

Laws 1998
Second Regular Session, Forty-Third Legislature

CERTIFICATE OF AUTHENTICATION

STATE OF NEW MEXICO

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SS:

OFFICE OF THE SECRETARY OF STATE

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I, STEPHANIE GONZALES, Secretary of State of the State of New Mexico, do hereby certify that the printed laws contained herein are true and correct copies of the ENROLLED AND ENGROSSED LAWS that were passed by the Forty-Third State Legislature of New Mexico at its Second Session, which convened on the 20th day of January, 1998, and adjourned on the 19th day of February, 1998, in Santa Fe, the Capital of the State, as said copies appear on file in my office.

I further certify that in preparing the following laws for publication, the texts of the ORIGINAL ENROLLED AND ENGROSSED ACTS have been photographically reproduced without changes and that any errors must be attributed to the original, as certified by the Enrolling and Engrossing and Judiciary Committees of the Forty-Third State Legislature of the State of New Mexico, Second Session.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of New Mexico.

Done in the City of Santa Fe, the State
Capital, this 30th day of March, 1998.

Stephanie Gonzales

Secretary of State

Table of Chapters and Resolutions

CHAPTER 1

WITH LINE-ITEM VETOES

RELATING TO THE LEGISLATIVE BRANCH OF GOVERNMENT; APPROPRIATING FUNDS FOR THE EXPENSE OF THE FORTY-THIRD LEGISLATURE, SECOND SESSION, 1998 AND FOR OTHER LEGISLATIVE EXPENSES, INCLUDING THE LEGISLATIVE COUNCIL SERVICE, THE LEGISLATIVE FINANCE COMMITTEE, THE LEGISLATIVE EDUCATION STUDY COMMITTEE, THE SENATE RULES COMMITTEE, THE HOUSE CHIEF CLERK'S OFFICE AND THE SENATE CHIEF CLERK'S OFFICE; DECLARING AN EMERGENCY.

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

Chapter 1 Section 1

Section 1. There is appropriated for the expense of the legislative department of the state of New Mexico for the forty-third 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 three million seven hundred twenty-seven thousand eight hundred fifty dollars (\$3,727,850) or so much thereof as may be necessary for such purposes.

Chapter 1 Section 2

Section 2. The expenditures referred to in Section 1 of this act are as follows:

A. per diem for senators ----- \$ 157,500;

B. per diem for members of the house of representatives -----\$ 270,000;

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 ----- \$ 4,068;

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 -----
----- \$ 6,324;

E. salaries and employee benefits of senate employees ----- \$ 913,971;

F. salaries and employee benefits of house of representatives employees \$ 1,204,873;

G. for expense of the senate not itemized above,

two hundred eighty-three thousand six hundred eighty dollars (\$283,680). 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 ninety-six thousand three hundred thirty-four dollars (\$296,334). No part of this item may be transferred to salaries or employee benefits;

I. the expenditures for the house of representatives 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 mailroom and joint legislative switchboard, five hundred ninety-one thousand one hundred dollars (\$591,100) 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.

Chapter 1 Section 3

Section 3. 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. Computers not needed for legislative use may be offered for resale to state agencies, public officials, public institutions and local public bodies at a fair market price as determined by the legislative council, and the proceeds shall be deposited in the legislative information system fund.

Chapter 1 Section 4

Section 4. Under the printing contracts entered into for the forty-third 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.

Chapter 1 Section 5

Section 5. For the second session of the forty-third 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. one copy to each member of the house of representatives 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 the New Mexico congressional delegation and each public school district in the state.

Chapter 1 Section 6

Section 6. Any person not enumerated in Section 5 of this act 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 three hundred dollars (\$300), 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 one dollar (\$1.00) unless the director of the legislative council service shall, because of its length, assign a higher price not to exceed ten cents (\$.10) per page. Copies of a daily bill locator, other than those copies furnished each member of the respective houses, shall be supplied by the legislative council service at a charge of seventy-five dollars (\$75.00) for the entire session.

Chapter 1 Section 7

Section 7. There is appropriated from the general fund to the legislative council service for fiscal year 1999 unless otherwise indicated, to be disbursed on vouchers signed by the director of the legislative council service, the following:

A. Personal Services \$ 1,928,400

Employee Benefits 618,300

Travel 132,100

Maintenance & Repairs 48,500

Supplies & Materials 41,200

Contractual Services 202,900

Operating Costs 291,100

Other Operating Costs 250,000

Capital Outlay 77,500

Out-of-State Travel 111,000

Total \$ 3,701,000;

~~[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 fiscal year 1999, the sum of nine hundred eighty-five thousand dollars (\$985,000); provided that the New Mexico legislative council may transfer amounts from the appropriation in this subsection, during the fiscal year for which appropriated, to any other legislative appropriation where they may be needed;

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

D. for a statewide legislative intern program, the sum of twenty-five thousand dollars (\$25,000).

Chapter 1 Section 8

Section 8. There is appropriated from the general fund to the legislative finance committee for fiscal year 1999, to be disbursed on vouchers signed by the chairman of the committee or his designated representative, the following:

Personal Services \$ 1,526,400

Employee Benefits 447,800

Travel 136,000

Maintenance & Repairs 26,500

Supplies & Materials 26,700

Contractual Services 166,000

Operating Costs 92,700

Capital Outlay 12,200

Out-of-State Travel 34,500

Total \$ 2,468,800.

Chapter 1 Section 9

Section 9. There is appropriated from the general fund to the legislative education study committee for fiscal year 1999, to be disbursed on vouchers signed by the chairman of the committee or his designated representative, the following:

Personal Services \$ 452,400

Employee Benefits 125,100

Travel 70,000

Maintenance & Repairs 15,000

Supplies & Materials 14,700

Contractual Services 15,000

Operating Costs 19,000

Capital Outlay 17,700

Out-of-State Trave l15,000

Total \$ 743,900.

During fiscal year 1999, in carrying out its statutory responsibility, the legislative education study committee shall examine early childhood education programs and programs for students at risk; and identify federal funds expended on these programs, the objectives and requirements for the programs and the agencies responsible for implementing and carrying out the programs. The committee shall evaluate the effectiveness of each program, identify any duplication of effort and determine how to ensure that the needs of New Mexico's children are met. The committee shall report its findings and recommendations to the first session of the forty-fourth legislature for streamlining and coordinating the programs to maximize the utilization of federal dollars so that the greatest number of children at all levels are served.

Chapter 1 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 twenty-one thousand six hundred dollars (\$21,600) for fiscal year 1999.]~~

Chapter 1 Section 11

Section 11. There is appropriated from the general fund to the legislative council service for expenditure in fiscal year 1999 for the operation of the house chief clerk's office, to be disbursed on vouchers signed by the director of the legislative council service, the following:

Personal Services \$ 195,600

Employee Benefits 64,100

Travel 1,900

Maintenance & Repairs 50

Supplies 1,000

Contractual Services 3,000

Operating Costs 3,900

Out-of-State Travel 16,500

Total \$ 286,050.

Chapter 1 Section 12

Section 12. There is appropriated from the general fund to the legislative council service for expenditure in fiscal year 1999 for the operation of the senate chief clerk's office, to

be disbursed on vouchers signed by the director of the legislative council service, the following:

Personal Services \$ 195,600

Employee Benefits 64,709

Travel 2,100

Maintenance & Repairs 225

Supplies 1,000

Contractual Services 19,200

Operating Costs 3,920

Out-of-State Travel 11,472

Total \$ 298,226.

Chapter 1 Section 13

~~[Section 13. CATEGORY TRANSFER.--Amounts set out in Sections 7, 8, 9, 11 and 12 of this act are provided for informational purposes only and may be freely transferred among categories.]~~

Chapter 1 Section 14

Section 14. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

HOUSE BILL 1

WITH EMERGENCY CLAUSE.

SIGNED JANUARY 30, 1998

CHAPTER 2

MAKING AN APPROPRIATION TO REPAY A LOAN FROM THE CAPITOL BUILDINGS REPAIR FUND FOR THE LIBRARY, ARCHIVES AND RECORDS BUILDING PROJECT; DECLARING AN EMERGENCY.

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

Chapter 2 Section 1

Section 1. APPROPRIATION.--Two million three hundred nine thousand dollars (\$2,309,000) is appropriated from the general fund to the capitol buildings repair fund in fiscal year 1998 to repay a loan authorized by the state board of finance to complete the library, archives and records building in Santa Fe. Money from this appropriation shall not revert to the general fund.

Chapter 2 Section 2

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

HOUSE BILL 59

WITH EMERGENCY CLAUSE

SIGNED FEBRUARY 10, 1998

CHAPTER 3

MAKING AN APPROPRIATION FROM THE GENERAL FUND TO THE PUBLIC SCHOOL CAPITAL IMPROVEMENTS FUND; DECLARING AN EMERGENCY.

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

Chapter 3 Section 1

Section 1. APPROPRIATION.--Six million one hundred thousand dollars (\$6,100,000) is appropriated from the general fund to the public school capital improvements fund for expenditure in fiscal year 1998 and subsequent fiscal years for the purpose of carrying out the provisions of the Public School Capital Improvements Act. Any unexpended or unencumbered balance remaining in the fund at the end of fiscal year 1998 shall not revert to the general fund.

Chapter 3 Section 2

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

HOUSE BILL 60

WITH EMERGENCY CLAUSE

SIGNED FEBRUARY 10, 1998

CHAPTER 4

RELATING TO PUBLIC SAFETY; MAKING AN APPROPRIATION TO THE DEPARTMENT OF PUBLIC SAFETY FOR THE PURPOSE OF RECRUITING, EMPLOYING, TRAINING AND EQUIPPING ADDITIONAL STATE POLICE OFFICERS; MAKING AN APPROPRIATION TO THE DEPARTMENT OF PUBLIC SAFETY FOR THE PURPOSE OF EQUIPPING ADDITIONAL POLICE OFFICERS.

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

Chapter 4 Section 1

Section 1. APPROPRIATION.--Two million eight hundred thousand dollars (\$2,800,000) is appropriated from the general fund to the department of public safety for expenditure in fiscal year 1999 for the purpose of recruiting, employing, training and equipping fifty additional state police officers. Any unexpended or unencumbered balance remaining at the end of fiscal year 1999 shall revert to the general fund.

Chapter 4 Section 2

Section 2. APPROPRIATION.--Five million eight hundred thousand dollars (\$5,800,000) is appropriated from the general fund to the department of public safety for expenditure in fiscal years 1998 through 2002 for the purpose of equipping forty additional state police officers each fiscal year during fiscal years 2000 through 2002. Any unexpended or unencumbered balance remaining at the end of fiscal year 2002 shall revert to the general fund.

SENATE BILL 56, AS AMENDED

CHAPTER 5

RELATING TO LAW ENFORCEMENT; INCREASING EDUCATIONAL REQUIREMENTS FOR PROSPECTIVE STATE POLICE OFFICERS; INCREASING SALARY LEVELS FOR ALL STATE POLICE OFFICERS; MAKING AN APPROPRIATION.

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

Chapter 5 Section 1

Section 1. Section 29-2-6 NMSA 1978 (being Laws 1941, Chapter 147, Section 6, as amended) is amended to read:

"29-2-6. QUALIFICATIONS OF MEMBERS.--

A. Members of the New Mexico state police, except the chief, shall:

- (1) at the time of their appointment, be citizens of the United States;
- (2) at the time of their appointment, have reached twenty-one years of age;
- (3) at the time of their appointment, have completed not less than sixty hours of college credit;
- (4) be of good moral character and not have been convicted of a felony or infamous crime in the courts of this state or other state or any country or in the federal courts; and
- (5) pass a physical examination the New Mexico state police may require.

B.A person shall not be commissioned a member of the New Mexico state police who is related by blood or marriage within the fourth degree to a member of the public safety advisory commission."

Chapter 5 Section 2

Section 2. APPROPRIATION.--Four million seventy-three thousand four hundred dollars (\$4,073,400) is appropriated from the general fund to the department of public safety for expenditure in fiscal year 1999 for the purpose of providing all state police officers with a salary increase, subject to satisfactory job performance. Any unexpended or unencumbered balance remaining at the end of fiscal year 1999 shall revert to the general fund.

Chapter 5 Section 3

Section 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1998.

SENATE BILL 57

CHAPTER 6

MAKING AN APPROPRIATION TO FUND INITIAL EXPENSES OF THE GAMING CONTROL BOARD AND A SYSTEM OF CONTINUOUS COMPUTER MONITORING OF LICENSED GAMING MACHINES; DECLARING AN EMERGENCY.

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

Chapter 6 Section 1

Section 1. APPROPRIATION.--

A. Contingent upon the appointment of the gaming control board, seven million dollars (\$7,000,000) is appropriated from the general fund to the gaming control board for expenditure in fiscal years 1998 and 1999 in the following amounts and for the following purposes:

(1) three million dollars (\$3,000,000) for operational expenses of the gaming control board; and

(2) four million dollars (\$4,000,000) for capital expenditures required to develop and implement a system of continuous computer monitoring of licensed gaming machines mandated by the Gaming Control Act.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 1999 shall revert to the general fund.

Chapter 6 Section 2

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

HOUSE BILL 41, AS AMENDED

WITH EMERGENCY CLAUSE

SIGNED FEBRUARY 17, 1998

CHAPTER 7

RELATING TO CAPITAL EXPENDITURES; AUTHORIZING THE ISSUANCE OF SEVERANCE TAX BONDS; REAUTHORIZING UNEXPENDED OR UNENCUMBERED BALANCES; CHANGING AGENCIES AND PURPOSES OF CERTAIN BOND AUTHORIZATIONS AND FUND APPROPRIATIONS; EXTENDING EXPENDITURE PERIODS; AUTHORIZING EXPENDITURES; MAKING APPROPRIATIONS; DECLARING AN EMERGENCY.

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

Chapter 7 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 this act. The state board of finance shall schedule the issuance and sale of the bonds in the most expeditious and economical manner possible upon a finding by the board that the project has been developed sufficiently to justify the issuance and that the project can proceed to contract within a reasonable time. The state board of finance shall further take the appropriate steps necessary to comply with the Internal Revenue Code of 1986, as amended. Proceeds from the sale of the bonds are appropriated for the purposes specified in this act.

B. The agencies named in this act shall certify to the state board of finance when the money from the proceeds of the severance tax bonds authorized in this section is needed for the purposes specified in the applicable section of this act.

C. If the specified agency has not certified the need for the issuance of the bonds by the end of fiscal year 2000, 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 of severance tax bonds issued pursuant to this act at the end of fiscal year 2002 shall revert to the severance tax bonding fund.

Chapter 7 Section 2

Section 2. 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) for the purpose of planning, designing or constructing a senior citizen center for the community of Truchas located in Rio Arriba county;

B. fifty thousand dollars (\$50,000) to fund phase three of construction of the Santa Clara senior citizen and community center of the pueblo of Santa Clara in Rio Arriba county;

C. one hundred fifty thousand dollars (\$150,000) to design, plan, construct and equip a senior citizen center in Roswell in Chaves county;

D. two hundred thousand dollars (\$200,000) to plan, design and construct a senior citizen center in Bluewater in Cibola county;

E. ninety-four thousand four hundred dollars (\$94,400) to design and construct a roof, improve the heating system, purchase and install equipment and purchase a van for the Pecos senior citizen center in San Miguel county;

F. one hundred thousand dollars (\$100,000) to construct, equip and furnish a senior citizen center in Zuni in McKinley county;

G. eight thousand dollars (\$8,000) for roof repairs at the Floyd senior citizen center in Roosevelt county;

H. two hundred forty thousand dollars (\$240,000) to plan, design, construct and equip a senior citizen center in Roswell in Chaves county;

I. sixty-five thousand dollars (\$65,000) to design, construct, equip and furnish a senior citizen building in San Jon in Quay county;

J. sixty thousand dollars (\$60,000) to design, construct, equip and furnish a senior citizen building in Des Moines in Union county;

K. twenty thousand dollars (\$20,000) to acquire a van for senior citizens at Cochiti pueblo in Sandoval county;

L. fifty thousand dollars (\$50,000) to construct a senior citizen center for the Newcomb chapter in San Juan county; and

M. one hundred thousand dollars (\$100,000) to plan, design and construct a senior citizen center in Dalton Pass in McKinley county.

Chapter 7 Section 3

Section 3. SEVERANCE TAX BONDS--STATE ARMORY BOARD--PURPOSES.-- 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, the following amounts are appropriated to the state armory board for the following purposes:

A. four hundred thousand dollars (\$400,000) to plan, design and construct an armory near Clayton in Union county; and

B. seven hundred forty-four thousand three hundred dollars (\$744,300) to renovate, repair or make improvements to various armories located throughout the state.

Chapter 7 Section 4

Section 4. 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. fifty thousand dollars (\$50,000) for the purpose of planning, designing or preparing bids for a new museo cultural in the city of Santa Fe located in Santa Fe county;

- B. fifteen thousand dollars (\$15,000) for the purpose of equipping a newly constructed library at the pueblo of Cochiti located in Sandoval county;
- C. one hundred twenty-five thousand dollars (\$125,000) for the purpose of re-roofing the Clyde Tombaugh space theater and planetarium at the space center in Alamogordo located in Otero county;
- D. one hundred fifty thousand dollars (\$150,000) for the purpose of planning or designing an addition to the palace of the governors state history museum located in Santa Fe county;
- E. one hundred thousand dollars (\$100,000) for the purpose of installing a heating and ventilation air conditioning control system in the space center in Alamogordo located in Otero county;
- F. one hundred thousand dollars (\$100,000) for the purpose of designing, constructing, furnishing or equipping a new pavilion, greenhouse and science theater at the New Mexico museum of natural history and science in Albuquerque located in Bernalillo county;
- G. five hundred thousand dollars (\$500,000) to renovate, repair or make improvements to state museums and facilities located throughout the state;
- H. one hundred thousand dollars (\$100,000) to design, develop, construct or equip permanent exhibits at the New Mexico farm and ranch heritage museum in Dona Ana county;
- I. one hundred thousand dollars (\$100,000) for capital improvements at the international space hall of fame in Otero county;
- J. one hundred thousand dollars (\$100,000) to plan, design and remodel the Las Cruces museum of fine art and culture in Dona Ana county;
- K. fifty thousand dollars (\$50,000) to plan and design a natural history museum in Las Cruces in Dona Ana county;
- L. fifty thousand dollars (\$50,000) for improvements at the New Mexico museum of natural history and science in Albuquerque in Bernalillo county; and
- M. five hundred thirty thousand dollars (\$530,000) to purchase and install special equipment and systems at the New Mexico Hispanic cultural center in Albuquerque in Bernalillo county.

Chapter 7 Section 5

Section 5. SEVERANCE TAX BONDS--CUMBRES AND TOLTEC SCENIC RAILROAD COMMISSION--PURPOSE.--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, fifty thousand dollars (\$50,000) is appropriated to the Cumbres and Toltec scenic railroad commission to renovate, in order to comply with the provisions of the federal Americans with Disabilities Act of 1990, the Chama engine house, the Osier facility or the Antonito depot of the Cumbres and Toltec scenic railroad located in Rio Arriba county.

Chapter 7 Section 6

Section 6. SEVERANCE TAX BONDS--ECONOMIC DEVELOPMENT DEPARTMENT--PURPOSE.--Pursuant to the provisions of Section 1 of this act, upon certification by the state housing authority of the economic development department that the need exists for the issuance of the bonds, one hundred thousand dollars (\$100,000) is appropriated to the state housing authority of the economic development department to plan, design, construct or equip a child-care training center to be located within a one-hundred-twenty-unit affordable housing project in the city of Santa Fe in Santa Fe county.

Chapter 7 Section 7

Section 7. SEVERANCE TAX BONDS--OFFICE OF THE 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. fifty thousand dollars (\$50,000) for the purpose of designing, constructing, purchasing or installing siphons for acequias near Hernandez located in Rio Arriba county; and
- B. fifty-eight thousand forty dollars (\$58,040) to design, construct, install and equip improvements to the irrigation system of the Manzano spring and ditch commission in Torrance county.

Chapter 7 Section 8

Section 8. 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. fifty thousand dollars (\$50,000) for improvements to the Lone Mountain and Twin Sisters wellfields in the village of Santa Clara in Grant county;

B. seventy-five thousand dollars (\$75,000) for the acquisition or installation of a water tank or the construction or installation of approximately ten thousand linear feet of transmission pipeline to connect to the existing water system in Corona in Lincoln county;

C. fifty thousand dollars (\$50,000) for the purpose of surveying a well location, drilling or equipping wells, purchasing or replacing storage tanks and valves or for engineering or other studies to improve the Lincoln mutual domestic water and sewage association water system located in Lincoln county;

D. seventy-eight thousand dollars (\$78,000) for the purpose of making improvements to the Bibo community water system located in Cibola county;

E. twenty-five thousand dollars (\$25,000) for planning, designing, constructing or equipping a water and wastewater system in the town of Springer in Colfax county;

F. twenty-five thousand dollars (\$25,000) for improvements to the water and wastewater system, including a water filtration system, for the community of Miami in Colfax county;

G. twenty-five thousand dollars (\$25,000) for planning, designing, constructing or equipping improvements to the water and wastewater system in the village of Eagle Nest in Colfax county;

H. twenty-five thousand dollars (\$25,000) for planning, designing or constructing improvements to the domestic water system in the community of Puerto de Luna in Guadalupe county;

I. twenty thousand dollars (\$20,000) for various improvements to the wastewater system in the town of Vaughn in Guadalupe county;

J. twenty thousand dollars (\$20,000) for planning, designing, constructing or equipping a new domestic and wastewater system for the unincorporated community of Mora in Mora county;

K. twenty-five thousand dollars (\$25,000) for planning, designing, constructing or equipping improvements to various community domestic water and wastewater systems throughout Mora county;

L. one hundred thousand dollars (\$100,000) to complete the Clovis drainage project from Seventh street to Ingram lake in Curry county;

M. fifty thousand dollars (\$50,000) for the westside sewer line in Clovis in Curry county;

N. one hundred thousand dollars (\$100,000) for the purpose of making various improvements to the domestic and wastewater systems in the Gabaldon Hill area of the city of Grants located in Cibola county;

O. one hundred thousand dollars (\$100,000) for the purpose of designing, constructing or equipping improvements to, or purchasing water rights for, the water system of the Ponderosa mutual domestic water consumers association located in Sandoval county;

P. thirty-nine thousand dollars (\$39,000) for water system improvements and related expenses for the village of Grady in Curry county;

Q. twenty thousand dollars (\$20,000) to plan, develop or construct a water system for the Canon mutual domestic water association in Taos county;

R. eighty thousand dollars (\$80,000) to extend a water line on Watson lane in Dona Ana county;

S. two hundred thousand dollars (\$200,000) to design, construct and inspect improvements to the sewer and water systems in Eagle Nest in Colfax county;

T. fifty thousand dollars (\$50,000) to design and construct a city effluent line to provide recycled water in Las Vegas in San Miguel county;

U. fifty thousand dollars (\$50,000) for sewer improvements, including extension of sewer lines in the Las Lomas subdivision of Ruidoso Downs in Lincoln county;

V. fifty thousand dollars (\$50,000) for water system improvements in Fort Sumner in De Baca county;

W. thirty thousand dollars (\$30,000) for water system improvements, including design, equipment and installation, for upper Dilia community well in Guadalupe county;

X. twenty-five thousand dollars (\$25,000) to increase the water storage capacity for Capitan in Lincoln county;

Y. fifty thousand dollars (\$50,000) to replace and lay water pipeline from the Sacramento mountains to Oro Grande in Otero county;

Z. one hundred thousand dollars (\$100,000) to plan, design and construct wastewater plant improvements in Tularosa in Otero county;

AA. one hundred thousand dollars (\$100,000) for sewer systems and hook-ups in the Dietz Farm area of the north valley in Bernalillo county;

BB. seventy-five thousand dollars (\$75,000) for repairs, restoration and other improvements to the domestic water system in Bibo in Cibola county;

CC. seventy-five thousand dollars (\$75,000) for repairs, restoration and other improvements to the domestic water system in Moquino in Cibola county;

- DD. seventy-five thousand dollars (\$75,000) for repairs, restoration and other improvements to the domestic water system in Seboyeta in Cibola county;
- EE. fifty-six thousand eight hundred fifty dollars (\$56,850) to design and construct improvements to the water system of the Villanueva domestic water consumers association in San Miguel county;
- FF. fifty-six thousand four hundred dollars (\$56,400) for a water line extension from Las Lagunitas to the end of Paseo C de Baca in Santa Fe county;
- GG. fifty thousand dollars (\$50,000) to purchase, install and equip improvements to the water system of the Tecolote mutual domestic water consumers association in San Miguel county;
- HH. forty thousand dollars (\$40,000) to design, construct and equip water system improvements for the Clayton water system in Union county;
- II. twenty-five thousand dollars (\$25,000) to expand the Cebolla mutual domestic water association's water system in Rio Arriba county;
- JJ. twenty-five thousand dollars (\$25,000) to make improvements to the domestic water system, including purchase and installation of replacement meters and related equipment, in Truchas in Rio Arriba county;
- KK. thirty thousand dollars (\$30,000) to upgrade the water system of Las Tablas community water association in Rio Arriba county;
- LL. thirty thousand dollars (\$30,000) to drill a community well for Ensenada in Rio Arriba county;
- MM. fifty thousand dollars (\$50,000) to replace existing pipe in the south Ojo Caliente community water system in Rio Arriba county;
- NN. one hundred thirty-five thousand dollars (\$135,000) to make additions and improvements to the water treatment plant in Bloomfield in San Juan county;
- OO. one hundred thirty-five thousand dollars (\$135,000) to make additions and improvements to the wastewater treatment plant in Aztec in San Juan county;
- PP. seventy thousand dollars (\$70,000) for sewer improvements on Ranchitos road in Bernalillo county; and
- QQ. fifty thousand dollars (\$50,000) to upgrade the domestic water system in Bluewater Acres in Cibola county.

Chapter 7 Section 9

Section 9. SEVERANCE TAX BONDS--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. one hundred thousand dollars (\$100,000) for the purpose of planning, designing or constructing a fire substation and multipurpose center in Alcalde located in Rio Arriba county;

B. one hundred thousand dollars (\$100,000) for the purpose of equipping or landscaping the new Santa Fe boys and girls club in the city of Santa Fe located in Santa Fe county;

C. ten thousand dollars (\$10,000) for the purpose of making improvements to or expanding the facility of the West Mesa little league park located north of Sequoia road and east of Coors boulevard on the west side of Albuquerque located in Bernalillo county;

D. ten thousand dollars (\$10,000) for the purpose of purchasing or equipping vans for transportation of senior citizens and others to and from the Pat Hurley Park community center on the west side of Albuquerque located in Bernalillo county;

E. twenty-one thousand dollars (\$21,000) for the purpose of purchasing or equipping vans for the transportation of senior citizens and others to and from the West Mesa community center in Albuquerque located in Bernalillo county;

F. one hundred twenty-five thousand dollars (\$125,000) for the purpose of planning, designing or making improvements, including interior remodeling, accessibility and grounds, to the former Atchison, Topeka and Santa Fe railroad depot in Las Cruces located in Dona Ana county;

G. two hundred thousand dollars (\$200,000) for the purpose of completing phase two of development of the East Side park in Los Lunas in Valencia county;

H. twenty-five thousand dollars (\$25,000) for the purpose of renovating or rehabilitating the youth center in the former Court junior high school in Dona Ana county;

I. eight thousand seven hundred dollars (\$8,700) to design, construct, purchase and install shelves, ramps, tables, railings, water fountains and restroom facilities that meet the requirements of the federal Americans with Disabilities Act of 1990 for the Hatch public library in Dona Ana county;

J. fifty-two thousand dollars (\$52,000) to purchase and install lights and related fixtures for the north Dona Ana county ballpark in Dona Ana county;

K. twelve thousand three hundred dollars (\$12,300) to design, construct, purchase and install doorways, doors, ramps, railings, sidewalks, windows, commodes and urinals that meet the requirements of the federal Americans with Disabilities Act of 1990 for the concession stand, restrooms and parking lot at the north Dona Ana county ballpark in Dona Ana county;

L. one hundred seventy-five thousand dollars (\$175,000) to continue construction on a recreational park and educational camp located in Dona Ana county;

M. one hundred twenty-five thousand dollars (\$125,000) to plan, design and construct the Chamita community center complex located in Rio Arriba county;

N. twenty-five thousand dollars (\$25,000) to design, construct and equip improvements to the El Cerro community center in Valencia county;

O. twenty-five thousand dollars (\$25,000) to design, construct and equip improvements to the Meadow Lake community center in Valencia county;

P. one hundred twenty-five thousand dollars (\$125,000) to renovate the city hall in Eunice in Lea county, contingent upon local matching funds;

Q. one hundred thousand dollars (\$100,000) to purchase two fire pumper trucks, including one with a telesquirt apparatus, for the city of Rio Rancho located in Sandoval county;

R. ninety thousand dollars (\$90,000) to renovate, reestablish utilities for or purchase equipment for the boys and girls club facility in the village of Loving located in Eddy county;

S. two hundred thousand dollars (\$200,000) to plan, design or construct a retaining wall for Lake Carlsbad in Eddy county;

T. one hundred fifty thousand dollars (\$150,000) to plan, design, remodel or construct an addition to the existing public safety building located in the city of Gallup in McKinley county to provide for police administration, municipal court and detention facilities;

U. one hundred fifty thousand dollars (\$150,000) to complete construction, including installation of fire protection equipment, of the multipurpose building at the East Mountain little league baseball fields located in Bernalillo county. The multipurpose building will include a concession stand, recreational equipment storage, a meeting room, an observation point for security purposes, handicapped accessible restrooms, mechanical rooms and electrical control rooms;

V. one hundred thousand dollars (\$100,000) to plan, design or make improvements, including site preparation, installation of water hookups, tree planting and grading, grass turfing, installation of an irrigation system and walkway paving, to Rinconada Point park

on the north side of Ouray road on the east side of Unser boulevard in Albuquerque in Bernalillo county;

W. one hundred thousand dollars (\$100,000) to plan, design and construct a domestic violence safe house in Sandoval county;

X. fifty thousand dollars (\$50,000) for the purpose of design, site preparation or construction of phase two of the multipurpose community center in the town of Bernalillo in Sandoval county;

Y. seventy-five thousand dollars (\$75,000) for the purpose of completing the final phase of the Barcelona elementary school playground and community park in Albuquerque located in Bernalillo county;

Z. one hundred thousand dollars (\$100,000) for the purpose of planning, designing, site acquisition or preparation for or construction of a multipurpose recreation center in Thoreau located in McKinley county;

AA. forty-two thousand five hundred dollars (\$42,500) for the purpose of purchasing a bookmobile for Dona Ana county;

BB. seventy-five thousand dollars (\$75,000) for the purpose of planning, designing, constructing, equipping or furnishing an addition to the volunteer fire department facility at Midway located in Chaves county;

CC. one hundred thousand dollars (\$100,000) for the purpose of designing, constructing or equipping a new roof for the former bureau of Indian affairs dormitory complex in the village of Magdalena in Socorro county;

DD. two hundred thousand dollars (\$200,000) for the purpose of constructing an emergency medical services facility at San Lorenzo located in Grant county;

EE. ninety-five thousand dollars (\$95,000) for the purpose of purchasing and installing new street lights in Silver City located in Grant county;

FF. two hundred thousand dollars (\$200,000) for the purpose of designing, constructing, equipping or furnishing the Hillsboro community center located in Sierra county;

GG. fifty thousand dollars (\$50,000) for the south First street drainage project or Center street improvements in Artesia in Eddy county;

HH. seventy-five thousand dollars (\$75,000) to plan, design or construct an addition for the Artesia community center in Eddy county;

II. twenty-five thousand dollars (\$25,000) for planning, designing, constructing or equipping a community and senior citizen center in the village of Cimarron in Colfax county;

JJ. twenty-five thousand dollars (\$25,000) for purchasing or equipping an ambulance for the community of Wagon Mound in Mora county;

KK. two hundred seventy-five thousand dollars (\$275,000) to acquire land or construct an additional parking lot for the Roswell convention and civic center in Chaves county;

LL. seventy-five thousand dollars (\$75,000) for the purpose of acquiring computer hardware and software for the Alameda community center in Bernalillo county;

MM. fifty thousand dollars (\$50,000) for improvements to the Union county courthouse in Clayton located in Union county;

NN. one hundred fifty thousand dollars (\$150,000) for the purpose of constructing a maintenance building or parking facilities in the town of Hurley located in Grant county;

OO. one hundred thousand dollars (\$100,000) for the purpose of continuing design or construction according to the master plan, including accessibility for the disabled, drainage improvements and parking improvements, at the Comanche south park site in Albuquerque located in Bernalillo county;

PP. seventy-five thousand dollars (\$75,000) for the purpose of conducting a comprehensive long-range master plan study of or repairing, renovating or improving the facilities of the southern New Mexico state fair located in Dona Ana county;

QQ. one hundred thousand dollars (\$100,000) to design or construct phase two improvements to the Grant middle school park and center addition in Albuquerque in Bernalillo county;

RR. fifty thousand dollars (\$50,000) for the purpose of designing, constructing, installing underground infrastructure or landscaping a children's fantasy garden at the Albuquerque biological park located in Bernalillo county, contingent upon the Albuquerque biological park providing matching funds from sources other than the state;

SS. one hundred twenty-five thousand dollars (\$125,000) for the purpose of purchasing or installing street lights on McNutt road in the city of Sunland Park located in Dona Ana county;

TT. fifty thousand dollars (\$50,000) to complete renovation of the park and play area at Los Duranes community center in Albuquerque in Bernalillo county;

UU. fifty thousand dollars (\$50,000) to continue upgrading and improving existing facilities at Wells Park community center in Albuquerque in Bernalillo county;

VV. one hundred thousand dollars (\$100,000) to construct, equip or furnish an addition to the Crownpoint institute of technology library or make other improvements to the existing building at the Crownpoint institute of technology library in McKinley county;

WW. two hundred thousand dollars (\$200,000) to acquire land or complete improvements to Manzano Mesa park in Albuquerque in Bernalillo county;

XX. one hundred twenty-five thousand dollars (\$125,000) to continue to execute a master plan for a neighborhood center building, interior renovation, site improvements, accessibility requirements and other improvements to Singing Arrow park in Albuquerque in Bernalillo county;

YY. one hundred thousand dollars (\$100,000) to build a new park, Vineyard park, in Albuquerque in Bernalillo county;

ZZ. twenty-five thousand dollars (\$25,000) for the purpose of designing, constructing, furnishing or equipping improvements to the South Valley little league complex located in Bernalillo county;

AAA. forty thousand dollars (\$40,000) for architectural and engineering services for a new public safety building in Tucumcari in Quay county;

BBB. twenty-five thousand dollars (\$25,000) for the purpose of acquiring or installing computer hardware in the Dennis Chavez community center located in Bernalillo county;

CCC. one hundred fifty thousand dollars (\$150,000) for the purpose of completing the design, construction, furnishing or equipping of phase two of the conversion of the Trumbull community center to a child-care center located in Bernalillo county;

DDD. one hundred twenty thousand dollars (\$120,000) for the purpose of completing master plan improvements on the site and interior and furnishing and equipping the Holiday shelter in Albuquerque in Bernalillo county;

EEE. seventy-five thousand dollars (\$75,000) to initiate crime prevention through environmental design projects, including designing for increased visibility, controlled street access, acquisition of open park land, lighting or other capital improvements, for house district 19 in Bernalillo county;

FFF. one hundred thousand dollars (\$100,000) to construct Alameda little league fields at Balloon Fiesta state park in Albuquerque in Bernalillo county;

GGG. one hundred fifty thousand dollars (\$150,000) for environmental design projects in house district 11 neighborhoods to help in crime prevention in Bernalillo county;

HHH. one hundred thousand dollars (\$100,000) to plan, design or construct an athletic field and complex in Grant county;

III. one hundred thousand dollars (\$100,000) to create bicycle and pedestrian pathways in the area of Ninety-eighth street and interstate 40 in Albuquerque in Bernalillo county;

JJJ. seventy-five thousand dollars (\$75,000) to acquire land for little league baseball fields in or near Paradise Hills in Bernalillo county;

KKK. one hundred thousand dollars (\$100,000) to plan, design, construct or equip a detoxification center to be built near the detention facility complex in the city of Santa Fe in Santa Fe county;

LLL. one hundred fifty thousand dollars (\$150,000) to complete site improvements, renovate, furnish or provide drainage for the Old North Valley community center in Albuquerque in Bernalillo county;

MMM. seventy-five thousand dollars (\$75,000) to construct or equip a youth and family center for the town of Taos in Taos county;

NNN. one hundred thousand dollars (\$100,000) to complete the master plan's improvements to the Eisenhower swimming pool renovations in Albuquerque in Bernalillo county;

OOO. twenty thousand dollars (\$20,000) to construct a shelter in Carlsbad city heritage park in Eddy county;

PPP. fifty thousand dollars (\$50,000) for the purpose of constructing Guadalupe park in the city of Artesia in Eddy county;

QQQ. sixty thousand dollars (\$60,000) to complete the construction of a multipurpose day and night shelter and services facility for the homeless in Las Cruces in Dona Ana county;

RRR. fifty thousand dollars (\$50,000) for planning, designing or constructing baseball fields, a basketball court and a tennis court in the community of La Puebla in Santa Fe county;

SSS. two hundred fifty thousand dollars (\$250,000) to plan, build, construct or improve the Bataan memorial park in Albuquerque in Bernalillo county;

TTT. forty thousand dollars (\$40,000) to plan, design, construct and equip, including irrigation and drinking water systems, a complex of soccer fields in Roswell in Chaves county;

UUU. three hundred fifty thousand dollars (\$350,000) to plan, design, construct, equip, pave and landscape a public safety building in Bayard in Grant county;

VVV. one hundred twenty-five thousand dollars (\$125,000) for capital improvements to the Balloon Fiesta state park in Albuquerque in Bernalillo county;

WWW. fifty thousand dollars (\$50,000) to purchase and install an educational computer system for the Dennis Chavez community center in Albuquerque in Bernalillo county;

XXX. fifty thousand dollars (\$50,000) to design and construct phase two improvements at Grant middle school park and center addition in Bernalillo county;

YYY. thirty-seven thousand five hundred dollars (\$37,500) to renovate an industrial building to use as ambulance storage for the ambulance service in Vaughn in Guadalupe county;

ZZZ. thirteen thousand dollars (\$13,000) to contract for aerial photographs to be made of sections of San Miguel county to be used in the county assessor's office and other departments;

AAAA. sixty thousand dollars (\$60,000) to relocate the Tom Jones fire station to the Upper Canyon area in Lincoln county;

BBBB. twenty-five thousand dollars (\$25,000) to purchase heavy equipment for Carrizozo in Lincoln county;

CCCC. fifty thousand dollars (\$50,000) for construction of bleachers, restrooms and other improvements at the Lincoln county fairgrounds in Lincoln county;

DDDD. twenty-five thousand dollars (\$25,000) to renovate the Sierra Vista pool in Albuquerque in Bernalillo county;

EEEE. fifty thousand dollars (\$50,000) to acquire land and design Las Ventanas community park in Bernalillo county;

FFFF. fifty thousand dollars (\$50,000) to develop the Richland Hills park in Bernalillo county;

GGGG. one hundred fifty thousand dollars (\$150,000) to purchase land and plan and design the Taylor Ranch community center in Bernalillo county;

HHHH. seventy-five thousand dollars (\$75,000) to purchase dry fire hydrants for rural fire departments in Taos county;

IIII. two hundred thousand dollars (\$200,000) to purchase road equipment for Mora county;

JJJJ. seventy-five thousand dollars (\$75,000) to construct and equip a youth and family center in Taos in Taos county;

KKKK. two hundred thousand dollars (\$200,000) to purchase a remote tech andros mark 6A robot for the Albuquerque police department in Bernalillo county;

LLLL. forty thousand dollars (\$40,000) to purchase and install a lighting and sound system at the East Mountain community center in San Antonito in Bernalillo county;

MMMM. one hundred thousand dollars (\$100,000) for phase 2A construction for the Bernalillo multipurpose community youth center in Sandoval county;

NNNN. fifteen thousand dollars (\$15,000) to purchase and install internet appliances to upgrade the library system in Rio Rancho in Sandoval county;

OOOO. fifty thousand dollars (\$50,000) to rehabilitate Star Heights, Vista Hills and Veja Baja parks in Sandoval county to comply with various codes and statutory requirements;

PPPP. fifty thousand dollars (\$50,000) to refurbish the Sabana Grande pool and facility in Rio Rancho in Sandoval county;

QQQQ. thirty-two thousand dollars (\$32,000) to resurface existing tennis courts at Paddy Martinez park in Grants in Cibola county;

RRRR. fifty thousand dollars (\$50,000) to purchase, relocate, set up and carpet two portable buildings for the head start program in Grants in Cibola county;

SSSS. one hundred thousand dollars (\$100,000) to plan and design a detention facility in Laguna pueblo in Cibola county;

TTTT. twenty-five thousand dollars (\$25,000) to plan and design an ambulance and emergency medical services facility for Hatch in Dona Ana county;

UUUU. two hundred twenty-five thousand dollars (\$225,000) to plan, design and construct a community football stadium and sports complex in Las Cruces in Dona Ana county;

VVVV. thirty thousand dollars (\$30,000) to purchase firefighting equipment for the Bernal-Tecolote volunteer fire department in San Miguel county;

WWWW. thirty thousand dollars (\$30,000) to purchase a fire truck for Mountainair in Torrance county;

XXXX. fifty thousand dollars (\$50,000) to design, construct and equip curb and gutter projects in Portales in Roosevelt county;

YYYY. twenty-five thousand dollars (\$25,000) for improvements to the community service center in Portales in Roosevelt county;

ZZZZ. twenty-five thousand dollars (\$25,000) for repairs and landscaping for the La Casa health clinic in Portales in Roosevelt county;

AAAAA. four thousand dollars (\$4,000) for equipment for the Portales police department in Roosevelt county;

BBBBB. twenty thousand dollars (\$20,000) for a statue of Portales' native son, Washington E. Lindsey, lieutenant governor of New Mexico 1917-1918, in Portales in Roosevelt county;

CCCCC. thirty-five thousand dollars (\$35,000) to improve Guadalupe park in Artesia in Eddy county;

DDDDD. two hundred thousand dollars (\$200,000) to plan, design, construct and equip, including irrigation and drinking water systems, a soccer field complex in Roswell in Chaves county;

EEEEE. twenty-five thousand dollars (\$25,000) to make improvements, including purchase and installation of bleacher seating and paving the parking lot, to a softball complex in Artesia in Eddy county;

FFFFF. seventy-five thousand dollars (\$75,000) to plan, design, construct and equip a visitors' center on United States highway 285 at Artesia in Eddy county;

GGGGG. fifty thousand dollars (\$50,000) to plan, design, construct and equip restrooms and concession facilities at the Utterback recreational complex in Hagerman in Chaves county;

HHHHH. one hundred thousand dollars (\$100,000) to repair and resurface tennis courts in Carlsbad in Eddy county;

IIIII. eighty thousand dollars (\$80,000) to purchase and install lighting improvements at baseball fields in Carlsbad in Eddy county;

JJJJJ. one hundred ten thousand dollars (\$110,000) to purchase a front-end loader for Lovington in Lea county;

KKKKK. seventy-five thousand dollars (\$75,000) to purchase and install a water sprinkler system for the historic Santa Catarina cemetery in Carlsbad in Eddy county;

LLLLL. ninety thousand dollars (\$90,000) to renovate the boys and girls club building in Loving in Eddy county;

MMMMM. sixty thousand dollars (\$60,000) to purchase and install a water sprinkler system for the historic Santa Catarina cemetery in Carlsbad in Eddy county;

NNNNN. one hundred thirty-five thousand dollars

(\$135,000) for a regenerative air system street sweeper for Jal in Lea county;

OOOOO. one hundred sixty-five thousand dollars (\$165,000) to renovate a health facility in the south valley of Albuquerque in Bernalillo county;

PPPPP. eighty thousand dollars (\$80,000) for landfill improvements in Clovis in Curry county;

QQQQQ. thirty thousand dollars (\$30,000) for architectural and engineering services for a new public safety building in Tucumcari in Quay county;

RRRRR. forty thousand dollars (\$40,000) for site development for a community center in Cimarron in Colfax county;

SSSSS. one hundred fifty thousand dollars (\$150,000) to plan, design and construct a community football stadium and sports complex in Las Cruces in Dona Ana county;

TTTTT. ninety thousand dollars (\$90,000) to purchase equipment and machinery for a primary care center at the Alamosa family center located south of Central avenue and north of Bridge boulevard on the west side of Albuquerque in Bernalillo county;

UUUUU. twenty thousand dollars (\$20,000) to make improvements to and expand the facility of the West Mesa little league park north of Sequoia road and east of Coors boulevard on the west side of Albuquerque in Bernalillo county;

VVVVV. seventy-two thousand dollars (\$72,000) to plan, design and make improvements, including site preparation, installation of water hookups, tree planting and grading, grass turfing, installation of an irrigation system and walkway paving, to Rinconada Point park on the north side of Ouray road on the east side of Unser boulevard in Albuquerque in Bernalillo county;

WWWWW. ten thousand dollars (\$10,000) to improve, including electrical repairs, heat pumps and recreational vehicle hookups, the Arch community center in Roosevelt county;

XXXXX. thirty-five thousand dollars (\$35,000) to purchase an ambulance for Dora in Roosevelt county;

YYYYY. one hundred fifty thousand dollars (\$150,000) to renovate Bataan park, including addressing water conservation measures, in Bernalillo county;

ZZZZZ. fifty thousand dollars (\$50,000) to design and develop an urban, pedestrian-oriented park, including street improvements, at Triangle park at Central avenue and Monte Vista in Albuquerque in Bernalillo county;

AAAAAA. one hundred thousand dollars (\$100,000) for sprinklers, including installation of water conservation measures, at Hyder park in Albuquerque in Bernalillo county;

BBBBBB. one hundred thousand dollars (\$100,000) to design and construct street lighting projects in Sunland Park in Dona Ana county;

CCCCCC. one hundred thousand dollars (\$100,000) to plan, design, construct and equip a public services facility for the Anthony water and sanitation district in Dona Ana county;

DDDDDD. one hundred thousand dollars (\$100,000) to renovate, including improving the site, furnishing and equipping, the Holiday Shelter center in Albuquerque in Bernalillo county;

EEEEEE. one hundred twenty-five thousand dollars (\$125,000) to improve the facilities of Roadrunner little league baseball fields, including fencing, improved parking and compliance with the federal Americans with Disabilities Act of 1990, in Bernalillo county;

FFFFFF. sixty thousand dollars (\$60,000) to improve the Gallup head start program playground in McKinley county;

GGGGGG. sixty thousand dollars (\$60,000) to purchase and equip a new emergency medical services transport vehicle for the Dungan volunteer fire department in Alamogordo in Otero county;

HHHHHH. fifty thousand dollars (\$50,000) to make improvements to the Otero county fairgrounds, including re-roofing and expanding the seating and canopy coverings, at the existing fairgrounds facility in Otero county;

IIIIII. one hundred thousand dollars (\$100,000) to plan, design and construct recreational fields in Santa Fe in Santa Fe county;

JJJJJJ. forty thousand dollars (\$40,000) to purchase a seven-passenger van and a handicapped-equipped van for the Trumbull neighborhood program in Albuquerque in Bernalillo county;

KKKKKK. one hundred thousand dollars (\$100,000) to plan, design and construct a veterans' memorial and center at Phil Chacon park in Albuquerque in Bernalillo county;

LLLLLL. five thousand dollars (\$5,000) to purchase equipment for the Pop Warner football program in Espanola in Rio Arriba county;

MMMMMM. fifty thousand dollars (\$50,000) for equipment for the DWI program in Rio Arriba county;

NNNNNN. one hundred thousand dollars (\$100,000) for equipment at La Clinica Del Norte in El Rito in Rio Arriba county;

OOOOOO. fifty thousand dollars (\$50,000) to install street lights and a boardwalk in Chama in Rio Arriba county;

PPPPPP. fourteen thousand dollars (\$14,000) to design and construct a soccer and track field for the communities of Cordova and Truchas in Rio Arriba county;

QQQQQQ. twenty thousand dollars (\$20,000) to purchase equipment for the Arroyo del Aqua water system in Rio Arriba county;

RRRRRR. one hundred thousand dollars (\$100,000) to plan, design and construct a project to extend the Santa Fe city water system to Camino Carlos Rael, Alamo drive and Montoya lane in Santa Fe county;

SSSSSS. fifty thousand dollars (\$50,000) for park improvements at Agua Fria park in Santa Fe in Santa Fe county;

TTTTTT. three hundred thousand dollars (\$300,000) to continue construction and completion of a multipurpose recreational facility in Belen in Valencia county;

UUUUUU. one hundred thousand dollars (\$100,000) to continue development of Daniel Fernandez park recreational facilities in Los Lunas in Valencia county;

VVVVVV. one hundred thousand dollars (\$100,000) for phase 2 capital improvements at the Bosque Farms multipurpose recreational project in Valencia county, contingent upon a match from sources other than the state of fifty-six thousand eight hundred dollars (\$56,800);

WWWWWW. thirty-five thousand dollars (\$35,000) to renovate, rebuild, reconstruct, equip and furnish the recreation complex for use as a multiple-use facility in Truth or Consequences in Sierra county;

XXXXXX. sixty-five thousand dollars (\$65,000) to construct, equip and furnish a fire station in Truth or Consequences in Sierra county;

YYYYYY. one hundred thousand dollars (\$100,000) to acquire the land for and design, construct, equip and furnish a juvenile reintegration facility in Luna county;

ZZZZZZ. twenty-five thousand dollars (\$25,000) to purchase and install firefighting equipment and renovate the fire station in the Gila-Neblett fire district in Hidalgo county;

AAAAAAA. twenty-five thousand dollars (\$25,000) to make improvements to the lighting system for baseball fields in Lordsburg in Hidalgo county;

BBBBBBB. one hundred thousand dollars (\$100,000) to continue renovation and site improvements, including improvements to comply with the federal Americans with Disabilities Act of 1990 requirements, to Singing Arrow park and community center in Bernalillo county;

CCCCCC. one hundred thousand dollars (\$100,000) to plan, design, construct, equip and furnish a volunteer fire department facility in Torrance county;

DDDDDD. one hundred thousand dollars (\$100,000) to plan, design, construct, equip and furnish an expansion to Los Vecinos community center in Bernalillo county;

EEEEEEE. fifty thousand dollars (\$50,000) to purchase computers for the Jack Candelaria community center in southeast Albuquerque in Bernalillo county;

FFFFFFF. sixty-five thousand dollars (\$65,000) to make improvements, including the purchase and installation of equipment, for the La Mesa community ball park in La Mesa in Dona Ana county;

GGGGGG. sixteen thousand dollars (\$16,000) to purchase emergency medical equipment for a search and rescue program in Velarde in Rio Arriba county;

HHHHHH. twenty-five thousand dollars (\$25,000) to make neighborhood capital improvements for crime prevention through environmental design in the Los Griegos and near-North Valley neighborhoods of Albuquerque in Bernalillo county;

IIIIII. twenty-five thousand dollars (\$25,000) for a sheriff's vehicle for Torrance county;

JJJJJJ. thirty thousand dollars (\$30,000) for improvements to North Valley little league fields in Bernalillo county;

KKKKKK. forty thousand dollars (\$40,000) for the county to purchase and develop land at 7704 Second street, NW for a community clinic parking lot in Bernalillo county;

LLLLLL. fifty thousand dollars (\$50,000) for a handicapped accessible play structure at the San Antonito community center in Bernalillo county;

MMMMMM. fifty thousand dollars (\$50,000) for an East Mountain Area park maintenance satellite facility in Bernalillo county; and

NNNNNN. one hundred thousand dollars (\$100,000) to acquire land and construct and equip a municipal office building in Elephant Butte in Sierra county.

Chapter 7 Section 10

Section 10. SEVERANCE TAX BONDS--CAPITAL PROGRAM FUND--PURPOSES.-- Pursuant to the provisions of Section 1 of this act, upon certification by the property control division of the general services department that the need exists for the issuance of the bonds, the following amounts are appropriated to the capital program fund for the following purposes:

A. four hundred thousand dollars (\$400,000) to renovate or make improvements to Fort Bayard medical center in Fort Bayard located in Grant county;

B. one million five hundred thousand dollars (\$1,500,000) to plan, design, renovate, furnish or equip the Maloof building in Albuquerque in Bernalillo county in order for the building to be used by other state agencies;

C. seven million four hundred thousand dollars (\$7,400,000) to purchase, repair, renovate and make other improvements to the Pinon building in Santa Fe county;

D. two hundred thirty-five thousand seven hundred dollars (\$235,700) to plan, design, renovate or make improvements to the Raton port of entry located in Colfax county;

E. one hundred thirty-five thousand dollars (\$135,000) to acquire land and plan and design a state police office in Gallup in McKinley county;

F. seven hundred fifty thousand dollars (\$750,000) to provide security enhancements at the youth diagnostic and development center located in Bernalillo county;

G. six million dollars (\$6,000,000) for renovations and improvements to Tingley coliseum at the New Mexico state fairgrounds located in Bernalillo county; and

H. two million two hundred thousand dollars (\$2,200,000) for renovations and improvements to various facilities, including three hundred thousand dollars (\$300,000) to construct, equip and furnish a permanent African-American village, located at the New Mexico state fairgrounds in Bernalillo county.

Chapter 7 Section 11

Section 11. 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. one hundred thousand dollars (\$100,000) for improvements, including paving and reconstruction, to the streets in the city of Belen in Valencia county;

B. seventy-five thousand dollars (\$75,000) to plan, design, purchase rights of way or construct improvements to, including necessary drainage and sewer improvements, Mae, Gatewood and Five Points roads in the south valley area in Bernalillo county;

C. sixty thousand dollars (\$60,000) to acquire rights of way, conduct preliminary engineer activities or construct the Masson's Southwest Nursery access road in the area of Radium Springs in Dona Ana county;

D. one hundred fifty thousand dollars (\$150,000) for street improvements in Hobbs in Lea county, contingent upon the city of Hobbs providing local matching funds;

E. one hundred thousand dollars (\$100,000) to plan or design improvements to a proposed extension of Lohman avenue in Las Cruces in Dona Ana county;

F. sixty-two thousand five hundred dollars (\$62,500) to plan, design or construct a controlled access intersection at Rico street and Highway 66 avenue located in Gallup in McKinley county;

G. one hundred thousand dollars (\$100,000) for the purpose of completing phase three of the Los Lentos road improvements from Coronado street to Taylor road in Los Lunas located in Valencia county;

H. sixty thousand dollars (\$60,000) for the purpose of completing an archaeological survey and data recovery on McKinley county road 19 near Borrego Pass located in McKinley county;

I. one hundred fifty thousand dollars (\$150,000) for the purpose of making improvements to county road RR/A located in Roosevelt county;

J. fifty thousand dollars (\$50,000) to make paving improvements to Santa Fe county road 54 in Santa Fe county;

K. one hundred twenty-five thousand dollars (\$125,000) for the purpose of installing a traffic light and realigning the intersection of United States highway 550 and Oliver street in Aztec located in San Juan county;

L. one hundred thousand dollars (\$100,000) for the planning, design or acquisition of rights of way for a frontage road from the United States highway 70 and interstate 25 interchange east nearly to the Oate high school in Dona Ana county;

M. one hundred thousand dollars (\$100,000) to design, construct or equip drainage improvements along California street in the city of Socorro in Socorro county;

N. one hundred thousand dollars (\$100,000) to design and construct paving improvements to Miller avenue, south California street, B street, Leroy street, Mary street, Cassidy street or Walkway street in the city of Socorro in Socorro county;

O. seventy-five thousand dollars (\$75,000) for the purpose of designing or constructing improvements to streets in the town of Dexter located in Chaves county;

P. seventy-five thousand dollars (\$75,000) for road improvements to the China Springs loop road and the Chee Dodge road in McKinley county;

Q. fifty thousand dollars (\$50,000) to plan, design or make improvements to Botolph road, including necessary drainage and sewer improvements, in the city of Santa Fe in Santa Fe county;

R. thirty thousand dollars (\$30,000) to improve county road 60A at the Canada Ancha crossing in Santa Fe county;

S. eighteen thousand dollars (\$18,000) to improve county road 69 at the Arroyo Hondo crossing in Santa Fe county;

T. two hundred fifty thousand dollars (\$250,000) to purchase or install traffic lights or other improvements at the intersection of Martinez and state road 41 in Moriarty in Tarrant county;

U. fifty thousand dollars (\$50,000) to design, construct or equip paving and drainage improvements to Academy street between Brian and Congress avenues in Paradise Hills in Bernalillo county;

V. seventy-five thousand dollars (\$75,000) to plan, design, purchase rights of way or construct, including necessary drainage and sewer improvements, Isleta boulevard between Arenal and Bridge boulevard in the south valley area in Bernalillo county;

W. one hundred thousand dollars (\$100,000) for the purpose of designing and renovating medians on Academy boulevard in Albuquerque located in Bernalillo county;

X. thirty-four thousand dollars (\$34,000) to install street improvements to Country View road in the southwest area of Bernalillo county;

Y. forty thousand dollars (\$40,000) to install street improvements to Michelle road in the southwest area of Bernalillo county;

Z. forty thousand dollars (\$40,000) to install street improvements to Murchison road in the southwest area of Bernalillo county;

AA. twenty-five thousand dollars (\$25,000) to install street improvements to Kirkview drive in the southwest area of Bernalillo county;

BB. fifty-five thousand dollars (\$55,000) to improve and construct an acceleration lane and relocate the Ventana del Sol subdivision exit on state highway 14 in Bernalillo county;

CC. one hundred thousand dollars (\$100,000) to design and construct Deer Springs road in McKinley county;

DD. forty thousand dollars (\$40,000) for the purpose of installing lights at the intersection of United States highway 285 and county road 88 located in Santa Fe county;

EE. one hundred thousand dollars (\$100,000) to improve county road 94-B in Santa Fe county;

FF. two hundred thousand dollars (\$200,000) to make street improvements in the city of Eunice in Lea county;

GG. fifty thousand dollars (\$50,000) for the Atkinson avenue and Mescalero road storm drainage project in Roswell in Chaves county;

HH. one hundred fifty thousand dollars (\$150,000) for various street improvements to South Hutchinson, Stone and New streets, including necessary drainage and sewer improvements and arroyo stabilization, in Santa Clara in Grant county;

II. one hundred thousand dollars (\$100,000) for improvements to Richards avenue at county road 64-L in Santa Fe county;

JJ. twelve thousand dollars (\$12,000) to construct a bridge on Romero street and improve drainage along Pajarito arroyo in Las Vegas in San Miguel county;

KK. seventeen thousand five hundred dollars (\$17,500) to chip seal the paved streets in Corona in Lincoln county;

LL. twenty-five thousand dollars (\$25,000) for road improvements, including chipping and sealing, in Fort Sumner in De Baca county;

MM. one hundred thousand dollars (\$100,000) to pave county roads 91D and 91E, Walnut drive and Walnut circle in Sombrillo in Santa Fe county;

NN. one hundred thousand dollars (\$100,000) to pave a school bus route on Sunset road for the Tularosa municipal schools in Otero county;

OO. one hundred thousand dollars (\$100,000) for rights of way and construction of Loma Larga road in Sandoval and Bernalillo counties;

PP. fifty thousand dollars (\$50,000) to provide a match for federal funds and to design and construct a bicycle and pedestrian trail and install landscaping along interstate 40 between Rio Grande boulevard and Sixth street in Bernalillo county;

QQ. one hundred thousand dollars (\$100,000) to plan, design, construct and make improvements to First, Second and Roosevelt streets in Grants in Cibola county;

RR. forty-five thousand dollars (\$45,000) to acquire rights of way and construction of the Loma Larga road project in Sandoval and Bernalillo counties;

SS. thirty-seven thousand five hundred dollars (\$37,500) to redevelop and install guard rails on a portion of state road 3 near Villanueva in San Miguel county;

TT. twenty-one thousand four hundred fifty dollars (\$21,450) to design and construct road and bridge improvements to county road B41-C in San Miguel county;

UU. seventy thousand dollars (\$70,000) to complete feasibility and corridor studies and construct Nizhoni boulevard in McKinley county;

VV. one hundred eighty thousand dollars (\$180,000) for road and parking improvements at the McKinley county medical campus;

WW. twenty-five thousand dollars (\$25,000) to improve Dexter roads and streets in Chaves county;

XX. fifty thousand dollars (\$50,000) for sidewalk and roadside improvements along county road 66 in Santa Fe in Santa Fe county;

YY. fifty thousand dollars (\$50,000) to improve and rehabilitate portions of state road 72 and United States highway 64/87 within the Raton city limits in Colfax county;

ZZ. four hundred fifty thousand dollars (\$450,000) to design and construct an extension of Tano road to Ridgetop road in Santa Fe county;

AAA. forty thousand dollars (\$40,000) to design, develop, pave and make related improvements to the unfinished portion of Valle del Sol road just west of Atrisco road on the west side of Albuquerque in Bernalillo county;

BBB. twenty thousand dollars (\$20,000) to plan, design, purchase rights of way, improve and construct improvements of Mae, Gatewood and Five Points roads in the south valley area in Bernalillo county;

CCC. one hundred fifty thousand dollars (\$150,000) to complete construction on the pedestrian overpass on Gibson boulevard in front of Kirtland elementary school in Albuquerque in Bernalillo county;

DDD. fifty thousand dollars (\$50,000) to design, construct and improve roads in the Silverado northside subdivision in Santa Fe county;

EEE. one hundred thousand dollars (\$100,000) to design and construct drainage and resurfacing improvements for county road 66 in Santa Fe county;

FFF. fifty thousand dollars (\$50,000) for street construction and repairs in Eunice in Lea county;

GGG. three hundred thousand dollars (\$300,000) for street repairs in Clovis in Curry county; and

HHH. one hundred thousand dollars (\$100,000) for street repairs in Portales in Roosevelt county.

Chapter 7 Section 12

Section 12. 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. one hundred thousand dollars (\$100,000) for the purpose of expanding and upgrading solar electricity systems on remote homes of indigent individuals near Naschitti located in San Juan county;

B. fifty thousand dollars (\$50,000) for the purpose of planning, designing or constructing the Shiprock veterans memorial building complex located in San Juan county;

C. thirty-eight thousand dollars (\$38,000) to purchase a bus for head start and youth service activities at the pueblo of Cochiti in Sandoval county;

D. seventy-five thousand dollars (\$75,000) for the purpose of completing low-income housing bathroom additions in Red Rock located in McKinley county;

E. one hundred thousand dollars (\$100,000) to make improvements to the Ramah Navajo chapter water and wastewater system in Cibola county;

F. fifty thousand dollars (\$50,000) to plan or design a juvenile and adult detention center in the pueblo of Laguna in Cibola county;

G. forty thousand dollars (\$40,000) to pave the Jicarilla Apache department of education library parking lot in Rio Arriba county;

H. ten thousand dollars (\$10,000) for three complete computer work stations at the Jicarilla Apache department of education library in Rio Arriba county;

I. fifty thousand dollars (\$50,000) to plan or design a new elementary school for the pueblo of Tesuque in Santa Fe county;

J. one hundred thousand dollars (\$100,000) to complete phases one and two of the Huerfano chapter multipurpose complex in San Juan county;

K. seventy-five thousand dollars (\$75,000) to complete phase two of the intergenerational center at the pueblo of Zia in Sandoval county;

L. two hundred seventy-five thousand dollars (\$275,000) for roof repairs, painting, courtyard renovations and other capital improvements at the Indian pueblo cultural center in Bernalillo county;

M. one hundred thousand dollars (\$100,000) to complete phase one of the Navajo community college in Shiprock in San Juan county;

N. forty-five thousand dollars (\$45,000) to make improvements at Nizhoni park in Shiprock in San Juan county;

O. seventy-five thousand dollars (\$75,000) to design, construct, purchase and equip irrigation pipelines from the Chuska reservoir dam to Red Willow farm in McKinley county;

P. one hundred thousand dollars (\$100,000) to plan, design, construct and equip a solar photovoltaic lighting system in the Upper Fruitland chapter area in San Juan county;

Q. one hundred fifty thousand dollars (\$150,000) to provide a health care facility in Pueblo Pintado in McKinley county;

R. one hundred thousand dollars (\$100,000) for court building for the Canoncito chapter in Bernalillo county;

S. twenty-five thousand dollars (\$25,000) for a building for a head start program and senior citizen center in Becenti in McKinley county;

T. twenty-five thousand dollars (\$25,000) for a building for a head start program in Whitehorse Lake in McKinley county;

U. twenty-five thousand dollars (\$25,000) for a building for a head start program in Casamero Lake in McKinley county; and

V. twenty-five thousand dollars (\$25,000) for a building for a head start program in Baca in McKinley county.

Chapter 7 Section 13

Section 13. 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. fifty thousand dollars (\$50,000) for the purpose of purchasing and installing a new computer network system, including wiring, at Dennis Chavez elementary school located in Albuquerque in Bernalillo county;

B. sixty-five thousand nine hundred dollars (\$65,900) for the purpose of purchasing or installing computer equipment or software for a network system at the new northeast heights middle school in Albuquerque located in Bernalillo county;

C. seventy-six thousand eight hundred dollars (\$76,800) for the purpose of improving and equipping the playground at Governor Bent elementary school in Albuquerque located in Bernalillo county;

D. fifty thousand dollars (\$50,000) to purchase or install a new computer network system, including software, or other office equipment at Chaparral, Lavaland, Marie M. Hughes or Susie Rayos Marmon elementary school located on the west side of Albuquerque in Bernalillo county;

E. fifteen thousand dollars (\$15,000) to prepare, design or construct improvements to the outdoor basketball courts at John Adams middle school on the west side of Albuquerque in Bernalillo county;

F. twenty-seven thousand dollars (\$27,000) to purchase and install computer hardware and install an electrical system for computers at School-on-Wheels alternative high school in Bernalillo county;

G. forty thousand dollars (\$40,000) to purchase and install computer hardware and install an electrical system for computers at Dolores Gonzales elementary school in Bernalillo county;

H. one hundred thousand dollars (\$100,000) for a ten-classroom addition, including site work or construction, at the Katherine Gallegos elementary school in Valencia county;

I. fifty thousand dollars (\$50,000) for the renovation of space or the purchase or installation of computer equipment for a pre-engineering computer laboratory for Carlsbad high school in Eddy county;

J. fifty thousand dollars (\$50,000) to purchase and install educational technology for Lowell elementary school in Bernalillo county;

K. fifty thousand dollars (\$50,000) for the purpose of repairing the heating system in the Hondo Valley public schools located in Lincoln county;

L. one hundred thousand dollars (\$100,000) for the purpose of completing the landscaping and field grass at the Alamogordo soccerplex located in Otero county;

M. one hundred thousand dollars (\$100,000) for the purpose of planning, designing or constructing a community football stadium and sports complex in Las Cruces located in Dona Ana county;

N. thirty-five thousand dollars (\$35,000) to purchase and install educational technology for Los Padillas elementary school in Bernalillo county;

O. twenty-five thousand dollars (\$25,000) to purchase and install educational technology for Polk middle school in Bernalillo county;

P. fifty thousand dollars (\$50,000) for the purpose of providing informational technology systems at Taft middle school in Bernalillo county;

Q. fifty thousand dollars (\$50,000) for the purpose of providing informational technology systems at Taylor middle school in Bernalillo county;

R. fifty thousand dollars (\$50,000) for the purpose of providing informational technology systems at Alameda elementary school in Bernalillo county;

S. fifty thousand dollars (\$50,000) for the purpose of providing informational technology systems at Alvarado elementary school in Bernalillo county;

T. fifty thousand dollars (\$50,000) for the purpose of providing informational technology systems at Los Ranchos elementary school in Bernalillo county;

U. fifty thousand dollars (\$50,000) for the purpose of providing informational technology systems at MacArthur elementary school in Bernalillo county;

V. seventy-five thousand dollars (\$75,000) for the purpose of acquiring or installing educational technology at the high school, junior high school and intermediate school in Artesia located in Eddy county;

W. thirty thousand dollars (\$30,000) for the purpose of completion of playground improvements at Adobe Acres elementary school in Albuquerque in Bernalillo county;

X. one hundred fifty thousand dollars (\$150,000) for one or more of the following projects in Taos county:

(1) site and approach road improvements at the Northside elementary school;

(2) improvements to the wastewater system, including a new traditional or wetland treatment facility, at the Northside elementary school;

(3) building improvements, including a walkway portal and purchase and installation of various equipment, at the Northside elementary school;

(4) planning, designing, constructing or equipping six new classrooms or necessary storage or sanitary facilities at Taos high school;

(5) repairs to the roof or canales or related drainage landscaping or various remodeling or renovation necessary to comply with the federal Americans with Disabilities Act of 1990 at Taos junior high school;

(6) planning, designing, constructing or equipping or purchasing, installing or equipping two permanent kindergarten classrooms or one music classroom or various landscaping improvements at the Ranchos de Taos elementary school; or

(7) planning, designing, constructing or equipping or purchasing, installing or equipping four classrooms, six therapy rooms or a cafeteria or for various remodeling or renovation projects, including work necessary for compliance with the federal Americans with Disabilities Act of 1990, at Taos elementary school or Enos Garcia middle school;

Y. one hundred thousand dollars (\$100,000) to complete phases one and two of the proposed lecture hall, music classroom and media center project of the Mesa Vista consolidated school district in Rio Arriba and Taos counties;

Z. twenty thousand dollars (\$20,000) for improvements to the water system at Mora high school in Mora county;

AA. fifty thousand dollars (\$50,000) to complete the design, construction or equipping of a track at the Hatch Valley middle school in Dona Ana county;

BB. sixty-nine thousand dollars (\$69,000) to design, construct or equip a bus loading and parking area for the Rio Grande elementary school in Dona Ana county;

CC. two hundred thousand dollars (\$200,000) to purchase and install educational technology to be divided equally among the following Albuquerque public schools: Alamosa elementary school, Mary Anne Binford elementary school, Atrisco elementary school, Carlos Rey elementary school, Truman middle school and Rio Grande high school;

DD. one hundred thousand dollars (\$100,000) for the purpose of constructing phase one of an intergovernmental community center in the New Kimo neighborhood in Albuquerque located in Bernalillo county, contingent upon the city of Albuquerque

providing funding of at least one hundred thousand dollars (\$100,000) for phase one of the project from sources other than the state;

EE. thirty-five thousand dollars (\$35,000) to purchase or install new playground equipment or purchase, install or make repairs to Hodgkin elementary school's heating, cooling and ventilating systems in Albuquerque in Bernalillo county;

FF. one hundred ten thousand dollars (\$110,000) to reroof the Texico high school and gymnasium in Curry county;

GG. one hundred thousand dollars (\$100,000) to design, construct or purchase necessary seating facilities for the multipurpose cafeteria at the Sombrillo elementary school in Santa Fe county;

HH. one hundred fifty thousand dollars (\$150,000) to continue the design, construction, furnishing or equipping of Pojoaque high school in Santa Fe county;

II. fifty thousand dollars (\$50,000) to purchase or install computer hardware or software or related equipment or furniture for the Quemado independent school district two in Catron county;

JJ. forty thousand dollars (\$40,000) to purchase or install rooftop heating and cooling units for the middle and high schools of the Fort Sumner municipal schools located in De Baca county;

KK. two hundred one thousand dollars (\$201,000) to acquire or install educational technology and connection to the internet at Highland high school and Wilson, Emerson, Kirtland and Whittier elementary schools in Albuquerque in Bernalillo county;

LL. fifty thousand dollars (\$50,000) to design, construct, furnish or equip an addition to the Escalante high school gymnasium for the Chama Valley independent schools in Rio Arriba county;

MM. one hundred thousand dollars (\$100,000) for planning, designing, constructing or equipping or purchasing, installing or equipping classrooms for the alternative high school in the Santa Fe public school district located in Santa Fe county;

NN. seventy-five thousand dollars (\$75,000) to acquire or install computer equipment or computer infrastructure at the Chaparral middle school in Dona Ana county;

OO. forty-nine thousand five hundred dollars (\$49,500) for playground improvements, including drainage, site preparation and equipment, at Eubank elementary school in Albuquerque in Bernalillo county;

PP. twenty-eight thousand seven hundred ten dollars (\$28,710) to acquire and install educational computer technology for Hawthorne elementary school in Albuquerque in Bernalillo county;

QQ. fifty thousand dollars (\$50,000) for site development, including designing, equipping, grading or surfacing of the playground, at the Tomasita elementary school in Albuquerque in Bernalillo county;

RR. eighty-nine thousand five hundred dollars (\$89,500) to purchase and install computer and telecommunications equipment for Hubert H. Humphrey elementary school in Albuquerque in Bernalillo county;

SS. fifty thousand dollars (\$50,000) to purchase and install computer technology enhancements, including accessories, at Montezuma elementary school in Albuquerque in Bernalillo county;

TT. one hundred fifty thousand dollars (\$150,000) to plan, design or construct a combined-use cafeteria and community center for Comanche elementary school in Bernalillo county;

UU. twenty-five thousand dollars (\$25,000) for informational technology systems at Valley high school in Bernalillo county;

VV. fifty-five thousand dollars (\$55,000) for informational technology systems at Cochiti elementary school in Bernalillo county;

WW. forty thousand dollars (\$40,000) for informational technology systems at Mission Avenue elementary school in Bernalillo county;

XX. seventy-five thousand dollars (\$75,000) to purchase and install educational technology, theater or dance floor equipment for a dropout prevention program in the Santa Fe public schools in Santa Fe county;

YY. one hundred thousand dollars (\$100,000) to acquire and install educational technology for media centers in elementary schools in Artesia in Eddy county;

ZZ. four hundred fifty thousand dollars (\$450,000) to plan, design, construct and equip a recreational complex for the Silver consolidated school district and Silver City; provided that certification and issuance of the bonds is contingent on matching funds from sources other than the state of five hundred thousand dollars (\$500,000) from Silver consolidated school district and Silver City in Grant county;

AAA. sixty-five thousand dollars (\$65,000) to acquire and install educational technology for East San Jose elementary school in Bernalillo county;

BBB. sixty-five thousand dollars (\$65,000) to acquire and install educational technology for Eugene Field elementary school in Bernalillo county;

CCC. fifty thousand dollars (\$50,000) to acquire and install educational technology for Sandia high school in Bernalillo county;

DDD. fifty thousand dollars (\$50,000) to acquire and install educational technology for Inez elementary school in Bernalillo county;

EEE. fifty thousand dollars (\$50,000) to acquire and install educational technology for Mitchell elementary school in Bernalillo county;

FFF. fifty thousand dollars (\$50,000) to acquire and install educational technology for Collet Park elementary school in Bernalillo county;

GGG. fifty thousand dollars (\$50,000) to acquire and install educational technology for Bellehaven elementary school in Bernalillo county;

HHH. fifty thousand dollars (\$50,000) to acquire and install educational technology for Madison middle school in Bernalillo county;

III. twenty-five thousand dollars (\$25,000) to make repairs to the gym and replace the heating and cooling systems at Hondo Valley public schools in Lincoln county;

JJJ. twenty-five thousand dollars (\$25,000) to install football field bleachers at the football stadium at Santa Rosa consolidated schools in Guadalupe county;

KKK. fifty thousand dollars (\$50,000) to plan, design, construct and equip an expansion of the Legion Park elementary school cafeteria in San Miguel county;

LLL. one hundred thousand dollars (\$100,000) to acquire and install educational technology for phase one of the technology plan at Lyndon B. Johnson middle school in Bernalillo county;

MMM. fifty thousand dollars (\$50,000) to acquire and install educational technology for the new northeast heights middle school in Bernalillo county;

NNN. seventy thousand dollars (\$70,000) to complete phase 2 of the Bernalillo Roosevelt school community learning center in Sandoval county;

OOO. twenty thousand dollars (\$20,000) to purchase or upgrade educational technology at Cochiti elementary school in Bernalillo county;

PPP. thirty thousand dollars (\$30,000) to purchase or upgrade educational technology at Garfield middle school in Bernalillo county;

QQQ. twenty thousand dollars (\$20,000) to purchase or upgrade educational technology at Griegos elementary school in Bernalillo county;

RRR. twenty thousand dollars (\$20,000) to purchase or upgrade educational technology at La Luz elementary school in Bernalillo county;

SSS. twenty-five thousand dollars (\$25,000) to purchase or upgrade educational technology at Los Duranes elementary school in Bernalillo county;

TTT. fifteen thousand dollars (\$15,000) to purchase or upgrade educational technology at MacArthur elementary school in Bernalillo county;

UUU. twenty thousand dollars (\$20,000) to purchase or upgrade educational technology at Mission Avenue elementary school in Bernalillo county;

VVV. twenty-five thousand dollars (\$25,000) to purchase or upgrade educational technology at Reginald Chavez elementary school in Bernalillo county;

WWW. twenty-five thousand dollars (\$25,000) to purchase or upgrade educational technology at Valley high school in Bernalillo county;

XXX. twenty-five thousand dollars (\$25,000) to renovate and improve the Griegos elementary school gymnasium in Bernalillo county;

YYY. thirty thousand dollars (\$30,000) for improvements to and resurfacing of existing tennis courts at Los Alamos middle school in Grants in Cibola county;

ZZZ. fifty thousand dollars (\$50,000) for improvements to the tennis courts at Grants high school in Cibola county;

AAAA. one hundred thousand dollars (\$100,000) to acquire and install educational technology and video equipment for Grants schools and other schools in Cibola county;

BBBB. fifty thousand dollars (\$50,000) to acquire and install playground and playing field equipment at Dona Ana elementary school in Dona Ana county;

CCCC. forty-five thousand dollars (\$45,000) to acquire and install educational technology for Valley high school in Bernalillo county;

DDDD. thirty thousand dollars (\$30,000) to acquire and install educational technology for Los Ranchos elementary school in Bernalillo county;

EEEE. fifteen thousand dollars (\$15,000) to acquire and install educational technology for Taylor middle school in Bernalillo county;

FFFF. twenty-five thousand dollars (\$25,000) to acquire and install educational technology for La Cueva high school in Bernalillo county;

GGGG. fifty thousand dollars (\$50,000) to acquire and install educational technology for and make repairs to La Cueva high school in Bernalillo county;

HHHH. one hundred thousand dollars (\$100,000) to purchase lights at the stadium at Clovis high school in Curry county;

IIII. sixty-five thousand dollars (\$65,000) to acquire and install educational technology for Pajarito elementary school in Bernalillo county;

JJJJ. sixty-five thousand dollars (\$65,000) to acquire and install educational technology for Truman middle school in Bernalillo county;

KKKK. sixty-five thousand dollars (\$65,000) to acquire and install educational technology for Rio Grande high school in Bernalillo county;

LLLL. forty thousand dollars (\$40,000) to acquire and install educational technology for Carlos Rey elementary school in Bernalillo county;

MMMM. ten thousand dollars (\$10,000) for a multipurpose field for the House school district in Quay county;

NNNN. seventy-five thousand dollars (\$75,000) to make improvements, including landscaping and the purchase and installation of equipment, to the Conlee elementary school playground in Las Cruces in Dona Ana county;

OOOO. one hundred thousand dollars (\$100,000) to renovate the San Miguel elementary school cafeteria, including the purchase and installation of kitchen equipment, in the Gadsden school district in Dona Ana county;

PPPP. sixty-five thousand dollars (\$65,000) to make improvements, including landscaping and purchase and installation of playground equipment, at the San Miguel elementary school in Gadsden school district in Dona Ana county;

QQQQ. ten thousand dollars (\$10,000) to purchase equipment for the after-school academy for at-risk students at Alamosa elementary school in Albuquerque in Bernalillo county;

RRRR. one hundred ninety-eight thousand dollars (\$198,000) to purchase and install a new computer network system, including software, and other office equipment at Alamosa, Chaparral, Lavaland, Marie M. Hughes, Susie Rayos Marmon and Valle Vista elementary schools, John Adams and Lyndon B. Johnson middle schools and West Mesa high school on the west side of Albuquerque in Bernalillo county;

SSSS. fifty thousand dollars (\$50,000) to design, construct and equip infrastructure and playground improvements at the Clyde W. Tombaugh elementary school in Las Cruces in Dona Ana county;

TTTT. one hundred thousand dollars (\$100,000) to acquire and install educational technology for La Mesa, Mesquite and San Miguel elementary schools in Dona Ana county;

UUUU. one hundred thousand dollars (\$100,000) to acquire and install educational technology for Desert View, Riverside and Sunland Park elementary schools in Dona Ana county;

VVVV. one hundred thousand dollars (\$100,000) to acquire and install educational technology for Manzano high school in Albuquerque in Bernalillo county;

WWWW. twenty-five thousand dollars (\$25,000) to acquire and install educational technology for Jackson middle school in Albuquerque in Bernalillo county;

XXXX. one hundred thousand dollars (\$100,000) to design, construct, equip and furnish a family focus center addition to the gymnasium at Tomasita elementary school in Albuquerque in Bernalillo county;

YYYY. thirty thousand dollars (\$30,000) to construct a shade structure at the Wherry elementary school playground in Albuquerque in Bernalillo county;

ZZZZ. fifty thousand dollars (\$50,000) to acquire and install educational technology at Highland high school in Albuquerque in Bernalillo county;

AAAAA. forty-five thousand dollars (\$45,000) to acquire and install educational technology at Manzano high school in Albuquerque in Bernalillo county;

BBBBB. thirty-five thousand dollars (\$35,000) to purchase team equipment and construct and improve fields and athletics at Manzano high school in Albuquerque in Bernalillo county;

CCCCC. one hundred fifteen thousand dollars (\$115,000) to design, construct, equip and landscape a park on the eastern portion of the Washington middle school playground in Bernalillo county;

DDDDD. one hundred five thousand dollars (\$105,000) to purchase and install educational technology and for upgrading electrical systems in Bel Air elementary school in Bernalillo county;

EEEE. one hundred fifty-eight thousand six hundred dollars (\$158,600) to acquire and install educational technology at Washington middle school in Bernalillo county;

FFFFF. seventy-one thousand four hundred dollars (\$71,400) to acquire and install educational technology at Armijo elementary school in Bernalillo county;

GGGGG. one hundred twenty-five thousand dollars (\$125,000) to construct and equip a weight room and equipment facility at Belen high school in Valencia county;

HHHHH. one hundred thousand dollars (\$100,000) to plan, design and construct an addition to the Animas elementary school in Hidalgo county;

IIIII. eighty thousand dollars (\$80,000) to purchase and install three portable buildings at the Columbus elementary school in Luna county;

JJJJJ. one hundred thousand dollars (\$100,000) to complete improvements to the athletic field and purchase equipment for the track and field program at Del Norte high school in Albuquerque in Bernalillo county;

KKKKK. fifty thousand dollars (\$50,000) to improve and equip the playground at Governor Bent elementary school in Albuquerque in Bernalillo county;

LLLLL. one hundred twenty thousand dollars (\$120,000) to acquire and install educational technology at Montezuma elementary school in Albuquerque in Bernalillo county;

MMMMM. twenty-five thousand dollars (\$25,000) for playground improvements at Carroll elementary school in Bernalillo in Sandoval county; and

NNNNN. twenty thousand dollars (\$20,000) for a concrete outdoor basketball court for Apache elementary school in Bernalillo county.

Chapter 7 Section 14

Section 14. SEVERANCE TAX BONDS--DEPARTMENT OF PUBLIC SAFETY--PURPOSE.--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, twenty thousand dollars (\$20,000) is appropriated to the department of public safety to purchase and install communications technology for Mesilla in Dona Ana county.

Chapter 7 Section 15

Section 15. SEVERANCE TAX BONDS--STATE LAND OFFICE--PURPOSE.--Pursuant to the provisions of Section 1 of this act, upon certification by the state land office that the need exists for the issuance of the bonds, twenty thousand dollars (\$20,000) is appropriated to the state land office to clean up illegal landfill sites on state land in Luna county.

Chapter 7 Section 16

Section 16. SEVERANCE TAX BONDS--ALBUQUERQUE TECHNICAL-VOCATIONAL INSTITUTE--PURPOSE.--Pursuant to the provisions of Section 1 of this act, upon certification by the governing board of Albuquerque technical-vocational institute that the need exists for the issuance of the bonds, three hundred thousand dollars (\$300,000) is appropriated to the governing board of Albuquerque technical-vocational institute to renovate an existing building for the work force training center in Albuquerque in Bernalillo county.

Chapter 7 Section 17

Section 17. SEVERANCE TAX BONDS--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 twenty-one thousand two hundred fifty dollars (\$121,250) is appropriated to the community college board of Clovis community college for infrastructure renovation and expansion of aging centralized systems on the Clovis community college campus in Curry county.

Chapter 7 Section 18

Section 18. SEVERANCE TAX BONDS--EASTERN NEW MEXICO UNIVERSITY--PURPOSES.--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. two hundred thousand dollars (\$200,000) to fund infrastructure renovation and expansion of aging centralized systems at eastern New Mexico university in Roosevelt county;
- B. twenty-two thousand five hundred dollars (\$22,500) for a watering system for three football practice fields at eastern New Mexico university in Roosevelt county;
- C. sixty thousand dollars (\$60,000) for a twenty-five passenger minibus for eastern New Mexico university in Roosevelt county; and
- D. forty thousand dollars (\$40,000) for a Greyhound arena scoreboard.

Chapter 7 Section 19

Section 19. SEVERANCE TAX BONDS--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, three hundred thousand dollars (\$300,000) is appropriated to the governing board of Luna vocational-technical institute for the

purpose of completing construction of a health care training facility at the main campus of Luna vocational-technical institute located in San Miguel county.

Chapter 7 Section 20

Section 20. SEVERANCE TAX BONDS--NEW MEXICO HIGHLANDS UNIVERSITY--PURPOSE.--Pursuant to the provisions of Section 1 of this act, upon certification by the board of regents of New Mexico highlands university that the need exists for the issuance of the bonds, two hundred thousand dollars (\$200,000) is appropriated to the board of regents of New Mexico highlands university for infrastructure renovation and expansion on the campus of New Mexico highlands university in San Miguel county.

Chapter 7 Section 21

Section 21. SEVERANCE TAX BONDS--NEW MEXICO JUNIOR COLLEGE--PURPOSES.--Pursuant to the provisions of Section 1 of this act, upon certification by the governing board of New Mexico junior college that the need exists for the issuance of the bonds, one hundred thousand dollars (\$100,000) is appropriated to the governing board of New Mexico junior college for renovation and expansion of aging centralized systems on the campus of New Mexico junior college in Lea county.

Chapter 7 Section 22

Section 22. SEVERANCE TAX BONDS--NEW MEXICO MILITARY INSTITUTE--PURPOSE.--Pursuant to the provisions of Section 1 of this act, upon certification by the board of regents of New Mexico military institute that the need exists for the issuance of the bonds, two hundred thousand dollars (\$200,000) is appropriated to the board of regents of New Mexico military institute to renovate and upgrade Wilson hall in Chaves county.

Chapter 7 Section 23

Section 23. SEVERANCE TAX BONDS--NEW MEXICO INSTITUTE OF MINING AND TECHNOLOGY--PURPOSE.--Pursuant to the provisions of Section 1 of this act, upon certification by the board of regents of New Mexico institute of mining and technology that the need exists for the issuance of the bonds, two hundred fifty thousand dollars (\$250,000) is appropriated to the board of regents of New Mexico institute of mining and technology for infrastructure renovation and expansion of aging centralized systems on the campus of New Mexico institute of mining and technology in Socorro county.

Chapter 7 Section 24

Section 24. SEVERANCE TAX BONDS--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. eight hundred fifty thousand dollars (\$850,000) for funding infrastructure or renovations of aging facilities on the main campus of New Mexico state university in Dona Ana county;
- B. fifty thousand dollars (\$50,000) for infrastructure renovation and expansion of aging centralized systems on the Alamogordo campus of New Mexico state university in Otero county;
- C. one hundred twelve thousand five hundred dollars (\$112,500) for infrastructure renovation and expansion of aging centralized systems on the Dona Ana campus of New Mexico state university in Dona Ana county; and
- D. one hundred thirty-five thousand dollars (\$135,000) to make improvements to existing athletic facilities on the New Mexico state university main campus in Las Cruces in Dona Ana county.

Chapter 7 Section 25

Section 25. SEVERANCE TAX BONDS--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) for infrastructure renovation and expansion of aging centralized systems on the northern New Mexico state school campus in Rio Arriba county;
- B. fifty thousand dollars (\$50,000) to purchase and install a library automation system at northern New Mexico state school at El Rito in Rio Arriba county;
- C. five thousand dollars (\$5,000) to acquire and install educational technology at the El Rito campus of northern New Mexico state school for the save the children program in Rio Arriba county; and
- D. thirty thousand dollars (\$30,000) to purchase and install a library automation system at the El Rito campus of northern New Mexico state school in Rio Arriba county.

Chapter 7 Section 26

Section 26. SEVERANCE TAX BONDS--NEW MEXICO SCHOOL FOR THE DEAF--PURPOSE.--Pursuant to the provisions of Section 1 of this act, upon certification by the board of regents of New Mexico school for the deaf that the need exists for the issuance of the bonds, one hundred fifty thousand dollars (\$150,000) is appropriated to the board of regents of New Mexico school for the deaf for campus improvements, including roof repairs, completion of construction of the library and dormitory, for equipping the television-media studio, for purchasing vehicles for student transportation or for maintenance at New Mexico school for the deaf located in Santa Fe county.

Chapter 7 Section 27

Section 27. SEVERANCE TAX BONDS--SAN JUAN COLLEGE--PURPOSES.--Pursuant to the provisions of Section 1 of this act, upon certification by the governing board of San Juan college that the need exists for the issuance of the bonds, the following amounts are appropriated to the governing board of San Juan college for the following purposes:

- A. one hundred thousand dollars (\$100,000) for the purpose of campus improvements at the San Juan college west center in Kirtland located in San Juan county;
- B. seventy-five thousand dollars (\$75,000) for the purpose of installing or upgrading an energy management system for San Juan college located in San Juan county;
- C. five hundred fifty thousand dollars (\$550,000) for plumbing, heating, cooling or other capital improvements to the shelled area of the computer science building at San Juan college in San Juan county;
- D. four hundred twenty-eight thousand dollars (\$428,000) to construct, equip and furnish an addition to the child and family development center at San Juan college in San Juan county; and
- E. fifty-five thousand dollars (\$55,000) to design and construct a library and student center addition, including site development, at San Juan college in San Juan county.

Chapter 7 Section 28

Section 28. SEVERANCE TAX BONDS--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. two hundred thousand dollars (\$200,000) for the purpose of designing, planning, constructing or equipping the phase three continuation of the expansion and renovation of the university of New Mexico football stadium located in Bernalillo county;

B. fifty thousand dollars (\$50,000) to make improvements to the university of New Mexico championship south golf course in Bernalillo county;

C. one hundred fifty thousand dollars (\$150,000) to construct, equip or furnish an addition to the student services building at the Los Alamos branch of the university of New Mexico in Los Alamos county;

D. nine hundred fifty thousand dollars (\$950,000) to fund infrastructure renovation and expansion of aging centralized systems on the campus of the university of New Mexico in Bernalillo county;

E. one hundred thousand dollars (\$100,000) to plan, design, construct, equip and furnish an instructional laboratory at the Gallup branch in McKinley county;

F. one hundred thousand dollars (\$100,000) for the law school library in Bernalillo county; and

G. eighty thousand dollars (\$80,000) for bleacher improvements at the basketball arena at the main campus in Albuquerque in Bernalillo county.

Chapter 7 Section 29

Section 29. 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, two hundred thousand dollars (\$200,000) is appropriated to the board of regents of western New Mexico university for infrastructure renovation and expansion of aging centralized systems on the western New Mexico university campus in Grant county.

Chapter 7 Section 30

Section 30. EMPLOYMENT SECURITY DEPARTMENT FUND--LABOR DEPARTMENT--APPROPRIATION.--

A. The following amounts are 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 fiscal years 1998 through 2002 for the following purposes at the labor department:

(1) five hundred forty-seven thousand two hundred dollars (\$547,200) to make improvements to the Tiwa building in Bernalillo county; and

(2) fifty-nine thousand four hundred dollars (\$59,400) for roof replacement and related repairs of the Hobbs office in Lea county.

B. Any unexpended and unencumbered balance remaining at the end of fiscal year 2002 shall revert to the employment security department fund.

Chapter 7 Section 31

Section 31. STATE ROAD FUND--STATE HIGHWAY AND TRANSPORTATION DEPARTMENT--APPROPRIATION.--Seven hundred thirty-three thousand eight hundred dollars (\$733,800) is appropriated from the state road fund to the state highway and transportation department for expenditure in fiscal years 1998 through 2002 to acquire land, plan, design, construct and equip a maintenance patrol yard near Eagle Nest in Colfax county. Any unexpended or unencumbered balance remaining at the end of fiscal year 2002 shall revert to the state road fund.

Chapter 7 Section 32

Section 32. STATE ROAD FUND--SANTA TERESA PORT OF ENTRY--APPROPRIATION.--Nine hundred thousand dollars (\$900,000) is appropriated from the state road fund to the capital program fund for expenditure in fiscal years 1998 through 2002 to acquire land, make site improvements and purchase and erect a modular office building and equip a port-of-entry facility near Santa Teresa in Dona Ana county. Any unexpended or unencumbered balance remaining at the end of fiscal year 2002 shall revert to the state road fund.

Chapter 7 Section 33

Section 33. PUBLIC BUILDINGS REPAIR FUND--CAPITAL PROGRAM FUND--APPROPRIATION.--

A. The following amounts are appropriated from the public buildings repair fund to the capital program fund for expenditure in fiscal years 1998 through 2002 specified for the following purposes:

(1) nine hundred thousand dollars (\$900,000) for mechanical and water treatment system improvements throughout the state;

(2) eight hundred thousand dollars (\$800,000) for roof replacement and related repairs at state buildings throughout the state; and

(3) nine hundred thousand dollars (\$900,000) to plan, design, renovate and make improvements to state buildings throughout the state.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2002 shall revert to the public buildings repair fund.

Chapter 7 Section 34

Section 34. SEVERANCE TAX BONDS--NEW MEXICO OFFICE OF INDIAN AFFAIRS--CHANGE IN PURPOSE--APPROPRIATION.--The balance of the proceeds from the sale of severance tax bonds appropriated to the New Mexico office of Indian affairs pursuant to Subsection B of Section 9 of Chapter 4 of Laws 1996 (1st S.S.) for the purpose of planning, designing or constructing a group home for disabled senior citizens at Tohatchi located in McKinley county shall not be expended for its original purpose but is reauthorized and appropriated to the New Mexico office of Indian affairs for the purpose of planning, designing or constructing a group home for disabled citizens at Tohatchi located in McKinley county.

Chapter 7 Section 35

Section 35. SEVERANCE TAX BONDS--NEW MEXICO OFFICE OF INDIAN AFFAIRS--CHANGE IN PURPOSE--APPROPRIATION.--The balance of the proceeds from the sale of severance tax bonds appropriated to the New Mexico office of Indian affairs pursuant to Subsection S of Section 16 of Chapter 148 of Laws 1994 to design, plan, construct and equip a multipurpose community center at Chichiltah located in McKinley county shall not be expended for its original purpose but is reauthorized and appropriated to the New Mexico office of Indian affairs for house wiring in Chichiltah in McKinley county.

Chapter 7 Section 36

Section 36. SEVERANCE TAX BONDS--DEPARTMENT OF ENVIRONMENT--CHANGE IN PURPOSE--APPROPRIATION.--The balance of the proceeds from the sale of severance tax bonds appropriated to the department of environment pursuant to Subsection TT of Section 6 of Chapter 4 of Laws 1996 (1st S.S.) for the purpose of designing, constructing or inspecting a new water storage tank and related water system improvements in the village of Cerrillos located in Santa Fe county shall not be expended for its original purpose but is reauthorized and appropriated to the department of environment for the purpose of designing, constructing or inspecting water system improvements in the village of Cerrillos located in Santa Fe county.

Chapter 7 Section 37

Section 37. SEVERANCE TAX BONDS--DEPARTMENT OF FINANCE AND ADMINISTRATION--EXTENDING EXPENDITURE PERIOD--APPROPRIATION.--The period of time in which the proceeds from the sale of severance tax bonds appropriated to the local government division of the department of finance and administration to construct a year-round multipurpose community activity park and education camp in Chaparral located in Dona Ana county pursuant to Subsections II and GGGGG of Section 9 of Chapter 148 of Laws 1994 may be expended shall be extended through fiscal year 2002. Any unexpended or unencumbered balance remaining at the end of fiscal year 2002 shall revert to the severance tax bonding fund.

Chapter 7 Section 38

**Section 38. GENERAL FUND--DEPARTMENT OF FINANCE AND ADMINISTRATION--
EXPANSION OF PURPOSE--REAPPROPRIATION OF**

BALANCES.--Nineteen thousand five hundred thirty-four dollars (\$19,534) remaining of the proceeds of the general fund appropriation pursuant to Paragraph (30) of Subsection B of Section 49 of Chapter 148 of Laws 1994 to acquire land for a community fire station in Chamisal in Taos county is reappropriated to the local government division of the department of finance and administration to plan, design, construct and equip the Chamisal fire substation.

Chapter 7 Section 39

Section 39. SEVERANCE TAX BONDS--STATE DEPARTMENT OF PUBLIC EDUCATION--CHANGE IN PURPOSE--APPROPRIATION.--The balance of the proceeds from the sale of severance tax bonds appropriated to the state department of public education pursuant to Subsection V of Section 12 of Chapter 4 of Laws 1996 (1st S.S.) for the purpose of purchasing or installing computer technology at St. Catherine Indian school in Santa Fe located in Santa Fe county shall not be expended for its original purpose but is reauthorized and appropriated to the state department of public education for the purpose of purchasing and distributing instructional material, pursuant to the provisions of the Instructional Material Law, in order to provide computer technology to qualified students attending St. Catherine Indian school located in Santa Fe in Santa Fe county.

Chapter 7 Section 40

Section 40. SEVERANCE TAX BONDS--DEPARTMENT OF FINANCE AND ADMINISTRATION--CHANGE IN PURPOSE--APPROPRIATION.--The balance of the proceeds from the sale of severance tax bonds appropriated to the local government division of the department of finance and administration pursuant to Subsection G of Section 5 of Chapter 4 of Laws 1996 (1st S.S.) for the purpose of improving or updating equipment for the Moriarty fire department located in Torrance county shall not be expended for its original purpose but is reauthorized and appropriated to the local government division of the department of finance and administration for the purpose of improving or updating equipment for the fire department located in northeast Torrance county.

Chapter 7 Section 41

Section 41. SEVERANCE TAX BONDS--CAPITAL PROGRAM FUND--EXTENDING EXPENDITURE PERIOD--CHANGE IN PURPOSE--APPROPRIATION.--Notwithstanding the provisions of Subsection D of Section 1 of Chapter 148 of Laws 1994, the balance of the proceeds from the sale of severance tax bonds appropriated to the general services department pursuant to Subsection C of Section 13 of Chapter 148 of Laws 1994 to plan and design a facility to replace Meadows hospital in Las Vegas located in San Miguel county shall not be expended for its original purpose but is

reauthorized and appropriated to the capital program fund to plan, design, renovate and make improvements to state buildings located throughout the state. The period of time in which this appropriation may be expended shall be extended through fiscal year 2002. Any unexpended or unencumbered balance remaining from the proceeds of the bonds at the end of fiscal year 2002 shall revert to the severance tax bonding fund.

Chapter 7 Section 42

Section 42. SEVERANCE TAX BONDS--CAPITAL PROGRAM FUND--EXTENDING EXPENDITURE PERIOD--CHANGE IN PURPOSE--REAUTHORIZATION.--

Notwithstanding the provisions of Subsection D of Section 1 of Chapter 148 of Laws 1994, the balance of the proceeds from the sale of severance tax bonds appropriated to the general services department pursuant to Subsection D of Section 13 of Chapter 148 of Laws 1994 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 shall not be expended for its original purpose but is reauthorized and appropriated to the capital program fund to repair, renovate and make improvements at the New Mexico boys' school at Springer located in Colfax county. The period of time in which this appropriation may be expended shall be extended through fiscal year 2002. Any unexpended or unencumbered balance remaining from the proceeds of the bonds at the end of fiscal year 2002 shall revert to the severance tax bonding fund.

Chapter 7 Section 43

Section 43. NEW MEXICO FINANCE AUTHORITY REVENUE BONDS--GENERAL SERVICES DEPARTMENT--EXPANSION OF PURPOSE.--

The appropriation in Subsection B of Section 1 of Chapter 91 of Laws 1994 is expanded to include constructing, equipping and furnishing a state office building for the workers' compensation administration in Albuquerque.

Chapter 7 Section 44

Section 44. STATE ROAD FUND--CHANGE IN PURPOSE--APPROPRIATION.--The balance of the appropriation from the state road fund to the state highway and transportation department for the purpose of installing salt storage domes at patrol yards in Taos located in Taos county, in Chama located in Rio Arriba county and in Santa Fe located in Santa Fe county pursuant to Laws 1996 (1st S.S.), Chapter 4, Section 40 shall not be expended for its original purpose but is appropriated to the state highway and transportation department to purchase and install chemical de-icer storage units throughout the state.

Chapter 7 Section 45

Section 45. SEVERANCE TAX BONDS--CAPITAL PROGRAM FUND--EXTENDING EXPENDITURE PERIOD--CHANGE IN PURPOSE--REAUTHORIZATION.--

Notwithstanding the provisions of Subsection D of Section 1 of Chapter 113 of Laws

1992, the balance of the proceeds from the sale of severance tax bonds appropriated to the property control division of the general services department pursuant to Subsection V of Section 18 of that chapter to reroof the southern New Mexico correctional facility in Dona Ana county shall not be expended for its original purpose but is reauthorized and appropriated to the capital program fund to plan, design, renovate and make improvements to the education building to convert for use as a mental health, reception and diagnostic center at the central New Mexico correctional facility located in Valencia county. The period of time in which this appropriation may be expended shall be extended through fiscal year 2002. Any unexpended or unencumbered balance remaining from the proceeds of the bonds at the end of fiscal year 2002 shall revert to the severance tax bonding fund.

Chapter 7 Section 46

Section 46. SEVERANCE TAX BONDS--CHANGE IN AGENCY--EXTENDING EXPENDITURE PERIOD--CHANGE IN PURPOSES--REAUTHORIZATIONS.--The balance remaining of the proceeds from the sale of severance tax bonds appropriated to the corrections department pursuant to Laws 1995, Chapter 214, Section 3 to provide correctional or jail services for a correctional facility in Guadalupe county and a correctional facility in Lea, Chaves or Santa Fe county shall not be expended for those original purposes but is reauthorized and appropriated to the capital program fund to plan, design, construct or make improvements to the education building to convert for use as a mental health, reception and diagnostic center at the central New Mexico correctional facility located in Valencia county. The period of time in which this appropriation may be expended shall be extended through fiscal year 2002. Any unexpended or unencumbered balance remaining from the proceeds of the bonds at the end of fiscal year 2002 shall revert to the severance tax bonding fund.

Chapter 7 Section 47

Section 47. GENERAL FUND--SAN JUAN SCHOOL PROJECTS--REAPPROPRIATION--STATE DEPARTMENT OF PUBLIC EDUCATION.--The proceeds from the general fund appropriation to the state department of public education of three hundred fifty thousand dollars (\$350,000) for equipment purchases and capital improvements at the Bloomfield alternative school in San Juan county pursuant to Subsection JJ of Section 23 of Chapter 4 of Laws 1996 (1st S.S.) shall not be expended for that purpose but are appropriated for energy conservation and renovation projects at Rio Vista middle school and Mesa Alta junior high school in San Juan county.

Chapter 7 Section 48

Section 48. MILAN WASTEWATER SYSTEM--DEPARTMENT OF ENVIRONMENT--REAUTHORIZATION OF SEVERANCE TAX BONDS--CLARIFYING A PURPOSE--APPROPRIATION.--The balance of the proceeds from the sale of severance tax bonds appropriated pursuant to Subsection M of Section 4 of Chapter 113 of Laws 1992 and

reauthorized and appropriated pursuant to Laws 1994, Chapter 148, Section 60 for the purpose of planning, designing, constructing or purchasing a wastewater facility to serve Milan in Cibola county is reauthorized and appropriated to the department of environment for the purpose of providing a portion of Milan's share toward the cost incurred by Grants in the planning, designing, constructing or purchasing of a regional wastewater treatment facility in Grants in Cibola county.

Chapter 7 Section 49

Section 49. ENCHANTED SKIES PARK--STATE ROAD FUND--CHANGE IN PURPOSE--EXTENDING EXPENDITURE PERIOD--APPROPRIATION.--The balance of an appropriation made from the state road fund pursuant to Subsection B of Section 48 of Chapter 148 of Laws 1994 to design and construct a highway from state road 117 to the observatory site in Cibola county shall not be expended for its original purpose but is appropriated to the state highway and transportation department for infrastructure, construction and equipping an astronomy science center at Enchanted Skies park in Cibola county. The period of time in which this appropriation may be expended shall be extended through fiscal year 2002. Any unexpended or unencumbered balance remaining at the end of fiscal year 2002 shall revert to the state road fund.

Chapter 7 Section 50

Section 50. GRANTS CONVENTION CENTER--LOCAL GOVERNMENT DIVISION--SEVERANCE TAX BONDS--CHANGE IN PURPOSE--APPROPRIATION.--The balance of the proceeds from the sale of severance tax bonds appropriated to the corrections department pursuant to Laws 1995, Chapter 214, Section 3 and reauthorized and appropriated to the local government division of the department of finance and administration pursuant to Paragraph (17) of Subsection A of Section 23 of Chapter 14 of Laws 1996 for construction of a convention center in Grants in Cibola county shall not be expended for that purpose but is reauthorized and appropriated to the local government division for planning and designing a convention center in Grants in Cibola county.

Chapter 7 Section 51

Section 51. SANTA FE STREETS--STATE HIGHWAY AND TRANSPORTATION DEPARTMENT--SEVERANCE TAX BONDS--CHANGE IN PURPOSE--EXTENDING EXPENDITURE PERIOD--APPROPRIATION.--The balance of the proceeds from the sale of severance tax bonds in Subsection Y of Section 8 of Chapter 4 of Laws 1996 (1st S.S.) appropriated to the state highway and transportation department for demolition and reconstruction of Hillside avenue in the city of Santa Fe in Santa Fe county shall not be expended for that purpose but is reauthorized and appropriated for the purpose of designing and constructing an extension of Tano road to Ridgetop road in Santa Fe county. The period of time in which this appropriation may be expended shall be extended through fiscal year 2002. Any unexpended or unencumbered balance

remaining from the proceeds of the bonds at the end of fiscal year 2002 shall revert to the severance tax bonding fund.

Chapter 7 Section 52

Section 52. MONTE VISTA SCHOOL--STATE DEPARTMENT OF PUBLIC EDUCATION--REAPPROPRIATING GENERAL FUND--EXPANDING THE PURPOSE--APPROPRIATION.--The balance of the general fund appropriation made to the state department of public education pursuant to Subsection U of Section 33 of Chapter 222 of Laws 1995 to install grass at the Monte Vista elementary school in the city of Albuquerque in Bernalillo county is appropriated to the state department of public education for its original purpose and shall also be expended for site improvements at Monte Vista elementary school in Albuquerque in Bernalillo county.

Chapter 7 Section 53

Section 53. NENAHNEZAD SENIOR VAN--GENERAL FUND--CHANGE IN AGENCY--CHANGE IN PURPOSE--APPROPRIATION.--The balance of the general fund appropriation made to the state highway and transportation department pursuant to Subsection L of Section 34 of Chapter 4 of Laws 1996 (1st S.S.) for the purpose of planning and designing archaeological, environmental and ethnographic assessments and preliminary design specifications for the Nenahnezad chapter school bus route improvements located in San Juan county shall not be expended for its original purpose but is appropriated to the state agency on aging to purchase a van for and equip and furnish the senior citizen center at Nenahnezad chapter in San Juan county.

Chapter 7 Section 54

Section 54. MESA TECHNICAL COLLEGE--REAPPROPRIATION OF GENERAL FUND--CHANGE IN PURPOSE.--The balance of the general fund appropriation made to Mesa technical college pursuant to Laws 1995, Chapter 222, Section 42 to plan and design a child development facility at the college in Tucumcari in Quay county shall not be expended for its original purpose but is appropriated to the governing board of Mesa technical college for facility improvements at the college to comply with the federal Americans with Disabilities Act of 1990 requirements. Any unexpended or unencumbered balance remaining at the end of fiscal year 2000 shall revert to the general fund.

Chapter 7 Section 55

Section 55. LEA COUNTY MULTIPURPOSE BUILDING--REAPPROPRIATION OF GENERAL FUND--LOCAL GOVERNMENT DIVISION--CHANGE IN PURPOSE.--The balance of the general fund appropriation made to the local government division of the department of finance and administration pursuant to Subsection NNNNN of Section 24 of Chapter 222 of Laws 1995 for the purpose of designing, constructing and equipping an approximately one thousand five hundred square foot building for the

Tatum magistrate court and, if money remains, for completing construction of a building for the Tatum police department located in Lea county shall not be expended for its original purpose but is appropriated to the local government division to plan, design, construct and equip a new building and remodel an existing building for multipurpose use in Lovington in Lea county.

Chapter 7 Section 56

Section 56. LEA COUNTY MULTIPURPOSE BUILDING--REAUTHORIZATION OF SEVERANCE TAX BONDS--LOCAL GOVERNMENT DIVISION--CHANGE IN PURPOSE--APPROPRIATION.--The balance of the proceeds from the severance tax bond appropriation made pursuant to Subsection Z of Section 14 of Chapter 367 of Laws 1993 for the purpose of planning, designing and constructing a state police headquarters in Hobbs in Lea county and reauthorized and appropriated pursuant to Laws 1996, Chapter 14, Section 40; Paragraph (13) of Subsection A of Section 13 of Chapter 14 of Laws 1996; and Paragraph (2) of Subsection A of Section 39 of Chapter 14 of Laws 1996 to the local government division of the department of finance and administration to design, remodel and furnish an existing county building for two magistrate court facilities and a state police facility located in Lea county shall not be expended for those purposes but is reauthorized and appropriated to the local government division to plan, design, construct and equip a new building and remodel an existing building for multipurpose use in Lovington in Lea county.

Chapter 7 Section 57

Section 57. LEA COUNTY MULTIPURPOSE BUILDING--REAPPROPRIATION OF GENERAL FUND--CLARIFYING THE PURPOSE--EXTENDING EXPENDITURE PERIOD.--The balance of the general fund appropriation made pursuant to Subsection SSSSS of Section 24 of Chapter 222 of Laws 1995 to design, construct, furnish and equip a southside community center in Hobbs in Lea county shall be expended to plan, design, construct, and equip a new building and remodel an existing building for multipurpose use in Lovington in Lea county. The period of time in which the appropriation may be expended shall be extended through fiscal year 2002. Any unexpended or unencumbered balance remaining at the end of fiscal year 2002 shall revert to the general fund.

Chapter 7 Section 58

Section 58. GENERAL FUND--SAN JUAN SCHOOL PROJECTS--REAPPROPRIATION-STATE DEPARTMENT OF PUBLIC EDUCATION.--The proceeds from the general fund appropriation to the state department of public education of three hundred fifty thousand dollars (\$350,000) for equipment purchases and capital improvements at the Bloomfield alternative school in San Juan county pursuant to Subsection JJ of Section 23 of Chapter 4 of Laws 1996 (1st S.S.) shall not be expended for that purpose but are appropriated for energy conservation and

renovation projects at Rio Vista middle school and Mesa Alta junior high school in San Juan county.

Chapter 7 Section 59

Section 59. ARTESIA HEALTH CLINIC--REAPPROPRIATION OF GENERAL FUND--LOCAL GOVERNMENT DIVISION--CHANGE IN PURPOSE--EXTENDING EXPENDITURE PERIOD.--The balance of the general fund appropriation made to the local government division of the department of finance and administration pursuant to Subsection JJ of Section 6 of Chapter 147 of Laws 1994 for designing, planning, constructing, equipping and furnishing a community health clinic in Artesia located in Eddy county shall not be expended for its original purpose but is appropriated to the local government division for designing, planning, constructing, equipping or furnishing a community health clinic, including the option of upgrading to a modular building, in Artesia in Eddy county. The period of time in which this appropriation may be expended shall be extended through fiscal year 2001. Any unexpended or unencumbered balance remaining at the end of fiscal year 2001 shall revert to the general fund.

Chapter 7 Section 60

Section 60. RUIDOSO YOUTH CENTER--REAPPROPRIATION OF GENERAL FUND--LOCAL GOVERNMENT DIVISION--CHANGE IN PURPOSE.--The balance of the general fund appropriation made to the department of finance and administration pursuant to Subsection LL of Section 21 of Chapter 4 of Laws 1996 (1st S.S.) for the purpose of planning and designing the youth center and indoor swimming pool in Ruidoso in Lincoln county shall not be expended for its original purpose but is appropriated to the local government division of the department of finance and administration for designing and constructing the youth center complex, including fields, restrooms, a recreation center and an aquatic center, in Ruidoso in Lincoln county.

Chapter 7 Section 61

Section 61. LOVINGTON MUSEUM--REAPPROPRIATION OF GENERAL FUND--LOCAL GOVERNMENT DIVISION--CHANGE IN PURPOSE.--The balance of the appropriation from the general fund to the local government division of the department of finance and administration pursuant to Subsection CCC of Section 24 of Chapter 222 of Laws 1995 for the purpose of site preparation or transportation costs to relocate a historical building at the museum complex in Lovington in Lea county shall not be expended for its original purpose but is appropriated to the local government division of the department of finance and administration for the purpose of site preparation, transportation and restoration costs to relocate a historical building at the museum complex in Lovington in Lea county.

Chapter 7 Section 62

Section 62. TORRANCE COUNTY FIRE STATIONS--GENERAL FUND--LOCAL GOVERNMENT DIVISION--CHANGE IN PURPOSE--APPROPRIATION.--The balance of the general fund appropriation made pursuant to Subsection MMMM of Section 24 of Chapter 222 of Laws 1995 to the local government division of the department of finance and administration to design, build and equip a new volunteer fire department substation at Melody ranch near Indian Hills in Torrance county shall not be expended for its original purpose but is appropriated to the local government division to design, build and equip new volunteer fire department substations within Torrance county.

Chapter 7 Section 63

Section 63. TORRANCE COUNTY SHERIFF--GENERAL FUND--LOCAL GOVERNMENT DIVISION--CHANGE IN PURPOSE--APPROPRIATION.--The balance of the general fund appropriation made to the local government division of the department of finance and administration pursuant to Subsection J of Section 21 of Chapter 4 of Laws 1996 (1st S.S.) for the purpose of acquiring new vehicles for the Torrance county sheriff's department shall not be expended for its original purpose but is appropriated to the local government division for the purpose of acquiring new vehicles and repairing existing vehicles for the Torrance county sheriff's department.

Chapter 7 Section 64

Section 64. CHAMISAL FIRE STATION--LOCAL GOVERNMENT DIVISION--SEVERANCE TAX BONDS--REAPPROPRIATION OF PROCEEDS.--Nineteen thousand five hundred thirty-four dollars (\$19,534) remaining of the proceeds of the sale of severance tax bonds authorized in Paragraph (30) of Subsection B of Section 49 of Chapter 148 of Laws 1994 to acquire land for a community fire station in Chamisal in Taos county is reappropriated to the local government division of the department of finance and administration to plan, design, construct and equip the Chamisal fire substation.

Chapter 7 Section 65

Section 65. TESUQUE ELEMENTARY SCHOOL--OFFICE OF INDIAN AFFAIRS--SEVERANCE TAX BONDS--CHANGE IN PURPOSE--EXTENSION OF TIME.--The proceeds from the issuance of severance tax bonds pursuant to Subsection M of Section 16 of Chapter 367 of Laws 1993 for renovating and improving Te Tsu Geh Oweenge elementary school in Tesuque pueblo shall not be expended for its original purpose, but is reauthorized and appropriated to the office of Indian affairs to plan and design a new school in Tesuque pueblo in Santa Fe county. The appropriation may be expended through fiscal year 2000.

Chapter 7 Section 66

Section 66. PROJECT SCOPE--EXPENDITURES.--If an appropriation for a project authorized in this act is not sufficient to complete all the purposes specified, the

appropriation may be expended for any portion of the purposes specified in the appropriation. Expenditures shall not be made for purposes other than those specified in the appropriation.

Chapter 7 Section 67

Section 67. ART IN PUBLIC PLACES.--Pursuant to Section 13-4A-4 NMSA 1978 and where applicable, the appropriations authorized in this act include one percent for the art in public places fund.

Chapter 7 Section 68

Section 68. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

HOUSE BILL 149, AS AMENDED

WITH EMERGENCY CLAUSE

SIGNED FEBRUARY 17, 1998

CHAPTER 8

RELATING TO PUBLIC ASSISTANCE; ENACTING THE NEW MEXICO WORKS 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:

Chapter 8 Section 1

Section 1. SHORT TITLE.--Sections 1 through 20 of this act may be cited as the "New Mexico Works Act".

Chapter 8 Section 2

Section 2. LEGISLATIVE FINDINGS--PURPOSE OF ACT.--

A. The legislature finds that:

(1) the poverty rate in New Mexico is the highest in the nation and has exceeded more than twenty percent of the population for most of the past twenty-five years;

(2) having a job does not provide a guarantee of avoiding poverty as demonstrated by the high percentage of persons in the civilian labor force over sixteen years of age with reported incomes in 1989 that were below the poverty level; and

(3) the diversity of the state, with its residents living in rural and metropolitan areas, reservations and border areas, requires the state to adjust state policies governing economic and social programs for the poor and the working poor to reflect the particular needs of particular locales, not just to create a generic one-size-fits-all program.

B. The legislature finds that education and training are essential to long-term career development.

C. The legislature finds that employment improves the quality of life for parents and children by increasing family income, developing the discipline necessary for self-sufficiency and improving self-esteem, and thus, it is in the public interest to fundamentally alter the state's financial assistance program for needy families with children so both cash and services, including education, job training, child care and transportation provided in accordance with the New Mexico Works Act assist recipients to obtain and keep employment that is sufficient to sustain their families, ensure the dignity of those who receive assistance and strengthen families and families' support for their children.

D. The legislature finds that although most New Mexicans want to work, and in fact New Mexico has been cited as a "like to work" state, not all families can move quickly into the labor force and that regular assessments and key intervention and follow-up can help persons connect to the work force to obtain meaningful work and achieve self-sufficiency.

E. The legislature further finds that the federal act envisions that state and tribal governments will work together to serve participants residing in Indian country, and it is important that the state and the tribal governments work, government to government, to address the issues of availability and delivery of service to the twenty-two tribes and pueblos.

F. The purpose of the New Mexico Works Act is to increase family income through family employment and child support and, by viewing financial assistance as a support service to enable and assist parents to participate in employment rather than as an entitlement, to enable New Mexico to change the culture of the welfare office, both on the part of the department and on the part of the recipients, so that all parties can focus on addressing the barriers to participation in work activities and putting New Mexicans to work.

Chapter 8 Section 3

Section 3. DEFINITIONS.--As used in the New Mexico Works Act:

A. "benefit group" means a group of people that includes at least one dependent child living with a parent, legal guardian or relative within the fifth degree of consanguinity or a pregnant woman;

B. "cash assistance" means cash payments funded by the temporary assistance for needy families block grant pursuant to the federal act and state funds;

C. "department" means the human services department;

D. "dependent child" means a natural or adopted child or ward who is eighteen years of age or younger;

E. "director" means the director of the income support division of the department;

F. "earned income" includes cash or payment in kind that is received as wages from employment or payment in lieu of wages, earnings from self-employment or earnings acquired from the direct provision of services, goods or property, production of goods, management of property or supervision of services and all other income not classified as unearned income;

G. "federal act" means the federal Social Security Act and rules promulgated pursuant to the Social Security Act;

H. "federal poverty guidelines" means the level of income defining poverty by family size published annually in the federal register by the United States department of health and human services;

I. "household group" means a group, including the benefit group, of people who live together in a household regardless of whether they are related or have a legal support responsibility for a member of the benefit group, but does not include:

(1) landlords;

(2) tenants; or

(3) members of a registered nonprofit organization or church who provide shelter to a benefit group through a program sponsored by the nonprofit organization or church;

J. "immigrant" means alien as defined in the federal act;

K. "landlord" means the owner of an estate in land or a rental property who has leased it to another person called the tenant;

L. "parent" means natural parent, adoptive parent, stepparent or legal guardian;

M. "participant" means a recipient of cash assistance or services or a member of a benefit group who has reached the age of majority;

N. "person" means an individual;

O. "secretary" means the secretary of the department;

P. "services" includes child care assistance; payment for employment-related transportation costs; job search assistance; employment counseling; employment, education and job training placement; one-time payment for necessary employment-related costs; case management or other activities whose purpose is to assist transition into employment;

Q. "tenant" means a person who pays rent for the use and occupancy of real property owned by a landlord; and

R. "unearned income" includes old age, survivors and disability insurance; railroad retirement benefits; veterans' administration compensation or pension; military retirement; pensions, annuities and retirement benefits; lodge or fraternal benefits; shared shelter payments; settlement payments; individual Indian money; and similar kinds of income.

Chapter 8 Section 4

Section 4. APPLICATION--RESOURCE PLANNING SESSION--INDIVIDUAL RESPONSIBILITY PLANS-- PARTICIPATION AGREEMENT--REVIEW PERIODS.--

A. Application for cash assistance or services shall be made to the department's county office in the county or district in which an applicant resides. The application shall be in writing or reduced to writing in the manner and on the form prescribed by the department. The application shall be made under oath by an applicant having custody of a dependent child and shall contain a statement of the age of the child, residence, a complete statement of the amount of property in which the applicant has an interest, a statement of all income that he and other household group members have at the time of the filing of the application and other information required by the department.

B. Application for expedited food stamps shall be made to the department's county office in the county or district in which an applicant resides. The department shall process the application for expedited food stamps within twenty-four hours after the application is made.

C. At the time of application for cash assistance and services, an applicant shall identify household group members who are to be counted in the benefit group. Once an application is approved, the participant shall advise the department if there are any changes in the membership of the household group or benefit group.

D. No later than forty-five days after an application is filed, the department shall provide to an applicant a resource planning session to ascertain his immediate needs, assess financial and nonfinancial options, make referrals and act on the application.

E. No later than five days after an application is approved, the department shall provide reimbursement for child care.

F. Whenever the department receives an application for assistance, a verification and record of the applicant's circumstances shall promptly be made to ascertain the facts supporting the application and to obtain other information required by the department. The verification may include a visit to the home of the applicant, as long as the department gives adequate prior notice of the visit to the applicant.

G. Within fifteen days after an application is approved, the department shall assess the education, skills, prior work experience and employability of the participant.

H. After the initial assessment of skills, the department shall work with the participant to develop an individual responsibility plan that:

(1) sets forth an employment goal for the participant and a plan for moving the participant into employment;

(2) sets forth obligations of the participant that may include a requirement that the participant attend school, maintain certain grades and attendance, keep his school-age children in school, immunize his children or engage in other activities that will help the participant become and remain employed;

(3) is designed to the greatest extent possible to move the participant into whatever employment the participant is capable of handling and to provide additional services as necessary to increase the responsibility and amount of work the participant will handle over time;

(4) describes the services the department may provide so that the participant may obtain and keep employment; and

(5) may require the participant to undergo appropriate substance abuse treatment.

I. The participant and a representative of the department shall sign the participant's individual responsibility plan.

J. The participant shall also sign a participation agreement that designates the number of hours that he must participate in work activities to meet participation standards.

K. The department shall review the current financial eligibility of a benefit group when the department reviews food stamp eligibility.

L. The department shall meet semi-annually with a participant to review and revise his individual responsibility plan.

M. The department shall develop a complaint procedure to address issues pertinent to the delivery of services and other issues relating to a participant's individual responsibility plan.

Chapter 8 Section 5

Section 5. WORK REQUIREMENTS--WORK PARTICIPATION RATES.--

A. The following qualify as work activities:

(1) unsubsidized employment;

(2) subsidized private sector employment;

(3) subsidized public sector employment;

(4) work experience, including work associated with the refurbishing of publicly assisted housing if sufficient private sector employment is not available;

(5) on-the-job training;

(6) job search and job readiness assistance, as long as the department complies with the federal act;

(7) community service programs;

(8) vocational education, except that vocational education shall not qualify as a work activity for longer than is provided by the federal act;

(9) job skills training activities directly related to employment;

(10) education directly related to employment for a participant who has not received a high school diploma or a certificate of high school equivalency;

(11) satisfactory attendance at a secondary school or course of study leading to a certificate of general equivalency in the case of a participant who has not completed secondary school or received such a certificate; and

(12) the provision of child care services to a participant who is participating in a community service program.

B. The department shall recognize community service programs and job training programs that are operated by an Indian nation, tribe or pueblo.

C. The department may not require a participant to work more than four hours per week over the work requirement rate set pursuant to the federal act.

D. The department shall require a parent, caretaker or other adult who is a member of a benefit group to engage in a work activity once the department determines he is ready to engage in a work activity or once he has received cash assistance or services for twenty-four months or as otherwise required by the federal act, whether or not consecutive, whichever is earlier.

E. The following qualify as temporary alternative work activities that the department may establish for no longer than twelve weeks except as otherwise provided:

(1) participating in parenting classes, money management classes or life skills training;

(2) participating in a certified alcohol or drug addiction program;

(3) in the case of a homeless benefit group, finding a home;

(4) in the case of a participant who is a victim of domestic violence residing in a domestic violence shelter or receiving counseling or treatment or participating in criminal justice activities directed at prosecuting the domestic violence perpetrator, for no longer than twenty-four weeks; and

(5) in the case of a participant who does not speak English, participating in a course in English as a second language.

F. Subject to the availability of funds, the department in cooperation with the labor department, New Mexico office of Indian affairs and other appropriate state agencies may develop projects to provide for the placement of participants in work activities, including the following:

(1) participating in unpaid internships with private and government entities;

(2) refurbishing publicly assisted housing;

(3) volunteering at a head start program or a school;

(4) weatherizing low-income housing; and

(5) restoring public sites and buildings, including monuments, parks, fire stations, police buildings, jails, libraries, museums, auditoriums, convention halls, hospitals, buildings for administrative offices and city halls.

G. If a participant is engaged in full-time post-secondary education studies or an activity set out in Paragraphs (9) through (11) of Subsection A of this section, the participant shall engage in another work activity at the same time. Additionally, for two-parent

families that receive federally funded child care assistance, the participant's spouse shall engage in a work activity set out in Paragraphs (1) through (5) or (7) of Subsection A of this section unless the participant suffers from a temporary or complete disability that bars him from engaging in a work activity or he is barred from engaging in a work activity because he provides sole care for a disabled person.

H. A participant engaged in post-secondary education studies shall make reasonable efforts to obtain a loan, scholarship, grant or other assistance to pay for costs and tuition and the department shall disregard those amounts in the eligibility determination.

I. For as long as the described conditions exist, the following are exempt from the work requirement:

(1) a participant barred from engaging in a work activity because he is temporarily or completely disabled;

(2) a participant over age sixty;

(3) a participant barred from engaging in a work activity because he provides the sole care for a disabled person;

(4) a single custodial parent caring for a child less than twelve months old for a lifetime total of twelve months;

(5) a single custodial parent caring for a child under six years of age if the parent is unable to obtain child care for one or more of the following reasons:

(a) unavailability of appropriate child care within a reasonable distance from the parent's home or work as defined by the children, youth and families department;

(b) unavailability or unsuitability of informal child care by a relative under other arrangements as defined by the children, youth and families department; or

(c) unavailability of appropriate and affordable formal child care arrangements as defined by the children, youth and families department;

(6) a pregnant woman during her last trimester of pregnancy;

(7) a participant prevented from working by a temporary emergency or a situation that precludes work participation for thirty days or less;

(8) a participant who demonstrates by reliable medical, psychological or mental reports, court orders or police reports that family violence or threat of family violence effectively bars the participant from employment; and

(9) a participant who demonstrates good cause of the need for the exemption.

Chapter 8 Section 6

Section 6. DURATIONAL LIMITS.--

A. Pursuant to the federal act, on or after July 1, 1997 a participant may receive federally funded cash assistance and services for up to sixty months.

B. During a participant's fourth, sixth and eighth semi-annual reviews, the department shall examine the participant's progress to determine if the participant has successfully completed an educational or training program or increased the number of hours he is working as required by the federal act. The department may refer the participant to alternative work activities or provide additional services to address possible barriers to employment facing the participant.

C. Up to twenty percent of the population of participants may be exempted from the sixty-month durational limit set out in Subsection A of this section because of hardship or because those participants are battered or subject to extreme cruelty.

D. For the purposes of this section, a participant has been battered or subjected to extreme cruelty if he can demonstrate by reliable medical, psychological or mental reports, court orders or police reports that he has been subjected to and currently is affected by:

(1) physical acts that result in physical injury;

(2) sexual abuse;

(3) being forced to engage in nonconsensual sexual acts or activities;

(4) threats or attempts at physical or sexual abuse;

(5) mental abuse; or

(6) neglect or deprivation of medical care except when the deprivation is based by mutual consent on religious grounds.

E. For the purposes of this section, a hardship exception applies to a person who demonstrates through reliable medical, psychological or mental reports, court orders or police reports that he is a person:

(1) who is barred from engaging in a work activity because he is temporarily or completely disabled;

(2) who is the sole provider of home care to an ill or disabled family member; or

(3) whose ability to be gainfully employed is affected by domestic violence.

F. Pursuant to the federal act the department shall not count a month of receipt of cash assistance or services toward the sixty-month durational limit if during the time of receipt the participant:

(1) was a minor and was not the head of a household or married to the head of a household; or

(2) lived in Indian country, as defined in the federal act, if the most reliable data available with respect to the month indicate that at least fifty percent of the adults living in Indian country or in the village were not employed.

Chapter 8 Section 7

Section 7. FINANCIAL STANDARD OF NEED.--

A. The secretary shall adopt a financial standard of need based upon the availability of federal and state funds and based upon appropriations by the legislature of the available federal temporary assistance for needy families grant made pursuant to the federal act in the following categories:

(1) cash assistance;

(2) child care services;

(3) other services; and

(4) administrative costs.

The legislature shall determine the actual percentage of each category to be used annually of the federal temporary assistance for needy families grant made pursuant to the federal act.

B. The cash benefit level for a benefit group not living in government-subsidized housing or receiving government-subsidized housing payments shall be increased by one hundred dollars (\$100) per month.

C. The following income sources are exempt from the gross income test, the net income test and the cash payment calculation:

(1) medicaid;

(2) food stamps;

(3) government-subsidized foster care and adoption payments;

(4) supplemental security income;

- (5) government-subsidized housing or housing payments;
- (6) federally excluded income;
- (7) educational payments made directly to an educational institution;
- (8) government-subsidized child care;
- (9) earned and unearned income that belongs to a person eighteen years of age or younger who is not the head of household;
- (10) for the first two years of receiving cash assistance or services, if a participant works over the work requirement rate set by the department pursuant to the New Mexico Works Act, one hundred percent of the income earned by the participant beyond that rate;
- (11) for the first two years of receiving cash assistance or services, for a two-parent benefit group in which one parent works over thirty-five hours per week and the other works over twenty-four hours per week, one hundred percent of income earned by each participant beyond the work requirement rate set by the department;
- (12) unearned income that belongs to the household group but not to the benefit group; and
- (13) other income sources as determined by the department.

D. Earned income over one hundred thirty percent of the federal poverty guidelines that belongs to the household group but not to the benefit group is countable income. The department shall count the entire household group to determine family size when applying the federal poverty guidelines.

E. The department shall count the entire household group to determine family size when applying the financial standard of need. For a benefit group to be eligible to participate:

- (1) gross countable earned income that belongs to the household group but not to the benefit group must not exceed one hundred eighty-five percent of the financial standard of need; and
- (2) net countable earned income that belongs to the household group must not equal or exceed the financial standard of need after applying the disregards set out in Paragraphs (1) through (5) of Subsection F of this section.

F. Subject to the availability of state and federal funds, the department shall determine the cash payment of the benefit group by applying the following disregards to the benefit group's earned gross income:

(1) one hundred fifty dollars (\$150) of monthly earned income and one-half of the remainder, or for a two-parent family, two hundred fifty dollars (\$250) of monthly earned income and one-half of the remainder for each parent;

(2) monthly payments made for child care at a maximum of two hundred dollars (\$200) for a child under two years of age and at a maximum of one hundred seventy-five dollars (\$175) for a child two years of age or older;

(3) costs of self-employment income;

(4) business expenses; and

(5) fifty dollars (\$50.00) of collected child support passed through to the participant by the department's child support enforcement program; and then subtracting that amount from the financial standard of need.

G. The department may recover overpayments of cash assistance on a monthly basis not to exceed fifteen percent of the financial standard of need applicable to the benefit group.

Chapter 8 Section 8

Section 8. RESOURCES.--

A. Liquid and nonliquid resources owned by the household group but not by the benefit group shall not be counted in the eligibility determination.

B. A benefit group may at a maximum own the following resources:

(1) two thousand dollars (\$2,000) in nonliquid resources;

(2) one thousand five hundred dollars (\$1,500) in liquid resources;

(3) the value of the principal residence of the participant;

(4) the value of burial plots and funeral contracts for family members;

(5) individual development accounts;

(6) the value of work-related equipment up to one thousand dollars (\$1,000);

(7) in areas without public transportation, the value of one motor vehicle for each participant engaged in a work activity; and

(8) in areas with public transportation, the value of one motor vehicle.

Chapter 8 Section 9

Section 9. MANDATORY SCHOOL ATTENDANCE.--If a minor member of a benefit group has three unexcused absences from school during a grading period, his parent shall notify the department of the absences within fourteen days. The department may impose a sanction on the benefit group that reduces the cash assistance by the amount the minor member would otherwise receive only after the department refers the minor member to the appropriate state agency, counselor or community program for appropriate resolution of the attendance problem. The department shall not consider participation in cultural and religious activities an unexcused absence, as long as the student has parental consent.

Chapter 8 Section 10

Section 10. INDIVIDUAL DEVELOPMENT ACCOUNTS.--

- A. A participant may establish an individual development account.
- B. A participant or a person on the participant's behalf may contribute to an individual development account; provided the participant first establishes a savings account not to exceed one thousand five hundred dollars (\$1,500).
- C. An individual development account shall be organized as a trust. The department shall by rule establish the form, substance and procedure by which the trust shall be established.
- D. Individual development accounts shall be used only for:
 - (1) post-secondary education for dependents;
 - (2) purchase of a principal residence for a first-time homebuyer; or
 - (3) business capitalization.
- E. Upon establishing an individual development account, the participant shall declare the purposes for the account.
- F. If the declared purpose of an individual development account is for the purchase of a principal residence for a first-time homebuyer, the amount used for that purpose shall be limited to one thousand five hundred dollars (\$1,500).
- G. Money in an individual development account shall only be disbursed to an educational institution, to a person due money for a principal residence or to a business capitalization account.

H. A participant shall contribute only earned income to an individual development account.

Chapter 8 Section 11

Section 11. INELIGIBILITY.--

A. The following are ineligible to be members of a benefit group:

- (1) an inmate or patient of a nonmedical institution;
- (2) a person who, in the two years preceding application, assigned or transferred real property unless he:
 - (a) received or receives a reasonable return;
 - (b) attempted to or attempts to receive a reasonable return; or
 - (c) attempted to or attempts to regain title to the real property;
- (3) a minor unmarried parent who has not successfully completed a high school education and who has a child at least twelve weeks of age in his care unless the minor unmarried parent:
 - (a) participates in educational activities directed toward the attainment of a high school diploma or its equivalent; or
 - (b) participates in an alternative educational or training program that has been approved by the department;
- (4) a minor unmarried parent who is not residing in a place of residence maintained by his parent, legal guardian or other adult relative unless the department:
 - (a) refers or locates the minor unmarried parent to a second-chance home, maternity home or other appropriate adult-supervised supportive living arrangement, taking into account the needs and concerns of the minor unmarried parent;
 - (b) determines that the minor unmarried parent has no parent, legal guardian or other appropriate adult relative who is living or whose whereabouts are known;
 - (c) determines that a minor unmarried parent is not allowed to live in the home of a living parent, legal guardian or other appropriate adult relative;
 - (d) determines that the minor unmarried parent is or has been subjected to serious physical or emotional harm, sexual abuse or exploitation in the home of the parent, legal guardian or other appropriate adult relative;

(e) finds that substantial evidence exists of an act or a failure to act that presents an imminent or serious harm to the minor unmarried parent and the child of the minor unmarried parent if they live in the same residence with the parent, legal guardian or other appropriate adult relative; or

(f) determines that it is in the best interest of the unmarried minor parent to waive this requirement;

(5) a minor child who has been absent or is expected to be absent from the home for forty-five days;

(6) a person who does not provide a social security number or who refuses to apply for one;

(7) a person who is not a resident of New Mexico;

(8) a person who fraudulently misrepresented residency to receive assistance in two or more states simultaneously except that such person shall be ineligible only for ten years;

(9) for five years following the date of release from any federal or state prison or county jail or following the date of completion of the terms of probation, a person convicted of a drug-related felony on or after August 22, 1996; however, the cash assistance of the other members of his assistance group shall be reduced only by the amount to which he otherwise would be entitled;

(10) a person who is a fleeing felon or a probation and parole violator;

(11) a person concurrently receiving supplemental security income, tribal temporary assistance for needy families, bureau of Indian affairs general assistance or adoption subsidies; and

(12) unless he demonstrates good cause, a parent who does not assist the department in establishing paternity or obtaining child support or who does not assign support rights to New Mexico as required pursuant to the federal act.

B. At the time of application, a participant shall state in writing whether he or another member of the benefit group has been convicted on or after August 22, 1996 of a drug-related felony.

C. A person convicted of a drug-related felony may be eligible to receive services if the department in consultation with the corrections department determines that services would enhance his rehabilitation and employment success.

D. For the purposes of this section, "second-chance home" means an entity that provides a supportive and supervised living arrangement to a minor unmarried parent

where the minor unmarried parent is required to learn parenting skills including child development, family budgeting, health and nutrition and other skills to promote long-term economic independence and the well-being of children.

Chapter 8 Section 12

Section 12. SERVICES.--Subject to the availability of federal and state funds, a group of people that includes at least one dependent child living with a parent, legal guardian or relative within the fifth degree of consanguinity or a pregnant woman who is not receiving cash assistance but has an income less than one hundred percent of the federal poverty guidelines may be eligible to receive services.

Chapter 8 Section 13

Section 13. FAIR HEARING--REVIEW AND APPEAL.--

A. A participant may request a hearing if:

- (1) an application is not acted on within a reasonable time after the filing of the application;
- (2) an application is denied in whole or in part; or
- (3) the cash assistance or services are modified, terminated or not provided.

B. The department shall notify the participant of his rights under this section.

C. The department shall by rule establish procedures for the filing of a request for a hearing and the time limits within which a request may be filed; provided, however, that the department may grant reasonable extensions of the time limits. If the request is filed in a timely manner, cash assistance and services shall be provided until the appeal is resolved. If the request is not filed within the specified time for appeal or within whatever extension the department may grant, the department action shall be final. Upon receipt of a timely request, the department shall give the participant reasonable notice of an opportunity for a fair hearing in accordance with the rules of the department.

D. The hearing shall be conducted by a hearing officer designated by the director. The powers of the hearing officer shall include administering oaths or affirmations to witnesses called to testify, taking testimony, examining witnesses, admitting or excluding evidence and reopening a hearing to receive additional evidence. The technical rules of evidence and the rules of civil procedure shall not apply. The hearing shall be conducted so that the contentions or defenses of each party to the hearing are amply and fairly presented. Either party may be represented by counsel or other representative of his designation, and he or his representative may conduct cross-examination. Oral or documentary evidence may be received but the hearing officer may exclude irrelevant, immaterial or unduly repetitious evidence.

E. The director shall review the record of the proceedings and shall make his decision on the record. The participant or his representative shall be notified in writing of the director's decision and the reasons for the decision. The written notice shall inform the participant of his right to judicial review. The department shall be responsible for ensuring that the decision is enforced.

F. Within thirty days after receiving written notice of the decision of the director, a participant may file a notice of appeal with the court of appeals together with a copy of the notice of the decision. The clerk of the court shall transmit a copy of the notice of appeal to the director.

G. The filing of a notice of appeal shall not stay the enforcement of the decision of the director, but the department may grant, or the court upon motion and good cause shown may order, a stay.

H. Within twenty days after receipt of the notice of appeal, the department shall file with the clerk of the court three copies and furnish to the appellant one copy of the written transcript of the record of the proceedings.

I. If, before the date set for argument, application is made to the court for leave to present additional evidence and the court is satisfied that the additional evidence is material and there was good reason for not presenting it in the hearing, the court may order the additional evidence taken before the department. If the application to present additional evidence is filed by the department and is approved by the court, the department's decision that is being appealed shall be stayed. The director may modify his findings and decision by reason of the additional evidence and shall file with the court a transcript of the additional evidence together with any modified or new findings or decision.

J. The review of the court shall be made upon the decision and the record of the proceedings.

K. The court shall set aside a decision and order of the director only if found to be:

- (1) arbitrary, capricious or an abuse of discretion;
- (2) not supported by substantial evidence in the record as a whole; or
- (3) otherwise not in accordance with law.

L. The department shall not authorize or allow expenditures for the affected programs in excess of the amounts previously appropriated by the legislature.

Chapter 8 Section 14

Section 14. SANCTIONS.--

A. The department shall sanction a member of the benefit group for noncompliance with work requirements and child support requirements.

B. The sanction shall be applied at the following levels:

(1) twenty-five percent reduction of cash assistance for the first occurrence of noncompliance;

(2) fifty percent reduction of cash assistance for the second occurrence of noncompliance; and

(3) termination of cash assistance and ineligibility to reapply for six months for the third occurrence of noncompliance.

C. Prior to imposing the first sanction, if the department determines that a participant is not complying with the work participation requirement or child support requirements, the participant shall be required to enter into a conciliation process to address the noncompliance and to identify good cause for noncompliance. The conciliation process shall occur only once prior to the imposition of the sanction. If the participant fails to participate in the conciliation process within ten days of receiving notice, the sanction shall be imposed.

D. Reestablishing compliance will allow full payment to resume.

E. Within ten days of a failure to comply with a requirement, a notice of action shall be mailed to the participant. A participant is in sanction status when the notice of action is mailed. The sanction is imposed on the first day of the month following the month in which the notice of action is mailed to the participant.

F. Noncompliance with reporting requirements may subject a participant to other sanctions.

Chapter 8 Section 15

Section 15. MEDICAID ELIGIBILITY.--The following are eligible for medicaid:

A. a benefit group that meets the requirements of New Mexico's aid to families with dependent children as they existed on July 16, 1996;

B. a participant who is in transition to self-sufficiency due to employment or child support;

C. a pregnant woman who meets the income and resource requirements for New Mexico's aid to families with dependent children as they existed on July 16, 1996;

D. a member of a benefit group who is eighteen years of age or younger if the benefit group's income is below one hundred eighty-five percent of the federal poverty guidelines;

E. a pregnant woman whose income is below one hundred eighty-five percent of the federal poverty guidelines;

F. participants receiving federal supplemental security income;

G. an aged, blind or disabled person in an institution who meets all the supplemental security income standards except for income;

H. a person who meets all standards for institutional care but is cared for at home and meets eligibility standards for medicaid;

I. a qualified medicare beneficiary, qualified disabled working person or specified low-income medicare beneficiary; and

J. a foster child in the custody of the state or of an Indian pueblo, tribe or nation who meets eligibility standards for medicare.

Chapter 8 Section 16

Section 16. IMMIGRANT ELIGIBILITY.--An immigrant may be eligible to receive cash assistance and services if the immigrant is:

A. from one of the classes of immigrants defined in the federal act who entered the United States prior to August 22, 1996; or

B. a qualified immigrant as defined in the federal act who entered the United States after August 22, 1996.

Chapter 8 Section 17

Section 17. RECORDS--CONFIDENTIALITY.--

A. Pursuant to the federal act, the department shall establish and enforce rules governing the custody, use and preservation of the records, papers, files and communications to restrict the use or disclosure of information contained in those documents concerning participants.

B. It is unlawful for a person, body, association, firm, corporation or other agency outside the department to solicit, disclose, receive or make use of or authorize, knowingly permit, participate in or acquiesce in the use of a name or list of names of participants for commercial or political purposes.

C. A person, body, association, firm, corporation or other agency that willfully or knowingly violates a provision of this section is guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than twenty-five dollars (\$25.00) nor more than one thousand dollars (\$1,000) or by imprisonment in the county jail for a definite term not to exceed sixty days or both.

Chapter 8 Section 18

Section 18. CERTIFICATION.--The governor shall make the certifications mandated by the federal act.

Chapter 8 Section 19

Section 19. PILOT PROJECT--SUBSIDIZED EMPLOYMENT.--

A. The department may apply for a food stamp waiver from the United States department of agriculture to operate a wage subsidy pilot program.

B. Upon securing a food stamp waiver, the department shall develop a wage subsidy pilot program to run from the effective date of the New Mexico Works Act until July 1, 2001. The department shall select a class A county, a class B county with a valuation under three hundred million dollars (\$300,000,000), a class B county with a valuation over three hundred million dollars (\$300,000,000), a class C county and a first class county as sites for the wage subsidy pilot program.

C. The wage subsidy pilot program shall include the following requirements:

(1) participating employers shall hire participants who receive cash assistance and food stamps for subsidized job slots that are full time and that offer a reasonable possibility of unsubsidized employment after the subsidy period;

(2) participating employers shall receive a subsidy for up to six months. The department may grant an extension of three months to employers operating in areas identified as having a higher unemployment rate than the state average, as defined by the department, if the extension increases the likelihood of ongoing unsubsidized employment for the subsidized employee;

(3) subsidized employees shall not be required to work in excess of forty hours per week;

(4) subsidized employees shall be paid a wage that is substantially like the wage paid for similar jobs with the employer with appropriate adjustments for experience and training but not less than the federal minimum hourly wage;

(5) subsidized employment does not impair an existing contract or collective bargaining agreement;

(6) subsidized employment does not displace currently employed workers or fill positions that are vacant due to a layoff;

(7) wage subsidy employers shall:

(a) maintain health, safety and working conditions at or above levels generally acceptable in the industry and not less than those of comparable jobs offered by the employer;

(b) provide on-the-job training necessary for subsidized employees to perform their duties;

(c) sign an agreement for each placement outlining the specific job offered to a subsidized employee and agree to abide by all of the requirements of the program;

(d) provide workers' compensation coverage for each subsidized employee; and

(e) provide the subsidized employee with benefits equal to those for new employees or as required by state and federal law, whichever is greater;

(8) the department shall make a determination of whether a participant is eligible to be a subsidized employee that includes the following criteria:

(a) sufficient work experience to obtain unsubsidized employment;

(b) completion of an employment preparation program; or

(c) benefit from this employment strategy by the department;

(9) a disregard of income earned by the subsidized employee in the subsidized job shall be applied in the eligibility determination for services;

(10) the department shall suspend regular payments of cash assistance and food stamps to the benefit group for the calendar month in which an employer makes the first subsidized wage payment to a subsidized employee who is otherwise eligible for cash assistance and food stamps;

(11) the department shall pay employers each month, from cash assistance and food stamps, the lesser of a fixed subsidy amount determined by the department or the gross wages paid to the subsidized employee;

(12) a subsidized employee shall be eligible for supplemental payments if the net monthly full-time wage paid to the subsidized employee is less than the combined monthly total of the cash assistance and food stamps the participant is eligible to receive. The department shall authorize issuance of a supplemental cash payment to

compensate for the deficit. To determine if a deficit exists, the department shall adopt an equivalency scale that is adjustable to household size and other factors; and

(13) the department shall determine monthly and pay in advance supplemental payments to eligible subsidized employees. In calculating the payment, the department shall assume that the subsidized employee will work forty hours per week during the month unless an employer provides information that the number of hours to be worked by the subsidized employee will be reduced.

D. Prior to the forty-fifth legislature, first session, the department shall report the results of the wage subsidy pilot program to the appropriate interim committee.

E. For the purposes of this section "benefits" includes health care coverage, paid sick leave and holiday and vacation pay.

F. For the purposes of this section "subsidized employee" means a participant engaged in a subsidized employment activity.

G. For the purposes of this section "net monthly full-time wage" means a subsidized employees's wages after the required payroll deductions.

Chapter 8 Section 20

Section 20. CHILD SUPPORT--TRUSTS.--

A. The department shall take one-third of New Mexico's share of collected child support for each child and deposit the money into a trust established in that child's name.

B. The department shall by rule establish the form, substance and procedure by which the trust shall be established.

Chapter 8 Section 21

Section 21. WELFARE REFORM OVERSIGHT COMMITTEE CREATED--TERMINATION.--The joint interim legislative "welfare reform oversight committee" is created. The committee shall function from the date of its appointment until December 15 prior to the first session of the forty-sixth legislature.

Chapter 8 Section 22

Section 22. MEMBERSHIP--APPOINTMENT--VACANCIES.--

A. The welfare reform oversight committee shall be composed of twelve members. The New Mexico legislative council shall appoint six members from the house of representatives and six members from the senate. At the time of making the

appointment, the legislative council 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 New Mexico 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 that case need not readjust party representation.

C. An action shall not be taken by the committee if a majority of the total membership from either house on the committee rejects that action.

Chapter 8 Section 23

Section 23. DUTIES.--

A. After its appointment, the welfare reform oversight committee shall hold one organizational meeting to develop a work plan and budget for the ensuing interim. The work plan and budget shall be submitted to the New Mexico legislative council for approval. Upon approval of the work plan and budget by the legislative council, the committee shall:

- (1) examine the statutes, constitutional provisions and rules governing welfare reform in New Mexico;
- (2) monitor and oversee the implementation of the New Mexico Works Act;
- (3) review issues related to welfare reform, including job training programs and related contracts; cash assistance; child care, transportation and other job-related services; and other issues that arise because of the devolution of the federal welfare programs to the states; and
- (4) make recommendations relating to the adoption of rules and legislation, if any are found to be necessary.

B. The committee shall regularly receive testimony from the secretaries of human services; labor; children, youth and families; and health and the superintendent of public instruction on issues arising from the implementation of the New Mexico Works Act and shall review proposed rules, schedules and formulae before adoption.

Chapter 8 Section 24

Section 24. SUBCOMMITTEES.--Subcommittees shall be created only by majority vote of all members appointed to the welfare reform oversight committee and with the prior approval of the New Mexico 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. Any meeting or expenditure of a subcommittee shall be approved by the full committee in advance of that meeting or expenditure, and the approval shall be shown in the minutes of the committee.

Chapter 8 Section 25

Section 25. REPORTS.--The committee shall make reports of its findings and recommendations for the consideration of the first and second sessions of the forty-fourth legislature and the first and second sessions of the forty-fifth legislature. The reports and suggested legislation shall be made available to the New Mexico legislative council on or before December 15 preceding each session.

Chapter 8 Section 26

Section 26. STAFF.--The staff for the welfare reform oversight committee shall be provided primarily by the legislative council service but the legislative council service may request the assistance of the legislative finance committee staff at the direction of the welfare reform oversight committee.

Chapter 8 Section 27

Section 27. Section 27-2-7 NMSA 1978 (being Laws 1973, Chapter 376, Section 10, as amended) is amended to read:

"27-2-7. GENERAL ASSISTANCE PROGRAM--QUALIFICATIONS AND PAYMENTS.--

A. Subject to the availability of state funds, public assistance shall be provided under a general assistance program to or on behalf of eligible persons who:

- (1) are under eighteen years of age and meet all eligibility conditions for the New Mexico Works Act except the relationship to the person with whom they are living;
- (2) are over the age of eighteen and are disabled, according to rules of the department, and are not receiving cash assistance or services pursuant to the New Mexico Works Act;
- (3) meet the qualifications under other rules for the general assistance program as the department shall establish; or

(4) are lawful resident immigrants who would otherwise be eligible for cash assistance or services pursuant to the New Mexico Works Act except that they began residing in the United States after August 22, 1996.

B. General assistance program payments may be made directly to the recipient or to the vendor of goods or services provided to the recipient. The department may by rule limit the grants that are made to general assistance recipients.

C. Whenever the department makes an adjustment in the standard of need for the New Mexico Works Act, subject to the availability of state funds, it shall make a commensurate adjustment in the standard of need for the general assistance program."

Chapter 8 Section 28

Section 28. REPEAL.--Sections 27-2-5, 27-2-6,

27-2-6.2, 27-2-8, 27-2-18 through 27-2-20, 27-2-22, 27-2-33 and 27-2-35 through 27-2-40 NMSA 1978 (being Laws 1973, Chapter 376, Sections 5 and 9, Laws 1988, Chapter 122, Section 1, Laws 1973, Chapter 376, Section 11, Laws 1937, Chapter 18, Sections 11a, 11b, 11e, 11h and 21, Laws 1941, Chapter 116, Section 1, Laws 1921, Chapter 117, Section 9 and Laws 1980, Chapter 25, Sections 1 through 4, as amended) are repealed.

Chapter 8 Section 29

Section 29. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

SENATE BILL 46, AS AMENDED

WITH EMERGENCY CLAUSE

SIGNED FEBRUARY 18, 1998

CHAPTER 9

RELATING TO PUBLIC ASSISTANCE; ENACTING THE NEW MEXICO WORKS 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:

Chapter 9 Section 1

Section 1. SHORT TITLE.--Sections 1 through 20 of this act may be cited as the "New Mexico Works Act".

Chapter 9 Section 2

Section 2. LEGISLATIVE FINDINGS--PURPOSE OF ACT.--

A. The legislature finds that:

(1) the poverty rate in New Mexico is the highest in the nation and has exceeded more than twenty percent of the population for most of the past twenty-five years;

(2) having a job does not provide a guarantee of avoiding poverty as demonstrated by the high percentage of persons in the civilian labor force over sixteen years of age with reported incomes in 1989 that were below the poverty level; and

(3) the diversity of the state, with its residents living in rural and metropolitan areas, reservations and border areas, requires the state to adjust state policies governing economic and social programs for the poor and the working poor to reflect the particular needs of particular locales, not just to create a generic one-size-fits-all program.

B. The legislature finds that education and training are essential to long-term career development.

C. The legislature finds that employment improves the quality of life for parents and children by increasing family income, developing the discipline necessary for self-sufficiency and improving self-esteem, and thus, it is in the public interest to fundamentally alter the state's financial assistance program for needy families with children so both cash and services, including education, job training, child care and transportation provided in accordance with the New Mexico Works Act assist recipients to obtain and keep employment that is sufficient to sustain their families, ensure the dignity of those who receive assistance and strengthen families and families' support for their children.

D. The legislature finds that although most New Mexicans want to work, and in fact New Mexico has been cited as a "like to work" state, not all families can move quickly into the labor force and that regular assessments and key intervention and follow-up can help persons connect to the work force to obtain meaningful work and achieve self-sufficiency.

E. The legislature further finds that the federal act envisions that state and tribal governments will work together to serve participants residing in Indian country, and it is important that the state and the tribal governments work, government to government, to address the issues of availability and delivery of service to the twenty-two tribes and pueblos.

F. The purpose of the New Mexico Works Act is to increase family income through family employment and child support and, by viewing financial assistance as a support service to enable and assist parents to participate in employment rather than as an entitlement, to enable New Mexico to change the culture of the welfare office, both on the part of the department and on the part of the recipients, so that all parties can focus on addressing the barriers to participation in work activities and putting New Mexicans to work.

Chapter 9 Section 3

Section 3. DEFINITIONS.--As used in the New Mexico Works Act:

A. "benefit group" means a group of people that includes at least one dependent child living with a parent, legal guardian or relative within the fifth degree of consanguinity or a pregnant woman;

B. "cash assistance" means cash payments funded by the temporary assistance for needy families block grant pursuant to the federal act and state funds;

C. "department" means the human services department;

D. "dependent child" means a natural or adopted child or ward who is eighteen years of age or younger;

E. "director" means the director of the income support division of the department;

F. "earned income" includes cash or payment in kind that is received as wages from employment or payment in lieu of wages, earnings from self-employment or earnings acquired from the direct provision of services, goods or property, production of goods, management of property or supervision of services and all other income not classified as unearned income;

G. "federal act" means the federal Social Security Act and rules promulgated pursuant to the Social Security Act;

H. "federal poverty guidelines" means the level of income defining poverty by family size published annually in the federal register by the United States department of health and human services;

I. "household group" means a group, including the benefit group, of people who live together in a household regardless of whether they are related or have a legal support responsibility for a member of the benefit group, but does not include:

(1) landlords;

(2) tenants; or

(3) members of a registered nonprofit organization or church who provide shelter to a benefit group through a program sponsored by the nonprofit organization or church;

J. "immigrant" means alien as defined in the federal act;

K. "landlord" means the owner of an estate in land or a rental property who has leased it to another person called the tenant;

L. "parent" means natural parent, adoptive parent, stepparent or legal guardian;

M. "participant" means a recipient of cash assistance or services or a member of a benefit group who has reached the age of majority;

N. "person" means an individual;

O. "secretary" means the secretary of the department;

P. "services" includes child care assistance; payment for employment-related transportation costs; job search assistance; employment counseling; employment, education and job training placement; one-time payment for necessary employment-related costs; case management or other activities whose purpose is to assist transition into employment;

Q. "tenant" means a person who pays rent for the use and occupancy of real property owned by a landlord; and

R. "unearned income" includes old age, survivors and disability insurance; railroad retirement benefits; veterans administration compensation or pension; military retirement; pensions, annuities and retirement benefits; lodge or fraternal benefits; shared shelter payments; settlement payments; individual Indian money; and similar kinds of income.

Chapter 9 Section 4

Section 4. APPLICATION--RESOURCE PLANNING SESSION--INDIVIDUAL RESPONSIBILITY PLANS--PARTICIPATION AGREEMENT--REVIEW PERIODS.--

A. Application for cash assistance or services shall be made to the department's county office in the county or district in which an applicant resides. The application shall be in writing or reduced to writing in the manner and on the form prescribed by the department. The application shall be made under oath by an applicant having custody of a dependent child and shall contain a statement of the age of the child, residence, a complete statement of the amount of property in which the applicant has an interest, a statement of all income that he and other household group members have at the time of the filing of the application and other information required by the department.

B. Application for expedited food stamps shall be made to the department's county office in the county or district in which an applicant resides. The department shall process the application for expedited food stamps within twenty-four hours after the application is made.

C. At the time of application for cash assistance and services, an applicant shall identify household group members who are to be counted in the benefit group. Once an application is approved, the participant shall advise the department if there are any changes in the membership of the household group or benefit group.

D. No later than forty-five days after an application is filed, the department shall provide to an applicant a resource planning session to ascertain his immediate needs, assess financial and nonfinancial options, make referrals and act on the application.

E. No later than five days after an application is approved, the department shall provide reimbursement for child care.

F. Whenever the department receives an application for assistance, a verification and record of the applicant's circumstances shall promptly be made to ascertain the facts supporting the application and to obtain other information required by the department. The verification may include a visit to the home of the applicant, as long as the department gives adequate prior notice of the visit to the applicant.

G. Within fifteen days after an application is approved, the department shall assess the education, skills, prior work experience and employability of the participant.

H. After the initial assessment of skills, the department shall work with the participant to develop an individual responsibility plan that:

(1) sets forth an employment goal for the participant and a plan for moving the participant into employment;

(2) sets forth obligations of the participant that may include a requirement that the participant attend school, maintain certain grades and attendance, keep his school-age children in school, immunize his children or engage in other activities that will help the participant become and remain employed;

(3) is designed to the greatest extent possible to move the participant into whatever employment the participant is capable of handling and to provide additional services as necessary to increase the responsibility and amount of work the participant will handle over time;

(4) describes the services the department may provide so that the participant may obtain and keep employment; and

(5) may require the participant to undergo appropriate substance abuse treatment.

I. The participant and a representative of the department shall sign the participant's individual responsibility plan.

J. The participant shall also sign a participation agreement that designates the number of hours that he must participate in work activities to meet participation standards.

K. The department shall review the current financial eligibility of a benefit group when the department reviews food stamp eligibility.

L. The department shall meet semi-annually with a participant to review and revise his individual responsibility plan.

M. The department shall develop a complaint procedure to address issues pertinent to the delivery of services and other issues relating to a participant's individual responsibility plan.

Chapter 9 Section 5

Section 5. WORK REQUIREMENTS--WORK PARTICIPATION RATES.--

A. The following qualify as work activities:

(1) unsubsidized employment;

(2) subsidized private sector employment;

(3) subsidized public sector employment;

(4) work experience, including work associated with the refurbishing of publicly assisted housing if sufficient private sector employment is not available;

(5) on-the-job training;

(6) job search and job readiness assistance, as long as the department complies with the federal act;

(7) community service programs;

(8) vocational education, except that vocational education shall not qualify as a work activity for longer than is provided by the federal act;

(9) job skills training activities directly related to employment;

(10) education directly related to employment for a participant who has not received a high school diploma or a certificate of high school equivalency;

(11) satisfactory attendance at a secondary school or course of study leading to a certificate of general equivalency in the case of a participant who has not completed secondary school or received such a certificate; and

(12) the provision of child care services to a participant who is participating in a community service program.

B. The department shall recognize community service programs and job training programs that are operated by an Indian nation, tribe or pueblo.

C. The department may not require a participant to work more than four hours per week over the work requirement rate set pursuant to the federal act.

D. The department shall require a parent, caretaker or other adult who is a member of a benefit group to engage in a work activity once the department determines he is ready to engage in a work activity or once he has received cash assistance or services for twenty-four months or as otherwise required by the federal act, whether or not consecutive, whichever is earlier.

E. The following qualify as temporary alternative work activities that the department may establish for no longer than twelve weeks except as otherwise provided:

(1) participating in parenting classes, money management classes or life skills training;

(2) participating in a certified alcohol or drug addiction program;

(3) in the case of a homeless benefit group, finding a home;

(4) in the case of a participant who is a victim of domestic violence residing in a domestic violence shelter or receiving counseling or treatment or participating in criminal justice activities directed at prosecuting the domestic violence perpetrator, for no longer than twenty-four weeks; and

(5) in the case of a participant who does not speak English, participating in a course in English as a second language.

F. Subject to the availability of funds, the department in cooperation with the labor department, New Mexico office of Indian affairs and other appropriate state agencies may develop projects to provide for the placement of participants in work activities, including the following:

(1) participating in unpaid internships with private and government entities;

(2) refurbishing publicly assisted housing;

(3) volunteering at a head start program or a school;

(4) weatherizing low-income housing; and

(5) restoring public sites and buildings, including monuments, parks, fire stations, police buildings, jails, libraries, museums, auditoriums, convention halls, hospitals, buildings for administrative offices and city halls.

G. If a participant is engaged in full-time post-secondary education studies or an activity set out in Paragraphs (9) through (11) of Subsection A of this section, the participant shall engage in another work activity at the same time. Additionally, for two-parent families that receive federally funded child care assistance, the participant's spouse shall engage in a work activity set out in Paragraphs (1) through (5) or (7) of Subsection A of this section unless the participant suffers from a temporary or complete disability that bars him from engaging in a work activity or he is barred from engaging in a work activity because he provides sole care for a disabled person.

H. A participant engaged in post-secondary education studies shall make reasonable efforts to obtain a loan, scholarship, grant or other assistance to pay for costs and tuition and the department shall disregard those amounts in the eligibility determination.

I. For as long as the described conditions exist, the following are exempt from the work requirement:

(1) a participant barred from engaging in a work activity because he is temporarily or completely disabled;

(2) a participant over age sixty;

(3) a participant barred from engaging in a work activity because he provides the sole care for a disabled person;

(4) a single custodial parent caring for a child less than twelve months old for a lifetime total of twelve months;

(5) a single custodial parent caring for a child under six years of age if the parent is unable to obtain child care for one or more of the following reasons:

(a) unavailability of appropriate child care within a reasonable distance from the parent's home or work as defined by the children, youth and families department;

(b) unavailability or unsuitability of informal child care by a relative under other arrangements as defined by the children, youth and families department; or

(c) unavailability of appropriate and affordable formal child care arrangements as defined by the children, youth and families department;

(6) a pregnant woman during her last trimester of pregnancy;

(7) a participant prevented from working by a temporary emergency or a situation that precludes work participation for thirty days or less;

(8) a participant who demonstrates by reliable medical, psychological or mental reports, court orders or police reports that family violence or threat of family violence effectively bars the participant from employment; and

(9) a participant who demonstrates good cause of the need for the exemption.

Chapter 9 Section 6

Section 6. DURATIONAL LIMITS.--

A. Pursuant to the federal act, on or after July 1, 1997 a participant may receive federally funded cash assistance and services for up to sixty months.

B. During a participant's fourth, sixth and eighth semi-annual reviews, the department shall examine the participant's progress to determine if the participant has successfully completed an educational or training program or increased the number of hours he is working as required by the federal act. The department may refer the participant to alternative work activities or provide additional services to address possible barriers to employment facing the participant.

C. Up to twenty percent of the population of participants may be exempted from the sixty-month durational limit set out in Subsection A of this section because of hardship or because those participants are battered or subject to extreme cruelty.

D. For the purposes of this section, a participant has been battered or subjected to extreme cruelty if he can demonstrate by reliable medical, psychological or mental reports, court orders or police reports that he has been subjected to and currently is affected by:

(1) physical acts that result in physical injury;

(2) sexual abuse;

(3) being forced to engage in nonconsensual sexual acts or activities;

(4) threats or attempts at physical or sexual abuse;

(5) mental abuse; or

(6) neglect or deprivation of medical care except when the deprivation is based by mutual consent on religious grounds.

E. For the purposes of this section, a hardship exception applies to a person who demonstrates through reliable medical, psychological or mental reports, court orders or police reports that he is a person:

- (1) who is barred from engaging in a work activity because he is temporarily or completely disabled;
- (2) who is the sole provider of home care to an ill or disabled family member; or
- (3) whose ability to be gainfully employed is affected by domestic violence.

F. Pursuant to the federal act the department shall not count a month of receipt of cash assistance or services toward the sixty-month durational limit if during the time of receipt the participant:

- (1) was a minor and was not the head of a household or married to the head of a household; or
- (2) lived in Indian country, as defined in the federal act, if the most reliable data available with respect to the month indicate that at least fifty percent of the adults living in Indian country or in the village were not employed.

Chapter 9 Section 7

Section 7. FINANCIAL STANDARD OF NEED.--

A. The secretary shall adopt a financial standard of need based upon the availability of federal and state funds and based upon appropriations by the legislature of the available federal temporary assistance for needy families grant made pursuant to the federal act in the following categories:

- (1) cash assistance;
- (2) child care services;
- (3) other services; and
- (4) administrative costs.

The legislature shall determine the actual percentage of each category to be used annually of the federal temporary assistance for needy families grant made pursuant to the federal act.

B. The cash benefit level for a benefit group not living in government-subsidized housing or receiving government-subsidized housing payments shall be increased by one hundred dollars (\$100) per month.

C. The following income sources are exempt from the gross income test, the net income test and the cash payment calculation:

- (1) medicaid;
- (2) food stamps;
- (3) government-subsidized foster care and adoption payments;
- (4) supplemental security income;
- (5) government-subsidized housing or housing payments;
- (6) federally excluded income;
- (7) educational payments made directly to an educational institution;
- (8) government-subsidized child care;
- (9) earned and unearned income that belongs to a person eighteen years of age or younger who is not the head of household;
- (10) for the first two years of receiving cash assistance or services, if a participant works over the work requirement rate set by the department pursuant to the New Mexico Works Act, one hundred percent of the income earned by the participant beyond that rate;
- (11) for the first two years of receiving cash assistance or services, for a two-parent benefit group in which one parent works over thirty-five hours per week and the other works over twenty-four hours per week, one hundred percent of income earned by each participant beyond the work requirement rate set by the department;
- (12) unearned income that belongs to the household group but not to the benefit group; and
- (13) other income sources as determined by the department.

D. Earned income over one hundred thirty percent of the federal poverty guidelines that belongs to the household group but not to the benefit group is countable income. The department shall count the entire household group to determine family size when applying the federal poverty guidelines.

E. The department shall count the entire household group to determine family size when applying the financial standard of need. For a benefit group to be eligible to participate:

(1) gross countable earned income that belongs to the household group but not to the benefit group must not exceed one hundred eighty-five percent of the financial standard of need; and

(2) net countable earned income that belongs to the household group must not equal or exceed the financial standard of need after applying the disregards set out in Paragraphs (1) through (5) of Subsection F of this section.

F. Subject to the availability of state and federal funds, the department shall determine the cash payment of the benefit group by applying the following disregards to the benefit group's earned gross income:

(1) one hundred fifty dollars (\$150) of monthly earned income and one-half of the remainder, or for a two-parent family, two hundred fifty dollars (\$250) of monthly earned income and one-half of the remainder for each parent;

(2) monthly payments made for child care at a maximum of two hundred dollars (\$200) for a child under two years of age and at a maximum of one hundred seventy-five dollars (\$175) for a child two years of age or older;

(3) costs of self-employment income;

(4) business expenses; and

(5) fifty dollars (\$50.00) of collected child support passed through to the participant by the department's child support enforcement program;

and then subtracting that amount from the financial standard of need.

G. The department may recover overpayments of cash assistance on a monthly basis not to exceed fifteen percent of the financial standard of need applicable to the benefit group.

Chapter 9 Section 8

Section 8. RESOURCES.--

A. Liquid and nonliquid resources owned by the household group but not by the benefit group shall not be counted in the eligibility determination.

B. A benefit group may at a maximum own the following resources:

(1) two thousand dollars (\$2,000) in nonliquid resources;

(2) one thousand five hundred dollars (\$1,500) in liquid resources;

- (3) the value of the principal residence of the participant;
- (4) the value of burial plots and funeral contracts for family members;
- (5) individual development accounts;
- (6) the value of work-related equipment up to one thousand dollars (\$1,000);
- (7) in areas without public transportation, the value of one motor vehicle for each participant engaged in a work activity; and
- (8) in areas with public transportation, the value of one motor vehicle.

Chapter 9 Section 9

Section 9. MANDATORY SCHOOL ATTENDANCE.--If a minor member of a benefit group has three unexcused absences from school during a grading period, his parent shall notify the department of the absences within fourteen days. The department may impose a sanction on the benefit group that reduces the cash assistance by the amount the minor member would otherwise receive only after the department refers the minor member to the appropriate state agency, counselor or community program for appropriate resolution of the attendance problem. The department shall not consider participation in cultural and religious activities an unexcused absence, as long as the student has parental consent.

Chapter 9 Section 10

Section 10. INDIVIDUAL DEVELOPMENT ACCOUNTS.--

- A. A participant may establish an individual development account.
- B. A participant or a person on the participant's behalf may contribute to an individual development account; provided the participant first establishes a savings account not to exceed one thousand five hundred dollars (\$1,500).
- C. An individual development account shall be organized as a trust. The department shall by rule establish the form, substance and procedure by which the trust shall be established.
- D. Individual development accounts shall be used only for:
 - (1) post-secondary education for dependents;
 - (2) purchase of a principal residence for a first-time homebuyer; or
 - (3) business capitalization.

E. Upon establishing an individual development account, the participant shall declare the purposes for the account.

F. If the declared purpose of an individual development account is for the purchase of a principal residence for a first-time homebuyer, the amount used for that purpose shall be limited to one thousand five hundred dollars (\$1,500).

G. Money in an individual development account shall only be disbursed to an educational institution, to a person due money for a principal residence or to a business capitalization account.

H. A participant shall contribute only earned income to an individual development account.

Chapter 9 Section 11

Section 11. INELIGIBILITY.--

A. The following are ineligible to be members of a benefit group:

(1) an inmate or patient of a nonmedical institution;

(2) a person who, in the two years preceding application, assigned or transferred real property unless he:

(a) received or receives a reasonable return;

(b) attempted to or attempts to receive a reasonable return; or

(c) attempted to or attempts to regain title to the real property;

(3) a minor unmarried parent who has not successfully completed a high school education and who has a child at least twelve weeks of age in his care unless the minor unmarried parent:

(a) participates in educational activities directed toward the attainment of a high school diploma or its equivalent; or

(b) participates in an alternative educational or training program that has been approved by the department;

(4) a minor unmarried parent who is not residing in a place of residence maintained by his parent, legal guardian or other adult relative unless the department:

(a) refers or locates the minor unmarried parent to a second-chance home, maternity home or other appropriate adult-supervised supportive living arrangement, taking into account the needs and concerns of the minor unmarried parent;

(b) determines that the minor unmarried parent has no parent, legal guardian or other appropriate adult relative who is living or whose whereabouts are known;

(c) determines that a minor unmarried parent is not allowed to live in the home of a living parent, legal guardian or other appropriate adult relative;

(d) determines that the minor unmarried parent is or has been subjected to serious physical or emotional harm, sexual abuse or exploitation in the home of the parent, legal guardian or other appropriate adult relative;

(e) finds that substantial evidence exists of an act or a failure to act that presents an imminent or serious harm to the minor unmarried parent and the child of the minor unmarried parent if they live in the same residence with the parent, legal guardian or other appropriate adult relative; or

(f) determines that it is in the best interest of the unmarried minor parent to waive this requirement;

(5) a minor child who has been absent or is expected to be absent from the home for forty-five days;

(6) a person who does not provide a social security number or who refuses to apply for one;

(7) a person who is not a resident of New Mexico;

(8) a person who fraudulently misrepresented residency to receive assistance in two or more states simultaneously except that such person shall be ineligible only for ten years;

(9) for five years following the date of release from any federal or state prison or county jail or following the date of completion of the terms of probation, a person convicted of a drug-related felony on or after August 22, 1996; however, the cash assistance of the other members of his assistance group shall be reduced only by the amount to which he otherwise would be entitled;

(10) a person who is a fleeing felon or a probation and parole violator;

(11) a person concurrently receiving supplemental security income, tribal temporary assistance for needy families, bureau of Indian affairs general assistance or adoption subsidies; and

(12) unless he demonstrates good cause, a parent who does not assist the department in establishing paternity or obtaining child support or who does not assign support rights to New Mexico as required pursuant to the federal act.

B. At the time of application, a participant shall state in writing whether he or another member of the benefit group has been convicted on or after August 22, 1996 of a drug-related felony.

C. A person convicted of a drug-related felony may be eligible to receive services if the department in consultation with the corrections department determines that services would enhance his rehabilitation and employment success.

