the value of the property determined for property taxation purposes;

N. "tax rate" means the rate of the tax expressed in terms of dollars per thousand dollars of net taxable value of property;

O. "tax ratio" means the percentage established under the Property Tax Code that is applied to the value of property determined for property taxation purposes in order to derive taxable value; and

P. "tax year" means the calendar year."

Section 2

Section 2. Effective January 1, 2001, Section 7-35-2 NMSA 1978 (being Laws 1973, Chapter 258, Section 2, as amended and as further amended by Section 1 of this act) is amended to read:

"7-35-2. DEFINITIONS.--As used in the Property Tax Code:

A. "department" or "division" means the taxation and revenue department, the secretary of taxation and revenue or any employee of the department exercising authority lawfully delegated to that employee by the secretary;

B. "director" means the secretary;

C. "livestock" means cattle, buffalo, horses, mules, sheep, goats, swine, ratites and other domestic animals useful to man;

D. "manufactured home" means a manufactured home as that term is defined in Section 66-1-4.11 NMSA 1978;

E. "net taxable value" means the value of property upon which the tax is imposed and is determined by deducting from taxable value the amount of any exemption authorized by the Property Tax Code;

F. "nonresidential property" means property that is not residential property;

G. "owner" means the person in whom is vested any title to property;

H. "person" means an individual or any other legal entity;

I. "property" means tangible property, real or personal;

J. "residential property" means property consisting of one or more dwellings together with appurtenant structures, the land underlying both the dwellings and the appurtenant structures and a quantity of land reasonably necessary for parking and other uses that facilitate the use of the dwellings and appurtenant structures; as used in this subsection, "dwellings" includes both manufactured homes and other structures when used primarily for permanent human habitation, but the term does not include structures when used primarily for temporary or transient human habitation such as hotels, motels and similar structures;

K. "secretary" means the secretary of taxation and revenue and, except for purposes of Section 7-35-6 NMSA 1978 and Paragraphs (1) and (2) of Subsection B of Section 7-38-90 NMSA 1978, also includes the deputy secretary or a division director or deputy division director delegated by the secretary;

L. "tax" means the property tax imposed under the Property Tax Code;

M. "taxable value" means the value of property determined by applying the tax ratio to the value of the property determined for property taxation purposes;

N. "tax rate" means the rate of the tax expressed in terms of dollars per thousand dollars of net taxable value of property;

O. "tax ratio" means the percentage established under the Property Tax Code that is applied to the value of property determined for property taxation purposes in order to derive taxable value; and

P. "tax year" means the calendar year."

Section 3

Section 3. APPLICABILITY.--The provisions of Section 1 of this act apply to 1994 and subsequent property tax years.

Section 4

Section 4. EMERGENCY.--It is necessary for the public peace, health, and safety that this act take effect immediately.

HOUSE BILL 44

EMERGENCY CLAUSE -- SIGNED FEBRUARY 15, 1994

CHAPTER 10

RELATING TO TAXATION; REPEALING THE CORPORATE INCOME TAX SURTAX APPLICABLE TO CERTAIN UNITARY CORPORATIONS; DECLARING AN EMERGENCY.

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

Section 1

Section 1. Section 7-2A-8.7 NMSA 1978 (being Laws 1994, Chapter 309, Section 4) is repealed.

Section 2

Section 2. APPLICABILITY.--The provisions of this act apply to taxable years beginning in 1993.

Section 3

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

HOUSE BILL 66
EMERGENCY CLAUSE SIGNED FEBRUARY 15, 1994

CHAPTER 11

RELATING TO PUBLIC MONEY; PROVIDING FOR STATE AGENCY REVERSIONS TO THE GENERAL FUND; PROVIDING FOR MODIFICATIONS.

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

Section 1

Section 1. STATE AGENCY REVERSIONS--DIRECTOR POWERS--COMPLIANCE WITH FEDERAL RULES AND REGULATIONS.--

A. All unreserved undesignated fund balances in reverting funds and accounts as reflected in the central financial reporting and accounting system as of June 30, as adjusted, shall revert to the general fund within ten days of release of the audit report for that fiscal year.

B. The director of the financial control division of the department of finance and administration may modify a reversion required pursuant to Subsection A of this section if the reversion would violate federal law, rules or regulations pertaining to supplanting of state funds with federal funds or other applicable federal provisions. For the eighty-third fiscal year, the director of the financial control division may modify a reversion pursuant to this section if the reversion would result in a financial hardship to the state.

Section 2

Section 2. APPLICABILITY.--The provisions of this act apply to the eighty-second and subsequent fiscal years.

HOUSE BILL 83

CHAPTER 12

RELATING TO FISCAL YEARS; CHANGING THE CITATION OF THE FISCAL YEAR.

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

Section 1

Section 1. Section 6-10-1 NMSA 1978 (being Laws 1903, Chapter 108, Section 7, as amended) is amended to read:

"6-10-1. FISCAL YEAR DESIGNATED.--

A. The fiscal year for the state and for the counties, cities, towns, villages and school districts thereof begins on July 1 and ends on June 30. The year beginning on July 1, 1925 shall be known as the fourteenth fiscal year.

B. Beginning July 1, 1994, the fiscal year shall be cited by citing the calendar year in which the fiscal year ends. The fiscal year beginning July 1, 1994 shall be fiscal year 1995."

HOUSE BILL 370

CHAPTER 13

RELATING TO SURPLUS LINE REINSURANCE; PROVIDING FOR REINSURANCE BY INCORPORATED GROUPS; AMENDING SECTIONS OF THE NEW MEXICO INSURANCE CODE; DECLARING AN EMERGENCY.

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

Section 1

Section 1. Section 59A-7-11 NMSA 1978 (being Laws 1984, Chapter 127, Section 117, as amended) is amended to read:

"59A-7-11. REINSURANCE.--

A. An insurer may reinsure all or any part of a particular risk or of a particular class of risks in another insurer, or accept such reinsurance from another insurer. No domestic insurer shall so reinsure with an insurer not authorized to transact insurance in this state unless the unauthorized insurer is authorized to transact insurance in another state and conforms to the same standards of solvency as would be required if at the time such reinsurance is effected the reinsurer was so authorized in this state; or unless, in the case of a group that includes incorporated and individual, unincorporated alien insurers, it has assets held in trust for the benefit of its United States policyholders in an amount not less than one hundred million dollars (\$100,000,000), and is authorized to transact insurance in at least one state; or unless with the superintendent's approval in advance. With the superintendent's approval, a domestic insurer may reinsure all or substantially all of its risks in another insurer, or similarly reinsure the risks of another insurer, as provided in Section 59A-34-40 NMSA 1978.

B. Credit for reinsurance shall be allowed as an asset or as a deduction from liability to any ceding insurer for reinsurance lawfully ceded only when the reinsurance is payable by the assuming insurer on the basis of the liability of the ceding insurer under the contracts reinsured without diminution because of the insolvency of the ceding insurer directly to the ceding insurer or to its domiciliary liquidator or receiver, except where the assuming insurer with the consent of the direct insured or insureds has assumed such policy obligations of the ceding insurer as direct obligations of the assuming insurer to the payees under such policies and in substitution for the obligations of the ceding insurer to such payees, and the reinsurer meets the requirements of Paragraph (1), (2), (3) or (4) of this subsection. If meeting the requirements of Paragraph (3) of this subsection, the requirements of Paragraph (5) of this subsection must also be met.

(1) Credit shall be allowed when the reinsurance is ceded to an assuming insurer which is authorized to transact insurance or reinsurance in this state.

(2) Credit shall be allowed when the reinsurance is ceded to an assuming insurer which is accredited as a reinsurer in this state. An accredited reinsurer is one which:

(a) files with the superintendent evidence of its submission to this state's jurisdiction;

(b) submits to this state's authority to examine its books and records;

(c) is licensed to transact insurance or reinsurance in at least one state, or in the case of a United States branch of an alien assuming insurer is entered through and licensed to transact insurance or reinsurance in at least one state;

(d) files annually with the superintendent a copy of its annual statement filed with the insurance department of its state of domicile and a copy of its most recent audited financial statement; and either 1) maintains a surplus as regards policyholders in an amount which is not less than twenty million dollars (\$20,000,000) and whose accreditation has not been denied by the superintendent within ninety days of its submission; or 2) maintains a surplus as regards policyholders in an amount less than twenty million dollars (\$20,000,000) and whose accreditation has been approved by the superintendent.

(e) No credit shall be allowed a ceding insurer, if the assuming insurer's accreditation has been revoked by the superintendent after notice and hearing.

(3) Credit shall be allowed when the following requirements are met:

(a) the reinsurance is ceded to an assuming insurer which maintains a trust fund in a qualified United States financial institution, as defined in Paragraph (2) of Subsection D of this section, for the payment of the valid claims of its United States policyholders and ceding insurers, their assigns and successors in interest. The assuming insurer shall report annually to the superintendent information substantially the same as that required to be reported on the national association of insurance commissioners annual statement form by licensed insurers to enable the superintendent to determine the sufficiency of the trust fund. In the case of a single assuming insurer, the trust shall consist of a trustee account representing the assuming insurer's liabilities attributable to business written in the United States, and, in addition, the assuming insurer shall maintain a trustee surplus of not less than twenty million dollars (\$20,000,000). In the case of a group that includes incorporated and individual unincorporated underwriters, the trust shall consist of a trustee account representing the group's liabilities attributable to business written in the United States and, in addition, the group shall maintain a trustee surplus of which one hundred million dollars (\$100,000,000) shall be held jointly for the benefit of United States ceding insurers of any member of the group; provided, the group shall make available to the superintendent an annual certification of the solvency of each underwriter by the group's domiciliary regulator and its independent public accounts; and provided further, the incorporated members of the group shall not engage in any business other than underwriting as a member of the group and shall be subject to the same level of solvency regulation and control by the group's domiciliary regulator as are the unincorporated members;

(b) in the case of a group of incorporated insurers under common administration which complies with the filing requirements contained in Subparagraph (a) of this paragraph, and which has continuously transacted an

insurance business outside the United States for at least three years immediately prior to making application for accreditation, and submits to this state's authority to examine its books and records and bears the expense of the examination, and which has aggregate policyholders' surplus of ten billion dollars (\$10,000,000,000); the trust shall be in an amount equal to the group's several liabilities attributable to business ceded by United States ceding insurers to any member of the group pursuant to reinsurance contracts issued in the name of such group; plus the group shall maintain a joint trusteed surplus of which one hundred million dollars (\$100,000,000) shall be held jointly and exclusively for the benefit of the United States ceding insurers of any member of the group as additional security for any such liabilities, and each member of the group shall make available to the superintendent an annual certification of the member's solvency by the member's domiciliary regulator and its independent public accountant;

(c) such trust shall be established in a form approved by the superintendent. The trust instrument shall provide that contested claims shall be valid and enforceable upon the final order of any court of competent jurisdiction in the United States. The trust shall vest legal title to its assets in the trustees of the trust for its United States policyholders and ceding insurers, their assigns and successors in interest. The trust and the assuming insurer shall be subject to examination as determined by the superintendent. The trust described herein must remain in effect for as long as the assuming insurer shall have outstanding obligations due under the reinsurance agreements subject to the trust; and

(d) no later than February 28 of each year the trustees of the trust shall report to the superintendent in writing setting forth the balance of the trust and listing the trust's investments at the preceding year end and shall certify the date of termination of the trust, if so planned, or certify that the trust shall not expire prior to the next following December 31.

(4) Credit shall be allowed when the reinsurance is ceded to an assuming insurer not meeting the requirements of Paragraph (1), (2) or (3) of this subsection but only with respect to the insurance of risks located in jurisdictions where such reinsurance is required by applicable law or regulation of that jurisdiction.

(5) If the assuming insurer is not licensed or accredited to transact insurance or reinsurance in this state, the credit permitted by Paragraph (3) of this subsection shall not be allowed unless the assuming insurer agrees in the reinsurance agreements:

(a) that in the event of the failure of the assuming insurer to perform its obligations under the terms of the reinsurance agreement, the assuming insurer, at the request of the ceding insurer, shall submit to the jurisdiction of any court of competent jurisdiction in any state of the United States, will comply with all requirements necessary to give such court jurisdiction and will abide by the final decision of such court or of any appellate court in the event of an appeal; and

(b) to designate the superintendent or a designated attorney as its true and lawful attorney upon whom may be served any lawful process in any action, suit or proceeding instituted by or on behalf of the ceding company. This provision is not intended to conflict with or override the obligation of the parties to a reinsurance agreement to arbitrate their disputes, if such an obligation is created in the agreement.

C. A reduction from liability for the reinsurance ceded by an insurer to an assuming insurer not meeting the requirements of Subsection B of this section shall be allowed in an amount not exceeding the liabilities carried by the ceding insurer and such reduction shall be in the amount of funds held by or on behalf of the ceding insurer, including funds held in trust for the ceding insurer, under a reinsurance contract with such assuming insurer as security for the payment of obligations thereunder, if such security is held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer; or, in the case of a trust, held in a qualified United States financial institution, as defined in Paragraph (2) of Subsection D. This security may be in the form of:

(1) cash;

(2) securities listed by the securities valuation office of the national association of insurance commissioners and qualifying as admitted assets;

(3) clean, irrevocable, unconditional letters of credit, issued or confirmed by a qualified United States financial institution, as defined in Paragraph (1) of Subsection D, no later than December 31 in respect of the year for which filing is being made, and in the possession of the ceding company on or before the filing date of its annual statement. Letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance or confirmation shall, notwithstanding the issuing or confirming institution's subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification or amendment, whichever first occurs; or

(4) any other form of security acceptable to the superintendent.

D. A "qualified United States financial institution" means:

(1) for purposes of Paragraph (3) of Subsection C, an institution that:

(a) is organized or, in the case of a United States office of a foreign banking organization, licensed, under the laws of the United States or any state thereof;

(b) is regulated, supervised and examined by United States federal or state authorities having regulatory authority over banks and trust companies; and

(c) has been determined by either the superintendent or the securities valuation office of the national association of insurance commissioners to meet such standards of financial condition and standing as are considered necessary and appropriate to regulate the quality of financial institutions whose letters of credit are acceptable to the superintendent; and

(2) for purposes of those provisions of this section specifying those institutions that are eligible to act as a fiduciary of a trust, an institution that:

(a) is organized or, in the case of a United States branch or agency office of a foreign banking organization, licensed, under the laws of the United States or any state thereof and has been granted authority to operate with fiduciary powers; and

(b) is regulated, supervised and examined by federal or state authorities having regulatory authority over banks and trust companies.

E. No insurer shall accept reinsurance of risk of any kind of insurance it is not authorized to transact directly in this state, if an authorized insurer, or in another state if the insurer does not hold a certificate of authority in this state.

F. Upon the superintendent's request an insurer shall furnish the superintendent with copies of its reinsurance treaties then in effect, and promptly inform the superintendent in writing of cancellation or other material change in its reinsurance treaties or arrangements.

G. No person shall have any rights against the reinsurer which are not expressly stated in the reinsurance contract or in a written agreement between such person and the reinsurer.

H. This section does not apply to wet marine and transportation insurance."

Section 2

Section 2. Section 59A-14-4 NMSA 1978 (being Laws 1991, Chapter 125, Section 14) is amended to read:

"59A-14-4. ELIGIBLE SURPLUS LINES INSURERS REQUIRED.--

A. No person shall export insurance except as authorized by and in accordance with Chapter 59A, Article 14 NMSA 1978.

B. No surplus lines broker shall transact any surplus lines insurance with any insurer other than an eligible surplus lines insurer.

C. To qualify as an eligible surplus lines insurer, an unauthorized foreign insurer shall file information demonstrating to the superintendent's satisfaction that:

(1) the insurer, its officers, owners, key employees and all persons exercising management or control of the insurer are of good repute and financial integrity; and

(2) the insurer qualifies under one of the following subparagraphs:

(a) the insurer shall have capital and surplus, or their equivalent, that equals fifteen million dollars (\$15,000,000); provided that unauthorized insurers on the New Mexico list of eligible surplus lines insurers as of the effective date of this section that do not meet the foregoing requirements shall have capital and surplus of ten million dollars (\$10,000,000) by December 31, 1991, twelve million five hundred thousand dollars (\$12,500,000) by December 31, 1992 and fifteen million dollars (\$15,000,000) by December 31, 1993;

(b) the requirements of Subparagraph (a) of this paragraph may be satisfied by an insurer possessing less than the capital and surplus upon an affirmative finding of acceptability by the superintendent. The finding shall be based upon such factors as quality of management, capital and surplus of any parent company, company underwriting profit and investment income trends and company record and reputation within the industry. In no event shall the superintendent make an affirmative finding of acceptability when the surplus lines insurer's capital and surplus is less than four million five hundred thousand dollars (\$4,500,000); or

(c) an "insurance exchange", which is an association of syndicates or insurers created by the laws of individual states, shall maintain capital and surplus, or the equivalent thereof, of not less than fifty million dollars (\$50,000,000) in the aggregate. For insurance exchanges that maintain funds for the protection of all insurance exchange policyholders, each individual syndicate shall maintain minimum capital and surplus, or the equivalent thereof, of not less than five million dollars (\$5,000,000). In the event the insurance exchange does not maintain funds for the protection of all insurance exchange policyholders, each individual syndicate shall meet the minimum capital and surplus requirements of Subparagraph (a) of this paragraph.

D. In addition to meeting the requirements of Subsection C of this section, an alien insurer shall have in force and on deposit in the United States in a qualified United States financial institution an irrevocable trust account for the exclusive benefit of United States policyholders of not less than two million five hundred thousand dollars (\$2,500,000), or any higher amount the superintendent may establish by regulation, consisting exclusively of cash, securities, letters of credit and of investments of the same character and quality, and subject to the same limitations as to percentage of assets that may be invested in each class of assets, as constitute eligible investments for the capital, surplus and statutory reserves of authorized insurers authorized to write like kinds of insurance in this state. Such trust fund, which shall be included in any calculation of capital and surplus or its equivalent, shall have an expiration date that at

no time shall be less than five years from the last date on which the insurer accepts surplus lines insurance subject to Chapter 59A, Article 14 NMSA 1978.

E. A Lloyds plan or other similar groups that include incorporated and individual unincorporated insurers, shall maintain a trust fund of not less than fifty million dollars (\$50,000,000) as security to the full amount thereof for all policyholders and creditors in the United States of each member of the group, and such trust shall likewise comply with the terms and conditions established for alien insurers in Subsection D of this section; provided, that the incorporated members of the group shall not engage in any business other than underwriting as a member of the group and shall be subject to the same level of solvency regulation and control by the group's domiciliary regulator as are the unincorporated members of the group.

F. In addition to meeting the requirements in Subsections C through E of this section, an unauthorized insurer shall be qualified as an eligible surplus lines insurer only if:

(1) the superintendent has determined that the insurer meets the requirements of Chapter 59A, Article 14 NMSA 1978 and has placed the insurer on the most recent list of eligible surplus lines insurers published by the superintendent; and

(2) as to an alien insurer, the insurer appears on the most recent list of alien insurers published by the non-admitted insurers information office of the national association of insurance commissioners or its substantial equivalent as determined by the superintendent.

G. In order to appear on the list of eligible surplus lines insurers, an unauthorized insurer shall provide to the superintendent a copy of its most current annual statement certified and sworn to by the insurer. The statement shall be provided at the same time it is provided to the insurer's domicile, but in no event more than nine months after the close of the period reported upon, and shall be either:

(1) filed with and approved by the regulatory authority in the insurer's domicile; or

(2) certified as correct and in accordance with applicable accounting principles by a public accounting firm licensed in the insurer's domicile.

In the case of an insurance exchange, the statement may be an aggregate combined statement of all underwriting syndicates operating during the period reported.

H. Nothing in this section shall create any duty of the superintendent to place or maintain any unauthorized insurer on the list of eligible surplus lines insurers. The superintendent in his discretion may refuse to list or continue to list an insurer for any reason even if the insurer otherwise meets the requirements of this section. No such listing shall be deemed to constitute or evidence the superintendent's approval or

guaranty as to the financial condition or business practices of the insurer, and no insurer or other person shall allege orally or in writing that any such listing constitutes or implies the superintendent's approval.

I. The superintendent may adopt rules and regulations fixing reasonable conditions to be met by insurers for such listing, including but not limited to the requirement of a special deposit pursuant to Section 59A-5-19 NMSA 1978. For good cause shown, the superintendent may in writing waive the requirements of this section to permit insurance to be placed as to a particular risk and insurer if the insurance is not otherwise reasonably obtainable."

Section 3

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

HOUSE BILL 13

EMERGENCY CLAUSE SIGNED FEBRUARY 15, 1994

CHAPTER 14

RELATING TO TAXATION; ENACTING A NEW SECTION OF THE COUNTY LOCAL OPTION GROSS RECEIPTS TAXES ACT TO AUTHORIZE IMPOSITION OF A COUNTY HOSPITAL EMERGENCY GROSS RECEIPTS TAX; AMENDING CERTAIN PROVISIONS OF THE LOCAL HOSPITAL GROSS RECEIPTS TAX ACT; DECLARING AN EMERGENCY.

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

Section 1

Section 1. A new section of the County Local Option Gross Receipts Taxes Act is enacted to read:

"COUNTY HOSPITAL EMERGENCY GROSS RECEIPTS TAX--AUTHORITY TO IMPOSE--USE OF PROCEEDS.--

A. The majority of the members of the governing body may enact an ordinance imposing an excise tax on any person engaging in business in the county for the privilege of engaging in business. The rate of the tax shall be one-fourth of one percent of the gross receipts of the person engaging in business. The tax shall be imposed only once for a period of not more than two years from the effective date of the ordinance imposing the tax.

B. The tax imposed by this section may be referred to as the "county hospital emergency gross receipts tax".

C. At the time of enacting the ordinance imposing the tax authorized in this section, the governing body shall dedicate the revenue for current operations and maintenance of a hospital owned by the county or a hospital with whom the county has entered into a health care facilities contract.

D. As used in this section, "county" means a class B county with a population of less than ten thousand according to the 1990 federal decennial census and with a net taxable value for rate-setting purposes for the 1993 property tax year in excess of one hundred million dollars (\$100,000,000)."

Section 2

Section 2. Section 7-20C-3 NMSA 1978 (being Laws 1991, Chapter 176, Section 3, as amended) is amended to read:

"7-20C-3. LOCAL HOSPITAL GROSS RECEIPTS TAX--AUTHORITY TO IMPOSE--ORDINANCE REQUIREMENTS.--

A. The majority of the members elected to the governing body may enact an ordinance imposing an excise tax on any person engaging in business in the county for the privilege of engaging in business. This tax is to be referred to as the "local hospital gross receipts tax". The rate of the tax shall be one-half of one percent of the gross receipts of the person engaging in business if the tax is initially imposed before January 1, 1993. The rate of the tax shall be one-eighth of one percent of the gross receipts of the person engaging in business if the tax is initially imposed after January 1, 1993.

B. The local hospital gross receipts tax imposed initially before January 1, 1993 shall be imposed only once for the period necessary for payment of the principal and interest on revenue bonds issued to accomplish the purpose for which the revenue is dedicated, but the period shall not exceed ten years from the effective date of the ordinance imposing the tax.

C. No local hospital gross receipts tax authorized in Subsection A of this section shall be imposed initially after January 1, 1993 unless:

(1) in a county described in Paragraph (2) of Subsection A of Section 7-20C-2 NMSA 1978, the voters of the county have approved the issuance of general obligation bonds of the county sufficient to pay at least one-half of the costs of the county hospital facility or county twenty-four hour urgent care or emergency facility for which the local hospital gross receipts tax revenues are dedicated, including the costs of all acquisition, renovation and equipping of the facility; or

(2) in a county described in Paragraph (3) of Subsection A of Section 7-20C-2 NMSA 1978, the county will not have in effect at the same time a county hospital emergency gross receipts tax and the voters of the county have approved the imposition of a property tax at a rate of one dollar (\$1.00) on each one thousand dollars (\$1,000) of taxable value of property in the county for the purpose of operation and maintenance of a hospital owned by the county and operated and maintained either by the county or by another party pursuant to a lease with the county. As used in this paragraph, "taxable value of property" means the sum of the net taxable value, as that term is defined in the Property Tax Code, of property subject to taxation under the Property Tax Code; the assessed value of products, as those terms are defined in the Oil and Gas Ad Valorem Production Tax Act; and the assessed value of equipment, as those terms are defined in the Oil and Gas Production Equipment Ad Valorem Tax Act.

D. Prior to January 1, 1993, the governing body, at the time of enacting an ordinance imposing the rate of the tax authorized in Subsection A of this section, shall dedicate the revenue for acquisition of land for and the design, construction, equipping and furnishing of a county hospital facility to be operated by the county or operated and maintained by another party pursuant to a lease with the county. If the governing body is enacting the ordinance imposing the tax after July 1, 1993, the governing body shall dedicate the revenue for acquisition, renovation and equipping of a building for a county hospital facility or a county twenty-four hour urgent care or emergency facility or for operation and maintenance of that facility, whether operated and maintained by the county or by another party pursuant to a lease with the county, for the period of time the tax is imposed not to exceed ten years. In any election held, the ballot shall clearly state the purpose to which the revenue will be dedicated and the revenue shall be used by the county for that purpose.

E. The ordinance shall not go into effect until after an election is held and a simple majority of the qualified electors of the county voting in the election votes in favor of imposing the local hospital gross receipts tax and, in the case of a county described in Paragraph (3) of Subsection A of Section 7-20C-2 NMSA 1978, also votes in favor of a property tax at a rate of one dollar (\$1.00) for each one thousand dollars (\$1,000) of taxable value of property in the county. The governing body shall provide for an election on the question of imposing the tax or taxes within sixty days after the date the ordinance is adopted. The question may be submitted to the qualified electors and voted upon as a separate question in a general election or in any special election called for that purpose by the governing body. A special election upon the question shall be called, held, conducted and canvassed in substantially the same manner as provided by law for general elections. If the question of imposing a local hospital gross receipts tax fails or if the question of imposing both a local hospital gross receipts tax and a property tax fails, the governing body shall not again propose a local hospital gross receipts tax for a period of one year after the election. A certified copy of any ordinance imposing a local hospital gross receipts tax shall be mailed to the department within five days after the ordinance is adopted in any election called for that purpose.

F. Any ordinance enacted pursuant to the provisions of Subsection A of this section shall include an effective date of either July 1 or January 1, whichever date occurs first after the expiration of at least three months from the date the ordinance is approved by the electorate.

G. Any ordinance repealed under the provisions of the Local Hospital Gross Receipts Tax Act shall be repealed effective on either July 1 or January 1."

Section 3

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

HOUSE BILL 14
EMERGENCY CLAUSE -- SIGNED FEBRUARY 15, 1994

CHAPTER 15

CLARIFYING THAT COURTS SHALL NOT ENTER A CONDITIONAL DISCHARGE ORDER FOR A PERSON FOUND GUILTY OF DRIVING A MOTOR VEHICLE WHILE UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS; AMENDING A SECTION OF THE NMSA 1978; DECLARING AN EMERGENCY.

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

Section 1

Section 1. Section 31-20-13 NMSA 1978 (being Laws 1994, Chapter 283, Section 2) is amended to read:

"31-20-13. CONDITIONAL DISCHARGE ORDER--EXCEPTION.--

A. When a person who has not been previously convicted of a felony offense is found guilty of a crime for which a deferred or suspended sentence is authorized, the court may, without entering an adjudication of guilt, enter a conditional discharge order and place the person on probation on terms and conditions authorized by Sections 31-20-5 and 31-20-6 NMSA 1978. A conditional discharge order may only be made available once with respect to any person.

B. If the person violates any of the conditions of probation, the court may enter an adjudication of guilt and proceed as otherwise provided by law.

C. The court shall not enter a conditional discharge order for a person found guilty of driving a motor vehicle while under the influence of intoxicating liquor or drugs, pursuant to the provisions of Section 66-8-102 NMSA 1978."

Section 2

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

HOUSE BILL 131

EMERGENCY CLAUSE -- SIGNED FEBRUARY 25, 1994

CHAPTER 16

RELATING TO JUVENILE SERVICES; ENACTING THE REGIONAL JUVENILE SERVICES ACT; ESTABLISHING THE REGIONAL JUVENILE SERVICES GRANT FUND.

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

Section 1

Section 1. SHORT TITLE.--This act may be cited as the "Regional Juvenile Services Act".

Section 2

Section 2. PURPOSE.--The purpose of the Regional Juvenile Services Act is to:

A. establish a regional system of juvenile services, including secure detention facilities for juveniles and nonsecure alternatives to detention;

B. provide cost-effective care, through a continuum of services, to juveniles referred to juvenile probation and parole offices; and

C. encourage the state, counties and municipalities to act in a cooperative fashion to provide juvenile services.

Section 3

Section 3. REGIONAL JUVENILE SERVICES GRANT FUND--PURPOSE.--

A. The "regional juvenile services grant fund" is created in the state treasury.

B. All money appropriated to the regional juvenile services grant fund, or accruing to the fund as a result of a gift or deposit, shall not be transferred, encumbered or disbursed in any manner, except as provided pursuant to the provisions of the Regional Juvenile Services Act. Interest earned on the fund shall be credited to the general fund.

C. Money in the regional juvenile services grant fund shall be used for the purpose of assisting units of local or tribal government with:

(1) provision of temporary, nonsecure alternatives to detention for juveniles who have been referred to the juvenile probation and parole office;

(2) planning, assessment and design of a regional system of juvenile services, including secure detention and nonsecure alternatives, that serves multiple contiguous counties, municipalities, Indian tribes or pueblos; or

(3) development of multipurpose regional facilities that serve multiple contiguous counties, municipalities, Indian tribes or pueblos.

D. A multipurpose regional facility developed with money from the regional juvenile services grant fund shall conform to standards for detention facilities set forth in the Children's Code and administrative regulations governing detention facilities promulgated by the children, youth and families department. A multipurpose regional facility shall not be used for the detention or supervision of adults.

Section 4

Section 4. ADMINISTRATION OF REGIONAL JUVENILE SERVICES GRANT FUND--REGULATIONS--DISBURSEMENTS FROM FUND.--

A. The children, youth and families department shall administer the regional juvenile services grant fund and make grants pursuant to the provisions of the Regional Juvenile Services Act.

B. The juvenile justice advisory committee of the children, youth and families department shall review and approve all grant applications submitted pursuant to the provisions of the Regional Juvenile Services Act. The department of finance and administration, in conjunction with the children, youth and families department, shall stipulate the format and absolute deadlines for grant applications and the manner in which expenditures shall be reported.

C. After proper notice and public hearings, the children, youth and families department shall adopt regulations regarding qualifications for grants from the regional juvenile services grant fund.

D. Disbursements from the regional juvenile services grant fund shall be made upon warrants drawn by the secretary of finance and administration pursuant to vouchers signed by the secretary of children, youth and families.

Section 5

Section 5. CRITERIA FOR GRANT APPLICATIONS.--Units of local or tribal government or nonprofit organizations may apply for grants from the regional juvenile services grant fund, provided that:

A. for nonsecure alternative programs:

(1) the juvenile has been referred to the program by the juvenile probation and parole office;

(2) the program's primary purpose is to provide an alternative to placement in a secure juvenile detention facility;

(3) one or more units of local government agree to provide the required local matching funds;

(4) the children's court division of the district court that has jurisdiction over the juvenile placed in the nonsecure program has approved the use of the program for such purposes; and

(5) the amount of the grant application does not exceed sixty percent of the total annual cost for the nonsecure alternative program;

B. for planning, assessment and design of a regional system of juvenile services:

(1) the grant application is for a project that will serve multiple contiguous counties, municipalities, Indian tribes or pueblos;

(2) no more than eight regions will be recognized statewide; and

(3) the amount of the grant application does not exceed seventy-five percent of the total cost for planning, assessing and designing the regional system of juvenile services; or

C. for development of multipurpose regional facilities:

(1) the applicant certifies that it is willing and able to operate a multipurpose regional facility in conformance with standards for detention facilities set forth in the Children's Code;

(2) only juveniles will be detained or sheltered in a proposed multipurpose regional facility;

(3) the grant application includes formal arrangements for provision of adequate space for nonsecure services within the multipurpose regional facility, including emergency shelter and emergency treatment services;

(4) the region, composed of multiple contiguous counties, municipalities, Indian tribes or pueblos, that will use the multipurpose regional facility has been identified and established pursuant to a joint powers agreement entered into by units of local or tribal government within the region;

(5) a formal agreement is entered into by all judicial districts within a region pledging the districts' intent to cooperate with a plan for a regional system of juvenile services; and

(6) the amount of the grant application does not exceed fifty percent of total project costs for the development of a multipurpose regional facility.

Section 6

Section 6. CRITERIA FOR APPROVAL OF APPLICATIONS.--

A. Upon receipt of an application for a grant from the regional juvenile services grant fund for a nonsecure alternative program or service, the children, youth and families department shall certify that the alternative program will serve juveniles who would otherwise have been placed in secure detention.

B. Upon receipt of an application for planning, assessment and design of a regional system of juvenile services, the children, youth and families department shall certify that the application is for a project that will serve multiple contiguous counties, municipalities, Indian tribes or pueblos.

C. Upon receipt of an application to develop a multipurpose regional facility from the regional juvenile services grant fund, the children, youth and families department shall certify that the proposed development of a multipurpose regional facility set forth in the application conforms to standards for detention facilities set forth in the Children's Code and administrative regulations promulgated by the children, youth and families department. For those applicants for a multipurpose regional facility, priority shall be given to an applicant whose plan includes:

(1) provisions for a regional system of juvenile services within an area composed of multiple contiguous counties, municipalities, Indian tribes or pueblos;

(2) an executed agreement between all judicial districts within the area pledging the respective districts' intent to use the proposed multipurpose regional facility for the detention of juveniles; and

(3) joint powers agreements between all units of local and tribal government within the area.

Section 7

Section 7. EXPENDITURE LIMITATION.--Money granted pursuant to the provisions of the Regional Juvenile Services Act shall not be expended for multipurpose regional facilities until the children, youth and families department has certified that a final plan conforms to:

A. criteria set forth in that act; and

B. standards for detention facilities set forth in the Children's Code.

Section 8

Section 8. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1994.

HOUSE BILL 132

CHAPTER 17

RELATING TO CRIMINAL LAW; REGARDING THE CRIMINAL OFFENSE OF UNLAWFUL CARRYING OF A DEADLY WEAPON ON SCHOOL PREMISES; EXPANDING THE DEFINITION OF SCHOOL PREMISES; AMENDING A SECTION OF THE NMSA 1978.

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

Section 1

Section 1. Section 30-7-2.1 NMSA 1978 (being Laws 1987, Chapter 232, Section 1, as amended) is amended to read:

"30-7-2.1. UNLAWFUL CARRYING OF A DEADLY WEAPON ON SCHOOL PREMISES.--

A. Unlawful carrying of a deadly weapon on school premises consists of carrying a deadly weapon on school premises except by:

(1) a peace officer;

(2) school security personnel;

(3) a student, instructor or other school-authorized personnel engaged in army, navy, marine corps or air force reserve officer training corps programs

or state-authorized hunter safety training instruction;

(4) a person conducting or participating in a school-approved program, class or other activity involving the carrying of a deadly weapon; or

(5) a person older than nineteen years of age on school premises in a private automobile or other private means of conveyance, for lawful protection of the person's or another's person or property.

B. As used in this section, "school premises" means:

(1) the buildings and grounds, including playgrounds, playing fields and parking areas and any school bus of any public elementary, secondary, junior high or high school in or on which school or school-related activities are being operated under the supervision of a local school board; or

(2) any other public buildings or grounds, including playing fields and parking areas that are not public school property, in or on which public school-related and sanctioned activities are being performed.

C. Whoever commits unlawful carrying of a deadly weapon on school premises is guilty of a fourth degree felony."

Section 2

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1994.

HB 195

CHAPTER 18

CREATING THE CRIMINAL OFFENSE OF AGGRAVATED ESCAPE FROM THE CUSTODY OF THE CHILDREN, YOUTH AND FAMILIES DEPARTMENT; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978.

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

Section 1

Section 1. A new section of the Criminal Code is enacted to read:

"AGGRAVATED ESCAPE FROM THE CUSTODY OF THE CHILDREN, YOUTH AND FAMILIES DEPARTMENT.--Aggravated escape from the custody of the children, youth and families department consists of any person who has been adjudicated as a delinquent child and has been committed lawfully to the custody of a department juvenile justice facility:

A. escaping or attempting to escape from custody within the confines of a children, youth and families department juvenile justice facility and committing assault or battery on another person in the course of escaping or attempting to escape; or

B. escaping or attempting to escape from a lawful place of custody or confinement that is not within the confines of a children, youth and families department juvenile justice facility and committing assault or battery on another person in the course of escaping or attempting to escape.

Any person who commits aggravated escape from the custody of the children, youth and families department is guilty of a fourth degree felony."

Section 2

Section 2. Section 31-18-15.2 NMSA 1978 (being Laws 1994, Chapter 77, Section 1) is amended to read:

"31-18-15.2. DEFINITIONS.--As used in the Criminal Sentencing Act:

A. "serious youthful offender" means an individual sixteen or seventeen years of age who is charged with and indicted or bound over for trial for first degree murder; and

B. "youthful offender" means a delinquent child subject to adult or juvenile sanctions who is:

(1) fifteen to eighteen years of age at the time of the offense and who is adjudicated for at least one of the following offenses:

(a) second degree murder, as provided in Section 30-2-1 NMSA 1978;

(b) assault with intent to commit a violent felony, as provided in Section 30-3-3 NMSA 1978;

(c) kidnapping, as provided in Section 30-4-1 NMSA 1978;

(d) aggravated battery, as provided in Section 30-3-5 NMSA 1978;

(e) shooting at a dwelling or occupied building or shooting at or from a motor vehicle, which results in great bodily harm to another person, as provided in Section 30-3-8 NMSA 1978;

5 NMSA 1978;

(f) dangerous use of explosives, as provided in Section 30-7-

11 NMSA 1978;

(g) criminal sexual penetration, as provided in Section 30-9-

(h) robbery, as provided in Section 30-16-2 NMSA 1978;

NMSA 1978; or

(i) aggravated burglary, as provided in Section 30-16-4

1978;

(j) aggravated arson, as provided in Section 30-17-6 NMSA

(2) fifteen to eighteen years of age at the time of the offense and adjudicated for any felony offense and who has had three prior, separate felony adjudications within a two-year time period immediately preceding the instant offense. The felony adjudications relied upon as prior adjudications shall not have arisen out of the same transaction or occurrence or series of events related in time and location. Successful completion of consent decrees are not considered a prior adjudication for the purposes of this paragraph; or

(3) fifteen years of age and adjudicated for first degree murder, as provided in Section 30-2-1 NMSA 1978." Section 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1994.

HOUSE BILL 197

CHAPTER 19

RELATING TO CRIMINAL AND JUVENILE JUSTICE; CREATING THE CRIMINAL AND JUVENILE JUSTICE COORDINATING COUNCIL; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

Section 1

Section 1. Section 9-3-10 NMSA 1978 (being Laws 1977, Chapter 257, Section 11, as amended) is amended to read:

"9-3-10. CRIMINAL AND JUVENILE JUSTICE COORDINATING COUNCIL--
CREATION--MEMBERSHIP--DUTIES.--

A. There is created the "criminal and juvenile justice coordinating council".

B. The criminal and juvenile justice coordinating council shall be composed of fifteen members. Appointed members shall serve at the pleasure of the appointing authority. The council shall reflect reasonable geographical and urban-rural balances and regard for the incidence of crime and the distribution and concentration of law enforcement services in the state. The council shall consist of the following individuals or their designees:

- (1) the attorney general;
- (2) a district attorney appointed by the district attorneys association of New Mexico;
- (3) the chief public defender;
- (4) two district court judges, one of whom shall be a children's court judge, appointed by the district court judge's association of New Mexico;
- (5) a judge from the court of appeals appointed by the chief judge of the court of appeals;
- (6) the dean of the university of New Mexico college of law;
- (7) the secretary of corrections;
- (8) the secretary of public safety;
- (9) the secretary of children, youth and families;
- (10) a county sheriff appointed by the executive director of the New Mexico association of counties;
- (11) two public members appointed by the governor, one of whom shall be designated as chairman of the criminal and juvenile justice coordinating council by the governor;
- (12) three public members appointed by the president pro tempore of the senate;
- (13) three public members appointed by the speaker of the house of representatives;

(14) two public members appointed by the chief justice of the supreme court;

(15) one public member who is Native American and a practicing attorney, appointed by the president of the state bar association; and

(16) one public member who is the president of the New Mexico victim assistance organization.

C. A majority of the members of the criminal and juvenile justice coordinating council constitutes a quorum for the transaction of council business.

D. The criminal and juvenile justice coordinating council shall:

(1) hold meetings at times and for periods as the council deems necessary;

(2) hire staff as needed to assist the council in the performance of its duties;

(3) prepare an annual budget;

(4) establish policies for the operation of the criminal and juvenile justice coordinating council and supervision of the activities of council staff;

(5) advise the executive, judicial and legislative branches of government on policy matters relating to criminal and juvenile justice;

(6) make recommendations to the legislature concerning proposed changes to laws relating to the criminal and juvenile systems that the council determines would improve those systems; and

(7) assume the following duties as primary responsibilities during the first year when an appropriation is made to the criminal and juvenile justice coordinating council for the purpose of taking action to:

(a) study the Criminal Sentencing Act, the Criminal Code and all other New Mexico statutes relating to criminal law, criminal sentencing, criminal procedure and probation and parole;

(b) review past studies or reports regarding proposed changes to the Criminal Code, the Criminal Sentencing Act or other New Mexico statutes relating to criminal law, criminal sentencing, criminal procedure or probation and parole;

(c) study past and current criminal sentencing and release practices and create a statistical database for simulating the impact of various sentencing policies;

(d) study the full range of prison, nonprison and intermediate sanctions;

(e) study, develop and define specific criminal sentencing policies and make recommendations that address major policy issues, including: 1) determining the principal purpose for criminal sanctions; 2) ranking criminal offenses by degree of seriousness; 3) determining the role of criminal history in making criminal sentencing decisions; 4) defining dispositional policy that determines when adult felony offenders are confined in state prisons and county jails or sentenced to nonprison and intermediate sanctions; 5) establishing the length of criminal sentences; 6) establishing the appropriate use of community service and fines; and 7) structuring sentencing guidelines to assure consistency in all aspects of criminal sentencing policy;

(f) assess the impact of council recommendations to modify criminal sentencing policy on the availability of and need for correctional resources and programs;

(g) assess, monitor and report on the impact of any enacted sentencing guidelines on correctional resources and programs;

(h) monitor any enacted sentencing guidelines with respect to uniformity and proportionality;

(i) conduct research relating to the use and effectiveness of any enacted guidelines, prosecution standards, offense charging, plea bargaining, sentencing practices, probation and parole practices and any other matters relating to the criminal justice system; and

(j) serve as a clearinghouse for the systematic collection, analysis and dissemination of information relating to felony offense charges, plea agreements, convictions, sentences imposed, incarceration time actually served and actual and projected inmate population in the state correctional system.

E. The members of the criminal and juvenile justice coordinating council shall be paid pursuant to the Per Diem and Mileage Act and shall receive no other perquisite, compensation or allowance.

F. The criminal and juvenile justice coordinating council is administratively attached to the office of the governor."

Section 2

Section 2. A new Section 9-3-10.1 NMSA 1978 is enacted to read:

"9-3-10.1. AUTHORITY TO REVIEW RECORDS OR INFORMATION--
EXCEPTIONS--RULES.--

A. The criminal and juvenile justice coordinating council is authorized to inspect, copy, receive and review all records, data and information in the possession of state, county and local government agencies, except records, data or information that:

(1) are privileged under the Rules of Evidence;

(2) compromise or tend to disclose any privileged record or information; or

(3) are reports, memoranda or other internal documents given to or communications made to a prosecutor or defense attorney in connection with the investigation, prosecution or defense of a criminal case.

B. The criminal and juvenile justice coordinating council shall promulgate rules setting forth procedures for inspecting, copying, receiving, reviewing and reporting records, data and information necessary to fulfill its duties. State, county and local government agencies shall assist the council in obtaining the records, data and information necessary to fulfill the council's duties. All records, data and information received or obtained by the council shall have the same status with regard to access or release as when the records, data or information were in the possession of the entity from whom the council received them."

Section 3

Section 3. A new section 9-3-10.2 NMSA 1978 is enacted to read:

"9-3-10.2. AUTHORITY TO ACCEPT GRANTS OR DONATIONS.--The criminal and juvenile justice coordinating council may, in the name of the state, accept grants, donations or gifts to carry out its functions and purposes."

Section 4

Section 4. REPEAL.--Sections 31-18A-1 through 31-18A-9 NMSA 1978 (being Laws 1988, Chapter 116, Sections 1 through 9) are repealed.

Section 5

Section 5. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1994.

HOUSE BILL 199

CHAPTER 20

RELATING TO COMMUNITY CORRECTIONS; MANDATING COORDINATION BETWEEN REVIEW PANELS ESTABLISHED PURSUANT TO THE ADULT COMMUNITY CORRECTIONS ACT AND THE JUVENILE COMMUNITY CORRECTIONS ACT; AMENDING SECTIONS OF THE NMSA 1978.

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

Section 1

Section 1. Section 33-9-6 NMSA 1978 (being Laws 1983, Chapter 202, Section 6, as amended) is amended to read:

"33-9-6. APPLICATION REVIEW PANEL.--The department shall establish a panel to review all applications for funding under the Adult Community Corrections Act. The panel shall make recommendations to the secretary of corrections regarding each application. The panel shall be appointed by the secretary of corrections and shall include representatives of corrections, the judiciary, law enforcement, local and tribal government, interested organizations and the general public. The panel shall work jointly with any other panel established pursuant to Section 33-9A-4."

Section 2

Section 2. Section 33-9A-4 NMSA 1978 (being Laws 1988, Chapter 101, Section 42, as amended) is amended to read:

"33-9A-4. APPLICATIONS--CRITERIA--REVIEW PANEL.--

A. Counties, municipalities or private organizations, individually or jointly, may apply for grants from the fund, including grants for counties or municipalities to purchase contractual services from private organizations; provided that:

(1) the application is for funding a program with priority use being for delinquents selected pursuant to the provisions of Section 33-9A-5 NMSA 1978;

(2) the applicant certifies that it is willing and able to operate the program according to standards provided by the department, which may include the negotiation of a contract between the delinquent and program staff with provisions such as deductions from employment income for applicable victim restitution, family support, room and board, savings and weekly allowance. In addition to monetary restitution, to the extent practical, or if monetary restitution is not applicable, the contract may include provision for community service restitution for a specific number of hours;

(3) the applicant demonstrates the support of key components of the criminal justice system;

(4) the applicant, if a private organization, demonstrates the support of the county and municipality where the program will provide services;

(5) the applicant certifies that it will utilize volunteer services as an integral portion of the program to the maximum extent feasible; and

(6) no class A county alone or in conjunction with any municipality within a class A county shall receive more than forty-nine percent of any money appropriated to the fund.

B. Notwithstanding the provisions of Subsection A of this section, the department may utilize the fund to place individuals eligible, or within twelve months of eligibility, for parole in community-based settings. The juvenile parole board may, in its discretion, require participation by a delinquent in a program as a condition of parole pursuant to the provisions of Section 32-2-6 NMSA 1978.

C. The department may utilize not more than twenty-five percent of the fund to contract directly for community corrections programs or to establish programs operated by the department; provided, however, that the department may utilize up to an additional ten percent of the fund to operate juvenile community corrections programs if, after a reasonable effort to solicit proposals, there are no satisfactory proposals from a community where it is determined that a program is necessary or if it becomes necessary to cancel a program as provided in the contract.

D. The department shall establish additional guidelines for allocation of funds under the Juvenile Community Corrections Act. An applicant shall retain the authority to accept or reject the placement of any delinquent in a program.

E. The department shall establish a panel to review all applications for grants from the fund. The panel shall make recommendations to the secretary regarding each application. The review panel shall include representatives of juvenile corrections, the judiciary, law enforcement, local and tribal government, interested organizations and the general public. The panel shall work jointly with any other review panel established pursuant to Section 33-9-6 NMSA 1978."

Section 3

Section 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1994.

HOUSE BILL 559

CHAPTER 21

RELATING TO PAROLE; PROVIDING FOR MEDICAL AND GERIATRIC PAROLE OF INMATES; AMENDING AND ENACTING SECTIONS OF THE PROBATION AND PAROLE ACT; ENACTING A NEW SECTION OF THE PAROLE BOARD ACT.

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

Section 1

Section 1. Section 31-21-10 NMSA 1978 (being Laws 1980, Chapter 28, Section 1, as amended) is amended to read:

"31-21-10. PAROLE AUTHORITY AND PROCEDURE.--

A. An inmate of an institution who was sentenced to life imprisonment as the result of the commission of a capital felony becomes eligible for a parole hearing after he has served thirty years of his sentence. Before ordering the parole of an inmate sentenced to life imprisonment, the board shall:

- (1) interview the inmate at the institution where he is committed;
- (2) consider all pertinent information concerning the inmate including:
 - (a) the circumstances of the offense;
 - (b) mitigating and aggravating circumstances;
 - (c) whether a deadly weapon was used in the commission of the offense;
 - (d) whether the inmate is a habitual offender;
 - (e) the reports filed under Section 31-21-9 NMSA 1978; and
 - (f) the reports of such physical and mental examinations as have been made while in prison;
- (3) make a finding that a parole is in the best interest of society and the inmate; and
- (4) make a finding that the inmate is able and willing to fulfill the obligations of a law-abiding citizen.

If parole is denied, the inmate sentenced to life imprisonment shall again become entitled to a parole hearing at two-year intervals. The board may, on its own motion, reopen any case in which a hearing has already been granted and parole denied.

B. Unless the board finds that it is in the best interest of society and the parolee to reduce the period of parole, a person who was convicted of a capital felony shall be required to undergo a minimum period of parole of five years. During the period of parole, the person shall be under the guidance and supervision of the board.

C. An inmate who was convicted of a first, second or third degree felony and who has served the sentence of imprisonment imposed by the court in a corrections facility designated by the corrections department shall be required to undergo a two-year period of parole. An inmate who was convicted of a fourth degree felony and who has served the sentence of imprisonment imposed by the court in a corrections facility designated by the corrections department shall be required to undergo a one-year period of parole. During the period of parole, the person shall be under the guidance and supervision of the board.

D. Every person while on parole shall remain in the legal custody of the institution from which he was released, but shall be subject to the orders of the board. The board shall furnish to each inmate as a prerequisite to his release under its supervision a written statement of the conditions of parole which shall be accepted and agreed to by the inmate as evidenced by his signature affixed to a duplicate copy to be retained in the files of the board. The board shall also require as a prerequisite to release the submission and approval of a parole plan. If an inmate refuses to affix his signature to the written statement of the conditions of his parole or does not have an approved parole plan, he shall not be released and shall remain in the custody of the corrections facility in which he has served his sentence, excepting parole, until such time as the period of parole he was required to serve, less meritorious deductions, if any, expires, at which time he shall be released from that facility without parole, or until such time that he evidences his acceptance and agreement to the conditions of parole as required or receives approval for his parole plan or both. Time served from the date that an inmate refuses to accept and agree to the conditions of parole or fails to receive approval for his parole plan shall reduce the period, if any, to be served under parole at a later date. If the district court has ordered that the inmate make restitution to a victim as provided in Section 31-17-1 NMSA 1978, the board shall include restitution as a condition of parole. The board shall also personally apprise the inmate of the conditions of parole and his duties relating thereto.

E. When a person on parole has performed the obligations of his release for the period of parole provided in this section, the board shall make a final order of discharge and issue him a certificate of discharge.

F. The board shall require the inmate, as a condition of parole:

(1) to pay the actual costs of his parole services to the adult probation and parole division of the corrections department for deposit to the corrections department intensive supervision fund not exceeding one thousand twenty dollars (\$1,020) annually to be paid in monthly installments of not less than fifteen dollars (\$15.00) and not more than eighty-five dollars (\$85.00), subject to modification by the

appropriate district supervisor of the division on the basis of changed financial circumstances; and

(2) to reimburse a law enforcement agency or local crime stopper program for the amount of any reward paid by the agency or program for information leading to his arrest, prosecution or conviction.

G. The provisions of this section shall apply to all inmates except geriatric, permanently incapacitated and terminally ill inmates eligible for the medical and geriatric parole program as provided by the Parole Board Act."

Section 2

Section 2. A new section of the Probation and Parole Act is enacted to read:

"ADMINISTRATION BY DEPARTMENT.--The corrections department shall identify geriatric, permanently incapacitated and terminally ill inmates eligible for geriatric or medical parole based on rules established by the board. The department shall forward an application and documentation in support of parole eligibility to the board within thirty days of receipt of an application from an inmate. The documentation shall include information concerning the inmate's age, medical history and prognosis, institutional behavior and adjustment and criminal history. The inmate or inmate's representative may submit an application to the board."

Section 3

Section 3. A new section of the Parole Board Act is enacted to read:

"PAROLE BOARD--ADDITIONAL POWERS AND DUTIES--MEDICAL AND GERIATRIC PAROLE PROGRAM.--

A. The parole board shall:

(1) establish rules and implement a "medical and geriatric parole program", in cooperation with the corrections department, by December 31, 1994;

(2) determine the appropriate level of supervision following parole and develop a comprehensive discharge plan for geriatric, permanently incapacitated and terminally ill inmates released under the medical and geriatric parole program;

(3) report annually to the corrections department and the legislature the number of applications for medical and geriatric parole it receives, the nature of the illnesses, disease or condition of applicants, the reasons for denial of applications for medical or geriatric parole and the number of persons on medical and geriatric parole who have been returned to the custody of the department and the reasons for their return;

(4) make a determination whether to grant geriatric or medical parole within thirty days of receipt of an application and supporting documentation from the corrections department;

(5) at the time of release, prescribe terms and conditions of geriatric or medical parole, including medical supervision and intervals of periodic medical evaluations; and

(6) authorize the release of geriatric, permanently incapacitated and terminally ill inmates upon terms and conditions as the board may prescribe, if the board determines that an inmate is geriatric, permanently incapacitated or terminally ill, parole is not incompatible with the welfare of society and the inmate is not a first degree murder felon.

B. Inmates who have not served their minimum sentences may be considered eligible for parole under the medical and geriatric parole program. Medical and geriatric parole consideration shall be in addition to any other parole for which a geriatric, permanently incapacitated or terminally ill inmate may be eligible.

C. When considering an inmate for medical or geriatric parole, the parole board may request that certain medical evidence be produced or that reasonable medical examinations be conducted.

D. The parole term of a geriatric, permanently incapacitated or terminally ill inmate on medical or geriatric parole shall be for the remainder of the inmate's sentence, without diminution of sentence for good behavior.

E. When determining an inmate's eligibility for geriatric or medical parole, the parole board shall consider the following criteria concerning the inmate's:

(1) age;

(2) severity of illness, disease or infirmities;

(3) comprehensive health evaluation;

(4) institutional behavior;

(5) level of risk for violence;

(6) criminal history; and

(7) alternatives to maintaining geriatric or medical inmates in traditional settings.

F. As used in this section:

(1) "geriatric inmate" means a male or female offender who:

(a) is under sentence to or confined in a prison or other correctional institution under the control of the corrections department;

(b) is sixty-five years of age or older;

(c) suffers from a chronic infirmity, illness or disease related to aging; and

(d) does not constitute a danger to himself or society;

(2) "permanently incapacitated inmate" means a male or female offender who:

(a) is under sentence to or confined in a prison or other correctional institution under the control of the corrections department;

(b) by reason of an existing medical condition, is permanently and irreversibly physically incapacitated; and

(c) does not constitute a danger to himself or to society; and

(3) "terminally ill inmate" means a male or female offender who:

(a) is under sentence or confined in a prison or other correctional institution under the control of the corrections department;

(b) has an incurable condition caused by illness or disease that would, within reasonable medical judgment, produce death within six months; and

(c) does not constitute a danger to himself or society."

SENATE BILL 126

CHAPTER 22

PROHIBITING UNLAWFUL POSSESSION OF A HANDGUN BY A PERSON; AUTHORIZING SEIZURE AND FORFEITURE OF A HANDGUN POSSESSED OR TRANSPORTED BY A PERSON IN VIOLATION OF UNLAWFUL POSSESSION OF A HANDGUN BY A PERSON; PROVIDING FOR DISPOSITION OF HANDGUNS; CREATING CRIMINAL PENALTIES; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978.

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

Section 1

Section 1. Section 29-1-14 NMSA 1978 (being Laws 1983, Chapter 50, Section 2, as amended) is amended to read:

"29-1-14. UNCLAIMED PROPERTY--AUTHORITY TO SELL--NOTICE OF SALE--DEADLY WEAPONS, CONTROLLED SUBSTANCES AND OTHER CONTRABAND EXCEPTED.--

A. Any personal property having a fair market value greater than fifty dollars (\$50.00) that has been unclaimed by the true owner, is no longer necessary for use in obtaining a conviction, is not needed for any other public purpose and has been in the possession of a state, county or municipal law enforcement agency for more than ninety days shall be sold at public sale. Firearms shall be sold only to licensed dealers or licensed collectors as defined in the federal Gun Control Act of 1968.

B. Prior to the sale of seized personal property, the law enforcement agency shall make a reasonable attempt to notify original owner of seized personal property and shall publish a notice of the sale of unclaimed personal property once each week for two successive weeks. The notice shall contain:

(1) a brief description of the personal property to be sold;

(2) the time and place of the sale; and

(3) the name of any purported owner or owners, if known.

C. If, prior to the sale, the true owner identifies the personal property to be sold and offers strict proof of identity and ownership of the personal property, the personal property shall be returned to its true owner.

D. Any personal property offered but not sold at a public sale may be destroyed or otherwise disposed of upon application to the district court, ex parte and without notice.

E. Any personal property sold at public sale, claimed by its true owner, destroyed or otherwise disposed of pursuant to this section shall be removed from the inventory record kept by the law enforcement agency.

F. Any personal property having a fair market value equal to or less than fifty dollars (\$50.00) that has been unclaimed by the true owner, is no longer necessary for use in obtaining a conviction, is not needed for any other public purpose and has been in the possession of a state, county or municipal law enforcement agency for more than ninety days may be destroyed, except as otherwise provided by order of the district court upon ex parte application without notice.

G. Any alcoholic beverage that has been unclaimed by the true owner, is no longer necessary for use in obtaining a conviction, is not needed for any other public purpose and has been in the possession of a state, county or municipal law enforcement agency for more than ninety days may be destroyed or may be utilized by the scientific laboratory division of the department of health for educational or scientific purposes.

H. This section shall not apply to deadly weapons, except for firearms or items of significant historical value, poisons, controlled substances or other contraband lawfully seized as evidence for the prosecution of a violation of statute or ordinance or which has otherwise come into the lawful possession of a state, county or municipal law enforcement agency and has been in possession for more than ninety days. Once it is determined by the law enforcement agency that any property enumerated in this subsection is no longer necessary for use in obtaining a conviction or is not needed for any other public purpose, the law enforcement agency may apply to the district court, ex parte and without notice, for an order authorizing destruction or other disposition of the property; provided, that prior to the sale of firearms, a state, county or municipal law enforcement agency shall allow state museums access to agency inventory records for the purpose of inspecting and selecting firearms that are appropriate to state museum firearm collections. The court shall grant the application if the proposed destruction or disposition is in the best interest of the public safety and welfare.

I. This section shall not apply to any personal property for which a notice of intent to claim has been served. Any victim, as defined in Section 31-24-3 NMSA 1978, or alleged victim shall be entitled to serve notice of intent to claim ownership of any personal property upon that person, agency or entity in actual custody or control of the property. Nothing in this subsection shall be construed to limit, interfere with or affect the rights or remedies of the rightful owner of any seized property."

Section 2

Section 2. A new section of the Criminal Code is enacted to read:

"UNLAWFUL POSSESSION OF A HANDGUN BY A PERSON--EXCEPTIONS--PENALTY.--

A. Unlawful possession of a handgun by a person consists of a person knowingly having a handgun in his possession or knowingly transporting a handgun, except when the person is:

(1) in attendance at a hunter's safety course or a handgun safety course;

(2) engaging in the use of a handgun for target shooting at an established range authorized by the governing body of the jurisdiction in which the range is located or in an area where the discharge of a handgun without legal justification is not prohibited by law;

(3) engaging in an organized competition involving the use of a handgun;

(4) participating in or practicing for a performance by an organization that has been granted exemption from federal income tax by the United States commissioner of internal revenue as an organization described in Section 501(c)(3) of the United States Internal Revenue Code of 1954, as amended or renumbered;

(5) legal hunting or trapping activities;

(6) traveling, with an unloaded handgun in his possession, to or from an activity described in Paragraph (1), (2), (3), (4) or (5) of this subsection; or

(7) on real property under the control of the person's parent, grandparent or legal guardian and the person is being supervised by his parent, grandparent or legal guardian.

B. A person who commits unlawful possession of a handgun by a person is guilty of a misdemeanor.

C. As used in this section:

(1) "person" means an individual who is less than nineteen years old; and

(2) "handgun" means a loaded or unloaded pistol, revolver or firearm which will or is designed to or may readily be converted to expel a projectile by the action of an explosion and the barrel length of which, not including a revolving, detachable or magazine breech, does not exceed twelve inches."

Section 3

Section 3. A new section of the Criminal Code is enacted to read:

"SEIZURE AND FORFEITURE OF A HANDGUN POSSESSED OR TRANSPORTED BY A PERSON IN VIOLATION OF UNLAWFUL POSSESSION OF A HANDGUN BY A PERSON--EXCEPTION.--

A. A handgun is subject to seizure and forfeiture by a law enforcement agency when the handgun is possessed or transported by a person in violation of the offense of unlawful possession of a handgun by a person.

B. A handgun seized pursuant to a violation of unlawful possession of a handgun by a person shall not be subject to replevin, but is deemed to be in the custody of the law enforcement agency, subject only to orders and decrees of the district court.

C. When a handgun is seized pursuant to the provisions of this section, the handgun may be disposed of pursuant to the provisions of Section 29-1-14 NMSA 1978.

D. A handgun shall not be forfeited when the owner of the handgun establishes that the offense of unlawful possession of a handgun by a person was committed without the knowledge and consent of that owner. A forfeiture of a handgun encumbered by a bona fide security interest shall be subject to the interest of a secured party if the secured party did not have knowledge of or did not consent to the offense of unlawful possession of a handgun by a person."

Section 4

Section 4. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1994.

SENATE BILL 506

CHAPTER 23

RELATING TO CRIMINAL LAW; INCREASING CRIMINAL PENALTIES FOR FELONIES RESULTING IN THE DEATH OF A HUMAN BEING; AMENDING SECTIONS OF THE NMSA 1978.

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

Section 1

Section 1. Section 30-2-1 NMSA 1978 (being Laws 1963, Chapter 303, Section 2-1, as amended) is amended to read:

"30-2-1. MURDER.--

A. Murder in the first degree is the killing of one human being by another without lawful justification or excuse, by any of the means with which death may be caused:

(1) by any kind of willful, deliberate and premeditated killing;

(2) in the commission of or attempt to commit any felony; or

(3) by any act greatly dangerous to the lives of others, indicating a depraved mind regardless of human life.

Whoever commits murder in the first degree is guilty of a capital felony.

B. Unless he is acting upon sufficient provocation, upon a sudden quarrel or in the heat of passion, a person who kills another human being without lawful justification or excuse commits murder in the second degree if in performing the acts which cause the death he knows that such acts create a strong probability of death or great bodily harm to that individual or another.

Murder in the second degree is a lesser included offense of the crime of murder in the first degree.

Whoever commits murder in the second degree is guilty of a second degree felony resulting in the death of a human being."

Section 2

Section 2. Section 30-2-3 NMSA 1978 (being Laws 1963, Chapter 303, Section 2-3) is amended to read:

"30-2-3. MANSLAUGHTER.--Manslaughter is the unlawful killing of a human being without malice.

A. Voluntary manslaughter consists of manslaughter committed upon a sudden quarrel or in the heat of passion.

Whoever commits voluntary manslaughter is guilty of a third degree felony resulting in the death of a human being.

B. Involuntary manslaughter consists of manslaughter committed in the commission of an unlawful act not amounting to felony, or in the commission of a lawful act which might produce death in an unlawful manner or without due caution and circumspection.

Whoever commits involuntary manslaughter is guilty of a fourth degree felony."

Section 3

Section 3. Section 31-18-15 NMSA 1978 (being Laws 1977, Chapter 216, Section 4, as amended by Laws 1994, Chapter 38, Section 1 and also by Laws 1994, Chapter 182, Section 1) is amended to read:

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

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

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

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

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

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

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

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

B. The appropriate basic sentence of imprisonment shall be imposed upon a person convicted of a first, second, third or fourth degree felony or a second or third degree felony resulting in the death of a human being, unless the court alters such sentence pursuant to the provisions of Section 31-18-15.1, 31-18-16, 31-18-16.1 or 31-18-17 NMSA 1978.

C. The court shall include in the judgment and sentence of each person convicted of a first, second, third or fourth degree felony or a second or third degree felony resulting in the death of a human being and sentenced to imprisonment in a corrections facility designated by the corrections department authority for a period of parole to be served in accordance with the provisions of Section 31-21-10 NMSA 1978 after the completion of any actual time of imprisonment and authority to require, as a condition of parole, the payment of the costs of parole services and reimbursement to a law enforcement agency or local crime stopper program in accordance with the provisions of that section. The period of parole shall be deemed to be part of the sentence of the convicted person in addition to the basic sentence imposed pursuant to Subsection A of this section together with alterations, if any, pursuant to the provisions of Section 31-18-15.1, 31-18-16, 31-18-16.1 or 31-18-17 NMSA 1978.

D. When a court imposes a sentence of imprisonment pursuant to the provisions of Section 31-18-15.1, 31-18-16, 31-18-16.1 or 31-18-17 NMSA 1978 and suspends or defers the basic sentence of imprisonment provided pursuant to the provisions of Subsection A of this section, the period of parole shall be served in accordance with the provisions of Section 31-21-10 NMSA 1978 for the degree of felony for the basic sentence for which the inmate was convicted. For the purpose of designating a period of parole, a court shall not consider that the basic sentence of imprisonment was suspended or deferred and that the inmate served a period of imprisonment pursuant to the provisions of Section 31-18-15.1, 31-18-16, 31-18-16.1 or 31-18-17 NMSA 1978.

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

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

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

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

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

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

Section 4

Section 4. APPLICABILITY.--The provisions of this act apply only to persons sentenced for crimes committed on or after the effective date of this act.

Section 5

Section 5. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1994.

SENATE BILL 900

CHAPTER 24

REQUIRING LIFE IMPRISONMENT FOR PERSONS HAVING THREE VIOLENT FELONY CONVICTIONS; ESTABLISHING SENTENCING PROCEDURES; AMENDING AND ENACTING SECTIONS OF THE CRIMINAL SENTENCING ACT; AMENDING A SECTION OF THE PROBATION AND PAROLE ACT.

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

Section 1

Section 1. Section 31-18-12 NMSA 1978 (being Laws 1977, Chapter 216, Section 1) is amended to read:

"31-18-12. SHORT TITLE.--Chapter 31, Article 18 NMSA 1978 may be cited as the "Criminal Sentencing Act"."

Section 2

Section 2. A new Section 31-18-23 NMSA 1978 is enacted to read:

"31-18-23. THREE VIOLENT FELONY CONVICTIONS--MANDATORY LIFE IMPRISONMENT--EXCEPTION.--

A. When a defendant is convicted of a third violent felony, and each violent felony conviction is part of a separate transaction or occurrence, and at least the third violent felony conviction is in New Mexico, the defendant shall, in addition to the punishment imposed for the third violent conviction, and that sentence does not result in death, be punished by a sentence of life imprisonment. The life imprisonment sentence shall be subject to parole pursuant to the provisions of Section 31-21-10 NMSA 1978.

B. The sentence of life imprisonment shall be imposed after a sentencing hearing separate from the trial or guilty plea proceeding resulting in the third violent felony conviction, pursuant to the provisions of Section 31-18-24 NMSA 1978.

C. For the purpose of this section, a violent felony conviction incurred by a defendant before he reaches the age of eighteen shall not count as a violent felony conviction.

D. When a defendant has a felony conviction from another state, the felony conviction shall be considered a violent felony for the purposes of the Criminal Sentencing Act if that crime would be considered a violent felony in New Mexico.

E. As used in the Criminal Sentencing Act:

(1) "great bodily harm" means an injury to the person that creates a high probability of death; or that causes serious disfigurement; or that results in permanent loss or impairment of the function of any member or organ of the body; and

(2) "violent felony" means:

(a) murder in the first or second degree, as provided in Section 30-2-1 NMSA 1978;

(b) shooting at or from a motor vehicle resulting in great bodily harm, as provided in Subsection B of Section 30-3-8 NMSA 1978;

(c) kidnaping resulting in great bodily harm inflicted upon the victim by his captor, as provided in Subsection B of Section 30-4-1 NMSA 1978; and

(d) criminal sexual penetration, as provided in Subsection C or Paragraph (4) or (5) of Subsection D of Section 30-9-11 NMSA 1978; and

(e) robbery while armed with a deadly weapon resulting in great bodily harm as provided in Section 30-16-2 NMSA 1978 and Section 30-1-12 (A) NMSA 1978."

Section 3

Section 3. A new Section 31-18-24 NMSA 1978 is enacted to read:

"31-18-24. VIOLENT FELONY SENTENCING PROCEDURE.--

A. The court shall conduct a separate sentencing proceeding to determine any controverted question of fact regarding whether the defendant has been convicted of three violent felonies. Either party to the action may demand a jury trial.

B. In a jury trial, the sentencing proceeding shall be conducted as soon as practicable by the original trial judge before the original trial jury. In a nonjury trial, the sentencing shall be conducted as soon as practicable by the original trial judge. In the case of a plea of guilty, the sentencing proceeding shall be conducted as soon as practicable by the original trial judge or by a jury upon demand of the defendant.

C. In a jury sentencing proceeding, the judge shall give appropriate instructions and allow arguments. The jury shall retire to determine the verdict. In a nonjury sentencing proceeding, or upon a plea of guilty where no jury has been demanded, the judge shall allow argument and determine the verdict."

Section 4

Section 4. Section 31-21-10 NMSA 1978 (being Laws 1980, Chapter 28, Section 1, as amended) is amended to read:

"31-21-10. PAROLE AUTHORITY AND PROCEDURE.--

A. An inmate of an institution who was sentenced to life imprisonment as the result of the commission of a capital felony, or who was convicted of three violent felonies and sentenced pursuant to Section 31-18-24 NMSA 1978, becomes eligible for a parole hearing after he has served thirty years of his sentence. Before ordering the parole of an inmate sentenced to life imprisonment, the board shall:

(1) interview the inmate at the institution where he is committed;

(2) consider all pertinent information concerning the inmate including:

(a) the circumstances of the offense;

(b) mitigating and aggravating circumstances;

(c) whether a deadly weapon was used in the commission of the offense;

(d) whether the inmate is a habitual offender;

(e) the reports filed under Section 31-21-9 NMSA 1978; and

(f) the reports of such physical and mental examinations as have been made while in prison;

(3) make a finding that a parole is in the best interest of society and the inmate; and

(4) make a finding that the inmate is able and willing to fulfill the obligations of a law-abiding citizen.

If parole is denied, the inmate sentenced to life imprisonment shall again become entitled to a parole hearing at two-year intervals. The board may, on its own motion, reopen any case in which a hearing has already been granted and parole denied.

B. Unless the board finds that it is in the best interest of society and the parolee to reduce the period of parole, a person who was convicted of a capital felony shall be required to undergo a minimum period of parole of five years. During the period of parole, the person shall be under the guidance and supervision of the board.

C. An inmate who was convicted of a first, second or third degree felony and who has served the sentence of imprisonment imposed by the court in a corrections facility designated by the corrections department shall be required to undergo a two-year period of parole. An inmate who was convicted of a fourth degree felony and who has served the sentence of imprisonment imposed by the court in a corrections facility designated by the corrections department shall be required to undergo a one-year period of parole. During the period of parole, the person shall be under the guidance and supervision of the board.

D. Every person while on parole shall remain in the legal custody of the institution from which he was released, but shall be subject to the orders of the board. The board shall furnish to each inmate as a prerequisite to his release under its supervision a written statement of the conditions of parole which shall be accepted and agreed to by the inmate as evidenced by his signature affixed to a duplicate copy to be retained in the files of the board. The board shall also require as a prerequisite to release the submission and approval of a parole plan. If an inmate refuses to affix his signature to the written statement of the conditions of his parole or does not have an approved parole plan, he shall not be released and shall remain in the custody of the corrections facility in which he has served his sentence, excepting parole, until such time as the period of parole he was required to serve, less meritorious deductions, if any, expires, at which time he shall be released from that facility without parole, or until such time that he evidences his acceptance and agreement to the conditions of parole as required or receives approval for his parole plan or both. Time served from the date that an inmate refuses to accept and agree to the conditions of parole or fails to receive approval for his parole plan shall reduce the period, if any, to be served under parole at a later date. If the district court has ordered that the inmate make restitution to a victim as provided in Section 31-17-1 NMSA 1978, the board shall include restitution as a

condition of parole. The board shall also personally apprise the inmate of the conditions of parole and his duties relating thereto.

E. When a person on parole has performed the obligations of his release for the period of parole provided in this section, the board shall make a final order of discharge and issue him a certificate of discharge.

F. Pursuant to the provisions of Section 31-18-15 NMSA 1978, the board shall require the inmate, as a condition of parole:

(1) to pay the actual costs of his parole services to the field services division of the corrections department for deposit to the corrections department intensive supervision fund not exceeding one thousand twenty dollars (\$1,020) annually to be paid in monthly installments of not less than fifteen dollars (\$15.00) and not more than eighty-five dollars (\$85.00), subject to modification by the appropriate district supervisor of the field services division on the basis of changed financial circumstances; and

(2) to reimburse a law enforcement agency or local crime stopper program for the amount of any reward paid by the agency or program for information leading to his arrest, prosecution or conviction."

Section 5

Section 5. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1994.

SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR
SENATE BILLS 73 & 742

CHAPTER 25

RELATING TO SPECIAL EDUCATION; AMENDING AND ENACTING CERTAIN SECTIONS OF THE PUBLIC SCHOOL CODE PERTAINING TO GIFTED CHILDREN.

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

Section 1

Section 1. Section 22-13-6 NMSA 1978 (being Laws 1972, Chapter 95, Section 2, as amended) is amended to read:

"22-13-6. SPECIAL EDUCATION--DEFINITIONS.--As used in the Public School Code:

A. "special education" means the provision of services additional to, supplementary to or different from those provided in the regular school program by a systematic modification and adaptation of instructional techniques, materials and equipment to meet the needs of exceptional children;

B. "exceptional children" means school-age persons whose abilities render regular services of the public school to be inconsistent with their educational needs;

C. "developmentally disabled children" means those children who are classified as developmentally disabled according to the Developmental Disabilities Act; and

D. "gifted child" means a school-age person who is determined to be gifted pursuant to Section 22-13-6.1 NMSA 1978 and standards adopted by the state board pursuant to that section.

E. Nothing in this section shall preclude a district from offering additional gifted programs for students who fail to meet the eligibility criteria; however, the state shall only provide state funds for state department of education approved gifted programs for those students who meet the established criteria."

Section 2

Section 2. A new section of the Public School Code, Section 22-13-6.1 NMSA 1978, is enacted to read:

"22-13-6.1. GIFTED CHILDREN--DETERMINATION.--

A. The state board shall adopt standards pertaining to the determination of who is a gifted child and shall publish those standards as part of the educational standards for New Mexico schools.

B. In adopting standards to determine who is a gifted child, the state board shall provide for the evaluation of selected school-age children by multidisciplinary teams of individuals from each child's local school district. That team shall be vested with the authority to designate a child as gifted. The team shall consider information regarding a child's cultural and linguistic background and socioeconomic background in the identification, referral and evaluation process. The team also shall consider any disabling condition in the identification, referral and evaluation process.

C. Each school offering a gifted education program shall create an advisory committee of parents, community members, students and school staff members. The membership of each advisory committee shall reflect the cultural diversity of that school's enrollment. The advisory committee shall regularly review the goals and priorities of the gifted program, including the operational plans for student

identification, evaluation, placement and service delivery and shall demonstrate support for the gifted program.

D. In determining whether a child is gifted, the multidisciplinary team shall consider diagnostic or other evidence of the child's:

- (1) creativity or divergent-thinking ability;
- (2) critical-thinking or problem-solving ability;
- (3) intelligence; and
- (4) achievement."

Section 3

Section 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1994.

HOUSE BILL 36

CHAPTER 26

PROVIDING FOR THE CONTINUATION OF THE TASK FORCE FOR ADULT SERVICES.

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

Section 1

Section 1. TEMPORARY PROVISION--TASK FORCE FOR ADULT SERVICES--CONTINUATION--DUTIES.--

A. The task force for adult services created by Laws 1994, Chapter 276 shall continue through the eighty-third fiscal year. The members of the task force for adult services shall continue to serve until the end of the eighty-third fiscal year.

B. The task force for adult services shall:

- (1) establish policies on issues confronting the state's adults;
- (2) develop a plan for implementing the continuum of services for adults based on information from consumers, advocates and providers of adult services and a data survey of state agencies;

(3) make recommendations relating to the structure and organization of state services provided to adults;

(4) identify and recommend methods of obtaining local community involvement in the planning and delivery of services to adults; and

(5) report its findings and recommendations to the health and human services committee by October 15, 1994.

C. The members of the task force for adult services shall be reimbursed for their services as provided in the Per Diem and Mileage Act and shall receive no other compensation, perquisite or allowance.

HOUSE BILL 480

CHAPTER 27

RELATING TO UNEMPLOYMENT COMPENSATION; CREATING AN EXCEPTION TO THE DEFINITION OF THE TERM "EMPLOYMENT"; AMENDING A CERTAIN SECTION OF THE NMSA 1978.

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

Section 1

Section 1. Section 51-1-42 NMSA 1978 (being Laws 1936 (S.S.), Chapter 1, Section 19, as amended) is amended to read:

"51-1-42. DEFINITIONS.--As used in the Unemployment Compensation Law:

A. "base period" means the first four of the last five completed calendar quarters immediately preceding the first day of an individual's benefit year;

B. "benefits" means the cash unemployment compensation payments payable to an eligible individual pursuant to Section 51-1-4 NMSA 1978 with respect to his weeks of unemployment;

C. "contributions" means the money payments required by Section 51-1-9 NMSA 1978 to be made into the unemployment compensation fund by an employer on account of having individuals performing services for him;

D. "employing unit" means any individual or type of organization, including any partnership, association, cooperative, trust, estate, joint-stock company, agricultural enterprise, insurance company or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or successor thereof, household, fraternity or club, the legal representative of a deceased person or any state or local government

entity to the extent required by law to be covered as an employer, which has in its employ one or more individuals performing services for it within this state. All individuals performing services for any employing unit which maintains two or more separate establishments within this state shall be deemed to be employed by a single employing unit for all the purposes of the Unemployment Compensation Law. Individuals performing services for contractors, subcontractors or agents which are performing work or services for an employing unit, as described in this subsection, which is within the scope of the employing unit's usual trade, occupation, profession or business shall be deemed to be in the employ of the employing unit for all purposes of the Unemployment Compensation Law unless such contractor, subcontractor or agent is itself an employer within the provision of Subsection E of this section;

E. "employer" includes:

(1) any employing unit which:

(a) unless otherwise provided in this section, paid for service in employment as defined in Subsection F of this section wages of four hundred fifty dollars (\$450) or more in any calendar quarter in either the current or preceding calendar year or had in employment, as defined in Subsection F of this section, for some portion of a day in each of twenty different calendar weeks during either the current or the preceding calendar year, and irrespective of whether the same individual was in employment in each such day, at least one individual;

(b) for the purposes of Subparagraph (a) of this paragraph, if any week includes both December 31 and January 1, the days of that week up to January 1 shall be deemed one calendar week and the days beginning January 1, another such week; and

(c) for purposes of defining an "employer" under Subparagraph (a) of this paragraph, the wages or remuneration paid to individuals performing services in employment in agricultural labor or domestic services as provided in Paragraphs (6) and (7) of Subsection F of this section shall not be taken into account; except that any employing unit determined to be an employer of agricultural labor under Paragraph (6) of Subsection F of this section shall be an employer under Subparagraph (a) of this paragraph so long as the employing unit is paying wages or remuneration for services other than agricultural services;

(2) any individual or type of organization that acquired the trade or business or substantially all of the assets thereof, of an employing unit which at the time of such acquisition was an employer subject to the Unemployment Compensation Law; provided that where such an acquisition takes place, the secretary may postpone activating the separate account pursuant to Subsection A of Section 51-1-11 NMSA 1978 until such time as the successor employer has employment as defined in Subsection F of this section;

(3) any employing unit which acquired all or part of the organization, trade, business or assets of another employing unit, and which, if treated as a single unit with such other employing unit or part thereof, would be an employer under Paragraph (1) of this subsection;

(4) any employing unit not an employer by reason of any other paragraph of this subsection,

(a) for which, within either the current or preceding calendar year, service is or was performed with respect to which such employing unit is liable for any federal tax against which credit may be taken for contributions required to be paid into a state unemployment fund, or

(b) which, as a condition for approval of the Unemployment Compensation Law for full tax credit against the tax imposed by the Federal Unemployment Tax Act, is required, pursuant to such act, to be an "employer" under the Unemployment Compensation Law;

(5) any employing unit, which, having become an employer under Paragraph (1), (2), (3) or (4) of this subsection, has not, under Section 51-1-18 NMSA 1978, ceased to be an employer subject to the Unemployment Compensation Law;

(6) for the effective period of its election pursuant to Section 51-1-18 NMSA 1978, any other employing unit which has elected to become fully subject to the Unemployment Compensation Law; and

(7) any employing unit for which any services performed in its employ are deemed to be performed in this state pursuant to an election under an arrangement entered into in accordance with Subsection A of Section 51-1-50 NMSA 1978;

F. "employment" means:

(1) any service, including service in interstate commerce, performed for wages or under any contract of hire, written or oral, express or implied;

(2) and includes an individual's entire service, performed within or both within and without this state if:

(a) the service is primarily localized in this state with services performed outside the state being only incidental thereto; or

(b) the service is not localized in any state but some of the service is performed in this state and: 1) the base of operations, or, if there is no base of operations, then the place from which such service is directed or controlled, is in this state; or 2) the base of operations or place from which such service is directed or

controlled is not in any state in which some part of the service is performed but the individual's residence is in this state;

(3) services performed within this state but not covered under Paragraph (2) of this subsection if contributions or payments in lieu of contributions are not required and paid with respect to such services under an unemployment compensation law of any other state, the federal government or Canada;

(4) services covered by an election pursuant to Section 51-1-18 NMSA 1978 and services covered by an election duly approved by the secretary in accordance with an arrangement pursuant to Paragraph (1) of Subsection A of Section 51-1-50 NMSA 1978 shall be deemed to be employment during the effective period of such election;

(5) services performed by an individual for an employer for wages or other remuneration unless and until it is established by a preponderance of evidence that:

(a) such individual has been and will continue to be free from control or direction over the performance of such services both under his contract of service and in fact;

(b) such service is either outside the usual course of business for which such service is performed, or that such service is performed outside of all the places of business of the enterprise for which such service is performed; and

(c) such individual is customarily engaged in an independently established trade, occupation, profession or business of the same nature as that involved in the contract of service;

(6) service performed after December 31, 1977 by an individual in agricultural labor as defined in Subsection Q of this section if:

(a) such service is performed for an employing unit which: 1) paid remuneration in cash of twenty thousand dollars (\$20,000) or more to individuals in such employment during any calendar quarter in either the current or the preceding calendar year; or 2) employed in agricultural labor ten or more individuals for some portion of a day in each of twenty different calendar weeks in either the current or preceding calendar year, whether or not such weeks were consecutive, and regardless of whether such individuals were employed at the same time;

(b) such service is not performed before January 1, 1980 by an individual who is an alien admitted to the United States to perform service in agricultural labor pursuant to Sections 214(c) and 101(15)(H) of the Immigration and Nationality Act; and

(c) for purposes of this paragraph, any individual who is a member of a crew furnished by a crew leader to perform service in agricultural labor for a farm operator or other person shall be treated as an employee of such crew leader: 1) if such crew leader meets the requirements of a crew leader as defined in Subsection L of this section; or 2) substantially all the members of such crew operate or maintain mechanized agricultural equipment which is provided by the crew leader; and 3) the individuals performing such services are not, by written agreement or in fact, within the meaning of Paragraph (5) of this subsection, performing services in employment for the farm operator or other person;

(7) service performed after December 31, 1977 by an individual in domestic service in a private home, local college club or local chapter of a college fraternity or sorority for a person or organization that paid cash remuneration of one thousand dollars (\$1,000) in any calendar quarter in the current or preceding calendar year to individuals performing such services;

(8) service performed after December 31, 1971 by an individual in the employ of a religious, charitable, educational or other organization but only if the following conditions are met:

(a) the service is excluded from "employment" as defined in the Federal Unemployment Tax Act solely by reason of Section 3306(c)(8) of that act; and

(b) the organization meets the requirements of "employer" as provided in Subparagraph (a) of Paragraph (1) of Subsection E of this section;

(9) service of an individual who is a citizen of the United States, performed outside the United States, except in Canada, after December 31, 1971 in the employ of an American employer (other than service which is deemed "employment" under the provisions of Paragraph (2) of this subsection or the parallel provisions of another state's law), if:

(a) the employer's principal place of business in the United States is located in this state;

(b) the employer has no place of business in the United States, but: 1) the employer is an individual who is a resident of this state; 2) the employer is a corporation which is organized under the laws of this state; or 3) the employer is a partnership or a trust and the number of the partners or trustees who are residents of this state is greater than the number who are residents of any one other state; or

(c) none of the criteria of Subparagraphs (a) and (b) of this paragraph are met, but the employer has elected coverage in this state or, the employer

having failed to elect coverage in any state, the individual has filed a claim for benefits, based on such service, under the law of this state.

"American employer" for purposes of Paragraph (9) of this subsection means a person who is: 1) an individual who is a resident of the United States; 2) a partnership if two-thirds or more of the partners are residents of the United States; 3) a trust if all of the trustees are residents of the United States; or 4) a corporation organized under the laws of the United States or of any state. For the purposes of Paragraph (9) of this subsection, "United States" includes the United States, the District of Columbia, the commonwealth of Puerto Rico and the Virgin Islands;

(10) notwithstanding any other provisions of this subsection, service with respect to which a tax is required to be paid under any federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund or which as a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act is required to be covered under the Unemployment Compensation Law;

(11) "employment" shall not include:

(a) service performed in the employ of: 1) a church or convention or association of churches; or 2) an organization which is operated primarily for religious purposes and which is operated, supervised, controlled or principally supported by a church or convention or association of churches;

(b) service performed by a duly ordained, commissioned or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order;

(c) service performed by an individual in the employ of his son, daughter or spouse, and service performed by a child under the age of majority in the employ of his father or mother;

(d) service performed in the employ of the United States government or an instrumentality of the United States immune under the constitution of the United States from the contributions imposed by the Unemployment Compensation Law except that to the extent that the congress of the United States shall permit states to require any instrumentalities of the United States to make payments into an unemployment fund under a state unemployment compensation act, all of the provisions of the Unemployment Compensation Law shall be applicable to such instrumentalities, and to service performed for such instrumentalities in the same manner, to the same extent and on the same terms as to all other employers, employing units, individuals and services; provided, that if this state shall not be certified for any year by the secretary of labor of the United States under Section 3304 of the federal Internal Revenue Code (26 U.S.C. Section 3304), the payments required of such instrumentalities with respect to such year shall be refunded by the department from the

fund in the same manner and within the same period as is provided in Subsection D of Section 51-1-36 NMSA 1978 with respect to contributions erroneously collected;

(e) service performed in a facility conducted for the purpose of carrying out a program of rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury or providing remunerative work for individuals who because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market, by an individual receiving such rehabilitation or remunerative work;

(f) service with respect to which unemployment compensation is payable under an unemployment compensation system established by an act of congress;

(g) service performed in the employ of a foreign government, including service as a consular or other officer or employee or a nondiplomatic representative;

(h) service performed by an individual for a person as an insurance agent or as an insurance solicitor, if all such service performed by such individual for such person is performed for remuneration solely by way of commission;

(i) service performed by an individual under the age of eighteen in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;

(j) service covered by an election duly approved by the agency charged with the administration of any other state or federal unemployment compensation law, in accordance with an arrangement pursuant to Paragraph (1) of Subsection A of Section 51-1-50 NMSA 1978 during the effective period of such election;

(k) service performed, as part of an unemployment work-relief or work-training program assisted or financed in whole or part by any federal agency or an agency of a state or political subdivision thereof, by an individual receiving such work relief or work training;

(l) service performed by an individual who is enrolled at a nonprofit or public educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on as a student in a full-time program, taken for credit at such institution, which combines academic instruction with work experience, if the service is an integral part of such program, and the institution has so certified to the employer, except that this subparagraph shall not apply to service performed in a program established for or on behalf of an employer or group of employers;

(m) service performed in the employ of a hospital, if the service is performed by a patient of the hospital, or services performed by an inmate of a custodial or penal institution for a governmental entity or nonprofit organization;

(n) service performed by real estate salesmen for others when the services are performed for remuneration solely by way of commission;

(o) service performed in the employ of a school, college or university if such service is performed by a student who is enrolled and is regularly attending classes at such school, college or university;

(p) service performed by an individual for a fixed or contract fee officiating at a sporting event which is conducted by or under the auspices of a nonprofit or governmental entity if that person is not otherwise an employee of the entity conducting the sporting event; or

(q) service performed for a private for-profit person or entity by an individual as a landman if substantially all remuneration paid in cash or otherwise for the performance of the services is directly related to the completion by the individual of the specific tasks contracted for rather than to the number of hours worked by the individual. For the purposes of this subparagraph, "landman" means a land professional who has been engaged primarily in: 1) negotiating for the acquisition or divestiture of mineral rights; 2) negotiating business agreements that provide for the exploration for or development of minerals; 3) determining ownership of minerals through the research of public and private records; and 4) reviewing the status of title, curing title defects and otherwise reducing title risk associated with ownership of minerals; managing rights or obligations derived from ownership of interests and minerals; or utilizing or pooling of interest in minerals; and

(12) for the purposes of this subsection, if the services performed during one-half or more of any pay period by an individual for the person employing him constitute employment, all the services of such individual for such period shall be deemed to be employment but, if the services performed during more than one-half of any such pay period by an individual for the person employing him do not constitute employment, then none of the services of such individual for such period shall be deemed to be employment. As used in this paragraph, the term "pay period" means a period, of not more than thirty-one consecutive days, for which a payment of remuneration is ordinarily made to the individual by the person employing him. This paragraph shall not be applicable with respect to services performed in a pay period by an individual for the person employing him where any of such service is excepted by Subparagraph (f) of Paragraph (11) of this subsection;

G. "employment office" means a free public employment office, or branch thereof, operated by this state or maintained as a part of a state-controlled system of public employment offices;

H. "fund" means the unemployment compensation fund established by the Unemployment Compensation Law to which all contributions and payments in lieu of contributions required under the Unemployment Compensation Law and from which all benefits provided under the Unemployment Compensation Law shall be paid;

I. "unemployment" means, with respect to an individual, any week during which he performs no services and with respect to which no wages are payable to him and during which he is not engaged in self-employment or receives an award of back pay for loss of employment. The secretary shall prescribe by regulation what constitutes part-time and intermittent employment, partial employment and the conditions under which individuals engaged in such employment are eligible for partial unemployment benefits;

J. "state", when used in reference to any state other than New Mexico, includes, in addition to the states of the United States, the District of Columbia, the commonwealth of Puerto Rico and the Virgin Islands;

K. "unemployment compensation administration fund" means the fund established by Subsection A of Section 51-1-34 NMSA 1978 from which administrative expenses under the Unemployment Compensation Law shall be paid. "Employment security department fund" means the fund established by Subsection B of Section 51-1-34 NMSA 1978 from which certain administrative expenses under the Unemployment Compensation Law shall be paid;

L. "crew leader" means a person who:

(1) holds a valid certificate of registration as a crew leader or farm labor contractor under the Migrant and Seasonal Agricultural Worker Protection Act;

(2) furnishes individuals to perform services in agricultural labor for any other person;

(3) pays, either on his own behalf or on behalf of such other person, the individuals so furnished by him for service in agricultural labor; and

(4) has not entered into a written agreement with the other person for whom he furnishes individuals in agricultural labor, that such individuals will be the employees of the other person;

M. "week" means such period of seven consecutive days, as the secretary may by regulation prescribe. The secretary may by regulation prescribe that a week shall be deemed to be "in", "within" or "during" that benefit year which includes the greater part of such week;

N. "calendar quarter" means the period of three consecutive calendar months ending on March 31, June 30, September 30 or December 31;

O. "insured work" means services performed for employers who are covered under the Unemployment Compensation Law;

P. "benefit year" with respect to any individual means the one-year period beginning with the first day of the first week of unemployment with respect to which the individual first files a claim for benefits in accordance with Subsection A of Section 51-1-8 NMSA 1978, and thereafter the one-year period beginning with the first day of the first week of unemployment with respect to which the individual next files such a claim for benefits after the termination of his last preceding benefit year; provided, that at the time of filing such a claim the individual has been paid the wages for insured work required under Paragraph (5) of Subsection A of Section 51-1-5 NMSA 1978;

Q. "agricultural labor" includes all services performed:

(1) on a farm, in the employ of any person, in connection with cultivating the soil or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training and management of livestock, bees, poultry and fur-bearing animals and wildlife;

(2) in the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation or maintenance of such farm and its tools and equipment, if the major part of such service is performed on a farm;

(3) in connection with the operation or maintenance of ditches, canals, reservoirs or waterways used exclusively for supplying and storing water for farming purposes when such ditches, canals, reservoirs or waterways are owned and operated by the farmers using the water stored or carried therein; and

(4) in handling, planting, drying, packing, packaging, processing, freezing, grading, storing or delivery to storage or to market or to a carrier for transportation to market any agricultural or horticultural commodity but only if such service is performed as an incident to ordinary farming operations. The provisions of this paragraph shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption.

As used in this subsection, the term "farm" includes stock, dairy, poultry, fruit, fur-bearing animal and truck farms, plantations, ranches, nurseries, greenhouses, ranges and orchards;

R. "payments in lieu of contributions" means the money payments made into the fund by an employer pursuant to the provisions of Subsection A of Section 51-1-13 NMSA 1978;

S. "department" means the labor department; and

T. "wages" means all remuneration for services, including commissions and bonuses and the cash value of all remuneration in any medium other than cash. The reasonable cash value of remuneration in any medium other than cash shall be established and determined in accordance with regulations prescribed by the secretary; provided, that the term "wages" shall not include:

(1) subsequent to December 31, 1977, that part of the remuneration in excess of the base wage as determined by the secretary for each calendar year. The base wage upon which contribution shall be paid during any calendar year shall be sixty-five percent of the state's average annual earnings computed by the department by dividing total wages reported to the department by contributing employers for the second preceding calendar year before the calendar year the computed base wage becomes effective by the average annual employment reported by contributing employers for the same period rounded to the next higher multiple of one hundred dollars (\$100); provided, that the base wage so computed for any calendar year shall not be less than seven thousand dollars (\$7,000). Wages paid by an employer to an individual in his employ during any calendar year in excess of the base wage in effect for that calendar year shall be reported to the department but shall be exempt from the payment of contributions unless such wages paid in excess of the base wage become subject to tax under a federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund;

(2) the amount of any payment with respect to services performed after June 30, 1941 to, or on behalf of, an individual in its employ under a plan or system established by an employing unit which makes provision for individuals in its employ generally or for a class or classes of such individuals, including any amount paid by an employing unit for insurance or annuities, or into a fund, to provide for any such payment, on account of:

(a) retirement if such payments are made by an employer to or on behalf of any employee under a simplified employee pension plan that provides for payments by an employer in addition to the salary or other remuneration normally payable to such employee or class of such employees and does not include any payments which represent deferred compensation or other reduction of an employee's normal taxable wages or remuneration or any payments made to a third party on behalf of an employee as part of an agreement of deferred remuneration;

(b) sickness or accident disability if such payments are received under a workers' compensation or occupational disease disablement law;

(c) medical and hospitalization expenses in connection with sickness or accident disability; or

(d) death;
provided the individual in its employ has not the option to receive, instead of provision for such death benefit, any part of such payment, or, if such death benefit is insured,

any part of the premiums or contributions to premiums paid by his employing unit and has not the right under the provisions of the plan or system or policy of insurance providing for such death benefit to assign such benefit, or to receive a cash consideration in lieu of such benefit either upon his withdrawal from the plan or system providing for such benefit or upon termination of such plan or system or policy of insurance or of his service with such employing unit;

(3) remuneration for agricultural labor paid in any medium other than cash;

(4) any payment made to, or on behalf of, an employee or an employee's beneficiary under a cafeteria plan within the meaning of Section 125 of the federal Internal Revenue Code of 1986;

(5) any payment made, or benefit furnished to or for the benefit of an employee if at the time of such payment or such furnishing it is reasonable to believe that the employee will be able to exclude such payment or benefit from income under Section 129 of the federal Internal Revenue Code of 1986; or

(6) any payment made by an employer to a survivor or the estate of a former employee after the calendar year in which such employee died. The provisions of this section shall become effective July 1, 1993."

Section 2

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1994.

SENATE BILL 67

CHAPTER 28

RELATING TO COUNTY RECORDING FEES; PROVIDING FOR AN EQUIPMENT RECORDING FEE; AMENDING CERTAIN SECTIONS OF THE NMSA 1978.

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

Section 1

Section 1. Section 14-8-12.2 NMSA 1978 (being Laws 1985, Chapter 122, Section 2, as amended) is amended to read:

"14-8-12.2. RECORDING FEES--WHEN INSTRUMENT IS PHOTOCOPIED.--

A. For each instrument recorded and when the instrument is photocopied, the county clerk shall charge a recording fee of five dollars (\$5.00) for the first page and two dollars (\$2.00) for each additional page or portion thereof of the same instrument.

B. For each instrument recorded and when the instrument is photocopied, the county clerk may charge, in addition to any other fees authorized by law, including the fee provided in Subsection A of this section, an equipment recording fee. The equipment recording fee shall not exceed three dollars (\$3.00) for each instrument recorded, except that in class A counties the equipment recording fee shall not exceed two dollars (\$2.00).

C. Amounts collected from the equipment recording fee shall be deposited into a county clerk recording and filing fund, which shall be established by the county. Money in the county clerk recording and filing fund shall be expended only to purchase equipment associated with recording, filing, maintaining or reproducing documents in the county clerk's office.

D. The equipment recording fee and expenditures from the county clerk recording and filing fund shall be determined annually by the county clerk and approved by the board of county commissioners."

Section 2

Section 2. Section 14-8-16 NMSA 1978 (being Laws 1973, Chapter 258, Section 150, as amended) is amended to read:

"14-8-16. FILINGS OF LEGAL DESCRIPTIONS AND PLATS OF REAL PROPERTY AUTHORIZED--RECORDING--FEES.--

A. Any person owning real property that is subject to property taxation under the Property Tax Code may file for record in the office of the county clerk of the county where the real property is located a legal description or a plat of the real property. To be eligible for recording, the legal description or plat shall be certified by a professional surveyor licensed in the state.

B. The United States, the state or its political subdivisions and any agency, department or instrumentality of the United States, the state or its political subdivisions may file for record in the office of the county clerk of the county where the real property is located a legal description or a plat of real property. To be eligible for recording, the legal description or plat shall be certified by a professional surveyor licensed in the state and shall show the governmental agency, department or political subdivision under whose supervision and direction the description or plat was prepared.

C. The county clerk shall number descriptions filed under this section consecutively and shall number plats filed under this section consecutively. Immediately upon receiving a description or plat for filing, the county clerk shall note on the

instrument the filing number and the time of filing and shall make proper entries in his reception book and in his index to general real estate records.

D. The county clerk shall record descriptions and plats filed under this section in the same manner as other similar instruments affecting real property are recorded. The county clerk shall charge a fee of two dollars fifty cents (\$2.50) for filing and recording each description or plat. If the county clerk uses a post binder with transparent protective pages for the protection of the plats, he shall charge a fee of five dollars (\$5.00) for filing and recording each unit of a plat that is eighteen inches by twenty-four inches or part thereof.

E. For filing legal descriptions or plats of real property, the county clerk may charge, in addition to any other fees authorized by law, including the fee provided for in Subsection D of this section, an equipment recording fee. The equipment recording fee shall not exceed three dollars (\$3.00) for each instrument or plat recorded, except that in class A counties the equipment recording fee shall not exceed two dollars (\$2.00).

F. Amounts collected from the equipment recording fee shall be deposited into a county clerk recording and filing fund, which shall be established by the county. Money in the county clerk recording and filing fund shall be expended only to purchase equipment associated with recording, filing, maintaining or reproducing documents in the county clerk's office.

G. The equipment recording fee and expenditures from the county clerk recording and filing fund shall be determined annually by the county clerk and approved by the board of county commissioners.

H. All plats to be recorded under this section shall be filed in duplicate with the county clerk. One copy shall be recorded by the county clerk, and one copy shall be delivered by the county clerk to the county assessor."

SENATE BILL 823

CHAPTER 29

PROVIDING FOR A STUDY TO ASSESS CAPABILITIES, DETERMINE NEEDS AND DEVELOP A COMPREHENSIVE PLAN FOR STATEWIDE COMPUTER, TECHNOLOGY AND INFORMATION NETWORKS TO ENABLE STATE PARTICIPATION IN THE NATIONAL INFORMATION INFRASTRUCTURE.

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

Section 1

Section 1. TEMPORARY PROVISION.--The commission on information and communications management shall conduct a study assessing the state's current computer, technology and network capabilities; and determining the state's overall needs, particularly in the areas of health care, education, environmental industries, manufacturing and business and industry; and develop a comprehensive plan for state government and private industry to meet those needs and allow for effective state participation in the development of the national information infrastructure. In conducting the study and developing the plan, the commission on information and communications management shall work in cooperation with a task force appointed by the governor for the purpose of directing development of the comprehensive state plan. The plan shall emphasize universal service and access for all New Mexicans. The plan should provide for equity, compatibility, security and flexibility. It should account for all families of technologies, including digital, interactive and open platform services. The plan shall outline a process and recommend regulations for defining a common set of services to be provided universally. The task force shall be composed of representatives of the national laboratories, state government, academic institutions and private industry. The task force shall place particular emphasis on the state's technology needs in the areas of health care, education, environmental industries, manufacturing and business and industry.

HOUSE BILL 308

CHAPTER 30

RELATING TO THE ACEQUIA AND COMMUNITY DITCH FUND; CHANGING THE WARRANT PROCESS.

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

Section 1

Section 1. Section 73-2A-3 NMSA 1978 (being Laws 1988, Chapter 157, Section 3, as amended) is amended to read:

"73-2A-3. FUND CREATED.--

A. An "acequia and community ditch fund" is created in the state treasury, to be expended upon order of the director of the New Mexico department of agriculture to carry out the purposes of contracting with acequia and ditch associations constituting a majority of acequias or ditches within an adjudication suit or a separately administered portion of an adjudication suit to provide assistance to acequias and community ditch associations in the adjudication process, including historical studies, economic impact reports, expert witness fees, legal fees and other technical services related to the adjudication process.

B. Money in the acequia and community ditch fund may be used to enter into agreements for grants-in-aid to satisfy costs and expenses incurred by acequias and community ditch associations. The amount of funding provided to acequia and ditch associations in any given year shall be determined by a simple majority of a committee consisting of the director of the New Mexico department of agriculture, the chairman of the interstate stream commission and a third person who will be elected from within the New Mexico acequia commission. The committee shall consider financial need, progress of the adjudication and the trial schedule; however, the committee is not limited to these factors in awarding grant agreements. No more than one-fourth of the money allocated from the acequia and community ditch fund shall be allocated to one acequia association provided, however, that at least the eight most qualified applicant associations may be considered to receive money that is in the fund and available for any given fiscal year. The committee shall consider the state engineer's report on the eligibility and priority of applicants for funds. Disbursement of the fund shall be made upon a warrant drawn by the secretary of finance and administration transferring money in the fund to the New Mexico department of agriculture for expenditure pursuant to vouchers signed by the director or his representative. Balances in the fund at the end of any fiscal year shall not revert to the general fund and may be expended to carry out the purposes of the Acequia and Community Ditch Fund Act."

HOUSE BILL 328

CHAPTER 31

CREATING A JOINT INTERIM LEGISLATIVE SCIENCE, TECHNOLOGY, ENERGY AND DEFENSE CONVERSION COMMITTEE; DECLARING AN EMERGENCY.

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

Section 1

Section 1. SCIENCE, TECHNOLOGY, ENERGY AND DEFENSE CONVERSION ~~COMMITTEE CREATED--TERMINATION.~~--There is created a joint interim legislative committee which shall be known as the "science, technology, energy and defense conversion committee". The committee shall function from the date of its appointment until the first day of December prior to the first session of the forty-second legislature.

Section 2

Section 2. MEMBERSHIP--APPOINTMENT--VACANCIES.--

A. The committee shall be composed of eight members. The speaker of the house of representatives shall appoint four members from the house of representatives, and the senate committees' committee shall appoint four members

from the senate. The speaker of the house shall designate the chairman and vice chairman of the committee.

B. Members shall be appointed from each house so as to give the two major political parties in each house the same proportionate representation on the committee as prevails in each house; however in no event shall either party have less than one member from each house on the committee. At the request of the committee chairman, members may be removed from the committee by the legislative council for nonattendance according to council policy. Vacancies on the committee, however caused, may be filled by the legislative council, or the council may reduce the size of the committee by not making replacement appointments and in such case need not readjust party representation.

C. No action shall be taken by the committee if a majority of the total membership from either house on the committee rejects such action.

Section 3

Section 3. DUTIES.--After its appointment, the committee shall hold one organizational meeting to develop a workplan and budget for the ensuing interim. The workplan and budget shall be submitted to the legislative council for approval. Upon approval of the workplan and budget by the legislative council, the committee shall examine the statutes, constitutional provisions, regulations and court decisions governing the areas of science, technology, energy and defense conversion activities in New Mexico and recommend legislation or changes if any are found to be necessary to the first session of the forty-second legislature.

Section 4

Section 4. SUBCOMMITTEES.--Subcommittees shall be created only by majority vote of all members appointed to the committee and with the prior approval of the legislative council. A subcommittee shall be composed of at least one member from the senate and one member from the house of representatives, and at least one member of the minority party shall be a member of the subcommittee. All meetings and expenditures of a subcommittee shall be approved by the full committee in advance of such meeting or expenditure, and the approval shall be shown in the minutes of the committee.

Section 5

Section 5. REPORT.--The committee shall make a report of its findings and recommendations for the consideration of the first session of the forty-second legislature. The report and suggested legislation shall be made available to the legislative council on or before December 15 preceding that session.

Section 6

Section 6. STAFF.--The staff for the committee shall be provided by the legislative council service.

Section 7

Section 7. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

HOUSE BILL 340
EMERGENCY CLAUSE -- SIGNED MARCH 1, 1994

CHAPTER 32

RELATING TO TAXATION; CREATING A DUAL TAXATION STUDY TASK FORCE;
DECLARING AN EMERGENCY.

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

Section 1

Section 1. TASK FORCE CREATED.--The "dual taxation study task force" is created. The task force shall function from the date of its creation until the first day of December prior to the second session of the forty-second legislature.

Section 2

Section 2. MEMBERSHIP--PER DIEM AND MILEAGE--OFFICERS.--

A. The task force shall be composed of eighteen voting members as follows:

- (1) six members appointed by the governor;
- (2) a representative appointed by the president of the Navajo Nation;
- (3) a representative appointed by the speaker of the Navajo Nation council;
- (4) a representative appointed by the Jicarilla Apache tribal council;
- (5) a representative appointed by the Mescalero Apache tribal council;
- (6) two representatives appointed by the all Indian pueblos council;

(7) two members of the house of representatives appointed by the speaker, one a Native American and one a member of the house taxation and revenue committee from the minority party after consultation with the minority floor leader;

(8) two members of the senate appointed by the president pro tempore, one a Native American and one a member of the senate ways and means committee from the minority party after consultation with the minority floor leader;

(9) the chairman of the house taxation and revenue committee or his designee from the committee; and

(10) the chairman of the senate ways and means committee or his designee from the committee.

Vacancies shall be filled by the original appointing authorities.

B. Members appointed by the governor who are not state agency representatives or who are appointed by an Indian nation, tribe or pueblo shall receive per diem and mileage pursuant to the provisions of the Per Diem and Mileage Act and shall receive no other compensation, perquisite or allowance for authorized work performed as a member of the task force.

C. There shall be two co-chairmen elected by the members of the task force.

Section 3

Section 3. TASK FORCE--DUTIES.--The task force shall, to the extent reasonably possible:

A. conduct studies of state and tribal dual taxation in New Mexico, the laws governing dual taxation and the socioeconomic and fiscal impacts on the state and on Indian nations, tribes and pueblos located in the state;

B. identify the annual dollar amount of all state and tribal taxes received from business activities in Indian country, including the taxation on production, income and property from non-Indian owned businesses under contract with Indian nations, tribes or pueblos;

C. quantify in dollars the annual level of services and capital improvements provided by the state to each of the Indian nations, tribes or pueblos since 1957;

D. examine and quantify in dollars the economic costs and benefits of Indian country economies on the economy and budget of the state;

E. identify and quantify the amount of tax dollars paid by Indian people to the state other than severance taxes, including gross receipts tax; gasoline tax on purchases of fuel; income tax on income earned by Indian people earning from sources off their own tribal lands; excise taxes; license and vehicle registration fees; and any other tax that is paid by Indian people to the state;

F. identify and quantify the amount of tax dollars paid by non-Indian people to the state, from a business or any economic activity in Indian country to the state;

G. identify and quantify the dollar amount paid by non-Indian people to governments of Indian nations, tribes or pueblos;

H. determine the impact of dual taxation on the production of energy resources in Indian country;

I. examine and quantify the costs and benefits of the state economy, population and off-reservation state services on Indian country economies;

J. determine if Indian nations, tribes or pueblos or the state are disadvantaged in attracting investment capital due to the presence of dual taxation;

K. determine if dual taxation makes development and growth of existing energy resource or other business markets for products from Indian country less competitive when compared with development of energy resources and other business markets for products from non-Indian country within or without the state;

L. identify and evaluate alternative methods of approaching severance and other types of taxation, including property and income on lands both within the state and in Indian country and determine the status of taxation by the states or Indian nations, tribes or pueblos where mineral, energy resource or other businesses are under development in Indian country;

M. determine if there are feasible means of providing incentives to attract extractive or other industries and determine the use of state incentives by extractive and other industries in Indian country;

N. identify the roles that the state and Indian nations, tribes and pueblos should be playing in promoting development, production and marketing of extractive and other industries in Indian country;

O. determine and quantify in dollars the costs and benefits of having Indian communities in the state on state social and educational programs, including the input of federal dollars and the use of state programs by Indian people;

P. identify tax policies and procedures that can be implemented by the state and the Indian nations, tribes and pueblos to provide socioeconomic and fiscal benefits to those entities and areas of cooperation among those entities to facilitate the collection of taxes owed to those governments;

Q. develop proposals to be submitted to the Navajo Nation, Jicarilla Apache tribe, Mescalero Apache tribe, all Indian pueblos council, eight northern Indian pueblos and ten southern Indian pueblos councils, the governor of the state and the legislature proposing changes in laws or ordinances to enact and begin to implement the findings of the task force; and

R. submit a written report to the second session of the forty-second legislature and the governing bodies of the Indian nations, tribes and pueblos in New Mexico stating the findings, conclusions and proposals for beneficial changes in law or ordinances that developed from the work of the task force.

Section 4

Section 4. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE FOR
HOUSE BILL 618
EMERGENCY CLAUSE -- SIGNED MARCH 2, 1994

CHAPTER 33

RELATING TO APPLES; ENACTING THE APPLE COMMISSION ACT; CREATING A COMMISSION; ESTABLISHING POWERS AND DUTIES; AUTHORIZING AN ASSESSMENT.

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

Section 1

Section 1. SHORT TITLE.--This act may be cited as the "Apple Commission Act".

Section 2

Section 2. DEFINITIONS.--As used in the Apple Commission Act:

A. "commission" means the New Mexico apple commission;

B. "dealer" means any person who handles, ships, buys or sells apples or who acts as a sales or purchasing agent or broker of apples;

C. "department" means the New Mexico department of agriculture;

D. "director" means director of the department;

E. "fresh apples" means apples used for other than processed food;

F. "grower district No. 1" includes the counties of San Juan, Cibola and McKinley;

G. "grower district No. 2" includes the counties of Rio Arriba, Torrance, Santa Fe, Guadalupe, Sandoval, San Miguel, Bernalillo, Los Alamos, Valencia, Harding, Colfax, Mora, Union, Taos and Quay;

H. "grower district No. 3" includes the counties of Catron, Grant, Sierra, Hidalgo, Luna, Dona Ana and Socorro;

I. "grower district No. 4" includes the counties of Lincoln, Curry, Otero, Roosevelt, Chaves, De Baca, Eddy and Lea; and

J. "producer" means an apple grower who farms one or more acres of apples and who sells fresh apples to retail food outlets.

Section 3

Section 3. NEW MEXICO APPLE COMMISSION CREATED.--

A. The "New Mexico apple commission" is created. The commission shall be composed of ten members, seven appointed by the governor and three who shall serve ex officio. The ex-officio members shall be nonvoting members.

B. In appointing members of the commission, the governor shall make appointments based on recommendations made to the director by apple growers representing the grower districts. The governor shall appoint one member each to represent grower districts Nos. 1, 3 and 4, three members to represent grower district No. 2 and one member who is an apple dealer.

C. All appointees shall serve three-year terms; provided, initially, individuals appointed to represent apple dealers and grower districts Nos. 1, 3 and 4 shall serve three-year terms and individuals appointed from grower district No. 2 shall serve two-year terms.

D. The director or his designee, the director of the New Mexico state university cooperative extension service or his appointee and the secretary of economic development or his designee shall serve as the ex-officio members of the commission.

E. The commission shall be administratively attached to the department.

Section 4

Section 4. COMMISSION OFFICERS.--The commission shall elect annually a chairman, vice chairman and such other officers as it deems necessary from among its members. The commission shall meet at least once every six months and at such other times at the call of the chairman. The commission may provide by rule for reimbursement of members' expenses while on official business of the commission, but reimbursement shall in no case exceed the provisions of the Per Diem and Mileage Act. Commission members shall receive no other compensation, perquisite or allowance.

Section 5

Section 5. COMMISSION POWERS AND DUTIES.--

A. The commission shall:

(1) conduct public relations programs promoting New Mexico apples and New Mexico apple products;

(2) investigate and ascertain the needs of producers, conditions of the markets and the extent and necessity of consumer education, market development, research and advertising;

(3) submit to the director a detailed annual budget for the commission;

(4) bond officers and employees of the commission who receive and disburse commission funds;

(5) keep detailed and accurate records of all receipts and disbursements, have such records audited annually and keep such audit available for inspection in the commission office;

(6) establish procedures for the adoption of regulations that will provide for input from apple producers; and

(7) determine and publish each year assessment rates to be imposed and collected by the commission.

B. The commission may:

(1) contract for scientific research to discover and improve the commercial value of apples and apple products;

(2) disseminate reliable information showing the value of apples and apple products for any purpose for which they may be found useful and profitable;

(3) cooperate with any local, state or national organizations or agencies engaged in work or activities similar to that of the commission and enter into contracts with such organizations or agencies and expend funds in connection therewith for carrying on joint programs;

(4) study legislation and state and federal regulations on matters concerning the apple industry and represent and protect the interests of the apple industry with respect to any legislation or proposed legislation or executive action that may affect that industry;

(5) enter into contracts it deems appropriate to the carrying out of the purposes of the commission as authorized by the Apple Commission Act;

(6) sue and be sued as a commission without individual liability for acts of the commission within the scope of the powers conferred upon it by the Apple Commission Act;

(7) appoint subordinate officers and hire employees of the commission and prescribe their duties and fix their compensation;

(8) adopt regulations for the exercise of its powers and duties;

(9) adopt and enforce grading standards designed to enhance the market position of New Mexico apples; and

(10) cooperate with other state apple councils and commissions.

Section 6

Section 6. ASSESSMENTS.--The commission may impose assessments on producers who choose to participate in commission programs for the grading, production and promotion of apples and apple products. Assessments shall be based upon a rate per hundred pounds of fresh apples, gross billing weight, shipped in bulk, container or any style of packaging and shall not exceed fifty cents (\$.50) per hundred pounds. The assessment on fresh apples shall be calculated by the participating producer and forwarded to the commission within thirty days of sale.

Section 7

Section 7. APPLE COMMISSION FUND CREATED.--

A. The "apple commission fund" is created in the state treasury. Money in the fund is appropriated to the commission to carry out the purposes of the Apple Commission Act. Any money appropriated to the fund or deposited in the fund as a result of the collection of assessments or other charges shall not be transferred to any other fund. Money in the fund shall not revert at the end of any fiscal year.

B. Money in the apple commission fund shall only be expended upon the issuance of warrants signed by the secretary of finance and administration pursuant to vouchers signed by the chairman of the commission.

Section 8

Section 8. COMMISSION--VOLUNTARY PARTICIPATION OF PRODUCERS.--The provisions of the Apple Commission Act shall only apply to those producers and dealers who voluntarily choose to participate in the apple grading, production and promotion activities of the commission. The provisions of the Apple Commission Act do not apply to any producer who chooses not to participate in the activities or the assessments of the commission. The Apple Commission Act does not restrict or prohibit any producer in the production or sale of apples.

Section 9

Section 9. PROCUREMENT CODE--PERSONNEL ACT--EXEMPTION--TORT CLAIMS.--The commission is exempt from the provisions of the Procurement Code and the Personnel Act. The commission members and their employees are public employees for the purposes of the Tort Claims Act.

HOUSE BILL 926

CHAPTER 34

RELATING TO TAXATION; EXTENDING THE PERIOD DURING WHICH CERTAIN ACTIONS TO COLLECT COMPENSATING TAX ARE PROHIBITED.

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

Section 1

Section 1. Laws 1993, Chapter 45, Section 1 is amended to read:

"Section 1. TEMPORARY PROVISIONS--TAXATION AND REVENUE DEPARTMENT BARRED FROM TAKING COLLECTION ACTIONS WITH RESPECT TO CERTAIN COMPENSATING TAX LIABILITIES.--

A. The taxation and revenue department shall take no action to enforce collection of compensating tax due on purchases made by an individual if:

(1) the property purchased was received by the individual prior to July 1, 1995;

(2) the property is used only for nonbusiness purposes; and

(3) the individual is not an agent for collection of compensating tax pursuant to Section 7-9-10 NMSA 1978.

B. The prohibition in Subsection A of this section does not prevent the taxation and revenue department from enforcing collection of compensating tax on purchases prior to July 1, 1995, from persons who are not individuals, who are agents for collection pursuant to Section 7-9-10 NMSA 1978 or who use the property in the course of engaging in business in New Mexico."

HOUSE BILL 194

CHAPTER 35

RELATING TO LAW ENFORCEMENT; ENACTING THE LAW ENFORCEMENT YOUTH CADET CORPS ACT; ESTABLISHING A PROGRAM TO PROVIDE LEADERSHIP TRAINING, INCREASE AWARENESS OF LAW ENFORCEMENT FUNCTIONS AND ROLES AND PREPARE STUDENTS FOR VOLUNTEER ROLES WITH LAW ENFORCEMENT AGENCIES.

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

Section 1

Section 1. SHORT TITLE.--This act may be cited as the "Law Enforcement Youth Cadet Corps Act".

Section 2

Section 2. FINDINGS AND PURPOSE.--

A. The legislature finds that:

(1) the level and increasingly violent nature of juvenile crime in New Mexico has reached alarming proportions; and

(2) alcohol and drug abuse among minors remains a serious social problem.

B. The purpose of the Law Enforcement Youth Cadet Corps Act is to:

(1) provide leadership training to students;

(2) improve awareness and appreciation among students regarding the functions and roles of law enforcement agencies in New Mexico; and

(3) prepare students to assist as volunteers in law enforcement programs in their own communities, including such programs as neighborhood watch, D.A.R.E. and pounders.

Section 3

Section 3. DEFINITIONS.--As used in the Law Enforcement Youth Cadet Corps Act:

- A. "academy" means the New Mexico law enforcement academy;
- B. "department" means the department of public safety;
- C. "program" means a law enforcement leadership training and awareness program conducted at the academy; and
- D. "student" means an individual enrolled in a high school in New Mexico.

Section 4

Section 4. LAW ENFORCEMENT LEADERSHIP TRAINING AND AWARENESS PROGRAM--ADMINISTRATION.--The department shall:

- A. provide information to high schools regarding the existence of the program and the availability of scholarships to students who apply to participate in the program;
- B. approve or disapprove student applications to participate in the program, with priority given to students who express a desire to pursue a career in law enforcement;
- C. organize and schedule no less than four programs at the academy annually, with each program to consist of not less than ten students; and
- D. promulgate rules regarding the content of the program, including:
 - (1) providing students with leadership training;
 - (2) improving students' awareness of the functions and roles of law enforcement agencies in New Mexico; and
 - (3) preparing students to assist as volunteers in law enforcement programs in their own communities, including neighborhood watch, D.A.R.E. and pounders.

Section 5

Section 5. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1994.

HOUSE BILL 736

CHAPTER 36

RELATING TO THE JURY AND WITNESS FEE FUND; PROVIDING FOR PAYMENT OF DEFENSE OF NONINDIGENT PERSONS UNDER CERTAIN CIRCUMSTANCES.

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

Section 1

Section 1. Section 34-9-11 NMSA 1978 (being Laws 1994, Chapter 106, Section 1) is amended to read:

"34-9-11. JURY AND WITNESS FEE FUND CREATED--ADMINISTRATION--DISTRIBUTION.--

A. There is created in the state treasury the "jury and witness fee fund" to be administered by the administrative office of the courts.

B. All balances in the jury and witness fee fund may be expended only upon appropriation by the legislature to the administrative office of the courts for the purpose of paying the costs of:

(1) jurors and prospective jurors;

(2) witnesses of fact or character subpoenaed by the court, the prosecution or the defense;

(3) expert witnesses for grand juries and magistrate courts;

(4) court interpreters; and

(5) defending persons whom the court has ordered the public defender to represent, when those persons do not meet the public defender's indigency standards.

C. All jury fees that the courts collect from parties requesting civil juries, except for jury demand fees as set forth in Section 35-6-1 NMSA 1978, and interest earned on money in the jury and witness fee fund shall be credited to the fund. Payments shall be made upon certification by judicial agencies of eligible amounts. No part of the fund shall revert at the end of any fiscal year.

D. Payments from the jury and witness fee fund shall be made upon vouchers issued and signed by the director of the administrative office of the courts or his designee upon warrants drawn by the secretary of finance and administration.

HOUSE BILL 471

CHAPTER 37

RELATING TO THE COURTS; PROVIDING FOR ALTERNATIVE DISPUTE RESOLUTION; AMENDING SECTIONS OF THE NMSA 1978.

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

Section 1

Section 1. Section 34-6-44 NMSA 1978 (being Laws 1986, Chapter 26, Section 1, as amended) is amended to read:

"34-6-44. DISTRICT COURT ALTERNATIVE DISPUTE RESOLUTION FUND--ADMINISTRATION.--A judicial district that collects an alternative dispute resolution fee pursuant to Section 34-6-45 NMSA 1978 shall create an "alternative dispute resolution fund" of the judicial district. Money in the fund shall be used to defray the cost of operating alternative dispute resolution programs established by judicial district court rule approved by the supreme court, including but not limited to arbitration, mediation and settlement facilitation programs. No part of the fund shall revert at the end of any fiscal year."

Section 2

Section 2. Section 34-6-45 NMSA 1978 (being Laws 1986, Chapter 26, Section 2, as amended) is amended to read:

"34-6-45. DISTRICT COURTS--ALTERNATIVE DISPUTE RESOLUTION--FEE.--In addition to fees collected pursuant to, and subject to exceptions set forth in, Section 34-6-40 NMSA 1978 for docketing of civil cases, in any judicial district that has established an alternative dispute resolution program by judicial district court rule approved by the supreme court, including but not limited to arbitration, mediation and settlement facilitation programs, the district court clerk shall collect a fee of fifteen dollars (\$15.00) on all new and reopened civil cases except domestic relations cases. The fee shall be deposited for credit to the district court alternative dispute resolution fund pursuant to the provisions of Section 34-6-37 NMSA 1978."

HOUSE BILL 482

CHAPTER 38

RELATING TO PUBLIC OFFICER SALARIES; PROVIDING LIMITED SALARY INCREASES FOR CERTAIN ELECTED COUNTY OFFICIALS.

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

Section 1

Section 1. Section 4-44-4 NMSA 1978 (being Laws 1957, Chapter 196, Section 2, as amended) is amended to read:

"4-44-4. CLASS A COUNTIES--SALARIES.--The annual salaries of elected officers of class A counties shall not exceed:

A. county commissioners, nineteen thousand four hundred forty-two dollars (\$19,442) each;

B. treasurer, forty-three thousand sixty-eight dollars (\$43,068);

C. assessor, forty-three thousand sixty-eight dollars (\$43,068);

D. sheriff, forty-four thousand nine hundred thirteen dollars (\$44,913);

E. county clerk, forty-three thousand sixty-eight dollars (\$43,068);

F. probate judge, eighteen thousand nine hundred fifty dollars (\$18,950);

and

G. county surveyor, nineteen thousand four hundred forty-two dollars (\$19,442)."

Section 2

Section 2. Section 4-44-4.1 NMSA 1978 (being Laws 1986, Chapter 67, Section 2, as amended) is amended to read:

"4-44-4.1. CLASS B COUNTIES--OVER THREE HUNDRED MILLION DOLLARS VALUATION--SALARIES.--The annual salaries of elected officers of class B counties with an assessed valuation of over three hundred million dollars (\$300,000,000) shall not exceed:

A. county commissioners, fifteen thousand twelve dollars (\$15,012) each;

- B. treasurer, thirty-seven thousand six hundred fifty-three dollars (\$37,653);
- C. assessor, thirty-seven thousand six hundred fifty-three dollars (\$37,653);
- D. sheriff, thirty-nine thousand two hundred fifty-three dollars (\$39,253);
- E. county clerk, thirty-seven thousand six hundred fifty-three dollars (\$37,653);
- F. probate judge, thirteen thousand one hundred sixty-six dollars (\$13,166); and
- G. county surveyor, a reasonable rate of compensation as determined by the board of county commissioners."

Section 3

Section 3. Section 4-44-5 NMSA 1978 (being Laws 1957, Chapter 196, Section 3, as amended) is amended to read:

"4-44-5. CLASS B COUNTIES--SALARIES.--The annual salaries of elected officers of class B counties with an assessed valuation of over seventy-five million dollars (\$75,000,000) but under three hundred million dollars (\$300,000,000) shall not exceed:

- A. county commissioners, ten thousand seven hundred five dollars (\$10,705) each;
- B. treasurer, thirty-two thousand two hundred thirty-nine dollars (\$32,239);
- C. county assessor, thirty-two thousand two hundred thirty-nine dollars (\$32,239);
- D. county sheriff, thirty-three thousand seven hundred sixteen dollars (\$33,716);
- E. county clerk, thirty-two thousand two hundred thirty-nine dollars (\$32,239);
- F. probate judge, seven thousand five hundred six dollars (\$7,506); and
- G. county surveyor, a reasonable rate of compensation as determined by the board of county commissioners."

Section 4

Section 4. Section 4-44-6 NMSA 1978 (being Laws 1957, Chapter 196, Section 4, as amended) is amended to read:

"4-44-6. CLASS C COUNTIES--SALARIES.--The annual salaries of elected officers of class C counties shall not exceed:

A. county commissioners, ten thousand seven hundred five dollars (\$10,705) each;

B. county treasurer, thirty-two thousand two hundred thirty-nine dollars (\$32,239);

C. county assessor, thirty-two thousand two hundred thirty-nine dollars (\$32,239);

D. county sheriff, thirty-three thousand seven hundred sixteen dollars (\$33,716);

E. county clerk, thirty-two thousand two hundred thirty-nine dollars (\$32,239);

F. probate judge, seven thousand five hundred six dollars (\$7,506); and

G. county surveyor, a reasonable rate of compensation as determined by the board of county commissioners."

Section 5

Section 5. Section 4-44-7 NMSA 1978 (being Laws 1957, Chapter 196, Section 5, as amended) is amended to read:

"4-44-7. FIRST CLASS COUNTIES--OVER TWENTY-SEVEN MILLION DOLLARS VALUATION--SALARIES.--The annual salaries of elected officers of counties of the first class with an assessed valuation of over twenty-seven million dollars (\$27,000,000) but under forty-five million dollars (\$45,000,000) shall not exceed:

A. county commissioners, nine thousand seven hundred twenty-one dollars (\$9,721) each;

B. treasurer, twenty-three thousand six hundred twenty-six dollars (\$23,626);

C. assessor, twenty-three thousand six hundred twenty-six dollars (\$23,626);

D. sheriff, twenty-five thousand four hundred seventy-one dollars (\$25,471);

E. county clerk, twenty-three thousand six hundred twenty-six dollars (\$23,626);

F. probate judge, six thousand two hundred seventy-six dollars (\$6,276);
and

G. county surveyor, a reasonable rate of compensation as determined by the board of county commissioners."

Section 6

Section 6. Section 4-44-8 NMSA 1978 (being Laws 1957, Chapter 196, Section 6, as amended) is amended to read:

"4-44-8. FIRST CLASS COUNTIES--UNDER TWENTY-SEVEN MILLION DOLLARS VALUATION--SALARIES.--The annual salaries of elected officers of counties of the first class with an assessed valuation of over fourteen million dollars (\$14,000,000) but under twenty-seven million dollars (\$27,000,000) shall not exceed:

A. county commissioners, six thousand five hundred twenty-two dollars (\$6,522) each;

B. treasurer, twenty thousand fifty-seven dollars (\$20,057);

C. assessor, twenty thousand fifty-seven dollars (\$20,057);

D. sheriff, twenty-five thousand four hundred seventy-one dollars (\$25,471);

E. county clerk, twenty thousand fifty-seven dollars (\$20,057);

F. probate judge, five thousand seven hundred eighty-three dollars (\$5,783); and

G. county surveyor, a reasonable rate of compensation as determined by the board of county commissioners."

HOUSE BILL 470

CHAPTER 39

INCREASING THE NUMBER OF MEMBERS ON THE NEW MEXICO LAW ENFORCEMENT ACADEMY BOARD; AMENDING A SECTION OF THE LAW ENFORCEMENT TRAINING ACT.

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

Section 1

Section 1. Section 29-7-3 NMSA 1978 (being Laws 1979, Chapter 202, Section 42, as amended by Laws 1994, Chapter 250, Section 1 and also by Laws 1994, Chapter 255, Section 2) is amended to read:

"29-7-3. NEW MEXICO LAW ENFORCEMENT ACADEMY BOARD.--

A. There is created the "New Mexico law enforcement academy board".

B. The academy shall be controlled and supervised by policy set by the board. The board shall be composed of the attorney general, who shall serve automatically by reason of his office and serve as chairman of the board, and six members who are qualified electors to be appointed by the governor and confirmed by the senate. An appointed board member shall serve and have all of the duties, responsibilities and authority of that office during the period prior to the final action by the senate in confirming or rejecting the appointment.

C. On or before July 1, 1994, the governor shall increase the number of members on the board to eight by appointing two additional members. The seventh member of the board shall be a citizen-at-large member whose term shall end on July 1, 1996. The eighth member of the board shall be a police officer who is a New Mexico certified police officer, holding the rank of sergeant or below at the time of his appointment, and whose term shall end on July 1, 1996 or sooner if he retires or is deactivated from duty for longer than thirty days. Appointments to the board shall be for terms of four years or less made in such manner that the terms of not more than two members expire on July 1 of each year. At all times, the board shall have represented on it, as members, one municipal police chief, one sheriff, one state police officer, one district attorney, one certified police chief of a New Mexico Indian tribe or pueblo, one certified New Mexico police officer holding the rank of sergeant or below and two citizen-at-large members. Vacancies shall be filled by the governor for the unexpired term.

D. Members of the board shall receive, for their service as members of the board, per diem and mileage as provided in the Per Diem and Mileage Act."

SENATE BILL 125

CHAPTER 40

RELATING TO COMMERCIAL DRIVER'S LICENSES; MAKING PERMANENT THE BLOOD ALCOHOL STANDARD FOR DRIVERS OF COMMERCIAL MOTOR VEHICLES; REPEALING LAWS 1992, CHAPTER 13, SECTION 11; DECLARING AN EMERGENCY.

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

Section 1

Section 1. REPEAL.--Laws 1992, Chapter 13, Section 11 is repealed.

Section 2

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

SENATE BILL 131
EMERGENCY CLAUSE -- SIGNED MARCH 2, 1994

CHAPTER 41

EXTENDING THE DEADLINE FOR LICENSEES TO SUBMIT PROOF OF ALCOHOL SERVER TRAINING REQUIRED AS A CONDITION FOR LICENSE RENEWAL;
AMENDING SECTIONS OF THE ALCOHOL SERVER EDUCATION ACT.

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

Section 1

Section 1. Section 60-6D-1 NMSA 1978 (being Laws 1994, Chapter 68, Section 28) is amended to read:

"60-6D-1. SHORT TITLE.--Chapter 60, Article 6D NMSA 1978 may be cited as the "Alcohol Server Education Act"."

Section 2

Section 2. Section 60-6D-4 NMSA 1978 (being Laws 1994, Chapter 68, Section 31) is amended to read:

"60-6D-4. ALCOHOL SERVER TRAINING--REQUIRED FOR LICENSE RENEWAL.--Beginning July 1, 1995, a licensee seeking renewal of a license shall submit to the department, as a condition of license renewal, proof that the licensee, his lessee and each server employed by the licensee or lessee during the prior licensing year have completed alcohol server programs certified by the alcohol server education advisory committee pursuant to provisions of the Liquor Control Act."

SENATE BILL 155

CHAPTER 42

RELATING TO CONTROLLED SUBSTANCES; INCREASING THE LIMIT ON FEES CHARGED FOR THE REGISTRATION AND CONTROL OF CONTROLLED SUBSTANCES; PROVIDING FOR THE COLLECTION OF INFORMATION RELATING TO CONTROLLED SUBSTANCES.

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

Section 1

Section 1. Section 30-31-11 NMSA 1978 (being Laws 1972, Chapter 84, Section 11, as amended) is amended to read:

"30-31-11. REGULATIONS.--The board may promulgate regulations and charge reasonable fees relating to the registration and control of the manufacture, distribution and dispensing of controlled substances; provided, however, that in no case shall the fees exceed eighty dollars (\$80.00) per year. If the board determines to increase any fee, the board shall notify, in addition to any other notice required by law, the affected professional group of the board's intention to increase the fee and the date for the scheduled hearing to review the matter."

Section 2

Section 2. Section 30-31-16 NMSA 1978 (being Laws 1972, Chapter 84, Section 16) is amended to read:

"30-31-16. RECORDS OF REGISTRANTS.--

A. Every registrant under the Controlled Substances Act manufacturing, distributing or dispensing a controlled substance shall maintain, on a current basis, a complete and accurate record of each substance manufactured, received, sold or delivered by him in accordance with regulations of the board.

Inventories as required in the federal Comprehensive Drug Abuse Prevention and Control Act of 1970 shall be deemed in compliance with inventory requirements under this section.

B. Records for drugs under Schedules I and II shall be kept separate from other records. Prescriptions for all Schedule I and II drugs and narcotic prescriptions for controlled substances listed in Schedules III, IV and V shall be maintained separately from other prescription drugs in accordance with regulations of the board.

C. Records for nonnarcotic controlled substances under Schedules III, IV and V shall be maintained either separately or in such form that they are readily retrievable and are marked for ready identification in accordance with regulations of the board. Prescriptions for nonnarcotic controlled substances shall be maintained either in a separate prescription file or in such form that they are readily retrievable from other

prescription records and are marked for ready identification in accordance with regulations of the board.

D. Records shall be maintained for a period of at least three years from the date of the record and may be inspected as required by authorized agents of the board.

E. A practitioner is not required to keep records of controlled substances listed in Schedules II through V that he prescribes or administers in the lawful course of his professional practice. He shall keep records of controlled substances that he dispenses other than by prescribing or administering.

F. Each pharmacy licensed in the state shall provide information relating to the dispensing of any controlled substance designated by the board. The board shall administer the collection and dissemination of the information obtained. The manner of reporting and the extent of the required information shall be designated by regulation of the board."

SENATE BILL 167

CHAPTER 43

RELATING TO TAXATION; PROVIDING A GROSS RECEIPTS TAX DEDUCTION FOR RECEIPTS FROM CERTAIN ORGANIZATION FUNDRAISING EVENTS.

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

Section 1

Section 1. A new section of the Gross Receipts and Compensating Tax Act is enacted to read:

"DEDUCTION--GROSS RECEIPTS TAX--CERTAIN ORGANIZATION FUNDRAISERS.--Receipts from not more than two fundraising events annually conducted by an organization that is exempt from the federal income tax as an organization described in Section 501(c), other than an organization described in Section 501(c)(3), of the United States Internal Revenue Code of 1986, as amended may be deducted from gross receipts."

Section 2

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1994.

CHAPTER 44

RELATING TO TAXATION; AMENDING A SECTION OF THE TAX ADMINISTRATION ACT TO PROVIDE FOR PAYMENT OF INTEREST ON CERTAIN TAX OVERPAYMENT CREDITS AND REFUNDS.

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

Section 1

Section 1. Section 7-1-68 NMSA 1978 (being Laws 1965, Chapter 248, Section 69, as amended) is amended to read:

"7-1-68. INTEREST ON OVERPAYMENTS.--

A. As provided in this section, interest shall be allowed and paid on the amount of tax overpaid by a person which is subsequently refunded or credited to that person.

B. Interest payable on overpayments of tax shall be paid at the rate of fifteen percent a year, computed at the rate of one and one-fourth percent per month or fraction thereof.

C. Unless otherwise provided by this section, interest on an overpayment not arising from an assessment by the department shall be paid from the date the claim for refund was made until a date preceding by not more than thirty days the date on which the amount thereof is credited or refunded to any person; interest on an overpayment arising from an assessment by the department shall be paid from the date overpayment was made until a date preceding by not more than thirty days the date on which the amount thereof is credited or refunded to any person.

D. No interest shall be allowed or paid with respect to an amount credited or refunded if:

(1) the amount of interest due is less than one dollar (\$1.00);

(2) the credit or refund is made within seventy-five days of the date of the claim for refund of income tax, pursuant to either the Income Tax Act or the Corporate Income and Franchise Tax Act, for the tax year immediately preceding the tax year in which the claim is made;

(3) the credit or refund is made within one hundred twenty days of the date of the claim for refund of income tax, pursuant to the Income Tax Act, the Corporate Income Tax Act, the Corporate Income and Franchise Tax Act or the Banking and Financial Corporations Tax Act, for any tax year more than one year prior to the year in which the claim is made;

(4) Sections 6611(f) and 6611(g) of the United States Internal Revenue Code of 1986, as those sections may be amended or renumbered, prohibit payment of interest for federal income tax purposes;

(5) the credit or refund is made within sixty days of the date of the claim for refund of any tax other than income tax; or

(6) gasoline tax is refunded or credited under the Gasoline Tax Act to users of gasoline off the highways."

Section 2

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1994.

SENATE BILL 401

CHAPTER 45

RELATING TO TAXATION; CHANGING CERTAIN PROVISIONS OF THE GROSS RECEIPTS AND COMPENSATING TAX ACT; AMENDING AND REPEALING SECTIONS OF THE NMSA 1978.

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

Section 1

Section 1. Section 7-9-3 NMSA 1978 (being Laws 1978, Chapter 46, Section 1, as amended) is amended to read:

"7-9-3. DEFINITIONS.--As used in the Gross Receipts and Compensating Tax Act:

A. "department" means the taxation and revenue department, the secretary of taxation and revenue or any employee of the department exercising authority lawfully delegated to that employee by the secretary;

B. "buying" or "selling" means any transfer of property for consideration or any performance of service for consideration;

C. "construction" means building, altering, repairing or demolishing in the ordinary course of business any:

(1) road, highway, bridge, parking area or related project;

(2) building, stadium or other structure;

(3) airport, subway or similar facility;

(4) park, trail, athletic field, golf course or similar facility;

(5) dam, reservoir, canal, ditch or similar facility;

(6) sewerage or water treatment facility, power generating plant, pump station, natural gas compressing station, gas processing plant, coal gasification plant, refinery, distillery or similar facility;

(7) sewerage, water, gas or other pipeline;

(8) transmission line;

(9) radio, television or other tower;

(10) water, oil or other storage tank;

(11) shaft, tunnel or other mining appurtenance;

(12) microwave station or similar facility; or

(13) similar work;

"construction" also means:

(14) leveling or clearing land;

(15) excavating earth;

(16) drilling wells of any type, including seismograph shot holes or core drilling; or

(17) similar work;

D. "financial corporation" means any savings and loan association or any incorporated savings and loan company, trust company, mortgage banking company, consumer finance company or other financial corporation;

E. "engaging in business" means carrying on or causing to be carried on any activity with the purpose of direct or indirect benefit;

F. "gross receipts" means the total amount of money or the value of other consideration received from selling property in New Mexico, from leasing property employed in New Mexico, from selling services performed outside New Mexico the product of which is initially used in New Mexico or from performing services in New Mexico. In an exchange in which the money or other consideration received does not represent the value of the property or service exchanged, "gross receipts" means the reasonable value of the property or service exchanged.

(1) "Gross receipts" includes:

(a) any receipts from sales of tangible personal property handled on consignment;

(b) the total commissions or fees derived from the business of buying, selling or promoting the purchase, sale or leasing, as an agent or broker on a commission or fee basis, of any property, service, stock, bond or security;

(c) amounts paid by members of any cooperative association or similar organization for sales or leases of personal property or performance of services by such organization; and

(d) amounts received from transmitting messages or conversations by persons providing telephone or telegraph services.

(2) "Gross receipts" excludes:

(a) cash discounts allowed and taken;

(b) New Mexico gross receipts tax, governmental gross receipts tax and leased vehicle gross receipts tax payable on transactions for the reporting period;

(c) taxes imposed pursuant to the provisions of any local option gross receipts tax that is payable on transactions for the reporting period;

(d) any gross receipts or sales taxes imposed by an Indian nation, tribe or pueblo provided that the tax is approved, if approval is required by federal law or regulation, by the secretary of the interior of the United States and provided further that the gross receipts or sales tax imposed by the Indian nation, tribe or pueblo provides a reciprocal exclusion for gross receipts, sales or gross receipts-based excise taxes imposed by the state or its political subdivisions;

(e) any type of time-price differential; and

(f) amounts received solely on behalf of another in a disclosed agency capacity.

(3) When the sale of property or service is made under any type of charge, conditional or time-sales contract or the leasing of property is made under a leasing contract, the seller or lessor may elect to treat all receipts, excluding any type of time-price differential, under such contracts as gross receipts as and when the payments are actually received. If the seller or lessor transfers his interest in any such contract to a third person, the seller or lessor shall pay the gross receipts tax upon the full sale or leasing contract amount, excluding any type of time-price differential;

G. "manufacturing" means combining or processing components or materials to increase their value for sale in the ordinary course of business, but does not include construction;

H. "person" means:

(1) any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, limited liability company, limited liability partnership, joint venture, syndicate or other entity, including any gas, water or electric utility owned or operated by a county, municipality or other political subdivision of the state; or

(2) any national, federal, state, Indian or other governmental unit or subdivision, or any agency, department or instrumentality of any of the foregoing;

I. "property" means real property, tangible personal property, licenses, franchises, patents, trademarks and copyrights. Tangible personal property includes electricity and manufactured homes;

J. "leasing" means any arrangement whereby, for a consideration, property is employed for or by any person other than the owner of the property, except that the granting of a license to use property is the sale of a license and not a lease;

K. "service" means all activities engaged in for other persons for a consideration, which activities involve predominantly the performance of a service as distinguished from selling or leasing property. "Service" includes activities performed by a person for its members or shareholders. In determining what is a service, the intended use, principal objective or ultimate objective of the contracting parties shall not be controlling.

"Service" includes construction activities and all tangible personal property that will become an ingredient or component part of a construction project. Such tangible personal property retains its character as tangible personal property until it is installed as an ingredient or component part of a construction project in New Mexico. However, sales of tangible personal property that will become an ingredient or component part of

a construction project to persons engaged in the construction business are sales of tangible personal property;

L. "use" or "using" includes use, consumption or storage other than storage for subsequent sale in the ordinary course of business or for use solely outside this state;

M. "secretary" means the secretary of taxation and revenue or the secretary's delegate;

N. "manufactured home" means a moveable or portable housing structure for human occupancy that exceeds either a width of eight feet or a length of forty feet constructed to be towed on its own chassis and designed to be installed with or without a permanent foundation;

O. "initial use" or "initially used" means the first employment for the intended purpose and does not include the following activities:

- (1) observation of tests conducted by the performer of services;
- (2) participation in progress reviews, briefings, consultations and conferences conducted by the performer of services;
- (3) review of preliminary drafts, drawings and other materials prepared by the performer of the services;
- (4) inspection of preliminary prototypes developed by the performer of services; or
- (5) similar activities;

P. "research and development services" means any activity engaged in for other persons for consideration, for one or more of the following purposes:

- (1) advancing basic knowledge in a recognized field of natural science;
- (2) advancing technology in a field of technical endeavor;
- (3) the development of a new or improved product, process or system with new or improved function, performance, reliability or quality, whether or not the new or improved product, process or system is offered for sale, lease or other transfer;
- (4) the development of new uses or applications for an existing product, process or system, whether or not the new use or application is offered as the rationale for purchase, lease or other transfer of the product, process or system;

(5) analytical or survey activities incorporating technology review, application, trade-off study, modeling, simulation, conceptual design or similar activities, whether or not offered for sale, lease or other transfer; or

(6) the design and development of prototypes or the integration of systems incorporating advances, developments or improvements included in Paragraphs (1) through (5) of this subsection; and

Q. "local option gross receipts tax" means a tax authorized to be imposed by a county or municipality upon the taxpayer's gross receipts and required to be collected by the department at the same time and in the same manner as the gross receipts tax; "local option gross receipts tax" includes the taxes imposed pursuant to the Municipal Local Option Gross Receipts Taxes Act, Supplemental Municipal Gross Receipts Tax Act, Special Municipal Gross Receipts Tax Act, County Local Option Gross Receipts Taxes Act, Local Hospital Gross Receipts Tax Act, County Correctional Facility Gross Receipts Tax Act and such other acts as may be enacted authorizing counties or municipalities to impose taxes on gross receipts, which taxes are to be collected by the department."

Section 2

Section 2. Section 7-9-13 NMSA 1978 (being Laws 1969, Chapter 144, Section 6, as amended by Laws 1994, Chapter 31, Section 3 and also by Laws 1994, Chapter 208, Section 7) is amended to read:

"7-9-13. EXEMPTION--GROSS RECEIPTS TAX--GOVERNMENTAL AGENCIES.--

A. Except as otherwise provided in this section, exempted from the gross receipts tax are receipts of:

(1) the United States, or any agency, department or instrumentality thereof;

(2) the state of New Mexico or any political subdivision thereof; or

(3) any Indian nation, tribe or pueblo from activities or transactions occurring on its sovereign territory.

B. Receipts from the sale of gas or electricity by a utility owned or operated by a county, municipality or other political subdivision of a state are not exempted from the gross receipts tax.

C. Receipts from the operation of a cable television system owned or operated by a municipality are not exempted from the gross receipts tax."

Section 3

Section 3. Section 7-9-45 NMSA 1978 (being Laws 1969, Chapter 144, Section 35, as amended) is amended to read:

"7-9-45. DEDUCTIONS.--

A. In computing the gross receipts tax or governmental gross receipts tax due, only those receipts specified in Sections 7-9-46 through 7-9-76.2, 7-9-83 and 7-9-84 NMSA 1978 may be deducted. Receipts, whether specified once or several times in Sections 7-9-46 through 7-9-76.2, 7-9-83 and 7-9-84 NMSA 1978, may be deducted only once from gross receipts or governmental gross receipts.

B. Receipts that are exempted from the gross receipts tax may not be deducted from gross receipts. Receipts that are deducted from gross receipts may not be exempted from the gross receipts tax.

C. Receipts that are exempted from the governmental gross receipts tax shall not be deducted from governmental gross receipts. Receipts that are deducted from governmental gross receipts shall not be exempted from the governmental gross receipts tax."

Section 4

Section 4. Section 7-9-47 NMSA 1978 (being Laws 1969, Chapter 144, Section 37, as amended by Laws 1992, Chapter 39, Section 6 and also by Laws 1992, Chapter 100, Section 5) is amended to read:

"7-9-47. DEDUCTION--GROSS RECEIPTS TAX--GOVERNMENTAL GROSS RECEIPTS TAX--SALE OF TANGIBLE PERSONAL PROPERTY OR LICENSES FOR RESALE.--Receipts from selling tangible personal property or licenses may be deducted from gross receipts or from governmental gross receipts if the sale is made to a person who delivers a nontaxable transaction certificate to the seller. The buyer delivering the nontaxable transaction certificate must resell the tangible personal property or license either by itself or in combination with other tangible personal property or licenses in the ordinary course of business."

Section 5

Section 5. Section 7-9-54.1 NMSA 1978 (being Laws 1992, Chapter 40, Section 1, as amended) is amended to read:

"7-9-54.1. DEDUCTION--GROSS RECEIPTS FROM SALE OF AEROSPACE SERVICES TO CERTAIN ORGANIZATIONS.--

A. As used in this section:

(1) "aerospace services" means:

(a) research and development services sold to or for resale to an organization; or

(b) services performed or sold in connection with the operation of a spaceport for the launching and recovery of reusable rockets and other spacecraft; and

(2) "organization" means:

(a) an organization described in Subsection A of Section 7-9-29 NMSA 1978 other than a prime contractor operating facilities in New Mexico designated as a national laboratory by act of congress; or

(b) the prime contractor under a contract with an agency of the United States for the operation of a spaceport for the launching and recovery of reusable rockets and other spacecraft.

