Laws 2000
2nd Regular Session, Forty-Fourth Legislature

CERTIFICATE OF AUTHENTICATION

STATE OF NEW MEXICO)

) SS:

OFFICE OF THE SECRETARY OF STATE)

I , REBECCA VIGIL-GIRON, 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-Fourth State Legislature of New Mexico at its Second Regular Session, which convened on the 18th day of January, 2000, and adjourned on the 17th day of February, 2000, in Santa Fe, the Capital of the State, as said copies appear on the file in my office.

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

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

Done in the City of Santa Fe, the State Capital, this 11th day of April,

2000

Rebeccal Vigil-Giron
Secretary of State

CHAPTER 1

RELATING TO THE LEGISLATIVE BRANCH OF GOVERNMENT; APPROPRIATING FUNDS FOR THE EXPENSE OF THE FORTY-FOURTH LEGISLATURE, SECOND SESSION, 2000 AND FOR OTHER LEGISLATIVE EXPENSES, INCLUDING THE LEGISLATIVE COUNCIL SERVICE, THE LEGISLATIVE FINANCE COMMITTEE, THE LEGISLATIVE EDUCATION STUDY COMMITTEE, THE SENATE RULES COMMITTEE, THE HOUSE CHIEF CLERK'S OFFICE AND THE SENATE CHIEF CLERK'S OFFICE; DECLARING AN EMERGENCY.

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

Chapter 1 Section 1

Section 1. There is appropriated for the expense of the legislative department of the state of New Mexico for the forty-fourth legislature, second session, for per diem and mileage of its members, for salaries of employees and for other expenses of the legislature, the sum of three million nine hundred seventy thousand twenty-two dollars ($3,970,022) or so much thereof as may be necessary for such purposes.

Chapter 1 Section 2

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

A. per diem for senators ---------- $ 171,360;

B. per diem for members of the house of representatives ----------$ 285,600;

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 ----------$ 3,950;

D. mileage traveled by members of the house of representatives going to and returning from the seat of government by the usually traveled route, one round trip ----------$ 6,300;

E. salaries and employee benefits of senate employees ----------$ 1,046,971;

F. salaries and employee benefits of house of representatives employee----------$ 1,284,079;

~~G. for expense of the senate not itemized above, three hundred thirteen thousand eight hundred sixty-two dollars ($313,862). No part of this item may be transferred to salaries or employee benefits;~~

~~H. for expense of the house of representatives not itemized above, three hundred thousand fifty dollars ($300,050). No part of this item may be transferred to salaries or employee benefits;~~

I. the expenditures for the house of representatives shall be disbursed on vouchers signed by the speaker and chief clerk of the house; the expenditures for the senate shall be disbursed on vouchers signed by the chairman of the committees' committee and the chief clerk of the senate; and

J. for session expenses of the legislative council service, the joint billroom and mailroom and joint legislative switchboard, five hundred fifty-seven thousand eight hundred fifty dollars ($557,850) to be disbursed upon vouchers signed by the director of the legislative council service. Following adjournment of the session, expenditures authorized under Subsections E through H of this section shall be disbursed upon vouchers signed by the director of the legislative council service.

Chapter 1 Section 3

Section 3. Computers purchased by the legislature are to be placed in the custody of the legislative council service by the chief clerks of the respective houses as soon after the session as practicable.

Chapter 1 Section 4

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

Chapter 1 Section 5

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

A. one copy to each member of the house of representatives and senate;

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

C. upon written request therefor, one copy to each state department, commission, board, institution or agency, each elected state official, each incorporated municipality, each district attorney, each ex-governor, each member of the New Mexico congressional delegation and each public school district in the state.

Chapter 1 Section 6

Section 6. Any person not enumerated in Section 5 of this act may secure a complete file of the bills, resolutions, joint resolutions, memorials and joint memorials of the legislature by depositing with the legislative council service the amount of three hundred twenty-five dollars ($325), which deposit shall be paid to the state treasurer to the credit of the legislative expense fund. Additional single copies of items of legislation shall be sold for one dollar ($1.00) unless the director of the legislative council service shall, because of its length, assign a higher price not to exceed ten cents ($.10) per page. Copies of a daily bill locator, other than those copies furnished each member of the respective houses, shall be supplied by the legislative council service at a charge of ninety dollars ($90.00) for the entire session.

Chapter 1 Section 7

Section 7. There is appropriated from the general fund to the legislative council service for fiscal year 2001 unless otherwise indicated, to be disbursed on vouchers signed by the director of the legislative council service, the following:

A. Personal Services	$ 2,117,900
Employee Benefits	663,274
Travel	95,817
Maintenance & Repairs	20,100
Supplies & Materials	42,100
Contractual Services	186,900
Operating Costs	332,100
Other Operating Costs	250,000
Capital Outlay	72,000
Out-of-State Travel	103,000
Total	$ 3,883,191;

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 2001, the sum of eight hundred eighty-six thousand dollars ($886,000); provided that the New Mexico legislative council may transfer amounts from the appropriation in this subsection, during the fiscal year for which appropriated, to any other legislative appropriation where they may be needed;

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

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

Chapter 1 Section 8

Section 8. There is appropriated from the general fund to the legislative finance committee for fiscal year 2001, to be disbursed on vouchers signed by the chairman of the committee or his designated representative, the following:

~~Personal Services~~	~~$ 1,686,200~~
~~Employee Benefits~~	~~501,900~~
Travel	172,100
Maintenance & Repairs	18,400
Supplies & Materials	30,700
Contractual Services	177,000
Operating Costs	112,400
Capital Outlay	25,600
Out-of-State Travel	32,100
Operating Transfer	700
Total	$ 2,757,100.

Chapter 1 Section 9

Section 9. There is appropriated from the general fund to the legislative education study committee for fiscal year 2001, to be disbursed on vouchers signed by the chairman of the committee or his designated representative, the following:

Personal Services	$ 483,800
Employee Benefits	132,900
Travel	70,000
Maintenance & Repairs	15,000
Supplies & Materials	14,500
Contractual Services	15,000
Operating Costs	19,000
Capital Outlay	54,700
Out-of-State Travel	12,000
Other Financing Uses	200
Total	$ 817,100.

Chapter 1 Section 10

Section 10. There is appropriated from the general fund to the legislative council service for the interim duties of the senate rules committee the sum of twenty-one thousand six hundred dollars ($21,600) for fiscal year 2001.

Chapter 1 Section 11

Section 11. There is appropriated two hundred ninety-eight thousand one hundred dollars ($298,100) from the general fund and three hundred three thousand nine hundred dollars ($303,900) from legislative council service cash balances to the legislative council service for expenditure in fiscal year 2001 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	$ 433,600
Employee Benefits	140,500
Travel	1,900
Maintenance & Repairs	1,600
Supplies	1,000
Contractual Services	3,000
Operating Costs	3,900
Out-of-State Travel	16,500
Total	$ 602,000.

Chapter 1 Section 12

Section 12. There is appropriated three hundred thirty-seven thousand seven hundred sixty-nine dollars ($337,769) from the general fund and three hundred three thousand nine hundred dollars ($303,900) from the legislative council service cash balances to the legislative council service for expenditure in fiscal year 2001 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	$ 438,600
Employee Benefits	141,850
Travel	2,100
Maintenance & Repairs	225
Supplies	1,000
Contractual Services	39,252
Operating Costs	7,170
Out-of-State Travel	11,472
Total	$ 641,669.

Chapter 1 Section 13

Section 13. There is appropriated from the general fund to the legislative council service for the purpose of providing the necessary support essential to the development of reapportionment plans, including but not limited to, the development of procedures, criteria and standards for conducting the reapportionment process, the compilation of pertinent data, the development of requisite databases to interface United States census files with mapping capabilities, the design and refinement of legislative reapportionment and congressional redistricting plans and other necessary preparation

for reapportionment, the sum of four hundred thirty-five thousand dollars ($435,000) for expenditure during fiscal years 2001 and 2002.

Chapter 1 Section 14

~~Section 14. CATEGORY TRANSFER.--Amounts set out in Sections 7, 8, 9, 11 and 12 of this act are provided for informational purposes only and may be freely transferred among categories.~~

Chapter 1 Section 15

Section 15. 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 27, 2000

CHAPTER 2

RELATING TO THE LEGISLATIVE BRANCH OF GOVERNMENT; MAKING APPROPRIATIONS NECESSARY FOR THE EFFICIENT OPERATION OF THE LEGISLATIVE BRANCH, INCLUDING EXPENSES OF THE SECOND SESSION OF THE FORTY-FOURTH LEGISLATURE AND THE SALARIES OF THE EMPLOYEES OF THE LEGISLATIVE FINANCE COMMITTEE; DECLARING AN EMERGENCY.

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

Chapter 2 Section 1

Section 1. For the expenses of the senate, including supplies and materials, printing and other operating costs, contractual services, maintenance and repairs and other session-related expenses, the sum of two hundred eighty-two thousand four hundred seventy-six dollars ($282,476) is appropriated to the senate. Of this appropriation, one hundred thousand dollars ($100,000) is appropriated from the cash balances of the legislative council service and one hundred eighty-two thousand four hundred seventy-six dollars ($182,476) is appropriated from the general fund. No part of this appropriation may be transferred to salaries and benefits.

Chapter 2 Section 2

Section 2. For the expenses of the house of representatives, including supplies and materials, printing and other operating costs, contractual services, maintenance and repairs and other session-related expenses, the sum of two hundred seventy thousand forty-five dollars ($270,045) is appropriated to the house of representatives. Of this

appropriation, one hundred thousand dollars ($100,000) is appropriated from the cash balances of the legislative council service and one hundred seventy thousand forty-five dollars ($170,045) is appropriated from the general fund. No part of this appropriation may be transferred to salaries and benefits.

Chapter 2 Section 3

Section 3. The expenditures for the house of representatives shall be disbursed on vouchers signed by the speaker and chief clerk of the house; the expenditures for the senate shall be disbursed on vouchers signed by the chairman of the committees' committee and the chief clerk of the senate; provided that, following adjournment of the session, expenditures authorized under this section shall be disbursed upon vouchers signed by the director of the legislative council service.

Chapter 2 Section 4

Section 4. One million six hundred fifty-three thousand two hundred dollars ($1,653,200) is appropriated from the general fund to the legislative finance committee for expenditure in fiscal year 2001 for the purpose of paying the personal services of the committee staff. Four hundred ninety-two thousand dollars ($492,000) is appropriated from the general fund to the legislative finance committee for expenditure in fiscal year 2001 for the purpose of paying the employee benefits of the committee staff. Any unexpended or unencumbered balance remaining at the end of fiscal year 2001 shall revert to the general fund. Expenditures authorized pursuant to this section shall be disbursed on vouchers signed by the chairman of the legislative finance committee or the chairman's designated representative.

Chapter 2 Section 5

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

HOUSE APPROPRIATIONS AND FINANCE COMMITTEE SUBSTITUTE FOR

HOUSE BILL 380, AS AMENDED, WITH EMERGENCY CLAUSE

SIGNED FEBRUARY 2, 2000.

CHAPTER 3

RELATING TO UNEMPLOYMENT COMPENSATION; DECREASING UNEMPLOYMENT COMPENSATION TAXES; AMENDING SECTIONS OF THE UNEMPLOYMENT COMPENSATION LAW.

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

Chapter 3 Section 1

Section 1. Section 51-1-4 NMSA 1978 (being Laws 1969, Chapter 213, Section 1, as amended) is amended to read:

"51-1-4. MONETARY COMPUTATION OF BENEFITS--PAYMENT GENERALLY.--

A. All benefits provided herein are payable from the unemployment compensation fund. All benefits shall be paid in accordance with such regulations as the secretary may prescribe through employment offices or other agencies as the secretary may by general rule approve.

B. Weekly benefits shall be as follows:

(1) an individual's "weekly benefit amount" is an amount equal to one twenty-sixth of the total wages for insured work paid to him in that quarter of his base period in which total wages were highest. No benefit as so computed may be less than ten percent or more than fifty-two and one-half percent of the state's average weekly wage for all insured work. The state's average weekly wage shall be computed from all wages reported to the department from employing units in accordance with regulations of the secretary for the period ending June 30 of each calendar year divided by the total number of covered employees divided by fifty-two, effective for the benefit years commencing on or after the first Sunday of the following calendar year. Any such individual is not eligible to receive benefits unless he has wages in at least two quarters of his base period. For purposes of this subsection, "total wages" means all remuneration for insured work, including commissions and bonuses and the cash value of all remuneration in a medium other than cash;

(2) each eligible individual who is unemployed in any week during which he is in a continued claims status shall be paid, with respect to such week, a benefit in an amount equal to his weekly benefit amount, less that part of the wages, if any, or earnings from self-employment, payable to him with respect to such week which is in excess of one-fifth of his weekly benefit amount. For purposes of this subsection only, "wages" includes all remuneration for services actually performed in any week for which benefits are claimed, vacation pay for any period for which the individual has a definite return-to-work date, wages in lieu of notice and back pay for loss of employment but does not include payments through a court for time spent in jury service;

(3) notwithstanding any other provision of this section, each eligible individual who, pursuant to a plan financed in whole or in part by a base-period employer of such individual, is receiving a governmental or other pension, retirement pay, annuity or any other similar periodic payment that is based on the previous work of such individual and who is unemployed with respect to any week ending subsequent to April 9, 1981 shall be paid with respect to such week, in accordance with regulations prescribed by the secretary, compensation equal to his weekly benefit amount reduced,

but not below zero, by the prorated amount of such pension, retirement pay, annuity or other similar periodic payment that exceeds the percentage contributed to the plan by the eligible individual. The maximum benefit amount payable to such eligible individual shall be an amount not more than twenty-six times his reduced weekly benefit amount. If payments referred to in this section are being received by any individual under the federal Social Security Act, the division shall take into account the individual's contribution and make no reduction in the weekly benefit amount;

(4) in the case of a lump-sum payment of a pension, retirement or retired pay, annuity or other similar payment by a base-period employer that is based on the previous work of such individual, such payment shall be allocated, in accordance with regulations prescribed by the secretary, and shall reduce the amount of unemployment compensation paid, but not below zero, in accordance with Paragraph (3) of this subsection; and

(5) the retroactive payment of a pension, retirement or retired pay, annuity or any other similar periodic payment as provided in Paragraphs (3) and (4) of this subsection attributable to weeks during which an individual has claimed or has been paid unemployment compensation shall be allocated to such weeks and shall reduce the amount of unemployment compensation for such weeks, but not below zero, by an amount equal to the prorated amount of such pension. Any overpayment of unemployment compensation benefits resulting from the application of the provisions of this paragraph shall be recovered from the claimant in accordance with the provisions of Section 51-1-38 NMSA 1978.