D. For the purposes of this section, "second-chance home" means an entity that provides a supportive and supervised living arrangement to a minor unmarried parent where the minor unmarried parent is required to learn parenting skills including child development, family budgeting, health and nutrition and other skills to promote long-term economic independence and the well-being of children.

Chapter 9 Section 12

Section 12. SERVICES.--Subject to the availability of federal and state funds, a group of people that includes at least one dependent child living with a parent, legal guardian or relative within the fifth degree of consanguinity or a pregnant woman who is not receiving cash assistance but has an income less than one hundred percent of the federal poverty guidelines may be eligible to receive services.

Chapter 9 Section 13

Section 13. FAIR HEARING--REVIEW AND APPEAL.--

A. A participant may request a hearing if:

(1) an application is not acted on within a reasonable time after the filing of the application;

(2) an application is denied in whole or in part; or

(3) the cash assistance or services are modified, terminated or not provided.

B. The department shall notify the participant of his rights under this section.

C. The department shall by rule establish procedures for the filing of a request for a hearing and the time limits within which a request may be filed; provided, however, that the department may grant reasonable extensions of the time limits. If the request is filed in a timely manner, cash assistance and services shall be provided until the appeal is resolved. If the request is not filed within the specified time for appeal or within whatever

extension the department may grant, the department action shall be final. Upon receipt of a timely request, the department shall give the participant reasonable notice of an opportunity for a fair hearing in accordance with the rules of the department.

D. The hearing shall be conducted by a hearing officer designated by the director. The powers of the hearing officer shall include administering oaths or affirmations to witnesses called to testify, taking testimony, examining witnesses, admitting or excluding evidence and reopening a hearing to receive additional evidence. The technical rules of evidence and the rules of civil procedure shall not apply. The hearing shall be conducted so that the contentions or defenses of each party to the hearing are amply and fairly presented. Either party may be represented by counsel or other representative of his designation, and he or his representative may conduct cross-examination. Oral or documentary evidence may be received but the hearing officer may exclude irrelevant, immaterial or unduly repetitious evidence.

E. The director shall review the record of the proceedings and shall make his decision on the record. The participant or his representative shall be notified in writing of the director's decision and the reasons for the decision. The written notice shall inform the participant of his right to judicial review. The department shall be responsible for ensuring that the decision is enforced.

F. Within thirty days after receiving written notice of the decision of the director, a participant may file a notice of appeal with the court of appeals together with a copy of the notice of the decision. The clerk of the court shall transmit a copy of the notice of appeal to the director.

G. The filing of a notice of appeal shall not stay the enforcement of the decision of the director, but the department may grant, or the court upon motion and good cause shown may order, a stay.

H. Within twenty days after receipt of the notice of appeal, the department shall file with the clerk of the court three copies and furnish to the appellant one copy of the written transcript of the record of the proceedings.

I. If, before the date set for argument, application is made to the court for leave to present additional evidence and the court is satisfied that the additional evidence is material and there was good reason for not presenting it in the hearing, the court may order the additional evidence taken before the department. If the application to present additional evidence is filed by the department and is approved by the court, the department's decision that is being appealed shall be stayed. The director may modify his findings and decision by reason of the additional evidence and shall file with the court a transcript of the additional evidence together with any modified or new findings or decision.

J. The review of the court shall be made upon the decision and the record of the proceedings.

K. The court shall set aside a decision and order of the director only if found to be:

- (1) arbitrary, capricious or an abuse of discretion;
- (2) not supported by substantial evidence in the record as a whole; or
- (3) otherwise not in accordance with law.

L. The department shall not authorize or allow expenditures for the affected programs in excess of the amounts previously appropriated by the legislature.

Chapter 9 Section 14

Section 14. SANCTIONS.--

A. The department shall sanction a member of the benefit group for noncompliance with work requirements and child support requirements.

B. The sanction shall be applied at the following levels:

- (1) twenty-five percent reduction of cash assistance for the first occurrence of noncompliance;
- (2) fifty percent reduction of cash assistance for the second occurrence of noncompliance; and
- (3) termination of cash assistance and ineligibility to reapply for six months for the third occurrence of noncompliance.

C. Prior to imposing the first sanction, if the department determines that a participant is not complying with the work participation requirement or child support requirements, the participant shall be required to enter into a conciliation process to address the noncompliance and to identify good cause for noncompliance. The conciliation process shall occur only once prior to the imposition of the sanction. If the participant fails to participate in the conciliation process within ten days of receiving notice, the sanction shall be imposed.

D. Reestablishing compliance will allow full payment to resume.

E. Within ten days of a failure to comply with a requirement, a notice of action shall be mailed to the participant. A participant is in sanction status when the notice of action is mailed. The sanction is imposed on the first day of the month following the month in which the notice of action is mailed to the participant.

F. Noncompliance with reporting requirements may subject a participant to other sanctions.

Chapter 9 Section 15

Section 15. MEDICAID ELIGIBILITY.--The following are eligible for medicaid:

- A. a benefit group that meets the requirements of New Mexico's aid to families with dependent children as they existed on July 16, 1996;
- B. a participant who is in transition to self-sufficiency due to employment or child support;
- C. a pregnant woman who meets the income and resource requirements for New Mexico's aid to families with dependent children as they existed on July 16, 1996;
- D. a member of a benefit group who is eighteen years of age or younger if the benefit group's income is below one hundred eighty-five percent of the federal poverty guidelines;
- E. a pregnant woman whose income is below one hundred eighty-five percent of the federal poverty guidelines;
- F. participants receiving federal supplemental security income;
- G. an aged, blind or disabled person in an institution who meets all the supplemental security income standards except for income;
- H. a person who meets all standards for institutional care but is cared for at home and meets eligibility standards for medicaid;
- I. a qualified medicare beneficiary, qualified disabled working person or specified low-income medicare beneficiary; and
- J. a foster child in the custody of the state or of an Indian pueblo, tribe or nation who meets eligibility standards for medicare.

Chapter 9 Section 16

Section 16. IMMIGRANT ELIGIBILITY.--An immigrant may be eligible to receive cash assistance and services if the immigrant is:

- A. from one of the classes of immigrants defined in the federal act who entered the United States prior to August 22, 1996; or
- B. a qualified immigrant as defined in the federal act who entered the United States after August 22, 1996.

Chapter 9 Section 17

Section 17. RECORDS--CONFIDENTIALITY.--

A. Pursuant to the federal act, the department shall establish and enforce rules governing the custody, use and preservation of the records, papers, files and communications to restrict the use or disclosure of information contained in those documents concerning participants.

B. It is unlawful for a person, body, association, firm, corporation or other agency outside the department to solicit, disclose, receive or make use of or authorize, knowingly permit, participate in or acquiesce in the use of a name or list of names of participants for commercial or political purposes.

C. A person, body, association, firm, corporation or other agency that willfully or knowingly violates a provision of this section is guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than twenty-five dollars (\$25.00) nor more than one thousand dollars (\$1,000) or by imprisonment in the county jail for a definite term not to exceed sixty days or both.

Chapter 9 Section 18

Section 18. CERTIFICATION.--The governor shall make the certifications mandated by the federal act.

Chapter 9 Section 19

Section 19. PILOT PROJECT--SUBSIDIZED EMPLOYMENT.--

A. The department may apply for a food stamp waiver from the United States department of agriculture to operate a wage subsidy pilot program.

B. Upon securing a food stamp waiver, the department shall develop a wage subsidy pilot program to run from the effective date of the New Mexico Works Act until July 1, 2001. The department shall select a class A county, a class B county with a valuation under three hundred million dollars (\$300,000,000), a class B county with a valuation over three hundred million dollars (\$300,000,000), a class C county and a first class county as sites for the wage subsidy pilot program.

C. The wage subsidy pilot program shall include the following requirements:

(1) participating employers shall hire participants who receive cash assistance and food stamps for subsidized job slots that are full time and that offer a reasonable possibility of unsubsidized employment after the subsidy period;

(2) participating employers shall receive a subsidy for up to six months. The department may grant an extension of three months to employers operating in areas identified as having a higher unemployment rate than the state average, as defined by the

department, if the extension increases the likelihood of ongoing unsubsidized employment for the subsidized employee;

(3) subsidized employees shall not be required to work in excess of forty hours per week;

(4) subsidized employees shall be paid a wage that is substantially like the wage paid for similar jobs with the employer with appropriate adjustments for experience and training but not less than the federal minimum hourly wage;

(5) subsidized employment does not impair an existing contract or collective bargaining agreement;

(6) subsidized employment does not displace currently employed workers or fill positions that are vacant due to a layoff;

(7) wage subsidy employers shall:

(a) maintain health, safety and working conditions at or above levels generally acceptable in the industry and not less than those of comparable jobs offered by the employer;

(b) provide on-the-job training necessary for subsidized employees to perform their duties;

(c) sign an agreement for each placement outlining the specific job offered to a subsidized employee and agree to abide by all of the requirements of the program;

(d) provide workers' compensation coverage for each subsidized employee; and

(e) provide the subsidized employee with benefits equal to those for new employees or as required by state and federal law, whichever is greater;

(8) the department shall make a determination of whether a participant is eligible to be a subsidized employee that includes the following criteria:

(a) sufficient work experience to obtain unsubsidized employment;

(b) completion of an employment preparation program; or

(c) benefit from this employment strategy by the department;

(9) a disregard of income earned by the subsidized employee in the subsidized job shall be applied in the eligibility determination for services;

(10) the department shall suspend regular payments of cash assistance and food stamps to the benefit group for the calendar month in which an employer makes the first subsidized wage payment to a subsidized employee who is otherwise eligible for cash assistance and food stamps;

(11) the department shall pay employers each month, from cash assistance and food stamps, the lesser of a fixed subsidy amount determined by the department or the gross wages paid to the subsidized employee;

(12) a subsidized employee shall be eligible for supplemental payments if the net monthly full-time wage paid to the subsidized employee is less than the combined monthly total of the cash assistance and food stamps the participant is eligible to receive. The department shall authorize issuance of a supplemental cash payment to compensate for the deficit. To determine if a deficit exists, the department shall adopt an equivalency scale that is adjustable to household size and other factors; and

(13) the department shall determine monthly and pay in advance supplemental payments to eligible subsidized employees. In calculating the payment, the department shall assume that the subsidized employee will work forty hours per week during the month unless an employer provides information that the number of hours to be worked by the subsidized employee will be reduced.

D. Prior to the forty-fifth legislature, first session, the department shall report the results of the wage subsidy pilot program to the appropriate interim committee.

E. For the purposes of this section "benefits" includes health care coverage, paid sick leave and holiday and vacation pay.

F. For the purposes of this section "subsidized employee" means a participant engaged in a subsidized employment activity.

G. For the purpose of this section "net monthly full-time wage" means a subsidized employees's wages after the required payroll deductions.

Chapter 9 Section 20

Section 20. CHILD SUPPORT--TRUSTS.--

A. The department shall take one-third of New Mexico's share of collected child support for each child and deposit the money into a trust established in that child's name.

B. The department shall by rule establish the form, substance and procedure by which the trust shall be established.

Chapter 9 Section 21

Section 21. WELFARE REFORM OVERSIGHT COMMITTEE CREATED--
TERMINATION.--The joint interim legislative "welfare reform oversight committee" is created. The committee shall function from the date of its appointment until December 15 prior to the first session of the forty-sixth legislature.

Chapter 9 Section 22

Section 22. MEMBERSHIP--APPOINTMENT--VACANCIES.--

A. The welfare reform oversight committee shall be composed of twelve members. The New Mexico legislative council shall appoint six members from the house of representatives and six members from the senate. At the time of making the appointment, the legislative council 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 New Mexico 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 that case need not readjust party representation.

C. An action shall not be taken by the committee if a majority of the total membership from either house on the committee rejects that action.

Chapter 9 Section 23

Section 23. DUTIES.--

A. After its appointment, the welfare reform oversight committee shall hold one organizational meeting to develop a work plan and budget for the ensuing interim. The work plan and budget shall be submitted to the New Mexico legislative council for approval. Upon approval of the work plan and budget by the legislative council, the committee shall:

- (1) examine the statutes, constitutional provisions and rules governing welfare reform in New Mexico;
- (2) monitor and oversee the implementation of the New Mexico Works Act;
- (3) review issues related to welfare reform, including job training programs and related contracts; cash assistance; child care, transportation and other job-related services; and

other issues that arise because of the devolution of the federal welfare programs to the states; and

(4) make recommendations relating to the adoption of rules and legislation, if any are found to be necessary.

B. The committee shall regularly receive testimony from the secretaries of human services; labor; children, youth and families; and health and the superintendent of public instruction on issues arising from the implementation of the New Mexico Works Act and shall review proposed rules, schedules and formulae before adoption.

Chapter 9 Section 24

Section 24. SUBCOMMITTEES.--Subcommittees shall be created only by majority vote of all members appointed to the welfare reform oversight committee and with the prior approval of the New Mexico 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. Any meeting or expenditure of a subcommittee shall be approved by the full committee in advance of that meeting or expenditure, and the approval shall be shown in the minutes of the committee.

Chapter 9 Section 25

Section 25. REPORTS.--The committee shall make reports of its findings and recommendations for the consideration of the first and second sessions of the forty-fourth legislature and the first and second sessions of the forty-fifth legislature. The reports and suggested legislation shall be made available to the New Mexico legislative council on or before December 15 preceding each session.

Chapter 9 Section 26

Section 26. STAFF.--The staff for the welfare reform oversight committee shall be provided primarily by the legislative council service but the legislative council service may request the assistance of the legislative finance committee staff at the direction of the welfare reform oversight committee.

Chapter 9 Section 27

Section 27. Section 27-2-7 NMSA 1978 (being Laws 1973, Chapter 376, Section 10, as amended) is amended to read:

"27-2-7. GENERAL ASSISTANCE PROGRAM--QUALIFICATIONS AND PAYMENTS.--

A. Subject to the availability of state funds, public assistance shall be provided under a general assistance program to or on behalf of eligible persons who:

(1) are under eighteen years of age and meet all eligibility conditions for the New Mexico Works Act except the relationship to the person with whom they are living;

(2) are over the age of eighteen and are disabled, according to rules of the department, and are not receiving cash assistance or services pursuant to the New Mexico Works Act;

(3) meet the qualifications under other rules for the general assistance program as the department shall establish; or

(4) are lawful resident immigrants who would otherwise be eligible for cash assistance or services pursuant to the New Mexico Works Act except that they began residing in the United States after August 22, 1996.

B. General assistance program payments may be made directly to the recipient or to the vendor of goods or services provided to the recipient. The department may by rule limit the grants that are made to general assistance recipients.

C. Whenever the department makes an adjustment in the standard of need for the New Mexico Works Act, subject to the availability of state funds, it shall make a commensurate adjustment in the standard of need for the general assistance program."

Chapter 9 Section 28

Section 28. REPEAL.--Sections 27-2-5, 27-2-6, 27-2-6.2, 27-2-8, 27-2-18 through 27-2-20, 27-2-22, 27-2-33 and 27-2-35 through 27-2-40 NMSA 1978 (being Laws 1973, Chapter 376, Sections 5 and 9, Laws 1988, Chapter 122, Section 1, Laws 1973, Chapter 376, Section 11, Laws 1937, Chapter 18, Sections 11a, 11b, 11e, 11h and 21, Laws 1941, Chapter 116, Section 1, Laws 1921, Chapter 117, Section 9 and Laws 1980, Chapter 25, Sections 1 through 4, as amended) are repealed.

Chapter 9 Section 29

Section 29. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

HOUSE BILL 14, AS AMENDED

WITH EMERGENCY CLAUSE

SIGNED FEBRUARY 18, 1998

CHAPTER 10

MAKING APPROPRIATIONS FOR STATE CAPITAL PLANNING.

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

Chapter 10 Section 1

Section 1. APPROPRIATIONS.--

A. The following amounts are appropriated from the general fund to the legislative council service for expenditure in fiscal years 1999 and 2000 for the capitol buildings planning commission to prepare or contract for state capital planning studies as follows:

(1) one hundred fifty thousand dollars (\$150,000) for a repair and replacement study, including:

(a) physical inspection of state buildings in the capital;

(b) inventory and evaluation of building systems; and

(c) development of a repair and replacement fund; and

(2) one hundred fifty thousand dollars (\$150,000) for a master plan integrating city and county general plan provisions that affect state buildings in Santa Fe, including:

(a) inventory of state buildings and land in the capital;

(b) master site development plans of the various state building complexes and other state-owned property;

(c) a locale and government growth impact study that identifies master plan alternatives;

(d) location assignment criteria for state agencies and employees; and

(e) other components the capitol buildings planning commission deems necessary.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2000 shall revert to the general fund.

SENATE BILL 332, AS AMENDED

WITH EMERGENCY CLAUSE

SIGNED FEBRUARY 19, 1998

CHAPTER 11

RELATING TO COUNTIES; INCREASING SALARIES OF ELECTED COUNTY OFFICERS.

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

Chapter 11 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, twenty-two thousand three hundred fifty-eight dollars (\$22,358) each;
- B. treasurer, forty-nine thousand five hundred twenty-eight dollars (\$49,528);
- C. assessor, forty-nine thousand five hundred twenty-eight dollars (\$49,528);
- D. sheriff, fifty-one thousand six hundred fifty dollars (\$51,650);
- E. county clerk, forty-nine thousand five hundred twenty-eight dollars (\$49,528);
- F. probate judge, twenty-one thousand seven hundred ninety-two dollars (\$21,792); and
- G. county surveyor, nineteen thousand four hundred forty-two dollars (\$19,442)."

Chapter 11 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, seventeen thousand two hundred sixty-four dollars (\$17,264) each;
- B. treasurer, forty-three thousand three hundred one dollars (\$43,301);

- C. assessor, forty-three thousand three hundred one dollars (\$43,301);
- D. sheriff, forty-five thousand one hundred forty-one dollars (\$45,141);
- E. county clerk, forty-three thousand three hundred one dollars (\$43,301);
- F. probate judge, fifteen thousand one hundred forty-one dollars (\$15,141); and
- G. county surveyor, a reasonable rate of compensation as determined by the board of county commissioners."

Chapter 11 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, twelve thousand three hundred eleven dollars (\$12,311) each;
- B. treasurer, thirty-seven thousand seventy-five dollars (\$37,075);
- C. county assessor, thirty-seven thousand seventy-five dollars (\$37,075);
- D. county sheriff, thirty-eight thousand seven hundred seventy-three dollars (\$38,773);
- E. county clerk, thirty-seven thousand seventy-five dollars (\$37,075);
- F. probate judge, eight thousand six hundred thirty-two dollars (\$8,632); and
- G. county surveyor, a reasonable rate of compensation as determined by the board of county commissioners."

Chapter 11 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, twelve thousand three hundred eleven dollars (\$12,311) each;

- B. county treasurer, thirty-seven thousand seventy-five dollars (\$37,075);
- C. county assessor, thirty-seven thousand seventy-five dollars (\$37,075);
- D. county sheriff, thirty-eight thousand seven hundred seventy-three dollars (\$38,773);
- E. county clerk, thirty-seven thousand seventy-five dollars (\$37,075);
- F. probate judge, eight thousand six hundred thirty-two dollars (\$8,632); and
- G. county surveyor, a reasonable rate of compensation as determined by the board of county commissioners."

Chapter 11 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, eleven thousand one hundred seventy-nine dollars (\$11,179) each;
- B. treasurer, twenty-seven thousand one hundred seventy dollars (\$27,170);
- C. assessor, twenty-seven thousand one hundred seventy dollars (\$27,170);
- D. sheriff, twenty-nine thousand two hundred ninety-two dollars (\$29,292);
- E. county clerk, twenty-seven thousand one hundred seventy dollars (\$27,170);
- F. probate judge, seven thousand two hundred seventeen dollars (\$7,217); and
- G. county surveyor, a reasonable rate of compensation as determined by the board of county commissioners."

Chapter 11 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, seven thousand five hundred dollars (\$7,500) each;
- B. treasurer, twenty-three thousand sixty-six dollars (\$23,066);
- C. assessor, twenty-three thousand sixty-six dollars (\$23,066);
- D. sheriff, twenty-nine thousand two hundred ninety-two dollars (\$29,292);
- E. county clerk, twenty-three thousand sixty-six dollars (\$23,066);
- F. probate judge, six thousand six hundred fifty dollars (\$6,650); and
- G. county surveyor, a reasonable rate of compensation as determined by the board of county commissioners."

Chapter 11 Section 7

Section 7. Section 4-44-14 NMSA 1978 (being Laws 1955, Chapter 4, Section 2, as amended) is amended to read:

"4-44-14. H CLASS COUNTIES--SALARIES AND EXPENSES.--

A. Officers elected or appointed in the counties of the H class shall receive the following annual salaries:

- (1) county commissioners, one dollar (\$1.00);
- (2) treasurer, one dollar (\$1.00);
- (3) assessor, one dollar (\$1.00);
- (4) sheriff, one dollar (\$1.00);
- (5) county clerk, one dollar (\$1.00);
- (6) probate judge, two thousand six hundred fifty dollars (\$2,650); and
- (7) county surveyor, not to exceed ten dollars (\$10.00) per day for each day actually employed under orders by the board of county commissioners, such employment not to exceed fifty days in any one year.

B. The elected H class county officials listed in Subsection A of this section, except probate judge, in addition to the salaries prescribed shall be entitled to receive as per

diem expense the sum of not more than fifteen dollars (\$15.00) while in actual attendance at county commission meetings or while engaged in the performance of their official duties for the county. However, the total per diem expense allowance for each elected H class county official listed in Subsection A of this section shall not exceed three hundred fifty dollars (\$350) in any fiscal year. Such per diem expense shall be in addition to any allowance for sheriff's mileage or for other out-of-county expenses allowed for all officials by law and shall be budgeted, paid and audited as provided by laws governing expenditures of county funds."

Chapter 11 Section 8

Section 8. EFFECTIVE DATE.--The effective date of the provisions of this act is January 1, 1999.

SENATE BILL 5

CHAPTER 12

RELATING TO BIG GAME PERMITS; AUTHORIZING THE DIRECTOR OF THE DEPARTMENT OF GAME AND FISH TO ISSUE LANDOWNER PERMITS FOR THE LAWFUL TAKING OF CERTAIN BIG GAME SPECIES; ENACTING A NEW SECTION OF CHAPTER 17, ARTICLE 3 NMSA 1978.

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

Chapter 12 Section 1

Section 1. A new section of Chapter 17, Article 3 NMSA 1978 is enacted to read:

"[NEW MATERIAL] LANDOWNER PERMITS--MANAGEMENT OF CERTAIN BIG GAME SPECIES.--The director of the department of game and fish may issue landowner permits for the lawful taking of elk, antelope, oryx, and deer. The permits may be issued when, in the determination of the director, they are necessary to effectively reduce conflicts between humans and wildlife and provide sport-hunting opportunities in accordance with regulations of the state game commission."

Chapter 12 Section 2

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1998.

SENATE BILL 118, AS AMENDED

CHAPTER 13

RELATING TO MOTOR VEHICLE RECORDS; AMENDING A SECTION OF THE MOTOR VEHICLE CODE.

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

Chapter 13 Section 1

Section 1. Section 66-2-7.1 NMSA 1978 (being Laws 1995, Chapter 135, Section 4) is amended to read:

"66-2-7.1. MOTOR VEHICLE-RELATED RECORDS--CONFIDENTIAL.--

A. It is unlawful for any department employee or contractor or for any former department employee or contractor to disclose to any person other than another employee of the department any personal information about an individual obtained by the department in connection with a driver's license or permit, the titling or registration of a vehicle or an identification card issued by the department pursuant to the Motor Vehicle Code except:

- (1) to the individual or the individual's authorized representative;
- (2) for use by any governmental agency, including any court, in carrying out its functions or by any private person acting on behalf of the government;
- (3) for use in connection with matters of motor vehicle and driver safety or theft; motor vehicle emissions; performance monitoring of motor vehicles, motor vehicle parts and dealers; motor vehicle market research activities, including survey research; motor vehicle production alterations, recalls or advisories and removal of non-owner records from original owner records of motor vehicle manufacturers;
- (4) for use in research activities and for use in producing statistical reports so long as the personal information is not published, redisclosed or used to contact individuals;
- (5) for use by any insurer or insurance support organization or by a self-insured entity or its agents, employees or contractors in connection with claims investigation activities, antifraud activities, rating or underwriting;
- (6) for providing notice to owners of towed or impounded vehicles;
- (7) for use by an employer or its agent or insurer in obtaining or verifying information relating to a holder of a commercial driver's license;
- (8) for use by any requester if the requester demonstrates that it has obtained the written consent of the individual to whom the information pertains;
- (9) for any use in response to requests for individual motor vehicle records if the department has provided in a clear and conspicuous manner on forms for issuance or

renewal of operator's permits, titles, registrations or identification cards notice that personal information collected by the department may be disclosed to any person and the department has provided in a clear and conspicuous manner on such forms an opportunity to prohibit such disclosures; or

(10) for use by an insured state-chartered or federally chartered credit union; an insured state or national bank; an insured state or federal savings and loan association or insured savings bank; but only:

(a) to verify the accuracy of personal information submitted by an individual to the credit union, bank, savings and loan association or savings bank; and

(b) if the information as submitted is not correct or is no longer correct, to obtain the correct information, but only for the purpose of preventing fraud by, pursuing legal remedies against or recovering on a debt or security interest from the individual.

B. Any person who violates the provisions of this section is guilty of a misdemeanor and upon conviction shall be punished in accordance with the provisions of Section 31-19-1 NMSA 1978."

SENATE BILL 143, AS AMENDED

CHAPTER 14

RELATING TO VETERANS OF MILITARY SERVICE; PROVIDING THAT THE VETERANS' APPROVAL AGENCY IS WITHIN THE NEW MEXICO VETERANS' SERVICE COMMISSION; AMENDING A SECTION OF THE NMSA 1978.

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

Chapter 14 Section 1

Section 1. Section 28-13-13 NMSA 1978 (being Laws 1973, Chapter 83, Section 1, as amended) is amended to read:

"28-13-13. VETERANS' APPROVAL AGENCY CREATED.--There is created within the New Mexico veterans' service commission the "veterans' approval agency" to carry out the state's obligations under the provisions of 38 U.S.C. Section 1771."

HOUSE BILL 20

CHAPTER 15

RELATING TO TAXATION; AMENDING SECTION 60-2E-47 NMSA 1978 (BEING LAWS 1997, CHAPTER 190, SECTION 49) TO SPECIFY A TAX DUE DATE AND DEFINE A TERM; DECLARING AN EMERGENCY.

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

Chapter 15 Section 1

Section 1. Section 60-2E-47 NMSA 1978 (being Laws 1997, Chapter 190, Section 49) is amended to read:

"60-2E-47. GAMING TAX--IMPOSITION--ADMINISTRATION.--

A. An excise tax is imposed on the privilege of engaging in gaming activities in the state. This tax shall be known as the "gaming tax".

B. The gaming tax is an amount equal to ten percent of the gross receipts of manufacturer licensees from the sale, lease or other transfer of gaming devices in or into the state, except receipts of a manufacturer from the sale, lease or other transfer to a licensed distributor for subsequent sale or lease may be excluded from gross receipts; ten percent of the gross receipts of distributor licensees from the sale, lease or other transfer of gaming devices in or into the state; and twenty-five percent of the net take of every gaming operator licensee. For the purposes of this section, "gross receipts" means the total amount of money or the value of other consideration received from selling, leasing or otherwise transferring gaming devices.

C. The gaming tax imposed on a licensee is in lieu of all state and local gross receipts taxes on that portion of the licensee's gross receipts attributable to gaming activities.

D. The gaming tax is to be paid on or before the fifteenth day of the month following the month in which the taxable event occurs. The gaming tax shall be administered and collected by the taxation and revenue department in cooperation with the board. The provisions of the Tax Administration Act apply to the collection and administration of the tax.

E. In addition to the gaming tax, a gaming operator licensee that is a racetrack shall pay twenty percent of its net take to purses to be distributed in accordance with regulations adopted by the state racing commission. A racetrack gaming operator licensee shall spend no less than one-fourth of one percent of the net take of its gaming machines to fund or support programs for the treatment and assistance of compulsive gamblers.

F. A nonprofit gaming operator licensee shall distribute at least eighty-eight percent of the balance of its net take, after payment of the gaming tax and any income taxes, for charitable or educational purposes."

Chapter 15 Section 2

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

HOUSE BILL 101, WITH EMERGENCY CLAUSE

SIGNED MARCH 5, 1998

CHAPTER 16

RELATING TO PUBLIC PROPERTY; PROVIDING FOR ADDITIONAL METHODS OF DISPOSITION OF OBSOLETE, WORN-OUT OR UNUSABLE TANGIBLE PERSONAL PROPERTY.

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

Chapter 16 Section 1

Section 1. Section 13-6-1 NMSA 1978 (being Laws 1961, Chapter 100, Section 1, as amended) is amended to read:

"13-6-1. DISPOSITION OF OBSOLETE, WORN-OUT OR UNUSABLE TANGIBLE PERSONAL PROPERTY.--

A. The governing authority of each state agency, local public body, school district and state educational institution may dispose of any item of tangible personal property belonging to that authority and delete the item from its public inventory upon a specific finding by the authority that the item of property is:

(1) of a current resale value of five thousand dollars (\$5,000) or less; and

(2) worn-out, unusable or obsolete to the extent that the item is no longer economical or safe for continued use by the body.

B. The governing authority shall, as a prerequisite to the disposition of any items of tangible personal property:

(1) designate a committee of at least three officials of the governing authority to approve and oversee the disposition; and

(2) give notification at least thirty days prior to its action making the deletion by sending a copy of its official finding and the proposed disposition of the property to the state auditor and the appropriate approval authority designated in Section 13-6-2 NMSA 1978, duly sworn and subscribed under oath by each member of the authority approving the action.

C. A copy of the official finding and proposed disposition of the property sought to be disposed of shall be made a permanent part of the official minutes of the governing authority and maintained as a public record subject to the Inspection of Public Records Act.

D. The governing authority shall dispose of the tangible personal property by negotiated sale to any governmental unit of an Indian nation, tribe or pueblo in New Mexico or by negotiated sale or donation to other state agencies, local public bodies, school districts, state educational institutions or municipalities or through the central purchasing office of the governing authority by means of competitive sealed bid or public auction or, if a state agency, through the federal property assistance bureau of the general services department.

E. If the governing authority is unable to dispose of the tangible personal property pursuant to Subsection D of this section, the governing authority may sell or, if the property has no value, donate the property to any organization described in Section 501 (c)(3) of the Internal Revenue Code of 1986.

F. If the governing authority is unable to dispose of the tangible personal property pursuant to Subsection D or E of this section, it may order that the property be destroyed or otherwise permanently disposed of in accordance with applicable laws.

G. If the governing authority determines that the tangible personal property is hazardous or contains hazardous materials and may not be used safely under any circumstances, the property shall be destroyed and disposed of pursuant to Subsection F of this section.

H. No tangible personal property shall be donated to an employee or relative of an employee of a state agency, local public body, school district or state educational institution; provided that nothing in this subsection precludes an employee from participating and bidding for public property at a public auction.

I. This section shall not apply to any property acquired by a museum through abandonment procedures pursuant to the Abandoned Cultural Properties Act."

HOUSE BILL 132

CHAPTER 17

RELATING TO COMMERCIAL DRIVER'S LICENSES; AMENDING THE NEW MEXICO COMMERCIAL DRIVER'S LICENSE ACT TO BRING NEW MEXICO INTO SUBSTANTIAL COMPLIANCE WITH THE FEDERAL COMMERCIAL MOTOR VEHICLE SAFETY ACT OF 1986, AS AMENDED; ADDING PENALTIES FOR VIOLATION OF OUT-OF-SERVICE ORDERS.

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

Chapter 17 Section 1

Section 1. Section 66-5-54 NMSA 1978 (being Laws 1989, Chapter 14, Section 3, as amended) is amended to read:

"66-5-54. DEFINITIONS.--As used in the New Mexico Commercial Driver's License Act:

A. "commerce" means:

(1) any trade, traffic or transportation within the jurisdiction of the United States between a place in New Mexico and a place outside of New Mexico, including a place outside of the United States; and

(2) trade, traffic and transportation in the United States that affects any trade, traffic or transportation described in Paragraph (1) of this subsection;

B. "commercial motor vehicle" means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

(1) has a gross combination weight rating of more than twenty-six thousand pounds inclusive of a towed unit with a gross vehicle weight rating of more than ten thousand pounds;

(2) has a gross vehicle weight rating of more than twenty-six thousand pounds;

(3) is designed to transport sixteen or more passengers, including the driver; or

(4) is of any size and is used in the transportation of hazardous materials, which requires the motor vehicle to be placarded under applicable law;

C. "employee" means any operator of a commercial motor vehicle, including full-time, regularly employed drivers; casual, intermittent or occasional drivers; leased drivers; and independent owner-operator contractors, while in the course of operating a commercial motor vehicle, who are either directly employed by or under lease to an employer;

D. "employer" means any person, including the United States, a state or a political subdivision of a state or their agencies or instrumentalities, who owns or leases a commercial motor vehicle or assigns employees to operate such a vehicle;

E. "gross combination weight rating" means the value specified by the manufacturer as the loaded weight of a combination vehicle. In the absence of a value specified by the manufacturer, gross combination weight rating shall be determined by adding the gross vehicle weight rating of the power unit and the total weight of the towed unit or units and any load thereon;

F. "gross vehicle weight rating" means the value specified by the manufacturer as the loaded weight of a single vehicle;

G. "out-of-service order" means a declaration by an authorized enforcement officer of a federal, state, Canadian, Mexican or local jurisdiction that a driver, a commercial motor vehicle or a motor carrier operation is temporarily prohibited from operating; and

H. "serious traffic violation" means conviction of any of the following if committed when operating a commercial motor vehicle:

(1) speed of fifteen miles or more per hour above the posted limits;

(2) reckless driving as defined by Section 66-8-113 NMSA 1978 or a municipal ordinance or the law of another state;

(3) homicide by vehicle, as defined in Section 66-8-101 NMSA 1978;

(4) injury to pregnant woman by vehicle as defined in Section 66-8-101.1 NMSA 1978 or a municipal ordinance or the law of another state; or

(5) any other violation of law relating to motor vehicle traffic control, other than a parking violation, that the secretary determines by regulation to be a serious traffic violation. A serious traffic violation does not include vehicle weight and vehicle defect violation."

Chapter 17 Section 2

Section 2. Section 66-5-58 NMSA 1978 (being Laws 1989, Chapter 14, Section 7) is amended to read:

"66-5-58. EMPLOYER RESPONSIBILITY.--No employer shall knowingly allow, require, permit or authorize a driver to drive a commercial motor vehicle during any period:

A. in which the driver has a driver's license suspended, revoked or canceled by a state, has lost the privilege to drive a commercial motor vehicle in any state or has been disqualified from driving a commercial motor vehicle;

B. in which the driver has more than one driver's license as of the effective date of the provisions of the New Mexico Commercial Driver's License Act; or

C. in which the employee, the commercial motor vehicle the employee is driving or the motor carrier operation of the employer is subject to an out-of-service order."

Chapter 17 Section 3

Section 3. Section 66-5-65 NMSA 1978 (being Laws 1989, Chapter 14, Section 14, as amended) is amended to read:

"66-5-65. CLASSIFICATIONS--ENDORSEMENTS--RESTRICTIONS.--

A. Commercial driver's licenses may be issued with the classifications, endorsements and restrictions enumerated in Subsections B, C and D of this section. The holder of a valid commercial driver's license may drive all vehicles in the class for which that license is issued and all lesser classes of vehicles except motorcycles and vehicles that require an endorsement unless the proper endorsement appears on the license.

B. The following classifications shall apply to commercial driver's licenses:

(1) class A - any combination of vehicles with a gross combination weight rating of more than twenty-six thousand pounds, if the gross vehicle weight rating of the vehicle or vehicles being towed is in excess of ten thousand pounds;

(2) class B - any single vehicle with a gross vehicle weight rating of more than twenty-six thousand pounds and any such vehicle towing a vehicle with a gross vehicle weight rating of ten thousand pounds or less; and

(3) class C - any single vehicle or combination of vehicles that does not meet either the definition of Paragraph (1) or (2) of this subsection but is:

(a) designed to transport sixteen or more passengers, including the driver; or

(b) used in the transportation of hazardous materials, which requires the vehicle to be placarded under applicable law.

C. The secretary, by regulation, may provide for classifications in addition to those set forth in Subsection B of this section.

D. The following endorsements and restrictions shall apply to commercial driver's licenses:

(1) "H" - authorizes driving a vehicle transporting hazardous material;

(2) "L" - restricts the driver to vehicles not equipped with airbrakes;

(3) "T" - authorizes driving a vehicle towing more than one trailer;

(4) "P" - authorizes driving vehicles, other than school buses, carrying passengers;

(5) "N" - authorizes driving tank vehicles;

(6) "X" - represents a combination of the hazardous material ("H") and tank vehicle ("N") endorsements;

(7) "S" - authorizes driving a school bus; and

(8) "K" - restricts the driver to driving a commercial motor vehicle in intrastate commerce only."

Chapter 17 Section 4

Section 4. Section 66-5-70 NMSA 1978 (being Laws 1989, Chapter 14, Section 19) is amended to read:

"66-5-70. RECIPROCITY.--Notwithstanding any other provision of law, a person who is not a New Mexico resident may drive a commercial motor vehicle if that person has a commercial driver's license issued by any state in accordance with the minimum standards established by the federal highway administration for the issuance of commercial driver's licenses, if the license is not suspended, revoked or canceled and if the person is not disqualified from driving a commercial motor vehicle or subject to an out-of-service order."

Chapter 17 Section 5

Section 5. A new section of the New Mexico Commercial Driver's License Act is enacted to read:

"PENALTIES FOR VIOLATION OF OUT-OF-SERVICE ORDERS.--

A.A driver who is convicted of violating an out-of-service order shall be subject to a civil penalty of not less than ten dollars (\$10.00) or more than twenty-five dollars (\$25.00), in addition to disqualification as provided in Subsection C of this section.

B.An employer who is convicted of a violation of Subsection C of Section 66-5-58 NMSA 1978 shall be subject to a civil penalty of not less than twenty-five dollars (\$25.00) or more than one hundred dollars (\$100).

C.A driver who is convicted of violating an out-of-service order shall be disqualified for:

(1)not less than ninety days or more than one year if the driver is convicted of a first violation of an out-of-service order;

(2)not less than one year or more than five years if, during any ten-year period, the driver is convicted of two violations of out-of-service orders in separate incidents; and

(3)not less than three years or more than five years if, during any ten-year period, the driver is convicted of three or more violations of out-of-service orders in separate incidents."

Chapter 17 Section 6

Section 6. APPLICABILITY.--The provisions of this act apply to commercial driver's licenses issued on or after January 1, 1998.

HOUSE BILL 133

CHAPTER 18

RELATING TO PUBLIC EMPLOYEES; PROVIDING FOR PURCHASE OF SERVICE CREDIT FOR RETIREMENT PURPOSES BY CERTAIN PUBLIC EMPLOYEES FOR CERTAIN PRIOR EMPLOYMENT WITH THE UNITED STATES DEPARTMENT OF ENERGY.

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

Chapter 18 Section 1

Section 1. Section 10-11-141 NMSA 1978 (being Laws 1993, Chapter 29, Section 1, as amended) 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 department of energy 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 department of energy at the Los Alamos area office in connection with the assumed firefighting function or were previously employed as security inspectors in a protective force of the United States department of energy at the Los Alamos area office. The credited service may be provided by the affiliated public employer subject to the following conditions:

A. the employee shall pay to the 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 department of energy 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 department of energy in which the employee was participating immediately prior to the assumption of the governmental function;

C. the payments made under Subsections A and B of this section shall be made in a lump sum. The employee may purchase service credit equivalent to the employee's service in a firefighting unit of the United States department of energy at the Los Alamos area office or as a security inspector or in a protective force of the United States department of energy at the Los Alamos area office. The employee shall make a written election concerning payment and payment shall be made not later than December 1, 1998, and any election made thereafter shall be void; and

D. the amount of service credit purchased pursuant to this section shall not exceed five years."

Chapter 18 Section 2

Section 2. EFFECTIVE DATE--CONTINGENCY--INTERNAL SERVICE RULING. -- The effective date of the provisions of this act is July 1, 1998 unless the public employees retirement association receives an unfavorable ruling relating to the provisions of this act from the internal revenue service.

HOUSE BILL 193

CHAPTER 19

RELATING TO THE INVESTMENT OF THE STATE PERMANENT FUNDS;
AMENDING SECTIONS 6-8-9 AND 7-27-5.1 NMSA 1978 (BEING LAWS 1957,
CHAPTER 179, SECTION 9 AND LAWS 1983, CHAPTER 306, SECTION 8, AS
AMENDED).

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

Chapter 19 Section 1

Section 1. Section 6-8-9 NMSA 1978 (being Laws 1957, Chapter 179, Section 9, as amended) is amended to read:

"6-8-9. SECURITIES AND INVESTMENT.--

A. Money made available from the land grant permanent funds for investment for a period in excess of one year may be invested in the following classes of securities and investments:

(1) bonds, notes or other obligations of the United States government, its agencies, government-sponsored enterprises, corporations or instrumentalities and that portion of bonds, notes or other obligations guaranteed as to principal and interest and issued by the United States government, its agencies, government-sponsored enterprises, corporations or instrumentalities or issued pursuant to acts or programs authorized by the United States government;

(2) bonds, notes, debentures and other obligations issued by the state of New Mexico or a municipality or other political subdivision of the state that are secured by an investment grade bond rating from a national rating service, pledged revenue or other collateral or insurance necessary to satisfy the standard of prudence set forth in Section 6-8-10 NMSA 1978;

(3) bonds, notes, debentures, instruments, conditional sales agreements, securities or other evidences of indebtedness of any corporation, partnership or trust organized and operating within the United States rated not less than Baa or BBB or the equivalent by a national rating service;

(4) notes or obligations securing loans or participation in loans to business concerns or other organizations that are obligated to use the loan proceeds within New Mexico, to the extent that loans are secured by first mortgages on real estate located in New Mexico and are further secured by an assignment of rentals, the payment of which is fully guaranteed by the United States in an amount sufficient to pay all principal and interest on the mortgage;

(5) common and preferred stocks and convertible issues of any corporation; provided that it has securities listed on one or more national stock exchanges or included in 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;

(6) securities of non-United States governmental, quasi-governmental, partnership, trust or corporate entities, and these may be denominated in foreign currencies; provided:

(a) aggregate non-United States investments shall not exceed fifteen percent of the book value of the land grant permanent funds;

(b) for non-United States stocks and non-United States bonds and notes, issues permitted for purchase shall be limited to those issues traded on a national stock exchange or included in a nationally recognized list of stocks or bonds;

(c) currency contracts may be used for investing in non-United States securities only for the purpose of hedging foreign currency risk and not for speculation;

(d) the investment management services of a trust company or national bank exercising trust powers or of an investment counseling firm may be employed; and

(e) reasonable compensation for investment management services and other administrative and investment expenses related to these investments shall be paid directly from the assets of the funds, subject to budgeting and appropriation by the legislature; and

(7) stocks or shares of a diversified investment company registered under the federal Investment Company Act of 1940, as amended, and listed securities of long-term unit investment trusts or individual, common or collective trust funds of banks or trust companies that invest primarily in equity securities authorized in Paragraphs (5) and (6) of this subsection; provided that the investment company has total assets under management of at least one hundred million dollars (\$100,000,000); and provided further that the council may allow reasonable administrative and investment expenses

to be paid directly from the assets derived from these investments, subject to budgeting and appropriation by the legislature.

B. Not more than sixty-five percent of the book value of the land grant permanent funds shall be invested at any given time in securities described in Paragraphs (5), (6) and (7) of Subsection A of this section, and no more than ten percent of the book value of the land grant permanent funds shall be invested at any given time in securities described in Paragraph (3) of Subsection A of this section that are rated Baa or BBB. Assets of the land grant permanent funds may be combined for investment in common pooled funds to effectuate efficient management.

C. Commissions paid for the purchase and sale of any security shall not exceed brokerage rates prescribed and approved by national stock exchanges or by industry practice."

Chapter 19 Section 2

Section 2. 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. Money made available from the severance tax permanent fund for investment for a period in excess of one year in market rate investments may be invested in the following classes of securities and investments:

(1) bonds, notes or other obligations of the United States government, its agencies, government-sponsored enterprises, corporations or instrumentalities and that portion of bonds, notes or other obligations guaranteed as to principal and interest and issued by the United States government, its agencies, government-sponsored enterprises, corporations or instrumentalities or issued pursuant to acts or programs authorized by the United States government;

(2) bonds, notes, debentures and other obligations issued by the state of New Mexico or a municipality or other political subdivision of the state that are secured by an investment grade bond rating from a national rating service, pledged revenue or other collateral or insurance necessary to satisfy the standard of prudence set forth in Section 6-8-10 NMSA 1978;

(3) bonds, notes, debentures, instruments, conditional sales agreements, securities or other evidences of indebtedness of any corporation, partnership or trust organized and operating within the United States rated not less than Baa or BBB or the equivalent by a national rating service;

(4) notes or obligations securing loans or participation in loans to business concerns or other organizations that are obligated to use the loan proceeds within New Mexico, to

the extent that loans are secured by first mortgages on real estate located in New Mexico and are further secured by an assignment of rentals, the payment of which is fully guaranteed by the United States in an amount sufficient to pay all principal and interest on the mortgage;

(5) common and preferred stocks and convertible issues of any corporation; provided that it has securities listed on one or more national stock exchanges or included in 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;

(6) securities of non-United States governmental, quasi-governmental, partnership, trust or corporate entities, and these may be denominated in foreign currencies; provided:

(a) aggregate non-United States investments shall not exceed fifteen percent of the book value of the severance tax permanent fund;

(b) for non-United States stocks and non-United States bonds and notes, issues permitted for purchase shall be limited to those issues traded on a national stock exchange or included in a nationally recognized list of stocks or bonds;

(c) currency contracts may be used for investing in non-United States securities only for the purpose of hedging foreign currency risk and not for speculation;

(d) the investment management services of a trust company or national bank exercising trust powers or of an investment counseling firm may be employed; and

(e) reasonable compensation for investment management services and other administrative and investment expenses related to these investments shall be paid directly from the assets of the fund, subject to budgeting and appropriation by the legislature;

(7) stocks or shares of a diversified investment company registered under the federal Investment Company Act of 1940, as amended, and listed securities of long-term unit investment trusts or individual, common or collective trust funds of banks or trust companies that invest primarily in equity securities authorized in Paragraphs (5) and (6) of this subsection; provided that the investment company has total assets under management of at least one hundred million dollars (\$100,000,000); and provided further that the council may allow reasonable administrative and investment expenses to be paid directly from the assets derived from these investments, subject to budgeting and appropriation by the legislature; and

(8) 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. Not more than sixty-five percent of the book value of the severance tax permanent fund shall be invested at any given time in securities described in Paragraphs (5), (6) and (7) of Subsection A of this section, and no more than ten percent of the book value of the severance tax permanent fund shall be invested at any given time in securities described in Paragraph (3) of Subsection A of this section that are rated Baa or BBB. Assets of the severance tax permanent fund may be combined for investment in common pooled funds to effectuate efficient management.

C. Commissions paid for the purchase and sale of any security shall not exceed brokerage rates prescribed and approved by national stock exchanges or by industry practice."

HOUSE BILL 229

CHAPTER 20

RELATING TO TRADE PRACTICES; AMENDING THE PETROLEUM PRODUCTS STANDARDS ACT TO REMOVE THE AMERICAN PETROLEUM INSTITUTE LABELING REQUIREMENT; DECLARING AN EMERGENCY.

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

Chapter 20 Section 1

Section 1. Section 57-19-32 NMSA 1978 (being Laws 1993, Chapter 98, Section 8) is amended to read:

"57-19-32. LABELING.--

A. No person shall sell, offer for sale or permit the sale of any petroleum product unless there is firmly attached or painted on the container or dispenser from which the petroleum product is offered for sale a sign or label stating the grade or type of product being offered for sale. The sign or label shall be plainly, visibly and prominently displayed in a manner prescribed by regulation of the board.

B. The board may identify petroleum products of a special nature, composition or quality, and it may establish labeling requirements for such products.

C. A sign or label used in connection with automotive motor or lubricating oil shall include the society of automotive engineers viscosity grade classification number preceded by the letters "SAE".

Chapter 20 Section 2

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

HOUSE BILL 247, AS AMENDED

WITH EMERGENCY CLAUSE

SIGNED MARCH 5, 1998

CHAPTER 21

RELATING TO MOTOR VEHICLES; PROVIDING FOR SPECIAL REGISTRATION PLATES FOR NEW MEXICO FIREFIGHTERS; ENACTING A NEW SECTION OF THE MOTOR VEHICLE CODE.

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

Chapter 21 Section 1

Section 1. A new section of the Motor Vehicle Code is enacted to read:

" SPECIAL REGISTRATION PLATES FOR FIREFIGHTERS.--

A. The division shall issue special registration plates to any person employed as a New Mexico firefighter, upon the submission by the person of proof satisfactory to the division that he is currently employed as a New Mexico firefighter, including submission of a signed consent form from the fire chief.

B. No person shall represent himself to be a New Mexico firefighter if he is, in fact, not a New Mexico firefighter. The director shall determine what constitutes satisfactory proof of employment as a New Mexico firefighter.

C. A person who violates the provisions of Subsection B of this section is guilty of a petty misdemeanor and shall be sentenced pursuant to Section 31-19-1 NMSA 1978.

D. A fee of twenty-five dollars (\$25.00), which shall be in addition to the regular motor vehicle registration fee, shall be collected by the department for the original issuance of the special registration plate for New Mexico firefighters.

E. Ten dollars (\$10.00) of the fee collected pursuant to Subsection D of this section shall be retained by the department and shall be appropriated to the department to defray the cost of making and issuing special registration plates for New Mexico firefighters.

F. The amount of the fee collected pursuant to this section less any amount distributed pursuant to Subsection E of this section shall be deposited in the motor vehicle suspense fund for distribution in accordance with Section 66-6-23 NMSA 1978.

G. The director shall approve the final plate design for the special registration plates for New Mexico firefighters in accordance with New Mexico law.

H. When the firefighter holding a special plate ceases to be employed as a firefighter, he shall immediately remove the plate from the vehicle and return it to the director, at which time it shall be exchanged for a regular registration plate. When a firefighter holding a special plate retires from his position as firefighter, he may retain the special plate."

HOUSE BILL 190, AS AMENDED

CHAPTER 22

RELATING TO ALTERNATIVE FUEL; MOVING THE ALTERNATIVE FUEL CONVERSION PROGRAM FROM THE GENERAL SERVICES DEPARTMENT TO THE ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT.

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

Chapter 22 Section 1

Section 1. Section 9-17-7 NMSA 1978 (being Laws 1992, Chapter 58, Section 8, as amended) is recompiled as Section

Section 9-5A-8 NMSA 1978 and is amended to read:

"9-5A-8. STATE ALTERNATIVE FUEL PROGRAM MANAGER-- CREATION--DUTIES.-
-A "state alternative fuel program manager" is created in the energy conservation and management division of the energy, minerals and natural resources 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."

Chapter 22 Section 2

Section 2. Section 13-1B-2 NMSA 1978 (being Laws 1992, Chapter 58, Section 2, as amended) 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, a fuel mixture containing not less than eighty-five percent ethanol or methanol or a water-phased hydrocarbon fuel emulsion consisting of a hydrocarbon base and water in an amount not less than twenty percent by volume of the total water-phased fuel emulsion;

B. "conventional fuel" means gasoline or diesel fuel;

C. "department" means the energy, minerals and natural resources department;

D. "fund" means the alternative fuel conversion loan fund;

E. "political subdivision" means a county, municipality or school district;

F. "post-secondary institution" means two- and four-year public post-secondary institutions; and

G. "vehicle" means a passenger car, bus or light, medium or heavy duty truck."

Chapter 22 Section 3

Section 3. TEMPORARY PROVISION--TRANSFER OF PERSONNEL, PROPERTY, CONTRACTS AND REFERENCES IN LAW.--On July 1, 1998:

A. all personnel, appropriations, money, records, property, equipment and supplies of the state alternative fuel program shall be transferred to the energy, minerals and natural resources department;

B. all contracts and other obligations of the general services department pertaining to the state alternative fuel program shall be binding and effective on the energy, minerals and natural resources department; and

C. all references in law to the state alternative fuel program in the general services department shall be deemed to be references to the state alternative fuel program of the energy, minerals and natural resources department.

Chapter 22 Section 4

Section 4. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1998.

HOUSE BILL 260, AS AMENDED

CHAPTER 23

RELATING TO LANDSCAPE ARCHITECTS; INCREASING FEES; PROVIDING FOR INACTIVE STATUS; MAKING AN APPROPRIATION; DECLARING AN EMERGENCY.

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

Chapter 23 Section 1

Section 1. Section 61-24B-1 NMSA 1978 (being Laws 1985, Chapter 151, Section 1) is amended to read:

"61-24B-1. SHORT TITLE.--Chapter 61, Article 24B NMSA 1978 may be cited as the "Landscape Architects Act"."

Chapter 23 Section 2

Section 2. A new section of the Landscape Architects Act is enacted to read:

"INACTIVE STATUS.--A certificate of registration in good standing may be transferred to inactive status upon written request to the board and payment of an annual inactive status fee set by the board. The request shall be made prior to expiration of the certificate of registration. The registrant shall not practice in New Mexico during the time the certificate of registration is inactive. A registrant may reactivate his certificate of registration upon submission of a renewal form provided by the board, the payment of

the annual renewal fee for the current year, proof of continuing education units for the period of inactive status and any additional proof of competency required by the board."

Chapter 23 Section 3

Section 3. Section 61-24B-11 NMSA 1978 (being Laws 1985, Chapter 151, Section 11) is amended to read:

"61-24B-11. FEES.--The board shall establish a schedule of reasonable fees for applications, certificates of registration, temporary permits, re-registration, inactive status and late registration renewal as follows:

A. the initial application fee shall be set in an amount not to exceed one hundred dollars (\$100);

B. the initial certificate of registration fee shall be set in an amount not to exceed three hundred dollars (\$300);

C. the certificate of registration renewal fee shall be set in an amount not to exceed four hundred dollars (\$400);

D. the annual inactive status fee shall be set at one-half the renewal fee for the year; and

E. the late fee for registration renewal shall be set at an amount not to exceed twice the renewal fee."

Chapter 23 Section 4

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

HOUSE BILL 337, AS AMENDED

WITH EMERGENCY CLAUSE

SIGNED MARCH 5, 1998

CHAPTER 24

RELATING TO LICENSURE; AMENDING THE PODIATRY ACT; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978; MAKING AN APPROPRIATION.

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

Chapter 24 Section 1

Section 1. Section 61-8-1 NMSA 1978 (being Laws 1977, Chapter 221, Section 1) is amended to read:

"61-8-1. SHORT TITLE.--Chapter 61, Article 8 NMSA 1978 may be cited as the "Podiatry Act"."

Chapter 24 Section 2

Section 2. Section 61-8-2 NMSA 1978 (being Laws 1977, Chapter 221, Section 2) is amended to read:

"61-8-2. DEFINITIONS.--As used in the Podiatry Act: A. "board" means the board of podiatry;

B. "foot and ankle radiation technologist" means a person who takes x-rays of the foot and ankle under the supervision of a podiatrist; and

C. "practice of podiatry" means engaging in that primary health care profession, the members of which examine, diagnose, treat and prevent by medical, surgical and biomechanical means ailments affecting the human foot and ankle and the structures governing their functions, but does not include amputation of the foot or the personal administration of a general anesthetic. A podiatrist, pursuant to the laws of this state, is defined as a physician and surgeon within the scope of his license."

Chapter 24 Section 3

Section 3. Section 61-8-3 NMSA 1978 (being Laws 1977, Chapter 221, Section 3) is amended to read:

"61-8-3. LICENSE REQUIRED.--Unless licensed as a podiatrist pursuant to the provisions of the Podiatry Act or exempted from that act pursuant to Section 61-8-4 NMSA 1978, no person shall practice podiatry."

Chapter 24 Section 4

Section 4. Section 61-8-4 NMSA 1978 (being Laws 1977, Chapter 221, Section 4) is amended to read:

"61-8-4. PERSONS EXEMPTED.--The Podiatry Act shall not apply to:

A. gratuitous services rendered in cases of emergency;

B. the domestic administration of family remedies not involving remuneration;

C. medical officers of the United States service in the actual performance of their official duties. The provisions of the Podiatry Act do not conflict with existing laws regulating the practice of the healing arts in this state; and

D. the fitting, recommending or sale of corrective shoes, arch supports or similar mechanical devices by retail dealers or manufacturers, provided that the representatives, agents or employees of such dealers or manufacturers do not diagnose, treat or prescribe mechanically or otherwise for any ailment, disease or deformity of the foot or leg."

Chapter 24 Section 5

Section 5. Section 61-8-5 NMSA 1978 (being Laws 1977, Chapter 221, Section 5, as amended) is amended to read:

"61-8-5. BOARD CREATED--MEMBERS--QUALIFICATIONS--TERMS--VACANCIES--REMOVAL.--

A. There is created a "board of podiatry". The board shall consist of five members, three of whom shall be podiatrists licensed to practice in New Mexico who have been actively engaged in the practice of podiatry for at least three consecutive years immediately prior to their appointments and two members who shall represent the public and who shall not have been licensed as podiatrists, nor shall the public members have any significant financial interest, whether direct or indirect, in the occupation regulated.

B. Members of the board required to be licensed podiatrists shall be appointed by the governor. Board members shall be appointed for staggered terms of five years each, made in such a manner that the terms of not more than two board members end on December 31 of each year commencing with 1978. Board members shall serve until their successors have been appointed and qualified. A vacancy shall be filled for the unexpired term by appointment by the governor. All members of the state board of podiatry in office on the effective date of the Podiatry Act shall serve out their unexpired terms.

C. The governor may remove any member from the board for neglect of any duty required by law, for incompetence, for improper or unprofessional conduct as defined by board rule or for any reason that would justify the suspension or revocation of his license to practice podiatry.

D. No board member shall serve more than two consecutive full terms, and any member failing to attend, after proper notice, three consecutive meetings shall automatically be removed as a board member unless excused for reasons set forth in board rules.

E. In the event of a vacancy for any reason, the secretary of the board shall immediately notify the governor and the board members of the vacancy, the reason for its

occurrence and the action taken by the board, so as to expedite the appointment of a new board member."

Chapter 24 Section 6

Section 6. Section 61-8-6 NMSA 1978 (being Laws 1977, Chapter 221, Section 6) is amended to read:

"61-8-6. BOARD ORGANIZATION--MEETINGS--COMPENSATION--POWERS AND DUTIES.--

A. The board shall hold a regular meeting at least annually and shall elect annually a chairman, vice chairman and secretary-treasurer from its membership, each of whom shall serve until his successor is selected and qualified.

B. The board shall hold a minimum of one examination for licensure each year in the month of June or July at a place and at a time designated by the board. Notice of the examination shall be given to all applicants at least thirty days prior to the date of the examination.

C. Special meetings may be called by the chairman and shall be called upon the written request of any three board members. Notice of all meetings shall be made in conformance with the Open Meetings Act.

D. Members of the board may be reimbursed as provided in the Per Diem and Mileage Act, but shall receive no other compensation, perquisite or allowance.

E. The board shall:

(1) administer and enforce the provisions of the Podiatry Act;

(2) adopt, publish and file, in accordance with the Uniform Licensing Act and the State Rules Act, all rules for the implementation and enforcement of the provisions of the Podiatry Act;

(3) adopt and use a seal;

(4) conduct hearings, administer oaths and take testimony on any matters within the board's jurisdiction;

(5) keep an accurate record of all its meetings, receipts and disbursements;

(6) keep a record of all licensure examinations held, together with the names and addresses of all persons taking the examinations and the examination results. Within forty-five days after any examination, the board shall give written notice to each applicant examined of the results of the examination as to the respective applicant;

(7) certify as passing each applicant who obtains a passing score, as defined by board rule, on examinations administered or approved by the board;

(8) keep records of registration in which the name, address and license number of all licensed podiatrists are recorded, together with a record of all license renewals, suspensions and revocations;

(9) grant, deny, renew, suspend or revoke licenses to practice podiatry or take other actions provided in Section 61-1-3 NMSA 1978 in accordance with the provisions of the Uniform Licensing Act for any cause stated in the Podiatry Act;

(10) adopt and promulgate rules setting standards of preliminary and professional qualifications for the practice of podiatry;

(11) adopt and promulgate rules and prepare and administer examinations for the licensure and regulation of podiatric assistants as are necessary to protect the public. The rules shall include definitions and limitations on the practice of podiatric assistants; qualifications for applicants for licensure; an initial license fee in an amount not to exceed two hundred fifty dollars (\$250); and a renewal fee not to exceed one hundred dollars (\$100) per year; provisions for the regulation of podiatric assistants and the suspension or revocation of licenses;

(12) determine by rule all qualifications and requirements for applicants seeking licensure as podiatrists or podiatric assistants;

(13) adopt rules and prepare and administer examinations for applicants seeking licensure as foot and ankle radiation technologists; and

(14) have the power to employ agents or attorneys."

Chapter 24 Section 7

Section 7. Section 61-8-7 NMSA 1978 (being Laws 1977, Chapter 221, Section 7) is amended to read:

"61-8-7. DISPOSITION OF FUNDS--PODIATRY FUND CREATED--METHOD OF PAYMENTS--BONDS.--

A. There is created the "podiatry fund".

B. All funds received by the board and money collected under the Podiatry Act shall be deposited with the state treasurer, who shall place the same to the credit of the podiatry fund.

C. All payments out of the podiatry fund shall be made on vouchers issued and signed by the secretary-treasurer of the board upon warrants drawn by the secretary of finance

and administration in accordance with the budget approved by the department of finance and administration.

D. All amounts in the podiatry fund shall be subject to the order of the board and shall be used only for the purpose of meeting the necessary expenses incurred in:

(1) the performance of the provisions of the Podiatry Act and the powers and duties imposed by that act; and

(2) the promotion of education and standards of practice in the field of podiatry in New Mexico within the budgetary limits.

E. All money that has accumulated to the credit of the board under any previous law shall be transferred to the podiatry fund and shall continue to be available for use by the board in accordance with the provisions of the Podiatry Act. Balances at the end of the fiscal year shall not revert, but shall remain in the podiatry fund for use in accordance with the provisions of the Podiatry Act."

Chapter 24 Section 8

Section 8. Section 61-8-8 NMSA 1978 (being Laws 1977, Chapter 221, Section 8) is amended to read:

"61-8-8. QUALIFICATIONS FOR LICENSURE AS A PODIATRIST.--

A. Each applicant for licensure as a podiatrist shall furnish evidence satisfactory to the board that the applicant:

(1) has reached the age of majority;

(2) is of good moral character;

(3) has graduated and been awarded a doctor of podiatric medicine degree from a college of podiatric medicine accredited by the American podiatric medical association council on education; and

(4) has completed, at a minimum, a one-year residency program at a hospital accredited by the American podiatric medical association council on education.

B. Each applicant shall file his application under oath on forms supplied by the board and shall pay the required fees.

C. An applicant for licensure by examination shall submit evidence to the board that he has successfully passed the examinations administered by the national board of podiatry examiners for students graduating from colleges of podiatry and shall furnish the board an official transcript and take such clinical and written examinations as the

board deems necessary. The examinations shall be in English, and the subjects covered by the examinations shall be determined by the board and taken from subjects taught in accredited colleges of podiatric medicine. No applicant for licensure by examination shall be licensed who has not received a passing score on all board-approved or board-administered examinations.

D. A podiatrist duly licensed in another state may, on a temporary basis, consult, advise or cooperate in patient treatment with a podiatrist licensed in New Mexico, subject to rules adopted and promulgated by the board.

Chapter 24 Section 9

Section 9. Section 61-8-9 NMSA 1978 (being Laws 1977, Chapter 221, Section 9) is amended to read:

"61-8-9. LICENSURE BY RECIPROCITY.--An applicant for licensure by reciprocity shall meet the qualifications set forth in Section 61-8-8 NMSA 1978, shall file his application under oath on forms supplied by the board that conform to board rules on reciprocity and shall furnish proof satisfactory to the board of his having been licensed by examination in another state that had qualifications equal to or exceeding those of this state on the date of his original licensure. In addition, each applicant for registration pursuant to the provisions for licensure by reciprocity shall furnish the board an affidavit from his state board showing current registration and the fact that he has been licensed to practice podiatry and that he has practiced podiatry for at least five consecutive years immediately preceding the filing of his application for reciprocal privilege. The applicant shall also complete and pass those supplemental examinations as the board deems necessary if required by board rule."

Chapter 24 Section 10

Section 10. Section 61-8-10 NMSA 1978 (being Laws 1977, Chapter 221, Section 10, as amended) is amended to read:

"61-8-10. LICENSE FEES--LICENSURE UNDER PRIOR LAW--RENEWAL.--

A. An applicant for licensure as a podiatrist shall pay the following fees:

(1) for licensure by examination:

(a) an examination fee equal to the cost of purchasing the examination, plus an administration fee not to exceed fifty percent of the examination fee; and

(b) an application fee not to exceed five hundred dollars (\$500);

(2) for licensure on the basis of reciprocity, a fee set by the board in an amount not to exceed six hundred dollars (\$600);

(3) for the annual renewal of license on or before January 1 of each year, a renewal fee set by the board in an amount not to exceed three hundred dollars (\$300);

(4) for the late renewal after January 1 of each year, a late charge not to exceed fifty dollars (\$50.00) per month or part thereof commencing on January 2;

(5) in addition to the renewal fees and late charges, the applicant for the renewal of a license shall pay a reinstatement fee not to exceed two hundred fifty dollars (\$250) for the first twelve months of delinquency and a reinstatement fee of five hundred dollars (\$500) for a license that has lapsed more than one year but not more than three years; and

(6) for the issuance of a temporary license, a fee not to exceed one hundred dollars (\$100).

B. If any licensee permits his license to lapse for a period of three full years, the license shall automatically be canceled and shall not be reinstated.

C. The provisions of Paragraphs (3), (4) and (5) of Subsection A of this section shall not apply to licensees who practice in the service of the United States whose licenses shall be renewed upon application for such renewal within three months after the termination of such service.

D. Current renewal certificates issued by the board shall be displayed in the office of the licensee, and, in the case of the suspension or revocation of a license, no portion of a fee or penalty shall be returned.

E. Any person licensed as a podiatrist under the provisions of any prior laws of New Mexico, whose license is valid on the effective date of the Podiatry Act, shall be held to be licensed under the provisions of the Podiatry Act and shall be entitled to the renewal of his current license."

Chapter 24 Section 11

Section 11. Section 61-8-10.1 NMSA 1978 (being Laws 1989, Chapter 185, Section 2) is amended to read:

"61-8-10.1. LICENSE RENEWAL--CONTINUING EDUCATION--PENALTY FOR FAILURE TO RENEW.--

A. All licensees shall renew their licenses on or before January 1 of each year. Upon application for renewal, each licensee shall furnish evidence that he holds a registration number with the taxation and revenue department and has completed continuing education requirements as set forth in Subsection B of this section.

B. As a condition of renewal, all applicants shall furnish the board with evidence of completion of post-graduate study as required by board rule. Post-graduate study may be obtained from a college of podiatric medicine accredited by the American podiatry association, one of its constituent societies or affiliate organizations or other such courses approved by the board. This requirement may only be waived for reasons of prolonged illness or other incapacity.

C. The board may summarily suspend the license of any podiatrist who fails to renew his license or submit proof of completion of continuing education requirements within sixty days of January 1 as provided in Subsection A of this section. The board may reinstate licenses suspended upon payment of all applicable late fees, delinquent renewal fees and reinstatement fees."

Chapter 24 Section 12

Section 12. Section 61-8-11 NMSA 1978 (being Laws 1977, Chapter 221, Section 11) is amended to read:

"61-8-11. SUSPENSION, REVOCATION OR REFUSAL OF LICENSE.--The board may refuse to issue or may suspend or revoke any license in accordance with the provisions of the Uniform Licensing Act for any one or more of the following reasons:

A. making a false statement in any part of an application for licensure, examination or registration pursuant to the provisions of the Podiatry Act;

B. conviction of a crime involving moral turpitude, as shown by a certified copy of the record of the court of conviction;

C. the habitual indulgence in the use of narcotics, alcohol or other substances that impair intellect and judgment to an extent as will, in the opinion of the board, incapacitate a podiatrist from the proper performance of his professional duties;

D. lending the use of one's name to an unlicensed podiatrist;

E. selling, giving or prescribing any compound or substance containing narcotic drugs or other controlled substances for illegal purposes;

F. the willful violation of a patient's right to confidentiality;

G. gross malpractice or incompetency as defined by board rule; or

H. any dishonest or unprofessional conduct as defined by the Podiatry Act or rules adopted pursuant to that act."

Chapter 24 Section 13

Section 13. Section 61-8-12 NMSA 1978 (being Laws 1977, Chapter 221, Section 12) is amended to read:

"61-8-12. OFFENSES--PENALTIES.--Each of the following acts committed by any person constitutes a misdemeanor punishable upon conviction by a fine of not less than one hundred dollars (\$100) or more than ten thousand dollars (\$10,000) or by imprisonment not to exceed one year, or both:

A. practicing or attempting to practice podiatry without a current valid license issued by the board;

B. obtaining registration under the Podiatry Act by false or untrue statements to the board or by presenting a fraudulent diploma or license to the board;

C. swearing falsely or giving a false affidavit in any proceeding before the board;

D. advertising or using any designation, diploma or certificate tending to imply that one is a practitioner of podiatry, including the use of the words "chiropracist", "podiatrist", "M.Cp.", "D.S.C.", "D.P.M.", "foot specialist", "foot correctionist", "foot culturist", "foot practipedist", "foot doctor" or words of similar import, unless one holds a license or is exempted under the provisions of the Podiatry Act; or

E. practicing podiatry during any period of time in which one's license has been revoked or suspended as provided in the Podiatry Act."

Chapter 24 Section 14

Section 14. Section 61-8-13 NMSA 1978 (being Laws 1977, Chapter 221, Section 13) is amended to read:

"61-8-13. UNPROFESSIONAL CONDUCT--EXCEPTIONS.--

A. Unprofessional conduct pursuant to Subsection H of Section 61-8-11 NMSA 1978 for any podiatrist licensed under the Podiatry Act includes using any false or misleading advertising or making any false or misleading statement in communications with patients or potential patients or using any misleading or deceptive title or designation in a name or title of a podiatric practice.

B. Nothing in Subsection A of this section shall be construed to prohibit the following acts:

(1) publishing in type of ordinary size and style, as opposed to bold or display type, the name, location, office hours and telephone number of any licensed practicing podiatrist in any telephone directory;

(2) publishing for a period of not more than ten consecutive days an announcement that the practitioner is opening a new office or practice, providing that the announcement shall be published within thirty days after the opening and shall state only the practitioner's name, location, office hours, telephone number, occupation and the fact of the opening and shall be of a size not to exceed two inches in length and four inches in width and of a type size not heavier nor larger than twelve point gothic with a border not larger than four points;

(3) mailing one notice of the opening of a new practice or a notice of the assumption of an established practice consisting of a printed announcement which shall be in an envelope and shall state only the practitioner's name, location, telephone number, office hours and the designation "podiatrist", "foot specialist" or "practice limited to care of feet" and the usual language announcing the opening of an office;

(4) maintaining exterior signs about the office of the practitioner, in keeping with the medical and dental community, giving his name, address and occupation. The letters shall be no larger than six inches in height, but neon lights, flashing lights or similar devices shall not be used; and

(5) conducting, in conjunction with a majority of the practicing podiatrists of the state or of a given city, a public educational program or informational campaign."

Chapter 24 Section 15

Section 15. Section 61-8-14 NMSA 1978 (being Laws 1977, Chapter 221, Section 14) is amended to read:

"61-8-14. LIMITATION ON LICENSURE--TEMPORARY LICENSE.--

A. No license to practice podiatry shall be issued to a corporation, partnership or association; provided, however, that this subsection shall not prohibit licensed podiatrists from associating themselves as otherwise allowed by law in a professional corporation, professional limited liability company, partnership or association for the purpose of practicing podiatry.

B. In cases of emergency, as defined by board rule, the board may grant a temporary license to practice podiatry to a person who meets the requirements of Subsections A and B of Section 61-8-8 NMSA 1978. The temporary license shall automatically expire on the date of the next board meeting at which applications for licensure by examination or reciprocity are approved. No person may be issued more than one temporary license pursuant to this provision.

C. To facilitate educational programs, subject to conditions and terms set forth in board rules, the board may grant a temporary license to practice podiatry to a person enrolled and participating in such program."

Chapter 24 Section 16

Section 16. Section 61-8-15 NMSA 1978 (being Laws 1977, Chapter 221, Section 15) is repealed and a new Section 61-8-15 NMSA 1978 is enacted to read:

"61-8-15. PRIVILEGED COMMUNICATIONS.--Medical and other health care-related information concerning a patient obtained by a podiatrist or by an employee of a podiatrist during the course of examination, diagnosis or treatment; and advice, diagnosis, orders, prescriptions and other health care-related communications from a podiatrist or an employee of a podiatrist are confidential communications protected in courts of law and administrative proceedings by the physician-patient privilege."

Chapter 24 Section 17

Section 17. Section 61-8-16 NMSA 1978 (being Laws 1977, Chapter 221, Section 16) is amended to read:

"61-8-16. POWER TO ENJOIN VIOLATIONS.--Upon final determination that a person has violated a provision of the Podiatry Act, the board or any interested person may, in addition to other remedies provided in that act, petition the district court for an order restraining and enjoining such person from further or continued violation of the Podiatry Act."

Chapter 24 Section 18

Section 18. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1998.

HOUSE BILL 360, AS AMENDED

CHAPTER 25

RELATING TO MOTOR VEHICLES; PROVIDING FOR THE USE OF YEAR-OF-MANUFACTURE LICENSE PLATES FOR ANTIQUE MOTOR VEHICLES; ENACTING A SECTION OF THE MOTOR VEHICLE CODE.

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

Chapter 25 Section 1

Section 1. A new section of the Motor Vehicle Code is enacted to read:

"YEAR-OF-MANUFACTURE LICENSE PLATES--PROCEDURES--FEES. --

A. The division may specially register and permit the use of year-of-manufacture license plates on motor vehicles thirty or more years old notwithstanding the provisions of Subsection B of Section 66-3-14 NMSA 1978.

B. The division shall inspect the year-of-manufacture license plate to ensure the plate is in good condition and the number on the plate is not already assigned or in use. To qualify for use, the year-of-manufacture plate shall be an authentic plate issued in New Mexico during the motor vehicle's model year.

C. For a one-time fee of twenty-five dollars (\$25.00), which shall be in addition to the regular motor vehicle registration fees, any owner of a motor vehicle that is thirty or more years old may apply to the division to use a year-of-manufacture plate on his vehicle.

D. Upon the sale or transfer of a motor vehicle bearing a year-of-manufacture plate, the plate may remain with the vehicle and be transferred to the new owner upon payment of a ten dollar (\$10.00) fee in addition to the regular motor vehicle registration fees.

E. Ten dollars (\$10.00) of the fee collected pursuant to Subsection C of this section shall be retained by the department and is appropriated to the department to defray the cost of processing the special year-of-manufacture registration plates."

HOUSE BILL 388, AS AMENDED

CHAPTER 26

RELATING TO IMMUNIZATIONS; AMENDING CERTAIN SECTIONS OF THE NMSA 1978 PERTAINING TO IMMUNIZATION REGULATIONS AND FUNDING.

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

Chapter 26 Section 1

Section 1. Section 24-5-1 NMSA 1978 (being Laws 1959, Chapter 329, Section 1, as amended) is amended to read:

"24-5-1. IMMUNIZATION REGULATIONS.--The public health division of the department of health shall, after consultation with the state board of education, promulgate rules and regulations governing the immunization against diseases deemed to be dangerous to the public health, to be required of children attending public, private, home or parochial schools in the state. The immunizations required and the manner and frequency of their administration shall conform to recommendations of the advisory committee on immunization practices of the United States department of health and human services and the American academy of pediatrics. The public health division shall supervise and secure the enforcement of the required immunization program."

Chapter 26 Section 2

Section 2. Section 24-5-5 NMSA 1978 (being Laws 1959, Chapter 329, Section 5, as amended) is amended to read:

"24-5-5. WHO MAY IMMUNIZE--WHO MUST PAY.--The immunization required by Chapter 24, Article 5 NMSA 1978 may be done by any health care provider who holds a license or certificate pursuant to state law that authorizes him to immunize. If the parents are unable to pay, the immunization shall be provided by the public health division of the department of health. The department shall undertake every effort to obtain federal funding to implement the department's immunization program. No public health employee may receive any fee for immunization service if the service is compensated for by the public health division. Local school boards may contribute toward the cost of materials and supplies for immunizations."

HOUSE BILL 402, AS AMENDED

CHAPTER 27

RELATING TO PROCUREMENT; AMENDING A SECTION OF THE PROCUREMENT CODE TO PROVIDE FOR CERTAIN MULTI-TERM CONTRACTS.

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

Chapter 27 Section 1

Section 1. Section 13-1-150 NMSA 1978 (being Laws 1984, Chapter 65, Section 123, as amended by Laws 1993, Chapter 225, Section 1 and also by Laws 1993, Chapter 231, Section 13) is amended to read:

"13-1-150. MULTI-TERM CONTRACTS--SPECIFIED PERIOD.--A

multi-term contract for items of tangible personal property, construction or services except for professional services, in an amount under twenty-five thousand dollars (\$25,000), may be entered into for any period of time deemed to be in the best interests of the state agency or a local public body not to exceed four years; provided that the term of the contract and conditions of renewal or extension, if any, are included in the specifications and funds are available for the first fiscal period at the time of contracting. If the amount of the contract is twenty-five thousand dollars (\$25,000) or more, the term shall not exceed eight years, including all extensions and renewals, except that for any such contract entered into pursuant to the Public Building Energy Efficiency and Water Conservation Act, the term shall not exceed ten years, including all extensions and renewals. Payment and performance obligations for succeeding fiscal periods shall be subject to the availability and appropriation of funds therefor. A contract for professional services, except for services required to support or operate federally certified medicaid,

financial assistance and child support enforcement management information or payment systems and except for services to design, develop or implement the taxation and revenue information management systems project authorized by Laws 1997, Chapter 125 may not exceed a term of four years, including all extensions and renewals, except that a multi-term contract for the services of trustees, escrow agents, registrars, paying agents, letter of credit issuers and other forms of credit enhancement and other similar services, excluding bond attorneys, underwriters and financial advisors with regard to the issuance, sale and delivery of public securities, may be for the life of the securities or as long as the securities remain outstanding.

HOUSE BILL 412, AS AMENDED

CHAPTER 28

RELATING TO HEALTH; CHANGING THE ADMISSION AND TREATMENT CRITERIA AT THE ADOLESCENT TREATMENT HOSPITAL.

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

Chapter 28 Section 1

Section 1. Section 23-9-2 NMSA 1978 (being Laws 1992, Chapter 60, Section 2) is amended to read:

"23-9-2. DEFINITIONS.--As used in the Adolescent Treatment Hospital Act:

- A. "adolescent" means a person aged thirteen through twenty;
- B. "adolescent treatment hospital" means the hospital created pursuant to the Adolescent Treatment Hospital Act;
- C. "board" means the adolescent treatment hospital governing board;
- D. "adolescent residential treatment facility" means the facility created pursuant to the Adolescent Treatment Hospital Act; and
- E. "coordinated treatment panel" means the group made up of trained health and mental health professionals who review and approve psychosocial treatment recommendations, develop psychosocial treatment alternatives, track costs and cost-effectiveness and evaluate outcomes; and
- F. "secretary" means the secretary of health."

Chapter 28 Section 2

Section 2. Section 23-9-6 NMSA 1978 (being Laws 1992, Chapter 60, Section 6) is amended to read:

"23-9-6. HOSPITAL ADMISSIONS--TREATMENT.--

A. Adolescents shall be admitted to the adolescent treatment hospital and adolescent residential treatment facility only in accordance with the provisions of the Mental Health and Developmental Disabilities Code or the Children's Mental Health and Developmental Disabilities Act. The coordinated treatment panel may make recommendations on admissions.

B. The secretary shall, in consultation with the board, define admittance criteria; provided that the criteria may not exclude adolescents in the custody of other agencies who might otherwise meet the criteria for services provided through the adolescent treatment hospital.

C. The Mental Health and Developmental Disabilities Code or the Children's Mental Health and Developmental Disabilities Act shall apply to inpatient treatment."

HOUSE BILL 433, AS AMENDED

CHAPTER 29

RELATING TO CONSUMER PROTECTION; ENACTING THE ASSISTIVE DEVICE LEMON LAW; ESTABLISHING A ONE-YEAR WARRANTY AND OTHER PROTECTIONS FOR CONSUMERS OF ASSISTIVE DEVICES.

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

Chapter 29 Section 1

Section 1. SHORT TITLE.--This act may be cited as the "Assistive Device Lemon Law".

Chapter 29 Section 2

Section 2. DEFINITIONS.--As used in the Assistive Device Lemon Law:

A. "assistive device" means manual wheelchairs, motorized wheelchairs, motorized scooters and motorized wheelchair lifts that allow access to motor vehicles; hearing aids, telephone communication devices for the deaf, assistive listening devices and other aids that enhance a person's ability to hear; and voice-synthesized or voice-activated computer software, optical scanners, augmentative communication devices and Braille printers; including a demonstrator, that a consumer purchases or accepts transfer of in New Mexico that is used for a major life activity;

B. "collateral costs" means expenses incurred by a consumer in connection with the repair of a nonconformity, including the cost of obtaining an alternative assistive device;

C. "consumer" means any of the following:

(1) the purchaser of an assistive device, if the assistive device was purchased from a dealer or manufacturer for purposes other than resale;

(2) a person to whom the assistive device is transferred for purposes other than resale, if the transfer occurs before the expiration of an express warranty applicable to the assistive device;

(3) the person who can enforce the warranty; and

(4) a person who leases an assistive device from a lessor pursuant to a written lease;

D. "current value of the written lease" means the total amount for which that lease obligates the consumer during the period of the lease remaining after its early termination, plus the assistive device lessor's early termination costs and the value of the assistive device at the lease expiration date if the lease sets forth that value, less the assistive device lessor's early termination savings;

E. "dealer" means a person who purchases assistive devices for resale or lease to consumers;

F. "demonstrator" means an assistive device used primarily for the purpose of demonstration to the public;

G. "early termination cost" means an expense or obligation that an assistive device lessor incurs as a result of both the termination of a written lease before the termination date set forth in that lease and the return of an assistive device to a manufacturer and includes a penalty for prepayment under a finance arrangement;

H. "early termination saving" means an expense or obligation that an assistive device lessor avoids as a result of both the termination of a written lease before the termination date set forth in the lease and the return of an assistive device to a manufacturer. Early termination saving includes an interest charge that the assistive device lessor would have paid to finance the assistive device or, if the lessor does not finance the assistive device, the difference between the total amount for which the lease obligates the consumer during the period of the lease term remaining after the early termination and the present value of that amount at the date of the early termination;

I. "manufacturer" means a person who manufactures or assembles assistive devices and agents of that person, including an importer, distributor, factory branch, distributor branch and any warrantors of the manufacturer's assistive device, but does not include an assistive device dealer;

J. "nonconformity" or "nonconforming" means a condition or defect that substantially impairs the use, value or safety of an assistive device that was purchased or whose acceptance of transfer occurred in New Mexico and that is covered by an express warranty applicable to the assistive device or to a component of the assistive device, but does not include a condition or defect that is the result of abuse, neglect or unauthorized modification or alteration of the assistive device by a consumer; and

K. "reasonable attempt to repair" means, within the terms of an express warranty applicable to a new assistive device, that:

(1) a nonconformity within the warranty is subject to repair by the manufacturer, the manufacturer's authorized dealer or a lessor at least four times and a nonconformity continues; or

(2) the assistive device is out of service for an aggregate of at least thirty cumulative days because of warranty nonconformity.

Chapter 29 Section 3

Section 3. OBLIGATIONS AND INTERESTS.--

A. A manufacturer who sells an assistive device to a consumer, either directly or through a dealer, shall furnish the consumer with an express warranty for the assistive device. The duration of the express warranty shall be not less than one year after first delivery of the assistive device to the consumer. In the absence of a written warranty from the manufacturer, the manufacturer shall be deemed to have expressly warranted to the consumer of an assistive device that for a period of one year from the date of first delivery to the consumer, the assistive device will be free from any nonconformity.

B. If a new assistive device does not conform to an applicable express warranty and the consumer reports the nonconformity to the manufacturer, dealer or lessor and makes the assistive device available for repair during the warranty period, the nonconformity shall be repaired at no charge to the consumer.

C. If, after a reasonable attempt to repair, the nonconformity is not repaired, the manufacturer, at the direction of the consumer, shall:

(1) accept return of the assistive device and replace it with a comparable new assistive device and refund any collateral costs within thirty days;

(2) accept return of the assistive device and refund to the consumer and to any holder of a perfected security interest in the consumer's assistive device, as their interest may appear, the full purchase price plus any finance charge amount paid by the consumer at the point of sale and collateral costs; or

(3) if the consumer was a lessee, accept return of the assistive device, refund to the lessor and to any holder of a perfected security interest in the assistive device, as their interest may appear, the current value of the written lease and refund to the consumer the amount that the consumer paid pursuant to the written lease plus any collateral costs.

D. A reasonable allowance for use may be charged to the consumer based on the number of days that the consumer used the assistive device before the consumer first reported the nonconformity to the manufacturer, dealer or lessor.

E. To receive a comparable new assistive device or a refund due pursuant to Paragraph (1) or (2) of Subsection C of this section, a consumer shall offer to transfer possession of the nonconforming assistive device to the manufacturer. No later than thirty days after the offer, the manufacturer shall provide the consumer with a comparable new assistive device or a refund. When the manufacturer provides the new assistive device or refund, the consumer shall return the nonconforming assistive device to the manufacturer, along with any endorsements necessary to transfer legal possession to the manufacturer.

F. To receive a refund due pursuant to Paragraph (3) of Subsection C of this section, a lessor shall offer to transfer possession of the nonconforming assistive device to the manufacturer. No later than thirty days after the offer, the manufacturer shall provide the refund to the lessor and to any holder of a perfected security interest in the assistive device as his interest may appear. When the manufacturer provides the refund, the lessor shall provide to the manufacturer any endorsements necessary to transfer legal possession to the manufacturer.

G. No person shall enforce the lease against the consumer after the consumer receives a refund due pursuant to Paragraph (3) of Subsection C of this section.

H. No assistive device returned by a consumer or lessor in this or any other state because of a nonconformity shall be resold or re-leased in this state unless full disclosure of the reasons for return is made to any prospective buyer or lessee.

Chapter 29 Section 4

Section 4. ATTORNEY GENERAL RULES--ARBITRATION.--The attorney general may adopt and promulgate rules necessary to carry out the provisions of the Assistive Device Lemon Law, including rules concerning arbitration of disputes arising from nonconforming assistive devices and failures to comply with the Assistive Device Lemon Law.

Chapter 29 Section 5

Section 5. CONSUMER RIGHTS--ACTIONS--TREBLE DAMAGES.--

A. This section shall not be construed to limit rights and remedies available to a consumer under any other law.

B. In addition to pursuing any other remedy, a consumer may bring an action to recover actual damages or the sum of one hundred dollars (\$100), whichever is greater. Where the trier of fact finds that the party charged with a violation of the Assistive Device Lemon Law has willfully engaged in the violation, the court may award up to three times actual damages or three hundred dollars (\$300), whichever is greater, to the party complaining of the violation.

C. The court shall award attorney fees and costs to the party complaining of a violation of the Assistive Device Lemon Law if he prevails. The court shall award attorney fees and costs to the party charged with a violation of the Assistive Device Lemon Law if it finds that the party complaining of the violation brought an action that was an action that is frivolous or brought in bad faith.

D. In any class action filed under this section, the court may award damages to the named plaintiffs as provided in Subsection B of this section and may award members of the class such actual damages as were suffered by each member of the class as a result of a violation of the Assistive Device Lemon Law.

HOUSE BILL 53, AS AMENDED

CHAPTER 30

RELATING TO PUBLIC ASSISTANCE; PROVIDING FOR REVIEW AND REGULATION OF MEDICAID PROVIDERS; PROVIDING ADMINISTRATIVE PENALTIES.

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

Chapter 30 Section 1

Section 1. SHORT TITLE.--This act may be cited as the "Medicaid Provider Act".

Chapter 30 Section 2

Section 2. DEFINITIONS.--As used in the Medicaid Provider Act:

A. "department" means the human services department;

B. "managed care organization" means a person eligible to enter into risk-based prepaid capitation agreements with the department to provide health care and related services;

C. "medicaid" means the medical assistance program established pursuant to Title 19 of the federal Social Security Act and regulations issued pursuant to that act;

D. "medicaid provider" means a person, including a managed care organization, operating under contract with the department to provide medicaid-related services to recipients;

E. "person" means an individual or other legal entity;

F. "recipient" means a person whom the department has determined to be eligible to receive medicaid-related services;

G. "secretary" means the secretary of human services; and

H. "subcontractor" means a person who contracts with a medicaid provider to provide medicaid-related services to recipients.

Chapter 30 Section 3

Section 3. REVIEW OF MEDICAID PROVIDERS--CONTRACT REMEDIES--PENALTIES.--

A. Consistent with the terms of any contract between the department and a medicaid provider, the secretary shall have the right to be afforded access to such of the medicaid provider's records and personnel, as well as its subcontracts and that subcontractor's records and personnel, as may be necessary to ensure that the medicaid provider is complying with the terms of its contract with the department.

B. Upon not less than seven days written notice to a medicaid provider, the secretary may, consistent with the provisions of the Medicaid Provider Act and rules issued pursuant to that act, carry out an administrative investigation or conduct administrative proceedings to determine whether a medicaid provider has:

(1) materially breached its obligation to furnish medicaid-related services to recipients, or any other duty specified in its contract with the department;

(2) violated any provision of the Public Assistance Act or the Medicaid Provider Act or any rules issued pursuant to those acts;

(3) intentionally or with reckless disregard made any false statement with respect to any report or statement required by the Public Assistance Act, or the Medicaid Provider Act, rules issued pursuant to either of those acts or a contract with the department;

(4) intentionally or with reckless disregard advertised or marketed, or attempted to advertise or market, its services to recipients in a manner as to misrepresent its

services or capacity for services, or engaged in any deceptive, misleading or unfair practice with respect to advertising or marketing;

(5) hindered or prevented the secretary from performing any duty imposed by the Public Assistance Act, the Human Services Department Act or the Medicaid Provider Act or any rules issued pursuant to those acts; or

(6) fraudulently procured or attempted to procure any benefit from medicaid.

C. Subject to the provisions of Subsection D of this section, after affording a medicaid provider written notice of hearing not less than ten days before the hearing date and an opportunity to be heard, and upon making appropriate administrative findings, the secretary may take any or any combination of the following actions against the provider:

(1) impose an administrative penalty of not more than five thousand dollars (\$5,000) for engaging in any practice described in Paragraphs (1) through (7) of Subsection B of this section; provided that each separate occurrence of such practice shall constitute a separate offense;

(2) issue an administrative order requiring the provider to:

(a) cease or modify any specified conduct or practices engaged in by it or its employees, subcontractors or agents;

(b) fulfill its contractual obligations in the manner specified in the order;

(c) provide any service that has been denied;

(d) take steps to provide or arrange for any service that it has agreed or is otherwise obligated to make available; or

(e) enter into and abide by the terms of a binding or nonbinding arbitration proceeding, if agreed to by any opposing party, including the secretary; or

(3) suspend or revoke the contract between the provider and the department pursuant to the terms of that contract.

D. If a contract between the department and a medicaid provider explicitly specifies a dispute resolution mechanism for use in resolving disputes over performance of that contract, the dispute resolution mechanism specified in the contract shall be used to resolve such disputes in lieu of the mechanism set forth in Subsection C of this section.

E. If a medicaid provider's contract so specifies the medicaid provider shall have the right to seek de novo review in district court of any decision by the secretary regarding a contractual dispute.

Chapter 30 Section 4

Section 4. RETENTION AND PRODUCTION OF RECORDS.--

A. Medicaid providers and their subcontractors shall retain, for a period of at least six years from the date of creation, all medical and business records that are necessary to verify the:

- (1) treatment or care of any recipient for which the medicaid provider received payment from the department to provide that benefit or service;
- (2) services or goods provided to any recipient for which the medicaid provider received payment from the department to provide that benefit or service;
- (3) amounts paid by medicaid or the medicaid provider on behalf of any recipient; and
- (4) records required by medicaid under any contract between the department and the medicaid provider.

B. Upon written request by the department to a medicaid provider or any subcontractor for copies or inspection of records pursuant to the Public Assistance Act, the medicaid provider or subcontractor shall provide the copies or permit the inspection, as applicable, within five business days after the date of the request unless the records are held by a subcontractor, agent or satellite office, in which case the records shall be made available within ten business days after the date of the request.

C. Failure to provide copies or to permit inspection of records requested pursuant to this section shall constitute a violation of the Medicaid Provider Act within the meaning of Paragraph (3) of Subsection B of Section 3 of that act.

Chapter 30 Section 5

Section 5. RULES.--The secretary shall adopt and promulgate rules appropriate to administer, carry out and enforce the provisions of the Medicaid Provider Act.

Chapter 30 Section 6

Section 6. EFFECTIVE DATE.--

A. The provisions of the Medicaid Provider Act shall become effective for all initial contracts between the department and a managed care organization that are executed following any managed care procurement performed by the department that takes place on or after July 1, 1998.

B. For all contracts between the department and any medicaid provider that is not a managed care organization, the provisions of the Medicaid Provider Act shall become effective on July 1, 1998.

HOUSE BILL 287, AS AMENDED

CHAPTER 31

RELATING TO LIMITED LIABILITY PARTNERSHIPS; AMENDING SECTION 54-1-47 NMSA 1978 (BEING LAWS 1995, CHAPTER 185, SECTION 12).

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

Chapter 31 Section 1

Section 1. Section 54-1-47 NMSA 1978 (being Laws 1995, Chapter 185, Section 12) is amended to read:

"54-1-47. INSURANCE OR FINANCIAL RESPONSIBILITY OF REGISTERED LIMITED LIABILITY PARTNERSHIPS.--

A. A registered limited liability partnership shall carry at least five hundred thousand dollars (\$500,000) per occurrence and one million dollars (\$1,000,000) in the aggregate per year of liability insurance, beyond the amount of any applicable deductible, covering the partnership for errors, omissions, negligence, wrongful acts, misconduct and malpractice for which the liability of partners is limited by Section 54-1A-306 NMSA 1978. Such an insurance policy may contain reasonable provisions with respect to policy periods, deductibles, territory, claims, conditions, exclusions and other usual matters.

B. If a registered limited liability partnership is in substantial compliance with the requirements of Subsection A of this section, the requirements of this section shall not be admissible or in any way be made known to a jury in determining an issue of liability for or extent of the debt or obligation or damages in question.

C. A registered limited liability partnership is considered to be in substantial compliance with Subsection A of this section if the partnership provides an amount of funds equal to the amount of insurance required by that subsection specifically designated and segregated for the satisfaction of judgments against the partnership or its partners based on errors, omissions, negligence, wrongful acts, misconduct and malpractice for which liability is limited by Section 54-1A-306 NMSA 1978 as follows:

(1) a deposit in trust or bank escrow or cash, bank certificates of deposit or United States treasury obligations; or

(2) a bank letter of credit or insurance company surety bond."

CHAPTER 32

RELATING TO APPOINTMENT OF CONSERVATORS OR GUARDIANS;
AUTHORIZING PUBLIC ACCESS TO LIMITED INFORMATION REGARDING THE
APPOINTMENT OF A CONSERVATOR OR GUARDIAN; AMENDING SECTIONS OF
THE NMSA 1978.

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

Chapter 32 Section 1

Section 1. Section 32A-6-15 NMSA 1978 (being Laws 1995, Chapter 207, Section 17) is amended to read:

"32A-6-15. DISCLOSURE OF INFORMATION.--

A. Except as otherwise provided in the Children's Mental Health and Developmental Disabilities Act, no person shall, without the authorization of the child, disclose or transmit any confidential information from which a person well acquainted with the child might recognize the child as the described person or any code, number or other means that could be used to match the child with confidential information regarding him.

B. When evidence exists that a child fourteen years of age or older, whose consent to disclosure of confidential information is sought, is incapable of giving or withholding valid consent and does not have a treatment guardian appointed by a court, the person seeking the authorization shall petition the court for the appointment of a treatment guardian to make a decision for the child. When the child is less than fourteen years of age, the child's parent, guardian or legal custodian is authorized to consent to disclosure on behalf of the child.

C. Authorization from the child shall not be required for the disclosure or transmission of confidential information in the following circumstances:

(1) when the request is from a mental health or developmental disability professional or from an employee or trainee working with mentally disordered or developmentally disabled persons, to the extent their practice, employment or training on behalf of the child requires that they have access to the information;

(2) when the disclosure is necessary to protect against a clear and substantial risk of imminent serious physical injury or death inflicted by the child on himself or another;

(3) when the disclosure of the information to the parent, guardian or legal custodian is essential for the treatment of the child;

(4) when the disclosure of the information is to the primary caregiver of the child and the disclosure is only of information necessary for the continuity of the child's treatment in the judgment of the treating clinician who discloses the information;

(5) when the disclosure is to an insurer contractually obligated to pay part or all of the expenses relating to the treatment of the child at the residential facility. The information disclosed shall be limited to data identifying the child, facility and treating or supervising physician and the dates and duration of the residential treatment. It shall not be a defense to an insurer's obligation to pay that the information relating to the residential treatment of the child, apart from information disclosed pursuant to this section, has not been disclosed to the insurer; or

(6) when the disclosure is to a protection and advocacy representative pursuant to the federal Developmental Disabilities Assistance and Bill of Rights Act and the federal Protection and Advocacy for Mentally Ill Individuals Amendments Act of 1991.

D. No authorization given for the transmission or disclosure of confidential information shall be effective unless it:

(1) is in writing and signed; and

(2) contains a statement of the child's right to examine and copy the information to be disclosed, the name or title of the proposed recipient of the information and a description of the use that may be made of the information.

E. The child has a right of access to confidential information about himself and has the right to make copies of any information about himself and submit clarifying or correcting statements and other documentation of reasonable length for inclusion with the confidential information. The statements and other documentation shall be kept with the relevant confidential information, shall accompany it in the event of disclosure and shall be governed by the provisions of this section to the extent the statements or other documentation contain confidential information. Nothing in this subsection shall prohibit the denial of access to the records when a physician or other mental health or developmental disabilities professional believes and notes in the child's medical records that the disclosure would not be in the best interests of the child. In all cases, the child has the right to petition the court for an order granting access.

F. Information concerning a child disclosed under this section shall not be released to any other person, agency or governmental entity or placed in files or computerized data banks accessible to any persons not otherwise authorized to obtain information under this section.

G. Nothing in the Children's Mental Health and Developmental Disabilities Act shall limit the confidentiality rights afforded by federal statute or regulation.

Chapter 32 Section 2

Section 2. Section 43-1-19 NMSA 1978 (being Laws 1977, Chapter 279, Section 18, as amended) is amended to read:

"43-1-19. DISCLOSURE OF INFORMATION.--

A. Except as otherwise provided in the code, no person shall, without the authorization of the client, disclose or transmit any confidential information from which a person well acquainted with the client might recognize the client as the described person, or any code, number or other means that can be used to match the client with confidential information regarding him.

B. Authorization from the client shall not be required for the disclosure or transmission of confidential information in the following circumstances:

(1) when the request is from a mental health or developmental disability professional or from an employee or trainee working with mentally disordered or developmentally disabled persons, to the extent their practice, employment or training on behalf of the client requires that they have access to such information;

(2) when such disclosure is necessary to protect against a clear and substantial risk of imminent serious physical injury or death inflicted by the client on himself or another;

(3) when the disclosure of such information is to the primary caregiver of the client and the disclosure is only of information necessary for the continuity of the client's treatment in the judgment of the treating physician or certified psychologist who discloses the information; or

(4) when such disclosure is to an insurer contractually obligated to pay part or all of the expenses relating to the treatment of the client at the residential facility. The information disclosed shall be limited to data identifying the client, facility and treating or supervising physician and the dates and duration of the residential treatment. It shall not be a defense to an insurer's obligation to pay that the information relating to the residential treatment of the client, apart from information disclosed pursuant to this section, has not been disclosed to the insurer.

C. No authorization given for the transmission or disclosure of confidential information shall be effective unless it:

(1) is in writing and signed; and

(2) contains a statement of the client's right to examine and copy the information to be disclosed, the name or title of the proposed recipient of the information and a description of the use that may be made of the information.

D. The client has a right of access to confidential information about himself and has the right to make copies of any information and to submit clarifying or correcting statements

and other documentation of reasonable length for inclusion with the confidential information. The statements and other documentation shall be kept with the relevant confidential information, shall accompany it in the event of disclosure and shall be governed by the provisions of this section to the extent they contain confidential information. Nothing in this subsection shall prohibit the denial of access to such records when a physician or other mental health or developmental disabilities professional believes and notes in the client's medical records that such disclosure would not be in the best interests of the client. In any such case, the client has the right to petition the court for an order granting such access.

E. Where there exists evidence that the client whose consent to disclosure of confidential information is sought is incapable of giving or withholding valid consent and the client does not have a guardian or treatment guardian appointed by a court, the person seeking such authorization shall petition the court for the appointment of a treatment guardian to make a substitute decision for the client, except that if the client is less than fourteen years of age, the client's parent or guardian is authorized to consent to disclosure on behalf of the client.

F. Information concerning a client disclosed under this section shall not be released to any other person, agency or governmental entity or placed in files or computerized data banks accessible to any persons not otherwise authorized to obtain information under this section.

G. Nothing in the code shall limit the confidentiality rights afforded by federal statute or regulation.

Chapter 32 Section 3

Section 3. Section 45-5-303 NMSA 1978 (being Laws 1989, Chapter 252, Section 5, as amended) is amended to read:

"45-5-303. PROCEDURE FOR COURT APPOINTMENT OF A GUARDIAN OF AN INCAPACITATED PERSON.--

A. Any interested person may file a petition for the appointment of a person to serve as guardian for an alleged incapacitated person under the Uniform Probate Code. The petition shall state the following:

- (1) the name, age and address of the alleged incapacitated person for whom the guardian is sought to be appointed;
- (2) the nature of the alleged incapacity as it relates to the functional limitations and physical and mental condition of the alleged incapacitated person and the reasons why guardianship is being requested;
- (3) if a limited guardianship is sought, the particular limitations requested;

(4) whether a guardian has been appointed or is acting in any state for the alleged incapacitated person;

(5) the name and address of the proposed guardian;

(6) the names and addresses, as far as known or as can reasonably be ascertained, of the persons most closely related by blood or marriage to the alleged incapacitated person;

(7) the name and address of the person or institution having the care and custody of the alleged incapacitated person;

(8) the names and addresses of any other incapacitated persons for whom the proposed guardian is acting if the proposed guardian is an individual;

(9) the reasons the appointment of a guardian is sought and the interest of the petitioner in the appointment;

(10) the steps taken to find less restrictive alternatives to the proposed guardianship; and

(11) the qualifications of the proposed guardian.

B. Notice of a petition under this section for the appointment of a guardian and the hearing on the petition shall be given as provided in Section 45-5-309 NMSA 1978.

C. After the filing of a petition, the court shall set a date for hearing on the issues raised by the petition. Unless an alleged incapacitated person already has an attorney of his own choice, the court shall appoint an attorney to represent him. The court-appointed attorney in the proceeding shall have the duties of a guardian ad litem, as set forth in Section 45-5-303.1 NMSA 1978.

D. The person alleged to be incapacitated shall be examined by a qualified health care professional appointed by the court who shall submit a report in writing to the court. The report shall:

(1) describe the nature and degree of the alleged incapacitated person's incapacity, if any, and the level of the respondent's intellectual, developmental and social functioning; and

(2) contain observations, with supporting data, regarding the alleged incapacitated person's ability to make health care decisions and manage the activities of daily living.

E. The court shall also appoint a visitor who shall interview the person seeking appointment as guardian and the person alleged to be incapacitated. The visitor shall also visit the present place of abode of the person alleged to be incapacitated and the

place where it is proposed he will be detained or reside if the requested appointment is made. The visitor shall evaluate the needs of the person alleged to be incapacitated and shall submit a written report to the court. The report shall include a recommendation regarding the appropriateness of the appointment of the proposed guardian. The report to the court shall also include recommendations regarding:

(1) those aspects of his personal care that the alleged incapacitated person can manage without supervision or assistance;

(2) those aspects of his personal care that the alleged incapacitated person could manage with the supervision or assistance of support services and benefits; and

(3) those aspects of his personal care that the alleged incapacitated person is unable to manage without the supervision of a guardian.

Unless otherwise ordered by the court, the appointment of the visitor terminates and the visitor is discharged from his duties upon entry of the order appointing the guardian and acceptance of the appointment by the guardian.

F. A person alleged to be incapacitated shall be present at the hearing on the issues raised by the petition and any response to the petition unless the court determines by evidence that it is not in the alleged incapacitated person's best interest to be present because of a threat to the health or safety of the alleged incapacitated person or others as determined by the court.

G. The court upon request or its own motion may conduct hearings at the location of the alleged incapacitated person who is unable to be present in court.

H. The rules of evidence shall apply and no hearsay evidence that is not otherwise admissible in a court shall be admitted into evidence except as otherwise provided in this article. There is a legal presumption of capacity, and the burden of proof shall be on the petitioner to prove the allegations set forth in the petition. Such proof shall be established by clear and convincing evidence.

I. A record of the proceedings shall be made if requested by the alleged incapacitated person or his attorney or when ordered by the court. Records, reports and evidence submitted to the court or recorded by the court shall be confidential, except that the public shall be granted access to the following information:

(1) docket entries;

(2) date of the proceeding, appointment and termination;

(3) duration of the guardianship; and

(4) the name and other information necessary to identify the alleged incapacitated person.

J. Notwithstanding the provisions of Subsection I of this section, any disclosure of information shall not include any diagnostic information, treatment information or other medical or psychological information.

K. The issue of whether a guardian shall be appointed for the alleged incapacitated person shall be determined by the court at a closed hearing unless the alleged incapacitated person requests otherwise.

L. Upon request of the petitioner or alleged incapacitated person, the court shall schedule a jury trial."

Chapter 32 Section 4

Section 4. Section 45-5-407 NMSA 1978 (being Laws 1975, Chapter 257, Section 5-407, as amended) is amended to read:

"45-5-407. PROCEDURE FOR COURT APPOINTMENT OF A CONSERVATOR.--

A. Upon receipt of a petition for appointment of a conservator or other protective order because of minority, the court shall set a date for hearing on the matters alleged in the petition. If at any time in the proceeding the court finds the minor is or may be inadequately represented, it may appoint an attorney to represent the minor, giving consideration to the choice of the minor if fourteen years of age or older. An attorney appointed by the court to represent a minor shall represent and protect the interests of the minor.

B. Upon receipt of a petition for appointment of a conservator for reasons other than minority, the court shall set a date for hearing. Unless the person to be protected is already represented by an attorney of his own choice, the court shall appoint an attorney to represent him in the proceeding. The court-appointed attorney shall have the duties of a guardian ad litem as set forth in Section 45-5-404.1 NMSA 1978.

C. If the petition is for the appointment of a conservator for an incapacitated person, the person to be protected shall be examined by a qualified health care professional appointed by the court who shall submit a report in writing to the court. The report shall:

(1) describe the nature and degree of the person's incapacity, if any, and the level of the intellectual, developmental and social functioning of the person to be protected; and

(2) contain observations, with supporting data, regarding the ability of the person to be protected to manage his estate or financial affairs.

D. The court shall also appoint a visitor who shall interview the person seeking appointment as conservator and the person to be protected. The visitor shall also visit the present place of residence of the person to be protected. The visitor shall evaluate the needs of the person to be protected and shall submit a written report to the court. The report shall include a recommendation regarding the appropriateness of the appointment of the proposed conservator. The report shall also include recommendations regarding:

(1) those aspects of his financial affairs that the person to be protected can manage without supervision or assistance;

(2) those aspects of his financial affairs that the person to be protected could manage with the supervision or assistance of support services and benefits; and

(3) those aspects of his financial affairs that the person to be protected is unable to manage even with the supervision or assistance of support services and benefits.

Unless otherwise ordered by the court, the appointment of the visitor terminates and the visitor is discharged from his duties upon entry of the order appointing the conservator and acceptance of the appointment by the conservator.

E. The person to be protected shall be present at the hearing on the issues raised by the petition and any response to the petition, unless the court determines it is not in the best interest of the person for whom a conservator is sought to be present because of a threat to the health or safety of the person for whom a conservator is sought or others as determined by the court. The court upon request or its own motion may conduct hearings at the location of the person to be protected if he is unable to be present in court.

F. The person to be protected shall not be permitted by the court to consent to the appointment of a conservator.

G. The court, at the hearing on the petition for appointment of conservator, shall:

(1) inquire into the nature and extent of the functional limitations of the person to be protected; and

(2) ascertain his capacity to manage his financial affairs.

H. If it is determined that the person to be

protected possesses the capacity to manage his estate or financial affairs, or both, the court shall dismiss the petition.

I. Alternatively, the court may appoint a full conservator, as requested in the petition, or a limited conservator and confer specific powers of conservatorship after finding in the record based on clear and convincing evidence that:

(1) the person to be protected is totally incapacitated or is incapacitated only in specific areas as alleged in the petition;

(2) the conservatorship is necessary as a means of effectively managing the estate or financial affairs, or both, of the person to be protected;

(3) there are not available alternative resources that enable the effective management of the estate and financial affairs of the person to be protected;

(4) the conservatorship is appropriate as the least restrictive form of intervention consistent with the preservation of the property of the person to be protected; and

(5) the proposed conservator is both qualified and suitable and is willing to serve.

J. After hearing, upon finding that a basis for the appointment of a conservator has been established, the court shall make an appointment of a conservator. The court shall appoint a limited conservator if it determines that the incapacitated person is able to manage some but not all aspects of his estate and financial affairs. The court shall specify those powers that the limited conservator shall have and may further restrict each power so as to permit the incapacitated person to care for his estate and financial affairs commensurate with his ability to do so.

K. A person for whom a conservator has been appointed retains all legal and civil rights except those that have been specifically granted to the conservator by the court. The conservator shall exercise his supervisory powers over the estate and financial affairs of the incapacitated person in a manner that is the least restrictive form of intervention consistent with the order of the court.

L. The rules of evidence shall apply and no hearsay evidence that is not otherwise admissible in a court shall be admitted into evidence except as otherwise provided in the Uniform Probate Code.

M. A record of the proceedings shall be made if requested by the person to be protected, his attorney or when ordered by the court. Records, reports and evidence submitted to the court or recorded by the court shall be confidential, except that the public shall be granted access to the following information:

(1) docket entries;

(2) date of the proceeding, appointment and termination;

(3) duration of the conservatorship and whether limited or unlimited;

(4) for a limited conservatorship, the nature of the limitation; and

(5) the name and other information necessary to identify the alleged incapacitated person.

N. Notwithstanding the provisions of Subsection M of this section, any disclosure of information shall not include any diagnostic information, treatment information or other medical or psychological information.

O. The issue of whether a conservator shall be appointed shall be determined by the court at a closed hearing unless the person to be protected requests otherwise.

P. Upon request of the petitioner or person to be protected, the court shall schedule a jury trial.

Q. Upon entry of an order appointing a conservator, a copy of the order shall be furnished to the person for whom the conservator was appointed and that person's counsel. The order shall contain the name and address of the conservator as well as notice to the person for whom the conservator was appointed of that person's right to appeal the appointment and of that person's right to seek alteration or termination of the conservatorship at any time."

HOUSE BILL 311

CHAPTER 33

RELATING TO SECURITIES; AMENDING SECTION 58-13B-24 NMSA 1978 (BEING LAWS 1986, CHAPTER 7, SECTION 24, AS AMENDED) TO CHANGE REGISTRATION REQUIREMENTS.

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

Chapter 33 Section 1

Section 1. Section 58-13B-24 NMSA 1978 (being Laws 1986, Chapter 7, Section 24, as amended) is amended to read:

"58-13B-24. PROVISIONS APPLICABLE TO REGISTRATION GENERALLY.--

A. A registration statement may be filed by the issuer, any other person on whose behalf the offering is to be made or a registered broker-dealer.

B. If a registration statement is withdrawn before the effective date or a pre-effective stop order is entered pursuant to Section 58-13B-25 NMSA 1978, the director shall retain the fee set forth in this subsection. A person filing a registration statement shall pay a filing fee of:

(1) one-tenth of one percent of the maximum aggregate offering price at which the registered securities are to be offered in New Mexico, but not less than five hundred twenty-five dollars (\$525) or more than two thousand five hundred dollars (\$2,500); or

(2) five hundred twenty-five dollars (\$525) if the person is a corporate issuer or a person acting on behalf of a corporate issuer and is claiming an exemption from the registration requirements of federal law regarding small corporate offerings pursuant to Rule 504 of Regulation D (17 CFR 230.504).

C. A registration statement must specify the amount of securities to be offered in New Mexico and:

(1) the states in which a registration statement or similar document in connection with the offering has been or is to be filed; and

(2) any adverse order, judgment or decree entered by the securities agency or administrator in any state or by a court or the securities and exchange commission in connection with the offering.

D. A document filed pursuant to the New Mexico Securities Act of 1986 or a predecessor act, within five years before the filing of a registration statement, may be incorporated by reference in the registration statement if the document is currently accurate.

E. The director by rule or order may permit the omission of an item of information or document from a registration statement.

F. In the case of a non-issuer offering, the director may not require information pursuant to Section 58-13B-23 NMSA 1978 or Subsection L of this section unless it is known to the person filing the registration statement or to the persons on whose behalf the offering is to be made, or can be furnished by them without unreasonable effort or expense.

G. In the case of a registration pursuant to Section 58-13B-22 or 58-13B-23 NMSA 1978 by an issuer who has no public market for its shares and no significant earnings from continuing operations during the last five years or any shorter period of its existence, the director by rule or order may require as a condition of registration that the following securities be deposited in escrow for not more than three years:

(1) a security issued to a promoter, control person or affiliate within the three years immediately before the offering or to be issued to such persons for a consideration substantially less than the offering price; and

(2) a security issued to a promoter, control person or affiliate for a consideration other than cash, unless the registrant demonstrates that the value of the noncash

consideration received in exchange for the security is substantially equal to the offering price for the security.

The director by rule or order may determine the conditions of an escrow required pursuant to this subsection, but the director may not reject a depository solely because of location in another state.

H. The director by rule or order may require as a condition of registration pursuant to Section 58-13B-22 or 58-13B-23 NMSA 1978 that the proceeds from the sale of the registered security in New Mexico be impounded until the issuer receives a specified amount from the sale of the security. The director by rule or order may determine the conditions of an impoundment arrangement required pursuant to this subsection, but the director may not reject a depository solely because of its location in another state.

I. If a security is registered pursuant to Section 58-13B-21 or 58-13B-22 NMSA 1978, the prospectus filed pursuant to the federal Securities Act of 1933 shall be delivered to each purchaser in accordance with the prospectus delivery requirements of the federal Securities Act of 1933. With respect to a security registered pursuant to Section 58-13B-21 or 58-13B-22 NMSA 1978, the director by rule or order may require the delivery of other material documents or information to each purchaser concurrent with or prior to the delivery of the prospectus.

J. If a security is registered pursuant to Section 58-13B-23 NMSA 1978, an offering document containing

information the director by rule or order designates shall be delivered to each purchaser with or before the earliest of:

(1) the first written offer made to the purchaser by or for the account of the issuer or another person on whose behalf the offering is being made or by an underwriter or broker-dealer who is offering part of an unsold allotment or subscription taken by it as a participant in the distribution;

(2) confirmation of a sale made by or for the account of a person named in Paragraph (1) of this subsection;

(3) payment pursuant to a sale; or

(4) delivery pursuant to a sale.

K. A registration statement remains effective for one year after its effective date unless the director by rule or order extends the period of effectiveness. All outstanding securities of the same class as a registered security are considered to be registered for the purpose of a non-issuer transaction while the registration statement is effective, unless the director by rule or order provides otherwise. A registration statement may not be withdrawn after its effective date if any of the securities registered have been sold in

New Mexico, unless the director by rule or order provides otherwise. No registration statement is effective while a stop order is in effect pursuant to Subsection A of Section 58-13B-25 NMSA 1978.

L. During the period that an offering is being made pursuant to an effective registration statement, the director by rule or order may require the person who filed the registration statement to file reports, not more often than quarterly, to keep reasonably current the information contained in the registration statement and to disclose the progress of the offering.

M. A registration statement filed pursuant to Section 58-13B-21 or 58-13B-22 NMSA 1978 may be amended after its effective date to increase the securities specified to be offered and sold. The amendment becomes effective upon filing of the amendment and payment of an additional filing fee, which shall be three times the fee otherwise payable, calculated in the manner specified in Subsection B of this section, with respect to the additional securities to be offered and sold. The effectiveness of the amendment relates back to the date or dates of sale of the additional securities being registered.

N. A registration statement filed pursuant to Section 58-13B-23 NMSA 1978 may be amended after its effective date to increase the securities specified to be offered and sold, provided that the public offering price and underwriters' discounts and commissions are not changed from the respective amounts of which the director was informed. The amendment becomes effective when the director so orders and relates back to the date of sale of the additional securities being registered. A person filing an amendment shall pay an additional filing fee, which shall be three times the fee otherwise payable, calculated in the manner specified in Subsection B of this section, with respect to the additional securities to be offered and sold.

O. Pursuant to Section 106(c) of the federal Secondary Mortgage Market Enhancement Act of 1984, any securities that are offered and sold pursuant to Section 4(5) of the federal Securities Act of 1933 or that are mortgage-related securities, as that term is defined in Section 3(a)(41) of the federal Securities Exchange Act of 1934, being 15 U.S.C. 78c(a)(41), are required to comply with all applicable registration and qualification requirements of the New Mexico Securities Act of 1986 and the rules pursuant to that act and shall not be treated as obligations issued by the United States for purposes of that act.

P. With respect to a federal covered security, as defined in Section 18(b)(2) of the federal Securities Act of 1993:

(1) prior to the offer of the security in New Mexico, the following shall be filed by or on behalf of the issuer:

(a) a notice of intent to sell the security that provides: 1) the name and address of the issuer; 2) a description of the securities to be offered; 3) the name, address and

telephone number of an authorized contact person; and 4) other information that the director may, by rule or by order, require;

(b) a consent to service of process; and

(c) a notification fee in the amount of five hundred twenty-five dollars (\$525); and

(2) the notice of intent and fee specified in Paragraph (1) of this subsection shall be effective for a period of one year from the date of filing with the director.

Q. With respect to any security that is a federal covered security pursuant to Section 18(b)(4)(D) of the federal Securities Act of 1933, the director, by rule or by order, may require the issuer to file, no later than fifteen days after the first sale of the federal covered security in New Mexico, a notice containing the information required by SEC Form D and a consent to service of process signed by the issuer, together with a notification fee in the amount of three hundred fifty dollars (\$350).

R. The director, by rule or by order, may require the filing of any document filed with the United States securities and exchange commission pursuant to the federal Securities Act of 1933 with respect to a federal covered security pursuant to Section 18(b)(3) or (4) of the federal Securities Act of 1933, together with a fee to be determined by the director.

S. The director may issue a stop order suspending the offer and sale of a federal covered security, except a federal covered security pursuant to Section 18(b)(1) of the federal Securities Act of 1933, if he finds that:

(1) the order is in the public interest; and

(2) there is a failure to comply with any condition established pursuant to this section.

T. The director, by rule or otherwise, may waive any or all of the provisions of this section."

Chapter 33 Section 2

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1998.

HOUSE BILL 319, AS AMENDED

CHAPTER 34

RELATING TO MOTOR VEHICLES; CHANGING PROVISIONS ON MANDATORY FINANCIAL RESPONSIBILITY; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

Chapter 34 Section 1

Section 1. Section 66-1-4.3 NMSA 1978 (being Laws 1990, Chapter 120, Section 4) is amended to read:

"66-1-4.3. DEFINITIONS.--As used in the Motor Vehicle Code:

A. "camping body" means a vehicle body primarily designed or converted for use as temporary living quarters for recreational, camping or travel activities;

B. "camping trailer" means a camping body that exceeds neither eight feet in width nor forty feet in length, mounted on a chassis, or frame with wheels, designed to be drawn by another vehicle and that has collapsible partial side walls that fold for towing and unfold at the campsite;

C. "cancellation" means that a driver's license is annulled and terminated because of some error or defect or because the licensee is no longer entitled to the license, but cancellation of a license is without prejudice, and application for a new license may be made at any time after cancellation;

D. "casual sale" means the sale of a motor vehicle by the registered owner of the vehicle if the owner has not sold more than four vehicles in that calendar year;

E. "chassis" means the complete motor vehicle, including standard factory equipment, exclusive of the body and cab;

F. "collector" means a person who is the owner of one or more vehicles of historic or special interest who collects, purchases, acquires, trades or disposes of these vehicles or parts thereof for the person's own use in order to preserve, restore and maintain a similar vehicle for hobby purposes;

G. "combination" means any connected assemblage of a motor vehicle and one or more semitrailers, trailers or semitrailers converted to trailers by means of a converter gear;

H. "combination gross vehicle weight" means the sum total of the gross vehicle weights of all units of a combination;

I. "commerce" means the transportation of persons, property or merchandise for hire, compensation, profit or in the furtherance of a commercial enterprise in this state or between New Mexico and a place outside New Mexico, including a place outside the United States;

J. "commercial motor vehicle" means a motor vehicle used in commerce:

(1) if the vehicle has a declared gross vehicle weight rating of twenty-six thousand one or more pounds;

(2) if the vehicle is designed to transport sixteen or more passengers, including the driver; or

(3) if the vehicle is transporting hazardous materials and is required to be placarded pursuant to applicable law;

K. "controlled-access highway" means every highway, street or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the highway, street or roadway except at those points only and in the manner as may be determined by the public authority having jurisdiction over the highway, street or roadway;

L. "controlled substance" means any substance defined in Section 30-31-2 NMSA 1978 as a controlled substance;

M. "converter gear" means any assemblage of one or more axles with a fifth wheel mounted thereon, designed for use in a combination to support the front end of a semitrailer but not permanently attached thereto. A converter gear shall not be considered a vehicle, as that term is defined in Section 66-1-4.19 NMSA 1978, but weight attributable thereto shall be included in declared gross weight;

N. "conviction" means the alleged violator has entered a plea of guilty or nolo contendere or has been found guilty in the trial court and has waived or exhausted all rights to an appeal;

O. "crosswalk" means:

(1) that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or, in the absence of curbs, from the edges of the traversable roadway; and

(2) any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface; and

P. "curb cut" means a short ramp through a curb or built up to the curb."

Chapter 34 Section 2

Section 2. Section 66-1-4.6 NMSA 1978 (being Laws 1990, Chapter 120, Section 7) is amended to read:

"66-1-4.6. DEFINITIONS.--As used in the Motor Vehicle Code:

A. "farm tractor" means every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines and other implements of husbandry;

B. "financial responsibility" means the ability to respond in damages for liability resulting from traffic accidents arising out of the ownership, maintenance or use of a motor vehicle of a type subject to registration under the laws of New Mexico, in amounts not less than specified in the Mandatory Financial Responsibility Act or having in effect a motor vehicle insurance policy. "Financial responsibility" includes a motor vehicle insurance policy, a surety bond or evidence of a sufficient cash deposit with the state treasurer;

C. "first offender" means a person who for the first time under state or federal law or municipal ordinance has been adjudicated guilty of the charge of driving a motor vehicle while under the influence of intoxicating liquor or any other drug that renders the person incapable of safely driving a motor vehicle, regardless of whether the person's sentence was suspended or deferred;

D. "flammable liquid" means any liquid that has a flash point of seventy degrees fahrenheit or less, as determined by a tagliabue or equivalent closed-cup test device;

E. "foreign jurisdiction" means any jurisdiction other than a state of the United States or the District of Columbia;

F. "foreign vehicle" means every vehicle of a type required to be registered under the provisions of the Motor Vehicle Code brought into this state from another state, territory or country; and

G. "freight trailer" means any trailer, semitrailer or pole trailer drawn by a truck tractor or road tractor, and any trailer, semitrailer or pole trailer drawn by a truck that has a gross vehicle weight of more than twenty-six thousand pounds, but "freight trailer" does not include manufactured homes, trailers of less than one-ton carrying capacity used to transport animals or fertilizer trailers of less than three thousand five hundred pounds empty weight."

Chapter 34 Section 3

Section 3. Section 66-1-4.11 NMSA 1978 (being Laws 1990, Chapter 120, Section 12) is amended to read:

"66-1-4.11. DEFINITIONS.--As used in the Motor Vehicle Code:

A. "mail" means any item properly addressed with postage prepaid delivered by the United States postal service or any other public or private enterprise primarily engaged in the transport and delivery of letters, packages and other parcels;

B. "manufactured home" means a movable or portable housing structure that exceeds either a width of eight feet or a length of forty feet, constructed to be towed on its own chassis and designed to be installed with or without a permanent foundation for human occupancy;

C. "manufacturer" means every person engaged in the business of constructing or assembling vehicles of a type required to be registered under the Motor Vehicle Code;

D. "manufacturer's certificate of origin" means a certification, on a form supplied by or approved by the department, signed by the manufacturer that the new vehicle described therein has been transferred to the New Mexico dealer or distributor named therein or to a dealer duly licensed or recognized as such in another state, territory or possession of the United States and that such transfer is the first transfer of the vehicle in ordinary trade and commerce; every such certificate shall contain space for proper reassignment to a New Mexico dealer or to a dealer duly licensed or recognized as such in another state, territory or possession of the United States, and the certificate shall contain a description of the vehicle, the number of cylinders, type of body, engine number and the serial number or other standard identification number provided by the manufacturer of the vehicle;

E. "metal tire" means every tire of which the surface in contact with the highway is wholly or partly of metal or other hard nonresilient material, except that a snow tire with metal studs designed to increase traction on ice or snow is not considered a metal tire;

F. "moped" means a two-wheeled or three-wheeled vehicle with an automatic transmission and a motor having a piston displacement of less than fifty cubic centimeters, that is capable of propelling the vehicle at a maximum speed of not more than thirty miles an hour on level ground, at sea level;

G. "motorcycle" means every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, excluding a tractor;

H. "motor home" means a camping body built on a self-propelled motor vehicle chassis so designed that seating for driver and passengers is within the body itself;

I. "motor vehicle" means every vehicle that is self-propelled and every vehicle that is propelled by electric power obtained from batteries or from overhead trolley wires, but not operated upon rails; but for the purposes of the Mandatory Financial Responsibility Act, "motor vehicle" does not include "special mobile equipment"; and

J. "motor vehicle insurance policy" means a policy of vehicle insurance that covers self-propelled vehicles of a kind required to be registered pursuant to New Mexico law for use on the public streets and highways. A motor vehicle insurance policy":

shall include:

(a) motor vehicle bodily injury and property damage liability coverages in compliance with the Mandatory Financial Responsibility Act; and

(b) uninsured motorist coverage, subject to the provisions of Section 66-5-301 NMSA 1978 permitting the insured to reject such coverage; and

(2) may include:

(a) physical damage coverage;

(b) medical payments coverage; and

(c) other coverages that the insured and the insurer agree to include within the policy."

Chapter 34 Section 4

Section 4. Section 66-5-201.1 NMSA 1978 (being Laws 1983, Chapter 318, Section 2) is amended to read:

"66-5-201.1. PURPOSE.--The legislature is aware that motor vehicle accidents in New Mexico can result in catastrophic financial hardship. The purpose of the Mandatory Financial Responsibility Act is to require residents of New Mexico who own and operate motor vehicles upon the highways of the state either to have the ability to respond in damages to accidents arising out of the use and operation of a motor vehicle or to obtain a motor vehicle insurance policy."

Chapter 34 Section 5

Section 5. Section 66-5-205 NMSA 1978 (being Laws 1983, Chapter 318, Section 6, as amended) is amended to read:

"66-5-205. VEHICLE MUST BE INSURED OR OWNER MUST HAVE EVIDENCE OF FINANCIAL RESPONSIBILITY--PENALTIES.--

A. No owner shall permit the operation of an uninsured motor vehicle, or a motor vehicle for which evidence of financial responsibility as was affirmed to the department is not currently valid, upon the streets or highways of New Mexico unless the vehicle is specifically exempted from the provisions of the Mandatory Financial Responsibility Act.

B. No person shall drive an uninsured motor vehicle, or a motor vehicle for which evidence of financial responsibility as was affirmed to the department is not currently valid, upon the streets or highways of New Mexico unless he is specifically exempted from the provisions of the Mandatory Financial Responsibility Act.

C. For the purposes of the Mandatory Financial Responsibility Act, "uninsured motor vehicle" means a motor vehicle for which a motor vehicle insurance policy meeting the

requirements of the laws of New Mexico and of the secretary is not in effect or a surety bond or evidence of a sufficient cash deposit with the state treasurer.

D. The provisions of the Mandatory Financial Responsibility Act requiring the deposit of evidence of financial responsibility as provided in Section 66-5-218 NMSA 1978, subject to certain exemptions, may apply with respect to persons who have been convicted of or forfeited bail for certain offenses under motor vehicle laws or who have failed to pay judgments or written settlement agreements upon causes of action arising out of ownership, maintenance or use of vehicles of a type subject to registration under the laws of New Mexico.

E. Any person who violates the provisions of this section is guilty of a misdemeanor and upon conviction shall be sentenced to a fine not to exceed three hundred dollars (\$300)."

Chapter 34 Section 6

Section 6. Section 66-5-205.1 NMSA 1978 (being Laws 1989, Chapter 214, Section 1) is amended to read:

"66-5-205.1. UNINSURED MOTORIST CITATION--REQUIREMENTS TO BE FOLLOWED AT TIME OF ACCIDENT--SUBSEQUENT PROCEDURES.--

A. When a law enforcement officer issues a driver who is involved in an accident a citation for failure to comply with the provisions of the Mandatory Financial Responsibility Act, the law enforcement officer shall personally at the same time:

(1) issue to the driver cited a temporary operation sticker, valid for thirty days after the date the sticker is issued, and forward by mail or delivery to the department a duplicate of the issued sticker; and

(2) remove the license plate from the vehicle and send it with the duplicate of the sticker to the department or, if it cannot be removed, permanently deface the plate.

B. The department shall return or replace, in its discretion, a license plate removed under the provisions of Paragraph (2) of Subsection A of this section or replace a license plate defaced under that paragraph when the person cited for failure to comply with the provisions of the Mandatory Financial Responsibility Act furnishes proof of compliance to the department and pays to the division a reinstatement fee of twenty-five dollars (\$25.00). If a person to whom the temporary operation sticker is issued furnishes to the department within fifteen days after the issuance of the sticker evidence of financial responsibility in compliance with the Mandatory Financial Responsibility Act and in effect on the date and at the time of the issuance of the sticker, the department shall replace or return the license plate and waive the twenty-five dollar (\$25.00) reinstatement fee.

C. The secretary shall adopt and promulgate regulations prescribing the form and use of the sticker required to be issued under Subsection A of this section.

D. The secretary may adopt and promulgate regulations requiring insurance carriers who terminate or cancel any motor vehicle insurance policy to report monthly each cancellation or termination to the department. Information pertaining to each motor vehicle shall be made a part of that vehicle file for one year. Notification of termination or cancellation made under such a regulation is not grounds for revocation of the motor vehicle registration."

Chapter 34 Section 7

Section 7. Section 66-5-206 NMSA 1978 (being Laws 1983, Chapter 318, Section 7) is amended to read:

"66-5-206. REGISTRATION WITHOUT INSURANCE OR EVIDENCE OF FINANCIAL RESPONSIBILITY PROHIBITED--SUSPENSION REQUIRED.--

A. The department shall not issue or renew the registration for any motor vehicle not covered by a motor vehicle insurance policy or by evidence of financial responsibility currently valid meeting the requirements of the laws of New Mexico and of the secretary, unless specifically exempted from the Mandatory Financial Responsibility Act.

B. Upon a showing by its records or other sufficient evidence that the required insurance or evidence of financial responsibility has not been provided or maintained for a motor vehicle, the department shall suspend its registration of the motor vehicle."

Chapter 34 Section 8

Section 8. Section 66-5-207 NMSA 1978 (being Laws 1983, Chapter 318, Section 8, as amended) is amended to read:

"66-5-207. EXEMPT MOTOR VEHICLES.--The following motor vehicles are exempt from the Mandatory Financial Responsibility Act:

A. a motor vehicle owned by the United States government, any state or any political subdivision of a state;

B. an implement of husbandry or special mobile equipment that is only incidentally operated on a highway;

C. a motor vehicle operated upon a highway only for the purpose of crossing such highway from one property to another;

D. a commercial motor vehicle registered or proportionally registered in this and any other jurisdiction, provided such motor vehicle is covered by a motor vehicle insurance policy or equivalent coverage or other form of financial responsibility in compliance with the laws of any other jurisdiction in which it is registered;

E. a motor vehicle approved as self-insured by the superintendent of insurance pursuant to Section 66-5-207.1 NMSA 1978; and

F. any motor vehicle when the owner has submitted to the department a signed statement, in the form prescribed by the department, declaring that the vehicle will not be operated on the highways of New Mexico and explaining the reasons therefor."

Chapter 34 Section 9

Section 9. Section 66-5-218 NMSA 1978 (being Laws 1978, Chapter 35, Section 302, as amended) is amended to read:

"66-5-218. ALTERNATE METHODS OF GIVING EVIDENCE.-- Evidence of financial responsibility, when required under the Mandatory Financial Responsibility Act, may be given by filing:

A. evidence of a motor vehicle insurance policy;

B. a surety bond as provided in Section 66-5-225 NMSA 1978; or

C. a certificate of deposit of money as provided in Section 66-5-226 NMSA 1978."

Chapter 34 Section 10

Section 10. Section 66-5-220 NMSA 1978 (being Laws 1955, Chapter 182, Section 323, as amended) is amended to read:

"66-5-220. DEFAULT BY NONRESIDENT INSURER.--If any insurance carrier not authorized to transact business in New Mexico that has qualified to furnish evidence of financial responsibility defaults in any undertakings or agreements, the department shall not thereafter accept evidence of financial responsibility of that carrier, whether previously filed or thereafter tendered as evidence, so long as the default continues."

Chapter 34 Section 11

Section 11. Section 66-5-222 NMSA 1978 (being Laws 1977, Chapter 61, Section 2) is amended to read:

"66-5-222. DRIVER EXCLUSION ENDORSEMENT FORM.--Any motor vehicle insurance policy may be endorsed to exclude a named driver from coverage. The

endorsement shall be signed by at least one named insured. Endorsements shall be substantially similar to the following form:

"DRIVER EXCLUSION ENDORSEMENT

Nothing herein contained shall be held to alter, vary, waive or extend any of the terms, conditions, agreements or limits of the undermentioned policy other than as stated herein below.

Effective--12:01 a.m., standard time. Attached to and forming part of Policy No. _____ issued to _____ (name of insured) by _____.

(insert name of insurance company)

In consideration of the premium for which the policy is written, it is agreed that the company shall not be liable and no liability or obligation of any kind shall be attached to the company for losses or damages sustained after the effective date of this endorsement while any motor vehicle insured hereinunder is driven or operated by _____ (name of excluded driver(s))

Date: _____ Name insured(s)

(signature)

_____ " "

(signature)

Chapter 34 Section 12

Section 12. Section 66-5-228 NMSA 1978 (being Laws 1978, Chapter 35, Section 316, as amended) is amended to read:

"66-5-228. SUBSTITUTION OF EVIDENCE.--The department shall consent to the cancellation of any bond or the department shall direct and the state treasurer shall return any money to the person entitled thereto upon the substitution and acceptance of any other adequate evidence of financial responsibility as set forth in Section 66-5-218 NMSA 1978."

Chapter 34 Section 13

Section 13. Section 66-5-229 NMSA 1978 (being Laws 1978, Chapter 35, Section 318, as amended) is amended to read:

"66-5-229. DURATION OF EVIDENCE--WHEN FILING OF EVIDENCE MAY BE WAIVED.--

A. The department shall, upon request, consent to the immediate cancellation of any bond or the department shall direct and the state treasurer shall return to the person entitled thereto any money deposited pursuant to the Mandatory Financial Responsibility Act as evidence of financial responsibility or the department shall waive the requirement of filing evidence of financial responsibility in any of the following events:

(1) after one year of providing satisfactory evidence as specified in Section 66-5-218 NMSA 1978;

(2) the death of the person on whose behalf evidence was filed or the permanent incapacity of the person to operate a motor vehicle; or

(3) the person who has filed evidence surrenders his license and registration to the department.

B. Provided, however, that the department shall not consent to the cancellation of any bond or the return of any money or waive the requirement of filing evidence of financial responsibility in the event any action for damages upon a liability covered by the evidence is then pending or any judgment upon any such liability is then unsatisfied or in the event the person who has filed the bond or deposited the money has, within one year immediately preceding the request, been involved as a driver or owner in any motor vehicle accident resulting in injury or damage to the person or property of others. An affidavit of the applicant as to the nonexistence of such facts or that he has been released from all of his liability or has been finally adjudicated not to be liable for such injury or damage shall be sufficient evidence thereof in the absence of evidence to the contrary in the records of the department.

C. Every owner or operator of a vehicle subject to the requirements of the Mandatory Financial Responsibility Act shall carry evidence of financial responsibility as defined by that act in the vehicle at all times while the vehicle is in operation on the highways of this state. The failure to comply with this subsection shall be a misdemeanor and shall be punishable by the penalty set forth in Section 66-8-7 NMSA 1978; provided that no person charged with violating this section shall be convicted if he produces in court evidence of financial responsibility valid at the time of issuance of the citation."

Chapter 34 Section 14

Section 14. Section 66-5-232 NMSA 1978 (being Laws 1983, Chapter 318, Section 31) is amended to read:

"66-5-232. SAMPLING--LETTER TO OWNER.--

A. The department, at various times as it considers necessary or appropriate to assure compliance with the Mandatory Financial Responsibility Act, shall select for financial responsibility affirmation an appropriate sample number of the motor vehicles registered in New Mexico. The department is authorized to emphasize, in accordance with rules adopted by the department, for affirmation of financial responsibility, individuals whose affirmations of financial responsibility have previously been found to be incorrect.

B. When a motor vehicle is selected for financial responsibility affirmation under Subsection A of this section, the department shall mail an affirmation form to the registered owner of the motor vehicle notifying him that his motor vehicle has been selected for financial responsibility affirmation and requiring him to respond and to affirm, by at least one signature shown on the affirmation form, the existence of evidence satisfying the financial responsibility requirements of the Mandatory Financial Responsibility Act for the motor vehicle.

C. Failure by an owner to return the affirmation of financial responsibility to the department within fifteen days after mailing by the department or a determination by the department that an affirmation is not accurate constitutes reasonable grounds under Section 66-5-235 NMSA 1978 to believe that a person is operating a motor vehicle in violation of Section 66-5-205 NMSA 1978 or has falsely affirmed the existence of means of satisfying the financial responsibility requirements of the Mandatory Financial Responsibility Act.

D. The department may investigate all affirmations required by the Mandatory Financial Responsibility Act returned to the department. If the owner affirms the existence of a motor vehicle insurance policy covering the motor vehicle, the department may forward the affirmation to the listed insurer to determine whether the affirmation is correct. An insurer shall mail notification to the department within twenty working days of receipt of the affirmation inquiry in the event the affirmation is not correct. The notification shall be prima facie evidence of failure to satisfy the financial responsibility requirements of the Mandatory Financial Responsibility Act. The department may determine the correctness of affirmation of other means of satisfying the financial responsibility requirements of that act for the motor vehicle.

E. The department may use accident reports as basic material for the construction of its sampling procedure.

F. No civil liability shall accrue to the insurer or any of its employees for reports made to the department under this section when the reports are made in good faith based on the most recent information available to the insurer.

G. The affirmation form used when sampling shall require the report of the name of the company issuing the policy, the policy number or any other information that identifies the policy."

Chapter 34 Section 15

Section 15. Section 66-5-233 NMSA 1978 (being Laws 1983, Chapter 318, Section 32) is amended to read:

"66-5-233. AFFIRMATION FORM.--The affirmation of financial responsibility required under Sections 66-5-208, 66-5-225 and 66-5-226 NMSA 1978 shall be in a form prescribed by the department and shall require an applicant to provide such information as may be required by the department. If a person affirms the existence of a motor vehicle insurance policy, the affirmation form shall require him to report at least the name of the insurer issuing the policy and the policy number."

Chapter 34 Section 16

Section 16. Section 66-5-234 NMSA 1978 (being Laws 1983, Chapter 318, Section 33) is amended to read:

"66-5-234. REGISTRATION--APPLICATION AND RENEWAL.--

A. The department shall indicate in boldface print on every new application form for registration and every registration form that the owner of the motor vehicle affirms that he is financially responsible within the meaning of the Mandatory Financial Responsibility Act. The payment of the registration fee and acceptance by the department of the application for registration shall be affirmation by the owner of the registered vehicle that he has complied with the requirements of that act.

B. The department shall not renew the registration of a motor vehicle unless the owner of the motor vehicle affirms the existence of a motor vehicle insurance policy covering the motor vehicle or the existence of some other means of satisfying the financial responsibility requirements of the Mandatory Financial Responsibility Act for the motor vehicle."

Chapter 34 Section 17

Section 17. Section 66-5-235 NMSA 1978 (being Laws 1983, Chapter 318, Section 34, as amended) is amended to read:

"66-5-235. FALSE AFFIRMATION--VIOLATION.--When the department has reasonable grounds to believe that a person is operating a motor vehicle in violation of Section 66-5-205 NMSA 1978 or has falsely affirmed the existence of a motor vehicle insurance policy or the existence of some other means of satisfying the financial responsibility requirements of the Mandatory Financial Responsibility Act, the department shall demand satisfactory evidence from the person that the person meets the requirements of that act as provided in Section 66-5-233 NMSA 1978. If the person cannot provide evidence of financial responsibility within twenty days after receipt of the department's

demand for satisfactory proof of financial responsibility, the department may suspend the person's registration as provided in Section 66-5-236 NMSA 1978."

Chapter 34 Section 18

Section 18. Section 66-5-236 NMSA 1978 (being Laws 1983, Chapter 318, Section 35) is amended to read:

"66-5-236. SUSPENSION FOR NONPAYMENT OF JUDGMENT OR FOR FALSE AFFIRMATION.--

A. Except as otherwise provided, the secretary shall suspend:

(1) the motor vehicle registration for all motor vehicles and the driver's license of any person against whom a judgment has been rendered, the department being in receipt of a certified copy of the judgment on a form provided by the department; or

(2) the registration for a period not to exceed one year of a person who is operating a motor vehicle in violation of Section 66-5-205 NMSA 1978 or falsely affirms the existence of a motor vehicle insurance policy or some other means of satisfying the financial responsibility requirements of the Mandatory Financial Responsibility Act, but only if evidence of financial responsibility is not submitted within twenty days after the date of the mailing of the department's demand therefor. The department shall notify the person that he may request a hearing within twenty days after the date of the mailing of the department's demand as provided under this subsection.

B. The registration shall remain suspended and shall not be renewed, nor shall any registration be issued thereafter in the name of that person, unless and until every judgment is stayed, satisfied in full or to the extent provided in the Mandatory Financial Responsibility Act and evidence of financial responsibility as required in Section 66-5-218 NMSA 1978 is provided to the department."

Chapter 34 Section 19

Section 19. REPEAL.--Sections 66-5-219, 66-5-221 and 66-5-223 NMSA 1978 (being Laws 1955, Chapter 182, Section 321 and Laws 1978, Chapter 35, Sections 306 and 308, as amended) are repealed.

Chapter 34 Section 20

Section 20. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1998.

HOUSE BILL 265, AS AMENDED

CHAPTER 35

RELATING TO CRIMINAL LAW; CREATING THE CRIMINAL OFFENSE OF INJURY TO LIVESTOCK; PROVIDING PENALTIES; ENACTING A NEW SECTION OF CHAPTER 30, ARTICLE 18 NMSA 1978.

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

Chapter 35 Section 1

Section 1. A new section of Chapter 30, Article 18 NMSA 1978 is enacted to read:

"INJURY TO LIVESTOCK.--

A. Injury to livestock consists of willfully and maliciously poisoning, killing or injuring livestock that is the property of another.

B. As used in this section, "livestock" means cattle, sheep, buffalo, horses, mules, goats, swine and ratites.

C. Whoever commits injury to livestock is guilty of a fourth degree felony."

Chapter 35 Section 2

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1998.

HOUSE BILL 422

CHAPTER 36

RELATING TO ELECTIONS; ESTABLISHING NOMINATING PETITION PROCEDURES, WRITE-IN CANDIDACY PROCEDURES AND OTHER ELECTION PROCEDURES FOR THE PUBLIC REGULATION COMMISSION; AMENDING SECTIONS OF THE ELECTION CODE; DECLARING AN EMERGENCY.

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

Chapter 36 Section 1

Section 1. Section 1-8-2 NMSA 1978 (being Laws 1969, Chapter 240, Section 152, as amended) is amended to read:

"1-8-2. NOMINATION BY MINOR POLITICAL PARTY--CONVENTION-DESIGNATED NOMINEES.--

A. If the rules and regulations of a minor political party require nomination by political convention:

(1) the chairman and secretary of the state political convention shall certify to the secretary of state the names of their party's nominees for United States senator, United States representative, all elective state offices, legislative offices elected from multicounty districts, public regulation commission, all elective judicial officers in the judicial department and all offices representing a district composed of more than one county; and

(2) the chairman and secretary of the county political convention shall certify to the county clerk the names of their party's nominees for elected county offices and for legislative offices elected from a district located wholly within one county or that is composed of only one county.

B. The names certified to the secretary of state shall be filed on the second Tuesday in July in the year of the general election and shall be accompanied by a petition containing a list of signatures and addresses of voters totaling not less than one percent of the total number of votes cast at the last preceding general election for the office of governor or president of the United States, as the case may be:

(1) in the state for statewide offices; and

(2) in the district for offices other than statewide offices.

The petition shall contain a statement that the voters signing the petition are residents of the state, district, county or area to be represented by the office for which the person being nominated is a candidate.

C. The names certified to the county clerk shall be filed on the second Tuesday in July in the year of the general election and shall be accompanied by a petition containing a list of signatures and addresses of voters totaling not less than one percent of the total number of votes cast at the last preceding general election for the office of governor or president of the United States, as the case may be:

(1) in the county for countywide offices; and

(2) in the district for offices other than countywide offices.

The petition shall contain a statement that the voters signing the petition are residents of the state, district, county or area to be represented by the office for which the person being nominated is a candidate.

D. Persons certified as nominees shall be members of that party before the day the governor issues the primary election proclamation.

E. No voter shall sign any petition prescribed by this section for more persons than the number of minor party candidates necessary to fill the office at the next ensuing general election."

Chapter 36 Section 2

Section 2. Section 1-8-3 NMSA 1978 (being Laws 1969, Chapter 240, Section 153, as amended) is amended to read:

"1-8-3. NOMINATION BY MINOR POLITICAL PARTY--OTHER METHODS.--If the rules and regulations of a minor political party require nomination by a method other than a political convention:

A. the state chairman and the governing board of the state party shall certify to the secretary of state the names of their party's nominees for United States senator, United States representative, all elective state offices, legislative offices elected from multicounty districts, public regulation commission, all elective judicial officers in the judicial department and all offices representing a district composed of more than one county;

B. the county chairman and the governing board of the county party shall certify to the county clerk the names of their party's nominees for elected county offices and for legislative offices elected from a district located wholly within one county or that is composed of only one county; and

C. the names of such nominees shall be filed in the same time and manner prescribed by the Election Code for convention-designated nominees of minor political parties, and each list of names certified shall be accompanied by the petition containing a list of signatures and addresses of voters as prescribed for convention-designated nominees."

Chapter 36 Section 3

Section 3. 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 calling a primary election 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 the 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 the law with respect to the offices for which each political party shall nominate candidates;

C. the date on which 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, public regulation commission 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 petitions and 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."

Chapter 36 Section 4

Section 4. Section 1-8-25 NMSA 1978 (being Laws 1969, Chapter 240, Section 170, as amended) is amended to read:

"1-8-25. PRIMARY ELECTION LAW--DECLARATION OF CANDIDACY--PROPER FILING OFFICER.--The proper filing officer for filing declarations of candidacy is:

A. the secretary of state for the offices of:

(1) United States senator;

(2) United States representative;

(3) all state elective offices;

(4) legislative offices elected from multicounty districts;

- (5) all public regulation commission districts;
- (6) all elective judicial offices in the judicial department, except magistrates; and
- (7) all offices representing a district composed of more than one county; and

B. the county clerk for the offices of:

- (1) all elective county offices;
- (2) magistrates; and
- (3) legislative offices elected from a district located wholly within one county or that is composed of only one county."

Chapter 36 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 seek preprimary convention designation shall file nominating petitions at the time of filing declarations of candidacy. Nominating petitions for those candidates shall be signed by a number of voters equal to at least two percent of the total vote of the candidate's party in the state or congressional district, or the following number of voters, whichever is greater: for statewide offices, two hundred thirty voters; and for congressional candidates, seventy-seven voters.

C. Nominating petitions for candidates for any other office to be voted on at the primary election for which nominating petitions are required shall be signed by a number of voters equal to at least three percent of the total vote of the candidate's party in the district or division, or the following number of voters, whichever is greater: for metropolitan court and magistrate courts, ten voters; for the public regulation commission, fifty voters; for the state board of education, twenty-five voters; for state representative, ten voters; for state senator, seventeen voters; and for district attorney and district judge, fifteen voters.

D. A candidate who fails to receive the preprimary convention designation that he sought may collect additional signatures to total at least four 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 and nominating petitions for the office for which he failed to receive a preprimary designation. The declaration of candidacy and nominating petitions 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 and nominating petitions are due pursuant to the provisions of the Primary Election Law, whichever is later."

Chapter 36 Section 6

Section 6. Section 1-8-36.1 NMSA 1978 (being Laws 1981, Chapter 156, Section 1, as amended) 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, public regulation commission, 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 pursuant to 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."

Chapter 36 Section 7

Section 7. Section 1-8-48 NMSA 1978 (being Laws 1977, Chapter 322, Section 4, as amended by Laws 1993, Chapter 314, Section 50 and also by Laws 1993, Chapter 316, Section 50) is amended to read:

"1-8-48. INDEPENDENT CANDIDATES FOR GENERAL OR UNITED STATES REPRESENTATIVE SPECIAL ELECTIONS--DECLARATION OF INDEPENDENT CANDIDACY AND NOMINATING PETITION.--

A. Nomination as an independent candidate shall be made by filing a declaration of independent candidacy and a nominating petition with the proper filing officer.

B. In making a declaration of independent candidacy, the candidate for an office other than that of president or vice president shall submit a sworn statement in the following form:

"DECLARATION OF INDEPENDENT CANDIDACY

I, _____ (candidate's name on certificate of registration)
being first duly sworn, say that I reside at
_____ in the county of
_____, New Mexico, and that I am a voter of Precinct
No. _____ of the county of _____, State of New
Mexico;

I have declined to designate my party affiliation as shown by my certificate of registration and I have not changed such declination subsequent to the date of issuance of the governor's proclamation for the primary election in the year of the general election at which I seek to be a candidate;

I desire to become a candidate for the office of _____,
District _____ at the general election to be held on the date set by
law for this year, and if the office be that of a member of the legislature or

public regulation commission, that I actually reside within the district for which I declare my candidacy;

I will be eligible and legally qualified to hold this office at the beginning of its term;

If a candidate for any office for which a nominating petition is required, I am submitting with this statement a nominating petition in the form and manner as prescribed by the Election Code; and

I make the foregoing affidavit under oath or affirmation knowing that any false statement herein constitutes a felony punishable under the criminal laws of New Mexico.

(Declarant)

(Mailing Address)

(Residence Address)

Subscribed and sworn to or affirmed before me this _____ day of _____,

_____.
(month)(year)

(Notary Public)

My commission expires:

_____".

C. The secretary of state shall prescribe and furnish the form for the declaration of independent candidacy for the office of president and vice president."

Chapter 36 Section 8

Section 8. Section 1-8-51 NMSA 1978 (being Laws 1977, Chapter 322, Section 7, as amended) is amended to read:

"1-8-51. INDEPENDENT CANDIDATES FOR GENERAL OR UNITED STATES REPRESENTATIVE SPECIAL ELECTIONS--NOMINATING PETITIONS--REQUIRED NUMBER OF SIGNATURES.--

A. The basis of percentage for the total number of votes cast in each instance referred to in this section shall be the total vote cast for governor at the last preceding general election at which a governor was elected.

B. Nominating petitions for an independent candidate for president of the United States shall be signed by a number of voters equal to at least three percent of the total number of votes cast in the state.

C. Nominating petitions for an independent candidate for United States senator or any other statewide elective office shall be signed by a number of voters equal to at least three percent of the total number of votes cast in the state.

D. Nominating petitions for an independent candidate for United States representative shall be signed by a number of voters equal to at least three percent of the total number of votes cast in the district.

E. Nominating petitions for an independent candidate for a member of the legislature, public regulation commission, district judge, district attorney, member of the state board of education, magistrate or county office shall be signed by a number of voters equal to at least three percent of the total number of votes cast in the district, division or county, as the case may be.

F. A voter shall not sign a petition for an independent candidate as provided in this section if he has signed a petition for another independent candidate for the same office."

Chapter 36 Section 9

Section 9. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

HOUSE BILL 425, AS AMENDED

WITH EMERGENCY CLAUSE

SIGNED March 6, 1998

CHAPTER 37

RELATING TO THE FORFEITURE OF WATER RIGHTS; AMENDING CERTAIN SECTIONS OF THE NMSA 1978 PERTAINING TO WATER CONSERVATION PROGRAMS.

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

Chapter 37 Section 1

Section 1. Section 72-5-28 NMSA 1978 (being Laws 1907, Chapter 49, Section 42, as amended) is amended to read:

"72-5-28. FAILURE TO USE WATER--FORFEITURE.--

A. When the party entitled to the use of water fails to beneficially use all or any part of the water claimed by him, for which a right of use has vested for the purpose for which it was appropriated or adjudicated, except the waters for storage reservoirs, for a period of four years, such unused water shall, if the failure to beneficially use the water persists one year after notice and declaration of nonuser given by the state engineer, revert to the public and shall be regarded as unappropriated public water; provided, however, that forfeiture shall not necessarily occur if circumstances beyond the control of the owner have caused nonuse, such that the water could not be placed to beneficial use by diligent efforts of the owner; and provided that periods of nonuse when irrigated farm lands are placed under the acreage reserve program or conservation reserve program provided by the Food Security Act of 1985, P.L. 99-198 shall not be computed as part of the four-year forfeiture period; and provided, further, that the condition of notice and declaration of nonuser shall not apply to water which has reverted to the public by operation of law prior to June 1, 1965.

B. Upon application to the state engineer at any time and a proper showing of reasonable cause for delay or for nonuse or upon the state engineer finding that it is in the public interest, the state engineer may grant extensions of time, for a period not to exceed three years for each extension, in which to apply to beneficial use the water for which a permit to appropriate has been issued or a water right has vested, was appropriated or has been adjudicated.

C. Periods of nonuse when water rights are acquired by incorporated municipalities or counties for implementation of their water development plans or for preservation of municipal or county water supplies shall not be computed as part of the four-year forfeiture statute.

D. A lawful exemption from the requirements of beneficial use, either by an extension of time or other statutory exemption, stops the running of the four-year period for the period of the exemption, and the period of exemption shall not be included in computing the four-year period.

E. Periods of nonuse when the nonuser of acquired water rights is on active duty as a member of the armed forces of this country shall not be included in computing the four-year period.

F. The owner or holder of a valid water right or permit to appropriate waters for agricultural purposes appurtenant to designated or specified lands may apply the full amount of water covered by or included in the water right or permit to any part of the designated or specified tract without penalty or forfeiture.

G. Periods of nonuse when water rights are acquired and placed in a state engineer-approved water conservation program, by an individual or entity that owns water rights, a conservancy district organized pursuant to Chapter 73, Articles 14 through 19 NMSA 1978, a soil and water conservation district organized pursuant to Chapter 73, Article 20 NMSA 1978, an acequia or community ditch association organized pursuant to Chapter 73, Article 2 or 3 NMSA 1978, an irrigation district organized pursuant to Chapter 73, Articles 9 through 13 NMSA 1978 or the interstate stream commission shall not be computed as part of the four-year forfeiture period."

Chapter 37 Section 2

Section 2. Section 72-12-8 NMSA 1978 (being Laws 1931, Chapter 131, Section 8, as amended) is amended to read:

"72-12-8. WATER RIGHT FORFEITURE.--

A. When for a period of four years the owner of a water right in any of the waters described in Sections 72-12-1 through 72-12-28 NMSA 1978 or the holder of a permit from the state engineer to appropriate any such waters has failed to apply them to the use for which the permit was granted or the right has vested, was appropriated or has been adjudicated, the water rights shall be, if the failure to beneficially use the water persists one year after notice and declaration of nonuser given by the state engineer, forfeited and the water so unused shall revert to the public and be subject to further appropriation; provided that the condition of notice and declaration of nonuser shall not apply to water which has reverted to the public by operation of law prior to June 1, 1965.

B. Upon application to the state engineer at any time and a proper showing of reasonable cause for delay or for nonuse or upon the state engineer finding that it is in the public interest, the state engineer may grant extensions of time, for a period not to exceed three years for each extension, in which to apply to beneficial use the water for which a permit to appropriate has been issued or a water right has vested, was appropriated or has been adjudicated.

C. Periods of nonuse when irrigated farm lands are placed under the acreage reserve program or conservation reserve program provided by the Food Security Act of 1985, P.L. 99-198 shall not be computed as part of the four-year forfeiture period.

D. Periods of nonuse when water rights are acquired and placed in a state engineer-approved water conservation program by an individual or entity that owns water rights, an artesian conservancy district, conservancy district, a soil and water conservation district organized pursuant to Chapter 73, Article 20 NMSA 1978, an acequia or

community ditch association organized pursuant to Chapter 73, Article 2 or 3 NMSA 1978, an irrigation district organized pursuant to Chapter 73, Articles 9 through 13 NMSA 1978 or the interstate stream commission shall not be computed as part of the four-year forfeiture statute.

E. A lawful exemption from the requirements of beneficial use, either by an extension of time or other statutory exemption, stops the running of the four-year period for the period of the exemption, and the period of exemption shall not be included in computing the four-year period.

F. Periods of nonuse when water rights are acquired by incorporated municipalities or counties for implementation of their water development plans or for preservation of municipal or county water supplies shall not be computed as part of the four-year forfeiture statute.

G. Periods of nonuse when the nonuser of acquired water rights is on active duty as a member of the armed forces of this country shall not be included in computing the four-year period.

H. The owner or holder of a valid water right or permit to appropriate waters for agricultural purposes appurtenant to designated or specified lands may apply the full amount of water covered by or included in that water right or permit to any part of the designated or specified tract without penalty or forfeiture."

HOUSE BILL 460, AS AMENDED

CHAPTER 38

RELATING TO EDUCATIONAL RETIREMENT; ALLOWING FOR THE PICK UP AND ROLLOVER OF CERTAIN CONTRIBUTIONS.

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

Chapter 38 Section 1

Section 1. A new section of the Educational Retirement Act is enacted to read:

"PICK UP--ROLLOVER.--

A. Commencing on July 1, 1998, each local administrative unit may, solely for the purpose of compliance with Section 414(h) of the Internal Revenue Code, pick up, for the purposes specified in that section, member contributions permitted by Paragraph 4 of Subsection A of Section 22-11-34 NMSA 1978. Member contributions picked up under the provisions of this subsection shall be treated as local administrative unit contributions for purposes of determining income tax obligations under the Internal Revenue Code; however, such picked-up member contributions shall be included in the

determination of the member's gross annual salary for all other purposes under federal and state laws. Member contributions picked up under this section shall continue to be designated member contributions for all purposes of the Educational Retirement Act and shall be considered as part of the member's annual salary for purposes of determining the amount of the member's contribution. The provisions of this section are voluntary, and the member shall have no option concerning the pick up to receive the contributed amounts directly instead of having them paid by the local administrative unit to the fund.

B. Commencing July 1, 1998, the educational retirement board may accept rollover contributions from other retirement funds solely for and subject to the restrictions set forth in Subsection B of Section 22-11-34 NMSA 1978 and applicable restrictions set forth in the Internal Revenue Code for pension plan qualification."

Chapter 38 Section 2

Section 2. A new section of the Educational Retirement Act is enacted to read:

"CORRECTION OF ERRORS AND OMISSIONS--ESTOPPEL.--

A. If an error or omission in an application for retirement or its supporting documents results in an overpayment to a member or the beneficiary of a member, the board shall correct the error or omission and adjust all future payments accordingly. The board shall recover all overpayments that are made.

B. A member or the beneficiary of a member who is paid more than the amount he is owed because he provided fraudulent information on his application for retirement shall be liable for the repayment of that amount to the fund, interest on that amount at the rate set by the board and costs of collection, including attorney fees. Recovery of overpayments shall extend back to the date of the first payment that was made based on fraudulent information.

C. The board shall not be estopped from acting in accordance with applicable statutes because of statements of fact or law made by the board or its employees."

Chapter 38 Section 3

Section 3. Section 22-11-34 NMSA 1978 (being Laws 1967, Chapter 16, Section 157, as amended) is amended to read:

"22-11-34. ALLOWED SERVICE CREDIT.--

A. A member shall be certified to have acquired allowed service credit pursuant to the Internal Revenue Code of 1986 for those periods of time when he was:

(1) employed prior to the effective date of the Educational Retirement Act in a federal educational program within New Mexico, including United States Indian schools and civilian conservation corps camps. This service credit shall be allowed without contribution;

(2) engaged in military service that interrupted his employment in New Mexico if he returned to his employment within eighteen months following honorable discharge. This service credit shall be allowed without contribution;

(3) engaged in United States military service or the commissioned corps of the public health service from which he was honorably discharged if he contributes to the fund a sum equal to ten and one-half percent of his average annual salary for that period of time for which he has acquired earned service credit pursuant to the Educational Retirement Act and subject to the federal Uniformed Services Employment and Reemployment Rights Act of 1994 for each year of service credit he desires to purchase. Average annual salary shall be determined in accordance with rules promulgated by the board but shall always be based on actual salaries earned by the member where the actual salaries can be ascertained by the board. The employer's contributions for service credit shall not be paid by the employer. The purchase of service credit provided in this section shall be carried out by the member within three years after the date of the member's employment following service; or

(4) employed:

(a) in a public school or public institution of higher learning in another state, territory or possession of the United States;

(b) in a United States military dependents' school operated by a branch of the armed forces of the United States;

(c) as provided in Paragraph (1) of this subsection after the effective date of the Educational Retirement Act; or

(d) in a private school or institution of higher learning in New Mexico whose education program is accredited or approved by the state board at the time of employment.

B. The member or employer under Paragraph (4) of Subsection A of this section shall contribute to the fund for each year of allowed service credit desired an amount equal to twelve percent of the member's annual salary at the time payment is made if the member is employed or twelve percent times the member's annual salary during the member's last year of employment if the member is not employed at the time of payment. Contributions paid for the member who is not employed shall bear interest at the average rate earned by the fund during the five-fiscal-year period immediately preceding the date of payment. Such interest shall run from the date the member last terminated employment to the date of payment. Effective July 1, 2001, the member or employer under Paragraph (4) of Subsection A of this section shall contribute to the

fund for each year of allowed service credit desired an amount equal to the actuarial value of the service purchased as defined by the board. Payment pursuant to Paragraph (4) of Subsection A of this section may be made in installments, at the discretion of the board, over a period not to exceed one year and, if the sum paid does not equal the amount required for any full year of allowed service credit, the member shall acquire allowed service credit for that period of time that is proportionate to the payment made. Half credit may be allowed without contribution for not more than ten years of the educational service described by Subparagraph (a) of Paragraph (4) of Subsection A of this section if that service was prior to June 13, 1953 and if the member was employed in New Mexico prior to June 13, 1953 in a position covered by the Educational Retirement Act or a law repealed thereby.

C. No member shall be certified to have acquired allowed service credit:

(1) under any single paragraph or the combination of only Paragraphs (1) and (4) or only Paragraphs (2) and (3) of Subsection A of this section in excess of five years; or

(2) in excess of ten years for any other combination of Paragraphs (1) through (4) of Subsection A of this section.

D. The provisions of this section are made applicable to the services described prior to as well as after the effective date of the Educational Retirement Act."

SENATE BILL 22, AS AMENDED

CHAPTER 39

RELATING TO HEALTH CARE PROVIDERS; PROHIBITING DISCRIMINATION AGAINST CERTIFIED NURSE PRACTITIONERS.

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

Chapter 39 Section 1

Section 1. Section 59A-46-35 NMSA 1978 (being Laws 1987, Chapter 335, Section 1, as amended) is amended to read:

"59A-46-35. PROVIDER DISCRIMINATION PROHIBITED.--No class of licensed individual providers willing to meet the terms and conditions offered by a health maintenance organization shall be excluded from a health maintenance organization. For purposes of this section, "providers" means those persons licensed pursuant to Section 61-3-23.2 NMSA 1978 or Article 2, 4, 5A, 6, 8, 9, 10 or 11 of Chapter 61 NMSA 1978."

Chapter 39 Section 2

Section 2. A new section of the New Mexico Insurance Code, Section 59A-47-28.3 NMSA 1978, is enacted to read:

"59A-47-28.3. PROVIDER DISCRIMINATION PROHIBITED.--All individual and group subscriber contracts delivered or issued for delivery in New Mexico that, on a prepaid, service or indemnity basis, or all of them, provide for treatment of persons for the prevention, cure or correction of an illness or physical or mental condition shall include coverage for the services of a certified nurse practitioner. Deductibles, limits of coverage or other terms and conditions of coverage for certified nurse practitioners shall not differ substantially from coverage for the same or similar services provided by other practitioners. Nothing in this section shall restrict a health care plan from including in the terms of its coverage any benefit differences based on differences in the scope of practice of health care practitioners."

SENATE BILL 37, AS AMENDED

CHAPTER 40

RELATING TO BANKING; AMENDING SECTION 58-1-21 NMSA 1978 (BEING LAWS 1963, CHAPTER 305, SECTION 21, AS AMENDED) TO AUTHORIZE STATE BANKS TO MAKE NONCONFORMING LOANS USING A MORTGAGE INSTRUMENT THAT PERMITS UNSCHEDULED PAYMENTS.

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

Chapter 40 Section 1

Section 1. Section 58-1-21 NMSA 1978 (being Laws 1963, Chapter 305, Section 21, as amended) is amended to read:

"58-1-21. LOANS.--

- A. A state bank may lend on the security of the personal obligation of the borrower.
- B. A state bank may lend on the security of personal property but shall not make any loan on the security of its own stock, of stock of another bank where the borrower owns, controls or holds with the power to vote ten percent or more of the outstanding voting securities of both that bank and the lending bank or of its obligation subordinate to deposits.
- C. A state bank may make real estate loans secured by liens upon unimproved real estate, upon improved real estate, including improved farmland and improved business and residential properties, and upon real estate to be improved by a building to be constructed or in the process of construction in an amount that when added to the amount unpaid upon prior mortgages, liens and encumbrances, if any, upon the real estate does not exceed the respective proportions of appraised value as provided in this

section. A loan secured by real estate within the meaning of this section shall be in the form of an obligation secured by a mortgage, trust deed or other instrument, which shall constitute a lien on real estate in fee or under such rules and regulations as may be prescribed by the director, and any state bank may purchase or sell any obligations so secured in whole or in part. The amount of any such loan made shall not exceed sixty-six and two-thirds percent of the appraised value if the real estate is unimproved; eighty percent of the appraised value if the real estate is improved by off-site improvements such as streets, water, sewers or other utilities; seventy-five percent of the appraised value if the real estate is in the process of being improved by a building to be constructed or in the process of construction; or ninety percent of the appraised value if the real estate is improved by a building. If any such loan exceeds sixty-six and two-thirds percent of the appraised value of the real estate or if the real estate is improved with a one- to four-family dwelling, installment payments shall be required that are sufficient to amortize the entire principal of the loan within a period of not more than thirty years. However:

(1) the limitations and restrictions set forth in this subsection shall not prevent the renewal or extension of loans and shall not apply to real estate loans that are guaranteed or insured by the United States or an agency thereof or by a state or agency or instrumentality thereof; and

(2) loans that are guaranteed or insured as described in Paragraph (1) of this subsection shall not be taken into account in determining the amount of real estate loans that a state bank may make in relation to its capital and surplus or its time and savings deposits or in determining the amount of real estate loans secured by other than first liens. Where the collateral for any loan consists partly of real estate and partly of other security, only the amount by which the loan exceeds the value as collateral of such other security shall be considered a loan upon the security of real estate. In no event shall a loan be considered as a real estate loan where there is a valid and binding agreement that is entered into by a financially responsible lender or other party directly with the bank that is either for the benefit of or has been assigned to the bank and pursuant to which agreement the lender or other party is required to advance to the bank within sixty months from the date of the making of the loan the full amount of the loan to be made by the bank upon the security of real estate. The amount unpaid upon any real estate loan secured by other than a first lien, when added to the amount unpaid upon prior mortgages, liens and encumbrances, shall not exceed in an aggregate sum twenty percent of the amount of the capital stock of the bank paid in and unimpaired plus twenty percent of the amount of its unimpaired surplus fund.

D. A state bank may make real estate loans secured by liens upon forest tracts that are properly managed in all respects. The loans shall be in the form of an obligation secured by mortgage, trust deed or other such instrument, and a state bank may purchase or sell any obligations so secured in whole or in part. The amount of any such loan, when added to the amount unpaid upon prior mortgages, liens and encumbrances, if any, shall not exceed sixty-six and two-thirds percent of the appraised fair market value of the growing timber, lands and improvements thereon offered as

security. The loan shall be made upon such terms and conditions as to assure that at no time shall the loan balance, when added to the amount unpaid upon prior mortgages, liens and encumbrances, if any, exceed sixty-six and two-thirds percent of the original appraised total value of the property then remaining. No such loan shall be made for a longer term than three years, except that a loan may be made for a term not longer than fifteen years if the loan is secured by an amortized mortgage, deed of trust or other such instrument under the terms of which the installment payments are sufficient to amortize the principal of the loan within a period of not more than fifteen years and at a rate of at least six and two-thirds percent per year. All such loans secured by liens upon forest tracts shall be included in the permissible aggregate of all real estate loans and, when secured by other than first liens, in the permissible aggregate of all real estate loans secured by other than first liens prescribed in Paragraph (2) of Subsection C of this section, but no state bank shall make forest tract loans in an aggregate sum in excess of fifty percent of its capital stock paid in and unimpaired plus fifty percent of its unimpaired surplus fund.

E. Loans made to finance the construction of a building and having maturities of not to exceed sixty months where there is a valid and binding agreement entered into by a financially responsible lender or other party to advance the full amount of the bank's loan upon completion of the building and loans made to finance the construction of residential or farm buildings and having maturities of not to exceed forty-two months may be considered as real estate loans if the loans qualify under this section, or such loans may be classed as commercial loans whether or not secured by a mortgage or similar lien on the real estate upon which the building is being constructed, at the option of each state bank that may have an interest in the loan. No state bank shall invest in or be liable on any such loans classed as commercial loans under this subsection in an aggregate amount in excess of one hundred percent of its actually paid-in and unimpaired capital plus one hundred percent of its unimpaired surplus fund.

F. Notes representing loans made pursuant to provisions of this section to finance the construction of residential or farm buildings and having maturities of not to exceed nine months shall be eligible for discount as commercial paper if accompanied by a valid and binding agreement to advance the full amount of the loan upon the completion of the building, entered into by an individual, partnership, association or corporation acceptable to the discounting bank.

G. Loans made to any borrower where the bank looks for repayment by relying primarily on the borrower's general credit standing and forecast of income, with or without other security, or loans secured by an assignment of rents under a lease and where the bank wishes to take a mortgage, deed of trust or other instrument upon real estate, whether or not constituting a first lien, as a precaution against contingencies and loans in which the small business administration cooperates through agreements to participate in an immediate or deferred or guaranteed basis under the Small Business Act shall not be considered as real estate loans within the meaning of this section but shall be classed as commercial loans.

H. A state bank may make loans upon the security of real estate that do not comply with the limitations and restrictions in this section if the total unpaid amount loaned, exclusive of loans that subsequently comply with those limitations and restrictions, does not exceed five percent of the amount that a state bank may invest in real estate loans. The total unpaid amount so loaned shall be included in the aggregate sum that the bank may invest in real estate loans.

I. A loan made by a state bank as a noncomplying loan pursuant to Subsection H of this section may be evidenced by a debt instrument and a security instrument consisting of a mortgage, deed of trust, or similar instrument that contain the following provisions:

(1) either fixed rate or adjustable rate interest accrual on the debt;

(2) an authorization for the borrower to make unscheduled payments to reduce the principal amount of the loan without relieving the borrower from continuing to make payments of installments in the amounts specified in the original debt and security instruments;

(3) the frequency of unscheduled payments shall not exceed the frequency of scheduled payments; and

(4) authorization for the borrower to retrieve by withdrawal part or all of the amount of an unscheduled payment previously made.

J. Loans made pursuant to this section shall be subject to such conditions and limitations as the director may prescribe by rule or regulation."

SENATE BILL 123

CHAPTER 41

RELATING TO HEALTH INSURANCE; MAKING CHANGES IN THE HEALTH INSURANCE PORTABILITY ACT TO FULFILL FEDERAL LAW REQUIREMENTS; AMENDING PROVISIONS OF THE INSURANCE CODE TO PROVIDE CONSISTENCY; DECLARING AN EMERGENCY.

