

Laws 1996
Second Regular Session, Forty-Second Legislature

CERTIFICATE OF AUTHENTICATION

STATE OF NEW MEXICO)	
)	SS:
OFFICE OF THE SECRETARY OF STATE)	
<p>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-Second State Legislature of New Mexico at its Second Session, which convened on the 16th day of January, 1996, and adjourned on the 15th day of February, 1996, and the Forty-Second State Legislature, Second Session - First Special Session, which convened on the 20th day of March, 1996 and adjourned on the 23rd day of March, 1996, in Santa Fe, the Capital of the State, as said copies appear on file in my office.</p> <p>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-second State Legislature of New Mexico, Second Session and the Forty-Second State Legislature First Special Session.</p> <p>IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of New Mexico.</p> <p>Done in the City of Santa Fe, the State Capital, this 27th day of March , 1996.</p> <p style="text-align:right">Stephanie Gonzales Secretary of State</p>		

Constitutional Amendment 1

A JOINT RESOLUTION

PROPOSING AMENDMENTS TO ARTICLE 8, SECTION 10 AND ARTICLE 12, SECTIONS 2, 4 AND 7 OF THE CONSTITUTION OF NEW MEXICO TO PROTECT THE STATES PERMANENT FUNDS AGAINST INFLATION BY LIMITING DISTRIBUTIONS TO A PERCENTAGE OF EACH FUNDS MARKET VALUE AND BY MODIFYING CERTAIN INVESTMENT RESTRICTIONS TO ALLOW OPTIMAL DIVERSIFICATION OF INVESTMENTS.

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

Section 1

Section 1

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

"A. There shall be deposited in a permanent trust fund known as the "severance tax permanent fund" that part of state revenue derived from excise taxes that have been or shall be designated severance taxes imposed upon the severance of natural resources within this state, in excess of

that amount that has been or shall be reserved by statute for the payment of principal and interest on outstanding bonds to which severance tax revenue has been or shall be pledged. Money in the severance tax permanent fund shall be invested as provided by law. Distributions from the fund shall be appropriated by the legislature as other general operating revenue is appropriated for the benefit of the people of the state.

B. All additions to the fund and all earnings, including interest, dividends and capital gains from investment of the fund shall be credited to the corpus of the fund.

C. The annual distributions from the fund shall be one hundred two percent of the amount distributed in the immediately preceding fiscal year until the annual distributions equal four and seven-tenths percent of the average of the year-end market values of the fund for the immediately preceding five calendar years. Thereafter, the amount of the annual distributions shall be four and seven-tenths percent of the average of the year-end market values of the fund for the immediately preceding five calendar years.

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

Section 2

Section 2

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

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

Section 3

Section 3

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

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

Section 4

Section 4

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

"A. As used in this section, "fund" means the permanent school fund described in Section 2 of this article and all other permanent funds derived from lands granted or confirmed to the state by the act of congress of June 20, 1910, entitled "An act to enable the people of New Mexico to form a constitution and state government and be admitted into the union on an equal footing with the original states.

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

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

D. The legislature may establish criteria for investing the fund if the criteria are enacted by a three-fourths vote of the members elected to each house, but investment of the fund is subject to the following restrictions:

(1) not more than sixty-five percent of the book value of the fund shall be invested at any given time in corporate stocks;

(2) not more than ten percent of the voting stock of a corporation shall be held;

(3) stocks eligible for purchase shall be restricted to those stocks of businesses listed upon a national stock exchange or included in a nationally recognized list of stocks; and

(4) not more than fifteen percent of the book value of the fund may be invested in international securities at any single time.

E. All additions to the fund and all earnings, including interest, dividends and capital gains from investment of the fund shall be credited to the fund.

F. The annual distributions from the fund shall be

one hundred two percent of the amount distributed in the immediately preceding fiscal year until the annual distributions equal four and seven-tenths percent of the average of the year-end market values of the fund for the immediately preceding five calendar years. Thereafter, the amount of the annual distributions shall be four and seven-tenths percent of the average of the year-end market values of the fund for the immediately preceding five calendar years."

Section 5

Section 5

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

Section 6

Section 6

The amendments proposed by Sections 2, 3 and 4 of this resolution shall not become effective without the consent of the United States congress.

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SENATE JOINT RESOLUTION 2

Constitutional Amendment 2

A JOINT RESOLUTION

PROPOSING AN AMENDMENT TO ARTICLE 9, SECTION 11 OF THE CONSTITUTION OF NEW MEXICO TO ENHANCE EDUCATION BY AUTHORIZING SCHOOL DISTRICTS TO INCUR DEBT WITHOUT AN ELECTION FOR THE LIMITED PURPOSE OF ACQUIRING EDUCATION TECHNOLOGY EQUIPMENT THROUGH LEASE- PURCHASE ARRANGEMENTS.

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

Section 1

Section 1

It is proposed to amend Article 9, Section 11 of the constitution of New Mexico to read:

"A. Except as provided in Subsection C of this section, no school district shall borrow money except for the purpose of erecting, remodeling, making additions to and furnishing school buildings or purchasing or improving school grounds or any combination of these purposes, and in such cases only when the proposition to create the debt has been submitted to a vote of such qualified electors of the district as are owners of real estate within the school district and a majority of those voting on the question has voted in favor of creating such debt.

B. No school district shall ever become indebted in an amount exceeding six percent on the assessed valuation of the taxable property within the school district as shown by the preceding general assessment.

C. A school district may create a debt by entering into a lease-purchase arrangement to acquire education technology equipment without submitting the proposition to a vote of the qualified electors of the district, but any debt created is subject to the limitation of Subsection B of this section."

Section 2

Section 2

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

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Constitutional Amendment 3

A JOINT RESOLUTION

PROPOSING TO AMEND ARTICLE 10 OF THE CONSTITUTION OF NEW MEXICO BY ADDING A NEW SECTION TO PROVIDE FOR RECALL OF ELECTED COUNTY OFFICIALS.

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

Section 1

Section 1

It is proposed to amend Article 10 of the constitution of New Mexico by adding a new section to read:

"A. An elected official of a county is subject to recall by the voters of the county. Subject to the provisions of Subsection B of this section, a petition for a recall election shall cite grounds of malfeasance or misfeasance in office or violation of the oath of office by the official concerned. The cited grounds shall be based upon acts or failures to act occurring during the current term of the official sought to be recalled. The recall petition shall be signed by registered voters:

- (1) of the county if the official sought to be recalled was elected at-large; or
- (2) of the district from which the official sought to be recalled was elected; and
- (3) not less in number than thirty-three and one-third percent of the number of persons who voted in the election for the office in the last preceding general election at which the office was voted upon.

B. Prior to and as a condition of circulating a petition for recall pursuant to the provisions of Subsection A of this section, the factual allegations supporting the grounds of malfeasance or misfeasance in office or violation of the oath of office stated in the petition shall be presented to the district court for the county in which the recall is proposed to be conducted. The petition shall not be circulated unless, after a hearing in which the proponents of the recall effort and the official sought to be recalled are given an opportunity to present evidence, the district court determines that probable cause exists for the grounds for recall.

C. After the requirements of Subsection B of this section are fulfilled, the petition shall be circulated and filed with the county clerk for verification of the signatures, as to both number and qualifications of the persons signing. If the county clerk verifies that the

requisite number of signatures of registered voters appears on the petition, the question of recall of the official shall be placed on the ballot for a special election to be called and held within ninety days or the next occurring general election if that election is to be held within less than ninety days. If at the election a majority of the votes cast on the question of recall is in favor of recall, the official who is the subject of recall is recalled from the office, and a vacancy exists. That vacancy shall be filled in the manner provided by law for filling vacancies for that office.

D. A recall election shall not be conducted after May 1 in a calendar year in which an election is to be held for the office for which the recall is sought if the official sought to be recalled is a candidate for reelection to the office. No petition for recall of an elected county official shall be submitted more than once during the term for which the official is elected."

Section 2

Section 2

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

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SENATE JOINT RESOLUTION 21

Constitutional Amendment 4

A JOINT RESOLUTION

REVISING THE CONSTITUTIONAL AMENDMENT PROCESS BY PROVIDING ADDITIONAL METHODS FOR VOTERS TO AMEND THE CONSTITUTION AND DIRECTING THE SECRETARY OF STATE TO INFORM VOTERS ABOUT CONSTITUTIONAL AMENDMENTS.

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

Section 1

Section 1

It is proposed to amend Article 19, Section 1 of the constitution of New Mexico to read:

"An amendment or amendments to this constitution may be proposed in either house of the legislature at a regular session; and if a majority of all members elected to each of

the two houses voting separately votes in favor thereof, the proposed amendment or amendments shall be entered on their respective journals with the yeas and nays thereon.

An amendment or amendments may also be proposed by an independent commission established by law for that purpose, and the amendment or amendments shall be submitted to the legislature for its review in accordance with the provisions of this section.

The secretary of state shall cause any such amendment or amendments to be published in at least one newspaper in every county of the state, where a newspaper is published once each week, for four consecutive weeks, in English and Spanish when newspapers in both of said languages are published in such counties, the last publication to be not more than two weeks prior to the election at which time said amendment or amendments shall be submitted to the electors of the state for their approval or rejection; and shall further provide notice of the content and purpose of legislatively approved constitutional amendments in both English and Spanish to inform electors about the amendments in the time and manner provided by law. The secretary of state shall also make reasonable efforts to provide notice of the content and purpose of legislatively approved constitutional amendments in indigenous languages and to minority language groups to inform electors about the amendments. Amendments approved by the legislature shall be voted upon at the next regular election held after the adjournment of that legislature or at a special election to be held not less than six months after the adjournment of that legislature, at such time and in such manner as the legislature may by law provide. An amendment that is ratified by a majority of the electors voting on the amendment shall become part of this constitution.

If two or more amendments are initiated by the legislature, they shall be so submitted as to enable the electors to vote on each of them separately. Amendments initiated by an independent commission created by law for that purpose may be submitted to the legislature separately or as a single ballot question, and any such commission-initiated amendments that are not substantially altered by the legislature may be submitted to the electors in the separate or single ballot question form recommended by the commission. No amendment shall restrict the rights created by Sections One and Three of Article VII hereof, on elective franchise, and Sections Eight and Ten of Article XII hereof, on education, unless it be proposed by vote of three-fourths of the members elected to each house and be ratified by a vote of the people of this state in an election at which at least three-fourths of the electors voting on the amendment vote in favor of that amendment."

Section 2

Section 2

It is proposed to amend Article 19, Section 2 of the constitution of New Mexico to read:

"Whenever the legislature, by a two-thirds vote of the members elected to each house, deems it necessary to call a convention to revise or amend this constitution, they shall submit the question of calling such convention to the electors at the next general election, and if a majority of all the electors voting on such questions at said election in the state votes in favor of calling a convention, the legislature shall, at the next session, provide by law for calling the same. Such convention shall consist of at least as many delegates as there are members of the house of representatives.

Revisions or amendments proposed by a constitutional convention shall be submitted to the voters of the state at an election held on a date set by the convention. The revisions or amendments proposed by the convention may be submitted in whole or in part, or with alternatives, as determined by the convention. If a majority vote favors a proposal or alternative, it is adopted and becomes effective thirty days after the certification of the election returns unless otherwise provided by the convention."

Section 3

Section 3

It is proposed to amend Article 19 of the constitution of New Mexico by repealing Section 5.

Section 4

Section 4

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.

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HOUSE JOINT RESOLUTION 2

Constitutional Amendment 5

A JOINT RESOLUTION

PROPOSING AN AMENDMENT TO ARTICLE 4, SECTION 10 OF THE CONSTITUTION OF NEW MEXICO TO LIMIT LEGISLATIVE PER DIEM AND MILEAGE TO AN AMOUNT ALLOWED BY THE INTERNAL REVENUE SERVICE.

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

Section 1

Section 1

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

"Each member of the legislature shall receive:

A. per diem at the internal revenue service per diem rate for the city of Santa Fe for each day's attendance during each session of the legislature and the internal revenue service standard mileage rate for each mile traveled in going to and returning from the seat of government by the usual traveled route, once each session as defined by Article 4, Section 5 of this constitution;

B. per diem expense and mileage at the same rates as provided in Subsection A of this section for service at meetings required by legislative committees established by the legislature to meet in the interim between sessions; and

C. no other compensation, perquisite or allowance."

Section 2

Section 2

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

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HOUSE JOINT RESOLUTION 3

Constitutional Amendment 6

A JOINT RESOLUTION

PROPOSING TO AMEND ARTICLE 11 OF THE CONSTITUTION OF NEW MEXICO BY ABOLISHING THE STATE CORPORATION COMMISSION AND CREATING A SINGLE REGULATORY AGENCY FOR CORPORATIONS, PUBLIC UTILITIES, TRANSPORTATION COMPANIES, TRANSMISSION AND PIPELINE COMPANIES, INSURANCE COMPANIES AND OTHER PUBLIC SERVICES AS PROVIDED BY LAW.

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

Section 1

Section 1

It is proposed to amend Article 11 of the constitution of New Mexico by repealing Sections 1 through 12 and 15 through 17.

Section 2

Section 2

It is proposed to amend Article 11 of the constitution of New Mexico by adding a new Section 1 to read:

"The "public regulation commission" is created. The commission shall consist of five members elected from districts provided by law for staggered four-year terms beginning on January 1 of the year following their election; provided that those chosen at the first general election after the adoption of this section shall immediately classify themselves by lot, so that two of them shall hold office for two years and three of them for four years; and further provided that, after serving two terms, members shall be ineligible to hold office as a commission member until one full term has intervened. No commissioner or candidate for the commission shall accept anything of value from a person or entity whose charges for services to the public are regulated by the commission."

Section 3

Section 3

It is proposed to amend Article 11 of the constitution of New Mexico by adding a new Section 2 to read:

"The public regulation commission shall have responsibility for chartering and regulating business corporations in such manner as the legislature shall provide. The commission shall have responsibility for regulating public utilities, including electric, natural gas and water companies; transportation companies, including common and contract carriers; transmission and pipeline companies, including telephone, telegraph and information transmission companies; insurance companies and others engaged in risk assumption; and other public service companies in such manner as the legislature shall provide."

Section 4

Section 4

The provisions of Sections 1 and 3 of this amendment shall take effect January 1, 1999.

Section 5

Section 5

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.

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HOUSE JOINT RESOLUTION 16

Constitutional Amendment 7

A JOINT RESOLUTION

PROPOSING AN AMENDMENT TO ARTICLE 9, SECTION 10 OF THE CONSTITUTION OF NEW MEXICO TO AUTHORIZE COUNTIES TO BORROW MONEY TO ACQUIRE REAL ESTATE FOR OPEN SPACE AND OPEN SPACE-RELATED USES AND TO PURCHASE CAPITAL EQUIPMENT FOR ROAD AND BRIDGE CONSTRUCTION AND REPAIR.

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

Section 1

Section 1

It is proposed to amend Article 9, Section 10 of the constitution of New Mexico to read:

"No county shall borrow money except for the following purposes:

- A. erecting, remodeling and making additions to necessary public buildings;
- B. constructing or repairing public roads and bridges and purchasing capital equipment for such projects;
- C. constructing or acquiring a system for supplying water, including the acquisition of water and water rights, necessary real estate or rights-of-way and easements;
- D. constructing or acquiring a sewer system, including the necessary real estate or rights-of-way and easements;
- E. constructing an airport or sanitary landfill, including the necessary real estate;
- F. acquiring necessary real estate for open space, open space trails and related areas and facilities; or

G. the purchase of books and other library resources for libraries in the county.

In such cases, indebtedness shall be incurred only after the proposition to create such debt has been submitted to the registered voters of the county and approved by a majority of those voting thereon. No bonds issued for such purpose shall run for more than fifty years. Provided, however, that no money derived from general obligation bonds issued and sold hereunder shall be used for maintaining existing buildings and, if so, such bonds shall be invalid."

Section 2

Section 2

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

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HOUSE JOINT RESOLUTION 18

Chapters

Chapter 1

RELATING TO THE LEGISLATIVE BRANCH OF GOVERNMENT; APPROPRIATING FUNDS FOR THE EXPENSE OF THE FORTY- SECOND LEGISLATURE, SECOND SESSION, 1996, AND FOR LEGISLATIVE EXPENSES FOR THE LEGISLATIVE COUNCIL SERVICE, THE LEGISLATIVE FINANCE COMMITTEE, THE LEGISLATIVE EDUCATION STUDY COMMITTEE, THE SENATE RULES COMMITTEE, THE HOUSE CHIEF CLERK'S OFFICE AND THE SENATE CHIEF CLERK'S OFFICE; DECLARING AN EMERGENCY.

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

Section 1

Section 1

There is appropriated for the expense of the legislative department of the state of New Mexico for the forty-second legislature, second session, for per diem and mileage of the members, for salaries of employees and for other expenses of the legislature, the sum

of two million nine hundred twenty-two thousand seven hundred seventeen dollars (\$2,922,717) or so much thereof as may be necessary for such purposes.

Section 2

Section 2

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

- A. per diem for members of the senate ----- \$94,500;
- B. per diem for members of the house of representatives ----- \$157,500;
- C. mileage traveled by members of the senate going to and returning from the seat of government by the usually traveled route, one round trip ----- \$3,294;
- D. mileage traveled by members of the house of representatives going to and returning from the seat of government by the usually traveled route, one round trip ----- 4,895;
- E. salaries and employee benefits of senate employees ----- \$787,162;
- F. salaries and employee benefits of house of representatives employees ----- \$956,412;
- G. for expense of the senate not itemized above, one hundred fifty-six thousand four hundred seventy-five dollars (\$156,475). 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 fifty thousand dollars (\$250,000). No part of this item may be transferred to salaries or employee benefits;
- I. the expenditures for the house shall be disbursed on vouchers signed by the speaker and chief clerk of the house; the expenditures for the senate shall be disbursed on vouchers signed by the chairman of the committees' committee and the chief clerk of the senate; and
- J. for session expenses of the legislative council service, the joint billroom and joint legislative switchboard, five hundred twelve thousand four hundred seventy-nine dollars (\$512,479) to be disbursed upon vouchers signed by the director of the legislative council service. Following adjournment of the session, expenditures authorized under Subsections E through H of this section shall be disbursed upon vouchers signed by the director of the legislative council service.

Section 3

Section 3

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

Section 4

Section 4

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

Section 5

Section 5

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

A. two copies to each member of the house and senate;

B. one copy to each county clerk, district judge, radio or television station and newspaper and to the general library of each state-supported institution of higher learning; and

C. upon written request therefor, one copy to each state department, commission, board, institution or agency, each elected state official, each incorporated municipality,

each district attorney, each ex-governor, each member of congress and each public school district in the state.

Section 6

Section 6

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

Section 7

Section 7

There is appropriated from the general fund to the legislative council service for fiscal year 1997, unless otherwise indicated, to be disbursed on vouchers signed by the director of the legislative council service, the following:

A.	Personal Services	\$ 1,808,400
	Employee Benefits	573,900
	Travel	62,500
	Maintenance & Repairs	48,500
	Supplies & Materials	41,200
	Contractual Services	202,900
	Operating Costs	253,600
	Other Operating Costs	100,000
	Capital Outlay	77,500
	Out-of-State Travel	58,000

Total \$3,226,500;

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 1997, the sum of four hundred forty-one thousand two hundred dollars (\$441,200); provided that the New Mexico legislative council may transfer amounts from the appropriation in this subsection, during the fiscal year for which appropriated, to any other legislative appropriation where they may be needed;

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);

~~[D. for the purpose of hiring or contracting for the services of financial consultants or policy analysts to evaluate and monitor the effectiveness of making lump sum appropriations to select state agencies, contingent upon the enactment into law by the second session of the forty-second legislature a general appropriation act that makes lump sum appropriations to select state agencies, the sum of two hundred fifty thousand dollars (\$250,000);]~~

E. for a statewide legislative internship program, the sum of twenty-five thousand dollars (\$25,000); and

F. for a human resource study to evaluate legislative staff compensation, the sum of forty thousand dollars (\$40,000).

Section 8

Section 8

There is appropriated from the general fund to the legislative finance committee for fiscal year 1997, to be disbursed on vouchers signed by the chairman of the committee or his designated representative, the following:

Personal Services	\$1,406,500
Employee Benefits	419,100
Travel	86,900
Maintenance & Repairs	11,200
Supplies & Materials	20,200
Contractual Services	178,000

Operating Costs	104,000
Capital Outlay	12,200
Out-of-State Travel	34,500
Total	\$2,272,600.

Section 9

Section 9

There is appropriated from the general fund to the legislative education study committee for fiscal year 1997, to be disbursed on vouchers signed by the chairman of the committee or his designated representative, the following:

Personal Services	\$ 407,600
Employee Benefits	115,000
Travel	37,500
Maintenance & Repairs	15,000
Supplies & Materials	11,500
Contractual Services	11,500
Operating Costs	15,000
Capital Outlay	17,700
Out-of-State Travel	11,500
Total	\$ 642,300.

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 1997.

Section 11

Section 11

There is appropriated from the general fund to the legislative council service for expenditure in fiscal year 1997 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	\$ 175,548
Employee Benefits	53,591
Travel	2,100
Maintenance & Repairs	45
Supplies	1,000
Contractual Services	1,500
Operating Costs	3,724
Out-of-State Travel	16,500
Total	\$ 254,008.

Section 12

Section 12

There is appropriated from the general fund to the legislative council service for expenditure in fiscal year 1997 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	\$ 170,217
Employee Benefits	53,157
Travel	2,100
Maintenance & Repairs	100
Supplies	1,000
Contractual Services	1,500

Operating Costs	3,900
Out-of-State Travel	11,472
Total	\$ 243,446.

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.

Section 14

Section 14

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

HOUSE BILL 1, AS AMENDED

WITH EMERGENCY CLAUSE

SIGNED JANUARY 25, 1996

Chapter 2

RELATING TO INTERSTATE BANKING; PROVIDING FOR THE INTERSTATE ACQUISITION OF NEW MEXICO BANKS AND NEW MEXICO BANK HOLDING COMPANIES AND FOR INTERSTATE BANK BRANCHING BY MERGER; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978.

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

Section 1

Section 1

SHORT TITLE.--Sections 1 through 12 of this act may be cited as the "Interstate Bank Acquisition Act".

Section 2

Section 2

DEFINITIONS.--As used in the Interstate Bank Acquisition Act:

A. "acquire" means:

(1) for a company to merge or consolidate with a bank holding company;

(2) for a company to assume direct or indirect ownership or control of:

(a) more than twenty-five percent of any class of voting shares of a bank holding company or a bank, if the acquiring company was not a bank holding company prior to the acquisition;

(b) more than five percent of any class of voting shares of a bank holding company or a bank, if the acquiring company was a bank holding company prior to the acquisition; or

(c) all or substantially all of the assets of a bank holding company or a bank; or

(3) for a company to take any other action that results in the direct or indirect acquisition by the company of control of a bank holding company or a bank;

B. "affiliate" means that term as defined in 12 U.S.C.A. Section 371c(b);

C. "bank" means that term as defined in 12 U.S.C.A. Section 1841(c);

D. "bank holding company" means that term as defined in 12 U.S.C.A. Section 1841(a) and includes a New Mexico bank holding company, an out-of-state bank holding company and a foreign bank holding company;

E. "Bank Holding Company Act" means the federal Bank Holding Company Act of 1956, 12 U.S.C.A. Section 1841 et seq.;

F. "bank supervisory agency" means:

(1) an agency of another state with primary responsibility for chartering and supervising banks; and

(2) the office of the comptroller of the currency, the federal deposit insurance corporation, the board of governors of the federal reserve system and any successor to these agencies;

G. "branch" means that term as defined in Subsection C of Section 58-5-2 NMSA 1978;

H. "company" means that term as defined in 12 U.S.C.A. Section 1841(b);

I. "control" means that term as defined in 12 U.S.C.A. Section 1841(a)(2);

J. "deposit" means that term as defined in 12 U.S.C.A. Section 1813(l);

K. "depository institution" means an institution defined as an "insured depository institution" in 12 U.S.C.A. Sections 1813(c)(2) and (c)(3);

L. "director" means the director of the financial institutions division of the regulation and licensing department;

M. "foreign bank holding company" means a bank holding company that is organized under the laws of a country other than the United States or a territory or possession of the United States;

N. "home state regulator" means, with respect to an out-of-state bank holding company, the primary bank supervisory agency of the state in which the company maintains its principal place of business;

O. "New Mexico bank" means a bank that is:

(1) organized under the laws of this state; or

(2) organized under federal law and having its principal place of business in this state;

P. "New Mexico bank holding company" means a bank holding company that:

(1) had its principal place of business in this state on July 1, 1966 or the date on which it became a bank holding company, whichever is later; and

(2) is not controlled by an out-of-state bank holding company;

Q. "New Mexico state bank" means a bank chartered by the state of New Mexico;

R. "out-of-state bank holding company" means a bank holding company that is not a New Mexico bank holding company;

S. "principal place of business" of a bank holding company means the state in which the largest percentage of the total deposits of its bank subsidiaries was deposited on the later of July 1, 1966 or the date on which the company became a bank holding company;

T. "state" means the District of Columbia or a state, territory or possession of the United States; and

U. "subsidiary" means that term as defined in 12 U.S.C.A. Section 1841(d).

Section 3

Section 3

PURPOSE AND INTENT OF ACT.--The purpose of the Interstate Bank Acquisition Act is to establish the conditions under which a company may acquire a New Mexico bank or a New Mexico bank holding company. In enacting it the legislature intends to avoid discrimination against out-of-state bank holding companies or foreign bank holding companies in any manner that would violate Section 3(d) of the Bank Holding Company Act.

Section 4

Section 4

PERMITTED ACQUISITIONS.--

A. Except as provided in Subsection B of this section, a company may not acquire a New Mexico state bank or a New Mexico bank holding company without the prior approval of the director unless federal law expressly permits the acquisition without that approval.

B. The prohibition of Subsection A of this section does not apply if the acquisition is made:

(1) solely for the purpose of facilitating an acquisition otherwise permitted pursuant to the Interstate Bank Acquisition Act;

(2) in a transaction arranged by the director or another bank supervisory agency to prevent the insolvency or closing of the acquired bank; or

(3) in a transaction in which a bank forms its own bank holding company, if the ownership rights of the former bank shareholders are substantially similar to those of the shareholders of the new bank holding company.

C. In a transaction for which the director's approval is not required under this section, the acquiring company shall give written notice to the director at least ninety days before the effective date of the acquisition unless a shorter period of notice is required under applicable federal law.

Section 5

Section 5

REQUIRED APPLICATION--FORMS.--

A. A company that proposes to make an acquisition pursuant to the Interstate Bank Acquisition Act shall:

(1) file with the director a copy of the application that the company has filed with the responsible federal bank supervisory agency and any additional information prescribed by the director; and

(2) pay to the director any application fee prescribed by the director.

B. As long as they are consistent with the effective discharge of the director's responsibilities, the application and reporting forms established pursuant to the Interstate Bank Acquisition Act shall conform to those established for the same purposes by the board of governors of the federal reserve system pursuant to the Bank Holding Company Act.

Section 6

Section 6

STANDARDS FOR APPROVAL.--

A. In deciding whether to approve an application for a proposed acquisition pursuant to the Interstate Bank Acquisition Act, the director shall consider whether the acquisition may:

(1) be detrimental to the safety and soundness of the New Mexico state bank or the New Mexico bank holding company to be acquired;

(2) result in a substantial reduction of competition in this state; or

(3) have a significantly adverse effect on the convenience and needs of a community in this state served by the New Mexico state bank or the New Mexico bank holding company to be acquired.

B. Except as otherwise expressly provided in this section, the director shall not approve an acquisition pursuant to the Interstate Bank Acquisition Act if upon effecting the transaction it would result in the applicant, including a depository institution affiliated with the applicant, holding an undue concentration of deposits totaling forty percent or more of the total deposits in all depository institutions in New Mexico.

C. The director may adopt a regulation establishing a procedure authorizing the waiver of the limitation on deposit concentration set forth in Subsection B of this section to prevent the insolvency or closing of a New Mexico state bank.

D. The director shall not approve an application for an acquisition pursuant to the Interstate Bank Acquisition Act unless either the New Mexico bank to be acquired, or at

least one New Mexico bank subsidiary of the bank holding company to be acquired, has as of the proposed date of acquisition been in existence and in continuous operation under an active charter for a period of at least five years, except that the director may approve an application for an acquisition of a consumer credit bank chartered pursuant to the Consumer Credit Bank Act even though the consumer credit bank has not been in continuous operation under an active charter for a period of at least five years.

Section 7

Section 7

PROCEDURES RELATING TO APPLICATIONS.--

A. The director shall approve or disapprove an application for acquisition pursuant to the Interstate Bank Acquisition Act within ninety days after receipt of a completed application unless the director requests additional information from the applicant following receipt of a completed application in which case the time limit for decision by the director is the later of:

(1) the date set forth in this subsection; or

(2) thirty days after the director's receipt of the requested additional information.

B. The director may hold a public hearing in connection with an application if a significant issue of law or fact has been raised with respect to the proposed acquisition.

C. If the director holds a public hearing in connection with an application, the time limit specified in Subsection A of this section shall be extended to thirty days after the conclusion of the public hearing.

D. An application is deemed approved if the director takes no action on the application within the time limits specified in this section.

Section 8

Section 8

REPORTS--EXAMINATIONS.--

A. To the extent specified by the director by regulation, order or written request, each bank holding company that directly or indirectly controls a New Mexico state bank or a New Mexico bank holding company, or the home state regulator of the company, shall submit to the director copies of each financial report filed by the company with any bank supervisory agency within fifteen days after the report is filed with the agency unless the report is one the disclosure of which is prohibited by federal or state law.

B. To the extent disclosure is permitted by state or federal law, a bank holding company that controls a New Mexico state bank or a New Mexico bank holding company, or the home state regulator of the controlling bank holding company, shall provide the director copies of any reports of examination of that bank holding company or of the New Mexico bank holding company.

C. The director may examine a New Mexico bank holding company whenever the director has reason to believe that the company is not being operated in compliance with the laws of this state or in accordance with safe and sound banking practices. The provisions of Section 58-1-46 NMSA 1978 shall apply to the examination.

Section 9

Section 9

AGENCY ACTIVITIES.--

A. If it complies with the requirements of this section, a New Mexico state bank may agree to act as an agent for any affiliated bank depository institution to receive deposits, renew time deposits, close loans, service loans, receive payments on loans and other obligations and perform other services for which it has received the prior approval of the director.

B. A New Mexico state bank that proposes to enter into an agency agreement pursuant to this section shall file with the director, at least thirty days before the effective date of the agreement:

- (1) a notice of intention to enter into an agency agreement with an affiliated depository institution;
- (2) a description of the services proposed to be performed under the agency agreement; and
- (3) a copy of the agency agreement.

C. If any proposed service is not specifically designated in Subsection A of this section and has not been approved previously in a regulation issued by the director, the director shall decide, within thirty days after receipt of the notice required by Subsection B of this section, whether to approve the offering of the service. If the director requests additional information after reviewing the notice, the time limit for the director's decision is thirty days after receiving the additional information. In deciding whether to approve a proposed service, the director shall consider whether the service would be consistent with state and federal law and the safety and soundness of the principal and agent institutions. The New Mexico state bank shall give appropriate notice to the public of each approval.

D. Any proposed service offered pursuant to Subsection C of this section is deemed approved if the director takes no action after receiving the notice required by Subsection B of this section within the time limits specified in Subsection C of this section.

E. A New Mexico state bank may not pursuant to an agency agreement:

(1) conduct any activity as an agent that it would be prohibited from conducting as a principal under applicable state or federal law; or

(2) have an agent conduct any activity that the bank as principal would be prohibited from conducting under applicable state or federal law.

F. The director may order a New Mexico state bank or any other depository institution that is subject to the director's enforcement powers to cease acting as an agent or principal under an agency agreement with an affiliated depository institution if the director finds the provisions of the agency agreement or the actions of the parties pursuant to it to be inconsistent with safe and sound banking practices.

G. A New Mexico state bank acting as an agent for an affiliated depository institution in accordance with this section is not a branch bank of that institution.

Section 10

Section 10

AUTHORITY TO ISSUE REGULATIONS-- COOPERATIVE AGREEMENTS--FEES.--
To carry out the purposes of the Interstate Bank Acquisition Act, the director may:

A. adopt regulations;

B. enter into cooperative, coordinating or information-sharing agreements with a bank supervisory agency or an organization affiliated with or representing a bank supervisory agency;

C. accept a report of examination or investigation by a bank supervisory agency having concurrent jurisdiction over a New Mexico state bank or a bank holding company that controls a New Mexico state bank in lieu of conducting an examination or investigation of the bank or bank holding company;

D. enter into a sole source contract pursuant to Section 13-1-126 NMSA 1978 with a bank supervisory agency having concurrent jurisdiction over a New Mexico state bank or a bank holding company that controls a New Mexico state bank to engage the services of that agency's examiners at a reasonable rate of compensation, or to provide the services of the director's examiners to that agency at a reasonable rate of compensation;

E. conduct joint examinations or joint enforcement actions with a bank supervisory agency having concurrent jurisdiction over a New Mexico state bank or a bank holding company that controls a New Mexico state bank, but if the examination or enforcement action involves an out-of-state bank holding company, the director shall recognize the exclusive authority of the home state regulator over corporate governance matters and the primary responsibility of the home state regulator with respect to safety and soundness matters;

F. conduct examinations and enforcement actions of a New Mexico state bank or a New Mexico bank holding company that controls a New Mexico state bank if the director determines that the action is necessary to carry out the director's responsibilities pursuant to the Interstate Bank Acquisition Act or to enforce compliance with the laws of this state; and

G. include in regulations adopted provisions for:

(1) the assessment of supervisory and examination fees to be paid by New Mexico banks and New Mexico bank holding companies in connection with the director's performance of his duties; and

(2) sharing of fees assessed pursuant to Paragraph (1) of this subsection with a bank supervisory agency or an organization affiliated with or representing a bank supervisory agency in accordance with an agreement between it and the director.

Section 11

Section 11

ENFORCEMENT.--The director may enforce the provisions of the Interstate Bank Acquisition Act by an action for injunctive relief in the district court of Santa Fe county. The director shall give notice promptly to the home state regulator of any action commenced by the director against an out-of-state bank holding company and, to the extent practicable, shall consult and cooperate with that regulator in pursuing and resolving the enforcement action.

Section 12

Section 12

SEVERABILITY.--If any part or application of the Interstate Bank Acquisition Act is held invalid or to be superseded, the remainder or its application to other situations or persons shall not be affected.

Section 13

Section 13

Section 58-26-4 NMSA 1978 (being Laws 1988, Chapter 5, Section 4, as amended) is amended to read:

"58-26-4. INTERSTATE ACQUISITIONS PERMITTED.-- Notwithstanding the provisions of Section 58-5-11 NMSA 1978 restricting interstate acquisition:

A. interstate acquisitions of domestic depository institutions that are savings institutions or domestic holding companies whose subsidiary depository institutions are savings institutions are permitted by out-of-state depository institutions and out-of-state holding companies effective January 1, 1989; provided, however, until July 1, 1992, if a domestic depository institution is to be so acquired, the acquired institution shall have been continuously operated for at least five years, or if a domestic holding company is to be so acquired, at least one of its subsidiary depository institutions shall have been continuously operated for at least five years; and

B. an interstate acquisition pursuant to this section may not otherwise be contrary to law and shall not result in undue concentration of deposits totaling forty percent or more of the total deposits in all financial institutions in New Mexico."

Section 14

Section 14

SHORT TITLE.--Sections 14 through 27 of this act may be cited as the "Interstate Bank Branching Act".

Section 15

Section 15

PURPOSE.--The purpose of the Interstate Bank Branching Act is to permit interstate bank branching by merger pursuant to the provisions of the federal Regle-Neal Interstate Banking and Branching Efficiency Act of 1994, PL. 103-328.

Section 16

Section 16

DEFINITIONS.--As used in the Interstate Bank Branching Act:

A. "bank" means that term as defined in 12 U.S.C.A. Section 1813(h), but "bank" does not include any "foreign bank" as defined in 12 U.S.C.A. Section 3101(7), unless the foreign bank is organized under the laws of a territory of the United States, Puerto Rico, Guam, American Samoa or the Virgin Islands and its deposits are insured by the federal deposit insurance corporation;

B. "bank holding company" means that term as defined in 12 U.S.C.A. Section 1841(a)(1);

C. "bank supervisory agency" means:

(1) an agency of another state with primary responsibility for chartering and supervising banks; and

(2) the office of the comptroller of the currency, the federal deposit insurance corporation, the board of governors of the federal reserve system, and any successor to these agencies;

D. "branch" means that term as defined in Subsection C of Section 58-5-2 NMSA 1978;

E. "control" means that term as defined in 12 U.S.C.A. Section 1841(a)(2);

F. "director" means the director of the financial institutions division of the regulation and licensing department;

G. "home state" means:

(1) with respect to a state bank, the state in which the bank is chartered;

(2) with respect to a national bank, the state in which the main office of the bank is located; and

(3) with respect to a foreign bank, the state determined to be the home state of the foreign bank pursuant to 12 U.S.C.A. Section 3103(c);

H. "home state regulator" means the bank supervisory agency of the state in which an out-of-state state bank is chartered;

I. "host state" means a state, other than the home state of a bank, in which the bank maintains, or seeks to establish and maintain, a branch;

J. "insured depository institution" means that term as defined in 12 U.S.C.A. Section 1813(c)(2);

K. "interstate merger transaction" means:

(1) the merger or consolidation of banks with different home states and the conversion of branches of any bank involved in the merger or consolidation into branches of the resulting bank; or

(2) the purchase of all or substantially all of the assets and branches of a bank whose home state is different from the home state of the acquiring bank;

L. "main office" means the office declared by a bank to its chartering bank supervisory agency to be its main office;

M. "New Mexico bank" means a bank whose home state is New Mexico;

N. "New Mexico state bank" means a bank chartered under the laws of New Mexico;

O. "out-of-state bank" means a bank whose home state is a state other than New Mexico;

P. "out-of-state state bank" means a bank chartered under the laws of any state other than New Mexico;

Q. "resulting bank" means a bank that has resulted from an interstate merger transaction under the Interstate Bank Branching Act; and

R. "state" means a state of the United States, the District of Columbia, a territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands or the Northern Mariana Islands.

Section 17

Section 17

AUTHORITY OF STATE BANKS TO ESTABLISH INTERSTATE BRANCHES BY MERGER.--

A. If it obtains the prior approval of the director, a New Mexico state bank may establish, maintain and operate one or more branches in a state other than New Mexico pursuant to an interstate merger transaction in which the New Mexico state bank is the resulting bank.

B. Not later than the date on which the required application for the interstate merger transaction is filed with the responsible federal bank supervisory agency, the applicant New Mexico state bank shall file the documents and information required by Subsections A and B of Section 58-4-4 NMSA 1978 and pay a fee in an amount that shall be prescribed by the director by rule.

C. The director shall approve the interstate merger transaction and the operation of branches outside of New Mexico by the New Mexico state bank if he finds that:

(1) the proposed transaction will not be detrimental to the safety and soundness of the applicant or the resulting bank;

(2) any new officers and directors of the resulting bank are qualified by character, experience and financial responsibility to direct and manage the resulting bank; and

(3) the proposed merger is consistent with the convenience and needs of the communities to be served by the resulting bank in this state and is otherwise in the public interest.

D. The interstate merger transaction may be effected only after the applicant has received the director's written approval.

Section 18

Section 18

INTERSTATE MERGER TRANSACTIONS AND BRANCHING PERMITTED.--

A. One or more New Mexico banks may enter into an interstate merger transaction with one or more out-of-state banks pursuant to the Interstate Bank Branching Act, and an out-of-state bank resulting from the transaction may maintain and operate as branches in New Mexico the former New Mexico banks that participated in the transaction if the conditions and filing requirements of that act are met.

B. Except as otherwise expressly provided in this subsection, an interstate merger transaction is not permitted pursuant to the Interstate Bank Branching Act if, upon effecting the transaction, the resulting bank, including all insured depository institutions that would be affiliates, as defined in 12 U.S.C.A. Section 1841(k), of the resulting bank, would result in an undue concentration of deposits totaling forty percent or more of the total deposits in all depository institutions in New Mexico. The director may by regulation adopt a procedure to waive the foregoing prohibition to prevent the insolvency or closing of a New Mexico state bank.

C. An interstate merger transaction resulting in the acquisition by an out-of-state bank of a New Mexico bank is not permitted pursuant to the Interstate Bank Branching Act, unless the New Mexico bank on the date of the acquisition has been in continuous operation under an active charter for a period of at least five years.

Section 19

Section 19

DE NOVO BRANCHING AND ACQUISITION OF INDIVIDUAL BRANCHES NOT PERMITTED.--Interstate branching, either de novo or by acquisition of one or more branches, not involving all or substantially all of the assets and branches of a New Mexico bank is prohibited.

Section 20

Section 20

NOTICE AND FILING REQUIREMENTS.--An out-of-state bank that will be the resulting bank pursuant to an interstate merger transaction involving a New Mexico state bank shall notify the director of the proposed merger no later than the date on which it files an application for an interstate merger transaction with the responsible federal bank supervisory agency. The out-of-state bank shall submit a copy of that application to the director and pay a fee in an amount that the director shall prescribe by regulation. Any New Mexico state bank that is a party to the interstate merger transaction shall comply with all applicable state and federal laws.

Section 21

Section 21

CONDITION FOR INTERSTATE MERGER PRIOR TO JUNE 1, 1997.--An interstate merger transaction prior to June 1, 1997 resulting in a New Mexico branch of an out-of-state bank shall not be consummated and any out-of-state bank resulting from such a merger shall not operate a branch in New Mexico, unless the director first:

A. finds that the laws of the home state of each out-of-state bank involved in the interstate merger transaction permit New Mexico state banks, under substantially the same terms and conditions as are set forth in the Interstate Bank Branching Act, to acquire banks and establish and maintain branches in that state by means of interstate merger transactions;

B. concludes that the resulting out-of-state bank has complied with all applicable requirements of New Mexico law and has agreed in writing to comply with the laws of this state applicable to its operation of branches in New Mexico; and

C. certifies to the federal bank supervisory agency having authority to approve the interstate merger transaction that the conditions and requirements of the Interstate Bank Branching Act have been met.

Section 22

Section 22

POWERS--ADDITIONAL BRANCHES.--

A. An out-of-state state bank with branches in New Mexico authorized pursuant to the Interstate Bank Branching Act may conduct any activities at its branches that are authorized pursuant to the laws of this state for New Mexico state banks.

B. A New Mexico state bank may conduct any activities at any branch outside New Mexico that are permissible for a bank chartered by the host state where the branch is located.

C. An out-of-state bank that has acquired branches in New Mexico under the Interstate Bank Branching Act may establish or acquire additional branches in New Mexico to the same extent that any New Mexico bank may establish or acquire a branch in New Mexico pursuant to applicable federal and state law.

Section 23

Section 23

EXAMINATIONS--PERIODIC REPORTS--COOPERATIVE AGREEMENTS-- ASSESSMENT OF FEES.--

A. To the extent consistent with Subsection C of this section, the director may make examinations of any branch established and maintained in this state by an out-of-state state bank pursuant to the Interstate Bank Branching Act as the director deems necessary to determine whether the branch is being operated in compliance with the laws of this state and in accordance with safe and sound banking practices. The provisions of Section 58-1-46 NMSA 1978 shall apply to the examinations.

B. The director may prescribe requirements for periodic reports concerning an out-of-state bank that operates a branch in New Mexico pursuant to the Interstate Bank Branching Act. The required reports shall be provided by the bank or by the bank supervisory agency having primary responsibility for the bank. Reporting requirements prescribed by the director pursuant to this subsection shall be:

(1) consistent with the reporting requirements applicable to New Mexico state banks;
and

(2) appropriate for the purpose of enabling the director to carry out his responsibilities under the Interstate Bank Branching Act.

C. The director may enter into cooperative, coordinating and information-sharing agreements with any other bank supervisory agencies or any organization affiliated with or representing one or more bank supervisory agencies with respect to the periodic examination or other supervision of any branch in New Mexico of an out-of-state state bank, or any branch of a New Mexico state bank in any host state, and the director may accept the parties' reports of examination and reports of investigation in lieu of conducting his own examinations or investigations.

D. The director may enter into a sole source contract pursuant to Section 13-1-126 NMSA 1978 with a bank supervisory agency having concurrent jurisdiction over a New Mexico state bank or an out-of-state state bank operating branches in this state pursuant to the Interstate Bank Branching Act to engage the services of the agency's examiners or to provide the services of the director's examiners to the agency.

E. The director may conduct joint examinations or participate in joint enforcement actions with a bank supervisory agency having concurrent jurisdiction over any branch in New Mexico of an out-of-state state bank or any branch of a New Mexico state bank in any host state. The director may take the actions independently if the director deems the actions necessary or appropriate to carry out his responsibilities under the Interstate Bank Branching Act or to ensure compliance with the laws of this state, but, in the case of an out-of-state state bank, the director shall recognize the exclusive authority of the home state regulator over corporate governance matters and the primary responsibility of the home state regulator with respect to safety and soundness matters.

F. An out-of-state state bank that maintains branches in this state may be assessed and shall pay supervisory and examination fees in accordance with the laws of this state and regulations of the director. The fees may be shared with other bank supervisory agencies or any organization affiliated with or representing one or more bank supervisory agencies in accordance with agreements between those entities and the director.

Section 24

Section 24

ENFORCEMENT.--If the director determines that a branch maintained by an out-of-state state bank in this state is being operated in violation of the laws of this state, is not reasonably meeting the credit needs of the community served or is being operated in an unsafe and unsound manner, the director may take the same enforcement actions he could take if the branch were a New Mexico state bank. The director shall give notice promptly to the home state regulator of an enforcement action taken against an out-of-state state bank and, to the extent practicable, shall consult and cooperate with the home state regulator in pursuing and resolving the enforcement action.

Section 25

Section 25

REGULATIONS.--The director may adopt regulations necessary or appropriate to implement the provisions of the Interstate Bank Branching Act.

Section 26

Section 26

NOTICE OF SUBSEQUENT MERGER AND OTHER TRANSACTIONS.--An out-of-state state bank that has established and maintains a branch in this state pursuant to the Interstate Bank Branching Act shall give at least thirty days prior written notice or, in the case of an emergency transaction, shorter notice consistent with applicable state or federal law to the director of any merger, consolidation or other transaction that would

cause a change of control with respect to the bank or any bank holding company that controls the bank if the result of the transaction would require an application to be filed pursuant to the federal Change in Bank Control Act of 1978, 12 U.S.C.A. Section 1817(j) or the federal Bank Holding Company Act of 1956, 12 U.S.C.A. Section 1841 et seq.

Section 27

Section 27

SEVERABILITY.--If any part or application of the Interstate Bank Branching Act is held invalid or to be superseded, the remainder or its application to other situations or persons shall not be affected.

Section 28

Section 28

Section 58-16-1 NMSA 1978 (being Laws 1990, Chapter 123, Section 1) is amended to read:

"58-16-1. SHORT TITLE.--Chapter 58, Article 16 NMSA 1978 may be cited as the "Remote Financial Service Unit Act"."

Section 29

Section 29

Section 58-16-3 NMSA 1978 (being Laws 1990, Chapter 123, Section 3, as amended) is amended to read:

"58-16-3. DEFINITIONS.--

A. As used in the Remote Financial Service Unit Act:

(1) "account" means an account maintained by a cardholder or merchant with a financial institution, which term shall include demand deposit, checking, negotiable order of withdrawal (NOW) share, share draft or other consumer or asset accounts or pre-authorized credit card accounts;

(2) "account transfer" means a transaction that enables movement of funds by a cardholder from one account to another account within the same financial institution;

(3) "acquirer" means the intercept processor that acquires financial data relating to a transaction from a card acceptor or a merchant and puts the data into a network system and means "agent acquirer" unless specifically indicated otherwise;

(4) "agent acquirer" means any financial institution acting as an authorized agent of the acquirer in enabling financial data relating to a POS transaction to be acquired by the acquirer from a card acceptor or merchant and means "acquirer" unless specifically indicated otherwise;

(5) "ATM transaction" means any one or more of the following transactions undertaken at an automated teller machine (ATM):

(a) a cash advance from an account;

(b) a cash advance from an authorized line of credit;

(c) a deposit to an account;

(d) a balance inquiry;

(e) an account transfer; and

(f) a normal financial transaction for a cardholder involving the issuance of non-cash or cash-equivalent items; provided, however, that normal financial transactions at an ATM will expressly exclude any POS transaction;

(6) "authorization" means the issuance of approval, by or on behalf of the financial institution holding the cardholder's account, to complete a transaction initiated or authorized by the cardholder;

(7) "automated teller machine" or "ATM" means an unmanned device that is activated by the cardholder through a specially prepared card or by the transmission of a code via a keyboard or keyset or both and is capable of one or more of the following transactions:

(a) dispensing cash to any cardholder from an account or against a preauthorized line of credit;

(b) accepting deposits;

(c) account transfers;

(d) satisfying a balance inquiry in the cardholder's account or accounts; and

(e) conducting normal financial transactions involving the issuance of non-cash or cash-equivalent items; provided, however, that normal financial transactions at an ATM will expressly exclude a transaction that can only be initiated and completed at a POS terminal;

(8) "balance inquiry" means a transaction that permits a cardholder to obtain the current balance of the cardholder's account or accounts;

(9) "card" means a plastic card or other instrument or any other access device issued by a financial institution to a cardholder that enables the cardholder to have access to and that processes transactions against one or more accounts, and the term shall be used when referring either to an ATM access card, a debit card or a credit card identifying a cardholder who has established a pre-approved credit line with the issuer of the credit card;

(10) "card acceptor" means the party accepting the card and presenting transaction data to an acquirer;

(11) "cardholder" means a person to whom a card has been issued by a financial institution or who is authorized to use the card;

(12) "cash advance" means any transaction resulting in a cardholder receiving cash, whether initiated through an ATM or a POS terminal;

(13) "chargeback" means the credit of all or a portion of an amount previously posted to a cardholder's account;

(14) "clearing account" means an account or several accounts maintained for the purpose of settlement and payment of fees to the network manager;

(15) "credit" means a claim for funds by the cardholder for the credit of the cardholder's account and provides details of funds acknowledged as payable by the acquirer or card acceptor to the issuer for credit to the cardholder's account;

(16) "credit card cash advance" means a cash loan obtained by a cardholder against a pre-authorized line of credit through presentation of a card;

(17) "data interchange" means the exchange of transaction data, authorization requests, transaction records or other data between intercept processors and acquirers and issuers through a shared system or network;

(18) "debit" means a transaction initiated by a cardholder that results in the debit to the cardholder's account, through use of a card or otherwise, and results in a claim for funds made by the acquirer or card acceptor against the issuer;

(19) "director" means the director of the financial institutions division of the regulation and licensing department;

(20) "electronic funds transfer" or "EFT" means a system designed to facilitate the exchange of monetary value via electronic media utilizing electronic or mechanical

signals or impulses or a combination of electronic or mechanical impulses and audio, radio or microwave transmissions;

(21) "financial institution" means an insured state or national bank, a state or federal savings and loan association or savings bank, a state or federal credit union or authorized branches of each of the foregoing;

(22) "in-state financial institutions" means a financial institution authorized to engage in and engaged in business in New Mexico and having its main office or a staffed branch within the state;

(23) "intercept processor" means any electronic data processor operating for a financial institution that passes transactions;

(24) "issuer" means a financial institution that issues cards or accepts transactions for a card, is the acceptor of a transaction and is typically, but not always, the entity that maintains the account relationship with the cardholder;

(25) "lobby or teller-line ATM" means any ATM located within the lobby of a financial institution or in its teller line, access to which is available only during regular banking hours;

(26) "merchant" means a seller of goods or services, retailer or other person who, pursuant to an agreement with a financial institution, agrees to accept or causes its outlets to accept cards for EFT transactions when properly presented, is usually a card acceptor and is a seller of goods and services who is regularly and principally engaged in the business of selling, leasing or renting goods, selling or leasing services for any purpose or selling insurance, whether the business is a wholesale or retail business and whether the goods or services are for business, agricultural, personal, family or household purposes. "Merchant" includes a professional licensed by the state of New Mexico, but does not include financial institutions;

(27) "modem" is a contraction of "modulator-demodulator" and means a functional unit that enables digital data to be transmitted over analog transmission facilities such as telephone lines, radio or microwave transmissions;

(28) "network" means a computer-operated system of transmitting items and messages between ATM or POS terminals, intercept processor and financial institutions, and settling transactions between financial institutions, and includes without limitation, ATMs, POS terminals, all related computer hardware and software, modems, logos and service marks;

(29) "network manager" means the person managing the business of a network;

(30) "off-line" means not on-line;

(31) "off-premise ATM" means ATMs installed away from the building or lobby of a financial institution by a distance of not less than five hundred feet;

(32) "on-line" means a system in which all input data enters the computer at a financial institution, an intercept processor or the network from its point of origin and that is capable of transmitting information back to the point of origin after all input data is processed;

(33) "on-premise ATM" means an ATM that stands in or immediately adjacent to the financial institution's building, such as in the financial institution's lobby, through the wall or a drive-up ATM within five hundred feet of the financial institution's building;

(34) "person" means an individual, partnership, joint venture, corporation or other legal entity however organized;

(35) "personal identification number" or "PIN" means a series of numbers or letters selected for or by the cardholder and used by the cardholder as a code or password in conjunction with a card to perform a transaction;

(36) "point-of-sale or POS terminal" means an information processing device or machine, located upon the premises occupied by one or more merchants, through which transaction messages are initiated and electronically transmitted to an acquirer to effectuate a POS transaction and that accepts debit cards and credit cards;

(37) "POS transaction" means any of the following transactions undertaken at a POS terminal:

(a) purchases;

(b) purchases that include cash back to the cardholder;

(c) cash advances at POS terminals;

(d) returned item transaction message resulting in a credit to the cardholder's account;

(e) a credit;

(f) an authorization;

(g) chargebacks at POS terminals;

(h) card verification whereby the validity of a card is determined at POS terminals;

(i) balance inquiries at POS terminals; and

(j) force post financial advice at POS terminals whereby any other transaction authorized by an issuer-approved stand-in processor requires settlement resulting in a debit to the cardholder's account.

Nothing in this paragraph shall be construed to include credit card transactions;

(38) "purchase" means a transaction that, if approved, results in a debit transaction for the payment of goods and services or may include cash paid to the cardholder of some part of the amount of the transaction;

(39) "receipt" means a hard-copy description of a transaction:

(a) for the purposes of the Remote Financial Service Unit Act, if the transaction is an ATM transaction, the receipt shall contain, at a minimum: 1) the date of the ATM transaction; 2) the amount of the ATM transaction, if any; 3) the account number; 4) the type of account accessed; 5) the location of the ATM used in the ATM transaction; 6) the identity of any party or account to which funds are transferred; and 7) the type of ATM transaction completed; and

(b) for the purposes of the Remote Financial Service Unit Act, if the transaction is a POS transaction, the receipt shall contain, at a minimum: 1) the date of the POS transaction; 2) the amount of the POS transaction, if any; 3) the account number; 4) the type of account accessed; 5) the merchant's name and location; and 6) the type of POS transaction completed;

(40) "remote financial service unit" means a POS terminal or an ATM;

(41) "returned item transaction message" means a credit message generated by the acquirer or by the merchant that returns the value of the returned item to the cardholder's account;

(42) "settlement" means the process by which funds are transferred between financial institutions, intercept processors or networks in the flow of a transaction or in the payment of fees associated with the transaction;

(43) "shared ATM or POS terminals" means ATM or POS terminals that are shared among financial institutions by formal agreement for the purposes of cardholder convenience, reduction of capital investment and marketing advantage;

(44) "single subscriber terminal" means any terminal or set of terminals used to connect a single customer of a financial institution to its financial institution through which EFT messages are sent and completed, other than transactions;

(45) "switch" means a routing mechanism and any device attached thereto that is necessary for the processing of a transaction used to communicate information and

transactions among participating financial institutions or their intercept processors in a shared system or network;

(46) "transaction" means a collection of electronic messages concluded by:

(a) a debit to or a credit from an account;

(b) a balance inquiry;

(c) the consummation of a normal financial transaction; or

(d) a rejected attempt of any one of those matters provided in Subparagraphs (a) through (c) of this paragraph;

(47) "unauthorized use of the card of another" means the utilization of the card in or through a remote financial service unit to affect the balance of or obtain information concerning the account of the cardholder by a person other than the cardholder, which person does not have the permission of the cardholder for such use; and

(48) "unauthorized withdrawal from the account of another" means the debiting of or removal of funds from a cardholder's account, accomplished by means of the utilization of a remote financial service unit by a person other than the cardholder, which person does not have actual, implied or apparent authority for the debiting or removal and from which debiting or removal the cardholder receives no benefit.

B.

(1) Any of the information provided pursuant to Subparagraphs (a) and (b) of Paragraph (39) of Subsection A of this section may be provided using codes, numbers or other uniform explanations so long as they are explained elsewhere on the receipt.

(2) No receipt shall be required in any transaction involving a negotiable instrument that will itself become a receipt.

C. Any term used in the Remote Financial Service Unit Act but not specifically defined shall have the meaning given to that term by the Uniform Commercial Code."

Section 30

Section 30

Section 58-16-11 NMSA 1978 (being Laws 1990, Chapter 123, Section 11, as amended) is amended to read:

"58-16-11. RESTRICTIONS ON OWNING, LEASING AND OPERATING.--

A. Notwithstanding any provision to the contrary in the Remote Financial Service Unit Act, no ATM shall be owned or leased by a person other than an in-state financial institution.

B. Notwithstanding any provision to the contrary in the Remote Financial Service Unit Act, no POS terminal shall be operated by any person other than a merchant or an in-state financial institution."

Section 31

Section 31

EFFECTIVE DATE.--The effective date of the provisions of this act is June 1, 1996.

HOUSE BILL 38

SIGNED FEBRUARY 14, 1996

Chapter 3

RELATING TO TAXATION; ABOLISHING THE SEVERANCE TAX INCOME FUND AND TRANSFERRING ALL MONEY IN THAT FUND TO THE SEVERANCE TAX PERMANENT FUND.

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

Section 1

Section 1

Section 7-27-3 NMSA 1978 (being Laws 1973, Chapter 294, Section 2) is amended to read:

"7-27-3. SEVERANCE TAX PERMANENT FUND CREATED.-- There is created in the state treasury the "severance tax permanent fund"."

Section 2

Section 2

TEMPORARY PROVISION.--On the effective date of this act, the severance tax income fund is abolished and all money in that fund is transferred to the severance tax permanent fund.

Section 3

Section 3

REPEAL.--Section 7-27-4 NMSA 1978 (being Laws 1973, Chapter 294, Section 4, as amended) is repealed.

Section 4

Section 4

EFFECTIVE DATE.--The provisions of this act shall become effective upon certification by the secretary of state that the constitution of New Mexico has been amended as proposed by a joint resolution of the forty-second legislature, second session, entitled "A JOINT RESOLUTION PROPOSING AMENDMENTS TO ARTICLE 8, SECTION 10 AND ARTICLE 12, SECTIONS 2, 4 AND 7 OF THE CONSTITUTION OF NEW MEXICO TO PROTECT THE STATE'S PERMANENT FUNDS AGAINST INFLATION BY LIMITING DISTRIBUTIONS TO A PERCENTAGE OF EACH FUND'S MARKET VALUE AND BY MODIFYING CERTAIN INVESTMENT RESTRICTIONS TO ALLOW OPTIMAL DIVERSIFICATION OF INVESTMENTS.".

SENATE BILL 28

SIGNED FEBRUARY 14, 1996

Chapter 4

RELATING TO THE LAND GRANT PERMANENT FUNDS OF THE STATE;
PROVIDING FOR CHANGES IN THE ALLOCATION OF REVENUE TO THE
PERMANENT FUNDS; PROVIDING FOR DISTRIBUTIONS FROM THE PERMANENT
FUNDS TO THE BENEFICIARIES OF THOSE FUNDS.

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

Section 1

Section 1

Section 19-1-18 NMSA 1978 (being Laws 1917, Chapter 115, Section 2) is amended to read:

"19-1-18. SOURCES OF SPECIAL FUNDS.--The permanent funds created by Sections 19-1-17 through 19-1-20 NMSA 1978 shall consist of the proceeds of sales of lands belonging to and that may have been or may hereafter be granted to the state, not otherwise appropriated by the terms and conditions of the grant, interest on the permanent funds, income from investment of the permanent funds and such other money as may be specifically provided by law. The income and current funds created

by Sections 19-1-17 through 19-1-20 NMSA 1978 shall consist of rentals, sale of products from lands and anything else other than money directly derived from sale of all state lands so granted, such other money as may be specifically provided by law and miscellaneous income not provided for by Sections 19-1-17 through 19-1-20 NMSA 1978."

Section 2

Section 2

Section 19-1-20 NMSA 1978 (being Laws 1917, Chapter 115, Section 8, as amended) is amended to read:

"19-1-20. TRANSFERS AND DISTRIBUTIONS OF FUNDS FOR SCHOOLS AND INSTITUTIONS.--

A. All income and current funds created by Section 19-1-17 NMSA 1978 for the common schools and various state institutions shall be transferred by the secretary of finance and administration, from time to time, to the credit of the schools and institutions to be used as provided by law for the support and maintenance of the schools and institutions.

B. The secretary of finance and administration shall make distributions from the land grant permanent funds

enumerated in Section 19-1-17 NMSA 1978 in the amount authorized by and calculated pursuant to the provisions of Article 12, Section 7 of the constitution of New Mexico.

C. One-twelfth of the total amount authorized to be distributed in a fiscal year pursuant to Article 12, Section 7 of the constitution of New Mexico shall be distributed each month to the beneficiaries enumerated in Section 19-1-17 NMSA 1978. Each beneficiary shall receive that portion of the monthly distribution to which it is entitled pursuant to law."

Section 3

Section 3

REPEAL.--Section 6-8-12 NMSA 1978 (being Laws 1957, Chapter 179, Section 12, as amended) is repealed.

Section 4

Section 4

EFFECTIVE DATE.--The effective date of the provisions of this act is the later of:

A. the date the secretary of state certifies that the constitution of New Mexico has been amended as proposed by a joint resolution of the forty-second legislature, second session, entitled "A JOINT RESOLUTION PROPOSING AMENDMENTS TO ARTICLE 8, SECTION 10 AND ARTICLE 12, SECTIONS 2, 4 AND 7 OF THE CONSTITUTION OF NEW MEXICO TO PROTECT THE STATE'S PERMANENT FUNDS AGAINST INFLATION BY LIMITING DISTRIBUTIONS TO A PERCENTAGE OF EACH FUND'S MARKET VALUE AND BY MODIFYING CERTAIN INVESTMENT RESTRICTIONS TO ALLOW OPTIMAL DIVERSIFICATION OF INVESTMENTS."; or

B. the date the congress of the United States consents to the amendment of the constitution of New Mexico as proposed by the joint resolution specified in Subsection A of this section.

SENATE BILL 27

SIGNED FEBRUARY 14, 1996

Chapter 5

RELATING TO STATE FISCAL MATTERS; REPEALING CERTAIN SECTIONS OF THE GENERAL APPROPRIATION ACT OF 1995 AND THE EDUCATION APPROPRIATION ACT; AUTHORIZING A TRANSFER; MAKING GENERAL APPROPRIATIONS.

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

Section 1

Section 1

Laws 1995, Chapter 30, Section 4 is repealed and a new Section 4 is enacted to read:

"Section 4. FISCAL YEAR 1996 APPROPRIATIONS.--

A. LEGISLATIVE

Item	Other Intrnl Svc	General State Funds/Inter- Federal	Fund Funds Agency Transf Funds Total
LEGISLATIVE COUNCIL SERVICE	2,547.7	2,547.7	

Category transfers are specifically authorized for the legislative maintenance department.

TOTAL LEGISLATIVE 2,547.7 2,547.7

B. JUDICIAL

SUPREME COURT LAW LIBRARY: 707.8 707.8
 NEW MEXICO COMPILATION COMMISSION: 434.6 657.4 1,092.0
 JUDICIAL STANDARDS COMMISSION: 143.8 143.8
 JUDGES PRO TEMPORE: 71.5 71.5

Unexpended or unencumbered balances in the judges pro tempore fund remaining at the end of fiscal year 1996 shall not revert.

COURT OF APPEALS: 3,019.8 3,019.8
 SUPREME COURT: 1,904.8 1,376.5 3,281.3
 ADMINISTRATIVE OFFICE OF THE
 COURTS: 12,563.9 124.7 12,688.6

The general fund appropriation to the administrative office of the courts includes ten million three hundred fifty thousand nine hundred dollars (\$10,350,900) intended for the magistrate courts, which shall not be transferred into any other activity of the administrative office of the courts.

Included in the general fund appropriation to the administrative office of the courts is one million two hundred eighty-five thousand three hundred dollars (\$1,285,300) for magistrate court rental expenses.

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

SUPREME COURT BUILDING			
COMMISSION: 461.4	461.4		
JURY AND WITNESS FEE FUND: 1,158.3	2,307.3	3,465.6	

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

Unexpended or unencumbered balances in the jury and witness fee fund remaining at the end of fiscal year 1996 from appropriations made from the general fund shall not revert.

COURT-APPOINTED ATTORNEY
 FEES FUND: 1,544.4 1,544.4

The general fund appropriation to the court-appointed attorney fees fund shall be expended only to pay attorneys representing clients under the Mental Health and Developmental Disabilities Code, including initial commitment hearings; to pay guardian ad litem fees and other costs associated with cases filed pursuant to the Uniform Parentage Act and for indigent representation in civil contempt cases for child support enforcement; and to pay court-appointed attorneys representing clients under the Adult Protective Services Act and to pay guardian ad litem fees and attorneys required under the Children's Code. The fund shall not be used to pay attorney fees incurred as a result of a court appointment of the public defender department to represent an indigent defendant on a criminal matter.

DISTRICT COURTS: 25,056.7 659.8 863.2 26,579.7

Included in the general fund appropriation to the district courts is forty thousand dollars (\$40,000) to enable the first judicial district to establish a teen court in Santa Fe county with two FTE positions serving as support staff.

Included in the general fund appropriation for the district courts is two hundred twenty-two thousand dollars (\$222,000) for an additional judgeship in the second judicial district if an additional judgeship is created by law and the hiring of domestic violence personnel, including a hearing officer and monitor, a family counselor and a probation officer.

Included in the general fund appropriation for the district courts is seventy-eight thousand six hundred dollars (\$78,600) for an additional judgeship in the third judicial district and staff if an additional judgeship is created by law.

Included in the general fund appropriation for the district courts is forty thousand dollars (\$40,000) to expand the teen court in the third judicial district.

Included in the general fund appropriation to the district courts is thirty-five thousand dollars (\$35,000) for a teen court in the fifth judicial court.

Included in the general fund appropriation for the district courts is seventy-eight thousand six hundred dollars (\$78,600) for an additional judgeship in the seventh judicial district and staff if an additional judgeship is created by law.

Included in the general fund appropriation for the district courts is seventy-eight thousand six hundred dollars (\$78,600) for an additional judgeship in the eleventh judicial court and staff contingent upon House Bill 17 or similar legislation of the forty-second legislature, first session becoming law.

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

BERNALILLO COUNTY METROPOLITAN

COURT: 8,558.2 773.1 9,331.3

DISTRICT ATTORNEYS: 23,340.4 1,069.5 24,409.9

Included in the general fund appropriation to the district attorneys is twenty-seven thousand dollars (\$27,000) for one additional secretary II position in the first judicial district attorney's office to be assigned to the Espanola office.

Included in the general fund appropriation to the district attorneys is two hundred seventeen thousand three hundred dollars (\$217,300) to operate a domestic violence unit in the second judicial district.

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

ADMINISTRATIVE OFFICE OF THE

DISTRICT ATTORNEYS: 512.7 230.6 743.3

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

TOTAL JUDICIAL 79,043.7 5,781.9 2,590.1 124.7 87,540.4

C. GENERAL CONTROL

ATTORNEY GENERAL: 8,525.3 458.0 173.0 603.2 9,759.5

Included in the appropriation from the general fund to the attorney general's office is seventy-five thousand dollars (\$75,000) to establish an office of guardianship services, including hiring of staff and the purchase of needed furniture, equipment and supplies and five hundred sixty-nine thousand five hundred dollars (\$569,500) for guardianship services statewide.

The general fund appropriation to the attorney general includes sixty thousand dollars (\$60,000) to provide funding for corporate guardianship services that are currently being provided but are not funded.

The internal service funds/interagency transfers appropriation to the attorney general includes one hundred seventy-three thousand dollars (\$173,000) from the risk management division of the general services department.

Five percent of all money recovered from antitrust cases through the attorney general on behalf of all the state, political subdivisions or private citizens shall be deposited in the antitrust litigation fund.

In the event that Senate Bill 667 of the forty-second legislature, first session, is not enacted into law, three hundred thousand dollars (\$300,000) is appropriated from the general fund and three permanent positions are authorized for the attorney general.

Category transfers are specifically authorized for the attorney general.

Item	Other Intrnl Svc		
	General State Funds	Inter- Federal	Fund Funds Agency Transf Funds Total

STATE AUDITOR: 1,440.8 53.9 323.4 1,818.1

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

TAXATION AND REVENUE

DEPARTMENT: 39,412.7 1,873.6 15,456.0 1,107.2 57,849.5

Included in the internal service funds/interagency transfers appropriation to the taxation and revenue department is fourteen million four hundred ninety-six thousand six hundred dollars (\$14,496,600) from the state road fund.

Unexpended or unencumbered balances in the taxation and revenue department remaining at the end of fiscal year 1996 from appropriations made from the state road fund shall revert to the state road fund.

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

Item	Other Intrnl Svc		
	General State Funds	Inter- Federal	Fund Funds Agency Transf Funds Total

INVESTMENT COUNCIL: 716.1 1,614.2 65.0 2,395.3

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

DEPARTMENT OF FINANCE AND

ADMINISTRATION: 17,254.9 425.0 955.2 533.0 19,168.1

Upon certification by the state board of finance that a critical emergency exists that cannot be addressed by disaster declaration or other emergency or contingency funds, and upon review by the legislative finance committee, the secretary of the department 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 one million dollars (\$1,000,000) in fiscal year 1996. Funds transferred to the state board of finance emergency fund shall be disbursed in accordance with Section 6-1-2 NMSA 1978.

Included in the general fund appropriation to the department of finance and administration is fifty thousand dollars (\$50,000) for Pecos ambulance service in San Miguel county; fifty thousand dollars (\$50,000) to provide operational and staffing funds for emergency medical services in the village of Cochiti Lake; twenty-five thousand dollars (\$25,000) to provide matching funds for the city of Lordsburg to obtain a federal grant for community-oriented policing services; three hundred fifty thousand dollars (\$350,000) for water and wastewater facility studies, inventories and laboratory testing and analyses and improvements to the water and wastewater systems and treatment facilities for

the village of Chama; three hundred thousand dollars (\$300,000) for the Hagerman water system; and fifty thousand dollars (\$50,000) for the acequia commission.

The appropriation to the department of finance and administration includes one million five hundred thirty-six thousand one hundred dollars (\$1,536,100) for information systems division services, to be expended for that purpose only.

Category transfers, division transfers and budget increases from other state funds and internal service funds/interagency transfers are specifically authorized for the department of finance and administration.

PUBLIC SCHOOL INSURANCE
AUTHORITY: 105,343.0 105,343.0

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

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

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

Item	Other Intrnl Svc	General State Funds/Inter- Federal	Fund Funds Agency Transf Funds Total
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RETIREE HEALTH CARE AUTHORITY: 46,864.4 46,864.4

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

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

COMMISSION ON INFORMATION AND COMMUNICATION MANAGEMENT: 105.0 105.0

To provide for staff support and meetings of the commission on information and communication management during the wind-up period as provided by Section 12-9-17 NMSA 1978.

GENERAL SERVICES DEPARTMENT: 8,832.5 2,018.0 93,594.2 280.3 104,725.0

The general fund appropriation to the general services department includes one hundred forty-four thousand seven hundred eighty-seven dollars (\$144,787), which shall be used solely to provide necessary supplemental funds to pay for contractual services for establishment of the telecommunications relay system.

Budget increases from other state funds are specifically authorized for the telecommunications access fund administered by the general services department.

Budget increases from other state funds and internal services funds/interagency transfers are specifically authorized for the purchasing division of the general services department.

Budget increases from internal service funds/interagency transfers are specifically authorized for the information systems division-regular of the general services department.

Budget increases from the internal service funds/interagency transfers are specifically authorized for the information systems division-funds.

The appropriation from the general fund to the general services department includes three hundred fifty thousand four hundred fifteen dollars (\$350,415) to provide civil rights liability coverage for developmental disabilities providers and intermediate care facilities for the mentally retarded and to provide one permanent FTE position to administer and process civil rights claims made pursuant to 42 U.S.C. Section 1983 against nonprofit corporations providing developmental disabilities services and nonprofit intermediate care facilities for the mentally retarded.

Budget increases from internal service funds/interagency transfers are specifically authorized for the risk management division-regular of the general services department.

Budget increases from internal service funds/interagency transfers are specifically authorized for reserve funds administered by the risk management division of the general services department.

Budget increases from internal service funds/interagency transfers are specifically authorized for the motor pool division of the general services department.

Notwithstanding the provision of the State Aircraft Act, Section 15-9-4 NMSA 1978, all fees collected for the state aircraft pool shall be retained for the operations in accordance with the legislative appropriation and not deposited in the general fund.

Budget increases from internal services funds/interagency transfers are specifically authorized for the state aircraft pool of the general services department.

Category transfers and division transfers are authorized for the general services department.

Item	Other Intrnl Svc			Federal Funds Total
	General State Funds	Inter- Agency Transf	Funds	

EDUCATIONAL RETIREMENT BOARD: 2,487.1 2,487.1

Included in the other state funds appropriation to the educational retirement board is thirty-two thousand dollars (\$32,000) for one FTE in the records management system technical staff to improve records management through optical imaging techniques and ten thousand dollars (\$10,000) for in-state travel for regional employees of the board.

The other state funds appropriation includes one hundred fifty-one thousand eight hundred dollars (\$151,800) to the educational retirement board to be transferred to the state board of finance to be expended only for custody services associated with the fiscal agent contract. Unexpended or unencumbered balances in the state board of finance remaining at the end of fiscal year 1996 from this appropriation shall revert to the educational retirement fund.

The educational retirement board may increase its budget from other state funds in an amount not to exceed seventy-five thousand dollars (\$75,000) for design and expansion costs to renovate its building. Funds are contingent upon the agency providing a comprehensive design and plan subject to review and approval by the general services department.

Category transfers and budget increases from other state funds are specifically authorized for the educational retirement board.

Item	Other Intrnl Svc			Federal Funds Total
	General State Funds	Inter- Agency Transf	Funds	

PUBLIC DEFENDER DEPARTMENT: 15,294.5 20.0 60.0 15,374.5

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

Unexpended or unencumbered balances in the public defender department remaining at the end of fiscal year 1996 from appropriations made from the general fund shall not revert and shall be used exclusively for payment of contract attorney fees in the subsequent fiscal year.

None of the general fund appropriation to the public defender department shall be used for the establishment of a Las Vegas office. The public defender department shall provide legal services for the fourth judicial district through contract attorneys.

Included in the general fund appropriation to the public defender department is one hundred thousand dollars (\$100,000) for contract attorneys in the fourth judicial district in Las Vegas.

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

GOVERNOR: 2,162.1 2,162.1

The general fund appropriation to the office of the governor includes fifty thousand dollars (\$50,000) to investigate the rights of the state, counties and municipalities with respect to federal lands not acquired pursuant to Article 1, Section 8 of the constitution of the United States.

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

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

**CRIMINAL AND JUVENILE JUSTICE
COORDINATING COUNCIL: 350.0 350.0**

LIEUTENANT GOVERNOR: 369.8 369.8

Category transfers are specifically authorized for the lieutenant governor.

**PUBLIC EMPLOYEES RETIREMENT
ASSOCIATION: 8,407.8 8,407.8**

Budget increases from other state funds are specifically authorized for investment manager fees in an amount not to exceed the fees specified in investment manager contracts approved by the public employees retirement board and department of finance and administration. Funding within the contractual services category of the administrative services division of the public employees retirement association for investment manager fees shall not be expended for any other purpose.

Budget increases from other state funds in an amount not to exceed three hundred thousand dollars (\$300,000) for building maintenance are specifically authorized for the public employees retirement association.

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

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

STATE COMMISSION OF PUBLIC
RECORDS: 1,372.7 79.3 1,452.0

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

SECRETARY OF STATE: 1,994.9 1,994.9

Category transfers are specifically authorized for the secretary of state.

PERSONNEL BOARD: 3,675.3 649.4 4,324.7

The department of finance and administration is authorized to transfer to the personnel board from each executive branch agency an amount based on an assessment per authorized FTE to fund the four hundred eighty-seven thousand dollars (\$487,000) appropriated from internal service funds/interagency transfers for employee training programs and the one hundred sixty-two thousand four hundred dollars (\$162,400) appropriated from internal service funds/interagency transfers for the employee assistance program.

Category transfers are specifically authorized for the personnel board.

Item	Other Intrnl Svc			Total
	General State Funds	Inter- Federal Fund Funds Agency Transf	Funds	

PUBLIC EMPLOYEE LABOR RELATIONS
BOARD: 262.2 262.2

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

STATE TREASURER: 2,539.8 2,539.8

Category transfers are specifically authorized for the state treasurer.

Item	Other Intrnl Svc			Total
	General State Funds	Inter- Federal Fund Funds Agency Transf	Funds	

TOTAL GENERAL CONTROL 103,958.6 17,707.6 263,562.9 2,523.7 387,752.8

D. COMMERCE AND INDUSTRY

BOARD OF EXAMINERS FOR
ARCHITECTS: 242.5 242.5

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

BORDER AUTHORITY: 238.5 238.5

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

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

TOURISM DEPARTMENT: 4,165.5 5,582.3 9,747.8

Included in the internal service funds/interagency transfers appropriation to the tourism department is one million thirty thousand four hundred dollars (\$1,030,400) from the state road fund for operation of the welcome centers.

Unexpended or unencumbered balances in the travel and marketing division remaining at the end of fiscal year 1996 from appropriations made from the state road fund shall revert to the state road fund.

Category transfers and budget increases from internal service funds/interagency transfers are specifically authorized for the tourism department.

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

ECONOMIC DEVELOPMENT
DEPARTMENT: 10,645.2 197.3 15.0 7,528.8 18,386.3

Included in the general fund appropriation to the economic development department is one million three hundred thousand dollars (\$1,300,000) to provide a pool of matching funds for technology-based proposals submitted to the federal government on behalf of the state.

Included in the general fund appropriation to the economic development department is one million one hundred thousand dollars (\$1,100,000) to conduct an environmental impact study of the future site of the spaceport facility to be located in Dona Ana and Sierra counties.

General fund appropriations designated to match home investment partnerships program federal funds shall not revert.

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

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

REGULATION AND LICENSING
DEPARTMENT: 9,498.0 4,516.2 380.0 14,394.2

Category transfers and budget increases from internal service funds/interagency transfers are specifically authorized for the boards and commissions section of the administrative services division of the regulation and licensing department. Transfers from the twenty-eight boards and commissions to the administrative services division of the regulation and licensing department for the indirect cost allocation of the computer enhancement fund and payroll are authorized.

Category transfers and budget increases from other state funds are specifically authorized for the boards and commissions.

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

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

STATE CORPORATION COMMISSION: 6,399.8 10,022.5 1,327.2 159.0 17,908.5

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

Included in the internal service funds/interagency transfers appropriation to the state corporation commission is one million seventy-seven thousand two hundred dollars (\$1,077,200) from the state road fund.

Unexpended or unencumbered balances in the state corporation commission remaining at the end of fiscal year 1996 from appropriations made from the state road fund shall revert to the state road fund.

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

The other state funds appropriation to the state corporation commission includes twenty thousand dollars (\$20,000) for the department of insurance from the insurance examination fund, forty thousand two hundred dollars (\$40,200) from the insurance licensee continuing education fund, two hundred seventeen thousand seven hundred dollars (\$217,700) from the title insurance maintenance assessment fund, five million three hundred five thousand three hundred dollars (\$5,305,300) from the patient's compensation fund and two million five hundred eleven thousand five hundred dollars (\$2,511,500) from the subsequent injury fund.

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

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

NEW MEXICO BOARD OF MEDICAL
EXAMINERS: 602.8 602.8

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

BOARD OF NURSING: 573.3 573.3

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

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

STATE FAIR COMMISSION: 13,882.8 13,882.8

Notwithstanding the personnel agreement with the state personnel board, fifty of the authorized temporary positions may be filled for up to one year.

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

**STATE BOARD OF REGISTRATION
FOR PROFESSIONAL ENGINEERS
AND SURVEYORS: 348.8 348.8**

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

Item	Other Intrnl Svc General State Funds/Inter- Federal Fund Funds Agency Transf Funds Total
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NEW MEXICO RACING COMMISSION: 1,529.5 1,529.5

Thirty-seven thousand nine hundred dollars (\$37,900) of the general fund appropriation to the New Mexico racing commission is contingent on the New Mexico racing commission's approval, prior to July 1, 1995, of the opening of the San Juan downs during fiscal year 1996.

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

APPLE COMMISSION: 72.3 72.3

Category transfers are specifically authorized for the apple commission.

Item	Other Intrnl Svc General State Funds/Inter- Federal Fund Funds Agency Transf Funds Total
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BOARD OF VETERINARY MEDICINE: 147.7 147.7

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

TOTAL COMMERCE AND INDUSTRY 32,548.8 30,533.9 7,304.5 7,687.8 78,075.0

E. AGRICULTURE, ENERGY AND NATURAL RESOURCES

OFFICE OF CULTURAL AFFAIRS: 16,017.4 3,230.0 1,733.7 2,386.5 23,367.6

Included in the general fund appropriation to the office of cultural affairs is three hundred thousand dollars (\$300,000) to provide touring services of symphonic music to communities throughout the state.

Included in the general fund appropriation to the office of cultural affairs is twenty-five thousand dollars (\$25,000) for services for the Native American library project.

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

Unexpended or unencumbered balances in the office of cultural affairs remaining at the end of fiscal year 1996 from appropriations made from the general fund shall not revert.

Item	Other Intrnl Svc General State Funds/Inter- Federal Fund Funds Agency Transf Funds Total
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NEW MEXICO LIVESTOCK BOARD: 401.7 3,128.0 449.8 3,979.5

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

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

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

DEPARTMENT OF GAME AND FISH: 91.9 12,681.0 6,855.1 19,628.0

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

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

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

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

ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT: 18,604.6 6,906.2 633.0 7,915.5 34,059.3

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

The general fund appropriation to the energy, minerals and natural resources department includes one hundred thousand dollars (\$100,000) for the state park and recreation division to provide money to Sierra county for additional public safety and medical services resulting from the impacts from use of Elephant Butte Lake state park.

The unexpended or unencumbered balance of the appropriation of fifty thousand dollars (\$50,000) to the energy, minerals and natural resources department for capital improvements at Caprock amphitheater in Quay county set forth in Subsection C of Section 45 of Chapter 148 of Laws 1994 shall not be expended for that purpose but is appropriated to contract for services to operate the Caprock amphitheater. Any unexpended or unencumbered balance remaining at the end of fiscal year 1996 shall revert to the general fund.

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

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

INTER-TRIBAL INDIAN CEREMONIAL ASSOCIATION: 110.0 550.0 660.0

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

COMMISSIONER OF PUBLIC LANDS: 8,344.6 8,344.6

Included in the other state funds appropriation to the commissioner of public lands category is sixteen thousand dollars (\$16,000) for surveying and mapping pre-historic archeological sites on state trust lands in northern New Mexico.

Category transfers and budget increases from other state funds are specifically authorized for the commissioner of public lands.

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

NEW MEXICO PEANUT COMMISSION: 35.3 35.3

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

Category transfers and budget increases from other state funds are specifically authorized for the New Mexico peanut commission.

STATE ENGINEER: 10,327.0 149.4 3,317.4 13,793.8

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

The internal service funds/interagency transfers appropriation to the state engineer includes ninety thousand four hundred dollars (\$90,400) from the game protection fund.

The appropriation to the state engineer includes money for the irrigation works construction fund programs, including two hundred thousand dollars (\$200,000) to construct, improve, repair and protect from floods the dams, reservoirs, ditches, flumes and other works of community ditch associations in the state; provided that not more than twenty-five percent of the total cost of any one project shall be paid out of this appropriation and not more than twenty thousand dollars (\$20,000) shall be granted to any one community ditch. The state engineer is authorized to enter into cooperative agreements with the commissioners of ditch associations to ensure that the work will be done in the most efficient and economical manner and may contract with the federal government or any of its agencies or instrumentalities to provide matching funds or assistance for these purposes.

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

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

Category transfers, division transfers and budget increases from other state funds and internal service funds/interagency transfers are specifically authorized for the state engineer.

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

PUBLIC UTILITY COMMISSION: 3,300.4 3,300.4

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

Category transfers are specifically authorized for the New Mexico public utility commission.

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

NEW MEXICO ORGANIC COMMODITY
COMMISSION: 57.5 13.0 70.5

Category transfers are specifically authorized for the organic commodity commission.

**TOTAL AGRICULTURE, ENERGY
AND NATURAL RESOURCES** 48,910.5 35,037.5 5,684.1 17,606.9 107,239.0

F. HEALTH, HOSPITALS AND HUMAN SERVICES

Item	Other Intrnl Svc			Total
	General State Funds	Inter- Federal Fund Funds Agency Transf	Federal Funds	

COMMISSION ON THE STATUS
OF WOMEN: 362.6 362.6

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

COMMISSION FOR DEAF AND
HARD-OF-HEARING PERSONS: 338.2 338.2

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

Item	Other Intrnl Svc			Total
	General State Funds	Inter- Federal Fund Funds Agency Transf	Federal Funds	

MARTIN LUTHER KING, JR.
COMMISSION: 185.5 185.5

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

COMMISSION FOR THE BLIND: 1,455.9 1,053.9 3,556.6 6,066.4

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

Unexpended or unencumbered balances in the commission for the blind remaining at the end of fiscal year 1996 from appropriations made from the general fund shall not revert.

Item	Other Intrnl Svc			Total
	General State Funds	Inter- Federal Fund Funds Agency Transf	Federal Funds	

OFFICE OF INDIAN AFFAIRS: 1,034.5 894.0 1,928.5

The general fund appropriation to the New Mexico office of Indian affairs includes fifty thousand dollars (\$50,000) for a pueblo youth program for the pueblo of Cochiti in Sandoval county and three hundred thousand dollars (\$300,000) for emergency management services on the Navajo nation.

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

STATE AGENCY ON AGING: 14,203.3 6,470.4 20,673.7

The general fund appropriation to the state agency on aging includes seventy-five thousand dollars (\$75,000) to support and expand senior olympics programs.

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

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

Unexpended or unencumbered balances in the state agency on aging remaining at the end of fiscal year 1996 from appropriations made from the general fund shall revert to the general fund sixty days after fiscal year 1996 audit reports have been approved by the state auditor.

Item	Other Intrnl Svc	General State Funds/Inter- Federal	Fund Funds Agency Transf Funds Total
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HUMAN SERVICES DEPARTMENT: 246,547.5 40,271.1 19,846.7 808,126.7 1,114,792.0

Notwithstanding the provisions of Section 2 of Chapter 147 of Laws of 1994, unexpended or unencumbered balances from the appropriation made in Paragraph U of Section 2 to the administrative services division of the human services department for the interface with the new accounting system and improve purchasing and voucher systems are appropriated for fiscal year 1996 for the same purpose.

Included in the general fund appropriation to the human services department is twenty-nine thousand two hundred dollars (\$29,200) for additional rental costs of the Las Cruces office.

Included in the general fund appropriation to the human services department is seventy thousand dollars (\$70,000) to contract for services or otherwise provide for operational efficiencies in the medicaid program.

Included in the general fund appropriation to the human services department is one million dollars (\$1,000,000) for case management services and four million dollars (\$4,000,000) for medicaid providers.

The human services department shall pursue all reasonably available means, including seeking appropriate waivers under Title XIX of the federal Social Security Act, and expanded use of interagency transfers from state agencies and/or local governments to ensure that the medicaid program operates efficiently and, subject to the availability of funds, to provide benefits in the medicaid program to the maximum number of children and adults.

Any balance remaining from the appropriation described in Section 4, Chapter 6 of Laws 1994, pages 101, lines 10 through 14, is hereby authorized for use to fund revenue shortages in the human services department which may occur in fiscal year 1995.

Included in the general fund appropriation to the human services department is three hundred thousand dollars (\$300,000) to contract for community-based programs that provide a continuum of care for homeless people.

Included in the general fund appropriation to the human services department is one million dollars (\$1,000,000) to raise the aid to families with dependent children standard of need.

Notwithstanding the provisions of Section 6 of Chapter 147 of Laws of 1994, unexpended or unencumbered balances from the appropriation made in Paragraph XXXX to the income support division of the human services department for

water and sewer hook-ups for low income or indigent New Mexicans is appropriated for fiscal year 1996 for the same purpose.

Notwithstanding the provisions of Paragraph A of Section 7 of Chapter 147 of Laws 1994, unexpended or unencumbered balances from the appropriations made in Paragraph CC, Subsection 5 to income support division of the human services department for assisting low-income disabled children to obtain federal supplemental security income benefits is appropriated for fiscal year 1996 for the same purpose.

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

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

LABOR DEPARTMENT: 1,698.4 1,501.4 42,406.8 45,606.6

Included in the general fund appropriation to the labor department is seventy thousand dollars (\$70,000) for a retail sales, school-to-work initiative.

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

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

WORKERS' COMPENSATION
ADMINISTRATION: 8,188.7 8,188.7

Included in the other state funds appropriation to the workers' compensation administration is two hundred fifty thousand dollars (\$250,000) for peer utilization review of chiropractic and physical therapy services ordered for injured workers with back, neck, head, upper extremities and shoulder injuries.

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

Unexpended or unencumbered balances in the workers' compensation administration remaining at the end of fiscal year 1996 from appropriations made from the workers' compensation fund shall revert to the workers' compensation fund.

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

DIVISION OF VOCATIONAL
REHABILITATION: 4,071.8 12.5 24,999.0 29,083.3

The vocational rehabilitation division may apply an indirect cost rate of up to five percent for administering and monitoring independent living projects.

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

Unexpended or unencumbered balances in the vocational rehabilitation division remaining at the end of fiscal year 1996 from appropriations made from the general fund shall not revert.

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

GOVERNOR'S COMMITTEE ON
CONCERNS OF THE HANDICAPPED: 428.4 70.3 498.7

Category transfers and budget increases from internal service funds/interagency transfers are specifically authorized for the governor's committee on concerns of the handicapped.

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

DEVELOPMENTAL DISABILITIES
PLANNING COUNCIL: 244.8 12.1 530.3 787.2

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

MINERS' HOSPITAL: 10,045.0 125.0 10,170.0

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

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

DEPARTMENT OF HEALTH: 175,724.8 12,548.2 49,278.1 61,267.9 298,819.0

Notwithstanding the provisions of Subsection D of Section 3 of Chapter 6 of Laws 1994, unexpended or unencumbered balances from the appropriation made in Subsection F of Section 4 of Chapter 6 of Laws 1994 to the long-term care and restorative services division of the department of health for individual plans of care in the current disabled and elderly waiver program or separate waiver program for individuals between the ages of eighteen and fifty-five who are not currently in need of medical care are appropriated for fiscal year 1996 for the purpose of reducing the waiting list, without consideration for age, for disabled and elderly waivers.

The general fund appropriation to the department of health includes one hundred twenty-five thousand dollars (\$125,000) for the purpose of providing operational funding to the village of Cuba for ambulance services in Sandoval county, two hundred twenty-five thousand dollars (\$225,000) to contract for primary and acute health services and one million dollars (\$1,000,000) to carry out the purposes of the Rural Primary Health Care Act.

The general fund appropriation to the department of health includes eighty-four thousand dollars (\$84,000) to provide or contract for prevention and education programs and services for persons at risk for contraction of acquired immune deficiency syndrome; one hundred six thousand dollars (\$106,000) to provide or contract for direct services to persons with acquired immune deficiency syndrome or human immunodeficiency virus, including early intervention, insurance assistance, home care and case management, peer advocacy, housing vouchers, hospice service programs and transportation to health care appointments; thirty-three thousand dollars (\$33,000) to provide or contract for direct services to persons with acquired immune deficiency syndrome or human immunodeficiency virus, including practical and emotional support, mental health and substance abuse treatment and planning; ten thousand dollars (\$10,000) to provide or contract for clinical and treatment services for persons with acquired immune deficiency syndrome or human immunodeficiency virus; four hundred thousand dollars (\$400,000) for the border health office to contract for services to increase routine and special monitoring of the Rio Grande south of Elephant Butte lake for volatile organic compounds, heavy metals and pesticides, to monitor ground water throughout the New Mexico-Mexico border area, for ground water remediation activities at contaminated sites already identified in the New Mexico-Mexico border area, to monitor private wells in Dona Ana county for volatile organic compounds, heavy metals and pesticides and to develop water quality databases for the southern region of the state; one hundred fifty thousand dollars (\$150,000) to increase support of dental clinics in Albuquerque; and one hundred fifty thousand dollars (\$150,000) to increase support of dental clinics in Silver City.

Included in the appropriation to the department of health is five hundred thousand dollars (\$500,000) for individual plans of care in the current disabled and elderly waiver program or separate waiver program.

The general fund appropriation to the department of health includes nine hundred fifty thousand dollars (\$950,000) to be used to maximize the developmental disabilities medicaid waiver.

The general fund appropriation to the department of health includes four hundred thousand dollars (\$400,000) to alleviate statewide waiting lists of seriously disabled mentally ill persons.

Included in the general fund appropriation to the department of health is one hundred eighty thousand dollars (\$180,000) to provide residential support services for seriously disabled mentally ill persons.

The general fund appropriation to the department of health includes one million one hundred thirty thousand dollars (\$1,130,000) to provide community service providers with fair rates of reimbursement for services.

Notwithstanding the provisions of Subsection B of Section 1 of Chapter 148 of Laws 1994, unexpended or unencumbered balances from the appropriation made in Subsection H of Section 13 of Chapter 148 of Laws 1994 to the general services department to remodel and make other needed modifications and improvements to convert the Socorro cottage at the Fort Stanton hospital and training school to a long-term care nursing facility located in Lincoln county are appropriated for fiscal year 1996 to remodel and make other modifications and improvements to the same Socorro cottage.

Notwithstanding the provisions of Section 2 of Chapter 147 of Laws 1994, unexpended or unencumbered balances from the appropriation made in Subsection BB of Section 2 of Chapter 147 of Laws 1994 to the department of health for the scientific laboratory integrated database and medicaid waivers information systems are appropriated for fiscal year 1996 for the same purpose.

Category transfers, division transfers and budget increases from other state funds and internal service funds/interagency transfers are specifically authorized for the department of health.

Item	Other Intrnl Svc	General State Funds/Inter- Federal	Fund Funds Agency Transf Funds Total
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DEPARTMENT OF ENVIRONMENT: 12,386.9 26,130.4 11,685.9 11,263.7 61,466.9

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

Category transfers are specifically authorized for the department of environment.

OFFICE OF THE NATURAL
RESOURCES TRUSTEE: 200.9 50.0 250.9

Category transfers and budget increases from other state funds and internal service funds/interagency transfers are specifically authorized for the office of the natural resources trustee.

Item	Other Intrnl Svc	General State Funds/Inter- Federal	Fund Funds Agency Transf Funds Total
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HEALTH POLICY COMMISSION: 1,663.3 1,663.3

The unexpended or unencumbered balances from the general fund appropriation to the New Mexico health policy commission in Paragraph (7) of the New Mexico health policy commission appropriation under the department of health in Subsection F of Section 4 of Chapter 6 of Laws 1994 for the health information alliance shall not revert to

the general fund at the end of fiscal year 1995 and are appropriated for expenditure by the New Mexico health policy commission for the health information alliance in fiscal year 1996.

Category transfers are specifically authorized for the New Mexico health policy commission.

Item	Other Intrnl Svc General State Funds/Inter- Federal Fund Funds Agency Transf Funds Total
VETERANS' SERVICE COMMISSION:	1,315.4 1.0 8.0 1,324.4

Category transfers are specifically authorized for the New Mexico veterans' service commission.

CHILDREN, YOUTH AND FAMILIES
DEPARTMENT: 85,424.3 3,547.3 22,394.5 82,499.1 193,865.2

The general fund appropriation to the children, youth and families department includes seventy-five thousand dollars (\$75,000) to contract or provide for adult daycare statewide.

The general fund appropriation to the children, youth and families department includes one hundred fifty thousand dollars (\$150,000) to provide respite services and family and advocacy programs for families with children who have serious emotional, neurobiological or behavioral disorders.

Included in the general fund appropriation to the children, youth and families department is fifty thousand dollars (\$50,000) to expand community corrections statewide.

Included in the appropriation to the children, youth and families department is four hundred sixty-six thousand dollars (\$466,000) and thirteen FTE positions for the juvenile reintegration centers to continue operating the Eagle Nest reintegration center.

The general fund appropriation to the children, youth and families department includes sixty thousand dollars (\$60,000) to provide or contract for increased adult protective services personnel; one hundred sixty-eight thousand dollars (\$168,000) for independent living programs to provide transitional services for adolescents; one hundred twenty thousand dollars (\$120,000) to provide increased personnel for a home care program; and three hundred thousand dollars (\$300,000) for the availability statewide of preventive and diversionary case management services for adolescents in need of informal probation services.

The secretary of children, youth and families is authorized to submit the department's fiscal year 1996 operating budget in a format that includes the department's reorganization plan as outlined in executive order 95-04.

Category transfers, division transfers and budget increases from other state funds and internal service funds/interagency transfers are specifically authorized for the children, youth and families department.

Item	Other Intrnl Svc General State Funds/Inter- Federal Fund Funds Agency Transf Funds Total
TOTAL HEALTH, HOSPITALS AND HUMAN SERVICES	547,286.5 103,337.0 104,202.1 1,041,245.5 1,796,071.1

G. PUBLIC SAFETY

Item	Other Intrnl Svc General State Funds/Inter- Federal Fund Funds Agency Transf Funds Total
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DEPARTMENT OF MILITARY
AFFAIRS: 1,440.0 838.9 2,278.9

The general fund appropriation to the department of military affairs includes sixty-four thousand four hundred thirty-six dollars (\$64,436) for the adjutant general's salary and forty-seven thousand seven hundred twenty-nine dollars (\$47,729) for the deputy adjutant general's salary in fiscal year 1996.

Category transfers are specifically authorized for the department of military affairs.

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

STATE ARMORY BOARD: 1,000.0 481.8 3,090.1 4,571.9

Category transfers and budget increases from other state funds and internal service funds/interagency transfers are specifically authorized for the state armory board.

Authorization for fifty-four term FTE positions for the state armory board European repair site program is contingent upon receipt of federal funding for that program.

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

CRIME STOPPERS COMMISSION: 69.3 69.3
TRANSPORTATION AND EXTRADITION
OF PRISONERS: 341.2 341.2
PAROLE BOARD: 585.6 585.6

Category transfers are specifically authorized for the parole board.

JUVENILE PAROLE BOARD: 275.1 275.1

Category transfers are specifically authorized for the juvenile parole board.

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

CORRECTIONS DEPARTMENT: 120,884.6 8,937.7 4,326.4 134,148.7

The other state funds appropriation to the corrections department includes one million one hundred seventy-five thousand seven hundred dollars (\$1,175,700) for deposit in the corrections department building fund.

The funding for vendor-operated community corrections programs is appropriated to the community corrections grant fund.

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

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

CRIME VICTIMS REPARATION
COMMISSION: 1,630.3 300.0 980.0 2,910.3

Forty-six thousand dollars (\$46,000) of the general fund appropriation to the crime victims reparation commission is to contract for services to operate a statewide domestic violence legal help line to provide victims of domestic violence toll-free telephone access to information concerning their legal rights and responsibilities.

Category transfers and budget increases from restitution funds for victim reparation payments are specifically authorized for the crime victims reparation commission.

Item	Other Intrnl Svc			Total
	General State Funds	Inter- Agency Transf	Federal Funds	

DEPARTMENT OF PUBLIC SAFETY: 42,669.8 1,640.9 333.9 10,576.2 55,220.8

Of the appropriations to the department of public safety, no more than five thousand dollars (\$5,000) shall be used for the expenses of the governor's organized crime prevention commission.

The general fund appropriation to the department of public safety includes four hundred eighty-seven thousand five hundred dollars (\$487,500) to implement the provisions of the Peace Officers' Survivors Supplemental Benefits Act and is contingent upon either House Bill 127 or Senate Bill 161 of the forty-second legislature, first session, becoming law.

Category transfers, division transfers and budget increases from other state funds and internal service funds/interagency transfers, excluding state forfeitures and forfeiture cash balances, are specifically authorized for the department of public safety.

Item	Other Intrnl Svc			Total
	General State Funds	Inter- Agency Transf	Federal Funds	

TOTAL PUBLIC SAFETY 168,895.9 11,060.4 4,960.3 15,485.2 200,401.8

H. TRANSPORTATION

STATE HIGHWAY AND
TRANSPORTATION DEPARTMENT: 301,341.4 193,561.3 494,902.7

Included in the other state funds appropriation to the state highway and transportation department is one million five hundred thousand dollars (\$1,500,000) to be expended by local governments to match funds for cooperative, school bus route, municipal arterial or county arterial roads in the event of financial hardship as determined by the state highway commission.

Budget increases from other state funds, including the state road fund, are specifically authorized for the road betterment division.

Division transfers are specifically authorized for the office of the secretary, administrative, engineering design, field operations, aviation, transportation programs and planning divisions.

Budget increases from other state funds are specifically authorized from sources other than the state road fund for the office of the secretary, administrative, engineering design, field operations, aviation, transportation programs and planning divisions.

Budget increases from the state road fund are specifically authorized for the office of the secretary, administrative, engineering design, field operations, aviation, transportation programs and planning divisions to match federal funds.

Category transfers are specifically authorized for the state highway and transportation department.

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

STATE TRANSPORTATION AUTHORITY: 551.2 551.2

The internal service funds/interagency transfers appropriation of five hundred fifty-one thousand two hundred dollars (\$551,200) to the state highway and transportation department for the state transportation authority shall be made from the state road fund.

Unexpended or unencumbered balances in the state transportation authority remaining at the end of fiscal year 1996 from appropriations made from the state road fund shall revert to the state road fund.

Category transfers are specifically authorized for the state transportation authority.

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

TOTAL TRANSPORTATION 301,341.4 551.2 193,561.3 495,453.9

I. OTHER EDUCATION

STATE DEPARTMENT OF PUBLIC EDUCATION: 962.4 962.4

The general fund appropriation to the state department of public education includes two hundred thirty-one thousand six hundred sixty dollars (\$231,660) for the graduation reality and dual skills program; forty-eight thousand two hundred sixty-three dollars (\$48,263) to operate the Grant county teen court program within Silver consolidated schools; and six hundred eighty-two thousand five hundred dollars (\$682,500) to contract with a private nonprofit organization to establish dropout prevention programs at high schools in Bernalillo and Valencia counties.

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

NEW MEXICO SCHOOL FOR THE
VISUALLY HANDICAPPED: 7,683.4 7,683.4
NEW MEXICO SCHOOL FOR THE DEAF: 1,541.6 6,164.9 7,706.5
TOTAL OTHER EDUCATION 2,504.0 13,848.3 16,352.3

J. HIGHER EDUCATION

Upon approval of the commission on higher education, the state budget division of the department of finance and administration may approve increases in budgets of state agencies in this subsection whose other state funds exceed amounts specified. In approving budget increases, the director of the state budget division shall advise the legislature through its officers and appropriate committees, in writing, of the conditions under which the increases are approved and the expenditures authorized, together with justification for the approval.

Except as otherwise provided, balances remaining at the end of fiscal year 1996 shall not revert to the general fund.

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

COMMISSION ON HIGHER EDUCATION:21,945.3 734.1 1,083.1 23,762.5

Category transfers are specifically authorized for the commission on higher education.

Included in the general fund appropriation to the commission on higher education are sufficient funds for three term exempt FTE for the administration of financial aid programs and two term exempt FTE for the purpose of conducting an adult campaign that embodies the preparation and dissemination of information on post-secondary opportunities in New Mexico.

The appropriation to the commission on higher education includes three hundred thousand dollars (\$300,000) for a training program and operational costs for the semiconductor workforce and education training program and for the purchase of equipment for the semiconductor workforce and education training program.

~~[Unexpended or unencumbered balances in the commission on higher education remaining at the end of fiscal year 1996 from appropriations made from the general fund shall revert to the general fund.]~~

Earnings from the investment of state financial aid appropriations shall be budgeted and expended to offset unanticipated costs of the Vietnam veterans' and New Mexico scholars scholarships, and to augment the New Mexico early intervention scholarship and legislative endowment program for public two-year institution scholarships; thereafter, the earnings shall revert to the general fund upon certification by the commission on higher education.

The general fund appropriation to the commission on higher education includes one hundred three thousand four hundred dollars (\$103,400), which shall be expended at the university of New Mexico, New Mexico state university, New Mexico highlands university, western New Mexico university, eastern New Mexico university and New Mexico institute of mining and technology for graduate student research.

The general fund appropriation to the commission on higher education includes one hundred seventy-five thousand dollars (\$175,000) for small business development centers to be allocated to the south valley small business development center in Bernalillo county.

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

UNIVERSITY OF NEW MEXICO: 176,934.9 327,580.4 95,323.0 599,838.3

The general fund appropriation to the university of New Mexico for instruction and general purposes includes two hundred thousand dollars (\$200,000) for minority graduate identification, recruitment and retention; and one hundred thousand dollars (\$100,000) to purchase history books, rare manuscripts and other documents by and about African-Americans in New Mexico and to provide stipends for research assistants at the Morrisey research hall of the African-American studies department.

The general fund appropriation to the university of New Mexico includes three hundred nineteen thousand two hundred dollars (\$319,200) for staff, operational expenses and contractual services to expand the family nurse practitioner program; and two hundred eighty-nine thousand dollars (\$289,000) to establish and operate an office of telemedicine research.

The general fund appropriation to the university of New Mexico includes seven hundred thirty-five thousand seven hundred dollars (\$735,700) to the center for regional studies and two hundred thirty-two thousand eight hundred dollars (\$232,800) to the Spanish colonial research center.

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

NEW MEXICO STATE UNIVERSITY: 115,789.4 97,165.0 84,577.5 297,531.9

The general fund appropriation to New Mexico state university includes five hundred thousand dollars (\$500,000) to establish a manufacturing sector development outreach office.

The general fund appropriation to New Mexico state university includes not more than three hundred four thousand dollars (\$304,000) for animal damage control, of which not more than three-fourths may be used for lethal control methods.

The general fund appropriation includes five hundred thousand dollars (\$500,000) to provide assistance to acequia and community ditch associations involved in the adjudication process provided that no more than five percent is to be used for administration.

The general fund appropriation includes fifty thousand dollars (\$50,000) to purchase computers and related software for the American Indian program and fifty thousand dollars (\$50,000) to increase staff and to increase retention services available to native American students attending New Mexico state university.

Item	Other Intrnl Svc		
	General State Funds/Inter- Fund Funds Agency	Federal Transf Funds	Total
NEW MEXICO HIGHLANDS UNIVERSITY:	16,537.3	9,331.0	10,495.0 36,363.3
WESTERN NEW MEXICO UNIVERSITY:	11,771.9	5,227.0	2,942.5 19,941.4
EASTERN NEW MEXICO UNIVERSITY:	27,044.5	23,000.0	9,800.0 59,844.5

The general fund appropriation includes seventy thousand dollars (\$70,000) for assistant coaches positions and graduate assistants and seventy-five thousand dollars (\$75,000) for a team bus.

Item	Other Intrnl Svc		
	General State Funds/Inter- Fund Funds Agency	Federal Transf Funds	Total
NEW MEXICO INSTITUTE OF MINING AND TECHNOLOGY:	21,415.9	8,437.5	22,450.0 52,303.4

The appropriation to New Mexico institute of mining and technology for the bureau of mines includes one hundred thousand dollars (\$100,000) from federal Mineral Lands Leasing Act receipts.

Item	Other Intrnl Svc		
	General State Funds/Inter- Fund Funds Agency	Federal Transf Funds	Total
NORTHERN NEW MEXICO STATE SCHOOL:	5,656.2	2,478.0	4,071.9 12,206.1
SANTA FE COMMUNITY COLLEGE:	5,397.3	13,400.7	2,958.3 21,756.3
TECHNICAL-VOCATIONAL INSTITUTE:	26,290.9	27,200.0	7,300.0 60,790.9

The general fund appropriation to the technical-vocational institute includes two hundred thousand dollars (\$200,000) to operate an educational site at the Pajarito elementary school in Albuquerque in Bernalillo county.

Item	Other Intrnl Svc		
	General State Funds/Inter- Fund Funds Agency	Federal Transf Funds	Total
LUNA VOCATIONAL-TECHNICAL INSTITUTE:	5,162.8	1,127.0	748.9 7,038.7
MESA TECHNICAL COLLEGE:	1,808.3	484.8	244.3 2,537.4

NEW MEXICO JUNIOR COLLEGE: 4,217.2 6,186.4 3,258.1 13,661.7
 SAN JUAN COLLEGE: 5,783.1 13,300.0 3,455.0 22,538.1
 CLOVIS COMMUNITY COLLEGE: 6,037.1 3,432.0 3,000.0 12,469.1
 NEW MEXICO MILITARY INSTITUTE: 1,256.3 18,007.2 19,263.5
 TOTAL HIGHER EDUCATION 453,048.4 557,091.1 251,707.6 1,261,847.1

K. PUBLIC SCHOOL SUPPORT

Item	Other Intrnl Svc General State Funds/Inter- Federal Fund Funds Agency Transf Funds Total
PUBLIC SCHOOL SUPPORT:	
(1) State equalization guarantee distribution:	1,153,965.0 1,000.0 1,154,965.0
(2) Additional state equalization guarantee distribution - special education:	2,800.0 2,800.0
(3) Transportation distributions:	
(a) Operations	77,020.8 77,020.8
(b) School-owned bus replacements	2,179.2 2,179.2
Subtotal	79,200.0 79,200.0
(4) Supplemental distributions:	
(a) Out-of-state tuition	311.0 311.0
(b) Emergency	900.0 900.0
(c) Emergency capital outlay	300.0 300.0
(5) Noncertified school personnel and minimum teacher salary	350.0 350.0
(6) Training and experience	3,400.0 3,400.0
Subtotal	1,241,226.0 1,000.0 1,242,226.0

For the 1995-96 school year, the additional state equalization guarantee distribution for special education shall be added to the state equalization guarantee distribution prior to the calculation required pursuant to Section 22-8-25 NMSA 1978. During the school year, the state department of public education shall define special education related services to include evaluation for purposes of calculating the state equalization guarantee distribution.

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. That unit value shall be used to establish tentative budgets for the 1995-96 school year. Upon completion of final budgets or verification of the number of units statewide for fiscal year 1996, the superintendent of public instruction may adjust the program unit value. In calculating the program unit value for school year 1995-96, the state superintendent shall utilize a program cost of one billion one hundred ninety-three million fifteen thousand dollars (\$1,193,015,000) and a federal impact aid credit of twenty-five million two hundred thousand dollars (\$25,200,000).

The superintendent of public instruction may fund mid-year increases in student membership resulting from expansion at military bases from the supplemental emergency fund. The superintendent of public instruction shall certify to the secretary of finance and administration that the need exists before supplemental emergency funds may be released.

The general fund appropriation for noncertified school personnel and minimum teacher salaries shall be distributed to those districts that the superintendent of public instruction determines will require additional funding to provide the minimum salary level of twenty-two thousand dollars (\$22,000) per year to all classroom teachers and a minimum wage rate of six dollars (\$6.00) per hour to all noncertified school personnel. Funds not allocated to those purposes by October 30, 1995 shall be distributed to all school districts on a per-unit basis by the superintendent of public instruction.

The general fund appropriation of three million four hundred thousand dollars (\$3,400,000) for training and experience shall enable the superintendent of public instruction to make an additional distribution to certain local school districts. Any local school district that did not receive a waiver from the superintendent of public instruction in the calculation of the October 1994 training and experience index for instructional staff shall receive an additional distribution for the 1995-96 school year. That distribution shall be calculated as follows: number of membership program units in that district times (.007) times the unit value established by the superintendent of public instruction for the 1995-96 school year.

The general fund appropriations to the public school fund shall be reduced by the amounts transferred to the public school fund from the current school fund and from the federal Mineral Lands Leasing Act (30 U.S.C.A. 181, et seq.) receipts otherwise unappropriated.

Unexpended or unencumbered balances in the distributions authorized remaining at the end of fiscal year 1996 from appropriations made from the general fund shall revert to the general fund.

Item	Other Intrnl Svc General State Funds/Inter- Federal Fund Funds Agency Transf Funds Total
INSTRUCTIONAL MATERIAL FUND:	24,700.0 527.0 25,227.0

The appropriation to the instructional material fund is made from federal Mineral Lands Leasing Act (30 U.S.C.A. 181) receipts.

Item	Other Intrnl Svc General State Funds/Inter- Federal Fund Funds Agency Transf Funds Total
STATE SUPPORT RESERVE FUND: 1,250.0	1,250.0
EDUCATIONAL TECHNOLOGY FUND: 3,000.0	3,000.0
TOTAL PUBLIC SCHOOL SUPPORT:	1,270,176.0 1,527.0 1,271,703.0
PUBLIC SCHOOL CAPITAL IMPROVEMENTS FUND: 7,000.0	7,000.0
ADULT BASIC EDUCATION FUND: 2,925.0	1,658.5 4,583.5
STATE DEPARTMENT OF PUBLIC EDUCATION:	
(1) Administration	7,975.5 93.4 4,749.9 12,818.8
Authorized FTE:	171.0 Permanent; 64.0 Term; 2 Temporary

The appropriation to the state department of public education includes two hundred seventeen thousand two hundred dollars (\$217,200) from federal Mineral Lands Leasing Act (30 U.S.C.A. 181, et seq.) receipts.

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

Item	Other Intrnl Svc General State Funds/Inter- Federal Fund Funds Agency Transf Funds Total
(2) Special projects:	3,120.0 3,120.0

The state department of public education shall conduct an application and review process to determine the specific dollar amounts to be distributed to local school districts or individual projects; provided that not more than nine hundred seventy-five thousand dollars (\$975,000) shall be expended for public school service learning initiatives; a peer leadership conference on substance abuse prevention; teacher writing instruction projects; total quality

management principles in public schools, contingent upon that program providing an equal amount of matching funds from other than state sources; violence prevention behavior modeling in video programs; teacher and administrator summer academies, contingent upon that program providing an equal amount of matching funds from other than state sources; and school-to-work initiatives.

Item	Other Intrnl Svc General State Funds/Inter- Federal Fund Funds Agency Transf Funds Total
(3) Apprenticeship Assistance:	585.0 585.0
(4) Regional Education Cooperatives:	
(a) Region IX	86.8 870.2 420.0 1,377.0
Authorized FTE:	17.5 Term
(b) High Plains	1,159.2 658.9 342.7 2,160.8
Authorized FTE:	46.0 Term
(c) Central	681.5 1,127.5 1,809.0
Authorized FTE:	22.4 Term

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

Unexpended or unencumbered balances in the state department of public education remaining at the end of fiscal year 1996 from appropriations made from the general fund shall not revert.

Item	Other Intrnl Svc General State Funds/Inter- Federal Fund Funds Agency Transf Funds Total
(5) Year-Round or Double Session School Costs:	219.4 219.4

The general fund appropriation of two hundred nineteen thousand four hundred dollars (\$219,400) for year-round schools or double session schools shall be distributed proportionately by the superintendent of public instruction to local school districts operating year-round schools and to districts operating high schools on a double session schedule at a rate not to exceed twenty-five dollars (\$25.00) per student or one hundred thousand dollars (\$100,000) per school for the purpose of defraying additional operational costs incurred as a result of utilizing either schedule format.

Item	Other Intrnl Svc General State Funds/Inter- Federal Fund Funds Agency Transf Funds Total
GRAND TOTAL FISCAL YEAR 1996	
APPROPRIATIONS	2,730,745.0 1,079,193.6 391,605.2 1,537,113.8 5,738,657.6"

Section 2

Section 2

BUDGET ADJUSTMENTS.--All expenditures by state agencies shall be made pursuant to an operating budget approved pursuant to Section 6-3-7 NMSA 1978. Adjustments of approved operating budgets shall only be made pursuant to the provisions of Sections 6-3-23 through 6-3-25 NMSA 1978.

Section 3

Section 3

FUND TRANSFER AUTHORIZED.--Five million dollars (\$5,000,000) is transferred from the public school insurance fund to the general fund in fiscal year 1996.

Section 4

Section 4

REPEAL.--Laws 1995, Chapter 13, Sections 4 and 5 are repealed.

House Appropriations and Finance Committee
Substitute for House Bill 785 with line-item vetoes.
Signed February 28, 1996

Chapter 6

RELATING TO INSURANCE FEES; AUTHORIZING THE ASSESSMENT OF A SURCHARGE ON CERTAIN INSURANCE FEES; PROVIDING FOR THE DISTRIBUTION OF PROCEEDS OF THE SURCHARGE; AUTHORIZING THE NEW MEXICO FINANCE AUTHORITY TO ISSUE CERTAIN BONDS; AMENDING AND ENACTING CERTAIN SECTIONS OF THE NMSA 1978; MAKING AN APPROPRIATION; DECLARING AN EMERGENCY.

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

Section 1

Section 1

A new section of the Insurance Code, Section 59A-6-1.1 NMSA 1978, is enacted to read:

"59A-6-1.1. SURCHARGE IMPOSED--APPROPRIATION.--A three-dollar (\$3.00) surcharge shall be assessed for the period beginning March 1, 1996 and ending March 1, 2006 on the annual continuation of appointment fees imposed in Subsections E, F, M, R, V and W of Section 59A-6-1 NMSA 1978. The surcharge collected shall be distributed monthly to the New Mexico finance authority to be pledged irrevocably for the payment of principal, interest and any other expenses or obligations related to the bonds issued by the authority to finance information and communication equipment, including computer hardware and software, for the insurance department."

Section 2

Section 2

Section 59A-6-5 NMSA 1978 (being Laws 1984, Chapter 127, Section 105, as amended) is amended to read:

"59A-6-5. DISTRIBUTION OF INSURANCE DEPARTMENT

COLLECTIONS.--

A. All money received by the insurance department or insurance board for fees, licenses, penalties and taxes shall be paid daily by the superintendent to the state treasurer and by him credited to the "insurance department suspense fund" heretofore created and now existing except as provided by:

(1) the Law Enforcement Protection Fund Act; and

(2) Section 59A-6-1.1 NMSA 1978.

B. The superintendent, with approval of the corporation commission or insurance board, as the case may be related to the money involved, may authorize refund of money erroneously paid as fees, licenses, penalties or taxes from the insurance department suspense fund under request for refund made within three years after the erroneous payment.

C. At the end of every month the treasurer shall transfer to the "fire protection fund" the balance remaining in the insurance department suspense fund after applicable refunds made therefrom under Subsection B of this section, and derived from property and vehicle insurance business, and transfer to the general fund the balance remaining in the insurance department suspense fund derived from all other kinds of insurance business."

Section 3

Section 3

NEW MEXICO FINANCE AUTHORITY REVENUE BONDS--PURPOSE-- APPROPRIATION.--

A. The New Mexico finance authority may issue and sell revenue bonds in compliance with the New Mexico Finance Authority Act in installments or at one time in an amount not exceeding one million dollars (\$1,000,000) for the purpose of financing information and communication equipment, including computer hardware and software, for the department of insurance.

B. The New Mexico finance authority may issue and sell revenue bonds authorized by this section when the superintendent of insurance certifies the need for issuance of the

bonds. The net proceeds from the sale of the bonds are appropriated to the department of insurance for the purposes described in Subsection A of this section.

C. The proceeds from the surcharge shall be distributed monthly to the New Mexico finance authority pursuant to Section 59A-6-1.1 NMSA 1978 to be pledged irrevocably for the payment of the principal, interest and any other expenses or obligations related to the bonds.

D. The surcharge proceeds distributed to the New Mexico finance authority shall be deposited in a separate fund or account of the authority. At the end of each fiscal year, any money remaining in the separate fund or account from distributions made to the authority during that fiscal year, after all principal, interest and any other expenses or obligations related to the bonds in that fiscal year are fully paid, may be appropriated by the legislature to the department of insurance for acquisition of information and communication equipment, including computer hardware and software. Upon payment of all principal, interest and any other expenses or obligations related to the bonds, the authority shall certify to the department of insurance that all obligations for the bonds issued pursuant to this section have been fully discharged and direct the department to cease distributing money pursuant to Section 59A-6-1.1 NMSA 1978 to the authority.

E. Any law authorizing the imposition or distribution of the surcharge or that affects the surcharge shall not be amended, repealed or otherwise directly or indirectly modified so as to impair any outstanding revenue bonds that may be secured by a pledge of the surcharge collections, unless the revenue bonds have been discharged in full or provisions have been made for a full discharge.

Section 4

Section 4

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

SENATE BILL 373

WITH EMERGENCY CLAUSE

SIGNED FEBRUARY 28, 1996

Chapter 7

MAKING AN APPROPRIATION FOR A NATURAL GAS PIPELINE
TRANSPORTATION STUDY.

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

Section 1

Section 1

APPROPRIATION--FINDINGS--PURPOSE.--

A. The legislature finds that:

(1) because of the lack of transportation facilities, natural gas produced in the San Juan basin of New Mexico is essentially marketable only in western markets;

(2) the availability of only one market has caused, and will continue to cause, both the price and volume of natural gas produced in the San Juan basin to be depressed when compared to gas produced elsewhere and marketed in multiple markets;

(3) New Mexico ranks second among the states in onshore natural gas reserves and will likely continue to be a major producer of natural gas for the foreseeable future;

(4) unless additional markets are available for natural gas produced in New Mexico, state revenues derived from royalties, production taxes and other sources will continue to be depressed; and

(5) a pipeline, financed by the most feasible method, that is capable of transporting natural gas to additional markets may, in both the short and long term, be in the best interests of New Mexico.

B. The purpose of this section is to provide for a comprehensive study of the costs and benefits of financing, constructing and operating a pipeline to transport natural gas produced in New Mexico to additional markets.

C. Two hundred fifty thousand dollars (\$250,000) is appropriated from the general fund to the economic development department for expenditure in fiscal year 1997 for the purpose of conducting studies and research pursuant to the Resource Transportation and Passenger Transportation Development Act on the financing, construction and operation of a natural gas pipeline to transport natural gas to eastern markets. Any unexpended or unencumbered balance remaining at the end of fiscal year 1997 shall revert to the general fund.

HOUSE BILL 46, AS AMENDED

SIGNED MARCH 4, 1996

Chapter 8

RELATING TO PUBLIC RETIREMENT; PROVIDING FOR VOLUNTEER AND MUNICIPAL FIREFIGHTERS RETIREMENT; AMENDING A SECTION OF THE NMSA 1978; MAKING AN APPROPRIATION.

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

Section 1

Section 1

Section 10-11A-3 NMSA 1978 (being Laws 1983, Chapter 263, Section 3) is amended to read:

"10-11A-3. VOLUNTEER FIREFIGHTERS RETIREMENT FUND- -CREATION-- TRANSFER OF FUNDS FROM THE GENERAL FUND.--

A. There is created the "volunteer firefighters retirement fund" in the state treasury. All annuities and benefits in lieu of annuities shall be paid from the fund as provided in the Volunteer Firefighters Retirement Act.

B. Beginning in fiscal year 1997, the state treasurer shall transfer annually on or before the last day of July seven hundred fifty thousand dollars (\$750,000) from the general fund to the credit of the volunteer firefighters retirement fund."

Section 2

Section 2

APPROPRIATION.--

A. Three hundred thousand dollars (\$300,000) is appropriated from the general fund to the employers accumulation fund in the Public Employees Retirement Act for expenditure in fiscal year 1997 for the purpose of funding municipal fire member coverage plans. The state treasurer shall transfer the appropriation to the employers accumulation fund on or before July 31, 1996. The amount of the appropriation shall be matched by employers or employees, or both, of participants in the municipal fire member plans by a contribution of an amount equal to one percent of the municipal fire member plan's monthly payroll for fiscal year 1997.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 1997 shall not revert to the general fund.

HOUSE APPROPRIATIONS AND FINANCE

COMMITTEE SUBSTITUTE FOR

HOUSE BILLS 667 AND 693

SIGNED MARCH 4, 1996

Chapter 9

MAKING APPROPRIATIONS FOR CERTAIN STATE AGENCY PROJECTS.

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

Section 1

Section 1

APPROPRIATION.--One million dollars (\$1,000,000) is appropriated from the general fund to the economic development department for expenditure in fiscal year 1997 for the purpose of providing funding for several special projects to be conducted by the department. Any unexpended or unencumbered balance remaining at the end of fiscal year 1997 shall revert to the general fund.

Section 2

Section 2

APPROPRIATION.--One million one hundred thousand dollars (\$1,100,000) is appropriated from the general fund to the tourism department for expenditure in fiscal year 1997 for the purpose of implementing special marketing plans for the state. Any unexpended or unencumbered balance remaining at the end of fiscal year 1997 shall revert to the general fund.

HOUSE APPROPRIATIONS AND FINANCE

COMMITTEE SUBSTITUTE FOR

HOUSE BILL 723, AS AMENDED

SIGNED MARCH 4, 1996

Chapter 10

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE; MAKING APPROPRIATIONS TO CERTAIN STATE AGENCIES AND FUNDS FOR VARIOUS PROGRAMS THROUGHOUT NEW MEXICO.

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

Section 1

Section 1

APPROPRIATIONS.--The amounts and purposes specified in the appropriations to the agencies set forth in Sections 2 through 8 of this act may be expended in fiscal years 1997 and 1998. Any unexpended or unencumbered balance remaining from the appropriations specified in Sections 2 through 8 of this act at the end of fiscal year 1998 shall revert to the general fund.

Section 2

~~[Section 2~~

~~DEPARTMENT OF FINANCE AND ADMINISTRATION-- APPROPRIATION.-- Seventy-five thousand dollars (\$75,000) is appropriated from the general fund to the local government division of the department of finance and administration for the purpose of contracting with a nonprofit organization to offer services to prevent juvenile crime, drug abuse and gang activity, with staffing by off-duty and retired law enforcement personnel in Albuquerque located in Bernalillo county.]~~

Section 3

Section 3

UNIVERSITY OF NEW MEXICO-- APPROPRIATIONS.--The following amounts are appropriated from the general fund to the board of regents of the university of New Mexico for the following purposes:

- A. one hundred thousand dollars (\$100,000) for the purpose of continuing a program that encourages adolescents to prepare for college by guaranteeing admission to the university of New Mexico if certain grade point average criteria are met; and
- B. two hundred fifty thousand dollars (\$250,000) for family development training programs for the purpose of increasing the participation of low-income parents in the education of their children.

Section 4

Section 4

STATE DEPARTMENT OF PUBLIC EDUCATION-- APPROPRIATIONS.--The following amounts are appropriated from the general fund to the state department of public education for the following purposes:

A. sixty-five thousand dollars (\$65,000) for the purpose of funding a pilot program to demonstrate and measure the effectiveness of the self-assessment testing model for use by secondary schools;

B. fifty thousand dollars (\$50,000) for the purpose of funding the parents as teachers program in the Ruidoso municipal school district in Lincoln county; and

C. seventy-five thousand dollars (\$75,000) for the purpose of funding the Gavilan Canyon school adolescent day treatment center in the Ruidoso municipal school district in Lincoln county.

Section 5

Section 5

OFFICE OF CULTURAL AFFAIRS-- APPROPRIATION.--Fifty thousand dollars (\$50,000) is appropriated from the general fund to the office of cultural affairs for the purpose of establishing a tribal historic preservation office for the Jicarilla Apache tribe located in Rio Arriba county.

Section 6

Section 6

CHILDREN, YOUTH AND FAMILIES DEPARTMENT--APPROPRIATION.--Fifty thousand dollars (\$50,000) is appropriated from the general fund to the children, youth and families department for the purpose of contracting with community providers for continuation of a statewide volunteer program of companionship for at-risk low-income children six to sixteen years of age from single-parent homes.

Section 7

Section 7

EASTERN NEW MEXICO UNIVERSITY-- APPROPRIATION.--Twenty thousand dollars (\$20,000) is appropriated from the general fund to the board of regents of eastern New Mexico university for the purpose of providing staff to maintain the exhibit building at Blackwater Draw, a national historical site near Portales in Roosevelt county.

Section 8

Section 8

DISTRICT ATTORNEYS' EXPERT WITNESS FUND-- APPROPRIATION.--Contingent upon the enactment into law of House Bill 307 of the second session of the forty-second

legislature, seventy-five thousand dollars (\$75,000) is appropriated from the general fund to the district attorneys' expert witness fund to carry out the purposes of the District Attorneys' Expert Witness Act.

Section 9

Section 9

EFFECTIVE DATE--CONTINGENCY.--The effective date of the provision of this act is April 1, 1997, contingent upon the enactment into law of Senate Bill 50 of the second session of the forty- second legislature.

HOUSE APPROPRIATIONS AND FINANCE

COMMITTEE SUBSTITUTE FOR HOUSE BILL

756 WITH PARTIAL VETO

SIGNED MARCH 4, 1996

Chapter 11

RELATING TO RECORDS; ENACTING THE ELECTRONIC AUTHENTICATION OF DOCUMENTS ACT; CREATING A CENTRAL REGISTRY FOR AUTHENTICATING ELECTRONIC DOCUMENTS; [~~MAKING AN APPROPRIATION.~~]

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

Section 1

Section 1

SHORT TITLE.--This act may be cited as the "Electronic Authentication of Documents Act".

Section 2

Section 2

PURPOSE.--The purpose of the Electronic Authentication of Documents Act is to:

A. provide a centralized, public, electronic registry for authenticating electronic documents by means of a public and private key system;

B. promote commerce; and

C. facilitate electronic information and document transactions.

Section 3

Section 3

DEFINITIONS.--As used in the Electronic Authentication of Documents Act:

A. "archival listing" means entries in the register that show public keys that are no longer current;

B. "authenticate" means to ascertain the identity of the originator, verify the integrity of the electronic data and establish a link between the data and the originator;

C. "document" means any identifiable collection of words, letters or graphical knowledge representations, regardless of the mode of representation. "Document" includes correspondence, agreements, invoices, reports, certifications, maps, drawings and images in both electronic and hard copy formats;

D. "electronic authentication" means the electronic signing of a document that establishes a verifiable link between the originator of a document and the document by means of a public key and private key system;

E. "key pair" means a private key and its corresponding public key that can verify an electronic authentication created by the private key;

F. "office" means the office of electronic documentation;

G. "originator" means the person who signs a document electronically;

H. "person" means any individual or entity, including:

(1) an estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, joint venture or syndicate; and

(2) any federal, state or local governmental unit or subdivision or any agency, department or instrumentality thereof;

I. "private key" means the code or alphanumeric sequence used to encode an electronic authentication that is known only to its owner and that is the part of a key pair used to create an electronic authentication;

J. "public key" means the code or alphanumeric sequence used to decode an electronic authentication that is the part of a key pair used to verify an electronic authentication;

K. "public and private key system" means the hardware, software and firmware provided by a vendor for the following purposes:

- (1) to generate public and private key pairs;
- (2) to produce a record abstraction by means of a secure hash code;
- (3) to encode a signature block and a record abstraction or an entire document;
- (4) to decode a signature block and a record abstraction or an entire document; and
- (5) to verify the integrity of a document;

L. "record abstraction" means a condensed representation of a document that is prepared by using a secure hash code;

M. "register" means a database or other electronic structure that binds a persons name or other identity to a public key;

N. "revocation" means the act of notifying the secretary that a public key has ceased or will cease to be effective after a specified time and date;

O. "secretary" means the secretary of state;

P. "secure hash code" means a mathematical algorithm that, when applied to an electronic version of a document, creates a condensed version of the document that makes it computationally impossible to identify or re-create the document without essential knowledge of that document; and

Q. "sign" or signing means the execution or adoption of any symbol by a person with the intention to establish the authenticity of a document as his own.

Section 4

Section 4

OFFICE OF ELECTRONIC DOCUMENTATION --POWERS AND DUTIES.--The "office of electronic documentation" is established under the secretary of state. The office shall maintain a register of public keys for electronic authentications made in accordance with standards adopted pursuant to the provisions of Section 14-3-15.2 NMSA 1978. The office shall register public keys for public officials, persons who wish to transact business with the state and any other person when registration will promote the purposes of the Electronic Authentication of Documents Act. The register shall include both current listings and archival listings.

Section 5

Section 5

REGULATIONS.--

A. The secretary shall adopt regulations to accomplish the purposes of the Electronic Authentication of Documents Act.

B. The regulations shall address the following matters:

- (1) registration of public keys;
- (2) revocation of public keys; and
- (3) reasonable public access to the public keys maintained by the office.

C. The regulations may address the following matters:

- (1) circumstances under which the office may reject an application for registration of a public key;
- (2) circumstances under which the office may cancel the listing of a public key; and
- (3) circumstances under which the office may reject an attempt to revoke registration of a public key.

Section 6

Section 6

CONTRACTING SERVICES.--The secretary may contract with a private, public or quasi-public organization for the provision of services under the Electronic Authentication of Documents Act. A contract for services shall comply with regulations adopted pursuant to the Electronic Authentication of Documents Act and the provisions of the Public Records Act and the Procurement Code.

Section 7

~~[Section 7~~

~~APPROPRIATION.--Seventy-two thousand dollars (\$72,000) is appropriated from the general fund to the secretary of state for expenditure in fiscal year 1997 for the purpose of carrying out the purposes of the Electronic Authentication of Documents Act. Any unexpended or unencumbered balance remaining at the end of fiscal year 1997 shall revert to the general fund.]~~

Section 8

Section 8

EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1996.

HOUSE BILL 516, AS AMENDED

WITH PARTIAL VETO

SIGNED MARCH 4, 1996

Chapter 12

MAKING GENERAL APPROPRIATIONS AND AUTHORIZING EXPENDITURES [~~AND REDUCTIONS~~] IN EXPENDITURES BY STATE AGENCIES AND DISTRIBUTIONS FOR PUBLIC EDUCATION REQUIRED BY LAW.

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

Section 1

Section 1

SHORT TITLE.--This act may be cited as the "General Appropriation Act of 1996".

Section 2

Section 2

DEFINITIONS.--As used in the General Appropriation Act of 1996:

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 1997. 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 the severance tax income fund and federal Mineral Lands Leasing Act receipts;

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

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 1996;

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 1996;

(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. "term position" means a position established for a one-time project or program, with a specific ending date, or a position associated with a nonrecurring or unstable revenue source.

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 1996, or so much as may be necessary, are appropriated from the indicated source for expenditure in fiscal year 1997 for the objects expressed.

D. Unencumbered balances in agency accounts remaining at the end of fiscal year 1996 shall revert to the general fund by October 1, 1996, unless otherwise indicated in the General Appropriation Act of 1996 or otherwise provided by law.

E. Unencumbered balances in agency accounts remaining at the end of fiscal year 1997 shall revert to the general fund by October 1, 1997, unless otherwise indicated in the General Appropriation Act of 1996 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.

G. Except as otherwise specifically stated in the General Appropriation Act of 1996, appropriations are made in that act for the expenditures of agencies and for other purposes as required by existing law for fiscal year 1997. If any other act of the forty-second legislature, second session, 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 1996 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. During fiscal year 1997, the department of finance and administration shall prepare and present quarterly revenue estimates to the legislative finance committee. If ~~[at any time]~~ these revenue estimates indicate that revenues and transfers to the general fund, excluding transfers to the general fund operating reserve, the appropriation contingency fund or the state support reserve fund, as of the end of fiscal year 1997, are not expected to meet appropriations from the general fund, then the department shall present a ~~[contingency]~~ plan to the legislative finance committee ~~[that outlines the methods by which the administration intends to address the deficit].~~

I. Pursuant to Sections 6-3-23 through 6-3-25 NMSA 1978, the state budget division may approve budget increases for fiscal year 1997 for agencies whose revenue from 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. Such money is appropriated. In approving a budget increase from federal funds, the

director of the state budget division shall advise the legislative finance committee as to the source of the federal funds and the source and amount of any matching funds required.

~~[J. For fiscal year 1997, the number of permanent and term full-time equivalent positions specified for each agency shall be exceeded only in accordance with the provisions of the General Appropriation Act of 1996 or other laws enacted by the forty-second legislature, second session. The operating budget for each agency shall reflect the number of positions authorized by the legislature.]~~

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 1996 may be expended for payment of credit card invoices.

L. To prevent unnecessary spending, expenditures from the General Appropriation Act of 1996 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 1996, 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 1995, Chapter 30, Section 4 is repealed effective July 1, 1996.