C. Any otherwise eligible individual is entitled during any benefit year to a total amount of benefits equal to whichever is the lesser of twenty-six times his weekly benefit amount or sixty percent of his wages for insured work paid during his base period.

D. Any benefit as determined in Subsection B or C of this section, if not a multiple of one dollar ($1.00), shall be rounded to the next lower multiple of one dollar ($1.00).

E. The secretary may prescribe regulations to provide for the payment of benefits that are due and payable to the legal representative, dependents, relatives or next of kin of claimants since deceased. These regulations need not conform with the laws governing successions, and the payment shall be deemed a valid payment to the same extent as if made under a formal administration of the succession of the claimant.

F. The division, on its own initiative, may reconsider a monetary determination whenever it is determined that an error in computation or identity has occurred or that wages of the claimant pertinent to such determination but not considered have been newly discovered or that the benefits have been allowed or denied on the basis of misrepresentation of fact, but no redetermination shall be made after one year from the date of the original monetary determination. Notice of a

redetermination shall be given to all interested parties and shall be subject to an appeal in the same manner as the original determination. In the event that an appeal involving an original monetary determination is pending at the time a redetermination is issued, the appeal, unless withdrawn, shall be treated as an appeal from such redetermination."

Chapter 3 Section 2

Section 2. Section 51-1-5 NMSA 1978 (being Laws 1969, Chapter 213, Section 2, as amended) is amended to read:

"51-1-5. BENEFIT ELIGIBILITY CONDITIONS.--

A. An unemployed individual shall be eligible to receive benefits with respect to any week only if he:

(1) has made a claim for benefits with respect to such week in accordance with such regulations as the secretary may prescribe;

(2) has registered for work at, and thereafter continued to report at, an employment office in accordance with such regulations as the secretary may prescribe, except that the secretary may, by regulation, waive or alter either or both of the requirements of this paragraph as to individuals attached to regular jobs and as to such other types of cases or situations with respect to which he finds that compliance with such requirements would be oppressive or would be inconsistent with the purposes of the Unemployment Compensation Law. No such regulation shall conflict with Subsection A of Section 51-1-4 NMSA 1978;

(3) is able to work and is available for work and is actively seeking permanent and substantially full-time work in accordance with the terms, conditions and hours common in the occupation or business in which the individual is seeking work, except that the secretary may, by regulation, waive this requirement for individuals who are on temporary layoff status from their regular employment with an assurance from their employers that the layoff shall not exceed four weeks or who have an express offer in writing of substantially full-time work that will begin within a period not exceeding four weeks;

(4) has been unemployed for a waiting period of one week. No week shall be counted as a week of unemployment for the purposes of this paragraph:

(a) unless it occurs within the benefit year that includes the week with respect to which he claims payment of benefits;

(b) if benefits have been paid with respect thereto; and

(c) unless the individual was eligible for benefits with respect thereto as provided in this section and Section 51-1-7 NMSA 1978, except for the requirements of this subsection and of Subsection E of Section 51-1-7 NMSA 1978;

(5) has been paid wages in at least two quarters of his base period;

(6) has reported to an office of the division in accordance with the regulations of the secretary for the purpose of an examination and review of the individual's availability for and search for work, for employment counseling, referral and placement and for participation in a job finding or employability training and development program. No individual shall be denied benefits under this section for any week that he is participating in a job finding or employability training and development program; and

(7) participates in reemployment services, such as job search assistance services, if the division determines that the individual is likely to exhaust regular benefits and need reemployment services pursuant to a profiling system established by the division, unless the division determines that:

(a) the individual has completed such services; or

(b) there is justifiable cause for the individual's failure to participate in the services.

B. A benefit year as provided in Section 51-1-4 NMSA 1978 and Subsection P of Section 51-1-42 NMSA 1978 may be established; provided no individual may receive benefits in a benefit year unless, subsequent to the beginning of the immediately preceding benefit year during which he received benefits, he performed service in "employment", as defined in Subsection F of Section 51-1-42 NMSA 1978, and earned remuneration for such service in an amount equal to at least five times his weekly benefit amount.

C. Benefits based on service in employment defined in Paragraph (8) of Subsection F of Section 51-1-42 and Section 51-1-43 NMSA 1978 are to be paid in the same amount, on the same terms and subject to the same conditions as compensation payable on the basis of other services subject to the Unemployment Compensation Law; except that:

(1) benefits based on services performed in an instructional, research or principal administrative capacity for an educational institution shall not be paid for any week of unemployment commencing during the period between two successive academic years or terms or, when an agreement provides for a similar period between two regular but not successive terms, during such period or during a period of paid sabbatical leave provided for in the individual's contract, to any individual if such individual performs such services in the first of such academic years or terms and if there is a contract or a reasonable assurance that such individual will perform

services in any such capacity for any educational institution in the second of such academic years or terms;

(2) benefits based on services performed for an educational institution other than in an instructional, research or principal administrative capacity shall not be paid for any week of unemployment commencing during a period between two successive academic years or terms if such services are performed in the first of such academic years or terms and there is a reasonable assurance that such individual will perform services for any educational institution in the second of such academic years or terms. If compensation is denied to any individual under this paragraph and the individual was not offered an opportunity to perform such services for the educational institution for the second of such academic years or terms, the individual shall be entitled to a retroactive payment of benefits for each week for which the individual filed a claim and certified for benefits in accordance with the regulations of the division and for which benefits were denied solely by reason of this paragraph;

(3) benefits shall be denied to any individual for any week that commences during an established and customary vacation period or holiday recess if such individual performs any services described in Paragraphs (1) and (2) of this subsection in the period immediately before such period of vacation or holiday recess and there is a reasonable assurance that such individual will perform any such services in the period immediately following such vacation period or holiday recess;

(4) benefits shall not be payable on the basis of services specified in Paragraphs (1) and (2) of this subsection during the periods specified in Paragraphs (1), (2) and (3) of this subsection to any individual who performed such services in or to or on behalf of an educational institution while in the employ of a state or local governmental educational service agency or other governmental entity or nonprofit organization; and

(5) for the purpose of this subsection, to the extent permitted by federal law, "reasonable assurance" means a reasonable expectation of employment in a similar capacity in the second of such academic years or terms based upon a consideration of all relevant factors, including the historical pattern of reemployment in such capacity, a reasonable anticipation that such employment will be available and a reasonable notice or understanding that the individual will be eligible for and offered employment in a similar capacity.

D. Paragraphs (1), (2), (3), (4) and (5) of Subsection C of this section shall apply to services performed for all educational institutions, public or private, for profit or nonprofit, which are operated in this state or subject to an agreement for coverage under the Unemployment Compensation Law of this state, unless otherwise exempt by law.

E. Notwithstanding any other provisions of this section or Section 51-1-7 NMSA 1978, no otherwise eligible individual is to be denied benefits for any week

because he is in training with the approval of the division nor is such individual to be denied benefits by reason of application of provisions in Paragraph (3) of Subsection A of this section or Subsection C of Section 51-1-7 NMSA 1978 with respect to any week in which he is in training with the approval of the division. The secretary shall provide, by regulation, standards for approved training and the conditions for approving such training for claimants, including any training approved or authorized for approval pursuant to Section 236(a)(1) and (2) of the Trade Act of 1974, as amended, or required to be approved as a condition for certification of the state's Unemployment Compensation Law by the United States secretary of labor.

F. Notwithstanding any other provisions of this section, benefits shall not be payable on the basis of services performed by an alien unless such alien is an individual who was lawfully admitted for permanent residence at the time such services were performed, was lawfully present for the purposes of performing such services or was permanently residing in the United States under color of law at the time such services were performed, including an alien who was lawfully present in the United States as a result of the application of the provisions of Section 212(d)(5) of the Immigration and Nationality Act; provided that:

(1) any information required of individuals applying for benefits to determine their eligibility for benefits under this subsection shall be uniformly required from all applicants for benefits; and

(2) no individual shall be denied benefits because of his alien status except upon a preponderance of the evidence.

G. Notwithstanding any other provision of this section, benefits shall not be paid to any individual on the basis of any services substantially all of which consist of participating in sports or athletic events or training or preparing to so participate for any week that commences during the period between two successive sport seasons, or similar periods, if such individual performed such services in the first of such seasons, or similar periods, and there is a reasonable assurance that such individual will perform such services in the latter of such seasons or similar periods.

H. Students who are enrolled in a full-time course schedule in an educational or training institution or program, other than those persons in an approved vocational training program in accordance with Subsection E of this section, shall not be eligible for unemployment benefits except as provided by regulations promulgated by the secretary.

I. As used in this subsection, "seasonal ski employee" means an employee who has not worked for a ski area operator for more than six consecutive months of the previous twelve months or nine of the previous twelve months. Any employee of a ski area operator who has worked for a ski area operator for six consecutive months of the previous twelve months or nine of the previous twelve

months shall not be considered a seasonal ski employee. The following benefit eligibility conditions apply to a seasonal ski employee:

(1) except as provided in Paragraphs (2) and (3) of this subsection, a seasonal ski employee employed by a ski area operator on a regular seasonal basis shall be ineligible for a week of unemployment benefits that commences during a period between two successive ski seasons unless such individual establishes to the satisfaction of the secretary that he is available for and is making an active search for permanent full-time work;

(2) a seasonal ski employee who has been employed by a ski area operator during two successive ski seasons shall be presumed to be unavailable for permanent new work during a period after the second successive ski season that he was employed as a seasonal ski employee; and

(3) the presumption described in Paragraph (2) of this subsection shall not arise as to any seasonal ski employee who has been employed by the same ski area operator during two successive ski seasons and has resided continuously for at least twelve successive months and continues to reside in the county in which the ski area facility is located.

J. Notwithstanding any other provision of this section, an otherwise eligible individual shall not be denied benefits for any week by reason of the application of Paragraph (3) of Subsection A of this section because he is before any court of the United States or any state pursuant to a lawfully issued summons to appear for jury duty."

Chapter 3 Section 3

Section 3. Section 51-1-11 NMSA 1978 (being Laws 1961, Chapter 139, Section 3, as amended) is amended to read:

"51-1-11. FUTURE RATES BASED ON BENEFIT EXPERIENCE.--

A. The division shall maintain a separate account for each contributing employer and shall credit his account with all contributions paid by him under the Unemployment Compensation Law. Nothing in the Unemployment Compensation Law shall be construed to grant any employer or individuals in his service prior claims or rights to the amounts paid by the employer into the fund.

B. Benefits paid to an individual shall be charged against the accounts of his base-period employers on a pro rata basis according to the proportion of his total base-period wages received from each, except that no benefits paid to a claimant as extended benefits under the provisions of Section 51-1-48 NMSA 1978 shall be charged to the account of any base-period employer who is not on a reimbursable basis and who

is not a governmental entity and, except as the secretary shall by regulation prescribe otherwise, in the case of benefits paid to an individual who:

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

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

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

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

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

D. All contributions to the fund shall be pooled and available to pay benefits to any individual entitled thereto, irrespective of the source of such contributions. The standard rate of contributions payable by each employer shall be five and four-tenths percent.

E. No employer's rate shall be varied from the standard rate for any calendar year unless, as of the computation date for that year, his account has been chargeable with benefits throughout the preceding thirty-six months, except that:

(1) the provisions of this subsection shall not apply to governmental entities;

(2) subsequent to December 31, 1984, any employing unit that becomes an employer subject to the payment of contributions under the Unemployment Compensation Law or has been an employer subject to the payment of contributions at a standard rate of two and seven-tenths percent through December 31, 1984 shall be subject to the payment of contributions at the reduced rate of two and seven-tenths percent until, as of the computation date of a particular year, the employer's account has been chargeable with benefits throughout the preceding thirty-six months; and

(3) any individual, type of organization or employing unit that acquires all or part of the trade or business of another employing unit, pursuant to Paragraphs (2) and (3) of Subsection E of Section 51-1-42 NMSA 1978, that has a

reduced rate of contribution shall be entitled to the transfer of the reduced rate to the extent permitted under Subsection G of this section.

F. The secretary shall, for the year 1942 and for each calendar year thereafter, classify employers in accordance with their actual experience in the payment of contributions and with respect to benefits charged against their accounts, with a view of fixing such contribution rates as will reflect such benefit experience. Each employer's rate for any calendar year shall be determined on the basis of his record and the condition of the fund as of the computation date for such calendar year.