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

Chapter 41 Section 1

Section 1. Section 59A-18-13.1 NMSA 1978 (being Laws 1994, Chapter 75, Section 26, as amended by Laws 1997, Chapter 22, Section 1 and also by Laws 1997, Chapter 243, Section 18) is amended to read:

"59A-18-13.1. ADJUSTED COMMUNITY RATING.--

A. 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, except that for individual policies the rating factor of the individual's place of residence may be used instead of the geographic area of the individual's place of employment.

B. 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 or children aged nineteen to twenty-five who are full-time students 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.

C. The provisions of this section do not preclude an insurer, fraternal benefit society, health maintenance organization or nonprofit health care plan from using health status or occupational or industry classification in establishing:

(1) rates for individual policies; or

(2) the amount an employer may be charged for coverage under the group health plan.

D. As used in Subsection C of this section, "health status" does not include genetic information.

E. The superintendent shall adopt regulations to implement the provisions of this section."

Chapter 41 Section 2

Section 2. Section 59A-22-24 NMSA 1978 (being Laws 1984, Chapter 127, Section 445) is amended to read:

"59A-22-24. CANCELLATION.--There may be a provision as follows:

The insurance company may cancel this policy only pursuant to the provisions of Section 59A-23E-19 NMSA 1978."

Chapter 41 Section 3

Section 3. Section 59A-23B-6 NMSA 1978 (being Laws 1991, Chapter 111, Section 6, as amended by Laws 1997, Chapter 22, Section 2 and also by Laws 1997, Chapter 243, Section 21) is amended to read:

"59A-23B-6. FORMS AND RATES--APPROVAL OF THE SUPERINTENDENT--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 superintendent 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. This subsection shall not apply to policies or plans subject to the Small Group Rate and Renewability Act.

C. 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, except that for individual policies the rating factor of the individual's place of residence may be used instead of the geographic area of the individual's place of employment. 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 rate 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 or children aged nineteen to twenty-five who are full-time students 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. The provisions of this section do not preclude an insurer, fraternal benefit society, health maintenance organization or nonprofit healthcare plan from using health status or occupational or industry classification in establishing:

(1) rates for individual policies; or

(2) the amount an employer may be charged for coverage under a group health plan.

E. As used in Subsection D of this section, "health status" does not include genetic information.

F. The superintendent shall adopt regulations to implement the provisions of this section."

Chapter 41 Section 4

Section 4. Section 59A-23C-5.1 NMSA 1978 (being Laws 1994, Chapter 75, Section 33, as amended by Laws 1997, Chapter 22, Section 3 and also by Laws 1997, Chapter 243, Section 24) is amended to read:

"59A-23C-5.1. ADJUSTED COMMUNITY RATING.--

A. 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) ages;
- (2) genders;
- (3) geographic areas of the place of employment; or
- (4) smoking practices.

B. 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 rate 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 or children aged nineteen to twenty-five who are full-time students 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. The provisions of this section do not preclude a carrier from using health status or occupational or industry classification in establishing the amount an employer may be charged for coverage under a group health plan.

D. As used in Subsection C of this section, "health status" does not include genetic information.

E. The superintendent shall adopt regulations to implement the provisions of this section."

Chapter 41 Section 5

Section 5. Section 59A-23E-1 NMSA 1978 (being Laws 1997, Chapter 243, Section 1) is amended to read:

"59A-23E-1. SHORT TITLE.-- Chapter 59A, Article 23E NMSA 1978 may be cited as the "Health Insurance Portability Act"."

Chapter 41 Section 6

Section 6. Section 59A-23E-2 NMSA 1978 (being Laws 1997, Chapter 243, Section 2) is amended to read:

"59A-23E-2. DEFINITIONS.--As used in the Health Insurance Portability Act:

A. "affiliation period" means a period that must expire before health insurance coverage offered by a health maintenance organization becomes effective;

B. "beneficiary" means that term as defined in Section 3(8) of the federal Employee Retirement Income Security Act of 1974;

C. "bona fide association" means an association that:

(1) has been actively in existence for five or more years;

(2) has been formed and maintained in good faith for purposes other than obtaining insurance;

(3) does not condition membership in the association on any health status related factor relating to an individual, including an employee or a dependent of an employee;

(4) makes health insurance coverage offered through the association available to all members regardless of any health status related factor relating to the members or individuals eligible for coverage through a member; and

(5) does not offer health insurance coverage to an individual through the association except in connection with a member of the association;

D. "church plan" means that term as defined pursuant to Section 3(33) of the federal Employee Retirement Income Security Act of 1974;

E. "COBRA" means the federal Consolidated Omnibus Budget Reconciliation Act of 1985;

F. "COBRA continuation provision" means:

(1) Section 4980 of the Internal Revenue Code of 1986, except for Subsection (f)(1) of that section as it relates to pediatric vaccines;

(2) Part 6 of Subtitle B of Title 1 of the federal Employee Retirement Income Security Act of 1974 except for Section 609 of that part; or

(3) Title 22 of the federal Health Insurance Portability and Accountability Act of 1996;

G. "creditable coverage" means, with respect to an individual, coverage of the individual pursuant to:

(1) a group health plan;

(2) health insurance coverage;

(3) Part A or Part B of Title 18 of the Social Security Act;

(4) Title 19 of the Social Security Act except coverage consisting solely of benefits pursuant to Section 1928 of that title;

(5) 10 USCA Chapter 55;

(6) a medical care program of the Indian health service or of an Indian nation, tribe or pueblo;

(7) the Comprehensive Health Insurance Pool Act;

(8) a health plan offered pursuant to 5 USCA Chapter 89;

(9) a public health plan as defined in federal regulations; or

(10) a health benefit plan offered pursuant to Section 5(e) of the federal Peace Corps Act;

H. "employee" means that term as defined in Section 3(6) of the federal Employee Retirement Income Security Act of 1974;

I. "employer" means:

(1) a person who is an employer as that term is defined in Section 3(5) of the federal Employee Retirement Income Security Act of 1974, and who employs two or more employees; and

(2) a partnership in relation to a partner pursuant to Section 59A-23E-17 NMSA 1978;

J. "employer contribution rule" means a requirement relating to the minimum level or amount of employer contribution toward the premium for enrollment of participants and beneficiaries;

K. "enrollment date" means, with respect to an individual covered under a group health plan or health insurance coverage, the date of enrollment of the individual in the plan or coverage or, if earlier, the first day of the waiting period for enrollment;

L. "excepted benefits" means benefits furnished pursuant to the following:

- (1) coverage only accident or disability income insurance;
- (2) coverage issued as a supplement to liability insurance;
- (3) liability insurance;
- (4) workers' compensation or similar insurance;
- (5) automobile medical payment insurance;
- (6) credit-only insurance;
- (7) coverage for on-site medical clinics;
- (8) other similar insurance coverage specified in regulations under which benefits for medical care are secondary or incidental to other benefits;
- (9) the following benefits if offered separately:
 - (a) limited scope dental or vision benefits;
 - (b) benefits for long-term care, nursing home care, home health care, community-based care or any combination of those benefits; and
 - (c) other similar limited benefits specified in regulations;
- (10) the following benefits, offered as independent noncoordinated benefits:
 - (a) coverage only for a specified disease or illness; or
 - (b) hospital indemnity or other fixed indemnity insurance; and
- (11) the following benefits if offered as a separate insurance policy:
 - (a) medicare supplemental health insurance as defined pursuant to Section 1882(g)(1) of the Social Security Act; and
 - (b) coverage supplemental to the coverage provided pursuant to Chapter 55 of Title 10 USCA and similar supplemental coverage provided to coverage pursuant to a group health plan;

M. "federal governmental plan" means a governmental plan established or maintained for its employees by the United States government or an instrumentality of that government;

N. "governmental plan" means that term as defined in Section 3(32) of the federal Employee Retirement Income Security Act of 1974 and includes a federal governmental plan;

O. "group health insurance coverage" means health insurance coverage offered in connection with a group health plan;

P. "group health plan" means an employee welfare benefit plan as defined in Section 3(1) of the federal Employee Retirement Income Security Act of 1974 to the extent that the plan provides medical care and includes items and services paid for as medical care to employees or their dependents as defined under the terms of the plan directly or through insurance, reimbursement or otherwise;

Q. "group participation rule" means a requirement relating to the minimum number of participants or beneficiaries that must be enrolled in relation to a specified percentage or number of eligible individuals or employees of an employer;

R. "health insurance coverage" means benefits consisting of medical care provided directly, through insurance or reimbursement, or otherwise, and items, including items and services paid for as medical care, pursuant to any hospital or medical service policy or certificate, hospital or medical service plan contract or health maintenance organization contract offered by a health insurance issuer;

S. "health insurance issuer" means an insurance company, insurance service or insurance organization, including a health maintenance organization, that is licensed to engage in the business of insurance in the state and that is subject to state law that regulates insurance within the meaning of Section 514(b)(2) of the federal Employee Retirement Income Security Act of 1974, but "health insurance issuer" does not include a group health plan;

T. "health maintenance organization" means:

(1) a federally qualified health maintenance organization;

(2) an organization recognized pursuant to state law as a health maintenance organization; or

(3) a similar organization regulated pursuant to state law for solvency in the same manner and to the same extent as a health maintenance organization defined in Paragraph (1) or (2) of this subsection;

U. "health status related factor" means any of the factors described in Section 2702(a)(1) of the federal Health Insurance Portability and Accountability Act of 1996;

V. "individual health insurance coverage" means health insurance coverage offered to an individual in the individual market, but "individual health insurance coverage" does not include short-term limited duration insurance;

W. "individual market" means the market for health insurance coverage offered to individuals other than in connection with a group health plan;

X. "large employer" means, in connection with a group health plan and with respect to a calendar year and a plan year, an employer who employed an average of at least fifty-one employees on business days during the preceding calendar year and who employs at least two employees on the first day of the plan year;

Y. "large group market" means the health insurance market under which individuals obtain health insurance coverage on behalf of themselves and their dependents through a group health plan maintained by a large employer;

Z. "late enrollee" means, with respect to coverage under a group health plan, a participant or beneficiary who enrolls under the plan other than during:

(1) the first period in which the individual is eligible to enroll under the plan; or

(2) a special enrollment period pursuant to Sections 59A-23E-8 and 59A-23E-9 NMSA 1978;

AA. "medical care" means:

(1) services consisting of the diagnosis, cure, mitigation, treatment or prevention of human disease or provided for the purpose of affecting any structure or function of the human body; and

(2) transportation services primarily for and essential to provision of the services described in Paragraph (1) of this subsection;

BB. "network plan" means health insurance coverage of a health insurance issuer under which the financing and delivery of medical care are provided through a defined set of providers under contract with the issuer;

CC. "nonfederal governmental plan" means a governmental plan that is not a federal governmental plan;

DD. "participant" means:

(1) that term as defined in Section 3(7) of the federal Employee Retirement Income Security Act of 1974;

(2) a partner in relationship to a partnership in connection with a group health plan maintained by the partnership; and

(3) a self-employed individual in connection with a group health plan maintained by the self-employed individual;

EE. "placed for adoption" means a child has been placed with a person who assumes and retains a legal obligation for total or partial support of the child in anticipation of adoption of the child;

FF. "plan sponsor" means that term as defined in Section 3(16)(B) of the federal Employee Retirement Income Security Act of 1974;

GG. "preexisting condition exclusion" means a limitation or exclusion of benefits relating to a condition based on the fact that the condition was present before the date of the coverage for the benefits whether or not any medical advice, diagnosis, care or treatment was recommended before that date, but genetic information is not included as a preexisting condition for the purposes of limiting or excluding benefits in the absence of a diagnosis of the condition related to the genetic information;

HH. "small employer" means, in connection with a group health plan and with respect to a calendar year and a plan year, an employer who employed an average of at least two but not more than fifty employees on business days during the preceding calendar year and who employs at least two employees on the first day of the plan year;

II. "small group market" means the health insurance market under which individuals obtain health insurance coverage through a group health plan maintained by a small employer;

JJ. "state law" means laws, decisions, rules, regulations or state action having the effect of law; and

KK. "waiting period" means, with respect to a group health plan and an individual who is a potential participant or beneficiary in the plan, the period that must pass with respect to the individual before the individual is eligible to be covered for benefits under the terms of the plan."

Chapter 41 Section 7

Section 7. Section 59A-23E-3 NMSA 1978 (being Laws 1997, Chapter 243, Section 3) is amended to read:

"59A-23E-3. GROUP HEALTH PLAN--GROUP HEALTH INSURANCE--LIMITATION ON PREEXISTING CONDITION EXCLUSION PERIOD--CREDITING FOR PERIODS OF PREVIOUS COVERAGE.--Except as provided in Section 59A-23E-4 NMSA 1978, a group health plan and a health insurance issuer offering group health insurance

coverage may, with respect to a participant or beneficiary, impose a preexisting condition exclusion only if:

A. the exclusion relates to a condition, physical or mental, regardless of the cause of the condition, for which medical advice, diagnosis, care or treatment was recommended or received within the six-month period ending on the enrollment date;

B. the exclusion extends for a period of not more than six months, or eighteen months in the case of a late enrollee, after the enrollment date; and

C. the period of the exclusion is reduced by the aggregate of the periods of creditable coverage applicable to the participant or beneficiary as of the enrollment date."

Chapter 41 Section 8

Section 8. Section 59A-23E-4 NMSA 1978 (being Laws 1997, Chapter 243, Section 4) is amended to read:

"59A-23E-4. GROUP HEALTH PLAN--GROUP HEALTH INSURANCE--PROHIBITION OF EXCLUSIONS IN CERTAIN CASES.--

A. A group health plan or a health insurer offering group health insurance shall not impose a preexisting condition exclusion:

(1) in the case of an individual who, as of the last day of the thirty-day period beginning with the date of birth, is covered under creditable coverage;

(2) that excludes a child who is adopted or placed for adoption before his eighteenth birthday and who, as of the last day of the thirty-day period beginning on and following the date of the adoption or placement for adoption, is covered under creditable coverage; or

(3) that relates to or includes pregnancy as a preexisting condition.

B. The provisions of Paragraphs (1) and (2) of Subsection A of this section do not apply to any individual after the end of the first continuous sixty-three-day period during which the individual was not covered under any creditable coverage."

Chapter 41 Section 9

Section 9. Section 59A-23E-5 NMSA 1978 (being Laws 1997, Chapter 243, Section 5) is amended to read:

"59A-23E-5. GROUP HEALTH PLAN--RULES FOR CREDITING PREVIOUS COVERAGE.--

A. A period of creditable coverage shall not be counted with respect to enrollment of an individual under a group health plan if, after the period and before the enrollment date, there was a sixty-three-day continuous period during which the individual was not covered under any creditable coverage.

B. In determining the continuous period for the purpose of Subsection A of this section, any period that an individual is in a waiting period for any coverage under a group health plan or for group health insurance coverage or is in an affiliation period shall not be counted."

Chapter 41 Section 10

Section 10. Section 59A-23E-6 NMSA 1978 (being Laws 1997, Chapter 243, Section 6) is amended to read:

"59A-23E-6. GROUP HEALTH PLAN--GROUP HEALTH INSURANCE--METHOD OF CREDITING COVERAGE--ELECTION--NOTICE OF ELECTION.--

A. Except as provided in Subsection B of this section, for purposes of applying Subsection C of Section 59A-23E-3 NMSA 1978 a group health plan and a health insurance issuer offering group health insurance coverage shall count a period of creditable coverage without regard to the specific benefits covered during the period.

B. A group health plan or a health insurance issuer offering group health insurance coverage may elect to apply Subsection C of Section 59A-23E-3 NMSA 1978 based on coverage of benefits within each of several classes or categories of benefits specified in regulations rather than as provided in Subsection A of this section. The election shall be made uniformly for all participants and beneficiaries. If the election is made, a group health plan or an issuer shall count a period of creditable coverage with respect to any class or category of benefits if any level of benefits is covered within the class or category.

C. A group health plan making an election pursuant to Subsection B of this section, whether or not health insurance coverage is provided in connection with the plan, shall:

(1) prominently state in disclosure statements concerning the plan, and state to each enrollee at the time of enrollment under the plan, that the plan has made the election; and

(2) include in the statements made a description of the effect of this election.

D. A health insurance issuer offering group health insurance coverage in the small or large group market making an election pursuant to Subsection B of this section shall:

(1) prominently state in disclosure statements concerning the coverage, and state to each employer at the time of the offer or sale of the coverage, that the issuer has made the election; and

(2) include in the statements made a description of the effect of this election."

Chapter 41 Section 11

Section 11. Section 59A-23E-7 NMSA 1978 (being Laws 1997, Chapter 243, Section 7) is amended to read:

"59A-23E-7. GROUP HEALTH PLAN--GROUP HEALTH INSURANCE--
CERTIFICATION AND DISCLOSURE OF COVERAGE.--

A. Periods of creditable coverage with respect to an individual shall be established through the certification required by this section. A group health plan and a health insurance issuer offering group health insurance coverage shall provide the certification described in Subsection B of this section:

(1) at the time an individual ceases to be covered under the plan or otherwise becomes covered under a COBRA continuation provision, to the extent practicable, at a time consistent with notices required pursuant to any COBRA continuation provision;

(2) in the case of an individual becoming covered under a COBRA continuation provision, at the time the individual ceases to be covered under that provision; and

(3) on the request on behalf of an individual made not later than twenty-four months after the date of cessation of the coverage described in Paragraph (1) or (2) of this subsection, whichever is later.

B. The required certification is a written certification of:

(1) the period of creditable coverage of the individual under the plan and the coverage, if any, under the COBRA continuation provision; and

(2) the waiting period, if any, and affiliation period, if applicable, imposed with respect to the individual for any coverage under the plan.

C. To the extent that medical care pursuant to a group health plan is provided pursuant to group health insurance coverage, the plan satisfies the certification requirement of this section if the health insurance issuer offering the coverage provides for the certification pursuant to this section.

D. If a group health plan or health insurance issuer that has made an election pursuant to Subsection B of Section 59A-23E-6 NMSA 1978 enrolls an individual for coverage

under the plan or insurance and the individual provides a certification pursuant to this section, the entity providing the individual that certification:

(1) shall upon request of the plan or issuer promptly disclose to the requester information on coverage of classes and categories of health benefits available under the entity's plan or coverage; and

(2) may charge the requesting plan or issuer the reasonable cost of disclosing the required information."

Chapter 41 Section 12

Section 12. Section 59A-23E-8 NMSA 1978 (being Laws 1997, Chapter 243, Section 8) is amended to read:

"59A-23E-8. GROUP HEALTH PLAN--GROUP HEALTH INSURANCE--SPECIAL ENROLLMENT PERIODS FOR INDIVIDUALS LOSING OTHER COVERAGE.--A group health plan and a health insurance issuer offering group health insurance coverage in connection with a group health plan shall permit an employee who is eligible but not enrolled for coverage under the terms of the plan, or a dependent of the employee if the dependent is eligible but not enrolled for coverage, to enroll for coverage under the terms of the plan if:

A. the employee or dependent was covered under a group health plan or had health insurance coverage at the time coverage was previously offered to the employee or dependent;

B. the employee stated in writing at the time coverage was offered that coverage under a group health plan or health insurance coverage was the reason for declining enrollment, but only if the plan sponsor or issuer required such a statement at the time and provided the employee with notice of that requirement and the consequences of the requirement at the time;

C. the employee's or dependent's coverage described in Subsection A of this section was:

(1) under a COBRA continuation provision and the coverage under that provision was exhausted; or

(2) not under a COBRA continuation provision and either the coverage was terminated as a result of loss of eligibility for the coverage, including as a result of legal separation, divorce, death, termination of employment or reduction in the number of hours of employment, or employer contributions toward the coverage were terminated; and

D. under the terms of the plan, the employee requested enrollment not later than thirty days after the date of exhaustion of coverage described in Paragraph (1) of Subsection

C of this section or termination of coverage or employer contribution described in Paragraph (2) of Subsection C of this section."

Chapter 41 Section 13

Section 13. Section 59A-23E-9 NMSA 1978 (being Laws 1997, Chapter 243, Section 9) is amended to read:

"59A-23E-9. GROUP HEALTH PLAN--SPECIAL ENROLLMENT PERIODS FOR DEPENDENT BENEFICIARIES.--

A. A group health plan shall provide for a dependent special enrollment period described in Subsection B of this section during which a person may be enrolled under the plan as a dependent of the individual, and in the case of the birth or adoption of a child, the spouse of the individual may be enrolled as a dependent of the individual if the spouse is otherwise eligible for coverage, if:

- (1) the plan makes coverage available to a dependent of an individual;
- (2) the individual is a participant under the plan or has met any waiting period applicable to becoming a participant and is eligible to be enrolled under the plan but for a failure to enroll during a previous enrollment period; and
- (3) the person has become the dependent of the individual through marriage, birth, adoption or placement for adoption.

B. A dependent special enrollment period pursuant to this subsection shall be for a period of not less than thirty days and shall begin on the later of:

- (1) the date dependent coverage is made available; or
- (2) the date of the marriage, birth, adoption or placement for adoption described in Subsection A of this section.

C. If an individual seeks to enroll a person as a dependent during the first thirty days of a dependent special enrollment period, the coverage of the dependent becomes effective:

- (1) in the case of marriage, not later than the first day of the first month beginning after the date the completed request for enrollment is received;
- (2) in the case of birth, as of the date of the birth; or
- (3) in the case of adoption or placement for adoption, the date of the adoption or placement."

Chapter 41 Section 14

Section 14. Section 59A-23E-10 NMSA 1978 (being Laws 1997, Chapter 243, Section 10) is amended to read:

"59A-23E-10. GROUP HEALTH PLAN--GROUP HEALTH INSURANCE--USE OF AFFILIATION PERIOD BY HEALTH MAINTENANCE ORGANIZATIONS AS ALTERNATIVE TO PREEXISTING CONDITION EXCLUSION.--

A. A health maintenance organization that offers health insurance coverage in connection with a group health plan and does not impose any preexisting condition exclusion allowed pursuant to Section 59A-23E-3 NMSA 1978 with respect to any particular coverage option may impose an affiliation period for the coverage option if that period:

(1) is applied uniformly without regard to any health status related factors; and

(2) does not exceed two months, or three months in the case of a late enrollee.

B. During an affiliation period, a health maintenance organization is not required to provide health care services or benefits to a participant or beneficiary, and it shall not charge a premium to a participant or beneficiary for any coverage.

C. An affiliation period begins to run on the enrollment date and shall run concurrently with any waiting period under the plan.

D. A health maintenance organization described in Subsection A of this section may use alternative methods different from those described in that subsection to address adverse selection as approved by the superintendent."

Chapter 41 Section 15

Section 15. Section 59A-23E-11 NMSA 1978 (being Laws 1997, Chapter 243, Section 11) is amended to read:

"59A-23E-11. GROUP HEALTH PLAN--GROUP HEALTH INSURANCE--PROHIBITING DISCRIMINATION BASED ON HEALTH STATUS AGAINST INDIVIDUAL PARTICIPANTS AND BENEFICIARIES IN ELIGIBILITY TO ENROLL.--

A. Except as provided in Subsection B of this section, a group health plan and a health insurance issuer offering group health insurance coverage in connection with a group health plan shall not establish rules for eligibility or continued eligibility of any individual to enroll or continue to participate in a health plan based on any of the following health status related factors in relation to the individual or a dependent of the individual:

(1) health status;

- (2) medical condition, including both physical and mental illnesses;
- (3) claims experience;
- (4) receipt of health care;
- (5) medical history;
- (6) genetic information;
- (7) evidence of insurability, including conditions arising out of acts of domestic violence;
or
- (8) disability.

B. To the extent consistent with the provisions of Section 59A-23E-3 NMSA 1978, the provisions of Subsection A of this section do not require a group health plan or group health insurance coverage to provide particular benefits other than those provided under the terms of the plan or coverage or to prevent the plan or coverage from establishing limitations or restrictions on the amount, level, extent or nature of the benefits or coverage for similarly situated individuals enrolled in the plan or coverage."

Chapter 41 Section 16

Section 16. Section 59A-23E-12 NMSA 1978 (being Laws 1997, Chapter 243, Section 12) is amended to read:

"59A-23E-12. GROUP HEALTH PLAN--GROUP HEALTH INSURANCE--PROHIBITING DISCRIMINATION BASED ON HEALTH STATUS AGAINST INDIVIDUAL PARTICIPANTS AND BENEFICIARIES IN PREMIUM CONTRIBUTIONS.--

A. Except as provided in Subsection B of this section, a group health plan and a health insurance issuer offering group health insurance coverage in connection with a group health plan shall not require an individual as a condition to enroll or continue to participate in a health plan to pay a premium or contribution that is greater than the premium or contribution for a similarly situated individual enrolled in the plan on the basis of the health status related factors specified in Subsection A of Section 59A-23E-11 NMSA 1978 in relation to the individual or a person enrolled under the plan as a dependent of the individual.

B. The provisions of Subsection A of this section do not restrict the amount that an employer may be charged for coverage under a group health plan and do not prevent a group health plan or a health insurance issuer offering group health insurance coverage from establishing premium discounts or rebates or modifying otherwise applicable copayments or deductibles in return for adherence to programs of health promotion and disease prevention."

Chapter 41 Section 17

Section 17. Section 59A-23E-13 NMSA 1978 (being Laws 1997, Chapter 243, Section 13) is amended to read:

"59A-23E-13. HEALTH INSURANCE ISSUERS--GUARANTEED AVAILABILITY OF COVERAGE FOR EMPLOYERS IN SMALL GROUP MARKET--EXCEPTIONS FOR NETWORK PLANS, INSUFFICIENT FINANCIAL CAPACITY AND BONA FIDE ASSOCIATIONS--EMPLOYER CONTRIBUTION RULES.--

A. Except as provided in Subsections B through G of this section, a health insurance issuer that offers health insurance coverage in the small group market shall:

- (1) accept a small employer that applies for coverage;
- (2) accept for enrollment under the offered coverage an eligible individual who applies for enrollment during the period in which the individual first becomes eligible to enroll under the terms of the group health plan; and
- (3) not place a restriction on an eligible individual being a participant or a beneficiary that is inconsistent with Sections 59A-23E-11 and 59A-23E-12 NMSA 1978.

B. A health insurance issuer that offers health insurance coverage in the small group market through a network plan may:

- (1) limit the employers that may apply for the coverage to those with eligible individuals who live, work or reside in the service area for the network plan; and
- (2) deny coverage to employers within the service area for the network plan if the issuer has demonstrated to the superintendent that it:
 - (a) will not have the capacity to deliver services adequately to enrollees of any additional groups because of its obligations to existing group contract holders and enrollees; and
 - (b) is applying this exception uniformly to all employers without regard to the claims experience of those employers, their employees and their dependents or any health status related factor relating to those employees and dependents.

C. A health insurance issuer, upon denying insurance coverage in any service area pursuant to the provisions of Subsection B of this section, shall not offer coverage in the small group market within the service area for a period of one hundred eighty days after the date coverage is denied.

D. A health insurance issuer may deny health insurance coverage in the small group market if the issuer has demonstrated to the superintendent that it:

(1) does not have the financial reserves necessary to underwrite additional coverage;
and

(2) is applying this exception uniformly to all employers in the small group market in the state consistent with state law and without regard to the claims experience of those employers, their employees and their dependents or any health status related factor relating to those employees and dependents.

E. A health insurance issuer upon denying health insurance coverage in connection with group health plans pursuant to Subsection D of this section shall not offer coverage in connection with group health plans in the small group market in the state for a period of one hundred eighty days after the date coverage is denied or until the issuer has demonstrated to the superintendent that the issuer has sufficient financial reserves to underwrite the additional coverage, whichever is later. The superintendent may provide for the application of this subsection on a service-area-specific basis.

F. The requirement of Subsection A of this section does not apply to health insurance coverage offered by a health insurance issuer if the coverage is made available in the small group market only through one or more bona fide associations.

G. Subsection A of this section does not preclude a health insurance issuer from establishing employer contribution rules or group participation rules for the offering of health insurance coverage in connection with a group health plan in the small group market.

H. As used in this section, "eligible individual" means, with respect to a health insurance issuer that offers health insurance coverage to a small employer in connection with a group health plan in the small group market, an individual whose eligibility shall be determined:

(1) in accordance with the terms of the plan;

(2) as provided by the issuer under the rules of the issuer that are uniformly applicable in the state to small employers in the small group market; and

(3) in accordance with Insurance Code provisions governing the issuer and the small group market."

Chapter 41 Section 18

Section 18. Section 59A-23E-14 NMSA 1978 (being Laws 1997, Chapter 243, Section 14) is amended to read:

"59A-23E-14. HEALTH INSURANCE ISSUERS--GUARANTEED RENEWABILITY OF COVERAGE FOR EMPLOYERS IN THE SMALL OR LARGE GROUP MARKET-- REQUIREMENT AND EXCEPTIONS TO REQUIREMENT.--

A. Except as provided in Subsections B through G of this section, a health insurance issuer that offers health insurance coverage in the small or large group market in connection with a group health plan shall renew or continue that coverage in force at the option of the plan sponsor of the plan.

B. A health insurance issuer may refuse to renew or may discontinue health insurance coverage offered pursuant to Subsection A of this section if:

(1) the plan sponsor has failed to pay premiums or contributions in accordance with the terms of the health insurance coverage or the issuer has not received timely premium payments;

(2) the plan sponsor has performed an act or practice that constitutes fraud or made an intentional misrepresentation of a material fact under the terms of the coverage;

(3) the plan sponsor has failed to comply with a material plan provision relating to employer contribution or group participation rules permitted pursuant to Subsection G of Section 59A-23E-13 NMSA 1978;

(4) the issuer is ceasing to offer coverage in the market in accordance with Subsection C of this section;

(5) in the case of a health insurance issuer that offers health insurance coverage in the market through a network plan, there is no longer any enrollee in connection with that plan who lives, resides or works in the service area of the issuer or the area for which the issuer is authorized to do business and, in the case of the small group market, the issuer would deny enrollment with respect to the network plan pursuant to Paragraph (1) of Subsection B of Section 59A-23E-13 NMSA 1978; or

(6) in the case of health insurance coverage that is made available only through one or more bona fide associations, the membership of any employer in the association ceases, but only if the coverage is terminated pursuant to this paragraph uniformly without regard to any health status related factor relating to a covered individual.

C. A health insurance issuer may discontinue offering a particular type of group health insurance coverage offered in the small or large group market only if:

(1) the issuer provides notice to each plan sponsor provided coverage of this type in the market and to the participants and beneficiaries covered under the coverage of the discontinuation at least ninety days prior to the date of the discontinuation;

(2) the issuer offers to a plan sponsor provided coverage of this type in the market the option to purchase all, or in the case of the large group market, any, other health insurance coverage currently being offered by the issuer to a group health plan in that market; and

(3) in exercising the option to discontinue coverage of this type and in offering the option of coverage pursuant to Paragraph (2) of this subsection, the issuer acts uniformly without regard to the claims experience of those sponsors or any health status related factors relating to any participants or beneficiaries who may become eligible for that coverage.

D. If a health insurance issuer elects to discontinue offering all health insurance coverage in the small group market or the large group market, coverage may be discontinued only if:

(1) the issuer provides notice to the superintendent and to each plan sponsor and to participants and beneficiaries covered under the plan of the discontinuation at least one hundred eighty days prior to the date of discontinuation; and

(2) all health insurance issued or delivered for issuance in the state in the market is discontinued and coverage is not renewed.

E. After discontinuation pursuant to Subsection D of this section, the health insurance issuer shall not provide for the issuance of any health insurance coverage in the market involved during the five-year period beginning on the date of the discontinuation of the last health insurance coverage not renewed.

F. At the time of coverage renewal pursuant to Subsection A of this section, a health insurance issuer may modify the coverage for a product offered to a group health plan:

(1) in the large group market; or

(2) in the small group market if, for coverage available in that market other than through a bona fide association, the modification is effective on a uniform basis among group health plans with that product.

G. If health insurance coverage is made available by a health insurance issuer in the small or large group market to employers only through one or more associations, a reference to "plan sponsor" is deemed, with respect to coverage provided to an employer member of the association, to include a reference to that employer."

Chapter 41 Section 19

Section 19. Section 59A-23E-15 NMSA 1978 (being Laws 1997, Chapter 243, Section 15) is amended to read:

"59A-23E-15. DISCLOSURE OF INFORMATION BY HEALTH INSURANCE ISSUERS--OFFERING HEALTH INSURANCE COVERAGE TO SMALL EMPLOYERS.--

A. A health insurance issuer when offering health insurance coverage to a small employer shall:

(1) make a reasonable disclosure to the small employer, as part of its solicitation and sales materials, of the availability of information described in Subsection B of this section; and

(2) upon request of the small employer provide the information described.

B. Except as provided in Subsection D of this section, a health insurance issuer shall provide information pursuant to Subsection A of this section concerning:

(1) the provisions of coverage concerning the issuer's right to change premium rates and the factors that may affect changes in premium rates;

(2) the provisions of coverage relating to renewability of coverage;

(3) the provisions of the coverage relating to preexisting condition exclusions; and

(4) the benefits and premiums available under all health insurance coverage for which the small employer is qualified.

C. Information furnished pursuant to this section shall be provided to small employers in a manner determined to be understandable by the average small employer and shall be sufficient to reasonably inform small employers of their rights and obligations under the health insurance coverage.

D. A health insurance issuer is not required by this section to disclose information that is proprietary and trade secret information."

Chapter 41 Section 20

Section 20. Section 59A-23E-16 NMSA 1978 (being Laws 1997, Chapter 243, Section 16) is amended to read:

"59A-23E-16. EXCLUSIONS, LIMITATIONS AND EXCEPTIONS FOR CERTAIN GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE.--

A. The requirements of Sections 59A-23E-3 through 59A-23E-15, 59A-23E-17 and 59A-23E-18 NMSA 1978 do not apply to any group health plan and health insurance coverage offered in connection with a group health plan if, on the first day of the plan year, the plan has fewer than two employees who are current employees.

B. The requirements of Sections 59A-23E-3 through 59A-23E-15, 59A-23E-17 and 59A-23E-18 NMSA 1978 shall not apply with respect to a group health plan that is a nonfederal governmental plan if the plan sponsor makes an election under the provisions of this subsection in conformity with regulations of the federal secretary of health and human services. The period of an election for exclusion made pursuant to this subsection is for a single specified plan year or, in the case of a plan provided

pursuant to a collective bargaining agreement, for the term of the agreement. The plan for which an election is made shall provide under the terms of the election for:

(1) notice to enrollees on an annual basis and at the time of enrollment of the facts and consequences of the election; and

(2) certification and disclosure of creditable coverage under the plan with respect to enrollees in accordance with Section 59A-23E-7 NMSA 1978.

C. The requirements of Sections 59A-23E-3 through 59A-23E-15, 59A-23E-17 and 59A-23E-18 NMSA 1978 do not apply to a group health plan and group health insurance coverage offered in connection with a group health plan in relation to its provision of excepted benefits described in Paragraph (9) of Subsection L of Section 59A-23E-2 NMSA 1978 if the benefits are:

(1) provided under a separate policy, certificate or contract of insurance; or

(2) otherwise not an integral part of the plan.

D. The requirements of Sections 59A-23E-3 through 59A-23E-15, 59A-23E-17 and 59A-23E-18 NMSA 1978 do not apply to any group health plan and group health insurance coverage offered in connection with a group health plan in relation to its provision of excepted benefits described in Paragraph (10) of Subsection L of Section 59A-23E-2 NMSA 1978 if:

(1) the benefits are provided under a separate policy, certificate or contract of insurance;

(2) there is no coordination between the provision of the benefits and any exclusion of benefits under any group health plan maintained by the same plan sponsor; and

(3) the benefits are paid with respect to an event without regard to whether benefits are provided with respect to that event under any group health plan maintained by the same plan sponsor.

E. The requirements of Sections 59A-23E-3 through 59A-23E-15, 59A-23E-17 and 59A-23E-18 NMSA 1978 do not apply to any group health plan and group health insurance coverage offered in connection with a group health plan in relation to its provision of excepted benefits described in Paragraph (11) of Subsection L of Section 59A-23E-2 NMSA 1978 if the benefits are provided under a separate policy, certificate or contract of insurance."

Chapter 41 Section 21

Section 21. Section 59A-23E-17 NMSA 1978 (being Laws 1997, Chapter 243, Section 17) is amended to read:

"59A-23E-17. TREATMENT OF PARTNERS AND SELF-EMPLOYED INDIVIDUALS IN CONNECTION WITH GROUP HEALTH PLANS.--

A. Any plan, fund or program that would not be an employee welfare benefit plan, except for the provisions of this section, that is established or maintained by a partnership, to the extent that the plan, fund or program provides medical care to current or former partners in the partnership or to their dependents directly or through insurance, reimbursement or otherwise, shall be treated as an employee welfare benefit plan that is a group health plan.

B. As used in this section:

(1) "employer" includes a partnership in relation to a partner; and

(2) "participant" includes:

(a) in connection with a group health plan maintained by a partnership, an individual who is a partner in relationship to the partnership; and

(b) in connection with a group health plan maintained by a self-employed individual under which one or more employees are participants, the self-employed individual, if he or his beneficiaries are or may become eligible to receive a benefit under the plan."

Chapter 41 Section 22

Section 22. A new Section 59A-23E-18 NMSA 1978 is enacted to read:

"59A-23E-18. PARITY IN THE APPLICATION OF CERTAIN LIMITS TO MENTAL HEALTH BENEFITS OFFERED IN GROUP HEALTH PLANS OR GROUP HEALTH INSURANCE--DEFINITIONS.--

A. If a group health plan or group health insurance coverage offered in connection with the plan provides both medical and surgical benefits and mental health benefits:

(1) it may not impose an aggregate lifetime limit on mental health benefits if it does not impose an aggregate lifetime limit on substantially all medical and surgical benefits;

(2) it may not impose an annual limit on mental health benefits if it does not impose an annual limit on substantially all medical and surgical benefits;

(3) if it includes an aggregate lifetime limit on substantially all medical and surgical benefits, it shall either:

(a) apply the aggregate lifetime limit both to the medical and surgical benefits to which it otherwise would apply and to mental health benefits and not distinguish in the

application of the limit between medical and surgical benefits and mental health benefits; or

(b) not include an aggregate lifetime limit on mental health benefits that is less than the aggregate lifetime limit imposed on medical and surgical benefits;

(4) if it includes an annual limit on substantially all medical and surgical benefits, it shall either:

(a) apply the annual limit both to the medical and surgical benefits to which it otherwise would apply and to mental health benefits and not distinguish in the application of the limit between medical and surgical benefits and mental health benefits; or

(b) not include an annual limit on mental health benefits that is less than the annual limit imposed on medical and surgical benefits; and

(5) if it includes no or different aggregate lifetime limits or annual limits on different categories of medical and surgical benefits, it shall comply with rules established by the federal secretary of health and human services, which rules shall apply the provisions of Subparagraphs (a) or (b) of Paragraphs (3) or (4) of this subsection, respectively, by substituting for the aggregate lifetime limit or annual limit an average aggregate lifetime limit or average annual limit, respectively, that is computed by taking into account the weighted average of the aggregate lifetime limits or annual limits applicable to the categories.

B. Nothing in this section:

(1) requires a group health plan, or group health insurance coverage offered in connection with the plan, to provide any mental health benefits; or

(2) in the case of a group health plan, or group health insurance coverage offered in connection with the plan, that provides mental health benefits, affects the terms and conditions, including cost sharing, limits on numbers of visits or days of coverage and requirements relating to medical necessity, relating to the amount, duration or scope of mental health benefits under the plan or coverage except as provided specifically in Subsection A of this section.

C. The provisions of this section do not apply to a group health plan, or group health insurance coverage offered in connection with the plan, for a plan year of a small employer.

D. The provisions of this section do not apply to a group health plan, or group health insurance coverage offered in connection with the plan, if the application of the provisions results in an increase in cost under the plan of at least one percent.

E. If a group health plan offers a participant or beneficiary two or more benefit package options under the plan, the requirements of this section shall be applied separately for each option.

F. As used in this section:

(1) "aggregate lifetime limit" means a dollar limitation on the total amount that may be paid for benefits under a group health plan or group health insurance coverage for an individual or other coverage unit;

(2) "annual limit" means a dollar limitation on the total amount that may be paid for benefits in a twelve-month period under a group health plan or group health insurance coverage for an individual or other coverage unit;

(3) "medical or surgical benefits" means benefits with respect to medical or surgical services, as defined under the terms of a group health plan or group health insurance coverage for an individual or other coverage unit, but does not include mental health benefits; and

(4) "mental health benefits" means benefits with respect to mental health services, as defined under the terms of a group health plan or group health insurance coverage for an individual or other coverage unit, but the term does not include benefits with respect to treatment of substance abuse or chemical dependency."

Chapter 41 Section 23

Section 23. A new Section 59A-23E-19 NMSA 1978 is enacted to read:

"59A-23E-19. INDIVIDUAL HEALTH INSURANCE COVERAGE--GUARANTEED RENEWABILITY--EXCEPTIONS.--

A. Except as otherwise provided in this section, a health insurance issuer that provides individual health insurance coverage to an individual shall renew or continue that coverage in force at the option of the individual.

B. A health insurance issuer may refuse to renew or discontinue health insurance coverage of an individual in the individual market if:

(1) the individual has failed to pay premiums or contributions in accordance with the terms of the health insurance coverage or the issuer has not received timely premium payments;

(2) the individual has performed an act or practice that constitutes fraud or has made an intentional misrepresentation of a material fact under the terms of the coverage;

(3) the issuer is ceasing to offer coverage in the individual market in accordance with Subsection C of this section;

(4) in the case of a health insurance issuer that offers health insurance coverage in the market through a network plan, the individual no longer lives, resides or works in the service area of the issuer or the area for which the issuer is authorized to do business but only if the coverage is terminated pursuant to this paragraph uniformly without regard to any health status related factor of covered individuals; and

(5) in the case of health insurance coverage that is made available to the individual market only through one or more bona fide associations, the membership of the individual in the association on the basis of which the coverage is provided ceases, but only if the coverage is terminated pursuant to this paragraph uniformly without regard to any health status related factor of covered individuals.

C. A health insurance issuer may discontinue offering a particular type of group health insurance coverage offered in the individual market only if:

(1) the issuer provides notice to each covered individual provided coverage of this type in the market of the discontinuation at least ninety days prior to the date of the discontinuation;

(2) the issuer offers to each individual in the individual market provided coverage of this type the option to purchase any other individual health insurance coverage currently being offered by the issuer for individuals in that market; and

(3) in exercising the option to discontinue coverage of this type and in offering the option of coverage pursuant to Paragraph (2) of this subsection, the issuer acts uniformly without regard to any health status related factor of enrolled individuals or individuals who may become eligible for that coverage.

D. If a health insurance issuer elects to discontinue offering all health insurance coverage, the individual coverage may be discontinued only if:

(1) the issuer provides notice to the superintendent and to each individual of the discontinuation at least one hundred eighty days prior to the date of the expiration of the coverage; and

(2) all health insurance issued or delivered for issuance in the state in the market is discontinued and coverage is not renewed.

E. After discontinuation pursuant to Subsection D of this section, the health insurance issuer shall not provide for the issuance of any health insurance coverage in the market involved during the five-year period beginning on the date of the discontinuation of the last health insurance coverage not renewed.

F. At the time of coverage renewal pursuant to Subsection A of this section, a health insurance issuer may modify the coverage for a policy form offered to individuals in the individual market if the modification is consistent with law and effective on a uniform basis among all individuals with that policy form.

G. If health insurance coverage is made available by a health insurance issuer in the individual market to an individual only through one or more associations, a reference to an "individual" is deemed to include a reference to that association.

Chapter 41 Section 24

Section 24. A new Section 59A-23E-20 NMSA 1978 is enacted to read:

"59A-23E-20. CERTIFICATION OF COVERAGE BY ISSUERS IN THE INDIVIDUAL MARKET.--The provisions of Section 59A-23E-7 NMSA 1978 apply to health insurance coverage offered by a health insurance issuer in the individual market in the same manner as it applies to health insurance coverage offered by a health insurance issuer in connection with a group health plan in the small or large group market."

Chapter 41 Section 25

Section 25. Section 59A-54-3 NMSA 1978 (being Laws 1987, Chapter 154, Section 3, as amended) is amended to read:

"59A-54-3. DEFINITIONS.--As used in the Comprehensive Health Insurance Pool Act:

A. "board" means the board of directors of the pool;

B. "creditable coverage" means, with respect to an individual, coverage of the individual pursuant to:

(1) a group health plan;

(2) health insurance coverage;

(3) Part A or Part B of Title 18 of the Social Security Act;

(4) Title 19 of the Social Security Act except coverage consisting solely of benefits pursuant to Section 1928 of that title;

(5) 10 USCA Chapter 55;

(6) a medical care program of the Indian health service or of an Indian nation, tribe or pueblo;

(7) the Comprehensive Health Insurance Pool Act;

(8) a health plan offered pursuant to 5 USCA Chapter 89;

(9) a public health plan as defined in federal regulations; or

(10) a health benefit plan offered pursuant to Section 5(e) of the federal Peace Corps Act;

C. "health care facility" means any entity providing health care services that is licensed by the department of health;

D. "health care services" means any services or products included in the furnishing to any individual of medical care or hospitalization, or incidental to the furnishing of such care or hospitalization, as well as the furnishing to any person of any other services or products for the purpose of preventing, alleviating, curing or healing human illness or injury;

E. "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; limited benefit insurance; credit insurance; or 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;

F. "health maintenance organization" means any person who provides, at a minimum, either directly or through contractual or other arrangements with others, basic health care services to enrollees on a fixed prepayment basis and who is responsible for the availability, accessibility and quality of the health care services provided or arranged, or as defined by Subsection M of Section 59A-46-2 NMSA 1978;

G. "health plan" means any arrangement by which persons, including dependents or spouses, covered or making application to be covered under the pool have access to hospital and medical benefits or reimbursement, including group or individual insurance or subscriber contract; coverage through health maintenance organizations, preferred provider organizations or other alternate delivery systems; coverage under prepayment, group practice or individual practice plans; 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 taxes; 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; and coverage by medicare or other governmental benefits. "Health plan" includes coverage through health insurance;

H. "insured" means an individual resident of this state who is eligible to receive benefits from any insurer or other health plan;

I. "insurer" means an insurance company authorized to transact health insurance business in this state, a nonprofit health care plan, a health maintenance organization and self-insurers not subject to federal preemption. "Insurer" 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 not under that act, but under another provision of the Insurance Code;

J. "medicare" means coverage under Part A or Part B of Title 18 of the Social Security Act, as amended;

K. "pool" means the New Mexico comprehensive health insurance pool; and

L. "therapist" means a licensed physical, occupational, speech or respiratory therapist."

Chapter 41 Section 26

Section 26. Section 59A-54-12 NMSA 1978 (being Laws 1987, Chapter 154, Section 12, as amended) is amended to read:

"59A-54-12. ELIGIBILITY--POLICY PROVISIONS.--

A. Except as provided in Subsection B of this section, a person is eligible for a pool policy only if on the effective date of coverage or renewal of coverage the person is a New Mexico resident, and:

(1) is not eligible as an insured or covered dependent for any health plan that provides coverage for comprehensive major medical or comprehensive physician and hospital services;

(2) is only eligible for a health plan that is offered at a rate higher than that available from the pool;

(3) has been rejected for coverage for comprehensive major medical or comprehensive physician and hospital services;

(4) is only eligible for a health plan with a rider, waiver or restrictive provision for that particular individual based on a specific condition;

(5) has as of the date the individual seeks coverage from the pool an aggregate of eighteen or more months of creditable coverage, the most recent of which was under a group health plan, governmental plan or church plan as defined in Subsections P, N and D, respectively, of Section 59A-23E-2 NMSA 1978, except, for the purposes of aggregating creditable coverage, a period of creditable coverage shall not be counted with respect to enrollment of an individual for coverage under the pool if, after that period and before the enrollment date, there was a sixty-three-day or longer period during all of which the individual was not covered under any creditable coverage; or

(6) is entitled to continuation coverage pursuant to Section 59A-23E-19 NMSA 1978.

B. Notwithstanding the provisions of Subsection A of this section:

(1) a person's eligibility for a policy issued under the Health Insurance Alliance Act shall not preclude a person from remaining on a pool policy; provided that a self-employed person who qualifies for an approved health plan under the Health Insurance Alliance Act by using a dependent as the second employee may choose a pool policy in lieu of the health plan under that act;

(2) a pool policyholder shall be eligible for renewal of pool coverage even though the policyholder became eligible for medicare or medicaid coverage while covered under a pool policy; and

(3) if a pool policyholder becomes eligible for any group health plan, the policyholder's pool coverage shall not be involuntarily terminated until any pre-existing condition period imposed on the policyholder by the plan has been exhausted.

C. Coverage under a pool policy is in excess of and shall not duplicate coverage under any other form of health insurance.

D. A pool policy shall provide that coverage of a dependent unmarried person terminates when the person becomes nineteen years of age or, if the person is enrolled full time in an accredited educational institution, when he 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 person is and continues to be:

(1) incapable of self-sustaining employment by reason of developmental disability or physical handicap; and

(2) primarily dependent for support and maintenance upon the person in whose name the contract is issued.

Proof of incapacity and dependency shall be furnished to the insurer within one hundred twenty days of attainment of the limiting age and subsequently as required by the insurer but not more frequently than annually after the two-year period following attainment of the limiting age.

E. A pool policy that provides coverage for a family member of the person in whose name the contract is issued shall, as to the coverage of the family member or the individual in whose name the contract was issued, provide that the health insurance benefits applicable for children are payable with respect to a newly born child of the family member or the person in whose name the contract is issued from the moment of coverage of injury or illness, 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 carrier within thirty-one days after the date of birth in order to have the coverage continued beyond the thirty-one day period.

F. Except for a person eligible as provided in Paragraph (5) of Subsection A of this section, a pool policy may contain provisions under which coverage is excluded during a six-month period following the effective date of coverage as to a given individual for preexisting conditions, 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 diagnoses or treatment; or

(2) medical advice or treatment was recommended or received within a period of six months before the effective date of coverage.

G. The preexisting condition exclusions described in Subsection F of this section shall be waived to the extent to which similar exclusions have been satisfied under any prior health insurance coverage that was involuntarily terminated, if the application for pool coverage is made not later than thirty-one days following the involuntary termination. In that case, coverage in the pool shall be effective from the date on which the prior coverage was terminated. This subsection does not prohibit preexisting conditions coverage in a pool policy that is more favorable to the insured than that specified in this subsection.

H. An individual is not eligible for coverage by the pool if:

(1) he is, at the time of application, eligible for medicare or medicaid which would provide coverage for amounts in excess of limited policies such as dread disease, cancer policies or hospital indemnity policies;

(2) he has terminated coverage by the pool within the past twelve months;

(3) he is an inmate of a public institution or is eligible for public programs for which medical care is provided;

(4) he is eligible for coverage under a group health plan;

(5) he has health insurance coverage as defined in Subsection R of Section 59A-23E-2 NMSA 1978;

(6) the most recent coverages within the coverage period described in Paragraph (5) of Subsection A of this section were terminated as a result of nonpayment of premium or fraud; or

(7) he has been offered the option of continuation coverage under a federal COBRA continuation provision as defined in Subsection F of Section 59A-23E-2 NMSA 1978 or under a similar state program and he has elected the coverage and did not exhaust the continuation coverage under the provision or program.

I. Any person whose health insurance coverage from a qualified state health policy with similar coverage is terminated because of nonresidency in another state may apply for coverage under the pool. If the coverage is applied for within thirty-one days after that termination and if premiums are paid for the entire coverage period, the effective date of the coverage shall be the date of termination of the previous coverage."

Chapter 41 Section 27

Section 27. Section 59A-56-3 NMSA 1978 (being Laws 1994, Chapter 75, Section 3, as amended) is amended to read:

"59A-56-3. 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 for the provisions of health insurance offered through and approved by the alliance;

C. "board" means the board of directors of the alliance;

D. "child" means a dependent unmarried individual who is less than nineteen years of age or an unmarried individual who is enrolled full time in an accredited educational institution until the individual becomes twenty-five years of age;

E. "creditable coverage" means, with respect to an individual, coverage of the individual pursuant to:

(1) a group health plan;

(2) health insurance coverage;

(3) Part A or Part B of Title 18 of the Social Security Act;

(4) Title 19 of the Social Security Act except coverage consisting solely of benefits pursuant to Section 1928 of that title;

(5) 10 USCA Chapter 55;

(6) a medical care program of the Indian health service or of an Indian nation, tribe or pueblo;

- (7) the Comprehensive Health Insurance Pool Act;
- (8) a health plan offered pursuant to 5 USCA Chapter 89;
- (9) a public health plan as defined in federal regulations; or
- (10) a health benefit plan offered pursuant to Section 5(e) of the federal Peace Corps Act;

F. "department" means the department of insurance;

G. "director" means an individual who serves on the board;

H. "earned premiums" means premiums paid or due during a calendar year for coverage under an approved health plan less any unearned premiums at the end of that calendar year plus any unearned premiums from the end of the immediately preceding calendar year;

I. "eligible expenses" means the allowable charges for a health care service covered under an approved health plan;

J. "eligible individual":

(1) means an individual who:

(a) as of the date of the individual's application for coverage under an approved health plan, has an aggregate of eighteen or more months of creditable coverage, the most recent of which was under a group health plan, governmental plan or church plan as those plans are defined in Subsections P, N and D of Section 59A-23E-2 NMSA 1978, respectively, or health insurance offered in connection with any of those plans, but for the purposes of aggregating creditable coverage, a period of creditable coverage shall not be counted with respect to enrollment of an individual for coverage under an approved health plan if, after that period and before the enrollment date, there was a sixty-three-day or longer period during all of which the individual was not covered under any creditable coverage; or

(b) is entitled to continuation coverage pursuant to Section 59A-56-20 or 59A-23E-19 NMSA 1978; and

(2) does not include an individual who:

(a) has or is eligible for coverage under a group health plan;

(b) is eligible for coverage under medicare or a state plan under Title 19 of the federal Social Security Act or any successor program;

(c) has health insurance coverage as defined in Subsection R of Section 59A-23E-2 NMSA 1978;

(d) during the most recent coverage within the coverage period described in Subparagraph (a) of Paragraph (1) of this subsection was terminated from coverage as a result of nonpayment of premium or fraud; or

(e) has been offered the option of coverage under a COBRA continuation provision as that term is defined in Subsection F of Section 59A-23E-2 NMSA 1978, or under a similar state program, except for continuation coverage under Section 59A-56-20 NMSA 1978, and did not exhaust the coverage available under the offered program;

K. "enrollment date" means, with respect to an individual covered under a group health plan or health insurance coverage, the date of enrollment of the individual in the plan or coverage or, if earlier, the first day of the waiting period for that enrollment;

L. "gross earned premiums" means premiums paid or due during a calendar year for all health insurance written in the state less any unearned premiums at the end of that calendar year plus any unearned premiums from the end of the immediately preceding calendar year;

M. "group health plan" means an employee welfare benefit plan to the extent the plan provides hospital, surgical or medical expenses benefits to employees or their dependents, as defined by the terms of the plan, directly through insurance, reimbursement or otherwise;

N. "health care service" means a service or product furnished an individual for the purpose of preventing, alleviating, curing or healing human illness or injury and includes services and products incidental to furnishing the described services or products;

O. "health insurance" means "health" insurance as defined in Section 59A-7-3 NMSA 1978; any hospital and medical expense-incurred policy; nonprofit health care plan service contract; health maintenance organization subscriber contract; short-term, accident, fixed indemnity, specified disease policy or disability income insurance contracts and limited health benefit or credit health insurance; coverage for health care services 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 taxes; coverage for health care services 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 programs providing health care services; but "health insurance" does not include insurance issued pursuant to provisions of the Workers' Compensation Act or similar law, automobile medical payment insurance or provisions by which benefits are payable with or without regard to fault and are required by law to be contained in any liability insurance policy;

P. "health maintenance organization" means a health maintenance organization as defined by Subsection M of Section 59A-46-2 NMSA 1978;

Q. "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;

R. "insured" means a small employer or its employee and an individual covered by an approved health plan, a former employee of a small employer who is covered by an approved health plan through conversion or an individual covered by an approved health plan that allows individual enrollment;

S. "medicare" means coverage under both Parts A and B of Title 18 of the federal Social Security Act;

T. "member" means a member of the alliance;

U. "nonprofit health care plan" means a "health care plan" as defined in Subsection K of Section 59A-47-3 NMSA 1978;

V. "premiums" means the premiums received for coverage under an approved health plan during a calendar year;

W. "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 either of the two preceding calendar years, employed no fewer 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;

(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

(3) in the case of an employer that was not in existence throughout a preceding calendar year, the determination of whether the employer is a small or large employer shall be based on the average number of employees that it is reasonably expected to employ on working days in the current calendar year;

X. "superintendent" means the superintendent of insurance;

Y. "total premiums" means the total premiums for business written in the state received during a calendar year; and

Z. "unearned premiums" means the portion of a premium previously paid for which the coverage period is in the future."

Chapter 41 Section 28

Section 28. Section 59A-56-20 NMSA 1978 (being Laws 1994, Chapter 75, Section 20, as amended) is amended to read:

"59A-56-20. 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.

B. An approved health plan issued to an eligible individual shall contain provisions under which the member offering the plan is obligated to renew the health insurance except for:

(1) nonpayment of premium;

(2) fraud; or

(3) termination of the approved health plan, except that the individual has the right to transfer to another approved health plan.

C. If an approved health plan ceases to exist, the alliance shall provide an alternate approved health plan.

D. An approved health plan shall provide covered individuals the right to continue health insurance coverage through an approved health plan as 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 if the employee was covered under an approved health plan while employed for at least six consecutive months. The individual may be charged an additional administrative charge for the individual health insurance.

E. The right to continue health insurance coverage provided in this section terminates if the covered individual resides outside the United States for more than six consecutive months."

Chapter 41 Section 29

Section 29. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

SENATE BILL 176, AS AMENDED

WITH EMERGENCY CLAUSE

SIGNED March 6, 1998

CHAPTER 42

RELATING TO LAND USE; PROVIDING FOR METHODS OF ANNEXATION, ZONING, SUBDIVISION, PLANNING AND PLATTING IN EXTRATERRITORIAL ZONES OF CERTAIN MUNICIPALITIES AND COUNTIES; CREATING AN EXTRATERRITORIAL LAND USE COMMISSION AND AN EXTRATERRITORIAL LAND USE AUTHORITY; PROVIDING POWERS AND DUTIES; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978.

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

Chapter 42 Section 1

Section 1. Section 3-7-17 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-7-17, as amended) is amended to read:

"3-7-17. ANNEXATION--PETITION BY OWNERS OF CONTIGUOUS TERRITORY--
DUTY OF GOVERNING BODY--ORDINANCE--APPEAL.--

A. Except as provided in Sections 3-7-17.1 and

Section 3-57-4 NMSA 1978, whenever a petition:

- (1) seeks the annexation of territory contiguous to a municipality;
- (2) is signed by the owners of a majority of the number of acres in the contiguous territory;
- (3) is accompanied by a map that shows the external boundary of the territory proposed to be annexed and the relationship of the territory proposed to be annexed to the existing boundary of the municipality; and
- (4) is presented to the governing body,

the governing body shall by ordinance express its consent or rejection to the annexation of such contiguous territory.

B. If the ordinance consents to the annexation of the contiguous territory, a copy of the ordinance, with a copy of the plat of the territory so annexed, shall be filed in the office of the county clerk. After the filing, the contiguous territory is part of the municipality.

The clerk of the municipality shall also send copies of the ordinance annexing the territory and of the plat of the territory so annexed to the secretary of finance and administration and to the secretary of taxation and revenue.

C. Within thirty days after the filing of the copy of the ordinance in the office of the county clerk, any person owning land within the territory annexed to the municipality may appeal to the district court questioning the validity of the annexation proceedings. If no appeal to the district court is filed within thirty days after the filing of the ordinance in the office of the county clerk or if the court renders judgment in favor of the municipality, the annexation shall be deemed complete."

Chapter 42 Section 2

Section 2. A new Section 3-7-17.1 NMSA 1978 is enacted to read:

"3-7-17.1. ANNEXATION--CERTAIN MUNICIPALITIES IN CLASS A COUNTIES--PROCEDURES--LIMITATIONS.--

A. A petition seeking the annexation of territory contiguous to a municipality with a population over two hundred thousand persons and located in a class A county shall be presented to the city council and be accompanied by a map that shows the external boundary of the territory proposed to be annexed and the relationship of the territory proposed to be annexed to the existing boundary of the municipality.

B. If the petition is signed by the owners of a majority of the number of acres in the contiguous territory:

(1) the city council shall submit the petition to the board of county commissioners of the county in which the municipality is located for its review and comment. Any comments shall be submitted by the board of county commissioners to the city council within thirty days of receipt; and

(2) not less than thirty days nor more than sixty days after receiving the petition, the city council shall by ordinance approve or disapprove the annexation after considering any comments submitted by the board of county commissioners.

C. Except as provided in Subsection D of this section, if the petition is not signed by the owners of a majority of the number of acres in the contiguous territory, the extraterritorial land use commission shall consider the matter and make a recommendation to the extraterritorial land use authority. The extraterritorial land use authority shall approve or disapprove the petition. If approved by the extraterritorial land use authority, the city council may by ordinance approve the annexation.

D. When the nonconsenting property owners' properties are entirely surrounded by consenting property owners, the city council may approve the annexation without approval or disapproval of the extraterritorial land use authority.

E. In considering an annexation pursuant to this section, the city council shall consider the impact of the annexation on existing county contracts and provisions of services, including fire protection, solid waste collection or water and sewer service, and may make agreements with the county to continue such services if it is in the interest of the county, the residents of the proposed annexed area or the municipality.

F. A municipality with a population over two hundred thousand persons and located in a class A county shall not force a resident or business located in the unincorporated area of the county to agree to annexation as a condition of extending sewer and water service to that person or business, if that sewer or water service extension is paid for all or in part by federal, state or county money. The municipality may make agreement to annexation a condition of extending sewer and water service if the extension of the service is paid for entirely with municipal money."

Chapter 42 Section 3

Section 3. Section 3-19-5 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-18-5, as amended) is amended to read:

"3-19-5. PLANNING AND PLATTING JURISDICTION.--

A. Each municipality shall have planning and platting jurisdiction within its municipal boundary. Except as provided in Subsection B of this section, the planning and platting jurisdiction of a municipality:

(1) having a population of twenty-five thousand or more persons includes all territory within five miles of its boundary and not within the boundary of another municipality; or

(2) having a population of less than twenty-five thousand persons includes all territory within three miles of its boundary and not within the boundary of another municipality.

B. A municipality having a population over two hundred thousand persons located in a class A county shall have planning and platting jurisdiction within five miles of the boundary of the municipality shared with the county and not within the boundary of another municipality through the extraterritorial land use commission that shall make recommendations to the extraterritorial land use authority.

C. If territory not lying within the boundary of a municipality is within the planning and platting jurisdiction of more than one municipality, the planning and platting jurisdiction of each municipality shall terminate equidistant from the boundary of each municipality unless one municipality has a population of less than two thousand five hundred persons and another municipality has a population of more than two thousand five hundred persons according to the most recent census. Then the planning and platting jurisdiction of the municipality having the greatest population extends to such territory."

Chapter 42 Section 4

Section 4. Section 3-20-5 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-19-5, as amended) is amended to read:

"3-20-5. COUNTY AND MUNICIPAL JURISDICTION OVER SUBDIVISION--
CONCURRENT JURISDICTION--ACCEPTANCE OF UNAPPROVED STREETS--
EXERCISE OF JURISDICTION.--

A. For the purpose of approving the subdivision and platting of land:

(1) the jurisdiction of a county includes all territory not within the boundary of a municipality;

(2) except as provided in Paragraph (4) of this subsection, the jurisdiction of a municipality having a population of twenty-five thousand or more persons according to the most recent census includes all territory within five miles of the boundary of the municipality and not within the boundary of another municipality;

(3) the jurisdiction of a municipality having a population of less than twenty-five thousand persons according to the most recent census includes all territory within three miles of the municipal boundary and not within the boundary of another municipality;
and

(4) a municipality having a population over two hundred thousand persons according to the most recent census located in a class A county shall share approval authority with the county of subdivisions and platting of land within five miles of the municipal boundary. Approval shall be through the actions of the extraterritorial land use commission and extraterritorial land use authority.

B. Each municipality shall have jurisdiction over the territory within its boundary.

C. If territory not lying within the boundary of a municipality is within the platting jurisdiction of more than one municipality, the platting jurisdiction of each municipality shall terminate equidistant from the boundary of each municipality unless one municipality has a population according to the most recent census of less than two thousand five hundred persons and another municipality has a population according to the most recent census of more than two thousand five hundred persons. Then the platting jurisdiction of the municipality having the greatest population extends to such territory.

D. Except as provided in Paragraph (4) of Subsection A of this section, the county and a municipality shall exercise concurrent jurisdiction over territory within the platting jurisdiction of both the county and the municipality.

E. The governing body of a municipality or the board of county commissioners may not locate, construct or accept any street dedication until the street dedication is first submitted to the planning authority for approval or disapproval. If disapproved by the

planning authority, the street dedication may be approved by a two-thirds vote of all the members of the governing body of the municipality having jurisdiction or of the board of county commissioners having jurisdiction. A street dedication accepted by the planning authority or by a two-thirds vote of all the members of the governing body of the municipality having jurisdiction or of the board of county commissioners having jurisdiction shall have the same status as any other public street."

Chapter 42 Section 5

Section 5. A new section of Chapter 3, Article 21 NMSA 1978 is enacted to read:

"EXTRATERRITORIAL ZONING IN CLASS A COUNTY WITH MUNICIPALITY OVER TWO HUNDRED THOUSAND PERSONS--PROCEDURES.--

A. In a class A county that has a municipality with a population over two hundred thousand persons, concurrent extraterritorial zoning jurisdiction between that municipality and the county shall be determined by an "extraterritorial land use authority". The extraterritorial land use authority shall have the jurisdiction and powers of an extraterritorial zoning authority and shall carry out its duties related to planning and platting jurisdiction, extraterritorial zoning, subdivision approval and annexation approval or disapproval as provided in the Municipal Code. The extraterritorial land use authority shall consist of four county commissioners appointed by the board of county commissioners and three city councilors or two city councilors and the mayor appointed by the municipality.

B. The extraterritorial zoning commission in a class A county having a municipality with a population over two hundred thousand persons that is concerned with extraterritorial zoning between that municipality and the county shall be known as the "extraterritorial land use commission". The commission shall be composed of five members of the county planning commission appointed by the board of county commissioners and five members of the environmental planning commission of the municipality appointed by the city council.

C. The composition of the extraterritorial land use commission shall not affect the composition of any other extraterritorial zoning commission that may be established in that county with any other municipality.

D. The extraterritorial land use commission shall have the authority to carry out duties related to planning and platting jurisdiction, subdivision and extraterritorial zoning."

Chapter 42 Section 6

Section 6. Section 3-57-4 NMSA 1978 (being Laws 1967, Chapter 248, Section 4, as amended) is amended to read:

"3-57-4. METHODS OF ANNEXATION.--There shall be two methods of annexing territory to a municipality within class A counties:

A. by petition to a municipality as provided by Section 3-57-5 NMSA 1978 or, if the municipality has over two hundred thousand persons, as provided by Section 3-7-17.1 NMSA 1978; and

B. by petition to the district court as provided by Sections 3-57-6 through 3-57-8 NMSA 1978.

Any other method provided by the Municipal Code or any other act shall have no application within class A counties."

HOUSE BILL 238, AS AMENDED

CHAPTER 43

AMENDING SECTION 61-23-22 NMSA 1978 (BEING LAWS 1993, CHAPTER 218, SECTION 17) TO CHANGE ENGINEERING EXEMPTIONS FROM REQUIREMENTS OF THE ENGINEERING AND SURVEYING PRACTICE ACT.

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

Chapter 43 Section 1

Section 1. Section 61-23-22 NMSA 1978 (being Laws 1993, Chapter 218, Section 17) is amended to read:

"61-23-22. ENGINEERING--EXEMPTIONS.--

A. A New Mexico licensed architect who has complied with all of the laws of New Mexico relating to the practice of architecture has the right to engage in the incidental practice, as defined by regulation, of activities properly classified as engineering; provided that the architect shall not hold himself out to be an engineer or as performing engineering services; and further provided that the architect shall perform only that part of the work for which he is professionally qualified and shall utilize qualified professional engineers or others for those portions of the work in which the contracting architect is not qualified. Furthermore, the architect shall assume all responsibility for compliance with all laws, codes, regulations and ordinances of the state or its political subdivisions pertaining to all documents bearing his professional seal.

B. An engineer employed by a firm, association or corporation who performs only the engineering services involved in the operation of the employer's business shall be exempt from the provisions of the Engineering and Surveying Practice Act, provided that neither the employee nor the employer offers engineering services to the public."

CHAPTER 44

RELATING TO TAXATION; CHANGING THE DEDUCTION IN THE GASOLINE TAX ACT AND THE SPECIAL FUELS SUPPLIER TAX ACT FOR OFF-ROAD USE OF GASOLINE OR SPECIAL FUEL; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

Chapter 44 Section 1

Section 1. Section 7-13-4 NMSA 1978 (being Laws 1991, Chapter 9, Section 32, as amended) is amended to read:

"7-13-4. DEDUCTIONS--GASOLINE TAX.--In computing the gasoline tax due, the following amounts of gasoline may be deducted from the total amount of gasoline received in New Mexico during the tax period, provided satisfactory proof thereof is furnished to the department:

A. gasoline received in New Mexico, but exported from this state by a rack operator, distributor or wholesaler other than in the fuel supply tank of a motor vehicle or sold for export by a rack operator or distributor; provided that, in either case:

(1) the person exporting the gasoline is registered in or licensed by the destination state to pay that state's gasoline or equivalent fuel tax;

(2) proof is submitted that the destination state's gasoline or equivalent fuel tax has been paid or is not due with respect to the gasoline; or

(3) the destination state's gasoline or equivalent fuel tax is paid to New Mexico in accordance with the terms of an agreement entered into pursuant to Section 9-11-12 NMSA 1978 with the destination state;

B. gasoline received in New Mexico sold to the United States or any agency or instrumentality thereof for the exclusive use of the United States or any agency or instrumentality thereof. Gasoline sold to the United States includes gasoline delivered into the supply tank of a government-licensed vehicle of the United States;

C. gasoline received in New Mexico sold to an Indian nation, tribe or pueblo or any political subdivision, agency or instrumentality of that Indian nation, tribe or pueblo for the exclusive use of the Indian nation, tribe or pueblo or any political subdivision, agency or instrumentality thereof. Gasoline sold to an Indian nation, tribe or pueblo includes gasoline delivered into the supply tank of a government-licensed vehicle of the Indian nation, tribe or pueblo; and

D. gasoline received in New Mexico, dyed in accordance with department regulations and used in any manner other than for propulsion of motor vehicles on the highways of this state or motorboats or activities ancillary to that propulsion."

Chapter 44 Section 2

Section 2. A new section of the Gasoline Tax Act is enacted to read:

"PERMIT TO PURCHASE UNDYED GASOLINE FOR CERTAIN OFF-ROAD USE AND TO CLAIM REFUND OF TAX.--

A. Any person using gasoline in the operation of a clothes cleaning establishment, in stoves or other appliances burning gasoline, or operators of aircraft using aviation gasoline exclusively in the operation of aircraft, upon proper showing of the permit provided for in this section, may purchase gasoline to which dye has not been added and may claim a refund thereon under the provisions of this section.

B. Upon submission of proof satisfactory to the department that the requirements of this subsection have been met, the department shall allow a claim for refund of gasoline tax paid on gasoline purchased and used in the manner described in Subsection A of this section by holders of permits issued under this section. The individual purchases of gasoline, other than that used for aviation fuel, must have been made in quantities of fifty gallons or more. Purchasers of aviation fuel may accumulate invoices to reach the fifty gallon minimum. No claim for refund may be presented or allowed on less than one hundred gallons so purchased. The secretary may prescribe by regulation or instruction the documents necessary to support a claim for refund made pursuant to the provisions of this subsection.

C. The department shall create permits, in form and content as the secretary may prescribe, that will allow persons to purchase gasoline to which dye has not been added for the uses specified in Subsection A of this section. The secretary shall prescribe the method by which a person may apply for a permit.

D. The secretary, upon notice and after hearing, may suspend for a period of up to one year or revoke the gasoline tax refund permit of any person who makes any false statement on an application for a permit or on a claim for refund made pursuant to the provisions of this section, who uses the gasoline in a motor boat or in a vehicle registered to operate on the highways of this state or who violates any other provision of the Gasoline Tax Act."

Chapter 44 Section 3

Section 3. A new section of the Gasoline Tax Act is enacted to read:

"DYED GASOLINE--PERMISSIBLE USES--PENALTIES FOR MISUSE.--

A. Gasoline distributors and wholesalers who are registered as distributors or wholesalers with the department may sell gasoline to be used other than in motor boats or in vehicles licensed to operate on the highways. These distributors and wholesalers shall mix with the gasoline an identifying dye in a manner consistent with state and federal law and regulations. The department shall furnish without charge the dye upon request. Such dyed gasoline may not be used in motor boats or in vehicles registered to be operated upon the highways of this state.

B. Any person who uses dyed gasoline in a motor boat or in a vehicle registered to be operated upon the highways of this state is liable for a civil penalty for each occurrence in an amount equal to the greater of one hundred dollars (\$100) or the rate of the gasoline tax multiplied by the capacity in gallons of the fuel supply tank or tanks of the motor boat or vehicle."

Chapter 44 Section 4

Section 4. Section 7-16A-10 NMSA 1978 (being Laws 1992, Chapter 51, Section 10, as amended) is amended to read:

"7-16A-10. DEDUCTIONS--SPECIAL FUEL EXCISE TAX--SPECIAL FUEL SUPPLIERS.--In computing the tax due, the following amounts of special fuel may be deducted from the total amount of special fuel received in New Mexico during the tax period, provided that satisfactory proof thereof is furnished to the department:

A. special fuel received in New Mexico, but exported from this state by a rack operator, special fuel supplier or dealer, other than in the fuel supply tank of a motor vehicle or sold for export by a rack operator or distributor; provided that, in either case:

(1) the person exporting the special fuel is registered in or licensed by the destination state to pay that state's special fuel or equivalent fuel tax;

(2) proof is submitted that the destination state's special fuel or equivalent fuel tax has been paid or is not due with respect to the special fuel; or

(3) the destination state's special fuel or equivalent fuel tax is paid to New Mexico in accordance with the terms of an agreement entered into pursuant to Section

Section 9-11-12 NMSA 1978 with the destination state;

B. special fuel sold to the United States or any agency or instrumentality thereof for the exclusive use of the United States or any agency or instrumentality thereof. Special fuel sold to the United States includes special fuel delivered into the supply tank of a government-licensed vehicle;

C. special fuel sold to the state of New Mexico or any political subdivision, agency or instrumentality thereof for the exclusive use of the state of New Mexico or any political

subdivision, agency or instrumentality thereof. Special fuel sold to the state of New Mexico includes special fuel delivered into the supply tank of a government-licensed vehicle;

D. special fuel sold to an Indian nation, tribe or pueblo or any agency or instrumentality thereof for the exclusive use of the Indian nation, tribe or pueblo or any agency or instrumentality thereof. Special fuel sold to an Indian nation, tribe or pueblo includes special fuel delivered into the supply tank of a government-licensed vehicle;

E. special fuel sold to the holder of a special bulk storage user permit and delivered into special bulk storage pursuant to the provisions of Section 7-16A-8 NMSA 1978; and

F. special fuel dyed in accordance with federal regulations and used in any manner other than for propulsion of motor vehicles on the highways of this state or activities ancillary to that propulsion."

Chapter 44 Section 5

Section 5. TEMPORARY PROVISION--TRANSITION PROVISION.--Until January 1, 1999, holders of permits issued pursuant to the provisions of Sections 7-13-13 through 7-13-15 NMSA 1978 may submit and the department shall allow, in accordance with the provisions of those sections, claims for refund of gasoline tax paid on dyed or undyed gasoline purchased prior to the effective date of this act as if the provisions of those sections were still in effect.

Chapter 44 Section 6

Section 6. REPEAL.--Sections 7-13-13 through 7-13-15 NMSA 1978 (being Laws 1971, Chapter 207, Sections 12 through 14, as amended) are repealed.

Chapter 44 Section 7

Section 7. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1998.

HOUSE BILL 432, AS AMENDED

CHAPTER 45

RELATING TO RETIREE HEALTH CARE; AMENDING THE RETIREE HEALTH CARE ACT TO CHANGE CERTAIN DEFINITIONS AND GIVE THE BOARD OF THE RETIREE HEALTH CARE AUTHORITY MORE DISCRETION IN SETTING CONTRIBUTION LEVELS; AMENDING SECTIONS OF THE NMSA 1978.

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

Chapter 45 Section 1

Section 1. Section 10-7C-4 NMSA 1978 (being Laws 1990, Chapter 6, Section 4, as amended) is amended to read:

"10-7C-4. DEFINITIONS.--As used in the Retiree Health Care Act:

A. "active employee" means an employee of a public institution or any other public employer participating in either the Educational Retirement Act, the Public Employees Retirement Act, the Judicial Retirement Act, the Magistrate Retirement Act or the Public Employees Retirement Reciprocity Act or an employee of an independent public employer;

B. "authority" means the retiree health care authority created pursuant to the Retiree Health Care Act;

C. "basic plan of benefits" means only those coverages generally associated with a medical plan of benefits;

D. "board" means the board of the retiree health care authority;

E. "current retiree" means an eligible retiree who is receiving a disability or normal retirement benefit under the Educational Retirement Act, the Public Employees Retirement Act, the Judicial Retirement Act, the Magistrate Retirement Act, the Public Employees Retirement Reciprocity Act or the retirement program of an independent public employer on or before July 1, 1990;

F. "eligible dependent" means a person obtaining retiree health care coverage based upon that person's relationship to an eligible retiree as follows:

(1) a spouse;

(2) an unmarried child under the age of nineteen who is:

(a) a natural child;

(b) a legally adopted child;

(c) a stepchild living in the same household who is primarily dependent on the eligible retiree for maintenance and support;

(d) a child for whom the eligible retiree is the legal guardian and who is primarily dependent on the eligible retiree for maintenance and support, as long as evidence of the guardianship is evidenced in a court order or decree; or

(e) a foster child living in the same household;

(3) a child described in Subparagraphs (a) through (e) of Paragraph (2) of this subsection who is between the ages of nineteen and twenty-five and is a full-time student at an accredited educational institution, provided that "full-time student" shall be a student enrolled in and taking twelve or more semester hours or its equivalent contact hours in primary, secondary, undergraduate or vocational school or a student enrolled in and taking nine or more semester hours or its equivalent contact hours in graduate school;

(4) a dependent child over nineteen who is wholly dependent on the eligible retiree for maintenance and support and who is incapable of self-sustaining employment by reason of mental retardation or physical handicap; provided that proof of incapacity and dependency shall be provided within thirty-one days after the child reaches the limiting age and at such times thereafter as may be required by the board;

(5) a surviving spouse defined as follows:

(a) "surviving spouse" means the spouse to whom a retiree was married at the time of death; or

(b) "surviving spouse" means the spouse to whom a deceased vested active employee was married at the time of death; or

(6) a surviving dependent child who is the dependent child of a deceased eligible retiree whose other parent is also deceased;

G. "eligible employer" means either:

(1) a "retirement system employer", which means an institution of higher education, a school district or other entity participating in the public school insurance authority, a state agency, state court, magistrate court, municipality, county, or public entity each of which is affiliated under or covered by the Educational Retirement Act, the Public Employees Retirement Act, the Judicial Retirement Act, the Magistrate Retirement Act or the Public Employees Retirement Reciprocity Act; or

(2) an "independent public employer", which means a municipality, county or public entity that is not a retirement system employer;

H. "eligible retiree" means:

(1) a "nonsalaried eligible participating entity governing authority member" who is a person who is not a retiree and who:

(a) has served without salary as a member of the governing authority of an employer eligible to participate in the benefits of the Retiree Health Care Act and is certified to be such by the executive director of the public school insurance authority;

(b) has maintained group health insurance coverage through that member's governing authority if such group health insurance coverage was available and offered to the member during the member's service as a member of the governing authority; and

(c) was participating in the group health insurance program under the Retiree Health Care Act prior to July 1, 1993; or

(d) if a person eligible under Subparagraph (a) of this paragraph applies before August 1, 1993 to the authority to participate in the program, then he will be eligible to participate notwithstanding the provisions of Subparagraphs (b) and (c) of this paragraph;

(2) a "salaried eligible participating entity governing authority member" who is a person who is not a retiree and who:

(a) has served with salary as a member of the governing authority of an employer eligible to participate in the benefits of the Retiree Health Care Act;

(b) has maintained group health insurance through that member's governing authority, if such group health insurance was available and offered to the member during the member's service as a member of the governing authority; and

(c) was participating in the group health insurance program under the Retiree Health Care Act prior to July 1, 1993; or

(d) if a person eligible under Subparagraph (a) of this paragraph applies before August 1, 1993 to the authority to participate in the program, then he will be eligible to participate notwithstanding the provisions of Subparagraphs (b) and (c) of this paragraph; or

(3) an "eligible participating retiree" who is a person who:

(a) falls within the definition of a retiree, has made contributions to the fund for at least five years prior to retirement and whose eligible employer during that period of time made contributions as a participant in the Retiree Health Care Act on the person's behalf, unless that person retires on or before July 1, 1995, in which event the time period required for employee and employer contributions shall become the period of time between July 1, 1990 and the date of retirement, and who is certified to be a retiree by the educational retirement director, the executive secretary of the public employees retirement board or the governing authority of an independent public employer;

(b) falls within the definition of a retiree, retired prior to July 1, 1990 and is certified to be a retiree by the educational retirement director, the executive secretary of the public employees retirement association or the governing authority or of an independent public employer; but this paragraph does not include a retiree who was an employee of an eligible employer who exercised the option not to be a participating employer pursuant

to the Retiree Health Care Act and did not after January 1, 1993 elect to become a participating employer; unless the retiree: 1) retired on or before June 30, 1990; and 2) at the time of retirement did not have a retirement health plan or retirement health insurance coverage available from his employer; or

(c) is a retiree who: 1) was at the time of retirement an employee of an eligible employer who exercised the option not to be a participating employer pursuant to the Retiree Health Care Act, but which eligible employer subsequently elected after January 1, 1993 to become a participating employer; 2) has made contributions to the fund for at least five years prior to retirement and whose eligible employer during that period of time made contributions as a participant in the Retiree Health Care Act on the person's behalf, unless that person retires less than five years after the date participation begins, in which event the time period required for employee and employer contributions shall become the period of time between the date participation begins and the date of retirement; and 3) is certified to be a retiree by the educational retirement director, the executive secretary of the public employees retirement board or the governing authority of an independent public employer;

I. "fund" means the retiree health care fund;

J. "group health insurance" means coverage that includes but is 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;

K. "ineligible dependents" include but are not limited to:

(1) those dependents created by common law relationships;

(2) dependents while in active military service;

(3) parents, aunts, uncles, brothers, sisters, grandchildren and other family members left in the care of an eligible retiree without evidence of legal guardianship; and

(4) anyone not specifically referred to as an eligible dependent pursuant to the rules and regulations adopted by the board;

L. "participating employee" means an employee of a participating employer, which employee has not been excluded from participation in the Retiree Health Care Act pursuant to Section 10-7C-10 NMSA 1978;

M. "participating employer" means an eligible employer who has satisfied the conditions for participating in the benefits of the Retiree Health Care Act, including the requirements of Subsection M of Section 10-7C-7 NMSA 1978 and Subsection D, E or G of Section 10-7C-9 NMSA 1978, as applicable;

N. "public entity" means a flood control authority, economic development district, council of governments, regional housing authority, conservancy district or other special district or special purpose government; and

O. "retiree" means a person who:

(1) is receiving:

(a) a disability or normal retirement benefit or survivor's benefit under the Educational Retirement Act;

(b) a disability or normal retirement benefit or survivor's benefit pursuant to the Public Employees Retirement Act, the Judicial Retirement Act, the Magistrate Retirement Act or the Public Employees Retirement Reciprocity Act; or

(c) a disability or normal retirement benefit or survivor's benefit pursuant to the retirement program of an independent public employer to which that employer has made periodic contributions; or

(2) is not receiving a survivor's benefit but is the eligible dependent of a person who received a disability or normal retirement benefit pursuant to the Educational Retirement Act, the Public Employees Retirement Act, the Judicial Retirement Act, the Magistrate Retirement Act or the Public Employees Retirement Reciprocity Act."

Chapter 45 Section 2

Section 2. Section 10-7C-7 NMSA 1978 (being Laws 1990, Chapter 6, Section 7, as amended) is amended to read:

"10-7C-7. BOARD--DUTIES.--In order to achieve the purposes of the Retiree Health Care Act, the board may take all actions reasonably necessary to implement that act, including but not limited to the following:

A. employ or contract for the services of the state fiscal agent or select its own fiscal agent in accordance with the Procurement Code;

B. employ or contract for persons to assist it in carrying out the Retiree Health Care Act and determine the duties and compensation of these employees;

C. collect and disburse funds;

D. collect all current and historical claims and financial information necessary for effective procurement of lines of insurance coverage;

E. promulgate and adopt necessary rules, regulations and procedures for implementation of the Retiree Health Care Act;

F. negotiate insurance policies covering additional or lesser benefits as determined appropriate by the board, but the board shall maintain all coverage as required by federal or state law for each eligible retiree. In the event it is practical to wholly self-insure part or all of the retiree health care coverages, the board may do so;

G. procure group health care and other coverages authorized by the Retiree Health Care Act in accordance with the Procurement Code and the Health Care Purchasing Act;

H. establish the procedures for contributions and deductions;

I. determine methods and procedures for claims administration;

J. administer the fund;

K. contract for and make available to all eligible retirees and eligible dependents basic and optional group health insurance plans. The optional coverage may include a lower deductible, lower coinsurance or additional categories of benefits permitted under this section and all other applicable sections of the Retiree Health Care Act to provide additional levels of coverages and benefits. Any additional contributions for these optional plans shall be paid for by the eligible retiree or eligible dependent. The coverage provided by the plans shall be secondary to all other benefit coverages to which the eligible retiree or eligible dependent is entitled. In the event a covered eligible retiree becomes employed by an employer offering its employees a basic plan of benefits, the coverage provided by the plan under the Retiree Health Care Act shall be secondary to such coverage regardless of whether the employee enrolls in that employer's plan. In the event the eligible retiree or eligible dependent is entitled to receive medicare hospital insurance benefits at no charge, then the coverage provided by the plan under the Retiree Health Care Act shall be secondary to medicare hospital and medical insurance to the extent permitted by federal law;

L. provide, at its discretion, different plans for eligible retirees and eligible dependents covered by medicare than the plans provided for eligible retirees and eligible dependents who are not covered by medicare; and

M. promulgate and adopt rules and regulations governing eligibility, participation, enrollment, length of service and any other conditions or requirements for providing substantially equal treatment to participating employers."

Chapter 45 Section 3

Section 3. Section 10-7C-9 NMSA 1978 (being Laws 1990, Chapter 6, Section 9, as amended) is amended to read:

"10-7C-9. PARTICIPATION.--

A. All eligible employers shall participate in the Retiree Health Care Act except as provided in Subsection D or Subsection E of this section. Participating employers are required to continue existing group health insurance coverages until such time as similar coverages are offered by the board.

B. Participation in the basic health insurance coverages provided by the authority shall be conditioned upon receipt by the board of a certificate of eligibility from the educational retirement director, the executive secretary of the public employees retirement association, the executive director of the public school insurance authority or the governing body of an independent public employer. Once eligibility is established for each eligible retiree, the board shall contribute from money in the fund the authority's portion of the premium for the basic plan of benefits commencing no earlier than January 1, 1991 plus the balance of the premium, which shall be collected from the retiree.

C. Each eligible retiree shall accept or reject enrollment in the basic plan of benefits on an enrollment form provided by the board. An eligible retiree who rejects enrollment or fails to return a properly executed enrollment form within the open enrollment period as established by the board forfeits all entitlement and eligibility for benefits under the Retiree Health Care Act until the next open enrollment period as established by the board.

D. On or before January 1, 1991, municipalities, counties and institutions of higher education that are retirement system employers may at their option determine by ordinance, or for institutions of higher education, by resolution, to be excluded from coverage under the Retiree Health Care Act; that determination shall be subject to the following conditions:

(1) any contributions paid into the fund by a municipality, county or institution of higher education that exercises timely an irrevocable option not to participate in the Retiree Health Care Act under this subsection shall be returned without interest to that municipality, county or institution of higher education for return of the employee contributions to the employees and for crediting of the employer contributions to the appropriate fund of the municipality, county or institution of higher education. If the determination to be excluded from coverage is exercised by a municipality, county or institution of higher education prior to July 1, 1990, then that municipality, county or institution of higher education shall not be required to make the contributions that would otherwise be required by Section 10-7C-15 NMSA 1978;

(2) any municipality, county or institution of higher education, in addition to complying with all other required notice and public hearing or meeting requirements, shall, no less

than thirty days prior to the public hearing or public meeting on a proposed ordinance or proposed resolution, notify the authority of the public hearing or public meeting by certified mail; and

(3) in the event that:

(a) the number of active employees employed by municipalities contributing to the fund reaches a number equaling sixty percent or more of all active employees employed by all municipalities that are retirement system employers, the municipal position on the board of the authority shall be restored within sixty days of the date that percentage is reached; provided, however, that if a municipality with a population greater than one hundred thousand that is located in a class A county exercises this option, then the sixty-percent requirement shall be applied to the remaining municipalities only;

(b) the number of active employees employed by counties contributing to the fund reaches a number equaling sixty percent or more of all active employees employed by all counties that are retirement system employers, the county position on the board of the authority shall be restored within sixty days of the date that percentage is reached; provided, however, that if a class A county exercises this option, then the eighty-percent requirement shall be applied to the remaining counties only; or

(c) the number of active employees employed by institutions of higher learning contributing to the fund reaches a number equaling seventy percent or more of all active employees employed by an institution of higher education contributing to the educational retirement fund, the institution of higher education position on the board shall be restored within sixty days of the date that percentage is reached.

E. An independent public employer may become a participating employer if that employer satisfies the requirements imposed pursuant to Subsection M of Section 10-7C-7 NMSA 1978 and if that employer also files with the authority on or prior to January 1, 1991 or prior to July 1, 1993 or July 1 of any year a written irrevocable election by the governing body of that employer to participate in the Retiree Health Care Act. Any such independent public employer or retirement system employer, as defined in Subsection G of Section 10-7C-4 NMSA 1978 that chooses to become a participating employer after January 1, 1998 shall begin making the appropriate employer and employee contributions to the fund on the July 1 immediately following the adoption of the ordinance or resolution. On the following January 1, eligible retirees of those participating employers and their eligible dependents shall be eligible to receive group health insurance coverage pursuant to the provisions of the Retiree Health Care Act.

F. A municipality or county that enacted an ordinance or an institution of higher education that enacted a resolution prior to January 1, 1991 pursuant to Subsection D of this section to be excluded from coverage under the Retiree Health Care Act may become a participating employer if that employer satisfies the requirements imposed pursuant to Subsection M of Section 10-7C-7 NMSA 1978 and if that employer also enacts an ordinance or resolution, as applicable, after a public hearing and published

notice of the hearing, prior to July 1, 1993 or July 1 of any year to choose to become a participating employer under the Retiree Health Care Act. Any such municipality, county or institution of higher education that chooses to become a participating employer after January 1, 1998 shall begin making the appropriate employer and employee contributions determined by the board to the fund on the July 1 immediately following the adoption of the ordinance or resolution. On the following January 1, eligible retirees of those participating employers and their eligible dependents shall be eligible to receive group health insurance coverage pursuant to the provisions of the Retiree Health Care Act."

Chapter 45 Section 4

Section 4. Section 10-7C-15 NMSA 1978 (being Laws 1990, Chapter 6, Section 15) is amended to read:

"10-7C-15. RETIREE HEALTH CARE FUND CONTRIBUTIONS.--

A. Following completion of the preliminary contribution period, each participating employer for the fiscal year beginning July 1, 1990 and thereafter shall make contributions to the fund in the amount of one percent of each participating employee's annual salary. Each employer that chooses to become a participating employer after January 1, 1998 shall make contributions to the fund in the amount determined to be appropriate by the board.

B. Following completion of the preliminary contribution period, each participating employee as a condition of employment for the fiscal year commencing July 1, 1990 and thereafter shall contribute to the fund an employee contribution in an amount equal to one-half of one percent of the employee's salary. As a condition of employment, each participating employee of an employer that chooses to become a participating employer after January 1, 1998 shall contribute to the fund an amount that is determined to be appropriate by the board. Each month, participating employers shall deduct the contribution from the participating employee's salary and shall remit it to the board as provided by any procedures that the board may require.

C. A participating employer that fails to remit before the tenth day after the last day of the month all employer and employee deposits required by the Retiree Health Care Act to be remitted by the employer for the month shall pay to the fund, in addition to the deposits, interest on the unpaid amounts at the rate of six percent per year compounded monthly.

D. The employer and employee contributions shall be paid in monthly installments based on the percent of payroll certified by the employer.

E. Except in the case of erroneously made contributions or as may be otherwise provided in Subsection D

of Section 10-7C-9 NMSA 1978, contributions from participating employers and participating employees shall become the property of the fund on receipt by the board and shall not be refunded under any circumstances, including termination of employment or termination of the participating employer's operation or participation in the Retiree Health Care Act.

F. Notwithstanding any other provision in the Retiree Health Care Act and at the first session of the legislature following July 1, 1995, the legislature shall review and adjust the distribution pursuant to Section 7-1-6.1 NMSA 1978 and the employer and employee contributions to the authority in order to ensure the actuarial soundness of the benefits provided under the Retiree Health Care Act."

Chapter 45 Section 5

Section 5. Section 10-7C-16 NMSA 1978 (being Laws 1990, Chapter 6, Section 16, as amended) is amended to read:

"10-7C-16. RETIREE HEALTH CARE FUND--BUDGET.-- Expenditures for the administration of the Retiree Health Care Act shall be made as provided by an operating budget adopted by the board and approved by the state budget division of the department of finance and administration as provided by law and pursuant to appropriation by the legislature."

HOUSE BILL 435, AS AMENDED

CHAPTER 46

RELATING TO RURAL ELECTRIC COOPERATIVES; AMENDING THE RURAL ELECTRIC COOPERATIVE ACT TO ALLOW MERGERS AND CONSOLIDATIONS WITH CERTAIN CORPORATIONS AND COOPERATIVES ORGANIZED UNDER THE LAWS OF ANOTHER STATE; DECLARING AN EMERGENCY.

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

Chapter 46 Section 1

Section 1. Section 62-15-2 NMSA 1978 (being Laws 1939, Chapter 47, Section 2, as amended) is amended to read:

"62-15-2. PURPOSE--DEFINITION.--Cooperative nonprofit membership corporations may be organized under the Rural Electric Cooperative Act for the primary purpose of supplying electric power and energy and promoting and extending the use of electricity in rural areas. Corporations organized under that act and corporations which become subject to that act in the manner provided in that act and for the purposes of Sections 62-15-13, 62-15-14, 62-15-15 and 62-15-19 NMSA 1978, corporations organized on a

nonprofit or cooperative basis under the laws of another state for the primary purpose of supplying electric power or energy are referred to in the Rural Electric Cooperative Act as "cooperatives".

Chapter 46 Section 2

Section 2. Section 62-15-15 NMSA 1978 (being Laws 1939, Chapter 47, Section 15) is amended to read:

"62-15-15. EFFECT OF CONSOLIDATION OR MERGER.--The effect of consolidation or merger shall be as follows:

A. the several cooperatives, parties to the

consolidation or merger, shall be a single cooperative, which in the case of a consolidation shall be the new cooperative provided for in the articles of consolidation and in the case of a merger shall be that cooperative designated in the articles of merger as the surviving cooperative, and the separate existence of all cooperatives, parties to the consolidation or merger, except the new or surviving cooperative shall cease;

B. the new or surviving cooperative shall have all the rights, privileges, immunities and powers and shall be subject to all the duties and liabilities of a cooperative organized under the provisions of the Rural Electric Cooperative Act. It shall possess all the rights, privileges, immunities and franchises, of a public as well as of a private nature, and all property, real and personal, applications for membership, all debts due on whatever account and all other choses in action of each of the consolidating or merging cooperatives, and every interest of or belonging or due to each of the cooperatives consolidated or merged shall be deemed to be transferred to and vested in the new or surviving cooperative without further act or deed. The title to any real estate, or any interest therein, under the laws of this state vested in any such cooperatives shall not revert or be in any way impaired by reason of the consolidation or merger;

C. the new or surviving cooperative shall thenceforth be responsible and liable for all of the liabilities and obligations of each of the cooperatives consolidated or merged, and any claim existing, or action or proceeding pending, by or against any of such cooperatives may be prosecuted as if the consolidation or merger had not taken place, but the new or surviving cooperative may be substituted in its place;

D. neither the rights of creditors nor any liens upon the property of any of such cooperatives shall be impaired by the consolidation or merger; and

E. in the case of a consolidation, the articles of consolidation shall be deemed to be the articles of incorporation of the new cooperative; and in the case of a merger, the articles of incorporation of the surviving cooperative shall be deemed to be amended to the

extent, if any, that changes in the articles of incorporation are provided for in the articles of merger."

Chapter 46 Section 3

Section 3. EMERGENCY.--It is necessary for the public peace, health and safety that this act takes effect immediately.

SENATE BILL 245,

WITH EMERGENCY CLAUSE

SIGNED March 6, 1998

CHAPTER 47

RELATING TO COUNTIES; AMENDING THE COUNTY IMPROVEMENT DISTRICT ACT TO PROVIDE FOR GENERAL OBLIGATION BOND FINANCING; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978.

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

Chapter 47 Section 1

Section 1. Section 4-55A-1 NMSA 1978 (being Laws 1980, Chapter 91, Section 1) is amended to read:

"4-55A-1. SHORT TITLE.--Chapter 4, Article 55A NMSA 1978 may be cited as the "County Improvement District Act"."

Chapter 47 Section 2

Section 2. Section 4-55A-2 NMSA 1978 (being Laws 1980, Chapter 91, Section 2, as amended by Laws 1991, Chapter 17, Section 3 and also by Laws 1991, Chapter 199, Section 31) is amended to read:

"4-55A-2. IMPROVEMENT DISTRICT--DEFINITIONS.--As used in the County Improvement District Act:

A. "adjustment of assessment" means the adjustment in the estimated maximum benefit or assessment resulting from the division of the property to be assessed or assessed into smaller tracts or parcels or the combining of smaller parcels into one or more larger parcels or the changing of the configuration or legal description of such parcels.

"Adjustment of assessment" may also include the real location of the assessment lien, without loss of priority, among parcels under single ownership that are subject to the

assessment lien in order to permit the removal of the lien from one or more parcels where adequate security for the lien is demonstrated by the assessed parcels under such single ownership or provided by the owner;

B. "board" means the board of county commissioners;

C. "construct" or "construction" means to plan, design, engineer, construct, reconstruct, install, extend, better, alter, build, rebuild, improve, purchase or otherwise acquire any project authorized in the County Improvement District Act;

D. "county" means any county except an H class county;

E. "engineer" means any person who is a professional engineer licensed to practice in New Mexico and who is a permanent employee of the county or employed by the county in connection with an improvement;

F. "improvement" means any one or any combination of projects in one or more locations authorized in the County Improvement District Act;

G. "improvement district" means one or more streets or one or more public grounds or one or more locations wherein the improvement is to be constructed and one or more tracts or parcels of land to be assessed or upon which an improvement district property tax will be imposed to pay for the cost of the improvement; and

H. "premature subdivision" means a subdivision that has been platted and sold into multiple private ownership prior to installation or financial guarantee of all required improvements for land development. Such subdivisions contain one or more of the following developmental inadequacies under current local government standards and requirements:

(1) inadequate street right-of-way or street access control;

(2) a lack of drainage easements of right-of-way;

(3) a lack of adequate park, recreation or open space area;

(4) a lack of an overall grading and drainage plan; or

(5) a lack of adequate subdivision grading both on and off the public right-of-way."

Chapter 47 Section 3

Section 3. Section 4-55A-3 NMSA 1978 (being Laws 1980, Chapter 91, Section 3, as amended) is amended to read:

"4-55A-3. IMPROVEMENT DISTRICT--AUTHORIZATION--LIMITATION.--

A. Whenever the board determines that the creation of an improvement district is necessary for the public safety, health or welfare, the board may create an improvement district for any one or any combination of projects authorized in the County Improvement District Act by the:

(1) provisional order method; or

(2) petition method.

B. The board may adopt any ordinance or resolution necessary or proper to accomplish the purposes of the County Improvement District Act.

C. The improvement district shall include for the purpose of assessment or imposition of an improvement district property tax all the property that the board determines is benefited by the improvement authorized by the County Improvement District Act, including property used for public, governmental, charitable or religious purposes, except that of the United States or any agency, instrumentality or corporation thereof in the absence of a consent of congress, but shall not include any property within the exterior boundaries of a municipality except as provided in Section 4-55A-5 NMSA 1978 and for purposes of the imposition of an improvement district, property tax shall not include real property exempt from property taxation."

Chapter 47 Section 4

Section 4. Section 4-55A-10 NMSA 1978 (being Laws 1980, Chapter 91, Section 10, as amended) is amended to read:

"4-55A-10. IMPROVEMENT DISTRICT--PETITION METHOD--REQUIREMENTS--DISTRIBUTION OF COSTS--NOTICE OF HEARING.--

A. Whenever the owners of sixty-six and two-thirds percent or more of the total assessed valuation of the property described in Subsection C of Section 4-55A-3 NMSA 1978, but exclusive of any land owned by the United States or the state of New Mexico, petition the board in writing to create an improvement district and construct the improvement described in the petition, the board may:

(1) create the improvement district;

(2) select the type of material and method of construction to be used; and

(3) proceed with the construction of the improvement as authorized in Section 4-55A-14 NMSA 1978 after complying with the requirements for a preliminary hearing required in this section. A governing body of a municipality, board of county commissioners or local board of education may sign a petition seeking the improvement for any land under its control. The submission of separate petitions for any one improvement district within a six-month period shall be considered as a single petition.

B. The board may:

- (1) pay the cost of the improvement;
- (2) assess the cost of the improvement against the benefiting tracts or parcels of land;
- (3) pay part of the cost of the improvement and assess part of the cost of the improvement against the benefiting tracts or parcels of land; or
- (4) impose an improvement district property tax pursuant to the County Improvement District Act.

C. If any part or all of the cost of the improvement sought to be constructed as authorized in this section is to be assessed against the benefiting tracts or parcels of land or paid for by the imposition of an improvement district property tax, the board shall hold a preliminary hearing on the proposed improvement district and give notice of the preliminary hearing."

Chapter 47 Section 5

Section 5. Section 4-55A-11 NMSA 1978 (being Laws 1980, Chapter 91, Section 11, as amended) is amended to read:

"4-55A-11. IMPROVEMENT DISTRICT--NOTICE OF PRELIMINARY HEARING.--

A. The notice of the preliminary hearing required in Section 4-55A-10 NMSA 1978 shall contain:

- (1) the time and place when the board will hold a preliminary hearing on the proposed improvement;
- (2) the estimated cost of the improvement;
- (3) the boundary of the improvement district;
- (4) the route of the improvement by streets or roads or location of the improvements;
- (5) the location of the proposed improvement;
- (6) a description of each property to be assessed or against which an improvement district property tax is to be imposed;
- (7) the estimated amount of the assessment against or property tax imposed upon each tract or parcel of land; and
- (8) the amount of the cost to be assumed by the county, if any.

B. If the owners are found within the county, the notices shall be personally served on them at least thirty days prior to the day of the hearing. The notice shall also be published in a newspaper published in the county once each week for four successive weeks. The last publication shall be at least three days before the day of the preliminary hearing."

Chapter 47 Section 6

Section 6. Section 4-55A-12 NMSA 1978 (being Laws 1980, Chapter 91, Section 12, as amended) is amended to read:

"4-55A-12. IMPROVEMENT DISTRICT--PRELIMINARY HEARING--PROTEST--ACTION OF THE BOARD--ACTION IN DISTRICT COURT.--

A. At the preliminary hearing of the board on the question of creating an improvement district as authorized in Section 4-55A-10 NMSA 1978, any owner of a tract or parcel of land to be assessed or upon which it is proposed to impose an improvement district property tax may contest:

- (1) the proposed assessment or tax;
- (2) the regularity of the proceedings relating to the improvement;
- (3) the benefits of the improvement; or
- (4) any other matter relating to the improvement district.

B. The board shall not assess the tract or parcel of land an amount greater than the actual benefit to the tract or parcel of land by reason of the enhanced value of the tract or parcel of land as a result of the improvement as ascertained at the hearing. The board may allow a fair price, based on its current value, as a setoff against any assessment against a tract or parcel of land if the owner has improved the tract or parcel of land in such a manner that the improvement may be made part of the proposed improvement.

C. At the hearing, the board may:

- (1) correct any mistake or irregularity in any proceeding relating to the improvement;
- (2) correct an assessment to be made against any tract or parcel of land;
- (3) in case of any invalidity, reassess the cost of the improvement against a benefiting tract or parcel of land; or
- (4) recess the hearing from time to time.

D. Within thirty days after the hearing, any owner of a tract or parcel of land to be assessed, whether he appeared at the hearing or not, may commence an action in district court seeking an account of any error or invalidity of the proceedings relating to the improvement district to set aside or correct the assessment or any proceedings relating to the improvement district. Thereafter, any owner or his heirs, assigns, successors or personal representatives are perpetually barred from any action or any defense of error or invalidity in the proceedings or assessments. Where no owner of a tract or parcel to be assessed has presented a protest during the hearing and all owners of the property to be assessed, upon conclusion of the hearing, submit written statements in favor of the creation of the improvement district for the types and character of improvements indicated in the petition, such owners shall be deemed to have waived their right to bring any action in district court seeking an account of any error or invalidity of the proceedings relating to the improvement district or to set aside or correct the assessment or any proceedings relating to the improvement district."

Chapter 47 Section 7

Section 7. A new section of the County Improvement District Act, Section 4-55A-12.1 NMSA 1978, is enacted to read:

"4-55A-12.1. IMPOSITION OF IMPROVEMENT DISTRICT PROPERTY TAX--
LIMITATIONS.--

A. If in connection with the creation of the improvement district the board determines that it is in the best interest of the county to finance the district improvements by the imposition of an improvement district property tax and the issuance of improvement district general obligation bonds, the board shall enact an ordinance making the determination and provide in the ordinance the tax rate to be imposed, the amount of the bonds to be issued to finance the improvements and any other matters the board deems necessary or appropriate. The board shall call an election within the district for the purpose of authorizing the board to issue general obligation bonds, the proceeds of the sale of which shall be used for constructing the improvements for which the district was created and to impose property taxes on all taxable property within the district for the purpose of paying the principal, debt service and other expenses incidental to the issuance and sale of the bonds. The ordinance shall include a limitation on the rate of the authorized imposition of not to exceed twenty dollars (\$20.00) per one thousand dollars (\$1,000) of net taxable value of real property in the district subject to property taxation. The ordinance shall also include procedures for the conduct of the election based upon the size of the improvement district and the number of voters entitled to vote.

B. If at the election described in Subsection A of this section the property tax imposition and the issuance of improvement district general obligation bonds are approved by a majority of the voters voting on the issues, the board shall impose the tax at a rate not to exceed the limitation in Subsection A of this section and sufficient to pay the debt service on the bonds and retire them at maturity.

C. Imposition and collection of the improvement district property tax authorized in this section shall be made at the same time and in the same manner as impositions and collections of property taxes for use by counties are made.

D. Bonds issued by the board for payment of the specified improvement district improvements shall be sold at a price that does not result in a net effective interest rate exceeding the maximum net effective interest rate permitted by the Public Securities Act. The bonds may be sold at public or private sale and may be in denominations that the board determines.

E. The form and terms of the bonds, including provisions for their payment and redemption, shall be as determined by the board. The bonds shall be executed in the name of and on behalf of the improvement district. The bonds may be executed and sealed in accordance with the provisions of the Uniform Facsimile Signature of Public Officials Act.

F. To provide for the payment of the interest and principal of the bonds issued and sold pursuant to this section, the board shall annually impose a property tax on all taxable property in the district in an amount sufficient to produce a sum equal to the principal and interest on all bonds as they mature subject to the limitation of Subsection A of this section.

G. The bonds authorized in this section are general obligation bonds of the district and the full faith and credit of the district are pledged to the payment of the bonds. The proceeds obtained from the issuance of the bonds shall not be diverted or expended for any purposes other than those provided in the County Improvement District Act.

H. All bonds issued by an improvement district shall be fully negotiable and constitute negotiable instruments within the meaning of and for all the purposes of the Uniform Commercial Code. If lost or completely destroyed, any bond may be reissued in the form and tenor of the lost or destroyed bond upon the owner furnishing to the satisfaction of the board:

(1) proof of ownership;

(2) proof of loss or destruction;

(3) a surety bond in twice the face amount of the bond and coupons; and

(4) payment of the cost of preparing and issuing the new bond and coupons.

I. The board may in any proceedings authorizing improvement district bonds provide for the initial issuance of one or more bonds aggregating the amount of the entire issue or may make provision for installment payments of the principal amount of any bond as it may consider desirable.

J. The board may issue bonds to be denominated refunding bonds, for the purpose of refunding any of the general obligation bonded indebtedness of the district. Whenever the board deems it expedient to issue refunding bonds, it shall adopt a resolution setting out the facts making the issuance of the refunding bonds necessary or advisable, the determination of the necessity or advisability by the board and the amount of refunding bonds that the board deems necessary and advisable to issue. The resolution shall fix the form of the bonds; the rate or rates of interest of the bonds, but the net effective interest rate of the bonds shall not exceed the maximum net effective interest rate permitted by the Public Securities Act; the date of the refunding bonds; the denominations of the refunding bonds; the maturity dates; and the place or places of payment within or without the state of both principal and interest. Refunding bonds when issued, except for bonds issued in book entry or similar form without the delivery of physical securities, shall be negotiable in form, shall bear the signature or the facsimile signature of the chairman of the board and shall be attested to by the secretary of the board. All refunding bonds may be exchanged dollar for dollar for the bonds to be refunded or they may be sold as directed by the board, and the proceeds of the sale shall be applied only to the purpose for which the bonds were issued and the payment of any incidental expenses."

Chapter 47 Section 8

Section 8. Section 4-55A-20 NMSA 1978 (being Laws 1980, Chapter 91, Section 20, as amended) is amended to read:

"4-55A-20. IMPROVEMENT DISTRICT--AUTHORITY TO ISSUE BONDS OR ASSIGNABLE CERTIFICATES.--

A. To pay all or any part of the cost of the improvement, including those items set out in Subsection C of Section 4-55A-7 NMSA 1978, the board may proceed pursuant to the provisions of Section 4-55A-12.1 NMSA 1978 or may issue in the name of the county bonds in such form as the board may determine or assignable certificates in an amount not exceeding the total cost of the improvement and maturing not more than twenty years from the date of issuance. If the bonds or assignable certificates recite that:

(1) the proceedings relating to making the improvement and levying the assessments as provided in Section 4-55A-18 NMSA 1978 or placing the preliminary lien as provided in Section 4-55A-7 NMSA 1978 to pay for the improvement have been done in compliance with law; and

(2) all prerequisites to the fixing of the assessment lien or placing the preliminary lien against the tract or parcel of land benefited by the improvement have been performed, such recital shall be conclusive evidence of the facts recited.

B. The assignable certificates shall:

(1) declare the liability of the owner of the tract or parcel of land so assessed or the liability of the tract or parcel of land so assessed for payment of the assessment, interest and penalties;

(2) fix the terms and conditions of the certificates; and

(3) accurately describe the tract or parcel of land covered by the certificate.

C. The bonds shall:

(1) recite the terms and conditions for their issuance;

(2) be payable from money collected from the preliminary assessment lien authorized in Section 4-55A-7 NMSA 1978 and, if so payable, also payable from the proceeds of bonds payable from the final assessment lien authorized in Section 4-55A-18 NMSA 1978; or

(3) be payable from the money collected from the assessments authorized in Section 4-55A-18 NMSA 1978; provided that if assessments are made payable over more than one period of time as permitted by Section 4-55A-19 NMSA 1978, specified portions of the bonds may be payable from money collected from those assessments payable over that period of time that generally corresponds to the period of time over which such specified portions of the bonds are payable; and

(4) bear a rate or rates of interest that shall not exceed the rate of interest on the deferred installments of the assessments or, if more than one rate of interest is specified for assessments as permitted by Section 4-55A-19 NMSA 1978, on that portion of the deferred installments of assessments from which that specified portion of the bonds may be payable. Payment of the bonds issued for the construction of a project described in Subsection A of Section 4-55A-4 NMSA 1978 may be supplemented from gasoline tax and special fuel excise tax distributed to the county pursuant to Section 7-1-6.39 NMSA 1978 on or before a date not more than twelve months after the last deferred installment of an assessment is due from the owner of a tract or parcel of land so assessed.

D. The bonds may be issued to the contractor in payment for the construction of the improvement or may be issued and sold:

(1) in payment of the county's proportion of the cost of the improvement;

(2) in payment of the proportionate cost, if the improvement is done in cooperation with another governmental agency;

(3) in payment of the construction of the improvement done under contract; or

(4) in reimbursement to the county, if the county constructed the improvement with county-owned or -leased equipment and county employees.

E. Bonds or assignable certificates may be sold at a public or private sale at a discount."

Chapter 47 Section 9

Section 9. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1998.

SENATE BILL 250

CHAPTER 48

RELATING TO MOTOR VEHICLES; AMENDING AND ENACTING PROVISIONS OF THE MOTOR VEHICLE CODE ON USE OF TEMPORARY PERMITS AND LICENSE PLATES BY VEHICLE DEALERS, MANUFACTURERS, WRECKERS OF VEHICLES, MOTORCYCLE DEALERS AND TRANSPORTERS OF MANUFACTURED HOMES; PROVIDING A PENALTY; MAKING AN APPROPRIATION.

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

Chapter 48 Section 1

Section 1. Section 66-1-4.9 NMSA 1978 (being Laws 1990, Chapter 120, Section 10) is amended to read:

"66-1-4.9. DEFINITIONS.--As used in the Motor Vehicle Code:

A. "implement of husbandry" means every vehicle that is designed for agricultural purposes and exclusively used by the owner in the conduct of agricultural operations;

B. "intersection" means:

(1) the area embraced within the prolongation or connection of the lateral curb lines or, if none, then the lateral boundary lines of the roadways of two highways that join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict; and

(2) where a highway includes two roadways thirty feet or more apart, every crossing of each roadway of that divided highway by an intersecting highway shall be regarded as a separate intersection; in the event that the intersecting highway also includes two roadways thirty feet or more apart, every crossing of two roadways of those highways shall be regarded as a separate intersection;

C. "inventory", when referring to a vehicle dealer, means a vehicle held for sale or lease in the ordinary course of business, the cost of which is used in calculating the dealer's cost of goods sold for federal income tax purposes; and

D. "jurisdiction", without modification, means "state".

Chapter 48 Section 2

Section 2. Section 66-1-4.17 NMSA 1978 (being Laws 1990, Chapter 120, Section 18) is amended to read:

"66-1-4.17. DEFINITIONS.--As used in the Motor Vehicle Code:

A. "tank vehicle" means a motor vehicle that is designed to transport any liquid or gaseous material within a tank that is either permanently or temporarily attached to the vehicle or the chassis and that has either a gross vehicle weight rating of twenty-six thousand one or more pounds or is used in the transportation of hazardous materials requiring placarding of the vehicle under applicable law;

B. "taxicab" means a motor vehicle used for hire in the transportation of persons, having a normal seating capacity of not more than seven persons;

C. "through highway" means every highway or portion thereof at the entrance to which vehicular traffic from intersecting highways is required by law to stop before entering or crossing it when stop signs are erected as provided in the Motor Vehicle Code;

D. "trailer" means any vehicle without motive power, designed for carrying persons or property and for being drawn by a motor vehicle, and so constructed that no significant part of its weight rests upon the towing vehicle;

E. "traffic" means pedestrians, ridden or herded animals, vehicles and other conveyances either singly or together using any highway for purposes of travel;

F. "traffic-control signal" means any device, whether manually, electrically or mechanically operated, by which traffic is alternately directed to stop and to proceed;

G. "transporter of manufactured homes" means a commercial motor vehicle operation engaged in the business of transporting manufactured homes from the manufacturer's location to the first dealer's location. A "transporter of manufactured homes" may or may not be associated with or affiliated with a particular manufacturer or dealer;

H. "travel trailer" means a trailer that exceeds neither a width of eight feet nor a length of forty feet, when equipped for the road, and includes recreational travel trailers and camping trailers;

I. "trial court" means the magistrate, municipal or district court that tries the case concerning an alleged violation of a provision of the Motor Vehicle Code;

J. "truck" means every motor vehicle designed, used or maintained primarily for the transportation of property;

K. "truck camper" means a camping body designed to be loaded onto, or affixed to, the bed or chassis of a truck. This camping body, when combined with a truck or truck cab and chassis, even though not attached permanently, becomes a part of the motor vehicle and together they are a recreational unit to be known as a "truck camper"; there are three general types of truck campers:

(1) "slide-in camper" means a camping body designed to be loaded onto and unloaded from the bed of a pickup truck;

(2) "chassis-mount camper" means a camping body designed to be affixed to a truck cab and chassis; and

(3) "pickup cover" or "camper shell" means a camping body designed to provide an all-weather protective enclosure over the bed of a pickup truck and to be affixed thereto; and

L. "truck tractor" means every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn."

Chapter 48 Section 3

Section 3. Section 66-3-6 NMSA 1978 (being Laws 1978, Chapter 35, Section 26, as amended) is amended to read:

"66-3-6. TEMPORARY PERMITS AND DEMONSTRATION PLATES.--

A. The department may issue a temporary permit to individuals to operate a vehicle pending action by the department upon an application for registration and certificate of title or renewal of registration when the application is accompanied by the proper fees and taxes. The temporary permit shall be valid for a period not to exceed thirty business days from the day it is validated by the department. Temporary permits shall not be extended nor another issued except for good cause shown.

B. The department may issue a temporary permit to individuals and financing institutions to operate a vehicle for the purpose of demonstrating the vehicle for resale. The temporary permit shall be valid for a period not to exceed five business days from the day it is validated by the department. Temporary permits shall not be extended nor another issued except for good cause shown.

C. The department may issue a temporary permit to a manufacturer of vehicles or transporter of manufactured homes for the purpose of demonstrating or transporting the vehicle to a dealer's location. The temporary permit shall be valid for a period not to exceed ten business days, shall state the number of days for which the permit is valid and shall be validated by the signature of the manufacturer or transporter. Temporary permits shall not be extended nor another issued except for good cause shown.

D. The department shall issue or authorize the issuance of temporary transportation permits to dealers licensed pursuant to Section 66-4-1 NMSA 1978. Temporary transportation permits shall be used only on vehicles held in the inventory of the dealer to whom the permits are issued. The permits shall be used only for importing vehicles into this state or for transporting vehicles between dealers intrastate. Use of the permits shall be deemed compliance with the requirements of Section 66-3-4 NMSA 1978. The permits shall be valid for not more than five additional business days from the date of validation. Temporary transportation permits shall:

- (1) name the dealer to whom the permits are issued;
- (2) name the authorized driver of the vehicle;
- (3) show the point of origin and termination of the trip covered by the permit; and
- (4) be signed and dated by the dealer who executed the permit.

E. The department shall issue or authorize the issuance of temporary retail-sale permits to dealers licensed pursuant to Section 66-4-1 NMSA 1978. Temporary retail-sale permits shall be used only on vehicles sold at retail by the dealer to whom the temporary permits are issued and shall not be extended nor another issued for the same vehicle except for good cause shown. Use of the permits shall be deemed compliance with the provisions of Section 66-3-4 NMSA 1978. The permits shall be valid for not more than thirty additional days from the date of validation. Temporary retail-sale permits shall:

- (1) name the dealer to whom the permits are issued;
- (2) name the person to whom the vehicle has been sold; and
- (3) be signed and dated by the dealer who executed the permit.

F. The department shall issue, or authorize the issuance of, temporary demonstration plates to dealers licensed pursuant to Section 66-4-1 NMSA 1978. Temporary demonstration plates shall be used only on vehicles included in the inventory of the dealer to whom the temporary plates are issued. The temporary plates shall be used to allow the operation of vehicles for the limited purposes of testing, demonstrating or preparing a vehicle for sale or lease. Temporary demonstration plates may not be used on work or service vehicles, as that term is defined in Section 66-3-401 NMSA 1978,

that are owned, used or held in inventory by a dealer. Use of the temporary plates shall be deemed compliance with the provisions of Section 66-3-4 NMSA 1978. A temporary demonstration plate, after being affixed to a specific vehicle, shall be valid for as long as the vehicle is held in the dealer's inventory. A dealer who uses temporary demonstration plates is required to maintain a list showing the plate assigned to each specific vehicle and make that list available to the department during normal business hours. Temporary demonstration plates shall:

- (1) name the dealer to whom the plates are issued; and
- (2) display a unique identification number assigned by the department.

G. In lieu of issuing temporary transportation permits, temporary retail-sale permits or temporary demonstration plates to dealers, the department may authorize in writing dealers licensed pursuant to Section 66-4-1 NMSA 1978 to print and use at their own cost temporary permits or plates to be used in conformance with the provisions of Subsections D, E and F of this section, subject to reasonable requirements established by the department.

H. The department shall prescribe the size, shape and content of all temporary permits and plates authorized by this section. No temporary permit or plate is valid until affixed to the vehicle for which it is validated in a manner prescribed by the department.

I. For the misuse of any temporary permit or plate authorized by this section by an individual, financing institution, manufacturer, transporter of manufactured homes, dealer, wrecker or dismantler, the secretary may revoke or suspend their use after a hearing as provided in Section 66-2-17 NMSA 1978.

J. The department shall collect an administrative fee of fifty cents (\$.50) in addition to the actual cost of the temporary permit document or plate for each temporary permit or plate issued by the department to individuals, financial institutions, manufacturers, transporters, wreckers or dealers pursuant to this section.

K. The department may issue temporary transportation permits, temporary retail-sale permits and temporary demonstration plates to dealers in units of not less than one hundred permits at a fee established by the department to cover the actual cost of the permit or plate documents. No administrative fee shall be charged by the department when temporary permits or plates are issued by the department pursuant to the provisions of this subsection.

L. The fees authorized by Subsections J and K of this section to cover the actual cost of the temporary permit document or plate are appropriated to the department to defray the costs of administering the temporary permit and plate program. The department shall remit the administrative fee revenues of this section to the motor vehicle suspense fund to be distributed in accordance with Section 66-6-23 NMSA 1978."

Chapter 48 Section 4

Section 4. Section 66-3-18 NMSA 1978 (being Laws 1978, Chapter 35, Section 38, as amended) is amended to read:

"66-3-18. DISPLAY OF REGISTRATION PLATES AND TEMPORARY PERMITS AND PLATES--DISPLAYS PROHIBITED AND ALLOWED.--

A. The registration plate shall be attached to the rear of the vehicle for which it is issued; however, the registration plate shall be attached to the front of a road tractor or truck tractor. The plate shall be securely fastened at all times in a fixed horizontal position at a height of not less than twelve inches from the ground, measuring from the bottom of the plate. It shall be in a place and position so as to be clearly visible, and it shall be maintained free from foreign material and in a condition to be clearly legible.

B. Except for temporary demonstration plates, temporary permits shall be firmly affixed to the inside left rear window of the vehicle to which it is issued, unless such display presents a safety hazard or the temporary permit is not visible or readable from that position, in which case, the temporary permit shall be displayed in such a manner that it is clearly visible from the rear or left side of the vehicle. Temporary demonstration plates shall be displayed as provided for in Subsection A of this section.

C. No vehicle while being operated on the highways of this state shall have displayed either on the front or the rear of the vehicle any registration plate, including tab or sticker, other than one issued or validated for the current registration period by the department or any other licensing authority having jurisdiction over the vehicle. No expired registration plate, tab or sticker shall be displayed on the vehicle other than an expired special registration plate which may be exhibited on the front of the vehicle.

D. Nothing contained in this section shall be construed as prohibiting the use of a promotional or advertising plate on the front of the vehicle."

Chapter 48 Section 5

Section 5. Section 66-3-104 NMSA 1978 (being Laws 1978, Chapter 35, Section 51, as amended) is amended to read:

"66-3-104. USE OF PLATE AND REGISTRATION NUMBER ON ANOTHER VEHICLE--TRANSFER OF REGISTRATION.--

A. Whenever the owner of a registered vehicle assigns title or interest to the vehicle, the registration of that vehicle expires. At such time, the owner shall remove and retain the registration plate from the vehicle and, within thirty days of the transfer, either shall make application to have the registration number assigned to another vehicle of the same class or shall forward the plate to the department or its authorized agent to be destroyed. The registration plate shall be transferred only where the application for

transfer is made in the name of the original registered owner unless the owner's name has been changed by marriage, divorce or court order.

B. The registration plate shall not be displayed upon the newly acquired vehicle until the registration of the vehicle has been completed and a new registration certificate issued. However, the temporary retail-sale permit issued for the vehicle by the dealer pursuant to the provisions of Section 66-3-6 NMSA 1978 may be securely attached to the plate to be transferred and displayed in accordance with Subsection A of Section 66-3-18 NMSA 1978."

Chapter 48 Section 6

Section 6. Section 66-3-107 NMSA 1978 (being Laws 1978, Chapter 35, Section 54, as amended) is amended to read:

"66-3-107. DUTIES OF SELLER OR TRANSFEROR--ADDITIONAL DUTIES OF DEALERS--APPLICATION FOR TRANSFER--PENALTY--MILEAGE OF VEHICLE.--

A. Any seller or transferor, including a dealer, of a vehicle required to be registered pursuant to the Motor Vehicle Code shall furnish to the purchaser upon delivery the necessary title properly assigned and shall inform the purchaser that application for transfer must be filed with the department within thirty days of the date of sale. When a dealer licensed pursuant to Section 66-4-1 NMSA 1978 allows a vehicle to be purchased over a period of time pursuant to an expressed or implied contract and elects to retain a security interest in the vehicle, the dealer shall collect the necessary transfer fees from the purchaser upon delivery of the vehicle and shall, within thirty days, pay all transfer fees due on the vehicle to the department and shall give to the new purchaser the new registration certificate in the purchaser's name.

B. Every dealer, upon transferring by sale, lease or otherwise any vehicle, whether new or used, of a type subject to registration pursuant to the Motor Vehicle Code shall give written notice of the transfer to the department upon an appropriate form provided by the department.

C. Except as otherwise provided in this subsection, the dealer shall indicate on the form the actual mileage of the vehicle as indicated by the vehicle's odometer at the time of the transfer.

D. A sale shall be deemed completed and consummated when the purchaser of that vehicle has paid the purchase price or, in lieu thereof, has signed a purchase contract or security agreement and taken physical possession or delivery of that vehicle.

E. Failure to apply for transfer of registration and issuance of a new certificate of title within thirty days from the date of transfer subjects the transferee to a penalty of twenty dollars (\$20.00), which shall be collected by the department and shall be in addition to other fees and penalties provided by law."

Chapter 48 Section 7

Section 7. Section 66-3-108 NMSA 1978 (being Laws 1978, Chapter 35, Section 55) is amended to read:

"66-3-108. TRANSFER TO DEALERS.--When the transferee of a vehicle is a dealer who holds the vehicle for resale and does not drive the vehicle or permit it to be driven upon the highways, the dealer shall not be required to obtain transfer of registration of the vehicle or forward the certificate of title to the department. However, the dealer, upon transferring his title or interest to another person, shall execute an assignment and warrant of title upon the certificate of title and deliver the same to the person to whom the transfer is made."

Chapter 48 Section 8

Section 8. Section 66-3-401 NMSA 1978 (being Laws 1978, Chapter 35, Section 80) is amended to read:

"66-3-401. OPERATION OF VEHICLES UNDER SPECIAL DEALER PLATES.--

A. Any vehicle that is required to be registered pursuant to the Motor Vehicle Code and that is included in the inventory of a wrecker of vehicles or dealer may be operated or moved upon the highways for any purpose provided that the vehicle display in the manner prescribed in Section 66-3-18 NMSA 1978 a special plate issued to the dealer or wrecker of vehicles as provided in Section 66-3-402 NMSA 1978. This subsection shall not be construed as limiting the use of temporary permits issued to dealers pursuant to Section 66-3-6 NMSA 1978.

B. The provisions of this section do not apply to work or service vehicles used by a wrecker of vehicles or dealer. For the purposes of this subsection, "work or service vehicle" includes any vehicle used substantially as a:

- (1) parts or delivery vehicle;
- (2) vehicle used to tow another vehicle;
- (3) courtesy shuttle; or
- (4) vehicle loaned to customers for their convenience.

C. Each vehicle included in a dealer's inventory required to be registered pursuant to the provisions of Subsection A of this section must conform to the registration provisions of the Motor Vehicle Code, but is not required to be titled pursuant to the provisions of that code. When any vehicle is no longer included in a dealer's inventory, and is not sold or leased to an unrelated entity, the dealer must title the vehicle and pay the motor

vehicle excise tax that would have been due when the vehicle was first registered by the dealer.

D. In lieu of the use of special dealer plates pursuant to this section, a dealer or wrecker may register and title a vehicle included in a dealer's inventory in the name of the dealer or wrecker upon payment of the registration fee applicable to that vehicle, but without payment of the motor vehicle excise tax provided the vehicle is subsequently sold or leased in the ordinary course of business in a transaction subject to the motor vehicle excise tax or the leased vehicle gross receipts tax."

Chapter 48 Section 9

Section 9. A new Section 66-3-401.1 NMSA 1978 is enacted to read:

"66-3-401.1. OPERATION OF VEHICLES UNDER SPECIAL COLLEGIATE REGISTRATION PLATES.--

A. In lieu of the use of special dealer plates pursuant to Section 66-3-401 NMSA 1978, a dealer may register and title a vehicle in the name of the dealer pursuant to the provisions of Section 66-3-416 NMSA 1978 for the purpose of providing the use of a vehicle from the inventory of the dealer to a full-time coach or athletic director at any state-supported four-year institution of higher education in New Mexico.

B. Each vehicle that a dealer elects to register pursuant to Subsection A of this section is not required to be titled pursuant to the provisions of the Motor Vehicle Code, but such vehicle must be included in the driver's inventory for Internal Revenue Code of 1986 purposes and transferred to the full-time coach or athletic director under conditions that require the dealer to report the value of the use of the vehicle as income to the full-time coach or athletic director."

Chapter 48 Section 10

Section 10. Section 66-3-402 NMSA 1978 (being Laws 1978, Chapter 55, Section 81) is amended to read:

"66-3-402. APPLICATION FOR SPECIAL DEALER PLATES.--

A. Any wrecker of vehicles or dealer may apply to the department upon the appropriate form for one or more special dealer plates. The applicant shall submit proof of his status as a bona fide wrecker of vehicles or dealer as may reasonably be required by the department.

B. The maximum number of special dealer plates for which a dealer of new or used motor vehicles or motorcycles may apply pursuant to this section shall be:

(1) for a dealer who sold in the previous calendar year five or more but fewer than fifty vehicles, one plate;

(2) for a dealer who sold in the previous calendar year more than fifty but fewer than one hundred vehicles, three plates;

(3) for a dealer who sold in the previous calendar year more than one hundred but fewer than five hundred vehicles, five plates; and

(4) for a dealer who sold in the previous calendar year five hundred or more vehicles, ten plates.

C. The maximum number of special dealer plates for which a wrecker or dismantler of new or used motor vehicles or motorcycles may apply pursuant to this section shall be:

(1) for a wrecker or dismantler who wrecked or dismantled three or more but fewer than fifty vehicles, one plate;

(2) for a wrecker or dismantler who wrecked or dismantled fifty or more but fewer than one hundred vehicles, three plates;

(3) for a wrecker or dismantler who wrecked or dismantled one hundred or more but fewer than five hundred vehicles, five plates; and

(4) for a wrecker or dismantler who wrecked or dismantled five hundred vehicles or more, ten plates.

D. Any dealer or wrecker shall be entitled to five plates in the first calendar year in which he begins business. Any dealer or wrecker who is licensed pursuant to the provisions of Section 66-4-1 NMSA 1978 on or after August 1 of any calendar year shall also be entitled to five plates in the calendar year following the year in which he is first licensed to do business.

E. The department upon granting any such application shall issue to the applicant a certificate containing the applicant's name and address and the numbers of the special dealer plates assigned to the applicant."

Chapter 48 Section 11

Section 11. Section 66-3-403 NMSA 1978 (being Laws 1978, Chapter 35, Section 82) is amended to read:

"66-3-403. EXPIRATION OF SPECIAL DEALER PLATES.--Every special dealer plate issued pursuant to Section 66-3-402 NMSA 1978 expires at midnight on December 31 of each year. Upon payment of the proper fee, the person to whom the special dealer plate was issued may apply to the department for a new plate or validating sticker for

the ensuing year. Renewal of all special dealer plates shall be on or before December 31. It is a misdemeanor pursuant to the Motor Vehicle Code to operate a vehicle with a special dealer plate that has expired."

Chapter 48 Section 12

Section 12. Section 66-4-1 NMSA 1978 (being Laws 1978, Chapter 35, Section 214, as amended) is amended to read:

"66-4-1. DEALERS, WRECKERS, WHOLESALERS AND DISTRIBUTORS OF VEHICLES MUST BE LICENSED--PRESUMPTION OF CONDUCTING BUSINESS.--

A. No person, unless licensed to do so by the department, shall carry on or conduct the active trade or business of:

(1) a dealer in motor vehicles of a type subject to registration pursuant to the Motor Vehicle Code;

(2) wrecking or dismantling any vehicle or motor vehicle for the resale of the parts. Any person possessing three or more wrecked, dismantled or partially wrecked or dismantled vehicles or motor vehicles and selling or offering for sale a used vehicle or motor vehicle part and who regularly sells or offers for sale used vehicles or used motor vehicle parts shall be presumed to be conducting the business of wrecking or dismantling a vehicle or motor vehicle for the resale of the parts;

(3) wholesaling of vehicles. Any person who sells or offers for sale vehicles of a type subject to registration in this state, to a vehicle dealer licensed pursuant to the Motor Vehicle Code or who is franchised by a manufacturer, distributor or vehicle dealer to sell or promote the sale of vehicles dealt in by such manufacturer, distributor or vehicle dealer shall be presumed to be conducting the business of wholesaling. Provided, however, that if any such person also sells a vehicle at retail, he shall be deemed to be a dealer and is subject to the dealer-licensing provisions of the Motor Vehicle Code; or

(4) distributing of vehicles. Any person who distributes or sells new or used motor vehicles to dealers and who is not a manufacturer shall be presumed to be conducting the business of distributing vehicles.

B. Application for a dealer's, wholesaler's, distributor's or wrecker's license shall be made upon the form prescribed by the department and shall contain the name and address of the applicant and, when the applicant is a partnership, the name and address of each partner; or, when the applicant is a corporation, the names of the principal officers of the corporation and the state in which incorporated and the place where the business is to be conducted and the nature of the business and such other information as may be required by the department. Every application shall be verified by the oath or affirmation of the applicant, if an individual, or, in the event an applicant is a

partnership or corporation, by a partner or officer of the partnership or corporation. Every application shall be accompanied by the fee required by law.

C. Any metal processor or dealer in scrap who dismantles, processes for scrap, shreds, compacts, crushes or otherwise destroys more than three vehicles or motor vehicles within a period of one year shall be licensed pursuant to the provisions of Sections 66-4-1 through 66-4-9 NMSA 1978.

D. In order to ensure that any dealer, wholesaler, distributor or wrecker complies with this section, the secretary may apply to a district court of this state to have any person operating without a license as required by this section enjoined from engaging in business until he complies with the requirements of licensing as provided by this section.

E. Upon application to a court for the issuance of an injunction against an unlicensed operator, the court may forthwith issue an order temporarily restraining him from doing business. The court shall hear the matter within three days and, upon a showing by the preponderance of the evidence that the person is operating without a license and that he has been given notice of the hearing as required by law, the court may enjoin him from engaging in business in New Mexico until he ceases to be unlicensed. Upon issuing an injunction, the court may also order the business premises of the person to be sealed by the sheriff and may allow the person access thereto only upon approval of the court.

F. No temporary restraining order shall be issued against any person who has complied with the provisions of this section. Upon a showing to the court by any person against whom a temporary restraining order has been issued that he has a license in accordance with the provisions of this section, the court shall dissolve or set aside the temporary restraining order."

Chapter 48 Section 13

Section 13. Section 66-4-7 NMSA 1978 (being Laws 1978, Chapter 35, Section 220, as amended) is amended to read:

"66-4-7. DEALERS, WHOLESALERS, DISTRIBUTORS AND WRECKERS OF VEHICLES--DEALERS OF MOTORCYCLES ONLY--BOND.--

A. Before issuance of any dealer's license, wholesaler's license, distributor's license or wrecker of vehicles license, the applicant shall procure and file with the department a corporate surety bond in the amount of fifty thousand dollars (\$50,000). An applicant for a dealer's license for motorcycles only shall procure and file with the department a corporate surety bond in the amount of twelve thousand five hundred dollars (\$12,500). The corporate surety shall be licensed by the state corporation commission or a successor entity to do business in this state as a surety and the form of the bond shall be approved by the attorney general. The bond shall be payable to the state for the use

and benefit of the purchaser and his vendees, conditioned upon payment of any loss, damage and expense sustained by the purchaser or his vendees, or both, by reason of failure of the title of the vendor, by any fraudulent misrepresentations or by any breach of warranty as to freedom from liens on the motor vehicle or motorcycle sold by the dealer, wholesaler, distributor, dealer of motorcycles only or wrecker of vehicles. The bond shall be continuous in form and limited to the payment of fifty thousand dollars (\$50,000) in total aggregate liability on a dealer's license, wholesaler's license, distributor's license and a wrecker of vehicles license and twelve thousand five hundred dollars (\$12,500) on a dealer's license for motorcycles only.

B. No applicant for a dealer's license, wholesaler's license, distributor's license or dealer's license for motorcycles only who files bond in the amount and form specified in Subsection A of this section shall be required to file any additional bond to conduct a business of wrecking or dismantling motor vehicles or motorcycles. Conversely, no applicant for a wrecker of vehicles license who files bond in the amount and form specified in Subsection A of this section shall be required to file any additional bond to conduct a business of dealer, distributor, wholesaler or dealer of motorcycles only.

C. In lieu of the bond required in this section, the dealer, wholesaler, distributor, wrecker of vehicles or dealer of motorcycles only may elect to file with the department the equivalent amount of cash or bonds of the United States or New Mexico or of any political subdivision of the state."

Chapter 48 Section 14

Section 14. Section 66-4-8 NMSA 1978 (being Laws 1978, Chapter 35, Section 221) is amended to read:

"66-4-8. EXEMPTIONS FROM LICENSING AND BOND PROVISIONS.--The provisions of Sections 66-4-1 through 66-4-7 NMSA 1978 requiring dealers, wholesalers and distributors of motor vehicles and wreckers of vehicles and motor vehicles to be licensed and post a bond do not apply to persons who deal in boats or vessels, off-highway motor vehicles, recreational vehicles that are designed to be towed by a motor vehicle, trailers, semitrailers, pole trailers and trailers designed to transport boats, vessels or off-highway motor vehicles and who do not deal in other motor vehicles of a type subject to registration."

Chapter 48 Section 15

Section 15. Section 66-6-17 NMSA 1978 (being Laws 1978, Chapter 35, Section 352, as amended) is amended to read:

"66-6-17. SPECIAL DEALER PLATE FEES.--

A. Except as provided otherwise in Subsection C of this section, every dealer or wrecker of vehicles, except a dealer in motorcycles only, shall pay each license year fifty dollars

(\$50.00) for each special dealer plate issued pursuant to Section 66-3-402 NMSA 1978 to the dealer or wrecker for that license year.

B. Except as provided otherwise in Subsection C of this section, every dealer in motorcycles only shall pay each license year ten dollars (\$10.00) for each special dealer plate issued pursuant to Section 66-3-402 NMSA 1978 to the dealer for that license year.

C. In the event any special dealer plate is lost, mutilated or becomes illegible, a dealer, wrecker of vehicles or dealer in motorcycles only shall obtain a replacement plate pursuant to the provisions of Section 66-3-24 NMSA 1978. The fee for a replacement special dealer plate shall be fifty dollars (\$50.00) for a dealer or wrecker of vehicles and ten dollars (\$10.00) for a dealer in motorcycles only."

Chapter 48 Section 16

Section 16. TEMPORARY PROVISION.--

A. Dealers, wreckers of vehicles or dealers in motorcycles only who have a valid license issued pursuant to the provisions of Section 66-4-1 NMSA 1978 and one or more special plates issued pursuant to the provisions of Section 66-3-402 NMSA 1978 as of July 1, 1998 may elect to postpone the effective date of Sections 1 through 15 of this act until January 1, 1999. The election to postpone the effective date is made by not applying for any of the temporary permits provided for in Sections 1 through 15 of this act. An application for any of the temporary permits provided for in Sections 1 through 15 of this act serves as an election not to postpone the effective date. If the election to postpone the effective date is not made, no fees paid for special plates prior to the effective date of the election shall be refunded.

B. The provisions of Sections 1 through 15 of this act shall apply to any dealer, wrecker of vehicles or dealer in motorcycles only who applies for or is granted a license pursuant to the provisions of Section 66-4-1 NMSA 1978 on or after July 1, 1998.

Chapter 48 Section 17

Section 17. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1998.

SENATE BILL 308, AS AMENDED

CHAPTER 49

RELATING TO REVENUE; AMENDING SECTION 7-36-4 NMSA 1978 (BEING LAWS 1976, CHAPTER 61, SECTION 1, AS AMENDED) TO ENSURE TAXATION OF FRACTIONAL INTERESTS IN REAL PROPERTY.

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

Chapter 49 Section 1

Section 1. Section 7-36-4 NMSA 1978 (being Laws 1976, Chapter 61, Section 1, as amended) is amended to read:

"7-36-4. FRACTIONAL PROPERTY INTERESTS--DEFINITIONS--TAXATION AND VALUATION OF FRACTIONAL INTERESTS.--

A. As used in this section:

(1) "fractional interest" means a tangible interest in real property, except for mineral property as defined in Section 7-36-22 NMSA 1978, that is less than the total of the interests existing in the property, but "fractional interest" does not include those property interests described in Sections 7-36-3, 7-36-3.1 and

Section 7-36-3.2 NMSA 1978 nor does it include the lessee's interest under a lease when the term of the lease is more than seventy-five years;

(2) "exempt entity" means any person whose real property is exempt from taxation under the constitution of New Mexico or the Enabling Act (36 Stat. 557, as amended) by reason of ownership;

(3) "exempt property" means property that is exempt from property taxation pursuant to Article 8, Section 3 of the constitution of New Mexico by reason of use;

(4) "improvements" includes surface and subsurface structures, fixtures, transmission lines, pipelines and other works, but "improvements" does not include:

(a) that property either included or specifically excluded under the terms "property used in connection with mineral property" under Section 7-36-23 NMSA 1978, "property used in connection with potash mineral property" under Section 7-36-24 NMSA 1978 and "property used in connection with uranium mineral property" under Section

7-36-25 NMSA 1978;

(b) a dwelling occupied by a low-income resident in a housing project authorized under the provisions of the Municipal Housing Law; and

(c) those property interests described in Sections 7-36-3, 7-36-3.1 and 7-36-3.2 NMSA 1978;

(5) "nonexempt entity" means any person that is not an exempt entity; and

(6) "nonexempt property" means property that is not exempt property.

B. Fractional interests of nonexempt entities in real property of exempt entities are exempt from property taxation under the Property Tax Code, but this exemption shall not apply to the following property:

(1) improvements of land of an exempt entity if the improvements are owned or leased by a nonexempt entity; these improvements are subject to valuation for property taxation purposes and to property taxation to be paid by the nonexempt entity; and

(2) property interests of nonexempt entities held under equitable title in the property of exempt entities.

C. When fractional interests are created in property:

(1) fractional interests that are nonexempt property shall be reported to the appropriate valuation authority by the fractional interest owners for valuation for property tax purposes if the owner is a nonexempt entity; and

(2) except for fractional interests owned by the United States, an Indian nation, tribe or pueblo, the state of New Mexico or a political subdivision of the state, fractional interests that are owned by a nonexempt entity but are claimed to be exempt property shall be reported by the owner to the appropriate valuation authority for a determination of exemption status and valuation if determined to be nonexempt property.

D. Fractional interests that are nonexempt property shall be valued by the applicable method of valuation pursuant to the Property Tax Code, and if fractional interests that are exempt property have been created, the value of the remaining nonexempt fractional interests shall be determined in the property tax year following the creation of the interests as the value of the property in the property tax year immediately prior to the year in which creation of the fractional interests occurred, increased or decreased by the value directly attributable to the creation of the fractional interests that are exempt property. For subsequent property tax years, the nonexempt fractional interests shall be valued pursuant to the applicable methods of valuation."

SENATE BILL 341, AS AMENDED

CHAPTER 50

RELATING TO WATER; CONDITIONING A PERMIT FOR WATER USE ON PUBLIC LANDS TO REQUIRE PROOF OF RIGHT TO USE PUBLIC LANDS; AMENDING A SECTION OF THE NMSA 1978.

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

Chapter 50 Section 1

Section 1. Section 72-12-1 NMSA 1978 (being Laws 1931, Chapter 131, Section 1, as amended) is amended to read:

"72-12-1. UNDERGROUND WATERS DECLARED TO BE PUBLIC--APPLICATIONS FOR USE TO STATE ENGINEER--HEARINGS.--The water of underground streams, channels, artesian basins, reservoirs or lakes, having reasonably ascertainable boundaries, are declared to be public waters and to belong to the public and to be subject to appropriation for beneficial use. By reason of the varying amounts and time such water is used and the relatively small amounts of water consumed in the watering of livestock, in irrigation of not to exceed one acre of noncommercial trees, lawn or garden, in household or other domestic use, and in prospecting, mining or construction of public works, highways and roads or drilling operations designed to discover or develop the natural resources of the state, application for any such use shall be governed by the following provisions:

A. any person, firm or corporation desiring to use any public waters described in this section for watering livestock; for irrigation of not to exceed one acre of noncommercial trees, lawn or garden; or for household or other domestic use shall make application to the state engineer on a form to be prescribed by him. Upon the filing of each application describing the use applied for, the state engineer shall issue a permit to the applicant to so use the waters applied for; provided that as part of an application for livestock watering use on state or federal land, the applicant shall submit proof that he:

(1) is legally entitled to place his livestock on the state or federal land where the water is to be used; and

(2) has been granted access to the drilling site and has permission to occupy the portion of the state or federal land as is necessary to drill and operate the well; and

B. whenever any person, firm or corporation or the state desires to use not to exceed three acre-feet of public water described in this section for a definite period of not to exceed one year in prospecting, mining or construction of public works, highways and roads or drilling operations designed to discover or develop the natural mineral resources of the state, only the application referred to in Section 72-12-3 NMSA 1978 shall be required. Separate application shall be made for each proposed use, whether in the same or in different basins. Upon the filing of such applications, the state engineer shall make an examination of the facts and, if he finds that the proposed use will not permanently impair any existing rights of others, he shall grant the application. If he finds that the proposed use sought will permanently impair such rights, then there shall be advertisement and hearing as provided in the case of applications made under Section 72-12-3 NMSA 1978."

SENATE BILL 349, AS AMENDED

CHAPTER 51

RELATING TO GAME AND FISH; CREATING A TEMPORARY SMALL GAME LICENSE; IMPOSING A FEE; AMENDING SECTIONS OF THE NMSA 1978.

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

Chapter 51 Section 1

Section 1. Section 17-3-2 NMSA 1978 (being Laws 1964 (1st S.S.), Chapter 17, Section 2, as amended) is amended to read:

"17-3-2. CLASSES OF LICENSES.--

A. As used with reference to licenses in Chapter 17 NMSA 1978:

- (1) "fishing" entitles the licensee to fish for game fish during the open seasons for each species;
- (2) "small game" entitles the licensee to hunt game birds, other than wild turkey, and squirrel during the open seasons for each;
- (3) "deer" entitles the licensee to hunt deer during the open season;
- (4) "general hunting" entitles the licensee to hunt deer, squirrel and game birds during the open seasons for each;
- (5) "general hunting and fishing" entitles the licensee to hunt deer, squirrel and game birds and to fish for game fish during the open seasons for each;
- (6) "antelope" entitles the licensee to hunt antelope during the open season;
- (7) "elk" entitles the licensee to hunt elk during the open season;
- (8) "bighorn sheep" entitles the licensee to hunt bighorn sheep during the open season;
- (9) "Barbary sheep" entitles the licensee to hunt Barbary sheep during the open season;
- (10) "javelina" entitles the licensee to hunt javelina during the open season;
- (11) "bear" entitles the licensee to hunt bear during the open season;
- (12) "nongame" entitles the licensee to hunt or take any animal or bird not protected by law;
- (13) "temporary fishing" entitles the licensee to fish for game fish during a specific period of time indicated on the license;

(14) "bison" entitles the licensee to hunt bison during the open season;

(15) "oryx" entitles the licensee to hunt oryx during the open season;

(16) "ibex" entitles the licensee to hunt ibex during the open season;

(17) "cougar" entitles the licensee to hunt cougar during the open season;

(18) "turkey" entitles the licensee to hunt turkey during the open season;

(19) "special season turkey" entitles the licensee to hunt turkey during special seasons designated by the state game commission;

(20) "quality elk" entitles the licensee to hunt elk during a special quality elk season, to be established by the state game commission, when the timing of the season and hunter density is specially regulated and the elk population is managed with an intent to provide the licensee an increased opportunity to take a mature elk;

(21) "quality deer" entitles the licensee to hunt deer during a special quality deer season, to be established by the state game commission, when the timing of the season and hunter density is specially regulated and the deer population is managed with an intent to provide the licensee an increased opportunity to take a mature deer;

(22) "gazelle" entitles the licensee to hunt gazelle during the open season; and

(23) "temporary small game" entitles the licensee to hunt game birds, except wild turkey, and squirrel during a specific period of time indicated on the license.

B. No hunting license entitles the licensee to hunt, kill or take game animals or birds within or upon any park or enclosure licensed or posted as provided by law or within or upon any privately owned enclosure without consent of the owner or within or upon any game refuge or game management area.

C. No fishing license entitles the licensee to fish for or take fish within or upon any park or enclosure licensed or posted as provided by law or within or upon any privately owned enclosure without consent of the owner or in or on any closed waters.

D. A junior-senior fishing license may be purchased by any resident who has reached his twelfth birthday but has not reached his fifteenth birthday or by any resident who has reached his sixty-fifth birthday. A junior-senior fishing license entitles the licensee to fish for game fish during the open season for each species.

E. A nonresident junior fishing license may be purchased by any nonresident who has reached his twelfth birthday but has not reached his fifteenth birthday. A nonresident junior fishing license entitles the licensee to fish for game fish during the open season for each species.

F. A senior general hunting license may be purchased by any resident who has reached his sixty-fifth birthday. A senior general hunting license entitles the licensee to hunt for deer, squirrel and game birds during the open seasons for each species.

G. A handicapped fishing license may be purchased by any resident who has a severe physical impairment that substantially limits one or more major life activities and who can furnish adequate proof of this disability to the state game commission. A handicapped fishing license may be purchased by any resident who has a developmental disability as defined in Subsection H of Section 43-1-3 NMSA 1978 and who can furnish adequate proof of this disability to the state game commission. A handicapped fishing license entitles the licensee to fish for game fish during the open season for each species.

H. A handicapped general hunting license may be purchased by any resident who has a severe physical impairment that substantially limits one or more major life activities and who can furnish adequate proof of this disability to the state game commission. A handicapped general hunting license entitles the licensee to hunt for deer, squirrel and game birds during the open season for each species.

I. A fishing license may be obtained at no cost by any resident who has reached his seventieth birthday."

Chapter 51 Section 2

Section 2. Section 17-3-13 NMSA 1978 (being Laws 1964 (1st S.S.), Chapter 17, Section 5, as amended) is amended to read:

"17-3-13. LICENSE FEES.--

A. The director of the department of game and fish shall keep a record of all money received and licenses and permits issued by him, numbering each class separately. Upon satisfactory proof that any license or permit has been lost before its expiration, he may issue a duplicate and collect a just and reasonable fee for it as determined by regulation of the state game commission.

B. The director of the department of game and fish shall collect the following fees for each license of the class indicated:

Resident, fishing \$17.50

Resident, small game 12.00

Resident, deer 23.00

Resident, general hunting 25.00

Resident, general hunting and fishing 37.50

Resident, junior-senior handicapped,

general hunting and fishing 20.00
Resident, antelope 30.00
Resident, elk cow 37.00
Resident, elk bull or either sex 60.00
Resident, bighorn sheep 90.00
Resident, Barbary sheep 80.00
Resident, bear 30.00
Resident, turkey 15.00
Resident, cougar 30.00
Resident, bison 100.00
Resident, oryx 100.00
Resident, ibex 60.00
Resident, gazelle 25.00
Resident, javelina 40.00
Resident, fur dealer 10.00
Resident, furbearer 12.00
Resident, junior furbearer 5.00
Nonresident, fishing 39.00
Nonresident, junior fishing 18.50
Nonresident, small game 75.00
Nonresident, deer 180.00
Nonresident, quality deer 300.00
Nonresident, bear 150.00
Nonresident, cougar 200.00
Nonresident, turkey 75.00
Nonresident, antelope 186.00
Nonresident, elk cow 275.00
Nonresident, elk bull or either sex 465.00
Nonresident, quality elk 750.00
Nonresident, bighorn sheep 3,000.00
Nonresident, Barbary sheep 300.00

Nonresident, bison 1,000.00
Nonresident, oryx 1,500.00
Nonresident, ibex 1,500.00
Nonresident, gazelle 3,000.00
Nonresident, javelina 140.00
Nonresident, fur dealer 100.00
Nonresident, furbearer 300.00
Nonresident, nongame 50.00
Resident, junior-senior handicapped, fishing 5.00
Temporary fishing, one day 8.00
Temporary fishing, five days 16.00
Resident, junior-senior handicapped, general hunting 15.00
Temporary small game, four days 35.00."

Chapter 51 Section 3

Section 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1998.

SENATE BILL 77

CHAPTER 52

RELATING TO HEALTH; ENACTING THE CHILD HEALTH ACT; CREATING A PROGRAM; MAKING AN APPROPRIATION.

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

Chapter 52 Section 1

Section 1. SHORT TITLE.--This act may be cited as the "Child Health Act".

Chapter 52 Section 2

Section 2. PURPOSE.--The purpose of the Child Health Act is to enable the state of New Mexico to provide child health assistance to uninsured low-income children and their families in an effective and efficient manner.

Chapter 52 Section 3

Section 3. DEFINITIONS.--As used in the Child Health Act:

- A. "child" means a natural person who has not reached his nineteenth birthday;
- B. "department" means the human services department;
- C. "low-income children and their families" means a family with a dependent child with income at or below the level specified in Section 6 of the Child Health Act; and
- D. "secretary" means the secretary of human services.

Chapter 52 Section 4

Section 4. PROGRAM CREATED.--After consultation with the secretary of health and the secretary of children, youth and families, the secretary is directed to design and implement a program to provide health services to low-income children and their families in accordance with the provisions of the Child Health Act. The program shall meet the requirements for obtaining allotted federal funds pursuant to the provisions of Title 21 of the federal Social Security Act. In accordance with those requirements and the requirements of the Child Health Act, the secretary shall prepare and submit a child health plan to the federal secretary of health and human services. The department is the designated state agency to administer the program and cooperate with the federal government in its administration.

Chapter 52 Section 5

Section 5. PROGRAM OBJECTIVES--DEVELOPMENT OF PLAN AND ADOPTION OF RULES.--

- A. The child health plan and the program shall be designed to achieve the following objectives:
 - (1) expand access to and coverage for full or partial payment for a comprehensive array of personal health services for low-income children and their families who do not have those services at present;
 - (2) increase measurably the quality of life and well-being for the state's citizens by ensuring the good health of children and adults in low-income families;
 - (3) reduce substantially the occurrence rates of preventable illness and disease, morbidity and mortality in the state's population;

(4) increase positively the benefit-to-cost ratios of health services provided in the state to the population as a whole while at the same time improving the quality of service when measured by both scientifically objective and beneficiary-perceived criteria;

(5) retard escalation of health care costs in all segments of the health care industry;

(6) provide through demonstration projects, coupled with any necessary and appropriate federal waivers of conditions for expenditure approval, innovative and imaginative methods of providing health care to all eligible segments of the state's population; and

(7) comply with the terms and conditions set forth in the state children's health insurance program established pursuant to Title 21 of the federal Social Security Act.

B. Implementation of an approved child health plan shall be in accordance with rules adopted by the secretary after consultation with the department of health and the children, youth and families department. The rules shall be designed to achieve and be consistent with the objectives specified in Subsection A of this section. Those objectives are stated as mandatory standards by which the validity of proposed rules shall be tested. Additionally, the rules must be consistent with those provisions of the Child Health Act that mandate program requirements.

Chapter 52 Section 6

Section 6. PLAN CONTENT--REQUIRED ELEMENTS.--The child health plan and the program of services to be provided by it shall include:

A. appropriate methods of outreach to increase the enrollment of eligible children;

B. a "phase one" that shall include providing health insurance to children living in households at or below two hundred thirty-five percent of the federal poverty level;

C. a "phase two" that may consist of those federally approved specialized services included in the child health plan by the secretary, a continuum of prevention and intervention services that may be developed and implemented, including applications for any federal waivers of conditions that are necessary and consisting of at least the following:

(1) implementation of a voluntary home visiting program available statewide for mothers having their first child, beginning during pregnancy and extending for two years, with a frequency of use as indicated by maternal desire and home visiting team recommendations;

(2) provision for home- and community-based early intervention developmental services;

(3) provision for a behavioral health identification, assessment and management system;

(4) provision for school-based health services in the network of health care programs;

(5) provision for the existing healthier kids fund administered by the department of health to enable children to have effective access to health care;

(6) development of ways to increase children's dental services, including such prevention services as periodic examinations, radiographs, prophylactic cleanings, fluoride treatments and sealants; and

(7) development of ways to increase children's vision services including periodic professional eye examinations and prescription eyewear;

D. provision for inhibiting or preventing both employer crowd-out and employee crowd-in;

E. requirements that in the development and implementation of the plan the interests of Native American children are identified, and that appropriate provisions for their enrollment are made with recognition that the application process and the delivery of services with respect to those children present special cultural and other considerations;

F. provision for coordination of the administration of the program with other public and private health programs;

G. identification and implementation of methods, including monitoring used to ensure the quality and appropriateness of care, particularly with respect to well baby care, well child care and immunizations provided pursuant to the plan and to ensure access to covered services, including emergency services;

H. methods by which the state will collect data, maintain the records and furnish required reports to the secretary or his designees;

I. specific requirements for and description of the means to be used to ensure that members of the public will be involved in the design and implementation of the plan and a description of a method to ensure ongoing public involvement; and

J. operation and management of the program by the department in the most fiscally responsible manner, subject to all available legislative appropriations and federal contributions for the program, so that low-income children and their families receive the optimum health care possible.

Chapter 52 Section 7

Section 7. CREATION OF LEGISLATIVE OVERSIGHT COMMITTEE--AUTHORITY AND DUTIES.--

A. There is created a joint interim legislative committee, which shall be known as the "program oversight committee".

B. The committee shall be composed of eight members. Four members of the house of representatives shall be appointed by the speaker of the house of representatives and four 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. Members shall be appointed so that there is a member from each of the major political parties from each house. No member who has a financial interest in an insurance company or health care provider shall be appointed to the committee.

C. The program oversight committee shall oversee the development and operations of the program created pursuant to the Child Health Act. It shall fulfill any responsibilities delegated to it pursuant to that act.

D. The committee shall report annually its findings and recommendations regarding the program to each regular session of the legislature and shall include in that report any recommendations for changes in the laws pertaining to the program.

Chapter 52 Section 8

Section 8. APPROPRIATION.--Two million nine hundred thousand dollars (\$2,900,000) is appropriated from the general fund to the human services department for expenditure in fiscal years 1998 through 2000 for the purpose of providing the state match to establish a new state children's health insurance program authorized in the federal Budget Reconciliation Act of 1997. In addition, the human services department, the department of health and the children, youth and families department are authorized to expend in fiscal years 1998, 1999 and 2000, in contributions toward a higher state match, up to a total of three million six hundred thousand dollars (\$3,600,000) from department balances, toward the establishment of the state children's health insurance program. Pursuant to Sections 6-3-23 through 6-3-25 NMSA 1978, the departments are specifically authorized to request any budget adjustments necessary to make the contributions. Any unexpended or unencumbered balance remaining at the end of fiscal year 2003 shall revert to the general fund.

Chapter 52 Section 9

Section 9. DELAYED REPEAL.--Effective July 1, 2002, the Child Health Act is repealed.

SENATE BILL 132, AS AMENDED

CHAPTER 53

RELATING TO CHILD SUPPORT PAYMENT COMPLIANCE; EXPANDING REVOCABLE LICENSE CATEGORIES; AMENDING THE PARENTAL RESPONSIBILITY ACT; DECLARING AN EMERGENCY.

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

Chapter 53 Section 1

Section 1. Section 40-5A-2 NMSA 1978 (being Laws 1995, Chapter 25, Section 2, as amended) is amended to read:

"40-5A-2. PURPOSE.--The purpose of the Parental Responsibility Act is to require:

- A. parents to eliminate child support arrearages in order to be issued, maintain or renew a license; and
- B. compliance with, after receiving appropriate notice, subpoenas or warrants relating to paternity or child support, which will subsequently reduce both the number of children in New Mexico who live at or below the poverty level and the financial obligation that falls to the state when parents do not provide for their minor children."

Chapter 53 Section 2

Section 2. Section 40-5A-3 NMSA 1978 (being Laws 1995, Chapter 25, Section 3, as amended) is amended to read:

"40-5A-3. DEFINITIONS.--As used in the Parental Responsibility Act:

- A. "applicant" means an obligor who is applying for issuance of a license;
- B. "board" means:
 - (1) the construction industries commission, the construction industries division and the electrical bureau, mechanical bureau and general construction bureau of the construction industries division of the regulation and licensing department;
 - (2) the manufactured housing committee and manufactured housing division of the regulation and licensing department;
 - (3) a board, commission or agency that administers a profession or occupation licensed pursuant to Chapter 61 NMSA 1978;
 - (4) any other state agency to which the Uniform Licensing Act is applied by law;

(5) a licensing board or other authority that issues a license, certificate, registration or permit to engage in a profession or occupation regulated in New Mexico;

(6) the department of game and fish;

(7) the motor vehicle division of the taxation and revenue department; or

(8) the alcohol and gaming division of the regulation and licensing department;

C. "certified list" means a verified list that includes the names, social security numbers and last known addresses of obligors not in compliance;

D. "compliance" means that:

(1) an obligor is no more than thirty days in arrears in payment of amounts required to be paid pursuant to an outstanding judgment and order for support; and

(2) an obligor has, after receiving appropriate notice, complied with subpoenas or warrants relating to paternity or child support proceedings;

E. "department" means the human services department;

F. "judgment and order for support" means the judgment entered against an obligor by the district court or a tribal court in a case brought by the department pursuant to Title IV-D of the Social Security Act;

G. "license" means a liquor license or other license, certificate, registration or permit issued by a board that a person is required to have to engage in a profession or occupation in New Mexico; "license" includes a commercial driver's license, driver's license and recreational licenses, including hunting, fishing or trapping licenses;

H. "licensee" means an obligor to whom a license has been issued; and

I. "obligor" means the person who has been ordered to pay child or spousal support pursuant to a judgment and order for support."

Chapter 53 Section 3

Section 3. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

HOUSE BILL 52, WITH EMERGENCY CLAUSE

SIGNED MARCH 9, 1998

CHAPTER 54

RELATING TO POST-SECONDARY EDUCATION; INCLUDING UTILITY FACILITIES AND HEALTH CARE FACILITIES IN THE DEFINITION OF RESEARCH PARKS; EXPANDING THE PURPOSE OF THE RESEARCH PARK ACT TO INCLUDE SCIENCE, CONSERVATION AND HEALTH CARE; MAKING A RESEARCH PARK AN AGENCY OR POLITICAL SUBDIVISION FOR THE PURPOSE OF FURNISHING GOODS AND SERVICES TO THE OPERATING UNIVERSITY.

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

Chapter 54 Section 1

Section 1. Section 21-28-2 NMSA 1978 (being Laws 1989, Chapter 264, Section 2) is amended to read:

"21-28-2. RESEARCH PARK--PURPOSE.--The purpose of the University Research Park Act is to:

- A. promote the public welfare and prosperity of the people of New Mexico;
- B. foster economic development within New Mexico;
- C. forge links between New Mexico's educational institutions, business and industrial communities and government through the development of research parks on university real property; and
- D. engage in other cooperative ventures of innovative technological significance that will advance education, science, research, conservation, health care or economic development within New Mexico."

Chapter 54 Section 2

Section 2. Section 21-28-3 NMSA 1978 (being Laws 1989, Chapter 264, Section 3, as amended) is amended to read:

"21-28-3. DEFINITIONS.--As used in the University Research Park Act:

A. "bond" or "bonds" means any bond, note or other evidence of indebtedness;

B. "regents" means:

(1) in the case of an educational institution named in Article 12, Section 11 of the constitution of New Mexico, the board of regents of the institution;

(2) in the case of a community college, the community college board;

(3) in the case of a technical and vocational institute, the governing board of the technical and vocational institute district; and

(4) in the case of an area vocational school, the governing board of the area vocational school district;

C. "research park" means research and development facilities, research institutes, testing laboratories, offices, light manufacturing, utility facilities, health care facilities, related businesses, government installations and similar facilities, including land; all necessary appurtenances; and rights and franchises acquired, constructed and developed by a university or under its authority that are suitable or necessary to promote the social welfare of New Mexico through the advancement of education, science, research, conservation, health care, economic development and related purposes;

D. "research park corporation" means any corporation formed pursuant to the provisions of the University Research Park Act;

E. "technological innovations" means research, development, prototype assembly, manufacture, patenting, licensing, marketing and sale of inventions, ideas, practices, applications, processes, machines, technology and related property rights of all kinds; and

F. "university" means:

(1) a New Mexico educational institution named in Article 12, Section 11 of the constitution of New Mexico;

(2) a community college organized pursuant to the Community College Act;

(3) a technical and vocational institute organized pursuant to the Technical and Vocational Institute Act; and

(4) an area vocational school organized pursuant to Chapter 21, Article 17 NMSA 1978."

Chapter 54 Section 3

Section 3. Section 21-28-6 NMSA 1978 (being Laws 1989, Chapter 264, Section 6) is amended to read:

"21-28-6. POWERS OF RESEARCH PARK CORPORATION.--A research park corporation shall have all the powers necessary and convenient to carry out and effectuate the provisions of the University Research Park Act, including but not limited to the power to:

A. approve or disapprove proposals;

B. sue and be sued in its corporate name;

C. purchase, take, receive or otherwise acquire; own, hold, dispose of or use; and otherwise deal in and with property, including an interest in or ownership of intangible personal property, intellectual property or technological innovations;

D. sell, convey, pledge, exchange, transfer or otherwise dispose of its assets and properties for consideration upon terms and conditions that the corporation shall determine; provided that any sale, conveyance, pledge, exchange, transfer or disposal of a real property interest by a research park corporation shall be made in accordance with the provisions of Section 13-6-2 NMSA 1978;

E. make contracts, incur liabilities or borrow money at rates of interest that the research park corporation may determine;

F. make and execute all contracts, agreements or instruments necessary or convenient in the exercise of the powers and functions of the corporation granted by the University Research Park Act;

G. receive and administer grants, contracts and private gifts;

H. invest and reinvest its funds;

I. conduct its activities, carry on its operations, have offices and exercise the powers granted by the University Research Park Act;

J. make and alter bylaws that may contain provisions indemnifying any person who is or was a director, officer, employee or agent of the corporation and that are consistent with the University Research Park Act, for the administration and regulation of the affairs of research park corporations;

K. employ officers and employees that it deems necessary, set their compensation and prescribe their duties;

L. enter into agreements with insurance carriers to insure against any loss in connection with its operations;

M. authorize retirement programs and other benefits for salaried officers and employees of the research park corporation;

N. employ fiscal consultants, attorneys and other consultants that may be required and to fix and pay their compensation; and

O. enter into license agreements and contracts, including those involving intellectual property and technological innovations such as patents, copyrights, franchises and trademarks."

Chapter 54 Section 4

Section 4. Section 21-28-7 NMSA 1978 (being Laws 1989, Chapter 264, Section 7, as amended) is amended to read:

"21-28-7. LIMITATIONS ON APPLICATION OF LAWS.--

A. A research park corporation shall not be deemed an agency, public body or other political subdivision of New Mexico, including for purposes of applying statutes and laws relating to personnel, procurement of goods and services, meetings of the board of directors, gross receipts tax, disposition or acquisition of property, capital outlays, per diem and mileage and inspection of records.

B. A research park corporation shall be deemed an agency or other political subdivision of the state for purposes of applying statutes and laws relating to the furnishing of goods and services to the university that operates it and the risk management fund.

C. A research park corporation, its officers, directors and employees shall be granted immunity from liability for any tort as provided in the Tort Claims Act. A research park corporation may enter into agreements with insurance carriers to insure against a loss in connection with its operations even though the loss may be included among losses covered by the risk management fund of New Mexico."

HOUSE BILL 57

CHAPTER 55

RELATING TO JUDICIAL REVIEW; PROMOTING UNIFORMITY WITH RESPECT TO JUDICIAL REVIEW OF FINAL DECISIONS BY AGENCIES; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

Chapter 55 Section 1

Section 1. A new Section 12-8A-1 NMSA 1978 is enacted to read:

"12-8A-1. APPEAL OF FINAL DECISIONS BY AGENCIES TO DISTRICT COURT-- APPLICATION--SCOPE OF REVIEW--REVIEW OF DISTRICT COURT DECISIONS.--

A. The provisions of this section shall apply only to judicial review of agency final decisions that are placed under the authority of this section by specific statutory reference.

B. Upon issuing a final decision, an agency shall promptly:

(1) prepare a written decision that includes an order granting or denying relief and a statement of the factual and legal basis for the order;

(2) file the written decision with the official public records of the agency; and

(3) serve a document that includes a copy of the written decision and the requirements for filing an appeal of the final decision on:

(a) all parties whose rights are adjudged by the final decision; and

(b) every person who has filed a written request for notice of the final decision in that particular proceeding.

C. Unless standing is further limited by a specific statute, a person aggrieved by a final decision may appeal the decision to district court by filing in district court a notice of appeal within thirty days of the date of filing of the final decision. The appeal may be taken to the district court for the county in which the agency maintains its principal office or the district court of any county in which a hearing on the matter was conducted. When notices of appeal from a final decision are filed in more than one district court, all appeals not filed in the district court in which the first appeal was properly filed shall be dismissed without prejudice. An appellant whose appeal was dismissed without prejudice pursuant to the provisions of this subsection shall have fifteen days after receiving service of the notice of dismissal to file a notice of appeal in the district court in which the first appeal was properly filed.

D. In a proceeding for judicial review of a final decision by an agency, the district court may set aside, reverse or remand the final decision if it determines that:

(1) the agency acted fraudulently, arbitrarily or capriciously;

(2) the final decision was not supported by substantial evidence; or

(3) the agency did not act in accordance with law.

E. A party to the appeal to district court may seek review of the district court decision by filing a petition for writ of certiorari with the court of appeals, which may exercise its discretion whether to grant review. A party may seek further review by filing a petition for writ of certiorari with the supreme court.

F. The procedures governing appeals and petitions for writ of certiorari that may be filed pursuant to the provisions of this section shall be set forth in rules adopted by the supreme court.

G. As used in this section:

(1) "agency" means any state or local public body or officer placed under the authority of this section by specific statutory reference;

(2) "final decision" means an agency ruling that as a practical matter resolves all issues arising from a dispute within the jurisdiction of the agency, once all administrative remedies available within the agency have been exhausted. The determination of whether there is a final decision by an agency shall be governed by the law regarding the finality of decisions by district courts. "Final decision" does not mean a decision by an agency on a rule, as defined in the State Rules Act; and

(3) "hearing on the matter" means a proceeding conducted by an agency or its hearing officer for the purpose of taking evidence or hearing argument concerning the dispute resolved by the final decision."

Chapter 55 Section 2

Section 2. Section 1-4-21 NMSA 1978 (being Laws 1969, Chapter 240, Section 77, as amended) is amended to read:

"1-4-21. REFUSAL OF REGISTRATION--APPEAL.--A qualified elector whose registration has been refused or the county chairman of any major political party who alleges that certain persons are qualified electors but have been refused registration may bring an appeal regarding the refused registration pursuant to the provisions of Section 12-8A-1 NMSA 1978."

Chapter 55 Section 3

Section 3. Section 3-2-5 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-2-4, as amended) is amended to read:

"3-2-5. INCORPORATION--DUTIES OF COUNTY COMMISSIONERS AFTER FILING OF PETITION TO ACT--CENSUS REQUIRED--ELECTION--RIGHT OF APPEAL TO DISTRICT COURT.--

A. After the petition for incorporation, together with the accompanying map or plat, and the amount of money sufficient to pay the cost of a census has been filed with the board of county commissioners, the board of county commissioners shall, in lieu of complying with the requirements of Section 3-1-5 NMSA 1978, within thirty days after the filing of the petition, determine:

(1) from the voter registration list in the office of the county clerk if the signers of the petition are qualified electors residing in the territory proposed to be incorporated; or

(2) from the tax schedules of the county if any of the owners of the real estate who signed the petition are delinquent in the payment of property taxes; and

(3) if the territory proposed to be incorporated is within an existing municipality or within the urbanized area of a municipality.

B. If the board of county commissioners determines that the territory proposed to be incorporated is:

(1) not within the boundary of an existing municipality and not within the urbanized area of a municipality; or

(2) within the urbanized area of another municipality and in compliance with Section 3-2-3 NMSA 1978, the board of county commissioners shall cause a census to be taken of the persons residing within the territory proposed to be incorporated. The census shall be completed and filed with the board of county commissioners within thirty days after the board of county commissioners authorizes the taking of the census.