Section 4

Section 4

FISCAL YEAR 1997 APPROPRIATIONS.--

A. LEGISLATIVE

LEGISLATIVE COUNCIL SERVICE:

Item	General State Fund	Other Intrnl Svc Funds/Inter- Agency	Federal Trnsf Funds	Total
(1) Legislative maintenance department:				
(a) Personal services	1,048.5			1,048.5
(b) Employee benefits	368.8			368.8
(c) Travel	3.1			3.1

(d) Maintenance and repairs 188.9 188.9
 (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: 34.9 34.9

(3) Health care task force: 100.0 100.0

(4) State communications network: 125.0 125.0

Subtotal 2,563.0

TOTAL LEGISLATIVE 2,563.0 2,563.0

B. JUDICIAL

Item	General State Fund	Funds/Inter- Funds Agency	Other Intrnl Svc Federal Trnsf	Funds Total
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SUPREME COURT LAW LIBRARY:

(a) Personal services 274.4 274.4
 (b) Employee benefit 93.9 93.9
 (c) Travel 2.0 2.0
 (d) Maintenance and repairs 11.6 11.6
 (e) Supplies and materials 4.9 4.9
 (f) Contractual services 108.4 108.4
 (g) Operating costs 198.2 198.2
 (h) Capital outlay 79.7 79.7
 (i) Out-of-state travel 1.6 1.6
 [Authorized FTE: 8.00 Permanent]

Subtotal 774.7

Item	General State Fund	Funds/Inter- Funds Agency	Other Intrnl Svc Federal Trnsf	Funds Total
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NEW MEXICO COMPILATION COMMISSION:

(a) Personal services 49.6 49.6 99.2
 (b) Employee benefits 17.2 17.2 34.4
 (c) Travel 3.0 3.0 6.0
 (d) Maintenance and repairs 7.0 7.0 14.0
 (e) Supplies and materials 6.0 6.0 12.0
 (f) Contractual services 411.0 399.0 810.0
 (g) Operating costs 35.0 35.0 70.0
 (h) Other costs .1 .1
 (i) Capital outlay 13.9 14.1 28.0
 Authorized FTE: 3.00 Permanent

Subtotal 1,073.7

Item	General State Fund	Funds/Inter-Funds	Other Intrnl Svc Agency Trnsf	Federal Funds	Total
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**JUDICIAL STANDARDS
COMMISSION:**

- (a) Personal services 80.0 80.0
- (b) Employee benefits 24.9 24.9
- (c) Travel 5.2 5.2
- (d) Maintenance and repairs 2.8 2.8
- (e) Supplies and materials 2.0 2.0
- (f) Contractual services 5.7 5.7
- (g) Operating costs 24.5 24.5
- (h) Out-of-state travel 1.6 1.6

[Authorized FTE: 2.00 Permanent]

Subtotal 146.7

Item	General State Fund	Funds/Inter-Funds	Other Intrnl Svc Agency Trnsf	Federal Funds	Total
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JUDGES PRO TEMPORE:

- (a) Contractual services 44.9 44.9

The appropriation to the judges pro tempore is nonreverting and shall not be expended for any other purpose.

Item	General State Fund	Funds/Inter-Funds	Other Intrnl Svc Agency Trnsf	Federal Funds	Total
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COURT OF APPEALS:

- (a) Personal services 2,214.8 2,214.8
- (b) Employee benefits 644.5 644.5
- (c) Travel 10.0 10.0
- (d) Maintenance and repairs 24.4 24.4
- (e) Supplies and materials 26.2 26.2
- (f) Contractual services 33.8 33.8
- (g) Operating costs 204.1 204.1
- (h) Out-of-state travel 5.9 5.9

[Authorized FTE: 52.00 Permanent]

Subtotal 3,163.7

Item	General State Fund	Funds/Inter-Funds	Other Intrnl Svc Agency Trnsf	Federal Funds	Total
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SUPREME COURT:

- (a) Personal services 1,681.6 1,681.6
- (b) Employee benefits 529.0 529.0
- (c) Travel 6.1 41.5 47.6
- (d) Maintenance and repairs 9.5 260.7 270.2
- (e) Supplies and materials 19.9 6.9 26.8
- (f) Contractual services 53.4 36.0 89.4
- (g) Operating costs 131.8 232.0 363.8
- (h) Capital outlay 15.5 15.5
- (i) Out-of-state travel 5.9 10.9 16.8

[Authorized FTE: 41.00 Permanent]

Subtotal 3,040.7

Item	General State Fund	Other Intrnl Svc Funds/Inter- Federal Funds Agency Trnsf Funds Total
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ADMINISTRATIVE OFFICE OF THE COURTS:

(1) Administration:

- (a) Personal services 890.8 890.8
- (b) Employee benefits 305.5 305.5
- (c) Travel 31.5 31.5
- (d) Maintenance and repairs 3.4 3.4
- (e) Supplies and materials 27.2 27.2
- (f) Contractual services 239.0 239.0
- (g) Operating costs 91.6 91.6
- (h) Out-of-state travel 4.0 4.0

[Authorized FTE: 26.00 Permanent]

(2) Magistrate courts:

- (a) Personal services 6,526.8 6,526.8
- (b) Employee benefits 2,117.2 2,117.2
- (c) Travel 58.9 58.9
- (d) Maintenance and repairs 15.1 15.1
- (e) Supplies and materials 228.6 228.6
- (f) Contractual services 20.5 20.5
- (g) Operating costs 1,828.4 1,828.4
- (h) Capital outlay 5.2 5.2

[Authorized FTE: 229.00 Permanent]

Funds appropriated to the magistrate courts shall not be transferred to any other activity of the administrative office of the courts.

Item	General State Fund	Other Intrnl Svc Funds/Inter- Federal Funds Agency Trnsf Funds Total
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(3) Court improvement

program:

- (a) Contractual services 41.6 ~~424.7~~ 166.3

Subtotal 12,560.0

Item	General State Fund	Other Intrnl Svc Funds/Inter- Federal Funds Agency Trnsf Funds Total
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SUPREME COURT BUILDING COMMISSION:

- (a) Personal services 205.5 205.5
- (b) Employee benefits 94.6 94.6
- (c) Travel 2.1 2.1
- (d) Maintenance and repairs 27.1 27.1
- (e) Supplies and materials 1.6 1.6
- (f) Contractual services 28.4 28.4

(g) Operating costs 91.9 91.9
Authorized FTE: 12.00 Permanent

Subtotal 451.2

Item	General State Fund	Funds/Inter- Agency	Other Intrnl Svc Federal Trnsf Funds	Total
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JURY AND WITNESS FEE FUND:

(a) Operating costs 146.0 339.0 485.0
(b) Other costs 260.6 1,107.7 1,368.3

The appropriation to the jury and witness fee fund shall be spent to pay only the costs of: jurors; prospective jurors; witnesses; court interpreters; defending persons whom the court has ordered the public defender to represent when those persons do not meet the public defender's indigency standards; and expert witnesses for grand juries and magistrate courts. Juror costs shall include suitable refreshments.

Unexpended or unencumbered balances in the jury and witness fee fund remaining at the end of fiscal year 1997 from appropriations made from the general fund shall not revert.

Item	General State Fund	Funds/Inter- Agency	Other Intrnl Svc Federal Trnsf Funds	Total
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Subtotal 1,853.3

Item	General State Fund	Funds/Inter- Agency	Other Intrnl Svc Federal Trnsf Funds	Total
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COURT-APPOINTED ATTORNEY FEES FUND:

(a) Contractual services 2,164.5 2,164.5

The general fund appropriation to the court-appointed attorney fees fund shall be expended only to pay: attorneys representing clients under the Mental Health and Developmental Disabilities Code, including initial commitment hearings; guardian ad litem fees and other costs associated with cases filed pursuant to the Uniform Parentage Act; indigent representation in civil contempt cases for child support enforcement; and court-appointed attorneys representing clients under the Adult Protective Services Act.

Item	General State Fund	Funds/Inter- Agency	Other Intrnl Svc Federal Trnsf Funds	Total
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DISTRICT COURTS:

(1) First judicial district:

- (a) Personal services 1,477.7 31.2 82.9 1,591.8
 - (b) Employee benefits 517.2 13.9 23.6 554.7
 - (c) Travel 19.2 .4 .9 20.5
 - (d) Maintenance and repairs 16.4 .5 .2 17.1
 - (e) Supplies and materials 38.3 6.3 3.0 47.6
 - (f) Contractual services 115.6 43.9 11.1 170.6
 - (g) Operating costs 112.5 13.9 8.3 134.7
 - (h) Capital outlay 15.1 5.0 20.1
- [~~Authorized FTE: 49.50 Permanent; 2.00 Term~~]

(2) Second judicial district:

- (a) Personal services 6,839.3 241.2 176.6 7,257.1
 - (b) Employee benefits 2,275.5 90.6 52.2 2,418.3
 - (c) Travel 19.1 .4 3.0 22.5
 - (d) Maintenance and repairs 106.9 14.0 2.0 122.9
 - (e) Supplies and materials 214.6 19.2 6.2 240.0
 - (f) Contractual services 208.4 22.8 3.5 234.7
 - (g) Operating costs 331.7 56.5 15.0 403.2
 - (h) Other costs 5.0 5.0
 - (i) Capital outlay 29.5 33.1 7.3 69.9
 - (j) Out-of-state travel 12.9 7.5 2.0 22.4
- [~~Authorized FTE: 226.50 Permanent; 12.00 Term~~]

Item	General State Fund	Funds/Inter- Funds Agency	Other Intrnl Svc Federal Trnsf Funds	Total
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(3) Third judicial district:

- (a) Personal services 1,257.6 78.0 1,335.6
 - (b) Employee benefits 390.2 31.6 421.8
 - (c) Travel 12.4 1.0 1.1 14.5
 - (d) Maintenance and repairs 6.5 .5 .5 7.5
 - (e) Supplies and materials 25.6 1.5 2.5 29.6
 - (f) Contractual services 100.0 89.1 5.1 194.2
 - (g) Operating costs 65.0 2.4 8.9 76.3
 - (h) Capital outlay 24.1 2.4 2.3 28.8
- [~~Authorized FTE: 39.00 Permanent; 2.00 Term~~]

(4) Fourth judicial district:

- (a) Personal services 507.2 507.2
 - (b) Employee benefits 187.2 187.2
 - (c) Travel 5.3 5.3
 - (d) Maintenance and repairs 8.4 8.4
 - (e) Supplies and materials 9.1 9.1
 - (f) Contractual services 33.2 33.2
 - (g) Operating costs 32.7 32.7
 - (h) Capital outlay 10.0 10.0
- [~~Authorized FTE: 17.50 Permanent~~]

Item	General State Fund	Funds/Inter- Funds Agency	Other Intrnl Svc Federal Trnsf Funds	Total
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(5) Fifth judicial district:

- (a) Personal services 1,825.2 1,825.2
- (b) Employee benefits 620.5 620.5
- (c) Travel 39.0 39.0

- (d) Maintenance and repairs 22.0 22.0
 - (e) Supplies and materials 41.1 41.1
 - (f) Contractual services 392.9 50.0 442.9
 - (g) Operating costs 162.2 162.2
 - (h) Capital outlay 84.2 84.2
 - (i) Out-of-state travel 1.2 1.2
- [~~Authorized FTE: 59.00 Permanent~~]

(6) Sixth judicial district:

- (a) Personal services 480.7 480.7
 - (b) Employee benefits 154.2 154.2
 - (c) Travel 13.8 13.8
 - (d) Maintenance and repairs 5.5 5.5
 - (e) Supplies and materials 15.7 15.7
 - (f) Contractual services 153.3 153.3
 - (g) Operating costs 82.3 82.3
 - (h) Capital outlay 62.0 62.0
- [~~Authorized FTE: 16.00 Permanent~~]

(7) Seventh judicial district:

- (a) Personal services 635.6 635.6
 - (b) Employee benefits 219.8 219.8
 - (c) Travel 12.1 12.1
 - (d) Maintenance and repairs 5.8 5.8
 - (e) Supplies and materials 13.5 13.5
 - (f) Contractual services 5.0 5.0
 - (g) Operating costs 62.4 62.4
 - (h) Capital outlay 34.8 34.8
- [~~Authorized FTE: 20.50 Permanent~~]

Item	General State Fund	Other Intrnl Svc Funds/Inter- Federal Funds Agency	Trnsf Funds	Total
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(8) Eighth judicial district:

- (a) Personal services 511.4 511.4
 - (b) Employee benefits 183.1 183.1
 - (c) Travel 11.2 11.2
 - (d) Maintenance and repairs 5.5 5.5
 - (e) Supplies and materials 19.0 19.0
 - (f) Contractual services 89.0 17.0 106.0
 - (g) Operating costs 55.8 55.8
 - (h) Capital outlay 22.9 22.9
- [~~Authorized FTE: 17.00 Permanent~~]

(9) Ninth judicial district:

- (a) Personal services 723.6 81.1 804.7
 - (b) Employee benefits 253.6 29.3 282.9
 - (c) Travel 7.4 4.0 11.4
 - (d) Maintenance and repairs 13.5 .5 14.0
 - (e) Supplies and materials 22.4 2.5 .5 25.4
 - (f) Contractual services 106.6 26.2 2.2 135.0
 - (g) Operating costs 42.9 2.4 45.3
 - (h) Capital outlay 54.8 54.8
- [~~Authorized FTE: 23.00 Permanent; 2.00 Term~~]

Item	General State Fund	Other Intrnl Svc Funds/Inter- Federal Funds Agency	Trnsf Funds	Total
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Item	Fund	Funds Agency Trnsf	Funds Total
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(10) Tenth judicial district:

- (a) Personal services 266.9 266.9
 - (b) Employee benefits 88.5 88.5
 - (c) Travel 7.1 7.1
 - (d) Maintenance and repairs 7.0 7.0
 - (e) Supplies and materials 9.1 9.1
 - (f) Contractual services 18.6 18.6
 - (g) Operating costs 26.6 26.6
 - (h) Capital outlay 11.9 11.9
- [Authorized FTE: 8.14 Permanent]

(11) Eleventh judicial district:

- (a) Personal services 1,181.2 1,181.2
 - (b) Employee benefits 377.3 377.3
 - (c) Travel 13.2 13.2
 - (d) Maintenance and repairs 13.5 13.5
 - (e) Supplies and materials 41.0 4.1 45.1
 - (f) Contractual services 81.0 27.5 108.5
 - (g) Operating costs 127.2 127.2
 - (h) Capital outlay 26.0 26.0
- [Authorized FTE: 37.00 Permanent; .50 Term]

(12) Twelfth judicial district:

- (a) Personal services 776.4 776.4
 - (b) Employee benefits 240.9 240.9
 - (c) Travel 9.5 9.5
 - (d) Maintenance and repairs 8.8 8.8
 - (e) Supplies and materials 17.0 2.5 19.5
 - (f) Contractual services 35.7 25.5 61.2
 - (g) Operating costs 79.2 1.5 80.7
 - (h) Capital outlay 13.0 13.0
- [Authorized FTE: 22.00 Permanent; 1.00 Term]

Item	Fund	General State Funds/Inter- Funds Agency Trnsf	Other Intrnl Svc Federal Funds Total
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(13) Thirteenth judicial district:

- (a) Personal services 1,167.3 1,167.3
 - (b) Employee benefits 408.8 408.8
 - (c) Travel 15.2 15.2
 - (d) Maintenance and repairs 20.0 20.0
 - (e) Supplies and materials 41.8 1.0 42.8
 - (f) Contractual services 14.9 19.0 33.9
 - (g) Operating costs 80.5 80.5
 - (h) Capital outlay 50.0 50.0
- [Authorized FTE: 39.00 Permanent]

Subtotal 29,093.9

BERNALILLO COUNTY METROPOLITAN COURT:

- (a) Personal services 5,161.5 339.4 71.4 41.5 5,613.8
- (b) Employee benefits 1,785.6 115.1 25.0 14.5 1,940.2

(c) Travel 9.6 9.6
 (d) Maintenance and repairs 326.3 326.3
 (e) Supplies and materials 253.3 26.3 279.6
 (f) Contractual services 643.3 55.0 210.0 908.3
 (g) Operating costs 765.6 30.1 795.7
 (h) Capital outlay 74.6 20.0 94.6
 (i) Out-of-state travel 10.4 10.4
 [Authorized FTE: 187.00 Permanent; 24.00 Term; 2.00 Temporary]

Subtotal 9,978.5

Item	General State Fund	Other Intrnl Svc Funds/Inter- Federal Funds Agency Trnsf	Funds Total
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DISTRICT ATTORNEYS:

(1) First judicial district:

(a) Personal services 1,449.8 69.9 1,519.7
 (b) Employee benefits 532.3 23.4 555.7
 (c) Travel 17.0 .5 17.5
 (d) Maintenance and repairs 13.8 13.8
 (e) Supplies and materials 30.1 2.5 32.6
 (f) Contractual services 14.4 6.1 20.5
 (g) Operating costs 97.3 .5 97.8
 (h) Capital outlay 5.8 5.8
 (i) Out-of-state travel 1.4 1.4
 [Authorized FTE: 43.50 Permanent; 2.50 Term]

(2) Second judicial district:

(a) Personal services 5,883.7 15.8 273.9 6,173.4
 (b) Employee benefits 1,960.8 3.2 98.8 2,062.8
 (c) Travel 91.8 12.3 104.1
 (d) Maintenance and repairs 81.4 81.4
 (e) Supplies and materials 86.0 19.3 105.3
 (f) Contractual services 45.8 8.0 53.8
 (g) Operating costs 715.9 26.0 741.9
 (h) Capital outlay 24.5 14.5 39.0
 (i) Out-of-state travel 1.4 1.4
 [Authorized FTE: 179.50 Permanent; 11.00 Term]

Included in the general fund appropriation to the second judicial district attorney in the personal services and employee benefits categories is two hundred thousand dollars (\$200,000) to operate a children's court unit.

Item	General State Fund	Other Intrnl Svc Funds/Inter- Federal Funds Agency Trnsf	Funds Total
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(3) Third judicial district:

(a) Personal services 1,192.5 68.8 1,261.3
 (b) Employee benefits 430.9 23.5 454.4
 (c) Travel 12.2 1.0 13.2
 (d) Maintenance and repairs 6.7 .7 7.4
 (e) Supplies and materials 15.5 2.5 18.0
 (f) Contractual services 19.1 19.1
 (g) Operating costs 49.6 3.7 53.3

- (h) Capital outlay 7.0 7.0
 - (i) Out-of-state travel 1.7 1.3 3.0
- [~~Authorized FTE: 38.00 Permanent; 2.50 Term~~]

(4) Fourth judicial district:

- (a) Personal services 719.9 8.8 728.7
 - (b) Employee benefits 307.2 1.2 308.4
 - (c) Travel 17.2 17.2
 - (d) Maintenance and repairs 4.2 4.2
 - (e) Supplies and materials 11.0 11.0
 - (f) Contractual services 62.8 62.8
 - (g) Operating costs 45.6 45.6
 - (h) Capital outlay 4.5 4.5
 - (i) Out-of-state travel 1.5 1.5
- [~~Authorized FTE: 23.50 Permanent; 2.00 Term~~]

Item	General State Funds/Inter- Fund	Other Intrnl Svc Funds/Inter- Federal Funds Agency Trnsf	Funds Total
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(5) Fifth judicial district:

- (a) Personal services 1,374.0 1,374.0
 - (b) Employee benefits 481.8 481.8
 - (c) Travel 37.1 37.1
 - (d) Maintenance and repairs 5.2 5.2
 - (e) Supplies and materials 18.6 18.6
 - (f) Contractual services 74.1 74.1
 - (g) Operating costs 106.1 106.1
 - (h) Capital outlay 5.4 5.4
 - (i) Out-of-state travel 3.4 3.4
- [~~Authorized FTE: 43.50 Permanent~~]

(6) Sixth judicial district:

- (a) Personal services 563.1 49.0 109.2 721.3
 - (b) Employee benefits 206.0 22.9 32.5 261.4
 - (c) Travel 17.6 3.5 21.1
 - (d) Maintenance and repairs 6.4 6.4
 - (e) Supplies and materials 10.0 .9 10.9
 - (f) Contractual services 4.0 .1 4.1
 - (g) Operating costs 42.5 1.5 44.0
 - (h) Capital outlay 1.4 1.4
- [~~Authorized FTE: 15.00 Permanent; 6.50 Term~~]

(7) Seventh judicial district:

- (a) Personal services 827.1 827.1
 - (b) Employee benefits 287.8 287.8
 - (c) Travel 18.3 18.3
 - (d) Maintenance and repairs 3.6 3.6
 - (e) Supplies and materials 14.2 14.2
 - (f) Contractual services 34.0 34.0
 - (g) Operating costs 61.5 61.5
 - (h) Capital outlay 2.0 2.0
 - (i) Out-of-state travel 3.0 3.0
- [~~Authorized FTE: 26.00 Permanent~~]

Other Intrnl Svc
General State Funds/Inter- Federal

Item	Fund	Funds Agency	Trnsf Funds	Total
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(8) Eighth judicial district:

- (a) Personal services 916.8 17.9 934.7
 - (b) Employee benefits 344.6 6.1 350.7
 - (c) Travel 24.0 24.0
 - (d) Maintenance and repairs 4.6 4.6
 - (e) Supplies and materials 14.7 3.1 17.8
 - (f) Contractual services 4.3 2.8 71.7 78.8
 - (g) Operating costs 67.4 5.5 72.9
 - (h) Capital outlay 2.0 2.0
 - (i) Out-of-state travel 1.0 1.0
- [Authorized FTE: 25.00 Permanent; 1.50 Term]

(9) Ninth judicial district:

- (a) Personal services 774.4 774.4
 - (b) Employee benefits 281.4 281.4
 - (c) Travel 12.0 2.0 14.0
 - (d) Maintenance and repairs 2.7 2.7
 - (e) Supplies and materials 11.7 1.3 13.0
 - (f) Contractual services 2.9 2.2 5.1
 - (g) Operating costs 45.7 1.5 47.2
 - (h) Capital outlay 26.6 26.6
 - (i) Out-of-state travel 1.2 1.2
- [Authorized FTE: 23.00 Permanent; 1.00 Term]

(10) Tenth judicial district:

- (a) Personal services 205.7 205.7
 - (b) Employee benefits 62.0 62.0
 - (c) Travel 6.2 6.2
 - (d) Maintenance and repairs .6 .6
 - (e) Supplies and materials 5.1 5.1
 - (f) Contractual services 2.9 2.9
 - (g) Operating costs 15.3 15.3
 - (h) Capital outlay .6 .6
- [Authorized FTE: 5.50 Permanent]

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

(11) Eleventh judicial district-- Farmington office:

- (a) Personal services 926.8 55.2 982.0
 - (b) Employee benefits 328.6 19.3 347.9
 - (c) Travel 15.4 .4 15.8
 - (d) Maintenance and repairs 12.2 .2 12.4
 - (e) Supplies and materials 14.2 .4 14.6
 - (f) Contractual services 5.2 10.0 15.2
 - (g) Operating costs 68.5 1.3 69.8
 - (h) Capital outlay 2.7 2.7
 - (i) Out-of-state travel 1.5 1.5
- [Authorized FTE: 29.50 Permanent; 2.00 Term]

(12) Eleventh judicial district-- Gallup office:

- (a) Personal service 590.7 590.7
 - (b) Employee benefits 189.1 189.1
 - (c) Travel 10.1 10.1
 - (d) Maintenance and repairs 4.1 4.1
 - (e) Supplies and materials 12.2 12.2
 - (f) Contractual services 5.3 5.3
 - (g) Operating costs 39.8 39.8
 - (h) Out-of-state travel .2 .2
- [Authorized FTE: 18.00 Permanent]

(13) Twelfth judicial district:

- (a) Personal services 938.6 85.2 1,023.8
 - (b) Employee benefits 316.7 25.7 342.4
 - (c) Travel 16.2 1.4 17.6
 - (d) Maintenance and repairs 6.1 .2 6.3
 - (e) Supplies and materials 14.9 1.5 16.4
 - (f) Contractual services 4.2 .5 4.7
 - (g) Operating costs 62.5 7.2 69.7
 - (h) Capital outlay 2.0 2.0
 - (i) Out-of-state travel 2.0 2.0
- [Authorized FTE: 29.50 Permanent; 2.00 Term]

Item	General State Funds/Inter-Fund	Other Intrnl Svc Federal Funds Agency Trnsf Funds	Total
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(14) Thirteenth judicial district:

- (a) Personal services 1,096.0 1,096.0
 - (b) Employee benefits 411.7 411.7
 - (c) Travel 19.8 19.8
 - (d) Maintenance and repairs 3.2 3.2
 - (e) Supplies and materials 10.1 10.1
 - (f) Contractual services 53.8 53.8
 - (g) Operating costs 73.6 73.6
 - (h) Capital outlay 12.9 12.9
 - (i) Out-of-state travel 2.0 2.0
- [Authorized FTE: 34.00 Permanent]

Subtotal 27,508.2

ADMINISTRATIVE OFFICE OF THE DISTRICT ATTORNEYS:

- (a) Personal services 253.3 6.3 259.6
 - (b) Employee benefits 81.4 81.4
 - (c) Travel 26.6 26.6
 - (d) Maintenance and repairs 4.2 4.2
 - (e) Supplies and materials 5.0 5.0
 - (f) Contractual services 1.9 1.9
 - (g) Operating costs 10.0 81.0 91.0
 - (h) Capital outlay 1.0 1.0
 - (i) Out-of-state travel 23.2 23.2
- [Authorized FTE: 5.00 Permanent; 2.00 Term]
- Subtotal 493.9

TOTAL JUDICIAL 85,140.7 4,338.9 2,687.6 100.7 92,347.9

C. GENERAL CONTROL

Item	General State Fund	Funds/Inter-Funds Agency	Other Intrnl Svc Federal Trnsf Funds	Total
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ATTORNEY GENERAL:

1) Regular operations:

- (a) Personal services 5,070.7 33.9 5,104.6
 - (b) Employee benefits 1,603.2 16.1 1,619.3
 - (c) Travel 105.6 105.6
 - (d) Maintenance and repairs 65.2 65.2
 - (e) Supplies and materials 69.4 69.4
 - (f) Contractual services 81.3 81.3
 - (g) Operating costs 739.1 739.1
 - (h) Out-of-state travel 38.5 38.5
 - (i) Other financing uses 3.8 3.8
- Authorized FTE: 124.00 Permanent; 1.00 Term

Fifty thousand dollars (\$50,000) of the internal service funds/interagency transfers appropriation to the attorney general for regular operations is from the risk management division of the general services department.

All revenue generated from antitrust cases through the attorney general on behalf of the state, political subdivisions or private citizens shall revert to the general fund.

Item	General State Fund	Funds/Inter-Funds Agency	Other Intrnl Svc Federal Trnsf Funds	Total
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(2) Major litigation:

- (a) Personal services 496.6 496.6
 - (b) Employee benefits 144.0 144.0
 - (c) Travel 11.2 11.2
 - (d) Supplies and materials 1.2 1.2
 - (e) Contractual services 210.0 150.0 360.0
 - (f) Operating costs 41.3 41.3
 - (g) Out-of-state travel 6.4 6.4
 - (h) Other financing uses .5 .5
- [Authorized FTE: 14.00 Permanent]

(3) Guardianship services program:

- (a) Personal services 57.8 57.8
 - (b) Employee benefits 18.1 18.1
 - (c) Contractual services 979.3 979.3
- Authorized FTE: 1.50 Permanent

(4) Medicaid fraud division:

- (a) Personal services 122.0 ~~369.9~~ 491.9
- (b) Employee benefits 40.7 122.0 162.7
- (c) Travel 3.4 ~~40.3~~ 13.7
- (d) Maintenance and repairs 1.8 ~~5.6~~ 7.4
- (e) Supplies and materials 1.5 ~~4.5~~ 6.0

(f) Contractual services 4.5 ~~13.5~~ 18.0
 (g) Operating costs 15.7 ~~57.6~~ 73.3
 (h) Out-of-state travel 1.8 ~~5.2~~ 7.0
 (i) Other financing uses ~~.5~~ .5
 [Authorized FTE: ~~13.00~~ Term]

Subtotal 10,723.7

Item	General State Fund	Funds/Inter-Funds	Other Intrnl Svc Federal Agency	Funds	Total
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STATE AUDITOR:

(a) Personal services 1,018.0 62.5 75.8 1,156.3
 (b) Employee benefits 291.1 38.6 42.9 372.6
 (c) Travel 24.2 7.2 31.4
 (d) Maintenance and repairs 8.7 2.4 11.1
 (e) Supplies and materials 11.5 3.6 15.1
 (f) Contractual services 84.5 13.1 97.6
 (g) Operating costs 52.2 42.9 79.5 174.6
 (h) Capital outlay 1.6 1.6
 (i) Out-of-state travel 10.9 10.9
 (j) Other financing uses 1.0 1.0
 [Authorized FTE: ~~28.00~~ Permanent; 2.00 Term]

Subtotal 1,872.2

Item	General State Fund	Funds/Inter-Funds	Other Intrnl Svc Federal Agency	Funds	Total
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TAXATION AND REVENUE DEPARTMENT:

(1) Office of the secretary:

(a) Personal services 1,967.3 395.3 2,362.6
 (b) Employee benefits 690.9 115.6 806.5
 (c) Travel 18.9 16.8 35.7
 (d) Maintenance and repairs 3.6 .2 3.8
 (e) Supplies and materials 11.9 1.2 13.1
 (f) Contractual services 283.5 283.5
 (g) Operating costs 124.8 19.2 144.0
 (h) Capital outlay 10.0 10.0
 (i) Out-of-state travel 18.2 2.8 21.0
 [Authorized FTE: ~~65.00~~ Permanent; 1.00 Term]

Included in the general fund appropriation to the office of the secretary of the taxation and revenue department in the contractual services category is twenty-five thousand dollars (\$25,000) to hire a consultant to develop information needed to establish a highway user fee to replace the weight-distance tax.

Item	General State Fund	Funds/Inter-Funds	Other Intrnl Svc Federal Agency	Funds	Total
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(2) Administrative services division:

- (a) Personal services 3,887.5 76.2 417.2 4,380.9
- (b) Employee benefits 1,337.0 21.3 116.8 1,475.1
- (c) Travel 26.8 26.8
- (d) Maintenance and repairs 200.0 200.0
- (e) Supplies and materials 1,409.0 .5 1,409.5
- (f) Contractual services 64.2 64.2
- (g) Operating costs 4,266.5 79.3 4,345.8
- (h) Out-of-state travel 5.0 5.0
- (i) Other financing uses 37.0 37.0

[Authorized FTE: ~~135.00 Permanent; 1.00 Term~~]

(3) Audit and compliance division:

- (a) Personal services 6,557.9 22.4 ~~315.4~~ 6,895.4
- (b) Employee benefits 2,234.7 4.9 ~~404.3~~ 2,340.9
- (c) Trave 189.1 ~~13.6~~ 202.7
- (d) Maintenance and repairs 30.7 30.7
- (e) Supplies and materials 59.5 ~~2.4~~ 61.6
- (f) Contractual services 213.3 213.3
- (g) Operating costs 1,236.2 ~~20.9~~ 1,257.1
- (h) Capital outlay 43.0 ~~.8~~ 43.8
- (i) Out-of-state travel 345.1 52.9 398.0

[Authorized FTE: ~~238.00 Permanent; 10.00 Term; 9.00 Temporary~~]

(4) Revenue processing division:

- (a) Personal services 3,870.7 241.7 45.5 4,157.9
- (b) Employee benefits 1,235.6 109.6 12.7 1,357.9
- (c) Travel 10.5 2.4 12.9
- (d) Maintenance and repairs 448.1 448.1
- (e) Supplies and materials 191.9 23.6 215.5
- (f) Contractual services 10.6 10.6
- (g) Operating costs 2,052.7 104.3 2,157.0
- (h) Capital outlay 79.5 79.5
- (i) Out-of-state travel 4.0 1.0 5.0

[Authorized FTE: ~~178.00 Permanent; 43.00 Temporary~~]

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

(5) Property tax division:

- (a) Personal services 735.5 667.1 1,402.6
- (b) Employee benefits 290.1 253.6 543.7
- (c) Travel 153.6 137.1 290.7
- (d) Maintenance and repairs .4 .3 .7
- (e) Supplies and materials 9.1 8.0 17.1
- (f) Contractual services 38.4 33.7 72.1
- (g) Operating costs 48.1 42.2 90.3
- (h) Capital outlay 3.7 6.7 10.4
- (i) Out-of-state travel 4.9 5.1 10.0

[Authorized FTE: ~~48.00 Permanent~~]

(6) Motor vehicle division:

- (a) Personal services 2,686.6 2,713.7 5,400.3
- (b) Employee benefits 1,079.5 1,079.4 2,158.9
- (c) Travel 37.2 37.1 74.3

- (d) Maintenance and repairs 46.6 46.6 93.2
 - (e) Supplies and materials 149.4 162.0 157.5 468.9
 - (f) Contractual services 415.0 270.0 415.0 1,100.0
 - (g) Operating costs 733.1 733.1 1,466.2
 - (h) Capital outlay 1.5 1.5 3.0
 - (i) Out-of-state travel 3.6 3.7 7.3
- [Authorized FTE: ~~237.00~~ Permanent; ~~8.00~~ Temporary]

(7) Motor transportation
division:

- (a) Personal services 5,214.1 ~~290.7~~ 5,504.8
 - (b) Employee benefits 2,040.6 ~~98.3~~ 2,138.9
 - (c) Travel 272.1 ~~449.8~~ 391.9
 - (d) Maintenance and repairs 155.6 ~~4.5~~ 157.1
 - (e) Supplies and materials 172.4 ~~45.5~~ 217.9
 - (f) Contractual services 19.4 ~~2.7~~ 22.1
 - (g) Operating costs 421.6 ~~22.2~~ 443.8
 - (h) Other costs .9 .9
 - (i) Capital outlay 207.1 ~~59.8~~ 266.9
 - (j) Out-of-state travel 1.5 ~~33.5~~ 35.0
- [Authorized FTE: ~~188.00~~ Permanent; ~~13.00~~ Term]

Item	General State Fund	Other Intrnl Svc Funds/Inter- Federal Funds Agency Trnsf	Funds Total
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(8) ONGARD service center:

- (a) Personal services 384.5 197.1 581.6
 - (b) Employee benefits 125.8 63.9 189.7
 - (c) Travel 1.0 .5 1.5
 - (d) Maintenance and repairs 4.9 2.5 7.4
 - (e) Supplies and materials 3.6 1.8 5.4
 - (f) Contractual services 10.7 5.9 16.6
 - (g) Operating costs 254.6 127.3 381.9
 - (h) Out-of-state travel .6 .3 .9
- [Authorized FTE: ~~14.00~~ Permanent]

Fourteen million six hundred eighty thousand five hundred dollars (\$14,680,500) of the internal service funds/interagency transfers appropriation to the taxation and revenue department is from the state road fund.

Unexpended or unencumbered balances in the taxation and revenue department remaining at the end of fiscal year 1997 from appropriations made from the state road fund shall revert to the state road fund.

Item	General State Fund	Other Intrnl Svc Funds/Inter- Federal Funds Agency Trnsf	Funds Total
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Subtotal 59,086.4

Other Intrnl Svc
General State Funds/Inter- Federal

Item	Fund	Funds Agency Trnsf Funds Total
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INVESTMENT COUNCIL:

- (a) Personal services 264.5 638.7 903.2
 - (b) Employee benefits 89.4 214.8 304.2
 - (c) Travel 5.5 13.3 18.8
 - (d) Maintenance and repairs 4.0 9.6 13.6
 - (e) Supplies and materials 6.4 15.3 21.7
 - (f) Contractual services 234.2 492.3 70.0 796.5
 - (g) Operating costs 77.4 185.9 263.3
 - (h) Capital outlay .4 1.1 1.5
 - (i) Out-of-state travel 5.6 13.4 19.0
 - (j) Other financing uses 52.9 127.1 180.0
- [Authorized FTE: 22.00 Permanent]

Subtotal 2,521.8

DEPARTMENT OF FINANCE AND ADMINISTRATION:

(1) Office of the secretary:

- (a) Personal services 325.7 325.7
 - (b) Employee benefits 112.3 112.3
 - (c) Travel 4.2 4.2
 - (d) Maintenance and repairs .7 .7
 - (e) Supplies and materials 5.2 5.2
 - (f) Contractual services 84.9 84.9
 - (g) Operating costs 50.8 50.8
 - (h) Out-of-state travel 5.0 5.0
 - (i) Other financing uses 4.7 4.7
- [Authorized FTE: 6.00 Permanent]

Item	Fund	General State Funds/Inter- Federal	Other Intrnl Svc Funds Agency Trnsf Funds Total
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(2) Administrative services division:

- (a) Personal services 662.0 662.0
 - (b) Employee benefits 211.5 211.5
 - (c) Travel 1.2 1.2
 - (d) Maintenance and repairs 18.8 18.8
 - (e) Supplies and materials 18.1 18.1
 - (f) Contractual services 57.2 57.2
 - (g) Operating costs 80.9 80.9
 - (h) Out-of-state travel 2.0 2.0
- [Authorized FTE: 18.80 Permanent]

(3) Board of finance:

- (a) Personal services 227.4 227.4
 - (b) Employee benefits 67.5 67.5
 - (c) Travel 10.0 10.0
 - (d) Maintenance and repairs .4 .4
 - (e) Supplies and materials 3.7 3.7
 - (f) Contractual services 35.0 35.0
 - (g) Operating costs 15.5 15.5
 - (h) Out-of-state travel 4.0 4.0
- [Authorized FTE: 5.00 Permanent]

Upon certification by the state board of finance that a critical emergency exists that cannot be addressed by disaster declaration or other emergency or contingency funds, and 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 one million dollars (\$1,000,000) in fiscal year 1997. Funds transferred pursuant to this paragraph are appropriated to the state board of finance emergency fund and shall be disbursed in accordance with Section 6-1-2 NMSA 1978.

Item	General State Fund	Funds/Inter-Federal Funds	Other Intrnl Svc Agency Trnsf	Total
(4) State budget division:				
(a) Personal services	911.1	911.1		
(b) Employee benefits	290.1	290.1		
(c) Travel	8.4	8.4		
(d) Maintenance and repairs	2.7	2.7		
(e) Supplies and materials	10.6	10.6		
(f) Contractual services	28.3	28.3		
(g) Operating costs	69.2	69.2		
(h) Out-of-state travel	4.6	4.6		
[Authorized FTE: 21.00 Permanent]				

Item	General State Fund	Funds/Inter-Federal Funds	Other Intrnl Svc Agency Trnsf	Total
(5) Local government division:				
(a) Personal services	965.3	262.7	360.2	1,588.2
(b) Employee benefits	313.5	89.9	449.9	523.3
(c) Travel	48.7	7.9	20.7	77.3
(d) Maintenance and repairs	6.2	1.3	1.9	9.4
(e) Supplies and materials	24.6	4.8	5.6	35.0
(f) Contractual services	48.4	2.6	6.9	57.9
(g) Operating costs	73.1	31.2	33.2	137.5
(h) Other costs	560.0	560.0		
(i) Out-of-state travel	8.8	3.6		12.4
[Authorized FTE: 30.00 Permanent; 16.00 Term]				

Included in the general fund appropriation to the local government division of the department of finance and administration in the contractual services category is twenty thousand dollars (\$20,000) for a little league baseball program at Paradise Hills in Bernalillo county[; and twenty thousand dollars (\$20,000) for the village of Pecos to monitor the Terrero clean-up efforts].

Included in the general fund appropriation to the local government division of the department of finance and administration in the other costs category is five hundred thousand dollars (\$500,000) to fund big brothers and big sisters programs statewide; thirty thousand dollars (\$30,000) to fund a recreational program in Tularosa[; and thirty

thousand dollars (\$30,000) to develop and provide youth programs and activities in Questa in Taos county].

Item	General State Fund	Funds/Inter-Federal Funds Agency	Other Intrnl Svc	Total
(6) Financial control division:				
(a) Personal services	1,949.4			1,949.4
(b) Employee benefits	638.6			638.6
(c) Travel	7.2			7.2
(d) Maintenance and repairs	10.4			10.4
(e) Supplies and materials	78.7			78.7
(f) Contractual services	196.8			196.8
(g) Operating costs	1,672.0			1,672.0
(h) Capital outlay	8.2			8.2
(i) Out-of-state travel	6.2			6.2
[Authorized FTE: 59.20 Permanent]				

One million five hundred fifty-one thousand seven hundred dollars (\$1,551,700) of the appropriation to the financial control division of the department of finance and administration in the operating costs category is for line item fifty-seven, information systems division services, and shall be expended for that purpose only.

Item	General State Fund	Funds/Inter-Federal Funds Agency	Other Intrnl Svc	Total
(7) Special appropriations/dues and membership fees:				
(a) National association of state budget officers	7.4			7.4
(b) Council of governors' policy advisors	5.2			5.2
(c) Council of state governments	64.9			64.9
(d) Western interstate commission for higher education	79.0			79.0
(e) Education commission of the states	37.3			37.3
(f) Rocky Mountain corporation for public broadcasting	13.1			13.1
(g) National conference of state legislatures	79.3			79.3
(h) Western governors' association	36.0			36.0
(i) Cumbres and Toltec scenic railroad commission	10.0			10.0
(j) Commission on intergovernmental relations	5.4			5.4
(k) Governmental accounting				

standards board 15.4 15.4
 (l) National center for
 state courts 57.2 57.2
 (m) National governors'
 association 47.9 47.9
 (n) Citizens review board 224.9 70.5 295.4
 (o) Emergency fund 250.0 250.0
 (p) Emergency water fund 75.0 75.0
 (q) Fiscal agent contract 900.0 725.0 1,625.0
 (r) DWI grants 4,725.0 275.0 5,000.0
 (s) Council of governments 275.0 275.0
 (t) Leasehold community
 assistance 60.0 60.0
 Subtotal 18,940.7

Item	General State Fund	Other Intrnl Svc Funds/Inter- Federal Funds Agency Trnsf Funds	Total
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**PUBLIC SCHOOL INSURANCE
 AUTHORITY:**

(1) Operations division:

(a) Personal services 383.6 383.6
 (b) Employee benefits 125.1 125.1
 (c) Travel 34.1 34.1
 (d) Maintenance and repairs 34.9 34.9
 (e) Supplies and materials 14.3 14.3
 (f) Contractual services 142.5 142.5
 (g) Operating costs 59.9 59.9
 (h) Other costs .2 .2
 (i) Capital outlay 4.0 4.0
 (j) Out-of-state travel 4.5 4.5
 (k) Other financing uses .3 .3
 [Authorized FTE: 9.00 Permanent]

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 1997 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 1997 shall revert to the risk division of the authority.

Item	General State Fund	Other Intrnl Svc Funds/Inter- Federal Funds Agency Trnsf Funds	Total
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(2) Benefits division

(a) Contractual services 98,587.6 98,587.6
 (b) Other costs 27.5 27.5
 (c) Other financing uses 336.7 336.7

(3) Risk division:

(a) Contractual services 21,837.7 21,837.7
 (b) Other financing uses 336.7 336.7
 Subtotal 121,929.6

Item	General State Fund	Funds/Inter- Federal	Other Intrnl Svc Funds Agency Trnsf Funds Total
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RETIREE HEALTH CARE AUTHORITY:

(1) Administration:

- (a) Personal services 430.9 430.9
 - (b) Employee benefits 196.8 196.8
 - (c) Travel 27.3 27.3
 - (d) Maintenance and repairs 12.8 12.8
 - (e) Supplies and materials 30.2 30.2
 - (f) Contractual services 84.0 84.0
 - (g) Operating costs 231.5 231.5
 - (h) Capital outlay 28.0 28.0
 - (i) Out-of-state travel 10.0 10.0
 - (j) Other financing uses .3 .3
- [~~Authorized FTE: 10.00 Permanent~~]

Unexpended or unencumbered balances in the administration division of the retiree health care authority remaining at the end of fiscal year 1997 shall revert to the benefits division.

Item	General State Fund	Funds/Inter- Federal	Other Intrnl Svc Funds Agency Trnsf Funds Total
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(2) Benefits division:

- (a) Contractual services 53,287.8 53,287.8
 - (b) Other financing uses 837.3 837.3
- Subtotal 55,176.9

GENERAL SERVICES DEPARTMENT:

(1) Office of the secretary:

- (a) Personal services 41.8 264.2 306.0
 - (b) Employee benefits 12.3 76.4 88.7
 - (c) Travel .1 .9 1.0
 - (d) Maintenance and repairs .1 .5 .6
 - (e) Supplies and materials .2 1.3 1.5
 - (f) Operating costs 2.0 12.0 14.0
 - (g) Out-of-state travel .1 .9 1.0
 - (h) Other financing uses .2 .2
- [~~Authorized FTE: 6.00 Permanent~~]

(2) Administrative services division:

- (a) Personal services 230.2 1,098.3 1,328.5
- (b) Employee benefits 71.2 336.2 407.4
- (c) Travel 2.0 9.3 11.3
- (d) Maintenance and repairs 1.4 6.5 7.9
- (e) Supplies and materials 5.6 26.4 32.0
- (f) Contractual services 15.5 73.5 89.0
- (g) Operating costs 65.7 310.9 376.6
- (h) Out-of-state travel .2 .8 1.0

(i) Other financing uses .2 1.0 1.2
 [Authorized FTE: 38.00 Permanent]

Item	General State Fund	Funds/Inter- Funds Agency	Other Intrnl Svc Federal Trnsf	Total
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(3) Telecommunications access fund:

(a) Contractual services 1,272.8 1,272.8
 (b) Other financing uses 127.2 127.2

(4) Purchasing division:

(a) Personal services 618.5 322.6 1,017.5 ~~438.3~~ 2,096.9
 (b) Employee benefits 238.2 113.4 355.0 ~~36.7~~ 743.3
 (c) Travel 1.0 46.4 9.1 ~~26.0~~ 82.5
 (d) Maintenance and repairs 2.9 15.7 148.9 ~~4.3~~ 168.8
 (e) Supplies and materials 5.3 17.0 800.3 ~~42.3~~ 834.9
 (f) Contractual services 59.5 20.0 79.5
 (g) Operating costs 130.5 82.3 31.0 ~~27.9~~ 271.7
 (h) Capital outlay 100.0 100.0
 (i) Out-of-state travel 1.0 20.0 .8 ~~8.0~~ 29.8
 (j) Other financing uses .7 77.0 185.1 262.8
 [Authorized FTE: 70.00 Permanent; 6.00 Term]

Item	General State Fund	Funds/Inter- Funds Agency	Other Intrnl Svc Federal Trnsf	Total
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(5) Information systems division--regular:

(a) Personal services 7,748.0 7,748.0
 (b) Employee benefits 2,477.2 2,477.2
 (c) Travel 126.3 126.3
 (d) Maintenance and repairs 3,013.9 3,013.9
 (e) Supplies and materials 715.2 715.2
 (f) Contractual services 4,701.9 4,701.9
 (g) Operating costs 10,954.9 10,954.9
 (h) Capital outlay 5.6 5.6
 (i) Out-of-state travel 28.6 28.6
 (j) Other financing uses 1,093.9 1,093.9
 [Authorized FTE: 206.00 Permanent; 8.00 Term]

(6) Information systems division--funds:

(a) Data processing equipment
 replacement 9,600.0 9,600.0
 (b) Radio equipment replacement 980.0 980.0
 (c) Communications equipment
 replacement 1,873.0 1,873.0

Item	General State Fund	Funds/Inter- Funds Agency	Other Intrnl Svc Federal Trnsf	Total
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(7) Risk management division--regular:

- (a) Personal services 1,587.9 1,587.9
 - (b) Employee benefits 536.5 536.5
 - (c) Travel 34.5 34.5
 - (d) Maintenance and repairs 7.0 7.0
 - (e) Supplies and materials 38.9 38.9
 - (f) Contractual services 250.0 250.0
 - (g) Operating costs 462.3 462.3
 - (h) Out-of-state travel 6.0 6.0
 - (i) Other financing uses 156.7 156.7
- [Authorized FTE: 46.00 Permanent]

(8) Risk management division--funds:

- (a) Public liability 20,021.6 20,021.6
- (b) Surety bond 98.8 98.8
- (c) Public property reserve 3,623.1 3,623.1
- (d) Local public bodies unemployment compensation 614.2 614.2
- (e) Workers' compensation retention 10,589.6 10,589.6
- (f) State unemployment compensation 3,115.9 3,115.9

Item	General State Fund	Other Intrnl Svc Funds/Inter- Federal Funds Agency Trnsf Funds	Total
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(9) Property control division:

- (a) Personal services 955.9 955.9
 - (b) Employee benefits 312.7 312.7
 - (c) Travel 14.2 14.2
 - (d) Maintenance and repairs 106.0 106.0
 - (e) Supplies and materials 4.3 4.3
 - (f) Operating costs 44.7 44.7
 - (g) Other financing uses .8 .8
- [Authorized FTE: 27.00 Permanent]

(10) Building services division:

- (a) Personal services 2,454.8 2,454.8
 - (b) Employee benefits 1,044.3 1,044.3
 - (c) Travel 25.6 25.6
 - (d) Maintenance and repairs 292.2 292.2
 - (e) Supplies and materials 18.4 18.4
 - (f) Contractual services 12.5 12.5
 - (g) Operating costs 1,790.9 1,790.9
 - (h) Capital outlay 14.4 14.4
 - (i) Other financing uses 3.7 3.7
- [Authorized FTE: 127.00 Permanent]

Item	General State Fund	Other Intrnl Svc Funds/Inter- Federal Funds Agency Trnsf Funds	Total
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(11) State motor pool:

- (a) Personal services 325.5 325.5
- (b) Employee benefits 111.1 111.1
- (c) Travel 422.4 422.4
- (d) Maintenance and repairs 6.9 6.9
- (e) Supplies and materials 1.2 1.2

- (f) Contractual services 4.6 4.6
- (g) Operating costs 93.7 93.7
- (h) Other financing uses 97.5 97.5
- ~~[Authorized FTE: 11.00 Permanent]~~

(12) State aircraft pool:

- (a) Personal services 224.5 224.5
- (b) Employee benefits 69.6 69.6
- (c) Travel 594.5 594.5
- (d) Maintenance and repairs 31.0 31.0
- (e) Supplies and materials 1.0 1.0
- (f) Contractual services 5.8 5.8
- (g) Operating costs 73.0 73.0
- (h) Out-of-state travel 4.7 4.7
- (i) Other financing uses 71.8 71.8
- ~~[Authorized FTE: 6.00 Permanent]~~

Subtotal 102,433.8

Item	General State Fund	Other Intrnl Svc Funds/Inter- Federal Funds Agency Trnsf	Total
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EDUCATIONAL RETIREMENT BOARD:

- (a) Personal services 1,155.4 1,155.4
- (b) Employee benefits 380.0 380.0
- (c) Travel 31.0 31.0
- (d) Maintenance and repairs 36.2 36.2
- (e) Supplies and materials 23.0 23.0
- (f) Contractual services 401.5 401.5
- (g) Operating costs 189.1 189.1
- (h) Other costs 125.5 125.5
- (i) Capital outlay 6.6 6.6
- (j) Out-of-state travel 11.3 11.3
- (k) Other financing uses 1.3 1.3
- ~~[Authorized FTE: 39.00 Permanent]~~

The other state funds appropriation of one hundred twenty-five thousand five hundred dollars (\$125,500) to the educational retirement board in the other costs category shall be paid to the state board of finance upon monthly assessment for custody services associated with the fiscal agent contract. Unexpended or unencumbered balances in the state board of finance remaining at the end of fiscal year 1997 from this appropriation shall revert to the educational retirement fund.

Item	General State Fund	Other Intrnl Svc Funds/Inter- Federal Funds Agency Trnsf	Total
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Subtotal 2,360.9

Item	General State Fund	Other Intrnl Svc Funds/Inter- Federal Funds Agency Trnsf	Total
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**CRIMINAL AND JUVENILE JUSTICE
COORDINATING COUNCIL:**

- (a) Travel 6.0 6.0
- (b) Supplies and materials 1.0 1.0
- (c) Contractual services 221.4 221.4
- (d) Operating costs 10.6 10.6
- (e) Out-of-state travel 1.0 1.0
- Subtotal 240.0

PUBLIC DEFENDER DEPARTMENT:

- (a) Personal services 7,424.8 7,424.8
- (b) Employee benefit 2,535.4 2,535.4
- (c) Travel 183.3 183.3
- (d) Maintenance and repairs 108.5 108.5
- (e) Supplies and materials 103.0 103.0
- (f) Contractual services 7,020.4 20.0 7,040.4
- (g) Operating costs 2,145.2 2,145.2
- (h) Capital outlay 65.1 60.0 125.1
- (i) Out-of-state travel 15.0 15.0
- (j) Other financing uses 6.9 6.9
- [Authorized FTE: 241.00 Permanent]

Unexpended or unencumbered balances in the public defender department remaining at the end of fiscal year 1997 from appropriations made from the general fund shall not revert.

Item	General State Fund	Other Intrnl Svc Funds/Inter- Federal Funds Agency Trnsf	Funds Total
Subtotal	19,687.6		

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

- (a) Personal services 1,075.9 1,075.9
- (b) Employee benefits 351.9 351.9
- (c) Travel 69.1 69.1
- (d) Maintenance and repairs 22.8 22.8
- (e) Supplies and materials 60.2 60.2
- (f) Contractual services 106.2 106.2
- (g) Operating costs 191.1 191.1
- (h) Other costs 60.0 60.0
- (i) Out-of-state travel 27.2 27.2
- (j) Other financing uses 1.5 1.5
- [Authorized FTE: 26.00 Permanent]

Included in the general fund appropriation to the governor in the contractual services category is fifty thousand dollars (\$50,000) to retain [private] counsel [concerning rights of the state, counties and municipalities to public lands controlled by the federal government].

Item	General State Fund	Funds/Inter- Federal	Other Intrnl Svc Funds Agency Trnsf	Funds Total
Subtotal	1,965.9			

Item	General State Fund	Funds/Inter- Federal	Other Intrnl Svc Funds Agency Trnsf	Funds Total
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LIEUTENANT GOVERNOR:

(a) Personal services	244.6	244.6		
(b) Employee benefits	78.5	78.5		
(c) Travel	13.4	13.4		
(d) Maintenance and repairs	.8	.8		
(e) Supplies and materials	5.5	5.5		
(f) Contractual services	4.7	4.7		
(g) Operating costs	24.4	24.4		
(h) Out-of-state travel	5.8	5.8		
(i) Other financing uses	.5	.5		
[Authorized FTE: 6.00 Permanent]				
Subtotal	378.2			

Item	General State Fund	Funds/Inter- Federal	Other Intrnl Svc Funds Agency Trnsf	Funds Total
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PUBLIC EMPLOYEES RETIREMENT ASSOCIATION:

(1) Administrative division:

(a) Personal services	1,769.7	1,769.7		
(b) Employee benefits	604.9	604.9		
(c) Travel	17.4	17.4		
(d) Maintenance and repairs	58.0	58.0		
(e) Supplies and materials	38.3	38.3		
(f) Contractual services	3,756.8	3,756.8		
(g) Operating costs	484.5	484.5		
(h) Other costs	400.0	400.0		
(i) Capital outlay	8.3	8.3		
(j) Out-of-state travel	14.0	14.0		
(k) Other financing uses	1.8	1.8		
[Authorized FTE: 50.00 Permanent; 4.00 Term]				

The other state funds appropriation of four hundred thousand dollars (\$400,000) to the administrative division of the public employees retirement association in the other costs category shall be paid to the state board of finance upon monthly assessment for custody services associated with the fiscal agent contract. Unexpended or unencumbered balances in the state board of finance remaining at the end of fiscal year 1997 from this appropriation shall revert to the public employees retirement association income fund.

Other Intrnl Svc

Item	General State Funds/Inter- Federal Fund	Other Intrnl Svc Funds Agency Trnsf Funds Total
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(2) Maintenance division:

- (a) Personal services 420.3 420.3
- (b) Employee benefits 193.7 193.7
- (c) Travel 4.8 4.8
- (d) Maintenance and repairs 264.8 264.8
- (e) Supplies and materials 3.6 3.6
- (f) Contractual services 19.6 19.6
- (g) Operating costs 371.8 371.8
- (h) Capital outlay 5.6 5.6
- (i) Out-of-state travel .7 .7
- (j) Other financing uses .7 .7

[~~Authorized FTE: 22.00 Permanent~~]

(3) Deferred compensation:

- (a) Personal services 27.6 27.6
- (b) Employee benefits 7.5 7.5
- (c) Travel 1.8 1.8
- (d) Maintenance and repairs .2 .2
- (e) Supplies and materials .6 .6
- (f) Contractual services 2.6 2.6
- (g) Operating costs 5.3 5.3
- (h) Capital outlay .9 .9
- (i) Out-of-state travel 1.3 1.3

[~~Authorized FTE: 1.00 Permanent~~]

Subtotal 8,487.1

Item	General State Funds/Inter- Federal Fund	Other Intrnl Svc Funds Agency Trnsf Funds Total
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STATE COMMISSION OF PUBLIC RECORDS:

- (a) Personal services 854.0 854.0
- (b) Employee benefits 317.9 317.9
- (c) Travel 8.0 8.0
- (d) Maintenance and repairs 88.3 10.0 98.3
- (e) Supplies and materials 5.6 13.3 18.9
- (f) Contractual services 4.3 4.3
- (g) Operating costs 150.1 18.0 168.1
- (h) Other costs 34.7 34.7
- (i) Capital outlay 3.0 9.0 12.0
- (j) Out-of-state travel 2.5 2.5
- (k) Other financing uses .9 .9

[~~Authorized FTE: 31.50 Permanent~~]

Subtotal 1,519.6

SECRETARY OF STATE:

- (a) Personal services 955.4 955.4
- (b) Employee benefits 332.3 332.3
- (c) Travel 15.7 15.7
- (d) Maintenance and repairs 25.6 25.6
- (e) Supplies and materials 45.7 45.7
- (f) Contractual services 36.3 36.3

(g) Operating costs 530.5 530.5
 (h) Other costs 79.5 79.5
 (i) Capital outlay 9.5 9.5
 (j) Out-of-state travel 11.0 11.0
 (k) Other financing uses 1.1 1.1
 [Authorized FTE: 35.00 Permanent; 1.00 Term; 1.33 Temporary]
 Subtotal 2,042.6

Item	General State Fund	Funds/Inter- Federal Funds Agency	Other Intrnl Svc Federal Trnsf Funds	Total
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PERSONNEL BOARD:

(a) Personal services 2,124.6 355.0 2,479.6
 (b) Employee benefits 697.7 118.5 816.2
 (c) Travel 31.5 9.3 40.8
 (d) Maintenance and repairs 68.8 7.0 75.8
 (e) Supplies and materials 39.7 14.2 53.9
 (f) Contractual services 150.2 150.2
 (g) Operating costs 415.2 141.7 556.9
 (h) Capital outlay 1.0 1.0
 (i) Out-of-state travel 7.6 1.2 8.8
 (j) Other financing uses 2.2 2.2
 [Authorized FTE: 77.60 Permanent]

The department of finance and administration is authorized to transfer to the personnel board from each executive branch agency an amount based on an assessment per authorized FTE to fund the four hundred eighty-four thousand five hundred dollars (\$484,500) appropriated from internal service funds/interagency transfers for employee training programs and the one hundred sixty-two thousand four hundred dollars (\$162,400) appropriated from internal service funds/interagency transfers for the employee assistance program.

Item	General State Fund	Funds/Inter- Federal Funds Agency	Other Intrnl Svc Federal Trnsf Funds	Total
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Subtotal 4,185.4

Item	General State Fund	Funds/Inter- Federal Funds Agency	Other Intrnl Svc Federal Trnsf Funds	Total
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PUBLIC EMPLOYEE LABOR RELATIONS BOARD:

(a) Personal services 115.0 115.0
 (b) Employee benefits 42.4 42.4
 (c) Travel 11.8 11.8
 (d) Maintenance and repairs 1.0 1.0
 (e) Supplies and materials 5.4 5.4
 (f) Contractual services 48.4 48.4
 (g) Operating costs 40.6 40.6
 (h) Capital outlay 4.5 4.5
 (i) Out-of-state travel 2.0 2.0

(j) Other financing uses .1 .1
[Authorized FTE: 3.00 Permanent]

Subtotal 271.2

STATE TREASURER:

(a) Personal services 1,662.7 1,662.7
(b) Employee benefits 549.2 549.2
(c) Travel 16.8 16.8
(d) Maintenance and repairs 29.4 29.4
(e) Supplies and materials 23.8 23.8
(f) Contractual services 39.6 39.6
(g) Operating costs 490.3 490.3
(h) Capital outlay 8.0 8.0
(i) Out-of-state travel 5.3 5.3
[Authorized FTE: 46.00 Permanent]

Subtotal 2,825.1

Item	General State Fund	Funds/Inter-Federal	Other Intrnl Svc Funds Agency Trnsf	Federal Funds Total
TOTAL GENERAL CONTROL	110,317.1	17,984.6	285,774.7	2,572.3 416,648.7

D. COMMERCE AND INDUSTRY

Item	General State Fund	Funds/Inter-Federal	Other Intrnl Svc Funds Agency Trnsf	Federal Funds Total
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BOARD OF EXAMINERS FOR ARCHITECTS:

(a) Personal services 106.8 106.8
(b) Employee benefits 38.5 38.5
(c) Travel 19.8 19.8
(d) Maintenance and repairs 3.8 3.8
(e) Supplies and materials 6.1 6.1
(f) Contractual services 18.7 18.7
(g) Operating costs 33.8 33.8
(h) Capital outlay 5.1 5.1
(i) Out-of-state travel 8.8 8.8
(j) Other financing uses 1.1 1.1
[Authorized FTE: 4.00 Permanent]

Subtotal 242.5

Item	General State Fund	Funds/Inter-Federal	Other Intrnl Svc Funds Agency Trnsf	Federal Funds Total
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BORDER AUTHORITY:

(a) Personal services 101.7 101.7
(b) Employee benefits 39.0 39.0
(c) Travel 15.2 15.2
(d) Maintenance and repairs 6.5 6.5

- (e) Supplies and materials 5.1 5.1
 - (f) Contractual services 38.7 38.7
 - (g) Operating costs 39.2 39.2
 - (h) Capital outlay 2.5 2.5
 - (i) Out-of-state travel 6.8 6.8
- [Authorized FTE: 2.50 Permanent]

Subtotal 254.7

TOURISM DEPARTMENT: 3,050.0 4,769.2 1,080.4 8,899.6

[Authorized FTE: 71.50 Permanent]

~~[Included in the general fund appropriation to the tourism department is fifty thousand dollars (\$50,000) to expand promotion and marketing of New Mexico wine and wine products.]~~

One million eighty thousand four hundred dollars (\$1,080,400) of the internal service funds/interagency transfers appropriation to the tourism department is made from the state road fund for operation and administration of the welcome centers.

~~[The general fund appropriation to the tourism department is to be used in cooperation with local governments for local tourism and marketing efforts.]~~

Unexpended or unencumbered balances in the tourism department remaining at the end of the fiscal year 1997 from appropriations made from the state road fund shall revert to the state road fund.

Item	General State Fund	Other Intrnl Svc Funds/Inter- Agency	Federal Trnsf Funds	Total
Subtotal	8,899.6			

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

DEPARTMENT: 5,125.1 52.8 452.3 5,630.2

[Authorized FTE: 63.50 Permanent; 1.00 Term; 1.00 Temporary]

Included in the general fund appropriation to the economic development department [is forty thousand dollars (\$40,000) for the New Mexico's own program and] twenty thousand dollars (\$20,000) to conduct the North American free trade agreement institute.

~~[Notwithstanding the provisions of Section 11-4-5 NMSA 1978, the low-income housing tax credit and HOME programs and the federal funds related thereto shall be administered by the New Mexico mortgage finance authority.]~~

[The general fund appropriation to the economic development department is to be used in cooperation with local governments for local economic development projects.]

Item	General State Fund	Funds/Inter- Funds Agency	Other Intrnl Svc Federal Trnsf Funds	Total
Subtotal	5,630.2			

Item	General State Fund	Funds/Inter- Funds Agency	Other Intrnl Svc Federal Trnsf Funds	Total
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REGULATION AND LICENSING DEPARTMENT:

(1)Administrative services division:

- (a) Personal services 867.9 242.2 1,110.1
 - (b) Employee benefits 296.0 82.1 378.1
 - (c) Travel 4.2 2.5 6.7
 - (d) Maintenance and repairs 40.6 17.4 58.0
 - (e) Supplies and materials 13.7 1.9 15.6
 - (f) Contractual services 25.1 25.1
 - (g) Operating costs 571.6 43.1 614.7
 - (h) Out-of-state travel 2.5 2.5
 - (i) Other financing uses .8 .5 1.3
- [Authorized FTE: 33.00 Permanent; 1.00 Term]

(2)Construction industries division:

- (a) Personal services 2,798.1 15.9 2,814.0
 - (b) Employee benefits 1,076.5 4.8 1,081.3
 - (c) Travel 327.2 .2 327.4
 - (d) Maintenance and repairs 9.6 9.6
 - (e) Supplies and materials 52.8 .5 53.3
 - (f) Contractual services 6.0 6.0
 - (g) Operating costs 228.0 3.5 231.5
 - (h) Out-of-state travel 2.0 2.0
 - (i) Other financing uses 3.2 3.2
- [Authorized FTE: 100.00 Permanent]

Included in the general fund appropriation to the construction industries division of the regulation and licensing department in the personal services and employee benefits categories is forty thousand dollars (\$40,000) for an additional [full-time equivalent] inspector [for the colonias in southern New Mexico].

Item	General State Fund	Funds/Inter- Funds Agency	Other Intrnl Svc Federal Trnsf Funds	Total
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(3) Manufactured housing division:

- (a) Personal services 383.3 383.3
- (b) Employee benefits 141.5 141.5

- (c) Travel 40.5 40.5
 - (d) Maintenance and repairs 1.7 1.7
 - (e) Supplies and materials 3.0 3.0
 - (f) Operating costs 22.9 22.9
 - (g) Out-of-state travel 1.0 1.0
 - (h) Other financing uses 3.1 3.1
- [Authorized FTE: 13.00 Permanent]

(4) Financial institutions division:

- (a) Personal services 746.4 746.4
 - (b) Employee benefits 262.1 262.1
 - (c) Travel 93.9 93.9
 - (d) Maintenance and repairs 3.3 3.3
 - (e) Supplies and materials 8.2 8.2
 - (f) Operating costs 37.3 37.3
 - (g) Out-of-state travel 12.2 12.2
 - (h) Other financing uses .7 .7
- [Authorized FTE: 23.75 Permanent]

Item	General State Fund	Other Intrnl Svc Funds/Inter- Federal Funds Agency Trnsf	Funds Total
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- (5) New Mexico state board of public
accountancy: 297.6 297.6
- [Authorized FTE: 4.00 Permanent]

- (6) Board of acupuncture and
oriental medicine: 63.0 63.0

[Authorized FTE: .95 Permanent]

- (7) New Mexico athletic commission: 58.3 58.3
- [Authorized FTE: .65 Permanent]

- (8) Athletic trainer practice board: 15.3 15.3
- [Authorized FTE: .20 Permanent]

Item	General State Fund	Other Intrnl Svc Funds/Inter- Federal Funds Agency Trnsf	Funds Total
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- (9) Board of barbers and
cosmetologists: 496.6 496.6

[Authorized FTE: 8.00 Permanent]

- (10) Chiropractic board: 100.7 100.7

[Authorized FTE: 1.50 Permanent]

(11) New Mexico board of dental health care: 223.4 223.4

[Authorized FTE: 2.70 Permanent]

(12) Hearing aid advisory board: 23.0 23.0

[Authorized FTE: .25 Permanent]

Item	General State Fund	Other Intrnl Svc Funds/Inter- Federal Agency Trnsf Funds	Total
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(13) Board of landscape architects: 25.4 25.4
[Authorized FTE: .30 Permanent]

(14) Board of nursing home administrators: 41.2 41.2
[Authorized FTE: .45 Permanent]

(15) Board of occupational therapy practice: 36.0 36.0
[Authorized FTE: .60 Permanent]

(16) Board of optometry: 33.6 33.6
[Authorized FTE: .60 Permanent]

Item	General State Fund	Other Intrnl Svc Funds/Inter- Federal Agency Trnsf Funds	Total
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(17) Board of osteopathic medical examiners: 43.2 43.2
[Authorized FTE: .50 Permanent]

(18) Board of pharmacy: 861.1 861.1
[Authorized FTE: 12.00 Permanent]

(19) Physical therapists' licensing board 83.4 83.4
[Authorized FTE: 1.40 Permanent]

(20) Board of podiatry: 19.8 19.8
[Authorized FTE: .20 Permanent]

Other Intrnl Svc

Item	General State Fund	Funds/Inter- Funds Agency	Federal Trnsf	Funds Total
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(21) Board of private investigators and polygraphers: 132.9 132.9
~~[Authorized FTE: 2.35 Permanent]~~

(22) New Mexico state board of psychologist examiners: 128.6 128.6
~~[Authorized FTE: 2.25 Permanent]~~

(23) New Mexico real estate commission: 752.7 752.7
~~[Authorized FTE: 11.00 Permanent]~~

(24) Advisory board of respiratory care practitioners: 29.4 29.4
~~[Authorized FTE: .45 Permanent]~~

Item	General State Fund	Funds/Inter- Funds Agency	Other Intrnl Svc Federal Trnsf	Funds Total
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(25) Speech-language, pathology and audiology advisory board: 34.4 34.4
~~[Authorized FTE: .55 Permanent]~~

(26) Board of thanatopractice: 72.6 72.6
~~[Authorized FTE: .60 Permanent]~~

(27) Nutrition and dietetics practice board: 23.9 23.9
~~[Authorized FTE: .30 Permanent]~~

(28) Board of social work examiners: 188.8 188.8
~~[Authorized FTE: 2.00 Permanent]~~

(29) Interior design board: 30.2 30.2
~~[Authorized FTE: .45 Permanent]~~

Item	General State Fund	Funds/Inter- Funds Agency	Other Intrnl Svc Federal Trnsf	Funds Total
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(30) Real estate recovery fund: 250.0 250.0
 (31) Real estate appraisers

board: 105.5 105.5
[Authorized FTE: 1.45 Permanent]

(32) Board of massage therapy: 135.7 135.7
[Authorized FTE: 2.40 Permanent]

(33) Counseling and therapy
practice board: 242.9 242.9
[Authorized FTE: 3.40 Permanent]

(34) Barbers and cosmetologists
tuition recovery fund: 200.0 200.0

Item	General State Fund	Funds/Inter-Federal	Other Intrnl Svc Funds Agency Trnsf	Total
(35) Journeymen testing revolving fund:				
(a) Maintenance and repairs	5.7	5.7		
(b) Supplies and materials	8.4	8.4		
(c) Operating costs	25.3	25.3		

Item	General State Fund	Funds/Inter-Federal	Other Intrnl Svc Funds Agency Trnsf	Total
(36) Alcohol and gaming division:				
(a) Personal services	474.7	474.7		
(b) Employee benefits	186.1	186.1		
(c) Travel	7.8	7.8		
(d) Maintenance and repairs	2.8	2.8		
(e) Supplies and materials	17.2	17.2		
(f) Contractual services	10.9	10.9		
(g) Operating costs	61.4	61.4		
(h) Out-of-state travel	3.9	3.9		
(i) Other financing uses	.4	.4		

[Authorized FTE: 17.00 Permanent]

(37) Securities division:

(a) Personal services	629.8	629.8		
(b) Employee benefits	221.0	221.0		
(c) Travel	2.0	2.0		
(d) Maintenance and repairs	2.1	2.1		
(e) Supplies and materials	10.0	10.0		
(f) Contractual services	1.0	1.0		
(g) Operating costs	37.0	37.0		
(h) Out-of-state travel	3.9	3.9		
(i) Other financing uses	.6	.6		

[Authorized FTE: 19.25 Permanent]

Item	General State Fund	Funds/Inter- Funds Agency	Other Intrnl Svc Federal Trnsf Funds	Total
(38) Securities division education and training fund:				
(a) Travel 1.0	1.0			
(b) Supplies and materials 4.0	4.0			
(c) Contractual services 40.0	40.0			
(d) Operating costs 37.6	37.6			
Subtotal	15,045.3			

Item	General State Fund	Funds/Inter- Funds Agency	Other Intrnl Svc Federal Trnsf Funds	Total
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STATE CORPORATION COMMISSION:

(1) Administration division:

(a) Personal services 562.4	40.0	525.0	1,127.4
(b) Employee benefits 377.9	377.9		
(c) Travel 7.3	7.3		
(d) Maintenance and repairs 21.1	21.1		
(e) Supplies and materials 17.0	17.0		
(f) Contractual services 67.0	67.0		
(g) Operating costs 424.0	424.0		
(h) Capital outlay 3.0	3.0		
(i) Out-of-state travel 11.0	11.0		
(j) Other financing uses .8	.8		
[Authorized FTE: 31.00 Permanent]			

Sixty-five thousand dollars (\$65,000) of the internal service funds/interagency transfers appropriation to the administration division of the state corporation commission is from the state road fund.

Item	General State Fund	Funds/Inter- Funds Agency	Other Intrnl Svc Federal Trnsf Funds	Total
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(2) Corporations division:

(a) Personal services 526.2	526.2		
(b) Employee benefits 212.9	212.9		
(c) Travel .5	.5		
(d) Maintenance and repairs 3.1	3.1		
(e) Supplies and materials 6.0	6.0		
(f) Contractual services 2.0	2.0		
(g) Operating costs 343.8	343.8		
(h) Out-of-state travel 1.0	1.0		
(i) Other financing uses .6	.6		
[Authorized FTE: 22.00 Permanent]			

(3) Telecommunications division:

- (a) Personal services 335.4 335.4
 - (b) Employee benefits 111.1 111.1
 - (c) Travel 4.8 4.8
 - (d) Maintenance and repairs 3.5 3.5
 - (e) Supplies and materials 3.5 3.5
 - (f) Contractual services 61.0 61.0
 - (g) Operating costs 24.8 24.8
 - (h) Out-of-state travel 8.0 8.0
 - (i) Other financing uses .2 .2
- [Authorized FTE: 10.00 Permanent]

Item	General State Fund	Other Intrnl Svc Funds/Inter- Funds Agency Trnsf	Federal Funds Total
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(4) Transportation division:

- (a) Personal services 614.8 614.8
 - (b) Employee benefits 232.4 232.4
 - (c) Travel 24.9 24.9
 - (d) Maintenance and repairs 4.9 4.9
 - (e) Supplies and materials 7.6 7.6
 - (f) Contractual services 2.0 2.0
 - (g) Operating costs 194.6 194.6
 - (h) Out-of-state Travel 2.0 2.0
 - (i) Other financing uses .7 .7
- [Authorized FTE: 23.00 Permanent]

One million eighty-three thousand nine hundred dollars (\$1,083,900) of the internal service funds/interagency transfers appropriation to the transportation division of the state corporation commission is from the state road fund.

Item	General State Fund	Other Intrnl Svc Funds/Inter- Funds Agency Trnsf	Federal Funds Total
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(5) Pipeline division:

- (a) Personal services 95.3 ~~82.0~~ 177.3
 - (b) Employee benefits 35.9 ~~30.5~~ 66.4
 - (c) Travel 9.7 ~~8.3~~ 18.0
 - (d) Maintenance and repairs 1.7 ~~1.4~~ 3.1
 - (e) Supplies and materials 3.9 ~~3.6~~ 7.5
 - (f) Contractual services .5 ~~.5~~ 1.0
 - (g) Operating costs 24.0 ~~20.5~~ 44.5
 - (h) Capital outlay 2.3 ~~1.9~~ 4.2
 - (i) Out-of-state travel 2.2 ~~1.8~~ 4.0
 - (j) Other financing uses .1 .1
- [Authorized FTE: 5.00 Permanent]

Item	General State Fund	Other Intrnl Svc Funds/Inter- Funds Agency Trnsf	Federal Funds Total
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(6) State fire marshal:

- (a) Personal services 489.4 489.4
- (b) Employee benefits 170.7 170.7
- (c) Travel 76.4 76.4

- (d) Maintenance and repairs 8.4 8.4
 - (e) Supplies and materials 18.0 18.0
 - (f) Contractual services 2.0 2.0
 - (g) Operating costs 235.6 235.6
 - (h) Capital outlay 34.0 34.0
 - (i) Out-of-state Travel 3.6 3.6
 - (j) Other financing uses .5 .5
- [~~Authorized FTE: 17.00 Permanent~~]

(7) Firefighter training academy:

- (a) Personal services 358.2 358.2
 - (b) Employee benefits 126.7 126.7
 - (c) Travel 19.7 19.7
 - (d) Maintenance and repairs 77.4 77.4
 - (e) Supplies and materials 62.4 62.4
 - (f) Contractual services 57.0 57.0
 - (g) Operating costs 99.5 99.5
 - (h) Other costs 25.0 25.0
 - (i) Capital outlay 45.0 45.0
 - (j) Out-of-state Travel 2.0 2.0
 - (k) Other financing uses .3 .3
- [~~Authorized FTE: 13.00 Permanent~~]

Item	General State Fund	Other Intrnl Svc Funds/Inter- Federal Funds Agency Trnsf	Total
(8) Department of insurance:			
(a) Personal services	1,911.1	217.4	2,128.5
(b) Employee benefit	734.9	25.6	760.5
(c) Travel	19.5	6.5	26.0
(d) Maintenance and repairs	5.3	5.7	11.0
(e) Supplies and materials	20.8	18.5	39.3
(f) Contractual services	125.5	504.0	629.5
(g) Operating costs	501.5	142.6	644.1
(h) Other costs	10,400.0		10,400.0
(i) Capital outlay	30.0	1.0	31.0
(j) Out-of-state travel	20.0	3.0	23.0
(k) Other financing uses	2.0	400.1	60.0
	462.1		

[~~Authorized FTE: 72.00 Permanent~~]

The other state funds appropriation to the department of insurance of the state corporation commission includes eighty-two thousand dollars (\$82,000) from the insurance licensee continuing education fund, two hundred fifty-three thousand four hundred dollars (\$253,400) from the insurance maintenance fund, eight million seven hundred ninety-seven thousand eight hundred dollars (\$8,797,800) from the patients' compensation fund and two million five hundred ninety-one thousand two hundred dollars (\$2,591,200) from the subsequent injury fund.

The internal service funds/interagency transfers appropriation to the department of insurance of the state corporation commission includes twenty thousand dollars (\$20,000) from the insurance examination fund and forty thousand dollars (\$40,000) from the insurance licensee continuing education fund.

Unexpended or unencumbered balances in the state corporation commission remaining at the end of fiscal year 1997 from appropriations made from the state road fund shall revert to the state road fund.

Item	General State Fund	Funds/Inter- Funds Agency	Other Intrnl Svc Federal Trnsf	Total
Subtotal	22,181.7			

Item	General State Fund	Funds/Inter- Funds Agency	Other Intrnl Svc Federal Trnsf	Total
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NEW MEXICO BOARD OF MEDICAL EXAMINERS:

- (a) Personal services 276.6 276.6
 - (b) Employee benefits 107.6 107.6
 - (c) Travel 9.7 9.7
 - (d) Maintenance and repairs 1.6 1.6
 - (e) Supplies and materials 4.8 4.8
 - (f) Contractual services 170.7 170.7
 - (g) Operating costs 34.4 34.4
 - (h) Capital outlay 3.0 3.0
 - (i) Out-of-state Travel 1.7 1.7
 - (j) Other financing uses 2.7 2.7
- [Authorized FTE: 10.00 Permanent]

Subtotal 612.8

Item	General State Fund	Funds/Inter- Funds Agency	Other Intrnl Svc Federal Trnsf	Total
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BOARD OF NURSING:

- (a) Personal services 268.0 268.0
 - (b) Employee benefits 92.0 92.0
 - (c) Travel 13.6 13.6
 - (d) Maintenance and repairs 5.4 5.4
 - (e) Supplies and materials 6.0 6.0
 - (f) Contractual services 76.4 76.4
 - (g) Operating costs 101.2 101.2
 - (h) Other costs 3.0 3.0
 - (i) Capital outlay .6 .6
 - (j) Out-of-state Travel 3.8 3.8
 - (k) Other financing uses 2.6 2.6
- [Authorized FTE: 9.00 Permanent]

Subtotal 572.6

Item	General State Fund	Funds/Inter- Funds Agency	Other Intrnl Svc Federal Trnsf	Total
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STATE FAIR COMMISSION:

- (a) Personal services 3,324.4 3,324.4
 - (b) Employee benefits 1,021.9 1,021.9
 - (c) Travel 69.6 69.6
 - (d) Maintenance and repairs 392.9 392.9
 - (e) Supplies and materials 105.4 105.4
 - (f) Contractual services 3,217.6 3,217.6
 - (g) Operating costs 2,420.5 2,420.5
 - (h) Other costs 2,535.6 2,535.6
 - (i) Capital outlay 97.5 97.5
 - (j) Out-of-state Travel 11.5 11.5
 - (k) Other financing uses 1.6 1.6
- [Authorized FTE: 48.00 Permanent; 186.00 Temporary]

~~[During fiscal year 1997, the legislative finance committee audit staff shall conduct a thorough analysis of the fiscal operations and personnel procedures of the New Mexico state fair and report its findings and recommendations to the legislative finance committee.]~~

Item	General State Fund	Funds/Inter-Fund	Other Intrnl Svc Federal Agency Trnsf	Funds Total
Subtotal	13,198.5			

Item	General State Fund	Funds/Inter-Fund	Other Intrnl Svc Federal Agency Trnsf	Funds Total
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**STATE BOARD OF REGISTRATION
FOR PROFESSIONAL ENGINEERS
AND SURVEYORS:**

- (a) Personal services 124.2 124.2
 - (b) Employee benefits 46.0 46.0
 - (c) Travel 2.3 2.3
 - (d) Maintenance and repairs 4.1 4.1
 - (e) Supplies and materials 4.2 4.2
 - (f) Contractual services 49.2 49.2
 - (g) Operating costs 106.6 106.6
 - (h) Capital outlay 9.0 9.0
 - (i) Out-of-state Travel 1.6 1.6
 - (j) Other financing uses 1.6 1.6
- [Authorized FTE: 5.00 Permanent]

Subtotal 348.8

Item	General State Fund	Funds/Inter-Fund	Other Intrnl Svc Federal Agency Trnsf	Funds Total
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NEW MEXICO RACING COMMISSION:

- (a) Personal services 590.8 590.8
- (b) Employee benefits 249.8 249.8
- (c) Travel 54.7 54.7
- (d) Maintenance and repairs 4.1 4.1

- (e) Supplies and materials 17.0 17.0
 - (f) Contractual services 469.0 469.0
 - (g) Operating costs 104.9 104.9
 - (h) Capital outlay 1.6 1.6
 - (i) Out-of-state travel 4.6 4.6
 - (j) Other financing uses .5 .5
- [Authorized FTE: 15.95 Permanent; 1.56 Temporary]

Subtotal 1,497.0

Item	General State Fund	Other Intrnl Svc Funds/Inter- Federal Funds Agency Trnsf	Funds Total
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APPLE COMMISSION:

- (a) Travel 5.3 5.3
 - (b) Supplies and materials .5 .5
 - (c) Contractual services 27.1 24.1 51.2
 - (d) Operating costs 4.7 4.7
 - (e) Out-of-state travel 2.0 2.0
- Subtotal 63.7

Item	General State Fund	Other Intrnl Svc Funds/Inter- Federal Funds Agency Trnsf	Funds Total
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BOARD OF VETERINARY MEDICINE:

- (a) Personal services 50.3 50.3
 - (b) Employee benefits 21.2 21.2
 - (c) Travel 11.2 11.2
 - (d) Maintenance and repairs 1.6 1.6
 - (e) Supplies and materials 1.5 1.5
 - (f) Contractual services 23.5 23.5
 - (g) Operating costs 28.2 28.2
 - (h) Capital outlay 1.0 1.0
 - (i) Out-of-state Travel 7.0 7.0
 - (j) Other financing uses .7 .7
- [Authorized FTE: 2.00 Permanent]

Subtotal 146.2

Item	General State Fund	Other Intrnl Svc Funds/Inter- Federal Funds Agency Trnsf	Funds Total
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TOTAL COMMERCE AND INDUSTRY 26,412.0 38,462.1 3,216.7 ~~602.8~~ 68,693.6

E. AGRICULTURE, ENERGY AND NATURAL RESOURCES

Item	General State Fund	Other Intrnl Svc Funds/Inter- Federal Funds Agency Trnsf	Funds Total
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OFFICE OF CULTURAL AFFAIRS:

(1) Administrative services division:

- (a) Personal services 774.9 774.9
 - (b) Employee benefits 260.8 260.8
 - (c) Travel 12.0 12.0
 - (d) Maintenance and repairs 14.5 14.5
 - (e) Supplies and materials 15.0 15.0
 - (f) Contractual services 50.0 67.0 117.0
 - (g) Operating costs 18.4 43.0 61.4
 - (h) Out-of-state travel 6.0 6.0
 - (i) Other financing uses .7 .7
- [Authorized FTE: 22.50 Permanent]

The general fund appropriation to the administrative services division of the office of cultural affairs in the contractual services category is to support various educational performance programs [for youth at the Albuquerque museum in Bernalillo county].

Item	General State Fund	Other Intrnl Svc Funds/Inter- Federal Funds Agency Trnsf	Funds Total
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(2) Hispanic cultural division:

- (a) Personal services 180.6 180.6
 - (b) Employee benefits 55.8 55.8
 - (c) Travel 23.4 23.4
 - (d) Maintenance and repairs 2.0 2.0
 - (e) Supplies and materials 10.0 10.0
 - (f) Contractual services 50.0 50.0
 - (g) Operating costs 80.1 80.1
 - (h) Other costs 200.0 10.0 210.0
 - (i) Capital outlay 15.1 9.9 25.0
 - (j) Out-of-state travel 4.0 4.0
 - (k) Other financing uses .2 .2
- [Authorized FTE: 6.00 Permanent]

The general fund appropriation to the Hispanic cultural division of the office of cultural affairs in the other costs category is to provide support to the cuartocentennial project.

Item	General State Fund	Other Intrnl Svc Funds/Inter- Federal Funds Agency Trnsf	Funds Total
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(3) Museum division:

- (a) Personal services 4,198.0 471.2 4,669.2
- (b) Employee benefits 1,548.3 172.1 1,720.4
- (c) Travel 23.2 23.2
- (d) Maintenance and repairs 327.2 327.2
- (e) Supplies and materials 101.3 101.3
- (f) Contractual services 60.0 72.0 132.0
- (g) Operating costs 56.5 540.9 597.4
- (h) Other costs 80.0 234.8 314.8
- (i) Capital outlay 23.2 23.2
- (j) Out-of-state travel 2.0 2.0

(k) Other financing uses 5.3 5.3
 [Authorized FTE: 153.25 Permanent; 24.60 Term]

[The general fund appropriation to the museum division of the office of cultural affairs in the other costs category is to present exhibits and public programs regarding Tibetan culture at the museum of international folk art in Santa Fe.]

Item	General State Fund	Funds/Inter-Federal	Other Intrnl Svc Funds Agency Trnsf	Funds Total
(4) Contract archaeology:				
(a) Personal services	1,462.3	1,462.3		
(b) Employee benefits	519.7	519.7		
(c) Travel	108.1	108.1		
(d) Maintenance and repairs	18.6	18.6		
(e) Supplies and materials	47.0	47.0		
(f) Contractual services	334.0	334.0		
(g) Operating costs	42.7	42.7		
(h) Capital outlay	42.0	42.0		
(i) Out-of-state Travel	1.7	1.7		
(j) Other financing uses	1.9	1.9		
[Authorized FTE: 54.50 Term; 10.00 Temporary]				

Item	General State Fund	Funds/Inter-Federal	Other Intrnl Svc Funds Agency Trnsf	Funds Total
(5) Natural history museum:				
(a) Personal services	1,386.3	251.2	404.4	1,741.6
(b) Employee benefits	491.5	83.3	32.6	607.4
(c) Travel	26.5	26.5		
(d) Maintenance and repairs	132.1	132.1		
(e) Supplies and materials	88.3	88.3		
(f) Contractual services	100.0	100.0		
(g) Operating costs	215.7	123.7		339.4
(h) Other costs	32.6	32.6		
(i) Capital outlay	20.0	20.0		
(j) Out-of-state Travel	1.0	1.0		
(k) Other financing uses	2.4	2.4		
[Authorized FTE: 51.50 Permanent; 18.00 Term]				

Item	General State Fund	Funds/Inter-Federal	Other Intrnl Svc Funds Agency Trnsf	Funds Total
(6) Arts division:				
(a) Personal services	414.4	240.0		654.4
(b) Employee benefits	154.5	60.0		214.5
(c) Travel	32.8	32.8		
(d) Maintenance and repairs	2.5	2.5		
(e) Supplies and materials	14.3	14.3		
(f) Contractual services	30.0	395.0		425.0
(g) Operating costs	114.8	114.8		
(h) Other costs	1,052.3	1,052.3		

- (i) Capital outlay 80.0 80.0
- (j) Other financing uses .7 .7

[Authorized FTE: ~~12.50 Permanent; 10.50 Term; 2.00 Temporary~~]

Item	General State Funds/ Fund	Other Intrnl Svc Funds/Inter- Federal Funds Agency Trnsf Funds	Total
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(7) Library division:

- (a) Personal services 1,413.6 ~~240.0~~ 1,653.6
- (b) Employee benefits 454.0 ~~129.0~~ 583.0
- (c) Travel 18.7 ~~67.8~~ 86.5
- (d) Maintenance and repairs 42.4 ~~7.6~~ 50.0
- (e) Supplies and materials 23.3 1.3 ~~9.0~~ 33.6
- (f) Contractual services 793.8 793.8
- (g) Operating costs 81.6 ~~400.7~~ 182.3
- (h) Other costs 250.0 ~~126.0~~ 376.0
- (i) Capital outlay 234.3 38.7 ~~27.0~~ 300.0
- (j) Out-of-state travel .3 ~~5.0~~ 5.3
- (k) Other financing uses 1.8 1.8

[Authorized FTE: ~~44.00 Permanent; 17.00 Term~~]

Included in the general fund appropriation to the library division of the office of cultural affairs in the contractual services category is ~~[one hundred thousand dollars (\$100,000) to fund native American community libraries and]~~ one hundred thousand dollars (\$100,000) to contract with a statewide nonprofit adult literacy organization to promote, coordinate and enhance adult and intergenerational literacy opportunities and services throughout the state.

Item	General State Funds/ Fund	Other Intrnl Svc Funds/Inter- Federal Funds Agency Trnsf Funds	Total
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- (a) Personal services 375.9 240.0 ~~200.5~~ 816.4
- (b) Employee benefits 125.7 59.9 ~~78.8~~ 264.4
- (c) Travel 10.4 ~~13.6~~ 24.0
- (d) Maintenance and repairs ~~22.1~~ 22.1
- (e) Supplies and materials 15.5 ~~2.9~~ 18.4
- (f) Contractual services 40.0 40.0
- (g) Operating costs 26.8 ~~26.4~~ 52.9
- (h) Other costs 150.0 ~~285.0~~ 435.0
- (i) Capital outlay 3.0 3.0
- (j) Out-of-state travel 13.0 13.0
- (k) Other financing uses .7 .7

[Authorized FTE: ~~10.00 Permanent; 16.00 Term~~]

The general fund appropriation to the historic preservation division of the office of cultural affairs in the other costs category is for implementation of the Cultural Properties Act.

Other Intrnl Svc

Item	General State Fund	Funds/Inter- Agency Trnsf	Federal Funds Total
(9) Space center:			
(a) Personal services	618.8	95.1	713.9
(b) Employee benefits	235.5	34.9	270.4
(c) Travel	1.1	14.7	15.8
(d) Maintenance and repairs	29.2	62.0	91.2
(e) Supplies and materials	2.9	96.3	99.2
(f) Contractual services	15.4	15.4	
(g) Operating costs	125.3	75.0	200.3
(h) Other financing uses	.9	.9	
[Authorized FTE: 24.00 Permanent; 5.00 Term]			

(10) Farm and ranch heritage museum:

(a) Personal services	280.5	280.5	
(b) Employee benefits	107.0	107.0	
(c) Travel	19.5	19.5	
(d) Maintenance and repairs	5.2	5.2	
(e) Supplies and materials	13.0	13.0	
(f) Contractual services	15.0	15.0	
(g) Operating costs	113.4	113.4	
(h) Capital outlay	34.8	34.8	
(i) Out-of-state travel	2.0	2.0	
(j) Other financing uses	.3	.3	

[Authorized FTE: 9.50 Permanent]

Unexpended or unencumbered balances in the office of cultural affairs remaining at the end of fiscal year 1997 from appropriations made from the general fund shall not revert.

Item	General State Fund	Funds/Inter- Agency Trnsf	Other Intrnl Svc Funds Federal Funds Total
Subtotal	25,833.6		

Item	General State Fund	Funds/Inter- Agency Trnsf	Other Intrnl Svc Funds Federal Funds Total
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NEW MEXICO LIVESTOCK BOARD:

(a) Personal services	122.7	1,744.2	247.5 2,114.4
(b) Employee benefits	47.1	663.0	94.4 804.2
(c) Travel	18.1	254.3	36.4 308.5
(d) Maintenance and repairs	.4	6.3	.9 7.6
(e) Supplies and materials	6.6	93.6	43.3 113.5
(f) Contractual services	11.7	203.9	23.4 239.0
(g) Operating costs	9.5	189.1	49.0 217.6
(h) Other costs	50.0	50.0	
(i) Capital outlay	.9	131.6	4.5 134.0
(j) Out-of-state travel	.5	6.7	4.0 8.2
(k) Other financing uses	2.6	2.6	
[Authorized FTE: 78.80 Permanent]			

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

Item	General State Fund	Funds/Inter- Federal Agency Trnsf	Other Intrnl Svc Funds	Total
Subtotal	3,999.6			

Item	General State Fund	Funds/Inter- Federal Agency Trnsf	Other Intrnl Svc Funds	Total
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DEPARTMENT OF GAME AND FISH:

(1) Administration:

(a) Personal services	147.5	4,806.4	2,574.1	7,528.0
(b) Employee benefits	59.1	1,868.2	925.0	2,852.3
(c) Travel	5.3	778.6	334.8	1,118.7
(d) Maintenance and repairs	8.0	193.3	420.4	321.4
(e) Supplies and materials	6.5	709.5	322.6	1,038.6
(f) Contractual services	54.8	1,143.5	699.3	1,897.6
(g) Operating costs	53.8	1,495.9	558.7	2,108.4
(h) Other costs	644.9	323.8		968.7
(i) Capital outlay	2.5	795.2	195.8	993.5
(j) Out-of-state travel	2.0	31.0	17.2	50.2
(k) Other financing uses	.2	7.1	316.0	323.3
[Authorized FTE: 235.00 Permanent; 12.00 Term; 9.50 Temporary]				

(2) Share with wildlife program: 58.0 ~~42.0~~ 70.0

3) Endangered species program:

(a) Personal services	63.0	107.4		170.4
(b) Employee benefits	16.3	52.9		69.2
(c) Travel	7.3	21.7		29.0
(d) Maintenance and repairs	.6	1.7		2.3
(e) Supplies and materials	1.7	5.6		7.3
(f) Contractual services	68.0	70.4		138.1
(g) Operating costs	30.0	5.9		35.9
(h) Capital outlay	1.2	1.0		2.2
(i) Out-of-state travel	.5	1.5		2.0
(j) Other financing uses	.2			.2
[Authorized FTE: 5.00 Permanent]				

Subtotal 19,727.3

Item	General State Fund	Funds/Inter- Federal Agency Trnsf	Other Intrnl Svc Funds	Total
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ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT:

(1) Office of the secretary:

- (a) Personal services 384.7 36.9 ~~39.9~~ 461.5
 - (b) Employee benefits 134.1 12.5 ~~44.4~~ 158.0
 - (c) Travel 18.4 3.3 ~~5.5~~ 27.2
 - (d) Maintenance and repairs 2.6 2.6
 - (e) Supplies and materials 9.4 5.0 ~~6~~ 15.0
 - (f) Contractual services .4 1,173.4 ~~2.5~~ 1,176.3
 - (g) Operating costs 118.0 9.0 ~~5.7~~ 132.7
 - (h) Capital outlay 1.0 1.0
 - (i) Out-of-state travel 17.6 1.0 ~~22.5~~ 41.1
 - (j) Other financing uses .4 ~~605.0~~ 605.4
- [~~Authorized FTE: 11.00 Permanent~~]

(2) Administrative services division:

- (a) Personal services 1,217.8 ~~437.8~~ 1,355.6
 - (b) Employee benefits 469.3 ~~59.4~~ 528.7
 - (c) Travel 9.1 ~~40.2~~ 49.3
 - (d) Maintenance and repairs 9.0 ~~42.2~~ 51.2
 - (e) Supplies and materials 20.0 ~~23.4~~ 43.4
 - (f) Contractual services 18.1 18.1
 - (g) Operating costs 205.0 ~~119.3~~ 324.3
 - (h) Capital outlay 2.0 ~~60.0~~ 62.0
 - (i) Out-of-state travel .3 ~~3.0~~ 3.3
 - (j) Other financing uses 1.2 1.2
- [~~Authorized FTE: 37.00 Permanent; 4.00 Term~~]

Item	General State Funds/Inter- Fund	Other Intrnl Svc Funds Agency Trnsf Federal Funds Total
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(3) Energy conservation and management division:

- (a) Personal services 486.8 ~~462.4~~ 648.9
 - (b) Employee benefits 154.6 ~~60.2~~ 214.8
 - (c) Travel 5.1 1.3 ~~47.7~~ 24.1
 - (d) Maintenance and repairs 1.0 1.2 ~~5.2~~ 7.4
 - (e) Supplies and materials 2.0 .8 ~~6.4~~ 9.2
 - (f) Contractual services 780.7 574.0 ~~942.4~~ 2,267.1
 - (g) Operating costs 47.5 6.0 ~~83.6~~ 137.1
 - (h) Other costs 322.8 322.8
 - (i) Capital outlay ~~6.0~~ 6.0
 - (j) Out-of-state travel 3.2 .6 ~~45.4~~ 18.9
 - (k) Other financing uses .2 .2 ~~907.2~~ 907.6
- [~~Authorized FTE: 11.00 Permanent; 5.00 Term~~]

(4) Forestry division:

- (a) Personal services 1,325.3 53.7 ~~348.4~~ 1,697.1
 - (b) Employee benefits 534.5 5.2 ~~93.6~~ 633.3
 - (c) Travel 49.4 13.5 ~~87.3~~ 150.2
 - (d) Maintenance and repairs 18.7 3.0 ~~4.0~~ 25.7
 - (e) Supplies and materials 9.7 21.1 ~~30.0~~ 60.8
 - (f) Contractual services 55.7 ~~464.0~~ 519.7
 - (g) Operating costs 247.5 10.6 ~~54.4~~ 312.5
 - (h) Other costs 305.3 143.2 ~~36.0~~ 484.5
 - (i) Capital outlay 90.8 4.0 94.8
 - (j) Out-of-state travel .2 1.0 ~~7.8~~ 9.0
 - (k) Other financing uses 1.6 1.6
- [~~Authorized FTE: 40.00 Permanent; 11.00 Term; 2.00 Temporary~~]

Two hundred sixty-five thousand three hundred dollars (\$265,300) of the general fund appropriation to the forestry division of the energy, minerals and natural resources department in the other costs category is to be used only to conduct soil and water conservation district activities and projects.

Item	General State Fund	Funds/Inter- Agency	Other Intrnl Svc Federal Trnsf Funds	Total
(5) State park and recreation division:				
(a) Personal services	3,331.4	2,244.5	445.5	5,691.4
(b) Employee benefits	1,439.0	959.4	49.6	2,448.0
(c) Travel	250.3	182.6	24.1	454.0
(d) Maintenance and repairs	535.6	402.3	8.3	946.2
(e) Supplies and materials	181.0	145.1	42.2	368.3
(f) Contractual services	173.2	75.7	295.0	543.9
(g) Operating costs	892.0	480.5		1,372.5
(h) Other costs	10.0	6.2		16.2
(i) Capital outlay	641.2	531.4	20.0	1,192.6
(j) Out-of-state travel	2.0	.6	4.0	6.6
(k) Other financing uses	108.1			108.1
[Authorized FTE: 175.00 Permanent; 41.00 Term; 54.00 Temporary]				

Included in the general fund appropriation to the state park and recreation division of the energy, minerals and natural resources department in the other financing uses category is one hundred thousand dollars (\$100,000) to provide [money to Sierra county for] additional public safety and medical services from the impacts from use of Elephant Butte Lake state park.

Item	General State Fund	Funds/Inter- Agency	Other Intrnl Svc Federal Trnsf Funds	Total
(6) Mining and minerals division:				
(a) Personal services	272.0	263.3	763.8	1,299.1
(b) Employee benefits	93.1	102.2	279.4	474.7
(c) Travel	9.8	28.1	64.8	102.7
(d) Maintenance and repairs	1.5	.7	6.9	9.1
(e) Supplies and materials	3.9	7.7	24.5	36.1
(f) Contractual services	5.5	10.5	976.9	992.9
(g) Operating costs	36.5	35.5	420.8	192.8
(h) Capital outlay	21.3	2.0	22.0	45.6
(i) Out-of-state travel	1.1	1.9	11.0	14.0
(j) Other financing uses	.2	450.3	.1	451.4
[Authorized FTE: 16.00 Permanent; 19.00 Term]				

(7) Oil conservation division:					
(a) Personal services	1,987.5	31.0	47.9	461.9	2,228.3
(b) Employee benefits	749.4	12.3	14.4	48.6	824.7
(c) Travel	64.1	1.3	6.5	14.0	85.9
(d) Maintenance and repairs	27.5	2.0	5.7		35.2
(e) Supplies and materials	36.6	.9	5.6	6.9	50.0
(f) Contractual services	49.9	500.0	9.0		558.9

- (g) Operating costs 699.7 6.5 9.7 ~~7.6~~ 723.5
 - (h) Capital outlay 72.0 8.0 80.0
 - (i) Out-of-state travel 12.5 .4 ~~3.3~~ 16.2
 - (j) Other financing uses 1.8 ~~102.5~~ 104.3
- [~~Authorized FTE: 64.00 Permanent; 4.00 Term~~]

Subtotal 34,723.9

Item	General State Fund	Funds/Inter- Federal Funds Agency	Other Intrnl Svc Trnsf	Funds Total
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INTER-TRIBAL INDIAN CEREMONIAL ASSOCIATION:

- (a) Personal services 37.7 37.7
 - (b) Employee benefits 13.6 13.6
 - (c) Travel 3.5 3.5
 - (d) Maintenance and repairs 2.3 2.3
 - (e) Supplies and materials 25.6 25.6
 - (f) Contractual services 133.1 133.1
 - (g) Operating costs 89.9 89.9
 - (h) Other costs 216.1 216.1
 - (i) Capital outlay 5.6 5.6
 - (j) Out-of-state Travel 1.4 1.4
 - (k) Other financing uses .2 .2
- [~~Authorized FTE: 3.00 Permanent; 2.60 Temporary~~]

Subtotal 529.0

Item	General State Fund	Funds/Inter- Federal Funds Agency	Other Intrnl Svc Trnsf	Funds Total
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COMMISSIONER OF PUBLIC LANDS:

- (a) Personal services 4,626.1 4,626.1
 - (b) Employee benefits 1,509.7 1,509.7
 - (c) Travel 102.5 102.5
 - (d) Maintenance and repairs 139.9 139.9
 - (e) Supplies and materials 101.4 101.4
 - (f) Contractual services 350.0 363.8 713.8
 - (g) Operating costs 1,069.9 1,069.9
 - (h) Capital outlay 116.2 116.2
 - (i) Out-of-state Travel 75.7 75.7
 - (j) Other financing uses 488.7 488.7
- [~~Authorized FTE: 146.00 Permanent; 4.00 Temporary~~]

The general fund appropriation to the commissioner of public lands shall be used only for interstate natural gas marketing.

Subtotal 8,943.9

Item	General State Fund	Funds/Inter- Federal Funds Agency	Other Intrnl Svc Trnsf	Funds Total
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NEW MEXICO PEANUT COMMISSION:

- (a) Travel .6 .6
- (b) Maintenance and repairs 2.0 2.0
- (c) Supplies and materials .7 .7
- (d) Contractual services 8.8 8.8
- (e) Operating costs 4.8 4.8
- (f) Other costs 2.4 2.4
- Subtotal 19.3

STATE ENGINEER:

1) Administration:

- (a) Personal services 4,965.6 95.0 5,060.6
 - (b) Employee benefits 1,682.5 32.0 1,714.5
 - (c) Travel 212.4 4.0 216.4
 - (d) Maintenance and repairs 43.2 4.0 47.2
 - (e) Supplies and materials 84.4 84.4
 - (f) Contractual services 528.9 528.9
 - (g) Operating costs 729.3 25.9 755.2
 - (h) Capital outlay 7.7 7.7
 - (i) Out-of-state travel 22.0 22.0
 - (j) Other financing uses 4.4 4.4
- [Authorized FTE: 148.00 Permanent; ~~_____~~ .69 Temporary]

Item	General State Fund	Other Intrnl Svc Funds/Inter- Agency	Federal Trnsf Funds	Total
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(2) Special litigation fund:

- (a) Personal services 530.8 530.8
- (b) Employee benefits 168.4 168.4
- (c) Travel 6.9 6.9
- (d) Maintenance and repairs .3 .3
- (e) Supplies and materials 5.4 5.4
- (f) Contractual services 661.9 661.9
- (g) Operating costs 46.5 46.5
- (h) Out-of-state travel 2.0 2.0
- (i) Other financing uses .5 .5

[Authorized FTE: 16.00 Permanent]

Included in the general fund appropriation to the special litigation fund of the state engineer in the contractual services category is two hundred fifty thousand dollars (\$250,000) to conduct a hydrographic survey of the lower Rio Grande basin, including historical research and costs associated with adjudication.

Item	General State Fund	Other Intrnl Svc Funds/Inter- Agency	Federal Trnsf Funds	Total
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(3) Interstate stream commission:

- (a) Personal services 474.6 474.6
- (b) Employee benefits 144.6 144.6
- (c) Travel 11.2 11.2

- (d) Maintenance and repairs 1.7 1.7
 - (e) Supplies and materials 2.4 2.4
 - (f) Contractual services 200.0 200.0
 - (g) Operating costs 178.3 178.3
 - (h) Capital outlay .5 .5
 - (i) Out-of-state travel 8.4 8.4
 - (j) Other financing uses .4 .4
- [Authorized FTE: 12.00 Permanent]

Included in the general fund appropriation to the interstate stream commission in the contractual services category is two hundred thousand dollars (\$200,000) to continue a comprehensive program of water planning for New Mexico.

Item	General State Fund	Funds/Inter- Funds	Other Intrnl Svc Agency Trnsf	Federal Funds	Total
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(4) Ute dam operation:

- (a) Personal services 5.7 20.3 26.0
 - (b) Employee benefits 10.0 10.0
 - (c) Travel 1.6 1.6
 - (d) Maintenance and repairs 4.7 4.7
 - (e) Supplies and materials 1.6 1.6
 - (f) Contractual services 5.5 5.5
 - (g) Operating costs 8.1 8.1
 - (h) Capital outlay 2.2 2.2
 - (i) Out-of-state Travel .5 .5
- [Authorized FTE: 1.00 Permanent]

Fifty-four thousand five hundred dollars (\$54,500) of the internal service funds/interagency transfers appropriation to the state engineer for Ute dam operation is from the game protection fund. Five thousand seven hundred dollars (\$5,700) of the other state funds appropriation to the state engineer for Ute dam operation is from the Ute dam operating fund.

Unexpended or unencumbered balances from appropriations made from the game protection fund remaining at the end of fiscal year 1997 shall revert to the game protection fund.

Item	General State Fund	Funds/Inter- Funds	Other Intrnl Svc Agency Trnsf	Federal Funds	Total
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(5) Irrigation works construction fund programs:

- (a) Contractual services 607.5 607.5
- (b) Other costs 2,100.0 2,100.0

Included in the other state funds appropriation to the irrigation works construction fund programs of the interstate stream commission in the other costs category is fifty thousand dollars (\$50,000) to make improvements to the acequia de los Luceros and

two hundred thousand dollars (\$200,000) to construct, improve, repair and protect from floods the dams, reservoirs, ditches, flumes and other works of community ditch associations in San Miguel, Guadalupe, De Baca and Lincoln counties.

Item	General State Fund	Funds/Inter- Agency	Other Intrnl Svc Federal Trnsf Funds	Total
(6) Improvement of Rio Grande income fund programs:				
(a) Contractual services	1,547.5			1,547.5

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 15,201.3

Item	General State Fund	Funds/Inter- Agency	Other Intrnl Svc Federal Trnsf Funds	Total
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PUBLIC UTILITY COMMISSION:

- (a) Personal services 2,093.6 2,093.6
- (b) Employee benefits 698.1 698.1
- (c) Travel 18.4 18.4
- (d) Maintenance and repairs 97.0 97.0
- (e) Supplies and materials 31.1 31.1
- (f) Contractual services 134.1 134.1
- (g) Operating costs 160.5 160.5
- (h) Out-of-state travel 33.7 33.7
- (i) Other financing uses 1.6 1.6
- [Authorized FTE: 51.00 Permanent]

Seventy-two thousand five hundred dollars (\$72,500) of the general fund appropriation to the public utility commission in the contractual services category is to be used only for court reporting.

Subtotal 3,268.1

Item	General State Fund	Funds/Inter- Agency	Other Intrnl Svc Federal Trnsf Funds	Total
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NEW MEXICO ORGANIC COMMODITY COMMISSION:

- (a) Personal services 29.2 29.2
- (b) Employee benefits 9.0 9.0
- (c) Travel 2.3 2.3
- (d) Supplies and materials .7 .7
- (e) Contractual services 3.9 11.5 15.4

- (f) Operating costs 11.0 1.7 12.7
- (g) Out-of-state trave .8 .8
- (h) Other financing uses .1 .1
- [Authorized FTE: 1.00 Permanent]

Subtotal 70.2

Item	Fund	Other Intrnl Svc General State Funds/Inter- Federal Funds Agency Trnsf Funds Total
TOTAL AGRICULTURE, ENERGY AND NATURAL RESOURCES	50,998.1 41,085.2 4,084.8	16,148.4 112,316.2

F. HEALTH, HOSPITALS AND HUMAN SERVICES

Item	Fund	Other Intrnl Svc General State Funds/Inter- Federal Funds Agency Trnsf Funds Total
COMMISSION ON THE STATUS OF WOMEN:		
(a) Personal services 174.8	174.8	
(b) Employee benefits 68.0	68.0	
(c) Travel 13.9	13.9	
(d) Maintenance and repairs 2.4	2.4	
(e) Supplies and materials 8.0	8.0	
(f) Contractual services 3.8	3.8	
(g) Operating costs 83.2	83.2	
(h) Out-of-state travel 1.5	1.5	
(i) Other financing uses .2	.2	
[Authorized FTE: 7.00 Permanent]		

Subtotal 355.8

Item	Fund	Other Intrnl Svc General State Funds/Inter- Federal Funds Agency Trnsf Funds Total
COMMISSION FOR DEAF AND HARD-OF-HEARING PERSONS:		
(a) Personal services 168.0	6.0 174.0	
(b) Employee benefits 55.4	2.0 57.4	
(c) Travel 10.9	3.0 13.9	
(d) Maintenance and repairs 3.8	3.8	
(e) Supplies and materials 9.3	2.5 11.8	
(f) Contractual services 16.7	11.0 27.7	
(g) Operating costs 68.7	1.8 70.5	
(h) Other costs 2.5	2.5	
(i) Capital outlay 1.5	1.5	
(j) Out-of-state travel 4.0	1.0 5.0	
(k) Other financing uses .2	.2	
[Authorized FTE: 6.00 Permanent]		

Subtotal 368.3

Item	Fund	Other Intrnl Svc General State Funds/Inter- Federal Funds Agency Trnsf Funds Total
MARTIN LUTHER KING, JR. COMMISSION:		

- (a) Personal services 57.3 57.3
- (b) Employee benefits 19.1 19.1
- (c) Travel 6.0 6.0
- (d) Maintenance and repairs 1.5 1.5
- (e) Supplies and materials 1.5 1.5
- (f) Contractual service 12.2 122.2
- (g) Operating costs 36.0 36.0
- (h) Capital outlay .8 .8
- (i) Out-of-state travel 2.5 2.5
- (j) Other financing uses .1 .1
- [~~Authorized FTE: 2.00 Permanent~~]

Subtotal 247.0

Item	Other Intrnl Svc General State Funds/Inter- Federal Fund	Funds Agency Trnsf Funds Total
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COMMISSION FOR THE BLIND:

- (a) Personal services 554.2 333.8 4,746.4 2,604.1
- (b) Employee benefits 181.6 111.3 [~~559.6~~ 852.5]
- (c) Travel 31.4 ~~96.7~~ 128.1
- (d) Maintenance and repairs 16.7 ~~54.4~~ 68.1
- (e) Supplies and materials 32.1 ~~98.9~~ 131.0
- (f) Contractual services 25.9 ~~79.8~~ 105.7
- (g) Operating costs 112.9 ~~348.0~~ 460.9
- (h) Other costs 501.6 739.8 4,143.6 2,385.0
- (i) Capital outlay 31.2 ~~445.4~~ 146.3
- (j) Out-of-state travel 3.8 ~~44.2~~ 18.0
- (k) Other financing uses .8 ~~2.5~~ 3.3
- [Authorized FTE: 108.50 Permanent; 3.00 Term; 1.20 Temporary]

Unexpended or unencumbered balances in the commission for the blind remaining at the end of fiscal year 1997 from appropriations made from the general fund shall not revert.

Subtotal 6,903.0

Item	Other Intrnl Svc General State Funds/Inter- Federal Fund	Funds Agency Trnsf Funds Total
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OFFICE OF INDIAN AFFAIRS:

- (a) Personal services 304.9 92.0 396.9
- (b) Employee benefits 92.3 31.2 123.5
- (c) Travel 25.0 4.8 29.8
- (d) Maintenance and repairs 1.1 1.1
- (e) Supplies and materials 7.0 .9 7.9
- (f) Contractual services 59.4 59.4
- (g) Operating costs 154.7 3.6 158.3
- (h) Other costs 547.2 874.4 1,421.6
- (i) Capital outlay 2.0 2.0
- (j) Out-of-state travel 7.0 2.5 9.5
- (k) Other financing uses .4 2.6 3.0
- [Authorized FTE: 10.00 Permanent; 4.00 Term]

Subtotal 2,213.0

Item	Other Intrnl Svc General State Funds/Inter- Federal Fund	Funds Agency Trnsf Funds Total
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STATE AGENCY ON AGING:

(1) Administration:

- (a) Personal services 516.0 ~~342.3~~ 828.3
 - (b) Employee benefits 158.9 ~~440.8~~ 269.7
 - (c) Travel 10.0 ~~32.4~~ 42.4
 - (d) Maintenance and repairs 1.5 ~~.3~~ 1.8
 - (e) Supplies and materials 8.3 ~~4.4~~ 12.7
 - (f) Contractual services 15.8 ~~44.2~~ 27.0
 - (g) Operating costs 38.3 ~~40.3~~ 78.6
 - (h) Capital outlay 4.0 ~~4.0~~ 5.0
 - (i) Out-of-state travel 2.6 ~~3.0~~ 5.6
 - (j) Other financing uses .7 .7
- [~~Authorized FTE: 24.00 Permanent~~]

(2) Special programs:

- (a) Personal services 170.8 ~~203.3~~ 374.1
 - (b) Employee benefits 59.5 ~~63.4~~ 122.9
 - (c) Travel 18.3 ~~9.3~~ 27.6
 - (d) Supplies and materials 4.1 ~~4.8~~ 8.9
 - (e) Contractual services 4.9 4.9
 - (f) Operating costs 18.7 ~~50.6~~ 69.3
 - (g) Other costs 740.7 ~~70.6~~ 811.3
 - (h) Out-of-state travel 9.2 9.2
 - (i) Other financing uses .3 .3
- [~~Authorized FTE: 9.00 Permanent; 2.00 Term~~]

Included in the general fund appropriation to the special programs of the state agency on aging in the other costs category is five hundred thousand dollars (\$500,000) for senior services provided through area agencies on aging; and two hundred thousand dollars (\$200,000) to provide for foster grandparent, senior companion and senior volunteer programs throughout the state.

(3) Employment programs:

- (a) Other costs 758.9 ~~389.6~~ 1,148.5

(4) Community programs:

- (a) Other costs 9,661.6 ~~5,284.0~~ 14,942.6
- (b) Other financing uses 1,014.0 1,014.0

Included in the general fund appropriation to community programs of the state agency on aging is two hundred thousand dollars (\$200,000) to expand the meals-on-wheels program; [~~two hundred thousand dollars (\$200,000) for the city of Albuquerque department of senior affairs to maintain the current level of senior services, including case management, chore services, adult daycare, physical fitness, homemaker, information and assistance, legal services, nutrition and transportation;~~] and one hundred fifty thousand dollars (\$150,000) for Alzheimer's disease services provided through area agencies.

The amount from the general fund appropriation to community programs of the state agency on aging to supplement federal Older Americans Act programs shall be contracted to the designated area agencies on aging.

(5) Volunteer programs:

(a) Other costs 2,426.8 2,426.8

(b) Other financing uses 155.6 155.6

Unexpended or unencumbered balances in the state agency on aging remaining at the end of fiscal year 1997 from appropriations made from the general fund shall revert to the general fund sixty days after fiscal year 1997 audit reports have been approved by the state auditor.

Subtotal 22,387.8

Item	Other Intrnl Svc General State Funds/Inter- Federal Fund	Funds Agency Trnsf Funds Total
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HUMAN SERVICES DEPARTMENT:

(1) Administrative services division:

- (a) Personal services 3,317.2 ~~3,350.8~~ 6,668.0
 - (b) Employee benefits 1,069.5 ~~1,069.9~~ 2,139.1
 - (c) Travel 75.0 ~~75.0~~ 150.0
 - (d) Maintenance and repairs 89.1 ~~89.4~~ 178.2
 - (e) Supplies and materials 109.7 ~~109.8~~ 219.5
 - (f) Contractual services 214.1 ~~244.2~~ 428.3
 - (g) Operating costs 2,010.6 1,028.0 ~~3,038.7~~ 6,077.3
 - (h) Other costs .4 ~~.4~~ .8
 - (i) Capital outlay 2.5 ~~2.4~~ 4.9
 - (j) Out-of-state travel 6.0 ~~6.0~~ 12.0
 - (k) Other financing uses 3.6 ~~3.5~~ 7.1
- [Authorized FTE: 187.50 Permanent; 16.00 Term]

Item	Other Intrnl Svc General State Funds/Inter- Federal Fund	Funds Agency Trnsf Funds Total
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(2) Child support enforcement division:

- (a) Personal services 854.9 1,187.7 ~~3,684.8~~ 5,727.4
- (b) Employee benefits 303.4 417.4 ~~1,294.9~~ 2,015.7
- (c) Travel 13.5 18.3 ~~57.2~~ 89.0
- (d) Maintenance and repairs 12.5 17.3 ~~53.4~~ 83.2
- (e) Supplies and materials 35.9 49.5 ~~153.4~~ 238.8
- (f) Contractual services 363.0 279.6 ~~1,275.9~~ 1,918.5
- (g) Operating costs 664.8 914.6 ~~2,837.3~~ 4,416.7
- (h) Capital outlay 1.5 2.0 ~~6.4~~ 9.9
- (i) Out-of-state travel .9 1.1 ~~3.7~~ 5.7
- (j) Other financing uses 1.0 1.4 ~~4.2~~ 6.6

[Authorized FTE: 220.00 Permanent]

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

(3) Medical assistance division:

(a) Personal services	685.7	101.3	190.9	4,383.4	2,361.3
(b) Employee benefits	227.3	33.4	62.8	454.3	777.8
(c) Travel	10.2	1.1	2.1	13.5	26.9
(d) Maintenance and repairs	2.0	.2	.4	2.6	5.2
(e) Supplies and materials	49.7	5.7	10.6	66.1	132.1
(f) Contractual services	4,221.8			9,342.6	13,564.4
(g) Operating costs	930.1	105.7	199.1	1,234.9	2,469.8
(h) Capital outlay	3.0	.4	.6	4.0	8.0
(i) Out-of-state travel	1.9	.2	.4	2.5	5.0
(j) Other financing uses	40.8			4,876.9	4,917.7

[Authorized FTE: 74.00 Permanent]

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

(4) Medicaid payments:

(a) Other costs	172,752.5	3,661.0	38,222.8	585,564.6	800,200.9
(b) Other financing uses	12,087.5	1,737.2		36,649.0	50,473.7

(5) Income support division:

(a) Personal services	11,762.5			12,742.3	24,504.8
(b) Employee benefits	4,267.2			4,570.5	8,837.7
(c) Travel	308.0			396.8	704.8
(d) Maintenance and repairs	312.8			317.6	630.4
(e) Supplies and materials	404.3			426.9	831.2
(f) Contractual services	2,235.1	209.1		5,604.2	8,048.4
(g) Operating costs	5,298.5			5,353.9	10,652.4
(h) Other costs	153.7			14.7	155.4
(i) Capital outlay	65.3			65.2	130.5
(j) Out-of-state travel	11.4			18.8	30.2
(k) Other financing uses	18.0			19,074.8	19,092.8

[Authorized FTE: 980.00 Permanent; 30.00 Term; 15.00 Temporary]

[Included in the general fund appropriation to the income support division of the human services department in the contractual services category is fifty thousand dollars (\$50,000) for one human service caseworker and one secretary for De Baca county.]

[Included in the general fund appropriation to the income support division of the human services department in the other costs category is one hundred thousand dollars (\$100,000) for statewide programs and services for the homeless.]

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

(6) Income support programs:

(a) Other costs	43,814.4	5,993.1		362,455.9	412,263.4
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(b) Other financing uses [~~13,763.2~~] 13,763.2

Subtotal 1,404,984.7

Item	General State Fund	Other Intrnl Svc Funds/Inter- Agency	Federal Trnsf Funds	Total
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LABOR DEPARTMENT:

(1) Office of the secretary:

- (a) Personal services [~~519.8~~] 519.8
 - (b) Employee benefits [~~174.7~~] 174.7
 - (c) Travel [~~17.7~~] 17.7
 - (d) Maintenance and repairs [~~6.3~~] 6.3
 - (e) Supplies and materials [~~11.4~~] 11.4
 - (f) Contractual services [~~6.6~~] 6.6
 - (g) Operating costs [~~92.4~~] 92.4
 - (h) Other costs [~~12.8~~] 12.8
 - (i) Out-of-state travel [~~16.3~~] 16.3
- [Authorized FTE: 15.00 Permanent; 1.00 Term]

(2) Administrative services division:

- (a) Personal services 270.8 [~~3,128.0~~] 3,398.8
 - (b) Employee benefits 11.9 [~~1,083.7~~] 1,095.6
 - (c) Travel [~~13.9~~] 13.9
 - (d) Maintenance and repairs 16.6 [~~279.6~~] 296.2
 - (e) Supplies and materials 6.8 [~~56.4~~] 62.9
 - (f) Contractual services 6.0 [~~727.8~~] 733.8
 - (g) Operating costs [~~443.8~~] 443.8
 - (h) Other costs 198.2 [~~62.2~~] 260.4
 - (i) Capital outlay 29.3 29.3
 - (j) Out-of-state travel [~~20.0~~] 20.0
- [Authorized FTE: 108.00 Permanent; 1.00 Term; 11.26 Temporary]

Item	General State Fund	Other Intrnl Svc Funds/Inter- Agency	Federal Trnsf Funds	Total
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(3) Employment security division:

- (a) Personal services [~~10,965.3~~] 10,965.3
 - (b) Employee benefits [~~3,934.3~~] 3,934.3
 - (c) Travel [~~263.6~~] 263.6
 - (d) Maintenance and repairs [~~247.2~~] 247.2
 - (e) Supplies and materials [~~292.2~~] 292.2
 - (f) Contractual services [~~174.0~~] 174.0
 - (g) Operating costs [~~1,197.9~~] 1,197.9
 - (h) Other costs [~~5,886.0~~] 5,886.0
 - (i) Out-of-state travel [~~52.7~~] 52.7
- [Authorized FTE: 454.00 Permanent; 6.00 Term; 6.00 Temporary]

(4) Job training division:

- (a) Personal services [~~1,311.0~~] 1,311.0
- (b) Employee benefits [~~447.3~~] 447.3
- (c) Travel [~~26.8~~] 26.8
- (d) Maintenance and repairs [~~12.7~~] 12.7
- (e) Supplies and materials [~~24.3~~] 24.3

- (f) Contractual services 850.0 ~~[63.8]~~ 913.8
 - (g) Operating costs ~~[285.2]~~ 285.2
 - (h) Other costs ~~[4,955.4]~~ 4,955.1
 - (i) Out-of-state travel ~~[18.0]~~ 18.0
- [Authorized FTE: 42.00 Permanent; 1.00 Temporary]

Included in the general fund appropriation to the job training division of the labor department in the contractual services category is one hundred thousand dollars (\$100,000) for the village of Dona Ana, ~~[seventy-five thousand dollars (\$75,000) for the city of Las Vegas and seventy-five thousand dollars (\$75,000) for the community of Mora all to contract for a traditional skills and crafts training program for at-risk youth;]~~ and one hundred thousand dollars (\$100,000) to fund an initiative to encourage high school students to consider retail sales as a career choice and to prepare them for that choice.

Item	General State Fund	Other Intrnl Svc Funds/Inter- Federal Funds Agency Trnsf	Funds Total
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(5) Labor and industrial division:

- (a) Personal services 403.5 293.2 696.7
 - (b) Employee benefits 159.8 96.8 256.6
 - (c) Travel 46.4 46.4
 - (d) Maintenance and repairs 9.6 9.6
 - (e) Supplies and materials 7.1 7.1
 - (f) Contractual services 4.5 4.5
 - (g) Operating costs 136.0 136.0
 - (h) Out-of-state travel .9 .9
- [Authorized FTE: 24.00 Permanent]

Item	General State Fund	Other Intrnl Svc Funds/Inter- Federal Funds Agency Trnsf	Funds Total
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(6) Human rights division:

- (a) Personal services 206.5 192.8 ~~[99.2]~~ 498.5
 - (b) Employee benefits 102.3 94.9 ~~[48.8]~~ 246.0
 - (c) Travel 25.3 ~~[6.3]~~ 31.6
 - (d) Maintenance and repairs 5.8 ~~[1.4]~~ 7.2
 - (e) Supplies and materials 3.4 ~~[.8]~~ 4.2
 - (f) Contractual services 14.4 ~~[2.0]~~ 16.4
 - (g) Operating costs 110.3 ~~[26.6]~~ 136.9
 - (h) Out-of-state travel ~~[2.4]~~ 2.4
- [Authorized FTE: 49.00 Permanent]

Subtotal 40,321.1

Item	General State Fund	Other Intrnl Svc Funds/Inter- Federal Funds Agency Trnsf	Funds Total
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WORKERS' COMPENSATION ADMINISTRATION:

(1) Office of the director:

- (a) Personal services 1,550.8 1,550.8
 - (b) Employee benefits 542.4 542.4
 - (c) Travel 69.6 69.6
 - (d) Maintenance and repairs 8.7 8.7
 - (e) Supplies and materials 27.2 27.2
 - (f) Contractual services 74.8 74.8
 - (g) Operating costs 168.8 168.8
 - (h) Out-of-state Travel 7.9 7.9
 - (i) Other financing uses 1.5 1.5
- [Authorized FTE: 47.00 Permanent]

(2) Operations division:

- (a) Personal services 1,847.2 1,847.2
 - (b) Employee benefits 675.7 675.7
 - (c) Travel 60.1 60.1
 - (d) Maintenance and repairs 144.4 144.4
 - (e) Supplies and materials 32.8 32.8
 - (f) Contractual services 62.9 62.9
 - (g) Operating costs 692.8 692.8
 - (h) Capital outlay 1.5 1.5
 - (i) Out-of-state Travel 5.9 5.9
 - (j) Other financing uses 1.9 1.9
- [Authorized FTE: 64.00 Permanent]

Item	General State Fund	Funds/Inter- Federal	Other Intrnl Svc Funds Agency Trnsf	Funds Total
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(3) Regulations division:

- (a) Personal services 882.7 882.7
 - (b) Employee benefits 329.9 329.9
 - (c) Travel 15.8 15.8
 - (d) Maintenance and repairs 4.9 4.9
 - (e) Supplies and materials 12.8 12.8
 - (f) Contractual services 726.0 726.0
 - (g) Operating costs 149.6 149.6
 - (h) Capital outlay .6 .6
 - (i) Out-of-state Travel 12.2 12.2
 - (j) Other financing uses 1.0 1.0
- [Authorized FTE: 33.00 Permanent]

Subtotal 8,112.4

Item	General State Fund	Funds/Inter- Federal	Other Intrnl Svc Funds Agency Trnsf	Funds Total
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DIVISION OF VOCATIONAL REHABILITATION:

(1) Rehabilitative services unit:

- (a) Personal services 1,058.8 [~~4,722.0~~] 5,780.8
- (b) Employee benefits 352.5 [~~1,556.3~~] 1,908.8
- (c) Travel 50.0 [~~223.4~~] 273.4
- (d) Maintenance and repairs 30.9 [~~136.4~~] 167.0
- (e) Supplies and materials 21.7 [~~103.3~~] 125.0
- (f) Contractual services 552.9 [~~1,579.4~~] 2,132.3

- (g) Operating costs 405.0 [~~1,805.0~~] 2,210.0
 - (h) Other costs 1,583.6 194.8 [~~6,792.3~~] 8,570.7
 - (i) Capital outlay 10.7 [~~54.8~~] 65.5
 - (j) Out-of-state travel 9.8 [~~44.2~~] 54.0
 - (k) Other financing uses 1.3 [~~5.3~~] 6.6
- [~~Authorized FTE: 184.00 Permanent; 18.00 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 [~~2,796.8~~] 2,806.2
 - (b) Employee benefits 3.1 [~~905.3~~] 908.4
 - (c) Travel [~~12.9~~] 12.9
 - (d) Maintenance and repairs [~~87.5~~] 87.5
 - (e) Supplies and materials [~~40.5~~] 40.5
 - (f) Contractual services [~~681.7~~] 681.7
 - (g) Operating costs [~~850.8~~] 850.8
 - (h) Other costs [~~2,497.2~~] 2,497.2
 - (i) Out-of-state travel [~~21.3~~] 21.3
 - (j) Other financing uses [~~3.1~~] 3.1
- [~~Authorized FTE: 95.00 Permanent~~]

Unexpended or unencumbered balances in the division of vocational rehabilitation remaining at the end of fiscal year 1997 from appropriations made from the general fund shall not revert.

Subtotal 29,203.7

Item	General State Fund	Other Intrnl Svc Funds/Inter- Federal Funds Agency Trnsf Funds	Total
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GOVERNOR'S COMMITTEE ON CONCERNS OF THE HANDICAPPED:

- (a) Personal services 226.9 226.9
 - (b) Employee benefits 75.8 75.8
 - (c) Travel 9.2 9.2
 - (d) Maintenance and repairs 3.1 3.1
 - (e) Supplies and materials 9.2 9.2
 - (f) Contractual services 22.6 22.6
 - (g) Operating costs 26.6 26.6
 - (h) Other costs 51.0 51.0
 - (i) Out-of-state travel 5.8 5.8
 - (j) Other financing uses .2 .2
- [~~Authorized FTE: 7.00 Permanent~~]

[~~Included in the general fund appropriation to the governor's committee on concerns of the handicapped in the other costs category is fifty thousand dollars (\$50,000) to conduct a study to determine the extent of problems faced by persons with multiple chemical sensitivities or environmental illness.~~]

Subtotal 430.4

General State Fund	Other Intrnl Svc Funds/Inter- Federal
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Item	Fund	Funds Agency Trnsf Funds Total
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DEVELOPMENTAL DISABILITIES PLANNING COUNCIL:

- (a) Personal services 163.8 [~~76.6~~] 240.4
 - (b) Employee benefits 67.2 [~~46.9~~] 84.1
 - (c) Travel 8.0 [~~20.9~~] 28.0
 - (d) Maintenance and repairs .3 .3
 - (e) Supplies and materials 2.4 [~~4.4~~] 6.5
 - (f) Contractual services 22.3 [~~6.5~~] 28.8
 - (g) Operating costs 20.2 12.0 [~~28.4~~] 60.3
 - (h) Other costs [~~260.0~~] 260.0
 - (i) Out-of-state travel 1.5 [~~2.8~~] 4.3
 - (j) Other financing uses .2 .2
- [~~Authorized FTE: 6.00 Permanent; 1.50 Term~~]

Subtotal 712.9

Item	Fund	General State Funds/Inter- Federal	Other Intrnl Svc Funds Agency Trnsf Funds Total
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MINERS' HOSPITAL:

- (a) Personal services 4,682.0 [~~50.0~~] 4,732.0
 - (b) Employee benefits 1,746.4 [~~25.0~~] 1,771.4
 - (c) Travel 51.3 51.3
 - (d) Maintenance and repairs 344.4 344.4
 - (e) Supplies and materials 1,390.7 1,390.7
 - (f) Contractual services 863.0 [~~75.0~~] 938.0
 - (g) Operating costs 635.3 635.3
 - (h) Other costs 5.5 5.5
 - (i) Capital outlay 200.0 200.0
 - (j) Out-of-state Travel 10.0 10.0
 - (k) Other financing uses 6.1 6.1
- [~~Authorized FTE: 187.50 Permanent; 13.50 Term~~]

Subtotal 10,084.7

Item	Fund	General State Funds/Inter- Federal	Other Intrnl Svc Funds Agency Trnsf Funds Total
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DEPARTMENT OF HEALTH:

(1) Office of the secretary:

- (a) Personal services 302.8 302.8
 - (b) Employee benefits 95.3 95.3
 - (c) Travel 9.0 9.0
 - (d) Maintenance and repairs .6 .6
 - (e) Supplies and materials 4.2 4.2
 - (f) Operating costs 20.8 20.8
 - (g) Capital outlay 1.1 1.1
 - (h) Out-of-state travel 5.0 5.0
 - (i) Other financing uses .2 .2
- [~~Authorized FTE: 6.00 Permanent; 1.00 Term~~]

(2) Administrative services division:

- (a) Personal services 2,008.7 79.6 [~~864.3~~] 2,949.6

(b) Employee benefits 689.6 38.1 [~~294.9~~] 1,022.6
(c) Travel 11.4 [~~7.0~~] 18.4
(d) Maintenance and repairs 22.8 [~~14.6~~] 34.4
(e) Supplies and materials 51.4 4.5 [~~19.1~~] 75.0
(f) Contractual services 189.0 [~~60.0~~] 249.0
(g) Operating costs 761.2 .9 [~~236.9~~] 999.0
(h) Capital outlay 35.4 6.0 [~~15.4~~] 56.5
(i) Out-of-state travel [~~4.0~~] 4.0
(j) Other financing uses 2.3 .6 [~~-4~~] 3.0
[Authorized FTE: ~~94.00~~ Permanent; 7.00 Term]

Item	General State Fund	Funds/Inter- Funds Agency	Other Intrnl Svc Federal Trnsf	Total
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(3) Quality improvement:

(a) Personal services 131.9 131.9
(b) Employee benefits 39.8 39.8
(c) Travel 7.9 7.9
(d) Maintenance and repairs .7 .7
(e) Supplies and materials 1.3 1.3
(f) Operating costs 15.3 15.3
(g) Capital outlay 2.8 2.8
(h) Out-of-state travel 2.3 2.3
[Authorized FTE: ~~5.00~~ Permanent]

(4) General counsel:

(a) Personal services 460.7 460.7
(b) Employee benefits 145.4 145.4
(c) Travel 13.0 13.0
(d) Maintenance and repairs 2.5 2.5
(e) Supplies and materials 8.5 8.5
(f) Contractual services 5.0 5.0
(g) Operating costs 50.0 50.0
(h) Capital outlay 7.0 7.0
(i) Out-of-state travel 1.5 1.5
(j) Other financing uses .3 .3
[Authorized FTE: ~~11.00~~ Permanent]

Item	General State Fund	Funds/Inter- Funds Agency	Other Intrnl Svc Federal Trnsf	Total
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5) Division of epidemiology, evaluation and planning:

(a) Personal services 570.4 237.2 [~~884.4~~] 1,688.7
(b) Employee benefits 173.9 71.7 [~~66.0~~] 511.6
(c) Travel 9.2 3.8 [~~14.2~~] 27.2
(d) Maintenance and repairs 1.7 .7 [~~2.6~~] 5.0
(e) Supplies and materials 6.8 2.8 [~~10.4~~] 20.0
(f) Contractual services 356.1 139.3 [~~448.9~~] 944.3
(g) Operating costs 73.6 30.2 [~~112.5~~] 216.3
(h) Other costs .7 [~~7.0~~] 7.7
(i) Capital outlay 35.0 35.0
(j) Out-of-state travel 3.1 [~~16.9~~] 20.0
(k) Other financing uses [~~-4~~] .4

[Authorized FTE: 13.00 Permanent; 31.00 Term; 1.00 Temporary]

[Included in the general fund appropriation to the division of epidemiology, evaluation and planning of the department of health in the contractual services category is one hundred thousand dollars (\$100,000) to continue development of a crash outcome data evaluation system for the purpose of injury treatment and accident prevention.]

Item	General State Fund	Funds/Inter- Agency	Other Intrnl Svc Federal Trnsf	Funds Total
(6) Reproduction services:				
(a) Personal services	18.0	18.0		
(b) Employee benefits	8.2	8.2		
(c) Maintenance and repairs	41.7	41.7		
(d) Supplies and materials	70.0	70.0		
(e) Operating costs	250.0	250.0		

[Authorized FTE: 1.00 Term]

Item	General State Fund	Funds/Inter- Agency	Other Intrnl Svc Federal Trnsf	Funds Total
(7) Long-term care and restorative services division:				
(a) Personal services	481.3	176.4	657.7	
(b) Employee benefits	204.3	2.0	206.3	
(c) Travel	8.9	19.4	28.3	
(d) Maintenance and repairs	3.1	8.9	12.0	
(e) Supplies and materials	4.7	13.7	18.4	
(f) Contractual services	272.5	51.0	323.5	
(g) Operating costs	26.0	73.2	99.2	
(h) Other costs	90.0	645.0	835.0	
(i) Capital outlay	3.1	9.1	12.2	
(j) Out-of-state travel	2.0	8.0	10.0	
(k) Other financing uses	.6	.6		

[Authorized FTE: 10.00 Permanent; 11.00 Term]

Item	General State Fund	Funds/Inter- Agency	Other Intrnl Svc Federal Trnsf	Funds Total
8) Scientific laboratory division:				
(a) Personal services	2,440.6	191.5	800.3	[15.2] 3,447.6
(b) Employee benefits	787.6	45.0	285.7	[6.8] 1,125.1
(c) Travel	25.1	25.1		
(d) Maintenance and repairs	138.6	12.4	135.4	286.4
(e) Supplies and materials	555.9	153.2	418.9	1,128.0
(f) Contractual services	121.4	156.2	301.2	578.8
(g) Operating costs	28.1	28.7	261.5	318.3
(h) Other costs	62.0	62.0		
(i) Capital outlay	446.0	446.0		
(j) Out-of-state travel	19.0	19.0		

(k) Other financing uses 3.0 3.0
 [Authorized FTE: 79.00 Permanent; 38.00 Term]

Item	General State Fund	Funds/Inter- Federal	Other Intrnl Svc Funds Agency Trnsf Funds Total
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9) Community health systems division:

- (a) Personal services 652.2 73.0 56.8 [~~520.8~~] 1,302.8
- (b) Employee benefits 191.0 27.5 27.4 [~~180.2~~] 426.1
- (c) Travel 43.3 15.6 13.2 [~~25.3~~] 97.4
- (d) Maintenance and repairs 4.0 1.0 [~~4.0~~] 9.0
- (e) Supplies and materials 24.4 16.3 15.3 [~~48.7~~] 74.7
- (f) Contractual services 10,648.5 189.9 1,298.6 [~~273.4~~] 12,410.1
- (g) Operating costs 648.3 27.1 5.4 [~~95.3~~] 776.1
- (h) Other costs 2,776.5 2,776.5
- (i) Capital outlay 16.8 16.8
- (j) Out-of-state travel 7.2 4.4 [~~13.0~~] 24.6
- (k) Other financing uses .9 .9
 [Authorized FTE: 16.00 Permanent; 25.00 Term]

[Included in the general fund appropriation to the community health systems division of the department of health in the contractual services category is fifty thousand dollars (\$50,000) for operational funding for a health provider in Rio Arriba county to provide health services for the indigent.]