An employer may make voluntary payments in addition to the contributions required under the Unemployment Compensation Law, which shall be credited to his account in accordance with department regulation. The voluntary payments shall be included in the employer's account as of the employer's most recent computation date if they are made on or before the following March 1. Voluntary payments when accepted from an employer shall not be refunded in whole or in part.

G. In the case of a transfer of an employing enterprise, the experience history of the transferred enterprise as provided in Subsection F of this section shall be transferred from the predecessor employer to the successor under the following conditions and in accordance with the applicable regulations of the secretary:

(1) Definitions:

(a) "employing enterprise" is a business activity engaged in by a contributing employing unit in which one or more persons have been employed within the current or the three preceding calendar quarters;

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

(c) "successor" means any individual or any type of organization that acquires an employing enterprise and continues to operate such business entity; and

(d) "experience history" means the experience rating record and reserve account, including the actual contributions, benefit charges and payroll experience of the employing enterprise.

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

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

(b) notice of the transfer has been given in accordance with the regulations of the secretary within four years of the transaction transferring the employing enterprise or the date of the actual transfer of control and operation of the employing enterprise;

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

(d) where the transaction involves only a merger, consolidation or other form of reorganization without a substantial change in the ownership and controlling interest of the business entity, as determined by the secretary, the limitations on transfers stated in Subparagraphs (a), (b) and (c) of this paragraph shall not apply. No party to a merger, consolidation or other form of reorganization described in this paragraph shall be relieved of liability for any contributions, interest or penalties due and owing from the employing enterprise at the time of the merger, consolidation or other form of reorganization.

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

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

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

(c) the successor files with the application a Form ES-903A or its equivalent with a schedule of the name and social security number of and the wages paid to and the contributions paid for each employee for the three and one-half year period preceding the computation date as defined in Subparagraph (d) of Paragraph (3) of Subsection H of this section through the date of transfer or such lesser period as the enterprises transferred may have been in operation. The application and Form ES-903A shall be supported by the predecessor's permanent employment records, which shall be available for audit by the division. The application and Form ES-903A shall be reviewed by the division and, upon approval, the percentage of the predecessor's experience history attributable to the enterprises transferred shall be transferred to the successor. The percentage shall be obtained by dividing the taxable payrolls of the transferred enterprises for such three and one-half year period preceding the date of computation or such lesser period as the enterprises transferred may have been in operation by the predecessor's entire payroll.

H. For each calendar year, adjustments of contribution rates below the standard or reduced rate and measures designed to protect the fund are provided as follows:

(1) The total assets in the fund and the total of the last annual payrolls of all employers subject to contributions as of the computation date for each year shall be determined. These annual totals are here called "the fund" and "total payrolls". For each year, the "reserve" of each employer qualified under Subsection E of this section shall be fixed by the excess of his total contributions over total benefit charges computed as a percentage of his average payroll reported for contributions. The determination of each employer's annual rate, computed as of the computation date for each calendar year, shall be made by matching his reserve as shown in the reserve column with the corresponding rate shown in the applicable rate schedule of the table provided in Paragraph (4) of this subsection.

(2) Each employer's rate for each calendar year commencing January 1, 1979 or thereafter shall be:

(a) the rate in schedule 1 of the table provided in Paragraph (4) of this subsection on the corresponding line as his reserve if the fund equals at least three and four-tenths percent of the total payrolls;

(b) the rate in schedule 2 of the table provided in Paragraph (4) of this subsection on the corresponding line if the fund has dropped to less than three and four-tenths percent and not less than two and seven-tenths percent;

(c) the rate in schedule 3 of the table provided in Paragraph (4) of this subsection on the corresponding line if the fund has dropped to less than two and seven-tenths percent and not less than two percent;

(d) the rate in schedule 4 of the table provided in Paragraph (4) of this subsection on the corresponding line if the fund has dropped to less than two percent and not less than one and one-half percent;

(e) the rate in schedule 5 of the table provided in Paragraph (4) of this subsection on the corresponding line if the fund has dropped to less than one and one-half percent and not less than one percent; or

(f) the rate in schedule 6 of the table provided in Paragraph (4) of this subsection on the corresponding line if the fund has dropped less than one percent.

(3) As used in this section:

(a) "annual payroll" means the total amount of remuneration from an employer for employment during a twelve-month period ending on a computation date, and "average payroll" means the average of the last three annual payrolls;

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

(c) "base-period employers" means the employers of an individual during his base period; and

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

(4) Table of employer reserves and contribution rate schedules:

Employer Reserve	Contribution Schedule 1	Contribution Schedule 2	Contribution Schedule 3
10.0% and over	0.05%	0.1%	0.6%
9.0%-9.9%	0.1%	0.2%	0.9%
8.0%-8.9%	0.2%	0.4%	1.2%
7.0%-7.9%	0.4%	0.6%	1.5%
6.0%-6.9%	0.6%	0.8%	1.8%
5.0%-5.9%	0.8%	1.1%	2.1%

4.0%-4.9%	1.1%		1.4%		2.4%		
3.0%-3.9%	1.4%		1.7%		2.7%		
2.0%-2.9%	1.7%		2.0%		3.0%		
1.0%-1.9%	2.0%		2.4%		3.3%		
0.9%-0.0%	2.4%		3.3%		3.6%		
(-0.1%)-(-0.5%)		3.3%		3.6%		3.9%	
(-0.5%)-(-1.0%)		4.2%		4.2%		4.2%	
(-1.0%)-(-2.0%)		5.0%		5.0%		5.0%	
Under (-2.0%)		5.4%		5.4%		5.4%	
Employer		Contribution		Contribution		Contribution	
Reserve		Schedule 4		Schedule 5		Schedule 6	
10.0% and over		0.9%		1.2%		2.7%	
9.0%-9.9%	1.2%		1.5%		2.7%		
8.0%-8.9%	1.5%		1.8%		2.7%		
7.0%-7.9%	1.8%		2.1%		2.7%		
6.0%-6.9%	2.1%		2.4%		2.7%		
5.0%-5.9%	2.4%		2.7%		3.0%		
4.0%-4.9%	2.7%		3.0%		3.3%		
3.0%-3.9%	3.0%		3.3%		3.6%		
2.0%-2.9%	3.3%		3.6%		3.9%		
1.0%-1.9%	3.6%		3.9%		4.2%		
0.9%-0.0%	3.9%		4.2%		4.5%		
(-0.1%)-(-0.5%)		4.2%		4.5%		4.8%	

(-0.5%)-(-1.0%)	4.5%	4.8%	5.1%
(-1.0%)-(-2.0%)	5.0%	5.1%	5.3%
Under (-2.0%)	5.4%	5.4%	5.4%.

I. The division shall promptly notify each employer of his rate of contributions as determined for any calendar year pursuant to this section. Such notification shall include the amount determined as the employer's average payroll, the total of all his contributions paid on his own behalf and credited to his account for all past years and total benefits charged to his account for all such years. Such determination shall become conclusive and binding upon the employer unless, within thirty days after the mailing of notice thereof to his last known address or in the absence of mailing, within thirty days after the delivery of such notice, the employer files an application for review and redetermination, setting forth his reason therefor. The employer shall be granted an opportunity for a fair hearing in accordance with regulations prescribed by the secretary, but no employer shall have standing, in any proceeding involving his rate of contributions or contribution liability, to contest the chargeability to his account of any benefits paid in accordance with a determination, redetermination or decision pursuant to Section 51-1-8 NMSA 1978, except upon the ground that the services on the basis of which such benefits were found to be chargeable did not constitute services performed in employment for him and only in the event that he was not a party to such determination, redetermination or decision, or to any other proceedings under the Unemployment Compensation Law in which the character of such services was determined. The employer shall be promptly notified of the decision on his application for redetermination, which shall become final unless, within fifteen days after the mailing of notice thereof to his last known address or in the absence of mailing, within fifteen days after the delivery of such notice, further appeal is initiated pursuant to Subsection D of Section 51-1-8 NMSA 1978.

J. The division shall provide each contributing employer, within ninety days of the end of each calendar quarter, a written determination of benefits chargeable to his account. Such determination shall become conclusive and binding upon the employer for all purposes unless, within thirty days after the mailing of the determination to his last known address or in the absence of mailing, within thirty days after the delivery of such determination, the employer files an application for review and redetermination, setting forth his reason therefor. The employer shall be granted an opportunity for a fair hearing in accordance with regulations prescribed by the secretary, but no employer shall have standing in any proceeding involving his contribution liability to contest the chargeability to his account of any benefits paid in accordance with a determination, redetermination or decision pursuant to Section 51-1-8 NMSA 1978, except upon the ground that the services on the basis of which such benefits were found to be chargeable did not constitute services performed in employment for him and only in the event that he was not a party to such determination, redetermination or decision, or to any other proceedings under the Unemployment Compensation Law in which the character of such services was determined. The employer shall be promptly

notified of the decision on his application for redetermination, which shall become final unless, within fifteen days after the mailing of notice thereof to his last known address or in the absence of mailing, within fifteen days after the delivery of such notice, further appeal is initiated pursuant to Subsection D of Section 51-1-8 NMSA 1978.

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

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

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

N. Notwithstanding the provisions of this section, the rate in schedule 1 of the table provided in Paragraph (4) of Subsection H of this section shall be applied for four calendar years beginning January 1, 1999."

Chapter 3 Section 4

Section 4. Section 51-1-42 NMSA 1978 (being Laws 1936 (S.S.), Chapter 1, Section 19, as amended) is amended to read:

"51-1-42. DEFINITIONS.--As used in the Unemployment Compensation Law:

A. "base period" means the first four of the last five completed calendar quarters immediately preceding the first day of an individual's benefit year;

B. "benefits" means the cash unemployment compensation payments payable to an eligible individual pursuant to Section 51-1-4 NMSA 1978 with respect to his weeks of unemployment;

C. "contributions" means the money payments required by Section 51-1-9 NMSA 1978 to be made into the fund by an employer on account of having individuals performing services for him;

D. "employing unit" means any individual or type of organization, including any partnership, association, cooperative, trust, estate, joint-stock company, agricultural enterprise, insurance company or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or successor thereof, household, fraternity or club, the legal representative of a deceased person or any state or local government entity to the extent required by law to be covered as an employer, which has in its employ one or more individuals performing services for it within this state. All individuals performing services for any employing unit that maintains two or more separate establishments within this state shall be deemed to be employed by a single employing unit for all the purposes of the Unemployment Compensation Law. Individuals performing services for contractors, subcontractors or agents that are performing work or services for an employing unit, as described in this subsection, which is within the scope of the employing unit's usual trade, occupation, profession or business, shall be deemed to be in the employ of the employing unit for all purposes of the Unemployment Compensation Law unless such contractor, subcontractor or agent is itself an employer within the provisions of Subsection E of this section;

E. "employer" includes:

(1) any employing unit which:

(a) unless otherwise provided in this section, paid for service in employment as defined in Subsection F of this section wages of four hundred fifty dollars ($450) or more in any calendar quarter in either the current or preceding calendar year or had in employment, as defined in Subsection F of this section, for some portion of a day in each of twenty different calendar weeks during either the current or the preceding calendar year, and irrespective of whether the same individual was in employment in each such day, at least one individual;

(b) for the purposes of Subparagraph (a) of this paragraph, if any week includes both December 31 and January 1, the days of that week up to January 1 shall be deemed one calendar week and the days beginning January 1, another such week; and

(c) for purposes of defining an "employer" under Subparagraph (a) of this paragraph, the wages or remuneration paid to individuals performing services in employment in agricultural labor or domestic services as provided in Paragraphs (6) and (7) of Subsection F of this section shall not be taken into

account; except that any employing unit determined to be an employer of agricultural labor under Paragraph (6) of Subsection F of this section shall be an employer under Subparagraph (a) of this paragraph so long as the employing unit is paying wages or remuneration for services other than agricultural services;

(2) any individual or type of organization that acquired the trade or business or substantially all of the assets thereof, of an employing unit that at the time of the acquisition was an employer subject to the Unemployment Compensation Law; provided that where such an acquisition takes place, the secretary may postpone activating the separate account pursuant to Subsection A of Section 51-1-11 NMSA 1978 until such time as the successor employer has employment as defined in Subsection F of this section;

(3) any employing unit that acquired all or part of the organization, trade, business or assets of another employing unit and that, if treated as a single unit with such other employing unit or part thereof, would be an employer under Paragraph (1) of this subsection;

(4) any employing unit not an employer by reason of any other paragraph of this subsection:

(a) for which, within either the current or preceding calendar year, service is or was performed with respect to which such employing unit is liable for any federal tax against which credit may be taken for contributions required to be paid into a state unemployment fund; or

(b) which, as a condition for approval of the Unemployment Compensation Law for full tax credit against the tax imposed by the Federal Unemployment Tax Act, is required, pursuant to such act, to be an "employer" under the Unemployment Compensation Law;

(5) any employing unit that, having become an employer under Paragraph (1), (2), (3) or (4) of this subsection, has not, under Section 51-1-18 NMSA 1978, ceased to be an employer subject to the Unemployment Compensation Law;

(6) for the effective period of its election pursuant to Section 51-1-18 NMSA 1978, any other employing unit that has elected to become fully subject to the Unemployment Compensation Law; and

(7) any employing unit for which any services performed in its employ are deemed to be performed in this state pursuant to an election under an arrangement entered into in accordance with Subsection A of Section 51-1-50 NMSA 1978;

F. "employment" means:

(1) any service, including service in interstate commerce, performed for wages or under any contract of hire, written or oral, express or implied;

(2) an individual's entire service, performed within or both within and without this state if:

(a) the service is primarily localized in this state with services performed outside the state being only incidental thereto; or