B. Receipts from performing or selling on or after October 1, 1995, an aerospace service for resale may be deducted from gross receipts if the sale is made to a buyer who delivers a nontaxable transaction certificate. The buyer delivering the nontaxable transaction certificate shall separately state the value of the aerospace service purchased in the buyer's charge for the aerospace service on its subsequent sale to an organization or to the United States, and the subsequent sale shall be in the ordinary course of business of selling aerospace services to an organization or to the United States.

C. A percentage of the receipts from selling aerospace services to the United States or any agency or instrumentality thereof may be deducted from gross receipts in accordance with the following table:

| Receipts During the Period | Deductible Percentage |
|--|-----------------------|
| October 1, 1995 through September 30, 1996 | 10% |
| October 1, 1996 through September 30, 1997 | 25% |
| October 1, 1997 through September 30, 1999 | 50% |
| October 1, 1999 and thereafter | 100%." |

Section 6

Section 6. Section 7-9-67 NMSA 1978 (being Laws 1969, Chapter 144, Section 58) is amended to read:

"7-9-67. DEDUCTION--GROSS RECEIPTS TAX--GOVERNMENTAL GROSS RECEIPTS TAX--REFUNDS--UNCOLLECTIBLE DEBTS.--

A. Refunds and allowances made to buyers or amounts written off the books as an uncollectible debt by a person reporting gross receipts tax on an accrual basis may be deducted from gross receipts. If debts reported uncollectible are subsequently collected, such receipts shall be included in gross receipts in the month of collection.

B. Refunds and allowances made to buyers or amounts written off the books as an uncollectible debt by a person reporting governmental gross receipts tax on an accrual basis may be deducted from governmental gross receipts. If debts reported uncollectible are subsequently collected, such receipts shall be included in governmental gross receipts in the month of collection."

Section 7

Section 7. Section 7-9-79.1 NMSA 1978 (being Laws 1989, Chapter 262, Section 8) is amended to read:

"7-9-79.1. CREDIT--GROSS RECEIPTS TAX--SERVICES.--If on services performed outside the state a gross receipts sales or similar tax has been levied by another state or a political subdivision thereof and such tax has been paid, the amount of the tax paid may be credited against any gross receipts tax due this state on the receipts after July 1, 1989 from the sale in New Mexico of the product of the services performed outside this state. The amount of credit shall not exceed an amount equal to the rate of tax imposed under Section 7-9-4 NMSA 1978 multiplied by the amount subject to tax by both New Mexico and the other state or political subdivision of that state."

Section 8

Section 8. REPEAL.--

A. Section 7-9-4.2 NMSA 1978 (being Laws 1990 (1st S.S.), Chapter 1, Section 3) is repealed.

B. Laws 1992, Chapter 40, Section 4 and Laws 1994, Chapter 310, Section 2 are repealed.

Section 9

Section 9. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1994.

SENATE BILL 172

CHAPTER 46

RELATING TO TAXATION; REDUCING THE AMOUNT OF LIQUOR LICENSE TAXES THAT MAY BE IMPOSED BY BOARDS OF COUNTY COMMISSIONERS; AMENDING A SECTION OF THE NMSA 1978.

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

Section 1

Section 1. Section 7-24-2 NMSA 1978 (being Laws 1939, Chapter 236, Section 1104, as amended) is amended to read:

"7-24-2. LICENSE TAX IMPOSED BY BOARDS OF COUNTY COMMISSIONERS.--The boards of county commissioners of counties composing local option districts are empowered, by resolution duly adopted, on or before the first day of June of each year to impose an annual, nonprohibitive license tax upon the privileges of persons holding state licenses under the provisions of the Liquor Control Act to operate within such counties, outside of the municipalities that are local option districts, as retailers, dispensers, canopy licensees, restaurant licensees or club licensees. The amount of the license tax, which shall not exceed two hundred fifty dollars (\$250), and the dates and manner of the payment shall be fixed by the resolution imposing the tax; provided, that in case the county permits the payment in installments, no bond shall be required to secure the payment of the deferred installments, but the remedy for the collection shall be that provided in Section 7-24-3 NMSA 1978."

Section 2

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1994.

SENATE BILL 161

CHAPTER 47

RELATING TO THE NEW MEXICO MORTGAGE FINANCE AUTHORITY; REMOVING PROHIBITION ON THE NEW MEXICO MORTGAGE FINANCE AUTHORITY FROM DISTRIBUTING FUNDS FOR MULTIPLE-FAMILY DWELLING PROJECTS WITHIN MUNICIPALITIES WITH A POPULATION OF TWO HUNDRED THOUSAND OR MORE.

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

Section 1

Section 1. Section 58-18-5.4 NMSA 1978 (being Laws 1982, Chapter 86, Section 5, as amended) is amended to read:

"58-18-5.4. DUTIES OF AUTHORITY--MULTIPLE-FAMILY DWELLINGS.--

A. The authority shall require, as a condition of purchasing a multiple-family dwelling project mortgage loan, that the sponsor agree to comply with such requirements and to make such representations and warranties as the authority deems reasonably necessary to protect its interests in the project mortgage loan and the project, including the following:

- (1) the multiple-family dwelling project and surrounding area shall be maintained in good repair;
- (2) a reserve fund for repairs and replacements on the multiple-family dwelling project shall be established and maintained for the life of the project mortgage loan;
- (3) the sponsor shall make all records and documents relating to the multiple-family dwelling project available to the authority and its agents at all reasonable times;
- (4) the sponsor shall maintain its books and accounts in a manner satisfactory to the authority;
- (5) the sponsor shall provide access to the authority and its agents at all reasonable times for the purpose of inspecting the multiple-family dwelling project;
- (6) the sponsor shall file with the authority a copy of each report and schedule required to be filed with any provider of mortgage insurance or other security or liquidity enhancement for the mortgage loan or the authority's bonds or notes, the proceeds of which were used in whole or in part to acquire the project mortgage loan; annual financial and operating reports and any other reports the authority may determine to be necessary;
- (7) the sponsor shall purchase and maintain an insurance policy insuring the project against loss or damage by fire, windstorm, hail, smoke, explosion, riot or civil commotion in an amount not less than eighty percent of the replacement costs of the project, and the authority or its designee shall be named in the insurance policy as an additional named insured;
- (8) the sponsor shall provide the authority with a market feasibility study, market-value appraisal, architectural design and outline specifications, tenant selection plans and any other documents the authority requires in determining whether to purchase the project mortgage loan;

(9) unless otherwise exempt under any other law of the state or any political subdivision of the state, all ad valorem, gross receipts and any other taxes imposed on the land or improvements for which a multiple-family dwelling project mortgage loan is being provided shall apply;

(10) the sponsor shall maintain the project as a multiple-family dwelling project throughout the life of the project mortgage loan; and

(11) the sponsor shall comply with any other reasonable requirements the authority deems necessary to impose in the future.

B. The authority shall distribute available funds to qualified sponsors and mortgage lenders on an equitable basis using guidelines established to assure an even geographic allocation and taking into consideration the need for and economic feasibility of new housing in each area of the state, including the need for new housing to attract a new industry or plant or to provide housing in an economically depressed or low-income area."

SENATE BILL 449

CHAPTER 48

RELATING TO FOREIGN TAX JUDGMENTS; EXEMPTING CERTAIN PROPERTY FROM EXECUTION ISSUING FROM CERTAIN FOREIGN TAX JUDGMENTS.

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

Section 1

Section 1. Section 7-1-65 NMSA 1978 (being Laws 1965, Chapter 248, Section 66, as amended) is amended to read:

"7-1-65. RECIPROCAL ENFORCEMENT OF TAX JUDGMENTS.--

A. The courts of the state shall recognize and enforce the tax judgments of other jurisdictions to the same extent to which the courts of the other jurisdictions would recognize and enforce similar tax judgments of this state or its political subdivisions, agencies or instrumentalities, except as provided in Subsection C of this section.

B. The secretary, with the permission of the attorney general, or the attorney general may employ on a contingency fee basis only members of the bars of other jurisdictions to recover taxes due this state.

C. All property in this state of a judgment debtor is exempt from execution issuing from a tax judgment of another jurisdiction that is in favor of any state for failure

to pay that state's income tax on benefits received from a pension or other retirement plan."

Section 2

Section 2. Section 39-4A-3 NMSA 1978 (being Laws 1989, Chapter 256, Section 3) is amended to read:

"39-4A-3. FILING AND STATUS OF FOREIGN JUDGMENTS.--

A. A copy of any foreign judgment authenticated in accordance with an act of congress or the statutes of this state may be filed in the office of the clerk of the district court of any county of this state in which the judgment debtor resides or has any property or property rights subject to execution, foreclosure, attachment or garnishment. The clerk shall treat the foreign judgment in the same manner as a judgment of the district court of this state. A judgment so filed shall have the same effect and is subject to the same procedures, defenses and proceedings for reopening, vacating, staying, enforcing or satisfying as a judgment of the district court of this state and may be enforced or satisfied in like manner, except as provided in Subsection B of this section.

B. All property in this state of a judgment debtor is exempt from execution issuing from a foreign judgment filed pursuant to Subsection A of this section that is in favor of any state for failure to pay that state's income tax on benefits received from a pension or other retirement plan."

Section 3

Section 3. APPLICABILITY.--The provisions of this act apply to judgments filed with a court in New Mexico on or after the effective date of this act.

SENATE BILL 48

CHAPTER 49

RELATING TO TAXATION; PROVIDING FOR PREPAID TRIP PERMITS WITHIN THE TRIP TAX ACT.

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

Section 1

Section 1. Section 7-15-3.1 NMSA 1978 (being Laws 1943, Chapter 125, Section 12, as amended) is amended to read:

"7-15-3.1. TRIP TAX--COMPUTATION.--

A. For the purpose of providing funds for the construction, maintenance, repair and reconstruction of this state's public highways, a use fee, to be known as the "trip tax", is imposed in lieu of registration fees and the weight distance tax on the registrant, owner or operator of any foreign-based commercial motor carrier vehicle that is:

(1) not registered in this state under interstate registration;

(2) not registered in this state under proportional registration;

(3) not subject to a valid reciprocity agreement;

(4) not registered as a foreign commercial motor carrier vehicle under short-term registration;

(5) not registered under an allocation of one-way rental fleet vehicles; and

(6) not exempted from registration and the payment of any registration fees and not exempted from the payment of the trip tax under Section 65-5-3 NMSA 1978.

B. Except as provided otherwise in Subsections C and D of this section, the trip tax shall be computed as follows:

(1) when the gross vehicle weight or combination gross vehicle weight exceeds twelve thousand pounds but does not exceed twenty-six thousand pounds, five cents (\$.05) a mile for mileage to be traveled on the public highways within New Mexico, measured from the point of entering the state to the point of destination or place of leaving the state; (2) when the gross vehicle weight or combination gross vehicle weight exceeds twenty-six thousand pounds and does not exceed fifty-four thousand pounds, nine cents (\$.09) a mile for mileage to be traveled on the public highways within New Mexico, measured from the point of entering the state to the point of destination or place of leaving the state;

(2) when the gross vehicle weight or combination gross vehicle weight exceeds twenty-six thousand pounds and does not exceed fifty-four thousand pounds, nine cents (\$.09) a mile for mileage to be traveled on the public highways within New Mexico, measured from the point of entering the state to the point of destination or place of leaving the state;

(3) when the gross vehicle weight or combination gross vehicle weight exceeds fifty-four thousand pounds and does not exceed seventy-two thousand pounds, eleven cents (\$.11) a mile for mileage to be traveled on the public highways within New Mexico, measured from the point of entering the state to the point of destination or place of leaving the state; and

(4) when the gross vehicle weight or combination gross vehicle weight exceeds seventy-two thousand pounds, twelve cents (\$.12) a mile for mileage to be traveled on the public highways within New Mexico, measured from the point of entering the state to the point of destination or place of leaving the state.

C. The department, by regulation, shall establish a procedure for the issuance of prepaid trip permits for:

(1) trips by a single vehicle or a fleet of vehicles for the purpose of:

(a) custom harvesting operations; or

(b) the transportation of goods or passengers between the state and Mexico; or

(2) any vehicle that is unable to declare at the time of entering the state the point of destination or place of leaving the state.

D. Prepaid trip permits established pursuant to Subsection C of this section shall be sold in increments of no less than fifty dollars (\$50.00). Any portion not used prior to one year from the date of issuance shall not be refundable. Prepaid trip permits shall not be transferable between a registrant, owner or operator and another registrant, owner or operator. Charges against the prepaid trip permit shall be based on the computations specified in Subsection B of this section."

Section 2

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1994.
HOUSE BILL 86

CHAPTER 50

RELATING TO MINORS ON THE PREMISES OF LICENSED LIQUOR ESTABLISHMENTS; AMENDING A SECTION OF THE NMSA 1978.

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

Section 1

Section 1. Section 60-7B-10 NMSA 1978 (being Laws 1981, Chapter 39, Section 90, as amended) is amended to read:

"60-7B-10. MINORS IN LICENSED PREMISES--REGULATIONS.--

A. Any person licensed pursuant to the provisions of the Liquor Control Act or any employee, agent or lessee of that person who permits a minor to enter and remain in any area of a licensed premises that is prohibited to the use of minors is guilty of a violation of the Liquor Control Act.

B. A minor shall not enter or attempt to enter any area of a licensed premises that is posted or otherwise identified as being prohibited to the use of minors, except as authorized by regulation or as necessitated by an emergency. A person who violates the provisions of this subsection is guilty of a petty misdemeanor and shall be punished pursuant to the provisions of Section 31-19-1 NMSA 1978.

C. The director of the alcohol and gaming division of the regulation and licensing department shall adopt regulations classifying the types of licensed premises or areas of licensed premises where minors may be present. The director shall require that signs issued by the division be posted by licensees to inform the public, including minors, of the areas in licensed premises that are open to minors. The regulations may allow minors in those areas of licensed premises where:

(1) the consumption of alcoholic beverages is the primary activity, when a minor is accompanied by a parent, adult spouse or legal guardian; or

(2) there is no consumption of alcoholic beverages."

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE BUSINESS AND INDUSTRY COMMITTEE SUBSTITUTE
FOR HOUSE BILL 519

CHAPTER 51

RELATING TO TAXATION; CHANGING CERTAIN PROVISIONS OF THE TAX
ADMINISTRATION ACT; AMENDING SECTIONS OF THE NMSA 1978.

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

Section 1

Section 1. Section 7-1-2 NMSA 1978 (being Laws 1965, Chapter 248, Section 2, as amended) is amended to read:

"7-1-2. APPLICABILITY.--The Tax Administration Act applies to and governs:

A. the administration and enforcement of the following taxes or tax acts as they now exist or may hereafter be amended:

(1) Income Tax Act;

- receipts tax;
- (2) Withholding Tax Act;
 - (3) Gross Receipts and Compensating Tax Act and any state gross receipts tax;
 - (4) Liquor Excise Tax Act;
 - (5) Local Liquor Excise Tax Act;
 - (6) Banking and Financial Corporations Tax Act;
 - (7) any municipal local option gross receipts tax;
 - (8) any county local option gross receipts tax;
 - (9) Special Fuels Supplier Tax Act;
 - (10) Gasoline Tax Act;
 - (11) petroleum products loading fee, which fee shall be considered a tax for the purpose of the Tax Administration Act;
 - (12) Cigarette Tax Act;
 - (13) Estate Tax Act;
 - (14) Railroad Car Company Tax Act;
 - (15) Investment Credit Act;
 - (16) Corporate Income Tax Act;
 - (17) Corporate Income and Franchise Tax Act;
 - (18) Uniform Division of Income for Tax Purposes Act;
 - (19) Multistate Tax Compact;
 - (20) Tobacco Products Tax Act;
 - (21) Filmmaker's Credit Act; and
 - (22) the telecommunications relay service surcharge imposed by Section 63-9F-11 NMSA 1978, which surcharge shall be considered a tax for the purposes of the Tax Administration Act;

B. the administration and enforcement of the following taxes, surtaxes, advanced payments or tax acts as they now exist or may hereafter be amended:

- (1) Resources Excise Tax Act;
- (2) Severance Tax Act;
- (3) any severance surtax;
- (4) Oil and Gas Severance Tax Act;
- (5) Oil and Gas Conservation Tax Act;
- (6) Oil and Gas Emergency School Tax Act;
- (7) Oil and Gas Ad Valorem Production Tax Act;
- (8) Natural Gas Processors Tax Act;
- (9) Oil and Gas Production Equipment Ad Valorem Tax Act;
- (10) Copper Production Ad Valorem Tax Act; and

(11) any advance payment required to be made by any act specified in this subsection, which advance payment shall be considered a tax for the purposes of the Tax Administration Act;

C. the administration and enforcement of the following taxes, surcharges, fees or acts as they now exist or may hereafter be amended:

- (1) Weight Distance Tax Act;
- (2) Special Fuels Tax Act;
- (3) the workers' compensation fee authorized by Section 52-5-19 NMSA 1978, which fee shall be considered a tax for purposes of the Tax Administration Act;
- (4) Controlled Substance Tax Act;
- (5) Uniform Unclaimed Property Act;
- (6) 911 emergency surcharge and the network and database surcharge, which surcharges shall be considered taxes for purposes of the Tax Administration Act;

(7) the solid waste assessment fee authorized by the Solid Waste Act, which fee shall be considered a tax for purposes of the Tax Administration Act; and

(8) the water conservation fee imposed by Section 74-1-13 NMSA 1978, which fee shall be considered a tax for the purposes of the Tax Administration Act; and

D. the administration and enforcement of all other laws, with respect to which the department is charged with responsibilities pursuant to the Tax Administration Act, but only to the extent that such other laws do not conflict with the Tax Administration Act."

Section 2

Section 2. Section 7-1-3 NMSA 1978 (being Laws 1965, Chapter 248, Section 3, as amended) is amended to read:

"7-1-3. DEFINITIONS.--Unless the context clearly indicates a different meaning, the definitions of words and phrases as they are stated in this section are to be used, and whenever in the Tax Administration Act these words and phrases appear, the singular includes the plural and the plural includes the singular:

A. "department" means the taxation and revenue department, the secretary of taxation and revenue or any employee of the department exercising authority lawfully delegated to that employee by the secretary;

B. "division" or "oil and gas accounting division" means the taxation and revenue department;

C. "director" means the secretary of taxation and revenue;

D. "director or his delegate" means the secretary or the secretary's delegate;

E. "employee of the department" means any employee of the department, including the secretary, or any person acting as agent or authorized to represent or perform services for the department in any capacity with respect to any law made subject to administration and enforcement under the provisions of the Tax Administration Act;

F. "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended;

G. "levy" means the lawful power, hereby invested in the secretary, to take into possession or to require the present or future surrender to the secretary or the

secretary's delegate of any property or rights to property belonging to a delinquent taxpayer;

H. "local option gross receipts tax" means a tax authorized to be imposed by a county or municipality upon the taxpayer's gross receipts, as that term is defined in the Gross Receipts and Compensating Tax Act, and required to be collected by the department at the same time and in the same manner as the gross receipts tax; "local option gross receipts tax" includes the taxes imposed pursuant to the Municipal Local Option Gross Receipts Taxes Act, Supplemental Municipal Gross Receipts Tax Act, Special Municipal Gross Receipts Tax Act, County Local Option Gross Receipts Taxes Act, Local Hospital Gross Receipts Tax Act, County Correctional Facility Gross Receipts Tax Act and such other acts as may be enacted authorizing counties or municipalities to impose taxes on gross receipts, which taxes are to be collected by the department in the same time and in the same manner as it collects the gross receipts tax;

I. "net receipts" means the total amount of money paid by taxpayers to the department in a month pursuant to a tax or tax act less any refunds disbursed in that month with respect to that tax or tax act;

J. "overpayment" means any amount paid, pursuant to any law subject to administration and enforcement under the provisions of the Tax Administration Act, by any person to the department, or withheld from the person, in excess of tax due from the person to the state at the time of the payment or at the time the amount withheld is credited against tax due;

K. "paid" includes the term "paid over";

L. "pay" includes the term "pay over";

M. "payment" includes the term "payment over";

N. "person" means any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, limited liability company, limited liability partnership, joint venture, syndicate, other association or gas, water or electric utility owned or operated by a county or municipality; "person" also means, to the extent permitted by law, any federal, state or other governmental unit or subdivision, or an agency, department or instrumentality thereof; "person", as used in Sections 7-1-72 through 7-1-74 NMSA 1978, also includes an officer or employee of a corporation, a member or employee of a partnership or any individual who, as such, is under a duty to perform any act in respect of which a violation occurs;

O. "property" means property or rights to property;

P. "property or rights to property" means any tangible property, real or personal, or any intangible property of a taxpayer;

Q. "secretary" means the secretary of taxation and revenue and, except for purposes of Subsection B of Section 7-1-4, Paragraphs (1) and (2) of Subsection B of Section 7-1-5 and Subsection E of Section 7-1-24 NMSA 1978, also includes the deputy secretary or a division director or deputy division director delegated by the secretary;

R. "secretary or the secretary's delegate" means the secretary of taxation and revenue or any employee of the department exercising authority lawfully delegated to that employee by the secretary;

S. "security" means money, property or rights to property or a surety bond;

T. "state" means any state of the United States, the District of Columbia, the commonwealth of Puerto Rico and any territory or possession of the United States;

U. "tax" means the total amount of each tax imposed and required to be paid, withheld and paid or collected and paid under provision of any law made subject to administration and enforcement according to the provisions of the Tax Administration Act and, unless the context otherwise requires, includes the amount of any interest or civil penalty relating thereto; "tax" also means any amount of any credit, rebate or refund paid or credited by the department under any law subject to administration and enforcement under the provisions of the Tax Administration Act to any person contrary to law and includes, unless the context requires otherwise, the amount of any interest or civil penalty relating thereto;

V. "taxpayer" means a person liable for payment of any tax, a person responsible for withholding and payment or for collection and payment of any tax or a person to whom an assessment has been made, if the assessment remains unabated or the amount thereof has not been paid; and

W. "tax return preparer" means a person who prepares for others for compensation, or who employs one or more persons to prepare for others for compensation, any return of income tax, a substantial portion of any return of income tax, any claim for refund with respect to income tax or a substantial portion of any claim for refund with respect to income tax; provided that a person shall not be a "tax return preparer" merely because such person:

(1) furnishes typing, reproducing or other mechanical assistance;

(2) is an employee who prepares an income tax return or claim for refund with respect to an income tax return of the employer, or of an officer or employee of the employer, by whom the person is regularly and continuously employed; or

(3) prepares as a trustee or other fiduciary an income tax return or claim for refund with respect to income tax for any person."

Section 3

Section 3. Section 7-1-13 NMSA 1978 (being Laws 1965, Chapter 248, Section 18, as amended) is amended to read:

"7-1-13. TAXPAYER RETURNS--PAYMENT OF TAXES--EXTENSION OF TIME.--

A. Taxpayers are liable for tax at the time of and after the transaction or incident giving rise to tax until payment is made. Taxes are due on and after the date on which their payment is required until payment is made.

B. Every taxpayer shall, on or before the date on which payment of any tax is due, complete and file a tax return in a form prescribed and according to the regulations issued by the secretary. Except as provided in Section 7-1-13.1 NMSA 1978 or by regulation, ruling, order or instruction of the secretary, the payment of any tax or the filing of any return may be accomplished by mail.

C. If any adjustment is made in the basis for computation of any federal tax as a result of an audit by the internal revenue service or the filing of an amended federal return changing a prior election or making any other change for which federal approval is required by the Internal Revenue Code, the taxpayer affected shall, within ninety days of the internal revenue service audit adjustment or payment of the federal refund, file an amended return with the department. Payment of any additional tax due shall accompany the return.

D. Payment of the total amount of all taxes that are due from the taxpayer shall precede or accompany the return. Delivery to the department of a check that is not paid upon presentment does not constitute payment.

E. The secretary or the secretary's delegate may, for good cause, extend in favor of a taxpayer or a class of taxpayers, for no more than a total of twelve months, the date on which payment of any tax is required or on which any return required by provision of the Tax Administration Act shall be filed, but no extension shall prevent the accrual of interest as otherwise provided by law. When an extension of time for income tax has been granted a taxpayer under the Internal Revenue Code, such extension shall serve to extend the time for filing New Mexico income tax provided that a copy of the approved federal extension of time is attached to the taxpayer's New Mexico income tax return, except that the secretary by regulation may also provide for the automatic extension for no more than four months of the date upon which payment of any New Mexico income tax or the filing of any New Mexico income tax return is required. If the secretary or the secretary's delegate believes it necessary to assure the collection of the tax, the secretary or the secretary's delegate may require, as a condition of granting any extension, that the taxpayer furnish security in accordance with the provisions of Section 7-1-54 NMSA 1978."

Section 4

Section 4. Section 7-1-18 NMSA 1978 (being Laws 1965, Chapter 248, Section 21, as amended) is amended to read:

"7-1-18. LIMITATION ON ASSESSMENT BY DEPARTMENT.--

A. Except as otherwise provided in this section, no assessment of tax may be made by the department after three years from the end of the calendar year in which payment of the tax was due, and no proceeding in court for the collection of such tax without the prior assessment thereof shall be begun after the expiration of such period.

B. In case of a false or fraudulent return made by a taxpayer with intent to evade tax, the amount thereof may be assessed at any time within ten years from the end of the calendar year in which the tax was due, and no proceeding in court for the collection of such tax without the prior assessment thereof shall be begun after the expiration of such period.

C. In case of the failure by a taxpayer to complete and file any required return, the tax relating to the period for which the return was required may be assessed at any time within seven years from the end of the calendar year in which the tax was due, and no proceeding in court for the collection of such tax without the prior assessment thereof shall be begun after the expiration of such period.

D. If a taxpayer in a return understates by more than twenty-five percent the amount of his liability for any tax for the period to which the return relates, appropriate assessments may be made by the department at any time within six years from the end of the calendar year in which payment of the tax was due.

E. If any adjustment in the basis for computation of any federal tax is made that results in liability for any tax, the amount thereof may be assessed at any time but not after three years from the end of the calendar year in which filing of an amended return is required by Subsection C of Section 7-1-13 NMSA 1978.

F. If the taxpayer has signed a waiver of the limitations on assessment imposed by this section, an assessment of tax may be made or a proceeding in court begun without regard to the time at which payment of the tax was due." Section 5. Section 7-1-26 NMSA 1978 (being Laws 1965, Chapter 248, Section 28, as amended) is amended to read:

"7-1-26. CLAIM FOR REFUND.--

A. Any person who believes that an amount of tax has been paid by or withheld from that person in excess of that for which the person was liable, who has been denied any credit or rebate claimed or who claims a prior right to property in the possession of the department pursuant to a levy made under authority of Sections 7-1-

31 through 7-1-34 NMSA 1978 may claim a refund by directing to the secretary, within the time limited by the provisions of Subsections B, C and D of this section, a written claim for refund. Every claim for refund shall state the nature of the person's complaint and contain information sufficient to allow processing of the claim, except as provided in Subsection G of this section. The secretary or the secretary's delegate may allow the claim in whole or in part or may deny the claim. If the claim is denied in whole or in part in writing, the claim may not be refiled. If the claim is not granted in full, the person, within ninety days after either the mailing of the denial of all or any part of the claim, may elect to pursue one, but not more than one, of the remedies in Paragraphs (1) and (2) of this subsection. If the department has neither granted nor denied any portion of a claim for refund within one hundred twenty days of the date the claim was mailed or delivered to the department, the person may refile it within the time limits set forth in Subsection B of this section or may within ninety days elect to pursue one, but only one, of the remedies in Paragraphs (1) and (2) of this subsection. In any case, if a person does timely pursue more than one remedy, the person shall be deemed to have elected the first remedy invoked. The remedies are as follows:

(1) the person may direct to the secretary a written protest against the denial of, or failure to either allow or deny, the claim, which shall be set for hearing by a hearing officer designated by the secretary promptly after the receipt of the protest in accordance with the provisions of Section 7-1-24 NMSA 1978 and pursue the remedies of appeal from decisions adverse to the protestant as provided in Section 7-1-25 NMSA 1978; or

(2) the person may commence a civil action in the district court for Santa Fe county by filing a complaint setting forth the circumstance of the claimed overpayment, alleging that on account thereof the state is indebted to the plaintiff in the amount stated, together with any interest allowable, demanding the refund to the plaintiff of that amount and reciting the facts of the claim for refund. The plaintiff or the secretary may appeal from any final decision or order of the district court to the court of appeals.

B. Except as otherwise provided in Subsections C and D of this section, no credit or refund of any amount may be allowed or made to any person unless as the result of a claim made by that person as provided in this section:

(1) within three years of the end of the calendar year in which:

(a) the payment was originally due or the overpayment resulted from an assessment by the department pursuant to Section 7-1-17 NMSA 1978, whichever is later;

(b) the final determination of value occurs with respect to any overpayment that resulted from a disapproval by any agency of the United States or the state of New Mexico or any court of increase in value of a product subject to taxation under the Oil and Gas Severance Tax Act, the Oil and Gas Conservation Tax Act, the

Oil and Gas Emergency School Tax Act, the Oil and Gas Ad Valorem Production Tax Act or the Natural Gas Processors Tax Act; or

(c) property was levied upon pursuant to the provisions of the Tax Administration Act;

(2) within one year of the date an assessment of tax is made or a proceeding begun in court by the department with respect to any period that is covered by a waiver signed on or after July 1, 1993 by the taxpayer pursuant to Subsection F of Section 7-1-18 NMSA 1978; or

(3) for assessments made on or after July 1, 1993, within one year of the date of an assessment of tax made under Subsection B, C or D of Section 7-1-18 NMSA 1978 when the assessment applies to a period ending at least three years prior to the beginning of the year in which the assessment was made, but the claim for refund shall not be made with respect to any period not covered by the assessment.

C. No credit or refund shall be allowed or made to any person claiming a refund of gasoline tax under Section 7-13-11 NMSA 1978 unless notice of the destruction of the gasoline was given the department within thirty days of the actual destruction and the claim for refund is made within six months of the date of destruction. No credit or refund shall be allowed or made to any person claiming a refund of gasoline tax under Section 7-13-14 NMSA 1978 unless the refund is claimed within six months of the date of purchase of the gasoline and the gasoline has been used at the time the claim for refund is made.

D. If, as a result of an audit by the internal revenue service or the filing of an amended federal return changing a prior election or making any other change for which federal approval is required by the Internal Revenue Code, any adjustment of federal tax is made with the result that there would have been an overpayment of tax if the adjustment to federal tax had been applied to the taxable period to which it relates, claim for credit or refund of only that amount based on the adjustment may be made as provided in this section within one year of the date of the internal revenue service audit adjustment or payment of the federal refund or within the period limited by Subsection B of this section, whichever expires later. Interest, computed at the rate specified in Subsection B of Section 7-1-68 NMSA 1978, shall be allowed on any such claim for refund from the date one hundred twenty days after the claim is made until the date the final decision to grant the credit or refund is made.

E. Any refund of tax paid under any tax or tax act administered under Subsection B of Section 7-1-2 NMSA 1978 may be made, at the discretion of the department, in the form of credit against future tax payments if future tax liabilities in an amount at least equal to the credit amount reasonably may be expected to become due.

F. For the purposes of this section, the term "oil and gas tax return" means a return reporting tax due with respect to oil, natural gas, liquid hydrocarbons or carbon

dioxide pursuant to the Oil and Gas Severance Tax Act, the Oil and Gas Conservation Tax Act, the Oil and Gas Emergency School Tax Act, the Oil and Gas Ad Valorem Production Tax Act, the Natural Gas Processors Tax Act or the Oil and Gas Production Equipment Ad Valorem Tax Act.

G. The filing of a fully completed original income tax return, corporate income tax return, corporate income and franchise tax return, estate tax return or special fuel excise tax return that shows a balance due the taxpayer or a fully completed amended income tax return, an amended corporate income tax return, an amended corporate income and franchise tax return, an amended estate tax return, an amended special fuel excise tax return or an amended oil and gas tax return that shows a lesser tax liability than the original return constitutes the filing of a claim for refund for the difference in tax due shown on the original and amended returns."

Section 6

Section 6. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1994.

HOUSE BILL 647

CHAPTER 52

RELATING TO TAXATION; AMENDING THE LIQUOR EXCISE TAX ACT TO MAKE PERMANENT THE CURRENT LIQUOR EXCISE TAX RATE ON WINE MANUFACTURED OR PRODUCED BY A SMALL WINER OR WINEGROWER AND SOLD IN THE STATE; AMENDING THE DEFINITION OF "FORTIFIED WINE".

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

Section 1

Section 1. Section 7-17-2 NMSA 1978 (being Laws 1966, Chapter 49, Section 2, as amended) is amended to read:

"7-17-2. DEFINITIONS.--As used in the Liquor Excise Tax Act:

A. "alcoholic beverages" means distilled or rectified spirits, potable alcohol, brandy, whiskey, rum, gin and aromatic bitters or any similar alcoholic beverage, including blended or fermented beverages, dilutions or mixtures of one or more of the foregoing containing more than one-half of one percent alcohol, but excluding medicinal bitters:

(1) "spirituous liquors" means alcoholic beverages except fermented beverages such as wine, beer and ale;

(2) "beer" means any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt and hops or other cereals in water and includes porter, beer, ale and stout;

(3) "fortified wine" means wine containing more than fourteen percent alcohol by volume when bottled or packaged by the manufacturer, but does not include:

(a) wine that is sealed or capped by cork closure and aged two years or more;

(b) wine that contains more than fourteen percent alcohol by volume solely as a result of the natural fermentation process and has not been produced with the addition of wine spirits, brandy or alcohol; or

(c) vermouth and sherry; and

(4) "wine" includes the words "fruit juices" and means alcoholic beverages obtained by the fermentation of the natural sugar contained in fruit or other agricultural products, with or without the addition of sugar or other products, that do not contain less than one-half of one percent nor more than twenty-one percent alcohol by volume;

B. "distribute" means the transfer of alcoholic beverages by a wholesaler to another person by any means other than by sale, but does not include the return by a wholesaler to a distiller, rectifier, brewer or winer of alcoholic beverages that are spoiled or otherwise damaged so as to be unfit for sale or consumption;

C. "department", "director" or "division" 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;

D. "micro brewer" means any person who produces less than five thousand barrels of beer in a year;

E. "person" means any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, 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;

F. "small winer or winegrower" means any person who produces less than two hundred twenty thousand liters of wine in a year; and

G. "wholesaler" means any person holding a license issued under Section 60-6A-1 NMSA 1978 or any person selling alcoholic beverages that were not purchased from a person holding a license issued under Section 60-6A-1 NMSA 1978."

Section 2

Section 2. That version of Section 7-17-5 NMSA 1978 (being Laws 1994, Chapter 65, Section 8) is amended to read:

"7-17-5. IMPOSITION AND RATE OF LIQUOR EXCISE TAX.--There is imposed on any wholesaler who sells or distributes alcoholic beverages on which the tax imposed by this section has not been paid an excise tax, to be referred to as the "liquor excise tax", at the following rates on alcoholic beverages sold or distributed:

- A. on spirituous liquors, one dollar sixty cents (\$1.60) per liter;
- B. on beer, except as provided in Subsection E of this section, forty-one cents (\$.41) per gallon;
- C. on wine, except as provided in Subsections D and F of this section, forty-five cents (\$.45) per liter;
- D. on fortified wine, one dollar fifty cents (\$1.50) per liter;
- E. on beer manufactured or produced by a micro brewer and sold in this state, provided that proof is furnished to the department that the beer was manufactured or produced by a micro brewer, twenty-five cents (\$.25) per gallon; and
- F. on wine manufactured or produced by a small winer or winegrower and sold in this state, provided that proof is furnished to the department that the wine was manufactured or produced by a small winer or winegrower, ten cents (\$.10) per liter on the first eighty thousand liters sold and twenty cents (\$.20) per liter on all liters sold over eighty thousand but less than two hundred twenty thousand."

Section 3

Section 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1994.

HOUSE BILL 922

CHAPTER 53

RELATING TO PUBLIC FINANCE; AMENDING THE PROVISIONS OF CERTAIN STATUTORY FUNDS FOR THE PURPOSE OF AUTHORIZING FINANCING AND REFINANCING OF CERTAIN PURCHASES.

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

Section 1

Section 1. Section 24-10A-7 NMSA 1978 (being Laws 1978, Chapter 178, Section 7, as amended) is amended to read:

"24-10A-7. EXPENDITURES FROM EMERGENCY MEDICAL SERVICES FUND.--Any money distributed from the emergency medical services fund shall be expended only for the establishment of emergency medical services; the purchase, repair and maintenance of emergency medical services vehicles, equipment and supplies and the financing and refinancing thereof; and the training and licensing of local emergency medical services personnel."

Section 2

Section 2. Section 29-13-7 NMSA 1978 (being Laws 1983, Chapter 289, Section 7, as amended) is amended to read:

"29-13-7. EXPENDITURE LIMITATION--CONTROL.--

A. Amounts distributed from the fund shall be expended only for the following:

(1) the repair and purchase of law enforcement apparatus and equipment, including the financing and refinancing thereof, that meet minimum nationally recognized standards;

(2) expenses associated with advanced law enforcement planning and training;

(3) complying with match or contribution requirements for the receipt of federal funds relating to criminal justice programs; and

(4) no more than fifty percent of the replacement salaries of municipal and county law enforcement personnel of municipalities or counties rated as Class 1 in Paragraph (1) of Subsection B of Section 29-13-4 NMSA 1978 participating in basic law enforcement training.

B. Amounts distributed from the fund shall be expended only pursuant to approved budgets and upon duly executed vouchers approved as required by law."

Section 3

Section 3. Section 59A-53-8 NMSA 1978 (being Laws 1984, Chapter 127, Section 979, as amended) is amended to read

"59A-53-8. EXPENDITURE OF FIRE PROTECTION FUND MONEY.--Any amount so distributed from the fire protection fund to any incorporated municipality or to any county fire district shall be expended only for the maintenance of its fire department, the purchase, construction, maintenance, repair and operation of its fire stations, including substations, fire apparatus and equipment, and the financing or refinancing thereof, the payment of insurance premiums on fire stations, substations, fire apparatus and equipment and insurance premiums for injuries or deaths of firefighters as otherwise provided by law. Provided, however, that no money shall be expended from the fund for any purpose relating to the water supply systems of any incorporated municipality or district nor for the improvement or construction of the systems nor for purchase, rental, installation or maintenance of fire hydrants nor for any other appurtenances relating to the distribution or use of the water supply system. Funds so distributed from the fire protection fund to any incorporated municipality or any county fire district may also be expended for the expense of any firefighters for attending any fire schools and conventions approved by the marshal."

HOUSE BILL 1019

CHAPTER 54

RELATING TO PUBLIC FINANCE; AMENDING CERTAIN SECTIONS OF THE NMSA 1978 PERTAINING TO DISTRIBUTIONS OR TRANSFERS OF PUBLIC FUNDS.

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

Section 1

Section 1. Section 7-1-6.15 NMSA 1978 (being Laws 1983, Chapter 211, Section 20, as amended) is amended to read:

"7-1-6.15. ADJUSTMENTS OF DISTRIBUTIONS OR TRANSFERS TO MUNICIPALITIES OR COUNTIES.--

A. The provisions of this section apply to:

(1) any distribution to a municipality of gross receipts taxes pursuant to Section 7-1-6.4 NMSA 1978 or of interstate telecommunications gross receipts tax pursuant to Section 7-1-6.36 NMSA 1978;

(2) any transfer to a municipality with respect to any local option gross receipts tax imposed by that municipality;

(3) any transfer to a county with respect to any local option gross receipts tax imposed by that county;

(4) any distribution to a county pursuant to Section 7-1-6.16 NMSA 1978;

(5) any distribution to a municipality or a county of gasoline taxes pursuant to Section 7-1-6.9 NMSA 1978;

(6) any transfer to a county with respect to any tax imposed in accordance with the Local Liquor Excise Tax Act;

(7) any distribution to a municipality or a county of cigarette taxes pursuant to Sections 7-1-6.11, 7-12-15 and 7-12-16 NMSA 1978;

(8) any distribution to a county from the county government road fund pursuant to Section 7-1-6.26 NMSA 1978; and

(9) any distribution to a municipality of gasoline taxes pursuant to Section 7-1-6.27 NMSA 1978.

B. If the secretary determines that any prior distribution or transfer to a municipality or county was erroneous, the secretary shall increase or decrease the next distribution or transfer amount for that municipality or county after the determination, except as provided in Subsection C, D or E of this section, by the amount necessary to correct the error. Subject to the provisions of Subsection E of this section, the secretary shall notify the municipality or county of the amount of each increase or decrease.

C. No decrease shall be made to current or future distributions or transfers to a municipality or a county for any excess distribution or transfer made to that municipality or county more than one year prior to the calendar year in which the determination of the secretary was made.

D. The secretary, in lieu of recovery from the next distribution or transfer amount, may recover an excess distribution or transfer of one hundred dollars (\$100) or more to the municipality or county in installments from current and future distributions or transfers to that municipality or county pursuant to an agreement with the officials of the municipality or county whenever the amount of the distribution or transfer decrease for the municipality or county exceeds ten percent of the average distribution or transfer amount for that municipality or county for the twelve months preceding the month in which the secretary's determination is made; provided that for the purposes of this subsection, the "average distribution or transfer amount" shall be the arithmetic mean of

the distribution or transfer amounts within the twelve months immediately preceding the month in which the determination is made.

E. Except for the provisions of this section, if the amount by which a distribution or transfer would be adjusted pursuant to Subsection B of this section is one hundred dollars (\$100) or less, no adjustment or notice need be made.

F. The secretary is authorized to decrease a distribution to a municipality or county upon being directed to do so by the secretary of finance and administration pursuant to the State Aid Intercept Act or to redirect a distribution to the New Mexico finance authority pursuant to an ordinance passed by the county or municipality and a written agreement of the municipality or county and the New Mexico finance authority. Upon direction to decrease a distribution or notice to redirect a distribution to a municipality or county, the secretary shall decrease or redirect the next designated distribution, and succeeding distributions as necessary, by the amount of the state distributions intercept authorized by the secretary of finance and administration pursuant to the State Aid Intercept Act or by the amount of the state distribution intercept authorized pursuant to an ordinance passed by the county or municipality and a written agreement with the New Mexico finance authority. The secretary shall transfer the state distributions intercept amount to the municipal or county treasurer or other person designated by the secretary of finance and administration or to the New Mexico finance authority pursuant to written agreement to pay the debt service to avoid default on qualified local revenue bonds or meet other local revenue bond, loan or other debt obligations of the municipality or county to the New Mexico finance authority."

Section 2

Section 2. Section 29-13-6 NMSA 1978 (being Laws 1983, Chapter 289, Section 6, as amended) is amended to read:

"29-13-6. DISTRIBUTION OF LAW ENFORCEMENT PROTECTION FUND.--

A. Annually on or before July 31, the state treasurer shall distribute from the fund the amounts certified by the division to be distributed to municipalities and counties. Payments shall be made to the treasurer of the appropriate governmental entity.

B. The state treasurer is authorized to redirect a distribution to the New Mexico finance authority in an amount certified by the division, pursuant to an ordinance passed by the municipality and a written agreement of the municipality or county and the New Mexico finance authority.

C. Annually on or before July 31, the state treasurer shall distribute from the excess money remaining in the fund after distributions pursuant to Subsection A of this section are made, money certified by the division to be distributed to tribes and pueblos. Payment shall be made to the chief financial officer of the tribe or pueblo. If

necessary, the fund may be decreased below the level of one hundred thousand dollars (\$100,000) to enable payment to the tribes and pueblos. If insufficient money remains in the fund to fully compensate the tribes and pueblos, a report shall be made to the New Mexico office of Indian affairs and to an appropriate interim committee of the legislature that reviews issues having impact on tribes and pueblos in New Mexico by September 1 of the year of the shortfall."

Section 3

Section 3. Section 59A-53-7 NMSA 1978 (being Laws 1984, Chapter 127, Section 978, as amended) is amended to read:

"59A-53-7. DISTRIBUTION OF FIRE PROTECTION FUND.--

A. Annually, on or before the last day of July, the state treasurer shall distribute from the money in the fire protection fund, to each incorporated municipality and to each county fire district, the amount as the marshal or the state fire board, as the case may be, shall have certified to him. Payment shall be made to the treasurer of any incorporated municipality and to the county treasurer of the county in which any county fire district is located, for credit to the county fire district.

B. The state treasurer is authorized to redirect a distribution to the New Mexico finance authority in the amount as the marshal or the state fire board, as the case may be, shall have certified to him pursuant to a written agreement of the municipality or county in which any county fire district is located and the New Mexico finance authority."

HOUSE BILL 1022

CHAPTER 55

RELATING TO DENTAL HEALTH CARE; ENACTING THE DENTAL HEALTH CARE ACT; ENACTING THE IMPAIRED DENTISTS AND DENTAL HYGIENISTS ACT; REPEALING THE DENTAL ACT AND THE IMPAIRED DENTIST ACT.

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

Section 1

Section 1. SHORT TITLE.--Sections 1 through 29 of this act may be cited as the "Dental Health Care Act".

Section 2

Section 2. PURPOSE.--

A. In the interest of the public health, safety and welfare and to protect the public from the improper, unprofessional, incompetent and unlawful practice of dentistry and dental hygiene, it is necessary to provide laws and regulations controlling the granting and use of the privilege to practice dentistry and dental hygiene and to establish a board of dental health care and a dental hygienists committee to implement and enforce those laws and regulations.

B. The primary duties of the board of dental health care are to issue licenses to qualified dentists, to certify qualified dental assistants, to issue licenses to dental hygienists through the dental hygienists committee, to discipline incompetent or unprofessional dentists, dental assistants and, through the dental hygienists committee, dental hygienists and to aid in the rehabilitation of impaired dentists and dental hygienists for the purpose of protecting the public.

Section 3

Section 3. DEFINITIONS.--As used in the Dental Health Care Act:

A. "board" means the New Mexico board of dental health care;

B. "certified dental assistant" means an individual certified by the dental assistant national board;

C. "committee" means the New Mexico dental hygienists committee;

D. "dental assistant certified in expanded functions" means a dental assistant who meets specific qualifications set forth by rule of the board;

E. "dental hygienist" means an individual who has graduated and received a diploma from an accredited dental hygiene educational program, which provides a minimum of two academic years of dental hygiene curriculum and is an institution of higher education accredited by the American dental association commission on dental accreditation and except as the context otherwise requires, holds a license to practice dental hygiene in New Mexico;

F. "dental laboratory" means any place where bridges, crowns, dentures or other prosthetic or orthodontic appliances are fabricated, altered or repaired by one or more persons;

G. "dental technician" means an individual, other than a licensed dentist, who fabricates, alters, repairs or assists in the fabrication, alteration or repair of bridges, crowns, dentures or other prosthetic or orthodontic appliances;

H. "dentist" means an individual who has graduated and received a diploma from a dental college, school of dentistry of a university that is accredited by the

American dental association commission on dental accreditation and, except as the context otherwise requires, holds a license to practice dentistry in New Mexico;

I. "general supervision" means the authorization by a dentist of the procedures to be used by a dental hygienist, dental assistant or dental student and the execution of the procedures in accordance with a dentist's diagnosis and treatment plan and in facilities as designated by rule of the board; and

J. "indirect supervision" means that a dentist is present in the treatment facility while authorized treatments are being performed by a dental hygienist, dental assistant or dental student.

Section 4

Section 4. SCOPE OF PRACTICE.--

A. As used in the Dental Health Care Act, "practice of dentistry" means:

(1) the diagnosis, treatment, correction, change, relief, prevention, prescription of remedy, surgical operation and adjunctive treatment for any disease, pain, deformity, deficiency, injury, defect, lesion or physical condition involving both the functional and aesthetic aspects of the teeth, gingivae, jaws and adjacent hard and soft tissue of the oral and maxillofacial regions, including the prescription or administration of any drug, medicine, biologic, apparatus, brace, anesthetic or other therapeutic or diagnostic substance or technique by an individual or his agent or employee gratuitously or for any fee, reward, emolument or any other form of compensation whether direct or indirect;

(2) representation of an ability or willingness to do any act mentioned in Paragraph (1) of this subsection; or

(3) with specific reference to the teeth, gingivae, jaws or adjacent hard or soft tissues of the oral and maxillofacial region in living persons, to propose, agree or attempt to do or make an examination or give an estimate of cost with intent to, or undertaking to:

(a) perform a physical evaluation of a patient in an office or in a hospital, clinic or other medical or dental facility prior to, incident to and appropriate to the performance of any dental services or oral or maxillofacial surgery;

(b) perform surgery, an extraction or any other operation or to administer an anesthetic in connection therewith;

(c) diagnose or treat any condition, disease, pain, deformity, deficiency, injury, lesion or other physical condition;

(d) correct a malposition;

(e) treat a fracture;

(f) remove calcareous deposits;

(g) replace missing anatomy with an artificial substitute;

(h) construct, make, furnish, supply, reproduce, alter or repair an artificial substitute or restorative or corrective appliance or place an artificial substitute or restorative or corrective appliance in the mouth or attempt to adjust it;

or
(i) give interpretations or readings of dental roentgenograms;

(j) do any other remedial, corrective or restorative work.

B. As used in the Dental Health Care Act, "practice as a dental hygienist" means the science of the prevention and treatment of oral disease through the provision of educational, assessment, preventive, clinical and other therapeutic services under the general supervision of a dentist. Dental hygiene includes:

(1) prophylaxis, which is the treatment of human teeth by removing from their surface calcareous deposits and stain, removing accumulated accretions and polishing the surfaces of the teeth;

(2) removing diseased crevicular tissue;

(3) the application of pit and fissure sealants, fluorides and other topical therapeutic and preventive agents;

(4) exposing and referring to oral radiographs;

(5) screening to identify indications of oral abnormalities;

(6) preliminary assessment of periodontal conditions; and

(7) such other closely related services as permitted by the rules and regulations of the committee and the board.

C. In addition to performing dental hygiene as defined in Subsection B of this section, dental hygienists who have met such criteria as the committee shall establish and the board ratify may administer local anesthesia under indirect supervision of a dentist.

Section 5

Section 5. LICENSE REQUIRED--EXEMPTIONS.--

A. Unless licensed to practice as a dentist under the Dental Health Care Act, no person shall:

- (1) practice dentistry;
- (2) use the title "dentist", "dental surgeon", "oral surgeon" or any other title, abbreviation, letters, figures, signs or devices that indicate the person is a licensed dentist; or
- (3) perform any of the acts enumerated under the definition of the practice of dentistry as defined in the Dental Health Care Act.

B. The following, under the stipulations described, may practice dentistry or an area of dentistry without a New Mexico dental license:

- (1) regularly licensed physicians or surgeons are not prohibited from extracting teeth or treating any disease coming within the province of the practice of medicine;
- (2) New Mexico licensed dental hygienists may provide those services within their scope of practice, that are also within the scope of practice of dentistry;
- (3) any dental student duly enrolled in an accredited school of dentistry recognized by the board, while engaged in educational programs offered by the school in private offices, public clinics or educational institutions within the state of New Mexico under the indirect supervision of a licensed dentist;
- (4) any dental hygiene student duly enrolled in an accredited school of dental hygiene engaged in procedures outside the scope of dental hygiene that are part of the curriculum of that program under the indirect supervision of a licensed dentist faculty member of the accredited program and in the school setting;
- (5) unlicensed persons performing for a licensed dentist merely mechanical work upon inert matter in the construction, making, alteration or repairing of any artificial dental substitute, dental restorative or corrective appliance, when the casts or impressions for the work have been furnished by a licensed dentist and where the work is prescribed by a dentist pursuant to a written authorization by that dentist; and
- (6) commissioned dental officers of the uniformed forces of the United States and dentists providing services to the United States public health service, the veterans' administration of the United States or within federally controlled facilities in the discharge of their official duties provided that such persons who hold dental licenses in New Mexico shall be subject to the provisions of the Dental Health Care Act.

C. Unless licensed to practice as a dental hygienist under the Dental Health Care Act, no person shall:

(1) practice as a dental hygienist;

(2) use the title "dental hygienist" or abbreviation "R.D.H." or any other title, abbreviation, letters, figures, signs or devices that indicate the person is a licensed dental hygienist; or

(3) perform any of the acts enumerated under the definition of the practice of dental hygiene as defined in the Dental Health Care Act.

D. The following, under the stipulations described, may practice dental hygiene or the area of dental hygiene outlined without a New Mexico dental hygienist license:

(1) students enrolled in an accredited dental hygiene program engaged in procedures that are part of the curriculum of that program and under the indirect supervision of a licensed faculty member of the accredited program; and

(2) dental assistants working under general supervision who:

(a) expose dental radiographs after being certified in expanded functions by the board;

(b) perform rubber cup coronal polishing, which is not represented as a prophylaxis, having satisfied the educational requirements as established by rules of the board;

(c) apply fluorides as established by rules of the board; and

(d) perform those other dental hygienist functions as recommended to the board by the committee and set forth by rule of the board.

Section 6

Section 6. CERTIFICATION OF DENTAL ASSISTANTS.--

A. A certified dental assistant or a dental assistant certified in expanded functions shall be required to adhere to the educational requirements, examinations, recertification criteria and fees as established by rules and regulation. The fee shall be the same for one or more expanded functions.

B. Certificates granted by the board may be revoked, suspended, stipulated or otherwise limited, and a dental assistant may be fined or placed on probation if found guilty of violation of the Dental Health Care Act.

C. No individual shall use the title "C.D.A." unless granted certification by the dental assistant national board.

D. Unless certified to practice as a dental assistant certified in expanded functions, no person shall:

(1) practice as a dental assistant certified in expanded functions as defined by rule of the board; or

(2) use the title or represent oneself as an assistant certified in expanded functions or use any title, abbreviation, letters, figures, signs or devices that indicate the person is a dental assistant certified in expanded functions.

Section 7

Section 7. DENTAL AND DENTAL HYGIENE DISTRICTS

CREATED.--For the purpose of selecting members of the board and the committee, there are created five districts composed of the following counties for:

A. district I: San Juan, Rio Arriba, Taos, Sandoval, McKinley, Cibola, Santa Fe and Los Alamos;

B. district II: Colfax, Union, Mora, Harding, San Miguel, Curry, Quay and Guadalupe;

C. district III: Bernalillo, Valencia and Torraine;

D. district IV: Catron, Socorro, Grant, Sierra, Hidalgo, Luna, Dona Ana and Otero; and

E. district V: Lincoln, De Baca, Roosevelt, Chaves, Eddy and Lea.

Section 8

Section 8. BOARD CREATED.--

A. There is created the nine-member "New Mexico board of dental health care". The board shall consist of five dentists, two dental hygienists and two public members. The dentists shall be actively practicing and have been licensed practitioners and residents of New Mexico for a period of five years preceding the date of appointment. The dental hygienist members shall be members of the committee and shall be elected annually to sit on the board by those sitting on the committee. The appointed public members shall be residents of New Mexico and shall have no financial interest, direct or indirect, in the professions regulated in the Dental Health Care Act.

B. The governor may appoint the dentist members from a list of names submitted by the New Mexico dental association. There shall be one member from each district. All board members shall serve until their successors have been appointed. No member shall be employed by or receive remuneration from a dental or dental hygiene educational institution.

C. Appointments for dentists and public members shall be for terms of five years. Dentists' appointments shall be made so that the term of one dentist member expires on July 1 of each year. Public members' five-year terms begin at the date of appointment.

D. Any board member failing to attend three board or committee meetings, either regular or special, during the board member's term shall automatically be removed as a member of the board unless excused from attendance by the board for good cause shown.

E. No board member shall serve more than two full terms.

F. In the event of any vacancy, the secretary of the board shall immediately notify the governor, the board and the committee members and the New Mexico dental association of the reason for its occurrence and action taken by the board so as to expedite appointment of a new board member.

G. The board shall meet quarterly every year. The board may also hold special meetings and emergency meetings in accordance with rules of the board upon written notice to all members of the board and committee.

H. Members of the board shall be reimbursed as provided in the Per Diem and Mileage Act and shall receive no other compensation, perquisite or allowance; however, the secretary-treasurer may be compensated at the discretion of the board.

I. A simple majority of the board members currently serving shall constitute a quorum, provided at least two of that quorum are not dentist members and three are dentist members.

J. The board shall elect officers annually as deemed necessary to administer its duties and as provided in rules and regulations.

Section 9

Section 9. COMMITTEE CREATED.--

A. There is created the seven-member "New Mexico dental hygienists committee". The committee shall consist of five dental hygienists, one dentist and one public member. The dental hygienists must be actively practicing and have been licensed practitioners and residents of New Mexico for a period of five years preceding

the date of their appointment. The dentist and public member shall be members of the board and shall be elected annually to sit on the committee by those members sitting on the board.

B. The governor may appoint the dental hygienists from a list of names submitted by the New Mexico dental hygienists' association. There may be one member from each district. The list submitted shall consist, whenever possible, of names of dental hygienists in the district being considered but may also include names of dental hygienists at-large. No more than two dental hygienists shall serve from the same district at one time. All members shall serve until their successors have been appointed. No member shall be employed by or receive remuneration from a dental or dental hygiene educational institution.

C. Appointments shall be for terms of five years. Appointments shall be made so that the term of one dental hygienist expires on July 1 of each year.

D. Any committee member failing to attend three committee or board meetings, either regular or special, during the committee member's term shall automatically be removed as a member of the committee unless excused from attendance by the committee for good cause shown. Members of the committee not sitting on the board shall not be required to attend board disciplinary hearings.

E. No committee member shall serve more than two full terms.

F. In the event of any vacancy, the secretary of the committee shall immediately notify the governor, the committee and board members and the New Mexico dental hygienists' association of the reason for its occurrence and action taken by the committee so as to expedite appointment of a new committee member.

G. The committee shall meet quarterly every year. The committee may also hold special meetings and emergency meetings in accordance with the rules and regulations, upon written notification to all members of the committee and the board.

H. Members of the committee shall be reimbursed as provided in the Per Diem and Mileage Act and shall receive no other compensation, perquisite or allowance.

I. A simple majority of the committee members currently serving shall constitute a quorum, provided at least one of that quorum is not a hygienist member.

J. The committee shall elect officers annually as deemed necessary to administer its duties and as provided in rules and regulations.

Section 10

Section 10. POWERS AND DUTIES OF THE BOARD AND COMMITTEE.--In addition to any other authority provided by law, the board or the committee shall have the power to:

A. enforce and administer the provisions of the Dental Health Care Act;

B. adopt, publish and file, and revise, in accordance with the Uniform Licensing Act and the State Rules Act, all rules and regulations as may be necessary to:

(1) regulate the examination and licensure of dentists and, through the committee, regulate the examination and licensure of dental hygienists;

(2) provide for the examination and certification of dental assistants by the board;

(3) provide for the regulation of dental technicians by the board;
and

(4) regulate the practice of dentistry, dental assisting and, through the committee, regulate the practice of dental hygiene;

C. adopt and use a seal;

D. administer oaths to all applicants, witnesses and others appearing before the board or the committee, as appropriate;

E. keep an accurate record of all meetings, receipts and disbursements;

F. grant, deny, review, suspend and revoke licenses and certificates to practice dentistry, dental assisting and, through the committee, dental hygiene and censure, reprimand, fine and place on probation and stipulation dentists, dental assistants and, through the committee, dental hygienists, in accordance with the Uniform Licensing Act for any cause stated in the Dental Health Care Act;

G. maintain records in which the name, address and license number of all licensees shall be recorded, together with a record of all license renewals, suspensions, revocations, probations, stipulations, censures, reprimands and fines;

H. hire staff and administrators as necessary to carry out the provisions of the Dental Health Care Act;

I. establish ad hoc committees whose members shall be appointed by the chairman with the advice and consent of the board or committee, as it deems necessary for carrying on its business;

J. have the authority to pay per diem and mileage to individuals who are appointed by the board or the committee to serve on ad hoc committees;

K. have the authority to hire or contract with investigators to investigate possible violations of the Dental Health Care Act;

L. have the authority to hire an attorney to give advice and counsel in regard to any matter connected with the duties of the board and the committee, to represent the board or the committee in any legal proceedings and to aid in the enforcement of the laws in relation to the Dental Health Care Act and to fix the compensation to be paid to such attorney; provided, however, such attorney shall be compensated from the funds of the board;

M. have the authority to issue investigative subpoenas prior to the issuance of a notice of contemplated action for the purpose of investigating complaints against dentists, dental assistants and, through the committee, dental hygienists licensed under the Dental Health Care Act; and

N. establish continuing education or continued competency requirements for dentists, certified dental assistants in expanded functions, dental technicians and, through the committee, dental hygienists.

Section 11

Section 11. RATIFICATION OF COMMITTEE RECOMMENDATIONS.--

A. The board shall ratify the recommendations of the committee unless the board makes a specific finding that a recommendation is:

- (1) beyond the jurisdiction of the committee;
- (2) an undue financial impact upon the board; or
- (3) not supported by the record.

B. The board shall provide the necessary expenditures incurred by the committee and the board in implementing and executing the ratified recommendations.

Section 12

Section 12. DENTISTS--REQUIREMENTS FOR LICENSURE--SPECIALTY LICENSE.-

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A. All applicants for licensure as a dentist must have graduated and received a diploma from an accredited dental college, school of dentistry of a university that is accredited by the American dental association commission on dental

accreditation and have passed the written portion of the dental examination administered by the joint commission on national dental examinations of the American dental association or, if the test is not available, then another written examination determined by the board.

B. Applicants for general dentistry licensure by examination shall be required, in addition to Subsection A of this section, to pass a test covering the laws and regulations for the practice of dentistry in New Mexico. Written examinations shall be supplemented by the board or its agents administering to each applicant a practical or clinical examination that reasonably tests the applicant's qualifications to practice general dentistry. Upon an applicant successfully passing the written and clinical examinations and payment in advance of the necessary fees, the board shall issue a license to practice dentistry.

C. The board may issue a general dentistry license by credentials to an applicant who is duly licensed by examination as a dentist under the laws of another state or territory of the United States. The applicant must meet the same requirements necessary to sit for such examination by the board or its examining agents along with other qualifications as deemed necessary by regulation of the board, including appropriate fees and passing an examination covering the laws and regulations of the practice of dentistry in New Mexico.

D. The board may issue a specialty license by examination to an applicant who has successfully passed a clinical and written examination given by the board or its examining agents that covers the applicant's specialty. The applicant must have a postgraduate degree or certificate from an accredited dental college, school of dentistry of a university or other residency program that is accredited by the American dental association commission on dental accreditation in one of the specialty areas of dentistry recognized by the American dental association. The applicant must also meet all other requirements as established by rules of the board, which shall include an examination covering the laws and regulations of the practice of dentistry in New Mexico. A specialty license limits the licensee to practice only in that specialty area.

E. The board may issue a specialty license by credentials to an applicant who is duly licensed by examination as dentist under the laws of another state or territory of the United States and has a postgraduate degree or certificate from an accredited dental college, school of dentistry of a university or other residency program that is accredited by the American dental association commission on dental accreditation in one of the specialty areas of dentistry recognized by the American dental association. The applicant must also meet all other qualifications as deemed necessary by regulation of the board, which shall include an examination covering the laws and regulations of the practice of dentistry in New Mexico. A specialty license limits the licensee to practice only in that specialty area.

Section 13

Section 13. DENTAL HYGIENIST LICENSURE.--

A. Applicants for licensure must have graduated and received a diploma from an accredited dental hygiene educational program that provides a minimum of two academic years of dental hygiene curriculum and is a post-secondary educational institution accredited by the American dental association commission on dental accreditation and have passed the written portion of the dental hygiene examination administered by the joint commission on national dental examinations of the American dental association or, if this test is not available, then another written examination determined by the committee.

B. Applicants for licensure by examination shall be required, in addition to the provisions of Subsection A of this section, to also pass a written examination covering the laws and regulations for practice in New Mexico. Each written examination shall be supplemented by a practical or clinical examination administered by the committee or its agents that reasonably tests the applicant's qualifications to practice as a dental hygienist. Upon an applicant successfully passing the written and clinical examinations, the board, upon recommendation of the committee, shall issue a license for practicing as a dental hygienist.

C. The board, upon the committee's recommendation, shall issue a license to practice as a dental hygienist by credentials to an applicant who is a duly licensed dental hygienist by examination under the laws of another state or territory of the United States if the applicant meets the same requirements to sit for examination by the committee or its examining agents. The applicant must meet other qualifications as deemed necessary by regulations recommended by the committee and ratified by the board. These qualifications shall include passing an examination covering the laws and regulations pertaining to practice as a dental hygienist in New Mexico.

Section 14

Section 14. TEMPORARY LICENSURE.--The secretary-treasurer of the board or the committee may issue a temporary license to practice dentistry or dental hygiene to any applicant who is licensed to practice dentistry or dental hygiene in another state or territory of the United States and who is otherwise qualified to practice dentistry or dental hygiene in this state. The following provisions shall apply:

A. the applicant must hold a valid license, in good standing in another state or territory of the United States;

B. the applicant shall practice dentistry or dental hygiene under the sponsorship of or in association with a licensed New Mexico dentist or dental hygienist;

C. the temporary license may be issued for those activities as stipulated by the board or committee in the rules of the board. It may be issued upon written application of the applicant when accompanied by such proof of qualifications as the

secretary-treasurer of the board or committee, in their discretion, may require. Temporary licensees shall engage in only those activities specified on the temporary license for the time designated, and the temporary license shall identify the licensed New Mexico dentist or dental hygienist who will sponsor or associate with the applicant during the time the applicant practices dentistry or dental hygiene in New Mexico;

D. the sponsoring or associating dentist or dental hygienist shall submit an affidavit attesting to the qualifications of the applicant and the activities the applicant will perform;

E. the temporary license shall be issued for a period not to exceed twelve months and may be reviewed upon application and payment of required fees;

F. the application for a temporary license under this section shall be accompanied by a license fee; and

G. the temporary licensee shall be required to comply with the Dental Health Care Act and all rules and regulations promulgated pursuant thereto.

Section 15

Section 15. CONTENT OF LICENSE AND CERTIFICATES--DISPLAY OF LICENSE--RENEWALS--RETIRE LICENSE.--

A. All dental licenses issued by the board shall bear:

- (1) a serial number;
- (2) the full name of the licensee;
- (3) the date of issue;
- (4) the seal of the board;
- (5) if the license is a specialty license, the specialty to which practice is limited;
- (6) the signatures of a majority of the board members; and
- (7) the attestation of the board president and secretary.

B. All dental hygienist licenses issued by the board shall bear:

- (1) a serial number;
- (2) the full name of the licensee;

- (3) the date of issue;
- (4) the seal of the board;
- (5) the signatures of a majority of the committee members; and
- (6) the attestation of the board president and secretary.

C. Certificates issued to dental assistants shall bear:

- (1) a serial number;
- (2) the full name of the assistant;
- (3) the date of issue;
- (4) the date of expiration;
- (5) the expanded functions certified to perform; and
- (6) the attestation of the board secretary.

D. All licenses and certificates shall be displayed in a conspicuous place in the office where the holder practices. The license or certificate shall, upon request, be exhibited to any of the members of the board, the committee or its authorized agent.

Section 16

Section 16. LICENSES--CERTIFICATE RENEWALS.--

A. All licensees shall be required to renew their licenses triennially as established in rules and regulations.

B. All dental assistants certified in expanded functions shall be required to renew their certificates triennially as established in rules and regulations.

C. The board or committee may establish a method to provide for staggered triennial terms and may prorate triennial renewal fees and impaired dentist and dental hygienist fees until staggered triennial renewal is established. The fact that a practitioner has not received a renewal form from the board or committee shall not relieve the practitioner of the duty to renew the license or certificate nor shall such omission on the part of the board or committee operate to exempt the practitioner from the penalties for failure to renew the practitioner's license or certificate.

D. All licensed practitioners shall pay a triennial renewal fee and an impaired dentist and dental hygienist fee, and all practitioners shall return a completed

renewal application form that includes proof of continuing education or continued competency.

E. Each application for triennial renewal of license shall state the practitioner's full name, business address, the date and number of the license and all other information requested by the board or committee.

F. Any practitioner who fails to submit an application for triennial renewal on or before July 1 but who submits an application for triennial renewal within thirty days thereafter shall be assessed a late fee.

G. Any practitioner who fails to submit application for triennial renewal between thirty and sixty days of the July 1 deadline may have their license or certificate suspended. If the practitioner renews by that time, the licensee shall be assessed a cumulative late fee.

H. The board or committee may summarily revoke for nonpayment of fees or failure to comply with continuing education or continued competency requirements, the license or certificate of any practitioner who has failed to renew his license or certificate on or before August 31.

Section 17

Section 17. RETIREMENT STATUS.--Any dentist or dental hygienist who wishes to retire from the practice of dentistry or dental hygiene shall meet all requirements for retirement as set by rules and regulation. The licensee shall notify the board or committee in writing before the expiration of the practitioner's current license, and the secretary of the board or committee shall acknowledge the receipts of such notice and record the same. If, within a period of five years from the date of retirement, the dentist or dental hygienist wishes to resume practice, the applicant shall so notify the board or the committee in writing and give proof of completing all requirements as prescribed by rules and regulations to reactivate the license.

Section 18

Section 18. PRACTICING WITHOUT A LICENSE--PENALTY.--

A. Any person who practices dentistry or who attempts to practice dentistry without first complying with the provisions of the Dental Health Care Act and without being the holder of a license entitling the practitioner to practice dentistry in New Mexico is guilty of a fourth degree felony and upon conviction shall be sentenced under the provisions of the Criminal Sentencing Act to imprisonment for a definite period not to exceed eighteen months and, in the discretion of the sentencing court, to a fine not to exceed five thousand dollars (\$5,000), or both. Each occurrence of practicing dentistry or attempting to practice dentistry without complying with the Dental Health Care Act shall be a separate violation.

B. Any person who practices as a dental hygienist or who attempts to practice as a dental hygienist without first complying with the provisions of the Dental Health Care Act and without being the holder of a license entitling the practitioner to practice as a dental hygienist in New Mexico is guilty of a misdemeanor and upon conviction shall be sentenced under the provisions of the Criminal Sentencing Act to imprisonment for a definite period not to exceed one year and in the discretion of the sentencing court, to a fine not to exceed one thousand dollars (\$1,000), or both. Each occurrence of practicing as a dental hygienist or attempting to practice as a dental hygienist without complying with the Dental Health Care Act shall be a separate violation.

C. The attorney general or district attorney shall prosecute all violations of the Dental Health Care Act.

D. Upon conviction of any person for violation of any provision of the Dental Health Care Act the convicting court may, in addition to the penalty provided in this section, enjoin him from any further or continued violations of the Dental Health Care Act and enforce the order of contempt proceedings.

Section 19

Section 19. REINSTATEMENT OF REVOKED OR SUSPENDED LICENSE.--

A. Unless otherwise stated in the order of revocation, a motion for reinstatement of a revoked license may not be filed for a period of at least three years from the effective date of the revocation.

B. If the motion for reinstatement is denied, no further motions for reinstatement shall be considered for a period of one year.

C. A licensee who has been suspended for a specific period of time shall be automatically reinstated at the expiration of the period specified in the order of suspension. The suspended dentist or dental hygienist will automatically be reinstated as of the day after the expiration of the period of suspension; provided that prior to the expiration of such time if the administrative prosecutor has filed with the board or committee the written objections, the suspended dentist or dental hygienist shall not be automatically reinstated. Should objections be filed, the petition for reinstatement shall be referred to the board or committee for hearing under Subsection E of this section.

D. Suspended dentists or dental hygienists, indefinite suspension:

(1) a licensee who has been suspended for an indefinite period of time may, at any time after complying with the conditions of reinstatement, file a petition for reinstatement with the board or committee;

(2) the petition shall be referred to the board or committee for hearing under Subsection E of this section; and

(3) if the motion for reinstatement is denied, no further motions for reinstatement will be considered for a period of one year.

E. Procedure for reinstatement hearings are as follows:

(1) applications for reinstatement shall be referred to the board or committee for hearing if the applicant meets the criteria set forth in this section;

(2) the board or committee shall schedule a hearing as soon as practical at which the applicant shall have the burden of demonstrating that the applicant has the moral qualifications, that the applicant is once again fit to resume the practice of dentistry or dental hygiene and that the resumption of the applicant's practice of dentistry or dental hygiene will not be detrimental to the public interest;

(3) the board or committee shall file its findings of fact, conclusions of law and decision within ninety days of the hearing; and

(4) the board's or committee's decision to refuse to reinstate a license shall not be reviewable except for an abuse of discretion.

Section 20

Section 20. FEES.--The board and committee shall establish a schedule of reasonable fees not to exceed the following:

| | <u>Dentists</u> | <u>Dental Hygienists</u> |
|-------------------------------------|-----------------|--------------------------|
| A. licensure by examination | \$1,500 | \$1,000 |
| B. licensure by credential | \$3,000 | \$1,500 |
| C. specialty license by examination | \$1,500 | |
| D. specialty license by credential | \$3,000 | |
| E. temporary license | | |
| 48 hour | \$ 50 | \$ 50 |
| six months | \$ 300 | \$ 200 |
| 12 months | \$ 450 | \$ 300 |
| F. application for certification in | | |

| | | | |
|------------------------------------|--------|--------|---------|
| local anesthesia | | \$ 40 | |
| G. examination in local anesthesia | | | \$ 150 |
| H. triennial license renewal | \$ 450 | | \$ 300 |
| I. late renewal | \$ 100 | \$ 100 | |
| J. reinstatement of license | \$ 450 | \$ 300 | |
| K. administrative fees | \$ 200 | \$ 200 | |
| L. impaired dentist/dental | | | |
| hygienist | \$ 150 | \$ 75 | |
| M. assistant certificate | | | \$ 100. |

Section 21

Section 21. DISCIPLINARY PROCEEDINGS--JUDICIAL REVIEW--APPLICATION OF UNIFORM LICENSING ACT.--

A. In accordance with the Uniform Licensing Act and rules and regulations of the board, the board and committee may fine and may deny, revoke, suspend, stipulate or otherwise limit any license or certificate held or applied for under the Dental Health Care Act, upon findings by the board or committee that the licensee, certificate holder or applicant:

(1) is guilty of fraud or deceit in procuring or attempting to procure a license or certificate;

(2) has been convicted of a crime punishable by incarceration in a federal prison or state penitentiary; provided, a copy of the record of conviction, certified to by the clerk of the court entering the conviction, shall be conclusive evidence of such conviction;

(3) is guilty of gross incompetence or gross negligence, as defined by regulations of the board, in the practice of dentistry, dental hygiene or dental assisting;

(4) is habitually intemperate or is addicted to the use of habit-forming drugs or is addicted to any vice to such degree as to render the licensee unfit to practice;

(5) is guilty of unprofessional conduct, as defined by rule or regulation;

(6) is guilty of any violation of the Controlled Substances Act;

(7) has violated any provisions of the Dental Health Care Act or rule or regulation of the board or committee;

(8) is guilty of willfully or negligently practicing beyond the scope of practice;

(9) is guilty of practicing dentistry or dental hygiene without a license or aiding or abetting the practice of dentistry or dental hygiene by a person not licensed under the Dental Health Care Act;

(10) is guilty of obtaining or attempting to obtain any fee by fraud or misrepresentation or otherwise acted in a manner or by conduct likely to deceive, defraud or harm the public;

(11) is guilty of patient abandonment;

(12) is guilty of failing to report to the board any adverse action taken against the licensee by a licensing authority, peer review body, malpractice insurance carrier or other entity as defined in rules and regulations;

(13) has had a license, certificate or registration to practice as a dentist or dental hygienist revoked, suspended, denied, stipulated or otherwise limited in any jurisdiction, territory or possession of the United States or another country for actions of the licensee similar to acts described in this subsection. A certified copy of the decision of the jurisdiction taking such disciplinary action will be conclusive evidence; or

(14) has failed to furnish the board, its investigators or representatives with information requested by the board or the committee in the course of an official investigation.

B. Disciplinary proceedings may be instituted by sworn complaint by any person, including a board or committee member, and shall conform with the provisions of the Uniform Licensing Act.

C. Licensees and certificate holders shall bear the costs of disciplinary proceedings unless exonerated.

D. Any person filing a sworn complaint shall be immune from liability arising out of civil action if the complaint is filed in good faith and without actual malice.

E. Licensees whose licenses are in a probationary status shall pay reasonable expenses for maintaining probationary status, including but not limited to laboratory costs when laboratory testing of biological fluids or accounting costs when audits are included as a condition of probation.

Section 22

Section 22. ANESTHESIA ADMINISTRATION.--

A. The board shall establish rules or regulations pertaining to the administration of nitrous oxide analgesia, conscious sedation, deep sedation and general anesthesia by dentists.

B. The board or its agent may evaluate credentials, facilities, equipment, personnel and procedures prior to issuing permits to allow the administration of agents that are utilized in providing analgesia, sedation or general anesthesia and may re-evaluate the same at its discretion.

C. The board may suspend or revoke the license of any dentist who fails to comply with anesthesia related rules or regulations of the board.

Section 23

Section 23. REPORTING OF SETTLEMENTS AND JUDGMENTS--PROFESSIONAL REVIEW ACTIONS--IMMUNITY FROM CIVIL DAMAGES.--

A. All entities that make payments under a policy of insurance, self-insurance or otherwise in settlement or satisfaction of a judgment in a dental malpractice action or claim, all hospitals, all health care entities and all professional review bodies shall report to the board all payments relating to malpractice actions or claims arising in New Mexico and all appropriate professional review actions of licensees.

B. No hospitals, health care entities, insurance carriers or professional review bodies required to report under this section, which provide such information in good faith, shall be subject to suit for civil damages as a result thereof.

C. Any hospital, health care entity, insurance carrier or professional review body failing to comply with the reporting requirements established in this section shall be subject to a civil penalty not to exceed two thousand dollars (\$2,000).

Section 24

Section 24. INJUNCTION TO STOP UNLICENSED DENTAL OR DENTAL HYGIENE PRACTICE.--

A. The attorney general, district attorney, the board, the committee or any citizen of any county where any person practices dentistry or dental hygiene without possessing a valid license to do so may, in accordance with the laws of New Mexico governing injunctions, maintain an action in the name of the state. To enjoin such person from practicing dentistry or dental hygiene until a valid license to practice dentistry or dental hygiene is secured and any person who has been enjoined who violates the injunction shall be punished for contempt of court, provided that the injunction does not relieve any person practicing dentistry or dental hygiene without a valid license from a criminal prosecution therefore as provided by law.

B. In charging any person in a complaint for injunction, or in an affidavit, information or indictment with practicing dentistry or dental hygiene without a valid license, it is sufficient to charge that the person did, upon a certain day and in a certain county, engage in the practice of dentistry or dental hygiene without a valid license, without averring any further or more particular facts concerning the same.

Section 25

Section 25. PROTECTED ACTIONS AND COMMUNICATIONS.--

A. No member of the board or the committee or any ad hoc committee appointed by the board or committee shall bear liability or be subject to civil damages or criminal prosecutions for any action undertaken or performed within the proper functions of the board or the committee.

B. All written and oral communication made by any person to the board or the committee relating to actual or potential disciplinary action, which includes complaints made to the board or the committee, shall be confidential communications and are not public records for the purposes of the Public Records Act. All data, communications and information acquired, prepared or disseminated by the board or the committee relating to actual or potential disciplinary action or in its investigation of complaints shall not be disclosed except to the extent necessary to carry out the purposes of the board or the committee or in a judicial appeal from the actions of the board or the committee.

C. Information contained in complaint files is public information and subject to disclosure when the board or committee acts on a complaint and it issues a notice of contemplated action.

D. No person or legal entity providing information to the board or the committee, whether as a report, a complaint or testimony, shall be subject to civil damages or criminal prosecutions.

Section 26

Section 26. FUND ESTABLISHED.--

A. There is created in the state treasury the "board of dental health care fund".

B. All funds received by the board and money collected under the Dental Health Care Act shall be deposited with the state treasurer. The state treasurer shall credit this money to the board fund except money collected for the impaired assessment, which shall be held separate from the board fund. Fees collected by the board from fines shall be deposited in the board of dental health care fund and at the

discretion of the board and committee, may be transferred into the impaired dentists and dental hygienists fund.

C. Payment out of the board of dental health care fund shall be on vouchers issued and signed by the secretary-treasurer of the board upon warrants drawn by the department of finance and administration in accordance with the budget approved by that department.

D. All amounts paid into the board of dental health care fund are subject to the order of the board and are to be used only for meeting necessary expenses incurred in executing the provisions and duties of the Dental Health Care Act. All money unused at the end of any fiscal year remains in the fund for use in accordance with provisions of the Dental Health Care Act.

E. All funds that have accumulated to the credit of the dental board under any previous law shall be continued for use by the board in administration of the Dental Health Care Act.

Section 27

Section 27. CRIMINAL OFFENDER EMPLOYMENT ACT.--The provisions of the Criminal Offender Employment Act shall govern any consideration of criminal records required or permitted by the Dental Health Care Act.

Section 28

Section 28. TEMPORARY PROVISION.--Until revised, rescinded or modified by the board or committee, regulations adopted under the Dental Act shall remain in effect upon enactment of the Dental Health Care Act and be enforced by the board or the committee.

Section 29

Section 29. LICENSURE OR CERTIFICATION UNDER PRIOR LAW.--

A. Any person licensed as a dentist or hygienist under any prior laws of this state, whose license is valid on the effective date of the Dental Health Care Act, is held to be licensed under the Dental Health Care Act and is entitled to renewal of his license as provided in that act.

B. Any person certified under any prior laws of this state, whose certificate is valid on the effective date of the Dental Health Care Act, is held to be certified under the Dental Health Care Act and is entitled to renewal of his certificate as provided in that act.

Section 30

Section 30. SHORT TITLE.--Sections 31 through 41 of this act shall be cited as the "Impaired Dentists and Dental Hygienists Act".

Section 31

Section 31. DEFINITIONS.--As used in the Impaired Dentists and Dental Hygienists Act:

- A. "board" means the New Mexico board of dental health care;
- B. "dental hygienists committee" means the New Mexico dental hygienists committee of the New Mexico board of dental health care;
- C. "dentistry or dental hygiene" means the practice of dentistry or dental hygiene; and
- D. "licensee" means a dentist or dental hygienist licensed by the board.

Section 32

Section 32. GROUNDS FOR RESTRICTION, SUSPENSION, REVOCATION, STIPULATION OR OTHER LIMITATION OF LICENSE.--The license of any dentist or dental hygienist to practice dentistry or dental hygiene in this state shall be subject to restriction, suspension, revocation, stipulation or may otherwise be limited in case of inability of the licensee to practice with reasonable skill and safety to patients by reason of one or more of the following:

- A. mental illness;
- B. physical illness, including but not limited to deterioration through the aging process or loss of motor skills;
- C. habitual or excessive use or abuse of drugs, as defined in the Controlled Substances Act; or
- D. habitual or excessive use or abuse of alcohol.

Section 33

Section 33. BOARD OR DENTAL HYGIENISTS COMMITTEE--ADDITIONAL POWERS AND DUTIES AS RELATED TO THE IMPAIRED DENTISTS AND DENTAL HYGIENISTS ACT.--

A. If the board or dental hygienists committee has reasonable cause to believe that a person licensed to practice dentistry or dental hygiene is unable to practice with reasonable skill and safety to patients because of a condition described in the Impaired Dentists and Dental Hygienists Act, the board shall cause an examination of such licensee to be made and shall, following the examination, take appropriate action within the provisions of the Impaired Dentists and Dental Hygienists Act.

B. Examination of a licensee pursuant to an order of the board shall be conducted by an examining committee designated by the board. Each examining committee shall be composed of two duly licensed dentists or two duly licensed dental hygienists if the licensee is a dental hygienist and two duly licensed physicians, one of whom shall be a psychiatrist who is knowledgeable and experienced in the field of chemical dependency if a question of mental illness or dependency is involved. Whenever possible, examining committee members shall be selected for their knowledge or experience in the areas of alcoholism, chemical dependency, mental health and geriatrics and may be rehabilitated impaired dentists, dental hygienists or physicians. In designating the members of such examining committee, the board may consider nominations from the New Mexico dental association for the dentist member, the New Mexico dental hygienists' association for dental hygiene members thereof and nomination from the New Mexico medical society for the physician members thereof. No current members of the board, dental hygienists committee or New Mexico board of medical examiners shall be designated as a member of an examining committee.

Section 34

Section 34. EXAMINATION BY COMMITTEE.--

A. The examining committee assigned to examine a licensee pursuant to referral by the board shall conduct an examination of the licensee for the purpose of determining the fitness of the licensee to practice dentistry or dental hygiene with reasonable skill and safety to patients, either on a restricted or unrestricted basis, and shall report its findings and recommendations to the board. The findings and recommendations shall be based on findings by the examining committee that the licensee examined possesses one or more of the impairments set forth in the Impaired Dentists and Dental Hygienists Act and such impairment does, in fact, affect the ability of the licensee to skillfully and safely practice dentistry or dental hygiene. The examining committee shall order the licensee to appear before it for hearing and give the licensee fifteen days notice of time and place of the hearing, together with a statement of the cause for such examination. The notice shall be served upon the licensee either personally or by registered or certified mail with return receipt requested.

B. If the examining committee, in its discretion, deems a mental or physical examination of the licensee necessary to its determination of the fitness of the licensee to practice, the examining committee shall order the licensee to submit to such examination. Any person licensed to practice dentistry or dental hygiene in this state

shall, by so practicing or by making or filing an annual registration to practice dentistry or dental hygiene in this state, be deemed to have:

(1) given consent to submit to mental or physical examination when so directed by the examining committee; and

(2) waived all objections to the admissibility of the report of the examining committee to the board or the dental hygienists committee on the grounds of privileged communication.

C. Any licensee who submits to a diagnostic mental or physical examination as ordered by the examining committee shall have a right to designate an accompanying individual to be present at the examination and make an independent report to the board.

D. Failure of a licensee to comply with an examining committee order under Subsection B of this section to appear before it for hearing or to submit to mental or physical examination under this section shall be reported by the examining committee to the board or dental hygienists committee and, unless due to circumstances beyond the control of the licensee, shall be grounds for the immediate and summary suspension by the board of the licensee to practice dentistry or dental hygiene in this state until further order of the board.

Section 35

Section 35. VOLUNTARY RESTRICTION OF LICENSURE.--

A. A licensee may request in writing to the board a restriction to practice under his existing license, and the board and the dental hygienists committee shall have authority, if it deems appropriate, to attach stipulations to the licensure of the licensee to practice dentistry or dental hygiene within specified limitations and waive the commencement of any proceeding. Removal of a voluntary restriction on licensure to practice dentistry or dental hygiene shall be subject to the procedure for reinstatement of license. As a condition for accepting such voluntary limitation of practice, the board may require each licensee to:

(1) agree to and accept care, counseling or treatment of physicians or other appropriate health care providers acceptable to the board;

(2) participate in a program of education prescribed by the board; or

(3) practice under the direction of a dentist acceptable to the board for a specified period of time.

B. Subject to the provisions of the Impaired Dentists and Dental Hygienists Act, a violation of any of the conditions of the voluntary limitation of practice statement

by such licensee shall be due cause for the refusal of renewal, or the suspension or revocation, of the license by the board.

Section 36

Section 36. REPORT TO THE BOARD OR DENTAL HYGIENISTS COMMITTEE--
ACTION.--

A. The examining committee shall report to the board or the dental hygienists committee its findings on the examination of the licensee, the determination of the examining committee as to the fitness of the licensee to engage in the practice of dentistry or dental hygiene with reasonable skill and safety to patients, either on a restricted or unrestricted basis, and any intervention that the examining committee may recommend. Such recommendation by the examining committee shall be advisory only and shall not be binding on the board.

B. The board or dental hygienists committee may accept or reject the recommendation of the examining committee to permit a licensee to continue to practice with or without any restriction on his licensure to practice dentistry or dental hygiene or may refer the matter back to the examining committee for further examination and report thereon.

C. In the absence of a voluntary agreement by a licensee for restriction of the licensure of the dentist or the dental hygienist to practice dentistry or dental hygiene, any licensee shall be entitled to a hearing before the board under and in accordance with the procedure contained in the Uniform Licensing Act and a determination on the evidence as to whether or not restriction, suspension or revocation of licensure shall be imposed.

Section 37

Section 37. PROCEEDINGS.--

A. The board may formally proceed against a licensee under the Impaired Dentists and Dental Hygienists Act in accordance with the procedures contained in the Uniform Licensing Act.

B. When the licensee being considered for action is a dental hygienist, the board shall act upon recommendation of the dental hygienists committee on all aspects of procedures in the Impaired Dentists and Dental Hygienists Act.

C. At the conclusion of the hearing, the board or the dental hygienists committee shall make the following findings:

(1) whether or not the licensee is impaired by one of the grounds for restriction, suspension or revocation listed herein;

(2) whether or not such impairment does in fact limit the ability of the licensee to practice dentistry or dental hygiene skillfully and safely;

(3) to what extent such impairment limits the ability of the licensee to practice dentistry or dental hygiene skillfully and safely and whether the board or dental hygienists committee finds that such impairment is such that the license should be suspended, revoked or restricted in the licensee's practice of dentistry or dental hygiene; and

(4) if the finding recommends suspension or restriction of the ability of the licensee to practice dentistry or dental hygiene, then the board shall make specific recommendations as to the length and nature of the suspension or restriction and shall recommend how such suspension or restriction shall be carried out and supervised.

D. At the conclusion of the hearing, the board or the dental hygienists committee shall make a determination of the merits and may order one or more of the following:

(1) placement of the licensee on probation on such terms and conditions as it deems proper for the protection of the public;

(2) suspension or restriction of the license of the licensee to practice dentistry or dental hygiene for the duration of the licensee's impairment;

(3) revocation of the license of the licensee to practice dentistry or dental hygiene; or

(4) reinstatement of the license of the licensee to practice dentistry or dental hygiene without restriction.

E. The board may temporarily suspend the license of any licensee without a hearing, simultaneously with the institution of proceedings under the Uniform Licensing Act, if it finds that the evidence in support of the determination of the examining committee is clear and convincing and that continuation in practice would constitute an imminent danger to public health and safety.

Neither the record of the proceeding nor any order entered against a licensee may be used against the licensee in any other legal proceeding except upon judicial review.

Section 38

Section 38. REINSTATEMENT OF LICENSE.--

A. A licensee whose licensure has been restricted, suspended or revoked under the Impaired Dentists and Dental Hygienists Act, voluntarily or by action of the

board, shall have a right at reasonable intervals to petition for reinstatement of the license and to demonstrate that the licensee can resume the competent practice of dentistry or dental hygiene with reasonable skill and safety to patients.

B. The petition shall be made in writing. If the licensee is a dental hygienist, the dental hygienists committee shall be advised and given all information so that their recommendation can be given to the board.

C. Action of the board on the petition shall be initiated by referral to and examination by the examining committee.

D. The board may, in its discretion, upon written recommendation of the examining committee, restore the licensure of the licensee on a general or limited basis.

Section 39

Section 39. IMPAIRED DENTISTS AND DENTAL HYGIENISTS TREATMENT PROGRAM.--

A. The board has the authority to enter into an agreement with a nonprofit corporation to implement an impaired dentists and dental hygienists treatment program.

B. For the purposes of this section, "impaired dentists and dental hygienists treatment program" means a program of care and rehabilitation services provided by those organizations authorized by the board to provide for the detention, intervention and monitoring of an impaired dentist or dental hygienist.

Section 40

Section 40. IMPAIRED DENTISTS AND DENTAL HYGIENISTS FUND CREATED.--

A. There is created an "impaired dentists and dental hygienist fund".

B. The fund shall be initially established by an assessment to all licensees as determined by the board and the dental hygienists committee.

C. All funds received by the board for an impaired assessment, either special or at time of relicensure, shall be deposited with the state treasurer. The state treasurer shall credit this money to the impaired dentists and dental hygienists fund.

D. Payments out of the fund shall be on vouchers issued and signed by the secretary-treasurer of the board upon warrants drawn by the department of finance and administration in accordance with the responsibilities of the board as approved by that department.

E. All amounts paid into the fund are subject to the order of the board and are to be used only for meeting necessary expenses incurred in executing the provisions and duties of the Impaired Dentists and Dental Hygienists Act. All money unused at the end of any fiscal year shall remain in the fund for use in accordance with provisions of the Impaired Dentists and Dental Hygienists Act.

F. Licensees shall be assessed an impaired fee at the time of renewal. The amount of the fee shall be determined by the board and the committee and shall be established to meet the need for enforcing the Impaired Dentists and Dental Hygienists Act.

G. The fund shall be used for the purpose of administration, testing, monitoring, hearings and consultation fees by the board or dental hygienists committee or their agent, which are necessary to enforce the Impaired Dentists and Dental Hygienists Act. It is not the purpose of the fund to pay for treatment of impaired dentists and dental hygienists.

Section 41

Section 41. REPEAL.--Sections [61-5-1](#) through 61-5-34 NMSA 1978 (being Laws 1971, Chapter 125, Sections 1 through 7, Laws 1987, Chapter 181, Section 1, Laws 1971, Chapter 125, Sections 8 and 9, Laws 1974, Chapter 78, Section 14, Laws 1971, Chapter 125, Sections 10 through 21, Laws 1979, Chapter 121, Section 3 and Laws 1981, Chapter 229, Sections 1 through 11, as amended) are repealed.

Section 42

Section 42. DELAYED REPEAL.--The New Mexico board of dental health care is terminated on July 1, 1997 pursuant to the Sunset Act. The board shall continue to operate according to the provisions of the Dental Health Care Act and the Impaired Dentists and Dental Hygienists Act until July 1, 1998. Effective July 1, 1998, the Dental Health Care Act and the Impaired Dentists and Dental Hygienists Act are repealed.

Section 43

Section 43. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1994.

HOUSE BILL 1023

CHAPTER 56

RELATING TO TAXATION; CHANGING CERTAIN PROVISIONS OF THE TAX REFUND INTERCEPT PROGRAM ACT.

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

Section 1

Section 1. Section 7-2C-3 NMSA 1978 (being Laws 1985, Chapter 106, Section 3, as amended) is amended to read:

"7-2C-3. DEFINITIONS.--As used in the Tax Refund Intercept Program Act:

A. "claimant agency" means the taxation and revenue department or any of its divisions, the human services department, the employment security division of the labor department, any corporation authorized to be formed under the Educational Assistance Act, a magistrate court or the Bernalillo county metropolitan court;

B. "debt" means a legally enforceable obligation of an employer subject to the Unemployment Compensation Law or an individual to pay a liquidated amount of money:

(1) that is equal to or more than one hundred dollars (\$100);

(2) that is due and owing a claimant agency, that a claimant agency is obligated by law to collect or that, in the case of an educational loan, a claimant agency has lawfully contracted to collect;

(3) that has accrued through contract, tort, subrogation or operation of law; and

(4) that, in the case of an amount due under the Unemployment Compensation Law, has been secured by a warrant of levy and lien or, in all other cases, has been reduced to judgment;

C. "debtor" means any employer subject to the Unemployment Compensation Law or any individual owing a debt;

D. "department" or "division" means, unless the context indicates otherwise, the taxation and revenue department, the secretary of taxation and revenue or any employee of the department exercising authority lawfully delegated to that employee by the secretary;

E. "educational loan" means any loan for educational purposes owned by a public post-secondary educational institution or owned or guaranteed by any corporation authorized to be formed under the Educational Assistance Act;

F. "public post-secondary educational institution" means a publicly owned or operated institution of higher education or other publicly owned or operated post-secondary educational facility located within New Mexico;

G. "secretary" means the secretary of taxation and revenue or the secretary's delegate;

H. "spouse" means an individual who is or was a spouse of the debtor and who has joined with the debtor in filing a joint return of income tax pursuant to the provisions of the Income Tax Act, which joint return has given rise to a refund that may be subject to the provisions of the Tax Refund Intercept Program Act; and

I. "refund" means a refund, including any amount of tax rebates or credits, under the Income Tax Act that the department has determined to be due to an individual."

Section 2

Section 2. Section 7-2C-5 NMSA 1978 (being Laws 1985, Chapter 106, Section 5) is amended to read:

"7-2C-5. DEPARTMENT TO AID IN COLLECTION OF DEBTS THROUGH SETOFF.-- Subject to the limitations contained in the Tax Refund Intercept Program Act, the department, upon request, shall render assistance in the collection of any debt owed to a claimant agency or any debt that a claimant agency is obligated by law to collect. This assistance shall be provided by withholding from any refund due to the debtor pursuant to the Income Tax Act the amount of debt meeting the requirements of the Tax Refund Intercept Program Act and paying over to the claimant agency the amount withheld."

Section 3

Section 3. Section 7-2C-6 NMSA 1978 (being Laws 1985, Chapter 106, Section 6) is amended to read:

"7-2C-6. PROCEDURES FOR SETOFF--NOTIFICATIONS TO DEBTOR.--

A. Each year a claimant agency seeking to collect a debt through setoff shall notify the department in the manner and by the date required by the department, which date shall be in the period from November 1 through December 15. The notice to the department shall include the amount of the debt, the name and identification number of the debtor and such other information as the department may require. The notice shall also include certification that the debt is due and owing the claimant agency or that the claimant agency is obligated by law to collect the debt. This notice shall be effective only to initiate setoff against refunds that would be made in the calendar year subsequent to the year in which notification is made to the department.

B. The claimant agency shall inform the department within one week of any changes in the status of any debt submitted by the claimant agency for setoff.

C. Upon proper and timely notification from the claimant agency, the department shall determine whether the debtor is entitled to a refund of at least fifty dollars (\$50.00). The department shall notify the claimant agency in writing, or in such other manner as the department and the claimant agency may agree, with respect to each debt accepted for setoff whether the debtor is due a refund of fifty dollars (\$50.00) or more and, if so, the amount of refund, the address of the debtor entered upon the return and, if the refund arises from a joint return, the name and address of the spouse as entered upon the return.

D. Within ten days after receiving the notification from the department pursuant to Subsection C of this section, the claimant agency shall send a notice by first class mail to the debtor at the debtor's last known address. The notice required by this subsection shall include:

(1) a statement that a transfer of the refund will be made and that the claimant agency intends to set off the amount of the transfer against a claimed debt;

(2) the amount of the debt asserted and a description of how the debt asserted arose;

(3) the name, address and telephone number of the claimant agency;

(4) the amount of refund to be set off against the debt asserted;

(5) a statement that the debtor has thirty days from the date indicated on the notice to contest the setoff by applying to the claimant agency for a hearing with respect to the validity of the debt asserted by that agency; and

(6) a statement that failure of the debtor to apply for a hearing within thirty days will be deemed a waiver of the opportunity to contest the setoff and to a hearing.

E. If the refund against which a debt is intended to be set off results from a joint tax return, the claimant agency shall send a notice by first class mail to the spouse named on the return within ten days after receiving the notification from the department pursuant to Subsection C of this section. The notice to the spouse shall contain the following information:

(1) a statement that a transfer of the refund will be made and that the claimant agency intends to set off the amount of the transfer against a claimed debt;

(2) the total amount of the refund and the amount of each claimed debt;

(3) the name, address and telephone number of the claimant agency;

(4) a statement that no debt is claimed against the spouse and that the spouse may be entitled to receive all or part of the refund regardless of the claimed debt against the debtor spouse;

(5) a statement that to assert a claim to all or part of the refund, the spouse must apply to the claimant agency for a hearing within thirty days from the date indicated on the notice with respect to the entitlement of the spouse to all or part of the refund from which a transfer will be made at the request of the claimant agency; and

(6) a statement that failure of the spouse to apply for a hearing within thirty days may be deemed a waiver of any claim of the spouse with respect to the refund.

F. A debtor may contest the setoff of a debt by applying to the claimant agency for a hearing within thirty days of the date the notice required by Subsection D of this section is sent to the debtor. Failure of the debtor to apply for a hearing within the time required shall constitute a waiver of the right to contest the debt or the setoff of the debt.

G. A spouse may contest the setoff of a debt against a refund to which the spouse claims entitlement in whole or in part by applying to the claimant agency for a hearing within thirty days of the date the notice required by Subsection E of this section was sent to the spouse. Failure of the spouse to apply for a hearing within the time required shall constitute a waiver of the right to contest the setoff of the debt against a refund to which the spouse may claim entitlement.

H. The department shall apply against the refund the amount of the claimed debt, not to exceed the amount of the refund, and shall transfer that amount to the claimant agency with an accounting of the amount transferred. When the amount of refund due exceeds the amount of all applied debts, the department shall treat the excess as it does other refunds relating to income taxes.

I. Whether or not the refund due the debtor exceeds the amount of the applied debt, the department shall notify the debtor at the time of the transfer to the claimant agency of:

(1) the fact of the transfer and that the claimant agency intends to set off the amount of the transfer against the asserted debt;

(2) the total amount of the refund;

(3) the amount of debt asserted by the claimant agency; and

(4) the name, address and telephone number of the claimant agency.

J. Once the department has sent to the debtor the notice required by Subsection I of this section, together with any excess of the amount of refund over the amount of asserted debts, the department shall be deemed to have made the refund required by the Income Tax Act."

Section 4

Section 4. Section 7-2C-7 NMSA 1978 (being Laws 1985, Chapter 106, Section 7) is amended to read:

"7-2C-7. SUSPENSE ACCOUNT.--Upon receipt of money transferred from the department pursuant to Subsection H of Section 7-2C-6 NMSA 1978, the claimant agency shall deposit and hold the money in the suspense account until a final determination of the setoff is made."

Section 5

Section 5. Section 7-2C-8 NMSA 1978 (being Laws 1985, Chapter 106, Section 8) is amended to read:

"7-2C-8. INTEREST BECOMES OBLIGATION OF CLAIMANT AGENCY.--Once a transfer is made by the department pursuant to Subsection H of Section 7-2C-6 NMSA 1978, notwithstanding any other provision of law to the contrary, the department, except in its capacity as a claimant agency, is not obligated in any manner for the payment of interest to the debtor or to the claimant agency with respect to that portion of the refund against which the asserted debt was applied for any period after the date of transfer. Any interest subsequently determined to be due the debtor with respect to any refund against which the asserted debt was applied for any period after the date of transfer is the responsibility of the claimant agency; provided, however, compliance by the department and claimant agency with the provisions of the Tax Refund Intercept Program Act bars accrual of interest, notwithstanding the provisions of Section 7-1-68 NMSA 1978."

Section 6

Section 6. Section 7-2C-9 NMSA 1978 (being Laws 1985, Chapter 106, Section 9) is amended to read:

"7-2C-9. ADMINISTRATIVE HEARING REQUIRED OF CLAIMANT AGENCY--DEPARTMENT EXEMPTED.--

A. The claimant agency shall provide notice and opportunity for hearing, consistent with due process, as required by Subsections F and G of Section 7-2C-6 NMSA 1978.

B. Notwithstanding any other provision of law, the department, except in its capacity as a claimant agency, is not obligated to grant, and will not grant, a hearing to any debtor or spouse with respect to any action taken or any issue arising under the provisions of the Tax Refund Intercept Program Act."

Section 7

Section 7. Section 7-2C-10 NMSA 1978 (being Laws 1985, Chapter 106, Section 10) is amended to read:

"7-2C-10. FINAL DETERMINATION AND NOTICE OF SETOFF.--

A. The determination of the validity and the amount of the setoff asserted or the application of setoff to a refund to which a debtor or spouse asserts entitlement in whole or in part under the provisions of the Tax Refund Intercept Program Act shall be final upon the exhaustion of the administrative or appellate process as applicable.

B. If, during application of setoff procedures, any changes occur in the amount of the refund subject to setoff, including any changes resulting from the filing of amended returns or the filing of additional returns during the calendar year for which the claimant agency has requested setoff with respect to the debtor, the department shall notify the claimant agency of these changes. The department shall promulgate regulations or other appropriate administrative directives to set forth the procedures by which such notice shall be made and by which the amount held in suspense shall be adjusted when required.

C. Upon final determination of the entitlement of a debtor or spouse to any or all of that portion of a refund that has been transferred to the claimant agency, as the amount transferred may be adjusted in accordance with Subsection B of this section, the claimant agency shall remit to the debtor or spouse from the suspense fund the amount determined to be due, with an appropriate accounting. A copy of the accounting shall be sent to the department.

D. Upon final determination, the claimant agency shall remit to itself from the suspense account that amount determined to be due the claimant agency and shall credit that amount against the debt. In the case that the amount remitted is not sufficient to extinguish the debt, the claimant agency shall have the right to pursue collection of the remaining debt through any available remedy, including a proceeding under the Tax Refund Intercept Program Act for other calendar years.

E. Upon remittance from the suspense fund to the credit of the debtor's account pursuant to Subsection D of this section, the claimant agency shall notify the debtor in writing of the final determination of the setoff. A copy of the notice shall be sent to the department. The notice shall include:

(1) a final accounting of the refund against which the debt was set off, including the amount of the refund to which the debtor was entitled prior to setoff;

(2) the final determination of the amount of the debt that has been satisfied and the amount of debt, if any, still due and owing; and

(3) the amount of the refund in excess of the debt finally determined to be due and owing and the amount of any interest due.

F. Upon remittance from the suspense fund to the credit of the debtor's account pursuant to Subsection D of this section, any amount finally determined to be due to the debtor with respect to the refund amount shall be promptly paid by the claimant agency from the suspense account to the debtor with an appropriate accounting. Interest due the debtor with respect to the amount of refund finally determined to be due the debtor for any period after the transfer to the suspense fund by the department pursuant to Subsection H of Section 7-2C-6 NMSA 1978 is authorized to be paid by the claimant agency from any funds available to it for this purpose."

Section 8

Section 8. Section 7-2C-12 NMSA 1978 (being Laws 1985, Chapter 106, Section 12) is amended to read:

"7-2C-12. ADMINISTRATIVE COSTS--CHARGES APPROPRIATED TO DEPARTMENT.--The department may charge claimant agencies for the costs incurred by the department in setting off debts for the claimant agencies pursuant to the Tax Refund Intercept Program Act. The department shall determine those costs, and the determination of the department shall be conclusive. Claimant agencies shall pay to the department any charges made, and these payments are appropriated to the department for use in administering the Tax Refund Intercept Program Act."

Section 9

Section 9. Section 7-2C-13 NMSA 1978 (being Laws 1985, Chapter 106, Section 13) is amended to read:

"7-2C-13. CONFIDENTIALITY--EXEMPTION.--

A. The information obtained by a claimant agency from the department in accordance with the provisions of the Tax Refund Intercept Program Act shall be confidential and shall be used by the claimant agency only in pursuit of the collection of a debt under the provisions of the Tax Refund Intercept Program Act. Any employee or former employee of a claimant agency who unlawfully discloses any information obtained from the department is guilty of a misdemeanor and shall, upon conviction, be fined not more than one thousand dollars (\$1,000) or imprisoned not more than one

year or both and shall not be employed by the state for a period of five years after the date of conviction.

B. Notwithstanding other provisions of law prohibiting disclosure by the department of information from a taxpayer's return, the department may provide to a claimant agency any information deemed necessary by the department to accomplish the purposes of the Tax Refund Intercept Program Act."

Section 10

Section 10. Section 7-2C-14 NMSA 1978 (being Laws 1985, Chapter 106, Section 14) is amended to read:

"7-2C-14. ADMINISTRATIVE REGULATIONS, RULINGS, INSTRUCTIONS AND ORDERS--PRESUMPTION OF CORRECTNESS.--

A. The secretary is empowered and directed to issue and file, as required by law, all regulations, rulings, instructions or orders necessary to implement and enforce any provision of the Tax Refund Intercept Program Act, including all rules and regulations necessary by reason of any alteration of that act. In order to accomplish its purpose, this provision is to be liberally construed.

B. Directives issued by the secretary shall be in form substantially as follows:

(1) regulations are written statements of the secretary, of general application, interpreting and exemplifying the statutes to which they relate;

(2) rulings are written statements of the secretary, of limited application to one or a small number of debtors or claimant agencies, interpreting the statutes to which they relate, ordinarily issued in response to a request for clarification of the consequences of a specified set of circumstances;

(3) orders are written statements of the secretary to implement a decision of the secretary after a hearing; and

(4) instructions are other written statements or directives of the secretary not dealing with the merits of any statute, but otherwise in aid of the accomplishment of the duties of the secretary.

C. To be effective, any ruling or regulation issued by the secretary shall be reviewed by the attorney general or other legal counsel of the department prior to being filed as required by law, and the fact of review shall be indicated thereon.

D. To be effective, a regulation shall first be issued as a proposed regulation and filed for public inspection in the office of the secretary. Distribution of the

regulation shall be made to interested persons and their comments shall be invited. A hearing shall be conducted by the secretary with respect to the proposed regulation, at which hearing any interested party may submit evidence and present testimony. After the proposed regulation has been on file for not less than two months and a hearing has been held, the secretary may issue it as a final regulation by filing as required by law.

E. In addition to filing copies of regulations with the state records center as required by law, the secretary shall maintain in his office a duplicate official set of current and superseded regulations with respect to the Tax Refund Intercept Program Act, a set of current and superseded rulings with respect to the Tax Refund Intercept Program Act and such additional sets thereof as appear necessary, which duplicate or additional sets shall be available for inspection by the public.

F. Any regulation, ruling, instruction or order issued pursuant to this section by the secretary is presumed to be a proper implementation of the provisions of the Tax Refund Intercept Program Act.

G. The secretary shall state the extent to which regulations, rulings and orders shall have retroactive effect and, if no such statement is made, they shall be applied prospectively only."

Section 11

Section 11. APPLICABILITY.--The provisions of this act apply to income tax years beginning on or after January 1, 1994.

SENATE BILL 163

CHAPTER 57

RELATING TO HEALTH CARE EDUCATION PROGRAMS AND PRACTICES; EXPANDING CERTAIN EXISTING HEALTH EDUCATION PROGRAMS; CREATING NEW HEALTH EDUCATION PROGRAMS; CHANGING PROVISIONS OF MEDICAL AND OSTEOPATHIC STUDENT LOAN PROGRAMS; ENLARGING THE SCOPE OF PRACTICE OF PHYSICIAN ASSISTANTS; SUPPORTING AND ENCOURAGING THE EXTENSION OF HEALTH CARE INTO RURAL AND UNDERSERVED AREAS OF THE STATE; DECLARING AN EMERGENCY.

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

Section 1

Section 1. Section 21-22-6 NMSA 1978 (being Laws 1975, Chapter 244, Section 6, as amended) is amended to read:

"21-22-6. MEDICAL STUDENT LOANS--CONTRACT TERMS--REPAYMENT.--

A. Each applicant who is approved for a loan by the commission may be granted a loan, in such amounts and for such periods as determined by the commission, with which to defray his expenses incurred in obtaining a medical education at any reputable and accredited medical school in the United States if the applicant files with the commission a declaration of his intent to practice his profession as a licensed physician or physician assistant in areas of New Mexico designated as not being adequately served by medical practitioners.

B. The loans shall not exceed the necessary expenses incurred while attending a medical school or college and shall bear interest at the rate of:

(1) eighteen percent per year if the student completes his medical education and no portion of the principal and interest is forgiven pursuant to Subsection E of this section; and

(2) seven percent per year in all other cases.

C. The loan shall be evidenced by a contract between the student and the commission acting on behalf of the state. The contract shall provide for the payment by the state of a stated sum covering the costs of a medical education and shall be conditioned upon the repayment of the loan to the state, together with interest, over a period established by the commission in consultation with the student after completion of medical school and any period of internship or residency required to complete the student's education. The contract shall further provide that immediately upon completion or termination of the student's medical education, all interest then accrued shall be capitalized.

D. Loans made to students who fail to complete their medical education shall become due, together with interest, immediately upon termination of their medical education. The commission, in consultation with the student, shall establish terms of repayment, alternate service or cancellation terms.

E. The contract shall provide that the commission shall forgive a portion of the loan principal and interest for each year that a loan recipient practices his profession as a licensed physician or physician assistant in areas approved by the New Mexico medical shortage area committee as not being adequately served by medical practitioners. Loan principal and interest shall be forgiven according to the following formula: for the first year served all interest then accrued plus forty percent of principal; and for the second and third years served, all interest then accrued plus thirty percent of principal. Recipients shall serve a complete year in order to receive credit for that year. The minimum credit for a year shall be established by the commission.

F. If a loan recipient completes his professional education and does not serve in a medical shortage area, the commission shall assess a penalty of up to three

times the principal due, plus eighteen percent interest, unless the commission finds acceptable extenuating circumstances for why the student cannot serve. If the commission does not find acceptable extenuating circumstances for the student's failure to carry out his declared intent to serve in a medical shortage area in the state, the commission shall require immediate repayment of the unpaid principal amount of the loan plus accrued interest owed the state plus the amount of any penalty assessed pursuant to this subsection.

G. The commission shall adopt regulations to implement the provisions of this section. The regulations may provide for the repayment of medical student loans in annual or other periodic installments."

Section 2

Section 2. Section 21-22A-6 NMSA 1978 (being Laws 1978, Chapter 109, Section 6, as amended) is amended to read:

"21-22A-6. OSTEOPATHIC MEDICAL STUDENT LOANS--CONTRACT TERMS--REPAYMENT.--

A. Each applicant who is approved for a loan by the commission may be granted a loan, in such amounts and for such periods as determined by the commission, with which to defray his expenses incurred in obtaining an osteopathic medical education at any reputable and accredited osteopathic medical school in the United States if the applicant files with the commission a declaration of his intent to practice his profession as a licensed osteopathic physician in areas of New Mexico designated as not being adequately served by osteopathic medical practitioners.

B. The loan shall not exceed the necessary expenses incurred while attending an osteopathic medical school or college and shall bear interest at the rate of:

(1) eighteen percent per year if the student completes his medical education and no portion of the principal and interest is forgiven pursuant to Subsection E of this section; and

(2) seven percent per year in all other cases.

C. The loan shall be evidenced by a contract between the student and the commission acting on behalf of the state. The contract shall provide for the payment by the state of a stated sum covering the costs of an osteopathic medical education and shall be conditioned upon the repayment of the loan to the state, together with interest, over a period established by the commission in consultation with the student after the completion of osteopathic medical school and any period of internship or residency required to complete the student's education. The contract shall further provide that immediately upon completion or termination of the student's medical education, all interest then accrued shall be capitalized.

D. Loans made to students who fail to complete their osteopathic medical education shall become due, together with interest, immediately upon termination of their medical education. The commission, in consultation with the student, shall establish terms of repayment, alternate service or cancellation terms.

E. The contract shall provide that the commission shall forgive a portion of the loan principal and interest for each year that a loan recipient practices his profession as a licensed osteopathic physician in areas approved by the medical shortage area committee as not being adequately served by osteopathic medical practitioners. Loan principal and interest shall be forgiven according to the following formula: for the first year served, all interest then accrued plus forty percent of principal; and for the second and third years served, all interest then accrued plus thirty percent of principal. Recipients shall serve a complete year in order to receive credit for that year. The minimum credit for a year shall be established by the commission.

F. If a loan recipient completes his professional education and does not serve in a medical shortage area, the commission shall assess a penalty of up to three times the principal due, plus eighteen percent interest, unless the commission finds acceptable extenuating circumstances for why the student cannot serve. If the commission does not find acceptable extenuating circumstances for the student's failure to carry out his declared intent to serve in a medical shortage area in the state, the commission shall require immediate repayment of the unpaid principal amount of the loan plus accrued interest owed the state plus the amount of any penalty assessed pursuant to this section.

G. The commission shall adopt regulations to implement the provisions of this section. The regulations may provide for the repayment of osteopathic medical student loans in annual or other periodic installments."

Section 3

Section 3. SHORT TITLE.--Sections 3 through 12 of this act may be cited as the "Allied Health Student Loan for Service Act".

Section 4

Section 4. PURPOSE.--The purpose of the Allied Health Student Loan for Service Act is to meet the emergency currently existing resulting from the shortage of allied health professionals in underserved areas of the state by increasing the number of practitioners in rural areas through a program of loans for allied health students. Each applicant shall declare his intent to practice his allied health profession within one of the areas of the state designated as an underserved area by the medical shortage area committee.

Section 5

Section 5. DEFINITIONS.--As used in the Allied Health Student Loan for Service Act:

A. "allied health profession" means physical therapy, occupational therapy, speech-language pathology, audiology, pharmacy, nutrition, respiratory care practice, laboratory technology, radiologic technology, mental health services or emergency medical services;

B. "commission" means the commission on higher education;

C. "loan" means a grant of money to defray the costs incidental to an allied health profession education, under a contract between the commission and an allied health profession student, requiring repayment with services or repayment of principal and interest; and

D. "student" means a resident of New Mexico who is enrolled in an accredited program for one of the allied health professions.

Section 6

Section 6. ALLIED HEALTH LOANS--QUALIFICATIONS.--

A. The commission may grant a loan to a student it deems qualified to receive the loan upon terms and conditions it determines pursuant to the provisions of the Allied Health Student Loan for Service Act and regulations adopted pursuant to that act.

B. The commission shall only receive, pass on and allow or disallow an application for a loan made by a student enrolled or accepted in an allied health profession program who is a bona fide citizen and resident of the United States and of New Mexico and who declares his intent to practice an allied health profession within a designated area of the state.

C. The commission shall make a full and careful investigation of the ability, character and qualifications of each applicant and determine fitness to become a recipient of a student loan. The investigation of each applicant shall include an investigation of the ability of the applicant and the applicant's parent or guardian to pay the applicant's expenses for an allied health profession education. The commission shall give preference to qualified applicants who are unable, or whose parents or guardians are unable, to pay the educational expenses.

D. The commission shall arrange for loan recipients to receive assistance in locating appropriate practice positions in designated underserved areas.

Section 7

Section 7. DELEGATION OF DUTIES.--The commission may arrange with other agencies for the performance of services required by the provisions of the Allied Health Student Loan for Service Act.

Section 8

Section 8. ALLIED HEALTH STUDENT LOANS--CONTRACT TERMS--REPAYMENT.--

A. Prior to granting a loan, each applicant approved for a loan shall file with the commission a declaration of intent to practice as a licensed allied health professional in areas of New Mexico designated as underserved.

B. The loans shall not exceed the necessary expenses incurred while attending an allied health profession program and shall bear interest at the rate of:

(1) eighteen percent per year if the student completes his allied health profession education and no portion of the principal and interest is forgiven pursuant to Subsection E of this section; and

(2) seven percent per year in all other cases.

C. The loan shall be evidenced by a contract between the student and the commission acting on behalf of the state. The contract shall provide for the payment by the state of a stated sum covering the costs of an allied health profession education and shall be conditioned on the repayment of the loan to the state, together with interest, over a period negotiated between the student and the commission after completion of an allied health education. The contract shall further provide that immediately upon completion or termination of the student's allied health education, all interest then accrued shall be capitalized.

D. Loans made to students who fail to complete their allied health education shall become due, together with interest, immediately upon termination of that education. The commission, in consultation with the student, shall establish repayment terms, alternate service or cancellation terms.

E. The contract shall provide that the commission shall forgive a portion of the loan principal and interest for each year that a loan recipient practices an allied health profession in areas approved by the medical shortage area committee established and organized by the commission. Loan principal and interest shall be forgiven according to the following formula: for the first year served, all interest then accrued plus forty percent of principal; and for the second and third years served, all interest then accrued plus thirty percent of principal. Recipients shall serve a complete year in order to receive credit for that year. The minimum credit for a year shall be established by the commission.

F. If a loan recipient completes his professional education and does not serve three years in a medical shortage area, the commission shall assess a penalty of up to three times the principal due, plus eighteen percent interest, unless the commission finds acceptable extenuating circumstances for why the student cannot serve. If the commission does not find acceptable extenuating circumstances for the student's failure to carry out his declared intent to serve in a medical shortage area in the state, the commission shall require immediate repayment of the unpaid principal amount of the loan plus accrued interest owed the state plus the amount of any penalty assessed pursuant to this subsection.

G. The commission shall adopt regulations to implement the provisions of this section. The regulations may provide for the repayment of allied health student loans in annual or other periodic installments.

Section 9

Section 9. CONTRACTS--LEGAL ASSISTANCE--ENFORCEMENT.--The general form of the contract shall be prepared and approved by the attorney general and signed by the student and designated representative of the commission on behalf of the state. The commission is vested with full and complete authority and power to sue in its own name for any balance due the state from any student on any such contract.

Section 10

Section 10. FUND CREATED--METHOD OF PAYMENT.--The "allied health student loan for service fund" is created in the state treasury. All money appropriated for loans to allied health students pursuant to the provisions of the Allied Health Student Loan for Service Act shall be credited to the fund and all payments of principal and interest on loans made pursuant to that act received by the commission shall be credited to the fund or shall be deposited with the commission's administrative agent. All payments for loans shall be made upon vouchers signed by the designated representative of the commission.

Section 11

Section 11. CANCELLATION.--The commission may cancel any contract made between it and any student for any reasonable cause deemed sufficient by the commission.

Section 12

Section 12. REPORTS.--The commission shall make annual reports to the governor and to the legislature prior to each regular session of its activities; the loans granted; the names and addresses of loan recipients; the allied health program attended by loan recipients; the names and locations of the practices of those allied health professionals

who have completed their education and are serving in a medical shortage area of the state; and the name of each loan recipient who has completed his education and is not serving in a medical shortage area, the reason the person is not serving and the amount owed and paid on the loan.

Section 13

Section 13. Section 61-6-7 NMSA 1978 (being Laws 1973, Chapter 361, Section 3, as amended) is amended to read:

"61-6-7. SHORT TITLE--REGISTRATION AS A PHYSICIAN ASSISTANT--
SCOPE OF PRACTICE--ANNUAL REGISTRATION OF EMPLOYMENT--
EMPLOYMENT CHANGE--FEES.--

A. Sections 61-6-7 through 61-6-10 NMSA 1978 may be cited as the "Physician Assistant Act".

B. The board may register qualified persons as physician assistants. No person shall perform, attempt to perform or hold himself out as a physician assistant without first applying for and obtaining registration with the board and without annually registering his employment and supervising licensed physician in accordance with board regulations.

C. Physician assistants may prescribe, administer and distribute dangerous drugs other than controlled substances in Schedule I of the Controlled Substances Act pursuant to regulations adopted by the New Mexico board of medical examiners after consultation with the board of pharmacy, provided that the prescribing, administering and distributing are done under the direction of a supervising licensed physician and within the parameters of a board-approved formulary and guidelines established under Paragraph (3) of Subsection A of Section 61-6-9 NMSA 1978. The distribution process shall comply with state laws concerning prescription packaging, labeling and recordkeeping requirements. Physician assistants shall not otherwise dispense dangerous drugs or controlled substances.

D. A physician assistant shall perform only those acts and duties assigned him by a supervising licensed physician that are within the scope of practice of the supervising licensed physician.

E. An applicant for registration as a physician assistant shall complete application forms as supplied by the board and shall pay a registration fee as provided in Section 61-6-19 NMSA 1978. Upon being registered by the board, the applicant shall have his name and address and other pertinent information enrolled by the board on a roster of physician assistants.

F. Each registered physician assistant shall annually submit proof of completion of continuing education as required by the board and shall annually renew

his registration, supervising licensed physician and place of employment with the board. Upon any change in employment or supervising licensed physician between annual registrations, each physician assistant shall reregister his employment and supervising licensed physician and shall pay any additional registration fees as provided in Section 61-6-19 NMSA 1978. All applications for registration shall include the applicant's name, current address, the name and office address of both his employer and the supervising licensed physician and other additional information as the board deems necessary. Upon any change of employment or change of supervising licensed physician, prior registration shall automatically become void or inactive.

G. Each annual renewal of registration of employment shall be accompanied by a fee as provided in Section 61-6-19 NMSA 1978."

Section 14

Section 14. Section 61-6-9 NMSA 1978 (being Laws 1973, Chapter 361, Section 5, as amended) is amended to read:

"61-6-9. PHYSICIAN ASSISTANTS--RULES AND REGULATIONS.--

A. The board may adopt and enforce reasonable rules and regulations:

(1) for setting qualifications of education, skill and experience for registration of a person as a physician assistant and providing forms and procedures for obtaining certificates of registration and for annual registration of employment, supervising licensed physician and place of employment;

(2) for examining and evaluating applicants for registration as a physician assistant as to their skill, knowledge and experience in the field of medical care;

(3) for establishing when and for how long physician assistants are permitted to prescribe, administer and distribute dangerous drugs other than controlled substances in Schedule I of the Controlled Substances Act pursuant to regulations adopted by the New Mexico board of medical examiners after consultation with the board of pharmacy;

(4) for allowing a supervising licensed physician to temporarily delegate his supervisory responsibilities for a physician assistant to another licensed physician;

(5) for allowing a physician assistant to temporarily serve under the supervision of a licensed physician other than the supervising licensed physician of record; and

(6) for the purpose of carrying out all other provisions of the Physician Assistant Act.

B. The board shall not adopt any rule or regulation allowing a physician assistant to measure the powers, range or accommodative status of human vision; diagnose vision problems; prescribe lenses, prisms, vision training or contact lenses; or fit contact lenses, but this foregoing restriction does not preclude vision screening. The board shall not adopt any rule or regulation allowing a physician assistant to perform diagnosis or medical, surgical, mechanical, manipulative and orthopedic treatment of the human foot."

Section 15

Section 15. Section 61-10A-4 NMSA 1978 (being Laws 1979, Chapter 26, Section 4, as amended) is amended to read:

"61-10A-4. CERTIFICATION AS OSTEOPATHIC PHYSICIAN'S ASSISTANT--
SCOPE OF AUTHORITY--ANNUAL REGISTRATION OF EMPLOYMENT--
EMPLOYMENT CHANGE.--

A. No person shall perform or attempt to perform as an osteopathic physician's assistant without first applying for and obtaining a certificate of qualification from the board as an osteopathic physician's assistant and having his employment registered in accordance with board regulations.

B. Osteopathic physician's assistants may prescribe, administer and distribute dangerous drugs other than controlled substances in Schedule I of the Controlled Substances Act pursuant to regulations adopted by the New Mexico board of osteopathic medical examiners after consultation with the board of pharmacy, provided that the prescribing, administering and distributing are done under the direction of a supervising osteopathic physician and within the parameters of a board-approved formulary and guidelines established under Paragraph (3) of Subsection A of Section 61-10A-6 NMSA 1978. The distribution process shall comply with state laws concerning prescription packaging, labeling and record keeping requirements. Osteopathic physician's assistants shall not otherwise dispense dangerous drugs or controlled substances.

C. An osteopathic physician's assistant shall perform only those acts and duties assigned him by a supervising osteopathic physician that are within the scope of practice of the supervising osteopathic physician.

D. An applicant for a certificate of qualification as an osteopathic physician's assistant shall complete such application forms as supplied by the board and pay a fee as provided in Section 6-10A-4.1 NMSA 1978. Upon being certified by the board, the applicant shall have his name and address and other pertinent information enrolled by the board on a roster of osteopathic physician's assistants.

E. Each certified osteopathic physician's assistant shall annually submit proof of completion of continuing education as required by the board and register his

employment with the board, stating his name and current address, the name and office address of both his employer and the supervising osteopathic physician and such additional information as the board deems necessary. Upon any change of employment as an osteopathic physician's assistant, such registration shall automatically be void. Each annual registration or registration of new employment shall be accompanied by a fee as provided in Section 61-10A-4.1 NMSA 1978."

Section 16

Section 16. Section 61-10A-6 NMSA 1978 (being Laws 1979, Chapter 26, Section 6, as amended by Laws 1989, Chapter 9, Section 9 and also by Laws 1989, Chapter 371, Section 8) is amended to read:

"61-10A-6. RULES AND REGULATIONS.--

A. The board may adopt and enforce reasonable rules and regulations:

(1) for setting qualifications of education, skill and experience for certification of a person as an osteopathic physician's assistant and providing forms and procedures for certificates of qualification and for annual registration of employment;

(2) for examining and evaluating applicants for certificates of qualification as an osteopathic physician's assistant as to their skill, knowledge and experience in the field of medical care;

(3) for establishing when and for how long an osteopathic physician's assistant is permitted to prescribe, administer and distribute dangerous drugs other than controlled substances in Schedule I of the Controlled Substances Act pursuant to regulations adopted by the New Mexico board of osteopathic medical examiners after consultation with the board of pharmacy;

(4) for allowing a supervising osteopathic physician to temporarily delegate his supervisory responsibilities for an osteopathic physician's assistant to another osteopathic physician;

(5) for allowing an osteopathic physician's assistant to temporarily serve under the supervision of an osteopathic physician other than the supervising osteopathic physician of record; and

(6) for the purpose of carrying out all other provisions of the Osteopathic Physicians' Assistants Act.

B. The board shall not adopt any rule or regulation allowing an osteopathic physician's assistant to dispense dangerous drugs, to measure the powers, range or accommodative status of human vision, diagnose vision problems, prescribe lenses,

prisms, vision training or contact lenses or fit contact lenses. This section shall not preclude vision screening."

Section 17

Section 17. TEMPORARY PROVISION--MEDICAL RESIDENCY PROGRAMS--STATE COOPERATION.--

A. The legislature finds that the expansion of hospital physician residency programs may extend and expand limited health delivery resources into rural and other medically underserved areas of the state.

B. The department of health and the university of New Mexico school of medicine shall assist hospitals in the state to develop and expand physician residencies in family practice, internal medicine, obstetrics, gynecology and pediatrics in rural or other medically underserved areas. The department and the school of medicine shall provide information and technical assistance to enhance hospital physician residency programs in rural or other medically underserved areas.

Section 18

Section 18. TEMPORARY PROVISION--UNIVERSITY OF NEW MEXICO--PHYSICIAN ASSISTANT TRAINING PROGRAM.--The board of regents of the university of New Mexico shall establish a primary care physician assistant training program designed to meet the needs of the state.

Section 19

Section 19. EFFECTIVE DATE.--The effective date of the provisions of Sections 1, 2, 13 and 14 of this act is July 1, 1994.

Section 20

Section 20. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

SENATE BILL 459

EMERGENCY CLAUSE -- SIGNED MARCH 4, 1994

CHAPTER 58

AMENDING THE COMPREHENSIVE HEALTH INSURANCE POOL ACT; PROVIDING PREMIUM REDUCTIONS FOR CERTAIN LOW-INCOME PERSONS INSURED IN THE COMPREHENSIVE HEALTH INSURANCE POOL; CHANGING CERTAIN PREMIUM TAX CREDIT PROVISIONS.

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

Section 1

Section 1. Section 59A-54-10 NMSA 1978 (being Laws 1987, Chapter 154, Section 10, as amended) is amended to read:

"59A-54-10. ASSESSMENTS.--

A. Following the close of each fiscal year, the pool administrator shall determine the net premium, being premiums less administrative expense allowances, the pool expenses and claim expense losses for the year, taking into account investment income and other appropriate gains and losses. The assessment for each insurer shall be determined by multiplying the total cost of pool operation by a fraction the numerator of which equals that insurer's premium and subscriber contract charges or their equivalent for health insurance written in the state during the preceding calendar year and the denominator of which equals the total of all premiums and subscriber contract charges written in the state; provided that premium income shall not include any payments by the secretary of health and human services pursuant to a contract issued under Section 1876 of the Social Security Act, as amended. The board may adopt other or additional methods of adjusting the formula to achieve equity of assessments among pool members.

B. If assessments exceed actual losses and administrative expenses of the pool, the excess shall be held at interest and used by the board to offset future losses or to reduce pool premiums. As used in this subsection, "future losses" includes reserves for incurred but not reported claims.

C. The proportion of participation of each member in the pool shall be determined annually by the board based on annual statements and other reports deemed necessary by the board and filed with it by the member. Any deficit incurred by the pool shall be recouped by assessments apportioned among the members of the pool pursuant to the assessment formula provided by Subsection A of this section; provided that the assessment for any pool member shall be allowed as a thirty percent credit on the premium tax return for that member.

D. The board may abate or defer, in whole or in part, the assessment of a member of the pool if, in the opinion of the board, payment of the assessment would endanger the ability of the member to fulfill its contractual obligation. In the event an assessment against a member of the pool is abated or deferred in whole or in part, the amount by which such assessment is abated or deferred may be assessed against the other members in a manner consistent with the basis for assessments set forth in Subsection A of this section. The member receiving the abatement or deferment shall remain liable to the pool for the deficiency for four years."

Section 2

Section 2. Section 59A-54-19 NMSA 1978 (being Laws 1987, Chapter 154, Section 19, as amended) is amended to read:

"59A-54-19. RATES--STANDARD RISK RATE.--

A. The pool shall determine a standard risk rate by actuarially calculating the individual rate that an insurer would charge for an individual policy with the pool benefits issued to a person who was a standard risk. Separate schedules of standard risk rates based on age and other appropriate demographic characteristics may be used. In determining the standard risk rate, the pool shall consider the benefits provided, the standard risk experience and the anticipated expenses for a standard risk for the coverage provided. The rates charged for pool coverage shall be no more than one hundred fifty percent of the standard risk rate for each class of insureds.

B. The board shall adopt a rate that provides that a person with an income less than or equal to the federal poverty level shall pay no more than one hundred percent of the standard risk rate. The board shall adopt a schedule of rates so that rates for persons with incomes between one hundred and two hundred percent of the federal poverty level shall pay a rate that varies equitably by income level up to the maximum one hundred fifty percent of the standard risk rate. As nearly as is practical, no person's rate shall exceed the standard risk rate by a percentage that is more than one-half the percentage by which the person's income exceeds the federal poverty level. The board shall adopt as many income categories as it finds practical and shall determine income based on the preceding taxable year.

C. All rates and rate schedules shall be submitted to the superintendent for approval."

Section 3

Section 3. APPLICABILITY.--The provisions of this act apply to assessments made on or after July 1, 1994 and taxes due on or after July 1, 1994.

SENATE BILL 502

CHAPTER 59

RELATING TO HEALTH INFORMATION; ENSURING COMPREHENSIVE COLLECTION OF HEALTH DATA; EXPANDING POWERS AND DUTIES OF THE NEW MEXICO HEALTH POLICY COMMISSION; MAKING APPROPRIATIONS; DECLARING AN EMERGENCY.

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

Section 1

Section 1. Section 24-14-27 NMSA 1978 (being Laws 1961, Chapter 44, Section 25, as amended) is amended to read:

"24-14-27. DISCLOSURE OF RECORDS.--

A. It is unlawful for any person to permit inspection of or to disclose information contained in vital records or to copy or issue a copy of all or part of any record except as authorized by law.

B. The department shall provide access to record level data required by the New Mexico health policy commission and the health information system created in the Health Information System Act. The New Mexico health policy commission and the health information system may only release record level data obtained from vital records in the aggregate. For the purposes of this subsection, "record level data" means one or more unique and non-aggregated data elements relating to a single identifiable individual. The department may authorize the disclosure of data contained in vital records for other research purposes.

C. When one hundred years have elapsed after the date of birth or fifty years have elapsed after the date of death, the vital records of these events in the custody of the state registrar shall become open public records, and information shall be made available in accordance with regulations that provide for the continued safekeeping of the records; provided that vital records of birth shall not become open public records prior to the individual's death."

Section 2

Section 2. Section 24-14A-1 NMSA 1978 (being Laws 1989, Chapter 29, Section 1) is amended to read:

"24-14A-1. SHORT TITLE.--Chapter 24, Article 14A NMSA 1978 may be cited as the "Health Information System Act"."

Section 3

Section 3. Section 24-14A-2 NMSA 1978 (being Laws 1989, Chapter 29, Section 2) is amended to read:

"24-14A-2. DEFINITIONS.--As used in the Health Information System Act:

A. "aggregate data" means data which is obtained by combining like data in a manner which precludes specific identification of a single client or provider;

B. "commission" means the New Mexico health policy commission;

C. "department" means the department of health;

D. "health information" or "health data" means any data relating to health care; health status, including environmental, social and economic factors; the health system; or health costs and financing;

E. "hospital" means any general or special hospital licensed by the department, whether publicly or privately owned;

F. "long-term care facility" means any skilled nursing facility or nursing facility licensed by the department, whether publicly or privately owned;

G. "data source" includes those categories of persons or entities that possess health information, including any public or private sector licensed health care practitioner, primary care clinic, ambulatory surgery center, ambulatory urgent care center, ambulatory dialysis unit, home health agency, long-term care facility, hospital, pharmacy, third-party payer and any public entity that has health information; and

H. "third-party payer" means any public or private payer of health care services and includes health maintenance organizations and health insurers."

Section 4

Section 4. Section 24-14A-3 NMSA 1978 (being Laws 1989, Chapter 29, Section 3) is amended to read:

"24-14A-3. HEALTH INFORMATION SYSTEM--CREATION--DUTIES OF COMMISSION.--

A. The "health information system" is created for the purpose of assisting the commission, legislature and other agencies and organizations in the state's efforts in collecting, analyzing and disseminating health information to assist:

(1) in the performance of health planning and policymaking functions, including identifying personnel, facility, education and other resource needs and allocating financial, personnel and other resources where appropriate;

(2) consumers in making informed decisions regarding health care; and

(3) in administering, monitoring and evaluating a statewide health plan.

B. In carrying out its powers and duties pursuant to the Health Information System Act, the commission shall not duplicate databases that exist in the public sector or databases in the private sector to which it has electronic access. Every governmental entity shall provide the commission with access to its health-related data as needed by

the commission. The commission shall collect data from data sources in the most cost-effective and efficient manner.

C. The commission shall establish, operate and maintain the health information system.

D. In establishing, operating and maintaining the system, the commission shall:

(1) obtain information on the following health factors:

- death;
- (a) mortality and natality, including accidental causes of death;
 - (b) morbidity;
 - (c) health behavior;
 - (d) disability;
 - (e) health system costs, availability, utilization and revenues;
 - (f) environmental factors;
 - (g) health personnel;
 - (h) demographic factors;
 - (i) social, cultural and economic conditions affecting health;
 - (j) family status; and
 - (k) medical and practice outcomes as measured by nationally accepted standards and quality of care;

(2) give the highest priority in data gathering to information needed to implement and monitor progress toward achievement of the state health policy, including determining where additional health resources such as personnel, programs and facilities are most needed, what those additional resources should be and how existing resources should be reallocated;

(3) standardize collection and specific methods of measurement across databases and use scientific sampling or complete enumeration for collecting and reporting health information;

(4) take adequate measures to provide system security for all health data acquired under the Health Information System Act and protect individual patient and provider confidentiality. The right to privacy for the individual shall be a major consideration in the collection and analysis of health data and shall be protected in the reporting of results;

(5) adopt and promulgate regulations necessary to establish and administer the provisions of the Health Information System Act, including an appeals process for data sources and procedures to protect data source proprietary information from public disclosure;

(6) establish definitions, formats and other common information standards for core health data elements of the health information system in order to provide an integrated financial, statistical and clinical health information system, including a geographic information system, that allows data sharing and linking across databases maintained by data sources and federal, state and local public agencies;

(7) develop and maintain health and health-related data inventories and technical documentation on data holdings in the public and private sectors;

(8) collect, analyze and make available health data to support preventive health care practices and to facilitate the establishment of appropriate benchmark data to measure performance improvements over time;

(9) establish and maintain a systematic approach to the collection and storage of health data for longitudinal, demographic and policy impact studies;

(10) use expert system-based protocols to identify individual and population health risk profiles and to assist in the delivery of primary and preventive health care services;

(11) collect health data sufficient for consumers to be able to evaluate health care services, plans, providers and payers and to make informed decisions regarding quality, cost and outcome of care across the spectrum of health care services, providers and payers;

(12) collect comprehensive information on major capital expenditures for facilities, equipment by type and by data source and significant facility capacity reductions; provided that for the purposes of this paragraph and Section 24-14A-5 NMSA 1978, "major capital expenditure" means purchases of at least one million dollars (\$1,000,000) for construction or renovation of facilities and at least five hundred thousand dollars (\$500,000) for purchase or lease of equipment, and "significant facility capacity reductions" means those reductions in facility capacities as defined by the advisory committee established by the commission;

(13) serve as a health information clearinghouse, including facilitating private and public collaborative, coordinated data collection and sharing and access to appropriate data and information, maintaining patient and client confidentiality in accordance with state and federal requirements; and

(14) collect data in the most cost-efficient and effective method feasible and adopt regulations, after receiving recommendations from the advisory committee, that place a limit on the maximum amount of unreimbursed costs that a data source can incur in any year for the purposes of complying with the data requirements of the Health Information System Act."

Section 5

Section 5. Section 24-14A-4 NMSA 1978 (being Laws 1989, Chapter 29, Section 4) is amended to read:

"24-14A-4. HEALTH INFORMATION SYSTEM--APPLICABILITY.--

A. All data sources shall participate in the health information system. Requests for health data under the Health Information System Act from a member of a data source category shall, where reasonable and equitable, be made to all members of that data source category.

B. Upon making any request for health data pursuant to the Health Information System Act, the commission shall provide reasonable deadlines for compliance and shall give notice that noncompliance may subject the person to a civil penalty pursuant to Section 24-14A-10 NMSA 1978.

C. To the extent possible, the health information system shall be established in a manner to facilitate the exchange of information with other databases, including those maintained by the Indian health service and various agencies of the federal government."

Section 6

Section 6. Section 24-14A-5 NMSA 1978 (being Laws 1989, Chapter 29, Section 5) is amended to read:

"24-14A-5. HEALTH INFORMATION SYSTEM--IMPLEMENTATION--REGULATIONS.--In order to minimize the imposition of new reporting requirements on persons subject to the provisions of the Health Information System Act, the regulations to the extent reasonably possible shall provide that:

A. data shall be collected in a uniform manner;

B. when practicable, data collection shall be through the use of a standardized billing form as required by law;

C. other health data required to be submitted may include:

- (1) data that would customarily be collected in the ordinary course of business for the data source;
- (2) annual audited financial statements customarily prepared by a data source;
- (3) information on major capital expenditures;
- (4) data established by regulation to be collected to carry out the requirements of the Health Information System Act; and
- (5) data required to be collected by other state or federal laws; and

D. annual surveys or collection of data may be used as an alternative to collection of health data from some health service providers to the extent it can be shown that the information collected will meet validity and quality standards."

Section 7

Section 7. Section 24-14A-6 NMSA 1978 (being Laws 1989, Chapter 29, Section 6) is amended to read:

"24-14A-6. HEALTH INFORMATION SYSTEM--ACCESS.--

A. Access to data in the health information system shall be provided in accordance with regulations adopted by the commission pursuant to the Health Information System Act.

B. A data provider may obtain data it has submitted to the system, as well as aggregate data, but it may not access data submitted by another provider which is limited only to that provider. In no event may a data provider obtain data regarding an individual patient except in instances where that data was originally submitted by the requesting provider. Prior to the release of any data, in any form, data sources shall be permitted the opportunity to verify the accuracy of the data pertaining to that data source. Any data identified in writing as inaccurate shall be corrected prior to the data's release. Time limits shall be set for the submission and review of data by data sources and penalties shall be established for failure to submit and review the data within the established time.

C. Any person may obtain any aggregate data."

Section 8

Section 8. Section 24-14A-7 NMSA 1978 (being Laws 1989, Chapter 29, Section 7) is amended to read:

"24-14A-7. HEALTH INFORMATION SYSTEM--REPORTS.--

A. A report in printed format that provides information of use to the general public shall be produced annually. The report shall be made available upon request. The commission may make the report available on tape or other electronic format.

B. The commission shall provide an annual report of its activities, including health care system statistics, to the legislature. The report shall be submitted by November 15 each year."

Section 9

Section 9. Section 24-14A-8 NMSA 1978 (being Laws 1989, Chapter 29, Section 8) is amended to read:

"24-14A-8. HEALTH INFORMATION SYSTEM--CONFIDENTIALITY.--

A. Health information collected and disseminated pursuant to the Health Information System Act is strictly confidential and shall not be a matter of public record or accessible to the public except as provided in Sections 24-14A-6 and 24-14A-7 NMSA 1978. No data source shall be liable for damages to any person for having furnished the information.

B. The individual forms, computer tapes or other forms of data collected by and furnished for the health information system shall not be public records subject to inspection pursuant to Section 14-2-1 NMSA 1978. Compilations of aggregate data prepared for release or dissemination from the data collected, except for a report prepared for an individual data provider containing information concerning only its transactions shall be public records."

Section 10

Section 10. Section 24-14A-9 NMSA 1978 (being Laws 1989, Chapter 29, Section 9) is amended to read:

"24-14A-9. HEALTH INFORMATION SYSTEM--FEES.--Except for the annual reports required pursuant to the Health Information System Act, the commission may collect a fee of up to one hundred dollars (\$100) per hour to offset partially the costs of producing public-use data aggregations or data for single use special studies. Entities contributing data to the system shall be charged reduced rates. Rates shall be established by regulation and shall be reviewed annually. Fees collected pursuant to this section are appropriated to the commission to carry out the provisions of the Health Information System Act."

Section 11

Section 11. A new section of the Health Information System Act is enacted to read:

"ANNUAL REVIEW OF DATA NEEDS.--At least once each year, the commission, with the recommendations of the advisory committee and health information alliance, shall review its data collection requirements to determine the relevancy of the data elements on which it collects data and review its regulations and procedures for collecting, analyzing and reporting data for efficiency, effectiveness and appropriateness. The review shall consider the cost incurred by data sources to collect and submit data."

Section 12

Section 12. A new section of the Health Information System Act is enacted to read:

"INVESTIGATORY POWERS.--The commission has the right to verify the accuracy of data provided by any data source. The verification may include requiring the data source to submit documentation sufficient to verify the accuracy of the data in question or to provide direct inspection during normal business hours of only the records and documents that pertain directly to the data in question; provided that no data source shall be required to expend more than twenty-five thousand dollars (\$25,000) each year to comply with the provisions of this section."

Section 13

Section 13. A new section of the Health Information System Act is enacted to read:

"ADVISORY COMMITTEE.--

A. The commission shall establish an advisory committee to assist it in identifying data needs, reviewing data and collection and reporting procedures, reviewing costs and benefits of obtaining data and determining report formats.

B. The advisory committee shall consist of representatives of private and public data sources; consumers; state agencies that deliver or pay for health care; and professionals with expertise in areas such as epidemiology, health economics, health care financing and information systems. Members of the advisory committee shall be appointed by the commission.

C. The nonpublic voting members may receive per diem and mileage under the following conditions:

- (1) they are members who represent consumer interest;

(2) they are individuals who were not appointed to represent the views of the organization or agency for which they work; or

(3) they represent an organization that has a policy of not reimbursing travel expenses of employees or representatives for travel to meetings.

D. The advisory committee shall develop recommendations on:

(1) the specific data elements and their data sources to ascertain information on:

(a) quality of health care services, including access, appropriateness and consumer satisfaction;

(b) medical and practice outcomes, based on national standards;

(c) health system economics and finances, such as: 1) how much money is being spent on health care in New Mexico; 2) what health care services are being purchased; 3) where health care services are being purchased, both geographically and among health care providers; 4) what health care services are being used at what rates; 5) variations in costs and billed charges for the same health care services geographically and among health care providers; 6) causes of health care inflation in New Mexico; 7) rates and causes of increase in health care spending for different health services; and 8) reasonable premiums for given packages of benefits; and

(d) the release of patient information by physicians to ensure protection of confidentiality and privacy for patients;

(2) an appropriate procedure for processing non-aggregate data for public information and a schedule for phasing in the public release of non-aggregate information so that no later than July 1, 1997 the public will have access to information on which to base health care purchasing decisions;

(3) criteria and procedures to assess the costs and benefits of collecting and submitting data and criteria to determine when data sources need not provide data or may furnish data in an alternative form, due to unreasonable cost or burden of reporting; and

(4) a common definition of "proprietary" for all data sources."

Section 14

Section 14. A new section of the Health Information System Act is enacted to read:

"HEALTH INFORMATION ALLIANCE.--

A. The commission shall establish a health information alliance that will be broadly representative of public and private entities interested in gathering, sharing and evaluating health information and advising the commission on the design of the health information system. The health information alliance shall assist the commission in applying for grants to establish and maintain a comprehensive integrated health information system.

B. The health information alliance shall:

(1) develop a conceptual strategic plan for a coordinated and integrated statewide health information network;

(2) advise the commission on the technical development of the health information network;

(3) assist the commission with modeling for collecting, organizing, processing, analyzing and disseminating health information;

(4) serve as a neutral forum for the creative and collaborative exploration of solutions to health information needs;

(5) assist the commission in identifying and applying for potential funding sources for the development of the health information network and the health information alliance; and

(6) identify, prioritize and formulate recommendations for funding software and hardware technology and models to address short- and long-term health information needs of the state.

C. The health information alliance and the commission shall report to the appropriate interim legislative committee by August 1, 1994 and every six months thereafter on their progress in developing an integrated health information network."

Section 15

Section 15. A new section of the Health Information System Act is enacted to read:

"AGENCY COOPERATION.--All state agencies and political subdivisions shall cooperate with and assist the commission in carrying out the provisions of the Health Information System Act, including sharing information and joining in any appropriate health information system."

Section 16

Section 16. TEMPORARY PROVISION--ADVISORY COMMITTEE AND NEW MEXICO HEALTH POLICY COMMISSION REPORTS.--Recommendations from the advisory committee on health information issues shall be presented to the New Mexico health policy commission and the legislative health care task force by October 1, 1994. The commission shall review the advisory committee's recommendations and report the commission's recommendations on health information issues to the legislative health care task force by November 1, 1994.

Section 17

Section 17. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

SENATE BILL 556
EMERGENCY CLAUSE -- SIGNED MARCH 4, 1994

CHAPTER 60

AMENDING THE MINIMUM HEALTHCARE PROTECTION ACT; REQUIRING CERTAIN PROVIDERS OF HEALTH INSURANCE OR HEALTHCARE TO OFFER COVERAGE UNDER THE MINIMUM HEALTHCARE PROTECTION ACT; PROVIDING FOR COVERAGE REVISIONS AND ADJUSTED COMMUNITY RATING IN THE MINIMUM HEALTHCARE PROTECTION ACT.

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

Section 1

Section 1. Section 59A-23B-3 NMSA 1978 (being Laws 1991, Chapter 111, Section 3) is amended to read:

"59A-23B-3. POLICY OR PLAN--DEFINITION--CRITERIA.--

A. For purposes of the Minimum Healthcare Protection Act, "policy or plan" means a healthcare benefit policy or healthcare benefit plan that the insurer, fraternal benefit society, health maintenance organization or nonprofit healthcare plan chooses to offer to individuals, families or groups of fewer than twenty members formed for purposes other than obtaining insurance coverage and that meets the requirements of Subsection B of this section. For purposes of the Minimum Healthcare Protection Act, "policy or plan" shall not mean a healthcare policy or healthcare benefit plan that an insurer, health maintenance organization, fraternal benefit society or nonprofit healthcare plan chooses to offer outside the authority of the Minimum Healthcare Protection Act.