Item	General State Fund	Funds/Inter- Federal	Other Intrnl Svc Funds Agency Trnsf Funds Total
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(10) Public health division:

- (a) Personal services 13,764.3 211.1 2,214.4 [~~6,875.8~~] 23,065.6
- (b) Employee benefits 4,619.2 72.3 812.5 [~~2,462.4~~] 7,966.4
- (c) Travel 804.1 6.4 90.1 [~~255.4~~] 1,156.0
- (d) Maintenance and repairs 182.2 .2 7.2 [~~23.7~~] 213.3
- (e) Supplies and materials 3,490.9 376.0 18.8 [~~502.6~~] 4,388.3
- (f) Contractual services 13,057.9 65.2 188.1 [~~4,781.4~~] 18,092.6
- (g) Operating costs 2,390.5 166.3 [~~573.4~~] 3,129.9
- (h) Other costs 4,627.1 24.0 [~~3,323.0~~] 7,974.1
- (i) Capital outlay 244.5 [~~69.0~~] 313.5
- (j) Out-of-state travel 92.3 2.0 14.8 [~~33.0~~] 142.1
- (k) Other financing uses 19.4 19.4
 [Authorized FTE: 430.00 Permanent; 393.00 Term]

[Included in the general fund appropriation to the public health division of the department of health in the personal services and employee benefits categories is sixty-five thousand dollars (\$65,000) to fund a full-time nurse position at the clinic in Mosquero in Harding county.]

Item	General State Fund	Funds/Inter- Federal	Other Intrnl Svc Funds Agency Trnsf Funds Total
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(11) Southern New Mexico rehabilitation center:

- (a) Personal services 1,422.8 1,778.2 70.0 3,271.0
 - (b) Employee benefits 486.0 619.8 30.0 1,135.8
 - (c) Travel 6.5 2.1 16.3 24.9
 - (d) Maintenance and repairs 44.0 25.2 105.8 175.0
 - (e) Supplies and materials 95.9 20.4 150.7 267.0
 - (f) Contractual services 58.5 24.3 31.7 114.5
 - (g) Operating costs 117.6 197.6 315.2
 - (h) Other costs 6.7 12.0 18.7
 - (i) Capital outlay 85.9 15.0 100.9
 - (j) Out-of-state travel 3.7 1.1 4.8
 - (k) Other financing uses 3.4 3.4
- [Authorized FTE: 109.00 Permanent; 18.00 Term]

(12) Northern New Mexico rehabilitation center:

- (a) Personal services 370.4 589.2 118.6 1,078.2
 - (b) Employee benefits 190.0 237.1 30.2 457.3
 - (c) Travel 6.3 25.9 8.2 40.4
 - (d) Maintenance and repairs 23.5 6.1 29.6
 - (e) Supplies and materials 21.7 46.5 18.6 86.8
 - (f) Contractual services 23.2 36.2 15.4 74.8
 - (g) Operating costs 21.2 51.6 21.3 94.1
 - (h) Other costs 3.3 218.5 1.6 223.4
 - (i) Capital outlay 2.0 2.0 2.0 6.0
 - (j) Out-of-state Travel 1.4 1.4 2.8
 - (k) Other financing uses 2.5 2.5
- [Authorized FTE: 43.00 Permanent; 11.00 Term]

Item	General State Fund	Other Intrnl Svc Funds/Inter- Federal Funds Agency Trnsf	Funds Total
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(13) Women, infants and children program:

- (a) Personal services 734.0 221.4 [4,193.3] 5,148.7
 - (b) Employee benefits 277.1 82.7 [1,560.7] 1,920.5
 - (c) Travel [125.6] 125.6
 - (d) Maintenance and repairs [45.4] 45.4
 - (e) Supplies and materials 457.9 7,000.0 [19,246.5] 26,704.4
 - (f) Contractual services [2,402.8] 2,402.8
 - (g) Operating costs [633.5] 633.5
 - (h) Capital outlay [111.1] 111.1
 - (i) Out-of-state travel [19.4] 19.1
 - (j) Other financing uses [6.5] 6.5
- [Authorized FTE: 227.00 Term]

14) Community programs--substance abuse:

- (a) Contractual services 7,602.8 [5,517.9] 13,120.7
- (b) Other financing uses 302.1 [363.9] 666.0

[Included in the general fund appropriation to community programs--substance abuse of the department of health in the contractual services category is twenty thousand dollars

~~(\$20,000) for a community-based substance abuse treatment program in Hobbs in Lea county.]~~

(15) Community programs--mental health:

(a) Contractual services 16,822.6 [~~4,040.0~~] 17,832.6

(b) Other financing uses 4,165.9 4,165.9

(16) Community programs--developmental

disabilities: 17,941.8 17,941.8

Item	General State Fund	Funds/Inter- Funds Agency	Other Intrnl Svc Federal Trnsf Funds	Total
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(17) Behavioral health services division:

(a) Personal services 544.1 [~~280.8~~] 824.9

(b) Employee benefits 166.8 [~~87.2~~] 254.0

(c) Travel 1.0 [~~36.3~~] 37.3

(d) Maintenance and repairs [~~4.0~~] 4.0

(e) Supplies and materials [~~9.1~~] 9.1

(f) Contractual services [~~40.0~~] 40.0

(g) Operating costs 6.5 [~~77.5~~] 84.0

(h) Out-of-state travel [~~6.0~~] 6.0

(i) Other financing uses [~~.7~~] .7

[~~Authorized FTE: 15.00 Permanent; 9.00 Term~~]

18) Mental health division:

(a) Personal services 855.0 100.0 [~~210.4~~] 1,165.4

(b) Employee benefits 266.0 30.0 [~~70.6~~] 366.6

(c) Travel 16.5 4.2 [~~4.4~~] 25.1

(d) Maintenance and repairs 2.6 2.6

(e) Supplies and materials 4.3 [~~8.7~~] 13.0

(f) Contractual services 41.4 [~~8.6~~] 50.0

(g) Operating costs 97.5 [~~20.3~~] 117.8

(h) Out-of-state travel 3.5 3.5

(i) Other financing uses .8 .8

[~~Authorized FTE: 23.00 Permanent; 7.00 Term~~]

Item	General State Fund	Funds/Inter- Funds Agency	Other Intrnl Svc Federal Trnsf Funds	Total
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(19) Developmental disabilities division:

(a) Personal services 1,609.0 1,057.5 2,666.5

(b) Employee benefits 833.7 833.7

(c) Travel 110.2 110.2

(d) Maintenance and repairs 10.0 10.0

(e) Supplies and materials 56.4 56.4

(f) Contractual services 536.7 [~~613.3~~] 1,150.0

(g) Operating costs 477.7 477.7

(h) Other costs 475.0 475.0

(i) Capital outlay 2.4 2.4

(j) Out-of-state travel 10.0 10.0

(k) Other financing uses 2.6 2.6
 [Authorized FTE: 52.00 Permanent; 33.00 Term]

20) Las Vegas medical center:

(a) Personal services 14,417.8 1,586.9 7,887.0 23,891.7
 (b) Employee benefits 5,220.0 601.1 2,908.6 8,729.7
 (c) Travel 71.8 9.1 36.1 117.0
 (d) Maintenance and repairs 380.9 39.0 175.5 595.4
 (e) Supplies and materials 859.7 81.5 444.9 1,386.1
 (f) Contractual services 1,151.1 119.0 550.4 1,820.5
 (g) Operating costs 1,080.1 112.5 530.0 1,722.6
 (h) Other costs 347.5 34.5 175.5 557.5
 (i) Capital outlay 82.5 7.8 37.6 127.9
 (j) Out-of-state travel 6.8 3.2 10.0
 (k) Other financing uses 18.6 1.7 8.5 28.8
 [Authorized FTE: 900.00 Permanent; 60.00 Term]

Item	General State Fund	Funds/Inter- Federal	Other Intrnl Svc Funds Agency Trnsf	Funds Total
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(21) Adolescent residential treatment facility:

(a) Personal services 1,468.7 1,906.6 3,375.3
 (b) Employee benefits 544.3 492.7 1,037.0
 (c) Travel 10.0 10.0 20.0
 (d) Maintenance and repairs 33.8 19.7 53.5
 (e) Supplies and materials 111.0 33.5 207.9 352.4
 (f) Contractual services 66.6 111.5 178.1
 (g) Operating costs 78.6 111.5 190.1
 (h) Other costs 7.0 12.4 19.4
 (i) Capital outlay 7.5 17.4 24.9
 (j) Out-of-state travel 1.9 3.3 5.2
 (k) Other financing uses 1.3 2.6 3.9
 [Authorized FTE: 129.00 Permanent]

Item	General State Fund	Funds/Inter- Federal	Other Intrnl Svc Funds Agency Trnsf	Funds Total
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(22) Fort Bayard medical center:

(a) Personal services 1,404.4 1,581.6 4,842.7 [309.8] 8,138.5
 (b) Employee benefits 566.5 631.6 1,933.9 [423.7] 3,255.7
 (c) Travel 13.1 14.5 44.5 [2.8] 74.9
 (d) Maintenance and repairs 65.8 73.4 224.8 [14.4] 378.4
 (e) Supplies and materials 263.4 287.7 899.2 [63.5] 1,513.8
 (f) Contractual services 14.8 16.5 50.3 [3.4] 85.0
 (g) Operating costs 107.0 119.3 365.3 [23.3] 614.9
 (h) Other costs 9.5 10.6 32.4 [2.4] 54.6
 (i) Capital outlay 33.0 36.9 112.9 [7.2] 190.0
 (j) Out-of-state travel .5 .4 1.5 [-.4] 2.5
 (k) Other financing uses .4 2.1 7.1 [2.2] 11.8
 [Authorized FTE: 326.00 Permanent; 25.00 Term; 45.50 Temporary]

(23) Turquoise lodge:

- (a) Personal services 1,243.5 1.7 402.9 1,648.1
 - (b) Employee benefits 445.3 5.8 134.7 585.8
 - (c) Travel 16.4 2.0 3.2 21.6
 - (d) Maintenance and repairs 35.9 3.5 7.8 47.2
 - (e) Supplies and materials 104.1 1.4 31.5 137.0
 - (f) Contractual services 198.4 11.3 51.3 261.0
 - (g) Operating costs 89.5 1.2 27.1 117.8
 - (h) Other costs 1.2 .1 .3 1.6
 - (i) Capital outlay 19.5 .3 5.9 25.7
 - (j) Out-of-state travel 4.5 .5 1.0 6.0
 - (k) Other financing uses 1.4 .1 .3 1.8
- [Authorized FTE: ~~44.00 Permanent; 18.00 Term~~]

Item	General State Fund	Other Intrnl Svc Funds/Inter- Federal Funds Agency Trnsf	Funds Total
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24) Los Lunas medical center:

- (a) Personal services 2,507.0 599.1 7,416.4 [~~47.4~~] 10,569.6
- (b) Employee benefits 1,073.6 206.6 3,144.5 [~~67.4~~] 4,492.1
- (c) Travel 16.3 1.1 47.9 [~~3.4~~] 68.4
- (d) Maintenance and repairs 46.6 2.9 136.5 [~~9.0~~] 195.0
- (e) Supplies and materials 183.0 11.2 525.0 [~~30.8~~] 750.0
- (f) Contractual services 298.8 17.9 875.8 [~~57.5~~] 1,250.0
- (g) Operating costs 175.8 11.0 514.7 [~~33.8~~] 735.3
- (h) Other costs 71.7 4.5 210.0 [~~43.8~~] 300.0
- (i) Capital outlay 21.0 1.3 61.5 [~~4.0~~] 87.8
- (j) Out-of-state travel .7 .1 2.1 [~~-4~~] 3.0
- (k) Other financing uses 2.1 .4 5.6 [~~-9~~] 9.0

[Authorized FTE: ~~370.00 Permanent; 22.00 Term~~]

25) Los Lunas community waiver program:

- (a) Personal services 269.5 843.2 1,112.7
- (b) Employee benefits 129.9 402.3 532.2
- (c) Travel 1.0 2.0 3.0
- (d) Maintenance and repairs .3 .7 1.0
- (e) Supplies and materials 8.3 25.7 34.0
- (f) Contractual services 12.2 37.8 50.0
- (g) Operating costs 63.4 196.6 260.0
- (h) Other costs 160.5 501.9 662.4
- (i) Capital outlay 2.0 3.0 5.0
- (j) Other financing uses .7 2.1 2.8

[Authorized FTE: ~~94.00 Permanent; 1.00 Term~~]

Item	General State Fund	Other Intrnl Svc Funds/Inter- Federal Funds Agency Trnsf	Funds Total
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(26) New Mexico veterans' center:

- (a) Personal services 811.0 1,507.8 948.1 [~~927.2~~] 4,194.1
- (b) Employee benefits 328.1 553.3 367.5 [~~370.0~~] 1,618.9
- (c) Travel 6.4 5.3 5.7 [~~4.7~~] 22.1

- (d) Maintenance and repairs 26.1 65.6 89.6 [~~54.0~~] 235.3
- (e) Supplies and materials 184.4 77.0 270.9 [~~174.0~~] 706.3
- (f) Contractual services 13.4 45.2 38.1 [~~93.3~~] 190.0
- (g) Operating costs 129.7 154.9 170.5 [~~9.4~~] 464.5
- (h) Other costs [~~40.5~~] 10.5
- (i) Capital outlay 103.9 103.9
- (j) Out-of-state travel 1.5 1.5
- (k) Other financing uses 6.2 6.2

[~~Authorized FTE: 142.00 Permanent; 63.50 Term~~]

(27) Community coordinated in-home care waivers:

- (a) Other costs 415.0 415.0
- (b) Other financing uses 16,059.8 4,000.0 20,059.8

Subtotal 22,372.3

Item	General State Fund	Other Intrnl Svc Funds/Inter- Federal Agency Trnsf	Total
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DEPARTMENT OF ENVIRONMENT:

(1) Office of the secretary:

- (a) Personal services 350.8 465.1 [~~56.0~~] 871.9
- (b) Employee benefits 109.6 142.9 [~~46.6~~] 269.1
- (c) Travel 1.4 16.3 [~~8.9~~] 26.6
- (d) Maintenance and repairs .1 1.6 [~~.5~~] 2.2
- (e) Supplies and materials 2.1 5.4 [~~4.4~~] 8.6
- (f) Contractual services 10.5 12.6 23.1
- (g) Operating costs 26.7 39.7 [~~6.7~~] 73.1
- (h) Out-of-state travel 1.9 6.9 [~~2.0~~] 10.8
- (i) Other financing uses .2 .3 [~~.4~~] .6

[~~Authorized FTE: 19.50 Permanent; 1.50 Term~~]

(2) Administrative services division:

- (a) Personal services 360.1 618.5 [~~4,237.2~~] 2,215.8
- (b) Employee benefits 118.6 209.6 [~~424.6~~] 752.8
- (c) Travel 2.1 2.6 [~~44.4~~] 19.1
- (d) Maintenance and repairs 24.4 93.4 [~~435.0~~] 252.8
- (e) Supplies and materials 9.4 [~~22.5~~] 31.9
- (f) Contractual services 4.8 36.9 [~~99.3~~] 141.0
- (g) Operating costs 19.5 50.7 [~~95.8~~] 166.0
- (h) Capital outlay 22.2 85.0 [~~422.9~~] 230.1
- (i) Out-of-state Travel 1.0 [~~42.3~~] 13.3
- (j) Other financing uses .3 .6 [~~4.4~~] 2.0

[~~Authorized FTE: 37.00 Permanent; 30.00 Term~~]

Item	General State Fund	Other Intrnl Svc Funds/Inter- Federal Agency Trnsf	Total
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(3) Environmental protection division:

- (a) Personal services 1,722.0 2,519.3 [~~4,722.9~~] 5,964.2

- (b) Employee benefits 577.6 836.1 [~~572.6~~] 1,986.3
- (c) Travel 67.2 178.0 [~~47.7~~] 292.9
- (d) Maintenance and repairs 9.0 26.4 [~~7.9~~] 43.3
- (e) Supplies and materials 18.1 142.4 [~~49.7~~] 180.2
- (f) Contractual services 50.8 182.4 [~~22.8~~] 256.0
- (g) Operating costs 208.7 584.1 [~~229.5~~] 1,022.3
- (h) Capital outlay 1.0 184.5 185.5
- (i) Out-of-state travel 9.0 64.4 [~~42.4~~] 85.8
- (j) Other financing uses 42.8 225.5 [~~54.4~~] 322.7

[~~Authorized FTE: 69.00 Permanent; 126.00 Term~~]

(4) Field operations division:

- (a) Personal services 2,942.6 1,014.3 [~~322.5~~] 4,279.4
- (b) Employee benefits 1,012.7 345.6 [~~409.9~~] 1,468.2
- (c) Travel 106.3 120.5 [~~29.5~~] 256.3
- (d) Maintenance and repairs 20.5 6.4 [~~4.6~~] 28.5
- (e) Supplies and materials 32.5 53.5 [~~44.2~~] 100.2
- (f) Contractual services 2.1 1,378.8 [~~96.3~~] 1,477.2
- (g) Operating costs 521.5 332.2 [~~444.0~~] 967.7
- (h) Capital outlay [~~13.8~~] 13.8
- (i) Out-of-state travel .9 18.2 [~~15.2~~] 34.3
- (j) Other financing uses 2.6 2.1 [~~24.5~~] 26.2

[~~Authorized FTE: 111.00 Permanent; 29.00 Term~~]

Item	General State Fund	Other Intrnl Svc Funds/Inter- Federal Funds Agency Trnsf Funds	Total
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(5) Water and waste management division:

- (a) Personal services 2,016.3 39.6 634.1 ~~3,636.0~~ 6,326.0
- (b) Employee benefits 666.4 14.6 208.1 ~~4,192.8~~ 2,081.9
- (c) Travel 22.3 122.1 ~~234.6~~ 379.0
- (d) Maintenance and repairs 8.7 2.7 ~~27.0~~ 38.4
- (e) Supplies and materials 30.7 16.5 ~~203.6~~ 250.8
- (f) Contractual services 467.3 222.9 ~~1,569.8~~ 2,260.0
- (g) Operating costs 202.3 6.0 114.8 ~~483.0~~ 806.1
- (h) Capital outlay 40.0 43.9 ~~444.9~~ 198.8
- (i) Out-of-state travel 5.1 23.4 ~~104.4~~ 132.9
- (j) Other financing uses 12.2 4.1 ~~47.4~~ 63.4

[~~Authorized FTE: 65.00 Permanent; 133.00 Term~~]

Item	General State Fund	Other Intrnl Svc Funds/Inter- Federal Funds Agency Trnsf Funds	Total
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(6) Tire recycling fund:

- (a) Other costs 610.0 610.0
- (b) Other financing uses 248.2 248.2

(7) Air quality Title V fund: 2,467.9 2,467.9

(8) Responsible party prepay: 451.6 451.6

(9) Hazardous waste fund: 545.7 545.7

(10) Water quality management fund: 162.1 162.1

(11) Water conservation fund: 3,085.9 3,085.9

(12) Air quality permit fund: 652.4 652.4

(13) Radiologic technology fund: 54.8 54.8

(14) Underground storage tank fund: 907.5 907.5

(15) Corrective action fund:

(a) Contractual services 1,185.1 1,185.1

(b) Other costs 2,872.3 2,872.3

(c) Other financing uses 1,612.5 1,612.5

(16) Food service sanitation fund: 572.9 572.9

Subtotal 52,068.0

Item	General State Fund	Other Intrnl Svc Funds/Inter- Federal Funds Agency Trnsf	Total
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OFFICE OF THE NATURAL RESOURCES TRUSTEE:

(a) Personal services 96.1 96.1

(b) Employee benefits 35.6 35.6

(c) Travel 5.0 5.0

(d) Maintenance and repairs 1.1 1.1

(e) Supplies and materials 5.7 5.7

(f) Contractual services 151.5 151.5

(g) Operating costs 13.6 13.6

(h) Out-of-state travel 2.0 2.0

(i) Other financing uses .1 .1

[Authorized FTE: 2.00 Permanent]

Subtotal 310.7

Item	General State Fund	Other Intrnl Svc Funds/Inter- Federal Funds Agency Trnsf	Total
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HEALTH POLICY COMMISSION:

(a) Personal service 537.6 537.6

(b) Employee benefits 190.7 190.7

(c) Travel 20.4 20.4

(d) Maintenance and repairs 3.8 3.8

(e) Supplies and materials 13.2 13.2

(f) Contractual services 766.3 766.3

(g) Operating costs 200.4 200.4

(h) Out-of-state travel 7.5 7.5

(i) Other financing uses .6 .6

[Authorized FTE: 13.00 Permanent; 1.00 Term]

Subtotal 1,740.5

Item	General State Funds/Inter- Fund	Federal Funds Agency Trnsf	Other Intrnl Svc Funds	Total
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VETERANS' SERVICE COMMISSION:

- (a) Personal services 715.2 715.2
- (b) Employee benefits 273.7 273.7
- (c) Travel 34.2 8.0 42.2
- (d) Maintenance and repairs 7.4 7.4
- (e) Supplies and materials 12.0 12.0
- (f) Contractual services 373.0 373.0
- (g) Operating costs 85.9 5.0 90.9
- (h) Other costs 2.7 2.7
- (i) Out-of-state travel 2.2 2.2
- (j) Other financing uses 1.0 1.0

[Authorized FTE: 28.00 Permanent]

[Included in the general fund appropriation to the veterans' service commission in the contractual services category is one hundred fifty thousand dollars (\$150,000) for the purpose of providing or contracting for referral, job placement, housing or supportive social services for homeless or mentally ill Vietnam veterans.]

Subtotal 1,520.3

Item	General State Funds/Inter- Fund	Federal Funds Agency Trnsf	Other Intrnl Svc Funds	Total
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CHILDREN, YOUTH AND FAMILIES DEPARTMENT:

(1) Office of the secretary:

- (a) Personal services 864.1 290.0 1,154.1
- (b) Employee benefits 271.7 90.6 362.3
- (c) Travel 27.8 9.3 37.1
- (d) Maintenance and repairs 1.7 .6 2.3
- (e) Supplies and materials 14.2 4.7 18.9
- (f) Contractual services 61.6 20.6 82.2
- (g) Operating costs 161.6 53.9 215.5
- (h) Out-of-state travel 3.7 1.3 5.0
- (i) Other financing uses .9 .9

[Authorized FTE: 30.00 Permanent; 1.00 Term]

(2) Financial services division:

- (a) Personal services 693.7 675.5 ~~704.4~~ 2,073.6
- (b) Employee benefits 229.1 220.7 ~~230.3~~ 680.1
- (c) Travel 15.7 15.2 ~~15.8~~ 46.7
- (d) Maintenance and repairs 7.1 6.8 ~~7.4~~ 21.0
- (e) Supplies and materials 17.5 16.8 ~~17.5~~ 51.8
- (f) Contractual services 64.0 61.6 ~~64.3~~ 189.9
- (g) Operating costs 472.5 455.3 ~~474.9~~ 1,402.7
- (h) Out-of-state travel .7 .6 ~~.7~~ 2.0
- (i) Other financing uses .7 .6 ~~.7~~ 2.0

[Authorized FTE: 56.00 Permanent; 14.00 Term]

Item	General State Fund	Funds/Inter-Funds	Other Intrnl Svc Federal Agency	Funds Total
(3) Juvenile justice division:				
(a) Personal services	16,900.0	363.9	3,003.9	65.0 20,332.8
(b) Employee benefits	6,177.3	118.8	1,177.6	47.3 7,491.0
(c) Travel	453.4	75.0	43.5	541.9
(d) Maintenance and repairs	460.0			460.0
(e) Supplies and materials	1,418.7	.2	487.9	46.8 1,923.6
(f) Contractual services	3,512.9	42.4	422.6	3,677.9
(g) Operating costs	1,883.6	42.0		1,895.6
(h) Other costs	2,854.8	73.2	480.5	3,408.5
(i) Capital outlay	127.0	5.0		132.0
(j) Out-of-state travel	18.7	2.0		20.7
(k) Other financing uses	19.7			19.7

[Authorized FTE: 733.00 Permanent; 76.50 Term; 6.00 Temporary]

Included in the general fund appropriation to the juvenile justice division of the children, youth and families department in the personal services and employee benefits categories is three hundred thousand four hundred dollars (\$300,400) for informal probation services; two hundred seventy-seven thousand dollars (\$277,000) for intensive probation supervision; and seventeen thousand six hundred dollars (\$17,600) for the central classification unit.

Included in the general fund appropriation to the juvenile justice division of the children, youth and families department in the contractual services category is two hundred fifty thousand dollars (\$250,000) for the community/victim restoration program; two hundred thousand dollars (\$200,000) for family preservation; one hundred thirty thousand dollars (\$130,000) for the sex offender treatment program; two hundred fifty thousand dollars (\$250,000) for the nonsecure alternative to detention program; and seventy-five thousand dollars (\$75,000) for foster care.

Item	General State Fund	Funds/Inter-Funds	Other Intrnl Svc Federal Agency	Funds Total
(4) Protective services division:				
(a) Personal services	5,761.3	544.0	6,948.9	40,759.2 24,013.4
(b) Employee benefits	3,183.3	158.0	2,164.2	3,575.3 9,080.8
(c) Travel	641.5	5.0	237.1	631.5 1,515.1
(d) Maintenance and repairs	32.3	24.7	49.7	106.7
(e) Supplies and materials	72.1	6.0	50.4	456.9 285.4
(f) Contractual services	6,387.4	100.0	3,400.4	9,596.5
(g) Operating costs	1,833.3	35.0	1,172.7	1,975.1 5,016.1
(h) Other costs	10,928.9	241.5	91.4	8,060.2 19,322.0
(i) Capital outlay	7.0			7.0
(j) Out-of-state travel	7.8	14.0		21.8
(k) Other financing uses	96.3			96.3

[Authorized FTE: 750.70 Permanent; 86.00 Term; 2.00 Temporary]

Included in the general fund appropriation to the protective services division of the children, youth and families department in the contractual services category is two hundred thousand dollars (\$200,000) for adult protective services programs.

Item	General State Fund	Funds/Inter-Funds Agency	Other Intrnl Svc Federal Trnsf	Total
(5) Preventive/intervention division:				
(a) Personal services	3,645.1	96.9	383.0	4,216.3
(b) Employee benefits	1,223.6	33.8	140.1	1,455.3
(c) Travel	141.0	.6	37.0	99.3
(d) Maintenance and repairs	.5	7.5	14.9	22.9
(e) Supplies and materials	84.2	7.0	53.9	403.8
(f) Contractual services	5,616.0	44.2	445.8	5,806.0
(g) Operating costs	392.5	30.2	278.9	541.2
(h) Other costs	11,687.7	401.2	12,003.2	54,646.4
(i) Capital outlay	23.0			23.0
(j) Out-of-state Travel	11.8	44.3		56.1
(k) Other financing uses	3.3	296.4	1.0	7

[Authorized FTE: 137.00 Permanent; 47.50 Term]

Included in the general fund appropriation to the preventive/intervention division of the children, youth and families department in the contractual services category is ~~one hundred fifty thousand dollars (\$150,000) for services with a nonprofit organization managed by former law enforcement personnel to work with at-risk youth involved in gangs, drugs and crime in Bernalillo county; two hundred thousand dollars (\$200,000) to contract with a multiple location nonprofit organization to assist at-risk youth regarding employment, staying in school and the avoidance of drugs and gang activity in Bernalillo county; sixty thousand dollars (\$60,000) for services to provide tutoring and social services to youth in Las Cruces and Hatch who have been disenrolled, suspended or dropped from school to enable them to return to school successfully; and] seventy-one thousand three hundred dollars (\$71,300) to be used only for school mediation.~~

~~[Included in the general fund appropriation to the preventive/intervention division of the children, youth and families department in the other costs category is fifty thousand dollars (\$50,000) for an entrepreneurship and leadership program; and one hundred thousand dollars (\$100,000) for agricultural experiment training for at-risk youth.]~~

Item	General State Fund	Funds/Inter-Funds Agency	Other Intrnl Svc Federal Trnsf	Total
(6) Human resources division:				
(a) Personal services	729.2	274.7		1,003.9
(b) Employee benefits	230.6	86.0		316.6
(c) Travel	47.9	17.9		65.8
(d) Supplies and materials	54.6	20.4		75.0
(e) Operating costs	193.2	72.0		265.2

[Authorized FTE: ~~29.00 Permanent; 1.00 Term~~]

(7) Children's trust fund:

- (a) Personal services 21.4 21.4
- (b) Employee benefits 6.8 6.8
- (c) Travel 2.0 2.0
- (d) Supplies and materials 3.0 3.0
- (e) Contractual services 124.1 211.0 335.1
- (f) Operating costs 6.5 6.5

[Authorized FTE: ~~75 Permanent~~]

Subtotal 211,325.8

Item	General State Fund	Funds/Inter- Federal	Other Intrnl Svc Funds Agency Trnsf	Funds Total
TOTAL HEALTH, HOSPITALS AND HUMAN SERVICES	581,984.1	78,013.6	36,971.1	1,348,693.6
				2,115,662.4

G. PUBLIC SAFETY

Item	General State Fund	Funds/Inter- Federal	Other Intrnl Svc Funds Agency Trnsf	Funds Total
DEPARTMENT OF MILITARY AFFAIRS:				
(a) Personal services	746.8	366.8		1,113.6
(b) Employee benefits	333.7	151.8		485.5
(c) Travel	62.8	10.6		73.4
(d) Maintenance and repairs	188.3			188.3
(e) Supplies and materials	11.4	8		12.2
(f) Contractual services	6.1			6.1
(g) Operating costs	157.7	233.3		391.0
(h) Capital outlay	3.4			3.4
(i) Out-of-state travel	5.0	5.8		10.8
(j) Other financing uses	1.3			1.3

[Authorized FTE: ~~22.00 Permanent; 18.00 Term~~]

Sixty-six thousand four hundred dollars (\$66,400) of the general fund appropriation to the department of military affairs in the personal services category is to be used only for the adjutant general's salary and forty-seven thousand nine hundred thirteen dollars (\$47,913) is to be used only for the deputy adjutant general's salary.

Subtotal 2,285.6

Item	General State Fund	Funds/Inter- Federal	Other Intrnl Svc Funds Agency Trnsf	Funds Total
STATE ARMORY BOARD:				
(a) Personal services	237.3	1,229.3		1,466.6
(b) Employee benefits	88.5	462.6		551.1

- (c) Travel 9.8 ~~16.7~~ 26.5
- (d) Maintenance and repairs 114.9 115.0 ~~508.3~~ 738.2
- (e) Supplies and materials 12.5 ~~4.5~~ 17.0
- (f) Contractual services 6.1 ~~221.8~~ 227.9
- (g) Operating costs 600.3 115.0 ~~390.4~~ 1,105.7
- (h) Out-of-state travel ~~20.0~~ 20.0
- (i) Other financing uses .5 ~~4.5~~ 2.0

[Authorized FTE: ~~7.00~~ Permanent; ~~55.00~~ Term]

Subtotal 4,155.0

Item	General State Fund	Other Intrnl Svc Funds/Inter- Federal Funds Agency Trnsf	Funds Total
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CRIME STOPPERS COMMISSION:

- (a) Personal services 73.6 73.6
- (b) Employee benefits 17.4 17.4
- (c) Travel 5.3 5.3
- (d) Maintenance and repairs .1 .1
- (e) Supplies and materials 1.3 1.3
- (f) Contractual services 1.0 1.0
- (g) Operating costs 23.7 23.7

[Authorized FTE: ~~3.00~~ Permanent]

Subtotal 122.4

Item	General State Fund	Other Intrnl Svc Funds/Inter- Federal Funds Agency Trnsf	Funds Total
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TRANSPORTATION AND EXTRADITION

OF PRISONERS: 350.0 350.0

Item	General State Fund	Other Intrnl Svc Funds/Inter- Federal Funds Agency Trnsf	Funds Total
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PAROLE BOARD:

- (a) Personal services 337.6 337.6
- (b) Employee benefits 131.7 131.7
- (c) Travel 14.1 14.1
- (d) Maintenance and repairs 1.6 1.6
- (e) Supplies and materials 4.9 4.9
- (f) Contractual services 5.0 5.0
- (g) Operating costs 58.2 58.2
- (h) Out-of-state travel 3.8 3.8
- (i) Other financing uses .3 .3

[Authorized FTE: ~~9.00~~ Permanent]

Subtotal 557.2

Item	General State Fund	Other Intrnl Svc Funds/Inter- Federal Funds Agency Trnsf	Funds Total
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JUVENILE PAROLE BOARD:

- (a) Personal services 159.7 159.7
- (b) Employee benefits 56.1 56.1
- (c) Travel 18.7 18.7
- (d) Maintenance and repairs 1.1 1.1
- (e) Supplies and materials 7.0 7.0
- (f) Contractual services 3.2 3.2
- (g) Operating costs 46.2 46.2

[Authorized FTE: 6.00 Permanent]

Subtotal 292.0

Item	General State Funds/Inter-Fund	Other Intrnl Svc Funds Agency Trnsf	Federal Funds Total
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CORRECTIONS DEPARTMENT:

(1) Administrative services division:

- (a) Personal services 2,144.1 116.8 2,260.9
- (b) Employee benefits 717.0 36.8 753.8
- (c) Travel 47.8 2.3 50.1
- (d) Maintenance and repairs 84.5 84.5
- (e) Supplies and materials 26.7 1.2 27.9
- (f) Contractual services 111.5 111.5
- (g) Operating costs 556.5 1,180.3 7.3 1,744.1
- (h) Capital outlay 25.0 25.0
- (i) Out-of-state travel 3.5 3.5
- (j) Other financing uses 2.1 2.1

[Authorized FTE: 69.00 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 1,076.6 1,076.6
- (b) Employee benefits 466.1 466.1
- (c) Travel 18.1 18.1
- (d) Maintenance and repairs 52.9 52.9
- (e) Supplies and materials 105.4 105.4
- (f) Contractual services 55.5 55.5
- (g) Operating costs 81.0 81.0
- (h) Other costs 3.8 3.8
- (i) Capital outlay 10.0 10.0
- (j) Other financing uses .6 .6

[Authorized FTE: 19.00 Permanent]

(3) Field services:

- (a) Personal services 6,522.1 920.1 7,442.2
- (b) Employee benefits 2,531.5 259.5 2,791.0
- (c) Travel 209.3 6.0 215.3
- (d) Maintenance and repairs 52.2 28.4 80.6

- (e) Supplies and materials 114.5 2.0 116.5
- (f) Operating costs 1,306.6 1,306.6
- (g) Other costs 1,147.7 28.4 1,176.1
- (h) Capital outlay 64.4 64.4
- (i) Out-of-state travel 4.0 4.0
- (j) Other financing uses 7.9 7.9

[Authorized FTE: 267.00 Permanent]

Item	General State Fund	Funds/Inter- Funds	Other Intrnl Svc Federal Agency Trnsf	Funds	Total
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(4) Department community corrections:

- (a) Personal services 741.3 741.3
- (b) Employee benefits 262.5 262.5
- (c) Travel 36.1 36.1
- (d) Maintenance and repairs .5 .5
- (e) Supplies and materials 4.6 4.6
- (f) Operating costs 22.0 22.0
- (g) Other costs 59.0 59.0

[Authorized FTE: 27.00 Permanent]

Item	General State Fund	Funds/Inter- Funds	Other Intrnl Svc Federal Agency Trnsf	Funds	Total
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(5) Vendor community corrections:

- (a) Travel 4.0 4.0
- (b) Contractual services 20.4 20.4
- (c) Other costs 1,953.3 1,953.3

The funding for vendor-operated community corrections programs is appropriated to the community corrections grant fund.

Item	General State Fund	Funds/Inter- Funds	Other Intrnl Svc Federal Agency Trnsf	Funds	Total
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(6) Adult institutions division director:

- (a) Personal services 669.3 669.3
- (b) Employee benefits 234.7 234.7
- (c) Travel 9.0 9.0
- (d) Maintenance and repairs 1.2 1.2
- (e) Supplies and materials 6.7 6.7
- (f) Contractual services 198.4 198.4
- (g) Operating costs 36.0 36.0
- (h) Other costs ~~3,393.3~~ 3,393.3
- (i) Out-of-state travel 2.0 2.0
- (j) Other financing uses .5 .5

[Authorized FTE: 18.00 Permanent]

Item	General State Fund	Funds/Inter- Funds	Other Intrnl Svc Federal Agency Trnsf	Funds	Total
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(7) Roswell correctional center:

- (a) Personal services 1,188.1 47.3 1,235.4
- (b) Employee benefits 510.2 20.2 530.4
- (c) Travel 64.6 64.6
- (d) Maintenance and repairs 105.0 105.0
- (e) Supplies and materials 437.4 45.9 483.3
- (f) Contractual services .5 .5
- (g) Operating costs 101.7 30.0 131.7
- (h) Other costs 90.8 75.0 7.5 173.3
- (i) Capital outlay 23.5 23.5
- (j) Out-of-state travel 1.4 1.4
- (k) Other financing uses 1.5 1.5

[Authorized FTE: 47.00 Permanent; 3.00 Term]

Item	General State Fund	Funds/Inter-Funds Agency	Other Intrnl Svc Federal Trnsf	Total
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(8) Camp Sierra Blanca:

- (a) Personal services 164.2 27.5 191.7
- (b) Employee benefits 89.5 9.5 99.0
- (c) Travel 5.7 5.7
- (d) Maintenance and repairs 20.9 20.9
- (e) Supplies and materials 37.4 .1 37.5
- (f) Operating costs 18.0 18.0
- (g) Other costs 102.7 5.0 107.7
- (h) Other financing uses .1 .1

[Authorized FTE: 7.50 Permanent; .50 Term]

Item	General State Fund	Funds/Inter-Funds Agency	Other Intrnl Svc Federal Trnsf	Total
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(9) Central New Mexico correctional facility--main:

- (a) Personal services 7,661.8 20.4 125.3 7,807.5
- (b) Employee benefits 3,678.7 11.0 43.8 3,733.5
- (c) Travel 84.6 84.6
- (d) Maintenance and repairs 387.6 1.7 389.3
- (e) Supplies and materials 1,946.0 6.3 1,952.3
- (f) Contractual services 40.3 40.3
- (g) Operating costs 1,079.5 1,079.5
- (h) Other costs 130.5 193.8 36.9 361.2
- (i) Capital outlay 80.5 80.5
- (j) Out-of-state travel 1.4 1.4
- (k) Other financing uses 10.0 10.0

[Authorized FTE: 326.00 Permanent; 9.00 Term]

Item	General State Fund	Funds/Inter-Funds Agency	Other Intrnl Svc Federal Trnsf	Total
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(10) Central New Mexico correctional facility--minimum:

- (a) Personal services 1,604.3 25.5 1,629.8
- (b) Employee benefits 662.6 8.0 670.6
- (c) Travel 51.1 51.1
- (d) Maintenance and repairs 119.3 119.3
- (e) Supplies and materials 728.8 1.5 730.3
- (f) Operating costs 216.8 .6 217.4
- (g) Other costs 9.2 167.5 176.7
- (h) Capital outlay 65.1 .8 65.9
- (i) Out-of-state travel 1.4 1.4
- (j) Other financing uses 1.9 1.9

[Authorized FTE: ~~65.00 Permanent; 1.00 Term~~]

Item	General State Fund	Funds/Inter- Agency	Other Intrnl Svc Federal Trnsf Funds	Total
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(11) Southern New Mexico correctional facility:

- (a) Personal services 7,137.8 53.3 71.1 7,262.2
- (b) Employee benefits 3,243.9 18.7 24.5 3,287.1
- (c) Travel 86.9 86.9
- (d) Maintenance and repairs 371.7 371.7
- (e) Supplies and materials 2,001.2 7.0 2.0 2,010.2
- (f) Contractual services 49.9 49.9
- (g) Operating costs 1,162.6 1,162.6
- (h) Other costs 124.6 304.6 8.4 437.6
- (i) Capital outlay 36.1 36.1
- (j) Out-of-state travel 3.0 3.0
- (k) Other financing uses 9.7 9.7

[Authorized FTE: ~~315.00 Permanent; 7.00 Term~~]

Item	General State Fund	Funds/Inter- Agency	Other Intrnl Svc Federal Trnsf Funds	Total
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(12) Western New Mexico correctional facility:

- (a) Personal services 4,803.8 5.1 59.7 4,868.6
- (b) Employee benefits 2,259.4 2.7 32.1 2,294.2
- (c) Travel 91.4 91.4
- (d) Maintenance and repairs 221.4 221.4
- (e) Supplies and materials 1,130.1 4.7 1,134.8
- (f) Contractual services 38.0 38.0
- (g) Operating costs 800.1 800.1
- (h) Other costs 17.6 146.0 16.2 179.8
- (i) Capital outlay 62.1 62.1
- (j) Out-of-state travel 1.6 1.6
- (k) Other financing uses 6.4 6.4

[Authorized FTE: ~~206.00 Permanent; 6.00 Term~~]

Item	General State Fund	Funds/Inter- Agency	Other Intrnl Svc Federal Trnsf Funds	Total
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(13) Penitentiary of New Mexico:

- (a) Personal services 18,233.2 500.1 95.9 18,829.2
- (b) Employee benefits 8,012.2 260.7 28.8 8,301.7

- (c) Travel 113.5 113.5
- (d) Maintenance and repairs 934.2 934.2
- (e) Supplies and materials 751.8 2,643.6 3,395.4
- (f) Contractual services 55.2 55.2
- (g) Operating costs 285.4 1,675.9 1,961.3
- (h) Other costs 428.9 223.0 13.2 665.1
- (i) Capital outlay 120.3 120.3
- (j) Out-of-state travel 2.0 2.0
- (k) Other financing uses 22.3 22.3

[~~Authorized FTE: 735.00 Permanent; 8.00 Term~~]

Item	General State Fund	Other Intrnl Svc Funds/Inter- Federal Funds Agency Trnsf	Funds Total
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(14) Adult health services:

- (a) Personal services 1,961.5 1,961.5
- (b) Employee benefits 718.1 718.1
- (c) Travel 17.2 17.2
- (d) Maintenance and repairs 4.1 4.1
- (e) Supplies and materials 63.2 63.2
- (f) Contractual services 11,080.1 11,080.1
- (g) Operating costs 39.6 39.6
- (h) Capital outlay 7.5 7.5
- (i) Out-of-state travel 1.6 1.6
- (j) Other financing uses 2.0 2.0

[~~Authorized FTE: 66.00 Permanent~~]

Item	General State Fund	Other Intrnl Svc Funds/Inter- Federal Funds Agency Trnsf	Funds Total
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(15) Adult education:

- (a) Personal services 3,379.4 23.8 3,403.2
- (b) Employee benefits 816.6 4.1 820.7
- (c) Travel 20.3 20.3
- (d) Maintenance and repairs 13.8 13.8
- (e) Supplies and materials 253.3 2.1 255.4
- (f) Contractual services 272.1 272.1
- (g) Operating costs 84.9 84.9
- (h) Other costs 2.7 2.7
- (i) Out-of-state travel 2.0 2.0
- (j) Other financing uses 3.2 3.2

[~~Authorized FTE: 105.00 Permanent; _____ .66 Term~~]

Item	General State Fund	Other Intrnl Svc Funds/Inter- Federal Funds Agency Trnsf	Funds Total
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(16) Corrections industries:

- (a) Personal services 308.8 1,180.0 1,488.8
- (b) Employee benefits 583.3 583.3
- (c) Travel 53.6 53.6
- (d) Maintenance and repairs 98.4 98.4
- (e) Supplies and materials 118.9 118.9

- (f) Contractual services 51.9 51.9
- (g) Operating costs 82.3 82.3
- (h) Other costs 20.0 2,219.9 2,239.9
- (i) Out-of-state Travel 8.5 8.5
- (j) Other financing uses 1.4 1.4

[Authorized FTE: ~~39.00~~ Permanent; 7.00 Term; 2.00 Temporary]

Subtotal 132,544.3

Item	General State Fund	Funds/Inter-Funds	Other Intrnl Svc Federal Agency Trnsf	Total
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CRIME VICTIMS REPARATION COMMISSION:

- (a) Personal services 288.1 ~~25.5~~ 313.6
- (b) Employee benefits 106.9 ~~8.31~~ 15.2
- (c) Travel 15.1 ~~3.4~~ 18.5
- (d) Maintenance and repairs .1 .1
- (e) Supplies and materials 10.8 10.8
- (f) Contractual services 137.8 ~~5.0~~ 142.8
- (g) Operating costs 39.0 ~~8.5~~ 47.5
- (h) Other costs 964.7 315.0 ~~876.9~~ 2,156.6
- (i) Out-of-state travel 4.0 4.0
- (j) Other financing uses ~~109.4~~ 109.1

[Authorized FTE: ~~11.00~~ Permanent; 1.00 Term]

Subtotal 2,918.2

Item	General State Fund	Funds/Inter-Funds	Other Intrnl Svc Federal Agency Trnsf	Total
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DEPARTMENT OF PUBLIC SAFETY:

(1) Administrative services division:

- (a) Personal services 1,777.4 39.2 19.5 ~~262.6~~ 2,098.7
- (b) Employee benefits 679.0 13.7 .9 ~~74.2~~ 764.8
- (c) Travel 25.9 .1 ~~76.6~~ 102.6
- (d) Maintenance and repairs 830.2 5.8 ~~38.0~~ 874.0
- (e) Supplies and materials 47.4 1.7 ~~34.0~~ 83.1
- (f) Contractual services 52.5 ~~280.0~~ 332.5
- (g) Operating costs 777.0 39.9 11.1 ~~70.6~~ 898.6
- (h) Other costs .5 7,651.4 7,651.9
- (i) Capital outlay 40.0 10.0
- (j) Out-of-state travel 9.5 5.5 ~~24.3~~ 39.3
- (k) Other financing uses 1.9 1,968.0 1,969.9

[Authorized FTE: 66.00 Permanent; 8.00 Term]

Item	General State Fund	Funds/Inter-Funds	Other Intrnl Svc Federal Agency Trnsf	Total
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(2) Special investigations division:

- (a) Personal services 1,029.5 ~~90.0~~ 1,119.5
- (b) Employee benefits 427.5 ~~32.0~~ 459.5

- (c) Travel 125.9 ~~8.4~~ 134.3
- (d) Maintenance and repairs 1.6 1.6
- (e) Supplies and materials 20.4 ~~4.4~~ 21.8
- (f) Contractual services 202.3 ~~45.0~~ 247.3
- (g) Operating costs 28.1 ~~8.7~~ 36.8
- (h) Other costs 12.4 ~~34.4~~ 46.5
- (i) Capital outlay 5.2 5.2
- (j) Out-of-state travel 11.3 ~~2.0~~ 13.3
- (k) Other financing uses 1.1 1.1

[~~Authorized FTE: 32.00 Permanent; 3.00 Term~~]

Included in the general fund appropriation to the special investigations division of the department of public safety in the contractual services category is two hundred thousand dollars (\$200,000) to enhance the forensic interview program for alleged sexually abused children.

Item	General State Fund	Funds/Inter- Federal	Other Intrnl Svc Funds Agency Trnsf Funds Total
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(3) Training and recruiting division:

- (a) Personal services 610.4 18.3 628.7
- (b) Employee benefits 217.3 8.2 225.5
- (c) Travel 61.6 61.6
- (d) Maintenance and repairs 6.3 6.3
- (e) Supplies and materials 111.1 111.1
- (f) Contractual services 241.2 252.4 493.6
- (g) Operating costs 50.1 50.1
- (h) Other costs 14.0 14.0
- (i) Capital outlay 22.0 22.0
- (j) Out-of-state travel 17.4 17.4
- (k) Other financing uses .6 .6

[~~Authorized FTE: 19.00 Permanent; 1.00 Term~~]

Item	General State Fund	Funds/Inter- Federal	Other Intrnl Svc Funds Agency Trnsf Funds Total
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(4) State police division:

- (a) Personal services 18,939.8 25.5 115.7 19,081.0
- (b) Employee benefits 7,282.3 11.1 7,293.4
- (c) Travel 3,038.6 95.0 80.0 3,213.6
- (d) Maintenance and repairs 285.8 285.8
- (e) Supplies and materials 818.7 4.8 823.5
- (f) Contractual services 189.6 189.6
- (g) Operating costs 436.1 436.1
- (h) Other costs 160.0 160.0
- (i) Capital outlay 1,448.4 250.0 1,698.4
- (j) Out-of-state travel 44.9 44.9
- (k) Other financing uses 17.8 17.8

[~~Authorized FTE: 593.00 Permanent; 1.00 Term~~]

General State Fund	Funds/Inter- Federal	Other Intrnl Svc Funds Agency Trnsf Funds Total
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Item	Fund	Funds Agency	Trnsf Funds	Total
(5) Technical and emergency support division:				
(a) Personal services	2,016.5	179.4	89.8	469.8 2,755.5
(b) Employee benefits	752.4	17.5	25.5	454.8 950.2
(c) Travel	56.1	2.0	32.5	50.8 141.4
(d) Maintenance and repairs	12.2	.3	3.0	35.0 50.5
(e) Supplies and materials	155.9	6.5	59.0	29.2 250.6
(f) Contractual services	8.3	10.0	56.9	75.2
(g) Operating costs	2,405.4	317.3	33.3	48.8 2,804.8
(h) Other costs	32.8	73.2	645.4	751.4
(i) Capital outlay	19.4	85.0	46.7	151.1
(j) Out-of-state travel	29.7	26.0	27.4	82.8
(k) Other financing uses	2.1	.2	.7	3.0

[Authorized FTE: ~~64.0~~ Permanent; ~~28.00~~ Term]

Subtotal 59,803.8

Item	General State Fund	Funds/Inter-Fund	Other Intrnl Svc Funds Agency	Federal Trnsf Funds	Total
TOTAL PUBLIC SAFETY	165,784.5	10,654.0	6,258.3	20,331.7	203,028.5

H. TRANSPORTATION

Item	General State Fund	Funds/Inter-Fund	Other Intrnl Svc Funds Agency	Federal Trnsf Funds	Total
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STATE HIGHWAY AND TRANSPORTATION DEPARTMENT:

(1) Office of the secretary:

(a) Personal services	2,422.0	44.2	2,466.2
(b) Employee benefits	700.1	46.4	716.2
(c) Travel	161.4	24.0	182.4
(d) Maintenance and repairs	7.8		7.8
(e) Supplies and materials	121.2	7.5	128.7
(f) Contractual services	395.6	40.0	435.6
(g) Operating costs	173.7	29.9	203.6
(h) Other costs	858.8		858.8
(i) Capital outlay	67.7	4.4	68.8
(j) Out-of-state Travel	36.2	40.0	46.2

[Authorized FTE: ~~72.00~~ Permanent]

(2) Administrative division:

(a) Personal services	4,687.8	32.9	4,720.7
(b) Employee benefits	6,006.4	40.6	6,017.0
(c) Travel	445.9	3.4	449.3
(d) Maintenance and repairs	1,602.6	.5	1,603.1
(e) Supplies and materials	229.1	45.5	244.6
(f) Contractual services	494.7	77.5	572.2
(g) Operating costs	4,162.6	9.4	4,172.0
(h) Capital outlay	348.3	2.5	350.8
(i) Out-of-state Travel	10.9	1.1	12.0
(j) Other financing uses	17,231.8		17,231.8

[Authorized FTE: 161.00 Permanent; 2.00 Term; 1.50 Temporary]

Item	General State Fund	Funds/Inter-Federal	Other Intrnl Svc Funds Agency Trnsf	Total
(3) Engineering design division:				
(a) Personal services	8,870.0	2,334.0		11,204.0
(b) Employee benefits	2,710.8	666.0		3,376.8
(c) Travel	544.8			544.8
(d) Maintenance and repairs	276.7			276.7
(e) Supplies and materials	194.1			194.1
(f) Contractual services	159.2			159.2
(g) Operating costs	244.0			244.0
(h) Capital outlay	287.7			287.7
(i) Out-of-state Travel	19.1			19.1

[Authorized FTE: 321.00 Permanent; 20.00 Term; 2.00 Temporary]

Item	General State Fund	Funds/Inter-Federal	Other Intrnl Svc Funds Agency Trnsf	Total
(4) Field operations division:				
(a) Personal services	42,373.9	7,899.2		50,273.1
(b) Employee benefits	15,052.8	2,369.5		17,412.3
(c) Travel	10,587.7			10,587.7
(d) Maintenance and repairs	1,736.1			1,736.1
(e) Supplies and materials	1,013.5			1,013.5
(f) Contractual services	515.8			515.8
(g) Operating costs	3,504.4			3,504.4
(h) Capital outlay	7,959.1			7,959.1
(i) Out-of-state Travel	20.0			20.0

[Authorized FTE: 2,057.00 Permanent; 26.00 Term; 72.00 Temporary]

Item	General State Fund	Funds/Inter-Federal	Other Intrnl Svc Funds Agency Trnsf	Total
(5) Road betterment division:				
(a) Supplies and materials	25,000.0			25,000.0
(b) Contractual services	104,936.1	162,356.0		267,292.1
(c) Other costs	26,132.4			26,132.4

Included in the other state funds appropriation to the road betterment division of the state highway and transportation department in the other costs category is one million five hundred thousand dollars (\$1,500,000) to be expended by local governments to match funds for cooperative, school bus route, municipal arterial or county arterial roads in the event of financial hardship as determined by the state highway commission.

Item	General State Fund	Funds/Inter-Federal	Other Intrnl Svc Funds Agency Trnsf	Total
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(6) Aviation division:

- (a) Personal services 252.5 252.5
- (b) Employee benefits 69.6 69.6
- (c) Travel 10.9 ~~10.0~~ 20.9
- (d) Maintenance and repairs 42.3 42.3
- (e) Supplies and materials 8.8 8.8
- (f) Contractual services 18.5 ~~135.0~~ 153.5
- (g) Operating costs 70.8 70.8
- (h) Other costs 542.4 542.4
- (i) Capital outlay 3.5 3.5
- (j) Out-of-state Travel 7.0 7.0

[Authorized FTE: ~~8.00~~ Permanent]

Item	General State Fund	Other Intrnl Svc Funds/Inter- Federal Funds Agency Trnsf Funds	Total
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(7) Transportation programs division:

- (a) Personal services 742.1 ~~282.6~~ 1,024.7
- (b) Employee benefits 214.0 ~~110.7~~ 324.7
- (c) Travel 20.4 ~~24.6~~ 45.0
- (d) Maintenance and repairs 24.5 ~~5~~ 25.0
- (e) Supplies and materials 271.2 ~~62.7~~ 333.9
- (f) Contractual services 242.3 ~~555.3~~ 797.6
- (g) Operating costs 218.6 ~~36.7~~ 255.3
- (h) Other costs 1,599.2 ~~6,282.4~~ 7,881.6
- (i) Capital outlay 5.8 ~~62.6~~ 68.4
- (j) Out-of-state travel ~~27.7~~ 27.7

[Authorized FTE: ~~27.00~~ Permanent; 5.00 Term]

(8) Transportation planning division:

- (a) Personal services 1,058.5 ~~2,361.8~~ 3,420.3
- (b) Employee benefits 320.9 ~~733.6~~ 1,054.5
- (c) Travel 23.4 ~~173.7~~ 197.1
- (d) Maintenance and repairs 22.0 ~~245.3~~ 267.3
- (e) Supplies and materials 19.7 ~~59.2~~ 78.9
- (f) Contractual services 320.3 ~~1,126.0~~ 1,446.3
- (g) Operating costs 73.9 ~~287.1~~ 361.0
- (h) Capital outlay 85.8 ~~344.6~~ 430.4
- (i) Out-of-state Travel 3.0 ~~10.9~~ 13.9

[Authorized FTE: ~~97.00~~ Permanent; 6.00 Term]

Subtotal 487,465.6

Item	General State Fund	Other Intrnl Svc Funds/Inter- Federal Funds Agency Trnsf Funds	Total
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STATE TRANSPORTATION AUTHORITY:

- (a) Personal services 122.4 122.4
- (b) Employee benefits 37.4 37.4
- (c) Travel 5.0 5.0
- (d) Maintenance and repairs 1.0 1.0
- (e) Supplies and materials 5.0 5.0

- (f) Contractual services 100.0 100.0
- (g) Operating costs 29.8 29.8

[~~Authorized FTE: 3.00 Permanent~~]

Three hundred thousand six hundred dollars (\$300,600) of the internal service funds/interagency transfers appropriation to the state transportation authority is from the state road fund.

Unexpended or unencumbered balances in the state transportation authority remaining at the end of fiscal year 1997 from appropriations made from the state road fund shall revert to the state road fund.

Subtotal 300.6

TOTAL TRANSPORTATION 298,594.7 300.6 ~~488,870.9~~ 487,766.2

I. OTHER EDUCATION

Item	General State Fund	Funds/Inter-Funds	Other Intrnl Svc Federal Agency Trnsf Funds	Total
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STATE DEPARTMENT OF PUBLIC EDUCATION:

(1) Administration:

- (a) Personal services 5,137.8 30.3 ~~2,739.5~~ 7,907.6
- (b) Employee benefits 1,448.6 9.5 ~~797.4~~ 2,255.5
- (c) Travel 275.1 5.5 ~~474.4~~ 452.0
- (d) Maintenance and repairs 101.4 36.2 ~~4.3~~ 141.9
- (e) Supplies and materials 141.1 30.2 ~~94.5~~ 265.8
- (f) Contractual services 341.5 13.8 ~~740.4~~ 1,065.7
- (g) Operating costs 456.7 5.3 ~~557.0~~ 1,019.0
- (h) Other costs 3.4 ~~204.0~~ 207.4
- (i) Capital outlay 1.5 ~~49.4~~ 50.9
- (j) Out-of-state travel 12.5 .8 ~~56.2~~ 69.5
- (k) Other financing uses 4.0 .1 ~~155.2~~ 159.3
- ~~(l) School bus inspections 250.0 250.0~~

~~Authorized FTE: 167.00 Permanent; 65.00 Term; .20 Temporary~~

~~Two hundred fifty thousand dollars (\$250,000) of the general fund appropriation to the state department of public education is to be used only to implement and administer a school bus inspection program.~~

Two hundred thousand dollars (\$200,000) of the general fund appropriation to the state department of public education is from federal Mineral Lands Leasing Act receipts.

Unexpended or unencumbered balances in the state department of public education remaining at the end of fiscal year 1997 from appropriations made from the general fund shall not revert.

Item	General State Fund	Other Intrnl Svc Funds/Inter- Federal Funds Agency Trnsf Funds Total
(2) Special projects:	3,090.0	3,090.0

Included in the general fund appropriation to the state department of public education for special projects is two hundred fifty thousand dollars (\$250,000) for total quality management in public schools; two hundred twenty-five thousand dollars (\$225,000) for teacher and administrator summer academies; one hundred thousand dollars (\$100,000) for school-to-work initiatives; five hundred thousand dollars (\$500,000) for systematic initiative in math and science education programs; eight hundred thousand dollars (\$800,000) for re: learning; ~~forty thousand dollars (\$40,000) for a parent involvement daycare coordinator at Eugene Field elementary;~~ nine hundred thousand dollars (\$900,000) for dropout prevention programs at high schools in Bernalillo and Valencia counties; ~~twenty-five thousand dollars (\$25,000) for a drug abuse prevention and gang intervention program for the Belen public schools and twenty-five thousand dollars (\$25,000) for a drug abuse prevention and gang intervention program for the Los Lunas public schools;~~ twenty-five thousand dollars (\$25,000) for the after school program at Emerson elementary school; twenty-five thousand dollars (\$25,000) for the after school program at La Mesa elementary school; twenty-five thousand dollars (\$25,000) for KANW program; one hundred thousand dollars (\$100,000) for the leadership in education administration development program; and fifty thousand dollars (\$50,000) for an evening instruction program on economic principles for Albuquerque public school teachers at West Mesa high school.

~~After distributing funds, the department shall report to the legislative education study committee and legislative finance committee the names and descriptions of projects funded and for each project shall report expenditures for administrative costs and direct services, matching funds requirements, funds available from other than state sources, populations and school districts served and the feasibility of replication by all school districts.~~

Item	General State Fund	Other Intrnl Svc Funds/Inter- Federal Funds Agency Trnsf Funds Total
(3) Apprenticeship assistance:	600.0	600.0

~~[In distributing the general fund appropriation for apprenticeship assistance, the state department of public education shall conduct an application and review process to determine the amounts to be allocated for individual programs. The department shall report to the legislative education study committee and legislative finance committee the criteria for making awards and names and descriptions of projects funded. For each project funded, the department shall report expenditures for administrative costs and direct services, matching funds requirements, funds available from other than state sources, populations and school districts served and the feasibility of replication by all school districts.]~~

Subtotal 17,534.6

Item	General State Fund	Funds/Inter- Agency	Other Intrnl Svc Federal Trnsf Funds	Total
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REGIONAL EDUCATIONAL COOPERATIVES:

(1) Central: 681.5 ~~4,407.4~~ 1,788.6

Authorized FTE: 27.56 Term

(2) High plains: 1,122.4 ~~4,160.9~~ 2,283.3

Authorized FTE: 44.15 Term

(3) Region IX: 56.6 ~~4,402.8~~ 1,459.4

Authorized FTE: 26.00 Term

Subtotal 5,531.3

Item	General State Fund	Funds/Inter- Agency	Other Intrnl Svc Federal Trnsf Funds	Total
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~~SPECIAL APPROPRIATIONS: STATE DEPARTMENT OF PUBLIC EDUCATION~~

~~(a) Staff development 150.00 150.0~~

~~(b) World class teacher project 100.0 100.0~~

~~(c) National board certification~~

~~four percent salary increase 30.0 30.0~~

~~The general fund appropriation of one hundred fifty thousand dollars (\$150,000) for staff development shall be distributed equally to each local school district to design and implement professional development plans for all school employees based on criteria adopted by the state board of education. The board shall develop and adopt a statewide professional development framework based on the school districts' plans and submit a written report to the legislative education study committee by November 1, 1996, with recommendations for future funding of staff development.~~

~~The general fund appropriation of thirty thousand dollars (\$30,000) for national board certification shall be distributed in appropriate increments to each school district for the purpose of providing a four percent salary increase for national board certified teachers after the superintendent of public instruction receives official notice from the national board for professional teaching standards verifying that a teacher in the district has received national board certification.~~

Subtotal 280.0

Item	General State Fund	Funds/Inter- Agency	Other Intrnl Svc Federal Trnsf Funds	Total
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LEGISLATIVE EDUCATION STUDY COMMITTEE:

STRATEGIC PLANNING 100.0 100.0

The legislative education study committee, in cooperation with the legislature, the executive, the judiciary, the state board of education and the public, shall develop and reach consensus on a statewide strategic plan for New Mexico's public schools that provides a well-defined vision and articulated steps to define and achieve national pre-eminence in education.

Item	General State Fund	Funds/Inter- Funds Agency	Other Intrnl Svc Funds/Inter- Funds Agency	Federal Trnsf Funds	Total
ADULT BASIC EDUCATION:	3,100.0	4,645.3	4,745.3		

Item	General State Fund	Funds/Inter- Funds Agency	Other Intrnl Svc Funds/Inter- Funds Agency	Federal Trnsf Funds	Total
NEW MEXICO SCHOOL FOR THE VISUALLY HANDICAPPED:	7,079.7	7,079.7			

Item	General State Fund	Funds/Inter- Funds Agency	Other Intrnl Svc Funds/Inter- Funds Agency	Federal Trnsf Funds	Total
NEW MEXICO SCHOOL FOR THE DEAF:	1,840.7	6,106.4	469.9	8,417.0	

Item	General State Fund	Funds/Inter- Funds Agency	Other Intrnl Svc Funds/Inter- Funds Agency	Federal Trnsf Funds	Total
TOTAL OTHER EDUCATION	17,184.3	15,096.6	81.7	44,325.3	43,687.9

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 conditions under which the increases are approved and the expenditures authorized, together with justification for the approval.

Except as otherwise provided, unexpended or unencumbered balances remaining at the end of fiscal year 1997 shall not revert to the general fund.

Item	General State Fund	Funds/Inter- Funds Agency	Other Intrnl Svc Funds/Inter- Funds Agency	Federal Trnsf Funds	Total
COMMISSION ON HIGHER EDUCATION:					

(1) Administration:

- (a) Personal services 801.5 37.8 ~~44.0~~ 883.3
- (b) Employee benefits 262.2 11.6 ~~13.3~~ 287.1
- (c) Travel 48.4 1.5 ~~4.7~~ 51.6
- (d) Maintenance and repairs 11.4 11.4
- (e) Supplies and materials 21.5 ~~4.7~~ 23.2
- (f) Contractual services 65.0 ~~34.9~~ 99.9
- (g) Operating costs 163.8 1.1 ~~43.0~~ 177.9
- (h) Other costs ~~331.4~~ 331.1
- (i) Capital outlay 2.0 2.0
- (j) Out-of-state travel 19.4 1.1 ~~4.5~~ 22.0

Authorized FTE: ~~22.00~~ Permanent; 1.50 Term

Unexpended or unencumbered balances in the commission on higher education remaining at the end of fiscal year 1997 from appropriations made from the general fund shall revert to the general fund.

Item	General State Fund	Funds/Inter-Federal	Other Intrnl Svc Funds Agency Trnsf	Total
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(2) Special programs:

- (a) State student incentive grant 7,767.5 123.9 ~~277.4~~ 8,168.5
- (b) Nursing student loan program 350.0 155.0 505.0
- (c) Medical student loan program 394.8 100.0 494.8
- (d) Osteopathic student loan program 168.0 168.0
- (e) Allied health student loan fund 175.0 35.0 210.0
- (f) Health professional loan repayment 421.3 ~~249.9~~ 671.2
- (g) Work-study program 4,729.5 59.5 4,789.0
- (h) Student Choice Act 988.7 988.7
- (i) Vietnam veterans' scholarship fund 110.0 39.7 149.7
- (j) Graduate Fellowship Act 356.9 334.9 691.8
- (k) New Mexico Scholars Act 1,400.0 439.0 1,839.0
- (l) Minority doctoral assistance 275.0 275.0
- (m) Student child care 740.1 9.9 750.0
- (n) Southeastern New Mexico minority and handicapped teacher 250.0 250.0
- (o) Graduate student research 100.0 11.5 111.5
- (p) Small business development centers 1,826.9 ~~524.4~~ 2,348.0
- (q) Math, engineering and science achievement 720.0 720.0
- (r) Working to learn 60.4 60.4

Earnings from the investment of state financial aid appropriations shall be budgeted and expended to offset unanticipated costs of the Vietnam veterans' and New Mexico scholars scholarships and state student incentive grants and to augment the New

Mexico early intervention scholarship program and legislative endowment program for public two-year institution scholarships; thereafter, earnings shall revert to the general fund upon certification by the commission on higher education.

The general fund appropriation to the commission on higher education in the graduate student research category shall be expended at the university of New Mexico, New Mexico state university, New Mexico highlands university, western New Mexico university, eastern New Mexico university and New Mexico institute of mining and technology for graduate student research.

Subtotal 25,080.1

Item	General State Fund	Other Intrnl Svc Funds/Inter- Federal Funds Agency Trnsf Funds	Total
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UNIVERSITY OF NEW MEXICO:

(a) Instruction and general purposes	114,961.6	75,105.8	5,774.0 195,841.4
(b) Medical school instruction and general purposes	31,987.9	17,753.0	4,082.7 50,823.6
(c) Athletics	2,506.5	9,169.7	24.0 11,700.2
(d) Educational television	1,126.8	3,398.0	705.4 5,229.9
(e) Extended services instruction	1,148.2	386.0	1,534.2
(f) Gallup branch	6,474.5	3,543.5	99.0 10,117.0
(g) Los Alamos branch	1,435.6	1,304.1	23.7 2,763.4
(h) Valencia county branch	2,752.4	1,830.0	4,440.8 6,023.2
(i) Cancer center	1,897.4	8,913.1	4,844.3 12,621.8
(j) State medical investigator	2,291.2	480.0	44.0 2,782.2
(k) Emergency medical services academy	603.6	280.9	92.3 976.8
(l) Out-of-county indigent fund	1,677.2	1,677.2	
(m) Children's psychiatric hospital	2,732.1	6,152.3	8,884.4
(n) Specialized perinatal care	434.8	434.8	
(o) Newborn intensive care	1,955.3	322.5	2,277.8
(p) Pediatric oncology	178.1	178.1	
(q) Hemophilia program	474.5	39.0	513.5
(r) Young children's health center	180.7	394.0	44.0 585.7
(s) Pediatric pulmonary center	176.1	176.1	
(t) Health resources registry	19.0	30.0	49.0
(u) Area health education centers	214.4	214.4	
(v) Grief intervention	167.3	167.3	
(w) Carrie Tingley hospital	2,387.9	6,585.0	8,972.9
(x) Pediatric dysmorphology	140.4	140.4	
(y) Locum tenens	286.3	700.0	986.3
(z) Substance abuse program	167.0	167.0	
(aa) Poison control center	777.6	22.0	799.6
(bb) Student exchange program	2,124.5	270.2	2,394.7
(cc) Judicial selection	63.5	63.5	

(dd) Southwest research center 976.5 286.7 1,263.2
 (ee) Native American
 intervention 260.7 260.7
 (ff) Resource geographic
 information system 143.0 143.0
 (gg) Natural heritage program 103.3 103.3
 (hh) Southwest Indian law
 clinic 85.3 20.5 105.8
 (ii) BBER census and population
 analysis 53.4 8.8 62.2
 (jj) Taos off-campus center 453.6 812.7 1,266.3
 (kk) Judicial education center 218.0 218.0
 (ll) New Mexico historical
 review 104.3 104.3
 (mm) Ibero-American education
 consortium 233.0 233.0
 (nn) Youth education recreation
 program 204.2 204.2
 (oo) Advanced materials
 laboratory 74.2 74.2
 (pp) Manufacturing engineering
 program 186.4 186.4
 (qq) Spanish resource center 122.8 122.8
 (rr) Office of international
 technical cooperation 117.8 117.8
 (ss) Hispanic student center 148.9 148.9
 (tt) Wildlife law institute 59.4 59.4
 (uu) Science and engineering
 women's career 14.8 14.8
 (vv) Disaster medicine program 99.0 99.0
 (ww) Youth leadership
 development 99.0 99.0
 (xx) Morrissey hall research 50.0 50.0
 (yy) Minority graduate
 recruitment and retention 200.0 200.0
 (zz) Fetal alcohol study 176.0 176.0
 (aaa) Telemedicine 289.0 289.0
 (bbb) Community based
 education 200.0 200.0
~~(ccc) Youth development program 50.0 50.0~~
 (ddd) Other--health
 sciences 101,814.6 ~~24,786.4~~ 126,601.0
 (eee) Other--main campus 109,751.0 ~~59,144.8~~ 168,895.8

The general fund appropriation to the university of New Mexico for the southwest research center includes fifty thousand dollars (\$50,000) for the Don Diego de Vargas project; six hundred ninety-three thousand seven hundred dollars (\$693,700) for the center for regional studies; and two hundred thirty-two thousand eight hundred dollars (\$232,800) for the Spanish colonial research center.

Included in the general fund appropriation to the university of New Mexico for instruction and general purposes is two hundred fifty thousand dollars (\$250,000) to provide the office of graduate studies funding for research, projects and related expenses for graduate and professional students.

Subtotal 630,444.5

Item	General State Funds/Inter- Fund	Other Intrnl Svc Federal Funds Agency Trnsf Funds Total
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NEW MEXICO STATE UNIVERSITY:

(a) Instruction and general purposes	76,475.5 43,750.0	4,750.0 124,975.5
(b) Athletics	2,554.0 3,950.0	40.0 6,544.0
(c) Educational television	930.2 350.0	450.0 1,730.2
(d) Extended services instruction	220.2 375.0	595.2
(e) Alamogordo branch	4,617.4 3,200.0	4,600.0 9,417.4
(f) Carlsbad branch	2,625.3 2,100.0	4,400.0 6,125.3
(g) Dona Ana branch	6,701.0 4,100.0	3,600.0 14,401.0
(h) Grants branch	1,835.0 950.0	650.0 3,435.0
(i) Department of agriculture	5,692.6 2,200.0	950.0 8,842.6
(j) Agricultural experiment station	9,626.8 1,900.0	5,900.0 17,426.8
(k) Cooperative extension service	7,186.8 2,800.0	3,800.0 13,786.8
(l) Water resources research	400.3 165.0	300.0 865.3
(m) Border research institute	220.1 10.0	230.1
(n) Indian resources development program	355.8 15.0	35.0 405.8
(o) International business center	101.8 101.8	
(p) Manufacturing development program	392.0 10.0	402.0
(q) Hispanic leadership program	49.7 49.7	
(r) Alliances for underrepresented students	300.0 600.0	900.0
(s) Carlsbad manufacturing sector development program	500.0 500.0	
(t) Expanded food and nutrition program	200.0 200.0	
(u) Binational advanced manufacturing and management education	75.0 75.0	
(v) Spanish language curriculum	50.0 50.0	
(w) Waste management education	509.0 4,200.0	4,200.0 4,709.0
(x) Other	41,000.0 52,000.0	93,000.0

Not more than two hundred seventy-five thousand dollars (\$275,000) of the general fund appropriation to New Mexico state university for the department of agriculture shall be expended for animal damage control, of which not more than three-fourths shall be expended for lethal control methods.

[Included in the appropriation to New Mexico state university for instruction and general purpose is one hundred thousand dollars (\$100,000) to improve campus security. This appropriation may be used to hire and train police officers and purchase equipment and supplies.]

[Included in the general fund appropriation for the cooperative extension service is fifty thousand dollars (\$50,000) for the Clayton livestock research center.]

[Included in the general fund appropriation to the Dona Ana branch is seventy-five thousand dollars (\$75,000) to conduct a joint demonstration project with the city of Las Cruces to evaluate and assist in site location selection for target types of commercial or industrial business.]

Subtotal 308,768.5

Item	General State Fund	Funds/Inter- Agency	Other Intrnl Svc Federal	Funds Total
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NEW MEXICO HIGHLANDS UNIVERSITY:

(a) Instruction and general purposes	15,553.6	5,314.4	4,500.0	22,368.0
(b) Athletics	1,179.1	332.8	20.0	1,531.9
(c) Extended services instruction	371.9	262.0		633.9
(d) Visiting scientist	22.7	22.7		
(e) Upward bound	73.2	73.2		
(f) Diverse populations studies	203.3	203.3		
(g) Latin American institute	195.6	195.6		
(h) Advanced placement program and community academy for science and math program	50.0	50.0		
(i) Other	5,588.6	12,228.0		17,816.6

Subtotal 42,895.2

Item	General State Fund	Funds/Inter- Agency	Other Intrnl Svc Federal	Funds Total
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WESTERN NEW MEXICO UNIVERSITY:

(a) Instruction and general purposes	11,043.5	2,933.4	200.0	14,176.9
(b) Athletic	1,169.2	100.0		1,269.2
(c) Educational television	98.7	98.7		
(d) Extended services instruction	381.8	290.0		671.8
(e) Other	2,232.6	2,300.0		4,532.6

Subtotal 20,749.2

Item	General State Fund	Funds/Inter- Agency	Other Intrnl Svc Federal	Funds Total
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EASTERN NEW MEXICO UNIVERSITY:

(a) Instruction and general purposes	18,246.7	6,600.0	1,300.0	26,146.7
(b) Athletics	1,390.4	600.0		1,990.4
(c) Educational television	880.8	455.0		1,335.8
(d) Extended services instruction	344.8	360.0	600.0	1,304.8
(e) Roswell branch	7,115.0	4,500.0	4,300.0	12,915.0

(f) Roswell extended services
instruction 77.1 77.1
(g) Center for teaching
excellence 260.3 260.3
(h) Ruidoso off-campus
center 328.2 400.0 ~~400.0~~ 828.2
(i) Blackwater Draw and
museum 96.8 20.0 116.8
(j) Assessment project 149.6 149.6
(k) Other 10,080.0 ~~6,000.0~~ 16,080.0

Subtotal 61,204.7

Item	General State Fund	Other Intrnl Svc Funds/Inter- Federal Funds Agency Trnsf	Total
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NEW MEXICO INSTITUTE OF MINING AND TECHNOLOGY:

(a) Instruction and general
purposes 16,559.3 3,400.0 19,959.3
(b) Athletics 133.7 133.7
(c) Extended services
instruction 40.5 40.5
(d) Geophysical research
center 633.3 100.0 ~~4,500.0~~ 2,233.3
(e) Bureau of mines 3,202.6 50.0 ~~500.0~~ 3,752.6
(f) Science and engineering
fair 74.7 74.7
(g) Petroleum recovery research
center 1,419.5 ~~2,500.0~~ 3,919.5
(h) Bureau of mine
inspection 250.8 ~~200.0~~ 450.8
(i) Energetic materials research
center 454.2 ~~9,500.0~~ 9,954.2
(j) Other 5,500.0 ~~12,000.0~~ 17,500.0

One hundred thousand dollars (\$100,000) of the general fund appropriation to the New Mexico institute of mining and technology for the bureau of mines is from federal Mineral Lands Leasing Act receipts.

Subtotal 58,018.6

Item	General State Fund	Other Intrnl Svc Funds/Inter- Federal Funds Agency Trnsf	Total
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NORTHERN NEW MEXICO STATE SCHOOL:

(a) Instruction and general
purposes 6,196.6 2,423.0 ~~2,060.0~~ 10,679.6
(b) Extended services
instruction 9.2 9.2
(c) Northern pueblos
institute 53.3 10.0 ~~450.0~~ 213.3
(d) Other 700.0 ~~440.0~~ 810.0

Subtotal 11,712.1

Item	General State Fund	Funds/Inter-Federal Funds Agency	Other Intrnl Svc	Federal	Trnsf Funds	Total
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SANTA FE COMMUNITY COLLEGE:

(a) Instruction and general purposes	5,634.8	6,538.9	1,048.4			13,222.1
(b) Community leadership program	433.2	433.2				
(c) Other	6,759.6	1,764.2				8,523.8

Subtotal 22,179.1

Item	General State Fund	Funds/Inter-Federal Funds Agency	Other Intrnl Svc	Federal	Trnsf Funds	Total
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TECHNICAL-VOCATIONAL INSTITUTE:

(a) Instruction and general purposes	27,009.3	23,000.0	2,400.0			52,109.3
(b) Other	4,500.0	6,000.0				10,500.0

Subtotal 62,609.3

Item	General State Fund	Funds/Inter-Federal Funds Agency	Other Intrnl Svc	Federal	Trnsf Funds	Total
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LUNA VOCATIONAL TECHNICAL INSTITUTE:

(a) Instruction and general purposes	5,283.6	823.3	353.5			6,460.4
(b) Other	635.6	873.7				1,509.3

Subtotal 7,969.7

Item	General State Fund	Funds/Inter-Federal Funds Agency	Other Intrnl Svc	Federal	Trnsf Funds	Total
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MESA TECHNICAL COLLEGE:

(a) Instruction and general purposes	1,863.4	270.3	274.8			2,408.5
(b) Other	275.5	275.5				

Subtotal 2,684.0

Item	General State Fund	Funds/Inter-Federal Funds Agency	Other Intrnl Svc	Federal	Trnsf Funds	Total
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NEW MEXICO JUNIOR COLLEGE:

(a) Instruction and general purposes	5,543.4	5,647.9	954.8			12,146.1
(b) Athletics	33.8	3.0				36.8
(c) Other	1,499.0	2,816.0				4,315.0

Subtotal 16,497.9

Item	General State Fund	Funds/Inter-Federal Funds	Other Intrnl Svc Agency Trnsf Funds	Total
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SAN JUAN COLLEGE:

(a) Instruction and general purposes 6,722.9 10,800.0 ~~4,800.0~~ 19,322.9
(b) Other 3,000.0 ~~4,850.0~~ 4,850.0

Subtotal 24,172.9

Item	General State Fund	Funds/Inter-Federal Funds	Other Intrnl Svc Agency Trnsf Funds	Total
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CLOVIS COMMUNITY COLLEGE:

(a) Instruction and general purposes 6,536.8 1,800.0 160.0 ~~800.0~~ 9,296.8
(b) Extended services instruction 35.5 35.5
(c) Other 1,750.0 ~~2,420.0~~ 3,870.0

Subtotal 13,202.3

Item	General State Fund	Funds/Inter-Federal Funds	Other Intrnl Svc Agency Trnsf Funds	Total
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NEW MEXICO MILITARY INSTITUTE:

(a) Instruction and general purposes 1,531.8 8,794.3 10,326.1
(b) Athletics 714.0 714.0
(c) Other 5,036.4 ~~77.4~~ 5,113.8

Subtotal 16,153.9

Item	General State Fund	Funds/Inter-Federal Funds	Other Intrnl Svc Agency Trnsf Funds	Total
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TOTAL HIGHER EDUCATION 477,253.8 593,257.0 1,387.2 ~~252,444.0~~ 1,324,342.0

K. PUBLIC SCHOOL SUPPORT

Except as otherwise provided, balances of appropriations made in this subsection shall not revert at the end of fiscal year 1997.

Upon approval of the state department of education, the department of finance and administration may authorize budget increases from other state funds in this subsection. Such other state funds are appropriated.

PUBLIC SCHOOL SUPPORT:

Item	General State Fund	Funds/Inter-Funds	Other Intrnl Svc Federal Agency Trnsf	Total
(1) State equalization guarantee distribution:	1,169,835.1	1,000.0		1,170,835.1
(2) Transportation distributions:				
(a) Operations	68,153.7			68,153.7
(b) School-owned bus replacements	2,152.4			2,152.4
(c) Contractor-owned bus rental fees	9,826.4			9,826.4
(3) Supplemental distributions:				
(a) Out-of-state tuition	390.0			390.0
(b) Emergency supplemental	1,421.0			1,421.0
(c) Emergency capital outlay	300.0			300.0
(4) Training and experience:	3,214.0			3,214.0
(5) Special education -- evaluative services:	2,800.0			2,800.0

The rate of distribution of the state equalization guarantee distribution shall be based on a program unit value determined by the superintendent of public instruction. The superintendent of public instruction shall establish a preliminary unit value that shall be used to establish tentative budgets for the 1996-97 school year. Upon completion of final budgets or verification of the number of units statewide for fiscal year 1997, the superintendent of public instruction may adjust the program unit value.

The superintendent of public instruction may fund mid-year increases in student membership resulting from expansion at military bases from the supplemental emergency fund. The superintendent of public instruction shall certify to the secretary of finance and administration that the need exists before supplemental emergency funds may be released.

The general fund appropriation of three million two hundred fourteen thousand dollars (\$3,214,000) for training and experience shall enable the superintendent of public instruction to make an additional distribution to certain local school districts. Any local school district not receiving a waiver from the superintendent of public instruction in the calculation of the October 1995 training and experience index for instructional staff shall receive an additional distribution for the 1996-97 school year. That distribution shall be calculated as follows: number of district membership program units times six one-thousandths times the unit value established by the superintendent of public instruction for the 1996-97 school year.

The general fund appropriation of two million eight hundred thousand dollars (\$2,800,000) for special education evaluative services shall be distributed to local school districts requiring the services of special education evaluative personnel in fiscal year 1997 as determined by the superintendent of public instruction.

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.

Unexpended or unencumbered balances of the distributions authorized remaining at the end of fiscal year 1997 from appropriations made from the general fund shall revert to the general fund.

Subtotal 1,259,092.6

Item	General State Fund	Funds/Inter- Federal Funds Agency Trnsf	Other Intrnl Svc Federal Funds Total
INSTRUCTIONAL MATERIAL FUND:	22,620.7	500.0	23,120.7

The appropriation to the instructional material fund is made from federal Minerals Lands Leasing Act receipts.

STATE-SUPPORT RESERVE FUND: 1,250.0 1,250.0

EDUCATIONAL TECHNOLOGY FUND: 3,050.0 3,050.0

Item	General State Fund	Funds/Inter- Federal Funds Agency Trnsf	Other Intrnl Svc Federal Funds Total
TOTAL PUBLIC SCHOOL SUPPORT	1,285,013.3	1,500.0	1,286,513.3

Item	General State Fund	Funds/Inter- Federal Funds Agency Trnsf	Other Intrnl Svc Federal Funds Total
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GRAND TOTAL FISCAL YEAR 1997

APPROPRIATIONS 2,802,650.9 1,098,986.7 440,762.7 ~~1,811,169.4~~ 6,153,569.7

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 1996 and fiscal year 1997. Unless otherwise indicated, unexpended or unencumbered balances of the appropriations remaining at the end of fiscal year 1997 shall revert to the appropriate fund.

Item	General State Fund	Funds/Inter- Federal Funds Agency Trnsf	Other Intrnl Svc Federal Funds Total
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~~[(1) ADMINISTRATIVE OFFICE
OF THE COURTS: 50.0 50.0~~

~~For expenditure in fiscal year 1997 for the contracting of services to establish a pilot program in Bernalillo, Sandoval, Valencia and Grant counties offering a neutral point for the exchange of children between parents to facilitate visitation privileges while allowing minimal contact between parents.]~~

(2) TAXATION AND REVENUE
DEPARTMENT: 250.0 250.0

For implementing the provisions of Senate Bill 50 of the forty-second legislature, second session. The appropriation is contingent upon Senate Bill 50 of the forty-second legislature, second session, becoming law.

(3) DEPARTMENT OF FINANCE AND
ADMINISTRATION: 4,000.0 4,000.0

The appropriation shall be disbursed by the department of finance and administration [~~to the children, youth and families department after review by the legislative finance committee and~~] upon a finding by the secretary of finance and administration that the disbursement is necessary to meet critical emergencies [~~in the children, youth and families department for the juvenile justice program and protective services program~~] resulting from significant shortfalls in [~~budgeted federal~~] medicaid funds.

(4) GENERAL SERVICES DEPARTMENT:

(a) Risk management division 500.0 500.0

Appropriated from the public liability fund for certain litigation costs incurred by the state.

Item	General State Funds/Inter- Fund	Other Intrnl Svc Funds/Inter- Federal Funds Agency Trnsf Funds	Total
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(5) PUBLIC EMPLOYEES RETIREMENT
ASSOCIATION: 371.0 371.0

For the costs of litigation related to the public employees retirement information system.

(6) PUBLIC EMPLOYEES RETIREMENT
ASSOCIATION: 225.0 225.0

For administration of 1997 retirements, the service credit verification project and expenses associated with re-activation of the legislative retirement program.

(7) SECRETARY OF STATE: 80.0 80.0

For the purchase of a copying machine.

(8) STATE TREASURER: 75.0 75.0

For contracting for the services of a project coordinator to train personnel and direct the development and implementation of the state's warrant clearance patterns in accordance with CMIA-90 regulations.

Item	General State Fund	Funds/Inter- Agency	Other Intrnl Svc Funds	Federal Trnsf Funds	Total
(9) ECONOMIC DEVELOPMENT DEPARTMENT:	300.0	300.0			

For development of the space port business plan.

(10) REGULATION AND LICENSING DEPARTMENT:

(a) Construction industries division 75.0 75.0

For the purchase of specialty use vehicles.

(11) COMMISSIONER OF PUBLIC LANDS: 1,059.9 530.0 1,589.9

For retirement of the oil and natural 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.

Item	General State Fund	Funds/Inter- Agency	Other Intrnl Svc Funds	Federal Trnsf Funds	Total
(12) STATE ENGINEER:	600.0	600.0			

For a comprehensive assessment of the water resources in the middle Rio Grande basin.

(13) STATE ENGINEER: 100.0 100.0

For a regional water planning/water resources assessment update.

(14) STATE ENGINEER: 100.0 100.0

For matching funds from the state of Texas to study the surface and ground water hydrology in the Rio Grande system in southern New Mexico.

(15) DEPARTMENT OF ENVIRONMENT: 201.5 201.5

For three term positions and environmental activities associated with the Terrero clean-up project.

(16) CHILDREN, YOUTH AND FAMILIES DEPARTMENT:

(a) Juvenile justice
division 2,000.0 2,000.0

For implementing an array of community based, prevention and early intervention programs.

Item	General State Funds/Inter- Fund	Other Intrnl Svc Funds Agency Trnsf	Federal Funds	Total
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(17) NEW MEXICO MILITARY
INSTITUTE: 150.0 150.0

The appropriation shall be disbursed by the department of finance and administration to the New Mexico military institute only upon a determination by the department of finance and administration that the appropriation is needed because of a reduction of the other state funds appropriated in Section 4 of the General Appropriation Act of 1996.

(18) COMPUTER SYSTEMS
ENHANCEMENT FUND: 4,000.0 4,000.0

For allocations pursuant to the appropriations in Section 7 of the General Appropriation Act of 1996.

Item	General State Funds/Inter- Fund	Other Intrnl Svc Funds Agency Trnsf	Federal Funds	Total
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**TOTAL SPECIAL
APPROPRIATIONS** 13,041.4 1,126.0 500.0 14,667.4

Section 6

Section 6

SUPPLEMENTAL APPROPRIATIONS.--The following amounts are appropriated from the general fund or other funds as indicated for expenditure in fiscal year 1996 [~~for the purposes specified~~]. Disbursement of these amounts shall be subject to the following conditions: certification by the agency to the department of finance and administration that no other funds are available in fiscal year 1996 [~~for the purpose specified~~]; approval by the department of finance and administration; and notification of the approval to the legislative finance committee. Unexpended or unencumbered balances remaining at the end of fiscal year 1996 shall revert to the appropriate fund.

Item	General State Funds/Inter- Fund	Other Intrnl Svc Funds Agency Trnsf	Federal Funds	Total
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(1) JUDICIAL STANDARDS
COMMISSION: 2.0 2.0

For the costs of depositions and special master contracts.

(2) ELEVENTH JUDICIAL DISTRICT ATTORNEY--

GALLUP OFFICE: 4.0 4.0

For expert witness fees.

(3) TAXATION AND
REVENUE DEPARTMENT: 2,000.0 2,000.0

For design, development and implementation of the taxation and revenue information management system.

(4) DEPARTMENT OF FINANCE AND
ADMINISTRATION: 34.9 34.9

For dues to the council of state governments.

(5) GENERAL SERVICES
DEPARTMENT: 22.0 22.0

For maintenance and operating costs at Fort Stanton.

(6) PUBLIC DEFENDER
DEPARTMENT: 1,000.0 1,000.0

For contract attorney fees and expert witnesses.

Item	General State Fund	Other Intrnl Svc Funds/Inter- Federal Funds Agency Trnsf	Funds Total
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(7) PUBLIC EMPLOYEES RETIREMENT

ASSOCIATION: 100.0 100.0

For the costs of litigation related to the public employees retirement information system.

(8) OFFICE OF CULTURAL
AFFAIRS: 100.0 100.0

For the statewide rural services program. The appropriation shall be disbursed to the library division of the office of cultural affairs only upon certification by the secretary of finance and administration that the federal government has not released sufficient federal funding to the division under Title I of the federal Library Services and Construction Act to operate the rural services program.

Item	General State Funds/Inter- Fund	Other Intrnl Svc Funds Agency Trnsf Funds	Federal Total
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(9) HUMAN SERVICES DEPARTMENT: 750.6 ~~4,020.8~~ 1,771.4

For personal services and employee benefits.

(10) STATE ARMORY BOARD: 56.0 56.0

For maintenance and repairs and operating costs.

(11) CRIME STOPPERS COMMISSION: 25.0 25.0

For DWI enforcement and crime stoppers response.

(12) CORRECTIONS
DEPARTMENT: 1,700.0 1,700.0

~~[For obligations incurred under the existing contracts with Dallas county, Texas and Tarrant county, Texas.]~~

Item	General State Funds/Inter- Fund	Other Intrnl Svc Funds Agency Trnsf Funds	Federal Total
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**TOTAL SUPPLEMENTAL
APPROPRIATIONS** 4,918.9 875.6 ~~4,020.8~~ 6,815.3

Section 7

Section 7

DATA PROCESSING APPROPRIATIONS.--The following amounts are appropriated from the computer systems enhancement fund in the other state funds column or other funds as indicated for the purposes specified. Unless otherwise indicated, the appropriations may be expended in fiscal year 1996 and fiscal year 1997. Unless otherwise indicated, unexpended or unencumbered balances remaining at the end of fiscal year 1997 shall revert to the computer systems enhancement fund or other funds as indicated. The department of finance and administration shall allocate amounts from the funds for the purposes specified upon receiving certification and supporting documentation from the requesting agency that identifies benefits that can be quantified and nonrecurring costs and recurring costs for the development and implementation of the proposed system. If the funds are to continue a project, the documentation shall include certification that the project is on schedule, all funds previously allocated have been properly expended and additional funds are required. The department of finance

and administration shall provide a copy of the certification and all supporting documentation to the legislative finance committee.

A. DATA PROCESSING EQUIPMENT

Item	General State Fund	Funds/Inter- Funds Agency	Other Intrnl Svc Federal Trnsf Funds	Total
(1) SUPREME COURT LAW LIBRARY:	12.0	12.0		
(2) COURT OF APPEALS:	30.6	30.6		
(3) SUPREME COURT:	40.0	40.0		
(4) BERNALILLO COUNTY METROPOLITAN COURT:	67.0	67.0		
(5) TAXATION AND REVENUE DEPARTMENT:	37.7	24.8	62.5	

The appropriation in the internal service funds/interagency transfer column is from the state road fund.

(6) INVESTMENT COUNCIL:	16.0	16.0		
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Ten thousand seven hundred dollars (\$10,700) of the appropriation is from other revenue.

Item	General State Fund	Funds/Inter- Funds Agency	Other Intrnl Svc Federal Trnsf Funds	Total
(7) DEPARTMENT OF FINANCE AND ADMINISTRATION:	61.5	61.5		
(8) PUBLIC SCHOOL INSURANCE AUTHORITY:	9.0	9.0		
(9) GENERAL SERVICES DEPARTMENT:	1,311.1	1,311.1		
(10) EDUCATIONAL RETIREMENT BOARD:	9.8	9.8		

The appropriation is from other revenue.

(11) PUBLIC EMPLOYEES RETIREMENT ASSOCIATION:	233.4	233.4		
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The appropriation is from other revenue.

Item	General State Fund	Funds/Inter-Funds	Other Intrnl Svc Agency Trnsf	Federal Funds	Total
(12) STATE COMMISSION OF PUBLIC RECORDS:	23.0				23.0
(13) SECRETARY OF STATE:	18.0				18.0
(14) PERSONNEL BOARD:	36.2				36.2
(15) STATE TREASURER:	10.0				10.0
(16) BOARD OF EXAMINERS FOR ARCHITECTS:	7.5				7.5

The appropriation is from other revenue.

(17) TOURISM DEPARTMENT: 10.0 10.0

The appropriation is from enterprise revenue.

(18) STATE CORPORATION COMMISSION: 14.0 3.0 17.0

The appropriation in the internal service funds/interagency transfer column is from the state road fund. Six thousand dollars (\$6,000) of the appropriation in the other state funds column is from the fire protection fund and three thousand five hundred dollars (\$3,500) is from the title insurance maintenance assessment fund.

Item	General State Fund	Funds/Inter-Funds	Other Intrnl Svc Agency Trnsf	Federal Funds	Total
(19) NEW MEXICO BOARD OF MEDICAL EXAMINERS:	5.5				5.5

The appropriation is from other revenue.

(20) STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND SURVEYORS: .5 .5

The appropriation is from other revenue.

(21) BOARD OF VETERINARY MEDICINE: 1.5 1.5

The appropriation is from other revenue.

(22) OFFICE OF CULTURAL AFFAIRS: 86.5 86.5

Ten thousand dollars (\$10,000) of the appropriation is from other revenue.

(23) NEW MEXICO LIVESTOCK BOARD: 14.0 14.0

~~(24) INTER-TRIBAL INDIAN CEREMONIAL ASSOCIATION: 1.0 1.0~~

(25) COMMISSIONER OF PUBLIC LANDS: 130.0 130.0

The appropriation is from the state lands maintenance fund.

(26) COMMISSION ON THE STATUS OF WOMEN: 1.5 1.5

(27) COMMISSION FOR THE BLIND: 13.8 ~~54.2~~ 65.0

(28) LABOR DEPARTMENT: 206.7 206.7

The appropriation is from the employment security department fund.

Item	General State Fund	Other Intrnl Svc Funds/Inter- Federal Agency Trnsf Funds	Total
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(29) WORKERS' COMPENSATION ADMINISTRATION: 97.4 97.4

The appropriation is from the workers' compensation administration fund.

(30) DEVELOPMENTAL DISABILITIES PLANNING COUNCIL: 5.0 5.0

(31) HEALTH POLICY COMMISSION: 12.0 12.0

(32) VETERANS' SERVICE COMMISSION: 34.5 34.5

(33) CORRECTIONS DEPARTMENT: 150.0 150.0

(34) CRIME VICTIMS REPARATION COMMISSION: 10.0 10.0

(35) STATE DEPARTMENT OF PUBLIC EDUCATION: 14.8 14.8

TOTAL DATA PROCESSING EQUIPMENT 1,411.4 1,347.9 ~~54.2~~ 2,810.5

B. DATA PROCESSING SYSTEMS

Item	General State Fund	Other Intrnl Svc Funds/Inter- Federal Agency Trnsf Funds	Total
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(1) ADMINISTRATIVE OFFICE OF THE DISTRICT

ATTORNEYS: 1,462.5 1,462.5

For computer equipment, hardware upgrades and software consistent with the district attorneys' statewide automation plan.

(2) STATE TREASURER: 180.0 180.0

For completion of phase I of the treasurer's warrant account reconciliation system (TWARS) project.

(3) STATE TREASURER: 108.3 108.3

For an investment accounting system.

(4) HUMAN SERVICES DEPARTMENT: 165.3 ~~4,487.7~~ 1,653.0

For the medicaid management information system.

(5) HEALTH DEPARTMENT: 300.0 300.0

The appropriation is from agency cash balances for the purpose of re-engineering the vital records project.

(6) CHILDREN, YOUTH AND FAMILIES DEPARTMENT: 2,723.0 ~~5,337.0~~ 8,060.0

For development of the family automated client tracking system. Of the appropriation in the other state funds column, one million six hundred twenty-nine thousand dollars (\$1,629,000) is from agency cash balances.

(7) UNIVERSITY OF NEW MEXICO: 311.0 311.0

For expansion of the telemedicine program at the health sciences center.

TOTAL DATA PROCESSING SYSTEMS 5,250.1 ~~6,824.7~~ 12,074.8

Item	General State Fund	Other Intrnl Svc Funds/Inter- Federal Funds Agency Trnsf	Funds Total
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TOTAL DATA PROCESSING APPROPRIATIONS 6,661.5 1,347.9 ~~6,875.9~~ 14,885.3

Section 8

Section 8

COMPENSATION APPROPRIATION.--

A. Thirty-five million three hundred forty-eight thousand nine hundred dollars (\$35,348,900) is appropriated from the general fund to the department of finance and administration for expenditure in fiscal year 1997 for the purpose of providing a two percent salary increase to those employees whose salaries are received as a result of general fund appropriations in the General Appropriation Act of 1996. The department of finance and administration shall distribute a sufficient amount to each agency to provide the appropriate increase pursuant to the appropriate compensation plan. Any unexpended or unencumbered balance remaining at the end of fiscal year 1997 shall revert to the general fund. For the purposes of receiving a distribution pursuant to this section, agencies are authorized to request the necessary budget adjustments pursuant to Sections 6-3-23 through 6-3-25 NMSA 1978.

B. For those employees whose salaries are referenced in or received as a result of nongeneral fund appropriations in the General Appropriation Act of 1996, the department of finance and administration shall approve budget increases from the appropriate funds for the amounts required for salary increases equivalent to those provided for in Subsection A of this section. Such funds are appropriated. Any unexpended or unencumbered balances remaining at the end of fiscal year 1997 shall revert to the appropriate fund.

C. Pursuant to Paragraph (8) of Subsection A of Section 10-7D-18 NMSA 1978, as to employees within bargaining units covered by the collective bargaining agreement of December 9, 1994 between the state of New Mexico and the New Mexico state labor coalition (hereinafter referred to as "CBA"), the appropriations made by this section and the increase in wages contained therein, shall be the resolution of wage negotiations between the New Mexico state labor coalition and the state of New Mexico in which impasse was arrived at on December 11, 1995. There shall be no appeal of this appropriation process decision, negotiations on wages shall conclude with this appropriation decision, and the decision shall be deemed to be a part of the CBA.

D. In making the distributions set forth in Subsection A of this section, for executive and judicial branch employees, the department of finance and administration shall not distribute more than the amount necessary to provide a salary increase equal to two percent of the midpoint value of each employee's salary range effective on the first full pay period after the employee's anniversary date; provided that employees at the end of their salary range shall receive their distribution in a lump sum, and for other state employees, the department of finance and administration shall not distribute more than the amount necessary to provide a salary increase equal to two percent of each employee's salary effective on the first full pay period after the employee's anniversary date.

Section 9

Section 9

CORRECTIONS DEPARTMENT--LEASING BEDS [WITHIN NEW MEXICO FOR PRISONERS].--

A. Four million dollars (\$4,000,000) is appropriated from the general fund to the corrections department for expenditure in fiscal year 1996 for the purpose of leasing beds [from the Cibola correctional center and the Torrance correctional facility]. Any unexpended or unencumbered balance remaining at the end of fiscal year 1996 shall revert to the general fund.

B. One million six hundred thousand dollars (\$1,600,000) is appropriated from the general fund to the corrections department for expenditure in fiscal year 1996 for the purpose of leasing beds [from the New Mexico women's correctional facility]. Any unexpended or unencumbered balance remaining at the end of fiscal year 1996 shall revert to the general fund.

C. Seven million two hundred thousand dollars (\$7,200,000) is appropriated from the general fund to the corrections department for expenditure in fiscal year 1997 for the purpose of leasing beds [from the New Mexico women's correctional facility]. Any unexpended or unencumbered balance remaining at the end of fiscal year 1997 shall revert to the general fund.

D. Five million nine hundred thousand dollars (\$5,900,000) is appropriated from the general fund to the corrections department for expenditure in fiscal year 1997 for the purpose of leasing beds [from the Cibola correctional center and the Torrance correctional facility]. Any unexpended or unencumbered balance remaining at the end of fiscal year 1997 shall revert to the general fund.

Section 10

Section 10

BUDGET ADJUSTMENT REQUESTS AUTHORIZED.--

A. As used in this section:

(1) "budget increase" means an approved increase in expenditures by an agency or division from a specific source;

(2) "budget category" means an item or an aggregation of related items that represents the object of an appropriation. "Budget category" includes personal services, employee benefits, travel, maintenance and repairs, supplies and materials, contractual services, operating costs, other costs, capital outlay, out-of-state travel and other financing uses;

(3) "category transfer" means an approved transfer of funds from one budget category to another budget category; provided that a category transfer does not include a transfer of funds between divisions;

(4) "division" means an organizational unit within an agency that is the recipient of an appropriation; and

(5) "division transfer" means an approved transfer of funds from one division of an agency to another division of that agency[~~; provided that the annual cumulative effect of division transfers shall not increase or decrease the appropriation to any division by more than seven and one-half percent~~].

B. Pursuant to Sections 6-3-23 through 6-3-25 NMSA 1978, the following agencies or divisions are specifically authorized to request the specified budget adjustments during fiscal year 1997:

(1) the legislative council service may request category transfers;

(2) the supreme court law library may request category transfers;

(3) the New Mexico compilation commission may request budget increases from other state funds and from internal service funds/interagency transfers and may request category transfers;

(4) the judicial standards commission may request category transfers;

(5) the court of appeals may request category transfers;

(6) the supreme court may request budget increases from other state funds and may request category transfers;

(7) the administrative office of the courts may request budget increases from other state funds and may request category transfers;

(8) the supreme court building commission may request category transfers;

(9) the jury and witness fee fund may request budget increases from other state funds and may request category transfers;

(10) each district court may request budget increases from other state funds and from internal service funds/interagency transfers and may request category transfers;

(11) the Bernalillo county metropolitan court may request budget increases from other state funds and may request category transfers;

(12) each district attorney may request budget increases from other state funds and from internal service funds/interagency transfers and may request category transfers;

(13) the administrative office of the district attorneys may request budget increases from other state funds and may request category transfers;

(14) the attorney general may request budget increases from other state funds and may request category transfers;

(15) the state auditor may request budget increases from other state funds and from internal service funds/interagency transfers and may request category transfers;

(16) the taxation and revenue department may request budget increases from other state funds and from internal service funds/interagency transfers and may request category transfers;

(17) the state investment council may request budget increases from internal service funds/interagency transfers and may request category transfers;

(18) the department of finance and administration may request budget increases from other state funds and from internal service funds/interagency transfers, may request category transfers and may request division transfers;

(19) the operations division of the public school insurance authority may request category transfers;

(20) the benefits division and the risk division of the public school insurance authority may request budget increases from internal service funds/interagency transfers;

(21) the administration component of the retiree health care authority may request category transfers;

(22) the benefits division of the retiree health care authority may request budget increases from internal service funds/interagency transfers;

(23) the general services department may request budget increases from other state funds and from internal service funds/interagency transfers, may request category transfers and may request division transfers;

(24) the educational retirement board may request budget increases from other state funds and may request category transfers;

(25) the public defender department may request budget increases from other state funds and from internal service funds/interagency transfers and may request category transfers;

(26) the governor may request budget increases from other state funds and from internal service funds/interagency transfers and may request category transfers;

(27) the criminal and juvenile justice coordinating council may request budget increases from other state funds;

(28) the lieutenant governor may request category transfers;

(29) the public employees retirement association may request category transfers and division transfers, except that funds authorized for investment manager fees within the contractual services category of the administrative division shall not be transferred;

(30) the administrative division of the public employees retirement association may request budget increases from other state funds for investment manager fees in an amount not to exceed the fees specified in investment manager contracts approved by the retirement board of the public employees retirement association and the department of finance and administration;

(31) the maintenance division of the public employees retirement association may request budget increases from other state funds in an amount not to exceed three hundred thousand dollars (\$300,000) for building maintenance;

(32) the state commission of public records may request budget increases from internal service funds/interagency transfers and may request category transfers;

(33) the secretary of state may request category transfers;

(34) the personnel board may request category transfers;

(35) the public employee labor relations board may request category transfers;

(36) the state treasurer may request category transfers;

(37) the board of examiners for architects may request budget increases from other state funds and may request category transfers;

(38) the border authority may request category transfers;

(39) the tourism department may request budget increases from other state funds, may request category transfers and may request division transfers;

(40) the economic development department may request budget increases from other state funds and from internal service funds/interagency transfers, may request category transfers and may request division transfers;

(41) the regulation and licensing department may request category transfers and division transfers;

(42) the boards and commissions section of the administrative services division of the regulation and licensing department may request budget increases from internal service funds/interagency transfers;

(43) the regulation and licensing department may request transfers from the twenty-eight boards and commissions under the administration of the department to the administrative services division for the indirect cost allocation of the computer enhancement fund and payroll;

(44) the twenty-eight boards and commissions under the administration of the regulation and licensing department, the real estate recovery fund and the securities education and training fund may request budget increases from other state funds and may request category transfers;

(45) the state corporation commission may request category transfers and may request division transfers;

(46) the department of insurance of the state corporation commission may request budget increases from other state funds;

(47) the New Mexico board of medical examiners may request budget increases from other state funds and may request category transfers;

(48) the board of nursing may request budget increases from other state funds and may request category transfers;

(49) the state fair commission may request budget increases from other state funds and may request category transfers;

(50) the state board of registration for professional engineers and surveyors may request budget increases from other state funds and may request category transfers;

(51) the state racing commission may request category transfers;

(52) the New Mexico apple commission may request budget increases from other state funds and may request category transfers;

(53) the board of veterinary medicine may request budget increases from other state funds and may request category transfers;

(54) the office of cultural affairs may request budget increases from other state funds and from internal service funds/interagency transfers, may request category transfers and may request division transfers;

(55) the New Mexico livestock board may request budget increases from other state funds and may request category transfers;

(56) the department of game and fish may request budget increases from other state funds and from internal service funds/interagency transfers and may request category transfers;

(57) for the share with wildlife program, the department of game and fish may request budget increases from other state funds;

(58) for the endangered species program, the department of game and fish may request budget increases from other state funds and may request category transfers;

(59) the energy, minerals and natural resources department may request budget increases from other state funds and from internal service funds/interagency transfers;

(60) for purposes of implementing the provisions of the Youth Conservation Corps Act, the office of the secretary of the energy, minerals and natural resources department may request category transfers;

(61) for purposes of implementing the provisions of the Youth Conservation Corps Act, the office of the secretary of the energy, minerals and natural resources department may request transfers from the office of the secretary to other divisions of the energy, minerals and natural resources department;

(62) the administrative services division, the energy conservation and management division, the forestry division, the state park and recreation division, the mining and minerals division and the oil conservation division of the energy, minerals and natural resources department may request category transfers;

(63) the inter-tribal ceremonial association may request budget increases from other state funds and may request category transfers;

(64) the commissioner of public lands may request budget increases from other state funds and may request category transfers;

(65) the New Mexico peanut commission may request budget increases from other state funds and may request category transfers;

(66) the state engineer may request budget increases from other state funds and may request category transfers;

(67) for Ute dam operation, the state engineer may request budget increases from internal service funds/interagency transfers;

(68) the New Mexico public utility commission may request category transfers;

(69) the organic commodity commission may request budget increases from other state funds and may request category transfers;

(70) the commission on the status of women may request category transfers;

(71) the commission for deaf and hard-of-hearing persons may request budget increases from internal service funds/interagency transfers and may request category transfers;

(72) the Martin Luther King, Jr. commission may request category transfers;

(73) the commission for the blind may request budget increases from other state funds and may request category transfers;

(74) the New Mexico office of Indian affairs may request budget increases from internal service funds/interagency transfers and may request category transfers;

(75) the state agency on aging may request budget increases from other state funds and from internal service funds/interagency transfers, may request category transfers and may request division transfers;

(76) the human services department may request budget increases from other state funds and from internal service funds/interagency transfers, may request category transfers and may request division transfers;

(77) the labor department may request category transfers and division transfers;

(78) the workers' compensation administration may request budget increases from other state funds, may request category transfers and may request division transfers;

(79) the division of vocational rehabilitation of the state department of public education may request budget increases from other state funds and from internal service funds/interagency transfers and may request category transfers;

(80) the governor's committee on concerns of the handicapped may request budget increases from internal service funds/interagency transfers and may request category transfers;

(81) the developmental disabilities planning council may request budget increases from internal service funds/interagency transfers and may request category transfers;

(82) the miners' hospital of New Mexico may request budget increases from other state funds and may request category transfers;

(83) the department of health may request budget increases from other state funds and from internal service funds/interagency transfers, may request category transfers and may request division transfers;

(84) the department of environment may request category transfers;

(85) the environmental protection division, field operations division and water and waste management division of the department of environment may request budget increases from other state funds and from internal service funds/interagency transfers;

(86) the office of the natural resources trustee may request budget increases from other state funds and from internal service funds/interagency transfers and may request category transfers;

(87) the New Mexico health policy commission may request budget increases from other state funds and may request category transfers;

(88) the New Mexico veterans' service commission may request category transfers;

(89) the children, youth and families department may request budget increases from other state funds and from internal service funds/interagency transfers, may request category transfers and may request division transfers;

(90) the department of military affairs may request category transfers;

(91) the state armory board may request budget increases from other state funds and from internal service funds/interagency transfers and may request category transfers, except that no transfers shall be made from the maintenance and repairs category;

(92) the crime stoppers commission may request budget increases from other state funds and from internal service funds/interagency transfers and may request category transfers;

(93) the parole board may request category transfers;

(94) the juvenile parole board may request category transfers;

(95) the corrections department may request budget increases from other state funds and from internal service funds/interagency transfers, may request category transfers and may request division transfers;

(96) the crime victims reparation commission may request budget increases from other state funds and from internal service funds/interagency transfers and may request category transfers;

(97) the department of public safety may request budget increases from other state funds and from internal service funds/interagency transfers, excluding state forfeitures and forfeiture balances;

(98) the department of public safety may request division transfers among the special investigations division, the training and recruiting division, the New Mexico state police division and the technical and emergency support division;

(99) the special investigations division, the training and recruiting division, the New Mexico state police division and the technical and emergency support division of the department of public safety may request category transfers;

(100) the state highway and transportation department may request budget increases from other state funds other than the state road fund for the office of the secretary, the administrative division, the engineering design division, the field operations division, the aviation division, the transportation programs division and the transportation planning division;

(101) ~~[for the purpose of matching federal funds,]~~ the state highway and transportation department may request budget increases from the state road fund for the office of the secretary, the administrative division, the engineering design division, the field operations division, the aviation division, the transportation programs division and the transportation planning division;

(102) the state highway and transportation department may request division transfers among the office of the secretary, the administrative division, the engineering design division, the field operations division, the aviation division, the transportation programs division and the transportation planning division;

(103) the state highway and transportation department may request category transfers;

(104) the road betterment division of the state highway and transportation department may request budget increases from other state funds, including the state road fund;

(105) the state transportation authority may request category transfers;

(106) the state department of public education may request budget increases from internal service funds/interagency transfers and may request category transfers; and

(107) the commission on higher education may request category transfers.

Section 11

Section 11

EMERGENCY BUDGET INCREASES.--

A. Upon a showing by an agency that a critical need exists for authorization for additional expenditures during fiscal year 1997 and that the critical need cannot be met because the agency does not have the authority under Section 10 of the General Appropriation Act of 1996 to request the necessary budget increase, category transfer or division transfer, then the board of finance may transfer the amount needed to the agency. Notwithstanding the provisions of Sections 6-3-23 through 6-3-25 NMSA 1978, the agency's budget shall be increased by the amount of the transfer.

B. Before a transfer is made pursuant to Subsection A of this section, the board of finance shall notify the legislative finance committee of the critical need and the reason that the need cannot be met with the agency's existing budget adjustment authority.

C. One hundred thousand dollars (\$100,000) is appropriated from the general fund to the board of finance emergency fund for expenditure during fiscal year 1997 for the purpose of making transfers pursuant to Subsection A of this section. Any unexpended or unencumbered balance remaining at the end of fiscal year 1997 shall revert to the general fund.

D. Any transfer authorized by the provisions of this section is additional to any loan or grant of emergency funds by the state board of finance pursuant to Section 6-1-2 NMSA 1978.

Section 12

Section 12

TRANSFER AUTHORIZED.--

A. If revenues and transfers to the general fund, excluding transfers to the operating reserve, appropriation contingency fund and the public school state-support reserve fund, as of the end of fiscal year 1996, are not sufficient to meet appropriations, the governor, with state board of finance approval, may transfer the amount necessary to meet the year's obligations from the general fund operating reserve in an amount not to exceed thirty million dollars (\$30,000,000).

B. Prior to any transfer of funds made pursuant to Subsection A of this section, the secretary of finance and administration shall apprise the legislative finance committee of the extent of the projected insufficiency and the amount of proposed transfers from the general fund operating reserve and shall provide the committee with recommendations to address any further deficits.

Section 13

Section 13

SEVERABILITY.--If any part or application of this act is held invalid, the remainder or its application to other situations or persons shall not be affected.

HOUSE APPROPRIATIONS AND FINANCE

COMMITTEE SUBSTITUTE FOR HOUSE BILLS

2, 3, 4, 5, 6 and 8, AS AMENDED

WITH PARTIAL VETO

SIGNED MARCH 4, 1996

Chapter 13

AUTHORIZING THE ISSUANCE AND SALE OF CAPITAL PROJECTS GENERAL OBLIGATION BONDS; PROVIDING FOR CAPITAL EXPENDITURES FOR SENIOR CITIZEN FACILITY CONSTRUCTION, IMPROVEMENTS AND ACQUISITIONS, FOR PUBLIC EDUCATIONAL CAPITAL IMPROVEMENTS AND ACQUISITIONS, FOR STATE FAIR RENOVATIONS AND IMPROVEMENTS, FOR JUVENILE CORRECTIONAL AND REHABILITATIVE FACILITIES AND FOR LAND ACQUISITION FOR PETROGLYPH NATIONAL MONUMENT; 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 1996 GENERAL ELECTION; DECLARING AN EMERGENCY.

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

Section 1

Section 1

This act may be cited as the "1996 Capital Projects General Obligation Bond Act".

Section 2

Section 2

For the purpose of providing funds for capital expenditures as authorized in this act, general obligation indebtedness of the state is authorized for the purposes and in the amounts set forth in Section 10 of the 1996 Capital Projects General Obligation Bond Act.

Section 3

Section 3

The state board of finance, except as limited by the 1996 Capital Projects General Obligation Bond Act, shall determine the terms, covenants and conditions of bonds issued pursuant to that act, including but not limited to: date or dates of issue; denominations; maturities; principal amounts; rate or rates of interest; provisions for redemption, including premiums, registration, refundability, whether the bonds are issued in one or more series and other covenants relating to the bonds and the issuance thereof. The bonds shall be in such form as the state board of finance

determines with an appropriate series designation and shall bear interest payable as set forth in the resolution of the state board of finance. Payment of the principal of the bonds shall begin not more than two years after the date of their issuance, and the bonds shall mature not later than ten years after the date of their issuance. Both principal and interest shall be payable in lawful money of the United States at the office of the paying agent within or 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 1996 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 1996 Capital Projects General Obligation Bond Act.

Section 4

Section 4

The proceeds from the sale of the bonds shall be expended solely for providing funds to be distributed for the purposes and in amounts not to exceed the amounts set forth in Section 10 of the 1996 Capital Projects General Obligation Bond Act and to pay expenses incurred under Section 6 of that act. Any proceeds from the sale of the bonds that are not required for the purposes set forth in Sections 6 and 10 of that act shall be used for the purpose of paying the principal of and interest on the bonds.

Section 5

Section 5

The bonds authorized under the 1996 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.

Section 6

Section 6

The expenses incurred by the state board of finance in or relating to the preparation and sale of the bonds shall be paid out of the proceeds from the sale of the bonds, and all rebate, penalty, interest and other obligations of the state relating to the bonds and bond proceeds under the Internal Revenue Code of 1986, as amended, shall be paid from earnings on bond proceeds or other money of the state, legally available therefor.

Section 7

Section 7

To provide for the payment of the principal of and interest on the bonds issued and sold pursuant to the provisions of the 1996 Capital Projects General Obligation Bond Act, there shall be and there is hereby imposed and levied during each year in which any of the bonds are outstanding an ad valorem tax on all property in the state subject to property taxation for state purposes sufficient to pay the interest as it becomes due on the bonds, together with an amount sufficient to provide a sinking fund to pay the principal of the bonds as it becomes due and, if permitted by law, ad valorem taxes may be collected to pay administrative costs incident to the collection of such taxes. The taxes shall be imposed, levied, assessed and collected at the times and in the manner that other property taxes for state purposes are imposed, levied, assessed and collected. It is the duty of all tax officials and authorities to cause these taxes to be imposed, levied, assessed and collected.

Section 8

Section 8

The state treasurer shall keep separate accounts of all money collected pursuant to the taxes imposed and levied pursuant to the provisions of the 1996 Capital Projects General Obligation Bond Act and shall use this money only for the purposes of paying the principal of and interest on the bonds as they become due and any expenses relating thereto.

Section 9

Section 9

Any owner of bonds issued pursuant to the provisions of the 1996 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 1996 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 is hereby pledged. Without reference to any other act of the legislature of the state, the 1996 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 1996 Capital Projects General Obligation Bond Act, and the interest thereon, are exempt from taxation by the state and any subdivision or public body thereof.

Section 10

Section 10

The proceeds from the sale of bonds issued under the provisions of the 1996 Capital Projects General Obligation Bond Act shall be distributed as follows for the purposes and in the amounts specified:

A. for senior citizen facility construction, equipment and improvements, to the state agency on aging:

(1) three hundred seventy-six thousand dollars (\$376,000) for the purpose of renovating and making improvements to meet current codes and regulations regarding health, safety and accessibility at senior centers and meal sites located throughout the state;

(2) one million twenty-nine thousand nine hundred dollars (\$1,029,900) to be allocated to senior citizen centers and programs for the purpose of purchasing vehicles for senior citizen centers and programs located throughout the state;

(3) two hundred twenty-one thousand one hundred dollars (\$221,100) to be allocated to nutrition programs for the purpose of purchasing kitchen equipment for nutrition programs located throughout the state;

(4) eight hundred two thousand dollars (\$802,000) for the purpose of renovating and making improvements to senior centers and meal sites located throughout the state; and

(5) one hundred thousand dollars (\$100,000) for the purpose of constructing and equipping a south side senior citizen center located in Santa Fe county;

B. for public educational capital improvements and acquisitions:

(1) to the community college board of Santa Fe community college, two million dollars (\$2,000,000) for the purpose of planning, designing, constructing and equipping an instructional technology center at Santa Fe community college located in Santa Fe county;

(2) to the board of regents of northern New Mexico state school:

(a) five hundred thousand dollars (\$500,000) for the purpose of renovating, expanding and improving existing buildings at northern New Mexico state school at El Rito located in Rio Arriba county, including handicap access and infrastructure, sewer and water renovation, expansion and equipment; and

(b) three hundred eighteen thousand four hundred ninety-five dollars (\$318,495) to design, construct and equip a center for the arts at the Espanola branch of northern New Mexico state school in Rio Arriba county;

(3) to the board of regents of New Mexico military institute, two million dollars (\$2,000,000) to rebuild, expand and equip Saunders barracks;

(4) to the governing board of Luna vocational- technical institute, six hundred fifty thousand dollars (\$650,000) for the purpose of constructing an addition to, remodeling and landscaping the existing vocational agriculture facility for use as an early childhood education and permaculture center at the main campus located in San Miguel county;

(5) to the board of regents of New Mexico highlands university:

(a) five hundred thousand dollars (\$500,000) to renovate and make improvements to the Lora Mangum Shield science building at New Mexico highlands university in San Miguel county; and

(b) one million dollars (\$1,000,000) for the purpose of renovating and expanding Douglas hall on the campus of New Mexico highlands university in San Miguel county;

(6) to the board of regents of New Mexico state university, nine million four hundred thousand dollars (\$9,400,000) to design, construct and equip the center for sustainable development of arid lands at New Mexico state university located in Dona Ana county;

(7) to the board of regents of the university of New Mexico:

(a) one million five hundred thousand dollars (\$1,500,000) to plan, design, construct, renovate, equip and make improvements to certain instructional facilities on the main campus located in Bernalillo county; and

(b) five hundred thousand dollars (\$500,000) to plan and design a new architecture and planning building at the university of New Mexico in Albuquerque in Bernalillo county;

(8) to the governing board of New Mexico junior college, one million two hundred thousand dollars (\$1,200,000) to plan, design, construct and equip a transportation training center located in Lea county;

(9) to the governing board of San Juan college, five hundred thousand dollars (\$500,000) to design, construct and equip an advanced technology center at San Juan college located in San Juan county;

(10) to the board of regents of western New Mexico university:

(a) nine hundred thousand dollars (\$900,000) to renovate the Watts classroom building on the campus of western New Mexico university located in Grant county; and

(b) five hundred thousand dollars (\$500,000) to design, renovate or remodel the fine arts auditorium on the campus of western New Mexico university located in Grant county;

(11) to the governing board of Albuquerque technical- vocational institute, three million dollars (\$3,000,000) for the purpose of planning, designing and constructing a support services building for Albuquerque technical-vocational institute located in Bernalillo county;

(12) to the board of regents of New Mexico institute of mining and technology, four million five hundred thousand dollars (\$4,500,000) to renovate and to design, construct and equip a new addition to Jones Hall on the New Mexico institute of mining and technology campus located in Socorro county;

(13) to the board of regents of eastern New Mexico university, two million dollars (\$2,000,000) to remodel the education building on the eastern New Mexico university campus located in Roosevelt county;

(14) to the governing board of Clovis community college, one million one hundred thousand dollars (\$1,100,000) to plan, design and construct a new classroom addition and to renovate the college library on the Clovis community college campus located in Curry county;

(15) to the public school capital improvements fund, five million dollars (\$5,000,000) for the purpose of carrying out the provisions of the Public School Capital Improvements Act; and

(16) to the public school capital outlay fund, twenty- one million five hundred thousand dollars (\$21,500,000) to be allocated by the public school capital outlay council to carry out the provisions of the Public School Capital Outlay Act;

C. for state fair renovation and improvements, nine hundred thousand dollars (\$900,000) for the purpose of renovating and making improvements to the state fairgrounds located in Bernalillo county;

D. for juvenile correctional and rehabilitative facilities, five million dollars (\$5,000,000) to the property control division of the general services department to plan, design, construct and equip juvenile correctional and rehabilitative facilities; and

E. for land acquisition, one million dollars (\$1,000,000) to the energy, minerals and natural resources department for the purpose of acquiring land for Petroglyph national monument located in Bernalillo county.

Section 11

Section 11

Except as otherwise provided in the 1996 Capital Projects General Obligation Bond Act, bonds issued pursuant to that act shall be submitted to the registered voters of the state at the general election to be held in November 1996 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 that election. No bonds shall be issued or sold under the 1996 Capital Projects General Obligation Bond Act until the registered voters of this state have voted upon and approved the bonds and property tax imposition as provided in this section. Any bonds issued under that act shall be issued within twenty-six months from the date of the general election.

The ballots used at the 1996 general election shall contain substantially the following language:

A. "The 1996 Capital Projects General Obligation Bond Act authorizes the issuance and sale of senior citizen facility construction, improvements and equipment bonds. Shall the state of New Mexico be authorized to issue general obligation bonds in an amount not to exceed two million five hundred forty-four thousand one hundred five dollars (\$2,544,105) to make capital expenditures for certain senior citizen facility construction 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 1996 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 fifty-eight million eight hundred sixty-one thousand three hundred thirty-seven dollars (\$58,861,337) to make capital expenditures for certain public educational capital improvements and acquisitions and provide for a general property tax imposition and levy for 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 1996 Capital Projects General Obligation Bond Act authorizes the issuance and sale of state fair capital improvements bonds. Shall the state of New Mexico be authorized to issue general obligation bonds in an amount not to exceed nine hundred fifteen thousand one hundred five dollars (\$915,105) to make capital expenditures for improvements at the New Mexico state fairgrounds and provide for a general property tax imposition and levy for 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 1996 Capital Projects General Obligation Bond Act authorizes the issuance and sale of juvenile correctional and rehabilitative facilities bonds. Shall the state of New Mexico be authorized to issue general obligation bonds in an amount not to exceed five million twenty-five thousand dollars (\$5,025,000) to make capital expenditures for juvenile correctional and rehabilitative facilities and provide for a general property tax imposition and levy for 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 _____ "; and

E. "The 1996 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 one million fifteen thousand one hundred five dollars (\$1,015,105) to make capital expenditures for land acquisition for Petroglyph national monument and provide for a general property tax imposition and levy for 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 _____ ".

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 states 1996 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 1996 Capital Projects General Obligation Bond Act. The failure of any question to be approved by the electorate at the 1996 general election shall not have any effect on the work or object specified by any other question approved by the electorate or the provisions of the 1996 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 1996 general election, and it shall be included in the general election proclamation of each of the county clerks.

The secretary of state shall not include the question of whether to issue capital projects general obligation bonds for the purpose of acquiring land for Petroglyph national monument, as set forth in Section 11 of the 1996 Capital Projects General Obligation Bond Act, on the general election proclamation or on the general election ballot unless, prior to June 1, 1996, the secretary of the interior certifies in writing to the secretary of state that the United States department of the interior will assist in the expedited construction of certain portions of the Paseo del Norte extension project and that the United States department of the interior will work in good faith to eliminate all federal impediments to the construction of that extension.

The secretary of state shall cause the 1996 Capital Projects General Obligation Bond Act to be published in full in at least one newspaper in each county of the state, if one is published therein, once each week for four successive weeks next preceding the general election as required by the constitution of New Mexico.

Section 12

Section 12

ART IN PUBLIC PLACES.--Pursuant to Section

13-4A-4 NMSA 1978 and where applicable, the appropriations authorized in the 1996 Capital Projects General Obligation Bond Act include one percent for the art in public places fund.

Section 13

Section 13

SEVERABILITY.--If any part or application of the 1996 Capital Projects General Obligation Bond Act is held invalid, the remainder or its application to other situations or persons shall not be affected.

Section 14

Section 14

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

HOUSE TAXATION AND REVENUE

COMMITTEE SUBSTITUTE FOR

HOUSE BILLS 41, ET AL

WITH EMERGENCY CLAUSE

SIGNED MARCH 4, 1996

Chapter 14

RELATING TO CAPITAL EXPENDITURES; REAUTHORIZING UNISSUED, UNEXPENDED OR UNENCUMBERED BALANCES; CHANGING AGENCIES AND PURPOSES OF CERTAIN SEVERANCE TAX BOND AUTHORIZATIONS AND OTHER FUNDS; EXTENDING EXPENDITURE PERIODS OF CERTAIN FUNDS; AUTHORIZING EXPENDITURES; REPEALING A SECTION OF LAWS 1995; MAKING APPROPRIATIONS; DECLARING AN EMERGENCY.

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

Section 1

Section 1

SEVERANCE TAX BONDS--DEPARTMENT OF

ENVIRONMENT--EXTENDING EXPENDITURE PERIOD--EXPANSION OF PURPOSE.--The balance of the proceeds from severance tax bonds appropriated to the department of environment to construct and install waterline extensions in the Mountainview area of the south valley in Bernalillo county pursuant to Subsection F of Section 4 of Chapter 113 of Laws 1992 may also be expended to include engineering fees to match the congressional appropriation and for related costs and acquisition of needed land, rights of way and easements. Any unexpended or unencumbered balance from the proceeds of the bonds remaining at the end of fiscal year 2000 shall revert to the severance tax bonding fund.

Section 2

Section 2

SEVERANCE TAX BONDS--CHANGE OF AGENCY-- CHANGE OF PURPOSE-- APPROPRIATION--EXTENDING EXPENDITURE PERIOD.-- The appropriation of severance tax bond proceeds in Subsection BB of Section 8 of Chapter 367 of Laws 1993 to the department of environment to renovate the sewer system in the village of Glorieta in Santa Fe county, including the purchase of materials, labor and construction of a liftstation, shall not be expended for that purpose, but is appropriated to the state department of public education to plan, design, construct and equip a track and football complex for Pojoaque valley schools located in Santa Fe county. Any unexpended or unencumbered balance remaining from the proceeds of the bonds at the end of fiscal year 2000 shall revert to the severance tax bonding fund.

Section 3

Section 3

SEVERANCE TAX BONDS--CHANGE OF AGENCY-- CHANGE OF PURPOSE-- APPROPRIATION--EXTENDING EXPENDITURE PERIOD.-- The appropriation of severance tax bond proceeds in Subsection AA of Section 8 of Chapter 367 of Laws 1993 to the department of environment to plan, design and construct a new sewer system in the village of Mosquero located in Harding county shall not be expended for that purpose, but is appropriated to the board of regents of New Mexico state university to repair, renovate and equip the Clayton livestock research center in Union county. Any unexpended or unencumbered balance from the proceeds of the bonds remaining at the end of fiscal year 2000 shall revert to the severance tax bonding fund.

Section 4

Section 4

SEVERANCE TAX BONDS--DEPARTMENT OF ENVIRONMENT--EXTENDING EXPENDITURE PERIOD.--

A. The period of time for expenditure of the following appropriations from the issuance of severance tax bonds to the department of environment pursuant to the following subsections of Laws 1993, Chapter 367, Section 8 shall be extended through fiscal year 1997:

(1) Subsection D, for a wastewater treatment system in Moriarty located in Torrance county;

(2) Subsection N, for the Velarde mutual domestic water and sewer association located in Rio Arriba county; and

(3) Subsection T, for the Taos water system located in Taos county.

B. Any unexpended or unencumbered balance remaining from the proceeds of the bonds at the end of fiscal year 1997 shall revert to the severance tax bonding fund.

Section 5

Section 5

SEVERANCE TAX BONDS--DEPARTMENT OF ENVIRONMENT--EXTENDING EXPENDITURE PERIOD.--

A. The period of time for expenditure of the following appropriations from the issuance of severance tax bonds to the department of environment pursuant to the following subsections of Laws 1993, Chapter 367, Section 8 shall be extended through fiscal year 2000:

- (1) Subsection A, for a water storage tank in Springer located in Colfax county;
- (2) Subsection E, for a water and sewer system in Wagon Mound located in Mora county;
- (3) Subsection G, for the Truth or Consequences wastewater treatment plant located in Sierra county;
- (4) Subsection H, for the El Prado water and sanitation district located in Taos county;
- (5) Subsection K, for the West View subdivision water improvements in Artesia located in Eddy county;
- (6) Subsection R, for the Dona Ana wastewater project located in Dona Ana county;
- (7) Subsection S, for the Milan water well and system located in Cibola county;
- (8) Subsection U, for water lines in the Morningside addition near Artesia located in Eddy county;
- (9) Subsection W, for the Alameda community center sewer system hookups located in Bernalillo county;
- (10) Subsection X, for La Mesa mutual domestic community water association water system located in Dona Ana county;
- (11) Subsection Y, for water lines in Tularosa located in Otero county;
- (12) Subsection Z, for the Roy water system located in Harding county;

(13) Subsection CC, for the Mora mutual domestic water and sewerage works association located in Mora county;

(14) Subsection DD, for the water storage system in Lordsburg located in Hidalgo county;

(15) Subsection EE, for the wastewater treatment plant in Grants in Cibola county; and

(16) Subsection GG, for the sewer line extensions in the Kinneybrick area of the south valley of Bernalillo county.

B. Any unexpended or unencumbered balance from the proceeds of the bonds remaining at the end of fiscal year 2000 shall revert to the severance tax bonding fund.

Section 6

Section 6

CAPITAL PROJECTS FUND--DEPARTMENT OF ENVIRONMENT--EXTENDING EXPENDITURE PERIOD.--The period of time for expenditure of the capital projects fund appropriation to the department of environment pursuant to Laws 1993, Chapter 367, Section 45 to provide for the first phase of sewage collection and transmission system for the Dona Ana area in Dona Ana county shall be extended through fiscal year 2000. Any unexpended or unencumbered balance remaining at the end of fiscal year 2000 shall revert to the capital projects fund.

Section 7

Section 7

GENERAL FUND--DEPARTMENT OF ENVIRONMENT-- EXTENDING EXPENDITURE PERIOD.--

A. The period of time for expenditure of the following appropriations from the general fund to the department of environment pursuant to the following subsections of Laws 1994, Chapter 147, Section 6 shall be extended through fiscal year 2000:

(1) Subsection PPPPP, for the domestic water system in Reserve located in Catron county;

(2) Subsection RRRRR, for the domestic water systems in Anton Chico and Puerto de Luna located in Guadalupe county and Corona located in Lincoln county;

(3) Subsection SSSSS, for water and sewer system improvements in the Dungan subdivision area of Otero county;

(4) Subsection TTTTTT, to replace water lines and install additional fire hydrants in Tularosa located in Otero county;

(5) Subsection UUUUUU, for the Springer water treatment plant located in Colfax county;

(6) Subsection VVVVVV, for domestic water supply and sewer system improvements in the village of Cimarron located in Colfax county;

(7) Subsection WWWWWW, for the domestic water system improvements in Roy located in Harding county;

(8) Subsection XXXXXX, for Mosquero sewer system improvements located in Harding county; and

(9) Subsection YYYYYY, for a water storage tank for Des Moines located in Union county.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2000 shall revert to the general fund.

Section 8

Section 8

GENERAL FUND--DEPARTMENT OF ENVIRONMENT--EXPANDING PURPOSE--EXTENDING EXPENDITURE PERIOD--APPROPRIATION.--The balance of the proceeds from the appropriation to the department of environment pursuant to Subsection QQQQQ of Section 6 of Chapter 147 of Laws 1994 for sewer improvements to tie the area of Alamo lane, camino de Los Lopez and Agua Fria street to the Santa Fe river sewer trunk line in Santa Fe county may also be expanded to include a feasibility study, engineering design or construction of the project and is appropriated for that expanded purpose. The period of time for expenditure of the appropriation shall be extended through fiscal year 1998. Any unexpended or unencumbered balance remaining at the end of fiscal year 1998 shall revert to the general fund.

Section 9

Section 9

GENERAL FUND--DEPARTMENT OF FINANCE AND ADMINISTRATION--EXTENDING EXPENDITURE PERIOD.--The period of time for expenditure of the general fund appropriation to the local government division of the department of finance and administration pursuant to Subsection WW of Section 6 of Chapter 147 of Laws 1994 to extend water and sewer systems to certain areas of the town of Bernalillo located in Sandoval county shall be extended through fiscal year 2000. Any

unexpended or unencumbered balance remaining at the end of fiscal year 2000 shall revert to the general fund.

Section 10

Section 10

GENERAL FUND--GENERAL SERVICES DEPARTMENT--EXTENDING EXPENDITURE PERIOD-- APPROPRIATION.--

A. Notwithstanding the provisions of Paragraph (3) of Subsection A of Section 71 of Chapter 148 of Laws 1994, the period of time in which the following appropriations to the property control division of the general services department made in Laws 1993, Chapter 366 may be expended shall be extended through fiscal year 1998:

(1) from the general fund to bring state buildings into compliance with the federal Americans with Disabilities Act of 1990 pursuant to Subsection M of Section 3; and

(2) from the general fund operating reserve to construct and equip a state library, records and archives building pursuant to Subsection O of Section 4.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 1998 shall revert to the general fund.