(b) the service is not localized in any state but some of the service is performed in this state and: 1) the base of operations or, if there is no base of operations, the place from which such service is directed or controlled, is in this state; or 2) the base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed but the individual's residence is in this state;

(3) services performed within this state but not covered under Paragraph (2) of this subsection if contributions or payments in lieu of contributions are not required and paid with respect to such services under an unemployment compensation law of any other state, the federal government or Canada;

(4) services covered by an election pursuant to Section 51-1-18 NMSA 1978 and services covered by an election duly approved by the secretary in accordance with an arrangement pursuant to Paragraph (1) of Subsection A of Section 51-1-50 NMSA 1978 shall be deemed to be employment during the effective period of such election;

(5) services performed by an individual for an employer for wages or other remuneration unless and until it is established by a preponderance of evidence that:

(a) such individual has been and will continue to be free from control or direction over the performance of such services both under his contract of service and in fact;

(b) such service is either outside the usual course of business for which such service is performed or that such service is performed outside of all the places of business of the enterprise for which such service is performed; and

(c) such individual is customarily engaged in an independently established trade, occupation, profession or business of the same nature as that involved in the contract of service;

(6) service performed after December 31, 1977 by an individual in agricultural labor as defined in Subsection Q of this section if:

(a) such service is performed for an employing unit that: 1) paid remuneration in cash of twenty thousand dollars ($20,000) or more to individuals in such employment during any calendar quarter in either the current or the preceding calendar year; or 2) employed in agricultural labor ten or more individuals for some portion of a day in each of twenty different calendar weeks in either the current or preceding calendar year, whether or not such weeks were consecutive, and regardless of whether such individuals were employed at the same time;

(b) such service is not performed before January 1, 1980 by an individual who is an alien admitted to the United States to perform service in agricultural labor pursuant to Sections 214(c) and 101(15)(H) of the Immigration and Nationality Act; and

(c) for purposes of this paragraph, any individual who is a member of a crew furnished by a crew leader to perform service in agricultural labor for a farm operator or other person shall be treated as an employee of such crew leader: 1) if such crew leader meets the requirements of a crew leader as defined in Subsection L of this section; or 2) substantially all the members of such crew operate or maintain mechanized agricultural equipment that is provided by the crew leader; and 3) the individuals performing such services are not, by written agreement or in fact, within the meaning of Paragraph (5) of this subsection, performing services in employment for the farm operator or other person;

(7) service performed after December 31, 1977 by an individual in domestic service in a private home, local college club or local chapter of a college fraternity or sorority for a person or organization that paid cash remuneration of one thousand dollars ($1,000) in any calendar quarter in the current or preceding calendar year to individuals performing such services;

(8) service performed after December 31, 1971 by an individual in the employ of a religious, charitable, educational or other organization but only if the following conditions are met:

(a) the service is excluded from "employment" as defined in the Federal Unemployment Tax Act solely by reason of Section 3306(c)(8) of that act; and

(b) the organization meets the requirements of "employer" as provided in Subparagraph (a) of Paragraph (1) of Subsection E of this section;

(9) service of an individual who is a citizen of the United States, performed outside the United States, except in Canada, after December 31, 1971 in the employ of an American employer (other than service that is deemed "employment" under the provisions of Paragraph (2) of this subsection or the parallel provisions of another state's law), if:

(a) the employer's principal place of business in the United States is located in this state;

(b) the employer has no place of business in the United States, but: 1) the employer is an individual who is a resident of this state; 2) the employer is a corporation organized under the laws of this state; or 3) the employer is a partnership or a trust and the number of the partners or trustees who are residents of this state is greater than the number who are residents of any one other state; or

(c) none of the criteria of Subparagraphs (a) and (b) of this paragraph are met, but the employer has elected coverage in this state or, the employer having failed to elect coverage in any state, the individual has filed a claim for benefits, based on such service, under the law of this state.

"American employer" for purposes of this paragraph means a person who is: 1) an individual who is a resident of the United States; 2) a partnership if two-thirds or more of the partners are residents of the United States; 3) a trust if all of the trustees are residents of the United States; or 4) a corporation organized under the laws of the United States or of any state. For the purposes of this paragraph, "United States" includes the United States, the District of Columbia, the commonwealth of Puerto Rico and the Virgin Islands;

(10) notwithstanding any other provisions of this subsection, service with respect to which a tax is required to be paid under any federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund or which as a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act is required to be covered under the Unemployment Compensation Law;

(11) "employment" does not include:

(a) service performed in the employ of: 1) a church or convention or association of churches; or 2) an organization that is operated primarily for religious purposes and that is operated, supervised, controlled or principally supported by a church or convention or association of churches;

(b) service performed by a duly ordained, commissioned or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order;

(c) service performed by an individual in the employ of his son, daughter or spouse, and service performed by a child under the age of majority in the employ of his father or mother;

(d) service performed in the employ of the United States government or an instrumentality of the United States immune under the constitution of

the United States from the contributions imposed by the Unemployment Compensation Law except that to the extent that the congress of the United States shall permit states to require any instrumentalities of the United States to make payments into an unemployment fund under a state unemployment compensation act, all of the provisions of the Unemployment Compensation Law shall be applicable to such instrumentalities, and to service performed for such instrumentalities in the same manner, to the same extent and on the same terms as to all other employers, employing units, individuals and services; provided, that if this state shall not be certified for any year by the secretary of labor of the United States under Section 3304 of the federal Internal Revenue Code (26 U.S.C. Section 3304), the payments required of such instrumentalities with respect to such year shall be refunded by the department from the fund in the same manner and within the same period as is provided in Subsection D of Section 51-1-36 NMSA 1978 with respect to contributions erroneously collected;

(e) service performed in a facility conducted for the purpose of carrying out a program of rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury or providing remunerative work for individuals who because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market, by an individual receiving such rehabilitation or remunerative work;

(f) service with respect to which unemployment compensation is payable under an unemployment compensation system established by an act of congress;

(g) service performed in the employ of a foreign government, including service as a consular or other officer or employee or a nondiplomatic representative;

(h) service performed by an individual for a person as an insurance agent or as an insurance solicitor, if all such service performed by such individual for such person is performed for remuneration solely by way of commission;

(i) service performed by an individual under the age of eighteen in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;

(j) service covered by an election duly approved by the agency charged with the administration of any other state or federal unemployment compensation law, in accordance with an arrangement pursuant to Paragraph (1) of Subsection A of Section 51-1-50 NMSA 1978 during the effective period of such election;

(k) service performed, as part of an unemployment work-relief or work-training program assisted or financed in whole or part by any federal

agency or an agency of a state or political subdivision thereof, by an individual receiving such work relief or work training;

(l) service performed by an individual who is enrolled at a nonprofit or public educational institution that normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on as a student in a full-time program, taken for credit at the institution that combines academic instruction with work experience, if the service is an integral part of such program and the institution has so certified to the employer, except that this subparagraph shall not apply to service performed in a program established for or on behalf of an employer or group of employers;

(m) service performed in the employ of a hospital, if the service is performed by a patient of the hospital, or services performed by an inmate of a custodial or penal institution for any employer;

(n) service performed by real estate salesmen for others when the services are performed for remuneration solely by way of commission;

(o) service performed in the employ of a school, college or university if such service is performed by a student who is enrolled and is regularly attending classes at such school, college or university;

(p) service performed by an individual for a fixed or contract fee officiating at a sporting event that is conducted by or under the auspices of a nonprofit or governmental entity if that person is not otherwise an employee of the entity conducting the sporting event;

(q) service performed for a private, for-profit person or entity by an individual as a product demonstrator or product merchandiser if the service is performed pursuant to a written contract between that individual and a person or entity whose principal business is obtaining the services of product demonstrators and product merchandisers for third parties, for demonstration and merchandising purposes and the individual: 1) is compensated for each job or the compensation is based on factors related to the work performed; 2) provides the equipment used to perform the service, unless special equipment is required and provided by the manufacturer through an agency; 3) is responsible for completion of a specific job and for any failure to complete the job; 4) pays all expenses, and the opportunity for profit or loss rests solely with the individual; and 5) is responsible for operating costs, fuel, repairs and motor vehicle insurance. For the purpose of this subparagraph, "product demonstrator" means an individual who, on a temporary, part-time basis, demonstrates or gives away samples of a food or other product as part of an advertising or sales promotion for the product and who is not otherwise employed directly by the manufacturer, distributor or retailer, and "product merchandiser" means an individual who, on a temporary, part-time

basis builds or resets a product display and who is not otherwise directly employed by the manufacturer, distributor or retailer; or

(r) service performed for a private for-profit person or entity by an individual as a landman if substantially all remuneration paid in cash or otherwise for the performance of the services is directly related to the completion by the individual of the specific tasks contracted for rather than to the number of hours worked by the individual. For the purposes of this subparagraph, "landman" means a land professional who has been engaged primarily in: 1) negotiating for the acquisition or divestiture of mineral rights; 2) negotiating business agreements that provide for the exploration for or development of minerals; 3) determining ownership of minerals through the research of public and private records; and 4) reviewing the status of title, curing title defects and otherwise reducing title risk associated with ownership of minerals; managing rights or obligations derived from ownership of interests and minerals; or utilizing or pooling of interest in minerals; and

(12) for the purposes of this subsection, if the services performed during one-half or more of any pay period by an individual for the person employing him constitute employment, all the services of such individual for such period shall be deemed to be employment but, if the services performed during more than one-half of any such pay period by an individual for the person employing him do not constitute employment, then none of the services of such individual for such period shall be deemed to be employment. As used in this paragraph, the term "pay period" means a period, of not more than thirty-one consecutive days, for which a payment of remuneration is ordinarily made to the individual by the person employing him. This paragraph shall not be applicable with respect to services performed in a pay period by an individual for the person employing him where any of such service is excepted by Subparagraph (f) of Paragraph (11) of this subsection;

G. "employment office" means a free public employment office, or branch thereof, operated by this state or maintained as a part of a state-controlled system of public employment offices;

H. "fund" means the unemployment compensation fund established by the Unemployment Compensation Law to which all contributions and payments in lieu of contributions required under the Unemployment Compensation Law and from which all benefits provided under the Unemployment Compensation Law shall be paid;

I. "unemployment" means, with respect to an individual, any week during which he performs no services and with respect to which no wages are payable to him and during which he is not engaged in self-employment or receives an award of back pay for loss of employment. The secretary shall prescribe by regulation what constitutes part-time and intermittent employment, partial employment and the conditions under which individuals engaged in such employment are eligible for partial unemployment benefits;

J. "state", when used in reference to any state other than New Mexico, includes, in addition to the states of the United States, the District of Columbia, the commonwealth of Puerto Rico and the Virgin Islands;

K. "unemployment compensation administration fund" means the fund established by Subsection A of Section 51-1-34 NMSA 1978 from which administrative expenses under the Unemployment Compensation Law shall be paid. "Employment security department fund" means the fund established by Subsection B of Section 51-1-34 NMSA 1978 from which certain administrative expenses under the Unemployment Compensation Law shall be paid;

L. "crew leader" means a person who:

(1) holds a valid certificate of registration as a crew leader or farm labor contractor under the Migrant and Seasonal Agricultural Worker Protection Act;

(2) furnishes individuals to perform services in agricultural labor for any other person;

(3) pays, either on his own behalf or on behalf of such other person, the individuals so furnished by him for service in agricultural labor; and

(4) has not entered into a written agreement with the other person for whom he furnishes individuals in agricultural labor that such individuals will be the employees of the other person;

M. "week" means such period of seven consecutive days, as the secretary may by regulation prescribe. The secretary may by regulation prescribe that a week shall be deemed to be "in", "within" or "during" the benefit year that includes the greater part of such week;

N. "calendar quarter" means the period of three consecutive calendar months ending on March 31, June 30, September 30 or December 31;

O. "insured work" means services performed for employers who are covered under the Unemployment Compensation Law;

P. "benefit year" with respect to any individual means the one-year period beginning with the first day of the first week of unemployment with respect to which the individual first files a claim for benefits in accordance with Subsection A of Section 51-1-8 NMSA 1978 and thereafter the one-year period beginning with the first day of the first week of unemployment with respect to which the individual next files such a claim for benefits after the termination of his last preceding benefit year; provided that at the time of filing such a claim the individual has been paid the wages required under Paragraph (5) of Subsection A of Section 51-1-5 NMSA 1978;

Q. "agricultural labor" includes all services performed:

(1) on a farm, in the employ of any person, in connection with cultivating the soil or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training and management of livestock, bees, poultry and fur-bearing animals and wildlife;

(2) in the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation or maintenance of such farm and its tools and equipment, if the major part of such service is performed on a farm;

(3) in connection with the operation or maintenance of ditches, canals, reservoirs or waterways used exclusively for supplying and storing water for farming purposes when such ditches, canals, reservoirs or waterways are owned and operated by the farmers using the water stored or carried therein; and

(4) in handling, planting, drying, packing, packaging, processing, freezing, grading, storing or delivery to storage or to market or to a carrier for transportation to market any agricultural or horticultural commodity but only if such service is performed as an incident to ordinary farming operations. The provisions of this paragraph shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption.