C. Within fifteen days after the date the results of the census have been filed with the board of county commissioners, the board of county commissioners shall determine if the conditions for incorporation of the territory as a municipality have been met as required in Sections 3-2-1 through 3-2-3 NMSA 1978 and shall have its determination recorded in the minutes of its meeting.

D. If the board of county commissioners determines that the conditions for incorporation have not been met, the board of county commissioners shall notify the petitioners of its determination by publishing in a newspaper of general circulation in the territory proposed to be incorporated, once, not more than ten days after its determination, a notice of its determination that the conditions for incorporation have not been met. If there is no newspaper of general circulation in the territory proposed to be incorporated, notice of the determination shall be posted in eight public places within the territory proposed to be incorporated.

E. After the board of county commissioners has determined that all of the conditions for incorporation of the territory as a municipality have been met, the board of county commissioners shall hold an election on the question of incorporating the territory as a municipality. Elections for the incorporation of municipalities shall only be held in odd-numbered years upon the first Tuesday in July or in any year upon the first Tuesday in January, unless that Tuesday is a holiday, in which case the election shall be held on the second Tuesday in July or the second Tuesday in January. The county clerk shall notify the secretary of finance and administration and the secretary of taxation and revenue of the date of the incorporation election within ten days after the adoption of the resolution calling the election.

F. The signers of the petition or a municipality within whose urbanized area the territory proposed to be incorporated is located may appeal any determination of the board of county commissioners to the district court pursuant to the provisions of Section 12-8A-1 NMSA 1978."

Chapter 55 Section 4

Section 4. Section 3-2-9 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-2-8, as amended) is amended to read:

"3-2-9. INCORPORATION COMPLETE--JUDICIAL NOTICE--DEFECTS IN INCORPORATION--APPEAL.--

A. After certified copies of the papers relating to the incorporation of a municipality have been filed in the offices of the county clerk and the secretary of state and after the municipal officers have been elected and qualified, the incorporation of the municipality shall be complete and effective on the following January 1 if the election was held in July or on the following July 1 if the election was held in January, and notice of the incorporation shall be taken in all judicial proceedings.

B. An action by a protestant against the incorporation of a municipality shall be taken to the district court pursuant to the provisions of Section 12-8A-1 NMSA 1978."

Chapter 55 Section 5

Section 5. Section 3-19-8 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-18-8) is amended to read:

"3-19-8. APPEAL.--Any person in interest dissatisfied with an order or determination of the planning commission, after review of the order or determination by the governing body of the municipality, may commence an appeal in the district court pursuant to the provisions of Section 12-8A-1 NMSA 1978."

Chapter 55 Section 6

Section 6. Section 3-21-4 NMSA 1978 (being Laws 1977, Chapter 80, Section 3) is amended to read:

"3-21-4. EXTRATERRITORIAL ZONING ORDINANCE--ENFORCEMENT AND ADMINISTRATION--APPEALS.--

A. A zoning ordinance adopted by a joint municipal-county zoning authority shall be an ordinance of the municipality and an ordinance of the county joining in the agreement pursuant to Subsection A of Section 3-21-3 NMSA 1978 and may be enforced by appropriate procedures of either the municipality or the county. The agreement entered

into pursuant to Subsection A of Section 3-21-3 NMSA 1978 may specify whether the municipality or the county shall assume primary enforcement responsibility.

B. The extraterritorial zoning commission shall administer the zoning ordinance adopted by the joint municipal-county zoning authority in the manner provided in Subsection C of Section 3-21-7 NMSA 1978.

C. Appeals from the decisions of the extraterritorial zoning commission shall be taken to the joint municipal-county zoning authority in the manner provided in Section 3-21-8 NMSA 1978, and appeals from the decisions of the joint municipal-county zoning authority shall be taken to the district court in the manner provided in Section 12-8A-1 NMSA 1978."

Chapter 55 Section 7

Section 7. Section 3-21-9 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-20-7) is amended to read:

"3-21-9. ZONING--APPEAL.--A person aggrieved by a decision of the zoning authority or any officer, department, board or bureau of the zoning authority may appeal the decision pursuant to the provisions of Section 12-8A-1 NMSA 1978."

Chapter 55 Section 8

Section 8. Section 3-33-13 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-32-6, as amended) is amended to read:

"3-33-13. IMPROVEMENT DISTRICT--PROVISIONAL ORDER--PROTEST--APPEAL TO DISTRICT COURT.--

A. At the hearing of the governing body on the provisional order creating an improvement district, an interested person or owner of property to be assessed for the improvement may file a written protest or objection questioning the:

- (1) propriety and advisability of constructing the improvement;
- (2) estimated cost of the improvement;
- (3) manner of paying for the improvement; or
- (4) estimated maximum benefit to each individual tract or parcel of land.

B. The governing body may recess the hearing from time to time so that all protestants may be heard.

C. Within thirty days after the governing body has, by adoption of a resolution:

(1) concluded the hearing;

(2) determined:

(a) the advisability of constructing the improvement; and

(b) the type and character of the improvement; and

(3) created the improvement district, a person who during the hearing filed a written protest with the governing body protesting the construction of the improvement may appeal the determination of the governing body pursuant to the provisions of Section 12-8A-1 NMSA 1978.

D. Where no person has filed a written protest during the hearing and all owners of property to be assessed, upon conclusion of the hearing, submit to the governing body written statements in favor of the creation of the improvement district for the types and character of improvements indicated in the provisional order, those owners shall be deemed to have waived their right to bring any action challenging the validity of the proceedings or the amount of benefit to be derived from the improvements."

Chapter 55 Section 9

Section 9. Section 3-33-16 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-32-9, as amended) is amended to read:

"3-33-16. IMPROVEMENT DISTRICT--PRELIMINARY HEARING--PROTEST--ACTION OF THE GOVERNING BODY--APPEAL TO DISTRICT COURT.--

A. At the preliminary hearing of the governing body on the question of creating an improvement district as authorized in Section 3-33-14 NMSA 1978, an owner of a tract or parcel of land to be assessed may contest:

(1) the proposed assessment;

(2) the regularity of the proceedings relating to the improvement;

(3) the benefits of the improvement; or

(4) any other matter relating to the improvement district.

B. The governing body shall not assess the tract or parcel of land an amount greater than the actual benefit to the tract or parcel of land by reason of the enhanced value of the tract or parcel of land as a result of the improvement as ascertained at the hearing. The governing body may allow a fair price, based on its current value, as a set-off against any assessment against a tract or parcel of land if the owner has improved the

tract or parcel of land in such a manner that the improvement may be made part of the proposed improvement.

C. At the hearing, the governing body may:

- (1) correct a mistake or irregularity in any proceeding relating to the improvement;
- (2) correct an assessment made against any tract or parcel of land;
- (3) in case of any invalidity, reassess the cost of the improvement against a benefiting tract or parcel of land; or
- (4) recess the hearing.

D. An owner of a tract or parcel of land assessed, whether he appeared at the hearing or not, may commence an appeal in district court pursuant to the provisions of Section 12-8A-1 NMSA 1978."

Chapter 55 Section 10

Section 10. Section 3-33-22 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-32-15, as amended) is amended to read:

"3-33-22. IMPROVEMENT DISTRICT--FILING OF OBJECTIONS--

ASSESSMENT HEARING--ACTION OF THE GOVERNING BODY--APPEAL TO DISTRICT COURT.--

A. Not later than three days before the date of the hearing on the assessment roll, an owner of a tract or parcel of land that is listed on the assessment roll may file his specific objections in writing with the municipal clerk. Unless presented as required in this section, an objection to the regularity, validity and correctness of:

- (1) the proceedings;
- (2) the assessment roll;
- (3) each assessment contained on the assessment roll; or
- (4) the amount of the assessment levied against each tract or parcel of land, is deemed waived.

B. At the hearing, the governing body shall hear all objections that have been filed as provided in this section and may recess the hearing and, by resolution, revise, correct, confirm or set aside an assessment and order another assessment be made de novo.

C. The governing body by ordinance shall, by reference to the assessment roll as so modified, if modified, and as confirmed by the resolution, levy the assessments contained in the assessment roll. The assessments may be levied in stages if preliminary liens are established pursuant to Section 3-33-11 NMSA 1978. The decision, resolution and ordinance of the governing body is:

(1) a final determination of the regularity, validity and correctness of:

(a) the proceedings;

(b) the assessment roll;

(c) each assessment contained on the assessment roll; and

(d) the amount of the assessment levied against each tract or parcel of land; and

(2) conclusive upon the owners of the tract or parcel of land assessed.

D. An owner who has filed an objection as provided in this section may commence an appeal in district court pursuant to the provisions of Section 12-8A-1 NMSA 1978."

Chapter 55 Section 11

Section 11. Section 3-33-35 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-32-30) is amended to read:

"3-33-35. IMPROVEMENT DISTRICT--NOTICE OF APPEAL--APPEAL TO DISTRICT COURT.--After an owner has filed a written objection with the municipal clerk to a reassessment as provided in Section 3-33-22 NMSA 1978 and the governing body has determined the reassessment, an owner of a tract or parcel of land that is reassessed may file a notice of appeal to the district court. The appeal shall be filed pursuant to the provisions of Section 12-8A-1 NMSA 1978."

Chapter 55 Section 12

Section 12. Section 3-35-3 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-34-3) is amended to read:

"3-35-3. HEARING ON PROVISIONAL ORDER--PROTEST BY PROPERTY OWNER OR INTERESTED PERSON--APPEAL.--At the hearing on a provisional order, a property owner or interested person may file a written protest and may be heard by the governing body on the order. A person filing a written protest may bring an appeal concerning the governing body's determination on the protest pursuant to the provisions of Section 12-8A-1 NMSA 1978."

Chapter 55 Section 13

Section 13. Section 3-39-23 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-40-21) is amended to read:

"3-39-23. JUDICIAL REVIEW.--

A. Any person aggrieved by a decision of the board of appeals, any taxpayer, any officer, any department, any board or any bureau of the political subdivision may file an appeal pursuant to the provisions of Section 12-8A-1 NMSA 1978.

B. Costs shall not be allowed against the board of appeals unless it appears to the court that it acted with gross negligence, in bad faith or with malice in making the decision appealed from."

Chapter 55 Section 14

Section 14. Section 3-46-43 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-47-19) is amended to read:

"3-46-43. ORDINANCES RELATING TO REPAIR, CLOSING AND DEMOLITION OF DWELLINGS UNFIT FOR HUMAN HABITATION--COMPLAINT--SERVICE OF COMPLAINT--APPEAL.--

A. Whenever any municipality finds that there exist dwellings that are unfit for human habitation due to dilapidation; defects increasing the hazards of fire, accidents or other calamities; lack of ventilation, light or sanitary facilities or due to other conditions, including those set forth in Subsection C of this section, rendering the dwellings unsafe and unsanitary or dangerous or detrimental to the health, safety or morals or otherwise inimical to the welfare of the residents of the municipality, power is conferred upon the municipality to require or cause the repair, closing or demolition or removal of the dwelling in the manner provided in this section. A "dwelling" means any building or structure or part thereof used and occupied for human habitation or intended to be so used and includes any appurtenances usually enjoyed in the dwelling.

B. Upon the adoption of an ordinance finding that dwelling conditions of the character described in Subsection A of this section exist, the governing body of the municipality is authorized to adopt ordinances relating to the dwellings within the municipality that are unfit for human habitation. The ordinances shall include the following provisions:

(1) a public officer shall be designated or appointed to exercise the powers prescribed by the ordinances;

(2) whenever it appears to the public officer, on his own motion, that any dwelling is unfit for human habitation, he shall, if his preliminary investigation discloses a basis for the charges, issue and cause to be served on the owner, every mortgagee of record and all parties in interest in the dwelling, including persons in possession, a complaint stating the charges in that respect. The complaint shall contain a notice that a hearing will be

held before the public officer or his designated agent at a place fixed in the complaint not less than ten days nor more than thirty days after the serving of the complaint; that the owner, mortgagee and parties in interest shall be given the right to file an answer to the complaint and to appear in person or otherwise and give testimony at the place and the time fixed in the complaint; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public officer;

(3) if after the notice and hearing the public officer determines that the dwelling under consideration is unfit for human habitation, he shall state in writing his findings of fact in support of that determination and shall issue and cause to be served upon the owner an order in writing that advises the owner of his rights under Subsection E of this section and that:

(a) if the repair, alteration or improvement of the dwelling can be made at a reasonable cost in relation to the value of the dwelling, the ordinance of the municipality shall fix a certain percentage of the cost as being reasonable for that purpose and require the owner, within the time specified in the order, to repair, alter or improve the dwelling to render it fit for human habitation or to vacate and close the dwelling as a human habitation; or

(b) if the repair, alteration or improvement of the dwelling cannot be made at a reasonable cost in relation to the value of the dwelling, the ordinance of the municipality shall fix a certain percentage of the cost as being reasonable for the purpose, and require the owner, within the time specified in the order, to remove or demolish the dwelling;

(4) if the owner fails to comply with an order to repair, alter or improve or to vacate and close the dwelling, the public officer may cause the dwelling to be repaired, altered or improved or to be vacated and closed;

(5) if the owner fails to comply with an order to remove or demolish the dwelling, the public officer may cause the dwelling to be removed or demolished; and

(6) the amount of the cost of the repairs, alterations or improvements or the vacating and closing or the removal or demolition by the public officer shall be a lien against the real property upon which the cost was incurred. If the dwelling is removed or demolished by the public officer, he shall sell the materials of the dwelling and shall credit the proceeds of the sale against the cost of the removal or demolition. Any balance remaining shall be deposited in the district court by the public officer and shall be secured in the manner as may be directed by the court and shall be disbursed by the court to the persons found to be entitled to the balance by final order or decree of the court.

C. An ordinance adopted by a municipality pursuant to this section shall provide that the public officer may determine a dwelling is unfit for human habitation if he finds that conditions exist in the dwelling that are dangerous or injurious to the health, safety or

morals of the occupants of the dwelling, the occupants of neighboring dwellings or other residents of the municipality or that have a blighting influence on properties in the area. The conditions may include the following, without limitations: defects increasing the hazards of fire, accident or other calamities; lack of adequate ventilation, light or sanitary facilities; dilapidation; disrepair; structural defects; uncleanness; overcrowding; inadequate ingress and egress; inadequate drainage; or any violation of health, fire, building or zoning regulations or any other laws or regulations relating to the use of land and the use and occupancy of buildings and improvements. The ordinance may provide additional standards to guide the public officer or his agents or employees in determining the fitness of a dwelling for human habitation.

D. Complaints or orders issued by a public officer pursuant to an ordinance adopted under the provisions of the Urban Development Law shall be served upon persons either personally or by registered mail. If the whereabouts of the persons are unknown and cannot be ascertained by the public officer in the exercise of reasonable diligence and the public officer makes an affidavit to that effect, then the serving of the complaint or order upon the persons may be made by publishing the complaint or order once each week for two consecutive weeks in a newspaper printed and published in the municipality or, in the absence of a newspaper, in one printed and published in the county and circulating in the municipality in which the dwellings are located. A copy of the complaint or order shall be posted in a conspicuous place on the premises affected by the complaint or order. A copy of the complaint or order shall also be filed with the clerk of the county in which the dwelling is located. Filing of the complaint or order shall have the same force and effect as other *lis pendens* notices provided by law.

E. Any person affected by an order issued by the public officer may file an appeal pursuant to the provisions of Section 12-8A-1 NMSA 1978.

F. An ordinance adopted by the governing body of the municipality may authorize the public officer to exercise powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of the Urban Development Law, including the following powers in addition to others granted in the Urban Development Law:

- (1) to investigate the dwelling conditions in the municipality in order to determine which dwellings are unfit for human habitation;
- (2) to administer oaths and affirmations, examine witnesses and receive evidence;
- (3) to enter upon premises for the purpose of making examinations, provided that the entries shall be made in a manner as to cause the least possible inconvenience to the persons in possession, and to obtain an order for this purpose from a court of competent jurisdiction in the event entry is denied or resisted;
- (4) to appoint and fix the duties of any officers, agents and employees as he deems necessary to carry out the purposes of the ordinances; and

(5) to delegate any of his functions and powers under the ordinance to officers, agents and employees he may designate.

G. The governing body of a municipality adopting an ordinance under this section shall, as soon as possible thereafter, prepare an estimate of the annual expenses or costs to provide the equipment, personnel and supplies necessary for periodic examinations and investigations of the dwellings in the municipality for the purpose of determining the fitness of the dwellings for human habitation and for the enforcement and administration of its ordinance or ordinances adopted under this section.

H. Nothing in this section shall be construed to abrogate or impair the powers of the courts or of a department of a municipality to enforce any provisions of its charter or its ordinances or regulations or to prevent or punish violations thereof. The powers conferred by this section shall be in addition and supplemental to the powers conferred by any other law.

I. Nothing in this section shall be construed to impair or limit in any way the power of the municipality to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise."

Chapter 55 Section 15

Section 15. Section 3-51-12 NMSA 1978 (being Laws 1971, Chapter 173, Section 7) is amended to read:

"3-51-12. FORMATION OF DISTRICT--PROVISIONAL ORDER HEARING--
CONDUCT--APPEAL.--

A. The owner of any property within the proposed district may, not less than two days preceding the hearing, file with the clerk his specific objections in writing. Any objection to the regularity, validity and correctness of the proceedings, including the validity and amount of the preliminary fund assessment, shall be deemed waived unless presented at the time and in the manner specified in this subsection.

B. At the time and place designated for hearing the objections, the governing body of the city shall hear and determine all objections that have been filed. The governing body shall have the power to adjourn the hearing and shall have power by resolution, in its discretion, to revise, correct or confirm any proceedings previously taken.

C. Within fifteen days after the publication of the ordinance forming the parking district, a person who has filed an objection, as provided in Subsection A of this section, shall have the right to appeal to the district court pursuant to the provisions of Section 12-8A-1 NMSA 1978."

Chapter 55 Section 16

Section 16. Section 4-45-5 NMSA 1978 (being Laws 1876, Chapter 1, Section 22, as amended) is amended to read:

"4-45-5. ACCOUNTS AGAINST COUNTY--APPEAL FROM DISALLOWANCE.--When a claim of a person against a county is disapproved in whole or in part by the board of county commissioners, that person may appeal the decision of the board to the district court pursuant to the provisions of Section 12-8A-1 NMSA 1978."

Chapter 55 Section 17

Section 17. Section 4-55A-31 NMSA 1978 (being Laws 1980, Chapter 91, Section 31) is amended to read:

"4-55A-31. IMPROVEMENT DISTRICT--APPEAL TO DISTRICT COURT.-- After an owner has filed a written objection with the county clerk to any reassessment as provided in Section 4-55A-18 NMSA 1978 and the board has determined the reassessment, any owner of a tract or parcel of land that is reassessed may file a notice of appeal pursuant to the provisions of Section 12-8A-1 NMSA 1978."

Chapter 55 Section 18

Section 18. Section 7-8A-16 NMSA 1978 (being Laws 1997, Chapter 25, Section 16) is amended to read:

"7-8A-16. APPEAL--ACTION TO ESTABLISH CLAIM.--

A. A person aggrieved by a decision of the administrator may file an appeal pursuant to the provisions of Section 12-8A-1 NMSA 1978.

B. A person whose claim has not been acted upon within ninety days after its filing may maintain an original action to establish the claim in the district court for the first judicial district, naming the administrator as a defendant.

C. If the aggrieved person establishes the claim in an action against the administrator, the court may award the claimant reasonable attorney fees."

Chapter 55 Section 19

Section 19. Section 7-38-28 NMSA 1978 (being Laws 1973, Chapter 258, Section 68, as amended) is amended to read:

"7-38-28. APPEALS FROM ORDERS OF THE DIRECTOR OR COUNTY VALUATION PROTESTS BOARDS.--

A. A property owner may appeal an order made by the director or a county valuation protests board by filing an appeal pursuant to the provisions of Section 12-8A-1 NMSA 1978.

B. The director shall notify the appropriate county assessor of the decision and order of the district court and shall direct the assessor to take appropriate action to comply with the decision and order."

Chapter 55 Section 20

Section 20. Section 10-7D-23 NMSA 1978 (being Laws 1992, Chapter 9, Section 23) is amended to read:

"10-7D-23. JUDICIAL ENFORCEMENT--STANDARD OF REVIEW.--

A. The board or a local board may request the district court to enforce an order issued pursuant to the Public Employee Bargaining Act, including those for appropriate temporary relief and restraining orders. The court shall consider the request for enforcement on the record made before the board or local board. It shall uphold the action of the board or local board and take appropriate action to enforce it unless it concludes that the order is:

(1) arbitrary, capricious or an abuse of discretion;

(2) not supported by substantial evidence on the record considered as a whole; or

(3) otherwise not in accordance with law.

B. A person or party, including a labor organization, affected by a final rule, order or decision of the board or a local board, may appeal to the district court for further relief pursuant to the provisions of Section 12-8A-1 NMSA 1978."

Chapter 55 Section 21

Section 21. Section 10-9-18 NMSA 1978 (being Laws 1980, Chapter 47, Section 2) is amended to read:

"10-9-18. APPEALS BY EMPLOYEES TO THE BOARD.--

A. An employee who is dismissed, demoted or suspended may, within thirty days after the dismissal, demotion or suspension, appeal to the board. The appealing employee and the agency whose action is reviewed have the right to be heard publicly and to present facts pertinent to the appeal.

B. An applicant denied permission to take an examination or who is disqualified may appeal to the board.

C. The technical rules of evidence shall not apply to appeals to the board.

D. A record shall be made of the hearing which shall be transcribed if there is an appeal to the district court. Costs of the transcripts, including one copy for the board, shall be paid initially by the agency. The cost of the transcripts may be assessed by the court to the losing party on appeal.

E. The board may designate a hearing officer who may be a member of the board or any qualified state employee to preside over and take evidence at any hearing held pursuant to this section. The hearing officer shall prepare and submit to the board a summary of the evidence taken at the hearing and proposed findings of fact. The board shall render a decision which shall include findings of fact and conclusions of law.

F. If the board finds that the action taken by the agency was without just cause, the board may modify the disciplinary action or order the agency to reinstate the appealing employee to his former position or to a position of like status and pay. Every consideration shall be given to placing the appealing employee in the same geographical location in which he was employed prior to the disciplinary action. The board may recommend that the appealing employee be reinstated by an agency other than the one who disciplined the appealing employee. When the board orders an agency to reinstate an appealing employee, the reinstatement shall be effective within thirty days of the board's order. The board may award back pay as of the date of the dismissal, demotion or suspension or as of the later date as the board may specify.

G. A party aggrieved by the decision of the board made pursuant to this section may appeal the decision to the district court pursuant to the provisions of Section 12-8A-1 NMSA 1978."

Chapter 55 Section 22

Section 22. Section 10-11-120 NMSA 1978 (being Laws 1987, Chapter 253, Section 120, as amended) is amended to read:

"10-11-120. DENIAL OF BENEFIT CLAIM--APPEALS.--

A. A benefit claimant shall be notified in writing of a denial of a claim for benefits within thirty days of the denial. The notification shall give the reason for the denial. A claimant may appeal the denial and request a hearing. The appeal shall be in writing filed with the association within ninety days of the denial. The appeal shall contain a statement of the claimant's reason for claiming the denial to be improper. The retirement board shall schedule a de novo hearing of the appeal before the retirement board or, at the discretion of the retirement board, a designated hearing officer or committee of the retirement board within sixty days of receipt of the appeal. A final decision on the matter being appealed shall be made by the retirement board.

B. Appeals from a final decision of the retirement board may be filed pursuant to the provisions of Section 12-8A-1 NMSA 1978."

Chapter 55 Section 23

Section 23. Section 12-8-16 NMSA 1978 (being Laws 1969, Chapter 252, Section 16) is amended to read:

"12-8-16. PETITION FOR JUDICIAL REVIEW.--Any party who has exhausted all administrative remedies available within the agency and who is adversely affected by a final order or decision in an adjudicatory proceeding may appeal pursuant to the provisions of Section 12-8A-1 NMSA 1978."

Chapter 55 Section 24

Section 24. Section 13-1-183 NMSA 1978 (being Laws 1984, Chapter 65, Section 156) is amended to read:

"13-1-183. JUDICIAL REVIEW.--All actions authorized by the Procurement Code for judicial review of a determination shall be filed pursuant to the provisions of Section 12-8A-1 NMSA 1978."

Chapter 55 Section 25

Section 25. Section 13-4-15 NMSA 1978 (being Laws 1963, Chapter 304, Section 5, as amended) is amended to read:

"13-4-15. APPEALS.--

A. Any interested person may appeal any determination, finding or action of the director of the labor and industrial division of the labor department made pursuant to the Public Works Minimum Wage Act to the labor and industrial commission sitting as the appeals board by filing notice of the appeal with the director within fifteen days after the determination has been issued or notice of the finding or action has been given as provided in the Public Works Minimum Wage Act.

B. The labor and industrial commission, sitting as the appeals board, shall adopt rules as it deems necessary for the prompt disposition of appeals. A copy of the rules shall be filed with the librarian of the supreme court law library.

C. The appeals board, within ten days after the filing of the appeal, shall set the matter for an oral hearing within thirty days and, following the hearing, shall enter a decision within ten days after the close of the hearing and promptly mail copies of the decision to the parties.

D. Decisions of the appeals board may be appealed pursuant to the provisions of Section 12-8A-1 NMSA 1978."

Chapter 55 Section 26

Section 26. Section 17-3-34 NMSA 1978 (being Laws 1912, Chapter 85, Section 35, as amended) is amended to read:

"17-3-34. REVOCATION OF LICENSE, CERTIFICATE OR PERMIT FOR VIOLATION OF LAW--NOTICE AND HEARING--JUDICIAL REVIEW.--

A. If the holder of any license, certificate or permit persistently, flagrantly or knowingly violates or countenances the violation of any of the provisions of Chapter 17 NMSA 1978 or of any regulations referred to in Section

Section 17-2-10 NMSA 1978, the license, certificate or permit shall be revoked by the state game commission after reasonable notice given the accused of the alleged violation and after the accused is afforded an opportunity to appear and show cause against the charges.

B. At the hearing, the state game commission shall cause a record of the hearing to be made and shall allow the person charged to examine witnesses testifying at the hearing. Any person whose license, certificate or permit has been revoked by the commission may appeal to the district court pursuant to the provisions of Section 12-8A-1 NMSA 1978."

Chapter 55 Section 27

Section 27. Section 19-7-17 NMSA 1978 (being Laws 1963, Chapter 237, Section 4) is amended to read:

"19-7-17. APPEAL.--A person in interest aggrieved by the decision of the commissioner in fixing the value of improvements or in collecting costs may appeal to the district court pursuant to the provisions of Section 12-8A-1 NMSA 1978."

Chapter 55 Section 28

Section 28. Section 19-7-67 NMSA 1978 (being Laws 1912, Chapter 82, Section 72, as amended) is amended to read:

"19-7-67. CONTEST--COMMISSIONER--APPEAL TO DISTRICT COURT.--Sec. 73. A person aggrieved by a decision of the commissioner may appeal to the district court pursuant to the provisions of Section 12-8A-1 NMSA 1978."

Chapter 55 Section 29

Section 29. Section 19-10-23 NMSA 1978 (being Laws 1929, Chapter 125, Section 16, as amended) is amended to read:

"19-10-23. APPEAL OF COMMISSIONER'S DECISION.--A person or corporation aggrieved by a ruling or decision of the commissioner affecting his interest in any lease issued under or affected by the provisions relating to oil and gas leases of state lands may file an appeal pursuant to the provisions of Section 12-8A-1 NMSA 1978."

Chapter 55 Section 30

Section 30. 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 pursuant to the provisions of Section 12-8A-1 NMSA 1978."

Chapter 55 Section 31

Section 31. Section 22-10-22 NMSA 1978 (being Laws 1967, Chapter 16, Section 124, as amended) is amended to read:

"22-10-22. SUSPENSION AND REVOCATION OF CERTIFICATES--APPEAL.--

A. The state board may suspend or revoke a certificate held by a certified school instructor or administrator for incompetency, immorality or any other good and just cause.

B. A certificate may be suspended or revoked only according to the following procedure:

(1) the state board serving written notice of the suspension or revocation on the person holding the certificate in accordance with the law for service of process in civil actions. The notice of the suspension or revocation shall state the grounds for the suspension or revocation of the certificate. The notice of the suspension or revocation shall describe the rights of the person holding the certificate and include instructions for requesting a hearing before the state board. A hearing shall be requested within thirty days of receipt of the notice of suspension or revocation. If a hearing is requested, the hearing shall be held not more than ninety days from the date of the request for the hearing;

(2) the state board or its designated hearing officer conducting a hearing that provides the person holding the certificate, or his attorney, an opportunity to present evidence or arguments on all pertinent issues. A transcript shall be made of the entire hearing conducted by the state board or its designated hearing officer; and

(3) the state board rendering a written decision in accordance with the law and based upon evidence presented and admitted at the hearing. The written decision shall include

findings of fact and conclusions of law and shall be based upon the findings of fact and the conclusions of law. A written copy of the decision of the state board shall be served upon the person holding the certificate within sixty days from the date of the hearing. Service of the written copy of the decision shall be in accordance with the law for service of process in civil actions or by certified mail to the person's address of record.

C. The secretary of the state board, with the approval of the state board or its designated hearing officer, may subpoena witnesses, require their attendance and giving of testimony and require the production of books, papers and records in connection with a hearing held pursuant to the provisions of Subsection B of this section. Also, the state board may apply to the district court for the issuance of subpoenas and subpoenas duces tecum in the name of and on behalf of the state board.

D. Any person aggrieved by a decision of the state board, after a hearing pursuant to this section, may appeal the decision to the district court pursuant to the provisions of Section 12-8A-1 NMSA 1978."

Chapter 55 Section 32

Section 32. Section 24-1-5 NMSA 1978 (being Laws 1973, Chapter 359, Section 5, as amended) is amended to read:

"24-1-5. LICENSURE OF HEALTH FACILITIES--HEARINGS--APPEALS.--

A. No health facility shall be operated without a license issued by the department. If a health facility is found to be operating without a license, in order to protect human health or safety, the secretary may issue a cease-and-desist order. The health facility may request a hearing that shall be held in the manner provided in this section. The department may also proceed pursuant to the Health Facility Receivership Act.

B. The department is authorized to make inspections and investigations and to prescribe regulations it deems necessary or desirable to promote the health, safety and welfare of persons using health facilities.

C. Except as provided in Subsection F of this section, upon receipt of an application for a license to operate a health facility, the department shall promptly inspect the health facility to determine if it is in compliance with all rules of the department. Applications for hospital licenses shall include evidence that the bylaws or rules of the hospital apply equally to osteopathic and medical physicians. The department shall consolidate the applications and inspections for a hospital that also operates as a hospital-based primary care clinic.

D. Upon inspection of any health facility, if the department finds any violation of its rules, the department may deny the application for a license, whether initial or renewal, or it may issue a temporary license. A temporary license shall not be issued for a period

exceeding one hundred twenty days, nor shall more than two consecutive temporary licenses be issued.

E. A one-year nontransferable license shall be issued to any health facility complying with all rules of the department. The license shall be renewable for successive one-year periods, upon filing of a renewal application, if the department is satisfied that the health facility is in compliance with all rules of the department or, if not in compliance with a rule, has been granted a waiver or variance of that rule by the department pursuant to procedures, conditions and guidelines adopted by rule of the department. Licenses shall be posted in a conspicuous place on the licensed premises, except that child-care centers that receive no state or federal funds may apply for and receive from the department a waiver from the requirement that a license be posted or kept on the licensed premises.

F. Any health facility that has been inspected and licensed by the department and that has received certification for participation in federal reimbursement programs and that has been fully accredited by the joint commission on accreditation of health care organizations or the American osteopathic association shall be granted a license renewal based on that accreditation. Health facilities receiving less than full accreditation by the joint commission on the accreditation of health care organizations or by the American osteopathic association may be granted a license renewal based on that accreditation. License renewals shall be issued upon application submitted by the facility upon forms prescribed by the department. This subsection does not limit in any way the department's various duties and responsibilities under other provisions of the Public Health Act or under any other subsection of this section, including any of the department's responsibilities for the health and safety of the public.

G. The department may charge a reasonable fee not to exceed three dollars (\$3.00) per bed for an in-patient health facility or one hundred dollars (\$100) for any other health facility for each license application, whether initial or renewal, of an annual license or the second consecutive issuance of a temporary license. Fees collected shall not be refundable. All fees collected pursuant to licensure applications shall be deposited with the state treasurer for credit to the general fund.

H. The department may revoke or suspend the license of a health facility or may impose on a health facility an intermediate sanction and a civil monetary penalty provided in Section 24-1-5.2 NMSA 1978 after notice and an opportunity for a hearing before a hearing officer designated by the department to hear the matter and, except for child-care centers and facilities, may proceed pursuant to the Health Facility Receivership Act upon a determination that the health facility is not in compliance with any rule of the department. If immediate action is required to protect human health and safety, the secretary may suspend a license or impose an intermediate sanction pending a hearing, provided the hearing is held within five working days of the suspension or imposition of the sanction, unless waived by the licensee, and, except for child-care centers and facilities, may proceed ex parte pursuant to the Health Facility Receivership Act.

I. The department shall schedule a hearing pursuant to Subsection H of this section if the department receives a request for a hearing from a licensee:

(1) within ten working days after receipt by the licensee of notice of suspension, revocation, imposition of an intermediate sanction or civil monetary penalty or denial of an initial or renewal application;

(2) within four working days after receipt by the licensee of an emergency suspension order or emergency intermediate sanction imposition and notice of hearing if the licensee wishes to waive the early hearing scheduled and request a hearing at a later date; or

(3) within five working days after receipt of a cease-and-desist order.

The department shall also provide timely notice to the licensee of the date, time and place of the hearing, identity of the hearing officer, subject matter of the hearing and alleged violations.

J. Any hearing held pursuant to provisions of this section shall be conducted in accordance with adjudicatory hearing rules and procedures adopted by regulation of the department. The licensee has the right to be represented by counsel, to present all relevant evidence by means of witnesses and books, papers, documents, records, files and other evidence and to examine all opposing witnesses who appear on any matter relevant to the issues. The hearing officer has the power to administer oaths on request of any party and issue subpoenas and subpoenas duces tecum prior to or after the commencement of the hearing to compel discovery and the attendance of witnesses and the production of relevant books, papers, documents, records, files and other evidence. Documents or records pertaining to abuse, neglect or exploitation of a resident, client or patient of a health facility or other documents, records or files in the custody of the human services department or the office of the state long-term care ombudsman at the state agency on aging that are relevant to the alleged violations are discoverable and admissible as evidence in any hearing.

K. Any party may appeal the final decision of the department pursuant to the provisions of Section 12-8A-1 NMSA 1978.

L. Every complaint about a health facility received by the department pursuant to this section shall be promptly investigated to substantiate the allegation and to take appropriate action if substantiated. The department shall coordinate with the human services department, the office of the state long-term care ombudsman at the state agency on aging and any other appropriate agency to develop a joint protocol establishing responsibilities and procedures to assure prompt investigation of complaints, including prompt and appropriate referrals and necessary action regarding allegations of abuse, neglect or exploitation of residents, clients or patients in a health facility.

M. Complaints received by the department pursuant to this section shall not be disclosed publicly in a manner as to identify any individuals or health facilities if upon investigation the complaint is unsubstantiated.

N. Notwithstanding any other provision of this section, where there are reasonable grounds to believe that any child is in imminent danger of abuse or neglect while in the care of a child-care facility, whether or not licensed, or upon the receipt of a report pursuant to Section 32A-4-3 NMSA 1978, the department shall consult with the owner or operator of the child-care facility. Upon a finding of probable cause, the department shall give the owner or operator notice of its intent to suspend operation of the child-care facility and provide an opportunity for a hearing to be held within three working days, unless waived by the owner or operator. Within seven working days from the day of notice, the secretary shall make a decision, and, if it is determined that any child is in imminent danger of abuse or neglect in the child-care facility, the secretary may suspend operation of the child-care facility for a period not in excess of fifteen days. Prior to the date of the hearing, the department shall make a reasonable effort to notify the parents of children in the child-care facility of the notice and opportunity for hearing given to the owner or operator.

O. Nothing contained in this section or in the Public Health Act shall authorize either the secretary or the department to make any inspection or investigation or to prescribe any regulations concerning group homes as defined in Section 9-8-13 NMSA 1978 except as are reasonably necessary or desirable to promote the health and safety of persons using group homes."

Chapter 55 Section 33

Section 33. Section 25-1-11 NMSA 1978 (being Laws 1977, Chapter 309, Section 11) is amended to read:

"25-1-11. JUDICIAL REVIEW OF BOARD AND DIVISION ACTIONS.--

A. Rules adopted by the board are subject to judicial review under the provisions of Section 74-1-9 NMSA 1978.

B. Any person to whom the division denies a permit or whose permit is suspended or revoked by the division may appeal to the district court pursuant to the provisions of Section 12-8A-1 NMSA 1978."

Chapter 55 Section 34

Section 34. Section 25-3-12 NMSA 1978 (being Laws 1969, Chapter 89, Section 7) is amended to read:

"25-3-12. CONDEMNATION AND APPEAL.--The inspector at official establishments shall condemn all diseased or otherwise unfit carcasses and parts of carcasses,

including the viscera. The condemned parts shall be removed from the slaughtering department of the plant in equipment designated for that purpose and shall be destroyed for food purposes under the supervision of the inspector. If any official establishment wishes to appeal a decision of an inspector as to carcasses or parts of carcasses that have been condemned, the establishment may appeal the decision to the chief veterinary meat inspector or any veterinarian he designates. If the establishment is not satisfied and wishes to make a further appeal, it may submit an appeal to the board, whose decision shall be final unless the person aggrieved appeals to the district court pursuant to the provisions of Section 12-8A-1 NMSA 1978."

Chapter 55 Section 35

Section 35. Section 25-3-19 NMSA 1978 (being Laws 1969, Chapter 89, Section 14) is amended to read:

"25-3-19. SUSPENSION OR REVOCATION OF INSPECTION SERVICE OR ESTABLISHMENT NUMBER--HEARING--APPEAL.--

A. Any license issued by the board or any state meat inspection service or establishment numbers may be suspended or revoked by the board for violation or noncompliance with:

(1) any provision of the Meat Inspection Act; or

(2) any rule issued pursuant to the Meat Inspection Act.

B. State meat inspection service or establishment numbers may be suspended or revoked only after a hearing before the board upon reasonable notice. Notice shall be given the licensee by service of the complaint upon him.

C. The decision of the board shall be final in any matter relating to renewal, suspension or revocation of state meat inspection service or establishment numbers unless the person aggrieved appeals to the district court pursuant to the provisions of Section 12-8A-1 NMSA 1978."

Chapter 55 Section 36

Section 36. Section 25-7B-9 NMSA 1978 (being Laws 1993, Chapter 188, Section 28) is amended to read:

"25-7B-9. JUDICIAL REVIEW OF DEPARTMENT ACTIONS.--Any person to whom the department denies a permit or whose permit is suspended or revoked by the department may appeal to the district court pursuant to the provisions of Section 12-8A-1 NMSA 1978."

Chapter 55 Section 37

Section 37. Section 27-3-4 NMSA 1978 (being Laws 1973, Chapter 256, Section 4) is amended to read:

"27-3-4. APPEAL.--Within thirty days after receiving written notice of the decision of the director pursuant to Section 27-3-3 NMSA 1978, an applicant or recipient may file a notice of appeal with the district court pursuant to the provisions of Section 12-8A-1 NMSA 1978."

Chapter 55 Section 38

Section 38. Section 27-5-12.1 NMSA 1978 (being Laws 1979, Chapter 146, Section 3, as amended) is amended to read:

"27-5-12.1. APPEAL.--Any hospital or ambulance service aggrieved by any decision of the board may appeal to the district court pursuant to the provisions of Section 12-8A-1 NMSA 1978."

Chapter 55 Section 39

Section 39. Section 28-17-19 NMSA 1978 (being Laws 1989, Chapter 208, Section 19, as amended) is amended to read:

"28-17-19. INTERFERENCE WITH THE OFFICE AND RETALIATION PROHIBITED--PENALTY--CIVIL--APPEAL.--

A. No person shall willfully interfere with the lawful actions of the office, including the request for immediate entry into a long-term care facility.

B. No person shall institute discriminatory, disciplinary or retaliatory action against any resident, employee or other person for filing a complaint, providing information to or otherwise cooperating with a representative of the office.

C. Any person who violates Subsection A of this section shall be subject to a civil penalty of up to five thousand dollars (\$5,000) per occurrence. Any person who violates Subsection B of this section shall be subject to a civil penalty of up to ten thousand dollars (\$10,000) per occurrence. The agency may assess and collect the penalty after notice and an opportunity for hearing, before a hearing officer designated by the agency to hear the matter, upon a determination that a person willfully interfered with the office or discriminated, disciplined or retaliated against an individual who communicated or disclosed information to the office in good faith pursuant to Subsections A and B of this section. The hearing officer has the power to administer oaths on request of any party and issue subpoenas and subpoenas duces tecum. However, if the violation is against a person covered by the Personnel Act, the office shall refer the matter to the agency employing the person for disciplinary action.

D. Any party may appeal to the district court pursuant to the provisions of Section 12-8A-1 NMSA 1978."

Chapter 55 Section 40

Section 40. Section 29-2-11 NMSA 1978 (being Laws 1941, Chapter 147, Section 11, as amended) is amended to read:

"29-2-11. DISCIPLINARY PROCEEDINGS--APPEAL.--

A. No officer of the New Mexico state police holding a permanent commission shall be removed from office, demoted or suspended except for incompetence, neglect of duty, violation of a published rule of conduct, malfeasance in office or conduct unbecoming an officer, except as provided in this section.

B. The secretary may suspend an officer for disciplinary reasons for not more than thirty days in accordance with New Mexico state police rules. Any officer holding a permanent commission who is suspended by the secretary has the right to have the suspension reviewed by the commission, but without further review or appeal.

C. In the event the officer is to be removed from office, demoted or suspended for a period of more than thirty days, specific written charges shall be filed with the commission. Timely and adequate notice of the charges to the person charged shall be provided and a prompt hearing on the charges shall be held by the commission. The person charged has the right to be represented by counsel of his own choice and at his own expense at the hearings. A complete record of the hearing shall be made and, upon request, a copy of it shall be furnished to the person charged. The person may require that the hearing be public.

D. In the event the commission finds that the person charged shall be removed, demoted or suspended for a period in excess of thirty days, the person may appeal from the decision of the commission to the district court pursuant to the provisions of Section 12-8A-1 NMSA 1978."

Chapter 55 Section 41

Section 41. Section 29-10-8 NMSA 1978 (being Laws 1977, Chapter 339, Section 5) is amended to read:

"29-10-8. REVIEW OF ARREST RECORD INFORMATION--APPEAL.--A person who believes that arrest record information concerning him is inaccurate or incomplete is, upon satisfactory verification of his identity, entitled to review the information and obtain a copy of it for the purpose of challenge or correction. In the event a law enforcement agency refuses to correct challenged information to the satisfaction of the person to whom the inaccurate or incorrect information relates, the person is entitled to appeal to

the district court to correct the information pursuant to the provisions of Section 12-8A-1 NMSA 1978."

Chapter 55 Section 42

Section 42. Section 32A-2-4 NMSA 1978 (being Laws 1993, Chapter 77, Section 33) is amended to read:

"32A-2-4. DETENTION FACILITIES--STANDARDS--REPORTS--APPEALS.--

A. The department shall promulgate updated standards for all detention facilities, including standards for site, design, construction, equipment, care, program, personnel and clinical services. The department shall certify as approved all detention facilities in the state meeting the standards promulgated. The department may establish by rule appropriate procedures for provisional certification and the waiving of any of its standards for facilities in existence at the time of the adoption of the standards, except that it shall not allow waiver of any standard pertaining to adequate health and safety protection of the residents and staff of the facility. No child shall be detained in a detention facility unless it is certified as approved by the department, except as otherwise provided in Chapter 32A, Article 2 NMSA 1978.

B. The department shall inspect all detention facilities in the state at least once each twelve months and shall require those reports it deems necessary from detention facilities in a form and containing the information determined by the department. If as the result of an inspection a certified detention facility is determined as failing to meet the required standards, its certification is subject to revocation or refusal for renewal by the department.

C. The department shall promulgate rules establishing procedures that provide for prior notice and public hearings on detention facilities' standards adoption and changes. The department shall also promulgate rules establishing procedures for facility certification, renewal of certification, refusal to renew certification and revocation of certification. The procedures adopted on these matters shall provide for adequate prior notice of intended action by the department, opportunity for the aggrieved person to have an administrative hearing and written notification of the administrative decision. Rules promulgated under this subsection shall not be effective unless filed in accordance with the State Rules Act.

D. Any person aggrieved by an administrative decision of the department rendered under the provisions of this section may petition for the review of the administrative decision by appealing to the district court pursuant to the provisions of Section 12-8A-1 NMSA 1978.

E. After January 1, 1994, no state or county detention facility shall hold juveniles sentenced by a federal court, unless the facility meets state standards promulgated by the department."

Chapter 55 Section 43

Section 43. Section 36-1A-9 NMSA 1978 (being Laws 1991, Chapter 175, Section 9) is amended to read:

"36-1A-9. APPEALS BY COVERED EMPLOYEES TO THE BOARD--JUDICIAL REVIEW.--

A. A covered employee who is dismissed, demoted or suspended may, within thirty days after the dismissal, demotion or suspension, appeal to the board. The appellant and the agency whose action is reviewed shall have the right to be heard publicly and to present facts pertinent to the appeal.

B. Formal rules of evidence shall not apply to appeals to the board.

C. A record shall be made of the hearing, which shall be transcribed if there is an appeal to the district court. The cost of transcripts may be assessed by the court to the losing party on appeal.

D. Appeals may be heard, at the election of the appellant, either by the board or by a hearing officer selected by the state personnel office. If the appellant does not elect to have his case heard by a state-personnel-office-designated hearing officer as provided in this section, the board may designate a hearing officer who may be a member of the board to preside over and take evidence at any hearing held pursuant to this section. This latter hearing officer shall prepare and submit to the board a summary of the evidence taken at the hearing and proposed findings of fact. The board shall render a final decision on the appeal, which shall include findings of fact and conclusions of law.

E. If the appellant chooses to have his case heard by a state-personnel-office-designated hearing officer, the appellant shall elect in writing within twenty days after filing the notice of appeal to have his appeal heard solely by a state-personnel-office-designated hearing officer. In the event of that election, the board shall promptly make that request to the state personnel office and promptly execute any and all documents necessary to implement this election. The state personnel office shall promptly arrange for the hearing officer without charge. This hearing officer shall have all of the rights, duties and responsibilities provided to the board by the District Attorney Personnel and Compensation Act, and that hearing officer's decision shall be binding and of the same force and effect as if the board itself had rendered the final decision.

F. If the board or the state-personnel-office-designated hearing officer finds that the action taken was without just cause, the board or the state-personnel-office-designated hearing officer may modify the disciplinary action or order the reinstatement of the appellant to his former position or to a position of like status and pay. When the board or the state-personnel-office-designated hearing officer orders a reinstatement of an appellant, the reinstatement shall be effective within thirty days after the service of a written copy of the decision on the affected party. The board or the state-personnel-

office-designated hearing officer may award back pay as of the date of the dismissal, demotion or suspension or as of such later date as the order may specify.

G. A party aggrieved by the decision of the board or the state-personnel-office-designated hearing officer made pursuant to this section may appeal the decision to the district court pursuant to the provisions of Section 12-8A-1 NMSA 1978."

Chapter 55 Section 44

Section 44. Section 40-7A-6 NMSA 1978 (being Laws 1981, Chapter 171, Section 6) is amended to read:

"40-7A-6. REVOCATION OR SUSPENSION OF LICENSE--NOTICE--REINSTATEMENT--APPEAL.--

A. The division may deny, revoke, suspend, place on probation or refuse to renew the license of any child placement agency or foster home for failure to comply with the division's rules. The holder of the license sought to be denied, revoked, suspended or placed on probation or that is not renewed shall be given notice in writing of the proposed action and the reason therefor and shall, at a date and place to be specified in the notice, be given a hearing before a hearing officer appointed by the secretary with an opportunity to produce testimony in the holder's behalf and to be assisted by counsel. The hearing shall be held no earlier than twenty days after service of notice thereof unless the time limitations are waived. A person whose license has been denied, revoked, suspended, placed on probation or not renewed may, on application to the division, have the license issued, reinstated or reissued upon proof that the noncompliance with the rules has ceased.

B. A person adversely affected by a decision of the division denying, revoking, suspending, placing on probation or refusing to renew a license may obtain a review by appealing to the district court pursuant to the provisions of Section 12-8A-1 NMSA 1978.

C. When any license is denied, suspended, revoked or not renewed, the care and custody of any child placed pursuant to the Child Placement Agency Licensing Act shall be transferred to the certifying child placement agency or the division."

Chapter 55 Section 45

Section 45. Section 42-3-14 NMSA 1978 (being Laws 1972, Chapter 41, Section 15, as amended) is amended to read:

"42-3-14. ADMINISTRATIVE HEARINGS--COURT REVIEW.--

A. A person aggrieved by a determination as to eligibility for relocation payments or the amount of payment received under the Relocation Assistance Act shall have the right to

a hearing before the displacing agency or before a hearing officer designated by the displacing agency.

B. After the hearing, a person aggrieved or affected by a final administrative determination concerning eligibility for relocation payments or the amount of the payment under the Relocation Assistance Act may appeal to the district court pursuant to the provisions of Section 12-8A-1 NMSA 1978."

Chapter 55 Section 46

Section 46. Section 47-6-15 NMSA 1978 (being Laws 1973, Chapter 348, Section 15, as amended) is amended to read:

"47-6-15. APPEALS.--

A. A party who is or may be adversely affected by a decision of a delegate of the board of county commissioners in approving or disapproving a final plat under summary review shall appeal the delegate's decision to the board of county commissioners within thirty days of the date of the delegate's decision. The board of county commissioners shall hear the appeal and shall render a decision within thirty days of the date the board receives notice of the appeal. Thereafter, the procedure for appealing the decision of the board of county commissioners set out in Subsection B of this section shall apply.

B. A party who is or may be adversely affected by a decision of the board of county commissioners in approving or disapproving a preliminary or final plat may appeal to the district court pursuant to the provisions of Section 12-8A-1 NMSA 1978."

Chapter 55 Section 47

Section 47. Section 50-9-17 NMSA 1978 (being Laws 1972, Chapter 63, Section 16, as amended) is amended to read:

"50-9-17. ENFORCEMENT--APPEALS.--

A. If as a result of investigation the department has good cause to believe that any employer is violating any provision of the Occupational Health and Safety Act or any rule of the board, the department shall send prompt notice of the violation by certified mail to the employer believed to be in violation. The citation shall describe with particularity the provision of the Occupational Health and Safety Act or rule alleged to have been violated. The notice shall also state the time for abatement of the violation. Each citation issued pursuant to this section, or a copy thereof, shall be promptly and prominently posted by the cited employer, as prescribed in rules issued by the board, at or near the place where the violation occurred. No citation may be issued under this section after the expiration of six months following the occurrence of any violation. The board may issue a regulation prescribing procedures for the use of a notice in lieu of a

citation with respect to de minimis violations that have no direct or immediate relationship to safety or health.

B. If the department issues a citation as provided in Subsection A of this section, it shall, within a reasonable time after issuance of the citation, notify the employer by certified mail of the penalty, if any, proposed to be assessed and that the employer has fifteen working days within which to notify the department in writing that he wishes to contest the citation or proposed penalty. If within fifteen working days from the receipt of the notice issued by the department the employer fails to notify the department that he intends to contest the citation or proposed penalty and no notice is filed by an employee or employee representative as provided by Subsection D of this section within that time, the citation and the assessment of penalty, if any, as proposed shall be deemed the final order of the commission and not subject to review by any court or agency.

C. If the department has reason to believe that an employer has failed to correct a violation for which a citation has been issued within the abatement period permitted, which period shall not begin to run until the entry of a final order by the commission in the case of any review proceedings under this section initiated by the employer in good faith and not solely for delay or avoidance of penalties, the department shall notify the employer by certified mail of the failure to correct and of the penalty proposed to be assessed by reason of the failure and that the employer has fifteen working days within which to notify the department in writing that he wishes to contest the department's notification or the proposed assessment of penalty. If within fifteen working days from the receipt of notification issued by the department the employer fails to notify the department that he intends to contest the notification or proposed assessment of penalty, the notification and assessment as proposed shall be deemed a final order of the commission and not subject to review by any court or department.

D. If any employer notifies the department in writing that he intends to contest the citation issued to him pursuant to provisions of Subsection A of this section or notification issued pursuant to provisions of Subsection B or C of this section or if within fifteen working days of the receipt of notice pursuant to the provisions of this section any employee of an employer cited or any employee's representative files a notice with the department alleging that the period of time fixed in the citation for the abatement of the violation is unreasonable, the department shall provide prompt opportunity for informal administrative review. If the matter is not successfully resolved at the informal administrative review, the petitioner may request a hearing before the commission within fifteen days after the administrative review. The commission shall afford an opportunity for a hearing within thirty days after receipt of the petition. The commission shall thereafter issue an order, based on findings of fact, affirming, modifying or vacating the department's citation or the proposed penalty fixed by the department or directing other appropriate relief.

E. At any time prior to the expiration of an abatement period, an employer may notify the department in writing that he is unable to take the corrective action required within the period of abatement. The department shall provide prompt opportunity for informal

administrative review. If the matter is not successfully resolved at the informal administrative review, the petitioner may request a hearing before the commission after the administrative review. The commission shall afford prompt opportunity for a hearing after receipt of the petition. The only grounds for modifying an abatement period provided by this subsection are a showing by the employer of a good-faith effort to comply with the abatement requirement of a citation and that abatement has not been completed because of factors beyond the employer's control.

F. Affected employees or their representatives shall be provided an opportunity to participate as parties at both informal administrative review and commission hearings provided for in this section.

G. Any person, including the department, adversely affected by an order of the commission issued pursuant to provisions of this section may obtain a review of the order in the district court pursuant to the provisions of Section 12-8A-1 NMSA 1978."

Chapter 55 Section 48

Section 48. Section 53-8-91 NMSA 1978 (being Laws 1975, Chapter 217, Section 89, as amended) is amended to read:

"53-8-91. APPEAL FROM CORPORATION COMMISSION.--

A. If the corporation commission fails to approve any articles of incorporation, amendment, merger, consolidation or dissolution, or any other document required by the Nonprofit Corporation Act to be approved by the corporation commission before the same is filed in its office, the commission shall, within fifteen working days after the delivery thereof, give written notice of its disapproval to the person or corporation, domestic or foreign, delivering the same, specifying the reasons therefor. The person or corporation may appeal the disapproval to the district court pursuant to the provisions of Section 12-8A-1 NMSA 1978.

B. If the corporation commission revokes a certificate of authority to conduct affairs in New Mexico of any foreign corporation or a certificate of incorporation of a domestic corporation, pursuant to the provisions of the Nonprofit Corporation Act, the foreign or domestic corporation may appeal to the district court pursuant to the provisions of Section 12-8A-1 NMSA 1978."

Chapter 55 Section 49

Section 49. Section 53-18-2 NMSA 1978 (being Laws 1967, Chapter 81, Section 123, as amended) is amended to read:

"53-18-2. APPEAL FROM COMMISSION.--

A. If the commission fails to approve any articles of incorporation, amendment, merger, consolidation or dissolution or any other document required by the Business Corporation Act to be approved by the commission before it is filed in its office, it shall, within fifteen working days after the delivery thereof to it, give written notice of its disapproval to the person or corporation, domestic or foreign, delivering the same, specifying the reasons therefor. From the disapproval, the person or corporation may appeal to the district court pursuant to the provisions of Section 12-8A-1 NMSA 1978.

B. If the commission revokes the certificate of authority to transact business in this state of any foreign corporation pursuant to the provisions of the Business Corporation Act, the foreign corporation may appeal to the district court pursuant to the provisions of Section 12-8A-1 NMSA 1978."

Chapter 55 Section 50

Section 50. Section 53-19-67 NMSA 1978 (being Laws 1993, Chapter 280, Section 67) is amended to read:

"53-19-67. APPEAL FROM COMMISSION.--If the commission fails to approve any articles of organization, articles of amendment, articles of merger or consolidation or articles of dissolution or any other document required or permitted by the Limited Liability Company Act to be approved by the commission before it is filed in its office, it shall, within fifteen working days after the delivery thereof to it, give written notice of its disapproval to the person delivering the same, specifying the reasons therefor. From the disapproval, the person may appeal to the district court pursuant to the provisions of Section 12-8A-1 NMSA 1978."

Chapter 55 Section 51

Section 51. Section 57-19-36 NMSA 1978 (being Laws 1993, Chapter 98, Section 12) is amended to read:

"57-19-36. PENALTIES--ADMINISTRATIVE PROCEDURES--APPEALS.--

A. No person, by himself, by his servant or agent or as the servant or agent of another person shall:

- (1) violate the provisions of the Petroleum Products Standards Act;
- (2) violate any regulation adopted pursuant to the Petroleum Products Standards Act; or
- (3) misrepresent a petroleum product as meeting the standards of the Petroleum Products Standards Act.

B. Any person who violates Subsection A of this section is guilty of a petty misdemeanor and shall be sentenced in accordance with the provisions of Section

31-19-1 NMSA 1978.

C. The board shall establish a system of administrative penalties for violations of the Petroleum Products Standards Act. The administrative penalties may be assessed by the director in lieu of or in addition to other penalties provided by statute. In establishing the system of administrative penalties, the board, after public notice and public hearing, shall adopt rules that meet the following minimum requirements:

(1) the maximum amount of any administrative penalty shall not exceed one thousand dollars (\$1,000) for any one violation of the Petroleum Products Standards Act by any person;

(2) violations for which administrative penalties may be assessed shall be clearly defined, along with a scale of administrative penalties relating the amount of the administrative penalty to the severity and frequency of the violation;

(3) provisions shall be included for due process, including proper notification of administrative proceedings, right to discovery of charges and evidence and appeal procedures; and

(4) prior to assessing administrative penalties pursuant to the provisions of the Petroleum Products Standards Act, the department shall comply with Paragraphs (2) and (3) of this subsection.

D. Appeals from decisions of the director regarding the assessment of an administrative penalty shall be to the district court pursuant to the provisions of Section 12-8A-1 NMSA 1978."

Chapter 55 Section 52

Section 52. Section 58-1-45 NMSA 1978 (being Laws 1963, Chapter 305, Section 34) is amended to read:

"58-1-45. COURT REVIEW.--Any person aggrieved and directly affected by an order of the director may appeal to the district court pursuant to the provisions of Section 12-8A-1 NMSA 1978."

Chapter 55 Section 53

Section 53. Section 58-10-13 NMSA 1978 (being Laws 1967, Chapter 61, Section 13) is amended to read:

"58-10-13. REFUSAL OF CHARTER APPLICATION--APPEAL.--

A. Whenever the supervisor is unable to make the findings required by Section 58-10-12 NMSA 1978, he shall serve upon each party of record and his attorney, if any, a

written copy of his decision denying the application by certified mail to the party's address of record. All parties shall be deemed to have been served on the tenth day following the mailing. The decision shall include:

- (1) findings of fact made by the supervisor;
- (2) conclusions of law reached by the supervisor; and
- (3) the decision of the supervisor based upon the findings of fact and conclusions of law.

B. Any party aggrieved by the decision of the supervisor may appeal the decision to the district court pursuant to the provisions of Section 12-8A-1 NMSA 1978."

Chapter 55 Section 54

Section 54. Section 58-10-84 NMSA 1978 (being Laws 1967, Chapter 61, Section 81) is amended to read:

"58-10-84. WHEN ORDER IS FINAL--APPEAL.--

A. If a hearing has been held in regard to an order made pursuant to Section 58-10-80 or 58-10-81 NMSA 1978 and the supervisor's order is continued either in its original form or a modified form, the order is final when the supervisor enters his decision in the record of the hearing after the hearing. If no hearing is requested on the order, the order is final after the expiration of thirty days from the date the order is entered by the supervisor.

B. The supervisor's decision after any hearing under the Savings and Loan Act shall be served on each party of record and shall contain the same elements as required in Section 58-10-13 NMSA 1978. Any party aggrieved by the decision of the supervisor after hearing may appeal to the district court pursuant to the provisions of Section 12-8A-1 NMSA 1978."

Chapter 55 Section 55

Section 55. Section 58-13A-21 NMSA 1978 (being Laws 1985, Chapter 163, Section 21) is amended to read:

"58-13A-21. JUDICIAL REVIEW OF ORDERS.--

A. Any person aggrieved by a final order of the director may obtain a review of the order in the district court pursuant to the provisions of Section 12-8A-1 NMSA 1978.

B. The filing of an appeal pursuant to Subsection A of this section does not, unless specifically ordered by the court, operate as a stay of the director's order, and the

director may enforce or ask the court to enforce the order pending the outcome of the review proceedings.

Chapter 55 Section 56

Section 56. Section 58-13B-56 NMSA 1978 (being Laws 1986, Chapter 7, Section 56) is amended to read:

"58-13B-56. JUDICIAL REVIEW OF ORDERS.--

A. Any person aggrieved by a final order of the director may obtain a review of the order in the district court pursuant to the provisions of Section 12-8A-1 NMSA 1978.

B. The filing of an appeal pursuant to Subsection A of this section does not, unless specifically ordered by the court, operate as a stay of the director's order, and the director may enforce or ask the court to enforce the order pending the outcome of the review proceedings."

Chapter 55 Section 57

Section 57. Section 58-15-25 NMSA 1978 (being Laws 1955, Chapter 128, Section 23, as amended) is amended to read:

"58-15-25. REVIEW.--Any licensee or any person aggrieved by any act or order of the director pursuant to the New Mexico Small Loan Act of 1995 may file and appeal in the district court pursuant to the provisions of Section 12-8A-1 NMSA 1978."

Chapter 55 Section 58

Section 58. Section 58-19-4 NMSA 1978 (being Laws 1959, Chapter 204, Section 4, as amended) is amended to read:

"58-19-4. SUSPENSION OR REVOCATION OF LICENSES--RENEWAL LICENSE DENIED--APPEALS.--

A. Renewal of a license originally granted under the Motor Vehicle Sales Finance Act may be denied or a license may be suspended or revoked by the director on any of the following grounds:

(1) material misstatement in application for license;

(2) willful failure to comply with any provision of that act relating to retail installment contracts;

(3) defrauding any retail buyer to the buyer's detriment while a licensee under that act;

(4) fraudulent misrepresentation, circumvention or concealment by the licensee through whatever subterfuge or device of any of the material particulars required to be stated or furnished to the retail buyer under that act; or

(5) during the course of examination, the licensee intentionally furnished the examiner or duly authorized representative with false or misleading information so as to prevent discovery of apparent violations of that act.

B. If a licensee is a firm, association or corporation, it shall be sufficient cause for the suspension or revocation of a license that any officer, director or trustee of a licensed firm, association or corporation, or any member of a licensed partnership, has acted or failed to act in the conduct of the business under its license as would be cause for suspending or revoking a license to the person as an individual. Each licensee shall be responsible for the acts of any of its employees while acting as its agent, if the licensee after actual knowledge of the acts retained the benefits, proceeds, profits or advantages accruing from the acts or otherwise ratified the acts.

C. No license shall be denied, suspended or revoked except after hearing. The director shall give the licensee at least ten days' written notice, in the form of an order to show cause, of the time and place of the hearing by certified mail addressed to the principal place of business. The notice shall contain the grounds of complaint against the licensee. Any order suspending or revoking a license shall recite the grounds upon which the order is based. The order shall be entered upon the records of the director and shall not be effective until after thirty days' written notice thereof, given after the entry, forwarded by certified mail to the licensee at his principal place of business. No revocation, suspension or surrender of any license shall impair or affect the obligation of any lawful retail installment contract acquired previously by the licensee.

D. A person aggrieved by the denial, suspension or revocation of a license may file an appeal to the district court pursuant to the provisions of Section 12-8A-1 NMSA 1978.

E. The director shall publish a notice that a license has been revoked or suspended within thirty days after the revocation or suspension in a newspaper of general circulation in the county in which the licensee was doing business."

Chapter 55 Section 59

Section 59. Section 58-21-16 NMSA 1978 (being Laws 1983, Chapter 86, Section 16) is amended to read:

"58-21-16. REVIEW OF ORDER OF DIRECTOR.--

A. Any person aggrieved by a final order of the director may appeal to the district court pursuant to the provisions of Section 12-8A-1 NMSA 1978.

B. The commencement of the proceedings under Subsection A of this section does not, unless specifically ordered by the court, operate as a stay of the director's order."

Chapter 55 Section 60

Section 60. Section 58-22-29 NMSA 1978 (being Laws 1983, Chapter 135, Section 29) is amended to read:

"58-22-29. REVIEW OF ORDER OF DIRECTOR.--

A. Any person aggrieved by a final order of the director may appeal to the district court pursuant to the provisions of Section 12-8A-1 NMSA 1978.

B. The commencement of proceedings pursuant to Subsection A of this section does not, unless specifically ordered by the court, operate as a stay of the director's order."

Chapter 55 Section 61

Section 61. Section 59A-4-20 NMSA 1978 (being Laws 1984, Chapter 127, Section 67, as amended) is amended to read:

"59A-4-20. APPEAL TO COURT.--

A. A party may appeal from an order of the superintendent made after an informal hearing or an administrative hearing. The appeal shall be taken to the district court pursuant to the provisions of Section 12-8A-1 NMSA 1978.

B. This section shall not apply as to matters arising pursuant to Chapter 59A, Article 17 NMSA 1978."

Chapter 55 Section 62

Section 62. Section 59A-11A-4 NMSA 1978 (being Laws 1989, Chapter 97, Section 4) is amended to read:

"59A-11A-4. INSURANCE CONSULTANT LICENSE--SUSPENSION OR REVOCATION--APPEAL--PENALTY.--

A. The superintendent may revoke the license of an insurance consultant or suspend it for a period not exceeding the expiration date of the license for any good cause shown as provided in the Insurance Code. The superintendent shall revoke or suspend a license only upon notice and hearing as provided in the Insurance Code.

B. Any person aggrieved by the action of the superintendent in revoking, suspending or refusing to grant, renew or reissue a license may appeal that action to the district court pursuant to the provisions of Section 12-8A-1 NMSA 1978.

C. The superintendent may at any time require such information as he deems necessary in respect to the business methods, policies and transactions of a licensee. Any person who fails or refuses to furnish the superintendent in the form he may require any such information within ten days after receiving a written request for it is guilty of a misdemeanor and upon conviction shall be fined not less than fifty dollars (\$50.00) or more than five hundred dollars (\$500)."

Chapter 55 Section 63

Section 63. Section 59A-17-35 NMSA 1978 (being Laws 1984, Chapter 127, Section 330, as amended) is amended to read:

"59A-17-35. APPEALS FROM INSURANCE BOARD.--Any order made by the insurance board pursuant to Section 59A-17-34 NMSA 1978 shall be subject to review by appeal to the district court pursuant to the provisions of Section 12-8A-1 NMSA 1978. Upon institution of the appeal and for good cause shown upon motion and hearing, the court may, in the following cases, stay operation of the insurance board's order:

A. where, pursuant to Chapter 59A, Article 17 NMSA 1978, a rate service organization has been refused a license or an insurer has been refused a certificate of authority or had its license or certificate of authority suspended, it may, with leave of court, be allowed to continue to engage in business, subject to the provisions of that article, pending final disposition of its application for review; or

B. where any order of the insurance board shall provide for, or sustain the superintendent's order for, a change in any rate or rating system that results in an increase or decrease in rates, any insurer affected may, with leave of court pending final disposition of the proceedings in the district court, continue to charge rates that existed prior to such order, on condition that the difference in the rates be deposited in a special escrow or trust account with a reputable financial institution by the insurer affected, to be held in trust by such insurer and to be retained by the insurer or paid to the holders of policies issued after the order of the court, as the court may determine."

Chapter 55 Section 64

Section 64. Section 59A-29-6 NMSA 1978 (being Laws 1985, Chapter 61, Section 6, as amended) is amended to read:

"59A-29-6. APPEALS--JUDICIAL REVIEW.--

A. A person aggrieved by an action or decision of the administrators of the FAIR plan or the underwriting association or of any insurer as a result of its participation may appeal to the superintendent within thirty days from the date of the action or the decision. The superintendent shall, after hearing held upon thirty days' written notice, issue an order

approving the action or decision or disapproving the action or decision with respect to the matter that is the subject of appeal.

B. All final orders and decisions of the superintendent shall be subject to judicial review in the district court pursuant to the provisions of Section 12-8A-1 NMSA 1978."

Chapter 55 Section 65

Section 65. Section 59A-30-9 NMSA 1978 (being Laws 1985, Chapter 28, Section 9) is amended to read:

"59A-30-9. REVIEW--APPEALS.--A person aggrieved by an order of the superintendent promulgating rates under the New Mexico Title Insurance Law shall have the rights to review and appeal provided for in Sections 59A-17-34 and 59A-17-35 NMSA 1978."

Chapter 55 Section 66

Section 66. Section 59A-42-12 NMSA 1978 (being Laws 1984, Chapter 127, Section 761) is amended to read:

"59A-42-12. APPEALS.--

A. A member insurer may appeal to the superintendent from an action of the board of directors of the association by filing with the superintendent a notice of appeal within thirty days after the action appealed from.

B. A final order of the superintendent on appeal is subject to judicial review by an action in the district court pursuant to the provisions of Section 12-8A-1 NMSA 1978."

Chapter 55 Section 67

Section 67. Section 59A-43-14 NMSA 1978 (being Laws 1984, Chapter 127, Section 780) is amended to read:

"59A-43-14. APPEALS.--

A. A claimant whose claim is denied in whole or in part by the association may, pursuant to Chapter 59A, Article 43 NMSA 1978, request the receivership court to review the decision of the association. A request for review shall be filed within thirty days of the denial. The receivership court shall have jurisdiction of all claims and the decision of the court shall be binding on both the claimant and the association.

B. A member insurer may appeal to the superintendent from an action of the board of directors of the association by filing with the superintendent a notice of appeal within thirty days after the action appealed from.

C. A final order of the superintendent on appeal is subject to judicial review by an action in the district court pursuant to the provisions of Section 12-8A-1 NMSA 1978."

Chapter 55 Section 68

Section 68. Section 59A-47-29 NMSA 1978 (being Laws 1984, Chapter 127, Section 879.28) is amended to read:

"59A-47-29. SETTLEMENT OF DISPUTES--APPEAL.--The parties to a dispute between a health care plan and a purveyor arising out of a health care expense payments contract may submit the dispute to the superintendent for his final decision and his final decision shall then be binding upon the parties to the contract. A party to the contract may seek review of the superintendent's decision by filing an appeal in the district court pursuant to the provisions of Section 12-8A-1 NMSA 1978."

Chapter 55 Section 69

Section 69. Section 59A-52-22 NMSA 1978 (being Laws 1984, Chapter 127, Section 968) is amended to read:

"59A-52-22. JUDICIAL REVIEW OF ORDER.--A person aggrieved by a decision of the state fire board may appeal to the district court pursuant to the provisions of Section 12-8A-1 NMSA 1978."

Chapter 55 Section 70

Section 70. Section 60-2B-4 NMSA 1978 (being Laws 1981, Chapter 259, Section 4, as amended) is amended to read:

"60-2B-4. LICENSING AUTHORITY--POWERS--DUTIES--HEARINGS--APPEALS.--

A. The regulation and licensing department is designated as the "licensing authority" of the Bingo and Raffle Act. The superintendent of regulation and licensing is the executive in charge of enforcement of the terms and provisions of that act and, as the state licensing authority, has the powers and duties as follows:

(1) to grant or refuse licenses under the Bingo and Raffle Act. In addition, the licensing authority has the power, on its own motion based on reasonable grounds or on complaint made and after investigation by the special investigations division of the department of public safety and public hearing at which the licensee shall be afforded an opportunity to be heard, to assess administrative fines to the licensee and to suspend or revoke any license issued by the licensing authority for any violation by the licensee or any officer, director, agent, member or employee of the licensee of the provisions of that act or any rule or regulation authorized under that act. Notice of suspension or revocation, as well as notice of the hearing, shall be given by certified mail to the licensee at the address contained in the license. Any license may be

temporarily suspended for a period not to exceed thirty days pending any prosecution, investigation or public hearing;

(2) to supervise the administration of the Bingo and Raffle Act and to adopt, amend and repeal rules and regulations governing the holding, operating and conducting of games of chance, the rental of premises and the purchase of equipment to the end that games of chance shall be held, operated and conducted only by licensees for the purposes and in conformity with the constitution of New Mexico and the provisions of that act;

(3) to hear and determine at public hearings all complaints against any licensee and to administer oaths and issue subpoenas to require the presence of persons and production of papers, books and records necessary to the determination of any hearing held;

(4) to keep records of all actions and transactions of the licensing authority;

(5) to prepare and transmit annually, in the form and manner prescribed by the licensing authority pursuant to the provisions of law, a report accounting to the governor and the legislature for the efficient discharge of all responsibilities assigned by law or directive to the licensing authority; and

(6) to issue publications of the licensing authority intended for circulation in quantity outside the executive branch in accordance with fiscal rules promulgated by the licensing authority.

B. Proceedings brought against a licensee for a violation of the Bingo and Raffle Act shall be brought by the licensing authority by serving, in the manner provided in the rules of civil procedure, a complaint upon the licensee and notifying the licensee of the place and date, not less than twenty days after the date of service, at which a hearing shall be held. The complaint shall set forth, in the manner of complaints in civil action, the violations of the Bingo and Raffle Act or the rules and regulations of the licensing authority that the licensing authority alleges the licensee has committed. The licensing authority or the department of public safety may stop the operation of a game of chance pending hearing, in which case the hearing shall be held within ten days after notice.

C. The licensing authority shall cause the notice of hearing to be served personally upon an officer of the licensee or the member in charge of the conduct of the game of chance or to be sent by registered or certified mail to the licensee at the address shown in the license.

D. When proceedings are brought against a licensee for a violation of the Bingo and Raffle Act, the licensing authority shall hear the matter and make written findings in support of its decision. The licensee shall be informed immediately of the decision and, in the event of a suspension or revocation, the effective date of the suspension or revocation.

E. For the first violation by a licensee of the Bingo and Raffle Act, the licensing authority may assess an administrative fine of not to exceed one thousand dollars (\$1,000). For a second or subsequent violation by the licensee of that act, the licensing authority may assess an administrative fine of not to exceed two thousand five hundred dollars (\$2,500). The amount of the administrative fine shall be determined by the severity and nature of the violation of the Bingo and Raffle Act and by the number of prior violations of that act.

F. When a license is ordered suspended or revoked, the licensee shall surrender the license to the licensing authority on or before the effective date of the suspension or revocation. No license is valid beyond the effective date of the suspension or revocation, whether surrendered or not.

G. Upon the finding of a violation of the Bingo and Raffle Act or the rules and regulations, or both, that would warrant the suspension or revocation of a license, the licensing authority, in addition to any other penalties that may be imposed, may declare the violator ineligible to conduct a game of chance and to apply for a license under that act for a period not exceeding twelve months. The declaration of ineligibility may be extended to include, in addition to the violator, any of its subsidiary organizations, its parent organization or an organization otherwise affiliated with the violator when in the opinion of the licensing authority the circumstances of the violation warrant that action.

H. Upon receipt by a licensee of a complaint signed by the licensing authority and notice of a hearing, the licensee shall answer, in the manner of civil actions, the complaint and inform the licensing authority whether oral argument is desired and whether the licensee desires to produce witnesses.

I. At the request of any party and for good cause shown, the licensing authority or the department of public safety shall issue subpoenas for the attendance of witnesses and the production of books, records and other documents, but in no case shall a subpoena be made returnable more than five days after service.

J. Whenever oral testimony of witnesses is taken at the hearing, the licensing authority or the department of public safety shall have a certified reporter present to prepare a record of the proceedings. The original transcript shall be filed with the licensing authority. Any party is entitled to secure a copy from the reporter at his own expense.

K. Hearings may be convened by the licensing authority from time to time at the request of any party, but only for good cause shown. Hearings shall be held and concluded with reasonable dispatch and without unnecessary delay. The licensing authority shall decide any matter within thirty days of the hearing.

L. Upon the determination of any matter heard, the licensing authority shall state its findings. All parties shall be notified by the licensing authority of the action of the licensing authority and shall be furnished a copy of the findings.

M. Applicants for a license or the licensee may be represented by counsel.

N. Any person appearing before the licensing authority in a representative capacity shall be required to show his authority to act in that capacity.

O. No person shall be excused from testifying or producing any book or document in any investigation or hearing when ordered to do so by the licensing authority upon the ground that testimony or documentary evidence required of him may tend to incriminate or subject him to penalty or forfeiture, but no person may be prosecuted, punished or subjected to any penalty or forfeiture on account of any matter or thing concerning which he, under oath, testified or produced documentary evidence, except that he shall not be exempt from prosecution or punishment for any perjury committed by him in his testimony.

P. If a person subpoenaed to attend in any investigation or hearing fails to obey the command of the subpoena without reasonable cause or if a person in attendance in any investigation or hearing refuses, without lawful cause, to be examined or to answer a legal or pertinent question or to exhibit any book, account, record or other document when ordered to do so by the representative of the licensing authority holding the hearing or by the department of public safety performing the investigation, the licensing authority or the department of public safety may apply to any judge of the district court, upon proof by affidavit of the facts, for an order returnable in not less than five nor more than ten days directing the person to show cause before the judge why he should not comply with the subpoena or order.

Q. Upon return of the order, the judge before whom the matter comes for hearing shall examine the person under oath. If the judge determines after giving the person an opportunity to be heard that he refused without lawful excuse to comply with the subpoena or the order of the licensing authority or the department of public safety holding the investigation, the judge may order the person to comply with the subpoena or order forthwith, and any failure to obey the order of the judge may be punished as a contempt of the district court.

R. Every witness is entitled to be paid for attendance or attendance and travel by the party on whose behalf he is subpoenaed, at the rates prescribed by law, before being required to testify.

S. The decision of the licensing authority in suspending or revoking any license under the Bingo and Raffle Act shall be subject to review. A licensee aggrieved by a decision of the licensing board may appeal to the district court pursuant to the provisions of Section 12-8A-1 NMSA 1978.

T. No proceeding to vacate, reverse or modify any final order rendered by the licensing authority shall operate to stay the execution or effect of any final order unless the district court, on application and three days' notice to the licensing authority, allows the stay. In the event a stay is ordered, the petitioner shall be required to execute his bond in a sum

the court may prescribe, with sufficient surety to be approved by the judge or clerk of the court, which bond shall be conditioned upon the faithful performance by the petitioner of his obligation as a licensee and upon the prompt payment of all damages arising from or caused by the delay in the taking effect or enforcement of the order complained of and for all costs that may be assessed or required to be paid in connection with the proceedings."

Chapter 55 Section 71

Section 71. Section 60-6B-2 NMSA 1978 (being Laws 1981, Chapter 39, Section 38, as amended) is amended to read:

"60-6B-2. APPLICATIONS--APPEALS.--

A. Before any new license authorized by the Liquor Control Act may be issued by the director, the applicant for the license shall:

(1) submit to the director a written application for the license under oath, in the form prescribed by and stating the information required by the director, together with a nonrefundable application fee of one hundred fifty dollars (\$150);

(2) submit to the director for his approval a description, including floor plans, in a form prescribed by the director, which shows the proposed licensed premises for which the license application is submitted. The area represented by the approved description shall become the licensed premises;

(3) if the applicant is a corporation, be required to submit as part of its application the following:

(a) a certified copy of its articles of incorporation or, if a foreign corporation, a certified copy of its certificate of authority;

(b) the names and addresses of all officers and directors and those stockholders owning ten percent or more of the voting stock of the corporation and the amounts of stock held by each stockholder; provided, however, a corporation may not be licensed if an officer, manager, director or holder of more than ten percent of the stock would not be eligible to hold a license pursuant to the Liquor Control Act, except that the provision of Subsection D of Section 60-6B-1 NMSA 1978 shall not apply if the stock is listed with a national securities exchange;

(c) the name of the resident agent of the corporation authorized to accept service of process for all purposes, including orders and notices of the director, which agent shall be approved by the director with respect to his character;

(d) a duly executed power of attorney authorizing the agent described in Subparagraph (c) of this paragraph to exercise full authority, control and responsibility for the conduct

of all business and transactions of the corporation within the state relative to the sale of alcoholic beverages under authority of the license requested; and

(e) additional information regarding the corporation as the director may require to assure full disclosure of the corporation's structure and financial responsibility;

(4) if the applicant is a limited partnership, submit as part of its application the following:

(a) a certified copy of its certificate of limited partnership;

(b) the names and addresses of all general partners and of all limited partners contributing ten percent or more of the total value of contributions made to the limited partnership or entitled to ten percent or more of the profits earned or other income paid by the limited partnership. No limited partnership shall receive a license if any partner designated in this subsection would not be eligible to hold a license issued pursuant to the Liquor Control Act; and

(c) additional information regarding the limited partnership as the director may require to assure full disclosure of the limited partnership's structure and financial responsibility; and

(5) obtain approval for the issuance from the governing body of the local option district in which the proposed licensed premises are to be located in accordance with the provisions of the Liquor Control Act.

B. Every applicant for a new license or for a transfer of ownership of a license, if an individual or general partnership, shall file with the application two complete sets of fingerprints of each individual, taken under the supervision of and certified to by an officer of the New Mexico state police, a county sheriff or a municipal chief of police. If the applicant is a corporation, it shall file two complete sets of fingerprints for each stockholder holding ten percent or more of the outstanding stock, principal officer, director and the agent responsible for the operation of the licensed business. The fingerprints shall be taken and certified to as provided for an individual or partnership. If the applicant is a limited partnership, it shall file two complete sets of fingerprints for each general partner and for each limited partner contributing ten percent or more of the total value of contributions made to the limited partnership or entitled to ten percent or more of the profits earned or other compensation by way of income paid by the limited partnership. The fingerprints shall be taken and certified to as provided for an individual or partnership.

C. Upon submission of a sworn affidavit from each person who is required to file fingerprints stating that the person has not been convicted of a felony in any jurisdiction and pending the results of background investigations, a temporary license for ninety days may be issued. The temporary license may be extended by the director for an additional ninety days if the director determines there is not sufficient time to complete the background investigation or obtain reviews of fingerprints from appropriate

agencies. A temporary license shall be surrendered immediately upon order of the director.

D. An applicant who files a false affidavit shall be denied a license. When the director determines a false affidavit has been filed, he shall refer the matter to the attorney general or district attorney for prosecution of perjury.

E. If an applicant is not a resident of New Mexico, fingerprints may be taken under supervision and certification of comparable officers in the state of residence of the applicant.

F. Before issuing a license, the department shall hold a public hearing within thirty days after receipt of the application pursuant to Subsection K of this section.

G. An application for transfer of ownership shall be filed with the department no later than thirty days after the date a person acquired an ownership interest in a license; shall contain documentation of the actual purchase price paid for the license, and the actual date of sale of the license; and shall be accompanied by a sworn affidavit from the owner of record of the license agreeing to the sale of the license to the applicant as well as attesting to the accuracy of the information required by this section to be filed with the department. No license shall be transferred unless it will be placed into operation in an actual location within one hundred twenty days of issuance of the license, unless for good cause shown the director grants an additional extension not to exceed one hundred twenty days.

H. Whenever it appears to the director that there will be more applications for new licenses than the available number of new licenses during any time period, a random selection method for the qualification, approval and issuance of new licenses shall be provided by the director. The random selection method shall allow each applicant an equal opportunity to obtain an available license, provided that all dispenser's and retailer's licenses issued in any calendar year shall be issued to residents of the state. For the purposes of random selection, the director shall also set a reasonable deadline by which applications for the available licenses shall be filed. No person shall file more than one application for each available license and no more than three applications per calendar year.

I. After the deadline set in accordance with Subsection H of this section, no more than ten applications per available license shall be selected at random for priority of qualification and approval. Within thirty days after the random selection for the ten priority positions for each license, a hearing pursuant to Subsection K of this section shall be held to determine the qualifications of the applicant having the highest priority for each available license. If necessary, a hearing shall be held on each selected application by priority until a qualified applicant for each available license is approved. Further random selections for priority positions shall also be held pursuant to this section as necessary.

J. All applications submitted for a license shall expire upon the director's final approval of a qualified applicant for that available license.

K. The director shall notify the applicant by certified mail of the date, time and place of the hearing. The hearing shall be held in Santa Fe. The director may designate a hearing officer to take evidence at the hearing. The director or the hearing officer shall have the power to administer oaths.

L. In determining whether a license shall be issued, the director shall take into consideration all requirements of the Liquor Control Act. In the issuance of a license, the director shall specifically consider the nature and number of prior violations of the Liquor Control Act by the applicant or of any citations issued within the prior five years against a license held by the applicant or in which the applicant had an ownership interest required to be disclosed under the Liquor Control Act. The director shall disapprove the issuance or give preliminary approval of the issuance of the license based upon a review of all documentation submitted and any investigation deemed necessary by the director.

M. Before any new license is issued for a location, the director shall cause a notice of the application therefor to be posted conspicuously, on a sign not smaller than thirty inches by forty inches, on the outside of the front wall or front entrance of the immediate premises for which the license is sought or, if no building or improvements exist on the premises, the notice shall be posted at the front entrance of the immediate premises for which the license is sought, on a billboard not smaller than five feet by five feet. The contents of the notice shall be in the form prescribed by the department, and posting shall be over a continuous period of twenty days prior to preliminary approval of the license.

N. No license shall be issued until the posting requirements of Subsection M of this section have been met.

O. All costs of publication and posting shall be paid by the applicant.

P. It is unlawful for any person to remove or deface any notice posted in accordance with this section. Any person convicted of a violation of this subsection shall be punished by a fine of not more than three hundred dollars (\$300) or by imprisonment in the county jail for not more than one hundred twenty days or by both.

Q. A person aggrieved by a decision made by the director as to the approval or disapproval of the issuance of a license may appeal to the district court pursuant to the provisions of Section 12-8A-1 NMSA 1978. If the disapproval is based upon local option district disapproval pursuant to Subsection H of Section 60-6B-4 NMSA 1978, the local option district shall be a necessary party to any appeal. The decision of the director shall continue in force, pending a reversal or modification by the district court, unless otherwise ordered by the court."

Chapter 55 Section 72

Section 72. Section 60-6C-6 NMSA 1978 (being Laws 1981, Chapter 39, Section 102, as amended) is amended to read:

"60-6C-6. NO INJUNCTION OR MANDAMUS PERMITTED--APPEAL.--

A. No injunction or writ of mandamus or other legal or equitable process shall issue in any suit, action or proceeding to prevent or enjoin any finding of guilt or order of suspension or revocation or fine made by a liquor control hearing officer under the provisions of Section 60-6C-4 NMSA 1978. A licensee aggrieved or adversely affected by an order of revocation, suspension or fine shall have the right to appeal to the district court pursuant to the provisions of Section 12-8A-1 NMSA 1978.

B. No appeal shall have the effect of suspending the operation of the order of suspension, revocation or fine, but the liquor control hearing officer may, for good cause shown and upon such terms and conditions as he may find are just, in his discretion suspend the operation of the order of suspension, revocation or fine pending the appeal. The court shall tax costs against the losing party."

Chapter 55 Section 73

Section 73. Section 61-1-17 NMSA 1978 (being Laws 1957, Chapter 247, Section 17, as amended) is amended to read:

"61-1-17. PETITION FOR REVIEW.--A person entitled to a hearing provided for in the Uniform Licensing Act, who is aggrieved by an adverse decision of a board issued after hearing, may obtain a review of the decision in the district court pursuant to the provisions of Section 12-8A-1 NMSA 1978."

Chapter 55 Section 74

Section 74. Section 61-1-19 NMSA 1978 (being Laws 1957, Chapter 247, Section 19, as amended) is amended to read:

"61-1-19. STAY.--At any time before or during the review proceeding pursuant to Section 61-1-17 NMSA 1978, the aggrieved person may apply to the board or file a motion in accordance with the Rules of Civil Procedure for the District Courts in the reviewing court for an order staying the operation of the board decision pending the outcome of the review. The board or court may grant or deny the stay in its discretion. No order granting or denying a stay shall be reviewable."

Chapter 55 Section 75

Section 75. Section 61-14-13 NMSA 1978 (being Laws 1967, Chapter 62, Section 9, as amended) is amended to read:

"61-14-13. DENIAL, SUSPENSION OR REVOCATION OF LICENSE.--

A. The board may place a licensee on probation; impose on a licensee an administrative penalty in an amount not to exceed two thousand five hundred dollars (\$2,500); reprimand a licensee; deny, suspend for a definite period or revoke a license, certificate or permit of a licensee; or take any other reasonable action as established by the board if the board determines after receiving a complaint and providing notice and a hearing pursuant to the Uniform Licensing Act that a licensee:

(1) has committed an act of fraud, misrepresentation or deception in obtaining a license or permit;

(2) has been adjudicated insane or manifestly incapacitated;

(3) has used advertising or solicitation that is false, misleading or is otherwise deemed unprofessional under rules promulgated by the board;

(4) has been convicted of a felony or other crime involving moral turpitude;

(5) is guilty of dishonesty, incompetence, gross negligence or other malpractice in the practice of veterinary medicine;

(6) has a professional association with or employs any person practicing veterinary medicine unlawfully;

(7) is guilty of fraud or dishonesty in the application or reporting of any test for disease in animals;

(8) has failed to maintain his professional premises and equipment in a clean and sanitary condition in compliance with facility permit rules promulgated by the board;

(9) is guilty of habitual or excessive use of intoxicants or drugs;

(10) is guilty of cruelty to animals;

(11) has had his license to practice veterinary medicine revoked by another state, territory or district of the United States on grounds other than nonpayment of license or permit fees;

(12) is guilty of unprofessional conduct by violation of a rule promulgated by the board pursuant to provisions of the Veterinary Practice Act;

(13) has failed to perform as a veterinary technician under the direct supervision of a licensed veterinarian;

(14) has failed as a licensed veterinarian to reasonably exercise direct supervision with respect to a veterinary technician;

(15) is guilty of aiding or abetting the practice of veterinary medicine by a person not licensed, certified or permitted by the board;

(16) has used any controlled drug or substance on any animal for the purpose of illegally influencing the outcome of a competitive event;

(17) has willfully or negligently administered a drug or substance that will adulterate meat, milk, poultry, fish or eggs;

(18) has failed to maintain required logs and records;

(19) has used a prescription or has sold any prescription drug or prescribed extra-label use of any over-the-counter drug in the absence of a valid veterinarian-client-patient relationship;

(20) has failed to report, as required by law, or has made a false report of any contagious or infectious disease; or

(21) has engaged in an unfair or deceptive practice.

B. Any person whose license, certificate or permit is suspended or revoked by the board pursuant to provisions of this section may, at the discretion of the board, be relicensed or reinstated by the board at any time without examination upon written application to the board showing cause to justify relicensing or reinstatement."

Chapter 55 Section 76

Section 76. Section 61-18A-32 NMSA 1978 (being Laws 1987, Chapter 252, Section 32) is amended to read:

"61-18A-32. JUDICIAL REVIEW.--A person aggrieved by the decision of the director in the enforcement of the Collection Agency Regulatory Act may obtain judicial review in the district court pursuant to the provisions of Section 12-8A-1 NMSA 1978."

Chapter 55 Section 77

Section 77. Section 66-4-3 NMSA 1978 (being Laws 1978, Chapter 35, Section 216) is amended to read:

"66-4-3. REFUSAL TO ISSUE LICENSE--CANCELLATION OR SUSPENSION OF LICENSE OR USE OF TEMPORARY PERMITS--HEARING--APPEAL.--

A. The division may refuse to issue a license for just cause and may cancel or suspend a license or use of temporary permits for violation of the Motor Vehicle Code. The division shall take the action authorized in this section only after hearing. Notice of hearing shall be given the party concerned as provided in Section 66-2-11 NMSA 1978. The notice shall state the proposed action of the division and the reason for the proposed action.

B. The division shall prepare rules for the conduct of the hearing. At the hearing, the technical rules of evidence do not apply, and a party has the right to be represented by counsel, to call witnesses in his own behalf and to cross-examine the witnesses of other parties.

C. The director or his designated agent shall conduct the hearing for the division and shall cause a record of hearing to be made.

D. Within ten days after completion of the hearing, the director shall cause to be served upon all parties, in the manner provided in Section 66-2-11 NMSA 1978, his findings and decision. The decision shall be:

(1) granting a license or refusing to grant a license;

(2) continuing a license, canceling a license or suspending a license for a time stated; or

(3) continuing use of dealer plates and temporary permits, canceling dealer plates and temporary permits or suspending use of temporary permits for a time stated.

E. A party aggrieved by the director's decision may file an appeal in the district court pursuant to the provisions of Section 12-8A-1 NMSA 1978."

Chapter 55 Section 78

Section 78. Section 66-5-36 NMSA 1978 (being Laws 1978, Chapter 35, Section 258) is amended to read:

"66-5-36. RIGHT OF APPEAL TO COURT.--A person denied a license or whose license has been canceled, suspended or revoked by the division, except when the cancellation or revocation is mandatory under the provisions of Chapter 66, Article 5 NMSA 1978 may file an appeal in the district court pursuant to the provisions of Section 12-8A-1 NMSA 1978."

Chapter 55 Section 79

Section 79. Section 66-5-204 NMSA 1978 (being Laws 1983, Chapter 318, Section 5) is amended to read:

"66-5-204. ADMINISTRATIVE AND COURT REVIEW.--An owner of a motor vehicle registered in New Mexico who is aggrieved by the decision of the director made under the provisions of the Mandatory Financial Responsibility Act may appeal to the hearing officer of the division for a hearing to be held within twenty days of the receipt by the division of the appeal. A person who continues aggrieved after the decision made by the hearing officer may appeal that decision in the district court pursuant to the provisions of Section 12-8A-1 NMSA 1978."

Chapter 55 Section 80

Section 80. Section 67-8-19 NMSA 1978 (being Laws 1959, Chapter 310, Section 5, as amended) is amended to read:

"67-8-19. PROCEDURE--APPEAL.--

A. All hearings held pursuant to this section shall be public and upon not less than fifteen days' written notice of the time, place and purpose of the hearing to each utility whose services or facilities may be affected and to each municipality in which any part of the proposed highway improvement is to be located. Hearings may be held before the commission, any member or any representative designated by it and at the place as is designated in the notice.

B. A record of the testimony shall be taken at the hearing and a transcript furnished to anyone upon request and payment of the cost.

C. The findings and orders shall be in writing and a copy served upon each party.

D. The commission may promulgate rules to govern its proceedings pursuant to this section.

E. A party aggrieved by an order may appeal to the district court pursuant to the provisions of Section 12-8A-1 NMSA 1978."

Chapter 55 Section 81

Section 81. Section 67-10-2 NMSA 1978 (being Laws 1891, Chapter 44, Section 2, as amended) is amended to read:

"67-10-2. RATES AND TOLLS--APPEALS.--A corporation may, after the completion of a wagon road or any part thereof and after the completion of a bridge or ferry for and by the traveling public, apply by petition in writing to the board of county commissioners of the county in or through which the road, bridge or ferry is or has been constructed, for rates, prices and tolls to be charged and collected from the traveling public using and

traveling on the toll road, bridge or ferry, which petition shall state facts in reference to a road, bridge or ferry as will be sufficient to inform the board of county commissioners as to enable the board of county commissioners to fix the rates, tolls and charges, equal and just between the corporation owning the road, bridge or ferry and the traveling public using the same, and the rates, tolls and charges so fixed shall remain the same for two years. At the expiration of each two years, the corporation shall petition as aforesaid for the fixing of the rates, tolls and charges by the board of county commissioners. In case the corporation is dissatisfied with the rates, tolls and charges fixed by the board, it may appeal to the district court pursuant to the provisions of Section 12-8A-1 NMSA 1978."

Chapter 55 Section 82

Section 82. Section 67-13-12 NMSA 1978 (being Laws 1973, Chapter 17, Section 12) is amended to read:

"67-13-12. ZONING--PETITION FOR REVIEW--RESTRAINING ORDER.--

A. A person aggrieved by a decision of the board may appeal to the district court pursuant to the provisions of Section 12-8A-1 NMSA 1978.

B. The appeal shall not stay the decision appealed from, but the court may, on application, grant a restraining order."

Chapter 55 Section 83

Section 83. Section 69-6-2 NMSA 1978 (being Laws 1933, Chapter 153, Section 308) is amended to read:

"69-6-2. RIGHT OF APPEAL.--Every owner, operator or employee of a mine has a right of appeal to the district court pursuant to the provisions of Section 12-8A-1 NMSA 1978."

Chapter 55 Section 84

Section 84. Section 69-36-16 NMSA 1978 (being Laws 1993, Chapter 315, Section 16) is amended to read:

"69-36-16. JUDICIAL REVIEW.--

A. A person who is or may be affected by a rule of the commission may appeal the action of the commission by filing a notice of appeal with the court of appeals within thirty days from the filing date of the rule with the state records center. All appeals of rules shall be taken on the record made at the public hearing on the rule.

B. A party, intervenor or any other person upon a showing of good cause for not appearing at the public hearing on a rule may appeal a decision of the commission adopting, amending or repealing the rule by filing a written notice of appeal with the court of appeals within forty-five days after entry of the commission's decision. Copies of the notice of appeal shall be served at the time of filing, either personally or by certified mail, upon all parties to the proceeding before the commission.

C. A person who is or may be affected by a final action of the commission other than a rule may appeal the action of the commission by filing a notice of appeal with the district court pursuant to the provisions of Section 12-8A-1 NMSA 1978."

Chapter 55 Section 85

Section 85. Section 70-2-25 NMSA 1978 (being Laws 1935, Chapter 72, Section 17, as amended) is amended to read:

"70-2-25. REHEARINGS--APPEALS.--

A. Within twenty days after entry of an order or decision of the commission, a party of record adversely affected may file with the commission an application for rehearing in respect of any matter determined by the order or decision, setting forth the respect in which the order or decision is believed to be erroneous. The commission shall grant or refuse the application in whole or in part within ten days after the application is filed, and failure to act on the application within that period shall be deemed a refusal and final disposition of that application. In the event the rehearing is granted, the commission may enter a new order or decision after rehearing as may be required under the circumstances.

B. A party of record to the rehearing proceeding dissatisfied with the disposition of the application for rehearing may appeal to the district court pursuant to the provisions of Section 12-8A-1 NMSA 1978."

Chapter 55 Section 86

Section 86. Section 70-5-16 NMSA 1978 (being Laws 1973, Chapter 362, Section 16, as amended) is amended to read:

"70-5-16. APPEAL.--A licensee whose license is canceled or suspended by order of the commission may appeal the decision by filing an appeal with the district court pursuant to the provisions of Section 12-8A-1 NMSA 1978."

Chapter 55 Section 87

Section 87. Section 70-5-17 NMSA 1978 (being Laws 1947, Chapter 214, Section 17, as amended) is amended to read:

"70-5-17. NO FORMAL NOTICE REQUIRED OF HEARING ON APPLICATION FOR LICENSE--APPEAL.--The same procedure, rights and penalties as specified in the LPG and CNG Act in the cases of revocation or suspension of licenses are available, where applicable, in cases where the bureau refused to grant a license, except that no formal notice of hearing on an application for license need be given an applicant, other than that he is given a reasonable opportunity to appear in support of his application before the bureau renders its order refusing him a license. Appeal shall be to the district court pursuant to the provisions of Section 12-8A-1 NMSA 1978."

Chapter 55 Section 88

Section 88. Section 71-5-18 NMSA 1978 (being Laws 1975, Chapter 272, Section 18, as amended) is amended to read:

"71-5-18. REHEARINGS--APPEALS.--

A. Within twenty days after entry of an order or decision of the division, a party of record adversely affected may file with the commission an application for rehearing in respect of any matter determined by the order or decision, setting forth the respect in which the order or decision is believed to be erroneous. The commission shall grant or refuse the application in whole or in part within ten days after it is filed, and failure to act within the ten-day period shall be deemed a refusal of the application and a final disposition of the application. In the event the rehearing is granted, the commission may enter a new order or decision after rehearing as may be required under the circumstances.

B. A party of record to the rehearing proceeding dissatisfied with the disposition of the application for rehearing may appeal to the district court pursuant to the provisions of Section 12-8A-1 NMSA 1978.

C. The pendency of proceedings to review shall not of itself stay or suspend operation of the order or decision being reviewed, but during the pendency of the proceedings, the district court in its discretion may, upon its own motion or upon proper application of any party to the proceedings, stay or suspend in whole or in part operation of the order or decision pending review on terms as the court deems just and proper and in accordance with the practice of courts exercising equity jurisdiction; provided that the court, as a condition to any staying or suspension of operation of any order or decision, may require that one or more parties secure, in a form and amount as the court may deem just and proper, one or more other parties against loss or damage due to the staying or suspension of the commission's or division's order or decision in the event that the action of the commission or division is affirmed."

Chapter 55 Section 89

Section 89. Section 73-11-29 NMSA 1978 (being Laws 1919, Chapter 20, Section 21, as amended) is amended to read:

"73-11-29. APPLICATION FOR WATER--BUDGET MEETING OF DIRECTORS--
NOTICE OF MEETING--TAX ASSESSMENTS AND WATER CHARGES--
EXEMPTIONS FROM TAX--APPEAL--SUCCESSION TO RIGHTS OF WATER
USERS' ASSOCIATION.--

A. Every person desiring to receive water during the course of the year, at the time he applies for water, shall furnish the secretary of the board of directors of the irrigation district a statement in writing of the number of acres intended by him to be irrigated and a statement, as near as may be, of the crops planted or intended to be planted.

B. The board of directors, on a date to be fixed by a standing order of the board, which shall not be later than July 1 of each year, shall estimate and determine the amount of funds required to meet the obligations and needs of the district for the ensuing year, together with the additional amount as may be necessary to meet any deficiency in the payment of expenses or obligations previously incurred by the district and remaining unpaid, for any of the following purposes that may be required by the activities of the district:

(1) the payment of the interest upon bonds of the district and any installment on the principal of the bonds;

(2) any payment to become due under any contract with the United States, to secure which bonds have not been deposited with the United States, whether for the cost of irrigation or drainage system or for the operation and maintenance, or both; or if the lands of the district have been divided by the secretary of the interior into units, not necessarily contiguous, for repayment purposes the board shall prepare separate estimates for each unit;

(3) the portion of the expenses of operation and maintenance of the irrigation and drainage systems to be collected by tax assessment and levy, including funds required to meet obligations as provided in Section 73-11-49 NMSA 1978. This portion shall not be less than one-half of that portion required for the operation and maintenance costs for the ensuing year and shall be determined by the board of directors of the district from year to year. The portion of the operation and maintenance expenses collected by tax assessment and levy shall be collected from all lands of the district, whether irrigated or not, except those lands as may be exempted from taxation by the terms of Chapter 73, Articles 10 and 11 NMSA 1978, and the same, when collected, shall be applied to the cost of operating and maintaining the irrigation and drainage systems. The remainder of the estimated amount shall be paid by the parties actually using the systems and water for irrigation or other purposes in accordance with the terms of their contract for water; or

(4) current and miscellaneous expense fund requirements, other than as specified in this section, and necessary to defray the expenses of maintaining the organization of the district and carrying out the purposes of Chapter 73, Articles 10 and 11 NMSA 1978, shall be determined annually at a per acre rate by the board of directors. The amounts

to be collected pursuant to this paragraph may, at the option of the board of directors of the district, be collected as tolls and charges in the manner provided in Section 73-11-28 NMSA 1978.

C. Lands that, in the opinion of the board of directors, are unfit for cultivation by irrigation on account of seepage, alkali or physical condition and location of the land, or other conditions, or lands to which the existing distributing system or its extensions cannot furnish water at such points of delivery as the board may consider reasonable, shall not be taxed for Paragraph (3) of Subsection B of this section, provided that tax shall not be assessed for Paragraph (3) of Subsection B of this section against land involved in the boundary suit now pending in the United States supreme court between the state of Texas and the state of New Mexico until the final determination of the suit, unless the land is in cultivation and using water for irrigation; and lands shall not be taxed for Paragraphs (1) and (2) of Subsection B of this section for the periods and to the extent that, on account of seepage or other conditions, in the opinion of the directors or the secretary of the interior, as may be provided by contract with the United States, or with district bondholders, such lands are not fit for cultivation by irrigation on account of those conditions; but nothing contained in this section shall be construed to relieve the district from making provision to raise the amount required to make full payment to private creditors or to the United States for the full cost of construction or of operation and maintenance, irrespective of the exemption of any lands from taxation, unless expressly provided by the assent of the bondholders or other private creditors or by agreement with the United States, as the case may be. In determining the amount required for the respective items aforesaid, the board shall take into consideration the gross amount of exemption and credits allowable pursuant to entries made by the board upon the assessor's certified list, as provided in Section nmsa1978:|73-11-31|73-11-31 NMSA 1978. Proper entry shall be made by the district officers of all exemptions made and of credits allowed. The amount required to meet the obligations of the district, except that portion collected from tolls and charges, shall be raised by tax assessments, levy and collection, as provided in Chapter 73, Articles 10 and 11 NMSA 1978, to be extended pro rata per acre over all lands in the district or, in appropriate cases, under Paragraph (2) of Subsection B of this section, against all land in each respective unit of the district. When the board meets for the purposes prescribed, it shall consider, determine and designate the lands within the district that shall be subjected to those assessments and levies.

D. Notice of the time, place and purpose of the meeting shall be given by publication in English and Spanish in a newspaper of general circulation published within the county where the headquarters of the district are located and shall inform all the persons interested that, at the time and place specified, an opportunity will be afforded to appear before the board of directors and show cause why any particular tract of land, or any portion of it, should be exempted from taxation under the provisions of Chapter 73, Articles 10 and 11 NMSA 1978. The notice shall be published once a week for four consecutive weeks, and the last publication shall be not less than three days prior to the date fixed for the meeting. Proof of publication shall be furnished by the publisher and shall be filed in the archives of the secretary of the district.

E. At the meeting, the board of directors, subject to reasonable rules as it may prescribe, shall afford to all persons desiring to do so an opportunity to make a showing as they may deem proper as to why any given tract of land or portion of it shall be exempted from taxation. In each case, the board of directors may make an investigation as it may deem proper, after which the board shall determine the question submitted, as right and justice may require, and shall cause its decision to be duly entered upon its minutes and a copy of it to be sent by registered mail to all parties who have made claim of exemption of land from taxation.

F. A person aggrieved by the decision, may appeal to the district court pursuant to the provisions of Section 12-8A-1 NMSA 1978.

G. The filing of the appeal in the district court shall not stay the proceedings relating to the collection of the tax. In the event that the appellant has paid the tax before the rendition of final judgment in the suit and judgment is rendered in the suit in favor of the appellant, the appellant shall have refunded to him a sum of money as shall be determined by the judgment of the court, together with legal interest on it and costs of court. If the appellant fails to recover in the suit, the appellant shall pay all costs of court. In case the assets and liabilities of any water users' association are taken over as provided in Section 73-10-1 NMSA 1978, the board of directors shall allow to the owner of lands, on account of which payment has been made to the association, all proper and equitable credits to which the owner may be entitled, according to the books and records of the association, which shall be prima facie evidence of the credits of its various members. The credits shall be taken into consideration by the board of directors in determining the amount of money required to meet obligations, maintenance, operating and current expenses of the district for the ensuing year, and the board of directors shall certify to the county commissioners the amount of the credits, and levy as provided for in Chapter 73, Articles 10 and 11 NMSA 1978 shall be made accordingly.

H. The term "asset" as used in this section includes any and all grants, rights, powers, privileges and appropriations conferred by law and upon any water users' association and upon taking over the assets of any water users' association as provided in Chapter 73, Articles 10 and 11 NMSA 1978 by any irrigation district. The district shall succeed to all such grants, rights, powers, privileges and appropriations, and the officers of the irrigation district are authorized and empowered to perform such duties and execute such instruments in regard thereto as the law required of the officers of the water users' association."

Chapter 55 Section 90

Section 90. Section 73-12-4 NMSA 1978 (being Laws 1929, Chapter 76, Section 4) is amended to read:

"73-12-4. PETITION HEARING--OBJECTIONS--BOUNDARIES--ELECTION--APPEALS.--

A. At the hearing before the board of county commissioners provided for in Section 73-12-3 NMSA 1978, the board shall proceed to determine whether the petition has been signed by the requisite number of petitioners; whether the lands in the proposed district are arid or semiarid lands; whether the lands are susceptible to irrigation and have a fertile soil that will warrant farming them by irrigation; whether there is a supply of water that can be made efficiently available for irrigation by the use of pumps; whether the proposed plan is practicable; and whether, on the whole, the development said to result from the introduction of power is of such interest and benefit to the whole district as to impress it with the character of public use. For the purpose of determining the public use of the operations of the proposed district and all other of the foregoing questions, the board of county commissioners is established as an inferior court and its decisions shall be binding upon all persons interested unless reversed on appeal as provided in this section, and if modified or affirmed, it shall be so binding.

B. If the board of county commissioners hearing the matter determines that the petition has been signed by the requisite number of petitioners as required by Chapter 73, Article 12 NMSA 1978 and determines that the proposed development is of such interest and benefit to the whole district as to impress with the character of public use, it shall then proceed to hear any objections, exceptions and protests that have been made in writing to the organization of the district or to the inclusion of any lands within the district or to the exclusion of lands from the district and other objections, exceptions and protests as may be presented in writing to the organization of the district. All persons whose lands have not been included in the proposed district, as defined in the petition, have the right to appear before the board at the time and place as parties interested in or affected by the organization of the district and have the right to petition that their lands be included within the district, and, if it appears to the board that the inclusion of such lands may be made without materially increasing the cost of service, the commissioners may by order include such lands within the district.

C. If the board makes findings approving of the organization of the district, it shall then proceed to define the boundaries of the proposed district from the petition and from applications in writing for the exclusion of lands and the inclusion of lands from and in the district, as may be made in accordance with the intent of Chapter 73, Article 12 NMSA 1978. The board may adjourn the meeting from time to time not exceeding three weeks in all and shall, by final order duly entered upon its records, allow the prayer of the petition and define and establish the boundaries of the proposed district. Provided that the board shall not modify the proposed boundaries described in the petition so as to change the objects of the petition or so as to exempt from the operation of Chapter 73, Article 12 NMSA 1978 any land within the boundaries proposed by the petition susceptible to irrigation by the same system or power works applicable to other lands in the proposed district. No land that will not, in the judgment of the board, be benefited by the proposed system shall be included in the district if its owner makes written application at the hearing to withdraw it.

D. Any persons aggrieved by the decision of the board of county commissioners, upon the hearing provided for in this section, are given the right of appeal to the district court pursuant to the provisions of Section 12-8A-1 NMSA 1978.

E. When the petition has been allowed and the boundaries established and the name of the proposed district designated, which shall be _____ electrical district, the board of county commissioners shall, by further order duly entered upon its records, call an election of the qualified electors of the district to be held for the purpose of determining whether the district shall be organized under the provisions of Chapter 73, Article 12 NMSA 1978 and by such order shall submit the names of one or more persons from each of three divisions of the district, as provided in this section, to be voted for as directors therein, and for the purpose of the election shall divide the district into three divisions, as nearly equal in size as may be practicable, to be numbered, respectively, 1, 2 and 3 and shall provide that a qualified elector of each of the three divisions shall be elected as a member of the board of directors of the district by the qualified electors of the whole district. Each of the divisions shall constitute an election precinct and the commissioners shall appoint three judges for each of the precincts, one of whom shall act as clerk of the election."

Chapter 55 Section 91

Section 91. Section 74-3-9 NMSA 1978 (being Laws 1971, Chapter 284, Section 7, as amended) is amended to read:

"74-3-9. LICENSING OF RADIOACTIVE MATERIAL--APPEAL.--

A. It is unlawful for any person to possess, use, store, dispose of, manufacture, process, repair or alter any radioactive material unless he holds:

(1) a license issued by the nuclear regulatory commission and notification by the licensee to the agency of license identification;

(2) a license issued by an agreement state and notification by the licensee to the agency of license identification; or

(3) a license issued by the agency.

B. The agency shall issue licenses and shall approve requests for reciprocity in accordance with procedures prescribed by rule of the board. License applications shall be made on forms provided by the agency. The agency shall not issue a license unless the applicant has demonstrated the capability of complying with all applicable rules of the board.

C. The board may, by rule, exempt from the requirements of licensure specific quantities of any radioactive material determined by the board not to constitute a health or environmental hazard.

D. The holding of a license issued by the agency, the nuclear regulatory commission or an agreement state does not relieve the licensee from the responsibility of complying with all applicable rules of the board.

E. A person who is or may be affected by licensing action of the agency may appeal to the district court pursuant to the provisions of Section 12-8A-1 NMSA 1978."

Chapter 55 Section 92

Section 92. Section 74-4B-14 NMSA 1978 (being Laws 1992, Chapter 5, Section 3) is amended to read:

"74-4B-14. CLEANUP OF ORPHAN HAZARDOUS MATERIALS--

DEPARTMENT RECOURSE--APPEAL.--The department may assess charges against a party identified as responsible for orphan hazardous materials, for costs the department incurs in cleanup of the orphan hazardous materials and for damage to state property. Amounts received in payment of assessments for cleanup of the orphan hazardous materials shall be deposited in the orphan material recovery fund. Amounts received in payment of assessments for damage to state property shall be used to repair the damage. A person who is assessed charges pursuant to this section may appeal the assessment to the district court pursuant to the provisions of Section 12-8A-1 NMSA 1978."

Chapter 55 Section 93

Section 93. Section 75-3-11 NMSA 1978 (being Laws 1965, Chapter 235, Section 11) is amended to read:

"75-3-11. JUDICIAL REVIEW.--Rulings by the commission on the issuance, refusal or revocation of a license are subject to review in the district court pursuant to the provisions of Section 12-8A-1 NMSA 1978."

Chapter 55 Section 94

Section 94. REPEAL.--Sections 4-45-6, 12-8-17 through 12-8-22, 61-1-18, 61-1-20, 61-1-22, 61-1-23, 61-1-26, 61-18A-24 and 61-27A-15 NMSA 1978 (being Laws 1876, Chapter 1, Section 23, Laws 1969, Chapter 252, Sections 17 through 22, Laws 1957, Chapter 247, Sections 18, 20, 22, 23 and 26, Laws 1987, Chapter 252, Section 24 and Laws 1993, Chapter 212, Section 15, as amended) are repealed.

Chapter 55 Section 95

Section 95. EFFECTIVE DATE.--The effective date of the provisions of this act is September 1, 1998.

HOUSE BILL 84, AS AMENDED

CHAPTER 56

MAKING APPROPRIATIONS FOR DEVELOPMENT TRAINING PROGRAMS;
DECLARING AN EMERGENCY.

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

Chapter 56 Section 1

Section 1. APPROPRIATIONS.--Six million dollars (\$6,000,000) is appropriated from the general fund to the development training fund for expenditure in fiscal year 1998 and subsequent fiscal years for a development training program providing classroom and in-plant training to furnish qualified manpower resources for certain new or expanding industries and businesses in the state. Any unexpended or unencumbered balance remaining at the end of any fiscal year shall not revert to the general fund.

Chapter 56 Section 2

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

HOUSE BILL 113, AS AMENDED

WITH EMERGENCY CLAUSE

SIGNED March 9, 1998

CHAPTER 57

RELATING TO CORRECTIONS; CREATING AN INMATE FORESTRY WORK CAMP
PROGRAM FOR MINIMUM SECURITY INMATES; PROVIDING POWERS AND
DUTIES; CREATING A FUND; MAKING AN APPROPRIATION.

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

Chapter 57 Section 1

Section 1. SHORT TITLE.--This act may be cited as the "Inmate Forestry Work Camp Act".

Chapter 57 Section 2

Section 2. DEFINITIONS.--As used in the Inmate Forestry Work Camp Act:

- A. "department" means the corrections department;
- B. "forestry division" means the forestry division of the energy, minerals and natural resources department;
- C. "program" means the inmate forestry work camp program; and
- D. "work camp" means a minimum security facility operated by the department that houses inmates training or working in the program.

Chapter 57 Section 3

Section 3. INMATE FORESTRY WORK CAMP PROGRAM--PURPOSE--LIMITATION.-

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A. The department and the forestry division shall jointly establish the "inmate forestry work camp program" to provide inmate labor for natural resource work planned by the forestry division. The purpose of the program is to use minimum security male and female inmates to work on natural resource projects on public lands, fire suppression and emergency response activities as directed in an emergency declaration issued by the governor.

B. The program is not an inmate-release program pursuant to the provisions of Sections 33-2-43 through 33-2-47 NMSA 1978.

Chapter 57 Section 4

Section 4. INMATE ELIGIBILITY.--The department shall screen and classify applicants for the program. To be eligible, an applicant must meet all of the standards provided in Section 33-2-44 NMSA 1978 and not be serving a sentence for first or second degree murder.

Chapter 57 Section 5

Section 5. WORK CAMPS.--The department may establish work camps as needed for the custody of inmates participating in the program.

Chapter 57 Section 6

Section 6. INMATES NOT EMPLOYEES.--An inmate participating in the program shall not be considered an employee of the state or of any other person deriving benefits from inmate services pursuant to the program. An inmate participating in the program shall not be covered by the provisions of the Workers' Compensation Act or be entitled

to benefits pursuant to that act, whether on behalf of himself or another person. Inmates participating in the program may be compensated as provided in Section 33-2-26 NMSA 1978.

Chapter 57 Section 7

Section 7. FORESTRY DIVISION--INTERAGENCY COOPERATION--PROGRAM PARTICIPATION.--The forestry division shall cooperate with the department in the development and implementation of the program and shall:

- A. plan and develop natural resource projects and provide technical direction and supervision for activities carried out by inmates participating in the program;
- B. provide instruction in forestry and natural resource issues to inmates participating in the program; and
- C. provide direction and instruction in the use of tools and equipment and conduct safety training for inmates participating in the program.

Chapter 57 Section 8

Section 8. INMATE FORESTRY WORK CAMP FUND.--The "inmate forestry work camp fund" is created in the state treasury. All money received by the department or the forestry division from public land management agencies for work performed by inmates in the program shall be deposited in the fund. Money in the fund shall not revert at the end of a fiscal year. Money in the fund is appropriated to the forestry division to administer the program, including acquisition of tools and equipment and expenses incurred by the forestry division or the department in planning and supervising program projects. Disbursements from the fund shall be made upon warrants drawn by the secretary of finance and administration pursuant to vouchers signed by the director of the forestry division or his authorized representative.

HOUSE BILL 170, AS AMENDED

CHAPTER 58

RELATING TO STATE PROPERTY; CREATING THE PROPERTY CONTROL RESERVE FUND; PROVIDING FOR ADMINISTRATION OF THE FUND; CHANGING THE REVERSION OF UNEXPENDED LAND SALE PROCEEDS; MAKING AN APPROPRIATION.

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

Chapter 58 Section 1

Section 1. PROPERTY CONTROL RESERVE FUND--CREATED--PURPOSE.--The "property control reserve fund" is created in the state treasury. The purpose of the fund is to provide a reserve account from which the property control division of the general services department can purchase or construct state office buildings, in particular to alleviate the state's reliance on expensive leased office space in Santa Fe. The fund shall consist of appropriations, money from the sale of real property under the control of the division, gifts, grants, donations, bequests and income from investment of the fund. Money in the fund shall not revert to the general fund at the end of any fiscal year. The division shall administer the fund subject to appropriation by the legislature. The legislature shall appropriate money in the fund to the division to purchase or acquire land and construct state office buildings in Santa Fe in accordance with the state's four-year major capital improvements plan. Disbursements from the fund shall be made on warrants drawn by the secretary of finance and administration pursuant to vouchers signed by the director of the division or his authorized representative.

Chapter 58 Section 2

Section 2. Laws 1996, Chapter 14, Section 16 is amended to read:

"Section 16. PROCEEDS OF SALE OF LAND--GENERAL SERVICES DEPARTMENT--EXTENDING EXPENDITURE PERIOD--APPROPRIATION.--Notwithstanding the provisions of Laws 1994, Chapter 148, Section 41, the period of time in which 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 for the purpose of constructing and equipping the state library, archives and records center to be located in Santa Fe county may be expended shall be extended through fiscal year 1998. Any unexpended or unencumbered balance remaining at the end of fiscal year 1998 shall revert to the property control reserve fund."

HOUSE BILL 211, AS AMENDED

CHAPTER 59

MAKING AN APPROPRIATION TO THE DRINKING WATER STATE REVOLVING LOAN FUND FOR DRINKING WATER SYSTEM FINANCING; DECLARING AN EMERGENCY.

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

Chapter 59 Section 1

Section 1. APPROPRIATION.--Pursuant to Section 6-21-6.1 NMSA 1978, one million five hundred eighty-one thousand five hundred nineteen dollars (\$1,581,519) is appropriated from the public project revolving fund to the drinking water state revolving loan fund for expenditure in fiscal year 1998 and subsequent fiscal years to carry out the purposes of the Drinking Water State Revolving Loan Fund Act. Any unexpended or unencumbered balance remaining at the end of any fiscal year shall not revert to the public project revolving fund.

Chapter 59 Section 2

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

HOUSE BILL 224

WITH EMERGENCY CLAUSE

SIGNED March 9, 1998

CHAPTER 60

RELATING TO PUBLIC SCHOOLS; REQUIRING LOCAL SCHOOL BOARDS TO OBTAIN BACKGROUND CHECKS ON APPLICANTS WHO HAVE BEEN OFFERED EMPLOYMENT AND CONTRACTORS; LIMITING THE TIME IN WHICH RECORDS CAN BE RELEASED TO LOCAL SCHOOL BOARDS.

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

Chapter 60 Section 1

Section 1. Section 22-10-3.3 NMSA 1978 (being Laws 1997, Chapter 238, Section 1) is amended to read:

"22-10-3.3. BACKGROUND CHECKS.--

A. An applicant for initial certification shall be fingerprinted and shall provide two fingerprint cards or the equivalent electronic fingerprints to the department of education to obtain the applicant's federal bureau of investigation record. Convictions of felonies or misdemeanors contained in the federal bureau of investigation record shall be used in accordance with the Criminal Offender Employment Act. Other information contained in the federal bureau of investigation record, if supported by independent evidence, may form the basis for the denial, suspension or revocation of a certificate for good and just cause. Records and any related information shall be privileged and shall not be disclosed to a person not directly involved in the certification or employment decisions

affecting the specific applicant. The applicant for initial certification shall pay for the cost of obtaining the federal bureau of investigation record.

B. Local school boards shall develop policies and procedures to require background checks on an applicant who has been offered employment, a contractor or a contractor's employee with unsupervised access to students. An applicant for employment who has been initially certified within twelve months of applying for employment with a local school board shall not be required to submit to another background check if the department of education has copies of his federal bureau of investigation records on file. An applicant who has been offered employment, a contractor or a contractor's employee with unsupervised access to students shall provide two fingerprint cards or the equivalent electronic fingerprints to the local school board to obtain his federal bureau of investigation record. The applicant who has been offered employment, contractor or contractor's employee may be required to pay for the cost of obtaining a background check. At the request of a local school board, the department of education is authorized to release copies of federal bureau of investigation records that are on file with the department of education and that are not more than twelve months old. Convictions of felonies or misdemeanors contained in the federal bureau of investigation record shall be used in accordance with the Criminal Offender Employment Act; provided that other information contained in the federal bureau of investigation record, if supported by independent evidence, may form the basis for the employment decisions for good and just cause. Records and any related information shall be privileged and shall not be disclosed to a person not directly involved in the employment decision affecting the specific applicant who has been offered employment, contractor or contractor's employee with unsupervised access to students.

C. The department of education shall implement the provisions of Subsection A of this section on or before July 1, 1998."

SENATE BILL 15, AS AMENDED

CHAPTER 61

RELATING TO EDUCATION; LIMITING THE NUMBER OF UNIVERSITIES, BRANCH CAMPUSES, COMMUNITY COLLEGES, BRANCH COMMUNITY COLLEGES, TECHNICAL AND VOCATIONAL INSTITUTES, AREA VOCATIONAL SCHOOLS AND OFF-CAMPUS INSTRUCTION CENTERS; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978; DECLARING AN EMERGENCY.

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

Chapter 61 Section 1

Section 1. Section 21-1-39 NMSA 1978 (being Laws 1997, Chapter 167, Section 1) is amended to read:

"21-1-39. LEGISLATIVE FINDINGS.--The legislature finds that the state currently has six universities established by the constitution of New Mexico. The legislature has authorized these institutions to create branches of their institutions in conjunction with local school districts. The legislature also finds that proliferation of post-secondary educational institutions is not in the best interest of the state."

Chapter 61 Section 2

Section 2. A new section of Chapter 21, Article 1 NMSA 1978 is enacted to read:

"LIMITATION--COMMISSION ON HIGHER EDUCATION--REVIEW OF PROPOSED CAMPUSES.--Effective January 1, 1998, no new public post-secondary educational institution, branch campus or off-campus instructional center shall be created except as specifically created by the legislature. The commission on higher education shall review any proposal for the establishment of a new public post-secondary educational institution or campus and submit its recommendations to the legislature. In reviewing proposals, the commission may consider:

- A. provisions for a local mill levy of at least two mills;
- B. population base to provide at least five hundred full-time students;
- C. at least fifty percent of the costs of initial construction comes from private or local sources;
- D. governance structure;
- E. means for acquisition of property, including purchase, lease, donations or any other means;
- F. eligibility and level of funding request of the state; and
- G. brokering of extended learning provisions."

Chapter 61 Section 3

Section 3. Section 21-13-2 NMSA 1978 (being Laws 1963, Chapter 17, Section 2, as amended) is amended to read:

"21-13-2. DEFINITIONS.--As used in the Community College Act:

- A. "community college" means a public educational institution that provides not to exceed two years of training in the arts, sciences and humanities beyond the twelfth grade of the public high school curriculum or, in lieu of that training or in addition to it, not to exceed two years of a vocational and technical curriculum and appropriate

courses of study for persons who may or may not have completed the twelfth grade of public high school;

B. "community college district" means a district in which a community college is located, which district is composed of the territory of one or more school districts of the state. For the purposes of relating community college districts to existing law, community college districts and the community colleges thereof shall not:

(1) be considered a part of the uniform system of free public schools pursuant to Article 12, Section 1 and Article 21, Section 4 of the constitution of New Mexico;

(2) benefit from the permanent school fund and from the current school fund under Article 12, Sections 2 and 4 of the constitution of New Mexico;

(3) be subject, except as it relates to technical and vocational education, to the control, management and direction of the state board of education under Article 12, Section 6 of the constitution of New Mexico; and

(4) be considered school districts insofar as the restrictions of Article 9, Section 11 of the constitution of New Mexico are concerned; and

C. "qualified elector" means a person otherwise eligible to vote within the community college district."

Chapter 61 Section 4

Section 4. Section 21-13-8 NMSA 1978 (being Laws 1963, Chapter 17, Section 7, as amended) is amended to read:

"21-13-8. COMMUNITY COLLEGE BOARD.--

A. Board members shall be over twenty-one years of age, qualified electors and residents of the community college district.

B. Board members shall be elected for staggered terms of six years from April 1 succeeding their elections; provided that terms and staggering shall continue to be as they are on January 1, 1998. All vacancies caused in any other manner than by the expiration of the term of office shall be filled by appointment by the remaining members. An individual appointed by the remaining members of the board to fill a vacancy in office shall serve until the next community college board election, at which time candidates shall file for and be elected to fill the vacant position to serve the remainder of the unexpired term.

C. The "_____ community college board" shall select from its members a chairman and secretary who shall serve in these offices until the next regular

community college board election. After each "_____ community college board" election, the members shall proceed to reorganize."

Chapter 61 Section 5

Section 5. A new section of the Community College Act is enacted to read:

"LIMITATIONS ON COMMUNITY COLLEGES.--There shall be no new community college, branch campus or off-campus instructional center created after January 1, 1998 unless specifically created by the legislature."

Chapter 61 Section 6

Section 6. Section 21-14-2 NMSA 1978 (being Laws 1963, Chapter 162, Section 2, as amended) is amended to read:

"21-14-2. BOARD DUTIES--RELATIONSHIP WITH PARENT INSTITUTION--ELECTIONS.--

A. As used in Chapter 21, Article 14 NMSA 1978, "board" means either the local school board or the combined local school boards acting as a single board of the school district or the board of the branch community college elected pursuant to Section 21-14-2.1 NMSA 1978.

B. The duties of the board are to:

(1) enter into written agreements with the board of regents of the parent institution, subject thereafter to biennial review by all parties concerned and to the review and commentary of the commission on higher education;

(2) act in an advisory capacity to the board of regents of the parent institution in all matters relating to the conduct of the branch community college;

(3) approve an annual budget for the branch community college for recommendation to the board of regents of the parent institution;

(4) certify to the board of county commissioners the tax levy; and

(5) conduct the election for tax levies for the branch community college.

C. The board and the board of regents of the parent institution shall enter into a written agreement, which shall include provisions for:

(1) the higher education institution to have full authority and responsibility in relation to all academic matters;

(2) the higher education institution to honor all credits earned by students as though they were earned on the parent campus;

(3) the course of study and program offered;

(4) the cooperative use of physical facilities and teaching staff;

(5) consideration of applications of local qualified people before employing teachers of the local school system; and

(6) the detailed agreement of financing and financial control of the branch community college.

D. The agreement shall be binding upon both the board and the board of regents of the parent institution; however, it may be terminated by mutual consent or it may be terminated by either board upon six months' notice. However, if the branch community college has outstanding general obligation or revenue bonds, neither the board nor the board of regents may terminate the agreement until the outstanding bonds are retired, except as provided by Section 21-13-24.1 NMSA 1978. This provision shall apply to all agreements in existence between the branch community college and the board of regents of the parent institution.

E. All taxes levied to pay for principal and interest on bonds of the branch community college shall be in addition to the taxes levied for operating, maintaining and providing facilities for the branch community college pursuant to the College District Tax Act.

F. For the purpose of relating branch community colleges to existing laws, branch community college districts or branch community colleges shall not:

(1) be considered a part of the uniform system of free public schools pursuant to Article 12, Section 1 and Article 21, Section 4 of the constitution of New Mexico;

(2) benefit from the permanent school fund and from the current school fund under Article 12, Sections 2 and 4 of the constitution of New Mexico;

(3) be subject, except as it relates to technical and vocational education, to the control, management and direction of the state board of education under Article 12, Section 6 of the constitution of New Mexico; and

(4) be considered school districts insofar as the restrictions of Article 9, Section 11 of the constitution of New Mexico are concerned.

G. All elections held pursuant to the branch community college laws shall be as follows:

(1) the board calling the election shall give notice of the election in a newspaper of general circulation in the branch community college district at least once a week for

three consecutive weeks, the last insertion to be not less than thirty days prior to the proposed election;

(2) the election shall be conducted and canvassed in the same manner as municipal school district elections unless otherwise provided in the branch community college laws; and

(3) any person or corporation may institute in the district court of any county in which the branch community college district affected lies an action or suit to contest the validity of any proceedings held under the branch community college laws, but no such suit or action shall be maintained unless it is instituted within ten days after the issuance by the proper officials of a certificate or notification of the results of the election and the canvassing of the election returns by the board.

H. The tax rolls of the school districts comprising the branch community college district shall be adopted as the tax rolls of the branch community college district."

Chapter 61 Section 7

Section 7. A new section of Chapter 21, Article 14 NMSA 1978 is enacted to read:

"LIMITATIONS ON BRANCH COMMUNITY COLLEGES.--There shall be no new branch community college or off-campus instructional center created after January 1, 1998 unless specifically created by the legislature."

Chapter 61 Section 8

Section 8. Section 21-14A-5.1 NMSA 1978 (being Laws 1993, Chapter 344, Section 1) is amended to read:

"21-14A-5.1. TITLE TO PROPERTY ACQUIRED.--All property acquired using the proceeds of a bond issue and all property acquired by gift, devolution or bequest shall be taken in the name of the local school board in the district in which the property is situate. All property held by the local school board pursuant to this section shall be used solely for the purpose of carrying out the provisions of the Off-Campus Instruction Act until such time as the off-campus instruction program ceases to exist. At such time, the property so held by the local school board may be used for other purposes within the scope of authority of the local school board. No real property may be acquired pursuant to this section after July 1, 1998."

Chapter 61 Section 9

Section 9. A new section of the Off-Campus Instruction Act is enacted to read:

"PROPERTY OWNERSHIP PROHIBITED.--An off-campus board may not own, accept as a gift or purchase land, buildings or other form of real property."

Chapter 61 Section 10

Section 10. Section 21-16-16 NMSA 1978 (being Laws 1964 (1st S.S.), Chapter 12, Section 1) is amended to read:

"21-16-16. ALTERNATE PROCEDURES PERMITTED.--In addition to the election procedures provided in Chapter 21, Article 16 NMSA 1978 for an election for the approval or disapproval of a tax levy of not to exceed five mills for current operations and retirement of bonds of a technical and vocational institute, the election procedures set out in the Technical and Vocational Institute Act may be used for those purposes."

Chapter 61 Section 11

Section 11. Section 21-16-17 NMSA 1978 (being Laws 1964 (1st S.S.), Chapter 12, Section 2) is amended to read:

"21-16-17. IDENTIFICATION OF ELECTORATE.--In any election relating to the approval or disapproval of a tax levy for the current operations and retirement of bonds of a technical and vocational institute, the persons qualified to vote are those qualified electors residing within an affected school district."

Chapter 61 Section 12

Section 12. A new section of the Technical and Vocational Institute Act is enacted to read:

"LIMITATIONS ON TECHNICAL AND VOCATIONAL INSTITUTES.--There shall be no new technical and vocational institute branch campus or off-campus instructional center created after January 1, 1998 unless specifically created by the legislature."

Chapter 61 Section 13

Section 13. Section 21-17-3 NMSA 1978 (being Laws 1967, Chapter 177, Section 3) is amended to read:

"21-17-3. SUBMISSION OF PLAN FOR ESTABLISHMENT OF AREA VOCATIONAL HIGH SCHOOLS.--

A. The local school board of a school district may develop and present a plan to the state board for the establishment and operation of an area vocational high school.

B. The plan may include cooperative arrangements with junior colleges, branch community colleges, state educational institutions and other school districts.

C. The plan shall be prepared and presented to the state board on forms developed and provided by the state board and shall include information required by the state plan for vocational education."

Chapter 61 Section 14

Section 14. Section 21-17-4 NMSA 1978 (being Laws 1967, Chapter 177, Section 4, as amended) is amended to read:

"21-17-4. DESIGNATION AS AN AREA VOCATIONAL SCHOOL BY THE STATE BOARD.--

A. Upon receipt and examination of the plan and supporting evidence, the state board shall conduct hearings, investigate records and procure such other information relating to vocational training as it deems necessary and appropriate.

B. If the state board finds that the plan provides an adequate, broad vocational and technical educational program, serves sufficient students for an economical operation, provides for adequate financing and sensibly relates to a statewide pattern for development of vocational and technical education, the state board may approve the plan.

C. After approval by the state board of the plan, the area vocational high school shall be officially designated by the state board as an area vocational school, shall be operated in accordance with provisions in the state plan for vocational education and shall meet all other requirements of an accredited school.

D. At the first area vocational school board election, members of the board elected to positions 1, 3 and 5 shall be elected for terms ending February 28, 1989 and members elected to positions 2 and 4 shall be elected for terms ending February 28, 1991. Thereafter, each board member shall be elected for a term of four years. The elections shall be conducted pursuant to the provisions of the Election Code and 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, beginning with the election to be held in February of 1987.

E. 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.

F. A member of the board may be recalled pursuant to the provisions of the Local School Board Member Recall Act, except that a recall election may be held only at the same time as a regular school district election."

Chapter 61 Section 15

Section 15. A new section of Chapter 21, Article 17 NMSA 1978 is enacted to read:

"LIMITATIONS ON AREA VOCATIONAL CAMPUS.--There shall be no new area vocational campus, branch campus or off-campus instructional center created after January 1, 1998 unless specifically created by the legislature."

Chapter 61 Section 16

Section 16. REPEAL.--Sections 21-13-3 through 21-13-7, 21-14-3, 21-16-3, 21-16-4 and 21-16-19 NMSA 1978 (being Laws 1963, Chapter 17, Section 3, Laws 1964 (1st S.S.), Chapter 16, Sections 2 through 5, Laws 1972, Chapter 36, Section 3, Laws 1963, Chapter 108, Sections 3 and 4 and Laws 1964 (1st S.S.), Chapter 12, Section 4, as amended) are repealed.

Chapter 61 Section 17

Section 17. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

SENATE BILL 51, AS AMENDED

WITH EMERGENCY CLAUSE

SIGNED March 9, 1998

CHAPTER 62

RELATING TO PUBLIC SCHOOLS; AMENDING SECTION 22-1-4 NMSA 1978 (BEING LAWS 1975, CHAPTER 338, SECTION 1, AS AMENDED) TO PROVIDE FOR OPEN ENROLLMENT IN THE PUBLIC SCHOOLS.

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

Chapter 62 Section 1

Section 1. Section 22-1-4 NMSA 1978 (being Laws 1975, Chapter 338, Section 1, as amended) is amended to read:

"22-1-4. FREE PUBLIC SCHOOLS--EXCEPTIONS--WITHDRAWING AND ENROLLING--OPEN ENROLLMENT.--

A. Except as provided by Section 24-5-2 NMSA 1978, a free public school education shall be available to any school-age person who is a resident of this state and has not received a high school diploma or its equivalent.

B. A free public school education in those courses already offered to persons pursuant to provisions of Subsection A of this section shall be available to any person who is a

resident of this state and has received a high school diploma or its equivalent if there is available space in such courses.

C. Any person entitled to a free public school education pursuant to provisions of this section may enroll or re-enroll in a public school at any time and, unless required to attend school pursuant to the Compulsory School Attendance Law, may withdraw from a public school at any time.

D. In adopting and promulgating regulations concerning the enrollment of students transferring from a home school or private school to the public schools, the local school board shall provide that the grade level at which the transferring student is placed is appropriate to the age of the student or to the student's score on a student achievement test administered according to the statewide and local school district testing programs as determined by the state superintendent or both.

E. A local school board shall adopt and promulgate regulations governing enrollment and re-enrollment at schools within the district. These regulations shall include:

(1) definition of the district boundary and the boundaries of attendance areas for each school;

(2) for each school, definition of the boundaries of areas outside the district boundary or within the district but outside the school's attendance area, and within a distance of the school that would not be served by a school bus route as determined pursuant to Section 22-16-4 NMSA 1978 if enrolled, which areas shall be designated as "walk zones";

(3) priorities for enrollment of students as follows:

(a) first, persons residing within the district and within the attendance area of a school;

(b) second, persons who previously attended the school; and

(c) third, all other applicants; and

(4) establishment of maximum allowable class size if smaller than that permitted by law and ratification and description of the maximum class size in the charter of all charter schools within the district.

F. As long as the maximum allowable class size established by law, by regulation of a local school board or in the charter of a charter school, whichever is lower, is not met or exceeded in a school by enrollment of first- priority persons, the school shall enroll other persons applying in the priorities stated in the district regulations adopted pursuant to Subsection E of this section. If the maximum would be exceeded by enrollment of an applicant in the second or third priority, the school shall establish a waiting list. As

classroom space becomes available, persons highest on the waiting list within the highest priority on the list shall be notified and given the opportunity to enroll."

SENATE BILL 64, AS AMENDED

CHAPTER 63

RELATING TO HOUSING; PROVIDING FOR THE CONSOLIDATION OF HOUSING PROGRAMS; RATIFYING THE TRANSFER OF CERTAIN HOUSING PROGRAMS TO THE NEW MEXICO MORTGAGE FINANCE AUTHORITY; CHANGING THE DESIGNATION OF THE STATE HOUSING AUTHORITY; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978 TO MAKE STATUTORY PROVISIONS CONSISTENT WITH THE TRANSFER OF PROGRAMS.

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

Chapter 63 Section 1

Section 1. 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, six 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; and
- F. the office for space commercialization."

Chapter 63 Section 2

Section 2. Section 9-15-7.1 NMSA 1978 (being Laws 1983, Chapter 296, Section 21, as amended) is amended to read:

"9-15-7.1. ADDITIONAL PLANNING DUTIES OF SECRETARY.--The secretary, in addition to other duties, shall serve as lead agency in coordination of the census program at the state data center."

Chapter 63 Section 3

Section 3. Section 11-1-2 NMSA 1978 (being Laws 1961, Chapter 135, Section 2, as amended) is amended to read:

"11-1-2. DEFINITIONS.--As used in the Joint Powers Agreements Act:

A. "public agency" means the federal government or any federal department, agency or instrumentality; this state, an adjoining state or any state department, agency or instrumentality; an Indian tribe or pueblo; a county, municipality, public corporation or public district of this state or an adjoining state; a New Mexico educational institution specified in Article 12, Section 11 of the constitution of New Mexico; and a New Mexico school district;

B. "agreement" means a written contractual agreement entered into between two or more public agencies subject to any constitutional or legislative restriction imposed upon any of the contracting public agencies, but the Joint Powers Agreements Act does not authorize an interstate water supply agreement or limit the powers of an interstate water compact commission, the interstate stream commission or the state engineer, and it does not limit the powers of a state agency or political subdivision to enter into agreements with the interstate stream commission or the state engineer;

C. "bonds" means revenue bonds;

D. "bondholder" means any person who is the bearer of any outstanding bond or the owner of bonds that are at the time registered to other than the bearer;

E. "indenture" means the instrument providing the terms and conditions for the issuance of the bonds and may be a resolution, order, agreement or other instrument; and

F. "instrumentality" means a public corporate entity created by state law but which is not subject to the general laws of the state and is not a state agency or department."

Chapter 63 Section 4

Section 4. Section 11-3A-6 NMSA 1978 (being Laws 1994, Chapter 132, Section 6, as amended) is amended to read:

"11-3A-6. POWERS OF AUTHORITY IN BOARD OF COMMISSIONERS--
APPOINTMENT OF BOARD OF AUTHORITIES--TERMS.--

A. The powers of each regional authority shall be vested in its board of commissioners as the board may be constituted, from time to time. The board of commissioners of the authority for each of the seven regions shall consist of seven commissioners who shall be residents of the region for which the authority is created and appointed by the governor. Appointments shall be for terms of four years or less and shall be made so

that the terms of not more than two commissioners on each board expire on July 1 of each year. Vacancies shall be filled for the unexpired term. Commissioners shall serve until their successors have been appointed.

B. The members of the boards of commissioners may receive per diem and mileage as provided in the Per Diem and Mileage Act but shall receive no other compensation, perquisite or allowance. Each board of commissioners shall select a chairman and vice chairman from among its members. Each board may employ necessary agents and employees and set the salaries of the agents and employees. Each board may delegate to its agents or employees such duties as the board deems proper. A regional planning and development district, created pursuant to the Planning District Act, may provide technical staff for an authority. Four commissioners shall constitute a quorum of a board for the purpose of conducting its business and exercising its powers and for all other purposes. Action may be taken by an authority upon a vote of a majority of the commissioners present. Each board shall organize itself at its annual meeting each even-numbered year. A board may authorize an authority to employ a secretary, who shall be executive director and who shall be removable only for cause, and technical experts and other officers, attorneys, agents and employees, permanent and temporary, as the authority requires; to determine employee and contractor qualifications, duties and compensation; and to delegate to one or more employees or contractors the powers or duties that the board deems proper.

C. The financial affairs of every regional authority and any nonprofit corporation created by an authority shall be thoroughly examined and audited annually by the state auditor, by personnel of his office designated by him or by auditors approved by him. The audits shall be conducted in accordance with generally accepted auditing standards. Each regional authority shall submit to the state auditor, the department of finance and administration, the state housing authority and the legislative finance committee, within thirty days following the receipt of the audit by the authority, a copy of the annual audit."

Chapter 63 Section 5

Section 5. Section 48-10-3 NMSA 1978 (being Laws 1987, Chapter 61, Section 3, as amended) is amended to read:

"48-10-3. DEFINITIONS.--As used in the Deed of Trust Act, unless the context otherwise requires:

A. "beneficiary" means the person named or otherwise designated in a deed of trust as the person for whose benefit a deed of trust is given or his successor in interest;

B. "qualified construction project" means a low-income housing project of a regional, county or municipal housing authority or a qualified nonprofit organization;

C. "qualified nonprofit organization" means an organization that is certified by the state housing authority as having been granted exemption from federal income tax pursuant

to Section 501(c)(3) or (4) of the Internal Revenue Code of 1986, as amended, and that includes as one of its exempt purposes the fostering of low-income housing;

D. "contract" means an agreement between or among two or more persons, including, without limitation, a note, promissory note, guarantee or the terms of any deed of trust;

E. "credit bid" means a bid made by the beneficiary in full or partial satisfaction of the contract that is secured by the deed of trust. A credit bid may only include an amount owing on a contract with interest secured by liens, mortgages, deeds of trust or encumbrances that are superior in priority to the deed of trust and which liens, mortgages or encumbrances, whether recourse or nonrecourse, are outstanding as provided in the contract or as provided in the deed of trust, together with the amount of other obligations provided in or secured by the deed of trust and the costs of exercising the power of sale and the trustee's sale, including the fees of the trustee and reasonable attorney fees actually incurred by the trustee and the beneficiary;

F. "parent corporation" means a corporation that owns eighty percent or more of each class of the issued and outstanding stock of another corporation or, in the case of a savings and loan association, eighty percent or more of the issued and outstanding guaranty capital of the savings and loan association;

G. "person" means an individual or organization;

H. "deed of trust" means a document by way of mortgage in substance executed in conformity with the Deed of Trust Act and in conformity with Section 47-1-39 NMSA 1978 granting or mortgaging trust real estate to a trustee qualified under the Deed of Trust Act to secure the performance of a contract, but does not include a deed of trust that encumbers in whole or in part trust real estate located in New Mexico and in one or more other states;

I. "junior encumbrancer" means a person holding a lien, mortgage or other encumbrance of record evidencing an interest in the trust real estate that is subordinate in priority to the deed of trust and includes a lienholder, a mortgagee, a seller and a purchaser as provided in a real estate contract and, where the context is applicable, escrow agents as provided in a real estate contract;

J. "low-income household" means a household that the state housing authority certifies is a household with income at or below eighty percent of the state's median household income;

K. "low-income housing project" means a housing project that the state housing authority certifies is housing for low-income households;

L. "state housing authority" means the New Mexico mortgage finance authority;

M. "trust real estate" means any legal, equitable, leasehold or other interest in real estate, including the term "real estate" as defined in Section 47-1-1 NMSA 1978, which is capable of being transferred whether or not the interest is subject to any prior mortgages, deeds of trust, contracts for conveyance of real estate, real estate contracts or other liens or encumbrances; provided, however, trust real estate shall not include:

(1) any dwelling and the underlying real estate designed for occupancy by one to four families, including mobile homes and condominiums, except when occupancy is designed for low-income households;

(2) any real estate used by the trustor for farming operations, including farming, tillage of the soil, dairy farming, ranching, production or raising of crops, poultry or livestock, and production of poultry or livestock products in an unmanufactured state; or

(3) oil and other liquid hydrocarbons, or gas, including casinghead gas, condensates and other gaseous petroleum substances, or coal or other minerals in, on or under real estate, including patented and unpatented mining claims, unless such minerals have not been severed from and are included with the surface estate.

The character of trust real estate shall be determined as of the date of the deed of trust covering the trust real estate;

N. "trustee" means a person qualified as provided in the Deed of Trust Act. The obligations of a trustee to the trustor, beneficiary and other persons are as provided in the Deed of Trust Act, together with any other obligations specified in the deed of trust. Both the beneficiary and the trustee have all the powers of a mortgagee as provided by law; and

O. "trustor" means the person or his successor in interest granting or mortgaging trust real estate by a deed of trust as security for the performance of a contract and is the same as a mortgagor granting or mortgaging real estate by way of mortgage as provided by law."

Chapter 63 Section 6

Section 6. A new section of the Mortgage Finance Authority Act, Section 58-18-5.5 NMSA 1978, is enacted to read:

"58-18-5.5. ADDITIONAL POWERS OF AUTHORITY--AUTHORITY DESIGNATED AS SINGLE STATE HOUSING AUTHORITY--APPLICATION

FOR AND RECEIPT OF FEDERAL FUNDS--ADMINISTRATION OF HOUSING PROGRAMS.--In addition to the powers granted the authority pursuant to Sections 58-18-5 and 58-18-5.3 NMSA 1978, the authority:

A. is designated as the state housing authority for all purposes;

B. shall make application for federal housing funds and programs;

C. shall administer federal and state housing programs and federal tax credit provisions associated with those programs;

D. shall receive and expend funds pursuant to applicable federal housing laws, federal housing regulations, the provisions of the Mortgage Finance Authority Act and regulations adopted pursuant to that act;

E. shall administer the following housing programs that were previously transferred to it by executive order, the provisions of which are ratified:

(1) the federal HOME program;

(2) the federal low-income housing tax credit program;

(3) the federal emergency shelter grant programs;

(4) the state homeless program;

(5) the federal and state weatherization programs and that part of the low-income home energy assistance program authorized for weatherization; and

(6) the state safe water program;

F. shall assist with technical consultation in connection with housing components of the community service block grant and community development block grant programs that are administered by the human services department and the department of finance and administration, respectively; and

G. shall not receive direct appropriations of state funds from the legislature, and, if a program for which the authority is granted the power and has the duty to administer involves the appropriation or expenditure of state funds, the authority is granted specific power to enter into a joint powers agreement with the department of finance and administration pursuant to the Joint Powers Agreements Act."

Chapter 63 Section 7

Section 7. REPEAL.--Sections 11-4-1 through 11-4-8 NMSA 1978 (being Laws 1975, Chapter 102, Sections 1 through 8, as amended) are repealed.

Chapter 63 Section 8

Section 8. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1998.

CHAPTER 64

RELATING TO SEXUALLY ORIENTED MATERIAL HARMFUL TO MINORS;
INCLUDING COMPUTER COMMUNICATIONS; CREATING CRIMES; PROVIDING
PENALTIES.

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

Chapter 64 Section 1

Section 1. A new section of Chapter 30, Article 37 NMSA 1978 is enacted to read:

"DISSEMINATION OF MATERIAL THAT IS HARMFUL TO A MINOR BY COMPUTER--
CHILD LURING.--

A. Dissemination of material that is harmful to a minor by computer consists of the use of a computer communications system that allows the input, output, examination or transfer of computer data or computer programs from one computer to another, to knowingly and intentionally initiate or engage in communication with a person under eighteen years of age when such communication in whole or in part depicts actual or simulated nudity, sexual intercourse or any other sexual conduct. Whoever commits dissemination of material that is harmful to a minor by computer is guilty of a misdemeanor.

B. Child luring consists of a person knowingly and intentionally inducing a child under sixteen years of age, by means of computer, to engage in sexual intercourse, sexual contact or in a sexual or obscene performance, or to engage in any other sexual conduct when the perpetrator is at least three years older than the child. Whoever commits child luring is guilty of a fourth degree felony.

C. In a prosecution for dissemination of material that is harmful to a minor by computer, it is a defense that the defendant has:

(1) in good faith taken reasonable, effective and appropriate actions under the circumstances to restrict or prevent access by minors to indecent materials on computer, including any method that is feasible with available technology;

(2) restricted access to indecent materials by requiring the use of a verified credit card, debit account, adult access code or adult personal identification number; or

(3) in good faith established a mechanism such as labeling, segregation or other means that enables the indecent material to be automatically blocked or screened by software or other capability reasonably available to persons who wish to effect such blocking or screening and the defendant has not otherwise solicited a minor not subject to such

screening or blocking capabilities to access the indecent material or to circumvent the screening or blocking.

D. In a prosecution for dissemination of material that is harmful to a minor by computer, a person shall not be held to have violated the provisions of this section solely for providing access or connection to or from a facility, system or network not under the person's control, including transmission, downloading, intermediate storage, access software or other related capabilities that are incidental to providing access or connection and that do not include the creation of the content of the communication.

E. The limitations provided by Subsection D of this section shall not be applicable to a person who is a conspirator with an entity actively involved in the creation or knowing dissemination of indecent material by computer or who knowingly advertises the availability of indecent material by computer. The limitations provided by Subsection D of this section shall not be applicable to a person who provides access or connection to a facility, system or network that disseminates indecent material by computer that is owned or controlled by him.

F. No employer shall be held liable for the actions of an employee or agent unless the employee's or agent's conduct is within the scope of his employment or agency and the employer, having knowledge of such conduct, authorizes or ratifies the conduct or recklessly disregards the conduct."

Chapter 64 Section 2

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1998.

SENATE PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR

SENATE BILL 127, AS AMENDED

CHAPTER 65

RELATING TO TAXATION; AMENDING THE COUNTY CORRECTIONAL FACILITY GROSS RECEIPTS TAX; EXPANDING THE DEFINITION OF "COUNTY"; PROVIDING FOR BONDING PURSUANT TO THE NEW MEXICO FINANCE AUTHORITY ACT; DECLARING AN EMERGENCY.

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

Chapter 65 Section 1

Section 1. A new section of the New Mexico Finance Authority Act is enacted to read:

"BONDS FOR COUNTY CORRECTIONAL FACILITY LOANS.--The authority may issue bonds for a county to design, construct, equip, furnish and otherwise improve a county correctional facility pursuant to the County Correctional Facility Gross Receipts Tax Act only after a majority of the registered qualified electors of the county has voted to allow the county to impose a county correctional facility gross receipts tax in the amount needed to repay bonds issued by the authority for the purpose of designing, constructing, equipping, furnishing and otherwise improving a county correctional facility."

Chapter 65 Section 2

Section 2. Section 7-20F-2 NMSA 1978 (being Laws 1993, Chapter 303, Section 2) is amended to read:

"7-20F-2. DEFINITIONS.--As used in the County Correctional Facility Gross Receipts Tax Act:

A. "county" means:

(1) a class A county, the population of which does not exceed one hundred fifty thousand people as determined by the 1990 federal decennial census;

(2) a class B county with a population of at least fifty-seven thousand people but less than sixty thousand as determined by the 1990 federal decennial census; or

(3) a class B county with a population of at least forty-five thousand people but less than forty-seven thousand as determined by the 1990 federal decennial census;

B. "county board" means the board of county commissioners of a 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. "judicial-correctional facility" means a facility for housing and use by judicial and corrections agencies, including housing for persons confined in county corrections facilities; however, none of the facilities are required to be located on the same or contiguous parcels of land;

E. "municipality" means any incorporated city, town or village, whether incorporated under general act, special act or special charter;

F. "person" means an individual or any other legal entity;

G. "pledged revenues" means the revenue, net income or net revenues authorized to be pledged to the payment of revenue bonds issued pursuant to the provisions of the County Correctional Facility Gross Receipts Tax Act;

H. "refunding bond" means a refunding revenue bond issued pursuant to the provisions of the County Correctional Facility Gross Receipts Tax Act to refund revenue bonds issued pursuant to the provisions of that act; and

I. "revenue bond" means a county correctional facility gross receipts tax revenue bond."

Chapter 65 Section 3

Section 3. Section 7-20F-3 NMSA 1978 (being Laws 1993, Chapter 303, Section 3, as amended) 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:

(1) a class A county described in Paragraph (1) of Subsection A of Section 7-20F-2 NMSA 1978 or a class B county described in Paragraph (2) of Subsection A of Section 7-20F-2 NMSA 1978 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; or

(2) a class B county described in Paragraph (3) of Subsection A of Section 7-20F-2 NMSA 1978 have approved the issuance of bonds by the New Mexico finance authority sufficient to pay at least one-half of the costs of designing, constructing, equipping, furnishing and otherwise improving the new county correctional facility for which the county correctional facility gross receipts tax revenue is dedicated.

B. The tax imposed pursuant to Subsection A of this section 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.

C. 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 or a county correctional facility or the grounds of a judicial-correctional or county 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.

D. 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.

E. The governing body shall adopt a resolution calling for an election within seventy-five days of the date the ordinance is adopted on the question of imposing the tax, and:

(1) in a class A county described in Paragraph (1) of Subsection A of Section 7-20F-2 NMSA 1978 or a class B county described in Paragraph (2) of Subsection A of Section 7-20F-2 NMSA 1978, 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; or

(2) in a class B county described in Paragraph (3) of Subsection A of Section 7-20F-2 NMSA 1978, the question to be submitted to the voters is "Shall a county correctional facility gross receipts tax be imposed to repay bonds that will be issued by the New Mexico finance authority in an amount sufficient to pay at least one-half of the costs of designing, constructing, equipping, furnishing and otherwise improving the new county correctional facility?".

F. The question shall be submitted to the voters at any general election or special election called for that purpose by the board.

G. 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. H. 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.

I. 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.

J. 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.

K. 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."

Chapter 65 Section 4

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

SENATE BILL 165, AS AMENDED

WITH EMERGENCY CLAUSE

SIGNED March 9, 1998

CHAPTER 66

RELATING TO FINANCE; CREATING THE GENERAL SERVICES AVIATION EQUIPMENT PROJECT FUND IN ORDER TO SEGREGATE FUNDS TO BE USED TO REPAY A LOAN OR LOANS TO PURCHASE A RESEARCH AIRPLANE AND RELATED EQUIPMENT; DECLARING AN EMERGENCY.

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

Chapter 66 Section 1

Section 1. GENERAL SERVICES AVIATION EQUIPMENT PROJECT FUND--
PURPOSE--ADMINISTRATION.--

A. The "general services aviation equipment project fund" is created in the state treasury. The fund shall be administered by the general services department and shall consist solely of money received by the general services department pursuant to a lease agreement between the general services department and the physical sciences laboratory of New Mexico state university. No money derived from property taxes, state general fund revenues or general appropriations shall be deposited in the fund. Money in the fund shall not revert to the general fund at the end of a fiscal year.

B. Money in the general services aviation equipment project fund is appropriated for expenditure by the general services department for the purpose of repaying a loan or loans to purchase a research airplane and related equipment.

C. The general services department is authorized to enter into loan agreements and loans payable from the general services aviation equipment project fund with the physical sciences laboratory of New Mexico state university and with the New Mexico finance authority on such terms and conditions deemed necessary or desirable by the general services department.

D. Money in the general services aviation equipment project fund shall be expended only on warrants drawn by the secretary of finance and administration pursuant to vouchers signed by the secretary of general services or his authorized representative.

E. The legislature shall not repeal, amend or otherwise modify any law that affects or impairs the deposit in the general services aviation equipment project fund until all loans payable from the fund are fully paid and discharged or provisions have been made for their full payment and discharge.

Chapter 66 Section 2

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

SENATE BILL 171

WITH EMERGENCY CLAUSE

SIGNED March 9, 1998

CHAPTER 67

RELATING TO CRIMINAL LAW; REVISING CRIMINAL PENALTIES FOR FRAUDULENT REFUSAL TO RETURN A LEASED VEHICLE OR OTHER LEASED PERSONAL PROPERTY; REVISING CRIMINAL PENALTIES FOR UNLAWFUL TAKING OF A VEHICLE OR MOTOR VEHICLE.

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

Chapter 67 Section 1

Section 1. Section 30-16-40 NMSA 1978 (being Laws 1973, Chapter 154, Section 1, as amended) is amended to read:

"30-16-40. FRAUDULENT REFUSAL TO RETURN A LEASED VEHICLE OR OTHER PERSONAL PROPERTY--PENALTY--PRESUMPTION.--

A. Any person who, after leasing a vehicle or other personal property under a written agreement which provides for the return of the vehicle or personal property to a particular place at a particular time and who, with intent to defraud the lessor of the vehicle or personal property, fails to return the vehicle or personal property to the place within the time specified, is guilty:

(1) of a petty misdemeanor if the property is not a vehicle and has a value of one hundred dollars (\$100) or less;

(2) of a fourth degree felony if the property is not a vehicle and has a value of more than one hundred dollars (\$100) but less than two thousand five hundred dollars (\$2,500);

(3) of a fourth degree felony if the vehicle has a value of less than two thousand five hundred dollars (\$2,500); and

(4) of a third degree felony if the property or vehicle has a value of two thousand five hundred dollars (\$2,500) or more.

B. Failure of the lessee to return the vehicle or personal property to the place specified within seventy-two hours after mailing to him by certified mail at his address shown on the leasing agreement a written demand to return the vehicle or personal property shall raise a rebuttable presumption that the failure to return the vehicle or personal property was with intent to defraud."

Chapter 67 Section 2

Section 2. Section 66-3-504 NMSA 1978 (being Laws 1978, Chapter 35, Section 91) is amended to read:

"66-3-504. UNLAWFUL TAKING OF A VEHICLE OR MOTOR VEHICLE.--

A. Any person who takes any vehicle or motor vehicle intentionally and without consent of the owner is guilty:

(1) of a fourth degree felony if the vehicle or motor vehicle has a value of less than two thousand five hundred dollars (\$2,500); and

(2) of a third degree felony if the vehicle or motor vehicle has a value of two thousand five hundred dollars (\$2,500) or more.

B. The consent of the owner of the vehicle or motor vehicle to its taking shall not in any case be presumed or implied because of the owner's consent on a previous occasion to the taking of the vehicle or motor vehicle by the same or a different person.

C. The district courts are given exclusive jurisdiction to hear and try offenses prescribed under this section.

D. Nothing in this section shall be construed to prohibit the holder of a lien duly recorded with the division from taking possession of a vehicle to which possession the lienholder is legally entitled under the provisions of the instrument evidencing the lien. A holder of a duly recorded lien who takes possession of a vehicle without the knowledge of the owner of the vehicle shall immediately notify the local police authority of the fact that he has taken possession of the vehicle."

Chapter 67 Section 3

Section 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1998.

SENATE BILL 178

CHAPTER 68

RELATING TO HEALTH CARE PROVIDERS; ESTABLISHING CRIMINAL HISTORY SCREENING REQUIREMENTS FOR CAREGIVERS; REPEALING SECTIONS OF THE NMSA 1978; MAKING AN APPROPRIATION.

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

Chapter 68 Section 1

Section 1. TITLE.--Sections 1 though 5 of this act may be cited as the "Caregivers Criminal History Screening Act".

Chapter 68 Section 2

Section 2. PURPOSE.--The purpose of the Caregivers Criminal History Screening Act and its requirement that caregivers undergo a nationwide criminal history screening is to ensure to the highest degree possible the prevention of abuse, neglect or financial exploitation of care recipients.

Chapter 68 Section 3

Section 3. DEFINITIONS.--As used in the Caregivers Criminal History Screening Act:

A. "Applicant" means a person who seeks and is offered employment or contractual service as a caregiver with a care provider.

B. "Caregiver" means a person, not otherwise required to undergo a nationwide criminal history screening by the New Mexico Children's and Juvenile Facility Criminal Records Screening Act (32A-15-1 to 32A-15-4 NMSA 1978), whose employment, contractual service or volunteer service with a care provider includes direct care or routine and unsupervised physical or financial access to any care recipient served by that provider;

C. "Care provider" or "provider" means a skilled nursing facility; intermediate care facility; care facility for the mentally retarded; psychiatric facility; rehabilitation facility; home health agency; homemaker agency; home for the aged or disabled; group home; adult foster care home; private residence that provides personal care, adult residential care, or nursing care for two or more persons not related by blood or marriage to the facility's operator or owner; adult daycare center; boarding home; adult residential care home; residential service or habilitation service providers authorized to be reimbursed by Medicaid; any licensed or Medicaid certified entity, programs funded by the state agency on aging, that provides respite, companion or personal care services, or programs funded by the children, youth and families department that provide homemaker or adult daycare services; however, it does not include general acute care hospitals, and resident care facilities located at or performing services exclusively for any correctional facility;

D. "Care recipient" means any person under the care of a provider who has a physical or mental illness, injury or disability or who suffers from any cognitive impairment that restricts or limits the person's activities;

E. "Nationwide criminal history screening" means a criminal history background investigation of an applicant or caregiver through the use of fingerprints collected by the New Mexico department of public safety and submitted to the federal bureau of investigation, resulting in generation of a nationwide criminal history record for that applicant or caregiver;

F. "Nationwide criminal history record" means information concerning a person's arrests, indictments, or other formal criminal charges, and any dispositions arising therefrom, including convictions, dismissals, acquittals, sentencing, and correctional supervision, collected by criminal justice agencies and stored in the computerized

databases of the federal bureau of investigation, the national law enforcement telecommunications system, the New Mexico department of public safety, or the repositories of criminal history information of other states.

Chapter 68 Section 4

Section 4. CRIMINAL HISTORY SCREENING REQUIRED-- REGULATORY IMPLEMENTATION--APPEALS.--

A. The department of health is authorized to receive an applicant's or caregiver's nationwide criminal history record obtained by the New Mexico department of public safety as a result of a nationwide criminal history records screening pursuant to an applicant's or caregiver's authorization for such criminal history records screening. Providers shall submit a set of fingerprints of applicants and caregivers to the New Mexico department of public safety for a nationwide criminal history screening, and the New Mexico department of public safety shall accept such fingerprints for the purpose of conducting a nationwide criminal history screening.

B. The department of health is authorized to promulgate regulations to implement this act, including but not limited to regulations establishing a three year phased implementation based upon provider type; fingerprint submission procedures; fees; confidentiality; timeframes for an applicant's or caregiver's nationwide criminal history screening; procedures for clarifying incomplete or confusing criminal history information; provider sanctions for noncompliance; and employment procedures pending the results of the nationwide criminal history screening relating to volunteers, applicants, and caregivers.

C. No caregiver may be employed by a care provider unless the caregiver first has submitted to a request for a nationwide criminal history screening prior to beginning employment in accordance with procedures established by regulation by the departments of health and public safety, or unless the caregiver has submitted to a nationwide criminal history screening and has been cleared within the previous 12 months.

D. The following felony convictions disqualify an applicant or caregiver from employment as a caregiver:

- (1) homicide;
- (2) trafficking controlled substances;
- (3) kidnapping, false imprisonment, aggravated assault or aggravated battery;
- (4) rape, criminal sexual penetration, criminal sexual contact, incest, indecent exposure, or other related sexual offenses;

(5) crimes involving adult abuse, neglect or financial exploitation;

(6) crimes involving child abuse or neglect;

E. Upon receipt by the department of health of the results of the applicant's or caregiver's nationwide criminal history record, the department of health shall give notice to the submitting care provider whether or not the applicant or caregiver has a disqualifying conviction of a crime specified in Subsection D of this section. No other results of the applicant's or caregiver's criminal history records screening shall be provided to the care provider. Except as provided in Subsection F of this section, a care provider shall not employ an applicant, or continue to employ a caregiver, whose criminal history screening records reflect a disqualifying conviction. When the department of health provides notice to the care provider of a disqualifying conviction of a crime specified in Subsection D of this section, it shall also notify the applicant or caregiver, stating with specificity the convictions on which its decision is based and identifying the agency which provided the records.

F. An applicant or caregiver whose nationwide criminal history record, obtained through the applicant's or caregiver's criminal history records screening and other clarifying endeavors of the department of health, reflects a disqualifying conviction of a crime specified in Subsection D of this section may request from the department of health an administrative reconsideration. The care provider may, in its discretion, continue to employ such person during the pendency of the reconsideration. A care provider may employ the applicant or caregiver if the reconsideration proceeding results in a determination by the agency on aging that the applicant's or caregiver's nationwide criminal history record inaccurately reflects a disqualifying conviction of a crime specified in Subsection D of this section, or that the employment presents no risk of harm to a care recipient, or that the conviction does not directly bear upon the applicant's or caregiver's fitness for the employment.

G. The department of health is authorized to adopt regulations for the administrative reconsideration proceeding available to any applicant or caregiver whose nationwide criminal history record reflects a disqualifying conviction. The regulations shall take into account the requirements of the Criminal Offender Employment Act, 28-2-1 to 28-2-6, NMSA 1978.

H. A care provider shall maintain records evidencing compliance with the requirements of this section with respect to all applicants and caregivers employed on or after the effective date of this act.

I. All criminal history records obtained pursuant to this section by the department of health are confidential. No criminal history records obtained pursuant to this section shall be used for any purpose other than determining whether an applicant or caregiver has criminal records that disqualify him from employment as a caregiver. Except on court order or with the written consent of the applicant or caregiver, criminal records obtained pursuant to this section and the information contained therein shall not be

released or otherwise disclosed to any other person or agency. Any person who discloses confidential records or information in violation of this section is guilty of a misdemeanor and shall be sentenced pursuant to the provisions of Subsection A of Section 31-19-1 NMSA 1978.

J. The department of health shall maintain a registry of all applicants who are disqualified from employment or contractual service as caregivers. An applicant's arrest record information shall not be released except upon request of the applicant, as provided in the Arrest Record Information Act.

K. A care provider, including its administrators and employees, is not civilly liable to an applicant or a caregiver for a good faith decision to employ, not employ or terminate employment pursuant to this act.

L. Failure to comply with the requirements of this section are grounds for the state agency having enforcement authority with respect to the care provider to impose appropriate administrative sanctions and penalties.

Chapter 68 Section 5

Section 5. CONSTRUCTION--SEVERABILITY.--If any provision of the Caregivers Criminal History Screening Act or the application thereof to any person or entity or in any circumstances is held invalid, the remainder of that act and the application of such provision to others or in other circumstances shall not be affected thereby.

Chapter 68 Section 6

Section 6. REPEAL.--Section 29-17-1 NMSA 1978 (being Laws 1997, Chapter 202) is repealed.

SENATE BILL 207, AS AMENDED

CHAPTER 69

RELATING TO HOSPITALS; ENACTING AN EXEMPTION FROM THE PROCUREMENT CODE; AMENDING THE HOSPITAL FUNDING ACT TO EXPAND POWERS OF COUNTIES RELATING TO JOINT PURCHASING AGREEMENTS AND FORMATION OF HEALTH CARE PROVIDER NETWORKS.

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

Chapter 69 Section 1

Section 1. A new section of the Procurement Code is enacted to read:

"HOSPITAL AND HEALTH CARE EXEMPTION.--The provisions of the Procurement Code shall not apply to procurement of items of tangible personal property or services by a state agency or a local public body through:

A. an agreement with any other state agency, local public body or external procurement unit or any other person, corporation, organization or association that provides that the parties to the agreement shall join together for the purpose of making some or all purchases necessary for the operation of public hospitals or public and private hospitals, if the state purchasing agent or a central purchasing office makes a determination that the arrangement will or is likely to reduce health care costs; or

B. an agreement with any other state agency, local public body or external procurement unit or any other person, corporation, organization or association for the purpose of creating a network of health care providers or jointly operating a common health care service, if the state purchasing agent or a central purchasing office makes a determination that the arrangement will or is likely to reduce health care costs, improve quality of care or improve access to care."

Chapter 69 Section 2

Section 2. Section 4-48B-5 NMSA 1978 (being Laws 1947, Chapter 148, Section 1, as amended) is amended to read:

"4-48B-5. POWER OF COUNTIES.--All counties shall have the following powers:

A. to purchase, own, maintain and operate hospitals;

B. to purchase the land necessary to construct hospitals;

C. to control and regulate county hospitals;

D. to construct county hospitals;

E. to issue general obligation bonds and revenue bonds in the manner provided in the Hospital Funding Act for the construction, purchase, renovation, remodeling, equipping or re-equipping of a county hospital or a jointly owned county-municipal hospital and purchasing the land necessary therefor or for any combination of the foregoing purposes;

F. to charge for hospital services rendered and to reduce any charge made for care of a patient in whole or part when the charges are determined to be disputed in good faith or uncollectible;

G. to lease a hospital to any person, corporation or association for the operation and maintenance of the hospital upon terms and conditions as the county commissioners may determine;

H. to contract with the state, another county or counties, the federal government or its agencies, another political subdivision or a public or private corporation, organization or association for the care of the sick of the county;

I. to receive all funds appropriated from whatever source or paid by or on behalf of any patient of the hospital;

J. notwithstanding any other provision of law, to enter into leases, management or operating contracts, health care facilities contracts and other agreements authorized by the Hospital Funding Act for periods in excess of one year; provided that the contract, lease or agreement may be terminated by the county without cause upon one hundred eighty days' notice after the first three years of the contract;

K. to authorize the hospital governing board of a county hospital to exercise all powers that the county is granted by the Hospital Funding Act except the powers to issue bonds, call a mill levy election and levy the annual assessments for the mill levy authorized by the Hospital Funding Act;

L. to enter into a health care facilities contract with one or more hospitals which agree to provide facilities to the sick of the county;

M. to call a mill levy election as authorized by the Hospital Funding Act and to collect and distribute the proceeds of the mill levy pursuant to that act;

N. to distribute the proceeds of the mill levy authorized by the Hospital Funding Act to one or more county hospitals and one or more contracting hospitals or any combination thereof which provide facilities for the sick of the county, whether located within or without the county wherein the mill levy is collected;

O. to accept grants for constructing, equipping, operating and maintaining a county hospital;

P. to enter into an agreement with a municipality for constructing, equipping, operating and maintaining a jointly owned county-municipal hospital;

Q. to enter into an agreement with another county or counties, another county or counties and another political subdivision, an agency of the federal government or any other person, corporation, organization or association which provides that the parties to the agreement shall join together or form a legal entity for the purpose of making some or all purchases necessary for the operation of public hospitals or public and private hospitals subject to provisions of or exemptions from the Procurement Code;

R. to enter into an agreement with another county or counties, another political subdivision, an agency of the federal government or any other person, corporation, organization or association that provides that parties to the agreement shall join together or form a legal entity for the purpose of creating a network of health care

providers or jointly operating a common health care service, subject to provisions of or exemptions from the Procurement Code;

S. to expend public money to recruit health care personnel to serve the sick of the county; and

T. to perform any other act or adopt any regulation necessary or expedient to carry out the provisions of the Hospital Funding Act."

SENATE BILL 295

CHAPTER 70

MAKING APPROPRIATIONS FOR STATE CAPITAL PLANNING.