Section 11

Section 11

GENERAL FUND--GENERAL SERVICES DEPARTMENT--EXTENDING EXPENDITURE PERIOD--EXPANSION OF PURPOSE--APPROPRIATION.--

Notwithstanding the provisions of Subparagraph (a) of Paragraph (3) of Subsection A of Section 71 of Chapter 148 of Laws 1994, the balance of the appropriation from the general fund to the property control division of the general services department made in Subsection N of Section 3 of Chapter 366 of Laws 1993 for a study committee and to plan for a comprehensive state library, records and archives building may also be expanded for construction of the state library, records and archives building. Any unexpended or unencumbered balance remaining at the end of fiscal year 1998 shall revert to the general fund.

Section 12

Section 12

GENERAL FUND--DEPARTMENT OF PUBLIC SAFETY--EXTENDING EXPENDITURE PERIOD--APPROPRIATION.-- Notwithstanding the provisions of Paragraph (9) of Subsection A of Section 71 of Chapter 148 of Laws 1994, the period of

time in which the appropriation from the general fund to the department of public safety for a training building at the department training facility in Santa Fe county made in Subsection JJ of Section 4 of Chapter 366 of Laws 1993 may be expended shall be extended through fiscal year 1997. Any unexpended or unencumbered balance remaining at the end of fiscal year 1997 shall revert to the general fund.

Section 13

Section 13

SEVERANCE TAX BONDS--GENERAL SERVICES DEPARTMENT--EXTENDING EXPENDITURE PERIOD-- APPROPRIATION.--

A. The period of time in which the following appropriations from severance tax bond proceeds to the property control division of the general services department made in Laws 1993, Chapter 367, Section 14 may be expended shall be extended through fiscal year 1997:

(1) to acquire a building and land for a primary health care facility located in Chaves county pursuant to Subsection C;

(2) to plan, design and construct a secure treatment cottage at the Las Vegas medical center located in San Miguel county pursuant to Subsection D;

(3) to plan and design a facility to house the administration and provide a controlled visitor center at the New Mexico boys' school located in Colfax county pursuant to Subsection E;

(4) to plan and design a multipurpose recreation center at the Sequoyah treatment center located in Bernalillo county pursuant to Subsection F;

(5) to remove and replace the north and south roofs at the penitentiary of New Mexico located in Santa Fe county pursuant to Subsection K;

(6) to repair the education building at the New Mexico boys' school at Springer located in Colfax county pursuant to Subsection L;

(7) to replace the steam condensation lines in building 300 of the New Mexico rehabilitation center located in Chaves county pursuant to Subsection M;

(8) to renovate the Los Lunas medical center located in Valencia county in order to comply with the Americans with Disabilities Act of 1990 pursuant to Subsection P;

(9) to renovate the electrical system of building 300 of the New Mexico rehabilitation center located in Chaves county pursuant to Subsection Q;

(10) to construct and provide access to a dining and activities area at the New Mexico veterans' center located in Sierra county pursuant to Subsection R;

(11) to remodel the national guard complex on Cerrillos road located in Santa Fe county for moving and other expenses of any state agency that will occupy space in this complex pursuant to Subsection X;

(12) to complete phase one of the renovation of the Bataan memorial building located in Santa Fe county pursuant to Subsection Y; and

(13) for planning, designing and constructing a state police headquarters in Hobbs located in Lea county pursuant to Subsection Z.

B. Any unexpended or unencumbered balance remaining from the proceeds of the bonds at the end of fiscal year 1997 shall revert to the severance tax bonding fund.

Section 14

Section 14

SEVERANCE TAX BONDS--GENERAL SERVICES DEPARTMENT--EXTENDING EXPENDITURE PERIOD--CHANGE IN PURPOSE--APPROPRIATION.--

Notwithstanding the provisions of Subsection D of Section 1 of Chapter 367 of Laws 1993, 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 S of Section 14 of Chapter 367 of Laws 1993 to remodel Sierra cottage at Fort Stanton hospital shall not be expended for its original purpose but is reauthorized and appropriated to the property control division of the general services department to repair and renovate buildings at Fort Stanton hospital located in Lincoln county. Any unexpended or unencumbered balance remaining from the proceeds of the bonds at the end of fiscal year 1998 shall revert to the severance tax bonding fund.

Section 15

Section 15

SEVERANCE TAX BONDS--GENERAL SERVICES DEPARTMENT--CHANGE OF PURPOSE.--

Notwithstanding the provisions of Subsection H of Section 13 of Chapter 148 of Laws 1994, the balance of the proceeds from the sale of severance tax bonds appropriated to the property control division of the general services department to remodel and make other needed modifications and improvements to convert the Socorro cottage at Fort Stanton hospital to a long-term care nursing facility shall not be expended for its original purpose but is reauthorized and appropriated to the property control division of the general services department to repair and renovate buildings at Fort Stanton hospital located in Lincoln county.

Section 16

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 capital projects fund.

Section 17

Section 17

GENERAL FUND--CAPITAL PROGRAM FUND-- EXTENDING EXPENDITURE PERIOD--APPROPRIATION.--

A. Notwithstanding the provisions of Subsection A of Section 43 of Chapter 148 of Laws 1994, the period of time in which the appropriations from the general fund to the capital program fund made in Laws 1994, Chapter 148, Section 43 may be expended shall be extended through fiscal year 1997:

(1) to continue the construction, renovation and repair of state buildings throughout the state to comply with the federal Americans with Disabilities Act of 1990 pursuant to Subsection C;

(2) for the planning, design and engineering of phase one of the renovation of Turquoise lodge pursuant to Subsection D; and

(3) to design, plan, construct, equip and furnish an addition to the Albuquerque office of the New Mexico commission for the blind pursuant to Subsection E.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 1997 shall revert to the general fund.

Section 18

Section 18

GENERAL FUND--GENERAL SERVICES DEPARTMENT--EXTENDING EXPENDITURE PERIOD-- APPROPRIATION.--Notwithstanding the provisions of Subsection B of Section 52 of Chapter 148 of Laws 1994, the period of time in which the appropriation from the general fund to the general services department to plan, design, construct, furnish or equip a secure forensic treatment facility at the Las Vegas medical center located in San Miguel county may be expended shall be extended through fiscal year 1997. Any unexpended or unencumbered balance remaining at the end of fiscal year 1997 shall revert to the general fund.

Section 19

Section 19

EMPLOYMENT SECURITY DEPARTMENT FUND-- EXTENDING EXPENDITURE PERIOD--APPROPRIATIONS.--

A. Notwithstanding the provisions of Subsection A of Section 54 of Chapter 148 of Laws 1994, the period of time in which the following appropriations from the employment security department fund to the capital program fund in Subsection A of Section 54 of Chapter 148 of Laws 1994 may be expended shall be extended through fiscal year 1997:

(1) to make certain improvements to the Alamogordo office of the labor department located in Otero county in order to comply with the federal Americans with Disabilities Act of 1990 pursuant to Paragraph (1);

(2) to make certain improvements to the Albuquerque office of the labor department located in Bernalillo county in order to comply with the federal Americans with Disabilities Act of 1990 pursuant to Paragraph (2);

(3) to modify or make certain improvements to the Artesia office of the labor department located in Eddy county, including modifications that will comply with the federal Americans with Disabilities Act of 1990, pursuant to Paragraph (3);

(4) to modify or make certain improvements to the Farmington office of the labor department located in San Juan county, including modifications that will comply with the federal Americans with Disabilities Act of 1990, pursuant to Paragraph (5);

(5) to modify or make certain improvements to the Las Cruces office of the labor department located in Dona Ana county, including modifications that will comply with the federal Americans with Disabilities Act of 1990, pursuant to Paragraph (7);

(6) to modify or make certain improvements to the Las Vegas office of the labor department located in San Miguel county, including modifications that will comply with the federal Americans with Disabilities Act of 1990, pursuant to Paragraph (8);

(7) to modify or make certain improvements to the Santa Fe office of the labor department located in Santa Fe county, including modifications that will comply with the federal Americans with Disabilities Act of 1990, pursuant to Paragraph (9);

(8) to modify, renovate, expand or make certain improvements to the Silver City office of the labor department located in Grant county, including modifications that will comply with the federal Americans with Disabilities Act of 1990, pursuant to Paragraph (10); and

(9) to modify or make certain improvements to the Tiwa building of the labor department located in Bernalillo county in order to comply with the federal Americans with Disabilities Act of 1990 pursuant to Paragraph (11).

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 1997 shall revert to the employment security department fund.

Section 20

Section 20

EMPLOYMENT SECURITY DEPARTMENT FUND-- EXTENDING EXPENDITURE PERIOD--APPROPRIATION.--

A. Notwithstanding the provisions of Laws 1995, Chapter 41, Sections 1 and 2, the period of time in which the appropriations from the employment security department fund to the property control division of the general services department may be expended shall be extended through fiscal year 1997:

(1) for acquisition of, remodeling or renovating an existing building for an office for the labor department in the Deming area in Luna county pursuant to Section 1; and

(2) for the purpose of acquiring, remodeling and renovating an existing building for an office for the labor department in the Deming area in Luna county pursuant to Section 2.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 1997 shall revert to the employment security department fund.

Section 21

Section 21

GENERAL FUND--GENERAL SERVICES DEPARTMENT--ENCUMBERED BALANCE--APPROPRIATION.--The encumbered balance from the general fund appropriation pursuant to Subsection G of Section 3 of Chapter 147 of Laws 1994 is reauthorized and appropriated to the general services department to purchase vehicles for state agencies and provide for required alternative fuels conversion.

Section 22

Section 22

SEVERANCE TAX BONDS--GENERAL SERVICES DEPARTMENT--CHANGE IN PURPOSE--APPROPRIATION.--The balance of the proceeds from severance tax bonds appropriated to the property control division of the general services department, pursuant to Subsection D of Section 9 of Chapter 222 of Laws 1995, to install a fire protection system in the north and south facilities at the penitentiary of New Mexico, shall not be expended for its original purpose, but is reauthorized and appropriated to complete expansion, including paving, installing equipment, furnishing and making improvements at the southern New Mexico correctional facility located in Dona Ana county.

Section 23

Section 23

SEVERANCE TAX BONDS--CHANGE IN AGENCY-- CHANGE IN PURPOSES-- APPROPRIATIONS.--

A. The balance of the proceeds from 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 their original purposes but are reauthorized and appropriated to the following agencies for the following purposes:

(1) two million eight hundred thousand dollars (\$2,800,000) to the property control division of the general services department to complete construction of the new state library, archives and records center building in the city of Santa Fe located in Santa Fe county;

(2) eight million dollars (\$8,000,000) to the public school capital outlay fund to carry out the purposes of the Public School Capital Outlay Act;

(3) five hundred thousand dollars (\$500,000) to the office of cultural affairs to build permanent exhibitions at the New Mexico farm and ranch heritage museum located in Dona Ana county;

(4) one hundred thousand dollars (\$100,000) to the New Mexico office of Indian affairs to construct, furnish or equip an adult education classroom at Pojoaque pueblo located in Santa Fe county;

(5) five hundred thousand dollars (\$500,000) to the office of cultural affairs to design, construct and equip a living traditions education center at the museum of Indian arts and culture located in Santa Fe county;

(6) two hundred thousand dollars (\$200,000) to the local government division of the department of finance and administration for reimbursement costs related to construction and to plan, design and construct an eight-field little league complex, including concession facilities, bleacher seating, fencing, domestic and irrigation water systems and appropriate field surface cover for the Eastdale little league at the international balloon fiesta park in Albuquerque located in Bernalillo county;

(7) two hundred thousand dollars (\$200,000) to the state fair commission to plan, design and construct restroom facilities, dressing room facilities or other necessary renovations at the Indian village and to plan, design, expand and make other renovations to comply with the federal Americans with Disabilities Act of 1990 to the Indian building of fine arts and other exhibition and performance-related facilities at the New Mexico state fair in Albuquerque in Bernalillo county;

(8) one million dollars (\$1,000,000) to the local government division of the department of finance and administration for the purpose of making improvements, including earth moving and grading, fencing, roadways and parking, electrical and drainage work to the international balloon fiesta park in Albuquerque in Bernalillo county;

(9) one million dollars (\$1,000,000) to the office of cultural affairs for the purpose of constructing or equipping the Hispanic cultural center in the south valley area of Albuquerque in Bernalillo county;

~~[(10) fifty thousand dollars (\$50,000) to purchase equipment and furniture for the Tom Bell community center addition in the city of Albuquerque in Bernalillo county;]~~

~~[(11) fifty thousand dollars (\$50,000) to plan, design and construct a weight room and additional parking at the Dennis Chavez community center in the city of Albuquerque in Bernalillo county;]~~

~~[(12) five hundred thousand dollars (\$500,000) to make improvements to meet state child-care requirements and renovations throughout the Barelvas community and child-care center in the city of Albuquerque in Bernalillo county;]~~

(13) two hundred thousand dollars (\$200,000) to the department of environment for the purpose of designing and making improvements to the Acoma water system at Acoma pueblo located in Cibola county;

(14) one hundred thousand dollars (\$100,000) to the office of cultural affairs for construction of El Camino Real state monument for the museum of New Mexico in Socorro county;

(15) two hundred thousand dollars (\$200,000) to the New Mexico office of Indian affairs for the purpose of designing, constructing and equipping a court building for the Navajo nation in Alamo located in Socorro county;

(16) one hundred thousand dollars (\$100,000) to the local government division of the department of finance and administration for lighting, a concession stand, bleachers and construction of a recreational complex at Paddy Martinez ballfield in the city of Grants located in Cibola county;

(17) one hundred thousand dollars (\$100,000) to the local government division of the department of finance and administration for construction of a convention center in the city of Grants located in Cibola county;

(18) one hundred thousand dollars (\$100,000) to the local government division of the department of finance and administration for land acquisition and improvements for a cemetery in the city of Grants located in Cibola county;

(19) two hundred thousand dollars (\$200,000) to the interstate stream commission for the purpose of making improvements to the Ponderosa-Vallecitos dam and reservoir located in Sandoval county; and

(20) thirty thousand dollars (\$30,000) to the local government division of the department of finance and administration for construction or landscaping at the Bayard community center in Bayard located in Grant county.

B. Any unexpended or unencumbered balance remaining from the proceeds of the bonds at the end of fiscal year 2000 shall revert to the severance tax bonding fund.

Section 24

Section 24

SEVERANCE TAX BONDS--DEPARTMENT OF FINANCE AND ADMINISTRATION--EXPANSION OF PURPOSE.--The balance of the proceeds from severance tax bonds appropriated to the local government division of the department of finance and administration to design, construct and equip a community center in Taylor ranch located in Bernalillo county pursuant to Subsection E of Section 11 of Chapter 222 of Laws 1995 may also be expended to include acquiring land. Any unexpended or unencumbered balance remaining from the proceeds of the bonds at the end of fiscal year 2000 shall revert to the severance tax bonding fund.

Section 25

Section 25

GENERAL FUND--DEPARTMENT OF FINANCE AND ADMINISTRATION--
EXTENDING EXPENDITURE PERIOD.--The period of time for expenditure of the
general fund appropriation to the local government division of the department of finance
and administration pursuant to Laws 1995, Chapter 52, Section 1 to improve solid waste
management and disposal in Socorro county shall be extended through fiscal year
2000. Any unexpended or unencumbered balance remaining at the end of fiscal year
2000 shall revert to the general fund.

Section 26

Section 26

GENERAL FUND--DEPARTMENT OF FINANCE AND ADMINISTRATION--CHANGE
IN PURPOSE--APPROPRIATION.--The general fund appropriation to the local
government division of the department of finance and administration for the construction
of little league baseball fields located in Bernalillo county pursuant to Subsection
UUUUU of Section 24 of Chapter 222 of Laws 1995 shall not be expended for its
original purpose but is appropriated to plan, design, construct, repair and equip baseball
fields at Lobo little league facilities in Albuquerque located in Bernalillo county. Any
unexpended or unencumbered balance remaining at the end of fiscal year 1999 shall
revert to the general fund.

Section 27

Section 27

SEVERANCE TAX BONDS--DEPARTMENT OF FINANCE AND ADMINISTRATION--
EXPANSION OF PURPOSE-- APPROPRIATION.--The balance of the proceeds from
severance tax bonds appropriated to the local government division of the department of
finance and administration to design, construct and equip an east mesa public health
facility in Las Cruces located in Dona Ana county pursuant to Subsection VVV of
Section 9 of Chapter 148 of Laws 1994 may also be expended to include the acquisition
of property for the facility. Any unexpended or unencumbered balance remaining from
the proceeds of the bonds at the end of fiscal year 1999 shall revert to the severance
tax bonding fund.

Section 28

Section 28

SEVERANCE TAX BONDS--DEPARTMENT OF FINANCE AND ADMINISTRATION--
EXPANSION OF PURPOSE-- APPROPRIATION.--The balance of the proceeds from
severance tax bonds appropriated to the local government division of the department of
finance and administration for the Carlsbad civic center in Eddy county pursuant to
Subsection EEEE of Section 9 of Chapter 148 of Laws 1994 may also be expended to
include making improvements to and expanding and paving the parking lot at the Pecos

River Village conference center. Any unexpended or unencumbered balance remaining from the proceeds of the bonds at the end of fiscal year 1999 shall revert to the severance tax bonding fund.

Section 29

Section 29

SEVERANCE TAX BONDS--DEPARTMENT OF FINANCE AND ADMINISTRATION--EXTENDING EXPENDITURE PERIOD.--The period of time for the expenditure of the proceeds from the sale of the bonds appropriated to the local government division of the department of finance and administration for the Native American cultural museum pursuant to Laws 1994, Chapter 148, Section 66 shall be extended to the end of fiscal year 1999. Any unexpended or unencumbered balance remaining from the proceeds of the bonds at the end of fiscal year 1999 shall revert to the severance tax bonding fund.

Section 30

Section 30

SEVERANCE TAX BONDS--DEPARTMENT OF FINANCE AND ADMINISTRATION--CHANGE OF PURPOSE-- APPROPRIATION.--The balance of the proceeds from severance tax bonds appropriated to the local government division of the department of finance and administration, pursuant to Subsection FF of Section 9 of Chapter 148 of Laws 1994, to repair and improve the Carrizozo community swimming pool located in Lincoln 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 to construct and equip a police department and court complex in Carrizozo located in Lincoln county. Any unexpended or unencumbered balance remaining at the end of fiscal year 2000 shall revert to the severance tax bonding fund.

Section 31

Section 31

SEVERANCE TAX BONDS--NEW MEXICO OFFICE OF INDIAN AFFAIRS--CHANGE IN PURPOSE--APPROPRIATION.--The balance of the proceeds from severance tax bonds appropriated to the New Mexico office of Indian affairs for a multipurpose building in Navajo located in McKinley county pursuant to Subsection A of Section 6 of Chapter 113 of Laws 1992 shall not be expended for its original purpose but is reauthorized and appropriated for the purpose of planning, designing, constructing or equipping a multipurpose building in Crystal located in San Juan county. Any unexpended or unencumbered balance remaining from the proceeds of the bonds at the end of fiscal year 1999 shall revert to the severance tax bonding fund.

Section 32

Section 32

SEVERANCE TAX BONDS--NEW MEXICO OFFICE OF INDIAN AFFAIRS--CHANGE IN PURPOSE--APPROPRIATION.--The balance of the proceeds from severance tax bonds appropriated to the New Mexico office of Indian affairs for the Navajo community park located in McKinley county pursuant to Subsection E of Section 16 of Chapter 367 of Laws 1993 shall not be expended for its original purpose but is reauthorized and appropriated for the purpose of planning, designing or constructing a swimming pool at Bowl Canyon recreational area located in McKinley county. Any unexpended or unencumbered balance remaining from the proceeds of the bonds at the end of fiscal year 1999 shall revert to the severance tax bonding fund.

Section 33

Section 33

SEVERANCE TAX BONDS--CHANGE OF AGENCY-- CHANGE IN PURPOSE-- EXTENDING EXPENDITURE PERIOD-- APPROPRIATION.--The appropriation of severance tax bond proceeds in Subsection D of Section 10 of Chapter 148 of Laws 1994 to the department of environment to develop a transfer station, including purchase of a compactor and other equipment in Tesuque pueblo located in Santa Fe county shall not be expended for that purpose, but is appropriated to the state agency on aging for the purpose of planning, designing, constructing and equipping a senior center at Tesuque pueblo located in Santa Fe county. Any unexpended or unencumbered balance from the proceeds of the bonds remaining at the end of fiscal year 2000 shall revert to the severance tax bonding fund.

Section 34

Section 34

CAPITAL PROJECTS FUND--DEPARTMENT OF FINANCE AND ADMINISTRATION-- CHANGE OF PURPOSE-- EXTENDING EXPENDITURE PERIOD--APPROPRIATION.-

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A. Notwithstanding the provisions of Section 50 of Chapter 367 of Laws 1993, two hundred twenty-five thousand dollars (\$225,000) of the balance from the capital projects fund appropriation pursuant to Paragraph (6) of Subsection C of Section 2 of Chapter 6, (1st S.S.) of Laws 1990 to the local government division of the department of finance and administration to acquire the land and buildings located on the grounds of the old Albuquerque high school in Bernalillo 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 in the following amounts for the following purposes:

(1) fifty thousand dollars (\$50,000) for renovation of facilities and buildings in the Martineztown area of Albuquerque located in Bernalillo county;

(2) one hundred thirty-five thousand dollars (\$135,000) for renovation and expansion of Wells Park community center in Albuquerque located in Bernalillo county; and

(3) forty thousand dollars (\$40,000) to purchase vans for the Wells Park and Duranes community centers in Albuquerque located in Bernalillo county.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2000 shall revert to the capital projects fund.

Section 35

Section 35

SEVERANCE TAX BONDS--CHANGE IN AGENCY-- CHANGE IN PURPOSE-- APPROPRIATION.--

A. One hundred thousand dollars (\$100,000) of the balance from severance tax bond proceeds appropriated to the local government division of the department of finance and administration pursuant to Subsection RR of Section 9 of Chapter 148 of Laws 1994 to acquire land for the Manzano Mesa multigenerational community center and park in Albuquerque located in Bernalillo county shall not be expended for that purpose but is reauthorized and appropriated to the state highway and transportation department in the following amounts for the following purposes:

(1) fifty thousand dollars (\$50,000) to pave and improve Santa Fe county road 91D to Walnut street in Santa Fe county; and

(2) fifty thousand dollars (\$50,000) to pave and improve Santa Fe county road 78 in the village of Chupadero located in Santa Fe county.

B. Any unexpended or unencumbered balance remaining from the proceeds of the bonds at the end of fiscal year 1998 shall revert to the severance tax bonding fund.

Section 36

Section 36

GENERAL FUND--STATE DEPARTMENT OF PUBLIC EDUCATION--EXPANSION OF PURPOSE--APPROPRIATION.--The general fund appropriation to the state department of public education to plan or design a multipurpose auditorium for the Moriarty public school district pursuant to Subsection TT of Section 33 of Chapter 222 of Laws 1995 shall be expanded to include the renovation of an existing structure or the purchase and

construction of a building for use as a multipurpose auditorium in the Moriarty public school district located in Torrance county.

Section 37

Section 37

GENERAL FUND--DEPARTMENT OF FINANCE AND ADMINISTRATION--CHANGE OF PURPOSE--APPROPRIATION.--One hundred thousand dollars (\$100,000) of the balance of the appropriation in Subsection FFFF of Section 24 of Chapter 222 of Laws 1995 to the local government division of the department of finance and administration for the purpose of purchasing Sierra Vista hospital in Sierra county to make it a county facility shall not be used for that purpose but is reauthorized and appropriated for the repayment of a loan from the state board of finance to Sierra Vista hospital.

Section 38

Section 38

GENERAL FUND--OFFICE OF CULTURAL AFFAIRS-- EXTENDING EXPENDITURE PERIOD--APPROPRIATIONS.--

A. The period of time in which the following appropriations from the general fund to the library division of the office of cultural affairs made in Laws 1994, Chapter 148, Section 44 may be expended shall be extended through fiscal year 1997:

(1) to purchase equipment, computers and communication and distribution systems for the purpose of connecting New Mexico libraries in a statewide communication network, creating a unified catalog in certain libraries and for a pilot program for a document and book delivery system pursuant to Subsection E; and

(2) to provide computer networking capacity, improve library staff skills and provide programs and staff necessary to integrate Native American community libraries into the state library network system pursuant to Subsection H.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 1997 shall revert to the general fund.

Section 39

Section 39

GENERAL FUND--CHANGE OF AGENCY--CHANGE IN PURPOSE-- APPROPRIATIONS.--

A. The balance of the proceeds from the general fund appropriation to the local government division of the department of finance and administration for the Tatum magistrate court and a building for the Tatum police department pursuant to Subsection NNNNNN of Section 24 of Chapter 222 of Laws 1995 shall not be expended for its original purpose but is reauthorized and appropriated so that:

(1) twenty thousand dollars (\$20,000) is appropriated to the administrative office of the courts to furnish and equip the building for the Tatum magistrate court located in Lea county; and

(2) the balance of the proceeds is appropriated 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 in Lea county.

B. Any unexpended or unencumbered balance of the reauthorized appropriations provided in this section remaining at the end of fiscal year 1999 shall revert to the general fund.

Section 40

Section 40

SEVERANCE TAX BONDS--CHANGE OF AGENCY-- CHANGE IN PURPOSE-- APPROPRIATION.--The balance of the proceeds from severance tax bonds appropriated to the property control division of the general services department pursuant to Subsection Z of Section 14 of Chapter 367 of Laws 1993 for a state police headquarters in Hobbs 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 to design, remodel and furnish an existing county building for two magistrate court facilities and a state police facility located in Lea county.

Section 41

Section 41

SEVERANCE TAX BONDS--CHANGE OF AGENCY-- CHANGE OF PURPOSE-- EXTENDING EXPENDITURE PERIOD-- APPROPRIATION.--The balance of the proceeds from severance tax bonds appropriated to the energy, minerals and natural resources department, pursuant to Subsection C of Section 11 of Chapter 367 of Laws 1993, for constructing, repairing, furnishing and equipping community centers and recreational fields in Taos 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 to plan and design community centers in Taos county. The period of time for the expenditure of the proceeds of the sale of the bonds shall be extended to the end of fiscal year 1999. Any unexpended or unencumbered balance

remaining from the proceeds from the sale of the bonds at the end of fiscal year 1999 shall revert to the severance tax bonding fund.

Section 42

Section 42

SEVERANCE TAX BONDS--LOCAL GOVERNMENT DIVISION OF THE DEPARTMENT OF FINANCE AND ADMINISTRATION--EXTENDING EXPENDITURE PERIOD.--The period of time for the expenditure of the proceeds from the sale of the bonds appropriated to the local government division of the department of finance and administration for acquiring and renovating a building for a community center in Taos county, pursuant to Subsection VVV of Section 7 of Chapter 367 of Laws 1993, shall be extended to the end of fiscal year 1999. Any unexpended or unencumbered balance remaining from the proceeds from the sale of the bonds at the end of fiscal year 1999 shall revert to the severance tax bonding fund.

Section 43

Section 43

REPEAL.--Laws 1995, Chapter 218, Section 40 is repealed.

Section 44

Section 44

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 BILLS 565 ET AL

WITH EMERGENCY CLAUSE

PARTIAL VETO

SIGNED MARCH 4, 1996

Chapter 15

RELATING TO TAXATION; AMENDING SECTIONS OF THE TAX ADMINISTRATION ACT.

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

Section 1

Section 1

Section 7-1-2 NMSA 1978 (being Laws 1965, Chapter 248, Section 2, as amended) is amended to read:

"7-1-2. APPLICABILITY.--The Tax Administration Act applies to and governs:

A. the administration and enforcement of the following taxes or tax acts as they now exist or may hereafter be amended:

- (1) Income Tax Act;
- (2) Withholding Tax Act;
- (3) Gross Receipts and Compensating Tax Act and any state gross receipts tax;
- (4) Liquor Excise Tax Act;
- (5) Local Liquor Excise Tax Act;
- (6) Banking and Financial Corporations Tax Act;
- (7) any municipal local option gross receipts tax;
- (8) any county local option gross receipts tax;
- (9) Special Fuels Supplier Tax Act;
- (10) Gasoline Tax Act;
- (11) petroleum products loading fee, which fee shall be considered a tax for the purpose of the Tax Administration Act;
- (12) Alternative Fuel Tax Act;
- (13) Cigarette Tax Act;
- (14) Estate Tax Act;
- (15) Railroad Car Company Tax Act;
- (16) Investment Credit Act;

(17) Corporate Income and Franchise Tax Act;

(18) Uniform Division of Income for Tax Purposes Act;

(19) Multistate Tax Compact;

(20) Tobacco Products Tax Act;

(21) Filmmaker's Credit Act; and

(22) the telecommunications relay service surcharge imposed by Section 63-9F-11 NMSA 1978, which surcharge shall be considered a tax for the purposes of the Tax Administration Act;

B. the administration and enforcement of the following taxes, surtaxes, advanced payments or tax acts as they now exist or may hereafter be amended:

(1) Resources Excise Tax Act;

(2) Severance Tax Act;

(3) any severance surtax;

(4) Oil and Gas Severance Tax Act;

(5) Oil and Gas Conservation Tax Act;

(6) Oil and Gas Emergency School Tax Act;

(7) Oil and Gas Ad Valorem Production Tax Act;

(8) Natural Gas Processors Tax Act;

(9) Oil and Gas Production Equipment Ad Valorem Tax Act;

(10) Copper Production Ad Valorem Tax Act; and

(11) any advance payment required to be made by any act specified in this subsection, which advance payment shall be considered a tax for the purposes of the Tax Administration Act;

C. the administration and enforcement of the following taxes, surcharges, fees or acts as they now exist or may hereafter be amended:

(1) Weight Distance Tax Act;

(2) Special Fuels Tax Act;

(3) the workers' compensation fee authorized by Section 52-5-19 NMSA 1978, which fee shall be considered a tax for purposes of the Tax Administration Act;

(4) Uniform Unclaimed Property Act;

(5) 911 emergency surcharge and the network and database surcharge, which surcharges shall be considered taxes for purposes of the Tax Administration Act;

(6) the solid waste assessment fee authorized by the Solid Waste Act, which fee shall be considered a tax for purposes of the Tax Administration Act; and

(7) the water conservation fee imposed by Section 74-1-13 NMSA 1978, which fee shall be considered a tax for the purposes of the Tax Administration Act; and

D. the administration and enforcement of all other laws, with respect to which the department is charged with responsibilities pursuant to the Tax Administration Act, but only to the extent that the other laws do not conflict with the Tax Administration Act."

Section 2

Section 2

Section 7-1-6.10 NMSA 1978 (being Laws 1983, Chapter 211, Section 15, as amended by Laws 1995, Chapter 6, Section 4 and also by Laws 1995, Chapter 16, Section 11) is amended to read:

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

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

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

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

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

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

(5) the amount distributed to the local governments road fund pursuant to Section 7-1-6.39 NMSA 1978;

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

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

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

Section 3

Section 3

Section 7-1-8 NMSA 1978 (being Laws 1965, Chapter 248, Section 13, as amended by Laws 1993, Chapter 5, Section 3 and also by Laws 1993, Chapter 261, Section 1) is amended to read:

"7-1-8. CONFIDENTIALITY OF RETURNS AND OTHER INFORMATION.--It is unlawful for any employee of the department or any former employee of the department to reveal to any individual other than another employee of the department any information contained in the return of any taxpayer made pursuant to any law subject to administration and enforcement under the provisions of the Tax Administration Act or any other information about any taxpayer acquired as a result of his employment by the department, except:

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

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

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

D. to a district court or an appellate court or a federal court:

(1) in response to an order thereof in an action relating to taxes to which the state is a party and in which the information sought is about a taxpayer who is party to the action and is material to the inquiry, in which case only that information may be required to be produced in court and admitted in evidence subject to court order protecting the confidentiality of the information and no more;

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

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

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

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

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

H. with reference to any information concerning the tax on tobacco imposed by Sections 7-12-1 through 7-12-17 NMSA 1978 to a committee of the legislature for a valid legislative purpose;

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

J. to a purchaser of a business as provided in Sections 7-1-61 through 7-1-64 NMSA 1978, the amount and basis of any unpaid assessment of tax for which the purchaser's seller is liable;

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

(1) the names, taxpayer identification numbers and addresses of registered gross receipts taxpayers reporting gross receipts for that municipality under the Gross

Receipts and Compensating Tax Act or a local option gross receipts tax imposed by that municipality. The department may also release the information described in this paragraph quarterly or upon such other periodic basis as the secretary and the municipality may agree; and

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

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

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

M. the department shall furnish, upon request by the child support enforcement division of the human services department, the last known address with date of all names certified to the department as being absent parents of children receiving public financial assistance. The child support enforcement division personnel shall use such information only for the purpose of enforcing the support liability of the absent parents and shall not use the information or disclose it for any other purpose; the child support enforcement division and its employees are subject to the provisions of this section with respect to any information acquired from the department;

N. with respect to the tax on gasoline imposed by the Gasoline Tax Act, the department shall make available for public inspection at monthly intervals a report covering the amount and gallonage of gasoline and ethanol blended fuels imported, exported, sold and used, including tax- exempt sales to the federal government reported or upon which the gasoline tax was paid and covering taxes received from each distributor in the state of New Mexico;

O. the identity of distributors and gallonage reported on returns required under the Gasoline Tax Act, Special Fuels Supplier Tax Act or Alternative Fuel Tax Act to any distributor or supplier, but only when it is necessary to enable the department to carry out its duties under the Gasoline Tax Act, the Special Fuels Supplier Tax Act or the Alternative Fuel Tax Act;

P. the department shall release upon request only the names and addresses of all gasoline or special fuel distributors, wholesalers and retailers to the New Mexico

department of agriculture, the employees of which are thereby subject to the penalty contained in Section 7-1-76 NMSA 1978 if that information is revealed to individuals other than employees of either the New Mexico department of agriculture or the department;

Q. the department shall answer all inquiries concerning whether a person is or is not a registered taxpayer;

R. upon request of a municipality or county of this state, the department shall permit officials or employees of the municipality or county to inspect the records of the department pertaining to an increase or decrease to a distribution or transfer made pursuant to Section 7-1-6.15 NMSA 1978 for the purpose of reviewing the basis for the increase or decrease. The municipal or county officials or employees receiving information provided in this subsection shall not reveal that information to any person other than another employee of the municipality or the county, the department or a district court, an appellate court or a federal court in a proceeding relating to a disputed distribution and in which both the state and the municipality or county are parties. Any information provided in this subsection that is revealed other than as provided in this subsection shall subject the person revealing the information to the penalties contained in Section 7-1-76 NMSA 1978;

S. to a county of this state that has in effect any local option gross receipts tax imposed by the county upon its request for any period specified by that county within the twelve months preceding the request for the information by that county:

(1) the names, taxpayer identification numbers and addresses of registered gross receipts taxpayers reporting gross receipts either for that county in the case of a local option gross receipts tax imposed on a county-wide basis or only for the areas of that county outside of any incorporated municipalities within that county in the case of a county local option gross receipts tax imposed only in areas of the county outside of any incorporated municipalities. The department may also release the information described in this paragraph quarterly or upon such other periodic basis as the secretary and the county may agree;

(2) in the case of a local option gross receipts tax imposed by a county on a county-wide basis, information indicating whether persons shown on any list of businesses located within the county furnished by the county have reported gross receipts to the department but have not reported gross receipts for that county under the Gross Receipts and Compensating Tax Act or a local option gross receipts tax imposed by that county on a county-wide basis; and

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

not reported gross receipts for the area of that county outside of any incorporated municipalities within that county under the Gross Receipts and Compensating Tax Act or any local option gross receipts tax imposed by the county only on persons engaging in business in that area of the county outside of any incorporated municipalities.

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

T. to authorized representatives of an Indian nation, tribe or pueblo, the territory of which is located wholly or partially within New Mexico, pursuant to the terms of a reciprocal agreement entered into with the Indian nation, tribe or pueblo for the exchange of that information for tax purposes only; provided that the Indian nation, tribe or pueblo has enacted a confidentiality statute similar to this section;

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

(1) information for or relating to any period prior to July 1, 1985 with respect to Sections 7-25-1 through 7-25-9 and 7-26-1 through 7-26-8 NMSA 1978 may be released only to a committee of the legislature for a valid legislative purpose;

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

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

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

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

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

(d) the authorized representative of any of the persons in Subparagraphs (a) through (c) of this paragraph,

but this paragraph does not prohibit the release of any proprietary information contained in the workpapers that is also available from returns or from other sources not subject to the provisions of this section;

V. information with respect to the taxes, surtaxes, advance payments or tax acts administered pursuant to Subsection C of Section 7-1-2 NMSA 1978;

W. to the state corporation commission, information with respect to the Corporate Income and Franchise Tax Act required to enable the commission to carry out its duties;

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

Y. upon request of a corporation authorized to be formed under the Educational Assistance Act, the department shall furnish the last known address and the date of that address of every person certified to the department as being an absent obligor of an educational debt that is due and owed to the corporation or that the corporation has lawfully contracted to collect. The corporation and its officers and employees shall use that information only for the purpose of enforcing the educational debt obligation of such absent obligors and shall not disclose that information or use it for any other purpose;

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

AA. information required by any provision of the Tax Administration Act to be made available to the public by the department;

BB. upon request by the Bernalillo county metropolitan court, the department shall furnish the last known address and the date of that address for every person certified to the department by the court as being a person who owes fines, fees or costs to the court or who has failed to appear pursuant to a court order or a promise to appear;

CC. upon request by a magistrate court, the department shall furnish the last known address and the date of that address for every person certified to the department by the court as being a person who owes fines, fees or costs to the court or who has failed to appear pursuant to a court order or a promise to appear; and

DD. to the national tax administration agencies of Mexico and Canada, provided the agency receiving the information has entered into a written agreement with the department to use the information for tax purposes only and is subject to a confidentiality statute similar to this section."

Section 4

Section 4

Section 7-1-26 NMSA 1978 (being Laws 1965, Chapter 248, Section 28, as amended) is amended to read:

"7-1-26. CLAIM FOR REFUND.--

A. Any person who believes that an amount of tax has been paid by or withheld from that person in excess of that for which the person was liable, who has been denied any credit or rebate claimed or who claims a prior right to property in the possession of the department pursuant to a levy made under authority of Sections 7-1-31 through 7-1-34 NMSA 1978 may claim a refund by directing to the secretary, within the time limited by the provisions of Subsections B, C and D of this section, a written claim for refund. Except as provided in Subsection G of this section, a refund claim must include the taxpayers name, address and identification number, the type of tax for which a refund is being claimed, the sum of money being claimed, the period for which overpayment was made and the basis for the refund. The secretary or the secretary's delegate may allow the claim in whole or in part or may deny the claim. If the claim is denied in whole or in part in writing, the claim may not be refiled. If the claim is not granted in full, the person, within ninety days after either the mailing of the denial of all or any part of the claim, may elect to pursue one, but not more than one, of the remedies in Paragraphs (1) and (2) of this subsection. If the department has neither granted nor denied any portion of a claim for refund within one hundred twenty days of the date the claim was mailed or delivered to the department, the person may refile it within the time limits set forth in Subsection B of this section or may within ninety days elect to pursue one, but only one, of the remedies in Paragraphs (1) and (2) of this subsection. In any case, if a person does timely pursue more than one remedy, the person shall be deemed to have elected the first remedy invoked. The remedies are as follows:

(1) the person may direct to the secretary a written protest against the denial of, or failure to either allow or deny, the claim, which shall be set for hearing by a hearing officer designated by the secretary promptly after the receipt of the protest in accordance with the provisions of Section 7-1-24 NMSA 1978, and pursue the remedies of appeal from decisions adverse to the protestant as provided in Section 7-1-25 NMSA 1978; or

(2) the person may commence a civil action in the district court for Santa Fe county by filing a complaint setting forth the circumstance of the claimed overpayment, alleging that on account thereof the state is indebted to the plaintiff in the amount stated, together with any interest allowable, demanding the refund to the plaintiff of that amount and reciting the facts of the claim for refund. The plaintiff or the secretary may appeal from any final decision or order of the district court to the court of appeals.

B. Except as otherwise provided in Subsections C and D of this section, no credit or refund of any amount may be allowed or made to any person unless as the result of a claim made by that person as provided in this section:

(1) within three years of the end of the calendar year in which:

(a) the payment was originally due or the overpayment resulted from an assessment by the department pursuant to Section 7-1-17 NMSA 1978, whichever is later;

(b) the final determination of value occurs with respect to any overpayment that resulted from a disapproval by any agency of the United States or the state of New Mexico or any court of increase in value of a product subject to taxation under the Oil and Gas Severance Tax Act, the Oil and Gas Conservation Tax Act, the Oil and Gas Emergency School Tax Act, the Oil and Gas Ad Valorem Production Tax Act or the Natural Gas Processors Tax Act; or

(c) property was levied upon pursuant to the provisions of the Tax Administration Act;

(2) within one year of the date:

(a) of the denial of the claim for credit under the provisions of the Investment Credit Act or Filmmakers Credit Act;

(b) an assessment of tax is made; or

(c) a proceeding begun in court by the department with respect to any period that is covered by a waiver signed on or after July 1, 1993 by the taxpayer pursuant to Subsection F of Section 7-1-18 NMSA 1978; or

(3) for assessments made on or after July 1, 1993, within one year of the date of an assessment of tax made under Subsection B, C or D of Section 7-1-18 NMSA 1978 when the assessment applies to a period ending at least three years prior to the beginning of the year in which the assessment was made, but the claim for refund shall not be made with respect to any period not covered by the assessment.

C. No credit or refund shall be allowed or made to any person claiming a refund of gasoline tax under Section

7-13-11 NMSA 1978 unless notice of the destruction of the gasoline was given the department within thirty days of the actual destruction and the claim for refund is made within six months of the date of destruction. No credit or refund shall be allowed or made to any person claiming a refund of gasoline tax under Section 7-13-14 NMSA 1978 unless the refund is claimed within six months of the date of purchase of the gasoline and the gasoline has been used at the time the claim for refund is made.

D. If, as a result of an audit by the internal revenue service or the filing of an amended federal return changing a prior election or making any other change for which federal approval is required by the Internal Revenue Code, any adjustment of federal tax is made with the result that there would have been an overpayment of tax if the adjustment to federal tax had been applied to the taxable period to which it relates, claim for credit or refund of only that amount based on the adjustment may be made as provided in this section within one year of the date of the internal revenue service audit adjustment or payment of the federal refund or within the period limited by Subsection B of this section, whichever expires later. Interest, computed at the rate specified in Subsection B of Section 7-1-68 NMSA 1978, shall be allowed on any such claim for

refund from the date one hundred twenty days after the claim is made until the date the final decision to grant the credit or refund is made.

E. Any refund of tax paid under any tax or tax act administered under Subsection B of Section 7-1-2 NMSA 1978 may be made, at the discretion of the department, in the form of credit against future tax payments if future tax liabilities in an amount at least equal to the credit amount reasonably may be expected to become due.

F. For the purposes of this section, the term "oil and gas tax return" means a return reporting tax due with respect to oil, natural gas, liquid hydrocarbons or carbon dioxide pursuant to the Oil and Gas Severance Tax Act, the Oil and Gas Conservation Tax Act, the Oil and Gas Emergency School Tax Act, the Oil and Gas Ad Valorem Production Tax Act, the Natural Gas Processors Tax Act or the Oil and Gas Production Equipment Ad Valorem Tax Act.

G. The filing of a fully completed original income tax return, corporate income tax return, corporate income and franchise tax return, estate tax return or special fuel excise tax return that shows a balance due the taxpayer or a fully completed amended income tax return, an amended corporate income tax return, an amended corporate income and franchise tax return, an amended estate tax return, an amended special fuel excise tax return or an amended oil and gas tax return that shows a lesser tax liability than the original return constitutes the filing of a claim for refund for the difference in tax due shown on the original and amended returns."

Section 5

Section 5

Section 7-1-28 NMSA 1978 (being Laws 1965, Chapter 248, Section 30, as amended) is amended to read:

"7-1-28. AUTHORITY FOR ABATEMENTS OF ASSESSMENTS OF TAX.--

A. In response to a written protest against an assessment, submitted in accordance with the provisions of Section 7-1-24 NMSA 1978, but before any court acquires jurisdiction of the matter, or when a "notice of assessment of taxes" is found to be incorrect, the secretary or the secretary's delegate may, with the written approval of the attorney general, abate any part of an assessment determined by the secretary or the secretary's delegate to have been incorrectly, erroneously or illegally made. Notwithstanding the above, abatements of assessments incorrectly, erroneously or illegally made to one person amounting to less than five thousand dollars (\$5,000) in one calendar year may be made without the prior written approval of the attorney general, except that:

(1) abatements with respect to the Oil and Gas Severance Tax Act, the Oil and Gas Conservation Tax Act, the Oil and Gas Emergency School Tax Act, the Oil and Gas Ad Valorem Production Tax Act, the Natural Gas Processors Tax Act or the Oil and Gas

Production Equipment Ad Valorem Tax Act, abatements of gasoline tax made under Sections 7-13-13 through 7-13-15 NMSA 1978 and abatements of cigarette tax made under the Cigarette Tax Act may be made without the prior approval of the attorney general regardless of the amount; and

(2) abatements with respect to the Corporate Income and Franchise Tax Act amounting to less than twenty thousand dollars (\$20,000) may be made without prior approval of the attorney general.

B. Pursuant to the final order of the district court for Santa Fe county, the court of appeals, the supreme court of New Mexico or any federal court, from which order, appeal or review is not successfully taken by the department, adjudging that any person is not required to pay any portion of tax assessed to that person, the secretary or the secretary's delegate shall cause that amount of the assessment to be abated.

C. Pursuant to a compromise of taxes agreed to by the secretary and according to the terms of the closing agreement formalizing the compromise, the secretary or the secretary's delegate shall cause the abatement of the appropriate amount of any assessment or assessments of tax.

D. The secretary or the secretary's delegate shall cause the abatement of the amount of an assessment of tax that is equal to the amount of fee paid to or retained by an out-of-state attorney or collection agency from a judgment or the amount collected by the attorney or collection agency pursuant to Section 7-1-58 NMSA 1978.

E. Records of abatements made in excess of five thousand dollars (\$5,000) shall be available for inspection by the public. The department shall keep such records for a minimum of three years from the date of the abatement."

Section 6

Section 6

Section 7-1-38 NMSA 1978 (being Laws 1965, Chapter 248, Section 40, as amended) is amended to read:

"7-1-38. NOTICE OF LIEN.--A notice of the lien provided for in Section 7-1-37 NMSA 1978 may be recorded in any county in the state in the tax lien index established by Sections 48-1-1 through 48-1-7 NMSA 1978 and a copy thereof shall be sent to the taxpayer affected. Any county clerk to whom the notices are presented shall record them as requested without charge. The notice of lien shall identify the taxpayer whose liability for taxes is sought to be enforced and the date or approximate date on which the tax became due and shall state that New Mexico claims a lien for the entire amount of tax asserted to be due, including applicable interest and penalties. Recording of the notice of lien shall be effective as to all property and rights to property of the taxpayer."

Section 7

Section 7

Section 7-1-67 NMSA 1978 (being Laws 1965, Chapter 248, Section 68, as amended) is amended to read:

"7-1-67. INTEREST ON DEFICIENCIES.--

A. If any tax imposed is not paid on or before the day on which it becomes due, interest shall be paid to the state on such amount from the first day following the day on which the tax becomes due, without regard to any extension of time or installment agreement, until it is paid except that:

(1) for any income tax imposed on a member of the armed services of the United States serving in a combat zone under orders of the president of the United States, interest shall accrue only for the period beginning the day after any applicable extended due date if the tax is not paid;

(2) if the amount of interest due at the time payment is made is less than one dollar (\$1.00), then no interest shall be due; and

(3) if demand is made for payment of any tax including accrued interest, and if such tax is paid within ten days after the date of such demand, no interest on the amount so paid shall be imposed for the period after the date of the demand.

B. Interest due to the state under Subsection A or D of this section shall be at the rate of fifteen percent a year, computed at the rate of one and one-fourth percent per month or any fraction thereof; provided that, if a different rate is specified by a compact or other interstate agreement to which New Mexico is a party, then that rate shall be applied to amounts due under the compact or other agreement.

C. Nothing in this section shall be construed to impose interest on interest or interest on the amount of any penalty.

D. If any tax required to be paid in accordance with Section 7-1-13.1 NMSA 1978 is not paid in the manner required by that section, interest shall be paid to the state on the amount required to be paid in accordance with Section 7-1-13.1 NMSA 1978. If interest is due under this subsection and is also due under Subsection A of this section, interest shall be due and collected only pursuant to Subsection A of this section."

Section 8

Section 8

Section 7-1-68 NMSA 1978 (being Laws 1965, Chapter 248, Section 69, as amended) is amended to read:

"7-1-68. INTEREST ON OVERPAYMENTS.--

A. As provided in this section, interest shall be allowed and paid on the amount of tax overpaid by a person that is subsequently refunded or credited to that person.

B. Interest payable on overpayments of tax shall be paid at the rate of fifteen percent a year, computed at the rate of one and one-fourth percent per month or fraction thereof; provided that, if a different rate is specified by a compact or other interstate agreement to which New Mexico is a party, then that rate shall be applied to amounts due under the compact or other agreement.

C. Unless otherwise provided by this section, interest on an overpayment not arising from an assessment by the department shall be paid from the date the claim for refund was made until a date preceding by not more than thirty days the date on which the amount thereof is credited or refunded to any person; interest on an overpayment arising from an assessment by the department shall be paid from the date overpayment was made until a date preceding by not more than thirty days the date on which the amount thereof is credited or refunded to any person.

D. No interest shall be allowed or paid with respect to an amount credited or refunded if:

(1) the amount of interest due is less than one dollar (\$1.00);

(2) the credit or refund is made within seventy-five days of the date of the claim for refund of income tax, pursuant to either the Income Tax Act or the Corporate Income and Franchise Tax Act, for the tax year immediately preceding the tax year in which the claim is made;

(3) the credit or refund is made within one hundred twenty days of the date of the claim for refund of income tax, pursuant to the Income Tax Act, the Corporate Income and Franchise Tax Act or the Banking and Financial Corporations Tax Act, for any tax year more than one year prior to the year in which the claim is made;

(4) Sections 6611(f) and 6611(g) of the United States Internal Revenue Code of 1986, as those sections may be amended or renumbered, prohibit payment of interest for federal income tax purposes;

(5) the credit or refund is made within sixty days of the date of the claim for refund of any tax other than income tax; or

(6) gasoline tax is refunded or credited under the Gasoline Tax Act to users of gasoline off the highways."

Section 9

Section 9

Section 7-1-69 NMSA 1978 (being Laws 1965, Chapter 248, Section 70, as amended) is amended to read:

"7-1-69. CIVIL PENALTY FOR FAILURE TO PAY TAX OR FILE A RETURN.--

A. Except as provided in Subsection B of this section, in the case of failure due to negligence or disregard of rules and regulations, but without intent to defraud, to pay when due any amount of tax required to be paid or to file by the date required a return regardless of whether any tax is due, there shall be added to the amount as penalty the greater of:

(1) two percent per month or any fraction of a month from the date the tax was due multiplied by the amount of tax due but not paid, not to exceed ten percent of the tax due but not paid;

(2) two percent per month or any fraction of a month from the date the return was required to be filed multiplied by the tax liability established in the late return, not to exceed ten percent of the tax liability established in the late return; or

(3) a minimum of five dollars (\$5.00), but the five-dollar (\$5.00) minimum penalty shall not apply to taxes levied under the Income Tax Act or taxes administered by the department pursuant to Subsection B of Section 7-1-2 NMSA 1978.

B. If a different penalty is specified in a compact or other interstate agreement to which New Mexico is a party, then the penalty provided in the compact or other interstate agreement shall be applied to amounts due under the compact or other interstate agreement at the rate and in the manner prescribed by the compact or other interstate agreement.

C. In the case of failure, with intent to defraud the state, to pay when due any amount of tax required to be paid there shall be added to the amount fifty percent of the tax or a minimum of twenty-five dollars (\$25.00), whichever is greater, as penalty.

D. In the case of failure to pay the amount of tax required to be paid in accordance with Section 7-1-13.1 NMSA 1978 in the manner required by that section there shall be added to the amount due a penalty of two percent of the amount due, except that if a penalty is required to be imposed by this subsection and a penalty is also required to be imposed under Subsection A of this section, the penalty shall be imposed and collected pursuant to Subsection A of this section only."

Section 10

Section 10

Section 7-1-70 NMSA 1978 (being Laws 1965, Chapter 248, Section 71) is amended to read:

"7-1-70. CIVIL PENALTY FOR BAD CHECKS.--If any payment required to be made by provision of the Tax Administration Act is attempted to be made by check that is not paid upon presentment, such dishonor is presumptive of negligence. The penalty shall never be less than ten dollars (\$10.00). This penalty is in addition to any other penalty imposed by law."

Section 11

Section 11

EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1996.

SENATE BILL 8, AS AMENDED

SIGNED MARCH 4, 1996

Chapter 16

RELATING TO TAXATION; AMENDING THE INCOME TAX ACT AND CORPORATE INCOME AND FRANCHISE TAX ACT TO MAKE SPECIFIC THE TAXABILITY OF GAMBLING WINNINGS; AMENDING THE WITHHOLDING TAX ACT TO REQUIRE WITHHOLDING FROM CERTAIN GAMBLING WINNINGS; DECLARING AN EMERGENCY.

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

Section 1

Section 1

Section 7-2-11 NMSA 1978 (being Laws 1965, Chapter 202, Section 9, as amended) is amended to read:

"7-2-11. TAX CREDIT--INCOME ALLOCATION AND APPORTIONMENT.--

A. Net income of any individual having income that is taxable both within and without this state shall be

apportioned and allocated as follows:

(1) during the first taxable year in which an individual incurs tax liability as a resident, only income earned on or after the date the individual became a resident and, in addition, income earned in New Mexico while a nonresident of New Mexico shall be allocated to New Mexico;

(2) except as provided otherwise in Paragraph (1) of this subsection, income other than compensation or gambling winnings shall be allocated and apportioned as provided in the Uniform Division of Income for Tax Purposes Act, but if the income is not allocated or apportioned by that act, then it may be allocated or apportioned in accordance with instructions, rulings or regulations of the secretary;

(3) except as provided otherwise in Paragraph (1) of this subsection, compensation and gambling winnings of a resident taxpayer shall be allocated to this state;

(4) compensation of a nonresident taxpayer shall be allocated to this state to the extent that such compensation is for activities, labor or personal services within this state; provided, if the activities, labor or services are performed in this state for fifteen or fewer days during the taxpayer's taxable year, the compensation may be allocated to the taxpayer's state of residence;

(5) gambling winnings of a nonresident shall be allocated to this state if the gambling winnings arose from a source within this state; and

(6) other deductions and exemptions allowable in computing net income and not specifically allocated in the Uniform Division of Income for Tax Purposes Act shall be equitably allocated or apportioned in accordance with instructions, rulings or regulations of the secretary.

B. For the purposes of this section, "non-New Mexico percentage" means the percentage determined by dividing the difference between the taxpayer's net income and the sum of the amounts allocated or apportioned to New Mexico by that net income.

C. A taxpayer may claim a credit in an amount equal to the amount of tax determined to be due under Section 7-2-7 or 7-2-7.1 NMSA 1978 multiplied by the non-New Mexico percentage."

Section 2

Section 2

Section 7-2A-8 NMSA 1978 (being Laws 1981, Chapter 37, Section 41, as amended) is amended to read:

"7-2A-8. CREDIT--INCOME ALLOCATION AND APPORTIONMENT.--

A. Net income of any taxpayer having income that is taxable both within and without this state shall be apportioned and allocated as follows:

(1) except as otherwise provided in Paragraphs (2) through (4) of this subsection, income shall be allocated and apportioned as provided in the Uniform Division of Income for Tax Purposes Act;

(2) except for gambling winnings, nonbusiness income as defined in the Uniform Division of Income for Tax Purposes Act not otherwise allocated or apportioned under the Uniform Division of Income for Tax Purposes Act shall be equitably allocated or apportioned in accordance with instructions, rulings or regulations of the secretary;

(3) other deductions and exemptions allowable in computing federal taxable income and not specifically allocated in the Uniform Division of Income for Tax Purposes Act shall be equitably allocated or apportioned in accordance with instructions, rulings or regulations of the secretary; and

(4) gambling winnings that are nonbusiness income and arise from sources within this state shall be allocated to this state.

B. For the purposes of this section, "non-New Mexico percentage" means the percentage determined by dividing the difference between the taxpayer's net income and the sum of the amounts allocated or apportioned to New Mexico by that net income.

C. A taxpayer may claim a credit in an amount equal to the amount of tax determined to be due under Section 7-2A-5 NMSA 1978 multiplied by the non-New Mexico percentage."

Section 3

Section 3

Section 7-3-2 NMSA 1978 (being Laws 1990, Chapter 64, Section 1) is amended to read:

"7-3-2. DEFINITIONS.--As used in the Withholding 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. "employee" means either an individual domiciled within the state who performs services either within or without the state for an employer or, to the extent permitted by law, an individual domiciled outside of the state who performs services within the state for an employer;

C. "employer" means a person, or an officer, agent or employee of that person, having control of the payment of wages, doing business in or deriving income from sources within the state for whom an individual performs or performed any service as the employee of that person, except that if the person for whom the individual performs or performed the services does not have control over the payment of the wages for such services, "employer" means the person having control of the payment of wages;

D. "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended;

E. "payor" means any person making payment of a pension or annuity to an individual domiciled in New Mexico;

F. "payroll period" means a period for which a payment of wages is made to the employee by his employer;

G. "person" means any individual, club, company, cooperative association, corporation, estate, firm, joint venture, partnership, receiver, syndicate, trust or other association and, to the extent permitted by law, any federal, state or other governmental unit or subdivision or an agency, department or instrumentality thereof;

H. "wagerer" means any person who receives winnings that are subject to withholding;

I. "wages" means remuneration in cash or other form for services performed by an employee for an employer;

J. "winnings that are subject to withholding" means "winnings which are subject to withholding" as that term is defined in Section 3402 of the Internal Revenue Code;

K. "withholdee" means:

(1) an individual domiciled in New Mexico receiving a pension or annuity from which an amount of tax is deducted and withheld pursuant to the Withholding Tax Act;

(2) an employee; and

(3) a wagerer; and

L. "withholder" means a payor, an employer or any person required to deduct and withhold from winnings that are subject to withholding."

Section 4

Section 4

Section 7-3-3 NMSA 1978 (being Laws 1961, Chapter 243, Section 3, as amended) is amended to read:

"7-3-3. TAX WITHHELD AT SOURCE.--

A. Every employer who deducts and withholds a portion of an employee's wages for payment of income tax under the provisions of the Internal Revenue Code shall deduct and withhold an amount for each payroll period computed from a state withholding tax table furnished by the department; provided:

(1) if the employee instructs the employer to withhold a greater amount, the employer shall deduct and withhold the greater amount;

(2) if the employee is not a resident of New Mexico and is to perform services in New Mexico for fifteen or fewer days cumulatively during the calendar year, the employer is not required to deduct and withhold an amount from that employee's wages; and

(3) if the aggregate monthly amount withheld under this section would be less than one dollar (\$1.00) for an employee, the employer shall not be required to deduct and withhold wages in regard to that employee.

B. The department shall devise and furnish a state withholding tax table based on statutes made and provided to employers required to withhold amounts under this section. This table shall be devised to provide for a yearly aggregate withholding that will approximate the state income tax liability of average taxpayers in each exemption category.

C. If an individual requests in writing that the payor deduct and withhold an amount from the amount of the pension or annuity due the individual, the payor making payment of a pension or annuity to an individual domiciled in New Mexico shall deduct and withhold the amount requested to be deducted and withheld, provided that the payor is not required to deduct and withhold any amount less than ten dollars (\$10.00) per payment. The written request shall include the payee's name, current address, taxpayer identification number and, if applicable, the contract, policy or account number to which the request applies.

D. Every person in New Mexico who is required by the provisions of the Internal Revenue Code to deduct and withhold federal tax from payment of winnings that are subject to withholding shall deduct and withhold from such payment a tax in an amount equal to six percent of the winnings, except that an Indian nation, tribe or pueblo or an agency, department, subdivision or instrumentality thereof is not required to deduct or withhold from payments made to members or spouses of members of that Indian nation, tribe or pueblo."

Section 5

Section 5

Section 7-3-4 NMSA 1978 (being Laws 1961, Chapter 243, Section 4, as amended) is amended to read:

"7-3-4. DEDUCTIONS CONSIDERED TAXES.--Amounts deducted under the provisions of the Withholding Tax Act shall be a collected tax. No employee shall have a right of action against the employer for any amount deducted and withheld from the employee's wages. No individual who has instructed a payor to deduct and withhold an amount from the pension or annuity due that individual shall have a right of action against a payor for any amount deducted and withheld pursuant to the instruction. No wagerer who receives winnings that are subject to withholding shall have a right of action against the person who deducted and withheld an amount from the wagerer's winnings for the amount deducted and withheld."

Section 6

Section 6

Section 7-3-7 NMSA 1978 (being Laws 1961, Chapter 243, Section 8, as amended) is amended to read:

"7-3-7. STATEMENTS OF WITHHOLDING.--

A. Every employer shall file an annual statement of withholding for each employee. This statement shall be in a form prescribed by the department and shall be filed with the department on or before the last day of February of the year following that for which the statement is made. It shall include the total compensation paid the employee and the total amount of tax withheld for the calendar year or portion of a calendar year if the employee has worked less than a full calendar year.

B. Every payor shall file an annual statement of withholding for each individual from whom some portion of a pension or an annuity has been deducted and withheld by that payor. This statement shall be in a form prescribed by the department and shall be filed with the department on or before the last day of February of the year following that for which the statement is made. It shall include the total amount of pension or annuity paid to the individual and the amount of tax withheld for the calendar year.

C. Every person required to deduct and withhold tax from a payment of winnings that are subject to withholding shall file an annual statement of withholding for each wagerer from whom some portion of a payment of winnings has been deducted and withheld by that person. This statement shall be in a form prescribed by the department and shall be filed with the department on or before the last day of February of the year following that for which the statement is made. It shall include the total amount of winnings paid to the individual and the amount of tax withheld for the calendar year. The department may also require any person who is required to submit an information return to the internal revenue service regarding the winnings of another person to submit copies of the return to the department."

Section 7

Section 7

EFFECTIVE DATE.--The effective date of the provisions of this act is April 1, 1996.

Section 8

Section 8

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

SENATE BILL 37, AS AMENDED

WITH EMERGENCY CLAUSE

SIGNED MARCH 4, 1996

Chapter 17

RELATING TO TAXATION; AMENDING THE INCOME TAX ACT TO REQUIRE ESTIMATED INCOME TAX PAYMENTS OF CERTAIN TAXPAYERS; ENACTING A NEW SECTION OF THE NMSA 1978.

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

Section 1

Section 1

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

"ESTIMATED TAX DUE--PAYMENT OF ESTIMATED TAX-- PENALTY.--

A. Except as otherwise provided in this section, every individual who is required to file an income tax return under the Income Tax Act shall pay the required annual payment in installments. The amount of any required installment shall be twenty-five percent of the required annual payment.

B. For the purposes of this section:

(1) "required annual payment" means the lesser of:

(a) ninety percent of the tax shown on the return of the taxable year or, if no return is filed, ninety percent of the tax for the taxable year; or

(b) one hundred percent of the tax shown on the return for the preceding taxable year if the preceding taxable year was a taxable year of twelve months and the taxpayer filed a tax return for that preceding taxable year; and

(2) "tax" means the tax imposed under Section 7-2-3 NMSA 1978 less any amount allowed for credits provided by Sections 7-2- 13 and 7-2-18.1 through 7-2-18.4 NMSA 1978 and for any applicable tax rebates provided by the Income Tax Act.

C. There shall be four required installments for each taxable year. For taxpayers reporting on a calendar year basis, the due dates for the installments are April 15, June 15, September 15 and January 15 of the following taxable year. For taxpayers reporting on a fiscal year other than a calendar year, the due dates for the installments are the fifteenth day of the fourth, sixth and ninth months of the fiscal year and the fifteenth day of the first month following the fiscal year.

D. For the purposes of applying this section, the amount of tax deducted and withheld with respect to a taxpayer under the Withholding Tax Act shall be deemed a payment of estimated tax. An equal part of the amount of withheld tax shall be deemed paid on each due date for the applicable taxable year unless the taxpayer establishes the dates on which all amounts were actually withheld, in which case the amounts withheld shall be deemed payments of estimated tax on the dates on which the amounts were actually withheld. The taxpayer may apply the provisions of this subsection separately to wage withholding and any other amounts withheld under the Withholding Tax Act.

E. Except as otherwise provided in this section, in the case of any underpayment of estimated tax by a taxpayer, there shall be added to the tax an amount as penalty determined by applying the rate specified in Subsection B of Section 7-1-67 NMSA 1978 to the amount of the underpayment for the period of the underpayment, provided:

(1) the amount of the underpayment shall be the excess of the amount of the required installment over the amount, if any, of the installment paid on or before the due date for the installment;

(2) the period of the underpayment runs from the due date for the installment to whichever of the following dates is earlier:

(a) the fifteenth day of the fourth month following the close of the taxable year; or

(b) with respect to any portion of the underpayment, the date on which the portion was paid; and

(3) for the purposes of Subparagraph (b) of Paragraph (2) of this subsection, a payment of estimated tax shall be credited against unpaid required installments in the order in which the installments are required to be paid.

F. No penalty shall be imposed under Subsection E of this section for any taxable year if:

(1) the difference between the following is less than five hundred dollars (\$500):

(a) the tax shown on the return for the taxable year or, when no return is filed, the tax for the taxable year; and

(b) any amount withheld under the provisions of the Withholding Tax Act for that taxpayer for that taxable year;

(2) the individual preceding taxable year was a taxable year of twelve months, the individual did not have any tax liability for the preceding taxable year and the individual was a resident of New Mexico for the entire taxable year; or

(3) the secretary determines that the underpayment was not due to fraud, negligence or disregard of rules and regulations.

G. If, on or before January 31 of the following taxable year, the taxpayer files a return for the taxable year and pays in full the amount computed on the return as payable, then no penalty under Subsection E of this section shall be imposed with respect to any underpayment of the fourth required installment for the taxable year.

H. This section shall be applied to taxable years of less than twelve months in the manner determined by regulation or instruction of the secretary.

I. Except as otherwise provided in Subsection J of this section, this section applies to any estate or trust.

J. This section does not apply to any trust that is subject to the tax imposed by Section 511 of the Internal Revenue Code or that is a private foundation. With respect to any taxable year ending before the date two years after the date of the decedent's death, this section does not apply to:

(1) the estate of the decedent; or

(2) any trust all of which was treated under Subpart E of Part I of Subchapter J of Chapter 1 of the Internal Revenue Code as owned by the decedent and to which the residue of the decedent's estate will pass under the decedent's will or, if no will is admitted to probate, that is the trust primarily responsible for paying debts, taxes and expenses of administration."

Section 2

Section 2

APPLICABILITY.--The provisions of this act apply to taxable years beginning on or after January 1, 1997.

SENATE BILL 50

SIGNED MARCH 4, 1996

Chapter 18

RELATING TO TAXATION; AMENDING THE LOCAL HOSPITAL GROSS RECEIPTS TAX ACT TO PROVIDE FOR THE PLEDGE OF OTHER COUNTY REVENUES FOR LOCAL HOSPITAL REVENUE BONDS; AUTHORIZING THE ISSUANCE OF REFUNDING BONDS; AMENDING AND ENACTING CERTAIN SECTIONS OF THE NMSA 1978; DECLARING AN EMERGENCY.

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

Section 1

Section 1

Section 7-20C-2 NMSA 1978 (being Laws 1991, Chapter 176, Section 2, as amended) is amended to read:

"7-20C-2. DEFINITIONS.--As used in the Local Hospital Gross Receipts Tax Act:

A. "county" means:

(1) a class B county having a population of less than twenty-five thousand according to the most recent federal decennial census and having a net taxable value for rate-setting purposes for the 1990 property tax year or any subsequent year of more than two hundred fifty million dollars (\$250,000,000);

(2) a class B county having a population of less than forty-seven thousand but more than forty-four thousand according to the 1990 federal decennial census and having a net taxable value for rate-setting purposes for the 1992 property tax year of more than three hundred million dollars (\$300,000,000) but less than six hundred million dollars (\$600,000,000); or

(3) a class B county having a population of less than ten thousand according to the most recent federal decennial census and having a net taxable value for rate-setting

purposes for the 1990 property tax year or any subsequent year of more than one hundred million dollars (\$100,000,000);

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. "governing body" means the board of county commissioners of a county;

D. "hospital facility revenues" means all or a portion of the revenues derived from a lease of a hospital facility acquired, constructed or equipped pursuant to and operated in accordance with the Local Hospital Gross Receipts Tax Act;

E. "local hospital gross receipts tax" means the tax authorized to be imposed under the Local Hospital Gross Receipts Tax Act;

F. "person" means an individual or any other legal entity; and

G. "state gross receipts tax" means the gross receipts tax imposed under the Gross Receipts and Compensating Tax Act."

Section 2

Section 2

Section 7-20C-9 NMSA 1978 (being Laws 1991, Chapter 176, Section 9, as amended) is amended to read:

"7-20C-9. LOCAL HOSPITAL REVENUE BONDS--AUTHORITY TO ISSUE--PLEDGE OF REVENUES.--

A. A county, other than a county described in Paragraph (2) of Subsection A of Section 7-20C-2 NMSA 1978, may issue local hospital revenue bonds pursuant to the Local Hospital Gross Receipts Tax Act for the purpose of acquiring land for and designing, constructing, equipping and furnishing a county hospital facility to be operated by the county or by another party pursuant to a lease with the county.

B. The county issuing the local hospital revenue bonds pursuant to the Local Hospital Gross Receipts Tax Act shall pledge irrevocably all of the net receipts derived from the imposition of the local hospital gross receipts tax and may pledge irrevocably any combination of hospital facility revenues and any other revenues as necessary for the payment of principal and interest on the revenue bonds."

Section 3

Section 3

A new section of the Local Hospital Gross Receipts Tax Act is enacted to read:

"REVENUE BONDS--REFUNDING AUTHORIZATION.--

A. Any county having issued revenue bonds as authorized in the Local Hospital Gross Receipts Tax Act may issue refunding revenue bonds pursuant to an ordinance adopted by majority vote of the governing body for the purpose of refinancing, paying and discharging all or any part of such outstanding revenue bonds of any one or more or all outstanding issues:

(1) for the acceleration, deceleration or other modification of the payment of such obligations, including without limitation any capitalization of any interest thereon in arrears or about to become due for any period not exceeding one year from the date of the refunding bonds;

(2) for the purpose of reducing interest costs or effecting other economies;

(3) for the purpose of modifying or eliminating restrictive contractual limitations pertaining to the issuance of additional bonds, otherwise concerning the outstanding bonds or to any facilities relating thereto; or

(4) for any combination of such purposes.

B. To pay the principal and interest on refunding bonds, the county may pledge irrevocably revenues authorized to be pledged to revenue bonds issued pursuant to the Local Hospital Gross Receipts Tax Act.

C. Bonds for refunding and bonds for any purpose permitted by the Local Hospital Gross Receipts Tax Act may be issued separately or issued in combination in one series or more."

Section 4

Section 4

A new section of the Local Hospital Gross Receipts Tax Act is enacted to read:

"REFUNDING BONDS--ESCROW--DETAIL.--

A. Refunding bonds issued pursuant to the provisions of the Local Hospital Gross Receipts Tax Act shall be authorized by ordinance. Any revenue bonds that are refunded under the provisions of this section shall be paid at maturity or on any permitted prior redemption date in the amounts, at the time and places, and if called prior to maturity, in accordance with any applicable notice provisions, all as provided in the proceedings authorizing the issuance of the refunded bonds or otherwise

appertaining thereto, except for any such bond that is voluntarily surrendered for exchange or payment by the holder or owner.

B. Provision shall be made for paying the bonds refunded at the time or places provided in Subsection A of this section. The principal amount of the refunding bonds may exceed, be less than or be the same as the principal amount of the bonds being refunded as long as provision is duly and sufficiently made for the payment of the refunded bonds.

C. The proceeds of refunding bonds, including any accrued interest and premium appertaining to the sale of refunding bonds, shall either be immediately applied to the retirement of the bonds being refunded or be placed in escrow in a commercial bank or trust company that possesses and is exercising trust powers and that is a member of the federal deposit insurance corporation, to be applied to the payment of the principal of, interest on and any prior redemption premium due in connection with the bonds being refunded; provided that such refunding bond proceeds, including any accrued interest and any premium appertaining to a sale of refunding bonds, may be applied to the establishment and maintenance of a reserve fund and to the payment of expenses incidental to the refunding and the issuance of the refunding bonds, the interest on the refunding bonds and the principal of the refunding bonds or both interest and principal as the county may determine. Nothing in this section requires the establishment of an escrow if the refunded bonds become due and payable within one year from the date of the refunding bonds and if the amounts necessary to retire the refunded bonds within that time are deposited with the paying agent for the refunded bonds. Any such escrow shall not necessarily be limited to proceeds of refunding bonds but may include other money available to retire the refunded bonds. Any proceeds in escrow pending such use may be invested in bills, certificates of indebtedness, notes or bonds that are direct obligations of, or the principal and interest of which obligations are unconditionally guaranteed by the United States of America or in certificates of deposit of banks that are members of the federal deposit insurance corporation, the par value of which certificates of deposit is collateralized by a pledge of obligations of, or the payment of which is unconditionally guaranteed by, the United States of America, the par value of which obligations is at least seventy-five percent of the par value of the certificates of deposit. Such proceeds and investments in escrow together with any interest or other income to be derived from any such investment shall be in an amount at all times sufficient as to principal, interest, any prior redemption premium due and any charges of the escrow agent payable therefrom to pay the bonds being refunded as they become due at their respective maturities or due at any designated prior redemption date or dates in connection with which the county shall exercise a prior redemption option. Any purchaser of any refunding bond issued pursuant to the provisions of the Local Hospital Gross Receipts Tax Act is in no manner responsible for the application of the proceeds thereof by the county or any of its officers, agents or employees.

D. Refunding bonds may be sold at a public or negotiated sale and may bear such additional terms and provisions as may be determined by the county subject to the

limitations in the Local Hospital Gross Receipts Tax Act. The terms, provisions and authorization of the refunding bonds are not subject to the provisions of any other statute, provided that the Public Securities Limitation of Action Act shall be fully applicable to the issuance of refunding bonds."

Section 5

Section 5

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

SENATE BILL 257, AS AMENDED

WITH EMERGENCY CLAUSE

SIGNED MARCH 4, 1996

Chapter 19

RELATING TO COOPERATIVE MARKETING ASSOCIATIONS; REMOVING THE FEE REQUIREMENT FOR COOPERATIVE MARKETING ASSOCIATIONS FILING ARTICLES OF INCORPORATION WITH THE COUNTY CLERK; AMENDING THE COOPERATIVE MARKETING ASSOCIATION ACT.

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

Section 1

Section 1

Section 76-12-8 NMSA 1978 (being Laws 1937, Chapter 152, Section 8, as amended) is amended to read:

"76-12-8. FILING AND RECORDING ARTICLES OF

INCORPORATION.--The articles of incorporation shall be filed with the state corporation commission, and a copy thereof, duly certified by the commission shall be recorded in the office of the county clerk of the county where the principal office of the association is to be located in this state. For filing the articles of incorporation, an association shall pay to the state corporation commission fifty dollars (\$50.00) together with the proportionate part of the annual license fee that may be due for the succeeding fraction of the fiscal year and for filing an amendment to the articles, twenty-five dollars (\$25.00)."

SENATE BILL 322

SIGNED MARCH 4, 1996.

Chapter 20

RELATING TO ELECTIONS; CLARIFYING THAT A CANDIDATE FOR A COUNTY OFFICE IS NOT REQUIRED TO FILE A NOMINATING PETITION; AMENDING A SECTION OF THE ELECTION CODE; DECLARING AN EMERGENCY.

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

Section 1

Section 1

Section 1-8-21 NMSA 1978 (being Laws 1994, Chapter 92, Section 2, as amended) is amended to read:

"1-8-21. PRIMARY ELECTION--METHODS OF PLACING NAMES ON PRIMARY BALLOT.--

A. A candidate seeking primary election nomination to a statewide office or the office of United States representative shall file a declaration of candidacy with the proper filing officer. A candidate shall file a nominating petition at the time of filing the declaration of candidacy. A candidate who seeks, but does not obtain, preprimary convention designation by a major political party may file a new declaration of candidacy and a nominating petition pursuant to Section 1-8-33 NMSA 1978.

B. A candidate for a legislative office, the office of district attorney, district judge, metropolitan judge, magistrate judge or the state board of education shall have his name placed on the primary election ballot by filing with the proper filing officer a declaration of candidacy and a nominating petition.

C. A candidate for a county office shall have his name placed on the primary election ballot by filing with the proper filing officer a declaration of candidacy accompanied by the appropriate filing fee or a pauper's statement."

Section 2

Section 2

Section 1-8-21 NMSA 1978 (being Laws 1994, Chapter 92, Section 2 is repealed effective January 1, 1997.

Section 3

Section 3

Effective January 1, 1997, a new Section 1-8-21 NMSA 1978 is enacted to read:

"1-8-21. PRIMARY ELECTION--METHODS OF PLACING NAMES ON PRIMARY BALLOT.--

A. All candidates seeking primary election nomination to a statewide office or the office of United States representative shall file declarations of candidacy with the proper filing officer. Candidates shall file nominating petitions at the time of filing their declarations of candidacy. Candidates who seek, but do not obtain, preprimary convention designation by a major political party may file new declarations of candidacy and nominating petitions pursuant to Section 1-8-33 NMSA 1978.

B. Candidates for any other office shall have their names placed on the primary election ballot by filing declarations of candidacy and nominating petitions with the proper filing officer. Candidates for county office shall also pay filing fees or file the proper paupers' statements at the time of filing declarations of candidacy."

Section 4

Section 4

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

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SENATE BILL 414, AS AMENDED

WITH EMERGENCY CLAUSE

SIGNED MARCH 4, 1996

Chapter 21

RELATING TO ZONING; PROVIDING FOR THE EFFECTIVENESS OF CERTAIN MUNICIPAL ZONING ORDINANCES ADOPTED UNDER FORMER LAW.

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

Section 1

Section 1

A new Section 3-21-4.1 NMSA 1978 is enacted to read:

"3-21-4.1. EXTRATERRITORIAL ZONING ORDINANCES ADOPTED UNDER FORMER LAW.--Notwithstanding any other provision of law to the contrary, all zoning ordinances adopted by class A counties pursuant to Section 15-36-26 NMSA 1953 (being Laws 1961, Chapter 21, Section 1, as amended) are valid and enforceable as of their effective dates and as they may have been amended from time to time. Such ordinances may be amended according to their provisions and may be enforced with respect to areas of the county not within the boundaries of a municipality; provided that such ordinances must be in effect as of the effective date of this 1996 act and shall not have been superseded by any municipal ordinance or by any joint ordinance of a county and a municipality adopted pursuant to the provisions of Sections 3-21-2 through 3-21-4 NMSA 1978."

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SENATE BILL 452

SIGNED MARCH 4, 1996

Chapter 22

RELATING TO CAPITAL EXPENDITURES; REAUTHORIZING BALANCES AND CHANGING PURPOSES OF CAPITAL PROJECT APPROPRIATIONS; MAKING APPROPRIATIONS FOR CAPITAL PROJECTS IN SENATE DISTRICT 30 IN CIBOLA COUNTY; DECLARING AN EMERGENCY.

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

Section 1

Section 1

SEVERANCE TAX BONDS--DEPARTMENT OF FINANCE AND ADMINISTRATION--
CHANGES IN PURPOSE-- EXTENDING EXPENDITURE PERIOD--
APPROPRIATIONS.--

A. The balance of the proceeds from severance tax bonds appropriated to the local government division of the department of finance and administration to design, construct and equip an addition to the Cibola general hospital in Grants in Cibola county pursuant to Subsection YYY of Section 7 of Chapter 367 of Laws 1993 shall not be expended for that purpose but is reauthorized and appropriated for the purpose of constructing, equipping and furnishing a multipurpose recreational facility in the city of Grants located in Cibola county. The period of time for expenditure of the appropriation

is extended through fiscal year 1998. Any unexpended or unencumbered balance remaining at the end of fiscal year 1998 shall revert to the severance tax bonding fund.

B. The balance of the proceeds from severance tax bonds appropriated to the local government division of the department of finance and administration to plan and design the Cibola general hospital in Cibola county pursuant to Subsection DDDDD of Section 9 of Chapter 148 of Laws 1994 shall not be expended for that purpose but is reauthorized and appropriated to construct, equip or furnish a multipurpose recreational facility in the city of Grants located in Cibola county. The period of term for expenditure of the appropriation is extended through fiscal year 1998. Any unexpended or unencumbered balance remaining at the end of fiscal year 1998 shall revert to the severance tax bonding fund.

Section 2

Section 2

SEVERANCE TAX BONDS--CHANGE OF AGENCY-- CHANGE IN PURPOSE-- APPROPRIATION.--The balance of the proceeds from severance tax bonds appropriated to the office of cultural affairs for museum exhibits or audio-visual materials for El Malpais national monument in Cibola county pursuant to Subsection H of Section 4 of Chapter 367 of Laws 1993 and as reauthorized and changed pursuant to Laws 1995, Chapter 218, Section 43 shall not be expended for that purpose but is reauthorized and appropriated to the local government division of the department of finance and administration to construct, equip or furnish a multipurpose recreational facility in the city of Grants in Cibola county. Any unexpended or unencumbered balance remaining at the end of fiscal year 1998 shall revert to the severance tax bonding fund.

Section 3

Section 3

GENERAL FUND--CHANGE OF AGENCY--CHANGE IN PURPOSE-- APPROPRIATION.--The balance of the appropriation from the general fund to the state highway and transportation department for improvements to and replacement of a water line at Ralph Card road in the village of Milan in Cibola county pursuant to Subsection T of Section 27 of Chapter 222 of Laws 1995 shall not be expended for that purpose but is reauthorized and appropriated to the department of environment to repair and renovate the Golden Acres well in the village of Milan in Cibola county.

Section 4

Section 4

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

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SENATE BILL 457

WITH EMERGENCY CLAUSE

SIGNED MARCH 4, 1996

Chapter 23

RELATING TO DISTRICT COURTS; PROVIDING FOR THE SELECTION OF THE CHIEF JUDGE IN THE EIGHTH JUDICIAL DISTRICT; AMENDING A SECTION OF THE NMSA 1978; DECLARING AN EMERGENCY.

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

Section 1

Section 1

Section 34-6-11 NMSA 1978 (being Laws 1968, Chapter 69, Section 14, as amended) is amended to read:

"34-6-11. JUDGES--EIGHTH JUDICIAL DISTRICT.--There shall be two district judges in the eighth judicial district, serving divisions one and two. One of the judges shall maintain his principal office in Colfax or Union county and the other judge shall maintain his principal office in Taos county. The chief judge of the eighth judicial shall be selected by a majority of the district judges in that district. In the event of a tie, the senior judge shall be the chief judge."

Section 2

Section 2

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

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SENATE BILL 509, AS AMENDED

WITH EMERGENCY CLAUSE

SIGNED MARCH 4, 1996

Chapter 24

RELATING TO CAPITAL EXPENDITURES; REAUTHORIZING UNEXPENDED OR UNENCUMBERED BALANCES; CHANGING THE PURPOSE OF A SEVERANCE TAX BOND AUTHORIZATION FOR THE PLACITAS COMMUNITY CENTER LOCATED IN DONA ANA COUNTY; EXTENDING THE PERIOD OF EXPENDITURE; MAKING AN APPROPRIATION; DECLARING AN EMERGENCY.

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

Section 1

Section 1

SEVERANCE TAX BONDS--DEPARTMENT OF FINANCE AND ADMINISTRATION--CHANGE IN PURPOSE-- APPROPRIATION.--The balance of the proceeds from severance tax bonds appropriated to the local government division of the department of finance and administration for adding a recreation room to the Placitas community center located in Dona Ana county, pursuant to Subsection YYYY of Section 9 of Chapter 148 of Laws 1994, shall not be expended for its original purpose but is reauthorized and appropriated to continue improvements and renovations to the Placitas community center located in Dona Ana county. Any unexpended or unencumbered balance remaining from the proceeds from the bonds at the end of fiscal year 1999 shall revert to the severance tax bonding fund.

Section 2

Section 2

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

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SEBATE BILL 626

WITH EMERGENCY CLAUSE

SIGNED MARCH 4, 1996

Chapter 25

RELATING TO INDIAN CULTURE; ABOLISHING THE STATE AGENCY STATUS OF THE INTERTRIBAL INDIAN CEREMONIAL ASSOCIATION; TRANSFERRING PROPERTY AND PERSONNEL; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

Section 1

Section 1

A new section of the Tourism Department Act is enacted to read:

"SECRETARY--ADDITIONAL DUTIES--PROMOTION OF INDIAN ARTS, CRAFTS AND CULTURE.--In addition to the secretary's responsibility for the overall supervision of the department, the secretary shall:

A. encourage the preservation and development of Indian arts and crafts among the Indian tribes and pueblos of the state;

B. encourage the preservation of traditional rites and ceremonials of Indian tribes and pueblos to increase knowledge and appreciation of those arts, crafts, rites and ceremonials; and

C. promote the intertribal Indian ceremonial association, incorporated, located in Gallup."

Section 2

Section 2

Section 13-1-99 NMSA 1978 (being Laws 1984, Chapter 65, Section 72, as amended) is amended to read:

"13-1-99. EXCLUDED FROM CENTRAL PURCHASING THROUGH THE STATE PURCHASING AGENT.--Excluded from the requirement of procurement through the state purchasing agent but not from the requirements of the Procurement Code are the following:

A. procurement of professional services;

B. small purchases having a value not exceeding two hundred fifty dollars (\$250);

C. emergency procurement;

D. procurement of highway construction or reconstruction by the state highway and transportation department;

E. procurement by the judicial branch of state government;

F. procurement by the legislative branch of state government;

G. procurement by the boards of regents of state educational institutions named in Article 12, Section 11 of the constitution of New Mexico;

H. procurement of information processing resources procured through the commission on information and communication management;

I. procurement by the state fair commission of tangible personal property, services and construction under five thousand dollars (\$5,000);

J. purchases from the instructional material fund;

K. procurement by all local public bodies;

L. procurement by regional education cooperatives; and

M. procurement by each state health care institution that provides direct patient care and that is, or a part of which is, medicaid certified and participating in the New Mexico medicaid program."

Section 3

Section 3

TEMPORARY PROVISION--TRANSFER OF PERSONNEL, APPROPRIATIONS AND ASSETS.--On the effective date of this act, all personnel, money, appropriations, records, property, equipment and supplies belonging to the intertribal Indian ceremonial association, a state agency, are transferred to the city of Gallup for the exclusive use by the intertribal Indian ceremonial association, incorporated, a nonprofit corporation.

Section 4

Section 4

REPEAL.--Sections 28-12-1 through 28-12-3 NMSA 1978 (being Laws 1939, Chapter 42, Section 1 and Laws, 1967, Chapter 299, Sections 1 and 2) are repealed.

Section 5

Section 5

EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1996.

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SENATE BILL 720, AS AMENDED

SIGNED MARCH 4, 1996

Chapter 26

RELATING TO CAPITAL EXPENDITURES; REAUTHORIZING UNEXPENDED OR UNENCUMBERED BALANCES; CHANGING AGENCIES AND CONTINGENCIES OF A CAPITAL PROGRAM FUND APPROPRIATION AND A SEVERANCE TAX BOND AUTHORIZATION; EXTENDING PERIODS OF EXPENDITURE; MAKING APPROPRIATIONS; DECLARING AN EMERGENCY.

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

Section 1

Section 1

CAPITAL PROGRAM FUND--CHANGE IN AGENCY-- CONTINUED AUTHORIZATION--CHANGE IN CONTINGENCY-- APPROPRIATION.--The capital program fund appropriation, pursuant to Paragraph (2) of Subsection U of Section 2 of Chapter 6 of Laws 1990 (1st S.S.), for the construction of a home for homeless children shall be appropriated to the local government division of the department of finance and administration to plan, design, construct and furnish a home for homeless children in Albuquerque located in Bernalillo county, provided that the city of Albuquerque receives a donation from a private or public organization of a minimum of ten acres of land for constructing the home and that the city of Albuquerque, through its child development office, executes a contract with an organization that provides services to homeless children for the operation of the home for a minimum of ten years. Notwithstanding the provisions of Laws 1993, Chapter 339, Section 1, any unexpended or unencumbered balance remaining at the end of fiscal year 1999 shall revert to the capital program fund.

Section 2

Section 2

SEVERANCE TAX BONDS--CHANGE IN AGENCY-- CONTINUED AUTHORIZATION-- CHANGE IN CONTINGENCY-- APPROPRIATION.--The balance of the proceeds from severance tax bonds appropriated to the general services department, pursuant to Laws 1992, Chapter 113, Section 20, for the New Day shelter for troubled youth in Albuquerque located in Bernalillo county shall not be expended by that agency nor be

subject to the contingency imposed but is reauthorized and appropriated to the local government division of the department of finance and administration and shall be contingent upon the city of Albuquerque receiving a donation from a private or public organization of a minimum of ten acres of land for building the home, and the city of Albuquerque, through its child development office, executing a contract with an organization that provides services to homeless children for the operation of the home for a minimum of ten years. Notwithstanding the provisions of Laws 1995, Chapter 218, Section 27, the authorization provided in Laws 1992, Chapter 113, Section 20 is continued through fiscal year 1999. If the local government division of the department of finance and administration has not certified the need for the issuance of the bonds by the end of fiscal year 1998, the authorization provided in this section shall be void. Any unexpended or unencumbered balance remaining at the end of fiscal year 1999 shall revert to the severance tax bonding fund.

Section 3

Section 3

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

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SENATE BILL 793, AS AMENDED

WITH EMERGENCY CLAUSE

SIGNED MARCH 4, 1996

Chapter 27

AMENDING SECTION 16-6-16 NMSA 1978 (BEING LAWS 1935, CHAPTER 69, SECTION 4, AS AMENDED) TO INCREASE THE BONDING AUTHORITY OF THE NEW MEXICO STATE FAIR.

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

Section 1

Section 1

Section 16-6-16 NMSA 1978 (being Laws 1935, Chapter 69, Section 4, as amended) is amended to read:

"16-6-16. ISSUANCE OF NEGOTIABLE BONDS--TERMS.--The New Mexico state fair, with the prior approval of the state board of finance, is hereby authorized from time to time to issue negotiable bonds in the aggregate principal amount of not to exceed six million dollars (\$6,000,000). The bonds shall be authorized by resolution of the commission. The bonds may be issued in one or more series, may bear such date or dates, may be in such denomination or denominations, may mature at such time or times not exceeding fifty years from the respective dates thereof, may mature in such amount or amounts, shall bear interest in accordance with the Public Securities Act, may be in such form as the state fair commission may determine and may be executed in such manner, may be payable in such medium of payment at such place or places and may be subject to such terms of redemption with or without premium as such resolution or other resolutions may provide. The bonds shall be sold at public sale for not less than par value and in the manner provided by law for the sale of municipal bonds. The bonds shall be negotiable instruments notwithstanding the form or tenor thereof."

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HOUSE BILL 287, AS AMENDED

SIGNED MARCH 4, 1996

Chapter 28

RELATING TO PUBLIC FINANCE; AUTHORIZING THE NEW MEXICO FINANCE AUTHORITY AND CERTAIN GOVERNMENTAL UNITS TO UNDERTAKE SPECIFIC ACTIVITIES RELATED TO PROJECT FINANCING; PROVIDING POWERS AND DUTIES; AMENDING CERTAIN SECTIONS OF THE NMSA 1978; DECLARING AN EMERGENCY.

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

Section 1

Section 1

Section 6-21-6 NMSA 1978 (being Laws 1992, Chapter 61, Section 6, as amended) is amended to read:

"6-21-6. PUBLIC PROJECT REVOLVING FUND--PURPOSE--

ADMINISTRATION.--

A. The "public project revolving fund" is created within the authority. The fund shall be administered by the authority as a separate account, but may consist of such subaccounts as the authority deems necessary to carry out the purposes of the fund.

The authority is authorized to establish procedures and adopt regulations as required to administer the fund in accordance with the New Mexico Finance Authority Act.

B. Except as otherwise provided in the New Mexico Finance Authority Act, money from payments of principal of and interest on loans and payments of principal of and interest on securities held by the authority for public projects authorized specifically by law shall be deposited in the public project revolving fund. The fund shall also consist of any other money appropriated, distributed or otherwise allocated to the fund for the purpose of financing public projects authorized specifically by law.

C. Money appropriated to pay administrative costs, money available for administrative costs from other sources and money from payments of interest on loans or securities held by the authority, including payments of interest on loans and securities held by the authority for public projects authorized specifically by law, that represents payments for administrative costs shall not be deposited in the public project revolving fund and shall be deposited in a separate account of the authority and may be used by the authority to meet administrative costs of the authority.

D. Except as otherwise provided in the New Mexico Finance Authority Act, money in the public project revolving fund is appropriated to the authority to make loans or grants and to purchase or sell securities to assist qualified entities in financing public projects in accordance with the New Mexico Finance Authority Act and pursuant to specific authorization by law for each project.

E. Money in the public project revolving fund not needed for immediate disbursement, including any funds held in reserve, may be deposited with the state treasurer for short-term investment pursuant to Section 6-10-10.1 NMSA 1978 or may be invested in direct and general obligations of or obligations fully and unconditionally guaranteed by the United States, obligations issued by agencies of the United States, obligations of this state or any political subdivision of the state, interest-bearing time deposits, commercial paper issued by corporations organized and operating in the United States and rated "prime" quality by a national rating service, other investments permitted by Section 6-10-10 NMSA 1978 or as otherwise provided by the trust indenture or bond resolution, if funds are pledged for or secure payment of bonds issued by the authority.

F. The authority shall establish fiscal controls and accounting procedures that are sufficient to assure proper accounting for public project revolving fund payments, disbursements and balances.

G. Money on deposit in the public project revolving fund may be used to make interim loans for a term not exceeding one year to qualified entities for the purpose of providing interim financing for any project approved or funded by the legislature.

H. Money on deposit in the public project revolving fund may be used to acquire securities or to make loans to qualified entities in connection with the equipment program. As used in this subsection, "equipment program" means the program of the

authority designed to finance the acquisition of equipment for fire protection; law enforcement and protection; computer and data processing; street and road construction and maintenance; emergency medical services; solid waste collection, transfer and disposal; radio and telecommunications; and utility system purposes; and to finance the acquisition, construction and improvement of fire stations. The amount of securities acquired from or the loan made to a qualified entity at any one time pursuant to this subsection shall not exceed five hundred thousand dollars (\$500,000). The authority shall issue bonds within one year of the date the securities are acquired or within one year of the date on which the loans are made and use the bond proceeds to reimburse the public project revolving fund for the amounts temporarily used to acquire securities or to make loans. The temporarily funded projects under the equipment program are not required to obtain specific authorization by law required of projects permanently funded from the public project revolving fund, as provided in this section and Section 6-21-8 NMSA 1978.

I. Money on deposit in the public project revolving fund may be designated as reserve funds for any bonds issued by the authority, including bonds payable from sources other than the public project revolving fund, and the authority may covenant in any bond resolution or trust indenture to maintain and replenish the reserve funds from money deposited in the public project revolving fund after issuance of bonds by the authority."

Section 2

Section 2

Section 6-21-21 NMSA 1978 (being Laws 1992, Chapter 61, Section 21, as amended) is amended to read:

"6-21-21. MONEY OF THE AUTHORITY--EXPENSES--AUDIT--

ANNUAL REPORT.--

A. All money of the authority, except as otherwise authorized or provided in the New Mexico Finance Authority Act or in a bond resolution, trust indenture or other instrument under which bonds are issued, shall be deposited as soon as practical in a separate account or accounts in banks or trust companies organized under the laws of this state. All deposits of money shall be secured, if required by the authority, in such a manner as the authority determines to be prudent. Banks or trust companies are authorized to give security for deposits of the authority.

B. Subject to the provisions of any contract with bondholders, the authority shall prescribe a system of accounts.

C. Money held by the authority that is not needed for immediate disbursement, including any funds held in reserve, may be deposited with the state treasurer for short-term investment pursuant to Section 6-10-10.1 NMSA 1978 or may be invested in direct and

general obligations of or obligations fully and unconditionally guaranteed by the United States, obligations issued by agencies of the United States, obligations of this state or any political subdivision of the state, interest-bearing time deposits, commercial paper issued by corporations organized and operating within the United States and rated "prime" quality by a national rating service, other investments permitted by Section 6-10-10 NMSA 1978 or as otherwise provided by the trust indenture or bond resolution, if the funds are pledged for or secure payment of bonds issued by the authority.

D. The authority shall have an audit of its books and accounts made at least once each year by the state auditor or by a certified public accounting firm whose proposal has been reviewed and approved by the state auditor. The cost of the audit shall be an expense of the authority. Copies of the audit shall be submitted to the governor and the New Mexico finance authority oversight committee and made available to the public.

E. The authority shall submit a report of its activities to the governor and to the legislature not later than December 1 of each year. Each report shall set forth a complete operating and financial statement covering its operations for that year."

Section 3

Section 3

Section 7-1-6.15 NMSA 1978 (being Laws 1983, Chapter 211, Section 20, as amended) is amended to read:

"7-1-6.15. ADJUSTMENTS OF DISTRIBUTIONS OR TRANSFERS TO MUNICIPALITIES OR COUNTIES.--

A. The provisions of this section apply to:

(1) any distribution to a municipality of gross receipts taxes pursuant to Section 7-1-6.4 NMSA 1978 or of interstate telecommunications gross receipts tax pursuant to Section 7-1-6.36 NMSA 1978;

(2) any transfer to a municipality with respect to any local option gross receipts tax imposed by that municipality;

(3) any transfer to a county with respect to any local option gross receipts tax imposed by that county;

(4) any distribution to a county pursuant to Section 7-1-6.16 NMSA 1978;

(5) any distribution to a municipality or a county of gasoline taxes pursuant to Section 7-1-6.9 NMSA 1978;

(6) any transfer to a county with respect to any tax imposed in accordance with the Local Liquor Excise Tax Act;

(7) any distribution to a municipality or a county of cigarette taxes pursuant to Sections 7-1-6.11, 7-12-15 and 7-12-16 NMSA 1978;

(8) any distribution to a county from the county government road fund pursuant to Section 7-1-6.26 NMSA 1978; and

(9) any distribution to a municipality of gasoline taxes pursuant to Section 7-1-6.27 NMSA 1978.

B. If the secretary determines that any prior distribution or transfer to a municipality or county was erroneous, the secretary shall increase or decrease the next distribution or transfer amount for that municipality or county after the determination, except as provided in Subsection C, D or E of this section, by the amount necessary to correct the error. Subject to the provisions of Subsection E of this section, the secretary shall notify the municipality or county of the amount of each increase or decrease.

C. No decrease shall be made to current or future distributions or transfers to a municipality or a county for any excess distribution or transfer made to that municipality or county more than one year prior to the calendar year in which the determination of the secretary was made.

D. The secretary, in lieu of recovery from the next distribution or transfer amount, may recover an excess distribution or transfer of one hundred dollars (\$100) or more to the municipality or county in installments from current and future distributions or transfers to that municipality or county pursuant to an agreement with the officials of the municipality or county whenever the amount of the distribution or transfer decrease for the municipality or county exceeds ten percent of the average distribution or transfer amount for that municipality or county for the twelve months preceding the month in which the secretary's determination is made; provided that for the purposes of this subsection, the "average distribution or transfer amount" shall be the arithmetic mean of the distribution or transfer amounts within the twelve months immediately preceding the month in which the determination is made.

E. Except for the provisions of this section, if the amount by which a distribution or transfer would be adjusted pursuant to Subsection B of this section is one hundred dollars (\$100) or less, no adjustment or notice need be made.

F. The secretary is authorized to decrease a distribution to a municipality or county upon being directed to do so by the secretary of finance and administration pursuant to the State Aid Intercept Act or to redirect a distribution to the New Mexico finance authority pursuant to an ordinance or a resolution passed by the county or municipality and a written agreement of the municipality or county and the New Mexico finance authority. Upon direction to decrease a distribution or notice to redirect a distribution to

a municipality or county, the secretary shall decrease or redirect the next designated distribution, and succeeding distributions as necessary, by the amount of the state distributions intercept authorized by the secretary of finance and administration pursuant to the State Aid Intercept Act or by the amount of the state distribution intercept authorized pursuant to an ordinance or a resolution passed by the county or municipality and a written agreement with the New Mexico finance authority. The secretary shall transfer the state distributions intercept amount to the municipal or county treasurer or other person designated by the secretary of finance and administration or to the New Mexico finance authority pursuant to written agreement to pay the debt service to avoid default on qualified local revenue bonds or meet other local revenue bond, loan or other debt obligations of the municipality or county to the New Mexico finance authority."

Section 4

Section 4

Section 29-13-6 NMSA 1978 (being Laws 1983, Chapter 289, Section 6, as amended) is amended to read:

"29-13-6. DISTRIBUTION OF LAW ENFORCEMENT PROTECTION FUND.--

A. Annually on or before July 31, the state treasurer shall distribute from the fund the amounts certified by the division to be distributed to municipalities and counties. Payments shall be made to the treasurer of the appropriate governmental entity.

B. The state treasurer is authorized to redirect a distribution to the New Mexico finance authority in an amount certified by the division, pursuant to an ordinance 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."

Section 5

Section 5

Section 59A-53-7 NMSA 1978 (being Laws 1984, Chapter 127, Section 978, as amended) is amended to read:

"59A-53-7. DISTRIBUTION OF FIRE PROTECTION FUND.--

A. Annually on or before the last day of July, the state treasurer shall distribute from the money in the fire protection fund, to each incorporated municipality and to each county fire district, the amount as the marshal or the state fire board, as the case may be, shall have certified to him. Payment shall be made to the treasurer of any incorporated municipality and to the county treasurer of the county in which any county fire district is located for credit to the county fire district.

B. The state treasurer is authorized to redirect a distribution to the New Mexico finance authority in the amount as the marshal or the state fire board, as the case may be, shall have certified to him pursuant to 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."

Section 6

Section 6

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

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HOUSE BILL 295

WITH EMERGENCY CLAUSE

SIGNED MARCH 4, 1996

Chapter 29

RELATING TO HEALTH CARE; REVISING PROVISIONS AFFECTING COUNTY INDIGENT FUNDS; MAKING APPROPRIATIONS.

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

Section 1

Section 1

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. The majority of the members of the governing body of any 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. Any 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. This tax is to be referred to as the "county gross receipts tax".

C. Any 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 or third 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 for each additional increment of one-eighth percent enacted, 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. Any 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. Fifty percent of the revenue produced by the imposition of the third one-eighth increment may be used for general purposes. The requirements of this subsection shall apply regardless of the combination or sequence of one-eighth increments enacted. 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 imposes one or both increments after January 1, 1996 shall deposit the revenue from the second one-eighth increment, if enacted and at least one-half of the third one-eighth increment, if enacted in the county indigent hospital claims fund and such revenues shall be expended pursuant to the Indigent Hospital and County Health Care Act.

Section 2

Section 2

Section 24-1A-3 NMSA 1978 (being Laws 1981, Chapter 295, Section 3, as amended) is amended to read:

"24-1A-3. DEFINITIONS.--As used in the Rural Primary Health Care Act:

A. "health care underserved areas" means a geographic area in which it has been determined by the department of health, through the use of indices and other standards set by the department, that sufficient primary health care is not being provided to the citizens of that area;

B. "eligible programs" means nonprofit community-based entities that provide or commit to provide primary health care services for residents of health care underserved areas and includes rural health facilities and those serving primarily low-income populations;

C. "department" means the department of health; and

D. "primary health care" means the first level of basic or general health care for an individual's health needs, including diagnostic and treatment services."

Section 3

Section 3

Section 24-1A-3.1 NMSA 1978 (being Laws 1983, Chapter 236, Section 3, as amended) is amended to read:

"24-1A-3.1. DEPARTMENT--TECHNICAL AND FINANCIAL ASSISTANCE.--To the extent funds are made available for the purposes of the Rural Primary Health Care Act, the department is authorized to:

A. provide for a program to recruit and retain health care personnel in health care underserved areas;

B. develop plans for and coordinate the efforts of other public and private entities assisting in the provision of primary health care services through eligible programs;

C. provide for technical assistance to eligible programs in the areas of administrative and financial management, clinical services, outreach and planning;

D. provide for distribution of financial assistance to eligible programs that have applied for and demonstrated a need for assistance in order to sustain a minimum level of delivery of primary health care services; and

E. provide a program for enabling the development of new primary care health care services or facilities, and that program:

(1) shall give preference to communities that have few or no community-based primary care services;

(2) may require in-kind support from local communities where primary care health care services or facilities are established;

(3) may require primary care health care services or facilities to assure provision of health care to the medically indigent; and

(4) shall permit the implementation of innovative and creative uses of local or statewide health care resources, or both, other than those listed in Paragraphs (2) and (3) of this subsection."

Section 4

Section 4

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 1998, 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. Beginning in 1998, the transfer shall be made by September 1 of each fiscal year. 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."

Section 5

Section 5

Section 27-10-2 NMSA 1978 (being Laws 1991, Chapter 212, Section 2, as amended) is amended to read:

"27-10-2. FINDINGS AND PURPOSE.--

A. Access to health care reduces long-term medical and social costs. The effectiveness of statewide health care has been decreased by excessive fragmentation and failure to maximize the use of existing in- state revenues and to develop effective ways of drawing upon potential federal revenue sources. An effective statewide health care system must retain local health care efforts, stimulate local innovations for meeting particular health care needs and use existing resources to expand health care options, especially for those citizens unable to pay for their own care.

B. The purpose of the county-supported medicaid fund is to leverage existing resources to better address the state's health care needs. The county-supported medicaid fund will be used to accomplish this purpose by using local revenues to support the state medicaid program and to institute or support primary care health care services pursuant to Section 24- 1A-3.1 NMSA 1978. Money appropriated from the county-supported medicaid fund to institute or support primary care health care services pursuant to Section 24-1A-3.1 NMSA 1978 shall be supplemental to general fund appropriations."

Section 6

Section 6

Section 27-10-3 NMSA 1978 (being Laws 1991, Chapter 212, Section 3, as amended) is amended to read:

"27-10-3. COUNTY-SUPPORTED MEDICAID FUND CREATED-- USE--
APPROPRIATION BY THE LEGISLATURE.--

A. There is created in the state treasury the "county- supported medicaid fund". The fund shall be invested by the state treasurer as other state funds are invested. Income earned from investment of the fund shall be credited to the county-supported medicaid fund. The fund shall not revert in any fiscal year.

B. Money in the county-supported medicaid fund is subject to appropriation by the legislature to support the state medicaid program and to institute or support primary care health care services pursuant to Subsections D and E of Section 24-1A-3.1 NMSA 1978. Of the amount appropriated each year, nine percent shall be appropriated to the department of health to institute or support primary care health care services pursuant to Subsections D and E of Section

24-1A-3.1 NMSA 1978.

C. Up to three percent of the county-supported medicaid fund each year may be expended for administrative costs related to medicaid or developing new primary care health care centers or facilities.

D. In the event federal funds for medicaid are not received by New Mexico for any eighteen-month period, the unencumbered balance remaining in the county-supported medicaid fund and the sole community provider fund at the end of the fiscal year following the end of any eighteen-month period shall be paid within a reasonable time to each county for deposit in the county indigent hospital claims fund in proportion to the payments made by each county through tax revenues or transfers in the previous fiscal year as certified by the local government division of the department of finance and administration. The department will provide for budgeting and accounting of payments to the fund."

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HOUSE BILL 298, AS AMENDED

SIGNED MARCH 4, 1996

Chapter 30

RELATING TO BONDS; DELETING THE REQUIREMENT THAT BID NOTICE FOR SALE OF MUNICIPAL BONDS BE MAILED TO THE STATE INVESTMENT COUNCIL AND THE STATE TREASURER.

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

Section 1

Section 1

Section 6-15-5 NMSA 1978 (being Laws 1929, Chapter 201, Section 3, as amended) is amended to read:

"6-15-5. SALE OF BONDS.--

A. Except as provided in Subsection B of this section, before any bonds issued by a municipal corporation are offered for sale, the corporate authorities issuing the bonds shall designate the maximum rate of interest the bonds shall bear and shall designate the maximum net effective interest rate which shall not exceed the maximum permitted by the Public Securities Act. All the bonds shall be sold at public sale and a notice calling for bids for the purchase of the bonds shall be published once a week for two consecutive weeks in a newspaper having local circulation. The notice shall specify a place and designate a day and hour subsequent to the date of the publication when sealed bids shall be received and publicly opened for the purchase of the bonds. The notice shall specify the maximum rate of interest the bonds shall bear, the maximum net effective interest rate permitted for the bonds and the maximum discount if a discount is allowed by the governing body and shall require bidders to submit a bid specifying the lowest rate or rates of interest and any premium or discount if allowed by the governing body at, above or below par at which the bidder will purchase the bonds. The bonds shall be sold to the bidder making the best bid, subject to the right of the governing body to reject any and all bids and readvertise. All bids shall be sealed and, except the bid of New Mexico if one is received, shall be accompanied by a deposit of not less than two percent of the principal amount of the bonds, either in cash or by cashier's or treasurer's check of, or by certified check drawn on, a solvent commercial bank or trust company in the United States, which deposit shall be returned if the bid is not accepted. If the successful bidder does not complete the purchase of the bonds within thirty days following the acceptance of his bid or within ten days after the bonds are made ready and are offered by the municipal corporation for delivery, whichever is later, the amount of his deposit shall be forfeited to the municipal corporation issuing the bonds, and, in that event, the governing body may accept the bid of the bidder making the next best bid. If all bids are rejected, the governing body shall readvertise the bonds for sale in the same manner as for the original advertisement. If there are two or more equal bids and the bids are the best bids received, the governing body shall determine which bid shall be accepted.

B. Bonds issued by a municipal corporation may be sold to the state at private sale without advertisement.

C. Except as provided in this section, bonds to be issued by a municipal corporation for various purposes may be sold and issued as a single combined issue even though they may have been authorized by separate votes at an election or elections. Bonds authorized by any city, town or village for the construction or purchase of a system for supplying water, a sanitary sewer system or a storm sewer system may be combined with each other and sold and issued as a single issue but may not be combined with

bonds to be issued for any other purpose that may be subject to the debt limitation of Article 9, Section 13 of the constitution of New Mexico."

Section 2

Section 2

EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1996.

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HOUSE BILL 334

SIGNED MARCH 4, 1996

Chapter 31

RELATING TO PUBLIC FUNDS; CHANGING CERTAIN PROVISIONS FOR INVESTMENT OF THE PERMANENT FUND AND THE SEVERANCE TAX PERMANENT FUND.

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

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.--Money made available for investment for a period in excess of one year may be invested in the following classes of securities and investments:

A. bonds, notes or other obligations of the United States government, its agencies or instrumentalities;

B. bonds, notes or obligations of a municipal or political subdivision of this state, issued pursuant to a law of this state; provided that the issuer has not, within ten years prior to the making of the investment, been in default for more than three months in the payment of any part of the principal or interest on any debt evidenced by its bonds, notes or obligations; and provided further, if the bonds are city or county utility or utility-district revenue bonds, the revenues of that utility, other than for payment of operation and maintenance expenses, are pledged wholly to the payment of the interest on and

principal of the indebtedness and the utility project has been completely self-supporting for a period of five years next preceding the investment;

C. bonds, debentures or other obligations issued by a federal land bank or by a federal intermediate credit bank or banks for cooperatives under the acts of congress known as the Federal Farm Loan Act, as amended, and the Farm Credit Act of 1933, as amended;

D. bonds, debentures or other obligations issued or guaranteed by any national mortgage association under the act of congress of June 27, 1934 known as the National Housing Act, as amended;

E. bonds, notes, debentures, equipment trust certificates, conditional sales agreements or other evidences of indebtedness of any corporation organized and operating within the United States, rated not less than Baa or BBB or the equivalent by a national rating service;

F. common and preferred stocks and convertible issues of any corporation organized and operating within the United States; provided that it has a minimum net worth of twenty-five million dollars (\$25,000,000) and securities listed on one or more national stock exchanges; and provided further that the fund shall not own more than five percent of the voting stock of any company. Common stocks should represent a diversified portfolio with an above-average current yield and the prospect for dividend increases and capital appreciation;

G. industrial revenue bonds issued pursuant to the Industrial Revenue Bond Act, where both the principal and interest of the bonds are fully and unconditionally guaranteed by a lease agreement, executed by a corporation organized and operating within the United States, rated not less than A by a national rating service;

H. notes or obligations securing loans to New Mexico businesses made by banks and savings and loan associations pursuant to the act of congress of July 30, 1953 known as the Small Business Act of 1953, as amended, only to the extent that both principal and interest are guaranteed by the United States government. The state investment officer may enter into conventional agreements for the servicing of the loans and the administration of the receipts therefrom. Any servicing agreement may contain reasonable and customary provisions as the state investment officer may deem advisable and as may be agreed upon;

I. 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 the 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 of the mortgage;

J. notes or obligations securing loans issued by banks and savings and loan associations pursuant to Title IV of the act of congress of November 8, 1965 known as the Higher Education Act of 1965, as amended, only to the extent that both principal and interest are guaranteed unconditionally by the United States government. The applicant banks or savings and loan associations shall enter into an indemnity agreement to pay off the investments, together with interest and any unpaid costs and expenses in connection therewith, according to the terms under which they are made in a form that meets the approval of the state investment officer. The state investment officer may enter into conventional agreements for the servicing of the loans and the administration of the receipts therefrom. Any servicing agreement may contain reasonable and customary provisions as the state investment officer may deem advisable and as may be agreed upon;

K. obligations secured by mortgages constituting a first lien upon real estate located within the state of New Mexico that are fully insured or guaranteed as to the payment of the principal and interest thereof by the government of the United States or by any authorized agency thereof, including mortgages securing loans insured under the National Housing Act or the Farmers' Home Administration Act, as amended. The state investment officer may enter into conventional agreements for the servicing of those loans and the administration of the receipts therefrom, and any servicing agreement may contain reasonable and customary provisions as the state investment officer may deem advisable and as may be agreed upon, with respect to such matters as the taking and holding of title in the name of the servicing agent for the benefit of the state investment officer; the physical custody of the obligations and mortgages serviced by the servicing agent; the deduction of the servicing agent's fee, in the amount that shall not annually exceed one-half of one percent of the principal balance of the obligations serviced from time to time outstanding, by the servicing agent, prior to remittance of the proceeds; the periodic remittance of the net proceeds received in payment on all obligations so secured to the state treasurer as custodian of the permanent fund; the authority and duty of the servicing agent with respect to the collection of any obligation in default and the effectuation of the applicable federal insurance or guarantee thereof; and other appropriate matters; and

L. bonds, notes, debentures and other obligations issued by the state of New Mexico. All transactions entered into on or after July 1, 1991 shall be accounted for in accordance with generally accepted accounting principles.

Not more than fifty percent of the book value of the permanent fund shall be invested at any given time in securities described in Subsections E and F of this section, and no more than ten percent of the book value of the permanent fund shall be invested at any given time in securities described in Subsection E of this section that are rated Baa or BBB.

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."

Section 2

Section 2

Section 6-8-19 NMSA 1978 (being Laws 1987, Chapter 126, Section 1, as amended) is amended to read:

"6-8-19. SHORT-TERM INVESTMENTS--REPURCHASE AGREEMENTS.--

A. Money in or derived from the land grant permanent trust funds and in or from the severance tax permanent fund made available for investment for a period of less than one year may be invested in:

(1) contracts for the present purchase and resale at a specified time in the future, not to exceed one year, of specific securities at specified prices at a price differential representing the interest income to be earned by the state. No such contract shall be invested in unless the contract is fully secured by:

(a) obligations of the United States or other securities backed by the United States if the obligations or securities have a market value of at least one hundred two percent of the amount of the contract; or

(b) A1 or P1 commercial paper, corporate obligations rated AA or better and maturing in five years or less or asset-backed securities rated AAA with an average life of five years or less if the commercial paper, corporate obligations or asset-backed securities have a market value of at least one hundred three percent of the market value of the contract;

(2) contracts for the temporary exchange of state-owned securities for the use of broker-dealers, banks or other recognized institutional investors in securities, for periods not to exceed one year, for a specified fee rate. No such contract shall be invested in unless the contract is fully secured by exchange of an irrevocable letter of credit running to the state, cash or equivalent collateral of at least one hundred two percent of the market value of the securities plus accrued interest temporarily exchanged. Such contracts may authorize the state investment officer to invest cash collateral in instruments or securities that are authorized investments for the funds and may authorize payment of a fee from the funds, or from income generated by the investment of cash collateral, to the borrower of securities providing cash as collateral. The state investment officer may enter into a contract that apportions income derived from the investment of cash to pay its agent in securities-lending transactions;

(3) commercial paper issued by corporations organized and operating within the United States and rated "prime" quality by a national rating service; and

(4) prime bankers' acceptances issued by money center banks.

B. The collateral required for either of the forms of investment specified in Paragraph (1) or (2) of Subsection A of this section shall be delivered to the state fiscal agent or its designee contemporaneously with the transfer of funds or delivery of the securities, at the earliest time industry practice permits, but in all cases settlement shall be on a same-day basis.

C. Neither of the contracts specified in Paragraph (1) or (2) of Subsection A of this section shall be invested in unless the contracting bank, brokerage firm or recognized institutional investor has a net worth in excess of five hundred million dollars (\$500,000,000) or is a primary broker or primary dealer."

Section 3

Section 3

Section 7-27-5.1 NMSA 1978 (being Laws 1983, Chapter 306, Section 8, as amended) is amended to read:

"7-27-5.1. MARKET RATE INVESTMENTS.--

A. The severance tax permanent fund may be invested in the following market rate investments:

(1) bonds, notes or other obligations of the United States government, its agencies or instrumentalities and bonds, notes or other obligations guaranteed by agencies and instrumentalities of the United States government, including the bureau of Indian affairs;

(2) bonds, notes, debentures or other obligations issued under the act of congress of June 27, 1934 known as the Federal Farm Loan Act, as amended, and the Farm Credit Act of 1933, as amended;

(3) bonds, notes, debentures or other obligations issued or guaranteed by any national mortgage association under the act of congress of June 27, 1934 known as the National Housing Act, as amended;

(4) preferred stock, common stock or convertible issues of any corporation organized and operating within the United States; provided that it shall have a minimum net worth of twenty-five million dollars (\$25,000,000) and securities listed on one or more national stock exchanges or included on a nationally recognized list of stocks; and provided further that the fund shall not own more than five percent of the voting stock of any company. Common stock shall not be purchased if, at the time, it will exceed or will with the purchase exceed fifty percent of the book value of the severance tax permanent fund. Common stocks should represent a diversified portfolio with an above-average current yield and the prospects for dividend increases and capital appreciation;

(5) bonds, notes, debentures or other evidence of indebtedness, excluding commercial paper of any corporation organized and operating within the United States; provided that the bonds, notes, debentures or other evidence of indebtedness are rated at least Baa or BBB or the equivalent by a national rating service. No more than ten percent of the severance tax permanent fund shall be invested in bonds, notes, debentures or other evidence of indebtedness that are rated Baa or BBB or the equivalent by a national rating service;

(6) commercial paper rated "prime" quality by a national rating service, issued by corporations organized and operating within the United States;

(7) prime bankers' acceptances issued by money center banks;

(8) contracts for the present purchase and resale at a specified time in the future, not to exceed one year, of specific securities at specific prices at a price differential representing the interest income to be earned by the state. No such contract shall be invested in unless the contract is fully secured by:

(a) obligations of the United States or other securities backed by the United States if the obligations or securities have a market value of at least one hundred two percent of the amount of the contract; or

(b) A1 or P1 commercial paper, corporate obligations rated AA or better and maturing in five years or less or asset-backed securities rated AAA with an average life of five years or less if the commercial paper, corporate obligations or asset-backed securities have a market value of at least one hundred three percent of the amount of the contract;

(9) contracts for the temporary exchange of state-owned securities for the use of broker-dealers, banks or other recognized institutional investors in securities, for periods not to exceed one year, for a specified fee rate. No such contract shall be invested in unless the contract is fully secured by exchange of an irrevocable letter of credit running to the state, cash or equivalent collateral of at least one hundred two percent of the market value of the securities plus accrued interest temporarily exchanged. Such contracts may authorize the state investment officer to invest cash collateral in instruments or securities that are authorized investments for the funds and may authorize payment of a fee from the funds, or from income generated by the investment of cash collateral, to the borrower of securities providing cash as collateral. The state investment officer may enter into a contract that apportions income derived from the investment of cash to pay its agent in securities-lending transactions; and

(10) participation interests in New Mexico real-property-related business loans. The actual amount invested under this paragraph shall not exceed ten percent of the severance tax permanent fund and shall be included in any minimum amount of severance tax permanent fund investments required to be placed in New Mexico certificates of deposit. Investments authorized in this paragraph are subject to the following:

(a) the state investment officer may purchase from eligible institutions a participation interest of up to eighty percent in any loan secured by a first mortgage or a deed of trust on the real property located in New Mexico of an eligible business entity, or its subsidiary, that is operating or shall use loan proceeds to commence operations within New Mexico plus any other guarantees or collateral that may be judged by the eligible institution or the state investment officer to be prudent. To be eligible for investment the following minimum requirements shall be met: 1) the loan proceeds shall be used exclusively for the purpose of expanding or establishing businesses in New Mexico, including the refinancing of such businesses for expansion purposes only. If a portion of the loan proceeds were used for refinancing or repaying an existing loan and payment of principal and interest to the state has not been made within ninety days from the due date, unless extended pursuant to agreement between the originating institution and the state investment officer, the originating institution shall buy back the state's participation interest in the loan and begin foreclosure proceedings; 2) eligible business entities shall not include public utilities or financial institutions or shopping centers, apartment buildings or other such passive investments; 3) the minimum loan amount shall be two hundred fifty thousand dollars (\$250,000) and may be met by packaging up to ten separate loans satisfying the requirements of this paragraph. The maximum loan amount shall be two million dollars (\$2,000,000); 4) the loan maturity shall be not less than five years or more than thirty years; 5) the maximum loan- to-value ratio shall be seventy-five percent and based on current appraisal of the real property by an appraiser who is licensed or certified in New Mexico and approved by the state investment officer, which shall be made not more than one hundred eighty days from the loan origination date; 6) the interest rate of the loan shall be fixed for five years and shall be adjusted at every fifth anniversary of the note to the rate specified in Item 7) of this subparagraph; 7) the yield on the state's participation interest shall in no case be less than the greater of the then-prevailing yield on United States treasury securities of five-year maturity plus two and one-half percent or the yield received by the lending institution calculated exclusive of servicing fees; 8) if payment of principal or interest has not been made within one hundred eighty days from the due date, unless extended pursuant to agreement between the originating institution and the state investment officer, the originating institution shall buy back the state's participation interest in the loan, substitute another qualifying loan or begin foreclosure proceedings; and 9) if foreclosure proceedings are commenced, the state and the originating institution shall share in proportion to their participation interest, as provided in this subparagraph, in the legal and other foreclosure expenses and in any loss incurred as a result of a foreclosure sale;

(b) a standardized participation agreement, the form of which shall be approved by the attorney general's office, shall be executed between the investment office and each eligible originating institution. The participation agreement shall provide that the originating institution shall not assign its interest in any loan covered by the agreement without the prior written consent of the state investment officer;

(c) a formal forward commitment program may be instituted by the state investment officer with the approval of the council;

(d) the council shall adopt regulations: 1) defining passive investments; 2) establishing underwriting guidelines; 3) ensuring diversification across a variety of types of collateral, types of businesses and regions of the state; and 4) providing for the review by the state investment officer of servicing and other fees that may be charged by the eligible institution;

(e) eligible institutions include banks, savings and loan associations and credit unions operating in the state; and

(f) real property is defined as land and attached buildings, but excludes all interests that may be secured by a security interest under Article 9 of the Uniform Commercial Code, and mineral resource values.

B. The collateral required for either of the forms of investment specified in Paragraph (8) or (9) of Subsection A of this section shall be delivered to the state fiscal agent or its designee contemporaneously with the transfer of funds or delivery of the securities, at the earliest time industry practice permits, but in all cases settlement shall be on a same-day basis.

C. Neither of the contracts specified in Paragraph (8) or (9) of Subsection A of this section shall be invested in unless the contracting bank, brokerage firm or recognized institutional investor has a net worth in excess of five hundred million dollars (\$500,000,000) or is a primary broker or primary dealer."

Section 4

Section 4

EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1996.

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HOUSE BILL 335, AS AMENDED

SIGNED MARCH 4, 1996

Chapter 32

AMENDING SECTION 72-1-2.1 NMSA 1978 (BEING LAWS 1991, CHAPTER 34, SECTION 1) PERTAINING TO THE RECORDING OF CHANGES IN OWNERSHIP OF WATER RIGHTS.

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

Section 1

Section 1

Section 72-1-2.1 NMSA 1978 (being Laws 1991, Chapter 34, Section 1) is amended to read:

"72-1-2.1. WATER RIGHTS--CHANGE IN OWNERSHIP--FILING AND RECORDING--CONSTRUCTIVE NOTICE.--In the event of any changes of ownership of a water right, whether by sale, gift or any other type of conveyance, affecting the title to a water right that has been permitted or licensed by the state engineer, has been declared with the state engineer or has been adjudicated and is evidenced by a subfile order, partial final decree, final decree or any other court order, the new owner of the water right shall file a change of ownership form with the state engineer. The form shall include all information conforming with water rights of record filed with the state engineer and shall be accompanied by a copy of a warranty deed or other instrument of conveyance. The new owner shall record a copy of the change of ownership form filed with the state engineer with the clerk of the county in which the water right will be located. The filing shall be public notice of the existence and contents of the instruments so recorded from the time of recording with the county clerk."

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HOUSE BILL 343, AS AMENDED

SIGNED MARCH 4, 1996

Chapter 33

RELATING TO UNEMPLOYMENT COMPENSATION; PROVIDING FOR VOLUNTARY WITHHOLDING OF FEDERAL INCOME TAX.

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

Section 1

Section 1

Section 51-1-8 NMSA 1978 (being Laws 1936 (S.S.), Chapter 1, Section 6, as amended) is amended to read:

"51-1-8. CLAIMS FOR BENEFITS.--

A. Claims for benefits shall be made in accordance with such regulations as the secretary may prescribe. Each employer shall post and maintain printed notices, in places readily accessible to employees, concerning their rights to file claims for unemployment benefits upon termination of their employment. Such notices shall be supplied by the division to each employer without cost to him.

B. A representative designated by the secretary as a claims examiner shall promptly examine the application and each weekly claim and, on the basis of the facts found, shall determine whether the claimant is unemployed, the week with respect to which benefits shall commence, the weekly benefit amount payable, the maximum duration of benefits, whether the claimant is eligible for benefits pursuant to Section 51-1-5 NMSA 1978 and whether the claimant shall be disqualified pursuant to Section 51-1-7 NMSA 1978. With the approval of the secretary, the claims examiner may refer, without determination, claims or any specified issues involved therein that raise complex questions of fact or law to a hearing officer for the division for a fair hearing and decision in accordance with the procedure described in Subsection D of this section. The claims examiner shall promptly notify the claimant and any other interested party of the determination and the reasons therefor. Unless the claimant or any such interested party, within fifteen calendar days after the date of notification or mailing of such determination, files an appeal from such determination, such determination shall be the final decision of the division; provided that the claims examiner may reconsider a nonmonetary determination if additional information not previously available is provided or obtained or whenever he finds an error in the application of law has occurred, but no redetermination shall be made more than twenty days from the date of the initial nonmonetary determination. Notice of a nonmonetary redetermination shall be given to all interested parties and shall be subject to appeal in the same manner as the original nonmonetary determination. If an appeal is pending at the time a redetermination is issued, the appeal, unless withdrawn, shall be treated as an appeal from such redetermination.

C. In the case of a claim for waiting period credit or benefits, "interested party", for purposes of determinations and adjudication proceedings and notices thereof, means:

(1) in the event of an issue concerning a separation from work for reasons other than lack of work, the claimant's most recent employer or most recent employing unit;

(2) in the event of an issue concerning a separation from work for lack of work, the employer or employing unit from whom the claimant separated for reasons other than lack of work if he has not worked and earned wages in insured work or bona fide employment other than self-employment in an amount equal to or exceeding five times his weekly benefit amount; or

(3) in all other cases involving the allowance or disallowance of a claim, the secretary, the claimant and any employing unit directly involved in the facts at issue.

D. Upon appeal by any party, a hearing officer designated by the secretary shall afford the parties reasonable opportunity for a fair hearing to be held de novo, and the hearing officer shall issue findings of fact and a decision which affirms, modifies or reverses the determination of the claims examiner or tax representative on the facts or the law, based upon the evidence introduced at such hearing, including the documents and statements in the claim 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 such decision further appeal is initiated pursuant to Subsection H of this section.

E. Except with the consent of the parties, no hearing officer or members of the board of review, established in Subsection F of this section, or secretary shall sit in any administrative or adjudicatory proceeding in which:

- (1) either of the parties is related to him by affinity or consanguinity within the degree of first cousin;
- (2) he was counsel for either party in that action; or
- (3) he has an interest which would prejudice his rendering an impartial decision.

The secretary, any member of the board of review or appeal tribunal hearing officer shall withdraw from any proceeding in which he cannot accord a fair and impartial hearing. Any party may request a disqualification of any appeal tribunal hearing officer or board of review member by filing an affidavit with the board of review or appeal tribunal promptly upon discovery of the alleged grounds for disqualification, stating with particularity the grounds upon which it is claimed that the person cannot be fair and impartial. The disqualification shall be mandatory if sufficient factual basis is set forth in the affidavit of disqualification. If a member of the board of review is disqualified or withdraws from any proceeding, the remaining members of the board of review may appoint an appeal tribunal hearing officer to sit on the board of review for the proceeding involved.

F. There is established within the department for the purpose of providing higher level administrative appeal and review of determinations of a claims examiner or decisions issued by a hearing officer pursuant to Subsection B or D of this section a "board of review" consisting of three members. Two members shall be appointed by the governor with the consent of the senate. The members so appointed shall hold office at the pleasure of the governor for terms of four years. One member appointed by the governor shall be a person who, on account of his previous vocation, employment or affiliation, can be classed as a representative of employers, and the other member appointed by the governor shall be a person who, on account of his previous vocation, employment or affiliation, can be classed as a representative of employees. The third member shall be an employee of the department appointed by the secretary who shall serve as chairman of the board. Either member of the board of review appointed by the governor who has missed two consecutive meetings of the board may be removed from the board by the governor. Actions of the board shall be taken by majority vote. If a vacancy on the board in a position appointed by the governor occurs between sessions of the legislature, the position shall be filled by the governor until the next regular legislative session. The board shall meet at the call of the secretary. Members of the

board appointed by the governor shall be paid per diem and mileage in accordance with the Per Diem and Mileage Act for necessary travel to attend regularly scheduled meetings of the board of review for the purpose of conducting the board's appellate and review duties.

G. The board of review shall hear and review all cases appealed in accordance with Subsection H of this section. The board of review may modify, affirm or reverse the decision of the hearing officer or remand any matter to the claims examiner, tax representative or hearing officer for further proceedings. Each member appointed by the governor shall be compensated at the rate of fifteen dollars (\$15.00) for each case reviewed up to a maximum compensation of twelve thousand dollars (\$12,000) in any one fiscal year.

H. Any party aggrieved by a final decision of a hearing officer may file, in accordance with regulations prescribed by the secretary, an application for appeal and review of such decision with the secretary. The secretary shall review the application and shall, within fifteen days after receipt of the application, either affirm the decision of the hearing officer, remand the matter to the hearing officer 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 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, such benefits shall be paid promptly regardless of any further appeal which may thereafter be available to the parties, and no injunction, supersedeas, stay or other writ or process suspending the payment of such benefits shall be issued by the secretary or board of review or any court, and no action to recover such benefits paid to a claimant shall be taken. If a determination or decision allowing benefits is finally modified or reversed, the appropriate contributing employer's account will be relieved of benefit charges in accordance with Subsection B of Section 51-1-11 NMSA 1978.

K. The manner in which disputed claims shall be presented, the reports thereon required from the claimant and from employers and the conduct of hearings and appeals shall be in accordance with rules prescribed by the secretary for determining the rights of the parties, whether or not such rules conform to common law or statutory rules of evidence and other technical rules of procedure. A hearing officer or the board of review may refer to the secretary for interpretation any question of controlling legal significance, and the secretary shall issue a declaratory interpretation, which shall be binding upon the decision of the hearing officer and the board of review. A full and complete record shall be kept of all proceedings in connection with a disputed claim. All testimony at any hearing upon a disputed claim shall be recorded but need not be transcribed unless the disputed claim is appealed to the district court.

L. Witnesses subpoenaed pursuant to this section shall be allowed fees at a rate fixed by the secretary. Such fees and all administrative expenses of proceedings involving disputed claims shall be deemed a part of the expense of administering the Unemployment Compensation Law.

M. Any determination or decision of a claims examiner or hearing officer or by a representative of the tax section of the department in the absence of an appeal therefrom as provided by this section shall become final fifteen days after the date of notification or mailing thereof, and judicial review thereof shall be permitted only after any party claiming to be aggrieved thereby has exhausted his remedies as provided in Subsection H of this section. The division and any employer or claimant who is affected by the decision shall be joined as a party in any judicial action involving any such decision. All parties shall be served with an endorsed copy of the petition within thirty days from the date of filing and an endorsed copy of the order granting the petition within fifteen days from entry of the order. Service on the department shall be made on

the secretary or his designated legal representative either by mail with accompanying certification of service or by personal service. The division may be represented in any such judicial action by an attorney employed by the department or, when requested by the secretary, by the attorney general or any district attorney.

N. The final decision of the secretary or board of review upon any disputed matter may be reviewed both upon the law, including the lawful rules of interpretation issued by the secretary, and the facts by the district court of the county wherein the person seeking the review resides upon certiorari, unless it is determined by the district court where the petition is filed that, as a matter of equity and due process, venue should be in a different county. For the purpose of such review, the division shall return on such certiorari the reports and all of the evidence heard by it on any such reports and all the papers and documents in its files affecting the matters and things involved in such certiorari. The district court shall render its judgment after hearing, and either the department or any other party thereto affected may appeal from such judgment to the court of appeals in accordance with the rules of appellate procedure. Such certiorari shall not be granted unless the same is applied for within thirty days from the date of the final decision of the secretary or board of review. Such certiorari shall be heard in a summary manner and shall be given precedence over all other civil cases except cases arising under the Workers' Compensation Act of this state. It shall not be necessary in any proceedings before the division to enter exceptions to the rulings and no bond shall be required in obtaining certiorari from the district court as hereinabove provided, but such certiorari shall be granted as a matter of right to the party applying therefor."

Section 2

Section 2

A new section of the Unemployment Compensation Law is enacted to read:

" VOLUNTARY WITHHOLDING OF FEDERAL INCOME TAX.--

A. Every individual filing a new claim for unemployment compensation shall, at the time of filing such claim, be advised in writing that:

- (1) unemployment compensation is subject to federal, state and local income tax;
- (2) requirements exist pertaining to estimated tax payments;
- (3) the individual may elect to have federal income tax deducted and withheld from the individual's unemployment compensation payments at the amount specified in the Internal Revenue Code of 1986; and
- (4) the individual is permitted to change a previously elected withholding status one time during each benefit year.

B. Amounts deducted and withheld from unemployment compensation shall remain in the fund until transferred to the federal internal revenue service.

C. The division shall follow all procedures specified by the United States department of labor and the federal internal revenue service pertaining to the deducting and withholding of income tax.

D. Amounts shall be deducted and withheld under this section only after amounts are deducted and withheld for any overpayments of unemployment compensation, child support obligations or any other amounts required to be deducted and withheld under the Unemployment Compensation Law.

E. The provisions of this section apply to unemployment compensation payments made after December 31, 1996."

Section 3

Section 3

EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1996.

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HOUSE BILL 375,

SIGNED MARCH 4, 1996

Chapter 34

RELATING TO TAXATION; AMENDING THE COUNTY HOSPITAL EMERGENCY GROSS RECEIPTS TAX TO EXTEND THE TIME PERIOD TO IMPOSE THE TAX; DECLARING AN EMERGENCY.

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

Section 1

Section 1

Section 7-20E-12.1 NMSA 1978 (being Laws 1994, Chapter 14, Section 1) is amended to read:

"7-20E-12.1. COUNTY HOSPITAL EMERGENCY GROSS RECEIPTS TAX--
AUTHORITY TO IMPOSE--USE OF PROCEEDS.--

A. The majority of the members of the governing body may enact an ordinance imposing an excise tax on any person engaging in business in the county for the privilege of engaging in business. The rate of the tax shall be one-fourth of one percent of the gross receipts of the person engaging in business. The tax shall be imposed for a period of not more than two years from the effective date of the ordinance imposing the tax. The tax may be imposed for an additional period not to exceed three years from the date of the ordinance imposing the tax for that period.

B. The tax imposed by this section may be referred to as the "county hospital emergency gross receipts tax".

C. At the time of enacting the ordinance imposing the tax authorized in this section, the governing body shall dedicate the revenue for current operations and maintenance of a hospital owned by the county or a hospital with whom the county has entered into a health care facilities contract.

D. As used in this section, "county" means a

class B county with a population of less than ten thousand according to the 1990 federal decennial census and with a net taxable value for rate-setting purposes for the 1993 property tax year in excess of one hundred million dollars (\$100,000,000)."