B. A policy or plan shall meet the following criteria:

(1) the individual, family or group obtaining coverage under the policy or plan has been without healthcare insurance, a health services plan or employer sponsored healthcare coverage for the six-month period immediately preceding the effective date of its coverage under a policy or plan, provided that the six-month period shall not apply to:

(a) a group that has been in existence for less than six months and has been without healthcare coverage since the formation of the group;

(b) an employee whose healthcare coverage has been terminated by an employer;

(c) a dependent who no longer qualifies as a dependent under the terms of the contract; or

(d) an individual and an individual's dependents who no longer have healthcare coverage as a result of termination or change in employment of the individual or by reason of death of a spouse or dissolution of a marriage, notwithstanding rights the individual or individual's dependents may have to continue healthcare coverage on a self-pay basis pursuant to the provisions of the federal Consolidated Omnibus Budget Reconciliation Act of 1985;

(2) the policy or plan includes the following managed care provisions to control costs:

(a) an exclusion for services that are not medically necessary or are not covered by preventive health services; and

(b) a procedure for preauthorization of elective hospital admissions by the insurer, fraternal benefit society, health maintenance organization or nonprofit healthcare plan; and

(3) subject to a maximum limit on the cost of healthcare services covered in any calendar year of not less than fifty thousand dollars (\$50,000), the policy or plan provides the following minimum healthcare services to covered individuals:

(a) inpatient hospitalization coverage or home care coverage in lieu of hospitalization or a combination of both, not to exceed twenty-five days of coverage inclusive of any deductibles, co-payments or co-insurance, provided that a period of inpatient hospitalization coverage shall precede any home care coverage;

(b) prenatal care, including a minimum of one prenatal office visit per month during the first two trimesters of pregnancy, two office visits per month during the seventh and eighth months of pregnancy and one office visit per week during the ninth month and until term, provided that coverage for each office visit shall also include prenatal counseling and education and necessary and appropriate creening,

including history, physical examination and the laboratory and diagnostic procedures deemed appropriate by the physician based upon recognized medical criteria for the risk group of which the patient is a member;

(c) obstetrical care, including physicians' and certified nurse midwives' services, delivery room and other medically necessary services directly associated with delivery;

(d) well-baby and well-child care, including periodic evaluation of a child's physical and emotional status, a history, a complete physical examination, a developmental assessment, anticipatory guidance, appropriate immunizations and laboratory tests in keeping with prevailing medical standards, provided that such evaluation and care shall be covered when performed at approximately the age intervals of birth, two weeks, two months, four months, six months, nine months, twelve months, fifteen months, eighteen months, two years, three years, four years, five years and six years;

(e) coverage for low-dose screening mammograms for determining the presence of breast cancer, provided that the mammogram coverage shall include one baseline mammogram for persons age thirty-five through thirty-nine years, one biennial mammogram for persons age forty through forty-nine years and one annual mammogram for persons age fifty years and over, and further provided that the mammogram coverage shall only be subject to deductibles and co-insurance requirements consistent with those imposed on other benefits under the same policy or plan;

(f) coverage for cytologic screening, to include a Papanicolaou test and pelvic exam for asymptomatic as well as symptomatic women; and

(g) a basic level of primary and preventive care, including, but not limited to, no less than seven physician, nurse practitioner, nurse midwife or physician assistant office visits per calendar year, including any ancillary diagnostic or laboratory tests related to the office visit.

C. A policy or plan may include the following managed care and cost control features to control costs:

(1) a panel of providers who have entered into written agreements with the insurer, fraternal benefit society, health maintenance organization or nonprofit healthcare plan to provide covered healthcare services at specified levels of reimbursement, provided that any such written agreement shall contain a provision relieving the individual, family or group covered by the policy or plan from any obligation to pay for any healthcare service performed by the provider that is determined by the insurer, fraternal benefit society, health maintenance organization or nonprofit healthcare plan not to be medically necessary;

(2) a requirement for obtaining a second opinion before elective surgery is performed;

(3) a procedure for utilization review by the insurer, fraternal benefit society, health maintenance organization or nonprofit healthcare plan; and

(4) a maximum limit on the cost of healthcare services covered in any calendar year of not less than fifty thousand dollars (\$50,000).

D. Nothing contained in Subsection C of this section shall prohibit an insurer, fraternal benefit society, health maintenance organization or nonprofit healthcare plan from including in the policy or plan additional managed care and cost control provisions that the superintendent of insurance determines to have the potential for controlling costs in a manner that does not cause discriminatory treatment of individuals, families or groups covered by the policy or plan.

E. Notwithstanding any other provisions of law, a policy or plan shall not exclude coverage for losses incurred for a pre-existing condition more than six months from the effective date of coverage. The policy or plan shall not define a pre-existing condition more restrictively than a condition for which medical advice was given or treatment recommended by or received from a physician within six months before the effective date of coverage.

F. No medical group, independent practice association or health professional employed by or contracting with an insurer, fraternal benefit society, health maintenance organization or nonprofit healthcare plan shall maintain any action against any insured person, family or group member for sums owed by an insurer, fraternal benefit society, health maintenance organization or nonprofit healthcare plan, for sums higher than those agreed to pursuant to a policy or plan."

Section 2

Section 2. Section 59A-23B-4 NMSA 1978 (being Laws 1991, Chapter 111, Section 4) is amended to read:

"59A-23B-4. MANDATED AND OPTIONAL OFFERING OF POLICY OR PLAN--
EXEMPTION FROM CERTAIN REQUIREMENTS.--

A. Every insurer, fraternal benefit society, health maintenance organization or nonprofit healthcare plan that provides primary health insurance or healthcare coverage that insures or covers major medical expenses to more than twenty-five thousand persons within the state shall offer a policy or plan that meets the requirements of the Minimum Healthcare Protection Act.

B. Insurers, fraternal benefit societies, health maintenance organizations and nonprofit healthcare plans not subject to the requirement of Subsection A of this

section may offer policies or plans meeting the criteria set forth in Section 59A-23B-3 NMSA 1978.

C. No policy or plan offered pursuant to the provisions of this section shall be required to provide any specific healthcare services or coverage required by any other provision of law except those specifically required by the provisions of the Minimum Healthcare Protection Act."

Section 3

Section 3. Section 59A-23B-6 NMSA 1978 (being Laws 1991, Chapter 111, Section 6) is amended to read:

"59A-23B-6. FORMS AND RATES--APPROVAL OF THE SUPERINTENDENT OF INSURANCE--ADJUSTED COMMUNITY RATING.--

A. All policy or plan forms, including applications, enrollment forms, policies, plans, certificates, evidences of coverage, riders, amendments, endorsements and disclosure forms shall be submitted to the department of insurance for approval prior to use.

B. No policy or plan may be issued in the state unless the rates have first been filed with and approved by the superintendent of insurance. This subsection shall not apply to policies or plans subject to the Small Group Rate and Renewability Act.

C. Until July 1, 1998, in determining the initial year's premium or rate charged for coverage under a policy or plan, the only rating factors that may be used are age, gender, geographic area of the place of employment and smoking practices. Until July 1, 1998, in determining the initial and any subsequent year's rate, the difference in rates in any one age group that may be charged on the basis of a person's gender shall not exceed another person's rates in the age group by more than twenty percent of the lower rate, and no person's rate shall exceed the rate of any other person with similar family composition by more than two hundred fifty percent of the lower rate, except that the rates for children under the age of nineteen may be lower than the bottom rates in the two hundred fifty percent band. The rating factor restrictions shall not prohibit an insurer, society, organization or plan from offering rates that differ depending upon family composition.

D. Effective July 1, 1998, each policy or plan covered by the Minimum Healthcare Protection Act shall charge the same premium for the same coverage to each New Mexico resident, regardless of a person's individual circumstances for medical risk, job risk or gender. The only rating factor that may be used is whether a person is under or over the age of nineteen.

E. The superintendent of insurance shall adopt regulations to implement the provisions of this section."

Section 4

Section 4. APPLICABILITY.--The provisions of this act apply to all plans and policies delivered, issued for delivery or renewed on or after January 1, 1995.

Section 5

Section 5. EFFECTIVE DATE.--The effective date of the provisions of this act is January 1, 1995.

HOUSE BILL 694

CHAPTER 61

RELATING TO THE EMERGENCY MEDICAL SERVICES FUND ACT; EXPANDING THE USES OF THE EMERGENCY MEDICAL SERVICES FUND; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978.

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

Section 1

Section 1. Section 24-10A-2 NMSA 1978 (being Laws 1978, Chapter 178, Section 2, as amended) is amended to read:

"24-10A-2. PURPOSE OF ACT.--The purpose of the Emergency Medical Services Fund Act is to make money available to municipalities and counties, in proportion to their needs, for use in the establishment and enhancement of local emergency medical services in order to reduce injury and loss of life."

Section 2

Section 2. A new section of the Emergency Medical Services Fund Act is enacted to read:

"DEFINITIONS.--As used in the Emergency Medical Services Fund Act:

A. "bureau" means the primary care and emergency medical services bureau of the public health division of the department;

B. "committee" means the emergency medical services advisory committee appointed pursuant to the provisions of Section 24-10B-7 NMSA 1978;

C. "department" means the department of health;

D. "fund" means the emergency medical services fund;

E. "local recipient" means an ambulance service, rescue service, fire department rescue service or other prehospital care provider:

(1) that routinely responds to an individual's need for immediate medical care in order to prevent loss of life or aggravation of physical or psychological illness or injury;

(2) whose application for funding through the Emergency Medical Services Fund Act is sponsored by a municipality or county; and

(3) that meets department guidelines concerning personnel training, use of bureau-approved run forms, participation in mutual aid agreements and medical control;

F. "municipality" means an incorporated city, town or village;

G. "run" means a separately documented and reported response by a local recipient to a request for assistance to or transportation of sick or injured persons; and

H. "secretary" means the secretary of health."

Section 3

Section 3. Section 24-10A-3 NMSA 1978 (being Laws 1978, Chapter 178, Section 3, as amended) is amended to read:

"24-10A-3. EMERGENCY MEDICAL SERVICES FUND CREATED--FUNDING.--

A. The "emergency medical services fund" is created in the state treasury. Money in the fund shall not revert at the end of any fiscal year. Money appropriated to the fund or accruing to it through gifts, grants, fees or bequests shall be deposited in the fund. Interest earned on investment of the fund shall be credited to the general fund. Disbursements from the fund shall be made upon warrants drawn by the secretary of finance and administration pursuant to vouchers signed by the secretary or his authorized representative.

B. The bureau shall administer the fund and provide for the distribution of the fund pursuant to the Emergency Medical Services Fund Act and regulations adopted pursuant to the provisions of that act.

C. In any fiscal year, no less than seventy-five percent of the money in the fund shall be used for the local emergency medical services funding program to support the cost of supplies and equipment and operational costs other than salaries and

benefits for emergency medical services personnel. This money shall be distributed to municipalities and counties on behalf of eligible local recipients, using a formula established pursuant to regulations adopted by the department. The formula shall determine each municipality's and county's share of the fund based on the relative geographic size and population of each county. The formula shall also base the distribution of money for each municipality and county on the relative number of runs of each local recipient eligible to participate in the distribution.

D. In any fiscal year, no more than:

(1) twenty-two percent of the fund may be used for emergency medical services system improvement projects, including the purchase of emergency medical services vehicles, local and statewide emergency medical services system support projects and statewide trauma care system program; and

(2) three percent of the fund may be used by the bureau for administrative costs, including monitoring and providing technical assistance.

E. In any fiscal year, money in the fund that is not distributed pursuant to the provisions of Subsection D of this section may be distributed pursuant to the provisions of Subsection C of this section."

Section 4

Section 4. Section 24-10A-4 NMSA 1978 (being Laws 1978, Chapter 178, Section 4, as amended) is amended to read:

"24-10A-4. FUNDING PROGRAM--PURPOSE--DETERMINATION OF NEEDS.--

A. The "local emergency medical services funding program" is created. The program shall provide for the:

(1) establishment or enhancement of local emergency medical services, including the use of advanced technology equipment;

(2) operational costs other than salaries and benefits of local emergency medical services personnel;

(3) purchase, repair and maintenance of emergency medical services vehicles, equipment and supplies, including the use of advanced technology equipment; and

(4) training and licensing of local emergency medical services personnel.

B. Annually on or before June 1, the bureau shall consider and determine, in accordance with the formula adopted by regulation of the department, the amount of distribution to municipalities and counties that have applied for money from the fund. In making its determination, the bureau shall ensure that no municipality or county receives money from the fund for the purpose of accumulation as defined by regulation of the department. The bureau shall also ensure that each local recipient is in compliance with the regulations of the department."

Section 5

Section 5. Section 24-10A-5 NMSA 1978 (being Laws 1978, Chapter 178, Section 5, as amended) is amended to read:

"24-10A-5. FUNDING PROGRAM--AWARDS--APPEALS.--The bureau shall promptly notify each municipality and county that has applied for money and the local recipient of the bureau's determination to grant or deny an application for funding through the local emergency medical services funding program. A municipality or county may appeal a determination of the bureau within ten working days after notification of the determination. The bureau shall refer the appeal to the committee for its review and recommendation. The committee shall make its recommendation to the secretary, who shall make a final determination about whether to grant or deny an application for funding. The secretary shall notify the appellant of his decision on or before June 30."

Section 6

Section 6. Section 24-10A-6 NMSA 1978 (being Laws 1978, Chapter 178, Section 6, as amended) is amended to read:

"24-10A-6. DISTRIBUTION OF FUND.--On or before August 31, the local emergency medical services funding program distribution shall be made to each incorporated municipality and county as determined by the department. No more than twenty thousand dollars (\$20,000) shall be distributed from the fund to the benefit of a single local recipient in any fiscal year pursuant to the local emergency medical services funding program."

Section 7

Section 7. Section 24-10A-7 NMSA 1978 (being Laws 1978, Chapter 178, Section 7, as amended) is amended to read:

"24-10A-7. FUNDING PROGRAM--EXPENDITURES FROM FUND.--Any money distributed from the fund for the purposes of the local emergency medical services funding program shall be expended only for those purposes."

Section 8

Section 8. Section 24-10A-8 NMSA 1978 (being Laws 1978, Chapter 178, Section 8, as amended) is amended to read:

"24-10A-8. FUNDING PROGRAM--CONTROL OF EXPENDITURES.--Money distributed from the fund shall be expended only for the purposes stated in the application to the bureau and shall be expended on the authorization of the chief executive of the incorporated municipality or county upon vouchers issued by its treasurer."

Section 9

Section 9. Section 24-10A-9 NMSA 1978 (being Laws 1978, Chapter 178, Section 9, as amended) is amended to read:

"24-10A-9. FUNDING PROGRAM--INSPECTION BY THE BUREAU.--The bureau and its designated agents have the authority at all normal hours of operation to enter in and upon all buildings and premises where emergency medical services vehicles, equipment and supplies acquired with expenditures from the fund are located for the purposes of examination and inspection."

Section 10

Section 10. A new section of the Emergency Medical Services Fund Act is enacted to read:

"EMERGENCY MEDICAL SERVICES SYSTEM IMPROVEMENT PROJECTS.--

A. Applications for emergency medical services system improvement projects shall be submitted separately from applications for the local emergency medical services funding program. The bureau shall award emergency medical services system improvement projects after a review of the applications. The awards shall be made based on a priority ranking, demonstrated need for funding and recommendations from the committee. Money awarded shall be used in compliance with applicable rules and regulations.

B. Applications for funding to purchase emergency medical services vehicles shall be submitted by incorporated municipalities or counties on behalf of local recipients. The municipality or county shall commit to providing matching funds of at least twenty-five percent of the cost of purchasing the vehicle.

C. Applications for funding of local and statewide projects shall demonstrate the need for funding and a plan to use the funding to enhance or better integrate local emergency medical services systems or to improve the health, safety and training of emergency medical services technicians statewide.

D. The statewide trauma care system program shall be developed and determined by the bureau in consultation with the committee. The statewide trauma care system program shall provide for the support, development and expansion of the statewide trauma care system in accordance with regulations adopted by the department."

Section 11

Section 11. A new section of the Emergency Medical Services Fund Act is enacted to read:

"MUTUAL AID AGREEMENTS.--Incorporated municipalities, counties and local recipients are encouraged to develop mutual aid agreements with other municipalities, counties and local recipients for the purpose of ensuring that adequate emergency medical services coverage exists throughout the state. For the benefit of the public, equipment and other emergency medical services resources obtained through money from the fund shall be shared among the parties to a mutual aid agreement."

Section 12

Section 12. A new section of the Emergency Medical Services Fund Act is enacted to read:

"LOSS OF FUNDING ELIGIBILITY.--A municipality, county or local recipient that the bureau finds has expended money in violation of the Emergency Medical Services Fund Act may be ineligible to receive funding from the bureau for a period of not less than one year or more than three years, as determined by the bureau in accordance with rules and regulations adopted by the department."

Section 13

Section 13. A new section of the Emergency Medical Services Fund Act is enacted to read:

"REGULATIONS.--The department shall adopt regulations pursuant to Subsection E of Section 9-7-6 NMSA 1978 to carry out the provisions of the Emergency Medical Services Fund Act."

Section 14

Section 14. TEMPORARY PROVISION.--The provisions of Section 24-10A-3 NMSA 1978 notwithstanding, any unexpended or unencumbered balance remaining in the emergency medical services fund at the end of the eighty-second fiscal year shall revert to the general fund.

Section 15

Section 15. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1994.

HOUSE BILL 701

CHAPTER 62

RELATING TO HEALTH CARE STUDIES, REPORTS AND PROGRAM FUNDING; PROVIDING FOR THE CONTINUATION OF HEALTH CARE REFORM PLANNING; PROVIDING FOR PRIMARY CARE FACILITIES IN RURAL AND UNDERSERVED AREAS OF THE STATE; EXPANDING THE MEDICAID PROGRAM; EXPANDING RURAL PRIMARY HEALTH CARE; PROVIDING FUNDING FOR BORDER HEALTH SERVICES; REQUIRING COST-CONTAINMENT MEASURES IN CERTAIN PUBLICLY FUNDED HEALTH PLANS; DECLARING AN EMERGENCY.

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

Section 1

Section 1. HEALTH CARE TASK FORCE CREATED--TERMINATION.--There is created a joint interim legislative task force, which shall be known as the "health care task force". The task force shall function from the date of its appointment until the first day of December prior to the second session of the forty-second legislature.

Section 2

Section 2. MEMBERSHIP--APPOINTMENT--VACANCIES.--

A. The task force shall be composed of twelve voting legislative members and ten nonvoting, advisory nonlegislative members. The legislative council shall appoint six members of the house of representatives, one of whom shall be the chairman or vice chairman of the interim health and human services committee, and six members of the senate, one of whom shall be the chairman or vice chairman of the interim health and human services committee. At the time of making the appointments, the legislative council shall designate the chairman and vice chairman of the task force.

B. Members shall be appointed from each house so as to give the two major political parties in each house the same proportional representation on the task force as prevails in each house; however, in no event shall either party have less than one member from each house on the task force. Vacancies on the task force shall be filled by appointment in the same manner as the original appointments.

C. No action shall be taken by the task force if a majority of the total membership from either house on the task force rejects such action.

D. The nonvoting advisory nonlegislative members of the task force who do not serve ex officio shall be appointed by the speaker of the house of representatives and the president pro tempore of the senate as follows:

- (1) two public members representing the business community, one representing small employers and one representing large employers;
- (2) a public member who is an attorney with expertise in the area of health care;
- (3) a health care reform advocate; and
- (4) two members of a Native American tribe or pueblo of this state.

E. The additional nonvoting advisory nonlegislative members shall be:

- (1) the secretary of human services or his designee;
- (2) the secretary of health or his designee;
- (3) a representative of the New Mexico health policy commission appointed by the governor; and
- (4) the superintendent of insurance or his designee.

F. The public members shall be paid per diem and mileage in accordance with the provisions of the Per Diem and Mileage Act.

G. Additionally, the speaker of the house of representatives and the president pro tempore of the senate may appoint an advisory group to the task force composed of representatives of health care providers, the New Mexico medical society, the New Mexico hospital association, the nursing profession, the association of counties, the municipal league, community-based providers, the insurance industry, consumers employers, the workers' compensation administration, the retiree health care authority, the public school insurance authority and the risk management division of the general services department.

Section 3

Section 3. DUTIES.--After its appointment, the task force shall hold one organizational meeting to develop a workplan and budget for the ensuing interim. The workplan and budget shall be submitted to the legislative council for approval. Upon approval of the workplan and budget by the legislative council, the task force shall:

A. bring together the various groups working on issues related to health care reform to facilitate the development and implementation of a comprehensive health care delivery system for New Mexico;

B. investigate health care delivery and payment initiatives to support and provide universal health care for all New Mexicans by October 1, 1997, pursuant to the provisions of Section 23 of this 1994 act;

C. consider the infrastructure and personnel necessary for health care delivery;

D. investigate cost-containment measures that may be implemented to assure the efficient use of public and private funds for health care;

E. consider the impact of national health care reforms on health care delivery and payment proposals in New Mexico;

F. provide legislative oversight on the implementation of health care reform measures and health care delivery and payment proposals that become law; and

G. recommend legislation or changes if any are found to be necessary to the first and second sessions of the forty-second legislature.

Section 4

Section 4. SUBCOMMITTEES.--Subcommittees shall be created only by majority vote of all members appointed to the task force and with the prior approval of the legislative council. A subcommittee shall be composed of at least one member from the senate and one member from the house of representatives, and at least one member of the minority party shall be a member of the subcommittee. All meetings and expenditures of a subcommittee shall be approved by the full task force in advance of such meeting or expenditure, and the approval shall be shown in the minutes of the task force.

Section 5

Section 5. REPORT.--The task force shall make a report of its findings and recommendations for the consideration of the first and second sessions of the forty-second legislature. The reports and suggested legislation shall be made available to the legislative council, the legislative finance committee, the interim health and human services committee and the New Mexico health policy commission on or before November 30 preceding each session.

Section 6

Section 6. STAFF.--The staff for the task force shall be provided by the legislative council service. The legislative council service at the direction of the task force may hire

additional staff as necessary and may contract with experts, including economists, actuaries and the bureau of business and economic research, to assist the task force in carrying out its tasks.

Section 7

Section 7. SHORT TITLE.--Sections 7 through 16 of this act may be cited as the "Primary Care Capital Funding Act".

Section 8

Section 8. PURPOSE.--The purpose of the Primary Care Capital Funding Act is to provide funding for capital projects to eligible entities in order to increase health care services in rural and other health care underserved areas in the state.

Section 9

Section 9. DEFINITIONS.--As used in the Primary Care Capital Funding Act:

- A. "authority" means the New Mexico finance authority;
- B. "capital project" means repair, renovation or construction of a facility or purchase of land;
- C. "department" means the department of health;
- D. "eligible entity" means a community-based nonprofit primary care clinic or hospice that operates in a rural or other health care underserved area of the state and that has assets totaling less than ten million dollars (\$10,000,000) and is a 501(c)(3) nonprofit corporation for federal income tax purposes;
- E. "fund" means the primary care capital fund; and
- F. "primary care" means the first level of basic or general health care for an individual's health needs, including diagnostic and treatment services; "primary care" includes the provision of mental health services if those services are integrated into the eligible entity's service array.

Section 10

Section 10. PRIMARY CARE CAPITAL FUND--CREATION.--

- A. The "primary care capital fund" is created as a revolving fund in the state treasury. The fund shall consist of appropriations, loan repayments, gifts, grants,

donations and interest earned on investment of the fund. Money in the fund shall not revert at the end of a fiscal year.

B. The fund shall be administered by the authority. Administrative costs of the authority or department shall not be paid from the fund. Money in the fund shall be expended only on warrants drawn by the secretary of finance and administration pursuant to vouchers signed by the director of the authority or his authorized representative.

Section 11

Section 11. REGULATIONS.--

A. Prior to September 15, 1994, the department, in conjunction with the authority, shall adopt regulations to administer and implement the provisions of the Primary Care Capital Funding Act, including providing for:

(1) the determination of rural or other health care underserved areas of the state in which eligible entities may receive loans or contracts for services from the fund;

(2) procedures and forms for applying for loans or contracts for services for capital projects;

(3) documentation required to be provided by the applicant to justify the need for the capital project;

(4) documentation required to be provided by the applicant to demonstrate that the applicant is an eligible entity;

(5) procedures for review, evaluation and approval of loans and contracts for services, including the programmatic, organizational and financial information necessary to review, evaluate and approve an application;

(6) evaluation of the ability and competence of an applicant to provide efficiently and adequately for the completion of a proposed capital project;

(7) approval of loan and contract for services applications, including provisions that accord priority attention to areas with the greatest need for primary care services;

(8) fair geographic distribution of loans and contracts for services;

(9) requirements for repayment of loans, including payment schedules, interest rates, loan terms and other requirements;

(10) ensuring the state's interest in any capital project by the filing of a lien equal to the total of the state's financial participation in the project; and

(11) such other requirements deemed necessary by the department to ensure that the state receives the primary care services for which the legislature appropriates money and that protects the state's interest in a capital project.

B. Regulations adopted by the department shall become effective when filed in accordance with the provisions of the State Rules Act.

Section 12

Section 12. DEPARTMENT--AUTHORITY--POWERS AND DUTIES.--

A. The department and the authority shall administer the loan programs and contracts for services established pursuant to the provisions of the Primary Care Capital Funding Act. The department and authority shall:

(1) enter into joint powers agreements with each other or other appropriate public agencies to carry out the provisions of that act; and

(2) apply to any appropriate federal, state or local governmental agency or private organization for grants and gifts to carry out the provisions of that act or to fund allied community-based health care programs.

B. The department or authority may, instead of a loan, contract for services with an eligible entity to provide free or reduced fee primary care services for sick and medically indigent persons as reasonably adequate legal consideration for money from the fund to the entity so it may acquire or construct a capital project to provide the services.

C. The department and authority may:

(1) make and enter into contracts and agreements necessary to carry out their powers and duties pursuant to the provisions of the Primary Care Capital Funding Act; and

(2) do all things necessary or appropriate to carry out the provisions of the Primary Care Capital Funding Act.

D. The authority is responsible for all financial duties of the programs, including:

(1) administering the fund;

(2) accounting for all money received, controlled or disbursed for capital projects in accordance with the provisions of the Primary Care Capital Funding Act;

(3) evaluating and approving loans and contracts for services, including determining financial capacity of an eligible entity;

(4) enforcing contract provisions of loans and contracts for services, including the ability to sue to recover money or property owed the state;

(5) determining interest rates and other financial aspects of a loan and relevant terms of a contract for services; and

(6) performing other duties in accordance with the provisions of the Primary Care Capital Funding Act, regulations promulgated pursuant to that act or joint powers agreements entered into with the department.

E. The department is responsible for programmatic duties, including:

(1) defining sick and medically indigent persons for purposes of the Primary Care Capital Funding Act;

(2) establishing priorities for loans and contracts for services;

(3) determining the appropriateness of the capital project;

(4) evaluating the capability of an applicant to provide and maintain primary care or hospice services;

(5) selecting recipients of loans and persons with whom to contract for services;

(6) determining that capital projects comply with all state and federal licensing requirements; and

(7) contracting with an eligible entity to provide primary care services without charge or at a reduced fee for sick and medically indigent persons as defined by the department.

F. The authority may make a loan to an eligible entity to acquire or construct a capital project, provided there is a finding:

(1) by the department that the project will provide primary care services to sick and medically indigent persons as defined by the department; and

(2) by the authority that there is adequate protection for the state funds extended for the loan.

Section 13

Section 13. LAND ACQUISITION.--If land is purchased with a loan from the fund, the department and the authority shall ensure that the title is merchantable and free and clear from liens or encumbrances. The state shall also require that a title insurance policy insuring the state's interest as a first lien be obtained as a condition of making the loan. The eligible entity shall not encumber the land purchased by granting or creating any additional security interest in the land while any amount of the loan is unpaid. The eligible entity shall pay immediately any encumbrance or lien against the land that attaches while any amount of the loan is unpaid. No grant money shall be used to purchase land.

Section 14

Section 14. CAPITAL PROJECTS--RANK OF LIENS.--The state shall have a first lien on any property on which a capital project is financed pursuant to the Primary Care Capital Funding Act, except for any prior liens of the federal government.

Section 15

Section 15. ELIGIBLE ENTITY--CHANGE IN STATUS.--If an eligible entity that has received a loan or contract for services for a capital project ceases to maintain its nonprofit status or ceases to deliver primary care services at the site of the capital project for twelve consecutive months, the state shall have the following remedies at its option, subject to other liens having preference:

A. order liquidation of the premises and recover any loan balance or amount due on the contract and any interest previously forgiven on the loan, imputed at the prevailing interest rate at the time of the loan; or

B. foreclose on the property and convert it to state use or transfer title to another eligible entity.

Section 16

Section 16. REPORT.--The department and the authority shall report jointly to the governor and the legislature by December 1 of each year on the primary care capital funding program.

Section 17

Section 17. Section 9-7-11.2 NMSA 1978 (being Laws 1991, Chapter 139, Section 2) is amended to read:

"9-7-11.2. NEW MEXICO HEALTH POLICY COMMISSION CREATED--
COMPOSITION --DUTIES.--

A. There is created the "New Mexico health policy commission", which is administratively attached to the department of finance and administration.

B. The New Mexico health policy commission shall consist of eight members appointed by the governor with the advice and consent of the senate to reflect the ethnic, economic, geographic and professional diversity of the state. No member of the commission shall have a pecuniary or fiduciary interest in the health services industry for three years preceding his appointment to the commission. Two members shall be appointed for one-year terms, three members shall be appointed for two-year terms, three members shall be appointed for three-year terms and all subsequent appointments shall be made for three-year terms.

C. The New Mexico health policy commission shall meet at the call of the chairman and shall meet not less than quarterly. The chairman shall be elected from among the members of the commission. Members of the New Mexico health policy commission shall not be paid but shall receive per diem and mileage expenses as provided in the Per Diem and Mileage Act.

D. The New Mexico health policy commission shall establish task forces as needed to make recommendations to the commission on various health issues. Task force members may include individuals who have expertise or a pecuniary or fiduciary interest in the health services industry. Voting members of a task force may receive mileage expenses if they:

(1) are members who represent consumer interests;

(2) are individuals who were not appointed to represent the views of the organization or agency for which they work; or

(3) represent an organization that has a policy of not reimbursing travel expenses of employees or representatives for travel to meetings.

E. The New Mexico health policy commission shall:

(1) develop a plan for and monitor the implementation of the state's health policy;

(2) obtain and evaluate information from a broad spectrum of New Mexico's society to develop and monitor the implementation of the state's health policy;

(3) obtain and evaluate information relating to factors that affect the availability and accessibility of health services and health care personnel in the public and private sectors;

(4) perform needs assessments on health personnel, health education and recruitment and retention and make recommendations regarding the training, recruitment, placement and retention of health professionals in underserved areas of the state;

(5) prepare and publish an annual report describing the progress in addressing the state's health policy and planning issues. The report shall include a workplan of goals and objectives for addressing the state's health policy and planning issues in the upcoming year;

(6) distribute the annual report to the governor, appropriate state agencies and interim legislative committees and interested parties;

(7) establish a process to prioritize recommendations on program development, resource allocation and proposed legislation;

(8) provide information and analysis on health issues;

(9) serve as a catalyst and synthesizer of health policy in the public and private sectors; and

(10) respond to requests by the executive and legislative branches of government."

Section 18

Section 18. Section 10-7-4 NMSA 1978 (being Laws 1941, Chapter 188, Section 1, as amended) is amended to read:

"10-7-4. GROUP INSURANCE--CAFETERIA PLAN--CONTRIBUTIONS FROM PUBLIC FUNDS.--

A. All state departments and institutions and all political subdivisions of the state, excluding municipalities and counties, shall cooperate in providing group term life, medical or disability income insurance for the benefit of eligible employees or salaried officers of the respective departments, institutions and subdivisions.

B. The group insurance contributions of the state or any of its departments or institutions, including institutions of higher education and the public schools, shall be made as follows:

(1) seventy-five percent of the cost of the insurance of an employee whose annual salary is less than fifteen thousand dollars (\$15,000);

(2) seventy percent of the cost of the insurance of an employee whose annual salary is fifteen thousand dollars (\$15,000) or more but less than twenty thousand dollars (\$20,000);

(3) sixty-five percent of the cost of the insurance of an employee whose annual salary is twenty thousand dollars (\$20,000) or more but less than twenty-five thousand dollars (\$25,000); or

(4) sixty percent of the cost of the insurance of an employee whose annual salary is twenty-five thousand dollars (\$25,000) or more.

As used in this subsection, "cost of the insurance" means the premium required to be paid to provide coverages. Any contributions of the political subdivisions of the state, except the public schools, shall not exceed sixty percent of the cost of the insurance.

C. When a public employee elects to participate in a cafeteria plan as authorized by the Cafeteria Plan Act and enters into a salary reduction agreement with the governmental employer, the provision of Subsection B of this section with respect to the maximum contributions that can be made by the employer are not violated and will still apply. The employer percentage or dollar contributions as provided in Subsection B of this section shall be determined by the employee's gross salary prior to any salary reduction agreement.

D. Any group medical insurance plan offered pursuant to this section shall include effective cost-containment measures to control the growth of health care costs. The responsible public body that administers a plan offered pursuant to this section shall report annually by September 1 to appropriate interim legislative committees on the effectiveness of the cost-containment measures required by this subsection."

Section 19

Section 19. Section 10-7-4.2 NMSA 1978 (being Laws 1991, Chapter 191, Section 1) is amended to read:

"10-7-4.2. GROUP INSURANCE--COUNTIES AND MUNICIPALITIES--
CONTRIBUTIONS--DEFINITION--EXEMPTION FROM STATE PLAN.--

A. All municipalities and counties shall cooperate in providing group term life, medical or disability income insurance for the benefit of eligible employees or salaried officers of the respective departments, institutions and subdivisions.

B. Municipalities and counties may contribute any amount up to one hundred percent of the cost of the insurance. As used in this section, "cost of the insurance" means the premium required to be paid to provide coverages.

C. When a public employee elects to participate in a cafeteria plan as authorized by the Cafeteria Plan Act and enters into a salary reduction agreement with a municipal or county employer, the provisions of Subsection B of this section with respect to the maximum contributions that can be made by the employer are not violated and will still apply. The employer contributions as provided in Subsection B of this section shall be determined by the employee's gross salary prior to any salary reduction agreement.

D. Any group medical insurance plan offered pursuant to this section shall include effective cost-containment measures to control the growth of health care costs. The responsible public body that administers a plan offered pursuant to this section shall report annually by September 1 to appropriate interim legislative committees on the effectiveness of the cost-containment measures required by this subsection.

E. Exempt from the provisions of Section 10-7-4 NMSA 1978 are all municipalities and counties."

Section 20

Section 20. Section 10-7C-11 NMSA 1978 (being Laws 1990, Chapter 6, Section 11) is amended to read:

"10-7C-11. PURCHASE OF GROUP INSURANCE.--

A. The board shall be designated as the group policyholder for any plans established under the Retiree Health Care Act.

B. The group insurance coverages provided under the plans may include but are not limited to life insurance, accidental death and dismemberment, hospital care and benefits, surgical care and treatment, medical care and treatment, dental care, eye care, obstetrical benefits, prescribed drugs, medicines and prosthetic devices, medicare supplement, medicare carveout, medicare coordination and other benefits, supplies and services through the vehicles of indemnity coverages, health maintenance organizations, preferred provider organizations and other health care delivery systems as provided by the Retiree Health Care Act and other coverages considered by the board to be advisable.

C. To the extent practicable, each basic plan of benefits shall cover preexisting conditions.

D. Any group medical insurance plan offered pursuant to this section shall include effective cost-containment measures to control the growth of health care costs.

The board shall report annually by September 1 to appropriate interim legislative committees on the effectiveness of the cost-containment measures required by this subsection."

Section 21

Section 21. Section 22-2-6.7 NMSA 1978 (being Laws 1986, Chapter 94, Section 7, as amended) is amended to read:

"22-2-6.7. AUTHORITY--DUTIES.--In order to effectuate the purposes of the Public School Insurance Authority Act, the authority has the power to:

A. employ the services of the state fiscal agent or select its own fiscal agent pursuant to regulations adopted by the board; provided that for the purposes of disbursing all money other than that in the fund, the secretary of finance and administration shall be the fiscal agent for the authority;

B. enter into professional services and consulting contracts or agreements as necessary;

C. collect, provide for the investment of and disburse money in the fund;

D. collect all current and historical claims and financial information necessary for effective procurement of lines of insurance coverage;

E. promulgate necessary rules, regulations and procedures for implementation of the Public School Insurance Authority Act;

F. negotiate new insurance policies covering additional or lesser benefits as determined appropriate by the authority, but the authority shall maintain all coverage levels required by federal and state law for each participating member. In the event it is practical to wholly self-insure a particular line of coverage, the authority may do so;

G. procure lines of insurance coverage in compliance with the competitive sealed proposal process of the Procurement Code; provided that any group medical insurance plan offered pursuant to this section shall include effective cost-containment measures to control the growth of health care costs. The board shall report annually by September 1 to appropriate interim legislative committees on the effectiveness of the cost-containment measures required by this subsection;

H. purchase, renovate, equip and furnish a building for the board. The board shall consider purchasing a building in a community with a population of forty thousand or less; and

I. loan from its seventy-eighth fiscal year budget to the retiree health care authority an amount not exceeding five hundred thousand dollars (\$500,000) to be used

for retiree health care authority start-up costs. The loan shall bear interest at a rate equal to the rate of return or yield for ten-year United States treasury bonds existing on the date of the loan closing. Principal and interest shall be paid back before the end of the seventy-ninth fiscal year."

Section 22

Section 22. A new section of the Public Assistance Act is enacted to read:

"MEDICAID PAYMENTS--MANAGED CARE.--

A. The department shall provide for a statewide, managed care system to provide cost-efficient, preventive, primary and acute care for medicaid recipients by July 1, 1995.

B. The managed care system shall ensure:

(1) access to medically necessary services, particularly for medicaid recipients with chronic health problems;

(2) to the extent practicable, maintenance of the rural primary care delivery infrastructure;

(3) that the department's approach is consistent with national and state health care reform principles; and

(4) to the maximum extent possible that medicaid-eligible individuals are not identified as such except as necessary for billing purposes.

C. The department may exclude nursing homes, intermediate care facilities for the mentally retarded, medicaid in-home and community-based waiver services and residential and community-based mental health services for children with serious emotional disorders from the provisions of this section."

Section 23

Section 23. HEALTH CARE DELIVERY AND PAYMENT PLANS.--

A. The health care task force and the New Mexico health policy commission and its staff, including the health care initiative, shall develop health care delivery and payment initiatives to support and provide universal health care for all New Mexicans by October 1, 1997. The proposals shall include, to the maximum extent possible, preventive, primary, acute, chronic and long-term care.

B. At least one health care delivery and payment proposal shall include:

(1) a single payment administrative structure;

(2) either a single statewide delivery system or regional delivery systems; and

(3) both fee-for-service and managed competition options for consumers.

C. One health care delivery and payment proposal shall be a single payer system modeled after House Bill 101 introduced in the first session of the forty-first legislature.

D. One health care delivery and payment proposal shall use health insurance purchasing cooperatives and consider subsidies for those of limited means in an effort to provide universal health care.

E. The health care task force shall present its findings and recommendations on the proposals and other appropriate legislation to the first session of the forty-second legislature.

F. All proposals shall be evaluated on uniform assumptions, including the use of one or more standard benefits packages and the same definition of who is eligible for health care.

G. Evaluation of each proposal shall include a thorough analysis of the following criteria:

(1) the extent to which the proposal provides for comprehensive universal health care and the time frames required to achieve that comprehensive universal health care;

(2) how the proposal will provide for reasonable access to health care, including the effectiveness of plans for improving access to health care services in rural and other medically underserved areas;

(3) the total cost for complete implementation of the delivery and payment systems and who will pay which costs and an analysis of current costs of the health care delivery system and the costs of any proposed system divided into its individual component parts;

(4) appropriate cost-containment measures;

(5) the administrative structure and costs required to implement the proposal, including the payment and delivery systems;

(6) the structure of the regulatory body required to oversee, monitor and evaluate the proposal and resolve disputes;

(7) the completeness, accuracy and appropriateness of quality assurance measures and how quality outcomes will be measured and achieved;

(8) the extent to which the proposal provides for the health consumer's choice of health care providers;

(9) how the proposal provides for the training and retention of personnel and the provision of infrastructure required to deliver health care services;

(10) the extent to which local input, management or control is provided for;

(11) the economic impact of the proposal and economic displacement issues;

(12) portability of coverage and benefits; and

(13) any other criteria identified by staff, the New Mexico health policy commission or the health care task force.

H. The evaluation shall include an in-depth discussion of the relative costs and benefits of each proposal.

I. The staffs of the department of health, the human services department, the university of New Mexico and other state agencies shall assist as requested to fulfill the duties provided for in this section.

Section 24

Section 24. TEMPORARY PROVISION--UNINSURED CHILDREN COVERAGE.--

A. The health care task force and the New Mexico health policy commission and its staff, including the health care initiative, shall develop a plan to provide health care to all otherwise uninsured children by July 1, 1995.

B. For the purposes of this section, "uninsured children" means a person under the age of eighteen:

(1) who is not eligible for health care services through a state or federally supported program; and

(2) whose parent does not have access to health insurance through an employer or other source; or

(3) whose parent cannot afford health insurance, as defined by law.

C. The plan may provide for a sliding scale of co-payments or other financial participation by parents or guardians. The plan shall include appropriate cost-containment measures as determined by the task force.

D. The health care task force shall report its plan and legislative recommendations for consideration of the first session of the forty-second legislature.

Section 25

Section 25. TEMPORARY PROVISION--PUBLICLY FUNDED HEALTH SERVICES REVIEW.--

A. Each governmental entity that expends public money on providing or contracting for the provision of health-related services shall conduct its own review of its health-related services, functions, programs and contracts and consider them in relation to other governmental entities that provide health-related services and in relation to what changes, if any, should be made if there is universal health care. The purpose of the review is to identify those expenditures that belong more appropriately in another agency or that are duplicative or should be consolidated with other programs. Each of the governmental entities shall report to the New Mexico health policy commission by September 1, 1994 on the review, including a description of each health-related service, function, program or contract and a justification of why the service, function, program or contract should remain with the entity or should be moved to another entity or eliminated.

B. The New Mexico health policy commission shall provide the report to the health care task force. The task force shall make its recommendations to the first session of the forty-second legislature regarding legislative changes needed to ensure that public money is being spent in the most efficacious manner.

C. As used in this section:

(1) "governmental entity" means a state agency, department or institution; public schools; institutions of higher education; county indigent funds; and direct health care services provided by local governments; and

(2) "health-related services" means those health services that are likely to be covered under a health care reform package, including providing or financing preventive, primary, acute, chronic and long-term health care services and including in-home, community-based and institutional services.

Section 26

Section 26. TEMPORARY PROVISION--PUBLIC AND PRIVATE HEALTH INSURANCE--CONSOLIDATION.--

A. The department of insurance, the risk management division of the general services department, the public school insurance authority and the retiree health care authority shall review the benefits of forming a pool to purchase health insurance or health services coverage for their employees.

B. The review shall include:

(1) an analysis of changes in premium costs and benefits over the last five years in the state and public school insurance plans;

(2) an analysis of whether money can be saved by consolidating the purchase of health insurance or health services;

(3) an analysis of whether money can be saved through combining the several insurance agencies into one purchasing and administrative entity;

(4) recommendations on how the pool should be governed and administered;

(5) recommendations on how to design a common benefits package for state and public school employees;

(6) avenues for cost containment in all areas of the provision of health care purchased through the pool and the administration of health plans while reserving, to the maximum extent possible, the individual's choice of health care provider;

(7) whether and when the pool could be opened to private sector businesses and individuals;

(8) the identification and analysis of barriers to the development and implementation of the pool and the inclusion of private sector participants;

(9) statutory and other changes required; and

(10) any other matters the group deems relevant to the review.

C. The department of insurance shall coordinate the review. The New Mexico health policy commission's health care initiative staff shall assist the group as requested.

D. The group shall report its findings and recommendations to the legislative health care task force by September 1, 1994.

Section 27

Section 27. TEMPORARY PROVISION--EXEMPTION FROM PERSONNEL ACT.--The new staff members of the New Mexico health policy commission who are hired to perform duties set forth in Section 23 of this act are exempt from the provisions of the Personnel Act. The commission may employ temporary, term professional staff to assist in performing the evaluations required in those sections. Term positions filled pursuant to this section shall expire no later than the end of the eighty-third fiscal year.

Section 28

Section 28. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

HOUSE BILL 702
EMERGENCY CLAUSE -- SIGNED MARCH 4, 1994

CHAPTER 63

ENACTING THE HEALTH SERVICE CORPS ACT; PROVIDING POWERS AND DUTIES; PROVIDING PENALTIES; DECLARING AN EMERGENCY.

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

Section 1

Section 1. SHORT TITLE.--This act may be cited as the "Health Service Corps Act".

Section 2

Section 2. DEFINITIONS.--As used in the Health Service Corps Act:

- A. "corps" means the New Mexico health service corps;
- B. "department" means the department of health;
- C. "health professional" means a physician, physician assistant, nurse practitioner, nurse-midwife or emergency medical technician-paramedic;
- D. "physician" means a medical doctor or doctor of osteopathic medicine;
- E. "physician assistant" means a physician assistant or osteopathic physician assistant; and

F. "practice site" means a public health clinic or public or private nonprofit primary care clinic that is located in a state-designated medically underserved area or that serves a high-needs population and that uses a sliding fee scale approved by the department.

Section 3

Section 3. NEW MEXICO HEALTH SERVICE CORPS--STAFF--DEPARTMENT POWERS AND DUTIES.--

A. The "New Mexico health service corps" is created in the department to recruit and place health professionals in rural and other medically underserved areas. The secretary of health may employ a medical director to head the corps. The medical director may employ support staff and employ or contract with health professional staff. Employees are subject to the provisions of the Personnel Act.

B. The corps has the power to:

(1) enter into contracts to carry out the provisions of the Health Service Corps Act and sue for enforcement of those contracts; and

(2) adopt and file, in accordance with the State Rules Act, rules and regulations to carry out the provisions of the Health Service Corps Act.

C. The corps shall:

(1) recruit health professionals as employees or contractors of the corps;

(2) determine physician specialties to be recruited, with a focus on family practice physicians;

(3) establish criteria and procedures for the acceptance of applications and selection of recipients for commitment stipends;

(4) establish criteria and procedures for evaluating and qualifying corps health professionals;

(5) determine and maintain a list of eligible communities and practice sites;

(6) determine the need for health professionals at each practice site and assign staff as needed on a priority basis;

(7) provide support for health professionals at practice sites;

(8) work closely with the commission on higher education and the educational assistance foundation to coordinate the use of health professionals who have practice obligations pursuant to the Medical Student Loan for Service Act, the Osteopathic Medical Student Loan for Service Act or the Nursing Student Loan for Service Act;

(9) work with the university of New Mexico school of medicine, college of nursing, the emergency medical services academy and any other entity to identify students or residents who qualify for the corps; and

(10) establish accounting and auditing procedures to account for all money paid to health professionals or received from communities and practice sites.

Section 4

Section 4. CORPS SITES--LOCAL ASSISTANCE--REIMBURSEMENTS.--The corps may require a community or practice site to pay the costs associated with providing corps health professionals in the community. The corps may allow in-kind contributions as partial or complete payment. The corps may negotiate with the community on the amount of money or in-kind services that shall be paid to the state. Money paid to the state shall be deposited in the general fund. Payback requirements and in-kind contributions shall be determined and negotiated based on formulas adopted pursuant to regulations.

Section 5

Section 5. CORPS SERVICE--COMMITMENT STIPENDS.--

A. The corps may provide commitment stipends to potential health professionals who agree to serve in the corps for at least two years. Commitment stipends shall be determined by the department within available revenue.

B. Nothing in the Health Service Corps Act prohibits the corps from hiring health professionals who have not received commitment stipends.

Section 6

Section 6. EVALUATIONS PRIOR TO CORPS SERVICE--STIPEND PAYBACK.--

A. All corps health professionals shall be licensed or certified to practice in New Mexico. If the corps determines that a person does not meet the corps' standards for service, that person shall not serve as a corps health professional.

B. Prior to service, the corps shall evaluate every student and resident to whom commitment stipends have been paid. Evaluations shall continue during service. Evaluations shall include grades; licensing test scores; recommendations of professors,

professional mentors and co-workers; and other factors the corps determines by regulation to be pertinent to ensuring the provision of quality health care through the corps.

C. If a person to whom a commitment stipend has been paid does not qualify for service, he shall pay back the total stipend on terms and conditions set forth in the contract with the corps. If a person to whom a commitment stipend has been paid is serving in the corps and he is deemed unsatisfactory, he shall pay back the amount of stipend determined by formula to be owed pursuant to terms and conditions set forth in the contract with the corps.

D. If a person to whom a commitment stipend has been paid qualifies for service, he may pay back the stipend through service in a community specified by the department under conditions approved by the department even if he is not an employee or contractor of the corps.

Section 7

Section 7. CORPS SERVICE FOR EDUCATIONAL LOAN-FOR-SERVICE PROGRAMS.--Service in the corps may be used to satisfy service requirements pursuant to the provisions of state educational loan-for-service programs.

Section 8

Section 8. ADMINISTRATIVE ASSISTANCE.--The corps may contract with other agencies to assist it in paying stipends and collecting money owed pursuant to contract provisions or penalties.

Section 9

Section 9. LEGAL COUNSEL.--The office of general counsel of the department of health shall provide legal services to the corps. The general form of stipend contracts entered into pursuant to the provisions of the Health Service Corps Act shall be approved by a special assistant attorney general employed by the department of health and signed by the resident or student and the medical director or his authorized representative on behalf of the state. The corps is vested with full and complete authority and power to sue in its own name for any balance due the state from a resident or student on a contract. Money paid pursuant to contract shall be deposited in the general fund.

Section 10

Section 10. FAILURE TO SERVE--PENALTY.--If a health professional whom the corps deems qualified to serve does not serve or serves only a portion of his service obligation, he is subject to a penalty of three times the amount of the total commitment

stipend, plus eighteen percent interest per year. The corps shall provide by regulation for mitigating circumstances, the assessment of the penalty and payback schedules.

Section 11

Section 11. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

HOUSE BILL 711
EMERGENCY CLAUSE -- SIGNED MARCH 4, 1994

CHAPTER 64

REQUIRING HEALTH INSURANCE POLICIES, NONPROFIT HEALTH CARE PLANS AND HEALTH MAINTENANCE ORGANIZATION CONTRACTS TO INCLUDE CERTAIN PROVISIONS RELATING TO INDIVIDUALS COVERED BY THE MEDICAID PROGRAM, COVERAGE OF CHILDREN AND ADOPTION OF CHILDREN; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

Section 1

Section 1. Section 59A-18-31 NMSA 1978 (being Laws 1989, Chapter 183, Section 1) is amended to read:

"59A-18-31. ACCIDENT AND HEALTH POLICY OR CERTIFICATE PROVISIONS RELATING TO INDIVIDUALS WHO ARE ELIGIBLE FOR MEDICAL BENEFITS UNDER THE MEDICAID PROGRAM.--

A. Each individual or group policy or certificate of accident or health insurance that is delivered, issued for delivery or renewed in this state shall include provisions that require benefits paid on behalf of a child or other insured person under the policy or certificate to be paid to the human services department when:

(1) the human services department has paid or is paying benefits on behalf of the child or other insured person under the state's medicaid program pursuant to Title XIX of the federal Social Security Act, 42 U.S.C. 1396, et seq.;

(2) payment for the services in question has been made by the human services department to the medicaid provider; and

(3) the insurer is notified that the insured individual receives benefits under the medicaid program and that benefits must be paid directly to the human services department.

B. The notice required under Paragraph (3) of Subsection A of this section may be accomplished through an attachment to the claim by the human services department for insurance benefits when the claim is first submitted by the human services department to the insurer.

C. Notwithstanding any other provisions of law, checks in payment for claims pursuant to any individual or group policy or certificate of accident or health insurance for health care services provided to insured individuals who are also eligible for benefits under the medicaid program and provided by medical providers qualified to participate under the policy or certificate shall be made payable to the provider. The insurer may be notified that the insured individual is eligible for medicaid benefits through an attachment to the claim by the provider for insurance benefits when the claim is first submitted by the provider to the insurer.

D. No individual or group accident or health policy or certificate delivered, issued for delivery or renewed in this state on or after the effective date of this section shall contain any provision denying or limiting insurance benefits because services are rendered to an insured who is eligible for or who has received medical assistance under the medicaid program of this state.

E. To the extent that payment for covered expenses has been made pursuant to the state medicaid program for health care items or services furnished to an individual, in any case where an insurer has a legal liability to make payments, the state is considered to have acquired the rights of the individual to payment by the insurer for those health care items or services."

Section 2

Section 2. A new Section [59A-22-34.2](#) NMSA 1978 is enacted to read:

"59A-22-34.2. COVERAGE OF CHILDREN.--

A. An insurer shall not deny enrollment of a child under the health plan of the child's parent on the grounds that the child:

(1) was born out of wedlock;

(2) is not claimed as a dependent on the parent's federal tax return;

or

(3) does not reside with the parent or in the insurer's service area.

B. When a child has health coverage through an insurer of a noncustodial parent, the insurer shall:

(1) provide such information to the custodial parent as may be necessary for the child to obtain benefits through that coverage;

(2) permit the custodial parent or the provider, with the custodial parent's approval, to submit claims for covered services without the approval of the noncustodial parent; and

(3) make payments on claims submitted in accordance with Paragraph (2) of this subsection directly to the custodial parent, the provider or the state medicaid agency.

C. When a parent is required by a court or administrative order to provide health coverage for a child, and the parent is eligible for family health coverage, the insurer shall be required:

(1) to permit the parent to enroll, under the family coverage, a child who is otherwise eligible for the coverage without regard to any enrollment season restrictions;

(2) if the parent is enrolled but fails to make application to obtain coverage for the child, to enroll the child under family coverage upon application of the child's other parent, the state agency administering the medicaid program or the state agency administering 42 U.S.C. Sections 651 through 669, the child support enforcement program; and

(3) not to disenroll or eliminate coverage of the child unless the insurer is provided satisfactory written evidence that:

(a) the court or administrative order is no longer in effect; or

(b) the child is or will be enrolled in comparable health coverage through another insurer that will take effect not later than the effective date of disenrollment.

D. An insurer shall not impose requirements on a state agency that has been assigned the rights of an individual eligible for medical assistance under the medicaid program and covered for health benefits from the insurer that are different from requirements applicable to an agent or assignee of any other individual so covered."

Section 3

Section 3. Section 59A-22-38 NMSA 1978 (being Laws 1989, Chapter 183, Section 2) is amended to read:

"59A-22-38. INDIVIDUAL HEALTH INSURANCE--POLICY PROVISIONS RELATING TO INDIVIDUALS WHO ARE ELIGIBLE FOR MEDICAL BENEFITS UNDER THE MEDICAID PROGRAM.--

A. Each individual health insurance policy that is delivered, issued for delivery or renewed in this state shall include provisions that require benefits paid on behalf of a child or other insured person under the policy to be paid to the human services department when:

(1) the human services department has paid or is paying benefits on behalf of the child or other insured person under the state's medicaid program pursuant to Title XIX of the federal Social Security Act, 42 U.S.C. 1396, et seq.;

(2) payment for the services in question has been made by the human services department to the medicaid provider; and

(3) the insurer is notified that the insured individual receives benefits under the medicaid program and that benefits must be paid directly to the human services department.

B. The notice required under Paragraph (3) of Subsection A of this section may be accomplished through an attachment to the claim by the human services department for insurance benefits when the claim is first submitted by the human services department to the insurer.

C. Notwithstanding any other provisions of law, checks in payment for claims pursuant to any individual health insurance policy for health care services provided to persons who are also eligible for benefits under the medicaid program and provided by medical providers qualified to participate under the policy shall be made payable to the provider. The insurer may be notified that the insured individual is eligible for medicaid benefits through an attachment to the claim by the provider for insurance benefits when the claim is first submitted by the provider to the insurer.

D. No individual health insurance policy delivered, issued for delivery or renewed in this state on or after the effective date of this section shall contain any provision denying or limiting insurance benefits because services are rendered to an insured who is eligible for or who has received medical assistance under the medicaid program of this state.

E. To the extent that payment for covered expenses has been made pursuant to the state medicaid program for health care items or services furnished to an individual, in any case where an insurer has a legal liability to make payments, the state is considered to have acquired the rights of the individual to payment by the insurer for those health care items or services."

Section 4

Section 4. Section 59A-23-7 NMSA 1978 (being Laws 1989, Chapter 183, Section 3) is amended to read:

"59A-23-7. BLANKET OR GROUP HEALTH POLICY OR CERTIFICATE--
PROVISIONS RELATING TO INDIVIDUALS WHO ARE ELIGIBLE FOR MEDICAL
BENEFITS UNDER THE MEDICAID PROGRAM.--

A. Each blanket or group health policy or certificate of insurance that is delivered, issued for delivery or renewed in this state shall include provisions that require benefits paid on behalf of a child or other insured person under the policy or certificate to be paid to the human services department when:

(1) the human services department has paid or is paying benefits on behalf of the child or other insured person under the state's medicaid program pursuant to Title XIX of the federal Social Security Act, 42 U.S.C. 1396, et seq.;

(2) payment for the services in question has been made by the human services department to the medicaid provider; and

(3) the insurer is notified that the insured individual receives benefits under the medicaid program and that benefits must be paid directly to the human services department.

B. The notice required under Paragraph (3) of Subsection A of this section may be accomplished through an attachment to the claim by the human services department for insurance benefits when the claim is first submitted by the human services department to the insurer.

C. Notwithstanding any other provisions of law, checks in payment for claims pursuant to any blanket or group health insurance policy or certificate for health care services provided to persons who are also eligible for benefits under the medicaid program and provided by medical providers qualified to participate under the policy or certificate shall be made payable to the provider. The insurer may be notified that the insured individual is eligible for medicaid benefits through an attachment to the claim by the provider for insurance benefits when the claim is first submitted by the provider to the insurer.

D. No blanket or group health insurance policy or certificate delivered, issued for delivery or renewed in this state on or after the effective date of this section shall contain any provision denying or limiting insurance benefits because services are rendered to an insured who is eligible for or who has received medical assistance under the medicaid program of this state.

E. To the extent that payment for covered expenses has been made pursuant to the state medicaid program for health care items or services furnished to an individual, in any case where the insurer has a legal liability to make payments, the

state is considered to have acquired the rights of the individual to payment by an insurer for those health care items or services."

Section 5

Section 5. A new Section [59A-23-7.2](#) NMSA 1978 is enacted to read:

"59A-23-7.2. COVERAGE OF CHILDREN.--

A. An insurer shall not deny enrollment of a child under the health plan of the child's parent on the grounds that the child:

(1) was born out of wedlock;

(2) is not claimed as a dependent on the parent's federal tax return;

or

(3) does not reside with the parent or in the insurer's service area.

B. When a child has health coverage through an insurer of a noncustodial parent, the insurer shall:

(1) provide such information to the custodial parent as may be necessary for the child to obtain benefits through that coverage;

(2) permit the custodial parent or the provider, with the custodial parent's approval, to submit claims for covered services without the approval of the noncustodial parent; and

(3) make payments on claims submitted in accordance with Paragraph (2) of this subsection directly to the custodial parent, the provider or the state medicaid agency.

C. When a parent is required by a court or administrative order to provide health coverage for a child, and the parent is eligible for family health coverage, the insurer shall be required:

(1) to permit the parent to enroll, under the family coverage, a child who is otherwise eligible for the coverage without regard to any enrollment season restrictions;

(2) if the parent is enrolled but fails to make application to obtain coverage for the child, to enroll the child under family coverage upon application of the child's other parent, the state agency administering the medicaid program or the state agency administering 42 U.S.C. Sections 651 through 669, the child support enforcement program; and

(3) not to disenroll or eliminate coverage of the child unless the insurer is provided satisfactory written evidence that:

(a) the court or administrative order is no longer in effect; or

(b) the child is or will be enrolled in comparable health coverage through another insurer that will take effect not later than the effective date of disenrollment.

D. An insurer shall not impose requirements on a state agency that has been assigned the rights of an individual eligible for medical assistance under the medicaid program and covered for health benefits from the insurer that are different from requirements applicable to an agent or assignee of any other individual so covered."

Section 6

Section 6. Section 59A-23B-10 NMSA 1978 (being Laws 1991, Chapter 111, Section 10) is amended to read:

"59A-23B-10. INDIVIDUALS ELIGIBLE FOR MEDICAID BENEFITS.--The provisions of Sections 59A-18-31, 59A-22-38, 59A-23-7, 59A-46-29 and 59A-47-36 NMSA 1978 shall apply to policies or plans issued in the state on or after the effective date of the Minimum Healthcare Protection Act."

Section 7

Section 7. A new Section [59A-23B-10.2](#) NMSA 1978 is enacted to read:

"59A-23B-10.2. COVERAGE OF CHILDREN.--The provisions of Sections 59A-22-34.2, 59A-23-7.2, 59A-46-38.1 and 59A-47-38 NMSA 1978 shall apply to policies or plans issued in the state on or after July 1, 1994."

Section 8

Section 8. Section 59A-46-29 NMSA 1978 (being Laws 1989, Chapter 183, Section 6) is amended to read:

"59A-46-29. HEALTH MAINTENANCE ORGANIZATIONS--CONTRACT OR CERTIFICATE PROVISIONS RELATING TO INDIVIDUALS WHO ARE ELIGIBLE FOR MEDICAL BENEFITS UNDER THE MEDICAID PROGRAM.--

A. Each individual or group contract or certificate that is delivered, issued for delivery or renewed in this state shall include provisions that require any indemnity benefits payable by a health maintenance organization on behalf of an enrollee under the contract or certificate to be paid to the human services department when:

(1) the human services department has paid or is paying benefits on behalf of the enrollee under the state's medicaid program pursuant to Title XIX of the federal Social Security Act, 42 U.S.C. 1396, et seq.;

(2) payment for the services in question has been made by the human services department to the medicaid provider; and

(3) the health maintenance organization is notified that the enrollee receives benefits under the medicaid program and that any indemnity benefits payable by the health maintenance organization must be paid directly to the human services department.

B. The notice required under Paragraph (3) of Subsection A of this section may be accomplished through an attachment to the claim by the human services department for any indemnity benefits payable by the health maintenance organization when the claim is first submitted by the human services department to the health maintenance organization.

C. Notwithstanding any other provisions of law, checks in payment for claims for any indemnity benefits payable by a health maintenance organization pursuant to any individual or group contract or certificate for health care services provided to persons who are also eligible for benefits under the medicaid program and provided by medical providers not contracting with the health maintenance organization shall be made payable to the provider. The health maintenance organization may be notified that the enrollee is eligible for medicaid benefits through an attachment to the claim by the provider for health maintenance organization benefits when the claim is first submitted by the provider to the health maintenance organization.

D. No health maintenance organization group or individual contract or certificate delivered, issued for delivery or renewed in this state on or after the effective date of this section shall contain any provision denying or limiting health maintenance organization benefits because services are rendered to an enrollee who is eligible for or who has received medical assistance under the medicaid program of this state.

E. To the extent that payment for covered expenses has been made pursuant to the state medicaid program for health care items or services furnished to an individual, in any case where a health maintenance organization has a legal liability to make payments, the state is considered to have acquired the rights of the individual to payment by the health maintenance organization for those health care items or services."

Section 9

Section 9. A new Section 59A-46-38.1 NMSA 1978 is enacted to read:

"59A-46-38.1. COVERAGE OF CHILDREN.--

A. An insurer shall not deny enrollment of a child under the health plan of the child's parent on the grounds that the child:

(1) was born out of wedlock;

(2) is not claimed as a dependent on the parent's federal tax return;

or

(3) does not reside with the parent or in the insurer's service area.

B. When a child has health coverage through an insurer of a noncustodial parent, the insurer shall:

(1) provide such information to the custodial parent as may be necessary for the child to obtain benefits through that coverage;

(2) permit the custodial parent or the provider, with the custodial parent's approval, to submit claims for covered services without the approval of the noncustodial parent; and

(3) make payments on claims submitted in accordance with Paragraph (2) of this subsection directly to the custodial parent, the provider or the state medicaid agency.

C. When a parent is required by a court or administrative order to provide health coverage for a child, and the parent is eligible for family health coverage, the insurer shall be required:

(1) to permit the parent to enroll, under the family coverage, a child who is otherwise eligible for the coverage without regard to any enrollment season restrictions;

(2) if the parent is enrolled but fails to make application to obtain coverage for the child, to enroll the child under family coverage upon application of the child's other parent, the state agency administering the medicaid program or the state agency administering 42 U.S.C. Sections 651 through 669, the child support enforcement program; and

(3) not to disenroll or eliminate coverage of the child unless the insurer is provided satisfactory written evidence that:

(a) the court or administrative order is no longer in effect; or

(b) the child is or will be enrolled in comparable health coverage through another insurer that will take effect not later than the effective date of disenrollment.

D. An insurer shall not impose requirements on a state agency that has been assigned the rights of an individual eligible for medical assistance under the medicaid program and covered for health benefits from the insurer that are different from requirements applicable to an agent or assignee of any other individual so covered."

Section 10

Section 10. Section 59A-47-33 NMSA 1978 (being Laws 1984, Chapter 127, Section 879.32, as amended) is amended to read:

"59A-47-33. OTHER PROVISIONS APPLICABLE.--The provisions of the Insurance Code other than Chapter 59A, Article 47 NMSA 1978 shall not apply to health care plans except as expressly provided in the Insurance Code and that article. To the extent reasonable and not inconsistent with the provisions of that article, the following articles and provisions of the Insurance Code shall also apply to health care plans, their promoters, sponsors, directors, officers, employees, agents, solicitors and other representatives; and, for the purposes of such applicability, a health care plan may therein be referred to as an "insurer":

- A. Chapter 59A, Article 1 NMSA 1978;
- B. Chapter 59A, Article 2 NMSA 1978;
- C. Chapter 59A, Article 4 NMSA 1978;
- D. Subsection C of Section 59A-5-22 NMSA 1978;
- E. Sections 59A-6-2 through 59A-6-4 and 59A-6-6 NMSA 1978;
- F. Section 59A-7-11 NMSA 1978;
- G. Chapter 59A, Article 8 NMSA 1978;
- H. Chapter 59A, Article 10 NMSA 1978;
- I. Section 59A-12-22 NMSA 1978;
- J. Chapter 59A, Article 16 NMSA 1978;
- K. Chapter 59A, Article 18 NMSA 1978;
- L. Chapter 59A, Article 19 NMSA 1978;
- M. Section 59A-22-34.1 NMSA 1978;

N. Section 59A-22-39 NMSA 1978;

O. Section 59A-22-40 NMSA 1978;

P. Sections 59A-34-9 through 59A-34-13 NMSA 1978 and Section 59A-34-23 NMSA 1978;

Q. Chapter 59A, Article 37 NMSA 1978, except Section 59A-37-7 NMSA 1978; and

R. Section 59A-46-18 NMSA 1978." Section 11. Section 59A-47-36 NMSA 1978 (being Laws 1989, Chapter 183, Section 7) is amended to read:

"59A-47-36. NONPROFIT HEALTH CARE PLANS--CONTRACT OR CERTIFICATE PROVISIONS RELATING TO INDIVIDUALS WHO ARE ELIGIBLE FOR MEDICAL BENEFITS UNDER THE MEDICAID PROGRAM.--

A. Each individual or group contract for health care expense payments or certificate therefor that is delivered, issued for delivery or renewed in this state by a health care plan shall include provisions that require benefits paid on behalf of a subscriber under the contract or certificate to be paid to the human services department when:

(1) the human services department has paid or is paying health care expenses on behalf of the subscriber under the state's medicaid program pursuant to Title XIX of the federal Social Security Act, 42 U.S.C. 1396, et seq.;

(2) payment for the expenses in question has been made by the human services department to the medicaid provider; and

(3) the health care plan is notified that the subscriber receives benefits under the medicaid program and that benefits must be paid directly to the human services department.

B. The notice required under Paragraph (3) of Subsection A of this section may be accomplished through an attachment to the claim by the human services department for health care expense payments when the claim is first submitted by the human services department to the health care plan.

C. Notwithstanding any other provisions of law, checks in payment for claims pursuant to any individual or group contract for health care expense payments or certificate therefor for health care services provided to subscribers who are also eligible for benefits under the medicaid program and provided by medical providers qualified to participate under the contract or certificate shall be made payable to the provider. The health care plan may be notified that the subscriber is eligible for medicaid benefits

through an attachment to the claim by the provider for health care expense payments when the claim is first submitted by the provider to the health care plan.

D. No individual or group contract for health care expense payments or certificate therefor delivered, issued for delivery or renewed in this state on or after the effective date of this section shall contain any provision denying or limiting contract benefits because services are rendered to a subscriber who is eligible for or who has received medical assistance under the medicaid program of this state.

E. To the extent that payment for covered expenses has been made pursuant to the state medicaid program for health care items or services furnished to an individual, in any case where a health care plan has a legal liability to make payments, the state is considered to have acquired the rights of the individual to payment by the health care plan for those health care items or services."

Section 12

Section 12. A new Section [59A-47-38](#) NMSA 1978 is enacted to read:

"59A-47-38. COVERAGE OF CHILDREN.--

A. An insurer shall not deny enrollment of a child under the health plan of the child's parent on the grounds that the child:

(1) was born out of wedlock;

(2) is not claimed as a dependent on the parent's federal tax return;

or

(3) does not reside with the parent or in the insurer's service area.

B. When a child has health coverage through an insurer of a noncustodial parent, the insurer shall:

(1) provide such information to the custodial parent as may be necessary for the child to obtain benefits through that coverage;

(2) permit the custodial parent or the provider, with the custodial parent's approval, to submit claims for covered services without the approval of the noncustodial parent; and

(3) make payments on claims submitted in accordance with Paragraph (2) of this subsection directly to the custodial parent, the provider or the state medicaid agency.

C. When a parent is required by a court or administrative order to provide health coverage for a child, and the parent is eligible for family health coverage, the insurer shall be required:

(1) to permit the parent to enroll, under the family coverage, a child who is otherwise eligible for the coverage without regard to any enrollment season restrictions;

(2) if the parent is enrolled but fails to make application to obtain coverage for the child, to enroll the child under family coverage upon application of the child's other parent, the state agency administering the medicaid program or the state agency administering 42 U.S.C. Sections 651 through 669, the child support enforcement program; and

(3) not to disenroll or eliminate coverage of the child unless the insurer is provided satisfactory written evidence that:

(a) the court or administrative order is no longer in effect; or

(b) the child is or will be enrolled in comparable health coverage through another insurer that will take effect not later than the effective date of disenrollment.

D. An insurer shall not impose requirements on a state agency that has been assigned the rights of an individual eligible for medical assistance under the medicaid program and covered for health benefits from the insurer that are different from requirements applicable to an agent or assignee of any other individual so covered."

Section 13

Section 13. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1994.

HOUSE BILL 732

CHAPTER 65

RELATING TO COURTS; PROVIDING FOR AN ADDITIONAL JUDGE IN THE FIFTH JUDICIAL DISTRICT; AMENDING A SECTION OF THE NMSA 1978.

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

Section 1

Section 1. Section 34-6-8 NMSA 1978 (being Laws 1968, Chapter 69, Section 11, as amended) is amended to read:

"34-6-8. JUDGES--FIFTH JUDICIAL DISTRICT.--There shall be eight district judges in the fifth judicial district."

Section 2

Section 2. TEMPORARY PROVISION--APPOINTMENT.--The additional judgeship provided for in Section 1 of this act shall be filled by appointment by the governor pursuant to Article 6, Section 36 of the constitution of New Mexico.

Section 3

Section 3. EFFECTIVE DATE.--The effective date of the provisions of this act is January 1, 1995.

HOUSE BILL 53

CHAPTER 66

PROVIDING FOR DWI PROCESS AND DATA STANDARDS RESEARCH AND PLAN AND COORDINATE AMONG STATE AGENCIES, LOCAL GOVERNMENTS AND NATIVE AMERICAN GOVERNMENTS; DECLARING AN EMERGENCY.

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

Section 1

Section 1. TEMPORARY PROVISION--DWI PROCESS AND DATA STANDARDS RESEARCH AND PLANNING.--The commission on information and communication management shall hire staff necessary to define a more efficient DWI process, set standards for data collection and exchange, prepare a management plan and report and make recommendations to the DWI oversight task force, the legislative finance committee and the governor. The staff shall be term employees of the commission on information and communication management but shall be under the direction and supervision of the chairman of the DWI process and data standards committee. In defining and working to implement a more efficient DWI process, preparing a comprehensive management plan and report and in setting standards for data collection and exchange, the staff of the commission on information and communication management shall work in cooperation with the DWI process and data standards committee, appointed by the governor, for the purpose of coordinating a statewide DWI information system. The committee shall be composed of representatives from the national laboratories and state, local and tribal governments and shall have co-chairmen

that are two state government representatives, one from the executive branch and one from the judicial branch, both appointed by the governor.

Section 2

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

HOUSE BILL 847
EMERGENCY CLAUSE -- SIGNED MARCH 4, 1994

CHAPTER 67

RELATING TO CORPORATIONS; CHANGING CERTAIN FEES FOR DOMESTIC AND FOREIGN CORPORATIONS.

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

Section 1

Section 1. Section 53-2-1 NMSA 1978 (being Laws 1975, Chapter 65, Section 1, as amended) is amended to read:

"53-2-1. FEES OF STATE CORPORATION COMMISSION.--

A. For filing documents and issuing certificates, the state corporation commission shall charge and collect for:

(1) filing articles of incorporation and issuing a certificate of incorporation, a fee of one dollar (\$1.00) for each one thousand shares of the total amount of authorized shares, but in no case less than one hundred dollars (\$100) or more than one thousand dollars (\$1,000);

(2) filing articles of amendment and issuing a certificate of amendment increasing the total amount of authorized shares or filing restated articles of incorporation and issuing a restated certificate of incorporation increasing the total amount of authorized shares, a fee equal to the difference between the fee computed at the rate set forth in Paragraph (1) of this subsection upon the total amount of authorized shares, including the proposed increase, and the fee computed at the rate set forth in Paragraph (1) of this subsection upon the total amount of authorized shares, excluding the proposed increase, but in no case less than one hundred dollars (\$100) or more than one thousand dollars (\$1,000);

(3) filing articles of amendment and issuing a certificate of amendment not involving an increase in the total amount of authorized shares or filing

restated articles of incorporation and issuing a restated certificate of incorporation not involving an increase in the total amount of authorized shares, a fee of one hundred dollars (\$100);

(4) filing articles of merger, consolidation or exchange and issuing a certificate of merger or consolidation or exchange, a fee equal to the difference between the fee computed at the rate set forth in Paragraph (1) of this subsection upon the total amount of authorized shares in the articles of merger or consolidation in excess of the total amount of authorized shares of the corporations merged or consolidated or upon the amount of the shares exchanged, but in no case less than two hundred dollars (\$200) or more than one thousand dollars (\$1,000);

(5) filing an application to reserve a corporate name or filing a notice of transfer of a reserved corporate name, a fee of twenty-five dollars (\$25.00);

(6) filing a statement of a change of address of the registered office or change of the registered agent, or both, a fee of twenty-five dollars (\$25.00);

(7) filing a statement of the establishment of a series of shares, a fee of one hundred dollars (\$100);

(8) filing a statement of reduction of authorized shares, a fee of one hundred dollars (\$100);

(9) filing a statement of intent to dissolve, a statement of revocation of voluntary dissolution proceedings or articles of dissolution, a fee of fifty dollars (\$50.00);

(10) filing an application of a foreign corporation for an amended certificate of authority to transact business in this state and issuing an amended certificate of authority, a fee of fifty dollars (\$50.00);

(11) filing a copy of articles of merger of a foreign corporation holding a certificate of authority to transact business in this state not increasing the total amount of authorized shares, a fee of two hundred dollars (\$200);

(12) filing an application for a certificate of authority of a foreign corporation and issuing to it a certificate of authority, a fee of one dollar (\$1.00) for each one thousand shares of the total number of authorized shares represented in this state, but in no case less than two hundred dollars (\$200) or more than one thousand dollars (\$1,000);

(13) filing articles of merger or consolidation increasing the total amount of authorized shares which the surviving or new corporation is authorized to issue in excess of the aggregate number of shares which the merging or consolidating domestic and foreign corporations authorized to transact business in this state had

authority to issue, a fee of one dollar (\$1.00) for each one thousand shares of the increase in the total amount of authorized shares represented in this state, but in no case less than two hundred dollars (\$200) or more than one thousand dollars (\$1,000);

(14) filing an application for withdrawal of a foreign corporation and issuing a certificate of withdrawal, a fee of fifty dollars (\$50.00);

(15) filing a corporate report and filing a supplemental report, a fee of twenty-five dollars (\$25.00);

(16) filing any other statement, corrected document or report of a domestic or foreign corporation, a fee of twenty-five dollars (\$25.00);

(17) issuing a certificate of good standing and compliance, a fee of fifty dollars (\$50.00); and

(18) issuing a letter of reinstatement of a domestic or foreign corporation, a fee of one hundred dollars (\$100).

B. The state corporation commission shall also charge and collect for furnishing copies of any document, instrument or paper relating to a corporation a fee of one dollar (\$1.00) per page, but in no case less than ten dollars (\$10.00). In addition, a fee of twenty-five dollars (\$25.00) shall be paid in each instance where the commission provides the copies of the document to be certified.

C. As used in this section:

(1) "total amount of authorized shares" means all shares of stock the corporation is authorized to issue; and

(2) "number of authorized shares represented in this state" means the proportion of a corporation's total amount of authorized shares that the sum of the value of its property located in this state and the gross amount of business transacted by it or from places of business in this state bears to the sum of the value of all of its property, wherever located, and the gross amount of its business, wherever transacted, as determined from information contained in its application for a certificate of authority to transact business in this state.

D. The state corporation commission shall also charge and collect fees, according to a fee schedule approved by the department of finance and administration, for the provision of services requested by persons, agencies and entities dealing with the commission."

HOUSE BILL 562

CHAPTER 68

RELATING TO BUDGETS; MANDATING THE EMPLOYMENT OF SCHOOL NURSES;
AMENDING A SECTION OF THE NMSA 1978.

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

Section 1

Section 1. Section 22-8-9 NMSA 1978 (being Laws 1967, Chapter 16, Section 63, as amended by Laws 1994, Chapter 223, Section 1 and also by Laws 1994, Chapter 226, Section 19) is amended to read:

"22-8-9. BUDGETS--MINIMUM REQUIREMENTS.--

A. No budget for a school district shall be approved by the department that does not provide for:

(1) a school year consisting of at least one hundred eighty full instructional days or the equivalent thereof, exclusive of any release time for in-service training; or

(2) a variable school year consisting of a minimum number of instructional hours established by the state board; and

(3) a pupil-teacher ratio or class or teaching load as provided in Section 22-2-8.2 NMSA 1978; and

(4) a full-time, department-certified nurse for each fifty-five teachers employed by a school district or the equivalent part-time department-certified nurse for less than fifty-five teachers.

B. The state board shall, by regulation, establish the requirements for a teaching day, the standards for an instructional hour and the standards for a full-time certified classroom instructor and for the equivalent thereof.

C. The local school board shall submit a plan for the implementation of an alternate school year to the state superintendent for his approval.

D. The provisions of Subsection C and Paragraph (2) of Subsection A of this section shall be construed to apply only to school districts with a MEM of 1,000 or fewer."

Section 2

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1995.

CHAPTER 69

RELATING TO COURTS; PROVIDING FOR ASSESSMENT OF COURT AUTOMATION FEES BY MUNICIPAL COURTS; CREATING A FUND; MAKING AN APPROPRIATION; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

Section 1

Section 1. Section 35-14-11 NMSA 1978 (being Laws 1983, Chapter 134, Section 6, as amended) is amended to read:

"35-14-11. MUNICIPAL ORDINANCE--COURT COSTS--
COLLECTION--PURPOSE.--

A. Every municipality shall enact an ordinance requiring assessment of corrections fees, judicial education fees and court automation fees to be collected as court costs and used as provided in this section.

B. As used in this subsection, "convicted" means the defendant has been found guilty of a criminal charge by a municipal judge, either after trial, a plea of guilty or a plea of nolo contendere. A municipal judge shall collect the following costs:

- (1) a corrections fee of ten dollars (\$10.00);
- (2) a judicial education fee of one dollar (\$1.00); and
- (3) a court automation fee of three dollars (\$3.00).

C. The fees are to be collected upon conviction from persons convicted of violating any ordinance relating to the operation of a motor vehicle or any ordinance that may be enforced by the imposition of a term of imprisonment.

D. All money collected pursuant to Paragraph (1) of Subsection B of this section shall be deposited in a special fund in the municipal treasury and shall be used for municipal jailer or juvenile detention officer training, for the construction planning, construction, operation and maintenance of a municipal jail or juvenile detention facility, for paying the cost of housing municipal prisoners in a county jail or housing juveniles in a detention facility or for complying with match or contribution requirements for the receipt of federal funds relating to jails or juvenile detention facilities.

E. All money collected pursuant to Paragraph (2) of Subsection B of this section shall be remitted monthly to the state treasurer for credit to the judicial education fund and shall be used for the education and training, including production of bench books and other written materials, of municipal judges and other municipal court employees.

F. All money collected pursuant to Paragraph (3) of Subsection B of this section shall be remitted monthly to the state treasurer for credit to the municipal court automation fund and shall be used for the purchase and maintenance of court automation systems in the municipal courts. The court automation systems shall have the capability of providing, on a timely basis, electronic records in a format specified by the judicial information system council."

Section 2

Section 2. Section 35-14-11 NMSA 1978 (being Laws 1983, Chapter 134, Section 6, as amended and further amended by Section 1 of this act) is repealed and a new Section 35-14-11 NMSA 1978 is enacted to read:

"35-14-11. MUNICIPAL ORDINANCE--COURT COSTS--COLLECTION--PURPOSE.--

A. Every municipality shall enact an ordinance requiring assessment of corrections fees and judicial education fees to be collected as court costs and used as provided in this section.

B. As used in this subsection, "convicted" means the defendant has been found guilty of a criminal charge by a municipal judge, either after trial, a plea of guilty or a plea of nolo contendere. A municipal judge shall collect the following costs:

(1) a corrections fee of ten dollars (\$10.00); and

(2) a judicial education fee of one dollar (\$1.00).

C. The fees are to be collected upon conviction from persons convicted of violating any ordinance relating to the operation of a motor vehicle or any ordinance that may be enforced by the imposition of a term of imprisonment.

D. All money collected pursuant to Paragraph (1) of Subsection B of this section shall be deposited in a special fund in the municipal treasury and shall be used for municipal jailer or juvenile detention officer training, for the construction planning, construction, operation and maintenance of a municipal jail or juvenile detention facility, for paying the cost of housing municipal prisoners in a county jail or housing juveniles in a detention facility or for complying with match or contribution requirements for the receipt of federal funds relating to jails or juvenile detention facilities.

E. All money collected pursuant to Paragraph (2) of Subsection B of this section shall be remitted monthly to the state treasurer for credit to the judicial education fund and shall be used for the education and training, including production of bench books and other written materials, of municipal judges and other municipal court employees."

Section 3

Section 3. A new section of the NMSA 1978 is enacted to read:

"MUNICIPAL COURT AUTOMATION FUND CREATED--ADMINISTRATION--
DISTRIBUTION.--

A. There is created in the state treasury the "municipal court automation fund" to be administered by the administrative office of the courts.

B. All balances in the municipal court automation fund may be expended only upon application by a municipality to the administrative office of the courts for the purpose of purchasing and maintaining a court automation system in that municipality's courts.

C. Payments from the municipal court automation fund shall be made upon vouchers issued and signed by the director of the administrative office of the courts. Any purchase or lease purchase agreement entered into by a municipality for a court automation system shall be in accordance with the provisions of the Procurement Code."

Section 4

Section 4. EFFECTIVE DATE.--

A. The effective date of the provisions of Sections 1 and 3 of this act is July 1, 1994.

B. The effective date of the provisions of Section 2 of this act is July 1, 1999.

HOUSE BILL 646

CHAPTER 70

RELATING TO REVENUE; PROVIDING FOR A CHANGE IN THE RATE OF RETURN FOR MONEY EXPENDED FOR CULTURAL PROPERTIES PUBLICATIONS BY THE HISTORIC PRESERVATION DIVISION OF THE OFFICE OF CULTURAL AFFAIRS.

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

Section 1

Section 1. Section 18-6-16 NMSA 1978 (being Laws 1978, Chapter 53, Section 1, as amended) is amended to read:

"18-6-16. PREPARATION AND SALE OF CULTURAL PROPERTIES PUBLICATIONS--REVOLVING FUND--REPORT.--The historic preservation division of the office of cultural affairs shall encourage and promote publications relating to cultural properties which have been prepared pursuant to the Cultural Properties Act. The historic preservation division may prepare or contract for the preparation of such publications on the condition that it receives from the sale of such publications the amount expended plus interest on that amount compounded annually at the prime lending rate quoted in the Wall Street Journal on the effective date of the contract until the expended amount is reimbursed in full to the division. All receipts from such sales shall go into a special revolving fund which is hereby established. The historic preservation division shall adopt regulations establishing guidelines and fiscal controls over the use of the revolving fund."

HOUSE BILL 824

CHAPTER 71

RELATING TO REPURCHASE AGREEMENTS; PROVIDING FOR INVESTMENT OF FUNDS BY A LOCAL PUBLIC BODY; AMENDING SECTIONS OF THE NMSA 1978.

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

Section 1

Section 1. Section 6-10-10 NMSA 1978 (being Laws 1933, Chapter 175, Section 4, as amended) is amended to read:

"6-10-10. DEPOSIT AND INVESTMENT OF FUNDS.--

A. Upon the certification or designation of any bank, savings and loan association or credit union whose deposits are insured by an agency of the United States to receive public money on deposit, the state treasurer and the several county or municipal treasurers who have on hand any public money by virtue of their several offices shall make deposit of that money in banks and savings and loan associations and may make deposit of that money in credit unions whose deposits are insured by an agency of the United States, designated by the authority authorized by law to so designate to receive the deposits of all money thereafter received or collected by the treasurers; provided that no deposit of public money shall be made in a credit union unless the deposit is insured by an agency of the United States.

B. The several county or municipal treasurers may deposit money in one or more accounts with any such bank, savings and loan association or credit union located in their respective counties, subject to limitation on credit union accounts.

C. The state treasurer may deposit money in one or more accounts with any such bank, savings and loan association or credit union, subject to the limitation on credit union accounts.

D. Duplicate receipts or deposit slips shall be taken for each deposit made pursuant to Subsection A, B or C of this section. When deposits are made by the state treasurer, one copy of the receipt or deposit slip shall be retained by the treasurer and the other copy shall be filed monthly on the first day of each month with the financial control division of the department of finance and administration. When the deposits are made by the treasurer or any other authorized person making the deposits for a board of finance of any public or educational institution, one copy of the receipt or deposit slip shall be retained by the treasurer or authorized person so making the deposit and the other copy shall be filed monthly on the first day of each month with that board of finance. When the deposits are made by a county or municipal treasurer, one of the duplicate receipts or deposit slips shall be retained by the treasurer so making the deposit and the other copy shall be filed monthly on the first day of each month with the secretary of the board of finance of the county or municipality for which that treasurer is acting.

E. "Deposit", as used in this section, means either investment or deposit and includes share, share certificate and share draft.

F. County or municipal treasurers, by and with the advice and consent of their respective boards of finance charged with the supervision and control of the respective funds, have the power to invest all sinking funds or money remaining unexpended from the proceeds of any issue of bonds or other negotiable securities of any county, municipality or school district which are now or may hereafter by law be entrusted to their care and custody and all money not immediately necessary for the public uses of the counties, municipalities or school districts not invested or deposited in banks, savings and loan associations or credit unions in:

(1) bonds or negotiable securities of the United States, the state or any county, municipality or school district which has a taxable valuation of real property for the last preceding year of at least one million dollars (\$1,000,000) and has not defaulted in the payment of any interest or sinking fund obligation or failed to meet any bonds at maturity at any time within five years last preceding; or

(2) securities that are issued by the United States government or by its agencies or instrumentalities and that are either direct obligations of the United States or are backed by the full faith and credit of the United States government or agencies guaranteed by the United States government.

G. A local public body, with the advice and consent of the body charged with the supervision and control of the local public body's respective funds, has the power to invest all sinking funds or money remaining unexpended from the proceeds of any issue of bonds or other negotiable securities of the investor that is entrusted to the local public body's care and custody and all money not immediately necessary for the public uses of the investor and not otherwise invested or deposited in banks, savings and loan associations or credit unions, in contracts with banks, savings and loan associations or credit unions for the present purchase and resale at a specified time in the future of specific securities at specified prices at a price differential representing the interest income to be earned by the investor. The contract shall be fully secured by obligations of the United States or other securities backed by the United States having a market value of at least one hundred two percent of the contract. The collateral required for investment in the contracts provided for in this subsection shall be shown on the books of the financial institution as being the property of the investor and the designation shall be contemporaneous with the investment. As used in this subsection, "local public body" includes all political subdivisions of the state and agencies, instrumentalities and institutions thereof; provided that home rule municipalities who prior to July 1, 1994, had enacted ordinances authorizing the investment of repurchase agreements may continue investment in repurchase agreements pursuant to those ordinances.

H. The state treasurer, with the advice and consent of the state board of finance, has the power to invest money held in demand deposits and not immediately needed for the operation of state government and money held in the short-term investment fund, except as provided in Section 6-10-10.1 NMSA 1978. The investments shall be made only in securities which are issued by the United States government or by its departments or agencies and which are either direct obligations of the United States or are backed by the full faith and credit of the United States government or agencies sponsored by the United States government.

I. The state treasurer may also invest in contracts for the present purchase and resale at a specified time in the future, not to exceed one year, of specific securities at specified prices at a price differential representing the interest income to be earned by the state. No such contract shall be invested in unless the contract is fully secured by obligations of the United States, or other securities backed by the United States, having a market value of at least one hundred two percent of the amount of the contract.

J. The state treasurer may also invest in contracts for the temporary exchange of state-owned securities for the use of broker-dealers, banks or other recognized institutional investors in securities, for periods not to exceed one year, for a specified fee rate. No such contract shall be invested in unless the contract is fully secured by exchange of an irrevocable letter of credit running to the state, cash or equivalent collateral of at least one hundred two percent of the market value of the securities plus accrued interest temporarily exchanged.

K. The collateral required for either of the forms of investment in Subsection I or J of this section shall be delivered to the state fiscal agent or its designee contemporaneously with the transfer of funds or delivery of the securities, at the earliest time industry practice permits, but in all cases settlement shall be on a same-day basis.

L. Neither of the contracts in Subsection I or J of this section shall be invested in unless the contracting bank, brokerage firm or recognized institutional investor has a net worth in excess of five hundred million dollars (\$500,000,000).

M. No public funds to be invested in negotiable securities or loans to financial institutions fully secured by negotiable securities at current market value shall be paid out unless there is a contemporaneous transfer of the securities at the earliest time industry practice permits, but in all cases settlement shall be on a same-day basis either by physical delivery or, in the case of uncertificated securities, by appropriate book entry on the books of the issuer, to the purchaser or to a reputable third-party safekeeping financial institution acting as agent or trustee for the purchaser, which agent or trustee shall furnish timely confirmation to the purchaser."

Section 2

Section 2. Section 6-10-10.1 NMSA 1978 (being Laws 1988, Chapter 61, Section 2, as amended) is amended to read:

"6-10-10.1. SHORT-TERM INVESTMENT FUND CREATED--DISTRIBUTION OF EARNINGS--REPORT OF INVESTMENTS.--

A. There is created in the state treasury the "short-term investment fund". The fund shall consist of all deposits from governmental entities and Indian tribes or pueblos that are placed in the custody of the state treasurer for short-term investment purposes pursuant to this section. The state treasurer shall maintain a separate account for each governmental entity and Indian tribe or pueblo having deposits in the fund.

B. If any local public body is unable to receive payment on public money at the rate of interest as set forth in Section 6-10-36 NMSA 1978 from financial institutions within the geographic boundaries of the governmental unit, then a local public finance official having money of that local public body in his custody required for expenditure within thirty days or less may, with the consent of the appropriate local board of finance, if any, remit some or all of such money to the state treasurer, bank, savings and loan association or credit union for deposit for the purpose of short-term investment as allowed by this section.

C. Before any local funds are invested or reinvested for the purpose of short-term investment pursuant to this section, the local public body finance official shall notify and make such funds available to banks, savings and loan associations and credit unions located within the geographical boundaries of their respective governmental unit,

subject to the limitation on credit union accounts. To be eligible for such funds, the financial institution shall pay to the local public body the rate established by the state treasurer pursuant to a policy adopted by the state board of finance for such short-term investments.

D. The local public body finance official shall specify the length of time each deposit shall be in the short-term investment fund, but in any event the deposit shall not be made for more than thirty days. The state treasurer through the use of the state fiscal agent shall separately track each such deposit and shall make such information available to the public upon written request.

E. The state treasurer shall invest the fund as provided for state funds under Section 6-10-10 NMSA 1978 and may elect to have the short-term investment fund consolidated for investment purposes with the state funds under the control of the state treasurer; provided that accurate and detailed accounting records are maintained for the account of each participating entity and Indian tribe or pueblo and that a proportionate amount of interest earned is credited to each of the separate government accounts. The fund shall be invested to achieve its objective, which is to realize the maximum return consistent with safe and prudent management.

F. At the end of each month, all interest earned from investment of the short-term investment fund shall be distributed by the state treasurer to the contributing entities and Indian tribes or pueblos in amounts directly proportionate to the respective amounts deposited in the fund and the length of time the amounts in the fund were invested. No fees or transfer expenses shall be charged to the participating entities and Indian tribes or pueblos for investment in the short-term investment fund.

G. As used in this section:

(1) "local public body" means any political subdivision of the state, including school districts and any post-secondary educational institution; and

(2) "short-term" means less than thirty days.

H. In addition to the deposit of funds of local public bodies, the state treasurer may also accept for deposit, deposit and account for, in the same manner as funds of local public bodies, funds of the following governmental entities if the governing authority of the entity approves by resolution the deposit of the funds for the short-term investment:

(1) the agricultural commodity commission established under the Agricultural Commodity Commission Act;

(2) the Albuquerque metropolitan arroyo flood control authority established under the Arroyo Flood Control Act;

(3) the business improvement district management committee established under the Business Improvement District Act;

(4) the New Mexico community assistance council established under the New Mexico Community Assistance Act;

(5) the governing authority of only special districts authorized under Chapter 73 NMSA 1978;

(6) the board of trustees established under the Economic Advancement District Act;

(7) the board of directors of a corporation or foundation established under the Educational Assistance Act;

(8) a board of directors established under the Flood Control District Act;

(9) the New Mexico hospital equipment loan council established under the Hospital Equipment Loan Act;

(10) the authority established under the Industrial and Agricultural Finance Authority Act;

(11) the authority established under the Las Cruces Arroyo Flood Control Act;

(12) the authority established under the Mortgage Finance Authority Act;

(13) the authority established under the Municipal Mortgage Finance Act;

(14) the authority established under the Public School Insurance Authority Act;

(15) the authority established under the Southern Sandoval County Arroyo Flood Control Act;

(16) a board of trustees established under the Special Hospital District Act; and

(17) the authority established under the New Mexico Finance Authority Act.

I. In addition to the deposit of funds of local public bodies, the state treasurer may also accept for deposit and deposit and account for, in the same manner as funds of local public bodies, funds of any Indian tribe or pueblo in the state if authorized to do so under a joint powers agreement executed by the state treasurer and

the governing authority of the Indian tribe or pueblo under the provisions of the Joint Powers Agreements Act."

Section 3

Section 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1994.

SENATE BILL 549

CHAPTER 72

RELATING TO BUSINESS LICENSES; AMENDING SECTION 60-1-15 NMSA 1978 (BEING LAWS 1933, CHAPTER 55, SECTION 9, AS AMENDED).

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

Section 1

Section 1. Section 60-1-15 NMSA 1978 (being Laws 1933, Chapter 55, Section 9, as amended) is amended to read:

"60-1-15. TAX LEVIED--CERTAIN LICENSE FEES AND TAXES PROHIBITED.--

A. In addition to the daily tax provided in Section 60-1-8 NMSA 1978, a tax of two and three-sixteenths percent is levied on the gross amount wagered each day at each place where horse racing is conducted by any state fair association designated by law that in good faith conducts a public fair and exhibition of stock and farming products or where horse racing for profit is held. The tax shall be paid from the commissions of the licensee.

B. To encourage the improvement of horse racing facilities for the benefit of the public, breeders and horse owners and to increase the revenue to the state from the increase in pari-mutuel wagering and tourism resulting from these improvements, not more than two percent of the tax levied under Subsection A of this section:

(1) for the first two hundred fifty thousand dollars (\$250,000) of daily handle only, shall be offset for class A licensees by the amount that each licensee expends for capital improvements or in financing term investment in capital improvements at existing racetrack facilities and for class B licensees by the amount that the licensee expends for capital improvements, not to exceed fifty percent of the tax levied under this section, and by the amount the licensee expends for advertising, marketing and promoting horse racing in the state, not to exceed fifty percent of the tax levied under this section. The offset provided in this paragraph shall also apply to the

daily handle generated at its facility by a licensee engaged solely in simulcasting pursuant to Section 60-1-25 NMSA 1978. The term "capital improvement" means any capital investment in items that are subject to depreciation under the United States Internal Revenue Code of 1986 and are approved by the state racing commission; and

(2) for class A licensees for the period through June 30, 1995 for the total amount wagered each day on amounts in excess of two hundred fifty thousand dollars (\$250,000) but not in excess of three hundred fifty thousand dollars (\$350,000), shall be offset by the amount that each licensee expends for advertising, marketing and promoting horse racing in the state. The offset provided in this paragraph shall also apply to the daily handle generated at its facility by a licensee engaged solely in simulcasting pursuant to Section 60-1-25 NMSA 1978. The licensee is required to keep accurate records of any expenditures made pursuant to this paragraph, and the state auditor is required to audit the expenditures and submit his report to the state racing commission.

C. To compensate for the additional municipal services required by the location of a racetrack within a municipality, an amount of revenue derived from the tax levied on such a racetrack under Subsection A of this section, above the amount offset by capital expenditures and advertising as provided in Subsection B of this section, shall be transferred to the municipal treasurer of the municipality in which the track generating the revenue is located for expenditure by the municipality in providing those additional municipal services. The amount to be transferred shall be determined in accordance with the provisions of Section 60-1-15.2 NMSA 1978.

D. Accurate records shall be kept by the licensee to show all commissions, total gross amounts wagered and breakage, as well as other information the state racing commission may require. Records shall be open to inspection and shall be audited by the commission or any of its authorized representatives. Should any licensee fail to keep records accurately and intelligibly, the commission may prescribe the method in which the licensee shall keep records.

E. All remaining revenues collected as a result of the tax on the gross amount wagered shall be deposited in the state general fund.

F. Notwithstanding any other provision of law, no political subdivision of this state may impose any occupational tax against a racetrack operating under authority of a license granted by the state racing commission. No political subdivision may levy an excise tax against any racetrack operating under authority of a license granted by the state racing commission, except that taxes imposed pursuant to the County Gross Receipts Tax Act, the County Fire Protection Excise Tax Act, the County Sales Tax Act, the Municipal Gross Receipts Tax Act, the Supplemental Municipal Gross Receipts Tax Act and the Special Municipal Gross Receipts Tax Act may be imposed to the extent permitted by law."

CHAPTER 73

RELATING TO TAXATION; EXTENDING THE COAL SURTAX EXEMPTION ON CERTAIN COAL SALES CONTRACTS.

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

Section 1

Section 1. Section 7-26-6.2 NMSA 1978 (being Laws 1990, Chapter 83, Section 1 and also Laws 1990, Chapter 84, Section 1, as amended by Laws 1992, Chapter 65, Section 1 and also by Laws 1992, Chapter 115, Section 1) is amended to read:

"7-26-6.2. COAL SURTAX EXEMPTION--QUALIFICATION REQUIREMENTS.--

A. The following coal is exempt, until July 1, 2009, from the surtax imposed on coal under the provisions of Section 7-26-6 NMSA 1978:

(1) coal sold and delivered pursuant to coal sales contracts that are entered into on or after July 1, 1990, under which deliveries start after July 1, 1990 and before June 30, 1995, if the sales contracts are not the result of:

(a) a producer and purchaser mutually rescinding an existing contract and negotiating a revised contract under substantially similar terms and conditions;

(b) a purchaser establishing an affiliated company to purchase coal on behalf of the purchaser; or

(c) a purchaser independently abrogating a contract that was in effect on July 1, 1990 with a producer for the purpose of securing the benefits of the exemption granted by this section; and

(2) coal sold and delivered pursuant to a contract in effect on July 1, 1990 that exceeds the average calendar year deliveries under the contract during production years 1987, 1988 and 1989 or the highest contract minimum during 1987, 1988 and 1989, whichever is greater.

B. If a contract existing on July 1, 1990 is renegotiated between a producer and a purchaser prior to June 30, 1995 and after May 20, 1992 and if that renegotiated contract requires the purchaser to take annual coal deliveries in excess of the greater of the average calendar year deliveries under the contract during production years 1987, 1988 and 1989 or the highest contract minimum during 1987, 1988 and 1989, the surtax imposed by Subsection B of Section 7-26-6 NMSA 1978 shall not apply to such excess deliveries for the remaining term of the renegotiated contract or until July 1, 2009, whichever occurs first.

C. For coal exempt under the provisions of Paragraph (2) of Subsection A of this section, if the contract involved was for a lesser term during the production years specified, then actual deliveries shall be annualized to establish average calendar year deliveries, and in the event that coal sold and delivered in any calendar year after June 30, 1995 falls below the average calendar year deliveries during 1987, 1988 and 1989, the exemption shall no longer apply unless the deliveries are reduced due to causes beyond the reasonable control of either party to the contract.

D. The taxpayer, prior to taking the exemption provided by this section, shall register any contract for the sale of coal that qualifies for the exemption from the surtax under the provisions of this section with the department on forms provided by the secretary. If upon examination of the contract or upon audit or inspection of transactions occurring under the contract the secretary or the secretary's delegate determines that any person who is a party to the contract has taken any action to circumvent the intent and purpose of this section, the exemption shall be disallowed."

Section 2

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1994.

SENATE CONSERVATION COMMITTEE SUBSTITUTE FOR
SENATE BILL 124

CHAPTER 74

RELATING TO MAGISTRATE COURTS; AMENDING A CERTAIN SECTION OF THE NMSA 1978; DECLARING AN EMERGENCY.

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

Section 1

Section 1. Section 35-1-36.1 NMSA 1978 (being Laws 1986, Chapter 96, Section 1, as amended) is amended to read:

"35-1-36.1. MAGISTRATE COURT--COMPENSATION.--

A. All magistrates shall be full-time.

B. A full-time magistrate is defined as a magistrate who holds office hours a minimum of forty hours per week and who holds no other employment that may conflict with his full-time judicial duties."

Section 2

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

SENATE BILL 359
EMERGENCY CLAUSE -- SIGNED MARCH 4, 1994

CHAPTER 75

PROVIDING FOR HEALTH INSURANCE ACCESS FOR SMALL EMPLOYERS, INDIVIDUALS AND SMALL GROUPS; ENACTING THE HEALTH INSURANCE ALLIANCE ACT; CREATING A BOARD; PROVIDING POWERS AND DUTIES; PROVIDING ADJUSTED COMMUNITY RATING AND OTHER INSURANCE POLICY REVISIONS FOR INDIVIDUAL AND SMALL GROUP PLANS; AMENDING THE SMALL GROUP RATE AND RENEWABILITY ACT; AMENDING, REPEALING AND ENACTING CERTAIN SECTIONS OF THE NMSA 1978; DECLARING AN EMERGENCY.

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

Section 1

Section 1. A new section of the New Mexico Insurance Code is enacted to read:

"SHORT TITLE.--Sections 1 through 25 of this act may be cited as the "Health Insurance Alliance Act"."

Section 2

Section 2. A new section of the New Mexico Insurance Code is enacted to read:

"PURPOSE.--The purpose of the Health Insurance Alliance Act is to provide increased access to voluntary health insurance coverage in New Mexico. The initial purpose is to improve access to health insurance coverage for small employers on a voluntary basis. An additional purpose of the Health Insurance Alliance Act is to provide for the development of a plan for expanded health insurance coverage to include uninsured children, other employer groups and individuals."

Section 3

Section 3. A new section of the New Mexico Insurance Code is enacted to read:

"DEFINITIONS.--As used in the Health Insurance Alliance Act:

A. "alliance" means the New Mexico health insurance alliance;

B. "approved health plan" means any arrangement offered through and approved by the alliance by which insureds have access to health insurance;

C. "board" means the board of directors of the alliance;

D. "director" means an individual who serves on the board;

E. "earned premiums" means premiums paid or due during the calendar year for an approved health plan less any unearned premiums at the end of that calendar year plus any unearned premiums from the end of the previous calendar year;

F. "eligible expenses" are the allowable charges for a health care service and items for which benefits are extended under an approved health plan;

G. "health care service" means a service or product furnished an individual, or incidental to the furnishing of the service or product for the purpose of preventing, alleviating, curing or healing human illness or injury;

H. "health insurance" means any hospital and medical expense-incurred policy; nonprofit health care service plan contract; health maintenance organization subscriber contract; short-term, accident, fixed indemnity, specified disease policy or disability income contracts and limited health benefit or credit health insurance; coverage under uninsured arrangements of group or group-type contracts, including employer self-insured, cost-plus or other benefits methodologies not involving insurance or not subject to New Mexico premium tax; coverage under group-type contracts that are not available to the general public and can be obtained only because of connection with a particular organization or group; coverage by medicare or other governmental benefits; or "health insurance" as defined by Section 59A-7-3 NMSA 1978. "Health insurance" does not include insurance arising out of the Workers' Compensation Act or similar law, automobile medical payment insurance or insurance under which benefits are payable with or without regard to fault and that is required by law to be contained in any liability insurance policy;

I. "health maintenance organization" means a health maintenance organization as defined by Subsection M of Section 59A-46-2 NMSA 1978;

J. "incurred claims" means claims paid during a calendar year plus claims incurred in the calendar year and paid prior to April 1 of the succeeding year, less claims incurred previous to the current calendar year and paid prior to April 1 of the current year;

K. "insured" means a small employer covered by an approved health plan or an individual who is covered by an approved health plan through conversion;

L. "medicare" means coverage under both Parts A and B of Title 18 of the federal Social Security Act;

M. "member" means an insurance company authorized to transact health insurance business in this state, a nonprofit health care plan, a health maintenance organization or self-insurers not subject to federal preemption, but does not include an insurance company that is licensed under the Prepaid Dental Plan Law or a company that is solely engaged in the sale of dental insurance and is licensed under a provision of the Insurance Code;

N. "small employer" means a person that is a resident of this state, has employees at least fifty percent of whom are residents of this state, is actively engaged in business and that on at least fifty percent of its working days during the preceding calendar year employed no less than two and no more than fifty eligible employees; provided that: (1) in determining the number of eligible employees, the spouse or dependent of an employee may, at the employer's discretion, be counted as a separate employee; and

(1) in determining the number of eligible employees, the spouse or dependent of an employee may, at the employer's discretion, be counted as a separate employee; and

(2) companies that are affiliated companies or that are eligible to file a combined tax return for purposes of state income taxation shall be considered one employer; and

O. "superintendent" means the superintendent of insurance."

Section 4

Section 4. A new section of the New Mexico Insurance Code is enacted to read:

"ALLIANCE CREATED--BOARD CREATED.--

A. The "New Mexico health insurance alliance" is created as a nonprofit independent public corporation for the purpose of providing increased access to health insurance in the state. All insurance companies authorized to transact health insurance business in this state, nonprofit health care plans, health maintenance organizations and self-insurers not subject to federal preemption shall organize and be members of the alliance as a condition of their authority to offer health insurance in this state. The alliance shall not be considered a governmental agency for any purpose. B. The "board of directors of the New Mexico health insurance alliance" is created. The board is a governmental entity for purposes of the Tort Claims Act, but the board shall not be considered a governmental entity for any other purpose.

B. The "board of directors of the New Mexico health insurance alliance" is created. The board is a governmental entity for purposes of the Tort Claims Act, but the board shall not be considered a governmental entity for any other purpose.

C. The superintendent shall, within sixty days after the effective date of the Health Insurance Alliance Act, give notice to all members of the time and place for the initial organizational meeting of the alliance. Each member shall be entitled to one vote in person or by proxy at the organizational meeting.

D. The alliance shall operate subject to the supervision and approval of the board. The board shall consist of:

(1) five directors, appointed by the members, who shall be officers or employees of members, and shall consist of one representative of a nonprofit health care plan, two representatives of health maintenance organizations and two representatives of other types of members;

(2) five directors, appointed by the governor, who shall be small employers and who, after the term of the initial appointments, are covered by approved health plans;

(3) four directors appointed by the governor, who shall be employees of small employers, and who, after the term of the initial appointments, are employees of small employers covered by approved health plans; and

(4) the superintendent or his designee. The superintendent shall be a nonvoting member, except when his vote is necessary to break a tie.

E. The superintendent shall serve as chair unless he declines, in which event he shall appoint the chair.

F. The directors appointed by the members shall be appointed for initial terms of three years or less, staggered so that the term of at least one director shall expire on June 30 of each year. The directors appointed by the governor shall be appointed for initial terms of three years or less, staggered so that the term of at least one director shall expire on June 30 of each year. Following the initial terms, directors shall be appointed for terms of three years. If the members fail to make the initial appointments within sixty days following the first organizational meeting, the superintendent shall make those appointments. Whenever a vacancy occurs, the appointing authority of that director shall fill the vacancy by appointing an individual to serve the balance of the unexpired term. The individual appointed shall meet the requirements for initial appointment to that position. Directors may be reimbursed by the alliance as provided in the Per Diem and Mileage Act, but shall receive no other compensation, perquisite or allowance."

Section 5

Section 5. A new section of the New Mexico Insurance Code is enacted to read:

"PLAN OF OPERATION.--

A. The board shall submit a plan of operation to the superintendent and any amendments to the plan necessary or suitable to assure the fair, reasonable and equitable administration of the alliance.

B. The superintendent shall, after notice and hearing, approve the plan of operation if it is determined to assure the fair, reasonable and equitable administration of the alliance. The plan of operation shall become effective upon written approval of the superintendent consistent with the date on which health insurance coverage through the alliance pursuant to the provisions of the Health Insurance Alliance Act is made available. If the board fails to submit a plan of operation within one hundred eighty days after the appointment of the board, the superintendent shall, after notice and hearing, adopt and promulgate a plan of operation. A plan of operation adopted by the superintendent shall continue in force until modified by him or superseded by a subsequent plan of operation submitted by the board and approved by the superintendent.

C. The plan of operation shall:

(1) establish procedures for the handling and accounting of assets of the alliance;

(2) establish regular times and places for meetings of the board;

(3) establish procedures for records to be kept of all financial transactions and for annual fiscal reporting to the superintendent;

(4) establish the amount of and the method for collecting assessments pursuant to Section 11 of the Health Insurance Alliance Act;

(5) establish a program to publicize the existence of the alliance, the approved health plans, the eligibility requirements and procedures for enrollment in an approved health plan and to maintain public awareness of the alliance;

(6) establish penalties for noncollection of assessments from members;

(7) establish procedures for alternative dispute resolution of disputes between members and insureds; and

(8) contain additional provisions necessary and proper for the execution of the powers and duties of the alliance."

Section 6

Section 6. A new section of the New Mexico Insurance Code is enacted to read:

"BOARD--POWERS AND DUTIES.--

A. The board shall have the general powers and authority granted to insurance companies licensed to transact health insurance business under the laws of this state.

B. The board:

(1) may enter into contracts to carry out the provisions of the Health Insurance Alliance Act, including, with the approval of the superintendent, contracting with similar alliances of other states for the joint performance of common administrative functions or with persons or other organizations for the performance of administrative functions;

(2) may sue and be sued;

(3) may conduct periodic audits of the members to assure the general accuracy of the financial data submitted to the alliance;

(4) shall establish maximum rate schedules, allowable rate adjustments, administrative allowances, reinsurance premiums, agent referral and servicing fees and any other actuarial functions appropriate to the operation of the alliance, but within the limits established in the Insurance Code. In determining the initial year's rate for health insurance the only rating factors that may be used are age, gender, geographic area of the place of employment and smoking practices. In any year's rate, the difference in rates in any one age group that may be charged on the basis of a person's gender shall not exceed another person's rates in the age group by more than twenty percent of the lower rate, and no person's rate shall exceed the rate of any other person with similar family composition by more than two hundred fifty percent of the lower rate, except that the rates for children under the age of nineteen may be lower than the bottom rates in the two hundred fifty percent band. The rating factor restrictions shall not prohibit a member from offering rates that differ depending upon family composition;

(5) may direct a member to issue policies or certificates of coverage of health insurance in accordance with the requirements of the Health Insurance Alliance Act;

(6) shall establish procedures for alternative dispute resolution of disputes between members and insureds;

(7) shall cause the alliance to have an annual audit of its operations by an independent certified public accountant;

(8) shall conduct all board meetings as if it were an agency subject to the provisions of the Open Meetings Act;

(9) shall draft one or more sample policies that are the prototype documents for the members;

(10) shall determine the design criteria to be met for an approved health plan;

(11) shall review each proposed approved health plan to determine if it meets the alliance designed criteria, and, if it does meet the criteria, approve the plan; provided that the board shall not permit more than one approved health plan per member for each set of plan design criteria;

(12) shall review annually each approved health plan to determine if it still qualifies as an approved health plan based on the alliance designed criteria, and, if the plan is no longer approved, arrange for the transfer of the insureds to an approved health plan;

(13) may terminate an approved health plan not operating as required by the board;

(14) shall terminate an approved health plan if timely claim payments are not made; and

(15) shall engage in significant marketing activities, including a program of media advertising, to inform small employers of the existence of the alliance, its purpose and the health insurance available or potentially available through the alliance.

C. The alliance is subject to and responsible for examination by the superintendent. No later than March 1 of each year, the board shall submit to the superintendent an audited financial report for the preceding calendar year in a form approved by the superintendent."

Section 7

Section 7. A new section of the New Mexico Insurance Code is enacted to read:

"POLICY FORMS.--All policy forms of approved health plans shall conform in substance to prototype forms developed by the alliance and shall be filed with and approved by the superintendent before they are issued."

Section 8

Section 8. A new section of the New Mexico Insurance Code is enacted to read:

"APPROVED HEALTH PLAN OR SERVICE.--

A. An approved health plan shall conform to the alliance's approved health plan design criteria. The board may allow more than one plan design for approved health plans. A member may provide one approved health plan for each plan design approved by the board.

B. The approved health plan shall offer a premium that is no greater than fifteen percent over and no less than fifteen percent under the average of the standard rate index for plans with the same characteristics.

C. Any member that submits a bid for, provides or offers to provide or renews a group health insurance contract providing health insurance benefits to employees of the state, a county, a municipality or a school district shall offer at least one approved health plan to small employers."

Section 9

Section 9. A new section of the New Mexico Insurance Code is enacted to read:

"REINSURANCE.--

A. Any member offering an approved health plan to small employers shall be reinsured for certain losses by the alliance. Within six months following the end of each calendar year in which the member offering the approved health plan paid more in incurred claims than the member received in gross earned premiums, on all approved health plans issued by the member combined, the member shall receive from the alliance the excess amount by which the incurred claims exceeded the gross earned premiums.

B. The alliance shall withhold from all premiums that it receives a reinsurance premium as established by the board. The reinsurance premium shall not exceed five percent of premiums paid by insured groups in their first year of coverage and shall not exceed ten percent of such premiums for renewal years. In determining the reinsurance premium for a particular calendar year, the board shall set the premium at a rate that will recover the total reinsurance loss for the preceding year over a reasonable number of years in accordance with sound actuarial principles."

Section 10

Section 10. A new section of the New Mexico Insurance Code is enacted to read:

"ADMINISTRATION.--The alliance shall deduct from premiums collected for approved health plans an administrative charge as set by the board. The administrative charge shall be determined before the beginning of each calendar year. The maximum administrative charge the alliance may charge is ten percent of gross premiums from a small employer in the first year and five percent of gross premiums in renewal years."

Section 11

Section 11. A new section of the New Mexico Insurance Code is enacted to read:

"ASSESSMENTS.--

A. After the completion of each calendar year, the alliance shall assess all its members for the total reinsurance loss in the previous calendar year and for the net administrative loss that occurred in the previous calendar year, taking into account investment income for the period and other appropriate gains and losses using the following definitions:

(1) net reinsurance losses shall be the reinsurance incurred claims against the alliance for the previous calendar year reduced by the reinsurance earned premiums charged by the alliance; and

(2) net administrative losses shall be the administrative expenses incurred by the alliance in the previous calendar year less the sum of administrative allowances earned by the alliance and any legislative appropriation for the period, but, in the event of an administrative gain, net administrative losses for the purpose of assessments shall be considered zero, and the gain shall be carried forward to the administrative fund for the next calendar year as an additional allowance.

B. The assessment for each member shall be determined by multiplying the total losses of the alliance's operation, as defined in Subsection A of this section, by a fraction, the numerator of which equals that member's total premium, or its equivalent, for health insurance written in the state during the preceding calendar year and the denominator of which equals the total of all health insurance premiums written in the state during the preceding calendar year; provided that premium income shall not include payments by the secretary of human services pursuant to a contract issued under Section 1876 of the federal Social Security Act, and shall not include premium income exempted by the federal Employee Retirement Income Security Act of 1974 or other federal programs.

C. If assessments exceed actual reinsurance losses and administrative losses of the alliance, the excess shall be held at interest by the board to offset future losses.

D. To enable the board to properly determine the net reinsurance amount and its responsibility for reinsurance to each member:

(1) by April 15 of each year, each member offering an approved health plan shall submit a listing of all incurred claims or health charges of each approved health plan for the previous year, including all claims or health charges incurred in the previous year and paid prior to April 1 of the current year. From this amount shall be subtracted and identified by list all incurred claims or health charges of each approved health plan paid in the previous year's months of January, February and March incurred prior to the previous year; and

(2) by April 15 of each year, each member shall submit a report that includes the total amount of all earned premiums received during the prior year less any earned premium exempted by federal government programs.

E. The alliance shall notify members of the amount of the assessment due by May 15 of each year. The assessment shall be paid by the member by June 15 of each year.

F. The proportion of participation of each member in the alliance shall be determined annually by the board, based on annual statements filed by each member and other reports deemed necessary by the board. Any deficit incurred by the alliance shall be recouped by assessments apportioned among the members pursuant to the formula provided in Subsection B of this section; provided that the assessment paid for any member shall be allowed as a credit on the premium tax return for that member, with the credit limited to fifty percent the first year the assessment is imposed; forty percent the second year; and thirty percent the third and all subsequent years.

G. The board may abate or defer, in whole or in part, the assessment of a member if, in the opinion of the board, after approval of the superintendent, payment of the assessment would endanger the ability of the member to fulfill its contractual obligations. In the event an assessment against a member is abated or deferred, the amount by which such assessment is abated or deferred may be assessed against the other members in a manner consistent with the basis for assessments set forth in Subsection A of this section. The member receiving the abatement or deferment shall remain liable to the alliance for the deficiency for four years, including interest at the prevailing rate as determined by regulation of the superintendent. The board may sue to recover the abatement or deferment, plus interest and costs."

Section 12

Section 12. A new section of the New Mexico Insurance Code is enacted to read:

"INITIAL ADMINISTRATIVE ASSESSMENT.--Following the superintendent's approval or adoption of the plan of operations, the board may impose an initial assessment of five hundred dollars (\$500) on each member. New members shall also be subject to the initial assessment. These funds shall not be considered as income to offset any administrative expenses in future assessments. Additional expenses to establish and to operate the alliance shall first be assessed following the first calendar year of operation of the alliance."

Section 13

Section 13. A new section of the New Mexico Insurance Code is enacted to read:

"ALLIANCE ADMINISTRATOR.--

A. The board may select an alliance administrator through a request for proposal process. The board shall evaluate proposals based on criteria established by the board that shall include:

- (1) proven ability to handle accident and health insurance;
- (2) an estimate of total charges for administering the alliance; and
- (3) ability to administer the alliance in a cost-efficient manner.

B. The alliance administrator contract shall be for a period up to four years, subject to annual renegotiation of the fees and services and shall provide for cancellation of the contract for cause, termination of the alliance by the legislature or the combining of the alliance with a governmental body.

C. At least one year prior to the expiration of each four-year period of service by the alliance administrator, the board shall invite all interested parties, including the current administrator, to submit bids to serve as alliance administrator for up to a succeeding four-year period. Selection of the administrator for a succeeding period shall be made at least six months prior to the expiration of the current contract.

D. The alliance administrator shall:

- (1) take applications for an approved health plan from small employers or a referring agent;

- (2) establish a premium billing procedure for collection of premiums from insureds. Billings shall be made on a periodic basis, not less than monthly, as determined by the board;

- (3) pay the member that offers an approved health plan the net premium due after deduction of reinsurance and administrative allowances;

- (4) provide the member with any changes in the status of insureds;

- (5) perform all necessary functions to assure that each member is providing timely payment of benefits to individuals covered under an approved health plan, including:

- (a) making information available to insureds relating to the proper manner of submitting a claim for benefits to the member offering the approved health plan and distributing forms on which submissions shall be made; and

- (b) making information available on approved health plan benefits and rates to insureds;

- (6) submit regular reports to the board regarding the operation of the alliance, the frequency, content and form of which shall be determined by the board;

(7) following the close of each fiscal year, determine net written premiums, the expense of administration and the paid and incurred losses for the year and report this information to the board and the superintendent on a form prescribed by the superintendent; and

(8) establish the premiums for reinsurance and the administrative charges, subject to approval of the board."

Section 14

Section 14. A new section of the New Mexico Insurance Code is enacted to read:

"ELIGIBILITY--GUARANTEED ISSUE--PLAN PROVISIONS.--

A. A small employer is eligible for an approved health plan if on the effective date of coverage or renewal:

(1) at least fifty percent of its employees not otherwise insured elect to be covered under the approved health plan; and

(2) the small employer has not terminated coverage with an approved health plan within three years of the date of application except to change to another approved health plan.

B. An approved health plan shall provide that coverage of a dependent unmarried individual terminates when the individual becomes nineteen years of age or, if the individual is enrolled full time in an accredited educational institution, when the individual becomes twenty-five years of age. The policy shall also provide in substance that attainment of the limiting age does not operate to terminate coverage when the individual continues to be incapable of self-sustaining employment by reason of mental retardation or physical handicap and the individual is primarily dependent for support and maintenance upon the employee. Proof of incapacity and dependency shall be furnished to the alliance and the member that offered the approved health plan within one hundred twenty days of attainment of the limiting age. The board may require subsequent proof annually after a two-year period following attainment of the limiting age.

C. An approved health plan shall provide that the health insurance benefits applicable for eligible dependents are payable with respect to a newly born child of the family member or the individual in whose name the contract is issued from the moment of birth, including the necessary care and treatment of medically diagnosed congenital defects and birth abnormalities. If payment of a specific premium is required to provide coverage for the child, the contract may require that notification of the birth of a child and payment of the required premium shall be furnished to the member within thirty-one days after the date of birth in order to have the coverage from birth. An

approved health plan shall provide that the health insurance benefits applicable for eligible dependents are payable for an adopted child in accordance with the provisions of Section 59A-22-34.1 NMSA 1978.

D. Except as provided in Subsections E and G of this section, an approved health plan may contain provisions under which coverage is excluded during a six-month period following the effective date of coverage of an individual for preexisting conditions, as long as either of the following exists:

(1) the condition has manifested itself within a period of six months before the effective date of coverage in such a manner as would cause an ordinarily prudent person to seek diagnosis or treatment; or

(2) medical advice or treatment was recommended or received within a period of six months before the effective date of coverage.

E. The preexisting condition exclusions described in Subsection D of this section shall be waived to the extent to which similar exclusions have been satisfied under any prior health insurance coverage if the application for health insurance through the alliance is made not later than thirty-one days following the termination of the prior coverage. In that case, coverage through the alliance shall be effective from the date on which the prior coverage was terminated. This subsection does not prohibit preexisting conditions coverage in an approved health plan that is more favorable to the insured than that specified in this subsection.

F. An individual is not eligible for coverage by the alliance if:

(1) he is at the time of application eligible for medicare;

(2) he has voluntarily terminated health insurance issued through the alliance within the past twelve months unless it was due to a change in employment; or

(3) he is an inmate of a public institution or is eligible for public programs, other than state-funded programs, for which medical care is provided.

G. The alliance shall provide for an open enrollment period of sixty days from the initial offering of an approved health plan. Individuals enrolled during the open enrollment period shall not be subject to the preexisting conditions limitation."

Section 15

Section 15. A new section of the New Mexico Insurance Code is enacted to read:

"NOTICE OF ALLIANCE BY MEMBERS.--

A. By January 1, 1995, members shall provide notice and applications for coverage through the alliance to a small employer that receives:

(1) a rejection of coverage for health insurance;

(2) a notice that the rate for health insurance similar to coverage through the alliance will exceed the maximum rate of health insurance through the alliance; or

(3) a notice of reduction or limitation of coverage, including a restrictive rider, from a provider of health insurance, if the effect of the reduction or limitation is to substantially reduce coverage compared to the coverage available to a small group considered a standard risk for the type of coverage provided by an approved health plan.

B. The notice shall state that the small employer is eligible but is not required to apply for health insurance provided through the alliance. Application for the health insurance shall be on forms prescribed by the board and made available to all members."

Section 16

Section 16. A new section of the New Mexico Insurance Code is enacted to read:

"ENROLLMENT.--

A. New employees and their dependents may enroll in their small employer's approved health plan within thirty-one days of completion of their employer's eligibility period. If application for enrollment is not made during this period, the employee and dependents may be required to submit evidence of insurability.

B. Insureds shall notify the alliance at least thirty-one days prior to their anniversary date of the approved health plan of their intent to switch coverage to another approved health plan."

Section 17

Section 17. A new section of the New Mexico Insurance Code is enacted to read:

"BENEFITS.--

A. An approved health plan issued through the alliance shall pay for or provide medically necessary eligible expenses that exceed the deductible, co-payment and co-insurance amounts applicable under the provisions of Section 18 of the Health Insurance Alliance Act and are not otherwise limited or excluded. The Health Insurance Alliance Act does not prohibit the board from approving additional types of health plan designs with similar cost-benefit structures. An approved health plan shall, at a

minimum, reflect the levels of health insurance coverage generally available in New Mexico for small employer group policies.

B. The board may design and require an approved health plan to contain cost containment measures and requirements, including managed care, pre-admission certification and concurrent inpatient review."

Section 18

Section 18. A new section of the New Mexico Insurance Code is enacted to read:

"DEDUCTIBLES--CO-INSURANCE--MAXIMUM OUT-OF-POCKET PAYMENTS.--

A. Subject to the limitations provided in Subsection C of this section, an approved health plan offered through the alliance may impose a deductible on a per-person calendar year basis. A deductible plan of five hundred dollars (\$500) shall initially be offered. Health maintenance organization plans shall provide equivalent cost-benefit structures. The board may authorize deductibles in other amounts and equivalent cost-benefit structures. The deductible shall be applied to the first five hundred dollars (\$500) or any other amount determined as deductible by the board of eligible expenses incurred by the covered individual.

B. Subject to the limitations provided in Subsection C of this section, a mandatory co-insurance requirement shall be imposed at an average not to exceed thirty percent of eligible expenses in excess of the mandatory deductible. Health maintenance organizations shall impose equivalent cost-benefit structures.

C. The maximum aggregate out-of-pocket payments for eligible expenses or health care services by the covered individual shall be determined by the board."

Section 19

Section 19. A new section of the New Mexico Insurance Code is enacted to read:

"DEPENDENT FAMILY MEMBER REQUIRED COVERAGE--SMALL EMPLOYER RESPONSIBILITY.--

A. A small employer may collect or make a payroll deduction from the compensation of an employee for the portion of the approved health plan cost the employee is responsible for paying. The small employer may contribute to the cost of that plan on behalf of the employee.

B. A small employer shall make available to dependent family members of an employee covered by an approved health plan the same approved health plan. The small employer may contribute to the cost of group family coverage.

C. All premiums collected, deducted from the compensation of employees or paid on their behalf by the small employer shall be promptly remitted to the alliance."

Section 20

Section 20. A new section of the New Mexico Insurance Code is enacted to read:

"RENEWABILITY.--

A. An approved health plan shall contain provisions under which the member offering the plan is obligated to renew the health insurance if premiums are paid until the day the plan is replaced by another plan or the small employer terminates coverage. An individual covered by health insurance under an approved health plan may retain coverage until he first becomes eligible for medicare coverage, except that in a family policy the age of the younger family member shall be used to continue the coverage and as the basis for eligibility.

B. If an approved health plan ceases to exist, the alliance shall provide an alternate approved health plan.

C. An approved health plan shall provide covered individuals the right to continue health insurance coverage through individual health insurance provided by the same member upon the death of the employee or upon the divorce, annulment or dissolution of marriage or legal separation of the spouse from the employee or by termination of employment by electing to do so within a period of time specified in the health insurance. The individual may be charged an additional administrative charge for the individual health insurance."

Section 21

Section 21. A new section of the New Mexico Insurance Code is enacted to read:

"RULES.--The superintendent shall:

A. adopt rules that provide for disclosure by members of the availability of health insurance from the alliance; and

B. adopt rules to carry out the provisions of the Health Insurance Alliance Act."

Section 22

Section 22. A new section of the New Mexico Insurance Code is enacted to read:

"COLLECTIVE ACTION.--Neither the participation by insurers in the alliance, the establishment of rates, forms or procedures for coverages issued by the alliance nor

any other joint or collective action required by the provisions of the Health Insurance Alliance Act shall be the basis of any legal action, civil or criminal liability or penalty against the members either jointly or separately."

Section 23

Section 23. A new section of the New Mexico Insurance Code is enacted to read:

"RATES--STANDARD RISK RATE--EXPERIENCE RATING PROHIBITED.--

A. The alliance shall determine a standard risk rate index by actuarially calculating the average index rates that the insurer has filed under the requirements of the Small Group Rate and Renewability Act with the benefits similar to the alliance's standard approved health plan. A standard risk rate based on age and other appropriate demographic characteristics may be used. No standard risk rate shall be more than fifteen percent higher or fifteen percent lower than the average index rate. In determining the standard risk rate, the alliance shall consider the benefits provided by the approved health plan.

B. Experience rating is not allowed other than for reinsurance purposes.

C. All rates and rate schedules shall be submitted to the superintendent for approval prior to use."

Section 24

Section 24. A new section of the New Mexico Insurance Code is enacted to read:

BENEFIT PAYMENTS REDUCTION.--

A. An approved health plan shall be the last payer of benefits whenever any other benefit is available. Benefits otherwise payable under the approved health plan shall be reduced by all amounts paid or payable through any other health insurance and by all hospital and medical expense benefits paid or payable under any workers' compensation coverage, automobile medical payment or liability insurance, whether provided on the basis of fault or no-fault, and by any hospital or medical benefits paid or payable under or provided pursuant to any state or federal law program, excluding medicaid.

B. The administrator or the alliance shall have a cause of action against any person covered by an approved health plan for the recovery of the amount of benefits paid that are not for covered expenses. Benefits due from the approved health plan may be reduced or refused as a set-off against any amount recoverable under this section."

Section 25

Section 25. A new section of the New Mexico Insurance Code is enacted to read:

"EXPANDED SERVICE DEVELOPMENT.--The department of insurance, in cooperation with the alliance, shall develop a plan to provide health insurance coverage for uninsured children, individuals and other employers."

Section 26

Section 26. A new section of Chapter 59A, Article 18 NMSA 1978 is enacted to read:

"ADJUSTED COMMUNITY RATING.--

A. Until July 1, 1998, every insurer, fraternal benefit society, health maintenance organization or nonprofit health care plan that provides primary health insurance or health care coverage insuring or covering major medical expenses shall, in determining the initial year's premium charged for an individual, use only the rating factors of age, gender, geographic area of the place of employment and smoking practices. In determining the initial and any subsequent year's rate, the difference in rates in any one age group that may be charged on the basis of a person's gender shall not exceed another person's rates in the age group by more than twenty percent of the lower rate, and no person's rate shall exceed the rate of any other person with similar family composition by more than two hundred fifty percent of the lower rate, except that the rates for children under the age of nineteen may be lower than the bottom rates in the two hundred fifty percent band. The rating factor restrictions shall not prohibit an insurer, society, organization or plan from offering rates that differ depending upon family composition.

B. Effective July 1, 1998, every insurer, fraternal benefit society, health maintenance organization or nonprofit health care plan that provides primary health insurance or health care coverage insuring or covering major medical expenses shall charge the same premium for the same coverage to each New Mexico resident, regardless of a person's individual circumstances for medical risk, job risk or gender. The only rating factor that may be used is whether a person is under or over the age of nineteen.

C. The superintendent shall adopt regulations to implement the provisions of this section."

Section 27

Section 27. Section 59A-22-5 NMSA 1978 (being Laws 1984, Chapter 127, Section 426, as amended) is amended to read:

"59A-22-5. TIME LIMIT ON CERTAIN DEFENSES.--There shall be a provision as follows:

A. After two years from the date of issue of this policy, no misstatements, except fraudulent misstatements, made by the applicant in the application for such policy shall be used to void the policy or to deny a claim for loss incurred or disability (as defined in the policy) commencing after the expiration of such two-year period.

(The foregoing policy provision shall not be so construed as to affect any initial two-year period nor to limit the application of Sections 59A-22-17 through 59A-22-19, 59A-22-21 and 59A-22-22 NMSA 1978 in the event of misstatement with respect to age or occupation or other insurance.)

(A policy which the insured has the right to continue in force subject to its terms by the timely payment of premium (1) until at least age fifty or (2) in the case of a policy issued after age forty-four, for at least five years from its date of issue, may contain in lieu of the foregoing the following provision (from which the clause in parentheses may be omitted at the insurance company's option) under the caption "Incontestable":

After this policy has been in force for a period of two years during the lifetime of the insured (excluding any period during which the insured is disabled), it shall become incontestable as to the statements contained in the application.)

B. For individual policies that do not reimburse or pay as a result of hospitalization, medical or surgical expenses, no claim for loss incurred or disability (as defined in the policy) shall be reduced or denied on the ground that a disease or physical condition disclosed on the application and not excluded from coverage by name or a specific description effective on the date of loss had existed prior to the effective date of coverage of this policy. As an alternative, those policies may contain provisions under which coverage may be excluded for a period of six months following the effective date of coverage as to a given covered insured for a preexisting condition, provided that:

(1) the condition manifested itself within a period of six months prior to the effective date of coverage in such a manner as would cause a reasonably prudent person to seek diagnosis, care or treatment; or

(2) medical advice or treatment relating to the condition was recommended or received within a period of six months prior to the effective date of coverage.

C. Individual policies that reimburse or pay as a result of hospitalization, medical or surgical expenses may contain provisions under which coverage is excluded during a period of six months following the effective date of coverage as to a given covered insured for a preexisting condition, provided that:

(1) the condition manifested itself within a period of six months prior to the effective date of coverage in such a manner as would cause a reasonably prudent person to seek diagnosis, care or treatment; or

(2) medical advice or treatment relating to the condition was recommended or received within a period of six months prior to the effective date of coverage.

D. The preexisting condition exclusions authorized in Subsections B and C of this section shall be waived to the extent that similar conditions have been satisfied under any prior health insurance coverage if the application for new coverage is made not later than thirty-one days following the termination of prior coverage. In that case, the new coverage shall be effective from the date on which the prior coverage terminated.

E. Nothing in this section shall be construed to require the use of preexisting conditions or prohibit the use of preexisting conditions that are more favorable to the insured than those specified in this section."

Section 28

Section 28. Section 59A-23-3 NMSA 1978 (being Laws 1984, Chapter 127, Section 462, as amended) is amended to read:

"59A-23-3. GROUP HEALTH INSURANCE.--

A. Group health insurance is that form of health insurance covering groups of persons, with or without their dependents, and issued upon the following basis:

(1) under a policy issued to an employer, who shall be deemed the policyholder, insuring at least one employee of such employer for the benefit of persons other than the employer. The term "employees", as used in this section, includes the officers, managers and employees of the employer, the partners, if the employer is a partnership, the officers, managers and employees of subsidiary or affiliated corporations of a corporation employer, and the individual proprietors, partners and employees of individuals and firms the business of which is controlled by the insured employer through stock ownership, contract or otherwise. The term "employer", as used in this section, includes any municipal or governmental corporation, unit, agency or department thereof and the proper officers, as such, or any unincorporated municipality or department thereof, as well as private individuals, partnerships and corporations. A small employer shall also be subject to the Small Group Rate and Renewability Act. A "small employer" means any person, firm, corporation, partnership or association actively engaged in business who, on at least fifty percent of its working days during the preceding year, employed no more than fifty eligible employees. In determining the number of eligible employees, companies that are affiliated companies or that are eligible to file a combined tax return for purposes of state taxation shall be considered one employer;

(2) under a policy issued to an association, including a labor union and an agricultural association, which shall have a constitution and bylaws and which has been

organized and is maintained in good faith for purposes other than that of obtaining insurance, insuring at least twenty-five members of the association for the benefit of persons other than the association or its officers or trustees, as such; or

(3) under a policy issued to any other substantially similar group which, in the discretion of the superintendent, may be subject to the issuance of a group sickness and accident policy or contract.

B. Each policy, as provided by this section, shall contain in substance the following provisions:

(1) a provision that the policy, the application of the policyholder, if such application or copy thereof is attached to such policy, and the individual applications, if any, submitted in connection with such policy by the employees or members, shall constitute the entire contract between the parties, and that all statements, in the absence of fraud, made by any applicant or applicants shall be deemed representations and not warranties, and that no such statement shall void the insurance or reduce benefits thereunder unless contained in a written application for such insurance;

(2) a provision that the insurer will furnish to the policyholder, for delivery to each employee or member of the insured group, an individual certificate setting forth in summary form a statement of the essential features of the insurance coverage of such employee or member and to whom benefits thereunder are payable. If dependents are included in the coverage, only one certificate need be issued for each family unit; and

(3) a provision that to the group originally insured may be added from time to time eligible new employees or members or dependents, as the case may be, in accordance with the terms of the policy.

C. For purposes of this section only, the directors of a corporation shall be deemed to be employees of the corporation."

Section 29

Section 29. Section 59A-23C-1 NMSA 1978 (being Laws 1991, Chapter 153, Section 1) is amended to read:

"59A-23C-1. SHORT TITLE.--Chapter 59A, Article 23C NMSA 1978 may be cited as the "Small Group Rate and Renewability Act"."

Section 30

Section 30. Section 59A-23C-3 NMSA 1978 (being Laws 1991, Chapter 153, Section 3) is amended to read:

"59A-23C-3. DEFINITIONS.--As used in the Small Group Rate and Renewability Act:

A. "actuarial certification" means a written statement by a member of the American academy of actuaries or another individual acceptable to the superintendent that a small employer carrier is in compliance with the provisions of Section 59A-23C-5 NMSA 1978, based upon the person's examination, including a review of the appropriate records and of the actuarial assumptions and methods utilized by the carrier in establishing premium rates for applicable health benefit plans;

B. "base premium rate" means, for each class of business as to a rating period, the lowest premium rate charged under a rating system for that class of business by the small employer carrier to small employers with similar case characteristics for health benefit plans with the same or similar coverage;

C. "carrier" means any person who provides health insurance in this state. For the purposes of the Small Group Rate and Renewability Act, "carrier" or "insurer" includes a licensed insurance company, a licensed fraternal benefit society, a prepaid hospital or medical service plan, a health maintenance organization, a nonprofit health care organization, a multiple employr welfare arrangement or any other person providing a plan of health insurance subject to state insurance regulation;

D. "case characteristics" means demographic or other relevant characteristics of a small employer, as determined by a small employer carrier, that are considered by the carrier in the determination of premium rates for the small employer, but "case characteristics" does not include claim experience, health status and duration of coverage since issue;

E. "class of business" means all small employers as shown on the records of the small employer carrier. A separate class of business may be established by the small employer carrier on the basis that the applicable health benefit plans have been acquired from another small employer carrier as a distinct grouping of plans;

F. "department" means the department of insurance;

G. "health benefit plan" or "plan" means any hospital or medical expense incurred policy or certificate, hospital or medical service plan contract or health maintenance organization subscriber contract. "Health benefit plan" does not include accident-only, credit, dental or disability income insurance, medicare supplement coverage, coverage issued as a supplement to liability insurance, workers' compensation or similar insurance or automobile medical-payment insurance;

H. "index rate" means, for each class of business for small employers with similar case characteristics, the arithmetic average of the applicable base premium rate and the corresponding highest premium rate;

I. "new business premium rate" means, for each class of business as to a rating period, the premium rate charged or offered by the small employer carrier to small employers with similar case characteristics for newly issued health benefit plans with the same or similar coverage;

J. "rating period" means the calendar period for which premium rates established by a small employer carrier are assumed to be in effect, as determined by the small employer carrier;

K. "small employer" means any person, firm, corporation, partnership or association actively engaged in business who, on at least fifty percent of its working days during the preceding year, employed no less than two and no more than fifty eligible employees; provided that:

(1) in determining the number of eligible employees, the spouse or dependent of an employee may, at the employer's discretion, be counted as a separate employee; and

(2) companies that are affiliated companies or that are eligible to file a combined tax return for purposes of state income taxation shall be considered one employer;

L. "small employer carrier" means any insurer that offers health benefit plans covering the employees of a small employer; and

M. "superintendent" means the superintendent of insurance."

Section 31

Section 31. Section 59A-23C-5 NMSA 1978 (being Laws 1991, Chapter 153, Section 5) is amended to read:

"59A-23C-5. RESTRICTIONS RELATING TO PREMIUM RATES.--

A. Premium rates for health benefit plans subject to the Small Group Rate and Renewability Act shall be subject to the following provisions:

(1) the index rate for a rating period for any class of business shall not exceed the index rate for any other class of business by more than twenty percent;

(2) for a class of business, the premium rates charged during a rating period to small employers with similar case characteristics for the same or similar coverage, or the rates that could be charged to those employers under the rating system for that class of business, shall not vary from the index rate by more than twenty percent of the index rate;

(3) the percentage increase in the premium rate charged to a small employer for a new rating period may not exceed the sum of the following:

(a) the percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period. In the case of a class of business for which the small employer carrier is not issuing new policies, the carrier shall use the percentage change in the base premium rate;

(b) an adjustment, not to exceed ten percent annually and adjusted pro rata for rating periods of less than one year due to the claim experience, health status or duration of coverage of the employees or dependents of the small employer as determined from the carrier's rate manual for the class of business; and

(c) any adjustment due to change in coverage or change in the case characteristics of the small employer as determined from the carrier's rate manual for the class of business; and

(4) in the case of health benefit plans issued prior to the effective date of the Small Group Rate and Renewability Act, a premium rate for a rating period may exceed the ranges described in Paragraph (1) or (2) of this subsection for a period of five years following the effective date of the Small Group Rate and Renewability Act. In that case, the percentage increase in the premium rate charged to a small employer in that class of business for a new rating period may not exceed the sum of the following:

(a) the percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period. In the case of a class of business for which the small employer carrier is not issuing new policies, the carrier shall use the percentage change in the base premium rate; and

(b) any adjustment due to change in coverage or change in the case characteristics of the small employer as determined from the carrier's rate manual for the class of business.

B. Nothing in this section is intended to affect the use by a small employer carrier of legitimate rating factors other than claim experience, health status or duration of coverage in the determination of premium rates. Small employer carriers shall apply rating factors, including case characteristics, consistently with respect to all small employers in a class of business.

C. A small employer carrier shall not involuntarily transfer a small employer into or out of a class of business. A small employer carrier shall not offer to transfer a small employer into or out of class of business unless the offer is made to transfer all small employers in the class of business without regard to case characteristics, claim experience, health status or duration since issue.

D. Prior to usage and the effective date of the Small Group Rate and Renewability Act, each carrier shall file with the superintendent the rate manuals and any updates thereto for each class of business. A rate filing fee is payable under Subsection U of Section 59A-6-1 NMSA 1978 for the filing of each update. The superintendent shall disapprove within sixty days of receipt of a complete filing or the filing is deemed approved. If the superintendent disapproves any such form during the sixty-day review period, he shall give the carrier written notice of the disapproval stating the ground thereof. At any time, the superintendent, after a hearing thereof, may disapprove a form or withdraw a previous approval. The superintendent's order on such hearing shall state the grounds for disapproval or withdrawal of a previous approval and the date not less than twenty days later when disapproval or withdrawal becomes effective."

Section 32

Section 32. A new section of Chapter 59A, Article 23C NMSA 1978 is enacted to read:

"PREEXISTING CONDITIONS--LIMITATIONS.--

A. A health benefit plan that is offered by a carrier to a small employer may include a preexisting condition restriction that excludes coverage for a condition for up to six months after the effective date of the plan provided that within six months before the effective date of coverage:

(1) medical advice or treatment for the condition was recommended by or received from a licensed health care provider; or

(2) the condition manifested itself in a manner that would cause a reasonable person to seek diagnosis or treatment.

B. The preexisting condition restriction authorized in this section shall be waived to the extent that similar conditions have been satisfied under a prior health benefit plan that was subject to the Small Group Rate and Renewability Act, provided the application for coverage under the new health benefit plan is made not later than thirty-one days after the individual ceases to be a member of the group insured or the group ceases to be insured under the prior health benefit plan, whichever occurs first. If the conditions authorized in this section have been previously satisfied, coverage under the new health benefit plan shall be effective from the date on which the prior coverage terminated.

C. Nothing in this section requires the use in a health benefit plan offered by a carrier of a preexisting condition restriction. Nothing in this section prohibits the use of preexisting condition restrictions that are less restrictive on small employers and insured persons than the conditions authorized in this section.

D. The superintendent shall adopt regulations to implement the provisions of this section."

Section 33

Section 33. A new section of Chapter 59A, Article 23C NMSA 1978 is enacted to read:

"ADJUSTED COMMUNITY RATING.--

A. Until July 1, 1998, a health benefit plan that is offered by a carrier to a small employer shall be offered without regard to the health status of any individual in the group, except as provided in the Small Group Rate and Renewability Act. The only rating factors that may be used to determine the initial year's premium charged a group, subject to the maximum rate variation provided in this section for all rating factors, are the group members':

- (1) age;
- (2) gender;
- (3) geographic area of the place of employment; or
- (4) smoking practices.

B. Until July 1, 1998, in determining the initial and any subsequent year's rate, the difference in rates in any one age group that may be charged on the basis of a person's gender shall not exceed another person's rates in the age group by more than twenty percent of the lower rate, and no person's rate shall exceed the rate of any other person with similar family composition by more than two hundred fifty percent of the lower rate, except that the rates for children under the age of nineteen may be lower than the bottom rates in the two hundred fifty percent band. The rating factor restrictions shall not prohibit a carrier from offering rates that differ depending upon family composition.

C. Effective July 1, 1998, a health benefit plan that is offered by a carrier to a small employer shall charge the same premium for the same coverage to each New Mexico resident, regardless of a person's individual circumstances for medical risk, job risk or gender. The only rating factor that may be used is whether a person is under or over the age of nineteen.

D. The superintendent shall adopt regulations to implement the provisions of this section."

Section 34

Section 34. Section 59A-47-33 NMSA 1978 (being Laws 1984, Chapter 127, Section 879.32, as amended) is amended to read:

"59A-47-33. OTHER PROVISIONS APPLICABLE.--The provisions of the Insurance Code other than Chapter 59A, Article 47 NMSA 1978 shall not apply to health care plans except as expressly provided in the Insurance Code and that article. To the extent reasonable and not inconsistent with the provisions of that article, the following articles and provisions of the Insurance Code shall also apply to health care plans, their promoters, sponsors, directors, officers, employees, agents, solicitors and other representatives; and, for the purposes of such applicability, a health care plan may therein be referred to as an "insurer":

- A. Chapter 59A, Article 1 NMSA 1978;
- B. Chapter 59A, Article 2 NMSA 1978;
- C. Chapter 59A, Article 4 NMSA 1978;
- D. Subsection C of Section 59A-5-22 NMSA 1978;
- E. Sections 59A-6-2 through 59A-6-4 and 59A-6-6 NMSA 1978;
- F. Section 59A-7-11 NMSA 1978;
- G. Chapter 59A, Article 8 NMSA 1978;
- H. Chapter 59A, Article 10 NMSA 1978;
- I. Section 59A-12-22 NMSA 1978;
- J. Chapter 59A, Article 16 NMSA 1978;
- K. Chapter 59A, Article 18 NMSA 1978;
- L. Chapter 59A, Article 19 NMSA 1978;
- M. Subsections B through E of Section 59A-22-5 NMSA 1978;
- N. Section 59A-22-34.1 NMSA 1978;
- O. Section 59A-22-39 NMSA 1978;
- P. Section 59A-22-40 NMSA 1978;

Q. Sections 59A-34-9 through 59A-34-13 NMSA 1978 and Section 59A-34-23 NMSA 1978;

R. Chapter 59A, Article 37 NMSA 1978, except Section 59A-37-7 NMSA 1978; and

S. Section 59A-46-15 NMSA 1978."

Section 35

Section 35. DELAYED REPEAL.--The Health Insurance Alliance Act is repealed June 30, 1998.

Section 36

Section 36. APPLICABILITY.--The provisions of Sections 26 through 34 of this act apply to all plans and policies delivered, issued for delivery or renewed on or after January 1, 1995.

Section 37

Section 37. EFFECTIVE DATE.--The effective date of the provisions of Sections 26 through 34 of this act is January 1, 1995.