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

Chapter 70 Section 1

Section 1. APPROPRIATIONS.--

A. The following amounts are appropriated from the general fund to the legislative council service for expenditure in fiscal years 1999 and 2000 for the capitol buildings planning commission to prepare or contract for state capital planning studies as follows:

(1) one hundred fifty thousand dollars (\$150,000) for a repair and replacement study, including:

- (a) physical inspection of state buildings in the capital;
- (b) inventory and evaluation of building systems; and
- (c) development of a repair and replacement fund; and

(2) one hundred fifty thousand dollars (\$150,000) for a master plan integrating city and county general plan provisions that affect state buildings in Santa Fe, including:

- (a) inventory of state buildings and land in the capital;
- (b) master site development plans of the various state building complexes and other state-owned property;
- (c) a locale and government growth impact study that identifies master plan alternatives;
- (d) location assignment criteria for state agencies and employees; and

(e) other components the capitol buildings planning commission deems necessary.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2000 shall revert to the general fund.

SENATE BILL 322

CHAPTER 71

RELATING TO PUBLIC ASSISTANCE; AMENDING THE INDIGENT HOSPITAL AND COUNTY HEALTH CARE ACT TO DELAY THE EFFECTIVE DATE OF TRANSFERS OF CERTAIN BALANCES TO COUNTY-SUPPORTED MEDICAID FUNDS FROM COUNTY INDIGENT HOSPITAL CLAIMS FUNDS.

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

Chapter 71 Section 1

Section 1. Section 27-5-7 NMSA 1978 (being Laws 1965, Chapter 234, Section 7, as amended) is amended to read:

"27-5-7. COUNTY INDIGENT HOSPITAL CLAIMS FUND.--

A. There is created in the county treasury of each county a "county indigent hospital claims fund".

B. Collections under the levy made pursuant to the Indigent Hospital and County Health Care Act and all payments shall be placed into the fund, and the amount placed in the fund shall be budgeted and expended only for the purposes specified in the Indigent Hospital and County Health Care Act, by warrant upon vouchers approved by a majority of the board and signed by the chairman of the board. Payments for indigent hospitalizations shall not be made from any other county fund.

C. The fund shall be audited in the manner that other state and county funds are audited, and all records of payments and verified statements of qualification upon which payments were made from the fund shall be open to the public.

D. Any balance remaining in the fund at the end of the fiscal year pursuant to Subsection F of this section shall carry over into the ensuing year, and that balance shall be taken into consideration in the determination of the ensuing year's budget and certification of need for purposes of making a tax levy.

E. Money may be transferred to the fund from other sources, but no transfers may be made from the fund for any purpose other than those specified in the Indigent Hospital and County Health Care Act.

F. On June 30 of each fiscal year, beginning in 2000, the board shall transfer to the county-supported medicaid fund that amount of the balance in the county indigent hospital claims fund that exceeds two hundred thousand dollars (\$200,000) or that exceeds the amount equal to thirty percent of the income to the fund during that fiscal year, whichever is greater. Any amount transferred to the county-supported medicaid fund pursuant to this subsection is in addition to the county's obligation pursuant to Section 27-10-4 NMSA 1978."

SENATE BILL 364

CHAPTER 72

RELATING TO CAPITAL PROJECTS; PROVIDING LEGISLATIVE AUTHORIZATION TO THE NEW MEXICO FINANCE AUTHORITY TO MAKE LOANS FOR PUBLIC PROJECTS FROM THE PUBLIC PROJECT REVOLVING FUND; DECLARING AN EMERGENCY.

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

Chapter 72 Section 1

Section 1. AUTHORIZATION OF PROJECTS.--Pursuant to the provisions of Section 6-21-6 NMSA 1978, the legislature authorizes the New Mexico finance authority to make loans from the public project revolving fund to the following qualified entities for the following public projects on terms and conditions established by the authority:

- A. to the city of Alamogordo for a water project, construction of two fire stations and the acquisition of pumper trucks and related fire protection equipment;
- B. to the city of Albuquerque for the acquisition of computer equipment;
- C. to the city of Albuquerque for a street, sidewalk, curb, storm drainage, water, sanitary sewer and utility improvement project known as special assessment district no. 216;
- D. to the village of Angel Fire for a water project;
- E. to the city of Artesia for a water project;
- F. to the Big Mesa cooperative for a water project;
- G. to the city of Bloomfield for a water project;
- H. to the Bluewater Acres domestic water users association for a water project;
- I. to the city of Carlsbad for a water project and the acquisition of solid waste vehicles and related equipment;

J. to the village of Chama for a water project;

K. to the Chaves county-Sierra fire district for the acquisition of a pumper truck and related fire protection equipment;

L. to Cibola county for the acquisition of a sheriff's vehicle and related law enforcement equipment;

M. to the Cibola county-Candy Kitchen fire district for the acquisition of a pumper truck, a brush truck and related fire protection equipment;

N. to the village of Cimarron for the acquisition and refinancing of police vehicles and related law enforcement equipment, the acquisition of a pumper truck and related fire protection equipment and the refinancing of a backhoe;

O. to the town of Clayton for a water project;

P. to the town of Cochiti Lake for a community center project;

Q. to the Columbus area natural gas association for a natural gas distribution project;

R. to the village of Cuba for a courthouse project;

S. to the village of Des Moines for the acquisition of an ambulance and related emergency medical equipment;

T. to Dona Ana county for a juvenile detention facility project and for the financing and refinancing of an adult detention facility project;

U. to the Dona Ana county-Organ/East Mesa fire district for construction of a fire station addition;

V. to the village of Eagle Nest for a water project;

W. to the Edgewood water cooperative, incorporated, for the financing of a water project and refinancing a water project;

X. to the El Prado water and sanitation district for the refinancing of a water project;

Y. to the state parks division of the energy, minerals and natural resources department for the following projects:

(1) statewide vault toilet construction;

(2) statewide campsite furnishings;

- (3) statewide access gates and vehicular controls;
- (4) statewide playground replacements and improvements;
- (5) statewide water and wastewater facility improvements;
- (6) statewide park staff modular residences;
- (7) statewide campsite modernization;
- (8) graveling of existing roads for Morphy;
- (9) resurfacing existing paved and graveled roads for Storrie;
- (10) resurfacing existing graveled roads for Sugarite;
- (11) restroom renovation at the damsite at Elephant Butte;
- (12) trail improvements and shop access paving at Oliver Lee;
- (13) restroom replacement at Riverside for Caballo;
- (14) restroom at Northern Loops for Navajo;
- (15) restroom at Eastside for Bluewater;
- (16) erosion control and campground renovation for Hyde Memorial;
- (17) paving dirt campsite parking areas and roads for Elephant Butte;
- (18) renovation of historic recreation building for Bottomless Lakes;
- (19) renovation of Sims Mesa office for Navajo;
- (20) renovation of and addition to historic building in Santa Fe;
- (21) pay station and road improvements for Bluewater;
- (22) office renovation and exhibits for El Vado;
- (23) office renovation and exhibits for Clayton;
- (24) office renovation and exhibits for Villanueva;
- (25) landscape renovation with the city of Santa Fe for Santa Fe River;

(26) restroom renovation for Manzano;

(27) restroom replacement for Leasburg; and

(28) south Monticello campground development for Elephant Butte;

Z. to the town of Estancia for a water project;

AA. to the city of Farmington for a water project and the acquisition of a rescue unit and related fire protection equipment;

BB. to the general services department for the acquisition of a research airplane and related research equipment;

CC. to the Glorieta mutual domestic water consumers association for a water project;

DD. to the city of Grants for a museum building project;

EE. to the Grant county solid waste authority for a regional solid waste project;

FF. to the Guadalupe county-Anton Chico fire district for the acquisition of a fire protection vehicle and related equipment;

GG. to the town of Hagerman for the acquisition of a pumper truck and related fire protection equipment;

HH. to Hidalgo county for a regional solid waste project and the acquisition of solid waste equipment;

II. to the city of Hobbs for a water project;

JJ. to the village of Jemez Springs for the acquisition of a police vehicle and related law enforcement equipment;

KK. to the La Cienega mutual domestic water consumers association for a water project;

LL. to the Lamy water users association for a water project;

MM. to the La Pasada mutual domestic water consumers and sewerage waste association for a water project and the refinancing of a water project;

NN. to the city of Las Vegas for a water project, the acquisition of police vehicles and related law enforcement equipment and the acquisition of a computer system;

OO. to the Leasburg mutual domestic water consumers association for a water project;

PP. to the Lee Acres water users association and the West Hammond drinking water association for a water project;

QQ. to the village of Logan for the refinancing of a water and sewer project;

RR. to the village of Los Lunas for a wastewater, storm sewer, street improvement and lighting project;

SS. to the Lower Valley water users association for the refinancing of a water project and a water project;

TT. to the town of Mesilla for the refinancing of a fire pumper truck and the acquisition of fire protection equipment;

UU. to the village of Milan for a wastewater project and the acquisition of motor pool vehicles;

VV. to the North Star drinking water cooperative and mutual sewage works cooperative for the refinancing of a water project and a water project;

WW. to the Penasco mutual domestic water consumers association for a water project;

XX. to the Puerta de Luna mutual domestic water consumers association for a water project;

YY. to the Quay county-Bard-Endee fire district for the acquisition of a rescue unit and related fire protection equipment;

ZZ. to the city of Raton for a street improvement project and for the acquisition of pumper trucks and related fire protection equipment;

AAA. to the town of Red River for the acquisition of a police vehicle and related law enforcement equipment and a fire tanker truck and related fire protection equipment;

BBB. to the village of Reserve volunteer fire department for the acquisition of a tanker unit and related fire protection equipment;

CCC. to the city of Roswell for replacement and renovation of fire stations;

DDD. to the village of Roy for construction of a fire station and a street improvement project;

EEE. to the pueblo of Sandia for a building infrastructure project;

FFF. to the city of Santa Rosa for a solid waste project;

GGG. to the Sierra county-Las Palomas fire district for construction of a fire station;

HHH. to the town of Silver City for a water project;

III. to the city of Socorro for a water project;

JJJ. to the South Central solid waste authority for a solid waste project;

KKK. to the Southside water users association for a water project;

LLL. to Taos county for an administrative building project;

MMM. to the Taos county-Cerro fire district for the acquisition of a tanker and related fire protection equipment;

NNN. to the Taos county-Costilla fire district for the acquisition of a pumper truck and related fire protection equipment;

OOO. to the Taos county-Hondo Seco fire district for the acquisition of a tanker and related fire protection equipment;

PPP. to the Taos county-Ojo Caliente fire district for the acquisition of a brush truck and related fire protection equipment;

QQQ. to the village of Taos Ski Valley for a municipal office building project;

RRR. to the village of Tatum for the acquisition of a police vehicle and related law enforcement equipment;

SSS. to the city of Texico for a water project;

TTT. to Torrance county for a detention facility project;

UUU. to the Torrance county-Duran fire district for the acquisition of a pumper truck and related fire protection equipment;

VVV. to the city of Truth or Consequences for the acquisition of a scraper;

WWW. to the city of Tucumcari for the acquisition of a pumper truck and related fire protection equipment;

XXX. to the village of Tularosa for the acquisition of patrol vehicles and related law enforcement equipment;

YYY. to the Twin Forks mutual domestic water consumers association for a water project;

ZZZ. to Valencia county for an adult detention facility project;

AAAA. to the Malaga water users cooperative for a water project;

BBBB. to the city of Eunice for a water and sewer project;

CCCC. to the city of Clovis for a solid waste project;

DDDD. to Cibola general hospital, incorporated, for acquisition of medical and related equipment; and

EEEE. to the city of Aztec for a municipal golf course and recreation project.

Chapter 72 Section 2

Section 2. VOIDING OF AUTHORIZATION.--If a qualified entity listed in Section 1 of this act has not certified to the New Mexico finance authority by the end of fiscal year 2001 its desire to continue to pursue a loan from the public project revolving fund for a public project listed in Section 1 of this act, then the legislative authorization granted to the New Mexico finance authority by Section 1 of this act to make a loan from the public project revolving fund to that qualified entity for that public project shall be void.

Chapter 72 Section 3

Section 3. FEDERAL FUNDS.--Should the state parks division of the energy, minerals and natural resources department secure federal funds to pay for the cost or a portion of the cost of a project listed in Subsection Y of Section 1 of this act, then the division may expend the funds originally authorized for the project for an alternate state park improvement project included in the division's capital improvement plan.

Chapter 72 Section 4

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

HOUSE BILL 226, AS AMENDED

WITH EMERGENCY CLAUSE

SIGNED March 9, 1998

CHAPTER 73

RELATING TO CAPITAL PROJECTS; REVOKING LEGISLATIVE AUTHORIZATION TO THE NEW MEXICO FINANCE AUTHORITY TO MAKE LOANS FROM THE

PUBLIC PROJECT REVOLVING FUND FOR CERTAIN PUBLIC PROJECTS;
DECLARING AN EMERGENCY.

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

Chapter 73 Section 1

Section 1. PUBLIC PROJECT REVOLVING FUND LOAN--REVOCAION OF LEGISLATIVE AUTHORIZATION.--The legislative authorization granted to the New Mexico finance authority, pursuant to the provisions of Section 6-21-6 NMSA 1978, to make loans from the public project revolving fund is revoked with respect to the following qualified entities for the specified public projects:

A. McKinley county for a public building project as specified in Subsection D of Section 1 of Chapter 187 of Laws 1995;

B. the city of Rio Rancho for a public safety building project as specified in Subsection Q of Section 1 of Chapter 187 of Laws 1995;

C. the city of Las Cruces for a building project as specified in Subsection W of Section 1 of Chapter 187 of Laws 1995;

D. the village of Capitan for a water project as specified in Subsection X of Section 1 of Chapter 187 of Laws 1995;

E. Santa Fe county for a recreational facility project, a detention facility project and a solid waste project as specified in Subsection B of Section 1 of Chapter 8 of Laws 1996 (S.S.);

F. McKinley county for a public health clinic project as specified in Subsection G of Section 1 of Chapter 8 of Laws 1996 (S.S.);

G. Valencia county for a solid waste project as specified in Subsection J of Section 1 of Chapter 8 of Laws 1996 (S.S.);

H. the village of Columbus for a solid waste project as specified in Subsection M of Section 1 of Chapter 8 of Laws 1996 (S.S.);

I. the city of Raton for a solid waste project as specified in Subsection P of Section 1 of Chapter 8 of Laws 1996 (S.S.);

J. the town of Hagerman to purchase water rights as specified in Subsection Z of Section 1 of Chapter 8 of Laws 1996 (S.S.);

K. New Mexico state university for a center for sustainable development of arid lands as specified in Subsection BB of Section 1 of Chapter 8 of Laws 1996 (S.S.);

L. the city of Rio Rancho for a youth complex as specified in Subsection CC of Section 1 of Chapter 8 of Laws 1996 (S.S.); and

M. the city of Rio Rancho for a wastewater project as specified in Subsection H of Section 1 of Chapter 166 of Laws 1997.

Chapter 73 Section 2

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

HOUSE BILL 227

WITH EMERGENCY CLAUSE

SIGNED March 9, 1998

CHAPTER 74

MAKING AN APPROPRIATION TO THE NEW MEXICO LIVESTOCK BOARD TO CONTRIBUTE TO RESEARCH PROJECTS RELATED TO VESICULAR STOMATITIS VIRUS IN LIVESTOCK.

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

Chapter 74 Section 1

Section 1. APPROPRIATION.--One hundred thousand dollars (\$100,000) is appropriated from the New Mexico livestock board's cash balances to the board's interim receipts and disbursements fund for expenditure in fiscal years 1999 and 2000 to contribute to research projects concerned with the vesicular stomatitis virus in livestock. Any unexpended or unencumbered balance remaining at the end of fiscal year 2000 shall revert to the New Mexico livestock board's general fund.

HOUSE BILL 248

CHAPTER 75

MAKING AN APPROPRIATION TO THE NEW MEXICO LIVESTOCK BOARD TO IMPLEMENT THE LIVESTOCK INSPECTOR SERIES RECLASSIFICATION PLAN; DECLARING AN EMERGENCY.

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

Chapter 75 Section 1

Section 1. APPROPRIATION.--Seventy-five thousand dollars (\$75,000) is appropriated from the New Mexico livestock board's cash balances to the board's interim receipts and disbursement fund for expenditure in fiscal years 1998 through 2000 to implement the livestock inspector series reclassification plan with salary changes consistent with compa-ratio levels for those inspectors whose salaries are currently within the range of their proposed grade and salary increases up to a minimum level for those inspectors whose current salaries are below the minimum of their proposed grade. The positions shall be budgeted in the base budget request for subsequent years. Any unexpended or unencumbered balance remaining at the end of fiscal 2000 shall revert to the New Mexico livestock board's general fund.

Chapter 75 Section 2

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

HOUSE BILL 249

WITH EMERGENCY CLAUSE

SIGNED March 9, 1998

CHAPTER 76

AMENDING THE FIRE PROTECTION FUND LAW; CHANGING THE FIRE PROTECTION FUND DISTRIBUTION FORMULA.

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

Chapter 76 Section 1

Section 1. Section 59A-53-4 NMSA 1978 (being Laws 1984, Chapter 127, Section 975, as amended) is amended to read:

"59A-53-4. CRITERIA FOR DETERMINATION OF NEEDS.--In making the determination of needs pursuant to Section 59A-53-3 NMSA 1978, the marshal shall first determine that each incorporated municipality to be certified has maintained an official fire department created by and regulated in accordance with a duly enacted ordinance for a period of at least one year prior to the date of certification and possesses fire equipment and apparatus in serviceable condition to respond to a fire incident. The marshal shall also determine the number of fire stations and substations located in each municipality to be certified and shall certify to the state treasurer for each municipality for the purpose of maintaining each fire station and each substation, if any, that meets the requirements of the marshal and the requirements of this section,

and in accordance with the class insurance rating it maintains, amounts for fiscal year 1999 not to exceed the following:

main station substation

number 1 \$ 58,245 \$ 21,584

number 2 53,957 20,145

number 3 49,641 18,705

number 4 45,323 17,266

number 5 43,164 15,827

number 6 41,007 14,388

number 7 38,848 13,670

number 8 36,691 12,950

number 9 27,339 10,797

number 10 24,460 none."

Chapter 76 Section 2

Section 2. Section 59A-53-5 NMSA 1978 (being Laws 1989, Chapter 312, Section 5, as amended) is amended to read:

"59A-53-5. ESTABLISHMENT OF COUNTY FIRE DISTRICTS.--

A. The county commissioners of any county may establish one or more county fire districts within the county but outside the corporate limits of any municipality. The marshal shall determine the number of fire stations and substations located in each county fire district to be certified and shall certify to the state treasurer for each county fire district for the purpose of maintaining each fire station and each substation, if any, that meets the requirements of the marshal and the requirements of this section, and in accordance with the class insurance rating it maintains, for fiscal year 1999, amounts not to exceed the following:

class main station substation

number 1 \$ 58,245 \$ 21,584

number 2 53,957 20,145

number 3 49,641 18,705

number 4 45,323 17,266

number 5 43,164 15,827

number 6 41,007 14,388

number 7 38,848 13,670

number 8 36,691 12,950

number 9 27,339 10,797

number 10 24,460 none.

B. Additionally, prior to the disbursement of any funds, the following must be established to the satisfaction of the marshal:

(1) the county fire district has maintained an official fire department for a period of at least one year, established and governed by appropriate resolution of the board of county commissioners of the county in which the county fire district is located, and possesses fire apparatus and equipment in serviceable condition to respond to a fire incident;

(2) the geographic limits and boundaries of the county fire district have been clearly defined and established by the board of county commissioners of the county in which the county fire district is located, and a plat showing the geographic limits and boundaries has been accepted by the board of county commissioners and filed as part of the official record of proceedings of the board and a certified copy thereof filed with the marshal; and

(3) there is available within the geographic limits and boundaries of the county fire district an adequate water supply to be used in connection with the fire-fighting facilities of the county fire district.

C. The county commissioners of any county may permit a county fire district located in the county to service an area adjacent and contiguous to the district but within another county; provided that the county commissioners of the other county shall consent by resolution duly adopted to the service and to the boundaries of the other area serviced. Before commencement of service, a plat showing the geographic limits and boundaries of the county fire district and of the additional area to be serviced shall be filed with and approved by the marshal. The county commissioners of either the county in which the county fire district is located or of the county in which the area being serviced is located may terminate the service but only with the approval of the marshal."

"59A-53-5.1. MAXIMUM AMOUNTS TO BE CERTIFIED.--

A. For fiscal year 2000 and each fiscal year thereafter, the marshal shall certify a total amount pursuant to Sections 59A-53-4 and 59A-53-5 NMSA 1978 not to exceed the greater of the total distribution pursuant to those sections for the previous fiscal year or an amount to be determined by adding:

(1) one-half of the total increase in the fire protection fund receipts in the previous fiscal year minus one-half of the appropriations, from all sources, to the volunteer firefighters retirement fund in the current fiscal year; and

(2) the total distribution pursuant to Sections 59A-53-4 and 59A-53-5 NMSA 1978 for the previous fiscal year.

B. The marshal shall adjust the distributions for each class in proportion to the increase in the total distribution."

HOUSE BILL 279, AS AMENDED

CHAPTER 77

RELATING TO HEALTH; ENACTING THE GENETIC INFORMATION PRIVACY ACT; PROVIDING FOR LIMITATIONS ON GENETIC ANALYSIS AND THE COLLECTION, RETENTION, DISCLOSURE AND USE OF GENETIC INFORMATION; PROHIBITING DISCRIMINATION BY INSURERS BASED ON GENETIC INFORMATION; PROVIDING PENALTIES.

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

Chapter 77 Section 1

Section 1. SHORT TITLE.--This act may be cited as the "Genetic Information Privacy Act".

Chapter 77 Section 2

Section 2. DEFINITIONS.--As used in the Genetic Information Privacy Act:

A. "DNA" means deoxyribonucleic acid, including mitochondrial DNA, complementary DNA and DNA derived from ribonucleic acid;

B. "gene products" means gene fragments, ribonucleic acids or proteins derived from DNA that would be a reflection of or indicate DNA sequence information;

C. "genetic analysis" means a test of a person's DNA, gene products or chromosomes that indicates a propensity for or susceptibility to illness, disease, impairment or other disorders, whether physical or mental; that demonstrates genetic or chromosomal damage due to environmental factors; or that indicates carrier status for disease or disorder; excluded, however, are routine physical measurements, chemical, blood and urine analysis, tests for drugs, and tests for the presence of HIV virus and any other tests or analyses commonly accepted in clinical practice at the time ordered;

D. "genetic information" means information about the genetic makeup of a person or members of a person's family, including information resulting from genetic analysis, DNA composition, participation in genetic research or use of genetic services;

E. "genetic propensity" means the presence in a person or members of a person's family of real or perceived variations in DNA or other genetic material from that of the normal genome that do not represent the outward physical or medical signs of a genetic disease at the time of consideration; and

F. "insurer" means an insurance company, insurance service or insurance organization that is licensed to engage in the business of insurance in the state and that is subject to state law that regulates insurance within the meaning of Paragraph (2) of Subsection (b) of Section 514 of the federal Employee Retirement Income Security Act of 1974, as amended. "Insurer" 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 not licensed under the Prepaid Dental Plan Law, but under another provision of the New Mexico Insurance Code.

Chapter 77 Section 3

Section 3. GENETIC ANALYSIS PROHIBITED WITHOUT INFORMED CONSENT--EXCEPTIONS.--

A. Except as provided in Subsection C of this section, no person shall obtain genetic information or samples for genetic analysis from a person without first obtaining informed and written consent from the person or the person's authorized representative.

B. Except as provided in Subsection C of this section, genetic analysis of a person or collection, retention, transmission or use of genetic information without the informed and written consent of the person or the person's authorized representative is prohibited.

C. A person's DNA, genetic information or the results of genetic analysis may be obtained, retained, transmitted or used without the person's written and informed consent pursuant to federal or state law or regulations only:

(1) to identify a person in the course of a criminal investigation by a law enforcement agency;

(2) if the person has been convicted of a felony, for purposes of maintaining a DNA database for law enforcement purposes;

(3) to identify deceased persons;

(4) to establish parental identity;

(5) to screen newborns;

(6) if the DNA, genetic information or results of genetic analysis are not identified with the person or person's family members;

(7) by a court for determination of damage awards pursuant to the Genetic Information Privacy Act;

(8) by medical repositories or registries;

(9) for the purpose of medical or scientific research and education, including retention of gene products, genetic information or genetic analysis if the identity of the person or person's family members is not disclosed; or

(10) for the purpose of emergency medical treatment consistent with applicable law.

D. Actions of an insurer and third parties dealing with an insurer in the ordinary course of conducting and administering the business of life, disability income or long-term care insurance are exempt from the provisions of this section if the use of genetic analysis or genetic information for underwriting purposes is based on sound actuarial principles or related to actual or reasonably anticipated experience. However, before or at the time of collecting genetic information for use in conducting and administering the business of life, disability income or long-term care insurance, the insurer shall notify in writing an applicant for insurance or the insured that the information may be used, transmitted or retained solely for the purpose of conducting and administering the business of life, disability income or long-term care insurance.

E. Nothing in Paragraph (5), (6), (8), (9) or (10) of Subsection C of Section 3 of the Genetic Information Privacy Act authorizes obtaining, retaining, transmitting or using a person's DNA, genetic information or the results of genetic analysis if the person, his authorized representative or guardian, or the parent or guardian of a minor child, objects on the basis of religious tenets or practices.

Chapter 77 Section 4

Section 4. GENETIC DISCRIMINATION PROHIBITED.--

A. Discrimination by an insurer against a person or member of the person's family on the basis of genetic analysis, genetic information or genetic propensity is prohibited.

B. The provisions of this section do not require a health insurer to provide particular benefits other than those provided under the terms of the plan or coverage. A health insurer shall not consider a genetic propensity, susceptibility or carrier status as a pre-existing condition for the purpose of limiting or excluding benefits, establishing rates or providing coverage.

C. The provisions of this section do not prohibit use of genetic analysis, genetic propensity or genetic information by an insurer in the ordinary conduct of business in connection with life, disability income or long-term care insurance if use of genetic analysis, genetic propensity or genetic information in underwriting is based on sound actuarial principles or related to actual or reasonably anticipated experience.

Chapter 77 Section 5

Section 5. RIGHTS OF RETENTION.--

A. Unless otherwise authorized by Subsection C of Section 3 of the Genetic Information Privacy Act, no person shall retain a person's genetic information, gene products or samples for genetic analysis without first obtaining informed and written consent from the person or the person's authorized representative. This subsection does not affect the status of original medical records of patients, and the rules of confidentiality and accessibility applicable to the records continue in force.

B. A person's genetic information or samples for genetic analysis shall be destroyed promptly upon the specific request by that person or that person's authorized representative unless:

(1) retention is necessary for the purposes of a criminal or death investigation or a criminal or juvenile proceeding;

(2) retention is authorized by order of a court of competent jurisdiction;

(3) retention is authorized under a research protocol approved by an institution review board pursuant to federal law or a medical registry or repository authorized by state or federal law; or

(4) the genetic information or samples for genetic analysis have been obtained pursuant to Subsection C of Section 3 of the Genetic Information Privacy Act.

C. Actions of an insurer and third parties dealing with an insurer in the ordinary course of conducting and administering the business of life, disability income or long-term care insurance are exempt from the provisions of this section. However, before or at the time of collecting genetic information for use in conducting and administering the business of life, disability income or long-term care insurance, the insurer shall notify in writing an applicant for insurance or the insured that the information may be used, transmitted or retained solely for the purpose of conducting and administering the business of life, disability income or long-term care insurance.

D. Nothing in Paragraph (3) or (4) of Subsection B of Section 5 of the Genetic Information Privacy Act authorizes retention of a person's genetic information or samples for genetic analysis if the person, his authorized representative or guardian, or the parent or guardian of a minor child, objects on the basis of religious tenets or practices.

Chapter 77 Section 6

Section 6. PENALTIES.--

A. The attorney general or district attorney may bring a civil action against a person for violating the provisions of the Genetic Information Privacy Act or to otherwise enforce those provisions.

B. A person whose rights under the provisions of the Genetic Information Privacy Act have been violated may bring a civil action for damages or other relief.

C. The court may order a person who violates the provisions of the Genetic Information Privacy Act to comply with those provisions and may order other appropriate relief, including:

(1) directing an insurer who has violated Section 3 or 4 of the Genetic Information Privacy Act to provide a policy for hospital and medical expenses, including health insurance, group disability insurance or long-term care coverage, to the injured person under the same terms and conditions as would have applied had the violation not occurred;

(2) actual damages;

(3) damages of up to five thousand dollars (\$5,000) in addition to any economic loss if the violation results from willful or grossly negligent conduct; and

(4) reasonable attorney fees and appropriate court costs.

D. Pursuant to Subsection C of Section 3 of the Genetic Information Privacy Act, the court may use genetic information to determine the cause of damage or injury and penalty awards.

E. Each instance of wrongful collection, analysis, retention, disclosure or use of genetic information constitutes a separate and actionable violation of the Genetic Information Privacy Act.

Chapter 77 Section 7

Section 7. APPLICATION OF ACT.--The provisions of this act shall apply to genetic analysis performed and genetic information and gene products obtained after the effective date of this act.

HOUSE BILL 331, AS AMENDED

CHAPTER 78

RELATING TO AGRICULTURE; ENACTING THE NOXIOUS WEED MANAGEMENT ACT.

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

Chapter 78 Section 1

Section 1. SHORT TITLE.--This act may be cited as the "Noxious Weed Management Act".

Chapter 78 Section 2

Section 2. FINDINGS AND PURPOSE.--

A. The legislature finds that noxious weeds have caused extensive economic damage in New Mexico. Specifically, the presence and spread of noxious weeds:

(1) decreases land values and productivity, forces out nutritious forage for livestock and often causes the death of livestock and crops;

(2) harms the environment by crowding out native vegetation and endangered species, increasing fire danger and increasing water usage; and

(3) increases government and industrial costs by increasing highway cleanup costs, decreasing the lease value of state and federal public lands and curtailing the hunting, fishing and recreational use of the land.

B. It is the purpose of the Noxious Weed Management Act to improve the state economy and environment by managing noxious weeds in New Mexico.

Chapter 78 Section 3

Section 3. DEFINITIONS.--As used in the Noxious Weed Management Act:

A. "director" means the director of the New Mexico department of agriculture;

B. "landowner" means a person who holds title to real property, is the holder of a right-of-way easement or is a designated land manager;

C. "noxious weed" means a plant species that is not indigenous to New Mexico and that has been targeted pursuant to the Noxious Weed Management Act for management or control because of its negative impact on the economy or the environment; and

D. "public land" means land controlled or supervised by an agency of government.

Chapter 78 Section 4

Section 4. DUTIES OF DIRECTOR--NOXIOUS WEED MANAGEMENT PROGRAM.--

A. The director shall coordinate integrated noxious weed management programs. To carry out such programs, the director shall:

(1)select the species of weeds to be targeted as noxious weeds for control or eradication pursuant to the Noxious Weed Management Act;

(2)identify the methods to be used to control noxious weeds; and

(3)develop publications to educate the public on the problem and prevention of noxious weeds.

B. The director may use and cooperate with any existing noxious weed control program that is available and appropriate for the purposes of the Noxious Weed Management Act.

Chapter 78 Section 5

Section 5. ADMINISTRATION OF PROGRAM.--The director shall administer the provisions of the Noxious Weed Management Act subject to the directives, policies and regulations of the board of regents of New Mexico state university.

Chapter 78 Section 6

Section 6. LANDOWNERS--RIGHTS--AGREEMENTS.--

A. If the director or his designee becomes aware of the presence of noxious weeds on nonpublic land, the director shall notify the landowner of the noxious weeds and the methods for controlling them. However, nothing in the Noxious Weed Management Act shall be construed to permit the director or his designee to enter nonpublic land except at the invitation of the landowner.

B. Upon the request of a landowner, the director shall develop a noxious weed control program in cooperation with the landowner.

C. Whenever the director becomes aware of the presence of noxious weeds on public land, he shall inform the governmental entity of the species found on land under the entity's jurisdiction. When possible and practicable, the director shall consult with the governmental entity in developing a management plan for the control of the noxious weeds.

D. The director may develop and implement cooperative agreements with appropriate federal and state agencies, the commissioner of public lands and Indian nations, tribes and pueblos to carry out the provisions of the Noxious Weed Management Act.

Chapter 78 Section 7

Section 7. SEVERABILITY.--If any part or application of the Noxious Weed Management Act is held invalid, the remainder or its application to other situations or persons shall not be affected.

HOUSE BILL 349, AS AMENDED

CHAPTER 79

RELATING TO ALCOHOL BUSINESS LICENSES; AMENDING SECTIONS OF THE NMSA 1978 TO CHANGE PROVISIONS FOR SPECIAL DISPENSER'S PERMIT, REGISTRATION AND LICENSE FEES; PROVIDING FOR NONRESIDENT LICENSES AND COMMON CARRIER REGISTRATIONS.

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

Chapter 79 Section 1

Section 1. Section 60-6A-12 NMSA 1978 (being Laws 1981, Chapter 39, Section 29, as amended) is amended to read:

"60-6A-12. SPECIAL DISPENSER'S PERMITS--STATE AND LOCAL FEES.--

A. Any person holding a dispenser's license in any local option district where a public celebration is to be held may dispense alcoholic beverages at the public celebration upon receiving written approval from the governing body in charge of the public celebration and upon the payment of fifty dollars (\$50.00) to the department for a special dispenser's permit.

B. As used in this section, "public celebration" includes any state fair, county fair, community fiesta, cultural or artistic performance or professional athletic competition of a seasonal nature or activities held on an intermittent basis.

C. In addition to the state fee and if previously provided for by ordinance, the governing body of the local option district in which the public celebration is held may charge an additional fee not to exceed twenty-five dollars (\$25.00) per day for each day the permittee dispenses alcoholic beverages. The permittee shall be subject to all state laws and regulations and all local regulations regulating dispenser's privileges and disabilities. All fees collected by the governing body of the local option district may be used to fund free ride home programs.

D. Any person holding a dispenser's license may be issued a special dispenser's permit by the director allowing the dispensing of alcoholic beverages at a function catered by that business, provided the governing body of the local option district has given the person seeking the permit written approval to dispense alcoholic beverages at the catered function. The permit shall be valid for no more than twelve hours. To apply for the permit, the holder of a dispenser's license shall submit a fee of twenty-five dollars

(\$25.00) together with such information as the director may require. The permittee shall be subject to all state laws and regulations and all local regulations except that the permittee shall not be required to suspend the dispensing of alcoholic beverages at the licensed premises solely because of the issuance of the special dispenser's permit.

E. The person holding a dispenser's license and his employees shall be the only persons permitted to dispense alcohol during the function for which the permit was sought. Issuance of the special dispenser's permit is within the director's discretion and is subject to any reasonable requirements imposed by the director.

F. Any person holding a dispenser's license in a local option district in which Sunday sales of alcoholic beverages are not otherwise permitted pursuant to the Liquor Control Act may dispense beer and wine on Sunday at any public celebration for which it has received a concession from the governing body in charge of the public celebration, provided the governing body of that local option district has by resolution expressly permitted such beer and wine sales on Sunday at that public celebration in accordance with the provisions of this section.

G. Any person holding a dispenser's license who dispenses alcoholic beverages at a church's public celebration under a special dispenser's permit pursuant to this section may donate to the church holding the public celebration any portion of the profits from the sale of alcoholic beverages at that public celebration. Employees of that dispenser or other individuals who have completed a certified alcohol server training program may donate to the church holding a public celebration their services as servers of alcoholic beverages at that public celebration."

Chapter 79 Section 2

Section 2. Section 60-6A-13 NMSA 1978 (being Laws 1981, Chapter 39, Section 30) is amended to read:

"60-6A-13. REGISTRATION TO TRANSPORT.--For the renewal year beginning on July 1, 1998 and every three years thereafter, every common carrier transporting alcoholic beverages into and for delivery within the state shall register with the department and pay a registration fee of fifty dollars (\$50.00)."

Chapter 79 Section 3

Section 3. Section 60-6A-15 NMSA 1978 (being Laws 1981, Chapter 39, Section 32, as amended) is amended to read:

"60-6A-15. LICENSE FEES.--Every application for the issuance or renewal of the following licenses shall be accompanied by a license fee in the following specified amounts:

- A. manufacturer's license as a distiller, except a brandy manufacturer, three thousand dollars (\$3,000);
- B. manufacturer's license as a brewer, three thousand dollars (\$3,000);
- C. manufacturer's license as a rectifier, one thousand fifty dollars (\$1,050);
- D. wholesaler's license to sell all alcoholic beverages for resale only, two thousand five hundred dollars (\$2,500);
- E. wholesaler's license to sell spirituous liquors and wine for resale only, one thousand seven hundred fifty dollars (\$1,750);
- F. wholesaler's license to sell spirituous liquors for resale only, one thousand five hundred dollars (\$1,500);
- G. wholesaler's license to sell beer and wine for resale only, one thousand five hundred dollars (\$1,500);
- H. wholesaler's license to sell beer for resale only, one thousand dollars (\$1,000);
- I. wholesaler's license to sell wine for resale only, seven hundred fifty dollars (\$750);
- J. retailer's license, one thousand two hundred fifty dollars (\$1,250);
- K. dispenser's license, one thousand two hundred fifty dollars (\$1,250);
- L. canopy license, one thousand two hundred fifty dollars (\$1,250);
- M. restaurant license, one thousand dollars (\$1,000);
- N. club license, one thousand two hundred fifty dollars (\$1,250);
- O. wine bottler's license to sell to wholesalers only, five hundred dollars (\$500);
- P. public service license, one thousand two hundred fifty dollars (\$1,250);
- Q. nonresident licenses, for a total billing to New Mexico wholesalers in excess of:
 - \$3,000,000 annually \$10,500;
 - 1,000,000 annually 5,250;
 - 500,000 annually 3,750;
 - 200,000 annually 2,700;
 - 100,000 annually 1,800; and

50,000 or less annually 900;

R. wine wholesaler's license, for persons with sales of five thousand gallons of wine per year or less, twenty-five dollars (\$25.00), and for persons with sales in excess of five thousand gallons of wine per year, one hundred dollars (\$100); and

S. beer bottler's license, two hundred dollars (\$200)."

Chapter 79 Section 4

Section 4. Section 60-6A-16 NMSA 1978 (being Laws 1981, Chapter 39, Section 33) is amended to read:

"60-6A-16. PRORATION OF FEES.--

A. The license fees required of retailers, dispensers, restaurants, clubs and public service licensees shall be prorated so that licenses issued prior to October 1 of any year shall be subject to the full amount of the annual license fee. Licenses issued on or subsequent to October 1 and prior to January 1 shall be subject to three-fourths of the annual license fee. Licenses issued on or subsequent to January 1 and prior to April 1 of a year shall be subject to one-half of the annual license fee. Licenses issued on or subsequent to April 1 shall be subject to one-fourth of the annual license fee.

B. All licenses issued to manufacturers, wine bottlers and wholesalers shall be paid for at the yearly rate regardless of the date issued and shall expire on June 30 of the fiscal year for which the licenses are issued.

C. Nonresident licenses and carrier registrations shall be prorated so that licenses issued before the end of the first year of the three-year license period are subject to the full amount of the license fee. Licenses issued on or after the end of the first year and before the end of the second year are subject to two-thirds of the license fee. Licenses issued on or after the end of the second year are subject to one-third of the license fee."

Chapter 79 Section 5

Section 5. Section 60-6B-5 NMSA 1978 (being Laws 1981, Chapter 39, Section 41) is amended to read:

"60-6B-5. EXPIRATION AND RENEWAL OF LICENSES.--All licenses provided for in the Liquor Control Act, except nonresident licenses and common carrier registrations, shall expire on June 30 of each year and may be renewed from year to year under the rules of the department. Current nonresident licenses and common carrier registrations shall expire on June 30, 1998 and may be renewed for three-year periods thereafter. The director shall determine whether any of the licensees under his jurisdiction are delinquent in any taxes administered by the taxation and revenue department as of

June 1 of each renewal period. The director shall also determine whether or not there exists any other reason why a license should not be renewed. If the director determines that the license should not be renewed, he shall enter an order requiring the licensee, after notice, to show cause why his license should be renewed, and he shall conduct a hearing on the matter. If, after the hearing, the director finds that the licensee is qualified, he shall renew the license."

HOUSE BILL 358

CHAPTER 80

RELATING TO ALCOHOLIC BEVERAGES; PRESCRIBING CRIMINAL PENALTIES FOR PROVIDING ALCOHOLIC BEVERAGES TO A MINOR; PROVIDING AN EXCEPTION; AMENDING A SECTION OF THE LIQUOR CONTROL ACT.

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

Chapter 80 Section 1

Section 1. Section 60-7B-1 NMSA 1978 (being Laws 1993, Chapter 68, Section 22) is amended to read:

"60-7B-1. SELLING OR GIVING ALCOHOLIC BEVERAGES TO

MINORS--POSSESSION.--

A. It is a violation of the Liquor Control Act for a person, including a person licensed pursuant to the provisions of the Liquor Control Act, or an employee, agent or lessee of that person, if he knows or has reason to know that he is violating the provisions of this section, to:

- (1) sell, serve or give alcoholic beverages to a minor or permit a minor to consume alcoholic beverages on the licensed premises;
- (2) buy alcoholic beverages for or procure the sale or service of alcoholic beverages to a minor;
- (3) deliver alcoholic beverages to a minor; or
- (4) aid or assist a minor to buy, procure or be served with alcoholic beverages.

B. It is not a violation of the Liquor Control Act, as provided in Subsection A or C of this section, when a parent or legal guardian of a minor serves alcoholic beverages to that minor on real property, other than licensed premises, under the control of the parent or legal guardian; provided that the parent or legal guardian ensures that the minor

remains on the real property under the control of the parent or legal guardian until the minor is no longer under the influence of the alcoholic beverages.

C. It is a violation of the Liquor Control Act for a minor to buy, attempt to buy, receive, possess or permit himself to be served with alcoholic beverages.

D. In the event a person other than a minor procures another person to sell, serve or deliver alcoholic beverages to a minor by actual or constructive misrepresentation of facts calculated to cause, or by a concealment of facts the concealment of which is calculated to cause, the person selling, serving or delivering the alcoholic beverages to the minor to believe that the minor is legally entitled to be sold, served or delivered alcoholic beverages and actually deceiving him by that misrepresentation or concealment, then that person and not the person so deceived by the misrepresentation or concealment shall have violated the Liquor Control Act.

E. As used in the Liquor Control Act, "minor" means a person under twenty-one years of age.

F. Violation of this section by a minor with respect to possession is a petty misdemeanor. Upon conviction, the offender may be sentenced in accordance with Section 31-19-1 NMSA 1978. Any sentence imposed pursuant to this subsection may be suspended in the discretion of the court upon the condition that:

(1) the minor accept the suspension of his drivers license for a period not to exceed three months, whereupon the trial court may dismiss the possession of alcoholic beverage charge and it shall not be considered a conviction. In the event the minors drivers license is to be suspended, the trial court shall inform the motor vehicle division of the taxation and revenue department of the action; provided, however, if the minor drives during the period of suspension, then the court may impose a fine, jail sentence or both, the fine and sentence not to exceed the maximums imposed for petty misdemeanors or may impose punishment pursuant to Paragraph (2) of this subsection; and

(2) the minor assist in a community project designated by the court, up to fifty hours, whereupon the trial court may dismiss the possession of alcoholic beverage charge and it shall not be considered a conviction."

Chapter 80 Section 2

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1998.

HOUSE BILL 362

CHAPTER 81

RELATING TO WATER RIGHTS; PROVIDING FOR THE PURCHASE OF CERTAIN WATER RIGHTS AND THE DEVELOPMENT OF A STRATEGY AND PLAN BY THE INTERSTATE STREAM COMMISSION; MAKING APPROPRIATIONS.

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

Chapter 81 Section 1

Section 1. FINDINGS AND PURPOSE.--

A. The legislature finds that additional water rights must be purchased and retired in the Pecos River basin by the state of New Mexico to satisfy the requirements and obligations of the Pecos River Compact and the amended decree of the United States supreme court in Texas v. New Mexico, No. 65 original.

B. The purpose of this act is to meet that requirement and to establish a long- and short-term strategy to determine requirements that will need to be met for New Mexico's permanent compliance with the compact and the decree.

Chapter 81 Section 2

Section 2. APPROPRIATIONS--CONDITIONS.--

A. Subject to the conditions set forth in Subsection B of this section, two million dollars (\$2,000,000) is appropriated from the New Mexico irrigation works construction fund to the interstate stream commission in each of fiscal years 1999 through 2001 for expenditure in any of the fiscal years for the purpose of retiring water rights along the Pecos River basin and taking other appropriate actions that would effectively aid New Mexico in compliance with the United States supreme court amended decree in Texas v. New Mexico, No. 65 original. Any unexpended or unencumbered balance remaining at the end of fiscal year 2001 shall revert to the New Mexico irrigation works construction fund.

B. The appropriations made in Subsection A of this section are subject to the following conditions:

(1) the interstate stream commission shall review the expenditures of the appropriations made in Subsection A of this section at each of the interstate stream commission's regularly scheduled meetings or as it deems necessary throughout fiscal years 1999 through 2001; and

(2) the interstate stream commission shall, before any purchases of water rights are made using the money appropriated in Subsection A of this section, obtain professionally prepared market or economic valuations or appraisals. The valuations or appraisals along with other relevant considerations shall be the basis for any purchase.

Chapter 81 Section 3

Section 3. APPROPRIATION--PURCHASE OF WATER RIGHTS.--

A. Twelve million dollars (\$12,000,000) is appropriated from the New Mexico irrigation works construction fund to the interstate stream commission for expenditure in fiscal years 1998 and 1999 for the purchase of water rights along the Pecos River basin pursuant to the provisions of Subsections B and C of this section. Any unexpended or unencumbered balance remaining at the end of fiscal year 1999 shall revert to the New Mexico irrigation works construction fund.

B. The appropriation in Subsection A of this section may only be used for the purchase of water rights or water rights with appurtenant land in the Pecos River basin that would effectively aid the state in complying with the Pecos River Compact and the United States supreme court amended decree in the case of Texas v. New Mexico, No. 65 original.

C. Before any purchase of water rights is made pursuant to this section, the interstate stream commission shall obtain professionally prepared market or economic valuations or appraisals. The valuations or appraisals along with other relevant considerations shall be the basis for any purchase.

Chapter 81 Section 4

Section 4. APPROPRIATION--LONG-TERM STRATEGY AND SHORT-TERM ACTION PLAN.--

A. Five hundred thousand dollars (\$500,000) is appropriated from the New Mexico irrigation works construction fund to the interstate stream commission for expenditure in fiscal years 1998 through 2000 for the purpose of preparing a long-term strategy for the state's permanent compliance with the Pecos River Compact and the United States supreme court amended decree in the case of Texas v. New Mexico, No. 65 original and a short-term action plan for responding to a net shortfall in New Mexico's deliveries to Texas as required by the court decree. Any unexpended or unencumbered balance remaining at the end of fiscal year 2000 shall revert to the general fund.

B. The long-term strategy and the short-term action plan developed by the interstate stream commission pursuant to Subsection A of this section shall be completed and submitted for consideration to the second session of the forty-fourth legislature. Periodically, during the development of the strategy and plan, the commission shall report its progress to the appropriate permanent or interim legislative committees.

C. A significant component of the long-term strategy and short-term action plan developed by the interstate stream commission pursuant to Subsection A of this section will be an analysis of how the long-term strategy and short-term action plan could

adversely affect surrounding aquifers, specifically nonreplenishable aquifers such as the Ogallala.

HOUSE BILL 363, AS AMENDED

CHAPTER 82

RELATING TO AGING; ENACTING THE LONG-TERM CARE SERVICES ACT;
DEVELOPING AN INTEGRATED LONG-TERM CARE SERVICE DELIVERY SYSTEM.

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

Chapter 82 Section 1

Section 1. SHORT TITLE.--This act may be cited as the "Long-term Care Services Act".

Chapter 82 Section 2

Section 2. DEFINITIONS.--As used in the Long-term Care Services Act:

A. "consumer" means a long-term care service recipient who has a physical or mental illness, injury or disability or who suffers from any cognitive impairment that restricts or limits the person's activities of daily living or instrumental activities of daily living and who is under the care of a provider;

B. "long-term care" means home- or community-based care provided to a consumer that is designed to maintain the consumer's independence and autonomy in the consumer's residence and includes support services such as personal, respite, attendant, residential or institutional care; case management; services such as meals, homemaker, home repair, transportation, companion, adult day health care, emergency response or day habilitation; physical, occupational or speech therapy; nursing; or help with chores;

C. "residence" means a consumer's home, an independent living center, an adult day health care facility, a community center, an assisted living facility, an adult residential care facility, a nursing home or a senior citizen center; and

D. "service delivery system" means a unified statewide, comprehensive home- and community-based service delivery system that integrates and coordinates all health, medical and social services that meet the individual needs of consumers and support them in remaining in their own homes and communities.

Chapter 82 Section 3

Section 3. INTERAGENCY COMMITTEE CREATED--COORDINATED SERVICE DELIVERY SYSTEM--LEAD AGENCY--SERVICE DELIVERY SYSTEM.--

A. The "interagency committee on long-term care" is created.

B. Members of the interagency committee on long-term care shall be the heads of the following agencies or their designated representatives:

(1) the state agency on aging;

(2) the human services department;

(3) the department of health;

(4) the children, youth and families department;

(5) the labor department;

(6) the governor's committee on concerns of the handicapped;

(7) the developmental disabilities planning council; and

(8) the department of insurance.

C. The interagency committee on long-term care shall design and implement a coordinated service delivery system that fulfills the legislative mandate to develop a coordinated long-term care system.

D. The governor shall appoint a chairperson from the membership of the interagency committee on long-term care.

Chapter 82 Section 4

Section 4. SERVICE DELIVERY SYSTEM--COMPONENTS--PRINCIPLES.--The interagency committee on long-term care shall take into consideration, within available resources, the following principles in the design, development and implementation of the integrated long-term care delivery system to:

A. ensure the dignity and respect of consumers in the treatment and support provided;

B. tailor home- and community-based long-term care services and programs to provide full access and coordination to meet the individual needs of consumers;

C. develop and provide home- and community-based long-term care services and programs of the highest quality;

D. provide for consumer self-determination by providing options for individual choice and consumer input in home- and community-based long-term care;

E. implement a state policy that defines the state's obligation regarding long-term care by integrating applicable state and federal mandates related to long-term care services;

F. diversify institutional care options that explore and enhance appropriate alternatives to institutional care; and

G. integrate various funding sources to provide quality, affordable services to the consumer.

Chapter 82 Section 5

Section 5. REPORT.--The chairperson shall present a report to the legislature on the progress of the interagency committee on long-term care and the status of the coordinated service delivery system. The report shall include conclusions and recommendations to further the work of the interagency committee on long-term care and to complete the process of integrating the service delivery system in the state.

HOUSE BILL 372, AS AMENDED

CHAPTER 83

RELATING TO LAW ENFORCEMENT; AUTHORIZING A DISTRIBUTION OF MONEY FROM THE LAW ENFORCEMENT PROTECTION FUND TO UNIVERSITY POLICE DEPARTMENTS; MAKING AN APPROPRIATION; DECLARING AN EMERGENCY.

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

Chapter 83 Section 1

Section 1. Section 29-13-2 NMSA 1978 (being Laws 1983, Chapter 289, Section 2, as amended) is amended to read:

"29-13-2. PURPOSE OF ACT.--The purpose of the Law Enforcement Protection Fund Act is to provide for the equitable distribution of money to municipal police, university police, tribal police and county sheriff's departments for use in the maintenance and improvement of those departments in order to enhance the efficiency and effectiveness of law enforcement services."

Chapter 83 Section 2

Section 2. Section 29-13-2.1 NMSA 1978 (being Laws 1993, Chapter 179, Section 4) is amended to read:

"29-13-2.1. DEFINITIONS.--As used in the Law Enforcement Protection Fund Act:

A. "division" means the local government division of the department of finance and administration;

B. "fund" means the law enforcement protection fund;

C. "governmental entity" means a municipality, university, tribe or pueblo or a county;

D. "tribal police department" means any tribal or pueblo police department that has entered into an agreement with the department of public safety pursuant to Section

29-1-11 NMSA 1978; and

E. "university" means a four-year post-secondary institution listed in Article 12, Section 11 of the constitution of New Mexico."

Chapter 83 Section 3

Section 3. Section 29-13-4 NMSA 1978 (being Laws 1993, Chapter 179, Section 6) is amended to read:

"29-13-4. DETERMINATION OF NEEDS AND RATE OF DISTRIBUTION.--

A. Annually on or before April 15, the division shall:

(1) consider and determine the relative needs as requested by municipal and university police and county sheriff's departments for money in the fund pursuant to the provisions of Subsection B of this section; and

(2) calculate the amount of consideration due a tribal police department pursuant to the provisions of Paragraph (10) of Subsection C of Section 29-1-11 NMSA 1978.

B. The division shall determine the rate of distribution of money in the fund to each municipal and university police and county sheriff's department as follows:

(1) all municipal police and county sheriff's departments shall be rated by class pursuant to this paragraph in accordance with populations established by the most recently completed decennial census; provided that the population of any county shall not include the population of any municipality within that county that has a municipal police department. The rate of distribution to which a municipal police or county sheriff's department is entitled is the following:

CLASS POPULATION AMOUNT

10 to 20,000 \$17,000

220,001 to 160,000 30,000

3160,001 to 1,280,000 40,000;

(2) university police departments shall be entitled to a rate of distribution of seventeen thousand dollars (\$17,000); and

(3) municipal and university police and county sheriff's departments shall be entitled, unless allocations are adjusted pursuant to the provisions of Subsection C of this section, to three hundred dollars (\$300) for each police officer or sheriff's deputy employed full time by his department who has been certified by the New Mexico law enforcement academy as a police officer or has been authorized to act as a New Mexico peace officer pursuant to the provisions of Section 29-1-11 NMSA 1978.

C. After distributions are determined in accordance with Paragraph (2) of Subsection A and Paragraphs (1) and (2) of Subsection B of this section, if the balance in the fund is insufficient to permit the total allocations provided by Paragraph (3) of Subsection B of this section, the division shall reduce that allocation to the maximum amount permitted by available money."

Chapter 83 Section 4

Section 4. Section 29-13-5 NMSA 1978 (being Laws 1983, Chapter 289, Section 5, as amended) is amended to read:

"29-13-5. DETERMINATION OF NEEDS--REVIEW.--No later than May 1 of each year, the division shall notify in writing each affected municipal police, university police, tribal police and county sheriff's department of its determination of money to be distributed pursuant to the provisions of Section 29-13-4 NMSA 1978. Any affected department may appeal that determination by filing a notice of appeal with the secretary of finance and administration no later than May 15. If an appeal is filed, the secretary of finance and administration shall review the determination of the division in an informal and summary proceeding and shall certify the result of the appeal to the division no later than June 30, and the division shall adjust its determination accordingly. If no appeal is filed, the original determination of the division shall be final and binding and not subject to further review."

Chapter 83 Section 5

Section 5. 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, universities 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 or a resolution passed by the municipality or county 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."

Chapter 83 Section 6

Section 6. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

HOUSE BILL 437

WITH EMERGENCY CLAUSE

SIGNED March 9, 1998

CHAPTER 84

RELATING TO FINANCING OF HIGHWAY PROJECTS; AUTHORIZING THE ISSUANCE OF STATE HIGHWAY BONDS FOR CERTAIN STATE HIGHWAY PROJECTS CONTINGENT UPON RECEIPT OF CERTAIN ADDITIONAL FEDERAL FUNDS; MAKING APPROPRIATIONS.

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

Chapter 84 Section 1

Section 1. STATE HIGHWAY BONDS--PURPOSES FOR WHICH ISSUED-- APPROPRIATION OF PROCEEDS.--

A. The state highway commission may issue and sell state highway bonds in compliance with the provisions of Section 67-3-59.1 NMSA 1978 in an amount not exceeding one hundred fifty-five million dollars (\$155,000,000) when the commission determines the need for the issuance of the bonds, contingent upon appropriation pursuant to federal law of all or a portion of the four and three-tenths cents (\$.043) per gallon federal excise tax on gasoline in the federal highway trust fund for highway infrastructure and New Mexico receiving appropriate additional obligation authority. The state highway commission shall schedule the issuance and sale of the bonds in the most expeditious and economic manner possible upon a finding by the commission that the project has been developed sufficiently to justify the issuance and that the project can proceed to contract within a reasonable time. ~~[Bonds issued pursuant to this subsection shall have a maturity of no more than ten years from the date of issuance.]~~ The proceeds from the sale of the bonds are appropriated to the state highway and transportation department for the four-lane construction and improvement of United States highway 70.

B. The state highway commission may issue and sell state highway bonds in compliance with the provisions of Section 67-3-59.1 NMSA 1978 in an amount not exceeding twenty-four million dollars (\$24,000,000) when the commission determines the need for the issuance of the bonds, contingent upon appropriation pursuant to federal law of all or a portion of the four and three-tenths cents (\$.043) per gallon federal excise tax on gasoline in the federal highway trust fund for highway infrastructure and New Mexico receiving appropriate additional obligation authority. The state highway commission shall schedule the issuance and sale of the bonds in the most expeditious and economic manner possible upon a finding by the commission that the project has been developed sufficiently to justify the issuance and that the project can proceed to contract within a reasonable time. ~~[Bonds issued pursuant to this subsection shall have a maturity of no more than ten years from the date of issuance.]~~ The proceeds from the sale of the bonds are appropriated to the state highway and transportation department for construction of a new east-west connecting route from state road 47 to interstate 25 south of Los Lunas.

C. The state highway commission may issue and sell state highway bonds in compliance with the provisions of Section 67-3-59.1 NMSA 1978 in an amount not exceeding forty-nine million dollars (\$49,000,000) when the commission determines the need for the issuance of the bonds, contingent upon appropriation pursuant to federal law of all or a portion of the four and three-tenths cents (\$.043) per gallon federal excise tax on gasoline in the federal highway trust fund for highway infrastructure and New Mexico receiving appropriate additional obligation authority. The state highway commission shall schedule the issuance and sale of the bonds in the most expeditious and economic manner possible upon a finding by the commission that the project has been developed sufficiently to justify the issuance and that the project can proceed to contract within a reasonable time. ~~[Bonds issued pursuant to this subsection shall have a maturity of no more than ten years from the date of issuance.]~~ The proceeds from the sale of the bonds are appropriated to the state highway and transportation department

for four-lane construction of United States highway 54 from the Texas state line north to Alamogordo.

D. The state highway commission may issue and sell state highway bonds in compliance with the provisions of Section 67-3-59.1 NMSA 1978 in an amount not exceeding fifteen million dollars (\$15,000,000) when the commission determines the need for the issuance of the bonds, contingent upon appropriation pursuant to federal law of all or a portion of the four and three-tenths cents (\$.043) per gallon federal excise tax on gasoline in the federal highway trust fund for highway infrastructure and New Mexico receiving appropriate additional obligation authority. The state highway commission shall schedule the issuance and sale of the bonds in the most expeditious and economic manner possible upon a finding by the commission that the project has been developed sufficiently to justify the issuance and that the project can proceed to contract within a reasonable time. ~~[Bonds issued pursuant to this subsection shall have a maturity of no more than ten years from the date of issuance.]~~ The proceeds from the sale of the bonds are appropriated to the state highway and transportation department for construction of the Silver City relief route.

E. The state highway commission may issue and sell state highway bonds in compliance with the provisions of Section 67-3-59.1 NMSA 1978 in an amount not exceeding eighteen million dollars (\$18,000,000) when the commission determines the need for the issuance of the bonds, contingent upon appropriation pursuant to federal law of all or a portion of the four and three-tenths cents (\$.043) per gallon federal excise tax on gasoline in the federal highway trust fund for highway infrastructure and New Mexico receiving appropriate additional obligation authority. The state highway commission shall schedule the issuance and sale of the bonds in the most expeditious and economic manner possible upon a finding by the commission that the project has been developed sufficiently to justify the issuance and that the project can proceed to contract within a reasonable time. ~~[Bonds issued pursuant to this subsection shall have a maturity of no more than ten years from the date of issuance.]~~ The proceeds from the sale of the bonds are appropriated to the state highway and transportation department for four-lane construction of United States highway 285 from interstate 25 to Lamy.

F. The state highway commission may issue and sell state highway bonds in compliance with the provisions of Section 67-3-59.1 NMSA 1978 in an amount not exceeding twenty-five million dollars (\$25,000,000) when the commission determines the need for the issuance of the bonds, contingent upon appropriation pursuant to federal law of all or a portion of the four and three-tenths cents (\$.043) per gallon federal excise tax on gasoline in the federal highway trust fund for highway infrastructure and New Mexico receiving appropriate additional obligation authority. The state highway commission shall schedule the issuance and sale of the bonds in the most expeditious and economic manner possible upon a finding by the commission that the project has been developed sufficiently to justify the issuance and that the project can proceed to contract within a reasonable time. ~~[Bonds issued pursuant to this subsection shall have a maturity of no more than ten years from the date of issuance.]~~ The proceeds from the sale of the bonds are appropriated to the state highway and

transportation department for improvement of United States highway 84 from Espanola through Hernandez.

G. The state highway commission may issue and sell state highway bonds in compliance with the provisions of Section 67-3-59.1 NMSA 1978 in an amount not exceeding fifteen million dollars (\$15,000,000) when the commission determines the need for the issuance of the bonds, contingent upon appropriation pursuant to federal law of all or a portion of the four and three-tenths cents (\$.043) per gallon federal excise tax on gasoline in the federal highway trust fund for highway infrastructure and New Mexico receiving appropriate additional obligation authority. The state highway commission shall schedule the issuance and sale of the bonds in the most expeditious and economic manner possible upon a finding by the commission that the project has been developed sufficiently to justify the issuance and that the project can proceed to contract within a reasonable time. [~~Bonds issued pursuant to this subsection shall have a maturity of no more than ten years from the date of issuance.~~] The proceeds from the sale of the bonds are appropriated to the state highway and transportation department for improvement of United States highway 180 from Silver City to Deming.

H. The state highway commission may issue and sell state highway bonds in compliance with the provisions of Section 67-3-59.1 NMSA 1978 in an amount not exceeding fourteen million dollars (\$14,000,000) when the commission determines the need for the issuance of the bonds, contingent upon appropriation pursuant to federal law of all or a portion of the four and three-tenths cents (\$.043) per gallon federal excise tax on gasoline in the federal highway trust fund for highway infrastructure and New Mexico receiving appropriate additional obligation authority. The state highway commission shall schedule the issuance and sale of the bonds in the most expeditious and economic manner possible upon a finding by the commission that the project has been developed sufficiently to justify the issuance and that the project can proceed to contract within a reasonable time. [~~Bonds issued pursuant to this subsection shall have a maturity of no more than ten years from the date of issuance.~~] The proceeds from the sale of the bonds are appropriated to the state highway and transportation department for improvement of state highway 18 between Eunice and Jal.

I. For the purposes of this section, "construction" and "improvement" include planning, designing, engineering, constructing and acquiring rights-of-way.

SENATE FINANCE COMMITTEE SUBSTITUTE FOR

SENATE BILL 292, AS AMENDED

CHAPTER 85

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;
AUTHORIZING THE ISSUANCE OF STATE HIGHWAY BONDS FOR CERTAIN
STATE HIGHWAY PROJECTS; MAKING APPROPRIATIONS.

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

Chapter 85 Section 1

Section 1. STATE HIGHWAY BONDS--PURPOSES FOR WHICH ISSUED-- APPROPRIATION OF PROCEEDS.--

A. The state highway commission may issue and sell state highway bonds in compliance with the provisions of Section 67-3-59.1 NMSA 1978 in an amount not exceeding two hundred fourteen million dollars (\$214,000,000) when the commission determines the need for the issuance of the bonds. The state highway commission shall schedule the issuance and sale of the bonds in the most expeditious and economic manner possible upon a finding by the commission that the project has been developed sufficiently to justify the issuance and that the project can proceed to contract within a reasonable time. The proceeds from the sale of the bonds are appropriated to the state highway and transportation department for the four-lane construction and improvement of state highway 44 from Bernalillo to Bloomfield.

B. The state highway commission may issue and sell state highway bonds in compliance with the provisions of Section 67-3-59.1 NMSA 1978 in an amount not exceeding two hundred ten million dollars (\$210,000,000) when the commission determines the need for the issuance of the bonds. The state highway commission shall schedule the issuance and sale of the bonds in the most expeditious and economic manner possible upon a finding by the commission that the project has been developed sufficiently to justify the issuance and that the project can proceed to contract within a reasonable time. [~~Bonds issued pursuant to this subsection shall have a maturity of no more than ten years from the date of issuance.~~] The proceeds from the sale of the bonds are appropriated to the state highway and transportation department for the reconstruction of the interstate 40 and interstate 25 interchange in Albuquerque. [~~The state highway and transportation department shall develop and implement a comprehensive mitigation plan associated with the reconstruction. The plan shall be developed and implemented in coordination with all affected entities, including the city of Albuquerque and Bernalillo, Valencia and Sandoval counties. The plan shall address mitigation of the impacts during the project and shall minimize, as much as practicable, the impact of the construction and related traffic flows on adjacent neighborhoods, businesses and, in particular, the Albuquerque central business district, the university of New Mexico and the nearby health care institutions. The plan shall include a projected cost for implementation.~~]

C. The state highway commission may issue and sell state highway bonds in compliance with the provisions of Section 67-3-59.1 NMSA 1978 in an amount not exceeding twenty million dollars (\$20,000,000) when the commission determines the need for the issuance of the bonds. The state highway commission shall schedule the issuance and sale of the bonds in the most expeditious and economic manner possible upon a finding by the commission that the project has been developed sufficiently to justify the issuance and that the project can proceed to contract within a reasonable

time. ~~[Bonds issued pursuant to this subsection shall have a maturity of no more than ten years from the date of issuance.]~~ The proceeds from the sale of the bonds are appropriated to the state highway and transportation department for construction of the Santa Fe relief route.

D. The state highway commission may issue and sell state highway bonds in compliance with the provisions of Section 67-3-59.1 NMSA 1978 in an amount not exceeding eighty million dollars (\$80,000,000) when the commission determines the need for the issuance of the bonds. The state highway commission shall schedule the issuance and sale of the bonds in the most expeditious and economic manner possible upon a finding by the commission that the project has been developed sufficiently to justify the issuance and that the project can proceed to contract within a reasonable time. ~~[Bonds issued pursuant to this subsection shall have a maturity of no more than ten years from the date of issuance.]~~ The proceeds from the sale of the bonds are appropriated to the state highway and transportation department for the limited-access construction and necessary interchanges for United States highway 70 from Las Cruces east to White Sands missile range road.

E. The state highway commission may issue and sell state highway bonds in compliance with the provisions of Section 67-3-59.1 NMSA 1978 in an amount not exceeding one hundred million dollars (\$100,000,000) when the commission determines the need for the issuance of the bonds. The state highway commission shall schedule the issuance and sale of the bonds in the most expeditious and economic manner possible upon a finding by the commission that the project has been developed sufficiently to justify the issuance and that the project can proceed to contract within a reasonable time. ~~[Bonds issued pursuant to this subsection shall have a maturity of no more than ten years from the date of issuance.]~~ The proceeds from the sale of the bonds are appropriated to the state highway and transportation department for the construction of United States highway 84/285 from Santa Fe to Pojoaque.

F. The state highway commission may issue and sell state highway bonds in compliance with the provisions of Section 67-3-59.1 NMSA 1978 in an amount not exceeding thirty-five million dollars (\$35,000,000) when the commission determines the need for the issuance of the bonds. The state highway commission shall schedule the issuance and sale of the bonds in the most expeditious and economic manner possible upon a finding by the commission that the project has been developed sufficiently to justify the issuance and that the project can proceed to contract within a reasonable time. ~~[Bonds issued pursuant to this subsection shall have a maturity of no more than ten years from the date of issuance.]~~ The proceeds from the sale of the bonds are appropriated to the state highway and transportation department for construction of the southwest loop in Albuquerque, including the Paseo de Volcan interchange at interstate 40.

G. The state highway commission may issue and sell state highway bonds in compliance with the provisions of Section 67-3-59.1 NMSA 1978 in an amount not exceeding forty-five million dollars (\$45,000,000) when the commission determines the

need for the issuance of the bonds. The state highway commission shall schedule the issuance and sale of the bonds in the most expeditious and economic manner possible upon a finding by the commission that the project has been developed sufficiently to justify the issuance and that the project can proceed to contract within a reasonable time. [~~Bonds issued pursuant to this subsection shall have a maturity of no more than ten years from the date of issuance.~~] The proceeds from the sale of the bonds are appropriated to the state highway and transportation department for improvement of United States highway 666.

H. The state highway commission may issue and sell state highway bonds in compliance with the provisions of Section 67-3-59.1 NMSA 1978 in an amount not exceeding one hundred million dollars (\$100,000,000) when the commission determines the need for the issuance of the bonds. The state highway commission shall schedule the issuance and sale of the bonds in the most expeditious and economic manner possible upon a finding by the commission that the project has been developed sufficiently to justify the issuance and that the project can proceed to contract within a reasonable time. The proceeds from the sale of the bonds are appropriated to the state highway and transportation department for four-lane construction of United States highway 285 from interstate 25 to Carlsbad as a state highway project required for the waste isolation pilot project and eligible for federal reimbursement or payment as authorized by federal legislation.

I. Any unexpended or unencumbered balances remaining six months after the completion of a project authorized in Subsections A through H of this section shall revert to the state road fund. If the state highway commission has not certified the need for the issuance of bonds for any project authorized in this section by the end of fiscal year 2001, the authorization provided in this section shall be void.

J. For the purposes of this section, "construction", "reconstruction" and "improvement" include planning, designing, engineering, constructing and acquiring rights-of-way.

Section 2. STATE ROAD FUND--APPROPRIATION.--Twenty-two million five hundred thousand dollars (\$22,500,000) is appropriated from the state road fund to the state highway and transportation department for expenditure in fiscal years 1999 through 2001 for the four-lane construction, including planning, designing, engineering, constructing and acquiring rights-of-way, of United States highway 70, contingent upon the commitment by the state highway and transportation department of one hundred twenty-two million five hundred thousand dollars (\$122,500,000) in matching federal funds to the project. Any unexpended or unencumbered balance remaining at the end of fiscal year 2001 shall revert to the state road fund.

HOUSE TRANSPORTATION COMMITTEE SUBSTITUTE FOR

HOUSE BILL 516, AS AMENDED

CHAPTER 86

RELATING TO THE FINANCING OF HIGHWAY PROJECTS; INCREASING THE BONDING AUTHORITY OF THE STATE HIGHWAY COMMISSION FOR CERTAIN HIGHWAY PROJECTS; AUTHORIZING THE PLEDGING OF TAXES, FEES AND FEDERAL FUNDS IN THE STATE ROAD FUND TO THE PAYMENT OF BONDS; AMENDING A SECTION OF THE NMSA 1978.

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

Chapter 86 Section 1

Section 1. Section 67-3-59.1 NMSA 1978 (being Laws 1989, Chapter 157, Section 1, as amended) is amended to read:

"67-3-59.1. STATE HIGHWAY DEBENTURES--ISSUANCE--LIMITS--APPROVAL--COUPONS.--

A. In order to provide funds to finance state highway projects, including state highway projects that are required for the waste isolation pilot project and are eligible for federal reimbursement or payment as authorized by federal legislation, the state highway commission is authorized, subject to the limitations of this section, to issue bonds from time to time, payable from federal funds not otherwise obligated that are paid into the state road fund, the proceeds of the collection of taxes and fees that are required by law to be paid into the state road fund and not otherwise pledged solely to the payment of outstanding bonds and debentures.

B. Except as provided in Subsections C and D of this section, the total aggregate outstanding principal amount of bonds issued from time to time pursuant to this section, secured by or payable from federal funds not otherwise obligated that are paid into the state road fund and the proceeds from the collection of taxes and fees required by law to be paid into the state road fund, shall not, without additional authorization of the state legislature, exceed one hundred fifty million dollars (\$150,000,000) at any given time, subject to the following provisions:

(1) the total aggregate outstanding principal amount of bonds issued for state highway projects that are required for the waste isolation pilot project and are eligible for federal reimbursement or payment as authorized by federal legislation shall not exceed one hundred million dollars (\$100,000,000); and

(2) the total aggregate outstanding principal amount of bonds issued for state highway projects other than state highway projects that are required for the waste isolation pilot project and are eligible for federal reimbursement or payment as authorized by federal legislation shall not exceed fifty million dollars (\$50,000,000).

C. Upon specific authorization and appropriation by the legislature, and subject to the limitations of Subsection D of this section, an additional amount of bonds may be issued pursuant to this section for state highway projects, to be secured by or payable from

taxes or fees required by law to be paid into the state road fund and federal funds not otherwise obligated that are paid into the state road fund, as follows:

(1) an aggregate outstanding principal amount of bonds, not to exceed six hundred twenty-four million dollars (\$624,000,000), for major highway infrastructure projects for which the state highway and transportation department has, prior to January 1, 1998, submitted or initiated the process of submitting a plan to the federal highway administration for innovative financing pursuant to 23 USCA Sections 122 and 307;

(2) an aggregate outstanding principal amount of bonds, not to exceed one hundred million dollars (\$100,000,000), for state highway projects that are required for the waste isolation pilot project and are eligible for federal reimbursement; and

(3) an aggregate outstanding principal amount of bonds, not to exceed four hundred million dollars (\$400,000,000), for other state highway projects.

D. The total amount of bonds that may be issued by the state highway commission for state highway projects pursuant to Subsection C of this section shall not exceed a total aggregate outstanding principal amount of:

(1) three hundred million dollars (\$300,000,000) prior to July 1, 1999;

(2) six hundred million dollars (\$600,000,000) from July 1, 1999 through June 30, 2000;

(3) nine hundred million dollars (\$900,000,000) from July 1, 2000 through June 30, 2001; and

(4) one billion one hundred twenty-four million dollars (\$1,124,000,000) after June 30, 2001.

E. The state highway commission may issue bonds to refund other bonds issued pursuant to this section by exchange or current or advance refunding.

F. Each series of bonds shall have a maturity of no more than twenty-five years from the date of issuance. The state highway commission shall determine all other terms, covenants and conditions of the bonds; provided that the bonds shall not be issued pursuant to this section unless the state board of finance approves the issuance of the bonds and the principal amount of and interest rate or maximum net effective interest rate on the bonds.

G. The bonds shall be executed with the manual or facsimile signature of the chairman of the state highway commission, countersigned by the state treasurer and attested to by the secretary of the state highway commission, with the seal of the state highway commission imprinted or otherwise affixed to the bonds.

H. Proceeds of the bonds may be used to pay expenses incurred in the preparation, issuance and sale of the bonds and, together with the earnings on the proceeds of the bonds, may be used to pay rebate, penalty, interest and other obligations relating to the bonds and the proceeds of the bonds under the Internal Revenue Code of 1986, as amended.

I. The bonds may be sold at a public or negotiated sale at, above or below par or through the New Mexico finance authority. Any negotiated sale shall be made with one or more investment banker whose services are obtained through a competitive proposal process. For any sale, the state highway commission or the New Mexico finance authority shall also procure the services of any financial advisor or bond counsel through a competitive proposal process. If sold at public sale, a notice of the time and place of sale shall be published in a newspaper of general circulation in the state, and in any other newspaper determined in the resolution authorizing the issuance of the bonds, once each week for two consecutive weeks prior to the date of sale. The bonds may be purchased by the state treasurer or state investment officer.

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

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

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

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

HOUSE TRANSPORTATION COMMITTEE SUBSTITUTE FOR

HOUSE BILL 477

CHAPTER 87

AUTHORIZING THE ISSUANCE AND SALE OF CAPITAL PROJECTS GENERAL OBLIGATION BONDS TO MAKE CAPITAL EXPENDITURES FOR SENIOR CITIZEN FACILITY IMPROVEMENTS AND ACQUISITIONS, FOR STATE PUBLIC EDUCATIONAL CAPITAL IMPROVEMENTS AND ACQUISITIONS, FOR ECOLOGICALLY SIGNIFICANT LAND ACQUISITION, FOR THE EL CAMINO REAL INTERNATIONAL HERITAGE CENTER AND FOR RADIO COMMUNICATIONS IMPROVEMENTS; 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 1998 GENERAL ELECTION OF THE STATE; DECLARING AN EMERGENCY.

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

Chapter 87 Section 1

Section 1. SHORT TITLE.--This act may be cited as the "1998 Capital Projects General Obligation Bond Act".

Chapter 87 Section 2

Section 2. PURPOSE.--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 1998 Capital Projects General Obligation Bond Act.

Chapter 87 Section 3

Section 3. BOND TERMS.--The state board of finance, except as limited by the 1998 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 and 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 without 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 1998 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 are hereby pledged for the prompt payment at maturity of the principal of and interest on all bonds issued and sold pursuant to the 1998 Capital Projects General Obligation Bond Act.

Chapter 87 Section 4

Section 4. EXPENDITURES.--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 1998 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.

Chapter 87 Section 5

Section 5. SALE.--The bonds authorized under the 1998 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 not less than 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. All bids, except that of the state, shall be accompanied by a deposit of two percent of the bid price. The deposit of an unsuccessful bidder shall be returned upon rejection of the bid. 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.

Chapter 87 Section 6

Section 6. EXPENSES.--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.

Chapter 87 Section 7

Section 7. TAX LEVY.--To provide for the payment of the principal of and interest on the bonds issued and sold pursuant to the provisions of the 1998 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.

Chapter 87 Section 8

Section 8. TREASURER--DUTIES.--The state treasurer shall keep separate accounts of all money collected pursuant to the taxes imposed and levied pursuant to the provisions of the 1998 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.

Chapter 87 Section 9

Section 9. IRREPEALABLE CONTRACT--AUTHORITY FOR ISSUANCE.--Any owner of bonds issued pursuant to the provisions of the 1998 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 1998 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 1998 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 issuance 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 1998 Capital Projects General Obligation Bond Act, and the interest thereon, are exempt from taxation by the state and any subdivision or public body thereof.

Chapter 87 Section 10

Section 10. PROJECTS.--The proceeds from the sale of bonds issued under the provisions of the 1998 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:

- (1) one hundred thousand dollars (\$100,000) to purchase meals equipment for senior centers operated by the city of Albuquerque in Bernalillo county;
- (2) seven hundred fifty thousand dollars (\$750,000) to purchase vehicles for the senior centers operated by the city of Albuquerque in Bernalillo county;
- (3) one hundred seventy-five thousand dollars (\$175,000) to purchase vehicles for the senior centers operated by Bernalillo county;
- (4) fourteen thousand dollars (\$14,000) to purchase meals equipment for the senior centers operated by Bernalillo county;
- (5) forty thousand dollars (\$40,000) to purchase a vehicle for the Isleta Pueblo senior center in Bernalillo county;
- (6) sixty-nine thousand dollars (\$69,000) to purchase vehicles and related equipment for senior centers in Catron county;
- (7) sixty-five thousand dollars (\$65,000) to purchase meals equipment for senior centers in Chaves county;
- (8) one hundred thousand dollars (\$100,000) to purchase vehicles for senior centers in Chaves county;
- (9) seventy-five thousand dollars (\$75,000) for improvements to the Lake Arthur senior center in Chaves county;
- (10) twenty-seven thousand dollars (\$27,000) to purchase a vehicle for the Acoma Pueblo senior center in Cibola county;
- (11) thirty-four thousand dollars (\$34,000) to purchase meals equipment for the Acoma Pueblo senior center in Cibola county;
- (12) one hundred forty-six thousand dollars (\$146,000) to purchase vehicles for the Grants senior citizens program in Cibola county;
- (13) sixty-five thousand dollars (\$65,000) to expand the kitchen at the Grants senior center in Cibola county;

(14) twenty-five thousand dollars (\$25,000) for improvements to the Cimarron senior center in Colfax county;

(15) twelve thousand six hundred dollars (\$12,600) to purchase meals equipment for senior centers in Colfax county;

(16) fifty-six thousand dollars (\$56,000) to purchase vehicles for the Raton senior center in Colfax county;

(17) thirty-one thousand dollars (\$31,000) to purchase meals equipment and other equipment for the Eagle Nest senior center in Colfax county;

(18) fourteen thousand dollars (\$14,000) to purchase a handicapped-accessible vehicle for the Eagle Nest senior center in Colfax county;

(19) one thousand seven hundred dollars (\$1,700) for meals equipment for the Grady senior center in Curry county;

(20) fifteen thousand nine hundred dollars (\$15,900) to purchase meals equipment for the Melrose senior center in Curry county;

(21) sixteen thousand dollars (\$16,000) to make improvements to the Melrose senior center in Curry county;

(22) five thousand three hundred dollars (\$5,300) to improve and equip the Fort Sumner senior center in De Baca county;

(23) forty thousand dollars (\$40,000) to purchase a handicapped-accessible van for Casa Arriba adult daycare in Dona Ana county;

(24) thirty-eight thousand dollars (\$38,000) to purchase a van for the foster grandparent program in Dona Ana county;

(25) fifty thousand dollars (\$50,000) for improvements to the Las Cruces senior center in Dona Ana county;

(26) twenty-one thousand nine hundred dollars (\$21,900) to purchase meals equipment for senior centers in Las Cruces in Dona Ana county;

(27) fifty-three thousand two hundred dollars (\$53,200) to purchase meals equipment for Dona Ana county senior centers;

(28) sixty-five thousand dollars (\$65,000) to purchase vehicles for Dona Ana county senior centers;

- (29) fifteen thousand dollars (\$15,000) to purchase equipment and furniture for the eastside community center in Dona Ana county;
- (30) ninety-three thousand dollars (\$93,000) to purchase vehicles for the Carlsbad, Loving and Artesia senior centers in Eddy county;
- (31) ninety-six thousand dollars (\$96,000) to purchase vehicles for various senior centers in Grant county;
- (32) twenty-seven thousand five hundred dollars (\$27,500) to purchase meals equipment for various senior centers in Grant county;
- (33) fourteen thousand dollars (\$14,000) to purchase meals equipment for La Loma and Puerto de Luna senior centers in Guadalupe county;
- (34) twenty-five thousand dollars (\$25,000) for improvements to the Roy senior center in Harding county;
- (35) six thousand seven hundred dollars (\$6,700) for equipment and improvements to the Eunice senior center in Lea county;
- (36) three thousand eight hundred dollars (\$3,800) to purchase meals equipment for the Hobbs senior center in Lea county;
- (37) four thousand one hundred dollars (\$4,100) to purchase meals equipment for the Lovington senior center in Lea county;
- (38) nineteen thousand dollars (\$19,000) to purchase a vehicle for the Lovington senior center in Lea county;
- (39) twenty-four thousand dollars (\$24,000) to purchase meals and other equipment for senior centers in Lincoln county;
- (40) fifty-three thousand dollars (\$53,000) to purchase vehicles in Lincoln county;
- (41) twelve thousand dollars (\$12,000) for paving and other improvements to the Ruidoso Downs senior center in Lincoln county;
- (42) two thousand five hundred dollars (\$2,500) to purchase meals equipment for senior centers in Los Alamos county;
- (43) thirty-five thousand dollars (\$35,000) to purchase a vehicle for the senior center in Los Alamos county;
- (44) thirty thousand five hundred dollars (\$30,500) for improvements to the White Rock senior center in Los Alamos county;

(45) twenty thousand dollars (\$20,000) to purchase meals equipment for senior centers in Luna county;

(46) nineteen thousand dollars (\$19,000) to purchase a vehicle for the senior center in Luna county;

(47) twenty-seven thousand five hundred dollars (\$27,500) to purchase a vehicle for the senior volunteer program in McKinley county;

(48) thirteen thousand dollars (\$13,000) to purchase meals equipment for senior centers in McKinley county;

(49) seventy-two thousand dollars (\$72,000) to purchase vehicles for senior centers in McKinley county;

(50) forty thousand dollars (\$40,000) to make improvements to the Gallup northside senior center in McKinley county;

(51) forty thousand dollars (\$40,000) to purchase a vehicle for the Zuni Pueblo senior center in McKinley county;

(52) fifty-eight thousand dollars (\$58,000) to purchase handicapped-accessible vehicles for Mora and Wagon Mound senior centers in Mora county;

(53) seventy thousand dollars (\$70,000) to make improvements to the Coyote Canyon chapter senior center in the Navajo Nation;

(54) one hundred fifty thousand dollars (\$150,000) to purchase meals equipment for senior centers in the Navajo Nation;

(55) five hundred fifty thousand dollars (\$550,000) to purchase vehicles for senior centers in the Navajo Nation;

(56) forty thousand dollars (\$40,000) to purchase a handicapped-accessible vehicle for the Alamogordo senior center in Otero county;

(57) fifteen thousand dollars (\$15,000) for parking and other improvements at the Cloudcroft senior center in Otero county;

(58) four thousand eight hundred dollars (\$4,800) to purchase meals equipment for the Cloudcroft senior center in Otero county;

(59) eighty thousand dollars (\$80,000) to purchase vehicles for the Tularosa senior center in Otero county;

(60) thirty-seven thousand dollars (\$37,000) to purchase a van for the House senior center in Quay county;

(61) twenty-three thousand dollars (\$23,000) for improvements and to purchase equipment for the Logan senior center in Quay county;

(62) eighteen thousand dollars (\$18,000) for improvements to the Tucumcari senior center in Quay county;

(63) one hundred forty thousand dollars (\$140,000) to purchase vehicles for senior centers in Rio Arriba county;

(64) twenty-six thousand dollars (\$26,000) to purchase meals equipment for senior centers in Rio Arriba county;

(65) three thousand dollars (\$3,000) to purchase equipment and furniture for senior centers in Rio Arriba county;

(66) nineteen thousand dollars (\$19,000) to purchase a vehicle for the San Juan Pueblo senior center in Rio Arriba county;

(67) three thousand dollars (\$3,000) to purchase meals equipment for the Santa Clara Pueblo senior center in Rio Arriba county;

(68) twenty-seven thousand dollars (\$27,000) to purchase a vehicle for the Santa Clara Pueblo senior center in Rio Arriba county;

(69) twenty thousand dollars (\$20,000) for improvements to the Aztec senior center in San Juan county;

(70) fourteen thousand dollars (\$14,000) to purchase equipment for the Farmington senior center in San Juan county;

(71) fifty-seven thousand dollars (\$57,000) to purchase vehicles for senior centers in San Juan county;

(72) twenty-five thousand dollars (\$25,000) for improvements to the Las Vegas senior center in San Miguel county;

(73) one hundred seventy thousand dollars (\$170,000) for the purchase of vehicles for Mora and San Miguel county senior centers;

(74) thirty thousand dollars (\$30,000) for improvements to the Pecos senior center in San Miguel county;

(75) thirteen thousand dollars (\$13,000) to purchase meals equipment for Mora and San Miguel county senior centers;

(76) twelve thousand five hundred dollars (\$12,500) to purchase meals equipment for the Zia, Santa Ana and Sandia Pueblos senior centers in Sandoval county;

(77) nine thousand dollars (\$9,000) to purchase meals equipment for the Jemez Pueblo senior center in Sandoval county;

(78) nineteen thousand dollars (\$19,000) to purchase a vehicle for the Jemez Pueblo senior center in Sandoval county;

(79) thirty-eight thousand three hundred dollars (\$38,300) to purchase equipment and furniture for the Rio Rancho senior center in Sandoval county;

(80) thirty-eight thousand dollars (\$38,000) to purchase a handicapped-accessible vehicle for the Rio Rancho senior center in Sandoval county;

(81) twenty-eight thousand dollars (\$28,000) to purchase meals equipment for senior centers in Sandoval county;

(82) sixty-five thousand dollars (\$65,000) to make improvements to the Cuba senior center in Sandoval county;

(83) thirty-seven thousand dollars (\$37,000) to purchase a vehicle for the Cuba senior center in Sandoval county;

(84) seventy-five thousand dollars (\$75,000) for improvements to the Pena Blanca senior center in Sandoval county;

(85) seventy-five thousand dollars (\$75,000) to complete construction of the Santo Domingo Pueblo senior center in Sandoval county;

(86) twenty-nine thousand dollars (\$29,000) to purchase a handicapped-accessible vehicle for the Santo Domingo Pueblo senior center in Sandoval county;

(87) six thousand dollars (\$6,000) to purchase meals equipment for the Nambe Pueblo senior center in Santa Fe county;

(88) one thousand dollars (\$1,000) to make improvements to the San Ildefonso Pueblo senior center in Santa Fe county;

(89) thirty thousand dollars (\$30,000) for improvements to the Santa Fe MEG senior center in Santa Fe county;

(90) one hundred thousand dollars (\$100,000) to purchase meals equipment for senior centers in Santa Fe county;

(91) two hundred thousand dollars (\$200,000) to purchase vehicles for senior centers in Santa Fe county;

(92) nineteen thousand dollars (\$19,000) to purchase a vehicle for the Nambe Pueblo senior center in Santa Fe county;

(93) fourteen thousand dollars (\$14,000) to purchase meals equipment for the Tesuque Pueblo senior center in Santa Fe county;

(94) forty-five thousand dollars (\$45,000) to purchase a vehicle for the Truth or Consequences senior center in Sierra county;

(95) five thousand nine hundred dollars (\$5,900) for improvements to the Truth or Consequences senior center in Sierra county;

(96) ninety-seven thousand dollars (\$97,000) to purchase vehicles for senior centers in Taos county;

(97) seventeen thousand dollars (\$17,000) to purchase meals equipment for senior centers in Taos county;

(98) nineteen thousand dollars (\$19,000) to purchase a vehicle for the Picuris Pueblo senior center in Taos county;

(99) four thousand five hundred dollars (\$4,500) to make improvements to the Taos Pueblo senior center in Taos county;

(100) twenty-seven thousand dollars (\$27,000) to purchase a vehicle for the Taos Pueblo senior center in Taos county;

(101) one hundred forty thousand dollars (\$140,000) to purchase vehicles for senior centers in Torrance county;

(102) twenty-five thousand dollars (\$25,000) for improvements to the Clayton senior center in Union county;

(103) twelve thousand nine hundred dollars (\$12,900) to purchase meals equipment for the Clayton senior center in Union county;

(104) two hundred twenty thousand dollars (\$220,000) to purchase vehicles for senior centers in Valencia county;

(105) two hundred thousand dollars (\$200,000) for improvements to the San Jose senior center in Carlsbad in Eddy county;

(106) forty thousand dollars (\$40,000) to purchase a vehicle for the Tatum senior center in Lea county;(107) forty thousand dollars (\$40,000) to purchase a vehicle for the program for all-inclusive care of the elderly in Bernalillo county; and

(108) two hundred thousand dollars (\$200,000) to expand and improve the Rio Bravo senior center in Bernalillo county;

B. for state public educational capital improvements and acquisitions:

(1) to the commission on higher education:

(a) thirteen million dollars (\$13,000,000) for distribution to post-secondary and other state educational institutions for making infrastructure improvements and expansions at institutions throughout the state; and

(b) one million dollars (\$1,000,000) for distribution to post-secondary and other state educational institutions for making necessary improvements to facilities to address the requirements of the Americans with Disabilities Act of 1990 at institutions throughout the state;

(2) to the community college board of Santa Fe community college, two million dollars (\$2,000,000) to design, construct and equip phase three of the instructional technology facility in Santa Fe county;

(3) to the governing board of Albuquerque technical-vocational institute:

(a) one million five hundred thousand dollars (\$1,500,000) to complete renovations to the south valley campus in Bernalillo county; and

(b) one million five hundred thousand dollars (\$1,500,000) for renovation and the necessary improvements for the development of a work force training center in Albuquerque in Bernalillo county;

(4) to the board of regents of New Mexico institute of mining and technology:

(a) three million five hundred thousand dollars (\$3,500,000) to design, construct and equip renovations to Cramer and Weir halls on the main campus of New Mexico institute of mining and technology in Socorro county; and

(b) two million five hundred thousand dollars (\$2,500,000) to design, construct and equip an addition and make renovations to Jones hall on the main campus in Socorro in Socorro county;

(5) to the board of regents of New Mexico state university:

(a) fifty thousand dollars (\$50,000) for preliminary planning and feasibility studies for a Grants college and community library facility at the Grants branch of New Mexico state university in Cibola county;

(b) one million five hundred thousand dollars (\$1,500,000) to design, construct and equip renovations to Goddard hall on the main campus of New Mexico state university in Las Cruces in Dona Ana county;

(c) two million two hundred thousand dollars (\$2,200,000) to design, construct and equip the health and public services building at the New Mexico state university Dona Ana branch in Dona Ana county;

(d) two million dollars (\$2,000,000) to design, construct and complete phase two of the multipurpose building at the New Mexico state university Alamogordo branch in Otero county; and

(e) one million dollars (\$1,000,000) for renovation and improvement of the baseball and softball facilities at the main campus of New Mexico state university in Dona Ana county;

(6) to the board of regents of the university of New Mexico:

(a) one million one hundred seventy-five thousand dollars (\$1,175,000) to design, construct and equip an instructional laboratory and an expansion to the learning resource center at the university of New Mexico Gallup branch in McKinley county;

(b) four hundred thousand dollars (\$400,000) to design, construct and equip an addition to the student services building located on the campus of the university of New Mexico Los Alamos branch in Los Alamos county;

(c) nine hundred thousand dollars (\$900,000) to complete the installation of equipment at the manufacturing training and technology center clean room located at the university of New Mexico research park in Bernalillo county;

(d) two million dollars (\$2,000,000) to purchase and install hospital patient care equipment at the university of New Mexico health services center in Bernalillo county;

(e) one million dollars (\$1,000,000) to purchase and install cancer patient care equipment at the university of New Mexico health services center in Bernalillo county;

(f) four million five hundred thousand dollars (\$4,500,000) to design and construct instructional facility upgrades on the main campus of the university of New Mexico in Albuquerque in Bernalillo county; and

(g) one million dollars (\$1,000,000) for phase three of the renovation and expansion of the football stadium at the university of New Mexico in Bernalillo county;

(7) to the property control division of the general services department, six hundred twelve thousand dollars (\$612,000) for renovations to the state of New Mexico Tri-Services building on the university of New Mexico campus in Albuquerque in Bernalillo county;

(8) to the board of regents of eastern New Mexico university:

(a) two million five hundred thousand dollars (\$2,500,000) to design, construct and equip renovations to Lea hall on the main campus of eastern New Mexico university in Roosevelt county; and

(b) one million five hundred thousand dollars (\$1,500,000) to design, construct and equip the instructional center renovation and addition at the Roswell branch of eastern New Mexico university in Chaves county;

(9) to the board of regents of western New Mexico university:

(a) two million five hundred thousand dollars (\$2,500,000) to design, construct and equip a center for information technology on the main campus of western New Mexico university in Grant county;

(b) six hundred thousand dollars (\$600,000) to design, construct and equip the renovations to the university auditorium located on the main campus of western New Mexico university in Grant county; and

(c) one million dollars (\$1,000,000) for renovation and improvement of the football stadium at western New Mexico university in Grant county;

(10) to the board of regents of New Mexico highlands university:

(a) one million dollars (\$1,000,000) for renovation of the science and technology building on the main campus of New Mexico highlands university in Las Vegas in San Miguel county; and

(b) three million dollars (\$3,000,000) to design, construct and equip renovations and an addition to the Douglas school on the main campus of New Mexico highlands university in Las Vegas in San Miguel county;

(11) to the governing board of Luna vocational-technical institute, one million seven hundred thousand dollars (\$1,700,000) to complete and equip phase three of the instructional programs center at the Luna vocational-technical institute in San Miguel county;

(12) to the governing board of San Juan college six hundred thousand dollars (\$600,000) to design and construct the health and human performance center on the main campus of San Juan college in San Juan county;

(13) to the board of regents of the New Mexico school for the deaf, six hundred thousand dollars (\$600,000) to design, construct and complete renovations to buildings on the main campus of the New Mexico school for the deaf in Santa Fe county;

(14) to the board of regents of the New Mexico military institute, one million dollars (\$1,000,000) to design and construct renovations to Wilson hall on the main campus of the New Mexico military institute in Chaves county;

(15) to the board of regents of northern New Mexico state school, five hundred twenty thousand dollars (\$520,000) for renovations, major repairs, construction, equipping or furnishing classrooms in Espanola in Rio Arriba county;

(16) to the New Mexico office of Indian affairs:

(a) one million dollars (\$1,000,000) to complete phase one of Dine college in Shiprock in San Juan county; and

(b) one million dollars (\$1,000,000) for the first phase of construction of a new science building at the southwestern Indian polytechnic institute in Albuquerque in Bernalillo county;

(17) to the educational television equipment replacement fund, one million dollars (\$1,000,000) for the purpose of purchasing and providing improvements to broadcasting equipment; and

(18) to the public school capital outlay fund, ten million dollars (\$10,000,000) for allocation to public schools for critical capital outlay projects pursuant to the Public School Capital Outlay Act;

C. for ecologically significant land acquisition, to the energy, minerals and natural resources department, six hundred thousand dollars (\$600,000) for the purpose of acquiring unique and ecologically significant lands that afford habitat for rare, threatened or endangered species, as provided in the Natural Lands Protection Act;

D. for the El Camino Real international heritage center, to the office of cultural affairs, one million dollars (\$1,000,000) to plan, design, construct and equip El Camino Real international heritage center, including permanent exhibits, ancillary support structures and a trail system, to commemorate El Camino Real de Tierra Adentro in Socorro county; and

E. for the state's radio communications system upgrade, two million two hundred twenty-five thousand dollars (\$2,225,000) for conversion of an initial segment of the

state's radio communications system to digital services to support law enforcement officer safety and effectiveness and interconnect with the state's emergency management center and state national guard.

Chapter 87 Section 11

Section 11. ELECTION.--Bonds issued pursuant to the 1998 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 1998, 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 1998 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 1998 general election shall contain substantially the following language:

A. "The 1998 Capital Projects General Obligation Bond Act authorizes the issuance and sale of senior citizen facility improvement and equipment bonds. Shall the state of New Mexico be authorized to issue general obligation bonds in an amount not to exceed six million three hundred twenty thousand dollars (\$6,320,000) to make capital expenditures for certain senior citizen facility improvements and equipment projects and provide for a general property tax imposition and levy for the payment of principal of, 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 1998 Capital Projects General Obligation Bond Act authorizes the issuance and sale of 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 seventy-two million nine hundred forty thousand dollars (\$72,940,000) to make capital expenditures for certain public educational capital improvements and acquisitions and provide for a general property tax imposition and levy for the payment of principal of, 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 1998 Capital Projects General Obligation Bond Act authorizes the issuance and sale of land acquisition bonds. Shall the state of New Mexico be authorized to issue general obligation bonds in an amount not to exceed six hundred twenty thousand dollars (\$620,000) to make capital expenditures for acquisition of unique and ecologically significant lands affording habitat for rare, threatened or endangered

species, and providing for a general property tax imposition and levy for the payment of principal of, 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 _____";

D."The 1998 Capital Projects General Obligation Bond Act authorizes the issuance and sale of El Camino Real international heritage center bonds. Shall the state of New Mexico be authorized to issue general obligation bonds in an amount not to exceed one million thirty thousand dollars (\$1,030,000) to make capital expenditures for the El Camino Real international heritage center, including exhibits and a trail system, to commemorate El Camino Real de Tierra Adentro in Socorro county, and provide for a general property tax imposition and levy for the payment of principal of, interest on and expenses incurred in connection with the issuance of the bonds and the collection of the tax as permitted by law?

For _____ and Against _____"; and

E."The 1998 Capital Projects General Obligation Bond Act authorizes the issuance and sale of radio communications bonds. Shall the state of New Mexico be authorized to issue general obligation bonds in an amount not to exceed two million two hundred sixty thousand dollars (\$2,260,000) to make capital expenditures for conversion of the state's radio communications system to digital services to enhance law enforcement officer safety and effectiveness and provide interconnection for emergency response to natural disasters, and provide for a general property tax imposition and levy for the payment of principal of, interest on and expenses incurred in connection with the issuance of the bonds and the collection of the tax as permitted by law?

For _____ and 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 1998 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 1998 Capital Projects General Obligation Bond Act. The failure of any question to be approved by the electorate at the 1998 general election shall not have any effect on the work or object specified or the provisions of the 1998 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 1998 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 1998 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 general election as required by the constitution of New Mexico.

Chapter 87 Section 12

Section 12. PROJECT SCOPE--EXPENDITURES.--If an appropriation for a project authorized in the 1998 Capital Projects General Obligation Bond Act is not sufficient to complete all the purposes specified, the appropriation may be expended for any portion of the purposes specified in the appropriation. Expenditures shall not be made for purposes other than those specified in the appropriation.

Chapter 87 Section 13

Section 13. ART IN PUBLIC PLACES.--Pursuant to Section

13-4A-4 NMSA 1978 and where applicable, the appropriations authorized in the 1998 Capital Projects General Obligation Bond Act include one percent for the art in public places fund.

Chapter 87 Section 14

Section 14. SEVERABILITY.--If any part or application of the 1998 Capital Projects General Obligation Bond Act is held invalid, the remainder or its application to other situations or persons shall not be affected.

Chapter 87 Section 15

Section 15. 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 10, AS AMENDED

WITH EMERGENCY CLAUSE

SIGNED March 10, 1998

CHAPTER 88

RELATING TO DISTRICT ATTORNEYS; CREATING THE DISTRICT ATTORNEY FUND; MAKING AN APPROPRIATION; DECLARING AN EMERGENCY.

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

Chapter 88 Section 1

Section 1. DISTRICT ATTORNEY FUND--CREATED--ADMINISTRATION--PURPOSE.-

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A. The "district attorney fund" is created in the state treasury. The fund shall consist of worthless check fees, preprosecution diversion fees, other statutory revenues directed to the fund, appropriations, gifts, grants and donations.

B. Money in the fund is appropriated to the administrative office of the district attorneys for the sole purpose of meeting necessary expenses incurred in the operation of the administrative office of the district attorneys.

C. Expenditures from the fund shall be pursuant to budgets approved by the state budget division of the department of finance and administration and made by warrant drawn by the secretary of finance and administration pursuant to vouchers signed by the director of the administrative office of the district attorneys or his authorized representative.

D. The fund shall not revert at the end of any fiscal year.

Chapter 88 Section 2

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

HOUSE BILL 31

WITH EMERGENCY CLAUSE

SIGNED March 10, 1998

CHAPTER 89

RELATING TO TAXATION; AMENDING THE GROSS RECEIPTS AND COMPENSATING TAX ACT AND LOCAL OPTION GROSS RECEIPTS TAX ACTS; PROVIDING AN EXEMPTION FOR FOREIGN GOVERNMENTS AND A DEDUCTION FOR FOREIGN DIPLOMATS; PERMITTING ACCEPTANCE OF NONTAXABLE TRANSACTION DOCUMENTS FROM OTHER JURISDICTIONS; CLARIFYING THE DEDUCTIONS FOR AGRICULTURAL IMPLEMENTS AND EXPORTED SERVICES; AMENDING AND ENACTING CERTAIN SECTIONS OF THE NMSA 1978.

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

Chapter 89 Section 1

Section 1. Section 7-9-13 NMSA 1978 (being Laws 1969, Chapter 144, Section 6, as amended) 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;

(3) any Indian nation, tribe or pueblo from activities or transactions occurring on its sovereign territory; or

(4) any foreign nation or agency, instrumentality or political subdivision thereof, but only when required by a treaty in force to which the United States is a party.

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."

Chapter 89 Section 2

Section 2. A new section of the Gross Receipts and Compensating Tax Act is enacted to read:

"DEDUCTION--SALES TO CERTAIN ACCREDITED DIPLOMATS AND MISSIONS.--

Receipts from selling or leasing property to, or from performing services for, an accredited foreign mission or an accredited member of a foreign mission may be deducted from gross receipts when a treaty in force to which the United States is a party requires forbearance of tax when the legal incidence is upon the buyer or when the tax is customarily passed on to the buyer."

Chapter 89 Section 3

Section 3. 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. All nontaxable transaction certificates of the appropriate series executed by buyers or lessees should 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 is not in possession of the required nontaxable transaction certificates 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, 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. The department by regulation may deem to be nontaxable transaction certificates documents issued by other states or the multistate tax commission to taxpayers not required to be registered in New Mexico. 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 issued by the department. 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. Properly executed documents required to support the deductions provided in Sections 7-9-57, 7-9-58 and 7-9-74 NMSA 1978 should be in the possession of the seller at the time the return is due for receipts from the transactions. If the seller is not in possession of these documents within sixty days from the date that the notice requiring possession of these documents is given to the seller by the department, 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 or prior to that ten-year period but are not valid for transactions occurring after that ten-year period. 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, a buyer or lessee shall apply to the department for permission to execute nontaxable transaction certificates, except with respect to documents issued by other states or the multistate tax commission that the department has deemed to be nontaxable transaction certificates. 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 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."

Chapter 89 Section 4

Section 4. Section 7-9-57 NMSA 1978 (being Laws 1969, Chapter 144, Section 47, as amended) is amended to read:

"7-9-57. DEDUCTION--GROSS RECEIPTS TAX--SALE OF CERTAIN SERVICES TO AN OUT-OF-STATE BUYER.--

A. Receipts from performing a service may be deducted from gross receipts if the sale of the service is made to a buyer who delivers to the seller either an appropriate nontaxable transaction certificate or other evidence acceptable to the secretary unless the buyer of the service or any of the buyer's employees or agents makes initial use of

the product of the service in New Mexico or takes delivery of the product of the service in New Mexico.

B. Receipts from performing a service that initially qualified for the deduction provided in this section but that no longer meets the criteria set forth in Subsection A of this section shall be deductible for the period prior to the disqualification."

Chapter 89 Section 5

Section 5. Section 7-9-62 NMSA 1978 (being Laws 1969, Chapter 144, Section 52, as amended) is amended to read:

"7-9-62. DEDUCTION--GROSS RECEIPTS TAX--AGRICULTURAL IMPLEMENTS--AIRCRAFT--VEHICLES THAT ARE NOT REQUIRED TO BE REGISTERED.--

A. Fifty percent of the receipts from selling agricultural implements, farm tractors, aircraft or vehicles that are not required to be registered under the Motor Vehicle Code may be deducted from gross receipts; provided that, with respect to agricultural implements, the sale is made to a person who states in writing that the person is regularly engaged in the business of farming or ranching. Any deduction allowed under Section 7-9-71 NMSA 1978 must be taken before the deduction allowed by this section is computed.

B. As used in this section, "agricultural implement" means a tool, utensil or instrument that is:

(1) designed primarily for use with a source of motive power, such as a tractor, in planting, growing, cultivating, harvesting or processing agricultural produce at the place where the produce is grown; in raising poultry or livestock; or in obtaining or processing food or fiber, such as eggs, milk, wool or mohair, from living poultry or livestock at the place where the poultry or livestock are kept for this purpose; and

(2) depreciable for federal income tax purposes."

Chapter 89 Section 6

Section 6. Section 7-9-77 NMSA 1978 (being Laws 1966, Chapter 47, Section 15, as amended) is amended to read:

"7-9-77. DEDUCTIONS--COMPENSATING TAX.--

A. Fifty percent of the value of agricultural implements, farm tractors, aircraft not exempted under Section 7-9-30 NMSA 1978 or vehicles that are not required to be registered under the Motor Vehicle Code may be deducted from the value in computing the compensating tax due; provided that, with respect to use of agricultural implements, the person using the property is regularly engaged in the business of farming or

ranching. Any deduction allowed under Subsection B of this section is to be taken before the deduction allowed by this subsection is computed. As used in this subsection, "agricultural implement" means a tool, utensil or instrument that is:

(1) designed primarily for use with a source of motive power, such as a tractor, in planting, growing, cultivating, harvesting or processing agricultural produce at the place where the produce is grown; in raising poultry or livestock; or in obtaining or processing food or fiber, such as eggs, milk, wool or mohair, from living poultry or livestock at the place where the poultry or livestock are kept for this purpose; and

(2) depreciable for federal income tax purposes.

B. That portion of the value of tangible personal property on which an allowance was granted to the buyer for a trade-in of tangible personal property of the same type that was bought may be deducted from the value in computing the compensating tax due.

Chapter 89 Section 7

Section 7. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1998.

HOUSE BILL 35, AS AMENDED

CHAPTER 90

RELATING TO TAXATION; AUTHORIZING AN INCREASE IN THE RATE OF THE MUNICIPAL INFRASTRUCTURE GROSS RECEIPTS TAX; AUTHORIZING A LOCAL OPTION COUNTY INFRASTRUCTURE GROSS RECEIPTS TAX; REQUIRING VOTER APPROVAL OF CERTAIN TAXES; CHANGING THE PURPOSES FOR WHICH CERTAIN LOCAL OPTION GROSS RECEIPTS TAXES MAY BE IMPOSED; AUTHORIZING THE ISSUANCE OF CERTAIN MUNICIPAL AND COUNTY GROSS RECEIPTS TAX REVENUE BONDS; AMENDING THE LOCAL ECONOMIC DEVELOPMENT ACT; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978.

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

Chapter 90 Section 1

Section 1. Section 3-31-1 NMSA 1978 (being Laws 1973, Chapter 395, Section 3, as amended) is amended to read:

"3-31-1. REVENUE BONDS--AUTHORITY TO ISSUE--PLEDGE OF

REVENUES--LIMITATION ON TIME OF ISSUANCE.--In addition to any other law and constitutional home rule powers authorizing a municipality to issue revenue bonds, a

municipality may issue revenue bonds pursuant to Chapter 3, Article 31 NMSA 1978 for the purposes specified in this section. The term "pledged revenues", as used in Chapter 3, Article 31 NMSA 1978, means the revenues, net income or net revenues authorized to be pledged to the payment of particular revenue bonds as specifically provided in Subsections A through I of this section.

A. Utility revenue bonds may be issued for acquiring, extending, enlarging, bettering, repairing or otherwise improving a municipal utility or for any combination of the foregoing purposes. The municipality may pledge irrevocably any or all of the net revenues from the operation of the municipal utility or of any one or more of other such municipal utilities for payment of the interest on and principal of the revenue bonds. These bonds are sometimes referred to in Chapter 3, Article 31 NMSA 1978 as "utility revenue bonds" or "utility bonds".

B. Joint utility revenue bonds may be issued for acquiring, extending, enlarging, bettering, repairing or otherwise improving joint water facilities, sewer facilities, gas facilities or electric facilities or for any combination of the foregoing purposes. The municipality may pledge irrevocably any or all of the net revenues from the operation of these municipal utilities for the payment of the interest on and principal of the bonds. These bonds are sometimes referred to in Chapter 3, Article 31 NMSA 1978 as "joint utility revenue bonds" or "joint utility bonds".

C. For the purposes of this subsection, "gross receipts tax revenue bonds" means gross receipts tax revenue bonds or sales tax revenue bonds. Gross receipts tax revenue bonds may be issued for any one or more of the following purposes:

(1) constructing, purchasing, furnishing, equipping, rehabilitating, making additions to or making improvements to one or more public buildings or purchasing or improving any ground relating thereto, including but not necessarily limited to acquiring and improving parking lots, or any combination of the foregoing;

(2) acquiring or improving municipal or public parking lots, structures or facilities or any combination of the foregoing;

(3) purchasing, acquiring or rehabilitating fire-fighting equipment or any combination of the foregoing;

(4) acquiring, extending, enlarging, bettering, repairing, otherwise improving or maintaining storm sewers and other drainage improvements, sanitary sewers, sewage treatment plants or water utilities, including but not necessarily limited to the acquisition of rights of way and water and water rights, or any combination of the foregoing;

(5) reconstructing, resurfacing, maintaining, repairing or otherwise improving existing alleys, streets, roads or bridges or any combination of the foregoing or laying off, opening, constructing or otherwise acquiring new alleys, streets, roads or bridges or any

combination of the foregoing, provided that any of the foregoing improvements may include but are not limited to the acquisition of rights of way;

(6) purchasing, acquiring, constructing, making additions to, enlarging, bettering, extending or equipping any airport facilities or any combination of the foregoing, including without limitation the acquisition of land, easements or rights of way therefor;

(7) purchasing or otherwise acquiring or clearing land or for purchasing, otherwise acquiring and beautifying land for open space;

(8) acquiring, constructing, purchasing, equipping, furnishing, making additions to, renovating, rehabilitating, beautifying or otherwise improving public parks, public recreational buildings or other public recreational facilities or any combination of the foregoing;

(9) acquiring, constructing, extending, enlarging, bettering, repairing, otherwise improving or maintaining solid waste disposal equipment, equipment for operation and maintenance of sanitary landfills, sanitary landfills, solid waste facilities or any combination of the foregoing; and

(10) acquiring, constructing, extending, bettering, repairing or otherwise improving a public transit system or any regional transit systems or facilities.

The municipality may pledge irrevocably any or all of the gross receipts tax revenue received by the municipality pursuant to Section 7-1-6.4 or 7-1-6.12 NMSA 1978 to the payment of the interest on and principal of the gross receipts tax revenue bonds for any of the purposes authorized in this section or for specific purposes or for any area of municipal government services, including but not limited to those specified in Subsection C of Section 7-19D-9 NMSA 1978, or for public purposes authorized by municipalities having constitutional home rule charters. A law that imposes or authorizes the imposition of a municipal gross receipts tax or that affects the municipal gross receipts tax, or a law supplemental thereto or otherwise appertaining thereto, shall not be repealed or amended or otherwise directly or indirectly modified in such a manner as to impair adversely any outstanding revenue bonds that may be secured by a pledge of such municipal gross receipts tax unless the outstanding revenue bonds have been discharged in full or provision has been fully made therefor.

Revenues in excess of the annual principal and interest due on gross receipts tax revenue bonds secured by a pledge of gross receipts tax revenue may be accumulated in a debt service reserve account 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. The governing body of the municipality may appoint a commercial bank trust department to act as trustee of the gross receipts tax revenue

and to administer the payment of principal of and interest on the bonds and to redeem the bonds from the excess revenues deposited in the extraordinary mandatory redemption fund.

D. As used in this section, the term "public building" includes but is not limited to fire stations, police buildings, municipal jails, regional jails or juvenile detention facilities, libraries, museums, auditoriums, convention halls, hospitals, buildings for administrative offices, city halls and garages for housing, repairing and maintaining city vehicles and equipment. As used in Chapter 3, Article 31 NMSA 1978, the term "gross receipts tax revenue bonds" means the bonds authorized in Subsection C of this section, and the term "gross receipts tax revenue" means the amount of money distributed to the municipality as authorized by Section 7-1-6.4 NMSA 1978 or the amount of money transferred to the municipality as authorized by Section 7-1-6.12 NMSA 1978 for any municipal gross receipts tax imposed pursuant to the Municipal Local Option Gross Receipts Taxes Act. As used in Chapter 3, Article 31 NMSA 1978, the term "bond" means any obligation of a municipality issued under Chapter 3, Article 31 NMSA 1978, whether designated as a bond, note, loan, warrant, debenture, lease-purchase agreement or other instrument evidencing an obligation of a municipality to make payments.

E. Gasoline tax revenue bonds may be issued for laying off, opening, constructing, reconstructing, resurfacing, maintaining, acquiring rights of way, repairing and otherwise improving municipal buildings, alleys, streets, public roads and bridges or any combination of the foregoing purposes. The municipality may pledge irrevocably any or all of the gasoline tax revenue received by the municipality to the payment of the interest on and principal of the gasoline tax revenue bonds. As used in Chapter 3, Article 31 NMSA 1978, "gasoline tax revenue bonds" means the bonds authorized in this subsection, and "gasoline tax revenue" means all or portions of the amounts of tax revenues distributed to municipalities pursuant to Sections 7-1-6.9 and 7-1-6.27 NMSA 1978, as from time to time amended and supplemented.

F. Project revenue bonds may be issued for acquiring, extending, enlarging, bettering, repairing, improving, constructing, purchasing, furnishing, equipping and rehabilitating any revenue-producing project, including, where applicable, purchasing, otherwise acquiring or improving the ground therefor, including but not necessarily limited to acquiring and improving parking lots, or for any combination of the foregoing purposes. The municipality may pledge irrevocably any or all of the net revenues from the operation of the revenue-producing project for which the particular project revenue bonds are issued to the payment of the interest on and principal of the project revenue bonds. The net revenues of any revenue-producing project may not be pledged to the project revenue bonds issued for a revenue-producing project that clearly is unrelated in nature; but nothing in this subsection shall prevent the pledge to such project revenue bonds of any revenues received from existing, future or disconnected facilities and equipment that are related to and that may constitute a part of the particular revenue-producing project. A general determination by the governing body that any facilities or equipment is reasonably related to and shall constitute a part of a specified revenue-

producing project shall be conclusive if set forth in the proceedings authorizing such project revenue bonds. As used in Chapter 3, Article 31 NMSA 1978:

(1) "project revenue bonds" means the bonds authorized in this subsection; and

(2) "project revenues" means the net revenues of revenue-producing projects that may be pledged to project revenue bonds pursuant to this subsection.

G. Fire district revenue bonds may be issued for acquiring, extending, enlarging, bettering, repairing, improving, constructing, purchasing, furnishing, equipping and rehabilitating any fire district project, including, where applicable, purchasing, otherwise acquiring or improving the ground therefor, or for any combination of the foregoing purposes. The municipality may pledge irrevocably any or all of the revenues received by the fire district from the fire protection fund as provided in Sections 59A-53-1 through 59A-53-17 NMSA 1978 and any or all of the revenues provided for the operation of the fire district project for which the particular bonds are issued to the payment of the interest on and principal of the bonds. The revenues of any fire district project shall not be pledged to the bonds issued for a fire district project that clearly is unrelated in its purpose; but nothing in this section shall prevent the pledge to such bonds of any revenues received from existing, future or disconnected facilities and equipment that are related to and that may constitute a part of the particular fire district project. A general determination by the governing body of the municipality that any facilities or equipment are reasonably related to and shall constitute a part of a specified fire district project shall be conclusive if set forth in the proceedings authorizing such fire district bonds.

H. Law enforcement protection revenue bonds may be issued for the repair and purchase of law enforcement apparatus and equipment that meet nationally recognized standards. The municipality may pledge irrevocably any or all of the revenues received by the municipality from the law enforcement protection fund distributions pursuant to Sections 29-13-1 through 29-13-9 NMSA 1978 to the payment of the interest on and principal of the law enforcement protection revenue bonds.

I. Economic development gross receipts tax revenue bonds may be issued for the purpose of furthering economic development projects as defined in the Local Economic Development Act. The municipality may pledge irrevocably any or all of the revenue received from the municipal infrastructure gross receipts tax to the payment of the interest on and principal of the economic development gross receipts tax revenue bonds for any of the purposes authorized in this subsection. A law that imposes or authorizes the imposition of a municipal infrastructure gross receipts tax or that affects the municipal infrastructure gross receipts tax, or a law supplemental to or otherwise pertaining to the tax, shall not be repealed or amended or otherwise directly or indirectly modified in such a manner as to impair adversely any outstanding revenue bonds that may be secured by a pledge of the municipal infrastructure gross receipts tax unless the outstanding revenue bonds have been discharged in full or provision has been fully made for their discharge. As used in Chapter 3, Article 31 NMSA 1978, "economic development gross receipts tax revenue bonds" means the bonds authorized in this

subsection, and "municipal infrastructure gross receipts tax revenue" means any or all of the revenue from the municipal infrastructure gross receipts tax transferred to the municipality pursuant to Section 7-1-6.12 NMSA 1978.

J. Except for the purpose of refunding previous revenue bond issues, no municipality may sell revenue bonds payable from pledged revenues after the expiration of two years from the date of the ordinance authorizing the issuance of the bonds or, for bonds to be issued and sold to the New Mexico finance authority as authorized in Subsection C of Section 3-31-4 NMSA 1978, after the expiration of two years from the date of the resolution authorizing the issuance of the bonds. However, any period of time during which a particular revenue bond issue is in litigation shall not be counted in determining the expiration date of that issue."

Chapter 90 Section 2

Section 2. Section 4-62-1 NMSA 1978 (being Laws 1992, Chapter 95, Section 1, as amended) is amended to read:

"4-62-1. REVENUE BONDS--AUTHORITY TO ISSUE--PLEDGE OF REVENUES--LIMITATION ON TIME OF ISSUANCE.--

A. In addition to any other law authorizing a county to issue revenue bonds, a county may issue revenue bonds pursuant to Chapter 4, Article 62 NMSA 1978 for the purposes specified in this section. The term "pledged revenues", as used in Chapter 4, Article 62 NMSA 1978, means the revenues, net income or net revenues authorized to be pledged to the payment of particular revenue bonds as specifically provided in Subsections B through K of this section.

B. Gross receipts tax revenue bonds may be issued for one or more of the following purposes:

(1) constructing, purchasing, furnishing, equipping, rehabilitating, making additions to or making improvements to one or more public buildings or purchasing or improving ground relating thereto, including but not necessarily limited to acquiring and improving parking lots, or any combination of the foregoing;

(2) acquiring or improving county or public parking lots, structures or facilities or any combination of the foregoing;

(3) purchasing, acquiring or rehabilitating firefighting equipment or any combination of the foregoing;

(4) acquiring, extending, enlarging, bettering, repairing, otherwise improving or maintaining storm sewers and other drainage improvements, sanitary sewers, sewage treatment plants, water utilities or other water, wastewater or related facilities, including

but not limited to the acquisition of rights of way and water and water rights or any combination of the foregoing;

(5) reconstructing, resurfacing, maintaining, repairing or otherwise improving existing alleys, streets, roads or bridges or any combination of the foregoing or laying off, opening, constructing or otherwise acquiring new alleys, streets, roads or bridges or any combination of the foregoing; provided that any of the foregoing improvements may include the acquisition of rights of way;

(6) purchasing, acquiring, constructing, making additions to, enlarging, bettering, extending or equipping airport facilities or any combination of the foregoing, including without limitation the acquisition of land, easements or rights of way;

(7) purchasing or otherwise acquiring or clearing land or purchasing, otherwise acquiring and beautifying land for open space;

(8) acquiring, constructing, purchasing, equipping, furnishing, making additions to, renovating, rehabilitating, beautifying or otherwise improving public parks, public recreational buildings or other public recreational facilities or any combination of the foregoing;

(9) acquiring, constructing, extending, enlarging, bettering, repairing or otherwise improving or maintaining solid waste disposal equipment, equipment for operation and maintenance of sanitary landfills, sanitary landfills, solid waste facilities or any combination of the foregoing; or

(10) acquiring, constructing, extending, bettering, repairing or otherwise improving public transit systems or any regional transit systems or facilities.

A county may pledge irrevocably any or all of the revenue from the first one-eighth of one percent increment and the third one-eighth of one percent increment of the county gross receipts tax and the county infrastructure gross receipts tax for payment of principal and interest due in connection with, and other expenses related to, gross receipts tax revenue bonds for any of the purposes authorized in this section or specific purposes or for any area of county government services. If the revenue from the first one-eighth of one percent increment or the third one-eighth of one percent increment of the county gross receipts tax or the county infrastructure gross receipts tax is pledged for payment of principal and interest as authorized by this subsection, the pledge shall require the revenues received from that increment of the county gross receipts tax or the county infrastructure gross receipts tax to be deposited into a special bond fund for payment of the principal, interest and expenses. At the end of each fiscal year, money remaining in the special bond fund after the annual obligations for the bonds are fully met may be transferred to any other fund of the county.

Revenues in excess of the annual principal and interest due on gross receipts tax revenue bonds secured by a pledge of gross receipts tax revenue may be accumulated

in a debt service reserve account 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. The governing body of the county may appoint a commercial bank trust department to act as trustee of the proceeds of the tax and to administer the payment of principal of and interest on the bonds and redeem the bonds from the excess revenues deposited in the extraordinary mandatory redemption fund.

C. Fire protection revenue bonds may be issued for acquiring, extending, enlarging, bettering, repairing, improving, constructing, purchasing, furnishing, equipping or rehabilitating any independent fire district project or facilities, including, where applicable, purchasing, otherwise acquiring or improving the ground for the project or any combination of such purposes. A county may pledge irrevocably any or all of the county fire protection excise tax revenue for payment of principal and interest due in connection with, and other expenses related to, fire protection revenue bonds. These bonds may be referred to in Chapter 4, Article 62 NMSA 1978 as "fire protection revenue bonds".

D. Environmental revenue bonds may be issued for the acquisition and construction of solid waste facilities, water facilities, wastewater facilities, sewer systems and related facilities. A county may pledge irrevocably any or all of the county environmental services gross receipts tax revenue for payment of principal and interest due in connection with, and other expenses related to, environmental revenue bonds. These bonds may be referred to in Chapter 4, Article 62 NMSA 1978 as "environmental revenue bonds".

E. Gasoline tax revenue bonds may be issued for the acquisition of rights of way for and the construction, reconstruction, resurfacing, maintenance, repair or other improvement of county roads and bridges. A county may pledge irrevocably any or all of the county gasoline tax revenue for payment of principal and interest due in connection with, and other expenses related to, county gasoline tax revenue bonds. These bonds may be referred to in Chapter 4, Article 62 NMSA 1978 as "gasoline tax revenue bonds".

F. Utility revenue bonds or joint utility revenue bonds may be issued for acquiring, extending, enlarging, bettering, repairing or otherwise improving water facilities, sewer facilities, gas facilities or electric facilities or for any combination of the foregoing purposes. A county may pledge irrevocably any or all of the net revenues from the operation of the utility or joint utility for which the particular utility or joint utility bonds are issued to the payment of principal and interest due in connection with, and other expenses related to, utility or joint utility revenue bonds. These bonds may be referred to in Chapter 4, Article 62 NMSA 1978 as "utility revenue bonds" or "joint utility revenue bonds".

G. Project revenue bonds may be issued for acquiring, extending, enlarging, bettering, repairing, improving, constructing, purchasing, furnishing, equipping or rehabilitating any revenue-producing project, including, as applicable, purchasing, otherwise acquiring or improving the ground therefor and including but not limited to acquiring and improving parking lots, or may be issued for any combination of the foregoing purposes. The county may pledge irrevocably any or all of the net revenues from the operation of the revenue-producing project for which the particular project revenue bonds are issued to the payment of the interest on and principal of the project revenue bonds. The net revenues of any revenue-producing project may not be pledged to the project revenue bonds issued for any other revenue-producing project that is clearly unrelated in nature; but nothing in this subsection prevents the pledge to any of the project revenue bonds of the revenues received from existing, future or disconnected facilities and equipment that are related to and that may constitute a part of the particular revenue-producing project. A general determination by the governing body that facilities or equipment are reasonably related to and constitute a part of a specified revenue-producing project shall be conclusive if set forth in the proceedings authorizing the project revenue bonds. As used in Chapter 4, Article 62 NMSA 1978:

(1) "project revenue bonds" means the bonds authorized in this subsection; and

(2) "project revenues" means the net revenues of revenue-producing projects that may be pledged to project revenue bonds pursuant to this subsection.

H. Fire district revenue bonds may be issued for acquiring, extending, enlarging, bettering, repairing, improving, constructing, purchasing, furnishing, equipping and rehabilitating any fire district project, including, where applicable, purchasing, otherwise acquiring or improving the ground therefor, or for any combination of the foregoing purposes. The county may pledge irrevocably any or all of the revenues received by the fire district from the fire protection fund as provided in Sections 59A-53-1 through 59A-53-17 NMSA 1978 and any or all of the revenues provided for the operation of the fire district project for which the particular bonds are issued to the payment of the interest on and principal of the bonds. The revenues of a fire district project shall not be pledged to the bonds issued for a fire district project that clearly is unrelated in its purpose; but nothing in this section shall prevent the pledge to such bonds of revenues received from existing, future or disconnected facilities and equipment that are related to and that may constitute a part of the particular fire district project. A general determination by the governing body of the county that facilities or equipment are reasonably related to and constitute a part of a specified fire district project shall be conclusive if set forth in the proceedings authorizing the fire district bonds.

I. Law enforcement protection revenue bonds may be issued for the repair and purchase of law enforcement apparatus and equipment that meet nationally recognized standards. The county may pledge irrevocably any or all of the revenues received by the county from the law enforcement protection fund distributions pursuant to Sections 29-13-1 through 29-13-9 NMSA 1978 to the payment of the interest on and principal of the law enforcement protection revenue bonds.

J. Hospital emergency gross receipts tax revenue bonds may be issued for acquisition, equipping, remodeling or improvement of a county hospital facility. A county may pledge irrevocably, to the payment of the interest on and principal of the hospital emergency gross receipts tax revenue bonds, any or all of the revenues received by the county from a county hospital emergency gross receipts tax imposed pursuant to Section 7-20E-12.1 NMSA 1978 and dedicated to payment of bonds or a loan for acquisition, equipping, remodeling or improvement of a county hospital facility.

K. Economic development gross receipts tax revenue bonds may be issued for the purpose of furthering economic development projects as defined in the Local Economic Development Act. A county may pledge irrevocably any or all of the county infrastructure gross receipts tax to the payment of the interest on and principal of the economic development gross receipts tax revenue bonds for any of the purposes authorized in this subsection.

L. except for the purpose of refunding previous revenue bond issues, no county may sell revenue bonds payable from pledged revenue after the expiration of two years from the date of the ordinance authorizing the issuance of the bonds or, for bonds to be issued and sold to the New Mexico finance authority as authorized in Subsection C of Section 4-62-4 NMSA 1978, after the expiration of two years from the date of the resolution authorizing the issuance of the bonds. However, any period of time during which a particular revenue bond issue is in litigation shall not be counted in determining the expiration date of that issue.

M. No bonds may be issued by a county, other than an H class county, a class B county as defined in Section 4-36-8 NMSA 1978 or a class A county as described in Section 4-36-10 NMSA 1978, to acquire, equip, extend, enlarge, better, repair or construct a utility unless the utility is regulated by the New Mexico public utility commission pursuant to the Public Utility Act and the issuance of the bonds is approved by the commission. For purposes of Chapter 4, Article 62 NMSA 1978, a "utility" includes but is not limited to a water, wastewater, sewer, gas or electric utility or joint utility serving the public. H class counties shall obtain New Mexico public utility commission approvals required by Section 3-23-3 NMSA 1978.

N. Any law that imposes or authorizes the imposition of a county gross receipts tax, a county environmental services gross receipts tax, a county fire protection excise tax, a county infrastructure gross receipts tax, the gasoline tax or the county hospital emergency gross receipts tax, or that affects any of those taxes, shall not be repealed or amended in such a manner as to impair outstanding revenue bonds that are issued pursuant to Chapter 4, Article 62 NMSA 1978 and that may be secured by a pledge of those taxes unless the outstanding revenue bonds have been discharged in full or provision has been fully made therefor.

O. As used in this section:

(1) "county infrastructure gross receipts tax revenue" means the revenue from the county infrastructure gross receipts tax transferred to the county pursuant to Section 7-1-6.13 NMSA 1978;

(2) "county environmental services gross receipts tax revenue" means the revenue from the county environmental services gross receipts tax transferred to the county pursuant to Section 7-1-6.13 NMSA 1978;

(3) "county fire protection excise tax revenue" means the revenue from the county fire protection excise tax transferred to the county pursuant to Section 7-1-6.13 NMSA 1978;

(4) "county gross receipts tax revenue" means the revenue attributable to the first one-eighth of one percent and the third one-eighth of one percent increments of the county gross receipts tax transferred to the county pursuant to Section 7-1-6.13 NMSA 1978 and any distribution related to the first one-eighth of one percent made pursuant to Section 7-1-6.16 NMSA 1978;

(5) "gasoline tax revenue" means the revenue from that portion of the gasoline tax distributed to the county pursuant to Sections 7-1-6.9 and 7-1-6.26 NMSA 1978; and

(6) "public building" includes but is not limited to fire stations, police buildings, county or regional jails, county or regional juvenile detention facilities, libraries, museums, auditoriums, convention halls, hospitals, buildings for administrative offices, courthouses and garages for housing, repairing and maintaining county vehicles and equipment.

P. As used in Chapter 4, Article 62 NMSA 1978, the term "bond" means any obligation of a county issued under Chapter 4, Article 62 NMSA 1978, whether designated as a bond, note, loan, warrant, debenture, lease-purchase agreement or other instrument evidencing an obligation of a county to make payments."

Chapter 90 Section 3

Section 3. Section 5-10-3 NMSA 1978 (being Laws 1993, Chapter 297, Section 3) is amended to read:

"5-10-3. DEFINITIONS.--As used in the Local Economic Development Act:

A. "department" means the economic development department;

B. "economic development project" or "project" means the provision of direct or indirect assistance to a qualifying business by a local or regional government and includes the purchase, lease, grant, construction, reconstruction, improvement or other acquisition or conveyance of land, buildings or other infrastructure; public works improvements essential to the location or expansion of a qualifying business; payments for professional services contracts necessary for local or regional governments to

implement a plan or project; the provision of direct loans or grants for land, buildings or infrastructure; loan guarantees securing the cost of land, buildings or infrastructure in an amount not to exceed the revenue that may be derived from the municipal infrastructure gross receipts tax or the county infrastructure gross receipts tax; grants for public works infrastructure improvements essential to the location or expansion of a qualifying business; purchase of land for a publicly held industrial park; and the construction of a building for use by a qualifying business;

C. "governing body" means the city council or city commission of a city, the board of trustees of a town or village or the board of county commissioners of a county;

D. "local government" means a municipality or county;

E. "municipality" means any incorporated city, town or village;

F. "person" means an individual, corporation, association, partnership or other legal entity;

G. "qualifying entity" means a corporation, limited liability company, partnership, joint venture, syndicate, association or other person that is one or a combination of two or more of the following:

(1) an industry for the manufacturing, processing or assembling of agricultural or manufactured products;

(2) a commercial enterprise for storing, warehousing, distributing or selling products of agriculture, mining or industry, but, other than as provided in Paragraph (5) of this subsection, not including any enterprise for sale of goods or commodities at retail or for distribution to the public of electricity, gas, water or telephone or other services commonly classified as public utilities;

(3) a business in which all or part of the activities of the business involves the supplying of services to the general public or to governmental agencies or to a specific industry or customer, but, other than as provided in Paragraph (5) of this subsection, not including businesses primarily engaged in the sale of goods or commodities at retail;

(4) an Indian nation, tribe or pueblo or a federally chartered tribal corporation; or

(5) a telecommunications sales enterprise that makes the majority of its sales to persons outside New Mexico; and

H. "regional government" means any combination of municipalities and counties that enter into a joint powers agreement to provide for economic development projects pursuant to a plan adopted by all parties to the joint powers agreement."

Chapter 90 Section 4

Section 4. Section 5-10-4 NMSA 1978 (being Laws 1993, Chapter 297, Section 4) is amended to read:

"5-10-4. ECONOMIC DEVELOPMENT PROJECTS--RESTRICTIONS ON PUBLIC EXPENDITURES OR PLEDGES OF CREDIT.--

A. No local or regional government shall provide public support for economic development projects as permitted pursuant to Article 9, Section 14 of the constitution of New Mexico except as provided in the Local Economic Development Act or as otherwise permitted by law.

B. The total amount of public money expended and the value of credit pledged in the fiscal year in which that money is expended by a local government for economic development projects pursuant to Article 9, Section 14 of the constitution of New Mexico and the Local Economic Development Act shall not exceed five percent of the annual general fund expenditures of the local government in that fiscal year. The limits of this subsection shall not apply to:

(1) the value of any land or building contributed to any project pursuant to a project participation agreement;

(2) revenue generated through the imposition of the municipal infrastructure gross receipts tax pursuant to the Municipal Local Option Gross Receipts Taxes Act for furthering or implementing economic development plans and projects as defined in the Local Economic Development Act; provided that no more than the greater of fifty thousand dollars (\$50,000) or ten percent of the revenue collected shall be used for promotion and administration of or professional services contracts related to the implementation of any such economic development plan adopted by the governing body;

(3) revenue generated through the imposition of a county infrastructure gross receipts tax pursuant to the County Local Option Gross Receipts Taxes Act for furthering or implementing economic development plans and projects as defined in the Local Economic Development Act; provided that no more than the greater of fifty thousand dollars (\$50,000) or ten percent of the revenue collected shall be used for promotion and administration of or professional services contracts related to the implementation of any such economic development plan adopted by the governing body;

(4) the proceeds of a revenue bond issue to which municipal infrastructure gross receipts tax revenue is pledged;

(5) the proceeds of a revenue bond issue to which county infrastructure gross receipts tax revenue is pledged; or

(6) funds donated by private entities to be used for defraying the cost of a project.

C. A regional or local government that generates revenue for economic development projects to which the limits of Subsection B of this section do not apply shall create an economic development fund into which such revenues shall be deposited. The economic development fund and income from the economic development fund shall be deposited as provided by law. Money in the economic development fund may be expended only as provided in the Local Economic Development Act."

Chapter 90 Section 5

Section 5. Section 5-10-6 NMSA 1978 (being Laws 1993, Chapter 297, Section 6) is amended to read:

"5-10-6. ECONOMIC DEVELOPMENT PLAN--CONTENTS--PUBLICATION.--

A. Every local or regional government seeking to pursue economic development projects shall adopt an economic development plan or a comprehensive plan that includes an economic development component. The plan may be specific to a single economic development goal or strategy or may include several goals or strategies. Any plan or plan amendment shall be adopted by ordinance of the governing body of the local government or each local government of a regional government proposing the plan or plan amendment.

B. The economic development plan or the ordinance adopting the plan may:

(1) describe the local or regional government's economic development and community goals and assign priority to and strategies for achieving those goals;

(2) describe the types of qualifying entities and economic activities that will qualify for economic development projects;

(3) describe the criteria to be used to determine eligibility of an economic development project and a qualifying entity to participate in an economic development project;

(4) describe the manner in which a qualifying entity may submit an economic development project application, including the type of information required from the qualifying entity sufficient to ensure its solvency and ability to perform its contractual obligations, its commitment to remain in the community and its commitment to the stated economic development goals of the local or regional government;

(5) describe the process the local or regional government will use to verify the information submitted on an economic development project application;

(6) if an economic development project is determined to be unsuccessful or if a qualifying entity seeks to leave the area, describe the methods the local or regional government will use to terminate its economic assistance and recoup its investment;

(7) identify revenue sources, including those of the local or regional government, that will be used to support economic development projects;

(8) identify other resources the local or regional government is prepared to offer qualifying entities, including specific land or buildings it is willing to lease, sell or grant a qualifying entity; community infrastructure it is willing to build, extend or expand, including roads, water, sewers or other utilities; and professional services contracts by local or regional governments necessary to provide these resources;

(9) detail the minimum benefit the local or regional government requires from a qualifying entity, including the number and types of jobs to be created; the proposed payroll; repayment of loans, if any; purchase by the qualifying entity of local or regional government-provided land, buildings or infrastructure; the public to private investment ratio; and direct local tax base expansion;

(10) describe the safeguards of public resources that will be ensured, including specific ways the local or regional government can recover any costs, land, buildings or other thing of value if a qualifying entity ceases operation, relocates or otherwise defaults or reneges on its contractual or implied obligations to the local or regional government; and

(11) if a regional government, describe the joint powers agreement, including whether it can be terminated and, if so, how the contractual or other obligations, risks and any property will be assigned or divided among the local governments who are party to the agreement.

C. The economic development plan shall be printed and made available to the residents within the local or regional government area."

Chapter 90 Section 6

Section 6. Section 7-19D-11 NMSA 1978 (being Laws 1991, Chapter 9, Section 3, as amended) is amended to read:

"7-19D-11. MUNICIPAL INFRASTRUCTURE GROSS RECEIPTS TAX--AUTHORITY BY MUNICIPALITY TO IMPOSE--ORDINANCE REQUIREMENTS--ELECTION.--

A. A majority of the members of the governing body of a municipality may enact an ordinance imposing an excise tax on any person engaging in business in the municipality for the privilege of engaging in business. The rate of the tax shall not exceed one-fourth of one percent of the gross receipts of the person engaging in business and may be imposed in one-sixteenth of one percent increments by separate ordinances. Any ordinance enacting any increment of the first one-eighth of one percent of the tax is not subject to a referendum of any kind, notwithstanding any requirement of any charter municipality, except that an increment that is imposed after July 1, 1998 for

economic development purposes set forth in Paragraph (5) of Subsection C of this section shall be subject to a referendum as provided in Subsection D of this section.

B. The tax imposed pursuant to Subsection A of this section may be referred to as the "municipal infrastructure gross receipts tax".

C. The governing body of a municipality, at the time of enacting any ordinance imposing the rate of the tax authorized in Subsection A of this section, may dedicate the revenue for:

(1) payment of special obligation bonds issued pursuant to a revenue bond act;

(2) repair, replacement, construction or acquisition of infrastructure improvements, including but not limited to sanitary sewer lines, storm sewers and other drainage improvements, water, water rights, water lines and utilities, streets, alleys, rights of way, easements, international ports of entry and land within the municipality or within the extraterritorial zone of the municipality;

(3) municipal general purposes;

(4) acquiring, constructing, extending, bettering, repairing or otherwise improving or operating or maintaining public transit systems or regional transit systems or authorities; and

(5) furthering or implementing economic development plans and projects as defined in the Local Economic Development Act, and use of not more than the greater of fifty thousand dollars (\$50,000) or ten percent of the revenue collected for promotion and administration of or professional services contracts related to implementation of an economic development plan adopted by the governing body pursuant to the Local Economic Development Act and in accordance with law.

D. An ordinance imposing any increment of the municipal infrastructure gross receipts tax in excess of the first one-eighth of one percent or any increment imposed after July 1, 1998 for economic development purposes set forth in Paragraph (5) of Subsection C of this section shall not go into effect until after an election is held and a majority of the voters of the municipality voting in the election votes in favor of imposing the tax. The governing body shall adopt a resolution calling for an election within seventy-five days of the date the ordinance is adopted on the question of imposing the tax. The question shall be submitted to the voters of the municipality as a separate question at a regular municipal election or at a special election called for that purpose by the governing body. A special municipal election shall be called, conducted and canvassed as provided in the Municipal Election Code. If a majority of the voters voting on the question approves the ordinance imposing the municipal infrastructure gross receipts tax, then the ordinance shall become effective in accordance with the provisions of the Municipal Local Option Gross Receipts Taxes Act. If the question of imposing the municipal infrastructure gross receipts tax fails, the governing body shall not again propose the

imposition of any increment of the tax in excess of the first one-eighth of one percent for a period of one year from the date of the election."

Chapter 90 Section 7

Section 7. A new section of the County Local Option Gross Receipts Taxes Act is enacted to read:

"COUNTY INFRASTRUCTURE GROSS RECEIPTS TAX--AUTHORITY TO IMPOSE RATE--USE OF FUNDS--ELECTION.--

A. The majority of the members of the governing body of a county may enact an ordinance imposing an excise tax at a rate not to exceed one-eighth of one percent of the gross receipts of any person engaging in business in the county area for the privilege of engaging in business. The tax may be imposed in increments of one-sixteenth of one percent not to exceed an aggregate rate of one-eighth of one percent.

B. The tax imposed pursuant to Subsection A of this section may be referred to as the "county infrastructure gross receipts tax".

C. The governing body, at the time of enacting an ordinance imposing a rate of tax authorized in Subsection A of this section, may dedicate the revenue for:

(1) county general purposes;

(2) payment of gross receipts tax revenue bonds issued pursuant to Chapter 4, Article 62 NMSA 1978;

(3) repair, replacement, construction or acquisition of any county infrastructure improvements;

(4) acquisition, construction, operation or maintenance of solid waste facilities, water facilities, wastewater facilities, sewer systems and related facilities;

(5) acquiring, constructing, extending, bettering, repairing or otherwise improving or operating or maintaining public transit systems or regional transit systems or authorities;

(6) planning, design, construction, equipping, maintenance or operation of a county jail or juvenile detention facility; planning, assessment, design or operation of a regional system of juvenile services, including secure detention and nonsecure alternatives, that serves multiple contiguous counties; planning, design, construction, maintenance or operation of multipurpose regional adult jails or juvenile detention facilities; housing of county prisoners or juvenile offenders in any county jail or detention facility; or substance abuse, mental health or other programs for county prisoners or other inmates in county jails or for juvenile offenders in county or regional detention facilities; and

(7) furthering or implementing economic development plans and projects as defined in the Local Economic Development Act, and use of not more than the greater of fifty thousand dollars (\$50,000) or ten percent of the revenue collected for promotion and administration of or professional services contracts related to implementation of an economic development plan adopted by the governing body pursuant to the Local Economic Development Act and in accordance with law.

D. An ordinance imposing the county infrastructure gross receipts tax shall not go into effect until after an election is held and a majority of the voters in the county area 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. The question shall be submitted to the voters of the county area as a separate question at a general election or at a special election called for that purpose by the governing body. A special election shall be called, conducted and canvassed in substantially the same manner as provided by law for general elections. If a majority of the voters voting on the question approves the ordinance imposing the county infrastructure gross receipts tax, then the ordinance shall become effective in accordance with the provisions of the County Local Option Gross Receipts Taxes Act. If the question of imposing the county infrastructure gross receipts tax fails, the governing body shall not again propose the imposition of the tax for a period of one year from the date of the election."

Chapter 90 Section 8

Section 8. Section 7-20E-9 NMSA 1978 (being Laws 1983, Chapter 213, Section 30, as amended) is amended to read:

"7-20E-9. COUNTY GROSS RECEIPTS TAX--AUTHORITY TO IMPOSE RATE--INDIGENT FUND REQUIREMENTS.--

A. A majority of the members of the governing body of a county may enact an ordinance imposing an excise tax not to exceed a rate of three-eighths of one percent of the gross receipts of any person engaging in business in the county for the privilege of engaging in business in the county. An ordinance imposing an excise tax pursuant to this section shall impose the tax in independent increments of one-eighth percent, which shall be separately denominated as "first one-eighth", "second one-eighth" and "third one-eighth", respectively, not to exceed an aggregate amount of three-eighths percent.

B. The tax authorized in Subsection A of this section is to be referred to as the "county gross receipts tax".

C. A class A county with a county hospital operated and maintained pursuant to a lease with a state educational institution named in Article 12, Section 11 of the constitution of New Mexico enacting the second one-eighth increment of county gross receipts tax shall provide, each year that the tax is in effect, not less than one million dollars (\$1,000,000) in funds, and that amount shall be dedicated to the support of indigent

patients who are residents of that county. Funds for indigent care shall be made available each month of each year the tax is in effect in an amount not less than eighty-three thousand three hundred thirty-three dollars thirty-three cents (\$83,333.33). The interest from the investment of county funds for indigent care may be used for other assistance to indigent persons, not to exceed twenty thousand dollars (\$20,000) for all other assistance in any year.

D. A county, except a class A county with a county hospital operated and maintained pursuant to a lease with a state educational institution named in Article 12, Section 11 of the constitution of New Mexico, imposing the second one-eighth increment of county gross receipts tax shall be required to dedicate the entire amount of revenue produced by the imposition of the second one-eighth increment for the support of indigent patients who are residents of that county. The revenue produced by the imposition of the third one-eighth increment may be used for general purposes. Any county that has imposed the second one-eighth increment or the third one-eighth increment, or both, on January 1, 1996 for support of indigent patients in the county or after January 1, 1996 imposes the second one-eighth increment or imposes the third one-eighth increment and dedicates one-half of that increment for county indigent patient purposes shall deposit the revenue dedicated for county indigent purposes in the county indigent hospital claims fund and such revenues shall be expended pursuant to the Indigent Hospital and County Health Care Act."

HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE FOR HOUSE BILL
127, et al

CHAPTER 91

RELATING TO UNEMPLOYMENT COMPENSATION; DECREASING
UNEMPLOYMENT COMPENSATION TAXES; MAKING CHANGES IN THE
UNEMPLOYMENT COMPENSATION LAW TO COMPLY WITH FEDERAL
REQUIREMENTS; AMENDING AND ENACTING SECTIONS OF THE
UNEMPLOYMENT COMPENSATION LAW.

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

Chapter 91 Section 1

Section 1. Section 51-1-4 NMSA 1978 (being Laws 1969, Chapter 213, Section 1, as amended) is amended to read:

"51-1-4. MONETARY COMPUTATION OF BENEFITS--PAYMENT GENERALLY.--

A. All benefits provided herein are payable from the unemployment compensation fund. All benefits shall be paid in accordance with such regulations as the secretary may prescribe through employment offices or other agencies as the secretary may by general rule approve.

B. Weekly benefits shall be as follows:

(1) an individual's "weekly benefit amount" is an amount equal to one twenty-sixth of the total wages for insured work paid to him in that quarter of his base period in which total wages were highest. No benefit as so computed may be less than ten percent or more than fifty-two and one-half percent of the state's average weekly wage for all insured work. The state's average weekly wage shall be computed from all wages reported to the department from employing units in accordance with regulations of the secretary for the period ending June 30 of each calendar year divided by the total number of covered employees divided by fifty-two, effective for the benefit years commencing on or after the first Sunday of the following calendar year. Any such individual is not eligible to receive benefits unless his total base-period wages equal at least one and one-fourth times the wages for insured work in that quarter of his base period in which such wages are highest. For purposes of this subsection, "total wages" means all remuneration for insured work, including commissions and bonuses and the cash value of all remuneration in a medium other than cash;

(2) each eligible individual who is unemployed in any week during which he is in a continued claims status shall be paid, with respect to such week, a benefit in an amount equal to his weekly benefit amount, less that part of the wages, if any, or earnings from self-employment, payable to him with respect to such week which is in excess of one-fifth of his weekly benefit amount. For purposes of this subsection only, "wages" includes all remuneration for services actually performed in any week for which benefits are claimed, vacation pay for any period for which the individual has a definite return-to-work date, wages in lieu of notice and back pay for loss of employment but does not include payments through a court for time spent in jury service;

(3) notwithstanding any other provision of this section, each eligible individual who, pursuant to a plan financed in whole or in part by a base-period employer of such individual, is receiving a governmental or other pension, retirement pay, annuity or any other similar periodic payment that is based on the previous work of such individual and who is unemployed with respect to any week ending subsequent to April 9, 1981 shall be paid with respect to such week, in accordance with regulations prescribed by the secretary, compensation equal to his weekly benefit amount reduced, but not below zero, by the prorated amount of such pension, retirement pay, annuity or other similar periodic payment that exceeds the percentage contributed to the plan by the eligible individual. The maximum benefit amount payable to such eligible individual shall be an amount not more than twenty-six times his reduced weekly benefit amount. If payments referred to in this section are being received by any individual under the federal Social Security Act, the division shall take into account the individual's contribution and make no reduction in the weekly benefit amount;

(4) in the case of a lump-sum payment of a pension, retirement or retired pay, annuity or other similar payment by a base-period employer that is based on the previous work of such individual, such payment shall be allocated, in accordance with regulations prescribed by the secretary, and shall reduce the amount of unemployment

compensation paid, but not below zero, in accordance with Paragraph (3) of this subsection; and

(5) the retroactive payment of a pension, retirement or retired pay, annuity or any other similar periodic payment as provided in Paragraphs (3) and (4) of this subsection attributable to weeks during which an individual has claimed or has been paid unemployment compensation shall be allocated to such weeks and shall reduce the amount of unemployment compensation for such weeks, but not below zero, by an amount equal to the prorated amount of such pension. Any overpayment of unemployment compensation benefits resulting from the application of the provisions of this paragraph shall be recovered from the claimant in accordance with the provisions of Section 51-1-38 NMSA 1978.

C. Any otherwise eligible individual is entitled during any benefit year to a total amount of benefits equal to whichever is the lesser of twenty-six times his weekly benefit amount or sixty percent of his wages for insured work paid during his base period.

D. Any benefit as determined in Subsection B or C of this section, if not a multiple of one dollar (\$1.00), shall be rounded to the next lower multiple of one dollar (\$1.00).

E. The secretary may prescribe regulations to provide for the payment of benefits that are due and payable to the legal representative, dependents, relatives or next of kin of claimants since deceased. These regulations need not conform with the laws governing successions, and the payment shall be deemed a valid payment to the same extent as if made under a formal administration of the succession of the claimant.

F. The division, on its own initiative, may reconsider a monetary determination whenever it is determined that an error in computation or identity has occurred or that wages of the claimant pertinent to such determination but not considered have been newly discovered or that the benefits have been allowed or denied on the basis of misrepresentation of fact, but no redetermination shall be made after one year from the date of the original monetary determination. Notice of a redetermination shall be given to all interested parties and shall be subject to an appeal in the same manner as the original determination. In the event that an appeal involving an original monetary determination is pending at the time a redetermination is issued, the appeal, unless withdrawn, shall be treated as an appeal from such redetermination."

Chapter 91 Section 2

Section 2. 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 interested party, within fifteen calendar days after the date of notification or mailing of the determination, files an appeal from the determination, the 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 the 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 or tax records of the division. 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 the 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 or when a reasonable person would seriously doubt whether the hearing officer, board member or secretary could be fair and impartial. 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 the 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, tax representative or the claims examiner 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 shall 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, tax representative or claims examiner 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 of fact 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, the 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 benefits shall be issued by the secretary or board of review or any court, and no action to recover 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 the 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 the 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 a 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 the review, the division shall return on certiorari the reports and all of the evidence heard by it on the 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 affected may appeal from the judgment to the court of appeals in accordance with the rules of appellate procedure. Certiorari shall not be granted unless applied for within thirty days from the date of the final decision of the secretary or board of review. 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 is not 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, but certiorari shall be granted as a matter of right to the party applying therefor."

Chapter 91 Section 3

Section 3. Section 51-1-11 NMSA 1978 (being Laws 1961, Chapter 139, Section 3, as amended) is amended to read:

"51-1-11. FUTURE RATES BASED ON BENEFIT EXPERIENCE.--

A. The division shall maintain a separate account for each contributing employer and shall credit his account with all contributions paid by him under the Unemployment Compensation Law. Nothing in the Unemployment Compensation Law shall be construed to grant any employer or individuals in his service prior claims or rights to the amounts paid by the employer into the fund.

B. Benefits paid to an individual shall be charged against the accounts of his base-period employers on a pro rata basis according to the proportion of his total base-period wages received from each, except that no benefits paid to a claimant as extended

benefits under the provisions of Section 51-1-48 NMSA 1978 shall be charged to the account of any base-period employer who is not on a reimbursable basis and who is not a governmental entity and, except as the secretary shall by regulation prescribe otherwise, in the case of benefits paid to an individual who:

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

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

(3) received benefits based upon wages earned from a base-period employer who is not on a reimbursable basis for work performed in a work-release program designed to give an inmate of a correctional institution an opportunity to work while serving a term of incarceration if the inmate's separation was caused by his release from prison;

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

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

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

D. All contributions to the fund shall be pooled and available to pay benefits to any individual entitled thereto, irrespective of the source of such contributions. The standard rate of contributions payable by each employer shall be five and four-tenths percent.

E. No employer's rate shall be varied from the standard rate for any calendar year unless, as of the computation date for that year, his account has been chargeable with benefits throughout the preceding thirty-six months, except that:

(1) the provisions of this subsection shall not apply to governmental entities;

(2) subsequent to December 31, 1984, any employing unit that becomes an employer subject to the payment of contributions under the Unemployment Compensation Law or has been an employer subject to the payment of contributions at a standard rate of two and seven-tenths percent through December 31, 1984 shall be subject to the payment of contributions at the reduced rate of two and seven-tenths percent until, as of the computation date of a particular year, the employer's account has been chargeable with benefits throughout the preceding thirty-six months; and

(3) any individual, type of organization or employing unit that acquires all or part of the trade or business of another employing unit, pursuant to Paragraphs (2) and (3) of Subsection E of Section 51-1-42 NMSA 1978, that has a reduced rate of contribution shall be entitled to the transfer of the reduced rate to the extent permitted under Subsection G of this section.

F. The secretary shall, for the year 1942 and for each calendar year thereafter, classify employers in accordance with their actual experience in the payment of contributions and with respect to benefits charged against their accounts, with a view of fixing such contribution rates as will reflect such benefit experience. Each employer's rate for any calendar year shall be determined on the basis of his record and the condition of the fund as of the computation date for such calendar year.

An employer may make voluntary payments in addition to the contributions required under the Unemployment Compensation Law, which shall be credited to his account in accordance with department regulation. The voluntary payments shall be included in the employer's account as of the employer's most recent computation date if they are made on or before the following March 1. Voluntary payments when accepted from an employer shall not be refunded in whole or in part.

G. In the case of a transfer of an employing enterprise, the experience history of the transferred enterprise as provided in Subsection F of this section shall be transferred from the predecessor employer to the successor under the following conditions and in accordance with the applicable regulations of the secretary:

(1) Definitions:

(a) "employing enterprise" is a business activity engaged in by a contributing employing unit in which one or more persons have been employed within the current or the three preceding calendar quarters;

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

(c) "successor" means any individual or any type of organization that acquires an employing enterprise and continues to operate such business entity; and

(d) "experience history" means the experience rating record and reserve account, including the actual contributions, benefit charges and payroll experience of the employing enterprise.

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

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

(b) notice of the transfer has been given in accordance with the regulations of the secretary within four years of the transaction transferring the employing enterprise or the date of the actual transfer of control and operation of the employing enterprise;

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

(d) where the transaction involves only a merger, consolidation or other form of reorganization without a substantial change in the ownership and controlling interest of the business entity, as determined by the secretary, the limitations on transfers stated in Subparagraphs (a), (b) and (c) of this paragraph shall not apply. No party to a merger, consolidation or other form of reorganization described in this paragraph shall be relieved of liability for any contributions, interest or penalties due and owing from the employing enterprise at the time of the merger, consolidation or other form of reorganization.

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

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

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

(c) the successor files with the application a Form ES-903A or its equivalent with a schedule of the name and social security number of and the wages paid to and the

contributions paid for each employee for the three and one-half year period preceding the date of computation as defined in Subparagraph (d) of Paragraph (3) of Subsection H of this section through the date of transfer or such lesser period as the enterprises transferred may have been in operation. The application and Form ES-903A shall be supported by the predecessor's permanent employment records, which shall be available for audit by the division. The application and Form ES-903A shall be reviewed by the division and, upon approval, the percentage of the predecessor's experience history attributable to the enterprises transferred shall be transferred to the successor. The percentage shall be obtained by dividing the taxable payrolls of the transferred enterprises for such three and one-half year period preceding the date of computation or such lesser period as the enterprises transferred may have been in operation by the predecessor's entire payroll.

H. For each calendar year, adjustments of contribution rates below the standard or reduced rate and measures designed to protect the fund are provided as follows:

(1) The total assets in the fund and the total of the last annual payrolls of all employers subject to contributions as of the computation date for each year shall be determined. These annual totals are here called "the fund" and "total payrolls". For each year, the "reserve" of each employer qualified under Subsection E of this section shall be fixed by the excess of his total contributions over total benefit charges computed as a percentage of his average payroll reported for contributions. The determination of each employer's annual rate, computed as of the computation date for each calendar year, shall be made by matching his reserve as shown in the reserve column with the corresponding rate shown in the applicable rate schedule of the table provided in Paragraph (4) of this subsection.

(2) Each employer's rate for each calendar year commencing January 1, 1979 or thereafter shall be:

(a) the rate in schedule 1 of the table provided in Paragraph (4) of this subsection on the corresponding line as his reserve if the fund equals at least four percent of the total payrolls;

(b) the rate in schedule 2 of the table provided in Paragraph (4) of this subsection on the corresponding line if the fund has dropped to between four percent and three percent;

(c) the rate in schedule 3 of the table provided in Paragraph (4) of this subsection on the corresponding line if the fund has dropped to between three percent and two percent;

(d) the rate in schedule 4 of the table provided in Paragraph (4) of this subsection on the corresponding line if the fund has dropped to between two percent and one and one-half percent;

(e) the rate in schedule 5 of the table provided in Paragraph (4) of this subsection on the corresponding line if the fund has dropped to between one and one-half percent and one percent; or

(f) the rate in schedule 6 of the table provided in Paragraph (4) of this subsection on the corresponding line if the fund has dropped below one percent.

(3) As used in this section:

(a) "annual payroll" means the total amount of remuneration from an employer for employment during a twelve-month period ending on a computation date, and "average payroll" means the average of the last three annual payrolls;

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

(c) "base-period employers" means the employers of an individual during his base period; and

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

(4) Table of employer reserves and contribution rate schedules:

Employer Contribution Contribution Contribution
Reserve Schedule 1 Schedule 2 Schedule 3

10.0% and over 0.1% 0.3% 0.6%

9.0%-9.9% 0.3% 0.6% 0.9%

8.0%-8.9% 0.6% 0.9% 1.2%

7.0%-7.9% 0.9% 1.2% 1.5%

6.0%-6.9% 1.2% 1.5% 1.8%

5.0%-5.9% 1.5% 1.8% 2.1%

4.0%-4.9% 1.8% 2.1% 2.4%

3.0%-3.9% 2.1% 2.4% 2.7%

2.0%-2.9% 2.4% 2.7% 3.0%

1.0%-1.9% 2.7% 3.0% 3.3%

0.9%-0.0% 3.0% 3.3% 3.6%

(-0.1%)-(-0.5%) 3.3% 3.6% 3.9%

(-0.5%)-(-1.0%) 4.2% 4.2% 4.2%

(-1.0%)-(-2.0%) 5.0% 5.0% 5.0%

Under (-2.0%) 5.4% 5.4% 5.4%

Employer Contribution Contribution Contribution
Reserve Schedule 4 Schedule 5 Schedule 6

10.0% and over 0.9% 1.2% 2.7%

9.0%-9.9% 1.2% 1.5% 2.7%

8.0%-8.9% 1.5% 1.8% 2.7%

7.0%-7.9% 1.8% 2.1% 2.7%

6.0%-6.9% 2.1% 2.4% 2.7%

5.0%-5.9% 2.4% 2.7% 3.0%

4.0%-4.9% 2.7% 3.0% 3.3%

3.0%-3.9% 3.0% 3.3% 3.6%

2.0%-2.9% 3.3% 3.6% 3.9%

1.0%-1.9% 3.6% 3.9% 4.2%

0.9%-0.0% 3.9% 4.2% 4.5%

(-0.1%)-(-0.5%) 4.2% 4.5% 4.8%

(-0.5%)-(-1.0%) 4.5% 4.8% 5.1%

(-1.0%)-(-2.0%) 5.0% 5.1% 5.3%

Under (-2.0%) 5.4% 5.4% 5.4%.

I. The division shall promptly notify each employer of his rate of contributions as determined for any calendar year pursuant to this section. Such notification shall include the amount determined as the employer's average payroll, the total of all his contributions paid on his own behalf and credited to his account for all past years and total benefits charged to his account for all such years. Such determination shall become conclusive and binding upon the employer unless, within thirty days after the mailing of notice thereof to his last known address or in the absence of mailing, within thirty days after the delivery of such notice, the employer files an application for review and redetermination, setting forth his reason therefor. The employer shall be granted an opportunity for a fair hearing in accordance with regulations prescribed by the secretary, but no employer shall have standing, in any proceeding involving his rate of contributions or contribution liability, to contest the chargeability to his account of any benefits paid in accordance with a determination, redetermination or decision pursuant to Section 51-1-8 NMSA 1978, except upon the ground that the services on the basis of which such benefits were found to be chargeable did not constitute services performed in employment for him and only in the event that he was not a party to such determination, redetermination or decision, or to any other proceedings under the Unemployment Compensation Law in which the character of such services was

determined. The employer shall be promptly notified of the decision on his application for redetermination, which shall become final unless, within fifteen days after the mailing of notice thereof to his last known address or in the absence of mailing, within fifteen days after the delivery of such notice, further appeal is initiated pursuant to Subsection D of Section 51-1-8 NMSA 1978.

J. The division shall provide each contributing employer, within ninety days of the end of each calendar quarter, a written determination of benefits chargeable to his account. Such determination shall become conclusive and binding upon the employer for all purposes unless, within thirty days after the mailing of the determination to his last known address or in the absence of mailing, within thirty days after the delivery of such determination, the employer files an application for review and redetermination, setting forth his reason therefor. The employer shall be granted an opportunity for a fair hearing in accordance with regulations prescribed by the secretary, but no employer shall have standing in any proceeding involving his contribution liability to contest the chargeability to his account of any benefits paid in accordance with a determination, redetermination or decision pursuant to Section 51-1-8 NMSA 1978, except upon the ground that the services on the basis of which such benefits were found to be chargeable did not constitute services performed in employment for him and only in the event that he was not a party to such determination, redetermination or decision, or to any other proceedings under the Unemployment Compensation Law in which the character of such services was determined. The employer shall be promptly notified of the decision on his application for redetermination, which shall become final unless, within fifteen days after the mailing of notice thereof to his last known address or in the absence of mailing, within fifteen days after the delivery of such notice, further appeal is initiated pursuant to Subsection D of Section 51-1-8 NMSA 1978.

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

L. The secretary shall correct any error in the determination of an employer's rate of contribution during the calendar year to which the erroneous rate applies, notwithstanding that notification of the employer's rate of contribution may have been issued and contributions paid pursuant to the notification. Upon issuance by the division

of a corrected rate of contribution, the employer shall have the same rights to review and redetermination as provided in Subsection I of this section.

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

N. Notwithstanding the provisions of this section, the rate in schedule 1 of the table provided in Paragraph (4) of Subsection H of this section shall be applied for two calendar years beginning January 1, 1999."

Chapter 91 Section 4

Section 4. Section 51-1-18 NMSA 1978 (being Laws 1936 (S.S.), Chapter 1, Section 8, as amended) is amended to read:

"51-1-18. PERIOD, ELECTION AND TERMINATION OF EMPLOYER'S COVERAGE.--

A. Except as otherwise provided in Subsection C of this section, any employing unit that is or becomes an employer subject to the Unemployment Compensation Law within any calendar year shall be subject to the Unemployment Compensation Law during the whole of such calendar year.

B. Except as otherwise provided in Subsection C of this section, an employing unit shall cease to be an employer subject to the Unemployment Compensation Law only as of January 1 of any calendar year if it files with the department, between January 1 and March 15 of the year in which the employing unit desires termination of coverage, a written application for termination of coverage and the secretary finds:

(1) that there was no calendar quarter within the preceding calendar year within which such employing unit paid wages for employment amounting to four hundred fifty dollars (\$450) or more or as otherwise provided in Paragraphs (6) and (7) of Subsection F of Section 51-1-42 NMSA 1978; and

(2) that there were no twenty different weeks within the preceding calendar year, whether or not such weeks were consecutive, within which such employing unit employed an individual in employment subject to the Unemployment Compensation Law. For the purpose of this subsection, the two or more employing units mentioned in Paragraphs (2) and (3) of Subsection E of Section 51-1-42 NMSA 1978 shall be treated as a single employing unit. For like cause or when the total experience history of a predecessor employing unit is transferred pursuant to Section 51-1-11 NMSA 1978 or when, in the opinion of the secretary, it is unlikely that an employing unit will have individuals in employment at any time in the future, termination of coverage may be granted on the secretary's own initiative; provided that due notice is given to the

employing unit at its last address of record with the department. The provisions of this subsection shall not apply to any governmental unit.

C. An employing unit, not otherwise subject to the Unemployment Compensation Law, that files with the department its written election to become an employer subject hereto for not less than two calendar years shall, with the written approval of such election by the secretary, become an employer subject hereto to the same extent as all other employers, as of the date stated in such approval, and shall cease to be subject hereto as of January 1 of any calendar year subsequent to such two calendar years only if, between the dates of January 1 and March 15 of the year in which the employing unit desires termination of coverage, it has filed with the department a written notice to that effect or the secretary, on his own initiative, has given notice of termination of such coverage.

D. Any employing unit for which services that do not constitute employment, as defined in the Unemployment Compensation Law, are performed may file with the department a written election that all such services performed by individuals in its employ in one or more distinct establishments or places of business shall be deemed to constitute employment for all the purposes of the Unemployment Compensation Law for not less than two calendar years. Upon the written approval of such election by the secretary, such services shall be deemed to constitute employment subject to the Unemployment Compensation Law after the date stated in such approval. Such services shall cease to be deemed employment subject hereto as of January 1 of any calendar year subsequent to such two calendar years only if, between January 1 and March 15 of the year in which the employing unit desires termination of coverage, it has filed with the department a written notice to that effect, or the secretary, on his own initiative, has given notice of termination of such coverage.

E. The secretary may terminate the election of an employer or employing unit made pursuant to Subsection C or D of this section at any time the secretary determines that the employer or employing unit is not abiding by all the requirements of the Unemployment Compensation Law and the regulations issued pursuant thereto, or if the employer or employing unit that has made an election for coverage becomes delinquent in the payment of its contributions or payment in lieu of contributions, interest or penalties.

F. The secretary, on his own initiative or upon written notification from an employer, may suspend such employer's obligation for filing a quarterly wage and contribution report as provided in the Unemployment Compensation Law or any regulation issued pursuant thereto in any case where the employer has ceased to and does not in the immediate future expect to have individuals in employment; provided that this subsection shall not apply or be a bar to the collection of contributions, interest and penalties if, in fact, it is determined that the employer had an individual in employment subject to the Unemployment Compensation Law during the period covered by the suspension."

Chapter 91 Section 5

Section 5. Section 51-1-19 NMSA 1978 (being Laws 1936 (S.S.), Chapter 1, Section 9, as amended) is amended to read:

"51-1-19. UNEMPLOYMENT COMPENSATION FUND.--

A. There is hereby established as a special fund, separate and apart from all public money, or funds of this state, an unemployment compensation fund, which shall be administered by the department exclusively for the purposes of this section. This fund shall consist of:

- (1) all contributions collected and payments in lieu of contributions collected or due pursuant to the Unemployment Compensation Law;
- (2) interest earned upon any money in the fund;
- (3) any property or securities acquired through the use of money belonging to the fund;
- (4) all earnings of such property or securities;
- (5) all money received from the federal unemployment account in the unemployment trust fund in accordance with Title 12 of the Social Security Act, as amended;
- (6) all money credited to this state's account in the unemployment trust fund pursuant to Section 903 of the Social Security Act, as amended;
- (7) all money received or due from the federal government as reimbursements pursuant to Section 204 of the Federal-State Extended Compensation Act of 1970; and
- (8) all money received for the fund from any other source. All money in the fund shall be mingled and undivided.

B. The state treasurer shall be the treasurer and custodian of the fund and shall administer such fund in accordance with the directions of the department and shall issue his checks upon it in accordance with such regulations as the secretary may prescribe. He shall maintain, within the fund, three separate accounts:

- (1) a clearing account;
- (2) an unemployment trust fund account; and
- (3) a benefit account.

C. All money payable to the fund upon receipt thereof by the department shall be forwarded to the treasurer who shall immediately deposit it in the clearing account. Refunds payable pursuant to Sections 51-1-36 and 51-1-42 NMSA 1978 shall be paid from the clearing account or the benefit account upon checks issued by the treasurer

under the direction of the department. After clearance thereof, all money in the clearing account, except as herein otherwise provided, shall be immediately deposited with the secretary of the treasury of the United States to the credit of the account of this state in the unemployment trust fund, established and maintained pursuant to Section 904 of the act of congress known as the Social Security Act, as amended (42 U.S.C. Section 1104), any provisions of law in this state relating to the deposits, administration, release or disbursements of money in the possession or custody of this state to the contrary notwithstanding. The benefit account shall consist of all money requisitioned from this state's account in the unemployment trust fund. Except as herein otherwise provided, money in the clearing and benefit accounts may be deposited by the treasurer, under the direction of the secretary, in any bank or public depository in which general funds of the state may be deposited, but no public deposit insurance charge or premium shall be paid out of the fund. Money in the clearing and benefit accounts shall not be commingled with other state funds but shall be maintained in separate accounts on the books of the depository.

D. All of the money not deposited in the treasury of the United States shall be subject to the general laws applicable to the deposit of public money in the state; and collateral pledged for this purpose shall be kept separate and distinct from any collateral pledged to secure other funds of this state.

E. The state treasurer shall be liable on his official bond for the faithful performance of his duties in connection with the unemployment compensation fund provided for under this section. The liability on the official bond of the state treasurer shall be effective immediately upon the enactment of this provision, and such liability shall exist in addition to the liability of any separate bond existent on the effective date of this provision or which may be given in the future. All sums recovered for losses sustained by the fund shall be deposited therein.

F. All money in the clearing account established under this section is hereby appropriated for the purpose of making refunds pursuant to Sections 51-1-36 and 51-1-42 NMSA 1978, and all money in the clearing account not needed for the purpose of making the refunds shall be immediately paid over to the secretary of the treasury of the United States to the credit of the account of this state in the unemployment trust fund, and the money in the unemployment trust fund is hereby appropriated for the purposes of this section.

G. Money shall be requisitioned from this state's account in the unemployment trust fund solely for the payment of benefits and for the payment of refunds pursuant to Sections 51-1-36 and 51-1-42 NMSA 1978 in accordance with regulations prescribed by the secretary, except that money credited to this state's account pursuant to Section 903 of the Social Security Act, as amended, shall be used exclusively as provided in Subsection H of this section. The secretary shall, from time to time, requisition from the unemployment trust fund such amounts not exceeding the amounts standing to this state's account therein, as he deems necessary for the payment of such benefits and refunds for a reasonable future period. Upon receipt thereof, the treasurer shall deposit

such money in the benefit account and shall issue his checks for the payment of benefits solely from such benefit account. Expenditures of such money in the benefit account and refunds from the benefit account or the clearing account shall not be subject to any provisions of law requiring specific appropriations or other formal release by state officers of money in their custody. All money shall be withdrawn from the fund only upon a warrant issued by the department or its duly authorized agent upon the treasurer, and the treasurer upon receipt of such warrants shall issue his check against the fund in accordance with the warrant of the secretary. Any balance of money requisitioned from the unemployment trust fund that remains unclaimed or unpaid in the benefit account after the expiration of the period for which such sums were requisitioned shall either be deducted from estimates for, and may be utilized for, the payment of benefits and refunds during succeeding periods, or in the discretion of the secretary, shall be redeposited with the secretary of the treasury of the United States, to the credit of this state's account in the unemployment trust fund, as provided in Subsection C of this section. All money in the benefit account provided for hereinabove is hereby appropriated for the payment of benefits and refunds as provided herein.

H. Money credited to the account of this state in the unemployment trust fund by the secretary of the treasury of the United States pursuant to Section 903 of the Social Security Act may be requisitioned from this state's account or used only for:

- (1) the payment of benefits pursuant to Subsection G of this section; and
- (2) the payment of expenses incurred for the administration of the Unemployment Compensation Law; provided, that any money requisitioned and used for the payment of expenses incurred for the administration of the Unemployment Compensation Law must be authorized by the enactment of a specific appropriation by the legislature that:
 - (a) specifies the purpose for which such money is appropriated and the amounts appropriated therefor;
 - (b) limits the period within which such money may be obligated to a period ending not more than two years after the date of the enactment of the appropriation law;
 - (c) limits the amount which may be obligated to an amount which does not exceed the amount by which 1) the aggregate of the amounts credited to the account of this state pursuant to Section 903 of the Social Security Act exceeds 2) the aggregate of the amounts used by the state pursuant to this subsection and charged against the amounts transferred to the account of this state ; and
 - (d) notwithstanding the provisions of Subparagraph (1) of this subsection, money credited with respect to federal fiscal years 1999, 2000 and 2001 shall be used only for the administration of the Unemployment Compensation Law.