Section 2

Section 2

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

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HOUSE BILL 419, AS AMENDED

WITH EMERGENCY CLAUSE

SIGNED MARCH 4, 1996

Chapter 35

RELATING TO HEALTH FACILITIES; PROVIDING FOR HEALTH FACILITY RECEIVERSHIPS.

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

Section 1

Section 1

Section 24-1-2 NMSA 1978 (being Laws 1973, Chapter 359, Section 2, as amended) is amended to read:

"24-1-2. DEFINITIONS.--As used in the Public Health Act:

A. "department" or "division" means the children, youth and families department as to child-care centers and facilities and the department of health as to all other health facilities;

B. "director" means the secretary;

C. "person", when used without further qualification, means any individual or any other form of entity recognized by law;

D. "health facility" means any public hospital, profit or nonprofit private hospital, general or special hospital, outpatient facility, maternity home or shelter, adult day-care facility, nursing home, intermediate care facility, boarding home not under the control of an institution of higher learning, child-care center, shelter care home, diagnostic and treatment center, rehabilitation center, infirmary or a health service organization operating as a free standing hospice or a home health agency. The designation of these entities as health facilities is only for the purposes of definition in the Public Health Act and does not imply that a free- standing hospice or a home health agency is considered a health facility for the purposes of other provisions of state or federal laws. "Health facility" also includes those facilities which, by federal regulation, must be licensed by the state to obtain or maintain full or partial, permanent or temporary federal funding. It does not include the offices and treatment rooms of licensed private practitioners; and

E. "secretary" means the secretary of children, youth and families as to child-care centers and facilities and the secretary of health as to all other health facilities."

Section 2

Section 2

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.--

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, which 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 utilizing 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 regulations of the department. Applications for hospital licenses shall include evidence that the bylaws or regulations of the hospital apply equally to osteopathic and medical physicians.

D. Upon inspection of any health facility, if the department finds any violation of its regulations, it 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 regulations 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 regulations of the department or, if not in compliance with any regulation, has been granted a waiver or variance of that regulation by the department pursuant to procedures, conditions and guidelines adopted by regulation 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 such 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 any health facility or may impose on any health facility any intermediate sanction and 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 regulation of the department. If immediate action is required to protect human health and safety, the director may suspend any license or impose any 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 for the hearing, identity of the hearing officer, subject matter of the hearing and alleged violations.

J. Any hearing under 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 to the court of appeals on the record within thirty days after the final decision of the department. The court shall set aside the final decision only if it is found to be arbitrary, capricious or an abuse of discretion; not supported by substantial evidence in the record; outside the authority of the department; or otherwise not in accordance with law.

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 such 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 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 director 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 director may suspend operation of the 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 utilizing group homes."

Section 3

Section 3

Section 24-1-5.2 NMSA 1978 (being Laws 1990, Chapter 105, Section 2) is amended to read:

"24-1-5.2. HEALTH FACILITIES--INTERMEDIATE SANCTIONS-- CIVIL PENALTY.--

A. Upon a determination that a health facility is not in compliance with any licensing requirement of the department, the department, subject to the provisions of this section and Section 24-1-5 NMSA 1978, may:

(1) impose any intermediate sanction established by regulation, including but not limited to:

(a) a directed plan of correction;

(b) facility monitors;

(c) denial of payment for new medicaid admissions to the facility;

(d) temporary management; and

(e) restricted admissions;

(2) assess a civil monetary penalty, with interest, for each day the facility is or was out of compliance. Civil monetary penalties shall not exceed a total of five thousand dollars (\$5,000) per day. Penalties and interest amounts assessed under this paragraph and recovered on behalf of the state shall be remitted to the state treasurer for deposit in the general fund, except as otherwise provided by federal law for medicaid-certified nursing facilities. The civil monetary penalties contained in this paragraph are cumulative and may be imposed in addition to any other fines or penalties provided by law; and

(3) with respect to health facilities other than child- care centers or facilities, proceed pursuant to the Health Facility Receivership Act.

B. The secretary shall adopt and promulgate regulations specifying the criteria for imposition of any intermediate sanction and civil monetary penalty. The criteria shall provide for more severe sanctions for a violation that results in any abuse, neglect or exploitation of residents, clients or patients as defined in the regulations or that places one or more residents, clients or patients of a health facility at substantial risk of serious physical or mental harm.

C. The provisions of this section for intermediate sanctions and civil monetary penalties shall not apply to certified nursing facilities except upon a determination by the federal health care financing administration that these provisions comply with the provisions for nursing facility remedies and civil monetary penalties pursuant to 42 U.S.C. 1395 and 1396, as amended, and upon a determination by the department that no other state or federal agency is authorized to impose the same remedies, sanctions or penalties.

D. A health facility is liable for the reasonable costs of a directed plan of correction, facility monitors, temporary management or receivership imposed pursuant to this section and Section 24-1-5 NMSA 1978. The department may take all necessary and appropriate legal action to recover these costs from a health facility. All money recovered from a health facility pursuant to this subsection shall be paid into the general fund."

Section 4

Section 4

A new Section 24-1E-1 NMSA 1978 is enacted to read:

"24-1E-1. SHORT TITLE.--Sections 24-1E-1 through 24-1E-6 may be cited as the "Health Facility Receivership Act"."

Section 5

Section 5

A new Section 24-1E-2 1978 is enacted to read:

"24-1E-2. DEFINITIONS.--As used in the Health Facility Receivership Act:

A. "department" means the department of health;

B. "health facility" means any health facility as defined in Subsection D of Section 24-1-2 NMSA 1978 other than a child-care center or facility, whether or not licensed by the department;

C. "person" includes a natural person and any other form of entity recognized by law;

D. "receiver" means the secretary, upon appointment pursuant to the Health Facility Receivership Act; and

E. "secretary" means the secretary of health."

Section 6

Section 6

A new Section 24-1E-3 NMSA 1978 is enacted to read:

"24-1E-3. HEALTH FACILITY RECEIVERSHIPS AUTHORIZED- -VENUE.--

A. The secretary may file a verified petition in the district court seeking appointment as receiver of a health facility if the facility:

(1) is being operated without a valid license from the division;

(2) will be closed within sixty days and adequate arrangements to relocate its residents have not been submitted to and approved by the secretary;

(3) has been abandoned, its residents have been abandoned or such abandonment is imminent; or

(4) presents a situation, physical condition, practice or method of operation that the secretary finds presents an imminent danger of death or significant mental or physical harm to its residents or other persons.

B. The proceedings shall be governed by, and the receiver's powers and duties shall be as specified in, the Receivership Act, supplemented as provided in the Health Facility Receivership Act.

C. Venue shall be laid in the district court for Santa Fe county or any other county in which the health facility or any of its satellite facilities is located.

D. Service of process shall be made in any manner provided by the Rules of Civil Procedure for the District Courts. If personal service cannot practicably or promptly be made as so provided, service may be made by delivery of the summons with the petition attached to any person in charge of the health facility at the time service is made.

E. The health facility shall file a responsive pleading within ten days after the date service is made or within such time as directed by the district court."

Section 7

Section 7

A new Section 24-1E-4 NMSA 1978 is enacted to read:

"24-1E-4. HEARING ON PETITION.--

A. Except in the case of an ex parte hearing under the Receivership Act, the district court shall hold a hearing on the petition within ten days after the petition is filed or as soon thereafter as practicable. The health facility shall be given notice of the hearing at least five days before the hearing date.

B. In the case of an ex parte hearing under the Receivership Act, the district court may enter an order appointing the secretary as temporary receiver, with all the rights and responsibilities of a receiver, for ten days or until a hearing can be held on the petition.

C. Following hearing, the district court shall appoint the secretary as receiver if it finds that any of the conditions of Subsection A of Section 24-1E-3 NMSA 1978 exists.

D. Following any regular or ex parte hearing, the district court may appoint a qualified person, experienced in health facility management, to act as deputy receiver.

E. The receiver's bond shall be deemed satisfied by his bond under the Surety Bond Act. If any deputy receiver is not a public employee covered under the Surety Bond Act, he shall obtain a fidelity and performance bond in an amount determined by the court. The cost of the bond shall be paid from the receivership estate."

Section 8

Section 8

A new Section 24-1E-5 NMSA 1978 is enacted to read:

"24-1E-5. RECEIVER'S POWERS AND DUTIES.--

A. In addition to the receiver's powers and duties under the Receivership Act, the secretary as receiver and any deputy receiver under the Health Facility Receivership Act shall, except as the district court may otherwise order:

(1) perform all acts that are necessary to:

(a) correct or remedy each condition on which the receiver's appointment was based;

(b) ensure adequate care for each resident or other person in the health facility;

(c) bring the facility into compliance with all applicable state and federal laws, rules and regulations; and

(d) manage and operate the health facility, including closing down, expanding or initiating new operations, hiring and firing officers and employees, contracting for necessary services, personnel, supplies, equipment, facilities and all other appropriate things, purchasing, selling, marshaling, and otherwise managing its property and assets, paying the facility's obligations, borrowing money and property and giving security for these and expending funds of the facility;

(2) give notice of establishment of the receivership to interested persons, and publish notice in a newspaper of general circulation in each county in which the health care facility and any of its satellite facilities is located;

(3) if residents are to be discharged or transferred, discuss the options for alternative placement with any resident or the guardian of that resident, as applicable, and arrange to transfer the resident's records and personal property to the alternative placement facility; and

(4) with the court's approval, void any lease, mortgage, secured transaction, contract or transfer of money or property made within one year prior to the filing of the petition if made without fair consideration, including excessive interest rate, or made with actual intent to hinder, delay or defraud either future or existing creditors.

B. A deputy receiver shall have the same powers and duties as the receiver, unless the court orders otherwise."

Section 9

Section 9

A new Section 24-1E-6 NMSA 1978 is enacted to read:

"24-1E-6. TERMINATION OF RECEIVERSHIP.--The receivership shall terminate when the conditions that led to its establishment, and any other conditions that constitute grounds for establishment of a receivership, have ceased to exist. If the health facility is insolvent or otherwise financially distressed, the receivership shall terminate upon filing of federal bankruptcy proceedings, unless the district court orders otherwise."

Section 10

Section 10

Section 44-8-5 NMSA 1978 (being Laws 1995, Chapter 81, Section 5) is amended to read:

"44-8-5. APPLICATION FOR APPOINTMENT OF A RECEIVER.--

A. An applicant may apply to the district court for the appointment of a receiver by motion in an action already pending or by a separate petition or complaint.

B. An application for the appointment of a receiver shall be verified and shall contain:

(1) a description of the receivership estate, including the estimated gross monthly income if known, for which the applicant seeks a receiver;

(2) the location of the receivership estate;

(3) a description of the applicant's interest in the receivership estate;

- (4) a statement showing that venue in the district court is proper;
- (5) a statement of the grounds for the appointment of a receiver; and
- (6) a nomination of the proposed receiver.

C. An ex parte hearing to appoint a receiver may be held without written or oral notice to the adverse party or his attorney only if:

(1) it clearly appears from specific facts shown by affidavit or by the verified application that immediate and irreparable injury, loss or damage will result to the applicant or others before the adverse party's attorney can be heard in opposition; and

(2) the applicant's attorney certifies to the court in writing the efforts, if any, that have been made to give the notice and the reasons supporting the attorney's claim that notice should not be required.

D. Every application, proceeding and order for appointment of a receiver granted without notice shall comply with the Rules of Civil Procedure for the District Courts of New Mexico pertaining to temporary restraining orders and appointment of receivers ex parte."

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HOUSE BILL 434, AS AMENDED

SIGNED MARCH 4, 1996

Chapter 36

RELATING TO THE FORFEITURE OF WATER RIGHTS; AMENDING SECTIONS OF THE NMSA 1978 PERTAINING TO EXTENSIONS OF TIME IN WHICH TO APPLY BENEFICIAL USE.

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

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, PL 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 such designated or specified tract without penalty or forfeiture.

G. Periods of nonuse when water rights are acquired and placed in a water conservation program, which has been approved by the state engineer, by a conservancy district organized pursuant to Chapter 73, Articles 14 through 19 NMSA 1978 or an acequia or community ditch association organized pursuant to Chapter 73,

Article 2 NMSA 1978 or the interstate stream commission shall not be computed as part of the four-year forfeiture period."

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, PL 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 water conservation program adopted by an artesian conservancy district, conservancy district 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 such designated or specified tract without penalty or forfeiture."

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HOUSE BILL 437, AS AMENDED

SIGNED MARCH 4, 1996

Chapter 37

RELATING TO HAZARDOUS MATERIALS; ENACTING THE HAZARDOUS MATERIALS TRANSPORTATION ACT TO ESTABLISH A HAZARDOUS MATERIALS TRANSPORTATION PERMIT PROGRAM; AMENDING THE EMERGENCY MANAGEMENT ACT; PROVIDING A PENALTY; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

Section 1

Section 1

SHORT TITLE.--Sections 1 through 8 of this act may be cited as the "Hazardous Materials Transportation Act".

Section 2

Section 2

DEFINITIONS.--As used in the Hazardous Materials Transportation Act:

A. "department" means the taxation and revenue department;

B. "hazardous material" means:

(1) a material of a type or in a quantity that requires the transport vehicle to be placarded as a carrier of hazardous material in accordance with the Code of Federal Regulations, Title 49, Part 171.8 or Part 172; or

(2) a hazardous substance or marine pollutant as defined in the Code of Federal Regulations, Title 49, Section 171.8 when transported in bulk packaging;

C. "person" means an individual or any other legal entity; and

D. "public entity" means an agency, instrumentality or political subdivision of a federal, state or Indian government.

Section 3

Section 3

HAZARDOUS MATERIALS TRANSPORTATION PERMIT--DEPARTMENT DUTIES--FEES.--

A. Except as provided in Section 4 of the Hazardous Materials Transportation Act, a person may not transport a hazardous material on a state or federal highway without a permit from the department.

B. The department shall establish regulations for the issuance of hazardous materials transportation permits and shall issue permits to applicants who meet the requirements of the regulations.

C. Hazardous materials transportation permits shall be issued for a period not to exceed twelve months for a fee of two hundred fifty dollars (\$250), regardless of the number of vehicles or combination of vehicles operated by the permit applicant, or the department may issue a permit for a single shipment of hazardous materials for a fee of seventy-five dollars (\$75.00).

D. Public entities may acquire a hazardous materials transportation permit exempt from the fee in Subsection C of this section.

E. A copy of any hazardous materials transportation permit issued pursuant to this section shall be carried in each vehicle included under conditions of the permit. Hazardous materials transportation permits shall be open for inspection by any peace officer.

F. Fees collected pursuant to this section shall be deposited in the general fund.

Section 4

Section 4

EXEMPTIONS.--The following activities are exempt from the Hazardous Materials Transportation Act:

A. the transportation of pesticides as defined in Subsection N of Section 76-4-3 NMSA 1978 in quantities not required to be placarded under the Code of Federal Regulations, Title 49, Part 172 when transported by a commercial applicator as defined in Subsection W of Section 76-4-3 NMSA 1978;

B. the transportation by a farmer or a rancher of a hazardous material for use on a farm or a ranch;

C. the transportation of a hazardous waste designated as "special waste" by the department and the secretary of environment;

D. the transportation of a fertilizer or agricultural chemical by the retailer of the product to a farm or a ranch within a seventy-five mile radius of the retailer for use only on the farm or the ranch to which the material is transported; and

E. the transportation of drilling fluids, produced waters and other wastes associated with the exploration, development or production of crude oil, natural gas or geothermal energy.

Section 5

Section 5

PERMIT SUSPENSION, REVOCATION OR DENIAL.-- The department may suspend or revoke a hazardous materials transportation permit or order the suspension of the transportation of hazardous material under a permit if a permittee violates conditions of a hazardous materials transportation permit. The department shall not issue a permit to an applicant who has violated the conditions of a hazardous materials transportation permit issued by this state, another state or the federal government or to any applicant who has violated Section 3 of the Hazardous Materials Transportation Act. A person is entitled to a hearing if the person's application for a permit has been denied or if the person's permit has been suspended or revoked.

Section 6

Section 6

BASE STATE AGREEMENTS.--The department may enter into agreements with other states, the federal government, Canada, Mexico or other participating organizations to provide for reciprocal permitting of persons transporting hazardous materials and for the efficient administration of the Hazardous Materials Transportation Act.

Section 7

Section 7

PREEMPTION.--All existing hazardous materials transportation registration or permitting programs administered by political subdivisions of the state are void and preempted by the Hazardous Materials Transportation Act.

Section 8

Section 8

CIVIL PENALTY.--Any person who violates Section 3 of the Hazardous Materials Transportation Act shall be subject to a civil penalty not to exceed two thousand dollars (\$2,000) for each offense. All actions to recover the penalties provided for in this section may be brought by the department before a district court. The department may bring an action in the district court seeking injunctive relief to enforce provisions of the Hazardous Materials Transportation Act. All penalties recovered in any such action shall be paid into the general fund.

Section 9

Section 9

Section 74-4B-4 NMSA 1978 (being Laws 1983, Chapter 80, Section 4, as amended) is amended to read:

"74-4B-4. STATE RESPONSIBILITY FOR MANAGEMENT OF ACCIDENTS--
IMMUNITY FROM LIABILITY--COOPERATIVE AGREEMENTS--PRIVATE
PROPERTY.--

A. The secretary shall have final authority to administer the provisions of the Emergency Management Act.

B. As between state and local governments, the state government has the primary responsibility for the management of an accident, and the local government in whose jurisdiction the accident occurs shall assist the state in its management of the accident.

C. Nothing in the Emergency Management Act shall be construed as a waiver or alteration of the immunity from liability granted under the Tort Claims Act or as a waiver of any other immunity or privilege under law.

D. The state, through the secretary or his designee, may enter into cooperative agreements with county and municipal governments for the management of accidents based on the severity of the accident and the resources of the local government. The plan shall set forth the criteria for determining when an accident may be managed by the local government in whose jurisdiction the accident occurred.

E. The secretary shall support emergency response capabilities by assisting local and state responders in the acquisition of equipment, training and hazardous materials information.

F. The state, through the secretary or his designee, may enter into cooperative agreements with the federal government, Indian tribes and pueblos and bordering states for assistance in the management of accidents.

G. Whenever an accident appears imminent or has occurred employees or authorized persons of responsible state agencies as defined in Section 74-4B-5 NMSA 1978 are authorized to enter upon any premises for the purpose of determining whether it is necessary for emergency management procedures to be implemented. The state on-scene coordinator or a responsible state agency may take full control and custody of the premises for the purpose of managing the accident."

Section 10

Section 10

REPEAL.--Section 7-15A-11 NMSA 1978 (being Laws 1988, Chapter 14, Section 2, as amended) is repealed.

Section 11

Section 11

EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1996.

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HOUSE BILL 486

SIGNED MARCH 4, 1996

Chapter 38

RELATING TO WAGE CLAIMS; AUTHORIZING THE DIRECTOR OF THE LABOR AND INDUSTRIAL DIVISION OF THE LABOR DEPARTMENT TO APPEAR WITHOUT COUNSEL IN MAGISTRATE AND METROPOLITAN COURTS.

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

Section 1

Section 1

Section 50-4-12 NMSA 1978 (being Laws 1937, Chapter 109, Section 13, as amended) is amended to read:

"50-4-12. WAGE CLAIM ACTIONS--COSTS--JURISDICTION-- REPRESENTATION BY DISTRICT ATTORNEY--APPEALS.--

A. In all actions brought by the director of the labor and industrial division of the labor department as assignee under the provisions of Section 50-4-11 NMSA 1978, the director shall be entitled to free process and shall not be obligated or required to give any bond or other security for costs.

B. Any sheriff, constable or other officer requested by the director to serve any summons, writ, complaint or order shall do so without requiring the director to pay any fees or furnish any security or bond.

C. Where all claims joined together do not exceed in the aggregate the jurisdictional limit of the magistrate or metropolitan court, the director may institute an action against the employer in any magistrate or metropolitan court having jurisdiction without referring the claim to the district attorney. In the event that during the course of the proceedings representation by an attorney at law becomes necessary or, in the directors judgment, advisable, the director shall so notify the district attorney, and it shall then be the duty of the district attorney or the district attorneys assistant to appear for the director in the cause.

D. In the event the cause is appealed by the director, no bond or other security shall be required or fees charged the director for court costs or sheriff's fees in serving process."

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HOUSE BILL 490, AS AMENDED

SIGNED MARCH 4, 1996

Chapter 39

RELATING TO PROPERTY TAXATION; AUTHORIZING THE COUNTY ASSESSOR TO SEND CERTAIN PROPERTY VALUATION NOTICES TO TAXPAYERS WITH THE PRECEDING YEAR'S PROPERTY TAX BILLS.

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

Section 1

Section 1

Section 7-38-20 NMSA 1978 (being Laws 1973, Chapter 258, Section 60, as amended) is amended to read:

"7-38-20. COUNTY ASSESSOR AND DEPARTMENT TO MAIL NOTICES OF VALUATION.--

A. By April 1 of each year, the county assessor shall mail a notice to each property owner informing him of the net taxable value of his property that has been valued for property taxation purposes by the assessor.

B. By May 1 of each year, the department shall mail a notice to each property owner informing him of the net taxable value of his property that has been valued for property taxation purposes by the department.

C. Failure to receive the notice required by this section does not invalidate the value set on the property, any property tax based on that value or any subsequent procedure or proceeding instituted for the collection of the tax.

D. The notice required by this section shall state:

- (1) the property owner's name and address;
- (2) the description or identification of the property valued;
- (3) the classification of the property valued;
- (4) the value set on the property for property taxation purposes;
- (5) the tax ratio;
- (6) the taxable value of the property;
- (7) the amount of any exemptions allowed and a statement of the net taxable value of the property after deducting the exemptions;
- (8) the allocations of net taxable values to the governmental units; and
- (9) briefly, the procedures for protesting the value determined for property taxation purposes, classification, allocation of values to governmental units or denial of a claim for an exemption.

E. The county assessor may mail the valuation notice required pursuant to Subsection A of this section to taxpayers with the preceding tax year's property tax bills if the net taxable value of the property has not changed since the preceding taxable year. In this early mailing, the county assessor shall provide clear notice to the taxpayer that the

valuation notice is for the succeeding tax year and that the deadlines for protest of the value or classification of the property apply to this mailing date."

Section 2

Section 2

APPLICABILITY.--The provisions of this act apply to notices of valuation for the 1997 and subsequent property tax years.

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HOUSE BILL 515

SIGNED MARCH 4, 1996

Chapter 40

RELATING TO INSURANCE; INCREASING DISTRIBUTIONS TO MUNICIPAL AND COUNTY FIRE DEPARTMENTS FROM THE FIRE PROTECTION FUND; MAKING AN APPROPRIATION; DECLARING AN EMERGENCY.

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

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 maintaining a single fire station and substations, if any, which meet the requirements of the marshal and the requirements of this section, and in accordance with the class insurance rating it maintains, amounts not to exceed the following:

class	main station	substation	
number 1		\$54,435	\$20,172
number 2		50,427	18,827

number 3	46,393	17,481
number 4	42,358	16,136
number 5	40,340	14,792
number 6	38,324	13,447
number 7	36,307	12,776
number 8	34,291	12,103
number 9	25,550	10,091
number 10	22,860	none."

Section 2

Section 2

Section 59A-53-5 NMSA 1978 (being Laws 1989, Chapter 312, Section 5) 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 maintaining a single fire station and substations, if any, which meet the requirements of the marshal and the requirements of this section, and in accordance with the class insurance rating it maintains, amounts not to exceed the following:

class	main station	substation	
number 1		\$54,435	\$20,172
number 2		50,427	18,827
number 3		46,393	17,481
number 4		42,358	16,136
number 5		40,340	14,792
number 6		38,324	13,447
number 7		36,307	12,776
number 8		34,291	12,103
number 9		25,550	10,091
number 10		22,860	none,

upon establishing, to the satisfaction of the marshal, the following:

(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.

B. 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."

Section 3

Section 3

EFFECTIVE DATE.--The effective date of the provisions of this act is April 30, 1996.

Section 4

Section 4

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

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HOUSE BILL 638, AS AMENDED

WITH EMERGENCY CLAUSE

SIGNED MARCH 4, 1996

Chapter 41

RELATING TO COURT FEES; INCREASING CERTAIN COURT FEES FOR DEPOSIT IN THE COURT AUTOMATION FUND; AUTHORIZING THE NEW MEXICO FINANCE AUTHORITY TO ISSUE BONDS FOR COURT AUTOMATION SYSTEMS; MAKING AN APPROPRIATION; AMENDING AND ENACTING CERTAIN SECTIONS OF THE NMSA 1978.

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

Section 1

Section 1

Section 34-2-5 NMSA 1978 (being Laws 1933, Chapter 81, Section 1, as amended) is amended to read:

"34-2-5. FEES--COLLECTION BY SUPREME COURT CLERK.-- The clerk of the supreme court shall collect the following fees:

A. in all cases docketed in the court, except those in which statutory exemption exists and those in which the court on showing of poverty may, by order, waive the fee, one hundred twenty-five dollars (\$125), twenty-five dollars (\$25.00) of which shall be deposited in the court automation fund; provided that in cases in which a skeleton transcript may be filed for the purpose of a motion to docket and affirm, the fee shall be twenty dollars (\$20.00), ten dollars (\$10.00) of which shall be deposited in the court automation fund;

B. for one copy of files or a record, ten cents (\$.10) per folio and for additional copies ordered at the same time five cents (\$.05) per folio;

C. for comparing copies of files or records tendered to him, five cents (\$.05) per folio; and

D. for each certificate, one dollar (\$1.00)."

Section 2

Section 2

Section 34-5-6 NMSA 1978 (being Laws 1966, Chapter 28, Section 6, as amended) is amended to read:

"34-5-6. COURT OF APPEALS--FEES AND COSTS.--

A. The clerk of the court of appeals shall collect the following fees:

docket fee, twenty-five dollars (\$25.00) of which shall be deposited in the court automation fund,	\$125.00
docket fee for cases in which a skeleton transcript is filed for purpose of a motion to docket and affirm, ten dollars (\$10.00) of which shall be deposited in the court automation fund,	\$20.00
single copy of records, per typewritten folio	.10

each additional copy of records ordered at same time,	
per typewritten folio	.05
copies of records reproduced by photographic process,	
per page	.10
comparing copies of records tendered to him, per	
folio	.05
each certificate	1.00.

B. No fees or costs shall be required in proceedings in forma pauperis, from state officers acting in their official capacity or in any other case where a statutory exemption exists.

C. Except as otherwise specifically provided by law, the clerk of the court of appeals shall pay all fees and costs to the state treasurer for credit to the state general fund."

Section 3

Section 3

Section 34-6-40 NMSA 1978 (being Laws 1968, Chapter 69, Section 42, as amended) is amended to read:

"34-6-40. FINANCE--FEES.--

A. District court clerks shall collect in civil matters docketing any cause, whether original or reopened or by appeal or transfer from any inferior court, a fee of eighty-two dollars (\$82.00), ten dollars (\$10.00) of which shall be deposited in the court automation fund.

B. No fees or costs shall be taxed against the state, its political subdivisions or the nonprofit corporations authorized to be formed under the Educational Assistance Act.

C. Except as otherwise specifically provided by law, docket fees shall be paid into the general fund."

Section 4

Section 4

Section 34-9-10 NMSA 1978 (being Laws 1987, Chapter 32, Section 2, as amended) is amended to read:

"34-9-10. COURT AUTOMATION FUND CREATED-- ADMINISTRATION-- DISTRIBUTION.--

A. There is created in the state treasury a "court automation fund" to be administered by the administrative office of the courts.

B. All balances in the court automation fund are appropriated and may be expended for service contracts related to court automation systems or for the purchase, lease-purchase, financing, refinancing and maintenance of court automation systems in the judiciary. The New Mexico finance authority may pledge irrevocably all distributions to the authority from the court automation fund for the payment of the principal, interest and any other expenses or obligations related to the bonds issued by the authority for financing court automation systems. Any balance remaining, after all principal, interest and any other expenses or obligations related to the bonds in each fiscal year are fully paid, may be appropriated by the legislature to the administrative office of the courts.

C. Payments from the court automation fund shall be made upon vouchers issued and signed by the director of the administrative office of the courts upon warrants drawn by the secretary of finance and administration. Any purchase or lease-purchase agreement entered into pursuant to this section shall be entered into in accordance with the Procurement Code."

Section 5

Section 5

Section 35-6-1 NMSA 1978 (being Laws 1968, Chapter 62, Section 92, as amended) is amended to read:

"35-6-1. MAGISTRATE COSTS--SCHEDULE--DEFINITION OF

"CONVICTED".--

A. Magistrate judges, including metropolitan court judges, shall collect the following costs:

Docket fee, criminal actions under Section 29-5-1

NMSA 1978	\$ 1.00
Docket fee, to be collected prior to docketing any other criminal action, except as provided in Sub-section B of Section 35-6-3 NMSA 1978	20.00
Docket fee, ten dollars (\$10.00) of which shall be deposited in the court automation fund, to be collected prior to docketing any civil action, except as provided in Subsection A of Section 35-6-3 NMSA 1978	47.00
Jury fee, to be collected from the party demanding trial by jury in any civil action at the time the demand is filed or made	25.00
Copying fee, for making and certifying copies of any records in the court, for each page copied by photographic process	.50
Copying fee, for computer-generated or electronically transferred copies, per page	1.00.

Proceeds from this copying fee shall be transferred to the administrative office of the courts for deposit in the court automation fund. Except as otherwise specifically provided by law, docket fees shall be paid into the general fund.

B. Except as otherwise provided by law, no other costs or fees shall be charged or collected in the magistrate or metropolitan court.

C. The magistrate or metropolitan court may grant free process to any party in any civil proceeding or special statutory proceeding upon a proper showing of indigency. The magistrate or metropolitan court may deny free process if it finds that the complaint on its face does not state a cause of action.

D. As used in this subsection, "convicted" means the defendant has been found guilty of a criminal charge by the magistrate or metropolitan judge, either after trial, a plea of guilty or a plea of nolo contendere. Magistrate judges, including metropolitan court judges, shall collect the following costs:

(1) corrections fee, to be collected upon conviction from persons convicted of violating any provision of the Motor Vehicle Code involving the operation of a motor vehicle, convicted of a crime constituting a misdemeanor or a petty misdemeanor or convicted of violating any ordinance that may be enforced by the imposition of a term of imprisonment\$10.00;

(2) court automation fee, to be collected upon conviction from persons convicted of violating any provision of the Motor Vehicle Code involving the operation of a motor vehicle, convicted of a crime constituting a misdemeanor or a petty misdemeanor or convicted of violating any ordinance that may be enforced by the imposition of a term of imprisonment 10.00;

(3) traffic safety fee, to be collected upon conviction from persons convicted of violating any provision of the Motor Vehicle Code involving the operation of a motor vehicle 3.00;
and

(4) judicial education fee, to be collected upon conviction from persons convicted of operating a motor vehicle in violation of the Motor Vehicle Code, convicted of a crime constituting a misdemeanor or a petty misdemeanor or convicted of violating any ordinance punishable by a term of imprisonment 1.00.

E. Metropolitan court judges shall collect as costs a mediation fee not to exceed five dollars (\$5.00) for the docketing of small claims and criminal actions specified by metropolitan court rule. Proceeds of the mediation fee shall be deposited into the metropolitan court mediation fund."

Section 6

Section 6

Section 35-13-2 NMSA 1978 (being Laws 1975, Chapter 242, Section 10, as amended) is amended to read:

"35-13-2. APPEALS--DISTRICT COURT PROCEEDINGS-- DOCKET FEES-- JUDGMENT.--

A. Appeals from the magistrate courts shall be tried de novo in the district court.

B. The district court docket fee in any criminal appeal is thirty-five dollars (\$35.00), ten dollars (\$10.00) of which shall be deposited in the court automation fund.

C. If the judgment of the magistrate court in a criminal action is affirmed or rendered against the appellant on appeal or if the appellant fails to appear at the time fixed for hearing in the district court, the district court shall enter judgment imposing the same, a greater or a lesser penalty as that imposed in the magistrate court in the action."

Section 7

Section 7

Section 35-15-7 NMSA 1978 (being Laws 1969, Chapter 35, Section 2) is amended to read:

"35-15-7. APPEALS--NOTICE OF APPEALS.--

A. An appeal from the municipal court is taken by filing with the clerk of the district court a notice of appeal. When the defendant takes an appeal, the notice of appeal shall be accompanied by a bond to the municipality in the sum, and with conditions, fixed by the municipal judge as sufficient to secure the appearance of the defendant, and the judgment and sentence of the municipal court.

B. The clerk of the district court shall docket the appeal on the civil docket upon payment of a docket fee of twenty dollars (\$20.00), ten dollars (\$10.00) of which shall be deposited in the court automation fund, and shall transmit a copy of the notice of appeal to the municipal court from which the action is appealed and to the municipal attorney.

C. Within ten days after receipt of the notice of appeal from the clerk of the district court under Subsection B of this section, the municipal judge shall file with the clerk of the district court a transcript of all municipal court docket entries in the action, together with all pleadings and other documents relating to the action. After the transcript has been filed, the action may be called for trial in the district court as in other civil actions. The appeal shall be governed by the Rules of Civil Procedure for the District Courts, except that the municipality has the burden of proving violation of an ordinance beyond a reasonable doubt.

D. The docketing of an appeal operates as a supersedeas and stay of execution upon the judgment of the municipal court in the action until final disposition of the appeal."

Section 8

Section 8

Section 66-8-116.3 NMSA 1978 (being Laws 1989, Chapter 320, Section 5, as amended) is amended to read:

"66-8-116.3. PENALTY ASSESSMENT MISDEMEANORS-- ADDITIONAL FEES.--In addition to the penalty assessment established for each penalty assessment misdemeanor, there shall be assessed:

- A. ten dollars (\$10.00) to help defray the costs of local government corrections;
- B. a court automation fee of ten dollars (\$10.00);
- C. a traffic safety fee of three dollars (\$3.00), which shall be credited to the traffic safety education and enforcement fund; and
- D. a judicial education fee of one dollar (\$1.00), which shall be credited to the judicial education fund."

Section 9

Section 9

NEW MEXICO FINANCE AUTHORITY REVENUE BONDS--PURPOSE--
APPROPRIATION.--

- A. The New Mexico finance authority may issue and sell revenue bonds in compliance with the New Mexico Finance Authority Act in installments or at one time in an amount not exceeding eight million five hundred thousand dollars (\$8,500,000) for the purpose of financing court automation systems, including acquisition, development and installation of computer hardware and software, for the administrative office of the courts.
- B. The New Mexico finance authority may issue and sell revenue bonds authorized by this section when the director of the administrative office of the courts certifies the need for issuance of the bonds. The net proceeds from the sale of the bonds are appropriated to the administrative office of the courts for the purposes described in Subsection A of this section.
- C. Except for money appropriated by the legislature from the court automation fund to the administrative office of the courts in fiscal year 1997, the money in the court automation fund shall be distributed to the New Mexico finance authority to be pledged irrevocably for the payment of the principal, interest and other expenses or obligations related to the bonds.
- D. The money in the court automation fund shall be distributed monthly to the New Mexico finance authority and deposited in a special bond fund or account of the authority. At the end of each fiscal year, any money remaining in the special bond fund or account from distributions made to the authority during that fiscal year, after all principal, interest and any other expenses or obligations related to the bonds in that fiscal year are fully paid, may be appropriated by the legislature to the administrative

office of the courts for service contracts related to court automation systems or for the purchase, lease-purchase, financing, refinancing and maintenance of court automation systems in the judiciary. Upon payment of all principal, interest and any other expenses or obligations related to the bonds, the authority shall certify to the administrative office of the courts that all obligations for the bonds issued pursuant to this section have been fully discharged and direct the administrative office of the courts to cease distributing money from the court automation fund to the authority.

E. Any law authorizing the collection of fees for the court automation fund or distribution of the money in the court automation fund to the New Mexico finance authority shall not be amended, repealed or otherwise directly or indirectly modified so as to impair any outstanding revenue bonds that may be secured by a pledge of the distributions of the court automation fund, unless the revenue bonds have been discharged in full or provisions have been made for a full discharge.

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HOUSE BILL 665

SIGNED MARCH 4, 1996

Chapter 42

RELATING TO DISTRICT ELECTIONS; ALLOWING THE CREATION OF AN ABSENT VOTER PRECINCT BOARD; ESTABLISHING ABSENTEE VOTER PROCEDURES; ALLOWING FOR AN ELECTION DIRECTOR TO PROVIDE ELECTION SERVICES; STREAMLINING THE DISTRICT ELECTION PROCESS; ESTABLISHING PENALTIES; AMENDING, REPEALING AND ENACTING SECTIONS OF CHAPTER 73, ARTICLE 14 NMSA 1978; DECLARING AN EMERGENCY.

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

Section 1

Section 1

A new section of Chapter 73, Article 14 NMSA 1978 is enacted to read:

"PENALTY--FALSE VOTING.--

A. False voting consists of:

(1) voting or offering to vote with the knowledge of not being a qualified elector;

(2) voting or offering to vote in the name of any other person;

(3) voting or offering to vote more than once in the same election;

(4) inducing, abetting or procuring or attempting to induce, abet or procure a person known to not be a qualified elector to vote; or

(5) inducing, abetting or procuring or attempting to induce, abet or procure a person who, having voted once in any election, votes or attempts to vote again at the same election.

B. Whoever commits false voting is guilty of a fourth degree felony."

Section 2

Section 2

A new section of Chapter 73, Article 14 NMSA 1978 is enacted to read:

"UNLAWFUL POSSESSION OF ABSENTEE BALLOT MATERIAL-- PENALTY.--

A. Unlawful possession of absentee ballot material consists of the unauthorized possession at any time of absentee ballot material or obtaining absentee ballot material in an unlawful manner. As used in this section, "absentee ballot material" means an absentee ballot, absentee ballot envelope or an absentee ballot return.

B. Whoever commits unlawful possession of absentee ballot material is guilty of a fourth degree felony."

Section 3

Section 3

A new section of Chapter 73, Article 14 NMSA 1978 is enacted to read:

"UNLAWFUL OPENING OF BALLOT BOX--PENALTY.--

A. Unlawful opening of a ballot box consists of opening any ballot box or inspecting or removing the contents of a ballot box without lawful authority or conspiring with others to have the same done.

B. Whoever commits unlawful opening of a ballot box is guilty of a fourth degree felony."

Section 4

Section 4

A new section of Chapter 73, Article 14 NMSA 1978 is enacted to read:

"FALSIFYING AN ELECTION DOCUMENT--PENALTY.--

A. Falsifying an election document consists of knowingly circulating, presenting or offering to present for the signature of another person a nominating petition that does not clearly show on the face of the petition the name of the candidate, the date of the election, the address at which the candidate resides, the candidate's county of residence and the position on the conservancy district board for which the candidate seeks nomination.

B. Whoever commits falsifying an election document is guilty of a misdemeanor and upon conviction shall be imprisoned in the county jail for a definite term of less than one year or shall pay a fine of not more than one thousand dollars (\$1,000), or both the imprisonment and fine in the discretion of the judge."

Section 5

Section 5

Section 73-14-19 NMSA 1978 (being Laws 1975, Chapter 262, Section 2) is amended to read:

"73-14-19. BOARDS OF DIRECTORS--MEMBERSHIP-- QUALIFICATIONS.--The boards of directors created by Sections 73-14-18 through 73-14-32 NMSA 1978 shall consist of three directors from and representing that portion of the most populous county within the conservancy district, one director each from and representing those portions of each of the remaining counties within the conservancy district and one director from and representing the district at large; provided that each director:

A. is a qualified elector of the conservancy district; and

B. resides within the conservancy district and the county from which he is elected or, if representing the district at large, resides within one of the four counties of the conservancy district."

Section 6

Section 6

Section 73-14-20 NMSA 1978 (being Laws 1975, Chapter 262, Section 3) is amended to read:

"73-14-20. DEFINITIONS.--As used in Sections 73-14-18 through 73-14-32 NMSA 1978:

A. "benefited area" means that area described by a property appraisal that receives a benefit as a result of the creation of a district for any of the purposes specified in Section 73-14-4 NMSA 1978;

B. "election director" means the person whom the board of directors may request to provide election services by a contract approved by the secretary of state;

C. "election officer" means a person appointed by the board of directors to conduct the election in the absence of an election director and who performs all election services required by statute;

D. "list compiler" means a contractor approved by the board of directors to compile and produce a qualified elector list for a conservancy district;

E. "qualified elector" means an individual who owns real property within the benefited area of the conservancy district and who has provided proof of an ownership interest to one of the sources specified in Subsection B of Section 73-14-20.1 NMSA 1978 within the required time period, or who resides on and owns legal or equitable title in tribal lands and who is over the age of majority;

F. "qualified elector's list" means the list compiled before each election that contains the individual names of all qualified electors; and

G. "residence" means a dwelling that lies partially or completely within the benefited area of a conservancy district."

Section 7

Section 7

Section 73-14-20.1 NMSA 1978 (being Laws 1990, Chapter 48, Section 1, as amended by Laws 1991, Chapter 136, Section 1 and also by Laws 1991, Chapter 248, Section 1) is amended to read:

"73-14-20.1. QUALIFIED ELECTOR LIST.--

A. The board of directors of the conservancy district may contract for a list compiler before each election to compile and produce a qualified elector's list for the district. The list compiler shall deliver the completed list to the election director no later than twenty days prior to a district election. An individual who purchases property twenty-eight days prior to an election and whose name does not appear on the qualified elector's list shall not vote in that election. The individual may become certified to vote in a future election by filing his deed of title with the appropriate county clerk at least twenty-eight days before the next conservancy district election.

B. Names of qualified electors shall be obtained from the records of the county clerk of the appropriate county, the appropriate county assessor of the appropriate county, records of the conservancy district or from the census bureau and enrollment records provided by the pueblos. The county assessor of the appropriate county, the county clerk of the appropriate county and the tribal representatives of the appropriate pueblos shall deliver to the election director all records regarding qualified electors of the benefited area of the conservancy district no later than the last day of each August before a district election.

C. Updating the qualified elector's list shall consist of adding, for any new qualified elector who has purchased property in the district, the name, address and description of all property owned by the qualified elector in the benefited area of the conservancy district and removing the name of any elector who is deceased or is no longer a qualified elector because he no longer owns property within the benefited district.

D. Proof of ownership of land within the benefited area of the conservancy district requires one of the following:

(1) a recorded deed or real estate contract indicating current ownership of land within the benefited area of the district;

(2) an individual's name on county clerk records indicating a description of property the individual owns within the benefited area of the district;

(3) an individual's name on a list compiled by the governing body of a pueblo within the benefited area of the conservancy district indicating that the individual named is residing on and has legal or equitable title in the pueblo; or

(4) a current property tax bill indicating ownership of land within the benefited area of the district.

E. The election officer or the election director of the conservancy district shall distribute to each polling place a current qualified elector's list for the appropriate county. The election officer or the election director shall distribute the qualified elector's list to each polling place within a pueblo located within the benefited area of the conservancy district. A qualified elector may vote at any one polling place in the pueblo or county where he owns land. An individual who seeks to cast his vote but finds his name is not on the qualified electors list shall not be allowed to vote in that election."

Section 8

Section 8

Section 73-14-24 NMSA 1978 (being Laws 1975, Chapter 262, Section 7, as amended by Laws 1991, Chapter 136, Section 2 and also by Laws 1991, Chapter 248, Section 2) is amended to read:

"73-14-24. TIME AND PROCEDURE FOR ELECTION.--

A. The members of the boards of directors created by Sections 73-14-18 through 73-14-32 NMSA 1978 shall be elected at an election held on the first Tuesday after the first Monday in November in 1996 and in each even-numbered year thereafter.

B. The elections for the members of the board of directors of the conservancy district shall be conducted, counted and canvassed as provided in Sections 73-14-18 through 73-14-32 and 73-14-84 through 73-14-86 NMSA 1978. The polls shall be opened and closed at the same time as provided for the general election under the Election Code."

Section 9

Section 9

Section 73-14-25 NMSA 1978 (being Laws 1975, Chapter 262, Section 8) is amended to read:

"73-14-25. DECLARATION OF CANDIDACY--SIGNATURES OF ELECTORS.--

A. Any person who desires to become a candidate for election as a member of the conservancy district board shall file his written declaration of candidacy with the election director or with the election officer at least thirty days before the election. The election officer or the election director shall certify the candidates to the board of directors.

B. The declaration of candidacy shall contain:

- (1) a statement that the candidate is a qualified elector of the district and meets the qualifications of a director as required by law;
- (2) the candidate's name, address, date and county of residence;
- (3) the numerical designation of the position on the board of directors for which he desires to be a candidate;
- (4) if a candidate for a position representing a county in the conservancy district, a petition signed by at least seventy-five qualified electors of the district who reside in that county;
- (5) if a candidate for the position at large in the conservancy district, a petition signed by at least one hundred twenty-five qualified electors; and
- (6) a statement that the candidate resides within the conservancy district and in the county for which he desires to be a candidate on the board of directors."

Section 10

Section 10

Section 73-14-27 NMSA 1978 (being Laws 1975, Chapter 262, Section 10, as amended by Laws 1991, Chapter 136, Section 3 and also by Laws 1991, Chapter 248, Section 3) is amended to read:

"73-14-27. ELECTION--LOCATION OF POLLING PLACES--NOTICE OF ELECTION--CREATION OF ABSENT VOTER PRECINCT.--

A. For every conservancy district election, the board of directors shall provide for a polling place at each physical location within the boundaries of the conservancy district at which polling places for the general election are located. In addition, the board of directors shall provide a polling place at the main office of the conservancy district and may provide such other locations as it deems necessary. The board of directors may also create an absent voter precinct.

B. Notice of election shall be published three times in a newspaper of general circulation within each county of the district. Each notice shall state the time, place and purpose of the election and shall be published twenty, ten and five days before the election."

Section 11

Section 11

Section 73-14-28 NMSA 1978 (being Laws 1975, Chapter 262, Section 11) is amended to read:

"73-14-28. ELECTION JUDGES.--The election officer or the election director shall select three election judges for each polling place established within the conservancy district. The election officer or the election director shall also appoint an absent voter precinct board."

Section 12

Section 12

A new Section 73-14-28.1 NMSA 1978 is enacted to read:

"73-14-28.1. ELECTION.--The board of directors of the conservancy district shall conduct the election pursuant to Chapter 73, Article 14 NMSA 1978 and other applicable election laws or shall select an election director as defined in Section 73-14-20 NMSA 1978 to provide election services. The election director shall operate pursuant to a contract approved by the secretary of state. The election may be conducted by emergency paper ballot, electronic voting machine or any other state certified tabulating voting machine."

Section 13

Section 13

Section 73-14-29 NMSA 1978 (being Laws 1975, Chapter 262, Section 12) is amended to read:

"73-14-29. FORM OF BALLOT.--The election officer or the election director shall oversee the preparation and printing of the ballots for a conservancy district election. Ballots shall be prepared and printed at the expense of the conservancy district. The election officer or the election director shall oversee the preparation of a separate ballot for each county within the conservancy district or the preparation of one ballot for use within the entire conservancy district. The board of directors shall approve the form of the ballot. The ballot shall contain the numbered position or positions, as the case may be, to which directors are to be elected at the election, with the names of all candidates for each position listed under that designation."

Section 14

Section 14

Section 73-14-31 NMSA 1978 (being Laws 1975, Chapter 262, Section 14) is amended to read:

"73-14-31. ABSENTEE VOTING BY BALLOT PERMITTED-- PROCEDURE.--

A. In any election of officers of the conservancy district, a qualified elector shall be entitled to vote by absentee ballot. An absentee ballot shall be furnished by the election director in a form prescribed by the board of directors. The election director shall also furnish to each qualified elector requesting an absentee ballot an official inner envelope for use in sealing the completed absentee ballot and an official outer envelope for use in returning the inner envelope to the election director. No absentee ballot shall be delivered or mailed to any person other than the applicant for the ballot.

B. A qualified elector voting by absentee ballot shall secretly mark his ballot, place it in the official inner envelope and securely seal the envelope. The qualified elector shall place the inner envelope inside the outer envelope and securely seal the envelope. The qualified elector shall then sign his name and address on the outer envelope and deliver or mail it to the election director or the election officer.

C. Absentee ballots shall be distributed by the election director or the election officer during the regular hours and days of business from the twentieth day preceding the election up until 5:00 p.m. on the Saturday immediately prior to the date of the election.

D. No absentee ballot shall be counted unless it is received by the secretary of the board of directors prior to the closing of the polls.

E. An absentee ballot received after the closing of the polls on the day of the election shall not be collected by the absent voter precinct board but shall be preserved by the conservancy district until the time for election contests has expired. In the absence of a court order after expiration of the time for election contests, the conservancy district shall destroy all late official mailing envelopes without opening them or permitting the contents to be examined, cast, counted or canvassed. Before their destruction, the election director shall count the number of late ballots from voters of the conservancy district and report the number to the election officer and the secretary of state.

F. Prior to the delivery of the absentee ballots to the absent voter precinct board, the absentee ballots shall be held unopened at the absent voter precinct in a locked ballot box. At the close of the polls on election day, the absent voter precinct board shall obtain the absentee ballot box from the election director and tally the absentee ballots. The presiding judge shall have authority to unlock the absentee ballot box.

G. Absentee ballots shall be counted and tallied as are other ballots for the conservancy district election."

Section 15

Section 15

A new Section 73-14-31.1 NMSA 1978 is enacted to read:

"73-14-31.1. ABSENTEE BALLOT APPLICATION.--

A. Application by a qualified elector for an absentee ballot shall be made on the official form prescribed by the board of directors and printed and furnished by the election director. The form shall identify the applicant and contain information to establish his qualification as a qualified elector for issuance of an absentee ballot. Each application for an absentee ballot shall be subscribed and sworn to by the applicant.

B. The election director shall mark each completed absentee ballot application with the date and time of receipt and enter the required information in the absentee ballot qualified elector list. The election director shall then determine if the applicant is a qualified elector.

C. If the applicant is not listed in the qualified elector list, an absentee ballot shall not be issued and the election director shall mark the application "rejected" and file the application in a separate file from those accepted.

D. The election director shall notify in writing each applicant of the fact of acceptance or rejection of his application and, if rejected, shall state the reason for rejection.

E. If the election director determines that the applicant is a qualified elector, the election director shall mark the application "accepted" and deliver or mail to the applicant an

absentee ballot and the required envelopes for use in returning the ballot to the absent voter precinct."

Section 16

Section 16

A new Section 73-14-31.2 NMSA 1978 is enacted to read:

"73-14-31.2. HANDLING OF ABSENTEE BALLOTS BY ABSENT VOTER PRECINCT BOARD.--

A. The absent voter precinct board shall select one member to serve as presiding judge. The election director shall appoint a special deputy to serve at the absent voter precinct.

B. Upon receipt of the absentee ballots by the absent voter precinct board, the special deputy shall remain in the polling place of the absent voter precinct until he has observed the opening of the official mailing envelope, the deposit of the ballot in the locked ballot box marked for the conservancy district election and the listing of the names on the official mailing envelope in the signature rosters. Upon delivery of the absentee ballots, the special deputy shall obtain a receipt executed by the presiding judge and each election judge appointed to the absent voter precinct board. The special deputy shall return the receipt to the election director for filing. The receipts shall specify the number of envelopes received by the special deputy for each absent voter precinct of the conservancy district and the number of envelopes received by the absent voter precinct board from the special deputy.

C. Before opening any official mailing envelope, the presiding judge and the election judges shall determine if the required information has been completed on the reverse side of the official mailing envelope.

D. If the voter's signature is missing, the presiding judge shall write "rejected" on the front of the official mailing envelope. The election judges shall enter the voter's name in the signature rosters and shall write the notation "rejected--missing signature" in the notations column of the signature rosters. The presiding judge shall place the official mailing envelope unopened in an envelope provided for rejected ballots for the conservancy district, seal the envelope and write the voter's name on the front of the envelope and deposit it in the locked ballot box.

E. At 5:00 p.m. on the Monday immediately preceding the date of election, the election officer or election director shall record the numbers of the unused absentee ballots for the conservancy district and shall publicly destroy in the conservancy office all of the unused ballots. The election officer or election director shall execute a certificate of destruction, which shall include the numbers on the ballots destroyed. A copy of the certificate of destruction shall be sent to the board of directors of the conservancy district and the secretary of state."

Section 17

Section 17

A new section of Chapter 73, Article 14 NMSA 1978 is enacted to read:

ELECTIONS FOR CERTAIN DISTRICTS--COUNTING BALLOTS-- CERTIFICATION OF RESULTS TO THE BOARD.--For conservancy districts having more than one hundred thousand acres within the district, the presiding judge of each polling place within that district shall, not more than six hours after the polls have closed, deliver to the election director a certified copy of the certificate of returns. Not more than twenty-four hours after the polls have closed, the election director shall deliver a certified copy of the certificate of returns to the board of directors."

Section 18

Section 18

REPEAL.--Section 73-14-32 NMSA 1978 (being Laws 1975, Chapter 262, Section 15) is repealed.

Section 19

Section 19

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

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HOUSE BILL 651, AS AMENDED

WITH EMERGENCY CLAUSE

SIGNED MARCH 4, 1996

Chapter 43

RELATING TO SERVICE OF PROCESS; INCREASING CERTAIN FEES FOR SERVICE OF PROCESS.

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

Section 1

Section 1

Section 4-41-16 NMSA 1978 (being Laws 1895, Chapter 35, Section 1, as amended) is amended to read:

"4-41-16. FEES--ATTENDANCE ON COURTS--SESSIONS OF COUNTY COMMISSIONERS--HEARING BEFORE JUDGES.--

A. The sheriffs of this state shall be allowed, except from the state or any state agency, the following fees and compensations:

(1) for serving every writ, citation, order, subpoena or summons, not more than thirty dollars (\$30.00);

(2) for every writ of *habeas corpus* or attachment for each defendant, six dollars (\$6.00);

(3) for taking and returning every bond required by law, five dollars (\$5.00);

(4) for levying every execution and return of same, six dollars (\$6.00);

(5) for making, executing and delivering every sheriff's deed, to be paid by the purchaser, six dollars (\$6.00);

(6) for every return of *non est inventus*, fifty cents (\$.50); and

(7) for making every return of any process, order, summons, citation or decree of any court, two dollars (\$2.00).

No sheriff shall collect more than one of the fees listed in this subsection, regardless of how many documents may be served upon one or more individuals, when those documents are served at the same time and at the same location.

B. In the service of any subpoena or summons for witnesses, the sheriff shall be allowed compensation of one dollar (\$1.00) for each of the witnesses so summoned by the sheriff, notwithstanding that the name of such witness may appear in but one copy of the subpoena or summons.

C. It is the duty of the sheriffs of the state to attend:

(1) the sessions of every district court, which attendance shall be paid in the manner now provided by law;

(2) all sessions of the probate court and sessions of the boards of county commissioners, which attendance shall be paid sheriffs out of the general county funds of the county in which the services were rendered; and

(3) at the trial or hearing before magistrates in felony cases, where the arrest is made by the sheriff, either with or without a warrant, which attendance shall be paid as provided in this section out of the general county funds; but such sheriffs shall not be allowed any compensation for attending at the trial of any misdemeanor case before any magistrate unless a sheriff made the arrest in such misdemeanor case."

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HOUSE BILL 688

SIGNED MARCH 4, 1996

Chapter 44

RELATING TO INFORMATION AND COMMUNICATION MANAGEMENT; CREATING AND PROVIDING FOR THE OFFICE ON INFORMATION AND COMMUNICATION MANAGEMENT, THE CHIEF INFORMATION OFFICER AND THE TECHNICAL ADVISORY COMMITTEE; SPECIFYING EXECUTIVE AGENCY DUTIES; ABOLISHING THE COMMISSION ON INFORMATION AND COMMUNICATION MANAGEMENT; TRANSFERRING RIGHTS AND RESPONSIBILITIES, PERSONNEL, BUDGETS, APPROPRIATIONS, PROPERTY AND RECORDS.

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

Section 1

Section 1

SHORT TITLE.--This act may be cited as the "Information and Communication Management Act".

Section 2

Section 2

PURPOSE OF ACT.--The purpose of the Information and Communication Management Act is to create a central resource for strategic information and communications systems planning for state government to:

A. assist executive agencies in establishing and maintaining efficient and cost-effective information management and communications systems, appropriate to the missions of the agencies that will enable the agencies to more effectively carry out their responsibilities to the public;

B. provide leadership in developing and revising the statewide information architecture through collaboration with state executive agencies; and

C. provide a centralized source for the administration of the information architecture and other statewide policies on information technology.

Section 3

Section 3

DEFINITIONS.--As used in the Information and Communication Management Act:

A. "executive agency" means a state agency, instrumentality, board or commission in the executive branch of state government, state educational institutions and local political subdivisions;

B. "information and communications systems" means computer, voice and data communications software and hardware, including imaging systems, terminals, radio and communications networks and facilities; and

C. "information architecture" means documents of statewide application that contain principles, policies, standards and guidelines for development of information and communications systems for state agencies.

Section 4

Section 4

OFFICE ON INFORMATION AND COMMUNICATION MANAGEMENT CREATED--
ADMINISTRATIVE ATTACHMENT--CHIEF INFORMATION OFFICER--
QUALIFICATIONS- -STAFF.--

A. The "office on information and communication management" is created. The office is administratively attached to the office of the governor.

B. The administrative head of the office on information and communication management is the "chief information officer", who shall have a minimum of five years' experience in management of a large information technology system and shall be appointed by the governor with the consent of the senate. The chief information officer shall serve at the pleasure of the governor.

C. The chief information officer shall have all the powers and duties of the office in the interim period between the time he is appointed by the governor and confirmation by the senate.

D. The chief information officer is authorized to hire information and communications management analysts and other staff as necessary pursuant to the Personnel Act.

Section 5

Section 5

CHIEF INFORMATION OFFICER--DUTIES.--The chief information officer shall:

A. provide leadership in and coordination of the continued development of the existing information architecture with the technical advisory committee, executive agencies and other public entities as necessary;

B. monitor national and international standards relating to information resources technologies, develop and publish policies, procedures and standards relating to information resources management by state executive agencies and ensure compliance with those policies, procedures and standards;

C. ensure that prudent risk management practices preserve the integrity and security of information and communications systems and ensure timely resumption of operations following a disaster;

D. facilitate, cooperate with and provide guidance to executive agencies in the preparation of annual information and communications systems management plans, which shall include information about planned information technology objectives and expenditures for the next fiscal year in the level of detail and format specified by the chief information officer;

E. work with the technical advisory committee and executive agencies to develop agency plans that:

(1) demonstrate that the agency has developed relevant, achievable measurable objectives consistent with the agency's mission and existing statewide information and communications policies and goals, including the information architecture, or that departures from such policies and goals are justified;

(2) show effective and efficient use of available resources, including staff, funds and existing capital and time;

(3) specifically identify communities of interest, within and outside the agency, with whom information and data should be shared to prevent duplication of effort; and

(4) provide for security of data and disaster recovery in a manner consistent with the agency's needs and statewide policies;

F. make recommendations to the department of finance and administration and the legislative finance committee for approval or disapproval of the collective executive agency recommendations and requests for expenditures for information or communications management systems if requested information appropriations in any fiscal year exceed five hundred thousand dollars (\$500,000). The amount requested is to be determined by calculation of amounts to be expended for equipment, software, maintenance costs, agreements for services and other related costs of such systems;

G. monitor periodically the performance of executive agencies in achieving the goals of their individual plans and in achieving compliance with the information architecture. A written report shall be sent to the head of the agency. The report shall:

(1) specify compliance with information architecture;

(2) specify compliance with approved plans;

(3) specify solutions for improved compliance; and

(4) be provided, along with agency recommendations, to the legislative finance committee;

H. develop a schedule for ongoing monitoring of major system development projects. A written report shall be sent to the head of the agency as specified in the schedule. The report shall:

(1) specify compliance with information architecture;

(2) specify compliance with audit guidelines;

(3) provide recommendations for improved compliance; and

(4) be provided, along with agency recommendations, to the legislative finance committee;

I. review all budget requests for appropriations for information and communications systems for all executive agencies for each fiscal year. The chief information officer shall designate the priority of each requested expenditure by assigning priorities based on the state strategic plan for information and communications systems management. The priority listing shall be provided to the department of finance and administration and the legislative finance committee. Each agency shall also receive a copy of the priority listing. The budget request for appropriations shall be prepared in cooperation with each executive agency;

J. appoint members of the technical advisory committee, call meetings of the committee and preside over the meetings, as provided in Section 7 of the Information and Communication Management Act; and

K. develop the state strategic plan for information and communications systems management on a continual basis. The plan shall be submitted annually to the department of finance and administration. Amendments to the plan shall be made in cooperation with executive agencies and the technical advisory committee. The plan shall take into account the existing agency plans and the information architecture and assess the resources available, costs and benefits of provisions in the plan, including assessment of alternative courses of action, the risks involved, a summary of the state's current and projected use of information technology, a description of major changes in state policy and a brief description of each executive agency plan.

Section 6

Section 6

CHIEF INFORMATION OFFICER--POWERS.--The chief information officer shall have the power to:

- A. employ staff pursuant to the Personnel Act;
- B. obtain information, documents and records from each of the executive agencies as needed to carry out his duties;
- C. develop with state agencies annual information and communications systems management plans;
- D. notify each executive agency, where necessary, of any noncompliance with statewide policies, including the information architecture or the agency's plan;
- E. enter into contracts and agreements relating to any powers or duties given the chief information officer under the Information and Communication Management Act;
- F. approve as a signatory professional service contracts for information and communication systems; and
- G. approve rate structures for the information systems division of the general services department.

Section 7

Section 7

TECHNICAL ADVISORY COMMITTEE--CREATION-- PURPOSE.--

- A. The "technical advisory committee" is created. The committee shall consist of senior technical representatives from the judiciary, the legislature, executive agencies, local political subdivisions, public school systems, higher education, the business community,

the national laboratories and the general public and shall be appointed by the chief information officer. Meetings shall be held on the call of the chief information officer.

B. The technical advisory committee shall represent users of the information and communications systems affected by the information architecture and shall provide advice to the chief information officer as to their needs.

Section 8

Section 8

EXECUTIVE AGENCY COOPERATION WITH CHIEF INFORMATION OFFICER.--

A. Each executive agency of the state shall furnish and make available, upon request by the chief information officer or the technical advisory committee, documents, materials or information, not made confidential by law, related to its information or communications systems.

B. Each executive agency shall present all requests for expenditures for information and communications systems for the subsequent fiscal year to the chief information officer by September 1 of the previous fiscal year. The executive agency shall assign a priority to each proposed expenditure.

C. Each executive agency shall maintain and update continually an information and communication systems management plan pursuant to Sections 5 and 6 of the Information and Communication Management Act. The plan shall be developed annually in cooperation with the chief information officer by May 1 of each year for the fiscal beginning July 1 to reflect amounts budgeted. All departures from the information architecture or other statewide policies shall be justified by the agency submitting the plan. A copy of the final plan for the agency shall be given by the chief information officer to the head of the agency, the department of finance and administration and the legislative finance committee. All expenditures for any information or communications management systems that exceed five hundred thousand dollars (\$500,000) in any fiscal year shall be specifically identified. No expenditure may be made until the plan is approved by the chief information officer.

D. Each executive agency shall appoint a person or group of persons with the necessary technical expertise for the purpose of providing a continuing liaison with the office on information and communication management.

Section 9

Section 9

SUCCESSOR TO THE COMMISSION ON INFORMATION MANAGEMENT.--On the effective date of the provisions of the Information and Communication Management Act,

the office of communication and information management shall succeed to all rights and responsibilities of the commission on information and communication management, including all contractual and property rights and obligations. On the effective date, all references in the law to the commission on information and communication management shall be deemed to be references to the office of communication and information management.

Section 10

Section 10

TEMPORARY PROVISION--TRANSFER OF PERSONNEL AND PROPERTY.--On the effective date of the provisions of the Information and Communication Management Act, all employees, budgets, appropriations, property, facilities, equipment, supplies and records of the commission on information and communication management are transferred to the office on information and communication management.

Section 11

Section 11

SUNSET--TERMINATION OF OFFICE ON TECHNOLOGY AND COMMUNICATION MANAGEMENT.--The office on information and communication management is terminated on July 1, 1998 pursuant to the Sunset Act. Effective July 1, 1998, the Information and Communication Management Act is repealed.

Section 12

Section 12

EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1996.

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HOUSE APPROPRIATIONS AND FINANCE

COMMITTEE SUBSTITUTE FOR

HOUSE BILL 698

SIGNED MARCH 4, 1996

Chapter 45

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE; RELATING TO RISK MANAGEMENT; INCLUDING REGIONAL HOUSING AUTHORITIES IN THE DEFINITION OF STATE OR STATE AGENCY; AMENDING A SECTION OF THE NMSA 1978; DECLARING AN EMERGENCY.

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

Section 1

Section 1

Section 15-7-1 NMSA 1978 (being Laws 1977, Chapter 385, Section 4, as amended) is amended to read:

"15-7-1. DEFINITIONS.--As used in Chapter 15, Article 7 NMSA 1978:

- A. "board" means the risk management advisory board;
- B. "director" means the director of the risk management division of the general services department;
- C. "local public body" means all political subdivisions of the state and their agencies, instrumentalities and institutions;
- D. "public employee" means any officer, employee or servant of a governmental entity, including elected or appointed officials, law enforcement officers and persons acting on behalf or in service of a governmental entity in any official capacity, whether with or without compensation, but the term does not include an independent contractor; and
- E. "state" or "state agency" means the state of New Mexico or any of its branches, agencies, departments, boards, instrumentalities or institutions, including regional housing authorities."

Section 2

Section 2

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

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HOUSE GOVERNMENT AND URBAN AFFAIRS

COMMITTEE SUBSTITUTE FOR

HOUSE BILL 760

WITH EMERGENCY CLAUSE

SIGNED MARCH 4, 1996

Chapter 46

RELATING TO PUBLIC BUILDINGS; PROVIDING FOR REPAIR AND RENOVATION OF PUBLIC BUILDINGS AND PURCHASES OF PHYSICAL PLANT EQUIPMENT FOR PUBLIC BUILDINGS; CREATING THE PUBLIC BUILDINGS REPAIR FUND; PROVIDING FOR THE ASSESSMENT OF BUILDING USE FEES AND DEPOSITS INTO THE FUND; ABOLISHING THE LONG-TERM LEASE GUARANTEE FUND; TRANSFERRING BALANCES; MAKING AN APPROPRIATION.

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

Section 1

Section 1

PUBLIC BUILDINGS REPAIR FUND--CREATED-- EXPENDITURES.--

A. The "public buildings repair fund" is created in the state treasury. The fund shall consist of appropriations, building use fees, gifts, grants, donations and bequests. Money in the fund shall not revert at the end of any fiscal year. The fund shall be administered by the property control division of the general services department.

B. Expenditures may be made from the public buildings repair fund only for necessary repair, renovation and purchase of physical plant equipment for public buildings owned by the state and under the control of the property control division.

C. The property control division shall establish priorities for the use of the public buildings repair fund and shall submit to the legislature in each regular session a list of recommended expenditures to be made from the fund in the following fiscal year. Except as provided in Subsection D of this section, the public buildings repair fund shall be expended pursuant to appropriations by the legislature.

D. Upon certification from the secretary of general services to the state board of finance that an emergency need for repairs or purchase of equipment exists in a public building to which the provisions of this section apply, the state board of finance may approve such emergency expenditures from the public buildings repair fund. Total expenditures pursuant to this subsection shall not exceed two hundred thousand dollars (\$200,000) a year. The state board of finance shall report emergency expenditures to the legislative finance committee.

Section 2

Section 2

BUILDING USE FEES--TRANSFERS TO FUND.--The secretary of general services shall establish a schedule of building use fees for state agencies occupying space in state-owned buildings under the control of the property control division of the general services department. The building use fees shall equal the estimated cost for the next fiscal year of planned and emergency repairs, renovations and purchase of physical plant equipment; provided that total fees shall not exceed ten million dollars (\$10,000,000) in any fiscal year. The building use fees shall be included in the budget requests of pertinent state agencies beginning with fiscal year 1998. At the beginning of each fiscal year, the department of finance and administration shall transfer to the public buildings repair fund the amounts appropriated for building use fees.

Section 3

Section 3

Section 15-3-11 NMSA 1978 (being Laws 1968, Chapter 43, Section 5, as amended) is amended to read:

"15-3-11. **BUILDING AND REMODELING--LEASING.--**

A. The director of the property control division of the general services department has the authority to do all acts necessary and proper for the redesigning, major renovation and remodeling of present state buildings and the erection of additional state buildings when needed. The director of the property control division may let contracts for these purposes made according to the established state purchasing procedures for contracts of the type and amount let. However, all such remodeling, major renovation and construction must first be approved by the state board of finance. This subsection shall not apply to any redesigning, major renovation or remodeling or the erection of additional state buildings exempt from the control of the property control division pursuant to Section 15-3-2 NMSA 1978.

B. The director of the property control division, subject to the approval of the state board of finance and after following the bidding procedures required by the Procurement Code for the purchase of tangible personal property, has the authority to enter into long-term leases, for periods not to exceed ten years, of vacant lands where the lessor contracts with the state to construct and complete buildings, subject to the approval of the staff architect, as a condition precedent to the start of the rental term. Such buildings shall comply with applicable standards for the physically handicapped and applicable codes. No lease shall be executed under this subsection until the staff architect created under the provisions of Section 15-3-13 NMSA 1978 has filed with the legislative finance committee a detailed statement of his evaluation and approval of the proposed building."

Section 4

Section 4

Section 15-3-14 NMSA 1978 (being Laws 1968, Chapter 43, Section 8, as amended) is amended to read:

"15-3-14. LEASE OF LAND OR BUILDINGS FOR PRIVATE USE.--The director of the property control division of the general services department may lease any land or building under his control to private use until the land or building is needed for public use. All income from the leases shall be deposited in the public buildings repair fund. All leases shall be made in accordance with Sections 13-6-2.1 and 13-6-3 NMSA 1978. The property control division shall establish building use fees at the current fair- market value for property under its control; provided that this provision does not apply to residences furnished to state officials or employees for the legitimate convenience of the employer and that are not taxable benefits for general income tax purposes. Beginning with fiscal year 1997, all state departments and institutions whose property is under the control of the property control division shall remit building use fees collected from lessees to the property control division for deposit into the public buildings repair fund. Departments and institutions may charge separate utility costs for property where the property is not separately metered, and those costs may be deposited to the credit of the departments or institutions operating budget."

Section 5

Section 5

TEMPORARY PROVISION--TRANSFER OF FUNDS.-- On the effective date of this act, all fund balances in the long-term lease guarantee fund are transferred to the public buildings repair fund. The state treasurer shall take the necessary actions to accomplish the transfer of funds.

Section 6

Section 6

EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1996.

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HOUSE BILL 349

SIGNED MARCH 4, 1996

Chapter 47

RELATING TO COMMERCIAL TRANSACTIONS; REVISING ARTICLE 8 OF THE UNIFORM COMMERCIAL CODE REGARDING INVESTMENT SECURITIES; MAKING CONFORMING AMENDMENTS TO OTHER ARTICLES OF THE UNIFORM COMMERCIAL CODE; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

Section 1

Section 1

Section 55-1-105 NMSA 1978 (being Laws 1961, Chapter 96, Section 1-105, as amended) is amended to read:

"55-1-105. TERRITORIAL APPLICATION OF THE ACT--PARTIES' POWER TO CHOOSE APPLICABLE LAW.--

(1) Except as provided in this section, when a transaction bears a reasonable relation to this state and also to another state or nation, the parties may agree that the law either of this state or such other state or nation shall govern their rights and duties. Failing such agreement, the Uniform Commercial Code applies to transactions bearing an appropriate relation to this state.

(2) Where one of the following provisions of the Uniform Commercial Code specifies the applicable law, that provision governs and a contrary agreement is effective only to the extent permitted by the law (including the conflict of laws rules) so specified:

rights of creditors against sold goods. Section 55-2-402 NMSA 1978;

applicability of the article on leases. Sections 55-2A-105 and 55-2A-106 NMSA 1978;

applicability of the article on bank deposits and collections. Section 55-4-102 NMSA 1978;

governing law in the article on fund transfers. Section 55-4A-507 NMSA 1978;

applicability of the article on investment securities. Section 55-8-110 NMSA 1978; and

perfection provisions of the article on secured transactions. Section 55-9-103 NMSA 1978."

Section 2

Section 2

Section 55-1-206 NMSA 1978 (being Laws 1961, Chapter 96, Section 1-206) is amended to read:

"55-1-206. STATUTE OF FRAUDS FOR KINDS OF PERSONAL PROPERTY NOT OTHERWISE COVERED.--

(1) Except in the cases described in Subsection (2) of this section, a contract for the sale of personal property is not enforceable by way of action or defense beyond five thousand dollars (\$5,000) in amount or value or remedy unless there is some writing which indicates that a contract for sale has been made between the parties at a defined or stated price, reasonably identifies the subject matter and is signed by the party against whom enforcement is sought or by his authorized agent.

(2) Subsection (1) of this section does not apply to contracts for the sale of goods (Section 55-2-201 NMSA 1978) nor of securities (Section 55-8-313 NMSA 1978) nor to security agreements (Section 55-9- 203 NMSA 1978)."

Section 3

Section 3

Section 55-4-104 NMSA 1978 (being Laws 1961, Chapter 96, Section 4-104, as amended) is amended to read:

"55-4-104. DEFINITIONS AND INDEX OF DEFINITIONS.--

(a) In this article, unless the context otherwise requires:

(1) "account" means any deposit or credit account with a bank including a demand, time, savings, passbook, share draft or like account, other than an account evidenced by a certificate of deposit;

(2) "afternoon" means the period of a day between noon and midnight;

(3) "banking day" means the part of a day on which a bank is open to the public for carrying on substantially all of its banking functions;

(4) "clearing-house" means an association of banks or other payors regularly clearing items;

(5) "customer" means a person having an account with a bank or for whom a bank has agreed to collect items, including a bank that maintains an account at another bank;

(6) "documentary draft" means a draft to be presented for acceptance or payment if specified documents, certificated securities (Section 55-8-102 NMSA 1978) or instructions for uncertificated securities (Section 55-8-102 NMSA 1978), or other

certificates, statements or the like are to be received by the drawee or other payor before acceptance or payment of the drafts;

(7) "draft" means a draft as defined in Section 55-3-104 NMSA 1978 or an item, other than an instrument, that is an order;

(8) "drawee" means a person ordered in a draft to make payment;

(9) "item" means an instrument or a promise or order to pay money handled by a bank for collection or payment. The term does not include a payment order governed by Article 4A or a credit or debit card slip;

(10) "midnight deadline" with respect to a bank is midnight on its next banking day following the banking day on which it receives the relevant item or notice or from which the time for taking action commences to run, whichever is later;

(11) "settle" means to pay in cash, by clearing-house settlement, in a charge or credit or by remittance or otherwise as agreed. A settlement may be either provisional or final; and

(12) "suspends payments" with respect to a bank means that it has been closed by order of the supervisory authorities, that a public officer has been appointed to take it over or that it ceases or refuses to make payments in the ordinary course of business.

(b) Other definitions applying to this article and the sections in which they appear are:

"agreement for electronic presentment"

Section 55-4-110 NMSA 1978;

"bank" Section 55-4-105 NMSA 1978;

"collecting bank" Section 55-4-105 NMSA 1978;

"depository bank" Section 55-4-105 NMSA 1978;

"intermediary bank" Section 55-4-105 NMSA 1978;

"payor bank" Section 55-4-105 NMSA 1978;

"presenting bank" Section 55-4-105 NMSA 1978; and

"presentment notice" Section 55-4-110 NMSA 1978.

(c) The following definitions in other articles apply to this article:

"acceptance" Section 55-3-409 NMSA 1978;

"alteration" Section 55-3-407 NMSA 1978;

"cashier's check"	Section 55-3-104 NMSA 1978;
"certificate of deposit"	Section 55-3-104 NMSA 1978;
"certified check"	Section 55-3-409 NMSA 1978;
"check"	Section 55-3-104 NMSA 1978;
"good faith"	Section 55-3-103 NMSA 1978;
"holder in due course"	Section 55-3-302 NMSA 1978;
"instrument"	Section 55-3-104 NMSA 1978;
"notice of dishonor"	Section 55-3-503 NMSA 1978;
"order"	Section 55-3-103 NMSA 1978;
"ordinary care"	Section 55-3-103 NMSA 1978;
"person entitled to enforce"	Section 55-3-301 NMSA 1978;
"presentment"	Section 55-3-501 NMSA 1978;
"promise"	Section 55-3-103 NMSA 1978;
"prove"	Section 55-3-103 NMSA 1978;
"teller's check"	Section 55-3-104 NMSA 1978; and
"unauthorized signature"	Section 55-3-403 NMSA 1978.

(d) In addition, Article 1 contains general definitions and principles of construction and interpretation applicable throughout this article."

Section 4

Section 4

Section 55-5-114 NMSA 1978 (being Laws 1961, Chapter 96, Section 5-114, as amended) is amended to read:

"55-5-114. ISSUER'S DUTY AND PRIVILEGE TO HONOR-- RIGHT TO REIMBURSEMENT.--

(1) An issuer must honor a draft or demand for payment which complies with the terms of the relevant credit regardless of whether the goods or documents conform to the underlying contract for sale or other contract between the customer and the beneficiary. The issuer is not excused from honor of such a draft or demand by reason of an

additional general term that all documents must be satisfactory to the issuer, but an issuer may require that specified documents must be satisfactory to it.

(2) Unless otherwise agreed when documents appear on their face to comply with the terms of a credit but a required document does not in fact conform to the warranties made on negotiation or transfer of a document of title (Section 55-7-507 NMSA 1978) or of a certificated security (Section 55-8-108 NMSA 1978) or is forged or fraudulent or there is fraud in the transaction:

(a) the issuer must honor the draft or demand for payment if honor is demanded by a negotiating bank or other holder of the draft or demand which has taken the draft or demand under the credit and under circumstances which would make it a holder in due course (Section 55-3-302 NMSA 1978) and in an appropriate case would make it a person to whom a document of title has been duly negotiated (Section 55-7-502 NMSA 1978) or a bona fide purchaser of a certificated security

(Section 55-8-302 NMSA 1978); and

(b) in all other cases as against its customer, an issuer acting in good faith may honor the draft or demand for payment despite notification from the customer of fraud, forgery or other defect not apparent on the face of the documents, but a court of appropriate jurisdiction may enjoin such honor.

(3) Unless otherwise agreed an issuer which has duly honored a draft or demand for payment is entitled to immediate reimbursement of any payment made under the credit and to be put in effectively available funds not later than the day before maturity of any acceptance made under the credit.

(4) When a credit provides for payment by the issuer on receipt of notice that the required documents are in the possession of a correspondent or other agent of the issuer:

(a) any payment made on receipt of such notice is conditional;

(b) the issuer may reject documents which do not comply with the credit if it does so within three banking days following its receipt of the documents; and

(c) in the event of such rejection, the issuer is entitled by charge back or otherwise to return of the payment made.

(5) In the case covered by Subsection (4) of this section failure to reject documents within the time specified in Subparagraph (b) of Subsection (4) of this section constitutes acceptance of the documents and makes the payment final in favor of the beneficiary."

Section 5

Section 5

Section 55-8-101 NMSA 1978 (being Laws 1961, Chapter 96, Section 8-101) is repealed and a new section of the Uniform Commercial Code, Section 55-8-101 NMSA 1978, is enacted to read:

"55-8-101. SHORT TITLE.--Chapter 55, Article 8 NMSA 1978 may be cited as the "Uniform Commercial Code--Investment Securities"."

Section 6

Section 6

Section 55-8-102 NMSA 1978 (being Laws 1961, Chapter 96, Section 8-102, as amended) is repealed and a new section of the Uniform Commercial Code, Section 55-8-102 NMSA 1978, is enacted to read:

"55-8-102. DEFINITIONS.--

(a) In this Article:

(1) "adverse claim" means a claim that a claimant has a property interest in a financial asset and that it is a violation of the rights of the claimant for another person to hold, transfer or deal with the financial asset;

(2) "bearer form", as applied to a certificated security, means a form in which the security is payable to the bearer of the security certificate according to its terms but not by reason of an indorsement;

(3) "broker" means a person defined as a broker or dealer under the federal securities laws, but without excluding a bank acting in that capacity;

(4) "certificated security" means a security that is represented by a certificate;

(5) "clearing corporation" means:

(i) a person that is registered as a "clearing agency" under the federal securities laws;

(ii) a federal reserve bank; or

(iii) any other person that provides clearance or settlement services with respect to financial assets that would require it to register as a clearing agency under the federal securities laws but for an exclusion or exemption from the registration requirement, if its activities as a clearing corporation, including promulgation of rules, are subject to regulation by a federal or state governmental authority;

(6) "communicate" means to:

(i) send a signed writing; or

(ii) transmit information by any mechanism agreed upon by the persons transmitting and receiving the information;

(7) "entitlement holder" means a person identified in the records of a securities intermediary as the person having a security entitlement against the securities intermediary. If a person acquires a security entitlement by virtue of Section 55-8-501(b)(2) or (3) NMSA 1978, that person is the entitlement holder;

(8) "entitlement order" means a notification communicated to a securities intermediary directing transfer or redemption of a financial asset to which the entitlement holder has a security entitlement;

(9) "financial asset", except as otherwise provided in Section 55-8-103 NMSA 1978, means:

(i) a security;

(ii) an obligation of a person or a share, participation or other interest in a person or in property or an enterprise of a person, which is, or is of a type, dealt in or traded on financial markets, or which is recognized in any area in which it is issued or dealt in as a medium for investment; or

(iii) any property that is held by a securities intermediary for another person in a securities account if the securities intermediary has expressly agreed with the other person that the property is to be treated as a financial asset under this article. As context requires, the term means either the interest itself or the means by which a person's claim to it is evidenced, including a certificated or uncertificated security, a security certificate or a security entitlement;

(10) "good faith", for purposes of the obligation of good faith in the performance or enforcement of contracts or duties within this article, means honesty in fact and the observance of reasonable commercial standards of fair dealing;

(11) "indorsement" means a signature that alone or accompanied by other words is made on a security certificate in registered form or on a separate document for the purpose of assigning, transferring or redeeming the security or granting a power to assign, transfer or redeem it;

(12) "instruction" means a notification communicated to the issuer of an uncertificated security which directs that the transfer of the security be registered or that the security be redeemed;

investment company security	Section 55-8-103 NMSA 1978;
issuer	Section 55-8-201 NMSA 1978;
overissue	Section 55-8-210 NMSA 1978;
protected purchaser	Section 55-8-303 NMSA 1978; and
securities account	Section 55-8-501 NMSA 1978.

(c) In addition, Chapter 55, Article 1 NMSA 1978 contains general definitions and principles of construction and interpretation applicable throughout this article.

(d) The characterization of a person, business or transaction for purposes of this Article does not determine the characterization of the person, business or transaction for purposes of any other law, regulation or rule."

Section 7

Section 7

Section 55-8-103 NMSA 1978 (being Laws 1961, Chapter 96, Section 8-103, as amended) is repealed and a new section of the Uniform Commercial Code, Section 55-8-103 NMSA 1978, is enacted to read:

"55-8-103. RULES FOR DETERMINING WHETHER CERTAIN OBLIGATIONS AND INTERESTS ARE SECURITIES OR FINANCIAL ASSETS.--

(a) A share or similar equity interest issued by a corporation, business trust, joint stock company or similar entity is a security.

(b) An "investment company security" is a security. "Investment company security" means a share or similar equity interest issued by an entity that is registered as an investment company under the federal investment company laws, an interest in a unit investment trust that is so registered or a face-amount certificate issued by a face-amount certificate company that is so registered. Investment company security does not include an insurance policy or endowment policy or annuity contract issued by an insurance company.

(c) An interest in a partnership or limited liability company is not a security unless it is dealt in or traded on securities exchanges or in securities markets, its terms expressly provide that it is a security governed by this article or it is an investment company security. However, an interest in a partnership or limited liability company is a financial asset if it is held in a securities account.

(d) A writing that is a security certificate is governed by this Article and not by Chapter 55, Article 3 NMSA 1978, even though it also meets the requirements of that article.

However, a negotiable instrument governed by Chapter 55, Article 3 NMSA 1978 is a financial asset if it is held in a securities account.

(e) An option or similar obligation issued by a clearing corporation to its participants is not a security. It is a financial asset.

(f) A commodity contract, as defined in Section

55-9-115 NMSA 1978, is not a security or a financial asset."

Section 8

Section 8

Section 55-8-104 NMSA 1978 (being Laws 1961, Chapter 96, Section 8-104, as amended) is repealed and a new section of the Uniform Commercial Code, Section 55-8-104 NMSA 1978, is enacted to read:

"55-8-104. ACQUISITION OF SECURITY OR FINANCIAL ASSET OR INTEREST THEREIN.--

(a) A person acquires a security or an interest therein, under this article, if:

(1) the person is a purchaser to whom a security is delivered pursuant to Section 55-8-301 NMSA 1978; or

(2) the person acquires a security entitlement to the security pursuant to Section 55-8-501 NMSA 1978.

(b) A person acquires a financial asset, other than a security, or an interest therein, under this article, if the person acquires a security entitlement to the financial asset.

(c) A person who acquires a security entitlement to a security or other financial asset has the rights specified in Part 5 of this article, but is a purchaser of any security, security entitlement or other financial asset held by the securities intermediary only to the extent provided in Section 55-8-503 NMSA 1978.

(d) Unless the context shows that a different meaning is intended, a person who is required by other law, regulation, rule or agreement to transfer, deliver, present, surrender, exchange or otherwise put in the possession of another person a security or financial asset satisfies that requirement by causing the other person to acquire an interest in the security or financial asset pursuant to Subsection (a) or (b)."

Section 9

Section 9

Section 55-8-105 NMSA 1978 (being Laws 1961, Chapter 96, Section 8-105, as amended) is repealed and a new section of the Uniform Commercial Code, Section 55-8-105 NMSA 1978, is enacted to read:

"55-8-105. NOTICE OF ADVERSE CLAIM.--

(a) A person has notice of an adverse claim if:

(1) the person knows of the adverse claim;

(2) the person is aware of facts sufficient to indicate that there is a significant probability that the adverse claim exists and deliberately avoids information that would establish the existence of the adverse claim; or

(3) the person has a duty, imposed by statute or regulation, to investigate whether an adverse claim exists and the investigation so required would establish the existence of the adverse claim.

(b) Having knowledge that a financial asset or interest therein is or has been transferred by a representative imposes no duty of inquiry into the rightfulness of a transaction and is not notice of an adverse claim. However, a person who knows that a representative has transferred a financial asset or interest therein in a transaction that is, or whose proceeds are being used, for the individual benefit of the representative or otherwise in breach of duty has notice of an adverse claim.

(c) An act or event that creates a right to immediate performance of the principal obligation represented by a security certificate or sets a date on or after which the certificate is to be presented or surrendered for redemption or exchange does not itself constitute notice of an adverse claim except in the case of a transfer more than:

(1) one year after a date set for presentment or surrender for redemption or exchange; or

(2) six months after a date set for payment of money against presentation or surrender of the certificate, if money was available for payment on that date.

(d) A purchaser of a certificated security has notice of an adverse claim if the security certificate:

(1) whether in bearer or registered form, has been indorsed "for collection" or "for surrender" or for some other purpose not involving transfer; or

(2) is in bearer form and has on it an unambiguous statement that it is the property of a person other than the transferor, but the mere writing of a name on the certificate is not such a statement.

(e) Filing of a financing statement under Article 9 is not notice of an adverse claim to a financial asset."

Section 10

Section 10

Section 55-8-106 NMSA 1978 (being Laws 1961, Chapter 96, Section 8-106, as amended) is repealed and a new section of the Uniform Commercial Code, Section 55-8-106 NMSA 1978, is enacted to read:

"55-8-106. CONTROL.--

(a) A purchaser has "control" of a certificated security in bearer form if the certificated security is delivered to the purchaser.

(b) A purchaser has "control" of a certificated security in registered form if the certificated security is delivered to the purchaser and:

(1) the certificate is indorsed to the purchaser or in blank by an effective indorsement; or

(2) the certificate is registered in the name of the purchaser, upon original issue or registration of transfer by the issuer.

(c) A purchaser has "control" of an uncertificated security if:

(1) the uncertificated security is delivered to the purchaser; or

(2) the issuer has agreed that it will comply with instructions originated by the purchaser without further consent by the registered owner.

(d) A purchaser has "control" of a security entitlement if:

(1) the purchaser becomes the entitlement holder; or

(2) the securities intermediary has agreed that it will comply with entitlement orders originated by the purchaser without further consent by the entitlement holder.

(e) If an interest in a security entitlement is granted by the entitlement holder to the entitlement holder's own securities intermediary, the securities intermediary has control.

(f) A purchaser who has satisfied the requirements of Subsection (c)(2) or (d)(2) has control even if the registered owner in the case of Subsection (c)(2) or the entitlement holder in the case of Subsection (d)(2) retains the right to make substitutions for the uncertificated security or security entitlement, to originate instructions or entitlement

orders to the issuer or securities intermediary, or otherwise to deal with the uncertificated security or security entitlement.

(g) An issuer or a securities intermediary may not enter into an agreement of the kind described in Subsection (c)(2) or (d)(2) without the consent of the registered owner or entitlement holder, but an issuer or a securities intermediary is not required to enter into such an agreement even though the registered owner or entitlement holder so directs. An issuer or securities intermediary that has entered into such an agreement is not required to confirm the existence of the agreement to another party unless requested to do so by the registered owner or entitlement holder."

Section 11

Section 11

Section 55-8-107 NMSA 1978 (being Laws 1967, Chapter 186, Section 2, as amended) is repealed and a new section of the Uniform Commercial Code, Section 55-8-107 NMSA 1978, is enacted to read:

"55-8-107. WHETHER INDORSEMENT, INSTRUCTION OR ENTITLEMENT ORDER IS EFFECTIVE.--

(a) "Appropriate person" means:

(1) with respect to an indorsement, the person specified by a security certificate or by an effective special indorsement to be entitled to the security;

(2) with respect to an instruction, the registered owner of an uncertificated security;

(3) with respect to an entitlement order, the entitlement holder;

(4) if the person designated in Paragraph (1), (2) or (3) is deceased, the designated person's successor taking under other law or the designated person's personal representative acting for the estate of the decedent; or

(5) if the person designated in Paragraph (1), (2) or (3) lacks capacity, the designated person's guardian, conservator or other similar representative who has power under other law to transfer the security or financial asset.

(b) An indorsement, instruction or entitlement order is effective if:

(1) it is made by the appropriate person;

(2) it is made by a person who has power under the law of agency to transfer the security or financial asset on behalf of the appropriate person, including, in the case of

an instruction or entitlement order, a person who has control under Section 55-8-106(c)(2) or (d)(2) NMSA 1978; or

(3) the appropriate person has ratified it or is otherwise precluded from asserting its ineffectiveness.

(c) An indorsement, instruction or entitlement order made by a representative is effective even if:

(1) the representative has failed to comply with a controlling instrument or with the law of the state having jurisdiction of the representative relationship, including any law requiring the representative to obtain court approval of the transaction; or

(2) the representative's action in making the indorsement, instruction or entitlement order or using the proceeds of the transaction is otherwise a breach of duty.

(d) If a security is registered in the name of or specially indorsed to a person described as a representative, or if a securities account is maintained in the name of a person described as a representative, an indorsement, instruction or entitlement order made by the person is effective even though the person is no longer serving in the described capacity.

(e) Effectiveness of an indorsement, instruction or entitlement order is determined as of the date the indorsement, instruction or entitlement order is made, and an indorsement, instruction or entitlement order does not become ineffective by reason of any later change of circumstances."

Section 12

Section 12

Section 55-8-108 NMSA 1978 (being Laws 1987, Chapter 248, Section 9) is repealed and a new section of the Uniform Commercial Code, Section 55-8-108 NMSA 1978, is enacted to read:

"55-8-108. WARRANTIES IN DIRECT HOLDING.--

(a) A person who transfers a certificated security to a purchaser for value warrants to the purchaser and an indorser, if the transfer is by indorsement, warrants to any subsequent purchaser that:

(1) the certificate is genuine and has not been materially altered;

(2) the transferor or indorser does not know of any fact that might impair the validity of the security;

(3) there is no adverse claim to the security;

(4) the transfer does not violate any restriction on transfer;

(5) if the transfer is by indorsement, the indorsement is made by an appropriate person or if the indorsement is by an agent, the agent has actual authority to act on behalf of the appropriate person; and

(6) the transfer is otherwise effective and rightful.

(b) A person who originates an instruction for registration of transfer of an uncertificated security to a purchaser for value warrants to the purchaser that:

(1) the instruction is made by an appropriate person, or, if the instruction is by an agent, the agent has actual authority to act on behalf of the appropriate person;

(2) the security is valid;

(3) there is no adverse claim to the security; and

(4) at the time the instruction is presented to the issuer:

(i) the purchaser will be entitled to the registration of transfer;

(ii) the transfer will be registered by the issuer free from all liens, security interests, restrictions and claims other than those specified in the instruction;

(iii) the transfer will not violate any restriction on transfer; and

(iv) the requested transfer will otherwise be effective and rightful.

(c) A person who transfers an uncertificated security to a purchaser for value and does not originate an instruction in connection with the transfer warrants that:

(1) the uncertificated security is valid;

(2) there is no adverse claim to the security;

(3) the transfer does not violate any restriction on transfer; and

(4) the transfer is otherwise effective and rightful.

(d) A person who indorses a security certificate warrants to the issuer that:

(1) there is no adverse claim to the security; and

(2) the indorsement is effective.

(e) A person who originates an instruction for registration of transfer of an uncertificated security warrants to the issuer that:

(1) the instruction is effective; and

(2) at the time the instruction is presented to the issuer the purchaser will be entitled to the registration of transfer.

(f) A person who presents a certificated security for registration of transfer or for payment or exchange warrants to the issuer that the person is entitled to the registration, payment or exchange, but a purchaser for value and without notice of adverse claims to whom transfer is registered warrants only that the person has no knowledge of any unauthorized signature in a necessary indorsement.

(g) If a person acts as agent of another in delivering a certificated security to a purchaser, the identity of the principal was known to the person to whom the certificate was delivered and the certificate delivered by the agent was received by the agent from the principal or received by the agent from another person at the direction of the principal, the person delivering the security certificate warrants only that the delivering person has authority to act for the principal and does not know of any adverse claim to the certificated security.

(h) A secured party who redelivers a security certificate received, or after payment and on order of the debtor delivers the security certificate to another person, makes only the warranties of an agent under Subsection (g).

(i) Except as otherwise provided in Subsection (g), a broker acting for a customer makes to the issuer and a purchaser the warranties provided in Subsections (a) through (f). A broker that delivers a security certificate to its customer, or causes its customer to be registered as the owner of an uncertificated security, makes to the customer the warranties provided in Subsection (a) or (b) and has the rights and privileges of a purchaser under this section. The warranties of and in favor of the broker acting as an agent are in addition to applicable warranties given by and in favor of the customer."

Section 13

Section 13

A new section of the Uniform Commercial Code, Section 55-8-109 NMSA 1978, is enacted to read:

"55-8-109. WARRANTIES IN INDIRECT HOLDING.--

(a) A person who originates an entitlement order to a securities intermediary warrants to the securities intermediary that:

(1) the entitlement order is made by an appropriate person, or if the entitlement order is by an agent, the agent has actual authority to act on behalf of the appropriate person; and

(2) there is no adverse claim to the security entitlement.

(b) A person who delivers a security certificate to a securities intermediary for credit to a securities account or originates an instruction with respect to an uncertificated security directing that the uncertificated security be credited to a securities account makes to the securities intermediary the warranties specified in Section 8-108(a) or (b).

(c) If a securities intermediary delivers a security certificate to its entitlement holder or causes its entitlement holder to be registered as the owner of an uncertificated security, the securities intermediary makes to the entitlement holder the warranties specified in Section 55-8-108(a) or (b) NMSA 1978."

Section 14

Section 14

A new section of the Uniform Commercial Code, Section 55-8-110 NMSA 1978, is enacted to read:

"55-8-110. APPLICABILITY--CHOICE OF LAW.--

(a) The local law of the issuer's jurisdiction, as specified in Subsection (d), governs:

(1) the validity of a security;

(2) the rights and duties of the issuer with respect to registration of transfer;

(3) the effectiveness of registration of transfer by the issuer;

(4) whether the issuer owes any duties to an adverse claimant to a security; and

(5) whether an adverse claim can be asserted against a person to whom transfer of a certificated or uncertificated security is registered or a person who obtains control of an uncertificated security.

(b) The local law of the securities intermediary's jurisdiction, as specified in Subsection (e), governs:

(1) acquisition of a security entitlement from the securities intermediary;

(2) the rights and duties of the securities intermediary and entitlement holder arising out of a security entitlement;

(3) whether the securities intermediary owes any duties to an adverse claimant to a security entitlement; and

(4) whether an adverse claim can be asserted against a person who acquires a security entitlement from the securities intermediary or a person who purchases a security entitlement or interest therein from an entitlement holder.

(c) The local law of the jurisdiction in which a security certificate is located at the time of delivery governs whether an adverse claim can be asserted against a person to whom the security certificate is delivered.

(d) "Issuer's jurisdiction" means the jurisdiction under which the issuer of the security is organized or, if permitted by the law of that jurisdiction, the law of another jurisdiction specified by the issuer. An issuer organized under the law of this State may specify the law of another jurisdiction as the law governing the matters specified in Subsection (a)(2) through (5).

(e) The following rules determine a "securities intermediary's jurisdiction" for purposes of this section:

(1) if an agreement between the securities intermediary and its entitlement holder specifies that it is governed by the law of a particular jurisdiction, that jurisdiction is the securities intermediary's jurisdiction;

(2) if an agreement between the securities intermediary and its entitlement holder does not specify the governing law as provided in Paragraph (1), but expressly specifies that the securities account is maintained at an office in a particular jurisdiction, that jurisdiction is the securities intermediary's jurisdiction;

(3) if an agreement between the securities intermediary and its entitlement holder does not specify a jurisdiction as provided in Paragraph (1) or (2), the securities intermediary's jurisdiction is the jurisdiction in which is located the office identified in an account statement as the office serving the entitlement holder's account; or

(4) if an agreement between the securities intermediary and its entitlement holder does not specify a jurisdiction as provided in Paragraph (1) or (2) and an account statement does not identify an office serving the entitlement holder's account as provided in Paragraph (3), the securities intermediary's jurisdiction is the jurisdiction in which is located the chief executive office of the securities intermediary.

(f) A securities intermediary's jurisdiction is not determined by the physical location of certificates representing financial assets or by the jurisdiction in which is organized the issuer of the financial asset with respect to which an entitlement holder has a security

entitlement or by the location of facilities for data processing or other record keeping concerning the account."

Section 15

Section 15

A new section of the Uniform Commercial Code, Section 55-8-111 NMSA 1978, is enacted to read:

"55-8-111. CLEARING CORPORATION RULES.--A rule adopted by a clearing corporation governing rights and obligations among the clearing corporation and its participants in the clearing corporation is effective even if the rule conflicts with this Act and affects another party who does not consent to the rule."

Section 16

Section 16

A new section of the Uniform Commercial Code, Section 55-8-112 NMSA 1978, is enacted to read:

"55-8-112. CREDITOR'S LEGAL PROCESS.--

(a) The interest of a debtor in a certificated security may be reached by a creditor only by actual seizure of the security certificate by the officer making the attachment or levy, except as otherwise provided in Subsection (d). However, a certificated security for which the certificate has been surrendered to the issuer may be reached by a creditor by legal process upon the issuer.

(b) The interest of a debtor in an uncertificated security may be reached by a creditor only by legal process upon the issuer at its chief executive office in the United States, except as otherwise provided in Subsection (d).

(c) The interest of a debtor in a security entitlement may be reached by a creditor only by legal process upon the securities intermediary with whom the debtor's securities account is maintained, except as otherwise provided in Subsection (d).

(d) The interest of a debtor in a certificated security for which the certificate is in the possession of a secured party or in an uncertificated security registered in the name of a secured party or a security entitlement maintained in the name of a secured party may be reached by a creditor by legal process upon the secured party.

(e) A creditor whose debtor is the owner of a certificated security, uncertificated security or security entitlement is entitled to aid from a court of competent jurisdiction, by injunction or otherwise, in reaching the certificated security, uncertificated security or

security entitlement or in satisfying the claim by means allowed at law or in equity in regard to property that cannot readily be reached by other legal process."

Section 17

Section 17

A new section of the Uniform Commercial Code, Section 55-8-113 NMSA 1978, is enacted to read:

"55-8-113. STATUTE OF FRAUDS INAPPLICABLE.--A contract or modification of a contract for the sale or purchase of a security is enforceable whether or not there is a writing signed or record authenticated by a party against whom enforcement is sought, even if the contract or modification is not capable of performance within one year of its making."

Section 18

Section 18

A new section of the Uniform Commercial Code, Section 55-8-114 NMSA 1978, is enacted to read:

"55-8-114. EVIDENTIARY RULES CONCERNING CERTIFICATED SECURITIES.--The following rules apply in an action on a certificated security against the issuer:

- (1) unless specifically denied in the pleadings, each signature on a security certificate or in a necessary indorsement is admitted;
- (2) if the effectiveness of a signature is put in issue, the burden of establishing effectiveness is on the party claiming under the signature, but the signature is presumed to be genuine or authorized;
- (3) if signatures on a security certificate are admitted or established, production of the certificate entitles a holder to recover on it unless the defendant establishes a defense or a defect going to the validity of the security; or
- (4) if it is shown that a defense or defect exists, the plaintiff has the burden of establishing that the plaintiff or some person under whom the plaintiff claims is a person against whom the defense or defect cannot be asserted."

Section 19

Section 19

A new section of the Uniform Commercial Code, Section 55-8-115 NMSA 1978, is enacted to read:

"55-8-115. SECURITIES INTERMEDIARY AND OTHERS NOT LIABLE TO ADVERSE CLAIMANT.--A securities intermediary that has transferred a financial asset pursuant to an effective entitlement order, or a broker or other agent or bailee that has dealt with a financial asset at the direction of its customer or principal, is not liable to a person having an adverse claim to the financial asset, unless the securities intermediary or broker or other agent or bailee:

(1) took the action after it had been served with an injunction, restraining order or other legal process enjoining it from doing so, issued by a court of competent jurisdiction and had a reasonable opportunity to act on the injunction, restraining order or other legal process;

(2) acted in collusion with the wrongdoer in violating the rights of the adverse claimant; or

(3) in the case of a security certificate that has been stolen, acted with notice of the adverse claim."

Section 20

Section 20

A new section of the Uniform Commercial Code, Section 55-8-116 NMSA 1978, is enacted to read:

"55-8-116. SECURITIES INTERMEDIARY AS PURCHASER FOR VALUE.--A securities intermediary that receives a financial asset and establishes a security entitlement to the financial asset in favor of an entitlement holder is a purchaser for value of the financial asset. A securities intermediary that acquires a security entitlement to a financial asset from another securities intermediary acquires the security entitlement for value if the securities intermediary acquiring the security entitlement establishes a security entitlement to the financial asset in favor of an entitlement holder."

Section 21

Section 21

Section 55-8-201 NMSA 1978 (being Laws 1961, Chapter 96, Section 8-201, as amended) is repealed and a new section of the Uniform Commercial Code, Section 55-8-201 NMSA 1978, is enacted to read:

"55-8-201. ISSUER.--

(a) With respect to an obligation on or a defense to a security, an "issuer" includes a person that:

(1) places or authorizes the placing of its name on a security certificate, other than as authenticating trustee, registrar, transfer agent or the like, to evidence a share, participation or other interest in its property or in an enterprise or to evidence its duty to perform an obligation represented by the certificate;

(2) creates a share, participation or other interest in its property or in an enterprise, or undertakes an obligation, that is an uncertificated security;

(3) directly or indirectly creates a fractional interest in its rights or property, if the fractional interest is represented by a security certificate; or

(4) becomes responsible for, or in place of, another person described as an issuer in this section.

(b) With respect to an obligation on or defense to a security, a guarantor is an issuer to the extent of its guaranty, whether or not its obligation is noted on a security certificate.

(c) With respect to a registration of a transfer, issuer means a person on whose behalf transfer books are maintained."

Section 22

Section 22

Section 55-8-202 NMSA 1978 (being Laws 1961, Chapter 96, Section 8-202, as amended) is repealed and a new section of the Uniform Commercial Code, Section 55-8-202 NMSA 1978, is enacted to read:

"55-8-202. ISSUER'S RESPONSIBILITY AND DEFENSES-- NOTICE OF DEFECT OR DEFENSE.--

(a) Even against a purchaser for value and without notice, the terms of a certificated security include terms stated on the certificate and terms made part of the security by reference on the certificate to another instrument, indenture or document or to a constitution, statute, ordinance, rule, regulation, order or the like, to the extent the terms referred to do not conflict with terms stated on the certificate. A reference under this subsection does not of itself charge a purchaser for value with notice of a defect going to the validity of the security, even if the certificate expressly states that a person accepting it admits notice. The terms of an uncertificated security include those stated in any instrument, indenture or document or in a constitution, statute, ordinance, rule, regulation, order or the like, pursuant to which the security is issued.

(b) The following rules apply if an issuer asserts that a security is not valid:

(1) a security other than one issued by a government or governmental subdivision, agency or instrumentality, even though issued with a defect going to its validity, is valid in the hands of a purchaser for value and without notice of the particular defect unless the defect involves a violation of a constitutional provision. In that case, the security is valid in the hands of a purchaser for value and without notice of the defect, other than one who takes by original issue; and

(2) Paragraph (1) applies to an issuer that is a government or governmental subdivision, agency or instrumentality only if there has been substantial compliance with the legal requirements governing the issue or the issuer has received a substantial consideration for the issue as a whole or for the particular security and a stated purpose of the issue is one for which the issuer has power to borrow money or issue the security.

(c) Except as otherwise provided in Section

55-8-205 NMSA 1978, lack of genuineness of a certificated security is a complete defense, even against a purchaser for value and without notice.

(d) All other defenses of the issuer of a security, including nondelivery and conditional delivery of a certificated security, are ineffective against a purchaser for value who has taken the certificated security without notice of the particular defense.

(e) This section does not affect the right of a party to cancel a contract for a security "when, as and if issued" or "when distributed" in the event of a material change in the character of the security that is the subject of the contract or in the plan or arrangement pursuant to which the security is to be issued or distributed.

(f) If a security is held by a securities intermediary against whom an entitlement holder has a security entitlement with respect to the security, the issuer may not assert any defense that the issuer could not assert if the entitlement holder held the security directly."

Section 23

Section 23

Section 55-8-203 NMSA 1978 (being Laws 1961, Chapter 96, Section 8-203, as amended) is repealed and a new section of the Uniform Commercial Code, Section 55-8-203 NMSA 1978, is enacted to read:

"55-8-203. STALENESS AS NOTICE OF DEFECT OR DEFENSE.--After an act or event, other than a call that has been revoked, creating a right to immediate performance of the principal obligation represented by a certificated security or setting a date on or after which the security is to be presented or surrendered for redemption or exchange, a purchaser is charged with notice of any defect in its issue or defense of the issuer, if the act or event:

(1) requires the payment of money, the delivery of a certificated security, the registration of transfer of an uncertificated security, or any of them, on presentation or surrender of the security certificate, the money or security is available on the date set for payment or exchange, and the purchaser takes the security more than one year after that date; or

(2) is not covered by paragraph (1) and the purchaser takes the security more than two years after the date set for surrender or presentation or the date on which performance became due."

Section 24

Section 24

Section 55-8-204 NMSA 1978 (being Laws 1961, Chapter 96, Section 8-204, as amended) is repealed and a new section of the Uniform Commercial Code, Section 55-8-204 NMSA 1978, is enacted to read:

"55-8-204. EFFECT OF ISSUER'S RESTRICTION ON TRANSFER.--A restriction on transfer of a security imposed by the issuer, even if otherwise lawful, is ineffective against a person without knowledge of the restriction unless:

(1) the security is certificated and the restriction is noted conspicuously on the security certificate; or

(2) the security is uncertificated and the registered owner has been notified of the restriction."

Section 25

Section 25

Section 55-8-205 NMSA 1978 (being Laws 1961, Chapter 96, Section 8-205, as amended) is repealed and a new section of the Uniform Commercial Code, Section 55-8-205 NMSA 1978, is enacted to read:

"55-8-205. EFFECT OF UNAUTHORIZED SIGNATURE ON SECURITY CERTIFICATE.--An unauthorized signature placed on a security certificate before or in the course of issue is ineffective, but the signature is effective in favor of a purchaser for value of the certificated security if the purchaser is without notice of the lack of authority and the signing has been done by:

(1) an authenticating trustee, registrar, transfer agent or other person entrusted by the issuer with the signing of the security certificate or of similar security certificates or the immediate preparation for signing of any of them; or

(2) an employee of the issuer or of any of the persons listed in paragraph (1), entrusted with responsible handling of the security certificate."

Section 26

Section 26

Section 55-8-206 NMSA 1978 (being Laws 1961, Chapter 96, Section 8-206, as amended) is repealed and a new section of the Uniform Commercial Code, Section 55-8-206 NMSA 1978, is enacted to read:

"55-8-206. COMPLETION OR ALTERATION OF SECURITY CERTIFICATE.--

(a) If a security certificate contains the signatures necessary to its issue or transfer but is incomplete in any other respect:

(1) any person may complete it by filling in the blanks as authorized; and

(2) even if the blanks are incorrectly filled in, the security certificate as completed is enforceable by a purchaser who took it for value and without notice of the incorrectness.

(b) A complete security certificate that has been improperly altered, even if fraudulently, remains enforceable, but only according to its original terms."

Section 27

Section 27

Section 55-8-207 (being Laws 1961, Chapter 96, Section 8-207, as amended) is repealed and a new section of the Uniform Commercial Code, Section 55-8-207 NMSA 1978, is enacted to read:

"55-8-207. RIGHTS AND DUTIES OF ISSUER WITH RESPECT TO REGISTERED OWNERS.--

(a) Before due presentment for registration of transfer of a certificated security in registered form or of an instruction requesting registration of transfer of an uncertificated security, the issuer or indenture trustee may treat the registered owner as the person exclusively entitled to vote, receive notifications and otherwise exercise all the rights and powers of an owner.

(b) Chapter 55, Article 8 NMSA 1978 does not affect the liability of the registered owner of a security for a call, assessment or the like."

Section 28

Section 28

Section 55-8-208 NMSA 1978 (being Laws 1961, Chapter 96, Section 8-208, as amended) is repealed and a new section of the Uniform Commercial Code, Section 55-8-208 NMSA 1978, is enacted to read:

"55-8-208. EFFECT OF SIGNATURE OF AUTHENTICATING TRUSTEE, REGISTRAR OR TRANSFER AGENT.--

(a) A person signing a security certificate as authenticating trustee, registrar, transfer agent or the like warrants to a purchaser for value of the certificated security, if the purchaser is without notice of a particular defect, that:

(1) the certificate is genuine;

(2) the person's own participation in the issue of the security is within the person's capacity and within the scope of the authority received by the person from the issuer; and

(3) the person has reasonable grounds to believe that the certificated security is in the form and within the amount the issuer is authorized to issue.

(b) Unless otherwise agreed, a person signing under subsection (a) does not assume responsibility for the validity of the security in other respects."

Section 29

Section 29

A new section of the Uniform Commercial Code, Section 55-8-209 NMSA 1978, is enacted to read:

"55-8-209. ISSUER'S LIEN.--A lien in favor of an issuer upon a certificated security is valid against a purchaser only if the right of the issuer to the lien is noted conspicuously on the security certificate."

Section 30

Section 30

A new section of the Uniform Commercial Code, Section 55-8-210 NMSA 1978, is enacted to read:

"55-8-210. OVERISSUE.--

(a) In this section, "overissue" means the issue of securities in excess of the amount the issuer has corporate power to issue, but an overissue does not occur if appropriate action has cured the overissue.

(b) Except as otherwise provided in Subsections (c) and (d), the provisions of Chapter 55, Article 8 NMSA 1978 which validate a security or compel its issue or reissue do not apply to the extent that validation, issue or reissue would result in overissue.

(c) If an identical security not constituting an overissue is reasonably available for purchase, a person entitled to issue or validation may compel the issuer to purchase the security and deliver it if certificated, or register its transfer if uncertificated, against surrender of any security certificate the person holds.

(d) If a security is not reasonably available for purchase, a person entitled to issue or validation may recover from the issuer the price the person or the last purchaser for value paid for it with interest from the date of the person's demand."

Section 31

Section 31

Section 55-8-301 NMSA 1978 (being Laws 1961, Chapter 96, Section 8-301, as amended) is repealed and a new section of the Uniform Commercial Code, Section 55-8-301 NMSA 1978, is enacted to read:

"55-8-301. DELIVERY.--

(a) Delivery of a certificated security to a purchaser occurs when:

(1) the purchaser acquires possession of the security certificate;

(2) another person, other than a securities intermediary, either acquires possession of the security certificate on behalf of the purchaser or, having previously acquired possession of the certificate, acknowledges that it holds for the purchaser; or

(3) a securities intermediary acting on behalf of the purchaser acquires possession of the security certificate, only if the certificate is in registered form and has been specially indorsed to the purchaser by an effective indorsement.

(b) Delivery of an uncertificated security to a purchaser occurs when:

(1) the issuer registers the purchaser as the registered owner, upon original issue or registration of transfer; or

(2) another person, other than a securities intermediary, either becomes the registered owner of the uncertificated security on behalf of the purchaser or, having previously become the registered owner, acknowledges that it holds for the purchaser."

Section 32

Section 32

Section 55-8-302 NMSA 1978 (being Laws 1961, Chapter 96, Section 8-302, as amended) is repealed and a new section of the Uniform Commercial Code, Section 55-8-302 NMSA 1978, is enacted to read:

"55-8-302. RIGHTS OF PURCHASER.--

(a) Except as otherwise provided in Subsections (b) and (c), upon delivery of a certificated or uncertificated security to a purchaser, the purchaser acquires all rights in the security that the transferor had or had power to transfer.

(b) A purchaser of a limited interest acquires rights only to the extent of the interest purchased.

(c) A purchaser of a certificated security who as a previous holder had notice of an adverse claim does not improve its position by taking from a protected purchaser."

Section 33

Section 33

Section 55-8-303 NMSA 1978 (being Laws 1961, Chapter 96, Section 8-303, as amended) is repealed and a new section of the Uniform Commercial Code, Section 55-8-303 NMSA 1978, is enacted to read:

"55-8-303. PROTECTED PURCHASER.--

(a) "Protected purchaser" means a purchaser of a certificated or uncertificated security, or of an interest therein, who:

(1) gives value;

(2) does not have notice of any adverse claim to the security; and

(3) obtains control of the certificated or uncertificated security.

(b) In addition to acquiring the rights of a purchaser, a protected purchaser also acquires its interest in the security free of any adverse claim."

Section 34

Section 34

Section 55-8-304 NMSA 1978 (being Laws 1961, Chapter 96, Section 8-304, as amended) is repealed and a new section of the Uniform Commercial Code, Section 55-8-304 NMSA 1978, is enacted to read:

"55-8-304. INDORSEMENT.--

(a) An indorsement may be in blank or special. An indorsement in blank includes an indorsement to bearer. A special indorsement specifies to whom a security is to be transferred or who has power to transfer it. A holder may convert a blank indorsement to a special indorsement.

(b) An indorsement purporting to be only of part of a security certificate representing units intended by the issuer to be separately transferable is effective to the extent of the indorsement.

(c) An indorsement, whether special or in blank, does not constitute a transfer until delivery of the certificate on which it appears or, if the indorsement is on a separate document, until delivery of both the document and the certificate.

(d) If a security certificate in registered form has been delivered to a purchaser without a necessary indorsement, the purchaser may become a protected purchaser only when the indorsement is supplied. However, against a transferor, a transfer is complete upon delivery and the purchaser has a specifically enforceable right to have any necessary indorsement supplied.

(e) An indorsement of a security certificate in bearer form may give notice of an adverse claim to the certificate, but it does not otherwise affect a right to registration that the holder possesses.

(f) Unless otherwise agreed, a person making an indorsement assumes only the obligations provided in Section 55-8-108 NMSA 1978 and not an obligation that the security will be honored by the issuer."

Section 35

Section 35

Section 55-8-305 NMSA 1978 (being Laws 1961, Chapter 96, Section 8-305, as amended) is repealed and a new section of the Uniform Commercial Code, Section 55-8-305 NMSA 1978, is enacted to read:

"55-8-305. INSTRUCTION.--

(a) If an instruction has been originated by an appropriate person but is incomplete in any other respect, any person may complete it as authorized and the issuer may rely on it as completed, even though it has been completed incorrectly.

(b) Unless otherwise agreed, a person initiating an instruction assumes only the obligations imposed by Section 55-8-108 NMSA 1978 and not an obligation that the security will be honored by the issuer."

Section 36

Section 36

Section 55-8-306 NMSA 1978 (being Laws 1961, Chapter 96, Section 8-306, as amended) is repealed and a new section of the Uniform Commercial Code, Section 55-8-306 NMSA 1978, is enacted to read:

"55-8-306. EFFECT OF GUARANTEEING SIGNATURE, INDORSEMENT OR INSTRUCTION.--

(a) A person who guarantees a signature of an indorser of a security certificate warrants that at the time of signing:

(1) the signature was genuine;

(2) the signer was an appropriate person to indorse or, if the signature is by an agent, the agent had actual authority to act on behalf of the appropriate person; and

(3) the signer had legal capacity to sign.

(b) A person who guarantees a signature of the originator of an instruction warrants that at the time of signing:

(1) the signature was genuine;

(2) the signer was an appropriate person to originate the instruction or, if the signature is by an agent, the agent had actual authority to act on behalf of the appropriate person, if the person specified in the instruction as the registered owner was, in fact, the registered owner, as to which fact the signature guarantor does not make a warranty; and

(3) the signer had legal capacity to sign.

(c) A person who specially guarantees the signature of an originator of an instruction makes the warranties of a signature guarantor under Subsection (b) and also warrants that at the time the instruction is presented to the issuer:

(1) the person specified in the instruction as the registered owner of the uncertificated security will be the registered owner; and

(2) the transfer of the uncertificated security requested in the instruction will be registered by the issuer free from all liens, security interests, restrictions and claims other than those specified in the instruction.

(d) A guarantor under Subsections (a) and (b) or a special guarantor under Subsection (c) does not otherwise warrant the rightfulness of the transfer.

(e) A person who guarantees an indorsement of a security certificate makes the warranties of a signature guarantor under Subsection (a) and also warrants the rightfulness of the transfer in all respects.

(f) A person who guarantees an instruction requesting the transfer of an uncertificated security makes the warranties of a special signature guarantor under Subsection (c) and also warrants the rightfulness of the transfer in all respects.

(g) An issuer may not require a special guaranty of signature, a guaranty of indorsement or a guaranty of instruction as a condition to registration of transfer.

(h) The warranties under this section are made to a person taking or dealing with the security in reliance on the guaranty, and the guarantor is liable to the person for loss resulting from their breach. An indorser or originator of an instruction whose signature, indorsement or instruction has been guaranteed is liable to a guarantor for any loss suffered by the guarantor as a result of breach of the warranties of the guarantor."

Section 37

Section 37

Section 55-8-307 NMSA 1978 (being Laws 1961, Chapter 96, Section 8-307, as amended) is repealed and a new section of the Uniform Commercial Code, Section 55-8-307 NMSA 1978, is enacted to read:

"55-8-307. PURCHASER'S RIGHT TO REQUISITES FOR REGISTRATION OF TRANSFER.--Unless otherwise agreed, the transferor of a security on due demand shall supply the purchaser with proof of authority to transfer or with any other requisite necessary to obtain registration of the transfer of the security, but if the transfer is not for value, a transferor need not comply unless the purchaser pays the necessary expenses. If the transferor fails within a reasonable time to comply with the demand, the purchaser may reject or rescind the transfer."

Section 38

Section 38

Section 55-8-401 NMSA 1978 (being Laws 1961, Chapter 96, Section 8-401, as amended) is repealed and a new section of the Uniform Commercial Code, Section 55-8-401 NMSA 1978, is enacted to read:

"55-8-401. DUTY OF ISSUER TO REGISTER TRANSFER.--

(a) If a certificated security in registered form is presented to an issuer with a request to register transfer or an instruction is presented to an issuer with a request to register transfer of an uncertificated security, the issuer shall register the transfer as requested if:

(1) under the terms of the security the person seeking registration of transfer is eligible to have the security registered in its name;

(2) the indorsement or instruction is made by the appropriate person or by an agent who has actual authority to act on behalf of the appropriate person;

(3) reasonable assurance is given that the indorsement or instruction is genuine and authorized (Section 55-8-402 NMSA 1978);

(4) any applicable law relating to the collection of taxes has been complied with;

(5) the transfer does not violate any restriction on transfer imposed by the issuer in accordance with Section 55-8-204 NMSA 1978;

(6) a demand that the issuer not register transfer has not become effective under Section 55-8-403 NMSA 1978, or the issuer has complied with Section 55-8-403(b) NMSA 1978 but no legal process or indemnity bond is obtained as provided in Section 55-8-403(d) NMSA 1978; and

(7) the transfer is in fact rightful or is to a protected purchaser.

(b) If an issuer is under a duty to register a transfer of a security, the issuer is liable to a person presenting a certificated security or an instruction for registration or to the person's principal for loss resulting from unreasonable delay in registration or failure or refusal to register the transfer."

Section 39

Section 39

Section 55-8-402 NMSA 1978 (being Laws 1961, Chapter 96, Section 8-402, as amended) is repealed and a new section of the Uniform Commercial Code, Section 55-8-402 NMSA 1978, is enacted to read:

"55-8-402. ASSURANCE THAT INDORSEMENT OR INSTRUCTION IS EFFECTIVE.--

(a) An issuer may require the following assurance that each necessary indorsement or each instruction is genuine and authorized:

(1) in all cases, a guaranty of the signature of the person making an indorsement or originating an instruction including, in the case of an instruction, reasonable assurance of identity;

(2) if the indorsement is made or the instruction is originated by an agent, appropriate assurance of actual authority to sign;

(3) if the indorsement is made or the instruction is originated by a fiduciary pursuant to Section

55-8-107(a)(4) or (a)(5) NMSA 1978, appropriate evidence of appointment or incumbency;

(4) if there is more than one fiduciary, reasonable assurance that all who are required to sign have done so; and

(5) if the indorsement is made or the instruction is originated by a person not covered by another provision of this subsection, assurance appropriate to the case corresponding as nearly as may be to the provisions of this subsection.

(b) An issuer may elect to require reasonable assurance beyond that specified in this section.

(c) In this section:

(1) "guaranty of the signature" means a guaranty signed by or on behalf of a person reasonably believed by the issuer to be responsible. An issuer may adopt standards with respect to responsibility if they are not manifestly unreasonable; and

(2) "appropriate evidence of appointment or incumbency" means:

(i) in the case of a fiduciary appointed or qualified by a court, a certificate issued by or under the direction or supervision of the court or an officer thereof and dated within 60 days before the date of presentation for transfer; or

(ii) in any other case, a copy of a document showing the appointment or a certificate issued by or on behalf of a person reasonably believed by an issuer to be responsible or, in the absence of that document or certificate, other evidence the issuer reasonably considered appropriate."

Section 40

Section 40

Section 55-8-403 NMSA 1978 (being Laws 1961, Chapter 96, Section 8-403, as amended) is repealed and a new section of the Uniform Commercial Code, Section 55-8-403 NMSA 1978, is enacted to read:

"55-8-403. DEMAND THAT ISSUER NOT REGISTER TRANSFER.--

(a) A person who is an appropriate person to make an indorsement or originate an instruction may demand that the issuer not register transfer of a security by communicating to the issuer a notification that identifies the registered owner and the issue of which the security is a part and provides an address for communications directed to the person making the demand. The demand is effective only if it is received by the issuer at a time and in a manner affording the issuer reasonable opportunity to act on it.

(b) If a certificated security in registered form is presented to an issuer with a request to register transfer or an instruction is presented to an issuer with a request to register transfer of an uncertificated security after a demand that the issuer not register transfer has become effective, the issuer shall promptly communicate to (i) the person who initiated the demand at the address provided in the demand and (ii) the person who presented the security for registration of transfer or initiated the instruction requesting registration of transfer a notification stating that:

(1) the certificated security has been presented for registration of transfer or instruction for registration of transfer of uncertificated security has been received;

(2) a demand that the issuer not register transfer had previously been received; and

(3) the issuer will withhold registration of transfer for a period of time stated in the notification in order to provide the person who initiated the demand an opportunity to obtain legal process or an indemnity bond.

(c) The period described in Subsection (b)(3) may not exceed 30 days after the date of communication of the notification. A shorter period may be specified by the issuer if it is not manifestly unreasonable.

(d) An issuer is not liable to a person who initiated a demand that the issuer not register transfer for any loss the person suffers as a result of registration of a transfer pursuant to an effective indorsement or instruction if the person who initiated the demand does not, within the time stated in the issuer's communication, either:

(1) obtain an appropriate restraining order, injunction or other process from a court of competent jurisdiction enjoining the issuer from registering the transfer; or

(2) file with the issuer an indemnity bond, sufficient in the issuer's judgment to protect the issuer and any transfer agent, registrar or other agent of the issuer involved from any loss it or they may suffer by refusing to register the transfer.

(e) This section does not relieve an issuer from liability for registering transfer pursuant to an indorsement or instruction that was not effective."

Section 41

Section 41

Section 55-8-404 NMSA 1978 (being Laws 1961, Chapter 96, Section 8-404, as amended) is repealed and a new section of the Uniform Commercial Code, Section 55-8-404 NMSA 1978, is enacted to read:

"55-8-404. WRONGFUL REGISTRATION.--

(a) Except as otherwise provided in Section

55-8-406 NMSA 1978, an issuer is liable for wrongful registration of transfer if the issuer has registered a transfer of a security to a person not entitled to it and the transfer was registered:

(1) pursuant to an ineffective indorsement or instruction;

(2) after a demand that the issuer not register transfer became effective under Section 55-8-403(a) NMSA 1978, and the issuer did not comply with Section 55-8-403(b) NMSA 1978;

(3) after the issuer had been served with an injunction, restraining order or other legal process enjoining it from registering the transfer, issued by a court of competent jurisdiction, and the issuer had a reasonable opportunity to act on the injunction, restraining order or other legal process; or

(4) by an issuer acting in collusion with the wrongdoer.

(b) An issuer that is liable for wrongful registration of transfer under Subsection (a) on demand shall provide the person entitled to the security with a like certificated or uncertificated security and any payments or distributions that the person did not receive as a result of the wrongful registration. If an overissue would result, the issuer's liability to provide the person with a like security is governed by Section 55-8-210 NMSA 1978.

(c) Except as otherwise provided in Subsection (a) or in a law relating to the collection of taxes, an issuer is not liable to an owner or other person suffering loss as a result of the registration of a transfer of a security if registration was made pursuant to an effective indorsement or instruction."

Section 42

Section 42

Section 55-8-405 NMSA 1978 (being Laws 1961, Chapter 96, Section 8-405, as amended) is repealed and a new section of the Uniform Commercial Code, Section 55-8-405 NMSA 1978, is enacted to read:

"55-8-405. REPLACEMENT OF LOST, DESTROYED OR WRONGFULLY TAKEN SECURITY CERTIFICATE.--

(a) If an owner of a certificated security, whether in registered or bearer form, claims that the certificate has been lost, destroyed or wrongfully taken, the issuer shall issue a new certificate if the owner:

(1) so requests before the issuer has notice that the certificate has been acquired by a protected purchaser;

(2) files with the issuer a sufficient indemnity bond; and

(3) satisfies other reasonable requirements imposed by the issuer.

(b) If, after the issue of a new security certificate, a protected purchaser of the original certificate presents it for registration of transfer, the issuer shall register the transfer unless an overissue would result. In that case, the issuer's liability is governed by Section

55-8-210 NMSA 1978. In addition to any rights on the indemnity bond, an issuer may recover the new certificate from a person to whom it was issued or any person taking under that person, except a protected purchaser."

Section 43

Section 43

Section 55-8-406 NMSA 1978 (being Laws 1961, Chapter 96, Section 8-406, as amended) is repealed and a new section of the Uniform Commercial Code, Section 55-8-406 NMSA 1978, is enacted to read:

"55-8-406. OBLIGATION TO NOTIFY ISSUER OF LOST, DESTROYED OR WRONGFULLY TAKEN SECURITY CERTIFICATE.-- If a security certificate has been lost, apparently destroyed or wrongfully taken, and the owner fails to notify the issuer of that fact within a reasonable time after the owner has notice of it and the issuer registers a transfer of the security before receiving notification, the owner may not assert against the issuer a claim for registering the transfer under Section 55- 8-404 NMSA 1978 or a claim to a new security certificate under Section 55- 8-405 NMSA 1978."

Section 44

Section 44

Section 55-8-407 NMSA 1978 (being Laws 1987, Chapter 248, Section 45) is repealed and a new section of the Uniform Commercial Code, Section 55-8-407 NMSA 1978, is enacted to read:

"55-8-407. AUTHENTICATING TRUSTEE, TRANSFER AGENT AND REGISTRAR.--A person acting as authenticating trustee, transfer agent, registrar or other agent for an issuer in the registration of a transfer of its securities, in the issue of new security certificates or uncertificated securities or in the cancellation of surrendered security certificates has the same obligation to the holder or owner of a certificated or uncertificated security with regard to the particular functions performed as the issuer has in regard to those functions."

Section 45

Section 45

A new section of the Uniform Commercial Code, Section 55-8-501 NMSA 1978, is enacted to read:

"55-8-501. SECURITIES ACCOUNT-- ACQUISITION OF SECURITY ENTITLEMENT FROM SECURITIES INTERMEDIARY.--

(a) "Securities account" means an account to which a financial asset is or may be credited in accordance with an agreement under which the person maintaining the account undertakes to treat the person for whom the account is maintained as entitled to exercise the rights that comprise the financial asset.

(b) Except as otherwise provided in Subsections (d) and (e), a person acquires a security entitlement if a securities intermediary:

(1) indicates by book entry that a financial asset has been credited to the person's securities account;

(2) receives a financial asset from the person or acquires a financial asset for the person and, in either case, accepts it for credit to the person's securities account; or

(3) becomes obligated under other law, regulation or rule to credit a financial asset to the person's securities account.

(c) If a condition of subsection (b) has been met, a person has a security entitlement even though the securities intermediary does not itself hold the financial asset.

(d) If a securities intermediary holds a financial asset for another person and the financial asset is registered in the name of payable to the order of, or specially indorsed to the other person and has not been indorsed to the securities intermediary or in blank,

the other person is treated as holding the financial asset directly rather than as having a security entitlement with respect to the financial asset.

(e) Issuance of a security is not establishment of a security entitlement."

Section 46

Section 46

A new section of the Uniform Commercial Code, Section 55-8-502 NMSA 1978, is enacted to read:

"55-8-502. ASSERTION OF ADVERSE CLAIM AGAINST ENTITLEMENT HOLDER.-- An action based on an adverse claim to a financial asset, whether framed in conversion, replevin, constructive trust, equitable lien or other theory, may not be asserted against a person who acquires a security entitlement under Section 55-8-501 NMSA 1978 for value and without notice of the adverse claim."

Section 47

Section 47

A new section of the Uniform Commercial Code, Section 55-8-503 NMSA 1978, is enacted to read:

"55-8-503. PROPERTY INTEREST OF ENTITLEMENT HOLDER IN FINANCIAL ASSET HELD BY SECURITIES INTERMEDIARY.--

(a) To the extent necessary for a securities intermediary to satisfy all security entitlements with respect to a particular financial asset, all interests in that financial asset held by the securities intermediary are held by the securities intermediary for the entitlement holders, are not property of the securities intermediary and are not subject to claims of creditors of the securities intermediary, except as otherwise provided in Section 55-8-511 NMSA 1978.

(b) An entitlement holder's property interest with respect to a particular financial asset under Subsection (a) is a pro rata property interest in all interests in that financial asset held by the securities intermediary, without regard to the time the entitlement holder acquired the security entitlement or the time the securities intermediary acquired the interest in that financial asset.

(c) An entitlement holder's property interest with respect to a particular financial asset under Subsection (a) may be enforced against the securities intermediary only by exercise of the entitlement holder's rights under Sections

55-8-505 through 55-8-508 NMSA 1978.

(d) An entitlement holder's property interest with respect to a particular financial asset under Subsection (a) may be enforced against a purchaser of the financial asset or interest therein only if:

(1) insolvency proceedings have been initiated by or against the securities intermediary;

(2) the securities intermediary does not have sufficient interests in the financial asset to satisfy the security entitlements of all of its entitlement holders to that financial asset;

(3) the securities intermediary violated its obligations under Section 55-8-504 NMSA 1978 by transferring the financial asset or interest therein to the purchaser; and

(4) the purchaser is not protected under Subsection (e). The trustee or other liquidator, acting on behalf of all entitlement holders having security entitlements with respect to a particular financial asset, may recover the financial asset or interest therein from the purchaser. If the trustee or other liquidator elects not to pursue that right, an entitlement holder whose security entitlement remains unsatisfied has the right to recover its interest in the financial asset from the purchaser.

(e) An action based on the entitlement holder's property interest with respect to a particular financial asset under Subsection (a), whether framed in conversion, replevin, constructive trust, equitable lien or other theory, may not be asserted against any purchaser of a financial asset or interest therein who gives value, obtains control and does not act in collusion with the securities intermediary in violating the securities intermediary's obligations under Section

55-8-504 NMSA 1978."

Section 48

Section 48

A new section of the Uniform Commercial Code, Section 55-8-504 NMSA 1978, is enacted to read:

"55-8-504. DUTY OF SECURITIES INTERMEDIARY TO MAINTAIN FINANCIAL ASSET.--

(a) A securities intermediary shall promptly obtain and thereafter maintain a financial asset in a quantity corresponding to the aggregate of all security entitlements it has established in favor of its entitlement holders with respect to that financial asset. The securities intermediary may maintain those financial assets directly or through one or more other securities intermediaries.

(b) Except to the extent otherwise agreed by its entitlement holder, a securities intermediary may not grant any security interests in a financial asset it is obligated to maintain pursuant to Subsection (a).

(c) A securities intermediary satisfies the duty in Subsection (a) if:

(1) the securities intermediary acts with respect to the duty as agreed upon by the entitlement holder and the securities intermediary; or

(2) in the absence of agreement, the securities intermediary exercises due care in accordance with reasonable commercial standards to obtain and maintain the financial asset.

(d) This section does not apply to a clearing corporation that is itself the obligor of an option or similar obligation to which its entitlement holders have security entitlements."

Section 49

Section 49

A new section of the Uniform Commercial Code, Section 55-8-505 NMSA 1978, is enacted to read:

"55-8-505. DUTY OF SECURITIES INTERMEDIARY WITH RESPECT TO PAYMENTS AND DISTRIBUTIONS.--

(a) A securities intermediary shall take action to obtain a payment or distribution made by the issuer of a financial asset. A securities intermediary satisfies the duty if:

(1) the securities intermediary acts with respect to the duty as agreed upon by the entitlement holder and the securities intermediary; or

(2) in the absence of agreement, the securities intermediary exercises due care in accordance with reasonable commercial standards to attempt to obtain the payment or distribution.

(b) A securities intermediary is obligated to its entitlement holder for a payment or distribution made by the issuer of a financial asset if the payment or distribution is received by the securities intermediary."

Section 50

Section 50

A new section of the Uniform Commercial Code, Section 55-8-506 NMSA 1978, is enacted to read:

"55-8-506. DUTY OF SECURITIES INTERMEDIARY TO EXERCISE RIGHTS AS DIRECTED BY ENTITLEMENT HOLDER.--A securities intermediary shall exercise rights with respect to a financial asset if directed to do so by an entitlement holder. A securities intermediary satisfies the duty if:

(1) the securities intermediary acts with respect to the duty as agreed upon by the entitlement holder and the securities intermediary; or

(2) in the absence of agreement, the securities intermediary either places the entitlement holder in a position to exercise the rights directly or exercises due care in accordance with reasonable commercial standards to follow the direction of the entitlement holder."

Section 51

Section 51

A new section of the Uniform Commercial Code, Section 55-8-507 NMSA 1978, is enacted to read:

"55-8-507. DUTY OF SECURITIES INTERMEDIARY TO COMPLY WITH ENTITLEMENT ORDER.--

(a) A securities intermediary shall comply with an entitlement order if the entitlement order is originated by the appropriate person, the securities intermediary has had reasonable opportunity to assure itself that the entitlement order is genuine and authorized, and the securities intermediary has had reasonable opportunity to comply with the entitlement order. A securities intermediary satisfies the duty if:

(1) the securities intermediary acts with respect to the duty as agreed upon by the entitlement holder and the securities intermediary; or

(2) in the absence of agreement, the securities intermediary exercises due care in accordance with reasonable commercial standards to comply with the entitlement order.

(b) If a securities intermediary transfers a financial asset pursuant to an ineffective entitlement order, the securities intermediary shall reestablish a security entitlement in favor of the person entitled to it and pay or credit any payments or distributions that the person did not receive as a result of the wrongful transfer. If the securities intermediary does not reestablish a security entitlement, the securities intermediary is liable to the entitlement holder for damages."

Section 52

Section 52

A new section of the Uniform Commercial Code, Section 55-8-508 NMSA 1978, is enacted to read:

"55-8-508. DUTY OF SECURITIES INTERMEDIARY TO CHANGE ENTITLEMENT HOLDER'S POSITION TO OTHER FORM OF SECURITY HOLDING.--A securities intermediary shall act at the direction of an entitlement holder to change a security entitlement into another available form of holding for which the entitlement holder is eligible or to cause the financial asset to be transferred to a securities account of the entitlement holder with another securities intermediary. A securities intermediary satisfies the duty if:

- (1) the securities intermediary acts as agreed upon by the entitlement holder and the securities intermediary; or
- (2) in the absence of agreement, the securities intermediary exercises due care in accordance with reasonable commercial standards to follow the direction of the entitlement holder."