Section 38

Section 38. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

SENATE BILL 462

EMERGENCY CLAUSE -- SIGNED MARCH 4, 1994

CHAPTER 76

RELATING TO CHILD SUPPORT; MAKING CHANGES IN THE MANDATORY MEDICAL SUPPORT ACT TO COMPLY WITH FEDERAL REQUIREMENTS; MAKING A CONFORMING CHANGE TO THE TAX REFUND INTERCEPT PROGRAM ACT; DECLARING AN EMERGENCY.

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

Section 1

Section 1. Section 7-2C-2 NMSA 1978 (being Laws 1985, Chapter 106, Section 2, as amended) is amended to read:

"7-2C-2. PURPOSE.--

A. The purpose of the Tax Refund Intercept Program Act is to comply with federal law:

(1) by enhancing the enforcement of child support and medical support obligations;

(2) to aid collection of outstanding debts owed for overpayment of public assistance and overissuance of food stamps and overpayment of unemployment compensation benefits and nonpayment of contributions or payments in lieu of contributions or other amounts due under the Unemployment Compensation Law;

(3) to promote repayment of educational loans;

(4) to aid collection of fines, fees and costs owed to the magistrate courts; and

(5) to aid collection of fines, fees and costs owed to the Bernalillo county metropolitan court.

B. Efforts to accomplish the purpose of the Tax Refund Intercept Program Act may be enhanced by establishing a system to collect debts, in particular, outstanding child support obligations, educational loans, amounts due under the Unemployment Compensation Law, fines, fees and costs owed to the magistrate courts and fines, fees and costs owed to the Bernalillo county metropolitan court, by setting off the amount of such debts against the state income tax refunds due the debtors."

Section 2

Section 2. Section 7-2C-3 NMSA 1978 (being Laws 1985, Chapter 106, Section 3, as amended) is amended to read:

"7-2C-3. DEFINITIONS.--As used in the Tax Refund Intercept Program Act:

A. "claimant agency" means the taxation and revenue department or any of its divisions, the human services department, the employment security division of the labor department, any corporation authorized to be formed under the Educational Assistance Act, a magistrate court or the Bernalillo county metropolitan court;

B. "debt" means a legally enforceable obligation of an employer subject to the Unemployment Compensation Law or an individual to pay a liquidated amount of money:

(1) that is equal to or more than one hundred dollars (\$100);

(2) that is due and owing a claimant agency, which a claimant agency is obligated by law to collect or which, in the case of an educational loan, a claimant agency has lawfully contracted to collect;

(3) that has accrued through contract, tort, subrogation or operation of law; and

(4) that, in the case of an amount due under the Unemployment Compensation Law, has been secured by a warrant of levy and lien or, in all other cases, has been reduced to judgment;

C. "debtor" means any employer subject to the Unemployment Compensation Law or any individual owing a debt;

D. "department" or "division" means, unless the context indicates otherwise, the taxation and revenue department, the secretary of taxation and revenue or any employee of the department exercising authority lawfully delegated to that employee by the secretary;

E. "educational loan" means any loan for educational purposes owned by a public post-secondary educational institution or owned or guaranteed by any corporation authorized to be formed under the Educational Assistance Act;

F. "medical support" means amounts owed to the human services department pursuant to the provisions of Subsection B of Section 40-4C-12 NMSA 1978;

G. "public post-secondary educational institution" means a publicly owned or operated institution of higher education or other publicly owned or operated post-secondary educational facility located within New Mexico;

H. "spouse" means an individual who is or was a spouse of the debtor and who has joined with the debtor in filing a joint return of income tax pursuant to the provisions of the Income Tax Act, which joint return has given rise to a refund that may be subject to the provisions of the Tax Refund Intercept Program Act; and

I. "refund" means a refund, including any amount of tax rebates or credits, under the Income Tax Act that the department has determined to be due to an individual."

Section 3

Section 3. Section 7-2C-11 NMSA 1978 (being Laws 1985, Chapter 106, Section 11, as amended) is amended to read:

"7-2C-11. PRIORITY OF CLAIMS.--

A. Claims of the department take precedence over the claim of any competing claimant agency, whether the department asserts a claim or sets off an asserted debt under the provisions of the Tax Refund Intercept Program Act or under the provisions of any other law which authorizes the department to apply amounts of tax owed against any refund due an individual pursuant to the Income Tax Act.

B. After claims of the department, claims shall take priority in the following order before claims of any competing claimant agency:

(1) claims of the human services department resulting from child support enforcement liabilities;

(2) claims of the human services department resulting from medical support liabilities;

(3) claims resulting from educational loans made under the Educational Assistance Act;

(4) claims of the human services department resulting from AFDC liabilities;

(5) claims of the human services department resulting from food stamp liabilities;

(6) claims of the employment security division of the labor department arising under the Unemployment Compensation Law;

(7) claims of a magistrate court for fines, fees or costs owed to that court; and

(8) claims of the Bernalillo county metropolitan court for fines, fees or costs owed to that court."

Section 4

Section 4. Section 40-4C-3 NMSA 1978 (being Laws 1990, Chapter 78, Section 3) is amended to read:

"40-4C-3. DEFINITIONS.--As used in the Mandatory Medical Support Act:

A. "court" means any district court ordering child support of an obligor;

B. "dental insurance coverage" means those coverages generally associated with a dental plan of benefits, not including medicaid coverage authorized by Title XIX of the Social Security Act and administered by the human services department;

C. "department" means the human services department;

D. "employer" means any individual, organization, agency, business or corporation hiring an obligor for pay;

E. "health insurance coverage" means those coverages generally associated with a medical plan of benefits, not including medicaid coverage authorized by Title XIX of the Social Security Act and administered by the department;

F. "insurer" includes a group health plan as defined in 29 U.S.C. 1167, a health maintenance organization as defined in Section 59A-46-2 NMSA 1978 and a nonprofit health care plan organized pursuant to the provisions of Section 59A-47-4 NMSA 1978;

G. "minor child" means a child younger than eighteen years of age who has not been emancipated;

H. "obligee" means a person to whom a duty of support is owed or a person, including the department, who has commenced a proceeding for enforcement of an alleged duty of support or for registration of a support order, regardless of whether the person to whom a duty of support is owed is a recipient of public assistance; and

I. "obligor" means a person owing a duty of support or against whom a proceeding for the enforcement of a duty of support or registration of a support order is commenced."

Section 5

Section 5. Section 40-4C-6 NMSA 1978 (being Laws 1990, Chapter 78, Section 6) is amended to read:

"40-4C-6. OBLIGATIONS--EMPLOYERS AND UNIONS--INSURERS.--

A. Upon receipt of the court order for health insurance coverage or dental insurance coverage pursuant to Section 40-4C-5 NMSA 1978 or upon application of the obligor pursuant to that order, the employer or union shall enroll the minor child as an eligible dependent in the health insurance plan or dental insurance plan and withhold any required premium from the obligor's income or wages. If more than one health insurance plan or dental insurance plan is offered by the employer or union, the minor child shall be enrolled in the plan in which the obligor is enrolled or the least costly plan available to the obligor that meets the minimum coverage criteria required pursuant to the Mandatory Medical Support Act.

B. In any instance in which the obligor is required by a court order to provide health insurance coverage or dental insurance coverage for the minor child and

the obligor is eligible for health insurance coverage or dental insurance coverage through an employer or union, the employer, union or insurer shall do the following:

(1) permit the obligor to enroll for health insurance coverage or dental insurance coverage the minor child who is otherwise eligible for coverage without regard to any enrollment season restrictions;

(2) enroll the minor child for health insurance coverage or dental insurance coverage if the obligor fails to enroll the minor child upon application by the obligee or the department;

(3) not disenroll or eliminate coverage of any minor child so enrolled unless:

(a) the employer is provided with satisfactory written evidence that the court order is no longer in effect;

(b) that the minor child is or will be enrolled in comparable health coverage that meets the coverage criteria required pursuant to the Mandatory Medical Support Act and that will take effect not later than the effective date of the disenrollment;

(c) the obligor has terminated employment; or

(d) the employer has eliminated health insurance coverage or dental insurance coverage for all of its employees; and

(4) withhold from the obligor's compensation the obligor's share, if any, of premiums for health insurance coverage or dental insurance coverage and to pay the share of premiums to the insurer, unless otherwise provided in law or regulation.

C. In those instances where the obligor fails or refuses to execute any document necessary to enroll the minor child in the health insurance plan or dental insurance plan ordered by the court, the required information and authorization may be provided by the department or the custodial parent or guardian of the minor child.

D. Information and authorization provided by the department or the custodial parent or guardian of the minor child shall be valid for the purpose of meeting enrollment requirements of the health insurance plan or dental insurance plan and shall not affect the obligation of the employer or union and the insurer to enroll the minor child in the health insurance or dental insurance plan for which other eligibility, enrollment, underwriting terms and other requirements are met. In instances in which the minor child is insured through the obligor, the insurer shall provide all information to the obligee that may be helpful or necessary for the minor child to obtain benefits.

E. A minor child that an obligor is required to cover as an eligible dependent pursuant to the Mandatory Medical Support Act shall be considered for insurance coverage purposes as a dependent of the obligor until the child is emancipated or until further order of the court.

F. In instances in which the minor child is insured through the obligor, the insurer is prohibited from denying health insurance coverage or dental insurance coverage of the minor child on the grounds that the minor child was born out of wedlock, that the minor child is not claimed as a dependent on the obligor's federal income tax return or that the minor child does not reside with the obligor or reside in the insurer's service area.

G. In instances in which the minor child is insured through the obligor, the insurer is prohibited from imposing requirements on the department that are different from requirements applicable to an agent or assignee of any other individual covered by the insurer.

H. In instances in which the minor child is insured through the obligor, the insurer shall permit the obligee or provider, with the approval of the obligee, to submit claims for covered services without the approval of the obligor. The insurer shall make payments on submitted claims directly to the obligee or the provider."

Section 6

Section 6. Section 40-4C-12 NMSA 1978 (being Laws 1990, Chapter 78, Section 12) is amended to read:

"40-4C-12. OBLIGOR LIABILITY.--

A. The obligor who fails to maintain the health insurance coverage or dental insurance coverage for the benefit of a minor child as ordered pursuant to the Mandatory Medical Support Act shall be liable to the obligee for any medical and dental expenses incurred from the date of the court order.

B. An obligor who receives payment from a third party for the costs of medical or dental services provided to a minor child and who fails to use the payment to reimburse the department is liable to the department to the extent of the department's payment for the services. The department is authorized to intercept the obligor's tax refund to recoup amounts paid. Claims for current or past due child support take priority over any claims made pursuant to this subsection. Proof of failure to maintain health insurance coverage or dental insurance as ordered constitutes a showing of increased need by the obligee and provides a basis for modification of the obligor's child support order.

C. If the department is the obligee, the obligor is required to provide the department with the following information concerning health insurance coverage or dental insurance coverage:

- (1) obligor's name and tax identification number;
- (2) type of coverage (single or family);
- (3) name, address and identifying number of health insurance coverage or dental insurance coverage;
- (4) name and tax identification number of other individuals who are provided health insurance coverage or dental insurance coverage by the obligor;
- (5) effective period of coverage; and
- (6) name, address and the tax identification number of the employer."

Section 7

Section 7. Section 40-4C-13 NMSA 1978 (being Laws 1990, Chapter 78, Section 13) is amended to read:

"40-4C-13. DEPARTMENT--DUTIES.--The department shall implement and enforce an order for health insurance coverage or dental insurance coverage when the minor child receives public assistance or upon application of the obligee to the department and payment by the obligee of any fees required by the department."

Section 8

Section 8. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

SENATE WAYS AND MEANS COMMITTEE SUBSTITUTE FOR
SENATE BILL 675
EMERGENCY CLAUSE -- SIGNED MARCH 4, 1994

CHAPTER 77

RELATING TO COURTS; PROVIDING FOR AN ADDITIONAL JUDGE IN THE FIFTH JUDICIAL DISTRICT; AMENDING A SECTION OF THE NMSA 1978.

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

Section 1

Section 1. Section 34-6-8 NMSA 1978 (being Laws 1968, Chapter 69, Section 11, as amended) is amended to read:

"34-6-8. JUDGES--FIFTH JUDICIAL DISTRICT.--There shall be eight district judges in the fifth judicial district."

Section 2

Section 2. TEMPORARY PROVISION--APPOINTMENT.--The additional judgeship provided for in Section 1 of this act shall be filled by appointment by the governor pursuant to Article 6, Section 36 of the constitution of New Mexico.

Section 3

Section 3. EFFECTIVE DATE.--The effective date of the provisions of this act is January 1, 1995.

SENATE BILL 599

CHAPTER 78

AMENDING SECTION 7-27-5.4 NMSA 1978 (BEING LAWS 1983, CHAPTER 306, SECTION

11, AS AMENDED) PERTAINING TO NEW MEXICO BUSINESS INVESTMENTS; DECLARING AN EMERGENCY.

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

Section 1

Section 1. Section 7-27-5.4 NMSA 1978 (being Laws 1983, Chapter 306, Section 11, as amended) is amended to read:

"7-27-5.4. NEW MEXICO BUSINESS INVESTMENTS.--No more than twenty percent of the book value of the severance tax permanent fund may be invested in the following investments and in the following amounts:

A. no more than ten percent of the book value of the severance tax permanent fund may be invested in notes or obligations securing loans to New Mexico businesses made by farm credit entities, banks and savings and loan associations and mortgages approved by the department of housing and urban development pursuant to the act of congress of July 30, 1953 known as the Small Business Act of 1953, as amended, and notes or obligations pursuant to the act of congress of August 14, 1946 known as the Farmers' Home Administration Act of 1946, as amended, only to the extent that both principal and interest are guaranteed by the United States government. The effective yield of these loans shall be a market rate not less than the yield available on the planned amortized class tranche of collateralized mortgage obligations guaranteed

by the federal national mortgage association or the federal home loan mortgage corporation with an average life comparable to the maturity of the loan. The state investment officer may enter into conventional agreements for the servicing of the loans and the administration of the receipts therefrom. Any servicing agreement may contain reasonable and customary provisions, including servicing fees not to exceed one hundred fifty basis points, as may be agreed upon; provided, in no event shall the rate paid by the borrower on the loan, together with servicing fees, exceed the maximum rate permitted by the applicable federal guarantee program; and

B. no more than ten percent of the book value of the fund may be invested in bonds, notes, debentures or other evidence of indebtedness, excluding commercial paper rated not less than Baa or BBB or the equivalent or guaranteed by an irrevocable letter of credit to the state of New Mexico issued by a financial institution or corporation rated a or A or the equivalent by a national rating service of any corporation organized and operating within the United States, excluding regulated public utility corporations, which as a condition of receiving the proceeds of such evidence of indebtedness will use such proceeds to establish or expand business outlets or ventures in New Mexico, provided that:

(1) the investment in the bonds, notes or debentures or other evidence of indebtedness of any one corporation shall not exceed one hundred percent of the cost of the expansion venture or new outlet or twenty million dollars (\$20,000,000), whichever is less;

(2) the rate of interest to be paid on the bonds, notes or debentures or other evidence of indebtedness shall be equivalent to the yield available on United States treasury issues of a comparable maturity plus fifty to one hundred basis points;

(3) the indebtedness shall be approved prior to purchase by the council;
and

(4) the guidelines for initiation of the purchase by the council of the bonds, notes, debentures or other evidence of indebtedness and the terms thereof shall be established by the council."

Section 2

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

SENATE BILL 1018
EMERGENCY CLAUSE -- SIGNED MARCH 7, 1994

CHAPTER 79

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE; AMENDING CERTAIN SECTIONS OF THE NMSA 1978 PERTAINING TO MINORITY DOCTORAL ASSISTANCE.

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

Section 1

Section 1. Section 21-211-1 NMSA 1978 (being Laws 1990 (1st S.S.), Chapter 8, Section 1, as amended) is amended to read:

"21-211-1. SHORT TITLE.--Chapter 21, Article 211 NMSA 1978 may be cited as the "Minority Doctoral Assistance Loan for Service Program Act"."

Section 2

Section 2. Section 21-211-3 NMSA 1978 (being Laws 1990 (1st S.S.), Chapter 8, Section 3, as amended) is amended to read:

"21-211-3. DEFINITIONS.--As used in the Minority Doctoral Assistance Loan for Service Program Act:

A. "academic committee" means a committee at a sponsoring institution appointed by the president of the institution and composed of two faculty members, two academic administrators and one central administrator;

B. "commission" means the commission on higher education;

C. "eligible institution" means a commission-approved institution of higher education that offers a doctoral degree-granting program in the fields of engineering, physical or life sciences, mathematics or other academic disciplines in which ethnic minorities and women are demonstrably underrepresented;

D. "sponsoring institution" means a four-year public post-secondary institution located in New Mexico; and

E. "student" means an individual who is an ethnic minority or a woman and who has been accepted for enrollment at an eligible institution to undertake a post-baccalaureate course of instruction in the field of engineering, physical or life sciences or mathematics."

SENATE FINANCE COMMITTEE SUBSTITUTE FOR SENATE BILL 979

CHAPTER 80

CLARIFYING LICENSING PROCEDURES OF PHYSICIANS AND PHYSICIAN ASSISTANTS; CLARIFYING CERTAIN DEFINITIONS; REVISING CERTAIN PROVISIONS AFFECTING PHYSICIAN ASSISTANTS; AMENDING AND ENACTING SECTIONS OF THE MEDICAL PRACTICE ACT AND THE OSTEOPATHIC PHYSICIANS' ASSISTANTS ACT.

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

Section 1

Section 1. Section 61-6-6 NMSA 1978 (being Laws 1973, Chapter 361, Section 1, as amended) is amended to read:

"61-6-6. DEFINITIONS.--As used in Chapter 61, Article 6 NMSA 1978:

A. "acting in good faith" means acting without malice as the primary motive or without knowledge or belief that one is in error in taking a particular action;

B. "board" means the New Mexico board of medical examiners;

C. "licensed physician" means a medical doctor licensed under the Medical Practice Act to practice medicine in New Mexico;

D. "medical college or school in good standing" means a board-approved medical college or school that has as high a standard as that required by the association of American medical colleges and the council on medical education of the American medical association;

E. "medical student" means a student enrolled in a board-approved medical college or school in good standing;

F. "person" means an individual or any legal entity of any kind whatever;

G. "physician assistant" means a skilled person registered by the board as being qualified by academic and practical training to provide patient services under the supervision and direction of the licensed physician who is responsible for the performance of that assistant;

H. "postgraduate year one" or "intern" means a first year postgraduate student upon whom a degree of doctor of medicine and surgery or equivalent degree has been conferred by a medical college or school in good standing approved by the board;

I. "postgraduate year two through eight" or "resident" means a graduate of a medical college or school in good standing approved by the board who is in training in a board-approved and accredited residency training program in a hospital or facility

affiliated with an approved hospital and who has been appointed to the position of "resident" or "assistant resident" for the purpose of postgraduate medical training;

J. "the practice of medicine" consists of:

(1) advertising, holding out to the public or representing in any manner that one is authorized to practice medicine in this state;

(2) offering or undertaking to administer, dispense or prescribe any drug or medicine for the use of any other person, except as authorized pursuant to a professional or occupational licensing statute set forth in Chapter 61 NMSA 1978;

(3) offering or undertaking to give or administer, dispense or prescribe any drug or medicine for the use of any other person, except as directed by a licensed physician;

(4) offering or undertaking to perform any operation or procedure upon any person;

(5) offering or undertaking to diagnose, correct or treat in any manner or by any means, methods, devices or instrumentalities any disease, illness, pain, wound, fracture, infirmity, deformity, defect or abnormal physical or mental condition of any person;

(6) offering medical peer review, utilization review or diagnostic service of any kind that directly influences patient care, except as authorized pursuant to a professional or occupational licensing statute set forth in Chapter 61 NMSA 1978; or

(7) acting as the representative or agent of any person in doing any of the things listed in Paragraphs (1) through (6) of this subsection;

K. "sexual contact" means touching the primary genital area, groin, anus, buttocks or breast of a patient or allowing a patient to touch another's primary genital area, groin, anus, buttocks or breast in a manner that is commonly recognized as outside the scope of acceptable medical practice;

L. "sexual penetration" means sexual intercourse, cunnilingus, fellatio or anal intercourse, whether or not there is any emission, or introducing any object into the genital or anal openings of another in a manner that is commonly recognized as outside the scope of acceptable medical practice; and

M. "United States" means the fifty states, its territories and possessions and the District of Columbia."

Section 2

Section 2. Section 61-6-7 NMSA 1978 (being Laws 1973, Chapter 361, Section 3, as amended) is amended to read:

"61-6-7. SHORT TITLE--REGISTRATION AS A PHYSICIAN ASSISTANT--
SCOPE OF PRACTICE--ANNUAL REGISTRATION OF EMPLOYMENT--
EMPLOYMENT CHANGE--FEES.--

A. Sections 61-6-7 through 61-6-10 NMSA 1978 may be cited as the "Physician Assistant Act".

B. The board may register qualified persons as physician assistants. No person shall perform, attempt to perform or hold himself out as a physician assistant without first applying for and obtaining registration with the board and without annually registering his employment and supervising licensed physician in accordance with board regulations.

C. Physician assistants may prescribe, administer and distribute dangerous drugs other than controlled substances in Schedule I of the Controlled Substances Act pursuant to regulations adopted by the New Mexico board of medical examiners after consultation with the board of pharmacy, provided that the prescribing, administering and distributing are done under the direction of a supervising licensed physician and within the parameters of a board-approved formulary and guidelines established under Paragraph (3) of Subsection A of Section 61-6-9 NMSA 1978. The distribution process shall comply with state laws concerning prescription packaging, labeling and recordkeeping requirements. Physician assistants shall not otherwise dispense dangerous drugs or controlled substances.

D. A physician assistant shall perform only those acts and duties assigned him by a supervising licensed physician that are within the scope of practice of the supervising licensed physician.

E. An applicant for registration as a physician assistant shall complete application forms as supplied by the board and shall pay a registration fee as provided in Section 61-6-19 NMSA 1978. Upon being registered by the board, the applicant shall have his name and address and other pertinent information enrolled by the board on a roster of physician assistants.

F. Each registered physician assistant shall annually submit proof of completion of continuing education as required by the board and shall annually renew his registration, supervising licensed physician and place of employment with the board. Upon any change in employment or supervising licensed physician between annual registrations, each physician assistant shall reregister his employment and supervising licensed physician and shall pay any additional registration fees as provided in Section 61-6-19 NMSA 1978. All applications for registration shall include the applicant's name, current address, the name and office address of both his employer and the supervising licensed physician and other additional information as the board deems necessary.

Upon any change of employment or change of supervising licensed physician, prior registration shall automatically become void or inactive.

G. Each annual renewal of registration of employment shall be accompanied by a fee as provided in Section 61-6-19 NMSA 1978."

Section 3

Section 3. Section 61-6-8 NMSA 1978 (being Laws 1973, Chapter 361, Section 4, as amended) is amended to read:

"61-6-8. DENIAL, SUSPENSION OR REVOCATION.--In accordance with the procedures contained in the Uniform Licensing Act, the board may deny, revoke or suspend any registration to practice as a physician assistant or may place on probation, enter stipulation, censure, reprimand or fine any person registered as a physician assistant for:

A. procuring, aiding or abetting a criminal abortion;

B. soliciting patients for any practitioner of the healing arts;

C. soliciting or receiving any form of compensation from any person other than the physician assistant's registered employer for performing as a physician assistant;

D. willfully or negligently divulging a professional confidence or discussing a patient's condition or a physician's diagnosis without the express permission of the physician and patient;

E. conviction for any offense punishable by incarceration in a state penitentiary or federal prison. A copy of the record of conviction, certified by the clerk of the court entering the conviction, is conclusive evidence;

F. the habitual or excessive use of intoxicants or drugs;

G. fraud or misrepresentation in applying for or procuring registration to perform as a physician assistant in this state or in applying for or procuring an annual registration;

H. impersonating another person registered as a physician assistant or allowing any person to use the physician assistant's certificate of qualification or registration;

I. aiding or abetting the practice of medicine by a person not licensed by the board;

J. gross negligence in the performance of duties, tasks or functions assigned by a licensed physician;

K. manifest incapacity or incompetence to perform as a physician assistant;

L. conduct resulting in the suspension or revocation by another state of a registration, license or certification to perform as a physician assistant, based upon acts by the physician assistant similar to acts constituting grounds for suspension or revocation in New Mexico. A certified copy of the record of the suspension or revocation of the state imposing the penalty is conclusive evidence thereof;

M. conduct unbecoming in a person registered as a physician assistant or detrimental to the best interests of the public;

N. conduct outside the scope of duties assigned by the supervising physician;

O. repeated similar negligent acts; or

P. injudicious prescribing, administering or distributing of drugs."

Section 4

Section 4. Section 61-6-9 NMSA 1978 (being Laws 1973, Chapter 361, Section 5, as amended) is amended to read:

"61-6-9. PHYSICIAN ASSISTANTS--RULES AND REGULATIONS.--

A. The board may adopt and enforce reasonable rules and regulations:

Chapter 80 Section 4 Laws 1994

(1) for setting qualifications of education, skill and experience for registration of a person as a physician assistant and providing forms and procedures for obtaining certificates of registration and for annual registration of employment, supervising licensed physician and place of employment;

(2) for examining and evaluating applicants for registration as a physician assistant as to their skill, knowledge and experience in the field of medical care;

(3) for establishing when and for how long physician assistants are permitted to prescribe, administer and distribute dangerous drugs other than controlled substances in Schedule I of the Controlled Substances Act pursuant to regulations adopted by the New Mexico board of medical examiners after consultation with the board of pharmacy;

(4) for allowing a supervising licensed physician to temporarily delegate his supervisory responsibilities for a physician assistant to another licensed physician;

(5) for allowing a physician assistant to temporarily serve under the supervision of a licensed physician other than the supervising licensed physician of record; and

(6) for the purpose of carrying out all other provisions of the Physician Assistant Act.

B. The board shall not adopt any rule or regulation allowing a physician assistant to measure the powers, range or accommodative status of human vision; diagnose vision problems; prescribe lenses, prisms, vision training or contact lenses; or fit contact lenses, but this foregoing restriction does not preclude vision screening. The board shall not adopt any rule or regulation allowing a physician assistant to perform diagnosis or medical, surgical, mechanical, manipulative and orthopedic treatment of the human foot."

Section 5

Section 5. Section 61-6-11 NMSA 1978 (being Laws 1923, Chapter 44, Section 3, as amended) is amended to read:

"61-6-11. LICENSURE.--

A. The board may admit to examination for license any person who is a graduate of a medical college or school in good standing as defined in Subsection D of Section 61-6-6 NMSA 1978 and who has completed two years of postgraduate training.

B. One year of postgraduate medical training may be accepted by the board if the applicant was an intern in a board-approved program from July 1, 1993 through June 30, 1994 and if the applicant applies to the board for licensure before July 1, 1995. All postgraduate training shall be approved by the board.

C. An applicant who has not completed two years of postgraduate medical training, but who otherwise meets all other licensing requirements, may present evidence to the board of the applicant's other professional experience for consideration by the board in lieu of postgraduate medical training. The board shall, in its sole discretion, determine if the professional experience is substantially equivalent to the required postgraduate medical training.

D. The board may administer a board-approved licensing examination. The board shall determine a grade constituting successful completion of the exam.

E. Alternatively, the board may issue a license to any applicant successfully completing an examination accepted by the board as administered in this or another state.

F. A graduate of a medical college located outside the United States may be granted a license to practice medicine in New Mexico provided the applicant presents evidence to the board that the applicant is a person of good moral character and is in compliance with the United States immigration laws and provided that the applicant presents satisfactory evidence to the board that the applicant has successfully passed an examination as required by the board and has successfully completed two years of postgraduate medical training in a board-approved program.

G. All applicants for licensure by examination shall personally appear before the board or a designated member of the board for an interview.

H. Every applicant for licensure under this section shall pay the fees required by Section 61-6-19 NMSA 1978."

Section 6

Section 6. Section 61-6-13 NMSA 1978 (being Laws 1989, Chapter 269, Section 9) is amended to read:

"61-6-13. LICENSURE BY ENDORSEMENT.--

A. The board may grant a license without examination and by endorsement to an applicant who has been a licensed physician outside of New Mexico, but in the United States and who otherwise meets the requirements set forth in the Medical Practice Act, provided that the applicant is properly endorsed by the officers of the examining board with jurisdiction.

B. The board may grant a license without examination and by endorsement to any applicant who has been a licensed physician in Canada and who otherwise meets the requirements set forth in the Medical Practice Act provided that the applicant is properly endorsed by the officers of either the Canadian medical council or an examining board with jurisdiction within the United States.

C. The board may grant a license without examination and by endorsement to any applicant who has graduated from a medical college located outside the United States or Canada and who is of good moral character, who is in compliance with the United States immigration laws and who has been a licensed physician in the United States or Canada and has practiced medicine in the United States or Canada immediately preceding the application and who otherwise meets the requirements set forth in the Medical Practice Act, provided that the applicant is properly endorsed by the officers of the examining board within the United States or Canada that has jurisdiction.

D. An endorsement provided pursuant to this section shall certify that the applicant has passed an examination that meets with board approval and that the applicant is in good standing in that jurisdiction.

E. All applicants for licensure under this section shall personally appear before the board or a designated board member for an interview.

F. All applicants for licensure under this section shall pay an application fee as provided in Section 61-6-19 NMSA 1978."

Section 7

Section 7. Section 61-6-15 NMSA 1978 (being Laws 1969, Chapter 46, Section 6, as amended) is amended to read:

"61-6-15. LICENSE MAY BE REFUSED, REVOKED OR SUSPENDED--
LICENSEE MAY BE FINED, CENSURED OR REPRIMANDED--PROCEDURE--
PRACTICE AFTER SUSPENSION OR REVOCATION--PENALTY--
UNPROFESSIONAL AND DISHONORABLE CONDUCT DEFINED--FEES AND
EXPENSES--NOTICE OF CLAIM.--

A. The board may refuse to license and may revoke or suspend any license that has been issued by the board or any previous board and may fine, censure or reprimand any licensee upon satisfactory proof being made to the board that the applicant for or holder of the license has been guilty of unprofessional or dishonorable conduct. The board may also refuse to license an applicant who is unable to practice medicine, pursuant to Section 61-7-3 NMSA 1978. All proceedings shall be as required by the Uniform Licensing Act or the Impaired Physician Act.

B. The board may, in its discretion and for good cause shown, place the licensee on probation on such terms and conditions as it deems proper for protection of the public and for the purpose of the rehabilitation of the probationer, or both. Upon expiration of the term of probation, if a term is set, further proceedings may be abated by the board if the holder of the license furnishes the board with evidence that the physician is competent to practice medicine, is of good moral character and has complied with the terms of probation.

C. If evidence fails to establish to the satisfaction of the board that the licensee is competent and is of good moral character or if evidence shows that he has not complied with the terms of probation, the board may revoke or suspend the license forthwith. If a license to practice medicine in this state is suspended, the holder of the license may not practice during the term of suspension; and any person whose license has been revoked or suspended by the board and who thereafter practices or attempts or offers to practice medicine in New Mexico, unless the period of suspension has expired or been modified by the board or the physician's license reinstated, is guilty of a felony and shall be punished as provided in Section 61-6-20 NMSA 1978.

D. "Unprofessional or dishonorable conduct", as used in this section, means among other things, but not limited to because of enumeration:

- (1) procuring, aiding or abetting a criminal abortion;
- (2) employing any person to solicit patients for the physician;
- (3) representing to a patient that a manifestly incurable condition of sickness, disease or injury can be cured;
- (4) obtaining any fee by fraud or misrepresentation;
- (5) willfully or negligently divulging a professional confidence;
- (6) conviction of any offense punishable by incarceration in a state penitentiary or federal prison. A copy of the record of conviction, certified by the clerk of the court entering the conviction, is conclusive evidence;
- (7) habitual or excessive use of intoxicants or drugs;
- (8) fraud or misrepresentation in applying for or procuring a license to practice in this state or in connection with applying for or procuring renewal, including cheating on or attempting to subvert the licensing examinations;
- (9) making false or misleading statements regarding the physician's skill or the efficacy or value of the medicine, treatment or remedy prescribed or administered by the physician or at the physician's direction in the treatment of any disease or other condition of the human body or mind;
- (10) impersonating another person licensed to practice medicine, permitting or allowing any person to use the physician's license or certificate of registration or practicing medicine under a false or assumed name;
- (11) aiding or abetting the practice of medicine by a person not licensed by the board;
- (12) gross negligence in the practice of medicine;
- (13) manifest incapacity or incompetence to practice medicine;
- (14) the suspension or revocation by another state of a license to practice medicine, based upon acts by the licensee similar to acts described in this section. A certified copy of the record of suspension or revocation of the state making the suspension or revocation is conclusive evidence;

(15) the use of any false, fraudulent or deceptive statement in any document connected with the practice of medicine;

(16) fee splitting;

(17) the prescribing, administering or dispensing of narcotic, stimulant or hypnotic drugs for other than accepted therapeutic purposes;

(18) conduct likely to deceive, defraud or harm the public;

(19) repeated similar negligent acts;

(20) employing abusive billing practices;

(21) failure to report to the board any adverse action taken against the physician by:

(a) another licensing jurisdiction;

(b) any peer review body;

(c) any health care entity;

(d) any professional or medical society or association;

(e) any governmental agency;

(f) any law enforcement agency; or

(g) any court for acts or conduct similar to acts or conduct that would constitute grounds for action as defined in this section;

(22) failure to report to the board surrender of a license or other authorization to practice medicine in another state or jurisdiction or surrender of membership on any medical staff or in any medical or professional association or society following, in lieu of and while under disciplinary investigation by any of those authorities or bodies for acts or conduct similar to acts or conduct that would constitute grounds for action as defined in this section;

(23) failure to furnish the board, its investigators or representatives with information requested by the board;

(24) abandonment of patients;

(25) being found mentally incompetent or insane by a court of competent jurisdiction;

(26) injudicious prescribing, administering or dispensing of any drug or medicine;

(27) failure to adequately supervise, as provided by board regulation, a medical or surgical assistant or technician or professional licensee who renders health care;

(28) intentionally engaging in sexual contact or sexual penetration with a patient other than one's spouse after representing or inferring that such activity is a legitimate part of the patient's treatment; and

(29) conduct unbecoming in a person licensed to practice medicine or detrimental to the best interests of the public.

E. As used in this section, "fee splitting" includes offering, delivering, receiving or accepting any unearned rebate, refunds, commission preference, patronage dividend, discount or other unearned consideration, whether in the form of money or otherwise, as compensation or inducement for referring patients, clients or customers to any person irrespective of any membership, proprietary interest or co-ownership in or with any person to whom the patients, clients or customers are referred.

F. Licensees shall bear all costs of disciplinary proceedings unless exonerated.

G. Licensees whose licenses are in a probationary status shall pay reasonable expenses for maintaining probationary status, including but not limited to laboratory costs when laboratory testing of biological fluids are included as a condition of probation.

H. For the purpose of investigating the competence of medical practitioners covered by the Medical Practice Act who practice medicine in the state of New Mexico, any entity issuing professional liability insurance to physicians or indemnifying physicians for professional liability in New Mexico shall report to the board all settlements or judgments against licensed physicians, whether they are tried in court or settled out of court."

Section 8

Section 8. Section 61-6-17 NMSA 1978 (being Laws 1973, Chapter 361, Section 8, as amended) is amended to read:

"61-6-17. EXCEPTIONS TO ACT.--The Medical Practice Act shall not apply to or affect:

A. gratuitous services rendered in cases of emergency;

B. the domestic administration of family remedies;

C. the practice of midwifery as regulated in this state;

D. commissioned medical officers of the armed forces of the United States and medical officers of the United States public health service or the veterans administration of the United States in the discharge of their official duties or within federally controlled facilities, provided that such persons who hold medical licenses in New Mexico shall be subject to the provisions of the Medical Practice Act and provided that all such persons shall be fully licensed to practice medicine in one or more jurisdictions of the United States;

E. the practice of medicine by a physician, unlicensed in New Mexico, who performs emergency medical procedures in air or ground transportation of a patient from inside of New Mexico to another state or back, provided that the physician is duly licensed in that state;

F. the practice, as defined and limited under their respective licensing laws, of:

(1) osteopathy;

(2) dentistry;

(3) podiatry;

(4) nursing;

(5) optometry;

(6) psychology;

(7) chiropractic;

(8) pharmacy;

(9) acupuncture and oriental medicine; or

(10) physical therapy;

G. any act, task or function performed by a physician assistant at the direction of and under the supervision of a licensed physician, when:

(1) the assistant is registered and has annually renewed his registration with the board as one qualified by training or experience to function as an assistant to a physician;

(2) the act, task or function is performed at the direction of and under the supervision of a licensed physician in accordance with rules and regulations promulgated by the board; and

(3) the acts of the physician assistant are within the scope of duties assigned or delegated by the supervising physician and the acts are within the scope of the assistant's training;

H. any act, task or function of laboratory technicians or technologists, x-ray technicians, nurse practitioners, medical or surgical assistants or other technicians or qualified persons permitted by law or established by custom as part of the duties delegated to them by:

(1) a licensed physician or a hospital, clinic or institution licensed or approved by the public health division of the department of health or an agency of the federal government; or

(2) a health care program operated or financed by an agency of the state or federal government;

I. a properly trained medical or surgical assistant or technician or professional licensee performing under the physician's employment and direct supervision any medical act that a reasonable and prudent physician would find within the scope of sound medical judgment to delegate if, in the opinion of the delegating physician, the act can be properly and safely performed in its customary manner, and if the person does not hold himself out to the public as being authorized to practice medicine. The delegating physician shall remain responsible for the medical acts of the person performing the delegated medical acts; and

J. the practice of the religious tenets of any church in the ministration to the sick or suffering by mental or spiritual means as provided by law; provided that the Medical Practice Act shall not be construed to exempt any person from the operation or enforcement of the sanitary and quarantine laws of the state."

Section 9

Section 9. Section 61-6-18 NMSA 1978 (being Laws 1989, Chapter 269, Section 14) is amended to read:

"61-6-18. MEDICAL STUDENTS--INTERNS--RESIDENTS.--

A. Nothing in the Medical Practice Act shall prevent a medical student properly registered or enrolled in a medical college or school in good standing from diagnosing or treating the sick or afflicted, provided that the medical student does not receive compensation for services and such services are rendered under the supervision of the school faculty as part of his course of study.

B. Any intern who is appointed in a program accredited and approved by the board in New Mexico may pursue such training after obtaining a postgraduate training license from the board.

C. Any person serving in the assigned rotations and performing the assigned duties in a board-approved residency training program accredited in New Mexico may do so for an aggregate period not to exceed eight years or completion of the residency, whichever is shorter.

D. The board may require any applicant for a postgraduate training license required in Subsections B and C of this section to personally appear before the board or a designated member of the board for an interview.

E. Every applicant for a postgraduate training license under this section shall pay the fees required by Section 61-6-19 NMSA 1978.

F. Postgraduate training licenses shall be renewed annually and shall be effective during each year or part of a year of postgraduate training."

Section 10

Section 10. A new section of the Medical Practice Act, Section 61-6-18.1 NMSA 1978, is enacted to read:

"61-6-18.1. PUBLIC SERVICE LICENSE.--

A. A resident physician who holds a postgraduate training license, as provided in Section 61-6-18 NMSA 1978, while serving in a board-approved residency training program in New Mexico, or while enrolled in a board-approved residency training program in another jurisdiction, may apply to the board for a public service license during the resident's tenure in the board-approved residency training program when the resident:

(1) obtains approval from his training program director to pursue a public service practice opportunity outside the residency training program;

(2) obtains advance approval from his training program director to return to the residency training program following the period of public service; and

(3) satisfies any other reasonable requirements imposed by the board.

B. A physician with one year postdoctoral training may apply for a public service license when he is under the direct supervision of a licensed physician or when the physician is employed in a medically underserved area.

C. A public service license shall be valid for a period of time not to exceed twelve months. A public service license may be renewed by the board.

D. An applicant for a public service license shall pay the required fees set forth in Section 61-6-19 NMSA 1978."

Section 11

Section 11. Section 61-6-19 NMSA 1978 (being Laws 1989, Chapter 269, Section 15) is amended to read:

"61-6-19. FEES.--

A. The board shall impose the following fees:

(1) an application fee not to exceed four hundred dollars (\$400) for licensure by endorsement as provided in Section 61-6-13 NMSA 1978;

(2) an application fee not to exceed four hundred dollars (\$400) for licensure by examination as provided in Section 61-6-11 NMSA 1978;

(3) an examination fee equal to the cost of purchasing the examination plus an administration fee not to exceed fifty percent of that cost;

(4) a triennial renewal fee not to exceed four hundred fifty dollars (\$450);

(5) a late fee not to exceed one hundred fifty dollars (\$150) for applicants who fail to renew their license within forty-five days of the required renewal date;

(6) a late fee not to exceed two hundred dollars (\$200) for applicants who fail to renew their licenses within ninety days of the renewal date;

(7) a reinstatement fee not to exceed the current application fee for reinstatement of a revoked, suspended or inactive license;

(8) a reasonable administrative fee for verification and duplication of license or registration and copying of records;

(9) a reasonable publication fee for the purchase of a publication containing the names of all practitioners licensed under the Medical Practice Act;

(10) an impaired physician fee not to exceed one hundred fifty dollars (\$150) for a three-year period;

(11) an interim license fee not to exceed one hundred dollars (\$100);

(12) a temporary license fee not to exceed one hundred dollars (\$100);

(13) a postgraduate training license fee not to exceed fifty dollars (\$50.00) annually;

(14) an application fee not to exceed one hundred fifty dollars (\$150) for physician assistants applying for initial registration; and

(15) a registration fee not to exceed seventy-five dollars (\$75.00) for physician assistants annually reregistering their certificate of registration, supervising physician and place of employment.

B. All fees are nonrefundable and shall be used by the board to carry out its duties efficiently."

Section 12

Section 12. Section 61-6-34 NMSA 1978 (being Laws 1989, Chapter 269, Section 30) is amended to read:

"61-6-34. PROTECTED ACTIONS--COMMUNICATION.--

A. No current or former member of the board, officer, administrator, staff member, committee member, examiner, representative, agent, employee, consultant, witness or any other person serving or having served the board shall bear liability or be subject to civil damages or criminal prosecutions for any action or omission undertaken or performed within the scope of the board's duties.

B. All written and oral communications made by any person to the board relating to actual and potential disciplinary action shall be confidential communications and are not public records for the purposes of the Inspection of Public Records Act. All data, communications and information acquired by the board relating to actual or potential disciplinary action shall not be disclosed except to the extent necessary to carry out the board's purposes or in a judicial appeal from the board's actions.

C. No person or legal entity providing information to the board, whether as a report, a complaint or testimony, shall be subject to civil damages or criminal prosecutions."

Section 13

Section 13. Section 61-10A-4 NMSA 1978 (being Laws 1979, Chapter 26, Section 4, as amended) is amended to read:

"61-10A-4. CERTIFICATION AS OSTEOPATHIC PHYSICIAN'S ASSISTANT--
SCOPE OF AUTHORITY--ANNUAL REGISTRATION OF EMPLOYMENT--
EMPLOYMENT CHANGE.--

A. No person shall perform or attempt to perform as an osteopathic physician's assistant without first applying for and obtaining a certificate of qualification from the board as an osteopathic physician's assistant and having his employment registered in accordance with board regulations.

B. Osteopathic physician's assistants may prescribe, administer and distribute dangerous drugs other than controlled substances in Schedule I of the Controlled Substances Act pursuant to regulations adopted by the New Mexico board of osteopathic medical examiners after consultation with the board of pharmacy, provided that the prescribing, administering and distributing are done under the direction of a supervising osteopathic physician and within the parameters of a board-approved formulary and guidelines established under Paragraph (3) of Subsection A of Section 61-10A-6 NMSA 1978. The distribution process shall comply with state laws concerning prescription packaging, labeling and record keeping requirements. Osteopathic physician's assistants shall not otherwise dispense dangerous drugs or controlled substances.

C. An osteopathic physician's assistant shall perform only those acts and duties assigned him by a supervising osteopathic physician that are within the scope of practice of the supervising osteopathic physician.

D. An applicant for a certificate of qualification as an osteopathic physician's assistant shall complete such application forms as supplied by the board and pay a fee as provided in Section 6-10A-4.1 NMSA 1978. Upon being certified by the board, the applicant shall have his name and address and other pertinent information enrolled by the board on a roster of osteopathic physician's assistants.

E. Each certified osteopathic physician's assistant shall annually submit proof of completion of continuing education as required by the board and register his employment with the board, stating his name and current address, the name and office address of both his employer and the supervising osteopathic physician and such additional information as the board deems necessary. Upon any change of employment as an osteopathic physician's assistant, such registration shall automatically be void. Each annual registration or registration of new employment shall be accompanied by a fee as provided in Section 61-10A-4.1 NMSA 1978."

Section 14

Section 14. Section 61-10A-6 NMSA 1978 (being Laws 1979, Chapter 26, Section 6, as amended by Laws 1989, Chapter 9, Section 9 and also by Laws 1989, Chapter 371, Section 8) is amended to read:

"61-10A-6. RULES AND REGULATIONS.--

A. The board may adopt and enforce reasonable rules and regulations:

(1) for setting qualifications of education, skill and experience for certification of a person as an osteopathic physician's assistant and providing forms and procedures for certificates of qualification and for annual registration of employment;

(2) for examining and evaluating applicants for certificates of qualification as an osteopathic physician's assistant as to their skill, knowledge and experience in the field of medical care;

(3) for establishing when and for how long an osteopathic physician's assistant is permitted to prescribe, administer and distribute dangerous drugs other than controlled substances in Schedule I of the Controlled Substances Act pursuant to regulations adopted by the New Mexico board of osteopathic medical examiners after consultation with the board of pharmacy;

(4) for allowing a supervising osteopathic physician to temporarily delegate his supervisory responsibilities for an osteopathic physician's assistant to another osteopathic physician;

(5) for allowing an osteopathic physician's assistant to temporarily serve under the supervision of an osteopathic physician other than the supervising osteopathic physician of record; and

(6) for the purpose of carrying out all other provisions of the Osteopathic Physicians' Assistants Act.

B. The board shall not adopt any rule or regulation allowing an osteopathic physician's assistant to dispense dangerous drugs, to measure the powers, range or accommodative status of human vision, diagnose vision problems, prescribe lenses, prisms, vision training or contact lenses or fit contact lenses. This section shall not preclude vision screening."

SENATE BILL 862

CHAPTER 81

RELATING TO CAPITAL EXPENDITURES; EXPANDING THE PURPOSE OF THE APPROPRIATION OF SEVERANCE TAX BOND PROCEEDS TO THE INTERSTATE STREAM COMMISSION FOR WATER RIGHTS FOR PARK AND RECREATION DEVELOPMENT IN ANGEL FIRE IN COLFAX COUNTY; DECLARING AN EMERGENCY.

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

Section 1

Section 1. SEVERANCE TAX BONDS--EXPANSION OF PURPOSE--MAKING AN APPROPRIATION.--The purpose of the appropriations of severance tax bond proceeds in Subsections B and C of Section 16 of Chapter 113 of Laws 1992 for acquiring the water rights necessary to construct a dam and lake in order to proceed with park and recreation area development within the village of Angel Fire in Colfax county is expanded to provide for contracting for the delivery of water or acquisition of water rights, or both, and the proceeds are appropriated for that expanded purpose.

Section 2

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

SENATE BILL 898
EMERGENCY CLAUSE -- SIGNED MARCH 7, 1994

CHAPTER 82

AMENDING AND ENACTING SECTIONS OF THE MEDICAL RADIATION HEALTH AND SAFETY ACT; ALLOWING PERSONS WHO PERFORM RESTRICTED DIAGNOSTIC RADIOGRAPHY TO AUTHORIZE ADDITIONAL RADIOGRAPHIC PROCEDURES UNDER CERTAIN EMERGENCY SITUATIONS.

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

Section 1

Section 1. Section 61-14E-4 NMSA 1978 (being Laws 1983, Chapter 317, Section 4, as amended) is amended to read:

"61-14E-4. DEFINITIONS.--As used in the Medical Radiation Health and Safety Act:

A. "advisory council" means the radiation technical advisory council;

B. "board" means the environmental improvement board;

C. "certificate of limited practice" means a certificate issued pursuant to the Medical Radiation Health and Safety Act to persons who perform restricted diagnostic radiography under direct supervision of a licensed practitioner limited to the following specific procedures:

(1) the viscera of the thorax;

- (2) extremities;
- (3) radiation to humans for diagnostic purposes in the practice of dentistry;
- (4) axial/appendicular skeleton; or
- (5) the foot, ankle or lower leg;

D. "certified nurse practitioner" means a person licensed pursuant to Section 61-3-23.2 NMSA 1978;

E. "department" means the department of environment;

F. "licensed practitioner" means a person licensed to practice medicine, dentistry, podiatry, chiropractic or osteopathy in this state;

G. "nuclear medicine technologist" means a person other than a licensed practitioner who applies radiopharmaceutical agents to humans for diagnostic or therapeutic purposes under the direction of a licensed practitioner;

H. "radiation therapy technologist" means a person other than a licensed practitioner whose application of radiation to humans is for therapeutic purposes;

I. "radiographer" means a person other than a licensed practitioner whose application of radiation to humans is for diagnostic purposes;

J. "radiologic technologist" means any person who is a radiographer, a radiation therapy technologist or a nuclear medicine technologist and who is certified pursuant to the Medical Radiation Health and Safety Act;

K. "radiologic technology" means the use of substances or equipment emitting ionizing radiation to humans for diagnostic or therapeutic purposes;

L. "radiologist" means a licensed practitioner certified by the American board of radiology, the British royal college of radiology, the American osteopathic board of radiology or the American chiropractic board of radiology; and

M. "registered physician assistant" means a person registered pursuant to Section 61-6-7 NMSA 1978 or Section 61-10A-4 NMSA 1978."

Section 2

Section 2. A new section of the Medical Radiation Health and Safety Act is enacted to read:

"EMERGENCY PROVISION.--A person having a valid certificate of limited practice may authorize diagnostic radiography procedures outside the normal scope of a limited radiographic practitioner if the person issued the certificate of limited practice is employed in an area having a federal designation as a medically underserved area and the person issued the certificate of limited practice is confronted with an emergency situation, where, by order of a licensed practitioner, a certified nurse practitioner or a registered physician assistant, the additional diagnostic radiography procedure is medically necessary for the immediate safety or health of the patient."

SENATE BILL 934

APPROVED MARCH 7, 1994

CHAPTER 83

RELATING TO TECHNICAL AND VOCATIONAL INSTITUTE BOARD ELECTIONS;
ESTABLISHING A METHOD FOR ELECTION OF BOARD MEMBERS FROM SINGLE-
MEMBER DISTRICTS.

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

Section 1

Section 1. Section 21-16-1 NMSA 1978 (being Laws 1963, Chapter 108, Section 1) is amended to read:

"21-16-1. SHORT TITLE.--Chapter 21, Article 16 NMSA 1978 may be cited as the "Technical and Vocational Institute Act"."

Section 2

Section 2. Section 21-16-5 NMSA 1978 (being Laws 1963, Chapter 108, Section 5, as amended) is amended to read:

"21-16-5. BOARD.--

A. The initial board of the technical and vocational institute district shall be composed of:

(1) the board of the initiating school district, if only one school district is involved; or

(2) if more than one school district is involved in the initiation of the technical and vocational institute district, one member delegated from each participating school board. If there are an even number of participating school districts, the boards of all participating school districts shall jointly appoint an additional member to the

governing board of the technical and vocational institute district, who shall serve as a member at large.

B. At the second school board election held pursuant to Section 1-22-3 NMSA 1978 following the creation of the technical and vocational institute district, an election shall be held to elect seven members to the institute board to replace the members holding office under the provisions of Subsection A of this section.

(1) Except where specific provision is otherwise provided by law, all election proceedings for institute district elections shall be conducted pursuant to the provisions of the School Election Law with the president of the institute serving in the place of the superintendent of schools in every case.

(2) The board shall consist of seven separate positions, and each position shall be designated by number. Qualified electors seeking election to the board shall file and run for only one of the numbered positions.

(3) At the second school board election to be held following the creation of the technical and vocational institute district, members of the board elected to positions 1, 3, 5 and 7 shall be elected for two-year terms and members elected to positions 2, 4 and 6 shall be elected for four-year terms. Thereafter, each board member shall be elected for a term of four years. The elections shall be held in the same manner and at the same time as regular school district elections on the first Tuesday in February of each odd-numbered year.

C. A vacancy occurring on the board shall be filled in the same manner as provided for school board vacancies in Section 22-5-9 NMSA 1978."

Section 3

Section 3. A new section of the Technical and Vocational Institute Act is enacted to read:

"TECHNICAL AND VOCATIONAL INSTITUTE BOARD MEMBERS--ELECTED FROM DISTRICTS.--

A. Any technical and vocational institute board may provide for single-member election districts should such a decision appear to be in the best interest of the technical and vocational institute. If such a decision is made, then members of the institute board shall reside in and be elected from single-member districts as provided in this section. Promptly after the decision is made, the board shall divide the technical and vocational institute district into seven election districts numbered 1 through 7, which shall constitute the single-member districts, and which will go into effect at the first regular board election thereafter. At that election board members shall be elected for all seven positions on the board, with the board members elected to positions 1, 3, 5 and 7 to be elected for initial terms of two years and the board members elected to positions

2, 4 and 6 to be elected for initial terms of four years. After the initial election each board member shall be elected for a term of four years.

B. Once following each federal decennial census, the board shall redistrict the technical and vocational institute district into seven election districts numbered 1 through 7 to ensure that the districts remain as equal in population as is practicable. Such new districts shall go into effect at the first regular board election thereafter. Candidates for the new single-member districts that are scheduled to be voted on at such election shall reside in and be elected from the appropriate new single-member district. Incumbent board members whose districts before redistricting were not scheduled to be voted on at such election need not reside in the new single-member district corresponding to their position number and may serve out their term. At the second regular board election held after the redistricting, all candidates for the new single member districts that are scheduled to be voted on at such election shall reside in and be elected from the appropriate single-member district.

C. All election districts covered by this section shall be contiguous, compact and as equal in population as is practicable.

D. If any vacancy occurs in an election district where a nonresident board member had been serving, the vacancy shall be filled with a resident of such district."

SENATE BILL 928
APPROVED MARCH 2, 1994

CHAPTER 84

RELATING TO LOBBYIST REPORTING REQUIREMENTS; REQUIRING LOBBYISTS TO DISCLOSE BUNDLING; PROVIDING REPORTING REQUIREMENTS; AMENDING CERTAIN SECTIONS OF THE NMSA 1978.

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

Section 1

Section 1. Section 1-19-34.3 NMSA 1978 (being Laws 1994, Chapter 46, Section 14) is amended to read:

"1-19-34.3. CONTRIBUTIONS IN ONE NAME GIVEN FOR ANOTHER PROHIBITED.--It is unlawful for a person or political committee to make, or a candidate or his agent to accept, a contribution that is reported as coming from one person or entity when the candidate knows that the contribution is actually from another person or entity that directed that its contribution not be publicly reported."

Section 2

Section 2. Section 2-11-6 NMSA 1978 (being Laws 1977, Chapter 261, Section 6, as amended) is amended to read:

"2-11-6. EXPENDITURE STATEMENT TO BE FILED--CONTENTS--
REPORTING PERIODS.--

A. Each lobbyist or lobbyist's employer who makes or incurs expenditures or political contributions for the benefit of a state legislator or candidate for the state legislature, a state public officer or a candidate for state public office, a board or commission member or state employee who is involved in an official action affecting the lobbyist's employer or in support of or in opposition to a ballot issue or pending legislation or official action shall file with the secretary of state on a prescribed form a sworn statement that sets forth:

(1) the cumulative total of the expenditures made or incurred, separated into categories that identify the total separate amounts spent on:

- (a) meals and beverages;
- (b) other entertainment expenditures;
- (c) gifts; and
- (d) other expenditures;

(2) each political contribution made, identified by amount, date and name of the candidate or ballot issue supported or opposed; and

(3) the names, addresses and occupations of other contributors, if the lobbyist or lobbyist's employer delivers directly or indirectly separate contributions from those contributors in excess of five hundred dollars (\$500) in the aggregate for each election to a candidate, a campaign committee or anyone authorized by a candidate to receive funds on his behalf.

B. In identifying expenditures pursuant to the provisions of Paragraph (1) of Subsection A of this section, any individual expenditure that is more than the threshold level established in the Internal Revenue Code of 1986, as amended, that must be reported separately to claim a business expense deduction, as published by the secretary of state, shall be identified by amount, date, purpose, type of expenditure and name of the person who received or was benefited by the expenditure; provided, in the case of special events, including parties, dinners, athletic events, entertainment and other functions, to which all members of the legislature, to which all members of either house or any legislative committee or to which all members of a board or commission are invited, expenses need not be allocated to each individual who attended, but the date, location, name of the body invited and total expenses incurred shall be reported.

C. The reports required pursuant to the provisions of the Lobbyist Regulation Act shall be filed semiannually:

(1) in January for all pre-session or other expenditures and political contributions made or incurred up to the date of filing and not previously reported; and

(2) in July for all expenditures and political contributions made or incurred since the January filing.

D. A lobbyist's personal living expenses and the expenses incidental to establishing and maintaining an office in connection with lobbying activities or compensation paid to a lobbyist by a lobbyist's employer need not be reported.

E. A lobbyist or lobbyist's employer shall obtain and preserve all accounts, bills, receipts, books, papers and documents necessary to substantiate the financial statements required to be made under the Lobbyist Regulation Act for a period of two years from the date of filing of the statement containing such items. When the lobbyist is required under the terms of his employment to turn over any such records to his employer, responsibility for the preservation of them as required by this section and the filing of reports required by this section shall rest with the employer. Such records shall be made available to the secretary of state or attorney general upon written request.

F. Any lobbyist's employer who also engages in lobbying shall comply with the provisions of the Lobbyist Regulation Act.

G. An organization of two or more persons, including an individual who holds himself out as an organization, that within one calendar year expends funds in excess of two thousand five hundred dollars (\$2,500) not otherwise reported under the Lobbyist Regulation Act to conduct an advertising campaign for the purpose of lobbying, shall register with the secretary of state within forty-eight hours after expending twenty-five hundred dollars (\$2,500). Such registration shall indicate the name of the organization and the names, addresses and occupations of any of its principals, organizers or officers and shall include the name of any lobbyist or lobbyist's employer who is a member of the organization. Within fifteen days after a legislative session, the organization shall report the contributions, pledges to contribute, expenditures and commitments to expend for the advertising campaign for the purpose of lobbying, including the names, addresses and occupations of the contributors, and expenditures to the secretary of state on a prescribed form."

SENATE BILL 861
APPROVED MARCH 7, 1994

CHAPTER 85

CLARIFYING THE DEFINITION OF LOBBYIST.

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

Section 1

Section 1. Section 2-11-2 NMSA 1978 (being Laws 1977, Chapter 261, Section 2, as amended) is amended to read:

"2-11-2. DEFINITIONS.--As used in the Lobbyist Regulation Act:

A. "compensation" means any money, per diem, salary, fee or portion thereof or the equivalent in services rendered or in-kind contributions received or to be received in return for lobbying services performed or to be performed;

B. "expenditure" means a payment, transfer or distribution or obligation or promise to pay, transfer or distribute any money or other thing of value but does not include a lobbyist's own personal living expenses and the expenses incidental to establishing and maintaining an office in connection with lobbying activities or compensation paid to a lobbyist by a lobbyist's employer;

C. "legislative committee" means a committee created by the legislature, including interim and standing committees of the legislature;

D. "lobbying" means attempting to influence:

(1) a decision related to any matter to be considered or being considered by the legislative branch of state government or any legislative committee or any legislative matter requiring action by the governor or awaiting action by the governor; or

(2) an official action;

E. "lobbyist" means any individual who is compensated for the specific purpose of lobbying; is designated by an interest group or organization to represent it on a substantial or regular basis for the purpose of lobbying; or in the course of his employment is engaged in lobbying on a substantial or regular basis. "Lobbyist" does not include:

(1) an individual who appears on his own behalf in connection with legislation or an official action;

(2) any elected or appointed officer of the state or its political subdivisions or an Indian tribe or pueblo acting in his official capacity;

(3) an employee of the state or its political subdivisions, specifically designated by an elected or appointed officer of the state or its political subdivision, who appears before a legislative committee or in a rulemaking proceeding only to explain the effect of legislation or a rule on his agency or political subdivision, provided the elected

or appointed officer of the state or its political subdivision keeps for public inspection, and files with the secretary of state, such designation;

(4) any designated member of the staff of an elected state official, provided the elected state official keeps for public inspection and files with the secretary of state such designation;

(5) a member of the legislature, the staff of any member of the legislature or the staff of any legislative committee when addressing legislation;

(6) any witness called by a legislative committee or administrative agency to appear before that legislative committee or agency in connection with legislation or an official action;

(7) an individual who provides only oral or written public testimony in connection with a legislative committee or in a rulemaking proceeding and whose name and the interest on behalf of which he testifies have been clearly and publicly identified; or

(8) a publisher, owner or employee of the print media, radio or television, while gathering or disseminating news or editorial comment to the general public in the ordinary course of business;

F. "lobbyist's employer" means the person whose interests are being represented and by whom a lobbyist is directly or indirectly retained, compensated or employed;

G. "official action" means the action or nonaction of a state official or state agency, board or commission acting in a rulemaking proceeding;

H. "person" means an individual, partnership, association, committee, federal, state or local governmental entity or agency, however constituted, public or private corporation or any other organization or group of persons who are voluntarily acting in concert;

I. "political contribution" means a gift, subscription, loan, advance or deposit of any money or other thing of value, including the estimated value of an in-kind contribution, that is made or received for the purpose of influencing a primary, general or statewide election, including a constitutional or other question submitted to the voters, or for the purpose of paying a debt incurred in any such election;

J. "prescribed form" means a form prepared and prescribed by the secretary of state;

K. "rulemaking proceeding" means a formal process conducted by a state agency, board or commission for the purpose of adopting a rule, regulation, standard,

policy or other requirement of general applicability and does not include adjudicatory proceedings; and

L. "state public officer" means a person holding a statewide office provided for in the constitution of New Mexico."

SENATE BILL 859
APPROVED MARCH 7, 1994

CHAPTER 86

RELATING TO CAMPAIGN REPORTS; REQUIRING AN AFFIDAVIT FOR ELECTRONICALLY FILED REPORTS; AMENDING CERTAIN SECTIONS OF THE NMSA 1978.

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

Section 1

Section 1. Section 1-19-31 NMSA 1978 (being Laws 1979, Chapter 360, Section 7, as amended) is amended to read:

"1-19-31. CONTENTS OF REPORT.--

A. Each required report of expenditures and contributions shall be typed or printed legibly, or on a computer disc or format approved by the secretary of state, and shall include:

(1) the name and address of the person or entity to whom an expenditure was made or from whom a contribution was received, except as provided for anonymous contributions or contributions received from special events as provided in Section 1-19-34 NMSA 1978; provided that, for contributors, the name of the entity or the first and last names of any individual shall be the full name of the entity or individual, and initials only shall not constitute a full name of an entity unless that is its complete legal name;

(2) the occupation or type of business of any person or entity making contributions of two hundred fifty dollars (\$250) or more in the aggregate per election;

(3) the amount of the expenditure or contribution or value thereof;

(4) the purpose of the expenditure; and

(5) the date of the expenditure or contribution.

B. The report of expenditures and contributions shall be subscribed and sworn to by the candidate or treasurer of the political committee. If the report of expenditures and contributions is filed in an electronically readable format, the report shall be subscribed and sworn to by the candidate in an independent affidavit signed by the candidate or treasurer of the political party and filed with the proper filing officer, as defined by the Election Code.

C. Each report shall contain an opening and closing cash balance for the bank account maintained by the reporting individual during the reporting period and the financial institution name.

D. Each report shall specify the amount of each unpaid debt and the identity of the person to whom the debt is owed, except that the debts to suppliers of goods and services that are not more than thirty days past due need not be reported."

Section 2

Section 2. Section 1-19-32.1 NMSA 1978 (being Laws 1981, Chapter 331, Section 9, as amended) is amended to read:

"1-19-32.1. REPORTS EXAMINATION--FORWARDING OF REPORTS.--

A. In addition to reviewing all reports for accuracy and thoroughness, the bureau of elections of the secretary of state's office shall conduct an extensive examination of at least ten percent of the reports, selected at random, that are filed by candidates and reporting individuals to determine compliance with the Campaign Reporting Act, investigate any discrepancies and release a report on any unresolved discrepancies found after an examination of political committee contributions and contributions reported by candidates. A copy of this report shall also be transmitted to the attorney general.

B. A county clerk shall arrange for the secretary of state to receive, within twenty-four hours of the county clerk's receipt, a copy of any required campaign contribution and expenditure report subject to the provisions of the Campaign Reporting Act. Within twenty-four hours of receipt, the secretary of state shall arrange for a county clerk in a multicounty legislative district to receive a copy of any campaign contribution and expenditure report of a legislative candidate for that county that is filed with the secretary of state pursuant to the provisions of the Campaign Reporting Act."

Section 3

Section 3. Section 1-19-35 NMSA 1978 (being Laws 1979, Chapter 360, Section 11, as amended) is amended to read:

"1-19-35. REPORTS--LATE FILING PENALTY--FAILURE TO FILE.--

A. Except for the report required to be filed and delivered the Thursday prior to the election, and subject to the provisions of Section 1-19-34.4 NMSA 1978, if any reporting individual files a report of expenditures and contributions after any deadline imposed by the Campaign Reporting Act or if the reporting individual files an incomplete or false report, such person, in addition to any other penalties or remedies prescribed by the Election Code, shall be liable and shall pay to the secretary of state fifty dollars (\$50.00) per day for each regular working day after the time required by the Campaign Reporting Act for the filing of reports of expenditures and contributions until the complete report is filed, up to a maximum of five thousand dollars (\$5,000).

B. If any reporting individual files a report of expenditures and contributions after the deadline for filing the report on the Thursday prior to the election or files an incomplete report, the person shall be liable and pay to the secretary of state five hundred dollars (\$500) the first working day and fifty dollars (\$50.00) for each subsequent working day after the time required for the filing of this report until the complete report is filed, up to a maximum of five thousand dollars (\$5,000).

C. All sums collected for the penalty shall be deposited in the general fund of the state. If sent by certified or registered mail, the report shall be deemed filed on the date three days following the date of the postmark.

D. Any candidate who fails or refuses to file a report of expenditures and contributions as required by the Campaign Reporting Act shall, in addition to any other penalties provided by law:

(1) not have his name printed upon the ballot if the violation occurs before and through the final date for the withdrawal of candidates; or

(2) not be issued a certificate of nomination or election, if the violation occurs after the final date for withdrawal of candidates or after the election, until the candidate files the report of expenditures and contributions as required by the Campaign Reporting Act.

E. Any candidate who loses an election and who failed or refused to file a report of expenditures and contributions as required by the Campaign Reporting Act shall, in addition to any other penalties provided by law and in addition to filing a declaration of candidacy or a declaration of intent to be a write-in candidate for any future office, pay the penalty owed and file all outstanding reports of expenditures and contributions required by the Campaign Reporting Act."

SENATE BILL 858
APPROVED MARCH 7, 1994

CHAPTER 87

ENACTING THE MEDICAID ESTATE RECOVERY ACT; ESTABLISHING A METHOD OF RECOVERING PAYMENTS MADE PURSUANT TO THE MEDICAID PROGRAM FOR MEDICAL ASSISTANCE ON BEHALF OF CERTAIN INDIVIDUALS FROM THE ESTATES OF THOSE INDIVIDUALS; DECLARING AN EMERGENCY.

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

Section 1

Section 1. SHORT TITLE.--This act may be cited as the "Medicaid Estate Recovery Act".

Section 2

Section 2. PURPOSE OF ACT.--The purpose of the Medicaid Estate Recovery Act is to authorize and require the department to seek recovery of medical assistance payments made by the department for certain individuals, under certain circumstances, as provided in Title XIX of the Social Security Act.

Section 3

Section 3. DEFINITIONS.--As used in the Medicaid Estate Recovery Act:

A. "department" means the human services department;

B. "estate" means real and personal property and other assets of the individual subject to probate or administration pursuant to the provisions of the Uniform Probate Code; and

C. "medical assistance" means amounts paid by the department as medical assistance pursuant to Title XIX of the Social Security Act.

Section 4

Section 4. DEPARTMENT TO SEEK RECOVERY OF MEDICAL ASSISTANCE PAYMENTS.--The department shall seek recovery from the estate of an individual:

A. for medical assistance paid on behalf of an individual who was an inpatient in a nursing facility, intermediate care facility for the mentally retarded or other medical institution if the individual was required, as a condition of receiving services in the facility or institution pursuant to the state plan, to spend for costs of services all but a minimal amount of his income required for personal needs, and with respect to whom the department determined, after opportunity for a hearing in accordance with procedures established by the department, could not reasonably have been expected to have been discharged from the facility or institution to return home; and

B. for medical assistance payments made for nursing facility services, home- and community-based services and related hospital and prescription drug services on behalf of an individual who was fifty-five years of age or older when he received medical assistance.

Section 5

Section 5. ADMINISTRATION--RECOVERY FROM ESTATES.--

A. The department shall administer the estate recovery program.

B. The department shall adopt and promulgate rules and regulations to implement the provisions of the Medicaid Estate Recovery Act.

C. The department may compromise, settle or waive recovery pursuant to the Medicaid Estate Recovery Act when deemed by the department to be in the best interests of the state.

Section 6

Section 6. HARDSHIP WAIVER.--The department shall waive the application of the provisions of the Medicaid Estate Recovery Act if application of the provisions would work an undue hardship as determined pursuant to regulations adopted and promulgated by the secretary of human services. The regulations shall include a provision for special consideration when an asset subject to recovery is the sole income-producing asset or is a homestead of modest value.

Section 7

Section 7. RESTRICTIONS ON RECOVERY FROM ESTATES.--Any recovery from an estate may be made only after the death of the decedent's surviving spouse, if any, and only at a time when the decedent has no surviving child who is less than twenty-one years of age or is blind or disabled as defined in 42 U.S.C. 1383C.

Section 8

Section 8. DUE PROCESS.--When the department determines it will seek to recover from an estate, it shall give written notice of that intent to the personal representative or successor in interest of the estate or the individual.

Section 9. DEPARTMENT EXEMPT FROM BOND REQUIREMENT FOR PERSONAL REPRESENTATIVE.--If the department seeks appointment as a personal representative of a decedent to enforce its rights as a creditor of the decedent pursuant to the provisions of the Medicaid Estate Recovery Act, it is exempt from any requirement for posting a bond.

Section 10

Section 10. TEMPORARY PROVISION.--The dean of the university of New Mexico school of law shall appoint a chair, who shall in turn appoint the members of a task force to review the provisions of the Medicaid Estate Recovery Act, including lien and enforcement provisions and the definition of "estate", and provisions of applicable federal laws during the 1994 calendar year. Appointed members of the task force shall include representatives of the human services department, the senior citizens law office, the arc of New Mexico, the American association of retired persons, the Navajo Nation, the Jicarilla and Mescalero Apache tribes, the Pueblo Indians, a land grant association, a guardianship or conservatorship group, the protection and advocacy system and the private practice bar. The task force shall evaluate the implementation of the Medicaid Estate Recovery Act, make recommendations on proposed regulations authorized pursuant to that act and recommend any necessary amendments to that act to the first session of the forty-second legislature.

Section 11

Section 11. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR
SENATE BILL 831
EMERGENCY CLAUSE -- SIGNED MARCH 7, 1994

CHAPTER 88

RELATING TO PUBLIC SCHOOLS; AMENDING PROVISIONS OF THE PUBLIC SCHOOL CAPITAL OUTLAY ACT.

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

Section 1

Section 1. Section 22-24-2 NMSA 1978 (being Laws 1975, Chapter 235, Section 2, as amended) is amended to read:

"22-24-2. PURPOSE OF ACT.--The purpose of the Public School Capital Outlay Act is to meet critical school district capital outlay needs which cannot be met by the school district after it has exhausted available sources."

Section 2

Section 2. Section 22-24-4 NMSA 1978 (being Laws 1975, Chapter 235, Section 4, as amended) is amended to read:

"22-24-4. FUND CREATED--USE.--

A. There is created the "public school capital outlay fund". Balances remaining in the fund at the end of each fiscal year shall not revert.

B. Money in the fund may be used only for capital expenditures deemed by the council necessary for an adequate educational program.

C. The council may authorize the purchase by the property control division of the general services department of property to be loaned to school districts to meet a temporary requirement. Payment for these purchases shall be made from the fund. Title and custody to the property shall rest in the property control division. The council shall authorize the lending of the property to school districts upon request and upon finding that sufficient need exists. Application for use or return of state-owned portable classroom buildings shall be submitted by school districts to the council. Expenses of maintenance of the property while in the custody of the property control division shall be paid from the fund; expenses of maintenance and insurance of the property while in the custody of a school district shall be the responsibility of the school district. The council may authorize the permanent disposition of the property by the property control division with prior approval of the state board of finance.

D. Applications for assistance from the fund shall be made by local school districts to the council in accordance with requirements of the council.

E. The council shall review all requests for assistance from the fund and shall allocate funds only for those capital outlay projects that cannot be financed by the school district from other sources and that meet the criteria of the Public School Capital Outlay Act."

Section 3

Section 3. Section 22-24-5 NMSA 1978 (being Laws 1975, Chapter 235, Section 5, as amended) is amended to read:

"22-24-5. FUND--DISTRIBUTION.--

A. The council shall approve an application for grant assistance from the fund when the council determines that:

- (1) a critical need exists requiring action;
- (2) the residents of the school district have provided available resources to the district to meet its capital outlay requirements;
- (3) the school district has used its resources in a prudent manner;

(4) the district is in a county or counties which have participated in a reappraisal program and the reappraised values are on the tax rolls or will be used for the tax year 1979 as certified by the property tax division of the taxation and revenue department;

(5) the school district has provided insurance for buildings of the school district in accordance with the provisions of Section 13-5-3 NMSA 1978;

(6) the school district is indebted at not less than seventy-five percent of the total debt authorized by law; and

(7) the school district has submitted a five-year facilities plan that includes enrollment projections.

B. The council shall consider all applications for assistance from the fund and, after a public hearing, shall either approve or deny the application. Applications for grant assistance shall only be accepted by the council after a district has complied with the provisions of this section. The council shall list all applications in order of priority, and all allocations shall be made on a priority basis; provided, however, except in the case of an emergency, that the order of priority shall first reflect those projects which have been previously funded but are not as yet completed excluding expansion of those projects and contingent upon maintenance of the required local support.

C. Money in the fund shall be disbursed by warrant of the department of finance and administration on vouchers signed by the secretary of finance and administration following certification by the council that the application has been approved."

Section 4

Section 4. Section 22-24-6 NMSA 1978 (being Laws 1975, Chapter 235, Section 6, as amended) is amended to read:

"22-24-6. COUNCIL CREATED--ORGANIZATION--DUTIES.--

A. There is created the "public school capital outlay council", consisting of the:

(1) secretary of finance and administration or his designee;

(2) state superintendent or his designee;

(3) the governor or his designee;

(4) president of the New Mexico school boards association or his designee;

(5) the director of the construction industries division of the regulation and licensing department or his designee;

(6) the president of the state board or his designee;

(7) the director of the legislative education study committee or his designee;

(8) the director of the legislative finance committee or his designee; and

(9) the director of the legislative council service or his designee.

B. The council shall investigate all applications for assistance from the fund and shall certify the approved applications to the secretary of finance and administration for distribution of funds.

C. The council shall elect a chairman from among the members. The council shall meet at the call of the chairman.

D. The department of education shall account for all distributions and shall make annual reports to the legislative education study committee and to the legislative finance committee."

SENATE BILL 793

CHAPTER 89

RELATING TO UNEMPLOYMENT COMPENSATION; INCREASING COMPENSATION FOR THE MEMBERS OF THE BOARD OF REVIEW; AMENDING A SECTION OF THE NMSA 1978.

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

Section 1

Section 1. Section 51-1-8 NMSA 1978 (being Laws 1936 (S.S.), Chapter 1, Section 6, as amended) is amended to read:

"51-1-8. CLAIMS FOR BENEFITS.--

A. Claims for benefits shall be made in accordance with such regulations as the secretary may prescribe. Each employer shall post and maintain printed notices, in places readily accessible to employees, concerning their rights to file claims for unemployment benefits upon termination of their employment. Such notices shall be supplied by the division to each employer without cost to him.

B. A representative designated by the secretary as a claims examiner shall promptly examine the application and each weekly claim and, on the basis of the facts found, shall determine whether the claimant is unemployed, the week with respect to which benefits shall commence, the weekly benefit amount payable, the maximum duration of benefits, whether the claimant is eligible for benefits pursuant to Section 51-1-5 NMSA 1978 and whether the claimant shall be disqualified pursuant to Section 51-1-7 NMSA 1978. With the approval of the secretary, the claims examiner may refer, without determination, claims or any specified issues involved therein that raise complex questions of fact or law to a hearing officer for the division for a fair hearing and decision in accordance with the procedure described in Subsection D of this section. The claims examiner shall promptly notify the claimant and any other interested party of the determination and the reasons therefor. Unless the claimant or any such interested party, within fifteen calendar days after the date of notification or mailing of such determination, files an appeal from such determination, such determination shall be the final decision of the division; provided that the claims examiner may reconsider a nonmonetary determination if additional information not previously available is provided or obtained or whenever he finds an error in the application of law has occurred, but no redetermination shall be made more than twenty days from the date of the initial nonmonetary determination. Notice of a nonmonetary redetermination shall be given to all interested parties and shall be subject to appeal in the same manner as the original nonmonetary determination. If an appeal is pending at the time a redetermination is issued, the appeal, unless withdrawn, shall be treated as an appeal from such redetermination.

C. In the case of a claim for waiting period credit or benefits, "interested party", for purposes of determinations and adjudication proceedings and notices thereof, means:

(1) in the event of an issue concerning a separation from work for reasons other than lack of work, the claimant's most recent employer or most recent employing unit;

(2) in the event of an issue concerning a separation from work for lack of work, the employer or employing unit from whom the claimant separated for reasons other than lack of work if he has not worked and earned wages in insured work or bona fide employment other than self-employment in an amount equal to or exceeding five times his weekly benefit amount; or

(3) in all other cases involving the allowance or disallowance of a claim, the secretary, the claimant and any employing unit directly involved in the facts at issue.

D. Upon appeal by any party, a hearing officer designated by the secretary shall afford the parties reasonable opportunity for a fair hearing to be held de novo, and the hearing officer shall issue findings of fact and a decision which affirms, modifies or reverses the determination of the claims examiner or tax representative on the facts or the law, based upon the evidence introduced at such hearing, including the documents

and statements in the claim records of the department. All hearings shall be held in accordance with regulations of the secretary and decisions issued promptly in accordance with time lapse standards promulgated by the secretary of the United States department of labor. The parties shall be duly notified of the decision, together with the reasons therefor, which shall be deemed to be the final decision of the department, unless within fifteen days after the date of notification or mailing of such decision further appeal is initiated pursuant to Subsection H of this section.

E. Except with the consent of the parties, no hearing officer or members of the board of review, established in Subsection F of this section, or secretary shall sit in any administrative or adjudicatory proceeding in which:

- (1) either of the parties is related to him by affinity or consanguinity within the degree of first cousin;
- (2) he was counsel for either party in that action; or
- (3) he has an interest which would prejudice his rendering an impartial decision.

The secretary, any member of the board of review or appeal tribunal hearing officer shall withdraw from any proceeding in which he cannot accord a fair and impartial hearing. Any party may request a disqualification of any appeal tribunal hearing officer or board of review member by filing an affidavit with the board of review or appeal tribunal promptly upon discovery of the alleged grounds for disqualification, stating with particularity the grounds upon which it is claimed that the person cannot be fair and impartial. The disqualification shall be mandatory if sufficient factual basis is set forth in the affidavit of disqualification. If a member of the board of review is disqualified or withdraws from any proceeding, the remaining members of the board of review may appoint an appeal tribunal hearing officer to sit on the board of review for the proceeding involved.

F. There is established within the department for the purpose of providing higher level administrative appeal and review of determinations of a claims examiner or decisions issued by a hearing officer pursuant to Subsection B or D of this section a "board of review" consisting of three members. Two members shall be appointed by the governor with the consent of the senate. The members so appointed shall hold office at the pleasure of the governor for terms of four years. One member appointed by the governor shall be a person who, on account of his previous vocation, employment or affiliation, can be classed as a representative of employers, and the other member appointed by the governor shall be a person who, on account of his previous vocation, employment or affiliation, can be classed as a representative of employees. The third member shall be an employee of the department appointed by the secretary who shall serve as chairman of the board. Either member of the board of review appointed by the governor who has missed two consecutive meetings of the board may be removed from the board by the governor. Actions of the board shall be taken by majority vote. If a

vacancy on the board in a position appointed by the governor occurs between sessions of the legislature, the position shall be filled by the governor until the next regular legislative session. The board shall meet at the call of the secretary. Members of the board appointed by the governor shall be paid per diem and mileage in accordance with the Per Diem and Mileage Act for necessary travel to attend regularly scheduled meetings of the board of review for the purpose of conducting the board's appellate and review duties.

G. The board of review shall hear and review all cases appealed in accordance with Subsection H of this section. The board of review may modify, affirm or reverse the decision of the hearing officer or remand any matter to the claims examiner, tax representative or hearing officer for further proceedings. Each member appointed by the governor shall be compensated at the rate of fifteen dollars (\$15.00) for each case reviewed up to a maximum compensation of twelve thousand dollars (\$12,000) in any one fiscal year.

H. Any party aggrieved by a final decision of a hearing officer may file, in accordance with regulations prescribed by the secretary, an application for appeal and review of such decision with the secretary. The secretary shall review the application and shall, within fifteen days after receipt of the application, either affirm the decision of the hearing officer, remand the matter to the hearing officer for an additional hearing or refer the decision to the board of review for further review and decision on the merits of the appeal. If the secretary affirms the decision of the hearing officer, that decision shall be the final administrative decision of the department and any appeal therefrom must be taken to the district court in accordance with the provisions of Subsections M and N of this section. If the secretary remands a matter to a hearing officer for an additional hearing, judicial review shall be permitted only after issuance of a final administrative decision. If the secretary refers the decision of the hearing officer to the board of review for further review, the board's decision on the merits of the appeal will be the final administrative decision of the department, which may be appealed to the district court in accordance with the provisions of Subsections M and N of this section. If the secretary takes no action within fifteen days of receipt of the application for appeal and review, the decision will be promptly scheduled for review by the board of review as though it had been referred by the secretary. The secretary may request the board of review to review a decision of a hearing officer that the secretary believes to be inconsistent with the law or with applicable rules of interpretation or that is not supported by the evidence, and the board of review shall grant the request if it is filed within fifteen days of the issuance of the decision of the hearing officer. The secretary may also direct that any pending determination or adjudicatory proceeding be removed to the board of review for a final decision. If the board of review holds a hearing on any matter, the hearing shall be conducted by a quorum of the board of review in accordance with regulations prescribed by the secretary for hearing appeals. The board of review shall promptly notify the interested parties of its findings and decision. A decision of the board of review on any disputed matter reviewed and decided by it shall be based upon the law and the lawful rules of interpretation issued by the secretary, and it shall be the final administrative decision of the department, except in cases of remand. If the board of

review remands a matter to a hearing officer, claims examiner or tax representative, judicial review shall be permitted only after issuance of a final administrative decision.

I. Notwithstanding any other provision of this section granting any party the right to appeal, benefits shall be paid promptly in accordance with a determination or a decision of a claims examiner, hearing officer, secretary, board of review or a reviewing court, regardless of the pendency of the period to file an appeal or petition for judicial review that is provided with respect thereto in Subsection D or M of this section or the pendency of any such filing or petition until such determination or decision has been modified or reversed by a subsequent decision. The provisions of this subsection shall apply to all claims for benefits pending on the date of its enactment.

J. If a prior determination or decision allowing benefits is affirmed by a decision of the department, including the board of review or a reviewing court, such benefits shall be paid promptly regardless of any further appeal which may thereafter be available to the parties, and no injunction, supersedeas, stay or other writ or process suspending the payment of such benefits shall be issued by the secretary or board of review or any court, and no action to recover such benefits paid to a claimant shall be taken. If a determination or decision allowing benefits is finally modified or reversed, the appropriate contributing employer's account will be relieved of benefit charges in accordance with Subsection B of Section 51-1-11 NMSA 1978.

K. The manner in which disputed claims shall be presented, the reports thereon required from the claimant and from employers and the conduct of hearings and appeals shall be in accordance with rules prescribed by the secretary for determining the rights of the parties, whether or not such rules conform to common law or statutory rules of evidence and other technical rules of procedure. A hearing officer or the board of review may refer to the secretary for interpretation any question of controlling legal significance, and the secretary shall issue a declaratory interpretation, which shall be binding upon the decision of the hearing officer and the board of review. A full and complete record shall be kept of all proceedings in connection with a disputed claim. All testimony at any hearing upon a disputed claim shall be recorded but need not be transcribed unless the disputed claim is appealed to the district court.

L. Witnesses subpoenaed pursuant to this section shall be allowed fees at a rate fixed by the secretary. Such fees and all administrative expenses of proceedings involving disputed claims shall be deemed a part of the expense of administering the Unemployment Compensation Law.

M. Any determination or decision of a claims examiner or hearing officer or by a representative of the tax section of the department in the absence of an appeal therefrom as provided by this section shall become final fifteen days after the date of notification or mailing thereof, and judicial review thereof shall be permitted only after any party claiming to be aggrieved thereby has exhausted his remedies as provided in Subsection H of this section. The division and any employer or claimant who is affected by the decision shall be joined as a party in any judicial action involving any such

decision. All parties shall be served with an endorsed copy of the petition within thirty days from the date of filing and an endorsed copy of the order granting the petition within fifteen days from entry of the order. Service on the department shall be made on the secretary or his designated legal representative either by mail with accompanying certification of service or by personal service. The division may be represented in any such judicial action by an attorney employed by the department or, when requested by the secretary, by the attorney general or any district attorney.

N. The final decision of the secretary or board of review upon any disputed matter may be reviewed both upon the law, including the lawful rules of interpretation issued by the secretary, and the facts by the district court of the county wherein the person seeking the review resides upon certiorari, unless it is determined by the district court where the petition is filed that, as a matter of equity and due process, venue should be in a different county. For the purpose of such review, the division shall return on such certiorari the reports and all of the evidence heard by it on any such reports and all the papers and documents in its files affecting the matters and things involved in such certiorari. The district court shall render its judgment after hearing, and either the department or any other party thereto affected may appeal from such judgment to the supreme court of the state in accordance with the rules governing special statutory proceedings. Such certiorari shall not be granted unless the same is applied for within thirty days from the date of the final decision of the secretary or board of review. Such certiorari shall be heard in a summary manner and shall be given precedence over all other civil cases except cases arising under the Workers' Compensation Act of this state. It shall not be necessary in any proceedings before the division to enter exceptions to the rulings and no bond shall be required in obtaining certiorari from the district court as hereinabove provided, but such certiorari shall be granted as a matter of right to the party applying therefor."

Section 2

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1994.

SENATE BILL 788
APPROVED MARCH 7, 1994

CHAPTER 90

CREATING A PERMANENT JOINT INTERIM LEGISLATIVE REVENUE
STABILIZATION AND TAX POLICY COMMITTEE; MAKING AN APPROPRIATION;
DECLARING AN EMERGENCY.

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

Section 1

Section 1. REVENUE STABILIZATION AND TAX POLICY COMMITTEE CREATED.-- There is created a permanent joint interim legislative committee which shall be known as the "revenue stabilization and tax policy committee".

Section 2

Section 2. MEMBERSHIP--APPOINTMENT--VACANCIES.--

A. The committee shall be composed of eighteen members. Nine members of the house of representatives shall be appointed by the speaker of the house of representatives, and nine members of the senate shall be appointed by the committees' committee of the senate, or, if the senate appointments are made in the interim, by the president pro tempore of the senate after consultation with and agreement of a majority of the members of the committees' committee.

B. Members shall be appointed from each house so as to give the two major political parties in each house the same proportional representation on the committee as prevails in each house; however, in no event shall either party have less than one member from each house on the committee. Vacancies on the committee shall be filled by appointment in the same manner as the original appointments. The chairman and vice chairman of the committee shall be elected by the committee.

C. No action shall be taken by the committee if a majority of the total membership from either house on the committee rejects such action.

Section 3

Section 3. DUTIES.--After its appointment, the committee shall hold one organizational meeting to develop a workplan and budget for the ensuing interim. The workplan and budget shall be submitted to the legislative council for approval. Upon approval of the workplan and budget by the legislative council, the committee shall examine the statutes, constitutional provisions, regulations and court decisions governing revenue stabilization and tax policy in New Mexico and recommend legislation or changes if any are found to be necessary to each session of the legislature.

Section 4

Section 4. SUBCOMMITTEES.--Subcommittees shall be created only by majority vote of all members appointed to the committee and with the prior approval of the legislative council. A subcommittee shall be composed of at least one member from the senate and one member from the house of representatives, and at least one member of the minority party shall be a member of the subcommittee. All meetings and expenditures of a subcommittee shall be approved by the full committee in advance of such meeting or expenditure, and the approval shall be shown in the minutes of the committee.

Section 5

Section 5. REPORT.--The committee shall make a report of its findings and recommendations for the consideration of each session of the legislature. The report and suggested legislation shall be made available to the legislative council on or before December 15 preceding each session.

Section 6

Section 6. STAFF.--The staff for the committee shall be provided by the legislative council service.

Section 7

Section 7. APPROPRIATION.--Twenty thousand dollars (\$20,000) is appropriated from the general fund to the legislative council service for expenditure in the eighty-second and eighty-third fiscal years for the purpose of paying the salaries and expenses of the technical, legal, clerical and stenographic assistants, for necessary equipment and supplies used in carrying out the provisions of this act and for reimbursing the per diem and mileage expenses of the committee. Any unexpended or unencumbered balance remaining at the end of the eighty-third fiscal year shall revert to the general fund. Payments from the appropriation shall be made upon vouchers signed by the director of the legislative council service or his authorized representative.

Section 8

Section 8. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

SENATE BILL 697
EMERGENCY CLAUSE -- SIGNED MARCH 7, 1994

CHAPTER 91

RELATING TO REVENUES; AUTHORIZING THE ISSUANCE OF NEW MEXICO FINANCE AUTHORITY REVENUE BONDS FOR LAND ACQUISITION AND SITE IMPROVEMENTS FOR A BUILDING FOR THE WORKERS' COMPENSATION ADMINISTRATION IN ALBUQUERQUE IN BERNALILLO COUNTY; MAKING AN APPROPRIATION; DECLARING AN EMERGENCY.

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

Section 1

Section 1. Laws 1994, Chapter 367, Section 73 is amended to read:

"Section 73. NEW MEXICO FINANCE AUTHORITY REVENUE BONDS--PURPOSE--APPROPRIATION.--

A. The New Mexico finance authority may issue and sell revenue bonds in compliance with the New Mexico Finance Authority Act in an amount not to exceed three million five hundred thousand dollars (\$3,500,000) for the purpose of planning, designing, constructing, equipping and furnishing a state office building for the workers' compensation administration that complies with the federal Americans with Disabilities Act of 1990.

B. The New Mexico finance authority may issue and sell revenue bonds in compliance with the New Mexico Finance Authority Act in an amount not to exceed two million five hundred thousand dollars (\$2,500,000) when the property control division of the general services department certifies the need for the issuance of the bonds. The proceeds from the sale of the bonds are appropriated to the property control division of the general services department for acquiring land and making site improvements for a state office building for the workers' compensation administration in Albuquerque.

C. The first forty cents (\$.40) of the workers' compensation assessments imposed pursuant to Section 52-5-19 NMSA 1978 that is distributed to the New Mexico finance authority is appropriated to the authority to be pledged irrevocably for the payment of the principal, interest, any premium and expenses related to the issuance and sale of the bonds authorized pursuant to this section.

D. The revenues distributed to the New Mexico finance authority shall be deposited in a special bond fund or account of the authority. At the end of each calendar quarter, any money remaining in the special bond fund or account, after all current obligations for the bonds and any sinking fund are fully met, shall be transferred by the authority to the state treasurer for deposit in the workers' compensation administration fund. Upon payment of all principal and interest and any other expenses or obligations related to the issuance of the bonds, the New Mexico finance authority shall certify to the taxation and revenue department that all obligations for the bonds issued pursuant to this section have been fully discharged and direct the department to cease payments of workers' compensation assessment fee revenue to the authority.

E. The legislature shall not repeal, amend or otherwise modify any law that affects or impairs any revenue bonds of the New Mexico finance authority secured by a pledge of revenues from the workers' compensation assessments assessed pursuant to Section 52-5-19 NMSA 1978."

Section 2

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

SENATE BILL 676
EMERGENCY CLAUSED -- SIGNED MARCH 7, 1994

CHAPTER 92

RELATING TO ELECTIONS; AMENDING, REPEALING AND ENACTING PROVISIONS OF THE PRIMARY ELECTION LAW TO ELIMINATE THE NOMINATING PETITION REQUIREMENT FOR PREPRIMARY CONVENTION DESIGNATED CANDIDATES.

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

Section 1

Section 1. Section 1-8-13 NMSA 1978 (being Laws 1969, Chapter 240, Section 162, as amended) is amended to read:

"1-8-13. PRIMARY ELECTION LAW--CONTENTS OF PROCLAMATION.--The proclamation shall contain:

A. the names of the major political parties participating in the primary election;

B. the offices for which each political party shall nominate candidates; provided that if any law is enacted by the legislature in the year in which the primary election is held and such law does not take effect until after the date of the proclamation but prior to the date of the primary election, the proclamation shall conform to the intent of such law with respect to the offices for which each political party shall nominate candidates;

C. the date on which declarations of candidacy or declarations of candidacy and nominating petitions for United States representative, any office voted upon by all the voters of the state, a legislative office, the office of district judge, district attorney, state board of education or magistrate shall be filed and the places where they shall be filed in order to have the candidates' names printed on the official ballot of their party at the primary election;

D. the date on and place at which declarations of candidacy shall be filed for any other office and filing fees paid or, in lieu thereof, a pauper's statement of inability to pay;

E. the date on and place at which declarations of intent to be a write-in candidate for a statewide office or office of United States representative shall be filed;

F. the date on and place at which declarations of intent to be a write-in candidate for any other office shall be filed;

G. the final date on and place at which candidates for the office of United States representative and for any statewide office seeking preprimary convention designation by the major parties shall file declarations of candidacy;

H. the final date on which the major political parties shall hold state preprimary conventions for the designation of candidates; and

I. the final date on and place at which certificates of designation of primary election candidates shall be filed by political parties with the secretary of state.

As used in the Primary Election Law, "statewide office" means any office voted on by all the voters of the state."

Section 2

Section 2. Section 1-8-21 NMSA 1978 (being Laws 1975, Chapter 295, Section 7, as amended) is repealed and a new Section 1-8-21 NMSA 1978 is enacted to read:

"1-8-21. PRIMARY ELECTION--METHODS OF PLACING NAMES ON PRIMARY BALLOT.--

A. All candidates seeking primary election nomination to a statewide office or the office of United States representative shall file declarations of candidacy with the proper filing officer. Candidates choosing to seek designation by a major political party at a state preprimary convention shall not be required to submit nominating petitions with their declarations of candidacy. Candidates not seeking preprimary convention designation shall file nominating petitions at the time of filing their declarations of candidacy. Candidates who seek, but do not obtain preprimary convention designation by a major political party, may file new declarations of candidacy and nominating petitions pursuant to Section 1-8-33 NMSA 1978.

B. Candidates for any other office shall have their names placed on the primary election ballot by filing declarations of candidacy and nominating petitions with the proper filing officer. Candidates for county office shall also pay filing fees or file the proper paupers' statements at the time of filing declarations of candidacy."

Section 3

Section 3. Section 1-8-26 NMSA 1978 (being Laws 1975, Chapter 295, Section 12, as amended by Laws 1994, Chapter 55, Section 3 and by Laws 1994, Chapter 314, Section 45 and also by Laws 1994, Chapter 316, Section 45) is amended to read:

"1-8-26. PRIMARY ELECTION LAW--DECLARATION OF CANDIDACY--TIME OF FILING.--

A. Declarations of candidacy by preprimary convention designation for any statewide office or for the office of United States representative and declarations of candidacy for retention of a justice of the supreme court or judge of the court of appeals shall be filed with the proper filing officer on the second Tuesday in February of each even-numbered year between the hours of 9:00 a.m. and 5:00 p.m.

B. Declarations of candidacy for statewide office or office of the United States representative for candidates not seeking preprimary convention designation shall be filed with the proper filing officer on the first Tuesday in March of each even-numbered year between the hours of 9:00 a.m. and 5:00 p.m.

C. Declarations of candidacy for any other office and declarations of candidacy for retention for all affected district judicial offices shall be filed with the proper filing officer on the third Tuesday of March of each even-numbered year between the hours of 9:00 a.m. and 5:00 p.m.

D. Certificates of designation shall be submitted to the secretary of state on the first Tuesday following the preprimary convention at which the candidate's designation took place between the hours of 9:00 a.m. and 5:00 p.m.

E. No candidate's name shall be placed on the ballot until the candidate has been notified in writing by the proper filing officer that the declaration of candidacy, the petition and the certificate of registration of the candidate on file are in proper order and that the candidate, based on such documents, is qualified to have his name placed on the ballot. The proper filing officer shall mail such notice no later than 5:00 p.m. on the Tuesday following the filing date."

Section 4

Section 4. Section 1-8-30 NMSA 1978 (being Laws 1973, Chapter 228, Section 4, as amended) is amended to read:

"1-8-30. PRIMARY ELECTION LAW--DECLARATION OF CANDIDACY--
NOMINATING PETITION--FILING AND FORM.--

A. As used in the Primary Election Law, "nominating petition" means the authorized form used for obtaining the required number of signatures of voters which is signed on behalf of the person wishing to become a candidate for a political office in the primary election requiring a nominating petition.

B. In making a declaration of candidacy, the candidate at the same time shall file a nominating petition, which shall be on forms prescribed by law; provided that candidates for statewide office or the office of United States representative who seek preprimary convention designation shall not be required to file nominating petitions with the declaration of candidacy.

C. The nominating petition shall be on paper approximately eight and one-half inches wide and fourteen inches long with numbered lines for signatures spaced approximately three-eighths of an inch apart and shall be in the following form:

"NOMINATING PETITION

I, the undersigned, a registered voter of the county of _____, New Mexico, and a member of the party, hereby nominate _____, who resides at _____ in the county of _____, New Mexico, for the party nomination for the office of _____, to be voted for at the primary election to be held on the first Tuesday of June, 19 _____, and I declare that I am a resident of the state, district, county or area to be represented by the office for which the person being nominated is a candidate. I also declare that I have not signed, and will not sign, any nominating petition for more persons than the number of candidates necessary to fill such office at the next ensuing general election.

1. _____
(usual (name printed (address as (city or signature) as registered) registered) rt. no.)

2. _____
(usual (name printed (address as (city or signature) as registered) registered) rt. no.).".

D. In October of odd-numbered years, the secretary of state shall furnish to each county clerk a sample of a nominating petition form, a copy of which shall be made available by the county clerk upon request of any candidate.

E. The signature of the voter shall not be counted unless the entire line indicates the voter's usual signature, his name printed as registered and his address as registered and his city or route number and is upon the form furnished by the secretary of state to the county clerks or a duplicate thereof.

F. When more than one sheet is required for a petition, each of the sheets shall be in the form prescribed by this section and all sheets shall be firmly secured by a staple or other suitable fastening."

Section 5

Section 5. Section 1-8-33 NMSA 1978 (being Laws 1973, Chapter 228, Section 7, as amended) is amended to read:

"1-8-33. PRIMARY ELECTION LAW--NOMINATING PETITION--NUMBER OF SIGNATURES REQUIRED.--

A. As used in this section, "total vote" means the sum of all votes cast for all of the party's candidates for governor at the last preceding primary election at which the party's candidate for governor was nominated.

B. Candidates who do not seek preprimary convention designation shall file nominating petitions at the time of filing declarations of candidacy. Nominating petitions for those candidates shall be signed by a number of voters equal to at least three percent of the total vote of the candidate's party in the state or congressional district, as the case may be.

C. Nominating petitions for candidates for any other office to be voted on at the primary election for which nominating petitions are required shall be signed by a number of voters equal to at least three percent of the total vote of the candidate's party in the district or division, as the case may be.

D. A candidate who fails to receive the preprimary convention designation that he sought may collect signatures equal to at least three percent of the total vote of the candidate's party in the state or congressional district, whichever applies to the office he seeks, and file a new declaration of candidacy by nominating petition for the office for which he failed to receive a preprimary designation. The declaration of candidacy by nominating petition shall be filed with the secretary of state either ten days following the date of the preprimary convention at which he failed to receive the designation or on the date all declarations of candidacy by nominating petition are due pursuant to the provisions of the Primary Election Law, whichever is later."

Section 6

Section 6. EFFECTIVE DATE.--The effective date of the provisions of this act is January 1, 1996.

SENATE BILL 547, aa
APPROVED MARCH 7, 1994

CHAPTER 93

RELATING TO TAXATION; AMENDING CERTAIN DEFINITIONS WITHIN THE COUNTY LOCAL OPTION GROSS RECEIPTS TAXES ACT REGARDING H CLASS COUNTIES.

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

Section 1

Section 1. Section 7-20E-2 NMSA 1978 (being Laws 1994, Chapter 354, Section 2) is amended to read:

"7-20E-2. DEFINITIONS.--As used in the County Local Option Gross Receipts Taxes Act:

A. "county" means, unless specifically defined otherwise in the County Local Option Gross Receipts Taxes Act, a county, including an H class county;

B. "county area" means that portion of a county located outside the boundaries of any municipality, except that for H class counties, "county area" means the entire county;

C. "department" means the taxation and revenue department, the secretary of taxation and revenue or any employee of the department exercising authority lawfully delegated to that employee by the secretary;

D. "governing body" means the county commission of the county or the county council of an H class county;

E. "person" means an individual or any other legal entity; and

F. "state gross receipts tax" means the gross receipts tax imposed under the Gross Receipts and Compensating Tax Act."

Section 2

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1994.

SENATE BILL 63
APPROVED MARCH 7, 1994

CHAPTER 94

RELATING TO TAXATION; REPEALING THE ONE-TIME APPLICATION FEE FOR A NONTAXABLE TRANSACTION CERTIFICATE PURSUANT TO THE GROSS RECEIPTS AND COMPENSATING TAX ACT; EXPANDING THE GROSS RECEIPTS TAX DEDUCTION FOR RECEIPTS FROM SALE OF PROPERTY USED IN THE MANUFACTURE OF JEWELRY; AMENDING SECTIONS OF THE NMSA 1978; DECLARING AN EMERGENCY.

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

Section 1

Section 1. Section 7-9-43 NMSA 1978 (being Laws 1966, Chapter 47, Section 13, as amended) is amended to read:

"7-9-43. NONTAXABLE TRANSACTION CERTIFICATES AND OTHER EVIDENCE REQUIRED TO ENTITLE PERSONS TO DEDUCTIONS--RENEWAL.--

A. The provisions of this subsection apply to transactions occurring on or after July 1, 1992. All nontaxable transaction certificates of the appropriate series executed by buyers or lessees shall be in the possession of the seller or lessor for nontaxable transactions at the time the return is due for receipts from the transactions. If the seller or lessor does not demonstrate possession of required nontaxable transaction certificates to the department at the commencement of an audit or demonstrate within sixty days from the date that the notice requiring possession of these nontaxable transaction certificates is given the seller or lessor by the department that the seller or lessor was in possession of such certificates at the time receipts from the transactions were required to be reported, deductions claimed by the seller or lessor that require delivery of these nontaxable transaction certificates shall be disallowed. The nontaxable transaction certificates shall contain the information and be in a form prescribed by the department. Only buyers or lessees who have a registration number or have applied for a registration number and have not been refused one under Subsection C of Section 7-1-12 NMSA 1978 shall execute nontaxable transaction certificates. If the seller or lessor has been given an identification number for tax purposes by the department, the seller or lessor shall disclose that identification number to the buyer or lessee prior to or upon acceptance of a nontaxable transaction certificate. When the seller or lessor accepts a nontaxable transaction certificate within the required time and in good faith that the buyer or lessee will employ the property or service transferred in a nontaxable manner, the properly executed nontaxable transaction certificate shall be conclusive evidence, and the only material evidence, that the proceeds from the transaction are deductible from the seller's or lessor's gross receipts.

B. The provisions of this subsection apply only to transactions occurring on or after July 1, 1992. Properly executed documents required to support the deductions provided in Sections 7-9-57, 7-9-58 and 7-9-74 NMSA 1978 shall be in the possession of the seller at the time the return is due for receipts from the transactions. If the seller does not demonstrate possession of required documents to the department at the commencement of an audit or demonstrate within sixty days from the date that the notice requiring possession of these documents is given to the seller by the department that the seller was in possession of such documents at the time receipts from the transactions were required to be reported, deductions claimed by the seller or lessor that require delivery of these documents shall be disallowed. These documents shall contain the information and be in a form prescribed by the department. When the seller accepts these documents within the required time and in good faith that the buyer will employ the property or service transferred in a nontaxable manner, the properly executed documents shall be conclusive evidence, and the only material evidence, that the proceeds from the transaction are deductible from the seller's gross receipts.

C. Notice, as used in this section, is sufficient if the notice is mailed or served as provided in Subsection A of Section 7-1-9 NMSA 1978. Notice by the department under this section shall not be given prior to the commencement of an audit of the seller required to be in possession of the documents.

D. On January 1, 1992, every nontaxable transaction certificate, except for nontaxable transaction certificates of the series applicable to the ten-year period beginning January 1, 1992 and issued by the department prior to that date, is void with respect to transactions after December 31, 1991. The department shall issue separate series of nontaxable transaction certificates for the ten-year period beginning January 1, 1992 and for each ten-year period beginning on January 1 of every tenth year succeeding calendar year 1992. A series of nontaxable transaction certificates issued by the department for any ten-year period may be executed by buyers or lessees for transactions occurring within that ten-year period but are not valid for transactions occurring before or after that ten-year period, except that certificates issued by the department with respect to the ten-year period beginning January 1, 1992 are also valid for transactions prior to January 1, 1992. For administrative convenience, the department may accept and approve qualifying applications for the privilege of executing nontaxable transaction certificates and pre-issue certificates of any series within the six-month period immediately preceding the beginning of the ten-year period to which the series of nontaxable transaction certificates applies.

E. To exercise the privilege of executing appropriate nontaxable transaction certificates that may be effective on or after January 1, 1992, a buyer or lessee shall apply to the department for permission to execute nontaxable transaction certificates. On and after July 1, 1993, if a person is shown on the department's records to be a delinquent taxpayer, the department may refuse to approve the application of the person until the person is no longer shown to be a delinquent taxpayer, and the taxpayer may protest that refusal pursuant to Section 7-1-24 NMSA 1978. Upon the department's approval of the application, the buyer or lessee may request appropriate nontaxable transaction certificates for execution by the buyer or lessee; provided that, on and after July 1, 1993, if a person is shown on the department's records to be a delinquent taxpayer, the department may refuse to issue nontaxable transaction certificates to the person until the person is no longer shown to be a delinquent taxpayer, and the taxpayer may protest that refusal pursuant to Section 7-1-24 NMSA 1978. The department may require any buyer or lessee requesting and receiving nontaxable transaction certificates for execution by that buyer or lessee to report to the department annually the names, addresses and identification numbers assigned by the department of the sellers and lessors to whom they have delivered nontaxable transaction certificates. The department may require any seller or lessor engaged in business in New Mexico to report to the department annually the names, addresses and federal employer identification numbers or state identification numbers for tax purposes issued by the department of the buyers or lessees from whom the seller or lessor has accepted nontaxable transaction certificates."

Section 2

Section 2. Section 7-9-74 NMSA 1978 (being Laws 1971, Chapter 217, Section 2, as amended) is amended to read:

"7-9-74. DEDUCTION--GROSS RECEIPTS TAX--SALE OF PROPERTY USED IN THE MANUFACTURE OF JEWELRY.--Receipts from selling tangible personal property may be deducted from gross receipts if the sale is made to a person who states in writing that he will use the property so purchased in manufacturing jewelry. The buyer must incorporate the tangible personal property as an ingredient or component part of the jewelry that he is in the business of manufacturing. The deduction allowed a seller under this section shall not exceed five thousand dollars (\$5,000) during any twelve-month period attributable to purchases by a single purchaser."

Section 3

Section 3. TEMPORARY PROVISION--TRANSITION.--The fee imposed by Section 7-9-43 NMSA 1978 in effect immediately prior to the effective date of the provisions of Section 1 of this act shall apply to all applications received prior to the effective date, regardless of when the application is approved or any nontaxable transaction certificate issued with respect to that application.

Section 4

Section 4. EFFECTIVE DATE.--The effective date of the provisions of this act is April 1, 1994.

Section 5

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

SENATE BILL 111
EMERGENCY CLAUSE -- SIGNED MARCH 7, 1994

CHAPTER 95

RELATING TO SCHOOL PERSONNEL; ESTABLISHING A MINIMUM SALARY FOR CERTAIN NONCERTIFIED PERSONNEL.

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

Section 1

Section 1. A new section of the School Personnel Act is enacted to read:

"NONCERTIFIED SCHOOL PERSONNEL--SALARIES.--Notwithstanding the provisions of Section 50-4-22 NMSA 1978, a local school district shall pay a minimum wage rate of six dollars (\$6.00) per hour to all noncertified school personnel."

SENATE BILL 945
APPROVED MARCH 7, 1994

CHAPTER 96

RELATING TO EDUCATION; ENACTING THE TECHNOLOGY FOR EDUCATION ACT; ESTABLISHING AN EDUCATION TECHNOLOGY BUREAU IN THE STATE DEPARTMENT OF PUBLIC EDUCATION; CREATING THE COUNCIL ON TECHNOLOGY IN EDUCATION; CREATING A FUND; PROVIDING FOR DISTRIBUTIONS.

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

Section 1

Section 1. A new section of the Public School Code is enacted to read:

"SHORT TITLE.--This act may be cited as the "Technology for Education Act"."

Section 2

Section 2. A new section of the Public School Code is enacted to read:

"DEFINITIONS.--As used in the Technology for Education Act:

A. "bureau" means the education technology bureau in the department of education;

B. "chief" means the chief of the bureau;

C. "council" means the council on technology in education; and

D. "educational technology" means tools used in the educational process that constitute learning resources and may include closed circuit television systems, educational television and radio broadcasting, cable television, satellite, copper and fiber optic transmission, computer, video and audio laser and CD ROM discs, video and audio tapes or other technologies and the training, maintenance, equipment and computer infrastructure information, techniques and tools, used to implement technology in classrooms and library and media centers."

Section 3

Section 3. A new section of the Public School Code is enacted to read:

"BUREAU ESTABLISHED--CHIEF APPOINTED.--

A. The "education technology bureau" is created within the department of education. B. With the approval of the state board, the state superintendent shall appoint a chief of the bureau."

Section 4

Section 4. A new section of the Public School Code is enacted to read:

"BUREAU DUTIES.--In accordance with the policies and regulations of the state board, the bureau shall:

A. administer the provisions of the Technology for Education Act;

B. develop a statewide plan for the integration of educational technology into the public schools and coordinate technology-related education activities with other state agencies, the federal government, business consortia and public or private agencies or individuals;

C. assist school districts to develop and implement a strategic, long-term plan for utilizing educational technology in the school system;

D. upon approval of a school district's technology plan, make distributions to school districts from the educational technology fund;

E. recommend funding mechanisms that will support the development and maintenance of an effective educational technology infrastructure in the state;

F. promote collaboration among government, business, educational organizations and telecommunications entities to expand and improve the use of technology in education;

G. assess and determine the educational technology needs of school districts; and

H. provide staff support for and coordinate the activities of the council."

Section 5

Section 5. A new section of the Public School Code is enacted to read:

"COUNCIL ON TECHNOLOGY IN EDUCATION--CREATED--PURPOSE.--The "council on technology in education" is created. The council shall advise the bureau, the

state board and the legislature regarding the establishment of appropriate educational technology standards, technology-enhanced curricula, instruction, appropriations for educational technology and administrative resources and services for the public schools."

Section 6

Section 6. A new section of the Public School Code is enacted to read:

"COUNCIL MEMBERSHIP.--

A. The council shall be composed of seventeen members. Members shall be appointed by the state board for terms of four years. As designated by the state board at the time of initial appointment, the terms of five members shall expire at the end of two years, the terms of five members shall expire at the end of three years and the terms of seven members shall expire at the end of four years.

B. When appointing members, the state board shall appoint:

(1) one member who shall have expertise in state government;

(2) three members who shall have expertise in school district administration;

(3) two members who shall have expertise in providing instructional services in post-secondary, technical-vocational or adult education;

(4) three members who shall have expertise in providing instructional services in elementary or secondary schools;

(5) two members who shall be parents of school-age children;

(6) one member who shall be a public school secondary student;

(7) three members who shall have expertise in educational technology;
and

(8) two members at large.

C. In making appointments to the council, the state board shall give due consideration to gender and ethnicity to achieve a membership representative of the geographic and cultural diversity of New Mexico.

D. Members of the council shall elect a chairman from among the membership. The council shall meet at the call of the chairman not less than quarterly.

E. Members of the council shall receive per diem and mileage pursuant to the provisions of the Per Diem and Mileage Act but shall receive no other compensation, perquisite or allowance."

Section 7

Section 7. A new section of the Public School Code is enacted to read:

"COUNCIL DUTIES.--The council shall:

A. advise the bureau on implementation of the provisions of the Technology for Education Act;

B. work with the bureau to conduct periodic assessments of the need for educational technology in the public school system and make recommendations to the state board on how to meet those needs;

C. promote the collaborative development and implementation of educational technologies, projects and practices to enhance instruction capabilities;

D. develop and recommend to the state board, a statewide plan to infuse educational technology into the public school system in support of state and national education goals; and

E. provide assistance to the bureau in review of school district technology plans."

Section 8

Section 8. A new section of the Public School Code is enacted to read:

"EDUCATIONAL TECHNOLOGY FUND--CREATED.--The "educational technology fund" is created in the state treasury. Money in the fund is appropriated to the department of education for the purpose of implementing the provisions of the Technology for Education Act. Money in the fund shall be distributed in the manner provided in the Technology for Education Act. Money in the fund shall only be expended pursuant to warrants issued by the department of finance and administration pursuant to vouchers signed by the chief or the state superintendent. Money in the fund shall not revert at the end of the fiscal year but shall remain to the credit of the fund."

Section 9

Section 9. A new section of the Public School Code is enacted to read:

"EDUCATIONAL TECHNOLOGY FUND--DISTRIBUTION.--

A. Upon annual review and approval of a school district's educational technology plan, the bureau shall determine a separate distribution from the educational technology fund for each school district.

B. On or before July 31 of each year, the bureau shall distribute money in the educational technology fund directly to each school district in an amount equal to ninety percent of the district's estimated entitlement as determined by the projected membership for the school year. A school district's entitlement is that portion of the total amount of the annual appropriation that the projected membership bears to the projected membership of the state. Kindergarten membership shall be calculated on a one-half full-time equivalent basis.

C. On or before January 30 of each year, the bureau shall recompute each entitlement using the final funded membership for that year and shall allocate the balance of the annual appropriation adjusting for any over- or under-projection of membership.

D. Any school district receiving funding pursuant to the Technology for Education Act is responsible for the purchase, distribution, use and maintenance of educational technology.

E. As used in this section, "membership" means the total enrollment of qualified students, as defined in the Public School Finance Act, on the current roll of class or school on a specified day. The current roll is established by the addition of original entries and re-entries minus withdrawals. Withdrawal of students, in addition to students formally withdrawn from the public school, includes students absent from the public school for as many as ten consecutive school days."

Section 10

Section 10. A new section of the Public School Code is enacted to read:

"ANNUAL REPORT.--Annually, at a time specified by the department of education, each local school district receiving distributions from the educational technology fund shall file a report with the department of education regarding distributions received, expenditures made and educational technology obtained by the district and such other related information as may be required by the department of education."

SENATE BILL 185, aa
APPROVED MARCH 7, 1994

CHAPTER 97

RELATING TO TAXATION; AMENDING CERTAIN DEFINITIONS WITHIN THE COUNTY LOCAL OPTION GROSS RECEIPTS TAXES ACT REGARDING H CLASS COUNTIES.

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

Section 1

Section 1. Section 7-20E-2 NMSA 1978 (being Laws 1994, Chapter 354, Section 2) is amended to read:

"7-20E-2. DEFINITIONS.--As used in the County Local Option Gross Receipts Taxes Act:

A. "county" means, unless specifically defined otherwise in the County Local Option Gross Receipts Taxes Act, a county, including an H class county;

B. "county area" means that portion of a county located outside the boundaries of any municipality, except that for H class counties, "county area" means the entire county;

C. "department" means the taxation and revenue department, the secretary of taxation and revenue or any employee of the department exercising authority lawfully delegated to that employee by the secretary;

D. "governing body" means the county commission of the county or the county council of an H class county;

E. "person" means an individual or any other legal entity; and

F. "state gross receipts tax" means the gross receipts tax imposed under the Gross Receipts and Compensating Tax Act."

Section 2

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1994.

HOUSE BILL 254

CHAPTER 98

RELATING TO TAXATION; REPEALING THE ONE-TIME APPLICATION FEE FOR A NONTAXABLE TRANSACTION CERTIFICATE PURSUANT TO THE GROSS RECEIPTS AND COMPENSATING TAX ACT.

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

Section 1

Section 1. Section 7-9-43 NMSA 1978 (being Laws 1966, Chapter 47, Section 13, as amended) is amended to read:

"7-9-43. NONTAXABLE TRANSACTION CERTIFICATES AND OTHER EVIDENCE REQUIRED TO ENTITLE PERSONS TO DEDUCTIONS--RENEWAL.--

A. The provisions of this subsection apply to transactions occurring on or after July 1, 1992. All nontaxable transaction certificates of the appropriate series executed by buyers or lessees shall be in the possession of the seller or lessor for nontaxable transactions at the time the return is due for receipts from the transactions. If the seller or lessor does not demonstrate possession of required nontaxable transaction certificates to the department at the commencement of an audit or demonstrate within sixty days from the date that the notice requiring possession of these nontaxable transaction certificates is given the seller or lessor by the department that the seller or lessor was in possession of such certificates at the time receipts from the transactions were required to be reported, deductions claimed by the seller or lessor that require delivery of these nontaxable transaction certificates shall be disallowed. The nontaxable transaction certificates shall contain the information and be in a form prescribed by the department. Only buyers or lessees who have a registration number or have applied for a registration number and have not been refused one under Subsection C of Section 7-1-12 NMSA 1978 shall execute nontaxable transaction certificates. If the seller or lessor has been given an identification number for tax purposes by the department, the seller or lessor shall disclose that identification number to the buyer or lessee prior to or upon acceptance of a nontaxable transaction certificate. When the seller or lessor accepts a nontaxable transaction certificate within the required time and in good faith that the buyer or lessee will employ the property or service transferred in a nontaxable manner, the properly executed nontaxable transaction certificate shall be conclusive evidence, and the only material evidence, that the proceeds from the transaction are deductible from the seller's or lessor's gross receipts.

B. The provisions of this subsection apply only to transactions occurring on or after July 1, 1992. Properly executed documents required to support the deductions provided in Sections 7-9-57, 7-9-58 and 7-9-74 NMSA 1978 shall be in the possession of the seller at the time the return is due for receipts from the transactions. If the seller does not demonstrate possession of required documents to the department at the commencement of an audit or demonstrate within sixty days from the date that the notice requiring possession of these documents is given to the seller by the department that the seller was in possession of such documents at the time receipts from the transactions were required to be reported, deductions claimed by the seller or lessor that require delivery of these documents shall be disallowed. These documents shall contain the information and be in a form prescribed by the department. When the seller accepts these documents within the required time and in good faith that the buyer will

employ the property or service transferred in a nontaxable manner, the properly executed documents shall be conclusive evidence, and the only material evidence, that the proceeds from the transaction are deductible from the seller's gross receipts.

C. Notice, as used in this section, is sufficient if the notice is mailed or served as provided in Subsection A of Section 7-1-9 NMSA 1978. Notice by the department under this section shall not be given prior to the commencement of an audit of the seller required to be in possession of the documents.

D. On January 1, 1992, every nontaxable transaction certificate, except for nontaxable transaction certificates of the series applicable to the ten-year period beginning January 1, 1992 and issued by the department prior to that date, is void with respect to transactions after December 31, 1991. The department shall issue separate series of nontaxable transaction certificates for the ten-year period beginning January 1, 1992 and for each ten-year period beginning on January 1 of every tenth year succeeding calendar year 1992. A series of nontaxable transaction certificates issued by the department for any ten-year period may be executed by buyers or lessees for transactions occurring within that ten-year period but are not valid for transactions occurring before or after that ten-year period, except that certificates issued by the department with respect to the ten-year period beginning January 1, 1992 are also valid for transactions prior to January 1, 1992. For administrative convenience, the department may accept and approve qualifying applications for the privilege of executing nontaxable transaction certificates and pre-issue certificates of any series within the six-month period immediately preceding the beginning of the ten-year period to which the series of nontaxable transaction certificates applies.

E. To exercise the privilege of executing appropriate nontaxable transaction certificates that may be effective on or after January 1, 1992, a buyer or lessee shall apply to the department for permission to execute nontaxable transaction certificates. On and after July 1, 1993, if a person is shown on the department's records to be a delinquent taxpayer, the department may refuse to approve the application of the person until the person is no longer shown to be a delinquent taxpayer, and the taxpayer may protest that refusal pursuant to Section 7-1-24 NMSA 1978. Upon the department's approval of the application, the buyer or lessee may request appropriate nontaxable transaction certificates for execution by the buyer or lessee; provided that, on and after July 1, 1993, if a person is shown on the department's records to be a delinquent taxpayer, the department may refuse to issue nontaxable transaction certificates to the person until the person is no longer shown to be a delinquent taxpayer, and the taxpayer may protest that refusal pursuant to Section 7-1-24 NMSA 1978. The department may require any buyer or lessee requesting and receiving nontaxable transaction certificates for execution by that buyer or lessee to report to the department annually the names, addresses and identification numbers assigned by the department of the sellers and lessors to whom they have delivered nontaxable transaction certificates. The department may require any seller or lessor engaged in business in New Mexico to report to the department annually the names, addresses and federal employer identification numbers or state identification numbers for tax purposes

issued by the department of the buyers or lessees from whom the seller or lessor has accepted nontaxable transaction certificates."

Section 2

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1994.

HOUSE BILL 203, aa

APPROVED MARCH 7, 1994

CHAPTER 99

PROVIDING FOR MUNICIPAL ACQUISITION AND CONDEMNATION OF PRIVATELY OWNED WATER AND SEWER FACILITIES; AMENDING CERTAIN SECTIONS OF THE NMSA 1978.

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

Section 1

Section 1. Section 3-26-1 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-25-1, as amended) is amended to read:

"3-26-1. SANITARY SEWERS--AUTHORITY TO ACQUIRE--CONDEMNATION -
-JURISDICTION OVER SYSTEM.--

A. In the manner provided in Section 3-23-2 NMSA 1978, a municipality may, within and without the municipality:

(1) acquire and maintain facilities for the collection, treatment and disposal of sewage;

(2) condemn private property for the construction, maintenance and operation of sewer facilities; and

(3) acquire, maintain, contract for or condemn for use as a municipal utility privately owned sewer facilities used or to be used for the collection, treatment and disposal of sewage of the municipality or its inhabitants.

B. For the purpose of acquiring, maintaining, contracting for, condemning or protecting the sewer facilities, the jurisdiction of the municipality extends to the

territory occupied by the sewer facilities; in exercising its jurisdiction to acquire, maintain, contract for or condemn, the municipality shall not act so as to physically isolate and make nonviable any portion of the sewer facilities, within or without the municipality.

C. Proceedings to obtain any condemnation authorized in this section shall be in the manner provided by the Eminent Domain Code."

Section 2

Section 2. Section 3-26-2 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-25-2, as amended) is amended to read:

"3-26-2. SANITARY SEWERS--CHARGES AND ASSESSMENTS FOR MAINTENANCE AND EXTENSION--LIEN.--

A. A municipality, for the purpose of maintaining, enlarging, extending, constructing and repairing sewer facilities and for paying the interest and principal on revenue bonds issued for the acquisition, condemnation or construction of sewer facilities, may levy by general ordinance a just and reasonable service charge upon a front-foot, volume-of-sewage, number-of-outlets or other equitable basis on:

(1) an improved or unimproved lot or land that adjoins a street in which a sewage collection system exists or that is accessible to such a sewage collection system; and

(2) premises and improvements otherwise situated but connected to the sewage collection system.

B. Any charge authorized in Subsection A of this section is a lien co-equal with a similar water lien and superior to all other liens except general property taxes upon the property so charged and is a personal liability of the owner of the property so charged. The lien shall be enforced as provided in Sections 3-36-1 through 3-36-7 NMSA 1978."

Section 3

Section 3. Section 3-27-2 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-26-2, as amended) is amended to read:

"3-27-2. POTABLE--METHODS OF ACQUISITION--CONDEMNATION--CONVEYANCES AUTHORIZED--LAND FOR APPURTENANCES--PUBLIC AND PRIVATE USE--COMPENSATION.--

A. Municipalities, within and without the municipal boundary, may:

(1) acquire, contract for or condemn:

(a) springs;

(b) wells;

(c) water rights;

(d) other water supplies; and

(e) right-of-way or other necessary ownership for the acquisition of water facilities; and

(2) acquire, maintain, contract for or condemn for use as a municipal utility privately owned water facilities used or to be used for the furnishing and supply of water to the municipality or its inhabitants; and

(3) change the place of diversion of any water to any place selected by the municipality in order to make the water available to the municipality.

B. For the purposes stated in Section 3-27-3 NMSA 1978, a municipality may take water from any stream, gulch or spring. If the taking of the water materially interferes with or impairs the vested right of any person who resides upon the creek, gulch or stream or does any milling or manufacturing on the creek, gulch or stream, the municipality shall obtain the consent of the person with the vested right or acquire the vested right by condemnation and make full compensation or satisfaction for all damages occasioned to the person.

C. Any person may lawfully convey to any municipality any water, water right and ditch right or any interest in any water, water right and ditch right held or claimed by the grantor. No change or use of the:

(1) water;

(2) water right;

(3) place of diversion; or

(4) purpose for which the water or water right was originally acquired by the grantor, shall invalidate the right of the municipality to use the water or water right.

D. Proceedings to obtain any condemnation authorized in this section shall be in the manner provided by law."

Section 4

Section 4. Section 3-27-3 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-26-3) is amended to read:

"3-27-3. POTABLE--JURISDICTION OVER WATER FACILITIES AND SOURCE.--For the purpose of acquiring, maintaining, contracting for, condemning or protecting its water facilities and water from pollution, the jurisdiction of the municipality extends within and without its boundary to:

- A. all territory occupied by the water facilities;
- B. all reservoirs, streams and other sources supplying the reservoirs and streams; and
- C. five miles above the point from which the water is taken.

In exercising its jurisdiction to acquire, maintain, contract for or condemn, the municipality shall not act so as to physically isolate and make nonviable any portion of the water facilities, within or without the municipality. The municipality may adopt any ordinance and regulation necessary to carry out the power conferred by this section."

Section 5

Section 5. Section 3-27-4 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-26-4, as amended) is amended to read:

"3-27-4. POTABLE--CHARGES AND ASSESSMENTS FOR MAINTENANCE AND EXTENSION--LIEN--FRONTAGE TAX FOR WATER SERVICE.--

A. A municipality owning and operating a water utility may, for the purpose of maintaining, enlarging, extending, constructing and repairing water facilities and for paying the interest and principal on revenue bonds issued for the acquisition, condemnation or construction of water facilities, levy by general ordinance a just and reasonable service charge upon a front-foot, volume-of-water or other reasonable basis on:

(1) an improved or unimproved lot or land that adjoins a street in which a water supply system exists or which is otherwise accessible to such water supply system; and

(2) premises and improvements otherwise situated but connected to the water supply system.

B. The charges authorized in this section shall in no way limit the authority of a municipality to collect an assessment levied for the payment of a special improvement as authorized in Chapter 3, Article 33 NMSA 1978.

C. Any charge authorized in Subsection A of this section is a lien co-equal with a similar sanitary sewer lien and superior to all other liens except general property taxes upon the property so charged and is a personal liability of the owner of the property so charged. The lien shall be enforced as provided in Sections 3-36-1 through 3-36-7 NMSA 1978."

HOUSE BILL 1020, aa

APPROVED MARCH 7, 1994

CHAPTER 100

REPEALING LAWS 1990, CHAPTER 132, SECTION 8 PERTAINING TO REIMBURSEMENT OF THE OPERATING RESERVE FROM THE DATA PROCESSING EQUIPMENT REVOLVING FUND.

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

Section 1. REPEAL.--Effective July 1, 1994, Laws 1990, Chapter 132, Section 8 is repealed.

HOUSE BILL 1039

APPROVED MARCH 7, 1994

CHAPTER 101

RELATING TO TAXATION; CHANGING CERTAIN PROVISIONS OF THE SUPPLEMENTAL MUNICIPAL GROSS RECEIPTS TAX ACT, THE SPECIAL MUNICIPAL GROSS RECEIPTS TAX ACT, THE MUNICIPAL LOCAL OPTION GROSS RECEIPTS TAXES ACT, THE LOCAL HOSPITAL GROSS RECEIPTS TAX ACT, THE COUNTY LOCAL OPTION GROSS RECEIPTS TAXES ACT AND THE COUNTY CORRECTIONAL FACILITY GROSS RECEIPTS TAX ACT TO NARROW THE APPLICATION OF AN EXEMPTION AND TO CLARIFY CERTAIN REFERENDUM PROVISIONS; AMENDING SECTIONS OF THE NMSA 1978.

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

Section 1

Section 1. Section 7-19-14 NMSA 1978 (being Laws 1979, Chapter 397, Section 5, as amended) is amended to read:

"7-19-14. SPECIFIC EXEMPTIONS.--No supplemental municipal gross receipts tax shall be imposed on the gross receipts arising from:

A. transporting persons or property for hire by railroad, motor vehicle, air transportation or any other means from one point within the municipality to another point outside the municipality; or

B. a business located outside the boundaries of a municipality on land owned by that municipality for which a gross receipts tax distribution is made pursuant to Section 7-1-6.4 NMSA 1978."

Section 2

Section 2. Section 7-19A-5 NMSA 1978 (being Laws 1984, Chapter 3, Section 5) is amended to read:

"7-19A-5. SPECIFIC EXEMPTIONS.--No special municipal gross receipts tax shall be imposed on the gross receipts arising from:

A. transporting persons or property for hire by railroad, motor vehicle, air transportation or any other means from one point within the municipality to another point outside the municipality; or

B. a business located outside the boundaries of a municipality on land owned by that municipality for which a gross receipts tax distribution is made pursuant to Section 7-1-6.4 NMSA 1978."

Section 3

Section 3. Section 7-19D-5 NMSA 1978 (being Laws 1994, Chapter 346, Section 5) is amended to read:

"7-19D-5. SPECIFIC EXEMPTIONS.--No tax authorized by the provisions of the Municipal Local Option Gross Receipts Taxes Act shall be imposed on the gross receipts arising from:

A. transporting persons or property for hire by railroad, motor vehicle, air transportation or any other means from one point within the municipality to another point outside the municipality; or

B. a business located outside the boundaries of a municipality on land owned by that municipality for which a state gross receipts tax distribution is made pursuant to Section 7-1-6.4 NMSA 1978."

Section 4

Section 4. Section 7-20C-3 NMSA 1978 (being Laws 1991, Chapter 176, Section 3, as amended) is amended to read:

"7-20C-3. LOCAL HOSPITAL GROSS RECEIPTS TAX--AUTHORITY TO IMPOSE--ORDINANCE REQUIREMENTS.--

A. The majority of the members elected to the governing body of a county may enact an ordinance imposing an excise tax on any person engaging in business in the county for the privilege of engaging in business. This tax is to be referred to as the "local hospital gross receipts tax". The rate of the tax shall be one-half of one percent of the gross receipts of the person engaging in business if the tax is initially imposed before January 1, 1993. The rate of the tax shall be one-eighth of one percent of the gross receipts of the person engaging in business if the tax is initially imposed after January 1, 1993. The local hospital gross receipts tax shall be imposed only once for the period necessary for payment of the principal and interest on revenue bonds issued to accomplish the purpose for which the revenue is dedicated, but the period shall not exceed ten years from the effective date of the ordinance imposing the tax. No local hospital gross receipts tax shall be imposed initially after January 1, 1993 unless the voters of the county have approved the issuance of general obligation bonds of the county sufficient to pay at least one-half of the costs of the county hospital facility or county twenty-four hour urgent care or emergency facility for which the local hospital gross receipts tax revenues are dedicated, including the costs of all applicable land or building acquisition and renovation, design, construction, equipping and furnishing of the facility.

B. No local hospital gross receipts tax authorized in Subsection A of this section shall be imposed initially after January 1, 1993 unless:

(1) in a county described in Paragraph (2) of Subsection A of Section 7-20C-2 NMSA 1978, the voters of the county have approved the issuance of general obligation bonds of the county sufficient to pay at least one-half of the costs of the county hospital facility or county twenty-four hour urgent care or emergency facility for which the local hospital gross receipts tax revenues are dedicated, including the costs of all acquisition, renovation and equipping of the facility; or

(2) in a county described in Paragraph (3) of Subsection A of Section 7-20C-2 NMSA 1978, the voters of the county have approved the imposition of a property tax at a rate that would produce annual revenue equal to the amount of annual revenue from a one-eighth of one percent gross receipts tax on persons engaging in business in the county and which tax is dedicated for the purpose of acquisition, renovation, operation or maintenance of a county hospital facility.

C. The governing body of a county, at the time of enacting an ordinance imposing the rate of the tax authorized in Subsection A of this section, shall dedicate the revenue for acquisition of land for and the design, construction, equipping and furnishing of a county hospital facility to be operated by the county or operated and maintained by another party pursuant to a lease with the county, or, if the county is enacting the ordinance imposing the tax after July 1, 1993, may dedicate the revenue for acquisition, renovation and equipping of a building for a county hospital facility or a

county twenty-four hour urgent care or emergency facility and for operation and maintenance of that facility for the period of time the tax is imposed not to exceed ten years. In any election held, the ballot shall clearly state the purpose to which the revenue will be dedicated and the revenue shall be used by the county for that purpose.

D. The ordinance shall not go into effect until after an election is held and a simple majority of the qualified electors of the county voting in the election votes in favor of imposing the local hospital gross receipts tax. The governing body shall adopt a resolution calling for an election within seventy-five days of the date the ordinance is adopted on the question of imposing the tax. The question may be submitted to the qualified electors and voted upon as a separate question in a general election or in any special election called for that purpose by the governing body. A special election upon the question shall be called, held, conducted and canvassed in substantially the same manner as provided by law for general elections. If the question of imposing a local hospital gross receipts tax fails, the governing body shall not again propose a local hospital gross receipts tax for a period of one year after the election. A certified copy of any ordinance imposing a local hospital gross receipts tax shall be mailed to the department within five days after the ordinance is adopted in any election called for that purpose.

E. Any ordinance enacted under the provisions of Subsection A of this section shall include an effective date of either July 1 or January 1, whichever date occurs first after the expiration of at least three months from the date the ordinance is approved by the electorate.

F. Any ordinance repealed under the provisions of the Local Hospital Gross Receipts Tax Act shall be repealed effective on either July 1 or January 1."

Section 5

Section 5. Section 7-20C-5 NMSA 1978 (being Laws 1991, Chapter 176, Section 5) is amended to read:

"7-20C-5. SPECIFIC EXEMPTIONS.--No local hospital gross receipts tax shall be imposed on the gross receipts arising from transporting persons or property for hire by railroad, motor vehicle, air transportation or any other means from one point within the county to another point outside the county."

Section 6

Section 6. Section 7-20E-5 NMSA 1978 (being Laws 1994, Chapter 354, Section 5) is amended to read:

"7-20E-5. SPECIFIC EXEMPTIONS.--No tax authorized under the provisions of the County Local Option Gross Receipts Taxes Act shall be imposed on the gross receipts arising from transporting persons or property for hire by railroad, motor vehicle,

air transportation or any other means from one point within the county to another point outside the county."

Section 7

Section 7. Section 7-20E-10 NMSA 1978 (being Laws 1983, Chapter 213, Section 32, as amended) is amended to read:

"7-20E-10. COUNTY GROSS RECEIPTS TAX--REFERENDUM REQUIREMENTS.--

A. An ordinance enacting the first one-eighth increment of county gross receipts tax pursuant to Section 7-20E-9 NMSA 1978 shall go into effect on July 1 or January 1 in accordance with the provisions of the County Local Option Gross Receipts Taxes Act, but an election may be called in the county on the question of approving or disapproving that ordinance as follows:

(1) an election shall be called when:

(a) in a county having a referendum provision in its charter, a petition requesting such an election is filed pursuant to the requirements of that provision in the charter and signed by the number of registered voters in the county equal to the number of registered voters required in its charter to seek a referendum; and

(b) in all other counties, a petition requesting such an election is filed with the county clerk within thirty days of enactment of the ordinance by the governing body and the petition has been signed by a number of registered voters in the county equal to at least five percent of the number of the voters in the county who were registered to vote in the most recent general election;

(2) the signatures on the petition requesting an election shall be verified by the county clerk. If the petition is verified by the county clerk as containing the required number of signatures of registered voters, the governing body shall adopt a resolution calling an election on the question of approving or disapproving the ordinance. The election shall be held within sixty days after the date the petition is verified by the county clerk, or it may be held in conjunction with a general election if that election occurs within sixty days after the date of the verification. The election shall be called, held, conducted and canvassed in substantially the same manner as provided by law for general elections; and

(3) if a majority of the registered voters voting on the question approves the ordinance imposing the first one-eighth increment of county gross receipts tax, the ordinance shall go into effect on July 1 or January 1 in accordance with the provisions of the County Local Option Gross Receipts Taxes Act. If at such an election a majority of the registered voters voting on the question disapproves the ordinance, the

ordinance imposing the tax shall be deemed repealed and the question of imposing the first one-eighth increment of the county gross receipts tax shall not be considered again by the governing body for a period of one year from the date of the election.

B. Imposition by any county of the second one-eighth increment of county gross receipts tax shall not be subject to a referendum of any kind unless prescribed by the county charter or the governing body of the county.

C. An ordinance imposing the third one-eighth increment of the county gross receipts tax by any county shall not go into effect until after an election is held and a simple majority of the registered voters of the county voting on the question votes in favor of imposing the third one-eighth increment. The governing body shall adopt a resolution calling for an election within seventy-five days of the date the ordinance is adopted on the question of imposing the tax. Such question may be submitted to the voters and voted upon as a separate question at any general election or at any special election called for that purpose by the governing body. The election upon the question shall be called, held, conducted and canvassed in substantially the same manner as may be provided by law for general elections. If the question of imposing the third one-eighth increment of the county gross receipts tax fails, the governing body shall not again propose a third one-eighth increment of the county gross receipts tax for a period of one year after the election."

Section 8

Section 8. Section 7-20E-13 NMSA 1978 (being Laws 1987, Chapter 45, Section 3, as amended) is amended to read:

"7-20E-13. SPECIAL COUNTY HOSPITAL GROSS RECEIPTS TAX--
AUTHORITY TO IMPOSE--ORDINANCE REQUIREMENTS.--

A. The majority of the members of the governing body may enact an ordinance imposing an excise tax on any person engaging in business in the county for the privilege of engaging in business. The rate of the tax shall be one-eighth of one percent of the gross receipts of the person engaging in business. The tax shall be imposed for a period of not more than five years from the effective date of the ordinance imposing the tax. Having once enacted an ordinance under this section, the governing body may enact subsequent ordinances for succeeding periods of not more than five years, provided that each such ordinance meets the requirements of the County Local Option Gross Receipts Taxes Act with respect to the tax imposed by this section.

B. The tax imposed by this section may be referred to as the "special county hospital gross receipts tax".

C. For the purposes of this section, "county" means:

(1) a county:

(a) having a population of more than ten thousand but less than ten thousand six hundred, according to the last federal decennial census or any subsequent decennial census, and having a net taxable value for rate-setting purposes for the 1986 property tax year or any subsequent year of more than eighty-two million dollars (\$82,000,000) but less than eighty-two million three hundred thousand dollars (\$82,300,000);

(b) that has imposed a rate of one dollar fifty cents (\$1.50) to each one thousand dollars (\$1,000) of net taxable value of property as defined in the Property Tax Code for property taxation purposes in the county and to each one thousand dollars (\$1,000) of the assessed value of products severed and sold in the school district as determined under the Oil and Gas Ad Valorem Production Tax Act and the Oil and Gas Production Equipment Ad Valorem Tax Act or has made an appropriation of funds or has imposed another tax that produces an amount not less than the revenue that would be produced by applying a rate of one dollar fifty cents (\$1.50) to each one thousand dollars (\$1,000) of net taxable value of property as defined in the Property Tax Code for property taxation purposes in the school district and to each one thousand dollars (\$1,000) of the assessed value of products severed and sold in the school district as determined under the Oil and Gas Ad Valorem Production Tax Act and the Oil and Gas Production Equipment Ad Valorem Tax Act. The proceeds of any tax imposed or appropriation made shall be dedicated for current operations and maintenance of a hospital owned and operated by the county or operated and maintained by another party pursuant to a lease with the county; and

(c) having qualified at any time under this definition shall continue to be qualified as a county and authorized to implement the provisions of this section; and

(2) a class B county having a population of more than seventeen thousand five hundred but less than nineteen thousand according to the most recent federal decennial census and having a net taxable value for property tax rate-setting purposes of under two hundred million dollars (\$200,000,000).

D. The governing body of a county shall, at the time of enacting an ordinance imposing the rate of the tax authorized in Subsection A of this section, dedicate the revenue for current operations and maintenance of a hospital owned and operated by the county or operated and maintained by another party pursuant to a lease with the county, and the use of these proceeds shall be for the care and maintenance of sick and indigent persons and shall be an expenditure for a public purpose. In any election held, the ballot shall clearly state the purpose to which the revenue will be dedicated and the revenue shall be used by the county for that purpose.

E. Any ordinance enacted under the provisions of Subsection A of this section shall include an effective date of either July 1 or January 1 in accordance with the provisions of the County Local Option Gross Receipts Taxes Act.

F. The ordinance shall not go into effect until after an election is held and a simple majority of the qualified electors of the county voting in the election votes in favor of imposing the special county hospital gross receipts tax. The governing body shall adopt a resolution calling for an election within seventy-five days of the date the ordinance is adopted on the question of imposing the tax. The question may be submitted to the qualified electors and voted upon as a separate question in a general election or in any special election called for that purpose by the governing body. A special election upon the question shall be called, held, conducted and canvassed in substantially the same manner as provided by law for general elections. If the question of imposing a special county hospital gross receipts tax fails, the governing body shall not again propose a special county hospital gross receipts tax for a period of one year after the election. A certified copy of any ordinance imposing a special county hospital gross receipts tax shall be mailed to the department within five days after the ordinance is adopted in any election called for that purpose.

G. A single election may be held on the question of imposing a special county hospital gross receipts tax as authorized in this section on the question of imposing a special county hospital gasoline tax as authorized in the Special County Hospital Gasoline Tax Act and on the question of imposing a mill levy pursuant to the Hospital Funding Act."

Section 9

Section 9. Section 7-20E-15 NMSA 1978 (being Laws 1979, Chapter 398, Section 3, as amended by Laws 1994, Chapter 302, Section 1 and also by Laws 1994, Chapter 354, Section 15) is amended to read:

"7-20E-15. COUNTY FIRE PROTECTION EXCISE TAX--AUTHORITY TO IMPOSE--
ORDINANCE REQUIREMENTS.--

A. The majority of the members of the governing body may enact an ordinance imposing an excise tax on any person engaging in business in the county area for the privilege of engaging in business. The rate of the tax shall be one-fourth of one percent or one-eighth of one percent of the gross receipts of the person engaging in business. The tax provided in this section shall be imposed for a period of not more than ten years from the effective date of the ordinance imposing the tax. Having once enacted an ordinance under this section, the governing body may enact subsequent ordinances for succeeding periods of not more than five years, provided each such ordinance meets the requirements of the County Local Option Gross Receipts Taxes Act with respect to the tax imposed by this section.

B. This tax is to be referred to as the "county fire protection excise tax".

C. The governing body of a county shall, at the time of enacting an ordinance imposing the rate of the tax authorized in Subsection A of this section, dedicate the revenue for the purpose of financing the operational expenses, ambulance

services or capital outlay costs of independent fire districts or ambulance services provided by the county. In any election held, the ballot shall clearly state the purpose to which the revenue will be dedicated and shall be used by the county for that purpose.

D. Any ordinance enacted under the provisions of Subsection A of this section shall include an effective date of either July 1 or January 1 in accordance with the provisions of the County Local Option Gross Receipts Taxes Act.

E. The ordinance shall not go into effect until after an election is held and a simple majority of the qualified electors of the county area voting in the election votes in favor of imposing the county fire protection excise tax. The governing body shall adopt a resolution calling for an election within seventy-five days of the date the ordinance is adopted on the question of imposing the tax. Such question may be submitted to the qualified electors and voted upon as a separate question at any special election called for that purpose by the governing body. The election upon the question shall be called, held, conducted and canvassed in substantially the same manner as provided by law for general elections. If the question of imposing a county fire protection excise tax fails, the governing body shall not again propose a county fire protection excise tax for a period of one year after the election."

Section 10

Section 10. Section 7-20F-3 NMSA 1978 (being Laws 1994, Chapter 303, Section 3) is amended to read:

"7-20F-3. COUNTY CORRECTIONAL FACILITY GROSS RECEIPTS TAX--
AUTHORITY TO IMPOSE--RATE--ORDINANCE REQUIREMENTS--REFERENDUM.--

A. The majority of the members elected to the county board may enact an ordinance imposing on a county-wide basis an excise tax not to exceed a rate of one-eighth of one percent of the gross receipts of any person engaging in business in the county, including all municipalities within the county; provided that the voters of the county have approved the issuance of general obligation bonds of the county sufficient to pay at least one-half of the costs of the construction and equipping of the new county judicial-correctional facility for which the county correctional facility gross receipts tax revenue is dedicated. The tax may be referred to as the "county correctional facility gross receipts tax". The county correctional facility gross receipts tax shall be imposed only once for the period necessary for payment of the principal and interest on revenue bonds issued pursuant to the County Correctional Facility Gross Receipts Tax Act, but the period shall not exceed ten years from the effective date of the ordinance imposing the tax.

B. Any ordinance imposing a county correctional facility gross receipts tax pursuant to this section shall:

(1) impose the tax in any number of increments of one-sixteenth of one percent not to exceed an aggregate amount of one-eighth of one percent;

(2) specify that the imposition of the tax will begin on either July 1 or January 1, whichever occurs first after the expiration of at least three months from the date that the department is notified personally or by mail by the county that imposition of the county correctional facility gross receipts tax has been approved by a majority of the registered voters in the county voting on the question; and

(3) dedicate the revenue from the county correctional facility gross receipts tax for the purpose of constructing, purchasing, furnishing, equipping, rehabilitating, expanding or improving a judicial-correctional facility or the grounds of a judicial-correctional facility, including but not limited to acquiring and improving parking lots, landscaping or any combination of the foregoing or to payment of principal and interest on revenue bonds or refunding bonds issued pursuant to the provisions of the County Correctional Facility Gross Receipts Tax Act.

C. An ordinance imposing a county correctional facility gross receipts tax pursuant to this section shall not become effective until after an election is held and a simple majority of the qualified electors of the county voting in the election votes in favor of imposing the tax. The governing body shall adopt a resolution calling for an election within seventy-five days of the date the ordinance is adopted on the question of imposing the tax. If a property tax at a rate necessary to comply with the provisions of Subsection A of this section has not been approved by the voters of the county, the question submitted to the voters shall be the question of imposing a county correctional facility gross receipts tax and a property tax at a rate necessary for the issuance of general obligation bonds of the county sufficient to comply with the provisions of the County Correctional Facility Gross Receipts Tax Act. The question shall be submitted to the voters at any general election or special election called for that purpose by the board. The election upon the question shall be called, held, conducted and canvassed in substantially the same manner as may be provided by law for general elections. If the question of imposing the county correctional facility gross receipts tax and a property tax, if the question includes a property tax, fails, the board shall not again propose imposition of a county correctional facility gross receipts tax for a period of one year after the election.

D. Revenue produced by the imposition of a county correctional facility gross receipts tax that is in excess of the annual principal and interest due on bonds secured by a pledge of the county correctional facility gross receipts tax may be accumulated in a debt service reserve account until an amount equal to the maximum amount permitted pursuant to the provisions of the United States treasury regulations is accumulated in the debt service reserve account. After the debt service reserve account requirements have been met, the excess revenue shall be accumulated in an extraordinary mandatory redemption fund and annually used to redeem the bonds prior to their stated maturity date.

E. When all outstanding bonds have been paid, whether from the debt service reserve, the redemption fund or maturity, the ordinance shall be repealed if the county correctional facility gross receipts tax revenue is no longer required for the purposes for which it may be used pursuant to the provisions of the County Correctional Facility Gross Receipts Tax Act.

F. The repeal of an ordinance imposing a county correctional facility gross receipts tax shall state that the repeal shall be effective on January 1 or July 1, whichever occurs first following the date the department is notified personally or by mail by the county of the repeal."

Section 11

Section 11. Section 7-20F-6 NMSA 1978 (being Laws 1994, Chapter 303, Section 6) is amended to read:

"7-20F-6. SPECIFIC EXEMPTIONS.--No county correctional facility gross receipts tax shall be imposed on the gross receipts arising from transporting persons or property for hire by railroad, motor vehicle, air transportation or any other means from one point within the county to another point outside the county."

Section 12

Section 12. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1994.