As used in this subsection, the term "farm" includes stock, dairy, poultry, fruit, fur-bearing animal and truck farms, plantations, ranches, nurseries, greenhouses, ranges and orchards;

R. "payments in lieu of contributions" means the money payments made into the fund by an employer pursuant to the provisions of Subsection A of Section 51-1-13 NMSA 1978;

S. "department" means the labor department; and

T. "wages" means all remuneration for services, including commissions and bonuses and the cash value of all remuneration in any medium other than cash. The reasonable cash value of remuneration in any medium other than cash shall be established and determined in accordance with regulations prescribed by the secretary; provided that the term "wages" shall not include:

(1) subsequent to December 31, 1977, that part of the remuneration in excess of the base wage as determined by the secretary for each calendar year. The base wage upon which contribution shall be paid during any calendar year shall be sixty percent of the state's average annual earnings computed by

the division by dividing total wages reported to the division by contributing employers for the second preceding calendar year before the calendar year the computed base wage becomes effective by the average annual employment reported by contributing employers for the same period rounded to the next higher multiple of one hundred dollars ($100); provided that the base wage so computed for any calendar year shall not be less than seven thousand dollars ($7,000). Wages paid by an employer to an individual in his employ during any calendar year in excess of the base wage in effect for that calendar year shall be reported to the department but shall be exempt from the payment of contributions unless such wages paid in excess of the base wage become subject to tax under a federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund;

(2) the amount of any payment with respect to services performed after June 30, 1941 to or on behalf of an individual in its employ under a plan or system established by an employing unit that makes provision for individuals in its employ generally or for a class or classes of such individuals, including any amount paid by an employing unit for insurance or annuities, or into a fund, to provide for any such payment, on account of:

(a) retirement if such payments are made by an employer to or on behalf of any employee under a simplified employee pension plan that provides for payments by an employer in addition to the salary or other remuneration normally payable to such employee or class of such employees and does not include any payments that represent deferred compensation or other reduction of an employee's normal taxable wages or remuneration or any payments made to a third party on behalf of an employee as part of an agreement of deferred remuneration;

(b) sickness or accident disability if such payments are received under a workers' compensation or occupational disease disablement law;

(c) medical and hospitalization expenses in connection with sickness or accident disability; or

(d) death; provided the individual in its employ has not the option to receive, instead of provision for such death benefit, any part of such payment, or, if such death benefit is insured, any part of the premiums or contributions to premiums paid by his employing unit and has not the right under the provisions of the plan or system or policy of insurance providing for such death benefit to assign such benefit, or to receive a cash consideration in lieu of such benefit either upon his withdrawal from the plan or system providing for such benefit or upon termination of such plan or system or policy of insurance or of his service with such employing unit;

(3) remuneration for agricultural labor paid in any medium other than cash;

(4) any payment made to, or on behalf of, an employee or an employee's beneficiary under a cafeteria plan within the meaning of Section 125 of the federal Internal Revenue Code of 1986;

(5) any payment made, or benefit furnished to or for the benefit of an employee if at the time of such payment or such furnishing it is reasonable to believe that the employee will be able to exclude such payment or benefit from income under Section 129 of the federal Internal Revenue Code of 1986;

(6) any payment made by an employer to a survivor or the estate of a former employee after the calendar year in which such employee died;

(7) any payment made to, or on behalf of, an employee or his beneficiary under an arrangement to which Section 408(p) of the federal Internal Revenue Code of 1986 applies, other than any elective contributions under Paragraph (2)(A)(i) of that section;

(8) any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under Section 106 of the federal Internal Revenue Code of 1986; or

(9) the value of any meals or lodging furnished by or on behalf of the employer if at the time such benefit is provided it is reasonable to believe that the employee will be able to exclude such items from income under Section 119 of the federal Internal Revenue Code of 1986."

Chapter 3 Section 5

Section 5. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2000.

SENATE BILL 3

CHAPTER 4

RELATING TO GOVERNMENT ORGANIZATIONS; CHANGING THE SUNSET PROVISIONS FOR CERTAIN BOARDS, COMMISSIONS AND AGENCIES; DECLARING AN EMERGENCY.

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

Chapter 4 Section 1

Section 1. Section 28-1-1 NMSA 1978 (being Laws 1969, Chapter 196, Section 1) is amended to read:

"28-1-1. SHORT TITLE.--Chapter 28, Article 1 NMSA 1978 may be cited as the "Human Rights Act"."

Chapter 4 Section 2

Section 2. Section 28-1-15 NMSA 1978 (being Laws 1987, Chapter 333, Section 1, as amended) is amended to read:

"28-1-15. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The human rights commission is terminated on July 1, 2005 pursuant to the Sunset Act. The commission shall continue to operate according to the provisions of the Human Rights Act until July 1, 2006. Effective July 1, 2006, Chapter 28, Article 1 NMSA 1978 is repealed."

Chapter 4 Section 3

Section 3. Section 31-22-24 NMSA 1978 (being Laws 1993, Chapter 207, Section 10) is amended to read:

"31-22-24. TERMINATION OF COMMISSION LIFE--DELAYED REPEAL.--The crime victims reparation commission is terminated on July 1, 2005 pursuant to the provisions of the Sunset Act. The commission shall continue to operate according to the provisions of the Crime Victims Reparation Act until July 1, 2006. Effective July 1, 2006, Chapter 31, Article 22 NMSA 1978 is repealed."

Chapter 4 Section 4

Section 4. Section 50-1-9 NMSA 1978 (being Laws 1987, Chapter 333, Section 2, as amended) is amended to read:

"50-1-9. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--

The labor and industrial commission and the office of the director of the labor and industrial division of the labor department are terminated on July 1, 2005 pursuant to the Sunset Act. The commission and the director shall continue to operate according to the provisions of Chapter 50, Article 1 NMSA 1978 until July 1, 2006. Effective July 1, 2006, Chapter 50, Article 1 NMSA 1978 is repealed."

Chapter 4 Section 5

Section 5. Section 60-1-26 NMSA 1978 (being Laws 1987, Chapter 333, Section 3, as amended by Laws 1993, Chapter 83, Section 2 and also by Laws 1993, Chapter 300, Section 4) is amended to read:

"60-1-26. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The state racing commission is terminated on July 1, 2005 pursuant to the Sunset Act. The commission shall continue to operate according to the provisions of Chapter 60, Article 1 NMSA 1978 until July 1, 2006. Effective July 1, 2006, Chapter 60, Article 1 NMSA 1978 is repealed."

Chapter 4 Section 6

Section 6. Section 60-2A-1 NMSA 1978 (being Laws 1980, Chapter 90, Section 1) is amended to read:

"60-2A-1. SHORT TITLE.-- Chapter 60, Article 2A NMSA 1978 may be cited as the "Professional Athletic Competition Act"."

Chapter 4 Section 7

Section 7. Section 60-2A-30 NMSA 1978 (being Laws 1980, Chapter 90, Section 30, as amended) is amended to read:

"60-2A-30. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The New Mexico athletic commission is terminated on July 1, 2005 pursuant to the Sunset Act. The commission shall continue to operate according to the provisions of the Professional Athletic Competition Act until July 1, 2006. Effective July 1, 2006, Chapter 60, Article 2A NMSA 1978 is repealed."

Chapter 4 Section 8

Section 8. Section 60-14-16 NMSA 1978 (being Laws 1983, Chapter 295, Section 21, as amended) is amended to read:

"60-14-16. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The manufactured housing committee and the manufactured housing division are terminated on July 1, 2005 pursuant to the Sunset Act. The manufactured housing committee and the manufactured housing division shall continue to operate according to the provisions of the Manufactured Housing Act until July 1, 2006. Effective July 1, 2006, Chapter 60, Article 14 NMSA 1978 is repealed."

Chapter 4 Section 9

Section 9. Section 61-12C-28 NMSA 1978 (being Laws 1993, Chapter 173, Section 21) is amended to read:

"61-12C-28. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The massage therapy board is terminated on July 1, 2005 pursuant to the provisions of the Sunset Act. The board shall continue to operate according to the provisions of the Massage Therapy Practice Act until July 1, 2006. Effective July 1, 2006, Chapter 61, Article 12C NMSA 1978 is repealed."

Chapter 4 Section 10

Section 10. Section 61-14A-22 NMSA 1978 (being Laws 1993, Chapter 158, Section 30) is amended to read:

"61-14A-22. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The board of acupuncture and oriental medicine is terminated on July 1, 2005 pursuant to the Sunset Act. The board shall continue to operate according to the provisions of the Acupuncture and Oriental Medicine Practice Act until July 1, 2006. Effective July 1, 2006, Chapter 61, Article 14A NMSA 1978 is repealed."

Chapter 4 Section 11

Section 11. Section 61-14D-1 NMSA 1978 (being Laws 1993, Chapter 325, Section 1) is amended to read:

"61-14D-1. SHORT TITLE.--Chapter 61, Article 14D NMSA 1978 may be cited as the "Athletic Trainer Practice Act"."

Chapter 4 Section 12

Section 12. Section 61-14D-19 NMSA 1978 (being Laws 1993, Chapter 325, Section 19) is amended to read:

"61-14D-19. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The athletic trainer practice board is terminated on July 1, 2005 pursuant to the provisions of the Sunset Act. The board shall continue to operate according to the provisions of the Athletic Trainer Practice Act until July 1, 2006. Effective July 1, 2006, Chapter 61, Article 14D NMSA 1978 is repealed."

Chapter 4 Section 13

Section 13. Section 61-24C-1 NMSA 1978 (being Laws 1989, Chapter 53, Section 1) is amended to read:

"61-24C-1. SHORT TITLE.--Chapter 61, Article 24C NMSA 1978 may be cited as the "Interior Designers Act"."

Chapter 4 Section 14

Section 14. Section 61-24C-17 NMSA 1978 (being Laws 1993, Chapter 83, Section 5) is amended to read:

"61-24C-17. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The interior design board is terminated on July 1, 2005 pursuant to the provisions of the Sunset Act. The board shall continue to operate according to the provisions of the Interior Designers Act until July 1, 2006. Effective July 1, 2006, Chapter 61, Article 24C NMSA 1978 is repealed."

Chapter 4 Section 15

Section 15. Section 61-27A-1 NMSA 1978 (being Laws 1993, Chapter 212, Section 1) is amended to read:

"61-27A-1. SHORT TITLE.--Chapter 61, Article 27A NMSA 1978 may be cited as the "Private Investigators and Polygraphers Act"."

Chapter 4 Section 16

Section 16. A new section of the Private Investigators and Polygraphers Act is enacted to read:

"TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The private investigators and polygraphers advisory board is terminated on July 1, 2005 pursuant to the Sunset Act. The board shall continue to operate according to the provisions of the Private Investigators and Polygraphers Act until July 1, 2006. Chapter 61, Article 27A NMSA 1978 is repealed effective July 1, 2006."

Chapter 4 Section 17

Section 17. Section 61-29-19 NMSA 1978 (being Laws 1978, Chapter 203, Section 2, as amended by Laws 1993, Chapter 83, Section 7 and also by Laws 1993, Chapter 253, Section 3) is amended to read:

"61-29-19. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The New Mexico real estate commission is terminated on July 1, 2005 pursuant to the Sunset Act. The commission shall continue to operate according to the provisions of Chapter 61, Article 29 NMSA 1978 until July 1, 2006. Effective July 1, 2006, Chapter 61, Article 29 NMSA 1978 is repealed."

Chapter 4 Section 18

Section 18. Section 61-30-24 NMSA 1978 (being Laws 1993, Chapter 269, Section 21) is amended to read:

"61-30-24. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The real estate appraisers board is terminated effective July 1, 2005. The Real Estate Appraisers Act shall continue in effect until July 1, 2006. Chapter 61, Article 30 NMSA 1978 is repealed effective July 1, 2006."

Chapter 4 Section 19

Section 19. Section 69-25A-1 NMSA 1978 (being Laws 1979, Chapter 291, Section 1) is amended to read:

"69-25A-1. SHORT TITLE.--Chapter 69, Article 25A NMSA 1978 may be cited as the "Surface Mining Act"."

Chapter 4 Section 20

Section 20. Section 69-25A-36 NMSA 1978 (being Laws 1987, Chapter 333, Section 14, as amended) is amended to read:

"69-25A-36. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The coal surface mining commission is terminated on July 1, 2005 pursuant to the Sunset Act. The commission shall continue to operate according to the provisions of the Surface Mining Act until July 1, 2006. Effective July 1, 2006, Chapter 69, Article 25A NMSA 1978 is repealed."

Chapter 4 Section 21

Section 21. Section 77-2-28 NMSA 1978 (being Laws 1981, Chapter 5, Section 1, as amended) is amended to read:

"77-2-28. TERMINATION OF BOARD LIFE--DELAYED REPEAL.--

The New Mexico livestock board is terminated July 1, 2005 unless continued by the legislature pursuant to the Sunset Act. The board shall continue to operate according to all of the provisions of Chapter 77, Article 2 NMSA 1978 until July 1, 2006 for the purpose of winding up its affairs. Effective July 1, 2006, Chapter 77, Article 2 NMSA 1978 is repealed."

Chapter 4 Section 22

Section 22. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

SENATE BILL 122, WITH EMERGENCY CLAUSE

SIGNED FEBRUARY 15, 2000

CHAPTER 5

RELATING TO FINANCING A PARKING FACILITY; AUTHORIZING THE ISSUANCE OF NEW MEXICO FINANCE AUTHORITY REVENUE BONDS FOR A NEW PARKING FACILITY ADJACENT TO THE NEW BERNALILLO COUNTY METROPOLITAN COURT BUILDING; AMENDING COURT FEES; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978; MAKING APPROPRIATIONS; DECLARING AN EMERGENCY.