Section 53

Section 53

A new section of the Uniform Commercial Code, Section 55-8-509 NMSA 1978, is enacted to read:

"55-8-509. SPECIFICATION OF DUTIES OF SECURITIES INTERMEDIARY BY OTHER STATUTE OR REGULATION--MANNER OF PERFORMANCE OF DUTIES OF SECURITIES INTERMEDIARY AND EXERCISE OF RIGHTS OF ENTITLEMENT HOLDER.--

(a) If the substance of a duty imposed upon a securities intermediary by Sections 55-8-504 through 55-8-508 NMSA 1978 is the subject of other statute, regulation or rule, compliance with that statute, regulation or rule satisfies the duty.

(b) To the extent that specific standards for the performance of the duties of a securities intermediary or the exercise of the rights of an entitlement holder are not specified by other statute, regulation or rule or by agreement between the securities intermediary and entitlement holder, the securities intermediary shall perform its duties and the entitlement holder shall exercise its rights in a commercially reasonable manner.

(c) The obligation of a securities intermediary to perform the duties imposed by Sections 55-8-504 through

55-8-508 NMSA 1978 is subject to:

(1) rights of the securities intermediary arising out of a security interest under a security agreement with the entitlement holder or otherwise; and

(2) rights of the securities intermediary under other law, regulation, rule, or agreement to withhold performance of its duties as a result of unfulfilled obligations of the entitlement holder to the securities intermediary.

(d) Sections 55-8-504 through 55-8-508 NMSA 1978 do not require a securities intermediary to take any action that is prohibited by other statute, regulation, or rule."

Section 54

Section 54

A new section of the Uniform Commercial Code, Section 55-8-510 NMSA 1978, is enacted to read:

"55-8-510. RIGHTS OF PURCHASER OF SECURITY ENTITLEMENT FROM ENTITLEMENT HOLDER.--

(a) An action based on an adverse claim to a financial asset or security entitlement, whether framed in conversion, replevin, constructive trust, equitable lien or other theory, may not be asserted against a person who purchases a security entitlement, or an interest therein, from an entitlement holder if the purchaser gives value, does not have notice of the adverse claim and obtains control.

(b) If an adverse claim could not have been asserted against an entitlement holder under Section 55-8-502 NMSA 1978, the adverse claim cannot be asserted against a person who purchases a security entitlement, or an interest therein, from the entitlement holder.

(c) In a case not covered by the priority rules in Chapter 55, Article 9 NMSA 1978, a purchaser for value of a security entitlement, or an interest therein, who obtains control has priority over a purchaser of a security entitlement, or an interest therein, who does not obtain control. Purchasers who have control rank equally, except that a securities intermediary as purchaser has priority over a conflicting purchaser who has control unless otherwise agreed by the securities intermediary."

Section 55

Section 55

A new section of the Uniform Commercial Code, Section 55-8-511 NMSA 1978, is enacted to read:

"55-8-511. PRIORITY AMONG SECURITY INTERESTS AND ENTITLEMENT HOLDERS.--

(a) Except as otherwise provided in Subsections (b) and (c), if a securities intermediary does not have sufficient interests in a particular financial asset to satisfy both its obligations to entitlement holders who have security entitlements to that financial asset and its obligation to a creditor of the securities intermediary who has a security interest in that financial asset, the claims of entitlement holders, other than the creditor, have priority over the claim of the creditor.

(b) A claim of a creditor of a securities intermediary who has a security interest in a financial asset held by a securities intermediary has priority over claims of the securities intermediary's entitlement holders who have security entitlements with respect to that financial asset if the creditor has control over the financial asset.

(c) If a clearing corporation does not have sufficient financial assets to satisfy both its obligations to entitlement holders who have security entitlements with respect to a financial asset and its obligation to a creditor of the clearing corporation who has a security interest in that financial asset, the claim of the creditor has priority over the claims of entitlement holders."

Section 56

Section 56

Section 55-9-103 NMSA 1978 (being Laws 1961, Chapter 96, Section 9-103, as amended) is amended to read:

"55-9-103. PERFECTION OF SECURITY INTERESTS IN MULTIPLE STATE TRANSACTIONS.--

(1) Documents, instruments and ordinary goods.

(a) This subsection applies to documents and instruments and to goods other than those covered by a certificate of title described in Subsection (2) of this section, mobile goods described in Subsection (3) of this section and minerals described in Subsection (5) of this section.

(b) Except as otherwise provided in this subsection, perfection and the effect of perfection or non-perfection of a security interest in collateral are governed by the law of the jurisdiction where the collateral is when the last event occurs on which is based the assertion that the security interest is perfected or unperfected.

(c) If the parties to a transaction creating a purchase money security interest in goods in one jurisdiction understand at the time that the security interest attaches that the goods will be kept in another jurisdiction, then the law of the other jurisdiction governs the

perfection and the effect of perfection or non-perfection of the security interest from the time it attaches until thirty days after the debtor receives possession of the goods and thereafter if the goods are taken to the other jurisdiction before the end of the thirty-day period.

(d) When collateral is brought into and kept in this state while subject to a security interest perfected under the law of the jurisdiction from which the collateral was removed, the security interest remains perfected, but if action is required by Sections 55-9-301 through 55-9-318 NMSA 1978 to perfect the security interest:

(i) if the action is not taken before the expiration of the period of perfection in the other jurisdiction or the end of four months after the collateral is brought into this state, whichever period first expires, the security interest becomes unperfected at the end of that period and is thereafter deemed to have been unperfected as against a person who became a purchaser after removal;

(ii) if the action is taken before the expiration of the period specified in Subparagraph (i) of this paragraph, the security interest continues perfected thereafter; or

(iii) for the purpose of priority over a buyer of consumer goods (Subsection (2) of Section 55-9-307 NMSA 1978), the period of the effectiveness of a filing in the jurisdiction from which the collateral is removed is governed by the rules with respect to perfection in Subparagraphs (i) and (ii) of this paragraph.

(2) Certificate of title.

(a) This subsection applies to goods covered by a certificate of title issued under a statute of this state or of another jurisdiction under the law of which indication of a security interest on the certificate is required as a condition of perfection.

(b) Except as otherwise provided in this subsection, perfection and the effect of perfection or non-perfection of the security interest are governed by the law (including the conflict of laws rules) of the jurisdiction issuing the certificate until four months after the goods are removed from that jurisdiction and thereafter until the goods are registered in another jurisdiction, but in any event not beyond surrender of the certificate. After the expiration of that period, the goods are not covered by the certificate of title within the meaning of this section.

(c) Except with respect to the rights of a buyer described in the next paragraph, a security interest, perfected in another jurisdiction otherwise than by notation on a certificate of title, in goods brought into this state and thereafter covered by a certificate of title issued by this state is subject to the rules stated in Paragraph (d) of Subsection (1) of this section.

(d) If goods are brought into this state while a security interest therein is perfected in any manner under the law of the jurisdiction from which the goods are removed and a

certificate of title is issued by this state and the certificate does not show that the goods are subject to the security interest or that they may be subject to security interests not shown on the certificate, the security interest is subordinate to the rights of a buyer of the goods who is not in the business of selling goods of that kind to the extent that he gives value and receives delivery of the goods after issuance of the certificate and without knowledge of the security interest.

(3) Accounts, general intangibles and mobile goods.

(a) This subsection applies to accounts (other than an account described in Subsection (5) of this section on minerals) and general intangibles (other than uncertificated securities) and to goods which are mobile and which are of a type normally used in more than one jurisdiction, such as motor vehicles, trailers, rolling stock, airplanes, shipping containers, road building and construction machinery and commercial harvesting machinery and the like, if the goods are equipment or are inventory leased or held for lease by the debtor to others, and are not covered by a certificate of title described in Subsection (2) of this section.

(b) The law (including the conflict of laws rules) of the jurisdiction in which the debtor is located governs the perfection and the effect of perfection or non-perfection of the security interest.

(c) If, however, the debtor is located in a jurisdiction which is not a part of the United States and which does not provide for perfection of the security interest by filing or recording in that jurisdiction, the law of the jurisdiction in the United States in which the debtor has its major executive office in the United States governs the perfection and the effect of perfection or non-perfection of the security interest through filing. In the alternative, if the debtor is located in a jurisdiction which is not a part of the United States or Canada and the collateral is accounts or general intangibles for money due or to become due, the security interest may be perfected by notification to the accounts debtor. As used in this paragraph, "United States" includes its territories and possessions and the Commonwealth of Puerto Rico.

(d) A debtor shall be deemed located at his place of business if he has one, at his chief executive office if he has more than one place of business, otherwise at his residence. If, however, the debtor is a foreign air carrier under the Federal Aviation Act of 1958, as amended, it shall be deemed located at the designated office of the agent upon whom service of process may be made on behalf of the foreign air carrier.

(e) A security interest perfected under the law of the jurisdiction of the location of the debtor is perfected until the expiration of four months after a change of the debtor's location to another jurisdiction or until perfection would have ceased by the law of the first jurisdiction, whichever period first expires. Unless perfected in the new jurisdiction before the end of that period, it becomes unperfected thereafter and is deemed to have been unperfected as against a person who became a purchaser after the change.

(4) Chattel paper.

The rules stated for goods in Subsection (1) of this section apply to a possessory security interest in chattel paper. The rules stated for accounts in Subsection (3) of this section apply to a nonpossessory security interest in chattel paper, but the security interest may not be perfected by notification to the account debtor.

(5) Minerals.

Perfection and the effect of perfection or non-perfection of a security interest which is created by a debtor who has an interest in minerals or the like (including oil and gas) before extraction and which attaches thereto as extracted or which attaches to an account resulting from the sale thereof at the wellhead or minehead are governed by the law (including the conflict of laws rules) of the jurisdiction wherein the wellhead or minehead is located.

(6) Investment property.

(a) This subsection applies to investment property.

(b) Except as otherwise provided in Paragraph (f), during the time that a security certificate is located in a jurisdiction, perfection of a security interest, the effect of perfection or non-perfection and the priority of a security interest in the certified security represented thereby are governed by the local law of that jurisdiction.

(c) Except as otherwise provided in Paragraph (f), perfection of a security interest, the effect of perfection or non-perfection and the priority of a security interest in an uncertificated security are governed by the local law of the issuer's jurisdiction as specified in Section 8-110(d).

(d) Except as otherwise provided in Paragraph (f), perfection of a security interest, the effect of perfection or non-perfection and the priority of a security interest in a security entitlement or securities account are governed by the local law of the securities intermediary's jurisdiction as specified in Section 8-110(e).

(e) Except as otherwise provided in Paragraph (f), perfection of a security interest, the effect of perfection or non-perfection and the priority of a security interest in a commodity contract or commodity account are governed by the local law of the commodity intermediary's jurisdiction. The following rules determine a "commodity intermediary's jurisdiction" for purposes of this paragraph:

(i) if an agreement between the commodity intermediary and commodity customer specifies that it is governed by the law of a particular jurisdiction, that jurisdiction is the commodity intermediary's jurisdiction;

(ii) if an agreement between the commodity intermediary and commodity customer does not specify the governing law as provided in Subparagraph (i), but expressly specifies that the commodity account is maintained at an office in a particular jurisdiction, that jurisdiction is the commodity intermediary's jurisdiction;

(iii) if an agreement between the commodity intermediary and commodity customer does not specify a jurisdiction as provided in Subparagraphs (i) or (ii), the commodity intermediary's jurisdiction is the jurisdiction in which is located the office identified in an account statement as the office serving the commodity customer's account; and

(iv) if an agreement between the commodity intermediary and commodity customer does not specify a jurisdiction as provided in Subparagraphs (i) or (ii) and an account statement does not identify an office serving the commodity customer's account as provided in Subparagraph (iii), the commodity intermediary's jurisdiction is the jurisdiction in which is located the chief executive office of the commodity intermediary.

(f) Perfection of a security interest by filing, automatic perfection of a security interest in investment property granted by a broker or securities intermediary and automatic perfection of a security interest in a commodity contract or commodity account granted by a commodity intermediary are governed by the local law of the jurisdiction in which the debtor is located. The rules in Paragraphs (c), (d) and (e) of Subsection (3) of this section apply to security interests to which this paragraph applies."

Section 57

Section 57

Section 55-9-105 NMSA 1978 (being Laws 1961, Chapter 96, Section 9-105, as amended) is amended to read:

"55-9-105. DEFINITIONS AND INDEX OF DEFINITIONS.--

(1) In Chapter 55, Article 9 NMSA 1978, unless the context otherwise requires:

(a) "account debtor" means the person who is obligated on an account, chattel paper or general intangible;

(b) "chattel paper" means a writing or writings which evidence both a monetary obligation and a security interest in or a lease of specific goods, but a charter or other contract involving the use or hire of a vessel is not chattel paper. When a transaction is evidenced both by such a security agreement or a lease and by an instrument or a series of instruments, the group of writings taken together constitutes chattel paper;

(c) "collateral" means the property subject to a security interest and includes accounts and chattel paper which have been sold;

(d) "debtor" means the person who owes payment or other performance of the obligation secured, whether or not he owns or has rights in the collateral, and includes the seller of accounts or chattel paper. Where the debtor and the owner of the collateral are not the same person, the term "debtor" means the owner of the collateral in any provision of the article dealing with the collateral, the obligor in any provision dealing with the obligation and may include both where the context so requires;

(e) "deposit account" means a demand, time, savings, passbook or like account maintained with a bank, savings and loan association, credit union or like organization, other than an account evidenced by a certificate of deposit;

(f) "document" means document of title as defined in the general definitions of Article 1 (Section

55-1-201 NMSA 1978) and a receipt of the kind described in Subsection (2) of Section 55-7-201 NMSA 1978;

(g) "encumbrance" includes real estate mortgages and other liens on real estate and all other rights in real estate that are not ownership interests;

(h) "goods" includes all things which are movable at the time the security interest attaches or which are fixtures (Section 55-9-313 NMSA 1978), but does not include money, documents, instruments, investment property, commodity contracts, accounts, chattel paper, general intangibles or minerals or the like (including oil and gas) before extraction. "Goods" also includes standing timber which is to be cut and removed under a conveyance or contract for sale, the unborn young of animals and growing crops;

(i) "instrument" means a negotiable instrument (defined in Section 55-3-104 NMSA 1978) or any other writing which evidences a right to the payment of money and is not itself a security agreement or lease and is of a type which is in ordinary course of business transferred by delivery with any necessary indorsement or assignment. The term does not include investment property;

(j) "mortgage" means a consensual interest created by a real estate mortgage, a trust deed on real estate or the like;

(k) an advance is made "pursuant to commitment" if the secured party has bound himself to make it, whether or not a subsequent event of default or other event not within his control has relieved or may relieve him from his obligation;

(l) "security agreement" means an agreement which creates or provides for a security interest;

(m) "secured party" means a lender, seller or other person in whose favor there is a security interest, including a person to whom accounts or chattel paper have been sold. When the holders of obligations issued under an indenture of trust, equipment trust

agreement or the like are represented by a trustee or other person, the representative is the secured party; and

(n) "transmitting utility" means any person primarily engaged in the railroad, street railway or trolley bus business, the electric or electronics communications transmission business, the transmission of goods by pipeline or the transmission or the production and transmission of electricity, steam, gas or water or the provision of sewer service.

(2) Other definitions applying to Chapter 55, Article 9 NMSA 1978 and the sections in which they appear are:

"account".	Section 55-9-106 NMSA 1978;
"attach".	Section 55-9-203 NMSA 1978;
"commodity contract".	Section 55-9-115 NMSA 1978;
"commodity customer".	Section 55-9-115 NMSA 1978;
"commodity intermediary".	Section 55-9-115 NMSA 1978;
"construction mortgage".	Subsection 1 of Section 55-9-313 NMSA 1978;
"consumer goods".	Subsection (1) of Section 55-9-109 NMSA 1978;
"control".	Section 55-9-115 NMSA 1978;
"equipment".	Subsection (2) of Section 55-9-109 NMSA 1978;
"farm products".	Subsection (3) of Section 55-9-109 NMSA 1978;
"fixture".	Section 55-9-313 NMSA 1978;
"fixture filing".	Section 55-9-313 NMSA 1978;
"general intangibles".	Section 55-9-106 NMSA 1978;
"inventory".	Subsection (4) of Section 55-9-109 NMSA 1978;
"investment property".	Section 55-9-115 NMSA 1978;
"lien creditor".	Subsection (3) of Section 55-9-301 NMSA 1978;
"proceeds".	Subsection (1) of Section 55-9-306 NMSA 1978;
"purchase money security interest".	Section 55-9-107 NMSA 1978; and
"United States".	Section 55-9-103 NMSA 1978.

(3) The following definitions in other articles apply to Chapter 55, Article 9 NMSA 1978:

"broker".	Section 55-8-102 NMSA 1978;
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"certificated security". Section 55-8-102 NMSA 1978;

"check". Section 55-3-104 NMSA 1978;

"clearing corporation". Section 55-8-102 NMSA 1978;

"contract or sale". Section 55-2-106 NMSA 1978;

"control". Section 55-8-106 NMSA 1978;

"delivery". Section 55-8-301 NMSA 1978;

"entitlement holder". Section 55-8-102 NMSA 1978;

"financial asset". Section 55-8-102 NMSA 1978;

"holder in due course". Section 55-3-302 NMSA 1978;

"note". Section 55-3-104 NMSA 1978;

"sale". Section 55-2-106 NMSA 1978;

"securities intermediary". Section 55-8-102 NMSA 1978;

"security". Section 55-8-102 NMSA 1978;

"security certificate". Section 55-8-102 NMSA 1978;

and

"security entitlement". Section 55-8-102 NMSA 1978.

(4) In addition, Chapter 55, Article 1 NMSA 1978 contains general definitions and principles of construction and interpretation applicable throughout Chapter 55, Article 9 NMSA 1978."

Section 58

Section 58

Section 55-9-106 NMSA 1978 (being Laws 1961, Chapter 96, Section 9-106, as amended) is amended to read:

"55-9-106. DEFINITIONS--"ACCOUNT"--"GENERAL

INTANGIBLES".--"Account" means any right to payment for goods sold or leased or for services rendered which is not evidenced by an instrument or chattel paper, whether or not it has been earned by performance. "General intangibles" means any personal property (including things in action) other than goods, accounts, chattel paper, documents, instruments, investment property and money. All rights to payment earned

or unearned under a charter or other contract involving the use or hire of a vessel and all rights incident to the charter or contract are accounts."

Section 59

Section 59

A new section of the Uniform Commercial Code, Section 55-9-115 NMSA 1978, is enacted to read:

"55-9-115. INVESTMENT PROPERTY.--

(1) In this Article:

(a) "commodity account" means an account maintained by a commodity intermediary in which a commodity contract is carried for a commodity customer;

(b) "commodity contract" means a commodity futures contract, an option on a commodity futures contract, a commodity option or other contract that, in each case, is:

(i) traded on or subject to the rules of a board of trade that has been designated as a contract market for such a contract pursuant to the federal commodities laws; or

(ii) traded on a foreign commodity board of trade, exchange or market and is carried on the books of a commodity intermediary for a commodity customer;

(c) "commodity customer" means a person for whom a commodity intermediary carries a commodity contract on its books;

(d) "commodity intermediary" means:

(i) a person who is registered as a futures commission merchant under the federal commodities laws; or

(ii) a person who in the ordinary course of its business provides clearance or settlement services for a board of trade that has been designated as a contract market pursuant to the federal commodities laws;

(e) "control" with respect to a certificated security, uncertificated security or security entitlement has the meaning specified in Section 8-106. A secured party has control over a commodity contract if by agreement among the commodity customer, the commodity intermediary, and the secured party, the commodity intermediary, has agreed that it will apply any value distributed on account of the commodity contract as directed by the secured party without further consent by the commodity customer. If a commodity customer grants a security interest in a commodity contract to its own commodity intermediary, the commodity intermediary as secured party has control. A

secured party has control over a securities account or commodity account if the secured party has control over all security entitlements or commodity contracts carried in the securities account or commodity account; and

(f) "investment property" means:

(i) a security, whether certificated or uncertificated;

(ii) a security entitlement;

(iii) a securities account;

(iv) a commodity contract; or

(v) a commodity account.

(2) Attachment or perfection of a security interest in a securities account is also attachment or perfection of a security interest in all security entitlements carried in the securities account. Attachment or perfection of a security interest in a commodity account is also attachment or perfection of a security interest in all commodity contracts carried in the commodity account.

(3) A description of collateral in a security agreement or financing statement is sufficient to create or perfect a security interest in a certificated security, uncertificated security, security entitlement, securities account, commodity contract or commodity account whether it describes the collateral by those terms or as investment property or by description of the underlying security, financial asset or commodity contract. A description of investment property collateral in a security agreement or financing statement is sufficient if it identifies the collateral by specific listing, by category, by quantity, by a computational or allocational formula or procedure or by any other method, if the identity of the collateral is objectively determinable.

(4) Perfection of a security interest in investment property is governed by the following rules:

(a) a security interest in investment property may be perfected by control;

(b) except as otherwise provided in Paragraphs (c) and (d), a security interest in investment property may be perfected by filing;

(c) if the debtor is a broker or securities intermediary a security interest in investment property is perfected when it attaches. The filing of a financing statement with respect to a security interest in investment property granted by a broker or securities intermediary has no effect for purposes of perfection or priority with respect to that security interest; and

(d) if a debtor is a commodity intermediary, a security interest in a commodity contract or a commodity account is perfected when it attaches. The filing of a financing statement with respect to a security interest in a commodity contract or a commodity account granted by a commodity intermediary has no effect for purposes of perfection or priority with respect to that security interest.

(5) Priority between conflicting security interests in the same investment property is governed by the following rules:

(a) a security interest of a secured party who has control over investment property has priority over a security interest of a secured party who does not have control over the investment property;

(b) except as otherwise provided in Paragraphs (c) and (d), conflicting security interests of secured parties, each of whom has control, rank equally;

(c) except as otherwise agreed by the securities intermediary, a security interest in a security entitlement or a securities account granted to the debtor's own securities intermediary has priority over any security interest granted by the debtor to another secured party;

(d) except as otherwise agreed by the commodity intermediary, a security interest in a commodity contract or a commodity account granted to the debtor's own commodity intermediary has priority over any security interest granted by the debtor to another secured party;

(e) conflicting security interests granted by a broker, a securities intermediary or a commodity intermediary which are perfected without control rank equally; and

(f) in all other cases, priority between conflicting security interests in investment property is governed by Section 9-312(5), (6) and (7). Section 9-312(4)

does not apply to investment property.

(6) If a security certificate in registered form is delivered to a secured party pursuant to agreement, a written security agreement is not required for attachment or enforceability of the security interest, delivery suffices for perfection of the security interest and the security interest has priority over a conflicting security interest perfected by means other than control, even if a necessary indorsement is lacking."

Section 60

Section 60

A new section of the Uniform Commercial Code, Section 55-9-116 NMSA 1978, is enacted to read:

"55-9-116. SECURITY INTEREST ARISING IN PURCHASE OR DELIVERY OF FINANCIAL ASSET.--

(1) If a person buys a financial asset through a securities intermediary in a transaction in which the buyer is obligated to pay the purchase price to the securities intermediary at the time of the purchase, and the securities intermediary credits the financial asset to the buyer's securities account before the buyer pays the securities intermediary, the securities intermediary has a security interest in the buyer's security entitlement securing the buyer's obligation to pay. A security agreement is not required for attachment or enforceability of the security interest, and the security interest is automatically perfected.

(2) If a certificated security or other financial asset represented by a writing which in the ordinary course of business is transferred by delivery with any necessary indorsement or assignment is delivered pursuant to an agreement between persons in the business of dealing with such securities or financial assets and the agreement calls for delivery versus payment, the person delivering the certificate or other financial asset has a security interest in the certificated security or other financial asset securing the seller's right to receive payment. A security agreement is not required for attachment or enforceability of the security interest, and the security interest is automatically perfected."

Section 61

Section 61

Section 55-9-203 NMSA 1978 (being Laws 1961, Chapter 96, Section 9-203, as amended) is amended to read:

"55-9-203. ATTACHMENT AND ENFORCEABILITY OF SECURITY INTEREST-- PROCEEDS--FORMAL REQUISITES.--

(1) Subject to the provisions of Section 55-4-210 NMSA 1978 on the security interest of a collecting bank, Sections 55-9-115 and 55- 9-116 NMSA 1978 on security interests in investment property and Section 55-9-113 NMSA 1978 on a security interest arising under the article on sales (Article 2) or the article on leases (Article 2A), a security interest is not enforceable against the debtor or third parties with respect to the collateral and does not attach unless:

(a) the collateral is in the possession of the secured party pursuant to agreement, the collateral is investment property and the secured party has control pursuant to agreement, or the debtor has signed a security agreement that contains a description of the collateral and in addition, when the security interest covers crops growing or to be grown or timber to be cut, a description of the land concerned;

(b) value has been given; and

(c) the debtor has rights in the collateral.

(2) A security interest attaches when it becomes enforceable against the debtor with respect to the collateral. Attachment occurs as soon as all of the events specified in Subsection (1) of this section have taken place unless explicit agreement postpones the time of attaching.

(3) Unless otherwise agreed, a security agreement gives the secured party the rights to proceeds provided by Section 55-9-306 NMSA 1978.

(4) A transaction, although subject to Chapter 55, Article 9 NMSA 1978, is also subject to the Oil and Gas Products Lien Act; Sections 56-1-1 through 56-1-15 NMSA 1978 (pertaining to retail installment sales); Sections 56-12-1 through 56-12-16 NMSA 1978 (pertaining to credit extended by pawnbrokers); the New Mexico Bank Installment Loan Act of 1959; the New Mexico Small Loan Act of 1955; and the Motor Vehicle Sales Finance Act. In the case of conflict between the provisions of Chapter 55, Article 9 NMSA 1978 and any such statute, the provisions of such statute control. Failure to comply with any applicable statute has only the effect which is specified therein."

Section 62

Section 62

Section 55-9-301 NMSA 1978 (being Laws 1961, Chapter 96, Section 9-301, as amended) is amended to read:

"55-9-301. PERSONS WHO TAKE PRIORITY OVER UNPERFECTED SECURITY INTERESTS--RIGHT OF "LIEN CREDITOR".--

(1) Except as otherwise provided in Subsection (2) of this section, an unperfected security interest is subordinate to the rights of:

(a) persons entitled to priority under Section 55-9-312 NMSA 1978;

(b) a person who becomes a lien creditor before the security interest is perfected;

(c) in the case of goods, instruments, documents and chattel paper, a person who is not a secured party and who is a transferee in bulk or other buyer not in ordinary course of business or is a buyer of farm products in ordinary course of business, to the extent that he gives value and receives delivery of the collateral without knowledge of the security interest and before it is perfected; and

(d) in the case of accounts, general intangibles and investment property, a person who is not a secured party and who is a transferee to the extent that he gives value without knowledge of the security interest and before it is perfected.

(2) If the secured party files with respect to a purchase money security interest before or within twenty days after the debtor receives possession of the collateral, he takes priority over the rights of a transferee in bulk or of a lien creditor which arise between the time the security interest attaches and the time of filing.

(3) A "lien creditor" means a creditor who has acquired a lien on the property involved by attachment, levy or the like and includes an assignee for benefit of creditors from the time of assignment and a trustee in bankruptcy from the date of the filing of the petition or a receiver in equity from the time of appointment.

(4) A person who becomes a lien creditor while a security interest is perfected takes subject to the security interest only to the extent that it secures advances made before he becomes a lien creditor or within forty-five days thereafter or made without knowledge of the lien or pursuant to a commitment entered into without knowledge of the lien."

Section 63

Section 63

Section 55-9-302 NMSA 1978 (being Laws 1961, Chapter 96, Section 9-302, as amended) is amended to read:

"55-9-302. WHEN FILING IS REQUIRED TO PERFECT SECURITY INTEREST--
SECURITY INTERESTS TO WHICH FILING PROVISIONS OF THIS ARTICLE DO
NOT APPLY.--

(1) A financing statement must be filed to perfect all security interests except the following:

(a) a security interest in collateral in possession of the secured party under Section 55-9-305 NMSA 1978;

(b) a security interest temporarily perfected in instruments, certificated securities or documents without delivery under Section 55-9-304 NMSA 1978 or in proceeds for a ten-day period under Section 55-9-306 NMSA 1978;

(c) a security interest created by an assignment of a beneficial interest in a trust or a decedent's estate;

(d) a purchase money security interest in consumer goods; but filing is required for a motor vehicle required to be registered; and fixture filing is required for priority over conflicting interests in fixtures to the extent provided in Section 55-9-313 NMSA 1978;

(e) an assignment of accounts that does not alone or in conjunction with other assignments to the same assignee transfer a significant part of the outstanding accounts of the assignor;

(f) a security interest of a collecting bank (Section 55-4-210 NMSA 1978) or arising under the article on sales (Article 2) or the article on leases (Article 2A) (see Section 55-9-113 NMSA 1978) or covered in Subsection (3) of this section;

(g) an assignment for the benefit of all the creditors of the transferor and subsequent transfers by the assignee thereunder; or

(h) a security interest in personal property which is perfected without filing under Section 55-9-515

or 55-9-116 NMSA 1978.

(2) If a secured party assigns a perfected security interest, no filing under this article is required in order to continue the perfected status of the security interest against creditors of and transferees from the original debtor.

(3) The filing of a financing statement otherwise required by Chapter 55, Article 9 NMSA 1978 is not necessary or effective to perfect a security interest in property subject to:

(a) a statute or treaty of the United States that provides for a national or international registration or a national or international certificate of title or that specifies a place of filing different from that specified in this article for filing of the security interest;

(b) the following statutes of this state: Sections 66-3-201 through 66-3-204 of the Motor Vehicle Code and any other certificate of title statute covering automobiles, trailers, mobile homes, boats, farm tractors or the like; but during any period in which collateral is inventory held for sale by a person who is in the business of selling goods of that kind, the filing provisions of Chapter 55, Article 9 NMSA 1978 apply to a security interest in that collateral created by him as debtor; or

(c) a certificate of title statute of another jurisdiction under the law of which indication of a security interest on the certificate is required as a condition of perfection (Subsection (2) of Section 55-9-103 NMSA 1978).

(4) Compliance with a statute or treaty described in Subsection (3) of this section is equivalent to the filing of a financing statement under Chapter 55, Article 9 NMSA 1978, and a security interest in property subject to the statute or treaty can be perfected only by compliance therewith except as provided in Section 55-9-103 NMSA 1978 on multiple state transactions. Duration and renewal of perfection of a security interest perfected by compliance with the statute or treaty are governed by the provisions of the statute or treaty; in other respects the security interest is subject to Chapter 55, Article 9 NMSA 1978."

Section 64

Section 64

Section 55-9-304 NMSA 1978 (being Laws 1961, Chapter 96, Section 9-304, as amended) is amended to read:

"55-9-304. PERFECTION OF SECURITY INTEREST IN INSTRUMENTS, DOCUMENTS AND GOODS COVERED BY DOCUMENTS--PERFECTION BY PERMISSIVE FILING--TEMPORARY PERFECTION WITHOUT FILING OR TRANSFER OF POSSESSION.--

(1) A security interest in chattel paper or negotiable documents may be perfected by filing. A security interest in money or instruments (other than instruments which constitute part of chattel paper) can be perfected only by the secured party's taking possession, except as provided in Subsections (4) and (5) of this section and Subsections (2) and (3) of Section 55-9-306 NMSA 1978 on proceeds.

(2) During the period that goods are in the possession of the issuer of a negotiable document therefor, a security interest in the goods is perfected by perfecting a security interest in the document, and any security interest in the goods otherwise perfected during such period is subject thereto.

(3) A security interest in goods in the possession of a bailee other than one who has issued a negotiable document therefor is perfected by issuance of a document in the name of the secured party or by the bailee's receipt of notification of the secured party's interest or by filing as to the goods.

(4) A security interest in instruments, certificated securities or negotiable documents is perfected without filing or the taking of possession for a period of twenty-one days from the time it attaches to the extent that it arises for new value given under a written security agreement.

(5) A security interest remains perfected for a period of twenty-one days without filing where a secured party having a perfected security interest in an instrument, a certificated security, a negotiable document or goods in possession of a bailee other than one who has issued a negotiable document therefor:

(a) makes available to the debtor the goods or documents representing the goods for the purpose of ultimate sale or exchange or for the purpose of loading, unloading, storing, shipping, transshipping, manufacturing, processing or otherwise dealing with them in a manner preliminary to their sale or exchange, but priority between conflicting security interests in the goods is subject to Subsection (3) of Section 55-9-312 NMSA 1978; or

(b) delivers the instrument or certificated security to the debtor for the purpose of ultimate sale or exchange or of presentation, collection, renewal or registration of transfer.

(6) After the twenty-one-day period in Subsections (4) and (5) of this section, perfection depends upon compliance with applicable provisions of Chapter 55, Article 9 NMSA 1978."

Section 65

Section 65

Section 55-9-305 NMSA 1978 (being Laws 1961, Chapter 96, Section 9-305, as amended) is amended to read:

"55-9-305. WHEN POSSESSION BY SECURED PARTY PERFECTS SECURITY INTEREST WITHOUT FILING.--A security interest in letters of credit and advices of credit (Paragraph (a) of Subsection 2 of Section 55-5-116 NMSA 1978), goods, instruments, money, negotiable documents or chattel paper may be perfected by the secured party's taking possession of the collateral. If such collateral other than goods covered by a negotiable document is held by a bailee, the secured party is deemed to have possession from the time the bailee receives notification of the secured party's interest. A security interest is perfected by possession from the time possession is taken without relation back and continues only so long as possession is retained, unless otherwise specified in Chapter 55, Article 9 NMSA 1978. The security interest may be otherwise perfected as provided in that article before or after the period of possession by the secured party."

Section 66

Section 66

Section 55-9-306 NMSA 1978 (being Laws 1961, Chapter 96, Section 9-306, as amended) is amended to read:

"55-9-306. "PROCEEDS"--SECURED PARTY'S RIGHTS ON DISPOSITION OF COLLATERAL.--

(1) "Proceeds" includes whatever is received upon the sale, exchange, collection or other disposition of collateral or proceeds. Insurance payable by reason of loss or damage to the collateral is proceeds, except to the extent that it is payable to a person other than a party to the security agreement. Any payments or distributions made with respect to investment property collateral are proceeds. Money, checks, deposit accounts and the like are "cash proceeds". All other proceeds are "non-cash proceeds".

(2) Except where Chapter 55, Article 9 NMSA 1978 otherwise provides, a security interest continues in collateral notwithstanding sale, exchange or other disposition thereof unless the disposition was authorized by the secured party in the security agreement or otherwise and also continues in any identifiable proceeds, including collections, received by the debtor.

(3) The security interest in proceeds is a continuously perfected security interest if the interest in the original collateral was perfected, but it ceases to be a perfected security interest and becomes unperfected ten days after receipt of the proceeds by the debtor unless:

(a) a filed financing statement covers the original collateral and the proceeds are collateral in which a security interest may be perfected by filing in the office or offices where the financing statement has been filed and, if the proceeds are acquired with cash proceeds, the description of collateral in the financing statement indicates the types of property constituting the proceeds;

(b) a filed financing statement covers the original collateral and the proceeds are identifiable cash proceeds;

(c) the original collateral was investment property and the proceeds are identifiable cash proceeds; or

(d) the security interest in the proceeds is perfected before the expiration of the ten-day period.

Except as provided in this section, a security interest in proceeds can be perfected only by the methods or under the circumstances permitted in Chapter 55, Article 9 NMSA 1978 for original collateral of the same type.

(4) In the event of insolvency proceedings instituted by or against a debtor, a secured party with a perfected security interest in proceeds has a perfected security interest only in the following proceeds:

(a) in identifiable non-cash proceeds and in separate deposit accounts containing only proceeds;

(b) in identifiable cash proceeds in the form of money which is neither commingled with other money nor deposited in a deposit account prior to the insolvency proceedings;

(c) in identifiable cash proceeds in the form of checks and the like which are not deposited in a deposit account prior to the insolvency proceedings; and

(d) in all cash and deposit accounts of the debtor in which proceeds have been commingled with other funds, but the perfected security interest under this Paragraph (d) is:

(i) subject to any right of set-off; and

(ii) limited to an amount not greater than the amount of any cash proceeds received by the debtor within ten days before the institution of the insolvency proceedings less the sum of (I) the payments to the secured party on account of cash proceeds received by the debtor during such period and (II) the cash proceeds received by the debtor during such period to which the secured party is entitled under Paragraphs (a) through (c) of this Subsection.

(5) If a sale of goods results in an account or chattel paper which is transferred by the seller to a secured party, and if the goods are returned to or are repossessed by the seller or the secured party, the following rules determine priorities:

(a) if the goods were collateral at the time of sale, for an indebtedness of the seller which is still unpaid, the original security interest attaches again to the goods and continues as a perfected security interest if it was perfected at the time when the goods were sold. If the security interest was originally perfected by a filing which is still effective, nothing further is required to continue the perfected status; in any other case, the secured party must take possession of the returned or repossessed goods or must file;

(b) an unpaid transferee of the chattel paper has a security interest in the goods against the transferor. Such security interest is prior to a security interest asserted under Paragraph (a) of this subsection to the extent that the transferee of the chattel paper was entitled to priority under Section 55-9-308 NMSA 1978;

(c) an unpaid transferee of the account has a security interest in the goods against the transferor. Such security interest is subordinate to a security interest asserted under Paragraph (a) of this subsection; and

(d) a security interest of an unpaid transferee asserted under Paragraph (b) or (c) of this subsection must be perfected for protection against creditors of the transferor and purchasers of the returned or repossessed goods."

Section 67

Section 67

Section 55-9-309 NMSA 1978 (being Laws 1961, Chapter 96, Section 9-309, as amended) is amended to read:

"55-9-309. PROTECTION OF PURCHASERS OF INSTRUMENTS AND DOCUMENTS AND SECURITIES.--Nothing in this article limits the rights of a holder in due course of a negotiable instrument (Section 55-3-302 NMSA 1978) or a holder to whom a negotiable document of title has been duly negotiated (Section 55-7-501 NMSA 1978) or a protected purchaser of a security (Section 55-8-303 NMSA 1978) and such holders or

purchasers take priority over an earlier security interest even though perfected. Filing under this article does not constitute notice of the security interest to such holders or purchasers."

Section 68

Section 68

Section 55-9-312 NMSA 1978 (being Laws 1961, Chapter 96, Section 9-312, as amended) is amended to read:

"55-9-312. PRIORITIES AMONG CONFLICTING SECURITY INTERESTS IN THE SAME COLLATERAL.--

(1) The rules of priority stated in other sections of this part and in the following sections shall govern when applicable: Section 55-4- 210 NMSA 1978 with respect to the security interests of collecting banks in items being collected, accompanying documents and proceeds; Section

55-9-103 NMSA 1978 on security interests related to other jurisdictions; Section 55-9-114 NMSA 1978 on consignments; and Section 55-9-115 on security interests in investment property.

(2) A perfected security interest in crops, for new value given to enable the debtor to produce the crops during the production season and given not more than three months before the crops become growing crops by planting or otherwise, takes priority over an earlier perfected security interest to the extent that such earlier interest secures obligations due more than six months before the crops become growing crops by planting or otherwise, even though the person giving new value had knowledge of the earlier security interest.

(3) A perfected purchase money security interest in inventory has priority over a conflicting security interest in the same inventory and also has priority in identifiable cash proceeds received on or before the delivery of the inventory to a buyer if:

(a) the purchase money security interest is perfected at the time the debtor receives possession of the inventory;

(b) the purchase money secured party gives notification in writing to the holder of the conflicting security interest if the holder had filed a financing statement covering the same types of inventory (i) before the date of the filing made by the purchase money secured party, or (ii) before the beginning of the twenty-one-day period where the purchase money security interest is temporarily perfected without filing or possession (Subsection (5) of Section 55-9-304 NMSA 1978);

(c) the holder of the conflicting security interest receives the notification within five years before the debtor receives possession of the inventory; and

(d) the notification states that the person giving the notice has or expects to acquire a purchase money security interest in inventory of the debtor, describing such inventory by item or type.

(4) A purchase money security interest in collateral other than inventory has priority over a conflicting security interest in the same collateral or its proceeds if the purchase money security interest is perfected at the time the debtor receives possession of the collateral or within twenty days thereafter.

(5) In all cases not governed by other rules stated in this section (including cases of purchase money security interests that do not qualify for the special priorities set forth in Subsections (3) and (4) of this section), priority between conflicting security interests in the same collateral shall be determined according to the following rules:

(a) conflicting security interests rank according to priority in time of filing or perfection. Priority dates from the time a filing is first made covering the collateral or the time the security interest is first perfected, whichever is earlier, provided that there is no period thereafter when there is neither filing nor perfection; and

(b) so long as conflicting security interests are unperfected, the first to attach has priority.

(6) For the purposes of Subsection (5) of this section, a date of filing or perfection as to collateral is also a date of filing or perfection as to proceeds.

(7) If future advances are made while a security interest is perfected by filing, by the taking of possession or under Section 55-9-115 or 55-9-116 NMSA 1978 on security interests in personal property, the security interest has the same priority for the purposes of Subsection (5) of this section with respect to the future advances as it does with respect to the first advance. If a commitment is made before or while the security interest is so perfected, the security interest has the same priority with respect to advances made pursuant thereto. In other cases a perfected security interest has priority from the date the advance is made."

Section 69

Section 69

SAVING CLAUSE.--

(a) Chapter 55, Article 8 NMSA 1978 does not affect an action or proceeding commenced before that Article takes effect.

(b) If a security interest in a security is perfected at the date Chapter 55, Article 8 NMSA 1978 takes effect and the action by which the security interest was perfected would suffice to perfect a security interest under that article, no further action is required to continue perfection. If a security interest in a security is perfected at the date Chapter 55, Article 8 NMSA 1978 takes effect but the action by which the security interest was perfected would not suffice to perfect a security interest under that article, the security interest remains perfected for a period of four months after the effective date and continues perfected thereafter if appropriate action to perfect under Chapter 55, Article 8 NMSA 1978 is taken within that period. If a security interest is perfected at the date Chapter 55, Article 8 NMSA 1978 takes effect and the security interest can be perfected by filing under that article, a financing statement signed by the secured party instead of the debtor may be filed within that period to continue perfection or thereafter to perfect.

Section 70

Section 70

REPEAL.--Sections 55-8-308 through 55-8-321 and Section 55-8-408 NMSA 1978 (being Laws 1961, Chapter 96, Sections 8- 308 through 8-319, Laws 1967, Chapter 186, Section 3, Laws 1987, Chapter 248, Sections 38 and 46, as amended) are repealed.

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HOUSE BILL 37

SIGNED MARCH 5, 1996

Chapter 48

RELATING TO COMMUNICATIONS; AMENDING SECTIONS OF THE TELECOMMUNICATIONS ACCESS ACT.

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

Section 1

Section 1

Section 63-9F-3 NMSA 1978 (being Laws 1993, Chapter 54, Section 3) is amended to read:

"63-9F-3. DEFINITIONS.--As used in the Telecommunications Access Act:

A. "commission" means the commission for deaf and hard-of-hearing persons;

B. "communications assistant" means an individual who translates conversation from text to voice and from voice to text between two end users of a telecommunications service;

C. "department" means the general services department;

D. "impaired" means having an impairment of or deficit in the ability to hear or speak, or both;

E. "intrastate telephone services" means all charges for access lines, special services, including all calls originating and terminating in the state, and intrastate toll services;

F. "specialized telecommunications equipment" means devices that when connected to a telephone enable or assist an impaired individual to communicate with another individual using the telephone network;

G. "telecommunications company" means an individual, corporation, partnership, joint venture, company, firm, association, proprietorship or other entity that provides public telecommunications services, and includes cellular service companies as defined in Subsection B of Section 63-9B-3 NMSA 1978; and

H. "telecommunications relay system" means a statewide telecommunications system through which an impaired individual using specialized telecommunications equipment is able to send or receive messages to and from an individual who is not impaired and whose telephone is not equipped with specialized telecommunications equipment and through which the unimpaired individual is able, by using voice communications, to send and receive messages to and from an impaired person."

Section 2

Section 2

Section 63-9F-11 NMSA 1978 (being Laws 1993, Chapter 54, Section 11) is amended to read:

"63-9F-11. IMPOSITION OF SURCHARGE.--

A. A telecommunications relay service surcharge of thirty-three one hundredths of one percent is imposed on the gross amount paid by customers for intrastate telephone services provided in this state. The surcharge shall be included on the monthly bill of each customer of a local exchange company or other telecommunications company providing intrastate telephone services and paid at the time of payment of the monthly bill. Receipts from selling a service to any other telecommunications company or provider for resale shall not be subject to the surcharge. The customer shall be liable for the payment of this surcharge to the local exchange company or other telecommunications company providing intrastate telephone services to the customer.

B. Every telecommunications company providing intrastate telephone services shall be responsible for assessing, collecting and remitting the telecommunications relay service surcharge to the taxation and revenue department. The amount of the telecommunications relay service surcharge collected by a telecommunications company shall be remitted monthly to the taxation and revenue department, on or before the twenty-fifth of the month following collection, which shall administer and enforce the collection of the surcharge pursuant to the provisions of the Tax Administration Act.

C. The taxation and revenue department shall remit to the telecommunications access fund the amount of the telecommunications relay service surcharge collected less any amount deducted pursuant to the provisions of Subsection D of this section. Transfer of the net receipts from the surcharge to the telecommunications access fund shall be made within the month following the month in which the surcharge is collected.

D. The taxation and revenue department may deduct an amount not to exceed three percent of the telecommunications relay service surcharge collected as a charge for the administrative costs of collection, which amount shall be remitted to the state treasurer for deposit in the general fund each month.

E. The general services department shall report to the revenue stabilization and tax policy committee annually by September 30 the following information with respect to the prior fiscal year:

- (1) the amount and source of revenue received by the telecommunications access fund;
- (2) the amount and category of expenditures from the fund; and
- (3) the balance of the fund on that June 30."

Section 3

Section 3

EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1996.

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HOUSE BILL 55

SIGNED MARCH 5, 1996

Chapter 49

RELATING TO TAXATION; IMPOSING THE LIQUOR EXCISE TAX ON ALCOHOLIC CIDER.

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

Section 1

Section 1

Section 7-17-2 NMSA 1978 (being Laws 1966, Chapter 49, Section 2, as amended by Laws 1995, Chapter 70, Section 18 and also by Laws 1995, Chapter 74, Section 1) is amended to read:

"7-17-2. DEFINITIONS.--As used in the Liquor Excise Tax Act:

A. "alcoholic beverages" means distilled or rectified spirits, potable alcohol, brandy, whiskey, rum, gin and aromatic bitters or any similar alcoholic beverage, including blended or fermented beverages, dilutions or mixtures of one or more of the foregoing containing more than one-half of one percent alcohol, but excluding medicinal bitters:

(1) "spirituous liquors" means alcoholic beverages except fermented beverages such as wine, beer, cider and ale;

(2) "beer" means any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt and hops or other cereals in water and includes porter, beer, ale and stout;

(3) "cider" means an alcoholic beverage made from the normal alcoholic fermentation of the juice of sound, ripe apples that contains not less than one-half of one percent of alcohol by volume and not more than seven percent of alcohol by volume;

(4) "fortified wine" means wine containing more than fourteen percent alcohol by volume when bottled or packaged by the manufacturer, but does not include:

(a) wine that is sealed or capped by cork closure and aged two years or more;

(b) wine that contains more than fourteen percent alcohol by volume solely as a result of the natural fermentation process and has not been produced with the addition of wine spirits, brandy or alcohol; or

(c) vermouth and sherry; and

(5) "wine" includes the words "fruit juices" and means alcoholic beverages other than cider obtained by the fermentation of the natural sugar contained in fruit or other agricultural products, with or without the addition of sugar or other products, that do not contain less than one-half of one percent nor more than twenty-one percent alcohol by volume;

B. "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. "micro brewer" means any person who produces less than five thousand barrels of beer in a year;

D. "person" means any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate or other association; "person" also means, to the extent permitted by law, any federal, state or other governmental unit or subdivision or agency, department or instrumentality thereof;

E. "small winer or winegrower" means any person who produces less than two hundred twenty thousand liters of wine in a year; and

F. "wholesaler" means any person holding a license issued under Section 60-6A-1 NMSA 1978 or any person selling alcoholic beverages that were not purchased from a person holding a license issued under Section 60-6A-1 NMSA 1978."

Section 2

Section 2

Section 7-17-5 NMSA 1978 (being Laws 1993, Chapter 65, Section 8, as amended) is amended to read:

"7-17-5. IMPOSITION AND RATE OF LIQUOR EXCISE TAX.--There is imposed on any wholesaler who sells alcoholic beverages on which the tax imposed by this section has not been paid an excise tax, to be referred to as the "liquor excise tax", at the following rates on alcoholic beverages sold:

A. on spirituous liquors, one dollar sixty cents (\$1.60) per liter;

B. on beer, except as provided in Subsection E of this section, forty-one cents (\$.41) per gallon;

C. on wine, except as provided in Subsections D and F of this section, forty-five cents (\$.45) per liter;

D. on fortified wine, one dollar fifty cents (\$1.50) per liter;

E. on beer manufactured or produced by a micro brewer and sold in this state, provided that proof is furnished to the department that the beer was manufactured or produced by a micro brewer, twenty-five cents (\$.25) per gallon;

F. on wine manufactured or produced by a small winer or winegrower and sold in this state, provided that proof is furnished to the department that the wine was manufactured or produced by a small winer or winegrower, ten cents (\$.10) per liter on the first eighty thousand liters sold and twenty cents (\$.20) per liter on all liters sold over eighty thousand but less than two hundred twenty thousand; and

G. on cider, forty-one cents (\$.41) per gallon."

Section 3

Section 3

EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1996.

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HOUSE BILL 72

SIGNED MARCH 5, 1996

Chapter 50

RELATING TO FINANCIAL TRANSACTIONS; PROVIDING FOR THE USE OF REPRODUCED DOCUMENTS IN CERTAIN TRANSACTIONS; AMENDING A SECTION OF THE NEW MEXICO SMALL LOAN ACT OF 1955.

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

Section 1

Section 1

Section 58-15-17 NMSA 1978 (being Laws 1955, Chapter 128, Section 15) is amended to read:

"58-15-17. REQUIREMENTS FOR MAKING AND PAYING OF LOANS--INCOMPLETE INSTRUMENTS--LIMITATIONS ON CHARGES AFTER JUDGMENT AND INTEREST.-

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A. Every licensee shall:

(1) at the time any loan is made within the provisions of the New Mexico Small Loan Act of 1955, deliver to the borrower or, if there are two or more borrowers on the same obligation, to one of them, a statement in English on which shall be printed a copy of Section 58-15-14.1 NMSA 1978, disclosing in clear and distinct terms the amount of the

loan, the date the loan was made, a schedule or a description of the payments, the type of the security, if any, for the loan, the name and address of the licensed office, the name of the person primarily obligated for the loan, the amount of principal, the agreed rate of charge stated on a percent per month and a percent per year basis and the amount in dollars and cents and other items allowable pursuant to that act, so stated as to clearly show the allocation of each item included;

(2) for each payment made on account of any such loan, give to the person making it a plain and complete receipt specifying the date and amount of the payment, the amount applied to interest and principal and the balance unpaid. When payment is made in any other manner than by the borrower in person, by an agent of the borrower or by check or money order, the licensee shall mail the receipt to the borrower's last known address or hold the receipt for delivery upon request of the borrower. A copy of all receipts shall be kept on file in the office of the licensee as a part of his records; and

(3) upon payment of the loan in full, mark plainly every note and promise to pay signed by any obligor with the word "paid" or "canceled" and promptly file or record a release of any mortgage if the mortgage has been recorded, restore any pledge and cancel and return any note and any assignment given to the licensee. A licensee may mark and return a copy of the note, promise to pay or any assignment if the copy accurately reproduces the complete original.

B. No licensee shall take any note or promise to pay that does not disclose the amount of the loan, a schedule of payments, or a description thereof, and the agreed charge or rate of charge or any instrument in which blanks are left to be filled in after execution.

C. If judgment is obtained against any party or any loan made under the provisions of the New Mexico Small Loan Act of 1955, neither the judgment nor the loan shall carry, from the date of the judgment, any charges against any party to the loan other than court costs, attorneys' fees and interest on the amount of the judgment at ten percent a year.

D. Any loan made under the provisions of the New Mexico Small Loan Act of 1955 that is filed and approved as a claim in any bankruptcy proceeding shall, from a date ninety days subsequent to the date of adjudication, bear interest at the rate of ten percent a year only. This limitation shall not apply when the bankrupt is not discharged in bankruptcy or to any obligation not dischargeable under the provisions of the Bankruptcy Act presently in force or as hereafter amended.

E. No loan made under the provisions of the New Mexico Small Loan Act of 1955 shall bear interest after ninety days from the date of the death of the borrower in excess of a rate of ten percent a year on the unpaid principal balance of the loan.

F. No loan made under the provisions of the New Mexico Small Loan Act of 1955 shall bear interest after twelve months from the date of maturity of the loan in excess of ten percent a year upon the unpaid principal balance of the loan."

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HOUSE BILL 174, AS AMENDED

SIGNED MARCH 5, 1996

Chapter 51

RELATING TO STATE AGENCIES; PROVIDING SUNSETTING PROVISIONS FOR CERTAIN ACTS AND BOARDS OF VARIOUS TRADES AND PROFESSIONS; AMENDING AND REPEALING VARIOUS SECTIONS OF THE NMSA 1978 THAT RELATE TO REGULATION AND LICENSURE; DECLARING AN EMERGENCY.

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

Section 1

Section 1

Section 61-7A-5 NMSA 1978 (being Laws 1989, Chapter 387, Section 5) is amended to read:

"61-7A-5. BOARD CREATED.--

A. There is created the "nutrition and dietetics practice board", administratively attached to the regulation and licensing department. The board shall consist of five members who are New Mexico residents and who are appointed by the governor for staggered three-year terms. Three members shall be licensed dietitians or nutritionists with at least three years of nutrition or dietetics practice in New Mexico and two members shall represent the public. There shall be at least one dietitian and at least one nutritionist on the board at all times. The public members shall not have been licensed as a dietitian or nutritionist or have any financial interest, direct or indirect, in the professions regulated.

B. Each member shall hold office until the expiration of the term for which appointed or until a successor has been appointed. Vacancies shall be filled for the balance of the unexpired term within ninety days of the vacancy by appointment by the governor.

C. No board member shall serve more than two full terms.

D. The board shall elect annually a chairman and such other officers as it deems necessary. The board shall meet as often as necessary for the conduct of business, but no less than twice a year. Meetings shall be called by the chairman or upon the written request of two or more members of the board. Three members, at least two of whom are professional members and at least one of whom is a public member, shall constitute a quorum. Any member failing to attend, after proper notice, three consecutive meetings shall automatically be removed as a board member.

E. The members of the board shall be reimbursed as provided for nonsalaried public officers in the Per Diem and Mileage Act and shall receive no other compensation, perquisite or allowance."

Section 2

Section 2

Section 61-7A-6 NMSA 1978 (being Laws 1989, Chapter 387, Section 6) is amended to read:

"61-7A-6. BOARD--DUTIES.--

A. The board shall:

- (1) develop and administer an appropriate examination for qualified applicants;
- (2) evaluate the qualifications of applicants for licensure under the Nutrition and Dietetics Practice Act;
- (3) issue licenses to applicants who meet the requirements of the Nutrition and Dietetics Practice Act;
- (4) investigate persons engaging in practices that may violate the provisions of the Nutrition and Dietetics Practice Act;
- (5) revoke, suspend or deny a license in accordance with the provisions of the Uniform Licensing Act;
- (6) adopt an annual budget;
- (7) adopt a code of ethics; and
- (8) adopt in accordance with the Uniform Licensing Act and file in accordance with the State Rules Act rules and regulations necessary to carry out the provisions of the Nutrition and Dietetics Practice Act; provided, no rule or regulation may be adopted, amended or repealed except by a vote of three-fifths of the board members.

B. The board may contract with the regulation and licensing department for office space and administrative support."

Section 3

Section 3

Section 61-7A-7 NMSA 1978 (being Laws 1989, Chapter 387, Section 7) is amended to read:

"61-7A-7. LICENSURE--REQUIREMENTS.--

A. The board shall issue a license as a dietitian to any person who files a completed application, pays all required fees and certifies and furnishes evidence satisfactory to the board that the applicant has a valid current registration with the commission that gives the applicant the right to use the term "registered dietitian" or "R.D."

B. The board shall issue a license as a nutritionist to any person who files a completed application, pays all required fees and certifies and furnishes evidence satisfactory to the board that the applicant:

(1) has received a master's degree or doctorate in human nutrition, nutrition education, foods and nutrition or public health nutrition from a college or university accredited by a member of the council on post-secondary accreditation; or

(2) maintains membership in one of the following organizations:

(a) the American institute of nutrition;

(b) the American society for clinical nutrition; or

(c) the American board of nutrition; and

(3) has successfully completed any training or educational programs and other requirements set out in the rules and regulations adopted pursuant to the Nutrition and Dietetics Practice Act.

C. Notwithstanding the provisions of Subsections A and B of this section, the board shall issue a license to an applicant who pays all required fees and who successfully passes a state examination, as established in Subsection A of Section 61-7A-6 NMSA 1978.

D. The board shall issue a license as a nutrition associate to any person who files a completed application, pays all required fees and certifies and furnishes evidence satisfactory to the board that the applicant:

(1) has received a baccalaureate or higher degree from a college or university accredited by a member of the council on post-secondary accreditation and fulfilled minimum academic requirements in the field of dietetics and related disciplines as approved by the association; and

(2) works under the supervision of a dietitian or nutritionist. Such supervision shall include a minimum of four hours onsite supervision per month plus phone consultation as needed.

E. A valid license issued pursuant to the Nutrition and Dietetics Practice Act shall be displayed at the licensee's place of employment.

F. Licenses, including initial licenses, shall be issued for a period of one year."

Section 4

Section 4

Section 61-7A-15 NMSA 1978 (being Laws 1989, Chapter 387, Section 15) is amended to read:

"61-7A-15. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The board is terminated on July 1, 1997 pursuant to the Sunset Act. The board shall continue to operate according to the provisions of the Nutrition and Dietetics Practice Act until July 1, 1998. Effective July 1, 1998, the Nutrition and Dietetics Practice Act is repealed."

Section 5

Section 5

Section 61-9-3 NMSA 1978 (being Laws 1963, Chapter 92, Section 3, as amended) is amended to read:

"61-9-3. DEFINITIONS.--As used in the Professional Psychologist Act:

A. "board" means the New Mexico state board of psychologist examiners;

B. "department" means the regulation and licensing department or the division of the department designated to administer the provisions of the Professional Psychologist Act;

C. "person" includes an individual, firm, partnership, association or corporation;

D. "psychologist" means any person who engages in the practice of psychology or holds himself out to the public by any title or description of services representing himself as a psychologist, which incorporates the words "psychological", "psychologist", "psychology", or when a person describes himself as above and, under such title or description, offers to render or renders services involving the application of principles, methods and procedures of the science and profession of psychology to persons for compensation or other personal gain;

E. "practice of psychology" means the observation, description, evaluation, interpretation and modification of human behavior by the application of psychological principles, methods and procedures for the purpose of preventing or eliminating symptomatic, maladaptive or undesired behavior and of enhancing interpersonal relationships, work and life adjustment, personal effectiveness, behavioral health and mental health, and further means the rendering of such psychological services to individuals, families or groups regardless of whether payment is received for services rendered. The practice of psychology includes, but is not limited to, psychological testing or neuropsychological testing and the evaluation or assessment of personal characteristics such as intelligence, personality, abilities, interests, aptitudes and neuropsychological functioning; counseling, psychoanalysis, psychotherapy, hypnosis, biofeedback, behavior analysis and therapy; diagnosis and treatment of any mental and emotional disorder or disability, alcoholism and substance abuse, disorders of habit or conduct and the psychological aspects of physical illness, accident, injury and disability; and psychoeducational evaluation, therapy, remediation and consultation; and

F. "school" or "college" means any university or other institution of higher learning offering a full-time graduate course of study in psychology, which is regionally accredited or whose accreditation as an institution of higher learning is recognized by the state department of public education or is satisfactory to the board."

Section 6

Section 6

Section 61-9-5 NMSA 1978 (being Laws 1989, Chapter 41, Section 5, as amended) is amended to read:

"61-9-5. STATE BOARD OF EXAMINERS--PSYCHOLOGY FUND.--

A. There is created a "New Mexico state board of psychologist examiners" consisting of eight members appointed by the governor who are residents of New Mexico and who shall serve for three-year staggered terms. No board member shall serve more than two terms. The members shall be appointed as follows:

(1) four members shall be professional members who are licensed under the Professional Psychologist Act as psychologists and may be appointed from a list of names nominated by the New Mexico psychological association, the state psychologist association and the New Mexico school psychologist association;

(2) one member shall be licensed under the Professional Psychologist Act as a psychologist or psychologist associate; and

(3) three members shall be public members who are laymen and have no significant financial interest, direct or indirect, in the practice of psychology.

B. Each member shall hold office until the expiration of his appointed term or until a successor is duly appointed. When the term of each member ends, the governor shall appoint his successor for a term of three years. Any vacancy occurring in the board membership other than by expiration of term shall be filled by the governor by appointment for the unexpired term of the member. The governor may remove any board member for misconduct, incompetency or neglect of duty. Any member failing to attend, after proper notice, three consecutive meetings shall automatically be removed as a board member.

C. All money received by the board shall be credited to the "psychology fund", and a receipt for the same shall be kept by the secretary-treasurer of the board. The 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. The secretary-treasurer may receive such salary as the board determines. The sums, together with all other incidental expenses of the board, shall be approved by the board and sent to the auditor for payment."

Section 7

Section 7

Section 61-9-6 NMSA 1978 (being Laws 1963, Chapter 92, Section 5, as amended) is amended to read:

"61-9-6. BOARD--MEETING--POWERS.--

A. The board shall, annually in the month of July, hold a meeting and elect from its membership a chairman and vice chairman. The board shall meet at such other times as it deems necessary or advisable or as deemed necessary and advisable by the chairman or a majority of its members or the governor. Reasonable notice of all meetings shall be given in the manner prescribed by the board. A majority of the board constitutes a quorum at any meeting or hearing.

B. The board is authorized to:

(1) adopt and from time to time revise such rules and regulations not inconsistent with the law as may be necessary to carry into effect the provisions of the Professional Psychologist Act. Such rules and regulations shall include but not be limited to a code of conduct for psychologists and psychologist associates in the state;

(2) employ, within the funds available, a secretary and other personnel necessary for the proper performance of its work under the Professional Psychologist Act;

(3) adopt a seal, and the secretary shall have the care and custody of the seal;

(4) examine for, approve, deny, revoke, suspend and renew the licensure of psychologist and psychologist associate applicants as provided in the Professional Psychologist Act;

(5) conduct hearings upon complaints concerning the disciplining of a psychologist or psychologist associate;

(6) enforce all provisions of the Professional Psychologist Act and all rules and regulations adopted under that act; and

(7) cause the prosecution and enjoinder of all persons violating the Professional Psychologist Act and incur necessary expenses therefor.

C. Within sixty days after the close of each fiscal year, the board shall submit a written or printed report, reviewed and signed by the board members, to the governor concerning the work of the board during the preceding fiscal year. The report shall include the names of all psychologists and psychologist associates to whom licenses have been granted; any cases heard and decisions rendered in relation to the work of the board; the recommendations of the board as to future policies; the names, remuneration and duties of any employees of the board; and an account of all money received and expended by the board."

Section 8

Section 8

Section 61-9-19 NMSA 1978 (being Laws 1978, Chapter 188, Section 2, as amended) is amended to read:

"61-9-19. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The New Mexico state board of psychologist examiners is terminated on July 1, 1997 pursuant to the Sunset Act. The board shall continue to operate according to the provisions of Chapter 61, Article 9 NMSA 1978 until July 1, 1998. Effective July 1, 1998, Article 9 of Chapter 61 NMSA 1978 is repealed."

Section 9

Section 9

Section 61-12B-5 NMSA 1978 (being Laws 1984, Chapter 103, Section 5, as amended) is amended to read:

"61-12B-5. ADVISORY BOARD CREATED.--

A. The superintendent shall appoint an "advisory board of respiratory care practitioners" consisting of five members as follows:

(1) one physician licensed in New Mexico who is knowledgeable in respiratory care;

(2) two respiratory care practitioners; and

(3) two public members who are residents of New Mexico. The public members shall not have been licensed as respiratory care practitioners nor shall they have any financial interest, direct or indirect, in the occupation regulated.

B. Each member shall serve no more than two three-year terms.

C. The members of the board shall receive per diem and mileage as provided for nonsalaried public officers in the Per Diem and Mileage Act and shall receive no other compensation, perquisite or allowance in connection with the discharge of their duties as board members. Three members, including at least one public member, constitute a quorum.

D. Any member failing, after proper notice, to attend any three consecutive meetings of the board without a reasonable excuse shall be automatically removed from the board."

Section 10

Section 10

Section 61-12B-9 NMSA 1978 (being Laws 1984, Chapter 103, Section 9, as amended) is amended to read:

"61-12B-9. OTHER LICENSING PROVISIONS.--

A. The department, in consultation with the board, shall adopt rules and regulations for mandatory continuing education requirements that shall be completed as a condition for renewal of any license issued pursuant to provisions of the Respiratory Care Act.

B. The department, in consultation with the board, may adopt rules and regulations for issuance of temporary permits for students and graduates of approved training programs to practice limited respiratory care under the direct supervision of a licensed respiratory care practitioner or physician. Rules and regulations shall be adopted defining, for the purposes of the Respiratory Care Act, the terms "students" and "direct supervision".

C. The license issued by the department shall describe the licensed person as a "respiratory care practitioner licensed by the New Mexico regulation and licensing department" and shall be displayed in the licensee's place of business.

D. Unless licensed as a respiratory care practitioner pursuant to provisions of the Respiratory Care Act, no person shall use the title "respiratory care practitioner", the

abbreviation "R.C.P." or any other title or abbreviation to indicate that the person is a licensed respiratory care practitioner.

E. A copy of the valid license or temporary permit issued pursuant to the Respiratory Care Act shall be displayed at the respiratory care practitioner's place of employment.

F. Licenses, including initial licenses, shall be issued for a period of two years."

Section 11

Section 11

Section 61-12B-16 NMSA 1978 (being Laws 1984, Chapter 103, Section 17, as amended) is amended to read:

"61-12B-16. TERMINATION OF BOARD--DELAYED REPEAL.--The board is terminated on July 1, 1997 pursuant to the Sunset Act. The board shall continue to operate until July 1, 1998. Effective July 1, 1998, the Respiratory Care Act is repealed."

Section 12

Section 12

Section 61-14B-17 NMSA 1978 (being Laws 1990, Chapter 16, Section 4) is amended to read:

"61-14B-17. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The speech-language pathology and audiology advisory board is terminated on July 1, 1997 pursuant to the Sunset Act. The board shall continue to operate according to the provisions of Chapter 61, Article 14B NMSA 1978 until July 1, 1998. Effective July 1, 1998, Article 14B of Chapter 61 NMSA 1978 is repealed."

Section 13

Section 13

Section 61

Section 61-24A-21 NMSA 1978 (being Laws 1991, Chapter 46, Section 12) is amended to read:

"61-24A-21. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The hearing aid advisory board is terminated on July 1, 1997. The board shall continue to operate according to the provisions of Chapter 61, Article 24A NMSA 1978 until July 1, 1998. Effective July 1, 1998, Article 24A of Chapter 61 NMSA 1978 is repealed."

Section 14

Section 14

Section 61-31-6 NMSA 1978 (being Laws 1989, Chapter 51, Section 6) is amended to read:

"61-31-6. SCOPE OF PRACTICE.--

A. For the purposes of the Social Work Practice Act, a person is practicing social work if he advertises, offers himself to practice, is employed in a position described as social work or holds out to the public or represents in any manner that he is licensed to practice social work in this state.

B. Social work practice means a professional service and emphasizes the use of specialized knowledge of social resources, social systems and human capabilities to effect change in human behavior, emotional responses and social conditions. Services may be rendered through direct assistance to individuals, couples, families, groups and community organizations. Social work practice focuses on both direct and indirect services to facilitate change on the intrapersonal, interpersonal and systemic levels. Areas of specialization that address these include but are not limited to the following:

(1) clinical social work practice, which is the professional application of social work theory and methods in the diagnosis, treatment and prevention of psychosocial dysfunction, disability or impairment, including but not limited to emotional and mental disorders. It is based on knowledge of one or more theories of human development within a psychosocial context. Clinical social work includes interventions directed to interpersonal interactions, intrapsychic dynamics or life support and management issues. Clinical social work services consist of assessment, diagnosis and treatment, including psychotherapy and counseling, client-centered advocacy, consultation and evaluation;

(2) social work research practice, which is the professional study of human capabilities and practice of social work specialties, including direct and indirect practice, through the formal organization and the methodology of data collection and the analysis and evaluation of social work data;

(3) social work community organization, planning and development practice, which is a conscious process of social interaction and method of social work concerned with the meeting of broad needs and bringing about and maintaining adjustment between needs and resources in a community or other areas; helping people to deal more effectively with their problems and objectives by helping them develop, strengthen and maintain qualities of participation, self-direction and cooperation; and bringing about changes in community and group relationships and in the distribution of decision-making power. The community is the primary client in community organizations. The community may be an organization, neighborhood, city, county, state or national entity;

(4) social work administration, which is the practice that is concerned primarily with translating laws, technical knowledge and administrative rulings into organizational goals and operational policies to guide organizational behavior; designing organizational structure and procedures or processes through which social work goals can be achieved; and securing resources in the form of material, staff, clients and societal legitimation necessary for goal attainment and organizational survival; and

(5) university social work faculty, which provides an equal quality of social work education in identified areas of content; prepares graduates to practice in a range of geographic areas with diverse populations; and establishes the foundation for practitioners' professional futures, exposing them to the best of current knowledge and developing in them the ability to continue questioning and learning, as well as an awareness of their responsibility to continue this professional development."

Section 15

Section 15

Section 61-31-7 NMSA 1978 (being Laws 1989, Chapter 51, Section 7) is amended to read:

"61-31-7. BOARD CREATED.--

A. There is created the "board of social work examiners".

B. The board shall be administratively attached to the department.

C. The board shall consist of seven members who are representative of the geographic and ethnic groups within New Mexico, who are United States citizens and who have been New Mexico residents for at least five years prior to their appointment. Of the seven members:

(1) four members shall have been engaged in social work practice for at least five years; at least two of the four shall hold a master's degree in social work; and at least two shall hold a bachelors degree in social work from schools of social work that are accredited by the council on social work education. At least one of these members shall be engaged primarily in clinical social work practice; one member shall be engaged primarily in education; one member shall be engaged primarily in administration or research in social work practice; and at least one member shall be engaged primarily in community organization, planning and development. These members shall not hold office in any professional organization of social workers during their tenure on the board; and

(2) three members shall represent the public. The public members shall not have been licensed or have practiced as social workers. Public members shall not have any significant financial interest, whether direct or indirect, in social work practice.

D. Members of the board shall be appointed by the governor for staggered terms of three years, except that, in making the initial appointments, three members shall be appointed for terms ending June 30, 1990; three members for terms ending June 30, 1991; and four members for terms ending June 30, 1992. Each member shall hold office until his successor is appointed. Vacancies shall be filled for the unexpired term in the same manner as original appointments.

E. Except for the representatives of the public on the board, the governor shall appoint board members from a list of nominees submitted by social work organizations and individual social work professionals.

F. Members of the board shall be reimbursed as provided in the Per Diem and Mileage Act and shall receive no other compensation, perquisite or allowance.

G. The board shall elect a chairman and other officers as deemed necessary to administer its duties.

H. A simple majority of the board members currently serving shall constitute a quorum of the board.

I. The board shall meet at least once a year and at such other times as it deems necessary. Other meetings may be called by the chairman upon the written request of a quorum of the board.

J. The governor may remove any member from the board for the neglect of any duty required by law, for incompetence, for improper or unprofessional conduct as defined by board regulation or for any reason that would justify the suspension or revocation of his license to practice social work.

K. No board member shall serve more than two consecutive terms, and any member failing to attend, after proper notice, three executive meetings shall automatically be removed as a board member, unless excused for reasons set forth in board regulations.

L. In the event of a vacancy for any reason, the board secretary shall immediately notify the governor and the board of the vacancy and the reason for its occurrence to expedite the appointment of a new board member within a six-month period."

Section 16

Section 16

Section 61-31-14 NMSA 1978 (being Laws 1989, Chapter 51, Section 14) is amended to read:

"61-31-14. LICENSE RENEWAL.--

A. Each licensee shall renew his license annually by submitting a renewal application on a form provided by the board. At the time of license renewal, the board shall require a licensee to produce evidence of continuing education, as prescribed by the board.

B. A thirty-day grace period shall be allowed each licensee after each annual licensing period, during which time licenses may be renewed upon payment of the renewal fee and providing evidence of continuing education as required under the Social Work Practice Act.

C. Any licensee who allows his license to lapse for longer than three months shall have the license automatically revoked and shall be required to take a written examination.

D. A late penalty fee shall be assessed after the thirty-day grace period has expired for anyone attempting to renew a license to practice social work."

Section 17

Section 17

Section 61-31-25 NMSA 1978 (being Laws 1989, Chapter 51, Section 27) is amended to read:

"61-31-25. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The board of social work examiners is terminated on July 1, 1997 pursuant to the Sunset Act. The board shall continue to operate according to the provisions of the Social Work Practice Act until July 1, 1998. Effective July 1, 1998, the Social Work Practice Act is repealed."

Section 18

Section 18

TEMPORARY PROVISION--EXTENDED EFFECTIVE

DATE.--Vacancies on the board of social work examiners existing July 1, 1996 shall not be filled. The provisions of Paragraph (1) of Subsection C of Section 61-31-7 NMSA 1978 shall be implemented when board members serving upon the effective date of this act are replaced due to term expiration.

Section 19

Section 19

REPEAL.--Sections 12-9-13 through 12-9-16.1 NMSA 1978 (being Laws 1981, Chapter 241, Sections 3 through 6 and Laws 1990, Chapter 16, Section 1, as amended) are repealed.

Section 20

Section 20

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

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HOUSE BILL 183, AS AMENDED

WITH EMERGENCY CLAUSE

SIGNED MARCH 5, 1996

Chapter 52

RELATING TO PUBLIC FINANCE; AUTHORIZING THE NEW MEXICO FINANCE AUTHORITY TO ISSUE BONDS; [~~ADDING THE STATE TREASURER TO THE NEW MEXICO FINANCE AUTHORITY;~~] MAKING APPROPRIATIONS TO CERTAIN FUNDS.

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

Section 1

~~[Section 1~~

~~Section 6-21-4 NMSA 1978 (being Laws 1992, Chapter 61, Section 4) is amended to read:~~

~~_____ "6-21-4. NEW MEXICO FINANCE AUTHORITY CREATED-- MEMBERSHIP-- QUALIFICATIONS-- QUORUM-- MEETINGS-- COMPENSATION-- BOND.--~~

~~_____ A. There is created a public body politic and corporate constituting a governmental instrumentality to be known as the "New Mexico finance authority" for the performance of essential public functions.~~

~~_____ B. The authority shall be composed of thirteen members. The state investment officer, the state treasurer, the secretary of finance and administration, the secretary of economic development, the secretary of energy, minerals and natural resources, the secretary of environment, the executive director of the New Mexico municipal league and the executive director of the New Mexico association of counties or their designees shall be ex-officio members of the authority with voting privileges. The governor, with the advice and consent of the senate, shall appoint to the authority the chief financial officer of a state higher educational institution and four members who~~

are residents of the state. The appointed members shall serve at the pleasure of the governor.

~~_____ C. The appointed members of the authority shall be appointed to four-year terms. The initial members shall be appointed to staggered terms of four years or less, so that the term of at least one member expires on January 1 of each year. Vacancies shall be filled by appointment by the governor for the remainder of the unexpired term. Any member of the authority shall be eligible for reappointment.~~

~~_____ D. Each appointed member before entering upon his duty shall take an oath of office to administer the duties of his office faithfully and impartially. A record of the oath shall be filed in the office of the secretary of state.~~

~~_____ E. The governor shall designate an appointed member of the authority to serve as chairman. The authority shall elect annually one of its members to serve as vice chairman. The authority shall appoint and prescribe the duties of such other officers, who need not be members, as the authority deems necessary or advisable, including an executive director and a secretary, who may be the same person. The authority may delegate to one or more of its members, officers, employees or agents such powers and duties as it may deem proper and consistent with the New Mexico Finance Authority Act.~~

~~_____ F. The executive director of the authority shall direct the affairs and business of the authority, subject to the policies, control and direction of the authority. The secretary of the authority shall keep a record of the proceedings of the authority and shall be custodian of all books, documents and papers filed with the authority, the minute book or journal of the authority and its official seal. The secretary shall make copies of all minutes and other records and documents of the authority and give certificates under the official seal of the authority to the effect that the copies are true copies, and all persons dealing with the authority may rely upon the certificates.~~

~~_____ G. Meetings of the authority shall be held at the call of the chairman or whenever three members shall so request in writing. A majority of members then serving constitutes a quorum for the transaction of any business. The affirmative vote of at least a majority of a quorum present shall be necessary for any action to be taken by the authority. An ex-officio member may designate in writing another person to attend meetings of the authority and to the same extent and with the same effect act in his stead. No vacancy in the membership of the authority shall impair the right of a quorum to exercise all rights and perform all duties of the authority.~~

~~_____ H. Each member of the authority shall give bond as provided in the Surety Bond Act. All costs of the surety bonds shall be borne by the authority.~~

~~_____ I. The authority is not created or organized, and its operations shall not be conducted, for the purpose of making a profit. No part of the revenues or assets of the authority shall benefit or be distributable to its members, officers or other private~~

~~persons. The members of the authority shall receive no compensation for their services, but shall be reimbursed for actual and necessary expenses at the same rate and on the same basis as provided for public officers in the Per Diem and Mileage Act.~~

~~_____ J. The authority shall not be subject to the supervision or control of any other board, bureau, department or agency of the state except as specifically provided in the New Mexico Finance Authority Act. No use of the terms "state agency" or "instrumentality" in any other law of the state shall be deemed to refer to the authority unless the authority is specifically referred to in the law.~~

~~_____ K. The authority is a governmental instrumentality for purposes of the Tort Claims Act."]~~

Section 2

Section 2

Section 6-21-6.1 NMSA 1978 (being Laws 1994, Chapter 145, Section 2, as amended) is amended to read:

"6-21-6.1. PUBLIC PROJECT REVOLVING FUND-- APPROPRIATIONS TO OTHER FUNDS.--

A. The authority and the department of environment may enter into a joint powers agreement pursuant to the Joint Powers Agreements Act for the purpose of describing and allocating duties and responsibilities with respect to creation of an integrated loan and grant program to be financed through issuance of bonds payable from the public project revolving fund. The bonds may be issued in installments or at one time by the authority in amounts authorized by law. The net proceeds may be used for purposes of the Wastewater Facility Construction Loan Act, the Rural Infrastructure Act or the Solid Waste Act.

B. Public projects funded pursuant to the Wastewater Facility Construction Loan Act, the Rural Infrastructure Act or the Solid Waste Act shall not require specific authorization by law as required in Sections 6-21-6 and 6-21-8 NMSA 1978.

C. At the end of each fiscal year, after all debt service charges, replenishment of reserves and administrative costs on all outstanding bonds, notes or other obligations payable from the public project revolving fund are satisfied, an aggregate amount not to exceed thirty-five percent of the governmental gross receipts tax proceeds distributed to the public project revolving fund in the preceding fiscal year less all debt service charges and administrative costs of the authority paid in the preceding fiscal year on bonds issued pursuant to this section may be appropriated by the legislature from the public project revolving fund to the following funds for local infrastructure financing:

(1) the wastewater facility construction loan fund for purposes of the Wastewater Facility Construction Loan Act;

(2) the rural infrastructure revolving loan fund for purposes of the Rural Infrastructure Act; or

(3) the solid waste facility grant fund for purposes of the Solid Waste Act.

D. The authority and the department of environment in coordination with the New Mexico finance authority oversight committee may recommend annually to each regular session of the legislature amounts to be appropriated to the funds listed in Subsection C of this section for local infrastructure financing."

Section 3

Section 3

AUTHORIZATION TO ISSUE BONDS--PUBLIC PROJECT REVOLVING FUND--
APPROPRIATIONS.--Pursuant to Section

6-21-6.1 NMSA 1978, the New Mexico finance authority is authorized to issue bonds:

A. in an amount not to exceed three million seven hundred fifty thousand dollars (\$3,750,000), the net proceeds of which are appropriated to the wastewater facility construction loan fund;

B. in an amount not to exceed three million seven hundred fifty thousand dollars (\$3,750,000), the net proceeds of which are appropriated to the rural infrastructure revolving loan fund; and

C. in an amount not to exceed seventeen million five hundred thousand dollars (\$17,500,000), the net proceeds of which are appropriated to the solid waste facility grant fund.

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HOUSE BILL 626, AS AMENDED

PARTIAL VETO

SIGNED MARCH 5, 1996

Chapter 53

RELATING TO PARTNERSHIP; ENACTING THE UNIFORM PARTNERSHIP ACT (1994); ESTABLISHING PROCEDURES AND STANDARDS FOR THE OPERATION OF PARTNERSHIPS; REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

ARTICLE 1

GENERAL PROVISIONS

Section 101

Section 101

DEFINITIONS.--As used in the Uniform Partnership Act (1994):

- (1) "business" includes every trade, occupation and profession;
- (2) "debtor in bankruptcy" means a person who is the subject of:
 - (i) an order for relief under Title 11 of the United States Code or a comparable order under a successor statute of general application; or
 - (ii) a comparable order under federal, state or foreign law governing insolvency;
- (3) "distribution" means a transfer of money or other property from a partnership to a partner in the partner's capacity as a partner or to the partner's transferee;
- (4) "foreign registered limited liability partnership" means a registered limited liability partnership formed pursuant to an agreement governed by the laws of another jurisdiction and registered under the laws of that jurisdiction;
- (5) "partnership" means an association of two or more persons to carry on as co-owners a business for profit formed under Section 202, predecessor law, or comparable law of another jurisdiction, and includes a registered limited liability partnership;
- (6) "partnership agreement" means the agreement, whether written, oral or implied, among the partners concerning the partnership, including amendments to the partnership agreement;
- (7) "partnership at will" means a partnership in which the partners have not agreed to remain partners until the expiration of a definite term or the completion of a particular undertaking;

(8) "partnership interest" or "partner's interest in the partnership" means all of a partner's interests in the partnership, including the partner's transferable interest and all management and other rights;

(9) "person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency or instrumentality or any other legal or commercial entity;

(10) "property" means all property, real, personal or mixed, tangible or intangible, or any interest therein;

(11) "registered limited liability partnership" includes a partnership formed pursuant to an agreement governed by the laws of this state, registered under Section 54-1-44 NMSA 1978 and complying with Section 54-1-45 NMSA 1978;

(12) "state" means a state of the United States, the district of Columbia, the commonwealth of Puerto Rico or any territory or insular possession subject to the jurisdiction of the United States;

(13) "statement" means a statement of partnership authority under Section 303, a statement of denial under Section 304, a statement of dissociation under Section 704, a statement of dissolution under Section 805, a statement of merger under Section 907 or an amendment or cancellation of any of the foregoing; and

(14) "transfer" includes an assignment, conveyance, lease, mortgage, deed and encumbrance.

Section 102

Section 102

KNOWLEDGE AND NOTICE.--

(a) A person knows a fact if the person has actual knowledge of it.

(b) A person has notice of a fact if the person:

(1) knows of it;

(2) has received a notification of it; or

(3) has reason to know it exists from all of the facts known to the person at the time in question.

(c) A person notifies or gives a notification to another by taking steps reasonably required to inform the other person in ordinary course, whether or not the other person learns of it.

(d) A person receives a notification when the notification:

(1) comes to the person's attention; or

(2) is duly delivered at the person's place of business or at any other place held out by the person as a place for receiving communications.

(e) Except as otherwise provided in Subsection (f), a person other than an individual knows, has notice or receives a notification of a fact for purposes of a particular transaction when the individual conducting the transaction knows, has notice or receives a notification of the fact, or in any event when the fact would have been brought to the individual's attention, if the person had exercised reasonable diligence. The person exercises reasonable diligence if it maintains reasonable routines for communicating significant information to the individual conducting the transaction and there is reasonable compliance with the routines. Reasonable diligence does not require an individual acting for the person to communicate information unless the communication is part of the individual's regular duties or the individual has reason to know of the transaction and that the transaction would be materially affected by the information.

(f) A partner's knowledge, notice or receipt of a notification of a fact relating to the partnership is effective immediately as knowledge by, notice to or receipt of a notification by the partnership, except in the case of a fraud on the partnership committed by or with the consent of that partner.

Section 103

Section 103

EFFECT OF PARTNERSHIP AGREEMENT-- NONWAIVABLE PROVISIONS.--

(a) Except as otherwise provided in Subsection (b), relations among the partners and between the partners and the partnership are governed by the partnership agreement. To the extent the partnership agreement does not otherwise provide, the Uniform Partnership Act (1994) governs relations among the partners and between the partners and the partnership.

(b) The partnership agreement may not:

(1) vary the rights and duties under Section 105, except to eliminate the duty to provide copies of statements to all of the partners;

- (2) unreasonably restrict the right of access to books and records under Section 403(b);
- (3) eliminate the duty of loyalty under Section 404(b) or 603(b)(3), but:
 - (i) the partnership agreement may identify specific types or categories of activities that do not violate the duty of loyalty, if not manifestly unreasonable; or
 - (ii) all of the partners or a number or percentage specified in the partnership agreement may authorize or ratify, after full disclosure of all material facts, a specific act or transaction that would violate the duty of loyalty;
- (4) unreasonably reduce the duty of care under Section 404(c) or 603(b)(3);
- (5) eliminate the obligation of good faith and fair dealing under Section 404(d), but the partnership agreement may prescribe the standards by which the performance of the obligation is to be measured, if the standards are not manifestly unreasonable;
- (6) vary the power to dissociate as a partner under Section 602(a), except to require the notice under Section 601(1) to be in writing;
- (7) vary the right of a court to expel a partner in the events specified in Section 601(5);
- (8) vary the requirement to wind up the partnership business in cases specified in Section 801(4), (5) or (6); or
- (9) restrict rights of third parties under the Uniform Partnership Act (1994).

Section 104

Section 104

SUPPLEMENTAL PRINCIPLES OF LAW.--

(a) Unless displaced by particular provisions of the Uniform Partnership Act (1994), the principles of law and equity supplement that act.

(b) If an obligation to pay interest arises under the Uniform Partnership Act (1994) and the rate is not specified, the rate is that specified in Section 56-8-4 NMSA 1978.

Section 105

Section 105

EXECUTION, FILING AND RECORDING OF STATEMENTS.--

(a) A statement may be filed in the office of the secretary of state. A certified copy of a statement that is filed in an office in another state may be filed in the office of the secretary of state. Either filing has the effect provided in the Uniform Partnership Act (1994) with respect to partnership property located in or transactions that occur in this state.

(b) A certified copy of a statement that has been filed in the office of the secretary of state and recorded in the office for recording transfers of real property has the effect provided for recorded statements in the Uniform Partnership Act (1994). A recorded statement that is not a certified copy of a statement filed in the office of the secretary of state does not have the effect provided for recorded statements in that act.

(c) A statement filed by a partnership must be executed by at least two partners. Other statements must be executed by a partner or other person authorized by the Uniform Partnership Act (1994). An individual who executes a statement as, or on behalf of, a partner or other person named as a partner in a statement shall personally declare under penalty of perjury that the contents of the statement are accurate.

(d) A person authorized by the Uniform Partnership Act (1994) to file a statement may amend or cancel the statement by filing an amendment or cancellation that names the partnership, identifies the statement and states the substance of the amendment or cancellation.

(e) A person who files a statement pursuant to this section shall promptly send a copy of the statement to every nonfiling partner and to any other person named as a partner in the statement. Failure to send a copy of a statement to a partner or other person does not limit the effectiveness of the statement as to a person not a partner.

(f) The secretary of state may collect a fee for filing or providing a certified copy of a statement. The officer responsible for recording transfers of real property may collect a fee for recording a statement.

Section 106

Section 106

LAW GOVERNING INTERNAL RELATIONS.--The law of the jurisdiction in which a partnership has its chief executive office governs the relations among the partners and the partnership.

Section 107

Section 107

PARTNERSHIP SUBJECT TO AMENDMENT OR REPEAL OF THE UNIFORM PARTNERSHIP ACT (1994).--A partnership governed by the Uniform Partnership Act (1994) is subject to any amendment to or repeal of that act.

ARTICLE 2

NATURE OF PARTNERSHIP

Section 201

Section 201

PARTNERSHIP AS ENTITY.--A partnership is an entity distinct from its partners.

Section 202

Section 202

FORMATION OF PARTNERSHIP.--

(a) Except as otherwise provided in Subsection (b), the association of two or more persons to carry on as co-owners a business for profit forms a partnership, whether or not the persons intend to form a partnership.

(b) An association formed under a statute other than the Uniform Partnership Act (1994), a predecessor statute or a comparable statute of another jurisdiction is not a partnership under that act.

(c) In determining whether a partnership is formed, the following rules apply:

(1) joint tenancy, tenancy in common, tenancy by the entireties, joint property, common property or part ownership does not by itself establish a partnership, even if the co-owners share profits made by the use of the property;

(2) the sharing of gross returns does not by itself establish a partnership, even if the persons sharing them have a joint or common right or interest in property from which the returns are derived; and

(3) a person who receives a share of the profits of a business is presumed to be a partner in the business, unless the profits were received in payment:

(i) of a debt by installments or otherwise;

(ii) for services as an independent contractor or of wages or other compensation to an employee;

(iii) of rent;

(iv) of an annuity or other retirement or health benefit to a beneficiary, representative or designee of a deceased or retired partner;

(v) of interest or other charge on a loan, even if the amount of payment varies with the profits of the business, including a direct or indirect present or future ownership of the collateral, or rights to income, proceeds or increase in value derived from the collateral;
or

(vi) for the sale of the goodwill of a business or other property by installments or otherwise.

Section 203

Section 203

PARTNERSHIP PROPERTY.--Property acquired by a partnership is property of the partnership and not of the partners individually.

Section 204

Section 204

WHEN PROPERTY IS PARTNERSHIP PROPERTY.- -

(a) Property is partnership property if acquired in the name of:

(1) the partnership; or

(2) one or more partners with an indication in the instrument transferring title to the property of the person's capacity as a partner or of the existence of a partnership but without an indication of the name of the partnership.

(b) Property is acquired in the name of the partnership by a transfer to:

(1) the partnership in its name; or

(2) one or more partners in their capacity as partners in the partnership, if the name of the partnership is indicated in the instrument transferring title to the property.

(c) Property is presumed to be partnership property if purchased with partnership assets, even if not acquired in the name of the partnership or of one or more partners with an indication in the instrument transferring title to the property of the person's capacity as a partner or of the existence of a partnership.

(d) Property acquired in the name of one or more of the partners, without an indication in the instrument transferring title to the property of the person's capacity as a partner or of the existence of a partnership and without use of partnership assets, is presumed to be separate property, even if used for partnership purposes.

ARTICLE 3

RELATIONS OF PARTNERS TO

PERSONS DEALING WITH PARTNERSHIP

Section 301

Section 301

PARTNER AGENT OF PARTNERSHIP.--Subject to the effect of a statement of partnership authority under Section 303:

(1) each partner is an agent of the partnership for the purpose of its business. An act of a partner, including the execution of an instrument in the partnership name, for apparently carrying on in the ordinary course the partnership business or business of the kind carried on by the partnership binds the partnership, unless the partner had no authority to act for the partnership in the particular matter and the person with whom the partner was dealing knew or had received a notification that the partner lacked authority; and

(2) an act of a partner which is not apparently for carrying on in the ordinary course the partnership business or business of the kind carried on by the partnership binds the partnership only if the act was authorized by the other partners.

Section 302

Section 302

TRANSFER OF PARTNERSHIP PROPERTY.--

(a) Partnership property may be transferred as follows:

(1) subject to the effect of a statement of partnership authority under Section 303, partnership property held in the name of the partnership may be transferred by an instrument of transfer executed by a partner in the partnership name;

(2) partnership property held in the name of one or more partners with an indication in the instrument transferring the property to them of their capacity as partners or of the existence of a partnership, but without an indication of the name of the partnership, may

be transferred by an instrument of transfer executed by the persons in whose name the property is held; and

(3) partnership property held in the name of one or more persons other than the partnership, without an indication in the instrument transferring the property to them of their capacity as partners or of the existence of a partnership, may be transferred by an instrument of transfer executed by the persons in whose name the property is held.

(b) A partnership may recover partnership property from a transferee only if it proves that execution of the instrument of initial transfer did not bind the partnership under Section 301 and:

(1) as to a subsequent transferee who gave value for property transferred under Subsection (a)(1) and (2), proves that the subsequent transferee knew or had received a notification that the person who executed the instrument of initial transfer lacked authority to bind the partnership; or

(2) as to a transferee who gave value for property transferred under Subsection (a)(3), proves that the transferee knew or had received a notification that the property was partnership property and that the person who executed the instrument of initial transfer lacked authority to bind the partnership.

(c) A partnership may not recover partnership property from a subsequent transferee if the partnership would not have been entitled to recover the property, under Subsection (b), from any earlier transferee of the property.

(d) If a person holds all of the partners' interests in the partnership, all of the partnership property vests in that person. The person may execute a document in the name of the partnership to evidence vesting of the property in that person and may file or record the document.

Section 303

Section 303

STATEMENT OF PARTNERSHIP AUTHORITY.--

(a) A partnership may file a statement of partnership authority which:

(1) must include:

(i) the name of the partnership;

(ii) the street address of its chief executive office and of one office in this state, if there is one;

(iii) the names and mailing addresses of all of the partners or of an agent appointed and maintained by the partnership for the purpose of Subsection (b); and

(iv) the names of the partners authorized to execute an instrument transferring real property held in the name of the partnership; and

(2) may state the authority, or limitations on the authority, of some or all of the partners to enter into other transactions on behalf of the partnership and any other matter.

(b) If a statement of partnership authority names an agent, the agent shall maintain a list of the names and mailing addresses of all of the partners and make it available to any person on request for good cause shown.

(c) If a filed statement of partnership authority is executed pursuant to Section 105(c) and states the name of the partnership but does not contain all of the other information required by Subsection (a), the statement nevertheless operates with respect to a person not a partner as provided in Subsections (d) and (e).

(d) Except as otherwise provided in Subsection (g), a filed statement of partnership authority supplements the authority of a partner to enter into transactions on behalf of the partnership as follows:

(1) except for transfers of real property, a grant of authority contained in a filed statement of partnership authority is conclusive in favor of a person who gives value without knowledge to the contrary, so long as and to the extent that a limitation on that authority is not then contained in another filed statement. A filed cancellation of a limitation on authority revives the previous grant of authority; and

(2) a grant of authority to transfer real property held in the name of the partnership contained in a certified copy of a filed statement of partnership authority recorded in the office for recording transfers of that real property is conclusive in favor of a person who gives value without knowledge to the contrary, so long as and to the extent that a certified copy of a filed statement containing a limitation on that authority is not then of record in the office for recording transfers of that real property. The recording in the office for recording transfers of that real property of a certified copy of a filed cancellation of a limitation on authority revives the previous grant of authority.

(e) A person not a partner is deemed to know of a limitation on the authority of a partner to transfer real property held in the name of the partnership if a certified copy of the filed statement containing the limitation on authority is of record in the office for recording transfers of that real property.

(f) Except as otherwise provided in Subsections (d) and (e) and Sections 704 and 805, a person not a partner is not deemed to know of a limitation on the authority of a partner merely because the limitation is contained in a filed statement.

(g) Unless earlier canceled, a filed statement of partnership authority is canceled by operation of law five years after the date on which the statement, or the most recent amendment, was filed with the secretary of state.

Section 304

Section 304

STATEMENT OF DENIAL.--A partner or other person named as a partner in a filed statement of partnership authority or in a list maintained by an agent pursuant to Section 303(b) may file a statement of denial stating the name of the partnership and the fact that is being denied, which may include denial of a person's authority or status as a partner. A statement of denial is a limitation on authority as provided in Section 303(d) and (e).

Section 305

Section 305

PARTNERSHIP LIABLE FOR PARTNER'S ACTIONABLE CONDUCT.--

(a) A partnership is liable for loss or injury caused to a person, or for a penalty incurred, as a result of a wrongful act or omission, or other actionable conduct, of a partner acting in the ordinary course of business of the partnership or with authority of the partnership.

(b) If, in the course of the partnership's business or while acting with the authority of the partnership, a partner receives or causes the partnership to receive money or property of a person not a partner, and the money or property is misapplied by a partner, the partnership is liable for the loss.

Section 306

Section 306

PARTNER'S LIABILITY.--

(a) Except as otherwise provided in Subsections (b) and (c), all partners are liable jointly and severally for all obligations of the partnership unless otherwise agreed by the claimant or provided by law.

(b) A person admitted as a partner into an existing partnership is not personally liable for any partnership obligation incurred before the person's admission as a partner.

(c) Subject to Subsection (b), a partner in a registered limited liability partnership is not liable directly or indirectly, by way of indemnification, contribution or otherwise, for debts, obligations and liabilities of or chargeable to the partnership or another partner or

partners, whether in tort, contract or otherwise, arising from omissions, negligence, wrongful acts, misconduct or malpractice committed while the partnership is a registered limited liability partnership and in the course of the partnership business by another partner or an employee, agent or representative of the partnership.

(d) Subsection (c) shall not affect the liability of a partner in a registered limited liability partnership for the partners own omission, negligence, wrongful act, misconduct or malpractice or that of any person under the partners direct supervision and control.

(e) A partner in a registered limited liability partnership is not a proper party to a proceeding by or against a registered limited liability partnership, the object of which is to recover damages or enforce the obligations arising out of the omissions, negligence, wrongful acts, misconduct or malpractice of the type described in Subsection (c) unless such partner is personally liable under Subsection (d).

Section 307

Section 307

ACTIONS BY AND AGAINST PARTNERSHIP AND PARTNERS.--

(a) A partnership may sue and be sued in the name of the partnership.

(b) An action may be brought against the partnership and any or all of the partners in the same action or in separate actions.

(c) A judgment against a partnership is not by itself a judgment against a partner. A judgment against a partnership may not be satisfied from a partner's assets unless there is also a judgment against the partner.

(d) A judgment creditor of a partner may not levy execution against the assets of the partner to satisfy a judgment based on a claim against the partnership unless:

(1) a judgment based on the same claim has been obtained against the partnership and a writ of execution on the judgment has been returned unsatisfied in whole or in part;

(2) the partnership is a debtor in bankruptcy;

(3) the partner has agreed that the creditor need not exhaust partnership assets;

(4) a court grants permission to the judgment creditor to levy execution against the assets of a partner based on a finding that partnership assets subject to execution are clearly insufficient to satisfy the judgment, that exhaustion of partnership assets is excessively burdensome, or that the grant of permission is an appropriate exercise of the court's equitable powers; or

(5) liability is imposed on the partner by law or contract independent of the existence of the partnership.

(e) This section applies to any partnership liability or obligation resulting from a representation by a partner or purported partner under Section 308.

Section 308

Section 308

LIABILITY OF PURPORTED PARTNER.--

(a) If a person, by words or conduct, purports to be a partner, or consents to being represented by another as a partner, in a partnership or with one or more persons not partners, the purported partner is liable to a person to whom the representation is made, if that person, relying on the representation, enters into a transaction with the actual or purported partnership. If the representation, either by the purported partner or by a person with the purported partner's consent, is made in a public manner, the purported partner is liable to a person who relies upon the purported partnership even if the purported partner is not aware of being held out as a partner to the claimant. If partnership liability results, the purported partner is liable with respect to that liability as if the purported partner were a partner. If no partnership liability results, the purported partner is liable with respect to that liability jointly and severally with any other person consenting to the representation.

(b) If a person is thus represented to be a partner in an existing partnership, or with one or more persons not partners, the purported partner is an agent of persons consenting to the representation to bind them to the same extent and in the same manner as if the purported partner were a partner, with respect to persons who enter into transactions in reliance upon the representation. If all of the partners of the existing partnership consent to the representation, a partnership act or obligation results. If fewer than all of the partners of the existing partnership consent to the representation, the person acting and the partners consenting to the representation are jointly and severally liable.

(c) A person is not liable as a partner merely because the person is named by another in a statement of partnership authority.

(d) A person does not continue to be liable as a partner merely because of a failure to file a statement of dissociation or to amend a statement of partnership authority to indicate the partner's dissociation from the partnership.

(e) Except as otherwise provided in Subsections (a) and (b), persons who are not partners as to each other are not liable as partners to other persons.

ARTICLE 4

RELATIONS OF PARTNERS TO EACH OTHER
AND TO PARTNERSHIP

Section 401

Section 401

PARTNER'S RIGHTS AND DUTIES.--

(a) Each partner is deemed to have an account that is:

(1) credited with an amount equal to the money plus the value of any other property, net of the amount of any liabilities, the partner contributes to the partnership and the partner's share of the partnership profits; and

(2) charged with an amount equal to the money plus the value of any other property, net of the amount of any liabilities, distributed by the partnership to the partner and the partner's share of the partnership losses.

(b) Each partner is entitled to an equal share of the partnership profits and, except as otherwise provided in Section 306 and Section 54-1-48 NMSA 1978, is chargeable with a share of the partnership losses in proportion to the partner's share of the profits.

(c) A partnership shall reimburse a partner for payments made and indemnify a partner for liabilities incurred by the partner in the ordinary course of the business of the partnership or for the preservation of its business or property.

(d) A partnership shall reimburse a partner for an advance to the partnership beyond the amount of capital the partner agreed to contribute.

(e) A payment or advance made by a partner which gives rise to a partnership obligation under Subsection (c) or (d) constitutes a loan to the partnership which accrues interest from the date of the payment or advance.

(f) Each partner has equal rights in the management and conduct of the partnership business.

(g) A partner may use or possess partnership property only on behalf of the partnership.

(h) A partner is not entitled to remuneration for services performed for the partnership, except for reasonable compensation for services rendered in winding up the business of the partnership.

(i) A person may become a partner only with the consent of all of the partners.

(j) A difference arising as to a matter in the ordinary course of business of a partnership may be decided by a majority of the partners. An act outside the ordinary course of business of a partnership and an amendment to the partnership agreement may be undertaken only with the consent of all of the partners.

(k) This section does not affect the obligations of a partnership to other persons under Section 301.

Section 402

Section 402

DISTRIBUTIONS IN KIND.--A partner has no right to receive, and may not be required to accept, a distribution in kind.

Section 403

Section 403

PARTNER'S RIGHTS AND DUTIES WITH RESPECT TO INFORMATION.--

(a) A partnership shall keep its books and records, if any, at its chief executive office.

(b) A partnership shall provide partners and their agents and attorneys access to its books and records. It shall provide former partners and their agents and attorneys access to books and records pertaining to the period during which they were partners. The right of access provides the opportunity to inspect and copy books and records during ordinary business hours. A partnership may impose a reasonable charge, covering the costs of labor and material, for copies of documents furnished.

(c) Each partner and the partnership shall furnish to a partner, and to the legal representative of a deceased partner or partner under legal disability:

(1) without demand, any information concerning the partnership's business and affairs reasonably required for the proper exercise of the partner's rights and duties under the partnership agreement or the Uniform Partnership Act (1994); and

(2) on demand, any other information concerning the partnership's business and affairs, except to the extent the demand or the information demanded is unreasonable or otherwise improper under the circumstances.

Section 404

Section 404

GENERAL STANDARDS OF PARTNER'S CONDUCT.--

(a) The only fiduciary duties a partner owes to the partnership and the other partners are the duty of loyalty and the duty of care set forth in Subsections (b) and (c).

(b) A partner's duty of loyalty to the partnership and the other partners is limited to the following:

(1) to account to the partnership and hold as trustee for it any property, profit or benefit derived by the partner in the conduct and winding up of the partnership business or derived from a use by the partner of partnership property, including the appropriation of a partnership opportunity;

(2) to refrain from dealing with the partnership in the conduct or winding up of the partnership business as or on behalf of a party having an interest adverse to the partnership; and

(3) to refrain from competing with the partnership in the conduct of the partnership business before the dissolution of the partnership.

(c) A partner's duty of care to the partnership and the other partners in the conduct and winding up of the partnership business is limited to refraining from engaging in grossly negligent or reckless conduct, intentional misconduct or a knowing violation of law.

(d) A partner shall discharge the duties to the partnership and the other partners under the Uniform Partnership Act (1994) or under the partnership agreement and exercise any rights consistently with the obligation of good faith and fair dealing.

(e) A partner does not violate a duty or obligation under the Uniform Partnership Act (1994) or under the partnership agreement merely because the partner's conduct furthers the partner's own interest.

(f) A partner may lend money to and transact other business with the partnership, and as to each loan or transaction, the rights and obligations of the partner are the same as those of a person who is not a partner, subject to other applicable law.

(g) This section applies to a person winding up the partnership business as the personal or legal representative of the last surviving partner as if the person were a partner.

Section 405

Section 405

ACTIONS BY PARTNERSHIP AND PARTNERS.--

(a) A partnership may maintain an action against a partner for a breach of the partnership agreement, or for the violation of a duty to the partnership, causing harm to the partnership.

(b) A partner may maintain an action against the partnership or another partner for legal or equitable relief, with or without an accounting as to partnership business, to:

(1) enforce the partner's rights under the partnership agreement;

(2) enforce the partner's rights under the Uniform Partnership Act (1994), including:

(i) the partner's rights under Section 401, 403 or 404;

(ii) the partner's right on dissociation to have the partner's interest in the partnership purchased pursuant to Section 701 or enforce any other right under Article 6 or 7; or

(iii) the partner's right to compel a dissolution and winding up of the partnership business under Section 801 or enforce any other right under Article 8; or

(3) enforce the rights and otherwise protect the interests of the partner, including rights and interests arising independently of the partnership relationship.

(c) The accrual of, and any time limitation on, a right of action for a remedy under this section is governed by other law. A right to an accounting upon a dissolution and winding up does not revive a claim barred by law.

Section 406

Section 406

CONTINUATION OF PARTNERSHIP BEYOND DEFINITE TERM OR PARTICULAR UNDERTAKING.--

(a) If a partnership for a definite term or particular undertaking is continued, without an express agreement, after the expiration of the term or completion of the undertaking, the rights and duties of the partners remain the same as they were at the expiration or completion, so far as is consistent with a partnership at will.

(b) If the partners, or those of them who habitually acted in the business during the term or undertaking, continue the business without any settlement or liquidation of the partnership, they are presumed to have agreed that the partnership will continue.

ARTICLE 5

TRANSFEREES AND CREDITORS OF PARTNER

Section 501

Section 501

PARTNER NOT CO-OWNER OF PARTNERSHIP PROPERTY.--A partner is not a co-owner of partnership property and has no interest in partnership property which can be transferred, either voluntarily or involuntarily.

Section 502

Section 502

PARTNER'S TRANSFERABLE INTEREST IN

PARTNERSHIP.--The only transferable interest of a partner in the partnership is the partner's share of the profits and losses of the partnership and the partner's right to receive distributions. The interest is personal property.

Section 503

Section 503

TRANSFER OF PARTNER'S TRANSFERABLE

INTEREST.--

(a) A transfer, in whole or in part, of a partner's transferable interest in the partnership:

(1) is permissible;

(2) does not by itself cause the partner's dissociation or a dissolution and winding up of the partnership business; and

(3) does not, as against the other partners or the partnership, entitle the transferee, during the continuance of the partnership, to participate in the management or conduct of the partnership business, to require access to information concerning partnership transactions or to inspect or copy the partnership books or records.

(b) A transferee of a partner's transferable interest in the partnership has a right:

(1) to receive, in accordance with the transfer, distributions to which the transferor would otherwise be entitled;

(2) to receive upon the dissolution and winding up of the partnership business, in accordance with the transfer, the net amount otherwise distributable to the transferor; and

(3) to seek under Section 801(6) a judicial determination that it is equitable to wind up the partnership business.

(c) In a dissolution and winding up, a transferee is entitled to an account of partnership transactions only from the date of the latest account agreed to by all of the partners.

(d) Upon transfer, the transferor retains the rights and duties of a partner other than the interest in distributions transferred.

(e) A partnership need not give effect to a transferee's rights under this section until it has notice of the transfer.

(f) A transfer of a partner's transferable interest in the partnership in violation of a restriction on transfer contained in the partnership agreement is ineffective as to a person having notice of the restriction at the time of transfer.

Section 504

Section 504

PARTNER'S TRANSFERABLE INTEREST SUBJECT TO CHARGING ORDER.--

(a) On application by a judgment creditor of a partner or of a partner's transferee, a court having jurisdiction may charge the transferable interest of the judgment debtor to satisfy the judgment. The court may appoint a receiver of the share of the distributions due or to become due to the judgment debtor in respect of the partnership and make all other orders, directions, accounts and inquiries the judgment debtor might have made or which the circumstances of the case may require.

(b) A charging order constitutes a lien on the judgment debtor's transferable interest in the partnership. The court may order a foreclosure of the interest subject to the charging order at any time. The purchaser at the foreclosure sale has the rights of a transferee.

(c) At any time before foreclosure, an interest charged may be redeemed:

(1) by the judgment debtor;

(2) with property other than partnership property, by one or more of the other partners;
or

(3) with partnership property, by one or more of the other partners with the consent of all of the partners whose interests are not so charged.

(d) The Uniform Partnership Act (1994) does not deprive a partner of a right under exemption laws with respect to the partner's interest in the partnership.

(e) This section provides the exclusive remedy by which a judgment creditor of a partner or partner's transferee may satisfy a judgment out of the judgment debtor's transferable interest in the partnership.

ARTICLE 6

PARTNER'S DISSOCIATION

Section 601

Section 601

EVENTS CAUSING PARTNER'S DISSOCIATION.--

A partner is dissociated from a partnership upon the occurrence of any of the following events:

(1) the partnership's having notice of the partner's express will to withdraw as a partner or on a later date specified by the partner;

(2) an event agreed to in the partnership agreement as causing the partner's dissociation;

(3) the partner's expulsion pursuant to the partnership agreement;

(4) the partner's expulsion by the unanimous vote of the other partners if:

(i) it is unlawful to carry on the partnership business with that partner;

(ii) there has been a transfer of all or substantially all of that partner's transferable interest in the partnership, other than a transfer for security purposes, or a court order charging the partner's interest, which has not been foreclosed;

(iii) within ninety days after the partnership notifies a corporate partner that it will be expelled because it has filed a certificate of dissolution or the equivalent, its charter has been revoked or its right to conduct business has been suspended by the jurisdiction of its incorporation, there is no revocation of the certificate of dissolution or no reinstatement of its charter or its right to conduct business; or

(iv) a partnership that is a partner has been dissolved and its business is being wound up;

(5) on application by the partnership or another partner, the partner's expulsion by judicial determination because:

(i) the partner engaged in wrongful conduct that adversely and materially affected the partnership business;

(ii) the partner willfully or persistently committed a material breach of the partnership agreement or of a duty owed to the partnership or the other partners under Section 404; or

(iii) the partner engaged in conduct relating to the partnership business which makes it not reasonably practicable to carry on the business in partnership with the partner;

(6) the partner's:

(i) becoming a debtor in bankruptcy;

(ii) executing an assignment for the benefit of creditors;

(iii) seeking, consenting to or acquiescing in the appointment of a trustee, receiver or liquidator of that partner or of all or substantially all of that partner's property; or

(iv) failing, within ninety days after the appointment, to have vacated or stayed the appointment of a trustee, receiver or liquidator of the partner or of all or substantially all of the partner's property obtained without the partner's consent or acquiescence or failing within ninety days after the expiration of a stay to have the appointment vacated;

(7) in the case of a partner who is an individual:

(i) the partner's death;

(ii) the appointment of a guardian or general conservator for the partner; or

(iii) a judicial determination that the partner has otherwise become incapable of performing the partner's duties under the partnership agreement;

(8) in the case of a partner that is a trust or is acting as a partner by virtue of being a trustee of a trust, distribution of the trust's entire transferable interest in the partnership, but not merely by reason of the substitution of a successor trustee;

(9) in the case of a partner that is an estate or is acting as a partner by virtue of being a personal representative of an estate, distribution of the estate's entire transferable interest in the partnership, but not merely by reason of the substitution of a successor personal representative; or

(10) termination of a partner who is not an individual, partnership, corporation, trust or estate.

Section 602

Section 602

PARTNER'S POWER TO DISSOCIATE-- WRONGFUL DISSOCIATION.--

(a) A partner has the power to dissociate at any time, rightfully or wrongfully, by express will pursuant to Section 601(1).

(b) A partner's dissociation is wrongful only if:

(1) it is in breach of an express provision of the partnership agreement; or

(2) in the case of a partnership for a definite term or particular undertaking, before the expiration of the term or the completion of the undertaking:

(i) the partner withdraws by express will, unless the withdrawal follows within ninety days after another partner's dissociation by death or otherwise under Section 601(6) through (10) or wrongful dissociation under Section 602(b);

(ii) the partner is expelled by judicial determination under Section 601(5);

(iii) the partner is dissociated by becoming a debtor in bankruptcy; or

(iv) in the case of a partner who is not an individual, trust other than a business trust or estate, the partner is expelled or otherwise dissociated because it willfully dissolved or terminated.

(c) A partner who wrongfully dissociates is liable to the partnership and to the other partners for damages caused by the dissociation. The liability is in addition to any other obligation of the partner to the partnership or to the other partners.

Section 603

Section 603

EFFECT OF PARTNER'S DISSOCIATION.--

(a) If a partner's dissociation results in a dissolution and winding up of the partnership business, Article 8 applies; otherwise, Article 7 applies.

(b) Upon a partner's dissociation:

(1) the partner's right to participate in the management and conduct of the partnership business terminates, except as otherwise provided in Section 803;

(2) the partner's duty of loyalty under Section 404(b)(3) terminates; and

(3) the partner's duty of loyalty under Section 404(b)(1) and (2) and duty of care under Section 404(c) continue only with regard to matters arising and events occurring before

the partner's dissociation, unless the partner participates in winding up the partnership's business pursuant to Section 803.

ARTICLE 7

PARTNER'S DISSOCIATION WHEN BUSINESS NOT WOUND UP

Section 701

Section 701

PURCHASE OF DISSOCIATED PARTNER'S INTEREST.--

(a) If a partner is dissociated from a partnership without resulting in a dissolution and winding up of the partnership business under Section 801, the partnership shall cause the dissociated partner's interest in the partnership to be purchased for a buyout price determined pursuant to Subsection (b).

(b) The buyout price of a dissociated partner's interest is the amount that would have been distributable to the dissociating partner under Section 807(b) if, on the date of dissociation, the assets of the partnership were sold at a price equal to the greater of the liquidation value or the value based on a sale of the entire business as a going concern without the dissociated partner and the partnership were wound up as of that date. Interest must be paid from the date of dissociation to the date of payment.

(c) Damages for wrongful dissociation under Section 602(b), and all other amounts owing, whether or not presently due, from the dissociated partner to the partnership, must be offset against the buyout price. Interest must be paid from the date the amount owed becomes due to the date of payment.

(d) A partnership shall indemnify a dissociated partner whose interest is being purchased against all partnership liabilities, whether incurred before or after the dissociation, except liabilities incurred by an act of the dissociated partner under Section 702.

(e) If no agreement for the purchase of a dissociated partner's interest is reached within one hundred twenty days after a written demand for payment, the partnership shall pay, or cause to be paid, in cash to the dissociated partner the amount the partnership estimates to be the buyout price and accrued interest, reduced by any offsets and accrued interest under Subsection (c).

(f) If a deferred payment is authorized under Subsection (h), the partnership may tender a written offer to pay the amount it estimates to be the buyout price and accrued interest, reduced by any offsets under Subsection (c), stating the time of payment, the amount and type of security for payment and the other terms and conditions of the obligation.

(g) The payment or tender required by Subsection (e) or (f) must be accompanied by the following:

- (1) a statement of partnership assets and liabilities as of the date of dissociation;
- (2) the latest available partnership balance sheet and income statement, if any;
- (3) an explanation of how the estimated amount of the payment was calculated; and
- (4) written notice that the payment is in full satisfaction of the obligation to purchase unless, within one hundred twenty days after the written notice, the dissociated partner commences an action to determine the buyout price, any offsets under Subsection (c) or other terms of the obligation to purchase.

(h) A partner who wrongfully dissociates before the expiration of a definite term or the completion of a particular undertaking is not entitled to payment of any portion of the buyout price until the expiration of the term or completion of the undertaking, unless the partner establishes to the satisfaction of the court that earlier payment will not cause undue hardship to the business of the partnership. A deferred payment must be adequately secured and bear interest.

(i) A dissociated partner may maintain an action against the partnership, pursuant to Section 405(b)(2)(ii), to determine the buyout price of that partner's interest, any offsets under Subsection (c), or other terms of the obligation to purchase. The action must be commenced within one hundred twenty days after the partnership has tendered payment or an offer to pay or within one year after written demand for payment if no payment or offer to pay is tendered. The court shall determine the buyout price of the dissociated partner's interest, any offset due under Subsection (c), and accrued interest and enter judgment for any additional payment or refund. If deferred payment is authorized under Subsection (h), the court shall also determine the security for payment and other terms of the obligation to purchase. The court may assess reasonable attorneys fees and the fees and expenses of appraisers or other experts for a party to the action, in amounts the court finds equitable, against a party that the court finds acted arbitrarily, vexatiously or not in good faith. The finding may be based on the partnership's failure to tender payment or an offer to pay or to comply with Subsection (g).

Section 702

Section 702

DISSOCIATED PARTNER'S POWER TO BIND AND LIABILITY TO PARTNERSHIP.--

(a) For two years after a partner dissociates without resulting in a dissolution and winding up of the partnership business, the partnership, including a surviving partnership under Article 9, is bound by an act of the dissociated partner which would

have bound the partnership under Section 301 before dissociation only if at the time of entering into the transaction the other party:

- (1) reasonably believed that the dissociated partner was then a partner;
- (2) did not have notice of the partner's dissociation; and
- (3) is not deemed to have had knowledge under Section 303(e) or notice under Section 704(c).

(b) A dissociated partner is liable to the partnership for any damage caused to the partnership arising from an obligation incurred by the dissociated partner after dissociation for which the partnership is liable under Subsection (a).

Section 703

Section 703

DISSOCIATED PARTNER'S LIABILITY TO OTHER PERSONS.--

(a) A partner's dissociation does not of itself discharge the partner's liability for a partnership obligation incurred before dissociation. A dissociated partner is not liable for a partnership obligation incurred after dissociation, except as otherwise provided in Subsection (b).

(b) A partner who dissociates without resulting in a dissolution and winding up of the partnership business is liable as a partner to the other party in a transaction entered into by the partnership, or a surviving partnership under Article 9, within two years after the partner's dissociation, only if the liability is owed for which the partner is liable under Section 306 and Section 54-1-48 NMSA 1978 and at the time of entering into the transaction the other party:

- (1) reasonably believed that the dissociated partner was then a partner;
- (2) did not have notice of the partner's dissociation; and
- (3) is not deemed to have had knowledge under Section 303(e) or notice under Section 704(c).

(c) By agreement with the partnership creditor and the partners continuing the business, a dissociated partner may be released from liability for a partnership obligation.

(d) A dissociated partner is released from liability for a partnership obligation if a partnership creditor, with notice of the partner's dissociation but without the partner's consent, agrees to a material alteration in the nature or time of payment of a partnership obligation.

Section 704

Section 704

STATEMENT OF DISSOCIATION.--

- (a) A dissociated partner or the partnership may file a statement of dissociation stating the name of the partnership and that the partner is dissociated from the partnership.
- (b) A statement of dissociation is a limitation on the authority of a dissociated partner for the purposes of Section 303(d) and (e).
- (c) For the purposes of Sections 702(a)(3) and 703(b)(3), a person not a partner is deemed to have notice of the dissociation ninety days after the statement of dissociation is filed.

Section 705

Section 705

CONTINUED USE OF PARTNERSHIP NAME.-- Continued use of a partnership name, or a dissociated partner's name as part thereof, by partners continuing the business does not of itself make the dissociated partner liable for an obligation of the partners or the partnership continuing the business.

ARTICLE 8

WINDING UP PARTNERSHIP BUSINESS

Section 801

Section 801

EVENTS CAUSING DISSOLUTION AND WINDING UP OF PARTNERSHIP BUSINESS.--A partnership is dissolved, and its business must be wound up, only upon the occurrence of any of the following events:

- (1) in a partnership at will, the partnership's having notice from a partner, other than a partner who is dissociated under Section 601(2) through (10), of that partner's express will to withdraw as a partner or on a later date specified by the partner;
- (2) in a partnership for a definite term or particular undertaking:
 - (i) the expiration of ninety days after a partner's dissociation by death or otherwise under Section 601(6) through (10) or wrongful dissociation under Section 602(b), unless before that time a majority in interest of the remaining partners, including partners who

have rightfully dissociated pursuant to Section 601(b)(i), agree to continue the partnership;

(ii) the express will of all of the partners to wind up the partnership business; or

(iii) the expiration of the term or the completion of the undertaking;

(3) an event agreed to in the partnership agreement resulting in the winding up of the partnership business;

(4) an event that makes it unlawful for all or substantially all of the business of the partnership to be continued, but a cure of illegality within ninety days after notice to the partnership of the event is effective retroactively to the date of the event for purposes of this section;

(5) on application by a partner, a judicial determination that:

(i) the economic purpose of the partnership is likely to be unreasonably frustrated;

(ii) another partner has engaged in conduct relating to the partnership business which makes it not reasonably practicable to carry on the business in partnership with that partner; or

(iii) it is not otherwise reasonably practicable to carry on the partnership business in conformity with the partnership agreement; or

(6) on application by a transferee of a partner's transferable interest, a judicial determination that it is equitable to wind up the partnership business:

(i) after the expiration of the term or completion of the undertaking, if the partnership was for a definite term or particular undertaking at the time of the transfer or entry of the charging order that gave rise to the transfer; or

(ii) at any time, if the partnership was a partnership at will at the time of the transfer or entry of the charging order that gave rise to the transfer.

Section 802

Section 802

PARTNERSHIP CONTINUES AFTER DISSOLUTION.--

(a) Subject to Subsection (b), a partnership continues after dissolution only for the purpose of winding up its business. The partnership is terminated when the winding up of its business is completed.

(b) At any time after the dissolution of a partnership and before the winding up of its business is completed, all of the partners, including any dissociating partner other than a wrongfully dissociating partner, may waive the right to have the partnership's business wound up and the partnership terminated. In that event:

(1) the partnership resumes carrying on its business as if dissolution had never occurred, and any liability incurred by the partnership or a partner after the dissolution and before the waiver is determined as if dissolution had never occurred; and

(2) the rights of a third party accruing under Section 804(1) or arising out of conduct in reliance on the dissolution before the third party knew or received a notification of the waiver may not be adversely affected.

Section 803

Section 803

RIGHT TO WIND UP PARTNERSHIP BUSINESS.--

(a) After dissolution, a partner who has not wrongfully dissociated may participate in winding up the partnership's business, but on application of any partner, partner's legal representative or transferee, the district court, for good cause shown, may order judicial supervision of the winding up.

(b) The legal representative of the last surviving partner may wind up a partnership's business.

(c) A person winding up a partnership's business may preserve the partnership business or property as a going concern for a reasonable time, prosecute and defend actions and proceedings, whether civil, criminal or administrative, settle and close the partnership's business, dispose of and transfer the partnership's property, discharge the partnership's liabilities, distribute the assets of the partnership pursuant to Section 807, settle disputes by mediation or arbitration and perform other necessary acts.

Section 804

Section 804

PARTNER'S POWER TO BIND PARTNERSHIP AFTER DISSOLUTION.--Subject to Section 805, a partnership is bound by a partner's act after dissolution that:

(1) is appropriate for winding up the partnership business; or

(2) would have bound the partnership under Section 301 before dissolution, if the other party to the transaction did not have notice of the dissolution.

Section 805

Section 805

STATEMENT OF DISSOLUTION.--

(a) After dissolution, a partner who has not wrongfully dissociated may file a statement of dissolution stating the name of the partnership and that the partnership has dissolved and is winding up its business.

(b) A statement of dissolution cancels a filed statement of partnership authority for the purposes of Section 303(d) and is a limitation on authority for the purposes of Section 303(e).

(c) For the purposes of Sections 301 and 804, a person not a partner is deemed to have notice of the dissolution and the limitation on the partners' authority as a result of the statement of dissolution ninety days after it is filed.

(d) After filing and, if appropriate, recording a statement of dissolution, a dissolved partnership may file and, if appropriate, record a statement of partnership authority which will operate with respect to a person not a partner as provided in Section 303(d) and (e) in any transaction, whether or not the transaction is appropriate for winding up the partnership business.

Section 806

Section 806

PARTNER'S LIABILITY TO OTHER PARTNERS AFTER DISSOLUTION.--

(a) Except as otherwise provided in Subsection (b), after dissolution a partner is liable to the other partners for the partner's share of any partnership liability incurred under Section 804, unless the liability is not one for which the partner is liable under Section 306 and Section 54-1- 48 NMSA 1978.

(b) A partner who, with knowledge of the dissolution, incurs a partnership liability under Section 804(2) by an act that is not appropriate for winding up the partnership business is liable to the partnership for any damage caused to the partnership arising from the liability.

Section 807

Section 807

SETTLEMENT OF ACCOUNTS AND CONTRIBUTIONS AMONG PARTNERS.--

(a) In winding up a partnership's business, the assets of the partnership, including the contributions of the partners required by this section, must be applied to discharge its obligations to creditors, including, to the extent permitted by law, partners who are creditors. Any surplus must be applied to pay in cash the net amount distributable to partners in accordance with their right to distributions under Subsection (b).

(b) Each partner is entitled to a settlement of all partnership accounts upon winding up the partnership business. In settling accounts among the partners, the profits and losses that result from the liquidation of the partnership assets must be credited and charged to the partner's accounts. The partnership shall make a distribution to a partner in an amount equal to any excess of the credits over the charges in the partner's account. Except as otherwise provided in Section 306 and Section 51-1-48 NMSA 1978, a partner shall contribute to the partnership an amount equal to any excess of the charges over the credits in the partner's account.

(c) If a partner fails to contribute, all of the other partners shall contribute, in the proportions in which those partners share partnership losses, the additional amount necessary to satisfy the partnership obligations. A partner or partner's legal representative may recover from the other partners any contributions the partner makes to the extent the amount contributed exceeds that partner's share of the partnership obligations.

(d) Except as otherwise provided in Section 306 and Section 54-1-48 NMSA 1978, after the settlement of accounts, each partner shall contribute, in the proportion in which the partner shares partnership losses, the amount necessary to satisfy partnership obligations that were not known at the time of the settlement.

(e) The estate of a deceased partner is liable for the partner's obligation to contribute to the partnership.

(f) An assignee for the benefit of creditors of a partnership or a partner, or a person appointed by a court to represent creditors of a partnership or a partner, may enforce a partner's obligation to contribute to the partnership.

ARTICLE 9

CONVERSIONS AND MERGERS

Section 901

Section 901

DEFINITIONS.--As used in this article:

(1) "general partner" means a partner in a partnership and a general partner in a limited partnership;

- (2) "limited partner" means a limited partner in a limited partnership;
- (3) "limited partnership" means a limited partnership created under the Uniform Limited Partnership Act, predecessor law or comparable law of another jurisdiction; and
- (4) "partner" includes both a general partner and a limited partner.

Section 902

Section 902

CONVERSION OF PARTNERSHIP TO LIMITED PARTNERSHIP.--

- (a) A partnership may be converted to a limited partnership pursuant to this section.
- (b) The terms and conditions of a conversion of a partnership to a limited partnership must be approved by all of the partners or by a number or percentage specified for conversion in the partnership agreement.
- (c) After the conversion is approved by the partners, the partnership shall file a certificate of limited partnership in the jurisdiction in which the limited partnership is to be formed. The certificate must include:
 - (1) a statement that the partnership was converted to a limited partnership from a partnership;
 - (2) its former name; and
 - (3) a statement of the number of votes cast by the partners for and against the conversion and, if the vote is less than unanimous, the number or percentage required to approve the conversion under the partnership agreement.
- (d) The conversion takes effect when the certificate of limited partnership is filed or at any later date specified in the certificate.
- (e) A general partner who becomes a limited partner as a result of the conversion remains liable as a general partner for an obligation incurred by the partnership before the conversion takes effect. If the other party to a transaction with the limited partnership reasonably believes when entering the transaction that the limited partner is a general partner, the limited partner is liable for an obligation incurred by the limited partnership within ninety days after the conversion takes effect. The limited partner's liability for all other obligations of the limited partnership incurred after the conversion takes effect is that of a limited partner as provided in the Uniform Limited Partnership Act.

Section 903

Section 903

CONVERSION OF LIMITED PARTNERSHIP TO PARTNERSHIP.--

- (a) A limited partnership may be converted to a partnership pursuant to this section.
- (b) Notwithstanding a provision to the contrary in a limited partnership agreement, the terms and conditions of a conversion of a limited partnership to a partnership must be approved by all of the partners.
- (c) After the conversion is approved by the partners, the limited partnership shall cancel its certificate of limited partnership.
- (d) The conversion takes effect when the certificate of limited partnership is canceled.
- (e) A limited partner who becomes a general partner as a result of the conversion remains liable only as a limited partner for an obligation incurred by the limited partnership before the conversion takes effect. The partner is liable as a general partner for an obligation of the partnership incurred after the conversion takes effect.

Section 904

Section 904

EFFECT OF CONVERSION--ENTITY UNCHANGED.--

- (a) A partnership or limited partnership that has been converted pursuant to this article is for all purposes the same entity that existed before the conversion.
- (b) When a conversion takes effect:
 - (1) all property owned by the converting partnership or limited partnership remains vested in the converted entity;
 - (2) all obligations of the converting partnership or limited partnership continue as obligations of the converted entity; and
 - (3) an action or proceeding pending against the converting partnership or limited partnership may be continued as if the conversion had not occurred.

Section 905

Section 905

MERGER OF PARTNERSHIPS.--

(a) Pursuant to a plan of merger approved as provided in Subsection (c), a partnership may be merged with one or more partnerships or limited partnerships.

(b) The plan of merger must set forth:

(1) the name of each partnership or limited partnership that is a party to the merger;

(2) the name of the surviving entity into which the other partnerships or limited partnerships will merge;

(3) whether the surviving entity is a partnership or a limited partnership and the status of each partner;

(4) the terms and conditions of the merger;

(5) the manner and basis of converting the interests of each party to the merger into interests or obligations of the surviving entity or into money or other property in whole or part; and

(6) the street address of the surviving entity's chief executive office.

(c) The plan of merger must be approved:

(1) in the case of a partnership that is a party to the merger, by all of the partners, or a number or percentage specified for merger in the partnership agreement; and

(2) in the case of a limited partnership that is a party to the merger, by the vote required for approval of a merger by the law of the state or foreign jurisdiction in which the limited partnership is organized and, in the absence of such a specifically applicable law, by all of the partners, notwithstanding a provision to the contrary in the partnership agreement.

(d) After a plan of merger is approved and before the merger takes effect, the plan may be amended or abandoned as provided in the plan.

(e) The merger takes effect on the later of:

(1) the approval of the plan of merger by all parties to the merger, as provided in Subsection (c);

(2) the filing of all documents required by law to be filed as a condition to the effectiveness of the merger; or

(3) any effective date specified in the plan of merger.

Section 906

Section 906

EFFECT OF MERGER.--

(a) When a merger takes effect:

(1) the separate existence of every partnership or limited partnership that is a party to the merger, other than the surviving entity, ceases;

(2) all property owned by each of the merged partnerships or limited partnerships vests in the surviving entity;

(3) all obligations of every partnership or limited partnership that is a party to the merger become the obligations of the surviving entity; and

(4) an action or proceeding pending against a partnership or limited partnership that is a party to the merger may be continued as if the merger had not occurred or the surviving entity may be substituted as a party to the action or proceeding.

(b) The secretary of state of this state is the agent for service of process in an action or proceeding against a surviving foreign partnership or limited partnership to enforce an obligation of a domestic partnership or limited partnership that is a party to a merger. The surviving entity shall promptly notify the secretary of state of the mailing address of its chief executive office and of any change of address. Upon receipt of process, the secretary of state shall mail a copy of the process to the surviving foreign partnership or limited partnership.

(c) A partner of the surviving partnership or limited partnership is liable for:

(1) all obligations of a party to the merger for which the partner was personally liable before the merger;

(2) all other obligations of the surviving entity incurred before the merger by a party to the merger, but those obligations may be satisfied only out of property of the entity; and

(3) all obligations of the surviving entity incurred after the merger takes effect, but those obligations may be satisfied only out of property of the entity if the partner is a limited partner.

(d) If the obligations incurred before the merger by a party to the merger are not satisfied out of the property of the surviving partnership or limited partnership, the general partners of that party immediately before the effective date of the merger shall contribute the amount necessary to satisfy that party's obligations to the surviving entity, in the manner provided in Section 807 or in the limited partnership act of the jurisdiction in which the party was formed, as the case may be, as if the merged party were dissolved.

(e) A partner of a party to a merger who does not become a partner of the surviving partnership or limited partnership is dissociated from the entity, of which that partner was a partner, as of the date the merger takes effect. The surviving entity shall cause the partner's interest in the entity to be purchased under Section 701 or another statute specifically applicable to that party's interest with respect to a merger. The surviving entity is bound under Section 702 by an act of a general partner dissociated under this subsection, and the partner is liable under Section 703 for transactions entered into by the surviving entity after the merger takes effect.

Section 907

Section 907

STATEMENT OF MERGER.--

(a) After a merger, the surviving partnership or limited partnership may file a statement that one or more partnerships or limited partnerships have merged into the surviving entity.

(b) A statement of merger must contain:

(1) the name of each partnership or limited partnership that is a party to the merger;

(2) the name of the surviving entity into which the other partnerships or limited partnerships were merged;

(3) the street address of the surviving entity's chief executive office and of an office in this state, if any; and

(4) whether the surviving entity is a partnership or a limited partnership.

(c) Except as otherwise provided in Subsection (d), for the purposes of Section 302, property of the surviving partnership or limited partnership which before the merger was held in the name of another party to the merger is property held in the name of the surviving entity upon filing a statement of merger.

(d) For the purposes of Section 302, real property of the surviving partnership or limited partnership which before the merger was held in the name of another party to the merger is property held in the name of the surviving entity upon recording a certified copy of the statement of merger in the office for recording transfers of that real property.

(e) A filed and, if appropriate, recorded statement of merger, executed and declared to be accurate pursuant to Section 105(c), stating the name of a partnership or limited partnership that is a party to the merger in whose name property was held before the merger and the name of the surviving entity, but not containing all of the other

information required by Subsection (b), operates with respect to the partnerships or limited partnerships named to the extent provided in Subsections (c) and (d).

Section 908

Section 908

NONEXCLUSIVE.--This article is not exclusive. Partnerships or limited partnerships may be converted or merged in any other manner provided by law.

ARTICLE 10

MISCELLANEOUS PROVISIONS

Section 1001

Section 1001

UNIFORMITY OF APPLICATION AND CONSTRUCTION.--The Uniform Partnership Act (1994) shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of that act among states enacting it.

Section 1002

Section 1002

SHORT TITLE.--This act may be cited as the "Uniform Partnership Act (1994)".

Section 1003

Section 1003

SAVINGS CLAUSE.--The Uniform Partnership Act (1994) does not affect an action or proceeding commenced or right accrued before that act takes effect.

Section 1004

Section 1004

REPEAL.--Sections 54-1-1 through 54-1-43 NMSA 1978 (being Laws 1947, Chapter 37, Sections 1 through 43, as amended) are repealed.

Section 1005

Section 1005

SEVERABILITY.--If any provision of the Uniform Partnership Act (1994) or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of that act which can be given effect without the invalid provision or application, and to this end the provisions of that act are severable.

Section 1006

Section 1006

APPLICABILITY.--

(a) Before January 1, 2000, the Uniform Partnership Act (1994) governs only a partnership formed:

(1) after the effective date of that act, unless that partnership is continuing the business of a dissolved partnership under Section 54-1-41 NMSA 1978, a part of the prior Uniform Partnership Act; and

(2) before the effective date of that act, that elects, as provided by Subsection (c), to be governed by that act.

(b) After January 1, 2000, the Uniform Partnership Act (1994) governs all partnerships.

(c) Before January 1, 2000, a partnership voluntarily may elect, in the manner provided in its partnership agreement or by law for amending the partnership agreement, to be governed by the Uniform Partnership Act (1994). Except as otherwise provided in Section 306, the provisions of that act relating to the liability of the partnership's partners to third parties apply to limit those partners' liability to a third party who had done business with the partnership within one year preceding the partnership's election to be governed by that act, only if the third party knows or has received a notification of the partnership's election to be governed by that act.

Section 1007

Section 1007

EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1997.

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HOUSE BILL 255

SIGNED MARCH 5, 1996

Chapter 54

RELATING TO PROFESSIONAL LICENSURE; AMENDING AND ENACTING SECTIONS OF CERTAIN PROFESSIONAL LICENSURE ACTS; MAKING AN APPROPRIATION.

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

Section 1

Section 1

Section 61-9-3 NMSA 1978 (being Laws 1963, Chapter 92, Section 3, as amended) is amended to read:

"61-9-3. DEFINITIONS.--As used in the Professional Psychologist Act:

A. "board" means the New Mexico state board of psychologist examiners;

B. "person" includes an individual, firm, partnership, association or corporation;

C. "psychologist" means any person who engages in the practice of psychology or holds himself out to the public by any title or description of services representing himself as a psychologist, which incorporates the words "psychological", "psychologist", "psychology", or when a person describes himself as above and, under such title or description, offers to render or renders services involving the application of principles, methods and procedures of the science and profession of psychology to persons for compensation or other personal gain;

D. "practice of psychology" means the observation, description, evaluation, interpretation and modification of human behavior by the application of psychological principles, methods and procedures for the purpose of preventing or eliminating symptomatic, maladaptive or undesired behavior and of enhancing interpersonal relationships, work and life adjustment, personal effectiveness, behavioral health and mental health, and further means the rendering of such psychological services to individuals, families or groups regardless of whether payment is received for services rendered. The practice of psychology includes, but is not limited to, psychological testing or neuropsychological testing and the evaluation or assessment of personal characteristics such as intelligence, personality, abilities, interests, aptitudes and neuropsychological functioning; counseling, psychoanalysis, psychotherapy, hypnosis, biofeedback, behavior analysis and therapy; diagnosis and treatment of any mental and emotional disorder or disability, alcoholism and substance abuse, disorders of habit or conduct and the psychological aspects of physical illness, accident, injury and disability; and psychoeducational evaluation, therapy, remediation and consultation; and

E. "school" or "college" means any university or other institution of higher education that is regionally accredited or approved by the American psychological association and that

offers a full-time graduate course of study in psychology as defined by regulation of the board."