HOUSE BILL 117, aa
APPROVED MARCH 7, 1994

CHAPTER 102

RELATING TO PUBLIC LANDS REVENUES; PROVIDING FOR RECOUPMENT OF ERRONEOUS PAYMENTS AND REPORT AND REMITTANCE OF STATE ROYALTY; AMENDING AND REPEALING CERTAIN SECTIONS OF THE NMSA 1978.

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

Section 1

Section 1. Section 19-7-59 NMSA 1978 (being Laws 1931, Chapter 99, Section 1, as amended) is amended to read:

"19-7-59. REPAYMENT OF MONEY ERRONEOUSLY PAID ON LEASE OR PURCHASE CONTRACT AFTER DISTRIBUTION.--

A. Any money erroneously paid on account of any lease or sale of state lands, which money is not carried in any suspense fund but has been distributed to the proper income or permanent fund, shall be repaid in the manner prescribed in this section.

B. If the money erroneously paid was for royalty due under any lease, then, subject to subsequent audit by the commissioner of public lands or his agent, the money may be recouped by deducting an equivalent amount from subsequent royalty payments due for the same lease and any other lease with the same trust beneficiary; provided that, if the amount erroneously paid pursuant to this subsection is greater than twenty-five thousand dollars (\$25,000) for any lease, then no deduction from subsequent payments shall be made without the prior approval of the commissioner of public lands.

C. If the amount of money erroneously paid is less than two thousand dollars (\$2,000), then, after a claim has been filed pursuant to Section 19-7-60 NMSA 1978 and approved by the commissioner, no court action shall be necessary and a refund shall be made under Section 19-7-62 or 19-7-63 NMSA 1978.

D. All other money erroneously paid shall be refunded pursuant to the provisions of Sections 19-7-60 through 19-7-63 NMSA 1978."

Section 2

Section 2. Section 19-10-56 NMSA 1978 (being Laws 1959, Chapter 51, Section 1, as amended) is amended to read:

"19-10-56. REPORTS AND REMITTANCE OF STATE ROYALTY--RULES AND REGULATIONS PRESCRIBED BY COMMISSIONER.--Any person obligated to pay royalties pursuant to a producing oil and gas lease issued by the commissioner shall make reports and remittance of state oil and gas royalty through the oil and natural gas administration and revenue database system pursuant to rules and regulations of the commissioner."

Section 3

Section 3. REPEAL.--Sections 19-10-60 and 19-10-62 NMSA 1978 (being Laws 1959, Chapter 51, Sections 5 and 6, as amended) are repealed.

HOUSE BILL 1017
APPROVED MARCH 7, 1994

CHAPTER 103

RELATING TO HIGHWAYS; AUTHORIZING REIMBURSEMENT FR THE COST OF RELOCATING UTILITIES OWNED BY SPECIAL DISTRICTS; AMENDING A SECTION OF THE NMSA 1978.

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

Section 1

Section 1. Section 67-8-21 NMSA 1978 (being Laws 1959, Chapter 310, Section 7) is amended to read:

"67-8-21. MUNICIPALLY OWNED UTILITIES--SPECIAL DISTRICTS--REIMBURSEMENT FOR COST OF RELOCATION.--

A. Under the provisions of this section, the commission shall reimburse cities, towns and villages for cost of relocation of municipally owned utility facilities where relocation is required because of the construction or repair of any public highway of the interstate system in the city, town or village, provided only that the governing body of the municipality shall have adopted and filed with the commission its resolution electing to receive reimbursement of its costs of relocation pursuant to this section in lieu of Section 67-8-18 NMSA 1978 and of any other statute of this state that may provide the same or similar reimbursement relief to cities, towns and villages with respect to relocations in the interstate system.

B. Notwithstanding any other provision of Sections 67-8-15 through 67-8-21 NMSA 1978, the commission shall pay the cost of relocation of utilities owned by special districts located within the right of way of public highways on the state highway system when the relocation is required by the state highway and transportation department, provided that the special district can demonstrate, pursuant to rules promulgated by the commission, that the special district is financially unable to pay the cost of relocation. As used in this section, "special district" means any single or multipurpose district organized or that may be organized as a local public body of this state for the purpose of constructing and furnishing any urban-oriented service which another political subdivision of the state is authorized to perform, including but not limited to the services of water for domestic, commercial or industrial uses, sewage, garbage, refuse collection and recreation, but excluding the functions or services of drainage, irrigation, reclamation, soil and water conservation or flood control."

Section 2

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1994.

HOUSE BILL 1018
APPROVED MARCH 7, 1994

CHAPTER 104

RELATING TO TAXATION; AMENDING REQUIREMENTS FOR TAXATION OF LEASED VEHICLES.

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

Section 1

Section 1. Section 7-14-7.1 NMSA 1978 (being Laws 1991, Chapter 197, Section 4, as amended) is amended to read:

"7-14-7.1. CREDIT--VEHICLES USED FOR SHORT-TERM LEASING-- REQUIREMENTS-- REPORTS.--

A. Upon application of the owner, the secretary shall suspend payment of the tax and issue a certificate of title without payment of the tax for any vehicle the leasing of which is subject to the Leased Vehicle Gross Receipts Tax Act, if:

(1) the vehicle is acquired by the owner on or after July 1, 1991;

(2) the vehicle is required to be registered in this state;

(3) the owner presents proof satisfactory to the secretary that the owner is registered with the department to pay the leased vehicle gross receipts tax; and

(4) the owner declares that the vehicle for which issuance of a certificate of title is being applied will be part of a vehicle fleet of at least five vehicles, will be used primarily as a short-term rental vehicle and that each period of rental or lease will not exceed six months.

B. If an owner has paid the motor vehicle excise tax after July 1, 1991 with respect to a vehicle that qualifies for suspension of the motor vehicle excise tax pursuant to Subsection A of this section, the owner may apply for a refund of the motor vehicle excise tax paid, but the application for refund must be made within one year of the date certificate of title was issued to the owner for the vehicle. If application is made after that time, the claim for refund is not timely and the motor vehicle excise tax paid shall not be refunded.

C. On or before the twenty-fifth day of the month following the close of the calendar year, the owner shall submit to the department in a form prescribed by the secretary a report indicating the total collections of leased vehicle gross receipts tax collected in lieu of the tax. The report shall also indicate the amount of tax that would have been paid in the state of New Mexico for the preceding calendar year.

D. If the total amount of leased vehicle gross receipts tax is less than the amount of tax that would have been collected, the owner shall pay the difference to the department at the time of filing the report required by Subsection B of this section.

E. Once the total amount of leased vehicle gross receipts tax credited with respect to a vehicle for which payment of the motor vehicle excise tax is suspended pursuant to Subsection A of this section equals or exceeds the amount of motor vehicle excise tax due on that vehicle, or the owner has paid the difference pursuant to Subsection D of this section, the secretary shall cause the records of the department to indicate that the motor vehicle excise tax due with respect to that vehicle is paid in full and that payment is no longer suspended."

Section 2

Section 2. Section 7-14-9.2 NMSA 1978 (being Laws 1994, Chapter 347, Section 5) is amended to read:

"7-14-9.2. PENALTIES FOR FAILURE TO SUBMIT REPORT OR TO PAY--
INTEREST.--

A. Any person required to submit the report required by Subsection C of Section 7-14-7.1 NMSA 1978 who does not file the report in the manner and by the date required shall pay a penalty in an amount equal to five percent of the total amount of tax suspended pursuant to Subsection A of Section 7-14-7.1 NMSA 1978 for vehicles required to be included in the report.

B. Any person required to pay any amount pursuant to Subsection D of Section 7-14-7.1 NMSA 1978 who fails to pay the amount by the date required is liable for penalty in an amount equal to the greater of five dollars (\$5.00) or two percent per month or any fraction of a month from the date the amount was due multiplied by the amount of tax due but not paid, not to exceed a maximum of ten percent of the tax due but not paid.

C. If any person required to pay any amount pursuant to Subsection D of Section 7-14-7.1 NMSA 1978 fails to pay the amount by the date required, interest shall be paid to the state on such amount in accordance with the provisions of Section 7-1-67 NMSA 1978."

Section 3

Section 3. APPLICABILITY.--The provisions of this act are applicable to vehicles registered on or after January 1, 1994 and to vehicles registered during 1993 and for which the motor vehicle excise tax was suspended during the last six months of the year.

CHAPTER 105

RELATING TO OIL AND GAS LEASES; PROVIDING FOR A LOWER ROYALTY RATE ON OIL WELLS OPERATED PURSUANT TO A STATE OIL AND GAS LEASE UNDER CERTAIN CONDITIONS.

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

Section 1

Section 1. A new section of Chapter 19, Article 10 NMSA 1978 is enacted to read:

"AMENDMENT OF LEASE TO LOWER ROYALTY RATE FOR OIL WELLS UNDER CERTAIN CONDITIONS.--

A. The record owner of an oil and gas lease issued by the commissioner of public lands whose lease is maintained in good standing according to the terms and conditions of the lease and all applicable statutes and regulations may apply to the commissioner for an amendment to the lease for the purpose of changing the royalty rate on oil produced from a specified oil well.

B. An application for a change in royalty rate shall be on a form prescribed by the commissioner of public lands and shall be accompanied by an application fee. The application shall show:

(1) that an oil well, the production from which is attributable to the lease premises, has produced less than an average of three barrels of oil per day during the preceding twelve months and has not averaged over five barrels of oil per day for any month during the preceding twelve months; and

(2) reserve data and production decline curves for the oil well.

C. Upon receipt of an application, the commissioner of public lands shall review the information submitted as well as other, independent information obtainable by the commissioner and shall agree to amend the lease to a lower royalty rate for oil produced from the oil well if, in his sole discretion, he finds that:

(1) the operator has taken reasonable steps to minimize his costs of operating the oil well;

(2) the oil well will likely be plugged and abandoned in the near future, with a resulting loss of reserves, if operating costs are not reduced further;

(3) the oil well will produce for a longer period, and the amount of oil produced will ultimately be larger, if the royalty rate is lowered; and

(4) a lower royalty rate will actually maximize revenue to the trust beneficiaries.

D. Any lower royalty rate agreed to under this section shall be equal to five percent and shall be valid for a period of two years, after which time the record owner of the oil and gas lease issued by the commissioner of public lands may submit another application pursuant to this section.

E. The commissioner of public lands may promulgate regulations necessary to implement the provisions of this section.

F. The commissioner of public lands shall provide a cost-benefit analysis of the provisions of this section by December 1 of each year to the legislature and the governor."

HOUSE BILL 943

APPROVED MARCH 7, 1994

CHAPTER 106

RELATING TO STUDENTS WITH SPECIAL NEEDS; CREATING A TRANSITION SERVICES TASK FORCE TO EXAMINE THE STRUCTURE FOR THE DELIVERY OF TRANSITION SERVICES TO STUDENTS WITH SPECIAL NEEDS AND TO DEVELOP A PILOT TRANSITION PROGRAM.

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

Section 1

Section 1. TASK FORCE CREATION.--The state department of public education shall establish a task force on the delivery of transition services to students with special needs who transfer from secondary to post-secondary educational institutions. The task force shall be appointed by the superintendent of public instruction and shall include representatives of the state department of public education, the commission on higher education, secondary and post-secondary education teachers and administrators, the developmental disabilities planning council, the business community, recipients of transition services and other appropriate related groups. The task force shall develop strategies and a model for the delivery of transition services. The task force shall report the results of its study to the state board of education, the commission on higher education and the legislative education study committee prior to November 1, 1994.

HOUSE APPROPRIATIONS AND FINANCE COMMITTEE
SUBSTITUTE FOR HOUSE BILL 981
APPROVED MARCH 7, 1994

CHAPTER 107

RELATING TO DOMESTIC AFFAIRS; ENACTING THE UNIFORM INTERSTATE FAMILY SUPPORT ACT; ESTABLISHING PROCEDURES FOR CHILD SUPPORT PROCEEDINGS; REPEALING SECTIONS OF THE NMSA 1978.

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

ARTICLE 1. GENERAL PROVISIONS

Section 101

Section 101. DEFINITIONS.--As used in the Uniform Interstate Family Support Act:

(1) "child" means an individual, whether over or under the age of majority, who is or is alleged to be owed a duty of support by the individual's parent or who is or is alleged to be the beneficiary of a support order directed to the parent;

(2) "child support order" means a support order for a child, including a child who has attained the age of majority under the law of the issuing state;

(3) "duty of support" means an obligation imposed or imposable by law to provide support for a child, spouse, or former spouse, including an unsatisfied obligation to provide support;

(4) "home state" means the state in which a child lived with a parent or a person acting as parent for at least six consecutive months immediately preceding the time of filing of a petition or comparable pleading for support and, if a child is less than six months old, the state in which the child lived from birth with any of them. A period of temporary absence of any of them is counted as part of the six-month or other period;

(5) "income" includes earnings or other periodic entitlements to money from any source and any other property subject to withholding for support under the law of this state;

(6) "income-withholding order" means an order or other legal process directed to an obligor's employer or other debtor to withhold support from the income of the obligor;

(7) "initiating state" means a state in which a proceeding under the Uniform Interstate Family Support Act or a law substantially similar to that act, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act is filed for forwarding to a responding state;

(8) "initiating tribunal" means the authorized tribunal in an initiating state;

(9) "issuing state" means the state in which a tribunal issues a support order or renders a judgment determining parentage;

(10) "issuing tribunal" means the tribunal that issues a support order or renders a judgment determining parentage;

(11) "law" includes decisional and statutory law and rules and regulations having the force of law;

(12) "obligee" means:

(i) an individual to whom a duty of support is or is alleged to be owed or in whose favor a support order has been issued or a judgment determining parentage has been rendered;

(ii) a state or political subdivision to which the rights under a duty of support or support order have been assigned or which has independent claims based on financial assistance provided to an individual obligee; or

(iii) an individual seeking a judgment determining parentage of the individual's child;

(13) "obligor" means an individual, or the estate of a decedent:

(i) who owes or is alleged to owe a duty of support;

(ii) who is alleged but has not been adjudicated to be a parent of a child; or

(iii) who is liable under a support order;

(14) "register" means to record a support order or judgment determining parentage in the appropriate tribunal of this state;

(15) "registering tribunal" means a tribunal in which a support order is registered;

(16) "responding state" means a state to which a proceeding is forwarded under the Uniform Interstate Family Support Act, a law substantially similar to that act, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act;

(17) "responding tribunal" means the authorized tribunal in a responding state;

(18) "spousal support order" means a support order for a spouse or former spouse of the obligor;

(19) "state" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or insular possession subject to the jurisdiction of the United States. The term "state" includes an Indian tribe and includes a foreign jurisdiction that has established procedures for issuance and enforcement of support orders which are substantially similar to the procedures under the Uniform Interstate Family Support Act;

(20) "support enforcement agency" means a public official or agency authorized to seek:

(i) enforcement of support orders or laws relating to the duty of support;

(ii) establishment or modification of child support;

(iii) determination of parentage; or

(iv) to locate obligors or their assets;

(21) "support order" means a judgment, decree, or order, whether temporary, final, or subject to modification, for the benefit of a child, a spouse, or a former spouse, which provides for monetary support, health care, arrearages, or reimbursement, and may include related costs and fees, interest, income withholding, attorney's fees, and other relief; and

(22) "tribunal" means a court, administrative agency, or quasi-judicial entity authorized to establish, enforce, or modify support orders or to determine parentage.

Section 102

Section 102. TRIBUNALS OF THIS STATE.--The district courts are the tribunals of this state.

Section 103

Section 103. REMEDIES CUMULATIVE.--Remedies provided by the Uniform Interstate Family Support Act are cumulative and do not affect the availability of remedies under other law.

ARTICLE 2. JURISDICTION

PART A. EXTENDED PERSONAL JURISDICTION

Section 201

Section 201. BASES FOR JURISDICTION OVER NONRESIDENT.--In a proceeding to establish, enforce, or modify a support order or to determine parentage, a tribunal of this state may exercise personal jurisdiction over a nonresident individual or the individual's guardian or conservator if:

- (1) the individual is personally served with notice within this state;
- (2) the individual submits to the jurisdiction of this state by consent, by entering a general appearance, or by filing a responsive document having the effect of waiving any contest to personal jurisdiction;
- (3) the individual resided with the child in this state;
- (4) the individual resided in this state and provided prenatal expenses or support for the child;
- (5) the child resides in this state as a result of the acts or directives of the individual;
- (6) the individual engaged in sexual intercourse in this state and the child may have been conceived by that act of intercourse;
- (7) the individual asserted parentage in the putative father registry maintained in this state by the department of health; or
- (8) there is any other basis consistent with the constitutions of this state and the United States for the exercise of personal jurisdiction.

Section 202

Section 202. PROCEDURE WHEN EXERCISING JURISDICTION OVER NONRESIDENT.--A tribunal of this state exercising personal jurisdiction over a nonresident under Section 201 of the Uniform Interstate Family Support Act may apply Section 316 of that act to receive evidence from another state, and Section 318 of that act to obtain discovery through a tribunal of another state. In all other respects, Articles 3 through 7 of the Uniform Interstate Family Support Act do not apply and the tribunal shall apply the procedural and substantive law of this state, including the rules on choice of law other than those established by the Uniform Interstate Family Support Act.

PART B. PROCEEDINGS INVOLVING TWO OR MORE STATES

Section 203

Section 203. INITIATING AND RESPONDING TRIBUNAL OF THIS STATE.--Under the Uniform Interstate Family Support Act, a tribunal of this state may serve as an initiating tribunal to forward proceedings to another state and as a responding tribunal for proceedings initiated in another state.

Section 204

Section 204. SIMULTANEOUS PROCEEDINGS IN ANOTHER STATE.--

(a) A tribunal of this state may exercise jurisdiction to establish a support order if the petition or comparable pleading is filed after a petition or comparable pleading is filed in another state only if:

(1) the petition or comparable pleading in this state is filed before the expiration of the time allowed in the other state for filing a responsive pleading challenging the exercise of jurisdiction by the other state;

(2) the contesting party timely challenges the exercise of jurisdiction in the other state; and

(3) if relevant, this state is the home state of the child.

(b) A tribunal of this state may not exercise jurisdiction to establish a support order if the petition or comparable pleading is filed before a petition or comparable pleading is filed in another state if:

(1) the petition or comparable pleading in the other state is filed before the expiration of the time allowed in this state for filing a responsive pleading challenging the exercise of jurisdiction by this state;

(2) the contesting party timely challenges the exercise of jurisdiction in this state; and

(3) if relevant, the other state is the home state of the child.

Section 205

Section 205. CONTINUING, EXCLUSIVE JURISDICTION.--

(a) A tribunal of this state issuing a support order consistent with the law of this state has continuing, exclusive jurisdiction over a child support order:

(1) as long as this state remains the residence of the obligor, the individual obligee, or the child for whose benefit the support order is issued; or

(2) until each individual party has filed written consent with the tribunal of this state for a tribunal of another state to modify the order and assume continuing, exclusive jurisdiction.

(b) A tribunal of this state issuing a child support order consistent with the law of this state may not exercise its continuing jurisdiction to modify the order if the order has been modified by a tribunal of another state pursuant to a law substantially similar to the Uniform Interstate Family Support Act.

(c) If a child support order of this state is modified by a tribunal of another state pursuant to a law substantially similar to the Uniform Interstate Family Support Act, a tribunal of this state loses its continuing, exclusive jurisdiction with regard to prospective enforcement of the order issued in this state, and may only:

(1) enforce the order that was modified as to amounts accruing before the modification;

(2) enforce nonmodifiable aspects of that order; and

(3) provide other appropriate relief for violations of that order which occurred before the effective date of the modification.

(d) A tribunal of this state shall recognize the continuing, exclusive jurisdiction of a tribunal of another state which has issued a child support order pursuant to a law substantially similar to the Uniform Interstate Family Support Act.

(e) A temporary support order issued ex parte or pending resolution of a jurisdictional conflict does not create continuing, exclusive jurisdiction in the issuing tribunal.

(f) A tribunal of this state issuing a support order consistent with the law of this state has continuing, exclusive jurisdiction over a spousal support order throughout the existence of the support obligation. A tribunal of this state may not modify a spousal support order issued by a tribunal of another state having continuing, exclusive jurisdiction over that order under the law of that state.

Section 206

Section 206. ENFORCEMENT AND MODIFICATION OF SUPPORT ORDER BY TRIBUNAL HAVING CONTINUING JURISDICTION.--

(a) A tribunal of this state may serve as an initiating tribunal to request a tribunal of another state to enforce or modify a support order issued in that state.

(b) A tribunal of this state having continuing, exclusive jurisdiction over a support order may act as a responding tribunal to enforce or modify the order. If a party subject to the continuing, exclusive jurisdiction of the tribunal no longer resides in the issuing state, in subsequent proceedings the tribunal may apply Section 316 of the Uniform Interstate Family Support Act to receive evidence from another state and Section 318 of that act to obtain discovery through a tribunal of another state.

(c) A tribunal of this state which lacks continuing, exclusive jurisdiction over a spousal support order may not serve as a responding tribunal to modify a spousal support order of another state.

PART C. RECONCILIATION WITH ORDERS OF OTHER STATES

Section 207

Section 207. RECOGNITION OF CHILD SUPPORT ORDERS.--

(a) If a proceeding is brought under the Uniform Interstate Family Support Act, and one or more child support orders have been issued in this or another state with regard to an obligor and a child, a tribunal of this state shall apply the following rules in determining which order to recognize for purposes of continuing, exclusive jurisdiction:

(1) If only one tribunal has issued a child support order, the order of that tribunal must be recognized;

(2) If two or more tribunals have issued child support orders for the same obligor and child, and only one of the tribunals would have continuing, exclusive jurisdiction under the Uniform Interstate Family Support Act, the order of that tribunal must be recognized;

(3) If two or more tribunals have issued child support orders for the same obligor and child, and more than one of the tribunals would have continuing, exclusive jurisdiction under the Uniform Interstate Family Support Act, an order issued by a tribunal in the current home state of the child must be recognized, but if an order has not been issued in the current home state of the child, the order most recently issued must be recognized; and

(4) If two or more tribunals have issued child support orders for the same obligor and child, and none of the tribunals would have continuing, exclusive jurisdiction under the Uniform Interstate Family Support Act, the tribunal of this state may issue a child support order, which must be recognized.

(b) The tribunal that has issued an order recognized under subsection (a) of this section is the tribunal having continuing, exclusive jurisdiction.

Section 208

Section 208. MULTIPLE CHILD SUPPORT ORDERS FOR TWO OR MORE OBLIGEES.--In responding to multiple registrations or petitions for enforcement of two or more child support orders in effect at the same time with regard to the same obligor and different individual obligees, at least one of which was issued by a tribunal of another state, a tribunal of this state shall enforce those orders in the same manner as if the multiple orders had been issued by a tribunal of this state.

Section 209

Section 209. CREDIT FOR PAYMENTS.--Amounts collected and credited for a particular period pursuant to a support order issued by a tribunal of another state must be credited against the amounts accruing or accrued for the same period under a support order issued by the tribunal of this state.

ARTICLE 3. CIVIL PROVISIONS OF GENERAL APPLICATION

Section 301

Section 301. PROCEEDINGS UNDER THE UNIFORM INTERSTATE FAMILY SUPPORT ACT.--

(a) Except as otherwise provided in the Uniform Interstate Family Support Act, this article applies to all proceedings under that act.

(b) The Uniform Interstate Family Support Act provides for the following proceedings:

(1) establishment of an order for spousal support or child support pursuant to Article 4 of that act;

(2) enforcement of a support order and income-withholding order of another state without registration pursuant to Article 5 of that act;

(3) registration of an order for spousal support or child support of another state for enforcement pursuant to Article 6 of that act;

(4) modification of an order for child support or spousal support issued by a tribunal of this state pursuant to Article 2, Part B of that act;

(5) registration of an order for child support of another state for modification pursuant to Article 6 of that act;

(6) determination of parentage pursuant to Article 7 of that act; and

(7) assertion of jurisdiction over nonresidents pursuant to Article 2, Part A of that act.

(c) An individual petitioner or a support enforcement agency may commence a proceeding authorized under the Uniform Interstate Family Support Act by filing a petition in an initiating tribunal for forwarding to a responding tribunal or by filing a petition or a comparable pleading directly in a tribunal of another state which has or can obtain personal jurisdiction over the respondent.

Section 302

Section 302. ACTION BY MINOR PARENT.--A minor parent, or a guardian or other legal representative of a minor parent, may maintain a proceeding on behalf of or for the benefit of the minor's child.

Section 303

Section 303. APPLICATION OF LAW OF THIS STATE.--Except as otherwise provided by the Uniform Interstate Family Support Act, a responding tribunal of this state:

(1) shall apply the procedural and substantive law, including the rules on choice of law, generally applicable to similar proceedings originating in this state and may exercise all powers and provide all remedies available in those proceedings; and

(2) shall determine the duty of support and the amount payable in accordance with the law and support guidelines of this state.

Section 304

Section 304. DUTIES OF INITIATING TRIBUNAL.--Upon the filing of a petition authorized by the Uniform Interstate Family Support Act, an initiating tribunal of this state shall forward three copies of the petition and its accompanying documents:

(1) to the responding tribunal or appropriate support enforcement agency in the responding state; or

(2) if the identity of the responding tribunal is unknown, to the state information agency of the responding state with a request that they be forwarded to the appropriate tribunal and that receipt be acknowledged.

Section 305

Section 305. DUTIES AND POWERS OF RESPONDING TRIBUNAL.--

(a) When a responding tribunal of this state receives a petition or comparable pleading from an initiating tribunal or directly pursuant to Section 301(c) of the Uniform Interstate Family Support Act, it shall cause the petition or pleading to be filed and notify the petitioner by first class mail where and when it was filed.

(b) A responding tribunal of this state, to the extent otherwise authorized by law, may do one or more of the following:

(1) issue or enforce a support order, modify a child support order, or render a judgment to determine parentage;

(2) order an obligor to comply with a support order, specifying the amount and the manner of compliance;

(3) order income withholding;

(4) determine the amount of any arrearage, and specify a method of payment;

(5) enforce orders by civil or criminal contempt, or both;

(6) set aside property for satisfaction of the support order;

(7) place liens and order execution on the obligor's property;

(8) order an obligor to keep the tribunal informed of the obligor's current residential address, telephone number, employer, address of employment, and telephone number at the place of employment;

(9) issue a bench warrant for an obligor who has failed after proper notice to appear at a hearing ordered by the tribunal and enter the bench warrant in any local and state computer systems for criminal warrants;

(10) order the obligor to seek appropriate employment by specified methods;

(11) award reasonable attorney's fees and other fees and costs;

(12) grant any other available remedy.

(c) A responding tribunal of this state shall include in a support order issued under the Uniform Interstate Family Support Act, or in the documents accompanying the order, the calculations on which the support order is based.

(d) A responding tribunal of this state may not condition the payment of a support order issued under the Uniform Interstate Family Support Act upon compliance by a party with provisions for visitation.

(e) If a responding tribunal of this state issues an order under the Uniform Interstate Family Support Act, the tribunal shall send a copy of the order by first class mail to the petitioner and the respondent and to the initiating tribunal, if any.

Section 306

Section 306. INAPPROPRIATE TRIBUNAL.--If a petition or comparable pleading is received by an inappropriate tribunal of this state, it shall forward the pleading and accompanying documents to an appropriate tribunal in this state or another state and notify the petitioner by first class mail where and when the pleading was sent.

Section 307

Section 307. DUTIES OF SUPPORT ENFORCEMENT AGENCY.--

(a) A support enforcement agency of this state, upon request, shall provide services to a petitioner in a proceeding under the Uniform Interstate Family Support Act.

(b) A support enforcement agency that is providing services to the petitioner as appropriate shall:

(1) take all steps necessary to enable an appropriate tribunal in this state or another state to obtain jurisdiction over the respondent;

(2) request an appropriate tribunal to set a date, time, and place for a hearing;

(3) make a reasonable effort to obtain all relevant information, including information as to income and property of the parties;

(4) within two days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of a written notice from an initiating, responding, or registering tribunal, send a copy of the notice by first class mail to the petitioner;

(5) within two days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of a written communication from the respondent or the respondent's attorney, send a copy of the communication by first class mail to the petitioner; and

(6) notify the petitioner if jurisdiction over the respondent cannot be obtained.

(c) The Uniform Interstate Family Support Act does not create or negate a relationship of attorney and client or other fiduciary relationship between a support

enforcement agency or the attorney for the agency and the individual being assisted by the agency.

Section 308

Section 308. DUTY OF ATTORNEY GENERAL.--If the attorney general determines that the support enforcement agency is neglecting or refusing to provide services to an individual, the attorney general may order the agency to perform its duties under the Uniform Interstate Family Support Act or may provide those services directly to the individual.

Section 309

Section 309. PRIVATE COUNSEL.--An individual may employ private counsel to represent the individual in proceedings authorized by the Uniform Interstate Family Support Act.

Section 310

Section 310. DUTIES OF STATE INFORMATION AGENCY.--

(a) The human services department is the state information agency under the Uniform Interstate Family Support Act.

(b) The state information agency shall:

(1) compile and maintain a current list, including addresses, of the tribunals in this state which have jurisdiction under the Uniform Interstate Family Support Act and any support enforcement agencies in this state and transmit a copy to the state information agency of every other state;

(2) maintain a register of tribunals and support enforcement agencies received from other states;

(3) forward to the appropriate tribunal in the place in this state in which the individual obligee or the obligor resides, or in which the obligor's property is believed to be located, all documents concerning a proceeding under the Uniform Interstate Family Support Act received from an initiating tribunal or the state information agency of the initiating state; and

(4) obtain information concerning the location of the obligor and the obligor's property within this state not exempt from execution, by such means as postal verification and federal or state locator services, examination of telephone directories, requests for the obligor's address from employers, and examination of governmental records, including, to the extent not prohibited by other law, those relating to real

property, vital statistics, law enforcement, taxation, motor vehicles, driver's licenses, and social security.

Section 311

Section 311. PLEADINGS AND ACCOMPANYING DOCUMENTS.--

(a) A petitioner seeking to establish or modify a support order or to determine parentage in a proceeding under the Uniform Interstate Family Support Act must verify the petition. Unless otherwise ordered under Section 312 of the Uniform Interstate Family Support Act, the petition or accompanying documents must provide, so far as known, the name, residential address, and social security numbers of the obligor and the obligee, and the name, sex, residential address, social security number, and date of birth of each child for whom support is sought. The petition must be accompanied by a certified copy of any support order in effect. The petition may include any other information that may assist in locating or identifying the respondent.

(b) The petition must specify the relief sought. The petition and accompanying documents must conform substantially with the requirements imposed by the forms mandated by federal law for use in cases filed by a support enforcement agency.

Section 312

Section 312. NONDISCLOSURE OF INFORMATION IN EXCEPTIONAL CIRCUMSTANCES.- Upon a finding, which may be made ex parte, that the health, safety, or liberty of a party or child would be unreasonably put at risk by the disclosure of identifying information, or if an existing order so provides, a tribunal shall order that the address of the child or party or other identifying information not be disclosed in a pleading or other document filed in a proceeding under the Uniform Interstate Family Support Act.

Section 313

Section 313. COSTS AND FEES.--

(a) The petitioner may not be required to pay a filing fee or other costs.

(b) If an obligee prevails, a responding tribunal may assess against an obligor filing fees, reasonable attorney's fees, other costs, and necessary travel and other reasonable expenses incurred by the obligee and the obligee's witnesses. The tribunal may not assess fees, costs, or expenses against the obligee or the support enforcement agency of either the initiating or the responding state, except as provided by other law. Attorney's fees may be taxed as costs, and may be ordered paid directly to the attorney, who may enforce the order in the attorney's own name. Payment of support owed to the obligee has priority over fees, costs and expenses.

(c) The tribunal shall order the payment of costs and reasonable attorney's fees if it determines that a hearing was requested primarily for delay. In a proceeding under Article 6 of the Uniform Interstate Family Support Act, a hearing is presumed to have been requested primarily for delay if a registered support order is confirmed or enforced without change.

Section 314

Section 314. LIMITED IMMUNITY OF PETITIONER.--

(a) Participation by a petitioner in a proceeding before a responding tribunal, whether in person, by private attorney, or through services provided by the support enforcement agency, does not confer personal jurisdiction over the petitioner in another proceeding.

(b) A petitioner is not amenable to service of civil process while physically present in this state to participate in a proceeding under the Uniform Interstate Family Support Act.

(c) The immunity granted by this section does not extend to civil litigation based on acts unrelated to a proceeding under the Uniform Interstate Family Support Act committed by a party while present in this state to participate in the proceeding.

Section 315

Section 315. NONPARENTAGE AS DEFENSE.--A party whose parentage of a child has been previously determined by or pursuant to law may not plead nonparentage as a defense to a proceeding under the Uniform Interstate Family Support Act.

Section 316

Section 316. SPECIAL RULES OF EVIDENCE AND PROCEDURE.--

(a) The physical presence of the petitioner in a responding tribunal of this state is not required for the establishment, enforcement, or modification of a support order or the rendition of a judgment determining parentage.

(b) A verified petition, affidavit, document substantially complying with federally mandated forms, and a document incorporated by reference in any of them, not excluded under the hearsay rule if given in person, is admissible in evidence if given under oath by a party or witness residing in another state.

(c) A copy of the record of child support payments certified as a true copy of the original by the custodian of the record may be forwarded to a responding tribunal. The copy is evidence of facts asserted in it, and is admissible to show whether payments were made.

(d) Copies of bills for testing for parentage, and for prenatal and postnatal health care of the mother and child, furnished to the adverse party at least ten days before trial, are admissible in evidence to prove the amount of the charges billed and that the charges were reasonable, necessary, and customary.

(e) Documentary evidence transmitted from another state to a tribunal of this state by telephone, telecopier, or other means that do not provide an original writing may not be excluded from evidence on an objection based on the means of transmission.

(f) In a proceeding under the Uniform Interstate Family Support Act, a tribunal of this state may permit a party or witness residing in another state to be deposed or to testify by telephone, audiovisual means, or other electronic means at a designated tribunal or other location in that state. A tribunal of this state shall cooperate with tribunals of other states in designating an appropriate location for the deposition or testimony.

(g) If a party called to testify at a civil hearing refuses to answer on the ground that the testimony may be self-incriminating, the trier of fact may draw an adverse inference from the refusal.

(h) A privilege against disclosure of communications between spouses does not apply in a proceeding under the Uniform Interstate Family Support Act.

(i) The defense of immunity based on the relationship of husband and wife or parent and child does not apply in a proceeding under the Uniform Interstate Family Support Act.

Section 317

Section 317. COMMUNICATIONS BETWEEN TRIBUNALS.--A tribunal of this state may communicate with a tribunal of another state in writing, or by telephone or other means, to obtain information concerning the laws of that state, the legal effect of a judgment, decree, or order of that tribunal, and the status of a proceeding in the other state. A tribunal of this state may furnish similar information by similar means to a tribunal of another state.

Section 318

Section 318. ASSISTANCE WITH DISCOVERY.--A tribunal of this state may:

- (1) request a tribunal of another state to assist in obtaining discovery; and
- (2) upon request, compel a person over whom it has jurisdiction to respond to a discovery order issued by a tribunal of another state.

Section 319

Section 319. RECEIPT AND DISBURSEMENT OF PAYMENTS.-- A support enforcement agency or tribunal of this state shall disburse promptly any amounts received pursuant to a support order, as directed by the order. The agency or tribunal shall furnish to a requesting party or tribunal of another state a certified statement by the custodian of the record of the amounts and dates of all payments received.

ARTICLE 4. ESTABLISHMENT OF SUPPORT ORDER

Section 401

Section 401. PETITION TO ESTABLISH SUPPORT ORDER.--

(a) If a support order entitled to recognition under the Uniform Interstate Family Support Act has not been issued, a responding tribunal of this state may issue a support order if:

(1) the individual seeking the order resides in another state; or

(2) the support enforcement agency seeking the order is located in another state.

(b) The tribunal may issue a temporary child support order if:

(1) the respondent has signed a verified statement acknowledging parentage;

(2) the respondent has been determined by or pursuant to law to be the parent; or

(3) there is other clear and convincing evidence that the respondent is the child's parent.

(c) Upon finding, after notice and opportunity to be heard, that an obligor owes a duty of support, the tribunal shall issue a support order directed to the obligor and may issue other orders pursuant to Section 305 of the Uniform Interstate Family Support Act.

ARTICLE 5. DIRECT ENFORCEMENT OF ORDER

OF ANOTHER STATE WITHOUT REGISTRATION

Section 501

Section 501. RECOGNITION OF INCOME-WITHHOLDING ORDER OF ANOTHER STATE.--

(a) An income-withholding order issued in another state may be sent by first class mail to the obligor's employer without first filing a petition or comparable pleading or registering the order with a tribunal of this state. Upon receipt of the order, the employer shall:

- (1) treat an income-withholding order issued in another state which appears regular on its face as if it had been issued by a tribunal of this state;
- (2) immediately provide a copy of the order to the obligor; and
- (3) distribute the funds as directed in the withholding order.

(b) An obligor may contest the validity or enforcement of an income-withholding order issued in another state in the same manner as if the order had been issued by a tribunal of this state. Section 604 of the Uniform Interstate Family Support Act applies to the contest. The obligor shall give notice of the contest to any support enforcement agency providing services to the obligee and to:

- (1) the person or agency designated to receive payments in the income-withholding order; or
- (2) if no person or agency is designated, the obligee.

Section 502

Section 502. ADMINISTRATIVE ENFORCEMENT OF ORDERS.--

(a) A party seeking to enforce a support order or an income-withholding order, or both, issued by a tribunal of another state may send the documents required for registering the order to a support enforcement agency of this state.

(b) Upon receipt of the documents, the support enforcement agency, without initially seeking to register the order, shall consider and, if appropriate, use any administrative procedure authorized by the law of this state to enforce a support order or an income-withholding order, or both. If the obligor does not contest administrative enforcement, the order need not be registered. If the obligor contests the validity or administrative enforcement of the order, the support enforcement agency shall register the order pursuant to the Uniform Interstate Family Support Act.

ARTICLE 6. ENFORCEMENT AND MODIFICATION

OF SUPPORT ORDER AFTER REGISTRATION

PART A. REGISTRATION AND ENFORCEMENT OF SUPPORT ORDER

Section 601

Section 601. REGISTRATION OF ORDER FOR ENFORCEMENT.--

A support order or an income-withholding order issued by a tribunal of another state may be registered in this state for enforcement.

Section 602

Section 602. PROCEDURE TO REGISTER ORDER FOR ENFORCEMENT.--

(a) A support order or income-withholding order of another state may be registered in this state by sending the following documents and information to the appropriate tribunal in this state:

(1) a letter of transmittal to the tribunal requesting registration and enforcement;

(2) two copies, including one certified copy, of all orders to be registered, including any modification of an order;

(3) a sworn statement by the party seeking registration or a certified statement by the custodian of the records showing the amount of any arrearage;

(4) the name of the obligor and, if known:

(i) the obligor's address and social security number;

(ii) the name and address of the obligor's employer and any other source of income of the obligor; and

(iii) a description and the location of property of the obligor in this state not exempt from execution; and

(5) the name and address of the obligee and, if applicable, the agency or person to whom support payments are to be remitted.

(b) On receipt of a request for registration, the registering tribunal shall cause the order to be filed as a foreign judgment, together with one copy of the documents and information, regardless of their form.

(c) A petition or comparable pleading seeking a remedy that must be affirmatively sought under other law of this state may be filed at the same time as the request for registration or later. The pleading must specify the grounds for the remedy sought.

Section 603

Section 603. EFFECT OF REGISTRATION FOR ENFORCEMENT.--

(a) A support order or income-withholding order issued in another state is registered when the order is filed in the registering tribunal of this state.

(b) A registered order issued in another state is enforceable in the same manner and is subject to the same procedures as an order issued by a tribunal of this state.

(c) Except as otherwise provided in this article, a tribunal of this state shall recognize and enforce, but may not modify, a registered order if the issuing tribunal had jurisdiction.

Section 604

Section 604. CHOICE OF LAW.--

(a) The law of the issuing state governs the nature, extent, amount, and duration of current payments and other obligations of support and the payment of arrearage under the order.

(b) In a proceeding for arrearage, the statute of limitation under the laws of this state or of the issuing state, whichever is longer, applies.

PART B. CONTEST OF VALIDITY OR ENFORCEMENT

Section 605

Section 605. NOTICE OF REGISTRATION OF ORDER.--

(a) When a support order or income-withholding order issued in another state is registered, the registering tribunal shall notify the nonregistering party. Notice must be given by first class, certified, or registered mail or by any means of personal service authorized by the law of this state. The notice must be accompanied by a copy of the registered order and the documents and relevant information accompanying the order.

(b) The notice must inform the nonregistering party:

(1) that a registered order is enforceable as of the date of registration in the same manner as an order issued by a tribunal of this state;

(2) that a hearing to contest the validity or enforcement of the registered order must be requested within twenty days after the date of mailing or personal service of the notice;

(3) that failure to contest the validity or enforcement of the registered order in a timely manner will result in confirmation of the order and enforcement of the order and the alleged arrearage and precludes further contest of that order with respect to any matter that could have been asserted; and

(4) of the amount of any alleged arrearage.

(c) Upon registration of an income-withholding order for enforcement, the registering tribunal shall notify the obligor's employer.

Section 606

Section 606. PROCEDURE TO CONTEST VALIDITY OR ENFORCEMENT OF REGISTERED ORDER.--

(a) A nonregistering party seeking to contest the validity or enforcement of a registered order in this state shall request a hearing within twenty days after the date of mailing or personal service of notice of the registration. The nonregistering party may seek to vacate the registration, to assert any defense to an allegation of noncompliance with the registered order, or to contest the remedies being sought or the amount of any alleged arrearage pursuant to Section 607 of the Uniform Interstate Family Support Act.

(b) If the nonregistering party fails to contest the validity or enforcement of the registered order in a timely manner, the order is confirmed by operation of law.

(c) If a nonregistering party requests a hearing to contest the validity or enforcement of the registered order, the registering tribunal shall schedule the matter for hearing and give notice to the parties by first class mail of the date, time, and place of the hearing.

Section 607

Section 607. CONTEST OF REGISTRATION OR ENFORCEMENT.--

(a) A party contesting the validity or enforcement of a registered order or seeking to vacate the registration has the burden of proving one or more of the following defenses:

(1) the issuing tribunal lacked personal jurisdiction over the contesting party;

(2) the order was obtained by fraud;

order; (3) the order has been vacated, suspended, or modified by a later

(4) the issuing tribunal has stayed the order pending appeal;

sought; (5) there is a defense under the law of this state to the remedy

(6) full or partial payment has been made; or

(7) the statute of limitation under Section 604 of the Uniform Interstate Family Support Act precludes enforcement of some or all of the arrearage.

(b) If a party presents evidence establishing a full or partial defense under Subsection (a) of this section, a tribunal may stay enforcement of the registered order, continue the proceeding to permit production of additional relevant evidence, and issue other appropriate orders. An uncontested portion of the registered order may be enforced by all remedies available under the law of this state.

(c) If the contesting party does not establish a defense under Subsection (a) of this section to the validity or enforcement of the order, the registering tribunal shall issue an order confirming the order.

Section 608

Section 608. CONFIRMED ORDER.--Confirmation of a registered order, whether by operation of law or after notice and hearing, precludes further contest of the order with respect to any matter that could have been asserted at the time of registration.

PART C. REGISTRATION AND MODIFICATION

OF CHILD SUPPORT ORDER

Section 609

Section 609. PROCEDURE TO REGISTER CHILD SUPPORT ORDER OF ANOTHER STATE FOR MODIFICATION.--A party or support enforcement agency seeking to modify, or to modify and enforce, a child support order issued in another state shall register that order in this state in the same manner provided in Part A of this article if the order has not been registered. A petition for modification may be filed at the same time as a request for registration, or later. The pleading must specify the grounds for modification.

Section 610

Section 610. EFFECT OF REGISTRATION FOR MODIFICATION.--

A tribunal of this state may enforce a child support order of another state registered for purposes of modification, in the same manner as if the order had been issued by a tribunal of this state, but the registered order may be modified only if the requirements of Section 611 of the Uniform Interstate Family Support Act have been met.

Section 611

Section 611. MODIFICATION OF CHILD SUPPORT ORDER OF ANOTHER STATE.--

(a) After a child support order issued in another state has been registered in this state, the responding tribunal of this state may modify that order only if, after notice and hearing, it finds that:

(1) the following requirements are met:

(i) the child, the individual obligee, and the obligor do not reside in the issuing state;

(ii) a petitioner who is a nonresident of this state seeks modification; and

(iii) the respondent is subject to the personal jurisdiction of the tribunal of this state; or

(2) an individual party or the child is subject to the personal jurisdiction of the tribunal and all of the individual parties have filed a written consent in the issuing tribunal providing that a tribunal of this state may modify the support order and assume continuing, exclusive jurisdiction over the order.

(b) Modification of a registered child support order is subject to the same requirements, procedures, and defenses that apply to the modification of an order issued by a tribunal of this state and the order may be enforced and satisfied in the same manner.

(c) A tribunal of this state may not modify any aspect of a child support order that may not be modified under the law of the issuing state.

(d) On issuance of an order modifying a child support order issued in another state, a tribunal of this state becomes the tribunal of continuing, exclusive jurisdiction.

(e) Within thirty days after issuance of a modified child support order, the party obtaining the modification shall file a certified copy of the order with the issuing tribunal which had continuing, exclusive jurisdiction over the earlier order, and in each tribunal in which the party knows that earlier order has been registered.

Section 612

Section 612. RECOGNITION OF ORDER MODIFIED IN ANOTHER STATE.--A tribunal of this state shall recognize a modification of its earlier child support order by a tribunal of another state which assumed jurisdiction pursuant to a law substantially similar to the Uniform Interstate Family Support Act and, upon request, except as otherwise provided in that act, shall:

(1) enforce the order that was modified only as to amounts accruing before the modification;

(2) enforce only nonmodifiable aspects of that order;

(3) provide other appropriate relief only for violations of that order which occurred before the effective date of the modification; and

(4) recognize the modifying order of the other state, upon registration, for the purpose of enforcement.

ARTICLE 7. DETERMINATION OF PARENTAGE

Section 701

Section 701. PROCEEDING TO DETERMINE PARENTAGE.--

(a) A tribunal of this state may serve as an initiating or responding tribunal in a proceeding brought under the Uniform Interstate Family Support Act or a law substantially similar to that act, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act to determine that the petitioner is a parent of a particular child or to determine that a respondent is a parent of that child.

(b) In a proceeding to determine parentage, a responding tribunal of this state shall apply the procedural and substantive law of this state and the rules of this state on choice of law.

ARTICLE 8. INTERSTATE RENDITION

Section 801

Section 801. GROUNDS FOR RENDITION.--

(a) For purposes of this article, "governor" includes an individual performing the functions of governor or the executive authority of a state covered by the Uniform Interstate Family Support Act.

(b) The governor of this state may:

(1) demand that the governor of another state surrender an individual found in the other state who is charged criminally in this state with having failed to provide for the support of an obligee; or

(2) on the demand by the governor of another state, surrender an individual found in this state who is charged criminally in the other state with having failed to provide for the support of an obligee.

(c) A provision for extradition of individuals not inconsistent with the Uniform Interstate Family Support Act applies to the demand even if the individual whose surrender is demanded was not in the demanding state when the crime was allegedly committed and has not fled therefrom.

Section 802

Section 802. CONDITIONS OF RENDITION.--

(a) Before making demand that the governor of another state surrender an individual charged criminally in this state with having failed to provide for the support of an obligee, the governor of this state may require a prosecutor of this state to demonstrate that at least sixty days previously the obligee had initiated proceedings for support pursuant to the Uniform Interstate Family Support Act or that the proceeding would be of no avail.

(b) If, under the Uniform Interstate Family Support Act or a law substantially similar to that act, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act, the governor of another state makes a demand that the governor of this state surrender an individual charged criminally in that state with having failed to provide for the support of a child or other individual to whom a duty of support is owed, the governor may require a prosecutor to investigate the demand and report whether a proceeding for support has been initiated or would be effective. If it appears that a proceeding would be effective but has not been initiated, the governor may delay honoring the demand for a reasonable time to permit the initiation of a proceeding.

(c) If a proceeding for support has been initiated and the individual whose rendition is demanded prevails, the governor may decline to honor the demand. If the petitioner prevails and the individual whose rendition is demanded is subject to a support order, the governor may decline to honor the demand if the individual is complying with the support order.

ARTICLE 9. MISCELLANEOUS PROVISIONS

Section 901

Section 901. UNIFORMITY OF APPLICATION AND CONSTRUCTION.--The Uniform Interstate Family Support Act shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of that act among states enacting it.

Section 902

Section 902. SHORT TITLE.--This act may be cited as the "Uniform Interstate Family Support Act".

Section 903

Section 903. SEVERABILITY CLAUSE.--If any provision of the Uniform Interstate Family Support Act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of that act which can be given effect without the invalid provision or application, and to this end the provisions of that act are severable.

Section 904

Section 904. REPEAL.--Sections [40-6-1](#) through 40-6-41 NMSA 1978 (being Laws 1969, Chapter 242, Sections 1 through 41, as amended) are repealed.

Section 905

Section 905. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1995.

HOUSE BILL 63

CHAPTER 108

RELATING TO PRIVATE POST-SECONDARY EDUCATION; PROVIDING FOR THE REGULATION OF PRIVATE POST-SECONDARY EDUCATIONAL INSTITUTIONS; PROVIDING PENALTIES; AMENDING, REPEALING AND ENACTING CERTAIN SECTIONS OF THE NMSA 1978.

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

Section 1

Section 1. Section 21-1-26 NMSA 1978 (being Laws 1951, Chapter 190, Section 1, as amended) is amended to read:

"21-1-26. COMMISSION ON HIGHER EDUCATION CREATED--POWERS.--

A. There is created a "commission on higher education" whose function is to deal with the problems of finance of those educational institutions designated in Article 12, Section 11 of the constitution of New Mexico. The commission shall:

(1) be concerned with the adequate financing of these institutions and with the equitable distribution of available funds among them;

(2) be authorized to receive funding for the in-plant development training program and to administer the funds in accordance with the provisions of Section 21-19-7 NMSA 1978;

(3) receive, adjust and approve the budgets submitted by these institutions prior to the submission of these budgets to the state budget division of the department of finance and administration;

(4) develop and maintain programs, on a regular basis, for the orientation and in-service education of members of the boards of regents of the various educational institutions designated in Article 12, Section 11 of the constitution of New Mexico; and

(5) exercise such other powers as may be granted it by law.

B. Notwithstanding any other provisions of law, the commission on higher education, which is a commission broadly representative of the public and of institutions of higher education, may be designated by the governor to administer funds furnished under acts of congress for those educational institutions enumerated in Article 12, Section 11 of the constitution of New Mexico and for any other educational institutions over which the commission has been granted approval authority or supervisory powers or both.

C. The commission on higher education is also charged with oversight of all private post-secondary educational institutions operating within the state."

Section 2

Section 2. Section 21-23-1 NMSA 1978 (being Laws 1971, Chapter 303, Section 1, as amended) is amended to read:

"21-23-1. SHORT TITLE.--Chapter 21, Article 23 NMSA 1978 may be cited as the "Post-Secondary Educational Institution Act"."

Section 3

Section 3. Section 21-23-2 NMSA 1978 (being Laws 1971, Chapter 303, Section 2, as amended) is amended to read:

"21-23-2. PURPOSE OF ACT.--The purpose of the Post-Secondary Educational Institution Act is to improve the quality of private post-secondary education, to prevent misrepresentation, fraud and collusion in offering educational programs to persons over the compulsory school attendance age and to protect consumers enrolled in private post-secondary educational institutions when those schools cease operation or fail to meet standards of quality established by the commission."

Section 4

Section 4. Section 21-23-3 NMSA 1978 (being Laws 1971, Chapter 303, Section 3, as amended) is amended to read:

"21-23-3. DEFINITIONS.--As used in the Post-Secondary Educational Institution Act:

A. "board" or "commission" means the commission on higher education;

B. "career school" means a private post-secondary educational institution offering a formal educational curriculum in New Mexico for a fee to members of the general public beyond compulsory school age, terminating in a certificate, diploma, associate degree or comparable confirmation of completion of the curriculum;

C. "college" or "university" means a private post-secondary educational institution offering a formal educational curriculum in New Mexico for a fee to members of the general public beyond compulsory school age, terminating in a baccalaureate, master's or doctoral degree or comparable confirmation of completion of the curriculum;

D. "license" means a written acknowledgement by the commission that a career school has met the requirements of the commission for offering a formal educational curriculum within New Mexico;

E. "post-secondary educational institution" includes an academic, vocational, technical, business, professional or other school, college or university or other organization or person offering or purporting to offer courses, instruction, training or education, through correspondence or in person, to any person within this state; and

F. "registration" means a written acknowledgement by the commission that a college or university has filed pertinent curriculum and enrollment information as required by the commission."

Section 5

Section 5. Section 21-23-4 NMSA 1978 (being Laws 1971, Chapter 303, Section 4, as amended) is amended to read:

"21-23-4. EXCEPTIONS.--The Post-Secondary Educational Institution Act does not apply to or affect:

A. any post-secondary educational institution supported in whole or in part by state or local taxation;

B. any occupational, trade or professional school operating pursuant to any New Mexico occupational licensing law;

C. any course of instruction provided by an employer to its own employees for training purposes;

D. institutions exclusively offering education that is solely avocational or recreational in nature;

E. any course of instruction or study sponsored by a recognized fraternal, trade, business or professional organization or labor union for the instruction of its members;

F. any regionally accredited college or university that is a private institution that provides an academic education comparable to that provided by public colleges or universities;

G. proprietary schools as defined in Section 21-24-2 NMSA 1978;

H. chartered, nonprofit religious institutions whose sole purpose is to train students in religious disciplines to prepare them to assume a vocational objective relating primarily to religion;

I. institutions exclusively offering instruction at any level from pre-school through the twelfth grade; and

J. any institution funded in full or in part by an Indian tribe or pueblo in the state of New Mexico.

An institution, school or program described in this section shall not be entitled to an exemption unless it presents satisfactory evidence to the commission that it qualifies."

Section 6

Section 6. Section 21-23-5 NMSA 1978 (being Laws 1971, Chapter 303, Section 5, as amended) is repealed and a new Section 21-23-5 NMSA 1978 is enacted to read:

"21-23-5. DUTIES OF THE COMMISSION.--

A. The commission is charged with oversight of all private post-secondary educational institutions operating within the state.

B. The commission shall provide for the registration of all regionally accredited colleges and universities operating in the state pursuant to the Post-Secondary Educational Institution Act.

C. The commission shall provide for the licensure of all career schools and all non-accredited colleges and universities operating in the state pursuant to the Post-Secondary Educational Institution Act."

Section 7

Section 7. Section 21-23-6 NMSA 1978 (being Laws 1971, Chapter 303, Section 6, as amended) is repealed and a new Section 21-23-6 NMSA 1978 is enacted to read:

"21-23-6. REGISTRATION OF COLLEGES AND UNIVERSITIES--SUBMISSION OF MATERIALS.--

A. Every college or university operating in New Mexico that is accredited or seeking accreditation by an accrediting agency approved by the commission shall register with the commission.

B. A college or university registering with the commission pursuant to this section shall provide curriculum and enrollment information, financial information and all publication materials requested by the commission."

Section 8

Section 8. A new section of the Post-Secondary Educational Institution Act, Section [21-23-6.1](#) NMSA 1978, is enacted to read:

"21-23-6.1. LICENSURE OF CAREER SCHOOLS--LICENSURE OF CERTAIN COLLEGES AND UNIVERSITIES.--

A. Any career school operating in New Mexico shall be licensed by the commission. It is unlawful to operate a career school without first obtaining a license from the commission.

B. Any college or university operating in New Mexico that is not accredited or seeking accreditation by an accrediting agency approved by the commission shall be licensed by the commission in the manner provided for career schools. It is unlawful to operate a college or university that is not accredited or seeking accreditation by an accrediting agency approved by the commission without first obtaining a license from the commission.

C. No person other than an employee of an institution licensed pursuant to this section shall for a salary or fee solicit attendance at that institution."

Section 9

Section 9. A new section of the Post-Secondary Educational Institution Act, Section [21-23-6.2](#) NMSA 1978, is enacted to read:

"21-23-6.2. LICENSURE STANDARDS--REQUIREMENTS--FEE AUTHORIZATION.--

A. Every career school operating in the state shall annually apply to the commission for licensure. The career school shall apply on forms approved by the commission, shall supply all information requested by the commission and shall pay an annual licensure fee set by the commission.

B. The commission or its designee shall consider information submitted by the career school, information from independent accreditation bodies and information gathered during visits to the career school in determining eligibility for licensure.

C. The commission shall promulgate and file, in accordance with the State Rules Act, rules and regulations that:

(1) require each career school to supply annually information regarding enrollment, program completion by students, employment and other educational placements of students and operating revenue budgets;

(2) provide standards and methods for the evaluation and appraisal of career schools;

(3) provide for a tuition refund policy;

(4) require maintenance of adequate records by each career school and provide reasonable availability of records for inspection;

(5) regulate the use of deceptive and misleading advertising and determine what information shall be furnished each student prior to enrollment;

(6) assure that any career school licensed pursuant to the Post-Secondary Educational Institution Act has entered into a teach-out agreement with at least one other private or public institution operating in the state unless the commission determines that such an agreement is not feasible;

(7) provide standards for the award of associate, baccalaureate, master's and doctoral degrees;

(8) encourage all career schools to seek appropriate external accreditation as a means of assuring quality instruction;

(9) name an advisory committee of education providers and consumers, including owners and operators of career schools;

(10) provide for the maintenance of records for career schools no longer in operation;

(11) provide standards for the evaluation of the financial stability and ability to meet the commitments of career schools;

(12) require each career school to adopt a procedure for the resolution of student complaints; and

(13) establish other requirements necessary to carry out the provisions of the Post-Secondary Educational Institution Act.

D. The commission may solicit information pertaining to the financial history and stability of a career school and its owners, including information pertaining to actions of bankruptcy filed within the immediately preceding five years. The commission may consider such information in determining eligibility for licensure."

Section 10

Section 10. A new section of the Post-Secondary Educational Institution Act, Section [21-23-6.3](#) NMSA 1978, is enacted to read:

"21-23-6.3. FEE AUTHORIZATION.--

A. The commission is authorized to establish initial application fees for all colleges, universities or career schools seeking to operate in New Mexico. The initial application fee shall be not less than two hundred dollars (\$200) or more than five thousand dollars (\$5,000). In setting the fee, the commission shall consider the projected revenue of the institution and the projected cost of performing the review.

B. The commission is authorized to establish an annual licensing fee for all career schools or colleges or universities licensed by the commission. The licensing fee shall be proportionate to each school's gross annual tuition revenue; provided, the fee shall be not less than two hundred dollars (\$200) or more than five thousand dollars (\$5,000).

C. All fees imposed and collected by the commission shall be deposited in the post-secondary educational institution fund."

Section 11

Section 11. Section 21-23-7 NMSA 1978 (being Laws 1971, Chapter 303, Section 7, as amended) is amended to read:

"21-23-7. CLAIMS--LIMITATIONS--APPEALS.--

A. Any person having a claim against a career school licensed by the commission or that career school's agents, instructors or other personnel shall first seek resolution of the claim with the career school; thereafter, a person may file a verified complaint with the commission, setting forth the basis of the claim and the name and address of the career school complained against and any other persons involved or having knowledge of the claim. All claims shall be limited to the amount of tuition actually paid or to any charge or fee received by the career school or its agents or employees.

B. Upon the receipt of a verified complaint, the commission or its authorized employee shall attempt to resolve the claim outlined in the complaint. The commission or its authorized employee may convene a hearing and shall give written notice to the career school and to all persons involved of the hearing and its time, date and place. The notice shall state that the hearing is an informal one for the purpose of determining the facts surrounding the claim and, if the claim is correct, to effect a settlement by persuasion and conciliation.

C. In the event that the party complained against refuses to attend the hearing or effect the settlement of any claim determined by the commission to be correct, the commission shall invoke its powers to take such action as shall be necessary for the indemnification of the claimant.

D. Any person aggrieved by a commission decision rendered subsequent to a claim hearing may appeal to the district court in the judicial district in which the hearing was conducted. The appeal shall be based upon the record established at the claim hearing."

Section 12

Section 12. A new section of the Post-Secondary Educational Institution Act, Section 21-23-7.1 NMSA 1978, is enacted to read:

"21-23-7.1. SURETY BOND REQUIRED--ALTERNATIVE SURETY.--

A. A career school licensed by the commission shall post with the commission and maintain in effect a surety bond. The bond shall be payable to the commission and shall be sufficient in amount to indemnify any student damaged as a result of fraud or misrepresentation by a licensed career school or as a result of the career school ceasing operation prior to its students having completed the programs for which they have contracted.

B. The commission is authorized to establish the amount of bond required on an individual basis, taking into consideration factors such as the career school's size, number of students and total income and assets of the career school in the state. In no case shall the bond be less than five thousand dollars (\$5,000) nor shall it exceed twenty percent of a career school's gross annual tuition revenue in New Mexico.

C. Surety bonds may be canceled only following delivery of written notice to the commission no less than ninety days prior to the date of cancellation. In case of cancellation, the career school shall provide the commission with a like surety or acceptable alternative in order to maintain licensure.

D. As an alternative to a surety bond, a career school may elect to and the commission may require that a career school establish and maintain a cash deposit escrow account, irrevocable letter of credit or alternative payable to the commission in an amount set by the commission and subject to regulations promulgated by the commission. In no case shall the deposit or account required exceed twenty percent of the career school's gross tuition annual revenue in New Mexico."

Section 13

Section 13. Section 21-23-10 NMSA 1978 (being Laws 1971, Chapter 303, Section 9, as amended) is amended to read:

"21-23-10. CIVIL PENALTIES.--No person, firm or corporation may:

A. operate a career school within the state until that career school has been licensed by the commission;

B. operate a college or university within the state until that college or university has registered with the commission;

C. deny enrollment to or make any distinction or classification of pupils in the program or practices of any post-secondary educational institution under the jurisdiction of the commission on account of race, color, culture, ancestry, national origin, sex, age, religion or disability; or

D. solicit, directly or through an agent or employee, the enrollment of any person in a post-secondary educational institution within the state by the use of fraud, misrepresentation or collusion.

Whoever violates any provision of this section may be assessed a civil penalty not to exceed five hundred dollars (\$500) per day per violation."

Section 14

Section 14. A new section of the Post-Secondary Educational Institution Act is enacted to read:

"ENFORCEMENT.--The commission or any state or local prosecuting officer may, by request or on his own motion, bring an appropriate action in any court of competent jurisdiction to enforce the provisions of the Post-Secondary Educational Institution Act."

Section 15

Section 15. Section 21-23-11 NMSA 1978 (being Laws 1971, Chapter 303, Section 10, as amended) is amended to read:

"21-23-11. EXISTING POST-SECONDARY EDUCATIONAL INSTITUTIONS.--All post-secondary educational institutions existing prior to July 1, 1994 shall have ninety days to register or to apply for a license in accordance with the terms of the Post-Secondary Educational Institution Act."

Section 16

Section 16. Section 21-23-12 NMSA 1978 (being Laws 1975, Chapter 148, Section 12) is amended to read:

"21-23-12. COOPERATION.--The commission shall cooperate with federal and other state agencies in administering the provisions of the Post-Secondary Educational Institution Act. The state corporation commission shall cooperate with the commission by identifying post-secondary educational institutions that apply for corporate charters. The state department of public education shall cooperate with the commission by providing the technical assistance necessary to develop minimum standards that post-secondary educational institutions shall meet and any other assistance that would be of aid in the administration of the Post-Secondary Educational Institution Act."

Section 17

Section 17. Section 21-23-13 NMSA 1978 (being Laws 1975, Chapter 148, Section 13) is amended to read:

"21-23-13. PROCEDURE.--The commission shall follow the procedures set out in the Uniform Licensing Act in administering the provisions of the Post-Secondary Educational Institution Act. When the Uniform Licensing Act refers to the process of examination, that process means the process of application for the purposes of the administration of the Post-Secondary Educational Institution Act."

Section 18

Section 18. Section 21-23-14 NMSA 1978 (being Laws 1975, Chapter 148, Section 14) is amended to read:

"21-23-14. PROHIBITION.--The issuance of a license by the commission does not constitute accreditation by it for any purpose. Any representation to the contrary is a misrepresentation for the purposes of Section 21-23-10 NMSA 1978 and is prohibited."

Section 19

Section 19. Section 21-23-15 NMSA 1978 (being Laws 1979, Chapter 355, Section 1) is amended to read:

"21-23-15. POST-SECONDARY EDUCATIONAL INSTITUTIONS--
TERMINATION.--

A. No post-secondary educational institution shall terminate its operation within the state until:

(1) the institution has made reasonable efforts with another public or private post-secondary educational institution that provides a comparable education to facilitate and provide for the transfer of the students, with a minimum loss of credit;

(2) the post-secondary educational institution has made contractual arrangements for the perpetual care, maintenance and accessibility of all records, transcripts, reports and evaluations of all students receiving credit from the institution during the period of its existence; and

(3) the post-secondary educational institution has met all regulations of the commission pertaining to the termination of operations by post-secondary educational institutions.

B. Before any post-secondary educational institution terminates its services or sells, transfers or disposes of substantially all of its assets, it shall submit to the commission a summary of all actions taken pursuant to the requirements set forth in Subsection A of this section."

Section 20

Section 20. Section 21-24-1 NMSA 1978 (being Laws 1971, Chapter 304, Section 1) is amended to read:

"21-24-1. SHORT TITLE.--Chapter 21, Article 24 NMSA 1978 may be cited as the "Out-of-State Proprietary School Act"."

Section 21

Section 21. Section 21-24-2 NMSA 1978 (being Laws 1971, Chapter 304, Section 2) is amended to read:

"21-24-2. DEFINITIONS.--As used in the Out-of-State Proprietary School Act:

A. "course" means any course, plan or program of instruction, conducted in person, by mail or by other methods;

B. "student" means any person within this state who is above compulsory school age and eligible for one or more courses of instruction;

C. "agent" means any person who solicits in person and for a fee the enrollment of a student in a course of instruction offered by a proprietary school;

D. "proprietary school" means a nonpublic out-of-state school, academy or similar institution offering within New Mexico a course of instruction or training through correspondence or similar methods or offering within New Mexico a course of instruction or training to be conducted outside New Mexico, but does not include a private out-of-state post-secondary educational institution offering instruction or training within New Mexico, to any student within this state; and

E. "commission" means the commission on higher education."

Section 22

Section 22. Section 21-24-3 NMSA 1978 (being Laws 1971, Chapter 304, Section 3) is amended to read:

"21-24-3. EXCEPTIONS.--The Out-of-State Proprietary School Act does not apply to:

A. courses recognized by the state board of education for the purpose of complying with the Compulsory School Attendance Law;

B. courses offered by an employer solely for his employees; and

C. courses offered by a nonprofit religious institution relating primarily to religion."

Section 23

Section 23. Section 21-24-4 NMSA 1978 (being Laws 1971, Chapter 304, Section 4) is amended to read:

"21-24-4. PUBLICIZING OF INSTRUCTION.--No agent shall:

A. make or cause to be made any statement or representation, oral, written or visual, in connection with the offering or publicizing of a course if the agent knows or reasonably should know the statement or representation to be false, deceptive, substantially inaccurate or misleading;

B. promise or guarantee employment utilizing information, training or skill purported to be provided or otherwise enhanced by a course, unless the promisor or guarantor offers the student or prospective student a bona fide contract of employment agreeing to employ the student or prospective student for a period of not less than ninety days in a business or other enterprise regularly conducted by him in which such information, training or skill is a normal condition of employment; or

C. do any act constituting part of the conduct or administration of a course, or the obtaining of students therefor, if the agent knows or reasonably should know that any phase or incident in the conduct or administration of the course is being carried on by the use of fraud, deception or other form of misrepresentation or by any agent soliciting students without a registration."

Section 24

Section 24. Section 21-24-5 NMSA 1978 (being Laws 1971, Chapter 304, Section 5, as amended) is amended to read:

"21-24-5. REGISTRATION--SURETY BOND.--

A. No agent representing a proprietary school shall sell any course or solicit students in person or by mail, telephone or similar means in New Mexico for a consideration unless the institution has registered with the commission. The commission shall charge an annual registration fee of not less than five hundred dollars (\$500) for each proprietary school and an annual agent fee of not less than one hundred dollars (\$100) for each agent operating in New Mexico.

B. Registration shall be made on forms provided by the commission and accompanied by the annual registration fee.

C. The registration shall include a surety bond acceptable to the commission in an amount not less than ten thousand dollars (\$10,000) or more than twenty-five thousand dollars (\$25,000). The bond may be continuous and shall be conditioned to provide indemnification to any student suffering loss as a result of any fraud or misrepresentation used in procuring his enrollment and shall be supplied by the proprietary school. The surety may cancel the bond upon giving ninety days' notice in writing to the commission and thereafter is relieved of liability for any breach of condition occurring after the effective date of the cancellation.

D. Registration shall not be permitted unless the applying proprietary school agrees to adhere to the commission rules and regulations that provide for a tuition refund policy.

E. Upon ten days' notice, any registration may be suspended by the commission pending a hearing by the commission if the registrant solicits or enrolls students through fraud, deception or misrepresentation.

F. Registration shall be valid for one year, from July 1 through June 30. An application for renewal shall be accompanied by the fee and shall include a surety bond if a continuous bond has not been furnished.

G. The existence of a surety bond shall not be construed as a limitation or impairment of any right of recovery otherwise available, nor shall the amount of the bond be relevant in determining the amount of damages or other relief to which a plaintiff may be entitled.

H. No recovery shall be had by a proprietary school on any contract for or in connection with a course unless the proprietary school had registered at the time that its agent sold or negotiated the contract for the particular course.

I. Registration shall not constitute approval of any course, agent or proprietary school conducting or administering courses. Any representation to the contrary is a misrepresentation within the meaning of Section 21-24-4 NMSA 1978.

J. All fees collected from registration or renewal of registration shall be deposited with the state treasurer's office to the credit of the post-secondary educational institution fund and shall be spent by the commission for the administration of the Out-of-State Proprietary School Act."

Section 25

Section 25. Section 21-24-6 NMSA 1978 (being Laws 1971, Chapter 304, Section 6, as amended) is amended to read:

"21-24-6. RULES AND REGULATIONS.--The commission shall adopt rules and regulations for the administration and enforcement of the Out-of-State Proprietary School Act."

Section 26

Section 26. Section 21-24-7 NMSA 1978 (being Laws 1971, Chapter 304, Section 7, as amended) is amended to read:

"21-24-7. ENFORCEMENT.--The commission or any state or local prosecuting officer may, by request or on his own motion, bring an appropriate action in any court of

competent jurisdiction to enforce the provisions of the Out-of-State Proprietary School Act."

Section 27

Section 27. Section 21-24-8 NMSA 1978 (being Laws 1971, Chapter 304, Section 8, as amended) is amended to read:

"21-24-8. JUDICIAL REVIEW.--Any final determination of the commission respecting the issuance, denial or revocation of a registration may be appealed to the district court."

Section 28

Section 28. Section 21-24-9 NMSA 1978 (being Laws 1971, Chapter 304, Section 9, as amended) is amended to read:

"21-24-9. PENALTY.--Any person who violates any provision of Section 21-24-4 or 21-24-5 NMSA 1978 is guilty of a misdemeanor and shall be punished by a fine of not more than one thousand dollars (\$1,000) or imprisonment for not more than six months or both."

Section 29

Section 29. REPEAL.--Section 21-23-9 NMSA 1978 (being Laws 1975, Chapter 148, Section 9) is repealed.

Section 30

Section 30. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1994.

HOUSE BILL 851
APPROVED MARCH 7, 1994

CHAPTER 109

AMENDING SECTION 22-2-8.2 NMSA 1978 (BEING LAWS 1986, CHAPTER 33, SECTION 3, AS AMENDED BY LAWS 1994, CHAPTER 226, SECTION 5 AND ALSO BY LAWS 1994, CHAPTER 228, SECTION 1).

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

Section 1

Section 1. Section 22-2-8.2 NMSA 1978 (being Laws 1986, Chapter 33, Section 3, as amended by Laws 1994, Chapter 226, Section 5 and also by Laws 1994, Chapter 228, Section 1) is amended to read:

"22-2-8.2. STAFFING PATTERNS--CLASS LOAD--TEACHING LOAD.--

A. The individual class load for elementary school teachers shall not exceed twenty students for kindergarten; provided that any teacher in kindergarten with a class load of fifteen to twenty students shall be entitled to the assistance of an instructional assistant.

B. The average class load for elementary school teachers at an individual school shall not exceed twenty-two students when averaged among grades one, two and three; provided that any teacher in grade one with a class load of twenty-one or more shall be entitled to the full-time assistance of an instructional assistant.

C. Effective with the 1994-95 school year, the average class load for an elementary school teacher at an individual school shall not exceed twenty-four students when averaged among grades four, five and six.

D. The daily teaching load per teacher for grades seven through twelve shall not exceed one hundred sixty students, except the daily teaching load for teachers of required English courses in grades seven and eight shall not exceed one hundred thirty-five with a maximum of twenty-seven students per class and the daily teaching load for teachers of required English courses in grades nine through twelve shall not exceed one hundred fifty students with a maximum of thirty students per class.

E. Students receiving special education services integrated into a regular classroom for any part of the day shall be counted in the calculation of class load averages. Students receiving special education services not integrated into the regular classroom shall not be counted in the calculation of class load averages. Only classroom teachers charged with responsibility for the regular classroom instructional program shall be counted in determining average class loads. In elementary schools offering only one grade level, average class loads may be calculated by averaging appropriate grade levels between schools in the school district.

F. The state superintendent may waive the individual school class load requirements established in this section. Waivers shall be applied for annually and a waiver shall not be granted for more than two consecutive years. Waivers may only be granted if a school district demonstrates:

(1) no portable classrooms are available;

(2) no other available sources of funding exist to meet its need for additional classrooms;

(3) the district is planning alternatives to increase building capacity for implementation within one year; and

(4) the parents of all children affected by the waiver have been notified in writing:

(a) of the statutory class load requirements;

(b) that the school district has made a decision to deviate from these class load requirements; and

(c) of the school district plan to achieve compliance with the class load requirements.

G. If a waiver is granted pursuant to Subsection F of this section to an individual school, the average class load for elementary school teachers at that school shall not exceed twenty students in grade one and shall not exceed twenty-five students when averaged among grades two, three, four, five and six.

H. Each school district shall report to the department of education the size and composition of classes subsequent to the fortieth day and the December 1 count. Failure to meet class load requirements within two years shall be justification for the disapproval of the school district's budget by the state superintendent.

I. The department of education shall report to the legislative education study committee by November 30 of each year regarding each school district's ability to meet class load requirements imposed by law.

J. Notwithstanding the provisions of Subsection F of this section, the state board may waive the individual class load and teaching load requirements established in this section upon a demonstration of a viable alternative curricular plan and a finding by the state board that the plan is in the best interest of the school district and that, on an annual basis, the plan has been presented to and is supported by the affected teaching staff. The department of education shall evaluate the impact of each alternative curricular plan annually. Annual reports shall be made to the legislative education study committee.

K. Effective with the 1987-88 school year, certified school instructors shall not be required to perform noninstructional duties except in emergency situations as defined by the state board. For purposes of this subsection, "noninstructional duties" means noon hall duty, noon ground duty and noon cafeteria duty."

HOUSE BILL 854
APPROVED MARCH 7, 1994

CHAPTER 110

RELATING TO EDUCATION; AMENDING CERTAIN SECTIONS OF THE SCHOOL PERSONNEL ACT PERTAINING TO DISCHARGE AND TERMINATION OF EMPLOYEES.

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

Section 1

Section 1. Section 22-10-2 NMSA 1978 (being Laws 1975, Chapter 306, Section 2, as amended) is amended to read:

"22-10-2. DEFINITIONS.--As used in the School Personnel Act:

A. "discharge" means the act of severing the employment relationship with a certified school employee prior to the expiration of the current employment contract;

B. "state agency" means any state institution or state agency providing an educational program requiring the employment of certified school instructors;

C. "sabbatical leave" means leave of absence with pay as set by the local school board or governing authority of a state agency during all or part of a regular school term for purposes of study or travel related to the staff member's duties and of direct benefit to the instructional program;

D. "terminate" means, in the case of a certified school employee, the act of not reemploying an employee for the ensuing school year and, in the case of a non-certified school employee, the act of severing the employment relationship with the employee;

E. "working day" means every calendar day, excluding Saturday, Sunday or legal holiday; and

F. "just cause" means a reason that is rationally related to an employee's competence or turpitude or the proper performance of his duties and that is not in violation of the employee's civil or constitutional rights."

Section 2

Section 2. Section 22-10-14 NMSA 1978 (being Laws 1986, Chapter 33, Section 22, as amended) is amended to read:

"22-10-14. TERMINATION DECISIONS--LOCAL SCHOOL BOARD--GOVERNING AUTHORITY OF A STATE AGENCY--PROCEDURES.--

A. A local school board or governing authority of a state agency may terminate an employee with fewer than three years of consecutive service for any

reason it deems sufficient. Upon request of the employee, the superintendent or administrator shall provide written reasons for the decision to terminate. The reasons shall be provided within ten working days of the request. The reasons shall not be publicly disclosed by the superintendent, administrator, local school board or governing authority. The reasons shall not provide a basis for contesting the decision under the School Personnel Act.

B. Before terminating a non-certified school employee, the local school board or governing authority shall serve the employee with a written notice of termination.

C. An employee who has been employed by a school district or state agency for three consecutive years and who receives a notice of termination pursuant to either Section 22-10-12 NMSA 1978 or this section, may request an opportunity to make a statement to the local school board or governing authority on the decision to terminate him by submitting a written request to the local superintendent or administrator within five working days from the date written notice of termination is served upon him. The employee may also request in writing the reasons for the action to terminate him. The local superintendent or administrator shall provide written reasons for the notice of termination to the employee within five working days from the date the written request for a meeting and the written request for the reasons were received by the local superintendent or administrator. Neither the local superintendent or administrator nor the local school board or governing authority shall publicly disclose its reasons for termination.

D. A local school board or governing authority may not terminate an employee who has been employed by a school district or state agency for three consecutive years without just cause.

E. The employee's request pursuant to Subsection C of this section shall be granted if he responds to the local superintendent's or administrator's written reasons as provided in Subsection C of this section by submitting in writing to the local superintendent or administrator a contention that the decision to terminate him was made without just cause. The written contention shall specify the grounds on which it is contended that the decision was without just cause and shall include a statement of the facts that the employee believes support his contention. This written statement shall be submitted within ten working days from the date the employee receives the written reasons from the local superintendent or administrator. The submission of this statement constitutes a representation on the part of the employee that he can support his contentions and an acknowledgment that the local school board or governing authority may offer the causes for its decision and any relevant data in its possession in rebuttal of his contentions.

F. A local school board or governing authority shall meet to hear the employee's statement in no less than five or more than fifteen working days after the local school board or governing authority receives the statement. The hearing shall be

conducted informally in accordance with the provisions of the Open Meetings Act. The employee and the local superintendent or administrator may each be accompanied by a person of his choice. First, the superintendent shall present the factual basis for his determination that just cause exists for the termination of the employee, limited to those reasons provided to the employee pursuant to Subsection C of this section. Then, the employee shall present his contentions, limited to those grounds specified in Subsection E of this section. The local school board or governing authority may offer such rebuttal testimony as it deems relevant. All witnesses may be questioned by the local school board or governing authority, the employee or his representative and the local superintendent or administrator or his representative. The local school board or governing authority may consider only such evidence as is presented at the hearing and need consider only such evidence as it considers reliable. No record shall be made of the proceeding. The local school board or governing authority shall notify the employee and the local superintendent or administrator of its decision in writing within five working days from the conclusion of the meeting."

Section 3

Section 3. Section 22-10-14.1 NMSA 1978 (being Laws 1986, Chapter 33, Section 23, as amended) is amended to read:

"22-10-14.1. APPEALS--INDEPENDENT ARBITRATOR--QUALIFICATIONS--PROCEDURE- -BINDING DECISION.--

A. An employee who is still aggrieved by a decision of a local school board or governing authority rendered pursuant to Section 22-10-14 NMSA 1978 may appeal the decision to an arbitrator. A written appeal shall be submitted to the local superintendent or administrator within five working days from the receipt of the local school board's or governing authority's written decision or the refusal of the board or authority to grant a hearing. The appeal shall be accompanied by a statement of particulars specifying the grounds on which it is contended that the decision was impermissible pursuant to Subsection E of Section 22-10-14 NMSA 1978 and including a statement of facts supporting the contentions. Failure of the employee to submit a timely appeal or a statement of particulars with the appeal shall disqualify him for any appeal and render the local school board's or governing authority's decision final.

B. The local school board or governing authority and the employee shall meet within ten working days from the receipt of the request for an appeal and select an independent arbitrator to conduct the appeal. If the parties fail to agree on an independent arbitrator, they shall request the presiding judge in the judicial district in which the employee's public school is located to select one. The presiding judge shall select the independent arbitrator within five working days from the date of the parties' request.

C. A qualified independent arbitrator shall be appointed who is versed in employment practices and school procedures and who preferably has experience in the

practice of law. No person shall be appointed to serve as the independent arbitrator who has any direct or indirect financial interest in the outcome of the proceeding, has any relationship to any party in the proceeding, is employed by the local school board or governing authority or is a member of or employed by any professional or labor organization of which the employee is a member.

D. Appeals from the decision of the local school board or governing authority shall be decided after a de novo hearing before the independent arbitrator. The issue to be decided by the independent arbitrator is whether there was just cause for the decision of the local school board or governing authority to terminate the employee.

E. The de novo hearing shall be held within thirty working days from the selection of the independent arbitrator. The arbitrator shall give written notice of the date, time and place of the hearing, and such notice shall be sent to the employee and the local school board or governing authority.

F. Each party has the right to be represented by counsel at the hearing before the independent arbitrator.

G. Discovery shall be limited to depositions and requests for production of documents on a time schedule to be established by the independent arbitrator.

H. The independent arbitrator may issue subpoenas for the attendance of witnesses and for the production of books, records, documents and other evidence and shall have the power to administer oaths. Subpoenas so issued shall be served and enforced in the manner provided by law for the service and enforcement of subpoenas in a civil action.

I. The rules of civil procedure shall not apply to the de novo hearing, but it shall be conducted so that both contentions and responses are amply and fairly presented. To this end, the independent arbitrator shall permit either party to call and examine witnesses, cross-examine witnesses and introduce exhibits. The technical rules of evidence shall not apply, but, in ruling on the admissibility of evidence, the independent arbitrator shall require reasonable substantiation of statements or records tendered, the accuracy or truth of which is in reasonable doubt.

J. The local school board or governing authority has the burden of proof and shall prove by a preponderance of the evidence that, at the time the notice of termination was served on the employee, the local school board or governing authority had just cause to terminate the employee. If the local school board or governing authority proves by a preponderance of the evidence that there was just cause for its action, then the burden shifts to the employee to rebut the evidence presented by the local school board or governing authority.

K. The independent arbitrator shall uphold the local school board's or governing authority's decision only if it proves by a preponderance of the evidence that, at the time the notice of termination was served on the employee, the local school board or governing authority had just cause to terminate the employee. If the local school board or governing authority fails to meet its burden of proof or if the employee rebuts the proof offered by the local school board or governing authority, the arbitrator shall reverse the decision of the local school board or governing authority.

L. No official record shall be made of the hearing. Either party desiring a record of the arbitration proceedings may, at his own expense, record or otherwise provide for a transcript of the proceedings; provided, however, that the record so provided shall not be deemed an official transcript of the proceedings nor shall it imply any right of automatic appeal or review.

M. The independent arbitrator shall render a written decision affirming or reversing the action of the local school board or governing authority. The decision shall contain findings of fact and conclusions of law. The parties shall receive actual written notice of the decision of the independent arbitrator within ten working days from the conclusion of the de novo hearing.

N. The sole remedies available under this section shall be reinstatement or payment of compensation reinstated in full but subject to any additional compensation allowed other employees of like qualifications and experience employed by the school district or state agency and including reimbursement for compensation during the entire period for which compensation was terminated, or both, less an offset for any compensation received by the employee during the period the compensation was terminated.

O. Unless a party can demonstrate prejudice arising from a departure from the procedures established in this section and in Section 22-10-14 NMSA 1978, such departure shall be presumed to be harmless error.

P. The decision of the independent arbitrator shall be binding on both parties and shall be final and nonappealable except where the decision was procured by corruption, fraud, deception or collusion, in which case it shall be appealed to the district court in the judicial district in which the public school or state agency is located.

Q. Each party shall bear its own costs and expenses. The independent arbitrator's fees and other expenses incurred in the conduct of the arbitration shall be assigned at the discretion of the independent arbitrator.

R. Local school districts shall file a record with the department of education of all terminations and all actions arising from terminations annually."

Section 4

Section 4. Section 22-10-16 NMSA 1978 (being Laws 1967, Chapter 16, Section 118, as amended) is amended to read:

"22-10-16. EXCEPTED FROM PROVISIONS.--Sections 22-10-12 through 22-10-14.1 NMSA 1978 do not apply to the following:

A. a certified school instructor employed to fill the position of a certified school instructor entering military service;

B. a person who is employed as a certified school administrator; or

C. a non-certified school employee employed to perform primarily district wide management functions."

HOUSE BILL 110, aa
APPROVED MARCH 7, 1994

CHAPTER 111

RELATING TO TAXATION; PROVIDING A PROPERTY TAX REBATE PURSUANT TO THE INCOME TAX ACT FOR LOW-INCOME TAXPAYERS ON A COUNTY OPTION BASIS; PROVIDING AUTHORITY TO IMPOSE A PROPERTY TAX TO FUND THE TAX REBATE; CHANGING THE YIELD CONTROL FORMULA FOR COUNTIES PROVIDING THE PROPERTY TAX REBATE.

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

Section 1

Section 1. A new section of the Income Tax Act is enacted to read:

"TAX REBATE OF PART OF PROPERTY TAX DUE FROM LOW-INCOME TAXPAYER--LOCAL OPTION--REFUND.--

A. The tax rebate provided by this section may be claimed for the taxable year for which the return is filed by an individual who:

(1) has his principal place of residence in a county that has adopted an ordinance pursuant to Subsection G of this section;

(2) is not a dependent of another individual;

(3) files a return; and

(4) incurred a property tax liability on his principal place of residence in the taxable year.

B. The tax rebate provided by this section shall be allowed for any individual eligible to claim the refund pursuant to Subsection A of this section and who:

(1) was not an inmate of a public institution for more than six months during the taxable year;

(2) was physically present in New Mexico for at least six months during the taxable year for which the rebate is claimed; and

(3) is eligible for the rebate as a low-income property taxpayer in accordance with the provisions of Subsection D of this section.

C. A husband and wife who file separate returns for the taxable year in which they could have filed a joint return may each claim only one-half of the tax rebate that would have been allowed on the joint return.

D. As used in the table in this subsection, "property tax liability" means the amount of property tax resulting from the imposition of the county and municipal property tax operating impositions on the net taxable value of the taxpayer's principal place of residence calculated for the year for which the rebate is claimed. The tax rebate provided in this section is as specified in the following table:

LOW-INCOME TAXPAYER'S PROPERTY TAX REBATE TABLE

| <u>Taxpayer's Modified Gross Income</u> | | <u>Property Tax Rebate</u> |
|---|---------------------|--------------------------------|
| <u>Over</u> | <u>But Not Over</u> | |
| \$0 | \$8,000 | 75% of property tax liability |
| 8,000 | 10,000 | 70% of property tax liability |
| 10,000 | 12,000 | 65% of property tax liability |
| 12,000 | 14,000 | 60% of property tax liability |
| 14,000 | 16,000 | 50% of property tax liability. |

E. If a taxpayer's modified gross income is zero, the taxpayer may claim a tax rebate in the amount shown in the first row of the table. The tax rebate provided for in this section shall not exceed two hundred fifty dollars (\$250) per return and, if a return is filed separately that could have been filed jointly, the tax rebate shall not exceed one hundred twenty-five dollars (\$125). No tax rebate shall be allowed any taxpayer whose modified gross income exceeds sixteen thousand dollars (\$16,000).

F. The tax rebate provided for in this section may be deducted from the taxpayer's New Mexico income tax liability for the taxable year. If the tax rebate exceeds the taxpayer's income tax liability, the excess shall be refunded to the taxpayer.

G. In January of every odd-numbered year in which a county does not have in effect an ordinance adopted pursuant to this subsection, the board of county commissioners of the county shall conduct a public hearing on the question of whether or not the property tax rebate provided in this section benefiting low-income property taxpayers in the county should be made available through adoption of a county ordinance. Notice of the public hearing shall be published once at least two weeks prior to the hearing date in at least one newspaper of general circulation in the county and broadcast at some time within the week before the hearing on at least one radio station with substantial broadcasting coverage in the county. At the public hearing the board shall take action on the question and if a majority of the members elected votes to adopt an ordinance, it shall be adopted no later than thirty days after the public hearing.

H. An ordinance adopted pursuant to Subsection G of this section shall specify the first taxable year to which it is applicable. The board of county commissioners adopting an ordinance shall notify the department of the adoption of the ordinance and furnish a copy of the ordinance to the department no later than September 1 of the first taxable year to which the ordinance applies.

I. No later than July 1 of the year immediately following the first year in which the low-income taxpayer property tax rebate provided in the Income Tax Act is in effect for a county, and no later than July 1 of each year thereafter in which the tax rebate is in effect, the department shall certify to the county the amount of the loss of income tax revenue to the state for the previous taxable year attributable to the allowance of property tax rebates to taxpayers of that county. The county shall promptly pay the amount certified to the department. If a county fails to pay the amount certified within thirty days of the date of certification, the department may enforce collection of the amount by action against the county and may withhold from any revenue distribution to the county, not dedicated or pledged, amounts up to the amount certified.

J. As used in this section, "principal place of residence" means the dwelling owned and occupied by the taxpayer and so much of the land surrounding it, not to exceed five acres, as is reasonably necessary for use of the dwelling as a home and may consist of a part of a multidwelling or a multipurpose building and a part of the land upon which it is built."

Section 2

Section 2. AUTHORIZATION TO FUND PROPERTY TAX REBATE FOR LOW-INCOME TAXPAYERS--TAX IMPOSITION--ELECTION.--

A. The board of county commissioners of any county may adopt a resolution to submit to the qualified electors of the county the question of whether a property tax at a rate not to exceed one dollar (\$1.00) per thousand dollars (\$1,000) of taxable value of property should be imposed for the purpose of providing the necessary funding for the property tax rebate for low-income taxpayers provided in the Income Tax Act if:

(1) the county has adopted an ordinance providing the property tax rebate; and

(2) the county has not adopted an ordinance imposing a transfer tax pursuant to the provisions of the Transfer Tax Act upon property transfers occurring in any property tax year for which the property tax rebate is to be in effect.

B. The resolution shall:

(1) specify the rate of the proposed tax, which shall not exceed one dollar (\$1.00) per thousand dollars (\$1,000) of taxable value of property;

(2) specify the date an election will be held to submit the question of imposition of the tax to the qualified electors of the county;

(3) impose the tax for one, two, three, four or five property tax years and limit the imposition of the proposed tax to no more than five property tax years; and

(4) pledge the revenue from the tax solely for the payment of the income tax revenue reduction resulting from the implementation of the property tax rebate for low-income taxpayers.

C. The resolution authorized in Subsection A of this section shall be adopted no later than May 15 in the year prior to the year in which the tax is proposed to be imposed. By adoption of an appropriate resolution the board of county commissioners may submit the question of imposing the tax for successive periods of one, two, three, four or five years to the qualified electors of the county. The procedures for the election and for the imposition of the tax for subsequent periods shall be the same as those applying to the initial imposition of the tax. The election shall be scheduled so that the imposition of the tax for successive periods results in continuity of the tax.

D. An election on the question of imposing the tax authorized pursuant to this section may be held in conjunction with a general election or may be conducted as or held in conjunction with a special election, but the election shall be held by the date necessary to assure that the results of the election on the question of imposing the tax may be certified no later than July 1 of the first property tax year in which the tax is proposed to be imposed. Conduct of the election shall be as provided by the Election Code.

E. As used in this section, "taxable value of property" means the combined total of net taxable value of property allocated to the county under the Property Tax Code; the assessed value of products severed and sold in the county for the calendar year preceding the year for which a determination is made as determined under the Oil and Gas Ad Valorem Production Tax Act; the assessed value of equipment in the county as determined under the Oil and Gas Production Equipment Ad Valorem Tax

Act; and the taxable value of copper mineral property in the county pursuant to Section 7-39-7 NMSA 1978.

Section 3

Section 3. IMPOSITION OF TAX--LIMITATIONS.--

A. If, as a result of an election held on the question of imposing a property tax to fund the property tax rebate for low-income taxpayers provided in the Income Tax Act, a majority of the qualified electors voting on the question votes in favor of the imposition of the tax, the tax rate shall be certified by the department of finance and administration for any year in which the tax is imposed. The rate certified shall be the rate specified in the authorizing resolution or any lower rate required by operation of the rate limitation provisions of Section 7-37-7.1 NMSA 1978. The tax shall be imposed at the rate certified unless the board of county commissioners determines that the tax imposition be decreased or not made pursuant to Subsection B of this section. The revenue produced by the tax shall be placed in a separate fund in the county treasury and is pledged solely for the payment of the income tax revenue reduction resulting from the implementation of the property tax rebate for low-income taxpayers.

B. A tax imposed pursuant to Subsection A of this section shall be imposed for one, two, three, four or five years commencing with the property tax year in which the tax rate is first imposed. The board of county commissioners may direct that the rate of imposition of the tax be decreased for any year if, in its judgment, imposition of the total rate is not necessary for such year. The board of county commissioners shall direct that the imposition not be made for any property tax year for which the property tax rebate for low-income taxpayers is not provided or for any year in which the county has imposed a property transfer tax pursuant to the Transfer Tax Act.

Section 4

Section 4. Section 7-37-7.1 NMSA 1978 (being Laws 1979, Chapter 268, Section 1, as amended) is amended to read:

"7-37-7.1. ADDITIONAL LIMITATIONS ON PROPERTY TAX RATES.--

A. Except as provided in Subsections D and E of this section, in setting the general property tax rates for residential and nonresidential property authorized in Subsection B of Section 7-37-7 NMSA 1978, the other rates and impositions authorized in Paragraphs (2) and (3) of Subsection C of Section 7-37-7 NMSA 1978, except the portion of the rate authorized in Paragraph (1) of Subsection A of Section 4-48B-12 NMSA 1978 used to meet the requirements of Section 27-10-4 NMSA 1978, and benefit assessments authorized by law to be levied upon net taxable value of property, assessed value or a similar term, neither the department of finance and administration nor any other entity authorized to set or impose a rate or assessment shall set a rate or impose a tax or assessment that will produce revenue from either residential or

nonresidential property in a particular governmental unit in excess of the sum of a dollar amount derived by multiplying the appropriate growth control factor by the revenue due from the imposition on residential or nonresidential property, as appropriate, for the prior property tax year in the governmental unit of the rate, imposition or assessment for the specified purpose plus, for the calculation for the rate authorized for county operating purposes by Subsection B of Section 7-37-7 NMSA 1978 with respect to residential property, any applicable tax rebate adjustment. The calculation described in this subsection shall be separately made for residential and nonresidential property. Except as provided in Subsections D and E of this section, no tax rate or benefit assessment that will produce revenue from either class of property in a particular governmental unit in excess of the dollar amount allowed by the calculation shall be set or imposed. The rates imposed pursuant to Sections 7-32-4 and 7-34-4 NMSA 1978 shall be the rates for nonresidential property that would have been imposed but for the limitations in this section. As used in this section, "growth control factor" is a percentage equal to the sum of "percent change I" plus V where:

$$(1) V = \frac{\text{net new value}}{\text{base year value}}$$

base year value

expressed as a percentage, but if the percentage calculated is less than one hundred percent, then V shall be set and used as one hundred percent;

(2) "base year value" means the value for property taxation purposes of all residential or nonresidential property, as appropriate, subject to valuation under the Property Tax Code in the governmental unit for the specified purpose in the prior property tax year;

(3) "net new value" means the additional value of residential or nonresidential property, as appropriate, for property taxation purposes placed on the property tax schedule in the current year resulting from the elements in Subparagraphs (a) through (d) of this paragraph reduced by the value of residential or nonresidential property, as appropriate, removed from the property tax schedule in the current year and, if applicable, the reductions described in Subparagraph (e) of this paragraph:

(a) residential or nonresidential property, as appropriate, valued in the current year that was not valued at all in the prior year;

(b) improvements to existing residential or nonresidential property, as appropriate;

(c) additions to residential or nonresidential property, as appropriate, or values that were omitted from previous years' property tax schedules even if part or all of the property was included on the schedule, but no additions of values attributable to valuation maintenance programs or reappraisal programs shall be included;

(d) additions to nonresidential property due to increases in annual net production values of mineral property valued in accordance with Section 7-36-23 or 7-36-25 NMSA 1978 or due to increases in market value of mineral property valued in accordance with Section 7-36-24 NMSA 1978; and

(e) reductions to nonresidential property due to decreases in annual net production values of mineral property valued in accordance with Section 7-36-23 or 7-36-25 NMSA 1978 or due to decreases in market value of mineral property valued in accordance with Section 7-36-24 NMSA 1978; and

(4) "percent change I" means a percent not in excess of five percent that is derived by dividing the annual implicit price deflator index for state and local government purchases of goods and services, as published in the United States department of commerce monthly publication entitled "survey of current business" or any successor publication, for the calendar year next preceding the prior calendar year into the difference between the prior year's comparable annual index and that next preceding year's annual index if that difference is an increase, and if the difference is a decrease, the "percent change I" is zero. In the event that the annual implicit price deflator index for state and local government purchases of goods and services is no longer prepared or published by the United States department of commerce, the department shall adopt by regulation the use of any comparable index prepared by any agency of the United States.

B. If, as a result of the application of the limitation imposed under Subsection A of this section, a property tax rate for residential or nonresidential property, as appropriate, authorized in Subsection B of Section 7-37-7 NMSA 1978 is reduced below the maximum rate authorized in that subsection, no governmental unit or entity authorized to impose a tax rate under Paragraph (2) of Subsection C of Section 7-37-7 NMSA 1978 shall impose any portion of the rate representing the difference between a maximum rate authorized under Subsection B of Section 7-37-7 NMSA 1978 and the reduced rate resulting from the application of the limitation imposed under Subsection A of this section.

C. If the net new values necessary to make the computation required under Subsection A of this section are not available for any governmental unit at the time the calculation must be made, the department of finance and administration shall use a zero amount for net new values when making the computation for the governmental unit.

D. Any part of the maximum tax rate authorized for each governmental unit for residential and nonresidential property by Subsection B of Section 7-37-7 NMSA 1978 that is not imposed for a governmental unit for any property tax year for reasons other than the limitation required under Subsection A of this section may be authorized by the department of finance and administration to be imposed for that governmental unit for residential and nonresidential property for the following tax year subject to the restriction of Subsection D of Section 7-38-33 NMSA 1978.

E. If the base year value necessary to make the computation required under Subsection A of this section is not available for any governmental unit at the time the calculation must be made, the department of finance and administration shall set a rate for residential and nonresidential property that will produce in that governmental unit a dollar amount that is not in excess of the property tax revenue due for all property for the prior property tax year for the specified purpose of that rate in that governmental unit.

F. For the purposes of this section:

(1) "nonresidential property" does not include any property upon which taxes are imposed pursuant to the Oil and Gas Ad Valorem Production Tax Act, the Oil and Gas Production Equipment Ad Valorem Tax Act or the Copper Production Ad Valorem Tax Act; and

(2) "tax rebate adjustment" means, for those counties that have an ordinance in effect providing the property tax rebate pursuant to the Income Tax Act for the property tax year and that have not imposed for the property tax year either a property tax, the revenue from which is pledged for payment of the income tax revenue reduction resulting from the provision of the property tax rebate, or a property transfer tax, the estimated amount of the property tax rebate to be allowed with respect to the property tax year, and for any other governmental unit or purpose, zero; provided that any estimate of property tax rebate to be allowed is subject to review for appropriateness and approval by the department of finance and administration."

Section 5

Section 5. APPLICABILITY.--

A. The provisions of Sections 2 and 3 of this act apply to the 1995 and subsequent property tax years.

B. The provisions of Section 1 of this act apply to taxable years beginning on or after January 1, 1995.

Section 6

Section 6. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1994.

HOUSE BILL 1046, aa
APPROVED MARCH 7, 1994

CHAPTER 112

RELATING TO TAXATION; AUTHORIZING A DEDUCTION FROM GROSS RECEIPTS FOR CERTAIN RECEIPTS OF PUBLIC DISTRIBUTION WAREHOUSE CENTERS; AMENDING, REPEALING AND ENACTING A SECTION OF THE NMSA 1978.

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

Section 1

Section 1. Section 7-9-56 NMSA 1978 (being Laws 1969, Chapter 144, Section 46, as amended by Laws 1992, Chapter 50, Section 16 and also by Laws 1992, Chapter 67, Section 16) is amended to read:

"7-9-56. DEDUCTION--GROSS RECEIPTS TAX--INTRASTATE TRANSPORTATION AND SERVICES IN INTERSTATE COMMERCE.--

A. Receipts from transporting persons or property from one point to another in this state may be deducted from gross receipts when such persons or property, including any special or extra service reasonably necessary in connection therewith, is being transported in interstate or foreign commerce under a single contract.

B. Receipts from handling, storage, drayage or packing of property or any other accessorial services on property, which property has moved or will move in interstate or foreign commerce, when such services are performed by a local agent for a carrier or by a carrier and when such services are performed under a single contract in relation to transportation services, may be deducted from gross receipts.

C. Receipts of a public distribution warehouse center from handling, storage, finished goods mixing, physical distribution, drayage or packing of property or any other accessorial services on property that has moved or will move in interstate or foreign commerce, including subsequent or related intrastate transportation of that property by a carrier provided or contracted for by the public distribution warehouse center, may be deducted from gross receipts.

D. Receipts from providing telephone or telegraph services in this state that will be used by other persons in providing telephone or telegraph services to the final user may be deducted from gross receipts."

Section 2

Section 2. Section 7-9-56 NMSA 1978 (being Laws 1969, Chapter 144, Section 46, as amended, and as further amended by Section 1 of this act) is repealed and a new Section 7-9-56 NMSA 1978 is enacted to read:

"7-9-56. DEDUCTION--GROSS RECEIPTS TAX--INTRASTATE TRANSPORTATION AND SERVICES IN INTERSTATE COMMERCE.--

A. Receipts from transporting persons or property from one point to another in this state may be deducted from gross receipts when such persons or property, including any special or extra service reasonably necessary in connection therewith, is being transported in interstate or foreign commerce under a single contract.

B. Receipts from handling, storage, drayage or packing of property or any other accessorial services on property, which property has moved or will move in interstate or foreign commerce, when such services are performed by a local agent for a carrier or by a carrier and when such services are performed under a single contract in relation to transportation services, may be deducted from gross receipts.

C. Receipts from providing telephone or telegraph services in this state that will be used by other persons in providing telephone or telegraph services to the final user may be deducted from gross receipts."

Section 3

Section 3. EFFECTIVE DATE.--

A. The effective date of the provisions of Section 1 of this act is July 1, 1994.

B. The effective date of the provisions of Section 2 of this act is July 1, 2001.

HOUSE BILL 158, aa
APPROVED MARCH 7, 1994

CHAPTER 113

RELATING TO STATE FUNDS; ESTABLISHING A MATCHING FUND FOR TECHNOLOGY-BASED PROPOSALS; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978.

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

Section 1

Section 1. Section 9-15-12 NMSA 1978 (being Laws 1983, Chapter 297, Section 12, as amended) is amended to read:

"9-15-12. COMMISSION--POWERS AND DUTIES.--The commission shall:

A. develop and recommend policies and provide policy and program guidance for the department;

B. review, modify and approve annual updates to the state's five-year economic development plan generated by the department;

C. advise, assist and promote the department on matters relating to technology, technology-based new business development and technology commercialization projects;

D. review federal technology-based programs requiring state matching funds and authorize any expenditure or pledge of the state match fund for such programs; and

E. establish such rules and regulations for its own operations as are necessary to achieve the purposes of the Economic Development Department Act. Rules and regulations of the commission shall be adopted in the same procedural manner as rules and regulations of the department are adopted and shall be filed in accordance with the State Rules Act."

Section 2

Section 2. A new Section [9-15-19.1](#) NMSA 1978 is enacted to read:

"9-15-19.1. STATE MATCH FUND CREATED.--

A. The "state match fund" is created in the state treasury. Money in the fund is appropriated to the economic development department for the purpose of providing a pool of matching funds for technology-based proposals submitted to the federal government on behalf of the state. Money in the fund shall only be expended upon review and approval of the economic development commission.

B. No money in the fund appropriated to it or accruing to it in any manner shall be transferred to another fund or encumbered or dispersed in any manner except for the purposes set forth in this section; provided, money in the fund may be invested by the state treasurer in the manner provided for other state funds. Money in the fund shall revert at the end of the fiscal year.

C. Disbursements from the fund shall only be made upon warrant drawn by the secretary of finance and administration pursuant to vouchers signed by the secretary of economic development or his designee."

HOUSE BILL 181, aa
APPROVED MARCH 4, 1994

CHAPTER 114

AMENDING Laws 1994, CHAPTER 216, SECTION 6 TO EXTEND THE TERM OF AN APPROPRIATION FROM THE OPERATING RESERVE.

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

Section 1. Laws 1994, Chapter 216, Section 6 is amended to read:

"Section 6. APPROPRIATION.--One million dollars (\$1,000,000) is appropriated from the operating reserve to the economic development department for expenditure in the eighty-first through eighty-fourth fiscal years for the purpose of carrying out the provisions of the Defense Conversion and Technology Act. Any unexpended or unencumbered balance remaining at the end of the eighty-fourth fiscal year shall revert to the operating reserve."

HOUSE BILL 818
APPROVED MARCH 7, 1994

CHAPTER 115

RELATING TO TAXATION; AUTHORIZING A QUALIFIED BUSINESS FACILITY REHABILITATION CREDIT; ENACTING A NEW SECTION OF THE INCOME TAX ACT AND A NEW SECTION OF THE CORPORATE INCOME AND FRANCHISE TAX ACT.

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

Section 1

Section 1. A new section of the Income Tax Act is enacted to read:

"QUALIFIED BUSINESS FACILITY REHABILITATION CREDIT--INCOME TAX CREDIT.--

A. To stimulate the creation of new jobs and revitalize economically depressed areas within New Mexico enterprise zones, any taxpayer who files an individual New Mexico income tax return, who is not a dependent of another individual and who is the owner of a qualified business facility may claim a credit in an amount equal to one-half of the cost, not to exceed fifty thousand dollars (\$50,000), incurred to restore, rehabilitate or renovate a qualified business facility.

B. A taxpayer may claim the credit provided in this section for each taxable year in which restoration, rehabilitation or renovation is carried out. Except as provided in Subsection E of this section, claims for the credit provided in this section shall be limited to three consecutive years, and the maximum aggregate credit allowable shall not exceed fifty thousand dollars (\$50,000) for any single restoration, rehabilitation or renovation project for any qualified business facility. Each claim for a qualified business facility rehabilitation credit shall be accompanied by documentation and certification as the department may require by regulation or instruction.

C. No credit may be claimed or allowed pursuant to the provisions of this section for any costs incurred for a restoration, rehabilitation or renovation project for which a credit may be claimed pursuant to the provisions of Section 7-2-18.2 or Section 7-9A-1 NMSA 1978.

D. A husband and wife who file separate returns for a taxable year in which they could have filed a joint return may each claim only one-half of the credit that would have been allowed on a joint return.

E. A taxpayer who otherwise qualifies and claims a credit on a restoration, rehabilitation or renovation project on a building owned by a partnership or other business association of which the taxpayer is a member may claim a credit only in proportion to his interest in the partnership or association. The total credit claimed by all members of the partnership or association shall not exceed fifty thousand dollars (\$50,000) in the aggregate for any single restoration, rehabilitation or renovation project for a qualified business facility.

F. The credit provided in this section may only be deducted from the taxpayer's income tax liability. Any portion of the maximum tax credit provided by this section that remains unused at the end of the taxpayer's taxable year may be carried forward for four consecutive taxable years; provided, the total tax credits claimed under this section shall not exceed fifty thousand dollars (\$50,000) for any single restoration, rehabilitation or renovation project for a qualified business facility.

G. As used in this section:

(1) "qualified business facility" means a building located in a New Mexico enterprise zone that is suitable for use and is put into service by a person in the manufacturing, distribution or service industry immediately following the restoration, rehabilitation or renovation project; provided, the building must have been vacant for the twenty-four month period immediately preceding the commencement of the restoration, rehabilitation or renovation project; and

(2) "restoration, rehabilitation or renovation" includes:

(a) the construction services necessary to ensure that a building is in compliance with applicable zoning codes, is safe for occupancy and meets the operating needs of a person in the manufacturing, distribution or service industry; and

(b) expansion of or an addition to a building if the expansion or addition does not increase the usable square footage of the building by more than ten percent of the usable square footage of the building prior to the restoration, rehabilitation or renovation project."

Section 2

Section 2. A new section of the Corporate Income and Franchise Tax Act is enacted to read:

"QUALIFIED BUSINESS FACILITY REHABILITATION CREDIT--CORPORATE INCOME TAX CREDIT.--

A. To stimulate the creation of new jobs and revitalize economically distressed areas within New Mexico enterprise zones, any taxpayer who files a corporate income tax return and who is the owner of a qualified business facility may claim a credit in an amount equal to one-half of the cost, not to exceed fifty thousand dollars (\$50,000), incurred to restore, rehabilitate or renovate a qualified business facility.

B. A taxpayer may claim the credit provided in this section for each taxable year in which restoration, rehabilitation or renovation is carried out. Except as provided in Subsection D of this section, claims for the credit provided in this section shall be limited to three consecutive years, and the maximum aggregate credit allowable shall not exceed fifty thousand dollars (\$50,000) for any single restoration, rehabilitation or renovation project for any qualified business facility. Each claim for a qualified business facility rehabilitation credit shall be accompanied by documentation and certification as the department may require by regulation or instruction.

C. No credit may be claimed or allowed pursuant to the provisions of this section for any costs incurred for a restoration, rehabilitation or renovation project for which a credit may be claimed pursuant to the provisions of Section 7-2A-8.6 or Section 7-9A-1 NMSA 1978.

D. A taxpayer who otherwise qualifies and claims a credit on a restoration, rehabilitation or renovation project on a building owned by a partnership or other business association of which the taxpayer is a member may claim a credit only in proportion to his interest in the partnership or association. The total credit claimed by all members of the partnership or association shall not exceed fifty thousand dollars (\$50,000) in the aggregate for any single restoration, rehabilitation or renovation project for a qualified business facility.

E. The credit provided in this section may only be deducted from the taxpayer's corporate income tax liability. Any portion of the maximum tax credit provided by this section that remains unused at the end of the taxpayer's taxable year may be carried forward for four consecutive taxable years; provided, the total tax credits claimed under this section shall not exceed fifty thousand dollars (\$50,000) for any single restoration, rehabilitation or renovation project for a qualified business facility.

F. As used in this section:

(1) "qualified business facility" means a building located in a New Mexico enterprise zone that is suitable for use and is put into service by a person in the

manufacturing, distribution or service industry immediately following the restoration, rehabilitation or renovation project; provided, the building must have been vacant for the twenty-four month period immediately preceding the commencement of the restoration, rehabilitation or renovation project; and

(2) "restoration, rehabilitation or renovation" includes:

(a) the construction services necessary to ensure that a building is in compliance with applicable zoning codes, is safe for occupancy and meets the operating needs of a person in the manufacturing, distribution or service industry; and

(b) expansion of or additions to a building if the expansion or addition does not increase the usable square footage of the building by more than ten percent of the usable square footage of the building prior to the restoration, rehabilitation or renovation."

Section 3

Section 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1994.

HOUSE BILL 941, aa
APPROVED MARCH 7, 1994

CHAPTER 116

MAKING AN APPROPRIATION FOR IN-PLANT DEVELOPMENT TRAINING PROGRAMS.

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

Section 1. APPROPRIATION.--One million dollars (\$1,000,000) is appropriated from the general fund to the development training fund for expenditure in the eighty-third fiscal year for in-plant development training programs conducted pursuant to Section 21-19-7 NMSA 1978. Any unexpended or unencumbered balance remaining at the end of the eighty-third fiscal year shall not revert to the general fund.

HOUSE BILL 182, aa
APPROVED MARCH 7, 1994

CHAPTER 117

RELATING TO THE ENVIRONMENT; ENACTING THE TIRE RECYCLING ACT; PROVIDING FOR THE RECYCLING AND DISPOSAL OF SCRAP TIRES; IMPOSING FEES; CREATING FUNDS; PROVIDING PENALTIES; MAKING APPROPRIATIONS; DECLARING AN EMERGENCY.

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

Section 1

Section 1. SHORT TITLE.--Sections 1 through 17 of this act may be cited as the "Tire Recycling Act".

Section 2

Section 2. DEFINITIONS.--As used in the Tire Recycling Act:

A. "board" means the environmental improvement board;

B. "cooperative association" means a refuse disposal district created pursuant to the Refuse Disposal Act, a sanitation district created pursuant to the Water and Sanitation District Act, a special district created pursuant to the Special District Procedures Act or other associations created pursuant to the Joint Powers Agreements Act or the Solid Waste Authority Act;

C. "department" means the department of environment;

D. "dispose" means to deposit scrap tires into or on any land or water;

E. "person" means an individual, or any other legal entity, including government entities;

F. "reprocessing" means retreading, shredding of scrap tires for crumb rubber used in modified asphalt or concrete paving or shredding for volume reduction for ultimate disposal;

G. "scrap tire" means a tire that is no longer suitable for its originally intended purpose because of wear, damage or defect;

H. "secretary" means the secretary of environment;

I. "tire" means a continuous solid or pneumatic rubber covering that encircles the wheel of a motor vehicle; J. "tire dump" means an unauthorized location or facility at which scrap tires are disposed;

K. "tire recycling" means a process in which scrap tires are collected, stored, separated or reprocessed for reuse as a different product or shredded into a

form suitable for use in rubberized asphalt or as raw material for the manufacture of other products, but not as a raw material or product used as a fuel for combustion; and

L. "tire recycling facility" means a place operated or maintained for tire recycling but does not include:

(1) retail business premises where tires are sold, if no more than five hundred scrap tires are kept on the premises at one time;

(2) the premises of a tire retreading business, if no more than three thousand scrap tires are kept on the premises at one time;

(3) premises where tires are removed from motor vehicles in the ordinary course of business, if no more than five hundred scrap tires are kept on the premises at one time;

(4) a site where no more than two hundred fifty scrap tires are stored for agricultural or construction uses for no more than one year; or

(5) a solid waste facility having a valid permit or registration issued pursuant to the provisions of the Solid Waste Act or regulations adopted pursuant to that act, or registration issued pursuant to the Environmental Improvement Act.

Section 3

Section 3. PROHIBITED ACTS.--After October 1, 1995:

A. no person shall operate or maintain a tire recycling facility unless the facility has a valid permit issued pursuant to the provisions of the Tire Recycling Act; except that a facility described in Paragraph (5) of Subsection L of Section 2 of the Tire Recycling Act shall be able to operate provided that the facility is in compliance with all substantive provisions of and regulations adopted pursuant to the Tire Recycling Act; and

B. no person shall store or dispose of scrap tires in a place other than a tire recycling facility as defined by the Tire Recycling Act unless the place is specifically excluded from the definition of "tire recycling facility" in Paragraphs (1) through (5) of Subsection L of Section 2 of the Tire Recycling Act.

Section 4

Section 4. ADMINISTRATION OF THE ACT.--The department is responsible for the administration and enforcement of the provisions of the Tire Recycling Act and of all regulations adopted by the board pursuant to the provisions of that act. The department is delegated all authority necessary and appropriate to carry out its responsibilities.

Section 5

Section 5. REGULATIONS--AUTHORITY AND CONTENT.--By March 1, 1995, the board shall adopt regulations necessary and appropriate to implement the provisions of the Tire Recycling Act. The regulations shall be adopted pursuant to the provisions of the Environmental Improvement Act. The regulations shall include:

- A. requirements and procedures for the issuance of permits to tire recycling facilities;
- B. standards and requirements for tire recycling and for facilities that utilize tires as a fuel for combustion;
- C. criteria and procedures for making disbursements under grant and loan programs authorized in Section 13 of the Tire Recycling Act from the tire recycling fund established in Section 15 of the Tire Recycling Act; and
- D. requirements and procedures for contracting with counties, municipalities and cooperative associations for the abatement of tire dumps and reprocessing scrap tires.

Section 6

Section 6. SOLID WASTE PERMIT EXEMPTION.--Any person operating a tire recycling facility under a permit issued pursuant to the Tire Recycling Act shall not be required to obtain a permit under the Solid Waste Act for that facility.

Section 7

Section 7. DEPARTMENTS TO CONDUCT SURVEYS.--

- A. The department shall fund a survey, to be completed by December 1, 1994, conducted by a registered New Mexico engineer to determine the location of and the volume or number of tires in the tire dumps and an assessment evaluating their environmental hazards. The department shall determine the number of scrap tires generated annually in the state and the amount of landfill space required by tires in tire dumps and current waste streams if no markets for recycled tires are developed, estimate tire recycling or disposal costs and, in conjunction with the state highway and transportation department, report on the methodologies for recycling tires into rubberized asphalt. The department shall determine the number and location of all tire recycling facilities, the quantity of tires stored at each location, the number of tire retreaders operating in the state and the number of New Mexico-generated casings retreaded annually.

B. The department shall develop a priority rating system for the abatement of the tire dumps located by the survey to be followed by the department in awarding funds for tire dump abatement and reprocessing and recycling scrap tires.

C. The secretary of highway and transportation shall report to the secretary of environment by December 31, 1994 the amount of rubber needed on an annual basis for compliance with the federal Intermodal Surface Transportation Efficiency Act of 1991, the amount of rubberized asphalt paving currently utilized in the state and the number of New Mexico contractors currently using rubberized asphalt.

Section 8

Section 8. ABATEMENT OF TIRE DUMPS.--

A. The legislature finds that a tire dump is a public nuisance and that if efforts to eliminate a tire dump through voluntary action by the owner or operator are unsuccessful, governmental abatement action is necessary.

B. An abatement action to eliminate a tire dump may be brought pursuant to the provisions of Section 30-8-8 NMSA 1978.

C. Municipalities, counties and cooperative associations that cooperate with the department in providing information for the survey mandated in Section 7 of the Tire Recycling Act and that apply for grants from the tire recycling fund during each funding cycle for the purpose of abating the tire dumps identified in the survey shall not be subject to the penalties or fines pertaining to abatement of the disclosed tire dumps.

D. The secretary may act administratively to eliminate tire dumps pursuant to the provisions of Sections 10 and 11 of the Tire Recycling Act.

E. Nothing in this section shall prohibit a municipality, county or cooperative association from contracting for services to complete an abatement action.

Section 9

Section 9. AUTHORIZATION FOR ABATEMENT CONTRACTS.--The secretary may contract with the governing body of a county, municipality or cooperative association for the abatement of tire dumps located within the boundaries of the county, municipality or cooperative association. The contract shall provide for the reimbursement of the county, municipality or cooperative association for expenses incurred in bringing an abatement action, including court costs, reasonable attorneys' fees and the actual expense of elimination of the tire dump if that expense is not recovered from and paid by the owner or operator of the tire dump as a result of the abatement action.

Section 10

Section 10. ENFORCEMENT--COMPLIANCE ORDERS.--

A. Whenever, on the basis of any information, the secretary determines that any person has violated or is violating any requirement or prohibition of the Tire Recycling Act, any regulation adopted and promulgated pursuant to that act or any condition of a permit issued under that act, the secretary may:

(1) issue a compliance order stating with reasonable specificity the nature of the violation and requiring compliance immediately or within a specified time period or assessing a civil penalty for any past or current violation, or both; or

(2) commence a civil action in district court for appropriate relief, including a temporary or permanent injunction.

B. A compliance order issued pursuant to Subsection A of this section may include a suspension or revocation of any permit, or portion of the permit, issued by the secretary. Any penalty assessed in the order shall not exceed two thousand five hundred dollars (\$2,500) per day of noncompliance for each violation.

C. A compliance order issued pursuant to Subsection A of this section shall be final unless the person named in the order files a written request for a public hearing with the secretary no later than fifteen days after the date the compliance order is served on the person, in which case the enforcement of the compliance order shall be suspended pending the issuance of the final order of the secretary after hearing. Within five days of receipt of the request, the secretary shall set a date for a public hearing. The hearing date shall be at least fifteen days and not more than twenty days after the date the notice of hearing is mailed to the respondent by certified mail, return receipt requested.

D. The secretary shall appoint an independent hearing officer to conduct the public hearing. The hearing officer shall make and preserve a complete record of the proceedings. Within five days after the hearing is completed, the hearing officer shall submit the record and his recommendations for a decision to the secretary. Within ten days after receipt of the recommendations of the hearing officer, the secretary shall make his decision and issue his order. The order of the secretary is final. The secretary may seek enforcement of the order by filing an application for enforcement in the district court.

E. Upon request of a party the secretary may issue subpoenas for the attendance and testimony of witnesses at the hearing and for the production of relevant documents. The secretary shall adopt procedural rules for the conduct of the hearing, including provisions for discovery procedures.

F. In determining the amount of any penalty authorized to be assessed pursuant to this section the secretary shall take into account the seriousness of the violation, any good-faith efforts of the alleged violator to comply with applicable

requirements of the Tire Recycling Act or regulations issued pursuant to its provisions and any other relevant factors.

G. Penalties collected pursuant to a compliance order shall be deposited with the state treasurer to be credited to the tire recycling fund.

Section 11

Section 11. ENFORCEMENT--FIELD CITATIONS.--

A. The board shall implement a field citation program by adopting regulations establishing appropriate minor violations for which field citations assessing civil penalties not to exceed one thousand dollars (\$1,000) per day of violation may be issued by officers or employees of the department as designated by the secretary.

B. A field citation issued pursuant to Subsection A of this section shall be final unless the person named in the citation files a written request for a public hearing with the secretary no later than fifteen days after the date on which the field citation is served on the person, in which case the enforcement of the field citation shall be suspended pending the issuance of a final order of the secretary after hearing. The procedures for scheduling and conducting a hearing on and for final disposition of a field citation shall be the same as those provided for a compliance order pursuant to Section 10 of the Tire Recycling Act.

C. Payment of a civil penalty required by a field citation issued pursuant to Subsection A of this section shall not be a defense to further enforcement by the department to correct a violation or to assess the maximum statutory penalty pursuant to the provisions of the Tire Recycling Act if the violation continues.

D. In determining the amount of any penalty to be assessed pursuant to this section, the secretary or the person issuing a field citation shall take into account the seriousness of the violation, any good-faith efforts of the violator to comply with the applicable requirements of the Tire Recycling Act or regulations issued pursuant to its provisions and any other relevant factors.

E. In connection with any proceeding under this section, the secretary may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books and documents and may adopt rules for discovery procedures.

F. Penalties collected pursuant to a field citation shall be deposited with the state treasurer to be credited to the tire recycling fund.

Section 12

Section 12. JUDICIAL REVIEW OF ADMINISTRATIVE ACTIONS.--

A. Any person adversely affected by an administrative action taken by the secretary pursuant to the provisions of Section 10 or 11 of the Tire Recycling Act may appeal the action to the court of appeals. The appeal shall be on the record made at the hearing. To support his appeal, the appellant shall make arrangements with the department for a sufficient number of transcripts of the record of the hearing on which the appeal is based. The appellant shall pay for the preparation of the transcripts.

B. On appeal, the court of appeals shall set aside the administrative action only if it is found to be:

- (1) arbitrary, capricious or an abuse of discretion;
- (2) not supported by substantial evidence in the record; or
- (3) otherwise not in accordance with law.

Section 13

Section 13. GRANTS--ELIGIBILITY--APPLICATIONS.--

A. A municipality, county or cooperative association that meets eligibility requirements established by the board may apply for a grant or submit a competitive bid for a loan or contract for development costs or operating costs to establish tire recycling facilities consistent with provisions of the Tire Recycling Act. Nothing in this section shall prohibit a municipality, county or cooperative association from contracting for services to complete an abatement action.

B. No rebate, grant, loan or contract for services may be awarded pursuant to the Tire Recycling Act to a person who receives less than ninety-five percent of his scrap tires from sources in New Mexico.

Section 14

Section 14. RUBBERIZED ASPHALT PROGRAM.--The state highway and transportation department is authorized to use rubberized asphalt in paving mixtures for state and local highway projects and to pay any added expenses that may result from using rubberized asphalt. The state highway and transportation department shall adopt rules for the administration of the rubberized asphalt program, including the development of procedures for disbursement of money to municipalities and counties for the use of rubberized asphalt in paving mixtures, and shall develop paving specifications for the use of rubberized asphalt.

Section 15

Section 15. TIRE RECYCLING FUND CREATED.--The "tire recycling fund" is created in the state treasury. Money in the fund is appropriated to the department for abatement of

tire dumps, for reprocessing, transportation or recycling of scrap tires, for providing annual retread rebates and for carrying out the provisions of the Tire Recycling Act. Any unexpended or unencumbered balance or income earned from the money in the tire recycling fund remaining at the end of the fiscal year shall not revert. Disbursements from the fund shall be by warrant drawn by the secretary of finance and administration pursuant to vouchers signed by the secretary of environment or his designee.

Section 16

Section 16. RUBBERIZED ASPHALT FUND CREATED.--The "rubberized asphalt fund" is created in the state treasury. Money in the fund is appropriated to the state highway and transportation department to pay additional expenses that might result from using rubberized asphalt paving mixes, to allocate at least fifty percent of the fund to local governments for that purpose and for carrying out the provisions of the rubberized asphalt program, including hiring a term employee to administer the program. Any unexpended or unencumbered balance remaining in the rubberized asphalt fund at the end of a fiscal year shall not revert to the general fund.

Section 17

Section 17. RETREAD REBATES.--To promote the purchasing of scrap tires generated in New Mexico for use in retreading, annual retread rebates shall be made to persons who retread tires in New Mexico:

A. from the tire recycling fund, not more than seventy-five thousand dollars (\$75,000) per year shall be prorated over all the tires claimed and certified by the department to meet standards for retreads on which rebates may be paid;

B. for each tire that is retreaded and sold in the ordinary course of business by a tire retreader in New Mexico and that meets the standards adopted by the purchasing division of the general services department; and

C. of no more than one dollar (\$1.00) per retreaded tire claimed by a tire retreader in New Mexico, on a form and according to procedures adopted by the secretary.

Section 18

Section 18. Section 66-6-1 NMSA 1978 (being Laws 1978, Chapter 35, Section 336, as amended) is amended to read:

"66-6-1. MOTORCYCLES--REGISTRATION FEES.--

A. For the registration of motorcycles, the division shall collect the following fees:

(1) for each motorcycle having not more than two wheels in contact with the ground, eleven dollars (\$11.00); and

(2) for each motorcycle having three wheels in contact with the ground or having a sidecar, eleven dollars (\$11.00).

B. Beginning July 1, 1994, in addition to other fees required by this section, the division shall collect, for each motorcycle, an annual tire recycling fee of fifty cents (\$.50).

C. Two dollars (\$2.00) of each fee collected pursuant to Paragraphs (1) and (2) of Subsection A of this section shall be credited to the motorcycle training fund."

Section 19

Section 19. Section 66-6-2 NMSA 1978 (being Laws 1978, Chapter 35, Section 337, as amended) is amended to read:

"66-6-2. PASSENGER VEHICLES--REGISTRATION FEES.--For registration of each motor vehicle other than motorcycles, trucks, buses and tractors, the division shall collect the following fees:

A. for a vehicle whose gross factory shipping weight is not more than two thousand pounds, twenty dollars (\$20.00); provided, however, that after five years of registration, calculated from the date when the vehicle was first registered in this or another state, the fee is sixteen dollars (\$16.00);

B. for a vehicle whose gross factory shipping weight is more than two thousand but not more than three thousand pounds, twenty-nine dollars (\$29.00); provided, however, that after five years of registration, calculated from the date when the vehicle was first registered in this or another state, the fee is twenty-three dollars (\$23.00);

C. for a vehicle whose gross factory shipping weight is more than three thousand pounds, forty-two dollars (\$42.00); provided, however, that after five years of registration, calculated from the date when the vehicle was first registered in this or another state, the fee is thirty-four dollars (\$34.00); and

D. for each vehicle registered pursuant to the provisions of this section, an annual tire recycling fee of one dollar (\$1.00) beginning July 1, 1994."

Section 20

Section 20. Section 66-6-4 NMSA 1978 (being Laws 1978, Chapter 35, Section 339, as amended) is amended to read:

"66-6-4. REGISTRATION FEES--TRUCKS, TRUCK TRACTORS, ROAD TRACTORS AND BUSES.--

A. Within their respective jurisdictions, the motor vehicle and motor transportation divisions shall charge registration fees for trucks, truck tractors, road tractors and buses, except as otherwise provided by law, according to the schedule of Subsection B of this section.

| B. Declared Gross Weight | Fee |
|--------------------------|---------|
| 001 to 4,000 | \$ 30 |
| 4,001 to 6,000 | 41 |
| 6,001 to 8,000 | 52 |
| 8,001 to 10,000 | 63 |
| 10,001 to 12,000 | 74 |
| 12,001 to 14,000 | 85 |
| 14,001 to 16,000 | 96 |
| 16,001 to 18,000 | 107 |
| 18,001 to 20,000 | 118 |
| 20,001 to 22,000 | 129 |
| 22,001 to 24,000 | 140 |
| 24,001 to 26,000 | 151 |
| 26,001 to 48,000 | 88.50 |
| 48,001 and over | 129.50. |

C. All trucks whose declared gross weight or whose gross vehicle weight is less than twenty-six thousand pounds, after five years of registration, calculated from the date when the vehicle was first registered in this or another state, shall be charged registration fees at eighty percent of the rate set out in Subsection B of this section.

D. All trucks with a gross vehicle weight of more than twenty-six thousand pounds and all truck tractors and road tractors used to tow freight trailers shall be registered on the basis of combination gross vehicle weight.

E. All trucks with a gross vehicle weight of twenty-six thousand pounds or less shall be registered on the basis of gross vehicle weight. Any trailer, semitrailer or pole trailer towed by a truck of such gross vehicle weight shall be classified as a utility trailer for registration purposes unless otherwise provided by law.

F. All farm vehicles having a declared gross weight of more than six thousand pounds shall be charged registration fees of two-thirds of the rate of the respective fees provided in this section and shall be issued distinctive registration plates. "Farm vehicle" means any vehicle owned by a person whose principal occupation is farming or ranching and which vehicle is used principally in the transportation of farm and ranch products to market and farm and ranch supplies and

livestock from the place of purchase to farms and ranches in this state; provided that the vehicle is not used for hire.

G. In addition to other registration fees imposed by this section, beginning July 1, 1994, there is imposed at the time of registration an annual tire recycling fee of one dollar (\$1.00) on each vehicle subject to a registration fee pursuant to this section, except for vehicles with a declared gross weight of greater than twenty-six thousand pounds upon which registration fees are imposed by Subsection B of this section.

H. Four percent of registration fees of trucks having a declared gross weight from twenty-six thousand one pounds to forty-eight thousand pounds declared gross vehicle weight is to be transferred to the tire recycling fund pursuant to the provisions of Section 66-6-23 NMSA 1978.

I. Five percent of registration fees of trucks in excess of forty-eight thousand pounds declared gross vehicle weight is to be transferred to the tire recycling fund pursuant to the provisions of Section 66-6-23 NMSA 1978."

Section 21

Section 21. Section 66-6-5 NMSA 1978 (being Laws 1978, Chapter 35, Section 340, as amended) is amended to read:

"66-6-5. BUS REGISTRATION FEES.--All buses shall pay the registration fees provided in Section 66-6-4 NMSA 1978 except for school buses and buses operated by religious or nonprofit charitable organizations for the express purpose of the organization, for which the annual registration fee is five dollars (\$5.00). In addition to other registration fees imposed by this section, beginning July 1, 1994, there is imposed at the time of registration an annual tire recycling fee of twenty-five cents (\$.25) per wheel that is in contact with the ground on each vehicle subject to a registration fee pursuant to this section."

Section 22

Section 22. Section 66-6-8 NMSA 1978 (being Laws 1978, Chapter 35, Section 343) is amended to read:

"66-6-8. BUS REGISTRATION--AGRICULTURAL LABOR FEES.--

A. Any bus having a normal seating capacity of forty passengers or less and that is used exclusively for the transportation of agricultural laborers may be registered upon payment to the division of a fee of twenty-five dollars (\$25.00).

B. In addition to the registration fee imposed by this section, there is imposed at the time of registration an annual tire recycling fee of twenty-five cents

(\$.25) per wheel that is in contact with the ground on each vehicle subject to a registration fee pursuant to this section.

C. Application for registration of a bus under this section shall be made in the form prescribed by the division and shall be accompanied by an affidavit that the bus will be used exclusively for the transportation of agricultural laborers. Upon registration, the bus is exempt from tariff-filing requirements of the state corporation commission."

Section 23

Section 23. Section 66-6-23 NMSA 1978 (being Laws 1978, Chapter 35, Section 358, as amended by Laws 1994, Chapter 68, Section 43 and by Laws 1994, Chapter 304, Section 1 and also by Laws 1994, Chapter 361, Section 2) is amended to read:

"66-6-23. DISPOSITION OF FEES.--

A. After the necessary disbursements for refunds and other purposes have been made, the money remaining, except for remittances received within the previous two months that are unidentified as to source or disposition, shall be distributed as follows:

(1) to each municipality, county or fee agent operating a motor vehicle field office, an amount equal to six dollars (\$6.00) per driver's license and three dollars (\$3.00) per identification card, registration or title transaction performed;

(2) to each municipality or county, other than a class A county with a population in excess of three hundred thousand or a municipality with a population in excess of three hundred thousand within a class A county, operating a motor vehicle field office, an amount equal to fifty cents (\$.50) for each administrative service fee remitted by that county or municipality to the department pursuant to the provisions of Section 66-2-16 NMSA 1978;

(3) to the state road fund:

(a) an amount equal to one-half of each fee received from motorcycle endorsements; and

(b) the remainder of each driver's license fee collected by the department employees from an applicant to whom a license is granted after deducting from the driver's license fee the amount of the distribution authorized in Paragraph (1) of this subsection with respect to that collected driver's license fee;

(4) to the general fund, the amount of the fees provided for in Subsection A of Section 66-5-408 NMSA 1978;

(5) to the division:

(a) an amount equal to one-half of each fee received from motorcycle endorsements;

(b) an amount equal to two dollars (\$2.00) of each motorcycle registration fee collected pursuant to Section 66-6-1 NMSA 1978; and

(c) an amount equal to the fees provided for in Subsection C of Section 66-5-44 NMSA 1978 and Subsection B of Section 66-5-408 NMSA 1978;

(6) to the state equalization guarantee distribution made annually pursuant to the general appropriation act, an amount equal to one hundred percent of the driver safety fee collected pursuant to Section 66-5-44 NMSA 1978;

(7) to the rubberized asphalt fund, forty-five percent of all tire recycling fees collected pursuant to the provisions of Sections 66-6-1, 66-6-2, 66-6-4, 66-6-5 and 66-6-8 NMSA 1978; and

(8) to the tire recycling fund, the amount remaining after distributions pursuant to Paragraph (7) of this subsection have been made to the rubberized asphalt fund, annual tire recycling fees collected pursuant to the provisions of Sections 66-6-1, 66-6-2, 66-6-4, 66-6-5 and 66-6-8 NMSA 1978.

B. The balance, exclusive of unidentified remittances, after having been reduced by the distributions required by Subsection A of this section, shall be further reduced by a distribution of forty-three percent of the balance to the state road fund, and the remainder of the balance shall be transferred or distributed by the state treasurer on or before the last day of the month next after its receipt, as follows:

(1) forty-one and three-tenths percent shall be distributed to the state road fund;

(2) seventeen and six-tenths percent shall be transferred to each county in the proportion, determined by the department in accordance with Subsection C of this section, that the registration fees for vehicles in that county are to the total registration fees for vehicles in all counties;

(3) seventeen and six-tenths percent shall be transferred to the counties, each county receiving an amount equal to the proportion, determined by the secretary of highway and transportation in accordance with Subsection E of this section, that the mileage of public roads maintained by the county is to the total mileage of public roads maintained by all counties of the state. Amounts distributed to each county in accordance with this paragraph shall be credited to the respective county road fund and be used for the improvement and maintenance of the public roads in the county and to pay for the acquisition of rights of way and material pits. For this purpose, the board of county

commissioners of each of the respective counties shall certify by April 1 of each year to the secretary of highway and transportation the total mileage as of April 1 of that year; provided that in their report the boards of county commissioners shall identify each of the public roads maintained by them, by name, route and location. By agreement and in cooperation with the state highway and transportation department, the boards of county commissioners of the various counties may use or designate any of the funds provided in this paragraph for any federal aid program;

(4) nine and four-tenths percent shall be allocated among the counties in the proportion, determined by the department in accordance with Subsection C of this section, that the registration fees for vehicles in that county are to the total registration fees for vehicles in all counties. The amount allocated to each county shall be transferred to the incorporated municipalities within the county in the proportion, determined by the department of finance and administration in accordance with Subsection C of this section, that the sum of net taxable value, as that term is defined in the Property Tax Code, plus the assessed value, as that term is used in the Oil and Gas Ad Valorem Production Tax Act and in the Oil and Gas Production Equipment Ad Valorem Tax Act, determined for the incorporated municipality is to the sum of net taxable value plus assessed value determined for all incorporated municipalities within the county. Amounts transferred to incorporated municipalities under the provisions of this paragraph shall be used for the construction, maintenance and repair of streets within the municipality and for payment of paving assessments against property owned by federal, county or municipal governments. In any county in which there are no incorporated municipalities, the amount allocated under this paragraph shall be transferred to the county road fund and used in accordance with the provisions of Paragraph (3) of this subsection; and

(5) fourteen and one-tenth percent shall be allocated among the counties in the proportion, determined by the department in accordance with Subsection C of this section, that the registration fees for vehicles in that county are to the total registration fees for vehicles in all counties. The amount allocated to each county shall be transferred to the county and incorporated municipalities within the county in the proportion, determined by the department of finance and administration in accordance with Subsection C of this section, that the computed taxes due for the county and each incorporated municipality within the county bear to the total computed taxes due for the county and incorporated municipalities within the county; for the purposes of this paragraph, the term "computed taxes due" for any jurisdiction means the sum of the net taxable value, as that term is defined in the Property Tax Code, plus the assessed value, as that term is used in the Oil and Gas Ad Valorem Production Tax Act and in the Oil and Gas Production Equipment Ad Valorem Tax Act, for that jurisdiction multiplied by an average of the rates for residential and nonresidential property imposed for that jurisdiction pursuant to Subsection B of Section 7-37-7 NMSA 1978.

C. To carry out the provisions of this section, during the month of June of each year:

(1) the department shall determine and certify to the department of finance and administration the proportions which the department is required to determine by Subsection B of this section using information for the preceding calendar year on the number of vehicles registered in each county based on the address of the owner or place where the vehicle is principally located, the registration fees for the vehicles registered in each county, the total number of vehicles registered in the state and the total registration fees for all vehicles registered in the state; and

(2) the department of finance and administration shall determine the proportions that the department of finance and administration is required to determine by Subsection B of this section based upon the net taxable value, as that term is defined in the Property Tax Code, and assessed values, as that term is used in the Oil and Gas Ad Valorem Production Tax Act and the Oil and Gas Production Equipment Ad Valorem Tax Act, for the preceding tax year and the tax rates imposed pursuant to Subsection B of Section 7-37-7 NMSA 1978 in the preceding September.

D. By June 30 of each year, the department of finance and administration shall determine the appropriate percentage of money to be transferred to each county and municipality for each purpose in accordance with Subsection A of this section based upon the proportions determined by or certified to the department of finance and administration. The percentages determined shall be used to compute the amounts to be transferred to the counties and municipalities during the succeeding fiscal year.

E. The board of county commissioners of each of the respective counties shall, by April 1 of every year, certify reports to the secretary of highway and transportation of the total mileage of public roads maintained by each county as of April 1 of every year; provided that in their reports the boards of county commissioners shall identify each of the public roads maintained by them by name, route and location. By July 1 of every year, the secretary of highway and transportation shall verify the reports of the counties and revise, if necessary, the total mileage of public roads maintained by each county and the mileage verified by the secretary of highway and transportation shall be the official mileage of public roads maintained by each county. Distribution of amounts to any county for road purposes shall be made in accordance with this section.

F. If a county has not made the required mileage certification pursuant to Section 67-3-28.3 NMSA 1978 by April 1 of every year, the secretary of highway and transportation shall estimate the mileage maintained by those counties for the purpose of making distribution to all counties, and the amount calculated to be distributed each month to those counties not certifying mileage shall be reduced by one-third each month for that fiscal year and that amount not distributed to those counties shall be distributed equally to all counties that have certified mileages.

G. The secretary shall review, at the end of each fiscal year, the aggregate total of motor vehicle transactions performed by each municipality, county or fee agent operating a motor vehicle field office, and for each office exceeding ten thousand aggregate transactions per year, that municipality, county or fee agent shall

be paid an additional one dollar (\$1.00) per identification card, driver's license, registration or title transaction performed during the next fiscal year."

Section 24

Section 24. SEVERABILITY.--If any part or application of the Tire Recycling Act is held invalid, the remainder or its application to other situations or persons shall not be affected.

Section 25

Section 25. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

SENATE CONSERVATION COMMITTEE
SUBSTITUTE FOR SENATE BILL 42, CHAPTER 126
EMERGENCY CLAUSE -- SIGNED MARCH 8, 1994

CHAPTER 118

PROVIDING CONDITIONS FOR THE EXPENDITURE OF ANY FUNDS FOR RESTORATION OF NATIVE RIPARIAN VEGETATION AND WETLAND AREAS IN THE PECOS RIVER VALLEY.

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

Section 1

Section 1. CONDITIONS.--

A. Any funds expended for the purpose of restoring native riparian vegetation and wetland areas in the Pecos River valley are contingent upon:

(1) the development of comprehensive plans to monitor all impacts of control activities and to restore native riparian vegetation throughout each project area;

(2) the provision of sufficient funds to undertake those restoration activities; and

(3) the approval of all control, restoration and monitoring plans by the New Mexico department of agriculture, the department of game and fish and the department of environment in consultation with the interstate stream commission.

B. In addition to the conditions set out in Subsection A of this section, any funds expended for the purpose of restoring native riparian vegetation and wetland areas in the Pecos River valley for projects on private lands are contingent upon the owners of those lands agreeing to a sixteen-year covenant running with the land providing for the management and continuity of all restored native riparian vegetation. The covenant shall be enforced by the energy, minerals and natural resources department.

SENATE FINANCE COMMITTEE SUBSTITUTE
FOR SENATE CONSERVATION COMMITTEE
SUBSTITUTE FOR SENATE BILL 601, aa
APPROVED MARCH 8, 1994

CHAPTER 119

RELATING TO GOVERNMENT; ENACTING THE MOTOR POOL ACT; PROVIDING POWERS AND DUTIES; PROVIDING FOR CENTRAL PURCHASE AND CONTROL OF STATE VEHICLES; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

Section 1

Section 1. SHORT TITLE.--Sections 1 through 12 of this act may be cited as the "Motor Pool Act".

Section 2

Section 2. FINDINGS AND PURPOSE.--The legislature finds that centralized control of state vehicles is in the best interest of the state because it permits the state to use its transportation resources in the most efficient and effective manner. The purpose of the Motor Pool Act is to provide a centralized agency to purchase state vehicles and to control their use.

Section 3

Section 3. DEFINITIONS.--As used in the Motor Pool Act:

- A. "department" means the general services department;
- B. "director" means the director of the division;
- C. "division" means the motor pool division of the department;

D. "secretary" means the secretary of general services;

E. "state agency" means a state department, agency, board or commission except the legislative and judicial branches, public schools and institutions of higher education; and

F. "state vehicle" means an automobile, van, sport-utility truck, pickup truck or other vehicle used by a state agency to transport passengers or property.

Section 4

Section 4. DIVISION CREATED.--The "motor pool division" is created in the department. The director shall be appointed by the secretary with the consent of the governor. Staff of the division shall be covered by the provisions of the Personnel Act.

Section 5

Section 5. DIVISION--GENERAL POWERS AND DUTIES.--The division shall:

A. have control over all state vehicles;

B. regulate the use of the state vehicles;

C. hold the titles of all state vehicles and provide for the security of the titles;

D. register all state vehicles in the custody of the division and ensure that state vehicles assigned to other state agencies have current and correct registrations;

E. control the issuance of state government plates assigned to a state agency and ensure that government plates are used only on state vehicles;

F. maintain a complete and accurate inventory of all state vehicles, including those in the custody of another state agency, and the location of all state vehicles;

G. establish and enforce maintenance standards for state vehicles in the custody of other state agencies;

H. require periodic use and maintenance reports from other state agencies that have custody of state vehicles;

I. purchase, through the state purchasing agent, all state vehicles and assign their use;

- J. perform periodic announced and unannounced inspections of state vehicles in the custody of other state agencies;
- K. establish a motor pool and provide an adequate fleet of state vehicles;
- L. provide for the maintenance of state vehicles in the motor pool;
- M. establish and enforce standards for drivers of state vehicles, including revoking driver privileges;
- N. maintain individual state driver records, including all tickets received by drivers of state vehicles for violations of the Motor Vehicle Code;
- O. maintain a record of all accident reports and insurance claims;
- P. maintain a history of state vehicles, including purchases, maintenance and sales;
- Q. carry out the provisions of the Alternative Fuel Conversion Act; and
- R. have the power to sell or otherwise dispose of property pursuant to the provisions of Sections 13-6-1 and 13-6-2 NMSA 1978 after approval of the secretary.

Section 6

Section 6. STATE VEHICLES--USE--MARKINGS--STATE GOVERNMENT PLATES.--

A. The division shall adopt regulations governing the use of state vehicles, including driver requirements and responsibilities, under what circumstances someone can be assigned a state vehicle on a permanent or semi-permanent basis and when custody of a state vehicle can be vested in another state agency pursuant to the provisions of this section.

B. The division may determine that it is impractical to retain custody of certain state vehicles, and it may provide that custody reside in another state agency in the following cases:

- (1) the state vehicle is used for emergency or law enforcement purposes;
- (2) the state vehicle is of a special design or construction that effectively limits its use to a particular purpose;
- (3) the money used in the acquisition of the state vehicle is subject to constitutional or trust limitations that prevent its use as a part of the motor pool;

(4) the state vehicle is not based in Santa Fe;

(5) the state vehicle is a state highway and transportation department truck or tractor or heavy road equipment; or

(6) the state agency requires the use of a vehicle on a regular basis, as defined by regulation of the division.

C. Except as provided in Subsection E of this section, all state vehicles shall be marked as state vehicles. Each side of the vehicle shall have painted, in letters not less than two inches in height, the following designation of ownership: "State of New Mexico,.....

Department" and naming the department. If the department has more than one vehicle assigned for its use, each vehicle shall be conspicuously numbered in consecutive order. The division shall include the words "State Motor Pool" and consecutive number of the vehicle on the designation for its vehicles.

D. Except as provided in Subsection E of this section, all state vehicles shall have specially designed government registration plates.

E. Only state vehicles used for legitimate undercover law enforcement purposes are exempt from the requirements of Subsections C and D of this section. All other state vehicles owned or in the custody of state agencies that have law enforcement functions shall be marked and have state government registration plates.

Section 7

Section 7. PURCHASE OF STATE VEHICLES--PROCUREMENT CODE--EQUIPMENT.--

A. All state vehicle purchases shall be pursuant to the provisions of the Procurement Code. All purchases of state vehicles, even those not assigned to the motor pool, shall be approved by the director.

B. Subject to legislative appropriations and directives and the approval of the secretary, the director shall determine the type and number of state vehicles to be purchased each year and how they shall be equipped.

Section 8

Section 8. LEASE WITH STATE FUNDS.--No motor vehicle shall be leased with state money unless such lease is first specifically approved by the division.

Section 9

Section 9. VEHICLE TITLE.--Title to all state vehicles shall be held in the name of the state. Titles, even to state vehicles not in the custody of the division, shall be kept by the division. The division shall provide for the security of vehicle titles.

Section 10

Section 10. RULES AND REGULATIONS.--The division shall adopt and file in accordance with the State Rules Act rules and regulations to carry out the provisions of the Motor Pool Act.

Section 11

Section 11. REPORT TO LEGISLATURE.--The division shall provide an annual report to the legislature that includes information on the operations of the division, including reports on Motor Vehicle Code violations, accidents and insurance claims involving state vehicles; major maintenance costs; purchases and sales of motor vehicles; and progress of the division in carrying out the provisions of the Alternative Fuel Conversion Act. The report shall be deemed to have been provided to the legislature when filed with the legislative council service and the legislative finance committee. The division shall make copies available to individual legislators upon request.

Section 12

Section 12. Section 9-17-3 NMSA 1978 (being Laws 1983, Chapter 301, Section 3, as amended) is amended to read:

"9-17-3. GENERAL SERVICES DEPARTMENT--CREATION--TRANSFER AND MERGER OF DIVISION FUNCTIONS--MERGER AND CREATION OF DIVISIONS.--

A. The "general services department" is created. The department shall consist of those divisions created by law or executive order, as modified by executive order pursuant to Subsection C of this section, including:

- (1) the administrative services division;
- (2) the building services division;
- (3) the information systems division;
- (4) the property control division;
- (5) the purchasing division;
- (6) the risk management division; and
- (7) the motor pool division.

B. The secretary of general services is empowered to organize the department and the divisions specified in Subsection A of this section and may transfer or merge functions between divisions in the interest of efficiency and economy.

C. The governor is empowered to merge divisions of the department or to create additional divisions by executive order in the interest of efficiency or economy."