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

Chapter 5 Section 1

Section 1. USE OF PARKING FACILITY NEAR BERNALILLO COUNTY METROPOLITAN COURT.--The Bernalillo county metropolitan court shall administer and manage a parking facility adjacent to the Bernalillo county metropolitan court in Albuquerque in accordance with the following provisions:

A. parking fees or the rents charged by the Bernalillo county metropolitan court to any public or private tenant or user of the parking facility shall be at rates comparable to parking fees charged in the downtown Albuquerque area for similar parking privileges or rents charged in the downtown Albuquerque area for similar space;

B. after payment of all fixed costs related to the parking facility and all costs of operating and maintaining the parking facility, all rents, parking fees and charges collected by the Bernalillo county metropolitan court for the parking facility shall be deposited in the court facilities fund;

C. the Bernalillo county metropolitan court shall provide a certified long-term user list and parking fee or rent schedule for the parking facility to the New Mexico finance authority at the end of each fiscal year;

D. with the prior written consent of the New Mexico finance authority, the Bernalillo county metropolitan court may sell or otherwise dispose of the parking facility; provided that no sale or disposition of the parking facility shall be for less than the fair market value of the parking facility as determined by an independent real estate appraiser; and

E. any money received from the sale or other disposition of the parking facility shall be deposited in the court facilities fund and used for the early redemption of any outstanding bonds issued by the New Mexico finance authority for financing the parking facility adjacent to the Bernalillo county metropolitan court building in Albuquerque.

Chapter 5 Section 2

Section 2. NEW MEXICO FINANCE AUTHORITY REVENUE BONDS--PURPOSE--APPROPRIATION.--

A. If the twenty-four-dollar ($24.00) court facilities fees provided in Sections 35-6-1 and 66-8-116.3 NMSA 1978 are imposed by law and all distributions to the court facilities fund provided in this act become law, 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 eleven million four hundred thousand dollars ($11,400,000) for the purpose of financing the acquisition of real property for and the design, construction, furnishing and equipping of a parking facility adjacent to the new Bernalillo county metropolitan court building.

B. The New Mexico finance authority may issue and sell revenue bonds authorized by this section when the chief metropolitan judge of the Bernalillo county metropolitan court and the court administrator of the Bernalillo county metropolitan court certify the need for issuance of the bonds. The net proceeds from the sale of the bonds are appropriated to the Bernalillo county metropolitan court for the purpose described in Subsection A of this section.

C. The money distributed from the court facilities fund to the New Mexico finance authority shall be deposited in a special bond fund or account and pledged irrevocably for the payment of the principal, interest and other expenses or obligations related to the bonds.

D. Until all bonds authorized by this section and by Section 34-9-16 NMSA 1978 are issued, an amount shall be transferred annually to the magistrate and metropolitan court capital fund equal to the money on deposit in the special bond fund or account in excess of the combined total of:

(1) the principal, interest and other expenses or obligations related to the bonds coming due in that fiscal year; and

(2) six hundred thousand dollars ($600,000) per year from the annual lease and rental revenues anticipated to be deposited in the court facilities fund.

E. After all bonds authorized by this section and by Section 34-9-16 NMSA 1978 are issued, up to one million five hundred thousand dollars ($1,500,000) of any money on deposit in the special bond fund or account in excess of the combined total of the principal, interest and other expenses or obligations related to the bonds coming due in that fiscal year and six hundred thousand dollars ($600,000) per year from the annual lease and rental revenues anticipated to be deposited in the court facilities fund shall be transferred annually to the magistrate and metropolitan court capital fund. Any amount in the special bond fund or account at the end of each fiscal year not transferred to the magistrate and metropolitan court capital fund shall be used for early redemption of bonds during the succeeding fiscal year.

F. Upon payment of all principal, interest and other expenses or obligations related to the bonds, the New Mexico finance 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 and the state treasurer to cease distributing money from the court facilities fund to the New Mexico finance authority and to transfer the money from the court facilities fund to the magistrate and metropolitan court capital fund.

G. Any law imposing court facilities fees, authorizing the collection of court facilities fees or directing deposits of parking fees and charges, lease and rental revenues, or other money into the court facilities fund or distribution of the money in the court facilities fund to the New Mexico finance authority, shall not be amended, repealed or otherwise directly or indirectly modified so as to impair outstanding revenue bonds that may be secured by a pledge of the distributions from the court facilities fund to the New Mexico finance authority, unless the revenue bonds have been discharged in full or provisions have been made for a full discharge.

H. The New Mexico finance authority may additionally secure the revenue bonds issued pursuant to this section by a pledge of money in the public project revolving fund with a lien priority on the money in the public project revolving fund as determined by the New Mexico finance authority.

Chapter 5 Section 3

Section 3. Section 7-27-5 NMSA 1978 (being Laws 1983, Chapter 306, Section 7, as amended) is amended to read:

"7-27-5. INVESTMENT OF SEVERANCE TAX PERMANENT FUND.--The severance tax permanent fund shall be invested for two general purposes, to provide income to the fund and to stimulate the economy of New Mexico, preferably on a continuing basis. The investments in Sections 7-27-5.1 and 7-27-5.6 NMSA 1978 shall be those intended to provide maximum income to the fund and shall be referred to as the market rate investments. The investments permitted in Sections 7-27-5.3 through 7-27-5.5, 7-27-5.13 through 7-27-5.17, 7-27-5.22, 7-27-5.24 and 7-27-5.25 NMSA 1978 shall be those intended to stimulate the economy of New Mexico and shall be referred to as the differential rate investments. The prudent man rule shall be applied to the market rate investments, and the state investment officer shall keep separate records of the earnings of the market rate investments. All transactions entered into on or after July 1, 1991 shall be accounted for in accordance with generally accepted accounting principles."

Chapter 5 Section 4

Section 4. A new section of the Severance Tax Bonding Act, Section 7-27-5.25 NMSA 1978, is enacted to read:

"7-27-5.25. SEVERANCE TAX PERMANENT FUND--INVESTMENT IN OBLIGATIONS ISSUED FOR A PARKING FACILITY NEAR THE NEW BERNALILLO COUNTY METROPOLITAN COURT BUILDING IN ALBUQUERQUE.--Subject to the approval of the state investment council, the severance tax permanent fund may be invested in revenue bonds issued by the New Mexico finance authority for the acquisition of real property for and the design, construction, furnishing and equipping of a parking facility adjacent to the new Bernalillo county metropolitan court building in Albuquerque. The amount invested shall not exceed eleven million four hundred thousand dollars ($11,400,000)."

Chapter 5 Section 5

Section 5. Section 34-9-14 NMSA 1978 (being Laws 1998 (1st S.S.), Chapter 6, Section 7) is amended to read:

"34-9-14. COURT FACILITIES FUND CREATED--ADMINISTRATION--DISTRIBUTION.--

A. The "court facilities fund" is created in the state treasury and shall be administered by the administrative office of the courts. The fund shall consist of court fees and lease and rental revenues transferred to or deposited in the fund.

B. All court facilities fees and other revenues deposited in the fund shall be distributed monthly to the New Mexico finance authority for deposit in a special bond fund or account of the authority. The New Mexico finance authority may pledge irrevocably all of these distributions to the authority for the payment of principal, interest and any other expenses or obligations related to the bonds issued by the authority for financing the acquisition of real property and for the design, construction, furnishing and equipping of a new court building for the Bernalillo county metropolitan court in Albuquerque and of a parking facility adjacent to the court building.

C. Distributions from the court facilities fund to the New Mexico finance authority 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."

Chapter 5 Section 6

Section 6. 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 assess and collect and shall not waive, defer or suspend 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 Subsection B

of Section 35-6-3 NMSA 1978.....20.00.

Proceeds from this docket fee shall be transferred to the administrative office of the courts for deposit in the court facilities fund;

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.

Proceeds from this copying fee shall be transferred to the administrative office of the courts for deposit in the court facilities fund; and

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 court facilities 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 assess and collect and shall not waive, defer or suspend the following costs:

(1) corrections fee in any county without a metropolitan court, 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;

(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;

(5) brain injury services 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 5.00;

and

(6) court facilities 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 as follows:

in a county with a metropolitan court.....24.00;

in any other county.....10.00.

E. Metropolitan court judges shall assess and collect and shall not waive, defer or suspend 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."

Chapter 5 Section 7

Section 7. 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. in a county without a metropolitan court, 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;

D. a judicial education fee of one dollar ($1.00), which shall be credited to the judicial education fund;

E. a brain injury services fee of five dollars ($5.00), which shall be credited to the brain injury services fund; and

F. a court facilities fee as follows:

in a county with a metropolitan court.....24.00;

in any other county.....10.00."

Chapter 5 Section 8

Section 8. APPROPRIATIONS.--

A. Eight million one hundred thousand dollars ($8,100,000) is appropriated from the magistrate and metropolitan court capital fund to the Bernalillo county metropolitan court for expenditure in fiscal years 2000 through 2004 for acquisition of real property for and the design, construction, furnishing and equipping of a new court building for the Bernalillo county metropolitan court in Albuquerque and of a parking facility adjacent to the new Bernalillo county metropolitan court building or to repay a loan from the New Mexico finance authority for any of these purposes. Any unexpended or unencumbered balance remaining at the end of fiscal year 2004 shall revert to the magistrate and metropolitan court capital fund.

B. One million dollars ($1,000,000) is appropriated from the magistrate and metropolitan court capital fund to the administrative office of the courts for expenditure in fiscal year 2001 for securing, equipping and studying the costs and benefits of leasing and purchasing magistrate court facilities. Any unexpended or unencumbered balance remaining at the end of fiscal year 2001 shall not revert to the magistrate and metropolitan court capital fund.

Chapter 5 Section 9

Section 9. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

HOUSE BILL 217, AS AMENDED, WITH EMERGENCY CLAUSE

SIGNED FEBRUARY 15, 2000

CHAPTER 6

RELATING TO INSURANCE; REQUIRING MENTAL HEALTH BENEFITS COVERAGE IN ALL EMPLOYER GROUP HEALTH PLANS.

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

Chapter 6 Section 1

Section 1. Section 59A-23E-18 NMSA 1978 (being Laws 1998, Chapter 41, Section 22) is repealed and a new Section 59A-23E-18 NMSA 1978 is enacted to read:

"59A-23E-18. REQUIREMENT FOR MENTAL HEALTH BENEFITS IN A GROUP HEALTH PLAN, OR GROUP HEALTH INSURANCE OFFERED IN CONNECTION WITH THE PLAN, FOR A PLAN YEAR OF AN

EMPLOYER.--

A. A group health plan for a plan year of an employer beginning or renewed on or after October 1, 2000, or group health insurance offered in connection with that plan, shall provide both medical and surgical benefits and mental health benefits. The plan shall not impose treatment limitations or financial requirements on the provision of mental health benefits if identical limitations or requirements are not imposed on coverage of benefits for other conditions.

B. A group health plan for a plan year of an employer beginning on or after October 1, 2000, or group health insurance offered in connection with that plan, may:

(1) require pre-admission screening prior to the authorization of mental health benefits whether inpatient or outpatient; or

(2) apply limitations that restrict mental health benefits provided under the plan to those that are medically necessary.

C. A group health plan for a plan year of an employer beginning or renewed on or after January 1, 2000, or group health insurance offered in connection with that plan, may not be changed through amendment or on renewal to exclude or decrease the mental health benefits existing as of that date.

D. An employer, having at least two but not more than forty-nine employees, that is required by the provisions of Subsection A of this section to provide mental health benefits coverage in a group health plan, or group health insurance offered in connection with that plan on renewal of an existing plan, may, if a premium increase of more than one and one-half percent in the plan year results from the change in coverage:

(1) pay the premium increase;

(2) reach agreement with the employees to cost-share that amount of the premium above one and one-half percent;

(3) negotiate a reduction in coverage, but not below the coverage existing before the renewal, to reduce the premium increase to no more than one and one-half percent; or

(4) after demonstrating to the satisfaction of the insurance division that the amount of the premium increase above one and one-half percent is due exclusively to the additional coverage required by the provisions of Subsection A of this section, receive written permission from the division to not increase coverage.

E. An employer, having at least fifty employees, that is required by the provisions of Subsection A of this section to provide mental health benefits coverage in a group health plan, or group health insurance offered in connection with that plan on renewal of an existing plan, may, if a premium increase of more than two and one-half percent in the plan year results from the change in coverage:

(1) pay the premium increase;

(2) reach agreement with the employees to cost-share that amount of the premium above two and one-half percent;

(3) negotiate a reduction in coverage, but not below the coverage existing before applying parity requirements, to reduce the premium increase to no more than two and one-half percent; or

(4) after demonstrating to the satisfaction of the insurance division that the amount of the premium increase above two and one-half percent is due exclusively to the additional coverage provided because of the provisions of Subsection A of this section, receive written permission from the division to not increase coverage.

F. As used in this section, "mental health benefits" means mental health benefits as described in the group health plan, or group health insurance offered in connection with the plan; but does not include benefits with respect to treatment of substance abuse, chemical dependency or gambling addiction."

HOUSE BILL 452, AS AMENDED

CHAPTER 7

RELATING TO UNEMPLOYMENT COMPENSATION; DECREASING UNEMPLOYMENT COMPENSATION TAXES; AMENDING SECTIONS OF THE UNEMPLOYMENT COMPENSATION LAW.

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

Chapter 7 Section 1

Section 1. Section 51-1-4 NMSA 1978 (being Laws 1969, Chapter 213, Section 1, as amended) is amended to read:

"51-1-4. MONETARY COMPUTATION OF BENEFITS--PAYMENT GENERALLY.--

A. All benefits provided herein are payable from the unemployment compensation fund. All benefits shall be paid in accordance with such regulations as the secretary may prescribe through employment offices or other agencies as the secretary may by general rule approve.