I. Amounts credited to this state's account in the unemployment trust fund under Section 903 of the Social Security Act that are obligated for administration shall be charged

against transferred amounts at the exact time the obligation is entered into. The appropriation, obligation and expenditure or other disposition of money appropriated under Subsection H of this section shall be accounted for in accordance with standards established by the United States secretary of labor.

J. Money appropriated under Subsection H of this section for payment of expenses of administration shall be requisitioned as needed for payment of the obligations incurred under such appropriations and, upon requisition, shall be deposited in the unemployment compensation administration fund but, until expended, shall remain a part of the unemployment compensation fund for use only in accordance with the conditions specified in Subsection H of this section, notwithstanding any provision of Section 51-1-34 NMSA 1978. Any money so deposited that will not be expended shall be returned promptly to the account of the state in the unemployment trust fund.

K. The provisions of Subsections A, B, C, D, E, F, G, H, I and J to the extent that they relate to the unemployment trust fund, shall be operative only so long as such unemployment trust fund continues to exist and so long as the secretary of the treasury of the United States continues to maintain for this state a separate book account of all funds deposited therein by the state for benefit purposes, together with this state's proportionate share of the earnings of such unemployment trust fund from which no other state is permitted to make withdrawals. If and when such unemployment trust fund ceases to exist, or such separate book account is no longer maintained, all money, properties or securities therein belonging to the unemployment compensation fund of this state shall be transferred to the treasurer of the unemployment compensation fund, who shall hold, invest, transfer, sell, deposit and release such money, properties or securities in a manner approved by the secretary, in accordance with the provisions of this section; provided, that such money shall be invested in the following readily marketable classes of securities; bonds or other interest-bearing obligations of the United States and of the state; and, provided further, that such investment shall at all times be so made that all the assets of the fund shall always be readily convertible into cash when needed for the payment of benefits. The treasurer shall dispose of securities or other properties belonging to the unemployment compensation fund only under the direction of the secretary."

Chapter 91 Section 6

Section 6. Section 51-1-37 NMSA 1978 (being Laws 1936 (S.S.), Chapter 1, Section 15, as amended) is amended to read:

"51-1-37. PROTECTION OF RIGHTS AND BENEFITS.--

A. Except as provided by Section 51-1-37.1 NMSA 1978, any agreement by an individual to waive, release or commute his rights to benefits or any other rights under the Unemployment Compensation Law shall be void. No agreement by any individual in the employ of any person or concern to pay all or any portion of an employer's contributions or payments in lieu of contributions, required under the Unemployment Compensation

Law from such employer, shall be valid. No employer shall directly or indirectly make or require or accept any deduction from the remuneration of individuals in his employ to finance the employer's contributions or payments in lieu of contributions required from him or require or accept any waiver of any right hereunder by an individual in his employ. Any employer or officer or agent of an employer who violates any provisions of this subsection shall, for each offense, be fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) or be imprisoned for not more than six months, or both.

B. No individual claiming benefits shall be charged fees of any kind in any proceeding under the Unemployment Compensation Law by the department or its representatives or by any court or any officer thereof. Any individual claiming benefits and any employer in any proceeding before the secretary, his authorized representative or the board of review may be represented by counsel or any other duly authorized agent, but no such counsel or agent shall either charge or receive for such services more than an amount approved by the secretary. Any person who violates any provision of this subsection shall, for each such offense, be fined not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500) or imprisoned for not more than six months, or both.

C. Except as provided in Subsection D of this section, any assignment, pledge or encumbrance of any right to benefits which are or may become due or payable under the Unemployment Compensation Law shall be void, and such rights to benefits shall be exempt from levy, execution, attachment, garnishment or any other remedy provided for the collection of debt. Benefits received by any individual, so long as they are not mingled with other funds of the recipient, shall be exempt from a remedy for the collection of debts except debts incurred for necessities furnished to an individual or his spouse or dependents during the time when he was unemployed. Any waiver of any exemption provided for in this subsection is void.

D. The following actions for collection of the indicated obligations may be taken:

(1) deduction and withholding of amounts of unpaid child support pursuant to Section 51-1-37.1 NMSA 1978;(2) levy by the federal internal revenue service pursuant to Section 6331(h)(2)(C) of the Internal Revenue Code provided that arrangements have been made by the internal revenue service for reimbursement of the division for administrative costs incurred by the division that are attributable to the repayment of uncollected federal internal revenue taxes. Levy of federal income taxes will be made in accordance with such regulations as the secretary may prescribe; and

(3) deduction and withholding of amounts for food stamp overissuances pursuant to Section 51-1-37.2 NMSA 1978."

Chapter 91 Section 7

Section 7. Section 51-1-37.1 NMSA 1978 (being Laws 1982, Chapter 41, Section 4, as amended) is amended to read:

"51-1-37.1. CHILD SUPPORT OBLIGATIONS.--

A. The division shall notify the human services department of the name of any individual who files a new claim for unemployment compensation and who is determined to be eligible for benefits.

B. The division shall deduct and withhold from any unemployment compensation otherwise payable to an individual who owes child support obligations:

(1) the amount specified by the individual to be deducted and withheld, if an amount is not specified under Paragraph (2) or (3) of this subsection;

(2) the amount specified in an agreement between the individual and the child support enforcement bureau of the human services department, pursuant to Section 454(20)(B)(i) of the Social Security Act, a copy of which has been provided to the division by the child support enforcement bureau; or

(3) any amount otherwise required to be so deducted and withheld from such unemployment compensation pursuant to a writ of garnishment or other legal process for enforcement of judgments issued by any court or administrative agency of competent jurisdiction in any state, territory or possession of the United States or any foreign country with which the United States has an agreement to honor such process directed to the human services department for the purpose of enforcing an individual's obligation to provide child support.

C. Any amount withheld from the unemployment compensation benefits due a claimant shall be considered as payment of unemployment compensation benefits to the claimant and paid by the individual in satisfaction of his child support obligations.

D. The amount of child support obligations withheld by the division pursuant to this section shall be paid to the human services department.

E. As used in this section, "unemployment compensation benefits" means benefits payable under the Unemployment Compensation Law and amounts payable by or through the division pursuant to an agreement under any federal law providing for compensation, assistance or allowance with respect to unemployment.

F. As used in this section, "child support obligations" includes only obligations that are being enforced pursuant to a plan described in Section 454 of the Social Security Act that has been approved by the United States secretary of health and human services under Part D of Title 4 of the Social Security Act.

G. The human services department shall reimburse the division for the administrative costs incurred by it that are attributable to the child support obligations being enforced by the human services department. If the human services department and the division fail to agree on the amount of such administrative costs, the state budget division of the

department of finance and administration shall prescribe the amount of administrative costs to be reimbursed."

Chapter 91 Section 8

Section 8. A new Section 51-1-37.2 NMSA 1978 is enacted to read:

"51-1-37.2. FOOD STAMP OVERISSUANCES.--

A. The division shall notify the human services department of the name and social security number of any individual who files a new claim for unemployment compensation and who is determined to be eligible for benefits. This information provided by the division shall be used by the human services department to determine whether any eligible individual owes an uncollected overissuance of food stamp coupons, as defined in Section 13(c)(1) of the federal Food Stamp Act of 1977.

B. The division shall deduct and withhold from any unemployment compensation benefits payable to an individual who owes an uncollected overissuance:

(1) the amount specified by the individual to the division to be deducted and withheld under this subsection;

(2) the amount, if any, determined pursuant to an agreement submitted to the human services department pursuant to Section 13(c)(3)(A) of the federal Food Stamp Act of 1977; or

(3) any amount otherwise required to be deducted and withheld from unemployment compensation pursuant to Section 13(c)(3)(B) of the federal Food Stamp Act of 1977.

C. Any amount deducted and withheld pursuant to this section shall be paid by the division to the human services department.

D. Any amount deducted and withheld pursuant to Subsection B of this section shall for all purposes be treated as if it were paid to the individual as unemployment compensation and paid by such individual to the human services department as repayment of the individual's uncollected overissuance.

E. As used in this section, "unemployment compensation benefits" means any benefits payable pursuant to the Unemployment Compensation Law and amounts payable pursuant to an agreement pursuant to any federal law providing for compensation, assistance or allowances with respect to unemployment.

F. This section applies only if arrangements have been made for reimbursement by the human services department for the administrative costs incurred by the division pursuant to this section that are attributable to the repayment of uncollected overissuances to the human services department."

Chapter 91 Section 9

Section 9. 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 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 that maintains two or more separate establishments within this state shall be deemed to be employed by a single employing unit for all the purposes of the Unemployment Compensation Law. Individuals performing services for contractors, subcontractors or agents that 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 that at the time of the acquisition was an employer subject to the Unemployment Compensation Law; provided that where such an acquisition takes place, the secretary may postpone activating the separate account pursuant to Subsection A of Section 51-1-11 NMSA 1978 until such time as the successor employer has employment as defined in Subsection F of this section;

(3) any employing unit that acquired all or part of the organization, trade, business or assets of another employing unit and that, if treated as a single unit with 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 that, having become an employer under Paragraph (1), (2), (3) or (4) of this subsection, has not, under Section 51-1-18 NMSA 1978, ceased to be an employer subject to the Unemployment Compensation Law;

(6) for the effective period of its election pursuant to Section 51-1-18 NMSA 1978, any other employing unit that has elected to become fully subject to the Unemployment Compensation Law; 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) an individual's entire service, performed within or both within and without this state if:

(a) the service is primarily localized in this state with services performed outside the state being only incidental thereto; or

(b) the service is not localized in any state but some of the service is performed in this state and: 1) the base of operations or, if there is no base of operations, the place from which such service is directed or controlled, is in this state; or 2) the base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed but the individual's residence is in this state;

(3) 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 that: 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 that 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 that is deemed "employment" under the provisions of Paragraph (2) of this subsection or the parallel provisions of another state's law), if:

(a) the employer's principal place of business in the United States is located in this state;

(b) the employer has no place of business in the United States, but: 1) the employer is an individual who is a resident of this state; 2) the employer is a corporation organized under the laws of this state; or 3) the employer is a partnership or a trust and the number of the partners or trustees who are residents of this state is greater than the number who are residents of any one other state; or

(c) none of the criteria of Subparagraphs (a) and (b) of this paragraph are met, but the employer has elected coverage in this state or, the employer having failed to elect coverage in any state, the individual has filed a claim for benefits, based on such service, under the law of this state.

"American employer" for purposes of this paragraph means a person who is: 1) an individual who is a resident of the United States; 2) a partnership if two-thirds or more of the partners are residents of the United States; 3) a trust if all of the trustees are residents of the United States; or 4) a corporation organized under the laws of the United States or of any state. For the purposes of this paragraph, "United States" includes the United States, the District of Columbia, the commonwealth of Puerto Rico and the Virgin Islands;

(10) 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" does not include:

(a) service performed in the employ of: 1) a church or convention or association of churches; or 2) an organization that is operated primarily for religious purposes and that is operated, supervised, controlled or principally supported by a church or convention or association of churches;

(b) service performed by a duly ordained, commissioned or licensed minister of a church in the exercise of 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 that normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on as a student in a full-time program, taken for credit at the institution that combines academic instruction with work experience, if the service is an

integral part of such program and the institution has so certified to the employer, except that this subparagraph shall not apply to service performed in a program established for or on behalf of an employer or group of employers;

(m) service performed in the employ of a hospital, if the service is performed by a patient of the hospital, or services performed by an inmate of a custodial or penal institution for 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 that is conducted by or under the auspices of a nonprofit or governmental entity if that person is not otherwise an employee of the entity conducting the sporting event;

(q) service performed for a private, for-profit person or entity by an individual as a product demonstrator or product merchandiser if the service is performed pursuant to a written contract between that individual and a person or entity whose principal business is obtaining the services of product demonstrators and product merchandisers for third parties, for demonstration and merchandising purposes and the individual: 1) is compensated for each job or the compensation is based on factors related to the work performed; 2) provides the equipment used to perform the service, unless special equipment is required and provided by the manufacturer through an agency; 3) is responsible for completion of a specific job and for any failure to complete the job; 4) pays all expenses, and the opportunity for profit or loss rests solely with the individual; and 5) is responsible for operating costs, fuel, repairs and motor vehicle insurance. For the purpose of this subparagraph, "product demonstrator" means an individual who, on a temporary, part-time basis, demonstrates or gives away samples of a food or other product as part of an advertising or sales promotion for the product and who is not otherwise employed directly by the manufacturer, distributor or retailer, and "product merchandiser" means an individual who, on a temporary, part-time basis builds or resets a product display and who is not otherwise directly employed by the manufacturer, distributor or retailer; or

(r) service performed for a private for-profit person or entity by an individual as a landman if substantially all remuneration paid in cash or otherwise for the performance of the services is directly related to the completion by the individual of the specific tasks contracted for rather than to the number of hours worked by the individual. For the purposes of this subparagraph, "landman" means a land professional who has been engaged primarily in: 1) negotiating for the acquisition or divestiture of mineral rights; 2) negotiating business agreements that provide for the exploration for or development of minerals; 3) determining ownership of minerals through the research of public and

private records; and 4) reviewing the status of title, curing title defects and otherwise reducing title risk associated with ownership of minerals; managing rights or obligations derived from ownership of interests and minerals; or utilizing or pooling of interest in minerals; and

(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" the benefit year that includes the greater part of such week;

N. "calendar quarter" means the period of three consecutive calendar months ending on March 31, June 30, September 30 or December 31;

O. "insured work" means services performed for employers who are covered under the Unemployment Compensation Law;

P. "benefit year" with respect to 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 percent of the state's average annual earnings computed by the division by dividing total wages reported to the division by contributing employers for the second preceding calendar year before the calendar year the computed base wage becomes effective by the average annual employment reported by contributing employers for the same period rounded to the next higher multiple of one hundred dollars (\$100); provided that the base wage so computed for any calendar year shall not be less than seven thousand dollars (\$7,000). Wages paid by an employer to an individual in 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 that 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 that represent deferred compensation or other reduction of an employee's normal taxable wages or remuneration or any payments made to a third party on behalf of an employee as part of an agreement of deferred remuneration;

(b) sickness or accident disability if 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;

(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;

(7) any payment made to, or on behalf of, an employee or his beneficiary under an arrangement to which Section 408(p) of the federal Internal Revenue code of 1986 applies, other than any elective contributions under Paragraph (2)(A)(i) of that section;

(8) any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under Section 106 of the federal Internal Revenue Code of 1986; or

(9) the value of any meals or lodging furnished by or on behalf of the employer if at the time such benefit is provided it is reasonable to believe that the employee will be able to exclude such items from income under Section 119 of the federal Internal Revenue Code of 1986."

Chapter 91 Section 10

Section 10. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1998.

HOUSE BILL 223, AS AMENDED

CHAPTER 92

RELATING TO TAXATION; ALLOWING GROSS RECEIPTS AND INTERSTATE TELECOMMUNICATIONS GROSS RECEIPTS DEDUCTIONS FOR RECEIPTS FROM PROVIDING CERTAIN INTERNET SERVICES AND ALLOWING GROSS RECEIPTS DEDUCTIONS FOR RECEIPTS FROM CERTAIN WORLD WIDE WEB ACTIVITIES; AMENDING AND ENACTING SECTIONS OF THE NMSA.

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

Chapter 92 Section 1

Section 1. A new section of the Gross Receipts and Compensating Tax Act is enacted to read:

"DEDUCTION--GROSS RECEIPTS TAX--INTERNET SERVICES.--During the period July 1, 1998 through June 30, 2000, receipts from providing leased telephone lines, telecommunications services, internet services, internet access services or computer programming that will be used by other persons in providing internet access and related services to the final user may be deducted from gross receipts if the sale is made to a person who is subject to the gross receipts tax or the interstate telecommunications gross receipts tax."

Chapter 92 Section 2

Section 2. A new section of the Gross Receipts and Compensating Tax Act is enacted to read:

"DEDUCTION--GROSS RECEIPTS TAX--HOSTING WORLD WIDE WEB SITES.-- Receipts from hosting world wide web sites may be deducted from gross receipts. For purposes of this section, "hosting" means storing information on computers attached to the internet."

Chapter 92 Section 3

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

"DEDUCTION--GROSS RECEIPTS TAX--SALES THROUGH WORLD WIDE WEB SITES.--Receipts of any person derived from the sale of a service or property made through a world wide web site to a person with a billing address outside New Mexico may be deducted from gross receipts."

Chapter 92 Section 4

Section 4. 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, except that "engaging in business" does not include having a world wide web site as a third-party content provider on a computer physically located in New Mexico but owned by another nonaffiliated person;

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 a 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."

Chapter 92 Section 5

Section 5. Section 7-9-10 NMSA 1978 (being Laws 1966, Chapter 47, Section 10, as amended) is amended to read:

"7-9-10. AGENTS FOR COLLECTION OF COMPENSATING TAX--DUTIES.--

A. Every person carrying on or causing to be carried on any activity within this state attempting to exploit New Mexico's markets who sells property or sells property and service for use in this state and who is not subject to the gross receipts tax on receipts from these sales shall collect the compensating tax from the buyer and pay the tax collected to the department. "Activity", for the purposes of this section, includes, but is not limited to, engaging in any of the following in New Mexico: maintaining an office or other place of business, soliciting orders through employees or independent contractors, soliciting orders through advertisements placed in newspapers or magazines published in New Mexico or advertisements broadcast by New Mexico radio or television stations, soliciting orders through programs broadcast by New Mexico radio or television stations or transmitted by cable systems in New Mexico, canvassing, demonstrating, collecting money, warehousing or storing merchandise or delivering or distributing products as a consequence of an advertising or other sales program directed at potential customers, but "activity" does not include having a world wide web site as a third-party provider on a computer physically located in New Mexico but owned by another nonaffiliated person.

B. To insure orderly and efficient collection of the public revenue, if any application of this section is held invalid, the section's application to other situations or persons shall not be affected."

Chapter 92 Section 6

Section 6. Section 7-9C-7 NMSA 1978 (being Laws 1992, Chapter 50, Section 7 and also Laws 1992, Chapter 67, Section 7) is amended to read:

"7-9C-7. DEDUCTION--SALE OF A SERVICE FOR RESALE.--

A. Receipts from providing an interstate telecommunications service in this state that will be used by other persons in providing telephone or telegraph services to the final user may be deducted from interstate telecommunications gross receipts if the sale is made to a person who is subject to the interstate telecommunications gross receipts tax or to the gross receipts tax or the compensating tax.

B. Receipts during the period July 1, 1998 through June 30, 2000 from providing leased telephone lines, telecommunications services, internet access services or computer programming that will be used by other persons in providing internet access and related services to the final user may be deducted from interstate telecommunications gross receipts if the sale is made to a person who is subject to the interstate telecommunications gross receipts tax, the gross receipts tax or the compensating tax."

Chapter 92 Section 7

Section 7. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1998.

CHAPTER 93

RELATING TO LIQUOR LICENSES; CHANGING REQUIRED INFORMATION IN APPLICATION; BROADENING THE SUPERINTENDENT OF REGULATION AND LICENSING'S DISCRETION REGARDING CANCELLATION OF LICENSES FOR FAILURE TO ENGAGE IN BUSINESS.

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

Chapter 93 Section 1

Section 1. Section 60-6B-2 NMSA 1978 (being Laws 1981, Chapter 39, Section 38, as amended) is amended to read:

"60-6B-2. APPLICATIONS.--

A. Before any new license authorized by the Liquor Control Act may be issued by the director, the applicant for the license shall:

(1) submit to the director a written application for the license under oath, in the form prescribed by and stating the information required by the director, together with a nonrefundable application fee of one hundred fifty dollars (\$150);

(2) submit to the director for his approval a description, including floor plans, in a form prescribed by the director, which shows the proposed licensed premises for which the license application is submitted. The area represented by the approved description shall become the licensed premises;

(3) if the applicant is a corporation, be required to submit as part of its application the following:

(a) a certified copy of its articles of incorporation or, if a foreign corporation, a certified copy of its certificate of authority;

(b) the names and addresses of all officers and directors and those stockholders owning ten percent or more of the voting stock of the corporation and the amounts of stock held by each stockholder; provided, however, a corporation may not be licensed if an officer, manager, director or holder of more than ten percent of the stock would not be eligible to hold a license pursuant to the Liquor Control Act, except that the provision of Subsection D of Section 60-6B-1 NMSA 1978 shall not apply if the stock is listed with a national securities exchange;

(c) the name of the resident agent of the corporation authorized to accept service of process for all purposes, including orders and notices of the director, which agent shall be approved by the director with respect to his character;

(d) a duly executed power of attorney authorizing the agent described in Subparagraph (c) of this paragraph to exercise full authority, control and responsibility for the conduct of all business and transactions of the corporation within the state relative to the sale of alcoholic beverages under authority of the license requested; and

(e) such additional information regarding the corporation as the director may require to assure full disclosure of the corporation's structure and financial responsibility;

(4) if the applicant is a limited partnership, submit as part of its application the following:

(a) a certified copy of its certificate of limited partnership;

(b) the names and addresses of all general partners and of all limited partners contributing ten percent or more of the total value of contributions made to the limited partnership or entitled to ten percent or more of the profits earned or other income paid by the limited partnership. No limited partnership shall receive a license if any partner designated in this subsection would not be eligible to hold a license issued pursuant to the Liquor Control Act; and

(c) such additional information regarding the limited partnership as the director may require to assure full disclosure of the limited partnership's structure and financial responsibility; and

(5) obtain approval for the issuance from the governing body of the local option district in which the proposed licensed premises are to be located in accordance with the provisions of the Liquor Control Act.

B. Every applicant for a new license or for a transfer of ownership of a license, if an individual or general partnership, shall file with the application two complete sets of fingerprints of each individual, taken under the supervision of and certified to by an officer of the New Mexico state police, a county sheriff or a municipal chief of police. If the applicant is a corporation, it shall file two complete sets of fingerprints for each stockholder holding ten percent or more of the outstanding stock, principal officer, director and the agent responsible for the operation of the licensed business. The fingerprints shall be taken and certified to as provided for an individual or partnership. If the applicant is a limited partnership, it shall file two complete sets of fingerprints for each general partner and for each limited partner contributing ten percent or more of the total value of contributions made to the limited partnership or entitled to ten percent or more of the profits earned or other compensation by way of income paid by the limited partnership. The fingerprints shall be taken and certified to as provided for an individual or partnership.

C. Upon submission of a sworn affidavit from each person who is required to file fingerprints stating that the person has not been convicted of a felony in any jurisdiction and pending the results of background investigations, a temporary license for ninety days may be issued. The temporary license may be extended by the director for an additional ninety days if the director determines there is not sufficient time to complete the background investigation or obtain reviews of fingerprints from appropriate agencies. A temporary license shall be surrendered immediately upon order of the director.

D. An applicant who files a false affidavit shall be denied a license. When the director determines a false affidavit has been filed, he shall refer the matter to the attorney general or district attorney for prosecution of perjury.

E. If an applicant is not a resident of New Mexico, fingerprints may be taken under supervision and certification of comparable officers in the state of residence of the applicant.

F. Before issuing a license, the department shall hold a public hearing within thirty days after receipt of the application pursuant to Subsection K of this section.

G. An application for transfer of ownership shall be filed with the department no later than thirty days after the date a person acquired an ownership interest in a license. It shall contain the actual date of sale of the license and shall be accompanied by a sworn affidavit from the owner of record of the license agreeing to the sale of the license to the applicant as well as attesting to the accuracy of the information required by this section to be filed with the department. No license shall be transferred unless it will be placed into operation in an actual location within one hundred twenty days of issuance of the license, unless for good cause shown the director grants an additional extension for a length of time determined by the director.

H. Whenever it appears to the director that there will be more applications for new licenses than the available number of new licenses during any time period, a random selection method for the qualification, approval and issuance of new licenses shall be provided by the director. The random selection method shall allow each applicant an equal opportunity to obtain an available license, provided that all dispenser's and retailer's licenses issued in any calendar year shall be issued to residents of the state. For the purposes of random selection, the director shall also set a reasonable deadline by which applications for the available licenses shall be filed. No person shall file more than one application for each available license and no more than three applications per calendar year.

I. After the deadline set in accordance with Subsection H of this section, no more than ten applications per available license shall be selected at random for priority of qualification and approval. Within thirty days after the random selection for the ten priority positions for each license, a hearing pursuant to Subsection K of this section shall be held to determine the qualifications of the applicant having the highest priority

for each available license. If necessary, such a hearing shall be held on each selected application by priority until a qualified applicant for each available license is approved. Further random selections for priority positions shall also be held pursuant to this section as necessary.

J. All applications submitted for a license shall expire upon the director's final approval of a qualified applicant for that available license.

K. The director shall notify the applicant by certified mail of the date, time and place of the hearing. The hearing shall be held in Santa Fe. The director may designate a hearing officer to take evidence at the hearing. The director or the hearing officer shall have the power to administer oaths.

L. In determining whether a license shall be issued, the director shall take into consideration all requirements of the Liquor Control Act. In the issuance of a license, the director shall specifically consider the nature and number of prior violations of the Liquor Control Act by the applicant or of any citations issued within the prior five years against a license held by the applicant or in which the applicant had an ownership interest required to be disclosed under the Liquor Control Act. The director shall disapprove the issuance or give preliminary approval of the issuance of the license based upon a review of all documentation submitted and any investigation deemed necessary by the director.

M. Before any new license is issued for a location, the director shall cause a notice of the application therefor to be posted conspicuously, on a sign not smaller than thirty inches by forty inches, on the outside of the front wall or front entrance of the immediate premises for which the license is sought or, if no building or improvements exist on the premises, the notice shall be posted at the front entrance of the immediate premises for which the license is sought, on a billboard not smaller than five feet by five feet. The contents of the notice shall be in the form prescribed by the department, and such posting shall be over a continuous period of twenty days prior to preliminary approval of the license.

N. No license shall be issued until the posting requirements of Subsection M of this section have been met.

O. All costs of publication and posting shall be paid by the applicant.

P. It is unlawful for any person to remove or deface any notice posted in accordance with this section. Any person convicted of a violation of this subsection shall be punished by a fine of not more than three hundred dollars (\$300) or by imprisonment in the county jail for not more than one hundred twenty days or by both.

Q. Any person aggrieved by any decision made by the director as to the approval or disapproval of the issuance of a license may appeal to the district court of jurisdiction by filing a petition in the court within thirty days from the date of the decision of the director,

and a hearing on the matter may be held in the district court. If the disapproval is based upon local option district disapproval pursuant to Subsection H of Section 60-6B-4 NMSA 1978, the local option district shall be a necessary party to any appeal. The decision of the director shall continue in force, pending a reversal or modification by the district court, unless otherwise ordered by the court. Any appeal from the decision of the district court to the supreme court shall be permitted as in other cases of appeals from the district court to the supreme court."

Chapter 93 Section 2

Section 2. Section 60-6B-7 NMSA 1978 (being Laws 1981, Chapter 39, Section 43, as amended) is amended to read:

"60-6B-7. CANCELLATION OF LICENSE FOR FAILURE TO ENGAGE IN BUSINESS.-

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A. Any license issued under the provisions of the Liquor Control Act shall be canceled if the licensee fails to commence operation of the licensed business within one hundred twenty days after the license is issued and to continuously operate during customary hours and days of operation for that type of business; provided, however, the director may extend that period for a length of time determined by the director.

B. If after the one-hundred-twenty-day period or additional extension period specified in Subsection A of this section the licensee ceases to operate the licensed business during customary hours and days for that type of business for more than ten days, he shall notify the director in writing within five days of the cessation.

C. The director may grant temporary suspensions in the operation of the licensed business upon receipt of the notice provided in Subsection B of this section. A temporary suspension shall be for a period determined appropriate by the director.

D. The license of any person failing to comply with any provision of this section shall be canceled after notice and hearing complying with the provisions of Section 60-6C-4 NMSA 1978."

HOUSE BILL 357, AS AMENDED

CHAPTER 94

RELATING TO TAXATION; AMENDING SECTION 7-9-53 NMSA 1978 (BEING LAWS 1969, CHAPTER 144, SECTION 43, AS AMENDED) TO CLARIFY THE DEDUCTION PERTAINING TO RENTAL OF MANUFACTURED HOMES TO INCLUDE CERTAIN RENTALS OF SPACE FOR RECREATIONAL VEHICLES; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:Section
1. Section 7-9-53 NMSA 1978 (being Laws 1969, Chapter 144, Section 43, as
amended) is amended to read:

"7-9-53. DEDUCTION--GROSS RECEIPTS TAX--SALE OR LEASE OF REAL
PROPERTY AND LEASE OF MANUFACTURED HOMES.--

A. Receipts from the sale or lease of real property and from the lease of a manufactured home as provided in Subsection B of this section, other than receipts from the sale or lease of oil, natural gas or mineral interests exempted by Section 7-9-32 NMSA 1978, may be deducted from gross receipts. However, that portion of the receipts from the sale of real property which is attributable to improvements constructed on the real property by the seller in the ordinary course of his construction business may not be deducted from gross receipts.

B. Receipts from the rental of a manufactured home for a period of at least one month may be deducted from gross receipts. Receipts received by hotels, motels, rooming houses, campgrounds, guest ranches, trailer parks or similar facilities, except receipts received by trailer parks from the rental of a space for a manufactured home or recreational vehicle for a period of at least one month, from lodgers, guests, roomers or occupants are not receipts from leasing real property for the purposes of this section.

C. Receipts attributable to the inclusion of furniture or appliances furnished as part of a leased or rented dwelling house, manufactured home or apartment by the landlord or lessor may be deducted from gross receipts."

Chapter 94 Section 2

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is April 1, 1998; provided, if this act passes without an emergency clause, the effective date of the provisions of this act is June 1, 1998.

Chapter 94 Section 3

Section 3. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

SENATE BILL 18, AS AMENDED

WITH EMERGENCY CLAUSE

SIGNED March 10, 1998

CHAPTER 95

RELATING TO TAXATION; ABOLISHING THE PRESCRIPTION DRUG TAX CREDIT;
PROVIDING A DEDUCTION FROM GROSS RECEIPTS AND GOVERNMENTAL
GROSS RECEIPTS FOR RECEIPTS FROM THE SALE OF PRESCRIPTION DRUGS.

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

Chapter 95 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;

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; and

R. "prescription drugs" means insulin and substances that are:

(1) dispensed by or under the supervision of a licensed pharmacist or by a physician or other person authorized under state law to do so;

(2) prescribed for a specified person by a person authorized under state law to prescribe the substance; and

(3) subject to the restrictions on sale contained in Subparagraph 1 of Subsection (b) of 21 USCA 353."

Chapter 95 Section 2

Section 2. A new section of the Gross Receipts and Compensating Tax Act is enacted to read:

"DEDUCTION--GROSS RECEIPTS TAX AND GOVERNMENTAL GROSS RECEIPTS TAX--PRESCRIPTION DRUGS.--Receipts from the sale of prescription drugs may be deducted from gross receipts and governmental gross receipts."

Chapter 95 Section 3

Section 3. REPEAL.--Section 7-2-18.3 NMSA 1978 (being Laws 1994, Chapter 5, Section 17) is repealed.

Chapter 95 Section 4

Section 4. APPLICABILITY.--The provisions of Section 3 of this act apply to taxable years beginning on or after January 1, 1999.

Chapter 95 Section 5

Section 5. EFFECTIVE DATE.--The effective date of the provisions of this act is January 1, 1999.

SENATE BILL 47, AS AMENDED

CHAPTER 96

RELATING TO TAXATION; PROVIDING A GROSS RECEIPTS TAX DEDUCTION FOR RECEIPTS FROM THE PROVISION OF CERTAIN MEDICAL AND HEALTH SERVICES.

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

Chapter 96 Section 1

Section 1. A new Section 7-9-77.1 NMSA 1978 is enacted to read:

"7-9-77.1. DEDUCTION--GROSS RECEIPTS TAX--CERTAIN MEDICAL AND HEALTH CARE SERVICES.--

A. Thirty-three and one-third percent of receipts, on or after July 1, 1998 and before July 1, 1999, from payments by the United States government or any agency thereof for provision of medical and other health services by medical doctors and osteopaths to medicare beneficiaries pursuant to the provisions of Title XVIII of the federal Social Security Act may be deducted from gross receipts.

B. Sixty-six and two-thirds percent of receipts, on or after July 1, 1999 and before July 1, 2000, from payments by the United States government or any agency thereof for provision of medical and other health services by medical doctors and osteopaths to

medicare beneficiaries pursuant to the provisions of Title XVIII of the federal Social Security Act may be deducted from gross receipts.

C. Receipts, on or after July 1, 2000, from payments by the United States government or any agency thereof for provision of medical and other health services by medical doctors and osteopaths to medicare beneficiaries pursuant to the provisions of Title XVIII of the federal Social Security Act may be deducted from gross receipts.

D. For the purposes of this section, "medical doctors and osteopaths" means persons licensed to practice under Section 61-6-11 or 61-10-11 NMSA 1978."

Chapter 96 Section 2

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1998.

SENATE WAYS AND MEANS COMMITTEE SUBSTITUTE FOR

SENATE BILL 62, AS AMENDED

CHAPTER 97

RELATING TO TAXATION; ENACTING SECTIONS OF THE INCOME TAX ACT AND THE CORPORATE INCOME AND FRANCHISE TAX ACT TO PROVIDE TAX CREDITS FOR EMPLOYMENT OF LONG-TERM FAMILY ASSISTANCE RECIPIENTS.

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

Chapter 97 Section 1

Section 1. LEGISLATIVE FINDINGS--DECLARATION OF PURPOSE.--The legislature finds that:

- A. the provisions of the New Mexico Works Act that mandate benefit time limits and work requirements pose a significant job creation challenge for the states businesses and communities;
- B. in January 1998, the human services department estimated that there were seventeen thousand eight hundred households receiving temporary assistance for needy families;
- C. in November 1997, the labor department estimated that there were forty-seven thousand five hundred twenty-three people unemployed and actively looking for work;

- D. the failure to create new jobs for temporary assistance for needy families recipients coupled with the high number of people unemployed and looking for work could result in an oversupply of labor, resulting in falling wages and benefits for many New Mexicans;
- E. meeting the challenge of creating new jobs for people on welfare plus reaching the goal of full employment for the rest of New Mexico's work force will require the creation of an estimated thirty-two thousand new jobs;
- F. the task is not spread evenly; the jobs deficit posed by unemployment and people on welfare in certain counties is considerably higher than in the state's metropolitan areas;
- G. without significant job growth in rural areas, temporary assistance for needy families recipients will either be forced to replace existing workers in these labor markets by bidding down the terms of work or leave their homes in search of work in metropolitan areas, disrupting family and community life and destroying the close ties of New Mexican communities;
- H. it is in the public interest that the state act to protect New Mexican communities, families and workers. To this end, the state must pursue strategies to encourage and create employment that is sufficient to sustain families and ensure the dignity of all workers, maintaining the health, efficiency and general well-being of workers against the unfair competition of wage and hours standards which do not provide adequate standards of living;
- I. the purpose of the welfare-to-work tax credit provided by this act is to expand the labor market by encouraging the creation of new, long-term positions in small, rural businesses, while ensuring that existing workers are protected from displacement or a loss in wages due to unfair competition or a lowering of the wage floor; and
- J. tax credits are but a first step toward the immense goal of creating jobs that will provide New Mexican workers with meaningful opportunities and the capacity to lift their families out of poverty.

Chapter 97 Section 2

Section 2. A new section of the Income Tax Act is enacted to read:

"WELFARE-TO-WORK TAX CREDIT.--

A. Any taxpayer who files an individual New Mexico income tax return and is not a dependent of another taxpayer and is entitled to claim the federal welfare-to-work credit provided by 26 U.S.C. Section 51A with respect to a state-qualified employee in a state-qualified job may take a tax credit equal to fifty percent of the amount of the welfare-to-work credit claimed and allowed under 26 U.S.C. Section 51A with respect to that employee in that job.

B. To be eligible for the credit provided by this section, a taxpayer must be in compliance with the following provisions:

(1) the hiring of any state-qualified employee shall not result in the displacement of any currently employed worker or position, including partial displacement such as a reduction in the hours of nonovertime work, wages or employment benefits, or in any infringement of the promotional opportunities of any currently employed individual;

(2) the hiring of any state-qualified employee shall not impair existing contracts for services or collective bargaining agreements, and no employment under the terms of this act shall be inconsistent with the terms of a collective bargaining agreement or involve the performance of duties covered under a collective bargaining agreement unless the employer and the labor organization concur in writing;

(3) a state-qualified employee may fill or perform the duties of an employment position only in a manner that is consistent with existing laws, personnel procedures and collective bargaining contracts;

(4) no state-qualified employee shall be employed or assigned:

(a) when any other individual is on layoff from the same or any substantially equivalent job;

(b) if the employer has terminated the employment of any regular employee or otherwise caused an involuntary reduction of its work force with the effect of filling the vacancy so created with a state-qualified employee; or

(c) to any position at a particular work site when there is an ongoing strike or lockout at that particular work site;

(5) state-qualified employees shall be paid a wage that is substantially like the wage paid for similar jobs with the employer with appropriate adjustments for experience and training but not less than the federal minimum hourly wage; and

(6) employers shall:

(a) maintain health, safety and working conditions not less than those of comparable jobs offered by the employer; and

(b) maintain standard and customary entry-level wages and benefits and apply historical and normal increases in wages and benefits appropriate for experience and training of the state-qualified employee.

C. For the purposes of this section:

(1) "high-unemployment county" means a county in which the unemployment rate as reported by the labor department exceeds ten percent in six or more months of the calendar year preceding the year for which the tax credit provided by this section is claimed;

(2) "state-qualified employee" means a "long-term family assistance recipient", as that term is defined in 26 U.S.C. Section 51A(c), who resides in a high-unemployment county during the period of employment for which the welfare-to-work credit provided by 26 U.S.C. Section 51A applies with respect to that employee; and

(3) "state-qualified job" means a job established by the taxpayer that:

(a) when first occupied by a state-qualified employee results in the total number of the taxpayer's employees exceeding the average number of the taxpayer's employees during the taxpayer's preceding tax year; or

(b) was a position previously filled by a state-qualified employee and was vacant prior to the hiring of the new state-qualified employee in that position. D. The labor department shall determine whether the employee is a state-qualified employee and whether the job is a state-qualified job and, if the employee is a state-qualified employee and the job is a state-qualified job, certify that fact to the employer. The taxpayer claiming the tax credit provided by this section shall provide a copy of the certification with respect to each employee for which the tax credit is claimed.

E. By July 1, 1998 and by January 31 of each subsequent year, the labor department shall certify to the taxation and revenue department the high-unemployment counties for the preceding calendar year.

F. 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 credit provided by this section that would have been allowed on a joint return.

G. A taxpayer who otherwise qualifies may claim his pro rata share of the tax credit provided by this section with respect to state-qualified employees employed by a partnership or other business association of which the taxpayer is a member. The total tax credit claimed by all members of the partnership or association shall not exceed the amount of tax credit provided pursuant to Subsection A of this section with respect to each state-qualified employee for which the credit is allowed.

H. The tax credit provided by this section may only be deducted from the taxpayer's income tax liability. Any portion of the tax credit provided by this section that remains unused at the end of the taxpayer's taxable year may be carried forward for three consecutive taxable years."

Chapter 97 Section 3

Section 3. A new section of the Corporate Income and Franchise Tax Act is enacted to read:

"WELFARE-TO-WORK TAX CREDIT.--

A. Any taxpayer who files a New Mexico corporate income tax return and who is entitled to claim the federal welfare-to-work credit provided by 26 U.S.C. Section 51A with respect to a state-qualified employee in a state-qualified job may take against the taxpayer's corporate income tax liability a tax credit equal to fifty percent of the amount of the welfare-to-work credit claimed and allowed under 26 U.S.C. Section 51A with respect to that employee in that job.

B. To be eligible for the credit provided by this section, a taxpayer must be in compliance with the following provisions:

(1) the hiring of any state-qualified employee shall not result in the displacement of any currently employed worker or position, including partial displacement such as a reduction in the hours of nonovertime work, wages or employment benefits, or in any infringement of the promotional opportunities of any currently employed individual;

(2) the hiring of any state-qualified employee shall not impair existing contracts for services or collective bargaining agreements, and no employment under the terms of this act shall be inconsistent with the terms of a collective bargaining agreement or involve the performance of duties covered under a collective bargaining agreement unless the employer and the labor organization concur in writing;

(3) a state-qualified employee may fill or perform the duties of an employment position only in a manner that is consistent with existing laws, personnel procedures and collective bargaining contracts;

(4) no state-qualified employee shall be employed or assigned:

(a) when any other individual is on layoff from the same or any substantially equivalent job;

(b) if the employer has terminated the employment of any regular employee or otherwise caused an involuntary reduction of its work force with the effect of filling the vacancy so created with a state-qualified employee; or

(c) to any position at a particular work site when there is an ongoing strike or lockout at that particular work site;

(5) state-qualified employees shall be paid a wage that is substantially like the wage paid for similar jobs with the employer with appropriate adjustments for experience and training but not less than the federal minimum hourly wage; and

(6) employers shall:

(a) maintain health, safety and working conditions not less than those of comparable jobs offered by the employer; and

(b) maintain standard and customary entry-level wages and benefits and apply historical and normal increases in wages and benefits appropriate for experience and training of the state-qualified employee.

C. For the purposes of this section:

(1) "high-unemployment county" means a county in which the unemployment rate as reported by the labor department exceeds ten percent in six or more months of the calendar year preceding the year for which the tax credit provided by this section is claimed;

(2) "state-qualified employee" means a "long-term family assistance recipient", as that term is defined in 26 U.S.C. Section 51A(c), who resides in a high-unemployment county during the period of employment for which the welfare-to-work credit provided by 26 U.S.C. Section 51A applies with respect to that employee; and

(3) "state-qualified job" means a job established by the taxpayer that:

(a) when first occupied by a state-qualified employee results in the total number of the taxpayer's employees exceeding the average number of the taxpayer's employees during the taxpayer's preceding tax year; or

(b) was a position previously filled by a state-qualified employee and was vacant prior to the hiring of the new state-qualified employee in that position.

D. The labor department shall determine whether the employee is a state-qualified employee and whether the job is a state-qualified job and, if the employee is a state-qualified employee and the job is a state-qualified job, certify that fact to the employer. The taxpayer claiming the tax credit provided by this section shall provide a copy of the certification with respect to each employee for which the tax credit is claimed.

E. By July 1, 1998 and by January 31 of each subsequent year, the labor department shall certify to the taxation and revenue department the high-unemployment counties for the preceding calendar year.

F. The tax credit provided in this section may only be deducted from the taxpayer's corporate income tax liability. Any portion of the tax credit provided by this section that remains unused at the end of the taxpayer's taxable year may be carried forward for three consecutive taxable years."

Chapter 97 Section 4

Section 4. APPLICABILITY.--The provisions of this act are applicable to taxable years beginning on or after January 1, 1998.

SENATE BILL 119, AS AMENDED

CHAPTER 98

REPEALING THE DELAYED REPEAL OF THE SHORT-TERM CASH MANAGEMENT ACT.

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

Chapter 98 Section 1

Section 1. REPEAL.--Laws 1997, Chapter 111, Section 16 is repealed.

SENATE BILL 156

CHAPTER 99

RELATING TO TAXATION; REDUCING PERSONAL INCOME TAX RATES; INCREASING AND EXPANDING ELIGIBILITY FOR LOW-INCOME TAX REBATES; PROVIDING A DEDUCTION FROM GROSS RECEIPTS AND GOVERNMENTAL GROSS RECEIPTS FOR RECEIPTS FROM THE SALE OF PRESCRIPTION DRUGS; ABOLISHING THE PRESCRIPTION DRUG TAX CREDIT; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

Chapter 99 Section 1

Section 1. Section 7-2-7 NMSA 1978 (being Laws 1994, Chapter 5, Section 20) 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 on or after January 1, 1996:

A. For married individuals filing separate returns:

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

plus 4.7% of excess over \$8,000
plus 6.0% of excess over \$12,000
plus 7.1% of excess over \$20,000
16 plus 7.9% of excess over \$32,000
s 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

us 3.2% of excess over \$8,000
plus 4.7% of excess over \$16,000
plus 6.0% of excess over \$24,000
28 plus 7.1% of excess over \$40,000
432 plus 7.9% of excess over \$64,000
ss 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

0 plus 3.2% of
excess over \$5,500
.50 plus 4.7% of excess over \$11,000
.50 plus 6.0% of excess over \$16,000
04.50 plus 7.1% of
excess over \$26,000
40.50 plus 7.9% of
excess over \$42,000
cess 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

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

25 plus 7.9% of

excess over \$53,000

s 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."

Chapter 99 Section 2

Section 2. 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:

s And the total number

exemptions is:

But Not 6 or	Over	Over 1	2	3	4	5	More
\$0	\$500	\$120	\$160	\$200	\$240	\$280	\$320
2,000	2,500	135	195	250	310	350	450
3,500	4,000	135	195	250	310	355	450
4,000	4,500	135	195	250	310	355	450
5,000	5,500	115	175	230	295	355	430
5,500	6,000	105	155	210	260	315	410

6,000 7,000 901 301 702 202 753 70
7,000 8,000 801 151 451 802 252 95
8,000 9,000 701 051 351 701 952 40
9,000 10,000 659 511 514 517 520 5
10,000 11,000 60 80 100 130 155 185
11,000 12,000 55 70 90 110 135 160
12,000 13,000 50 65 85 100 115 140
13,000 14,000 50 65 85 100 115 140
14,000 15,000 45 60 75 90 105 120
15,000 16,000 40 55 70 85 95 110
16,000 17,000 35 50 65 80 85 105
17,000 18,000 30 45 60 70 80 95
18,000 19,000 25 35 50 60 70 80
19,000 20,000 20 30 40 50 60 65
20,000 21,000 15 25 30 40 50 55
21,000 22,000 10 20 25 35 40 45.

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."

Chapter 99 Section 3

Section 3. 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 movable or portable housing structure for human occupancy that exceeds either a width of eight feet or a length of forty feet constructed to be towed on its own chassis and designed to be installed with or without a permanent foundation;

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;

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; and

R. "prescription drugs" means insulin and substances that are:

(1) dispensed by or under the supervision of a licensed pharmacist or by a physician or other person authorized under state law to do so;

(2) prescribed for a specified person by a person authorized under state law to prescribe the substance; and

(3) subject to the restrictions on sale contained in Subparagraph 1 of Subsection (b) of 21 USCA 353."

Chapter 99 Section 4

Section 4. A new section of the Gross Receipts and Compensating Tax Act is enacted to read:

"DEDUCTION--GROSS RECEIPTS TAX AND GOVERNMENTAL GROSS RECEIPTS TAX--PRESCRIPTION DRUGS.--Receipts from the sale of prescription drugs may be deducted from gross receipts and governmental gross receipts."

Chapter 99 Section 5

Section 5. REPEAL.--Section 7-2-18.3 NMSA 1978 (being Laws 1994, Chapter 5, Section 17) is repealed.

Chapter 99 Section 6

Section 6. APPLICABILITY.--

A. The provisions of Sections 1 and 2 of this act apply to taxable years beginning on or after January 1, 1998.

B. The provisions of Section 5 of this act apply to taxable years beginning on or after January 1, 1999.

Chapter 99 Section 7

Section 7. EFFECTIVE DATE.--The effective date of the provisions of Sections 3 and 4 of this act is January 1, 1999.

HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE FOR

HOUSE BILL 100, 15, 18 & 175, AS AMENDED

CHAPTER 100

RELATING TO TAXATION; AMENDING A SECTION OF THE NMSA 1978 TO CHANGE CERTAIN PROVISIONS PERTAINING TO THE GROSS RECEIPTS DEDUCTION FOR CERTAIN RAILWAY ROADBED MATERIALS; DELAYING THE REPEAL OF THE DEDUCTION.

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

Chapter 100 Section 1

Section 1. Section 7-9-51.1 NMSA 1978 (being Laws 1993, Chapter 31, Section 14) is amended to read:

"7-9-51.1. DEDUCTION--GROSS RECEIPTS TAX--RAILWAY ROADBED MATERIALS.--Receipts from the sale of materials necessary for the construction or reconstruction of railway roadbeds may be deducted from gross receipts, if the materials are to be used outside the state and if the sale is made to a person who is engaged in the business of transporting persons or property by rail and who delivers a statement, in writing, to the person selling the materials. The statement shall contain information required by regulations of the secretary."

Chapter 100 Section 2

Section 2. Laws 1995, Chapter 50, Section 7 is amended to read:

"Section 7. EFFECTIVE DATES.--

A. The effective date of the provisions of Section 6 of Chapter 50 of Laws 1995 is July 1, 2003.

B. The effective date of the provisions of Sections 1 through 5 of Chapter 50 of Laws 1995 is July 1, 1995."

HOUSE BILL 131, AS AMENDED

CHAPTER 101

RELATING TO ALCOHOLIC BEVERAGES; INCREASING THE PENALTIES FOR PROVIDING ALCOHOL TO A MINOR AND FOR POSSESSION OF ALCOHOL BY A MINOR; AMENDING A SECTION OF THE LIQUOR CONTROL ACT.

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

Chapter 101 Section 1

Section 1. Section 60-7B-1 NMSA 1978 (being Laws 1993, Chapter 68, Section 22) is amended to read:

"60-7B-1. SELLING OR GIVING ALCOHOLIC BEVERAGES TO

MINORS--POSSESSION.--

A. It is a violation of the Liquor Control Act for a person, including a person licensed pursuant to the provisions of the Liquor Control Act, or an employee, agent or lessee of that person, if he knows or has reason to know that he is violating the provisions of this section, to:

(1) sell, serve or give alcoholic beverages to a minor or permit a minor to consume alcoholic beverages on the licensed premises;

(2) buy alcoholic beverages for or procure the sale or service of alcoholic beverages to a minor;

(3) deliver alcoholic beverages to a minor; or

(4) aid or assist a minor to buy, procure or be served with alcoholic beverages.

B. It is not a violation of the Liquor Control Act, as provided in Subsection A or C of this section, when a parent or legal guardian of a minor serves alcoholic beverages to that

minor on real property, other than licensed premises, under the control of the parent or legal guardian.

C. It is a violation of the Liquor Control Act for a minor to buy, attempt to buy, receive, possess or permit himself to be served with alcoholic beverages.

D. In the event a person other than a minor procures another person to sell, serve or deliver alcoholic beverages to a minor by actual or constructive misrepresentation of facts calculated to cause, or by a concealment of facts the concealment of which is calculated to cause, the person selling, serving or delivering the alcoholic beverages to the minor to believe that the minor is legally entitled to be sold, served or delivered alcoholic beverages and actually deceiving him by that misrepresentation or concealment, then that person and not the person so deceived by such misrepresentation or concealment shall have violated the Liquor Control Act.

E. As used in the Liquor Control Act, "minor" means a person under twenty-one years of age.

F. In addition to the penalties provided in Section 60-6C-1 NMSA 1978, a violation of the provisions of Subsection A of this section is a misdemeanor and the offender shall be punished as follows:

(1) for a first violation, the offender shall be:

(a) fined an amount not more than one thousand dollars (\$1,000); and

(b) ordered by the sentencing court to perform thirty hours of community service related to reducing the incidence of driving while under the influence of intoxicating liquor;

(2) for a second violation, the offender shall:

(a) be fined an amount not more than one thousand dollars (\$1,000);

(b) be ordered by the sentencing court to perform forty hours of community service related to reducing the incidence of driving while under the influence of intoxicating liquor; and

(c) have his license, issued pursuant to the Alcohol Server Education Act, suspended for a period of sixty days; and

(3) for a third or subsequent violation, the offender shall:

(a) be fined an amount not more than one thousand dollars (\$1,000);

(b) be ordered by the sentencing court to perform sixty hours of community service related to reducing the incidence of driving while under the influence of intoxicating liquor; and

(c) have his license, issued pursuant to the Alcohol Server Education Act, suspended for a period of one year.

G. A violation of the provisions of Subsection C of this section is a misdemeanor and the offender shall be punished as follows:

(1) for a first violation, the offender shall be:

(a) fined an amount not more than one thousand dollars (\$1,000); and

(b) ordered by the sentencing court to perform thirty hours of community service related to reducing the incidence of driving while under the influence of intoxicating liquor;

(2) for a second violation, the offender shall:

(a) be fined an amount not more than one thousand dollars (\$1,000);

(b) be ordered by the sentencing court to perform forty hours of community service related to reducing the incidence of driving while under the influence of intoxicating liquor; and

(c) have his driver's license suspended for a period of ninety days. If the minor is too young to possess a driver's license at the time of the violation, then ninety days shall be added to the date he would otherwise become eligible to obtain a driver's license; and

(3) for a third or subsequent violation, the offender shall:

(a) be fined an amount not more than one thousand dollars (\$1,000);

(b) be ordered by the sentencing court to perform sixty hours of community service related to reducing the incidence of driving while under the influence of intoxicating liquor; and

(c) have his driver's license suspended for a period of two years or until the offender reaches twenty-one years of age, whichever period of time is greater.

H. A violation of the provisions of Subsection D of this section is a misdemeanor and the offender shall be punished as follows:

(1) for a first violation, the offender shall be:

(a) fined an amount not more than one thousand dollars (\$1,000); and

(b) ordered by the sentencing court to perform thirty hours of community service related to reducing the incidence of driving while under the influence of intoxicating liquor;

(2) for a second violation, the offender shall be:

(a) fined an amount not more than one thousand dollars (\$1,000); and

(b) ordered by the sentencing court to perform forty hours of community service related to reducing the incidence of driving while under the influence of intoxicating liquor; and

(3) for a third or subsequent violation, the offender shall be:

(a) fined an amount not more than one thousand dollars (\$1,000);

(b) ordered by the sentencing court to perform sixty hours of community service related to reducing the incidence of driving while under the influence of intoxicating liquor; and

(c) sentenced to a jail term of not less than two days and not more than five days."

Chapter 101 Section 2

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1998.

HOUSE BILL 150

CHAPTER 102

RELATING TO TAXATION; AMENDING THE NATURAL GAS PROCESSORS TAX ACT TO CHANGE THE BASIS ON WHICH THE TAX IS IMPOSED; AMENDING AND REPEALING SECTIONS OF THE NMSA 1978.

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

Chapter 102 Section 1

Section 1. Section 7-33-2 NMSA 1978 (being Laws 1963, Chapter 179, Section 2, as amended) is amended to read:

"7-33-2. DEFINITIONS.--As used in the Natural Gas Processors Tax Act:

A. "average annual taxable value" means the average of the taxable value per mcf, determined pursuant to Section 7-31-5 NMSA 1978, of all natural gas produced in New Mexico for the specified calendar year as determined by the department;

B. "department" means the taxation and revenue department, the secretary of taxation and revenue or any employee of the department exercising authority lawfully delegated to that employee by the secretary;

C. "fiscal year" means the period starting July 1 and ending June 30 of the succeeding calendar year;

D. "mcf" means one thousand cubic feet;

E. "mmbtu" means one million British thermal units;

F. "natural gas" means any hydrocarbon that at atmospheric conditions of temperature and pressure is in a gaseous state, and includes non-hydrocarbon gases that are in combination with hydrocarbon gases;

G. "natural gas processing plant" means a facility used to extract liquid hydrocarbons and non-hydrocarbon gaseous or liquid substances, individually or in any combination, from natural gas, but does not include a facility that refines or processes oil, natural gas or liquid hydrocarbons or that extracts substances from natural gas through a field or lease operation;

H. "person" means any individual, estate, trust, receiver, business trust, corporation, firm, copartnership, cooperative, joint venture, association or other group or combination acting as a unit;

I. "processor" means a person who operates a natural gas processing plant; and

J. "tax" means the natural gas processors tax."

Chapter 102 Section 2

Section 2. Section 7-33-4 NMSA 1978 (being Laws 1963, Chapter 179, Section 4, as amended) is amended to read:

"7-33-4. PRIVILEGE TAX LEVIED--COLLECTED BY DEPARTMENT--RATE.--

A. There is levied and shall be collected by the department a privilege tax on processors for the privilege of operating a natural gas processing plant in New Mexico. This tax may be referred to as the "natural gas processors tax".

B. The tax shall be imposed on the amount of mmbtus of natural gas delivered to the processor at the inlet of the natural gas processing plant after subtracting the mmbtu deductions authorized in Subsection E of this section. The tax shall be imposed at the rate per mmbtu determined in Subsection C or D of this section, as applicable.

C. The tax rate for the six-month period beginning on January 1, 1999 shall be determined by multiplying the rate of sixty-five hundredths of one cent (\$.0065) per mmbtu by a fraction, the numerator of which is the annual average taxable value per mcf of natural gas produced in New Mexico during the 1997 calendar year and the denominator of which is one dollar thirty-three cents (\$1.33) per mcf. The resulting tax rate shall be rounded to the nearest one-hundredth of one cent per mmbtu.

D. The tax rate for each fiscal year beginning on or after July 1, 1999 shall be determined by multiplying the rate of sixty-five hundredths of one cent (\$.0065) per mmbtu by a fraction, the numerator of which is the annual average taxable value per mcf of natural gas produced in New Mexico during the preceding calendar year and the denominator of which is one dollar thirty-three cents (\$1.33) per mcf. The resulting tax rate shall be rounded to the nearest one-hundredth of one cent per mmbtu.

E. A processor may deduct from the amount of mmbtus of natural gas subject to the tax the mmbtus of natural gas that are:

(1) used for natural gas processing by the processor;

(2) returned to the lease from which it is produced;

(3) legally flared by the processor; or

(4) lost as a result of natural gas processing plant malfunctions or other incidences of force majeure.

F. On or before June 15, 1999 and June 15 of each succeeding year, the department shall inform each processor in writing of the tax rate applicable for the succeeding fiscal year.

G. Any Indian nation, tribe or pueblo or Indian is liable for the tax to the extent authorized or permitted by law."

Chapter 102 Section 3

Section 3. Section 7-33-6 NMSA 1978 (being Laws 1963, Chapter 179, Section 6, as amended) is amended to read:

"7-33-6. REFUND.--Any person who has overpaid the tax may apply for a refund of that overpayment in accordance with the provisions of Section 7-1-26 NMSA 1978."

Chapter 102 Section 4

Section 4. Section 7-33-7 NMSA 1978 (being Laws 1963, Chapter 179, Section 7) is amended to read:

"7-33-7. NATURAL GAS ON WHICH TAX HAS BEEN LEVIED--REGULATION BY DEPARTMENT.--The tax shall not be levied more than once on the same natural gas. Reporting of natural gas on which the tax has been paid is subject to the regulation of the department."

Chapter 102 Section 5

Section 5. Section 7-33-8 NMSA 1978 (being Laws 1963, Chapter 179, Section 8, as amended) is amended to read:

"7-33-8. TAX RETURN--TAX REMITTANCE--ADDITIONAL INFORMATION.--

A. Each processor shall submit a return monthly to the department in the form and manner required by the department showing for the month the total mmbtus of natural gas received by the processor at the inlet of the natural gas processing plant and the total mmbtus of natural gas deducted pursuant to the Natural Gas Processors Tax Act. All tax due or to be remitted by the processor shall accompany the return.

B. The return required by this section shall be filed on or before the twenty-fifth day of the month after the calendar month for which the return is required.

C. The department may require additional reports or information as necessary for the proper administration of the Natural Gas Processors Tax Act."

Chapter 102 Section 6

Section 6. TEMPORARY PROVISION--NOTICE.--On or before November 30, 1998, the taxation and revenue department shall inform each processor in writing of the natural gas processors tax rate applicable pursuant to the Natural Gas Processors Tax Act for the six-month period beginning January 1, 1999.

Chapter 102 Section 7

Section 7. REPEAL.--Section 7-33-5 NMSA 1978 (being Laws 1963, Chapter 179, Section 5, as amended) is repealed.

Chapter 102 Section 8

Section 8. EFFECTIVE DATE.--The effective date of the provisions of Sections 1 through 5 and 7 of this act is January 1, 1999.

HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE FOR HOUSE BILL
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CHAPTER 103

RELATING TO MUNICIPAL COURTS; INCREASING THE AMOUNT OF THE COURT AUTOMATION FEE ASSESSED AND COLLECTED BY THE MUNICIPAL COURTS; MAKING AN APPROPRIATION; AMENDING A SECTION OF THE NMSA 1978; AMENDING LAWS 1994, CHAPTER 69, SECTION 4.

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

Chapter 103 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 six dollars (\$6.00).

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."

Chapter 103 Section 2

Section 2. Laws 1994, Chapter 69, Section 4 is amended to read:

"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, 2001."

Chapter 103 Section 3

Section 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1998.

HOUSE BILL 89, AS AMENDED

CHAPTER 104

RELATING TO COMMERCIAL LAW; AMENDING THE DEFINITION OF LIMITED LIABILITY COMPANY; PROVIDING AN EXEMPTION FOR CERTAIN SECURITIES TRANSACTIONS; AMENDING SECTIONS OF THE NMSA 1978.

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

Chapter 104 Section 1

Section 1. Section 53-19-2 NMSA 1978 (being Laws 1993, Chapter 280, Section 2) is amended to read:

"53-19-2. DEFINITIONS.--As used in the Limited Liability Company Act:

A. "articles of organization" means the original or restated articles filed pursuant to the Limited Liability Company Act and any amendments to those articles, including articles of merger or consolidation;

B. "corporation" means an organization incorporated under the laws of New Mexico or a foreign corporation;

C. "commission" means the state corporation commission or its designee;

D. "court" means a court having jurisdiction in the case;

E. "event of dissociation" means an event that causes a person to cease to be a member of a limited liability company;

F. "foreign corporation" means a corporation that is organized under the laws of another state or a foreign country;

G. "foreign limited liability company" means an entity that is:

(1) an unincorporated association;

(2) organized under the laws of another state or foreign country;

(3) organized under a statute pursuant to which an association may be formed that affords to each of its members limited liability with respect to the liabilities of the entity; and

(4) is not required to be registered or organized under the laws of New Mexico other than the Limited Liability Company Act;

H. "foreign limited partnership" means a limited partnership formed under the laws of another state or a foreign country;

I. "limited liability company" or "domestic limited liability company" means an unincorporated organization of one or more persons formed pursuant to the provisions of the Limited Liability Company Act;

J. "limited liability company interest" means a member's or assignee's right to receive distributions and a return of capital from the limited liability company. A member's or assignee's limited liability company interest does not include rights the member or assignee has on account of other matters, such as a right to receive accrued salary for

services the member or assignee rendered to, repayment of a loan the member or assignee made to or indemnification by the limited liability company;

K. "limited partnership" means a limited partnership under the laws of New Mexico or a foreign limited partnership;

L. "manager" means, with respect to a limited liability company that has included a statement in its articles of organization that it is to be managed by a manager, the person designated as manager in accordance with the articles of organization or an operating agreement;

M. "member" means a person who has been admitted to membership in a limited liability company and who has not dissociated from that company;

N. "membership interest" or "interest" means a member's limited liability company interest and his rights to participate in management and control of the limited liability company;

O. "operating agreement" means a written agreement providing for the conduct of the business and affairs of a limited liability company and that agreement as amended in writing;

P. "person" means an individual, a general partnership, a limited partnership, a domestic or foreign limited liability company, a trust, an estate, an association, a corporation or any other legal entity; and

Q. "state" means a state, territory or possession of the United States, the District of Columbia or the commonwealth of Puerto Rico."

Chapter 104 Section 2

Section 2. Section 58-13B-27 NMSA 1978 (being Laws 1986, Chapter 7, Section 27, as amended by Laws 1993, Chapter 280, Section 80 and also by Laws 1993, Chapter 323, Section 1) is amended to read:

"58-13B-27. EXEMPT TRANSACTIONS.--The following transactions are exempted from Section 58-13B-20 NMSA 1978 and, unless otherwise noted, Section 58-13B-29 NMSA 1978:

A. an isolated non-issuer transaction, whether or not effected through a broker-dealer;

B. a non-issuer transaction in a security by a registered broker-dealer if:

(1) the issuer of the security has a class of securities required to be registered under Section 12 of the Securities Exchange Act of 1934;

(2) the issuer has filed reports pursuant to Section 13 or Section 15(d) of the Securities Exchange Act of 1934 during the ninety-day period immediately preceding the date of the offer or sale or is an issuer of a security covered by Section 12(g)(2)(B) or (G) of that 1934 act;

(3) the broker-dealer has a reasonable basis for believing that the issuer is current in filing the reports required to be filed at regular intervals pursuant to the provisions of Section 13 or Section 15(d), as the case may be, of the Securities Exchange Act of 1934 or in the case of insurance companies exempted from Section 12(g) of the Securities Exchange Act of 1934 by Subparagraph 12(g)(2)(G) thereof, the annual statement referred to in Section 12(G)(2)(G)(i) of the Securities Exchange Act of 1934; and

(4) the broker-dealer has in its records, and makes reasonably available upon request to any person expressing an interest in a proposed transaction in the securities, the

issuer's most recent annual report filed pursuant to Section 13 or 15(d), as the case may be, of the Securities Exchange Act of 1934 or the annual statement in the case of an insurance company exempted from Section 12(g) of the Securities Exchange Act of 1934 by Subparagraph 12(G)(2)(G) thereof, together with any other reports required to be filed at regular intervals under the Securities Exchange Act of 1934 by the issuer after such annual report or annual statement; provided that the making available of such reports pursuant to this paragraph, unless otherwise represented, shall not constitute a representation by the broker-dealer that the information is true and correct but shall constitute a representation by the broker-dealer that the information is reasonably current; or

(5) the issuer has filed and maintained with the director, for not less than ninety days before the transaction, information in such form as the director by rule specifies, substantially comparable to the information which the issuer would be required to file under Section 12(b) or Section 12(g) of the Securities Exchange Act of 1934 were the issuer to have a class of its securities registered under Section 12 of the Securities Exchange Act of 1934, and under either Subparagraph (1) or (2), the issuer has paid a fee of five hundred dollars (\$500);

C. a non-issuer transaction in a security:

(1) of a class outstanding in the hands of the public for not less than one hundred eighty days before the transaction if a nationally recognized securities manual designated by the director by rule or order contains the names of the issuer's officers and directors, a statement of financial condition of the issuer as of a date within the last eighteen months and a statement of income or operations for either the last fiscal year before the date or the most recent year of operation; or

(2) if the security has a fixed maturity or a fixed interest or dividend provision and there has been no default during the current fiscal year or within the three preceding years, or during the existence of the issuer and any predecessors if less than three years, in the payment of principal, interest or dividends on the security; provided that the director may impose additional requirements as a condition of the exemption established in this paragraph as necessary for the protection of investors and shall promulgate rules specifying application of this exemption;

D. any non-issuer transaction effected by or through a registered broker-dealer registered in this state pursuant to an unsolicited order or offer to buy; provided that the director by rule shall require that the broker-dealer have the customer acknowledge upon a specified form that the sale was unsolicited and that a signed copy of that form be preserved by the broker-dealer for a specified period;

E. a transaction between the issuer or other person on whose behalf the offering of a security is made and an underwriter or a transaction among underwriters;

F. a transaction in a bond or other evidence of indebtedness secured by a real estate mortgage, deed of trust, personal property security agreement or by an agreement for the sale of real estate or personal property, if the entire mortgage, deed of trust or agreement, together with all the bonds or other evidences of indebtedness secured thereby, is offered and sold as a unit;

G. a transaction by an executor, administrator, sheriff, marshal, receiver, trustee in bankruptcy, guardian or conservator;

H. a transaction executed by a bona fide secured party without a purpose of evading the New Mexico Securities Act of 1986;

I. an offer to sell or sale of a security to a financial or institutional investor or to a broker-dealer;

J. the issuance and offer and sale of securities by any corporation or limited liability company or any offer or sale of limited partnership interests by a limited partnership if:

(1) in the case of a corporation or limited liability company, its principal office and a majority of its full-time employees are located in this state or, in the case of a limited partnership, its principal place of business and eighty percent of its assets are located in this state;

(2) at least eighty percent of the proceeds from the offering shall be used by the issuer in operations of the issuer in this state;

(3) no commission or other remuneration is paid or given, directly or indirectly, for soliciting or selling to any person in this state except to broker-dealers and sales representatives licensed pursuant to the New Mexico Securities Act of 1986;

(4) an offering document is delivered to each purchaser or prospective purchaser prior to the sale of the securities disclosing such information as the director by rule or order may require;

(5) the total offering, including interest on installment payments, does not exceed one million five hundred thousand dollars (\$1,500,000); and

(6) the issuer claiming this exemption files notice with the director on a form prescribed by the director prior to the first offer and pays a fee of three hundred fifty dollars (\$350). The director may require any issuer using this exemption to file periodic reports not more often than quarterly to keep reasonably current the information contained in the notice and to disclose the progress of the offering. The director may impose conditions

by rule or order with respect to issuers, broker-dealers or affiliates who by reason of prior misconduct will not be eligible to utilize this exemption. The issuance and offer and sale of securities pursuant to this subsection shall be subject to Section 58-13B-29 NMSA 1978;

K. the issuance and offer and sale of securities by any corporation or limited liability company or any offer or sale of limited partnership interests by a limited partnership if:

(1) in the case of a corporation or limited liability company, the total number of security holders does not and will not in consequence of the sale exceed twenty-five or, in the case of a limited partnership, the number of limited partners does not and will not in consequence of the sale exceed twenty-five;

(2) the issuer reasonably believes that all buyers are purchasing for investment;

(3) no public advertising or general solicitation is used in connection with the offer or sale; and

(4) no commission or other remuneration is paid or given, directly or indirectly, for soliciting or selling to any person in this state except to broker-dealers and sales representatives licensed pursuant to the New Mexico Securities Act of 1986.

The director by rule or order may impose additional requirements as a condition of the exemption established in this subsection as necessary for the protection of investors and to specify its application. Any notice filing that may be imposed pursuant to Subsection C of Section 58-13B-28 NMSA 1978 shall not be deemed a condition of this exemption;

L. any offer or sale of a preorganization certificate or subscription if:

(1) such sale or offer is made by an agent, the agent shall be licensed pursuant to the New Mexico Securities Act of 1986. No commission shall be paid to an agent not licensed pursuant to that act;

(2) no public advertising or general solicitation is used in connection with the offer or sale;

(3) the number of subscribers does not exceed ten; and

(4) either no payment is made by any subscriber or any payment made by a subscriber is put into escrow until the entire issue is subscribed;

M. an offer or sale of a preorganization certificate or subscription agreement issued in connection with the organization of a depository institution if that organization is under the supervision of an official or agency of any state or of the United States which has and exercises the authority to regulate and supervise the depository institution. For the purpose of this subsection, supervision of an organization by an official or agency means that the official or agency by law has authority to:

(1) require disclosures to prospective investors similar to that required under Section 58-13B-23 NMSA 1978;

(2) impound proceeds from the sale of preorganization certificates or subscription agreements until organization of the depository institution is completed; and

(3) require a refund to investors if the depository institution does not obtain a grant of authority from the appropriate official or agency except that the official or agency with the authority to require a refund need not include such amounts as the official or agency has by law determined to be proper organizational expenditures;

N. a transaction pursuant to an offer to sell to existing security holders of the issuer, including persons who at the time of the transaction are holders of transferable warrants exercisable within not more than ninety days of their issuance, convertible securities or nontransferable warrants, if:

(1) no commission or other similar compensation, other than a standby commission, is paid or given, directly or indirectly, for soliciting a security holder in this state; or

(2) the issuer first files a notice specifying the terms of the offer and the director does not by order disallow the exemption within the next five full business days;

O. a transaction involving an offer to sell, but not a sale, of a security not exempt from registration under the Securities Act of 1933 if:

(1) a registration or offering statement or similar document as required under the Securities Act of 1933 has been filed but is not effective;

(2) a registration statement has been filed under the New Mexico Securities Act of 1986 but is not effective; and

(3) no stop order has been entered by the director, the securities and exchange commission or other state's securities agency, and no proceeding or examination that may culminate in that kind of order is pending;

P. a transaction involving an offer to sell, but not a sale, of a security exempt from registration under the Securities Act of 1933 if:

(1) a registration statement has been filed under the New Mexico Securities Act of 1986 but is not effective; and

(2) no stop order has been entered by the director, other state securities agencies or the securities and exchange commission and no proceeding or examination that may culminate in that kind of order being issued by the director is pending;

Q. a transaction involving the distribution of the securities of an issuer to the security holders of another person in connection with a merger, consolidation, exchange of securities, sale of assets or other reorganization to which the issuer, or its parent and subsidiary, and the other person, or its parent or subsidiary, are parties, if:

(1) the securities to be distributed are registered under the Securities Act of 1933 and written notice of the transaction is given to the director prior to the consummation of the transaction; or

(2) if the securities to be distributed are not required to be registered under the Securities Act of 1933, and written notice of the transaction and a copy of the materials, if any, by which approval of the transaction will be solicited is given to the director at least ten days before the consummation of the transaction and the director does not disallow by order the exemption within the next ten days;

R. (1) a transaction involving the offer to sell or sale of one or more promissory notes each of which is directly secured by a first lien on a single parcel of real estate, or a transaction involving the offer to sell or sale of participation interests in the notes if the notes and participation interests are originated by a depository institution and are offered and sold subject to the following conditions:

(a) the minimum aggregate sales price paid by each purchaser may not be less than two hundred fifty thousand dollars (\$250,000);

(b) each purchaser must pay cash either at the time of the sale or within sixty days after the sale; and

(c) each purchaser may buy for that person's own account only;

(2) a transaction involving the offer to sell or sale of one or more promissory notes directly secured by a first lien on a single parcel of real estate or participation interests in the notes, if the notes and participation interests are originated by a mortgagee approved by the secretary of housing and urban development under Sections 203 and 211 of the National Housing Act and are offered or sold, subject to the conditions specified in Paragraph (1) of this subsection, to a depository institution or insurance company, the federal home loan mortgage corporation, the federal national mortgage association or the government national mortgage association; and

(3) a transaction between any of the persons described in Paragraph (2) of this subsection involving a nonassignable contract to buy or sell the securities described in Paragraph (1) of this subsection, which contract is to be completed within two years, if:

(a) the seller of the securities pursuant to the contract is one of the parties described in Paragraph (1) or (2) of this subsection who may originate securities;

(b) the purchaser of securities pursuant to any contract is any other institution described in Paragraph (2) of this subsection; and

(c) the three conditions described in Paragraph (1) of this subsection are fulfilled;

S. any transaction involving leases or interests in leases in oil, gas or other mineral rights between parties each of whom is engaged in the business of exploring for or producing oil and gas or other valuable minerals as an ongoing business. For purposes

of this subsection, a party "engaged in the business of exploring for or producing oil and gas or other valuable minerals as an ongoing business" means:

(1) any corporation, limited liability company, partnership or other business entity that is directly engaged in and derives at least eighty percent of its annual gross income from the exploration or production of oil, gas or other valuable minerals;

(2) any general partner or any employee who spends at least eighty percent of his work time in the daily management of a business entity that is directly engaged in and derives at least eighty percent of its gross annual income from the exploration or production of oil, gas or other valuable minerals; or

(3) any corporation, limited liability company, partnership or other business entity that is directly engaged in the business of exploration and production of oil, gas or other valuable minerals and derives at least five million dollars (\$5,000,000) of annual gross income from such business;

T. any transaction involving the sale or offer of interests in and under oil, gas or mining rights located in New Mexico or fees, titles or contracts relating thereto, or such sale or offer of such interests, wherever located, made by an entity principally operating in New Mexico where:

(1) the total number of sales by any one owner of interests, whether whole, fractional, segregated or undivided, in any oil, gas or mineral lease, fee or title or contract relating thereto, shall not exceed twenty-five, provided that such sales shall be made only to persons meeting suitability standards established by rule or order of the director and that investors are provided with such disclosure documents and other information as the director may require by rule or order;

(2) no use is made of advertisement or public solicitation; and

(3) if such sale or offer is made by an agent for such owner or owners, such agent shall be licensed pursuant to the New Mexico Securities Act of 1986. No commission shall be paid to an agent not licensed pursuant to that act; and

U. a transaction pursuant to an offer to sell securities of an issuer if:

(1) the transaction is part of an issue in which there are no more than ten purchasers in this state during any twelve consecutive months;

(2) no general solicitation or general advertising is used in connection with the offer to sell or the sale of the securities;

(3) no commission or other remuneration is paid or given, directly or indirectly, to a person other than a broker-dealer licensed or not required to be licensed pursuant to the New Mexico Securities Act of 1986 for soliciting a prospective purchaser in this state; and either

(4) the seller reasonably believes that all of the purchasers in this state are purchasing for investment; or

(5) immediately before and immediately after the transaction, the issuer reasonably believes that the securities of the issuer are held by fifty or fewer beneficial owners and the transaction is part of an aggregate offering that does not exceed five hundred thousand dollars (\$500,000) during any twelve consecutive months; but the director, by rule or order as to a security or transaction or a type of security or transaction, may withdraw or further condition this exemption or may waive one or more of the conditions of this subsection.

For the purposes of Subsection T of this section, "principally operating in New Mexico" means a corporation or limited liability company organized under the law of this state, a corporation in which a majority in interest of the shareholders are residents of this state, a limited liability company in which a majority in interest of the members are residents of this state, a partnership in which a majority in interest of the partners are residents of this state, a trust in which a majority in interest of the beneficiaries are residents of this state or a sole proprietorship in which the owner is a resident of this state."

Chapter 104 Section 3

Section 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1998.

HOUSE BILL 233, AS AMENDED

CHAPTER 105

RELATING TO TAXATION; AUTHORIZING THE TAXATION AND REVENUE DEPARTMENT TO ENTER INTO AGREEMENTS WITH DIRECT MARKETERS TO ENFORCE COLLECTION OF THE COMPENSATING TAX.

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

Chapter 105 Section 1

Section 1. A new section of the Tax Administration Act is enacted to read:

"AGREEMENTS--COLLECTION OF COMPENSATING TAX.--The department may enter into agreements with direct marketers for purposes of enforcing collection of the compensating tax."

Chapter 105 Section 2

Section 2. Section 7-1-15 NMSA 1978 (being Laws 1969, Chapter 31, Section 1, as amended) is amended to read:

"7-1-15. SECRETARY MAY SET TAX REPORTING AND PAYMENT INTERVALS.--

The secretary may, pursuant to regulation, allow taxpayers with an anticipated tax liability of less than two hundred dollars (\$200) a month to report and pay taxes at intervals which the secretary may specify. However, unless specifically permitted by law, an interval shall not exceed six months. The secretary may also allow direct marketers who have entered into an agreement with the department to collect and remit compensating tax to report and pay on a quarterly or semi-annual basis."

HOUSE BILL 269, AS AMENDED

CHAPTER 106

RELATING TO MUNICIPAL EMPLOYEE RETIREMENT; PROVIDING FOR A MUNICIPAL GENERAL MEMBER PLAN 4; ENACTING SECTIONS OF THE NMSA 1978.

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

Chapter 106 Section 1

Section 1. A new section of the Public Employees Retirement Act is enacted to read:

"MUNICIPAL GENERAL MEMBER COVERAGE PLAN 4--APPLICABILITY.--Municipal general member coverage plan 4 is applicable to a designated group of municipal general members the first day of the calendar month following an affirmative vote by the majority of the municipal general members in a designated group. A designated group may be all members employed by the affiliated public employer, an organizational group

whose compensation is established by negotiated contract or all members employed by the affiliated public employer, whose compensation is not established by negotiated contract. The election shall be conducted by the retirement board in accordance with the procedures adopted by the retirement board. The procedures shall afford all municipal general members who are part of the designated group an opportunity to vote. A new election for coverage by municipal general member coverage plan 4 shall not be held prior to the expiration of six months following the date of an election that failed to adopt municipal general member coverage plan 4. An election adopting municipal general member coverage plan 4 is irrevocable for the purpose of subsequently adopting a coverage plan that would decrease employer or employee contributions with respect to all current and future municipal general employees of the affiliated public employer who are part of the designated group. All elections for the purpose of adopting municipal general member coverage plan 4 shall take place prior to July 1, 1999. Any election occurring after June 30, 1999 shall be void."

Chapter 106 Section 2

Section 2. A new section of the Public Employees Retirement Act is enacted to read:

"MUNICIPAL GENERAL MEMBER COVERAGE PLAN 4--AGE AND SERVICE REQUIREMENTS FOR NORMAL RETIREMENT.--Under municipal general member coverage plan 4, the age and service requirements for normal retirement are:

- A. age sixty-five years or older and five or more years of credited service;
- B. age sixty-four years and eight or more years of credited service;
- C. age sixty-three years and eleven or more years of credited service;
- D. age sixty-two years and fourteen or more years of credited service;

E. age sixty-one years and seventeen or more years of credited service;

F. age sixty years and twenty or more years of credited service; or

G. any age and twenty-five or more years of credited service."

Chapter 106 Section 3

Section 3. A new section of the Public Employees Retirement Act is enacted to read:

"MUNICIPAL GENERAL MEMBER COVERAGE PLAN 4--AMOUNT OF PENSION--
FORM OF PAYMENT A.--Under municipal general member coverage plan 4, the amount of pension under form of payment A is equal to three percent of the final average salary multiplied by credited service. The amount shall not exceed eighty percent of the final average salary."

Chapter 106 Section 4

Section 4. A new section of the Public Employees Retirement Act is enacted to read:

"MUNICIPAL GENERAL MEMBER COVERAGE PLAN 4--FINAL AVERAGE SALARY.--
Under municipal general member coverage plan 4, the final average salary is one thirty-sixth of the greatest aggregate amount of salary paid a member for thirty-six consecutive months of credited service. Under municipal general member coverage plan 4, if a member has less than thirty-six months of credited service, the final average salary is the aggregate amount of salary paid a member for the member's period of credited service divided by the member's credited service."

Chapter 106 Section 5

Section 5. A new section of the Public Employees Retirement Act is enacted to read:

"MUNICIPAL GENERAL MEMBER COVERAGE PLAN 4--MEMBER CONTRIBUTION RATE.--A member under municipal general member coverage plan 4 shall contribute fifteen and sixty-five hundredths percent of salary starting with the first full pay period in the calendar month in which coverage plan 4 becomes applicable to the member."

Chapter 106 Section 6

Section 6. A new section of the Public Employees Retirement Act is enacted to read:

"MUNICIPAL GENERAL MEMBER COVERAGE PLAN 4--AFFILIATED PUBLIC EMPLOYER CONTRIBUTION RATE.--An affiliated public employer shall contribute eleven and sixty-five hundredths percent of the salary of each member it employs and who is covered under municipal general member coverage plan 4.

HOUSE BILL 329

CHAPTER 107

RELATING TO INSURANCE; ENACTING THE PATIENT PROTECTION ACT;

PROVIDING PROTECTIONS FOR PERSONS IN MANAGED HEALTH CARE PLANS;
APPLYING PATIENT PROTECTIONS TO MEDICAID MANAGED CARE; IMPOSING A
CIVIL PENALTY; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978;
MAKING AN APPROPRIATION.

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

Chapter 107 Section 1

Section 1. A new section of the New Mexico Insurance Code is enacted to read:

"SHORT TITLE.--Sections 1 through 11 of this act may be cited as the "Patient Protection Act"."

Chapter 107 Section 2

Section 2. A new section of the New Mexico Insurance Code is enacted to read:

"PURPOSE OF ACT.--The purpose of the Patient Protection Act is to regulate aspects of health insurance by specifying patient and provider rights and confirming and clarifying the authority of the department to adopt regulations to provide protections to persons enrolled in managed health care plans. The insurance protections should ensure that managed health care plans treat patients fairly and arrange for the delivery of good quality services."

Chapter 107 Section 3

Section 3. A new section of the New Mexico Insurance Code is enacted to read:

"DEFINITIONS.--As used in the Patient Protection Act:

- A. "continuous quality improvement" means an ongoing and systematic effort to measure, evaluate and improve a managed health care plan's process in order to improve continually the quality of health care services provided to enrollees;
- B. "covered person", "enrollee", "patient" or "consumer" means an individual who is entitled to receive health care benefits provided by a managed health care plan;
- C. "department" means the insurance department;
- D. "emergency care" means health care procedures, treatments or services delivered to a covered person after the sudden onset of what reasonably appears to be a medical

condition that manifests itself by symptoms of sufficient severity, including severe pain, that the absence of immediate medical attention could be reasonably expected by a reasonable layperson to result in jeopardy to a person's health, serious impairment of bodily functions, serious dysfunction of a bodily organ or part or disfigurement to a person;

E. "health care facility" means an institution providing health care services, including a hospital or other licensed inpatient center; an ambulatory surgical or treatment center; a skilled nursing center; a residential treatment center; a home health agency; a diagnostic, laboratory or imaging center; and a rehabilitation or other therapeutic health setting;

F. "health care insurer" means a person that has a valid certificate of authority in good standing under the Insurance Code to act as an insurer, health maintenance organization, nonprofit health care plan or prepaid dental plan;

G. "health care professional" means a physician or other health care practitioner, including a pharmacist, who is licensed, certified or otherwise authorized by the state to provide health care services consistent with state law;

H. "health care provider" or "provider" means a person that is licensed or otherwise authorized by the state to furnish health care services and includes health care professionals and health care facilities;

I. "health care services" includes, to the extent offered by the plan, physical health or community-based mental health or developmental disability services, including services for developmental delay;

J. "managed health care plan" or "plan" means a health care insurer or a provider service network when offering a benefit that either requires a covered person to use, or creates incentives, including financial incentives, for a covered person to use health care providers managed, owned, under contract with or employed by the health care insurer or provider service network. "Managed health care plan" or "plan" does not include a health care insurer or provider service network offering a traditional fee-for-service indemnity benefit or a benefit that covers only short-term travel, accident-only, limited benefit, student health plan or specified disease policies;

K. "person" means an individual or other legal entity;

L. "point-of-service plan" or "open plan" means a managed health care plan that allows enrollees to use health care providers other than providers under direct contract with or employed by the plan, even if the plan provides incentives, including financial incentives, for covered persons to use the plan's designated participating providers;

M. "provider service network" means two or more health care providers affiliated for the purpose of providing health care services to covered persons on a capitated or similar prepaid flat-rate basis that hold a certificate of authority pursuant to the Provider Service Network Act;

N. "superintendent" means the superintendent of insurance; and

O. "utilization review" means a system for reviewing the appropriate and efficient allocation of health care services given or proposed to be given to a patient or group of patients."

Chapter 107 Section 4

Section 4. A new section of the New Mexico Insurance Code is enacted to read:

"PATIENT RIGHTS--DISCLOSURES--RIGHTS TO BASIC AND COMPREHENSIVE HEALTH CARE SERVICES--GRIEVANCE PROCEDURE-- UTILIZATION REVIEW PROGRAM--CONTINUOUS QUALITY PROGRAM.--

A. Each covered person enrolled in a managed health care plan has the right to be treated fairly. A managed health care plan shall arrange for the delivery of good quality and appropriate health care services to enrollees as defined in the particular subscriber agreement. The department shall adopt regulations to implement the provisions of the Patient Protection Act and shall monitor and oversee a managed health care plan to ensure that each covered person enrolled in a plan is treated fairly and in accordance with the requirements of the Patient Protection Act. In adopting regulations to implement the provisions of Subparagraphs (a) and (b) of Paragraph (3) and Paragraphs (5) and (6) of Subsection B of this section regarding health care standards and specialists, utilization review programs and continuous quality improvement programs, the department shall cooperate with and seek advice from the department of health.

B. The regulations adopted by the department to protect patient rights shall provide at a minimum that:

(1) prior to or at the time of enrollment, a managed health care plan shall provide a summary of benefits and exclusions, premium information and a provider listing; within a reasonable time after enrollment and at subsequent periodic times as appropriate, a managed health care plan shall provide written material that contains, in a clear, conspicuous and readily understandable form, a full and fair disclosure of the plan's benefits, limitations, exclusions, conditions of eligibility, prior authorization requirements, enrollee financial responsibility for payments, grievance procedures, appeal rights and the patients' rights generally available to all covered persons;

(2) a managed health care plan shall provide health care services that are reasonably accessible and available in a timely manner to each covered person;

(3) in providing reasonably accessible health care services that are available in a timely manner, a managed health care plan shall ensure that:

(a) the plan offers sufficient numbers and types of qualified and adequately staffed health care providers at reasonable hours of service to provide health care services to the plan's enrollees;

(b) health care providers that are specialists may act as primary care providers for patients with chronic medical conditions, provided the specialists offer all basic health care services that are required of them by a managed health care plan;

(c) reasonable access is provided to

out-of-network health care providers if medically necessary covered services are not reasonably available through participating health care providers or if necessary to provide continuity of care during brief transition periods;

(d) emergency care is immediately available without prior authorization requirements, and appropriate out-of-network emergency care is not subject to additional costs; and

(e) the plan, through provider selection, provider education, the provision of additional resources or other means, reasonably addresses the cultural and linguistic diversity of its enrollee population;

(4) a managed health care plan shall adopt and implement a prompt and fair grievance procedure for resolving patient complaints and addressing patient questions and concerns regarding any aspect of the plan, including the quality of and access to health

care, the choice of health care provider or treatment and the adequacy of the plan's provider network. The grievance procedure shall notify patients of their right to obtain review by the plan, their right to obtain review by the superintendent, their right to expedited review of emergent utilization decisions and their rights under the Patient Protection Act;

(5) a managed health care plan shall adopt and implement a comprehensive utilization review program. The basis of a decision to deny care shall be disclosed to an affected enrollee. The decision to approve or deny care to an enrollee shall be made in a timely manner, and the final decision shall be made by a qualified health care professional. A plan's utilization review program shall ensure that enrollees have proper access to health care services, including referrals to necessary specialists. A decision made in a plan's utilization review program shall be subject to the plan's grievance procedure and appeal to the superintendent; and

(6) a managed health care plan shall adopt and implement a continuous quality improvement program that monitors the quality and appropriateness of the health care services provided by the plan."

Chapter 107 Section 5

Section 5. A new section of the New Mexico Insurance Code is enacted to read:

"CONSUMER ASSISTANCE--CONSUMER ADVISORY BOARDS --OMBUDSMAN
OFFICE--REPORTS TO CONSUMERS--SUPERINTENDENT'S ORDERS TO
PROTECT CONSUMERS.--

A. Each managed health care plan shall establish and adequately staff a consumer assistance office. The purpose of the consumer assistance office is to respond to

consumer questions and concerns and assist patients in exercising their rights and protecting their interests as consumers of health care.

B. Each managed health care plan shall establish a consumer advisory board. The board shall meet at least quarterly and shall advise the plan about the plan's general operations from the perspective of the enrollee as a consumer of health care. The board shall also review the operations of and be advisory to the plan's consumer assistance office.

~~[C. The department shall establish and adequately staff a managed care ombudsman office, either within the department or by contract. The purpose of the managed care ombudsman office shall be to assist patients in exercising their rights and help advocate for and protect patient interests. The department's managed care ombudsman office shall work in conjunction with each plan's consumer assistance office and shall independently evaluate the effectiveness of the plan's consumer assistance office. The department's managed care ombudsman office may require a plan's consumer assistance office to adopt measures to ensure that the plan operates effectively to protect patient rights and inform consumers of the information to which they are entitled.]~~

D. The department shall prepare an annual report assessing the operations of managed health care plans subject to the department's oversight, including information about consumer complaints.

E. A person adversely affected may file a complaint with the superintendent regarding a violation of the Patient Protection Act. Prior to issuing any remedial order regarding violations of the Patient Protection Act or its regulations, the superintendent shall hold a hearing in accordance with the provisions of Chapter 59A, Article 4 NMSA 1978. The

superintendent may issue any order he deems necessary or appropriate, including ordering the delivery of appropriate care, to protect consumers and enforce the provisions of the Patient Protection Act. The superintendent shall adopt special procedures to govern the submission of emergency appeals to him in health emergencies."

Chapter 107 Section 6

Section 6. A new section of the New Mexico Insurance Code is enacted to read:

"FAIRNESS TO HEALTH CARE PROVIDERS--GAG RULES PROHIBITED--
GRIEVANCE PROCEDURE FOR PROVIDERS.--

A. No managed health care plan may:

(1) adopt a gag rule or practice that prohibits a health care provider from discussing a treatment option with an enrollee even if the plan does not approve of the option;

(2) include in any of its contracts with health care providers any provisions that offer an inducement, financial or otherwise, to provide less than medically necessary services to an enrollee; or

(3) require a health care provider to violate any recognized fiduciary duty of his profession or place his license in jeopardy.

B. A plan that proposes to terminate a health care provider from the managed health care plan shall explain in writing the rationale for its proposed termination and deliver reasonable advance written notice to the provider prior to the proposed effective date of the termination.

C. A managed health care plan shall adopt and implement a process pursuant to which providers may raise with the plan concerns that they may have regarding operation of the plan, including concerns regarding quality of and access to health care services, the choice of health care providers and the adequacy of the plan's provider network. The process shall include, at a minimum, the right of the provider to present the provider's concerns to a plan committee responsible for the substantive area addressed by the concern, and the assurance that the concern will be conveyed to the plan's governing body. In addition, a managed health care plan shall adopt and implement a fair hearing plan that permits a health care provider to dispute the existence of adequate cause to terminate the provider's participation with the plan to the extent that the relationship is terminated for cause and shall include in each provider contract a dispute resolution mechanism."

Chapter 107 Section 7

Section 7. A new section of the New Mexico Insurance Code is enacted to read:

"POINT-OF-SERVICE OPTION PLAN.--

A. Except as otherwise provided in this section, the department may require a plan that offers a point-of-service plan or open plan to include in any managed health care plan it offers an option for a point-of-service plan or open plan to the extent that the department determines that the open plan option is financially sound.

B. No health care insurer may be required to offer a point-of-service plan or open plan as an option under a medicaid-funded managed health care plan unless the human services department has established such a requirement as part of a procurement for managed health care under the medicaid program."

Chapter 107 Section 8

Section 8. A new section of the New Mexico Insurance Code is enacted to read:

"ADMINISTRATIVE COSTS AND BENEFIT COSTS DISCLOSURES.-- The department shall adopt regulations to ensure that both the administrative costs and the direct costs of providing health care services of each managed health care plan are fully and fairly disclosed to consumers in a uniform manner that allows meaningful cost comparisons among plans."

Chapter 107 Section 9

Section 9. A new section of the New Mexico Insurance Code is enacted to read:

"PRIVATE REMEDIES TO ENFORCE PATIENT AND PROVIDER INSURANCE RIGHTS--ENROLLEE AS THIRD-PARTY BENEFICIARY TO ENFORCE RIGHTS.--

A. A person who suffers a loss as a result of a violation of a right protected pursuant to the provisions of the Patient Protection Act, its regulations or a managed health care plan may bring an action to recover actual damages or the sum of one hundred dollars (\$100), whichever is greater.

B. A person likely to be damaged by a denial of a right protected pursuant to the provisions of the Patient Protection Act or its regulations may be granted an injunction under the principles of equity and on terms that the court considers reasonable. Proof of monetary damage or intent to violate a right is not required.

C. To protect and enforce an enrollee's rights in a managed health care plan, an individual enrollee participating in or eligible to participate in a managed health care plan shall be treated as a third-party beneficiary of the managed health care plan contract between the plan and the party with which the plan directly contracts. An individual enrollee may sue to enforce the rights provided in the contract that governs

the managed health care plan; provided, however, that the plan and the party to the contract may amend the terms of, or terminate the provisions of, the contract without the enrollee's consent.

D. The relief provided pursuant to this section is in addition to other remedies available against the same conduct under the common law or other statutes of this state.

E. In any class action filed pursuant to this section, the court may award damages to the named plaintiffs as provided in this section and may award members of the class the actual damages suffered by each member of the class as a result of the unlawful practice.

F. Nothing in the Patient Protection Act is intended to make a plan vicariously liable for the actions of independent contractor health care providers."

Chapter 107 Section 10

Section 10. A new section of the New Mexico Insurance Code is enacted to read:

"APPLICATION OF ACT TO MEDICAID PROGRAM.--

A. Except as otherwise provided in this section, the provisions of the Patient Protection Act apply to the medicaid program operation in the state. A managed health care plan offered through the medicaid program shall grant enrollees and providers the same rights and protections as are granted to enrollees and providers in any other managed health care plan subject to the provisions of the Patient Protection Act.

B. Nothing in the Patient Protection Act shall be construed to limit the authority of the human services department to administer the medicaid program, as required by law. Consistent with applicable state and federal law, the human services department shall

have sole authority to determine, establish and enforce medicaid eligibility criteria, the scope, definitions and limitations of medicaid benefits and the minimum qualifications or standards for medicaid service providers.

C. Medicaid recipients and applicants retain their right to appeal decisions adversely affecting their medicaid benefits to the human services department, pursuant to the Public Assistance Appeals Act. Notwithstanding other provisions of the Patient Protection Act, a medicaid recipient or applicant who files an appeal to the human services department pursuant to the Public Assistance Appeals Act may not file an appeal on the same issue to the superintendent pursuant to the Patient Protection Act, unless the human services department refuses to hear the appeal. The superintendent may refer to the human services department any appeal filed with the superintendent pursuant to the Patient Protection Act if the complainant is a medicaid beneficiary and the matter in dispute is subject to the provisions of the Public Assistance Appeals Act.

D. Any managed health care plan participating in the medicaid managed care program as of the effective date of the Patient Protection Act and that is in compliance with contractual and regulatory requirements applicable to that program shall be deemed to comply with any requirements established in accordance with that act until July 1, 1999; provided that, from the effective date of that act, any rights established under that act beyond those under requirements of the human services department shall apply to enrollees in medicaid managed health care plans."

Chapter 107 Section 11

Section 11. A new section of the New Mexico Insurance Code is enacted to read:

"PENALTY.--In addition to any other penalties provided by law, a civil administrative penalty of up to ten thousand dollars (\$10,000) may be imposed for each violation of the

Patient Protection Act. An administrative penalty shall be imposed by written order of the superintendent made after holding a hearing as provided for in Chapter 59A, Article 4 NMSA 1978."

Chapter 107 Section 12

Section 12. Section 59A-1-16 NMSA 1978 (being Laws 1984, Chapter 127, Section 16) is amended to read:

"59A-1-16. EXEMPTED FROM CODE.--In addition to organizations and businesses otherwise exempt, the Insurance Code shall not apply to:

A. a labor organization that, incidental only to operations as a labor organization, issues benefit certificates to members or maintains funds to assist members and their families in times of illness, injury or need, and not for profit;

B. the credit union share insurance corporation, as identified in Chapter 58, Article 12 NMSA 1978, and similar corporations and funds for protection of depositors, shareholders or creditors of financial institutions and businesses other than insurers; or

C. the risk management division of the general services department or to insurance of public property or public risks by any agency of government not otherwise engaged in the business of insurance, except the provisions of the Patient Protection Act shall apply to the risk management division and any managed health care plan it offers."

Chapter 107 Section 13

Section 13. Section 59A-46-30 NMSA 1978 (being Laws 1993, Chapter 266, Section 29, as amended) is amended to read:

"59A-46-30. STATUTORY CONSTRUCTION AND RELATIONSHIP TO OTHER LAWS.--

A. The provisions of the Insurance Code other than Chapter 59A, Article 46 NMSA 1978 shall not apply to health maintenance organizations 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 maintenance organizations and their promoters, sponsors, directors, officers, employees, agents, solicitors and other representatives. For the purposes of such applicability, a health maintenance organization may therein be referred to as an "insurer":

(1) Chapter 59A, Article 1 NMSA 1978;

(2) Chapter 59A, Article 2 NMSA 1978;

(3) Chapter 59A, Article 3 NMSA 1978;

(4) Chapter 59A, Article 4 NMSA 1978;

(5) Subsection C of Section 59A-5-22 NMSA 1978;

(6) Sections 59A-6-2 through 59A-6-4 and 59A-6-6 NMSA 1978;

(7) Chapter 59A, Article 8 NMSA 1978;

(8) Chapter 59A, Article 10 NMSA 1978;

(9) Section 59A-12-22 NMSA 1978;

(10) Chapter 59A, Article 16 NMSA 1978;

(11) Chapter 59A, Article 18 NMSA 1978;

(12) Chapter 59A, Article 19 NMSA 1978;

(13) Section 59A-22-14 NMSA 1978;

(14) Chapter 59A, Article 23B NMSA 1978;

(15) Sections 59A-34-9 through 59A-34-13, 59A-34-17, 59A-34-23, 59A-34-36 and 59A-34-37 NMSA 1978;

(16) Chapter 59A, Article 37 NMSA 1978; and

(17) the Patient Protection Act.

B. Solicitation of enrollees by a health maintenance organization granted a certificate of authority, or its representatives, shall not be construed as violating any provision of law relating to solicitation or advertising by health professionals, but health professionals shall be individually subject to the laws, rules, regulations and ethical provisions governing their individual professions.

C. Any health maintenance organization authorized under the provisions of the Health Maintenance Organization Law shall not be deemed to be practicing medicine and shall be exempt from the provisions of laws relating to the practice of medicine."

Chapter 107 Section 14

Section 14. Section 59A-47-33 NMSA 1978 (being Laws 1984, Chapter 127, Section 879.32, as amended by Laws 1997, Chapter 7, Section 4 and by Laws 1997, Chapter 248, Section 3 and also by Laws 1997, Chapter 255, Section 4) 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-22-14 NMSA 1978;

O. Section 59A-22-34.1 NMSA 1978;

P. Section 59A-22-39 NMSA 1978;

Q. Section 59A-22-40 NMSA 1978;

R. Section 59A-22-41 NMSA 1978;

S. Sections 59A-34-9 through 59A-34-13 and 59A-34-23 NMSA 1978;

T. Chapter 59A, Article 37 NMSA 1978, except Section 59A-37-7 NMSA 1978;

U. Section 59A-46-15 NMSA 1978; and

V. the Patient Protection Act."

Chapter 107 Section 15

~~[Section 15. APPROPRIATION.—Five hundred thousand dollars (\$500,000) is appropriated from the general fund to the department of insurance for expenditure in fiscal year 1999 to pay salaries and benefits and other costs necessary to establish a managed care ombudsman office and administer the provisions of the Patient Protection Act. Any unexpended or unencumbered balance remaining at the end of fiscal year 1999 shall revert to the general fund.]~~

Chapter 107 Section 16

Section 16. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1998.

HOUSE BUSINESS AND INDUSTRY COMMITTEE SUBSTITUTE FOR

HOUSE BILL HB 361

CHAPTER 108

RELATING TO THE MERGER OF THE STATE CORPORATION COMMISSION AND THE NEW MEXICO PUBLIC UTILITY COMMISSION; PROVIDING THE STATUTORY FRAMEWORK TO CARRY OUT THE PROVISIONS OF ARTICLE 11, SECTIONS 1 AND 2 OF THE CONSTITUTION OF NEW MEXICO THAT CREATED THE PUBLIC REGULATION COMMISSION; HARMONIZING CERTAIN STATUTORY PROVISIONS RELATING TO REGULATION BY THE COMMISSION; ABOLISHING THE NEW MEXICO PUBLIC UTILITY COMMISSION; ABOLISHING THE INSURANCE BOARD AND THE FIRE BOARD; TRANSFERRING PERSONNEL, PROPERTY, CONTRACTUAL AGREEMENTS, RULES AND STATUTORY REFERENCES.

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

Chapter 108 Section 1

Section 1. SHORT TITLE.--Sections 1 through 20 of this act may be cited as the "Public Regulation Commission Act".

Chapter 108 Section 2

Section 2. DEFINITIONS.--As used in the Public Regulation Commission Act:

A. "commission" means the public regulation commission;

B. "commissioner" means a person elected or appointed to the public regulation commission; and

C. "person" means an individual, corporation, firm, partnership, association, joint venture or similar legal entity.

Chapter 108 Section 3

Section 3. PUBLIC REGULATION COMMISSION.--

A. The "public regulation commission", created in Article 11, Section 1 of the constitution of New Mexico, is composed of five commissioners elected from districts as provided in that article and the Public Regulation Commission Apportionment Act.

B. The commission shall annually elect one of its members chairman, who shall preside at hearings. In the absence of the chairman, the commission may appoint any other member to preside.

Chapter 108 Section 4

Section 4. COMMISSION--GENERAL POWERS AND DUTIES.--

A. The commission shall administer and enforce the laws with which it is charged and has every power conferred by law.

B. The commission may:

(1) subject to legislative appropriation, appoint and employ such professional, technical and clerical assistance as it deems necessary to assist it in performing its powers and duties;

(2) delegate authority to subordinates as it deems necessary and appropriate, clearly delineating such delegated authority and any limitations;

(3) retain competent attorneys to handle the legal matters of the commission and give advice and counsel in regard to any matter connected with the duties of the commission and, in the discretion of the commission, to represent the commission in any legal proceeding;

(4) organize into organizational units as necessary to enable it to function most efficiently, subject to provisions of law requiring or establishing specific organizational units;

(5) take administrative action by issuing orders not inconsistent with law to assure implementation of and compliance with the provisions of law for which the commission is responsible and to enforce those orders by appropriate administrative action and court proceedings;

(6) conduct research and studies to improve the commission's operations or the provision of services to the citizens of New Mexico;

(7) conduct investigations as necessary to carry out the commission's responsibilities;

(8) apply for and accept grants and donations in the name of the state to carry out its powers and duties;

(9) enter into contracts to carry out its powers and duties;

(10) adopt such reasonable administrative, regulatory and procedural rules as may be necessary or appropriate to carry out its powers and duties;

(11) cooperate with tribal and pueblo governments on topics over which the commission and the other governments have jurisdiction and conduct joint investigations, hold joint hearings and issue joint or concurrent orders as appropriate; and

(12) apply to the district court for injunctions to prevent violations of any laws that it administers or rules or orders adopted pursuant to those laws.

C. The commission shall:

(1) prepare an annual budget for submission to the legislature;

(2) provide for surety bond coverage for all employees of the commission as provided in the Surety Bond Act and pay the costs of such bonds;

(3) adopt rules to streamline the resolution of cases before it when appropriate by:

(a) the use of hearing examiners;

(b) the taking of evidence with the least delay practicable;

(c) limiting repetitious testimony; and

(d) adopting procedures for resolving cases in ways other than by trial-type hearings when appropriate, including consent calendars, conferences, settlements, mediation, arbitration and other alternative dispute resolution methods and the use of staff decisions; and

(4) provide a toll-free telephone number and publish it and the commission's general telephone number in local telephone directories.

D. A majority of the commission constitutes a quorum for the transaction of business; provided, however, that a majority vote of the commission is needed for a final decision of the commission.

Chapter 108 Section 5

Section 5. CHIEF OF STAFF--DIVISION DIRECTORS--OTHER STAFF.--

A. The commission shall appoint a "chief of staff" who is responsible for the day-to-day operations of the commission staff under the general direction of the commission. The chief of staff shall serve at the pleasure of the commission.

B. With the consent of the commission, the chief of staff shall appoint division directors. Appointments shall be made without reference to party affiliation and solely on the ground of fitness to perform the duties of their offices.

C. Each director, with the consent of the chief of staff, shall employ such professional, technical and support staff as necessary to carry out the duties of his division.

Employees shall be hired solely on the ground of their fitness to perform the job for which they are hired. Division staff are subject to the provisions of the Personnel Act.

Chapter 108 Section 6

Section 6. COMMISSION--DIVISIONS.--The commission shall include the following organizational units:

A. the administrative services division;

B. the consumer relations division;

C. the insurance division;

D. the legal division;

E. the transportation division; and

F. the utility division.

Chapter 108 Section 7

Section 7. ADMINISTRATIVE SERVICES DIVISION--CHIEF CLERK.--

A. The chief of staff shall appoint a "chief clerk" who shall record the judgments, rules, orders and other proceedings of the commission and make a complete index to the judgments, rules, orders and other proceedings; issue and attest all processes issuing from the commission and affix the seal of the commission to them; and preserve the seal and other property belonging to the commission.

B. The chief clerk shall direct the administrative services division, including the "corporations bureau" and the following functions:

(1) case docketing;

(2) budget and accounting;

(3) personnel services;

(4) procurement; and

(5) information systems services.

C. The corporations bureau shall perform the functions of the corporations department of the former state corporation commission.

Chapter 108 Section 8

Section 8. CONSUMER RELATIONS DIVISION.--

A. The consumer relations division shall:

(1) receive and investigate nondocketed consumer complaints and assist consumers in resolving, in a fair and timely manner, complaints against a person under the authority of the commission, including mediation and other methods of alternative dispute resolution; provided, however, that assistance pursuant to this paragraph does not include legal representation of a private complainant in an adjudicatory proceeding;

(2) work with the consumer protection division of the attorney general's office, the governor's constituent services office and other state agencies as needed to ensure fair and timely resolution of complaints;

(3) advise the commission on how to maximize public input into commission proceedings, including ways to eliminate language, disability and other barriers;

(4) identify, research and advise the commission on consumer issues;

(5) assist the commission in the development and implementation of consumer policies and programs; and

(6) perform such other duties as prescribed by the commission.

B. All complaints received by the division with regard to quality or quantity of service provided by a regulated entity or its competitors shall be recorded by the division for the purpose of determining general concerns of consumers. A report of consumer complaints and their status shall be included in the commission's annual report.

Chapter 108 Section 9

Section 9. INSURANCE DIVISION.--

A. The director of the insurance division is the "superintendent of insurance" and shall have all the powers and duties prescribed to him in the New Mexico Insurance Code.

B. The insurance division shall consist of such bureaus as the superintendent of insurance determines for the orderly conduct of business, including the fire marshal bureau. The superintendent of insurance may organize the firefighters training academy as part of the fire marshal bureau or may organize it as a separate bureau.

Chapter 108 Section 10

Section 10. LEGAL DIVISION.--

A. The commission shall set minimum requirements for the director of the legal division, including membership in the New Mexico bar and administrative and supervisory experience.

B. The legal division shall:

(1) provide legal counsel for the commission in matters not involving advice on contested proceedings before the commission; and

(2) provide legal counsel to all divisions, including the legal component of the staff that represents the public interest in matters before the commission.

Chapter 108 Section 11

Section 11. TRANSPORTATION DIVISION.--The transportation division shall serve as staff to the commission for the following functions, as provided by law:

A. motor carrier regulation and enforcement;

B. railroad safety enforcement;

C. pipeline safety; and

D. ambulance standards.

Chapter 108 Section 12

Section 12. UTILITY DIVISION.--

A. The utility division shall serve as staff to the commission in the regulation of electric, natural gas, renewable energy sources, telecommunications and water and wastewater systems as provided by law.

B. The commission shall set minimum educational and experience requirements for the director of the utility division.

C. The utility division shall represent the public interest in utility matters before the commission and may present testimony and evidence and cross-examine witnesses.

D. The utility division shall perform the functions of the telecommunications department of the former state corporation commission and staff functions, not including advisory functions, of the former New Mexico public utility commission.

E. Utility division staff shall not have ex parte communications with commissioners or a hearing examiner assigned to a utility case.

Chapter 108 Section 13

Section 13. ADVISORY STAFF.--

A. The chief of staff may hire, with the consent of the commission, advisory staff with expertise in regulatory law, engineering, economics and other professional or technical disciplines to advise the commission on any matter before the commission. The chief of staff may hire on a temporary, term or contract basis such other experts or staff as the commission requires for a particular case.

B. Advisory staff shall:

(1) analyze case records;

(2) analyze recommended decisions;

(3) advise the commission on policy issues;

(4) assist the commission in the development of rules;

(5) assist the commission in writing final orders; and

(6) perform such other duties as required by the chief of staff.

Chapter 108 Section 14

Section 14. HEARING EXAMINERS.--

A. The commission may appoint a commissioner or a hearing examiner to preside over any matter before the commission, including rulemakings, adjudicatory hearings and administrative matters.

B. Except as provided in the New Mexico Insurance Code, a hearing examiner shall provide the commission with a recommended decision on the matter assigned to him, including findings of fact and conclusions of law. The recommended decision shall be

provided to the parties, and they may file exceptions to the decision prior to the final decision of the commission.

Chapter 108 Section 15

Section 15. COMMISSION RULES--PROCEDURES FOR ADOPTION.--

A. Unless otherwise provided by law, no rule affecting a person outside the commission shall be adopted, amended or repealed except after public notice and public hearing before the commission or a hearing examiner designated by the commission.

B. Notice of the subject matter of the rule, the action proposed to be taken, the manner in which interested persons may present their views and the method by which copies of the proposed rule, amendment or repealing provisions may be obtained shall be published at least once at least sixty days prior to the hearing date and mailed at least sixty days prior to the hearing date to all persons who have made a written request for advance notice. For each rule, amendment or repealing provision that affects only one or a limited number of municipalities, towns, villages or counties, notice shall be published in the largest circulation newspaper published and distributed locally in those areas as well as in a newspaper of general circulation in the state. For each rule, amendment or repealing provision that affects the entire state, notice shall be published in three newspapers of general circulation in the state. Additional notice may be made by posting on the internet or by using other alternative methods of informing interested persons.

C. If the commission finds that immediate adoption, amendment or suspension of a rule is necessary for the preservation of the public peace, health, safety or general welfare, the commission may dispense with notice and public hearing and adopt, amend or suspend the rule as an emergency. The commission's finding of why an emergency

exists shall be incorporated in the emergency rule, amendment or suspension filed with the state records center. Upon adoption of an emergency rule that is intended to remain in effect for longer than sixty days, notice shall be given within seven days of filing the rule as required in this section for proposed rules.

D. The commission shall issue a rule within eighteen months following the publication of that proposed rule or it shall be deemed to be withdrawn. The commission may propose the same or revised rule in a subsequent rulemaking.

E. All rules shall be filed in accordance with the State Rules Act and shall be effective fifteen days after filing unless a longer time is provided by the rule.

Chapter 108 Section 16

Section 16. RECORD OF PROCEEDINGS.--Unless otherwise provided by law, the commission may by rule provide that oral proceedings before the commission may be taken by any means that provides a full and complete record, including tape recording or stenography. The commission by rule shall determine when tape recordings are transcribed. A party to the proceeding may request a copy of a tape recording or a written transcript if one is provided. The commission may charge a reasonable fee for a copy of a proceeding. Copy costs shall be determined by the commission by rule and money collected shall be deposited in the general fund.

Chapter 108 Section 17

Section 17. EX PARTE COMMUNICATIONS.--

A. A commissioner shall not initiate, permit or consider a communication directly or indirectly with a party or his representative outside the presence of the other parties

concerning a pending rulemaking after the record has been closed or a pending adjudication.

B. A hearing examiner shall not initiate, permit or consider a communication directly or indirectly with a party or his representative outside the presence of the other parties concerning a pending rulemaking or adjudication.

C. Notwithstanding the provisions of Subsections A and B of this section, the following ex parte communications are permitted:

(1) where circumstances require, ex parte communications for procedural or administrative purposes or emergencies that do not deal with substantive matters or issues on the merits are allowed if the commissioner or hearing examiner reasonably believes that no party will gain an advantage as a result of the ex parte communication and the commissioner or hearing examiner makes provision to promptly notify all other parties of the substance of the ex parte communication;

(2) a commissioner may consult with another commissioner or with advisory staff whose function is to advise the commission in carrying out the commissioner's rulemaking or adjudicative responsibilities;

(3) a hearing examiner may consult with the commission's advisory staff; and

(4) a commissioner or hearing examiner may obtain the advice of a nonparty expert on an issue raised in the rulemaking or adjudication if the commissioner or hearing examiner gives notice to the parties of the person consulted and the substance of the advice and affords the parties reasonable opportunity to respond.

D. A commissioner or hearing examiner who receives or who makes or knowingly causes to be made a communication prohibited by this section shall disclose it to all parties and give other parties an opportunity to respond.

E. Upon receipt of a communication knowingly made or caused to be made by a party to a commissioner or hearing examiner in violation of this section, the commissioner or hearing examiner may, to the extent consistent with the interests of justice and the policy of the underlying statutes, require the party to show cause why his claim or interest in the proceeding should not be dismissed, denied, disregarded or otherwise adversely affected on account of the violation of this section.

Chapter 108 Section 18

Section 18. RECUSAL OF COMMISSIONER OR HEARING EXAMINER.--

A. A commissioner or hearing examiner shall recuse himself in any adjudicatory proceeding in which he is unable to make a fair and impartial decision or in which there is reasonable doubt about whether he can make a fair and impartial decision, including:

(1) when he has a personal bias or prejudice concerning a party or its representative or has prejudged a disputed evidentiary fact involved in a proceeding prior to hearing. For the purposes of this paragraph, "personal bias or prejudice" means a predisposition toward a person based on a previous or ongoing relationship, including a professional, personal, familial or other intimate relationship, that renders the commissioner or hearing examiner unable to exercise his functions impartially;

(2) when he has a pecuniary interest in the outcome of the proceeding other than as a customer of a party;

(3) when in previous employment he served as an attorney, adviser, consultant or witness in the matter in controversy; or

(4) when, as a candidate for office, he announced how he would rule on the adjudicatory proceeding or a factual issue in the adjudicatory proceeding.

B. If a commissioner or hearing examiner fails to recuse himself when it appears that grounds exist, a party shall promptly notify the commissioner or hearing examiner of the apparent grounds for recusal. If the commissioner or hearing examiner declines to recuse himself upon request of a party, he shall provide a full explanation in support of his refusal to recuse himself.

Chapter 108 Section 19

Section 19. PROHIBITED ACTS--CANDIDATES--COMMISSIONERS AND EMPLOYEES.--

A. As used in this section, in addition to the definitions provided in Section 2 of the Public Regulation Commission Act:

(1) "affiliated interest" means a person who directly controls or is controlled by or is under common control with a regulated entity, including an agent, representative, attorney, employee, officer, owner, director or partner of an affiliated interest. For the purposes of this definition, "control" includes the possession of the power to direct or cause the direction of the management and policies of a person, whether directly or indirectly, through the ownership, control or holding with the power to vote of ten percent or more of the person's voting securities;

(2) "intervenor" means a person who is intervening as a party in an adjudicatory matter or commenting in a rulemaking pending before the commission or has intervened in an

adjudicatory or rulemaking matter before the commission within the preceding twenty-four months, including an agent, representative, attorney, employee, officer, owner, director, partner or member of an intervenor;

(3) "pecuniary interest" includes owning or controlling securities; serving as an officer, director, partner, owner, employee, attorney or consultant; or otherwise benefiting from a business relationship. Pecuniary interest does not include an investment in a mutual fund or similar third-party-controlled investment, pension or disability benefits or an interest in capital credits of a rural electric cooperative or telephone cooperative because of current or past patronage; and

(4) "regulated entity" means a person whose charges for services to the public are regulated by the commission and includes any direct or emerging competitors of a regulated entity and includes an agent, representative, attorney, employee, officer, owner, director or partner of the regulated entity.

B. In addition to the requirements of the Financial Disclosure Act and the Governmental Conduct Act, candidates for the commission, commissioners and employees of the commission shall comply with the requirements of this section and Sections 17 and 18 of the Public Regulation Commission Act, as applicable.

C. A candidate for election to the public regulation commission shall not solicit or accept:

(1) anything of value, either directly or indirectly, from a person whose charges for services to the public are regulated by the commission. For the purposes of this paragraph, "anything of value" includes money, in-kind contributions and volunteer services to the candidate or his campaign organization, but does not include pension or disability benefits; or

(2) more than five hundred dollars (\$500) per election from any other person.

D. A commissioner or employee of the commission shall not:

(1) accept anything of value from a regulated entity, affiliated interest or intervenor. For the purposes of this paragraph, a commissioner may accept allowable campaign contributions when campaigning for reelection. For the purposes of this paragraph, "anything of value" does not include:

(a) the cost of refreshments totaling no more than five dollars (\$5.00) a day or refreshments at a public reception or other public social function that are available to all guests equally;

(b) inexpensive promotional items that are available to all customers of the regulated entity, affiliated interest or intervenor; or

(c) pension or disability benefits received from a regulated entity, affiliated interest or intervenor;

(2) have a pecuniary interest in a regulated entity, affiliated interest or intervenor, and if a pecuniary interest in an intervenor develops, the commissioner or employee shall divest himself of that interest or recuse himself from the proceeding with the intervenor interest; or

(3) solicit any regulated entity, affiliated interest or intervenor to appoint a person to a position or employment in any capacity.

E. After leaving the commission:

(1) a former commissioner shall not be employed or retained in a position that requires appearances before the commission by a regulated entity, affiliated interest or intervenor within two years of his separation from the commission;

(2) a former employee shall not appear before the commission representing a party to an adjudication or a participant in a rulemaking within one year of ceasing to be an employee; and

(3) a former commissioner or employee shall not represent a party before the commission or a court in a matter that was pending before the commission while the commissioner or employee was associated with the commission and in which he was personally and substantially involved in the matter.

F. The attorney general or a district attorney may institute a civil action in the district court for Santa Fe county or, in his discretion, the district court for the county in which a defendant resides if a violation of this section has occurred or to prevent a violation of this section. A civil penalty may be assessed in the amount of two hundred fifty dollars (\$250) for each violation, not to exceed five thousand dollars (\$5,000).

Chapter 108 Section 20

Section 20. COMMISSION REPORTS.--By December 1 of each year, the commission shall report to the legislature and the governor regarding its activities for the previous year in sufficient detail to disclose the workings of the commission and the impact of regulation on the industries regulated by the commission. The report may include suggestions and recommended changes in law, as the commission deems appropriate, that would be in the public interest.

Chapter 108 Section 21

Section 21. Section 8-1-1 NMSA 1978 (being Laws 1971, Chapter 260, Section 1, as amended) is amended to read:

"8-1-1. COMPENSATION OF ELECTIVE STATE OFFICERS.--

A. Annual compensation of elective state officers shall be paid as follows:

governor \$90,000

secretary of state 65,000

state auditor 65,000

state treasurer 65,000

attorney general 72,500

commissioner of public lands 72,500

public regulation commissioner 72,500.

B. Any person succeeding to the office of governor as provided in Article 5, Section 7 of the constitution of New Mexico shall receive the salary of the office. Every person serving as acting governor during the incapacity or absence of the governor from the state, other than the secretary of state, shall receive one hundred fifty dollars (\$150) as compensation for each day's service as acting governor.

C. All compensation under this section shall be paid from the general fund, except that the amount paid to the commissioner of public lands shall be paid from the state lands maintenance fund."

Chapter 108 Section 22

Section 22. A new section of Chapter 8, Article 5 NMSA 1978 is enacted to read:

"ATTORNEY GENERAL--CONSUMER REPRESENTATION BEFORE COMMISSION.--

A. The attorney general shall represent residential and small business consumers in matters before the public regulation commission as the attorney general deems appropriate.

B. The attorney general:

(1) shall research, study and analyze residential and small business consumer interests;

(2) shall prepare and present briefs, arguments, proposed rates or orders and intervene or appear on behalf of residential and small business consumers before the public regulation commission as a party in interest;

(3) may accept grants and donations in the name of the state to carry out the provisions of this section;

(4) may cooperate with tribal and pueblo governments in New Mexico to ensure that the interests of Indian residential and small business consumers are being represented appropriately before the public regulation commission; and

(5) shall report by December 1 of each year to the legislature and the governor on the activities of his office on behalf of residential and small business consumers."

Chapter 108 Section 23

Section 23. Section 53-5-1 NMSA 1978 (being Laws 1959, Chapter 181, Section 1) is amended to read:

"53-5-1. SHORT TITLE.--Chapter 53, Article 5 NMSA 1978 may be cited as the "Corporate Reports Act"."

Chapter 108 Section 24

Section 24. Section 53-7-18 NMSA 1978 (being Laws 1983, Chapter 312, Section 1) is amended to read:

"53-7-18. SHORT TITLE.--Sections 53-7-18 through 53-7-46 NMSA 1978 may be cited as the "Business Development Corporation Act"."

Chapter 108 Section 25

Section 25. Section 53-8-1 NMSA 1978 (being Laws 1975, Chapter 217, Section 1, as amended) is amended to read:

"53-8-1. SHORT TITLE.--Chapter 53, Article 8 NMSA 1978 may be cited as the "Nonprofit Corporation Act"."

Chapter 108 Section 26

Section 26. Section 53-8-2 NMSA 1978 (being Laws 1975, Chapter 217, Section 2, as amended) is amended to read:

"53-8-2. DEFINITIONS.--As used in the Nonprofit Corporation Act, unless the context otherwise requires:

A. "corporation" or "domestic corporation" means a nonprofit corporation subject to the provisions of the Nonprofit Corporation Act, except a foreign corporation;

B. "foreign corporation" means a nonprofit corporation organized under laws other than the laws of New Mexico for a purpose for which a corporation may be organized under the Nonprofit Corporation Act;

C. "nonprofit corporation" means a corporation no part of the income or profit of which is distributable to its members, directors or officers;

D. "articles of incorporation" means the original or restated articles of incorporation or articles of consolidation and all amendments thereto, including articles of merger;

E. "bylaws" means the code of rules adopted for the regulation or management of the affairs of the corporation, irrespective of the name by which such rules are designated;

F. "member" means one having membership rights in a corporation in accordance with the provisions of its articles of incorporation or bylaws;

G. "board of directors" means the group of persons vested with the management of the affairs of the corporation, irrespective of the name by which such group is designated;

H. "insolvent" means inability of a corporation to pay its debts as they become due in the usual course of its affairs;

I. "commission" or "corporation commission" means the public regulation commission or its delegate;

J. "address" means:

(1) the mailing address and the street address, if within a municipality; or

(2) the mailing address and a rural route number and box number, if any, or the geographical location, using well-known landmarks, if outside a municipality;

K. "duplicate original" means a document that is signed or executed in duplicate;

L. "delivery" means:

(1) if personally served, the date documentation is received by the corporations bureau of the commission; and

(2) if mailed to the commission, the date of the postmark plus three days, upon proof thereof by the party delivering the documentation; and

M. "person" includes individuals, partnerships, corporations and other associations."

Chapter 108 Section 27

Section 27. Section 53-11-1 NMSA 1978 (being Laws 1967, Chapter 81, Section 1, as amended) is amended to read:

"53-11-1. SHORT TITLE.--Sections 53-11-1 through 53-18-12 NMSA 1978 is the general corporation law of New Mexico and may be cited as the "Business Corporation Act"."

Chapter 108 Section 28

Section 28. Section 53-11-2 NMSA 1978 (being Laws 1967, Chapter 81, Section 2, as amended) is amended to read:

"53-11-2. DEFINITIONS.--As used in the Business Corporation Act, unless the text otherwise requires:

A. "corporation" or "domestic corporation" means a corporation for profit subject to the provisions of the Business Corporation Act, except a foreign corporation;

B. "foreign corporation" means a corporation for profit organized under laws other than the laws of this state for a purpose for which a corporation may be organized under the Business Corporation Act;

C. "articles of incorporation" means the original or restated articles of incorporation or articles of consolidation and all amendments thereto, including articles of merger;

D. "shares" means the units into which the proprietary interests in a corporation are divided;

E. "subscriber" means one who subscribes for shares in a corporation, whether before or after incorporation;

F. "shareholder" means one who is a holder of record of shares in a corporation;

G. "authorized shares" means the shares of all classes which the corporation is authorized to issue;

H. "annual report" means the corporate report required by the Corporate Reports Act;

I. "distribution" means a direct or indirect transfer of money or other property (except its own shares) or incurrence of indebtedness, by a corporation to or for the benefit of any of its shareholders in respect of any of its shares, whether by dividend or by purchase redemption or other acquisition of its shares, or otherwise;

J. "franchise tax" means the franchise tax imposed by the Corporate Income and Franchise Tax Act;

K. "fees" means the fees imposed by Section 53-2-1 NMSA 1978;

L. "commission" means the public regulation commission or its delegate;

M. "address" means:

(1) the mailing address and the street address, if within a municipality; or

(2) the mailing address and a rural route number and box number, if any, or the geographical location, using well-known landmarks, if outside a municipality;

N. "duplicate original" means a document that is signed or executed in duplicate;

O. "delivery" means:

(1) if personally served, the date on which the documentation is received by the corporations bureau of the commission; and

(2) if mailed, the date of the postmark plus three days, upon proof thereof by the party delivering the documentation; and

P. "person" includes individuals, partnerships, corporations and other associations."

Chapter 108 Section 29

Section 29. Section 53-19-1 NMSA 1978 (being Laws 1993, Chapter 280, Section 1) is amended to read:

"53-19-1. SHORT TITLE.--Chapter 53, Article 19 NMSA 1978 may be cited as the "Limited Liability Company Act"."

Chapter 108 Section 30

Section 30. Section 53-19-2 NMSA 1978 (being Laws 1993, Chapter 280, Section 2) is amended to read:

"53-19-2. DEFINITIONS.--As used in the Limited Liability Company Act:

A. "articles of organization" means the original or restated articles filed pursuant to the Limited Liability Company Act and any amendments to those articles, including articles of merger or consolidation;

B. "corporation" means an organization incorporated under the laws of New Mexico or a foreign corporation;

C. "commission" means the public regulation commission or its designee;

D. "court" means a court having jurisdiction in the case;

E. "event of dissociation" means an event that causes a person to cease to be a member of a limited liability company;

F. "foreign corporation" means a corporation that is organized under the laws of another state or a foreign country;

G. "foreign limited liability company" means a person that is:

(1) an unincorporated association;

(2) organized under the laws of another state or foreign country;

(3) organized under a statute pursuant to which an association may be formed that affords to each of its members limited liability with respect to the liabilities of the person;
and

(4) is not required to be registered or organized under the laws of New Mexico other than the Limited Liability Company Act;

H. "foreign limited partnership" means a limited partnership formed under the laws of another state or a foreign country;

I. "limited liability company" or "domestic limited liability company" means an organization formed pursuant to the provisions of the Limited Liability Company Act;

J. "limited liability company interest" means a member's or assignee's right to receive distributions and a return of capital from the limited liability company. A member's or assignee's limited liability company interest does not include rights the member or assignee has on account of other matters, such as a right to receive accrued salary for services the member or assignee rendered to, repayment of a loan the member or assignee made to or indemnification by the limited liability company;

K. "limited partnership" means a limited partnership under the laws of New Mexico or a foreign limited partnership;

L. "manager" means, with respect to a limited liability company that has included a statement in its articles of organization that it is to be managed by a manager, the person designated as manager in accordance with the articles of organization or an operating agreement;

M. "member" means a person who has been admitted to membership in a limited liability company and who has not dissociated from that company;

N. "membership interest" or "interest" means a member's limited liability company interest and his rights to participate in management and control of the limited liability company;

O. "operating agreement" means a written agreement providing for the conduct of the business and affairs of a limited liability company and that agreement as amended in writing;

P. "person" means an individual, a general partnership, a limited partnership, a domestic or foreign limited liability company, a trust, an estate, an association, a corporation or any other legal entity; and

Q. "state" means a state, territory or possession of the United States, the District of Columbia or the commonwealth of Puerto Rico."

Chapter 108 Section 31

Section 31. Section 59A-1-4 NMSA 1978 (being Laws 1984, Chapter 127, Section 4) is amended to read:

"59A-1-4. COMMISSION.--"Corporation commission" or "commission" means the public regulation commission."

Chapter 108 Section 32

Section 32. Section 59A-1-7 NMSA 1978 (being Laws 1984, Chapter 127, Section 7) is amended to read:

"59A-1-7. INSURANCE DEPARTMENT.--"Insurance department", "insurance division" or "division" means the insurance division of the commission."

Chapter 108 Section 33

Section 33. Section 59A-1-12 NMSA 1978 (being Laws 1984, Chapter 127, Section 12) is amended to read:

"59A-1-12. SUPERINTENDENT.--"Superintendent" means the superintendent of insurance or the superintendent's duly authorized representative acting in official capacity."

Chapter 108 Section 34

Section 34. Section 59A-2-1 NMSA 1978 (being Laws 1984, Chapter 127, Section 19) is amended to read:

"59A-2-1. INSURANCE DIVISION CREATED.--

A. The insurance division is created within the commission.

B. All powers relating to state supervision of insurance, insurance rates and rate practices, together with collection of insurance licenses, taxes or fees, and all records pertaining to such supervision are under control of the commission through the division."

Chapter 108 Section 35

Section 35. Section 59A-2-2 NMSA 1978 (being Laws 1984, Chapter 127, Section 20) is amended to read:

"59A-2-2. SUPERINTENDENT--APPOINTMENT--REMOVAL.--The superintendent of insurance shall be chief officer of the insurance division. The superintendent shall be appointed and may be removed for cause at any time by the commission."

Chapter 108 Section 36

Section 36. Section 59A-2-4 NMSA 1978 (being Laws 1984, Chapter 127, Section 22, as amended) is amended to read:

"59A-2-4. STAFF.--With the chief of staff's approval, the superintendent may designate an employee of the insurance division as chief deputy superintendent who shall be acting superintendent when the office of superintendent is vacant or the superintendent is unable to perform the duties of that office because of mental or physical disability."

Chapter 108 Section 37

Section 37. Section 59A-4-1 NMSA 1978 (being Laws 1984, Chapter 127, Section 45) is amended to read:

"59A-4-1. SCOPE OF ARTICLE.--Except as otherwise expressly provided as to particular matters in the Insurance Code, the provisions of Chapter 59A, Article 4 NMSA 1978 as to investigations and hearings by the superintendent shall apply as to all persons and operations subject to licensing or supervision under the Insurance Code."

Chapter 108 Section 38

Section 38. Section 59A-52-1 NMSA 1978 (being Laws 1984, Chapter 127, Section 947) is amended to read:

"59A-52-1. STATE FIRE MARSHAL CREATED.--The position of "state fire marshal" is created as the bureau chief of the fire marshal bureau of the insurance division."

Chapter 108 Section 39

Section 39. Section 59A-52-2 NMSA 1978 (being Laws 1984, Chapter 127, Section 948) is amended to read:

"59A-52-2. STATE FIRE MARSHAL TO ADMINISTER ARTICLE.--The state fire marshal shall administer the provisions of Chapter 59A, Article 52 NMSA 1978."

Chapter 108 Section 40

Section 40. Section 59A-52-3 NMSA 1978 (being Laws 1984, Chapter 127, Section 949) is amended to read:

"59A-52-3. DEPUTY STATE FIRE MARSHAL AND OTHER EMPLOYEES--
QUALIFICATIONS OF DEPUTY.--The state fire marshal may, with the approval of the superintendent, appoint or remove a deputy state fire marshal and other employees to assist in the execution of the marshal's duties; provided, however, that the state fire marshal and any deputy state fire marshal appointed by the state fire marshal shall be

experienced in fire prevention and fire fighting and have completed a course of training by actual attendance at a fire-training school."

Chapter 108 Section 41

Section 41. Section 59A-52-21 NMSA 1978 (being Laws 1984, Chapter 127, Section 967) is amended to read:

"59A-52-21. ADMINISTRATIVE APPEAL OF ORDERS AND MODIFICATIONS.--Any person aggrieved by any order of the state fire marshal, his deputy or authorized officer or his designated agent may appeal to the commission within ten days from the date of the service of such order. The commission shall hear such party within twenty days after receipt of an appeal request and shall give not less than ten days' written notice of the hearing. Within fifteen days after such hearing, the commission shall file its decision and, unless by its authority the order is revoked or modified, it shall be complied with within the time fixed in the decision, with such time to be not less than thirty days."

Chapter 108 Section 42

Section 42. Section 59A-52-23 NMSA 1978 (being Laws 1984, Chapter 127, Section 969) is amended to read:

"59A-52-23. ENFORCEMENT OF CEASE AND DESIST ORDERS.--After expiration of time for an administrative appeal, and if no such appeal has been taken, the state fire marshal may commence an action in the district court for Santa Fe county to enforce the cease and desist order by injunction or other appropriate remedy as the district court may adjudge. The commission may likewise commence an action in the district court for Santa Fe county to enforce its decision rendered on appeal from the cease and desist order of the state fire marshal."

Chapter 108 Section 43

Section 43. Section 59A-53-6 NMSA 1978 (being Laws 1984, Chapter 127, Section 977, as amended) is amended to read:

"59A-53-6. APPEAL AND REVIEW OF DETERMINATION.--The marshal shall promptly notify each incorporated city, town, village and county fire district affected of his determination of needs, and an incorporated city, town, village or county fire district may appeal from the determination of the marshal to the commission, within ten days after the determination of needs. The commission shall review the determination of the marshal in such informal and summary proceedings as it deems proper and shall certify to the state treasurer annually, on or before the last day of June, the results of all appeals from the determinations of the marshal. The certification by the commission, or by the marshal if no appeal is taken, shall be final and binding on all concerned and not subject to any further review."

Chapter 108 Section 44

Section 44. Section 59A-53-7 NMSA 1978 (being Laws 1984, Chapter 127, Section 978, as amended) is amended to read:

"59A-53-7. DISTRIBUTION OF FIRE PROTECTION FUND.--

A. Annually on or before the last day of July, the state treasurer shall distribute from the money in the fire protection fund, to each incorporated municipality and to each county fire district, the amount the marshal or the commission, as the case may be, has certified to 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 the marshal or the commission, as the case may be, has certified to him pursuant to an ordinance or a resolution passed by the municipality or county and a written agreement of the municipality or county in which any county fire district is located and the New Mexico finance authority."

Chapter 108 Section 45

Section 45. Section 62-3-3 NMSA 1978 (being Laws 1967, Chapter 96, Section 3, as amended) is amended to read:

"62-3-3. DEFINITIONS.--Unless otherwise specified, when used in the Public Utility Act:

A. "affiliated interest" means a person who directly or indirectly, through one or more intermediaries, controls or is controlled by or is under common control with a public utility. Control includes instances where a person is an officer, director, partner, trustee or person of similar status or function or owns directly or indirectly or has a beneficial interest in ten percent or more of any class of securities of a person;

B. "commission" means the public regulation commission;

C. "commissioner" means a member of the commission;

D. "municipality" means a municipal corporation organized under the laws of the state, and H-class counties;

E. "person" means an individual, firm, partnership, company, rural electric cooperative organized under Laws 1937, Chapter 100 or the Rural Electric Cooperative Act, corporation or lessee, trustee or receiver appointed by any court. "Person" does not mean a class A county as described in Section 4-36-10 NMSA 1978 or a class B county

as described in Section 4-36-8 NMSA 1978. "Person" does not mean a municipality as defined in this section unless the municipality has elected to come within the terms of the Public Utility Act as provided in Section 62-6-5 NMSA 1978. In the absence of voluntary election by a municipality to come within the provisions of the Public Utility Act, the municipality shall be expressly excluded from the operation of that act and from the operation of all its provisions, and no such municipality shall for any purpose be considered a public utility;

F. "securities" means stock, stock certificates, bonds, notes, debentures, mortgages or deeds of trust or other evidences of indebtedness issued, executed or assumed by a utility;

G. "public utility" or "utility" means every person not engaged solely in interstate business and, except as stated in Sections 62-3-4 and 62-3-4.1 NMSA 1978, that may own, operate, lease or control:

(1) any plant, property or facility for the generation, transmission or distribution, sale or furnishing to or for the public of electricity for light, heat or power or other uses;

(2) any plant, property or facility for the manufacture, storage, distribution, sale or furnishing to or for the public of natural or manufactured gas or mixed or liquefied petroleum gas for light, heat or power or other uses; but the term "public utility" or "utility" shall not include any plant, property or facility used for or in connection with the business of the manufacture, storage, distribution, sale or furnishing of liquefied petroleum gas in enclosed containers or tank truck for use by others than consumers who receive their supply through any pipeline system operating under municipal authority or franchise and distributing to the public;

(3) any plant, property or facility for the supplying, storage, distribution or furnishing to or for the public of water for manufacturing, municipal, domestic or other uses; provided, however, nothing contained in this paragraph shall be construed to apply to irrigation systems, the chief or principal business of which is to supply water for the purpose of irrigation;

(4) any plant, property or facility for the production, transmission, conveyance, delivery or furnishing to or for the public of steam for heat or power or other uses; or

(5) any plant, property or facility for the supplying and furnishing to or for the public of sanitary sewers for transmission and disposal of sewage produced by manufacturing, municipal, domestic or other uses; provided that the terms "public utility" or "utility" as used in the Public Utility Act do not include any utility owned or operated by a class A county as described in Section 4-36-10 NMSA 1978 either directly or through a corporation owned by or under contract with such a county;

H. "rate" means every rate, tariff, charge or other compensation for utility service rendered or to be rendered by a utility and every rule, regulation, practice, act, requirement or privilege in any way relating to such rate, tariff, charge or other compensation and any schedule or tariff or part of a schedule or tariff thereof;

I. "service" or "service regulation" means every rule, regulation, practice, act or requirement relating to the service or facility of a utility;

J. "Class I transaction" means the sale, lease or provision of real property, water rights or other goods or services by an affiliated interest to a public utility with which it is affiliated or by a public utility to its affiliated interest;

K. "Class II transaction" means:

(1) the formation after May 19, 1982 of a corporate subsidiary by a public utility or a public utility holding company by a public utility or its affiliated interest;

(2) the direct acquisition of the voting securities or other direct ownership interests of a person by a public utility if such acquisition would make the

utility the owner of ten percent or more of the voting securities or other direct ownership interests of that person;

(3) the agreement by a public utility to purchase securities or other ownership interest of a person other than a nonprofit corporation, contribute additional equity to, acquire additional equity interest in or pay or guarantee any bonds, notes, debentures, deeds of trust or other evidence of indebtedness of any such person; provided, however, that a public utility may honor all agreements entered into by such utility prior to May 19, 1982; or

(4) the divestiture by a public utility of any affiliated interest that is a corporate subsidiary of the public utility;

L. "corporate subsidiary" means any person ten percent or more of whose voting securities or other ownership interests are directly owned by a public utility; and

M. "public utility holding company" means an affiliated interest that controls a public utility through the direct or indirect ownership of voting securities of that public utility."

Chapter 108 Section 46

Section 46. Section 62-3-4 NMSA 1978 (being Laws 1967, Chapter 96, Section 4, as amended) is amended to read:

"62-3-4. LIMITATIONS AND EXCEPTIONS.--

A. The term "public utility" or "utility", when used in the Public Utility Act, shall not include:

(1) any person not otherwise a public utility who furnishes the service or commodity only to himself, his employees or tenants, when such service or commodity is not resold to or used by others, or who engages in the retail distribution of natural gas for vehicular fuel; or

(2) a corporation engaged in the business of operating a railroad and that does not primarily engage in the business of selling the service or commodity but that only incidentally to its railroad business or occasionally furnishes the service or commodity to another under a separate limited or revocable agreement or sells to a utility or municipality for resale, or that sells the service or commodity to another railroad, the state or federal government or a governmental agency, or that sells or gives for a consideration under revocable agreements or permits quantities of water out of any surplus of water supply acquired and held by it primarily for railroad purposes; and such railroad corporation shall not be subject to any of the provisions of the Public Utility Act.

B. The business of any public utility other than of the character defined in Subsection G of Section 62-3-3 NMSA 1978 is not subject to provisions of the Public Utility Act."

Chapter 108 Section 47

Section 47. Section 62-4-1 NMSA 1978 (being Laws 1977, Chapter 191, Section 1, as amended) is amended to read:

"62-4-1. JOINT HEARINGS AND ORDERS.--The commission, in the discharge of its duties under the Public Utility Act, may make joint investigations, hold joint hearings within or without the state and issue joint or concurrent orders in conjunction or

concurrence with any official or agency of any state, the United States or any New Mexico Indian nation, tribe or pueblo. In the holding of such investigations or hearings or in the making of such order, the commission may function under agreements or compacts between states to regulate interstate commerce. The commission, in the discharge of its duties under the Public Utility Act, may also negotiate and enter into agreements or compacts with agencies of other states, pursuant to any consent of congress, for cooperative efforts in certificating the construction, operation and maintenance of major utility facilities in accord with the purposes of the Public Utility Act and for the enforcement of the respective state laws regarding same."

Chapter 108 Section 48

Section 48. Section 62-8-7 NMSA 1978 (being Laws 1991, Chapter 251, Section 1) is amended to read:

"62-8-7. CHANGE IN RATES.--

A. At any hearing involving an increase in rates or charges sought by a public utility, the burden of proof to show that the increased rate or charge is just and reasonable shall be upon the utility.

B. Unless the commission otherwise orders, no public utility shall make any change in any rate that has been duly established except after thirty days' notice to the commission, which notice shall plainly state the changes proposed to be made in the rates then in force and the time when the changed rates will go into effect and other information as the commission by rule requires. The utility shall also give notice of the proposed changes to other interested persons as the commission may direct. All proposed changes shall be shown by filing new schedules that shall be kept open to

public inspection. The commission for good cause shown may allow changes in rates without requiring the thirty days' notice, under conditions that it may prescribe.

C. Whenever there is filed with the commission by any public utility a complete application as prescribed by commission rule proposing new rates, the commission may, upon complaint or upon its own initiative, except as otherwise provided by law, upon reasonable notice, enter upon a hearing concerning the reasonableness of the proposed rates. If the commission determines a hearing is necessary, it shall suspend the operation of the proposed rates before they become effective but not for a longer initial period than nine months beyond the time when the rates would otherwise go into effect, unless the commission finds that a longer time will be required, in which case the commission may extend the period for an additional three months. The commission shall hear and decide cases with reasonable promptness. The commission shall adopt rules identifying criteria for various rate and tariff filings to be eligible for suspension periods shorter than what is allowed by this subsection and to be eligible for summary approval without hearing.

D. If after a hearing the commission finds the proposed rates to be unjust, unreasonable or in any way in violation of law, the commission shall determine the just and reasonable rates to be charged or applied by the utility for the service in question and shall fix the rates by order to be served upon the utility; or the commission by its order shall direct the utility to file new rates respecting such service that are designed to produce annual revenues no greater than those determined by the commission in its order to be just and reasonable. Those rates shall thereafter be observed until changed, as provided by the Public Utility Act.

E. Except as otherwise provided by law, any increase in rates or charges for the utility commodity based upon cost factors other than taxes or cost of fuel, gas or purchased

power, filed for after April 4, 1991 shall be permitted only after notice and hearing as provided by this section. The commission shall enact rules governing the use of tax, fuel, gas or purchased power adjustment clauses by utilities that enable the commission to consider periodically at least the following:

(1) whether the existence of a particular adjustment clause is consistent with the purposes of the Public Utility Act, including serving the goal of providing reasonable and proper service at fair, just and reasonable rates to all customer classes;

(2) the specific adjustment mechanism to recover tax, gas, fuel or purchased power costs;

(3) which costs should be included in an adjustment clause, procedures to avoid the inclusion of costs in an adjustment clause that should not be included and methods by which the propriety of costs that are included may be determined by the commission in a timely manner, including what informational filings are required to enable the commission to make such a determination; and

(4) the proper adjustment period to be employed.

F. The commission may eliminate or condition a particular adjustment clause if it finds such elimination or condition is consistent with the purposes of the Public Utility Act, including serving the goal of providing reasonable and proper service at fair, just and reasonable rates to all customer classes; provided, however, that no such elimination or condition shall be ordered unless such elimination or condition will not place the affected utility at a competitive disadvantage. The commission rules shall also provide for variances and may provide for separate examination of a utility's adjustment clause based upon that utility's particular operating characteristics.

G. Whenever there is filed with the commission a schedule proposing new rates by a rural electric cooperative organized under the Rural Electric Cooperative Act, the rates shall become effective as proposed by the rural electric cooperative without a hearing. However, the cooperative shall give written notice of the proposed rates to its affected patrons at least thirty days prior to the filing with the commission, and the commission shall suspend the rates and conduct a hearing concerning the reasonableness of any proposed rates filed by a rural electric cooperative pursuant to Subsections C and D of this section upon the filing with the commission of a protest setting forth grounds for review of the proposed rates signed by one or more members of the rural electric cooperative and if the commission determines there is just cause for reviewing the proposed rates on one or more of the grounds of the protest. The protest shall be filed no later than twenty days after the filing with the commission of the schedule proposing the new rates. The hearing and review shall be limited to the issues set forth in the protest and for which the commission may find just cause for the review, which issues shall be contained in the notice of hearing. The provisions of this subsection shall not be construed to affect commission authority or procedure to regulate the sale, furnishing or delivery by wholesale suppliers of electricity to rural electric cooperatives pursuant to Section 62-6-4 NMSA 1978. In addition to the adjustments permitted by Subsections E and F of this section, the commission may authorize rate schedules of rural electric cooperatives to recover, without notice and hearing, changes in the cost of debt capital incurred pursuant to securities the issuance of which are approved by the commission. For the purposes of this subsection, a member of a rural electric cooperative is a member as defined by the Rural Electric Cooperative Act."

Chapter 108 Section 49

Section 49. Section 62-15-1 NMSA 1978 (being Laws 1939, Chapter 47, Section 1) is amended to read:

"62-15-1. SHORT TITLE.--Chapter 62, Article 15 NMSA 1978 may be cited as the "Rural Electric Cooperative Act"."

Chapter 108 Section 50

Section 50. Section 63-7-1 NMSA 1978 (being Laws 1912, Chapter 78, Section 1, as amended) is amended to read:

"63-7-1. PUBLIC REGULATION COMMISSION--TERMS DEFINED--OFFICE--ORGANIZATION.--The terms "commission" and "clerk" or "chief clerk" where used in this article shall mean, respectively, the public regulation commission and the chief clerk of the commission. The office of the commission shall be located in the city of Santa Fe, New Mexico."

Chapter 108 Section 51

Section 51. Section 63-7-23 NMSA 1978 (being Laws 1995, Chapter 175, Section 1) is amended to read:

"63-7-23. TELECOMMUNICATIONS--ADMINISTRATIVE FINES.--

A. For purposes of this section:

(1) "commission" means the public regulation commission; and

(2) "telecommunications provider" means any telegraph company, telephone company, transmission company, telecommunications common carrier, telecommunications company, cellular service company or pay telephone provider regulated in whole or in part by the commission under law, including the Telephone and Telegraph Company Certification Act, the New Mexico Telecommunications Act, the Cellular Telephone Services Act and Sections 63-9E-1 and 63-9E-3 NMSA 1978.

B. The commission may impose an administrative fine on a telecommunications provider for any act or omission that the provider knew or should have known was a violation

of any applicable law or rule or order of the commission.

C. An administrative fine of not more than one thousand dollars (\$1,000) may be imposed for each violation or each of multiple violations arising out of the same facts, up to a maximum of twenty-five thousand dollars (\$25,000) or an administrative fine of not more than one thousand dollars (\$1,000) may be imposed for each day of a continuing violation arising out of the same facts, up to a maximum of twenty-five thousand dollars (\$25,000). Notwithstanding any other provision of this subsection, the commission may impose an administrative fine not to exceed twenty-five thousand dollars (\$25,000) for a single violation:

(1) that results in substantial harm to the customers of the telecommunications provider or substantial harm to the public interest; or

(2) for failure to obtain a certificate of public convenience and necessity required by law or for operation outside the scope of that certificate.

D. The commission shall initiate a proceeding to impose an administrative fine by giving written notice to the provider that the commission has facts as set forth in the notice that, if not rebutted, may lead to the imposition of an administrative fine under this section and that the telecommunications provider has an opportunity for a hearing. The commission may only impose an administrative fine by written order that, in the case of contested proceedings, shall be supported by a preponderance of the evidence.

E. The commission may initiate a proceeding to impose an administrative fine within two years from the date of the commission's discovery of the violation, but in no event shall a proceeding be initiated more than five years after the date of the violation. This limitation shall not run against any act or omission constituting a violation under this section for any period during which the telecommunications provider has fraudulently concealed the violation.

F. The commission shall consider mitigating and aggravating circumstances in determining the amount of administrative fine imposed.

G. For purposes of establishing a violation, the act or omission of any officer, agent or employee of a telecommunications provider, within the scope of such person's authority, duties or employment, shall be deemed the act or omission of the telecommunications provider.

H. Any telecommunications provider or other person aggrieved by an order assessing an administrative fine may appeal the order to the supreme court of New Mexico. A notice of appeal shall be filed within thirty days after the entry of the commission's order. Notice of appeal shall name the commission as appellee and shall identify the order from which the appeal is taken.

I. The commission shall promulgate procedural rules for the implementation of this section."

Chapter 108 Section 52

Section 52. A new section of Chapter 63, Article 7 NMSA 1978 is enacted to read:

"COMMISSION POWERS AND DUTIES--TRANSPORTATION AND TRANSMISSION COMPANIES AND COMMON CARRIERS--TELEPHONE AND TELEGRAPH COMPANIES.--

A. With respect to transportation and transmission companies and common carriers, the commission shall:

(1) fix, determine, supervise, regulate and control all charges and rates of railway, express, telegraph, telephone, sleeping car and other transportation and transmission companies and common carriers within the state;

(2) determine any matters of public convenience and necessity with respect to matters subject to its regulatory authority as provided by law;

(3) require railway companies and other common carriers to provide and maintain adequate equipment, depots, stockpens, station buildings, agents and facilities for the accommodation of shippers and passengers and for receiving and delivering freight and express and to provide and maintain necessary crossings, culverts, sidings and other facilities for convenience and safety whenever in the commission's judgment the public interest demands;

(4) require railway companies, transportation companies and common carriers to provide such reasonable safety appliances and use such reasonable safety practices as may be necessary and proper for the safety of employees and the public as required by federal or state laws and rules;

(5) change, amend and rescind rates;

(6) enforce its rules through administrative sanctions and in the courts; and

(7) carry out all other duties and have all other powers provided by law.

B. In fixing rates of telephone and telegraph companies, due consideration shall be given to the earnings, investments and expenditures as a whole within the state. The commission shall include in that consideration the earnings, investments and expenditures derived from or related to the sale of directory advertising and other directory listing services.

C. The commission may subpoena witnesses and documents, enforce its subpoenas through any court and, through the court, punish for contempt.

D. The commission has the power, after notice and hearing of record, to determine and decide any question and to issue orders relating to its powers and duties.

E. An interested party may appeal from a final order of the commission by filing a notice of appeal with the supreme court asking for review of the order within thirty days of the final order. The appellant shall pay to the commission any costs of preparing and transmitting the record to the court.

F. The pendency of an appeal shall not automatically stay the order appealed from. The appellant may seek to obtain a stay from the commission or the supreme court.

G. The appeal shall be on the record of the hearing before the commission and shall be governed by the appellate rules applicable to administrative appeals. The supreme court shall affirm the commission's order unless it is:

(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.

H. In the case of a failure or refusal of any person to comply with an order of the commission within the time prescribed in the order or within thirty days after the order is entered, whichever is later, unless a stay has been granted, the commission shall seek enforcement of the order in the district court. The enforcement hearing shall be held on an expedited basis. At the hearing, the sole question shall be whether the person has failed to comply with or violated the order."

Chapter 108 Section 53

Section 53. Section 63-9-1 NMSA 1978 (being Laws 1965, Chapter 292, Section 1) is amended to read:

"63-9-1. SHORT TITLE.--Chapter 63, Article 9 NMSA 1978 may be cited as the "Telephone and Telegraph Company Certification Act"."

Chapter 108 Section 54

Section 54. Section 63-9-2 NMSA 1978 (being Laws 1965, Chapter 292, Section 2, as amended) is amended to read:

"63-9-2. DEFINITIONS.--As used in the Telephone and Telegraph Company Certification Act:

A. "commission" means the public regulation commission;

B. "telephone company" means a company, corporation, partnership, individual or others, not engaged solely in interstate business, furnishing mobile telephone service or radio paging;

C. "public utility telephone service" means making and offering mobile telephone or radio paging service to or for the public generally and being ready, willing and able to furnish such service with adequate equipment; and

D. "certificated area" means the geographical area that a telephone company is authorized to serve by a certificate of public convenience and necessity and that is defined on the map as part of the certificate."

Chapter 108 Section 55

Section 55. Section 63-9-4 NMSA 1978 (being Laws 1965, Chapter 292, Section 4) is amended to read:

"63-9-4. CERTIFICATE FOR OPERATIONS.--A telephone company furnishing public telephone or telegraph service, including any telephone cooperative operating in the state, shall file with the commission an application for a certificate of public convenience and necessity. The commission shall grant a certificate only to the extent of territory served and shall define such area on a map. Operations for which no application has been made are unlawful."

Chapter 108 Section 56

Section 56. Section 63-9-9 NMSA 1978 (being Laws 1965, Chapter 292, Section 9) is amended to read:

"63-9-9. NONDUPLICATION IN CERTIFICATED AREAS.--

A. It is unlawful to construct, own, operate, manage, lease or control any plant or equipment for the furnishing of telephone or telegraph service in any certificated area granted to another telephone company unless public convenience and necessity require the second plant or equipment.

B. Any person, corporation, municipal corporation, partnership or association proposing to construct or operate the second plant or equipment shall first file an application with the commission, to which application the authority proposing to authorize the construction of the second plant or equipment and the owner, manager or operator of the plant or equipment then in operation shall be made parties. The applications shall set up the reasons why public convenience and necessity require the second plant or equipment. In determining whether the public convenience and necessity require the second plant or equipment, the commission shall consider and determine upon substantial evidence whether the following conditions existed at the time of the filing of the application:

- (1) the existing telephone or telegraph service is inadequate to meet the reasonable needs and convenience of the public;
- (2) the proposed second plant or equipment would eliminate such inadequacy;
- (3) it is economically feasible to operate the proposed second plant or equipment successfully and continuously for the furnishing of telephone or telegraph service;
- (4) the applicant for the second plant or equipment has sufficient financial resources to provide the proposed telephone or telegraph service properly and continuously;
- (5) the applicant for the second plant or equipment has competent and experienced management and personnel to provide the proposed telephone or telegraph service;
- (6) the applicant for the second plant or equipment is willing and able to conform to the constitution and law of New Mexico and the rules of the commission; and
- (7) the applicant for the second plant or equipment is in every respect willing and able to provide the proposed telephone or telegraph service properly.

C. If the commission finds upon substantial evidence that each of the conditions enumerated in Subsection B of this section existed at the time of filing the application and after determining that the public convenience and necessity require that an additional plant or equipment is necessary, the commission shall issue an order in the alternative directing the owner, manager or operator of the plant or equipment then in operation to make such changes and additions in plant as may be reasonably necessary to meet the public convenience and necessity within not less than ninety days or such other additional time as the commission finds from the testimony would be reasonably required to expeditiously make the changes and additions specified and required by the commission. The order shall specifically direct what changes or additions in plant shall be made or what services shall be provided. If such changes or additions are not made within the time ordered by the commission or such additional time as may be ordered, then a certificate of public convenience and necessity for the second plant or equipment may issue."

Chapter 108 Section 57

Section 57. Section 63-9-16 NMSA 1978 (being Laws 1965, Chapter 292, Section 16) is repealed and a new Section 63-9-16 NMSA 1978 is enacted to read:

"63-9-16. APPEAL TO SUPREME COURT.--

A. A telephone company or other party in interest being aggrieved by a final order or determination of the commission pursuant to Sections 63-9-1 through 63-9-19 NMSA 1978 may appeal to the supreme court within thirty days.

B. The appeal shall be on the record of the hearing before the commission and shall be governed by the appellate rules applicable to administrative appeals. The supreme court shall affirm the commission's order unless it is:

- (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."

Chapter 108 Section 58

Section 58. Section 63-9-19 NMSA 1978 (being Laws 1965, Chapter 292, Section 19) is amended to read:

"63-9-19. INJUNCTIONS--CONTEMPT.--The commission may apply to the district court for injunctions to prevent violations of any provision of the Telephone and Telegraph Company Certification Act or of any rule or order of the commission in connection with the issuance or nonissuance of certificates of public convenience and necessity pursuant to that act, and the court has the power to grant injunctions and to enforce injunctions by contempt procedure."

Chapter 108 Section 59

Section 59. Section 63-9A-1 NMSA 1978 (being Laws 1985, Chapter 242, Section 1) is amended to read:

"63-9A-1. SHORT TITLE.--Chapter 63, Article 9A NMSA 1978 may be cited as the "New Mexico Telecommunications Act"."

Chapter 108 Section 60

Section 60. Section 63-9A-3 NMSA 1978 (being Laws 1985, Chapter 242, Section 3, as amended) is amended to read:

"63-9A-3. DEFINITIONS.--As used in the New Mexico Telecommunications Act:

A. "affordable rates" means local exchange service rates that promote universal service within a local exchange service area, giving consideration to the economic conditions and costs to provide service in such area;

B. "cable television service" means the one-way transmission to subscribers of video programming or other programming service and subscriber interaction, if any, that is required for the selection of such video programming or other programming service;

C. "commission" means the public regulation commission;

D. "competitive telecommunications service" means a service that has been determined to be subject to effective competition pursuant to Section 63-9A-8 NMSA 1978;

E. "effective competition" means that the customers of the service have reasonably available and comparable alternatives to the service;

F. "fund" means the New Mexico universal service fund;

G. "local exchange area" means a geographic area encompassing one or more local communities, as described in maps, tariffs or rate schedules filed with the commission, where local exchange rates apply;

H. "local exchange service" means the transmission of two-way interactive switched voice communications furnished by a telecommunications company within a local exchange area;

I. "message telecommunications service" means telecommunications service between local exchange areas within the state for which charges are made on a per-unit basis, not including wide-area telecommunications service, or its equivalent, or individually negotiated contracts for telecommunications services;

J. "noncompetitive telecommunications service" means a service that has not been determined to be subject to effective competition pursuant to Section 63-9A-8 NMSA 1978;

K. "private telecommunications service" means a system, including the construction, maintenance or operation thereof, for the provision of telecommunications service, or any portion of that service, by a person for the sole and exclusive use of that person and not for resale, directly or indirectly. For purposes of this definition, the person that may use such service includes any affiliates of the person if at least eighty percent of the assets or voting stock of the affiliates is owned by the person. If any other person uses the telecommunications service, whether for hire or not, the private telecommunications service is a public telecommunications service;

L. "public telecommunications service" means the transmission of signs, signals, writings, images, sounds, messages, data or other information of any nature by wire, radio, lightwaves or other electromagnetic means originating and terminating in this state regardless of actual call routing. "Public telecommunications service" does not include the provision of terminal equipment used to originate or terminate such service; private telecommunications service; broadcast transmissions by radio, television and satellite broadcast stations regulated by the federal communications commission; radio common carrier services, including mobile telephone service and radio paging; or one-way cable television service; and

M. "telecommunications company" means a person that provides public telecommunications service."

Chapter 108 Section 61

Section 61. A new section of the New Mexico Telecommunications Act is enacted to read:

"CHANGE IN RATES.--

A. At a hearing involving an increase in rates or charges sought by a telecommunications company, the burden of proof to show that the increased rate or charge is just and reasonable shall be upon the company.

B. Unless the commission otherwise orders, no telecommunications company shall make a change in an established rate except after thirty days' notice to the commission, which notice shall plainly state the changes proposed to be made in the rates then in force, the time when the changed rates will go into effect and other information as the commission by rule requires. The telecommunications company shall also give notice of the proposed changes to other interested persons as the commission may direct. All proposed changes shall be shown by filing new schedules that shall be kept open to public inspection. The commission for good cause shown may allow changes in rates without requiring the thirty days' notice, under conditions that it may prescribe.

C. Whenever a telecommunications company files a complete application proposing new rates, the commission may, upon complaint or upon its own initiative, except as otherwise provided by law, upon reasonable notice, enter upon a hearing concerning the reasonableness of the proposed rates. If the commission determines a hearing is necessary, it shall suspend the operation of the proposed rates before they become effective but not for a longer initial period than nine months beyond the time when the rates would otherwise go into effect, unless the commission finds that a longer time will be required, in which case the commission may extend the period for an additional three months. The commission shall hear and decide cases with reasonable promptness. The

commission shall adopt rules identifying criteria for various rate and tariff filings to be eligible for suspension periods shorter than what is allowed by this subsection and to be eligible for summary approval without hearing.

D. If after a hearing the commission finds the proposed rates to be unjust, unreasonable or in any way in violation of law, the commission shall determine the just and reasonable rates to be charged or applied by the telecommunications company for the service in question and shall fix the rates by order to be served upon the telecommunications company; or the commission by its order shall direct the telecommunications company to file new rates respecting such service that are just and reasonable. Those rates shall thereafter be observed until changed as provided by the New Mexico Telecommunications Act."

Chapter 108 Section 62

Section 62. Section 63-9A-14 NMSA 1978 (being Laws 1985, Chapter 242, Section 14) is amended to read:

"63-9A-14. APPEAL OF ORDERS OF THE COMMISSION.--Any provider of telecommunications services and any other person in interest being aggrieved by a final order or determination of the commission under the New Mexico Telecommunications Act may file a notice of appeal in the supreme court asking for a review of the commission's final orders. A notice of appeal shall be filed within thirty days after the entry of the commission's final order. Every notice of appeal shall name the commission as appellee and shall identify the order from which the appeal is taken. Any person whose rights may be directly affected by the appeal may appear and become a party, or the supreme court may upon proper notice order any person to be joined as a party."

Chapter 108 Section 63

Section 63. Section 63-9A-16 NMSA 1978 (being Laws 1985, Chapter 242, Section 16) is amended to read:

"63-9A-16. APPEAL ON THE RECORD.--

A. The appeal shall be on the record made before the commission and shall be governed by the appellate rules applicable to administrative appeals.

B. The supreme court shall affirm the commission's order unless it is:

(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."

Chapter 108 Section 64

Section 64. Section 63-9A-20 NMSA 1978 (being Laws 1985, Chapter 242, Section 20) is amended to read:

"63-9A-20. INJUNCTIONS--CONTEMPT.--The commission may apply to the district court for injunctions to prevent violations of any provision of the New Mexico Telecommunications Act or of any rule or order of the commission issued pursuant to that act, and the court has the power to grant such injunctions and to enforce such injunctions by contempt procedure."

Chapter 108 Section 65

Section 65. Section 63-9B-1 NMSA 1978 (being Laws 1987, Chapter 296, Section 1) is amended to read:

"63-9B-1. SHORT TITLE.--Chapter 63, Article 9B NMSA 1978 may be cited as the "Cellular Telephone Services Act"."

Chapter 108 Section 66

Section 66. Section 63-9B-3 NMSA 1978 (being Laws 1987, Chapter 296, Section 3) is amended to read:

"63-9B-3. DEFINITIONS.--As used in the Cellular Telephone Services Act:

A. "commission" means the public regulation commission;

B. "cellular service company" means a cellular telephone company that uses cellular telephone equipment and is a radio common carrier or telephone or telecommunications company licensed by the federal communications commission. A cellular service company operates a cellular system that is a high capacity land mobile system in which assigned spectrum is divided into discrete channels that are assigned in groups to geographic cells covering a cellular geographic area, as defined by the federal communications commission. "Cellular service company" does not include noncellular radio common carrier service, including noncellular mobile telephone service, radio-paging service or one-way cable television service; and

C. "certificated area" means the geographical area that a cellular service company is authorized to serve by a certificate of public convenience and necessity and that is defined on the map as part of the certificate issued under such law authorizing the issuance of a certificate of public convenience and necessity for such purpose."

Chapter 108 Section 67

Section 67. Section 63-9B-8 NMSA 1978 (being Laws 1987, Chapter 296, Section 8) is amended to read:

"63-9B-8. APPEAL OF ORDERS OF THE COMMISSION.--A cellular service company or other person in interest being aggrieved by an order or determination of the commission under the Cellular Telephone Services Act may file a notice of appeal in the supreme court asking for a review of the commission's final orders. A notice of appeal shall be filed within thirty days after the entry of the commission's final order. Every notice of appeal shall name the commission as appellee and shall identify the order from which the appeal is taken. Any person whose rights may be directly affected by the appeal may appear and become a party, or the supreme court may upon proper notice order any person to be joined as a party."

Chapter 108 Section 68

Section 68. Section 63-9B-10 NMSA 1978 (being Laws 1987, Chapter 296, Section 10) is amended to read:

"63-9B-10. APPEAL ON THE RECORD.--

A. The appeal shall be on the record made before the commission and shall be governed by the appellate rules applicable to administrative appeals.

B. The supreme court shall affirm the commission's order unless it is:

(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."

Chapter 108 Section 69

Section 69. Section 63-9B-14 NMSA 1978 (being Laws 1987, Chapter 296, Section 14) is amended to read:

"63-9B-14. INJUNCTIONS--CONTEMPT.--The commission may apply to the district court for injunctions to prevent violations of any provision of the Cellular Telephone Services Act or of any rule or order of the commission issued pursuant to that act, and the court has the power to grant injunctions and to enforce injunctions by contempt procedure."

Chapter 108 Section 70

Section 70. Section 63-9C-1 NMSA 1978 (being Laws 1987, Chapter 197, Section 1) is amended to read:

"63-9C-1. SHORT TITLE.--Chapter 63, Article 9C NMSA 1978 may be cited as the "Low Income Telephone Service Assistance Act"."

Chapter 108 Section 71

Section 71. Section 63-9C-3 NMSA 1978 (being Laws 1987, Chapter 197, Section 3) is amended to read:

"63-9C-3. DEFINITIONS.--As used in the Low Income Telephone Service Assistance Act:

A. "commission" means the public regulation commission;

B. "department" means the human services department; and

C. "local exchange company" means a person not engaged solely in interstate business that provides services or facilities for the transmission of two-way interactive switched voice communications over a telephone line within a local exchange area for single-line customers."

Chapter 108 Section 72

Section 72. Section 63-9D-1 NMSA 1978 (being Laws 1989, Chapter 25, Section 1, as amended) is amended to read:

"63-9D-1. SHORT TITLE.--Sections 63-9D-1 through 63-9D-11.1 NMSA 1978 may be cited as the "Enhanced 911 Act"."

Chapter 108 Section 73

Section 73. Section 63-9D-3 NMSA 1978 (being Laws 1989, Chapter 25, Section 3, as amended) is amended to read:

"63-9D-3. DEFINITIONS.--As used in the Enhanced 911 Act:

- A. "911 emergency surcharge" means the monthly uniform charge assessed on each local exchange service customer in the state for each local exchange access line to pay for the purchase, lease, installation and maintenance of equipment necessary for the establishment of a 911 system, including the repayment of bonds issued pursuant to the Enhanced 911 Bond Act;
- B. "911 service area" means the area within a local governing body's jurisdiction that has been designated by the local governing body or the division to receive enhanced 911 service;
- C. "911 system" means the basic 911 system or the enhanced 911 system;
- D. "basic 911 system" means a telephone service that automatically connects a person dialing the single three-digit number 911 to an established public safety answering point through normal telephone service facilities;

E. "commission" means the public regulation commission;

F. "department" means the taxation and revenue department;

G. "division" means the local government division of the department of finance and administration;

H. "enhanced 911 system" means a telephone system consisting of network, database and on-premises equipment that uses the single three-digit number 911 for reporting police, fire, medical or other emergency situations, thereby enabling the users of a public telephone system to reach a public safety answering point to report emergencies by dialing 911, and includes the capability to:

(1) selectively route incoming 911 calls to the appropriate public safety answering point operating in a 911 service area; and

(2) automatically display the name, address and telephone number of an incoming 911 call on a video monitor at the appropriate public safety answering point;

I. "enhanced 911 equipment" means the customer premises equipment directly related to the operation of an enhanced 911 system, including automatic number identification or automatic location identification controllers and display units, printers, cathode ray tubes and software associated with call detail recording;

J. "equipment supplier" means a person who provides or offers to provide telecommunications equipment necessary for the establishment of enhanced 911 services;

K. "local 911 surcharge" means the additional charge imposed by a local governing body of a community served by a local exchange telephone company that has not

otherwise provided for enhanced 911 capability in its network in order to provide funding for the local governing body to pay for development of the network and database;

L. "local exchange access line" means a telephone line that connects a local exchange service customer to the local switching office and has the capability of reaching local public safety service agencies, but does not include any line used by a carrier for the provision of interexchange services;

M. "local exchange area" means a geographic area encompassing one or more local communities, as described in maps, tariffs or rate schedules filed with the commission, where local exchange rates apply;

N. "local exchange service" means the transmission of two-way interactive switched voice communications furnished by a local exchange telephone company within a local exchange area, including access to enhanced 911 systems;

O. "local exchange telephone company" means a telecommunications company, as defined by Subsection M of Section 63-9A-3 NMSA 1978, certified to provide local exchange service;

P. "local governing body" means the board of county commissioners of a county or the governing body of a municipality as defined in the Municipal Code;

Q. "network" means a system designed to provide one or more access paths for communications between users at different geographic locations; provided that a system may be designed for voice, data or both and may feature limited or open access and may employ appropriate analog, digital switching or transmission technologies;

R. "network and database surcharge" means the monthly uniform charge assessed on each local exchange service customer in the state for each local exchange access line

to pay for the costs of developing and maintaining a network and database for a 911 emergency system; and

S. "public safety answering point" means a twenty-four-hour local jurisdiction communications facility that receives 911 service calls and directly dispatches emergency response services or that relays calls to the appropriate public or private safety agency."