Section 2

Section 2

Section 61-9-4.1 NMSA 1978 (being Laws 1989, Chapter 41, Section 4, as amended) is amended to read:

"61-9-4.1. LICENSE REQUIRED.--Unless licensed to practice psychology under the Professional Psychologist Act, no person shall engage in the practice of psychology or use the title or represent himself as a psychologist or psychologist associate or use any other title, abbreviation, letters, signs or devices that indicate the person is a psychologist or psychologist associate."

Section 3

Section 3

Section 61-9-5 NMSA 1978 (being Laws 1989, Chapter 41, Section 5, as amended) is amended to read:

"61-9-5. STATE BOARD OF EXAMINERS--PSYCHOLOGY FUND.--

A. There is created a "New Mexico state board of psychologist examiners" consisting of eight members appointed by the governor who are residents of New Mexico and who shall serve for three-year staggered terms. The members shall be appointed as follows:

(1) four members shall be professional members who are licensed under the Professional Psychologist Act as psychologists. The governor shall appoint the professional members from a list of names nominated by the New Mexico psychological association, the state psychologist association and the New Mexico school psychologist association;

(2) one member shall be licensed under the Professional Psychologist Act as a psychologist or psychologist associate; and

(3) three members shall be public members who are laymen and have no significant financial interest, direct or indirect, in the practice of psychology.

B. Each member shall hold office until the expiration of his appointed term or until a successor is duly appointed. When the term of each member ends, the governor shall appoint his successor for a term of three years. Any vacancy occurring in the board membership other than by expiration of term shall be filled by the governor by

appointment for the unexpired term of the member. The governor may remove any board member for misconduct, incompetency or neglect of duty.

C. All money received by the board shall be credited to the "psychology fund". Money in the psychology fund at the end of the fiscal year shall not revert to the general fund and shall be used in accordance with the provisions of the Professional Psychologist Act. The 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."

Section 4

Section 4

Section 61-9-6 NMSA 1978 (being Laws 1963, Chapter 92, Section 5, as amended) is amended to read:

"61-9-6. BOARD--MEETING--POWERS.--

A. The board shall, annually in the month of July, hold a meeting and elect from its membership a chairman, vice chairman and secretary-treasurer. The board shall meet at such other times as it deems necessary or advisable or as deemed necessary and advisable by the chairman or a majority of its members or the governor. Reasonable notice of all meetings shall be given in the manner prescribed by the board. A majority of the board constitutes a quorum at any meeting or hearing.

B. The board is authorized to:

(1) adopt and from time to time revise such rules and regulations not inconsistent with the law as may be necessary to carry into effect the provisions of the Professional Psychologist Act. Such rules and regulations shall include but not be limited to a code of conduct for psychologists and psychologist associates in the state;

(2) employ, within the funds available, an administrator and other personnel necessary for the proper performance of its work under the Professional Psychologist Act;

(3) adopt a seal, and the administrator shall have the care and custody of the seal;

(4) examine for, approve, deny, revoke, suspend and renew the licensure of psychologist and psychologist associate applicants as provided in the Professional Psychologist Act;

(5) conduct hearings upon complaints concerning the disciplining of a psychologist or psychologist associate; and

(6) cause the prosecution and enjoinder of all persons violating the Professional Psychologist Act and incur necessary expenses therefor.

C. Within sixty days after the close of each fiscal year, the board shall submit a written or printed report, reviewed and signed by the board members, to the governor concerning the work of the board during the preceding fiscal year. The report shall include the names of all psychologists and psychologist associates to whom licenses have been granted; any cases heard and decisions rendered in relation to the work of the board; the recommendations of the board as to future policies; the names, remuneration and duties of any employees of the board; and an account of all money received and expended by the board."

Section 5

Section 5

Section 61-9-8 NMSA 1978 (being Laws 1963, Chapter 92, Section 7, as amended) is amended to read:

"61-9-8. RECORDS.--

A. The board shall keep a record of its proceedings and a register of all applications for licensure which shall show:

- (1) the name, age and residence of each applicant;
- (2) the date of the application;
- (3) the place of business of the applicant;
- (4) a summary of the educational and other qualifications of the applicant;
- (5) whether an examination was required;
- (6) whether a license was granted;
- (7) the date of the action of the board; and
- (8) such other information as may be deemed necessary or advisable by the board in aid of the requirements of this subsection.

B. Except as provided otherwise in the Professional Psychologist Act, the records of the board are public records and are available to the public in accordance with the Public Records Act."

Section 6

Section 6

Section 61-9-11 NMSA 1978 (being Laws 1963, Chapter 92, Section 10, as amended) is amended to read:

"61-9-11. LICENSURE--EXAMINATION.--

A. The board shall issue a license as a psychologist to each applicant who files an application upon a form and in such manner as the board prescribes, accompanied by the fee required by the Professional Psychologist Act, and who furnishes evidence satisfactory to the board that he:

(1) has reached the age of majority;

(2) is of good moral character;

(3) is not in violation of any of the provisions of the Professional Psychologist Act and the rules and regulations adopted pursuant to that act;

(4) holds a doctoral degree based in part on a psychological dissertation from a school or college;

(5) has had an internship approved by the American psychological association and one year of experience after receiving the doctoral degree or has had, after receiving the doctoral degree, at least two years of supervised experience in psychological work of a type satisfactory to the board; and

(6) demonstrates professional competence by passing:

(a) the examination for professional practice in psychology promulgated by the association of state and provincial psychology boards with a minimum score equivalent to or greater than the statistical mean as reported by the association of state and provincial psychology boards for all doctoral-level candidates taking the examination on that occasion; and

(b) an oral examination administered and graded by the board, investigating the applicant's training, experience and knowledge. The oral examination shall be evaluated on a pass-fail basis.

B. Upon investigation of the application and other evidence submitted, the board shall, not less than thirty days prior to the examination, notify each applicant that the application and evidence submitted for licensure are satisfactory and accepted or unsatisfactory and rejected. If rejected, the notice shall state the reasons for rejection.

C. The place of examination shall be designated in advance by the board, and examinations shall be given at such time and place and under such supervision as the board may determine.

D. In the event an applicant fails to receive a passing grade, he may apply for re-examinations and shall be allowed to take a subsequent examination upon payment of the fee required by the Professional Psychologist Act.

E. The board shall keep a record of all examinations, and the grade assigned to each, as part of its records for at least two years subsequent to the date of examination."

Section 7

Section 7

Section 61-9-11.1 NMSA 1978 (being Laws 1983, Chapter 334, Section 4, as amended) is amended to read:

"61-9-11.1. PSYCHOLOGIST ASSOCIATES--LICENSURE-- EXAMINATION.--

A. The board shall issue a license as a psychologist associate to each applicant who files an application upon a form and in such manner as the board prescribes, accompanied by the fee required by the Professional Psychologist Act, and who furnishes evidence satisfactory to the board that he:

(1) has reached the age of majority, is of good moral character and is not in violation of any of the provisions of the Professional Psychologist Act and the rules and regulations adopted pursuant to that act;

(2) holds a master's degree in psychology from a department of psychology of a school or college;

(3) has had, after receiving the master's degree, at least five years of experience, one of which shall be supervised, in psychological work of a type satisfactory to the board; and

(4) demonstrates professional competence by passing:

(a) the examination for professional practice in psychology promulgated by the association of state and provincial psychology boards with a score equivalent to or greater than the statistical mean as reported by the association of state and provincial psychology boards for all master's-level candidates taking the examination on that occasion; and

(b) an oral examination administered and graded by the board, investigating the applicant's training, experience and knowledge of his area of practice. The oral examination shall be evaluated on a pass-fail basis.

B. Upon investigation of the application and other evidence submitted, the board shall, not less than thirty days prior to the examination, notify each applicant that the

application and evidence submitted for licensure is satisfactory and accepted or unsatisfactory and rejected. If rejected, the notice shall state the reasons for rejection.

C. The place of examination shall be designated in advance by the board, and examinations shall be given at such time and place and under such supervision as the board may determine.

D. In the event an applicant fails to receive a passing grade, he may apply for re-examinations and shall be allowed to take a subsequent examination upon payment of the fee required by the Professional Psychologist Act.

E. The board shall keep a record of all examinations, and the grade assigned to each, as part of its records for at least two years subsequent to the date of examination.

F. The board may adopt reasonable rules and regulations classifying areas and conditions of practice permissible for psychologist associates."

Section 8

Section 8

Section 61-9-12 NMSA 1978 (being Laws 1963, Chapter 92, Section 11, as amended) is amended to read:

"61-9-12. LICENSE.--The board shall issue a license signed by the chairman and vice chairman or their designee whenever an applicant for licensure successfully qualifies as provided for in the Professional Psychologist Act."

Section 9

Section 9

Section 61-9-13 NMSA 1978 (being Laws 1963, Chapter 92, Section 12, as amended) is amended to read:

"61-9-13. DENIAL, REVOCATION OR SUSPENSION OF LICENSE.--

A. The board, by an affirmative vote of at least five of its eight members, shall withhold, deny, revoke or suspend any psychologist or psychologist associate license issued or applied for in accordance with the provisions of the Professional Psychologist Act or otherwise discipline a licensed psychologist or psychologist associate upon proof that the applicant, licensed psychologist or psychologist associate:

(1) has been convicted of a felony or any offense involving moral turpitude, the record of conviction being conclusive evidence thereof;

(2) is using any drug, substance or alcoholic beverage to an extent or in a manner dangerous to himself, any other person or the public or to an extent that the use impairs his ability to perform the work of a professional psychologist or psychologist associate with safety to the public;

(3) has impersonated another person holding a psychologist or psychologist associate license or allowed another person to use his license;

(4) has used fraud or deception in applying for a license or in taking an examination provided for in the Professional Psychologist Act;

(5) has accepted commissions or rebates or other forms of remuneration for referring clients to other professional persons;

(6) has allowed his name or license issued under the Professional Psychologist Act to be used in connection with any person who performs psychological services outside of the area of that person's training, experience or competence;

(7) is legally adjudicated insane or mentally incompetent, the record of such adjudication being conclusive evidence thereof;

(8) has willfully or negligently violated any of the provisions of the Professional Psychologist Act;

(9) has violated any code of conduct adopted by the board;

(10) has been disciplined by another state for acts similar to acts described in this subsection, and a certified copy of the record of discipline of the state imposing the discipline is conclusive evidence;

(11) is incompetent to practice psychology;

(12) has failed to furnish to the board or its representative information requested by the board;

(13) has abandoned his patients or clients;

(14) has failed to report to the board adverse action taken against the licensee by:

(a) another licensing jurisdiction;

(b) a professional psychologist association of which he is or has been a member;

(c) a government agency; or

(d) a court for actions or conduct similar to acts or conduct that would constitute grounds for action as described in this subsection;

(15) has failed to report to the board surrender of a license or other authorization to practice psychology in another jurisdiction or surrender of membership on a health care staff or in a professional association following, in lieu of or while under a disciplinary investigation by any of those authorities for acts or conduct that would constitute grounds for action as defined in this subsection;

(16) has failed to adequately supervise a psychologist associate;

(17) has employed abusive billing practices; or

(18) has aided or abetted the practice of psychology by a person not licensed by the board.

B. A person who has been refused a license or whose license has been restricted or suspended under the provisions of this section may reapply for licensure after more than two years have elapsed from the date the restriction or suspension is terminated."

Section 10

Section 10

Section 61-9-16 NMSA 1978 (being Laws 1963, Chapter 92, Section 15, as amended) is amended to read:

"61-9-16. SCOPE OF ACT.--

A. Nothing in the Professional Psychologist Act shall be construed to limit:

(1) the activities, services and use of an official title on the part of a person in the employ of a federal, state, county or municipal agency or of other political subdivisions or any educational institution chartered by the state insofar as such activities, services and use of any official title are a part of the duties of his office or position with the agency or institution;

(2) the activities and services of a student, intern or resident in psychology pursuing a course of study in psychology at a school or college if these activities and services constitute a part of his supervised course of study and no fee is charged directly by the student, intern or resident; or

(3) the activities of an applicant working under supervision seeking licensure pursuant to the Professional Psychologist Act.

B. Nothing in the Professional Psychologist Act shall in any way restrict the use of the term "social psychologist" by any person who has received a doctoral degree in sociology or social psychology from an institution whose credits in sociology or social psychology are acceptable by a school or college and who has passed comprehensive examinations in the field of social psychology as a part of the requirements for the doctoral degree or has had equivalent specialized training in social psychology and who has notified the board of his intention to use the term "social psychologist" and filed a statement of the fact demonstrating his compliance with this subsection. A social psychologist shall not practice in any psychological specialty outside that of social psychology without complying with the provisions of the Professional Psychologist Act.

C. Lecturers in psychology from any school or college may utilize their academic or research titles when invited to present lectures to institutions or organizations.

D. Nothing in the Professional Psychologist Act prohibits qualified members of other professional groups who are licensed or regulated under the laws of this state from engaging in activities within the scope of practice of their respective licensing or regulation statutes, but they shall not hold themselves out to the public by any title or description of services that would lead the public to believe that they are psychologists, and they shall not state or imply that they are licensed to practice psychology.

E. Nothing in the Professional Psychologist Act shall be construed to prevent an alternative, metaphysical or holistic practitioner from engaging in nonclinical activities consistent with the standards and codes of ethics of that practice.

F. Specifically exempted from the Professional Psychologist Act are:

(1) alcohol or drug abuse counselors working under appropriate supervision for a nonprofit corporation, association or similar entity;

(2) peer counselors of domestic violence or independent-living peer counselors working under appropriate supervision in a nonprofit corporation, association or similar entity;

(3) duly ordained, commissioned or licensed ministers of a church; lay pastoral-care assistants; science of mind practitioners providing uncompensated counselor or therapist services on behalf of a church; and Christian science practitioners;

(4) students enrolled in a graduate-level counselor and therapist training program and rendering services under supervision;

(5) hypnotherapists certified by the American council of hypnotist examiners or the southwest hypnotherapists examining board, providing nonclinical services from July 1, 1994 to June 30, 1998;

(6) pastoral counselors with master's or doctoral degrees, who are certified by the American association of pastoral counselors; and

(7) practitioners of Native American healing arts."

Section 11

Section 11

Section 61-9-19 NMSA 1978 (being Laws 1978, Chapter 188, Section 2, as amended) is amended to read:

"61-9-19. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The New Mexico state board of psychologist examiners is terminated on July 1, 1997 pursuant to the Sunset Act. The board shall continue to operate according to the provisions of Chapter 61, Article 9 NMSA 1978 until July 1, 1998. Effective July 1, 1998, Article 9 of Chapter 61 NMSA 1978 is repealed."

Section 12

Section 12

A new section of the Professional Psychologist Act is enacted to read:

"ACTIONS OF BOARD--IMMUNITY--CERTAIN RECORDS NOT PUBLIC RECORDS.--

A. No member of the board or person working on behalf of the board shall be civilly liable or subject to civil damages for any good faith action undertaken or performed within the proper functions of the board.

B. All written and oral communications made by a person to the board relating to actual or potential disciplinary action shall be confidential communications and are not public records for the purposes of the Public Records Act. All data, communications and information acquired by the board relating to actual or potential disciplinary action shall not be disclosed except:

(1) to the extent necessary to carry out the board's functions;

(2) as needed for judicial review of the board's actions; or

(3) pursuant to a court order issued by a court of competent jurisdiction.

C. Notwithstanding the provisions of Subsection B of this section, at the conclusion of an actual disciplinary action by the board, all data, communications and information acquired by the board relating to an actual disciplinary action taken against a person subject to the provisions of the Professional Psychologist Act shall be public records, pursuant to the provisions of the Public Records Act."

—

HOUSE BILL 339, AS AMENDED

SIGNED MARCH 5, 1996

Chapter 55

RELATING TO PROFESSIONAL LICENSING; ENACTING THE OCCUPATIONAL THERAPY ACT; PROVIDING LICENSURE REQUIREMENTS; CREATING A BOARD; PROVIDING POWERS AND DUTIES; CREATING A FUND; PROVIDING DISCIPLINARY AND CRIMINAL PENALTIES; REPEALING AND ENACTING SECTIONS OF THE NMSA 1978; MAKING AN APPROPRIATION.

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

Section 1

Section 1

SHORT TITLE.--This act may be cited as the "Occupational Therapy Act".

Section 2

Section 2

PURPOSE.--It is the purpose of the Occupational Therapy Act to provide for the regulation of persons offering occupational therapy services to the public in order to safeguard the public health, safety and welfare, to protect the public from being misled by incompetent and unauthorized persons, to assure the highest degree of professional conduct on the part of registered occupational therapists and certified occupational therapy assistants and to assure the availability of occupational therapy services of high quality to persons in need of such services.

Section 3

Section 3

DEFINITIONS.--As used in the Occupational Therapy Act:

- A. "board" means the board of examiners for occupational therapy;
- B. "censure" means a formal expression of disapproval that is publicly announced;
- C. "certified occupational therapy assistant" means a person having no less than an associate degree in occupational therapy who is certified by the American occupational therapy certification board and licensed in New Mexico to assist a registered

occupational therapist in occupational therapy under the supervision of the registered occupational therapist;

D. "denial of license" means that a person is barred from becoming licensed to practice in accordance with the provisions of the Occupational Therapy Act either indefinitely or for a certain period;

E. "licensee" means a registered occupational therapist or certified occupational therapy assistant, as appropriate;

F. "occupational therapy" means the use of purposeful activity or intervention designed to achieve functional outcomes that promote health, prevent injury or disability and develop, improve, sustain or restore to the highest possible level of independence a person who has an injury, illness, psychosocial dysfunction, mental illness, developmental or learning disability, physical disability or other disorder or condition;

G. "occupational therapy aide or technician" means an unlicensed person who assists in occupational therapy, who works under direct supervision of a registered occupational therapist or certified occupational therapy assistant;

H. "person" means an individual, association, partnership, unincorporated organization or corporate body;

I. "probation" means continued licensure is subject to fulfillment of specified conditions such as monitoring, education, supervision or counseling;

J. "registered occupational therapist" means a person having no less than a baccalaureate degree in occupational therapy who is registered by the American occupational therapy certification board and licensed in New Mexico to practice occupational therapy;

K. "reprimand" means a formal expression of disapproval that shall be retained in the licensee's file but shall not be publicly announced;

L. "revocation" means permanent loss of licensure; and

M. "suspension" means the loss of licensure for a certain period, after which the person may be required to apply for reinstatement.

Section 4

Section 4

OCCUPATIONAL THERAPY SERVICES.--

A. Occupational therapy services include the assessment, reassessment, planning and discontinuation of:

(1) the provision of treatment in consultation with the individual, family or other appropriate persons;

(2) treatment directed toward developing, improving or restoring daily living skills, including self-care skills and activities that involve interactions with others and the environment, work readiness or work performance, play skills or leisure capacities or enhancing educational performance skills;

(3) the development, improvement or restoration of sensorimotor, perceptual or neuromuscular functioning; or emotional, motivational, cognitive or psychosocial components of performance; and

(4) education of individuals, families or the appropriate persons in carrying out appropriate treatment objectives.

B. The services provided for in Subsection A of this section shall encompass the assessment of needs and the design, development, adaptation, application or training in the use of assistive technology devices; the design, fabrication or application of rehabilitative technology such as selected orthotic devices; training in the use of orthotic devices; the application and training in the use of physical agent modalities as an adjunct to or in preparation for purposeful activity; the application of ergonomic principles; the adaptation of environments and processes to enhance functional performance; and the promotion of health and wellness.

Section 5

Section 5

SUPERVISION--REQUIRED--DEFINED.--No occupational therapy shall be performed by any certified occupational therapy assistant, occupational therapy aide or technician, or by any person practicing on a provisional permit, unless such therapy is supervised by a registered occupational therapist. The board shall adopt regulations defining supervision, which definitions may include various categories such as "close supervision", "routine supervision" and "general supervision".

Section 6

Section 6

LICENSE REQUIRED.--

A. Unless licensed to practice the level of occupational therapy provided in the Occupational Therapy Act, no person shall practice as a registered occupational therapist or certified occupational therapy assistant.

B. It is unlawful for any person not licensed pursuant to the Occupational Therapy Act or whose license has been denied, suspended or revoked in this or another state to hold himself out as a registered occupational therapist or certified occupational therapy assistant or to use words or titles containing "occupational therapist", "registered occupational therapist", "occupational therapy assistant" or "certified occupational therapy assistant" that would indicate or imply that the person is licensed as a registered occupational therapist or certified occupational therapy assistant.

C. No facility or employer shall represent that it offers occupational therapy unless it utilizes the services of a licensee pursuant to the provisions of the Occupational Therapy Act.

D. A person offering or assisting in the offering of occupational therapy shall be properly identified by a name badge or other identification indicating whether he is a registered occupational therapist, certified occupational therapy assistant, an occupational therapy aide or technician or a person practicing under a provisional permit.

Section 7

Section 7

EXEMPTIONS.--Nothing in the Occupational Therapy Act shall be construed as preventing or restricting the practice, services or activities of:

A. a person engaged in the profession or occupation for which he is licensed in New Mexico;

B. a person lawfully engaged in a profession or occupation known by a name other than occupational therapy when engaged in that profession or occupation;

C. a person pursuing a course of study leading to a degree or certificate in occupational therapy in an educational program accredited or seeking accreditation by the accreditation council of occupational therapy education if the activities and services constitute part of the supervised course of study and if that person is designated by a title that clearly indicates his status as a student or trainee;

D. a person fulfilling the supervised student field work experience requirement pursuant to the Occupational Therapy Act if the activities and services constitute part of the experience necessary to meet that requirement; and

E. an occupational therapist or occupational therapy assistant licensed in another state from conducting continuing education, workshops or seminars in New Mexico.

Section 8

Section 8

BOARD CREATED.--

- A. The "board of examiners for occupational therapy" is created.
- B. The board shall consist of five members appointed by the governor who have been residents of the state for two years preceding the appointment.
- C. Three members shall be licensed under the provisions of the Occupational Therapy Act; have a minimum of five years' professional experience, with two years' experience in New Mexico; and have not had their licenses suspended or revoked by this or any other state. One of the professional members may be a certified occupational therapy assistant; one of the professional members may be a retired registered occupational therapist.
- D. The two public members shall have no direct interest in the profession of occupational therapy. The public members shall not:
- (1) have been convicted of a felony;
 - (2) be habitually intemperate or be addicted to the use of habit-forming drugs or be addicted to any vice to such a degree as to render him unfit to fulfill his board duties and responsibilities; or
 - (3) be guilty of any violation of the Controlled Substances Act.
- E. Appointments shall be made for staggered terms of three years with no more than two terms ending at any one time. No board member shall serve more than two consecutive terms. Vacancies shall be filled for the unexpired term by appointment by the governor prior to the next scheduled board meeting.
- F. No individual member of the board is liable in a civil or criminal action for any act performed in good faith in the execution of his duties as a member of the board.
- G. Members of the board shall be reimbursed for per diem and travel expenses as provided in the Per Diem and Mileage Act and shall receive no other compensation, perquisite or allowance.
- H. A simple majority of the board members currently serving shall constitute a quorum of the board for the conduct of business.
- I. The board shall meet at least four times a year and at such other times as it deems necessary. Additional meetings may be convened at the call of the president of the

board or on the written request of any two board members to the president. Meetings of the board shall be conducted in accordance with the provisions of the Open Meetings Act.

J. Any member failing to attend three consecutive meetings, unless excused as provided by board policy, shall automatically be recommended for removal as a member of the board.

K. At the beginning of each fiscal year, the board shall elect a president, vice president and a secretary-treasurer.

Section 9

Section 9

BOARD--POWERS AND DUTIES.--

A. The board shall:

(1) adopt, file, amend or repeal rules and regulations in accordance with the Uniform Licensing Act to carry out the provisions of the Occupational Therapy Act;

(2) use funds for the purpose of meeting the necessary expenses incurred in carrying out the provisions of the Occupational Therapy Act;

(3) adopt a code of ethics;

(4) enforce the provisions of the Occupational Therapy Act to protect the public by conducting hearings on charges relating to the discipline of licensees, including the denial, suspension or revocation of a license;

(5) establish and collect fees;

(6) provide for examination for and issuance, renewal and reinstatement of licenses;

(7) establish, impose and collect fines for violations of the Occupational Therapy Act;

(8) appoint a registrar to keep records and minutes necessary to carry out the functions of the board; and

(9) obtain the legal assistance of the attorney general.

B. The board may:

(1) hire or contract with an attorney to give advice and counsel in regard to any matter connected with the duties of the board, to represent the board in any legal proceedings

and to aid in the enforcement of the Occupational Therapy Act; the board shall set the compensation of the attorney to be paid from the funds of the board;

(2) issue investigative subpoenas for the purpose of investigating complaints against licensees prior to the issuance of a notice of contemplated action;

(3) hire or contract with an investigator to investigate complaints that have been filed with the board; the board shall set the compensation of the investigator to be paid from the funds of the board;

(4) inspect establishments; and

(5) designate hearing officers.

Section 10

Section 10

BOARD--ADMINISTRATIVE PROCEDURES.--

A. The board may employ and discharge such employees as it deems necessary and shall determine their duties and set their compensation.

B. The board shall appoint a registrar who is either the board member elected as the secretary-treasurer or such other person as the board may designate who is an employee of the board or the state. The registrar of the board may receive reimbursement for necessary expenses incurred in carrying out his duties and, if he is an employee, such compensation as the board may set. The registrar shall keep a written record in which shall be registered the name, license number, date of license issuance, current address, record of annual license fee payments, minutes and any other data as the board deems necessary regarding licensees.

Section 11

Section 11

REQUIREMENTS FOR LICENSURE.--

A. A license to practice as a registered occupational therapist or a certified occupational therapy assistant shall be issued to any person who files a completed application, accompanied by the required fees and documentation, and who submits satisfactory evidence that the applicant has:

(1) successfully completed the academic requirements of an educational program in occupational therapy that is either:

(a) accredited by the American occupational therapy association's accreditation council for occupational therapy education; or

(b) in the case of a foreign-trained occupational therapist, accepted by the American occupational therapy certification board when the therapist applies to take that board's examination;

(2) successfully completed a period of supervised field work experience at a recognized educational institution or a training program approved by the educational institution where the registered occupational therapist or the certified occupational therapy assistant has met the academic requirements of Paragraph (1) of this subsection;

(3) has passed an examination prescribed by the American occupational therapy certification board or the board of examiners for occupational therapy; and

(4) has no record of unprofessional conduct or incompetency.

B. In the case of a certified occupational therapy assistant or a person practicing on a provisional permit, the applicant shall file with the board a signed, current statement of supervision by the registered occupational therapist who will be the responsible supervisor.

C. The board shall verify, as necessary, information contained on the completed application and any supporting documentation required to obtain a license.

Section 12

Section 12

EXAMINATIONS.--The board shall require proof of passage of the American occupational therapy certification board examination. The board may require each applicant to pass an examination on the state laws, rules and regulations that pertain to the practice of occupational therapy.

Section 13

Section 13

PROVISIONAL PERMITS.--A provisional permit may be granted to a person who has completed the education and experience requirements of the Occupational Therapy Act. The permit shall allow the person to practice occupational therapy under the supervision of a registered occupational therapist. The provisional permit shall be valid until the date on which the results of the next qualifying examination have been made public. The provisional permit shall not be renewed if the applicant has failed the examination. The board shall verify, as necessary, information contained on the completed application and any supporting documentation required to obtain a license.

Section 14

Section 14

LICENSURE BY ENDORSEMENT.--Upon verification, the board may grant a license to any applicant who presents a current license in good standing as a registered occupational therapist or a certified occupational therapy assistant in another state, the District of Columbia or a territory of the United States that meets the requirements of Section 11 of the Occupational Therapy Act.

Section 15

Section 15

LICENSE RENEWAL.--

A. Each renewal request shall contain the person's name, address and license number. After receipt of information and fees as prescribed by this section, the board shall issue a license certificate.

B. Licenses issued pursuant to the Occupational Therapy Act are subject to annual renewal upon submission of a renewal form provided by the board, payment of the annual renewal fee and the required proof of continuing education units or proof of competency as prescribed by the board. A license not renewed on the annual renewal date is expired.

C. If a person's license has been expired for five years or less, the person may renew the license upon submission of a renewal form provided by the board, the payment of the annual renewal fee, a late fee and the required proof of continuing education units for the period the license has been expired or proof of competency as prescribed by the board. If a person's license has been expired for more than five years, the person may not renew the license. The person may obtain a new license by compliance with the requirements and procedures for obtaining an original license and any additional proof of competency requested by the board.

D. If a person's license has been suspended, it shall not be renewed until it has been reinstated by the board. If a person's license has been suspended it is still subject to annual renewal. The person may renew the license as provided in this section, but renewal does not entitle the licensee, while the license is suspended, to engage in the licensed activity or in any other conduct or activity in violation of the order or judgment by which the license was suspended.

E. If a person's license has been revoked on disciplinary grounds, and has been reinstated by the board, the licensee shall pay the annual renewal fee and any applicable late fee as a condition of reinstatement.

Section 16

Section 16

DISPLAY OF LICENSE.--

A. Each licensee shall display his current license certificate in a conspicuous place in the principal office where he practices occupational therapy. At secondary places of employment, documentation of license shall be verified by photocopy with a note attached indicating where the current license certificate is posted.

B. A consumer information sign shall be displayed in the principal place of practice. The consumer information sign shall read:

"Complaints regarding noncompliance with the Occupational Therapy Act can be directed to the board of examiners for occupational therapy".

Section 17

Section 17

INACTIVE LICENSES.--A license in good standing may be transferred to inactive status upon written request to the board and payment of an annual inactive status fee as set by the board. Such request shall be made prior to the expiration of the license. The licensee shall not practice in New Mexico during the time the license is inactive. A licensee may reactivate his license 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 requested and prescribed by the board.

Section 18

Section 18

FEES.--The board shall establish a schedule of reasonable fees, including an initial licensure fee, an annual renewal fee, an examination fee, a late renewal fee and an inactive status fee. The initial licensure fee is not refundable and shall cover the cost of processing the application and shall include, for successful applicants, the initial annual renewal fee. The board may impose reasonable administration and duplicating fees or any penalties deemed appropriate.

Section 19

Section 19

UNIFORM LICENSING ACT.--The Occupational Therapy Act is enforceable according to the procedures set forth in the Uniform Licensing Act.

Section 20

Section 20

FUND CREATED.--

- A. The "board of examiners for occupational therapy fund" is created in the state treasury.
- B. Money received by the board pursuant to the Occupational Therapy Act shall be deposited in the fund. Money in the fund shall not revert to the general fund at the end of any fiscal year.
- C. Money in the fund is appropriated solely to the board for the purpose of meeting the necessary expenses incurred in carrying out the provisions of the Occupational Therapy Act.

Section 21

Section 21

PENALTIES.--

- A. An unlicensed person, other than an occupational therapy aide or technician, occupational therapy student or occupational therapy assistant student or person practicing under a provisional permit, who practices occupational therapy is guilty of a misdemeanor and upon conviction shall be sentenced pursuant to Section 31-19-1 NMSA 1978.
- B. A person who represents that he offers occupational therapy services without utilizing a licensee is in violation of the Occupational Therapy Act and shall be subject to a fine equal to ten percent of billed charges for those services. In addition, the violator shall be required to utilize the services of a licensee in order to provide occupational therapy services.
- C. The board shall deny an application for licensure if it finds that the applicant made false statements or provided false information in connection with an application for licensure.

Section 22

Section 22

DISCIPLINARY ACTION--DENIAL, SUSPENSION OR REVOCATION.--In accordance with procedures established by the Uniform Licensing Act, the board may deny, suspend or revoke any license or permit held or applied for under the Occupational Therapy Act upon the grounds that the licensee or applicant is incompetent, impaired or has engaged in unethical behavior. The board shall define such grounds by regulation. Disciplinary sanctions may also include probation, censure or reprimand, according to board regulations.

Section 23

Section 23

CRIMINAL OFFENDER EMPLOYMENT ACT.--The provisions of the Criminal Offender Employment Act shall govern any consideration of criminal records required or permitted by the Occupational Therapy Act.

Section 24

Section 24

TERMINATION OF AGENCY LIFE--DELAYED

REPEAL.--The board of examiners for occupational therapy is terminated on July 1, 1997 pursuant to the provisions of the Sunset Act. The board shall continue to operate according to the provisions of the Occupational Therapy Act until July 1, 1998. Effective July 1, 1998, the Occupational Therapy Act is repealed.

Section 25

Section 25

TEMPORARY PROVISION--TRANSFER.--Upon the effective date of the Occupational Therapy Act all property, funds, records, responsibilities and duties of the board of occupational therapy practice are transferred to the board of examiners for occupational therapy.

Section 26

Section 26

TEMPORARY PROVISION--EXISTING REGULATIONS--LICENSURE UNDER PRIOR LAW.--

A. Existing regulations regarding occupational therapy services shall remain in effect until new regulations are adopted pursuant to the provisions of the Occupational Therapy Act.

B. Any person licensed to perform occupational therapy services pursuant to the provisions of prior law, whose license is valid on July 1, 1996, is entitled to renew his license pursuant to the provisions of the Occupational Therapy Act.

Section 27

Section 27

REPEAL.--Sections 61-12A-1 through 61-12A-20 NMSA 1978 (being Laws 1983, Chapter 267, Sections 1 through 19 and 21, as amended) are repealed.

Section 28

Section 28

EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1996.

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HOUSE BILL 342

SIGNED MARCH 5, 1996

Chapter 56

RELATING TO AGRICULTURE; MAKING CHANGES IN THE PRODUCER'S LIEN ACT TO CLARIFY ITS PROVISIONS; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

Section 1

Section 1

Section 48-5B-1 NMSA 1978 (being Laws 1995, Chapter 157, Section 1) is amended to read:

"48-5B-1. SHORT TITLE.--Chapter 48, Article 5B NMSA 1978 may be cited as the "Producer's Lien Act"."

Section 2

Section 2

Section 48-5B-2 NMSA 1978 (being Laws 1995, Chapter 157, Section 2) is amended to read:

"48-5B-2. DEFINITIONS.--As used in the Producer's Lien Act:

- A. "department" means the New Mexico department of agriculture;
- B. "director" means the director of the department;
- C. "farm product" means an unprocessed agricultural commodity;
- D. "person" means an individual or any other legal entity;
- E. "process" means to treat, refine or prepare for sale, use, transportation or marketing;
- F. "processor" means a person who processes farm products; and
- G. "producer" means a person engaged in the business of producing a farm product."

Section 3

Section 3

Section 48-5B-3 NMSA 1978 (being Laws 1995, Chapter 157, Section 3) is amended to read:

"48-5B-3. EXTENT OF LIEN--PROPERTY SUBJECT TO LIEN-- ATTACHMENT AND PERFECTION.--

- A. Every producer that sells a farm product to a processor under contract has a lien to be known as a "producer's lien" upon the farm product and upon all processed or manufactured forms of the farm product to secure payment to him for his labor, care and expense in producing the farm product.
- B. The amount of a producer's lien is the contract price for the farm product sold. If there is no contract price, the amount of the producer's lien is the value of the farm product on the date of delivery to the processor.
- C. A producer's lien attaches to a farm product and any processed form of the farm product that is in the possession of the processor. Segregation of the product is not required. For purposes of the Producer's Lien Act, a farm product or processed form of a farm product deposited by a processor in a warehouse, whether or not warehouse

receipts are given as security to a lender, are deemed to be in the possession of the processor and subject to the producer's lien.

D. The producer's lien attaches from the date of delivery of the farm product or any portion of it by a producer to a processor.

E. Unless the producer's lien is released by payment or by security given for the payment as provided in Section 48-5B-5 NMSA 1978, the producer's lien is perfected on the date of delivery of the farm product or the date of the last delivery if there is a series of deliveries.

F. The Producer's Lien Act does not change the rights and responsibilities of financial institutions, producers or processors pursuant to the Farm Products Secured Interest Act and the provisions of the Uniform Commercial Code."

Section 4

Section 4

Section 48-5B-5 NMSA 1978 (being Laws 1995, Chapter 157, Section 5) is repealed and a new Section 48-5B-5 NMSA 1978 is enacted to read:

"48-5B-5. TERMINATION OF PRODUCER'S LIEN.--

A. A producer's lien is terminated by:

(1) payment of the full amount of the lien;

(2) the furnishing of security pursuant to the provisions of Subsection C of this section;
or

(3) execution of a written release of the lien by the producer.

B. The effective date of a termination occurring pursuant to Subsection A of this section is the date of payment, the date of approval in writing of the furnishing of security or the effective date of a written release.

C. The furnishing of acceptable security by a processor to secure payment of the unpaid amount owed a producer by a processor terminates the producer's lien on the farm product for which payment has not been completed. Security is acceptable if it is in a form and amount approved in writing by the director pursuant to regulations adopted by the director for the administration of the Producer's Lien Act. The amount or value of the security shall be in an amount no less than the amount of the producer's lien."

Section 5

Section 5

Section 48-5B-6 NMSA 1978 (being Laws 1995, Chapter 157, Section 6) is amended to read:

"48-5B-6. REMOVAL--SALE--PROCEEDS USED TO SATISFY OBLIGATIONS.--A processor shall not remove a farm product or a processed form of the farm product from New Mexico or from beyond his ownership or control if it is delivered to him with a producer's lien attached. However, any of the farm product or processed farm product that is in excess of a quantity on hand that is of a value sufficient to satisfy all existing liens on that product may be removed by the processor. A farm product or a processed form of the farm product to which a producer's lien has attached may be sold only if the total proceeds of the sale are used to and do satisfy obligations to producers that are secured by producer's liens."

Section 6

Section 6

Section 48-5B-7 NMSA 1978 (being Laws 1995, Chapter 157, Section 7) is amended to read:

"48-5B-7. ACCEPTANCE OF SECURITY--PAYMENT OF CLAIMS-- ACTION TO ENFORCE PAYMENT UNDER BOND.--

A. The director may accept security pursuant to Section 48- 5B-5 NMSA 1978. If a claim secured by a producer's lien is not paid in accordance with the condition of the security, the director may, on proof being made to his satisfaction of the amount due a producer, pay all the unpaid claims insofar as possible out of the security or proceeds from a sale made by him of the security.

B. If a bond has been given as security, the director shall notify the principal and surety of default of the principal and make demand for payment on behalf of the unpaid producer. If payment is not made, the director may take any available legal action to enforce payment under the bond. The director shall adopt regulations establishing procedures for the sale of security made pursuant to the provisions of this section."

Section 7

Section 7

Section 48-5B-9 NMSA 1978 (being Laws 1995, Chapter 157, Section 9) is amended to read:

"48-5B-9. FORECLOSURE--RIGHT OF ACTION AGAINST PROCESSOR--EFFECT OF PERSONAL JUDGMENT ON LIEN RIGHTS.--

A. A producer may enforce a producer's lien by bringing a foreclosure action in district court. A producer's lien is foreclosed in the same manner as a mortgage.

B. The Producer's Lien Act does not impair or affect the right of a producer having a lien from maintaining a personal action to recover the debt against a processor, either in an action to foreclose his lien or in a separate action.

C. A money judgment obtained by a producer in a foreclosure action or an action to enforce the secured debt does not impair or merge any lien right or claim held by the producer, but any money collected on the judgment shall be credited on the amount of the producer's lien or underlying claim in any action that is brought to enforce the lien or in any action that is filed pursuant to the Producer's Lien Act by the director."

Section 8

Section 8

Section 48-5B-14 NMSA 1978 (being Laws 1995, Chapter 157, Section 14) is amended to read:

"48-5B-14. DEPARTMENT DUTIES.--The department shall adopt rules and regulations necessary to carry out the provisions of the Producer's Lien Act, including procedures for inspecting processors' records regarding farm products."

Section 9

Section 9

A new section of the Producer's Lien Act is enacted to read:

"SALE OF PRODUCT--REQUIREMENT FOR PROCESSOR'S STATEMENT TO BUYER PRIOR TO DELIVERY.--

A. Prior to the delivery of a farm product or processed farm product to a buyer pursuant to a sale to the buyer, a processor shall furnish the buyer a written statement made by the processor and verified under oath stating the following:

(1) whether or not a producer's lien has attached and exists in respect to the product being delivered, and if a lien exists, the amount of the lien;

(2) if a lien previously attached to the product and has been terminated prior to delivery, a description of how the lien was terminated; and

(3) if a lien exists on the product, a statement that the proceeds of the sale will be used to and are sufficient to satisfy all liens attached to the product.

B. If a processor's statement furnished pursuant to Subsection A of this section includes the information required by Paragraph (2) of that subsection, the processor shall attach to the statement all documents that evidence the stated termination.

C. A processor who fails to provide the statement required by this section or who provides the statement but includes false information in the statement shall be liable to a buyer who relies on the statement and accepts delivery of the product or processed product in an amount equal to twice the purchase price paid by the buyer to the processor for the product. A buyer may enforce this right by action in the district court."

Section 10

Section 10

REPEAL.--Sections 48-5B-4, 48-5B-8 and

48-5B-10 through 48-5B-13 NMSA 1978 (being Laws 1995, Chapter 157, Sections 4, 8 and 10 through 13) are repealed.

—

HOUSE BILL 435

SIGNED MARCH 5, 1996

Chapter 57

RELATING TO LICENSURE; ENACTING THE SPEECH LANGUAGE PATHOLOGY, AUDIOLOGY AND HEARING AID DISPENSING PRACTICES ACT; PROVIDING FOR PENALTIES; REPEALING THE SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY ACT; REPEALING THE HEARING AID ACT; MAKING AN APPROPRIATION.

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

Section 1

Section 1

SHORT TITLE.--This act may be cited as the "Speech Language Pathology, Audiology and Hearing Aid Dispensing Practices Act".

Section 2

Section 2

DEFINITIONS.--As used in the Speech Language Pathology, Audiology and Hearing Aid Dispensing Practices Act:

A. "auditory trainer" means a custom-fitted FM amplifying instrument other than a hearing aid designed to enhance signal-to-noise ratios;

B. "audiologist" means a person who engages in the practice of audiology, who may or may not dispense hearing aids and who meets the qualifications set forth in the Speech Language Pathology, Audiology and Hearing Aid Dispensing Practices Act;

C. "board" means the speech language pathology, audiology and hearing aid dispensing practices board;

D. "clinical fellow" means a person who has completed all academic course work and practicum requirements for a master's degree or the equivalent in speech language pathology or audiology or both and engages in the practice of speech language pathology or audiology as set forth in the provisions of the Speech Language Pathology, Audiology and Hearing Aid Dispensing Practices Act;

E. "clinical fellowship year" or "CFY" means the time following the completion of all academic course work and practicum requirements for a master's degree in speech language pathology or audiology or both, and during which the clinical fellow is working towards a certificate of clinical competence from a nationally recognized speech language or hearing association or the equivalent;

F. "CFY supervisor" means a person licensed pursuant to the provisions of the Speech Language Pathology, Audiology and Hearing Aid Dispensing Practices Act who oversees the work of a clinical fellow and is so designated in the CFY plan that is approved by the board;

G. "department" means the regulation and licensing
department;

H. "dispensing audiologist" means an audiologist who practices the dispensing or fitting of hearing aids and maintains or occupies a permanent physical business location in New Mexico where records can be examined and process can be served;

I. "hearing aid" means any wearable instrument or device designed or offered for the purpose of aiding or compensating for impaired human hearing and any parts, attachments or accessories, including earmolds but excluding batteries and cords;

J. "hearing aid dispenser" means any person other than a dispensing audiologist or an otolaryngologist who is licensed to sell, fit and service hearing aids under the Speech Language Pathology, Audiology and Hearing Aid Dispensing Practices Act and

maintains or occupies a permanent physical business location in New Mexico where records can be examined and process can be served;

K. "nondispensing audiologist" means a person who engages in the practice of audiology and who meets the qualifications set forth in the Speech Language Pathology, Audiology and Hearing Aid Dispensing Practices Act;

L. "otolaryngologist" means a licensed physician who has completed a recognized residency in otolaryngology and is certified by the American board of otolaryngology;

M. "paraprofessional" means a person who provides adjunct speech pathology or audiology services under the direct supervision of a licensed speech language pathologist or audiologist;

N. "practice of audiology" means the application of principles, methods and procedures of measurement, testing, appraisal, prognostication, aural rehabilitation, aural habilitation, consultation, hearing aid selection and fitting, counseling, instruction and research related to hearing and disorders of hearing for the purpose of nonmedical diagnosis, prevention, identification, amelioration or the modification of communicative disorders involving speech, language auditory function or other aberrant behavior related to hearing disorders;

O. "practice of speech language pathology" means the rendering or offering to render to individuals, groups, organizations or the public any service in speech or language pathology involving the nonmedical application of principles, methods and procedures for the measurement, testing, diagnosis, prognostication, counseling and instruction related to the development and disorders of speech, fluency, voice, verbal and written language, auditory comprehension, cognition, dysphagia, oral pharyngeal or laryngeal sensorimotor competencies and treatment of persons requiring use of an augmentative communication device for the purpose of nonmedical diagnosing, preventing, treating and ameliorating such disorders and conditions in individuals and groups of individuals;

P. "speech language pathologist" means a person who engages in the practice of speech language pathology and who meets the qualifications set forth in the Speech Language Pathology, Audiology and Hearing Aid Dispensing Practices Act;

Q. "sponsor" means an individual who is employed full time in the same physical location in New Mexico where the trainee is being trained and is:

(1) a dispensing audiologist licensed under the provisions of the Speech Language Pathology, Audiology and Hearing Aid Dispensing Practices Act; or

(2) a hearing aid dispenser licensed under the provisions of the Speech Language Pathology, Audiology and Hearing Aid Dispensing Practices Act and who has been actively engaged in dispensing or fitting hearing aids during three of the past five years; and

R. "trainee" means a person working toward full licensure as a hearing aid dealer or fitter under the direct supervision of a sponsor.

Section 3

Section 3

SCOPE OF PRACTICE--SPEECH LANGUAGE PATHOLOGY.--

A. The scope of practice for speech language pathologists shall include:

(1) rendering or offering to render professional services, including diagnosis, prevention, identification, evaluation, consultation, habilitation, rehabilitation, instruction, counseling, prognostication, training and research to individuals or groups of individuals who have or are suspected of having disorders of communication, including speech comprehension, voice, fluency, language in all its expressive and receptive forms, including oral expression, reading, writing and comprehension, oral pharyngeal function, oral motor function, dysphagia, functional maintenance therapy or cognitive-communicative processes; and

(2) determining the need for personal augmentative and alternative communication systems, computer access or assistive technology, recommending such systems, and providing set-up, modification, training, trouble-shooting and follow-up in the utilization of such systems.

B. The scope of practice for speech language pathologists may include:

(1) conducting pure-tone air conduction hearing screening, tympanometry screening, limited to a pass or fail determination, for the purpose of performing a speech and language evaluation or for the initial identification of individuals with other disorders of communications;

(2) aural rehabilitation that is defined as services and procedures for facilitation of adequate receptive and expressive communication in individuals with hearing impairment; or

(3) supervision of graduate students, clinical fellows or paraprofessionals.

Section 4

Section 4

SCOPE OF PRACTICE--NONDISPENSING

AUDIOLOGISTS.--

A. The scope of practice for nondispensing audiologists shall include:

- (1) rendering or offering to render professional services, including prevention, identification, evaluation, consultation, habilitation, rehabilitation, instruction and research to individuals who have or are suspected of having disorders of hearing or balance;
- (2) making ear impressions or fabrication of ear molds for non-amplification purposes;
- (3) cerumen management;
- (4) performance and interpretation of behavioral or electrophysiological tests of auditory or vestibular function; and
- (5) evaluation and management of tinnitus.

B. The scope of practice for nondispensing audiologists may include:

- (1) consultation regarding noise control and hearing conservation, evaluations of environment or equipment, including calibration of equipment used in testing auditory function and hearing conservation;
- (2) speech or language screening limited to a pass or fail determination for the purpose of initial identification of individuals with other disorders of communication; and
- (3) supervision of graduate students, clinical fellows and paraprofessionals.

Section 5

Section 5

SCOPE OF PRACTICE--DISPENSING AUDIOLOGISTS.--The scope of practice for dispensing audiologists shall include:

A. the scope of practice for a nondispensing audiologist as specified in Section 4 of the Speech Language Pathology, Audiology and Hearing Aid Dispensing Practices Act;

B. dispensing of hearing aids and auditory trainers, including evaluation, prescription, preparation and orientation training for these devices; and

C. making ear impressions or fabrication of ear molds for the purpose of amplification.

Section 6

Section 6

SCOPE OF PRACTICE--HEARING AID DISPENSER.-- The scope of practice of the hearing aid dispenser shall include:

- A. the measurement and evaluation of the sensitivity of human hearing by means of appropriate behavioral testing equipment for the purpose of amplification;
- B. the otoscopic observation of the outer ear in connection with the evaluation of hearing and the fitting of hearing aids and for the purpose of referral to other professionals;
- C. the fabrication of ear impressions or ear molds for the purpose of selecting and fitting hearing aids;
- D. the analysis of hearing aid function by means of the appropriate testing equipment;
- E. the selection and fitting of hearing aids with appropriate instruction, orientation, counseling and management regarding the use and maintenance of these devices; and
- F. the modification and general servicing of hearing aids.

Section 7

Section 7

LICENSE REQUIRED.--

A. Unless licensed to practice speech language pathology, audiology or hearing aid dispensing under the Speech Language Pathology, Audiology and Hearing Aid Dispensing Practices Act, no person shall:

(1) practice as a speech language pathologist, audiologist or hearing aid dispenser;

(2) use the title or represent himself as a licensed speech language pathologist, audiologist or hearing aid dispenser or use any other title, abbreviation, letters, figures, signs or devices that indicate the person is licensed to practice as a speech language pathologist, audiologist or hearing aid dispenser; or

(3) advertise, hold out to the public or represent in any manner that one is authorized to practice speech language pathology, audiology or hearing aid dispensing.

B. No person shall represent himself to be a speech language pathologist or hold out to the public by any means or by any service or function perform, directly or indirectly, or by using the terms "speech pathology", "speech pathologist", "speech therapy", "speech therapist", "speech correction", "speech correctionist", "speech clinic", "speech clinician", "language pathology", "language pathologist", "voice therapy", "voice therapist", "voice pathology", "voice pathologist", "logopedics", "logopedist",

"communicology", "communicologist", "aphasiology", "aphasiologist", "phoniatriest" or "swallowing therapist" unless licensed as such under the provisions of the Speech Language Pathology, Audiology and Hearing Aid Dispensing Practices Act.

C. No person shall represent himself to be an audiologist or hold out to the public by any means, or by any service or function perform directly or indirectly, or by using the terms "audiology", "audiologist", "audiometry", "audiometrist", "audiological", "audiometrics", "hearing therapy", "hearing therapist", "hearing clinic", "hearing clinician", "hearing center", "hearing aid audiologist" or "audioprosthologist" unless licensed as such under the provisions of the Speech Language Pathology, Audiology and Hearing Aid Dispensing Practices Act.

D. No person shall represent himself to be a hearing aid dispenser or use the terms "hearing aid dealer", "hearing aid fitter", "hearing aid sales", "hearing aid center" or "hearing aid service center" unless licensed as such under the provisions of the Speech Language Pathology, Audiology and Hearing Aid Dispensing Practices Act.

Section 8

Section 8

EXEMPTIONS.--

A. Nothing in the Speech Language Pathology, Audiology and Hearing Aid Dispensing Practices Act shall be construed to prevent qualified members of other recognized professions that are licensed, certified or registered under New Mexico law or regulation from rendering services within the scope of their license, certificate or registration, provided they do not represent themselves as holding a license in speech language pathology, audiology or hearing aid dispensing.

B. Any person not meeting the requirements for licensure as a speech language pathologist or audiologist under the provisions of the Speech Language Pathology, Audiology and Hearing Aid Dispensing Practices Act, may practice as a speech pathologist or audiologist until July 1, 1997 if:

(1) he is employed as a speech pathologist or audiologist on a waiver license issued by the state department of public education prior to the effective date of that act; and

(2) he is actively seeking the educational requirements for licensure under that act.

C. Nothing in the Speech Language Pathology, Audiology and Hearing Aid Dispensing Practices Act prevents qualified members of other recognized professional groups, such as licensed physicians, dentists or teachers of the deaf, from doing appropriate work in the area of communication disorders consistent with the standards and ethics of their respective professions.

D. Nothing in the Speech Language Pathology, Audiology and Hearing Aid Dispensing Practices Act restricts the activities and services of a speech language pathology or audiology graduate student at an accredited or approved college or university or an approved clinical training facility; provided that these activities and services constitute part of his supervised course of study and that he is designated as a speech language pathology or audiology graduate student or other title clearly indicating the training status appropriate to his level of training.

Section 9

Section 9

BOARD CREATED.--

A. There is created the "speech language pathology, audiology and hearing aid dispensing practices board" that shall be administratively attached to the department.

B. The board shall consist of ten members who have been New Mexico residents for at least five years prior to their appointment. Among the membership, two members shall be licensed speech language pathologists, two members shall be licensed audiologists, two members shall be licensed hearing aid dispensers, one member shall be a licensed otolaryngologist and three members shall represent the public and have no interest, direct or indirect, in the profession regulated.

C. The licensed members of the board shall not hold any elected or appointed office in any related professional organization.

Section 10

Section 10

TERMS--REIMBURSEMENT--MEETINGS.--

A. Members of the board shall be appointed by the governor for staggered terms of three years. Each member shall hold office until successors are appointed. Vacancies shall be filled for the unexpired term in the same manner as original appointments.

B. A majority of the board members serving constitutes a quorum of the board. The board shall meet at least once a year and at such other times as it deems necessary.

C. The board shall elect a chairman and other officers as deemed necessary to administer its duties.

D. No board member shall serve more than two full consecutive terms, and any member failing to attend three meetings after proper notice shall automatically be recommended

for removal as a board member, unless excused for reasons set forth in board regulations.

E. Members of the board shall be reimbursed as provided in the Per Diem and Mileage Act and shall receive no other compensation, perquisite or allowance.

F. No member of the board shall be liable in a civil action for any act performed in good faith in the performance of his duties.

Section 11

Section 11

BOARD POWERS AND DUTIES.--The board shall:

A. adopt rules and regulations and establish policy necessary to carry out the provisions of the Speech Language Pathology, Audiology and Hearing Aid Dispensing Practices Act in accordance with the Uniform Licensing Act;

B. adopt rules implementing continuing education requirements;

C. adopt a code of ethics;

D. conduct hearings upon charges relating to the discipline of licensees, including the denial, suspension or revocation of a license in accordance with the Uniform Licensing Act;

E. investigate complaints against licensees by issuing investigative subpoenas prior to the issuance of a notice of contemplated action;

F. hire staff as may be necessary to carry out the provisions of the Speech Language Pathology, Audiology and Hearing Aid Dispensing Practices Act;

G. establish fees for licensure;

H. provide for the licensing and renewal of licenses of applicants; and

I. adopt rules that provide for licensure by reciprocity, including temporary permits for speech language pathologists, audiologists or hearing aid dispensers.

Section 12

Section 12

REQUIREMENTS FOR LICENSURE--SPEECH LANGUAGE PATHOLOGIST--
NONDISPENSING AUDIOLOGIST.--A license to practice as a speech language

pathologist or a nondispensing audiologist shall be issued to any person who files a completed application, accompanied by the required fees and documentation, and who submits satisfactory evidence that the applicant:

A. holds at least a master's degree in speech pathology, speech language pathology, communication disorders or audiology or equivalent degree regardless of degree name, and meets the academic requirements for certification by a nationally recognized speech language or hearing association;

B. certifies that he is not guilty of any of the activities listed in Section 21 of the Speech Language Pathology, Audiology and Hearing Aid Dispensing Practices Act; and

C. currently holds a certificate of clinical competence from a nationally recognized speech language or hearing association in the area for which he is seeking licensure; or

D. has submitted evidence of having completed the current academic, practicum and employment experience requirements for a certificate of clinical competence from a nationally recognized speech language or hearing association in the area for which he is applying for license and has passed a recognized standard national examination in either speech language pathology or audiology or both and has complied with the provisions of Subsection B of this section.

Section 13

Section 13

REQUIREMENTS FOR LICENSURE WITHOUT EXAMINATION--DISPENSING AUDIOLOGIST--DISPENSING OTOLARYNGOLOGIST.--A license to practice as a dispensing audiologist or as a dispensing otolaryngologist shall be issued without an examination to any person who files a completed application, accompanied by the required fees and documentation, and who submits satisfactory evidence that the applicant:

A. is currently certified in audiology by a nationally recognized speech language or hearing association or meets all the requirements for certification and provides evidence satisfactory to the board of experience in the dispensing or fitting of hearing aids either in a graduate training program or in a work or training experience;

B. is currently a clinical fellow in audiology and provides evidence satisfactory to the board of experience in dispensing or fitting hearing aids either in a graduate training program or in a work or training experience; or

C. is an otolaryngologist and provides evidence satisfactory to the board of experience in the dispensing or fitting of hearing aids; and

D. certifies that he is not guilty of any of the activities listed in Section 21 of the Speech Language Pathology, Audiology and Hearing Aid Dispensing Practices Act.

Section 14

Section 14

REQUIREMENTS FOR LICENSURE BY EXAMINATION--HEARING AID DISPENSER.--

A. A license to practice as a hearing aid dispenser shall be issued to any person who files a completed application, passes the examination approved by the board, pays the required fees and documentation and submits satisfactory evidence that the person:

(1) is a dispensing audiologist, a clinical fellow in audiology or an otolaryngologist who does not meet the qualifications regarding a dispensing otolaryngologist set forth in Section 13 of the Speech Language Pathology, Audiology and Hearing Aid Dispensing Practices Act; or

(2) is a person other than a dispensing audiologist, a nondispensing audiologist, a clinical fellow in audiology or an otolaryngologist applying for a license under the Speech Language Pathology, Audiology and Hearing Aid Dispensing Practices Act and who:

(a) has at least a high school education or the equivalent;

(b) has worked for no less than seven months under a training permit; and

(c) certifies that he is not guilty of any of the activities listed in Section 21 of the Speech Language Pathology, Audiology and Hearing Aid Dispensing Practices Act.

B. The examination for hearing aid dispenser shall be conducted by the board quarterly unless there are no applicants for examination.

C. The board:

(1) shall provide procedures to assure that examinations for licensure are offered as needed;

(2) shall establish rules regarding the examination application deadline and other rules relating to the taking and retaking of licensure examinations;

(3) shall determine a passing grade for the examination; and

(4) may accept an applicant's examination scores used for national certification or other examination approved by the board.

Section 15

Section 15

REQUIREMENTS FOR LICENSURE--CLINICAL FELLOW OF SPEECH LANGUAGE PATHOLOGY--CLINICAL FELLOW OF AUDIOLOGY.--A license to practice as a clinical fellow of speech language pathology or audiology shall be issued to any person who files a completed application, passes the examination approved by the board prior to or within one year of applying for the examination, pays the required fees, provides documentation and submits satisfactory evidence that the person:

A. has met all academic course work and practicum requirements for a master's degree in speech language pathology, speech pathology, communication disorders or audiology or both for certification by a nationally recognized speech language or hearing association;

B. has filed a CFY plan that meets with board approval;

C. certifies that he has received no reprimands of unprofessional conduct or incompetency;

D. applies for licensure under Section 12 of the Speech Language Pathology, Audiology and Hearing Aid Dispensing Practices Act after completing the clinical fellowship year; and

E. has a CFY supervisor who:

(1) is a speech language pathologist or audiologist licensed under the provisions of the Speech Language Pathology, Audiology and Hearing Aid Dispensing Practices Act; and

(2) has registered with the board as a CFY supervisor for the clinical fellowship year.

Section 16

Section 16

LICENSURE UNDER PRIOR LAWS.--Any license issued in accordance with the Speech-Language Pathology and Audiology Act or the Hearing Aid Act prior to the effective date of the Speech Language Pathology, Audiology and Hearing Aid Dispensing Practices Act shall be valid until the expiration date of the license.

Section 17

Section 17

HEARING AID DISPENSING TEMPORARY PERMITS--ISSUANCE.--

A. Any person who does not meet the requirements for licensure without examination as a dispensing audiologist or a dispensing otolaryngologist as set forth in Section 13 of the Speech Language Pathology, Audiology and Hearing Aid Dispensing Practices Act or as a hearing aid dispenser as set forth in Section 14 of that act, may apply for a temporary trainee permit. A temporary trainee permit shall be issued to a person who:

- (1) has a high school education or the equivalent;
- (2) has identified a sponsor as defined in the Speech Language Pathology, Audiology and Hearing Aid Dispensing Practices Act;
- (3) pays an application fee as determined by the board;
- (4) has not failed the licensing examination twice within a five-year period; and
- (5) certifies that he is not guilty of any of the activities listed in Section 21 of the Speech Language Pathology, Audiology and Hearing Aid Dispensing Practices Act.

B. A temporary trainee permit shall:

- (1) be valid for one year from the date of its issuance and is nonrenewable for a period of one year following its expiration; and
- (2) allow the person to complete a training period.

C. A person issued a temporary trainee permit may be eligible for licensure as a hearing aid dispenser upon:

- (1) the completion of a minimum of three hundred twenty hours of training, to be completed within a three-month period under the direct supervision of the sponsor;
- (2) the completion of five continuous months of full- time dispensing work during which time all sales are approved by the sponsor prior to delivery; and
- (3) the sponsor approving all fittings, adjustments, modifications or repairs to hearing aids and earmolds.

D. A dispensing audiologist, nondispensing audiologist, clinical fellow in audiology or otolaryngologist issued a temporary trainee permit may be eligible for licensure without examination as a hearing aid dispenser upon the sponsor providing direct supervision for a minimum of three months of all fittings, adjustments, modifications or repairs to hearing aids and earmolds.

Section 18

Section 18

SCOPE OF HEARING AID DISPENSING EXAMINATION.--In preparing the hearing aid dispensing examination, the board shall use tests that demonstrate:

A. knowledge in the fitting and sale of hearing aids, including basic physics of sound, anatomy and physiology of the ear and the function of hearing aids; and

B. proficient use of techniques for the fitting of hearing aids, including:

(1) pure-tone audiometry, including air conduction and bone conduction testing;

(2) live voice or recorded voice speech audiometry, including speech reception threshold and speech recognition score tests;

(3) masking when indicated;

(4) recording and evaluation of audiograms and speech audiometry for determining proper selection and adjustment of hearing aids;

(5) taking earmold impressions; and

(6) analyzing hearing aid function, modification and general service.

Section 19

Section 19

LICENSE RENEWAL.--

A. Each licensee shall renew his license every year by submitting a renewal application, as provided for in the board's regulations. The board may require proof of continuing education as a requirement for renewal.

B. A sixty-day grace period shall be allowed to each licensee after each licensing period. A license may be renewed during the grace period upon payment of a renewal fee and a late fee as prescribed by the board.

C. Any license not renewed by the end of the grace period will be considered expired and the licensee shall not be eligible to practice within the state until the license is renewed. The board shall develop rules regarding requirements for renewal of an expired license and may require the licensee to reapply as a new applicant.

D. Clinical fellow licenses may be renewed for no more than three years; provided the clinical fellow has submitted evidence of passing a recognized standard national examination in either speech language pathology or audiology or both, prior to or within his first year of the CFY. The CFY license will not be renewed without evidence of passing a recognized standard national examination in either speech language pathology or audiology or both.

E. The board may issue rules providing for inactive status of licenses.

Section 20

Section 20

FEES.--The board shall establish a schedule of reasonable fees for applications, licenses, renewal of licenses, exams, penalties and administrative fees. The license and license renewal fees shall not exceed:

- A. fifty dollars (\$50.00) for hearing aid dispenser trainees and clinical fellows;
- B. one hundred dollars (\$100) for nondispensing audiologists or speech language pathologists;
- C. three hundred dollars (\$300) for hearing aid dispensers or dispensing audiologists;
- D. two hundred dollars (\$200) for examinations;
- E. one hundred dollars (\$100) for late renewal fees; and
- F. reasonable administrative fees.

Section 21

Section 21

DISCIPLINARY PROCEEDINGS--JUDICIAL REVIEW.--

A. The board may deny, revoke, suspend or impose conditions upon any license held or applied for under the Speech Language Pathology, Audiology and Hearing Aid Dispensing Practices Act in accordance with the procedures set forth in the Uniform Licensing Act upon findings by the board that the licensee or applicant:

- (1) is guilty of fraud or deceit in procuring or attempting to procure a license;
- (2) has been convicted of a felony. A certified copy of the record of conviction shall be conclusive evidence of the conviction;

(3) is guilty of incompetence;

(4) is guilty of unprofessional conduct;

(5) is selling or fitting the first hearing aid of any child under sixteen years of age who has not been examined and cleared for the hearing aid by an otolaryngologist and a dispensing audiologist who is certified competent by a nationally recognized speech language or hearing association or holds equivalent certification;

(6) is selling or fitting a hearing aid on any person who has not been tested, except for replacement aids;

(7) uses untruthful or misleading advertising;

(8) is representing himself as a medical doctor when he is not a licensed medical doctor;

(9) is addicted to the use of habit-forming drugs or is addicted to any substance to such a degree as to render him unfit to practice as a speech language pathologist, dispensing or nondispensing audiologist or hearing aid dispenser;

(10) is guilty of unprofessional conduct, as defined by regulation of the board;

(11) is guilty of any violation of the Controlled Substances Act;

(12) has violated any provision of the Speech Language Pathology, Audiology and Hearing Aid Dispensing Practices Act;

(13) is guilty of willfully or negligently practicing beyond the scope of the Speech Language Pathology, Audiology and Hearing Aid Dispensing Practices Act;

(14) is guilty of aiding or abetting the practice of speech language pathology, audiology or hearing aid dispensing by a person not licensed by the board;

(15) is guilty of practicing without a license in violation of the Speech Language Pathology, Audiology and Hearing Aid Dispensing Practices Act and its regulations; or

(16) has had a license, certificate or registration to practice speech language pathology, audiology or hearing aid dispensing revoked, suspended or denied in any jurisdiction, territory or possession of the United States or another country for actions of the licensee similar to acts described in this section. A certified copy of the record of the jurisdiction taking such disciplinary action will be conclusive evidence thereof.

B. Disciplinary proceedings may be initiated by any person filing a sworn complaint. Any person filing a sworn complaint shall be immune from liability arising out of civil action if the complaint is filed in good faith and without actual malice.

Section 22

Section 22

PENALTIES.--

A. Any person who fails to furnish the board, its investigators or representatives with information requested by the board is guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed one thousand dollars (\$1,000) or by imprisonment for a period of one year or both.

B. Any person who violates any provision of the Speech Language Pathology, Audiology and Hearing Aid Dispensing Practices Act is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed one thousand dollars (\$1,000) or imprisonment for a period of one year or both.

Section 23

Section 23

CRIMINAL OFFENDER EMPLOYMENT ACT.--The provisions of the Criminal Offender Employment Act shall govern any consideration of criminal records required or permitted by the Speech Language Pathology, Audiology and Hearing Aid Dispensing Practices Act.

Section 24

Section 24

FUND ESTABLISHED.--

A. There is created in the state treasury the "speech language pathology, audiology and hearing aid dispensing practices board fund".

B. All money received by the board under the Speech Language Pathology, Audiology and Hearing Aid Dispensing Practices Act shall be deposited with the state treasurer for credit to the speech language pathology, audiology and hearing aid dispensing practices board fund. The state treasurer shall invest the fund as other state funds are invested. All balances in the fund shall remain in the fund and shall not revert to the general fund.

C. Money in the speech language pathology, audiology and hearing aid dispensing practices board fund is appropriated to the board and shall be used only for the purpose of carrying out the provisions of the Speech Language Pathology, Audiology and Hearing Aid Dispensing Practices Act.

Section 25

Section 25

TERMINATION OF AGENCY LIFE--DELAYED

REPEAL.--The speech language pathology, audiology and hearing aid dispensing practices board is terminated on July 1, 1997, pursuant to the Sunset Act. The board shall continue to operate according to the provisions of the Speech Language Pathology, Audiology and Hearing Aid Dispensing Practices Act until July 1, 1998. Effective July 1, 1998, the Speech Language Pathology, Audiology and Hearing Aid Dispensing Practices Act is repealed.

Section 26

Section 26

TEMPORARY PROVISION--TRANSFER.--On the effective date of this act, all fees, money, appropriations, balances and funds collected or deposited pursuant to the Speech-Language Pathology and Audiology Act and the Hearing Aid Act shall be transferred to the speech language pathology, audiology and hearing aid dispensing practices board fund.

Section 27

Section 27

REPEAL.--Sections 61-14B-1 through 61-14B-17 and 61-24A-1 through 61-24A-21 NMSA 1978 (being Laws 1981, Chapter 249, Sections 1 through 16, Laws 1990, Chapter 16, Section 4, Laws 1979, Chapter 349, Sections 1 through 15, Laws 1991, Chapter 46, Section 9, Laws 1979, Chapter 349, Sections 17 and 18 and Laws 1991, Chapter 46, Sections 10 through 12, as amended) are repealed.

Section 28

Section 28

EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1996.

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HOUSE BILL 363

SIGNED MARCH 5, 1996

Chapter 58

RELATING TO OCCUPANCY TAX REVENUES; CHANGING AND CLARIFYING THE PURPOSES FOR WHICH THE REVENUES FROM THE OCCUPANCY TAX IMPOSED PURSUANT TO THE LODGERS' TAX ACT MAY BE USED; CHANGING CERTAIN AUDIT AND REPORTING REQUIREMENTS; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978.

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

Section 1

Section 1

Section 3-38-13 NMSA 1978 (being Laws 1969, Chapter 199, Section 1) is amended to read:

"3-38-13. SHORT TITLE.--Sections 3-38-13 through 3-38-24 NMSA 1978 may be cited as the "Lodgers' Tax Act"."

Section 2

Section 2

Section 3-38-14 NMSA 1978 (being Laws 1969, Chapter 199, Section 2) is amended to read:

"3-38-14. DEFINITIONS.--As used in the Lodgers' Tax Act:

A. "gross taxable rent" means the total amount of rent paid for lodging, not including the state gross receipts tax or local sales taxes;

B. "lodging" means the transaction of furnishing rooms or other accommodations by a vendor to a vendee who for rent uses, possesses or has the right to use or possess any room or rooms or other units of accommodations in or at a taxable premises;

C. "lodgings" means the rooms or other accommodations furnished by a vendor to a vendee by a taxable service of lodgings;

D. "occupancy tax" means the tax on lodging authorized by the Lodgers' Tax Act;

E. "person" means a corporation, firm, other body corporate, partnership, association or individual. "Person" includes an executor, administrator, trustee, receiver or other representative appointed according to law and acting in a representative capacity. "Person" does not include the United States of America, the state of New Mexico, any

corporation, department, instrumentality or agency of the federal government or the state government or any political subdivision of the state;

F. "rent" means the consideration received by a vendor in money, credits, property or other consideration valued in money for lodgings subject to an occupancy tax authorized in the Lodgers' Tax Act;

G. "taxable premises" means a hotel, apartment, apartment hotel, apartment house, lodge, lodging house, rooming house, motor hotel, guest house, guest ranch, ranch resort, guest resort, mobile home, motor court, auto court, auto camp, trailer court, trailer camp, trailer park, tourist camp, cabin or other premises used for lodging;

H. "tourist" means a person who travels for the purpose of business, pleasure or culture to a municipality or county imposing an occupancy tax;

I. "tourist-related events" means events that are planned for, promoted to and attended by tourists;

J. "tourist-related facilities and attractions" means facilities and attractions that are intended to be used by or visited by tourists;

K. "tourist-related transportation systems" means transportation systems that provide transportation for tourists to and from tourist-related facilities, attractions and events;

L. "vendee" means a natural person to whom lodgings are furnished in the exercise of the taxable service of lodging; and

M. "vendor" means a person furnishing lodgings in the exercise of the taxable service of lodging."

Section 3

Section 3

Section 3-38-15 NMSA 1978 (being Laws 1969, Chapter 199, Section 3, as amended) is amended to read:

"3-38-15. AUTHORIZATION OF TAX--LIMITATIONS ON USE OF PROCEEDS.--

A. A municipality may impose by ordinance an occupancy tax for revenues on lodging within the municipality, and the board of county commissioners of a county may impose by ordinance an occupancy tax for revenues on lodging within that part of the county outside of the incorporated limits of a municipality.

B. The occupancy tax shall not exceed five percent of the gross taxable rent.

C. Every vendor who is furnishing any lodgings within a municipality or county is exercising a taxable privilege.

D. The following portions of the proceeds from the occupancy tax shall be used only for advertising, publicizing and promoting tourist-related attractions, facilities and events:

(1) if the municipality or county imposes an occupancy tax of no more than two percent, not less than one-fourth of the proceeds shall be used for those purposes;

(2) if the occupancy tax imposed is more than two percent and the municipality is not located in a class A county or the county is not a class A county, not less than one-half of the proceeds from the first three percent of the tax and not less than one-fourth of the proceeds from the tax in excess of three percent shall be used for those purposes; and

(3) if the occupancy tax imposed is more than two percent and the municipality is located in a class A county or the county is a class A county, not less than one-half of the proceeds from the tax shall be used for those purposes.

E. The proceeds from the occupancy tax in excess of the amount required to be used for advertising, publicizing and promoting tourist-related attractions, facilities and events may be used for any purpose authorized in Section 3-38-21 NMSA 1978.

F. The proceeds from the occupancy tax that are required to be used to advertise, publicize and promote tourist-related attractions, facilities and events shall be used within two years of the close of the fiscal year in which they were collected and shall not be accumulated beyond that date or used for any other purpose.

G. Notwithstanding the provisions of Paragraph (2) of Subsection D of this section, any use by a municipality or county of occupancy tax proceeds on January 1, 1996 may continue to be so used after July 1, 1996 in accordance with the provisions of this section and Section 3-38-21 NMSA 1978 as they were in effect prior to July 1, 1996; provided, any change in the use of those tax proceeds after July 1, 1996 is subject to the limitations of that paragraph.

H. Notwithstanding the provisions of Paragraph (2) of Subsection D of this section, the payment of principal and interest on outstanding bonds issued prior to January 1, 1996 pursuant to Section 3-38-23 or 3-38-24 NMSA 1978 shall be made in accordance with the retirement schedules of the bonds established at the time of issuance. The amount of expenditures required under Paragraph (2) of Subsection D of this section shall be reduced each year, if necessary, to make the required payments of principal and interest of all outstanding bonds issued prior to January 1, 1996."

Section 4

Section 4

Section 3-38-17.1 NMSA 1978 (being Laws 1992, Chapter 12, Section 2) is amended to read:

"3-38-17.1. AUDIT OF VENDORS.--The governing body of any municipality or county collecting over two hundred fifty thousand dollars (\$250,000) in occupancy tax proceeds shall select for annual random audits one or more vendors to verify the amount of gross rent subject to the occupancy tax and to ensure that the full amount of occupancy tax on that rent is collected. The governing body of any municipality or county collecting less than two hundred fifty thousand dollars (\$250,000) in receipts, per annum, of occupancy tax proceeds shall conduct random audits to verify full payment of occupancy tax receipts. Copies of audits completed shall be filed annually with the local government division of the department of finance and administration."

Section 5

Section 5

A new section of the Lodgers' Tax Act, Section 3-38-17.2 NMSA 1978, is enacted to read:

"3-38-17.2. FINANCIAL REPORTING.--

A. The governing body of any municipality or county imposing and collecting an occupancy tax shall furnish to the advisory board that portion of any proposed budget, report or audit filed or received by the governing body pursuant to either Chapter 6, Article 6 NMSA 1978 or the Audit Act that relates to the expenditure of occupancy tax funds within ten days of the filing or receipt of such proposed budget, report or audit by the local governing body.

B. The governing body of any municipality or county imposing and collecting an occupancy tax shall report to the local government division of the department of finance and administration on a quarterly basis any expenditure of occupancy tax funds pursuant to Sections 3-38-15 and 3-38-21 NMSA 1978 and shall furnish a copy of this report to the advisory board when it is filed with the division."

Section 6

Section 6

A new section of the Lodgers' Tax Act, Section 3-38-17.3 NMSA 1978, is enacted to read:

"3-38-17.3. ENFORCEMENT.--

A. An action to enforce the Lodgers' Tax Act may be brought by:

- (1) the attorney general or the district attorney in the county of jurisdiction; or
- (2) a vendor who is collecting the proceeds of an occupancy tax in the county of jurisdiction.

B. A district court may issue a writ of mandamus or order an injunction or other appropriate remedy to enforce the provisions of the Lodgers' Tax Act.

C. The court shall award costs and reasonable attorneys' fees to the prevailing party in a court action to enforce the provisions of the Lodgers' Tax Act."

Section 7

Section 7

Section 3-38-21 NMSA 1978 (being Laws 1969, Chapter 199, Section 9, as amended) is amended to read:

"3-38-21. ELIGIBLE USES OF TAX PROCEEDS.--Subject to the limitations contained in Section 3-38-15 NMSA 1978, a municipality or county imposing an occupancy tax may use the proceeds from the tax to defray costs of:

A. collecting and otherwise administering the tax, including the performance of audits required by the Lodgers' Tax Act pursuant to guidelines issued by the department of finance and administration;

B. establishing, operating, purchasing, constructing, otherwise acquiring, reconstructing, extending, improving, equipping, furnishing or acquiring real property or any interest in real property for the site or grounds for tourist-related facilities, attractions or transportation systems of the municipality, the county in which the municipality is located or the county;

C. the principal of and interest on any prior redemption premiums due in connection with and any other charges pertaining to revenue bonds authorized by Section 3-38-23 or 3-38-24 NMSA 1978;

D. advertising, publicizing and promoting tourist-related attractions, facilities and events of the municipality or county and tourist facilities or attractions within the area;

E. providing police and fire protection and sanitation service for tourist-related events, facilities and attractions located in the respective municipality or county; or

F. any combination of the foregoing purposes or transactions stated in this section, but for no other municipal or county purpose."

Section 8

Section 8

A new section of the Lodgers' Tax Act, Section 3-38-21.1 NMSA 1978, is enacted to read:

"3-38-21.1. CONTRACTING FOR SERVICES.--

A. The governing body of a municipality or county may contract for the management of programs and activities funded with revenue from the tax authorized in Section 3-38-15 NMSA 1978. The governing body shall require periodic reports to the governing body, at least quarterly, listing the expenditures for those periods. Within ten days of receiving the reports, the governing body shall furnish copies of them to the advisory board. Funds provided to the contracting person or governmental agency shall be maintained in a separate account established for that purpose and shall not be commingled with any other money.

B. A person or governmental agency with whom a municipality contracts under this section to conduct an activity authorized by Section 3-38-21 NMSA 1978 shall maintain complete and accurate financial records of each expenditure of the tax revenue made and upon request of the governing body of the municipality or county shall make such records available for inspection.

C. The occupancy tax revenue spent for a purpose authorized by the Lodgers' Tax Act may be spent for day-to-day operations, supplies, salaries, office rental, travel expenses and other administrative costs only if those administrative costs are incurred directly for that purpose.

D. A person or governmental agency with whom a local governmental body contracts under this section may subcontract with the approval of the governing body of the municipality or county. A subcontractor shall be subject to the same terms and conditions as the contractor regarding separate financial accounts, periodic reports and inspection of records."

Section 9

Section 9

Section 3-38-22 NMSA 1978 (being Laws 1977, Chapter 294, Section 2) is amended to read:

"3-38-22. ADVISORY BOARDS CREATED--DUTIES.--

A. The mayor of every municipality that imposes an occupancy tax pursuant to the Lodgers' Tax Act shall appoint a five-member advisory board that consists of two members who are owners or operators of lodgings subject to the occupancy tax within the municipality, two members who are owners or operators of industries located within

the municipality that primarily provide services or products to tourists and one member who is a resident of the municipality and represents the general public.

B. The chairman of every county commission that imposes an occupancy tax pursuant to the Lodgers' Tax Act shall appoint a five-member advisory board that consists of two members who are owners or operators of lodgings subject to the occupancy tax within the unincorporated area of the county, two members who are owners or operators of industries located within the unincorporated area of the county that primarily provide services or products to tourists and one member who is a resident of the unincorporated area of the county who represents the general public.

C. Members of the boards created under Subsections A and B of this section shall serve at the pleasure of the respective appointing authorities. The boards shall advise the respective governing bodies on the expenditure of funds authorized by Section 3-38-15 NMSA 1978 for advertising, publicizing and promoting tourist attractions and facilities in the respective counties and municipalities.

D. The advisory board shall submit to the mayor and council or county commission recommendations for the expenditures of funds authorized pursuant to the Lodgers' Tax Act for advertising, publicizing and promoting tourist-related attractions, facilities and events in the respective counties and municipalities."

Section 10

Section 10

Section 3-38-23 NMSA 1978 (being Laws 1969, Chapter 199, Section 10, as amended) is amended to read:

"3-38-23. REVENUE BONDS.--

A. Revenue bonds may be issued at any time or from time to time by a municipality or county to defray wholly or in part the costs of any one, all or any combination of purposes authorized in Subsections B through E of Section 3-38-21 NMSA 1978.

B. The revenue bonds may be payable from and such payment may be secured by a pledge of and lien on the revenues derived from:

(1) the proceeds of the occupancy tax of the municipality or county after the deduction of those amounts required to be expended pursuant to Subsections D and E of Section 3-38-15 NMSA 1978 and the administration costs pertaining to the tax in an amount not to exceed ten percent of the occupancy tax receipts collected by the municipality or county in any fiscal year, excluding from the computation of such costs the administration costs ultimately recovered from delinquent vendors by civil action as penalties, costs of collection and attorneys' fees but not as interest on unpaid principal;

(2) the tourist-related facilities, attractions or transportation systems to which the bonds pertain, after provision is made for the payment of the operation and maintenance expenses of such facilities, attractions or transportation systems; or

(3) a combination of such net revenues from both sources designated in Paragraphs (1) and (2) of this subsection.

C. The bonds shall bear interest at a rate or rates as authorized in the Public Securities Act, and the first interest payment may be for any period authorized in the Public Securities Act.

D. Except as otherwise provided in the Lodgers' Tax Act, revenue bonds authorized in the Lodgers' Tax Act shall be issued in accordance with the provisions of Sections 3-31-2 through 3-31-6 NMSA 1978."

Section 11

Section 11

A new section of Chapter 6, Article 6 NMSA 1978 is enacted to read:

" LOCAL GOVERNMENT DIVISION--ADDITIONAL DUTIES--OCCUPANCY TAX QUARTERLY REPORTS.--The local government division of the department of finance and administration shall promulgate rules and regulations that require the governing body of any municipality or county imposing and collecting an occupancy tax pursuant to the Lodgers' Tax Act to report to the division on a quarterly basis any expenditure of occupancy tax funds pursuant to Sections 3-38-15 and 3-38-21 NMSA 1978."

Section 12

Section 12

EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1996.

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HOUSE BILL 534

SIGNED MARCH 5, 1996

Chapter 59

RELATING TO LICENSING; AMENDING SECTIONS OF THE OPTOMETRY ACT TO CHANGE LICENSE FEES AND OTHER PROVISIONS.

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

Section 1

Section 1

Section 61-2-10.2 NMSA 1978 (being Laws 1995, Chapter 20, Section 5) is amended to read:

"61-2-10.2. DESIGNATION OF ORAL PHARMACEUTICAL AGENTS--CERTIFICATION FOR USE OF CERTAIN AGENTS.--

A. Subject to the provisions of the Optometry Act, optometrists qualified and certified by the board may prescribe or administer the following classes of oral pharmaceutical agents:

- (1) anti-infective medications, not including antifungals;
- (2) anti-glaucoma medications, not including osmotic medications;
- (3) anti-allergy medications;
- (4) anti-inflammatory medications, not including oral corticosteroids and immunosuppression agents; and
- (5) analgesic medications, including schedules III through V controlled substances, as provided in the Controlled Substances Act.

B. The board shall issue certification for the use of oral pharmaceutical agents as set forth in Subsection A of this section to optometrists currently licensed by the board who are certified for the use of topical ocular pharmaceutical agents. To be certified, an optometrist shall submit to the board proof of having satisfactorily completed a course in pharmacology as applied to optometry, with particular emphasis on the administration of oral pharmaceutical agents for the purpose of examination of the human eye, and analysis of ocular functions and treatment of visual defects or abnormal conditions of the human eye and its adnexa. The course shall constitute a minimum of twenty hours of instruction in clinical pharmacology, including systemic pharmacology as applied to optometry, and shall be taught by an accredited institution approved by the board.

C. As of July 1, 1996, all applicants for licensure shall meet the requirements for certification in the use of diagnostic, topical therapeutic and oral pharmaceutical agents as set forth in the Optometry Act and shall successfully complete the board's examination in diagnostic, topical and oral pharmaceutical agents prior to licensure.

D. The certification authorized by this section shall be displayed in a conspicuous place in the optometrist's principal office or place of business."

Section 2

Section 2

Section 61-2-11 NMSA 1978 (being Laws 1973, Chapter 353, Section 9, as amended) is amended to read:

"61-2-11. LICENSE FEES--LICENSURE UNDER PRIOR LAW.--

A. The board shall set fees for the following by regulation:

- (1) application fee in an amount not to exceed five hundred dollars (\$500);
- (2) examination fee in an amount not to exceed five hundred dollars (\$500);
- (3) licensure fee in an amount not to exceed four hundred dollars (\$400);
- (4) issuance fee for pharmaceutical certification in an amount not to exceed one hundred dollars (\$100);
- (5) annual license renewal fee in an amount not to exceed three hundred dollars (\$300);
and
- (6) late renewal penalty fee in an amount not to exceed one hundred dollars (\$100).

B. Any person licensed as an optometrist under any prior laws of this state, whose license is valid on April 3, 1973, shall be held to be licensed under the provisions of the Optometry Act and shall be entitled to the annual renewal of his present license as provided in that act.

C. Prior to engaging in the active practice of optometry in this state, each licensee shall furnish the board evidence that he holds a registration number with the taxation and revenue department and has completed, as a condition of licensure by endorsement, such continuing education requirements as set by the regulations of the board."

Section 3

Section 3

Section 61-2-14 NMSA 1978 (being Laws 1973, Chapter 353, Section 12, as amended) is amended to read:

"61-2-14. OFFENSES.--

A. Each of the following acts committed by any person constitutes a fourth degree felony, punishable upon conviction as provided in the Criminal Code:

(1) practicing or attempting to practice optometry without a current license issued by the board;

(2) using or attempting to use pharmaceutical agents without the certification issued by the board, unless, however, the administration of pharmaceutical agents is done under the direct supervision of a licensed optometrist certified to administer the pharmaceutical agents in accordance with the provisions of the Optometry Act;

(3) permitting any person in one's employ, supervision or control to practice optometry or use pharmaceutical agents unless that person is licensed and certified in accordance with the provisions of the Optometry Act, or unless the administration of pharmaceutical agents is done under the direct supervision of a licensed optometrist certified to administer the pharmaceutical agents in accordance with the provisions of the Optometry Act; and

(4) practicing optometry, including the use of pharmaceutical agents, during any period of time in which one's license has been revoked or suspended as provided by the Optometry Act.

B. Each of the following acts committed by any person constitutes a misdemeanor, punishable upon conviction as provided in the Criminal Code:

(1) making a willfully false oath or affirmation where the oath or affirmation is required by the Optometry Act;

(2) selling or using any designation, diploma or certificate tending to imply that one is a practitioner of optometry, unless one holds a license as provided by the Optometry Act;

(3) refusal, after a request, to provide a patient a copy of his spectacle prescription, not including a contact lens prescription, providing the prescription is not over one year old;

(4) duplicating or replacing an ophthalmic lens, not including contact lenses, without a current prescription not more than two years old or without a written authorization from the patient if the prescription is not available;

(5) except for licensed optometrists and as provided in Subsection A of Section 61-2-15 NMSA 1978, using any trial lenses, trial frames, graduated test cards or other appliances or instruments for the purpose of examining the eyes or rendering assistance to anyone who desires to have an examination of the eyes; provided, however, that it is not the intent of this paragraph to prevent any school nurse, schoolteacher or employee in public service from ascertaining the possible need of vision services, provided that such person, clinic or program does not attempt to diagnose or prescribe ophthalmic lenses for the eyes or recommend any particular practitioner or system of practice;

(6) advertising by any means the fabricating, adapting, employing, providing, sale or duplication of eyeglasses or any part thereof. This paragraph does not preclude the use of a business name, trade name or trademark not relating to price or the use of the address, telephone number, office hours and designation of the provider in or at retail outlets, on business cards, eyeglass cleaners and cases or in news media or in public directories, mailings and announcements of location openings or the use of the words "doctors' prescriptions for eyeglasses filled" or "eyeglass repairs, replacements and adjustments"; or

(7) selling of prescription eyeglasses or contact lenses, frames or mountings for lenses in an establishment in which the majority of its income is not derived from being engaged in that endeavor."

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HOUSE BILL 374

SIGNED MARCH 5, 1996

Chapter 60

RELATING TO CARNIVAL RIDE REGULATION; AMENDING INSPECTION REQUIREMENTS FOR CARNIVAL RIDES; AMENDING THE CARNIVAL RIDE INSURANCE ACT.

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

Section 1

Section 1

Section 57-25-3 NMSA 1978 (being Laws 1993, Chapter 284, Section 3, as amended) is amended to read:

"57-25-3. LIABILITY INSURANCE REQUIRED--CERTIFICATE OF INSPECTION REQUIRED--CARNIVAL RIDE INSURANCE FUND CREATED.--

A. No person shall operate a carnival ride without a policy of insurance in an amount not less than three million dollars (\$3,000,000) against liability for injury to persons arising out of the operation of the carnival ride.

B. Either a copy of the policy furnished to the insured or a certificate stating that the insurance required by this section is in effect shall be filed with the department and a local government entity.

C. The policy shall contain a schedule listing by name and serial number each carnival ride insured by the policy. In the event of additions or deletions of carnival rides during the policy terms, such changes shall be shown on a change endorsement, a copy of which shall be submitted to the department and the local government entity.

D. In the event of policy cancellation by either the insured owner or operator or the insurance company, the insured shall furnish notice of the cancellation to the department and the local government entity not later than ten days prior to cancellation.

E. No person, owner or operator of a carnival ride shall operate any carnival ride without obtaining a certificate of inspection for each ride by an inspector of the department or its designee and filing the certificate of inspection with the local government. The owner or operator shall annually have each carnival ride inspected and annually file the certificate of inspection. The certificate of inspection shall state that the carnival ride operator or owner has had the rides independently inspected by a national amusement ride safety official class 1, 2 or 3 inspector within twelve months of the operation of the ride within the state and whether any deficiencies noted by the engineer have been corrected. In addition, the owner or operator of the ride shall inspect the ride each day the ride is operated before any member of the public is permitted to board the ride. The owner or operator shall keep a current log of such inspections which shall be available for review by local enforcement officials during operating hours.

F. The insured shall pay a fifty dollar (\$50.00) per carnival ride per inspection filing fee with the department.

G. The "carnival ride insurance fund" is created in the state treasury. The fund shall consist of all filing fees received by the department pursuant to the Carnival Ride Insurance Act. Money in the carnival ride insurance fund is appropriated to the department for the purpose of carrying out the provisions of the Carnival Ride Insurance Act. The fund shall not be expended for any purpose other than carrying out the provisions of the Carnival Ride Insurance Act."

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HOUSE BILL 604, AS AMENDED

SIGNED MARCH 5, 1996

Chapter 61

RELATING TO SUBSTANCE ABUSE; PROVIDING FOR THE LICENSURE OF ALCOHOL AND DRUG ABUSE COUNSELORS; AMENDING AND ENACTING SECTIONS OF THE COUNSELING AND THERAPY PRACTICE ACT.

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

Section 1

Section 1

Section 61-9A-3 NMSA 1978 (being Laws 1993, Chapter 49, Section 3) is amended to read:

"61-9A-3. DEFINITIONS.--As used in the Counseling and Therapy Practice Act:

A. "accredited institution" means a university or college accredited by a nationally recognized accrediting agency of institutions of higher education or an approved institution or program as determined by the board;

B. "alcohol abuse counselor" means an individual who engages in the practice of alcohol abuse counseling;

C. "alcohol and drug abuse counselor" means an individual who engages in the practice of alcohol and drug abuse counseling;

D. "appraisal" means selecting, administering, scoring and interpreting instruments designed to assess an individual's aptitudes, attitudes, abilities, achievements, interests, personal characteristics and current emotional or mental state by appropriately educated, trained and experienced clinicians and the use of nonstandardized methods and techniques for understanding human behavior in relation to coping with, adapting to or changing life situations of a physical, mental or emotional nature;

E. "appropriate supervision" means supervision by a professional clinical mental health counselor, professional mental health counselor, marriage and family therapist, professional art therapist, psychiatrist, psychologist, social worker, psychiatric nurse or other similar supervision approved by the board;

F. "board" means the counseling and therapy practice board;

G. "clinical counseling" means the rendering of counseling services involving the application of principles of psychotherapy, human development, learning theory, group dynamics and the etiology of mental illness and dysfunctional behavior to individuals, couples, families or groups for the purpose of treating psychopathology and promoting optimal mental health;

H. "consulting" means the application of scientific principles and procedures in psychotherapeutic counseling, guidance and human development to provide assistance in understanding and solving a problem that the consultee may have in relation to a third party;

I. "counseling" means the application of scientific principles and procedures in therapeutic counseling, guidance and human development to provide assistance in

understanding and solving a mental, emotional, physical, social, moral, educational, spiritual or career development and adjustment problem that a client may have;

J. "counseling and therapy practice" means the practice of professional art therapy, professional clinical mental health counseling, professional mental health counseling, marriage and family therapy, alcohol abuse counseling, drug abuse counseling and alcohol and drug abuse counseling;

K. "counselor and therapist practitioners" means professional art therapists, professional clinical mental health counselors, professional mental health counselors, marriage and family therapists, registered mental health counselors, registered independent mental health counselors, alcohol abuse counselors, drug abuse counselors and alcohol and drug abuse counselors as a group;

L. "department" means the regulation and licensing department or the division of the department designated to administer the counseling and therapy practice board;

M. "drug abuse counselor" means an individual who engages in the practice of drug abuse counseling;

N. "marriage and family therapy" means the diagnosis and treatment of nervous and mental disorders, whether cognitive, affective or behavioral, within the context of marriage and family systems;

O. "marriage and family therapist" means an individual who engages in the practice of marriage and family therapy;

P. "mental disorder" means any of several conditions or disorders that meet the diagnostic criteria contained in the diagnostic and statistical manual of the American psychiatric association or the world health organization's international classification of diseases manual;

Q. "practice of alcohol and drug abuse counseling" means the rendering of counseling services, as defined by regulation of the board, to individuals, couples, families or groups. The services may include screening, assessment, consultation, development of treatment plans, case management, counseling, referral, appraisal, crisis intervention, education, reporting and record keeping;

R. "practice of art therapy" means the rendering to individuals, families or groups of services that use art media as a means of expression and communication to promote perceptive, intuitive, affective and expressive experiences that alleviate distress, reduce physical, emotional, behavioral and social impairment and lead to growth or reintegration of one's personality. Art therapy services include, but are not limited to, diagnostic evaluation, development of patient treatment plans, goals and objectives, case management services and therapeutic treatment as defined by regulation of the board;

S. "practice of marriage and family therapy" means the rendering of marriage and family therapy services to individuals, family groups and marital couples, singly or in groups. The "practice of marriage and family therapy" involves the professional application of psychotherapeutic and family systems theories and techniques, as defined by regulation of the board, in the delivery of services to individuals, married couples and families and involves the presence of a diagnosed mental or physical disorder in at least one member of the couple or family being treated;

T. "practice of professional clinical mental health counseling" means the rendering of mental health counseling to individuals, couples, families or groups and the diagnosis and treatment of mental and emotional disorders, including psychopathology as defined by the American psychiatric association or the world health organization. "Practice of professional clinical mental health counseling" includes, but is not limited to, development of patient treatment plans, goals and objectives, case management services, therapeutic treatment, research and clinical mental health appraisal, consulting, counseling and referral as defined by regulation of the board;

U. "practice of professional mental health counseling" means the rendering of a therapeutic counseling service that integrates a wellness and multicultural model of human behavior involving certain methods and techniques of appraisal, including, but not limited to, consulting, counseling and referral as defined by regulation of the board;

V. "practice of registered mental health counseling" means the rendering, under appropriate supervision, of a therapeutic counseling service that integrates a wellness and multicultural model of human behavior involving certain methods and techniques of appraisal, including, but not limited to, consulting, counseling and referral as defined by regulation of the board;

W. "professional art therapist" means an individual who engages in the practice of art therapy;

X. "professional clinical mental health counselor" means an individual who engages in the independent practice of professional clinical mental health counseling without supervision;

Y. "professional mental health counselor" means an individual who engages in the practice of professional mental health counseling without supervision;

Z. "referral" means the evaluation of information to identify needs of the person being counseled to determine the advisability of sending the person being counseled to other specialists, informing the person being counseled of such judgment and communicating the information to other counseling services as deemed appropriate;

AA. "registered mental health counselor" means an individual who is registered with the board and is authorized by the board to engage in the practice of mental health counseling under appropriate supervision;

BB. "substance abuse counselor" means an individual who is licensed to practice alcohol and drug abuse counseling, alcohol abuse counseling or drug abuse counseling; and

CC. "substance abuse intern" means an individual who is registered to practice alcohol and drug abuse counseling, alcohol abuse counseling or drug abuse counseling under appropriate supervision."

Section 2

Section 2

Section 61-9A-4 NMSA 1978 (being Laws 1993, Chapter 49, Section 4) is amended to read:

"61-9A-4. LICENSE OR REGISTRATION REQUIRED.--

A. After July 1, 1994, unless licensed or registered to practice under the Counseling and Therapy Practice Act, no person shall engage in the practice of:

- (1) professional mental health counseling;
- (2) professional clinical mental health counseling;
- (3) marriage and family therapy;
- (4) professional art therapy; or
- (5) counseling as a registered mental health counselor.

B. After January 1, 1998, unless licensed or registered to practice under the Counseling and Therapy Practice Act, no person shall engage in the practice of:

- (1) alcohol and drug abuse counseling;
- (2) alcohol abuse counseling;
- (3) drug abuse counseling; or
- (4) substance abuse counseling as a substance abuse intern."

Section 3

Section 3

Section 61-9A-5 NMSA 1978 (being Laws 1993, Chapter 49, Section 5) is amended to read:

"61-9A-5. SCOPE OF PRACTICE.--

A. For the purpose of the Counseling and Therapy Practice Act, a person is practicing as a professional mental health counselor, professional clinical mental health counselor, marriage and family therapist, professional art therapist, registered mental health counselor, alcohol and drug abuse counselor, alcohol abuse counselor, drug abuse counselor or substance abuse intern if he advertises; offers himself to practice; is employed in a position described as professional mental health counselor, professional clinical mental health counselor, marriage and family therapist, professional art therapist, registered mental health counselor, alcohol and drug abuse counselor, alcohol abuse counselor, drug abuse counselor or substance abuse intern; or holds out to the public or represents in any manner that he is licensed or registered to practice as such in this state.

B. The scope of the practice of alcohol or drug abuse counseling, or both, consists of rendering counseling services, as defined by regulation, to individuals, couples, families or groups. The services may include screening, assessment, consultation, development of treatment plans, case management, counseling, referral, appraisal, crisis intervention, education, reporting and recordkeeping."

Section 4

Section 4

Section 61-9A-6 NMSA 1978 (being Laws 1993, Chapter 49, Section 6) is amended to read:

"61-9A-6. EXEMPTIONS.--

A. Nothing in the Counseling and Therapy Practice Act shall be construed to prevent:

(1) any individual who is licensed, certified or regulated under the laws of this state from engaging in activities consistent with the standards and ethics of his profession or practice; or

(2) an alternative, metaphysical or holistic practitioner from engaging in nonclinical activities consistent with the standards and codes of ethics of that practice.

B. Specifically exempted from the Counseling and Therapy Practice Act are:

(1) elementary and secondary school counselors acting on behalf of their employer who are otherwise regulated;

- (2) peer counselors of domestic violence or independent-living peer counselors working under appropriate supervision in a nonprofit corporation, association or similar entity;
- (3) duly ordained, commissioned or licensed ministers of a church or lay pastoral-care assistants providing pastoral services on behalf of a church;
- (4) a person who is enrolled in an organized training program to qualify for licensure as a counselor or therapist and is under direct supervision of a licensed counselor or therapist or other appropriate supervision, as approved by the board;
- (5) hypnotherapists certified by the American council of hypnotist examiners or the southwest hypnotherapists examining board, providing nonclinical services from July 1, 1994 to June 30, 1998;
- (6) pastoral counselors with master's or doctoral degrees who are certified by the American association of pastoral counselors from July 1, 1994 to June 30, 1998;
- (7) practitioners of Native American healing arts; and
- (8) state employees at the discretion of the head of the employing agency."

Section 5

Section 5

Section 61-9A-7 NMSA 1978 (being Laws 1993, Chapter 49, Section 7) is amended to read:

"61-9A-7. BOARD CREATED--MEMBERS--APPOINTMENT-- TERMS-- COMPENSATION.--

A. There is created the "counseling and therapy practice board", which is administratively attached to the department.

B. The board shall consist of nine members who are United States citizens and have been New Mexico residents for at least five years prior to their appointment. Of the nine members:

(1) five members shall be professional members, who shall be a professional mental health counselor, a professional clinical mental health counselor, a marriage and family therapist, a professional art therapist and an alcohol and drug abuse counselor, licensed under the Counseling and Therapy Practice Act and shall have engaged in a counselor and therapist practice for at least five years. These members shall not hold any elected or appointed office in any professional organization of counseling, psychology or closely related field during their tenure on the board, nor shall they be school owners. The initial professional members shall meet requirements for licensure

and be licensed within one year after the effective date of the licensure requirements. The professional mental health counselor shall also represent the registered mental health counselors; and

(2) four members shall represent the public. The public members shall not have been licensed or have practiced as counselor or therapist practitioners or in any other regulated mental health profession, nor have any significant financial interest, either direct or indirect, in the professions regulated.

C. All members of the board shall be appointed by the governor for staggered terms of four years, except that the initial board shall be appointed so that the terms of one professional and one public member expire June 30, 1994, the terms of one professional and one public member expire June 30, 1995, the terms of one professional and one public member expire on June 30, 1996 and the terms of one professional and one public member expire June 30, 1997. The alcohol and drug abuse counselor shall be appointed to a four-year term beginning July 1, 1996. Each member shall hold office until his successor is appointed. Vacancies shall be filled in the same manner as original appointments. No appointee shall serve more than two terms.

D. The governor may appoint professional board members from a list of nominees submitted by qualified individuals and organizations, including the New Mexico counseling association, the New Mexico association for marriage and family therapy, the New Mexico art therapy association and the alcohol and drug directors association.

E. Members of the board shall be reimbursed as provided in the Per Diem and Mileage Act and shall receive no other compensation, perquisite or allowance.

F. The board shall elect annually from its membership a chairman and a secretary and other officers as necessary to carry out its duties.

G. The board shall meet at least twice a year and at other times deemed necessary. Other meetings may be called by the chairman upon the written request of three members of the board. A simple majority of the board members shall constitute a quorum of the board."

Section 6

Section 6

Section 61-9A-8 NMSA 1978 (being Laws 1993, Chapter 49, Section 8) is amended to read:

"61-9A-8. DEPARTMENT DUTIES.--The department, with the consultation of the board, shall:

A. process applications and conduct and review the required examinations;

- B. issue licenses and certificates of registration to applicants who meet the requirements of the Counseling and Therapy Practice Act;
- C. administer, coordinate and enforce the provisions of the Counseling and Therapy Practice Act and investigate persons engaging in practices that may violate the provisions of that act;
- D. hire staff as necessary to carry out the provisions of the Counseling and Therapy Practice Act;
- E. maintain records, including financial records; and
- F. maintain a current register of licensees and registrants as a matter of public record."

Section 7

Section 7

Section 61-9A-9 NMSA 1978 (being Laws 1993, Chapter 49, Section 9) is amended to read:

"61-9A-9. BOARD--POWERS AND DUTIES.--

A. The board shall have the power to:

- (1) adopt in accordance with the Uniform Licensing Act and file in accordance with the State Rules Act rules and regulations necessary to carry out the provisions of the Counseling and Therapy Practice Act;
- (2) select and provide for the administration of, at least, semiannual examinations for licensure;
- (3) establish the passing scores for examinations;
- (4) take any disciplinary action allowed by and in accordance with the Uniform Licensing Act;
- (5) censure, reprimand or place a licensee or registrant on probation for a period not to exceed one year;
- (6) require and establish criteria for continuing education;
- (7) establish by rule procedures for receiving, investigating and resolving complaints;
- (8) approve appropriate supervision and postgraduate experience for persons seeking licensure or registration;

(9) provide for the issuance of licenses and certificates of registration;

(10) determine eligibility of individuals for licensure or registration;

(11) set fees for administrative services, licenses and registration, as authorized by the Counseling and Therapy Practice Act, and authorize all disbursements necessary to carry out the provisions of that act;

(12) establish criteria for supervision and supervisory requirements; and

(13) establish a code of ethics.

B. The board may establish a standards committee for each licensed profession. The members of each standards committee shall be appointed by the board with the consent of the department and shall include at least one board member from the licensed profession and at least one public board member. The board member representing each respective profession shall chair its standards committee and the committee shall:

(1) recommend and periodically review a code of ethics;

(2) review license applications and recommend approval or disapproval;

(3) develop criteria for supervision; and

(4) recommend rules and regulations.

C. Members of the standards committees may be reimbursed as provided in the Per Diem and Mileage Act, but shall receive no other compensation, perquisite or allowance. These members shall not hold any elected office in any professional organization of counseling, psychology or closely related field during their tenure on the standards committees."

Section 8

Section 8

A new section of the Counseling and Therapy Practice Act is enacted to read:

"SUBSTANCE ABUSE COUNSELORS--REQUIREMENTS FOR

LICENSURE.--

A. The board shall license as a substance abuse intern any person who files a completed application accompanied by the required fees and who submits satisfactory evidence that the applicant:

- (1) is of good moral character, with conduct consistent with the code of ethics;
- (2) is at least eighteen years of age;
- (3) possesses a high school diploma or its equivalent;
- (4) has arranged for a board-approved supervisor and experience plan for working under appropriate supervision to meet the requirements for licensure as a substance abuse counselor;
- (5) demonstrates knowledge of a working definition of substance abuse treatment and recovery;
- (6) signs a code of ethics statement, as approved by the board; and
- (7) provides three letters of recommendation as established by rule.

B. The board shall license as an alcohol and drug abuse counselor any person who files a completed application accompanied by the required fees and who submits satisfactory evidence that the applicant:

- (1) is of good moral character, with conduct consistent with the code of ethics;
- (2) is at least eighteen years of age;
- (3) possesses a high school diploma or its equivalent;
- (4) has passed an examination, as approved by the board;
- (5) signs a code of ethics statement, as approved by the board; and
- (6) has one of the following combinations of education and experience:
 - (a) an associate degree or board-approved education and training that includes two hundred seventy clock hours with at least ninety hours in each of the fields of alcohol, drug and counseling education and training in professional ethics, four years of experience in the practice of alcohol and drug abuse counseling under appropriate supervision and three hundred hours of approved practicum;
 - (b) a baccalaureate degree in a related mental health field, two hundred seventy clock hours of specific training that may be part of the degree program and that includes at least ninety hours in each of the fields of alcohol, drug and counseling education and training in professional ethics and three years of experience in the practice of alcohol and drug abuse counseling under appropriate supervision; or

(c) a master's degree in a related mental health field, two hundred seventy clock hours of specific training that may be part of the degree program and that includes at least ninety hours in each of the fields of alcohol, drug and counseling education and training in professional ethics and two years of experience in the practice of alcohol and drug abuse counseling under appropriate supervision.

C. The board shall license as an alcohol abuse counselor any person who files a completed application accompanied by the required fees and who submits satisfactory evidence that the applicant:

(1) is of good moral character, with conduct consistent with the code of ethics;

(2) is at least eighteen years of age;

(3) possesses a high school diploma or its equivalent;

(4) has passed an examination, as approved by the board;

(5) signs a code of ethics statement, as approved by the board; and

(6) has one of the following combinations of education and experience:

(a) an associate degree or board approved education and training that includes one hundred eighty clock hours with at least ninety hours in each of the fields of alcohol and counseling education and training in professional ethics, four years of experience in the practice of alcohol abuse counseling under appropriate supervision and three hundred hours of approved practicum;

(b) a baccalaureate degree in a related mental health field, one hundred eighty clock hours of specific training that may be part of the degree program and that includes at least ninety hours in each of the fields of alcohol and counseling education and training in professional ethics and three years of experience in the practice of alcohol abuse counseling under appropriate supervision; or

(c) a master's degree in a related mental health field, one hundred eighty clock hours of specific training that may be part of the degree program and that includes at least ninety hours in each of the fields of alcohol and counseling education and training in professional ethics and two years of experience in the practice of alcohol abuse counseling under appropriate supervision.

D. The board shall license as a drug abuse counselor any person who files a completed application accompanied by the required fees and who submits satisfactory evidence that the applicant:

(1) is of good moral character, with conduct consistent with the code of ethics;

- (2) is at least eighteen years of age;
- (3) possesses a high school diploma or its equivalent;
- (4) has passed an examination, as approved by the board;
- (5) signs a code of ethics statement, as approved by the board; and
- (6) has one of the following combinations of education and experience:

(a) an associate degree or board- approved education and training that includes one hundred eighty clock hours with at least ninety hours in each of the fields of drug and counseling education and training in professional ethics, four years of experience in the practice of drug abuse counseling under appropriate supervision and three hundred hours of approved practicum;

(b) a baccalaureate degree in a related mental health field, one hundred eighty clock hours of specific training that may be part of the degree program and that includes at least ninety hours in each of the fields of drug and counseling education and training in professional ethics and three years of experience in the practice of drug abuse counseling under appropriate supervision; or

(c) a master's degree in a related mental health field, one hundred eighty clock hours of specific training that may be part of the degree program and that includes at least ninety hours in each of the fields of drug and counseling education and training in professional ethics and two years of experience in the practice of drug abuse counseling under appropriate supervision."

Section 9

Section 9

A new section of the Counseling and Therapy Practice Act is enacted to read:

"SUBSTANCE ABUSE COUNSELORS--LICENSURE WITHOUT EXAMINATION.--An applicant for licensure as an alcohol and drug abuse counselor, an alcohol abuse counselor or a drug abuse counselor may be licensed without examination if the applicant files a completed application postmarked on or before January 1, 1997, accompanied by the required fees, and if the board determines that the applicant meets the following requirements for licensure:

A. for licensure as an alcohol and drug abuse counselor:

(1) the applicant submits verification of current nationally certified alcohol and drug abuse counselor certification or its equivalent; or

(2) the applicant meets the educational requirements set forth in the Counseling and Therapy Practice Act and has been engaged in the practice of alcohol and drug abuse counseling for three of the previous four years or has acquired four thousand client contact hours under appropriate supervision primarily in the practice of alcohol and drug abuse counseling and is of good moral character;

B. for licensure as an alcohol abuse counselor:

(1) the applicant submits verification of current nationally certified alcohol abuse counselor certification or its equivalent; or

(2) the applicant meets the educational requirements set forth in the Counseling and Therapy Practice Act and has been engaged in the practice of alcohol abuse counseling for three of the previous four years or has acquired four thousand client contact hours primarily in the practice of alcohol abuse counseling and is of good moral character; or

C. for licensure as a drug abuse counselor:

(1) the applicant submits verification of current nationally certified alcohol and drug abuse counselor certification or its equivalent; or

(2) the applicant meets the educational and training requirements set forth in the Counseling and Therapy Practice Act and has been engaged in the practice of drug abuse counseling for three of the previous four years or has acquired four thousand client contact hours primarily in the practice of drug abuse counseling and is of good moral character."

Section 10

Section 10

Section 61-9A-15 NMSA 1978 (being Laws 1993, Chapter 49, Section 15) is amended to read:

"61-9A-15. EXAMINATIONS.--

A. Applicants who have met the requirements for licensure shall be scheduled for the next appropriate examination following the approval of the application. The board shall establish by rule the examination application deadline and the requirements for re-examination if the applicant has failed the examination.

B. The examination shall cover subjects appropriate to the scope of practice as a professional mental health counselor, a professional clinical mental health counselor, a marriage and family therapist, a professional art therapist or a substance abuse counselor."

Section 11

Section 11

Section 61-9A-24 NMSA 1978 (being Laws 1993, Chapter 49, Section 24) is amended to read:

"61-9A-24. LICENSE AND REGISTRATION FEES.--Applicants for licensure or registration shall pay biennial fees set by the board in an amount not to exceed:

A. for application for initial licensure or registration, seventy-five dollars (\$75.00), which is not refundable;

B. for licensure or renewal as a professional mental health counselor, three hundred dollars (\$300);

C. for licensure or renewal as a clinical mental health counselor, marriage and family therapist or professional art therapist, four hundred twenty dollars (\$420);

D. for registration or renewal as a registered mental health counselor or registered independent mental health counselor, two hundred forty dollars (\$240);

E. for all examinations, seventy-five dollars (\$75.00) or, if a national examination is used, an amount that shall not exceed the national examination costs by more than twenty-five percent;

F. for a duplicate or replacement license or registration, twenty-five dollars (\$25.00);

G. for failure to renew a license or registration within the allotted grace period, a late penalty fee not to exceed one hundred dollars (\$100);

H. reasonable administrative fees; and

I. for licensure, registration or renewal as an alcohol and drug abuse counselor, an alcohol abuse counselor, a drug abuse counselor or a substance abuse intern, two hundred dollars (\$200)."

Section 12

Section 12

Section 61-9A-26 NMSA 1978 (being Laws 1993, Chapter 49, Section 26) is amended to read:

"61-9A-26. LICENSE AND REGISTRATION--DENIAL, SUSPENSION AND REVOCATION.--

A. In accordance with the procedures established by the Uniform Licensing Act, the board may deny, suspend or revoke any license or registration held or applied for under the Counseling and Therapy Practice Act, or take any other action provided for in the Uniform Licensing Act, upon grounds that the licensee, registrant or applicant:

(1) is guilty of fraud, deceit or misrepresentation in procuring or attempting to procure any license or registration provided for in the Counseling and Therapy Practice Act;

(2) is adjudicated mentally incompetent by regularly constituted authorities;

(3) is found guilty of a felony or misdemeanor involving moral turpitude;

(4) is found guilty of unprofessional or unethical conduct;

(5) has been using any controlled substances, as defined in the Controlled Substances Act, or alcoholic beverage to an extent or in a manner dangerous to himself or any other person or the public or to an extent that the use impairs his ability to perform the work of a counselor or therapist practitioner;

(6) has violated any provision of the Counseling and Therapy Practice Act or regulations adopted by the board;

(7) is grossly negligent in practice as a professional counselor or therapist practitioner;

(8) willfully or negligently divulges a professional confidence;

(9) demonstrates marked incompetence in practice as a professional counselor or therapist practitioner; or

(10) has had a license or registration to practice as a counselor, therapist or other mental health practitioner revoked, suspended or denied in any jurisdiction, territory or possession of the United States or another country for acts of the licensee or registrant similar to acts described in this subsection; or

(11) knowingly and willfully practices beyond the scope of practice, as defined by the board.

B. A certified copy of the record of conviction shall be conclusive evidence of such conviction.

C. Disciplinary proceedings may be instituted by the sworn complaint of any person, including members of the board, and shall conform to the provisions of the Uniform Licensing Act. Any party to a hearing may obtain a copy of the hearing record upon payment of costs for such copy.

D. A person who violates any provision of the Counseling and Therapy Practice Act is guilty of a misdemeanor and upon conviction shall be punished as provided in Section 31-19-1 NMSA 1978."

Section 13

Section 13

EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1996.

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HOUSE BILL 790

SIGNED MARCH 5, 1996

Chapter 62

RELATING TO PUBLIC SCHOOLS; DELAYING THE MANDATORY EMPLOYMENT OF SCHOOL NURSES UNTIL JULY 1, 1997.

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

Section 1

Section 1

Section 22-8-9 NMSA 1978 (being Laws 1967, Chapter 16, Section 63, as amended by Laws 1993, Chapter 226, Section 19) is amended to read:

"22-8-9. BUDGETS--MINIMUM REQUIREMENTS.--

A. No budget for a school district shall be approved by the department that does not provide for:

(1) a school year consisting of at least one hundred eighty full instructional days or the equivalent thereof, exclusive of any release time for in-service training; or

(2) a variable school year consisting of a minimum number of instructional hours established by the state board; and

(3) a pupil-teacher ratio or class or teaching load as provided in Section 22-2-8.2 NMSA 1978; and

(4) effective July 1, 1997, a full-time, department- certified nurse for each fifty-five teachers employed by a school district or the equivalent part-time, department-certified nurse for less than fifty-five teachers.

B. The state board shall, by regulation, establish the requirements for a teaching day, the standards for an instructional hour and the standards for a full-time certified classroom instructor and for the equivalent thereof.

C. The local school board shall submit a plan for the implementation of an alternate school year to the state superintendent for his approval.

D. The provisions of Subsection C and Paragraph (2) of Subsection A of this section shall be construed to apply only to school districts with a MEM of one thousand or fewer."

Section 2

Section 2

REPEAL.--That version of Section 22-8-9 NMSA 1978 (being Laws 1967, Chapter 16, Section 63, as amended) that is to become effective July 1, 1995 pursuant to Laws 1993, Chapter 223, Section 1 is repealed.

Section 3

Section 3

REPEAL.--That version of Section 22-8-9 NMSA 1978 (being Laws 1967, Chapter 16, Section 63, as amended) that is to become effective July 1, 1996 pursuant to Laws 1994, Chapter 68, Section 1, as amended by Laws 1995, Chapter 151, Section 1, is repealed.

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HOUSE BILL 29

SIGNED MARCH 5, 1996

Chapter 63

RELATING TO PUBLIC SCHOOL BUILDINGS; ALLOWING AN INCREASE OF A PROPERTY TAX RATE AUTHORIZED FOR CAPITAL IMPROVEMENTS TO PUBLIC SCHOOLS; AMENDING A SECTION OF THE PUBLIC SCHOOL BUILDINGS ACT.

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

Section 1

Section 1

Section 22-26-7 NMSA 1978 (being Laws 1983, Chapter 163, Section 7, as amended) is amended to read:

"22-26-7. IMPOSITION OF TAX--LIMITATIONS.--If as a result of an election held in accordance with the Public School Buildings Act a majority of the qualified electors voting on the question votes in favor of the imposition of the tax, the tax rate shall be certified, unless the local school board directs that the tax levy not be made for the year, by the department of finance and administration at the rate specified in the authorizing resolution or at any lower rate required by operation of the rate limitation provisions of Section 7-37-7.1 NMSA 1978 upon the rate specified in the authorizing resolution or at any rate lower than the rate required by operation of the rate limitation provisions of Section 7-37-7.1 NMSA 1978 if directed by the local school board pursuant to Section 22-26-8 NMSA 1978, and the tax shall be imposed at the rate certified in accordance with the provisions of the Property Tax Code. If in any tax year the authorized tax rate under the Public School Buildings Act, when added to the tax rates for servicing debt of the school district and for capital improvements pursuant to the Public School Capital Improvements Act, exceeds fifteen dollars (\$15.00), or a lower amount that would be required by applying the rate limitation provisions of Section 7-37-7.1 NMSA 1978 to the amount of fifteen dollars (\$15.00), on each one thousand dollars (\$1,000) of net taxable value of property allocated to the school district under the Property Tax Code, the tax rate under the Public School Buildings Act shall be reduced to an amount that, when added to such additional rates, will equal fifteen dollars (\$15.00), or the lower amount that would be required by applying the rate limitation provisions of Section 7-37-7.1 NMSA 1978 to the amount of fifteen dollars (\$15.00), on each one thousand dollars (\$1,000) of net taxable value of property so allocated to the school district. The revenue produced by the tax and any state distribution resulting to the district under the Public School Buildings Act shall be expended only for capital improvements."

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HOUSE BILL 45

SIGNED MARCH 5, 1996

Chapter 64

RELATING TO EDUCATION; PROVIDING FOR SCHOLARSHIPS FOR ACTIVE MEMBERS OF THE NEW MEXICO ARMY NATIONAL GUARD AND THE NEW MEXICO AIR NATIONAL GUARD.

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

Section 1

Section 1

SCHOLARSHIP PROGRAM ESTABLISHED.--Subject to the availability of funds, the department of military affairs shall establish a scholarship program for students who are New Mexico guard or the New Mexico air national guard. The adjutant general of the department of military affairs shall provide for the administration of the scholarship program. The department shall establish criteria for scholarship eligibility and award. Scholarships awarded may be used at any New Mexico public post-secondary educational institution. Scholarships shall be awarded in an amount and for a duration to be determined by the department.

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HOUSE BILL 553

SIGNED MARCH 5, 1996

Chapter 65

RELATING TO EDUCATION; AMENDING A SECTION OF THE PUBLIC SCHOOL CODE PERTAINING TO THE DUTIES OF THE STATE BOARD OF EDUCATION.

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

Section 1

Section 1

Section 22-2-2 NMSA 1978 (being Laws 1967, Chapter 16, Section 5, as amended) is amended to read:

"22-2-2. STATE BOARD--DUTIES.--Without limiting those powers granted to the state board pursuant to Section 22-2-1 NMSA 1978, the state board shall perform the following duties:

- A. properly and uniformly enforce the provisions of the Public School Code;
- B. determine policy for the operation of all public schools and vocational education programs in the state;
- C. appoint a state superintendent;

D. purchase and loan instructional material to students pursuant to the Instructional Material Law and adopt regulations relating to the use and operation of instructional material depositories in the instructional material distribution process;

E. designate courses of instruction to be taught in all public schools in the state;

F. assess and evaluate all state institutions and those private schools that desire state accreditation;

G. determine the qualifications for and issue a certificate to any person teaching, assisting teachers, supervising an instructional program, counseling, providing special instructional services or administering in public schools, according to law and according to a system of classification adopted and published by the state board;

H. suspend or revoke a certificate held by a certified school instructor or certified school administrator, according to law, for incompetency, immorality or for any other good and just cause;

I. make full and complete reports on consolidation of school districts to the legislature;

J. prescribe courses of instruction, requirements for graduation and standards for all public schools, for private schools seeking state accreditation and for the educational programs conducted in state institutions other than New Mexico military institute;

K. adopt regulations for the administration of all public schools and bylaws for its own administration;

L. require periodic reports on forms prescribed by it from all public schools and attendance reports from private schools;

M. authorize adult educational programs to be conducted in schools under its jurisdiction and promulgate and publish regulations governing all such adult educational programs;

N. require any school under its jurisdiction that sponsors athletic programs involving sports to mandate that the participating student obtain catastrophic health and accident insurance coverage, such coverage to be offered through the school and issued by an insurance company duly licensed pursuant to the laws of New Mexico;

O. require all accrediting agencies for public schools in the state to act with its approval;

P. accept and receive all grants of money from the federal government or any other agency for public school purposes and disburse the money in the manner and for the purpose specified in the grant;

Q. require prior approval for any educational program in a public school that is to be conducted, sponsored, carried on or caused to be carried on by a private organization or agency;

R. approve or disapprove all rules or regulations promulgated by any association or organization attempting to regulate any public school activity and invalidate any rule or regulation in conflict with any regulation promulgated by the state board. The state board may require performance and financial audits of any association or organization attempting to regulate any public school activity. The state board shall have no power or control over the rules or regulations or the bylaws governing the administration of the internal organization of the association or organization;

S. review decisions made by the governing board or officials of any organization or association regulating any public school activity, and any decision of the state board shall be final in respect thereto;

T. accept or reject any charitable gift, grant, devise or bequest. The particular gift, grant, devise or bequest accepted shall be considered an asset of the state;

U. establish and maintain regional centers, at its discretion, for conducting cooperative services between public schools and school districts within and among those regions and to facilitate regulation and evaluation of school programs;

V. assess and evaluate for accreditation purposes at least one- third of all public schools each year through visits by department of education personnel to investigate the adequacy of pupil gain in standard required subject matter, adequacy of pupil activities, functional feasibility of public school and school district organization, adequacy of staff preparation and other matters bearing upon the education of the students;

W. provide for management and other necessary personnel to operate any public school or school district that has failed to meet requirements of law, state board standards or state board regulations; provided that the operation of the public school or school district shall not include any consolidation or reorganization without the approval of the local board of that school district. Until such time as requirements of law, standards or regulations have been met and compliance is assured, the powers and duties of the local school board shall be suspended;

X. establish and implement a plan that provides for technical assistance to local school boards through workshops and other in-service training methods; provided, however, that no plan shall require mandatory attendance by any member of a local school board;

Y. submit a plan applying for funds available under Public Law 94-142 and disburse these funds in the manner and for the purposes specified in the plan; and

Z. enforce requirements for home schools. Upon finding that a home school is not in compliance with law, the state board shall have authority to order that a student attend a public school or a private school."

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HOUSE BILL 782

SIGNED MARCH 5, 1996

Chapter 66

RELATING TO EDUCATION; AMENDING SECTION 21-1-3 NMSA 1978 (BEING LAWS 1970, CHAPTER 47, SECTION 1, AS AMENDED) TO AUTHORIZE CERTAIN BOARDS OF REGENTS TO CONSIDER CERTAIN TEXAS RESIDENTS AS RESIDENT STUDENTS FOR TUITION, BUDGET AND REVENUE PURPOSES.

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

Section 1

Section 1

Section 21-1-3 NMSA 1978 (being Laws 1970, Chapter 47, Section 1, as amended) is amended to read:

"21-1-3. STATE EDUCATIONAL INSTITUTIONS--RESIDENT STUDENTS.--

A. For the purpose of tuition payment at the resident student rates at state educational institutions, as defined in Article 12, Section 11 of the constitution of New Mexico, "resident student" includes:

(1) any person not otherwise entitled to claim residence who is a member of the armed forces of the United States assigned to active duty within the exterior boundaries of this state; and

(2) the spouse or dependent child of any person who qualifies under Paragraph (1) of this subsection.

B. Assignment to active duty within the exterior boundaries of this state may be established by a certificate of assignment from the commanding officer of the person so assigned.

C. For the purpose of tuition payment at resident student rates at New Mexico highlands university, "resident student" may include any person who is a Native American and a citizen of the United States.

D. For the purposes of tuition payment and budget and revenue calculations, the board of regents of any post-secondary, state educational institution, as defined in Article 12, Section 11 of the constitution of New Mexico, may determine that "resident student" includes any Texas resident who resides within a one hundred thirty-five mile radius of that institution."

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SENATE BILL 791, AS AMENDED

SIGNED MARCH 5, 1996

Chapter 67

RELATING TO SCHOOL DISTRICTS; PROVIDING SCHOOL DISTRICTS WITH THE AUTHORITY TO ISSUE GENERAL OBLIGATION BONDS TO PURCHASE COMPUTER EQUIPMENT; INCLUDING THE PURCHASE OF COMPUTER EQUIPMENT WITHIN THE DEFINITION OF PUBLIC SCHOOL CAPITAL IMPROVEMENTS; AMENDING THE PUBLIC SCHOOL CODE.

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

Section 1

Section 1

Section 22-18-1 NMSA 1978 (being Laws 1967, Chapter 16, Section 228) is amended to read:

"22-18-1. GENERAL OBLIGATION BONDS--AUTHORITY TO ISSUE.--Subject to the provisions of Article 9, Section 11 of the constitution of New Mexico and Sections 6-15-1 and 6-15-2 NMSA 1978, a school district may issue general obligation bonds for the purpose of erecting, remodeling, making additions to and furnishing school buildings, purchasing or improving school grounds, purchasing computer software and hardware for student use in public schools or any combination of these purposes. The bonds shall be fully negotiable and constitute negotiable instruments within the meaning and for all purposes of the Uniform Commercial Code."

Section 2

Section 2

Section 22-25-2 NMSA 1978 (being Laws 1975 (S.S.), Chapter 5, Section 2, as amended) is amended to read:

"22-25-2. DEFINITIONS.--As used in the Public School Capital Improvements Act:

A. "program unit" means the product of the program element multiplied by the applicable cost differential factor, as defined in Section 22- 8-2 NMSA 1978; and

B. "capital improvements" means expenditures, exclusive of any debt service expenses, for:

(1) erecting, remodeling, making additions to, providing equipment for or furnishing public school buildings;

(2) purchasing or improving public school grounds;

(3) maintenance of public school buildings or public school grounds, exclusive of salary expenses of school district employees;

(4) purchasing activity vehicles for transporting students to extracurricular school activities; and

(5) purchasing computer software and hardware for student use in public school classrooms."

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SENATE BILL 90

SIGNED MARCH 5, 1996

Chapter 68

RELATING TO INTERGOVERNMENTAL AGREEMENTS; AMENDING A SECTION OF THE TORT CLAIMS ACT; CLARIFYING TREATMENT OF CERTAIN JOINTLY OPERATED GOVERNMENTAL FACILITIES; DECLARING AN EMERGENCY.

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

Section 1

Section 1

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

"41-4-4. GRANTING IMMUNITY FROM TORT LIABILITY-- AUTHORIZING EXCEPTIONS.--

A. A governmental entity and any public employee while acting within the scope of duty are granted immunity from liability for any tort except as waived by Sections 41-4-5 through 41-4-12 NMSA 1978. Waiver of this immunity shall be limited to and governed by the provisions of Sections 41-4-13 through 41-4-25 NMSA 1978.

B. Unless an insurance carrier provides a defense, a governmental entity shall provide a defense, including costs and attorneys' fees, for any public employee when liability is sought for:

(1) any tort alleged to have been committed by the public employee while acting within the scope of his duty; or

(2) any violation of property rights or any rights, privileges or immunities secured by the constitution and laws of the United States or the constitution and laws of New Mexico when alleged to have been committed by the public employee while acting within the scope of his duty.

C. A governmental entity shall pay any award for punitive or exemplary damages awarded against a public employee under the substantive law of a jurisdiction other than New Mexico, including but not limited to other states, territories and possessions and the United States of America, if the public employee was acting within the scope of his duty.

D. A governmental entity shall pay any settlement or any final judgment entered against a public employee for:

(1) any tort that was committed by the public employee while acting within the scope of his duty; or

(2) a violation of property rights or any rights, privileges or immunities secured by the constitution and laws of the United States or the constitution and laws of New Mexico that occurred while the public employee was acting within the scope of his duty.

E. A governmental entity shall have the right to recover from a public employee the amount expended by the public entity to provide a defense and pay a settlement agreed to by the public employee or to pay a final judgment if it is shown that, while acting within the scope of his duty, the public employee acted fraudulently or with actual intentional malice causing the bodily injury, wrongful death or property damage resulting in the settlement or final judgment.

F. Nothing in Subsections B, C and D of this section shall be construed as a waiver of the immunity from liability granted by Subsection A of this section or as a waiver of the state's immunity from suit in federal court under the eleventh amendment to the United States constitution.

G. The duty to defend as provided in Subsection B of this section shall continue after employment with the governmental entity has been terminated if the occurrence for which damages are sought happened while the public employee was acting within the scope of duty while the public employee was in the employ of the governmental entity.

H. The duty to pay any settlement or any final judgment entered against a public employee as provided in this section shall continue after employment with the governmental entity has terminated if the occurrence for which liability has been imposed happened while the public employee was acting within the scope of his duty while in the employ of the governmental entity.

I. A jointly operated public school, community center or athletic facility that is used or maintained pursuant to a joint powers agreement shall be deemed to be used or maintained by a single governmental entity for the purposes of and subject to the maximum liability provisions of Section 41-4-19 NMSA 1978.

J. For purposes of this section, a "jointly operated public school, community center or athletic facility" includes a school, school yard, school ground, school building, gymnasium, athletic field, building, community center or sports complex that is owned or leased by a governmental entity and operated or used jointly or in conjunction with another governmental entity for operations, events or programs that include sports or athletic events or activities, child-care or youth programs, after- school or before-school activities or summer or vacation programs at the facility."

Section 2

Section 2

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

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SENATE BILL 95

WITH EMERGENCY CLAUSE

SIGNED MARCH 5, 1996

Chapter 69

RELATING TO SECURITIES; CHANGING FILING FEES FOR REGISTRATION STATEMENTS.

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

Section 1

Section 1

Section 58-13B-24 NMSA 1978 (being Laws 1986, Chapter 7, Section 24) 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. Except as provided in Subsection C of this section, 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 this state, but not less than three hundred fifty dollars (\$350) or more than two thousand five hundred dollars (\$2,500); or

(2) three hundred fifty dollars (\$350) 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. An open-end management company or a face amount certificate company as defined in the federal Investment Company Act of 1940 may register an indefinite amount of securities under a registration statement. The registrant shall pay:

(1) a fee of five hundred dollars (\$500) at the time of filing; and

(2) within sixty days after the registrant's fiscal year during which its registration statement is effective, a fee of two thousand dollars (\$2,000) or file a report on a form the director by rule adopts, specifying its sale of securities to persons in this state during the fiscal year and pay a fee of one-tenth of one percent of the aggregate sale price of the securities sold to persons in the state, but the latter fee shall not be less than three hundred fifty dollars (\$350) or more than two thousand five hundred dollars (\$2,500).

D. Except as permitted otherwise by Subsection C of this section, a registration statement must specify the amount of securities to be offered in this state 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.

E. A document filed under 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.

F. The director by rule or order may permit the omission of an item of information or document from a registration statement.

G. In the case of a non-issuer offering, the director may not require information under Section 58-13B-23 NMSA 1978 or Subsection M 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.

H. In the case of a registration under 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 under this subsection, but the director may not reject a depository solely because of location in another state.

I. The director by rule or order may require as a condition of registration under Section 58-13B-22 or 58-13B-23 NMSA 1978 that the proceeds from the sale of the registered security in this state 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 under this subsection, but the director may not reject a depository solely because of its location in another state.

J. If a security is registered pursuant to Section 58-13B-21 or 58-13B-22 NMSA 1978, the prospectus filed under the Securities Act of 1933 shall be delivered to each

purchaser in accordance with the prospectus delivery requirements of the Securities Act of 1933. With respect to a security registered under 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.

K. 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.

L. 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 this state, unless the director by rule or order provides otherwise. No registration statement is effective while a stop order is in effect under Subsection A of Section 58-13B-25 NMSA 1978.

M. 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.

N. A registration statement filed under 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.

O. A registration statement filed under 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.

P. Pursuant to Section 106(c) of the Secondary Mortgage Market Enhancement Act of 1984, any securities which are offered and sold pursuant to Section 4 (5) of the Securities Act of 1933 or that are mortgage- related securities, as that term is defined in Section 3 (a) (41) of the 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 under that act and shall not be treated as obligations issued by the United States for purposes of that act."

Section 2

Section 2

EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1996.

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SENATE BILL 295

SIGNED MARCH 5, 1996

Chapter 70

RELATING TO PUBLIC ASSISTANCE; AMENDING A SECTION OF THE PUBLIC ASSISTANCE ACT TO ALLOW ENTITIES CONTRACTING WITH THE HUMAN SERVICES DEPARTMENT TO NEGOTIATE A RATE OF REIMBURSEMENT FOR SERVICES PERFORMED BY MEDICAL PROVIDERS.

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

Section 1

Section 1

Section 27-2-12.3 NMSA 1978 (being Laws 1987, Chapter 269, Section 1) is amended to read:

"27-2-12.3. MEDICAID REIMBURSEMENT--EQUAL PAY FOR EQUAL PHYSICIANS', DENTISTS', OPTOMETRISTS', PODIATRISTS' AND PSYCHOLOGISTS' SERVICES.-- The human services department shall establish a rate for the reimbursement of physicians, dentists, optometrists, podiatrists and psychologists for services rendered to medicaid patients that provides equal reimbursement for the same or similar services rendered without respect to the date on which such physician, dentist, optometrist, podiatrist or psychologist entered into practice in New Mexico, the date on which the physician, dentist, optometrist, podiatrist or psychologist entered into an agreement or contract to provide such services or the location in which such services are to be provided in the state; provided, however, that the requirements of this section shall not apply when the human services department contracts with entities pursuant to Section 27-2-12.6 NMSA 1978 to negotiate a rate for the reimbursement for services rendered to medicaid patients in the medicaid managed care system."

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SENATE BILL 124

SIGNED MARCH 5, 1996

Chapter 71

RELATING TO EDUCATION; AUTHORIZING TUITION SCHOLARSHIPS AT CERTAIN POST-SECONDARY STATE EDUCATIONAL INSTITUTIONS; AMENDING AND ENACTING CERTAIN SECTIONS OF THE NMSA 1978.

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

Section 1

Section 1

Section 21-1-2 NMSA 1978 (being Laws 1970, Chapter 9, Section 1, as amended by Laws 1989, Chapter 44, Section 3 and by Laws 1989, Chapter 45, Section 3 and also by Laws 1989, Chapter 68, Section 1) is amended to read:

"21-1-2. MATRICULATION AND TUITION FEES.--

A. Except as otherwise provided in this section and in Section 21-1-4.3 NMSA 1978, the boards of regents of the university of New Mexico, New Mexico state university, New Mexico highlands university, western New Mexico university, eastern New Mexico university, New Mexico military institute, New Mexico institute of mining and technology

and New Mexico junior college shall establish and charge matriculation fees and tuition fees as follows:

- (1) each student shall be charged a matriculation fee of not less than five dollars (\$5.00) upon enrolling in each institution;
- (2) each student who is a resident of New Mexico shall be charged a tuition fee of not less than twenty dollars (\$20.00) a year;
- (3) each student who is not a resident of New Mexico shall be charged a tuition fee of not less than fifty dollars (\$50.00) a year;
- (4) each student shall be charged a tuition fee of not less than ten dollars (\$10.00) for each summer session; and
- (5) each student may be charged a tuition fee for extension courses.