B. Weekly benefits shall be as follows:

(1) an individual's "weekly benefit amount" is an amount equal to one twenty-sixth of the total wages for insured work paid to him in that quarter of his base period in which total wages were highest. No benefit as so computed may be less than ten percent or more than fifty-two and one-half percent of the state's average weekly wage for all insured work. The state's average weekly wage shall be computed from all wages reported to the department from employing units in accordance with regulations of the secretary for the period ending June 30 of each calendar year divided by the total number of covered employees divided by fifty-two, effective for the benefit years commencing on or after the first Sunday of the following calendar year. Any such individual is not eligible to receive benefits unless he has wages in at least two quarters of his base period. For purposes of this subsection, "total wages" means all remuneration for insured work, including commissions and bonuses and the cash value of all remuneration in a medium other than cash;

(2) each eligible individual who is unemployed in any week during which he is in a continued claims status shall be paid, with respect to such week, a benefit in an amount equal to his weekly benefit amount, less that part of the wages, if any, or earnings from self-employment, payable to him with respect to such week which is in excess of one-fifth of his weekly benefit amount. For purposes of this subsection only, "wages" includes all remuneration for services actually performed in any week for which benefits are claimed, vacation pay for any period for which the individual has a definite return-to-work date, wages in lieu of notice and back pay for loss of employment but does not include payments through a court for time spent in jury service;

(3) notwithstanding any other provision of this section, each eligible individual who, pursuant to a plan financed in whole or in part by a base-period employer of such individual, is receiving a governmental or other pension, retirement pay, annuity or any other similar periodic payment that is based on the previous work of such individual and who is unemployed with respect to any week ending subsequent to April 9, 1981 shall be paid with respect to such week, in accordance with regulations prescribed by the secretary, compensation equal to his weekly benefit amount reduced,

but not below zero, by the prorated amount of such pension, retirement pay, annuity or other similar periodic payment that exceeds the percentage contributed to the plan by the eligible individual. The maximum benefit amount payable to such eligible individual shall be an amount not more than twenty-six times his reduced weekly benefit amount. If payments referred to in this section are being received by any individual under the federal Social Security Act, the division shall take into account the individual's contribution and make no reduction in the weekly benefit amount;

(4) in the case of a lump-sum payment of a pension, retirement or retired pay, annuity or other similar payment by a base-period employer that is based on the previous work of such individual, such payment shall be allocated, in accordance with regulations prescribed by the secretary, and shall reduce the amount of unemployment compensation paid, but not below zero, in accordance with Paragraph (3) of this subsection; and

(5) the retroactive payment of a pension, retirement or retired pay, annuity or any other similar periodic payment as provided in Paragraphs (3) and (4) of this subsection attributable to weeks during which an individual has claimed or has been paid unemployment compensation shall be allocated to such weeks and shall reduce the amount of unemployment compensation for such weeks, but not below zero, by an amount equal to the prorated amount of such pension. Any overpayment of unemployment compensation benefits resulting from the application of the provisions of this paragraph shall be recovered from the claimant in accordance with the provisions of Section 51-1-38 NMSA 1978.

C. Any otherwise eligible individual is entitled during any benefit year to a total amount of benefits equal to whichever is the lesser of twenty-six times his weekly benefit amount or sixty percent of his wages for insured work paid during his base period.

D. Any benefit as determined in Subsection B or C of this section, if not a multiple of one dollar ($1.00), shall be rounded to the next lower multiple of one dollar ($1.00).

E. The secretary may prescribe regulations to provide for the payment of benefits that are due and payable to the legal representative, dependents, relatives or next of kin of claimants since deceased. These regulations need not conform with the laws governing successions, and the payment shall be deemed a valid payment to the same extent as if made under a formal administration of the succession of the claimant.

F. The division, on its own initiative, may reconsider a monetary determination whenever it is determined that an error in computation or identity has occurred or that wages of the claimant pertinent to such determination but not considered have been newly discovered or that the benefits have been allowed or denied on the basis of misrepresentation of fact, but no redetermination shall be made after one year from the date of the original monetary determination. Notice of a

redetermination shall be given to all interested parties and shall be subject to an appeal in the same manner as the original determination. In the event that an appeal involving an original monetary determination is pending at the time a redetermination is issued, the appeal, unless withdrawn, shall be treated as an appeal from such redetermination."

Chapter 7 Section 2

Section 2. Section 51-1-5 NMSA 1978 (being Laws 1969, Chapter 213, Section 2, as amended) is amended to read:

"51-1-5. BENEFIT ELIGIBILITY CONDITIONS.--

A. An unemployed individual shall be eligible to receive benefits with respect to any week only if he:

(1) has made a claim for benefits with respect to such week in accordance with such regulations as the secretary may prescribe;

(2) has registered for work at, and thereafter continued to report at, an employment office in accordance with such regulations as the secretary may prescribe, except that the secretary may, by regulation, waive or alter either or both of the requirements of this paragraph as to individuals attached to regular jobs and as to such other types of cases or situations with respect to which he finds that compliance with such requirements would be oppressive or would be inconsistent with the purposes of the Unemployment Compensation Law. No such regulation shall conflict with Subsection A of Section 51-1-4 NMSA 1978;

(3) is able to work and is available for work and is actively seeking permanent and substantially full-time work in accordance with the terms, conditions and hours common in the occupation or business in which the individual is seeking work, except that the secretary may, by regulation, waive this requirement for individuals who are on temporary layoff status from their regular employment with an assurance from their employers that the layoff shall not exceed four weeks or who have an express offer in writing of substantially full-time work that will begin within a period not exceeding four weeks;

(4) has been unemployed for a waiting period of one week. No week shall be counted as a week of unemployment for the purposes of this paragraph:

(a) unless it occurs within the benefit year that includes the week with respect to which he claims payment of benefits;

(b) if benefits have been paid with respect thereto; and

(c) unless the individual was eligible for benefits with respect thereto as provided in this section and Section 51-1-7 NMSA 1978, except for the requirements of this subsection and of Subsection E of Section 51-1-7 NMSA 1978;

(5) has been paid wages in at least two quarters of his base period;

(6) has reported to an office of the division in accordance with the regulations of the secretary for the purpose of an examination and review of the individual's availability for and search for work, for employment counseling, referral and placement and for participation in a job finding or employability training and development program. No individual shall be denied benefits under this section for any week that he is participating in a job finding or employability training and development program; and

(7) participates in reemployment services, such as job search assistance services, if the division determines that the individual is likely to exhaust regular benefits and need reemployment services pursuant to a profiling system established by the division, unless the division determines that:

(a) the individual has completed such services; or

(b) there is justifiable cause for the individual's failure to participate in the services.

B. A benefit year as provided in Section 51-1-4 NMSA 1978 and Subsection P of Section 51-1-42 NMSA 1978 may be established; provided no individual may receive benefits in a benefit year unless, subsequent to the beginning of the immediately preceding benefit year during which he received benefits, he performed service in "employment", as defined in Subsection F of Section 51-1-42 NMSA 1978, and earned remuneration for such service in an amount equal to at least five times his weekly benefit amount.

C. Benefits based on service in employment defined in Paragraph (8) of Subsection F of Section 51-1-42 and Section 51-1-43 NMSA 1978 are to be paid in the same amount, on the same terms and subject to the same conditions as compensation payable on the basis of other services subject to the Unemployment Compensation Law; except that:

(1) benefits based on services performed in an instructional, research or principal administrative capacity for an educational institution shall not be paid for any week of unemployment commencing during the period between two successive academic years or terms or, when an agreement provides for a similar period between two regular but not successive terms, during such period or during a period of paid sabbatical leave provided for in the individual's contract, to any individual if such individual performs such services in the first of such academic years or terms and if there is a contract or a reasonable assurance that such individual will perform

services in any such capacity for any educational institution in the second of such academic years or terms;

(2) benefits based on services performed for an educational institution other than in an instructional, research or principal administrative capacity shall not be paid for any week of unemployment commencing during a period between two successive academic years or terms if such services are performed in the first of such academic years or terms and there is a reasonable assurance that such individual will perform services for any educational institution in the second of such academic years or terms. If compensation is denied to any individual under this paragraph and the individual was not offered an opportunity to perform such services for the educational institution for the second of such academic years or terms, the individual shall be entitled to a retroactive payment of benefits for each week for which the individual filed a claim and certified for benefits in accordance with the regulations of the division and for which benefits were denied solely by reason of this paragraph;

(3) benefits shall be denied to any individual for any week that commences during an established and customary vacation period or holiday recess if such individual performs any services described in Paragraphs (1) and (2) of this subsection in the period immediately before such period of vacation or holiday recess and there is a reasonable assurance that such individual will perform any such services in the period immediately following such vacation period or holiday recess;

(4) benefits shall not be payable on the basis of services specified in Paragraphs (1) and (2) of this subsection during the periods specified in Paragraphs (1), (2) and (3) of this subsection to any individual who performed such services in or to or on behalf of an educational institution while in the employ of a state or local governmental educational service agency or other governmental entity or nonprofit organization; and

(5) for the purpose of this subsection, to the extent permitted by federal law, "reasonable assurance" means a reasonable expectation of employment in a similar capacity in the second of such academic years or terms based upon a consideration of all relevant factors, including the historical pattern of reemployment in such capacity, a reasonable anticipation that such employment will be available and a reasonable notice or understanding that the individual will be eligible for and offered employment in a similar capacity.

D. Paragraphs (1), (2), (3), (4) and (5) of Subsection C of this section shall apply to services performed for all educational institutions, public or private, for profit or nonprofit, which are operated in this state or subject to an agreement for coverage under the Unemployment Compensation Law of this state, unless otherwise exempt by law.

E. Notwithstanding any other provisions of this section or Section 51-1-7 NMSA 1978, no otherwise eligible individual is to be denied benefits for any week

because he is in training with the approval of the division nor is such individual to be denied benefits by reason of application of provisions in Paragraph (3) of Subsection A of this section or Subsection C of Section 51-1-7 NMSA 1978 with respect to any week in which he is in training with the approval of the division. The secretary shall provide, by regulation, standards for approved training and the conditions for approving such training for claimants, including any training approved or authorized for approval pursuant to Section 236(a)(1) and (2) of the Trade Act of 1974, as amended, or required to be approved as a condition for certification of the state's Unemployment Compensation Law by the United States secretary of labor.

F. Notwithstanding any other provisions of this section, benefits shall not be payable on the basis of services performed by an alien unless such alien is an individual who was lawfully admitted for permanent residence at the time such services were performed, was lawfully present for the purposes of performing such services or was permanently residing in the United States under color of law at the time such services were performed, including an alien who was lawfully present in the United States as a result of the application of the provisions of Section 212(d)(5) of the Immigration and Nationality Act; provided that:

(1) any information required of individuals applying for benefits to determine their eligibility for benefits under this subsection shall be uniformly required from all applicants for benefits; and

(2) no individual shall be denied benefits because of his alien status except upon a preponderance of the evidence.

G. Notwithstanding any other provision of this section, benefits shall not be paid to any individual on the basis of any services substantially all of which consist of participating in sports or athletic events or training or preparing to so participate for any week that commences during the period between two successive sport seasons, or similar periods, if such individual performed such services in the first of such seasons, or similar periods, and there is a reasonable assurance that such individual will perform such services in the latter of such seasons or similar periods.

H. Students who are enrolled in a full-time course schedule in an educational or training institution or program, other than those persons in an approved vocational training program in accordance with Subsection E of this section, shall not be eligible for unemployment benefits except as provided by regulations promulgated by the secretary.

I. As used in this subsection, "seasonal ski employee" means an employee who has not worked for a ski area operator for more than six consecutive months of the previous twelve months or nine of the previous twelve months. Any employee of a ski area operator who has worked for a ski area operator for six consecutive months of the previous twelve months or nine of the previous twelve

months shall not be considered a seasonal ski employee. The following benefit eligibility conditions apply to a seasonal ski employee:

(1) except as provided in Paragraphs (2) and (3) of this subsection, a seasonal ski employee employed by a ski area operator on a regular seasonal basis shall be ineligible for a week of unemployment benefits that commences during a period between two successive ski seasons unless such individual establishes to the satisfaction of the secretary that he is available for and is making an active search for permanent full-time work;

(2) a seasonal ski employee who has been employed by a ski area operator during two successive ski seasons shall be presumed to be unavailable for permanent new work during a period after the second successive ski season that he was employed as a seasonal ski employee; and

(3) the presumption described in Paragraph (2) of this subsection shall not arise as to any seasonal ski employee who has been employed by the same ski area operator during two successive ski seasons and has resided continuously for at least twelve successive months and continues to reside in the county in which the ski area facility is located.

J. Notwithstanding any other provision of this section, an otherwise eligible individual shall not be denied benefits for any week by reason of the application of Paragraph (3) of Subsection A of this section because he is before any court of the United States or any state pursuant to a lawfully issued summons to appear for jury duty."

Chapter 7 Section 3

Section 3. Section 51-1-11 NMSA 1978 (being Laws 1961, Chapter 139, Section 3, as amended) is amended to read:

"51-1-11. FUTURE RATES BASED ON BENEFIT EXPERIENCE.--

A. The division shall maintain a separate account for each contributing employer and shall credit his account with all contributions paid by him under the Unemployment Compensation Law. Nothing in the Unemployment Compensation Law shall be construed to grant any employer or individuals in his service prior claims or rights to the amounts paid by the employer into the fund.