Section 13

Section 13. Section 9-17-7 NMSA 1978 (being Laws 1992, Chapter 58, Section 8) is amended to read:

"9-17-7. STATE ALTERNATIVE FUEL TRANSPORTATION MANAGER-- CREATION--DUTIES.--A "state alternative fuel transportation manager" is created in the motor pool division of the general services department, and his duties shall include:

A. promoting, coordinating and monitoring the implementation of state clean alternative fuel transportation programs, including a mass transit demonstration project and other demonstration projects that place New Mexico on the leading edge of new clean fuel technologies;

B. coordinating and directing the provisions of the Alternative Fuel Conversion Act; and

C. mobilizing and coordinating necessary resources and expertise from government, education and the private sector to assist in clean alternative fuel transportation programs and projects."

Section 14

Section 14. A new section of the Motor Vehicle Code is enacted to read:

"STATE GOVERNMENT REGISTRATION PLATES--ISSUANCE APPROVED.-- No state government registration plates shall be provided to a state agency unless approved by the motor pool division of the general services department. As used in this section, "state agency" means a state department, agency, board or commission except the legislative and judicial branches, public schools and institutions of higher education."

Section 15

Section 15. REPEAL.--Sections [15-3-25](#) through [15-3-30](#), [77-2-23](#) and 77-2-24 NMSA 1978 (being Laws 1968, Chapter 43, Section 11, Laws 1925, Chapter 98, Sections 1 through 4, Laws 1994, Chapter 100, Section 3 and Laws 1945, Chapter 22, Sections 1 and 2, as amended) are repealed.

SENATE BILL 86
APPROVED MARCH 8, 1994

CHAPTER 120

CREATING A JOINT INTERIM PUBLIC SCHOOL TRANSPORTATION TASK FORCE;
DECLARING AN EMERGENCY.

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

Section 1

Section 1. PUBLIC SCHOOL TRANSPORTATION TASK FORCE CREATED--
TERMINATION.--There is created a joint interim "public school transportation task
force". The task force shall function from the date of its appointment until the first day of
December prior to the first session of the forty-second legislature.

Section 2

Section 2. MEMBERSHIP--APPOINTMENT--VACANCIES.--The task force shall be
composed of twelve members. The legislative council shall appoint four members from
the house of representatives, four members from the senate and four public members.
At the time of making the appointment, the legislative council shall designate the
chairman and vice chairman of the task force. Members shall be appointed from each
house so as to give the two major political parties in each house the same proportionate
representation on the task force as prevails in each house; provided, in no event shall
either of the parties have less than one member from each house on the task force.
Members may be removed from the task force by the legislative council, at the request
of the task force chairman, for nonattendance according to council policy. Vacancies on
the task force, however caused, may be filled by the legislative council, or the council
may reduce the size of the task force by not making replacement appointments and in
such case need not readjust party representation.

No action shall be taken by the task force if a majority of the total membership
from either house on the task force rejects such action.

Section 3

Section 3. DUTIES.--After its appointment, the task force shall hold one organizational
meeting to develop a workplan and budget for the ensuing interim. The workplan and
budget shall be submitted to the legislative council for approval. Upon approval of the
workplan and budget by the legislative council, the task force shall examine the
statutes, constitutional provisions, regulations and court decisions governing public
school transportation in New Mexico, including those provisions related to the
transportation funding formula, the school bus inspection program, transportation costs

and the administration of the public school transportation program, and shall recommend legislation or changes if any are found to be necessary to the first session of the forty-second legislature.

Section 4

Section 4. SUBCOMMITTEES.--Subcommittees shall be created only by majority vote of all members appointed to the task force and with the prior approval of the legislative council. A subcommittee shall be composed of at least one member from the senate and one member from the house of representatives, and at least one member of the minority party shall be a member of the subcommittee. All meetings and expenditures of a subcommittee shall be approved by the full task force in advance of such meeting or expenditure, and the approval shall be shown in the minutes of the task force.

Section 5

Section 5. REPORT.--The task force shall make a report of its findings and recommendations for the consideration of the first session of the forty-second legislature. The report and suggested legislation shall be made available to the legislative council on or before December 1 preceding that session.

Section 6

Section 6. STAFF.--The staff for the task force shall be provided by the legislative council service in conjunction with the legislative finance committee and the legislative education study committee.

Section 7

Section 7. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

SENATE BILL 138
EMERGENCY CLAUSE -- SIGNED MARCH 8, 1994

CHAPTER 121

RELATING TO STATE INVESTMENTS; PERMITTING INVESTMENT OF THE SEVERANCE TAX PERMANENT FUND IN ADDITIONAL MARKET RATE INVESTMENTS.

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

Section 1

Section 1. Section 7-27-5.1 NMSA 1978 (being Laws 1983, Chapter 306, Section 8, as amended) is amended to read:

"7-27-5.1. MARKET RATE INVESTMENTS.--

A. The severance tax permanent fund may be invested in the following market rate investments:

(1) bonds, notes or other obligations of the United States government, its agencies or instrumentalities and bonds, notes or other obligations guaranteed by agencies and instrumentalities of the United States government, including the bureau of Indian affairs;

(2) bonds, notes, debentures or other obligations issued under the act of congress of June 27, 1934, known as the Federal Farm Loan Act, as amended, and the Federal Farm Credit Act, as amended;

(3) bonds, notes, debentures or other obligations issued or guaranteed by any national mortgage association under the act of congress of June 27, 1934, known as the National Housing Act, as amended;

(4) preferred stock, common stock or convertible issues of any corporation organized and operating within the United States; provided that it shall have a minimum net worth of twenty-five million dollars (\$25,000,000) and securities listed on one or more national stock exchanges or included on a nationally recognized list of stocks; and provided further that the fund shall not own more than five percent of the voting stock of any company. Common stock shall not be purchased if, at the time, it will exceed or will with the purchase exceed thirty-five percent of the book value of the severance tax permanent fund. Common stocks should represent a diversified portfolio with an above-average current yield and the prospects for dividend increases and capital appreciation;

(5) bonds, notes, debentures or other evidence of indebtedness, excluding commercial paper of any corporation organized and operating within the United States; provided that the bonds, notes, debentures or other evidence of indebtedness are rated at least Baa or BBB or the equivalent by a national rating service. No more than ten percent of the severance tax permanent fund shall be invested in bonds, notes, debentures or other evidence of indebtedness that are rated Baa or BBB or the equivalent by a national rating service;

(6) commercial paper rated "prime" quality by a national rating service, issued by corporations organized and operating within the United States;

(7) prime bankers' acceptances issued by money center banks;

(8) contracts for the present purchase and resale at a specified time in the future, not to exceed one year, of specific securities at specific prices at a price differential representing the interest income to be earned by the state. No such contract shall be invested in unless the contract is fully secured by obligations of the United States, or other securities backed by the United States, having a market value of at least one hundred two percent of the amount of the contract;

(9) contracts for the temporary exchange of state-owned securities for the use of broker-dealers, banks or other recognized institutional investors in securities, for periods not to exceed one year, for a specified fee rate. No such contract shall be invested in unless the contract is fully secured by exchange of an irrevocable letter of credit running to the state, cash or equivalent collateral of at least one hundred two percent of the market value of the securities plus accrued interest temporarily exchanged. Such contracts may authorize the state investment officer to invest cash collateral in instruments or securities that are authorized investments for the funds, and may authorize payment of a fee from the funds, or from income generated by the investment of cash collateral, to the borrower of securities providing cash as collateral. The state investment officer may enter into a contract that apportions income derived from the investment of cash to pay its agent in securities-lending transactions; and

(10) participation interests in New Mexico real property-related business loans. The actual amount invested under this paragraph shall not exceed ten percent of the severance tax permanent fund and shall be included in any minimum amount of severance tax permanent fund investments required to be placed in New Mexico certificates of deposit. Investments authorized in this paragraph are subject to the following:

(a) the state investment officer may purchase from eligible institutions a participation interest of up to eighty percent in any loan secured by a first mortgage or a deed of trust on the real property located in New Mexico of an eligible business entity, or its subsidiary, that is operating or shall use loan proceeds to commence operations within New Mexico plus any other guarantees or collateral that may be judged by the eligible institution or the state investment officer to be prudent. To be eligible for investment the following minimum requirements shall be met: 1) the loan proceeds shall be used exclusively for the purpose of expanding or establishing businesses in New Mexico, including the refinancing of such businesses for expansion purposes only. If a portion of the loan proceeds were used for refinancing or repaying an existing loan and payment of principal and interest to the state has not been made within ninety days from the due date, unless extended pursuant to agreement between the originating institution and the state investment officer, the originating institution shall buy back the state's participation interest in the loan and begin foreclosure proceedings; 2) eligible business entities shall not include public utilities or financial institutions or shopping centers, apartment buildings or other such passive investments; 3) the minimum loan amount shall be two hundred fifty thousand dollars (\$250,000) and may be met by packaging up to ten separate loans satisfying the requirements of this paragraph. The maximum loan amount shall be two million dollars (\$2,000,000); 4) the

loan maturity shall be not less than five years or more than thirty years; 5) the maximum loan-to-value ratio shall be seventy-five percent and based on current appraisal of the real property by an appraiser who is licensed or certified in New Mexico and approved by the state investment officer, which shall be made not more than one hundred eighty days from the loan origination date; 6) the interest rate of the loan shall be fixed for five years and shall be adjusted at every fifth anniversary of the note to the rate specified in Item 7) of this subparagraph; 7) the yield on the state's participation interest shall in no case be less than the greater of the then-prevailing yield on United States treasury securities of five-year maturity plus two and one-half percent or the yield received by the lending institution calculated exclusive of servicing fees; 8) if payment of principal or interest has not been made within one hundred eighty days from the due date, unless extended pursuant to agreement between the originating institution and the state investment officer, the originating institution shall buy back the state's participation interest in the loan, substitute another qualifying loan or begin foreclosure proceedings; and 9) if foreclosure proceedings are commenced, the state and the originating institution shall share in proportion to their participation interest, as provided in this subparagraph, in the legal and other foreclosure expenses and in any loss incurred as a result of a foreclosure sale;

(b) a standardized participation agreement, the form of which shall be approved by the attorney general's office, shall be executed between the investment office and each eligible originating institution. The participation agreement shall provide that the originating institution shall not assign its interest in any loan covered by the agreement without the prior written consent of the state investment officer;

(c) a formal forward commitment program may be instituted by the state investment officer with the approval of the council;

(d) the council shall adopt regulations: 1) defining passive investments; 2) establishing underwriting guidelines; 3) ensuring diversification across a variety of types of collateral, types of businesses and regions of the state; and 4) providing for the review by the state investment officer of servicing and other fees that may be charged by the eligible institution;

(e) eligible institutions include banks, savings and loan associations and credit unions operating in the state; and

(f) real property is defined as land and attached buildings, but excludes all interests that may be secured by a security interest under Article 9 of the Uniform Commercial Code, and mineral resource values.

B. The collateral required for either of the forms of investment specified in Paragraph (8) or (9) of Subsection A of this section shall be delivered to the state fiscal agent or its designee contemporaneously with the transfer of funds or delivery of the

securities, at the earliest time industry practice permits, but in all cases settlement shall be on a same-day basis.

C. Neither of the contracts specified in Paragraph (8) or (9) of Subsection A of this section shall be invested in unless the contracting bank, brokerage firm or recognized institutional investor has a net worth in excess of five hundred million dollars (\$500,000,000) or is a primary broker or primary dealer."

SENATE BILL 445, aa
APPROVED MARCH 8, 1994

CHAPTER 122

RELATING TO MOTOR VEHICLES; AMENDING A CERTAIN SECTION OF THE MOTOR VEHICLE CODE PERTAINING TO SPECIAL REGISTRATION PLATES FOR PRIVATE VEHICLES.

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

Section 1

Section 1. Section 66-3-406 NMSA 1978 (being Laws 1978, Chapter 35, Section 85, as amended) is amended to read:

"66-3-406. SPECIAL REGISTRATION PLATES FOR PRIVATE VEHICLES.--

A. Upon compliance with all laws relating to registration and licensing of motor vehicles and upon application to the division, special registration plates shall be furnished for vehicles owned by:

- (1) elected state officials;
- (2) members of the legislature;
- (3) the chief clerks of the house of representatives and of the senate;
- (4) the sergeants at arms of the house of representatives and of the senate; and
- (5) disabled persons, pursuant to Section 66-3-16 NMSA 1978.

B. Special registration plates furnished under this section shall identify the officials, members and disabled persons as such. If legislators, the special registration plates shall indicate whether they are members of the house of representatives or of the senate.

C. When the ownership of the vehicle for which a special registration plate has been furnished by the division changes or the holder ceases to qualify, the special registration plate shall immediately be removed from the vehicle by the holder of the special registration plate and returned to the director, at which time the person removing the special registration plate shall receive a regular registration plate for the vehicle.

D. The holder of a special registration plate may transfer his special registration plate from one vehicle to another during the year in which the plate is valid upon application to the director for the transfer. If a transfer is made, the owner of the vehicle from which the special registration plate is removed may receive a regular registration plate upon payment of the fees established by law.

E. The holder of a special registration plate pursuant to Paragraph (2) of Subsection A of this section may simultaneously hold a regular registration for the same vehicle. The division shall, by rule, provide for maintenance of simultaneous registration records."

SENATE BILL 512
APPROVED MARCH 8, 1994

CHAPTER 123

EXPANDING THE DEFINITION OF "PUBLIC EMPLOYEE" AS USED IN THE TORT CLAIMS ACT; DECLARING AN EMERGENCY.

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

Section 1

Section 1. Section 41-4-3 NMSA 1978 (being Laws 1976, Chapter 58, Section 3, as amended by Laws 1994, Chapter 195, Section 1 and also by Laws 1994, Chapter 203, Section 1) is amended to read:

"41-4-3. DEFINITIONS.--As used in the Tort Claims Act:

A. "board" means the risk management advisory board;

B. "governmental entity" means the state or any local public body as defined in Subsections C and H of this section;

C. "local public body" means all political subdivisions of the state and their agencies, instrumentalities and institutions and all water and natural gas associations organized pursuant to Chapter 3, Article 28 NMSA 1978;

D. "law enforcement officer" means any full-time salaried public employee of a governmental entity whose principal duties under law are to hold in custody any

person accused of a criminal offense, to maintain public order or to make arrests for crimes, or members of the national guard when called to active duty by the governor;

E. "maintenance" does not include:

(1) conduct involved in the issuance of a permit, driver's license or other official authorization to use the roads or highways of the state in a particular manner; or

(2) an activity or event relating to a public building or public housing project that was not foreseeable;

F. "public employee" means any officer, employee or servant of a governmental entity, excluding independent contractors except for individuals defined in Paragraphs (7), (8), (10), (14) and (15) of this subsection, or of a corporation organized pursuant to the Educational Assistance Act or the Mortgage Finance Authority Act and including:

(1) elected or appointed officials;

(2) law enforcement officers;

(3) persons acting on behalf or in service of a governmental entity in any official capacity, whether with or without compensation;

(4) licensed foster parents providing care for children in the custody of the human services department, corrections department or department of health, but not including foster parents certified by a licensed child placement agency;

(5) members of state or local selection panels established pursuant to the Adult Community Corrections Act;

(6) members of state or local selection panels established pursuant to the Juvenile Community Corrections Act;

(7) licensed medical, psychological or dental arts practitioners providing services to the corrections department pursuant to contract;

(8) members of the board of directors of the New Mexico comprehensive health insurance pool;

(9) individuals who are members of medical review boards, committees or panels established by the educational retirement board or the retirement board of the public employees retirement association;

(10) licensed medical, psychological or dental arts practitioners providing services to the children, youth and families department pursuant to contract;

(11) members of the board of directors of the New Mexico educational assistance foundation;

(12) members of the board of directors of the New Mexico student loan corporation;

(13) members of the New Mexico mortgage finance authority;

(14) volunteers, employees and board members of court-appointed special advocate programs; and

(15) for purposes of Paragraph (2) of Subsection B and Paragraph (2) of Subsection D of Section 41-4-4 NMSA 1978, nonprofit corporations that provide developmental disabilities services pursuant to a contract with the department of health and its employees and board members when the corporation, employee or board member is acting pursuant to the contract;

G. "scope of duties" means performing any duties that a public employee is requested, required or authorized to perform by the governmental entity, regardless of the time and place of performance; and

H. "state" or "state agency" means the state of New Mexico or any of its branches, agencies, departments, boards, instrumentalities or institutions and, as provided in the Tort Claims Act, includes developmental disabilities service providers."

Section 2

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

SENATE BILL 924

EMERGENCY CLAUSE -- SIGNED MARCH 8, 1994

CHAPTER 124

PROVIDING FOR INVESTIGATION AND REMEDIATION AGREEMENTS FOR SUPERFUND SITES; AMENDING A SECTION OF THE ENVIRONMENTAL IMPROVEMENT ACT; DECLARING AN EMERGENCY.

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

Section 1

Section 1. Section 74-1-6 NMSA 1978 (being Laws 1971, Chapter 277, Section 9, as amended) is amended to read:

"74-1-6. AGENCY--POWERS.--The agency shall have power to:

A. sue and be sued;

B. make contracts to carry out its delegated duties;

C. enter into agreements with environmental and consumer protection agencies of other states and the federal government pertaining to duties of the agency;

D. enter into investigation and remediation agreements with persons potentially responsible for sites within New Mexico subject to the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980 and such agreements shall not duplicate or take any authority from the oil conservation commission;

E. serve as agent of the state in matters of environmental management and consumer protection not expressly delegated by law to another agency, commission or political subdivision in which the United States is a party;

F. enforce the rules, regulations and orders promulgated by the board and environmental management and consumer protection laws for which the agency is responsible by appropriate action in courts of competent jurisdiction;

G. on the same basis as any other person, recommend and propose regulations for promulgation by the board;

H. on the same basis as any other person, present data, views or arguments and examine witnesses and otherwise participate at all hearings conducted by the board or any other administrative agency with responsibility in the areas of environmental management or consumer protection, but shall not be given any special status over any other party; and

I. have such other powers as may be necessary and appropriate for the exercise of the powers and duties delegated to the agency."

Section 2

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

SENATE BILL 957

EMERGENCY CLAUSE -- SIGNED MARCH 8, 1994

CHAPTER 125

RELATING TO SPECIAL REGISTRATION PLATES; AMENDING A SECTION OF THE NMSA 1978 RELATING TO ONE HUNDRED PERCENT DISABLED VETERANS.

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

Section 1

Section 1. Section 66-3-412 NMSA 1978 (being Laws 1979, Chapter 299, Section 2, as amended) is amended to read:

"66-3-412. SPECIAL REGISTRATION PLATES--ONE HUNDRED PERCENT DISABLED VETERANS--SUBMISSION OF PROOF--PENALTY.--

A. The division shall issue distinctive registration plates to any person who is a veteran of the armed forces of the United States, as defined in Section 28-13-7 NMSA 1978, and was one hundred percent disabled while serving in the armed forces of the United States, upon the submission by the person of proof satisfactory to the division that he was one hundred percent disabled while serving in the armed forces of the United States. No fee, including the regular registration fee applicable to the passenger motor vehicle, if any, shall be collected for issuance of a special registration plate pursuant to this section. Any person eligible for a special registration plate pursuant to this section and also eligible for one or more special registration plates pursuant to Sections 66-3-406, 66-3-409 and 66-3-411 NMSA 1978 shall be issued only one special registration plate of his choice.

B. No person shall falsely represent himself to have been one hundred percent disabled while serving in the armed forces of the United States so as to be eligible to be issued special registration plates pursuant to this section when he in fact was not one hundred percent disabled while serving in the armed forces of the United States.

C. Any person eligible for a special registration plate under this section shall only be eligible for one such plate.

D. Any person who violates the provisions of Subsection B of this section is guilty of a misdemeanor.

E. No special registration plate, other than a replacement plate, shall be issued under the provisions of this section after July 1, 1995."

SENATE PUBLIC AFFAIRS COMMITTEE
SUBSTITUTE FOR SENATE BILL 988

CHAPTER 126

RELATING TO THE ENVIRONMENT; ENACTING THE TIRE RECYCLING ACT; PROVIDING FOR THE RECYCLING AND DISPOSAL OF SCRAP TIRES; IMPOSING FEES; CREATING FUNDS; PROVIDING PENALTIES; MAKING APPROPRIATIONS; DECLARING AN EMERGENCY.

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

Section 1

Section 1. SHORT TITLE.--Sections 1 through 17 of this act may be cited as the "Tire Recycling Act".

Section 2

Section 2. DEFINITIONS.--As used in the Tire Recycling Act:

- A. "board" means the environmental improvement board;
- B. "cooperative association" means a refuse disposal district created pursuant to the Refuse Disposal Act, a sanitation district created pursuant to the Water and Sanitation District Act, a special district created pursuant to the Special District Procedures Act or other associations created pursuant to the Joint Powers Agreements Act or the Solid Waste Authority Act;
- C. "department" means the department of environment;
- D. "dispose" means to deposit scrap tires into or on any land or water;
- E. "person" means an individual, or any other legal entity, including government entities;
- F. "reprocessing" means retreading, shredding of scrap tires for crumb rubber used in modified asphalt or concrete paving or shredding for volume reduction for ultimate disposal;
- G. "scrap tire" means a tire that is no longer suitable for its originally intended purpose because of wear, damage or defect;
- H. "secretary" means the secretary of environment;
- I. "tire" means a continuous solid or pneumatic rubber covering that encircles the wheel of a motor vehicle;
- J. "tire dump" means an unauthorized location or facility at which scrap tires are disposed;

K. "tire recycling" means a process in which scrap tires are collected, stored, separated or reprocessed for reuse as a different product or shredded into a form suitable for use in rubberized asphalt or as raw material for the manufacture of other products, but not as a raw material or product used as a fuel for combustion; and

L. "tire recycling facility" means a place operated or maintained for tire recycling but does not include:

(1) retail business premises where tires are sold, if no more than five hundred scrap tires are kept on the premises at one time;

(2) the premises of a tire retreading business, if no more than three thousand scrap tires are kept on the premises at one time;

(3) premises where tires are removed from motor vehicles in the ordinary course of business, if no more than five hundred scrap tires are kept on the premises at one time;

(4) a site where no more than two hundred fifty scrap tires are stored for agricultural or construction uses for no more than one year; or

(5) a solid waste facility having a valid permit or registration issued pursuant to the provisions of the Solid Waste Act or regulations adopted pursuant to that act, or registration issued pursuant to the Environmental Improvement Act.

Section 3

Section 3. PROHIBITED ACTS.--After October 1, 1995:

A. no person shall operate or maintain a tire recycling facility unless the facility has a valid permit issued pursuant to the provisions of the Tire Recycling Act; except that a facility described in Paragraph (5) of Subsection L of Section 2 of the Tire Recycling Act shall be able to operate provided that the facility is in compliance with all substantive provisions of and regulations adopted pursuant to the Tire Recycling Act; and

B. no person shall store or dispose of scrap tires in a place other than a tire recycling facility as defined by the Tire Recycling Act unless the place is specifically excluded from the definition of "tire recycling facility" in Paragraphs (1) through (5) of Subsection L of Section 2 of the Tire Recycling Act.

Section 4

Section 4. ADMINISTRATION OF THE ACT.--The department is responsible for the administration and enforcement of the provisions of the Tire Recycling Act and of all

regulations adopted by the board pursuant to the provisions of that act. The department is delegated all authority necessary and appropriate to carry out its responsibilities.

Section 5

Section 5. REGULATIONS--AUTHORITY AND CONTENT.--By March 1, 1995, the board shall adopt regulations necessary and appropriate to implement the provisions of the Tire Recycling Act. The regulations shall be adopted pursuant to the provisions of the Environmental Improvement Act. The regulations shall include:

- A. requirements and procedures for the issuance of permits to tire recycling facilities;
- B. standards and requirements for tire recycling and for facilities that utilize tires as a fuel for combustion;
- C. criteria and procedures for making disbursements under grant and loan programs authorized in Section 13 of the Tire Recycling Act from the tire recycling fund established in Section 15 of the Tire Recycling Act; and
- D. requirements and procedures for contracting with counties, municipalities and cooperative associations for the abatement of tire dumps and reprocessing scrap tires.

Section 6

Section 6. SOLID WASTE PERMIT EXEMPTION.--Any person operating a tire recycling facility under a permit issued pursuant to the Tire Recycling Act shall not be required to obtain a permit under the Solid Waste Act for that facility.

Section 7

Section 7. DEPARTMENTS TO CONDUCT SURVEYS.--

- A. The department shall fund a survey, to be completed by December 1, 1994, conducted by a registered New Mexico engineer to determine the location of and the volume or number of tires in the tire dumps and an assessment evaluating their environmental hazards. The department shall determine the number of scrap tires generated annually in the state and the amount of landfill space required by tires in tire dumps and current waste streams if no markets for recycled tires are developed, estimate tire recycling or disposal costs and, in cooperation with the state highway and transportation department, report on the methodologies for recycling tires into rubberized asphalt. The department shall determine the number and location of all tire recycling facilities, the quantity of tires stored at each location, the number of tire retreaders operating in the state and the number of New Mexico-generated casings retreaded annually.

B. The department shall develop a priority rating system for the abatement of the tire dumps located by the survey to be followed by the department in awarding funds for tire dump abatement and reprocessing and recycling scrap tires.

C. The secretary of highway and transportation shall report to the secretary of environment by December 31, 1994 the amount of rubber needed on an annual basis for compliance with the federal Intermodal Surface Transportation Efficiency Act of 1991, the amount of rubberized asphalt paving currently utilized in the state and the number of New Mexico contractors currently using rubberized asphalt.

Section 8

Section 8. ABATEMENT OF TIRE DUMPS.--

A. The legislature finds that a tire dump is a public nuisance and that if efforts to eliminate a tire dump through voluntary action by the owner or operator are unsuccessful, governmental abatement action is necessary.

B. An abatement action to eliminate a tire dump may be brought pursuant to the provisions of Section 30-8-8 NMSA 1978.

C. Municipalities, counties and cooperative associations that cooperate with the department in providing information for the survey mandated in Section 7 of the Tire Recycling Act and that apply for grants from the tire recycling fund during each funding cycle for the purpose of abating the tire dumps identified in the survey shall not be subject to the penalties or fines pertaining to abatement of the disclosed tire dumps.

D. The secretary may act administratively to eliminate tire dumps pursuant to the provisions of Sections 10 and 11 of the Tire Recycling Act.

E. Nothing in this section shall prohibit a municipality, county or cooperative association from contracting for services to complete an abatement action.

Section 9

Section 9. AUTHORIZATION FOR ABATEMENT CONTRACTS.--The secretary may contract with the governing body of a county, municipality or cooperative association for the abatement of tire dumps located within the boundaries of the county, municipality or cooperative association. The contract shall provide for the reimbursement of the county, municipality or cooperative association for expenses incurred in bringing an abatement action, including court costs, reasonable attorneys' fees and the actual expense of elimination of the tire dump if that expense is not recovered from and paid by the owner or operator of the tire dump as a result of the abatement action.

Section 10

Section 10. ENFORCEMENT--COMPLIANCE ORDERS.--

A. Whenever, on the basis of any information, the secretary determines that any person has violated or is violating any requirement or prohibition of the Tire Recycling Act, any regulation adopted and promulgated pursuant to that act or any condition of a permit issued under that act, the secretary may:

(1) issue a compliance order stating with reasonable specificity the nature of the violation and requiring compliance immediately or within a specified time period or assessing a civil penalty for any past or current violation, or both; or

(2) commence a civil action in district court for appropriate relief, including a temporary or permanent injunction.

B. A compliance order issued pursuant to Subsection A of this section may include a suspension or revocation of any permit, or portion of the permit, issued by the secretary. Any penalty assessed in the order shall not exceed two thousand five hundred dollars (\$2,500) per day of noncompliance for each violation.

C. A compliance order issued pursuant to Subsection A of this section shall be final unless the person named in the order files a written request for a public hearing with the secretary no later than fifteen days after the date the compliance order is served on the person, in which case the enforcement of the compliance order shall be suspended pending the issuance of the final order of the secretary after hearing. Within five days of receipt of the request the secretary shall set a date for a public hearing. The hearing date shall be at least fifteen days and not more than twenty days after the date the notice of hearing is mailed to the respondent by certified mail, return receipt requested.

D. The secretary shall appoint an independent hearing officer to conduct the public hearing. The hearing officer shall make and preserve a complete record of the proceedings. Within five days after the hearing is completed the hearing officer shall submit the record and his recommendations for a decision to the secretary. Within ten days after receipt of the recommendations of the hearing officer, the secretary shall make his decision and issue his order. The order of the secretary is final. The secretary may seek enforcement of the order by filing an action for enforcement in the district court.

E. Upon request of a party the secretary may issue subpoenas for the attendance and testimony of witnesses at the hearing and for the production of relevant documents. The secretary shall adopt procedural rules for the conduct of the hearing, including provisions for discovery procedures.

F. In determining the amount of any penalty authorized to be assessed pursuant to this section the secretary shall take into account the seriousness of the violation, any good-faith efforts of the alleged violator to comply with applicable

requirements of the Tire Recycling Act or regulations issued pursuant to its provisions and any other relevant factors.

G. Penalties collected pursuant to a compliance order shall be deposited with the state treasurer to be credited to the tire recycling fund.

Section 11

Section 11. ENFORCEMENT--FIELD CITATIONS.--

A. The board shall implement a field citation program by adopting regulations establishing appropriate minor violations for which field citations assessing civil penalties not to exceed one thousand dollars (\$1,000) per day of violation may be issued by officers or employees of the department as designated by the secretary.

B. A field citation issued pursuant to Subsection A of this section shall be final unless the person named in the citation files a written request for a public hearing with the secretary no later than fifteen days after the date on which the field citation is served on the person, in which case the enforcement of the field citation shall be suspended pending the issuance of a final order of the secretary after hearing. The procedures for scheduling and conducting a hearing on and for final disposition of a field citation shall be the same as those provided for a compliance order pursuant to Section 10 of the Tire Recycling Act.

C. Payment of a civil penalty required by a field citation issued pursuant to Subsection A of this section shall not be a defense to further enforcement by the department to correct a violation or to assess the maximum statutory penalty pursuant to the provisions of the Tire Recycling Act if the violation continues.

D. In determining the amount of any penalty to be assessed pursuant to this section, the secretary or the person issuing a field citation shall take into account the seriousness of the violation, any good-faith efforts of the violator to comply with the applicable requirements of the Tire Recycling Act or regulations issued pursuant to its provisions and any other relevant factors.

E. In connection with any proceeding under this section, the secretary may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books and documents and may adopt rules for discovery procedures.

F. Penalties collected pursuant to a field citation shall be deposited with the state treasurer to be credited to the tire recycling fund.

Section 12

Section 12. JUDICIAL REVIEW OF ADMINISTRATIVE ACTIONS.--

A. Any person adversely affected by an administrative action taken by the secretary pursuant to the provisions of Section 10 or 11 of the Tire Recycling Act may appeal the action to the court of appeals. The appeal shall be on the record made at the hearing. To support his appeal, the appellant shall make arrangements with the department for a sufficient number of transcripts of the record of the hearing on which the appeal is based. The appellant shall pay for the preparation of the transcripts.

B. On appeal, the court of appeals shall set aside the administrative action only if it is found to be:

(1) arbitrary, capricious or an abuse of discretion;

(2) not supported by substantial evidence in the record; or (3) otherwise not in accordance with law.

Section 13

Section 13. GRANTS--ELIGIBILITY--APPLICATIONS.--

A. A municipality, county or cooperative association that meets eligibility requirements established by the board may apply for a grant or submit a competitive bid for a loan or contract for development costs or operating costs to establish tire recycling facilities consistent with provisions of the Tire Recycling Act. Nothing in this section shall prohibit a municipality, county or cooperative association from contracting for services to complete an abatement action.

B. No rebate, grant, loan or contract for services may be awarded pursuant to the Tire Recycling Act to a person who receives less than ninety-five percent of his scrap tires from sources in New Mexico.

Section 14

Section 14. RUBBERIZED ASPHALT PROGRAM.--The state highway and transportation department is authorized to use rubberized asphalt in paving mixtures for state and local highway projects and to pay any added expenses that may result from using rubberized asphalt. The state highway and transportation department shall adopt rules for the administration of the rubberized asphalt program, including the development of procedures for disbursement of money to municipalities and counties for the use of rubberized asphalt in paving mixtures, and shall develop paving specifications for the use of rubberized asphalt.

Section 15

Section 15. TIRE RECYCLING FUND CREATED.--The "tire recycling fund" is created in the state treasury. Money in the fund is appropriated to the department for abatement of tire dumps, for reprocessing, transportation or recycling of scrap tires, for providing

annual retread rebates and for carrying out the provisions of the Tire Recycling Act. Any unexpended or unencumbered balance or income earned from the money in the tire recycling fund remaining at the end of the fiscal year shall not revert. Disbursements from the fund shall be by warrant drawn by the secretary of finance and administration pursuant to vouchers signed by the secretary of environment or his designee.

Section 16

Section 16. RUBBERIZED ASPHALT FUND CREATED.--The "rubberized asphalt fund" is created in the state treasury. Money in the fund is appropriated to the state highway and transportation department to pay additional expenses that might result from using rubberized asphalt paving mixes, to allocate at least fifty percent of the fund to local governments for that purpose and for carrying out the provisions of the rubberized asphalt program, including hiring a term employee to administer the program. Any unexpended or unencumbered balance remaining in the rubberized asphalt fund at the end of a fiscal year shall not revert to the general fund.

Section 17

Section 17. RETREAD REBATES.--To promote the purchasing of scrap tires generated in New Mexico for use in retreading, annual retread rebates shall be made to persons who retread tires in New Mexico:

A. from the tire recycling fund, not more than seventy-five thousand dollars (\$75,000) per year shall be prorated over all the tires claimed and certified by the department to meet standards for retreads on which rebates may be paid;

B. for each tire that is retreaded and sold in the ordinary course of business by a tire retreader in New Mexico and that meets the standards adopted by the purchasing division of the general services department; and

C. of no more than one dollar (\$1.00) per retreaded tire claimed by a tire retreader in New Mexico, on a form and according to procedures adopted by the secretary.

Section 18

Section 18. Section 66-6-1 NMSA 1978 (being Laws 1978, Chapter 35, Section 336, as amended) is amended to read:

"66-6-1. MOTORCYCLES--REGISTRATION FEES.--

A. For the registration of motorcycles, the division shall collect the following fees:

(1) for each motorcycle having not more than two wheels in contact with the ground, eleven dollars (\$11.00); and

(2) for each motorcycle having three wheels in contact with the ground or having a sidecar, eleven dollars (\$11.00).

B. Beginning July 1, 1994, in addition to other fees required by this section, the division shall collect, for each motorcycle, an annual tire recycling fee of fifty cents (\$.50).

C. Two dollars (\$2.00) of each fee collected pursuant to Paragraphs (1) and (2) of Subsection A of this section shall be credited to the motorcycle training fund."

Section 19

Section 19. Section 66-6-2 NMSA 1978 (being Laws 1978, Chapter 35, Section 337, as amended) is amended to read:

"66-6-2. PASSENGER VEHICLES--REGISTRATION FEES.--For registration of each motor vehicle other than motorcycles, trucks, buses and tractors, the division shall collect the following fees:

A. for a vehicle whose gross factory shipping weight is not more than two thousand pounds, twenty dollars (\$20.00); provided, however, that after five years of registration, calculated from the date when the vehicle was first registered in this or another state, the fee is sixteen dollars (\$16.00);

B. for a vehicle whose gross factory shipping weight is more than two thousand but not more than three thousand pounds, twenty-nine dollars (\$29.00); provided, however, that after five years of registration, calculated from the date when the vehicle was first registered in this or another state, the fee is twenty-three dollars (\$23.00);

C. for a vehicle whose gross factory shipping weight is more than three thousand pounds, forty-two dollars (\$42.00); provided, however, that after five years of registration, calculated from the date when the vehicle was first registered in this or another state, the fee is thirty-four dollars (\$34.00); and

D. for each vehicle registered pursuant to the provisions of this section, an annual tire recycling fee of one dollar (\$1.00) beginning July 1, 1994."

Section 20

Section 20. Section 66-6-4 NMSA 1978 (being Laws 1978, Chapter 35, Section 339, as amended) is amended to read:

"66-6-4. REGISTRATION FEES--TRUCKS, TRUCK TRACTORS, ROAD TRACTORS AND BUSES.--

A. Within their respective jurisdictions, the motor vehicle and motor transportation divisions shall charge registration fees for trucks, truck tractors, road tractors and buses, except as otherwise provided by law, according to the schedule of Subsection B of this section.

| B. Declared Gross Weight | Fee | |
|--------------------------|---------|----|
| 001 to 4,000 | \$ 30 | |
| 4,001 to 6,000 | | 41 |
| 6,001 to 8,000 | | 52 |
| 8,001 to 10,000 | 63 | |
| 10,001 to 12,000 | 74 | |
| 12,001 to 14,000 | 85 | |
| 14,001 to 16,000 | 96 | |
| 16,001 to 18,000 | 107 | |
| 18,001 to 20,000 | 118 | |
| 20,001 to 22,000 | 129 | |
| 22,001 to 24,000 | 140 | |
| 24,001 to 26,000 | 151 | |
| 26,001 to 48,000 | 88.50 | |
| 48,001 and over | 129.50. | |

C. All trucks whose declared gross weight or whose gross vehicle weight is less than twenty-six thousand pounds, after five years of registration, calculated from the date when the vehicle was first registered in this or another state, shall be charged registration fees at eighty percent of the rate set out in Subsection B of this section.

D. All trucks with a gross vehicle weight of more than twenty-six thousand pounds and all truck tractors and road tractors used to tow freight trailers shall be registered on the basis of combination gross vehicle weight.

E. All trucks with a gross vehicle weight of twenty-six thousand pounds or less shall be registered on the basis of gross vehicle weight. Any trailer, semitrailer or pole trailer towed by a truck of such gross vehicle weight shall be classified as a utility trailer for registration purposes unless otherwise provided by law.

F. All farm vehicles having a declared gross weight of more than six thousand pounds shall be charged registration fees of two-thirds of the rate of the respective fees provided in this section and shall be issued distinctive registration plates. "Farm vehicle" means any vehicle owned by a person whose principal occupation is farming or ranching and which vehicle is used principally in the transportation of farm and ranch products to market and farm and ranch supplies and livestock from the place of purchase to farms and ranches in this state; provided that the vehicle is not used for hire.

G. In addition to other registration fees imposed by this section, beginning July 1, 1994, there is imposed at the time of registration an annual tire recycling fee of one dollar (\$1.00) on each vehicle subject to a registration fee pursuant to this section, except for vehicles with a declared gross weight of greater than twenty-six thousand pounds upon which registration fees are imposed by Subsection B of this section.

H. Four percent of registration fees of trucks having a declared gross weight from twenty-six thousand one pounds to forty-eight thousand pounds declared gross vehicle weight is to be transferred to the tire recycling fund pursuant to the provisions of Section 66-6-23 NMSA 1978.

I. Five percent of registration fees of trucks in excess of forty-eight thousand pounds declared gross vehicle weight is to be transferred to the tire recycling fund pursuant to the provisions of Section 66-6-23 NMSA 1978."

Section 21

Section 21. Section 66-6-5 NMSA 1978 (being Laws 1978, Chapter 35, Section 340, as amended) is amended to read:

"66-6-5. BUS REGISTRATION FEES.--All buses shall pay the registration fees provided in Section 66-6-4 NMSA 1978 except for school buses and buses operated by religious or nonprofit charitable organizations for the express purpose of the organization, for which the annual registration fee is five dollars (\$5.00). In addition to other registration fees imposed by this section, beginning July 1, 1994, there is imposed at the time of registration an annual tire recycling fee of twenty-five cents (\$.25) per wheel that is in contact with the ground on each vehicle subject to a registration fee pursuant to this section."

Section 22

Section 22. Section 66-6-8 NMSA 1978 (being Laws 1978, Chapter 35, Section 343) is amended to read:

"66-6-8. BUS REGISTRATION--AGRICULTURAL LABOR FEES.--

A. Any bus having a normal seating capacity of forty passengers or less and that is used exclusively for the transportation of agricultural laborers may be registered upon payment to the division of a fee of twenty-five dollars (\$25.00).

B. In addition to the registration fee imposed by this section, there is imposed at the time of registration an annual tire recycling fee of twenty-five cents (\$.25) per wheel that is in contact with the ground on each vehicle subject to a registration fee pursuant to this section.

C. Application for registration of a bus under this section shall be made in the form prescribed by the division and shall be accompanied by an affidavit that the bus will be used exclusively for the transportation of agricultural laborers. Upon registration, the bus is exempt from tariff-filing requirements of the state corporation commission."

Section 23

Section 23. Section 66-6-23 NMSA 1978 (being Laws 1978, Chapter 35, Section 358, as amended by Laws 1994, Chapter 68, Section 43 and by Laws 1994, Chapter 304, Section 1 and also by Laws 1993, Chapter 361, Section 2) is amended to read:

"66-6-23. DISPOSITION OF FEES.--

A. After the necessary disbursements for refunds and other purposes have been made, the money remaining, except for remittances received within the previous two months that are unidentified as to source or disposition, shall be distributed as follows:

(1) to each municipality, county or fee agent operating a motor vehicle field office, an amount equal to six dollars (\$6.00) per driver's license and three dollars (\$3.00) per identification card, registration or title transaction performed;

(2) to each municipality or county, other than a class A county with a population in excess of three hundred thousand or a municipality with a population in excess of three hundred thousand within a class A county, operating a motor vehicle field office, an amount equal to fifty cents (\$.50) for each administrative service fee remitted by that county or municipality to the department pursuant to the provisions of Section 66-2-16 NMSA 1978;

(3) to the state road fund:

(a) an amount equal to one-half of each fee received from motorcycle endorsements; and

(b) the remainder of each driver's license fee collected by the department employees from an applicant to whom a license is granted after deducting from the driver's license fee the amount of the distribution authorized in Paragraph (1) of this subsection with respect to that collected driver's license fee;

(4) to the general fund, the amount of the fees provided for in Subsection A of Section 66-5-408 NMSA 1978;

(5) to the division:

(a) an amount equal to one-half of each fee received from motorcycle endorsements;

(b) an amount equal to two dollars (\$2.00) of each motorcycle registration fee collected pursuant to Section 66-6-1 NMSA 1978; and

(c) an amount equal to the fees provided for in Subsection C of Section 66-5-44 NMSA 1978 and Subsection B of Section 66-5-408 NMSA 1978;

(6) to the state equalization guarantee distribution made annually pursuant to the general appropriation act, an amount equal to one hundred percent of the driver safety fee collected pursuant to Section 66-5-44 NMSA 1978;

(7) to the rubberized asphalt fund, forty-five percent of all tire recycling fees collected pursuant to the provisions of Sections 66-6-1, 66-6-2, 66-6-4, 66-6-5 and 66-6-8 NMSA 1978; and

(8) to the tire recycling fund, the amount remaining after distributions pursuant to Paragraph (7) of this subsection have been made to the rubberized asphalt fund, annual tire recycling fees collected pursuant to the provisions of Sections 66-6-1, 66-6-2, 66-6-4, 66-6-5 and 66-6-8 NMSA 1978.

B. The balance, exclusive of unidentified remittances, after having been reduced by the distributions required by Subsection A of this section, shall be further reduced by a distribution of forty-three percent of the balance to the state road fund, and the remainder of the balance shall be transferred or distributed by the state treasurer on or before the last day of the month next after its receipt, as follows:

(1) forty-one and three-tenths percent shall be distributed to the state road fund;

(2) seventeen and six-tenths percent shall be transferred to each county in the proportion, determined by the department in accordance with Subsection C of this section, that the registration fees for vehicles in that county are to the total registration fees for vehicles in all counties;

(3) seventeen and six-tenths percent shall be transferred to the counties, each county receiving an amount equal to the proportion, determined by the secretary of highway and transportation in accordance with Subsection E of this section, that the mileage of public roads maintained by the county is to the total mileage of public roads maintained by all counties of the state. Amounts distributed to each county in accordance with this paragraph shall be credited to the respective county road fund and be used for the improvement and maintenance of the public roads in the county and to pay for the acquisition of rights of way and material pits. For this purpose, the board of county commissioners of each of the respective counties shall certify by April 1 of each year to the secretary of highway and transportation the total mileage as of April 1

of that year; provided that in their report the boards of county commissioners shall identify each of the public roads maintained by them, by name, route and location. By agreement and in cooperation with the state highway and transportation department, the boards of county commissioners of the various counties may use or designate any of the funds provided in this paragraph for any federal aid program;

(4) nine and four-tenths percent shall be allocated among the counties in the proportion, determined by the department in accordance with Subsection C of this section, that the registration fees for vehicles in that county are to the total registration fees for vehicles in all counties. The amount allocated to each county shall be transferred to the incorporated municipalities within the county in the proportion, determined by the department of finance and administration in accordance with Subsection C of this section, that the sum of net taxable value, as that term is defined in the Property Tax Code, plus the assessed value, as that term is used in the Oil and Gas Ad Valorem Production Tax Act and in the Oil and Gas Production Equipment Ad Valorem Tax Act, determined for the incorporated municipality is to the sum of net taxable value plus assessed value determined for all incorporated municipalities within the county. Amounts transferred to incorporated municipalities under the provisions of this paragraph shall be used for the construction, maintenance and repair of streets within the municipality and for payment of paving assessments against property owned by federal, county or municipal governments. In any county in which there are no incorporated municipalities, the amount allocated under this paragraph shall be transferred to the county road fund and used in accordance with the provisions of Paragraph (3) of this subsection; and

(5) fourteen and one-tenth percent shall be allocated among the counties in the proportion, determined by the department in accordance with Subsection C of this section, that the registration fees for vehicles in that county are to the total registration fees for vehicles in all counties. The amount allocated to each county shall be transferred to the county and incorporated municipalities within the county in the proportion, determined by the department of finance and administration in accordance with Subsection C of this section, that the computed taxes due for the county and each incorporated municipality within the county bear to the total computed taxes due for the county and incorporated municipalities within the county; for the purposes of this paragraph, the term "computed taxes due" for any jurisdiction means the sum of the net taxable value, as that term is defined in the Property Tax Code, plus the assessed value, as that term is used in the Oil and Gas Ad Valorem Production Tax Act and in the Oil and Gas Production Equipment Ad Valorem Tax Act, for that jurisdiction multiplied by an average of the rates for residential and nonresidential property imposed for that jurisdiction pursuant to Subsection B of Section 7-37-7 NMSA 1978.

C. To carry out the provisions of this section, during the month of June of each year:

(1) the department shall determine and certify to the department of finance and administration the proportions which the department is required to

determine by Subsection B of this section using information for the preceding calendar year on the number of vehicles registered in each county based on the address of the owner or place where the vehicle is principally located, the registration fees for the vehicles registered in each county, the total number of vehicles registered in the state and the total registration fees for all vehicles registered in the state; and

(2) the department of finance and administration shall determine the proportions that the department of finance and administration is required to determine by Subsection B of this section based upon the net taxable value, as that term is defined in the Property Tax Code, and assessed values, as that term is used in the Oil and Gas Ad Valorem Production Tax Act and the Oil and Gas Production Equipment Ad Valorem Tax Act, for the preceding tax year and the tax rates imposed pursuant to Subsection B of Section 7-37-7 NMSA 1978 in the preceding September.

D. By June 30 of each year, the department of finance and administration shall determine the appropriate percentage of money to be transferred to each county and municipality for each purpose in accordance with Subsection A of this section based upon the proportions determined by or certified to the department of finance and administration. The percentages determined shall be used to compute the amounts to be transferred to the counties and municipalities during the succeeding fiscal year.

E. The board of county commissioners of each of the respective counties shall, by April 1 of every year, certify reports to the secretary of highway and transportation of the total mileage of public roads maintained by each county as of April 1 of every year; provided that in their reports the boards of county commissioners shall identify each of the public roads maintained by them by name, route and location. By July 1 of every year, the secretary of highway and transportation shall verify the reports of the counties and revise, if necessary, the total mileage of public roads maintained by each county and the mileage verified by the secretary of highway and transportation shall be the official mileage of public roads maintained by each county. Distribution of amounts to any county for road purposes shall be made in accordance with this section.

F. If a county has not made the required mileage certification pursuant to Section 67-3-28.3 NMSA 1978 by April 1 of every year, the secretary of highway and transportation shall estimate the mileage maintained by those counties for the purpose of making distribution to all counties, and the amount calculated to be distributed each month to those counties not certifying mileage shall be reduced by one-third each month for that fiscal year and that amount not distributed to those counties shall be distributed equally to all counties that have certified mileages.

G. The secretary shall review, at the end of each fiscal year, the aggregate total of motor vehicle transactions performed by each municipality, county or fee agent operating a motor vehicle field office, and for each office exceeding ten thousand aggregate transactions per year, that municipality, county or fee agent shall be paid an additional one dollar (\$1.00) per identification card, driver's license, registration or title transaction performed during the next fiscal year."

Section 24

Section 24. SEVERABILITY.--If any part or application of the Tire Recycling Act is held invalid, the remainder or its application to other situations or persons shall not be affected.

Section 25

Section 25. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

HOUSE APPROPRIATIONS AND FINANCE
COMMITTEE SUBSTITUTE FOR HOUSE ENERGY
AND NATURAL RESOURCES COMMITTEE
SUBSTITUTE FOR HOUSE BILL 210
EMERGENCY CLAUSE -- SIGNED March 8, 1994
DUPLICATE OF SENATE BILL 42, CHAPTER 117

CHAPTER 127

RELATING TO SPACE; ENACTING THE SPACEPORT DEVELOPMENT ACT;
CREATING AN OFFICE OF SPACE IN THE ECONOMIC DEVELOPMENT
DEPARTMENT; CREATING A SPACEPORT COMMISSION; DESCRIBING POWERS
AND DUTIES; PROVIDING FOR THE DEVELOPMENT AND ESTABLISHMENT OF A
REGIONAL SPACEPORT; AMENDING AND ENACTING SECTIONS OF THE NMSA
1978; DECLARING AN EMERGENCY.

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

Section 1

Section 1. SHORT TITLE.--Sections 1 through 6 of this act may be cited as the "Spaceport Development Act".

Section 2

Section 2. DEFINITIONS.--As used in the Spaceport Development Act:

- A. "commission" means the spaceport commission;
- B. "department" means the economic development department;
- C. "director" means the director of the office of space;
- D. "secretary" means the secretary of economic development; and

E. "spaceport" means an installation and related facilities utilized for the takeoff, landing, retrieval, servicing and monitoring of vehicles capable of entering space.

Section 3

Section 3. OFFICE OF SPACE CREATED.--

A. The "office of space" is created as a division in the department.

B. The duties of the office of space shall be discharged by a director, who shall be hired by the secretary in consultation with the commission. The director shall employ such other staff as is necessary to carry out the work of the office of space and the commission and the purposes of the Spaceport Development Act.

C. The director shall be staff to the commission.

Section 4

Section 4. COMMISSION CREATED--MEMBERSHIP.--

A. The "spaceport commission" is created. The commission is administratively attached to the department.

B. The commission is composed of up to thirteen voting members. Three members shall be ex officio and six shall be appointed by the governor. The ex officio members are the secretary of economic development, the secretary of finance and administration and the lieutenant governor. In selecting the appointed members of the commission, the governor shall appoint at least two members representative or knowledgeable of the space industry. The governors of the states of Texas, Colorado, Arizona and Chihuahua, Mexico can respectively appoint one member each when it is agreed that those states will contribute to operation of the spaceport.

C. Appointed members of the commission shall serve for terms of three years; provided, when making his initial appointments, the governor shall appoint one member to a term of one year, two members to terms of two years and three members to terms of three years.

D. The governor shall appoint a chairman of the commission from among the appointed members. Other necessary officers shall be elected by the commission from among its membership.

E. Commission members shall meet at the call of the chairman, not less than four times a year.

F. Members of the commission appointed by the governor of the state of New Mexico shall be reimbursed for per diem and mileage pursuant to the Per Diem and Mileage Act but shall not receive any other compensation, perquisite or allowance.

Section 5

Section 5. COMMISSION--POWERS--DUTIES.--The commission shall:

- A. promote space development and space-related activities in the state;
- B. provide for the development, construction, operation and maintenance of a regional spaceport;
- C. advise the secretary on the hiring of a director of the office of space;
- D. solicit and accept, on behalf of the state, federal, state, local and private funds for the purpose of developing, constructing, maintaining and operating a regional spaceport;
- E. act as an applicant for and operator of a regional spaceport and related facilities; and
- F. report annually to the governor and the legislature on the status of the regional spaceport and other space-related activities and projects undertaken by the commission.

Section 6

Section 6. ADDITIONAL POWERS OF THE COMMISSION.--The commission may also undertake additional specific activities related to the development, construction, operation and maintenance of a regional spaceport, including:

- A. imposing fees, rents, tolls and charges for the use of a regional spaceport facility or its related services;
- B. acquire real and personal property in the name of the state for the purpose of establishing a regional spaceport or space-related facility;
- C. perform or cause to be performed environmental, transportation, communication, land use or technical studies necessary or advisable to the establishment of a regional spaceport;
- D. assist the director in negotiating agreements for the overflight or recovery of space vehicles, rockets, missiles, payloads, boosters, scientific experiments or other space-related materials, debris or parts; and

E. work with the New Mexico finance authority to provide for the financing of a regional spaceport and related facilities.

Section 7

Section 7. Section 9-15-4 NMSA 1978 (being Laws 1983, Chapter 297, Section 4, as amended) is amended to read:

"9-15-4. DEPARTMENT ESTABLISHED.--There is created in the executive branch the "economic development department". The department shall be a cabinet department and shall consist of, but not be limited to, seven divisions as follows:

- A. the administrative services division;
- B. the economic development division;
- C. the New Mexico film division;
- D. the technology enterprise division;
- E. the trade division;
- F. the state housing authority; and
- G. the office of space."

Section 8

Section 8. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

HOUSE BILL 506, aa, w/cc
EMERGENCY CLAUSE -- SIGNED MARCH 8, 1994

CHAPTER 128

RELATING TO RETIREMENT OF PUBLIC EMPLOYEES; ENACTING NEW RETIREMENT PLANS FOR STATE GENERAL MEMBERS AND STATE HAZARDOUS DUTY MEMBERS; PROVIDING FOR ELECTIONS; PROVIDING MEANS TO ALLOW MAGISTRATES FORMERLY ELIGIBLE FOR PUBLIC EMPLOYEES RETIREMENT ASSOCIATION COVERAGE TO PURCHASE SERVICE CREDIT; AMENDING AND ENACTING SECTIONS OF THE PUBLIC EMPLOYEES RETIREMENT ACT; MAKING AN APPROPRIATION.

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

Section 1

Section 1. Section 10-11-7 NMSA 1978 (being Laws 1987, Chapter 253, Section 7, as amended) is amended to read:

"10-11-7. CREDITED SERVICE--PURCHASE OF SERVICE.--

A. A member who entered an armed service of the United States may purchase credited service for periods of active duty, subject to the following conditions:

(1) the member pays the association the purchase cost determined according to Subsection D of this section;

(2) the member has five or more years of credited service acquired as a result of personal service rendered in the employ of an affiliated public employer;

(3) the aggregate amount of credited service purchased under this subsection does not exceed five years reduced by any period of credited service acquired for military service under any other provision of the Public Employees Retirement Act; and

(4) credited service may not be purchased for periods of active duty that are used to obtain or increase a benefit from another retirement program.

B. A member who was employed by a utility company, library, museum, transit company or by a nonprofit organization administering federally funded public service programs, which utility company, library, museum, transit company or nonprofit organization administering federally funded public service programs or federally funded public service programs administered by a nonprofit organization are subsequently taken over by an affiliated public employer, or a member who was employed by an entity created pursuant to a joint powers agreement between two or more affiliated public employers for the purpose of administering or providing drug or alcohol addiction treatment services irrespective of whether the entity is subsequently taken over by an affiliated public employer, may purchase credited service for the period of employment subject to the following conditions:

(1) the member pays the association the purchase cost determined according to Subsection D of this section;

(2) the member has five or more years of credited service acquired as a result of personal service rendered in the employ of an affiliated public employer; and

(3) the aggregate amount of credited service purchased under this subsection does not exceed five years.

C. A member who was appointed to participate in a cooperative work study training program established jointly by the state highway and transportation department and the university of New Mexico or New Mexico state university may purchase credited service for the period of participation subject to the following conditions:

(1) the member pays the association the purchase cost determined according to Subsection D of this section;

(2) the member has five or more years of credited service acquired as a result of personal service rendered in the employ of an affiliated public employer; and

(3) the aggregate amount of credited service purchased under this subsection does not exceed five years.

D. Except for service to be used under a state legislator coverage plan, the purchase cost for each month of credited service purchased under the provisions of this section is equal to the member's final average salary multiplied by the sum of the member contribution rate and employer contribution rate, determined in accordance with the coverage plan applicable to the member at the time of the written election to purchase. The purchase cost for each year of credited service to be used under a state legislator coverage plan is equal to the sum of the member contribution and an employer contribution of ten times the annual amount of pension per year of credited service under the state legislator coverage plan applicable to the member. Full payment shall be made in a single lump sum within sixty days of the date the member is informed of the amount of the payment. The portion of the purchase cost derived from the employer contribution rate shall be credited to the employer accumulation fund and shall not be paid out of the association in the event of cessation of membership. In no case shall any member be credited with a month of service for less than the purchase cost as defined in this section.

E. A member shall be refunded, upon written request filed with the association, the portion of the purchase cost of credited service purchased under this section that the association determines to have been unnecessary to provide the member with the maximum pension applicable to the member. The association shall not pay interest on the portion of the purchase cost refunded to the member.

F. A member of the magistrate retirement system who during his service as a magistrate was eligible to become a member of the public employees retirement system and elected not to become a member of that system, may upon the effective date of this subsection purchase service credit under the public employees retirement system for the period for which the magistrate elected not to become a public employees retirement system member, by paying the amount of the increase in the actuarial present value of the magistrate pension as a consequence of the purchase as determined by the association. Full payment shall be made in a single lump-sum

amount in accordance with procedures established by the board. Except as provided in Subsection E of this section, seventy-five percent of the purchase cost shall be considered to be employer contributions and shall not be refunded to the member in the event of cessation of membership."

Section 2

Section 2. A new section of the Public Employees Retirement Act is enacted to read:

"STATE GENERAL MEMBER COVERAGE PLAN 3--APPLICABILITY.--State general member coverage plan 3 is applicable to state general members in the first full pay period after July 1, 1995, if the retirement board certifies to the secretary of state that a majority of the members voting of those members to be covered under state general member coverage plan 3 has voted to approve adoption of this plan at an election conducted pursuant to Section 17 of this act."

Section 3

Section 3. A new section of the Public Employees Retirement Act is enacted to read:

"STATE GENERAL MEMBER COVERAGE PLAN 3--AGE AND SERVICE CREDIT REQUIREMENTS FOR NORMAL RETIREMENT.--Under state general member coverage plan 3, the age and service credit requirements for normal retirement are:

- A. age sixty-five years or older and five or more years of service credit;
- B. age sixty-four years and eight or more years of service credit;
- C. age sixty-three years and eleven or more years of service credit;
- D. age sixty-two years and fourteen or more years of service credit;
- E. age sixty-one years and seventeen or more years of service credit;
- F. age sixty years and twenty or more years of service credit; and
- G. any age and twenty-five or more years of service credit."

Section 4

Section 4. A new section of the Public Employees Retirement Act is enacted to read:

"STATE GENERAL MEMBER COVERAGE PLAN 3--AMOUNT OF PENSION--FORM OF PAYMENT A.--Under state general member coverage plan 3, the amount of pension under form of payment A is equal to three percent of final average salary

multiplied by service credit. The amount shall not exceed eighty percent of the final average salary."

Section 5

Section 5. A new section of the Public Employees Retirement Act is enacted to read:

"STATE GENERAL MEMBER COVERAGE PLAN 3--FINAL AVERAGE SALARY.--Under state general member coverage plan 3, the final average salary is one thirty-sixth of the greatest aggregate amount of salary paid a member for thirty-six consecutive but not necessarily continuous months of service credit. Under state general member coverage plan 3, if a member has less than thirty-six months of service credit, the final average salary is the aggregate amount of salary paid a member for the member's period of service credit divided by the member's service credit."

Section 6

Section 6. A new section of the Public Employees Retirement Act is enacted to read:

"STATE GENERAL MEMBER COVERAGE PLAN 3--MEMBER CONTRIBUTION RATE.--A member under state general member coverage plan 3 shall contribute seven and forty-two hundredths percent of salary starting with the first full pay period that ends within the calendar month in which state general member coverage plan 3 becomes applicable to the member."

Section 7

Section 7. A new section of the Public Employees Retirement Act is enacted to read:

"STATE GENERAL MEMBER COVERAGE PLAN 3--STATE CONTRIBUTION RATE.--The state shall contribute sixteen and fifty-nine hundredths percent of the salary of each member covered by state general member coverage plan 3 starting with the first pay period that ends within the calendar month in which state general member coverage plan 3 becomes applicable to the member."

Section 8

Section 8. SERVICE CREDIT UNDER THIS PLAN REQUIRED.--Notwithstanding the provisions of Section 3 of this act, to qualify for payment under state general member coverage plan 3, a member shall have one and one-half years of service credit earned under the general member coverage plan 3 subsequent to July 1, 1995.

Section 9

Section 9. A new section of the Public Employees Retirement Act is enacted to read:

"STATE HAZARDOUS DUTY MEMBER COVERAGE PLAN 2--
APPLICABILITY.--State hazardous duty member coverage plan 2 is applicable to state hazardous duty members in the first full pay period after July 1, 1995, if the retirement board certifies to the secretary of state that a majority of the members voting of those members to be covered under state hazardous duty member coverage plan 2 has voted to approve adoption of this plan at an election conducted pursuant to Section 17 of this act."

Section 10

Section 10. A new section of the Public Employees Retirement Act is enacted to read:

"STATE HAZARDOUS DUTY MEMBER COVERAGE PLAN 2--AGE AND SERVICE CREDIT REQUIREMENTS FOR NORMAL RETIREMENT.--Under state hazardous duty member coverage plan 2, the age and service credit requirements for normal retirement are:

- A. age sixty-five years or older and five or more years of service credit;
- B. age sixty-four years and eight or more years of service credit;
- C. age sixty-three years and eleven or more years of service credit;
- D. age sixty-two years and fourteen or more years of service credit;
- E. age sixty-one years and seventeen or more years of service credit;
- F. age sixty years and twenty or more years of service credit; and
- G. any age and twenty-five or more years of service credit."

Section 11

Section 11. A new section of the Public Employees Retirement Act is enacted to read:

"STATE HAZARDOUS DUTY MEMBER COVERAGE PLAN 2--AMOUNT OF PENSION--FORM OF PAYMENT A.--Under state hazardous duty member coverage plan 2, the amount of pension under form of payment A is equal to three percent of final average salary multiplied by service credit. The amount shall not exceed one hundred percent of the final average salary."

Section 12

Section 12. A new section of the Public Employees Retirement Act is enacted to read:

"STATE HAZARDOUS DUTY MEMBER COVERAGE PLAN 2--FINAL AVERAGE SALARY.--Under state hazardous duty member coverage plan 2, the final average salary is one thirty-sixth of the greatest aggregate amount of salary paid a member for thirty-six consecutive but not necessarily continuous months of service credit. Under state hazardous duty member coverage plan 3, if a member has less than thirty-six months of service credit, the final average salary is the aggregate amount of salary paid a member for the member's period of service credit divided by the member's service credit."

Section 13

Section 13. A new section of the Public Employees Retirement Act is enacted to read:

"STATE HAZARDOUS DUTY MEMBER COVERAGE PLAN 2--MEMBER CONTRIBUTION RATE.--A member under state hazardous duty member coverage plan 2 shall contribute four and seventy-eight hundredths percent of salary starting with the first full pay period that ends within the calendar month in which state hazardous duty member coverage plan 2 becomes applicable to the member."

Section 14

Section 14. A new section of the Public Employees Retirement Act is enacted to read:

"STATE HAZARDOUS DUTY MEMBER COVERAGE PLAN 2--STATE CONTRIBUTION RATE.--The state shall contribute twenty-five and seventy-two hundredths percent of the salary of each member covered by state hazardous duty member coverage plan 2 starting with the first pay period that ends within the calendar month in which state hazardous duty member coverage plan 2 becomes applicable to the member."

Section 15

Section 15. SERVICE CREDIT UNDER THIS PLAN REQUIRED.--Notwithstanding the provisions of Section 10 of this act, to qualify for payment under state hazardous duty member coverage plan 2, a member shall have one and one-half years of service credit earned under the state hazardous duty member coverage plan 2 subsequent to July 1, 1995.

Section 16

Section 16. Section 10-11-141 NMSA 1978 (being Laws 1994, Chapter 29, Section 1) is amended to read:

"10-11-141. PURCHASE OF SERVICE CREDIT.--An affiliated public employer that assumes a firefighting function previously provided by the United States

government may, at the time of the assumption of the firefighting function, provide credited service for retirement board purposes to any employees who were previously employed by a firefighting unit of the United States government in connection with the assumed firefighting function. The credited service may be provided by the affiliated public employer subject to the following conditions:

A. the employee shall pay to the public employees' retirement board the difference between the actuarial present value of association benefits likely to be paid the employee computed with and without the United States government service;

B. the employee, within one year of the assumption of the governmental function, irrevocably forfeits all rights based upon employee contributions in and to the immediate vested or nonvested retirement benefits under the retirement program of the United States government in which the employee was participating immediately prior to the assumption of the governmental function; and

C. the payments made under Subsections A and B of this section shall be made in a lump sum or by entering into an installment contract for up to thirty-six months with the retirement board at the regular interest rates and under the standard conditions set for such installment contracts by that board. The employee may purchase service credit equivalent to the employee's service in a firefighting unit of the United States department of energy. The employee shall make a written election concerning payment not later than December 1, 1996 and any election made thereafter shall be void."

Section 17

Section 17. A new section of the Public Employees Retirement Act is enacted to read:

"TEMPORARY PROVISIONS--ELECTION.--On or before October 1, 1994, the retirement board of the public employees retirement association shall conduct elections to submit to members currently contributing under state general member coverage plan 2 and state hazardous duty member coverage plan 1 the question of adopting a state general member coverage plan 3 and state hazardous duty coverage plan 2, respectively. The elections shall be conducted simultaneously by the retirement board in accordance with procedures adopted by the board. The procedures shall afford all affected members an opportunity to vote. The retirement board shall certify the results of the elections to the secretary of state on or before November 1, 1994."

Section 18

Section 18. APPROPRIATION.--Fifty thousand dollars (\$50,000) is appropriated from the income fund under the Public Employees Retirement Act to the retirement board of the public employees retirement association for expenditure in the eighty-third fiscal year to conduct elections pursuant to the provisions of Section 17 of this act. Any unexpended or unencumbered balance remaining from the appropriation at the end of

the eighty-third fiscal year shall revert to the income fund.

HOUSE BILL 524, aa
Approved March 8, 1994

CHAPTER 129

RELATING TO GAME AND FISH; ESTABLISHING THE CONSERVATION SERVICES DIVISION IN THE DEPARTMENT OF GAME AND FISH; PROVIDING FOR SUPPORT AND EXPANSION OF WILDLIFE CONSERVATION EFFORTS.

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

Section 1

Section 1. A new section of Chapter 17, Article 1 NMSA 1978 is enacted to read:

"CONSERVATION SERVICES DIVISION--DUTIES.--

A. The "conservation services division" is created within the department of game and fish.

B. The conservation services division is responsible for:

(1) management, enhancement, research and conservation of public wildlife habitat;

(2) the lease, purchase, enhancement and management of state wildlife habitat;

(3) assisting landowners in improving wildlife habitats;

(4) development of educational programs related to conservation of wildlife and the environment, including the expanded dissemination of wildlife publications; and

(5) communication and consultation with federal and other state agencies, local governments and communities, private organizations and affected interests responsible for habitat, wilderness, recreation, water quality and environmental protection to ensure comprehensive conservation services for hunters, anglers and nonconsumptive wildlife users."

Section 2

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1994.

HOUSE BILL 557, aa
Approved March 8, 1994

CHAPTER 130

RELATING TO ENERGY CONSERVATION; PROVIDING FOR MUNICIPAL AND LOCAL GOVERNMENT ELIGIBILITY FOR LOANS FROM THE ALTERNATIVE FUEL CONVERSION LOAN FUND; AMENDING SECTIONS OF THE NMSA 1978.

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

Section 1

Section 1. Section 13-1B-2 NMSA 1978 (being Laws 1992, Chapter 58, Section 2) is amended to read:

"13-1B-2. DEFINITIONS.--As used in the Alternative Fuel Conversion Act:

A. "alternative fuel" means natural gas, liquefied petroleum gas, electricity, hydrogen or a fuel mixture containing not less than eighty-five percent ethanol or methanol;

B. "department" means the general services department;

C. "fund" means the alternative fuel conversion loan fund;

D. "political subdivision" means a county, municipality or school district;

E. "post-secondary institution" means two- and four-year public post-secondary institutions; and

F. "vehicle" means a passenger car or light duty truck."

Section 2

Section 2. Section 13-1B-3 NMSA 1978 (being Laws 1992, Chapter 58, Section 3) is amended to read:

"13-1B-3. CONVERSION OF VEHICLES--EXEMPTIONS.--

A. The agencies and departments of state government and the post-secondary institutions shall convert vehicles that are purchased or leased after the

effective date of the Alternative Fuel Conversion Act from gasoline to alternative fuel according to the following schedule:

(1) if three or more vehicles are purchased in the eighty-second fiscal year or leased in the eighty-second fiscal year by a lease initiated in that year, then thirty percent of these vehicles shall be converted;

(2) if three or more vehicles are purchased in the eighty-third fiscal year or leased in the eighty-third fiscal year by a lease initiated in that year, then sixty percent of these vehicles shall be converted; and

(3) one hundred percent of the vehicles that are purchased in the eighty-fourth fiscal year or leased in the eighty-fourth fiscal year by a lease initiated in that year, and in each of the following fiscal years, shall be converted.

B. The agencies and departments of state government and the post-secondary institutions may convert their vehicles to bi-fuel capability or to dedicated engine configurations.

C. Law enforcement and emergency vehicles are exempt from the provisions of the Alternative Fuel Conversion Act. The department may exempt additional vehicles from the requirements of Subsection A of this section upon demonstration by the purchasing entity that alternative fuels are unavailable at a cost approximately equivalent to the cost of gasoline within the normal driving range of these vehicles.

D. Equipment and installation procedures shall conform to all applicable state and federal safety and environmental regulations and standards.

E. The agencies and departments of state government, political subdivisions and the post-secondary institutions may submit loan applications to the department to acquire loans to facilitate the conversion of their vehicles."

Section 3

Section 3. Section 13-1B-5 NMSA 1978 (being Laws 1992, Chapter 58, Section 5) is amended to read:

"13-1B-5. REVOLVING LOAN FUND--LOANS MADE FROM THE FUND.--

A. Money available in the fund may be loaned by the department to reimburse the expenses incurred in converting vehicles of the agencies and departments of state government, political subdivisions and the post-secondary institutions from gasoline to alternative fuel.

B. A state agency or department, a political subdivision or a post-secondary institution to which a loan is made shall demonstrate the ability to pay back the loan within seven years of the date that its vehicles are converted.

C. The maximum amount loaned to convert a vehicle shall not exceed the actual cost of converting the vehicle or three thousand dollars (\$3,000), whichever is less."

Section 4

Section 4. Section 13-1B-6 NMSA 1978 (being Laws 1992, Chapter 58, Section 6) is amended to read:

"13-1B-6. LOAN PROGRAM--DUTIES OF THE DEPARTMENT.--

A. The department shall:

(1) administer the provisions of the Alternative Fuel Conversion Act, except that the provisions of Section 13-1B-3 NMSA 1978 shall be administered by the commission on higher education for its respective programs;

(2) establish a program to make loans to the agencies and departments of state government, political subdivisions and the post-secondary institutions, individually or jointly, to facilitate the conversion of vehicles of the agencies and departments of state government, political subdivisions and the post-secondary institutions in accordance with the Alternative Fuel Conversion Act;

(3) review, evaluate and approve or reject all loan applications submitted to obtain loans from the fund;

(4) submit an annual report to the governor and the legislature evaluating the status and the effectiveness of the Alternative Fuel Conversion Act; and

(5) have an annual audit performed on the administration of the fund.

B. The department shall adopt rules and regulations necessary to carry out the purposes of the Alternative Fuel Conversion Act, including rules and regulations governing:

(1) the procedures and format for submitting loan applications to the department to obtain a loan from the fund;

(2) the criteria to review, evaluate and approve loan applications;

and (3) the procedure to determine the distribution of money in the fund;

(4) the procedure to determine and notify an applicant of the progress on a loan application."

HOUSE BILL 940, aa
Approved March 8, 1994

CHAPTER 131

AMENDING THE AIR QUALITY CONTROL ACT TO AUTHORIZE THE MOTOR VEHICLE INSPECTION FEE TO BE SET BY ORDINANCE; REQUIRING A DECENTRALIZED AUTO EMISSIONS PROGRAM.

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

Section 1

Section 1. Section 74-2-4 NMSA 1978 (being Laws 1967, Chapter 277, Section 4, as amended) is amended to read:

"74-2-4. LOCAL AUTHORITY.--

A. A county or municipality meeting the qualifications set forth in Paragraph (1) or (2) of Subsection J of Section 74-2-2 NMSA 1978 may assume jurisdiction as a local authority by adopting an ordinance providing for the local administration and enforcement of the Air Quality Control Act. The ordinance shall:

(1) create a local board to perform, within the boundaries of the local authority, those functions delegated to the environmental improvement board under the Air Quality Control Act, except any functions reserved exclusively for the environmental improvement board;

(2) create a local agency to administer and enforce the provisions of the Air Quality Control Act within the boundaries of the local authority that shall, within the boundaries of the local authority, perform all of the duties required of the department and exert all of the powers granted to the department, except for those duties and powers reserved exclusively for the department; and

(3) provide for the appointment of a director who shall perform for the local authority the same duties as required of the secretary under the Air Quality Control Act, except the duties and powers reserved exclusively for the secretary.

B. At least a majority of the members of a local board shall be individuals who represent the public interest and do not derive any significant portion of their

income from persons subject to or who appear before the local board on issues related to the federal act or the Air Quality Control Act.

C. Prior to adopting any ordinance regulating air pollution, public hearings and consultations shall be held as directed by the local authority adopting the ordinance. The provisions of any ordinance shall be consistent with the substantive provisions of the Air Quality Control Act and shall provide for standards and regulations not lower than those required by regulations adopted by the environmental improvement board.

D. Notwithstanding the provisions of Subsection A of this section, the environmental improvement board and the secretary shall retain jurisdiction and control for the administration and enforcement of the Air Quality Control Act as determined in that act with respect to any act or failure to act, governmental or proprietary, of any local authority that causes or contributes to air pollution, including proceeding against a local authority as provided in Section 74-2-12 NMSA 1978. "Failure to act", as used in this section, includes failure to act against any person violating the applicable ordinance or regulation adopted pursuant thereto.

E. Any local authority that is located within a transportation-related pollutant nonattainment area may provide for a vehicle emission inspection and maintenance program for vehicles under twenty-six thousand pounds gross vehicle weight powered by a spark-ignited internal combustion engine, which program shall be no more stringent than that required under the federal act or under federal air quality standards. Any two or more local authorities may adopt identical rules and regulations necessary to implement the vehicle emission inspection and maintenance program, including examining the alternatives of public or private operation of the program.

F. Any local authority that has implemented a vehicle emission inspection and maintenance program may extend the enforcement of that program by entering into joint powers agreements with any contiguous municipality or county within the designated airshed or with the department.

G. No tax shall be imposed to fund any vehicle emission inspection and maintenance program until the local authority has submitted the question of imposition of a tax to the registered voters of the local authority and those registered voters have approved the imposition of the tax.

H. A local authority having a vehicle emission inspection and maintenance program shall conduct the vehicle emission inspection and maintenance program through a decentralized privately owned and operated system unless air quality emissions result in automatic implementation of another type of program under the terms of a contingency plan required and approved by the United States environmental protection agency. The local authority shall set the emission inspection fee by ordinance.

I. A local authority having a vehicle emission inspection and maintenance program is authorized to adopt rules, regulations and guidelines governing the establishment of private vehicle emission inspection and maintenance stations. No private vehicle emission inspection and maintenance station shall test vehicles unless the station possesses a valid permit issued by the local agency. Permit fees shall be determined by ordinance of the local authority and shall not exceed two hundred dollars (\$200) per year per station. Additionally, a local authority may charge a permit fee of up to thirty-five dollars (\$35.00) per year for each vehicle emissions mechanic and for each vehicle emissions inspector. The imposition of permit fees does not require a vote of the registered voters of the local authority."

HOUSE BILL 1036, aa
Approved March 8, 1994

CHAPTER 132

ENACTING THE REGIONAL HOUSING LAW; AMENDING AND REPEALING CERTAIN SECTIONS OF THE NMSA 1978.

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

Section 1

Section 1. SHORT TITLE.--This act may be cited as the "Regional Housing Law."

Section 2

Section 2. FINDING AND DECLARATION OF NECESSITY.--It is hereby declared that:

A. unsanitary or unsafe dwelling accommodations exist in the state;

B. persons of low income are forced to reside in such unsanitary or unsafe accommodations;

C. within the state, there is a shortage of safe or sanitary dwelling accommodations available at rents which persons of low income can afford and that such persons are forced to occupy overcrowded, congested dwelling accommodations; that the aforesaid conditions cause an increase in and spread of disease and crime and constitute a menace to the health, safety, morals and welfare of the residents of the state and impair economic values;

D. these conditions necessitate excessive and disproportionate expenditures of public funds for crime prevention and punishment, public health and safety, fire and accident protection, and other public services and facilities;

E. these areas in the state cannot be cleared, nor can the shortage of safe and sanitary dwellings for persons of low income be relieved through the operation of private enterprise, and that the construction of housing projects for persons of low income, as herein defined, would therefore not be competitive with private enterprise;

F. the clearance, replanning and reconstruction of the areas in which unsanitary or unsafe housing conditions exist and the providing of safe and sanitary dwelling accommodations for persons of low income are public uses and purposes for which public money may be spent and private property acquired and are governmental functions of state and municipal concern; and

G. it is in the public interest that work on projects for such purposes be commenced as soon as possible in order to relieve unemployment which now constitutes an emergency; and the necessity in the public interest for the provisions hereinafter enacted, it is hereby declared as a matter of legislative determination.

Section 3

Section 3. DEFINITIONS.--The following terms, wherever used or referred to in the Regional Housing Law, shall have the following respective meanings:

A. "authority" or "housing authority" means any regional housing authority or a nonprofit corporation created by an authority;

B. "local public body" means any county, municipality, commission, district, authority, other subdivision or local public body of the state;

C. "federal government" includes the United States of America, the public housing administration or any other agency or instrumentality, corporate or otherwise, of the United States of America;

D. "slum" means any area where dwellings predominate which by reason of dilapidation, overcrowding, lack of ventilation, light or sanitary facilities or any combination of these factors are detrimental to safety, health or morals;

E. "housing project" means an undertaking of the authority:

(1) to demolish, clear or remove buildings from any slum area. Such work or undertaking may embrace the adaptation of such area to public purposes, including parks or other recreational or community purposes;

(2) to provide decent, safe and sanitary dwellings, apartments, single-family dwellings or other living accommodations for persons of low income. Such work or undertaking may include buildings, land, equipment, facilities and other real or personal property for necessary convenient or desirable appurtenances, streets,

sewers, water service, parks, site preparation, gardening, administrative, community, health, recreational, welfare or other purposes; or

(3) to accomplish a combination of the foregoing. The term "housing project" also may be applied to the planning of the buildings and improvements, the acquisition of property or existing structures, the demolition of existing structures, the construction, reconstruction, alteration and repair of the improvements and all other work in connection therewith;

F. "persons of low income" means persons or families who lack the amount of income which is necessary, as determined by the authority undertaking the housing project, to enable them, without financial assistance, to live in decent, safe and sanitary dwellings without overcrowding;

G. "bonds" means any bonds, notes, interim certificates, debentures or other obligations issued by an authority pursuant to the Regional Housing Law;

H. "real property" includes all lands, including improvements and fixtures thereon and property of any nature appurtenant thereto or used in connection therewith, and every estate, interest and right, legal or equitable, therein, including terms for years and liens by way of judgment, mortgage or otherwise and the indebtedness secured by such liens; and

I. "obligee" includes any holder of bonds issued pursuant to the Regional Housing Law, trustees for any such bondholders, or lessor demising to an authority property used in connection with a housing project, or any assignee or assignees of such lessor's interest or any part thereof and the federal government when it is a party to any contract with an authority in regard to a housing project.

Section 4

Section 4. REGIONAL HOUSING AUTHORITIES CREATED.--Seven regional housing authorities are created for the state of New Mexico. The respective areas of the seven regional housing authorities are coextensive with the boundaries of the seven housing regions created as follows:

A. Region No. 1 shall consist of the counties of Cibola, San Juan and McKinley;

B. Region No. 2 shall consist of the counties of Rio Arriba, Los Alamos, Taos, Colfax, Mora, Santa Fe and San Miguel;

C. Region No. 3 shall consist of the counties of Sandoval, Bernalillo, Valencia and Torrance;

D. Region No. 4 shall consist of the counties of DeBaca, Curry, Roosevelt, Union, Harding, Quay and Guadalupe;

E. Region No. 5 shall consist of the counties of Catron, Grant, Hidalgo and Luna;

F. Region No. 6 shall consist of the counties of Lincoln, Chaves, Otero, Eddy and Lea; and

G. Region No. 7 shall consist of the counties of Socorro, Sierra and Dona Ana.

Section 5

Section 5. JURISDICTION.--The regional housing authorities created by the Regional Housing Law shall operate within the area of their housing region, except for that portion of the area which lies within the territorial boundary of any municipality or county which has established a housing authority. If, however, the governing bodies of municipalities or counties which have established housing authorities by resolution, consent to have the regional housing authority take action within the territory which would be excluded under this section, the regional housing authority may, if it wishes, enlarge its area of authority to include such territory. Any subsequent withdrawal of such consent by an authority or county shall not prohibit the development and operation of any housing projects initiated in such city or county by the regional housing authority prior to the date of withdrawal of consent by resolution when there is a financial assistance contract in existence for such project with the federal government at the date of such withdrawal except upon such terms as may be mutually agreed upon between the regional housing authority, the governing bodies of such cities or counties and the federal government.

Section 6

Section 6. POWERS OF AUTHORITY IN BOARD OF COMMISSIONERS--
APPOINTMENT OF BOARD OF AUTHORITIES--TERMS.--

A. The powers of each regional housing authority shall be vested in its board of commissioners as the board may be constituted, from time to time. The board of commissioners of the housing authority for each of the seven regions shall consist of seven commissioners who shall be persons resident of the region for which the authority is created, appointed by the governor. Appointments shall be for terms of four years or less, and shall be made in such manner that the terms of not more than two commissioners on each board expire on July 1 of each year. Vacancies shall be filled for the unexpired term. Commissioners shall serve until their successors have been appointed and qualified.

B. The members of the boards of commissioners may receive per diem and mileage as provided in the Per Diem and Mileage Act, but shall receive no other

compensation, perquisite or allowance. Each board of commissioners shall select a chairman and vice chairman from among its members. The board may employ necessary agents and employees, and set the salaries of these agents and employees. The board may delegate to its agents or employees such duties as the board deems proper. A regional planning agency may be employed as technical staff for a regional housing authority. Four commissioners shall constitute a quorum of the authority for the purpose of conducting its business and exercising its powers and for all other purposes. Action may be taken by the authority upon a vote of a majority of the commissioners present. The commission shall organize itself at its annual meeting each even-numbered year. The commission may authorize the authority to employ a secretary who shall be executive director and who shall be removable only for cause, technical experts and such other officers, attorneys, agents and employees, permanent and temporary, as the authority may require; to determine their qualifications, duties and compensation; and to delegate to one or more of them such powers or duties as the authority may deem proper.

C. Each regional housing authority shall submit to the state auditor, the finance and administration department and the legislative finance committee, within thirty days of the receipt thereof by the authority, a copy of any external examination or audit of the books of the authority and any nonprofit corporation created by the authority, or if there is no external examination or audit in a given year, a copy of a statement outlining the authority's financial status.

Section 7

Section 7. POWERS.--Every authority may:

A. within its region, prepare, carry out, acquire, purchase, lease, construct, reconstruct, improve, alter, extend or repair any housing project or projects or any part thereof, and operate and maintain such project or projects; and for any of such purposes the board of commissioners of the authority may appropriate money and authorize the use of any property of such authority;

B. purchase its bonds at a price not more than the principal amount thereof and accrued interest, all bonds so purchased to be canceled;

C. lease or rent any dwellings, houses, accommodations, lands, buildings, structures or facilities embraced in any housing project and, establish and revise the rents or charges therefor; own, hold and improve real or personal property; purchase, lease, obtain options upon, acquire by gift, grant, bequest, devise or otherwise any real or personal property or any interest therein; acquire by the exercise of the power of eminent domain any real property; sell, lease, mortgage, exchange, transfer, assign, pledge or dispose of any real or personal property or any interest therein; procure or agree to the procurement of insurance or guarantees from the federal government of the payment of any bonds or parts thereof, including the power to pay premiums on any such insurance;

D. enter on any lands, buildings or property for the purpose of making surveys, soundings and examinations in connection with the planning or construction, or both, of any housing project;

E. insure or provide for the insurance of any housing project of the authority against such risks as the authority may deem advisable;

F. arrange or contract for the furnishing by any person or agency, public or private, of services, privileges, works or facilities for, or in connection with, a housing project or the occupants hereof; and include in any construction contract let in connection with a housing project, stipulations requiring that the contractor and any subcontractors comply with employment requirements, including those in the constitution and laws of this state, as to minimum wages and maximum hours of labor, and comply with any conditions which the federal government may have attached to its financial aid of the project;

G. within its area of operation, investigate the living, dwelling and housing conditions and the means and methods of improving such conditions; determine where slum areas exist or where there is a shortage of decent, safe and sanitary dwelling accommodations for persons of low income; make studies and recommendations relating to the problem of clearing, replanning and reconstructing slum areas, and the problem of providing dwelling accommodations for persons of low income, and cooperate with the state or any political subdivision thereof in action taken in connection with such problems; and engage in research, studies and experimentation on the subject of housing;

H. exercise all or any part or combination of powers herein granted; and

I. any two or more cities or authorities may join or cooperate with one another in the exercise, either jointly or otherwise, of any or all of their powers for the purpose of financing, including the issuance of bonds, notes or other obligations and giving security therefor, or contracting with respect to a housing project or projects located within the area of operation of any one or more of said cities or authorities. For such purpose a city or authority may by resolution prescribe and authorize any other authority, or authority so joining or cooperating with it, to act on its behalf with respect to any or all powers, as its agent or otherwise, in the name of the authority, or authority so joining or cooperating, or in its own name.

Section 8

Section 8. REQUIREMENTS RESPECTING LEASE.--Prior to the leasing of any housing project, the authority must determine and find the following:

A. the amount necessary in each year to pay the principal of and the interest on the bonds proposed to be issued to finance such housing project; and

B. the amount necessary to be paid each year into any reserve funds which the authority may deem it advisable to establish in connection with the retirement of the proposed bonds and the maintenance of the housing project; and unless the terms under which the housing project is to be leased provide that the lessee shall maintain the housing project and carry all proper insurance with respect to it, the estimated cost of maintaining the housing project in good repair and keeping it properly insured. The determinations and findings of the authority required to be made in this subsection shall be set forth in the proceedings under which the proposed bonds are to be issued, and, prior to the issuance of such bonds, the authority shall lease or sell the housing project to a lessee or purchaser under an agreement conditioned upon completion of the housing project and providing for payment to the authority of such rentals or payments as, upon the basis of such determinations and findings, will be sufficient:

(1) to pay the principal of and interest on the bonds issued to finance the housing project;

(2) to build up and maintain any reserve deemed by the authority to be advisable in connection with the housing project; and

(3) to pay the costs of maintaining the housing project in good repair and keeping it properly insured, unless the agreement of lease obligates the lessee to pay for the maintenance and insurance of the housing project.

Section 9

Section 9. NONPROFIT CORPORATIONS.--Every authority, in addition to other powers conferred by the Regional Housing Law shall have power and is hereby authorized, by proper resolution of its board to create nonprofit corporations to carry out the powers and duties set forth in Section 7 of the Regional Housing Law. Such nonprofit corporations shall be subject to all of the duties and limitations imposed on the authority and its board of commissioners.

Section 10

Section 10. INTERESTED OFFICERS OR EMPLOYEES.--No officer or employee of an authority or of a nonprofit corporation created by an authority, shall acquire any direct or indirect interest in any housing project or in any property included or planned to be included in any housing project of the authority, nor shall he have any interest direct or indirect in any contract or proposed contract for materials or services to be furnished or used in connection with any such housing project. If any officer or employee of an authority or of a nonprofit corporation created by an authority, owns or controls a direct or indirect interest in any property included or planned to be included in any housing project of an authority, he immediately shall disclose the same in writing to the governing body of such authority, and such disclosure shall be entered upon the minutes of the board of commissioners. The failure so to disclose such interest shall

constitute misconduct in office. Upon such disclosure such officer or employee shall not participate in any action by the authority affecting such property.

Section 11

Section 11. EMINENT DOMAIN.--In addition to the other purposes for which an authority may appropriate property, an authority shall have the right to acquire by the exercise of the power of eminent domain any real property which it may deem necessary for its purposes under the Regional Housing Law after the adoption by it of a resolution declaring that the acquisition of the real property described therein is necessary for such purposes. An authority may exercise the power of eminent domain hereunder in the manner provided by the laws of the state of New Mexico, and acts amendatory thereof or supplementary thereto; or it may exercise the power of eminent domain hereunder in the manner provided by any other applicable statutory provisions for the exercise of the power of eminent domain. Title to property so acquired shall be taken in the name of the authority.

Section 12

Section 12. OPERATION NOT FOR PROFIT.--It is declared to be the policy of this state that each authority shall manage and operate its housing projects in an efficient manner so as to enable it to fix the rentals for dwelling accommodations at the lowest possible rates consistent with its providing decent, safe and sanitary dwelling accommodations and that no authority shall construct or operate any housing project for profit. To this end, an authority shall fix the rentals for dwellings in the housing projects it manages and operates at no higher rates than it finds to be necessary in order to produce revenues which, together with any grants or subsidies from the federal government or other sources for housing projects, will be sufficient:

A. to pay, as they become due, the principal and interest on the bonds or other obligations of the authority issued under the Regional Housing Law;

B. to meet the cost of and to provide for maintaining and operating the housing projects, including the cost of any insurance, the administrative expenses of the authority incurred in connection with the housing projects and the funding of any operational reserves as the authority shall deem appropriate;

C. to fund such reserves to secure the payment of its bonds as the authority shall deem appropriate or convenient; and

D. to allow private, profit-making entities to enter into agreements with the authority, and such agreements shall not be deemed to affect the nonprofit status of the authority or conflict with the intent of the creation of the authority.

Section 13

Section 13. SALES, RENTALS AND TENANT SELECTION.--

A. In the operation or management of housing projects or the sale of any property pursuant to the Regional Housing Law, an authority shall at all times observe the following duties with respect to rentals, property and tenant selection:

(1) it may rent, lease or sell the dwelling accommodations in the housing project only to persons falling within the standards adopted by the authority;

(2) it may rent, lease or sell to a tenant dwelling accommodations consisting of the number of rooms, but no greater number, which it deems necessary to provide safe and sanitary accommodations to the proposed occupants without overcrowding; and

(3) it shall not accept any person as a tenant in any housing program if he has an annual net income in excess of federally established standards.

B. Nothing contained in this section or Section 12 of the Regional Housing Law shall be construed as limiting the power of an authority to vest in an obligee the right, in the event of a default by the authority, to take possession and operate a housing project or cause the appointment of a receiver thereof, free from all the restrictions imposed by this section or Section 12 of the Regional Housing Law.

Section 14

Section 14. BONDS.--

A. An authority shall have power to issue bonds from time to time in its discretion to finance in whole or in part the cost of the preparation, acquisition, purchase, lease, construction, reconstruction, improvement, alteration, extension or repair of any project or undertaking hereunder. An authority shall also have power to issue refunding bonds for the purpose of paying or retiring bonds previously issued by it hereunder. In order to carry out the purposes of the Regional Housing Law, an authority may issue, upon proper resolution, bonds on which the principal and interest are payable:

(1) exclusively from the income and revenues of the housing project or projects financed with the proceeds of such bonds; or

(2) exclusively from such income and revenues together with grants and contributions from the federal government or other sources in aid of such project or projects.

B. Neither the board of commissioners of an authority nor any person executing the bonds shall be liable personally on any bonds by reason of the issuance thereof hereunder. The bonds issued under the provisions of the Regional Housing Law

shall be payable solely from the sources provided in this section. Such bonds shall not be a general obligation of the authority issuing them, the state or any local public body of this state, and they shall so state on their face. The bonds shall not constitute a debt or indebtedness within the meaning of any constitutional, statutory or charter debt limitation or restriction.

Section 15

Section 15. FORM AND SALE OF BONDS--INTEREST ON CERTAIN OBLIGATIONS.-

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A. Bonds of an authority issued under the Regional Housing Law shall be authorized by its resolution and may be issued in any one or more series and shall bear such date or dates, mature at such time or times, bear interest at such rate or rates, be in such denomination or denominations, be in such form, either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment at such place or places and be subject to such terms of redemption, with or without premium, as the resolution, its trust indenture or the bond so issued may provide.

B. Obligations issued by an authority which are true loan obligations made to the farmers home administration of the United States department of agriculture or the department of housing and urban development may bear interest at a rate of interest not exceeding par.

C. The bonds shall be sold at not less than par at public sale held after notice published once at least five days prior to the sale in a newspaper having a general circulation in the authority and in a financial newspaper published in the city of San Francisco, California or in the city of New York, New York; provided that the bonds may be sold to the federal government at private sale at not less than par, and, in the event less than all of the bonds authorized in connection with any housing project or projects are sold to the federal government, the balance of such bonds may be sold at private sale at not less than par at an interest cost to the authority of not to exceed the interest cost to the authority of the portion of the bonds sold to the federal government.

D. In case any of the officers of the authority, the authority or any of its instrumentalities whose signatures appear on any bonds or coupons cease to be officers before the delivery of the bonds, such signatures shall, nevertheless, be valid and sufficient for all purposes the same as if the officers had remained in office until delivery. Any provision of any law to the contrary notwithstanding, any bonds issued pursuant to the Regional Housing Law shall be fully negotiable.

E. In any suit, action or proceedings involving the validity or enforceability of any bond of an authority or the security therefor, any such bond reciting in substance that it has been issued by the authority to aid in financing a housing project to provide dwelling accommodations for persons of low income shall be conclusively deemed to

have been issued for a housing project of such character, and the housing project shall be conclusively deemed to have been planned, located and constructed in accordance with the purposes and provisions of the Regional Housing Law.

Section 16

Section 16. PROVISIONS OF BONDS AND TRUST INDENTURES.--

In connection with the issuance of bonds pursuant to the Regional Housing Law or the incurring of obligations under leases made pursuant to the Regional Housing Law and in order to secure the payment of such bonds or obligations, an authority in addition to its other powers, shall have power:

A. to pledge all or any part of the gross or net rents, fees or revenues of a housing project, and to mortgage and otherwise encumber a housing project financed with the proceeds of such bonds, to which its rights then exist or may thereafter come into existence;

B. to covenant against pledging all or any part of the rents, fees and revenues, or against permitting or suffering any lien on such revenues or property; to covenant with respect to limitations on its right to sell, lease or otherwise dispose of any housing project or any part thereof; and to covenant as to what other, or additional debts or obligations may be incurred by it;

C. to covenant as to the bonds to be issued and as to the issuance of such bonds in escrow or otherwise, and as to the use and disposition of the proceeds thereof; to provide for the replacement of lost, destroyed or mutilated bonds; to covenant against extending the time for the payment of its bonds or interest thereon; and to redeem the bonds, and to covenant for their redemption and to provide the terms and conditions thereof;

D. to covenant, subject to the limitations contained in the Regional Housing Law, as to the rents and fees to be charged in the operation of a housing project or projects, the amount to be raised each year or other period of time by rents, fees and other revenues, and as to the use and disposition to be made thereof; to create or to authorize the creation of special funds for moneys held for construction or operating costs, debt service, reserves or other purposes, and to covenant as to the use and disposition of the moneys held in such funds;

E. to prescribe the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto and the manner in which such consent may be given;

F. to covenant as to the use of any or all of its real or personal property acquired pursuant to the Regional Housing Law; and to covenant as to the maintenance of such real and personal property, the replacement thereof, the insurance to be carried thereon and the use and disposition of insurance moneys;

G. to covenant as to the rights, liabilities, powers and duties arising upon the breach by it of any covenant, condition or obligation; and to covenant and prescribe as to events of default and terms and conditions upon which such declaration and its consequences may be waived;

H. to vest in a trustee or trustees or the holders of bonds issued pursuant to the Regional Housing Law, or any specified proportion of them, the right to enforce the payment of such bonds or any covenants securing or relating to such bonds; to vest in a trustee or trustees the right, in the event of a default by said authority, to take possession of any housing project or part thereof, and, so long as the authority shall continue in default, to retain such possession and use, operate and manage said project, and to collect the rents and revenues arising therefrom and to dispose of such moneys in accordance with the agreement of the authority with said trustee; to provide for the powers and duties of a trustee or trustees and to limit the liabilities thereof; and to provide the terms and conditions upon which the trustee or the holders of bonds, or any proportion of them, may enforce any covenant or rights securing or relating to such bonds; and

I. to exercise all or any part or combination of the powers herein granted; to make covenants other than and in addition to the covenants herein expressly authorized, or like or different character; to make such covenants as will tend to make the bonds more marketable notwithstanding that such covenants, acts or things may not be enumerated herein.

Section 17

Section 17. CONSTRUCTION OF BOND PROVISIONS.--The Regional Housing Law without reference to other statutes of the state shall constitute full authority for the authorization and issuance of bonds hereunder. No other act or law with regard to the authorization or issuance of bonds that provides for an election, requires an approval or in any way impedes or restricts the carrying out of the acts herein authorized to be done shall be construed as applying to any proceedings taken hereunder or acts done pursuant hereto.

Section 18

Section 18. CERTIFICATION OF ATTORNEY GENERAL.--An authority may submit to the attorney general of the state any bonds to be issued hereunder after all proceedings for the issuance of such bonds have been taken. Upon the submission of such proceedings to the attorney general, it shall be the duty of the attorney general to examine into and pass upon the validity of such bonds and the regularity of all proceedings in connection therewith. If such bonds and proceedings conform to the provisions of the Regional Housing Law and are otherwise regular in form and if such bonds when delivered and paid for will constitute binding and legal obligations enforceable according to the terms thereof, the attorney general shall certify in

substance upon the back of each of said bonds that it is issued in accordance with the constitution and laws of New Mexico.

Section 19

Section 19. REMEDIES OF AN OBLIGEE.--An obligee of an authority shall have the right in addition to all other rights which may be conferred on such obligee, subject only to any contractual restrictions binding upon such obligee:

A. by mandamus, suit, action or proceeding at law or in equity, to compel said authority and the officers, agents or employees thereof to perform each and every term, provision and covenant contained in any contract of said authority with or for the benefit of such obligee and to require the carrying out of any or all such covenants and agreements of said authority and the fulfillment of all duties imposed upon said authority by the Regional Housing Law; and

B. by suit, action or proceeding in equity, to enjoin any acts or things which may be unlawful, or in violation of any of the rights of such obligee of said authority.

Section 20

Section 20. ADDITIONAL REMEDIES CONFERRABLE TO AN OBLIGEE.--An authority shall have the power by its resolution, trust indenture, lease or other contract to confer upon any obligee holding or representing a specified amount in bonds, or holding a lease, the right, in addition to all rights that may otherwise be conferred, upon the happening of an event of default as defined in such resolution or instrument, by suit, action or proceeding in any court of competent jurisdiction:

A. to cause possession of any housing project or any part hereof to be surrendered to any such obligee, which possession may be retained by such bondholder or trustee so long as the authority shall continue in default;

B. to obtain the appointment of a receiver of any housing project of said authority or any part thereof and of the rents and profits therefrom. If such receiver be appointed, he may enter and take possession of such housing project or any part thereof and, so long as the authority shall continue in default, operate and maintain the same, and collect and receive all fees, rents, revenues or other charges thereafter arising therefrom, and shall keep such moneys in a separate account or accounts and apply the same in accordance with the obligations of said authority as the court shall direct; and

C. to require said authority and the officers and agents thereof to account for the money actually received as if it and they were the trustees of an express trust.

Section 21

Section 21. EXEMPTION OF PROPERTY FROM EXECUTION SALE.--All real property owned or held by an authority for the purposes of the Regional Housing Law shall be exempt from levy and sale by virtue of an execution, and no execution or other judicial process shall be issued against the same nor shall any judgment against an authority be a charge or lien on such real property; provided, however, that the provisions of this section shall not apply to or limit the right of obligees to pursue any remedies for the enforcement of any pledge or lien given to them on rents, fees or revenues.

Section 22

Section 22. EXEMPTION OF PROPERTY FROM TAXATION.--The real property of a housing project, as defined in the Regional Housing Law, is declared to be public property used for essential public and governmental purposes and is property of an authority of this state and is exempt from taxation until a deed conveying that property to a nonexempt entity is executed and delivered by the authority.

Section 23

Section 23. AID FROM FEDERAL GOVERNMENT.--In addition to the powers conferred upon an authority by other provisions of the Regional Housing Law, an authority is empowered to borrow money or accept contributions, grants or other financial assistance from the federal government for or in aid of any housing project within its area of operation; and, to these ends, to comply with such conditions, trust indentures, leases or agreements as may be necessary, convenient or desirable. It is the purpose and intent of the Regional Housing Law to authorize every authority to do any and all things necessary, convenient or desirable to secure the financial aid or cooperation of the federal government in the undertaking, acquisition, construction, maintenance or operation of any housing project of such authority.

Section 24

Section 24. COOPERATION IN UNDERTAKING HOUSING PROJECTS.--For the purpose of aiding and cooperating in the planning, undertaking, construction or operation of housing projects located within the area in which it is authorized to act, any local public body may upon such terms, with or without consideration, as it may determine:

A. dedicate, sell, convey or lease any of its interest in any property, or grant easements, licenses or any other rights or privileges therein to any authority;

B. cause parks, playgrounds, recreational, community, educational, water, sewer or drainage facilities, or any other works which it is otherwise empowered to undertake, to be furnished adjacent to or in connection with housing projects;

C. furnish, dedicate, close, pave, install, grade, regrade, plan or replan streets, roads, roadways, alleys, sidewalks or other places which it is otherwise empowered to undertake;

D. cause services to be furnished for housing projects of the character which such local public body is otherwise empowered to furnish;

E. enter into agreements with respect to the exercise by such local public body of its powers relating to the repair, elimination or closing of unsafe, unsanitary or unfit dwellings;

F. do any and all things necessary or convenient to aid and cooperate in the planning, undertaking, construction or operation of such housing projects;

G. incur the entire expense of any public improvements made by such local public body in exercising the powers granted in the Regional Housing Law; and

H. enter into agreements, which may extend over any period, notwithstanding any provision or rule of law to the contrary, with any authority or authority as agent therefor, respecting action to be taken by such local public body pursuant to any of the powers granted by the Regional Housing Law. Any law or statute to the contrary notwithstanding, any sale, conveyance, lease or agreement provided for in this section may be made by a local public body without appraisal, public notice, advertisement or public bidding.

Section 25

Section 25. PROCEDURE FOR EXERCISING POWERS.--The exercise by the authority or other local public body of the powers herein granted may be authorized by resolution of the governing body of such state public body adopted by a majority of the members of its governing body present at a meeting of said governing body, which resolution may be adopted at the meeting at which such resolution is introduced. Such a resolution or resolutions shall take effect immediately and need not be laid over or published or posted.

Section 26

Section 26. SUPPLEMENTAL NATURE OF THE REGIONAL HOUSING LAW.--The powers conferred by the Regional Housing Law shall be in addition and supplemental to the powers conferred by any other law.

Section 27

Section 27. HOUSING BONDS--LEGAL INVESTMENTS--SECURITY--NEGOTIABLE.--The state and all public officers, municipal corporations, political subdivisions and public bodies, all banks, bankers, trust companies, savings banks and institutions, building and

loan associations, savings and loan associations, investment companies and other persons carrying on a banking business, all insurance companies, insurance associations and other persons carrying on an insurance business, and all executors, administrators, guardians, trustees and other fiduciaries may legally invest any sinking funds, moneys or other funds belonging to them or within their control in any bonds or other obligations issued pursuant to the Regional Housing Law or issued by any public housing authority or agency in the United States, when such bonds or other obligations are secured by a pledge of annual contributions to be paid by the United States government or any agency thereof, and such bonds and other obligations shall be authorized security for all public deposits and shall be fully negotiable in this state; it being the purpose of the Regional Housing Law to authorize any persons, firms, corporations, associations, political subdivisions, bodies and officers, public or private, to use any funds owned or controlled by them, including, but not limited to, sinking, insurance, investment, retirement, compensation, pension and trust funds and funds held on deposit, for the purchase of any such bonds or other obligations and that any such bonds or other obligations shall be authorized security for all public deposits and shall be fully negotiable in this state; provided, however, that nothing contained in the Regional Housing Law shall be construed as relieving any person, firm or corporation from any duty of exercising reasonable care in selecting securities.

Section 28

Section 28. LAW CONTROLLING.--Insofar as the provisions of the Regional Housing Law are inconsistent with the provisions of any other law, the provisions of the Regional Housing Law shall be controlling.

Section 29

Section 29. TEMPORARY PROVISION--CONTINUATION OF REGIONAL HOUSING AUTHORITIES AND BOARDS OF COMMISSIONERS.--

Regional Housing Authorities and boards of commissioners created and organized under the provisions of Sections 11-3-1 through 11-3-6 NMSA 1978 are perpetuated and shall continue to exist as Regional Housing Authorities under the Regional Housing Law. Members of the boards of commissioners of Regional Housing Authorities appointed prior to the effective date of the Regional Housing Law shall continue to serve as members of boards of commissioners, until their terms expire and their successors are appointed and qualified pursuant to the provisions of the Regional Housing Law. All existing contracts and agreements of Regional Housing Authorities in effect on the effective date of the Regional Housing Law shall continue in effect under the provisions of the Regional Housing Law.

Section 30

Section 30. DELAYED REPEAL.--Effective July 1, 1995, the Regional Housing Law is repealed.

Section 31

Section 31. REPEAL.--Sections 11-3-1 to 11-3-6 NMSA 1978 (being Laws 1967, Chapter 196, Sections 1 through 6, as amended) are repealed.

HOUSE BILL 1038, aa, w/cc
Approved March 8, 1994

CHAPTER 133

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE; CREATING A JOINT INTERIM LEGISLATIVE CAPITAL OUTLAY COMMITTEE; DECLARING AN EMERGENCY.

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

Section 1

Section 1. CAPITAL OUTLAY COMMITTEE CREATED--TERMINATION.--There is created a joint interim legislative committee which shall be known as the "capital outlay committee". The committee shall function from the date of its appointment until the first day of December prior to the first session of the forty-second legislature.

Section 2

Section 2. MEMBERSHIP--APPOINTMENT--VACANCIES.--

A. The committee shall be composed of ten members. Five members of the house of representatives shall be appointed by the speaker of the house of representatives, and five members of the senate shall be appointed by the committees' committee of the senate, or, if the senate appointments are made in the interim, by the president pro tempore of the senate after consultation with and agreement of a majority of the members of the committees' committee.

B. Members shall be appointed from each house so as to give the two major political parties in each house the same proportional representation on the committee as prevails in each house; however, in no event shall either party have less than one member from each house on the committee. Vacancies on the committee shall be filled by appointment in the same manner as the original appointments. The chairman and vice chairman of the committee shall be elected by the committee.

C. No action shall be taken by the committee if a majority of the total membership from either house on the committee rejects such action.

Section 3

Section 3. DUTIES.--After its appointment, the committee shall hold one organizational meeting to develop a workplan and budget for the ensuing interim. The workplan and budget shall be submitted to the legislative council for approval. Upon approval of the workplan and budget by the legislative council, the committee shall meet with local government officials during the interim to receive testimony on capital outlay projects and priorities of the local governments on capital needs. The capital outlay committee shall coordinate its meetings and hearings with the New Mexico finance authority oversight committee and provide such assistance and recommendations to the finance authority oversight committee as the oversight committee may request. It shall report its recommendations on priorities for capital outlay needs, including recommended legislation, to the New Mexico finance authority, the New Mexico finance authority oversight committee and to the first session of the forty-second legislature.

Section 4

Section 4. SUBCOMMITTEES.--Subcommittees shall be created only by majority vote of all members appointed to the committee and with the prior approval of the legislative council. A subcommittee shall be composed of at least one member from the senate and one member from the house of representatives, and at least one member of the minority party shall be a member of the subcommittee. All meetings and expenditures of a subcommittee shall be approved by the full committee in advance of such meeting or expenditure, and the approval shall be shown in the minutes of the committee.

Section 5

Section 5. REPORT.--The committee shall make a report of its findings and recommendations for the consideration of the first session of the forty-second legislature. The report and suggested legislation shall be made available to the legislative council on or before December 15 preceding that session.

Section 6

Section 6. STAFF.--The staff for the committee shall be provided by the legislative council service.

Section 7

Section 7. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

HOUSE BILL 1076, aa, w/ec
EMERGENCY CLAUSE -- Approved March 8, 1994

CHAPTER 134

AUTHORIZING MUNICIPALITIES TO FINANCE AND REFINANCE CERTAIN PROJECTS; AMENDING SECTIONS OF THE INDUSTRIAL REVENUE BOND ACT.

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

Section 1

Section 1. Section 3-32-5 NMSA 1978 (being Laws 1967, Chapter 84, Section 3, as amended) is amended to read:

"3-32-5. ADDITIONAL LEGISLATIVE INTENT.--It is further the legislative intent that the Industrial Revenue Bond Act authorize municipalities to refinance hospital projects and projects of any independent, nonprofit, nonsectarian four-year college or university accredited by the north central association of colleges and schools, to acquire, own, lease or sell projects for the purpose of promoting the local economy and improving local health and the general welfare by inducing private institutions of higher education and nonprofit corporations engaged in health care services, including nursing homes, and, for any small municipality only, office facilities for physicians, to provide more adequate facilities of higher education and to provide more adequate health care services in this state and by inducing mass transit or other transportation activities, industrial parks, office headquarters and research and development activities to locate or expand in this state. It is not intended to authorize any municipality to own or lease projects for retail business or by itself to operate any private institution of higher education or any nonprofit corporation engaged in health care services, including nursing homes, or industrial parks, office headquarters or research and development facilities."

Section 2

Section 2. Section 3-32-6 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-31-3, as amended) is amended to read:

"3-32-6. ADDITIONAL POWERS CONFERRED ON MUNICIPALITIES.--In addition to any other powers which it may now have, each municipality shall have the following powers:

A. to acquire, whether by construction, purchase, gift or lease, one or more projects which shall be located within this state and may be located within or without the municipality or partially within or partially without the municipality but which shall not be located more than fifteen miles outside of the corporate limits of the municipality;

B. to sell or lease or otherwise dispose of any or all of its projects upon such terms and conditions as the governing body may deem advisable and as shall not conflict with the provisions of the Industrial Revenue Bond Act;

C. to issue revenue bonds for the purpose of defraying the cost of acquiring by construction and purchase or either any project and to secure the payment of such bonds, all as provided in the Industrial Revenue Bond Act. No municipality shall have the power to operate any project as a business or in any manner except as lessor;

D. to refinance one or more hospital projects and to acquire any such hospital project whether by construction, purchase, gift or lease, which hospital project shall be located within this state and may be located within or without the municipality or partially within or partially without the municipality but which shall not be located more than fifteen miles outside of the corporate limits of the municipality and to issue revenue bonds to refinance and acquire a hospital project and to secure the payment of such bonds, all as provided in the Industrial Revenue Bond Act. No municipality shall have the power to operate any hospital project as a business or in any manner except as lessor; and

E. to refinance one or more projects of any private institution of higher education and to acquire any such project, whether by construction, purchase, gift or lease, provided that the project shall be located within this state and may be located within or without the municipality or partially within or partially without the municipality, but the project shall not be located more than fifteen miles outside of the corporate limits of the municipality and to issue revenue bonds to refinance and acquire any project of any private institution of higher education and to secure the payment of such bonds. No municipality shall have the power to operate any project of any private institution of higher education as a business or in any manner except as lessor."

HOUSE BILL 986, aa
Approved March 8, 1994

CHAPTER 135

RELATING TO STATE AGENCIES; ENACTING THE STATE AIRCRAFT ACT;
PROVIDING FOR CONSOLIDATION OF STATE PASSENGER AIRCRAFT;
PROVIDING POWERS AND DUTIES OF THE GENERAL SERVICES DEPARTMENT;
PROVIDING FOR TRAVEL CHARGES; TRANSFERRING PROPERTY AND
EMPLOYEES.

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

Section 1

Section 1. SHORT TITLE.--This act may be cited as the "State Aircraft Act".

Section 2

Section 2. DEFINITIONS.--As used in the State Aircraft Act:

A. "department" means the general services department; and

B. "state aircraft" means all state airplanes used primarily to transport passengers.

Section 3

Section 3. AIRCRAFT CONSOLIDATION--DEPARTMENT DUTIES.--

A. All state aircraft shall be consolidated in the department for the use of the state's agencies, departments, branches and institutions.

B. The department shall:

(1) adopt and file in accordance with the State Rules Act rules and regulations to carry out the provisions of the State Aircraft Act;

(2) own, operate and maintain the state's aircraft fleet;

(3) provide centralized statewide scheduling of aircraft;

(4) designate destination airports;

(5) determine travel charges for state aircraft services;

(6) determine use requirements, including the number of required passengers per flight and under what conditions persons other than state officers and employees are allowed to travel in state aircraft; and

(7) determine other requirements it deems appropriate or fiscally responsible.

C. The department may refuse a request for state aircraft scheduling.

Section 4

Section 4. TRAVEL CHARGES.--The department shall charge for the use of state aircraft. Charges shall be sufficient to offset the costs of operation, maintenance and depreciation of state aircraft. Money collected for travel charges shall be deposited in the general fund.

Section 5

Section 5. TEMPORARY PROVISION--TRANSFER OF AIRCRAFT, PERSONNEL, MONEY, APPROPRIATIONS, FURNITURE, SUPPLIES AND OTHER PROPERTY AND CONTRACTUAL OBLIGATIONS.--On the effective date of the State Aircraft Act,

the passenger aircraft owned by the state corporation commission, the energy, minerals and natural resources department and the state highway and transportation department shall be transferred to the general services department, and title to the aircraft shall be transferred to the general services department. On the effective date of the State Aircraft Act, the personnel, money, appropriations, furniture, supplies and other property attributable to the ownership, operation or maintenance of passenger aircraft in the state corporation commission, the energy, minerals and natural resources department and the state highway and transportation department shall be transferred to the general services department. On the effective date of the State Aircraft Act, contractual obligations related to the ownership, operation or maintenance of passenger aircraft of the state corporation commission, the energy, minerals and natural resources department and the state highway and transportation department shall be binding on the general services department.

Section 6

Section 6. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1994.

HOUSE BILL 985, aa
March 8, 1994

CHAPTER 136

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978 TO AUTHORIZE RESIDENT STATUS FOR ALL NATIVE AMERICAN STUDENTS ATTENDING NEW MEXICO HIGHLANDS UNIVERSITY.

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

Section 1

Section 1. Section 21-1-3 NMSA 1978 (being Laws 1970, Chapter 47, Section 1, as amended) is amended to read:

"21-1-3. STATE EDUCATIONAL INSTITUTIONS--RESIDENT STUDENTS.--

A. For the purpose of tuition payment at the resident student rates at state educational institutions, as defined in Article 12, Section 11 of the constitution of New Mexico, "resident student" includes:

(1) any person not otherwise entitled to claim residence who is a member of the armed forces of the United States assigned to active duty within the exterior boundaries of this state; and

(2) the spouse or dependent child of any person who qualifies under Paragraph (1) of this subsection.

B. Assignment to active duty within the exterior boundaries of this state may be established by a certificate of assignment from the commanding officer of the person so assigned.

C. For the purpose of tuition payment at resident student rates at New Mexico highlands university, "resident student" may include any person who is a Native American and a citizen of the United States."

Section 2

Section 2. A new section of Article 21, Chapter 3 NMSA 1978 is enacted to read:

"NATIVE AMERICAN STUDENTS--RESIDENT STATUS AT NEW MEXICO HIGHLANDS UNIVERSITY.--The board of regents of New Mexico highlands university shall establish a Native American tuition program. Pursuant to that program, any person who is a Native American and a citizen of the United States shall be entitled to resident student status for purposes of tuition payment."

Section 3

Section 3. DELAYED REPEAL.--Effective July 1, 1999, Section 2 of this act is repealed.

Section 4

Section 4. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1994.

HOUSE CONSUMER AND PUBLIC AFFAIRS
COMMITTEE SUBSTITUTE FOR HB 1077 - Approved March 8, 1994

CHAPTER 137

RELATING TO THE LAND GRANT PERMANENT FUNDS OF THE STATE;
PROVIDING FOR CHANGES IN THE ALLOCATION OF REVENUE TO THE
PERMANENT FUNDS; PROVIDING FOR DISTRIBUTION FROM THE PERMANENT
FUNDS TO THE BENEFICIARIES OF THOSE FUNDS.

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

Section 1

Section 1. Section 19-1-18 NMSA 1978 (being Laws 1917, Chapter 115, Section 2) is amended to read:

"19-1-18. SOURCES OF SPECIAL FUNDS.--The permanent funds created by Sections 19-1-17 through 19-1-20 NMSA 1978 shall consist of the proceeds of sales of lands belonging to and that may have been or may hereafter be granted to the state, not otherwise appropriated by the terms and conditions of the grant, interest on the permanent funds, income from investment of the permanent funds and such other money as may be specifically provided by law, and the income and current funds created by Sections 19-1-17 through 19-1-20 NMSA 1978 shall consist of rentals, sale of products from lands and anything else other than money directly derived from sale of all state lands so granted, such other money as may be specifically provided by law and miscellaneous income not provided for by Sections 19-1-17 through 19-1-20 NMSA 1978."

Section 2

Section 2. Section 19-1-20 NMSA 1978 (being Laws 1917, Chapter 115, Section 8, as amended) is amended to read:

"19-1-20. TRANSFERS AND DISTRIBUTIONS OF FUNDS FOR SCHOOLS AND INSTITUTIONS.--

A. All income and current funds created by Section 19-1-17 NMSA 1978 for the common schools and various state institutions shall be transferred by the secretary of finance and administration, from time to time, to the credit of the schools and institutions to be used as provided by law for the support and maintenance of the schools and institutions.

B. The secretary of finance and administration shall make distributions from the land grant permanent funds enumerated in Section 19-1-17 NMSA 1978 in the amount authorized by and calculated pursuant to the provisions of Article 12, Section 7 of the constitution of New Mexico.

C. One-twelfth of the total amount authorized to be distributed in a fiscal year pursuant to Article 12, Section 7 of the constitution of New Mexico shall be distributed each month to the beneficiaries enumerated in Section 19-1-17 NMSA 1978. Each beneficiary shall receive that portion of the monthly distribution to which it is entitled pursuant to law."

Section 3

Section 3. EFFECTIVE DATE.--The effective date of the provisions of this act is the later of:

A. the date the secretary of state certifies that the constitution of New Mexico has been amended as proposed by a joint resolution of the second session of the forty-first legislature, entitled "A JOINT RESOLUTION PROPOSING AMENDMENTS TO ARTICLE 12, SECTIONS 2, 4 AND 7 OF THE CONSTITUTION OF NEW MEXICO TO INCREASE THE LAND GRANT PERMANENT FUNDS BY REQUIRING EARNINGS OF THE FUNDS TO BE DEPOSITED TO THE CREDIT OF THOSE FUNDS AND PROVIDING FOR LIMITED DISTRIBUTIONS FROM THE FUNDS."; or

B. the date the congress of the United States enacts amendments to the Enabling Act for New Mexico permitting changes in the constitution of New Mexico as proposed by the joint resolution specified in Subsection A of this section.

HOUSE APPROPRIATIONS AND FINANCE
COMMITTEE/HOUSE BILL 1040, aa
Approved March 8, 1994

CHAPTER 138

RELATING TO TAXATION; ABOLISHING THE SEVERANCE TAX INCOME FUND AND TRANSFERRING ALL MONEY IN THAT FUND TO THE SEVERANCE TAX PERMANENT FUND.

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

Section 1

Section 1. Section 7-27-3 NMSA 1978 (being Laws 1973, Chapter 294, Section 2) is amended to read:

"7-27-3. SEVERANCE TAX PERMANENT FUND CREATED.-- There is created in the state treasury the "severance tax permanent fund"."

Section 2

Section 2. TEMPORARY PROVISION.--On the effective date of this act, the severance tax income fund is abolished and all money in that fund is transferred to the severance tax permanent fund.

Section 3

Section 3. REPEAL.--Section 7-27-4 NMSA 1978 (being Laws 1973, Chapter 294, Section 4, as amended) is repealed.

Section 4

Section 4. EFFECTIVE DATE.--The provisions of this act shall become effective upon certification by the secretary of state that the constitution of New Mexico has been amended as proposed by a joint resolution of the forty-first legislature, second session entitled "A JOINT RESOLUTION PROPOSING AN AMENDMENT TO ARTICLE 8, SECTION 10 OF THE CONSTITUTION OF NEW MEXICO TO INCREASE THE SEVERANCE TAX PERMANENT FUND BY REQUIRING EARNINGS OF THE FUND TO BE DEPOSITED IN IT AND PROVIDING FOR LIMITED DISTRIBUTIONS FROM THE FUND.".

HOUSE BILL 1041
Approved March 8, 1994

CHAPTER 139

RELATING TO EXEMPTIONS FROM THE MOTOR VEHICLE EXCISE TAX;
PROVIDING AN EXEMPTION FROM THE TAX FOR SALES OF CERTAIN VEHICLES
FOR SUBSEQUENT LEASE.

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

Section 1

Section 1. Section 7-14-6 NMSA 1978 (being Laws 1988, Chapter 73, Section 16, as amended) is amended to read:

"7-14-6. EXEMPTIONS FROM TAX.--

A. Persons who acquire a vehicle out of state thirty or more days before establishing a domicile in this state are exempt from the tax if the vehicle was acquired for personal use.

B. Persons applying for a certificate of title for a vehicle registered in another state are exempt from the tax if they have previously registered and titled the vehicle in New Mexico and have owned the vehicle continuously since that time.

C. Certificates of title for all vehicles owned by this state or any political subdivision are exempt from the tax.

D. A vehicle subject to registration under Section 66-3-16 NMSA 1978 is exempt from the tax.

E. Persons who acquire vehicles for subsequent lease shall be exempt from the tax if:

(1) the person does not use the vehicle in any manner other than holding it for lease or sale or leasing or selling it in the ordinary course of business;

(2) the lease is for a term of more than six months;

(3) the receipts from the subsequent lease are subject to the gross receipts tax; and

(4) the vehicle does not have a gross vehicle weight of over twenty-six thousand pounds."

HOUSE BILL 1041

Approved March 8, 1994

CHAPTER 140

CREATING THE NEW MEXICO HORIZONS TASK FORCE; DECLARING AN EMERGENCY.

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

Section 1

Section 1. LEGISLATIVE FINDINGS AND PURPOSE.--

A. The legislature finds that the growing complexity and interdependence of the modern world as demonstrated by, among other factors, the changing workforce education needs, global environmental change, the aging population, international trade, the ever-growing number of working poor and the demand for fundamental changes in the role of government require that government policymakers establish a long-range, strategic planning process to assist them in setting policy direction and goals for state and local governments.

B. The legislature also finds that alternative budgeting and evaluation processes may be used to ensure that the policies and goals established through the strategic planning process are implemented.

C. It is the purpose of this act to create a "New Mexico horizons task force" to recommend to the legislature and the governor a comprehensive strategic planning process for New Mexico, which shall involve all segments of New Mexico, including state and local government and individuals from the private and public sectors from the different geographic areas of the state.

Section 2

Section 2. NEW MEXICO HORIZONS TASK FORCE--CREATION--TERMINATION.--
There is created a task force that shall be known as the "New Mexico horizons task

force". The task force shall function from the date of its appointment until December 31 prior to the first session of the forty-second legislature.

Section 3

Section 3. MEMBERSHIP--APPOINTMENT--VACANCIES.--

A. The New Mexico horizons task force shall be composed of twenty-two members appointed as follows:

(1) three members from the house of representatives appointed by the speaker of the house, of whom no more than two shall be from the same party;

(2) three members from the senate, appointed by the president pro tempore of the senate, of whom no more than two shall be from the same party;

(3) four members appointed by the governor from the executive branch; and

(4) eight members of the public, of whom two shall be appointed by the speaker of the house, two shall be appointed by the president pro tempore of the senate and four shall be appointed by the governor. The speaker of the house, the president pro tempore of the senate and the governor shall coordinate their appointments of public members to ensure that the different geographical areas of the state are represented, that the members reflect diverse expertise in the private and public sectors, including public and private finance, business, education, government and public planning and administration, and that no more than four shall be from the same party.

B. The speaker of the house, the president pro tempore of the senate, the governor and the chief justice of the supreme court shall serve as ex officio members.

C. The governor, in consultation with the speaker of the house and the president pro tempore of the senate, shall appoint the chairman of the task force.

D. The public members of the task force shall be paid per diem and mileage in accordance with the provisions of the Per Diem and Mileage Act.

Section 4

Section 4. DUTIES.--After their appointment, members of the New Mexico horizons task force shall develop a workplan and budget for the ensuing interim. The workplan and budget shall be submitted to the New Mexico legislative council for approval. Upon approval of the workplan and budget by the legislative council, the task force shall:

A. in cooperation with the governor's office of policy and planning, study and review strategic planning processes in other states and determine the value such processes would have in New Mexico;

B. recommend to the legislature and the governor a comprehensive strategic planning process for New Mexico that involves the greatest number of citizens of the state from all sectors of the economy and from all geographic areas of the state in the goal setting for the state;

C. in coordination with the legislative finance committee, the legislative education study committee and the department of finance and administration, review and assess how performance-based budgeting and other budgeting processes can assist in implementation of any strategic plan developed for the state; and

D. undertake other activities and make other recommendations related to strategic planning as deemed necessary by the New Mexico horizons task force.

Section 5

Section 5. TAX STUDY COMMITTEE--CREATION--DUTIES.--

A. The co-chairmen of the legislative council, in consultation with the governor, shall appoint a tax study committee. The tax study committee shall be composed of five public members who are experts in the field of tax policy and tax law.

B. The committee shall examine the manner and subjects of taxation and the foundations and goals of current and recommended tax policy. The committee shall review the long-term, strategic planning considerations of the New Mexico horizons task force and shall report its findings and recommendations, including proposed bill drafts, to the members of the appropriate interim or special legislative committee, the legislative council and the governor prior to the commencement of the forty-third legislature.

C. To assist the members of the tax study committee, upon their request, the director of the legislative council service is authorized to contract for the services of a draftsman to perform drafting and research services for the committee.

D. Members of the committee may receive per diem and mileage in the manner provided for nonsalaried public officers in the Per Diem and Mileage Act.

Section 6

Section 6. REPORT.--The New Mexico horizons task force shall make a report of its findings and recommendations for the consideration of the first session of the forty-second legislature. The report and suggested legislation shall be made available to the

New Mexico legislative council and the governor on or before December 31 preceding that session.

Section 7

Section 7. STAFF.--The staff for the New Mexico horizons task force shall be provided by the legislative council service, the legislative finance committee, the legislative education study committee, the governor's office and the department of finance and administration. Additionally, the legislative council service may contract at the direction of the task force for strategic planning assistance.

Section 8

Section 8. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

HOUSE BILL 10, aa
Approved March 9, 1994

CHAPTER 141

RELATING TO GASOLINE SALES INFORMATION; DEVELOPING A GASOLINE SALES DATABASE; PROVIDING PENALTIES.

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

Section 1

Section 1. GASOLINE SALES DATABASE--REPORTS TO NEW MEXICO PUBLIC UTILITY COMMISSION--FAILURE TO REPORT--PENALTY.--

A. The New Mexico public utility commission shall develop a comprehensive gasoline sales database and an automated reporting system.

B. By the twenty-fifth of each month, each gasoline refiner selling gasoline in New Mexico and each refiner located in New Mexico selling gasoline out of state shall report to the New Mexico public utility commission information for the preceding month's sales, including:

(1) the daily rack price;

(2) the number of gallons sold, bartered or transferred by grade and the price;

(3) to whom gallons by grade were sold, bartered or transferred;
and

(4) whether the gallons by grade were sold, bartered or transferred
as unbranded or branded gasoline.

C. By the twenty-fifth of each month, each wholesaler, distributor or jobber
selling, bartering or transferring gasoline for retail sale in New Mexico shall report to the
New Mexico public utility commission information for the preceding month, including:

(1) the number of gallons bought by grade from whom and at what
price;

(2) the number of gallons sold, bartered or transferred by grade and
at what price;

(3) to whom gallons by grade were sold, bartered or transferred;
and

(4) whether the gallons by grade were sold, bartered or transferred
as unbranded or branded gasoline.

D. By the twenty-fifth of each month, each gasoline retailer shall report to the New
Mexico public utility commission information for the preceding month, including:

(1) the number of gallons bought or received by grade from whom
and at what price;

(2) the number of gallons sold, bartered or transferred by grade and
at what price; and

(3) whether the gallons by grade were sold, bartered or transferred
as unbranded or branded gasoline.

E. The New Mexico public utility commission may adjust the reporting of
information if it determines the information is necessary for a comprehensive gasoline
sales database.

F. The reports shall be in the form prescribed by the New Mexico public
utility commission. Insofar as practical, the commission shall use data elements
common to the taxation and revenue department's tax forms from which that
department generates its distribution and acquisition reports.

G. Notwithstanding the provisions of Section 7-1-8 NMSA 1978, the
taxation and revenue department shall provide copies of its distribution and acquisitions
reports to the New Mexico public utility commission. The department and the

commission may work cooperatively to revise the tax forms to enable the state to improve its data collection efforts. The commission shall consult with the department on additional data that should be collected and the format and design of data reports.

H. The New Mexico public utility commission shall share its database with the office of the attorney general. The commission shall consult with the office of the attorney general on additional data that should be collected and the format and design of data reports.

I. It is unlawful for any employee of the New Mexico public utility commission or the office of the attorney general to disclose any confidential proprietary information contained in a report filed pursuant to the provisions of this section by a gasoline refiner, wholesaler, distributor, jobber or retailer. For the purposes of this section, "confidential proprietary information" means information that reveals the names of persons or entities to whom gasoline was sold or from whom gasoline was purchased or the specific prices of separate transactions. Nothing in this section prohibits the disclosure of information in an aggregated form that does not reveal the names of an entity's purchasers or sellers or the prices of specific separate transactions.

J. A person who violates the provisions of Subsection H of this section is guilty of a misdemeanor and shall be fined not more than one thousand dollars (\$1,000) or imprisoned for a definite term not to exceed one year or both.

K. The New Mexico public utility commission may adopt and file, in the same manner as other rules and regulations of the commission, rules and regulations necessary to carry out the provisions of this section.

L. The New Mexico public utility commission shall provide periodic reports to the legislative finance committee on the database and the available data reports.

M. Any refiner, wholesaler, distributor or jobber who fails to report as required shall be subject to an administrative penalty of five hundred dollars (\$500) per failure. Each failure to report shall constitute a separate offense. The administrative penalty provided for in this subsection is enforceable in any district court in the state.

Section 2

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1994.

HOUSE BILL 927, aa, w/ec
Approved March 9, 1994

CHAPTER 142

AUTHORIZING THE ISSUANCE AND SALE OF CAPITAL PROJETS GENERAL OBLIGATION BONDS TO MAKE CAPITAL EXPENDITURES FOR SENIOR CITIZEN FACILITY IMPROVEMENTS AND ACQUISITIONS, STATE PUBLIC EDUCATIONAL CAPITAL IMPROVEMENTS AND ACQUISITIONS, PUBLIC LIBRARY ACQUISITIONS AND HOSPITAL EQUIPMENT ACQUISITION; PROVIDING FOR A TAX LEVY FOR PAYMENT OF PRINCIPAL OF, INTEREST ON AND CERTAIN COSTS RELATED TO THE BONDS; REQUIRING APPROVAL OF THE REGISTERED VOTERS AT THE 1994 GENERAL ELECTION OF THE STATE; DECLARING AN EMERGENCY.

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

Section 1

Section 1. This act may be cited as the "1994 Capital Projects General Obligation Bond Act".

Section 2

Section 2. For the purpose of providing funds for capital expenditures as authorized in this act, general obligation indebtedness of the state is authorized for the purposes and in the amounts set forth in Section 10 of the 1994 Capital Projects General Obligation Bond Act.

Section 3

Section 3. The state board of finance, except as limited by the 1994 Capital Projects General Obligation Bond Act, shall determine the terms, covenants and conditions of bonds issued pursuant to that act, including but not limited to: date or dates of issue; denominations; maturities; principal amounts; rate or rates of interest; provisions for redemption, including premiums; registration; refundability; whether the bonds are issued in one or more series and other covenants relating to the bonds and the issuance thereof. The bonds shall be in such form as the state board of finance determines with an appropriate series designation and shall bear interest payable as set forth in the resolution of the state board of finance. Payment of the principal of the bonds shall begin not more than two years after the date of their issuance, and the bonds shall mature not later than ten years after the date of their issuance. Both principal and interest shall be payable in lawful money of the United States at the office of the paying agent within or outside the state of New Mexico as the state board of finance may direct. The bonds shall be executed with the manual or facsimile signature of the governor or the state treasurer, and the seal or a facsimile of the seal of the state shall be placed on each bond, except for any series of bonds issued in book entry or similar form without the delivery of physical securities. The bonds shall be issued in accordance with the provisions of the 1994 Capital Projects General Obligation Bond Act, the Supplemental Public Securities Act and the Uniform Facsimile Signature of Public Officials Act and may be issued in accordance with the Public Securities Short-Term Interest Rate Act. The full faith and credit of the state of New Mexico is hereby

pledged for the prompt payment at maturity of the principal of and interest on all bonds issued and sold pursuant to the 1994 Capital Projects General Obligation Bond Act.

Section 4

Section 4. The proceeds from the sale of the bonds shall be expended solely for providing funds to be distributed for the purposes and in amounts not to exceed the amounts set forth in Section 10 of the 1994 Capital Projects General Obligation Bond Act and to pay expenses incurred under Section 6 of that act. Any proceeds from the sale of the bonds that are not required for the purposes set forth in Sections 6 and 10 of that act shall be used for the purpose of paying the principal of and interest on the bonds.

Section 5

Section 5. The bonds authorized under the 1994 Capital Projects General Obligation Bond Act shall be sold by the state board of finance, at such time and in such manner and amounts as the board may elect. The bonds may be sold at private sale or at public sale at, less or above par and accrued interest to the date of delivery. If sold at public sale, the state board of finance shall publish a notice of the time and place of sale in a newspaper of general circulation in the state and may also publish the notice in a recognized financial journal outside the state. The required publications shall be made once each week for two consecutive weeks prior to the date fixed for the sale, the last publication thereof to be at least five days prior to the date of the sale. The notice shall specify the amount, denomination, maturity and description of the bonds to be offered for sale and the place, date and hour at which the sealed bids shall be received. At the time and place specified in the notice, the state board of finance shall open the bids in public and shall award the bonds to the bidder or bidders offering the best price for the bonds. The state board of finance may reject any or all bids and readvertise and may waive any irregularity in a bid. The successful bidder, unless it is the state, shall make a good-faith deposit equal to at least two percent of the principal amount of the bonds being sold. The state board of finance may also sell the bonds or any part of the bonds to the state treasurer or state investment officer. The state treasurer or state investment officer is authorized to purchase any of the bonds for investment. The bonds are legal investments for any person or board charged with the investment of any public funds and may be accepted as security for any deposit of public money.

Section 6

Section 6. The expenses incurred by the state board of finance in or relating to the preparation and sale of the bonds shall be paid out of the proceeds from the sale of the bonds, and all rebate, penalty, interest and other obligations of the state relating to the bonds and bond proceeds under the Internal Revenue Code of 1986, as amended, shall be paid from earnings on bond proceeds or other money of the state, legally available therefor.

Section 7

Section 7. To provide for the payment of the principal of and interest on the bonds issued and sold pursuant to the provisions of the 1994 Capital Projects General Obligation Bond Act, there shall be and there is hereby imposed and levied during each year in which any of the bonds are outstanding an ad valorem tax on all property in the state subject to property taxation for state purposes sufficient to pay the interest as it becomes due on the bonds, together with an amount sufficient to provide a sinking fund to pay the principal of the bonds as it becomes due and, if permitted by law, ad valorem taxes may be collected to pay administrative costs incident to the collection of such taxes. The taxes shall be imposed, levied, assessed and collected at the times and in the manner that other property taxes for state purposes are imposed, levied, assessed and collected. It is the duty of all tax officials and authorities to cause these taxes to be imposed, levied, assessed and collected.

Section 8

Section 8. The state treasurer shall keep separate accounts of all money collected as a result of the taxes imposed and levied pursuant to the provisions of the 1994 Capital Projects General Obligation Bond Act and shall use this money only for the purposes of paying the principal of and interest on the bonds as they become due and any expenses relating thereto.

Section 9

Section 9. Any owner of bonds issued pursuant to the provisions of the 1994 Capital Projects General Obligation Bond Act may, either at law or in equity, by suit, action or mandamus, enforce and compel the performance of the duties required by that act of any officer or entity mentioned in that act. The provisions of the 1994 Capital Projects General Obligation Bond Act constitute an irrevocable contract with the owners of any of the bonds issued pursuant to that act for the faithful performance of which the full faith and credit of the state of New Mexico are hereby pledged. Without reference to any other act of the legislature of the state, the 1994 Capital Projects General Obligation Bond Act is full authority for the issuance and sale of the bonds authorized in that act, and such bonds shall have all the qualities of investment securities under the Uniform Commercial Code of the state, shall not be invalid for any irregularity or defect in the proceedings for the issue and sale of the bonds and shall be incontestable in the hands of bona fide purchasers or holders thereof for value. All bonds issued under the provisions of the 1994 Capital Projects General Obligation Bond Act, and the interest thereon, are exempt from taxation by the state and any subdivision or public body thereof.

Section 10

Section 10. The proceeds from the sale of bonds issued under the provisions of the 1994 Capital Projects General Obligation Bond Act shall be distributed as follows for the purposes and in the amounts specified:

A. for senior citizen facility improvements and acquisitions to the state agency on aging, in the following amounts for the following purposes:

- (1) forty-eight thousand dollars (\$48,000) to purchase meal program furniture for senior citizen centers in Bernalillo county;
- (2) one hundred ninety-seven thousand dollars (\$197,000) to purchase five fifteen-passenger vans, one twelve-passenger van, a bus, one sedan and a pickup for the office of senior affairs program in Bernalillo county;
- (3) four thousand eight hundred dollars (\$4,800) to purchase appliances and equipment for the Isleta Pueblo senior citizen center in Bernalillo county;
- (4) nine thousand dollars (\$9,000) to purchase a sedan for the Isleta Pueblo senior citizen center in Bernalillo county;
- (5) twenty-two thousand dollars (\$22,000) to purchase a fifteen-passenger, handicap-equipped van for the Reserve senior citizen center in Catron county;
- (6) thirty thousand dollars (\$30,000) to purchase two minivans for senior citizen centers in Chaves county;
- (7) thirty thousand dollars (\$30,000) to purchase track, field and sports equipment to be used by the senior citizen olympics headquartered in Chaves county;
- (8) fifteen thousand dollars (\$15,000) to purchase a minivan or station wagon to be used by the senior citizen olympics headquartered in Chaves county;
- (9) four thousand dollars (\$4,000) to purchase appliances for the Laguna Rainbow eldercare center in Cibola county;
- (10) twenty-two thousand dollars (\$22,000) to purchase a fifteen-passenger, handicap-equipped van for the Clovis senior citizen program in Curry county;
- (11) seven thousand dollars (\$7,000) to renovate the Baxter-Curran senior citizen center in Curry county;

(12) four thousand dollars (\$4,000) to purchase furniture for the Clovis senior citizen center in Curry county;

(13) twenty-two thousand dollars (\$22,000) to purchase a fifteen-passenger, handicap-equipped van for the Melrose senior citizen program in Curry county;

(14) fifteen thousand dollars (\$15,000) to pave the parking lot at the Grady senior citizen center in Curry county;

(15) forty-five thousand dollars (\$45,000) to purchase meal programs' appliances and equipment for the Las Cruces city senior citizen centers in Dona Ana county;

(16) fifteen thousand dollars (\$15,000) to purchase a minivan for the retired senior volunteer program in Dona Ana county;

(17) eighteen thousand dollars (\$18,000) to purchase a fifteen-passenger van for the Sunland Park senior citizen center in Dona Ana county;

(18) fifteen thousand dollars (\$15,000) to purchase a sedan for use by the area agency on aging in Dona Ana county;

(19) thirty thousand dollars (\$30,000) to make improvements to the Mesilla community and senior citizen center in Dona Ana county;

(20) four thousand four hundred dollars (\$4,400) to purchase meal programs' appliances for the Mesilla community and senior citizen center in Dona Ana county;

(21) six thousand one hundred sixty dollars (\$6,160) to make improvements to the Artesia senior citizen center in Eddy county;

(22) nine thousand six hundred dollars (\$9,600) to purchase kitchen equipment and appliances for senior citizen centers in Grant county;

(23) eighteen thousand dollars (\$18,000) to purchase one fifteen-passenger van for senior citizen centers in Grant county;

(24) nine thousand one hundred dollars (\$9,100) to purchase kitchen appliances for the Santa Rosa senior citizen center in Guadalupe county;

(25) two thousand four hundred dollars (\$2,400) to purchase air conditioners for the Santa Rosa senior citizen center in Guadalupe county;

(26) twenty-five thousand dollars (\$25,000) to make improvements to and install equipment at the Roy senior citizen center in Harding county;

(27) seven thousand two hundred fifty dollars (\$7,250) to purchase kitchen appliances for the Roy senior citizen center in Harding county;

(28) twenty-two thousand dollars (\$22,000) to purchase a fifteen-passenger, handicap-equipped van for the Mosquero senior citizen program in Harding county;

(29) one thousand two hundred forty dollars (\$1,240) to purchase kitchen appliances for the Lordsburg senior citizen center in Hidalgo county;

(30) four thousand sixty-five dollars (\$4,065) to make improvements to the Hobbs senior citizen center in Lea county;

(31) eight thousand six hundred dollars (\$8,600) to purchase kitchen appliances for the Jal senior citizen center in Lea county;

(32) thirteen thousand dollars (\$13,000) to purchase kitchen equipment for the Lovington senior citizen center in Lea county;

(33) seven thousand dollars (\$7,000) to replace the heating and cooling system at the Tatum senior citizen center in Lea county;

(34) forty thousand dollars (\$40,000) to make improvements to the Lincoln county senior citizen centers in Lincoln county;

(35) twenty thousand dollars (\$20,000) to purchase kitchen equipment and appliances for the Ruidoso Downs and San Patricio senior citizen centers in Lincoln county;

(36) fourteen thousand three hundred seventy-five dollars (\$14,375) to pave the parking lot at the community of Ramah senior citizen center in McKinley county;

(37) ten thousand sixty-five dollars (\$10,065) to purchase kitchen appliances for the Zuni Pueblo senior citizen center in McKinley county;

(38) twenty-five thousand dollars (\$25,000) to purchase a four-wheel drive vehicle for the Pinedale senior citizen center in McKinley county;

(39) six thousand dollars (\$6,000) to expand the dining and storage area of the Thoreau chapter senior citizen center in McKinley county;

(40) four thousand dollars (\$4,000) to make improvements to the Mora senior citizen center in Mora county;

(41) seventeen thousand dollars (\$17,000) to purchase one twelve-passenger van for the Mora and San Miguel senior citizens programs in Mora and San Miguel counties;

(42) six thousand dollars (\$6,000) to purchase kitchen equipment and appliances for the Sacramento Mountains senior citizen center in Otero county;

(43) twenty-five thousand dollars (\$25,000) to purchase kitchen appliances and equipment for the Alamogordo senior citizen center in Otero county;

(44) twenty-two thousand dollars (\$22,000) to purchase a fifteen-passenger, handicap-equipped van for the Alamogordo senior citizen center in Otero county;

(45) eight thousand dollars (\$8,000) to purchase kitchen appliances and equipment for the La Luz senior citizen center in Otero county;

(46) eighteen thousand dollars (\$18,000) to purchase a fifteen-passenger van for the Sacramento Mountains senior citizen center in Otero county;

(47) two thousand eight hundred dollars (\$2,800) to purchase appliances for the Tucumcari senior citizen center in Quay county;

(48) twenty thousand dollars (\$20,000) to make improvements to the senior citizen centers in Rio Arriba county;

(49) forty thousand dollars (\$40,000) to purchase one fifteen-passenger van and a fifteen-passenger, handicap-equipped van for the county senior citizen centers in Rio Arriba county;

(50) ten thousand dollars (\$10,000) to purchase kitchen appliances for the Portales senior citizen center in Roosevelt county;

(51) eighteen thousand dollars (\$18,000) to purchase a fifteen-passenger van for the Roosevelt county coordinated care program in Roosevelt county;

(52) five thousand dollars (\$5,000) to install or construct a garage at the Elida senior citizen center in Roosevelt county;

(53) one hundred thousand dollars (\$100,000) to perform major renovations to the Hogback chapter senior citizen center in San Juan county;

(54) six thousand three hundred sixty dollars (\$6,360) to install a water filtering system at the Blanco senior citizen center in San Juan county;

(55) forty-five thousand dollars (\$45,000) to purchase two four-wheel drive, handicap-equipped vans for the Crystal and Naschitti chapter senior citizen centers in San Juan county;

(56) eighteen thousand dollars (\$18,000) to purchase a fifteen-passenger van for the Whiterock chapter senior citizen center in San Juan county;

(57) four thousand three hundred sixty dollars (\$4,360) to make improvements to the Las Vegas senior citizen center in San Miguel county;

(58) nineteen thousand dollars (\$19,000) to purchase a handicap-equipped minivan for the Cochiti Pueblo senior citizen center in Sandoval county;

(59) three thousand nine hundred sixty dollars (\$3,960) to purchase kitchen equipment and appliances for the Jemez Pueblo senior citizen center in Sandoval county;

(60) seventeen thousand dollars (\$17,000) to make parking improvements to the Bernalillo senior citizen center in Sandoval county;

(61) forty thousand dollars (\$40,000) to purchase kitchen appliances and equipment for senior citizen centers in Sandoval county;

(62) twenty-four thousand one hundred dollars (\$24,100) to purchase a four-wheel drive vehicle for the Torreon chapter senior citizen center in Sandoval county;

(63) sixty-eight thousand dollars (\$68,000) to purchase two fifteen-passenger vans, two cargo vans and two minivans for senior citizen centers in Santa Fe county;

(64) nineteen thousand dollars (\$19,000) to purchase a minivan and to equip an existing van for handicap accessibility for the Tesuque Pueblo senior citizen center in Santa Fe county;

(65) eighteen thousand dollars (\$18,000) to purchase a fifteen-passenger van for the Truth or Consequences senior citizen center in Sierra county;

(66) eight thousand dollars (\$8,000) to purchase kitchen appliances for the Bernardo senior citizen center in Socorro county;

(67) two thousand dollars (\$2,000) to make access improvements at the Magdalena senior citizen center in Socorro county;

(68) twenty-two thousand dollars (\$22,000) to purchase a fifteen-passenger, handicap-equipped van for the Socorro senior citizen center in Socorro county;

(69) forty-eight thousand dollars (\$48,000) to purchase a twelve-passenger, handicap-equipped van, a meal-delivery van and one minivan for the senior citizen centers in Taos county;

(70) seven thousand five hundred dollars (\$7,500) to add storage space to the Taos senior citizen center in Taos county;

(71) one thousand twenty-nine dollars (\$1,029) to construct a porch at the Taos Pueblo senior citizen center in Taos county;

(72) one thousand two hundred sixty-eight dollars (\$1,268) to purchase equipment for meals for the Taos Pueblo senior citizen center in Taos county;

(73) eight thousand dollars (\$8,000) to make center improvements and install equipment and appliances at the Mountainair, Willard and McIntosh senior citizen centers in Torrance county;

(74) six thousand dollars (\$6,000) to make improvements to a well and cooling system and to purchase meals furniture for senior citizen centers in Torrance county;

(75) thirty-six thousand dollars (\$36,000) to purchase one twelve-passenger van and a handicap-equipped minivan for senior citizen centers in Torrance county;

(76) fifteen thousand dollars (\$15,000) to make building improvements to the Encino senior citizen center in Torrance county;

(77) ten thousand dollars (\$10,000) to pave the parking lot at the Clayton senior citizen center in Union county;

(78) seventy thousand dollars (\$70,000) for building improvements at the Clayton senior citizen center in Union county;

(79) four thousand three hundred dollars (\$4,300) to purchase kitchen appliances and equipment for the Clayton senior citizen center in Union county;

(80) one million seven hundred thirty-two thousand dollars (\$1,732,000) for the purpose of improving senior citizen centers and senior citizen meal sites throughout the state to meet building code and life safety requirements and to comply with the federal Americans with Disabilities Act of 1990 mandates and for the purchase of vehicles; and

(81) three hundred nineteen thousand dollars (\$319,000) to purchase kitchen equipment to operate kitchens for senior citizen centers and senior citizen meal sites located throughout the state;

B. for state public educational capital improvements and acquisitions:

(1) to the public school capital outlay fund, eight million two hundred thousand dollars (\$8,200,000) to provide grants to public schools pursuant to the Public School Capital Outlay Act;

(2) to the commission on higher education:

(a) three million dollars (\$3,000,000) for the purpose of improving handicap accessibility and meeting safety requirements at higher education facilities throughout the state in order to comply with the requirements of the federal Americans with Disabilities Act of 1990; and

(b) one million three hundred thousand dollars (\$1,300,000) for distribution to public post-secondary educational institutions statewide for the purpose of upgrading and replacing instructional equipment;

(3) to the board of regents of the university of New Mexico:

(a) seven million three hundred twenty-five thousand dollars (\$7,325,000) to design, construct and equip a general classroom facility at the main campus;

(b) one million four hundred eighteen thousand dollars (\$1,418,000) to renovate the chemistry building on the main campus;

(c) one million fifty-two thousand four hundred dollars (\$1,052,400) for academic library acquisitions;

(d) twenty-six thousand five hundred dollars (\$26,500) for expenditure at the Gallup branch for academic library acquisitions;

(e) seventeen thousand seven hundred dollars (\$17,700) for expenditure at the Los Alamos branch for academic library acquisitions;

(f) twenty-six thousand five hundred dollars (\$26,500) for expenditure at the Valencia branch for academic library acquisitions;

(g) eight hundred seventy-seven thousand two hundred dollars (\$877,200) for the purpose of upgrading and replacing instructional equipment;

(h) one million two hundred thirty-eight thousand seven hundred fifty dollars (\$1,238,750) to design, construct and equip a building to house an assembly hall, classrooms, a library expansion and science and computer laboratories at the Gallup branch;

(i) sixty-eight thousand one hundred dollars (\$68,100) for expenditure at the Gallup campus for the purpose of upgrading and replacing instructional equipment;

(j) nineteen thousand two hundred dollars (\$19,200) for expenditure at the Los Alamos campus for the purpose of upgrading and replacing instructional equipment; and

(k) thirty-six thousand three hundred dollars (\$36,300) for expenditure at the Valencia campus for the purpose of upgrading and replacing instructional equipment;

(4) to the board of regents of New Mexico state university:

(a) eleven million fourteen thousand dollars (\$11,014,000) to design, construct and equip an engineering, technology and manufacturing building;

(b) one million dollars (\$1,000,000) to plan, design and begin construction of a center for sustainable development of arid lands;

(c) seven hundred twenty-eight thousand seven hundred dollars (\$728,700) for academic library acquisitions;

(d) twenty-six thousand five hundred dollars (\$26,500) for expenditure at the Alamogordo branch for academic library acquisitions;

(e) twenty-six thousand five hundred dollars (\$26,500) for expenditure at the Carlsbad branch for academic library acquisitions;

(f) twenty-six thousand five hundred dollars (\$26,500) for expenditure at the Dona Ana branch for academic library acquisitions;

(g) seventeen thousand seven hundred dollars (\$17,700) for expenditure at the Grants branch for academic library acquisitions;

(h) five hundred ninety-nine thousand one hundred dollars (\$599,100) for the purpose of upgrading and replacing instructional equipment;

(i) fifty-two thousand five hundred dollars (\$52,500) for expenditure at the Alamogordo branch for the purpose of upgrading and replacing instructional equipment;

(j) thirty-four thousand two hundred dollars (\$34,200) for expenditure at the Carlsbad campus for the purpose of upgrading and replacing instructional equipment;

(k) eighty-three thousand four hundred dollars (\$83,400) for expenditure at the Dona Ana branch for the purpose of upgrading and replacing instructional equipment; and

(l) fifteen thousand nine hundred dollars (\$15,900) for expenditure at the Grants campus for the purpose of upgrading and replacing instructional equipment;

(5) to the board of regents of eastern New Mexico university:

(a) nine hundred fifty-two thousand dollars (\$952,000) for renovation of the arts and technology building at eastern New Mexico university at Roswell;

(b) twenty-six thousand five hundred dollars (\$26,500) for expenditure at the Roswell campus for academic library acquisitions;

(c) two million two hundred forty-three thousand dollars (\$2,243,000) to renovate and make other improvements to Roosevelt hall;

(d) two hundred twelve thousand six hundred dollars (\$212,600) for academic library acquisitions;

(e) one hundred fifty-seven thousand eight hundred dollars (\$157,800) for the purpose of upgrading and replacing instructional equipment; and

(f) sixty-four thousand five hundred dollars (\$64,500) for expenditure at the Roswell campus for the purpose of upgrading and replacing instructional equipment;

(6) to the board of regents of New Mexico highlands university:

(a) one million one hundred fifty thousand dollars (\$1,150,000) to remodel and renovate Ilfeld auditorium;

(b) one hundred seventy-two thousand dollars (\$172,000) for academic library acquisitions; and

(c) one hundred twelve thousand two hundred dollars (\$112,200) for the purpose of upgrading and replacing instructional equipment;

(7) to the board of regents of western New Mexico university:

(a) one hundred thirty-one thousand four hundred dollars (\$131,400) for academic library acquisitions; and

(b) eighty-four thousand dollars (\$84,000) for the purpose of upgrading and replacing instructional equipment;

(8) to the board of regents of the New Mexico institute of mining and technology:

(a) two hundred thirty-four thousand eight hundred dollars (\$234,800) for academic library acquisitions; and

(b) sixty-one thousand five hundred dollars (\$61,500) for the purpose of upgrading and replacing instructional equipment;

(9) to the board of regents of northern New Mexico state school:

(a) twenty-six thousand five hundred dollars (\$26,500) for academic library acquisitions;

(b) one million eight hundred forty- three thousand dollars (\$1,843,000) for phase two of the student services building construction, campus property acquisition and telephone and computer network equipment purchase at the Espanola campus; and

(c) forty-seven thousand one hundred dollars (\$47,100) for the purpose of upgrading and replacing instructional equipment;

(10) to the board of regents of the New Mexico school for the deaf, seven hundred ninety-six thousand eight hundred fifty dollars (\$796,850) to renovate, make other improvements to and purchase equipment for the New Mexico school for the deaf;

(11) to the community college board of San Juan college:

(a) one million eight hundred thirty- three thousand dollars (\$1,833,000) to design, construct and equip an addition to the computer center;

(b) forty-four thousand two hundred dollars (\$44,200) for academic library acquisitions; and

(c) ninety-three thousand nine hundred dollars (\$93,900) for the purpose of upgrading and replacing instructional equipment;

(12) to the governing board of Tucumcari area vocational school:

(a) two hundred sixty-one thousand five hundred dollars (\$261,500) to design, construct and equip a maintenance building;

(b) seventeen thousand seven hundred dollars (\$17,700) for academic library acquisitions; and

(c) nine thousand nine hundred dollars (\$9,900) for the purpose of upgrading and replacing instructional equipment;

(13) to the community college board of Santa Fe community college:

(a) two million six hundred thirteen thousand five hundred dollars (\$2,613,500) to design, construct and equip the fine arts center;

(b) twenty-six thousand five hundred dollars (\$26,500) for academic library acquisitions; and

(c) fifty-three thousand one hundred dollars (\$53,100) for the purpose of upgrading and replacing instructional equipment;

(14) to the community college board of New Mexico junior college:

(a) two million one hundred forty-four thousand dollars (\$2,144,000) for the first phase of a project to construct and equip a regional transportation training center;

(b) twenty-six thousand five hundred dollars (\$26,500) for academic library acquisitions; and

(c) seventy-four thousand four hundred dollars (\$74,400) for the purpose of upgrading and replacing instructional equipment;

(15) to the community college board of Clovis community college:

(a) one million three hundred forty thousand dollars (\$1,340,000) to pave the parking lot and design, construct and equip an addition to the library and skill development center;

(b) twenty-six thousand five hundred dollars (\$26,500) for academic library acquisitions; and

(c) seventy-two thousand three hundred dollars (\$72,300) for the purpose of upgrading and replacing instructional equipment;

(16) to the governing board of Luna vocational-technical institute:

(a) one million five hundred thirty-nine thousand six hundred dollars (\$1,539,600) for phases one, two and three of a center for instructional programs at the main campus;

(b) twenty-six thousand five hundred dollars (\$26,500) for academic library acquisitions; and

(c) thirty-two thousand four hundred dollars (\$32,400) for the purpose of upgrading and replacing instructional equipment;

(17) to the governing board of the Albuquerque technical-vocational institute:

(a) seventy-nine thousand three hundred dollars (\$79,300) for academic library acquisitions;

(b) three hundred fifty-one thousand dollars (\$351,000) for the purpose of upgrading and replacing instructional equipment; and

(c) one million three hundred thirty-nine thousand dollars (\$1,339,000) for parking improvements and for accessibility improvements necessary to comply with mandates imposed by the federal Americans with Disabilities Act of 1990; and

(18) to the state department of public education, two million five hundred thousand dollars (\$2,500,000) for acquiring library books, equipment and library resources for distribution to public school libraries statewide;

C. for public library acquisitions to the office of cultural affairs, two million five hundred thousand dollars (\$2,500,000) for the purpose of acquiring library books, equipment and library resources for distribution statewide; and

D. for acquisition of hospital equipment to the local government division of the department of finance and administration, seven hundred thousand dollars (\$700,000) to purchase a dual energy linear accelerator for the regional cancer center in San Juan county.