B. Except as otherwise provided in this section and in Section 21-1-4.3 NMSA 1978, the board of regents of northern New Mexico state school shall establish and charge each student a matriculation fee and a tuition fee.

C. The board of regents of each institution may establish and grant gratis scholarships to students who are residents of New Mexico in an amount not to exceed the matriculation fee or tuition and fees, or both. Except as provided in Section 21-1-4.3 NMSA 1978, the number of scholarships established and granted shall not exceed three percent of the preceding fall semester enrollment in each institution and shall not be established and granted for summer sessions. The president of each institution shall select and recommend to the board of regents of his institution, as recipients of scholarships, students who possess good moral character and satisfactory initiative, scholastic standing and personality. At least thirty-three and one-third percent of the gratis scholarships established and granted by each board of regents each year shall be granted on the basis of financial need.

D. The board of regents of each institution set out in this subsection may establish and grant, in addition to those scholarships provided for in Subsection C of this section, athletic scholarships for tuition and fees. In no event shall the board of regents of any institution be allowed to award scholarships for tuition and fees for more than the number of athletic scholarships set out in this subsection and in no event shall more than seventy-five percent of the scholarships granted be for out-of-state residents:

- (1) the board of regents of the university of New Mexico may grant up to two hundred ninety-three athletic scholarships;
- (2) the board of regents of New Mexico state university may grant up to two hundred seventy athletic scholarships;

(3) the boards of regents of New Mexico highlands university, eastern New Mexico university and western New Mexico university may each grant up to one hundred forty athletic scholarships; and

(4) the board of regents of New Mexico junior college may grant up to fifty-two athletic scholarships.

E. Notwithstanding the provisions of Subsection D of this section, in computing tuition credits the commission on higher education shall accept the value of scholarships for tuition and fees established by the boards of regents of the university of New Mexico, New Mexico state university, eastern New Mexico university, western New Mexico university and New Mexico highlands university for athletes for the seventy-eighth fiscal year and all fiscal years thereafter. In no event shall the board of regents of any such institution be allowed to establish scholarships for tuition and fees for more than the number of athletic scholarships permitted that institution by regulations and bylaws of the national collegiate athletic association or the national association of intercollegiate athletics of which that institution is a member.

F. Matriculation fees and tuition fees shall be fixed and made payable as directed by the board of regents of each institution, collected by the officers of each institution and accounted for as are other funds of the institutions. Matriculation fees shall be charged only once for each institution in which a student enrolls."

Section 2

Section 2

Section 21-1-4 NMSA 1978 (being Laws 1971, Chapter 235, Section 1) is amended to read:

"21-1-4. TUITION CHARGES--DEFINITIONS.--

A. Except as provided in Section 21-1-4.3 NMSA 1978, the state educational institutions set forth in Article 12, Section 11 of the constitution of New Mexico shall charge tuition, which is in addition to earmarked fees, at rates provided by law.

B. During the regular academic year, "full-time student" means a student who is taking twelve or more credit-hours in one semester or quarter. Full-time students during the academic year shall be charged tuition at rates provided by law.

C. During the summer session, "full-time student" means a student who is taking at least a minimum number of credit-hours, which minimum is in the same proportion to twelve credit-hours as the duration and normal credit-hour load of the summer session in the particular institution is to the duration and normal credit-hour load of the institution's regular semester or quarter. Full-time students in the summer session shall be charged tuition at resident and nonresident rates in each institution, which rates shall

be in the same proportion to the full-time resident and nonresident rates of that institution for the regular semester or quarter as the minimum number of credit-hours is to twelve hours.

D. "Part-time student" means a student who is taking less than the minimum number of credit-hours in a semester, quarter or summer session than that required for full-time student status. Part-time students shall be charged tuition at rates per semester- or quarter-credit-hour as provided by law.

E. The commission on higher education shall define resident and nonresident students for the purpose of administering tuition charges in accordance with the constitution and statutes of the state and after consultation with the appropriate officials of the institutions concerned. Each institution shall use the uniform definitions so established in assessing and collecting tuition charges from students."

Section 3

Section 3

A new Section 21-1-4.3 NMSA 1978 is enacted to read:

"21-1-4.3. TUITION SCHOLARSHIPS AUTHORIZED--CERTAIN EDUCATIONAL INSTITUTIONS.--

A. To the extent that funds are made available by the legislature from the lottery tuition fund, the boards of regents of New Mexico state university, New Mexico institute of mining and technology, eastern New Mexico university, western New Mexico university, the university of New Mexico, New Mexico highlands university and northern New Mexico state school shall award tuition scholarships for qualified resident students attending their respective institutions and branches of those institutions.

B. Except as authorized in Subsection C of this section, the tuition scholarships authorized in this section shall apply only to full-time resident students who, immediately upon completion of a high school curriculum at a public or accredited private New Mexico high school, or upon receiving a graduate equivalent diploma, are accepted for entrance to and attend one of the state educational institutions set forth in this section or one of the branches of those institutions. Each tuition scholarship shall be awarded for up to four consecutive years beginning the second semester of the recipient's first year of enrollment, provided that the recipient has maintained residency in New Mexico and maintained a grade point average of 2.5 or higher on a 4.0 scale during his first semester of full-time enrollment.

C. The tuition scholarships authorized in this section shall also apply to full-time resident students who, immediately upon completion of a high school curriculum at a public or accredited private New Mexico high school, or upon receiving a graduate equivalent diploma, attend a two- year public post-secondary educational institution in New Mexico

and who, upon the completion of that curriculum or at the end of two years, whichever is sooner, transfer to one of the post-secondary state educational institutions set forth in this section. Those students shall be eligible for a tuition scholarship for two consecutive years, provided that those students maintain residency in New Mexico, maintain a grade-point average of 2.5 or higher on a 4.0 scale and attend the institution full time during the regular academic year.

D. The commission on higher education shall prepare guidelines setting forth explicit student continuing eligibility criteria and guidelines for administration of the tuition scholarship program. Guidelines shall be distributed to the board of regents of each institution to enable a uniform availability of the resident student tuition scholarships."

Section 4

Section 4

A new Section 21-1-4.4 NMSA 1978 is enacted to read:

"21-1-4.4. COMMISSION ON HIGHER EDUCATION-- DETERMINATION OF TUITION SCHOLARSHIPS--USE OF LOTTERY TUITION FUND.--Prior to June 1 of each year, the commission on higher education shall determine the amount of money available for tuition scholarships at state public post-secondary educational institutions. Based on the amount appropriated by the legislature from the lottery tuition fund and on the projected enrollment at all public post-secondary educational institutions, the commission on higher education shall establish the percentage of tuition that shall be awarded for qualified resident students attending New Mexico public post-secondary educational institutions. The percentage of tuition awarded shall be the same for each institution, regardless of the actual cost of tuition at each institution."

Section 5

Section 5

Section 21-13-10 NMSA 1978 (being Laws 1963, Chapter 17, Section 9, as amended) is amended to read:

"21-13-10. BOARD DUTIES.--

A. It shall be the duty of the community college board to determine financial and educational policies of the community college. The community college board shall provide for the management of the community college and execution of these policies by selecting a competent president for the community college, and, upon the president's recommendation, the board shall employ other administrative personnel, instructional staff or other personnel as may be needed for the operation, maintenance and administration of the community college.

B. The community college board shall have the power to fix tuition and fee rates for resident and nonresident students of the district, to accept gifts, to accept federal aid, to purchase, hold, sell and rent property and equipment and to promote the general welfare of the institution for the best interest of educational service to the people of the community college district.

C. To the extent that funds are made available by the legislature from the lottery tuition fund, the community college board shall award tuition scholarships for qualified resident students attending their respective institutions.

D. The tuition scholarships authorized in this section shall apply only to full-time resident students who, immediately upon completion of a high school curriculum at a public or accredited private New Mexico high school, or upon receiving a graduate equivalent diploma, are accepted for entrance to and attend a community college. Each tuition scholarship shall be awarded for up to two consecutive years beginning the second semester of the recipient's first year of enrollment, provided that the recipient has maintained residency in New Mexico and maintained a grade- point average of 2.5 or higher on a 4.0 scale during his first semester of full-time enrollment.

E. The commission on higher education shall prepare guidelines setting forth explicit student continuing eligibility criteria and guidelines for administration of the tuition scholarship program. Guidelines shall be distributed to community college boards to enable a uniform availability of the resident student tuition scholarship."

Section 6

Section 6

A new section of the Technical and Vocational Institute Act is enacted to read:

"TUITION SCHOLARSHIPS AUTHORIZED.--

A. To the extent that funds are made available by the legislature from the lottery tuition fund, the board of a technical and vocational institute shall award tuition scholarships for qualified resident students attending a technical and vocational institute.

B. The tuition scholarships authorized in this section shall apply only to full-time resident students who, immediately upon completion of a high school curriculum at a public or accredited private New Mexico high school, or upon receiving a graduate equivalent diploma, are accepted for entrance to and attend a technical and vocational institute. Each tuition scholarship shall be awarded for up to two consecutive years beginning the second semester of the recipient's first year of enrollment, provided that the recipient has maintained residency in New Mexico and maintained a grade- point average of 2.5 or higher on a 4.0 scale during his first semester of full-time enrollment.

C. The commission on higher education shall prepare guidelines setting forth explicit student continuing eligibility criteria and guidelines for administration of the tuition scholarship program. Guidelines shall be distributed to the boards of technical and vocational institutes to enable a uniform availability of the resident student tuition scholarships."

Section 7

Section 7

A new section of Chapter 21, Article 17 NMSA 1978 is enacted to read:

"TUITION SCHOLARSHIPS AUTHORIZED.--

A. To the extent that funds are made available by the legislature from the lottery tuition fund, the board of an area vocational school shall award tuition scholarships for qualified resident students attending its area vocational school.

B. The tuition scholarships authorized in this section shall apply only to full-time resident students who, immediately upon completion of a high school curriculum at a public or accredited private New Mexico high school, or upon receiving a graduate equivalent diploma, are accepted for entrance to and attend an area vocational school. Each tuition scholarship shall be awarded for up to two consecutive years beginning the second semester of the recipient's first year of enrollment, provided that the recipient has maintained residency in New Mexico and maintained a grade- point average of 2.5 or higher on a 4.0 scale during his first semester of full-time enrollment.

C. The commission on higher education shall prepare guidelines setting forth explicit student qualification criteria and guidelines for administration of the tuition scholarship program. Guidelines shall be distributed to the boards of all area vocational schools to enable a uniform availability of the resident student tuition scholarships."

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SENATE BILL 31, AS AMENDED

SIGNED MARCH 5, 1996

Chapter 72

RELATING TO ENERGY; AMENDING SECTIONS OF THE NMSA 1978 TO PROVIDE FOR THE RESTORATION AND REMEDIATION OF ABANDONED WELL SITES.

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

Section 1

Section 1

Section 7-30-4 NMSA 1978 (being Laws 1959, Chapter 53, Section 4, as amended) is amended to read:

"7-30-4. OIL AND GAS CONSERVATION TAX LEVIED-- COLLECTED BY DEPARTMENT--RATE--INTEREST OWNER'S LIABILITY TO STATE--INDIAN LIABILITY.--

A. There is levied and shall be collected by the department a tax on all products that are severed and sold. The measure and rate of the tax shall be nineteen one-hundredths of one percent of the taxable value of sold products. Every interest owner shall be liable for this tax to the extent of the owner's interest in the value of such products or to the extent of the owner's interest as may be measured by the value of such products. Any Indian tribe, Indian pueblo or Indian shall be liable for this tax to the extent authorized or permitted by law.

B. In the event the unencumbered balance in the oil and gas reclamation fund equals or exceeds one million dollars (\$1,000,000) for any one-month period computed after receipt of the tax for that month, then the rate of the tax levied by this section shall be eighteen one-hundredths of one percent beginning with the first day of the second month following the month in which the unencumbered balance equaled or exceeded one million dollars (\$1,000,000), and no funds collected by the tax with respect to any period for which the rate is eighteen one-hundredths of one percent shall be distributed to the oil and gas reclamation fund. After having been reduced to eighteen one-hundredths of one percent, the rate of the tax imposed by this section shall remain at that rate until the unencumbered balance in the oil and gas reclamation fund is less than or equal to five hundred thousand dollars (\$500,000) for any one-month period computed after receipt of the tax for that month, in which event the rate of the tax levied by this section shall be increased to nineteen one-hundredths of one percent beginning with the first day of the second month following the month in which the unencumbered balance equaled or was less than five hundred thousand dollars (\$500,000), and the additional funds with respect to any period for which the rate is nineteen one-hundredths of one percent shall be distributed to the oil and gas reclamation fund in accordance with the provisions of the Tax Administration Act.

C. The department shall notify taxpayers of any change in the rate of tax imposed by this section."

Section 2

Section 2

Section 70-2-12 NMSA 1978 (being Laws 1978, Chapter 71, Section 1, as amended) is amended to read:

"70-2-12. ENUMERATION OF POWERS.--

A. Included in the power given to the oil conservation division of the energy, minerals and natural resources department is the authority to collect data; to make investigations and inspections; to examine properties, leases, papers, books and records; to examine, check, test and gauge oil and gas wells, tanks, plants, refineries and all means and modes of transportation and equipment; to hold hearings; to provide for the keeping of records and the making of reports and for the checking of the accuracy of the records and reports; to limit and prorate production of crude petroleum oil or natural gas or both as provided in the Oil and Gas Act; to require either generally or in particular areas certificates of clearance or tenders in connection with the transportation of crude petroleum oil or natural gas or any products of either or both oil and products or both natural gas and products.

B. Apart from any authority, express or implied, elsewhere given to or existing in the oil conservation division by virtue of the Oil and Gas Act or the statutes of this state, the division is authorized to make rules, regulations and orders for the purposes and with respect to the subject matter stated in this subsection:

(1) to require dry or abandoned wells to be plugged in a way to confine the crude petroleum oil, natural gas or water in the strata in which it is found and to prevent it from escaping into other strata; the division shall require a cash or surety bond in a sum not to exceed fifty thousand dollars (\$50,000) conditioned for the performance of such regulations;

(2) to prevent crude petroleum oil, natural gas or water from escaping from strata in which it is found into other strata;

(3) to require reports showing locations of all oil or gas wells and for the filing of logs and drilling records or reports;

(4) to prevent the drowning by water of any stratum or part thereof capable of producing oil or gas or both oil and gas in paying quantities and to prevent the premature and irregular encroachment of water or any other kind of water encroachment that reduces or tends to reduce the total ultimate recovery of crude petroleum oil or gas or both oil and gas from any pool;

(5) to prevent fires;

(6) to prevent "blow-ups" and "caving" in the sense that the conditions indicated by such terms are generally understood in the oil and gas business;

(7) to require wells to be drilled, operated and produced in such manner as to prevent injury to neighboring leases or properties;

(8) to identify the ownership of oil or gas producing leases, properties, wells, tanks, refineries, pipelines, plants, structures and all transportation equipment and facilities;

(9) to require the operation of wells with efficient gas-oil ratios and to fix such ratios;

(10) to fix the spacing of wells;

(11) to determine whether a particular well or pool is a gas or oil well or a gas or oil pool, as the case may be, and from time to time to classify and reclassify wells and pools accordingly;

(12) to determine the limits of any pool producing crude petroleum oil or natural gas or both and from time to time redetermine the limits;

(13) to regulate the methods and devices employed for storage in this state of oil or natural gas or any product of either, including subsurface storage;

(14) to permit the injection of natural gas or of any other substance into any pool in this state for the purpose of repressuring, cycling, pressure maintenance, secondary or any other enhanced recovery operations;

(15) to regulate the disposition of water produced or used in connection with the drilling for or producing of oil or gas or both and to direct surface or subsurface disposal of the water in a manner that will afford reasonable protection against contamination of fresh water supplies designated by the state engineer;

(16) to determine the limits of any area containing commercial potash deposits and from time to time redetermine the limits;

(17) to regulate and, where necessary, prohibit drilling or producing operations for oil or gas within any area containing commercial deposits of potash where the operations would have the effect unduly to reduce the total quantity of the commercial deposits of potash which may reasonably be recovered in commercial quantities or where the operations would interfere unduly with the orderly commercial development of the potash deposits;

(18) to spend the oil and gas reclamation fund and do all acts necessary and proper to plug dry and abandoned oil and gas wells and to restore and remediate abandoned well sites and associated production facilities in accordance with the provisions of the Oil and Gas Act, the rules and regulations adopted under that act and the Procurement Code, including disposing of salvageable equipment and material removed from oil and gas wells being plugged by the state;

(19) to make well price category determinations pursuant to the provisions of the Natural Gas Policy Act of 1978 or any successor act and, by regulation, to adopt fees for such determinations, which fees shall not exceed twenty-five dollars (\$25.00) per filing. Such fees shall be credited to the account of the oil conservation division by the state treasurer and may be expended as authorized by the legislature;

(20) to regulate the construction and operation of oil treating plants and to require the posting of bonds for the reclamation of treating plant sites after cessation of operations;

(21) to regulate the disposition of nondomestic wastes resulting from the exploration, development, production or storage of crude oil or natural gas to protect public health and the environment; and

(22) to regulate the disposition of nondomestic wastes resulting from the oil field service industry, the transportation of crude oil or natural gas, the treatment of natural gas or the refinement of crude oil to protect public health and the environment, including administering the Water Quality Act as provided in Subsection E of Section 74-6-4 NMSA 1978."

Section 3

Section 3

Section 70-2-38 NMSA 1978 (being Laws 1977, Chapter 237, Section 5, as amended) is amended to read:

"70-2-38. OIL AND GAS RECLAMATION FUND ADMINISTERED--PLUGGING WELLS ON FEDERAL LAND--RIGHT OF INDEMNIFICATION--ANNUAL REPORT-- CONTRACTORS SELLING EQUIPMENT FOR SALVAGE.--

A. The oil and gas reclamation fund shall be administered by the oil conservation division of the energy, minerals and natural resources department. Expenditures from the fund may be used by the director of the division for the purpose of employing the necessary personnel to survey abandoned wells, well sites and associated production facilities and to prepare plans for the plugging of abandoned wells that have not been plugged or that have been improperly plugged and for the restoration and remediation of abandoned well sites and associated production facilities that have not been properly restored and remediated. The director, as funds become available in the oil and gas reclamation fund, shall reclaim and properly plug all abandoned wells and shall restore and remediate abandoned well sites and associated production facilities in accordance with the provisions of the Oil and Gas Act and the rules and regulations promulgated pursuant to that act. The division may order wells plugged and well sites and associated production facilities restored and remediated on federal lands on which there are no bonds running to the benefit of the state in the same manner and in accordance with the same procedure as with wells drilled on state and fee land, including utilizing funds from the oil and gas reclamation fund to pay the cost of plugging. When the costs of plugging

a well drilled on federal mineral leases or restoring and remediating well sites and associated production facilities are paid from the oil and gas reclamation fund, the division is authorized to bring a suit against the operator or the owner of the minerals under the tract, or both, in the district court of the county in which the well is located for indemnification for all costs incurred by the division in plugging the well or restoring and remediating the well site and associated production facilities. Any funds collected pursuant to a judgment in a suit for indemnification brought under the Oil and Gas Act shall be deposited in the oil and gas reclamation fund.

B. The director of the oil conservation division of the energy, minerals and natural resources department shall make an annual report to the secretary of energy, minerals and natural resources, the governor and the legislature on the use of the oil and gas reclamation fund.

C. All contracts for well plugging shall be entered into in accordance with the provisions of the Procurement Code. Any contractor employed by the oil conservation division of the energy, minerals and natural resources department to plug a well is authorized to sell for salvage the equipment and material that is removed from the well in plugging it."

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SENATE BILL 245, AS AMENDED

SIGNED MARCH 5, 1996

Chapter 73

RELATING TO INSURANCE; AMENDING SECTIONS OF THE INSURANCE HOLDING COMPANY LAW TO INCLUDE HEALTH MAINTENANCE ORGANIZATIONS IN AN INSURER'S PAYMENT OF DIVIDENDS OR DISTRIBUTIONS.

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

Section 1

Section 1

Section 59A-37-2 NMSA 1978 (being Laws 1984, Chapter 127, Section 617, as amended) is amended to read:

"59A-37-2. DEFINITIONS.--As used in Chapter 59A, Article 37 NMSA 1978:

A. "acquire" means to come into possession or control of, and "acquisition" means any agreement, arrangement or activity the consummation of which results in a person

acquiring directly or indirectly the control of another person and includes but is not limited to the acquisition of voting securities or assets, bulk reinsurance and mergers;

B. "affiliate" means a person that directly or indirectly is controlled by, is under common control with or controls another person;

C. "control" means 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 of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by an individual. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote or holds ten or more percent of the voting securities of any other person. This presumption may be rebutted by a showing, in the manner provided by Section 59A-37-19 NMSA 1978, that control does not in fact exist. The superintendent may determine, after furnishing all persons in interest notice and an opportunity to be heard, that control exists in fact, notwithstanding the absence of a presumption to that effect, provided that the determination is based on specific findings of fact in its support;

D. "insurance holding company" is a person which controls an insurer; "insurance holding company system" means a combination of two or more affiliated persons, at least one of which is an insurer;

E. "insurer" means a person which undertakes, under contract, to indemnify a person against loss, damage or liability arising from an unknown or contingent future event. The term does not include agencies, authorities or instrumentalities of the United States, its possessions or territories, the commonwealth of Puerto Rico, the District of Columbia, a state or any of its political subdivisions, a fraternal benefit society or a nonprofit medical and hospital service association;

F. "person" means an individual, corporation, association, partnership, joint stock company, trust, unincorporated organization or any similar entity or combination of entities;

G. "securityholder" means the owner of any security of a person, including common stock, preferred stock, debt obligations and any other security convertible into or evidencing the right to acquire any of the foregoing;

H. "subsidiary" means an affiliate of a person controlled by the person either directly or indirectly through one or more intermediaries;

I. "voting security" means a certificate evidencing the ownership or indebtedness of a person, to which is attached a right to vote on the management or policymaking of that person and includes any security convertible into or evidencing a right to acquire such a voting security; and

J. "health maintenance organization" means any person which undertakes to provide or arrange for the delivery of basic health care services to enrollees on a prepaid basis, except for enrollee responsibility for co-payments or deductibles."

Section 2

Section 2

Section 59A-37-22 NMSA 1978 (being Laws 1984, Chapter 127, Section 637, as amended) is amended to read:

"59A-37-22. DIVIDENDS AND OTHER DISTRIBUTIONS.--

A. No domestic stock insurer shall declare or distribute any dividend to shareholders, other than a pro rata distribution of any class of the insurer's own securities, except out of earned surplus. For purposes of this section, "earned surplus" means the portion of the surplus that represents the net earnings, gains or profits, after deduction of all losses, that have not been distributed to the shareholders as dividends or transferred to stated capital or capital surplus or applied to other purposes permitted by law, but does not include twenty-five percent of the unrealized appreciation of assets.

B. No domestic insurer shall pay an extraordinary dividend or make any other extraordinary distribution to its shareholders until:

(1) thirty days after the superintendent has received notice of the declaration thereof and has not within such period disapproved such payment; or

(2) the superintendent shall have approved such payment within the thirty-day period.

C. For the purposes of Sections 59A-37-20 through 59A-37- 22 NMSA 1978, an extraordinary dividend or distribution includes any dividend or distribution of cash or other property, whose fair market value together with that of other dividends or distributions made within the preceding twelve months exceeds the lesser of ten percent of the insurer's surplus as regards policyholders as of December 31 next preceding or the net gain from operations of the insurer, if the insurer is either a life insurer or a health maintenance organization, or the net investment income, if the insurer is not a life insurer or a health maintenance organization, not including realized capital gains, for the twelve-month period ending December 31 next preceding, but shall not include pro rata distributions of any class of the insurer's own securities.

D. In determining whether a dividend or distribution is extraordinary:

(1) an insurer other than a life insurer or a health maintenance organization may carry forward net income from the previous three calendar years that has not already been paid out as dividends, which carry-forward shall be computed by taking the net income from the second, third and fourth preceding calendar years, not including realized

capital gains, less dividends paid in the third, second and immediate preceding calendar years; and

(2) a life insurer or a health maintenance organization may carry forward net gains from operations not including realized capital gains from the previous two calendar years that have not already been paid out as dividends, which carry-forward shall be computed by taking the net gain from the second and third preceding calendar years, not including realized capital gains, less dividends paid in the second and immediate preceding calendar years.

E. Notwithstanding any other provision of law, an insurer may declare an extraordinary dividend or distribution which is conditioned upon the superintendent's approval thereof, and such a declaration shall confer no rights upon shareholders until:

(1) the superintendent has approved the payment of the dividend or distribution; or

(2) the superintendent has not disapproved the payment within thirty days after he has received notice of the declaration."

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SENATE BILL 280

SIGNED MARCH 5, 1996

Chapter 74

RELATING TO THE CHRISTMAS TREE TAG FEE; AMENDING AND REPEALING CERTAIN SECTIONS OF THE NMSA 1978.

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

Section 1

Section 1

Section 68-2-28 NMSA 1978 (being Laws 1987, Chapter 143, Section 6) is amended to read:

"68-2-28. FOREST LAND PROTECTION REVOLVING FUND CREATED.--There is created in the state treasury a revolving fund to be known as the "forest land protection revolving fund". The forest land protection revolving fund shall consist of all receipts as provided by Section 68-2-26 NMSA 1978. Expenditures may be made from the forest land protection revolving fund upon vouchers signed by the state forester and warrants issued by the secretary of finance and administration for the administration and

enforcement of the Forest Conservation Act. Money in the forest land protection revolving fund shall not revert to the general fund."

Section 2

Section 2

REPEAL.--Section 68-2-22.1 NMSA 1978 (being Laws 1987, Chapter 143, Section 3) is repealed.

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SENATE BILL 387

SIGNED MARCH 5, 1996

Chapter 75

RELATING TO PUBLIC FINANCING; AMENDING SECTIONS OF THE NEW MEXICO FINANCE AUTHORITY ACT; DECLARING AN EMERGENCY.

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

Section 1

Section 1

Section 6-21-3 NMSA 1978 (being Laws 1992, Chapter 61, Section 3, as amended) is amended to read:

"6-21-3. DEFINITIONS.--As used in the New Mexico Finance Authority Act:

- A. "authority" means the New Mexico finance authority;
- B. "bond" means any bonds, notes, certificates of participation or other evidence of indebtedness;
- C. "bondholder" or "holder" means a person who is the owner of a bond, whether registered or not;
- D. "public project" means the acquisition, construction, improvement, alteration or reconstruction of assets of a long-term capital nature by a qualified entity, including but not limited to land; buildings; water rights; water, sewerage and waste disposal systems; streets; airports; municipal utilities; parking facilities; and machinery, furniture and

equipment. "Public project" includes all proposed expenditures related to the entire undertaking;

E. "qualified entity" means the state or any agency or institution of the state or any county, municipality, school district, special district, community water association or an Indian nation, tribe or pueblo located wholly or partially in New Mexico, including a political subdivision or a wholly owned enterprise of an Indian nation, tribe or pueblo; and

F. "security" or "securities", unless the context indicates otherwise, means bonds, notes or other evidence of indebtedness issued by a qualified entity or leases or certificates or other evidence of participation in the lessor's interest in and rights under a lease with a qualified entity and that are payable from taxes, revenues, rates, charges, assessments or user fees or from the proceeds of funding or refunding bonds, notes or other evidences of indebtedness of a qualified entity or from certificates or evidence of participation in a lease with a qualified entity."

Section 2

Section 2

Section 6-21-23 NMSA 1978 (being Laws 1992, Chapter 61, Section 23, as amended) is amended to read:

"6-21-23. PROHIBITED ACTIONS.--The authority shall not:

A. lend money or make a grant other than to a qualified entity;

B. purchase securities other than from a qualified entity or other than for investment as provided in the New Mexico Finance Authority Act;

C. lease a public project to any entity other than a qualified entity;

D. deal in securities within the meaning of or subject to any securities law, securities exchange law or securities dealers law of the United States or of the state or of any other state or jurisdiction, domestic or foreign, except as authorized in the New Mexico Finance Authority Act;

E. issue bills of credit or accept deposits of money for time on demand deposit or administer trusts or engage in any form or manner, or in the conduct of, any private or commercial banking business, or act as a savings bank or savings and loan association or any other kind of financial institution except as authorized in the New Mexico Finance Authority Act;

F. engage in any form of private or commercial banking business except as authorized in the New Mexico Finance Authority Act; or

G. lend money, issue bonds, including public-private partnership project bonds, or make a grant for the promotion of gaming or a gaming enterprise or for development of infrastructure for a gaming facility."

Section 3

Section 3

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

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SENATE WAYS AND MEANS COMMITTEE

SUBSTITUTE FOR SENATE BILL 583

WITH EMERGENCY CLAUSE

SIGNED MARCH 5, 1996

Chapter 76

RELATING TO EDUCATIONAL ASSISTANCE REVENUE BONDS; EXTENDING THE TERM FOR WHICH BONDS MAY BE ISSUED TO THIRTY YEARS; DECLARING AN EMERGENCY.

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

Section 1

Section 1

Section 21-21A-8 NMSA 1978 (being Laws 1981, Chapter 319, Section 8, as amended) is amended to read:

"21-21A-8. ISSUANCE OF REVENUE BONDS.--The foundation may from time to time issue negotiable revenue bonds. The proceeds of the sale of the bonds issued pursuant to the Educational Assistance Act may be used to fund reserves for the bonds, to pay interest on the bonds and to pay the necessary expenses of issuing the bonds, including but not limited to bond counsel and fiscal advisory fees and other legal, consulting and printing fees and costs. All bonds may be issued in one or more series. The bonds of each issue shall be dated and bear interest, payable as prescribed by the foundation. The bonds shall mature serially or otherwise not later than thirty years from their date and may be redeemable before maturity, at the option of the foundation, at

prices and under terms and conditions fixed by the foundation in its resolution or trust agreement providing for issuance of the bonds. The resolution or trust agreement shall also determine the form of the bonds, including the form of any interest coupons to be attached to the bonds, and shall fix the denominations of the bonds and the place of the payment of the principal and interest of the bonds. The bonds shall be executed on behalf of the foundation as special obligations of the foundation payable only from the funds specified in the Educational Assistance Act and shall not be a debt of the state, any eligible post-secondary institution or any municipality, and neither the state nor any eligible post-secondary institution or municipality shall be liable for the bonds. The resolution or trust agreement may provide for registration of the bonds as to ownership and for successive conversion and reconversion from registered to bearer bonds and vice versa. The bonds may be registered in the office of the foundation. After the registration and delivery to the purchasers, the bonds are incontestable and constitute special obligations of the foundation, and the bonds and coupons are negotiable instruments under the laws of the state. The bonds may be sold at public or private sale by the foundation at prices and in accordance with procedures and terms it determines to be advantageous and reasonably obtainable. The foundation may provide for replacement of any bond which is mutilated or destroyed. No bond proceeds may be expended for the making or purchase of any educational loan, unless such loan is an insured educational loan."

Section 2

Section 2

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

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SENATE BILL 270

WITH EMERGENCY CLAUSE

SIGNED MARCH 5, 1996

Chapter 77

RELATING TO AGRICULTURE; ENACTING THE COTTON BOLL WEEVIL CONTROL ACT.

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

Section 1

Section 1

SHORT TITLE.--This act may be cited as the "Cotton Boll Weevil Control Act".

Section 2

Section 2

NEW MEXICO DEPARTMENT OF AGRICULTURE.-- The Cotton Boll Weevil Control Act is to be administered by the New Mexico department of agriculture, under the direction of the board of regents of New Mexico state university.

Section 3

Section 3

DEFINITIONS.--As used in the Cotton Boll Weevil Control Act:

- A. "board" means the board of regents of New Mexico state university;
- B. "cotton boll weevil" means any life stage of the cotton insect *Anthonomus grandis* Boheman;
- C. "cotton boll weevil control committee" means the persons, not less than three nor more than seven, elected by a majority of the cotton producers in a designated cotton boll weevil control district;
- D. "cotton boll weevil control district" means a designated area duly established under the Cotton Boll Weevil Control Act wherein a program to suppress or eradicate the cotton boll weevil is administered;
- E. "cotton producer" means any person growing five or more acres of cotton plants. For the purposes of the Cotton Boll Weevil Control Act, only one person from any farm, sole proprietorship, corporation, partnership or any other legal business arrangement shall be eligible to vote to establish or dissolve a cotton boll weevil control district;
- F. "department" means the New Mexico department of agriculture; and
- G. "director" means the director of the New Mexico department of agriculture.

Section 4

Section 4

DUTIES AND POWERS.--The director shall determine any critically infested or threatened agricultural areas within New Mexico, hold public hearings within the

proposed cotton boll weevil control district determined to be critically infested or at risk and provide technical support and advice in the formulation of plans for the control or eradication of such infestation.

Section 5

Section 5

COTTON BOLL WEEVIL CONTROL COMMITTEE-- DUTIES AND POWERS.--

A. The local cotton boll weevil control committee shall prescribe control measures for any cotton planted within a control district. When prescribing control measures, the committee shall make every effort to adhere to integrated pest management practices and the management goals of individual cotton producers consistent with the goal of complete eradication of the cotton boll weevil.

B. The cotton boll weevil control committee may adopt regulations to set the method for determining the yield per acre of cotton lands under the control of the cotton producer for purposes of calculating the assessment amount due.

Section 6

Section 6

ESTABLISHMENT OF COTTON BOLL WEEVIL CONTROL DISTRICT.--Any five or more persons producing cotton for which it is proposed to establish a cotton boll weevil control district may file a petition with the department asking that a cotton boll weevil control district be established. The petition shall set forth:

A. a concise statement of the reasons for the establishment of a cotton boll weevil control district;

B. a request that a referendum be held among the cotton producers on the question of the establishment of a cotton boll weevil control district;

C. the name and address of the individual who is authorized to represent the petitioners;

D. the maximum per unit assessment on the cotton acreage or production for which the cotton boll weevil control district is established; and

E. the method of levy and collection of an assessment upon cotton producers for the support of the cotton boll weevil control district.

Section 7

Section 7

PETITION FILING FEE.--The director shall prepare and deliver to the petitioners an original budget estimate of the cost of the proposed hearings and referendum. The petitioners, within thirty days after receipt of the cost estimate, shall remit to the director the amount of the cost estimate.

Section 8

Section 8

HEARINGS.--Within sixty days after the petition has been filed with the director and upon payment of the cost estimate, the director shall cause notices to be given of the proposed hearings in areas of the state where the cotton boll weevil is of economic importance. The notices of hearing shall be published at least fourteen days prior to the date of hearing in a newspaper of general circulation in the proposed cotton boll weevil control district.

Section 9

Section 9

DETERMINATION BY DIRECTOR.--After the public hearing, the director shall determine, based upon the facts presented and other relevant data available, if there is a need for the creation of a cotton boll weevil control district and if the need is sufficient to justify the holding of a referendum thereon. Subsequent petitions relating to the same locale may not be filed or action taken thereon within one year from the date the director has recorded a determination denying the need for the creation of a cotton boll weevil control district.

Section 10

Section 10

REFERENDUM--COTTON BOLL WEEVIL CONTROL DISTRICTS--LOCAL COTTON BOLL WEEVIL CONTROL COMMITTEES.--After public hearing, if the director decides there is justification for creating a cotton boll weevil control district, the department shall hold a referendum. When cotton producers who represent sixty-six percent of the cotton acreage within the area threatened with or infested by the cotton boll weevil vote in favor of the establishment of a cotton boll weevil control district, such a cotton boll weevil control district shall be created. The cotton producers within a cotton boll weevil control district shall promptly establish, and shall elect not less than three nor more than seven members to a local cotton boll weevil control committee. The committee members shall not receive per diem or compensation for their services. Cotton boll weevil control districts and local cotton boll weevil control committees shall cease to exist six months after the successful eradication of the agricultural cotton boll weevil, as determined by the director, or at the end of five years from the date of their creation, whichever is sooner. A petition to continue the cotton boll weevil control district may be

made to the director six months prior to the scheduled date for termination of the cotton boll weevil control district. After a public hearing on the petition, the director may extend the termination date of any cotton boll weevil control district for a period not to exceed three years without a referendum.

Section 11

Section 11

LOCAL COTTON BOLL WEEVIL CONTROL COMMITTEES--ADDITIONAL DUTIES AND POWERS.--

A. In the performance of this function, local cotton boll weevil control committees may:

- (1) conduct programs to suppress or eradicate designated cotton boll weevils within their local cotton boll weevil control district;
- (2) cooperate in the administration of the Cotton Boll Weevil Control Act through the use of state or federal personnel and facilities or both;
- (3) enter into contracts or cooperative agreements with other agencies, including federal agencies;
- (4) publish information and conduct seminars on the distribution and control of the cotton boll weevil; and
- (5) levy and collect a special assessment, based on cotton acreage or cotton yield per acre within the cotton boll weevil control district.

B. Local cotton boll weevil control committees shall provide a complete accounting of the funds collected through the special assessment to all participating cotton producers in the cotton boll weevil control district.

Section 12

Section 12

AGRICULTURAL LAND ASSESSMENT-- ENFORCED COLLECTION.--Payment of the special assessment levied by a local cotton boll weevil control committee against a cotton producer shall be due and payable upon the cotton producer's receipt of an assessment statement from the local cotton boll weevil control committee. The committee's statement shall indicate:

A. the total number of acres treated within the cotton boll weevil control district during the control program;

- B. the total acres treated, if any, that are under the control of the land user assessed;
- C. the total amount of funds expended, or estimated to be spent, in the cotton boll weevil control district for the control program;
- D. the total acres and yield per acre of lands under the control of the land user assessed; and
- E. the amount assessed against the land user.

Section 13

Section 13

PETITION FOR ABOLISHMENT OF A COTTON BOLL WEEVIL CONTROL DISTRICT.--Any five or more persons producing cotton within a cotton boll weevil control district may file a petition with the department asking that a cotton boll weevil control district be abolished. The petition shall set forth:

- A. the name and description of the cotton boll weevil control district to be abolished;
- B. a concise statement of the reasons for the abolishment of the cotton boll weevil control district;
- C. a request that a referendum be held among the producers of the crop on the question of the abolishment of the cotton boll weevil control district; and
- D. the name and address of the individual who is authorized to represent the petitioners.

Section 14

Section 14

PETITION FILING FEE.--The director shall prepare and deliver to the petitioners an original budget estimate of the cost of the proposed hearings and referendum. The petitioners, within thirty days after receipt of the cost estimate, shall remit to the director the amount of the cost estimate.

Section 15

Section 15

HEARINGS REGARDING ABOLISHMENT OF A COTTON BOLL WEEVIL CONTROL DISTRICT--NOTICE OF HEARINGS.--Within thirty days after the petition has been filed with the director and upon payment of the cost estimate, the director shall cause notices to be given of the hearing in the affected cotton boll weevil control district. The notice of

hearing shall be published at least fourteen days prior to the date of hearing in a newspaper of general circulation in the affected cotton boll weevil control district. After public hearing, if the director decides there is justification for abolishing a cotton boll weevil control district, the department shall hold a referendum. When cotton producers who represent sixty-six percent of the cotton acreage within a cotton boll weevil control district vote in favor of the abolishment of the cotton boll weevil control district, such a cotton boll weevil control district shall be abolished. The local cotton boll weevil control committee shall promptly move to cease expenditures of cotton boll weevil control district funds and make an accounting of funds spent and return remaining funds in accordance with Section 16 of the Cotton Boll Weevil Control Act.

Section 16

Section 16

DISPOSITION OF ASSESSMENT PROCEEDS.--Funds collected by the local cotton boll weevil control committee are not state funds and are not required to be deposited in the state treasury. A local cotton boll weevil control committee shall deposit all money collected in a state chartered bank or other insured depository. Funds collected by one local cotton boll weevil control committee shall be held separate from funds collected by another local cotton boll weevil control committee. Funds remaining at the termination of a cotton boll weevil control district shall be distributed to cotton producers in proportion to the percentage they contributed during the life of the cotton boll weevil control district.

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SENATE BILL 735, AS AMENDED

SIGNED MARCH 5, 1996

Chapter 78

RELATING TO SECURITY INTERESTS; PROVIDING PROCEDURES RELATING TO A SECURITY INTEREST IN A MANUFACTURED HOME; CONFIRMING SECURITY INTEREST PROCEDURES FOR VEHICLES; AMENDING A SECTION OF THE NMSA 1978.

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

Section 1

Section 1

Section 66-3-202 NMSA 1978 (being Laws 1978, Chapter 35, Section 74) is amended to read:

"66-3-202. FILING EFFECTIVE TO GIVE NOTICE.--

A. On or after June 1, 1996, the filing of an application with the division and the issuance of a new certificate of title by the division as provided in Section 66-3-201 NMSA 1978 constitute constructive notice of all security interests in the vehicle described in the application. Except for a manufactured home or recreational vehicle, if the application is received by the division within ten days after the date the security agreement was executed, constructive notice shall be effective as of the date of the execution of the security agreement, and the security interest shall be deemed to have been filed and perfected as of that date and shall have priority over other liens attached or filed subsequent to that date, except for tax liens filed by the state, county or federal governments. In the case of a manufactured home or recreational vehicle, if the application is received by the division within sixty days after the date the security agreement was executed, constructive notice shall be effective as of the date of the execution of the security agreement, and the security agreement shall be deemed to have been filed and perfected as of that date and shall have priority over other liens attached or filed subsequent to that date, except for tax liens filed by the state, county or federal governments. In all other cases, constructive notice shall be effective as of the date of receipt noted on the title application.

B. The method provided in this article for perfecting a security interest shall be exclusive except as to liens dependent upon possession and property tax liens on manufactured homes perfected under Section 66-3-204 NMSA 1978.

C. The constructive notice provided for in this section terminates twelve months after the maturity date of the debt. Unless refiled in a manner prescribed by the division within twelve months after the maturity date, the division may ignore the security interest in the issuance of all subsequent certificates of title."

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SENATE BILL 862, AS AMENDED

SIGNED MARCH 5, 1996

Chapter 79

RELATING TO CRIMINAL LAW; REQUIRING LIFE IMPRISONMENT FOR PERSONS HAVING TWO VIOLENT SEXUAL OFFENSE CONVICTIONS; ESTABLISHING SENTENCING PROCEDURES; AMENDING AND ENACTING SECTIONS OF THE CRIMINAL SENTENCING ACT; AMENDING A SECTION OF THE PROBATION AND PAROLE ACT.

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

Section 1

Section 1

A new section of the Criminal Sentencing Act, Section 31-18-25 NMSA 1978, is enacted to read:

"31-18-25. TWO VIOLENT SEXUAL OFFENSE CONVICTIONS-- MANDATORY LIFE IMPRISONMENT--EXCEPTION.--

A. When a defendant is convicted of a second violent sexual offense, and each violent sexual offense conviction is part of a separate transaction or occurrence, and at least the second violent sexual offense conviction is in New Mexico, the defendant shall, in addition to the punishment imposed for the second violent sexual offense conviction, be punished by a sentence of life imprisonment. The life imprisonment sentence shall be subject to parole pursuant to the provisions of Section 31-21-10 NMSA 1978.

B. The sentence of life imprisonment shall be imposed after a sentencing hearing, separate from the trial or guilty plea proceeding resulting in the second violent sexual offense conviction, pursuant to the provisions of Section 31-18-26 NMSA 1978.

C. For the purposes of this section, a violent sexual offense conviction incurred by a defendant before he reaches the age of eighteen shall not count as a violent sexual offense conviction.

D. When a defendant has a felony conviction from another state, the felony conviction shall be considered a violent sexual offense for the purposes of the Criminal Sentencing Act if the crime would be considered a violent sexual offense in New Mexico.

E. As used in the Criminal Sentencing Act, "violent sexual offense" means criminal sexual penetration in the first or second degree, as provided in Subsection C or D of Section 30-9-11 NMSA 1978."

Section 2

Section 2

A new section of the Criminal Sentencing Act, Section 31-18-26 NMSA 1978, is enacted to read:

"31-18-26. TWO VIOLENT SEXUAL OFFENSE CONVICTIONS-- SENTENCING PROCEDURE.--

A. The court shall conduct a separate sentencing proceeding to determine any controverted question of fact regarding whether the defendant has been convicted of two violent sexual offenses. Either party to the sentencing proceeding may demand a jury sentencing proceeding.

B. A jury sentencing proceeding shall be conducted as soon as practicable by the original trial judge before the original trial jury. A nonjury sentencing proceeding shall be conducted as soon as practicable by the original trial judge. In the case of a plea of guilty, the sentencing proceeding shall be conducted as soon as practicable by the original trial judge or by the original trial jury, upon demand of the defendant.

C. In a jury sentencing proceeding, the judge shall give appropriate instructions and allow arguments. In a nonjury sentencing proceeding, or upon a plea of guilty when the defendant has not demanded a jury, the judge shall allow arguments and determine the verdict."

Section 3

Section 3

Section 31-18-23 NMSA 1978 (being Laws 1994, Chapter 24, Section 2) is amended to read:

"31-18-23. THREE VIOLENT FELONY CONVICTIONS-- MANDATORY LIFE IMPRISONMENT--EXCEPTION.--

A. When a defendant is convicted of a third violent felony, and each violent felony conviction is part of a separate transaction or occurrence, and at least the third violent felony conviction is in New Mexico, the defendant shall, in addition to the sentence imposed for the third violent conviction when that sentence does not result in death, be punished by a sentence of life imprisonment. The life imprisonment sentence shall be subject to parole pursuant to the provisions of Section 31-21-10 NMSA 1978.

B. The sentence of life imprisonment shall be imposed after a sentencing hearing, separate from the trial or guilty plea proceeding resulting in the third violent felony conviction, pursuant to the provisions of Section 31-18-24 NMSA 1978.

C. For the purpose of this section, a violent felony conviction incurred by a defendant before he reaches the age of eighteen shall not count as a violent felony conviction.

D. When a defendant has a felony conviction from another state, the felony conviction shall be considered a violent felony for the purposes of the Criminal Sentencing Act if that crime would be considered a violent felony in New Mexico.

E. As used in the Criminal Sentencing Act:

(1) "great bodily harm" means an injury to the person that creates a high probability of death or that causes serious disfigurement or that results in permanent loss or impairment of the function of any member or organ of the body; and

(2) "violent felony" means:

- (a) murder in the first or second degree, as provided in Section 30-2-1 NMSA 1978;
- (b) shooting at or from a motor vehicle resulting in great bodily harm, as provided in Subsection B of Section 30-3- 8 NMSA 1978;
- (c) kidnapping resulting in great bodily harm inflicted upon the victim by his captor, as provided in Subsection B of Section 30-4-1 NMSA 1978; and
- (d) criminal sexual penetration, as provided in Subsection C or Paragraph (5) or (6) of Subsection D of Section 30-9-11 NMSA 1978; and
- (e) robbery while armed with a deadly weapon resulting in great bodily harm as provided in Section 30-16-2 NMSA 1978 and Subsection A of Section 30-1-12 NMSA 1978."

Section 4

Section 4

Section 31-21-10 NMSA 1978 (being Laws 1980, Chapter 28, Section 1, as amended by Laws 1994, Chapter 21, Section 1 and also by Laws 1994, Chapter 24, Section 4) is amended to read:

"31-21-10. PAROLE AUTHORITY AND PROCEDURE.--

A. An inmate of an institution who was sentenced to life imprisonment as the result of the commission of a capital felony, who was convicted of three violent felonies and sentenced pursuant to Sections 31-18- 23 and 31-18-24 NMSA 1978 or who was convicted of two violent sexual offenses and sentenced pursuant to Sections 31-18-25 and 31-18-26 NMSA 1978 becomes eligible for a parole hearing after he has served thirty years of his sentence. Before ordering the parole of an inmate sentenced to life imprisonment, the board shall:

- (1) interview the inmate at the institution where he is committed;
- (2) consider all pertinent information concerning the inmate, including:
 - (a) the circumstances of the offense;
 - (b) mitigating and aggravating circumstances;
 - (c) whether a deadly weapon was used in the commission of the offense;
 - (d) whether the inmate is a habitual offender;
 - (e) the reports filed under Section

31-21-9 NMSA 1978; and

(f) the reports of such physical and mental examinations as have been made while in prison;

(3) make a finding that a parole is in the best interest of society and the inmate; and

(4) make a finding that the inmate is able and willing to fulfill the obligations of a law-abiding citizen.

If parole is denied, the inmate sentenced to life imprisonment shall again become entitled to a parole hearing at two-year intervals. The board may, on its own motion, reopen any case in which a hearing has already been granted and parole denied.

B. Unless the board finds that it is in the best interest of society and the parolee to reduce the period of parole, a person who was convicted of a capital felony shall be required to undergo a minimum period of parole of five years. During the period of parole, the person shall be under the guidance and supervision of the board.

C. An inmate who was convicted of a first, second or third degree felony and who has served the sentence of imprisonment imposed by the court in a corrections facility designated by the corrections department shall be required to undergo a two-year period of parole. An inmate who was convicted of a fourth degree felony and who has served the sentence of imprisonment imposed by the court in a corrections facility designated by the corrections department shall be required to undergo a one-year period of parole. During the period of parole, the person shall be under the guidance and supervision of the board.

D. Every person while on parole shall remain in the legal custody of the institution from which he was released, but shall be subject to the orders of the board. The board shall furnish to each inmate as a prerequisite to his release under its supervision a written statement of the conditions of parole that shall be accepted and agreed to by the inmate as evidenced by his signature affixed to a duplicate copy to be retained in the files of the board. The board shall also require as a prerequisite to release the submission and approval of a parole plan. If an inmate refuses to affix his signature to the written statement of the conditions of his parole or does not have an approved parole plan, he shall not be released and shall remain in the custody of the corrections facility in which he has served his sentence, excepting parole, until such time as the period of parole he was required to serve, less meritorious deductions, if any, expires, at which time he shall be released from that facility without parole, or until such time that he evidences his acceptance and agreement to the conditions of parole as required or receives approval for his parole plan or both. Time served from the date that an inmate refuses to accept and agree to the conditions of parole or fails to receive approval for his parole plan shall reduce the period, if any, to be served under parole at a later date. If the district court has ordered that the inmate make restitution to a victim as provided in Section 31-17-1 NMSA 1978, the board shall include restitution as a condition of parole.

The board shall also personally apprise the inmate of the conditions of parole and his duties relating thereto.

E. When a person on parole has performed the obligations of his release for the period of parole provided in this section, the board shall make a final order of discharge and issue him a certificate of discharge.

F. Pursuant to the provisions of Section 31-18-15 NMSA 1978, the board shall require the inmate as a condition of parole:

(1) to pay the actual costs of his parole services to the adult probation and parole division of the corrections department for deposit to the corrections department intensive supervision fund not exceeding one thousand twenty dollars (\$1,020) annually to be paid in monthly installments of not less than fifteen dollars (\$15.00) and not more than eighty-five dollars (\$85.00), subject to modification by the adult probation and parole division on the basis of changed financial circumstances; and

(2) to reimburse a law enforcement agency or local crime stopper program for the amount of any reward paid by the agency or program for information leading to his arrest, prosecution or conviction.

G. The provisions of this section shall apply to all inmates except geriatric, permanently incapacitated and terminally ill inmates eligible for the medical and geriatric parole program as provided by the Parole Board Act."

Section 5

Section 5

EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1996.

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SENATE BILL 742, AS AMENDED

SIGNED MARCH 6, 1996

Chapter 80

RELATING TO HEALTH; REQUIRING A PERSON FORMALLY CHARGED FOR ALLEGEDLY COMMITTING CERTAIN CRIMINAL OFFENSES TO UNDERGO TESTS TO IDENTIFY SEXUALLY TRANSMITTED DISEASES AND THE HUMAN IMMUNODEFICIENCY VIRUS; PRESCRIBING PENALTIES FOR UNAUTHORIZED DISCLOSURE OF TEST RESULTS; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978.

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

Section 1

Section 1

A new Section 24-1-9.2 NMSA 1978 is enacted to read:

"24-1-9.2. SEXUALLY TRANSMITTED DISEASES--TESTING OF PERSONS FORMALLY CHARGED FOR ALLEGEDLY COMMITTING CERTAIN CRIMINAL OFFENSES.--

A. A test designed to identify any sexually transmitted disease may be performed on a person, upon the filing of a complaint, information or an indictment alleging that the person committed a state criminal offense:

- (1) involving contact between the penis and the vulva;
- (2) involving contact between the penis and anus;
- (3) involving contact between the mouth and penis;
- (4) involving contact between the mouth and vulva; or
- (5) involving contact between the mouth and anus.

B. If consent to perform a test on an alleged offender cannot be obtained, the victim of the alleged criminal offense described in Subsection A of this section may petition the court, through the prosecuting office or personally, to order that a test be performed on the alleged offender; provided that the same test is first performed on the victim of the alleged criminal offense. The test may be performed on the alleged offender regardless of the result of the test performed on the victim of the alleged criminal offense. If the victim of the alleged criminal offense is a minor or incompetent, the parent or legal guardian of the victim of the alleged criminal offense may petition the court to order that a test be performed on the alleged offender.

C. The court may issue an order based on a finding of good cause after a hearing at which both the victim of the alleged criminal offense and the alleged offender have the right to be present. During the hearing, only affidavits, counter affidavits and medical reports regarding the facts that support or rebut the issuance of an order shall be admissible. The hearing shall be conducted within seventy-two hours after the victim petitions the court for the order. The petition and all proceedings in connection therewith shall be under seal. The court shall issue an order and the test shall be administered to the alleged offender within ten days after the petition is filed by the victim of the alleged criminal offense, his parent or guardian.

D. The results of the test shall be disclosed only to the alleged offender and to the victim of the alleged criminal offense or the victim's parent or legal guardian. When the victim of the alleged criminal offense or the alleged offender has a positive test result, both the alleged offender and the victim of the alleged criminal offense shall be provided with counseling.

E. A prosecuting attorney may not use in a criminal proceeding arising out of the alleged criminal offense the fact that a test was administered to the alleged offender or the results of the test.

F. The provisions of this section shall not affect the rights and remedies available to the victim of the alleged criminal offense and the alleged offender in any civil action.

G. The administration of a test to an alleged offender pursuant to the provisions of this section shall not preclude the subsequent administration of another test pursuant to the provisions of Section 24-1-9.1 NMSA 1978."

Section 2

Section 2

A new Section 24-1-9.3 NMSA 1978 is enacted to read:

"24-1-9.3. SEXUALLY TRANSMITTED DISEASES-- MANDATORY COUNSELING.--No positive test result for a sexually transmitted disease shall be revealed to the person upon whom the test was performed without the person performing the test or the health facility at which the test was performed providing or referring that person for individual counseling about:

A. the meaning of the test results;

B. the possible need for additional testing;

C. the availability of appropriate health care services, including mental health care, social and support services; and

D. the benefits of locating and counseling any individual by whom the infected person may have been exposed to the sexually transmitted disease and any individual whom the infected person may have exposed to the sexually transmitted disease."

Section 3

Section 3

A new Section 24-1-9.4 NMSA 1978 is enacted to read:

"24-1-9.4. SEXUALLY TRANSMITTED DISEASES-- CONFIDENTIALITY.--Except as provided in Section 24-1-9.2 NMSA 1978, no person or the person's agents or employees who require or administer a test for sexually transmitted diseases shall disclose the identity of any person upon whom a test is performed or the result of such a test in a manner that permits identification of the subject of the test, except to the following persons:

A. the subject of the test or the subject's legally authorized representative, guardian or legal custodian;

B. any person designated in a legally effective release of the test results executed prior to or after the test by the subject of the test or the subject's legally authorized representative;

C. an authorized agent, a credentialed or privileged physician or employee of a health facility or health care provider if the health care facility or health care provider itself is authorized to obtain the test results, the agent or employee provides patient care or handles or processes specimens of body fluids or tissues and the agent or employee has a need to know such information;

D. the department of health and the centers for disease control and prevention of the United States public health service in accordance with reporting requirements for a diagnosed case of a sexually transmitted disease;

E. a health facility or health care provider that procures, processes, distributes or uses:

(1) a human body part from a deceased person, with respect to medical information regarding that person;

(2) semen for the purpose of artificial insemination;

(3) blood or blood products for transfusion or injection; or

(4) human body parts for transplant with respect to medical information regarding the donor or recipient;

F. health facility staff committees or accreditation or oversight review organizations that are conducting program monitoring, program evaluation or service reviews, as long as any identity remains confidential;

G. authorized medical or epidemiological researchers who may not further disclose any identifying characteristics or information; and

H. for purposes of application or reapplication for insurance coverage, an insurer or reinsurer upon whose request the test was performed."

Section 4

Section 4

A new Section 24-1-9.5 NMSA 1978 is enacted to read:

"24-1-9.5. SEXUALLY TRANSMITTED DISEASES-- DISCLOSURE STATEMENT.--No person to whom the results of a test for sexually transmitted diseases have been disclosed may disclose the test results to another person, except as authorized in Sections 24-1-9.4 and 24- 1-9.6 NMSA 1978. Whenever disclosure is made, it shall be accompanied by a statement in writing that includes the following or substantially similar language:

"This information has been disclosed to you from records whose confidentiality is protected by state law. State law prohibits you from making any further disclosure of such information without the specific written consent of the person to whom such information pertains, or as otherwise permitted by state law. A person who makes an unauthorized disclosure of this information is guilty of a petty misdemeanor and shall be sentenced to imprisonment in the county jail for a definite term not to exceed six months or the payment of a fine of not more than five hundred dollars (\$500), or both."

Section 5

Section 5

A new Section 24-1-9.6 NMSA 1978 is enacted to read:

"24-1-9.6. SEXUALLY TRANSMITTED DISEASES-- DISCLOSURE.--A victim of an alleged criminal offense who receives information pursuant to Section 24-1-9.2 NMSA 1978 may disclose the test results as is reasonably necessary to protect his health and safety or the health and safety of his family or sexual partner."

Section 6

Section 6

A new Section 24-1-9.7 NMSA 1978 is enacted to read:

"24-1-9.7. PENALTY.--A person who makes an unauthorized disclosure of the results of a test designed to identify a sexually transmitted disease is guilty of a petty misdemeanor and shall be sentenced to imprisonment in the county jail for a definite term not to exceed six months or the payment of a fine of not more than five hundred dollars (\$500), or both."

Section 7

Section 7

Section 24-2B-2 NMSA 1978 (being Laws 1989, Chapter 227, Section 2, as amended) is amended to read:

"24-2B-2. INFORMED CONSENT.--No person shall perform a test designed to identify the human immunodeficiency virus or its antigen or antibody without first obtaining the informed consent of the person upon whom the test is performed, except as provided in Section 24-2B-5, 24-2B- 5.1 or 24-2B-5.2 NMSA 1978. Informed consent shall be preceded by an explanation of the test, including its purpose, potential uses and limitations and the meaning of its results. Consent need not be in writing provided there is documentation in the medical record that the test has been explained and the consent has been obtained."

Section 8

Section 8

A new section of the Human Immunodeficiency Virus Test Act, Section 24-2B-5.2 NMSA 1978, is enacted to read:

"24-2B-5.2. INFORMED CONSENT NOT REQUIRED--TESTING OF PERSONS FORMALLY CHARGED FOR ALLEGEDLY COMMITTING CERTAIN CRIMINAL OFFENSES--RESPONSIBILITY TO ADMINISTER AND PAY FOR TEST.--

A. A test designed to identify the human immunodeficiency virus or its antigen or antibody may be performed, without his consent, on a person upon the filing of a complaint, information or an indictment alleging that the person committed a state criminal offense:

- (1) involving contact between the penis and the vulva;
- (2) involving contact between the penis and anus;
- (3) involving contact between the mouth and penis;
- (4) involving contact between the mouth and vulva; or
- (5) involving contact between the mouth and anus.

B. If consent to perform a test on an alleged offender cannot be obtained pursuant to the provisions of Section 24-2B-2 or 24-2B-3 NMSA 1978, the victim of the alleged criminal offense described in Subsection A of this section may petition the court, through the prosecuting office or personally, to order that a test be performed on the alleged offender; provided that the same test is first performed on the victim of the alleged criminal offense. The test may be performed on the alleged offender regardless

of the result of the test performed on the victim of the alleged offense. If the victim of the alleged criminal offense is a minor or incompetent, the parent or legal guardian of the victim of the alleged criminal offense may petition the court to order that a test be performed on the alleged offender.

C. The court may issue an order based on a finding of good cause after a hearing at which both the victim of the alleged criminal offense and the alleged offender have the right to be present. During the hearing, only affidavits, counter affidavits and medical reports regarding the facts that support or rebut the issuance of an order shall be admissible. The hearing shall be conducted within seventy-two hours after the victim of the alleged criminal offense petitions the court for the order. The petition and all proceedings in connection therewith shall be under seal. The court shall issue the order and the test shall be administered to the alleged offender within ten days after the petition is filed by the victim of the alleged offense, his parent or guardian.

D. The results of the test shall be disclosed only to the alleged offender and to the victim of the alleged criminal offense or the victim's parent or legal guardian. When the victim of the alleged criminal offense or the alleged offender has a positive test result, both the alleged offender and the victim of the alleged criminal offense shall be provided with counseling, as described in Section 24-2B-4 NMSA 1978.

E. The courts order shall direct the department of health to be responsible for the administration of and payment for the test and the lawful distribution of the test results.

F. A prosecuting attorney may not use in a criminal proceeding arising out of the alleged criminal offense the fact that a test was administered to the alleged offender, or the results of the test.

G. The provisions of this section shall not affect the rights and remedies available to the victim of the alleged criminal offense and alleged offender in any civil action.

H. The administration of a test to an alleged offender pursuant to the provisions of this section shall not preclude the subsequent administration of another test pursuant to the provisions of Section 24-2B- 5.1 NMSA 1978."

Section 9

Section 9

Section 24-2B-7 NMSA 1978 (being Laws 1989, Chapter 227, Section 7) is amended to read:

"24-2B-7. DISCLOSURE STATEMENT.--No person to whom the results of a test have been disclosed may disclose the test results to another person except as authorized by the Human Immunodeficiency Virus Test Act. Whenever disclosure is made pursuant to that act, it shall be accompanied by a statement in writing that includes the following or

substantially similar language: "This information has been disclosed to you from records whose confidentiality is protected by state law. State law prohibits you from making any further disclosure of such information without the specific written consent of the person to whom such information pertains, or as otherwise permitted by state law. A person who makes an unauthorized disclosure of this information is guilty of a petty misdemeanor and shall be sentenced to imprisonment in the county jail for a definite term not to exceed six months or the payment of a fine of not more than five hundred dollars (\$500), or both."

Section 10

Section 10

Section 24-2B-8 NMSA 1978 (being Laws 1989, Chapter 227, Section 8) is amended to read:

"24-2B-8. DISCLOSURE.--Nothing in the Human Immunodeficiency Virus Test Act shall be construed to prevent a person who has been tested from disclosing in any way to any other person his own test results. Any victim of an alleged criminal offense who receives information pursuant to Section 24-2B-5.2 NMSA 1978 may disclose the test results as is reasonably necessary to protect his health and safety or the health and safety of his family or sexual partner."

Section 11

Section 11

A new section of the Human Immunodeficiency Virus Test Act, Section 24-2B-9 NMSA 1978, is enacted to read:

"24-2B-9. PENALTY.--A person who makes an unauthorized disclosure of the results of a test designed to identify the human immunodeficiency virus or its antigen or antibody is guilty of a petty misdemeanor and shall be sentenced to imprisonment in the county jail for a definite term not to exceed six months or the payment of a fine of not more than five hundred dollars (\$500), or both."

Section 12

Section 12

EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1996.

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SENATE BILL 91

SIGNED MARCH 6, 1996

Chapter 81

RELATING TO MOTOR VEHICLES; CHANGING SPEED LIMIT PROVISIONS OF THE MOTOR VEHICLE CODE; AMENDING SECTIONS OF THE NMSA 1978.

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

Section 1

Section 1

Section 66-1-5 NMSA 1978 (being Laws 1995, Chapter 135, Section 2) is amended to read:

"66-1-5. MEASUREMENTS.--Whenever any provision of the Motor Vehicle Code or regulations promulgated thereunder refers to weight, height, length, width or speed in English units of measurement, it also refers to the metric equivalent of those units or, when adopted, to the metric substitutes for those units adopted by the state highway and transportation department."

Section 2

Section 2

Section 66-7-301 NMSA 1978 (being Laws 1978, Chapter 35, Section 405, as amended by Laws 1989, Chapter 318, Section 29 and also by Laws 1989, Chapter 320, Section 1) is amended to read:

"66-7-301. SPEED REGULATION.--

A. No person shall drive a vehicle on a highway at a speed greater than:

(1) fifteen miles per hour on all highways when passing a school while children are going to or leaving school and when the school zone is properly posted;

(2) thirty miles per hour in any business or residence district;

(3) seventy-five miles per hour; and

(4) the posted speed limit in construction zones, provided that the posted speed limit shall be determined by an engineering study performed by the state highway and transportation department.

B. In every event, speed shall be so controlled by the driver as may be necessary:

(1) to avoid colliding with any person, vehicle or other conveyance on or entering the highway;

(2) to comply with legal requirements as may be established by the state highway and transportation department or the New Mexico state police division of the department of public safety and the duty of all persons to use due care; and

(3) to protect workers in a construction zone.

C. The speed limits set forth in Subsection A of this section may be altered as authorized in Section 66-7-303 NMSA 1978."

Section 3

Section 3

Section 66-7-303 NMSA 1978 (being Laws 1957, Chapter 73, Section 2, as amended) is amended to read:

"66-7-303. ESTABLISHMENT OF SPEED ZONES.--

A. Whenever the secretary of highway and transportation determines upon the basis of an engineering survey and traffic investigation, a detailed report of which is filed with the traffic safety bureau of the state highway and transportation department, that any speed established by law is greater or less than is reasonable or safe under the conditions found to exist upon any part of a state highway, the secretary of highway and transportation may declare the speed limit for that part, and that speed limit shall be authorized and effective when appropriate signs giving notice thereof are erected at that particular part of the highway; provided that no speed limit shall be declared greater than seventy-five miles per hour. The declaration of speed limits by the secretary of highway and transportation shall not be considered rules for purposes of the State Rules Act.

B. Whenever a local authority determines upon the basis of an engineering survey and traffic investigation that any speed limit permitted under state law or local ordinance is greater or less than is reasonable or safe under the conditions found to exist upon any part of a highway within its jurisdiction, it may declare a speed limit for that part, and that speed limit shall be authorized and effective when appropriate signs giving notice thereof are erected at that particular part of the highway; provided that no speed limit shall be declared greater than seventy-five miles per hour.

C. Engineering surveys and traffic investigations made by local authorities shall be on a form approved by the secretary of highway and transportation. If engineers are not

available to the local authorities, the state highway and transportation department may make the surveys and investigations for the local authorities.

D. Speed zones may be marked by a sign containing a flashing yellow light and, when the light is in operation, the speed limit, instructions or regulations on the sign are in effect.

E. Alteration of speed limits on state highways by local authorities is not effective until approved by the secretary of highway and transportation.

F. The provisions of Subsections A and B of this section shall not apply to changes of speed limit in construction zones authorized pursuant to Section 66-7-303.1 NMSA 1978."

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SENATE BILL 356, AS AMENDED

SIGNED MARCH 6, 1996

Chapter 82

RELATING TO THE PETROLEUM PRODUCTS LOADING FEE; INCREASING THE PETROLEUM PRODUCTS LOADING FEE; PROVIDING FOR CHANGES IN THE PETROLEUM PRODUCTS LOADING FEE UNDER CERTAIN CIRCUMSTANCES; AMENDING SECTIONS OF THE NMSA 1978.

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

Section 1

Section 1

Section 7-1-6.25 NMSA 1978 (being Laws 1988, Chapter 70, Section 9, as amended) is amended to read:

"7-1-6.25. DISTRIBUTION OF PETROLEUM PRODUCTS LOADING FEE--CORRECTIVE ACTION FUND--LOCAL GOVERNMENTS ROAD FUND.--A distribution pursuant to Section 7-1-6.1 NMSA 1978 of the net receipts attributable to the petroleum products loading fee shall be made to each of the following funds in the following amounts:

A. to the local governments road fund an amount equal to the net receipts attributable to a fee of forty dollars (\$40.00) per load; and

B. to the corrective action fund the balance, if any, of the net receipts.

Section 2

Section 2

Section 7-13A-3 NMSA 1978 (being Laws 1990, Chapter 124, Section 16) is amended to read:

"7-13A-3. IMPOSITION AND RATE OF FEE--DENOMINATION AS "PETROLEUM PRODUCTS LOADING FEE".--

A. For the privilege of loading gasoline or special fuel from a rack at a refinery or pipeline terminal in this state into a cargo tank, there is imposed a fee on the distributor at a rate provided in Subsection C of this section on each gallon of gasoline or special fuel loaded in New Mexico on which the petroleum products loading fee has not been previously paid.

B. For the privilege of importing gasoline or special fuel into this state for resale or consumption in this state there is imposed a fee determined as provided in Subsection C of this section on each load of gasoline or special fuel imported into New Mexico for resale or consumption on which the petroleum products loading fee has not been previously paid. For the purposes of this section, "load" means eight thousand gallons of gasoline or special fuel. To determine how many loads a person is to report under the provisions of this section, the person shall divide by eight thousand the total gallons of gasoline reported for the purposes of Section 7-13-3 NMSA 1978 as adjusted under the provisions of Section 7-13-4 NMSA 1978 and the total gallons of special fuels received in New Mexico less any gallons exempted under Section 7-13A-4 NMSA 1978. Loads shall be calculated to the nearest one-hundredth of a load.

C. The fee imposed by this section is and may be referred to as the "petroleum products loading fee" and shall be one hundred fifty dollars (\$150) per load or whichever of the following applies:

(1) in the event the secretary of environment certifies that the unobligated balance of the corrective action fund at the end of the prior fiscal year equals or exceeds eighteen million dollars (\$18,000,000) the fee shall be set at forty dollars (\$40.00) per load;

(2) in the event the secretary of environment certifies that the unobligated balance of the corrective action fund at the end of the prior fiscal year exceeds twelve million dollars (\$12,000,000) but is less than eighteen million dollars (\$18,000,000) the fee shall be set at eighty dollars (\$80.00) per load;

(3) in the event the secretary of environment certifies that the unobligated balance of the corrective action fund at the end of the prior fiscal year exceeds six million dollars (\$6,000,000) but is less than twelve million dollars (\$12,000,000) the fee shall be set at one hundred twenty dollars (\$120) per load; and

(4) in the event the secretary of environment certifies that the unobligated balance of the corrective action fund at the end of the prior fiscal year is less than six million dollars (\$6,000,000) the fee shall be set at one hundred fifty dollars (\$150) per load.

D. The amount of the petroleum products loading fee set pursuant to Paragraph (1), (2), (3) or (4) of Subsection C of this section shall be imposed on the first day of the month following expiration of ninety days after the end of the fiscal year for which the certification was made.

E. As used in this section, "unobligated balance of the corrective action fund" means corrective action fund equity less all known or anticipated liabilities against the fund.

Section 3

Section 3

EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1996.

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HOUSE BILL 487, AS AMENDED

SIGNED MARCH 6, 1996

Chapter 83

RELATING TO COUNTIES; PROVIDING FOR PUBLIC UTILITIES IN CERTAIN CLASS A COUNTIES; AMENDING AND ENACTING CERTAIN SECTIONS OF THE NMSA 1978; DECLARING AN EMERGENCY.

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

Section 1

Section 1

A new Section 4-36-10 NMSA 1978 is enacted to read:

"4-36-10. CLASS A COUNTY--SEWER AND WATER UTILITY-- OPERATION AUTHORIZATION.--

A. A class A county having a population of more than one hundred thirty-five thousand but less than four hundred eighty-one thousand according to the last federal decennial census, and having a 1993 net taxable value of property, as that term is defined in the Property Tax Code, of at least one billion one hundred thirty-one million dollars

(\$1,131,000,000) but not more than five billion two hundred million dollars (\$5,200,000,000) may establish, purchase, own and operate sewer and water utilities and sell water and sewer utility service.

B. In the operation of a sewer or water utility, the county shall set just and reasonable rates based on its cost of service."

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 I of this section.

B. 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 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 or water utilities, 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 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;

(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; or

(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.

A county may pledge irrevocably any or all of the revenue from the first one-eighth of one percent increment of the county 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 county gross receipts tax revenue from the first one-eighth of one percent increment of the county 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 to be deposited into a special bond fund for payment of the principal, interest and expenses. At the end of each fiscal year, any 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.

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 any revenues received from any existing, future or disconnected facilities and equipment that are related to and that may constitute a part of the particular revenue-producing project. Any general determination by the governing body that any facilities or equipment are reasonably related to and shall 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 such bonds. The revenues of any fire district project shall not be pledged to the bonds issued for any fire district project that clearly is unrelated in its purpose; but nothing in this section shall prevent the pledge to any of such bonds of any such revenues received from any existing, future or of disconnected facilities and equipment that are related to and that may constitute a part of the particular fire district project. Any general determination by the governing body of the county 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.

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. 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.

K. 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 any 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 any 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.

L. 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 or

the gasoline tax, or that affects any of those taxes, shall not be repealed or amended in such a manner as to impair any 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.

M. As used in this section:

(1) "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;

(2) "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;

(3) "county gross receipts tax revenue" means the revenue attributable to the first one-eighth of one percent increment 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;

(4) "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

(5) "public building" includes but is not limited to fire stations, police buildings, jails, libraries, museums, auditoriums, convention halls, hospitals, buildings for administrative offices, courthouses and garages for housing, repairing and maintaining county vehicles and equipment.

N. 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."

Section 3

Section 3

Section 62-3-3 NMSA 1978 (being Laws 1967, Chapter 96, Section 3, as amended by Laws 1993, Chapter 282, Section 21 and by Laws 1993, Chapter 308, Section 3 and also by Laws 1993, Chapter 351, Section 2) is amended to read:

"62-3-3. DEFINITIONS, WORDS AND PHRASES.--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 who 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 New Mexico public utility commission;

C. "commissioners" means any member of the commission;

D. "municipality" means any municipal corporation organized under the laws of the state, and H class counties;

E. "person" means individuals, firms, partnerships, companies, rural electric cooperatives organized under Laws 1937, Chapter 100 or the Rural Electric Cooperative Act, as amended, corporations and lessees, trustees or receivers appointed by any court. It shall not mean any class A county as described by Section 4-36-10 NMSA 1978 or any class B county as described by Section 4-36-8 NMSA 1978. It shall not mean any 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 such voluntary election by any 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 of 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 any 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 now does or hereafter 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 for 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 any 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 any 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 in any way 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 any 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 such public utility."

Section 4

Section 4

Section 62-6-4 NMSA 1978 (being Laws 1941, Chapter 84, Section 17, as amended) is amended to read:

"62-6-4. SUPERVISION AND REGULATION OF UTILITIES.--

A. The commission shall have general and exclusive power and jurisdiction to regulate and supervise every public utility in respect to its rates and service regulations and in respect to its securities, all in accordance with the provisions and subject to the reservations of the Public Utility Act, and to do all things necessary and convenient in the exercise of its power and jurisdiction. Nothing in this section, however, shall be deemed to confer upon the commission power or jurisdiction to regulate or supervise the rates or service of any utility owned and operated by any municipal corporation either directly or through a municipally owned corporation or owned and operated by any H class county, by a class B county as defined in Section 4-36-8 NMSA 1978 or by a class A county as described by Section 4-36-10 NMSA 1978 either directly or through a corporation owned by or under contract with an H class county, by a class B county as defined in Section 4-36-8 NMSA 1978 or by a class A county as described by Section 4-36-10 NMSA 1978. No inspection or supervision fees shall be paid by such municipalities or municipally owned corporations, a class B county as defined in Section 4-36-8 NMSA 1978, a class A county as described by Section 4-36-10 NMSA 1978 or H class counties or such corporation owned by or under contract with a class B county as defined in Section 4-36-8 NMSA 1978, a class A county as described by Section 4-36-10 NMSA 1978 or an H class county with respect to operations conducted in a class B county as defined in Section 4-36-8 NMSA 1978, in a class A county as described by Section 4-36-10 NMSA 1978 or in H class counties.

B. The sale, furnishing or delivery of gas, water or electricity by any person to a utility for resale to or for the public shall be subject to regulation by the commission but only to the extent necessary to enable the commission to determine that the cost to the utility of the gas, water or electricity at the place where the major distribution to the public begins is reasonable and that the methods of delivery of the gas, water or electricity are adequate; provided, however, that nothing in this subsection shall be construed to

permit regulation by the commission of production or sale price at the wellhead of gas or petroleum, except regulation of abandonment pursuant to Section 62-7-8 NMSA 1978.

C. The sale, furnishing or delivery of coal, uranium or other fuels by any affiliated interest to a utility for the generation of electricity for the public shall be subject to regulation by the commission but only to the extent necessary to enable the commission to determine that the cost to the utility of the coal, uranium or other fuels at the point of sale is reasonable and that the methods of delivery of the electricity are adequate; provided, however, that nothing in this subsection shall be construed to permit regulation by the commission of production or sale price at the wellhead of gas or petroleum, except regulation of abandonment pursuant to Section 62-7-8 NMSA 1978. Nothing in this section shall be construed to permit regulation by the commission of production or sale price at the point of production of coal, uranium or other fuels."

Section 5

Section 5

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

—

HOUSE BILL 610, AS AMENDED

WITH EMERGENCY CLAUSE

SIGNED MARCH 6, 1996

Chapter 84

RELATING TO CRIMINAL LAW; INCREASING THE CRIMINAL PENALTY FOR INDECENT EXPOSURE; CREATING A NEW CRIMINAL OFFENSE KNOWN AS AGGRAVATED INDECENT EXPOSURE; REQUIRING AN OFFENDER TO PARTICIPATE IN AND COMPLETE A COUNSELING PROGRAM; AMENDING AND ENACTING SECTIONS OF THE CRIMINAL CODE.

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

Section 1

Section 1

Section 30-9-14 NMSA 1978 (being Laws 1975, Chapter 109, Section 5) is amended to read:

"30-9-14. INDECENT EXPOSURE.--

A. Indecent exposure consists of a person knowingly and intentionally exposing his primary genital area to public view.

B. As used in this section, "primary genital area" means the mons pubis, penis, testicles, mons veneris, vulva or vagina.

C. Whoever commits indecent exposure is guilty of a misdemeanor.

D. In addition to any punishment provided pursuant to the provisions of this section, the court shall order a person convicted for committing indecent exposure to participate in and complete a program of professional counseling at his own expense.

Section 2

Section 2

A new section of the Criminal Code is enacted to read:

"AGGRAVATED INDECENT EXPOSURE.--

A. Aggravated indecent exposure consists of a person knowingly and intentionally exposing his primary genital area to public view in a lewd and lascivious manner, with the intent to threaten or intimidate another person, while committing one or more of the following acts or criminal offenses:

- (1) exposure to a child less than eighteen years of age;
- (2) assault, as provided in Section 30-3-1 NMSA 1978;
- (3) aggravated assault, as provided in Section 30-3-2 NMSA 1978;
- (4) assault with intent to commit a violent felony, as provided in Section 30-3-3 NMSA 1978;
- (5) battery, as provided in Section 30-3-4 NMSA 1978;
- (6) aggravated battery, as provided in Section 30-3-5 NMSA 1978;
- (7) criminal sexual penetration, as provided in Section 30-9-11 NMSA 1978; or
- (8) abuse of a child, as provided in Section 30-6-1 NMSA 1978.

B. As used in this section, "primary genital area" means the mons pubis, penis, testicles, mons veneris, vulva or vagina.

C. Whoever commits aggravated indecent exposure is guilty of a fourth degree felony.

D. In addition to any punishment provided pursuant to the provisions of this section, the court shall order a person convicted for committing aggravated indecent exposure to participate in and complete a program of professional counseling at his own expense."

Section 3

Section 3

EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1996.

—

HOUSE JUDICIARY COMMITTEE

SUBSTITUTE FOR HOUSE BILL 172,

AS AMENDED

SIGNED MARCH 6, 1996

Chapter 85

RELATING TO JUVENILE JUSTICE; CHANGING THE AGE DESIGNATIONS FOR SERIOUS YOUTHFUL OFFENDERS AND YOUTHFUL OFFENDERS; EXPANDING THE LIST OF PREDICATE OFFENSES FOR YOUTHFUL OFFENDERS; AMENDING SECTIONS OF THE NMSA 1978.

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

Section 1

Section 1

Section 31-18-15.2 NMSA 1978 (being Laws 1993, Chapter 77, Section 1, as amended) is amended to read:

"31-18-15.2. DEFINITIONS.--As used in the Criminal Sentencing Act:

A. "serious youthful offender" means an individual fifteen to eighteen years of age who is charged with and indicted or bound over for trial for first degree murder; and

B. "youthful offender" means a delinquent child subject to adult or juvenile sanctions who is:

(1) fourteen to eighteen years of age at the time of the offense and who is adjudicated for at least one of the following offenses:

(a) second degree murder, as provided in Section 30-2-1 NMSA 1978;

(b) assault with intent to commit a violent felony, as provided in Section 30-3-3 NMSA 1978;

(c) kidnapping, as provided in Section 30-4-1 NMSA 1978;

(d) aggravated battery, as provided in Subsection C of Section 30-3-5 NMSA 1978;

(e) aggravated battery upon a peace officer, as provided in Subsection C of Section 30-22-25 NMSA 1978;

(f) shooting at a dwelling or occupied building or shooting at or from a motor vehicle, as provided in Section 30-3-8 NMSA 1978;

(g) dangerous use of explosives, as provided in Section 30-7-5 NMSA 1978;

(h) criminal sexual penetration, as provided in Section 30-9-11 NMSA 1978;

(i) robbery, as provided in Section 30-16-2 NMSA 1978;

(j) aggravated burglary, as provided in Section 30-16-4 NMSA 1978;

(k) aggravated arson, as provided in Section 30-17-6 NMSA 1978; or

(l) abuse of a child that results in great bodily harm or death to the child, as provided in Section 30-6-1 NMSA 1978;

(2) fourteen to eighteen years of age at the time of the offense and adjudicated for any felony offense and who has had three prior, separate felony adjudications within a three-year time period immediately preceding the instant offense. The felony adjudications relied upon as prior adjudications shall not have arisen out of the same transaction or occurrence or series of events related in time and location. Successful completion of consent decrees is not considered a prior adjudication for the purposes of this paragraph; or

(3) fourteen years of age and adjudicated for first degree murder, as provided in Section 30-2-1 NMSA 1978."

Section 2

Section 2

Section 32A-2-3 NMSA 1978 (being Laws 1993, Chapter 77, Section 32, as amended by Laws 1995, Chapter 204, Section 2 and by Laws 1995, Chapter 205, Section 2 and also by Laws 1995, Chapter 206, Section 10) is amended to read:

"32A-2-3. DEFINITIONS.--As used in the Delinquency Act:

A. "delinquent act" means an act committed by a child that would be designated as a crime under the law if committed by an adult, including the following offenses:

(1) pursuant to municipal traffic codes or the Motor Vehicle Code:

(a) any driving while under the influence of intoxicating liquor or drugs;

(b) any failure to stop in the event of an accident causing death, personal injury or damage to property;

(c) any unlawful taking of a vehicle or motor vehicle;

(d) any receiving or transferring of a stolen vehicle or motor vehicle;

(e) any homicide by vehicle;

(f) any injuring or tampering with a vehicle;

(g) any altering or changing of an engine number or other vehicle identification numbers;

(h) any altering or forging of a driver's license or permit or any making of a fictitious license or permit;

(i) reckless driving;

(j) driving with a suspended or revoked license; or

(k) any offense punishable as a felony;

(2) buying, attempting to buy, receiving, possessing or being served any alcoholic liquor or being present in a licensed liquor establishment, other than a restaurant or a licensed retail liquor establishment, except in the presence of the child's parent, guardian, custodian or adult spouse. As used in this paragraph, "restaurant" means any establishment where meals are prepared and served primarily for on- premises consumption and that has a dining room, a kitchen and the employees necessary for preparing, cooking and serving meals. "Restaurant" does not include establishments, as defined in regulations promulgated by the director of the special investigations division of the department of public safety, that serve only hamburgers, sandwiches, salads and other fast foods;

(3) any felony violation of the provisions of Sections 17-1-1 through 17-5-9 NMSA 1978 or any regulations adopted by the state game commission that relate to the time, extent, means or manner that game animals, birds or fish may be hunted, taken, captured, killed, possessed, sold, purchased or shipped and for which a fine may be imposed or a civil damage awarded;

(4) any violation of Section 30-29-2 NMSA 1978, regarding the illegal use of a glue, aerosol spray product or other chemical substance;

(5) any violation of the Controlled Substances Act;

(6) escape from the custody of a law enforcement officer or a juvenile probation or parole officer or from any placement made by the department by a child who has been adjudicated a delinquent child; or

(7) any violation of Section 30-15-1.1 NMSA 1978 regarding unauthorized graffiti on personal or real property;

B. "delinquent child" means a child who has committed a delinquent act;

C. "delinquent offender" means a delinquent child who is subject to juvenile sanctions only and who is not a youthful offender or a serious youthful offender;

D. "detention facility" means a place where a child may be detained under the Children's Code pending court hearing and does not include a facility for the care and rehabilitation of an adjudicated delinquent child;

E. "felony" means an act that would be a felony if committed by an adult;

F. "misdemeanor" means an act that would be a misdemeanor or petty misdemeanor if committed by an adult;

G. "restitution" means financial reimbursement by the child to the victim or community service imposed by the court and is limited to easily ascertainable damages for injury to or loss of property, actual expenses incurred for medical, psychiatric and psychological treatment for injury to a person and lost wages resulting from physical injury, which are a direct and proximate result of a delinquent act. "Restitution" does not include reimbursement for damages for mental anguish, pain and suffering or other intangible losses. As used in this subsection, "victim" means any person who is injured or suffers damage of any kind by an act that is the subject of a complaint or referral to law enforcement officers or juvenile probation authorities. Nothing contained in this definition limits or replaces the provisions of Subsections A and B of Section 32A-2-27 NMSA 1978;

H. "serious youthful offender" means an individual fifteen to eighteen years of age who is charged with and indicted or bound over for trial for first degree murder. A "serious

youthful offender" is not a delinquent child as defined pursuant to the provisions of this section; and

I. "youthful offender" means a delinquent child subject to adult or juvenile sanctions who is:

(1) fourteen to eighteen years of age at the time of the offense and who is adjudicated for at least one of the following offenses:

(a) second degree murder, as provided in Section 30-2-1 NMSA 1978;

(b) assault with intent to commit a violent felony, as provided in Section 30-3-3 NMSA 1978;

(c) kidnapping, as provided in Section

30-4-1 NMSA 1978;

(d) aggravated battery, as provided in Subsection C of Section 30-3-5 NMSA 1978;

(e) aggravated battery upon a peace officer, as provided in Subsection C of Section 30-22-25 NMSA 1978;

(f) shooting at a dwelling or occupied building or shooting at or from a motor vehicle, as provided in Section 30-3-8 NMSA 1978;

(g) dangerous use of explosives, as provided in Section 30-7-5 NMSA 1978;

(h) criminal sexual penetration, as provided in Section 30-9-11 NMSA 1978;

(i) robbery, as provided in Section

30-16-2 NMSA 1978;

(j) aggravated burglary, as provided in Section 30-16-4 NMSA 1978;

(k) aggravated arson, as provided in Section 30-17-6 NMSA 1978; or

(l) abuse of a child that results in great bodily harm or death to the child, as provided in Section 30-6-1 NMSA 1978;

(2) fourteen to eighteen years of age at the time of the offense and adjudicated for any felony offense and who has had three prior, separate felony adjudications within a three-year time period immediately preceding the instant offense. The felony adjudications relied upon as prior adjudications shall not have arisen out of the same transaction or occurrence or series of events related in time and location. Successful

completion of consent decrees are not considered a prior adjudication for the purposes of this paragraph; or

(3) fourteen years of age and adjudicated for first degree murder, as provided in Section 30-2-1 NMSA 1978."

Section 3

Section 3

Section 32A-2-18 NMSA 1978 (being Laws 1993, Chapter 77, Section 47) is amended to read:

"32A-2-18. JUDGMENT--NONCRIMINAL NATURE-- NONADMISSIBILITY.--

A. The court shall enter a judgment setting forth the court's findings and disposition in the proceeding. A judgment in proceedings on a petition under the Delinquency Act resulting in a juvenile disposition shall not be deemed a conviction of crime nor shall it impose any civil disabilities ordinarily resulting from conviction of a crime nor shall it operate to disqualify the child in any civil service application or appointment. The juvenile disposition of a child and any evidence given in a hearing in court shall not be admissible as evidence against the child in any case or proceeding in any other tribunal whether before or after reaching the age of majority, except in sentencing proceedings after conviction of a felony and then only for the purpose of a presentence study and report.

B. If a judgment resulting from a youthful offender or serious youthful offender proceeding under the Delinquency Act results in an adult sentence, a record of the judgment shall be admissible in any other case or proceeding in any other court involving the youthful offender or serious youthful offender.

C. If a judgment on a proceeding under the Delinquency Act results in an adult sentence, the determination of guilt at trial becomes a conviction for purposes of the Criminal Code."

Section 4

Section 4

Section 32A-2-19 NMSA 1978 (being Laws 1993, Chapter 77, Section 48, as amended by Laws 1995, Chapter 204, Section 3 and also by Laws 1995, Chapter 206, Section 13) is amended to read:

"32A-2-19. DISPOSITION OF AN ADJUDICATED DELINQUENT OFFENDER.--

A. At the conclusion of the dispositional hearing, the court may make and include in the dispositional judgment its findings on the following:

- (1) the interaction and interrelationship of the child with the child's parents, siblings and any other person who may significantly affect the child's best interests;
- (2) the child's adjustment to his home, school and community;
- (3) the mental and physical health of all individuals involved;
- (4) the wishes of the child as to his custodian;
- (5) the wishes of the child's parents as to the child's custody;
- (6) whether there exists a relative of the child or other individual who, after study by the department, is found to be qualified to receive and care for the child;
- (7) the availability of services recommended in the predisposition report; and
- (8) the ability of the parents to care for the child in the home.

B. If a child is found to be delinquent, the court may impose a fine not to exceed the fine that could be imposed if the child were an adult and may enter its judgment making any of the following dispositions for the supervision, care and rehabilitation of the child:

- (1) any disposition that is authorized for the disposition of a neglected or abused child, in accordance with the Abuse and Neglect Act;
- (2) transfer legal custody to the department, an agency responsible for the care and rehabilitation of delinquent children, which shall receive the child at a facility designated by the secretary of the department as a juvenile reception facility. The department shall thereafter determine the appropriate placement, supervision and rehabilitation program for the child. The judge may include recommendations for placement of the child. Commitments are subject to limitations and modifications set forth in Section 32A-2-23 NMSA 1978. The types of commitments include:
 - (a) a short-term commitment of one year;
 - (b) a long-term commitment for no more than two years in a long-term facility for the care and rehabilitation of adjudicated delinquent children;
 - (c) if the child is a delinquent offender who committed one of the criminal offenses set forth in Subsection I of Section 32A-2-3 NMSA 1978, a commitment to age twenty-one, unless sooner discharged; or

(d) if the child is a youthful offender, a commitment to age twenty-one, unless sooner discharged;

(3) place the child on probation under those conditions and limitations as the court may prescribe;

(4) place the child in a local detention facility that has been certified in accordance with the provisions of Section 32A-2-4 NMSA 1978 for a period not to exceed fifteen days within a three hundred sixty- five day time period;

(5) if a child is found to be delinquent solely on the basis of Paragraph (3) of Subsection A of Section 32A-2-3 NMSA 1978, the court shall only enter a judgment placing the child on probation or ordering restitution or imposing a fine not to exceed the fine that could be imposed if the child were an adult or any combination of these dispositions; or

(6) if a child is found to be delinquent solely on the basis of Paragraph (2), (4) or (5) of Subsection A of Section 32A-2-3 NMSA 1978, the court may make any disposition provided by this section and may enter its judgment placing the child on probation and, as a condition of probation, transfer custody of the child to the department for a period not to exceed six months without further order of the court; provided that this transfer shall not be made unless the court first determines that the department is able to provide or contract for adequate and appropriate treatment for the child and that the treatment is likely to be beneficial.

C. When the child is an Indian child, the Indian child's cultural needs shall be considered in the dispositional judgment and reasonable access to cultural practices and traditional treatment shall be provided.

D. No child found to be delinquent shall be committed or transferred to a penal institution or other facility used for the execution of sentences of persons convicted of crimes.

E. Whenever the court vests legal custody in an agency, institution or department, it shall transmit with the dispositional judgment copies of the clinical reports, predisposition study and report and other information it has pertinent to the care and treatment of the child.

F. Prior to any child being placed in the custody of the department, the department shall be provided with reasonable oral or written notification and an opportunity to be heard.

G. In addition to any other disposition pursuant to this section or any other penalty provided by law, if a child fifteen years of age or older is adjudicated delinquent on the basis of Paragraph (2), (4) or (5) of Subsection A of Section 32A-2-3 NMSA 1978, the child's driving privileges may be denied or the child's driver's license may be revoked for a period of ninety days. For a second or a subsequent adjudication, the child's driving privileges may be denied or the child's driver's license revoked for a period of one year.

Within twenty-four hours of the dispositional judgment, the court may send to the motor vehicle division of the taxation and revenue department the order adjudicating delinquency. Upon receipt of an order from the court adjudicating delinquency, the director of the motor vehicle division of the taxation and revenue department may revoke or deny the delinquent's driver's license or driving privileges. Nothing in this section may prohibit the delinquent from applying for a limited driving privilege pursuant to Section 66-5-35 NMSA 1978, and nothing in this section precludes the delinquent's participation in an appropriate educational, counseling or rehabilitation program.

H. In addition to any other disposition pursuant to this section or any other penalty provided by law, when a child is adjudicated delinquent on the basis of Paragraph (7) of Subsection A of Section 32A-2-3 NMSA 1978, the child shall perform the mandatory community service set forth in Section 30-15-1.1 NMSA 1978. When a child fails to completely perform the mandatory community service, the name and address of the child's parent or legal guardian shall be published in a newspaper of general circulation, accompanied by a notice that he is the parent or legal guardian of a child adjudicated delinquent for committing graffiti."

Section 5

Section 5

Section 32A-2-20 NMSA 1978 (being Laws 1993, Chapter 77, Section 49, as amended) is amended to read:

"32A-2-20. DISPOSITION OF A YOUTHFUL OFFENDER.--

A. The court has the discretion to invoke either an adult sentence or juvenile sanctions on a youthful offender. The children's court attorney shall file a notice of intent to invoke an adult sentence within ten working days of the filing of the petition, provided that the court may extend the time for filing of the notice of intent to invoke an adult sentence, for good cause shown, prior to the adjudicatory hearing. A preliminary hearing by the court or a hearing before a grand jury shall be held, within ten days after the filing of the intent to invoke an adult sentence, to determine whether probable cause exists to support the allegations contained in the petition.

B. If the children's court attorney has filed a notice of intent to invoke an adult sentence and the child is adjudicated as a youthful offender, the court shall make the following findings in order to invoke an adult sentence:

(1) the child is not amenable to treatment or rehabilitation as a child in available facilities; and

(2) the child is not eligible for commitment to an institution for the developmentally disabled or mentally disordered.

C. In making the findings set forth in Subsection B of this section, the judge shall consider the following factors:

- (1) the seriousness of the alleged offense;
- (2) whether the alleged offense was committed in an aggressive, violent, premeditated or willful manner;
- (3) whether a firearm was used to commit the alleged offense;
- (4) whether the alleged offense was against persons or against property, greater weight being given to offenses against persons, especially if personal injury resulted;
- (5) the sophistication and maturity of the child as determined by consideration of the child's home, environmental situation, emotional attitude and pattern of living;
- (6) the record and previous history of the child;
- (7) the prospects for adequate protection of the public and the likelihood of reasonable rehabilitation of the child by the use of procedures, services and facilities currently available; and
- (8) any other relevant factor, provided that factor is stated on the record.

D. If the court invokes an adult sentence, the court may sentence the child to less than, but shall not exceed, the mandatory adult sentence. A youthful offender given an adult sentence shall be treated as an adult offender and shall be transferred to the legal custody of an agency responsible for incarceration of persons sentenced to adult sentences. This transfer terminates the jurisdiction of the court over the child with respect to the delinquent acts alleged in the petition.

E. If a juvenile disposition is appropriate, the court shall follow the provisions set forth in Section 32A-2-19 NMSA 1978. A youthful offender may be subject to extended commitment in the care of the department until the age of twenty-one, pursuant to the provisions of Section 32A-2-23 NMSA 1978.

F. A fourteen to eighteen year old child charged with first degree murder, but convicted of an offense less than first degree murder, is subject to the dispositions set forth in this section."

Section 6

Section 6

EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 1996.

—
HOUSE JUDICIARY COMMITTEE

SUBSTITUTE FOR HOUSE BILLS

371 AND 376, AS AMENDED

SIGNED MARCH 6, 1996

Chapter 86

RELATING TO EDUCATION; CREATING THE PUBLIC EDUCATION STRATEGIC PLANNING TEAM; PRESCRIBING POWERS AND DUTIES; ENACTING THE STRATEGIC PLANNING FOR PUBLIC EDUCATION ACT; DECLARING AN EMERGENCY.

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

Section 1

Section 1

SHORT TITLE.--This act may be cited as the "Strategic Planning for Public Education Act".

Section 2

Section 2

FINDINGS AND PURPOSE.--

A. The legislature finds that New Mexico has been involved in multiple restructuring and systemic change initiatives to improve the elementary and secondary educational system and that a comprehensive framework for education that can sustain targeted goals and objectives is necessary for long-term support from all branches of government and the public.

B. The legislature finds that a comprehensive elementary and secondary education framework can be established through a strategic planning process that provides the opportunity for all branches of government and the public to reach consensus about the purpose of schooling and to concentrate all efforts, resources, activities and energies toward maximizing the efficiency and effectiveness of the educational system to best prepare New Mexico's students for the future.

C. It is the purpose of the Strategic Planning for Public Education Act to:

(1) develop a statewide strategic plan for public school education that provides a well-defined vision and articulated steps to achieve national preeminence in education;

(2) gain statewide consensus by encouraging the governors office and related state agencies, the legislature, the state board of education, the state department of public education, local boards of education, school personnel, parents, students, the business community and each school districts community to work together toward the common goal of improving educational opportunities and performance of all New Mexicos children and youth; and

(3) develop a plan to coordinate the state-level planning cycle with the budgeting cycle to ensure that the strategic plan drives state-level funding decisions.

Section 3

Section 3

PUBLIC EDUCATION STRATEGIC PLANNING TEAM.--

A. There is created a "public education strategic planning team", which shall function from the date of its appointment until December 31, 1996.

B. The public education strategic planning team shall be composed of thirty members representative of the different geographical areas of the state and reflective of the diverse population of the state and shall be appointed as follows:

(1) two members from the house of representatives, one from each party, appointed by the speaker of the house;

(2) two members from the senate, one from each party, appointed by the president pro tempore of the senate;

(3) two members from the state board of education appointed by the president of the state board of education;

(4) three members appointed by the governor from the executive branch, of whom one shall be from the children, youth and families department and one of whom shall be from the department of health;

(5) nine members from the educational system who shall include a local school board member, a superintendent, a principal, a student, a classified staff member, a representative from higher education and three teachers appointed jointly by the governor, the speaker of the house, the president pro tempore of the senate and the president of the state board of education; and

(6) twelve members of the public who shall include parents and members of the business community appointed jointly by the governor, the speaker of the house, the president pro tempore of the senate and the president of the state board of education.

B. The legislative education study committee shall solicit recommendations from the public and organizations representative of the categories specified in Paragraphs (5) and (6) of Subsection A of this section to compile a list of names from each of the categories listed. The governor, the speaker of the house, the president pro tempore of the senate and the president of the state board of education shall jointly appoint the members from the educational system and members of the public from the list provided by the legislative education study committee.

C. Appointed members of the public education strategic planning team shall be reimbursed as provided in the Per Diem and Mileage Act and shall receive no other compensation, perquisite or allowance.

Section 4

Section 4

DUTIES.--

A. The public education strategic planning team shall:

(1) develop and reach consensus on a statewide strategic plan for New Mexico public schools that makes New Mexico preeminent in education in the nation. The plan shall include the development of a mission statement focused on objectives and strategies that may include issues such as professional development, accountability and resource planning;

(2) review and approve action plans to ensure that each action plan is aligned with the vision and goals of the statewide strategic plan and clearly delineates timelines, expected outcomes and parties responsible for carrying out the action plans;

(3) develop a consensus-building strategy to inform the public and develop consensus among New Mexicans about the strategic plan; and

(4) develop and recommend a schedule of implementation for the strategies and action plans that includes a program budgeting system having a year-by-year cost projection for implementing the plans.

B. In developing the statewide strategic plan, the public education strategic planning team shall allow for the autonomy of local districts and shall take into account existing initiatives that the state has been involved in, including the legislative education study committee's initiatives, the state board of education's consolidating initiatives for

tomorrow's education, school-to-work and other state agency initiatives and state and local district initiatives.

Section 5

Section 5

REPORT.--The public education strategic planning team shall make a report of its findings and recommendations to the first session of the forty-third legislature regarding necessary legislation to begin implementation of the statewide strategic plan, including in its recommendations a plan for annual updates of the strategic statewide plan on ways to coordinate the planning cycle with the budgeting cycle to ensure that the strategic plan drives state funding decisions; to assess progress as measured by the strategies and action plans; and to make modifications and adjustments to the statewide strategic plan. The report of findings and recommendations shall be made available to the speaker of the house, the president pro tempore of the senate, the legislative education study committee, the governor and the state board of education no later than November 15, 1996.

Section 6

Section 6

STAFF.--The staff for the public education strategic planning team and action teams shall be provided by the legislative education study committee, the governor's office and the state board of education. The staff shall be responsible for compilation of current education data and information for review and use by the planning teams, coordination of meetings and overall management of the project. The legislative education study committee in cooperation with the state board of education and the governor's office shall coordinate the project. The legislative education study committee, in consultation with the state board of education and the governor's office, may contract for strategic planning assistance.

Section 7

Section 7

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

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HOUSE BILL 83, AS AMENDED

WITH EMERGENCY CLAUSE

SIGNED MARCH 6, 1996

Chapter 87

RELATING TO LICENSE FEES; AMENDING FEES FOR CERTAIN GAME AND FISH LICENSES.

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

Section 1

Section 1

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."

Section 2

Section 2

EFFECTIVE DATE.--The effective date of the provisions of this act is April 1, 1997.

—

HOUSE BILL 304, AS AMENDED

SIGNED MARCH 6, 1996

Chapter 88

RELATING TO CRIMINAL AND JUVENILE JUSTICE; MANDATING A REVIEW OF ISSUES ATTENDANT TO A PROPOSED SECURE JUVENILE FACILITY; REPEALING AND ENACTING A NEW SECTION OF THE NMSA 1978.

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

Section 1

Section 1

A new Section 9-3-10.3 NMSA 1978 is enacted to read:

"9-3-10.3. REVIEW OF ISSUES ATTENDANT TO A PROPOSED SECURE JUVENILE FACILITY--DUTIES.--

A. In addition to its other duties set forth in Section 9-3-10 NMSA 1978, the criminal and juvenile justice coordinating council shall advise the children, youth and families department on the design, location and use of a proposed secure juvenile facility. The council shall consider:

(1) the design of a secure juvenile facility needed for adequate protection of the public;

(2) criteria for determining which children, up to twenty-one years of age, require a secure juvenile facility;

(3) criteria for determining which children can achieve reasonable rehabilitation by the use of procedures, services and facilities currently available;

(4) whether the seriousness of a criminal offense alone requires secure confinement, including the need for a secure juvenile facility if the criminal offense was committed in an aggressive, violent, premeditated or willful manner;

(5) the need for secure confinement if the criminal offense was committed during a transaction or occurrence that involved criminal gang activity or the use of a firearm; and

(6) the need for secure confinement if the criminal offense was committed against a person or property, and if against a person, whether personal injury resulted.

B. The council shall advise the children, youth and families department on the development of a classification system to indicate when children require secure confinement, taking into account the child's home, environmental situation, emotional attitude and pattern of living and the record and previous history of the child.

C. The council shall advise the children, youth and families department and the corrections department on the development of criteria regarding:

(1) whether children who receive adult sentences should be committed to the jurisdiction of the children, youth and families department for placement in a secure juvenile facility until twenty-one years of age or committed to the jurisdiction of the corrections department;

(2) whether children thirteen and fourteen years of age who are subject to adult sentencing should be placed in a secure juvenile facility; and

(3) statutory changes needed, if any, to provide the children, youth and families department and the courts with express authority to place children in a secure juvenile facility.

D. The council shall conclude its review of issues attendant to a proposed secure juvenile facility and provide a written report of its findings and recommendations to the children, youth and families department, the corrections department and an interim legislative committee with jurisdiction over juvenile justice issues no later than October 1, 1996."

Section 2

Section 2

DELAYED REPEAL.--Section 9-3-10.3 NMSA 1978 (being Section 1 of this act) is repealed effective January 1, 1997.

—

SENATE JUDICIARY COMMITTEE SUBSTITUTE

FOR SENATE BILL 740, AS AMENDED

SIGNED MARCH 6, 1996

Chapter 89

RELATING TO HUNTING LICENSES; IMPOSING LIMITATIONS ON THE NUMBER OF CERTAIN HUNTING LICENSES TO BE ISSUED TO NONRESIDENTS; ESTABLISHING CRITERIA FOR THE DESIGNATION OF HIGH-DEMAND UNITS; IMPOSING REQUIREMENTS CONCERNING GUIDES AND OUTFITTERS; AMENDING, REPEALING AND ENACTING CERTAIN SECTIONS OF THE NMSA 1978.

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

Section 1

Section 1

Section 17-3-16 NMSA 1978 (being Laws 1964 (1st S.S.), Chapter 17, Section 7) is amended to read:

"17-3-16. FUNDS--SPECIAL DRAWINGS FOR LICENSES.--

A. The director of the department of game and fish may provide special envelopes and application blanks when a special drawing is to be held to determine the persons to receive licenses. Money required to be submitted with these applications, if enclosed in the special envelopes, need not be deposited with the state treasurer but may be held by the

director until the successful applicants are determined. At that time, the fees of the successful applicants shall be deposited with the state treasurer and the fees submitted by the unsuccessful applicants shall be returned to them.

B. Beginning with the licenses issued from a special drawing for a hunt code on public lands that commences on or after April 1, 1997:

(1) seventeen percent of the licenses shall be issued to nonresidents. Except for antelope and javelina licenses, each nonresident applicant shall, at the time of submission of the application for the license, sign the application and identify the registration number of the New Mexico registered outfitter who will be used with the hunting party that includes the nonresident. The nonresident shall be required to contract for outfitting services with the New Mexico registered outfitter identified in the application. Except for antelope and javelina licenses, the nonresident shall not be allowed to hunt with a license issued from a drawing for a hunt on public lands without utilizing and being physically accompanied on the hunt by the New Mexico registered outfitter identified in the application, or one of that outfitter's guides; provided, however, that this requirement shall not apply to lands under the control of the federal military if the military objects to it. In a hunt covered by this paragraph that requires a New Mexico registered guide, there shall be at least one New Mexico registered guide or outfitter accompanying every four or fewer nonresident hunters;

(2) three percent of the licenses shall be issued to individuals listed on an application where at least two of the applicants are residents and no more than two of the applicants are nonresidents. Each resident must be a New Mexico resident for at least one year prior to submitting the application. Nonresidents listed on such applications shall not be required to utilize the services of a registered New Mexico guide or outfitter, provided the nonresidents are physically accompanied on the hunt for that hunt code by the residents listed on the application; and

(3) eighty percent of the licenses shall be issued to residents of New Mexico.

C. If the number of nonresidents who apply for licenses pursuant to the provisions of Paragraphs (1) and (2) of Subsection B of this section does not constitute the allocated percentages identified in those provisions for a hunt code, then all of the nonresident applicants shall be granted licenses, and the remainder of the licenses shall be made available to residents for the special drawing for that hunt code.

D. If the determination of seventeen percent or three percent in Paragraphs (1) and (2) of Subsection B of this section yields a fraction of:

(1) five-tenths or greater, the number of licenses to be issued shall be rounded up to the next whole number; and

(2) less than five-tenths, the number of licenses shall be rounded down to the next whole number.

E. The fee for a nonresident license for a special drawing in a high-demand hunt covered in Subsection B of this section shall be assessed at the same rate as a license for nonresident quality elk or quality deer. As used in this subsection, "high-demand hunt" means:

(1) a hunt where the total number of nonresident applicants for a hunt code in each unit exceeds twenty percent of the total applicants based on data for the two immediately preceding years; or

(2) an additional hunt code designated by the department as a quality hunt."

Section 2

Section 2

Effective June 30, 1999, Section 17-3-16 NMSA 1978 (being Laws 1964 (1st S.S.), Chapter 17, Section 7, as amended by Section 1 of this act) is repealed and a new Section 17-3-16 NMSA 1978 is enacted to read:

"17-3-16. FUNDS--SPECIAL DRAWINGS FOR LICENSES.--The director of the department of game and fish may provide special envelopes and application blanks when a special drawing is to be held to determine the persons to receive licenses. Money required to be submitted with these applications, if enclosed in the special envelopes, need not be deposited with the state treasurer but may be held by the director until the successful applicants are determined. At that time, the fees of the successful applicants shall be deposited with the state treasurer and the fees submitted by the unsuccessful applicants shall be returned to them."

Section 3

Section 3

A new section of Chapter 17 NMSA 1978 is enacted to read:

"DEFINITIONS.--For the purposes of Chapter 17 NMSA 1978:

A. "hunt code" means a description used to identify and define the species, weapon type and time frame authorized for a specific hunt;

B. "outfitter" or "guide" means a person who advertises or holds himself out to the public for hire or is employed or accepts compensation for providing, within the unit where a hunt occurs, facilities, equipment or services for hunting activities; provided, however, that "outfitter" or "guide" does not include a person who only cooks, cuts wood or performs other comparable or incidental duties not directly related to hunting activities; and

C. "unit" means a geographically bound area in the state that is used to manage game species."

Section 4

Section 4

A new section of Chapter 17 NMSA 1978 is enacted to read:

"STATEWIDE SYSTEM FOR HUNTING ACTIVITIES.--The state game commission shall develop a statewide system for hunting activities that increases participation by New Mexico residents and considers hunter safety, quality hunts, high demand areas, guides and outfitters, quotas and local and financial interests."

Section 5

Section 5

A new section of Chapter 17 NMSA 1978 is enacted to read:

"HUNTING GUIDES AND OUTFITTERS.--

A. Effective April 1, 1997, it is unlawful to be a hunting guide or outfitter in New Mexico without being registered, except for a private landowner or his authorized agent who outfits or guides pursuant to a landowner permit issued by the department of game and fish for the landowner's property or for the landowner's shared private and public unit.

B. The state game commission shall adopt regulations by September 1, 1997 to govern the granting of non-interim registration, permits and certificates to hunting guides and outfitters and to regulate the operations and professional conduct of registered hunting guides and outfitters. Regulations shall be adopted in accordance with the following procedures and standards:

(1) the commission shall establish dates and locations for a public hearing and provide reasonable prior public notice of a hearing. A public hearing shall be held at a place within any quadrant of the state affected by the proposed regulation when the commission determines there is substantial public interest in holding a hearing in that quadrant;

(2) a hearing shall be held within six months of the date a proposed regulation is issued;

(3) notice of a hearing shall:

(a) include the date, time and location of the hearing;

(b) include a statement of the recommended action;

(c) include an indication of the location and availability of the public file on the regulation;

(d) indicate where and by what date written and oral comments and testimony may be received; and

(e) specify that the public record shall remain open for comments for thirty days after the date of the final hearing; and

(4) the commission shall make its decision and take action based upon relevant and reliable evidence.

C. No person shall be allowed to work as a registered hunting guide or outfitter in New Mexico:

(1) without being registered by the state game commission;

(2) if the person has had a guide or outfitter license, registration, permit or certificate revoked in another state;

(3) if the person has had a guide or outfitter license, registration, permit or certificate suspended in another state and it has not been reinstated; or

(4) if the person has been convicted of a felony.

D. The state game commission shall develop a point system for the suspension or revocation of a guide or outfitter registration. The point system shall be similar to the point system that governs individual hunting and fishing license privileges.

E. To be granted a registration to be a guide, an applicant shall, in addition to any other reasonable criteria adopted by the state game commission, and except as provided for persons granted an interim registration:

(1) be at least eighteen years of age;

(2) pass a written or oral examination approved by the department of game and fish at a date and time approved by the department; and

(3) be endorsed on his application by a New Mexico registered or interim registered outfitter.

F. A registered or interim registered guide shall work only under the supervision of a New Mexico registered or interim registered outfitter and in an area designated by the registered or interim registered outfitter.

G. The department of game and fish may provide a registration for a temporary emergency guide, provided the registration is limited to a maximum seven-day period and is granted only in emergency circumstances as determined by the department. The fee for a temporary emergency guide registration is ten dollars (\$10.00).

H. To be granted a registration to be an outfitter, an applicant shall, in addition to any other reasonable criteria adopted by the state game commission, and except as provided for persons granted an interim registration:

(1) be at least twenty-one years of age;

(2) have operated as a New Mexico registered guide for at least three years or have been granted an interim outfitter's registration;

(3) not be a convicted felon or have a history of violation of federal or state game and fish laws or regulations or federal or state guide or outfitter licensing or registration laws or regulations;

(4) pass a written or oral examination approved by the department of game and fish at a date and time determined by the department; and

(5) be endorsed by a registered outfitter.

I. A registered outfitter shall:

(1) provide proof of commercial liability insurance of at least five hundred thousand dollars (\$500,000);

(2) responsibly supervise each registered guide working under his direction;

(3) provide a written contract for outfitting services, signed by the registered outfitter and identifying the outfitter's registration number, to each nonresident who seeks to use, and before the nonresident applies for, a license granted from a special drawing for a hunt on public lands pursuant to the provisions of Section 17-3-16 NMSA 1978;

(4) register with the taxation and revenue department and provide proof of that registration to the department of game and fish; and

(5) provide at least one registered guide or outfitter for every four or fewer nonresident hunters who are granted a license, pursuant to an application listing the outfitter's registration number, from a special drawing for a hunt on public lands pursuant to the provisions of Section 17-3-16 NMSA 1978.

J. The department of game and fish shall provide to the taxation and revenue department a copy of each outfitter registration that is granted.

K. No person shall be allowed to charge a processing or other fee to obtain for a nonresident a license that is granted from a special drawing for a hunt on public lands pursuant to the provisions of Section 17- 3-16 NMSA 1978, unless the person who obtains the license is a registered New Mexico guide or outfitter who physically accompanies the nonresident hunter on the hunt.

L. The department of game and fish shall develop by September 1, 1996 a point system to provide preferences for the use of registered outfitters who are New Mexico residents. The point system shall include a progressive preference based upon the total number of years of guiding or outfitting operations in New Mexico.

M. A New Mexico resident registered outfitter shall be defined by the state game commission in accordance with regulations it adopts. The regulations shall require at a minimum that a resident registered outfitter shall maintain a residence and business address in New Mexico and derive at least fifty percent of his guiding or outfitting income from guiding or outfitting services provided in New Mexico, as determined by gross receipts or corporate or individual income tax returns for the immediately preceding three years. The registration applicant may voluntarily provide copies of the necessary tax records, or the taxation and revenue department shall assist the commission as needed to make this determination. Tax records shall be confidential.

N. The department of game and fish shall maintain for public distribution a list of New Mexico registered outfitters.

O. The annual registration fee for a registered guide in New Mexico is fifty dollars (\$50.00) for a resident and one hundred dollars (\$100) for a nonresident.

P. The annual registration fee to be a registered outfitter in New Mexico is five hundred dollars (\$500) for a resident and five thousand dollars (\$5,000) for a nonresident.

Q. Annual registration fees for guides and outfitters shall be deposited in the game protection fund.

R. The state game commission shall adopt by September 1, 1996 interim regulations, consistent to the greatest extent practicable with the provisions of this section, to

provide for the granting of interim registrations to guides and outfitters. The commission shall issue interim registrations prior to mailing applications for 1997 licensed hunts to persons who qualify for interim registration and submit applications to the department of game and fish by November 1, 1996.

S. A person adversely affected by an action, other than a regulation, taken pursuant to the provisions of this section, including the denial, suspension or revocation of a registration, license, permit or certificate, may seek review of the action pursuant to the provisions of the Uniform Licensing Act.

T. A person adversely affected by a regulation adopted by the state game commission pursuant to this section may appeal to the court of appeals. All appeals shall be made upon the record at the hearing and shall be taken to the court of appeals within thirty days following the date of the action. The date of the action shall be the date of the filing of the regulation by the commission, pursuant to the provisions of the State Rules Act.

U. Upon appeal, the court of appeals shall set aside a regulation only if it is found to be:

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

V. After a hearing and a showing of good cause by the appellant, a stay of a regulation being appealed may be granted:

- (1) by the state game commission; or
- (2) by the court of appeals if the state game commission denies a stay or fails to act upon an application for a stay within sixty days after receipt of the application.

W. The appellant shall pay all costs for any appeal found to be frivolous by the court of appeals."

Section 6

Section 6

DELAYED REPEAL.--Sections 1 and 3 through 5 of this act are repealed effective June 30, 1999.

Section 7

Section 7

ACT NOT SEVERABLE.--If any part or application of this act is held invalid, the remainder or its application to other situations or persons shall likewise be invalid. The provisions of this act are not severable.

Section 8

Section 8

EFFECTIVE DATE.--

A. The effective date of the provisions of Sections 1 and 3 through 5 of this act is July 1, 1996.

B. The effective date of the provisions of Section 2 of this act is June 30, 1999.

—

SENATE FINANCE COMMITTEE SUBSTITUTE

FOR SENATE BILL 193

SIGNED MARCH 6, 1996

House Joint Resolution 9

A JOINT RESOLUTION

APPROVING AND RATIFYING THE TRANSFER OF REAL PROPERTY BY THE GENERAL SERVICES DEPARTMENT TO THE STATE ARMORY BOARD.

WHEREAS, the property control division of the general services department has control over certain state buildings and lands; and

WHEREAS, the property control division of the general services department has authority to sell or trade state buildings and real property under its control in accordance with Section 13-6-3 NMSA 1978; and

WHEREAS, the property of approximately seven and one-half acres in the city of Santa Fe known as 1050 Old Pecos trail is under the jurisdiction of the property control division of the general services department; and

WHEREAS, that property is the former New Mexico national guard headquarters and training center; and

WHEREAS, after construction of a new national guard armory on Cerrillos road in the city of Santa Fe, the state armory board transferred title to the property to the general services department; and

WHEREAS, the New Mexico national guard 200th coast artillery regiment trained at the former national guard armory site on Old Pecos trail; and

WHEREAS, the 200th coast artillery regiment was the primary military unit in the "Bataan death march"; and

WHEREAS, less than half of the one thousand eight hundred New Mexicans deployed to the Philippines in 1942 returned from the "Bataan death march"; and

WHEREAS, the New Mexico house of representatives passed House Memorial 76 in 1994 supporting the relocation of the Bataan memorial military museum to that site; and

WHEREAS, the Bataan memorial military museum was relocated to the lobby of the theater at 1050 Old Pecos trail in August 1994; and

WHEREAS, there is significant interest by the national association of American prisoners of war and others to locate a world-class national Bataan memorial museum at the site of the former New Mexico national guard headquarters and training center on Old Pecos trail; and

WHEREAS, the Bataan memorial military museum and the New Mexico national guard historical foundation have requested that the general services department return the property to the state armory board; and

WHEREAS, the armory for the arts theater, the children's museum and the center for contemporary arts occupy facilities at 1050 Old Pecos trail; and

WHEREAS, the Bataan memorial military museum and the New Mexico national guard historical foundation have expressed interest in continuing the current activities of the armory for the arts theater, the children's museum and the center for contemporary arts located on the property until plans for a national museum are further developed and until appropriate space can be found to relocate those functions; and

WHEREAS, the value of the property exceeds one hundred thousand dollars (\$100,000);

NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO that the general services department be authorized to transfer to the state armory board the real property and improvements located at 1050 Old Pecos trail in Santa Fe; and

BE IT FURTHER RESOLVED that the secretary of general services be empowered to take all actions necessary or expedient to accomplish the transfer of the real property to the state armory board; and

BE IT FURTHER RESOLVED that any leases or other written agreements between the general services department and other entities at 1050 Old Pecos trail will transfer to and be binding upon the state armory board; and

BE IT FURTHER RESOLVED that, pursuant to Section 13-6-3 NMSA 1978, the legislature approve and ratify the transfer of the real property described herein by the general services department to the state armory board; and

BE IT FURTHER RESOLVED that a copy of this resolution be transmitted to the general services department, the state armory board and the Bataan memorial military museum.

—

HOUSE JOINT RESOLUTION 9

House Joint Resolution 13

A JOINT RESOLUTION

AUTHORIZING THE TRANSFER OF OWNERSHIP OF THE AZTEC WELCOME CENTER TO THE CITY OF AZTEC.

WHEREAS, in 1990 the New Mexico legislature appropriated funds for the construction of the welcome center in Aztec; and

WHEREAS, since its construction, the center has operated to provide information to both residents and tourists in the four corners area; and

WHEREAS, the tourism department has determined that it is unable to adequately operate and maintain the center and that the local government could adequately and appropriately perform that function instead; and

WHEREAS, Section 13-6-2 NMSA 1978 authorizes the sale and disposition of real property belonging to state agencies; and

WHEREAS, in 1974, the New Mexico supreme court determined that the provisions of the constitution of New Mexico prohibiting donations or gifts to public corporations do not apply to legislatively sanctioned transfers by the state or one of its agencies to another such agency; and

WHEREAS, it is in the public interest that the legislature authorize and sanction the sale of the Aztec welcome center to the city of Aztec for minimal consideration so that the city may continue to operate the facility in the four corners area;

NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO that the legislature authorize and sanction the proposed sale of the Aztec welcome center to the city of Aztec for minimal consideration; and

BE IT FURTHER RESOLVED that copies of this resolution be transmitted to the tourism department, the general services department and the city of Aztec.

—

HOUSE JOINT RESOLUTION 13

House Joint Resolution 17

A JOINT RESOLUTION

APPROVING AND RATIFYING THE TRANSFER OF REAL PROPERTY BY THE GENERAL SERVICES DEPARTMENT TO THE UNITED STATES GOVERNMENT.

WHEREAS, the property control division of the general services department has control over certain state buildings and lands; and

WHEREAS, the property control division of the general services department has authority to sell or trade state buildings and real property under its control in accordance with Section 13-6-3 NMSA 1978; and

WHEREAS, the property of approximately forty-two and one-tenth hectares, or one hundred four acres, in the area of the Santa Teresa border crossing in Dona Ana county is under the jurisdiction of the property control division of the general services department; and

WHEREAS, the state of New Mexico has entered an agreement with the United States government to develop a permanent border crossing between Mexico and New Mexico at Santa Teresa; and

WHEREAS, the United States government needs approximately twenty-eight and three-fourths hectares, or seventy-one and one-tenth acres, of land on which to construct the permanent border crossing facilities; and

WHEREAS, having a permanent border crossing between Mexico and New Mexico would benefit the citizens and economy of New Mexico; and

WHEREAS, construction of the permanent border crossing facilities is scheduled to commence in June 1996;

NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO that the general services department be authorized to transfer to the United States government approximately seventy-one and one-tenth acres of the one hundred four acres of state-owned land in the area of the Santa Teresa border crossing; and

BE IT FURTHER RESOLVED that the secretary of general services be empowered to take all actions necessary or expedient to accomplish the transfer of the real property to the United States government; and

BE IT FURTHER RESOLVED that pursuant to Section 13-6-3 NMSA 1978 the legislature hereby approve and ratify the transfer of real property by the general services department to the United States government; and

BE IT FURTHER RESOLVED that a copy of this resolution be transmitted to the secretary of general services.

—

HOUSE JOINT RESOLUTION 17

House Joint Resolution 19

A JOINT RESOLUTION

APPROVING AND RATIFYING THE TRANSFER OF REAL PROPERTY BY THE GENERAL SERVICES DEPARTMENT TO THE NEW MEXICO REGION NO. 2 HOUSING AUTHORITY.

WHEREAS, the property control division of the general services department has control over certain state buildings and lands; and

WHEREAS, the property control division of the general services department has authority to sell or trade state buildings and real property under its control in accordance with Section 13-6-3 NMSA 1978; and

WHEREAS, the property of approximately ten acres in the area of the Las Vegas medical center is under the jurisdiction of the property control division of the general services department; and

WHEREAS, the state of New Mexico may enter into an agreement with the region no. 2 housing authority to develop housing for low income and disabled individuals in Las Vegas, New Mexico; and

WHEREAS, the region no. 2 housing authority needs real property in order to construct and develop housing for low- income and disabled individuals; and

WHEREAS, the Las Vegas medical center supports the community placement of the mentally disabled, and the region no. 2 housing authority agrees to designate one-half of the rental units to accommodate people with disabilities;

NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO that the general services department is authorized to transfer to the region no. 2 housing authority approximately ten acres in Las Vegas, New Mexico; and

BE IT FURTHER RESOLVED that the secretary of general services is empowered hereby to take all actions necessary to accomplish the transfer of the real property to the region no. 2 housing authority; and

BE IT FURTHER RESOLVED that, pursuant to Section 13-6-3 NMSA 1978, this resolution fulfills all approval and ratification prerequisites for the transfer of real property by the general services department to the region no. 2 housing authority; and

BE IT FURTHER RESOLVED that a copy of this resolution be transmitted to the general services department, the department of health and the state housing authority.

—

HOUSE JOINT RESOLUTION 19

Senate Joint Resolution 9

A JOINT RESOLUTION

AUTHORIZING AND RATIFYING THE PROPOSED SALE OF A TRACT OF LAND LOCATED IN ALBUQUERQUE AND CURRENTLY OWNED BY THE DEPARTMENT OF PUBLIC SAFETY.

WHEREAS, Section 13-6-3 NMSA 1978 requires legislative ratification and approval of the sale of any land belonging to a state agency, that sale being for consideration of one hundred thousand dollars (\$100,000) or more; and

WHEREAS, the department of public safety currently owns a piece of property on Manual boulevard in Albuquerque, which the department has determined to be surplus property; and

WHEREAS, the property owned by the department of public safety is described as a certain parcel of land situate within the city limits of the city of Albuquerque, Bernalillo county, New Mexico being and comprising the northerly 125 feet of Joseph Reay tract parcel "A-1" to the city of Albuquerque, New Mexico as the same is shown and

designated on said plat filed in the office of the county clerk of Bernalillo county, New Mexico on March 31, 1988 (Bk. C36-44); and

WHEREAS, individuals have expressed an interest in the purchase of the property described above;

NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO that the proposed sale of the tract of land located on Menaul boulevard, owned by the department of public safety, and described herein, be ratified and approved pursuant to the provisions of Section 13-6-3 NMSA 1978; and

BE IT FURTHER RESOLVED that copies of this resolution be transmitted to the department of public safety and the general services department.

—

SENATE JOINT RESOLUTION 9

Roster of Elected Officials

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
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Bill Richardson, Democrat, District No. 3, Santa Fe

STATE OFFICIALS

Gary Johnson, Republican	Governor
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Walter D. Bradley, Republican	Lieutenant Governor
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Stephanie Gonzales, Democrat	Secretary of State
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Robert E. Vigil, Democrat	State Auditor
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Michael A. Montoya, Democrat	State Treasurer
Tom Udall, Democrat	Attorney General
Ray Powell, Jr., Democrat	Commissioner of Public Lands
Gloria Tristani, Democrat	Corporation Commissioner
Eric P. Serna, Democrat	Corporation Commissioner
Jerome Block, Democrat	Corporation Commissioner

JUSTICES OF THE SUPREME COURT

Joseph F. Baca, Chief Justice

Richard Random, Senior Justice

Gene Franchini

Stanley F. Frost

Pamela B. Minzner

JUDGES OF THE COURT OF APPEALS

Rudy S. Apodaca, Chief Judge

Thomas A. Donnelly

A. Joseph Alarid

Harris L Hartz

Lynn Pickard

Bruce D. Black

Benny E. Flores

Richard C. Bosson

James J. Wechsler

Michael D. Bustamante

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	Patricio M. Serna	Santa Fe
Division	IV	Michael Vigil	Santa Fe
Division	V	Art Encinias	Santa Fe
Division	VI	Steve Herrera	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	Gerard W. Thompson	Albuquerque
Division	VI	W. C. "Woody" Smith	Albuquerque
Division	VII	W. Daniel Schneider	Albuquerque
Division	VIII	Ross C. Sanchez	Albuquerque
Division	IX	Burt Cosgrove	Albuquerque
Division	X	Theresa Baca	Albuquerque
Division	XI	Diane Dal Santo	Albuquerque

Division	XII	Gerald R. Cole	Albuquerque
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Division	XIII	Robert Hayes Scott	Albuquerque
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Division	XIV	W. John Brennan	Albuquerque
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Division	XV	Richard J. Knowles	Albuquerque
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Division	XVI	Robert L. Thompson	Albuquerque
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Division	XVII	Ann M. Kass	Albuquerque
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Division	XVIII	Susan M. Conway	Albuquerque
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Division	XIX	Albert S. Murdoch	Albuquerque
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Division	XX	William F. Land	Albuquerque
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Division	XXI	Angela J. Jewell	Albuquerque
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THIRD JUDICIAL DISTRICT

DONA ANA COUNTY

Division	I	Robert E. Robles	Las Cruces
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Division	II	Graden W. Beal	Las Cruces
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Division	III	James T. Martin	Las Cruces
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Division	IV	Jerald A. Valentine	Las Cruces
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Division	V	Thomas G. Cornish, Jr.	Las Cruces
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Division	VI		Las Cruces
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FOURTH JUDICIAL DISTRICT

GUADALUPE, MORA, SAN MIGUEL COUNTIES

Division	I	Eugenio S. Mathis	Las Vegas
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Division	II	Jay Gwynne Harris	Las Vegas
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FIFTH JUDICIAL DISTRICT

CHAVES, EDDY, LEA COUNTIES			
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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	Larry Johnson	Hobbs
Division	VIII	William P. "Chip" Johnson	Roswell

SIXTH JUDICIAL DISTRICT			
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GRANT, HIDALGO, LUNA COUNTIES			
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Division	I	V. Lee Vesely	Silver City
Division	II	Manuel D.V. Saucedo	Deming

SEVENTH JUDICIAL DISTRICT			
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CATRON, SIERRA, TORRANCE, SOCORRO COUNTIES			
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Division	I	Edmund H. Kase, III	Socorro
Division	II	Thomas G. Fitch	Socorro
Division	III		Socorro

EIGHTH JUDICIAL DISTRICT			
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COLFAX, UNION, TAOS COUNTIES			
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Division	I	Peggy Jean Nelson	Raton
Division	II	Joseph Edward Caldwell	Taos

NINTH JUDICIAL DISTRICT

CURRY & ROOSEVELT COUNTIES

Division	I	Stephen Quinn	Clovis
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Division	II	Fred T. Hensley	Clovis
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Division	III	David W. Bonem	Clovis, Portales
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TENTH JUDICIAL DISTRICT

QUAY, DeBACA, HARDING COUNTIES

Division	I	Ricky D. Purcell	Tucumcari
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ELEVENTH JUDICIAL DISTRICT

McKINLEY, SAN JUAN COUNTIES

Division	I	Benjamin S. Eastburn	Aztec
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Division	II	Joseph L. Rich	Gallup
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Division	III	Wilfred Byron Caton	Aztec
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Division	IV	Paul R. Onuska	Farmington
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Division	V		
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Division	VI		
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TWELFTH JUDICIAL DISTRICT

LINCOLN, OTERO COUNTIES

Division	I	Sandra A. Grisham	Alamogordo
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Division	II	Robert M. Doughty, II	Alamogordo
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Division	III	Richard A. Parsons, Sr.	Carrizozo
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Division	IV	Frank K. Wilson	Alamogordo
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THIRTEENTH JUDICIAL DISTRICT

SANDOVAL, VALENCIA, CIBOLA COUNTIES
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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	Robert M. Schwartz	Albuquerque	
Third Judicial District	G. Gregg Valdez	Las Cruces	
Fourth Judicial District	Luis B. Juarez	Las Vegas	
Fifth Judicial District	Thomas A. Rutledge	Carlsbad	
Sixth Judicial District	Anthony W. White	Silver City	
Seventh Judicial District	Ron P. Lopez	Socorro	
Eighth Judicial District	Sammy Lawrence Pacheco	Taos	
Ninth Judicial District	Randall M. Harris	Clovis	
Tenth Judicial District	Mark I. Bannister, Sr.	Tucumcari	
Eleventh Judicial District			
Division	I	Alan E. Whitehead	Farmington
Division	II	Forrest G. Buffington	Gallup
Twelfth Judicial District	Bert Atkins	Alamogordo	
Thirteenth Judicial Dist.	Mike Runnels	Los Lunas	

STATE SENATORS SERVING IN THE FORTY-SECOND LEGISLATURE

STATE OF NEW MEXICO

SECOND SESSION

CONVENED JANUARY 16, 1996

SECOND SESSION -FIRST SPECIAL SESSION

CONVENED MARCH 20, 1996

COUNTY DISTRICT NAME CITY

San Juan 1 Raymond Kysar (R) Farmington

San Juan 2 Christine A. Donisthorpe (R) Bloomfield

McKinley &

San Juan 3 John Pinto (D) Tohatchi

Cibola &

McKinley 4 Gloria Howes (D) Gallup

Los Alamos,

Rio Arriba &

Sandoval 5 Emilio Naranjo (D) Espanola

Mora, Santa Fe

& Taos 6 Carlos R. Cisneros (D) Questa

Colfax, Curry,

Harding, Quay, 7 Patrick H. Lyons (R) Cuervo San Miguel

& Union

DeBaca, Guadalupe,

Lincoln, & 8 Pete Campos (D) Las Vegas

San Miguel			
Bernalillo &			
Sandoval	9	Virgil O. Rhodes (R)	Corrales
Bernalillo	10	Janice D. Paster (D)	Albuquerque
Bernalillo	11	Thomas R. Benavides (D)	Albuquerque
Bernalillo	12	Richard M. Romero (D)	Albuquerque
Bernalillo	13	Tito D. Chavez (D)	Albuquerque
Bernalillo &			
Valencia	14	Manny M. Aragon (D)	Albuquerque
Bernalillo	15	L. Skip Vernon (R)	Albuquerque
Bernalillo	16	Tom Rutherford (D)	Albuquerque
Bernalillo	17	Shannon Robinson (D)	Albuquerque
Bernalillo	18	Ann J. Riley (D)	Albuquerque
Bernalillo, Santa			
Fe & Torrance	19	Duncan Scott (R)	Albuquerque
Bernalillo	20	Michael C. Wiener (R)	Albuquerque
Bernalillo	21	Tom C. Wray (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	Edward J. Lopez (D)	Santa Fe

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)	Mesquite
Chaves, Eddy			
& Otero	32	Timothy Z. Jennings (D)	Roswell
Chaves & Eddy	33	Emmit M. Jennings (R)	Roswell
Eddy, Lea &			
Otero	34	Melvin D. (Don) Kidd (R)	Carlsbad
Dona Ana, Hidalgo,			
Luna &			
Sierra	35	John Arthur Smith (D)	Deming
Dona Ana	36	Mary Jane M. Garcia (D)	Dona Ana
Dona Ana, Otero			
& Sierra	37	Leonard Lee Rawson (R)	Las Cruces
Dona Ana	38	Fernando R. Macias (D)	Mesilla

Bernalillo, Los Alamos,			
Sandoval,	39	Elizabeth T. Stefanics (D)	Santa Fe
San Miguel,			
Santa Fe & Torrance			
Otero	40	Dianna J. Duran (R)	Alamogordo
Eddy & Lea	41	Gary Don Reagan (D)	Hobbs
Curry, Lea &			
Roosevelt	42	Billy J. McKibben (R)	Hobbs

STATE REPRESENTATIVES SERVING IN THE FORTY-SECOND LEGISLATURE

STATE OF NEW MEXICO

SECOND SESSION

CONVENED JANUARY 16, 1996

SECOND SESSION -- FIRST SPECIAL SESSION

CONVENED MARCH 20, 1996

<u>COUNTY</u>	<u>DIST.</u>	<u>NAME</u>	<u>CITY</u>
San Juan	1	Jerry W. Sandel (D)	Farmington
San Juan	2	David G. Christensen (R)	Farmington
Rio Arriba &			
San Juan	3	Sandra L. Townsend (R)	Aztec
San Juan	4	Wallace Charley (D)	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	Richard Ray Sanchez (D)	Albuquerque
Bernalillo	15	Raymond G. Sanchez (D)	Albuquerque
Bernalillo	16	Albert Gurule (D)	Albuquerque
Bernalillo	17	Edward C. Sandoval (D)	Albuquerque
Bernalillo	18	Cisco McSorley (D)	Albuquerque
Bernalillo	19	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	Arthur C. Hawkins (R)	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	Samuel Reyes (R)	Mesilla Park
Dona Ana	35	E. Shirley Baca (D)	Las Cruces
Dona Ana	36	William E. Porter (D)	las Cruces
Dona Ana	37	Thomas G. Dolliver (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	Robert A. Perls (D)	Corrales
Santa Fe	45	Patsy G. Trujillo (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	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	Robert S. Light (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	Barbara A. Perea Casey (D)	Roswell
Chaves	59	David M. Parsons (R)	Roswell
Sandoval	60	Vince Martinez (D)	Rio Rancho
Lea	61	Donald L. Whitaker (D)	Eunice

Lea 62 Robert P. Wallach (R) Hobbs

Curry & Roosevelt 63 Vincent Gallegos (D) 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 Wesley Grau (D) Grady

Curry & Roosevelt

Colfax, Guadalupe, Mora Wagon

& San Miguel 68 Jose R. Abeyta (D) Mound

Cibola, McKinley

& Sandoval 69 Lynda M. Lovejoy (D) Crownpoint

San Miguel 70 Samuel F. Vigil (D) Las Vegas