Chapter 108 Section 74

Section 74. Section 65-2-82 NMSA 1978 (being Laws 1981, Chapter 358, Section 3, as amended by Laws 1989, Chapter 250, Section 1 and also by Laws 1989, Chapter 375, Section 1) is amended to read:

"65-2-82. DEFINITIONS.--As used in the Motor Carrier Act:

A. "antitrust laws" means the laws of this state relating to combinations in restraint of trade;

B. "broker" means a person not included in the term "motor carrier" and not a bona fide employee or agent of any motor carrier who, as principal or agent, sells or offers for sale any transportation subject to the Motor Carrier Act or negotiates for or holds himself out by solicitation, advertisement or otherwise as one who sells, provides, furnishes, contracts or arranges for that transportation;

C. "certificate" means a certificate of public convenience and necessity issued under authority of the laws of the state to common motor carriers;

D. "clerk" or "chief clerk" means the chief clerk of the public regulation commission;

E. "commission" means the public regulation commission;

F. "common motor carrier" means a person who undertakes, whether directly or indirectly or by lease of equipment or operating rights or any other arrangement, to transport persons or property or any class of property for the general public by motor vehicle for compensation, whether over regular or irregular routes and under scheduled or nonscheduled service, but does not include farm carriers;

G. "contract motor carrier" means a person not a common motor carrier who, under individual contracts or agreements and whether directly or indirectly or by lease of equipment or operating rights or any other arrangements, transports persons or property by motor vehicle for compensation, but does not include farm carriers;

H. "farm carrier" means a motor vehicle registered in this state being used in the transportation for hire of a cargo consisting of one or several of the following: farm produce, including grains, cotton, cottonseed, vegetables, hay and other farm products; livestock feed; livestock; stock salt; manure; wire; posts; dairy products; and farm or ranch machinery except tractors weighing more than forty-five thousand pounds;

I. "highway" means the public roads, highways, streets and ways in this state;

J. "household goods" means:

(1) personal effects and property used or to be used in a dwelling when a part of the equipment or supply of the dwelling and other similar property as the commission may provide by rule; except that this paragraph shall not be construed to include property moving from a factory or store, except property as the householder has purchased with intent to use in his dwelling and that is transported at the request of, and the transportation charges paid to the carrier by, the householder;

(2) furniture, fixtures, equipment and the property of stores, offices, museums, institutions, hospitals or other establishments when a part of the stock, equipment or supply of stores, offices, museums, institutions, hospitals or other establishments and other similar property as the commission may provide by rule; except that this paragraph shall not be construed to include the stock-in-trade of any establishment, whether consignor or consignee, other than used furniture and used fixtures, except when transported as incidental to the moving of the establishment, or a portion of it, from one location to another; and

(3) articles, including objects of art, displays and exhibits, that, because of their unusual nature or value require the specialized handling and equipment usually employed in moving household goods and other similar articles as the commission may provide by rule; except that this paragraph shall not be construed to include any article, whether crated or uncrated, that does not, because of its unusual nature or value, require the specialized handling and equipment usually employed in moving household goods;

K. "interested parties" shall in all cases include all carriers operating over the routes or any part thereof or in the territory involved in an application for a certificate or permit or an application to file or change a schedule of rates, charges or fares or a rule or practice, and other parties as the commission may deem interested in the particular matter;

L. "irregular route" means that the route to be used by a motor carrier is not restricted to any specific highway within the area the motor carrier is authorized to serve;

M. "lease" means an arrangement whereby a motor carrier augments his equipment by use of equipment owned by others;

N. "license" means a license issued pursuant to the Motor Carrier Act to a broker;

O. "motor carrier" includes common motor carriers, contract motor carriers and any person performing for-hire transportation service without authority from the commission and farm carriers;

P. "motor vehicle" means a vehicle, machine, tractor, trailer or semi-trailer propelled or drawn by mechanical power and used upon the highways in the transportation of property or persons, but does not include any vehicle, locomotive or car operated exclusively on rail or rails;

Q. "permit" means a permit issued under authority of the laws of this state to contract motor carriers;

R. "person" means an individual, firm, partnership, corporation, company, association or organization and includes any trustee, receiver, assignee or personal representative thereof;

S. "regular route" means a fixed, specific and determined course to be traveled by a motor carrier's vehicles rendering service to, from or between various points, localities or municipalities in this state;

T. the "services" and "transportation" to which the Motor Carrier Act applies include all vehicles operated by, for or in the interest of any motor carrier irrespective of ownership or of contract, express or implied, together with all facilities and property controlled by any motor carrier and used in the transportation of persons or property or in the performance of any service in connection therewith;

U. "shipper" means a person who consigns or receives goods for transportation;

V. "single-line rate" means a rate, charge or allowance proposed by a single common motor carrier of property that is applicable only over its line and for which the transportation can be provided by that common motor carrier;

W. "state" means New Mexico;

X. "towing company" means a common motor carrier engaged in transporting for hire disabled or abandoned motor vehicles by means of a tow truck or flatbed vehicle carrier; and

Y. "weight-bumping" means the knowing and willful making or securing of a fraudulent weight on a shipment of household goods that is subject to the jurisdiction of the commission under the Motor Carrier Act."

Chapter 108 Section 75

Section 75. Section 65-2-120 NMSA 1978 (being Laws 1981, Chapter 358, Section 41, as amended) is repealed and a new Section 65-2-120 NMSA 1978 is enacted to read:

"65-2-120. APPEAL TO SUPREME COURT.--

A. A motor carrier or other party in interest being aggrieved by a final order or determination of the commission pursuant to Chapter 65, Article 2 NMSA 1978 may appeal to the supreme court within thirty days.

B. The appeal shall be on the record of the hearing before the commission and shall be governed by the appellate rules applicable to administrative appeals. The supreme court shall affirm the commission's order unless it is:

(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."

Chapter 108 Section 76

Section 76. Section 65-4-4 NMSA 1978 (being Laws 1933, Chapter 120, Section 4) is amended to read:

"65-4-4. ADMINISTRATION OF ACT.--The commission shall administer Sections 65-4-1 through 65-4-18 NMSA 1978 with full power to regulate and control the issuance and revocation of licenses to be issued under the provisions of those sections and to perform all other acts and duties provided in those sections necessary for their enforcement."

Chapter 108 Section 77

Section 77. Section 65-4-18 NMSA 1978 (being Laws 1933, Chapter 120, Section 19) is amended to read:

"65-4-18. COMMISSION DEFINED.--The term "commission", when used in Sections 65-4-1 through 65-4-18 NMSA 1978, means the public regulation commission."

Chapter 108 Section 78

Section 78. Section 65-6-2 NMSA 1978 (being Laws 1974, Chapter 82, Section 2, as amended) is amended to read:

"65-6-2. DEFINITIONS.--As used in the Ambulance Standards Act:

A. "ambulance" means a vehicle, including motor vehicles or watercraft, designed and used or intended to be used for the transportation of sick or injured persons;

B. "driver" means a person who, on a regular or irregular basis, either paid or voluntary, serves as the operator of an ambulance;

C. "attendant" means a person who, on a regular or irregular basis, either paid or voluntary, serves as an assistant to the driver in the operation of the ambulance; and

D. "commission" means the public regulation commission."

Chapter 108 Section 79

Section 79. Section 70-3-12 NMSA 1978 (being Laws 1969, Chapter 71, Section 2, as amended) is amended to read:

"70-3-12. DEFINITIONS.--As used in the Pipeline Safety Act:

A. "person" means an individual, firm, joint venture, partnership, corporation, association, state, municipality, political subdivision, cooperative association, joint stock association or any combination thereof and includes any receiver, trustee, assignee or personal representative thereof;

B. "commission" means the public regulation commission;

C. "gas" means natural gas, flammable gas or gas that is toxic or corrosive;

D. "oil" means crude oil and liquid hydrocarbons and manufactured products derived from either;

E. "transportation of gas" means the gathering, transmission or distribution of gas by pipeline or its storage, except that it shall not include the gathering of gas in those rural locations that lie outside the limits of any municipality or unincorporated city, town or village or any residential or commercial area such as a subdivision, a business or

shopping center, a community development or any similar populated area that the commission may define by order as a nonrural area;

F. "transportation of oil" means the transmission of oil by pipeline, except pipelines operated exclusively for the gathering of oil in any field or area or pipelines constituting a part of any tank farm, plant facilities of any processing plant, gasoline plant, refinery, carbon-black plant, recycling system or similar operations;

G. "gas pipeline facilities" means new and existing pipeline rights of way and any equipment, facility or structure used in the transportation of gas or the treatment of gas during the course of transportation;

H. "oil pipeline facilities" means new and existing pipeline rights of way and any equipment, facility or structure used in the transportation of oil; and

I. "intrastate pipeline facilities" means oil pipeline facilities or gas pipeline facilities within the state that are not gas pipeline facilities subject to the jurisdiction of the federal energy regulatory commission pursuant to the federal Natural Gas Act or oil pipeline facilities used in the transportation of oil in interstate or foreign commerce, except that it shall include pipeline facilities within the state that transport gas from an interstate gas pipeline to a direct sales customer within the state purchasing gas for its own consumption."

Chapter 108 Section 80

Section 80. TEMPORARY PROVISION--TRANSFERS.--

A. Except as otherwise provided in this section, on January 1, 1999, all personnel and all money, appropriations, records, furniture, equipment, supplies and other property belonging to the state corporation commission, the insurance board, the fire board and

the New Mexico public utility commission are transferred to the public regulation commission. On January 1, 1999, all personnel and all money, appropriations, records, furniture, equipment, supplies and other property belonging to the attorney general for the provision of legal services to the state corporation commission are transferred to the public regulation commission.

B. Except as otherwise provided in this section, on January 1, 1999, all existing contracts, agreements and other obligations in effect for the state corporation commission, the insurance board, the fire board or the New Mexico public utility commission shall be binding on the public regulation commission.

C. Except as otherwise provided in this section, on January 1, 1999, all pending cases, legal actions, appeals and other legal proceedings of every description and all pending administrative proceedings that involve the state corporation commission, the insurance board, the fire board or the New Mexico public utility commission shall be unaffected and shall continue in the name of the public regulation commission.

D. All rules, tariffs, orders and other official acts of the state corporation commission, the insurance board, the fire board or the New Mexico public utility commission shall continue in effect until amended, replaced or repealed by the public regulation commission; provided, however, that the public regulation commission shall review all rules of the state corporation commission and the New Mexico public utility commission by July 1, 2003.

E. All references in law, rules, tariffs, orders and other official acts to the state corporation commission, the insurance board, the fire board or the New Mexico public utility commission shall be construed to be references to the public regulation commission.

Chapter 108 Section 81

Section 81. REPEAL.--Sections 53-1-2 through 53-1-6, 53-3-34, 59A-1-6, 59A-2-5 and 59A-2-6, 59A-3-1 through 59A-3-9, 62-5-1 through 62-5-11, 62-6-1 through 62-6-3, 62-10-7, 62-10-15, 62-15-29, 63-2-11, 63-2-17, 63-3-3 through 63-3-5, 63-3-9 through 63-3-22, 63-3-24, 63-3-29 through 63-3-32, 63-4-1 through 63-4-8, 63-6-1 through 63-6-7, 63-7-2 through 63-7-9, 63-7-11 through 63-7-19, 63-8-1 through 63-8-7, 63-9-12 through 63-9-14, 63-9-17, 63-9A-13, 63-9A-15, 63-9A-17 and 63-9A-18, 63-9B-7, 63-9B-11, 63-9B-12, 65-2-118 and 65-2-119 NMSA 1978 (being Laws 1913, Chapter 68, Sections 2 and 3, Laws 1912, Chapter 83, Section 18, Laws 1913, Chapter 83, Section 11, Laws 1951, Chapter 93, Section 1, Laws 1979, Chapter 390, Section 11, Laws 1984, Chapter 127, Sections 6, 23, 24, 35, 36 and 38 through 44, Laws 1941, Chapter 84, Section 3, Laws 1977, Chapter 255, Section 121, Laws 1941, Chapter 84, Sections 4 through 8, 10 through 16, 56 and 64, Laws 1939, Chapter 47, Section 29, Laws 1878, Chapter 1, Section 8-23, Laws 1882, Chapter 59, Section 1, Laws 1947, Chapter 49, Sections 1 and 2, Laws 1878, Chapter 1, Section 8-14, Laws 1882, Chapter 60, Sections 1 and 2, Laws 1878, Chapter 1, Sections 9-3 and 8-18, Laws 1882, Chapter 59, Sections 2 through 7 and 9, Laws 1878, Chapter 1, Section 8-12, Laws 1912, Chapter 62, Sections 1 and 2, Laws 1878, Chapter 1, Section 8-13, Laws 1915, Chapter 37, Sections 1 through 4, Laws 1921, Chapter 200, Sections 1 through 8, Laws 1878, Chapter 1, Sections 9-4 through 9-10, Laws 1912, Chapter 78, Sections 2 through 5, Laws 1925, Chapter 19, Section 1, Laws 1912, Chapter 78, Sections 6 through 8 and 10 through 18, Laws 1955, Chapter 43, Sections 1 through 7, Laws 1965, Chapter 292, Sections 12 through 14 and 17, Laws 1985, Chapter 242, Sections 13, 15, 17 and 18, Laws 1987, Chapter 296, Sections 7, 11 and 12 and Laws 1981, Chapter 358, Sections 39 and 40, as amended) are repealed.

Chapter 108 Section 82

Section 82. DELAYED REPEAL.--The following are repealed effective July 1, 2003:

A. the Public Utility Act;

B. Chapter 63, Article 7 NMSA 1978;

C. the Telephone and Telegraph Company Certification Act;

D. the New Mexico Telecommunications Act; and

E. the Cellular Telephone Services Act.

Chapter 108 Section 83

Section 83. EFFECTIVE DATE.--The effective date of the provisions of Sections 1 through 18 and 20 through 81 of this act is January 1, 1999.

HOUSE BILL 74, AS AMENDED

CHAPTER 109

RELATING TO WINEGROWERS; CONSOLIDATING LICENSES; AMENDING,
REPEALING AND ENACTING SECTIONS OF THE LIQUOR CONTROL ACT.

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

Chapter 109 Section 1

Section 1. Section 60-3A-3 NMSA 1978 (being Laws 1981, Chapter 39, Section 3, as amended) is amended to read:

"60-3A-3. DEFINITIONS.--As used in the Liquor Control Act:

A. "alcoholic beverages" means distilled or rectified spirits, potable alcohol, brandy, whiskey, rum, gin and aromatic bitters bearing the federal internal revenue strip stamps 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;

B. "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;

C. "brewer" means any person who owns or operates a business for the manufacture of beer;

D. "club" means:

(1) any nonprofit group, including an auxiliary or subsidiary group, organized and operated under the laws of this state with a membership of not less than fifty members who pay membership dues at the rate of not less than five dollars (\$5.00) per year and who, under the constitution and bylaws of the club, have all voting rights and full membership privileges and which group is the owner, lessee or occupant of premises used exclusively for club purposes and which group the director finds:

(a) is operated solely for recreation, social, patriotic, political, benevolent or athletic purposes; and

(b) the proposed licensee has been granted an exemption by the United States from the payment of the federal income tax as a club under the provisions of Section 501(a) of the Internal Revenue Code of 1986, as amended or, if the applicant has not operated as a club for a sufficient time to be eligible for the income tax exemption, it must execute

and file with the director a sworn letter of intent declaring that it will, in good faith, apply for such exemption as soon as it is eligible; or

(2) an airline passenger membership club operated by an air common carrier which maintains or operates a clubroom at an international airport terminal. For the purposes of this paragraph, "air common carrier" means a person engaged in regularly scheduled air transportation between fixed termini under a certificate of public convenience and necessity issued by the civil aeronautics board;

E. "commission" means the secretary of public safety when the term is used in reference to the enforcement and investigatory provisions of the Liquor Control Act and means the superintendent of regulation and licensing when the term is used in reference to the licensing provisions of the Liquor Control Act;

F. "department" means the special investigations division of the department of public safety when the term is used in reference to the enforcement and investigatory provisions of the Liquor Control Act and means the superintendent of regulation and licensing when the term is used in reference to the licensing provisions of the Liquor Control Act;

G. "director" means the director of the special investigations division of the department of public safety when the term is used in reference to the enforcement and investigatory provisions of the Liquor Control Act and means the superintendent of regulation and licensing when the term is used in reference to the licensing provisions of the Liquor Control Act;

H. "dispenser" means any person licensed under the provisions of the Liquor Control Act selling, offering for sale or having in his possession with the intent to sell alcoholic

beverages both by the drink for consumption on the licensed premises and in unbroken packages for consumption and not for resale off the licensed premises;

I. "distiller" means any person engaged in manufacturing spirituous liquors;

J. "governing body" means the board of county commissioners of a county or the city council or city commissioners of a municipality;

K. "hotel" means any establishment or complex having a resident of New Mexico as a proprietor or manager and where, in consideration of payment, meals and lodging are regularly furnished to the general public. The establishment or complex must maintain for the use of its guests a minimum of twenty-five sleeping rooms;

L. "licensed premises" means the contiguous areas or areas connected by indoor passageways of a structure and the outside dining, recreation and lounge areas of the structure which are under the direct control of the licensee and from which the licensee is authorized to sell, serve or allow the consumption of alcoholic beverages under the provisions of its license; provided that in the case of a restaurant, hotel or racetrack, "licensed premises" includes all public and private rooms, facilities and areas in which alcoholic beverages are sold or served in the customary operating procedures of the restaurant, hotel or racetrack;

M. "local option district" means any county which has voted to approve the sale, serving or public consumption of alcoholic beverages, or any incorporated municipality which falls within a county which has voted to approve the sale, serving or public consumption of alcoholic beverages, or any incorporated municipality of over five thousand population which has independently voted to approve the sale, serving or public consumption of alcoholic beverages under the terms of the Liquor Control Act or any former act;

N. "manufacturer" means a distiller, rectifier, brewer or winer;

O. "minor" means any person under twenty-one years of age;

P. "package" means any immediate container of alcoholic beverages which is filled or packed by a manufacturer or wine bottler for sale by the manufacturer or wine bottler to wholesalers;

Q. "person" means an individual, corporation, firm, partnership, copartnership, association or other legal entity;

R. "rectifier" means any person who blends, mixes or distills alcohol with other liquids or substances for the purpose of making an alcoholic beverage for the purpose of sale other than to the consumer by the drink, and includes all bottlers of spirituous liquors;

S. "restaurant" means any establishment having a New Mexico resident as a proprietor or manager which is held out to the public as a place where meals are prepared and served primarily for on-premises consumption to the general public in consideration of payment and which has a dining room, a kitchen and the employees necessary for preparing, cooking and serving meals; provided that "restaurant" does not include establishments as defined in regulations promulgated by the director serving only hamburgers, sandwiches, salads and other fast foods;

T. "retailer" means any person licensed under the provisions of the Liquor Control Act selling, offering for sale or having in his possession with the intent to sell any alcoholic beverages in unbroken packages for consumption and not for resale off the licensed premises;

U. "spirituous liquors" means alcoholic beverages as defined in Subsection A of this section except fermented beverages such as wine, beer and ale;

V. "wholesaler" means any person whose place of business is located in New Mexico and who sells, offers for sale or possesses for the purpose of sale any alcoholic beverages for resale by the purchaser;

W. "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, which do not contain less than one-half of one percent nor more than twenty-one percent alcohol by volume;

X. "wine bottler" means any New Mexico wholesaler who is licensed to sell wine at wholesale for resale only and who buys wine in bulk and bottles it for wholesale resale;

Y. "winegrower" means any person who owns or operates a business for the manufacture of wine; and

Z. "winer" means a winegrower."

Chapter 109 Section 2

Section 2. Section 60-6A-11 NMSA 1978 (being Laws 1981, Chapter 39, Section 28, as amended) is amended to read:

"60-6A-11. WINEGROWER'S LICENSE.--

A. Exempt from the procurement of any other license pursuant to the terms of the Liquor Control Act, but not from the procurement of a winegrower's license, is any person in this state who produces wine. Except during periods of shortage or reduced availability, at least fifty percent of a winegrower's overall annual production of wine shall be produced from grapes or other agricultural products grown in this state pursuant to regulations adopted by the director.

B. A person issued a winegrower's license pursuant to this section may do any of the following:

(1) manufacture or produce wine, including blending, mixing, flavoring, coloring, bottling and labeling, whether the wine is manufactured or produced by or for the winegrower;

(2) store, transport, import or export wines;

(3) sell wines to a holder of a New Mexico winegrower's, wine wholesaler's, wholesaler's or wine exporter's license or to a winegrower's agent;

(4) deal in warehouse receipts for wine;

(5) sell wines in other states or foreign jurisdictions to the holders of any license issued under the authority of that state or foreign jurisdiction authorizing the purchase of wine;

(6) buy wine or distilled wine products from other persons, including licensees and permittees under the Liquor Control Act, for use in blending, mixing or bottling of wines;

(7) conduct wine tastings and sell, by the glass or by the bottle or sell in unbroken packages for consumption off the premises but not for resale wine of his own production on the winegrower's premises;

(8) at no more than three off-premises locations, conduct wine tastings and sell in unbroken packages for consumption off premises, but not for resale, wine of his own production after the director has determined that the off-premises locations meet the requirements of the Liquor Control Act and the department regulations for new liquor license locations;

(9) be deemed a manufacturer for purposes of the Gross Receipts and Compensating Tax Act;

(10) at public celebrations on or off the winegrower's premises, after the winegrower has paid the applicable fees and been issued the appropriate permit, to conduct wine tastings, sell by the glass or the bottle or sell in unbroken packages, for consumption off premises but not for resale, wine produced by or for the winegrower; and

(11) apply to the department for a permit to join with other licensed winegrowers to sell wine produced by or for winegrowers at a common facility at which there may be products of two or more licensed winegrowers offered for tasting and sale by the glass or bottle or for sale in unbroken packages for consumption off premises but not for resale.

C. Except as limited by Subsection D of Section 60-7A-1 NMSA 1978, sales of wine as provided for in this section shall be permitted between the hours of 7:00 a.m. and midnight Monday through Saturday, and the holder of a winegrower's license or public celebration permit may conduct wine tastings and sell, by the glass or bottle or in unbroken packages for consumption off premises but not for resale, wine of his own production on the winegrower's premises between the hours of 12:00 noon and midnight on Sunday.

D. At public celebrations off the winegrower's premises in any local option district permitting the sale of alcoholic beverages, the holder of a winegrower's license shall pay ten dollars (\$10.00) to the department for a "winegrower's public celebration permit" to be issued under rules adopted by the director. Upon request, the department may issue to a holder of a winegrower's license a public celebration permit for a location at the public celebration that is to be shared with other permittees. As used in this

subsection, "public celebration" includes any state or county fair, community fiesta, cultural or artistic event or sporting competition of a seasonal nature or activities held on an intermittent basis.

E. Every application for the issuance or annual renewal of a winegrower's license shall be on a form prescribed by the director and accompanied by a license fee to be computed as follows on the basis of total annual wine produced or blended:

(1) less than five thousand gallons per year, twenty-five dollars (\$25.00) per year;

(2) between five thousand and one hundred thousand gallons per year, one hundred dollars (\$100) per year; and

(3) over one hundred thousand gallons per year, two hundred fifty dollars (\$250) per year."

Chapter 109 Section 3

Section 3. Section 60-6A-22 NMSA 1978 (being Laws 1983, Chapter 280, Section 3, as amended) is amended to read:

"60-6A-22. DEFINITIONS.--As used in the Domestic Winery and Small Brewery Act:

A. "brandy" means an alcoholic liquor distilled from wine or from fermented fruit juice;

B. "beer" means any fermented beverage containing more than one-half percent alcohol obtained by the fermentation of any infusion or decoction of barley, malt and hops or other cereal in water, and includes porter, beer, ale and stout;

C. "small brewer" means any person who owns or operates a business for the manufacture of beer but does not manufacture more than two hundred thousand barrels of beer per year;

D. "public celebration" means any state fair, county fair, community fiesta, cultural or artistic performance;

E. "wine" means the product obtained from normal alcoholic fermentation of the juice of sound ripe grapes or other agricultural products containing natural or added sugar, or any such alcoholic beverage to which is added grape brandy, fruit brandy or spirits of wine which is distilled from the particular agricultural products of which the wine is made, and other rectified wine products by whatever name which do not contain more than fifteen percent added flavoring, coloring and blending material and which contain not more than twenty-four percent of alcohol by volume, and includes vermouth;

F. "wine blender" means a person authorized to operate a bonded wine cellar pursuant to a permit issued for that purpose under the internal revenue laws of the United States but who does not have facilities or equipment for the conversion of grapes, berries or other fruit into wine and does not engage in the production of wine in commercial quantities; provided that any person who produces or blends not to exceed three hundred gallons of wine per year shall not, because of such production or blending, be considered a wine blender; and

G. "winer" means a person licensed as a winegrower."

Chapter 109 Section 4

Section 4. Section 60-6A-24 NMSA 1978 (being Laws 1983, Chapter 280, Section 5, as amended) is amended to read:

"60-6A-24. WINE BLENDER'S LICENSE.--

A. In any local option district, a person qualified under the provisions of the Liquor Control Act, except as otherwise provided in the Domestic Winery and Small Brewery Act, may apply for and be issued a wine blender's license.

B. A wine blender's license authorizes the person to whom it is issued to:

(1) package, rectify, blend, mix, flavor, color, label and export wine, whether manufactured or produced by him or any other person;

(2) sell only wine packaged by or for him to a person holding a New Mexico wine wholesaler's, wholesaler's, winegrower's or wine exporter's license or to a winegrower's agent;

(3) deal in warehouse receipts for wine; and

(4) be deemed a manufacturer for purposes of the Gross Receipts and Compensating Tax Act.

C. A wine blender's license does not authorize the person to whom it is issued:

(1) to crush, ferment and produce wine from grapes, berries and other fruits;

(2) to obtain or be issued a winer's license, a retailer's license or a dispenser's license;

(3) to buy, sell, receive or deliver wine from persons other than authorized licensees; or

(4) to conduct wine tastings or sell for consumption off premises, at retail, or to sponsor wine tastings, either on or off the wine blender's premises."

Chapter 109 Section 5

Section 5. Section 60-6A-27 NMSA 1978 (being Laws 1983, Chapter 280, Section 8, as amended) is amended to read:

"60-6A-27. LICENSE FEES.--Every application for the issuance or annual renewal of the following licenses and permits shall be accompanied by a license fee or permit fee in the following specified amounts:

- A. brandy manufacturer's license, seven hundred fifty dollars (\$750);
- B. small brewer's license, seven hundred fifty dollars (\$750);
- C. wine blender's license, seven hundred fifty dollars (\$750);
- D. wine exporter's license, five hundred dollars (\$500); and
- E. small brewer's public celebrations permit, ten dollars (\$10.00) for each public celebration."

Chapter 109 Section 6

Section 6. Section 60-6A-29 NMSA 1978 (being Laws 1988, Chapter 60, Section 1) is amended to read:

"60-6A-29. WINE WHOLESALER'S LICENSE.--

- A. In any local option district, a winegrower licensed under the Liquor Control Act may apply for and be issued a license as a wine wholesaler of wines produced by or for New Mexico winegrowers.
- B. No wine wholesaler shall sell, offer for sale or ship wine not received at and shipped from the premises specified in the wine wholesaler's license.

C. No wine wholesaler shall sell or offer for sale wine to any person other than the holder of a New Mexico wine wholesaler's, wholesaler's, retailer's, dispenser's, canopy, restaurant or club license or a governmental licensee or its lessee.

D. Nothing contained in this section shall prevent the sale, transportation or shipment of wine by a wine wholesaler to any person outside the state when shipped under permit from the department."

Chapter 109 Section 7

Section 7. A new section of the Liquor Control Act is enacted to read:

"INTERSTATE WINE TASTINGS--COMPETITIONS--PERMITS.--

A. Exempt from the procurement of any other license or permit issued pursuant to the terms of the Liquor Control Act, but not exempt from the procurement of a competition permit, is a winemaker or winery licensed outside of New Mexico that desires to participate in a regional wine tasting or competition within New Mexico. One permit shall be issued by the director to an out-of-state winemaker or winery for the duration of the wine tasting or competition.

B. A person issued a competition permit pursuant to this section may do any of the following:

(1) bring no more than twenty-five cases of wine into New Mexico after indicating on his permit application the number of cases to be brought into the state;

(2) participate in the regional competition and any wine tastings associated with the competition for which the competition permit is issued;

(3) participate in the regional wine tasting for which the competition permit is issued;
and

(4) at a wine tasting for which he is issued the permit, conduct tasting of wine and sell by the glass or bottle or in unbroken packages for consumption off the wine tasting premises but not for resale, wine brought into the state by him for the wine tasting or competition.

C. Every application for the issuance of a competition permit shall be on a form prescribed by the director and accompanied by a permit fee of twenty-five dollars (\$25.00).

D. As used in this section:

(1) "competition" means an event at which a jury of wine tasters compares the quality of the wines entered for judging and at which prizes are offered for the wines judged to be of the best quality;

(2) "regional competition" means a competition at which the wines to be judged are from more than one state or country;

(3) "regional wine tasting" means a wine tasting at which the wines offered for tasting are from more than one state or country;

(4) "winemaker" means a person who manufactures or produces wine;

(5) "winery" means an establishment at which wine is manufactured or produced and that is licensed for that purpose by the state or country in which it is located; and

(6) "wine tasting" means an event at which wines are offered for tasting but not necessarily for sale and not for comparison for the purpose of awarding prizes to the wines of the best quality."

Chapter 109 Section 8

Section 8. REPEAL.--Section 60-6A-23 NMSA 1978 (being Laws 1983, Chapter 280, Section 4, as amended) is repealed.

Chapter 109 Section 9

Section 9. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1998.

HOUSE BILL 456

CHAPTER 110

RELATING TO HIGHER EDUCATION FINANCIAL ASSISTANCE; AMENDING THE DEFINITION OF "STUDENT" IN THE WICHE LOAN FOR SERVICE ACT; MAKING AN APPROPRIATION.

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

Chapter 110 Section 1

Section 1. Section 21-29-2 NMSA 1978 (being Laws 1997, Chapter 126, Section 2) is amended to read:

"21-29-2. DEFINITIONS.--As used in the WICHE Loan for Service Act:

A. "commission" means the commission on higher education; and

B. "student" means a New Mexico resident who is a graduate of a New Mexico high school or has resided in New Mexico for three consecutive years immediately preceding application to the program and who attends or is about to attend a graduate or professional program of education through the auspices of the Compact for Western Regional Cooperation in Higher Education."

Chapter 110 Section 2

Section 2. APPROPRIATIONS.--From collections generated in the excess of the amount budgeted for fiscal year 1999, one hundred thousand dollars (\$100,000) is appropriated from the medical student loan for service fund, one hundred thousand dollars (\$100,000) from the osteopathic medical student loan for service fund and one hundred thousand dollars (\$100,000) from the nursing student loan for service fund to the commission on higher education for expenditure in fiscal year 1999 to support students participating in the western interstate commission on higher education loan for service program and for the administration of the programs. Any unexpended or unencumbered balance remaining at the end of fiscal year 1999 shall revert to the appropriate fund.

Chapter 110 Section 3

~~[Section 3. APPROPRIATIONS.--From collections generated in the excess of the amount budgeted for fiscal year 1999, one hundred thousand dollars (\$100,000) is appropriated from the medical student loan for service fund and one hundred thousand dollars (\$100,000) from the osteopathic medical student loan for service fund to the commission on higher education for expenditure in fiscal year 1999 to support the operation and administration of the state financial aid programs. Any unexpended or unencumbered balance remaining at the end of fiscal year 1999 shall revert to the appropriate fund.]~~

SENATE BILL 290, AS AMENDED

CHAPTER 111

RELATING TO LIQUOR LICENSE FEES; IMPOSING A FEE FOR A SMALL BREWER'S OFF-PREMISES PERMIT; CREATING AN OFF-PREMISES PERMIT; DECLARING AN EMERGENCY.

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

Chapter 111 Section 1

Section 1. Section 60-6A-26.1 NMSA 1978 (being Laws 1985, Chapter 217, Section 5, as amended) is amended to read:

"60-6A-26.1. SMALL BREWER'S LICENSE.--

A. In any local option district, a person qualified under the provisions of the Liquor Control Act, except as otherwise provided in the Domestic Winery and Small Brewery Act, may apply for and be issued a small brewer's license.

B. A small brewer's license authorizes the person to whom it is issued to:

- (1) become a manufacturer or producer of beer;
- (2) package, label and export beer, whether manufactured, bottled or produced by him or any other person;
- (3) sell only beer that is packaged by or for him to a person holding a wholesaler's license or a small brewer's license;
- (4) deal in warehouse receipts for beer;
- (5) conduct beer tastings and sell for consumption on or off premises, but not for resale, beer produced and bottled by, or produced and packaged for, the licensee on the small brewer's premises;
- (6) be deemed a manufacturer for purposes of the Gross Receipts and Compensating Tax Act;
- (7) at public celebrations off the small brewer's premises, after the small brewer has paid the applicable fee for a small brewer's public celebration permit, conduct tastings and sell by the glass or in unbroken packages, but not for resale, beer produced and bottled by or for the small brewer;
- (8) at no more than two other locations off the small brewer's premises, after the small brewer has paid the applicable fee for a small brewer's off-premises permit, after the director has determined that the off-premises locations meet the requirements of the Liquor Control Act and department regulations for new liquor license locations and after the director has issued a small brewer's off-premises permit for each off-premises location, conduct beer tastings and sell by the glass or in unbroken packages for consumption off the small brewer's off-premises location, but not for resale, beer produced and bottled by or for the small brewer; and
- (9) allow members of the public, on the licensed premises and under the direct supervision of the licensee, to manufacture beer for personal consumption and not for resale using the licensee's equipment and ingredients.

C. Sales and tastings of beer authorized in this section shall be permitted during the hours set forth in Subsection A of Section 60-7A-1 NMSA 1978 and between the hours of noon and midnight on Sunday and shall conform to the limitations regarding Christmas and voting-day sales found in Section 60-7A-1 NMSA 1978 and the expansion of Sunday sales hours to 2:00 a.m. on January 1, when December 31 falls on a Sunday."

Chapter 111 Section 2

Section 2. Section 60-6A-27 NMSA 1978 (being Laws 1983, Chapter 280, Section 8, as amended) is amended to read:

"60-6A-27. LICENSE FEES.--Every application for the issuance or annual renewal of the following licenses and permits shall be accompanied by a license fee or permit fee in the following specified amounts:

- A. brandy manufacturer's license, seven hundred fifty dollars (\$750);
- B. small brewer's license, seven hundred fifty dollars (\$750);
- C. winer's license, seven hundred fifty dollars (\$750);
- D. wine blender's license, seven hundred fifty dollars (\$750);
- E. wine exporter's license, five hundred dollars (\$500);
- F. winer's off-premises permit, two hundred dollars (\$200) for each off-premises location;
- G. winer's public celebrations permit, ten dollars (\$10.00) for each public celebration;
- H. small brewer's public celebrations permit, ten dollars (\$10.00) for each public celebration; and
- I. small brewer's off-premises permit, two hundred dollars (\$200) for each off-premises location."

Chapter 111 Section 3

Section 3. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

SENATE BILL 129,

WITH EMERGENCY CLAUSE

SIGNED March 10, 1998

CHAPTER 112

RELATING TO TAXATION; PROVIDING A GROSS RECEIPTS TAX DEDUCTION FOR RECEIPTS FROM ADMINISTRATIVE AND ACCOUNTING SERVICES PROVIDED TO AFFILIATED BUSINESS ENTITIES.

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

Chapter 112 Section 1

Section 1. Section 7-9-69 NMSA 1978 (being Laws 1969, Chapter 144, Section 61, as amended) is amended to read:

"7-9-69. DEDUCTION--GROSS RECEIPTS TAX--ADMINISTRATIVE AND ACCOUNTING SERVICES.--

A. Receipts of a corporation or an affiliate for administrative, managerial, accounting and customer services performed by it for the corporation or an affiliate upon a nonprofit or cost basis and receipts from the corporation or an affiliate for the joint use or sharing of office machines and facilities upon a nonprofit or cost basis may be deducted from gross receipts.

B. For the purposes of this section, "an affiliate" means a corporation or a limited partnership that directly or indirectly through one or more intermediaries controls, is controlled by or is under common control with the subject corporation or limited partnership. For purposes of this subsection, "control" means ownership of stock in a corporation or of an interest in a limited partnership that:

(1) represents at least fifty percent of the total voting power of that corporation or limited partnership; and

(2) has a value equal to at least fifty percent of the total value of the stock of that corporation or limited partnership."

Chapter 112 Section 2

Section 2. APPLICABILITY.--The provisions of this act apply to receipts received after July 1, 1998.

Chapter 112 Section 3

Section 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1998.

SENATE BILL 204, AS AMENDED

CHAPTER 113

RELATING TO CRIMINAL LAW; ENACTING THE MONEY LAUNDERING ACT; PROVIDING CRIMINAL AND CIVIL PENALTIES; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978.

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

Chapter 113 Section 1

Section 1. A new section of the Criminal Code is enacted to read:

"SHORT TITLE.--Sections 1 through 5 of this act may be cited as the "Money Laundering Act"."

Chapter 113 Section 2

Section 2. A new section of the Criminal Code is enacted to read:

"DEFINITIONS.--As used in the Money Laundering Act:

A. "financial institution" means:

- (1) a bank, credit union, trust company or thrift institution or an agency or branch thereof;
- (2) a broker or dealer in securities or commodities;
- (3) an investment banker;
- (4) an investment company;
- (5) an issuer, redeemer or cashier of traveler's checks, checks, money orders or similar instruments;
- (6) an operator of a credit card system;
- (7) an insurance company;
- (8) a dealer in precious metals, stones or jewels;
- (9) a pawnbroker;
- (10) a loan or finance company;
- (11) a travel agency;
- (12) a licensed sender of money;
- (13) a telegraph company;
- (14) a business engaged in vehicle sales, including automobile, airplane and boat sales;

(15) a currency exchange;

(16) a person involved in real estate closings and settlements; or

(17) an agency or authority of a state or local government carrying out a duty or power of a business described in this subsection;

B. "financial transaction" means a purchase, sale, loan, pledge, gift, transfer, delivery or other disposition of any monetary instrument or the movement of funds by wire or other means;

C. "monetary instrument" means coin or currency of the United States or any other country, traveler's checks, personal checks, bank checks, money orders, investment securities in bearer form or in such other form that title passes upon delivery of the security and negotiable instruments in bearer form or in such other form that title passes upon delivery of the instrument;

D. "person" means an individual, corporation, partnership, trust or estate, joint stock company, association, syndicate, joint venture, unincorporated organization or group or other entity;

E. "proceeds" means property that is acquired, delivered, produced or realized, whether directly or indirectly, by an act or omission;

F. "property" means anything of value, including real, personal, tangible or intangible property; and

G. "specified unlawful activity" means an act or omission, including any initiatory, preparatory or completed offense or omission, committed for financial gain that is punishable as a felony under the laws of New Mexico or, if the act occurred outside New Mexico, would be punishable as a felony under the laws of the state in which it occurred and under the laws of New Mexico."

Chapter 113 Section 3

Section 3. A new section of the Criminal Code is enacted to read:

"REPORTS FILED WITH THE DEPARTMENT OF PUBLIC SAFETY--CRIMINAL PENALTIES.--

A. A financial institution in New Mexico that is required to file a report regarding a financial transaction under the provisions of the federal Currency and Foreign Transactions Reporting Act and the regulations promulgated pursuant to that act shall file a duplicate of that report with the department of public safety; provided, a financial institution that makes a timely filing with an appropriate federal agency shall be deemed to have satisfied the reporting requirements of this subsection.

B. A person engaged in a trade or business in New Mexico who, in the course of the trade or business, receives more than ten thousand dollars (\$10,000) in cash in one financial transaction or two or more related financial transactions, and is required to file a report under the provisions of 26 U.S.C. Section 6050I and regulations promulgated pursuant to that section, shall file a duplicate of that report with the department of public safety; provided, a person who makes a timely filing with an appropriate federal agency shall be deemed to have satisfied the reporting requirements of this subsection.

C. A financial institution, a person engaged in a trade or business or an officer, employee or agent of either who files or keeps a record pursuant to the provisions of this section or who communicates or discloses information or records pursuant to the provisions of this section shall not be liable to its customer or to any person for any loss or damage caused in whole or in part by the making, filing or governmental use of the report or information contained in the report.

D. Any person who releases information received pursuant to the provisions of this section, except in the proper discharge of his official duties, is guilty of a misdemeanor.

E. A person who knowingly:

(1) fails to file a report with the department of public safety required pursuant to the provisions of this section is subject to a fine of not more than ten percent of the value of the financial transaction required to be reported or five thousand dollars (\$5,000), whichever is greater; or

(2) provides any false or inaccurate information or knowingly conceals any material fact in a report required pursuant to Subsections A and B of this section is guilty of a fourth degree felony.

F. Notwithstanding any other provision of law, a violation of this section constitutes a separate, punishable offense for each transaction or exemption.

G. Any report, record, information, analysis or request obtained by the department of public safety or other agency pursuant to the provisions of this section is not a public record as defined in Section 14-3-2 NMSA 1978 and is not subject to disclosure pursuant to the provisions of Section 14-2-1 NMSA 1978.

H. A financial institution or person required to file a report pursuant to the provisions of Subsection A or B of this section shall, at the request of the department of public safety, provide the department with access to a copy of the report during the period of time that the financial institution or person is required to maintain the report."

Chapter 113 Section 4

Section 4. A new section of the Criminal Code is enacted to read:

"PROHIBITED ACTIVITY--CRIMINAL PENALTIES--CIVIL PENALTIES.--

A. It is unlawful for a person who knows that the property involved in a financial transaction is, or was represented to be, the proceeds of a specified unlawful activity to:

(1) conduct, structure, engage in or participate in a financial transaction that involves the property, knowing that the financial transaction is designed in whole or in part to conceal or disguise the nature, location, source, ownership or control of the property or to avoid a transaction reporting requirement under state or federal law;

(2) conduct, structure, engage in or participate in a financial transaction that involves the property for the purpose of committing or furthering the commission of any other specified unlawful activity;

(3) transport the property with the intent to further a specified unlawful activity, knowing that the transport is designed, in whole or in part, to conceal or disguise the nature, location, source, ownership or control of the monetary instrument or to avoid a transaction reporting requirement under state or federal law; or

(4) make the property available to another person by means of a financial transaction or by transporting the property, when he knows that the property is intended for use by the other person to commit or further the commission of a specified unlawful activity.

B. A person who violates any provision of Subsection A of this section is guilty of a:

(1) second degree felony if the illegal financial transaction involves more than one hundred thousand dollars (\$100,000);

(2) third degree felony if the illegal financial transaction involves over fifty thousand dollars (\$50,000) but not more than one hundred thousand dollars (\$100,000);

(3) fourth degree felony if the illegal financial transaction involves over ten thousand dollars (\$10,000) but not more than fifty thousand dollars (\$50,000); or

(4) misdemeanor if the illegal financial transaction involves ten thousand dollars (\$10,000) or less.

C. In addition to any criminal penalty, a person who violates any provision of Subsection A of this section is subject to a civil penalty of three times the value of the property involved in the transaction.

D. Nothing contained in the Money Laundering Act precludes civil or criminal remedies provided by the Racketeering Act or the Controlled Substances Act or by any other New Mexico law. Those remedies are in addition to and not in lieu of remedies provided in the Money Laundering Act."

Chapter 113 Section 5

Section 5. A new section of the Criminal Code is enacted to read:

"ATTORNEY FEES--EXCEPTION.--No provision of the Money Laundering Act shall apply to a financial transaction involving the bona fide fees an attorney accepts for representing a client in a criminal investigation or a proceeding arising from a criminal investigation."

Chapter 113 Section 6

Section 6. Section 30-42-3 NMSA 1978 (being Laws 1980, Chapter 40, Section 3, as amended) is amended to read:

"30-42-3. DEFINITIONS.--As used in the Racketeering Act:

A. "racketeering" means any act that is chargeable or indictable under the laws of New Mexico and punishable by imprisonment for more than one year, involving any of the following cited offenses:

- (1) murder, as provided in Section 30-2-1 NMSA 1978;
- (2) robbery, as provided in Section 30-16-2 NMSA 1978;
- (3) kidnapping, as provided in Section 30-4-1 NMSA 1978;
- (4) forgery, as provided in Section 30-16-10 NMSA 1978;
- (5) larceny, as provided in Section 30-16-1 NMSA 1978;
- (6) fraud, as provided in Section 30-16-6 NMSA 1978;
- (7) embezzlement, as provided in Section 30-16-8 NMSA 1978;
- (8) receiving stolen property, as provided in Section 30-16-11 NMSA 1978;
- (9) bribery, as provided in Sections 30-24-1 through 30-24-3 NMSA 1978;
- (10) gambling, as provided in Sections 30-19-3, 30-19-13 and 30-19-15 NMSA 1978;
- (11) illegal kickbacks, as provided in Sections 30-41-1 and 30-41-2 NMSA 1978;
- (12) extortion, as provided in Section 30-16-9 NMSA 1978;
- (13) trafficking in controlled substances, as provided in Section 30-31-20 NMSA 1978;

(14) arson and aggravated arson, as provided in Subsection A of Section 30-17-5 and Section 30-17-6 NMSA 1978;

(15) promoting prostitution, as provided in Section 30-9-4 NMSA 1978;

(16) criminal solicitation, as provided in Section 30-28-3 NMSA 1978;

(17) fraudulent securities practices, as provided in the New Mexico Securities Act of 1986;

(18) loan sharking, as provided in Sections 30-43-1 through 30-43-5 NMSA 1978;

(19) distribution of controlled substances or controlled substance analogues, as provided in Sections 30-31-21 and 30-31-22 NMSA 1978; and

(20) a violation of the provisions of Section 4 of the Money Laundering Act;

B. "person" means an individual or entity capable of holding a legal or beneficial interest in property;

C. "enterprise" means a sole proprietorship, partnership, corporation, business, labor union, association or other legal entity or a group of individuals associated in fact although not a legal entity and includes illicit as well as licit entities; and

D. "pattern of racketeering activity" means engaging in at least two incidents of racketeering with the intent of accomplishing any of the prohibited activities set forth in Subsections A through D of Section 30-42-4 NMSA 1978; provided at least one of the incidents occurred after the effective date of the Racketeering Act and the last incident occurred within five years after the commission of a prior incident of racketeering."

Chapter 113 Section 7

Section 7. SEVERABILITY.--If any part or application of the Money Laundering Act is held invalid, the remainder or its application to other situations or persons shall not be affected.

Chapter 113 Section 8

Section 8. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1998.

SENATE BILL 212, AS AMENDED

CHAPTER 114

RELATING TO PUBLIC EMPLOYEES; INCREASING AFFILIATED EMPLOYER AND MUNICIPAL FIRE MEMBER CONTRIBUTIONS TO PUBLIC EMPLOYEES RETIREMENT.

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

Chapter 114 Section 1

Section 1. Section 10-11-90 NMSA 1978 (being Laws 1987, Chapter 253, Section 90) is amended to read:

"10-11-90. MUNICIPAL FIRE MEMBER COVERAGE PLAN 1--MEMBER CONTRIBUTION RATE.--A member under municipal fire member coverage plan 1 shall contribute eight percent of salary."

Chapter 114 Section 2

Section 2. Section 10-11-91 NMSA 1978 (being Laws 1987, Chapter 253, Section 91) is amended to read:

"10-11-91. MUNICIPAL FIRE MEMBER COVERAGE PLAN 1--AFFILIATED PUBLIC EMPLOYER CONTRIBUTION RATE.--The affiliated public employer shall contribute eleven percent of the salary of each member whom it employs and covers under municipal fire member coverage plan 1."

Chapter 114 Section 3

Section 3. Section 10-11-96 NMSA 1978 (being Laws 1987, Chapter 253, Section 96) is amended to read:

"10-11-96. MUNICIPAL FIRE MEMBER COVERAGE PLAN 2--MEMBER CONTRIBUTION RATE.--A member under municipal fire member coverage plan 2 shall contribute eight percent of salary."

Chapter 114 Section 4

Section 4. Section 10-11-97 NMSA 1978 (being Laws 1987, Chapter 253, Section 97) is amended to read:

"10-11-97. MUNICIPAL FIRE MEMBER COVERAGE PLAN 2--AFFILIATED PUBLIC EMPLOYER CONTRIBUTION RATE.--The affiliated public employer shall contribute seventeen and one-half percent of the salary of each member whom it employs and covers under municipal fire member coverage plan 2."

Chapter 114 Section 5

Section 5. Section 10-11-102 NMSA 1978 (being Laws 1987, Chapter 253, Section 102) is amended to read:

"10-11-102. MUNICIPAL FIRE MEMBER COVERAGE PLAN 3--MEMBER CONTRIBUTION RATE.--A member under municipal fire member coverage plan 3 shall contribute eight percent of salary."

Chapter 114 Section 6

Section 6. Section 10-11-103 NMSA 1978 (being Laws 1987, Chapter 253, Section 103) is amended to read:

"10-11-103. MUNICIPAL FIRE MEMBER COVERAGE PLAN 3--AFFILIATED PUBLIC EMPLOYER CONTRIBUTION RATE.--The affiliated public employer shall contribute twenty-one and twenty-five one-hundredths percent of the salary of each member whom it employs and covers under municipal fire member coverage plan 3."

Chapter 114 Section 7

Section 7. Section 10-11-108 NMSA 1978 (being Laws 1987, Chapter 253, Section 108) is amended to read:

"10-11-108. MUNICIPAL FIRE MEMBER COVERAGE PLAN 4--MEMBER CONTRIBUTION RATE.--A member under municipal fire member coverage plan 4 shall contribute twelve and eight-tenths percent of salary."

Chapter 114 Section 8

Section 8. Section 10-11-109 NMSA 1978 (being Laws 1987, Chapter 253, Section 109) is amended to read:

"10-11-109. MUNICIPAL FIRE MEMBER COVERAGE PLAN 4--AFFILIATED PUBLIC EMPLOYER CONTRIBUTION RATE.--The affiliated public employer shall contribute twenty-one and twenty-five one-hundredths percent of the salary of each member whom it employs and covers under municipal fire member coverage plan 4."

Chapter 114 Section 9

Section 9. Section 10-11-114 NMSA 1978 (being Laws 1987, Chapter 253, Section 114) is amended to read:

"10-11-114. MUNICIPAL FIRE MEMBER COVERAGE PLAN 5--MEMBER CONTRIBUTION RATE.--A member under municipal fire member coverage plan 5 shall contribute sixteen and two-tenths percent of salary."

Chapter 114 Section 10

Section 10. Section 10-11-115 NMSA 1978 (being Laws 1987, Chapter 253, Section 115) is amended to read:

"10-11-115. MUNICIPAL FIRE MEMBER COVERAGE PLAN 5--AFFILIATED PUBLIC EMPLOYER CONTRIBUTION RATE.--The affiliated public employer shall contribute twenty-one and twenty-five one-hundredths percent of the salary of each member whom it employs and covers under municipal fire member coverage plan 5."

SENATE BILL 210

CHAPTER 115

RELATING TO INSURANCE; ENACTING THE INSURANCE FRAUD ACT; PROVIDING FOR THE INVESTIGATION AND PROSECUTION OF INSURANCE FRAUD; REPEALING AND ENACTING SECTIONS OF THE NMSA 1978; MAKING AN APPROPRIATION.

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

Chapter 115 Section 1

Section 1. A new section of the New Mexico Insurance Code is enacted to read:

"SHORT TITLE.--This act may be cited as the "Insurance Fraud Act"."

Chapter 115 Section 2

Section 2. A new section of the New Mexico Insurance Code is enacted to read:

"FINDINGS--PURPOSE.--

A. The legislature finds that insurance fraud is pervasive and expensive, and has the potential for increasing premium rates, placing businesses at risk, reducing the ability of consumers to raise their standard of living and decreasing the economic vitality of the state. Therefore, the legislature believes that the state must aggressively confront the problem of insurance fraud.

B. The purpose of the Insurance Fraud Act is to permit the full utilization of the expertise of the superintendent of insurance to investigate and detect insurance fraud more effectively, to halt insurance fraud and to work with state, local and federal law enforcement and regulatory agencies against the commission of insurance fraud."

Chapter 115 Section 3

Section 3. A new section of the New Mexico Insurance Code is enacted to read:

"DEFINITIONS.--As used in the Insurance Fraud Act:

- A. "fund" means the insurance fraud fund;
- B. "insurance fraud" means any act or practice in connection with an insurance transaction that constitutes a crime under the Criminal Code or the Insurance Code;
- C. "insurance transaction" means any act or practice relating to insurance and includes complying with the Insurance Code or any rule adopted under its authority; and
- D. "superintendent" means the superintendent of insurance."

Chapter 115 Section 4

Section 4. A new section of the New Mexico Insurance Code is enacted to read:

"SUPERINTENDENT'S DUTIES.--The superintendent shall:

- A. initiate inquiries and conduct investigations when the superintendent has reason to believe that insurance fraud may have been or is being committed;
- B. respond to notifications or complaints of suspected insurance fraud generated by state and local police or other law enforcement authorities and governmental units, including the federal government and any other person;
- C. review notices and reports of insurance fraud submitted by authorized insurers, their employees, agents or producers and select those incidents of alleged fraud that, in his judgment, require further investigation and conduct the investigations;
- D. conduct independent investigations and examinations of insurance transactions and alleged insurance fraud, conduct studies to determine the extent of insurance fraud, deceit or intentional misrepresentation of any kind in the insurance process and publish information and reports on its examinations and studies;
- E. report incidents of alleged insurance fraud supported by investigations and examinations to the appropriate district attorney and any other appropriate law enforcement, administrative, regulatory or licensing agency and assemble evidence, prepare charges and otherwise assist any prosecutorial authority having jurisdiction over insurance fraud enforcement;
- F. assist any official or agency of this state, any other state or the federal government that requests assistance in investigating insurance fraud;

G. maintain records and information in order to produce an annual report of his activities undertaken in connection with carrying out the provisions of the Insurance Fraud Act; and

H. conduct, in cooperation with the attorney general and the department of public safety, public outreach and awareness programs on the costs of insurance fraud to the public and how members of the public can assist themselves, the superintendent and law enforcement officials in preventing and prosecuting insurance fraud."

Chapter 115 Section 5

Section 5. A new section of the New Mexico Insurance Code is enacted to read:

"SUPERINTENDENT'S AUTHORITY.--The superintendent is authorized to select and contract with investigative personnel and prosecutors to discharge his duties pursuant to the provisions of the Insurance Fraud Act."

Chapter 115 Section 6

Section 6. A new section of the New Mexico Insurance Code is enacted to read:

"NOTICE AND COOPERATION REQUIRED--TOLLING PERIOD.--

A. Every insurer or licensed insurance professional that has a reasonable belief that an act of insurance fraud will be, is being or has been committed shall furnish and disclose knowledge and information about it to the superintendent and shall cooperate fully with any investigation conducted by the superintendent. Failure to comply with this subsection shall constitute grounds for the superintendent to impose an administrative penalty pursuant to Section 59A-1-18 NMSA 1978 in addition to any applicable suspension, revocation or denial of a license or certificate of authority.

B. A person who has a reasonable belief that an act of insurance fraud will be, is being or has been committed, or any person who collects, reviews or analyzes information concerning insurance fraud, may furnish and disclose any information in his possession concerning the insurance fraud to the superintendent or to an authorized representative of an insurer that requests the information for the purpose of detecting, prosecuting or preventing insurance fraud.

C. If an insurer has a reasonable belief or probable cause to believe that an insurance fraud has been committed and has properly notified the superintendent of its suspicion, that notification shall toll any applicable time period in any unfair claims proceeding based on the alleged fraud until thirty days after determination by the superintendent and notice to the insurer that the superintendent will not recommend action on the claim. The determination by the superintendent shall not be admissible in any subsequent civil proceeding.

D. The superintendent, in cooperation with insurers or others, may establish a voluntary fund to reward persons not connected with the insurance industry who provide information or furnish evidence leading to the arrest and conviction of persons responsible for insurance fraud."

Chapter 115 Section 7

Section 7. A new section of the New Mexico Insurance Code is enacted to read:

"IMMUNITY FROM CIVIL LIABILITY--PRIVATE INSURANCE FRAUD REPORTS AND ENFORCEMENT ACTIONS.--

A. The provisions of Section 59A-4-21 NMSA 1978 regarding immunity from civil liability for enforcement actions performed in good faith by the superintendent, his authorized representatives and examiners shall apply to the Insurance Fraud Act.

B. Except when a person intentionally communicates false information he actually believes to be false, a person shall not be subject to liability by virtue of reporting or furnishing, orally or in writing, information concerning suspected, anticipated or completed insurance fraud acts when the report or information is provided to:

(1) the department of insurance, the superintendent or law enforcement agencies, their officials, agents or employees;

(2) the national association of insurance commissioners, a federal or state governmental agency or office established to detect and prevent insurance fraud, any other organization established for the same purpose and their agents, employees or designees; or

(3) the anti-fraud unit of an insurer.

C. A person identified in Subsection B of this section or any of the person's officers, employees or agents when performing authorized activities, including the publication or dissemination of any related bulletin or reports, shall not be subject to civil liability for libel, slander or any other relevant tort or a civil cause of action of any nature, except if the person, officer, employee or agent intentionally communicates false information he actually believes to be false.

D. This section shall not abrogate or modify in any way any privilege or immunity recognized by common law or statute.

E. The court shall award attorney fees and costs to any person identified in Subsection B of this section or any of that person's officers, employees or agents who is a prevailing party in a civil cause of action against him for libel, slander or any other relevant tort arising out of conduct pursuant to the Insurance Fraud Act if the party bringing the action was not substantially justified in bringing such action. For the

purposes of this subsection, "substantially justified" means having a reasonable basis in law or fact at the time a proceeding was initiated.

F. The relief provided in this section is in addition to remedies otherwise available against the same conduct under the common law or other laws of this state."

Chapter 115 Section 8

Section 8. A new section of the New Mexico Insurance Code is enacted to read:

"WARNING REQUIRED.--Within six months of the effective date of the Insurance Fraud Act all claim forms and applications for insurance shall contain a statement permanently affixed to the application or claim form which states substantially as follows:

"ANY PERSON WHO KNOWINGLY PRESENTS A FALSE OR FRAUDULENT CLAIM FOR PAYMENT OF A LOSS OR BENEFIT OR KNOWINGLY PRESENTS FALSE INFORMATION IN AN APPLICATION FOR INSURANCE IS GUILTY OF A CRIME AND MAY BE SUBJECT TO CIVIL FINES AND CRIMINAL PENALTIES."

The failure to include that statement shall not constitute a defense against prosecution for commission of insurance fraud."

Chapter 115 Section 9

Section 9. A new section of the New Mexico Insurance Code is enacted to read:

"REPORT OF CONVICTION.--If any person licensed by any agency of any state or the federal government or holding credentials from any professional organization is convicted of insurance fraud in this state, the superintendent shall notify the appropriate licensing or credentialing authority of the judgment for appropriate disciplinary action."

Chapter 115 Section 10

Section 10. A new section of the New Mexico Insurance Code is enacted to read:

"INSURER ANTI-FRAUD INITIATIVES--SPECIAL INVESTIGATIVE UNITS.--

A. Within six months of the effective date of the Insurance Fraud Act and by July 1 of each succeeding year every insurer who in the previous calendar year reported ten million dollars (\$10,000,000) or more in direct written premiums in New Mexico shall establish, prepare, implement and submit to the superintendent an anti-fraud plan that is reasonably calculated to detect, prosecute and prevent insurance fraud. Any subsequent amendments to the plan shall be submitted to the superintendent at the time they are adopted.

B. Each insurer's anti-fraud plan shall outline, at a minimum, guidelines appropriate to the type of insurance the insurer writes, to:

- (1) prevent, detect and investigate all forms of insurance fraud;
- (2) educate appropriate employees on fraud detection and the insurer's anti-fraud plan;
- (3) provide for the hiring or contracting of fraud investigators;
- (4) report insurance fraud to appropriate law enforcement and regulatory authorities;
and
- (5) pursue restitution, where appropriate, for financial loss caused by insurance fraud.

C. The superintendent may review each insurer's anti-fraud plan to determine if it adequately complies with the requirements of this section. The superintendent may examine the insurer to assure its compliance with anti-fraud plans submitted to the superintendent. The superintendent may require reasonable modifications to the insurer's anti-fraud plan or may require other reasonable remedial action if the review or examination reveals substantial noncompliance with the plan.

D. The superintendent may require each insurer to file a summary of the insurer's anti-fraud activities and results. Anti-fraud plans and summaries submitted to the superintendent shall be privileged and confidential, shall not be a public record and shall not be subject to discovery or subpoena in any civil or criminal action; provided, however, that the superintendent may make summaries of aggregate data available to the public.

E. This section confers no private right of action."

Chapter 115 Section 11

Section 11. A new section of the New Mexico Insurance Code is enacted to read:

"INVESTIGATORS' POWERS.--The superintendent's investigators shall be peace officers pursuant to the provisions of Chapter 29, Article 1 NMSA 1978, except that they shall not be authorized to carry firearms."

Chapter 115 Section 12

Section 12. A new section of the New Mexico Insurance Code is enacted to read:

"ATTORNEY GENERAL'S DUTIES.--When so requested by the superintendent, the attorney general shall commission as a special assistant attorney general any attorney employed by the superintendent or contracted with by the superintendent and approved by the attorney general to assist the superintendent in carrying out his duties, including

providing legal advice and prosecuting offenders. The actual costs associated with the assignment of assistant attorneys general to the superintendent shall be paid out of the fund."

Chapter 115 Section 13

Section 13. A new section of the New Mexico Insurance Code is enacted to read:

"INSURANCE FRAUD POLICY ADVISORY GROUP.--The superintendent may create an insurance fraud policy advisory group consisting of representatives of authorized insurers, consumers of insurance products not otherwise connected with the insurance industry and other appropriate persons. The superintendent shall appoint the members of the advisory group and shall provide by rule for the creation, governance, duties and termination of the advisory group. Any advisory group so created shall advise the superintendent with respect to the implementation of and other matters related to the Insurance Fraud Act when so requested by the superintendent."

Chapter 115 Section 14

Section 14. A new section of the New Mexico Insurance Code is enacted to read:

"INSURANCE FRAUD FUND CREATED-- APPROPRIATION.--

A. There is hereby created an "insurance fraud fund" in the state treasury. All fees collected under the provisions of the Insurance Fraud Act shall be deposited in the fund and are subject to appropriation for use in paying the expenses incurred by the superintendent in carrying out the provisions of the Insurance Fraud Act. Interest on the fund shall be credited to the fund. The fund is a continuing, nonreverting fund.

B. To implement the provisions of the Insurance Fraud Act, upon the effective date of the Insurance Fraud Act, the superintendent shall determine a rate of assessment and collect a fee from authorized insurers in an amount not less than two hundred dollars (\$200) and not exceeding one-tenth of one percent of the correctly reported gross direct written premiums on policies written in New Mexico by the authorized insurers. The superintendent, after taking into account unexpended money produced by collection of the fee, shall adjust the rate of assessment each year to produce the amount of money that he estimates will be necessary to pay expenses incurred by the superintendent in carrying out the provisions of the Insurance Fraud Act.

C. In calculating the gross direct written premiums for an insurer pursuant to the provisions of this section, all gross direct written premiums for workers' compensation insurance shall be excluded from the calculation.

D. The fees required by this section are in addition to all other taxes and fees now imposed or that may be subsequently imposed."

Chapter 115 Section 15

Section 15. A new section of the New Mexico Insurance Code is enacted to read:

"APPLICATION OF ACT TO OTHER ACTS.--

A. No authority granted the superintendent under the Insurance Fraud Act shall be construed to abrogate or interfere with the authority of the safety and fraud division of the workers' compensation administration under the Workers' Compensation Act or of the medicaid fraud control unit under the Medicaid Fraud Act.

B. Nothing in the Insurance Fraud Act shall:

(1) preempt the authority of or relieve the duty of any other law enforcement agencies to investigate and prosecute alleged violations of law;

(2) prevent or prohibit a person from voluntarily disclosing any information concerning insurance fraud to any law enforcement agency;

(3) limit any of the powers granted elsewhere by law to the superintendent to investigate alleged violations of law and take appropriate action; or

(4) interfere with the duties and authority of the workers' compensation administration."

Chapter 115 Section 16

Section 16. A new section of the New Mexico Insurance Code is enacted to read:

"RULES.--The superintendent may promulgate rules deemed necessary or appropriate by the superintendent for the administration of the Insurance Fraud Act."

Chapter 115 Section 17

Section 17. APPROPRIATION.--

A. Five hundred thousand dollars (\$500,000) is appropriated from the insurance fraud fund to the superintendent of insurance for expenditure in fiscal year 1999 for the purpose of carrying out the provisions of the Insurance Fraud Act. Any unexpended or unencumbered balance remaining at the end of fiscal year 1999 shall not revert to the general fund.

B. The superintendent of insurance is authorized to employ three additional full-time employees to carry out the provisions of the Insurance Fraud Act.

Chapter 115 Section 18

Section 18. REPEAL.--Sections 59A-16A-1 through 59A-16A-4 NMSA 1978 (being Laws 1991, Chapter 86, Sections 1 through 4) are repealed.

Chapter 115 Section 19

Section 19. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1998.

HOUSE BILL 141, AS AMENDED

CHAPTER 116

MAKING GENERAL APPROPRIATIONS AND AUTHORIZING EXPENDITURES BY STATE AGENCIES REQUIRED BY LAW.

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

Chapter 116 Section 1

Section 1. **SHORT TITLE.**--This act may be cited as the "General Appropriation Act of 1998".

Chapter 116 Section 2

Section 2. **DEFINITIONS.**--As used in the General Appropriation Act of 1998:

- A. "agency" means an office, department, agency, institution, board, bureau, commission, court, district attorney, council or committee of state government;
- B. "expenditures" means costs, expenses, encumbrances and other financing uses, other than refunds authorized by law, recognized in accordance with generally accepted accounting principles for the legally authorized budget amounts and budget period;
- C. "federal funds" means any payments by the United States government to state government or agencies except those payments made in accordance with the federal Mineral Lands Leasing Act;

~~[D. "full-time equivalent" or "FTE" means one or more authorized positions that together receive compensation for not more than two thousand eighty-eight hours worked in fiscal year 1999. 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;]~~

E. "general fund" means that fund created by Section 6-4-2 NMSA 1978 and includes federal Mineral Lands Leasing Act receipts, but excludes the general fund operating reserve, the appropriation contingency fund and the risk reserve;

F. "interagency transfers" means revenue, other than internal service funds, legally transferred from one agency to another;

G. "internal service funds" means:

(1) revenue transferred to an agency for the financing of goods or services to another agency on a cost-reimbursement basis; and

(2) unencumbered balances in agency internal service fund accounts appropriated by the General Appropriation Act of 1998;

H. "other state funds" means:

(1) unencumbered, nonreverting balances in agency accounts, other than in internal service funds accounts, appropriated by the General Appropriation Act of 1998;

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

(3) all revenue, the use of which is restricted by statute or agreement;

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

J. "unforeseen federal funds" means a source of federal funds or an increased amount of federal funds that could not have been reasonably anticipated or known during the second session of the forty-third legislature and, therefore, could not have been requested by an agency or appropriated by the legislature.

Chapter 116 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 are appropriated from the source indicated by the column heading. All amounts set out under the column heading "Internal Service Funds/Interagency Transfers" indicate an intergovernmental transfer and do not represent a portion of total state government appropriations. All information designated as "Totals" or "Subtotals" are provided for information and are not appropriations.

C. Amounts set out in Section 4 of the General Appropriation Act of 1998, or so much as may be necessary, are appropriated from the indicated source for expenditure in fiscal year 1999 for the objects expressed.

D. Unencumbered balances in agency accounts remaining at the end of fiscal year 1998 shall revert to the general fund by October 1, 1998, unless otherwise indicated in the General Appropriation Act of 1998 or otherwise provided by law.

E. Unencumbered balances in agency accounts remaining at the end of fiscal year 1999 shall revert to the general fund by October 1, 1999, unless otherwise indicated in the General Appropriation Act of 1998 or otherwise provided by law.

F. The state budget division shall monitor revenue received by agencies from sources other than the general fund and shall reduce the operating budget of any agency whose revenue from such sources is not meeting projections. The state budget division shall notify the legislative finance committee of any operating budget reduced pursuant to this subsection.

G. Except as otherwise specifically stated in the General Appropriation Act of 1998, appropriations are made in that act for the expenditures of agencies and for other purposes as required by existing law for fiscal year 1999. If any other act of the second session of the forty-third legislature changes existing law with regard to the name or responsibilities of an agency or the name or purpose of a fund or distribution, the appropriation made in the General Appropriation Act of 1998 shall be transferred from the agency, fund or distribution to which an appropriation has been made as required by existing law to the appropriate agency, fund or distribution provided by the new law.

~~[H. In August, October, December and May of fiscal year 1999, the department of finance and administration, in consultation with the staff of the legislative finance committee and other agencies, shall prepare and present revenue estimates to the legislative finance committee. If these revenue estimates indicate that revenues and transfers to the general fund, excluding transfers to the general fund operating reserve, the risk reserve, the appropriation contingency fund or the state support reserve fund, as of the end of fiscal year 1999, are not expected to meet appropriations from the general fund, then the department shall present a plan to the legislative finance committee that outlines the methods by which the administration proposes to address the deficit.]~~

I. Pursuant to Sections 6-3-23 through 6-3-25 NMSA 1978, agencies whose revenue from unforeseen federal funds, from state board of finance loans, from revenue appropriated by other acts of the legislature, or from gifts, donations, bequests, insurance settlements, refunds, or payments into revolving funds exceed specifically appropriated amounts may request budget increases from the state budget division. If approved by the state budget division, such money is appropriated. In approving a budget increase from unforeseen 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.

~~[J. For fiscal year 1999, the number of permanent and term full-time equivalent positions specified for each agency shows the maximum number of employees intended by the legislature for that agency, unless another provision of the General Appropriation Act of 1998 or another act of the second session of the forty-third legislature provides for additional employees.]~~

~~K. Except for gasoline credit cards used solely for operation of official vehicles and telephone credit cards used solely for official business, none of the appropriations contained in the General Appropriation Act of 1998 may be expended for payment of credit card invoices.]~~

L. To prevent unnecessary spending, expenditures from the General Appropriation Act of 1998 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.

M. When approving operating budgets based on appropriations in the General Appropriation Act of 1998, the state budget division is specifically authorized to approve only those budgets that are in accordance with generally accepted accounting principles for the purpose of properly classifying other financing sources and uses, including interfund, intrafund and interagency transfers.

N. Laws 1997, Chapter 33, Section 4 is repealed effective July 1, 1998.

Chapter 116 Section 4

Section 4. FISCAL YEAR 1999 APPROPRIATIONS.--

A. LEGISLATIVE

LEGISLATIVE COUNCIL SERVICE:

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

(1) Legislative maintenance department:

(a) Personal services 1,093.6 1,093.6

(b) Employee benefits 368.2 368.2

(c) Travel 3.0 3.0

(d) Maintenance and repairs 168.1 168.1

(e) Supplies and materials 20.0 20.0

(f) Contractual services 59.2 59.2

(g) Operating costs 592.9 592.9

(h) Capital outlay 19.7 19.7

(i) Out-of-state travel 2.0 2.0

Authorized FTE: 35.00 Permanent; 4.00 Temporary

(2)Energy council dues: 35.0 35.0

~~[(3)Legislative retirement:360.0360.0]~~

Subtotal 2,721.7

TOTAL LEGISLATIVE 2,721.7 2,721.7

B. JUDICIAL

ADMINISTRATIVE OFFICE OF THE COURTS:

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

~~[(1)Administration:~~

~~(a) Contractual services100.0100.0~~

~~(b) Other financing uses700.0700.0~~

Authorized FTE: 22.00 Permanent

~~The general fund appropriation to the administration of the administrative office of the courts in the other financing uses category of the administrative office of the courts includes seven hundred thousand dollars (\$700,000) for twenty two probation and parole full time equivalents to provide supervision of probationers.~~

~~(2)Magistrate courts:~~

~~(a) Personal services288.0288.0~~

~~(b) Employee benefits120.0120.0~~

~~(c) Supplies and materials22.422.4~~

~~(d) Operating costs20.420.4~~

~~(e) Capital outlay49.249.2~~

Authorized FTE: 12.00 Permanent]

(3)Supreme court automation fund:

(a) Personal services 68.5 68.5

(b) Employee benefits 19.6 19.6

(c) Capital outlay 435.8 435.8

Authorized FTE: 2.50 Permanent

(4) Court appointed special advocate: 390.3 390.3

~~[(5) Court improvement project: 42.1 42.1~~

~~Subtotal 2,256.3]~~

DISTRICT COURTS:

~~[(1) First judicial district:~~

~~(a) Personal services 23.5 23.5~~

~~(b) Employee benefits 7.5 7.5~~

~~(c) Travel 5.5~~

~~(d) Supplies and materials 1.0 1.0~~

~~(e) Contractual services 40.0 40.0~~

~~(f) Operating costs 1.0 1.0~~

~~(g) Capital outlay 12.0 12.0~~

~~Authorized FTE: 1.00 Permanent~~

~~(2) Second judicial district court: 300.0 300.0~~

~~The general fund appropriation to the second judicial district court includes three hundred thousand dollars (\$300,000) for a drug court program.~~

~~(3) Sixth judicial district:~~

~~(a) Travel 2.0 2.0~~

~~(b) Contractual services 18.0 18.0]~~

~~(4) Seventh judicial district:~~

~~(a) Contractual services 25.8 25.8~~

~~(5) Eighth judicial district:~~

~~(a) Personal services 23.5 23.5~~

~~(b) Employee benefits 9.5 9.5~~

~~[(c) Contractual services 62.5 62.5]~~

~~Authorized FTE: 1.00 Permanent~~

~~[(6) Ninth judicial district:~~

~~(a) Personal services 42.2 42.2~~

~~(b) Employee benefits 16.8 16.8~~

~~(c) Travel 7.0 7.0~~

~~(d) Supplies and materials 1.2 1.2~~

(e) Contractual services 11.011.0

(f) Operating costs 7.7

(g) Capital outlay 4.04.0

Authorized FTE: 1.00 Permanent; 1.00 Term]

(7) Eleventh judicial district:

(a) Travel 1.0 1.0

(b) Supplies and materials 38.4 38.4

(c) Contractual services 161.2 161.2

(d) Operating costs 2.2 2.2

(e) Capital outlay 7.2 7.2

The general fund appropriations to the eleventh judicial district include [~~one hundred fifty thousand dollars (\$150,000) to fund drug court and~~] sixty thousand dollars (\$60,000) to fund grade court.

(8) Twelfth judicial district: 78.9 78.9

The general fund appropriation to the twelfth judicial district includes seventy-eight thousand nine hundred dollars (\$78,900) for a domestic violence special commissioner.

~~(9) Thirteenth judicial district:~~

~~(a) Personal services 23.623.6~~

~~(b) Employee benefits 9.59.5~~

~~(c) Travel 8.38.3~~

~~(d) Supplies and materials 1.51.5~~

~~(e) Contractual services 20.020.0~~

~~(f) Operating costs 1.01.0~~

~~(g) Capital outlay 4.14.1~~

Authorized FTE: 1.00 Permanent

Subtotal 966.6

BERNALILLO COUNTY METROPOLITAN COURT:

(a) Personal services 437.6437.6

(b) Employee benefits 157.8157.8

(c) Supplies and materials 13.513.5

(d) Contractual services 30.030.0

(e) Operating costs 15.315.3

(f) Capital outlay 28.028.0

Authorized FTE: 9.00 Permanent

Subtotal 682.2]

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

DISTRICT ATTORNEYS:

(1) First judicial district:

(a) Personal services 1,742.8 1,742.8

(b) Employee benefits 613.9 613.9

(c) Travel 17.8 17.8

(d) Maintenance and repairs 9.8 9.8

(e) Supplies and materials 31.5 31.5

(f) Contractual services 20.6 20.6

(g) Operating costs 112.3 112.3

(h) Capital outlay 17.0 17.0

(i) Out-of-state travel 4.2 4.2

Authorized FTE: 50.50 Permanent; .50 Term

~~[The general fund appropriations to the first judicial district attorney in the personal services and employee benefits categories include fifty-five thousand seven hundred dollars (\$55,700) for an assistant district attorney.]~~

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

(2) Second judicial district:

(a) Personal services 7,111.3 236.4 166.2 304.6 7,818.5

(b) Employee benefits 2,393.6 89.4 54.5 108.8 2,646.3

(c) Travel 88.3 88.3

(d) Maintenance and repairs 86.3 86.3

(e) Supplies and materials 99.3 99.3

(f) Contractual services 51.6 51.6

(g) Operating costs 618.7 618.7

(h) Capital outlay 62.9 62.9

(i) Out-of-state travel 1.4 1.4

Authorized FTE: 206.00 Permanent; 26.50 Term

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

(3)Third judicial district:

(a) Personal services 1,385.3 189.0 1,574.3

(b) Employee benefits 540.8 55.6 596.4

(c) Travel 12.2 2.8 15.0

(d) Maintenance and repairs 9.4 9.4

(e) Supplies and materials 14.5 4.2 18.7

(f) Contractual services 4.5 4.5

(g) Operating costs 116.2 5.1 121.3

(h) Capital outlay 3.5 2.8 6.3

(i) Out-of-state travel 1.5 1.4 2.9

Authorized FTE: 41.00 Permanent; 8.00 Term

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

(4)Fourth judicial district:

(a) Personal services 962.0 9.9 971.9

(b) Employee benefits 404.5 6.0 410.5

(c) Travel 15.2 15.2

(d) Maintenance and repairs 5.4 5.4

(e) Supplies and materials 13.0 13.0

(f) Contractual services 52.8 52.8

(g) Operating costs 117.6 117.6

(h) Out-of-state travel 1.5 1.5

Authorized FTE: 27.50 Permanent; 1.00 Term

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

(5)Fifth judicial district:

(a) Personal services 1,507.1 1,507.1

- (b) Employee benefits 512.7 512.7
- (c) Travel 38.3 38.3
- (d) Maintenance and repairs 10.1 10.1
- (e) Supplies and materials 20.5 20.5
- (f) Contractual services 73.2 73.2
- (g) Operating costs 120.2 120.2
- (h) Capital outlay 26.32 6.3
- (i) Out-of-state travel 3.3 3.3

Authorized FTE: 44.50 Permanent; 2.00 Term

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

(6)Sixth judicial district:

- (a) Personal services 709.5 86.6 205.3 1,001.4
- (b) Employee benefits 254.3 26.6 67.9 348.8
- (c) Travel 9.6 9.3 18.9
- (d) Maintenance and repairs 2.5 2.5
- (e) Supplies and materials 10.0 4.6 14.6
- (f) Contractual services 5.0 37.2 42.2
- (g) Operating costs 98.0 22.5 120.5
- (h) Capital outlay 1.0 1.0
- (i) Out-of-state travel 7.0 7.0

Authorized FTE: 20.00 Permanent; 9.50 Term

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

(7)Seventh judicial district:

- (a) Personal services 930.0 930.0
- (b) Employee benefits 322.6 322.6
- (c) Travel 20.0 20.0
- (d)Maintenance and repairs 5.3 5.3

- (e) Supplies and materials 14.2 14.2
- (f) Contractual services 43.1 43.1
- (g) Operating costs 69.6 69.6
- (h) Capital outlay 2.0 2.0
- (i) Out-of-state travel 1.8 1.8
- (j) Other financing uses .4 .4

Authorized FTE: 29.00 Permanent

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

(8)Eighth judicial district:

- (a) Personal services 996.7 14.8 1,011.5
- (b) Employee benefits 401.9 3.2 405.1
- (c) Travel 27.6 1.9 29.5
- (d) Maintenance and repairs 12.1 12.1
- (e) Supplies and materials 20.7 1.2 21.9
- (f) Contractual services 10.6 10.9 21.5
- (g) Operating costs 88.8 1.2 90.0
- (h) Capital outlay 89.7 89.7
- (i) Out-of-state trave l7.0 7.0

Authorized FTE: 27.00 Permanent; .35 Term

(9)Ninth judicial district:

- (a) Personal services 961.6 961.6
- (b) Employee benefits 341.7 341.7
- (c) Travel 11.0 3.0 14.0
- (d) Maintenance and repairs 2.7 2.7
- (e) Supplies and materials 11.5 2.2 13.7
- (f) Contractual services 3.0 2.0 5.0
- (g) Operating costs 82.2 2.5 84.7
- (h) Capital outlay 27.3 27.3

(i) Out-of-state travel 1.2 1.2

Authorized FTE: 26.00 Permanent; 1.00 Term

(10)Tenth judicial district:

(a) Personal services 305.6 305.6

(b) Employee benefits 106.7 106.7

(c) Travel 5.9 5.9

(d) Maintenance and repairs 1.0 1.0

(e) Supplies and materials 6.5 6.5

(f) Contractual services 3.0 3.0

(g) Operating costs 21.6 21.6

(h) Capital outlay 16.8 16.8

Authorized FTE: 8.00 Permanent

(11)Eleventh judicial district--Farmington office:

(a) Personal services 1,087.6 67.6 1,155.2

(b) Employee benefits 368.5 28.5 397.0

(c) Travel 14.6 14.6

(d) Maintenance and repairs 10.2 10.2

(e) Supplies and materials 16.9 16.9

(f) Contractual services 6.5 6.5

(g) Operating costs 71.9 71.9

(h)Capital outlay 14.4 14.4

(i) Out-of-state travel 1.5 1.5

Authorized FTE: 34.50 Permanent; 2.50 Term

Other Intrnl Svc

General State Funds/Inter- Federal

Item Fund Funds Agency Trnsf Funds Total

(12)Eleventh judicial district--Gallup office:

(a) Personal services 664.9 664.9

(b) Employee benefits 222.3 222.3

(c) Travel 6.7 6.7

(d) Maintenance and repairs 1.7 1.7

(e) Supplies and materials 12.8 12.8

(f) Contractual services 3.3 3.3

(g) Operating costs 42.6 42.6

(h) Other financing uses 128.7 128.7

Authorized FTE: 20.00 Permanent

(13)Twelfth judicial district:

(a) Personal services 1,047.5 181.4 1,228.9

(b) Employee benefits 363.5 54.8 418.3

(c) Travel 16.0 5.2 21.2

(d) Maintenance and repairs 8.6 .8 9.4

(e) Supplies and materials 19.1 4.1 23.2

(f) Contractual services 4.5 49.5 54.0

(g) Operating costs 76.5 17.8 94.3

(h) Capital outlay 2.0 2.0

(i) Out-of-state travel 2.0 1.5 3.5

(j) Other financing uses 7.7 7.7

Authorized FTE: 31.50 Permanent; 5.50 Term

(14)Thirteenth judicial district:

(a) Personal services 1,319.2 1,319.2

(b) Employee benefits 454.4 454.4

(c) Travel 25.8 25.8

(d) Maintenance and repairs 4.9 4.9

(e) Supplies and materials 13.7 13.7

(f) Contractual services 42.1 42.1

(g) Operating costs 79.8 79.8

(h) Capital outlay 12.9 12.9

(i) Out-of-state travel 2.0 2.0

Authorized FTE: 41.00 Permanent

Subtotal 33,453.3

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

ADMINISTRATIVE OFFICE OF THE DISTRICT ATTORNEYS:

- (a) Personal services 184.7 81.8 266.5
- (b) Employee benefits 43.2 42.0 85.2
- (c) Travel 2.7 27.5 30.2
- (d) Maintenance and repairs .1 1.5 1.6
- (e) Supplies and materials 3.6 2.4 6.0
- (f) Contractual services 2.7 2.7
- (g) Operating costs 114.8 45.0 159.8
- (h) Other costs 175.0 175.0
- (i) Capital outlay 2.5 1.5 4.0
- (j) Out-of-state travel 20.8 20.8

Authorized FTE: 7.00 Permanent

Subtotal 751.8

TOTAL JUDICIAL 35,077.3 1,185.4 1,434.1 413.4 38,110.2

C. GENERAL CONTROL

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

ATTORNEY GENERAL:

(1)Regular operations:

- (a) Personal services 5,354.2 276.8 246.8 5,877.8
- (b) Employee benefits 1,824.7 1,824.7
- (c) Travel 167.5 167.5
- (d) Maintenance and repairs 64.8 64.8
- (e) Supplies and materials 72.8 72.8
- (f) Contractual services 220.0 220.0
- (g) Operating costs 801.5 801.5
- (h) Other costs .5 .5

(i) Capital outlay 20.0 20.0

(j) Out-of-state travel 20.0 20.0

(k) Other financing uses 2.0 2.0

Authorized FTE: 138.00 Permanent; 1.00 Term

The other state funds appropriation to the regular operations of the attorney general includes twenty-six thousand eight hundred dollars (\$26,800) from the anti-trust litigation expense fund. Any unexpended or unencumbered balance remaining in this fund at the end of fiscal year 1999 shall revert to the general fund.

The internal service funds/interagency transfers appropriation to the regular operations of the attorney general includes forty-six thousand eight hundred dollars (\$46,800) from the Medicaid fraud

division; fifty thousand dollars (\$50,000) from the corrections department for costs associated with the attorney general's representation of habeas corpus cases on behalf of the corrections department; and one hundred fifty thousand dollars (\$150,000) from the risk management division of the general services department for providing legal representation of governmental entities and public employees at the request of the risk management division.

All revenue generated from anti-trust cases through the attorney general on behalf of the state, political subdivisions or private citizens shall revert to the general fund.

(2) Guardianship services program:

(a) Personal services 76.4 76.4

(b) Employee benefits 24.1 24.1

(c) Travel .2 .2

(d) Supplies and materials .3 .3

(e) Contractual services 1,266.7 1,266.7

(f) Operating costs 1.5 1.5

(g) Out-of-state travel .7 .7

Authorized FTE: 1.50 Permanent

The general fund appropriation to the guardianship services program of the attorney general in the contractual services category includes seventy-five thousand dollars (\$75,000) to fund necessary guardianship proceedings for individuals with developmental disabilities needing assistance but unable to make responsible decisions for themselves.

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

(3) Medicaid fraud division:

(a) Personal services 133.4 400.0 533.4

(b) Employee benefits 41.3 124.0 165.3

- (c) Travel 6.8 20.6 27.4
- (d) Maintenance and repairs 1.6 4.7 6.3
- (e) Supplies and materials 1.1 3.5 4.6
- (f) Contractual services 3.8 11.2 15.0
- (g) Operating costs 16.6 50.0 66.6
- (h) Out-of-state travel 1.8 2.2 3.0
- (i) Other financing uses 1 1.7 35.3 47.0

Authorized FTE: 13.00 Term

Subtotal 11,310.1

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

STATE AUDITOR:

- (a) Personal services 910.4 214.6 1,125.0
- (b) Employee benefits 272.2 87.2 359.4
- (c) Travel 24.2 8.6 32.8
- (d) Maintenance and repairs 7.8 7.8
- (e) Supplies and materials 11.6 1.6 13.2
- (f) Contractual services 84.5 13.6 98.1
- (g) Operating costs 141.9 64.1 206.0
- (h) Capital outlay 1.1 1.1
- (i) Out-of-state travel 4.0 4.0 8.0
- (j) Other financing uses .4 .4

Authorized FTE: 27.00 Permanent; 1.00 Term

Subtotal 1,851.8

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

TAXATION AND REVENUE DEPARTMENT:

- (1) Office of the secretary:

(a) Personal services 2,471.3 2,471.3

(b) Employee benefits 801.4 801.4

(c) Travel 38.8 38.8

(d) Maintenance and repairs 3.7 3.7

(e) Supplies and materials 19.1 19.1

(f) Contractual services 259.2 259.2

(g) Operating costs 173.0 173.0

(h) Capital outlay 9.0 9.0

(i) Out-of-state travel 20.0 20.0

Authorized FTE: 65.00 Permanent

(2)Administrative services division:

(a) Personal services 4,255.3 72.2 4,327.5

(b) Employee benefits 1,362.8 19.8 1,382.6

(c) Travel 18.3 18.3

(d)Maintenance and repairs 168.1 168.1

(e) Supplies and materials 1,585.1 .5 1,585.6

(f) Contractual services 46.0 46.0

(g) Operating costs 3,430.5 77.3 3,507.8

(h) Other costs .2 .2

(i) Capital outlay 38.8 38.8

(j) Out-of-state travel 5.0 5.0

(k) Other financing uses 16.5 16.5

Authorized FTE: 131.00 Permanent

(3)Audit and compliance division:

(a) Personal services 6,191.6 21.0 307.6 6,520.2

(b) Employee benefits 1,995.6 6.3 96.4 2,098.3

(c) Travel 249.9 9.9 259.8

(d) Maintenance and repairs 33.5 33.5

(e) Supplies and materials 74.8 7.0 81.8

(f) Contractual services 214.1 214.1

(g) Operating costs 1,275.2 58.2 16.8 1,350.2

(h) Other costs 1.7 1.7

(i) Capital outlay 36.6 3.4 40.0

(j) Out-of-state travel 322.1 87.2 409.3

Authorized FTE: 221.00 Permanent; 10.00 Term;9.00 Temporary

(4)Revenue processing division:

(a) Personal services 3,586.5 305.0 3,891.5

(b) Employee benefits 1,122.6 101.8 1,224.4

(c) Travel 3.8 1.8 5.6

(d) Maintenance and repairs 389.7 34.2 423.9

(e) Supplies and materials 139.2 28.5 167.7

(f) Contractual services 20.0 20.0

(g) Operating costs 2,330.3 110.7 2,441.0

(h) Capital outlay 35.0 35.0

(i) Out-of-state travel .7 3.9 4.6

Authorized FTE: 160.00 Permanent; 42.40 Temporary

Other Intrnl Svc

General State Funds/Inter- Federal

Item Fund Funds Agency Trnsf Funds Total

(5)Property tax division:

(a) Personal services 768.7 574.7 1,343.4

(b) Employee benefits 250.7 175.8 426.5

(c) Travel 81.1 196.7 277.8

(d) Maintenance and repairs 1.4 1.4

(e) Supplies and materials 3.7 13.3 17.0

(f) Contractual services 70.9 9.1 80.0

(g) Operating costs 43.2 79.6 122.8

(h) Other costs .3 .7 1.0

(i) Capital outlay 14.3 14.3

(j)Out-of-state travel 21.0 21.0

Authorized FTE: 45.00 Permanent

(6) Motor vehicle division:

(a) Personal services 5,983.6 104.5 6,088.1

(b) Employee benefits 2,282.1 12.3 2,294.4

(c) Travel 41.7 20.4 62.1

(d) Maintenance and repairs 75.0 75.0

(e) Supplies and materials 371.8 84.5 456.3

(f) Contractual services 594.5 956.5 1,551.0

(g) Operating costs 1,583.1 140.0 1,723.1

(h) Other costs .1 .1

(i) Capital outlay 182.8 182.8

(j) Out-of-state travel 20.0 20.0

Authorized FTE: 262.00 Permanent; 8.00 Temporary

(7) Motor transportation division:

(a) Personal services 786.9 1,964.93 11.3 3,063.1

(b) Employee benefits 325.0 809.5 116.3 1,250.8

(c) Travel 99.3 23.9 94.2 217.4

(d) Maintenance and repairs 167.0 2.0 169.0

(e) Supplies and materials 65.9 25.5 91.4

(f) Contractual services 8.0 8.0

(g) Operating costs 347.1 .5 22.2 369.8

(h) Other costs .5 .5 1.0

(i) Capital outlay 83.8 71.3 155.1

(j) Out-of-state travel .5 2.5 25.8 28.8

Authorized FTE: 107.00 Permanent; 12.00 Term

The internal service funds/interagency transfers appropriations to the motor transportation division of the taxation and revenue department include two million six hundred eighty-eight thousand two hundred dollars (\$2,688,200) from the state road fund. Any unexpended or unencumbered balance in the taxation and revenue department remaining at the end of fiscal year 1999 from appropriations made from the state road fund shall revert to the state road fund.

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

(8) ONGARD service center:

- (a) Personal services 311.4 196.5 507.9
- (b) Employee benefits 101.5 63.4 164.9
- (c) Travel 1.7 .6 1.3
- (d) Maintenance and repairs 5.0 2.4 7.4
- (e) Supplies and materials 2.0 1.0 3.0
- (f) Contractual services 239.1 75.9 315.0
- (g) Operating costs 209.2 124.1 333.3
- (h) Capital outlay 50.0 50.0
- (i) Out-of-state travel 9.6 .4 10.0

Authorized FTE: 13.00 Permanent

Subtotal 55,619.8

STATE INVESTMENT COUNCIL:

- (a) Personalservices 1,107.7 1,107.7
- b) Employee benefits 346.6 346.6
- (c) Travel 20.3 20.3
- (d) Maintenance and repairs 7.7 7.7
- (e) Supplies and materials 17.2 17.2
- (f) Contractual services 4,313.0 80.0 4,393.0
- (g) Operating costs 291.5 291.5
- (h) Capital outlay 18.5 18.5
- (i) Out-of-state travel 40.0 40.0
- (j) Other financing uses 1,000.0 1,000.0

Authorized FTE: 24.00 Permanent

The other state funds appropriation to the state investment council in the contractual services category includes three million nine hundred twenty thousand dollars (\$3,920,000) to be used only for investment manager fees.

The other state funds appropriation to the state investment council in the other financing uses category includes one million dollars (\$1,000,000) for payment of custody services associated with the fiscal agent contract to the state board of finance upon monthly assessments. Any unexpended or unencumbered balance in the state board of finance remaining at the end of fiscal year 1999 from this appropriation shall revert to the land grant permanent fund and the severance tax permanent fund.

Subtotal 7,242.5

Other Intrnl Svc
General State Funds/Inter- Federal

Item Fund Funds Agency Trnsf Funds Total

DEPARTMENT OF FINANCE AND ADMINISTRATION:

(1)Office of the secretary:

- (a) Personal services 390.3 390.3
- (b) Employee benefits 128.8 128.8
- (c) Travel 3.5 3.5
- (d) Maintenance and repairs .6 .6
- (e) Supplies and materials 4.5 4.5
- (f) Contractual services 51.3 51.3
- (g) Operating costs 33.2 33.2
- (h) Capital outlay 2.5 2.5
- (i) Out-of-state travel 1.8 1.8
- (j) Other financing uses 2.1 2.1

Authorized FTE: 6.80 Permanent

(2)Administrative services division:

- (a) Personal services 687.4 687.4
- (b) Employee benefits 225.5 225.5
- (c) Travel .8 .8
- (d) Maintenance and repairs 15.2 15.2
- (e) Supplies and materials 14.3 14.3
- (f) Contractual services 50.0 50.0
- (g) Operating costs 73.6 73.6
- (h) Capital outlay 2.0 2.0
- (i) Out-of-state travel .8 .8

Authorized FTE: 19.00 Permanent

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

(3)State board of finance:

- (a) Personal services 267.9 267.9
- (b) Employee benefits 82.6 82.6

- (c) Travel 9.0 9.0
- (d) Maintenance and repairs .9 .9
- (e) Supplies and materials 2.5 2.5
- (f) Contractual services 35.0 35.0
- (g) Operating costs 16.5 16.5
- (h) Capital outlay .7 .7
- (i) Out-of-state travel 2.5 2.5

Authorized FTE: 6.00 Permanent

Upon a determination by the state board of finance pursuant to Section 6-1-2 NMSA 1978 that an emergency exists that cannot be addressed by disaster declaration or other emergency or contingency funds, and upon review by the legislative finance committee, the secretary of finance and administration is authorized to transfer from the general fund operating reserve to the state board of finance emergency fund the amount necessary to meet the emergency. Such transfers shall not exceed an aggregate amount of five hundred thousand dollars (\$500,000) in fiscal year 1999. Repayments of emergency loans made pursuant to this paragraph shall be deposited in the board of finance emergency fund pursuant to the provisions of Section 6-1-5 NMSA 1978; provided that, after the total amounts deposited in fiscal year 1999 exceed two hundred fifty thousand dollars (\$250,000), then any additional repayments shall be transferred to the general fund.

To ensure adequate legislative review and comment on emergency determination, the state board of finance shall budget the appropriate amount for each individual emergency determination made in the board of finance emergency fund via a separate budget adjustment request pursuant to Section 6-3-25 NMSA 1978 prior to disbursement. Funds transferred pursuant to this paragraph are appropriated to the state board of finance emergency fund.

(4) State budget division:

- (a) Personal services 928.5 928.5
- (b) Employee benefits 286.7 286.7
- (c) Travel 9.2 9.2
- (d) Maintenance and repairs 2.9 2.9
- (e) Supplies and materials 10.0 10.0
- (f) Contractual services 27.0 27.0
- (g) Operating costs 66.5 66.5
- (h) Out-of-state travel 6.0 6.0

Authorized FTE: 20.00 Permanent

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

(5) Local government division:

- (a) Personal services 1,021.1 167.6 389.0 1,577.7
- (b) Employee benefits 328.3 53.4 135.8 517.5

- (c) Travel 16.0 13.9 61.6 91.5
- (d) Maintenance and repairs 3.8 .9 5.2 9.9
- (e) Supplies and materials 16.6 7.8 17.0 41.4
- (f) Contractual services 2.1 10.6 23.1 35.8
- (g) Operating costs 56.8 19.0 100.9 176.7
- (h) Other costs 269.8 269.8
- (i) Capital outlay 27.5 2.0 3.5 33.0
- (j) Out-of-state travel 14.4 2.7 16.9 24.0

Authorized FTE: 25.00 Permanent; 17.00 Term

~~[The general fund appropriation to the local government division of the department of finance and administration in the other costs category includes one hundred nineteen thousand eight hundred dollars (\$119,800) for a joint powers agreement with the mortgage finance authority for start-up costs for a nonprofit organization dedicated to assisting first-time low income home buyers in developing a principal residence to achieve financial independence; and one hundred fifty thousand dollars (\$150,000) for equipment replacement at KANW-FM radio station in Guadalupe county.]~~

(6) Financial control division:

- (a) Personal services 1,922.5 1,922.5
- (b) Employee benefits 624.9 624.9
- (c) Travel 8.3 8.3
- (d) Maintenance and repairs 26.4 26.4
- (e) Supplies and materials 89.8 89.8
- (f) Contractual services 208.8 208.8
- (g) Operating costs 1,465.5 1,465.5
- (h) Capital outlay 28.8 28.8
- (i) Out-of-state travel 4.0 4.0

Authorized FTE: 56.20 Permanent

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

(7) Special appropriations/dues and membership fees:

- (a) National association of state
 budget officers 8.1 8.1
- (b) Council of state governments 68.2 68.2

(c) Western interstate commission
for higher education 83.0 83.0

(d) Education commission of the
states 39.6 39.6

(e) Rocky Mountain corporation for
public broadcasting 13.1 13.1

(f) National conference of state
legislatures 85.3 85.3

(g) Western governor's association 36.0 36.0

(h) Cumbres and Toltec scenic railroad
commission 10.0 10.0

(i) Commission on intergovernmental
relations 5.6 5.6

(j) Governmental accounting standards
board 15.7 15.7

(k) National center for state courts 60.8 60.8

(l) National governor's association 48.0 48.0

(m) Citizens review board 229.5 96.0 325.5

(n) Emergency water fund 45.0 45.0

(o) Fiscal agent contract 750.0 1,238.5 1,988.5

(p) Big brothers and big sisters
programs 500.0 500.0

(q) DWI grants 9,700.0 9,700.0

(r) Council of governments 275.0 275.0

(s) Leasehold community assistance 116.0 116.0

(t) Acequia and community ditch
program 30.0 30.0

Subtotal 24,052.3

Other Intrnl Svc
General State Funds/Inter- Federal
Item Fund Funds Agency Trnsf Funds Total
PUBLIC SCHOOL INSURANCE AUTHORITY:

(1) Operations division:

- (a) Personal services 378.8 378.8
- (b) Employee benefits 126.6 126.6
- (c) Travel 32.9 32.9
- (d) Maintenance and repairs 25.0 25.0
- (e) Supplies and materials 14.0 14.0
- (f) Contractual services 142.6 142.6
- (g) Operating costs 60.2 60.2
- (h) Capital outlay 4.2 4.2
- (i) Out-of-state travel 2.8 2.8
- (j) Other financing uses .2 .2

Authorized FTE: 9.00 Permanent

One-half of the unexpended or unencumbered balance in the operations division of the public school insurance authority remaining at the end of fiscal year 1999 shall revert to the benefits division of the authority and one-half of the unexpended or unencumbered balances in the operations division of the public school insurance authority remaining at the end of fiscal year 1999 shall revert to the risk division of the authority.

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

(2) Benefits division:

- (a) Contractual services 104,541.2 104,541.2
- (b) Other costs 25.0 25.0
- (c) Other financing uses 393.6 393.6

(3) Risk division:

- (a) Contractual services 21,465.6 21,465.6
- (b) Other financing uses 393.7 393.7

Subtotal 127,606.4

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

RETIREE HEALTH CARE AUTHORITY:

(1) Administration division:

- (a) Personal services 431.4 431.4

- (b) Employee benefits 218.3 218.3
- (c) Travel 23.2 23.2
- (d) Maintenance and repairs 10.8 10.8
- (e) Supplies and materials 38.3 38.3
- (f) Contractual services 101.3 101.3
- (g) Operating costs 325.6 325.6
- (h) Capital outlay 49.0 49.0

Authorized FTE: 10.00 Permanent

Any unexpended or unencumbered balance in the administration division of the retiree health care authority remaining at the end of fiscal year 1999 shall revert to the benefits division.

(2)Benefits division:

- (a) Contractual services 60,342.2 60,342.2
 - (b) Other financing uses 1,197.9 1,197.9
- Subtotal 62,738.0

GENERAL SERVICES DEPARTMENT:

(1)Office of the secretary:

- (a) Personal services 21.3 317.7 339.0
- (b) Employee benefits 7.0 103.7 110.7
- (c) Travel .5 7.5 8.0
- (d) Maintenance and repairs .6 .6
- (e) Supplies and materials .33 .8 4.1
- (f) Operating costs 1.2 18.4 19.6
- (g) Capital outlay .5 6.7 7.2
- (h) Out-of-state travel .12 .4 2.5
- (i) Other financing uses .1 .1

Authorized FTE: 7.00 Permanent

(2)Administrative services division:

- (a) Personal services 175.4 1,120.3 1,295.7
- (b) Employee benefits 56.0 357.9 413.9

- (c) Travel 2.2 14.3 16.5
- (d) Maintenance and repairs .6 4.1 4.7
- (e) Supplies and materials 5.0 31.9 36.9
- (f) Contractual services 16.8 107.4 124.2
- (g) Operating costs 70.1 447.6 517.7
- (h) Out-of-state travel .1 .9 1.0
- (i) Other financing uses 19.8 125.8 145.6

Authorized FTE: 38.00 Permanent

(3)Telecommunications access fund:

- (a) Contractual services 1,400.0 1,400.0
- (b) Other financing uses 140.0 140.0

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

(4)Purchasing division:

- (a) Personal services 672.9 258.9 859.6 162.8 1,954.2
- (b) Employee benefits 232.0 99.4 290.2 42.6 664.2
- (c) Travel 7.8 35.5 7.7 19.6 70.6
- (d) Maintenance and repairs 1.3 22.2 165.2 2.2 190.9
- (e) Supplies and materials 10.9 12.8 596.6 10.2 630.5
- (f) Contractual services 93.2 93.2
- (g) Operating costs 116.7 81.0 29.1 41.9 268.7
- (h) Out-of-state travel 1.8 10.4 4.2 15.4
- (i) Other financing uses 80.4 80.1 47.5 .1 208.1

Authorized FTE: 65.00 Permanent; 6.00 Term

(5)Information systems division--regular:

- (a) Personal services 7,916.5 7,916.5
- (b) Employee benefits 2,473.8 2,473.8
- (c) Travel 135.6 135.6
- (d) Maintenance and repairs 3,156.1 3,156.1
- (e) Supplies and materials 654.4 654.4

- (f) Contractual services 7,068.4 7,068.4
- (g) Operating costs 62.7 11,168.8 11,231.5
- (h) Capital outlay 709.4 709.4
- (i) Out-of-state travel 26.3 26.3
- (j) Other financing uses 5,196.0 5,196.0

Authorized FTE: 207.00 Permanent

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

(6)Information systems division--funds:

- (a) Data processing equipment replacement 1,990.9 1,990.9
- (b) Radio equipment replacement 500.0 500.0
- (c) Communications equipment replacement 1,970.0 1,970.0

(7)Risk management division--regular:

- (a) Personal services 1,644.1 1,644.1
- (b) Employee benefits 554.8 554.8
- (c) Travel 64.3 64.3
- (d) Maintenance and repairs 4.8 4.8
- (e) Supplies and materials 37.7 37.7
- (f) Contractual services 538.7 538.7
- (g) Operating costs 481.2 481.2

~~[(h) Other costs 150.0 150.0]~~

- (i) Out-of-state travel 10.6 10.6
- (j) Other financing uses 330.5 330.5

Authorized FTE: 46.00 Permanent

(8)Risk management division--funds:

- (a) Public liability 32,133.8 32,133.8
- (b) Surety bond 113.7 113.7
- (c) Public property reserve 3,985.9 3,985.9
- (d) Local public bodies unemployment compensation 666.2 666.2

(e) Workers' compensation retention 12,932.1 12,932.1

(f) State unemployment compensation 3,612.7 3,612.7

(g) Health benefits stabilization 83,324.0 83,324.0

The internal service funds/interagency transfers appropriation to the public liability fund includes three million six hundred two thousand three hundred dollars (\$3,602,300) in operating transfers in from the public liability account in the risk reserve. The internal service funds/interagency transfers appropriation to the surety bond fund includes one hundred thirteen thousand seven hundred dollars (\$113,700) in operating transfers in from the surety bond account in the risk reserve. The internal service funds/interagency transfers appropriation to the workers' compensation retention fund includes twelve million nine hundred thirty-two thousand one hundred dollars (\$12,932,100) in operating transfers in from the workers' compensation retention account in the risk reserve. The internal service funds/interagency transfers appropriation to the state unemployment compensation fund includes two hundred seven thousand dollars (\$207,000) in operating transfers in from the state unemployment compensation account in the risk reserve.

Other Intrnl Svc

General State Funds/Inter- Federal

Item Fund Funds Agency Trnsf Funds Total

(9)Property control division:

(a) Personal services 687.1 325.7 1,012.8

(b) Employee benefits 234.6 108.5 343.1

(c) Travel 6.9 3.2 10.1

(d) Maintenance and repairs 96.2 44.5 140.7

(e) Supplies and materials 3.0 1.4 4.4

(f) Operating costs 36.1 16.7 52.8

(g) Other financing uses 17.1 17.1

Authorized FTE: 28.00 Permanent

Other Intrnl Svc

General State Funds/Inter- Federal

Item Fund Funds Agency Trnsf Funds Total

(10)Building services division:

(a) Personal services 2,349.8 2,349.8

(b) Employee benefits 877.6 877.6

(c) Travel 60.3 60.3

(d) Maintenance and repairs 1,138.8 1,138.8

(e) Supplies and materials 28.4 28.4

(f) Operating costs 2,119.2 2,119.2

(g) Capital outlay 17.9 17.9

(h) Other financing uses 30.9 30.9

Authorized FTE: 114.00 Permanent

(11)Transportation services division:

(a) Personal services 84.2 578.4 662.6

(b) Employee benefits 27.0 192.3 219.3

(c) Travel 118.4 1,839.0 1,957.4

(d) Maintenance and repairs 7.6 25.0 32.6

(e) Supplies and materials .9 3.6 4.5

(f) Contractual services .1 45.1 45.2

(g) Operating costs 29.2 1,990.0 2,019.2

(h) Out-of-state travel 1.7 15.4 17.1

(i) Other financing uses 26.9 2,389.6 2,416.5

Authorized FTE: 22.00 Permanent

(12)Transportation services division--equipment

replacement fund: 2,223.0 2,223.0

Subtotal 210,099.1

Other Intrnl Svc

General State Funds/Inter- Federal

Item Fund Funds Agency Trnsf Funds Total

EDUCATIONAL RETIREMENT BOARD:

(a) Personal services 1,257.0 1,257.0

(b) Employee benefits 401.8 401.8

(c) Travel 37.2 37.2

(d) Maintenance and repairs 81.7 81.7

(e) Supplies and materials 32.0 32.0

(f) Contractual services 1,892.5 1,892.5

(g) Operating costs 317.0 317.0

(h) Other costs 138.5 138.5

(i) Capital outlay 160.8 160.8

(j) Out-of-state travel 12.7 12.7

Authorized FTE: 42.00 Permanent

The other state funds appropriation to the educational retirement board in the contractual services category includes one million three hundred seventy-five thousand dollars (\$1,375,000) to be used only for investment manager fees.

The other state funds appropriation to the educational retirement board in the other costs category includes one hundred thirty-eight thousand five hundred dollars (\$138,500) for payment of custody services associated with the fiscal agent contract to the state board of finance upon receipt of monthly assessments. Any unexpended or unencumbered balance in the state board of finance remaining at the end of fiscal year 1999 from this appropriation shall revert to the educational retirement fund.

Subtotal 4,331.2

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

CRIMINAL AND JUVENILE JUSTICE COORDINATING COUNCIL:

(a) Travel 12.0 12.0

~~[(b) Contractual services 310.0 310.0]~~

(c) Out-of-state travel 2.0 2.0

Subtotal 324.0

PUBLIC DEFENDER DEPARTMENT:

(a) Personal services 8,379.3 8,379.3

(b) Employee benefits 2,780.2 2,780.2

(c) Travel 152.0 152.0

(d) Maintenance and repairs 83.2 83.2

(e) Supplies and materials 85.0 85.0

(f) Contractual services 7,352.4 7,352.4

(g) Operating costs 2,237.4 2,237.4

(h) Capital outlay 44.7 105.3 150.0

(i) Out-of-state travel 3.0 3.0

(j) Other financing uses 3.8 3.8

Authorized FTE: 258.00 Permanent

Any unexpended or unencumbered balance in the public defender department remaining at the end of fiscal year 1999 from appropriations made from the general fund shall not revert.

Subtotal 21,226.3

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

GOVERNOR:

- (a) Personal services 1,149.7 1,149.7
- (b) Employee benefits 374.8 374.8
- (c) Travel 45.6 45.6
- (d) Maintenance and repairs 22.6 22.6
- (e) Supplies and materials 56.7 56.7
- (f) Contractual services 85.9 85.9
- (g) Operating costs 170.4 170.4
- (h) Other costs 30.0 30.0
- (i) Capital outlay 33.0 33.0
- (j) Out-of-state travel 29.8 29.8
- (k) Other financing uses .4 .4

Authorized FTE: 27.00 Permanent

~~[Notwithstanding the provisions of Subsection A of Section 8-1-1 NMSA 1978, the general fund appropriation to the governor in the personal services category includes fifteen thousand dollars (\$15,000) to increase the governor's salary, effective January 1, 1999.]~~

If the 1998 general election results in a governor-elect that is not the incumbent governor, fifty thousand dollars (\$50,000) is appropriated from the general fund to the governor for transitional costs of the governor-elect.

Subtotal 1,998.9

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

OFFICE ON INFORMATION AND COMMUNICATION MANAGEMENT:

- (a) Personal services 369.3 369.3
- (b) Employee benefits 101.3 101.3
- (c) Travel 13.5 13.5
- (d) Maintenance and repairs 3.1 3.1
- (e) Supplies and materials 37.6 37.6
- (f) Contractual services 3.3 3.3
- (g) Operating costs 57.8 57.8
- (h) Capital outlay 28.4 28.4
- (i) Out-of-state travel 2.0 2.0
- (j) Other financing uses .2 .2

Authorized FTE: 8.00 Permanent

Subtotal 616.5

LIEUTENANT GOVERNOR:

(a) Personal services 225.3 225.3

(b) Employee benefits 76.3 76.3

(c) Travel 17.3 17.3

(d) Maintenance and repairs .9 .9

(e) Supplies and materials 4.5 4.5

(f) Contractual services 3.3 3.3

(g) Operating costs 25.3 25.3

(h) Out-of-state travel 13.5 13.5

(i) Other financing uses .1 .1

Authorized FTE: 5.00 Permanent

Subtotal 356.5

Other Intrnl Svc

General State Funds/Inter- Federal

Item Fund Funds Agency Trnsf Funds Total

PUBLIC EMPLOYEES RETIREMENT ASSOCIATION:

(1)Administrative division:

(a) Personal services 1,852.8 1,852.8

(b) Employee benefits 614.0 614.0

(c) Travel 29.3 29.3

(d) Maintenance and repairs 82.5 82.5

(e) Supplies and materials 80.4 80.4

(f) Contractual services 4,909.8 4,909.8

(g) Operating costs 615.2 615.2

(h) Capital outlay 51.7 51.7

(i) Out-of-state travel 16.1 16.1

(j) Other financing uses 600.0 600.0

Authorized FTE: 51.00 Permanent; 2.00 Term

The other state funds appropriation to the administrative division of the public employees retirement association in the contractual services category includes four million two hundred fourteen thousand six hundred dollars (\$4,214,600) to be used only for investment manager fees.

The other state funds appropriation to the administrative division of the public employees retirement association in the other financing uses category includes six hundred thousand dollars (\$600,000) for payment of custody services associated with the fiscal agent contract to the state board

of finance upon receipt of monthly assessments. Any unexpended or unencumbered balance in the state board of finance remaining at the end of fiscal year 1999 from this appropriation shall revert to the public employees retirement association income fund.

(2)Maintenance division:

- (a) Personal services 418.6 418.6
- (b) Employee benefits 182.5 182.5
- (c) Travel 4.5 4.5
- (d) Maintenance and repairs 538.2 538.2
- (e) Supplies and materials 8.0 8.0
- (f) Contractual services 34.6 34.6
- (g) Operating costs 324.0 324.0
- (h) Capital outlay 28.2 28.2
- (i) Other financing uses .3 .3

Authorized FTE: 22.00 Permanent

(3)Deferred compensation:

- (a) Personal services 34.9 34.9
- (b) Employee benefits 12.9 12.9
- (c) Travel 2.0 2.0
- (d) Maintenance and repairs .5 .5
- (e) Supplies and materials 1.8 1.8
- (f) Contractual services 27.1 27.1
- (g) Operating costs 10.7 10.7
- (h) Capital outlay 13.3 13.3
- (i) Out-of-state travel 1.2 1.2

Authorized FTE: 1.00 Permanent

Subtotal 10,495.1

Other Intrnl Svc

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

STATE COMMISSION OF PUBLIC RECORDS:

- (a) Personal services 945.2 945.2
- (b) Employee benefits 339.3 339.3
- (c) Travel 6.0 6.0
- (d) Maintenance and repairs 81.8 8.3 90.1
- (e) Supplies and materials 6.6 13.2 19.8
- (f) Contractual services 5.0 5.0
- (g) Operating costs 128.9 3.1 132.0
- (h) Other costs 25.0 28.5 50.0 103.5
- (i) Capital outlay 16.0 43.6 59.6
- (j) Out-of-state travel 2.0 2.0
- (k) Other financing uses .5 .5

Authorized FTE: 32.50 Permanent

Subtotal 1,703.0

SECRETARY OF STATE:

- (a) Personal services 1,012.7 1,012.7
- (b) Employee benefits 337.3 337.3
- (c) Travel 12.0 12.0
- (d) Maintenance and repairs 20.4 20.4
- (e) Supplies and materials 44.4 44.4
- (f) Contractual services 42.6 42.6
- (g) Operating costs 513.0 513.0
- (h) Other costs 79.5 79.5
- (i) Capital outlay 30.0 30.0
- (j) Out-of-state travel 9.0 9.0
- (k) Other financing uses.6.6

Authorized FTE: 36.00 Permanent; 1.00 Term;1.33 Temporary

Contingent upon the enactment of constitutional amendments or general obligation bond questions by the second session of the forty-third legislature, seventeen thousand dollars (\$17,000) is appropriated from the general fund for each amendment or bond question to be placed on the ballot during fiscal year 1999, up to a maximum of one

hundred ten thousand dollars (\$110,000). Any unexpended or unencumbered balance in the secretary of state remaining at the end of fiscal year 1999 from this appropriation shall revert to the general fund.

Subtotal 2,101.5

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

PERSONNEL BOARD:

(a) Personal services 2,241.4 2,241.4

(b) Employee benefits 785.4 785.4

(c) Travel 31.2 31.2

(d) Maintenance and repairs 71.4 71.4

(e) Supplies and materials 51.3 51.3

(f) Contractual services 34.5 34.5

(g) Operating costs 181.6 181.6

(h) Capital outlay 30.0 30.0

(i) Out-of-state travel 5.4 5.4

(j) Other financing uses 1.0 1.0

Authorized FTE: 67.50 Permanent

Subtotal 3,433.2

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

PUBLIC EMPLOYEE LABOR RELATIONS BOARD:

(a) Personal services 78.0 78.0

(b) Employee benefits 37.8 37.8

(c) Travel 6.9 6.9

(d) Maintenance and repairs 1.1 1.1

(e) Supplies and materials 3.0 3.0

(f) Contractual services 42.5 42.5

(g) Operating costs 47.3 47.3

Authorized FTE: 2.00 Permanent

Subtotal 216.6

STATE TREASURER:

(a) Personal services 1,812.1 20.7 1,832.8

(b) Employee benefits 669.8 10.3 680.1

(c) Travel 23.4 23.4

(d) Maintenance and repairs 21.8 21.8

(e) Supplies and materials 40.3 40.3

(f) Contractual services 85.3 85.3

(g) Operating costs 480.8 480.8

(h) Capital outlay 39.5 39.5

(i) Out-of-state travel 5.6 5.6

(j) Other financing uses .7 .7

Authorized FTE: 48.50 Permanent; 1.00 Term

Subtotal 3,210.3

TOTAL GENERAL CONTROL 115,328.5 89,794.2 342,443.9 2,966.5 550,533.1

D. COMMERCE AND INDUSTRY

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

BOARD OF EXAMINERS FOR ARCHITECTS:

(a) Personal services 118.3 118.3

(b) Employee benefits 40.3 40.3

(c) Travel 20.0 20.0

(d) Maintenance and repairs .3 .3

(e) Supplies and materials 7.5 7.5

(f) Contractual services 15.5 15.5

(g) Operating costs 41.1 41.1

(h) Capital outlay 18.1 18.1

(i) Out-of-state travel 9.0 9.0

(j) Other financing uses 1.1 1.1

Authorized FTE: 4.00 Permanent

Subtotal 271.2

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

BORDER AUTHORITY:

(a) Personal services 112.7 10.0 122.7

(b) Employee benefits 36.9 2.7 39.6

(c) Travel 11.8 11.8

(d) Maintenance and repairs 1.7 1.7

(e) Supplies and materials 3.1 3.1

(f) Contractual services 4.0 4.0

(g) Operating costs 23.8 7.0 30.8

(h) Out-of-state travel 2.0 2.0

Authorized FTE: 3.00 Permanent

Subtotal 215.7

TOURISM DEPARTMENT:

(1)Travel and marketing:

(a) Personal services 384.8 384.8

(b) Employee benefits 120.9 120.9

(c) Travel 30.2 30.2

(d) Maintenance and repairs 8.7 8.7

(e) Supplies and materials 35.0 35.0

(f) Contractual services 180.0 180.0

(g) Operating costs 4,409.6 4,409.6

(h) Other costs 1,354.2 1,354.2

(i) Out-of-state travel 30.0 30.0

(j) Other financing uses .2 .2

Authorized FTE: 11.00 Permanent

(2>Welcome centers:

(a) Personal services 532.5 532.5

(b) Employee benefits 215.9 215.9

(c) Travel 15.1 15.1

(d) Maintenance and repairs 13.3 13.3

(e) Supplies and materials 12.0 12.0

(f) Contractual services 10.0 10.0

(g) Operating costs 51.9 51.9

(h) Capital outlay 17.5 17.5

(i) Out-of-state travel 1.0 1.0

(j) Other financing uses .4 .4

Authorized FTE: 28.50 Permanent

(3)New Mexico magazine:

(a) Personal services 742.2 742.2

(b) Employee benefits 257.0 257.0

(c) Travel 8.0 8.0

(d) Maintenance and repairs 5.3 5.3

(e) Supplies and materials 19.5 19.5

(f) Contractual services 875.6 875.6

(g) Operating costs 2,683.1 2,683.1

(h) Other costs 200.0 200.0

(i) Capital outlay 14.2 14.2

(j) Out-of-state travel 5.0 5.0

(k) Other financing uses .3 .3

Authorized FTE: 23.00 Permanent

(4)Administrative services:

(a) Personal services 429.6 429.6

(b) Employee benefits 137.3 137.3

(c) Travel 10.6 10.6

(d) Maintenance and repairs 4.7 4.7

(e) Supplies and materials 5.5 5.5

(f) Contractual services 10.3 10.3

(g) Operating costs 20.9 20.9

(h) Out-of-state travel 16.0 16.0

(i) Other financing uses .2 .2

Authorized FTE: 11.00 Permanent

Subtotal 12,868.5

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

ECONOMIC DEVELOPMENT DEPARTMENT:

(1)Office of the secretary:

- (a) Personal services 334.2 334.2
- (b) Employee benefits 104.7 104.7
- (c) Travel 29.6 29.6
- (d) Maintenance and repairs .6 .6
- (e) Supplies and materials 12.0 12.0
- (f) Contractual services 175.0 175.0
- (g) Operating costs 506.5 506.5
- (h) Other costs 2.0 2.0
- (i) Capital outlay 2.5 2.5
- (j) Out-of-state travel 14.0 14.0
- (k) Other financing uses .1 .1

Authorized FTE: 8.00 Permanent

(2)Administrative services:

- (a) Personal services 539.2 539.2
- (b) Employee benefits 187.6 187.6
- (c) Travel 5.2 5.2
- (d) Maintenance and repairs 29.4 29.4
- (e) Supplies and materials 10.0 10.0
- (f) Contractual services 61.1 61.1
- (g) Operating costs 53.2 53.2
- (h) Capital outlay 1.0 1.0
- (i) Other financing uses .2 .2

Authorized FTE: 14.00 Permanent

(3)Economic development division:

- (a) Personal services 858.8 858.8
- (b) Employee benefits 278.9 278.9
- (c) Travel 68.0 68.0
- (d) Maintenance and repairs 4.2 4.2
- (e) Supplies and materials 26.3 26.3
- (f) Contractual services 511.5 511.5
- (g) Operating costs 193.0 193.0
- (h) Other costs 150.0 150.0
- (i) Out-of-state travel 44.0 44.0
- (j) Other financing uses .8 .8

Authorized FTE: 22.00 Permanent; 1.00 Term

The general fund appropriation to the economic development division of the economic development department in the contractual services category includes two hundred eighty thousand dollars (\$280,000) for the main street program.

(4)Science and technology:

- (a) Personal services 207.4 40.0 247.4
- (b) Employee benefits 82.2 82.2
- (c) Travel 13.5 13.5
- (d) Maintenance and repairs .3 .3
- (e) Supplies and materials 9.3 9.3
- (f) Contractual services 40.0 40.0
- (g) Operating costs 39.3 39.3
- (h) Out-of-state travel 27.0 27.0
- (i) Other financing uses .2 .2

Authorized FTE: 5.00 Permanent

(5)Trade division:

- (a) Personal services 215.2 215.2
- (b) Employee benefits 70.8 70.8
- (c) Travel 9.0 9.0
- (d) Maintenance and repairs .3 .3
- (e) Supplies and materials 6.1 6.1

(f) Contractual services 205.1 205.1

(g) Operating costs 198.0 198.0

(h) Other costs 2.9 2.9

(i) Out-of-state travel 50.0 50.0

(j) Other financing uses .1 .1

Authorized FTE: 6.00 Permanent

(6)Film division:

(a) Personal services 230.1 230.1

(b) Employee benefits 75.3 75.3

(c) Travel 6.4 6.4

(d) Maintenance and repairs 2.6 2.6

(e) Supplies and materials 9.9 9.9

(f) Contractual services 10.0 10.0

(g) Operating costs 135.7 135.7

(h) Out-of-state travel 15.9 15.9

(i) Other financing uses .1 .1

Authorized FTE: 7.00 Permanent

Subtotal 5,906.3

Other Intrnl Svc

General State Funds/Inter- Federal

Item Fund Funds Agency Trnsf Funds Total

REGULATION AND LICENSING DEPARTMENT:

(1)Administrative services division:

(a) Personal services 898.2 214.2 1,112.4

(b) Employee benefits 314.0 69.3 383.3

(c) Travel 9.6 9.6

(d) Maintenance and repairs 25.6 18.0 43.6

(e) Supplies and materials 19.9 6.1 26.0

(f) Contractual services 20.3 20.3

(g) Operating costs 519.4 62.3 581.7

(h) Out-of-state travel 3.5 .8 4.3

Authorized FTE: 28.40 Permanent

(2)Construction industries division:

(a) Personal services 3,188.6 3,188.6

(b) Employee benefits 1,170.4 1,170.4

(c) Travel 247.7 247.7

(d) Maintenance and repairs 7.4 7.4

(e) Supplies and materials 84.2 84.2

(f) Contractual services 5.9 5.9

(g) Operating costs 522.0 522.0

(h) Capital outlay 89.6 89.6

(i) Out-of-state travel 2.0 2.0

Authorized FTE: 99.00 Permanent

(3)Manufactured housing division:

(a) Personal services 359.2 35.3 394.5

(b) Employee benefits 127.4 12.0 139.4

(c) Travel 60.9 1.5 62.4

(d) Maintenance and repairs .9 .9

(e) Supplies and materials 7.1 .5 7.6

(f) Contractual services 80.0 80.0

(g) Operating costs 29.9 3.8 33.7

(h) Capital outlay 1.6 1.6

(i) Out-of-state travel 1.0 1.0

Authorized FTE: 12.00 Permanent

(4)Financial institutions division:

(a) Personal services 694.1 694.1

(b) Employee benefits 226.6 226.6

(c) Travel 110.2 110.2

(d) Maintenance and repairs 2.4 2.4

(e) Supplies and materials 7.2 7.2

(f) Contractual services 8.9 8.9

(g) Operating costs 82.6 82.6

(h) Capital outlay 62.0 62.0

(i) Out-of-state travel 10.6 10.6

Authorized FTE: 20.75 Permanent

(5)New Mexico state board of public accountancy: 304.0 304.0

Authorized FTE: 4.00 Permanent

(6)Board of acupuncture and oriental medicine: 69.2 69.2

Authorized FTE: .75 Permanent

(7)New Mexico athletic commission: 64.2 64.2

Authorized FTE: .65 Permanent

(8)Athletic trainer practice board: 19.0 19.0

Authorized FTE: .20 Permanent

(9)Board of barbers and cosmetologists: 498.0 498.0

Authorized FTE: 7.00 Permanent

(10)Chiropractic board: 112.7 112.7

Authorized FTE: 1.50 Permanent

(11)New Mexico board of dental health care: 232.7 232.7

Authorized FTE: 2.70 Permanent

(12)Board of landscape architects: 28.2 28.2

Authorized FTE: .30 Permanent

(13)Board of nursing home administrators: 48.1 48.1

Authorized FTE: .60 Permanent

(14)Board of examiners for occupational therapy: 46.8 46.8

Authorized FTE: .60 Permanent

(15)Board of optometry: 57.4 57.4

Authorized FTE: .70 Permanent

(16)Board of osteopathic medical examiners: 46.6 46.6

Authorized FTE: .50 Permanent

(17)Board of pharmacy: 1,024.8 1,024.8

Authorized FTE: 12.00 Permanent

(18)Physical therapists' licensing board: 100.3 100.3

Authorized FTE: 1.40 Permanent

(19)Board of podiatry: 21.6 21.6

Authorized FTE: .20 Permanent

(20)Advisory board of private investigators

and polygraphers: 151.3 151.3

Authorized FTE: 2.35 Permanent

(21)New Mexico state board of psychologist examiners: 152.9 152.9

Authorized FTE: 2.25 Permanent

(22)New Mexico real estate commission: 691.2 691.2

Authorized FTE: 9.60 Permanent

(23)Advisory board of respiratory care practitioners: 40.3 40.3

Authorized FTE: .70 Permanent

(24)Speech language pathology, audiology and hearing

aid dispensing practices board: 66.7 66.7

Authorized FTE: .80 Permanent

(25)Board of thanatopractice: 86.4 86.4

Authorized FTE: .35 Permanent

(26)Nutrition and dietetics practice board: 25.6 25.6

Authorized FTE: .30 Permanent

(27)Board of social work examiners: 246.9 246.9

Authorized FTE: 2.00 Permanent

(28)Interior design board: 35.3 35.3

Authorized FTE: .45 Permanent

(29)Real estate recovery fund: 50.0 50.0

(30)Real estate appraisers board: 89.2 89.2

Authorized FTE: 1.15 Permanent

(31)Board of massage therapy: 123.3 123.3

Authorized FTE: 1.65 Permanent

(32)Counseling and therapy practice board: 321.3 321.3

Authorized FTE: 4.90 Permanent

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

(33)Alcohol and gaming division:

(a) Personal services 435.1 435.1

(b) Employee benefits 176.5 176.5

(c) Travel 6.4 6.4

(d) Maintenance and repairs 1.2 1.2

(e) Supplies and materials 16.7 16.7

(f) Contractual services 9.7 9.7

(g) Operating costs 76.9 76.9

(h) Out-of-state travel 2.6 2.6

Authorized FTE: 15.00 Permanent

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

(34)Securities division:

(a) Personal services 613.2 613.2

(b) Employee benefits 201.1 201.1

(c) Travel 3.3 3.3

(d) Maintenance and repairs 2.0 2.0

(e) Supplies and materials 8.3 8.3

(f) Contractual services 3.0 3.0

(g) Operating costs 92.5 92.5

(h) Capital outlay .8 .8

(i) Out-of-state travel 3.9 3.9

Authorized FTE: 18.25 Permanent

(35)Securities division education and training fund:

(a) Travel 1.0 1.0

(b) Supplies and materials 10.6 10.6

(c) Contractual services 45.0 45.0

(d) Operating costs 25.1 25.1

Subtotal 15,913.6

Other Intrnl Svc

General State Funds/Inter- Federal

Item Fund Funds Agency Trnsf Funds Total

STATE CORPORATION COMMISSION:

(1)Administration division:

(a) Personal services 462.2 21.4 191.9 675.5

(b) Employee benefits 153.0 6.4 57.2 216.6

(c) Travel .8 .1 .4 1.3

(d) Maintenance and repairs 4.5 .2 1.9 6.6

(e) Supplies and materials 2.4 .1 1.0 3.5

(f) Contractual services 9.9 .4 4.2 14.5

(g) Operating costs 137.5 6.3 57.0 200.8

(h) Out-of-state travel 1.4 .1 .5 2.0

Authorized FTE: 16.50 Permanent

The other state funds appropriations to the administration division of the state corporation commission include thirty-five thousand dollars (\$35,000) from the reproduction fund.

The internal service funds/interagency transfers appropriations to the administration division of the state corporation commission include one hundred thousand dollars (\$100,000) from the patient's compensation fund, one hundred fifty thousand dollars (\$150,000) from the subsequent injury fund and sixty-four thousand one hundred dollars (\$64,100) from the title insurance maintenance assessment fund.

(2)Corporations division:

(a) Personal services 273.1 273.1

(b) Employee benefits 99.5 99.5

(c) Maintenance and repairs 1.5 1.5

(d) Supplies and materials 3.9 3.9

(e) Contractual services 1.0 1.0

(f) Operating costs 145.7 145.7

(g) Out-of-state travel .3 .3

Authorized FTE: 11.00 Permanent

(3)Telecommunications division:

(a) Personal services 183.5 183.5

(b) Employee benefits 58.3 58.3

(c) Travel 1.6 1.6

(d) Maintenance and repairs .5 .5

(e) Supplies and materials 2.0 2.0

(f) Contractual services 25.5 25.5

(g) Operating costs 15.3 15.3

(h) Out-of-state travel 2.5 2.5

Authorized FTE: 5.00 Permanent

~~[The general fund appropriation to the telecommunications division of the state corporation commission in the contractual services category includes twenty-five thousand dollars (\$25,000) to conduct a statewide study on the feasibility of statewide extended service and report findings to the revenue stabilization and tax policy committee.]~~

(4)Transportation division:

(a) Personal services 283.1 283.1

(b) Employee benefits 100.3 100.3

(c) Travel 8.6 8.6

(d) Maintenance and repairs 2.0 2.0

(e) Supplies and materials 3.5 3.5

(f) Contractual services 1.0 1.0

(g) Operating costs 86.4 86.4

(h) Capital outlay 15.0 15.0

(i) Out-of-state travel 2.5 2.5

Authorized FTE: 10.00 Permanent

(5)Pipeline division:

(a) Personal services 25.6 25.9 51.5

(b) Employee benefits 10.5 10.4 20.9

(c) Travel 2.6 2.5 5.1

(d) Maintenance and repairs .2 .2 .4

(e) Supplies and materials 1.7 1.7 3.4

- (f) Contractual services .2 .3 .5
- (g) Operating costs 9.0 9.0 18.0
- (h) Capital outlay 3.8 3.7 7.5
- (i) Out-of-state travel .4 .5 .9

Authorized FTE: 1.50 Permanent

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

(6)State fire marshal:

- (a) Personal services 264.3 264.3
- (b) Employee benefits 79.3 79.3
- (c) Travel 25.5 25.5
- (d) Maintenance and repairs 2.9 2.9
- (e) Supplies and materials 10.5 10.5
- (f) Contractual services 6.5 6.5
- (g) Operating costs 106.1 106.1
- (h) Capital outlay 24.0 24.0
- (i) Out-of-state travel 1.8 1.8

Authorized FTE: 9.00 Permanent

The internal service funds/interagency transfers appropriations to the state fire marshal of the state corporation commission include five hundred twenty thousand nine hundred dollars (\$520,900) from the fire protection fund.

(7)Firefighter training academy:

- (a) Personal services 182.5 182.5
- (b) Employee benefits 54.7 54.7
- (c) Travel 7.4 7.4
- (d) Maintenance and repairs 51.4 51.4
- (e) Supplies and materials 34.5 34.5
- (f) Contractual services 22.0 22.0
- (g) Operating costs 55.8 55.8
- (h) Other costs 12.5 12.5
- (i) Capital outlay 22.6 22.6

(j) Out-of-state travel 1.0 1.0

Authorized FTE: 6.00 Permanent

The internal service funds/interagency transfers appropriations to the firefighter training academy of the state corporation commission include four hundred forty-four thousand four hundred dollars (\$444,400) from the fire protection fund.

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

(8)Department of insurance:

(a) Personal services 1,160.4 31.9 37.5 1,229.8

(b) Employee benefits 355.4 10.2 12.0 377.6

(c) Travel 4.5 .1 2.0 6.6

(d) Maintenance and repairs 3.0 2.4 5.4

(e) Supplies and materials 10.2 .3 2.5 13.0

(f) Contractual services 678.7 26.4 132.8 837.9

(g) Operating costs 154.4 80.8 63.5 298.7

(h) Other costs 350.0 5,000.0 5,350.0

(i) Capital outlay .5 .5

(j) Out-of-state travel 15.3 .3 15.6

(k) Other financing uses 150.0 150.0

Authorized FTE: 35.00 Permanent

The other state funds appropriations to the department of insurance of the state corporation commission include ten thousand dollars (\$10,000) from the insurance examination fund, forty thousand dollars (\$40,000) from the insurance licensee continuing education fund and six hundred thousand dollars (\$600,000) from the subsequent injury fund.

The internal service funds/interagency transfers appropriations to the department of insurance of the state corporation commission include one hundred six thousand dollars (\$106,000) from the title insurance maintenance assessment fund and five million one hundred forty-six thousand seven hundred dollars (\$5,146,700) from the patient's compensation fund.

~~The general fund appropriation to the department of insurance of the state corporation commission in the contractual services category includes one hundred thousand dollars (\$100,000) to provide external quality review services to review and audit the adequacy of patient care as provided by managed care health plans; and five hundred thousand dollars (\$500,000) to administer the Patient Protection Act which is contingent upon House Bill 361 of the second session of the forty-third legislature, becoming law.]~~

Subtotal 11,796.0

PUBLIC REGULATION COMMISSION:

5,459.1 685.8 6,526.2 53.8 12,724.9

Authorized FTE: 118.50 Permanent

The other state funds appropriation to the public regulation commission includes thirty-five thousand dollars (\$35,000) from the reproduction fund, ten thousand dollars (\$10,000) from the insurance examination fund, forty thousand dollars (\$40,000) from the insurance licensee continuing education fund and six hundred thousand dollars (\$600,000) from the subsequent injury fund.

The internal service funds/interagency transfers appropriation to the public regulation commission includes five million two hundred forty-six thousand seven hundred dollars (\$5,246,700) from the patient's compensation fund, one hundred fifty thousand dollars (\$150,000) from the subsequent injury fund, one hundred sixty-four thousand two hundred dollars (\$164,200) from the title insurance maintenance assessment fund and nine hundred sixty-five thousand three hundred dollars (\$965,300) from the fire protection fund.

The appropriations to the public regulation commission are contingent upon House Bill 74 of the second session of the forty-third legislature, becoming law.

Subtotal 12,724.9

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

NEW MEXICO BOARD OF MEDICAL EXAMINERS:

- (a) Personal services 298.6 298.6
- (b) Employee benefits 114.8 114.8
- (c) Travel 23.7 23.7
- (d) Maintenance and repairs 4.3 4.3
- (e) Supplies and materials 10.7 10.7
- (f) Contractual services 206.6 206.6
- (g) Operating costs 59.7 59.7
- (h) Other costs .1 .1
- (i) Capital outlay 22.0 22.0
- (j) Out-of-state travel 15.0 15.0

Authorized FTE: 10.00 Permanent

Subtotal 755.5

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

BOARD OF NURSING:

- (a) Personal services 287.6 287.6
- (b) Employee benefits 94.1 94.1

- (c) Travel 20.9 20.9
- (d) Maintenance and repairs 5.7 5.7
- (e) Supplies and materials 12.0 12.0
- (f) Contractual services 145.1 145.1
- (g) Operating costs 150.2 150.2
- (h) Capital outlay 29.0 29.0
- (i) Out-of-state travel 5.0 5.0

Authorized FTE: 9.00 Permanent

Subtotal 749.6

NEW MEXICO STATE FAIR:

- (a) Personal services 3,757.8 3,757.8
- (b) Employee benefits 971.6 971.6
- (c) Travel 51.6 51.6
- (d) Maintenance and repairs 1,710.9 1,710.9
- (e) Supplies and materials 69.0 69.0
- (f) Contractual services 3,367.2 3,367.2
- (g) Operating costs 1,051.5 1,051.5
- (h) Other costs 1,119.2 1,119.2
- (i) Capital outlay 60.0 60.0
- (j) Out-of-state travel 10.0 10.0

Authorized FTE: 48.00 Permanent; 25.00 Term

Subtotal 12,168.8

**STATE BOARD OF REGISTRATION FOR PROFESSIONAL
ENGINEERS AND SURVEYORS:**

- (a) Personal services 152.5 152.5
- (b) Employee benefits 49.8 49.8
- (c) Travel 20.9 20.9
- (d) Maintenance and repairs 7.8 7.8
- (e) Supplies and materials 6.1 6.1
- (f) Contractual services 67.2 67.2

(g) Other costs 117.7 117.7
(h) Capital outlay 4.0 4.0
(i) Out-of-state travel 8.7 8.7
(j) Other financing uses .1 .1
Authorized FTE: 6.00 Permanent
Subtotal 434.8

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

STATE RACING COMMISSION:

(a) Personal services 537.2 537.2
(b) Employee benefits 311.9 311.9
(c) Travel 37.6 37.6
(d) Maintenance and repairs 3.0 3.0
(e) Supplies and materials 10.5 10.5
(f) Contractual services 318.3 318.3
(g) Operating costs 93.1 93.1
(h) Capital outlay .1 .1
(i) Out-of-state travel 1.9 1.9
(j) Other financing uses .3 .3
Authorized FTE: 15.01 Permanent; 1.56 Term

The state racing commission is appropriated an additional two thousand three hundred dollars (\$2,300) from the general fund for personal services, employee benefits and contractual services categories for each live racing day at San Juan downs during fiscal year 1999 up to a maximum of fifty-six thousand seven hundred dollars (\$56,700) from the general fund.

Subtotal 1,313.9

NEW MEXICO APPLE COMMISSION:

(a) Travel 5.3 5.3
(b) Supplies and materials .5 .5
(c) Contractual services 30.2 3.0 33.2
(d) Operating costs 3.7 3.7
(e) Out-of-state travel 2.8 2.8
Subtotal 45.5

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

BOARD OF VETERINARY MEDICINE:

- (a) Personal services 45.2 45.2
- (b) Employee benefits 17.8 17.8
- (c) Travel 10.9 10.9
- (d) Maintenance and repairs .5 .5
- (e) Supplies and materials 3.0 3.0
- (f) Contractual services 38.0 38.0
- (g) Operating costs 29.8 29.8
- (h) Capital outlay 1.1 1.1
- (i) Out-of-state travel 4.6 4.6
- (j) Other financing uses .1 .1

Authorized FTE: 2.00 Permanent

Subtotal 151.0

BICYCLE RACING COMMISSION:

- (a) Travel 1.0 1.0
- (b) Supplies and materials 2.0 2.0
- (c) Contractual services 5.0 5.0
- (d) Operating costs 1.5 1.5

Subtotal 9.5

TOTAL COMMERCE AND INDUSTRY

36,044.4 25,570.3 13,429.0 281.1 75,324.8

E. AGRICULTURE, ENERGY AND NATURAL RESOURCES

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

OFFICE OF CULTURAL AFFAIRS:

- (1)Administrative services division:
 - (a) Personal services 808.1 808.1
 - (b) Employee benefits 268.8 268.8

- (c) Travel 10.2 10.2
- (d) Maintenance and repairs 14.4 14.4
- (e) Supplies and materials 15.0 15.0
- (f) Contractual services 31.4 55.0 86.4
- (g) Operating costs 10.7 55.0 65.7
- (h) Capital outlay 5.0 5.0
- (i) Out-of-state travel 1.0 1.0
- (j) Other financing uses .3 .3

Authorized FTE: 22.50 Permanent

(2)Hispanic cultural division:

- (a) Personal services 300.1 300.1
- (b) Employee benefits 93.0 93.0
- (c) Travel 23.0 23.0
- (d) Maintenance and repairs 4.0 4.0
- (e) Supplies and materials 18.0 18.0
- (f) Contractual services 754.7 754.7
- (g) Operating costs 419.9 419.9
- (h) Capital outlay 266.8 266.8
- (i) Out-of-state travel 1.0 1.0
- (j) Other financing uses .1 .1

Authorized FTE: 9.00 Permanent

~~[The general fund appropriation to the hispanic cultural division of the office of cultural affairs in the contractual services category includes one hundred thousand dollars (\$100,000) for the hispanic cultural festival.~~

~~The general fund appropriation to the hispanic cultural division of the office of cultural affairs in the operating costs category includes two hundred fifty thousand dollars (\$250,000) which is contingent upon the transfer of the Onate monument and visitor center from Rio Arriba county to the hispanic cultural division of the office of cultural affairs.]~~

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

(3)Museum division:

- (a) Personal services 4,390.4 673.9 5,064.3
- (b) Employee benefits 1,507.1 215.6 1,722.7
- (c) Travel 21.4 21.4

(d) Maintenance and repairs 46.4 346.8 393.2

(e) Supplies and materials 39.5 83.0 122.5

(f) Contractual services 125.0 125.0

(g) Operating costs 448.9 341.5 790.4

(h) Other costs 242.0 242.0

(i) Capital outlay 30.0 30.0

(j) Out-of-state travel 2.0 2.0

(k) Other financing uses 2.5 2.5

Authorized FTE: 161.75 Permanent; 25.75 Term

~~[The general fund appropriation to the museum division of the office of cultural affairs in the operating costs category includes thirty thousand dollars (\$30,000) for promotion of the museum of the horse in Ruidoso in Lincoln county.]~~

(4)Contract archaeology:

(a) Personal services 1,412.3 1,412.3

(b) Employee benefits 466.6 466.6

(c) Travel 135.6 135.6

(d) Maintenance and repairs 10.8 10.8

(e) Supplies and materials 24.0 24.0

(f) Contractual services 221.0 221.0

(g) Operating costs 32.0 32.0

(h) Capital outlay 45.3 45.3

(i) Out-of-state travel 1.3 1.3

(j) Other financing uses .9 .9

Authorized FTE: 50.50 Term;8.00 Temporary

Other Intrnl Svc

General State Funds/Inter- Federal

Item Fund Funds Agency Trnsf Funds Total

(5)Natural history museum:

(a) Personal services 1,459.2 230.9 34.4 1,724.5

(b) Employee benefits 476.9 93.2 10.3 580.4

(c) Travel 33.9 33.9

(d) Maintenance and repairs 144.2 144.2

- (e) Supplies and materials 19.3 80.1 99.4
 - (f) Contractual services 64.8 100.0 164.8
 - (g) Operating costs 241.1 126.7 367.8
 - (h) Other costs 33.6 33.6
 - (i) Capital outlay 15.8 15.8
 - (j) Out-of-state travel 1.0 1.0
 - (k) Other financing uses .9 .9
- Authorized FTE: 49.50 Permanent; 16.00 Term

(6)Arts division:

- (a) Personal services 422.3 124.2 546.5
 - (b) Employee benefits 138.1 31.6 169.7
 - (c) Travel 46.0 46.0
 - (d) Maintenance and repairs 2.8 2.8
 - (e) Supplies and materials 11.0 11.0
 - (f) Contractual services 645.0 215.0 860.0
 - (g) Operating costs 92.1 92.1
 - (h) Other costs 1,054.4 39.4 1,093.8
 - (i) Capital outlay 80.0 80.0
 - (j) Out-of-state travel 4.5 1.0 5.5
 - (k) Other financing uses .3 .3
- Authorized FTE: 12.50 Permanent; 5.50 Term;2.00 Temporary

(7)Library division:

- (a) Personal services 1,439.7 382.0 1,821.7
- (b) Employee benefits 474.8 134.8 609.6
- (c) Travel 14.0 67.8 81.8
- (d) Maintenance and repairs 43.3 7.6 50.9
- (e) Supplies and materials 24.6 9.0 33.6
- (f) Contractual services 853.0 37.0 890.0
- (g) Operating costs 188.8 100.7 289.5
- (h) Other costs 250.0 250.0

(i) Capital outlay 208.9 40.0 92.0 340.9

(j) Out-of-state travel 3.0 3.0

(k) Other financing uses 1.0 1.0

Authorized FTE: 46.00 Permanent; 19.00 Term

(8)Historic preservation division:

(a) Personal services 385.8 142.2 289.8 817.8

(b) Employee benefits 120.0 45.0 91.8 256.8

(c) Travel 2.5 18.7 21.2

(d) Maintenance and repairs 6.4 24.6 31.0

(e) Supplies and materials 6.7 21.0 27.7

(f) Contractual services 179.0 25.0 15.0 219.0

(g) Operating costs 10.2 54.1 64.3

(h) Other costs 173.0 173.0

(i) Capital outlay 12.8 7.2 20.0

(j) Out-of-state travel 9.6 9.6

(k) Other financing uses .4 .4

Authorized FTE: 10.00 Permanent; 15.00 Term

(9)Space center:

(a) Personal services 763.1 1.3 764.4

(b) Employee benefits 227.2 34.5 261.7

(c) Travel 10.3 10.7 21.0

(d) Maintenance and repairs 25.8 65.5 91.3

(e) Supplies and materials 5.5 95.4 100.9

(f) Operating costs 26.9 177.6 204.5

(g) Capital outlay 15.0 15.0

(h) Out-of-state travel 1.0 1.0

(i) Other financing uses .4 .4

Authorized FTE: 24.00 Permanent; 6.50 Term

(10)Farm and ranch heritage museum:

(a) Personal services 527.8 150.0 677.8

(b) Employee benefits 171.7 50.0 221.7

(c) Travel 31.5 31.5

(d) Maintenance and repairs 54.4 54.4

(e) Supplies and materials 35.0 35.0

(f) Contractual services 150.5 150.5

(g) Operating costs 275.1 275.1

(h) Capital outlay 30.3 30.3

(i) Out-of-state travel 3.0 3.0

Authorized FTE: 28.50 Permanent

Any unexpended or unencumbered balance in the office of cultural affairs remaining at the end of fiscal year 1999 from appropriations made from the general fund shall not revert.

The appropriations to the office of cultural affairs include funds for the continued operation of Coronado state monument. No funds are included in the office of cultural affairs appropriations for the operation of Coronado state park. Funds for the operation of Coronado state park are included in the energy, minerals, and natural resources department appropriations for operation of the Coronado state park by the energy, minerals and natural resources department.

Subtotal 29,047.6

NEW MEXICO LIVESTOCK BOARD:

(a) Personal services 183.9 1,735.4 233.4 2,152.7

(b) Employee benefits 66.7 632.6 84.9 784.2

(c) Travel 19.0 279.3 24.7 323.0

(d) Maintenance and repairs .6 7.0 .8 8.4

(e) Supplies and materials 3.9 100.2 5.3 109.4

(f) Contractual services 9.2 219.2 12.2 240.6

(g) Operating costs 6.4 179.1 8.4 193.9

(h) Other costs 50.0 50.0

(i) Capital outlay 12.7 140.6 16.8 170.1

(j) Out-of-state travel .9 6.5 1.2 8.6

Authorized FTE: 78.80 Permanent

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

Subtotal 4,040.9

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

DEPARTMENT OF GAME AND FISH:

(1)Administration:

- (a) Personal services [~~435.7~~] 5,881.2 2,722.5 8,739.4
- (b) Employee benefits [~~54.0~~] 2,208.6 1,042.1 3,301.7
- (c) Travel [~~22.9~~] 998.2 500.5 1,521.6
- (d) Maintenance and repairs [~~6.4~~] 263.7 132.2 402.0
- (e) Supplies and materials [~~47.7~~] 767.2 384.7 1,169.6
- (f) Contractual services [~~33.9~~] 1,472.6 738.4 2,244.9
- (g) Operating costs [~~33.2~~] 1,445.0 724.5 2,202.7
- (h) Other costs[~~45.4~~] 658.2 330.1 1,003.4
- (i) Capital outlay[~~27.2~~] 1,183.5 593.5 1,804.2
- (j) Out-of-state travel[~~4.4~~] 49.5 24.8 75.4
- (k) Other financing uses 41.0 312.5 353.5

Authorized FTE: 236.00 Permanent; 12.00 Term;9.50 Temporary

~~[The general fund appropriations to the administration division of the department of game and fish shall be used for the conservation of nongame wildlife species and for public information and education programs related to wildlife.]~~

Any unexpended or unencumbered balance in the administration division of the department of game and fish remaining at the end of fiscal year 1999 from appropriations made from the general fund shall not revert.

(2)Share with wildlife program: 70.0 70.0

(3)Endangered species program:

- (a) Personal services 44.8 134.3 179.1
- (b) Employee benefits 15.5 46.4 61.9
- (c) Travel 12.0 20.5 32.5
- (d) Maintenance and repairs 2.5 4.4 6.9
- (e) Supplies and materials 3.6 6.1 9.7
- (f) Contractual services 66.6 71.5 138.1
- (g) Operating costs 11.7 21.9 33.6
- (h) Capital outlay 27.0 9.7 36.7
- (i) Out-of-state travel 1.5 1.5 3.0

Authorized FTE: 5.00 Permanent

Subtotal 23,389.9

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

ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT:

(1)Office of the secretary:

- (a) Personal services 296.5 79.1 375.6
- (b) Employee benefits 112.5 31.4 143.9
- (c) Travel 12.7 7.7 20.4
- (d) Maintenance and repairs .7 .7
- (e) Supplies and materials 8.0 2.0 10.0
- (f) Contractual services 129.0 4.0 133.0
- (g) Operating costs 90.3 8.1 98.4
- (h) Capital outlay 9.8 2.0 11.8
- (i) Out-of-state travel 9.5 8.0 17.5
- (j) Other financing uses .1 1,000.0 1,000.1

Authorized FTE: 8.00 Permanent

(2)Administrative services division:

- (a) Personal services 1,291.2 71.4 1,362.6
- (b) Employee benefits 463.8 22.5 486.3
- (c) Travel 15.4 15.4
- (d) Maintenance and repairs 19.6 19.6
- (e) Supplies and materials 20.9 26.5 47.4
- (f) Contractual services 5.0 5.0
- (g) Operating costs 228.2 104.6 332.8
- (h) Capital outlay 73.3 73.3
- (i) Other financing uses .6 .6

Authorized FTE: 36.00 Permanent; 3.00 Term

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

(3)Energy conservation and management division:

- (a) Personal services 432.8 432.8
- (b) Employee benefits 150.2 150.2
- (c) Travel 5.1 17.3 21.7 44.1
- (d) Maintenance and repairs .4 102.4 102.8
- (e) Supplies and materials 2.6 4.9 22.1 29.6
- (f) Contractual services 1.3 755.5 387.5 1,144.3
- (g) Operating costs 11.9 5.0 59.9 76.8
- (h) Other costs 73.8 73.8
- (i) Capital outlay 9.3 14.3 23.6
- (j) Out-of-state travel 3.0 14.9 17.9
- (k) Other financing uses 856.5 .2 856.7

Authorized FTE: 10.00 Permanent

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

(4)Forestry division:

- (a) Personal services 1,441.3 113.9 360.6 1,915.8
- (b) Employee benefits 513.9 20.0 143.6 677.5
- (c) Travel 147.1 25.9 68.5 241.5
- (d) Maintenance and repairs 40.0 8.0 5.2 53.2
- (e) Supplies and materials 56.1 17.9 20.1 94.1
- (f) Contractual services 12.5 140.7 153.2
- (g) Operating costs 267.0 15.9 99.8 382.7
- (h) Other costs 43.0 145.0 20.0 208.0
- (i) Capital outlay 143.8 3.2 147.0
- (j) Out-of-state travel 13.2 1.5 14.7
- (k) Other financing uses .9 .9

Authorized FTE: 48.00 Permanent; 11.00 Term;2.00 Temporary

Other Intrnl Svc
General State Funds/Inter- Federal

Item Fund Funds Agency Trnsf Funds Total

(5)State parks division:

(a) Personal services 3,500.0 2,617.2 114.6 6,231.8

(b) Employee benefits 1,416.8 1,015.6 44.1 2,476.5

(c) Travel 210.4 158.1 67.8 436.3

(d) Maintenance and repairs 460.8 344.6 805.4

(e) Supplies and material 138.3 103.4 90.5 332.2

(f) Contractual services 128.9 96.4 252.2 477.5

(g) Operating costs 838.5 627.2 1.0 1,466.7

(h) Other costs 6.9 5.1 12.0

(i) Capital outlay 940.2 129.2 20.0 1,089.4

(j) Out-of-state travel 2.3 1.8 2.0 6.1

(k) Other financing uses 3.8 3.8

Authorized FTE: 214.00 Permanent; 3.00 Term;50.00 Temporary

~~[The general fund appropriation to the state parks division of the energy, minerals and natural resources department includes one hundred thousand dollars (\$100,000) that shall be allocated for emergency medical services by Sierra Vista hospital in Truth or Consequences in Sierra county.]~~

Other Intrnl Svc

General State Funds/Inter- Federal

Item Fund Funds Agency Trnsf Funds Total

(6)Mining and minerals division:

(a) Personal services 213.6 364.8 700.2 1,278.6

(b) Employee benefits 70.1 120.6 239.2 429.9

(c) Travel 12.7 21.0 76.6 110.3

(d) Maintenance and repairs 1.2 1.5 24.3 27.0

(e) Supplies and materials 7.9 11.5 30.1 49.5

(f) Contractual services 7.4 6.3 1,041.5 1,055.2

(g) Operating costs 30.9 43.8 120.5 195.2

(h) Capital outlay 9.0 1.6 33.0 68.1 111.7

(i) Out-of-state travel 1.6 4.6 26.4 32.6

(j) Other financing uses .1 607.2 .1 .2 607.6

Authorized FTE: 16.00 Permanent; 15.00 Term

(7)Oil conservation division:

(a) Personal services 1,985.8 33.1 153.1 2,172.0

(b) Employee benefits 708.6 9.9 47.6 766.1

(c) Travel 82.1 2.5 1.7 86.3

(d) Maintenance and repairs 27.9 27.9

(e) Supplies and materials 26.8 2.2 29.0

(f) Contractual services 49.9 503.5 17.0 570.4

(g) Operating costs 761.5 14.0 775.5

(h) Capital outlay 179.1 2.0 181.1

(i) Out-of-state travel 11.0 11.0

(j) Other financing uses .8 97.4 98.2

Authorized FTE: 62.00 Permanent; 2.00 Term

(8)Youth conservation corps:

(a) Personal services 70.1 70.1

(b) Employee benefits 19.2 19.2

(c) Travel 5.7 5.7

(d) Supplies and materials 7.5 7.5

(e) Contractual services 1,289.0 1,289.0

(f) Operating costs 8.4 8.4

(g) Other financing uses .1 .1

Authorized FTE: 2.00 Permanent

Any unexpended or unencumbered balances from appropriations made from the New Mexico youth conservation corps fund shall revert to the New Mexico youth conservation corps fund.

Subtotal 34,348.4

COMMISSIONER OF PUBLIC LANDS:

(a) Personal services 4,873.6 4,873.6

(b) Employee benefits 1,566.3 1,566.3

(c) Travel 103.3 103.3

(d) Maintenance and repairs 120.1 120.1

(e) Supplies and materials 160.2 160.2

(f) Contractual services 452.8 452.8

(g) Operating costs 1,224.8 1,224.8

(h) Capital outlay 258.4 258.4

(i) Out-of-state travel 52.7 52.7

(j) Other financing uses 529.5 529.5

Authorized FTE: 149.00 Permanent; 4.00 Temporary

Subtotal 9,341.7

Other Intrnl Svc

General State Funds/Inter- Federal

Item Fund Funds Agency Trnsf Funds Total

STATE ENGINEER:

(1)Administration:

(a) Personal services 4,883.8 4,883.8

(b) Employee benefits 1,644.7 1,644.7

(c) Travel 216.4 216.4

(d) Maintenance and repairs 32.0 32.0

(e) Supplies and materials 64.0 64.0

(f) Contractual services 712.3 270.0 982.3

(g) Operating costs 835.0 835.0

(h) Other costs 9.0 100.0 109.0

(i) Capital outlay 39.0 39.0

(j) Out-of-state travel 5.8 5.8

(k) Other financing uses 2.1 2.1

Authorized FTE: 143.00 Permanent; .69 Temporary

~~[The general fund appropriation to the administration division of the state engineer in the contractual services category includes two hundred thousand dollars (\$200,000) to fund mapping efforts required for the filing of a proof of beneficial use for the middle Rio Grande conservancy district water rights for the purpose of acquiring a license to appropriate water.~~

~~The general fund appropriation to the administration division of the state engineer in the other costs category includes nine thousand dollars (\$9,000) to pay the diversion dam fees for the plaza del medio ditch association in Taos county.]~~

The other state funds appropriation to the administration division of the state engineer in the contractual services category includes two hundred thousand dollars (\$200,000) from the irrigation works construction fund to be shared equally to construct, improve, repair and protect dams, reservoirs, ditches and flumes from floods in the counties of San Miguel, Guadalupe, De Baca and Lincoln. The other state funds appropriation to the administration division of

the state engineer in the other costs category includes one hundred thousand dollars (\$100,000) from the irrigation works construction fund to construct, improve, repair and protect ditches, flumes and other works of the community ditch associations from floods, to be divided equally among the counties of Los Alamos, Rio Arriba and Sandoval.

Any unexpended or unencumbered balance remaining at the end of fiscal year 1999 from appropriations made from the irrigation works construction fund shall revert to the irrigation works construction fund.

(2)Legal services division:

- (a) Personal services 782.7 782.7
- (b) Employee benefits 239.3 239.3
- (c) Travel 14.2 14.2
- (d) Maintenance and repairs .6 .6
- (e) Supplies and materials 9.5 9.5
- (f) Contractual services 1,850.7 1,850.7
- (g) Operating costs 146.9 146.9
- (h) Capital outlay 13.5 13.5
- (i) Out-of-state travel 8.1 8.1
- (j) Other financing uses .3 .3

Authorized FTE: 18.00 Permanent

~~[The general fund appropriation to the legal services division of the state engineer in the contractual services category includes two hundred fifty thousand dollars (\$250,000) to be used for hydrologic and related investigations and contractual services pertaining to the lower Rio Grande basin, contingent upon agreement to an alternative dispute resolution process by all parties in the adjudication of the lower Rio Grande basin.]~~

(3)Interstate stream commission:

- (a) Personal services 686.2 686.2
- (b) Employee benefits 212.8 212.8
- (c) Travel 42.5 42.5
- (d) Maintenance and repairs 7.0 7.0
- (e) Supplies and materials 8.9 8.9
- (f) Contractual services 320.0 320.0
- (g) Operating costs 232.7 232.7
- (h) Out-of-state travel 6.3 6.3
- (i) Other financing uses .2 .2

Authorized FTE: 16.00 Permanent

(4)Ute dam operation:

- (a) Personal services 27.1 27.1
- (b) Employee benefits 17.6 17.6
- (c) Travel 1.7 1.7
- (d) Maintenance and repairs 3.6 3.6
- (e) Supplies and materials 1.6 1.6
- (f) Contractual services 15.5 15.5
- (g) Operating costs 4.6 4.6
- (h) Out-of-state travel .3 .3

Authorized FTE: 1.00 Permanent

The internal service funds/interagency transfers appropriations for Ute dam operation include sixty thousand dollars (\$60,000) from the game protection fund and twelve thousand dollars (\$12,000) from the Ute dam construction fund.

Any unexpended or unencumbered balance remaining at the end of fiscal year 1999 from appropriations made from the game protection fund shall revert to the game protection fund.

(5) Irrigation works construction fund programs:

- (a) Contractual services 735.0 735.0
- (b) Other costs 2,850.0 2,850.0

The appropriations to irrigation works construction fund programs include:

(a) four hundred thousand dollars (\$400,000) to match seventeen and one-half percent of the cost of work undertaken by the United States army corps of engineers pursuant to the federal Water Resources Development Act of 1986, provided that no amount of this appropriation shall be expended for any project unless the appropriate acequia system or community ditch has agreed to provide seven and one-half percent of the cost; and

(b) five hundred fifty thousand dollars (\$550,000) for designing and supervision of construction, in cooperation with the United States department of agriculture, the construction, improvement, repair and protection from floods the dams, reservoirs, ditches, flumes and appurtenances of community ditches in the state, provided that not more than eighty percent of the total cost of any one project shall be paid from this appropriation and not more than sixty thousand dollars (\$60,000) of this appropriation shall be used for 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 is 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.

(6) Improvement of Rio Grande

income fund programs: 2,450.0 2,450.0

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.

Subtotal 19,503.5

Other Intrnl Svc

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

NEW MEXICO PUBLIC UTILITY COMMISSION:

(a) Personal services 1,018.6 1,018.6

(b) Employee benefits 338.1 338.1

(c) Travel 5.6 5.6

(d) Maintenance and repairs 38.7 38.7

(e) Supplies and materials 10.5 10.5

(f) Contractual services 87.2 87.2

(g) Operating costs 85.7 .8 86.5

(h) Out-of-state travel 11.0 11.0

(i) Other financing uses .4 .4

Authorized FTE: 25.00 Permanent

Subtotal 1,596.6

ORGANIC COMMODITY COMMISSION:

(a) Personal services 38.2 24.9 63.1

(b) Employee benefits 18.7 18.7

(c) Travel 2.7 2.7

(d) Supplies and materials 1.9 1.9

(e) Contractual services 6.3 6.3

(f) Operating costs 13.2 13.2

(g) Out-of-state travel 1.0 1.0

(h) Other financing uses .1 .1

Subtotal 107.0

TOTAL AGRICULTURE, ENERGY AND
NATURAL RESOURCES 53,692.1 32,424.8 18,984.2 16,274.5 121,375.6

F. HEALTH, HOSPITALS AND HUMAN SERVICES

COMMISSION ON THE STATUS OF WOMEN:

(a) Personal services 194.0 194.0

(b) Employee benefits 84.9 84.9

(c) Travel 31.4 31.4

(d) Maintenance and repairs 2.1 2.1

(e) Supplies and materials 5.3 5.3

(f) Contractual services 2.9 2.9

(g) Operating costs 81.2 81.2

(h) Capital outlay 1.8 1.8

(i) Out-of-state travel 3.0 3.0

(j) Other financing uses .1 .1

Authorized FTE: 7.00 Permanent

Subtotal 406.7

COMMISSION FOR DEAF AND HARD-OF-HEARING PERSONS:

(a) Personal services 171.9 25.7 197.6

(b) Employee benefits 54.6 9.6 64.2

(c) Travel 12.0 8.0 20.0

(d) Maintenance and repairs 1.9 1.9

(e) Supplies and materials 7.5 20.9 28.4

(f) Contractual services 18.0 16.0 34.0

(g) Operating costs 76.2 10.5 86.7

(h) Capital outlay 2.0 4.5 6.5

(i) Out-of-state travel 3.0 3.0

Authorized FTE: 6.00 Permanent; 1.00 Term

Subtotal 442.3

MARTIN LUTHER KING, JR. COMMISSION:

(a) Personal services 60.5 60.5

(b) Employee benefits 20.7 20.7

(c) Travel 5.0 5.0

(d) Maintenance and repairs .3 .3

(e) Supplies and materials 3.5 3.5

(f) Contractual services 8.0 8.0

(g) Operating costs 30.9 30.9

(h) Other costs 31.2 31.2

(i) Capital outlay 1.0 1.0

(j) Out-of-state travel 2.5 2.5

(k) Other financing uses .1 .1

Authorized FTE: 2.00 Permanent

Subtotal 163.7

COMMISSION FOR THE BLIND:

(a) Personal services 400.9 313.5 1,764.8 2,479.2

(b) Employee benefits 132.5 103.7 583.6 819.8

(c) Travel 39.0 16.6 93.6 149.2

(d) Maintenance and repairs 17.3 8.9 50.4 76.6

(e) Supplies and materials 18.8 14.7 82.6 116.1

(f) Contractual services 29.9 23.4 131.4 184.7

(g) Operating costs 97.0 67.6 380.6 545.2

(h) Other costs 672.8 433.3 1,261.8 2,367.9

(i) Capital outlay 59.8 46.7 263.0 369.5

(j) Out-of-state travel 2.6 10.4 13.0

(k) Other financing uses .3 .2 1.2 1.7

Authorized FTE: 102.00 Permanent; 9.00 Term; 1.70 Temporary

Unexpended or unencumbered balances in the commission for the blind remaining at the end of fiscal year 1999 from appropriations made from the general fund shall not revert.

Subtotal 7,122.9

NEW MEXICO OFFICE OF INDIAN AFFAIRS:

(a) Personal services 320.8 108.0 428.8

(b) Employee benefits 99.0 38.5 137.5

(c) Travel 34.3 4.8 39.1

(d) Maintenance and repairs 1.7 1.7

(e) Supplies and materials 7.8 .9 8.7

(f) Contractual services 26.8 2.0 28.8

(g) Operating costs 33.1 3.6 36.7

(h) Other costs 1,323.0 1,044.8 2,367.8

(i) Capital outlay 4.5 4.5

(j) Out-of-state travel 5.5 2.5 8.0

Authorized FTE: 10.00 Permanent; 4.00 Term

~~[The general fund appropriation to the office of Indian affairs in the other costs category includes five hundred thousand dollars (\$500,000) for funding a project developed through a partnership between the state and a pueblo education consortium to improve the education of Indian students; and seventy-five thousand dollars (\$75,000) to provide services for domestic violence intervention, prevention and educational services in Crownpoint in McKinley county.]~~

Subtotal 3,061.6

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

STATE AGENCY ON AGING:

(1)Administration:

(a) Personal services 600.4 11.5 341.8 953.7

(b) Employee benefits 211.4 3.1 114.1 328.6

(c) Travel 23.9 18.9 42.8

(d) Maintenance and repairs 1.2 .8 2.0

(e) Supplies and materials 7.0 2.8 9.8

(f) Contractual services 18.7 8.0 26.7

(g) Operating costs 45.4 34.3 79.7

(h) Other costs 22.1 3.3 25.4

(i) Out-of-state travel 2.0 2.9 4.9

Authorized FTE: 25.50 Permanent

(2)Special programs:

(a) Personal services 144.9 161.5 306.4

(b) Employee benefits 55.6 51.8 107.4

(c) Travel 19.1 5.9 25.0

(d) Supplies and materials 17.2 1.8 19.0

(e) Contractual services 4.9 4.9

(f) Operating costs 46.8 36.1 82.9

(g) Other costs 21.5 68.3 89.8

(h) Out-of-state travel 7.0 7.0

Authorized FTE: 8.00 Permanent; 1.00 Term

The general fund appropriations to the state agency on aging include one hundred thousand dollars (\$100,000) for a long term care ombudsman.

(3)Employment programs:

(a) Other costs 758.9 415.9 1,174.8

(4)Community programs:

(a) Other costs 11,488.3 5,264.5 16,752.8

(b) Other financing uses 1,188.8 1,188.8

The general fund appropriation to the community programs of the state agency on aging in the other costs category includes [~~thirty five thousand dollars (\$35,000) to support the Arrey meal program in Sierra county; two hundred thousand dollars (\$200,000) for nutrition programs in senior centers located in Albuquerque in Bernalillo county; one hundred thousand dollars (\$100,000) to establish a senior center in Des Moines in Union county; one hundred thousand dollars (\$100,000) to establish a senior center in San Jon in Quay county; fifty five thousand dollars (\$55,000) for the purpose of contracting for meals to senior citizens in the communities of Chupadero, Rio En Medio, and Vista Redonda in Santa Fe county;~~] two hundred thousand dollars (\$200,000) for senior citizen equipment to be shared equally among the following senior centers: Mora-San Miguel senior citizen center, Campos senior center, La Loma area senior center, Puerto de Luna senior center, St. Anthony's senior center, Vaughn senior center, Corona senior center, Lincoln county zia senior center, Capitan zia senior center, Ruidoso senior citizen center and Ruidoso Downs zia senior citizen center; ~~thirty five thousand dollars (\$35,000) for the purpose of purchasing meals for the Carlsbad senior center; fifty thousand dollars (\$50,000) for the purpose of developing a pilot project implementing the eden alternatives in nursing homes; twenty four thousand three hundred dollars (\$24,300) to support home care services in Hidalgo county; and nine hundred twenty six thousand five hundred dollars (\$926,500) for the purpose of providing additional community program needs statewide.~~]

The general fund appropriations to the community programs of the state agency on aging used to supplement federal Older Americans Act programs shall be contracted to the designated area agencies on aging.

(5)Volunteer programs:

(a) Other costs 3,371.4 3,371.4

(b) Other financing uses 220.2 220.2

[~~The general fund appropriation to the volunteer programs of the state agency on aging in the other costs category includes thirty five thousand dollars (\$35,000) to support the foster grandparent program in southern Dona Ana county; six hundred thirteen thousand five hundred dollars (\$613,500) to fund various programs, including foster grandparent, senior companion and RSVP volunteer services; fifty thousand dollars (\$50,000) for the purpose of establishing a foster grandparent program in Dona Ana county.~~]

Any unexpended or unencumbered balance in the state agency on aging remaining at the end of fiscal year 1999 from appropriations made from the general fund shall revert to the general fund sixty days after fiscal year 1999 audit reports have been approved by the state auditor.

Subtotal 24,824.0

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

HUMAN SERVICES DEPARTMENT:

(1)Administrative services division:

(a) Personal services 3,421.4 3,405.7 6,827.1

- (b) Employee benefits 1,262.8 1,204.0 2,466.8
- (c) Travel 49.5 49.4 98.9
- (d) Maintenance and repairs 103.6 103.6 207.2
- (e) Supplies and materials 80.0 80.0 160.0
- (f) Contractual services 186.3 186.3 372.6
- (g) Operating costs 879.6 746.1 1,625.7 3,251.4
- (h) Out-of-state travel 5.0 5.0 10.0
- (i) Other financing uses 1.5 1.5 3.0

Authorized FTE: 185.00 Permanent; 19.00 Term

(2) Child support enforcement division:

- (a) Personal services 300.0 2,126.5 4,528.0 6,954.5
- (b) Employee benefits 86.5 725.7 1,722.2 2,534.4
- (c) Travel 36.9 71.7 108.6
- (d) Maintenance and repairs 30.8 59.7 90.5
- (e) Supplies and materials 42.8 83.0 125.8
- (f) Contractual services 150.0 766.9 2,565.3 3,482.2
- (g) Operating costs 2,998.9 5,821.4 8,820.3
- (h) Capital outlay .9 1.6 2.5
- (i) Out-of-state travel 3.2 6.3 9.5
- (j) Other financing uses 1.1 2.2 3.3

Authorized FTE: 259.00 Permanent The general fund appropriation to the child support enforcement division of the human services department in the contractual services category includes one hundred fifty thousand dollars (\$150,000) for the Navajo nation child support enforcement program.

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

(3) Medical assistance division:

- (a) Personal services 1,680.8 2,230.4 3,911.2
- (b) Employee benefits 534.9 50.0 717.1 1,302.0
- (c) Travel 24.9 25.0 49.9
- (d) Maintenance and repairs .8 .8 1.6
- (e) Supplies and materials 75.0 75.0 150.0

(f) Contractual services 4,429.7 276.0 448.4 9,970.9 15,125.0

(g) Operating costs 954.9 955.0 1,909.9

~~[(h) Other costs 8,450.0 8,450.0]~~

(i) Capital outlay 2.0 2.0 4.0

(j) Out-of-state travel 5.0 5.0 10.0

(k) Other financing uses 4.7 11,285.2 11,289.9

Authorized FTE: 116.00 Permanent; 3.00 Term

~~[The other state funds appropriation to the medical assistance division of the human services department includes eight million four hundred fifty thousand dollars (\$8,450,000) to administer the expenditure plans approved by the health policy commission for the children's health insurance program, contingent upon Senate Bill 59 or Senate Bill 138 or Senate Bill 139 of the second session of the forty third legislature, becoming law.]~~

Other Intrnl Svc

General State Funds/Inter- Federal

Item Fund Funds Agency Trnsf Funds Total

(4) Medicaid payments:

(a) Other costs 211,215.0 4,332.0 46,732.0 731,298.0 993,577.0

(b) Other financing uses 8,088.0 21,912.0 30,000.0

~~[Medicaid managed care payments to contracted managed care organizations shall not contain more than a four percent cost of living adjustment.]~~

(5) Income support division:

(a) Personal services 9,767.1 13,666.1 23,433.2

(b) Employee benefits 3,343.9 4,736.1 8,080.0

(c) Travel 206.3 287.0 493.3

(d) Maintenance and repairs 388.3 483.3 871.6

(e) Supplies and materials 352.5 490.2 842.7

(f) Contractual services 3,485.7 8,725.7 12,211.4

(g) Operating costs 4,331.3 6,023.1 10,354.4

(h) Other costs 14.6 20.3 34.9

(i) Capital outlay 313.2 435.5 748.7

(j) Out-of-state travel 9.1 12.6 21.7

(k) Other financing uses 7.2 1,120.0 1,127.2

Authorized FTE: 907.50 Permanent; 19.00 Term; 15.00 Temporary

In addition to any other budget adjustment authority granted in the General Appropriation Act of 1998, upon certification by the human services department to the department of finance and administration, the legislative finance committee and the welfare reform oversight committee that workload for all division programs including temporary assistance for needy families, food stamps, medicaid eligibility, and general assistance has decreased sufficiently and upon the submission of documentation showing the decrease in workload, the department may transfer enough money to provide for the thirty-four percent matching requirement of the salaries and employee benefits of up to fifty-six FTE from the personal services and employee benefits categories of the income support division to the personal services and employee benefits categories of the child support enforcement division.