Section 11

Section 11. Bonds issued pursuant to the 1994 Capital Projects General Obligation Bond Act shall be submitted to the registered voters of the state at the general election to be held in November 1994, and if they receive a majority of all the votes cast thereon at such election, shall take effect upon certification of the state canvassing board announcing the results of such election. No bonds shall be issued or sold under the 1994 Capital Projects General Obligation Bond Act until the registered voters of this state have voted upon and approved the bonds and property tax as provided in this

section. Any bonds issued under that act shall be issued within twenty-six months from the date of such election.

The ballots used at the 1994 general election shall contain substantially the following language:

A. "The 1994 Capital Projects General Obligation Bond Act authorizes the issuance and sale of senior citizen facility improvements, equipment and vehicle bonds. Shall the state of New Mexico be authorized to issue general obligation bonds in an amount not to exceed three million seven hundred four thousand seven hundred thirty-two dollars (\$3,704,732) to make capital expenditures for certain senior citizen facility improvements, equipment and vehicles and provide for a general property tax imposition and levy for payment of principal of and interest on, and expenses incurred in connection with the issuance of the bonds and the collection of the tax as permitted by law?

For _____ Against _____";

B. "The 1994 Capital Projects General Obligation Bond Act authorizes the issuance and sale of state public educational capital improvements and acquisitions bonds. Shall the state of New Mexico be authorized to issue general obligation bonds in an amount not to exceed sixty-one million two hundred fifty-one thousand two hundred dollars (\$61,251,200) to make capital expenditures for certain state public educational capital improvements and acquisitions and provide for a general property tax imposition and levy for payment of principal of and interest on, and expenses incurred in connection with the issuance of the bonds and the collection of the tax as permitted by law?

For _____ Against _____."

C. "The 1994 Capital Projects General Obligation Bond Act authorizes the issuance and sale of public library acquisition bonds. Shall the state of New Mexico be authorized to issue general obligation bonds in an amount not to exceed two million five hundred thirty thousand dollars (\$2,530,000) to make capital expenditures for public library acquisitions and provide for a general property tax imposition and levy for payment of principal of and interest on and expenses incurred in connection with the issuance of the bonds and the collection of the tax as permitted by law?

For _____ Against _____"; and

D. "The 1994 Capital Projects General Obligation Bond Act authorizes the issuance and sale of hospital equipment acquisition bonds. Shall the state of New Mexico be authorized to issue general obligation bonds in an amount not to exceed seven hundred thirty thousand dollars (\$730,000) to make capital expenditures for hospital equipment acquisition and provide for a general property tax imposition and

levy for payment of principal of and interest on and expenses incurred in connection with the issuance of the bonds and the collection of the tax as permitted by law?

For _____ Against _____".

Each question set forth in this section includes a specific work or object to be financed by the bonds. If any such question is not approved by a majority vote of the electorate at the state's 1994 general election, the issuance of bonds for the work or object specified by the question shall be excluded from and shall not be part of the 1994 Capital Projects General Obligation Bond Act. The failure of any question to be approved by the electorate at the 1994 general election shall not have any effect on the work or object specified by any other question approved by the electorate or the provisions of the 1994 Capital Projects General Obligation Bond Act relating to questions approved at the election.

The secretary of state shall include the submission of the capital projects general obligation bonds to the people at the 1994 general election, and it shall be included in the general election proclamation of each of the county clerks. The secretary of state shall cause the 1994 Capital Projects General Obligation Bond Act to be published in full in at least one newspaper in each county of the state if one be published therein, once each week, for four successive weeks next preceding the election as required by the constitution of New Mexico.

Section 12

Section 12. ART IN PUBLIC PLACES.--Pursuant to Section 13-4A-4 NMSA 1978 and where applicable, the appropriations authorized in the 1994 Capital Projects General Obligation Bond Act include one percent for the art in public places fund.

Section 13

Section 13. SEVERABILITY.--If any part or application of the 1994 Capital Projects General Obligation Bond Act is held invalid, the remainder or its application to other situations or persons shall not be affected.

Section 14

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

HOUSE TAXATION AND REVENUE COMMITTEE
SUBSTITUTE FOR HOUSE BILL 680, 124 et al
EMERGENCY CLAUSE -- SIGNED MARCH 9, 1994

CHAPTER 143

RELATING TO THE STATE FAIR COMMISSION; PROVIDING FOR SENATE CONFIRMATION OF MEMBERS; PROVIDING PURCHASING CONTROLS; AMENDING SECTIONS OF THE NMSA 1978.

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

Section 1

Section 1. Section 13-1-30 NMSA 1978 (being Laws 1984, Chapter 65, Section 3) is amended to read:

"13-1-30. APPLICATION OF THE CODE.--

A. Except as otherwise provided in the Procurement Code, that code shall apply to every expenditure by state agencies and local public bodies for the procurement of items of tangible personal property, services, construction and also applies to concession contracts at the New Mexico state fair in excess of ten thousand dollars (\$10,000), whether those concession contracts generate revenue and earnings or expand funds.

B. When a procurement involves the expenditure of federal funds, the procurement shall be conducted in accordance with mandatory applicable federal law and regulations. When mandatory applicable federal law or regulations are inconsistent with the provisions of the Procurement Code, compliance with federal law or regulations shall be compliance with the Procurement Code."

Section 2

Section 2. Section 13-1-98 NMSA 1978 (being Laws 1984, Chapter 65, Section 71, as amended by Laws 1991, Chapter 78, Section 1 and also by Laws 1991, Chapter 118, Section 1) is amended to read:

"13-1-98. EXEMPTIONS FROM THE PROCUREMENT CODE.--The provisions of the Procurement Code shall not apply to:

A. procurement of items of tangible personal property or services by a state agency or a local public body from a state agency, a local public body or external procurement unit except as otherwise provided in Sections 13-1-135 through 13-1-137 NMSA 1978;

B. procurement of tangible personal property or services for the governor's mansion and grounds;

C. printing and duplicating contracts involving materials which are required to be filed in connection with proceedings before administrative agencies or state or federal courts;

D. purchases of publicly provided or publicly regulated gas, electricity, water, sewer and refuse collection services;

E. purchases of books and periodicals from the publishers or copyright holders thereof;

F. travel or shipping by common carrier or by private conveyance or to meals and lodging;

G. purchase of livestock at auction rings or to the procurement of animals to be used for research and experimentation or exhibit;

H. contracts with businesses for public school transportation services;

I. procurement of tangible personal property or services, as defined by Sections 13-1-87 and 13-1-93 NMSA 1978, by the corrections industries division of the corrections department pursuant to regulations adopted by the corrections industries commission which shall be reviewed by the purchasing division of the general services department prior to adoption;

J. minor purchases consisting of magazine subscriptions, conference registration fees and other similar purchases where prepayments are required;

K. municipalities having adopted home rule charters and having enacted their own purchasing ordinances;

L. the issuance, sale and delivery of public securities pursuant to the applicable authorizing statute with the exception of bond attorneys and general financial consultants;

M. contracts entered into by a local public body with a private independent contractor for the operation, or provision and operation, of a jail pursuant to Sections 33-3-26 and 33-3-27 NMSA 1978;

N. contracts for maintenance of grounds and facilities at highway rest stops and other employment opportunities, excluding those intended for the direct care and support of persons with handicaps, entered into by state agencies with private, nonprofit, independent contractors who provide services to persons with handicaps;

O. contracts and expenditures for services to be paid or compensated by money or other property transferred to New Mexico law enforcement agencies by the United States department of justice drug enforcement administration;

P. contracts for retirement and other benefits pursuant to Sections 22-11-47 through 22-11-52 NMSA 1978; and

Q. contracts with professional entertainers."

Section 3

Section 3. Section 13-1-99 NMSA 1978 (being Laws 1984, Chapter 65, Section 72, as amended) is amended to read:

"13-1-99. EXCLUDED FROM CENTRAL PURCHASING THROUGH THE STATE PURCHASING AGENT.--Excluded from the requirement of procurement through the state purchasing agent but not from the requirements of the Procurement Code are the following:

- A. procurement of professional services;
- B. small purchases having a value not exceeding two hundred fifty dollars (\$250);
- C. emergency procurement;
- D. procurement of highway construction or reconstruction by the state highway and transportation department;
- E. procurement by the judicial branch of state government;
- F. procurement by the legislative branch of state government;
- G. procurement by the boards of regents of state educational institutions named in Article 12, Section 11 of the constitution of New Mexico;
- H. procurement of information processing resources procured through the commission on information and communication management;
- I. procurement by the state fair commission of tangible personal property, services and construction under five thousand dollars (\$5,000);
- J. procurement by the intertribal Indian ceremonial association;
- K. purchases from the instructional material fund;
- L. procurement by all local public bodies; and

M. procurement by each state health care institution that provides direct patient care and that is, or a part of which is, medicaid certified and participating in the New Mexico medicaid program."

Section 4

Section 4. Section 16-6-1 NMSA 1978 (being Laws 1913, Chapter 46, Section 2, as amended) is amended to read:

"16-6-1. STATE FAIR COMMISSION--MEMBERS--
APPOINTMENT--NUMBER--QUALIFICATION--TERMS--OATH--BOND.--

A. The governor shall appoint, with the advice and consent of the senate, a "state fair commission", consisting of seven members, for terms of five years each; provided that the first appointments shall be made of two commissioners for one-year terms, two for two-year terms, one for a three-year term, one for a four-year term and one for a five-year term. All state fair commissioners shall be bona fide residents of the state. No less than two commissioners shall be engaged in the business of livestock raising, and no less than two commissioners shall be engaged in agricultural vocations and pursuits other than livestock raising.

B. Before entering upon the duties of his office, each state fair commissioner shall take and subscribe an oath that he will faithfully and impartially discharge the duties of his office, which oath shall be filed in the office of the secretary of state. Each commissioner shall furnish a good and sufficient surety bond as provided in the Surety Bond Act.

C. No member of the commission shall be removed during the term for which he is appointed, except for cause, following notice and an opportunity for a hearing, unless the notice and hearing are, in writing, expressly waived."

Section 5

Section 5. Section 16-6-3 NMSA 1978 (being Laws 1913, Chapter 46, Section 3, as amended) is amended to read:

"16-6-3. DISQUALIFICATION OF COMMISSIONERS--ORGANIZATION OF
COMMISSION--SECRETARY AND TREASURER.--

A. If any state fair commissioner changes his residence to any place outside the state, such change of residence shall operate ipso facto to vacate the office he holds.

B. The secretary and treasurer shall qualify by furnishing the commission with a good and sufficient bond pursuant to the Surety Bond Act, conditioned for the faithful performance of his duties as secretary and treasurer and that he will faithfully

account for and pay over to the person entitled thereto all money that comes into his hands as such officer. The secretary and treasurer shall hold office for a period of one year and until his successor is elected and qualified."

Section 6

Section 6. A new Section 16-6-3.1 NMSA 1978 is enacted to read:

"16-6-3.1. BUDGET REVIEW REQUIREMENTS.--Beginning with the eighty-third fiscal year, the state fair commission is required to submit to the department of finance and administration for review a monthly budget status report, a list of all checks issued and all supporting documentation for each expenditure."

Section 7

Section 7. TEMPORARY PROVISION.--It is in the intent of the legislature that the state personnel office conduct a comprehensive study of the appropriate status of all temporary positions at the New Mexico state fair.

Section 8

Section 8. TEMPORARY PROVISION--APPLICABILITY.--The provisions of Section 4 of this act, which amend Subsection A of Section 16-6-1 NMSA 1978 to provide for senate confirmation of state fair commissioners, shall apply to commissioners whose terms of office expire after the effective date of this act. Commissioners serving on the effective date of this act shall continue to serve until the expiration of their appointed terms.

Section 9

Section 9. SEVERABILITY.--If any part or application of Section 16-6-1 NMSA 1978 is held invalid, the remainder or its application to other situations or persons shall not be affected.

Section 10

Section 10. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1994.

SENATE BILL 468, aa
Approved March 9, 1994

CHAPTER 144

ENACTING THE VICTIMS OF CRIME ACT; ESTABLISHING STATUTORY RIGHTS FOR CRIME VICTIMS IN ACCORD WITH THE PROVISIONS OF ARTICLE 2,

SECTION 24 OF THE CONSTITUTION OF NEW MEXICO; REPEALING SECTIONS OF THE NMSA 1978.

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

Section 1

Section 1. SHORT TITLE.--This act may be cited as the "Victims of Crime Act".

Section 2

Section 2. PURPOSE OF ACT.--Recognizing the state's concern for victims of crime, it is the purpose of the Victims of Crime Act to assure that:

- A. the full impact of a crime is brought to the attention of a court;
- B. victims of violent crimes are treated with dignity, respect and sensitivity at all stages of the criminal justice process;
- C. victims' rights are protected by law enforcement agencies, prosecutors and judges as vigorously as are the rights of criminal defendants; and
- D. the provisions of Article 2, Section 24 of the constitution of New Mexico are implemented in statute.

Section 3

Section 3. DEFINITIONS.--As used in the Victims of Crime Act:

- A. "court" means magistrate court, metropolitan court, children's court, district court, the court of appeals or the supreme court;
- B. "criminal offense" means:
 - (1) arson resulting in bodily injury, as provided in Section 30-17-5 NMSA 1978;
 - (2) aggravated arson, as provided in Section 30-17-6 NMSA 1978;
 - (3) aggravated assault, as provided in Section 30-3-2 NMSA 1978;
 - (4) aggravated battery, as provided in Section 30-3-5 NMSA 1978;
 - (5) dangerous use of explosives, as provided in Section 30-7-5 NMSA 1978;

(6) negligent use of a deadly weapon, as provided in Section 30-7-4
NMSA 1978;

(7) murder, as provided in Section 30-2-1 NMSA 1978;

(8) voluntary manslaughter, as provided in Section 30-2-3 NMSA 1978;

(9) involuntary manslaughter, as provided in Section 30-2-3 NMSA 1978;

(10) kidnaping, as provided in Section 30-4-1 NMSA 1978;

(11) criminal sexual penetration, as provided in Section 30-9-11 NMSA
1978;

(12) criminal sexual contact of a minor, as provided in Section 30-9-13
NMSA 1978;

(13) homicide by vehicle, as provided in Section 66-8-101 NMSA 1978;

(14) great bodily injury by vehicle, as provided in Section 66-8-101 NMSA
1978; or

(15) abandonment or abuse of a child, as provided in Section 30-6-1
NMSA 1978;

C. "court proceeding" means a hearing, argument or other action
scheduled by and held before a court;

D. "family member" means a spouse, child, sibling, parent or grandparent;

E. "formally charged" means the filing of an indictment, the filing of a
criminal information pursuant to a bind-over order or the setting of a preliminary hearing;

F. "victim" means an individual against whom a criminal offense is
committed. "Victim" also means a family member or a victim's representative when the
individual against whom a criminal offense was committed is a minor, is incompetent or
is a homicide victim; and

G. "victim's representative" means an individual designated by a victim or
appointed by the court to act in the best interests of the victim.

Section 4

Section 4. VICTIM'S RIGHTS.--A victim shall have the right to:

A. be treated with fairness and respect for the victim's dignity and privacy throughout the criminal justice process;

B. timely disposition of the case;

C. be reasonably protected from the accused throughout the criminal justice process;

D. notification of court proceedings;

E. attend all public court proceedings the accused has the right to attend;

F. confer with the prosecution;

G. make a statement to the court at sentencing and at any post-sentencing hearings for the accused;

H. restitution from the person convicted of the criminal offense that caused the victim's loss or injury;

I. information about the conviction, sentencing, imprisonment, escape or release of the accused;

J. have the prosecuting attorney notify the victim's employer, if requested by the victim, of the necessity of the victim's cooperation and testimony in a court proceeding that may necessitate the absence of the victim from work for good cause; and

K. promptly receive any property belonging to the victim that is being held for evidentiary purposes by a law enforcement agency or the prosecuting attorney, unless there are compelling evidentiary reasons for retention of the victim's property.

Section 5

Section 5. EXERCISE OF RIGHTS--REQUIREMENTS FOR VICTIM.--A victim may exercise his rights pursuant to the provisions of the Victims of Crime Act only if he:

A. reports the criminal offense within five days of the occurrence or discovery of the criminal offense, unless the district attorney determines that the victim had a reasonable excuse for failing to do so;

B. provides the district attorney with current and updated information regarding the victim's name, address and telephone number; and

C. fully cooperates with and fully responds to reasonable requests made by law enforcement agencies and district attorneys.

Section 6

Section 6. WHEN RIGHTS AND DUTIES TAKE EFFECT--TERMINATION OF RIGHTS AND DUTIES.--The rights and duties established pursuant to the provisions of the Victims of Crime Act take effect when an individual is formally charged by a district attorney for allegedly committing a criminal offense against a victim. Those rights and duties remain in effect until final disposition of the court proceedings attendant to the charged criminal offense.

Section 7

Section 7. DESIGNATION OR APPOINTMENT OF VICTIM'S REPRESENTATIVE.--

A. A victim may designate a victim's representative to exercise all rights provided to the victim pursuant to the provisions of the Victims of Crime Act. A victim may revoke his designation of a victim's representative at any time.

B. When a victim is deceased, incompetent or unable to designate a victim's representative, the court may appoint a victim's representative for the victim. If a victim regains his competency, he may revoke the court's appointment of a victim's representative.

C. When the victim is a minor, the victim's parent or grandparent may exercise the victim's rights; provided, that when the person accused of committing the criminal offense against the victim is the parent or grandparent of the victim, the court may appoint a victim's representative for the victim.

Section 8

Section 8. PROCEDURES FOR PROVIDING VICTIMS WITH PRELIMINARY INFORMATION--LAW ENFORCEMENT AGENCIES.--The law enforcement agency that investigates a criminal offense shall:

A. inform the victim of medical services and crisis intervention services available to victims;

B. provide the victim with the police report number for the criminal offense and a copy of the following statement: "If within thirty days you are not notified of an arrest in your case, you may call (telephone number for the law enforcement agency) to obtain information on the status of your case."; and

C. provide the victim with the name of the district attorney for the judicial district in which the criminal offense was committed and the address and telephone number for that district attorney's office.

Section 9

Section 9. PROCEDURES FOR PROVIDING VICTIMS WITH NOTICE OF RIGHTS AND INFORMATION REGARDING PROSECUTION OF A CRIMINAL OFFENSE--DISTRICT ATTORNEYS.--

A. Within seven working days after a district attorney files a formal charge against the accused for a criminal offense, the district attorney shall provide the victim of the criminal offense with:

(1) a copy of Article 2, Section 24 of the constitution of New Mexico, regarding victims' rights;

(2) a copy of legislation that implements the provisions of Article 2, Section 24 of the constitution of New Mexico;

(3) a copy of the charge filed against the accused for the criminal offense;

(4) a clear and concise statement of the procedural steps generally involved in prosecuting a criminal offense; and

(5) the name of a person within the district attorney's office whom the victim may contact for additional information regarding prosecution of the criminal offense.

B. If requested by the victim, the district attorney's office shall provide the victim with oral or written notice, in a timely fashion, of a scheduled court proceeding attendant to the criminal offense.

Section 10

Section 10. PROCEDURES FOR PROVIDING VICTIMS WITH NOTICE OF A COURT PROCEEDING--COURTS--DISTRICT ATTORNEYS.--A court shall provide a district attorney's office with oral or written notice no later than seven working days prior to a scheduled court proceeding attendant to a criminal offense, unless a shorter notice period is reasonable under the circumstances. The district attorney's office shall convey the information concerning the scheduled court proceeding to the victim, as provided in Subsection B of Section 9 of the Victims of Crime Act.

Section 11

Section 11. PROCEDURES WHEN AN INMATE ESCAPES--CORRECTIONS DEPARTMENT.--

A. The corrections department shall immediately notify the sentencing judge, the district attorney of the judicial district from which the inmate was committed and the probation officer who authored the presentence report when an inmate:

(1) escapes from a correctional facility under the jurisdiction of the corrections department; or

(2) convicted in New Mexico of a capital, first degree or second degree felony and transferred to a facility under the jurisdiction of another state, escapes from that facility.

B. The district attorney shall immediately notify any person known to reside in his district who was a victim of the criminal offense for which the inmate was committed.

Section 12

Section 12. PROCEDURES WHEN AN INMATE IS RELEASED FROM INCARCERATION--PAROLE BOARD--CORRECTIONS DEPARTMENT--DISTRICT ATTORNEYS.--

A. The parole board shall provide a copy of its regular docket to each district attorney in the state at least ten working days before the docket is considered by the board.

B. The parole board shall provide a copy of a supplemental, addendum or special docket to each district attorney at least five working days before the docket is considered by the board.

C. Following consideration of a docket by the parole board, the board shall promptly notify each district attorney of any recommendations adopted by the board for release of an inmate from incarceration. The district attorney shall notify any person known to reside in his district who was a victim of the criminal offense for which the inmate was incarcerated.

D. In the case of an inmate scheduled to be released from incarceration without parole, the corrections department shall notify each district attorney at least fifteen working days before the inmate's release. The district attorney shall notify any person known to reside in his district who was a victim of the criminal offense for which the inmate was incarcerated.

Section 13

Section 13. DISCLAIMER.--Nothing in the Victims of Crime Act creates a cause of action on behalf of a person against a public employer, public employee, public agency, the state or any agency responsible for the enforcement of rights or provision of services set forth in that act.

Section 14

Section 14. EFFECT OF NONCOMPLIANCE.--A person accused or convicted of a crime against a victim shall have no standing to object to any failure by any person to comply with the provisions of the Victims of Crime Act.

Section 15

Section 15. REPEAL.--Sections 31-24-1 through 31-24-7 NMSA 1978 (being Laws 1987, Chapter 19, Sections 1 through 5, Laws 1989, Chapter 210, Sections 2 and 3 and Laws 1987, Chapter 19, Sections 6 and 7) are repealed.

Section 16

Section 16. EFFECTIVE DATE.--The effective date of the provisions of this act is January 1, 1995.

SENATE BILL 967, aa, w/cc
Approved March 9, 1994

CHAPTER 145

RELATING TO REVENUES; DISTRIBUTING GOVERNMENTAL GROSS RECEIPTS TAX PROCEEDS TO THE PUBLIC PROJECT REVOLVING FUND OF THE NEW MEXICO FINANCE AUTHORITY; PROVIDING FOR APPROPRIATION OF A PORTION OF THE PUBLIC PROJECT REVOLVING FUND FOR CERTAIN LOCAL INFRASTRUCTURE PROGRAMS; DISTRIBUTING GOVERNMENTAL GROSS RECEIPTS TAX PROCEEDS TO THE ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT FOR PARK AND RECREATION CAPITAL IMPROVEMENTS AND TO IMPLEMENT THE NEW MEXICO YOUTH CONSERVATION CORPS ACT; PROVIDING FOR ALLOCATION OF FUNDS FOR CERTAIN WATER AGENCIES; MAKING APPROPRIATIONS; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978.

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

Section 1

Section 1. A new section of the Tax Administration Act is enacted to read:

"DISTRIBUTION--GOVERNMENTAL GROSS RECEIPTS TAX.--

A. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the public project revolving fund administered by the New Mexico finance authority in an amount equal to seventy-five percent of the net receipts attributable to the governmental gross receipts tax.

B. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the energy, minerals and natural resources department in an amount equal to twenty-five percent of the net receipts attributable to the governmental gross receipts tax. Forty percent of the distribution is appropriated to the department to implement the provisions of the New Mexico Youth Conservation Corps Act, and sixty percent of the distribution is appropriated to the department for state park and recreation area capital improvements, including the costs of planning, engineering, design, construction, renovation, repair, equipment and furnishings."

Section 2

Section 2. A new section of the New Mexico Finance Authority Act is enacted to read:

"PUBLIC PROJECT REVOLVING FUND--APPROPRIATIONS TO OTHER FUNDS.--

A. In any fiscal year, an aggregate amount not to exceed thirty-five percent of the governmental gross receipts tax proceeds distributed to the public project revolving fund in that fiscal year shall be available for appropriation by the legislature from the public project revolving fund to the following funds for local infrastructure financing:

(1) the wastewater facility construction loan fund for purposes of the Wastewater Facility Construction Loan Act;

(2) the rural infrastructure revolving loan fund for purposes of the Rural Infrastructure Act; or

(3) the solid waste facility grant fund for purposes of the Solid Waste Act.

B. The authority in coordination with the New Mexico finance authority oversight committee may recommend annually to each regular session of the legislature amounts to be appropriated to the funds listed in Subsection A of this section for local infrastructure financing."

Section 3

Section 3. Section 6-21-6 NMSA 1978 (being Laws 1992, Chapter 61, Section 6) is amended to read:

"6-21-6. PUBLIC PROJECT REVOLVING FUND--PURPOSE--
ADMINISTRATION.--

A. The "public project revolving fund" is created within the authority. The fund shall be administered by the authority as a separate account, but may consist of such subaccounts as the authority deems necessary to carry out the purposes of the fund. The authority is authorized to establish procedures and adopt regulations as required to administer the fund in accordance with the New Mexico Finance Authority Act.

B. Money from repayments of loans or payments on securities held by the authority for public projects authorized specifically by law shall be deposited in the public project revolving fund. The fund shall also consist of any other money appropriated, distributed or otherwise allocated to the fund for the purpose of financing public projects authorized specifically by law.

C. Except as otherwise provided in the New Mexico Finance Authority Act, money in the public project revolving fund is appropriated to the authority to make loans or grants and to purchase or sell securities to assist qualified entities in financing public projects in accordance with the New Mexico Finance Authority Act and pursuant to specific authorization by law for each project.

D. Money in the public project revolving fund not needed for immediate disbursement, including any funds held in reserve, may be deposited with the state treasurer for short-term investment pursuant to Section 6-10-10.1 NMSA 1978 or may be invested in direct and general obligations of or obligations fully and unconditionally guaranteed by the United States, obligations issued by agencies of the United States, obligations of this state or any political subdivision of the state or as otherwise provided by the trust indenture or bond resolution, if funds are pledged for or secure payment of bonds issued by the authority.

E. The authority shall establish fiscal controls and accounting procedures that are sufficient to assure proper accounting for fund payments, disbursements and balances."

[Section 4. Section 3-61-2 NMSA 1978 (being Laws 1976, Chapter 47, Section 2) is amended to read:

~~"3-61-2. APPROVAL OF BUDGET.--A metropolitan water board created by Chapter 3, Article 61 NMSA 1978 may incur reasonable costs and expenses in carrying out its power; the budget of the water board shall be included in the budget of the municipality and the county creating the water board and shall be subject to the approval of the department of finance and administration as required by Section 6-6-2 NMSA 1978. The county and municipality creating the water board shall each allocate funds for the budget of the water board in amounts at least equal to the amounts calculated by multiplying two dollars (\$2.00) times the population of the respective~~

~~entity. For the purposes of this calculation the population of the county shall not include the population of the municipality, and "population" means the most recent official census or estimate determined by the bureau of census for the unit." [OVERSTRUCK MATERIAL HAS BEEN LINE-ITEM VETOED.]~~

Section 5

Section 5. EFFECTIVE DATE.--The effective date of the provisions of Section 1 of this act is August 1, 1994.

SENATE BILL 509, aa, w/cc
Approved March 9, 1994

CHAPTER 146

RELATING TO HOUSING; CREATING A TASK FORCE; CREATING A LOW-INCOME HOUSING TRUST FUND; PROVIDING FOR EARNED INTEREST ON CERTAIN FUNDS DEPOSITED IN ESCROW AND TRUST ACCOUNTS TO BE PAID INTO THE FUND; AUTHORIZING DEPOSITORY INSTITUTIONS TO MAINTAIN CERTAIN INTEREST-BEARING ACCOUNTS; PROVIDING FOR GRANTS AND LOANS FROM THE FUND; MAKING AN APPROPRIATION; DECLARING AN EMERGENCY.

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

Section 1

Section 1. SHORT TITLE.--This act may be cited as the "Low-Income Housing Trust Act".

Section 2

Section 2. LEGISLATIVE FINDINGS.--The legislature finds that:

A. current economic conditions, federal housing policies and declining resources at the federal, state and local levels affect adversely the ability of low-income persons to obtain safe, decent and affordable housing;

B. it is in the public interest to establish a continuously renewable resource to be known as the New Mexico low-income housing trust program to assist low-income citizens in meeting their basic housing needs; and

C. the program described in Subsection B of this section should, whenever feasible, be implemented through assistance in the form of loans or grants.

Section 3

Section 3. DEFINITIONS.--As used in the Low-Income Housing Trust Act:

A. "appropriate financial institution service charges and fees" means those service charges and fees that a financial institution charges its customers on demand deposit accounts;

B. "division" means the financial institutions division of the regulation and licensing department;

C. "escrow closing agent" means an escrow agent or insurer or title insurance company that acts in the normal course of business as the agent of the seller and buyer of real estate for the purpose of consummating a sale, including but not limited to the performance of the following functions:

(1) preparation of deeds, mortgages, promissory notes, deeds of trust, real estate contracts, assignments or other documents incidental to the sale as permitted by law;

(2) calculations and disbursements of prorated taxes, insurance premiums, utility bills and other charges incidental to the sale;

(3) preparation of sellers' and buyers' closing statements;

(4) supervision of signing of documents;

(5) collection and disbursement of down payments, realtors' commissions, fees and other charges pursuant to a sales agreement; and

(6) recordation of documents;

D. "escrow servicing agent" means any person who in the normal course of business collects and disburses funds received from real-estate-related financing instruments on behalf of a lender or borrower;

E. "first-time home buyer" means:

(1) an individual or the individual's spouse who has not owned a home other than a manufactured home during the three-year period prior to the purchase of a home; or

(2) any individual who is a displaced homemaker or a single parent;

F. "fund" means the low-income housing trust fund created pursuant to the provisions of the Low-Income Housing Trust Act;

G. "low-income persons" means a household consisting of a single individual or a family or unrelated individuals living together when the household's total annual income does not exceed eighty percent of the median income for the area, as determined by the United States department of housing and urban development and as adjusted for family size, or other income ceiling determined for the area on the basis of that department's findings that such variations are necessary because of prevailing levels of construction costs or fair market rents or unusually high or low family incomes;

H. "person" means an individual or any other legal entity; and

I. "property manager" means a person who acts in the normal course of business as the agent for the owner of real property for the purpose of property rental, leasing and management.

Section 4

Section 4. LOW-INCOME HOUSING TRUST TASK FORCE--CREATION--TERMINATION OF TASK FORCE.--There is created a task force that shall be known as the "low-income housing trust task force". The task force shall function from the date of its appointment until the first day of December prior to the first session of the forty-second legislature.

Section 5

Section 5. MEMBERSHIP--APPOINTMENT.--

A. The low-income housing trust task force shall be composed of twelve members:

(1) one member of the house of representatives, appointed by the speaker of the house of representatives;

(2) one member of the senate, appointed by the president pro tempore of the senate;

(3) one member of the executive branch of government, appointed by the governor;

(4) eight members of the public, three to be appointed by the speaker of the house of representatives, three to be appointed by the president pro tempore of the senate and two to be appointed by the governor. The speaker of the house of representatives, the president pro tempore of the senate and the governor shall coordinate their appointments of public members to ensure that different geographical areas of the state are represented and that the public members represent the public and private sectors of the housing industry, including the real estate, title

insurance, banking and construction industries and service providers to low-income families and disabled persons; and

(5) the chairman of the board of directors of the New Mexico mortgage finance authority or his designee shall serve as an ex-officio member.

B. The governor, after consulting with the speaker of the house of representatives and the president pro tempore of the senate, shall appoint the chairman of the low-income housing trust task force.

C. The members of the low-income housing trust task force shall be reimbursed as provided in the Per Diem and Mileage Act and shall receive no other compensation, perquisite or allowance.

Section 6

Section 6. DUTIES.--After its appointment, the low-income housing trust task force shall hold one organizational meeting to develop a workplan and budget for the ensuing interim. The workplan and budget shall be submitted to the New Mexico legislative council for approval. Upon approval of the workplan and budget by the New Mexico legislative council, the low-income housing trust task force shall examine statutes, constitutional provisions, regulations and court decisions governing the delivery of affordable housing in New Mexico. The low-income housing trust task force shall also examine how organizations and institutions in the housing industry can contribute to the fund. The low-income housing trust task force shall recommend legislation or changes if any are found to be necessary to the first session of the forty-second legislature.

Section 7

Section 7. REPORT.--The low-income housing trust task force shall make a report of its findings and recommendations for the consideration of the first session of the forty-second legislature. The report and suggested legislation shall be made available to the New Mexico legislative council and the governor on or before December 15 preceding that session.

Section 8

Section 8. STAFF.--The staff for the low-income housing trust task force shall be provided by the legislative council service. The legislative council service may contract for technical assistance with staffing responsibilities.

Section 9

Section 9. LOW-INCOME HOUSING TRUST FUND CREATED.--There is created a fund to be known as the "low-income housing trust fund". The New Mexico mortgage finance authority shall be the interim trustee for the low-income housing trust fund.

Section 10

Section 10. TRUST ACCOUNTS--ESCROW ACCOUNTS--SPECIAL ACCOUNTS-- POOLED INTEREST-BEARING ACCOUNTS--DISPOSITION OF EARNED INTEREST ON CERTAIN ACCOUNTS.--

A. Every real estate broker who maintains a trust or escrow account as required pursuant to the provisions of Subsection H of Section 61-29-12 NMSA 1978 shall maintain a pooled interest-bearing escrow account and shall deposit all customer funds into that account except for:

(1) funds required to be deposited into a property management trust account under an express property management agreement; or

(2) funds required to be deposited into an interest-bearing account under an express agreement between the parties to a transaction and under which agreement provisions are made for the payment of interest to be earned on the funds deposited.

B. Every escrow closing agent that maintains a trust account or escrow account pursuant to the provisions of Section 58-22-20 NMSA 1978 shall maintain a pooled interest-bearing escrow account and shall deposit all customer funds into that account, except for funds required to be deposited into an interest-bearing account under an express agreement between the parties to a transaction and under which agreement provisions are made for the payment of interest to be earned on the funds deposited.

C. The interest earned on customer funds deposited in a pooled interest-bearing escrow account pursuant to the requirements of Subsection A or B of this section, net of any appropriate financial institution service charges and fees, shall be remitted monthly or quarterly from the financial institution in which the account is maintained to the fund. The account agreement between the depositor and the financial institution shall expressly provide for the required remittance of interest.

D. The provisions of this section do not relieve a real estate broker or escrow closing agent from any obligations under other laws to safeguard and account for funds in a pooled interest-bearing account.

E. The pooled interest-bearing escrow accounts required to be established pursuant to the provisions of this section shall be interest-bearing demand accounts from which withdrawals and transfers can be made without delay, subject only to any notice period the depository institution is required to observe by law or regulation.

F. The New Mexico real estate commission shall adopt and promulgate regulations providing details regarding procedures and forms to be used in establishing and operating the accounts required pursuant to the provisions of Subsection A of this section, and the director of the division shall do the same regarding accounts required pursuant to the provisions of Subsection B of this section. The regulations shall promote efficiency, economy and effectiveness and shall not overburden financial institutions or escrow account holders.

G. A person establishing and maintaining a pooled interest-bearing escrow account required by the provisions of Subsection A or B of this section is not required to make disclosure to a person whose funds are placed in the account of the disposition of interest earned on the account.

H. An escrow servicing agent shall not be required to establish and maintain a pooled interest-bearing escrow account pursuant to the provisions of Subsection A or B of this section.

I. A property manager shall not be required to establish and maintain a pooled interest-bearing escrow account pursuant to the provisions of Subsection A or B of this section.

J. Real estate brokers and escrow closing agents shall enroll and instruct participating financial institutions on how to establish a pooled interest-bearing escrow account and how to authorize remittance of accrued interest less service charges to the fund.

K. A real estate broker or an escrow closing agent shall not be required to establish and maintain a pooled interest-bearing escrow account pursuant to the provisions of Subsection A or B of this section if no financial institution in the community where the broker or agent maintains his principal place of business provides or offers that type of account.

Section 11

Section 11. POOLED INTEREST-BEARING ESCROW ACCOUNTS AUTHORIZED TO BE MADE AVAILABLE--COMPUTATION OF INTEREST--REPORTS.--

A. Any depository institution regulated by the division that maintains trust or escrow accounts for customers may establish and make available pooled interest-bearing accounts. Interest on a pooled interest-bearing account shall be computed on the daily collected balance of the account or as otherwise computed in accordance with the institution's standard accounting practices.

B. Any depository institution participating in the program and making a remittance of interest to the low-income housing trust fund pursuant to the provisions of

Section 10 of the Low-Income Housing Trust Act shall at the time of remittance transmit a report to the trust showing:

- (1) the name of the account holder for whom the remittance is sent;
- (2) the rate of interest used to compute the earned interest;
- (3) the amount, if any, of appropriate financial institution service charges and fees deducted; and
- (4) the account balance as of the ending date of the reporting period.

C. Remittances to the low-income housing trust fund shall be made at least quarterly, no later than the tenth day of the month.

D. A copy of the report required to be made pursuant to the provisions of Subsection B of this section shall be sent to the person in whose name the account is maintained.

Section 12

Section 12. USE OF MONEY FOR LOANS AND GRANT PROJECTS TO PROVIDE HOUSING--ELIGIBLE ACTIVITIES.--

A. Money from the fund and other sources may be used to finance in whole or in part any loans or grant projects that will provide housing for low-income persons. No more than seven percent of the fund shall be used for administrative expenses of the trust. No less than twenty-five percent of the fund shall be invested annually in a permanent capital fund. No less than twenty-five percent of the fund shall be made available annually as grants to eligible participants or as seed capital for innovative affordable housing projects or programs.

B. Activities eligible for assistance from the fund include but are not limited to:

- (1) new construction, rehabilitation or acquisition of low-income housing units;
- (2) matching funds for social services directly related to providing housing for special-need tenants in assisted projects;
- (3) technical assistance, design and finance services and consultation and administrative costs for eligible nonprofit community or neighborhood-based organizations;

(4) administrative costs for housing assistance groups or organizations when the grant or loan will increase substantially the recipient's access to housing funds other than those available under the Low-Income Housing Trust Act;

(5) shelters and related services for the homeless;

(6) mortgage insurance guarantees or payment for eligible projects;

(7) down payment or closing cost assistance for eligible first-time home buyers;

(8) acquisition of housing units for the purpose of preservation as low-income housing;

(9) projects making housing more accessible to families with members who have disabilities; and

(10) providing funding to other organizations that provide low-income property tax relief.

Section 13

Section 13. ELIGIBLE ORGANIZATIONS.--Organizations that may receive assistance from the trust under the Low-Income Housing Trust Act are local governments, local and regional housing authorities, nonprofit community or neighborhood-based organizations and regional or statewide nonprofit housing assistance organizations. ~~Public-private partnerships are also eligible for assistance from the trust and are encouraged to develop innovative approaches to address the lack of affordable housing in New Mexico. [OVERSTRUCK MATERIAL HAS BEEN LINE-ITEM VETOED.]~~

Section 14

Section 14. PRECONSTRUCTION TECHNICAL ASSISTANCE.--Money from the fund may be used to provide preconstruction technical assistance to eligible recipients seeking to construct, rehabilitate or finance housing-related services for low-income persons. Emphasis shall be placed on providing preconstruction technical assistance services to rural areas and small cities and towns. Technical assistance services may be contracted for any of the following areas:

A. financial planning and packaging for housing projects, including alternative ownership programs, such as limited equity partnerships and syndications;

B. project design, architectural planning and siting;

C. compliance with planning requirements;

D. securing matching resources for project development;

E. maximizing local government contributions to project development in the form of land donations, infrastructure improvements, waivers of development fees, locally and state-managed funds, zoning variances or creative local planning;

F. coordination with local planning, economic development and environmental, social service and recreational activities;

G. construction and materials management; and

H. project maintenance and management.

Section 15

Section 15. CONFLICT WITH FEDERAL REQUIREMENTS.--If any part of the Low-Income Housing Trust Act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of that act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of that act in its application to the agencies concerned. The rules adopted pursuant to the provisions of the Low-Income Housing Trust Act shall meet those federal requirements that are a necessary condition to the receipt of federal funds by the state.

Section 16

Section 16. MATCHING FUNDS.--Money from the fund may be used to match federal, local or private money to be used for projects authorized under the Low-Income Housing Trust Act.

Section 17

Section 17. APPROPRIATION.--Twenty thousand dollars (\$20,000) is appropriated from the general fund to the legislative council service for expenditure in the eighty-second and eighty-third fiscal years for the purpose of paying the salaries and expenses of technical, legal and clerical assistants, purchasing necessary equipment and supplies for and reimbursing the per diem and mileage expenses of the low-income housing trust task force members; provided that no portion of this appropriation shall be utilized to pay per diem and mileage for any member or representative of the executive branch of government. Any unexpended or unencumbered balance remaining at the end of the eighty-third fiscal year shall revert to the general fund. Payments from the appropriation shall be upon vouchers signed by the director of the legislative council service or his authorized representative.

Section 18

Section 18. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

SENATE WAYS AND MEANS COMMITTEE
SENATE BILL 415, aa, w/cc
EMERGENCY CLAUSE -- SIGNED MARCH 9, 1994

CHAPTER 147

MAKING APPROPRIATIONS TO CERTAIN STATE AGENCIES; DECLARING AN EMERGENCY.

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

Section 1

Section 1. COMPUTER SYSTEMS ENHANCEMENT FUND--APPROPRIATION.--

A. Twenty-three million nine hundred fifty-one thousand three hundred dollars (\$23,951,300) from the general fund is appropriated to the computer systems enhancement fund in the eighty-second fiscal year.

B. All unexpended and unencumbered balances in the computer systems enhancement fund shall not revert to the general fund but shall remain in the fund for appropriation by the legislature for the purposes of the fund.

Section 2

Section 2. APPROPRIATIONS.--Appropriated from the computer systems enhancement fund, or other funds as indicated, are the following amounts for the purposes specified. Unless otherwise indicated, these appropriations may be expended in the eighty-second and eighty-third fiscal years. Unless otherwise indicated, unexpended or unencumbered balances remaining at the end of the eighty-third fiscal year shall revert to the computer systems enhancement fund or other funds as indicated.

A. six hundred thousand dollars (\$600,000) to the legislative council service for expenditure in the eighty-third and eighty-fourth fiscal years to implement phase three of the legislative information system. Unexpended or unencumbered balances remaining at the end of the eighty-fourth fiscal year shall revert to the computer systems enhancement fund;

B. two million fifty thousand dollars (\$2,050,000) to the supreme court for expenditure in the eighty-third and eighty-fourth fiscal years to provide for the existing eight full-time equivalent positions and to purchase hardware, software and implementation services for statewide automation of the metropolitan, magistrate and

district courts. Unexpended or unencumbered balances remaining at the end of the eighty-fourth fiscal year shall revert to the computer systems enhancement fund;

C. one hundred fifty thousand dollars (\$150,000) to the public defender department for expenditure in the eighty-second and eighty-third fiscal years for office automation. Unexpended or unencumbered balance remaining at the end of the eighty-third fiscal year shall revert to the computer systems enhancement fund;

D. seven hundred thousand dollars (\$700,000) to the administrative office of the district attorneys for automation of all district attorney offices contingent upon coordination between the administrative office of the district attorneys and the judicial information system council regarding the district attorney automation plan to ensure data compatibility with the court automation system and the public defender automation system. Acquisition of all hardware and software by the district attorneys shall be approved by the administrative office of the district attorneys to ensure that all purchases are consistent with the district attorney automation plan;

E. two million five hundred thousand dollars (\$2,500,000) to the taxation and revenue department for expenditure in the eighty-third fiscal year for non-recurring design, development and implementation costs for the taxation and revenue information management system as identified in the eighty-third fiscal year taxation and revenue department information systems plan approved by the commission on information and communication management including ongoing operational data systems inclusive of ONGARD and including TRIMS efforts with provisions for coordination of such efforts with the judicial information system council with respect to motor vehicle records and databases;

F. one hundred seventy-five thousand dollars (\$175,000) to the administrative services division of the taxation and revenue department for expenditure in the eighty-third fiscal year for four term full-time equivalent positions devoted to development and implementation of the taxation and revenue information management system;

G. forty-one thousand three hundred dollars (\$41,300) from the computer systems enhancement fund and eighty-three thousand eight hundred dollars (\$83,800) from other state funds to the state investment council for an investment accounting computer program and necessary hardware;

H. one hundred seventy-five thousand dollars (\$175,000) to the financial control division of the department of finance and administration to resolve accounting system problems at the department of environment by July 1, 1994;

I. one million two hundred thirty thousand dollars (\$1,230,000) to the department of finance and administration for implementation of the statewide financial systems network and three permanent full-time equivalent positions;

J. one hundred seventy thousand dollars (\$170,000) of the appropriation to the department of finance and administration in Laws 1994, Chapter 366, Section 2, Subsection G for gross to net files is reappropriated to the department of finance and administration for implementation of the statewide financial systems network;

K. three hundred fifty thousand dollars (\$350,000) to the commission on information and communication management to define a more efficient DWI process, set standards for data collection and exchange, prepare a management plan and make recommendations to the DWI oversight task force, the legislative finance committee and the governor. This appropriation is contingent upon House Bill 847 or any similar bill of the second session of the forty-first legislature appropriating money for this purpose not being enacted into law;

L. three hundred thousand dollars (\$300,000) to the commission on information and communication management for an automated document management/imaging system and planning assistance;

M. fifty thousand dollars (\$50,000) to the state commission of public records to establish an agency-wide information system;

N. three hundred fifty thousand dollars (\$350,000) to the personnel board for expenditure in the eighty-third fiscal year to purchase computer equipment and software for an automated imaging system and automated test administration;

O. six hundred fifty thousand dollars (\$650,000) to the state treasurer for the treasurer's bank letter system and for two temporary full-time equivalent positions;

P. three hundred thousand dollars (\$300,000) to the administrative services division of the economic development department for data processing equipment, professional services and supplies in accordance with the approved eighty-third fiscal year information systems plan;

Q. one hundred fifty thousand dollars (\$150,000) to the administrative services division of the office of cultural affairs for a central financial reporting and accounting system;

R. eight hundred thousand dollars (\$800,000) to the state engineer for expenditure in the eighty-third fiscal year for hardware and software necessary to implement a computer networking system;

S. two hundred thousand dollars (\$200,000) to the public utility commission for hardware, software and professional services to complete the implementation of an office automation system;

T. six hundred thousand dollars (\$600,000) to the human services department matched with four million three hundred eighty-seven thousand five hundred

dolars (\$4,387,500) in federal funds to oversee the conversion of the medicaid fiscal agent contract to a new system;

U. eight hundred fifty thousand dollars (\$850,000) to the human services department matched with eight hundred ninety thousand dollars (\$890,000) in federal funds to develop interfaces with the new accounting system and improve purchasing and voucher systems;

V. four hundred thousand dollars (\$400,000) to the human services department matched with federal funds of three million eight hundred ninety-eight thousand eight hundred dollars (\$3,898,800) to continue enhancements on the colts (cheers) project;

W. seventy thousand dollars (\$70,000) to the human services department to develop a prototype for a paperless medicaid claims processing system;

X. nine hundred fifty thousand dollars (\$950,000) to the human services department matched with one million dollars (\$1,000,000) in federal funds to re-engineer the ISD-2 system and interface with the family tracking system to be developed by the children, youth and families department;

Y. one million dollars (\$1,000,000) to the human services department matched with one million two hundred twenty-two thousand two hundred dollars (\$1,222,200) in federal funds for expenditure in the eighty-second fiscal year for information systems division charges;

Z. two hundred thousand dollars (\$200,000) to the administrative services division of the human services department to be matched with two hundred thousand dollars (\$200,000) of federal funds for policies and procedures automation;

AA. two hundred sixty thousand dollars (\$260,000) to the administrative services division of the human services department to be matched with two hundred four thousand dollars (\$204,000) of federal funds for the CHEERS system data clean-up and conversion;

BB. six hundred thousand dollars (\$600,000) to the department of health for the scientific laboratory integrated database and medicaid waivers information systems;

CC. one million five hundred thousand dollars (\$1,500,000) to the children, youth and families department matched with one million sixty-six thousand seven hundred dollars (\$1,066,700) in federal funds to develop a family automated client tracking system that includes interfaces with client systems in the human services department and the department of health;

DD. seven hundred fifty thousand dollars (\$750,000) to the children, youth and families department to upgrade personal computers, printers and software systems throughout the department and pay the general services department for computer usage;

EE. three million dollars (\$3,000,000) to the state department of public education to be distributed to elementary schools for computer-based language arts literacy programs; and

FF. three million dollars (\$3,000,000) to the educational technology fund to implement provisions of the technology for education act if House Bill 988 or Senate Bill 185 creating that fund is enacted into law by the second session of the forty-first legislature.

Section 3

Section 3. SPECIAL APPROPRIATIONS.--Appropriated from the general fund, or other funds as indicated, are the following amounts for the purposes specified. Unless otherwise indicated, these appropriations may be expended in the eighty-second and eighty-third fiscal years. Unless otherwise indicated, unexpended or unencumbered balances remaining at the end of the eighty-third fiscal year shall revert to the appropriate fund.

A. one hundred twenty thousand dollars (\$120,000) to the magistrate division of the administrative office of the courts for expenditure in the eighty-third fiscal year for reclassification of court clerks;

B. one hundred thirty thousand dollars (\$130,000) to the administration division of the administrative office of the courts for expenditure in the eighty-third fiscal year for reclassification of employees;

C. three hundred thousand dollars (\$300,000) to the attorney general to investigate gasoline pricing in New Mexico and for supplemental funding;

D. the internal service funds/interagency transfers appropriation in Section 4 of the General Appropriation Act of 1994 to the ONGARD service center of the taxation and revenue department includes four hundred twenty thousand six hundred dollars (\$420,600) from the land maintenance fund;

E. one million dollars (\$1,000,000) from the general fund and five million dollars (\$5,000,000) from the general fund operating reserve fund to the department of finance and administration for distribution to the corrections department to resolve outstanding items identified by the special master appointed by the U.S. district court for the district of New Mexico in Duran et al. v. King et al. (cause no. civil 77-0721JB) consent decree, to be distributed upon ~~consultation with the plaintiffs' attorneys,~~ approval of ~~the special master and~~ the secretary of the department of finance and

administration and review by the legislative finance committee of a comprehensive plan detailing final compliance with the consent decree; ~~[OVERSTRUCK MATERIAL HAS BEEN LINE-ITEM VETOED.]~~

F. fifteen million dollars (\$15,000,000) to the local government division of the department of finance and administration for expenditure in the eighty-third through eighty-fifth fiscal years for the following purposes:

(1) seven million five hundred thousand dollars (\$7,500,000) for sewer and water projects, expanding sewer and water facilities and constructing sewer and water line extensions in the north valley of Albuquerque located in Bernalillo county; and

(2) seven million five hundred thousand dollars (\$7,500,000) for sewer and water projects, expanding sewer and water facilities and constructing sewer and water line extensions in the south valley of Albuquerque located in Bernalillo county. Unexpended or unencumbered balances remaining at the end of the eighty-fifth fiscal year shall revert to the general fund;

G. one million two hundred thousand dollars (\$1,200,000) to the general services department for expenditure in the eighty-third fiscal year to purchase vehicles for state agencies and provide for required alternative fuels conversion;

H. one hundred thousand dollars (\$100,000) to the secretary of state for publication of constitutional amendments and general obligation bond election notices as required by law;

I. five million dollars (\$5,000,000) to the development training fund for in-plant training programs;

J. two hundred seventy-five thousand dollars (\$275,000) to the construction industries division of the regulation and licensing department to hire three term full-time equivalent inspectors for temporary increases in workload;

K. eight million dollars (\$8,000,000) to the Hispanic cultural division of the office of cultural affairs in the eighty-second through eighty-fifth fiscal years for planning, designing and constructing a Hispanic cultural center in the southwest portion of Albuquerque in Bernalillo county. Any unexpended or unencumbered balance remaining at the end of the eighty-fifth fiscal year shall revert to the general fund;

L. one hundred fifty thousand dollars (\$150,000) to the forestry division of the energy, minerals and natural resources department to purchase fire fighting vehicles, other vehicles and equipment;

M. one million dollars (\$1,000,000) to the state park and recreation division of the energy, minerals and natural resources department for expenditure in the eighty-second through eighty-fourth fiscal years for maintenance and capital outlay for

state park facilities and for the hire of temporary staff as required. Unexpended or unencumbered balances remaining at the end of the eighty-fourth fiscal year shall revert to the general fund;

N. seven million two hundred thousand dollars (\$7,200,000) from the general fund and three million six hundred thousand dollars (\$3,600,000) from the land maintenance fund to the commissioner of public lands for retirement of the oil and natural gas accounting revenue database (ONGARD) bonds; provided that the appropriation from the land maintenance fund may be expended in the eighty-second through eighty-fifth fiscal years; and provided further that any unexpended or unencumbered balance remaining at the end of the eighty-fifth fiscal year of the appropriation from the land maintenance fund shall revert to the land maintenance fund;

O. seventy-five thousand dollars (\$75,000) from the land maintenance fund to the commissioner of public lands for expenditure in the eighty-third fiscal year to provide economic and legal studies of the interstate natural gas markets to improve the ability of New Mexico natural gas producers to compete in those markets;

P. five hundred thousand dollars (\$500,000) to the forestry division of the energy, minerals and natural resources department for phreatophyte removal;

Q. one million five hundred thousand dollars (\$1,500,000) to the New Mexico boys school of the children, youth and families department for expenditure in the eighty-second fiscal year for forty-seven permanent full-time equivalent positions, special maintenance including replacement of locks in all buildings and installation of outdoor lights and capital items such as night binoculars, metal detectors, furniture for the lodges and automobiles that are specifically designed to transport prisoners;

R. nine hundred thousand dollars (\$900,000) to the New Mexico boys school of the children, youth and families department for expenditure in the eighty-third fiscal year for thirty-six of those permanent full-time equivalent positions authorized in the eighty-second fiscal year and to pay utility costs at the New Mexico boys school;

S. one million two hundred fifty thousand dollars (\$1,250,000) to the youth diagnostic and development center of the children, youth and families department for expenditure in the eighty-second fiscal year for thirty-seven permanent full-time equivalent positions, installation of three modular buildings, capital items such as radio equipment, beds, sofas, desks, medical costs, food and supplies;

T. one million dollars (\$1,000,000) to the youth diagnostic and development center of the children, youth and families department for expenditure in the eighty-third fiscal year for food, supplies, medical costs and thirty-seven of those permanent full-time equivalent positions authorized in the eighty-second fiscal year;

U. five hundred thousand dollars (\$500,000) to the social services division of the children, youth and families department for twenty-one term full-time equivalent positions to facilitate placement of five hundred children in permanent adoptive homes;

V. one million five hundred thousand dollars (\$1,500,000) to the department of public safety to purchase state police pursuit vehicles and other emergency response vehicles;

W. one hundred sixty thousand dollars (\$160,000) to the state department of public education for the purpose of establishing the educational technology bureau including two permanent full-time equivalent positions. Expenditure of this appropriation is contingent upon the enactment of either Senate Bill 185 or House Bill 988 by the forty-first legislature, second session;

X. fifty thousand dollars (\$50,000) to the state department of public education to implement bi-national educational cooperative programs between the New Mexico state board of education and the Republic of Mexico;

Y. five hundred thousand dollars (\$500,000) to the board of regents of New Mexico state university to make capital improvements to the golf course club house, practice areas, nursery and other facilities necessary to maintain and expand the professional golf management program;

Z. three hundred thousand dollars (\$300,000) to the board of regents of New Mexico state university for the agricultural science center at Artesia in Eddy county in the following amounts: two hundred sixteen thousand dollars (\$216,000) to the agricultural experiment station; and eighty-four thousand dollars (\$84,000) to the cooperative extension service;

AA. three hundred thousand dollars (\$300,000) to the board of regents of the university of New Mexico for the construction of a well at the university south golf course;

BB. two hundred thousand dollars (\$200,000) to the board of regents of the university of New Mexico for general improvements to the university south golf course;

CC. two hundred twenty-five thousand dollars (\$225,000) to the board of regents of the university of New Mexico for the children's psychiatric hospital for expenditure in the eighty-third fiscal year to maintain adequate cash balances;

DD. one million dollars (\$1,000,000) to the governing board of the Albuquerque technical-vocational institute for expenditure in eighty-second through eighty-fourth fiscal years to extend utilities to the undeveloped southwest mesa property;

EE. one hundred thousand dollars (\$100,000) to the regents of New Mexico highlands university for golf course improvements;

FF. four million eight hundred thousand dollars (\$4,800,000) to the state department of public education for the defeasance of Jemez Valley public school district bonds contingent upon the Rio Rancho school board adopting a resolution calling for an election on the question of whether a property tax should be imposed on property in the Rio Rancho school district for the purpose of funding capital improvements in an amount of at least sixteen million dollars (\$16,000,000) in that district;

GG. one million five hundred thousand dollars (\$1,500,000) to the state department of public education for school-owned school buses; and

HH. ten million dollars (\$10,000,000) to the public school capital outlay fund for the purposes of carrying out the provisions of the Public School Capital Outlay Act contingent upon Senate Bill 793, forty-first legislature, second session becoming law. Balances remaining in the fund at the end of the eighty-third fiscal year shall not revert.

Section 4

Section 4. DWI APPROPRIATIONS.--Appropriated from the DWI program fund, or other funds as indicated, are the following amounts for the purposes specified. Except as otherwise provided, these appropriations may be expended in the eighty-second and eighty-third fiscal years. Except as otherwise provided, unexpended or unencumbered balances remaining at the end of the eighty-third fiscal year shall revert to the general fund.

A. eight hundred sixty-four thousand dollars (\$864,000) to the magistrate court division of the administrative office of the courts for expenditure in the eighty-third fiscal year for twenty-three court clerks and associated costs, including one hundred fifty thousand dollars (\$150,000) for capital outlay items, to meet the anticipated increase in workload due to DWI;

B. fifty-five thousand three hundred dollars (\$55,300) to the second judicial district court for expenditure in the eighty-third fiscal year for two permanent full-time equivalent positions to meet the anticipated increase in workload due to DWI;

C. sixty-five thousand dollars (\$65,000) to the eighth judicial district court for expenditure in the eighty-third fiscal year for an alternative sentencing program to meet the anticipated increase in workload due to DWI;

D. thirty-three thousand eight hundred dollars (\$33,800) to the eleventh judicial district court for expenditure in the eighty-third fiscal year for one permanent full-time equivalent position to meet the anticipated increase in workload due to DWI;

E. thirty-three thousand eight hundred dollars (\$33,800) to the thirteenth judicial district court for expenditure in the eighty-third fiscal year for one permanent full-time equivalent position to meet the anticipated increase in workload due to DWI;

F. four hundred thousand dollars (\$400,000) to the Bernalillo county metropolitan court for six court clerks and one pretrial services officer for the anticipated increase in workload due to DWI;

G. two hundred forty-two thousand eight hundred dollars (\$242,800) to the second judicial district attorney for four permanent full-time equivalent positions to meet the anticipated increase in workload due to DWI;

H. eighty-eight thousand four hundred dollars (\$88,400) to the third judicial district attorney for expenditure in the eighty-third fiscal year for two permanent full-time equivalent positions to meet the anticipated increase in workload due to DWI;

I. eighty-one thousand seven hundred dollars (\$81,700) to the fourth judicial district attorney for one permanent full-time equivalent position to meet the anticipated increase in workload due to DWI;

J. seventy-five thousand dollars (\$75,000) to the seventh judicial district attorney for one permanent full-time equivalent position to meet the anticipated increase in workload due to DWI;

K. seventy-five thousand dollars (\$75,000) to the eighth judicial district attorney for one permanent full-time equivalent position to meet the anticipated increase in workload due to DWI;

L. forty-nine thousand two hundred dollars (\$49,200) to the ninth judicial district attorney for expenditure in the eighty-third fiscal year for one permanent full-time equivalent position to meet the anticipated increase in workload due to DWI;

M. one hundred one thousand four hundred dollars (\$101,400) to the eleventh judicial district attorney, Farmington office, for two permanent full-time equivalent positions to meet the anticipated increase in workload due to DWI;

N. sixty-eight thousand two hundred dollars (\$68,200) to the twelfth judicial district attorney for one permanent full-time equivalent position to meet the anticipated increase in workload due to DWI;

O. seventy-seven thousand four hundred dollars (\$77,400) to the thirteenth judicial district attorney for expenditure in the eighty-third fiscal year for two permanent full-time equivalent positions to meet the anticipated increase in workload due to DWI;

P. forty-three thousand dollars (\$43,000) to the eleventh judicial district attorney, Gallup office, for a contract DWI attorney;

Q. seventy thousand dollars (\$70,000) to the taxation and revenue department for a permanent full-time hearing officer in the office of the secretary;

R. five million dollars (\$5,000,000) from the general fund to the local DWI grant fund for expenditure in the eighty-third fiscal year by the local government division of the department of finance and administration for the purpose of making grants to counties and municipalities pursuant to the provisions of the Local DWI Grant Program Act. This appropriation is contingent upon House Bill 269 or any similar bill of the second session of the forty-first legislature appropriating money for this purpose not being enacted into law. Any unexpended or unencumbered balance remaining at the end of the eighty-third fiscal year shall not revert to the general fund;

S. eight hundred thousand dollars (\$800,000) to the public defender department for sixteen permanent full-time equivalent positions to meet the anticipated increase in workload due to DWI;

T. three hundred thousand dollars (\$300,000) to the alcohol and gaming division of the regulation and licensing department for five term positions for the alcohol servers training program and enforcement of the Liquor Control Act;

U. three hundred fifty thousand dollars (\$350,000) to the public health division of the department of health for development and implementation of a statewide comprehensive DWI prevention program and four permanent full-time equivalent positions;

V. fifty thousand dollars (\$50,000) for expenditure in the eighty-second fiscal year and three hundred thousand dollars (\$300,000) for expenditure in the eighty-third fiscal year to the children, youth and families department to provide part-time and full-time alcohol and drug prevention specialists, supplies and other operating expenses for existing programs of regional center cooperatives;

W. three hundred thousand dollars (\$300,000) to the ~~special investigations division of the~~ department of public safety for expenditure in the eighty-third fiscal year for five term positions to aid in the enforcement of the Liquor Control Act;

[OVERSTRUCK MATERIAL HAS BEEN LINE-ITEM VETOED.]

X. four hundred thousand dollars (\$400,000) to the traffic safety bureau of the state highway and transportation department for four permanent full-time equivalent positions and related items; and

Y. one hundred seventy-six thousand dollars (\$176,000) to the school of medicine at the university of New Mexico to study the relationship between ethnicity and fetal alcohol syndrome.

Section 5

Section 5. ROAD PROJECT APPROPRIATIONS.--Ten million dollars (\$10,000,000) is appropriated from the general fund to the state road fund for expenditure in the eighty-third fiscal year for state and local road-related projects statewide contingent upon expenditures in the eighty-third fiscal year of twelve million five hundred thousand dollars (\$12,500,000) from the state road fund cash balances for state and local road-related projects statewide. Unexpended or unencumbered balances from the general fund appropriation remaining at the end of the eighty-third fiscal year shall revert to the general fund.

Section 6

Section 6. SPECIAL PROJECT APPROPRIATIONS.--Appropriated from the general fund, or other funds as indicated, are the following amounts for the purposes specified. Unless otherwise indicated, these appropriations may be expended in the eighty-second and eighty-third fiscal years. Unless otherwise indicated, unexpended or unencumbered balances remaining at the end of the eighty-third fiscal year shall revert to the appropriate fund.

A. one hundred thousand dollars (\$100,000) to the legislative council service to provide educational seminars for the legislature on key issues facing the state;

B. three hundred thousand dollars (\$300,000) to the legislative council service for the New Mexico horizons task force to implement the provisions of House Bill 900 or Senate Bill 870 of the second session of the forty-first legislature;

C. twenty-five thousand dollars (\$25,000) to the magistrate division of the administrative office of the courts for expenditure in the eighty-third fiscal year for a permanent full-time equivalent court clerk position for the Ruidoso magistrate court;

D. ninety-six thousand dollars (\$96,000) to the magistrate division of the administrative office of the courts ~~for expenditure in the eighty-third fiscal year~~ to increase a quarter-time Lea county magistrate judge to full-time and for a permanent full-time equivalent court clerk position for the Lea county magistrate, contingent on Senate Bill 359 or similar legislation of the forty-first legislature, second session becoming law;

[OVERSTRUCK MATERIAL HAS BEEN LINE-ITEM VETOED.]

E. two hundred fifty thousand dollars (\$250,000) to the administration division of the administrative office of the courts for expenditure in the eighty-third fiscal year for establishment of a statewide teen court system. Included in the appropriation is forty thousand dollars (\$40,000) to the third judicial district court for establishment of a teen court;

F. sixty-five thousand dollars (\$65,000) to the second judicial district court for expenditure in the eighty-third fiscal year for a criminal justice center study;

G. fifty thousand dollars (\$50,000) to the second judicial district court for expenditure in the eighty-third fiscal year for capital outlay;

H. fifteen thousand dollars (\$15,000) to the third judicial district court for expenditure in the eighty-third fiscal year for a microfilm camera;

I. ten thousand dollars (\$10,000) to the eighth judicial district court for expenditure in the eighty-third fiscal year for the court appointed special advocates program;

J. seventy-five thousand dollars (\$75,000) to the Bernalillo county metropolitan court for expenditure in the eighty-third fiscal year for a secretary and a court clerk and operating expenses;

K. twenty-six thousand two hundred dollars (\$26,200) to the Bernalillo county metropolitan court for expenditure in the eighty-third fiscal year for a permanent full-time equivalent financial specialist position;

L. fifty thousand eight hundred dollars (\$50,800) to the Bernalillo county metropolitan court for expenditure in the eighty-third fiscal year for two permanent full-time equivalent positions;

M. thirty thousand dollars (\$30,000) to the first judicial district attorney for expenditure in the eighty-third fiscal year for a permanent half-time legal assistant position;

N. fourteen thousand two hundred dollars (\$14,200) to the first judicial district attorney for expenditure in the eighty-third fiscal year for a permanent full-time equivalent attorney position;

O. thirty-five thousand dollars (\$35,000) to the third judicial district attorney for expenditure in the eighty-third fiscal year for a pre-prosecution program, including one permanent full-time equivalent position;

P. twelve thousand dollars (\$12,000) to the fourth judicial district attorney for expenditure in the eighty-third fiscal year for a permanent full-time equivalent receptionist position;

Q. twenty thousand dollars (\$20,000) to the ninth judicial district attorney for expenditure in the eighty-third fiscal year for two vehicles;

R. two hundred forty thousand dollars (\$240,000) to the capital program fund for expenditure in the eighty-second through eighty-fifth fiscal years to provide a

new motor vehicle field office for the taxation and revenue department facility in Rio Rancho located in Sandoval county. Unexpended or unencumbered balances remaining at the end of the eighty-fifth fiscal year shall revert to the general fund;

S. three hundred thousand dollars (\$300,000) to the local government division of the department of finance and administration for assisting the town of Taos with the purchase of a facility to promote the fine arts and making renovations to that facility to ensure compliance with the federal Americans with Disabilities Act of 1990; provided that the portion of this project that pertains to compliance with the federal Americans with Disabilities Act of 1990 shall be approved by the local government division, in consultation with the governor's committee on concerns of the handicapped, prior to state money being expended for renovation;

T. seventy-five thousand dollars (\$75,000) to the local government division of the department of finance and administration for expenditure in the eighty-second through eighty-fifth fiscal years for law enforcement vehicles and equipment for the Mora county sheriff's department located in Mora county. Unexpended or unencumbered balances remaining at the end of the eighty-fifth fiscal year shall revert to the general fund;

U. three hundred thousand dollars (\$300,000) to the local government division of the department of finance and administration for a youth center in Questa located in Taos county;

V. twenty thousand dollars (\$20,000) to the local government division of the department of finance and administration for reading and learning materials for Carnegie library located in the city of Las Vegas;

W. five hundred thousand dollars (\$500,000) to the local government division of the department of finance and administration for expenditure in the eighty-second through eighty-fifth fiscal years to design, construct and equip an indoor swimming pool and facilities on the west mesa in Albuquerque. Unexpended or unencumbered balances remaining at the end of the eighty-fifth fiscal year shall revert to the general fund;

X. two hundred thousand dollars (\$200,000) to the local government division of the department of finance and administration for continued development of an inventory of irrigated and non-irrigated lands within the middle Rio Grande conservancy district;

Y. two hundred twenty-five thousand dollars (\$225,000) to the local government division of the department of finance and administration for expenditure in eighty-second through eighty-fourth fiscal years for purchase and renovation of a building to house a domestic violence center in Grants located in Cibola county. Unexpended or unencumbered balances remaining at the end of the eighty-fourth fiscal year shall revert to the general fund;

Z. seventy-five thousand dollars (\$75,000) to the local government division of the department of finance and administration for expenditure in the eighty-second through eighty-fourth fiscal years for developing a planning and zoning ordinance in Socorro located in Socorro county. Unexpended or unencumbered balances remaining at the end of the eighty-fourth fiscal year shall revert to the general fund;

AA. one hundred thousand dollars (\$100,000) to the local government division of the department of finance and administration for expenditure in the eighty-second through eighty-fourth fiscal years for construction and other improvements at the Socorro county landfill. Unexpended or unencumbered balances remaining at the end of the eighty-fourth fiscal year shall revert to the general fund;

BB. twenty-five thousand dollars (\$25,000) to the local government division of the department of finance and administration for expenditure in the eighty-second through eighty-fourth fiscal years for the Pecos ambulance service in San Miguel county. Unexpended or unencumbered balances remaining at the end of the eighty-fourth fiscal year shall revert to the general fund;

CC. one hundred twenty-five thousand dollars (\$125,000) to the local government division of the department of finance and administration for expenditure in the eighty-second through eighty-fifth fiscal years for purchasing, installing and making necessary improvements to computer and telecommunications technologies in county clerk offices statewide for implementation of the Absentee-Early Voting Act. Unexpended or unencumbered balances remaining at the end of the eighty-fifth fiscal year shall revert to the general fund;

DD. one hundred three thousand one hundred dollars (\$103,100) to the local government division of the department of finance and administration for expenditure in the eighty-second through eighty-fifth fiscal years for planning, designing, constructing, renovating or acquiring land or buildings for the southside fire station in Carlsbad located in Eddy county. Unexpended or unencumbered balances remaining at the end of the eighty-fifth fiscal year shall revert to the general fund;

EE. forty thousand dollars (\$40,000) to the local government division of the department of finance and administration to contract for services with a nonprofit organization that provides literacy training to disadvantaged individuals;

FF. one hundred thousand dollars (\$100,000) to the local government division of the department of finance and administration for expenditure in the eighty-second through eighty-fifth fiscal years for designing, planning, constructing, equipping and furnishing a recreation facility, to include both soccer and baseball fields and an appropriate irrigation system, in the village of Corrales in Sandoval county. Unexpended or unencumbered balances remaining at the end of the eighty-fifth fiscal year shall revert to the general fund;

GG. one hundred fifty thousand dollars (\$150,000) to the local government division of the department of finance and administration for expenditure in the eighty-second through eighty-fifth fiscal years for making extensions of and hookups to sewer lines for indigent or low-income residents in the north valley area of Albuquerque in Bernalillo county. Unexpended or unencumbered balances remaining at the end of the eighty-fifth fiscal year shall revert to the general fund;

HH. one hundred twenty thousand dollars (\$120,000) to the local government division of the department of finance and administration for handicapped vans for the Sun-Tran bus service in Bernalillo county;

II. fifty thousand dollars (\$50,000) to the department of health for a special demonstration program for local rural physician retention in Artesia located in Eddy county to contract with a physician who has a substantial medicare and medicaid patient base and who provides a preceptorship to medical students and medical residents in Artesia and rural Eddy county;

JJ. two hundred fifty thousand dollars (\$250,000) to the local government division of the department of finance and administration for expenditure in the eighty-second through eighty-fifth fiscal years for designing, planning, constructing, equipping and furnishing a community health clinic in the city of Artesia located in Eddy county. Unexpended or unencumbered balances remaining at the end of the eighty-fifth fiscal year shall revert to the general fund;

KK. thirty-five thousand dollars (\$35,000) to the local government division of the department of finance and administration for community training for gang intervention programs in Valencia county;

LL. fifty thousand dollars (\$50,000) to the local government division of the department of finance and administration for park improvements for La Mesa in Dona Ana county;

MM. two hundred thousand dollars (\$200,000) to the local government division of the department of finance and administration for expenditure in the eighty-second through eighty-fifth fiscal years for constructing an expansion and making improvements to facilities for battered families located in Santa Fe county. Unexpended or unencumbered balances remaining at the end of the eighty-fifth fiscal year shall revert to the general fund;

NN. seventy-five thousand dollars (\$75,000) to the local government division of the department of finance and administration for expenditure in the eighty-second through eighty-fifth fiscal years for upgrading little league fields in the south valley region of the city of Albuquerque in Bernalillo county. Unexpended or unencumbered balances remaining at the end of the eighty-fifth fiscal year shall revert to the general fund;

OO. fifty thousand dollars (\$50,000) to the local government division of the department of finance and administration for expenditure in the eighty-second through eighty-fifth fiscal years for purchase of educational computer systems for the Los Padillas community center located in Bernalillo county. Unexpended or unencumbered balances remaining at the end of the eighty-fifth fiscal year shall revert to the general fund;

PP. one hundred thousand dollars (\$100,000) to the local government division of the department of finance and administration for expenditure in the eighty-second through eighty-fifth fiscal years for completing the remodeling, including purchase and installation of necessary heating and cooling equipment, of the west central youth center in Albuquerque in Bernalillo county. Unexpended or unencumbered balances remaining at the end of the eighty-fifth fiscal year shall revert to the general fund;

QQ. two hundred thousand dollars (\$200,000) to the local government division of the department of finance and administration for expenditure in the eighty-second through eighty-fifth fiscal years for completing the remodeling of the Old Armijo elementary school in the south valley of Albuquerque in Bernalillo county. Unexpended or unencumbered balances remaining at the end of the eighty-fifth fiscal year shall revert to the general fund;

RR. ninety thousand dollars (\$90,000) to the local government division of the department of finance and administration for expenditure in the eighty-second through eighty-fifth fiscal years for designing, planning and constructing a phase one addition to the lifesaver food bank warehouse in Clovis located in Curry county. Unexpended or unencumbered balances remaining at the end of the eighty-fifth fiscal year shall revert to the general fund;

SS. one hundred ten thousand dollars (\$110,000) to the local government division of the department of finance and administration for expenditure in the eighty-second through eighty-fifth fiscal years for a county office building in Portales located in Roosevelt county. Unexpended or unencumbered balances remaining at the end of the eighty-fifth fiscal year shall revert to the general fund;

TT. twenty-five thousand dollars (\$25,000) to the local government division of the department of finance and administration for expenditure in the eighty-second through eighty-fifth fiscal years for planning, designing, constructing and equipping a therapeutic recreational facility at the Loma Linda community center in the city of Albuquerque in Bernalillo county. Unexpended or unencumbered balances remaining at the end of the eighty-fifth fiscal year shall revert to the general fund;

UU. twenty-five thousand dollars (\$25,000) to the local government division of the department of finance and administration for expenditure in the eighty-second through eighty-fifth fiscal years for satellite equipment for the Tom Bell community center in the city of Albuquerque in Bernalillo county. Unexpended or

unencumbered balances remaining at the end of the eighty-fifth fiscal year shall revert to the general fund;

VV. four hundred thousand dollars (\$400,000) to the local government division of the department of finance and administration for expenditure in the eighty-second through eighty-fifth fiscal years for renovation and expansion of the wastewater treatment facility in Moriarty in Torrance county. Unexpended or unencumbered balances remaining at the end of the eighty-fifth fiscal year shall revert to the general fund;

WW. two hundred thousand dollars (\$200,000) to the local government division of the department of finance and administration for expenditure in the eighty-second through eighty-fourth fiscal years for extending water and sewer systems to certain areas in the town of Bernalillo in Sandoval county. Unexpended or unencumbered balances remaining at the end of the eighty-fourth fiscal year shall revert to the general fund;

XX. one hundred seventy-five thousand dollars (\$175,000) to the local government division of the department of finance and administration for expenditure in the eighty-second through eighty-fifth fiscal years for designing, constructing and equipping a tourist information center in Alamogordo located in Otero county. Unexpended or unencumbered balances remaining at the end of the eighty-fifth fiscal year shall revert to the general fund;

YY. two hundred twenty-five thousand dollars (\$225,000) to the local government division of the department of finance and administration for expenditure in the eighty-second through eighty-fifth fiscal years to purchase and renovate or construct a new building for use as a community center in Lovington located in Lea county. Unexpended or unencumbered balances remaining at the end of the eighty-fifth fiscal year shall revert to the general fund;

ZZ. two hundred forty thousand dollars (\$240,000) to the local government division of the department of finance and administration for expenditure in the eighty-second through eighty-fifth fiscal years to design, plan, construct and equip a little league baseball field complex in the east mountain area located in Bernalillo county. The appropriation includes sufficient funding for the purchase of water rights and establishing a functioning water well and irrigation system, grass, bleachers, miscellaneous buildings, a concession stand and adequately prepared parking areas and is contingent upon Bernalillo county donating the land for this project. Unexpended or unencumbered balances remaining at the end of the eighty-fifth fiscal year shall revert to the general fund;

AAA. two hundred thousand dollars (\$200,000) to the local government division of the department of finance and administration for expenditure in the eighty-second through eighty-fifth fiscal years to complete a park and playground project near McCollum elementary school in Albuquerque located in Bernalillo county. Unexpended

or unencumbered balances remaining at the end of the eighty-fifth fiscal year shall revert to the general fund;

BBB. one hundred thousand dollars (\$100,000) to the local government division of the department of finance and administration for expenditure in the eighty-second through eighty-fifth fiscal years to renovate and improve the Jeanne Bellamah shelter center in Albuquerque located in Bernalillo county. Unexpended or unencumbered balances remaining at the end of the eighty-fifth fiscal year shall revert to the general fund;

CCC. one hundred thousand dollars (\$100,000) to the local government division of the department of finance and administration for expenditure in the eighty-second through eighty-fifth fiscal years to improve, renovate and equip Crestview Heights park in Albuquerque located in Bernalillo county. Unexpended or unencumbered balances remaining at the end of the eighty-fifth fiscal year shall revert to the general fund;

DDD. fifty thousand dollars (\$50,000) to the local government division of the department of finance and administration for a study of the heavy-use areas of the Arroyo del Oso park, golf course and soccer field in Albuquerque to redesign parking areas and make other needed renovations;

EEE. one hundred thousand dollars (\$100,000) to the local government division of the department of finance and administration for expenditure in the eighty-second through eighty-fifth fiscal years to renovate, repair and purchase new equipment for the Eisenhower swimming pool in Albuquerque located in Bernalillo county. Unexpended or unencumbered balances remaining at the end of the eighty-fifth fiscal year shall revert to the general fund;

FFF. two hundred thousand dollars (\$200,000) to the local government division of the department of finance and administration for expenditure in the eighty-second through eighty-fifth fiscal years for capital improvements to the Roswell civic center located in Chaves county. Unexpended or unencumbered balances remaining at the end of the eighty-fifth fiscal year shall revert to the general fund;

GGG. fifty thousand dollars (\$50,000) to the local government division of the department of finance and administration for expenditure in the eighty-second through eighty-fifth fiscal years to remodel, furnish and equip the health clinic in Dexter located in Chaves county. Unexpended or unencumbered balances remaining at the end of the eighty-fifth fiscal year shall revert to the general fund;

HHH. one hundred thirty-nine thousand dollars (\$139,000) to the local government division of the department of finance and administration for expenditure in the eighty-second through eighty-fifth fiscal years to upgrade and improve a Vietnam veterans war memorial in or near Eagle Nest located in Colfax county. Unexpended or

unencumbered balances remaining at the end of the eighty-fifth fiscal year shall revert to the general fund;

III. ninety thousand dollars (\$90,000) to the local government division of the department of finance and administration for expenditure in the eighty-second through eighty-fifth fiscal years to extend sewer lines and make other improvements to the Clayton sewer system located in Union county. Unexpended or unencumbered balances remaining at the end of the eighty-fifth fiscal year shall revert to the general fund;

JJJ. forty-five thousand dollars (\$45,000) to the local government division of the department of finance and administration for expenditure in the eighty-second through eighty-fifth fiscal years to design, plan, construct, equip and furnish a new multi-purpose building in the village of Eagle Nest in Colfax county. Unexpended or unencumbered balances remaining at the end of the eighty-fifth fiscal year shall revert to the general fund;

KKK. three hundred thousand dollars (\$300,000) to the local government division of the department of finance and administration for expenditure in the eighty-second through eighty-fifth fiscal years to construct and equip a city safety center in Farmington located in San Juan county. Unexpended or unencumbered balances remaining at the end of the eighty-fifth fiscal year shall revert to the general fund;

LLL. two hundred thousand dollars (\$200,000) to the local government division of the department of finance and administration for expenditure in the eighty-second through eighty-fifth fiscal years for renovation and expansion of water and wastewater systems in Tijeras located in Bernalillo county. Unexpended or unencumbered balances remaining at the end of the eighty-fifth fiscal year shall revert to the general fund;

MMM. four hundred thousand dollars (\$400,000) to the local government division of the department of finance and administration for expenditure in the eighty-second through eighty-fourth fiscal years for designing and constructing streetscape improvements to South Fourth Street in Albuquerque located in Bernalillo county. Any unexpended or unencumbered balance remaining at the end of the eighty-fourth fiscal year shall revert to the general fund;

NNN. one hundred thousand dollars (\$100,000) to the local government division of the department of finance and administration for expenditure in the eighty-second through eighty-fourth fiscal years for acquiring and preparing land for streetscape improvements on South Fourth Street in Albuquerque in Bernalillo county. Unexpended or unencumbered balances remaining at the end of the eighty-fourth fiscal year shall revert to the general fund;

OOO. one million dollars (\$1,000,000) to the local government division of the department of finance and administration for expenditure in the eighty-second

through eighty-fifth fiscal years for wastewater system improvements in Socorro located in Socorro county. Unexpended or unencumbered balances remaining at the end of the eighty-fifth fiscal year shall revert to the general fund;

~~PPP. one hundred fifty thousand dollars (\$150,000) to the legislative council service to be used by the mortgage finance authority oversight committee to develop a comprehensive housing plan, including program development and a symposium for the state;~~

[OVERSTRUCK MATERIAL HAS BEEN LINE-ITEM VETOED.]

QQQ. twenty thousand dollars (\$20,000) to the general services department for securing equipment within and maintaining utility services to the armory for the arts building;

RRR. two hundred thousand dollars (\$200,000) to the property control division of the general services department for expenditure in the eighty-second through eighty-fifth fiscal years to construct a new facility for La Familia medical center located in Santa Fe county. Unexpended or unencumbered balances remaining at the end of the eighty-fifth fiscal year shall revert to the general fund;

SSS. eight hundred thirty-one thousand dollars (\$831,000) from the state road fund to the general services department for release of liens on property to be acquired by the general services department adjacent to the border between New Mexico and the Republic of Mexico and deeded by the general services department to the federal government for a port of entry and for environmental and cultural properties remediation expenses associated with the port of entry. The appropriation made in this subsection is contingent on the state acquiring all rights, title and interest in the land needed for a port of entry for not more than six hundred thirty-one thousand dollars (\$631,000). If the state is unable to acquire all rights, title and interest in the border crossing property for not more than six hundred thirty-one thousand dollars (\$631,000), the general services department shall enter into an agreement with the state highway and transportation department to acquire the property by eminent domain and shall transfer to the state highway and transportation department such amount as may be necessary from the appropriation provided for in this subsection to obtain immediate right of entry to the lands needed for the port of entry;

TTT. ten thousand dollars (\$10,000) to the tourism department for expenditure in the eighty-third fiscal year for continuing support for the four corners heritage council for heritage tourism development and cultural resource preservation;

UUU. twenty-five thousand dollars (\$25,000) to the travel and marketing division of the tourism department for promotion and development of the museum of the horse at Ruidoso Downs in Lincoln county;

VVV. forty-five thousand dollars (\$45,000) to the tourism department for expenditure in the eighty-second through eighty-fifth fiscal years to construct and equip

a tourist welcome facility in Raton located in Colfax county. Unexpended or unencumbered balances remaining at the end of the eighty-fifth fiscal year shall revert to the general fund;

WWW. three hundred thousand dollars (\$300,000) to the technology enterprise division of the economic development department for the office of space technology contingent upon enactment into law of House Bill 506 or similar legislation of the forty-first legislature, second session;

[OVERSTRUCK MATERIAL HAS BEEN LINE-ITEM VETOED.]

XXX. twenty thousand dollars (\$20,000) to the film division of the economic development department for one full-time equivalent position;

YYY. two hundred fifty thousand dollars (\$250,000) to the department of insurance of the state corporation commission for six permanent full-time equivalent positions for regulation of insurer solvency;

ZZZ. eighty-eight thousand four hundred dollars (\$88,400) to the administration division of the state corporation commission for personal services, employee benefits and one permanent full-time equivalent position;

AAAA. thirty thousand dollars (\$30,000) to the museum division of the office of cultural affairs for one full-time equivalent position at the Fort Sumner monument;

BBBB. fifty thousand dollars (\$50,000) to the office of cultural affairs for cooperative archaeological and historical studies between the office of cultural affairs and the national institute of anthropology and history in Mexico;

CCCC. one hundred thousand dollars (\$100,000) to the office of cultural affairs in the eighty-second through eighty-fourth fiscal years to plan and design a multicultural center in Grants located in Cibola county. Unexpended or unencumbered balances remaining at the end of the eighty-fourth fiscal year shall revert to the general fund;

DDDD. one hundred thousand dollars (\$100,000) to the office of cultural affairs to conduct a comprehensive statewide study of the economic, educational and quality of life impact of New Mexico's museums, historic sites, visual and performing arts, arts organizations, community celebrations and other cultural assets;

EEEE. one hundred twenty-five thousand dollars (\$125,000) to the cultural properties restoration fund to carry out the provisions of the Cultural Properties Protection Act;

FFFF. fifty thousand dollars (\$50,000) to the natural history museum of the office of cultural affairs for operating expenses;

GGGG. forty thousand dollars (\$40,000) to the state park and recreation division of the energy, minerals and natural resources department for expenditure in the eighty-second through eighty-fifth fiscal years to improve and repair campsites and parking facilities and control streambank erosion at Hyde memorial state park. Unexpended or unencumbered balances remaining at the end of the eighty-fifth fiscal year shall revert to the general fund;

HHHH. one hundred thousand dollars (\$100,000) to the state park and recreation division of the energy, minerals and natural resources department for expenditure in the eighty-second through eighty-fifth fiscal years for repairs, renovations, restorations and improvements and constructing and equipping facilities at Red Rock state park. Unexpended or unencumbered balances remaining at the end of the eighty-fifth fiscal year shall revert to the general fund;

IIII. four hundred thousand dollars (\$400,000) from the corrective action fund to the commissioner of public lands for expenditure in the eighty-second through eighty-fifth fiscal years to stabilize the south Eubank landfill in Bernalillo county, contingent on the city of Albuquerque providing a match of four hundred thousand dollars (\$400,000) from sources other than the state; provided, however, that the commissioner of public lands may expend up to fifty thousand dollars (\$50,000) to monitor groundwater contamination and determine the necessity of additional funding for stabilization prior to the city providing the matching funds for the project; and provided further that any unexpended or unencumbered balance remaining at the end of the eighty-fifth fiscal year from the appropriation from the corrective action fund shall revert to the corrective action fund;

JJJJ. ninety thousand six hundred dollars (\$90,600) to the public utility commission for expenditure in the eighty-third fiscal year for one full-time equivalent position and associated costs;

KKKK. eighteen thousand dollars (\$18,000) to the public utility commission for expenditure in the eighty-third fiscal year for an accounting technician;

LLLL. fifteen thousand dollars (\$15,000) to the New Mexico organic commodity commission for operational expenses;

MMMM. fifty thousand dollars (\$50,000) to the office of Indian affairs for constructing a sewer lagoon for the community of Tsa-Ya-Toh located in McKinley county;

NNNN. three hundred seventy-five thousand dollars (\$375,000) to the office of Indian affairs for completing environmental assessments, archaeological and right-of-way clearances and extension of power lines in the community of Burnham located in San Juan county;

OOOO. fifty thousand dollars (\$50,000) to the office of Indian affairs for developing, planning, designing or constructing phase II of the Crownpoint recreation complex located in McKinley county;

PPPP. one hundred thousand dollars (\$100,000) to the office of Indian affairs for an environmental water quality study for Cochiti pueblo in Sandoval county;

QQQQ. two hundred thousand dollars (\$200,000) to the office of Indian affairs for a library at Cochiti pueblo in Sandoval county;

RRRR. eighty thousand dollars (\$80,000) to the office of Indian affairs for funding youth programs at Cochiti pueblo in Sandoval county;

SSSS. fifty thousand dollars (\$50,000) to community programs of the state agency on aging for expenditure in the eighty-third fiscal year to contract for respite care services in McKinley county;

TTTT. thirty thousand dollars (\$30,000) to community programs in the state agency on aging to contract for services to renovate the Pecos senior center including restuccoing and replastering walls and renovating the activity room and halls;

UUUU. twenty-five thousand dollars (\$25,000) to the state agency on aging to complete construction of a senior center in Naschitti located in San Juan county;

VVVV. fifty thousand dollars (\$50,000) to the state agency on aging for expenditure in the eighty-third fiscal year to establish a comprehensive community-based services system for frail elderly residents of the state who qualify for nursing home care;

WWWW. twelve thousand one hundred dollars (\$12,100) to the income support division of the human services department matched with twelve thousand one hundred dollars (\$12,100) from federal funds for expenditure in the eighty-third fiscal year for a client services agent position in Santa Rosa;

XXXX. five hundred thousand dollars (\$500,000) for water and sewer hook-ups for indigent or low-income New Mexicans and five hundred thousand dollars (\$500,000) for community services block grant programs to the income support division of the human services department for expenditure in the eighty-third fiscal year;

YYYY. five hundred thousand dollars (\$500,000) to the energy, minerals and natural resources department for expenditure in the eighty-third fiscal year on the weatherization program;

ZZZZ. one hundred thousand dollars (\$100,000) to the income support division of the human services department for expenditure in the eighty-third fiscal year to supplement existing food programs for the homeless throughout the state;

AAAAA. twenty-five thousand dollars (\$25,000) to the governor's committee on concerns of the handicapped for a study of attendant services for the disabled;

BBBBB. one hundred thousand dollars (\$100,000) to the long-term and restorative services division of the department of health to provide funding for physically disabled adults that would allow the purchase of adaptive equipment, home renovation and additional personal attendant services;

CCCCC. two hundred thousand dollars (\$200,000) to the public health division of the department of health for dental clinic program development in the Silver City region, Hobbs region and the Gallup and Grants regions of the state;

DDDDD. nineteen thousand dollars (\$19,000) to the department of health for a drug abuse program in Hobbs;

EEEEE. seventy-five thousand dollars (\$75,000) to the department of health for preschool and infant evaluations to infants and toddlers who have developmental disabilities or are at risk of delay;

FFFFF. twenty thousand dollars (\$20,000) to the public health division of the department of health for family planning services in Albuquerque in Bernalillo county;

GGGGG. one hundred fifty thousand dollars (\$150,000) to the department of health for primary health care services in Roswell located in Chaves county;

HHHHH. fifty thousand dollars (\$50,000) to the public health division of the department of health to improve and expand the silver senior wellness program of the Gila regional medical center;

IIIII. two hundred twenty-five thousand dollars (\$225,000) to the Truth or Consequences veterans' center for use as a grant for operational costs for a hospital providing acute care services to veterans and other residents of Sierra county;

JJJJJ. one hundred twenty-five thousand dollars (\$125,000) to the department of health to contract with a grassroots community-oriented health program to improve the health status and follow up care of infants, children and mothers from culturally diverse families by educating families and health care providers regarding health issues affecting these families;

KKKKK. two hundred thousand dollars (\$200,000) to the health department for supporting a temporary lodging facility in Albuquerque to host both adult and child cancer patients and their families visiting Albuquerque for treatment purposes;

LLLLL. fifty thousand dollars (\$50,000) to the public health division of the department of health for the university of New Mexico maternity and infant care project in Bernalillo in Sandoval county;

MMMMM. eighty thousand dollars (\$80,000) to the public health division of the health department for expenditure in the eighty-third fiscal year for family planning services in Deming, Las Cruces and Silver City;

NNNNN. one hundred thousand dollars (\$100,000) to the health department for expenditure in the eighty-second through eighty-fourth fiscal years for a new facility in Roswell in Chaves county to house administrative services programs, infant and family programs and personal and social development programs. Unexpended or unencumbered balances remaining at the end of the eighty-fourth fiscal year shall revert to the general fund;

OOOOO. ninety-seven thousand dollars (\$97,000) to the department of environment to conduct a regional wastewater study and prepare a master plan for Dona Ana county;

PPPPP. two hundred fifty thousand dollars (\$250,000) to the department of environment for expenditure in the eighty-second through eighty-fourth fiscal years to purchase and improve the domestic water system for the village of Reserve located in Catron county. Unexpended or unencumbered balances remaining at the end of the eighty-fourth fiscal year shall revert to the general fund;

QQQQQ. two hundred thousand dollars (\$200,000) to the department of environment for expenditure in the eighty-second through eighty-fourth fiscal years to construct a sewer system that ties the area of Alamo lane, camino de los Lopez and Agua Fria street to the Santa Fe River sewer trunk line located in Santa Fe county. Unexpended or unencumbered balances remaining at the end of the eighty-fourth fiscal year shall revert to the general fund;

RRRRR. three hundred thousand dollars (\$300,000) to the department of environment for expenditure in the eighty-second through eighty-fourth fiscal years to make improvements to the domestic water systems in Anton Chico and Puerto de Luna located in Guadalupe county and Corona located in Lincoln county. Unexpended or unencumbered balances remaining at the end of the eighty-fourth fiscal year shall revert to the general fund;

SSSSS. one hundred sixty thousand dollars (\$160,000) to the department of environment for expenditure in the eighty-second through eighty-fourth fiscal years to design, inspect and construct water and sewer system improvements in the Dungan

subdivision area of Otero county. Unexpended or unencumbered balances remaining at the end of the eighty-fourth fiscal year shall revert to the general fund;

TTTTT. two hundred fifty thousand dollars (\$250,000) to the department of environment for expenditure in the eighty-second through eighty-fourth fiscal years to replace water lines and install additional fire hydrants in the village of Tularosa located in Otero county. Unexpended or unencumbered balances remaining at the end of the eighty-fourth fiscal year shall revert to the general fund;

UUUUU. forty-five thousand dollars (\$45,000) to the department of environment for expenditure in the eighty-second through eighty-fourth fiscal years to modify and make other improvements to the water treatment plant in Springer located in Colfax county. Unexpended or unencumbered balances remaining at the end of the eighty-fourth fiscal year shall revert to the general fund;

VVVVV. forty-five thousand dollars (\$45,000) to the department of environment for expenditure in the eighty-second through eighty-fourth fiscal years to make improvements to both the domestic water supply and sewer systems in the village of Cimarron located in Colfax county. Unexpended or unencumbered balances remaining at the end of the eighty-fourth fiscal year shall revert to the general fund;

WWWWW. twenty-four thousand dollars (\$24,000) to the department of environment for expenditure in the eighty-second through eighty-fourth fiscal years to make improvements to the domestic water system in the village of Roy located in Harding county. Unexpended or unencumbered balances remaining at the end of the eighty-fourth fiscal year shall revert to the general fund;

XXXXX. twenty-four thousand dollars (\$24,000) to the department of environment for expenditure in the eighty-second through eighty-fourth fiscal years to complete installation and improve a sewer system in the village of Mosquero located in Harding county. Unexpended or unencumbered balances remaining at the end of the eighty-fourth fiscal year shall revert to the general fund;

YYYYY. twenty-four thousand dollars (\$24,000) to the department of environment for expenditure in the eighty-second through eighty-fourth fiscal years to purchase, install and construct facilities for a water storage tank for the village of Des Moines located in Union county. Unexpended or unencumbered balances remaining at the end of the eighty-fourth fiscal year shall revert to the general fund;

ZZZZZ. thirty thousand dollars (\$30,000) to the community residential services division of the children, youth and families department for expenditure in the eighty-third fiscal year for one juvenile probation officer position in Ruidoso in Lincoln county;

AAAAA. one hundred thousand dollars (\$100,000) to the children, youth and families department for expenditure in the eighty-third fiscal year for services to

provide tutoring and social services to youth in Las Cruces who have been disenrolled, suspended or dropped from school to enable them to return to school successfully;

BBBBBB. sixty-six thousand dollars (\$66,000) to the child care bureau of the preventive services division of the children, youth and families department for expenditure in the eighty-third fiscal year for direct income-eligible child care;

CCCCCC. two hundred thousand dollars (\$200,000) to the children, youth and families department for a feasibility study and program design for youthful offenders as defined in the Children's Code the results of which are to be reported to the forty-second legislature, first session;

DDDDDD. thirty-seven thousand five hundred dollars (\$37,500) to the risk reduction services division of the children, youth and families department for expenditure in the eighty-third fiscal year for additional programs for the teen parent project;

EEEEEE. one hundred thousand dollars (\$100,000) to the risk reduction services division of the children, youth and families department for expenditure in the eighty-third fiscal year to contract with a private, nonprofit organization for the purpose of establishing a youth education curriculum, youth violence prevention and law enforcement support program;

FFFFFF. one hundred thousand dollars (\$100,000) to the state armory board for expenditure in the eighty-second through eighty-fifth fiscal years for repairing and renovating the national guard armory in Portales. Unexpended or unencumbered balances remaining at the end of the eighty-fifth fiscal year shall revert to the general fund;

GGGGGG. one hundred thirty thousand dollars (\$130,000) to the human services department for homeless daycare services;

HHHHHH. one hundred sixty thousand dollars (\$160,000) to the department of public safety to contract with a nonprofit corporation to operate a community-based anti-drug program in Bernalillo county;

IIIIII. thirty thousand dollars (\$30,000) to the state highway and transportation department for installing signs commemorating sections of old United States highway 66;

JJJJJJ. fifty thousand dollars (\$50,000) to the state highway and transportation department for expenditure in the eighty-second through eighty-fifth fiscal years for extending a bicycle and hiking path between Gallup and Red Rock state park. Unexpended or unencumbered balances remaining at the end of the eighty-fifth fiscal year shall revert to the general fund;

KKKKKK. one million dollars (\$1,000,000) to the state highway and transportation department for expenditure in the eighty-second through eighty-fifth fiscal years for resurfacing and improving west seventh street in Clovis. Unexpended or unencumbered balances remaining at the end of the eighty-fifth fiscal year shall revert to the general fund;

LLLLLL. fifty thousand dollars (\$50,000) to the state highway and transportation department for expenditure in the eighty-second through eighty-fifth fiscal years for transportation department for paving and other improvements to the Artesia flood control and drainage system. Unexpended or unencumbered balances remaining at the end of the eighty-fifth fiscal year shall revert to the general fund;

MMMMMM. one hundred fifty thousand dollars (\$150,000) to the state highway and transportation department for expenditure in the eighty-second through eighty-fifth fiscal years for paving and other improvements to Fairgrounds road in Alamogordo. Unexpended or unencumbered balances remaining at the end of the eighty-fifth fiscal year shall revert to the general fund;

NNNNNN. two hundred fifty thousand dollars (\$250,000) to the state department of public education for family development training programs coordinated by the university of New Mexico to increase participation of low-income parents in the education of their children;

OOOOOO. one hundred forty thousand dollars (\$140,000) to the state department of public education with fifty thousand dollars (\$50,000) in matching federal funds to address the transportation of students with special needs to revise state regulations, to provide training and to make recommendations, including statutory changes, to the forty-second legislature, first session;

PPPPPP. six hundred thousand dollars (\$600,000) to the state department of public education for the purpose of providing an alternative education curriculum for at-risk students;

QQQQQQ. two hundred and fifty thousand dollars (\$250,000) to the commission on higher education to expand day care services at all two- and four-year institutions;

RRRRRR. two hundred thousand dollars (\$200,000) to the commission on higher education to expand the services of the math, engineering and science achievement (MESA) program;

SSSSSS. one hundred thirty thousand dollars (\$130,000) to the board of the Albuquerque technical-vocational institute for instruction and general purposes to expand programs to meet growing enrollment;

TTTTTT. thirty thousand dollars (\$30,000) to the regents of the university of New Mexico for the center for regional studies within the southwest research center;

UUUUUU. sixty thousand dollars (\$60,000) to the board of regents of the university of New Mexico for the center for wildlife law's wild friends wildlife education program;

VVVVVV. fifty thousand dollars (\$50,000) to the board of regents of the university of New Mexico for the poison control center;

WWWWWW. two hundred twenty-five thousand dollars (\$225,000) to the board of regents of the university of New Mexico for expansion of the Hispanic student center and three additional full-time positions;

XXXXXX. ten thousand dollars (\$10,000) to the board of regents of New Mexico state university for the purpose of establishing a new Hispanic youth leadership program;

YYYYYY. one hundred twenty-five thousand dollars (\$125,000) to the board of regents of New Mexico state university for the teaching factory within the manufacturing sector development program;

ZZZZZZ. two hundred twenty thousand dollars (\$220,000) to the board of regents of the university of New Mexico for expenditure in the eighty-second through eighty-fourth fiscal years for improving and expanding recruitment and retention programs for Native American students. The university of New Mexico shall report to the interim Indian affairs committee and the legislative education study committee on its progress in recruitment and retention of Native American students and provide a plan for the expenditure of the money appropriated for those programs in October 1994 and 1995. The university of New Mexico shall submit to the legislature a written report accounting for the money through December 31, 1994 and the planned expenditures for the remainder of the appropriation. An advisory oversight committee shall be comprised of representatives appointed by the following entities: the university of New Mexico; the all-Indian pueblo council; the president of the Navajo nation; the president of the Jicarilla Apache tribe; the president of the Mescalero Apache tribe; the commission on higher education; the state department of public education; the New Mexico office of Indian affairs; the associated students of the university of New Mexico; the graduate students association of the university of New Mexico; the executive officer of the Gallup branch of the university of New Mexico; the executive officers of New Mexico campuses belonging to the American Indian higher education consortium; and the New Mexico independent community college association. The advisory oversight committee shall oversee and advise the university of New Mexico in the expenditure of money provided by this appropriation. Unexpended or unencumbered balances remaining at the end of the eighty-fourth fiscal year shall revert to the general fund;

AAAAAAA. one hundred thousand dollars (\$100,000) to the board of regents of the university of New Mexico to provide resource materials on Native American history, Indian law, the current status of tribal governments and other information on tribal activities through the libraries and Native American programs on the university of New Mexico campus to be distributed as follows: forty thousand dollars (\$40,000) to Zimmerman library; twenty thousand dollars (\$20,000) to the Native American studies program; thirty thousand dollars (\$30,000) to the library at the school of law; and ten thousand dollars (\$10,000) to the library at the school of medicine;

BBBBBBB. fifty thousand dollars (\$50,000) to the board of regents of the University of New Mexico for the young children's health center;

CCCCCC. two hundred thousand dollars (\$200,000) to the board of regents of the university of New Mexico to upgrade graduate students' computer hardware and software according to graduate departments' needs;

DDDDDDD. fifty thousand dollars (\$50,000) to the board of regents of the university of New Mexico to hire a director to reinstate the office of international technical cooperation;

EEEEEEE. one million three hundred fifty thousand dollars (\$1,350,000) to the regents of the university of New Mexico for expenditure in the eighty-second through eighty-fourth fiscal years for designing, constructing, equipping and furnishing the athletic training facility. Unexpended or unencumbered balances remaining at the end of the eighty-fourth fiscal year shall revert to the general fund;

FFFFFFF. three million dollars (\$3,000,000) to the board of regents of New Mexico highlands university for expenditure in the eighty-second through eighty-fifth fiscal years for the construction of a library addition. Unexpended or unencumbered balances remaining at the end of the eighty-fifth fiscal year shall revert to the general fund;

GGGGGGG. eight million two hundred fifty thousand dollars (\$8,250,000) to the regents of the New Mexico institute of mining and technology for expenditure in the eighty-second through eighty-fifth fiscal years for the partial demolition and replacement of the workman center and constructing and equipping an energetic materials research and testing center. Unexpended or unencumbered balances remaining at the end of the eighty-fifth fiscal year shall revert to the general fund;

HHHHHHH. six million two hundred thousand dollars (\$6,200,000) to the regents of western New Mexico university for expenditure in the eighty-second through eighty-fifth fiscal years for library renovation including the construction of a media services office and classrooms to support instruction. Unexpended or unencumbered balances remaining at the end of the eighty-fifth fiscal year shall revert to the general fund;

IIIIII. ninety-seven thousand dollars (\$97,000) to the regents of the university of New Mexico for the purpose of replacing the roof at the children's psychiatric hospital located in Bernalillo county;

JJJJJJJ. three million dollars (\$3,000,000) to the board of regents of New Mexico highlands university for expenditure in the eighty-second through eighty-fifth fiscal years for renovation of the teacher education center. Unexpended or unencumbered balances remaining at the end of the eighty-fifth fiscal year shall revert to the general fund;

KKKKKKK. five hundred thousand dollars (\$500,000) to New Mexico state university for expenditure in the eighty-third through eighty-fifth fiscal years to improve existing athletic facilities on the New Mexico state university campus in Las Cruces located in Dona Ana county. Unexpended or unencumbered balances remaining at the end of the eighty-fifth fiscal year shall revert to the general fund;

LLLLLLL. one hundred fifty thousand dollars (\$150,000) to the small business development centers of the commission on higher education for a project in the south valley of Bernalillo county to provide technical assistance to small businesses for obtaining commercial financing and improving business operations;

MMMMMMM. five thousand dollars (\$5,000) to the board of regents of the New Mexico state university to prepare an instructional video about physical education curricula for home school students;

NNNNNNN. eight hundred thousand dollars (\$800,000) to the governing board of San Juan college for expenditure in the eighty-second through eighty-fifth fiscal years to construct, improve and equip the San Juan college west facility in San Juan county. Unexpended or unencumbered balances remaining at the end of the eighty-fifth fiscal year shall revert to the general fund;

OOOOOOO. one hundred fifty thousand dollars (\$150,000) to the board of regents of New Mexico highlands university to establish a Latin American institute;

PPPPPPP. twenty-five thousand dollars (\$25,000) to the board of regents of the university of New Mexico for gender equity library resources;

QQQQQQQ. five hundred thousand dollars (\$500,000) to the board of regents of New Mexico highlands university for expenditure in the eighty-second through eighty-fifth fiscal years to replace the roof on Wilson gymnasium. Unexpended or unencumbered balances remaining at the end of the eighty-fifth fiscal year shall revert to the general fund;

RRRRRRR. one hundred seventy-five thousand dollars (\$175,000) to the board of regents of New Mexico highlands university for expenditure in the eighty-second through eighty-fifth fiscal years to remodel Archuleta hall. Unexpended or

unencumbered balances remaining at the end of the eighty-fifth fiscal year shall revert to the general fund;

SSSSSS. five hundred thousand dollars (\$500,000) to the board of regents of eastern New Mexico university for expenditure in the eighty-second through eighty-fifth fiscal years for renovation of a theater building into a centralized computer center. Unexpended or unencumbered balances remaining at the end of the eighty-fifth fiscal year shall revert to the general fund;

TTTTTTT. fifty thousand dollars (\$50,000) to the community college board of Santa Fe community college to expand services of the intercultural community leadership project;

UUUUUUU. fifty-five thousand dollars (\$55,000) to the state department of public education to purchase a special education school bus for Las Vegas city schools;

VVVVVVV. one hundred fifty thousand dollars (\$150,000) to the state department of public education for an adolescent day treatment center in Ruidoso municipal schools;

WWWWWWW. one hundred thousand dollars (\$100,000) to the state department of public education for vocational-technical education facilities and programs at Santa Rosa consolidated schools;

XXXXXXX. fifty thousand dollars (\$50,000) to the state department of public education for computer equipment at Capitan municipal schools;

YYYYYYY. sixty thousand dollars (\$60,000) to the state department of public education for headstart programs in Gallup-McKinley county public schools;

ZZZZZZZ. three hundred twenty-five thousand dollars (\$325,000) to the local government division of the department of finance and administration for a school parks community development project for use at Sandia high school and Madison middle school in Albuquerque public schools;

AAAAAAA. one hundred thousand dollars (\$100,000) to the state department of public education for outdoor educational facilities at the early childhood educational center in Carlsbad municipal schools;

BBBBBBB. eighty-one thousand nine hundred dollars (\$81,900) to the state department of public education for improvements to the vocational educational facility at Alta Vista middle school in Carlsbad municipal schools;

CCCCCCC. seventy-five thousand dollars (\$75,000) to the state department of public education to conduct a community needs assessment for the educational needs of the Martineztown community in Bernalillo county;

DDDDDDDD. one hundred fifty-five thousand dollars (\$155,000) to the state department of public education for a computer laboratory at Albuquerque high school in Albuquerque public schools;

EEEEEEEE. fifty thousand dollars (\$50,000) to the local government division of the department of finance and administration for headstart facilities in Artesia public schools;

FFFFFFFF. four hundred thousand dollars (\$400,000) to the state department of public education for expenditure in the eighty-second through the eighty-fifth fiscal years for an all-weather track and field facility for the Silver consolidated schools. Unexpended or unencumbered balances remaining at the end of the eighty-fifth fiscal year shall revert to the general fund;

GGGGGGGG. four hundred thousand dollars (\$400,000) to the state department of public education for computer equipment at Belen consolidated schools;

HHHHHHHH. eighteen thousand dollars (\$18,000) to the state department of public education for equipment to remove graffiti at Belen consolidated schools;

IIIIIIII. seventeen thousand dollars (\$17,000) to the state department of public education for peer mediation training at Belen consolidated schools;

JJJJJJJJ. seventy-five thousand dollars (\$75,000) to the state department of public education for gang intervention programs in Gadsden independent schools;

KKKKKKKK. seventy-five thousand dollars (\$75,000) to the state department of public education to renovate and improve the playground area at East San Jose elementary school in Albuquerque public schools;

LLLLLLLL. seven hundred fifty thousand dollars (\$750,000) to the state department of public education for expenditure in the eighty-second through eighty-fifth fiscal years for the purpose of making repairs, improvements and renovations to the buildings and grounds of the Mesa Vista consolidated schools. Unexpended or unencumbered balances remaining at the end of the eighty-fifth fiscal year shall revert to the general fund;

MMMMMMMM. eight hundred thousand dollars (\$800,000) to the state department of public education to purchase school buses and adaptive equipment in order to address the transportation needs of students receiving special education services contingent on a minimum expenditure of three hundred fifty thousand dollars (\$350,000) for adaptive equipment;

NNNNNNNN. forty-five thousand dollars (\$45,000) to the state department of public education for capital improvements at Grady municipal schools;

OOOOOOOO. twenty-four thousand dollars (\$24,000) to the state department of public education to construct livestock facilities and purchase equipment for Logan municipal schools;

PPPPPPP. two hundred fifty thousand dollars (\$250,000) to the state department of public education for expenditure in the eighty-second through eighty-fourth fiscal years for capital improvements to the buildings and grounds of Mora independent schools. Unexpended or unencumbered balances remaining at the end of the eighty-fourth fiscal year shall revert to the general fund;

QQQQQQQQ. five hundred thousand dollars (\$500,000) to the local government division of the department of finance and administration for critical needs of a first class county with a 1993 assessed valuation of twenty-five million thirty-six thousand four hundred twenty-seven dollars (\$25,036,427);

RRRRRRRR. forty thousand dollars (\$40,000) to the local government division of the department of finance and administration for a pilot graffiti removal program in Albuquerque in Bernalillo county;

SSSSSSSS. five hundred thousand dollars (\$500,000) to the office of cultural affairs for contracting for statewide music education and symphonic services by the New Mexico symphony; and

[OVERSTRUCK MATERIAL HAS BEEN LINE-ITEM VETOED.]

TTTTTTTT. five hundred thousand dollars (\$500,000) to the board of regents of the university of New Mexico for the office of graduate studies for research, projects and travel to and attendance at seminars and conferences by graduate students.

Section 7

Section 7. APPROPRIATIONS--SPECIALS.--

A. The amounts specified in this section are appropriated from the general fund, unless otherwise specified, for the purposes specified. Unless otherwise indicated, these appropriations may be expended in the eighty-second and eighty-third fiscal years. Unless otherwise indicated, unexpended or unencumbered balances of these appropriations remaining at the end of the eighty-third fiscal year shall revert to the appropriate fund.

B. To the legislative council service is appropriated twelve thousand dollars (\$12,000) for per diem and mileage expenses of advisory members appointed to the dual taxation task force, contingent on House Taxation and Revenue Committee Substitute for House Bill 618 or similar legislation of the forty-first legislature, second session becoming law. *[OVERSTRUCK MATERIAL HAS BEEN LINE-ITEM VETOED.]*

C. To the legislative education study committee is appropriated:

(1) thirty thousand dollars (\$30,000) for an enrollment growth factor study;
and

(2) fifteen thousand dollars (\$15,000) to study the need for elementary school counseling programs.

D. To the administrative office of the courts is appropriated:

(1) forty thousand dollars (\$40,000) for the magistrate court division for expenditure in the eighty-third fiscal year for full-time magistrate judge in McKinley county, contingent on Senate Bill 940 or similar legislation of the forty-first legislature, second session becoming law; and

(2) forty-five thousand dollars (\$45,000) for a teen court pilot project in the sixth judicial district in Silver City.

E. To the second judicial district court is appropriated for expenditure in the eighty-third fiscal year:

(1) one hundred twenty-five thousand dollars (\$125,000) for two permanent full-time equivalent positions and costs to establish a judges pro tempore program; and

(2) fifty thousand dollars (\$50,000) for expenditure in the eighty-third fiscal year for a special master and support staff for children's court.

F. To the third judicial district court is appropriated eighty thousand dollars (\$80,000) for moving expenses.

G. To the seventh judicial district court is appropriated for expenditure in the eighty-third fiscal year twenty-three thousand four hundred dollars (\$23,400) for one permanent half-time financial specialist and one permanent half-time court clerk in Sierra county.

H. To the eighth judicial district court is appropriated twenty-four thousand five hundred dollars (\$24,500) for the eighty-second fiscal year to supplement personal services and employee benefits categories and for the court-appointed special advocate program; provided any unexpended or unencumbered balance remaining at the end of the eighty-second fiscal year shall revert to the general fund.

I. To the Bernalillo county metropolitan court is appropriated for expenditure in the eighty-third fiscal year one hundred thousand dollars (\$100,000) for additional base funding.

J. To the fifth judicial district attorney is appropriated for expenditure in the eighty-third fiscal year twenty-five thousand dollars (\$25,000) for additional funding in personal services and employee benefits categories.

K. To the thirteenth judicial district attorney is appropriated for expenditure in the eighty-third fiscal year forty-five thousand dollars (\$45,000) for additional base funding.

L. To the administrative office of the district attorneys is appropriated for expenditure in the eighty-third fiscal year one hundred seventy thousand dollars (\$170,000) for operating expenses.

M. To the criminal and juvenile justice coordinating council is appropriated for expenditure in the eighty-third fiscal year three hundred fifty thousand dollars (\$350,000) to carry out its duties, contingent on House Bill 199 or similar legislation of the forty-first legislature, second session becoming law.

N. To the acequia and community ditch fund is appropriated four hundred thousand dollars (\$400,000) to provide funding for acequia and community ditch fund adjudications; provided that this appropriation shall not revert to the general fund at the end of any fiscal year.

O. To the electronic voting machine revolving fund is appropriated seven hundred thousand dollars (\$700,000) to carry out the provisions of the fund; provided that this appropriation shall not revert to the general fund at the end of any fiscal year, except as provided in Section 1-9-19 NMSA 1978.

P. To the local government division of the department of finance and administration is appropriated:

(1) two million dollars (\$2,000,000) for expenditure in the eighty-second through eighty-fifth fiscal years to acquire land and develop a state and local park for public recreational and multi-use purposes, including the permanent site of the Albuquerque balloon fiesta in Bernalillo county; provided that any unexpended or unencumbered balance remaining at the end of the eighty-fifth fiscal year shall revert to the general fund;

(2) fifty thousand dollars (\$50,000) to continue an alternative sentencing pilot program in Bernalillo county;

(3) fifty thousand dollars (\$50,000) for the middle Rio Grande conservancy district for clean-up, maintenance work and other improvements, including equipment purchase and contractual services, to protect the middle Rio Grande bosque;

(4) fifty thousand dollars (\$50,000) to establish a cultural awareness pilot program in Clovis in Curry county;

(5) two hundred thousand dollars (\$200,000) for expenditure in the eighty-second through eighty-fifth fiscal years for planning, designing and constructing a youth recreational and counseling center in Sunland Park in Dona Ana county; provided that any unexpended or unencumbered balance remaining at the end of the eighty-fifth fiscal year shall revert to the general fund;

(6) one hundred forty thousand dollars (\$140,000) for purchase of a building for and operational expenses of Glencoe rural events center in Lincoln county;

(7) fifteen thousand dollars (\$15,000) for planning a wine museum in Sandoval county;

(8) eighty thousand dollars (\$80,000) to complete refurbishing at a day care center in Aztec in San Juan county;

(9) one hundred thousand dollars (\$100,000) to plan, design, construct and equip a multiple sports and outdoor recreational complex in Belen in Valencia county; and

(10) two hundred thousand dollars (\$200,000) to plan, design and construct an addition to the multipurpose youth center in Los Lunas in Valencia county.

Q. To the commission on information and communication management is appropriated three hundred fifty thousand dollars (\$350,000) to conduct a study assessing the state's current computer, technology and network capabilities and determining the state's overall needs, particularly in the areas of health care, education, environmental industries, manufacturing and business and industry; and to develop a comprehensive plan for state government and private industry to meet those needs and allow for effective state participation in the development of the national information infrastructures.

R. To the general services department is appropriated for expenditure in the eighty-third fiscal year five hundred thirty-five thousand dollars (\$535,000) for operations of state passenger aircraft.

S. To the tourism department is appropriated twenty-five thousand dollars (\$25,000) to provide funding for the Velarde apple festival.

T. To the economic development department is appropriated:

(1) eight hundred thousand dollars (\$800,000) to provide matching funds for technology-based proposals submitted to the federal government; and

(2) fifty-four thousand dollars (\$54,000) to plan and operate an Indian film festival in Santa Fe.

U. To the New Mexico apple commission is appropriated seventy-five thousand dollars (\$75,000) for expenditure in the eighty-third fiscal year to carry out the provisions of the Apple Commission Act, contingent on House Bill 926 or similar legislation of the forty-first legislature, second session becoming law.

V. To the office of cultural affairs is appropriated:

(1) one hundred thousand dollars (\$100,000) to complete the first two steps of a planned six-step project to build a data base of cultural holdings in state and local museums;

(2) one hundred thirty thousand dollars (\$130,000) for an electronic subscriptions program in the state library division;

(3) five hundred thousand dollars (\$500,000) to make grants to local arts councils and for support of local arts organizations and art education programs at educational institutions;

(4) two hundred thousand dollars (\$200,000) for improvements and acquisitions at the palace of the governors;

(5) forty-five thousand dollars (\$45,000) to provide technical assistance and to promote professional development of Hispanic and Native American artists in New Mexico;

(6) fifty thousand dollars (\$50,000) for renovations at the Meigs ranch in San Patricio in Lincoln county for use as an educational facility by the museum of New Mexico; provided that this appropriation is contingent on the donation to the state of the Meigs ranch property and various art works and furnishings; and provided further that any portion of the renovations related to compliance with the federal Americans with Disabilities Act of 1990 shall be formally approved by the state architect prior to expenditure of this appropriation;

(7) fifty thousand dollars (\$50,000) to purchase books for the public library in Rio Rancho in Sandoval county;

(8) one hundred thousand dollars (\$100,000) to design a state monument interpretive center to commemorate the camino real de tierra adentro in Socorro county; and

(9) seventy thousand dollars (\$70,000) from the publications special revolving fund for two full-time equivalent positions in the publications section of the museum of New Mexico division.

W. To the state supplemental land and water conservation fund is appropriated one hundred thousand dollars (\$100,000) to carry out the provisions of the Outdoor Recreation Act.

X. To the energy, minerals and natural resources department is appropriated one million dollars (\$1,000,000) to weatherize homes for indigents, including five hundred thousand dollars (\$500,000) to weatherize homes of indigents in Indian communities throughout the state.

Y. To the public utility commission is appropriated:

(1) seventy-five thousand dollars (\$75,000) to establish a gasoline sales data base; and

(2) seventy-five thousand dollars (\$75,000) for an operational shortfall in the eighty-second fiscal year; provided that any unexpended or unencumbered balance of this appropriation shall revert to the general fund at the end of the eighty-second fiscal year.

Z. To the interstate stream commission is appropriated three hundred fifty thousand dollars (\$350,000) for expenditure in the eighty-third fiscal year for regional water planning efforts and to continue the update of the water resource assessment, including water conservation studies and programs for statewide planning pursuant to Sections 72-14-43 and 72-14-44 NMSA 1978.

AA. To the office of Indian affairs is appropriated:

(1) one hundred thirty-eight thousand dollars (\$138,000) for a dual taxation task force, contingent on House Taxation and Revenue Committee Substitute for House Bill 618 or similar legislation of the forty-first legislature, second session becoming law;

(2) fifty thousand dollars (\$50,000) to provide technical assistance on a tourism and economic development feasibility study in Sheep Springs in San Juan county; and

(3) three hundred thousand dollars (\$300,000) for expenditure in the eighty-third fiscal year for emergency management services to remote areas of the Navajo nation in New Mexico.

BB. To the state agency on aging is appropriated fifty thousand dollars (\$50,000) for expenditure in the eighty-third fiscal year for Alzheimer programs and services, including respite care in rural areas of the state and Alzheimer informational services and assistance.

CC. To the human services department is appropriated:

(1) fifty thousand dollars (\$50,000) for expenditure in the eighty-third fiscal year to increase base funding for the child support division;

(2) twenty-five thousand dollars (\$25,000) for expenditure in the eighty-third fiscal year to provide referral, job placement, housing and supportive services for military veterans;

(3) four hundred thousand dollars (\$400,000) to the income support division to provide water and sewer hook-ups to indigent New Mexicans;

(4) four hundred thousand dollars (\$400,000) to the income support division to supplement community service block grants to provide services to indigent clients;

(5) thirty thousand dollars (\$30,000) to the income support division for legal services to assist low-income disabled children to obtain federal supplemental social security income benefits;

(6) two hundred seventy-five thousand dollars (\$275,000) to the medical assistance division to plan and design a medicaid managed care system; and

(7) sixty-two thousand eight hundred dollars (\$62,800) to the income support division for expenditure in the eighty-third fiscal year for job training and employment experience in Quay county.

DD. To the labor department is appropriated seventy-five thousand dollars (\$75,000) to establish a low-income at-risk youth job training pilot project in the south valley of Albuquerque.

EE. To the department of health is appropriated:

(1) five hundred thousand dollars (\$500,000) for expenses related to the Jackson lawsuit;

(2) two hundred fifty thousand dollars (\$250,000) for the office of epidemiology for AIDS and hantavirus programs;

(3) one hundred thousand dollars (\$100,000) for the health policy commission for health care reform studies, contingent on House Bill 702 of the forty-first legislature, second session becoming law;

(4) five million dollars (\$5,000,000) for the primary care capital fund for rural primary care capital funding, contingent on House Bill 702 of the forty-first legislature, second session becoming law;

(5) one hundred thousand dollars (\$100,000) for expenditure in the eighty-third fiscal year to continue the Reserve rural primary care model;

(6) three hundred thousand dollars (\$300,000) for expenditure in the eighty-third fiscal year for purchase of equipment and operational support of a Belen family health center in Valencia county;

(7) two hundred fifty thousand dollars (\$250,000) for a low birth-weight babies program;

(8) three hundred thousand dollars (\$300,000) for expenditure in the eighty-third fiscal year for an average four and one-half percent salary increase for substance abuse community program workers;

(9) two hundred thousand dollars (\$200,000) for an AIDS hospice pilot project; and

(10) fifty thousand dollars (\$50,000) to provide emergency medical services in the village of Cochiti Lake; provided that this appropriation may be expended through the eighty-fourth fiscal year; and provided that any unexpended or unencumbered balance remaining at the end of the eighty-fourth fiscal year shall revert to the general fund.

FF. To the department of environment is appropriated:

(1) forty thousand dollars (\$40,000) to the administrative services division to conduct a study of needed water and wastewater improvements at the Dona Ana airport in Dona Ana county;

(2) one hundred sixty-nine thousand dollars (\$169,000) to the environmental protection division to purchase and install air quality monitoring equipment and to establish monitoring stations on the east mesa area of Las Cruces in Dona Ana county;

(3) seventy-five thousand dollars (\$75,000) to the administrative services division for water and sewer system improvements for the Mora mutual domestic water association in Mora county;

(4) one hundred thousand dollars (\$100,000) to the administrative services division to expand the sewer and water systems in Bernalillo in Sandoval county;

(5) two hundred twenty-five thousand dollars (\$225,000) to the administrative services division to construct a water line for the new institute of American Indian arts in Santa Fe in Santa Fe county;

(6) four hundred thousand dollars (\$400,000) to the administrative services division to renovate and expand the Socorro wastewater treatment plant in Socorro county;

(7) one hundred fifty thousand dollars (\$150,000) to the environmental protection division for tribal training related to environmental laws and regulations at Sandia and the eight northern pueblos; and

(8) two hundred thousand dollars (\$200,000) to the environmental protection division for tire recycling pursuant to the provisions of the Tire Recycling Act, contingent on House Energy and Natural Resources Committee Substitute for House Bill 210 or similar legislation of the forty-first legislature, second session becoming law.

GG. To the children, youth and families department is appropriated:

(1) one hundred sixteen thousand four hundred dollars (\$116,400) for five additional teachers at the New Mexico boys' school;

(2) five hundred thousand dollars (\$500,000) to the office of the secretary to provide matching funds for operation of nonsecure alternatives to detention for juveniles on a statewide basis;

(3) fifty thousand dollars (\$50,000) to fund for expenditure in the eighty-third fiscal year operations at the Taos juvenile detention facility in Taos county;

(4) fifty thousand dollars (\$50,000) to the office of the secretary to provide a cultural education program that culminates in a statewide youth festival; provided that this appropriation is contingent on matching funds of at least fifty thousand dollars (\$50,000) being received from sources other than the state;

(5) twenty thousand dollars (\$20,000) to the institutional care division director to study adult detention standards and placement of juveniles in adult detention facilities;

(6) thirty-five thousand dollars (\$35,000) to the preventive services division director to expand early childhood programs;

(7) seven hundred thousand dollars (\$700,000) for the child care bureau of the preventive services division for expenditure in the eighty-second fiscal year for income eligible child care assistance caseload efforts; provided that any unexpended or unencumbered balance remaining at the end of the eighty-second fiscal year shall revert to the general fund;

(8) one million three hundred thousand dollars (\$1,300,000) for the child care bureau of the preventive services division for expenditure in the eighty-third fiscal year for income eligible child care assistance caseload efforts;

(9) twenty-five thousand dollars (\$25,000) to the risk reduction division for expenditure in the eighty-third fiscal year for a teen parent project that provides support for teen mothers;

(10) one hundred fifty thousand dollars (\$150,000) to the social services division for expenditure in the eighty-third fiscal year to increase the base rate of pay to foster parents for all children in foster care; and

(11) one hundred thousand dollars (\$100,000) to the social services division for expenditure in the eighty-third fiscal year to develop and operate a family preservation and youth service center in the south valley of Albuquerque in Bernalillo county.

HH. To the department of public safety is appropriated:

(1) ninety thousand dollars (\$90,000) to purchase DNA crime kits and related supplies and services;

(2) forty thousand dollars (\$40,000) to carry out the provisions of the Youth Cadet Corps Act, contingent on House Bill 736 of the forty-first legislature, second session becoming law; and

(3) four hundred twenty-three thousand six hundred dollars (\$423,600) for expenditure in the eighty-third fiscal year to recruit, hire, train and equip ten additional state police officers.

II. To the state department of public education is appropriated:

(1) thirty thousand dollars (\$30,000) to establish the administrative framework necessary to enable a pilot project to be conducted that will study the feasibility of authorizing local school districts to purchase instructional materials directly from instructional materials publishers; provided that the department shall select not more than ten local school districts to participate in the project on a voluntary basis and the pilot project shall be conducted during the 1995-1996 school year;

(2) fifty thousand dollars (\$50,000) to examine the structure of delivery of services to special needs students in transition to post-secondary educational institutions to develop a pilot transition program to improve the delivery of services; provided the pilot project shall be created in consultation with the commission on higher education in a school district that submits a qualified application and is able to supply an equal amount of matching funds and that forms a partnership with a two-year public post-secondary institution for purposes of the pilot project;

(3) five hundred thousand dollars (\$500,000) to the vocational education division to carry out the provisions of the Apprenticeship Assistance Act; provided that no more than seventy-two thousand dollars (\$72,000) of this appropriation shall be

expended for administrative costs, including employing one person to administer the program;

(4) four hundred thousand dollars (\$400,000) for expenditure in the eighty-third fiscal year to expand a statewide initiative for family development training programs coordinated by the university of New Mexico to increase participation by low-income parents in the education of their children;

(5) one hundred thousand dollars (\$100,000) for a pilot program using telephone messages and telecommunications technology to allow parents to be apprised of student activities;

(6) twenty-five thousand dollars (\$25,000) to develop public and educational radio programming for public radio station KANW;

(7) one hundred thousand dollars (\$100,000) to contract for research to obtain information from other than Albuquerque public schools sources as part of the district's study on the feasibility of dividing Albuquerque public schools into multiple school districts;

(8) six thousand dollars (\$6,000) to paint John Adams middle school in Albuquerque public schools;

(9) one hundred eighty-five thousand dollars (\$185,000) to purchase computer hardware and software for Alamosa, Carlos Rey, Atrisco and Mary Ann Binford elementary schools in Albuquerque public schools;

(10) fifty thousand dollars (\$50,000) to provide operational funds for the Recovery high school in Albuquerque;

(11) fifty thousand dollars (\$50,000) for expenditure in the eighty-third fiscal year for after school programs at La Mesa and Emerson elementary schools in Albuquerque public schools;

(12) one hundred thousand dollars (\$100,000) for capital improvements to classrooms and other buildings of the Belen consolidated school district;

(13) fifty thousand dollars (\$50,000) to purchase computer hardware and software for Capitan municipal schools;

(14) one hundred thousand dollars (\$100,000) to purchase computer hardware and software for the Clovis municipal schools;

(15) fifty-eight thousand eight hundred dollars (\$58,800) for a gang mediation pilot program at Mayfield high school in Las Cruces public schools;

(16) one hundred thousand dollars (\$100,000) to purchase computer hardware and software for the Lovington junior high school;

(17) seventy-five thousand dollars (\$75,000) to purchase computer hardware and software for the Portales municipal schools;

(18) two hundred fifty thousand dollars (\$250,000) for Rio Rancho public schools start-up costs; and

(19) forty-eight thousand dollars (\$48,000) to study the feasibility of creating a countywide alternative high school in San Juan county.

JJ. To the commission on higher education is appropriated:

(1) eighty-four thousand dollars (\$84,000) for expenditure in the eighty-third fiscal year to increase funding for the medical student loan program; provided that this appropriation shall not revert to the general fund at the end of any fiscal year;

(2) three hundred thousand dollars (\$300,000) for the Albuquerque technical-vocational institute to contract with a nonprofit organization to implement a business program promoting minority- and women-owned businesses in New Mexico;

(3) sixty-one thousand dollars (\$61,000) for the small business development centers for minority- and women-owned business assistance; and

(4) six million dollars (\$6,000,000) for the eighty-second through eighty-fourth fiscal years to provide endowments at state institutions of higher education for merit scholarships for New Mexico residents as provided in Subparagraphs (a) through (g) of this paragraph; provided that the endowment funds shall be invested by the institutions or commission or, if delegated by the institution or commission, the state investment council, in accordance with the prudent man rule and the income from the investments shall be used to provide merit scholarships for New Mexico residents who have an ACT score of twenty-two or above or an equivalent score on the test that the student has taken, who are attending the institution half-time or more and who are eligible for federal financial aid; and provided further that preference for these scholarships shall be given to transfer or returning students; and provided further that any amount not invested by an institution by the end of the eighty-fourth fiscal year shall revert to the general fund:

(a) one million five hundred thousand dollars (\$1,500,000) to the board of regents of the university of New Mexico;

(b) one million dollars (\$1,000,000) to the board of regents of New Mexico state university;

(c) five hundred thousand dollars (\$500,000) to the board of regents of eastern New Mexico university;

(d) five hundred thousand dollars (\$500,000) to the board of regents of western New Mexico university;

(e) five hundred thousand dollars (\$500,000) to the board of regents of New Mexico highlands university;

(f) five hundred thousand dollars (\$500,000) to the board of regents of the New Mexico institute of mining and technology; and

(g) one million five hundred thousand dollars (\$1,500,000) to the commission on higher education to provide merit scholarships for students attending a public two-year post-secondary institution, with the exception of New Mexico military institute, subject to rules and regulations adopted by the commission on higher education.

KK. To the board of regents of the university of New Mexico is appropriated:

(1) fifteen thousand dollars (\$15,000) to expand the cooperative education program's science and engineering women's career development program; provided that this appropriation shall not revert to the general fund at the end of any fiscal year;

(2) one hundred fifty thousand dollars (\$150,000) to the medical school for renovations and other educational resources necessary to provide for enrollment of six additional physical therapy students;

(3) one hundred thousand dollars (\$100,000) to the medical school for a center for disaster medicine; provided that this appropriation shall not revert to the general fund at the end of any fiscal year;

(4) fifty thousand dollars (\$50,000) to purchase law school library books;

(5) fifty thousand dollars (\$50,000) for the judicial education center for expenditure in the eighty-third fiscal year for Navajo language court interpreter training;

(6) thirty thousand dollars (\$30,000) to transfer the Valencia county district court law library to the Valencia branch; and

(7) fifty thousand dollars (\$50,000) to develop a model community computer information and education network at the Taos education center.

LL. To the board of regents of New Mexico state university is appropriated:

(1) fifty-two thousand dollars (\$52,000) for expenditure in the eighty-third fiscal year for the department of agriculture to hire a petroleum standards laboratory specialist in the standards and consumer services division;

(2) five hundred thousand dollars (\$500,000) for the waste management education research consortium; provided that this appropriation shall not revert to the general fund at the end of any fiscal year; and

(3) one hundred fifty thousand dollars (\$150,000) to acquire additional archival material and to provide for the maintenance of existing collections in the Rio Grande historical collection.

MM. To the board of regents of New Mexico institute of mining and technology is appropriated four hundred thousand dollars (\$400,000) to provide for the development, establishment and operation of a petroleum regional resource center; provided that this appropriation shall not revert to the general fund at the end of any fiscal year.

NN. To the board of regents of western New Mexico university is appropriated forty-two thousand dollars (\$42,000) for expenditure in the eighty-third fiscal year for the nursing program; provided that this appropriation shall not revert to the general fund at the end of any fiscal year.

OO. To the board of regents of New Mexico military institute is appropriated thirty-two thousand dollars (\$32,000) for instructional computer software and student assessment.

Section 8

Section 8. STATE FAIR COMMISSION APPROPRIATION.--

A. Twelve million sixty-three thousand one hundred dollars (\$12,063,100) is appropriated from New Mexico state fair receipts and other income of the state fair commission to the state fair commission for expenditure in the eighty-third fiscal year as follows:

| | | |
|----------------------|--------|-------------|
| personal services | | \$2,874,700 |
| employee benefits | | 698,600 |
| travel | 68,000 | |
| maintenance/repairs | | 322,000 |
| supplies/materials | | 139,800 |
| contractual services | | 3,272,200 |

| | |
|---------------------|-----------|
| operating costs | 1,479,100 |
| other costs | 2,978,000 |
| capital outlay | 223,000 |
| out of state travel | 7,700. |

B. The state fair commission is authorized forty-eight permanent full-time equivalent employees and one hundred thirty-six temporary full-time equivalent employees.

C. Category transfers and budget increases from other state funds are specifically authorized for the state fair commission. Such other state funds are appropriated.

Section 9

Section 9. TRANSFER AUTHORITY.--If at the end of the eighty-second fiscal year revenue and transfers to the general fund, excluding transfers to the operating reserve, the appropriation contingency fund and the public school state support reserve fund are not sufficient to meet appropriations, the governor, with state board of finance approval, may transfer at the end of that year the amount necessary to meet the year's obligations from the unencumbered balance remaining in the general fund operating reserve an amount not to exceed thirty million dollars (\$30,000,000); provided that this amount in combination with the amount provided in Laws 1994, Chapter 6, Section 6 shall not exceed fifty million dollars (\$50,000,000).

Section 10

Section 10. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

SENATE BILL 967, aa, w/cc
Approved March 9, 1994

CHAPTER 148

RELATING TO CAPITAL EXPENDITURES; AUTHORIZING THE ISSUANCE OF SEVERANCE TAX BONDS; AUTHORIZING EXPENDITURES; MAKING APPROPRIATIONS TO CERTAIN STATE AGENCIES AND STATE FUNDS FOR CAPITAL IMPROVEMENTS, PLANNING AND OTHER PURPOSES; AUTHORIZING DISTRIBUTIONS; REAUTHORIZING CERTAIN SEVERANCE TAX BOND APPROPRIATIONS; CHANGING PURPOSES OF PRIOR APPROPRIATIONS; EXTENDING FISCAL YEARS FOR EXPENDITURE OF CERTAIN APPROPRIATIONS; DECLARING AN EMERGENCY.

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

Section 1

Section 1. SEVERANCE TAX BONDS--AUTHORIZATIONS--APPROPRIATION OF PROCEEDS.--

A. The state board of finance may issue and sell severance tax bonds in compliance with the Severance Tax Bonding Act in an amount not to exceed the total of the amounts authorized for purposes specified in Sections 4 through 40 of this act. The state board of finance shall schedule the issuance and sale of the bonds in the most expeditious and economical manner possible upon a finding by the board that the project has been developed sufficiently to justify the issuance and that the project can proceed to contract within a reasonable time. The state board of finance shall further take the appropriate steps necessary to comply with the Internal Revenue Code of 1986, as amended. Proceeds from the sale of the bonds are appropriated for the purposes specified in Sections 4 through 40 of this act.

B. The agencies named in Sections 4 through 40 of this act shall certify to the state board of finance when the money from the proceeds of the severance tax bonds authorized in this section is needed for the purposes specified in the applicable sections of this act.

C. If the specified agency has not certified the need for the issuance of the bonds by the end of the eighty-fifth fiscal year, the authorization provided in this act shall be void.

D. Unless otherwise specified in this act, any unexpended or unencumbered balance remaining from the proceeds from severance tax bonds issued pursuant to Sections 4 through 40 of this act after the eighty-sixth fiscal year shall revert to the severance tax bonding fund.

Section 2

Section 2. ADMINISTRATIVE COSTS.--

A. One hundred thousand dollars (\$100,000) is appropriated from the general fund to the state department of public education for expenditure in the eighty-second and eighty-third fiscal years to administer capital outlay and other miscellaneous projects authorized by this and other acts of the second session of the forty-first legislature. Any unexpended or unencumbered balance remaining at the end of the eighty-third fiscal year shall revert to the general fund.

B. One hundred forty thousand dollars (\$140,000) is appropriated from the general fund to the local government division of the department of finance and administration for expenditure in the eighty-second and eighty-third fiscal years for three full-time-equivalent positions to administer capital outlay and other miscellaneous projects authorized by this and other acts of the second session of the forty-first

legislature. Any unexpended or unencumbered balance remaining at the end of the eighty-third fiscal year shall revert to the general fund.

Section 3

Section 3. FEDERAL AMERICANS WITH DISABILITIES ACT OF 1990 COMPLIANCE--PROJECTS.--

A. Notwithstanding any other provision of this act, money appropriated for any state capital improvements project or portion of a state capital improvements project that relates to architectural barrier removal pursuant to the federal Americans with Disabilities Act of 1990 shall not be expended until the state architect has formally approved the architectural barrier removal project.

B. Notwithstanding any other provision of this act, money appropriated for any local, nonstate capital improvements project or portion of a local, nonstate capital improvements project that relates to architectural barrier removal pursuant to the federal Americans with Disabilities Act of 1990 shall not be expended until the local government division of the department of finance and administration, in consultation with the governor's committee on concerns of the handicapped, has formally approved the architectural barrier removal project.

Section 4

Section 4. SEVERANCE TAX BONDS--STATE AGENCY ON AGING--PURPOSES.-- Pursuant to the provisions of Section 1 of this act, upon certification by the state agency on aging that the need exists for the issuance of the bonds, the following amounts are appropriated to the state agency on aging for the following purposes:

A. one hundred thousand dollars (\$100,000) to plan and design a senior citizen center for Jemez pueblo located in Sandoval county;

B. two hundred fifty thousand dollars (\$250,000) to design, construct and equip a senior citizen center at the Alamo chapter of the Navajo Nation located in Socorro county;

C. two hundred thousand dollars (\$200,000) to design, plan, construct, equip and furnish a new senior citizen center in the community of Tierra Amarilla located in Rio Arriba county;

D. nineteen thousand dollars (\$19,000) to make improvements to the Lordsburg senior center located in Hidalgo county as necessary to comply with the federal Americans with Disabilities Act of 1990;

E. sixty thousand dollars (\$60,000) to furnish and equip the Los Volcanes senior citizen center located in Bernalillo county;

F. fifteen thousand dollars (\$15,000) to remodel, make improvements to, equip or furnish the Mesilla community center located in Dona Ana county;

G. one hundred thousand dollars (\$100,000) to renovate the Martineztown senior citizen center located in Bernalillo county;

H. one hundred thousand dollars (\$100,000) for construction of Mountainview Kinney senior citizen and multipurpose center in Albuquerque located in Bernalillo county;

I. two hundred sixty thousand dollars (\$260,000) for construction of Thomas Bell senior citizen center in Albuquerque located in Bernalillo county;

J. one hundred twenty-five thousand dollars (\$125,000) for construction of the Pajarito senior citizen center in Albuquerque located in Bernalillo county;

K. four hundred fifty thousand dollars (\$450,000) to plan, design, construct and equip a senior citizen center in the town of Dulce located in Rio Arriba county;

L. ninety thousand dollars (\$90,000) to construct and equip a senior citizen center in Springer located in Colfax county;

M. two hundred thousand dollars (\$200,000) to design, plan, engineer and construct a senior citizen center in Mexican Springs located in McKinley county;

N. two hundred fifty thousand dollars (\$250,000) to plan, design and construct a senior center at Nambe located in Santa Fe county;

O. one hundred fifty thousand dollars (\$150,000) to design, plan, construct and equip a combination senior citizen center and senior daycare center at Zia pueblo located in Sandoval county;

P. two hundred thousand dollars (\$200,000) to design, plan, construct and equip a senior center at Pinedale located in McKinley county;

Q. one million one hundred fifty thousand dollars (\$1,150,000) to plan, design and construct a combination senior center and multipurpose center at Alamogordo located in Otero county;

R. two hundred fifty thousand dollars (\$250,000) to acquire land, design, construct, equip and provide parking facilities for a senior citizen center in Cloudcroft located in Otero county;

S. one hundred fifty thousand dollars (\$150,000) to plan, design and construct a senior citizen center in the city of Portales located in Roosevelt county;

T. twenty-five thousand dollars (\$25,000) to complete the purchase of a senior citizen nutrition van, purchase needed equipment for and make repairs to senior citizen centers in Moriarty, McIntosh, Estancia, Encino and Manzano located in Torrance county;

U. thirty-two thousand dollars (\$32,000) to purchase a twenty-two passenger van for the Beclabito senior citizen center located in San Juan county;

V. twenty-five thousand dollars (\$25,000) to purchase equipment for the Campos senior citizen center at Santa Rosa located in Guadalupe county;

W. fifty thousand dollars (\$50,000) to continue construction of a senior citizen center at San Miguel del Vado located in San Miguel county;

X. five hundred thousand dollars (\$500,000) to purchase land for, design and construct a new senior citizen center in Roswell in Chaves county;

Y. fifty thousand dollars (\$50,000) to plan, design and construct a senior citizen center in Los Alamos county;

Z. three hundred forty-five thousand dollars (\$345,000) to plan, design, construct and equip a senior citizen center in Sanostee located in San Juan county;

AA. three hundred eighty-four thousand dollars (\$384,000) to expand the Laguna rainbow center nursing home in Cibola county;

BB. eighteen thousand dollars (\$18,000) to continue construction and paving of the Logan senior citizen center parking lot located in Quay county;

CC. two hundred thousand dollars (\$200,000) for furnishings and equipment for the Silver City senior center in Grant county;

DD. one hundred fifty thousand dollars (\$150,000) to expand the Meadowlark senior center and provide for additional parking facilities at the center in Rio Rancho in Sandoval county; and

EE. fifty thousand dollars (\$50,000) to continue construction and landscaping of the senior citizen building in the city of Belen in Valencia county.

Section 5

Section 5. SEVERANCE TAX BONDS--NEW MEXICO DEPARTMENT OF AGRICULTURE--PURPOSE.--Pursuant to the provisions of Section 1 of this act, upon certification by the New Mexico department of agriculture that the need exists for the issuance of the bonds, one hundred fifty thousand dollars (\$150,000) is appropriated to

the New Mexico department of agriculture to construct, furnish or equip an agricultural pavilion at the New Mexico state fair located in Bernalillo county.

Section 6

Section 6. SEVERANCE TAX BONDS--OFFICE OF CULTURAL AFFAIRS--PURPOSES.--Pursuant to the provisions of Section 1 of this act, upon certification by the office of cultural affairs that the need exists for the issuance of the bonds, the following amounts are appropriated to the office of cultural affairs for the following purposes:

A. ninety-one thousand dollars (\$91,000) to make necessary repairs and other modifications at the New Mexico museum of natural history and science in order to comply with the federal Americans with Disabilities Act of 1990;

B. three hundred thousand dollars (\$300,000) to repair and renovate the main facility of the Indian pueblo cultural center located in Bernalillo county;

C. two hundred thousand dollars (\$200,000) for land acquisition and building construction or purchase of dormitories, offices and storage space for the natural resource and wildlife education center located in Bernalillo county;

D. one hundred fifty thousand dollars (\$150,000) to plan and design an archaeological facility located in Santa Fe county;

E. one hundred thousand dollars (\$100,000) for renovation of the space center's museum support center on Eddy street in Alamogordo in Otero county; and

F. seven million dollars (\$7,000,000) to plan, design, construct, furnish and equip a comprehensive farm and ranch heritage museum near Las Cruces in Dona Ana county.

Section 7

Section 7. SEVERANCE TAX BONDS--COMMUNITY COLLEGE BOARD OF CLOVIS COMMUNITY COLLEGE--PURPOSE.--Pursuant to the provisions of Section 1 of this act, upon certification by the community college board of Clovis community college that the need exists for the issuance of the bonds, one hundred one thousand dollars (\$101,000) is appropriated to the community college board of Clovis community college to pave the parking lot and plan, design and construct an addition to the library and skill development center at the Clovis community college located in Curry county.

Section 8

Section 8. SEVERANCE TAX BONDS--CUMBRES AND TOLTEC SCENIC RAILROAD COMMISSION--PURPOSES.--Pursuant to the provisions of Section 1 of this act, upon

certification by the Cumbres and Toltec scenic railroad commission that the need exists for the issuance of the bonds, the following amounts are appropriated to the Cumbres and Toltec scenic railroad commission for the following purposes:

A. fifty-seven thousand dollars (\$57,000) to renovate the Chama depot of the Cumbres and Toltec scenic railroad located in Rio Arriba county; and

B. thirty-three thousand dollars (\$33,000) to restore the water tank for the Cumbres and Toltec scenic railroad located in Rio Arriba county.

Section 9

Section 9. SEVERANCE TAX BONDS--LOCAL GOVERNMENT DIVISION OF THE DEPARTMENT OF FINANCE AND ADMINISTRATION--PURPOSES.--Pursuant to the provisions of Section 1 of this act, upon certification by the local government division of the department of finance and administration that the need exists for the issuance of the bonds, the following amounts are appropriated to the local government division of the department of finance and administration for the following purposes:

A. two hundred fifty thousand dollars (\$250,000) to plan, design and construct a public swimming pool for the city of Las Vegas located in San Miguel county. The certification and issuance of the bonds is contingent upon equal matching funds from the city of Las Vegas;

B. one hundred thousand dollars (\$100,000) to remodel, improve and equip the Trumbull community center in Albuquerque located in Bernalillo county;

C. one hundred sixty thousand dollars (\$160,000) to purchase air space easements in Curry county;

D. fifty thousand dollars (\$50,000) to make improvements to little league facilities in the south valley of Albuquerque located in Bernalillo county;

E. seventy-five thousand dollars (\$75,000) to plan, design and construct a fire station for the volunteer fire department for the village of Cuba located in Sandoval county;

F. one hundred fifty thousand dollars (\$150,000) to purchase needed radiographic machinery for the Nor-Lea general hospital located in Lea county;

G. two hundred twenty-nine thousand dollars (\$229,000) to construct and make other needed improvements to a swimming and aquatic facility in the village of Milan located in Cibola county;

H. two hundred thousand dollars (\$200,000) to design, plan, construct and equip a complex of soccer fields on the Elliston property in the north valley area located

in Bernalillo county. This appropriation is contingent on the property being dedicated to and accepted by the county;

I. six hundred thousand dollars (\$600,000) to design, plan, construct, equip and furnish a multipurpose shelter for the homeless, to include meal facilities and space for medical services, clothing and food banks and various related community programs in the city of Las Cruces located in Dona Ana county;

J. seventy-five thousand dollars (\$75,000) to expand, improve, equip and furnish the Pleasant Hill fire department located in Curry county. The certification and issuance of the bonds is contingent upon equal matching funds from the city of Pleasant Hill;

K. six hundred thousand dollars (\$600,000) to plan, design and equip a youth soccer complex located in Sandoval county;

L. one hundred fifty thousand dollars (\$150,000) to purchase library books for the city of Rio Rancho library located in Sandoval county. ~~The certification and issuance of the bonds is contingent upon equal matching funds from the city of Rio Rancho;~~ *[THIS OVERSTRUCK MATERIAL HAS BEEN LINE-ITEM VETOED.]*

M. thirty-five thousand dollars (\$35,000) to improve the old town hall and convert it into a police and courts complex in Carrizozo located in Lincoln county;

N. one hundred fifteen thousand dollars (\$115,000) to remodel the county courthouse in Curry county;

O. fifty thousand dollars (\$50,000) to design, plan, remodel, renovate and equip the Guadalupe county hospital in Santa Rosa located in Guadalupe county;

P. one hundred fifty thousand dollars (\$150,000) to provide funds to Rio Arriba county for a contract to remodel, renovate and expand the Espanola hospital to provide an urgent care unit for the care of sick and indigent persons;

Q. two hundred thousand dollars (\$200,000) to plan, design and construct, including engineering and performing site preparation, the county office complex in Rio Arriba county;

R. twenty thousand dollars (\$20,000) to pave the parking lot at the Carlsbad civic center and ten thousand dollars (\$10,000) to pave the parking lot of the boys' and girls' club of Carlsbad in Eddy county;

S. one hundred thirty thousand dollars (\$130,000) to construct a cover for the grandstand at the Eddy county sheriff's posse arena in Eddy county;

T. six hundred thousand dollars (\$600,000) to plan, design and construct an expansion to the health and social services complex in Sunland Park located in Dona Ana county;

U. three hundred thousand dollars (\$300,000) to plan, design, construct, equip and furnish a recreation complex, including athletic fields, irrigation systems, concession stands, adequate parking and sewer and water systems, between Central and Fort Bayard located in Grant county;

V. fifty thousand dollars (\$50,000) to improve a domestic water supply system at Miami located in Colfax county;

W. one hundred fifty thousand dollars (\$150,000) for an automated sprinkler system for the municipal golf course in Eunice located in Lea county;

X. one hundred thousand dollars (\$100,000) to plan, design and construct a fire station in the city of Grants located in Cibola county;

Y. one hundred fifty thousand dollars (\$150,000) to renovate, remove asbestos from and make necessary improvements to the Otis school for a community center located in Edy county;

Z. fifty thousand dollars (\$50,000) to make improvements to the Wells Parks community center in Albuquerque located in Bernalillo county;

AA. one hundred thousand dollars (\$100,000) to acquire necessary equipment to renovate the playground of Duranes community center in Albuquerque located in Bernalillo county;

BB. sixty-three thousand dollars (\$63,000) to furnish and equip the west side community center in the city of Las Cruces located in Dona Ana county;

CC. one hundred fifty thousand dollars (\$150,000) to make improvements to the Westgate little league baseball field complex located in Bernalillo county;

DD. two hundred fifty thousand dollars (\$250,000) to make improvements to the Roswell civic center located in Chaves county;

EE. two hundred thousand dollars (\$200,000) to construct, landscape, furnish, equip or make other improvements to a village hall complex in Ruidoso Downs located in Lincoln county. ~~The certification and issuance of the bonds is contingent upon equal matching funds from the village of Ruidoso Downs;~~ *[THIS OVERSTRUCK MATERIAL HAS BEEN LINE-ITEM VETOED.]*

FF. fifty thousand dollars (\$50,000) to repair and improve the Carrizozo community swimming pool located in Lincoln county, in order to comply with the federal Americans with Disabilities Act of 1990;

GG. fifty thousand dollars (\$50,000) to plan, design and construct an addition to the library in the town of Red River located in Taos county;

HH. three hundred thousand dollars (\$300,000) to design, plan, purchase land for and construct a new county jail facility in Las Vegas located in San Miguel county;

II. four hundred thirty-two thousand five hundred sixty dollars (\$432,560) to construct a year-round multipurpose community activity park and education camp in Chaparral located in Dona Ana county. The certification and issuance of bonds is contingent upon Dona Ana county acquiring by lease or purchase forty acres of federal land for the project;

JJ. two hundred thousand dollars (\$200,000) to renovate and make other improvements to buildings and the grounds of the county fair in Dona Ana county;

KK. one hundred fifty thousand dollars (\$150,000) to plan, design and construct an indoor swimming pool and facilities in the west mesa area in Albuquerque in Bernalillo county;

LL. seventy thousand dollars (\$70,000) to purchase and install an electronic catalog system and purchase books for the Carlsbad public library located in Eddy county;

MM. one hundred thousand dollars (\$100,000) to renovate and modify the former naval reserve building that will house an adult literacy program in Carlsbad located in Eddy county;

NN. seventy thousand dollars (\$70,000) to plan, design, construct and equip a community and educational facility near Artesia located in Eddy county;

OO. ten thousand dollars (\$10,000) to purchase technological and automation system equipment and books for the Artesia public library located in Eddy county;

PP. two hundred thousand dollars (\$200,000) to plan and design a new main public health facility for Dona Ana located in Dona Ana county;

QQ. four hundred thousand (\$400,000) to continue phase one of necessary renovations and improvements to the Old Court junior high school for the Mesilla Valley youth center in Las Cruces located in Dona Ana county;

RR. seven hundred thousand dollars (\$700,000) to acquire land for the Manzano Mesa multigenerational community center and park in Albuquerque in Bernalillo county;

SS. two hundred thousand dollars (\$200,000) to equip the La Casa health clinic in Portales located in Roosevelt county;

TT. sixty thousand dollars (\$60,000) to purchase and renovate a building to be used as a safe house for children who are victims of abuse in Clovis located in Curry county;

UU. twenty-five thousand dollars (\$25,000) to acquire land for, prepare the site of, plan, design, construct and equip a fire and medical emergency facility for the Lake Sumner volunteer fire district located in De Baca county;

VV. sixty-seven thousand dollars (\$67,000) to purchase an ambulance for the village of San Jon located in Quay county;

WW. three hundred thirty thousand dollars (\$330,000) to acquire land and purchase, renovate and equip a building or construct and equip a new building for a multipurpose community center in southeastern Valencia county. The certification and issuance of the bonds is contingent upon equal matching funds from the county;

XX. fifty thousand dollars (\$50,000) to construct and equip a public library in the town of Taos located in Taos county. The certification and issuance of the bonds is contingent upon equal matching funds from the town of Taos;

YY. one hundred thousand dollars (\$100,000) to plan, design and construct a facility located in Raton in Colfax county to provide services to developmentally disabled children in Colfax, Union and Harding counties;

ZZ. two hundred thousand dollars (\$200,000) to design, plan and construct an addition to the Alameda community center located in Bernalillo county;

AAA. two hundred thousand dollars (\$200,000) to continue the construction of the Espanola marketplace project, also known as the Convento, including design and construction of a museum commemorating New Mexico's missions, in Espanola located in Rio Arriba county;

BBB. two hundred thousand dollars (\$200,000) to expand the regional stroke victims' rehabilitation center in Espanola located in Rio Arriba county;

CCC. seventy-five thousand dollars (\$75,000) to make certain improvements to the county courthouse located in Harding county, in order to comply with the federal Americans with Disabilities Act of 1990;

DDD. two hundred thirteen thousand seven hundred ten dollars (\$213,710) to remodel the Eunice community center located in Lea county. The certification and issuance of bonds is contingent upon the city of Eunice providing matching funds in the amount of forty-four thousand dollars (\$44,000);

EEE. three hundred thousand dollars (\$300,000) to develop, equip and provide facilities for a youth sports complex in Rio Rancho located in Sandoval county. ~~The certification and issuance of the bonds is contingent upon equal matching funds from the city of Rio Rancho; [THIS OVERSTRUCK MATERIAL HAS BEEN LINE-ITEM VETOED.]~~

FFF. two hundred fifty thousand dollars (\$250,000) to construct a town hall for the town of Lake Arthur located in Chaves county;

GGG. one hundred thousand dollars (\$100,000) to renovate city hall, construct a fire substation and make other improvements to the city of Sunland Park municipal complex located in Dona Ana county;

HHH. fifty thousand dollars (\$50,000) to construct and equip a facility for mental health and alcohol education programs in Colfax county;

III. two hundred thousand dollars (\$200,000) to plan, design and construct a community center in Portales located in Roosevelt county;

JJJ. four hundred thousand dollars (\$400,000) to plan, design, acquire rights of way for and construct two pedestrian overpasses on Gibson boulevard in Albuquerque located in Bernalillo county. The certification and issuance of bonds is contingent upon the city of Albuquerque providing matching funds of at least one hundred sixty thousand dollars (\$160,000) from sources other than the state;

KKK. two hundred thousand dollars (\$200,000) to renovate, remodel, improve and equip the Holiday shelter center in Albuquerque in Bernalillo county;

LLL. three hundred fifty thousand dollars (\$350,000) to design, construct and equip an addition to city hall in Bloomfield located in San Juan county;

MMM. forty thousand dollars (\$40,000) to make improvements to Cap Walls park in Aztec located in San Juan county;

NNN. two hundred thousand dollars (\$200,000) to design, construct and equip an addition for the Roosevelt county community services center;

OOO. one hundred thousand dollars (\$100,000) to renovate and make improvements to Altura park in Albuquerque located in Bernalillo county;

PPP. seven hundred fifty thousand dollars (\$750,000) to design, construct and equip a gymnasium addition to the Paradise Hills community center located in Bernalillo county;

QQQ. three hundred forty-five thousand dollars (\$345,000) to develop, equip and provide facilities for a youth sports complex in Rio Rancho located in Sandoval county;

RRR. one hundred thousand dollars (\$100,000) to design and construct new recreational trails and improve the existing recreational trail system in and around the city of Albuquerque in Bernalillo county;

SSS. three hundred fifty thousand dollars (\$350,000) to design, construct and equip a multipurpose community center in Corrales in Sandoval county;

TTT. twenty-five thousand dollars (\$25,000) to purchase and install a chain link fence around Butterfield park in the Butterfield subdivision located in Dona Ana county;

UUU. seventy-five thousand dollars (\$75,000) to acquire land for and design, construct and equip a new Moongate municipal park in Las Cruces in Dona Ana county;

VVV. two hundred thousand dollars (\$200,000) to design, construct and equip an east mesa public health facility in Las Cruces in Dona Ana county;

WWW. seventy thousand dollars (\$70,000) to design a nature park in Las Cruces in Dona Ana county;

XXX. fifty-five thousand dollars (\$55,000) to purchase and equip a type III ambulance for the village of Causey located in Roosevelt county;

YYY. one hundred seventy-five thousand dollars (\$175,000) to renovate and improve facilities at the Quay county fairgrounds;

ZZZ. one hundred thousand dollars (\$100,000) to renovate the Harding county courthouse in the village of Mosquero to comply with mandates of the federal Americans with Disabilities Act of 1990;

AAAA. one hundred fifty thousand dollars (\$150,000) to plan, design and construct a civic center in the village of Logan in Quay county;

BBBB. one hundred thousand dollars (\$100,000) for utility line extensions in Lovington in Lea county;

CCCC. four hundred thousand dollars (\$400,000) to design, construct and equip a building at the Eddy county fairgrounds;

DDDD. twenty-five thousand dollars (\$25,000) to purchase nonprint material and equipment for collections at the Lovington library in Lea county;

EEEE. seventy thousand dollars (\$70,000) to make improvements to and expand and pave the parking lot at the Carlsbad civic center in Eddy county;

FFFF. two hundred thousand dollars (\$200,000) to design and construct a new facility to house administrative services programs, infant and family programs and personal and social development programs for the department of health;

GGGG. three hundred thousand dollars (\$300,000) to repair, remodel and renovate the Yucca recreation center in Roswell in Chaves county;

HHHH. one hundred fifteen thousand dollars (\$115,000) to acquire communications equipment for the police and fire department in Aztec in San Juan county;

IIII. one hundred thirty-five thousand dollars (\$135,000) to acquire communications equipment for the police and fire department in Bloomfield in San Juan county;

JJJJ. one hundred thousand dollars (\$100,000) for capital improvements and equipment for the Roswell headstart program in Chaves county;

KKKK. five hundred thousand dollars (\$500,000) to acquire land for and plan and design a police substation in the foothills area of Albuquerque's northeast heights in Bernalillo county;

LLLL. two hundred thousand dollars (\$200,000) to furnish and equip a health clinic in Hobbs in Lea county;

MMMM. four hundred thousand dollars (\$400,000) for a swimming pool in the Westgate community in Albuquerque in Bernalillo county;

NNNN. ninety-five thousand dollars (\$95,000) to plan, design and construct a primary health care facility in the village of Pecos in San Miguel county;

OOOO. one hundred fifty thousand dollars (\$150,000) to design, construct and equip a new municipal building in the village of Hatch in Dona Ana county;

PPPP. one hundred forty thousand dollars (\$140,000) to furnish and equip a dental clinic in Loving in Eddy county;

QQQQ. one hundred thousand dollars (\$100,000) to acquire land for and to design, construct and equip a southside Carlsbad fire station;

RRRR. one hundred thousand dollars (\$100,000) to purchase, renovate and repair a building for the Jal community center in Lea county;

SSSS. one hundred sixty thousand dollars (\$160,000) to renovate and repair the Eunice youth center in Lea county;

TTTT. fifteen thousand dollars (\$15,000) to make improvements to the San Marcos cemetery water lines and sprinklers in Eddy county;

UUUU. three hundred fifty thousand dollars (\$350,000) for land acquisition and to design, construct and equip a sheriff's substation in the northeast area of Albuquerque in Bernalillo county;

VVVV. fifty thousand dollars (\$50,000) to purchase an ambulance and medical equipment for the town of Mountainair located in Torrance county;

WWWW. one hundred thousand dollars (\$100,000) to design, construct and equip a new multipurpose center as an addition to city hall in Hurley in Grant county;

XXXX. one hundred fifty thousand dollars (\$150,000) to construct, furnish and equip a community center in the village of Bayard in Grant county;

YYYY. fifty thousand dollars (\$50,000) to add a recreation room to the Placitas community center located in Dona Ana county;

ZZZZ. one hundred thousand dollars (\$100,000) to continue phase two improvements to the Artesia headstart facility in Eddy county;

AAAAA. fifty thousand dollars (\$50,000) to improve police facilities in Hurley in Grant county;

BBBBB. twenty-five thousand dollars (\$25,000) to renovate a public building for use as a daycare facility in Chaparral located in Dona Ana county;

CCCCC. one hundred twenty-five thousand dollars (\$125,000) to renovate and expand a community center building to house a daycare facility and other community programs in Mesquite in Dona Ana county;

DDDDD. one hundred thousand dollars (\$100,000) to plan and design the construction of a new hospital surgical wing at Cibola general hospital in Cibola county;

EEEE. two hundred twenty-five thousand dollars (\$225,000) to acquire and renovate the old Albuquerque high school building in Albuquerque located in Bernalillo county;

FFFF. one hundred ten thousand dollars (\$110,000) to design, plan, construct, equip and furnish a wood shop addition and purchase and install playground equipment at the West Mesa community center in Albuquerque located in Bernalillo county;

GGGG. fifty thousand dollars (\$50,000) to construct a year-round multipurpose community activity park and education camp in Chaparral located in Dona Ana county to serve children and adults, including students and at-risk youth from Dona Ana, Otero and Luna counties;

HHHH. ninety thousand dollars (\$90,000) to make renovations to Pat Hurley park in Albuquerque located in Bernalillo county;

IIII. three hundred thousand dollars (\$300,000) to renovate and improve the city jail in Espanola located in Rio Arriba county;

JJJJ. two hundred fifty thousand dollars (\$250,000) to upgrade, replace and repair natural gas lines in the city of Lordsburg located in Hidalgo county;

KKKK. two hundred fifty thousand dollars (\$250,000) to plan, design and construct a health care complex in Chaparral located in Dona Ana county;

~~LLLL. thirty thousand dollars (\$30,000) to plan, design and construct a tourism center in the community of Sheep Springs located in San Juan county; [THIS OVERSTRUCK MATERIAL HAS BEEN LINE-ITEM VETOED.]~~

MMMM. seventy-five thousand dollars (\$75,000) to acquire land for Westgate park in Albuquerque located in Bernalillo county;

NNNN. three hundred thousand dollars (\$300,000) to conduct field investigations involving seismic analysis, soil borings and sampling and monitoring wells and making improvements to the arroyo at Frank Ortiz park in Santa Fe located in Santa Fe county;

OOOO. ninety thousand dollars (\$90,000) to design and construct the Mesa Verde community center in Albuquerque located in Bernalillo county;

PPPP. one hundred twenty-five thousand dollars (\$125,000) to construct and make improvements to Trumbull park in Albuquerque located in Bernalillo county;

QQQQ. one hundred fifty thousand dollars (\$150,000) to construct and improve Zia baseball field in Albuquerque located in Bernalillo county;

RRRRR. one hundred thousand dollars (\$100,000) to plan, design and construct a main headquarters for the fire department in Grants located in Cibola county;

SSSSS. eighty thousand dollars (\$80,000) to install a sprinkler system at the cemetery and make renovations at the Paddy Martinez park in Grants located in Cibola county;

TTTTT. thirty-five thousand dollars (\$35,000) to make improvements to, including renovation of the heating, cooling and air conditioning system, the westside offices of the youth development organization in Albuquerque located in Bernalillo county;

UUUUU. fifty thousand dollars (\$50,000) to construct a flood control channel to convey flood waters into a ponding area comprising phase two of the Chaparral flood control channel located in Dona Ana county;

VVVVV. two hundred fifty thousand dollars (\$250,000) to construct and make improvements to the medical clinic in Embudo located in Rio Arriba county;

WWWWW. one hundred seventy-five thousand dollars (\$175,000) to plan, design and construct a station for the volunteer fire department for the village of Cuba located in Sandoval county;

XXXXX. one hundred twenty thousand dollars (\$120,000) to continue construction of the Gallup multicultural center located in McKinley county, including vendor stalls and first and second story interiors as well as completing parking lots;

~~YYYYY. one hundred thousand dollars (\$100,000) to construct and make other needed improvements to a swimming and aquatic facility in the village of Milan located in Cibola county; [THIS OVERSTRUCK MATERIAL HAS BEEN LINE-ITEM VETOED.]~~

ZZZZZ. eighty-eight thousand dollars (\$88,000) to purchase an ambulance and medical equipment for Hidalgo county;

AAAAA. seventy-five thousand dollars (\$75,000) to renovate and repair the facilities and to replace equipment at the Silver City recreation center located in Grant county;

BBBBB. fifty thousand dollars (\$50,000) to purchase rights of way for a pedestrian and bike path in Silver City located in Grant county;

CCCCC. one hundred fifty thousand dollars (\$150,000) to construct a multipurpose community center for the community of Chaparral located in Dona Ana county;

DDDDDD. eighty thousand dollars (\$80,000) to purchase new playground equipment for public parks in Silver City located in Grant county;

EEEEEE. fifty thousand dollars (\$50,000) to purchase a fire truck for the town of Estancia located in Tarrant county;

FFFFFF. one hundred thousand dollars (\$100,000) to establish a new north valley little league field in Albuquerque located in Bernalillo county;

GGGGGG. two hundred fifty thousand dollars (\$250,000) to provide landscaping, buffering and air pollution control measures for the proposed Sawmill metropolitan redevelopment area in Albuquerque located in Bernalillo county;

HHHHHH. twenty-five thousand dollars (\$25,000) to acquire a fifteen-passenger van to serve developmentally disabled persons in Artesia located in Eddy county;

IIIIII. one hundred fifty thousand dollars (\$150,000) to make improvements to Bataan park in Albuquerque located in Bernalillo county;

JJJJJJ. one hundred thousand dollars (\$100,000) to repair, remodel and make needed improvements to the Guadalupe county hospital located in Guadalupe county;

~~KKKKKK. two hundred seventy-five thousand dollars (\$275,000) to design, plan, construct and equip a new fire department substation in the city of Santa Rosa located in Guadalupe county; [THIS OVERSTRUCK MATERIAL HAS BEEN LINE-ITEM VETOED.]~~

LLLLLL. one hundred thousand dollars (\$100,000) to make improvements to the De Baca general hospital located in De Baca county;

MMMMMM. one hundred thousand dollars (\$100,000) to prepare a twenty-year master plan to provide adequate municipal services to the city of Santa Rosa in Guadalupe county;

NNNNNN. one hundred thousand dollars (\$100,000) to prepare a twenty-year master plan to provide adequate municipal services to the city of Las Vegas in San Miguel county;

OOOOOO. seventy thousand dollars (\$70,000) to design and plan a multipurpose community center in Medanales in Rio Arriba county;

~~PPPPPP. forty thousand dollars (\$40,000) to contract for services with a nonprofit organization that provides literacy training to disadvantaged individuals; [THIS OVERSTRUCK MATERIAL HAS BEEN LINE-ITEM VETOED.]~~

QQQQQQ. two hundred thousand dollars (\$200,000) to renovate and make improvements to buildings of and purchasing equipment for the Grants police department in Grants in Cibola county;

RRRRRR. one hundred thousand dollars (\$100,000) to establish soccer fields and install sprinklers and for improvements to the zoo in Roswell in Chaves county;

SSSSSS. two hundred fifty thousand dollars (\$250,000) to plan, design, equip and construct a multiple sports and outdoor recreational complex in Belen in Valencia county;

TTTTTT. four hundred thousand dollars (\$400,000) to plan, design and construct an addition to the multipurpose youth center in Los Lunas in Valencia county;

UUUUUU. fifty thousand dollars (\$50,000) to purchase an educational computer system for the Los Padillas community center located in Bernalillo county;

VVVVVV. fifty thousand dollars (\$50,000) for planning an urban recreational facility in Albuquerque in Bernalillo county;

WWWWWW. fifty thousand dollars (\$50,000) to establish a park, including the installation of playground equipment and sports facilities, in the vicinity of the Loma Linda community center;

XXXXXX. eight hundred thousand dollars (\$800,000) to enter into a joint powers agreement with the city of Albuquerque to provide for the establishment of multi-use facilities, landscaping and the development of park-like grounds to enable the use of school buildings and grounds for community purposes during nonschool hours to be used in the following amounts at the following schools in Albuquerque in Bernalillo county:

(1) two hundred thousand dollars (\$200,000) for Madison middle school;

(2) one hundred thousand dollars (\$100,000) for Collett Park elementary school;

(3) two hundred thousand dollars (\$200,000) for Grant middle school;

(4) one hundred thousand dollars (\$100,000) for Sombra del Monte elementary school;

(5) one hundred thousand dollars (\$100,000) for Jackson middle school; and

(6) one hundred thousand dollars (\$100,000) for Inez elementary school;

YYYYYY. seventy-five thousand dollars (\$75,000) for Harrison baseball park improvements in Albuquerque in Bernalillo county;

ZZZZZZ. forty thousand dollars (\$40,000) for field improvements for northwest mesa little league fields in Bernalillo county;

AAAAAAA. fifty thousand dollars (\$50,000) for sidewalks in the village of Lincoln in Lincoln county;

BBBBBBB. one hundred fifty thousand dollars (\$150,000) to continue construction of the Lea county cultural center in Lea county;

CCCCCCC. thirty thousand dollars (\$30,000) for purchase of vehicles for the seventh judicial district in Socorro in Socorro county;

DDDDDDD. twenty thousand dollars (\$20,000) for books and other acquisitions for the thirteenth judicial district law library at the Grants campus of New Mexico state university in Cibola county; and

EEEEEEE. one hundred fifty thousand dollars (\$150,000) to acquire land for and purchase and renovate a building for a multipurpose center in Glencoe in Lincoln county.

Section 10

Section 10. SEVERANCE TAX BONDS--DEPARTMENT OF ENVIRONMENT--PURPOSES.--Pursuant to the provisions of Section 1 of this act, upon certification by the department of environment that the need exists for the issuance of the bonds, the following amounts are appropriated to the department of environment for the following purposes:

A. two hundred fifty thousand dollars (\$250,000) to expand the wastewater treatment facility in the village of Hatch located in Dona Ana county;

B. two hundred fifty thousand dollars (\$250,000) to expand and renovate the wastewater system in Socorro located in Socorro county;

C. two hundred fifty thousand dollars (\$250,000) to construct and improve the county landfill in Socorro county;

D. ninety thousand dollars (\$90,000) to develop a transfer station, including purchase of a compactor and other appropriate equipment, in Tesuque pueblo located in Santa Fe county;

E. seventy-five thousand dollars (\$75,000) to provide for air pollution control equipment and pollution studies and make other necessary improvements for the proposed Sawmill metropolitan redevelopment area in Albuquerque located in Bernalillo county, in accordance with an adopted project plan as prescribed by the Metropolitan Redevelopment Code;

F. fifty thousand dollars (\$50,000) to make improvements to the sewer system in the village of Wagon Mound located in Mora county;

G. two hundred thousand dollars (\$200,000) to plan, design, construct and make other improvements necessary for replacing water and sewer lines at the El Rito campus of northern New Mexico state school located in Rio Arriba county;

H. one hundred thousand dollars (\$100,000) to line lagoons and install sewer extensions in Abiquiu located in Rio Arriba county;

I. five hundred seventy thousand dollars (\$570,000) to engineer and construct a water treatment plant and to provide for related water system improvements for the village of Ruidoso located in Lincoln county. ~~The certification and issuance of the bonds is contingent upon equal matching funds from the village of Ruidoso; [THIS OVERSTRUCK MATERIAL HAS BEEN LINE-ITEM VETOED.]~~

J. four hundred thousand dollars (\$400,000) to construct phase I of a sanitary sewer collector system and to construct phase II of the municipal water system in the village of Tijeras located in Bernalillo county;

K. one hundred eighty thousand dollars (\$180,000) to make renovations and improvements to the water system in the city of Grants located in Cibola county;

L. two hundred fifty-three thousand dollars (\$253,000) to renovate a water filter plant in the city of Aztec located in San Juan county;

M. ninety-five thousand dollars (\$95,000) to design, inspect and construct water system improvements in Madrid located in Santa Fe county;

N. twenty-five thousand dollars (\$25,000) to construct a fresh water supply system in San Miguel del Vado located in San Miguel county;

O. four hundred thousand dollars (\$400,000) to renovate and expand the wastewater treatment plant in Moriarty located in Tarrant county;

P. seventy-five thousand dollars (\$75,000) to plan, design, inspect and construct improvements to the Clayton sewer system in Union county;

Q. eight hundred thousand dollars (\$800,000) to plan, design, engineer and provide for archaeological clearances and environmental assessments for a water system located in Zuni pueblo located in McKinley county;

R. one hundred thousand dollars (\$100,000) to purchase land, plan, design and construct a wastewater treatment system in Dexter located in Chaves county;

S. two hundred fifty thousand dollars (\$250,000) to make improvements to the wastewater treatment plant in Anthony located in Dona Ana county;

T. two hundred thousand dollars (\$200,000) to construct a sewer system on Jemez road, west on Agua Fria street and connecting with the Santa Fe River sewer trunk line in Santa Fe located in Santa Fe county. The certification and issuance of the bonds is contingent upon equal matching funds from the city of Santa Fe;

~~U. two hundred twenty thousand dollars (\$220,000) to construct a sewer system that ties the area of Alamo lane, Camino de los Lopez and Agua Fria street to the Santa Fe River sewer trunk line located in Santa Fe county. The certification and issuance of the bonds is contingent upon equal matching funds from the city of Santa Fe; [THIS OVERSTRUCK MATERIAL HAS BEEN LINE-ITEM VETOED.]~~

V. six hundred thousand dollars (\$600,000) to make improvements to the water distribution system in Truth or Consequences located in Sierra county;

W. three hundred thousand dollars (\$300,000) to expand the sewer and water system for the town of Bernalillo located in Sandoval county;

X. six hundred thousand dollars (\$600,000) to perform remedial action at and around the Ambrosia lake uranium mill site located in McKinley county;

Y. one hundred forty thousand dollars (\$140,000) to perform remedial action at the cal west metals superfund site located in Socorro county;

Z. six hundred twenty-seven thousand dollars (\$627,000) to perform remedial action at the Cleveland mill site located in Grant county;

AA. fifteen thousand dollars (\$15,000) to design, inspect and construct water system improvements in the Mountain View area in Dona Ana county;

BB. forty thousand dollars (\$40,000) to repair and renovate the water tower and make other improvements to the community water system in Tatum in Lea county;

CC. fifty-two thousand dollars (\$52,000) to purchase, install and construct facilities for a water storage tank for the village of Des Moines in Union county;

DD. seventy-five thousand dollars (\$75,000) to design, inspect and construct a sewer line on Dona Ana road running from highway 11 to Eighth street in the city of Deming located in Luna county;

EE. one hundred thousand dollars (\$100,000) to design, inspect and construct wastewater system improvements in Dona Ana county;

FF. one hundred thousand dollars (\$100,000) to design, inspect and construct water system improvements in the community at Bluewater Lake located in Cibola county;

GG. one hundred thousand dollars (\$100,000) to design, inspect and construct water and sewer system improvements in the community of Mora in Mora county;

HH. one hundred thousand dollars (\$100,000) to design, inspect and construct water and sewer system improvements in the village of Questa located in Taos county;

II. one hundred thousand dollars (\$100,000) to provide for necessary costs in the development of a ~~regional~~ landfill in Socorro located in Socorro county;
[THIS OVERSTRUCK MATERIAL HAS BEEN LINE-ITEM VETOED.]

JJ. three hundred fifty-six thousand dollars (\$356,000) to design, inspect and construct water and sewer system improvements in the town of Red River located in Taos county;

KK. fifty thousand dollars (\$50,000) to design, inspect and construct water system improvements in the community of San Rafael in Cibola county;

LL. ten thousand dollars (\$10,000) to design, inspect and construct a new well to improve the El Salto domestic water system in the community of Arroyo Seco located in Taos county;

MM. three hundred thousand dollars (\$300,000) to design, inspect and construct water system improvements in the Agua Sana community in Rio Arriba county;

NN. one hundred eighty thousand dollars (\$180,000) to purchase a back hog jet router for use by the Grants sewer system located in Cibola county;

OO. one hundred thousand dollars (\$100,000) to design, inspect and construct water system improvements in the Arroyo Hondo community in Taos county;

PP. twenty-five thousand dollars (\$25,000) to replace a water line in the Vadito community in Taos county;

QQ. eighty thousand dollars (\$80,000) to conduct a feasibility study for improvements to a community wastewater system in the Rancho Grande area of Catron county; and

RR. one hundred thousand dollars (\$100,000) to continue construction, installation and equipping of a water well, storage tank, booster station and chlorination facility in Bosque Farms in Valencia county.

Section 11

Section 11. SEVERANCE TAX BONDS--DEPARTMENT OF HEALTH--PURPOSES.-- Pursuant to the provisions of Section 1 of this act, upon certification by the department of health that the need exists for the issuance of the bonds, the following amounts are appropriated to the department of health for the following purposes:

A. five hundred twenty-five thousand dollars (\$525,000) to purchase equipment to provide analytical laboratory services to various state agencies throughout the state; and

B. one hundred fifty thousand dollars (\$150,000) to complete the purchase of a primary health care facility located in Chaves county.

Section 12

Section 12. SEVERANCE TAX BONDS--ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT--PURPOSE.--Pursuant to the provisions of Section 1 of this act, upon certification by the energy, minerals and natural resources department that the need exists for the issuance of the bonds, the following amounts are appropriated to the energy, minerals and natural resources department for the following purposes:

A. one hundred fifty thousand dollars (\$150,000) for improvement of park facilities and resources at Pancho Villa state park in Luna county;

B. one hundred thirty thousand dollars (\$130,000) for the purpose of designing, planning, renovating, equipping and making necessary improvements to Red Rock state park located in McKinley county;

C. one hundred thousand dollars (\$100,000) for the purpose of acquiring ecologically significant land under the provisions of the Natural Lands Protection Act; and

D. one hundred thousand dollars (\$100,000) to the state park and recreation division for the purpose of upgrading, replacing and improving park facilities and resources at Caballo Lake state park.

Section 13

Section 13. SEVERANCE TAX BONDS--GENERAL SERVICES DEPARTMENT--PURPOSES.--Pursuant to the provisions of Section 1 of this act, upon certification by the general services department that the need exists for the issuance of the bonds, the following amounts are appropriated to the general services department for the following purposes:

A. fifty thousand dollars (\$50,000) to construct a new facility at La Familia medical center located in Santa Fe county;

B. one million seventeen thousand dollars (\$1,017,000) to construct, furnish or equip a multipurpose recreational center at the Sequoyah adolescent treatment center located in Bernalillo county;

C. eight hundred thousand dollars (\$800,000) to plan and design a facility to replace Meadows hospital in Las Vegas located in San Miguel county;

D. two million dollars (\$2,000,000) to construct, furnish and equip a visitor, control and administrative center and improve security at the New Mexico boys' school at Springer located in Colfax county;

E. two million dollars (\$2,000,000) to renovate and make other necessary improvements to the old national guard site located in Santa Fe county, including making necessary modifications in order to comply with the federal Americans with Disabilities Act of 1990;

F. five hundred thousand dollars (\$500,000) to renovate the heating, ventilation and air conditioning systems and make certain repairs at Marian hall located in Santa Fe county;

G. one hundred seventy-four thousand dollars (\$174,000) to remodel the Vega cottage at the Las Vegas medical center located in San Miguel county;

H. two hundred sixty-eight thousand dollars (\$268,000) to remodel and make other needed modifications and improvements to convert the Socorro cottage at the Fort Stanton hospital and training school to a long-term care nursing facility located in Lincoln county;

I. one hundred ninety-three thousand dollars (\$193,000) to repair, renovate and make other needed improvements to the exterior of the recreational facility at Fort Stanton hospital and training school located in Lincoln county, including improvements needed to comply with the federal Americans with Disabilities Act of 1990;

J. nine million dollars (\$9,000,000) to continue phase two of the construction of the state library, archives and records center located in Santa Fe county;

K. three million seven hundred thousand dollars (\$3,700,000) to construct, furnish and equip an expansion to the New Mexico law enforcement academy located in Santa Fe county;

L. sixty thousand dollars (\$60,000) to perform work related to site development, including handicap-accessible parking, at property belonging to the state located at Old Pecos trail and east Barcelona road and currently occupied by the center for contemporary arts of Santa Fe in Santa Fe county; and

M. three million dollars (\$3,000,000) to plan, design, construct, equip and furnish a minimum security unit and a building to house the corrections industries programs near the southern New Mexico correctional facility in Dona Ana county.

Section 14

Section 14. SEVERANCE TAX BONDS--STATE HIGHWAY AND TRANSPORTATION DEPARTMENT--PURPOSES.--Pursuant to the provisions of Section 1 of this act, upon certification by the state highway and transportation department that the need exists for the issuance of the bonds, the following amounts are appropriated to the state highway and transportation department for the following purposes:

A. two hundred fifty thousand dollars (\$250,000) to prepare contract documents and an environmental assessment, perform any necessary surveys, acquire rights of way for and make needed repairs and improvements to the Big Ditch park and walkway in Silver City located in Grant county;

B. three hundred fifty thousand dollars (\$350,000) to make street improvements in Silver City located in Grant county;

C. ninety-eight thousand dollars (\$98,000) to pave and make other improvements to roads within the Meadow Vista area of Sunland Park and the La Union area, specifically, Union street from New Mexico 182 to Alvarez avenue, Alvarez avenue from New Mexico 182 to the northern end of Alvarez avenue and Enriquez avenue from Alvarez avenue to Short street, located in Dona Ana county;

D. one hundred fifty thousand dollars (\$150,000) to design and construct drainage improvements on Gatewood street and adjacent sidewalks in front of Armijo elementary school in the south valley of Albuquerque located in Bernalillo county;

E. two hundred thousand dollars (\$200,000) to make drainage improvements along Herb Martinez park on the Arroyo los Pinos, from Camino Carlos Rey to Avenidas las Campanas in Santa Fe located in Santa Fe county;

F. two hundred thousand dollars (\$200,000) to make street improvements in the city of Jal located in Lea county. The certification and issuance of the bonds is contingent upon equal matching funds from the city of Jal;

G. one hundred fifty thousand dollars (\$150,000) to pave and make other improvements to the Artesia flood control and drainage system located in Eddy county;

H. fifty thousand dollars (\$50,000) to purchase necessary road equipment for Mora county;

I. fifty thousand dollars (\$50,000) to make residential street improvements in the village of Angel Fire located in Colfax county. The certification and issuance of the bonds is contingent upon matching funds of fifty thousand dollars (\$50,000);

J. five hundred thousand dollars (\$500,000) to continue construction of the Gallup multicultural center located in McKinley county, including vendor stalls and first- and second-story interiors, as well as completing parking lots. The certification and issuance of the bonds is contingent upon equal matching funds from the city of Gallup;

K. one hundred thousand dollars (\$100,000) to plan, design and construct a Coors boulevard pedestrian overpass located in Bernalillo county. The certification and issuance of the bonds is contingent upon equal matching funds from the city of Albuquerque;

L. one hundred thousand dollars (\$100,000) to plan, design, construct and equip a pedestrian overpass on Coors boulevard between Ouray and Tucson roads in Albuquerque located in Bernalillo county. The certification and issuance of the bonds is contingent upon equal matching funds from the city of Albuquerque;

M. one hundred thirty-five thousand dollars (\$135,000) to make improvements to drainage facilities in Rio Rancho located in Sandoval county. ~~The certification and issuance of the bonds is contingent upon equal matching funds from the city of Rio Rancho;~~ *[THIS OVERSTRUCK MATERIAL HAS BEEN LINE-ITEM VETOED.]*

N. one hundred fifty thousand dollars (\$150,000) to pave and make other road improvements in the south valley of Albuquerque located in Bernalillo county, including Alvis circle, Arlo lane, Butler lane, Citation drive SW, Coors place, Duran drive, Ferro road, Kirk lane, Owens road, Sandhill avenue and Snipes road;

O. thirty-five thousand five hundred dollars (\$35,500) to make improvements to two and two-tenths miles of county road A109 located in Torrance county;

P. sixty-five thousand dollars (\$65,000) to acquire rights of way and surface and improve Florida avenue in Alamogordo in Otero county;

Q. two hundred thousand dollars (\$200,000) to make improvements to a two-mile stretch of highway 130 located near Cloudcroft in Otero county, including engineering design, right-of-way acquisition, utility relocation, construction and construction engineering;

R. three hundred thousand dollars (\$300,000) to surface and improve ~~West Clinic avenue at the main entrance to the Milagro colonias located in Dona Ana county;~~ *[THIS OVERSTRUCK MATERIAL HAS BEEN LINE-ITEM VETOED.]*

S. one hundred thousand dollars (\$100,000) to surface and improve Mesa Vista street in Santa Fe located in Santa Fe county;

T. one hundred thousand dollars (\$100,000) to surface and improve Arroyo Chamisa road in Santa Fe located in Santa Fe county;

U. fifty thousand dollars (\$50,000) to surface and improve roadway and improve drainage of Sunset road in Albuquerque located in Bernalillo county;

V. sixty thousand dollars (\$60,000) to surface and improve county road 67A located in Santa Fe county;

W. sixty thousand dollars (\$60,000) to surface and improve county road 70 located in Santa Fe county;

X. sixty thousand dollars (\$60,000) to surface and improve county road 72 located in Santa Fe county;

Y. sixty thousand dollars (\$60,000) to surface and improve county road 63 located in Santa Fe county;

Z. sixty thousand dollars (\$60,000) to surface and improve county road 58 located in Santa Fe county;

AA. fifty thousand dollars (\$50,000) to surface and improve county road 42 located in Santa Fe county;

BB. fifty thousand dollars (\$50,000) to surface and improve roads in the Silverado subdivision in Santa Fe county, contingent upon the roads being dedicated to and accepted by the county as county roads;

CC. five hundred thousand dollars (\$500,000) to acquire rights of way for and surface and improve old state road 2 between the city of Roswell and the town of Lake Arthur located in Chaves county;

DD. eighty thousand dollars (\$80,000) to surface and improve, including installation of traffic control signals, county road A108 and Green and Martinez roads in Moriarty located in Tarrant county;

EE. eighty thousand dollars (\$80,000) to surface and improve, including installation of traffic control signals, county road A093, Lexco road west of Moriarty, located in Tarrant county;

FF. seventy-five thousand dollars (\$75,000) to surface and improve Lakeview road north of Valley Gardens road in the south valley of Albuquerque in Bernalillo county;

GG. one hundred fifty thousand dollars (\$150,000) to surface and improve, including water and sewer improvements, Washington, Jefferson and Harrison streets in Grants located in Cibola county; and

HH. three hundred thousand dollars (\$300,000) to continue construction on the water line extension along Ralph Card road to New Mexico highway 605 in Milan located in Cibola county.

Section 15

Section 15. SEVERANCE TAX BONDS--TOURISM DEPARTMENT--PURPOSE.-- Pursuant to the provisions of Section 1 of this act, upon certification by the tourism department that the need exists for the issuance of the bonds, one hundred fifty thousand dollars (\$150,000) is appropriated to the tourism department to design, construct and equip a visitors center at the national solar observatory at Sacramento peak located in Otero county.

Section 16

Section 16. SEVERANCE TAX BONDS--NEW MEXICO OFFICE OF INDIAN AFFAIRS--PURPOSES.--Pursuant to the provisions of Section 1 of this act, upon certification by the New Mexico office of Indian affairs that the need exists for the issuance of the bonds, the following amounts are appropriated to the New Mexico office of Indian affairs for the following purposes:

A. ninety thousand dollars (\$90,000) to purchase, transport, install and equip a modular classroom addition for the existing headstart building in the community of Hogback located in San Juan county;

B. seventy thousand dollars (\$70,000) to construct and equip a primary health care clinic for the Counselors community area located in Sandoval county;

C. one hundred thousand dollars (\$100,000) to contract for the extension of electric service from Dulce to the new airport site located between Dulce and Chama in Rio Arriba county;

D. one hundred fifty thousand dollars (\$150,000) to continue design and construction for the Jicarilla nursing home located in Rio Arriba county;

E. thirty-eight thousand dollars (\$38,000) to purchase a handicapped-accessible passenger van and a regular passenger van for three- to five-year-old children at the Jicarilla daycare center in Dulce located in Rio Arriba county;

F. thirty-two thousand three hundred thirty-six dollars (\$32,336) to purchase, transport, install and equip various buildings and purchase and install equipment and fencing at the headstart program in the community of Coal Mine located in McKinley county;

G. thirty-two thousand three hundred thirty-six dollars (\$32,336) to purchase, transport, install and equip various buildings and purchase and install equipment and fencing at the headstart program in the community of Navajo located in McKinley county;

H. thirty-two thousand three hundred thirty-six dollars (\$32,336) to purchase, transport, install and equip various buildings and purchase and install equipment and fencing at the headstart program in Rock Springs located in McKinley county;

I. thirty-two thousand three hundred thirty-six dollars (\$32,336) to purchase, transport, install and equip various buildings and purchase and install equipment and fencing at the headstart program in Tsa-Ya-Toh located in McKinley county;

J. five thousand four hundred twenty-one dollars (\$5,421) to purchase, transport, install and equip various buildings and purchase and install equipment and fencing at the headstart program at Crystal located in San Juan county;

K. three thousand three hundred eighty-nine dollars (\$3,389) to purchase, transport, install and equip various buildings and purchase and install equipment and fencing at the headstart program at Manuelito located in McKinley county;

L. five thousand sixty-six dollars (\$5,066) to purchase, transport, install and equip various buildings and purchase and install equipment and fencing at the headstart program at Mexican Springs located in McKinley county;

M. two thousand eight hundred forty dollars (\$2,840) to purchase, transport, install and equip various buildings and purchase and install equipment and fencing at the headstart program at Tohatchi located in McKinley county;

N. two thousand eight hundred forty dollars (\$2,840) to purchase, transport, install and equip various buildings and purchase and install equipment and fencing at the headstart program at Twin Lakes located in McKinley county;

O. two hundred thousand dollars (\$200,000) to plan, design and construct a multipurpose center in the community of Huerfano located in San Juan county;

P. one hundred thousand dollars (\$100,000) to implement economic development measures detailed in the Shiprock economic development plan in San Juan county. The certification and issuance of bonds is contingent upon an equal or greater amount of funds being dedicated to the project from nonstate sources;

Q. ninety thousand dollars (\$90,000) to purchase, transport, install and equip a modular building to house the Lake Valley headstart located in McKinley county. The certification and issuance of bonds is contingent upon at least half of the amount of money being made available to the project from nonstate sources;

R. one hundred thousand dollars (\$100,000) to design, construct, furnish and equip the Poeh center at Pojoaque pueblo located in Santa Fe county;

S. one hundred thousand dollars (\$100,000) to design, plan, construct and equip a multipurpose community center at Chichiltah located in McKinley county;

T. two hundred thousand dollars (\$200,000) to renovate and construct the Nenahnezad chapter multipurpose and senior citizens complex located in San Juan county. The certification and issuance of the bonds is contingent upon fifty thousand dollars (\$50,000) from nonstate sources being contributed to the project;

U. twenty-five thousand dollars (\$25,000) to continue construction, furnishing or equipping the Pojoaque Pueblo Poeh center in Santa Fe county;

V. sixty-five thousand dollars (\$65,000) to plan, design or construct a softball field in Naschitti in San Juan county;

W. fifty thousand dollars (\$50,000) to prepare the site and pave a parking lot at the Tsa-Ya-Toh chapter house in McKinley county;

X. ninety-five thousand dollars (\$95,000) to plan, design, construct and equip an addition to the Rock Springs headstart in McKinley county;

Y. one hundred thousand dollars (\$100,000) for planning, designing, engineering or constructing, including equipment rental, excavation, purchase of supplies and equipment, for embankment improvements at Chuska Lake dam in McKinley county;

Z. ninety-seven thousand four hundred five dollars (\$97,405) to acquire, construct or equip a cafeteria for students with academic and special needs in Shiprock in San Juan county;

AA. forty-four thousand five hundred ninety-five dollars (\$44,595) to acquire a facilities operations building for students with academic and special needs in Shiprock in San Juan county;

BB. eighty thousand dollars (\$80,000) to purchase one four-wheel drive passenger vehicle for each of the communities of Shiprock, Naschitti, Tocito, Ojo Amarillo and Upper Fruitland, all in San Juan county; and

CC. one hundred thirty-three thousand dollars (\$133,000) to remodel, renovate, furnish and equip a senior citizen center and purchase a passenger van and a four-wheel drive passenger vehicle for the senior citizen program in Tohatchi in McKinley county.

Section 17

Section 17. SEVERANCE TAX BONDS--GOVERNING BOARD OF LUNA VOCATIONAL-TECHNICAL INSTITUTE--PURPOSE.--Pursuant to the provisions of Section 1 of this act, upon certification by the governing board of Luna vocational-technical institute that the need exists for the issuance of the bonds, five hundred sixty thousand four hundred dollars (\$560,400) is appropriated to the governing board of Luna vocational-technical institute for phases one, two and three of a center for instructional programs at the main campus located in San Miguel county.

Section 18

Section 18. SEVERANCE TAX BONDS--COMMUNITY COLLEGE BOARD OF NEW MEXICO JUNIOR COLLEGE--PURPOSE.--Pursuant to the provisions of Section 1 of this act, upon certification by the community college board of New Mexico junior college that the need exists for the issuance of the bonds, the following amounts are appropriated to the community college board of New Mexico junior college in Lea county for the following purposes:

A. one hundred thirty-nine thousand dollars (\$139,000) for the first phase of a project to construct and equip a regional transportation training center; and

B. two million five hundred thousand dollars (\$2,500,000) to design, construct and equip a new classroom and laboratory facility.

Section 19

Section 19. SEVERANCE TAX BONDS--BOARD OF REGENTS OF NEW MEXICO STATE UNIVERSITY--PURPOSES.--Pursuant to the provisions of Section 1 of this act,

upon certification by the board of regents of New Mexico state university that the need exists for the issuance of the bonds, the following amounts are appropriated to the board of regents of New Mexico state university for the following purposes:

A. five hundred eighty-six thousand dollars (\$586,000) to design, construct and equip an engineering, technology and manufacturing building at New Mexico state university located in Dona Ana county;

B. one hundred eighty thousand dollars (\$180,000) for phase two of the multipurpose educational complex construction project at the New Mexico state university branch campus in Alamogordo located in Otero county;

C. four hundred fifty thousand dollars (\$450,000) to plan and design a building for classrooms, laboratories and offices at New Mexico state university in Las Cruces located in Dona Ana county;

D. one hundred thousand dollars (\$100,000) to microfilm the historical archives of the archdiocese of Durango, Mexico for the Rio Grande historical collections of the New Mexico state university library located in Dona Ana county;

E. two hundred thousand dollars (\$200,000) to make improvements to existing athletic facilities on the main campus in Las Cruces in Dona Ana county;

F. ninety thousand dollars (\$90,000) to the New Mexico department of agriculture for animal damage control vehicles and equipment;

G. one hundred thousand dollars (\$100,000) for the purpose of planning, designing, and beginning construction of an allied health education complex at the Dona Ana branch of New Mexico state university;

H. one hundred thousand dollars (\$100,000) for the purpose of planning, designing, and beginning construction of an education facility in the southern part of Dona Ana county; and

I. three hundred forty thousand dollars (\$340,000) for planning, designing and beginning construction of a center for sustainable development of arid lands at New Mexico state university in Las Cruces in Dona Ana county.

Section 20

Section 20. SEVERANCE TAX BONDS--BOARD OF REGENTS OF NORTHERN NEW MEXICO STATE SCHOOL--PURPOSES.--Pursuant to the provisions of Section 1 of this act, upon certification by the board of regents of northern New Mexico state school that the need exists for the issuance of the bonds, the following amounts are

appropriated to the board of regents of northern New Mexico state school for the following purposes:

A. two hundred thousand dollars (\$200,000) to plan, design and renovate instructional laboratory buildings at the El Rito campus of northern New Mexico state school located in Rio Arriba county; and

B. one hundred thirty thousand dollars (\$130,000) for phase two of the student services building construction, campus property acquisition and telephone and computer network equipment purchase at the Espanola campus located in Rio Arriba county.

Section 21

Section 21. SEVERANCE TAX BONDS--DEPARTMENT OF PUBLIC SAFETY--PURPOSES.--Pursuant to the provisions of Section 1 of this act, upon certification by the department of public safety that the need exists for the issuance of the bonds, the following amounts are appropriated to the department of public safety for the following purposes:

A. eight hundred sixty-four thousand dollars (\$864,000) to purchase the necessary equipment to establish an automated fingerprint information system for use throughout the state;

B. six hundred thousand dollars (\$600,000) to rebuild and enhance the New Mexico law enforcement telecommunication system for use throughout the state; and

C. seventy-five thousand dollars (\$75,000) to work with the security research alliance to design, plan, install and operate a hand-geometry recognition technology system of enhanced security for the protection of students at Lavaland elementary school in Albuquerque in Bernalillo county.

Section 22

Section 22. SEVERANCE TAX BONDS--PUBLIC SCHOOL CAPITAL IMPROVEMENTS FUND--PURPOSE.--Pursuant to the provisions of Section 1 of this act, upon certification by the state department of public education that the need exists for the issuance of the bonds, the following amounts are appropriated to the public school capital improvements fund to carry out the provisions of the Public School Capital Improvements Act:

A. one hundred thousand dollars (\$100,000) to reroof and renovate various Mora independent schools buildings in Mora county;

B. one hundred forty thousand dollars (\$140,000) to design, plan, construct, equip and furnish a media center at Socorro high school located in Socorro county;

C. two hundred fifty thousand dollars (\$250,000) to design, plan and build, including site improvements, a new high school, to include an advanced technology and science center and a comprehensive vocational training center, in west Las Vegas located in San Miguel county;

D. one hundred thousand dollars (\$100,000) to construct new restrooms for buildings in the Lake Arthur school district in Lake Arthur located in Chaves county.

Section 23

Section 23. SEVERANCE TAX BONDS--STATE DEPARTMENT OF PUBLIC EDUCATION--PURPOSES.--Pursuant to the provisions of Section 1 of this act, upon certification by the state department of public education that the need exists for the issuance of the bonds, the following amounts are appropriated to the state department of public education for the following purposes:

A. three hundred seventy-five thousand dollars (\$375,000) to construct and equip the Jemez Valley middle school located in Sandoval county;

B. one hundred thousand dollars (\$100,000) to install playing fields at Valley high school and Griegos elementary school located in Bernalillo county;

C. fifty thousand dollars (\$50,000) to establish a well, irrigation system and landscaping at the Mission elementary school located in Bernalillo county;

D. two hundred forty-five thousand dollars (\$245,000) to purchase land for new parking and school bus loading areas at La Luz elementary school located in Bernalillo county;

E. sixty thousand dollars (\$60,000) to relocate the school bus loading area at the Garfield middle school located in Bernalillo county;

F. sixty thousand dollars (\$60,000) to make improvements at the Pojoaque valley schools' athletic facility located in Santa Fe county;

G. three hundred sixty-five thousand dollars (\$365,000) to make certain improvements at the Pojoaque valley schools' multipurpose educational and recreational complex in Santa Fe county;

H. one hundred seventy-five thousand dollars (\$175,000) to continue construction of, equip and furnish Clovis high school located in Curry county;

I. one hundred seventy-five thousand dollars (\$175,000) to construct improvements to and equip and furnish the Texico municipal schools track and football field located in Curry county;

J. eighty thousand dollars (\$80,000) to design and construct an addition for a vocational educational facility at Alta Vista middle school in Carlsbad located in Eddy county;

K. fifty thousand dollars (\$50,000) to complete the renovation of the baseball and soccer practice field at Manzano high school in Albuquerque located in Bernalillo county;

L. one hundred fifty thousand dollars (\$150,000) to purchase portable classrooms in Alamogordo located in Otero county;

M. one hundred twenty-five thousand dollars (\$125,000) to plan, design, upgrade and make other improvements to the water and sewer system at the Sombrillo elementary school located in Santa Fe county;

N. seventy-five thousand dollars (\$75,000) to landscape for, furnish and equip a building that houses a statewide education program for job placement for drop-out and at-risk youth located in Santa Fe county;

O. four hundred eighty thousand dollars (\$480,000) to design, construct and equip a new mid-high school in Espanola located in Rio Arriba county;

P. ten thousand dollars (\$10,000) to expand the headstart and other classrooms and to upgrade the electrical system to accommodate a security trailer at Mountainview elementary school in Albuquerque located in Bernalillo county;

Q. one hundred thousand dollars (\$100,000) to purchase library books and equipment and learning technology equipment and to improve the electrical system at Rio Grande high school located in Bernalillo county;

R. seventy-five thousand dollars (\$75,000) to landscape, pave walkways, improve the track, bleachers and playground, improve the electrical system and purchase learning technology equipment for Atrisco elementary school located in Bernalillo county;

S. two hundred thousand dollars (\$200,000) to make necessary drainage improvements and purchase needed playground equipment for the Alamosa elementary school located in Bernalillo county;

T. one hundred thousand dollars (\$100,000) to landscape and pave, purchase and install playground equipment and make other needed improvements at the Carlos Rey elementary school located in Bernalillo county;

U. sixty thousand dollars (\$60,000) to improve the electrical system and purchase needed learning technology equipment at the Mary Ann Binford elementary school located in Bernalillo county;

V. one hundred fifty thousand dollars (\$150,000) to pave a street and to provide for drainage and other improvements at Rio Grande high school located in Bernalillo county;

W. one hundred thousand dollars (\$100,000) to plan, design, construct, equip and furnish buildings for Central and Dennis Chavez elementary schools within the Belen consolidated school district located in Valencia county;

X. one hundred twenty-five thousand dollars (\$125,000) to acquire computers and other necessary equipment with which to computerize substitute educator services in the Albuquerque public school district located in Bernalillo county;

Y. six hundred thousand dollars (\$600,000) to provide additional classrooms for the Albuquerque public school district. The certification and issuance of bonds is contingent upon the Albuquerque public school district providing matching funds of six hundred thousand dollars (\$600,000);

Z. three hundred fifty thousand dollars (\$350,000) to landscape the grounds of, purchase and install playground equipment and construct outdoor educational facilities at the early childhood educational center of the Carlsbad municipal schools located in Eddy county;

AA. thirty-five thousand dollars (\$35,000) to make capital improvements at the Grady municipal schools located in Curry county;

BB. fifteen thousand dollars (\$15,000) to conduct a ranch education project at Logan municipal school district located in Quay county;

CC. two hundred thousand dollars (\$200,000) to improve the school building and portable buildings and purchase additional portable buildings for Valle Vista elementary school in the south valley of Albuquerque located in Bernalillo county;

DD. two hundred fifty thousand dollars (\$250,000) to plan, design and construct a daycare center for student parents attending high school within the Cobre public school district located in Grant county;

EE. two hundred seventy thousand dollars (\$270,000) to continue construction of, equip and furnish Hatch lower elementary school in the village of Hatch located in Dona Ana county;

FF. seventy-five thousand dollars (\$75,000) for capital improvements and equipment in the Melrose public school district;

GG. fifty thousand dollars (\$50,000) for capital improvements and equipment in the Floyd municipal school district;

HH. fifty thousand dollars (\$50,000) for capital improvements and equipment in the Elida municipal school district;

II. two hundred twenty-five thousand dollars (\$225,000) for the acquisition of computers and related equipment in the Clovis public school district;

JJ. two hundred twenty-five thousand dollars (\$225,000) for the acquisition of computers and related equipment in the Portales public school district;

KK. six hundred thousand dollars (\$600,000) to renovate, make improvements to and equip facilities in the Melrose public school district contingent upon a school district election in which the voters of the district vote in favor of the issuance of general obligation bonds of not less than nine hundred twenty-five thousand dollars (\$925,000);

LL. one hundred thousand dollars (\$100,000) to design, construct and equip a recreational facility at McKinley middle school in Albuquerque located in Bernalillo county;

MM. two hundred thousand dollars (\$200,000) to design, construct and equip an all-weather track and field facility at Del Norte high school in Albuquerque in Bernalillo county;

NN. one hundred seventy-five thousand dollars (\$175,000) to make improvements to athletic facilities in the Texico municipal school district in Curry county;

OO. seventy-five thousand dollars (\$75,000) to make improvements and additions to the outdoor athletic facility at Cimarron high school in Colfax county;

PP. eighty thousand dollars (\$80,000) to design, construct and equip an addition for a vocational educational facility at Alta Vista middle school in Carlsbad in Eddy county;

QQ. one hundred thousand dollars (\$100,000) to purchase and install computer equipment for a science and technology laboratory for the Lovington municipal schools in Lea county;

RR. two hundred thousand dollars (\$200,000) to design, construct and equip all-weather track and field facilities at Albuquerque high school located in Bernalillo county;

~~SS. seven hundred fifty thousand dollars (\$750,000) to make repairs, improvements and renovations to the buildings and grounds of the Mesa Vista school~~

~~district located in Rio Arriba county; [THIS OVERSTRUCK MATERIAL HAS BEEN LINE-ITEM VETOED.]~~

TT. two hundred fifty thousand dollars (\$250,000) to construct a track at Valley high school located in Bernalillo county;

UU. two hundred thousand dollars (\$200,000) to design and plan a new high school at west Las Vegas located in San Miguel county;

VV. one hundred five thousand dollars (\$105,000) to make needed improvements to the track at La Cueva high school located in Bernalillo county;

WW. one hundred thousand dollars (\$100,000) to landscape and pave the grounds, purchase and install playground equipment and make other needed improvements at Carlos Rey elementary school located in Bernalillo county;

XX. five hundred thousand dollars (\$500,000) to construct a community recreational complex, including outdoor track facilities, at Grants high school located in Cibola county;

YY. two hundred thousand dollars (\$200,000) to design, plan, build and equip a new indoor physical education and multipurpose facility addition to the Sapello elementary school located in San Miguel county;

ZZ. three hundred fifty thousand dollars (\$350,000) to remodel and renovate the maintenance building at Las Vegas high school located in San Miguel county;

AAA. one hundred ninety thousand dollars (\$190,000) to purchase and install necessary computer equipment and purchase needed supplies for alternative programs at West Mesa high school located in Bernalillo county;

BBB. seventy thousand dollars (\$70,000) to remodel and renovate buildings, including work necessary to be in compliance with the provisions of the federal Americans with Disabilities Act of 1990, and make improvements to the gymnasium and parking lot at John Adams middle school located in Bernalillo county;

~~CCC. three hundred fifty thousand dollars (\$350,000) to make renovations to buildings in the Roswell independent school district to allow for an exchange of facilities between University high school and Sunset elementary school located in Chaves county; [THIS OVERSTRUCK MATERIAL HAS BEEN LINE-ITEM VETOED.]~~

DDD. sixty thousand dollars (\$60,000) to make improvements, including renovation and remodeling of heating systems, in various school buildings of the Dexter school district located in Chaves county;

EEE. one hundred thousand dollars (\$100,000) to purchase equipment and tools necessary for the operation of an auto mechanics shop and program at Taos high school located in Taos county;

FFF. one hundred fifty thousand dollars (\$150,000) to make improvements to and upgrade buildings at Central elementary school located in Hidalgo county;

GGG. thirty-four thousand dollars (\$34,000) to reroof the district cafeteria for the Lordsburg municipal schools located in Hidalgo county;

HHH. seventy-five thousand dollars (\$75,000) to renovate and make improvements to Eugene Field elementary school located in Bernalillo county;

III. seventy thousand dollars (\$70,000) to make necessary drainage improvements at and purchase playground equipment for the Alamosa elementary school located in Bernalillo county;

JJJ. four hundred thousand dollars (\$400,000) to renovate and make improvements to certain public schools loated in Albuquerque in Bernalillo county, in the following amounts for the following schools:

(1) one hundred thousand dollars (\$100,000) for Highland high school;

(2) one hundred thousand dollars (\$100,000) for Manzano high school;

(3) sixty thousand dollars (\$60,000) for Van Buren middle school;

(4) sixty thousand dollars (\$60,000) for Hays middle school;

(5) sixty thousand dollars (\$60,000) for Wilson middle school; and

(6) twenty thousand dollars (\$20,000) for Hawthorne elementary school;

KKK. two hundred fifty thousand dollars (\$250,000) to begin renovation of the elementary school cafeteria in the Moriarty public school district located in Torrance county;

LLL. one hundred thousand dollars (\$100,000) for purchase of portable school buildings for the Espanola school district in Rio Arriba county;

MMM. one hundred fifty thousand dollars (\$150,000) to design and construct an addition for a vocational educational facility at Alta Vista middle school in Carlsbad located in Eddy county;

NNN. seventy thousand dollars (\$70,000) for books and other library acquisitions for schools in the Albuquerque public schools in Bernalillo county;

OOO. fifty thousand dollars (\$50,000) for computers for Chaparral elementary school in the Albuquerque public schools in Bernalillo county; and

PPP. two hundred fifty thousand dollars (\$250,000) to plan, design, construct and equip classrooms and other buildings for elementary and secondary schools within the Belen consolidated school district in Valencia county.

Section 24

Section 24. SEVERANCE TAX BONDS--OFFICE OF STATE ENGINEER--PURPOSES.--Pursuant to the provisions of Section 1 of this act, upon certification by the office of the state engineer that the need exists for the issuance of the bonds, the following amounts are appropriated to the office of the state engineer for the following purposes:

A. one hundred fifty thousand dollars (\$150,000) to continue planning, designing, engineering and construction of the Yellowman siphon located in San Juan county;

B. one hundred thousand dollars (\$100,000) to make improvements to the La Joya acequia located in Socorro county;

C. one hundred fifty thousand dollars (\$150,000) to make improvements to spoil bank levees in Corrales in Sandoval county and the north valley of Bernalillo county within the middle Rio Grande conservancy district; and

D. one hundred fifty thousand dollars (\$150,000) for improvements and repairs in the Antelope Valley irrigation district in Colfax county.

Section 25

Section 25. SEVERANCE TAX BONDS--COMMUNITY COLLEGE BOARD OF SANTA FE COMMUNITY COLLEGE--PURPOSE.--Pursuant to the provisions of Section 1 of this act, upon certification by the community college board of Santa Fe community college that the need exists for the issuance of the bonds, three hundred eighty-six thousand five hundred dollars (\$386,500) is appropriated to the community college board of Santa Fe community college to plan, design, construct, equip and furnish the fine arts center at the Santa Fe community college located in Santa Fe county. The certification and issuance of bonds is contingent upon receipt of equal matching funds from local funding sources.

Section 26

Section 26. SEVERANCE TAX BONDS--COMMUNITY COLLEGE BOARD OF SAN JUAN COLLEGE--PURPOSE.--Pursuant to the provisions of Section 1 of this act, upon certification by the community college board of San Juan college that the need exists for the issuance of the bonds, six hundred sixty-seven thousand dollars (\$667,000) is appropriated to the community college board of San Juan college to construct, equip and make improvements to the computer center addition at San Juan college located in San Juan county.

Section 27

Section 27. SEVERANCE TAX BONDS--GOVERNING BOARD OF TUCUMCARI AREA VOCATIONAL SCHOOL--PURPOSE.--Pursuant to the provisions of Section 1 of this act, upon certification by the governing board of the Tucumcari area vocational school that the need exists for the issuance of the bonds, sixteen thousand five hundred dollars (\$16,500) is appropriated to the Tucumcari area vocational school to plan, design, construct and equip a maintenance building at Tucumcari area vocational school located in Quay county.

Section 28

Section 28. SEVERANCE TAX BONDS--TAXATION AND REVENUE DEPARTMENT--PURPOSE.--Pursuant to the provisions of Section 1 of this act, upon certification by the taxation and revenue department that the need exists for the issuance of the bonds, one million five hundred thousand dollars (\$1,500,000) is appropriated to the taxation and revenue department to purchase data processing equipment for use throughout the state.

Section 29

Section 29. SEVERANCE TAX BONDS--BOARD OF REGENTS OF EASTERN NEW MEXICO UNIVERSITY--PURPOSE.--Pursuant to the provisions of Section 1 of this act, upon certification by the board of regents of eastern New Mexico university that the need exists for the issuance of the bonds, the following amounts are appropriated to the board of regents of eastern New Mexico university for the following purposes:

A. one hundred fifty-seven thousand dollars (\$157,000) to plan and design the renovation of Roosevelt hall at eastern New Mexico university located in Roosevelt county; and

B. seventy-nine thousand dollars (\$79,000) to plan and design the renovation of the arts and technology building at eastern New Mexico university at Roswell in Chaves county.

Section 30

Section 30. SEVERANCE TAX BONDS--BOARD OF REGENTS OF UNIVERSITY OF NEW MEXICO--PURPOSES.--Pursuant to the provisions of Section 1 of this act, upon certification by the board of regents of the university of New Mexico that the need exists for the issuance of the bonds, the following amounts are appropriated to the board of regents of the university of New Mexico for the following purposes:

A. four hundred seventy-five thousand dollars (\$475,000) to plan, design, construct and equip additional facilities at the Taos educational center located in Taos county;

B. one hundred ninety-two thousand dollars (\$192,000) to plan and design the renovation of the chemistry building on the main campus of the university of New Mexico in Albuquerque located in Bernalillo county;

C. four hundred thousand dollars (\$400,000) to design and plan a general classroom facility at the main campus of the university of New Mexico;

D. nine hundred thousand dollars (\$900,000) to continue to construct and equip the Tow Diehm athletic facility at the university of New Mexico located in Bernalillo county;

E. two hundred twenty-five thousand dollars (\$225,000) to purchase buses for the expansion of the shuttle bus service at the university of New Mexico in the city of Albuquerque located in Bernalillo county;

F. eight hundred fifty thousand dollars (\$850,000) for completing the new learning resource center at the Valencia branch of the university of New Mexico located in Valencia county;

G. one hundred fifteen thousand dollars (\$115,000) for planning and design of a building to house an assembly hall, classrooms, a library expansion and science and computer laboratories at the Gallup branch of the university of New Mexico in McKinley county;

H. two hundred thousand dollars (\$200,000) to plan, design and begin construction of a facility to house programs affiliated with the school of law located in Bernalillo county;

I. two million dollars (\$2,000,000) for the purpose of acquiring hospital equipment for the university of New Mexico medical center;

J. two hundred thousand dollars (\$200,000) for the purpose of expanding, remodeling and equipping the Hispanic student services center;

K. two hundred thousand dollars (\$200,000) for the purpose of planning and continuing construction on a partially completed athletic facility next to the football stadium on the south campus; and

L. one hundred thousand dollars (\$100,000) for developing a model community computer information and education network at the Taos education center of the university of New Mexico located in Taos county.

Section 31

Section 31. SEVERANCE TAX BONDS--COMMISSION ON HIGHER EDUCATION--PURPOSE.--Pursuant to Section 1 of this act, upon certification by the commission on higher education that the need exists for the issuance of the bonds, one million dollars (\$1,000,000) is appropriated to the commission on higher education to plan, design and construct a branch of Navajo community college in Crownpoint in McKinley county.

Section 32

Section 32. SEVERANCE TAX BONDS--ECONOMIC DEVELOPMENT DEPARTMENT--PURPOSE.--Pursuant to the provisions of Section 1 of this act, upon certification by the economic development department that the need exists for the issuance of the bonds, two hundred thousand dollars (\$200,000) is appropriated to the economic development department to conduct a feasibility study and perform predesign work for a research and industrial park in Albuquerque in support of federal technology transfer efforts in Bernalillo county.

Section 33

Section 33. SEVERANCE TAX BONDS--STATE ARMORY BOARD--PURPOSE.--Pursuant to the provisions of Section 1 of this act, upon certification by the state armory board that the need exists for the issuance of the bonds, seven hundred twelve thousand dollars (\$712,000) is appropriated to the state armory board to design and construct a national guard armory in or near the town of Taos located in Taos county.

Section 34

Section 34. SEVERANCE TAX BONDS--REGIONAL JUVENILE SERVICES GRANT FUND--PURPOSE.--Pursuant to the provisions of Section 1 of this act, upon certification by the local government division of the department of finance and administration that the need exists for the issuance of the bonds, four hundred ten thousand dollars (\$410,000) is appropriated to the regional juvenile services grant fund for the purpose of providing juvenile services in McKinley, Cibola and San Juan counties by constructing a multipurpose regional juvenile facility in Gallup located in McKinley county. ~~The certification and issuance of bonds is contingent upon the provision of matching funds in an amount not less than twenty-five percent of total~~

~~project costs by McKinley, Cibola and San Juan counties and enactment of House Bill 132 by the second session of the forty first legislature. [THIS OVERSTRUCK MATERIAL HAS BEEN LINE-ITEM VETOED.]~~

Section 35

Section 35. SEVERANCE TAX BONDS--INTERSTATE STREAM COMMISSION--PURPOSE.--Pursuant to the provisions of Section 1 of this act, upon certification by the interstate stream commission that the need exists for the issuance of the bonds, three million five hundred thousand dollars (\$3,500,000) is appropriated to the interstate stream commission to acquire, by purchase or lease, water rights within the Pecos River basin that will most effectively aid the state in complying with the Pecos River Compact and the United States supreme court's amended decree in Texas v. New Mexico, 484 U.S. 388 (1988).

Section 36

Section 36. SEVERANCE TAX BONDS--WASTEWATER FACILITY CONSTRUCTION LOAN FUND--PURPOSE.--Pursuant to the provisions of Section I of this act, upon certification by the department of environment that the need exists for the issuance of the bonds, two million dollars (\$2,000,000) is appropriated to the wastewater facility construction loan fund to carry out the provisions of the Wastewater Facility Construction Loan Act.

Section 37

Section 37. SEVERANCE TAX BONDS--ALBUQUERQUE TECHNICAL-VOCATIONAL INSTITUTE--PURPOSE.--Pursuant to the provisions of Section I of this act, upon certification by the governing board of the Albuquerque technical-vocational institute that the need exists for the issuance of the bonds, one hundred seventy thousand dollars (\$170,000) is appropriated to the governing board of the Albuquerque technical-vocational institute for making improvements to parking and for access for persons with disabilities in order to comply with the federal Americans with Disabilities Act of 1990 at the Albuquerque technical-vocational institute located in Bernalillo county.

Section 38

Section 38. SEVERANCE TAX BONDS--ADMINISTRATIVE OFFICE OF THE COURTS--PURPOSES.--Pursuant to the provisions of Section 1 of this act, upon certification by the administrative office of the courts that the need exists for the issuance of the bonds, the following amounts are appropriated to the administrative office of the courts for the following purposes:

A. three hundred forty-nine thousand dollars (\$349,000) to remove asbestos from the supreme court building in Santa Fe county; and

B. three hundred sixty-nine thousand dollars (\$369,000) to renovate the supreme court building in Santa Fe county in order to comply with the federal Americans with Disabilities Act of 1990 and the New Mexico Uniform Building Code.

Section 39

Section 39. SEVERANCE TAX BONDS--CORRECTIONS DEPARTMENT--PURPOSE.-
-Pursuant to the provisions of Section 1 of this act, upon certification by the corrections department that the need exists for the issuance of the bonds, thirty-five thousand dollars (\$35,000) is appropriated to the corrections department to begin planning, design and construction of a child visitation facility at the women's correctional institution in Cibola county.

Section 40

Section 40. SEVERANCE TAX BONDS--WESTERN NEW MEXICO UNIVERSITY--PURPOSE.--Pursuant to the provisions of Section 1 of this act, upon certification by the board of regents of western New Mexico university that the need exists for the issuance of the bonds, four hundred thousand dollars (\$400,000) is appropriated to the board of regents of western New Mexico university for the purpose of purchasing property for additional parking and future expansion.

Section 41

Section 41. APPROPRIATION--GENERAL SERVICES DEPARTMENT--SALE OF LAND--PURPOSE.--The proceeds from the sale by the property control division of the general services department of the property that is located at the southeast corner of St. Michael's drive at St. Francis drive in the city of Santa Fe and that was purchased with money appropriated from the capital projects fund to the capital program fund pursuant to Paragraph (12) of Subsection B of Section 2 of Chapter 315 of Laws 1989 in an amount not to exceed two million two hundred fifty thousand dollars (\$2,250,000) are appropriated to the property control division of the general services department for expenditure in the eighty-second through eighty-fourth fiscal years for the purpose of constructing and equipping the state library, archives and records center to be located in Santa Fe county. Any unexpended or unencumbered balance remaining at the end of the eighty-fourth fiscal year shall revert to the capital projects fund.

Section 42

Section 42. AGING PROJECTS--GENERAL FUND.--

A. The amounts specified in this section are appropriated from the general fund to the state agency on aging for expenditure in the eighty-second and eighty-third fiscal years, unless otherwise specified, for the specified purposes. Any unexpended or

unencumbered balance remaining at the end of the eighty-third or other specified fiscal year shall revert to the general fund.

B. Twenty thousand dollars (\$20,000) is appropriated to make improvements to and purchase equipment for the north valley senior citizen center in Bernalillo county.

C. Twenty thousand dollars (\$20,000) is appropriated to complete construction of Rio Bravo senior citizen center in Albuquerque in Bernalillo county.

D. One hundred thousand dollars (\$100,000) is appropriated to complete the senior citizen center at Santa Clara pueblo in Rio Arriba county.

E. Two hundred thousand dollars (\$200,000) is appropriated for construction and landscaping of a senior citizen building in Belen in Valencia county.

F. Ten thousand dollars (\$10,000) is appropriated to purchase a copying machine to be used by an organization that provides statewide assistance to victims of strokes.

G. Thirty-two thousand dollars (\$32,000) is appropriated to purchase a twenty-two passenger van for the Beclabito senior citizen center in San Juan county.

Section 43

Section 43. CAPITAL PROGRAM FUND--GENERAL FUND.--

A. The amounts specified in this section are appropriated from the general fund to the capital program fund for expenditure in the eighty-second through eighty-fourth fiscal years, unless otherwise specified, for the specified purposes. Any unexpended or unencumbered balance remaining at the end of the eighty-fourth or other specified fiscal year shall revert to the general fund.

B. Ninety-five thousand nine hundred seventy-five dollars (\$95,975) is appropriated for improvements to that portion of state property that is used as a parking lot for the Santa Fe children's museum. This appropriation is contingent on the children's museum providing at its sole expense the materials and labor required for landscaping and the landscaping project being approved by the property control division of the general services department.

C. One million dollars (\$1,000,000) is appropriated to continue the construction, renovation and repair of state buildings throughout the state to comply with the federal Americans with Disabilities Act of 1990.

D. One hundred ninety-six thousand dollars (\$196,000) is appropriated for the planning, design and engineering of phase one of the renovation of Turquoise lodge.

E. Three hundred fifty thousand dollars (\$350,000) is appropriated to design, plan, construct, equip and furnish an addition to the Albuquerque office of the New Mexico commission for the blind to provide space for its audio newsline and adaptive technology center programs in Bernalillo county.

Section 44

Section 44. OFFICE OF CULTURAL AFFAIRS--GENERAL FUND.--

A. The amounts specified in this section are appropriated from the general fund to the office of cultural affairs for expenditure in the eighty-second through eighty-fourth fiscal years, unless otherwise specified, for the specified purposes. Any unexpended or unencumbered balance remaining at the end of the eighty-fourth or other specified fiscal year shall revert to the general fund.

B. For the New Mexico museum of natural history and science is appropriated:

(1) thirty-five thousand dollars (\$35,000) to conduct a feasibility study of, prepare costs and revenue estimates for and plan and design a planetarium;

(2) thirty-two thousand two hundred forty-three dollars (\$32,243) to purchase and install a central station-monitored alarm system with card access control for fire, robbery and burglary protection; and

(3) twenty thousand dollars (\$20,000) to establish a fossil exhibit for public view.

C. One million one hundred thousand dollars (\$1,100,000) is appropriated to improve the access road and parking lot and expand the museum facilities at the Camino Lejo museum site.

D. One hundred thousand dollars (\$100,000) is appropriated to renovate and install exhibits in the Montano store at the Lincoln state monument.

E. Eight hundred twenty-five thousand dollars (\$825,000) is appropriated to the library division to purchase equipment, computers and communication and distribution systems for the purpose of connecting New Mexico libraries in a statewide communication network, creating a unified catalog in certain libraries and for a pilot program for a document and book delivery system.

F. Twenty-seven thousand five hundred dollars (\$27,500) is appropriated to purchase and install an oil and gas exhibit at the western heritage museum at New Mexico junior college in Lea county.

G. One hundred fifty thousand dollars (\$150,000) is appropriated to acquire and renovate a historical building for a museum facility in Deming in Luna county.

H. Five hundred thousand dollars (\$500,000) is appropriated to the library division to provide computer networking capacity, improve library staff skills and provide programs and staff necessary to integrate Native American community libraries into the state library network system.

Section 45

Section 45. ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT--
GENERAL FUND.--

A. The amounts specified in this section are appropriated from the general fund to the state park and recreation division of the energy, minerals and natural resources department for expenditure in the eighty-second through eighty-fourth fiscal years. Any unexpended or unencumbered balance remaining at the end of the eighty-fourth fiscal year shall revert to the general fund.

B. Two hundred thousand dollars (\$200,000) is appropriated for planning, designing, site preparation, construction of and furnishing a wildlife park in Santa Fe county.

C. Fifty thousand dollars (\$50,000) is appropriated for capital improvements at Caprock amphitheater in Quay county.

Section 46

Section 46. HIGHER EDUCATION PROJECTS--GENERAL FUND.--

A. The amounts specified in this section are appropriated from the general fund to the board of regents of the university of New Mexico for expenditure in the eighty-second and eighty-third fiscal years, unless otherwise specified, for the specified purposes:

(1) two hundred fifty thousand dollars (\$250,000) to plan and design a science and technology complex at the main campus in Bernalillo county;

(2) one hundred thousand dollars (\$100,000) for a well for the main campus golf course;

(3) one hundred fifty thousand dollars (\$150,000) to plan and design a student services building at the Los Alamos campus;

(4) one hundred thousand dollars (\$100,000) to develop a model community computer information and education network at the Taos education center in Taos county; and

(5) twenty-five thousand dollars (\$25,000) for the planning and design of additional facilities at the Taos educational center in Taos county.

B. Any unexpended or unencumbered balance remaining at the end of the eighty-third or other specified fiscal year shall revert to the general fund.

Section 47

Section 47. NEW MEXICO HIGHLANDS UNIVERSITY PROJECT--GENERAL FUND.-- Two million two hundred fifty thousand dollars (\$2,250,000) is appropriated from the general fund to the board of regents of New Mexico highlands university for expenditure in the eighty-second through eighty-fourth fiscal years for the purpose of designing, planning, remodeling, renovating and improving the natatorium building at New Mexico highlands university in Las Vegas located in San Miguel county. Any unexpended or unencumbered balance remaining at the end of the eighty-fourth fiscal year shall revert to the general fund.

Section 48

Section 48. HIGHWAYS AND ROADS--GENERAL FUND AND STATE ROAD FUND.--

A. The amounts specified in this section are appropriated from the general fund to the state highway and transportation department for expenditure in the eighty-second through eighty-fifth fiscal years, unless otherwise specified, for the specified purposes. Any unexpended or unencumbered balance remaining at the end of the eighty-fifth or other specified fiscal year shall revert to the general fund.

B. Twelve million dollars (\$12,000,000) is appropriated from the state road fund to design and construct a highway from state road 117 to the observatory site in Cibola county; provided, this appropriation is contingent on the state receiving a United States department of defense award of not less than twelve million dollars (\$12,000,000) for development of an astronomy-oriented science center in New Mexico; ~~and provided further, this appropriation shall revert to the general fund operating reserve.~~ *[THIS OVERSTRUCK HIGHLIGHTED MATERIAL HAS BEEN LINE-ITEM VETOED.]*

C. Five hundred thousand dollars (\$500,000) is appropriated to acquire rights of way, conduct environmental and archaeological studies, perform preliminary design for and construct the Santa Teresa intermodal port facility in Dona Ana county.

D. Fifty thousand dollars (\$50,000) is appropriated for improving access to the Gallup regional sports complex in McKinley county.

E. Four hundred thousand dollars (\$400,000) is appropriated to renovate and repave Alamogordo streets in the airport addition, including Walker avenue, Wright avenue and Mescalero street, in Otero county.

F. One hundred fifty thousand dollars (\$150,000) is appropriated for preconstruction and construction of San Luis road in Sandoval county.

G. One hundred fifty thousand dollars (\$150,000) is appropriated to conduct a location and environmental feasibility study for a highway corridor from United States highway 84/285 at Arroyo Seco to state road 503 between Nambe pueblo and state road 520 in Santa Fe county.

H. One hundred thousand dollars (\$100,000) is appropriated for construction of a bridge on county road 91A in Santa Fe county.

I. Seventy-five thousand dollars (75,000) is appropriated for paving, drainage and other improvements to La Joya and Alexandro streets in Santa Fe in Santa Fe county.

J. Seventy-five thousand dollars (\$75,000) is appropriated for paving, drainage and other improvements to Ricardo road in Santa Fe in Santa Fe county.

K. One hundred thousand dollars (\$100,000) is appropriated for improvements to Miller road in Valencia county.

L. Two hundred fifty thousand dollars (\$250,000) is appropriated to purchase replacement equipment for the Taos county road department in Taos county.

Section 49

Section 49. LOCAL PROJECTS--GENERAL FUND.--

A. The amounts specified in this section are appropriated from the general fund to the following funds or agencies for expenditure in the eighty-second and eighty-third fiscal years, unless otherwise specified, for the specified purposes. Any unexpended or unencumbered balance remaining at the end of the eighty-third or other specified fiscal year shall revert to the general fund.

B. To the local government division of the department of finance and administration is appropriated:

(1) one hundred thousand dollars (\$100,000) to plan, design and acquire rights of way for two pedestrian overpasses on Gibson boulevard in Albuquerque in Bernalillo county;

(2) five hundred thousand dollars (\$500,000) to plan, design, construct, equip and furnish a new public health facility in San Miguel county;

(3) seventy-five thousand dollars (\$75,000) for providing a gymnasium addition to the Paradise Hills community center in Bernalillo county;

(4) twenty-five thousand dollars (\$25,000) for improvements to the soccer fields in the Paradise Hills subdivision in Bernalillo county;

(5) seventy-five thousand dollars (\$75,000) for planning, designing, constructing and equipping a little league baseball complex at Mariposa basin in the Taylor ranch subdivision in the west mesa north area of Albuquerque in Bernalillo county;

(6) one hundred thousand dollars (\$100,000) for acquiring land for and planning, designing, constructing, equipping and furnishing a community center in the Taylor Ranch subdivision in Bernalillo county;

(7) four thousand dollars (\$4,000) for the purchase and installation of playground equipment at the west mesa community center in Albuquerque in Bernalillo county;

(8) one hundred thousand dollars (\$100,000) for the planning, designing, constructing and equipping of a little league baseball complex in the east mountain area of Bernalillo county;

(9) seven hundred thousand dollars (\$700,000) for the acquisition of land near the Rio Grande Bosque state park for recreational use in Bernalillo county;

(10) twenty-five thousand dollars (\$25,000) for planning and design of a community swimming pool in Cimarron in Colfax county;

(11) one hundred thousand dollars (\$100,000) to remodel for compliance with the federal Americans with Disabilities Act of 1990 the Roswell museum and art center in Chaves county;

(12) one hundred fifty thousand dollars (\$150,000) to plan, design, construct and equip a fire station in Sierra in Chaves county;

(13) two hundred thousand dollars (\$200,000) for planning, designing and constructing a family community center in Texico in Curry county;

(14) one hundred fifty thousand dollars (\$150,000) to construct a multipurpose community center in Chaparral in Dona Ana county;

(15) seventy-five thousand dollars (\$75,000) to acquire land and design and make necessary improvements for a parking lot in La Mesilla in Dona Ana county;

(16) two hundred five thousand dollars (\$205,000) for planning, designing and constructing a recreational and counseling center for youth in Sunland Park in Dona Ana county; provided, this appropriation may be expended through the eighty-fourth fiscal year;

(17) three hundred fifty thousand dollars (\$350,000) to plan, design and construct a building to house the Artesia headstart program in Eddy county;

(18) ten thousand dollars (\$10,000) for installing a water line and sprinkler system and constructing a building to house landscaping equipment at a historic cemetery site west of Loving in Eddy county;

(19) one hundred thousand dollars (\$100,000) for designing, constructing and equipping a fire station in Riverside in Eddy county;

(20) sixty thousand dollars (\$60,000) to purchase an ambulance for Santa Rosa in Guadalupe county;

(21) three hundred thousand dollars (\$300,000) to continue construction of the Lea county cultural center in Lea county; provided, this appropriation is contingent on matching funds of at least three hundred thousand dollars (\$300,000) from sources other than the state;

(22) fifty-four thousand dollars (\$54,000) to purchase a water tanker for the Sunshine volunteer fire department in Luna county;

(23) one hundred fifty thousand dollars (\$150,000) for designing, constructing and equipping a tourist information center in Alamogordo in Otero county;

(24) thirty-six thousand dollars (\$36,000) to purchase computer hardware and software and to purchase and install meters for the Canjilon water association in Rio Arriba county;

(25) eighty thousand dollars (\$80,000) for site development, design and construction of an underground water reservoir in Embudo in Rio Arriba county;

(26) fifty thousand dollars (\$50,000) for improving recreational facilities in Espanola in Rio Arriba county;

(27) fifty thousand dollars (\$50,000) for making improvements to and purchasing equipment for the Velarde recreational area in Rio Arriba county;

(28) one hundred fifty thousand dollars (\$150,000) for planning, designing and constructing a recreational center in Pena Blanca in Sandoval county;

(29) five hundred fifty thousand dollars (\$550,000) for site clearance, preparation, planning, design, constructing and equipping a youth recreational and educational facility in Santa Fe in Santa Fe county;

(30) thirty thousand dollars (\$30,000) for the acquisition of land to be used as the site of a community fire station at Chamisal in Taos county;

(31) fifty thousand dollars (\$50,000) for the preparation of a feasibility study, including a study of architectural design, for a youth and families center in Taos in Taos county;

(32) two hundred seventy-five thousand dollars (\$275,000) to design, plan, construct and equip a new fire department substation in the city of Santa Rosa in Guadalupe county;

(33) two hundred thousand dollars (\$200,000) for improvements at the east San Jose community center in Bernalillo county, including remodeling and renovation of the swimming pool, upgrading the bathhouse mechanical system, upgrading the parking lot and bringing the facility up to the standards required by the federal Americans with Disabilities Act of 1990;

(34) fifty thousand dollars (\$50,000) for improvements to the playground area and renovations of the east San Jose community center in Bernalillo county necessary to meet health standards and standards required by the federal Americans with Disabilities Act of 1990;

(35) one hundred thousand dollars (\$100,000) for installation of basketball courts and improvements to and equipment for the east San Jose community center located in Bernalillo county;

(36) one hundred thousand dollars (\$100,000) for renovation of the exterior play area, including improvements for both safety and federal Americans with Disabilities Act of 1990 compliance, at Tingley park in Albuquerque in Bernalillo county;

(37) one hundred thousand dollars (\$100,000) for renovation of Calkins park in Bernalillo county, including improvements to the basketball court and play areas and purchase and installation of equipment; and

(38) one hundred twenty thousand dollars (\$120,000) for renovation and purchase of equipment for the Barelas community center in Albuquerque in Bernalillo county.

C. To the department of environment is appropriated:

(1) one hundred fifty thousand dollars (\$150,000) to purchase compactor boxes and appropriate equipment for solid waste in Rio Arriba county; and

(2) two hundred thousand dollars (\$200,000) for design, planning and construction of facilities for closure of landfills in Rio Arriba county and to assist the development of a regional solid waste authority in the northern Rio Grande region and for planning, acquiring land, designing and constructing a regional landfill to serve the authority.

D. To the New Mexico office of Indian affairs is appropriated:

(1) fifty thousand dollars (\$50,000) to purchase a building to house an alcohol and drug abuse counseling and education program in eastern McKinley county;

(2) ten thousand five hundred dollars (\$10,500) to plan, design and construct a domestic water supply system in Red Valley in San Juan county; provided, this appropriation is contingent on matching funds of at least ten thousand five hundred dollars (\$10,500) from sources other than the state;

(3) ninety-five thousand dollars (\$95,000) to plan, design, construct and equip an addition to the Rock Springs headstart in McKinley county;

(4) sixty-five thousand dollars (\$65,000) to plan, design and construct a recreational softball field in Naschitti in San Juan county;

(5) seventy-six thousand two hundred fifty dollars (\$76,250) to purchase, transport, install and equip a headstart modular building in Becenti in McKinley county;

(6) seventy-six thousand two hundred fifty dollars (\$76,250) to purchase, transport, install and equip a headstart modular building in Whitehorse lake in McKinley county;

(7) seventy-six thousand two hundred fifty dollars (\$76,250) to purchase, transport, install and equip a headstart modular building in Casamero lake in McKinley county;

(8) seventy-six thousand two hundred fifty dollars (\$76,250) to purchase, transport, install and equip a headstart modular building in the community of Baca in McKinley county;

(9) thirty thousand dollars (\$30,000) for initial planning and design of a tourism center in the community of Sheep Springs in San Juan county;

(10) four hundred fifty thousand dollars (\$450,000) for planning, design or construction of phase II of the Crownpoint recreation complex located in McKinley county; and

(11) five hundred thousand dollars (\$500,000) to repair and renovate the main facility of the Indian pueblo cultural center located in Bernalillo county.

E. To the interstate stream commission is appropriated one hundred twenty thousand dollars (\$120,000) to design or construct flood control structures, including one or more dams or channels, for phase 1 of the east mesa flood control plan in or near Las Cruces in Dona Ana county; provided, this appropriation is contingent on the Dona Ana county flood commission contributing at least one hundred forty thousand dollars (\$140,000) to the project; and provided further, this appropriation may be expended through the eighty-fourth fiscal year.

F. To the state housing authority of the economic development department is appropriated twenty-five thousand dollars (\$25,000) for improvements required pursuant to the provisions of the federal Americans with Disabilities Act of 1990 to a handicapped-assisted housing project for the elderly in Roswell in Chaves county.

G. To the economic development department is appropriated fifty thousand dollars (\$50,000) to acquire land and make site improvements and for funding a program that trains low-income families to build their own homes and homes for other low-income families in Taos county.

H. To the state armory board of the department of military affairs is appropriated five hundred thousand dollars (\$500,000) to design, equip, extend utilities and perform other related work to construct a national guard armory in or near Clayton located in Union county.

I. To the regional juvenile services grant fund is appropriated five hundred thousand dollars (\$500,000) for expenditure for the purpose of planning, designing, constructing, equipping and furnishing a regional multipurpose juvenile facility in the northwest quadrant of the state, contingent upon the provisions of matching funds in an amount not less than twenty-five percent of total project costs by McKinley, Cibola and San Juan counties and enactment of House Bill 132 by the second session of the forty-first legislature.

Section 50

Section 50. PUBLIC SCHOOL PROJECTS--GENERAL FUND.--

A. The amounts specified in this section are appropriated from the general fund to the state department of public education or specified funds for expenditure in the eighty-second and eighty-third fiscal years, unless otherwise specified, for the specified purposes. Any unexpended or unencumbered balance remaining at the end of the eighty-third or other specified fiscal year shall revert to the general fund.

B. To the state department of public education is appropriated:

(1) one hundred fifty thousand dollars (\$150,000) to provide grass playing fields at Kennedy middle school in Albuquerque in Bernalillo county;

(2) one hundred forty thousand dollars (\$140,000) to continue construction of La Cueva high school track and field facilities in Albuquerque in Bernalillo county;

(3) twenty thousand dollars (\$20,000) to make improvements to the track and playground at Navajo elementary school in Bernalillo in Sandoval county;

(4) one hundred ten thousand dollars (\$110,000) to construct a building for children and parenting counseling and elementary health services at Zia elementary school in Albuquerque in Bernalillo county; provided, this appropriation is contingent on the state receiving matching funds of at least one hundred thousand dollars (\$100,000) from the junior league of Albuquerque;

(5) one hundred fifty thousand dollars (\$150,000) to renovate and equip the vocational educational facilities at the Santo Domingo-Cochiti middle school in Sandoval county;

(6) fifty thousand dollars (\$50,000) to make improvements and roof repairs in the Penasco independent school district in Taos county;

(7) two hundred thousand dollars (\$200,000) to plan and design classrooms at Taos high school in Taos county;

(8) two hundred thousand dollars (\$200,000) to complete phase three construction and renovation of Los Lunas middle school in Valencia county;

(9) two hundred fifty thousand dollars (\$250,000) to purchase the land that Ann Parish elementary school leases in Valencia county;

(10) two hundred thousand dollars (\$200,000) to plan, design, construct and equip a new indoor physical education and multipurpose facility addition

to the Sapello elementary school in the Las Vegas city school district in San Miguel county;

(II) five hundred thousand dollars (\$500,000) for various capital improvement projects in the Mora school district in Mora county;

(12) two hundred thousand dollars (\$200,000) for various capital improvement projects and equipment acquisition for the West Las Vegas school district in San Miguel county;

(13) twenty-five thousand dollars (\$25,000) for capital improvements and computer equipment for the Penasco elementary school in Chaves county in the Artesia public school district;

(14) five hundred thousand dollars (\$500,000) for capital improvements to schools and school grounds in the Columbus area of the Deming public school district in Luna county in partial response to increasing demands on schools in the area resulting from border initiatives;

(15) two hundred thousand dollars (\$200,000) to expand and construct Sunset elementary school in the Roswell public school district in Chaves county;

(16) three hundred fifty thousand dollars (\$350,000) to make renovations to buildings in the Roswell independent school district to allow for an exchange of facilities between University high school and Sunset elementary school in Roswell in Chaves county;

(17) two million three hundred thousand dollars (\$2,300,000) to meet capital outlay needs or make capital improvements in the Gadsden independent schools in Dona Ana county;

(18) two hundred seventy thousand dollars (\$270,000) to construct, install or make improvements to tracks at the following high schools in the Albuquerque public schools in Bernalillo county as follows:

(a) twenty thousand dollars (\$20,000) to West Mesa high school;

(b) one hundred fifty thousand dollars (\$150,000) to Valley high school; and

(c) one hundred thousand dollars (\$100,000) to La Cueva high school; and

(19) one hundred thousand dollars (\$100,000) to purchase playground equipment and make improvements to playgrounds at the following schools in the Albuquerque public schools in Bernalillo county:

(a) fifty thousand dollars (\$50,000) to Mountain View elementary school; and

(b) fifty thousand dollars (\$50,000) to Delores Gonzales elementary school.

C. To the public school capital improvements fund is appropriated nine million six hundred thousand dollars (\$9,600,000) to carry out the provisions of the Public School Capital Improvements Act; provided, this appropriation shall not revert to the general fund at the end of any fiscal year.

D. To the board of regents of the New Mexico school for the deaf is appropriated two hundred thousand dollars (\$200,000) to design, construct, equip and furnish a preschool at Hodgin elementary school.

Section 51

Section 51. SEWER AND WATER PROJECTS--GENERAL FUND.--

A. The amounts specified in this section are appropriated from the general fund to the department of environment for expenditure in the eighty-second and eighty-third fiscal years, unless otherwise specified, for the specified purposes. Any unexpended or unencumbered balance remaining at the end of the eighty-third or other specified fiscal year shall revert to the general fund.

B. Twenty-five thousand dollars (\$25,000) is appropriated to design, inspect and construct water system improvements in Cebolla in Rio Arriba county.

C. Twenty-five thousand dollars (\$25,000) is appropriated to improve the Gallina water system in Rio Arriba county.

D. Fifty thousand dollars (\$50,000) is appropriated for domestic water system improvements in Truchas in Rio Arriba county.

E. Twenty-five thousand dollars (\$25,000) is appropriated to improve the Vallecitos water system in Rio Arriba county.

F. Twenty-five thousand dollars (\$25,000) is appropriated for improvements to the La Jara water system in Sandoval county.

G. Thirty thousand dollars (\$30,000) is appropriated for water system repairs and improvements in Las Trampas in Taos county.

H. Thirty-five thousand dollars (\$35,000) is appropriated to make improvements to the water system for the Canon mutual domestic water consumers association in Canon in Taos county.

I. Two hundred fifty thousand dollars (\$250,000) is appropriated to continue construction, installation and equipping of a water well, storage tank, booster station and chlorination facility in Bosque Farms in Valencia county.

J. One hundred thousand dollars (\$100,000) is appropriated for engineering and constructing a water treatment plant and related water system improvements for the village of Ruidoso in Lincoln county.

K. Fifty thousand dollars (\$50,000) is appropriated for replacement and extension of sewer and water lines in the town of Red River in Taos county.

L. Ten thousand dollars (\$10,000) is appropriated for a new well for the El Salto domestic water system in Arroyo Seco in Taos county.

Section 52

Section 52. GENERAL SERVICES DEPARTMENT--GENERAL FUND.--

A. To the general services department is appropriated three hundred thousand dollars (\$300,000) to purchase, dispose of and maintain vehicles for state agencies' use throughout the state.

B. Four hundred thousand dollars (\$400,000) is appropriated from the general fund to the property control division of the general services department for expenditure in the eighty-second through eighty-fourth fiscal years to plan, design, construct, furnish or equip a secure forensic treatment facility at the Las Vegas medical center located in San Miguel county. Any unexpended or unencumbered balance remaining at the end of the eighty-fourth fiscal year shall revert to the general fund.

Section 53

Section 53. DEPARTMENT OF MILITARY AFFAIRS--GENERAL FUND.--

A. Seven million five hundred thousand dollars (\$7,500,000) is appropriated from the general fund to the department of military affairs in the following amounts and for the purposes specified in this section for expenditure in the eighty-second through the eighty-fourth fiscal years:

(1) one million five hundred thousand dollars (\$1,500,000) is appropriated to plan, design, construct, furnish and equip a new emergency management center at the national guard complex located in Santa Fe county; and

(2) six million dollars (\$6,000,000) is appropriated to plan, design, construct, furnish and equip a new headquarters building to house the offices of the adjutant general and its staff located in Santa Fe county.

B. Any unexpended or unencumbered balance remaining at the end of the eighty-fourth fiscal year shall revert to the general fund.

Section 54

Section 54. EMPLOYMENT SECURITY DEPARTMENT FUND--APPROPRIATION--PURPOSES.--

A. One million five hundred sixty-three thousand dollars (\$1,563,000) is appropriated from the employment security department fund to the capital program fund for expenditure by the property control division of the general services department in the eighty-second through eighty-fourth fiscal years for the following purposes:

(1) one hundred twelve thousand dollars (\$112,000) to make certain improvements to the Alamogordo office of the labor department located in Otero county in order to comply with the federal Americans with Disabilities Act of 1990;

(2) one hundred fifty thousand dollars (\$150,000) to make certain improvements to the Albuquerque office of the labor department located in Bernalillo county in order to comply with the federal Americans with Disabilities Act of 1990;

(3) ninety-one thousand dollars (\$91,000) to modify or make certain improvements to the Artesia office of the labor department located in Eddy county, including modifications that will comply with the federal Americans with Disabilities Act of 1990;

(4) one hundred ninety-six thousand dollars (\$196,000) to modify or make certain improvements to the Espanola office of the labor department located in Rio Arriba county, including modifications that will comply with the federal Americans with Disabilities Act of 1990;

(5) fifty-eight thousand dollars (\$58,000) to modify or make certain improvements to the Farmington office of the labor department located in San Juan county, including modifications that will comply with the federal Americans with Disabilities Act of 1990;

(6) thirty-six thousand dollars (\$36,000) to modify or make certain improvements to the Hobbs office of the labor department located in Lea county, including modifications that will comply with the federal Americans with Disabilities Act of 1990;

(7) one hundred sixty-eight thousand dollars (\$168,000) to modify or make certain improvements to the Las Cruces office of the labor department located in Dona Ana county, including modifications that will comply with the federal Americans with Disabilities Act of 1990;

(8) ninety-five thousand dollars (\$95,000) to modify or make certain improvements to the Las Vegas office of the labor department located in San Miguel county, including modifications that will comply with the federal Americans with Disabilities Act of 1990;

(9) three hundred two thousand dollars (\$302,000) to modify or make certain improvements to the Santa Fe office of the labor department located in Santa Fe county, including modifications that will comply with the federal Americans with Disabilities Act of 1990;

(10) seventy-five thousand dollars (\$75,000) to modify, renovate, expand or make certain improvements to the Silver City office of the labor department located in Grant county, including modifications that will comply with the federal Americans with Disabilities Act of 1990; and

(11) two hundred eighty thousand dollars (\$280,000) to modify or make certain improvements to the Tiwa building of the labor department located in Bernalillo county in order to comply with the federal Americans with Disabilities Act of 1990.

B. Any unexpended or unencumbered balance remaining at the end of the eighty-fourth fiscal year shall revert to the employment security department fund.

Section 55

Section 55. MINERS' TRUST FUND--APPROPRIATION--PURPOSES.--

A. Five hundred forty-six thousand dollars (\$546,000) is appropriated from the miners' trust fund to the miners' Colfax medical center located in Colfax county for expenditure in the eighty-third and eighty-fourth fiscal years for the following purposes:

(1) one hundred thirty thousand dollars (\$130,000) to purchase a specialized radiology machine;

(2) two hundred three thousand dollars (\$203,000) to purchase cardiac monitors for the intensive care unit;

(3) eighty-five thousand dollars (\$85,000) to purchase a mammography machine;

(4) ninety thousand dollars (\$90,000) to purchase a medical laboratory information system; and

(5) thirty-eight thousand dollars (\$38,000) to purchase a handicapped-equipped vehicle for the nursing home.

B. Any unexpended or unencumbered balance remaining at the end of the eighty-fourth fiscal year shall revert to the miners' trust fund.

Section 56

~~Section 56. PUBLIC LIABILITY FUND--STATE HIGHWAY AND TRANSPORTATION DEPARTMENT--APPROPRIATION--PURPOSE.--One hundred thousand dollars (\$100,000) is appropriated from the public liability fund to the state highway and transportation department for expenditure in the eighty-third fiscal year to investigate and adjust all claims not exceeding five hundred dollars (\$500) per claim that involve vehicular property damage to private vehicles sustained while the private vehicle was traveling through a maintenance project performed by the state highway and transportation department, using its own equipment and personnel. Any unexpended or unencumbered balance remaining at the end of the eighty-third fiscal year shall revert to the public liability fund. [THIS OVERSTRUCK MATERIAL HAS BEEN LINE-ITEM VETOED.]~~

Section 57

~~Section 57. SUPREME COURT RESERVE FUND--APPROPRIATION--PURPOSE.--Forty-six thousand dollars (\$46,000) is appropriated from the supreme court building addition reserve fund, account number 3-220.0, fund 402 and supreme court building addition interest and retirement fund, account number 1-220.0, fund 860 to the supreme court building commission construction fund for expenditure in the eighty-second and eighty-third fiscal years for the purpose of defraying expenses related to capital improvements of supreme court facilities. Any unexpended or unencumbered balance remaining at the end of the eighty-third fiscal year shall not revert to the supreme court building addition interest and retirement fund.~~

Section 58

~~Section 58. IRRIGATION WORKS CONSTRUCTION FUND--APPROPRIATION.--~~

~~A. One million one hundred fifty-eight thousand dollars (\$1,158,000) is appropriated from the irrigation works construction fund to the following agencies for the following purposes:~~

~~(1) sixty-three thousand dollars (\$63,000) is appropriated to the interstate stream commission for expenditure in the eighty-second and eighty-third fiscal years to monitor Costilla dam in Taos county during first filling of the reservoir;~~

(2) one million dollars (\$1,000,000) is appropriated to the interstate stream commission for expenditure in the eighty-second through eighty-fifth fiscal years to repair and rehabilitate Storrie Lake dam in accordance with plans and specifications approved by the state engineer; and

(3) ninety-five thousand dollars (\$95,000) is appropriated to the state engineer for expenditure in the eighty-second through eighty-fifth fiscal years for the purpose of making improvements, including lining, to various acequias in the community of La Luz located in Otero county.

B. Any unexpended or unencumbered balance remaining ~~at the end of the eighty-third fiscal year~~ shall revert to the irrigation works construction fund. *[THIS OVERSTRUCK MATERIAL HAS BEEN LINE-ITEM VETOED.]*

Section 59

Section 59. APPROPRIATIONS--STATE ROAD FUND.--

A. The following amounts are appropriated from the state road fund to the state highway and transportation department for expenditure in the eighty-second through eighty-fourth fiscal years for the following purposes:

(1) four hundred fifty-two thousand dollars (\$452,000) to plan, design, construct and equip a new patrol building for the Clayton patrol located in Union county;

(2) one hundred twenty-three thousand dollars (\$123,000) to place and complete necessary improvements to a prefabricated building that will house an office building for district three located in Bernalillo county;

(3) eight hundred one thousand dollars (\$801,000) to plan, design, construct and equip a new materials laboratory at the district two headquarters office located in Chaves county;

(4) five hundred sixty-eight thousand dollars (\$568,000) to acquire property for a construction project office and district patrol facility in Gallup located in McKinley county;

(5) two hundred ninety-three thousand dollars (\$293,000) to make certain improvements to the district one building located in Luna county;

(6) eighty thousand dollars (\$80,000) to provide for a sanitary sewer line extension to the district five complex located in Santa Fe county; and

(7) nine hundred fifty-four thousand dollars (\$954,000) to replace underground storage tanks located throughout the state.

B. Any unexpended or unencumbered balance remaining at the end of the eighty-fourth fiscal year shall revert to the state road fund.

Section 60

Section 60. SEVERANCE TAX BONDS--DEPARTMENT OF ENVIRONMENT--CHANGE IN PURPOSE--APPROPRIATION.--The appropriation from severance tax bonds to the department of environment pursuant to Subsection M of Section 4 of Chapter 113 of Laws 1992 shall not be expended for its original purpose but is reauthorized and appropriated to be expended for the purpose of planning, designing, constructing or purchasing a wastewater facility to serve the village of Milan located in Cibola county. Any unexpended or unencumbered balance remaining six months after completion of the project shall revert to the severance tax bonding fund. If the department of environment has not certified the need for the issuance of the bonds by the end of the eighty-fifth fiscal year, the authorization provided in this section shall be void.

Section 61

Section 61. SEVERANCE TAX BONDS--GENERAL SERVICES DEPARTMENT--PROPERTY CONTROL DIVISION--CHANGE OF PURPOSE.--The proceeds of the severance tax bonds appropriated to the property control division of the general services department for capital outlay projects at the state penitentiary in Santa Fe described in Subsections I, N and O of Section 14 of Chapter 367 of Laws 1994 and the balance of the money reappropriated by Subparagraphs (b) and (c) of Paragraph (2) of Subsection A of Section 3 of Chapter 3 of Laws 1988 (2nd S.S.) shall not be expended for their original purposes but are reauthorized and reappropriated for the following capital projects:

A. three million one hundred thousand dollars (\$3,100,000) for the purpose of planning, designing, constructing and purchasing equipment and materials for the renovation and improvement of the north and south units of the penitentiary of New Mexico in Santa Fe county;

B. four million eighty-one thousand two hundred dollars (\$4,081,200) to design, construct, equip and furnish a minimum security unit and a building to house the corrections industries programs near the southern New Mexico correctional facility in Dona Ana county; and

C. nine hundred thousand dollars (\$900,000) to make improvements to the infirmary at the central correctional facility located in Valencia county.

Section 62

Section 62. SEVERANCE TAX BONDS--CHANGE OF PURPOSE--VILLAGE OF RUIDOSO MAINSTREET REDEVELOPMENT PLAN PHASE □--APPROPRIATION.--

The appropriation of one hundred fifty thousand dollars (\$150,000) in severance tax bond proceeds to the state highway and transportation department pursuant to Subsection Z of Section 15 of Chapter 367 of Laws 1994 shall not be expended for its original purpose but is appropriated to the state highway and transportation department for phase I and phase II of the Mainstreet redevelopment plan for the village of Ruidoso located in Lincoln county. Any unexpended or unencumbered balance remaining six months after completion of the project shall revert to the severance tax bonding fund.

Section 63

Section 63. SEVERANCE TAX BONDS--STATE HIGHWAY AND TRANSPORTATION DEPARTMENT--BALANCES--CHANGE OF PURPOSE--APPROPRIATION.--One hundred thirty-one thousand two hundred six dollars (\$131,206) of the balances from severance tax bond proceeds appropriated to the state highway and transportation department pursuant to Subsection H of Section 22 of Chapter 259 of Laws 1991 and pursuant to Paragraph (7) of Subsection H of Section 1 of Chapter 3 of Laws 1988 (2nd S.S.) shall not be expended for those purposes but is reauthorized and appropriated for purchase of air space easements for Curry county. Any unexpended or unencumbered balance remaining six months after completion of the project shall revert to the severance tax bonding fund.

Section 64

Section 64. SEVERANCE TAX BONDS--CHANGE OF PURPOSE--APPROPRIATION.-

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A. The appropriation of forty-seven thousand dollars (\$47,000) of severance tax bond proceeds to the state highway and transportation department for making street improvements in Clovis in Curry county pursuant to Subsection G of Section 22 of Chapter 259 of Laws 1991 shall not be expended for that purpose but is appropriated to the following agencies in the following amounts for the following purposes:

(1) twenty-seven thousand dollars (\$27,000) to the state highway and transportation department for street improvements to Delta street between Elm street and Garcia lane in Clovis in Curry county; and

(2) twenty thousand dollars (\$20,000) to the state department of public education for renovation of concession facilities at the Clovis public schools' national little league ball park in Clovis in Curry county.

B. Any unexpended or unencumbered balance remaining six months after completion of the projects specified in Subsection A of this section shall revert to the severance tax bonding fund.

Section 65

Section 65. SEVERANCE TAX BONDS--EXPANSION OF PURPOSE.--Two hundred thousand dollars (\$200,000) from the proceeds from the sale of severance tax bonds appropriated to the department of environment in Subsection D of Section 8 of Chapter 367 of Laws 1994 shall not be expended for its original purpose but is appropriated to the department of environment for renovation and expansion of the wastewater treatment facility in Moriarty in Torrance county. Any unexpended or unencumbered balance remaining at the end of the eighty-fifth fiscal year shall revert to the general fund.

Section 66

Section 66. SEVERANCE TAX BONDS--TRANSFER OF APPROPRIATIONS TO THE LOCAL GOVERNMENT DIVISION OF THE DEPARTMENT OF FINANCE AND ADMINISTRATION.--One hundred thousand dollars (\$100,000) from the proceeds from the sale of severance tax bonds appropriated to the New Mexico office of Indian affairs pursuant to Subsection V of Section 16 of Chapter 367 of Laws 1994 for the purpose of planning, designing, land acquisition for and construction of the Native American cultural museum to be located in Grants in Cibola county is transferred to the local government division of the department of finance and administration.

Section 67

Section 67. SEVERANCE TAX BONDS--DEPARTMENT OF ENVIRONMENT--CHANGE IN PURPOSE--CONTINGENCY NEGATED--APPROPRIATION.--The appropriation from severance tax bonds to the department of environment, pursuant to Subsection M of Section 8 of Chapter 367 of Laws 1994, of sixty thousand dollars (\$60,000) shall not be expended for its original purpose and shall not be subject to the contingency imposed, but shall be used and is authorized and appropriated for the purpose of purchasing compactor boxes and appropriate equipment at Tesuque pueblo located in Santa Fe county. Any unexpended or unencumbered balance remaining six months after the completion of the project shall revert to the severance tax bonding fund.

Section 68

Section 68. SEVERANCE TAX BONDS--CHANGE OF PURPOSE.--The appropriation of severance tax bond proceeds in Subsection AA of Section 26 of Chapter 367 of Laws 1994 to roof the courtyard of the Sierra Vista elementary school shall not be expended for that purpose but is appropriated to provide for purchase and installation of storage units for the school courtyard, remodeling to provide additional classroom fire exits, expansion of the nurses' station for accommodation of at least two cots and space for applying cardiac pulmonary resuscitation and provision of portable outdoor drinking fountains at the Sierra Vista elementary school.

Section 69

Section 69. SEVERANCE TAX BONDS--LOCAL GOVERNMENT DIVISION OF THE DEPARTMENT OF FINANCE AND ADMINISTRATION--CHANGE IN PURPOSE-- APPROPRIATION.--Two hundred thousand dollars (\$200,000) of the proceeds from the sale of severance tax bonds appropriated to the local government division of the department of finance and administration authorized in Subsection CCCC of Section 7 of Chapter 367 of Laws 1994 shall not be expended for its original purpose but is appropriated to the local government division of the department of finance and administration to design, construct and equip a senior center in Alamogordo in Otero county. If the local government division of the department of finance and administration has not certified the need for the issuance of the bonds by the end of the eighty-fifth fiscal year, the authorization provided in this section shall be void.

Section 70

Section 70. SEVERANCE TAX BONDS--CHANGING OF PURPOSE-- REAPPROPRIATING BALANCES.--Three hundred forty-five thousand dollars (\$345,000) of the proceeds from the sale of severance tax bonds appropriated to the state highway department authorized in Subsection B of Section 13 of Chapter 132 of Laws 1990 shall not be expended for the original purpose, but is appropriated to the state highway and transportation department to be used for the costs of planning, designing, right-of-way acquisition and construction of two pedestrian overpasses on Gibson boulevard in Albuquerque located in Bernalillo county. Any unexpended or unencumbered balance remaining six months after the completion of the project shall revert to the severance tax bonding fund.

Section 71

Section 71. APPROPRIATIONS--EXTENDING EXPENDITURE PERIOD.--

A. The period of time in which the following appropriations from the general fund and other funds made in Chapter 366 of Laws 1994 may be expended shall be extended through the eighty-fourth fiscal year:

(1) from the court automation fund to the supreme court for certain court automation costs pursuant to Subsection B of Section 3;

(2) to the local government division of the department of finance and administration for:

(a) certain costs of the southern Sandoval county arroyo flood control authority pursuant to Subsection I of Section 3;

(b) certain sewer and water supply lines and improvements in the Camino Carlos Rael area in Santa Fe county pursuant to Subsection J of Section 3;

(c) the alternative sentencing facility pilot program in Bernalillo county pursuant to Subsection AAA of Section 3;

(d) parks and recreation equipment shelters and improvements for the city of Bloomfield in San Juan county pursuant to Subsection I of Section 4;

(e) roof repairs on the Mora county courthouse in Mora county pursuant to Subsection J of Section 4;

(f) sewer improvements in Mosquero in Harding county pursuant to Subsection K of Section 4;

(g) water system improvements for the Timberon water and sanitation district in Otero county pursuant to Subsection L of Section 4; and

(h) sewer and water projects, including facility expansions and line extensions in the north and south valleys of Albuquerque in Bernalillo county from the general fund operating reserve pursuant to Subsection M of Section 4;

(3) to the property control division of the general services department:

(a) for a study committee and plan for a comprehensive state library, records and archives building pursuant to Subsection N of Section 3;

(b) from the general fund operating reserve to construct and equip a state library, records and archives building pursuant to Subsection O of Section 4; and

(c) to bring state buildings into compliance with the federal Americans with Disabilities Act of 1990 pursuant to Subsection M of Section 3;

(4) from the public employees retirement fund to the public employees retirement association for information system improvements pursuant to Subsection Q of Section 3;

(5) to the office of cultural affairs for the purchase and renovation of a building for the New Mexico museum of natural history in Bernalillo county pursuant to Subsection U of Section 4;

(6) to the historic preservation division of the office of cultural affairs to carry out the provisions of the Historic Preservation Loan Act pursuant to Subsection W of Section 3;

(7) to the New Mexico public utility commission for certain litigation and related services pursuant to Subsection GG of Section 3;

(8) to the children, youth and families department to renovate the Muchmore house residential treatment facility for severely emotionally impacted adolescents located in Bernalillo county pursuant to Subsection GG of Section 4;

(9) to the department of public safety for a training building at the department training facility in Santa Fe county pursuant to Subsection JJ of Section 4;

(10) to the Valencia branch of the university of New Mexico to plan and design a student services building pursuant to Subsection MM of Section 4;

(11) to the Gallup branch of the university of New Mexico for a building pursuant to Subsection NN of Section 4; and

(12) to the environmental protection division of the department of environment to hire a training coordinator and fund training and administrative expenses associated with assisting the Indian pueblos with training of staff in the knowledge of and compliance with federal and state environmental protection law pursuant to Subsection QQ of Section 3.

B. The period of time in which the appropriations made from the state road fund and the corrective action fund to the department of finance and administration for activities related to the cleanup of the Terrero mine and the reclamation of the El Molino mill tailings site made pursuant to Subsection G of Section 3 of Chapter 366 of Laws 1994 may be expended is extended through the eighty-fifth fiscal year.

C. The period of time in which the following appropriations from the employment security department fund made in Chapter 85 of Laws 1992 may be expended shall be extended through the eighty-third fiscal year:

(1) to purchase and install a heating and air conditioning system and to renovate the Silver City office of the labor department in Grant county pursuant to Paragraph (1) of Subsection A of Section 1;

(2) to renovate the Hobbs office of the labor department in Lea county pursuant to Paragraph (2) of Subsection A of Section 1;

(3) to purchase and install a heating and air conditioning system in and to renovate, equip and landscape the Alamogordo office of the labor department in Otero county pursuant to Paragraph (4) of Subsection A of Section 1;

(4) to renovate and landscape the Espanola office of the labor department in Rio Arriba county pursuant to Paragraph (5) of Subsection A of Section 1;

(5) to purchase, pave and landscape the lot adjacent to the Farmington service center of the labor department in San Juan county pursuant to Paragraph (6) of Subsection A of Section 1;

(6) to purchase and install a heating and air conditioning system in, to complete minor renovation of and to landscape the Las Vegas office of the labor department in San Miguel county pursuant to Paragraph (7) of Subsection A of Section 1; and

(7) to renovate and furnish the Albuquerque office of the labor department in Bernalillo county pursuant to Paragraph (9) of Subsection A of Section 1.

Section 72

Section 72. APPROPRIATIONS--CHANGE IN PURPOSE--EXTENDING EXPENDITURE PERIOD.--Ninety-seven thousand dollars (\$97,000) from the appropriation from the employment security department fund to the property control division of the general services department pursuant to Paragraph (3) of Subsection A of Section 1 of Chapter 85 of Laws 1992 shall not be used for its original purpose but is appropriated to the property control division of the general services department for land acquisition and to plan and design an office for the labor department in the Deming area in Luna county. Additionally, the period of time in which that appropriation may be expended is extended through the eighty-fourth fiscal year.

Section 73

Section 73. APPROPRIATION--CHANGE IN PURPOSE--EXTENDING EXPENDITURE PERIOD.--The appropriation for twenty-five thousand dollars (\$25,000) to the environmental protection division of the department of environment to study and prepare plans for establishment of a solid waste transfer station in Rio Arriba county set forth in Subsection PP of Section 3 of Chapter 366 of Laws 1994 shall not be expended for that purpose but is appropriated to purchase equipment for a solid waste transfer station in Rio Arriba county, and that appropriation shall not revert at the end of the eighty-second fiscal year but may also be expended during the eighty-third fiscal year. Any unexpended or unencumbered balance remaining at the end of the eighty-third fiscal year shall revert to the general fund.

Section 74

Section 74. SEVERANCE TAX BONDS--EXPANSION OF PURPOSE-- APPROPRIATION.--The severance tax bond proceeds appropriated to the local government division of the department of finance and administration pursuant to Subsection RRR of Section 7 of Chapter 367 of Laws 1994 for repair and renovation of the municipal police building in Tatum in Lea county shall not be expended for their original purpose but shall be used for land acquisition and planning, constructing and equipping a new facility for the town of Tatum municipal police building.

Section 75

Section 75. APPROPRIATION--CHANGE IN PURPOSE.--The encumbered but unexpended appropriation for one hundred thousand dollars (\$100,000) to the department of finance and administration pursuant to Paragraph (h) of Item (6) of Section 5 of Chapter 94 of Laws 1992 in the General Appropriation Act of 1992 for the purpose of making site improvements at Hobbs industrial airpark shall not be expended for its original purpose but shall instead be appropriated to the state highway and transportation department for the purpose of surfacing and improving streets in the town of Tatum in Lea county.

Section 76

Section 76. SEVERANCE TAX BONDS--HISPANIC CULTURAL CENTER.--Pursuant to the provisions of Section 1 of this act, upon certification by the Hispanic cultural division of the office of cultural affairs that the need exists for the issuance of the bonds, four million dollars (\$4,000,000) is appropriated to the Hispanic cultural division of the office of cultural affairs for the purpose of establishing a Hispanic cultural center in the southwest portion of Albuquerque in Bernalillo.

Section 77

Section 77. APPROPRIATION--GENERAL FUND.--Three million eight hundred thousand dollars (\$3,800,000) is appropriated from the general fund to the local government division of the department of finance and administration for expenditure in the eighty-second through eighty-fourth fiscal years for the purpose of acquiring land and developing a state and local park for public recreational and multi-use purposes, including the permanent site of the Albuquerque balloon fiesta in Bernalillo county. Any unexpended or unencumbered balance remaining at the end of the eighty-fourth fiscal year shall revert to the general fund.

Section 78

Section 78. TEMPORARY PROVISION--ART IN PUBLIC PLACES.--

A. Where applicable, each appropriation in this act includes one percent for art in accordance with the Art in Public Places Act. Notwithstanding the provisions of Section 13-4A-4 NMSA 1978, allocations of less than five thousand dollars (\$5,000) shall be combined to purchase art for public places in the same county as the projects from which the funds were allocated.

B. Any unexpended or unencumbered balance of the art in public places allocation remaining one year after completion of each applicable capital project may be reallocated by the arts division of the office of cultural affairs pursuant to Section 13-4A-7 NMSA 1978.

Section 79

Section 79. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

HOUSE TAXATION AND REVENUE COMMITTEE
SUBSTITUTE FOR HOUSE APPROPRIATIONS
AND FINANCE COMMITTEE SUBSTITUTE FOR
HOUSE BILLS 19, 23, 49 et al
EMERGENCY CLAUSE -- SIGNED MARCH 9, 1994

HOUSE JOINT RESOLUTION 11

RATIFYING AND APPROVING A PROPOSED SALE OF REAL PROPERTY IN SANTA FE COUNTY.

WHEREAS, Section 13-6-3 NMSA 1978 requires ratification and approval of any sale of real property belonging to a state agency for a consideration of one hundred thousand dollars (\$100,000) or more; and

WHEREAS, the property control division of the general services department proposes to sell five and six-tenths acres at the southeast corner of St. Michael's drive at St. Francis drive in the city of Santa Fe in Santa Fe county with an approximate value of one million two hundred ten thousand dollars (\$1,210,000); and

WHEREAS, the property proposed to be sold is legally described as tract 82-A, lying on the east edge of St. Francis drive and on the west edge of Galisteo road; and

WHEREAS, the property is not needed for its originally intended use as a site for the proposed state library, archives and records center, and the proceeds from the sale of the property would be available for appropriation for the construction and equipping of the new state library, archives and records center to be located in Santa Fe county;

NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO that the proposed sale of property at the southeast corner of St. Michael's drive at St. Francis drive in Santa Fe in Santa Fe county be hereby ratified and approved pursuant to the provisions of Section 13-6-3 NMSA 1978; and

BE IT FURTHER RESOLVED that a copy of this resolution be transmitted to the property control division of the general services department.

HOUSE JOINT RESOLUTION 11

SENATE JOINT RESOLUTION A JOINT RESOLUTION 11

AUTHORIZING THE SALE OR EXCHANGE BY THE STATE GAME COMMISSION OF ACREAGE IN THE CITY OF SANTA FE.

WHEREAS, the state game commission is the owner of a parcel of land in the southwestern part of the city of Santa Fe in Santa Fe county, more particularly described as follows: lot 12, section 4, township 16 north, range 9 east, N.M.P.M., comprised of twenty-six and two-tenths acres; and

WHEREAS, the state game commission desires to dispose of the twenty-six and two-tenths acre tract; and

WHEREAS, the value of the property exceeds one hundred thousand dollars (\$100,000);

NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO that it authorize the state game commission to sell or to exchange this land for other land of equal real estate value; and

BE IT FURTHER RESOLVED that the proceeds from the land sale or exchange be reinvested in property in Santa Fe county for the purpose of consolidating department of game and fish offices and warehouse facilities.

SENATE CONSERVATION COMMITTEE SUBSTITUTE
FOR SENATE JOINT RESOLUTION 11

OFFICIAL ROSTER OF THE STATE OF NEW MEXICO

UNITED STATES SENATORS

Jeff Bingaman, Democrat, Santa Fe

Pete V. Domenici, Republican, Albuquerque

UNITED STATES REPRESENTATIVES

Steven H. Schiff, Republican, District No. 1, Albuquerque

Joseph R. Skeen, Republican, District No. 2, Picacho

Bill Richardson, Democrat, District No. 3, Santa Fe

STATE OFFICIALS

Bruce King, Democrat

Governor

Casey Luna, Democrat
Stephanie Gonzales, Democrat
Robert E. Vigil, Democrat
David W. King, Democrat
Tom Udall, Democrat
Ray Powell, Jr., Democrat
Louis E. Gallegos, Democrat
Eric P. Serna, Democrat
Jerome Block, Democrat

Lieutenant Governor
Secretary of State
State Auditor
State Treasurer
Attorney General
Commissioner of Public Lands
Corporation Commissioner
Corporation Commissioner
Corporation Commissioner

JUSTICES OF THE SUPREME COURT

Richard E. Ransom, Chief Justice

Seth D. Montgomery

Joseph F. Baca

Gene Franchini

Stanley F. Frost

JUDGES OF THE COURT OF APPEALS

Pamela B. Minzner, Chief Judge

Thomas A. Donnelly

William W. Bivins

A. Joseph Alarid

Rudy S. Apodaca

Harris L. Hartz

Benjamin Anthony Chavez

Lynn Pickard

Bruce D. Black

Benny Flores

DISTRICT COURTS

DISTRICT JUDGES

FIRST JUDICIAL DISTRICT

SANTA FE, RIO ARRIBA, LOS ALAMOS COUNTIES

Division I Petra J. Maes Santa Fe
Division II Joe Cruz Castellano, Jr. Santa Fe
Division III Patricio M. Serna Santa Fe
Division IV Bruce E. Kaufman Santa Fe
Division V Art Encinias Santa Fe
Division VI Steve Herrera Santa Fe

SECOND JUDICIAL DISTRICT

ERNALILLO COUNTY

Division I Michael E. Martinez Albuquerque
Division II James Blackmer Albuquerque
Division III Tommy Jewell Albuquerque
Division IV Frank Allen, Jr. Albuquerque
Division V Gerard W. Thompson Albuquerque
Division VI W. C. "Woody" Smith Albuquerque
Division VII Phillip R. Ashby Albuquerque
Division VIII Ross C. Sanchez Albuquerque
Division IX Burt Cosgrove Albuquerque
Division X Teresa Baca Albuquerque
Division XI Diane Dal Santo Albuquerque
Division XII Gerald R. Cole Albuquerque
Division XIII Robert Hayes Scott Albuquerque
Division XIV W. John Brennan Albuquerque
Division XV H. Richard Blackhurst Albuquerque
Division XVI Robert L. Thompson Albuquerque
Division XVII Ann M. Kass Albuquerque
Division XVIII Susan M. Conway Albuquerque
Division XIX Albert S. Murdoch Albuquerque

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DONA ANA COUNTY

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Division II Graden W. "Sandy" Beal Las Cruces

Division III James T. Martin, Jr. Las Cruces

Division IV Gerald Valentine Las Cruces

Division V Thomas G. Cornish, Jr. Las Cruces

FOURTH JUDICIAL DISTRICT

GUADALUPE, MORA, SAN MIGUEL COUNTIES

Division I Eugenio S. Mathis Las Vegas

Division II Jay Gwynne Harris Las Vegas

FIFTH JUDICIAL DISTRICT

CHAVES, EDDY, LEA COUNTIES

Division I Fred A. Watson Carlsbad

Division II Alvin F. Jones Roswell

Division III Ralph W. Gallini Lovington

Division IV Patrick J. Francoeur Lovington

Division V James L. Shuler Carlsbad

Division VI William J. Schnedar Roswell

Division VII Larry Johnson Hobbs

SIXTH JUDICIAL DISTRICT

GRANT, HIDALGO, LUNA COUNTIES

Division I V. Lee Vesely Silver City

Division II Manuel D. V. Saucedo Deming

SEVENTH JUDICIAL DISTRICT

CATRON, SIERRA, TORRANCE, SOCORRO COUNTIES

Division I Edmund H. Kase, III Socorro

Division II Leslie C. Smith Socorro

EIGHTH JUDICIAL DISTRICT

COLFAX, UNION, TAOS COUNTIES

Division I Peggy Jean Nelson Raton

Division II Joseph E. Caldwell Taos

NINTH JUDICIAL DISTRICT

CURRY & ROOSEVELT COUNTIES

Division I Stephen K. Quinn Clovis

Division II Fred T. Hensley Clovis

Division III David W. Bonem Clovis

TENTH JUDICIAL DISTRICT

QUAY, DeBACA, HARDING COUNTIES

Division I Ricky D. Purcell Tucumcari

ELEVENTH JUDICIAL DISTRICT

McKINLEY, SAN JUAN COUNTIES

Division I Benjamin S. Eastburn Aztec

Division II Joseph L. Ritch Gallup

Division III Byron Caton
Division IV Paul R. Onuska

Aztec
Farmington

TWELFTH JUDICIAL DISTRICT

LINCOLN, OTERO COUNTIES

Division I Sandra A. Grisham Alamogordo
Division II Robert M. Doughty, II Alamogordo
Division III Richard A. Parsons, Sr. Carrizozo

THIRTEENTH JUDICIAL DISTRICT

SANDOVAL, VALENCIA, CIBOLA COUNTIES

Division I John W. Pope Los Lunas
Division II Kenneth G. Brown Bernalillo
Division III William A. (Bill) Sanchez Los Lunas
Division IV Martin G. Pearl Grants
Division V Louis P. McDonald Bernalillo

DISTRICT ATTORNEYS

First Judicial District Henry R. Valdez Santa Fe
Second Judicial District Robert Schwartz Albuquerque
Third Judicial District G. Gregg Bemis Las Cruces
Fourth Judicial District Luis B. Juarez Las Vegas
Fifth Judicial District Thomas A. Rutledge Carlsbad
Sixth Judicial District Anthony W. White Silver City
Seventh Judicial District Ron P. Lopez Socorro
Eighth Judicial District Sammy Lawrence Pacheco Taos
Ninth Judicial District Randall M. Harris Clovis
Tenth Judicial District Mark I. Bannister, Sr. Tucumcari
Eleventh Judicial District
Division I Alan E. Whitehead Farmington
Division II Forrest G. Buffington Gallup
Twelfth Judicial District Bert Atkins Alamogordo
Thirteenth Judicial District Mike Runnels Los Lunas

STATE SENATORS SERVING IN THE FORTY-FIRST LEGISLATURE

STATE OF NEW MEXICO

FIRST SESSION

CONVENED JANUARY 18, 1994

| <u>COUNTY</u> | <u>DISTRICT</u> | <u>NAME</u> | <u>CITY</u> |
|--|-----------------|------------------------------|-------------|
| San Juan | 1 | Raymond Kysar (R) | Farmington |
| San Juan | 2 | Christine A. Donisthorpe (R) | Bloomfield |
| McKinley & San Juan | 3 | John Pinto (D) | Tohatchi |
| Cibola & McKinley | 4 | Gloria Howes (D) | Gallup |
| Los Alamos, Rio Arriba & Sandoval | 5 | Emilio Naranjo (D) | Espanola |
| Mora, Santa Fe & Taos | 6 | Carlos R. Cisneros (D) | Questa |
| Colfax, Curry, Harding, Quay, San Miguel & Union | 7 | Patrick H. Lyons (R) | Cuervo |
| DeBaca, Guadalupe, Lincoln, & San Miguel | 8 | Pete Campos (D) | Santa Rosa |
| Bernalillo & Sandoval | 9 | Virgil O. Rhodes (R) | Sandia Park |
| Bernalillo | 10 | Janice D. Paster (D) | Albuquerque |
| Bernalillo | 11 | Thomas R. Benavides (D) | Albuquerque |
| Bernalillo | 12 | Richard M. Romero (D) | Albuquerque |
| Bernalillo | 13 | Tito D. Chavez (D) | Albuquerque |
| Bernalillo & Valencia | 14 | Manny M. Aragon (D) | Albuquerque |
| Bernalillo | 15 | L. Skip Vernon (R) | Albuquerque |
| Bernalillo | 16 | Thomas T. Rutherford (D) | Albuquerque |
| Bernalillo | 17 | Shannon Robinson (D) | Albuquerque |
| Bernalillo | 18 | Ann J. Riley (D) | Albuquerque |
| Bernalillo, Santa Fe & Torrance | 19 | Duncan Scott (R) | Albuquerque |
| Bernalillo | 20 | Michael C. Wiener (R) | Albuquerque |
| Bernalillo | 21 | Tom C. Wary (R) | Albuquerque |
| Bernalillo, Los | | | |

Alamos, McKinley
Rio Arriba &
Sandoval 22 Leonard Tsosie (D) Crownpoint

Rio Arriba & Sandoval
Bernalillo &
Sandoval 23 Joseph J. Carraro (R) Albuquerque
Santa Fe 24 Edward J. Lopez (D) Santa Fe
Santa Fe 25 Roman M. Maes (D) Santa Fe
Bernalillo 26 Philip J. Maloof (D) Albuquerque
Chaves, Curry &
Roosevelt 27 Cress Stuart Ingle (R) Portales
Catron, Grant &
Socorro 28 Ben D. Altamirano (D) Silver City
Valencia 29 Michael S. Sanchez (D) Belen
Cibola, Socorro &
Valencia 30 Joseph A. Fidel (D) Grants
Dona Ana 31 Cynthia Nava (D) Mesquite
Chaves, Eddy & Otero 32 Timothy Z. Jennings (D) Roswell
Chaves & Eddy 33 Emmit M. Jennings (R) Roswell
Eddy, Lea & Otero 34 Melvin D. (Don) Kidd (R) Carlsbad
Dona Ana, Hidalgo,
Luna & Sierra 35 John Arthur Smith (D) Deming
Dona Ana 36 Mary Jane M. Garcia (D) Dona Ana
Dona Ana, Otero &
Sierra 37 Leonard Lee Rawson (R) Las Cruces
Dona Ana 38 Fernando R. Macias (D) Mesilla
Bernalillo, Los
Alamos, Sandoval,
San Miguel, Santa
Fe & Torrance 39 Elizabeth T. Stefanics (D) Santa Fe
Otero 40 Dianna J. Duran (R) Alamogordo
Eddy & Lea 41 Gary Don Reagan (D) Hobbs
Curry, Lea &
Roosevelt 42 Billy J. McKibben (R) Hobbs

STATE REPRESENTATIVES SERVING IN THE FORTY-FIRST LEGISLATURE

STATE OF NEW MEXICO

FIRST SESSION

CONVENED JANUARY 18, 1994

COUNTY DISTRICT NAME CITY

| | | | |
|----------------------------|----|-------------------------------|--------------|
| San Juan | 1 | Jerry W. Sandel (D) | Farmington |
| San Juan | 2 | David G. Christensen (R) | Farmington |
| Rio Arriba & San Juan | 3 | Darla Whitney-Welles (D) | Aztec |
| San Juan | 4 | Thomas E. Atcitty (D) | Shiprock |
| McKinley | 5 | Robert David Pederson (D) | Gallup |
| Cibola & McKinley | 6 | Frank E. Paul (D) | Pinehill |
| Valencia | 7 | Ron Gentry (D) | Belen |
| Valencia | 8 | Fred Luna(D) | Los Lunas |
| McKinley & San Juan | 9 | Leo C. Watchman, Jr. (D) | Navajo |
| Bernalillo & Valencia | 10 | Henry "Kiki" Saavedra (D) | Albuquerque |
| Bernalillo | 11 | Rick Miera (D) | Albuquerque |
| Bernalillo | 12 | Delano J. Garcia (D) | Albuquerque |
| Bernalillo | 13 | Daniel P. Silva (D) | Albuquerque |
| Bernalillo | 14 | Richard Ray Sanchez (D) | Albuquerque |
| Bernalillo | 15 | Raymond G. Sanchez (D) | Albuquerque |
| Bernalillo | 16 | Albert Gurule (D) | Albuquerque |
| Bernalillo | 17 | Edward C. Sandoval (D) | Albuquerque |
| Bernalillo | 18 | Cisco McSorley (D) | Albuquerque |
| Bernalillo | 19 | Robert M. Hawk (D) | Albuquerque |
| Bernalillo | 20 | Martha L. (Marty) Lambert (R) | Albuquerque |
| Bernalillo | 21 | Patricia V. Baca (D) | Albuquerque |
| Bernalillo | 22 | Jerry Lee Alwin (R) | Albuquerque |
| Bernalillo | 23 | Mark J. Caruso (R) | Albuquerque |
| Bernalillo | 24 | George D. Buffett (R) | Albuquerque |
| Bernalillo | 25 | Danice R. Picraux (D) | Albuquerque |
| Bernalillo | 26 | Ramon Huerta (D) | Albuquerque |
| Bernalillo | 27 | Linn J. Tytler (R) | Albuquerque |
| Bernalillo | 28 | Garth Simms (R) | Albuquerque |
| Bernalillo | 29 | Paul D. Barber (R) | Albuquerque |
| Bernalillo | 30 | John J. McMullan (R) | Albuquerque |
| Bernalillo | 31 | Kip W. Nicely (R) | Albuquerque |
| Dona Ana, Luna & Sierra | 32 | G.X. McSherry (D) | Deming |
| Dona Ana | 33 | J. Paul Taylor (D) | Mesilla |
| Dona Ana | 34 | David Martinez (D) | Sunland Park |
| Dona Ana | 35 | E. Shirley Baca (D) | Las Cruces |
| Dona Ana | 36 | William E. Porter | Las Cruces |
| Dona Ana | 37 | Ima Lee Wells (D) | Las Cruces |
| Grant, Luna & Sierra | 38 | Murray Ryan (R) | Silver City |

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| Hidalgo & Grant Mora, Rio Arriba, San Miguel, Santa Fe & Taos Pueblo Rio Arriba, Sandoval & Taos Taos Los Alamos & Sandoval Sandoval Santa Fe Santa Fe Santa Fe Santa Fe Sierra & Valencia Torrance, Bernalillo & Santa Fe Otero Dona Ana Otero Eddy Eddy Lincoln, Chaves & Otero Chaves, Eddy, Lea & Roosevelt Chaves & Eddy Chaves Sandoval Lea Lea Curry & Roosevelt Curry Bernalillo, Cibola & Sandoval Curry, Lea & Roosevelt DeBaca, Harding, Quay, Union, Curry & Roosevelt Colfax, Guadalupe, Mora & San Miguel Cibola, McKinley & Sandoval San Miguel | 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 | Thomas P. Foy (D) Nick L. Salazar (D) Debbie A. Rodella (D) Frederick A. Peralta (D) Jeannette O. Wallace (R) Robert A. Perls (D) Angie Vigil Perez (D) Ben Lujan (D) Max Coll (D) Luciano "Lucky" Varela (D) Michael Olguin (D) Gary K. King (D) Mario A. Torrez (D) Delores C. Wright (D) David H. Townsend (D) Joe M. Stell, Jr. (D) Robert S. Light (D) H. John Underwood (D) Richard T. Knowles (R) Barbara A. Perea Casey (D) Richard E. Olson (R) Vince Martinez (D) Donald L. Whitaker (D) Robert P. Wallach (R) Vincent Gallegos, Jr. (D) Blake B. Curtis (R) James Roger Madalena (D) Earlene Roberts (R) Wesley Grau (D) Jose R. Abeyta (D) Lynda M. Morgan (D) Samuel F. Vigil, Jr. (D) | Bayard San Juan Taos Los Alamos Corrales Santa Fe Santa Fe Santa Fe Socorro Moriarty Alamogordo Chaparral Alamogordo Carlsbad Carlsbad Ruidoso Roswell Roswell Roswell Rio Rancho Eunice Hobbs Clovis Clovis Jemez Pueblo Lovington Grady Wagon Mound Crownpoint Las Vegas |
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