~~[The general fund appropriations to the income support division of the human services department in the personal services and employee benefits categories include fifty thousand dollars (\$50,000) for one human services case worker and one secretary in De Baca county.]~~

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

(6)Income support programs:

(a) Other costs 9,839.4 192,690.5 202,529.9

(b) Other financing uses 9,650.0 9,650.0

(c) Temporary assistance for needy

families-cash assistance 2,482.5 122,225.8 124,708.3

~~[The general fund appropriation to the income support programs of the human services department in the other costs category includes seven million three hundred eleven thousand four hundred dollars (\$7,311,400) for expenditure in fiscal year 1999 for the purpose of funding general assistance programs established in Section 27-2-7 NMSA 1978.]~~

Subtotal 1,496,416.4

LABOR DEPARTMENT:

(1)Office of the secretary:

(a) Personal services 527.7 527.7

(b) Employee benefits 163.0 163.0

(c) Travel 34.3 34.3

(d) Maintenance and repairs 11.1 11.1

(e) Supplies and materials 22.7 22.7

(f) Contractual services 4.0 4.0

(g) Operating costs 97.2 97.2

(h) Other costs 12.1 12.1

(i) Capital outlay 8.0 8.0

(j) Out-of-state travel 13.3 13.3

(k) Other financing uses .2 .2

Authorized FTE: 13.00 Permanent; 1.00 Term

(2)Administrative services division:

(a) Personal services 123.9 3,517.5 3,641.4

(b) Employee benefits 9.5 1,140.3 1,149.8

(c) Travel 68.2 68.2

(d) Maintenance and repairs 186.5 186.5

(e) Supplies and materials 197.0 197.0

(f) Contractual services 7.0 1,222.1 1,229.1

(g) Operating costs 582.1 582.1

(h) Other costs 248.3 77.4 325.7

(i) Capital outlay 180.0 320.1 500.1

(j) Out-of-state travel 23.7 23.7

(k) Other financing uses 1.8 1.8

Authorized FTE: 107.00 Permanent; 4.00 Term;15.76 Temporary

(3)Employment security division:

(a) Personal services 11,603.8 11,603.8

(b) Employee benefits 3,932.8 3,932.8

(c) Travel 276.4 276.4

(d) Maintenance and repairs 318.7 318.7

(e) Supplies and materials 590.0 590.0

(f) Contractual services 716.8 716.8

(g) Operating costs 1,527.1 1,527.1

(h) Other costs 9,534.4 9,534.4

(i) Capital outlay 765.2 765.2

(j) Out-of-state travel 54.1 54.1

(k) Other financing uses 6.9 6.9

Authorized FTE: 416.00 Permanent; 24.00 Term;31.50 Temporary

Other Intrnl Svc

General State Funds/Inter- Federal

Item Fund Funds Agency Trnsf Funds Total

(4)Job training division:

(a) Personal services 1,139.1 1,139.1

- (b) Employee benefits 361.6 361.6
- (c) Travel 51.3 51.3
- (d) Maintenance and repairs 6.6 6.6
- (e) Supplies and materials 80.4 80.4
- (f) Contractual services 700.0 94.6 794.6
- (g) Operating costs 228.5 228.5
- (h) Other costs 9,700.0 10,306.2 20,006.2
- (i) Capital outlay 77.4 77.4
- (j) Out-of-state travel 10.0 10.0
- (k) Other financing uses .6 .6

Authorized FTE: 34.00 Permanent; 4.50 Temporary

(5)Labor and industrial division:

- (a) Personal services 164.1 525.4 689.5
- (b) Employee benefits 69.8 170.2 240.0
- (c) Travel 33.0 33.0
- (d) Maintenance and repairs 12.4 12.4
- (e) Supplies and materials 17.0 17.0
- (f) Contractual services 5.5 5.5
- (g) Operating costs 155.2 155.2
- (h) Other costs 180.2 180.2
- (i) Capital outlay 7.5 7.5
- (j) Out-of-state travel 1.0 1.0
- (k) Other financing uses .4 .4

Authorized FTE: 23.00 Permanent; 2.70 Temporary

(6)Human rights division:

- (a) Personal services 375.6 93.7 469.3
- (b) Employee benefits 249.2 57.5 306.7
- (c) Travel 20.8 20.8
- (d) Maintenance and repairs 5.5 5.5
- (e)Supplies and materials 11.8 11.8
- (f) Contractual services 12.5 12.5

(g) Operating costs 105.3 105.3

(h) Capital outlay 5.0 5.0

(i) Out-of-state travel 2.0 2.0

(j) Other financing uses .2 .2

Authorized FTE: 16.00 Permanent

Subtotal 63,162.3

WORKERS' COMPENSATION ADMINISTRATION:

(a) Personal services 4,343.4 4,343.4

(b) Employee benefits 1,561.5 1,561.5

(c) Travel 129.1 129.1

(d) Maintenance and repairs 168.0 168.0

(e) Supplies and materials 56.9 56.9

(f) Contractual services 782.5 782.5

(g) Operating costs 756.6 756.6

(h) Capital outlay 59.4 59.4

(i) Out-of-state travel 28.3 28.3

Authorized FTE: 141.00 Permanent

~~[The workers' compensation administration shall establish its fiscal year 1999 operating budget by division in accordance with the reorganization adopted on October 18, 1996.]~~

Subtotal 7,885.7

Other Intrnl Svc

General State Funds/Inter- Federal

Item Fund Funds Agency Trnsf Funds Total

DIVISION OF VOCATIONAL REHABILITATION:

(1) Rehabilitative services unit:

(a) Personal services 916.6 4,976.7 5,893.3

(b) Employee benefits 296.9 1,611.9 1,908.8

(c) Travel 59.0 244.9 303.9

(d) Maintenance and repairs 20.5 91.1 111.6

(e) Supplies and materials 24.9 128.7 153.6

(f) Contractual services 131.3 569.9 701.2

- (g) Operating costs 505.7 2,236.1 2,741.8
- (h) Other costs 2,537.4 193.41 5.0 8,461.0 11,206.8
- (i) Capital outlay 5.6 26.4 32.0
- (j) Out-of-state travel 6.8 62.6 69.4
- (k) Other financing uses .5 2.5 3.0

Authorized FTE: 184.00 Permanent; 22.00 Term

The division of vocational rehabilitation may apply an indirect cost rate of up to five percent for administering and monitoring independent living projects.

(2) Disability determination unit:

- (a) Personal services 9.4 2,925.5 2,934.9
- (b) Employee benefits 3.1 934.5 937.6
- (c) Travel 30.6 30.6
- (d) Maintenance and repairs 86.6 86.6
- (e) Supplies and materials 36.9 36.9
- (f) Contractual services 20.0 20.0
- (g) Operating costs 813.1 813.1
- (h) Other costs 4,798.5 4,798.5
- (i) Out-of-state travel 27.5 27.5
- (j) Other financing uses 2.0 2.0

Authorized FTE: 97.00 Permanent

Any unexpended or unencumbered balance in the division of vocational rehabilitation remaining at the end of fiscal year 1999 from appropriations made from the general fund shall not revert.

Subtotal 32,813.1

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

GOVERNOR'S COMMITTEE ON CONCERNS OF THE HANDICAPPED:

- (a) Personal services 247.1 42.5 289.6
- (b) Employee benefits 91.9 12.6 104.5
- (c) Travel 7.7 4.6 12.3
- (d) Maintenance and repairs 2.1 1.2 3.3
- (e) Supplies and materials 6.9 4.2 11.1

(f) Contractual services 57.0 .5 57.5

(g) Operating costs 25.5 8.2 33.7

(h) Other costs .8 .8

(i) Out-of-state travel 8.1 8.1

(j) Other financing uses .2 .1 .3

Authorized FTE: 7.00 Permanent; 1.50 Term

~~[The general fund appropriation to the governor's committee on the concerns of the handicapped in the contractual services category includes thirty five thousand dollars (\$35,000) to conduct a public awareness program on multiple sensitivities syndrome.]~~

Subtotal 521.2

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

DEVELOPMENTAL DISABILITIES PLANNING COUNCIL:

(a) Personal services 161.2 6.0 76.2 243.4

(b) Employee benefits 60.4 1.9 24.5 86.8

(c) Travel 12.3 13.6 25.9

(d) Maintenance and repairs .4 .4

(e) Supplies and materials 1.3 .7 4.5 6.5

(f) Contractual services 22.3 .7 6.5 29.5

(g) Operating costs 29.3 10.2 26.7 66.2

(h) Other costs 287.2 287.2

(i) Out-of-state travel 1.5 3.1 4.6

(j) Other financing uses .1 .1

Authorized FTE: 6.00 Permanent; 1.50 Term

Subtotal 750.6

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

MINERS' HOSPITAL:

(a) Personal services 4,522.1 58.0 4,580.1

(b) Employee benefits 1,708.7 19.1 1,727.8

- (c) Travel 53.2 1.1 54.3
- (d) Maintenance and repairs 361.9 361.9
- (e) Supplies and materials 1,410.9 .7 1,411.6
- (f) Contractual services 1,629.0 70.0 1,699.0
- (g) Operating costs 720.7 2.5 723.2
- (h) Other costs 6.0 6.0
- (i) Capital outlay 200.6 200.6
- (j) Out-of-state travel 8.0 2.5 10.5
- (k) Other financing uses 6.1 6.1

Authorized FTE: 187.50 Permanent; 13.50 Term

Subtotal 10,781.1

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

DEPARTMENT OF HEALTH:

(1)Office of the secretary:

- (a) Personal services 293.3 293.3
- (b) Employee benefits 94.8 94.8
- (c) Travel 7.0 7.0
- (d) Maintenance and repairs .5 .5
- (e) Supplies and materials 4.2 4.2
- (f) Operating costs 19.4 19.4
- (g) Out-of-state travel 5.0 5.0

Authorized FTE: 5.00 Permanent; 1.00 Term

(2)Administrative services division:

- (a) Personal services 2,036.8 122.2 836.8 2,995.8
- (b) Employee benefits 704.9 42.3 289.6 1,036.8
- (c) Travel 12.4 .7 5.1 18.2
- (d) Maintenance and repairs 27.5 1.6 11.3 40.4
- (e) Supplies and materials 50.0 3.0 20.5 73.5
- (f) Contractual services 182.9 11.0 75.1 269.0

(g) Operating costs 642.6 38.6 264.0 945.2

(h) Capital outlay 13.6 .8 5.6 20.0

(i) Out-of-state travel 1 .9 .2 .9 3.0

Authorized FTE: 90.00 Permanent; 5.00 Term

(3) Internal audit:

(a) Personal services 214.0 214.0

(b) Employee benefits 69.6 69.6

(c) Travel 16.9 16.9

(d) Maintenance and repairs 1.3 1.3

(e) Supplies and materials 2.3 2.3

(f) Contractual services 2.5 2.5

(g) Operating costs 60.7 60.7

(h) Capital outlay 5.0 5.0

(i) Out-of-state travel 2.0 2.0

Authorized FTE: 7.00 Permanent

(4) General counsel:

(a) Personal services 456.9 456.9

(b) Employee benefits 155.4 155.4

(c) Travel 9.5 9.5

(d) Maintenance and repairs 2.8 2.8

(e) Supplies and materials 8.5 8.5

(f) Contractual services 5.0 5.0

(g) Operating costs 44.4 44.4

(h) Capital outlay 7.0 7.0

(i) Out-of-state travel 3.5 3.5

Authorized FTE: 11.00 Permanent

(5) Reproduction services:

(a) Personal services 18.0 18.0

(b) Employee benefits 9.3 9.3

(c) Maintenance and repairs 32.7 32.7

(d) Supplies and materials 77.7 77.7

(e) Operating costs 285.0 285.0

Authorized FTE: 1.00 Term

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

(6)Scientific laboratory division:

(a) Personal services 2,225.8 273.7 953.6 10.3 3,463.4

(b) Employee benefits 750.4 92.2 321.5 3.5 1,167.6

(c) Travel 12.0 1.4 5.1 .1 18.6

(d) Maintenance and repairs 177.9 21.9 76.2 .8 276.8

(e) Supplies and materials 740.1 91.1 317.1 3.4 1,151.7

(f) Contractual services 345.7 42.6 148.1 1.6 538.0

(g) Operating costs 187.1 23.0 80.2 .9 291.2

(h) Other costs 1.9 .3 .8 3.0

(i) Capital outlay 305.3 37.5 130.8 1.4 475.0

(j) Out-of-state travel 10.3 1.3 4.4 16.0

Authorized FTE: 76.00 Permanent; 33.00 Term

(7)Public health division:

(a) Personal services 14,165.4 206.8 1,254.3 7,800.9 23,427.4

(b) Employee benefits 5,129.0 75.8 460.3 2,525.1 8,190.2

(c) Travel 697.8 3.6 42.5 193.4 937.3

(d) Maintenance and repairs 243.2 2.4 21.4 267.0

(e) Supplies and materials 4,617.5 1,100.6 33.1 928.7 6,679.9

(f) Contractual services 24,098.3 2,261.2 4,861.6 31,221.1

(g) Operating costs 3,217.8 113.6 64.2 727.5 4,123.1

(h) Other costs 7,460.2 47.9 1.4 3,568.3 11,077.8

(i) Capital outlay 204.9 204.9

(j) Out-of-state travel 44.1 6.2 37.6 87.9

Authorized FTE: 439.50 Permanent; 379.50 Term;1.50 Temporary

The general fund appropriation to the public health division of the department of health in the contractual services category includes: [~~one million dollars (\$1,000,000) for the purpose of contracting operational expenses to assist eligible programs providing primary healthcare services pursuant to the Rural Primary Health Care Act;~~] two hundred

twenty-seven thousand dollars (\$227,000) for the purpose of contracting for the diabetes program statewide; seventy-five thousand dollars (\$75,000) for the purpose of contracting for community-based cancer patient support services which shall be available to cancer patients suffering any type of cancer and which shall include education, one-to-one matching with cancer veterans, survivorship mentoring and publications; ~~seventy-five thousand dollars (\$75,000) for the purpose of contracting for community health services in Magdalena in Socorro county; one hundred thousand dollars (\$100,000) for the purpose of contracting with the Gila regional medical center for expansion of the wellness and health education programs; and seven hundred fifty thousand dollars (\$750,000) for the purpose of contracting to assist in offsetting the increasing costs for HIV/AIDS medications and treatment;~~ one hundred fifty thousand dollars (\$150,000) for the purpose of developing and implementing osteoporosis prevention and treatment education program; ~~and one hundred thousand dollars (\$100,000) for the purpose of funding youth leadership and public policy training programs designed to address gun prevention, substance abuse, and teen pregnancy.~~

~~The general fund appropriation to the public health division of the department of health in the other costs category includes one hundred fifty thousand dollars (\$150,000) for supplies, equipment and expansion for the Lea county community dental health program; two hundred thousand dollars (\$200,000) for the mobile dental clinic in Bernalillo county.]~~

The other state funds appropriations to the public health division of the department of health include: one million dollars (\$1,000,000) from the department's cash balances as of June 30, 1998; ~~and one million two hundred thousand dollars (\$1,200,000) for the children's health insurance program which is contingent upon Senate Bill 59 or Senate Bill 138 or Senate Bill 139 of the second session of the forty third legislature, becoming law].~~

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

(8)Southern New Mexico rehabilitation center:

- (a) Personal services 1,698.9 1,605.4 3,304.3
- (b) Employee benefits 599.1 500.6 1,099.7
- (c) Travel 6.0 17.6 23.6
- (d) Maintenance and repairs 6.9 124.0 130.9
- (e) Supplies and materials 93.9 169.5 263.4
- (f) Contractual services 98.8 96.8 195.6
- (g) Operating costs 192.5 87.5 280.0
- (h) Other costs 13.7 11.5 25.2
- (i) Capital outlay 43.3 15.0 58.3
- (j) Out-of-state travel 3.7 1.1 4.8
- (k) Other financing uses 1.7 1.7

Authorized FTE: 101.00 Permanent; 18.00 Term

The general fund appropriations to southern New Mexico rehabilitation center include one million seven hundred twenty-eight thousand five hundred dollars (\$1,728,500) contingent upon southern New Mexico rehabilitation center receiving revenue of at least two million six hundred twenty-nine thousand dollars (\$2,629,000) from sources other than the general fund. The department of health shall certify receipt of the matching funds to the state board of finance and the legislative finance committee. For purposes of this appropriation, the department may enter into contracts with federal agencies or state or local governments for payments to be made by those agencies or governments within the fiscal year for services rendered by southern New Mexico rehabilitation center.

(9)Northern New Mexico rehabilitation center:

(a) Personal services 426.8 486.7 136.1 1,049.6

(b) Employee benefits 190.2 183.7 36.2 410.1

(c) Travel 6.3 24.1 8.2 38.6

(d) Maintenance and repairs .8 19.6 5.7 26.1

(e) Supplies and materials 9.0 3.4 12.4

(f) Contractual services 48.5 33.3 18.2 100.0

(g) Operating costs 26.9 48.2 11.1 86.2

(h) Other costs 3.3 209.1 11.0 223.4

(i) Other financing uses .7 .7

Authorized FTE: 41.00 Permanent; 4.00 Term

Other Intrnl Svc

General State Funds/Inter- Federal

Item Fund Funds Agency Trnsf Funds Total

(10)Women, infants and children food:

(a) Supplies and materials 8,337.6 20,829.4 29,167.0

(11)Women, infants and children program:

(a) Personal services 238.3 227.9 4,019.5 4,485.7

(b) Employee benefits 83.4 76.2 1,339.6 1,499.2

(c) Travel .6 153.7 154.3

(d) Maintenance and repairs 49.2 49.2

(e) Supplies and materials .8 181.0 181.8

(f) Contractual services 1,114.9 2,329.6 3,444.5

(g) Operating costs 5.0 708.5 713.5

(h) Capital outlay 553.2 553.2

(i) Out-of-state travel 20.5 20.5

Authorized FTE: 226.00 Term

Other Intrnl Svc

General State Funds/Inter- Federal

Item Fund Funds Agency Trnsf Funds Total

(12)Health improvement division:

(a) Personal services 1,999.8 1,018.4 451.1 3,469.3

(b) Employee benefits 641.3 326.5 144.7 1,112.5

(c) Travel 110.1 73.4 32.5 216.0

(d) Maintenance and repairs 5.7 2.9 1.3 9.9

(e) Supplies and materials 34.1 17.4 7.7 59.2

(f) Contractual services 27.1 13.8 6.1 47.0

(g) Operating costs 247.2 125.9 55.8 428.9

(h) Out-of-state travel 14.7 7.5 3.3 25.5

Authorized FTE: 55.00 Permanent; 59.00 Term

(13)Community programs--substance abuse:

(a) Contractual services 8,097.4 5,603.3 13,700.7

(b) Other financing uses 387.5 278.5 666.0

~~[The general fund appropriation to the substance abuse community programs of the department of health in the contractual services category includes three hundred thousand dollars (\$300,000) to operate a youth initiative to build self esteem projects at community centers in Wells park, Westside, Westgate and Los Padillas in Bernalillo county and at community centers in Alamogordo and Tularosa in Otero county.]~~

Other Intrnl Svc

General State Funds/Inter- Federal

Item Fund Funds Agency Trnsf Funds Total

(14)Community programs--mental health:

(a) Contractual services 17,302.5 930.1 18,232.6

(b) Other financing uses 1,486.0 79.9 1,565.9

(15)Community programs--developmental disabilities:

(a) Contractual services 17,941.8 17,941.8

(16)Behavioral health services division:

(a) Personal services 650.6 588.4 1,239.0

(b) Employee benefits 225.5 203.9 429.4

(c) Travel 15.2 13.8 29.0

(d) Maintenance and repairs 2.5 2.2 4.7

(e) Supplies and materials 7.5 6.7 14.2

(f) Contractual services 63.6 12.3 75.9

(g) Operating costs 63.8 57.7 121.5

(h) Out-of-state travel3.63.36.9

Authorized FTE: 25.00 Permanent; 9.00 Term

~~[The general fund appropriation to the behavioral health services division of the department of health in the contractual services category includes fifty thousand dollars (\$50,000) to provide staff training and to purchase computers and software for three Rio Grande alcoholism treatment facilities in Mora, Rio Arriba and Sandoval counties.]~~

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

(17) Long-term care and restorative services division:

- (a) Personal services 2,179.3 1,046.3 332.6 3,558.2
- (b) Employee benefits 680.3 326.6 103.8 1,110.7
- (c) Travel 80.2 45.6 14.5 140.3
- (d) Maintenance and repairs 5.9 2.9 .9 9.7
- (e) Supplies and materials 33.5 16.1 5.1 54.7
- (f) Contractual services 1,138.7 1,000.0 786.8 250.1 3,175.6
- (g) Operating costs 299.5 143.8 45.7 489.0
- (h) Other costs 103.5 49.7 15.8 169.0
- (i) Capital outlay 1.6 .7 .2 2.5
- (j) Out-of-state travel 5.5 2.6 .9 9.0
- (k) Other financing uses 55.2 26.4 8.4 90.0

Authorized FTE: 74.00 Permanent; 32.00 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 two hundred thousand dollars (\$200,000) for the purpose of training certification and implementation of the certified medical aides program for developmental disabilities medicaid waiver services; and three hundred thousand dollars (\$300,000) to the brain injury services fund administered by the division.]~~

~~The other state funds appropriation to the long-term care and restorative services division of the department of health includes one million dollars (\$1,000,000) for the children's health insurance program and is contingent upon Senate Bill 59 or Senate Bill 138 or Senate Bill 139 of the second session of the forty-third legislature, becoming law.]~~

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

(18) Las Vegas medical center:

- (a) Personal services 13,767.7 1,568.1 7,724.3 23,060.1
- (b) Employee benefits 4,986.5 575.9 2,906.7 8,469.1
- (c) Travel 67.1 9.0 30.9 107.0

- (d) Maintenance and repairs 353.0 33.0 172.6 558.6
- (e) Supplies and materials 815.7 78.2 464.1 1,358.0
- (f) Contractual services 1,125.6 126.4 589.8 1,841.8
- (g) Operating costs 1,138.6 122.5 455.0 1,716.1
- (h) Other costs 292.9 31.7 26.3 350.9
- (i) Capital outlay 72.0 8.1 36.7 116.8
- (j) Out-of-state travel 6.3 1.7 8.0

Authorized FTE: 901.00 Permanent; 54.00 Term

(19)Adolescent residential treatment facility:

- (a) Personal services 2,191.7 21.7 1,260.0 3,473.4
- (b) Employee benefits 691.7 6.8 397.7 1,096.2
- (c) Travel 8.2 .1 4.7 13.0
- (d) Maintenance and repairs 33.8 .3 19.4 53.5
- (e) Supplies and materials 221.5 2.2 127.4 351.1
- (f) Contractual services 131.3 1.3 75.5 208.1
- (g) Operating costs 114.3 1.2 65.7 181.2
- (h) Other costs 10.4 .1 6.0 16.5
- (i) Capital outlay 9.8 .1 5.7 15.6
- j) Out-of-state travel 3.0 1.7 4.7

Authorized FTE: 127.00 Permanent

(20)Fort Bayard medical center:

- (a) Personal services 1,538.0 1,554.4 5,306.4 325.0 8,723.8
- (b) Employee benefits 608.7 626.4 2,149.6 130.9 3,515.6
- (c) Travel 10.7 14.5 53.4 3.0 81.6
- (d) Maintenance and repairs 56.6 77.4 284.0 16.2 434.2
- (e) Supplies and materials 522.2 303.6 814.2 63.4 1,703.4
- (f) Contractual services 16.5 22.6 82.9 4.7 126.7
- (g) Operating costs 232.0 112.0 261.2 23.4 628.6
- (h) Other costs 10.4 14.2 52.1 2.9 79.6
- (i) Capital outlay 35.0 47.8 175.6 10.1 268.5

(j) Out-of-state travel .4 .5 1.8 .1 2.8

(k) Other financing uses 1.5 2.1 7.7 .5 11.8

Authorized FTE: 316.00 Permanent; 24.00 Term;45.50 Temporary

(21)Turquoise lodge:

(a) Personal services 1,315.3 404.6 1,719.9

(b) Employee benefits 448.9 140.5 589.4

(c) Travel 9.7 5.2 14.9

(d) Maintenance and repairs 27.7 .4 10.9 39.0

(e) Supplies and materials 39.3 1.2 21.7 62.2

(f) Contractual services 654.1 2.3 74.6 731.0

(g) Operating costs 64.4 23.5 4.8 92.7

(h) Other costs 1.2 .1 .3 1.6

(i) Capital outlay 19.5 .3 5.9 25.7

(j) Out-of-state travel .5 .2 1.3 2.0

Authorized FTE: 44.00 Permanent; 18.00 Term

Other Intrnl Svc

General State Funds/Inter- Federal

Item Fund Funds Agency Trnsf Funds Total

(22)Los Lunas community waiver program:

(a) Personal services 1,501.0 384.9 3,409.3 5,295.2

(b) Employee benefits 531.7 153.5 1,359.8 2,045.0

(c) Travel .5 .2 1.5 2.2

(d) Maintenance and repairs 141.8 5.2 45.7 192.7

(e) Supplies and materials 25.4 4.1 36.4 65.9

(f) Contractual services 153.1 44.7 396.1 593.9

(g) Operating costs 266.5 20.4 181.1 468.0

(h) Other costs 277.8 85.5 757.1 1,120.4

(i) Capital outlay 166.1 7.3 64.4 237.8

(j) Out-of-state travel 1.3 .4 3.7 5.4

Authorized FTE: 143.00 Permanent; 93.00 Term

(23)New Mexico veterans' center:

(a) Personal services 899.3 1,276.7 1,082.5 901.9 4,160.4

- (b) Employee benefits 380.4 540.0 457.9 381.6 1,759.9
- (c) Travel 4.5 6.4 5.4 4.6 20.9
- (d) Maintenance and repairs 49.8 70.7 60.0 50.0 230.5
- (e) Supplies and materials 148.7 211.1 179.0 149.0 687.8
- (f) Contractual services 41.1 58.3 49.4 41.2 190.0
- (g) Operating costs 99.1 140.7 119.3 99.4 458.5
- (h) Other costs 2.3 3.2 2.7 2.3 10.5
- (i) Capital outlay 18.4 26.1 22.1 18.4 85.0
- (j) Out-of-state travel .3 .5 .4 .3 1.5

Authorized FTE: 175.00 Permanent; 30.50 Term

(24)Medicaid waivers:

- (a) Other financing uses 22,724.8 2,000.0 24,724.8

The general fund appropriation to the medicaid waivers in the department of health in the other financing uses category includes one million dollars (\$1,000,000) to address the developmental disabled waiting list.

The other state funds appropriation to the department of health includes two million dollars

(\$2,000,000) from the department's cash balances as of June 30, 1998.

Subtotal 320,953.1

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

DEPARTMENT OF ENVIRONMENT:

- (1)Office of the secretary:
 - (a) Personal services 246.3 472.1 89.9 808.3
 - (b) Employee benefits 76.6 147.0 27.9 251.5
 - (c) Travel 6.0 11.6 2.2 19.8
 - (d) Maintenance and repairs .4 .8 .2 1.4
 - (e) Supplies and materials 2.8 5.1 1.0 8.9
 - (f) Contractual services 1.6 3.1 .6 5.3
 - (g) Operating costs 19.6 37.6 7.2 64.4
 - (h) Capital outlay .3 .6 .1 1.0
 - (i) Out-of-state travel 2.0 3.7 .7 6.4

(j) Other financing uses .2 .3 .5

Authorized FTE: 17.00 Permanent; 1.50 Term

(2)Administrative services division:

(a) Personal services 517.5 794.8 842.5 2,154.8

(b) Employee benefits 176.2 270.6 286.9 733.7

(c) Travel 4.6 7.2 7.5 19.3

(d) Maintenance and repairs 57.8 88.8 94.2 240.8

(e) Supplies and materials 7.9 12.1 12.9 32.9

(f) Contractual services 32.1 49.2 52.2 133.5

(g) Operating costs 40.8 62.7 66.4 169.9

(h) Capital outlay 59.2 90.9 96.4 246.5

(i) Out-of-state travel 3.4 5.1 5.5 14.0

(j) Other financing uses 17.1 26.4 27.9 71.4

Authorized FTE: 37.00 Permanent; 29.00 Term

Other Intrnl Svc

General State Funds/Inter- Federal

Item Fund Funds Agency Trnsf Funds Total

(3)Environmental protection division:

(a) Personal services 1,497.7 3,274.9 1,302.0 6,074.6

(b) Employee benefits 493.7 1,079.5 429.2 2,002.4

(c) Travel 61.0 133.3 53.0 247.3

(d) Maintenance and repairs 9.6 21.0 8.4 39.0

(e) Supplies and materials 41.9 91.6 36.4 169.9

(f) Contractual services 50.4 110.2 43.8 204.4

(g) Operating costs 247.1 540.5 214.8 1,002.4

(h) Capital outlay 50.0 109.4 43.5 202.9

(i) Out-of-state travel 17.4 38.1 15.1 70.6

(j) Other financing uses 38.0 83.1 33.1 154.2

Authorized FTE: 69.00 Permanent; 123.00 Term

(4)Field operations division:

(a) Personal services 2,194.3 1,578.8 366.7 4,139.8

(b) Employee benefits 742.1 534.0 124.0 1,400.1

- (c) Travel 109.2 78.6 18.3 206.1
- (d) Maintenance and repairs 11.3 8.1 1.9 21.3
- (e) Supplies and materials 48.2 34.8 8.0 91.0
- (f) Contractual services 806.5 580.3 134.9 1,521.7
- (g) Operating costs 526.4 378.8 88.0 993.2
- (h) Capital outlay 66.6 47.9 11.1 125.6
- (i) Out-of-state travel 16.4 11.8 2.8 31.0
- (j) Other financing uses 4.5 3.2 .7 8.4

Authorized FTE: 110.00 Permanent; 22.00 Term

(5)Water and waste management division:

- (a) Personal services 1,874.3 23.4 788.3 3,425.1 6,111.1
- (b) Employee benefits 614.6 7.7 258.5 1,123.2 2,004.0
- (c) Travel 106.7 1.3 44.7 194.5 347.2
- (d) Maintenance and repairs 12.0 .1 5.0 21.9 39.0
- (e) Supplies and materials 71.2 .9 30.0 130.2 232.3
- (f) Contractual services 458.7 4.5 150.9 655.5 1,269.6
- (g) Operating costs 250.8 3.1 105.5 458.3 817.7
- (h) Capital outlay 48.7 .6 20.5 89.1 158.9
- (i) Out-of-state travel 35.4 .5 14.9 64.7 115.5
- (j) Other financing uses 43.6 .6 18.4 79.8 142.4

Authorized FTE: 64.00 Permanent; 122.50 Term

(6)Tire recycling fund:

- (a) Other costs 575.0 575.0
- (b) Other financing uses 171.7 171.7

(7)Air quality Title V fund: 3,121.3 3,121.3

(8)Responsible party prepay: 330.0 330.0

(9)Hazardous waste fund: 691.0 691.0

(10)Water quality management fund: 140.7 140.7

(11)Water conservation fund: 3,030.3 3,030.3

(12)Air quality permit fund: 654.8 654.8

(13) Radiologic technology fund: 55.3 55.3
 (14) Underground storage tank fund: 495.8 495.8
 (15) Corrective action fund:
 (a) Contractual services 2,500.0 2,500.0
 (b) Other costs 11,570.0 11,570.0
 (c) Other financing uses 2,448.8 2,448.8
 (16) Food service sanitation fund: 507.8 507.8
 Subtotal 61,220.4

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

OFFICE OF THE NATURAL RESOURCES TRUSTEE:

(a) Personal services 101.5 101.5
 (b) Employee benefits 35.8 35.8
 (c) Travel 2.4 2.4
 (d) Maintenance and repairs .4 .4
 (e) Supplies and materials 1.9 1.9
 (f) Contractual services 1.1 1.1
 (g) Operating costs 7.8 7.8
 (h) Other financing uses .1 .1
 Authorized FTE: 2.00 Permanent
 Subtotal 151.0

NEW MEXICO HEALTH POLICY COMMISSION:

(a) Personal services 551.7 [~~426.0~~] 677.7
 (b) Employee benefits 202.2 [~~54.0~~] 256.2
 (c) Travel 25.2 [~~25.0~~] 50.2
 (d) Maintenance and repairs 10.3 [~~40.0~~] 20.3
 (e) Supplies and materials 46.5 10.05 6.5
 [(f) Contractual services 1,488.625.01,513.6]
 (g) Operating costs 230.2 230.2
 (h) Capital outlay 7.5 7.5
 (i) Out-of-state travel 10.0 10.0

(j) Other financing uses .3 .3

Authorized FTE: 15.00 Permanent

~~[The general fund appropriation to the New Mexico health policy commission in the contractual services category includes two hundred fifty thousand dollars (\$250,000) for the purpose of creating a statewide consumer advisory board for mental health and substance abuse services, regional consumer quality assurance teams and one ombudsman and advocate program.]~~

~~The other state funds appropriation to New Mexico health policy commission includes two hundred fifty thousand dollars (\$250,000) to assist in the development and implementation of the children's health insurance program, contingent upon Senate Bill 59 or Senate Bill 138 or Senate Bill 139 of the second session of the forty-third legislature, becoming law.]~~

Subtotal 2,822.5

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

NEW MEXICO VETERANS' SERVICE COMMISSION:

(a) Personal services 787.3 787.3

(b) Employee benefits 293.1 293.1

(c) Travel 19.8 25.0 44.8

(d) Maintenance and repairs 10.4 2.0 12.4

(e) Supplies and materials 11.3 2.0 13.3

(f) Contractual services 268.8 268.8

(g) Operating costs 74.8 15.5 90.3

(h) Other costs 1.2 1.2

(i) Capital outlay 16.5 16.5

(j) Out-of-state travel 3.5 2.0 5.5

(k) Other financing uses .5 .5

Authorized FTE: 29.00 Permanent

~~[The general fund appropriation to the New Mexico veterans' service commission in the contractual services category includes fifty thousand dollars (\$50,000) for a full-time honor guard and bugler at the Santa Fe and Fort Bayard national cemeteries.]~~

Subtotal 1,533.7

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

CHILDREN, YOUTH AND FAMILIES DEPARTMENT:

(1)Office of the secretary:

(a) Personal services 802.1 253.3 1,055.4

(b) Employee benefits 253.3 79.9 333.2

(c) Travel 24.3 7.7 32.0

(d) Maintenance and repairs 4.4 1.4 5.8

(e) Supplies and materials 9.2 2.9 12.1

(f) Operating costs 159.1 46.7 205.8

(g) Out-of-state travel 1.4 .6 2.0

(h) Other financing uses .3 .1 .4

Authorized FTE: 26.00 Permanent

(2)Financial services division:

(a) Personal services 1,241.3 594.8 749.8 2,585.9

(b) Employee benefits 454.4 217.7 274.5 946.6

(c) Travel 21.4 10.2 12.9 44.5

(d) Maintenance and repairs 187.8 64.7 81.5 334.0

(e) Supplies and materials 584.1 16.1 113.5 713.7

(f) Contractual services 70.8 33.9 42.8 147.5

(g) Operating costs 643.2 313.9 468.6 1,425.7

(h) Capital outlay 20.0 20.0

(i) Out-of-state travel .5 .5 .5 1.5

(j) Other financing uses .4 .4 .4 1.2

Authorized FTE: 80.00 Permanent

(3)Juvenile justice division:

(a) Personal services 22,105.6 291.5 749.8 21.6 23,168.5

(b) Employee benefits 7,707.0 102.9 168.8 6.4 7,985.1

(c) Travel 652.9 11.4 2.8 13.5 680.6

(d) Maintenance and repairs 487.1 5.7 492.8

(e) Supplies and materials 1,807.0 28.6 521.0 3.1 2,359.7

(f) Contractual services 4,319.9 51.4 7.5 123.2 4,502.0

(g) Operating costs 2,532.1 28.6 2.3 20.4 2,583.4

(h) Other costs 3,427.8 45.7 521.8 3,995.3

(i) Capital outlay 144.2 6.0 45.1 195.3

(j) Out-of-state travel 1.3 4.7 6.0 12.0

(k) Other financing uses 13.2 13.2

Authorized FTE: 887.00 Permanent; 13.50 Term;6.00 Temporary

(4)Protective services division:

(a) Personal services 10,982.2 4,183.6 10,982.2 26,148.0

(b) Employee benefits 4,050.8 1,543.2 4,050.8 9,644.8

(c) Travel 802.9 234.0 614.2 1,651.1

(d) Maintenance and repairs 52.8 20.2 52.8 125.8

(e) Supplies and materials 123.6 47.2 123.6 294.4

(f) Contractual services 4,042.2 2,686.2 6,728.4

(g) Operating costs 3,111.8 1,206.0 1,947.9 6,265.7

(h) Other costs 9,241.8 1,100.0 1,765.6 8,409.2 20,516.6

(i) Capital outlay 5.0 5.0 10.0

(j) Out-of-state travel 8.0 8.0 16.0

(k) Other financing uses 18.5 91.5 110.0

Authorized FTE: 918.70 Permanent; 7.00 Term;2.00 Temporary

(5)Preventive/intervention division:

(a) Personal services 3,071.0 195.0 1,972.7 5,238.7

(b) Employee benefits 1,033.4 50.0 732.3 1,815.7

(c) Travel 77.1 189.6 266.7

(d) Maintenance and repairs 9.2 23.8 33.0

(e) Supplies and materials 81.1 156.6 237.7

(f) Contractual services 3,658.9 211.0 131.0 1,845.7 5,846.6

(g) Operating costs 268.3 188.3 290.0 668.2 1,414.8

(h) Other costs 18,158.9 1,801.2 23,948.0 34,113.8 78,021.9

(i) Out-of-state travel 40.0 40.0

(j) Other financing uses .8 .5 1.5 2.8

Authorized FTE: 142.75 Permanent; 35.50 Term

~~[The general fund appropriations to the preventive/intervention division of the children, youth and families department include two hundred fifty thousand dollars (\$250,000) for a pilot program for at risk youth.~~

~~The other state funds appropriations to the preventive/intervention division of the children, youth and families department include one million two hundred thousand dollars (\$1,200,000) for the children's health insurance program and is contingent upon Senate Bill 59 or Senate Bill 138 or Senate Bill 139 of the second session of the forty-third legislature, becoming law.]~~

(6) Human resources division:

(a) Personal services 670.3 235.5 905.8

(b) Employee benefits 211.6 74.3 285.9

(c) Travel 22.2 7.8 30.0

(d) Maintenance and repairs 3.7 1.3 5.0

(e) Supplies and materials 20.7 7.3 28.0

(f) Operating costs 192.0 65.9 257.9

(g) Out-of-state travel .7 .3 1.0

(h) Other financing uses .3 .1 .4

Authorized FTE: 27.00 Permanent

Subtotal 219,797.9

TOTAL HEALTH, HOSPITALS AND

HUMAN SERVICES 609,127.7 97,452.4 151,928.8 1,396,321.3 2,254,830.2

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 951.0 1,057.8 2,008.8

(b) Employee benefits 374.7 423.0 797.7

(c) Travel 66.0 8.8 74.8

(d) Maintenance and repairs 461.8 106.4 197.5 765.7

(e) Supplies and materials 23.6 9.9 33.5

(f) Contractual services 14.5 600.0 614.5

(g) Operating costs 865.7 749.2 1,614.9

(h) Other costs 9.1 42.0 51.1

(i) Capital outlay 2.0 20.5 22.5

(j) Out-of-state travel 6.0 13.9 19.9

(k) Other financing uses .6 .8 1.4

Authorized FTE: 29.00 Permanent; 49.00 Term

The general fund appropriation to the department of military affairs in the personal services category includes funding for the adjutant general position not to exceed range 34 and funding for the deputy adjutant general position not to exceed range 26 in the governor's exempt salary plan.

The department of military affairs may request transfers from the maintenance and repairs category to the capital outlay category for maintenance or repair of the state's armories.

Subtotal 6,004.8

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

PAROLE BOARD:

- (a) Personal services 348.8 348.8
- (b) Employee benefits 138.4 138.4
- (c) Travel 9.4 9.4
- (d) Maintenance and repairs 1.1 1.1
- (e) Supplies and materials 4.2 4.2
- (f) Contractual services 4.5 4.5
- (g) Operating costs 57.3 57.3
- (h) Other financing uses .1 .1

Authorized FTE: 9.00 Permanent

Subtotal 563.8

JUVENILE PAROLE BOARD:

- (a) Personal services 175.8 175.8
- (b) Employee benefits 61.0 61.0
- (c) Travel 21.9 21.9
- (d) Maintenance and repairs .5 .5
- (e) Supplies and materials 7.0 7.0
- (f) Contractual services 2.4 2.4
- (g) Operating costs 23.4 23.4
- (h) Capital outlay 22.0 22.0
- (i) Other financing uses .1 .1

Authorized FTE: 6.00 Permanent

Subtotal 314.1

CORRECTIONS DEPARTMENT:

(1)Administrative services division:

- (a) Personal services 2,335.5 126.0 2,461.5
- (b) Employee benefits 772.6 37.4 810.0
- (c) Travel 59.0 3.0 62.0
- (d) Maintenance and repairs 158.1 158.1
- (e) Supplies and materials 27.9 1.8 29.7
- (f) Contractual services 111.5 111.5
- (g) Operating costs 545.6 1,191.7 11.3 1,748.6
- (h) Out-of-state travel 5.2 5.2
- (i) Other financing uses 1.0 1.0

Authorized FTE: 68.00 Permanent

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:

- (a) Personal services 906.0 906.0
- (b) Employee benefits 315.4 315.4
- (c) Travel 18.4 18.4
- (d) Maintenance and repairs 48.9 48.9
- (e) Supplies and materials 93.5 93.5
- (f) Contractual services 34.7 34.7
- (g) Operating costs 75.2 5.1 80.3
- (h) Other costs 3.7 3.7
- (i) Out-of-state travel 2.0 2.0
- (j) Other financing uses .3 .3

Authorized FTE: 18.00 Permanent

(3)Field services:

- (a) Personal services 5,994.3 1,234.1 7,228.4
- (b) Employee benefits 2,184.7 400.0 2,584.7
- (c) Travel 362.7 362.7
- (d) Maintenance and repairs 42.4 42.4

(e) Supplies and materials 111.3 111.3

(f) Contractual services 45.0 45.0

(g) Operating costs 1,718.7 1,718.7

(h) Other costs 1,674.3 1,674.3

(i) Capital outlay 16.1 16.1

(j) Out-of-state travel 1.9 1.9

(k) Other financing uses 3.8 3.8

(l) County detention fees 800.0 800.0

Authorized FTE: 247.00 Permanent

The general fund appropriations to the field services division of the corrections department include three hundred thousand dollars (\$300,000) for probation and parole FTE.

(4) Department community corrections:

(a) Personal services 853.1 853.1

(b) Employee benefits 268.3 268.3

(c) Travel 38.2 38.2

(d) Maintenance and repairs 1.0 1.0

(e) Supplies and materials 3.8 3.8

(f) Operating costs 20.3 20.3

(g) Other costs 59.0 59.0

(h) Other financing uses .4 .4

Authorized FTE: 30.00 Permanent

(5) Vendor community corrections:

(a) Travel 5.7 5.7

(b) Contractual services 110.0 110.0

(c) Other costs 2,379.3 709.4 3,088.7

The appropriations for vendor operated community corrections programs are appropriated to the community corrections grant fund.

~~[The general fund appropriations to the vendor community corrections division of the corrections department include ninety thousand dollars (\$90,000) for the purpose of expanding residential corrections in Bernalillo county.]~~

(6) Adult institutions division director:

(a) Personal services 1,679.5 1,679.5

(b) Employee benefits 592.2 592.2

- (c) Travel 81.0 81.0
- (d) Maintenance and repairs 85.3 85.3
- (e) Supplies and materials 434.6 434.6
- (f) Contractual services 207.4 207.4
- (g) Operating costs 675.2 675.2
- (h) Other costs 26,952.7 51.8 1,500.0 28,504.5
- (i) Out-of-state travel 3.0 3.0
- (j) Other financing uses 1.0 1.0

Authorized FTE: 61.00 Permanent

(7) Roswell correctional center:

- (a) Personal services 1,344.2 75.4 1,419.6
- (b) Employee benefits 528.6 36.1 564.7
- (c) Travel 98.5 98.5
- (d) Maintenance and repairs 144.1 144.1
- (e) Supplies and materials 493.9 40.6 534.5
- (f) Contractual services 1.5 1.5
- (g) Operating costs 179.7 179.7
- (h) Other costs 95.1 115.8 210.9
- (i) Capital outlay 49.2 49.2
- (j) Other financing uses .8 .8

Authorized FTE: 54.00 Permanent; 3.00 Term

(8) Central New Mexico correctional facility--main:

- (a) Personal services 8,602.4 177.8 8,780.2
- (b) Employee benefits 3,514.2 62.2 3,576.4
- (c) Travel 93.3 93.3
- (d) Maintenance and repairs 448.1 448.1
- (e) Supplies and materials 1,731.3 46.0 1,777.3
- (f) Contractual services 44.1 44.1
- (g) Operating costs 1,128.3 1,128.3
- (h) Other costs 224.6 220.0 444.6

(i) Capital outlay 64.0 64.0

(j) Other financing uses 5.4 5.4

Authorized FTE: 354.00 Permanent; 10.00 Term

(9)Central New Mexico correctional facility--minimum:

(a) Personal services 1,666.5 26.2 1,692.7

(b) Employee benefits 645.1 9.2 654.3

(c) Travel 73.8 73.8

(d) Maintenance and repairs 132.2 132.2

(e) Supplies and materials 563.3 79.5 642.8

(f) Contractual services .3 .3

(g) Operating costs 225.5 225.5

(h) Other costs 66.5 134.1 200.6

(i) Capital outlay 41.0 41.0

(j) Other financing uses 1.0 1.0

Authorized FTE: 64.00 Permanent; 1.00 Term

(10)Southern New Mexico correctional facility:

(a) Personal services 7,405.7 55.4 7,461.1

(b) Employee benefits 3,059.7 21.1 3,080.8

(c) Travel 87.8 87.8

(d) Maintenance and repairs 363.8 363.8

(e) Supplies and materials 1,761.3 16.3 1,777.6

(f) Contractual services 46.6 46.6

(g) Operating costs 1,074.7 1,074.7

(h) Other costs 136.2 315.8 452.0

(i) Capital outlay 61.9 61.9

(j) Other financing uses 4.5 4.5

Authorized FTE: 311.00 Permanent; 3.00 Term

(11)Western New Mexico correctional facility:

(a) Personal services 4,859.0 94.9 4,953.9

(b) Employee benefits 2,112.8 30.5 2,143.3

(c) Travel 154.6 154.6

- (d) Maintenance and repairs 222.3 222.3
- (e) Supplies and materials 1,064.1 4.4 1,068.5
- (f) Contractual services 41.2 41.2
- (g) Operating costs 770.3 770.3
- (h) Other costs 28.8 151.1 179.9
- (i) Capital outlay 74.8 74.8
- (j) Out-of-state travel 10.1 10.1
- (k) Other financing uses 3.0 3.0

Authorized FTE: 197.00 Permanent; 6.00 Term

(12)Penitentiary of New Mexico:

- (a) Personal services 14,628.9 14,628.9
- (b) Employee benefits 5,824.8 547.2 6,372.0
- (c) Travel 102.5 102.5
- (d) Maintenance and repairs 414.8 234.6 649.4
- (e) Supplies and materials 2,226.3 2,226.3
- (f) Contractual services 123.0 123.0
- (g) Operating costs 1,586.0 100.0 1,686.0
- (h) Other costs 290.0 197.8 487.8
- (i) Capital outlay 127.8 127.8
- (j) Other financing uses 57.9 57.9

Authorized FTE: 543.00 Permanent; 8.00 Term

[The general fund appropriation to the penitentiary of New Mexico of the corrections department includes four million four hundred thousand dollars (\$4,400,000) contingent upon Senate Bill 318 and Senate Bill 124 of the second session of the forty third legislature, becoming law.]

(13)Adult health services:

- (a) Personal services 2,420.1 2,420.1
- (b) Employee benefits 776.9 776.9
- (c) Travel 28.1 28.1
- (d) Maintenance and repairs 1.1 1.1
- (e) Supplies and materials 80.6 80.6
- (f) Contractual services 13,916.2 13,916.2

(g) Operating costs 43.6 43.6

(h) Capital outlay 11.6 11.6

(i) Out-of-state travel 5.0 5.0

(j) Other financing uses 1.2 1.2

Authorized FTE: 75.50 Permanent

(14)Adult education:

(a) Personal services 3,484.8 28.0 3,512.8

(b) Employee benefits 796.1 7.0 803.1

(c) Travel 25.7 25.7

(d) Maintenance and repairs 7.9 7.9

(e) Supplies and materials 233.0 233.0

(f) Contractual services 231.1 231.1

(g) Operating costs 82.3 82.3

(h) Other costs 2.5 2.5

(i) Capital outlay 5.0 5.0

(j) Other financing uses 1.5 1.5

Authorized FTE: 103.50 Permanent; 1.00 Term

(15)Corrections industries:

(a) Personal services 20.0 1,440.7 1,460.7

(b) Employee benefits 558.6 558.6

(c) Travel 63.6 63.6

(d) Maintenance and repairs 89.7 89.7

(e) Supplies and materials 96.1 96.1

(f) Contractual services 51.5 51.5

(g) Operating costs 82.8 82.8

(h) Other costs 2,239.9 2,239.9

(i) Out-of-state travel 7.5 7.5

(j) Other financing uses .7 .7

Authorized FTE: 38.00 Permanent; 7.00 Term;2.00 Temporary

Subtotal 158,756.4

CRIME VICTIMS REPARATION COMMISSION:

- (a) Personal services 313.7 38.8 66.3 418.8
- (b) Employee benefits 104.1 18.0 22.1 144.2
- (c) Travel 6.3 5.3 15.1 26.7
- (d) Maintenance and repairs .2 .2
- (e) Supplies and materials 7.6 15.1 22.7
- (f) Contractual services 185.6 3.3 20.1 209.0
- (g) Operating costs 40.4 8.0 31.7 80.1
- (h) Other costs 828.2 46.6 315.0 3,042.6 4,232.4
- (i) Capital outlay 20.0 20.0
- (j) Out-of-state travel 15.0 15.0
- (k) Other financing uses 468.8 468.8

Authorized FTE: 12.00 Permanent; 4.00 Term

Subtotal 5,637.9

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

DEPARTMENT OF PUBLIC SAFETY:

- (1)Administrative services division:
 - (a) Personal services 1,735.3 48.2 10.0 295.4 2,088.9
 - (b) Employee benefits 596.9 12.2 8.3 86.1 703.5
 - (c) Travel 15.8 .1 31.7 47.6
 - (d) Maintenance and repairs 594.7 6.0 11.2 611.9
 - (e) Supplies and materials 38.7 1.0 .7 14.1 54.5
 - (f) Contractual services 153.7 5.0 35.0 193.7
 - (g) Operating costs 807.6 30.6 25.5 37.0 900.7
 - (h) Other costs 7,102.2 7,102.2
 - (i) Capital outlay 47.0 47.0
 - (j) Out-of-state travel 36.9 36.9
 - (k) Other financing uses 1.0 150.0 151.0

Authorized FTE: 59.00 Permanent; 8.00 Term

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

(2)Special investigations division:

(a) Personal services 1,013.8 90.5 1,104.3

(b) Employee benefits 392.8 28.1 420.9

(c) Travel 117.2 5.4 122.6

(d) Maintenance and repairs 1.7 1.7

(e) Supplies and materials 19.6 .5 20.1

(f) Contractual services 1.2 5.0 6.2

(g) Operating costs 24.7 4.0 28.7

(h) Other costs 11.4 11.4

(i) Capital outlay 5.2 5.2

(j) Out-of-state travel 7.7 6.8 14.5

(k) Other financing uses .5 .5

Authorized FTE: 30.00 Permanent; 3.00 Term

(3)Training and recruiting division:

(a) Personal services 646.6 20.6 667.2

(b) Employee benefits 216.1 6.7 222.8

(c) Travel 52.1 52.1

(d) Maintenance and repairs 6.2 6.2

(e) Supplies and materials 93.3 93.3

(f) Contractual services 237.9 251.1 489.0

(g) Operating costs 56.8 56.8

(h) Other costs 16.3 16.3

(i) Capital outlay 30.0 30.0

(j) Out-of-state travel 10.7 10.7

(k) Other financing uses .3 .3

Authorized FTE: 19.00 Permanent; 1.00 Term

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

(4)State police division:

- (a) Personal services 18,757.9 75.0 1,994.8 543.4 21,371.1
- (b) Employee benefits 7,645.6 527.7 8,173.3
- (c) Travel 2,974.2 110.5 105.2 111.4 3,301.3
- (d) Maintenance and repairs 275.4 34.9 310.3
- (e) Supplies and materials 885.8 7.1 38.1 931.0
- (f) Contractual services 210.1 20.0 3.2 233.3
- (g) Operating costs 643.0 3.7 81.7 728.4
- (h) Other costs 13.5 175.0 33.7 222.2
- (i) Capital outlay 2,178.5 550.0 101.4 15.0 2,844.9
- (j) Out-of-state travel 33.9 8.5 25.0 67.4
- (k) Other financing uses 7.3 7.3

Authorized FTE: 657.00 Permanent; 2.00 Term

In an effort to streamline state government and make it more responsive to the needs of the public, the crime stoppers commission is relocated to the state police division of the department of public safety. The division currently has sufficient funds in its current budget to effectively run the program. This relocation will enable the commission to effectively coordinate with law enforcement and save general fund dollars.

The internal service funds/interagency transfers appropriations to the state police division of the public safety department includes two million sixty-seven thousand three hundred dollars (\$2,067,300) from the state road fund. Any unexpended or unencumbered balance in the state police division remaining at the end of fiscal year 1999 from appropriations made from the state road fund shall revert to the state road fund.

The general fund appropriations to the state police division of the department of public safety in the amount of one million three hundred eighty-five thousand two hundred dollars (\$1,385,200) and the internal service funds/interagency transfers to the state police division of the department of public safety in the amount of two million sixty-seven thousand three hundred dollars (\$2,067,300) and associated FTE are contingent upon Senate Bill 199 of the second session of the forty-third legislature, becoming law.

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

(5) Technical and emergency support division:

- (a) Personal services 2,073.1 117.1 62.5 710.9 2,963.6
- (b) Employee benefits 541.5 16.9 183.4 219.7 961.5
- (c) Travel 69.8 2.0 32.1 25.0 128.9
- (d) Maintenance and repairs 18.8 .3 15.9 35.0
- (e) Supplies and materials 48.2 83.2 31.4 8.8 171.6
- (f) Contractual services 17.3 30.5 4.0 51.8
- (g) Operating costs 2,436.3 624.2 31.7 41.8 3,134.0

(h) Other costs 30.3 79.1 686.5 795.9

(i) Capital outlay 40.0 71.0 111.0

(j) Out-of-state travel 36.8 3.7 11.6 52.1

(k) Other financing uses 1.3 1.3

Authorized FTE: 61.00 Permanent; 33.00 Term

Subtotal 61,915.9

TOTAL PUBLIC SAFETY 196,990.1 8,781.2 8,483.91 8,937.7 233,192.9

H. TRANSPORTATION

Other Intrnl Svc

General State Funds/Inter- Federal

Item Fund Funds Agency Trnsf Funds Total

STATE HIGHWAY AND TRANSPORTATION DEPARTMENT:

(1)Office of the secretary:

(a) Personal services 2,150.4 106.1 2,256.5

(b) Employee benefits 652.7 32.8 685.5

(c) Travel 147.9 17.0 164.9

(d) Maintenance and repairs 7.8 7.8

(e) Supplies and materials 153.9 153.9

(f) Contractual services 420.0 12.0 432.0

(g) Operating costs 218.0 218.0

(h) Other costs 888.5 888.5

(i) Capital outlay 41.7 41.7

(j) Out-of-state travel 33.3 33.3

Authorized FTE: 63.00 Permanent

(2)Administrative division:

(a) Personal services 4,419.9 4,419.9

(b) Employee benefits 4,406.4 4,406.4

(c) Travel 380.2 380.2

(d) Maintenance and repairs 1,448.5 1,448.5

(e) Supplies and materials 197.1 197.1

(f) Contractual services 1,548.0 1,548.0

- (g) Operating costs 4,130.5 4,130.5
- (h) Other costs 891.0 891.0
- (i) Capital outlay 615.5 615.5
- (j) Out-of-state travel 9.7 9.7
- (k) Other financing uses 4,795.5 4,795.5

Authorized FTE: 138.00 Permanent

(3)Engineering design division:

- (a) Personal services 8,752.4 2,274.4 11,026.8
- (b) Employee benefits 2,792.5 645.2 3,437.7
- (c) Travel 548.4 2.6 551.0
- (d) Maintenance and repairs 313.4 .5 313.9
- (e) Supplies and materials 203.7 10.0 213.7
- (f) Contractual services 250.1 43.6 293.7
- (g) Operating costs 143.0 5.4 148.4
- (h) Capital outlay 318.5 2.5 321.0
- (i) Out-of-state travel 16.8 1.1 17.9

Authorized FTE: 309.00 Permanent; 10.00 Term;1.00 Temporary

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

(4)Field operations division:

- (a) Personal services 43,698.8 5,233.0 48,931.8
- (b) Employee benefits 15,218.4 1,922.8 17,141.2
- (c) Travel 9,700.6 429.4 10,130.0
- (d) Maintenance and repairs 2,063.0 2,063.0
- (e) Supplies and materials 991.5 991.5
- (f) Contractual services 321.4 321.4
- (g) Operating costs 4,619.4 4,619.4
- (h) Capital outlay 13,429.7 13,429.7
- (i) Out-of-state travel 17.4 17.4

Authorized FTE: 1,930.00 Permanent; 62.50 Temporary

(5) Road betterment division:

- (a) National program 5,052.9 29,650.9 34,703.8
- (b) Surface transportation program 10,490.3 62,358.3 72,848.6
- (c) Interstate 2,894.1 36,428.3 39,322.4
- (d) Urban-congestion mitigation/
air quality 545.1 14,526.5 15,071.6
- (e) Other federal highway administration 1,609.6 7,128.5 8,738.1
- (f) Waste isolation pilot project-
Department of Energy 9,902.4 9,902.4
- (g) Waste isolation pilot project
bonds-bond expense 221.9 221.9
- (h) Waste isolation pilot project
bonds-principal 5,760.0 5,760.0
- (i) Waste isolation pilot project
bonds-interest 4,337.6 4,337.6
- (j) One hundred percent state program 60,551.9 60,551.9
- (k) Rubberized asphalt 405.0 405.0
- (l) Debt service-principal 5,030.0 5,030.0
- (m) Debt service-interest 1,170.9 1,170.9
- (n) Utilities 400.0 600.0 1,000.0
- (o) Right-of-way condemnation settlements 1,500.0 1,500.0
- (p) Appraisal 500.0 500.0
- (q) Title search 100.0 100.0
- (r) Right-of-way acquisition 2,606.7 3,993.3 6,600.0
- (s) Consultant design 5,000.0 5,000.0 10,000.0
- (t) Construction management 1,000.0 1,000.0
- (u) Bridge inspection 345.0 345.0
- (v) Testing and inspection 400.0 400.0
- (w) Archaeology 1,400.0 1,400.0
- (x) Rest area improvements 1,140.5 1,140.5
- (y) Contract maintenance-district one 5,000.0 5,000.0
- (z) Contract maintenance-district two 5,000.0 5,000.0
- (aa) Contract maintenance-district three 5,000.0 5,000.0
- (bb) Contract maintenance-district four 5,000.0 5,000.0

- (cc) Contract maintenance-district five 5,000.0 5,000.0
- (dd) Contract maintenance-district six 5,000.0 5,000.0
- (ee) Underground storage tank remediation 600.0 600.0
- (ff) Road side environmental 50.0 50.0
- (gg) Striping/signing 2,534.4 2,534.4
- (hh) Field supplies-district one 3,854.4 3,854.4
- (ii) Field supplies-district two 4,702.6 4,702.6
- (jj) Field supplies-district three 1,605.1 1,605.1
- (kk) Field supplies-district four 5,037.4 5,037.4
- (ll) Field supplies-district five 4,505.9 4,505.9
- (mm) Field supplies-district six 4,313.7 4,313.7
- (nn) Field supplies-traffic services 380.9 380.9
- (oo) Municipal arterial 4,827.7 4,827.7
- (pp) Cooperative program 6,666.1 6,666.1
- (qq) School bus routes 2,539.5 2,539.5
- (rr) County arterial 4,126.7 4,126.7
- (ss) Local government road fund road equipment 500.0 500.0
- (tt) Match waiver 1,500.0 1,500.0
- (uu) Rubberized asphalt/local 405.0 405.0
- (vv) Planning, design, right-of-way acquisition and construction of the Big I interchange, United States 70, United States 84/285 and Santa Fe relief route 13,600.0 13,600.0

(6) Aviation division:

- (a) Personal services 238.6 238.6
- (b) Employee benefits 68.9 68.9
- (c) Travel 10.9 10.0 20.9
- (d) Maintenance and repairs 57.0 57.0
- (e) Supplies and materials 9.8 9.8
- (f) Contractual services 18.5 135.0 153.5
- (g) Operating costs 70.8 70.8
- (h) Other costs 820.0 820.0

(i) Capital outlay 1.5 1.5

(j) Out-of-state travel 7.0 7.0

Authorized FTE: 7.00 Permanent

Other Intrnl Svc

General State Funds/Inter- Federal

Item Fund Funds Agency Trnsf Funds Total

(7)Transportation programs division:

(a) Personal services 566.4 287.0 853.4

(b) Employee benefits 186.2 87.6 273.8

(c) Travel 21.6 18.7 40.3

(d) Maintenance and repairs 20.2 .5 20.7

(e) Supplies and materials 230.6 63.4 294.0

(f) Contractual services 519.3 519.3

(g) Operating costs 212.1 29.5 241.6

(h) Other costs 2,258.1 4,121.8 6,379.9

(i) Capital outlay 8.7 46.8 55.5

(j) Out-of-state travel 23.6 23.6

Authorized FTE: 20.00 Permanent; 5.00 Term

(8)Transportation planning division:

(a) Personal services 591.0 2,409.3 3,000.3

(b) Employee benefits 166.6 751.9 918.5

(c) Travel 45.2 133.9 179.1

(d) Maintenance and repairs 84.6 181.9 266.5

(e) Supplies and materials 15.4 56.1 71.5

(f) Contractual services 432.8 1,164.2 1,597.0

(g) Operating costs 111.7 266.7 378.4

(h) Capital outlay 254.9 169.5 424.4

(i) Out-of-state travel 17.1 10.8 27.9

Authorized FTE: 84.00 Permanent; 5.00 Term

Subtotal 532,506.7

TOTAL TRANSPORTATION 332,114.3 200,392.4 532,506.7

I. OTHER EDUCATION

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

STATE DEPARTMENT OF PUBLIC EDUCATION:

(1)Administration:

(a) Personal services 5,402.5 96.0 5.0 2,858.3 8,361.8

(b) Employee benefits 1,462.0 23.9 783.6 2,269.5

(c) Travel 282.2 2.3 5.0 168.2 457.7

(d) Maintenance and repairs 68.8 72.9 5.2 146.9

(e) Supplies and materials 76.2 54.8 29.8 126.3 287.1

(f) Contractual services 331.8 15.8 800.0 1,147.6

(g) Operating costs 354.7 26.5 645.3 1,026.5

(h) Other costs .1 155.3 155.4

(i) Capital outlay 93.3 97.3 190.6

(j) Out-of-state travel 15.0 .7 55.7 71.4

(k) Other financing uses 2.4 .3 152.0 154.7

Authorized FTE: 169.00 Permanent; 67.00 Term;.20 Temporary

Two hundred sixty thousand seven hundred dollars (\$260,700) of the general fund appropriation to the state department of public education is from federal Mineral Lands Leasing Act receipts.

Any unexpended or unencumbered balance in the state department of public education remaining at the end of fiscal year 1999 from appropriations made from the general fund shall not revert.

Subtotal 14,269.2

APPRENTICESHIP ASSISTANCE: 660.0660.0

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

REGIONAL EDUCATION COOPERATIVES:

(a) Central: 1,379.6 1,313.2 2,692.8

(b) High plains: 1,500.0 2,776.9 4,276.9

(c) Region IX: 140.0 2,137.7 2,277.7

Subtotal 9,247.4

[STATE DEPARTMENT OF PUBLIC EDUCATION SPECIAL

APPROPRIATIONS:

- (a) School to work 100.0100.0
- (b) World class teachers project 300.0300.0
- (c) Multitrack year-round schools 400.0400.0
- (d) Even start 700.0700.0
- (e) Dropout prevention programs 750.0750.0
- (f) KANW radio program 100.0100.0
- (g) Graduation, reality and dual skills program 500.0500.0

The general fund appropriation for dropout prevention programs shall be used to establish dropout prevention programs at Valley, Los Lunas, Rio Grande and West Mesa high schools and Santa Fe Indian school in Bernalillo, Santa Fe and Valencia counties.]

Subtotal 2,850.0

ADULT BASIC EDUCATION: 4,700.0 2,196.3 6,896.3

**NEW MEXICO SCHOOL FOR THE VISUALLY HANDICAPPED:
7,942.5 7,942.5**

The other state funds appropriation to the New Mexico school for the visually handicapped includes an amount sufficient to provide for a compensation increase of six and one-half percent for administration and a compensation increase of nine percent for teachers.

NEW MEXICO SCHOOL FOR THE DEAF:

2,588.9 6,134.1 215.2 8,938.2

The general fund appropriation to the New Mexico school for the deaf includes an amount sufficient to provide for a compensation increase of six and one-half percent for administration and a compensation increase of nine percent for teachers.

TOTAL OTHER EDUCATION 18,794.6 17,482.7 39.8 14,486.5 50,803.6

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 agencies in this subsection whose other state funds exceed amounts specified. In approving budget increases, the director of the state budget division shall advise the legislature through its officers and appropriate committees, in writing, of the justification for the approval.

Except as otherwise provided, any unexpended or unencumbered balance remaining at the end of fiscal year 1999 shall not revert to the general fund.

Other Intrnl Svc

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

COMMISSION ON HIGHER EDUCATION:

(1)Administration:

(a) Personal services 884.0 20.2 73.3 977.5

(b) Employee benefits 280.3 6.7 27.2 314.2

(c) Travel 17.0 3.0 3.8 23.8

(d) Maintenance and repairs 3.2 3.2

(e) Supplies and materials 14.0 5.0 6.3 25.3

(f) Contractual services 49.0 49.0

(g) Operating costs 122.6 8.6 18.5 149.7

(h) Other costs [~~1,883.0~~] 405.9 2,288.9

(i) Capital outlay 2.4 2.4

(j) Out-of-state travel 8.5 1.5 .9 10.9

(k) Other financing uses .4 .4

Authorized FTE: 22.00 Permanent; 3.00 Term

Any unexpended or unencumbered balance in the commission on higher education remaining at the end of fiscal year 1999 from appropriations made from the general fund shall revert to the general fund.

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

(2)Special programs:

(a) State student incentive grant 8,206.1 100.0 8,306.1

(b) Nursing student loan program 63.2 321.2 384.4

(c) Medical student loan program 325.7 191.1 516.8

(d) Osteopathic student loan program 135.7 135.7

(e) Teacher loan for service program [~~73.8~~] 106.2 180.0

(f) Allied health student loan fund 204.4 21.7 226.1

(g) Health professional loan repayment 450.5 86.2 536.7

(h) Work-study program 4,945.7 144.4 5,090.1

(i) Student Choice Act 1,000.0 1,000.0

(j) Vietnam veterans' scholarship
fund 120.5 26.5 147.0

- (k) Graduate Fellowship Act 597.9 54.8 652.7
- (l) New Mexico Scholars Act 1,231.6 100.0 1,331.6
- (m) Minority doctoral assistance 177.8 177.8
- (n) Student child care 735.0 33.0 768.0
- (o) Small business development centers 2,483.4 2,483.4
- ~~[(p) At risk student retention program 200.0 200.0]~~
- (q) Math, engineering and science achievement 720.4 720.4
- (r) Working to learn 58.6 58.6
- (s) Legislative endowment fund 96.4 96.4
- (t) Western interstate commission on higher education loan fund 1,681.1 1,681.1
- (u) Lottery scholarship 10,000.0 10,000.0

Earnings from the investment of the state financial aid appropriations have been appropriated as other state funds in the amount of one hundred thousand dollars (\$100,000) for the New Mexico scholars scholarship program and one hundred thousand dollars (\$100,000) for the state student incentive grant program.

Under regulations developed by the commission on higher education, the commission shall allocate funds appropriated to the western interstate commission on higher education loan for service program giving priority to New Mexico high school graduates participating under loan for service agreements. Awards shall be expended to support professional occupations in professional areas recognized to have shortages in New Mexico.

Subtotal 38,538.2

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

UNIVERSITY OF NEW MEXICO:

- (a) Instruction and general purposes 122,808.7 82,774.1 6,363.5 211,946.3
- (b) Medical school instruction and general purposes 35,587.2 19,585.6 1,193.3 56,366.1
- (c) Athletics 2,521.3 10,105.9 26.5 12,653.7
- (d) Educational television 1,140.3 3,745.0 777.1 5,662.4
- (e) Extended services instruction 1,301.6 426.1 1,727.7
- (f) Gallup branch 7,206.4 3,905.2 109.1 11,220.7
- (g) Los Alamos branch 1,636.7 1,437.3 26.2 3,100.2
- (h) Valencia county branch 3,144.5 2,016.8 1,588.0 6,749.3

(i) Cancer center 1,970.5 9,823.1 1,996.2 13,789.8

(j) State medical investigator 2,488.3 529.0 12.2 3,029.5

(k) Emergency medical services
academy 649.6 309.6 101.8 1,061.0

(l) Out-of-county indigent fund 1,677.7 1,677.7

(m) Children's psychiatric hospital 3,810.2 6,780.5 10,590.7

(n) Specialized perinatal care 461.7 461.7

(o) Newborn intensive care 2,075.7 355.5 2,431.2

(p) Pediatric oncology 199.6 199.6

(q) Hemophilia program 486.4 43.0 529.4

(r) Young children's health center 204.8 434.2 12.2 651.2

(s) Pediatric pulmonary center 187.4 187.4

(t) Health resources registry 20.4 33.1 53.5

(u) Area health education centers 216.1 216.1

(v) Grief intervention 167.2 167.2

(w) Carrie Tingley hospital 2,877.2 7,257.4 10,134.6

(x) Pediatric dysmorphology 148.2 148.2

(y) Locum tenens 316.6 771.5 1,088.1

(z) Substance abuse program 174.6 174.6

(aa) Poison control center 824.0 24.2 848.2

(bb) Judicial selection 64.8 64.8

(cc) Southwest research center 1,226.4 316.0 1,542.4

(dd) Native American intervention 265.6 265.6

(ee) Resource geographic information
system 142.6 142.6

(ff) Natural heritage program 91.5 91.5

(gg) Southwest Indian law clinic 85.9 22.5 108.4

(hh) BBER census and population
analysis 56.7 9.7 66.4

(ii) Taos off-campus center 799.1 895.7 1,694.8

(jj) Judicial education center 211.5 211.5

(kk) New Mexico historical review 92.9 92.9

(ll) Ibero-American education consortium 186.6 186.6

(mm) Youth education recreation program 161.5 161.5

(nn) Advanced materials laboratory 76.0 76.0

(oo) Manufacturing engineering program 248.2 248.2

(pp) Spanish resource center 105.8 105.8

(qq) Office of international technical cooperative 72.9 72.9

(rr) Hispanic student center 133.2 133.2

~~[(ss) Minority engineering, math and science 250.0 250.0]~~

(tt) Wildlife law institute 56.9 56.9

(uu) Science and engineering women's career 15.0 15.0

~~[(vv) Mariachi Lobo 31.3 31.3]~~

(ww) Disaster medicine program 104.9 104.9

(xx) Youth leadership development 96.0 96.0

(yy) Morissey hall research 50.3 50.3

(zz) Minority graduate recruitment and retention 187.3 187.3

(aaa) Fetal alcohol study 173.4 173.4

(bbb) Telemedicine 300.0 300.0

(ccc) Community based education 471.9 471.9

(ddd) Nurse-midwifery program 333.1 333.1

(eee) Pharm D 514.1 514.1

(fff) Other--health sciences 112,209.8 27,317.0 139,526.8

(ggg) Other--main campus 121,254.4 65,183.4 186,437.8

Included in the general fund appropriations to the school of medicine at the university of New Mexico is one hundred thousand dollars (\$100,000) to support the prostate cancer program.

Subtotal 690,680.0

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

NEW MEXICO STATE UNIVERSITY:

- (a) Instruction and general purposes 81,663.2 48,216.9 5,235.0 135,115.1
- (b) Athletics 2,864.5 4,353.3 44.1 7,261.9
- (c) Educational television 955.0 385.7 495.9 1,836.6
- (d) Extended services instruction 260.2 413.3 673.5
- (e) Alamogordo branch 4,909.7 3,526.7 1,763.4 10,199.8
- (f) Carlsbad branch 2,709.0 2,314.4 1,542.9 6,566.3
- (g) Dona Ana branch 7,718.6 4,518.6 3,967.6 16,204.8
- (h) Grants branch 2,047.5 1,047.0 716.4 3,810.9
- (i) Department of agriculture 6,497.4 2,424.6 1,047.0 9,969.0
- (j) Agricultural experiment station 10,208.4 2,094.0 6,502.4 18,804.8
- (k) Cooperative extension service 7,773.8 3,085.9 4,188.0 15,047.7
- (l) Water resources research 359.1 181.9 330.6 871.6
- (m) Indian resources development programs 354.1 16.6 38.6 409.3
- (n) Campus security 100.9 100.9
- (o) Coordination of Mexico programs 102.7 102.7
- (p) Manufacturing sector development program 434.7 11.0 445.7
- (q) Alliances for underrepresented students 302.9 1,653.2 1,956.1
- (r) Carlsbad manufacturing sector development program 433.3 433.3
- ~~(s) Manufacturing extension program 500.0 500.0~~
- (t) Waste management education 507.0 4,628.8 5,135.8
- (u) Other 45,186.1 57,309.2 102,495.3

~~[The general fund appropriation to the agricultural experiment station at the New Mexico state university includes ninety five thousand two hundred dollars (\$95,200) to support the experiment station in Alcalde.]~~

~~The general fund appropriation to the cooperative extension service at the New Mexico state university includes seventy thousand four hundred dollars (\$70,400) to support the livestock research center in Clayton.]~~

The general fund appropriation to the New Mexico state university for athletics includes three hundred thousand dollars (\$300,000) to support gender equity.

Subtotal 337,941.1

Other Intrnl Svc

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

NEW MEXICO HIGHLANDS UNIVERSITY:

(a) Instruction and general purposes 17,188.7 5,857.0 1,653.2 24,698.9
(b) Athletics 1,166.6 366.8 22.0 1,555.4
(c) Extended services instruction 502.3 288.7 791.0
(d) Visiting scientist 21.2 21.2
(e) Upward bound 116.7 116.7
(f) Diverse populations study 195.0 195.0
(g) Advanced placement program 52.1 52.1
(h) Other 6,159.2 13,476.5 19,635.7
Subtotal 47,066.0

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

WESTERN NEW MEXICO UNIVERSITY:

(a) Instruction and general purposes 11,203.0 3,232.9 220.4 14,656.3
(b) Athletics 1,148.1 110.2 1,258.3
(c) Educational television 95.7 95.7
(d) Extended services instruction 330.9 319.6 650.5
(e) Other 2,460.6 2,534.5 4,995.1
(f) Nursing/occupational therapy 372.0 372.0

~~The general fund appropriation to the western New Mexico university for instruction and general purposes includes two hundred seventy-five thousand dollars (\$275,000) to support the child care development centers.]~~

Subtotal 22,027.9

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

EASTERN NEW MEXICO UNIVERSITY:

(a) Instruction and general purposes 18,985.1 7,273.9 1,432.7 27,691.7

- (b) Athletics 1,382.6 661.3 2,043.9
- (c) Educational television 898.0 501.5 1,399.5
- (d) Extended services instruction 403.2 396.8 661.3 1,461.3
- (e) Roswell branch 8,184.4 4,959.5 1,432.7 14,576.6
- (f) Roswell extended services instruction 212.4 212.4
- (g) Center for teaching excellence 244.9 244.9
- (h) Ruidoso off-campus center 386.3 440.8 110.2 937.3
- (i) Blackwater Draw and museum 99.5 99.5
- (j) Assessment project 152.2 152.2
- (k) Other 11,109.2 6,612.6 17,721.8

The general fund appropriation to the eastern New Mexico university for instruction and general purposes includes one hundred thirty-one thousand dollars (\$131,000) to support the waiver of non-resident tuition for student athletes.

Subtotal 66,541.1

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

NEW MEXICO INSTITUTE OF MINING AND TECHNOLOGY:

- (a) Instruction and general purposes 17,878.0 3,747.1 21,625.1
- (b) Athletics 137.7 137.7
- (c) Extended services instruction 53.3 53.3
- (d) Geophysical research center 740.1 110.2 1,653.2 2,503.5
- (e) Bureau of mines 3,322.9 55.1 551.1 3,929.1
- (f) Science and engineering fair 70.4 70.4
- (g) Petroleum recovery research center 1,585.4 2,755.3 4,340.7
- (h) Bureau of mine inspection 256.8 220.4 477.2
- (i) Energetic materials research center 518.6 10,470.0 10,988.6
- (j) Other 6,061.6 13,225.2 19,286.8

The general fund appropriation to the New Mexico institute of mining and technology for the bureau of mines includes one hundred thousand dollars (\$100,000) from federal Mineral Lands Leasing Act receipts.

~~The general fund appropriation to the bureau of mines at the New Mexico institute of mining and technology includes fifty thousand dollars (\$50,000) to conduct a complete and accurate mineral inventory of state lands for the land commissioner and to continue mapping and compiling hydrological data for the state of New Mexico to complete~~

~~studies of underground water resources.]~~

Subtotal 63,412.4

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

NORTHERN NEW MEXICO STATE SCHOOL:

(a) Instruction and general
purposes 6,734.3 2,670.4 2,270.3 11,675.0

(b) Extended services instruction 43.5 43.5

(c) Northern pueblos institute 53.9 53.9

(d) Other 771.8 121.2 893.0

Subtotal 12,665.4

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

SANTA FE COMMUNITY COLLEGE:

(a) Instruction and general
purposes 6,614.6 7,206.5 1,154.7 14,975.8

(b) Other 7,449.8 1,944.3 9,394.1

Subtotal 24,369.9

TECHNICAL-VOCATIONAL INSTITUTE:

(a) Instruction and general
purposes 28,281.1 25,348.3 2,314.4 55,943.8

(b) Other 4,959.5 6,612.6 11,572.1

Subtotal 67,515.9

LUNA VOCATIONAL TECHNICAL INSTITUTE:

(a) Instruction and general
purposes 5,307.0 907.3 6,214.3

(b) Other 700.5 700.5

Subtotal 6,914.8

MESA TECHNICAL COLLEGE:

(a) Instruction and general
purposes 1,904.6 297.9 302.8 2,505.3

(b) Other 303.6 303.6

Subtotal 2,808.9

NEW MEXICO JUNIOR COLLEGE:

(a) Instruction and general
purposes 5,730.7 6,224.8 1,052.2 13,007.7

(b) Athletics 32.1 3.1 35.2

(c) Extended services instruction 30.2 30.2

(d) Other 1,652.0 3,103.5 4,755.5

Subtotal 17,828.6

SAN JUAN COLLEGE:

(a) Instruction and general
purposes 8,332.7 11,902.7 2,038.9 22,274.3

(b) Other 3,306.3 2,038.9 5,345.2

Subtotal 27,619.5

CLOVIS COMMUNITY COLLEGE:

(a) Instruction and general
purposes 7,210.1 1,983.8 881.7 10,075.6

(b) Extended services instruction 54.7 54.7

(c) Other 1,928.7 2,336.5 4,265.2

Subtotal 14,395.5

NEW MEXICO MILITARY INSTITUTE:

(a) Instruction and general
purposes 1,494.3 11,302.8 12,797.1

(b) Athletics 899.4 899.4

(c) Other 4,740.1 183.1 4,923.2

Subtotal 18,619.7

TOTAL HIGHER EDUCATION 517,875.9 662,888.5 278,180.5 1,458,944.9

K. PUBLIC SCHOOL SUPPORT

Except as otherwise provided, balances of appropriations made in this subsection shall not revert at the end of fiscal year 1999.

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

PUBLIC SCHOOL SUPPORT:

(1) State equalization guarantee
distribution: 1,344,114.4 1,700.0 1,345,814.4

(2) Transportation distribution:

(a) Operations 71,491.0 71,491.0

(b) School-owned bus replacements 2,197.5 2,197.5

(c) Contractor-owned rental fees 11,958.2 11,958.2

(3) Supplemental distributions:

(a) Out-of-state tuition 380.0 380.0

(b) Emergency supplemental 800.0 800.0

(c) Emergency capital outlay 950.0 950.0

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 to establish tentative budgets for the 1998-99 school year; and then, upon completion of final budgets or verification of the number of units statewide for fiscal year 1999, but no later than January 31, the superintendent of public instruction may adjust the program unit value.

~~[The other state funds appropriation for the state equalization guarantee distribution includes seven hundred thousand dollars (\$700,000) from the children's health insurance program and is contingent upon Senate Bill 59 or Senate Bill 138 or Senate Bill 139 of the second session of the forty-third legislature, becoming law.]~~

The appropriation for the state equalization guarantee contains sufficient funds to provide a nine percent salary increase for teachers and an average six and one-half percent salary increase for other certified and non-certified staff including transportation employees.

(1) Those districts that receive an increase in program cost that meets or exceeds the percentage increase in the program unit value shall budget a nine percent salary increase for teachers and an average six and one-half percent salary increase for other certified and non-certified staff including transportation employees.

(2) Those districts that have a percentage increase in program cost less than the percentage increase in the program unit value shall provide an average salary increase for all public school employees including transportation that meets or exceeds the district's percentage increase in program cost with primary emphasis on improving teacher salaries.

The general fund appropriation in the state equalization guarantee distribution reflects the deduction of federal revenues pursuant to Paragraph (2) of Subsection C of Section 22-8-25 NMSA 1978 that includes payments commonly known as "impact aid funds" pursuant to 20 USCA 7701 et seq., formerly known as "PL874" funds".

The general fund appropriation to the public school fund shall be reduced by the amounts transferred to the public school fund from the current school fund and from the federal Mineral Lands Leasing Act receipts otherwise unappropriated.

Any unexpended or unencumbered balance in the distributions authorized remaining at the end of fiscal year 1999 from appropriations made from the general fund shall revert to the general fund.

Subtotal 1,438,231.1

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

INSTRUCTIONAL MATERIAL FUND: 27,224.6 1,225.0 28,449.6

The appropriation to the instructional material fund is made from federal Minerals Lands Leasing Act receipts.

EDUCATIONAL TECHNOLOGY FUND: 4,400.0 4,400.0

PUBLIC SCHOOL CAPITAL IMPROVEMENTS FUND: 7,200.0 7,200.0

TOTAL PUBLIC SCHOOL SUPPORT 1,470,715.7 2,925.0 1,473,640.7

GRAND TOTAL FISCAL YEAR 1999

APPROPRIATIONS 3,056,368.0 1,270,618.8 536,743.7 1,928,253.9 6,791,984.4

Chapter 116 Section 5

Section 5. **SPECIAL APPROPRIATIONS.**--The following amounts are appropriated from the general fund or other funds as indicated for the purposes specified. Unless otherwise indicated, the appropriations may be expended in fiscal year 1998 and fiscal year 1999. Unless otherwise indicated, any unexpended or unencumbered balance of the appropriations remaining at the end of fiscal year 1999 shall revert to the appropriate fund.

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

~~(1) LEGISLATIVE COUNCIL SERVICE:~~

~~175.0 175.0~~

~~For phase 2 of the block boundary suggestion project in preparation for redistricting after the next federal decennial census.~~

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

~~(2) LEGISLATIVE COUNCIL SERVICES:~~

~~45.0 45.0]~~

For a toll-free legislative phone line.

(3) SECOND JUDICIAL DISTRICT ATTORNEY: 36.6 36.6

For litigation costs related to the change of venue in state v. Harrison.

(4) SEVENTH JUDICIAL DISTRICT ATTORNEY: 12.0 12.0

For expert witness fees.

(5) THIRTEENTH JUDICIAL DISTRICT ATTORNEY: 15.0 15.0

For rewiring expenses.

(6) ATTORNEY GENERAL: 94.2 7.5 101.7

To fund exempt employee raises at two and one half percent for fiscal year 1998.

~~[(7)ATTORNEY GENERAL:50.050.0~~

~~To review, oversee, and address concerns relating to the provisions of the treaty of Guadalupe Hidalgo. The appropriation is contingent upon House Bill 486 of the second session of the forty-third legislature, becoming law.]~~

(8)ATTORNEY GENERAL: 150.0 150.0

To establish the native American arts and crafts investigation and prosecution project to enforce the Indian arts and crafts sales act.

~~[(9)ATTORNEY GENERAL:150.0150.0~~

~~To conduct a pilot project to monitor mandatory attendance in the public schools of the south region of the Albuquerque public school district. The appropriation is contingent upon House Bill 303 of the second session of the forty-third legislature, becoming law.]~~

(10)DEPARTMENT OF FINANCE AND

ADMINISTRATION:

The period of time, as extended by Laws 1997, Chapter 33, Section 5 and Laws 1994, Chapter 148, Section 71, Subsection B, for expending the appropriations made by Laws 1993, Chapter 366, Section 3, Subsection G 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 is extended through fiscal year 2000.

~~[(11)DEPARTMENT OF FINANCE AND~~

~~ADMINISTRATION:20.020.0~~

~~To study the feasibility of relocating the New Mexico state fair to the west mesa of Albuquerque, New Mexico.~~

(12)DEPARTMENT OF FINANCE AND

ADMINISTRATION:1,000.01,000.0

~~To the local government division for weatherizing homes of persons whose incomes are at or below one hundred twenty-five percent of the federal income poverty guideline.~~

(13)DEPARTMENT OF FINANCE AND

ADMINISTRATION:250.0250.0

~~To the local government division for the completion of the managed growth and development comprehensive plan for the city of Carlsbad in Eddy county.~~

(14)DEPARTMENT OF FINANCE AND

ADMINISTRATION:350.0350.0

~~To the local government division to pay unanticipated detention costs in Torrance county.~~

(15)DEPARTMENT OF FINANCE AND

ADMINISTRATION:99.099.0

To the local government division to prepare a long-range master plan to improve the facilities of the southern New Mexico state fair in Dona Ana county.

~~(16)DEPARTMENT OF FINANCE AND~~

ADMINISTRATION:150.0150.0

To the local government division to provide matching funding for a link between the very large array and the very long baseline array antenna in Pie Town in Catron county.

~~(17)DEPARTMENT OF FINANCE AND~~

ADMINISTRATION:75.075.0

To the local government division to contract for services with the Albuquerque department of family and community services for residential services and job training for women leaving the Bernalillo county detention center.

~~(18)DEPARTMENT OF FINANCE AND~~

ADMINISTRATION:25.025.0

To the local government division to fund a dance program administered by Bernalillo county.

~~(19)DEPARTMENT OF FINANCE AND~~

ADMINISTRATION:14.014.0

To the local government division to fund cuartocentenario celebration efforts in San Juan county.]

~~(20)DEPARTMENT OF FINANCE AND ADMINISTRATION: 40.0 40.0~~

To the local government division to provide operational and staffing funds for emergency medical services in the village of Cochiti Lake located in Sandoval county.

~~[(21)DEPARTMENT OF FINANCE AND~~

ADMINISTRATION:75.075.0

To the local government division for a program serving the southeastern area of the city of Albuquerque that provides a variety of reintegration services for criminal offenders who are making the transition back into society.

~~(22)DEPARTMENT OF FINANCE AND~~

ADMINISTRATION:150.0150.0

To the local government division to provide operating expenses for Mora county.

~~(23)DEPARTMENT OF FINANCE AND~~

ADMINISTRATION:50.050.0

To the local government division for the teen court in Valencia county.

~~(24)DEPARTMENT OF FINANCE AND~~

~~ADMINISTRATION:250.0250.0~~

~~To the local government division for the installation of a critical emergency street light in front of La Cueva high school on Alameda at Wyoming in Albuquerque in Bernalillo county.~~

~~(25)DEPARTMENT OF FINANCE AND~~

~~ADMINISTRATION:4,640.04,640.0~~

~~For expenditure in fiscal year 1999 for the purpose of providing retirement benefits pursuant to the Educational Retirement Act. The department of finance and administration shall distribute the appropriation to public employers participating in the Educational Retirement Act in accordance with a distribution provided by the educational retirement board. Any unexpended or unencumbered balance at the end of fiscal year 1999 remaining from this appropriation shall revert to the general fund. For those employees whose benefits are received in fiscal year 1999 as a result nongeneral fund sources, the department of finance and administration shall approve budget increases from the appropriate funds for the amounts required for the increased retirement benefits equivalent to those provided for in the Educational Retirement Act. Such funds are appropriated. Any unexpended or unencumbered balances remaining at the end of fiscal year 1999 shall revert to the appropriate fund. The appropriations are contingent upon House Bill 148 or Senate Bill 279 of the second session of the forty third legislature, becoming law.]~~

~~(26)DEPARTMENT OF FINANCE AND ADMINISTRATION: 500.0 500.0~~

~~For distribution to the audit and compliance division of the taxation and revenue department for ten additional full-time tax auditors and tax compliance specialists. The money shall not be distributed until the taxation and revenue department has certified to the secretary of finance and administration, the legislative finance committee and the revenue stabilization and tax policy committee that the auditors and specialists have been hired.~~

~~(27)DEPARTMENT OF FINANCE AND ADMINISTRATION: 500.0 500.0~~

~~For distribution to the taxation and revenue department for non-personnel related expenditures. [The money shall not be distributed until the secretary of finance and administration, the legislative finance committee and the revenue stabilization and tax policy committee have approved the distribution as necessary in order for the department to adequately perform its duties.]~~

~~(28)DEPARTMENT OF FINANCE AND ADMINISTRATION: 1,500.0 1,500.0~~

~~For distribution to the corrections department for operating expenditures in fiscal year 1999. The appropriation is contingent upon review [and approval] by the legislative finance committee that the additional funds are needed to support programs within the corrections department.~~

~~[(29)CRIMINAL AND JUVENILE JUSTICE~~

~~COORDINATING COUNCIL:20.020.0~~

~~For a community sentencing board study.~~

~~(30)OFFICE OF INFORMATION~~

~~AND COMMUNICATION~~

~~MANAGEMENT:75.075.0~~

~~For the replacement of equipment at educational radio stations operated by public post-secondary institutions, public school districts or Indian nations, tribes or pueblos located in New Mexico, contingent upon House Bill 309 of the second session of the forty-third legislature, becoming law.]~~

(31)PUBLIC EMPLOYEES RETIREMENT ASSOCIATION: 336.0 336.0

For expenditure in fiscal year 1999 for costs of litigation related to the public employees retirement information system.

(32)PUBLIC EMPLOYEES RETIREMENT ASSOCIATION: 34.5 34.5

For special medical examinations, mortality identification and legal assistance for overpayment collection matters.

(33)SECRETARY OF STATE: 109.0 109.0

Appropriated to an escrow account to conditionally preserve attorney fees and costs for a lawsuit filed against the secretary of state.

(34)SECRETARY OF STATE: 146.3 146.3

To repay an existing state board of finance loan for legal publication of seven constitutional amendments and four general obligation bond questions contained in the November 1996 general election ballot.

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

~~[(35)ECONOMIC DEVELOPMENT DEPARTMENT:~~

~~20.020.0~~

~~For support of the North American free trade agreement institute.~~

~~(36)ECONOMIC DEVELOPMENT~~

~~DEPARTMENT:50.050.0~~

~~To produce a Native American international film festival.]~~

(37)ECONOMIC DEVELOPMENT DEPARTMENT: 200.0 200.0

For marketing and developing the southwest regional spaceport.

~~[(38)REGULATION AND LICENSING~~

~~DEPARTMENT:100.0100.0~~

~~To contract with the bureau of business and economic research at the university of New Mexico to examine the economic aspects of both costs and benefits of economic growth, over a short and long term basis.]~~

(39)REGULATION AND LICENSING DEPARTMENT: 675.0 675.0

For vehicle replacements.

(40)STATE CORPORATION COMMISSION:

The period of time for expending the appropriation made by Laws 1997, Chapter 33, Section 7, Subsection 9 from the subsequent injury fund to the state corporation commission for hardware and software upgrades in the administration, corporations, telecommunications, transportation, pipeline, state fire marshal and firefighters training academy divisions is extended through fiscal year 1999.

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

~~1)OFFICE OF CULTURAL AFFAIRS:7.17.1~~

~~For depression era murals at eastern New Mexico university.~~

~~(42)OFFICE OF CULTURAL AFFAIRS:53.053.0~~

~~For depression era murals at New Mexico highlands university.~~

~~(43)OFFICE OF CULTURAL AFFAIRS:36.836.8~~

~~For depression era murals at university of New Mexico.~~

~~(44)OFFICE OF CULTURAL AFFAIRS:55.455.4~~

~~For depression era murals.~~

~~(45)OFFICE OF CULTURAL AFFAIRS:65.065.0~~

~~For the Fort Bayard centennial celebration for expenditure in fiscal year 1999 and fiscal year 2000.]~~

(46)OFFICE OF CULTURAL AFFAIRS: 125.0 125.0

For moving costs of the state library.

~~[(47)OFFICE OF CULTURAL~~

~~AFFAIRS:500.0500.0~~

~~To create a statewide electronic library.]~~

(48)OFFICE OF CULTURAL AFFAIRS: 600.0 600.0

To coordinate and provide support for statewide activities commemorating the cuartocentenario.

(49)COMMISSIONER OF PUBLIC LANDS: 789.4 394.7 1,184.1

For retirement of oil and gas administration and revenue database (ONGARD) bonds and interest payments. The amount indicated in the other state funds column is appropriated from the state lands maintenance fund.

~~[(50)COMMISSIONER OF~~

~~PUBLIC LANDS:80.080.0~~

~~To study the feasibility of converting state-owned vehicles from gasoline power to renewable energy. The appropriation is contingent upon House Bill 368 of the second session of the forty-third legislature, becoming law.~~

~~(51)ENERGY, MINERALS AND NATURAL~~

~~RESOURCES DEPARTMENT:80.080.0~~

~~To contract for the rescue and care of abandoned wolves and wolf hybrids.]~~

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

(52)STATE ENGINEER: 100.0 100.0

For a study assessing the needs of water users to support the acquisition of eighteen thousand acre feet of Gila river water from the United States bureau of reclamation pursuant to the central Arizona project component of the federal Colorado River Basin Project Act in fiscal years 1998 and 1999.

(53)STATE ENGINEER: 600.0 600.0

For a comprehensive study of water resources in the middle Rio Grande basin in fiscal years 1998 and 1999.

(54)STATE ENGINEER: 150.0 150.0

For regional water studies in Sandoval, Valencia, and Socorro counties. The appropriation is contingent upon a cost-sharing agreement with the United States corps of engineers pursuant to its planning assistance to the state regional water planning.

~~[(55)STATE ENGINEER:25.025.0~~

~~To study the feasibility of establishing a reservoir for irrigation purposes in the village of Canjilon.]~~

(56)STATE ENGINEER: 150.0 150.0

For salinity flow studies in the lower Rio Grande.

~~[(57)STATE ENGINEER:105.0105.0~~

~~To assist the Taos valley acequia association and Rio de Chama acequia association in developing pilot regional acequia geographic systems to be compatible with the statewide geographic information system.]~~

(58)STATE ENGINEER: 100.0 100.0

For a water [modeling] project for the Eldorado water and sanitation district in Santa Fe county.

~~[(59)COMMISSION OF AFRICAN~~

~~AMERICAN AFFAIRS: 200.0200.0~~

~~To fund start up and operating costs associated with the creation of a commission and office of African American affairs. The appropriation is contingent upon House Bill 256 of the second session of the forty-third legislature, becoming law.~~

~~(60) COMMISSION ON THE~~

~~STATUS OF WOMEN: 50.050.0~~

~~For entrepreneurial mentorship and business training programs.~~

~~(61) OFFICE OF INDIAN AFFAIRS: 100.0100.0~~

~~To provide substance abuse and wellness retreats for young people in Shiprock, New Mexico.~~

~~(62) OFFICE OF INDIAN AFFAIRS: 55.055.0~~

~~For health care screening and other support services for uranium mine mill workers.~~

~~(63) OFFICE OF INDIAN AFFAIRS: 155.0155.0~~

~~For culturally appropriate services to combat homelessness and its causes among Native Americans in the city of Farmington in San Juan county.~~

~~(64) OFFICE OF INDIAN AFFAIRS: 175.0175.0~~

~~For a public policy program for Native American students in conjunction with the Woodrow Wilson national fellowship foundation.~~

~~(65) OFFICE OF INDIAN AFFAIRS: 175.0175.0~~

~~To fund two and one half emergency medical technician positions at the pueblo of Jemez emergency medical services unit.~~

~~(66) OFFICE OF INDIAN AFFAIRS: 50.050.0~~

~~To fund a symposium on intercultural and intergovernmental cooperation and to examine the lessons learned from intercultural coexistence.~~

~~(67) OFFICE OF INDIAN AFFAIRS: 40.040.0~~

~~To contract for the administration of a veterans housing program in Crystal in San Juan county.~~

~~(68) OFFICE OF INDIAN AFFAIRS: 55.055.0~~

~~For studying the feasibility of creating a federal investment corporation similar to the federal overseas private investment corporations that will insure investments made on Indian land.]~~

~~(69) AGENCY ON AGING: 100.0 100.0~~

~~For the purpose of providing or contracting for a statewide alzheimer's program.~~

~~(70) HUMAN SERVICES DEPARTMENT:~~

~~There is appropriated from the general fund operating reserve ten million dollars (\$10,000,000) to the human services department for medicaid payments in fiscal year 1999. The appropriation is to be disbursed upon certification by the secretary of the human services department to the secretary of the department of finance and administration and review by the legislative finance committee with approval by the state board of finance that additional funds are~~

needed to support enrollment of up to forty-four thousand eligible children at or below one hundred eighty-five percent of poverty level and demonstration that presumptive eligibility for children has been implemented in fiscal year 1998.

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

(71)HUMAN SERVICES DEPARTMENT: 200.0 300.0 500.0

To evaluate programs established in the New Mexico Works Act. The department shall submit a proposal for a state-initiated evaluation pursuant to 42 U.S.C.A. 613(f). The evaluation shall address the groups and matters listed in 42 U.S.C.A. 613(g) and any other factors that will assist in determining the effectiveness of the New Mexico Works Act. The amount indicated in the federal funds column is from a grant received pursuant to 42 U.S.C.A. 613(f).

~~[(72)HUMAN SERVICES DEPARTMENT:~~

~~200.0200.0~~

~~For case worker training in the income support division.~~

~~(73)HUMAN SERVICES~~

~~DEPARTMENT:25.025.0~~

~~To the medicaid assistance division of human services department for contracting with a statewide developmental disabilities community provider association located in Bernalillo county.]~~

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

(74)DEPARTMENT OF HEALTH:

The period of time for expending the appropriation made by Laws 1997, Chapter 33, Section 5, Subsection 15 from cash balances for developmental disabilities judicial referral services is extended through fiscal year 1999.

~~[(75)DEPARTMENT OF HEALTH:50.050.0~~

~~For a Guadalupe county health services master plan.~~

~~(76) DEPARTMENT OF HEALTH:1,000.01,000.0~~

~~For the purpose of reducing the developmentally disabled waiting list.]~~

(77)DEPARTMENT OF HEALTH: 750.0 750.0

For medication provided through the HIV/AIDS program in the public health division.

(78)DEPARTMENT OF HEALTH: 200.0 200.0

For contracting with a non-profit organization to produce a documentary about the New Mexico BEAM team.

(79)DEPARTMENT OF HEALTH: 20.0 20.0

To hire an ombudsman to seek additional funding to enforce laws and regulations pertaining to the immunization of children. The appropriation is contingent upon House Bill 402 of the second session of the forty-third legislature, becoming law.

~~(80)DEPARTMENT OF HEALTH:200.0200.0~~

~~To fund a therapeutic program in the city of Santa Fe, New Mexico for sexually aggressive children.~~

~~(81)DEPARTMENT OF HEALTH:30.030.0~~

~~For an osteoporosis prevention and treatment education program.~~

~~(82)DEPARTMENT OF HEALTH:40.040.0~~

~~To provide grief counseling for children and their families.~~

~~(83)DEPARTMENT OF HEALTH:1,000.01,000.0~~

~~For children not eligible for medicaid that receive health services from the public health division.~~

~~(84)DEPARTMENT OF HEALTH:1,000.01,000.0~~

~~For operating expenses to assist eligible programs providing primary health care services pursuant to the rural primary health care act.~~

~~(85)DEPARTMENT OF HEALTH:100.0100.0~~

~~For operational costs for the Hondo valley health clinic.~~

~~(86)DEPARTMENT OF~~

~~ENVIRONMENT:25.025.0~~

~~To conduct an engineering assessment of the De Baca county landfill.~~

~~(87)DEPARTMENT OF HEALTH:1,000.01,000.0~~

~~For early intervention funding.~~

~~(88)CHILDREN, YOUTH AND FAMILIES~~

~~DEPARTMENT:500.0500.0~~

~~For family in need of services program.~~

~~(89)CHILDREN, YOUTH AND FAMILIES~~

~~DEPARTMENT:135.0135.0~~

~~For attendant care services.~~

~~(90)CHILDREN, YOUTH AND FAMILIES~~

DEPARTMENT:185.0185.0

~~For adult protective services.~~

(91)CHILDREN, YOUTH AND FAMILIES

DEPARTMENT:125.0125.0

~~To provide parental visitation neutral point.~~

(92)CHILDREN, YOUTH AND FAMILIES

DEPARTMENT:90.090.0

~~For an after school learning program in Clovis, New Mexico.]~~

(93)CHILDREN, YOUTH AND FAMILIES DEPARTMENT:

The period of time for expending the appropriation made by Laws 1997, Chapter 33, Section 5, Subsection 18, is extended through fiscal year 1999. Any unencumbered and unexpended balance remaining from the appropriation contained in Laws 1997, Chapter 33, Section 5, Subsection 18, may be used to rehabilitate a facility on the grounds of the youth diagnostic and development center to house the juvenile parole board.

[(94)CHILDREN, YOUTH AND FAMILIES

DEPARTMENT:200.0200.0

~~For family and parenting services.~~

(95)CHILDREN, YOUTH AND FAMILIES

DEPARTMENT:106.0106.0

~~For at-risk youth.~~

(96)DEPARTMENT OF MILITARY

AFFAIRS:300.0300.0

~~For national guard fiber optics.]~~

(97)DEPARTMENT OF MILITARY AFFAIRS: 261.0 261.0

For tuition scholarships to New Mexico resident students who are active members of the New Mexico army national guard or the New Mexico air national guard.

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

(98)CORRECTIONS DEPARTMENT:

There is appropriated from the general fund operating reserve two million dollars (\$2,000,000) for inmate medical services under contract in fiscal year 1999. The appropriation is contingent upon certification of the need for funds by the secretary of the corrections department to the secretary of finance and administration and review by the legislative finance committee.

~~[(99) CORRECTIONS DEPARTMENT:~~

~~125.0125.0~~

~~For reintegration services in Los Alamos New Mexico.~~

~~(100) CORRECTIONS DEPARTMENT:20.020.0~~

~~For a pilot program to publicize the identity of certain felons when released from prison.~~

~~(101) CORRECTIONS DEPARTMENT:60.060.0~~

~~For a minimum security inmate work program.~~

~~(102) CRIME VICTIMS~~

~~REPARATIONS COMMISSION:60.060.0~~

~~To establish a statewide legal help line for victims of domestic violence.~~

~~(103) STATE HIGHWAY AND TRANSPORTATION~~

~~DEPARTMENT:50.050.0~~

~~To acquire rights-of-way and conduct environmental and archaeological studies for the east mesa loop connecting United States highway 70 with interstate 10 at the Mesquite interchange in Dona Ana county.]~~

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

(104) STATE DEPARTMENT OF PUBLIC EDUCATION SPECIAL

PROJECTS RELEARNING: 1,000.0 1,000.0

To fund the relearning education program to support improvement in the public schools.

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

~~[(105) STATE DEPARTMENT OF~~

~~PUBLIC EDUCATION: 1,000.01,000.0~~

~~To establish a statewide educational technology opportunity program for New Mexico's teachers and students by creating a partnership between private industry, state government and local school districts that will build distribute and install low cost, network ready computers in New Mexico classrooms.~~

~~(106) STATE DEPARTMENT OF~~

~~PUBLIC EDUCATION:500.0500.0~~

~~To conduct a statewide media literacy program.]~~

(107) STATE DEPARTMENT OF PUBLIC EDUCATION: 75.0 75.0

To contract for an independent study to establish a database that measures housing costs and other factors affecting the cost of living, recruitment and retention in the state's eighty-nine school districts.

~~[(108) STATE DEPARTMENT OF~~

~~PUBLIC EDUCATION:30.030.0~~

~~For a year long statewide youth mentorship program that allows students to participate in the arts, sciences and humanities.~~

~~(109) STATE DEPARTMENT OF~~

~~PUBLIC EDUCATION:50.050.0~~

~~For a family empowerment program and a child empowerment program at Washington middle school in Albuquerque in Bernalillo county.~~

~~(110) STATE DEPARTMENT OF~~

~~PUBLIC EDUCATION:250.0250.0~~

~~For a pilot project in computer-assisted reading in the Gallup-McKinley school district.~~

~~(111) STATE DEPARTMENT OF~~

~~PUBLIC EDUCATION:5.05.0~~

~~To study the feasibility of creating a magnet school in the Rio Grande high school cluster in the Albuquerque public school district.]~~

(112) STATE DEPARTMENT OF PUBLIC EDUCATION: 200.0 200.0

For high school education programs that provide courses in basic parenting, nutrition and hygiene skills as child care for teenage parents statewide.

~~[(113) STATE DEPARTMENT OF~~

~~PUBLIC EDUCATION:150.0150.0~~

~~To expand adult basic education programs and services in rural areas.~~

~~(114) STATE DEPARTMENT OF~~

~~PUBLIC EDUCATION:50.050.0~~

To partner with the university of New Mexico to provide leadership training in educational administration development for school leaders.

(115) STATE DEPARTMENT OF

PUBLIC EDUCATION:50.050.0

For a preschool program at Highland high school in Albuquerque in Bernalillo county.

(116) STATE DEPARTMENT OF

PUBLIC EDUCATION:20.020.0

For recreation programs and sports equipment for Chapparal and Anthony elementary schools in the Gadsden school district.

(117) STATE DEPARTMENT OF

PUBLIC EDUCATION:75.075.0

For education technology and computers for the Chapparal middle school in the Gadsden school district.

(118) STATE DEPARTMENT OF

PUBLIC EDUCATION:100.0100.0

To contract for a comprehensive analysis of statewide public school capital outlay and infrastructure needs and make recommendations to the legislature for an equitable and efficient method by which to meet those needs.

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

(119) COMMISSION ON

HIGHER EDUCATION:250.0250.0

For the educational television replacement fund to support KNME-TV, KRWG-TV and KNEW-TV public television stations. The appropriation is contingent upon House Bill 340 of the second session of the forty third legislature, becoming law.

(120) COMMISSION ON

HIGHER EDUCATION:500.0500.0

For developing, expanding and supporting entry-level high technology training programs at community colleges.

(121) COMMISSION ON

HIGHER EDUCATION:75.075.0

For summer institutes and ongoing assistance to New Mexico primary and secondary teachers in teaching and promoting geography.

(122) HIGHER EDUCATION INSTITUTIONS:2,000.0 2,000.0

For Bridge awards to students with potential to receive lottery tuition scholarships: forty-seven eight hundred dollars (\$47,800) to the New Mexico institute of mining and technology; six hundred nine thousand eight hundred dollars (\$609,800) to the New Mexico state university; eight hundred seventy-one thousand dollars (\$871,000) to the university of New Mexico; one hundred twenty-one thousand six hundred dollars (\$121,600) to the eastern New Mexico university; seventy-one thousand six hundred dollars (\$71,600) to the New Mexico highlands university; fifty-two thousand dollars (\$52,000) to the western New Mexico university; seventy-six thousand one hundred dollars (\$76,100) to the Albuquerque technical-vocational institute; thirty-three thousand three hundred dollars (\$33,300) to the Clovis community college; ten thousand three hundred dollars (\$10,300) to the Luna vocational technical institute; three thousand dollars (\$3,000) to the mesa technical college; fifteen thousand six hundred dollars (\$15,600) to the New Mexico junior college; fifteen thousand one hundred dollars (\$15,100) to the northern New Mexico state school; thirty thousand nine hundred dollars (\$30,900) to the San Juan college; and forty-one thousand nine hundred dollars (\$41,900) to the Santa Fe community college.

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

(123) HIGHER EDUCATION

INSTITUTIONS:500.0500.0

For the graduate research program for distribution to the four-year public post-secondary institutions.

Two hundred sixty thousand dollars (\$260,000) is appropriated to the university of New Mexico; one hundred sixty thousand dollars (\$160,000) is appropriated to the New Mexico state university; thirty thousand dollars (\$30,000) is appropriated to the New Mexico highlands university; twenty thousand dollars (\$20,000) is appropriated to the New Mexico institute of mining and technology; fifteen thousand dollars (\$15,000) is appropriated to the eastern New Mexico university; and fifteen thousand dollars (\$15,000) is appropriated to the western New Mexico university for the purpose of funding graduate research projects.

(124) UNIVERSITY OF NEW MEXICO:100.0100.0

For the mariachi spectacular at the division of continuing education.

(125) UNIVERSITY OF NEW MEXICO:200.0200.0

For the New Mexico history project at the center for regional studies.

(126) UNIVERSITY OF NEW MEXICO:115.4115.4

For primary care faculty support at the school of medicine.

(127) UNIVERSITY OF NEW MEXICO:80.080.0

For a campus safety program operated by the women's resource center.

(128) UNIVERSITY OF NEW MEXICO:50.050.0

For providing training and support in developing a cost-effective recycling center for the use of recyclable materials obtained through school-business partnerships.

(129) UNIVERSITY OF NEW MEXICO:100.0100.0

~~To purchase law books for the library at the school of law.~~

~~(130) UNIVERSITY OF NEW MEXICO:100.0100.0~~

~~To fund death or other forensic investigations by the office of the medical investigator on Indian lands when invited to do so by an Indian nation, tribe or pueblo.~~

~~(131) UNIVERSITY OF NEW MEXICO:100.0100.0~~

~~To purchase statewide electronic library equipment and materials.~~

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

~~(132) NEW MEXICO STATE~~

~~UNIVERSITY:50.050.0~~

~~For an organic wheat project at the New Mexico department of agriculture.~~

~~(133) NEW MEXICO STATE~~

~~UNIVERSITY:350.0350.0~~

~~For the soil and water conservation districts through the New Mexico department of agriculture.~~

~~(134) NEW MEXICO STATE~~

~~UNIVERSITY:100.0100.0~~

~~To expand activities at the Clayton livestock research center through the agricultural experiment station.~~

~~(135) NEW MEXICO STATE~~

~~UNIVERSITY:50.050.0~~

~~To study the feasibility of growing industrial hemp as a commercial crop at the New Mexico department of agriculture.~~

~~(136) NEW MEXICO STATE~~

~~UNIVERSITY:250.0250.0~~

~~To expand economic survival programs in the village of Alcalde through the cooperative extension service.~~

~~(137) NEW MEXICO STATE~~

~~UNIVERSITY:300.0300.0~~

~~To create the center for energy technologies in Dona Ana county.~~

Other Intrnl Svc

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

~~(138) NEW MEXICO STATE~~

~~UNIVERSITY:85.085.0~~

~~To implement provisions of the Noxious Weeds Management Act at the New Mexico department of agriculture. The appropriation is contingent upon House Bill 349 of the second session of the forty-third legislature, becoming law.~~

~~(139) NEW MEXICO STATE~~

~~UNIVERSITY:100.0100.0~~

~~For extended learning services in Otero, McKinley and San Juan counties.~~

~~(140) WESTERN NEW MEXICO~~

~~UNIVERSITY:125.0125.0~~

~~For extended learning services in Catron, Grant, Hidalgo, Luna and Sierra counties.~~

~~(141) EASTERN NEW MEXICO~~

~~UNIVERSITY:100.0100.0~~

~~For New Mexico state university and eastern New Mexico university connectivity.~~

~~(142) EASTERN NEW MEXICO~~

~~UNIVERSITY: 50.050.0~~

~~To recruit and retain students.~~

~~(143) NORTHERN NEW MEXICO~~

~~STATE SCHOOL:75.075.0~~

~~For an extended learning network in northern New Mexico.~~

~~(144) SANTA FE COMMUNITY~~

~~COLLEGE:150.0150.0~~

~~For the purpose of implementing a public schools initiative program.~~

~~(145) TECHNICAL-VOCATIONAL~~

~~INSTITUTE:100.0100.0~~

~~For an aviation training study.]~~

TOTAL SPECIAL APPROPRIATIONS

Chapter 116 Section 6

Section 6. **ADDITIONAL NEW MEXICO WORKS ACT APPROPRIATIONS.** - The following amounts are appropriated from the funds as indicated for the purposes specified. Unless otherwise indicated, the appropriations are for expenditure in fiscal year 1999. Any unexpended or unencumbered balances of the general fund appropriation remaining at the end of fiscal year 1999 shall revert to the general fund.

A. Five million dollars (\$5,000,000) is appropriated from the general fund to the children, youth and families department to expand the headstart program to serve participants as defined in the New Mexico Works Act. Expenditure of any of the appropriation is contingent upon certification by the secretary of human services to the secretary of finance and administration that the children, youth and families department has entered into an agreement with the human services department that provides for: appropriate administrative and accounting procedures and oversight by the human services department to ensure that expenditures will meet all federal and state requirements for maintenance of effort; and monthly reports of all expenditures by the children, youth and families department to the department of finance and administration, the welfare reform oversight committee and the legislative finance committee. The appropriation shall not be expended for the purpose of matching federal funds, or for any other purpose that may jeopardize its classification as maintenance of effort. The appropriation shall be reported by the human services department as maintenance of effort and included in the state plan for the temporary assistance for needy families block grant.

B. Two hundred thousand dollars (\$200,000) is appropriated from the general fund to the Martin Luther King, Jr. commission to provide job training to participants as defined in the New Mexico Works Act. Expenditure of any of the appropriation is contingent upon certification by the secretary of human services to the secretary of finance and administration that the Martin Luther King, Jr. commission has entered into an agreement with the human services department that provides for: appropriate administrative and accounting procedures and oversight by the human services department to ensure that expenditures will meet all federal and state requirements for maintenance of effort; and monthly reports of all expenditures by the Martin Luther King, Jr. commission to the department of finance and administration, the welfare reform oversight committee and the legislative finance committee. The appropriation shall not be expended for the purpose of matching federal funds, or for any other purpose that may jeopardize its classification as maintenance of effort. The appropriation shall be reported by the human services department as maintenance of effort and included in the state plan for the temporary assistance for needy families block grant.

C. Five hundred thousand dollars (\$500,000) is appropriated from the general fund to the commission on the status of women to establish and operate work development programs for participants as defined in the New Mexico Works Act. Expenditure of any of the appropriation is contingent upon certification by the secretary of human services to the secretary of finance and administration that the commission on the status of women has entered into an agreement with the human services department that provides for: appropriate administrative and accounting procedures and oversight by the human services department to ensure that expenditures will meet all federal and state requirements for maintenance of effort; and monthly reports of all expenditures by the commission on the status of women to the department of finance and administration, the welfare reform oversight committee and the legislative finance committee. The appropriation shall not be expended for the purpose of matching federal funds, or for any other purpose that may jeopardize its classification as maintenance of effort. The appropriation shall be reported by the human services department as maintenance of effort and included in the state plan for the temporary assistance for needy families block grant.

D. Five hundred thousand dollars (\$500,000) is appropriated from the general fund to western New Mexico university to provide job training in areas of high unemployment to participants as defined in the New Mexico Works Act. Expenditure of any of the appropriation is contingent upon certification by the secretary of human services to the secretary of finance and administration that western New Mexico university has entered into an agreement with the human services department that provides for: appropriate administrative and accounting procedures and oversight by the human services department to ensure that expenditures will meet all federal and state requirements for maintenance of effort; and monthly reports of all expenditures by western New Mexico university to the department of finance and administration, the welfare reform oversight committee and the legislative finance committee. The appropriation shall not be expended for the purpose of matching federal funds, or for any other purpose that may jeopardize its classification as maintenance of effort. The appropriation shall be reported by the human services department as maintenance of effort and included in the state plan for the temporary assistance for needy families block grant.

E. One million dollars (\$1,000,000) is appropriated from the general fund to the department of health to provide non-medical, out-patient substance abuse counseling for participants as defined in the New Mexico Works Act. Expenditure of any of the appropriation is contingent upon certification by the secretary of human services to the secretary of finance and administration that the department of health has entered into an agreement with the human services department that provides for: appropriate administrative and accounting procedures and oversight by the human services department to ensure that expenditures will meet all federal and state requirements for maintenance of effort; and monthly reports of all expenditures by the department of health to the department of finance and administration, the welfare reform oversight committee and the legislative finance committee. The appropriation shall not be expended for the purpose of matching federal funds, or for any other purpose that may jeopardize its classification as maintenance of effort. The appropriation shall be reported by the human services department as maintenance of effort and included in the state plan for the temporary for assistance for needy families block grant.

F. Five hundred thousand dollars (\$500,000) is appropriated from the general fund to the department of health to provide non-medical, out-patient substance abuse counseling to Native Americans in Bernalillo county who are participants as defined in the New Mexico Works Act. Expenditure of any of the appropriation is contingent upon certification by the secretary of human services to the secretary of finance and administration that the department of health has entered into an agreement with the human services department that provides for: appropriate administrative and accounting procedures and oversight by the human services department to ensure that expenditures will meet all federal and state requirements for maintenance of effort; and monthly reports of all expenditures by the department of health to the department of finance and administration, the welfare reform oversight committee and the legislative finance committee. The appropriation shall not be expended for the purpose of matching federal funds, or for any other purpose that may jeopardize its classification as maintenance of effort. The appropriation shall be reported by the human services department as maintenance of effort and included in the state plan for the temporary assistance for needy families block grant.

G. Two million four hundred eighty-two thousand five hundred dollars (\$2,482,500) is appropriated from the general fund to the educational technology fund to purchase educational technology pursuant to the Technology for Education Act (22-15A-1 to 22-15A-10, NMSA 1978) to serve participants as defined in the New Mexico Works Act. Expenditure of any of the appropriation is contingent upon certification by the secretary of human services to the secretary of finance and administration that the state department of education has entered into an agreement with the human services department that provides for: appropriate administrative and accounting procedures and oversight by the human services department to ensure that expenditures will meet all federal and state requirements for maintenance of effort; and monthly reports of all expenditures by the state department of education to the department of finance and administration, the welfare reform oversight committee and the legislative finance committee. The appropriation shall not be expended for the purpose of matching federal funds, or for any other purpose that may jeopardize its classification as maintenance of effort. The appropriation shall be reported by the human services department as maintenance of effort and included in the state plan for the temporary assistance for needy families block grant.

~~H. Ten million seven hundred ninety-one thousand four hundred dollars (\$10,791,400) is appropriated from the temporary assistance for needy families block grant to the human services department for the purpose of entering into a joint powers agreement with the children, youth and families department to provide child care to participants as defined in the New Mexico Works Act.~~

~~I. Five million dollars (\$5,000,000) is appropriated from the temporary assistance for needy families block grant to the human services department for the purpose of entering into a joint powers agreement with the children, youth and families department to provide reimbursements to public schools providing before- and after-school child care and to hospitals providing twenty-four hour and therapeutic child care to participants as defined in the New Mexico Works Act.~~

~~J. Three million dollars (\$3,000,000) is appropriated from the temporary assistance for needy families block grant contingency fund to the human services department for expenditure in fiscal year 1998 and fiscal year 1999 for the purpose of entering into a joint powers agreement with the children, youth and families department to provide reimbursements to public schools providing before- and after-school child care to participants as defined in the New Mexico Works Act.]~~

K. Thirteen million eight hundred thirty-eight thousand dollars (\$13,838,000) is appropriated from the temporary assistance for needy families block grant to the human services department for training participants to become licensed daycare providers and for other services as defined in the New Mexico Works Act.

L. Of the appropriations made in Section 4 of the General Appropriation Act of 1998, the human services department shall report the following as maintenance of effort for the temporary assistance for needy families block grant and shall include the appropriations in the state plan: two million two hundred twenty-eight thousand one hundred dollars (\$2,228,100) for adult basic education; two hundred ten thousand seven hundred dollars (\$210,700) for the at-risk youth program in the labor department; one million four hundred thousand dollars (\$1,400,000) for the youth conservation corps in the energy, minerals and natural resources department which includes sixty-five thousand dollars (\$65,000) to provide a youth corp/youth build program to provide high risk youth service learning opportunities and provide them with valuable construction, entrepreneurial, employability, academic and leadership training in the city of Albuquerque, Bernalillo county; and eighty-two thousand dollars (\$82,000) to provide a program for at-risk youth to clean up and provide fire prevention between Cochiti dam and the headwaters of Elephant Butte reservoir; and six hundred thousand dollars (\$600,000) in the child support enforcement division of the human services department for child support enforcement pass-throughs to participants as defined in the New Mexico Works Act. The state department of education, the labor department and the energy, minerals and natural resources department shall each enter into an agreement with the human services department that provides for: appropriate administrative and accounting procedures and oversight by the human services department to ensure that expenditures will meet all federal and state requirements for maintenance of effort; and monthly reports of all expenditures by the recipient agency to the department of finance and administration, the welfare reform oversight committee and the legislative finance committee.

M. The human services department shall report any amount of general assistance payments made to lawfully admitted immigrant families as maintenance of effort and include the payments in the state plan for the temporary assistance for needy families block grant.

N. Four million dollars (\$4,000,000) is appropriated from the general fund operating reserve to the department of finance and administration. Any unexpended or unencumbered balance remaining at the end of fiscal year 1999 shall revert to the general fund operating reserve. The appropriation, or so much thereof as is necessary, shall be distributed to the human services department for the purpose of meeting the state and federal requirements for maintenance of effort. No distribution shall be made until:

(1) the human services department has certified that it has exhausted every effort to meet the requirements with available funds and programs but that one or more of the appropriations and programs provided in this section have not been operational, sufficient temporary assistance for needy families eligibles have not been served, and additional funds are necessary to meet the requirements for maintenance of effort;

~~[(2) the United States department of health and human services has notified the state that the programs identified by the state do not meet federal criteria for the maintenance of effort;] and~~

~~(3) the distribution has been approved by the secretary of finance and administration[, the legislative finance committee and the welfare reform oversight committee.]~~

Chapter 116 Section 7

Section 7. COMPENSATION APPROPRIATION.-

A. Nine million four hundred forty-one thousand forty dollars (\$9,441,040) is appropriated from the general fund to the department of finance and administration for expenditure in fiscal year 1999 for the purpose of providing salary increases to certain public employees as follows:

(1) six million four hundred twenty thousand six hundred five dollars (\$6,420,605) to eligible classified employees in agencies governed by the Personnel Act ~~[a salary increase as follows: employees whose annual salary on July 1, 1998, is less than twenty three thousand three hundred ninety two dollars (\$23,392) shall receive a five percent salary increase; employees whose annual salary on July 1, 1998, is at least twenty three thousand three hundred ninety two dollars (\$23,392) but less than thirty five thousand two hundred eight dollars (\$35,208) shall receive a three and one half percent salary increase; and employees whose annual salary on July 1, 1998, is more than thirty five thousand two hundred eight dollars (\$35,208) shall receive a two percent salary increase].~~ Salary increases shall be effective the first full pay period following the employee's anniversary date;

~~[(2) five hundred seventy-nine thousand nine hundred dollars (\$579,900) to provide the chief justice of the supreme court a salary increase to ninety thousand dollars (\$90,000) and justices of the supreme court, the chief judge of the court of appeals, judges of the court of appeals, district courts, metropolitan courts and magistrate courts, child support hearing officers, and special commissioners, a salary increase pursuant to the provisions of Section 34-1-9 NMSA 1978;]~~

~~(3) seven hundred forty-five thousand one hundred seventy-one dollars (\$745,171) to provide judicial permanent employees, other than employees whose salaries are set by statute, with a salary increase [as follows: employees whose annual salary on July 1, 1998, is less than twenty-one thousand eight hundred eighty dollars (\$21,880) shall receive a five percent salary increase; employees whose annual salary on July 1, 1998, is at least twenty-one thousand eight hundred eighty dollars (\$21,880) but less than thirty-three thousand four hundred ninety-four dollars (\$33,494) shall receive a three and one-half percent salary increase; and employees whose annual salary on July 1, 1998, is more than thirty-three thousand four hundred ninety-four dollars (\$33,494) shall receive a two percent salary increase.] Salary increases shall be effective on the first full pay period following the employee's anniversary date.~~

~~(4) five hundred seventy-four thousand six hundred sixty-four dollars (\$574,664) to provide district attorney permanent employees with a salary increase [as follows: employees whose annual salary on July 1, 1998, is less than twenty-five thousand dollars (\$25,000) shall receive a five percent salary increase; employees whose annual salary on July 1, 1998, is at least twenty-five thousand dollars (\$25,000) but less than forty thousand dollars (\$40,000) shall receive a three and one-half percent salary increase; and employees whose annual salary on July 1, 1998, is more than forty thousand dollars (\$40,000) shall receive a two percent salary increase.] Salary increases shall be effective on the first full pay period following the employee's anniversary date;~~

~~(5) eight hundred ninety-one thousand one hundred dollars (\$891,100) to provide executive exempt employees including attorney general employees and teachers in the children, youth and families and corrections departments, with a three and one-half percent salary increase, subject to satisfactory job performance and effective on the first full pay period after the employee's anniversary date; and~~

~~(6) two hundred twenty-nine thousand six hundred dollars (\$229,600) to provide permanent legislative employees, including permanent employees of the legislative council service, legislative finance committee, legislative education study committee, legislative maintenance and the house and senate, with a three and one-half percent salary increase, subject to satisfactory job performance and effective on the first full pay period after the employee's anniversary date.~~

B. The department of finance and administration shall distribute a sufficient amount to each agency to provide the appropriate increase for those employees whose salaries are received as a result of the general fund appropriations in the General Appropriation Act of 1998. Any unexpended or unencumbered balance remaining at the end of fiscal year 1999 shall revert to the general fund.

C. For those state employees whose salaries are referenced in or received as a result of nongeneral fund appropriations in the General Appropriation Act of 1998, the department of finance and administration shall transfer from the appropriate fund to the appropriate agency the amount required for the salary increases equivalent to those provided for in this section, and such amounts are appropriated for expenditure in fiscal year 1999. Any unexpended or unencumbered balance remaining at the end of fiscal year 1999 shall revert to the appropriate fund.

Chapter 116 Section 8

Section 8. **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, 6, 7, 8 and 13, AS AMENDED

CHAPTER 117

RELATING TO COURTS; MAKING APPROPRIATIONS.

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

Chapter 117 Section 1

Section 1. SHORT TITLE.--This act may be cited as the "Court Appropriation Act of 1998".

Chapter 117 Section 2

Section 2. DEFINITIONS.--As used in the Court Appropriation Act of 1998:

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

B. "expenditures" means costs, expenses, encumbrances and other financing uses, other than refunds authorized by law, recognized in accordance with generally accepted accounting principles for the legally authorized budget amounts and budget period;

C. "federal funds" means any payments by the United States government to state government or agencies except those payments made in accordance with the federal Mineral Lands Leasing Act;

D. "full time employee" or "FTE" means one or more authorized positions that together receive compensation for not more than two thousand eighty hours worked in fiscal year 1999. 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;

E. "general fund" means that fund created by Section 6-4-2 NMSA 1978 and includes federal Mineral Lands Leasing Act receipts, but excludes the general fund operating reserve, the appropriation contingency fund and the risk reserve;

F. "interagency transfers" means revenue, other than internal service funds, legally transferred from one agency to another;

G. "internal service funds" means:

(1) revenue transferred to an agency for the financing of goods or services to another agency on a cost-reimbursement basis; and

(2) unencumbered balances in agency internal service fund accounts appropriated by the Court Appropriation Act of 1998;

H. "other state funds" means:

(1) unencumbered, nonreverting balances in state agency accounts, other than in internal service funds accounts, appropriated by the Court Appropriation Act of 1998;

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

(3) all revenue, the use of which is restricted by statute or agreement;

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

J. "unforeseen federal funds" means a source of federal funds or an increased amount of federal funds that could not have been reasonably anticipated or known during the first session of the forty-third legislature and, therefore, could not have been requested by an agency or appropriated by the legislature.

Chapter 117 Section 3

Section 3. FORMAT.--The general format of the appropriations set forth in the Court Appropriation Act with respect to symbols used, column headings and amounts stated are those used in the General Appropriation Act of 1998.

Chapter 117 Section 4

Section 4. GENERAL PROVISIONS.--

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

B. Amounts set out under column headings are appropriated from the source indicated by the column heading. All amounts set out under the column heading "Internal Service Funds/Interagency Transfers" indicate an intergovernmental transfer and do not represent a portion of total state government appropriations. All information designated as "Totals" or "Subtotals" are provided for information and are not appropriations.

C. Amounts set out in Section 5 of the Court Appropriation Act of 1998, or so much as may be necessary, are appropriated from the indicated source for expenditure in fiscal year 1999 for the objects expressed.

D. Unencumbered balances in agency accounts remaining at the end of fiscal year 1998 shall revert to the general fund by October 1, 1998, unless otherwise indicated in the Court Appropriation Act of 1998 or otherwise provided by law.

E. Unencumbered balances in agency accounts remaining at the end of fiscal year 1999 shall revert to the general fund by October 1, 1999, unless otherwise indicated in the Court Appropriation Act of 1998 or otherwise provided by law.

F. The state budget division shall monitor revenue received by agencies from sources other than the general fund and shall reduce the operating budget of any agency whose revenue from such sources is not meeting projections. The state budget division shall notify the legislative finance committee of any operating budget reduced pursuant to this subsection.

G. Except as otherwise specifically stated in the Court Appropriation Act of 1998, appropriations are made in that act for the expenditures of agencies and for other purposes as required by existing law for fiscal year 1999. If any other act of the second session of the forty-third legislature, changes existing law with regard to the name or

responsibilities of an agency or the name or purpose of a fund or distribution, the appropriation made in the Court Appropriation Act of 1998 shall be transferred from the agency, fund or distribution to which an appropriation has been made as required by existing law to the appropriate agency, fund or distribution provided by the new law.

H. Pursuant to Sections 6-3-23 through 6-3-25 NMSA 1978, agencies whose revenue from unforeseen federal funds, from state board of finance loans, from revenue appropriated by other acts of the legislature, or from gifts, donations, bequests, insurance settlements, refunds or payments into revolving funds exceed specifically appropriated amounts may request budget increases from the state budget division. If approved by the state budget division such money is appropriated. In approving a budget increase from unforeseen 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.

I. For fiscal year 1999, the number of permanent and term full-time equivalent positions specified for each agency shows the maximum number of employees intended by the legislature for that agency, unless another provision of the Court Appropriation Act of 1998 or another act of the second session of the forty-third legislature provides for additional employees.

J. Except for gasoline credit cards used solely for the operation of official vehicles and telephone credit cards used solely for official business, none of the appropriations contained in the Court Appropriation Act of 1998 may be expended for payment of credit card invoices.

K. To prevent unnecessary spending, expenditures from the Court Appropriation Act of 1998 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.

L. When approving operating budgets based on appropriations in the Court Appropriation Act of 1998, the state budget division is specifically authorized to approve only those budgets that are in accordance with generally accepted accounting principles for the purpose of properly classifying other financing sources and uses, including interfund, intrafund and interagency transfers.

Chapter 117 Section 5

Section 5. FISCAL YEAR 1999 APPROPRIATIONS.--

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

SUPREME COURT LAW LIBRARY:

- (a) Personal services 284.4 284.4
 - (b) Employee benefits 90.9 90.9
 - (c) Travel 1.7 1.7
 - (d) Maintenance and repairs 25.0 25.0
 - (e) Supplies and materials 8.3 8.3
 - (f) Contractual services 115.1 115.1
 - (g) Operating costs 291.0 291.0
 - (h) Capital outlay 182.4 182.4
 - (i) Out-of-state travel 2.7 2.7
- Authorized FTE: 8.00 Permanent
- Subtotal 1,001.5

NEW MEXICO COMPILATION COMMISSION:

- (a) Personal services 103.6 103.6
- (b) Employee benefits 36.7 36.7
- (c) Travel 13.0 13.0
- (d) Maintenance and repairs 16.1 16.1
- (e) Supplies and materials 18.0 18.0
- (f) Contractual services 772.0 772.0
- (g) Operating costs 99.9 99.9

(h) Capital outlay 17.8 17.8

Authorized FTE: 3.00 Permanent

Subtotal 1,077.1

JUDICIAL STANDARDS COMMISSION:

(a) Personal services 140.6 140.6

(b) Employee benefits 46.4 46.4

(c) Travel 10.2 10.2

(d) Maintenance and repairs 1.3 1.3

(e) Supplies and materials 2.5 2.5

(f) Contractual services 14.4 14.4

(g) Operating costs 51.1 51.1

(h) Other financing uses .1 .1

Authorized FTE: 3.00 Permanent

Subtotal 266.6

COURT OF APPEALS:

(a) Personal services 2,448.5 2,448.5

(b) Employee benefits 703.2 703.2

(c) Travel 10.0 10.0

(d) Maintenance and repairs 32.9 32.9

(e) Supplies and materials 36.9 36.9

(f) Contractual services 25.8 25.8

(g) Operating costs 241.8 241.8

(h) Capital outlay 59.7 59.7

(i) Out-of-state travel 6.3 6.3

(j) Other financing uses .8 .8

Authorized FTE: 55.50 Permanent

Subtotal 3,565.9

SUPREME COURT:

(a) Personal services 1,200.2 1,200.2

(b) Employee benefits 372.1 372.1

(c) Travel 6.0 6.0

(d) Maintenance and repairs 18.2 18.2

(e) Supplies and materials 21.6 21.6

(f) Contractual services 96.4 96.4

(g) Operating costs 81.3 81.3

(h) Capital outlay 18.0 18.0

(i) Out-of-state travel 10.0 10.0

(j) Other financing uses .4 .4

Authorized FTE: 28.00 Permanent

Subtotal 1,824.2

ADMINISTRATIVE OFFICE OF THE COURTS:

(1) Supreme court automation fund:

(a) Personal services 300.6 300.6

(b) Employee benefits 99.5 99.5

(c) Travel 75.4 75.4

(d) Maintenance and repairs 648.0 648.0

(e) Supplies and materials 183.8 183.8

(f) Contractual services 215.2 215.2

(g) Operating costs 998.2 998.2

(h) Other costs 1.0 1.0

(i) Capital outlay 575.0 575.0

(j) Out-of-state travel 17.6 17.6

Authorized FTE: 10.00 Permanent

(2) Jury and witness fee fund:

(a) Operating costs 463.0 132.0 595.0

(b) Other costs 1,641.4 468.0 2,109.4

(3) Administration:

(a) Personal services 1,017.0 1,017.0

(b) Employee benefits 344.1 344.1

(c) Travel 30.0 30.0

(d) Maintenance and repairs 8.0 8.0

(e) Supplies and materials 25.0 25.0

(f) Contractual services 141.6 141.6

(g) Operating costs 136.0 136.0

(h) Capital outlay 5.0 5.0

(i) Out-of-state travel 7.0 7.0

Authorized FTE: 26.00 Permanent

(4) Court appointed attorney fee fund: 2,049.9 2,049.9

(5) Municipal court automation fund:

(a) Personal services 38.7 38.7

(b) Employee benefits 11.1 11.1

(c) Travel 12.0 12.0

(d) Supplies and materials 1.2 1.2

(e) Operating costs 2.5 2.5

(f) Other costs 319.4 319.4

(g) Out-of-state travel 6.0 6.0

Authorized FTE: 1.00 Term

(6) Judges pro tempore: 45.0 45.0

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

(7) Magistrate courts:

(a) Personal services 7,048.0 7,048.0

(b) Employee benefits 2,171.5 2,171.5

(c) Travel 50.0 50.0

(d) Maintenance and repairs 15.0 15.0

(e) Supplies and materials 258.0 258.0

(f) Contractual services 29.3 29.3

(g) Operating costs 2,539.2 2,539.2

(h) Capital outlay 67.3 67.3

Authorized FTE: 231.50 Permanent

(8) Judicial information division:

(a) Personal services 838.7 838.7

(b) Employee benefits 262.3 262.3

Authorized FTE: 21.00 Permanent

(9) Magistrate court warrant enforcement fund:

(a) Personal services 650.6 650.6

(b) Employee benefits 249.1 249.1

(c) Travel 5.0 5.0

(d) Supplies and materials 3.0 3.0

(e) Contractual services 100.0 100.0

(f) Operating costs 45.9 45.9

Authorized FTE: 27.50 Term

(10) Court appointed special advocate: 377.0 377.0

(11) Water rights litigation: 250.2 250.2

Subtotal 24,978.3

SUPREME COURT BUILDING COMMISSION:

(a) Personal services 211.7 211.7

(b) Employee benefits 96.8 96.8

(c) Travel 1.5 1.5

(d) Maintenance and repairs 59.4 59.4

(e) Supplies and materials 2.2 2.2

(f) Contractual services 60.6 60.6

(g) Operating costs 93.2 93.2

(h) Capital outlay 31.7 31.7

(i) Other financing uses .2 .2

Authorized FTE: 12.00 Permanent

Subtotal 557.3

DISTRICT COURTS:

(1) First judicial district:

(a) Personal services 1,906.9 10.9 89.7 2,007.5

(b) Employee benefits 583.2 34.2 26.9 644.3

(c) Travel 17.8 .9 .4 19.1

(d) Maintenance and repairs 16.5 .5 .5 17.5

- (e) Supplies and materials 45.8 5.7 3.5 55.0
- (f) Contractual services 113.3 12.0 105.9 231.2
- (g) Operating costs 161.5 10.0 21.7 193.2
- (h) Capital outlay 103.9 103.9
- (i) Other financing uses .8 .8

Authorized FTE: 58.50 Permanent; 2.00 Term

Subtotal 3,272.5

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

(2) Second judicial district:

- (a) Personal services 8,004.5 292.3 189.3 8,486.1
- (b) Employee benefits 2,421.3 94.7 56.1 2,572.1
- (c) Travel 24.1 3.0 2.5 29.6
- (d) Maintenance and repairs 124.4 14.8 3.0 142.2
- (e) Supplies and materials 273.4 33.3 3.2 309.9
- (f) Contractual services 328.2 35.8 3.2 367.2
- (g) Operating costs 380.0 60.0 13.0 453.0
- (h) Other costs 102.0 102.0
- (i) Capital outlay 178.8 53.6 3.3 235.7
- (j) Out-of-state travel 27.5 10.7 1.4 39.6

Authorized FTE: 252.50 Permanent; 12.00 Term

Subtotal 12,737.4

(3) Third judicial district:

- (a) Personal services 1,392.6 28.1 85.3 1,506.0
- (b) Employee benefits 457.4 10.4 26.0 493.8
- (c) Travel 14.5 2.0 2.4 18.9
- (d) Maintenance and repairs 11.5 .8 1.5 13.8
- (e) Supplies and materials 28.6 5.8 4.0 38.4
- (f) Contractual services 169.1 70.0 5.5 244.6
- (g) Operating costs 68.5 10.2 11.3 90.0

(h) Other costs .3 .3

(i) Capital outlay 27.2 7.2 1.5 35.9

Authorized FTE: 41.00 Permanent; 3.00 Term

Subtotal 2,441.7

(4) Fourth judicial district:

(a) Personal services 571.9 571.9

(b) Employee benefits 188.3 188.3

(c) Travel 4.4 4.4

(d) Maintenance and repairs 8.3 8.3

(e) Supplies and materials 13.2 13.2

(f) Contractual services 2.8 2.8

(g) Operating costs 28.7 28.7

(h) Capital outlay 34.5 34.5

(i) Other financing uses 20.3 5.0 25.3

Authorized FTE: 18.00 Permanent

Subtotal 877.4

(5) Fifth judicial district:

(a) Personal services 2,016.6 2,016.6

(b) Employee benefits 634.1 634.1

(c) Travel 34.0 34.0

(d) Maintenance and repairs 28.7 28.7

(e) Supplies and materials 49.6 1.5 51.1

(f) Contractual services 204.4 57.0 261.4

(g) Operating costs 185.7 1.5 187.2

(h) Capital outlay 104.0 104.0

(i) Out-of-state travel 3.0 3.0

(j) Other financing uses .9 .9

Authorized FTE: 61.00 Permanent

Subtotal 3,321.0

(6) Sixth judicial district:

(a) Personal services 552.6 552.6

- (b) Employee benefits 187.4 187.4
- (c) Travel 15.0 15.0
- (d) Maintenance and repairs 7.0 7.0
- (e) Supplies and materials 10.5 10.5
- (f) Contractual services 165.5 165.5
- (g) Operating costs 68.7 68.7
- (h) Capital outlay 49.3 49.3

Authorized FTE: 17.00 Permanent

Subtotal 1,056.0

(7) Seventh judicial district:

- (a) Personal services 693.7 693.7
- (b) Employee benefits 226.8 226.8
- (c) Travel 11.0 11.0
- (d) Maintenance and repairs 7.9 7.9
- (e) Supplies and materials 21.2 21.2
- (f) Contractual services 35.8 35.8
- (g) Operating costs 70.1 70.1
- (h) Capital outlay 30.6 30.6

Authorized FTE: 21.50 Permanent

Subtotal 1,097.1

(8) Eighth judicial district:

- (a) Personal services 611.0 611.0
- (b) Employee benefits 217.3 217.3
- (c) Travel 13.7 13.7
- (d) Maintenance and repairs 5.7 5.7
- (e) Supplies and materials 14.0 14.0
- (f) Contractual services 48.5 20.0 68.5
- (g) Operating costs 60.8 60.8
- (h) Capital outlay 28.0 28.0

Authorized FTE: 18.00 Permanent

Subtotal 1,019.0

(9) Ninth judicial district:

(a) Personal services 778.5 82.8 861.3

(b) Employee benefits 261.7 27.6 289.3

(c) Travel 9.0 4.5 13.5

(d) Maintenance and repairs 15.0 2.1 17.1

(e) Supplies and materials 19.9 1.5 5.6 27.0

(f) Contractual services 101.3 24.5 36.1 161.9

(g) Operating costs 42.9 7.2 50.0

(h) Other costs .5 .5

(i) Capital outlay 87.7 87.7

(j) Other financing uses .5 .5

Authorized FTE: 23.00 Permanent; 2.00 Term

Subtotal 1,508.9

(10) Tenth judicial district:

(a) Personal services 312.3 312.3

(b) Employee benefits 101.8 101.8

(c) Travel 4.5 4.5

(d) Maintenance and repairs 6.8 6.8

(e) Supplies and materials 11.7 11.7

(f) Contractual services 5.6 5.6

(g) Operating costs 27.6 27.6

(h) Capital outlay 11.4 11.4

(i) Other financing uses 13.7 13.7

Authorized FTE: 9.14 Permanent

Subtotal 495.4

(11) Eleventh judicial district:

(a) Personal services 1,289.6 8.5 1,298.1

(b) Employee benefits 393.4 .7 .3 394.1

(c) Travel 14.7 .3 15.0

- (d) Maintenance and repairs 15.6 .5 16.1
- (e) Supplies and materials 50.0 .5 .3 50.8
- (f) Contractual services 138.3 34.0 14.0 186.3
- (g) Operating costs 131.9 1.4 133.3
- (h) Other costs .5 .5
- (i) Capital outlay 66.9 66.9

Authorized FTE: 39.00 Permanent; .50 Term

Subtotal 2,161.1

(12) Twelfth judicial district:

- (a) Personal services 845.2 18.1 863.3
- (b) Employee benefits 280.3 5.6 285.9
- (c) Travel 10.5 .6 11.1
- (d) Maintenance and repairs 8.9 8.9
- (e) Supplies and materials 14.9 2.0 16.9
- (f) Contractual services 29.8 26.5 .3 56.6
- (g) Operating costs 87.8 1.0 88.8
- (h) Capital outlay 22.0 22.0

Authorized FTE: 24.50 Permanent 1.00 Term

Subtotal 1,353.5

(13) Thirteenth judicial district:

- (a) Personal services 1,252.3 1,252.3
- (b) Employee benefits 420.1 420.1
- (c) Travel 26.9 26.9
- (d) Maintenance and repairs 14.5 14.5
- (e) Supplies and materials 43.8 2.0 45.8
- (f) Contractual services 18.0 18.0 36.0
- (g) Operating costs 110.3 110.3
- (h) Capital outlay 67.0 67.0
- (i) Other financing uses .7 .7

Authorized FTE: 39.00 Permanent

Subtotal 1,973.6

BERNALILLO COUNTY METROPOLITAN COURT:

(a) Personal services 5,938.9 848.2 6,787.1

(b) Employee benefits 1,994.9 325.8 2,320.7

(c) Travel 9.9 2.0 11.9

(d) Maintenance and repairs 369.6 369.6

(e) Supplies and materials 301.2 52.1 353.3

(f) Contractual services 561.5 90.1 651.6

(g) Operating costs 740.0 80.2 820.2

(h) Capital outlay 227.8 42.8 270.6

(i) Out-of-state travel 15.5 15.5

Authorized FTE: 197.00 Permanent 38.50 Term; .50 Temp

Subtotal 11,600.5

GRAND TOTAL FISCAL YEAR 1999

APPROPRIATIONS 68,629.2 8,090.6 1,451.6 14.6 78,186.0

Chapter 117 Section 6

Section 6. SEVERABILITY.-- If any part or application of this act is held invalid, the remainder or its application to other situations or persons shall not be affected.

HOUSE BILL 5, AS AMENDED

CHAPTER 118

Refer to the book

HOUSE JOINT RESOLUTION 8

PROPOSING A LONG-TERM LEASE OF THE PENITENTIARY OF NEW MEXICO'S WASTEWATER TREATMENT PLANT TO SANTA FE COUNTY.

WHEREAS, Section 13-6-3 NMSA 1978 requires ratification and approval of any sale, trade or lease of state property over one hundred thousand dollars (\$100,000) in value; and

WHEREAS, the property control division of the general services department is desirous of leasing the penitentiary of New Mexico's wastewater treatment plant to Santa Fe county for a period not to exceed ninety-nine years; and

WHEREAS, the lease is contingent on Santa Fe county providing free wastewater treatment services to state agencies, including the penitentiary and other state buildings occupied at present by the corrections department and the department of military affairs; and

WHEREAS, the real property, with improvements, located within a certain tract of land within Santa Fe county, New Mexico, being a portion of the south half of Section 35 T.16N., R8.E., N.M.P.M., and encompassing approximately one hundred thirty-six (136) acres. Provided, however, that the state of New Mexico shall retain appropriate right of way easement(s) and provide ingress and egress to Santa Fe county.

Subject to reservations, restrictions, and/or easements of record.;

NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO that the proposed lease 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 8, AS AMENDED

HOUSE JOINT RESOLUTION 14

PROPOSING A TRANSFER OF REAL PROPERTY AT BLUEWATER LAKE STATE PARK.

WHEREAS, Section 16-2-11 NMSA 1978 gives the power to acquire land for state park or state recreational purposes; and

WHEREAS, Section 13-6-3 NMSA 1978 requires ratification and approval of any sale, trade or lease of real property for a consideration of one hundred thousand dollars (\$100,000) or more; and

WHEREAS, the state parks division of the energy, minerals and natural resources department is desirous of receiving by trade approximately forty acres of real property currently owned by a private trust adjacent to Bluewater Lake state park that has recreational value and will mitigate current access and trespass problems for real property owned by the state that has a trespass residential dwelling on it and has limited value to the state; and

WHEREAS, the state parks division wishes to trade a parcel of state land described as:

"NE 1/4 SW 1/4 of Section 26, Township 13 North, Range 13 West N.M.P.M.";
and

WHEREAS, the state parks division wishes to acquire a parcel of private land described as:

"NE 1/4 NE 1/4 of Section 8, Township 12 North, Range 12 West N.M.P.M."; and

WHEREAS, the properties shall be appraised using generally accepted appraisal techniques for this type of property to establish fair market value and the state parks division may relinquish title to the described state property of an equivalent value at no cost to the state;

NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO that the proposed trade be 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 state parks division of the energy, minerals and natural resources department.

HOUSE JOINT RESOLUTION 14

HOUSE JOINT RESOLUTION 21

CONSTITUTIONAL AMENDMENT 5

PROPOSING TO AMEND ARTICLE 8 OF THE CONSTITUTION OF NEW MEXICO BY ADDING A NEW SECTION TO PROVIDE AN EXEMPTION FROM PROPERTY TAXATION FOR PROPERTY THAT IS OWNED AND OCCUPIED BY A VETERAN WHO HAS A PERMANENT AND TOTAL SERVICE-CONNECTED DISABILITY AND THAT HAS BEEN ADAPTED TO THE VETERAN'S DISABILITY.

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

Section 1. It is proposed to amend Article 8 of the constitution of New Mexico by adding a new section to read:

"The legislature shall exempt from taxation the property, including the community or joint property of husband and wife, of every veteran of the armed forces of the United States who has been determined pursuant to federal law to have a permanent and total service-connected disability, if the veteran occupies the property as his principal place of residence and has specially adapted the residence to his disability using a grant for specially adapted housing granted to the veteran by the federal government based on his permanent and total disability. The legislature shall also provide this exemption from taxation for property owned by the widow or widower of a veteran who was eligible for the exemption provided in this section, if the widow or widower continues to occupy the specially adapted property as his principal place of residence. The burden of proving eligibility for the exemption in this section is on the person claiming the exemption."

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.

HOUSE JOINT RESOLUTION 21

SENATE JOINT RESOLUTION 2

PROPOSING A SALE OF REAL PROPERTY IN BERNALILLO COUNTY.

WHEREAS, Section 13-6-3 NMSA 1978 requires ratification and approval of any sale of real property for a consideration of one hundred thousand dollars (\$100,000) or more; and

WHEREAS, the property control division of the general services department wants to offer for sale one parcel of land, legal description set forth below; and

WHEREAS, the property control division wants to offer for sale real property of approximately twenty-one thousand three hundred square feet located at the corner of Third and Lead in Albuquerque, Bernalillo county, New Mexico and more particularly described as:

Lots number nineteen (19) to twenty four (24), both inclusive, in Block thirty (30) of the NEW MEXICO TOWN COMPANY'S ORIGINAL TOWNSITE of Albuquerque, New Mexico, as the same are shown and designated on the map of said Townsite, filed in the office of the Probate Clerk and Ex-Officio Recorder of Bernalillo County, New Mexico, under date of December 29, 1882.; and

WHEREAS, the property shall not be sold for less than the value of the property established by the taxation and revenue department using generally acceptable appraisal techniques for this type of property;

NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO that the proposed sale 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.

SENATE JOINT RESOLUTION 2

SENATE JOINT RESOLUTION 6

PROPOSING AN AMENDMENT TO THE CONSTITUTION OF NEW MEXICO TO PROHIBIT THE EXPENDITURE OR ENCUMBRANCE OF RETIREMENT TRUST FUNDS, CREATED FOR PUBLIC EMPLOYEES AND EMPLOYEES OF PUBLIC SCHOOLS, COLLEGES AND UNIVERSITIES, FOR ANY PURPOSE EXCEPT FOR THE SOLE AND EXCLUSIVE BENEFIT OF THE TRUST BENEFICIARIES; PROVIDING FOR THE ADMINISTRATION OF THE TRUST FUNDS; AFFIRMING CERTAIN PROPERTY RIGHTS.

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

Section 1. It is proposed to amend Article 20 of the constitution of New Mexico by adding a new Section 22 to read:

"A. All funds, assets, proceeds, income, contributions, gifts and payments from any source whatsoever paid into or held by a public employees retirement system or an educational retirement system created by the laws of this state shall be held by each respective system in a trust fund to be administered and invested by each respective system for the sole and exclusive benefit of the members, retirees and other beneficiaries of that system. Expenditures from a system trust fund shall only be made for the benefit of the trust beneficiaries and for expenses of administering the system. A system trust fund shall never be used, diverted, loaned, assigned, pledged, invested, encumbered or appropriated for any other purpose. To the extent consistent with the provisions of this section, each trust fund shall be

invested and the systems administered as provided by law.

B. The retirement board of the public employees retirement system and the board of the educational retirement system shall be the trustees for their respective systems and have the sole and exclusive fiduciary duty and responsibility for administration and investment of the trust fund held by their respective systems.

C. A retirement board shall have the sole and exclusive power and authority to adopt actuarial assumptions for its system based upon the recommendations made by an independent actuary with whom it contracts. The legislature shall not enact any law that increases the benefits paid by the system in any manner or changes the funding formula for a retirement plan unless adequate funding is provided.

D. Upon meeting the minimum service requirements of an applicable retirement plan created by law for employees of the state or any of its political subdivisions or institutions, a member of a plan shall acquire a vested property right with due process protections under the applicable provisions of the New Mexico and United States constitutions.

E. Nothing in this section shall be construed to prohibit modifications to retirement plans that enhance or preserve the actuarial soundness of an affected trust fund or individual retirement plan."

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 6

SENATE JOINT RESOLUTION 13

PROPOSING TO SELL LA VILLA RIVERA, MARIAN HALL AND CATHEDRAL PARK IN SANTA FE IN SANTA FE COUNTY.

WHEREAS, Section 13-6-3 NMSA 1978 requires ratification and approval of any sale of real property by 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 is desirous of selling real property and improvements, legal description set forth below; and

WHEREAS, the property control division proposes to sell La Villa Rivera, Marian hall and Cathedral park in Santa Fe county, New Mexico and more particularly described as:

Beginning at a point marked by a 1/2" rebar on the southerly side of East Palace Avenue, whence the center of manhole cover No. W3-16 at the intersection of Cathedral Place and East Palace Avenue bears N. 590 42' W., 56.44 feet; thence, from said point of beginning, along the southerly side of East Palace Avenue S. 730 36' E., 799.25 feet to a point marked by an "X" mark on sidewalk, whence the center of manhole cover No. W3-21 at the intersection of East Palace Avenue and South Castillo Avenue bears N. 720 39' E., 62.21 feet; thence on a curve to the right, R = 24.70 feet, through an arc length of 34.37 feet to a point marked by a 1/2" galvanized iron pipe, the chord of said arc running S. 340 22' E., 31.66 feet; thence along the westerly side of South Castillo Avenue, S. 060 08' W., 200.05 feet to a point marked by a 3/4" galvanized iron pipe, whence the center of manhole cover No. W4-2 bears N. 470 05.9' E., 21.18 feet; thence along the westerly side of South Castillo Avenue S. 050 16' W., 198.20 feet to a point marked by a 3/8" rebar, whence the center of sanitary sewer manhole cover No. W4A-1 at the intersection of East Alameda and South Castillo Avenue bears South 000 21' W., 356.00 feet; thence N. 680 53' W., 253.45 feet to a point marked by a P.K. spike in pavement; thence N. 620 53' W., 36.07 feet to a point marked by a 3/4" galvanized iron pipe; thence N. 650 38' W., 144.00 feet to a point marked by a 3/4" galvanized iron pipe; thence N. 580 08' W., 97.60 feet to a point marked by a 3/4" galvanized iron pipe; thence N. 660 37' W., 47.25 feet to a point marked by 3/4" galvanized iron pipe; thence N. 180 07' E., 54.25 feet to a point marked by a 3/4" galvanized iron pipe; thence N. 720 20' W., 22.60 feet to a point marked by an "X" mark on concrete sidewalk;

thence N. 180 07' E., 38.10 feet to a point marked by a 1/2" galvanized iron pipe; thence N. 080 47' W., 7.30 feet to a point marked by a 3/4" galvanized iron pipe; thence N. 160 20' E., 81.02 feet to a point marked by a 1/2" galvanized iron pipe; thence N. 730 06' W., 66.95 feet to a point marked by a 1/2" galvanized iron pipe; thence N. 180 24' E., 30.10 feet to a point marked by a 1/2" galvanized iron pipe; thence N. 710 49' W., 258.60 feet to a point marked by a spike set in brick groove; thence along the easterly side of Cathedral Place N. 150 52' E., 94.20 feet to a point marked by an "X" mark on sidewalk; thence along a curve to the right, R = 20.07 feet, through an arc length of 31.71 feet to the point and place of beginning, the chord of the said arc running N. 660 59' E., 28.52 feet; all as shown on that certain plat of survey entitled "PLAT OF SURVEY FOR SISTERS OF CHARITY ST. VINCENT'S HOSPITAL WARD NO. 4 SANTA FE, NEW MEXICO", prepared from a survey completed in the field on October 12, 1973 by George Rivera, Registered Professional Land Surveyor No. 3149; TOGETHER WITH all buildings, improvements and fixtures located thereon or appurtenant thereto;

WITH WARRANTY COVENANTS.

By acceptance of this deed, the grantee covenants and agrees that the above-described property shall not, at any time prior to October 1, 2001, be used for a use which is competitive with the grantor's use of the facility known as "St. Vincent Hospital" on St. Michaels' Drive in Santa Fe, New Mexico, as an acute care hospital.; and

WHEREAS, the property shall not be sold for less than the value of the property established by the taxation and revenue department using generally acceptable appraisal techniques for this type of property after review by the capitol buildings planning commission;

NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO that the proposed sale 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.

SENATE JOINT RESOLUTION 13

SENATE JOINT RESOLUTION 16

PROPOSING A SALE OF REAL PROPERTY IN SANTA FE, BERNALILLO AND CHAVES COUNTIES.

WHEREAS, Section 13-6-3 NMSA 1978 requires ratification and approval of any sale of real property for a consideration of one hundred thousand dollars (\$100,000) or more; and

WHEREAS, the property control division of the general services department is desirous of selling five parcels of land, legal descriptions set forth below; and

WHEREAS, the property control division wishes to sell real property of approximately sixty-seven acres located near Canoncito at Apache canyon in Santa Fe county, New Mexico and more particularly described as:

Southwest quarter of the Southeast quarter of Section one and the Lot two of Section twelve in Township fifteen north of Range ten east of the New Mexico Meridian New Mexico, containing sixty-six acres and ninety-three hundredths of an acre.

As per patent No. 1096075, issued to Antonio Ortega, the party of the first part herein and which was recorded on the 28th day of December 1945 in Book C of the Records of Patents page 147 in the Santa Fe County Clerk's office.; and

WHEREAS, the property control division wishes to sell real property of approximately ten and four-tenths acres located in La Tierra Nueva subdivision in Santa Fe county, New Mexico and more particularly described as:

Lot One (1), La Tierra Nueva Subdivision, formerly Tierra Grande Subdivision (La Tierra Phase IV), as shown on plat filed in the Office of the County Clerk, Santa Fe County, New Mexico, on August 16, 1979, as Document No. 444,242 and as described in "Notice of Change of Subdivision Name . . . ", recorded in Book 395, page 13.; and

WHEREAS, the property control division wishes to sell real property of approximately twenty-one thousand three hundred square feet located at the corner of Third and Lead in Albuquerque, Bernalillo county, New Mexico and more particularly described as:

Lots number nineteen (19) to twenty four (24), both inclusive, in Block thirty (30) of the NEW MEXICO TOWN COMPANY'S ORIGINAL TOWNSITE of Albuquerque, New Mexico, as the same are shown and designated on the map of said Townsite, filed in the office of the Probate Clerk and Ex-Officio Recorder of Bernalillo County, New Mexico, under date of December 29, 1882.; and

WHEREAS, the property control division wishes to sell real property of approximately one acre located at the Newport industrial park-west in Albuquerque, Bernalillo county, New Mexico and more particularly described as:

Lot D-4 of the Summary Plat of the replat of Parcel D of the replat of Tract 4, Newport Industrial Park-West, Unit 1, as the same is shown and designated on the plat of said subdivision filed in the office of the County Clerk of Bernalillo County, New Mexico on August 24, 1981, in Volume C18, Folio 168.; and

WHEREAS, the property control division wishes to sell a building and real property of approximately five acres at 1600 east Tilden in Roswell, Chaves county, New Mexico and more particularly described as:

Tracts C and D of the Burton Subdivision, an addition to the City of Roswell, New Mexico, as the same is shown from the official plat thereof filed in the office of the Chaves County Clerk of May 7, 1952. Said lands being otherwise known and designated as the South one-half of the North one-half of the West one-half of the Southeast one-fourth of the Northwest one-fourth (S= N= W= SE< NW<) Section three (3), Township eleven (11) South, Range twenty four (24) East N.M.P.M. containing five (5) acres, more or less.; and

WHEREAS, the properties shall not be sold for less than the value of the properties established by the taxation and revenue department using generally acceptable appraisal techniques for this type of property;

NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO that the proposed sales 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.

SENATE JOINT RESOLUTION 16

New Mexico 1998 Roster

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 Redmond, Republican, District No. 3, Los Alamos

STATE OFFICIALS

Gary Johnson, Republican

Governor

Walter D. Bradley, Republican

Lieutenant Governor

Stephanie Gonzales, Democrat

Secretary of State

Robert E. Vigil, Democrat

State Auditor

Michael A. Montoya, Democrat

State Treasurer

Tom Udall, Democrat

Attorney General

Ray Powell, Jr., Democrat

Commissioner of Public Lands

Corporation Commissioner

Eric P. Serna, Democrat

Corporation Commissioner

Jerome Block, Democrat

Corporation Commissioner

JUSTICES OF THE SUPREME COURT

Gene Franchini, Chief Justice

Joseph F. Baca, Senior Justice

Pamela B. Minzner

Patricio M. Serna

Dan A. McKinnon III

JUDGES OF THE COURT OF APPEALS

Harris L Hartz, Chief Judge

Thomas A. Donnelly

A. Joseph Alarid

Rudy S. Apodaca

Lynn Pickard

Benny E. Flores

Richard C. Bosson

James J. Wechsler

Michael D. Bustamante

M. Christina Armijo

DISTRICT COURTS

DISTRICT JUDGES

FIRST JUDICIAL DISTRICT

SANTA FE, RIO ARRIBA, LOS ALAMOS COUNTIES

Division I Petra J. Maes Santa Fe

Division II James A. Hall Santa Fe

Division III Stephen D. Pfeffer Santa Fe

Division IV Michael Vigil Santa Fe

Division V Art Encinias Santa Fe

Division VI Steve Herrera Santa Fe

Division VII T. Glenn Ellington Santa Fe

SECOND JUDICIAL DISTRICT

BERNALILLO COUNTY

Division I Michael E. Martinez Albuquerque

Division	II	James F. Blackmer	Albuquerque
Division	III	Tommy Jewell	Albuquerque
Division	IV	Frank Allen, Jr.	Albuquerque
Division	V	Paul Barber	Albuquerque
Division	VI	W. C. "Woody" Smith	Albuquerque
Division	VII	W. Daniel Schneider	Albuquerque
Division	VIII	Ross C. Sanchez	Albuquerque
Division	IX	Mark A. Macaron	Albuquerque
Division	X	Theresa Baca	Albuquerque
Division	XI	Diane Dal Santo	Albuquerque
Division	XII	Wendy E. York	Albuquerque
Division	XIII	Robert Hayes Scott	Albuquerque
Division	XIV	W. John Brennan	Albuquerque
Division	XV	Richard J. Knowles	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
Division XX		William F. Lang	Albuquerque
Division	XXI	Angela J. Jewell	Albuquerque
Division XXII		Deborah Davis Walker	Albuquerque
Division	XXIII	Geraldine E. Rivera	Albuquerque

THIRD JUDICIAL DISTRICT

DONA ANA COUNTY

Division	I	Robert E. Robles	Las Cruces
Division	II	Graden W. Beal	Las Cruces
Division	III	Regina R. Sewell	Las Cruces
Division	IV	Jerald A. Valentine	Las Cruces
Division	V	Thomas G. Cornish, Jr.	Las Cruces
Division	VI	Grace Duran	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	Jay W. Forbes	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 Patrick Lynch	Roswell
Division	VII	Gary Linn Clingman	Lovington
Division	VIII	William P. "Chip" Johnson	Roswell

SIXTH JUDICIAL DISTRICT

GRANT, HIDALGO, LUNA COUNTIES

Division I V. Lee Vesely Silver City

Division II Gary Jeffreys Deming

SEVENTH JUDICIAL DISTRICT

CATRON, SIERRA, TORRANCE, SOCORRO COUNTIES

Division I Edmund H. Kase III Socorro

Division II Thomas G. Fitch Socorro

Division III Neil Mertz Socorro

EIGHTH JUDICIAL DISTRICT

COLFAX, UNION, TAOS COUNTIES

Division I Peggy Jean Nelson Taos

Division II Stanley Read Raton

NINTH JUDICIAL DISTRICT

CURRY & ROOSEVELT COUNTIES

Division I Stephen Quinn Clovis

Division II Robert C. Brack Clovis

Division III David W. Bonem Clovis, Portales

TENTH JUDICIAL DISTRICT

QUAY, DeBACA, HARDING COUNTIES

Division I Ricky D. Purcell Tucumcari

ELEVENTH JUDICIAL DISTRICT

McKINLEY, SAN JUAN COUNTIES

Division I Larry T. Thrower Aztec

Division II Joseph L. Rich Gallup

Division III Wilfred Byron Caton Aztec
Division IV Paul R. Onuska Farmington
Division V Grant Foutz Gallup
Division VI George A. Harrison Aztec

TWELFTH JUDICIAL DISTRICT

LINCOLN, OTERO COUNTIES

Division I Jerry H. Ritter, Jr. Alamogordo
Division II Robert M. Doughty, II Alamogordo
Division III Karen L. Parsons Carrizozo
Division IV Frank K. Wilson Alamogordo

THIRTEENTH JUDICIAL DISTRICT

SANDOVAL, VALENCIA, CIBOLA COUNTIES

Division I John W. Pope Los Lunas
Division II Kenneth G. Brown Bernalillo
Division III William (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 Jeff Romero Albuquerque
Third Judicial District Susana Martinez Las Cruces
Fourth Judicial District Matthew J. Sandoval Las Vegas
Fifth Judicial District Thomas A. Rutledge Carlsbad
Sixth Judicial District Jim Foy Silver City

Seventh Judicial District Ron P. Lopez Socorro

Eighth Judicial District John M. Paternoster Taos

Ninth Judicial District Randall M. Harris Clovis

Tenth Judicial District Patricia Parke Tucumcari

Eleventh Judicial District

Division I Sandra Price Farmington

Division II Forrest G. Buffington Gallup

Twelfth Judicial District Scot D. Key Alamogordo

Thirteenth Judicial District Michael Runnels Los Lunas

STATE SENATORS SERVING IN THE FORTY-THIRD LEGISLATURE

STATE OF NEW MEXICO

SECOND SESSION

CONVENED JANUARY 20, 1998

COUNTY DISTRICT NAME CITY

San Juan 1 Raymond L. Kysar (R) Farmington

San Juan 2 R. L. Stockard (R) Bloomfield

McKinley & San Juan 3 John Pinto (D) Tohatchi

Cibola & McKinley 4 Gloria Howes (D) Gallup

Los Alamos, Rio Arriba & Sandoval 5 Arthur H. Rodarte (D) Ojo Caliente

Mora, Santa Fe & Taos 6 Carlos R. Cisneros (D) Questa

Colfax, Curry, Harding, Quay, 7 Patrick H. Lyons (R) Cuervo

San Miguel & Union

DeBaca, Guadalupe, Lincoln, 8 Pete Campos (D) Las Vegas

& San Miguel

Bernalillo & Sandoval 9 Pauline Eisenstadt (D) Corrales

Bernalillo 10 Ramsay L. Gorham (R) Albuquerque

Bernalillo 11 Linda M. Lopez (D) Albuquerque

Bernalillo 12 Richard M. Romero (D) Albuquerque

Bernalillo 13 Dede Feldman (D) Albuquerque

Bernalillo & Valencia 14 Manny M. Aragon (D) Albuquerque

Bernalillo 15 L. Skip Vernon (R) Albuquerque

Bernalillo 16 Cisco McSorley (D) Albuquerque

Bernalillo 17 Shannon Robinson (D) Albuquerque

Bernalillo 18 Mark L. Boitano (R) Albuquerque

Bernalillo, Santa Fe & Torrance 19 Sue F. Wilson (R) Albuquerque

Bernalillo 20 William Payne (R) Albuquerque

Bernalillo 21 William F. Davis (R) Albuquerque

Bernalillo, Los Alamos, McKinley 22 Leonard Tsosie (D) Crownpoint

Rio Arriba & Sandoval

Bernalillo & Sandoval 23 Joseph J. Carraro (R) Albuquerque

Santa Fe 24 Nancy Rodriguez (D) Santa Fe

Santa Fe 25 Roman M. Maes III (D) Santa Fe

Bernalillo 26 Philip J. Maloof (D) Albuquerque

Chaves, Curry & Roosevelt 27 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) Las Cruces
 Chaves, Eddy & Otero 32 Timothy Z. Jennings (D) Roswell
 Chaves & Eddy 33 Rod Adair (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, 39 Phil A. Griego (D) San Jose
 San Miguel, Santa Fe & Torrance
 Otero 40 Dianna J. Duran (R) Tularosa
 Eddy & Lea 41 Carroll H. Leavell (R) Jalisco
 Curry, Lea & Roosevelt 42 Billy J. McKibben (R) Hobbs

**STATE REPRESENTATIVES SERVING IN THE FORTY-THIRD
 LEGISLATURE**

STATE OF NEW MEXICO

SECOND SESSION

CONVENED JANUARY 20, 1998

COUNTY DISTRICT NAME CITY

San Juan 1 Jerry W. Sandel (D) Farmington
 San Juan 2 Danny Carpenter (R) Farmington
 Rio Arriba & San Juan 3 Sandra L. Townsend (R) Aztec
 San Juan 4 Jimmie Garnenez, Sr. (R) Shiprock
 McKinley 5 Robert David Pederson (D) Gallup

Cibola & McKinley	6	Eddie Corley (D) Milan
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	James G. Taylor (D) Albuquerque
Bernalillo	13	Daniel P. Silva (D) Albuquerque
Bernalillo	14	Miguel P. Garcia (D) Albuquerque
Bernalillo	15	Raymond G. Sanchez (D) Albuquerque
Bernalillo	16	Joe Nestor Chavez (D) Albuquerque
Bernalillo	17	Edward C. Sandoval (D) Albuquerque
Bernalillo	18	Gail C. Beam (D) Albuquerque
Bernalillo	19	Sheryl M. Williams (D) Albuquerque
Bernalillo	20	Ted Hobbs (R) Albuquerque
Bernalillo	21	Mimi Stewart (D) Albuquerque
Bernalillo	22	Jerry Lee Alwin (R) Albuquerque
Bernalillo	23	Frank Bird (R) Albuquerque
Bernalillo	24	George D. Buffett (R) Albuquerque
Bernalillo	25	Danice R. Picraux (D) Albuquerque
Bernalillo	26	Rita G. Getty (D) Albuquerque
Bernalillo	27	Lorenzo A. Larranaga (R) Albuquerque
Bernalillo	28	Gerald E. Weeks (R) Albuquerque

Bernalillo 29 Timothy E. Macko (R) Albuquerque
Bernalillo 30 Pauline K. Gubbels (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 Mary Helen Garcia (D) Las Cruces
Dona Ana 35 Benjamin B. Rios (D) Las Cruces
Dona Ana 36 William E. Porter (D) Las Cruces
Dona Ana 37 Jon "Andy" Kissner (R) Las Cruces
Grant, Luna & Sierra 38 Murray Ryan (R) Silver City
Hidalgo & Grant 39 Thomas P. Foy (D) Bayard
Mora, Rio Arriba, San Miguel, 40 Nick L. Salazar (D) San Juan Pueblo
Santa Fe & Taos
Rio Arriba, Sandoval & Taos 41 Debbie A. Rodella (D) San Juan Pueblo
Taos 42 Roberto "Bobby" J. Gonzales (D) Taos
Los Alamos & Sandoval 43 Jeannette Wallace (R) Los Alamos
Sandoval 44 Judy Vanderstar Russell (R) Rio Rancho
Santa Fe 45 Patsy G. Trujillo Knauer (D) Santa Fe
Santa Fe 46 Ben Lujan (D) Santa Fe
Santa Fe 47 Max Coll (D) Santa Fe
Santa Fe 48 Luciano "Lucky" Varela (D) Santa Fe
Catron, Socorro, Sierra & Valencia 49 M. Michael Olguin (D) Socorro
Torrance, Bernalillo & Santa Fe 50 Gary K. King (D) Moriarty

Otero 51 Gloria Vaughn (R) Alamogordo
Dona Ana 52 Delores C. Wright (D) Chaparral
Otero 53 Terry T. Marquardt (R) Alamogordo
Eddy 54 Joe M. Stell (D) Carlsbad
Eddy 55 John A. Heaton (D) Carlsbad
Lincoln, Chaves & Otero 56 W.C. "Dub" Williams (R) Glencoe
Chaves, Eddy, Lea & Roosevelt 57 Richard T. (Dick) Knowles (R) Roswell
Chaves & Eddy 58 Dara A. Dana (R) Dexter
Chaves 59 David M. Parsons (R) Roswell
Sandoval 60 Lisa L. Lutz (R) Rio Rancho
Lea 61 Donald L. Whitaker (D) Eunice
Lea 62 Stevan E. Pearce (R) Hobbs
Curry & Roosevelt 63 Brett D. Johnson (R) Clovis
Curry 64 Anna Marie Crook (R) Clovis
Bernalillo, Cibola & Sandoval 65 James Roger Madalena (D) Jemez Pueblo
Curry, Lea & Roosevelt 66 Earlene Roberts (R) Lovington
DeBaca, Harding, Quay, Union, 67 Bobbie K. Mallory (R) Tucumcari
Curry & Roosevelt
Colfax, Guadalupe, Mora 68 Jose R. Abeyta (D) Wagon Mound
& San Miguel
Cibola, McKinley & Sandoval 69 Lynda M. Lovejoy (D) Crownpoint
San Miguel 70 Samuel F. Vigil, Jr. (D) Las Vegas