B. Benefits paid to an individual shall be charged against the accounts of his base-period employers on a pro rata basis according to the proportion of his total base-period wages received from each, except that no benefits paid to a claimant as extended benefits under the provisions of Section 51-1-48 NMSA 1978 shall be charged to the account of any base-period employer who is not on a reimbursable basis and who

is not a governmental entity and, except as the secretary shall by regulation prescribe otherwise, in the case of benefits paid to an individual who:

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

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

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

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

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

D. All contributions to the fund shall be pooled and available to pay benefits to any individual entitled thereto, irrespective of the source of such contributions. The standard rate of contributions payable by each employer shall be five and four-tenths percent.

E. No employer's rate shall be varied from the standard rate for any calendar year unless, as of the computation date for that year, his account has been chargeable with benefits throughout the preceding thirty-six months, except that:

(1) the provisions of this subsection shall not apply to governmental entities;

(2) subsequent to December 31, 1984, any employing unit that becomes an employer subject to the payment of contributions under the Unemployment Compensation Law or has been an employer subject to the payment of contributions at a standard rate of two and seven-tenths percent through December 31, 1984 shall be subject to the payment of contributions at the reduced rate of two and seven-tenths percent until, as of the computation date of a particular year, the employer's account has been chargeable with benefits throughout the preceding thirty-six months; and

(3) any individual, type of organization or employing unit that acquires all or part of the trade or business of another employing unit, pursuant to Paragraphs (2) and (3) of Subsection E of Section 51-1-42 NMSA 1978, that has a

reduced rate of contribution shall be entitled to the transfer of the reduced rate to the extent permitted under Subsection G of this section.

F. The secretary shall, for the year 1942 and for each calendar year thereafter, classify employers in accordance with their actual experience in the payment of contributions and with respect to benefits charged against their accounts, with a view of fixing such contribution rates as will reflect such benefit experience. Each employer's rate for any calendar year shall be determined on the basis of his record and the condition of the fund as of the computation date for such calendar year.

An employer may make voluntary payments in addition to the contributions required under the Unemployment Compensation Law, which shall be credited to his account in accordance with department regulation. The voluntary payments shall be included in the employer's account as of the employer's most recent computation date if they are made on or before the following March 1. Voluntary payments when accepted from an employer shall not be refunded in whole or in part.

G. In the case of a transfer of an employing enterprise, the experience history of the transferred enterprise as provided in Subsection F of this section shall be transferred from the predecessor employer to the successor under the following conditions and in accordance with the applicable regulations of the secretary:

(1) Definitions:

(a) "employing enterprise" is a business activity engaged in by a contributing employing unit in which one or more persons have been employed within the current or the three preceding calendar quarters;

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

(c) "successor" means any individual or any type of organization that acquires an employing enterprise and continues to operate such business entity; and

(d) "experience history" means the experience rating record and reserve account, including the actual contributions, benefit charges and payroll experience of the employing enterprise.

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

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

(b) notice of the transfer has been given in accordance with the regulations of the secretary within four years of the transaction transferring the employing enterprise or the date of the actual transfer of control and operation of the employing enterprise;

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

(d) where the transaction involves only a merger, consolidation or other form of reorganization without a substantial change in the ownership and controlling interest of the business entity, as determined by the secretary, the limitations on transfers stated in Subparagraphs (a), (b) and (c) of this paragraph shall not apply. No party to a merger, consolidation or other form of reorganization described in this paragraph shall be relieved of liability for any contributions, interest or penalties due and owing from the employing enterprise at the time of the merger, consolidation or other form of reorganization.

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

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

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

(c) the successor files with the application a Form ES-903A or its equivalent with a schedule of the name and social security number of and the wages paid to and the contributions paid for each employee for the three and one-half year period preceding the computation date as defined in Subparagraph (d) of Paragraph (3) of Subsection H of this section through the date of transfer or such lesser period as the enterprises transferred may have been in operation. The application and Form ES-903A shall be supported by the predecessor's permanent employment records, which shall be available for audit by the division. The application and Form ES-903A shall be reviewed by the division and, upon approval, the percentage of the predecessor's experience history attributable to the enterprises transferred shall be transferred to the successor. The percentage shall be obtained by dividing the taxable payrolls of the transferred enterprises for such three and one-half year period preceding the date of computation or such lesser period as the enterprises transferred may have been in operation by the predecessor's entire payroll.

H. For each calendar year, adjustments of contribution rates below the standard or reduced rate and measures designed to protect the fund are provided as follows:

(1) The total assets in the fund and the total of the last annual payrolls of all employers subject to contributions as of the computation date for each year shall be determined. These annual totals are here called "the fund" and "total payrolls". For each year, the "reserve" of each employer qualified under Subsection E of this section shall be fixed by the excess of his total contributions over total benefit charges computed as a percentage of his average payroll reported for contributions. The determination of each employer's annual rate, computed as of the computation date for each calendar year, shall be made by matching his reserve as shown in the reserve column with the corresponding rate shown in the applicable rate schedule of the table provided in Paragraph (4) of this subsection.

(2) Each employer's rate for each calendar year commencing January 1, 1979 or thereafter shall be:

(a) the rate in schedule 1 of the table provided in Paragraph (4) of this subsection on the corresponding line as his reserve if the fund equals at least three and four-tenths percent of the total payrolls;

(b) the rate in schedule 2 of the table provided in Paragraph (4) of this subsection on the corresponding line if the fund has dropped to less than three and four-tenths percent and not less than two and seven-tenths percent;

(c) the rate in schedule 3 of the table provided in Paragraph (4) of this subsection on the corresponding line if the fund has dropped to less than two and seven-tenths percent and not less than two percent;

(d) the rate in schedule 4 of the table provided in Paragraph (4) of this subsection on the corresponding line if the fund has dropped to less than two percent and not less than one and one-half percent;

(e) the rate in schedule 5 of the table provided in Paragraph (4) of this subsection on the corresponding line if the fund has dropped to less than one and one-half percent and not less than one percent; or

(f) the rate in schedule 6 of the table provided in Paragraph (4) of this subsection on the corresponding line if the fund has dropped less than one percent.

(3) As used in this section:

(a) "annual payroll" means the total amount of remuneration from an employer for employment during a twelve-month period ending on a computation date, and "average payroll" means the average of the last three annual payrolls;

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

(c) "base-period employers" means the employers of an individual during his base period; and

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

(4) Table of employer reserves and contribution rate schedules:

Employer Reserve	Contribution Schedule 1	Contribution Schedule 2	Contribution Schedule 3
10.0% and over	0.05%	0.1%	0.6%
9.0%-9.9%	0.1%	0.2%	0.9%
8.0%-8.9%	0.2%	0.4%	1.2%
7.0%-7.9%	0.4%	0.6%	1.5%
6.0%-6.9%	0.6%	0.8%	1.8%
5.0%-5.9%	0.8%	1.1%	2.1%

4.0%-4.9%	1.1%		1.4%		2.4%		
3.0%-3.9%	1.4%		1.7%		2.7%		
2.0%-2.9%	1.7%		2.0%		3.0%		
1.0%-1.9%	2.0%		2.4%		3.3%		
0.9%-0.0%	2.4%		3.3%		3.6%		
(-0.1%)-(-0.5%)		3.3%		3.6%		3.9%	
(-0.5%)-(-1.0%)		4.2%		4.2%		4.2%	
(-1.0%)-(-2.0%)		5.0%		5.0%		5.0%	
Under (-2.0%)		5.4%		5.4%		5.4%	
Employer		Contribution		Contribution		Contribution	
Reserve		Schedule 4		Schedule 5		Schedule 6	
10.0% and over		0.9%		1.2%		2.7%	
9.0%-9.9%	1.2%		1.5%		2.7%		
8.0%-8.9%	1.5%		1.8%		2.7%		
7.0%-7.9%	1.8%		2.1%		2.7%		
6.0%-6.9%	2.1%		2.4%		2.7%		
5.0%-5.9%	2.4%		2.7%		3.0%		
4.0%-4.9%	2.7%		3.0%		3.3%		
3.0%-3.9%	3.0%		3.3%		3.6%		
2.0%-2.9%	3.3%		3.6%		3.9%		
1.0%-1.9%	3.6%		3.9%		4.2%		
0.9%-0.0%	3.9%		4.2%		4.5%		
(-0.1%)-(-0.5%)		4.2%		4.5%		4.8%	

(-0.5%)-(-1.0%)	4.5%	4.8%	5.1%
(-1.0%)-(-2.0%)	5.0%	5.1%	5.3%
Under (-2.0%)	5.4%	5.4%	5.4%.

I. The division shall promptly notify each employer of his rate of contributions as determined for any calendar year pursuant to this section. Such notification shall include the amount determined as the employer's average payroll, the total of all his contributions paid on his own behalf and credited to his account for all past years and total benefits charged to his account for all such years. Such determination shall become conclusive and binding upon the employer unless, within thirty days after the mailing of notice thereof to his last known address or in the absence of mailing, within thirty days after the delivery of such notice, the employer files an application for review and redetermination, setting forth his reason therefor. The employer shall be granted an opportunity for a fair hearing in accordance with regulations prescribed by the secretary, but no employer shall have standing, in any proceeding involving his rate of contributions or contribution liability, to contest the chargeability to his account of any benefits paid in accordance with a determination, redetermination or decision pursuant to Section 51-1-8 NMSA 1978, except upon the ground that the services on the basis of which such benefits were found to be chargeable did not constitute services performed in employment for him and only in the event that he was not a party to such determination, redetermination or decision, or to any other proceedings under the Unemployment Compensation Law in which the character of such services was determined. The employer shall be promptly notified of the decision on his application for redetermination, which shall become final unless, within fifteen days after the mailing of notice thereof to his last known address or in the absence of mailing, within fifteen days after the delivery of such notice, further appeal is initiated pursuant to Subsection D of Section 51-1-8 NMSA 1978.

J. The division shall provide each contributing employer, within ninety days of the end of each calendar quarter, a written determination of benefits chargeable to his account. Such determination shall become conclusive and binding upon the employer for all purposes unless, within thirty days after the mailing of the determination to his last known address or in the absence of mailing, within thirty days after the delivery of such determination, the employer files an application for review and redetermination, setting forth his reason therefor. The employer shall be granted an opportunity for a fair hearing in accordance with regulations prescribed by the secretary, but no employer shall have standing in any proceeding involving his contribution liability to contest the chargeability to his account of any benefits paid in accordance with a determination, redetermination or decision pursuant to Section 51-1-8 NMSA 1978, except upon the ground that the services on the basis of which such benefits were found to be chargeable did not constitute services performed in employment for him and only in the event that he was not a party to such determination, redetermination or decision, or to any other proceedings under the Unemployment Compensation Law in which the character of such services was determined. The employer shall be promptly

notified of the decision on his application for redetermination, which shall become final unless, within fifteen days after the mailing of notice thereof to his last known address or in the absence of mailing, within fifteen days after the delivery of such notice, further appeal is initiated pursuant to Subsection D of Section 51-1-8 NMSA 1978.

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

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

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

N. Notwithstanding the provisions of this section, the rate in schedule 1 of the table provided in Paragraph (4) of Subsection H of this section shall be applied for four calendar years beginning January 1, 1999."

Chapter 7 Section 4

Section 4. Section 51-1-42 NMSA 1978 (being Laws 1936 (S.S.), Chapter 1, Section 19, as amended) is amended to read:

"51-1-42. DEFINITIONS.--As used in the Unemployment Compensation Law:

A. "base period" means the first four of the last five completed calendar quarters immediately preceding the first day of an individual's benefit year;

B. "benefits" means the cash unemployment compensation payments payable to an eligible individual pursuant to Section 51-1-4 NMSA 1978 with respect to his weeks of unemployment;

C. "contributions" means the money payments required by Section 51-1-9 NMSA 1978 to be made into the fund by an employer on account of having individuals performing services for him;

D. "employing unit" means any individual or type of organization, including any partnership, association, cooperative, trust, estate, joint-stock company, agricultural enterprise, insurance company or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or successor thereof, household, fraternity or club, the legal representative of a deceased person or any state or local government entity to the extent required by law to be covered as an employer, which has in its employ one or more individuals performing services for it within this state. All individuals performing services for any employing unit that maintains two or more separate establishments within this state shall be deemed to be employed by a single employing unit for all the purposes of the Unemployment Compensation Law. Individuals performing services for contractors, subcontractors or agents that are performing work or services for an employing unit, as described in this subsection, which is within the scope of the employing unit's usual trade, occupation, profession or business, shall be deemed to be in the employ of the employing unit for all purposes of the Unemployment Compensation Law unless such contractor, subcontractor or agent is itself an employer within the provisions of Subsection E of this section;

E. "employer" includes:

(1) any employing unit which:

(a) unless otherwise provided in this section, paid for service in employment as defined in Subsection F of this section wages of four hundred fifty dollars ($450) or more in any calendar quarter in either the current or preceding calendar year or had in employment, as defined in Subsection F of this section, for some portion of a day in each of twenty different calendar weeks during either the current or the preceding calendar year, and irrespective of whether the same individual was in employment in each such day, at least one individual;

(b) for the purposes of Subparagraph (a) of this paragraph, if any week includes both December 31 and January 1, the days of that week up to January 1 shall be deemed one calendar week and the days beginning January 1, another such week; and

(c) for purposes of defining an "employer" under Subparagraph (a) of this paragraph, the wages or remuneration paid to individuals performing services in employment in agricultural labor or domestic services as provided in Paragraphs (6) and (7) of Subsection F of this section shall not be taken into

account; except that any employing unit determined to be an employer of agricultural labor under Paragraph (6) of Subsection F of this section shall be an employer under Subparagraph (a) of this paragraph so long as the employing unit is paying wages or remuneration for services other than agricultural services;

(2) any individual or type of organization that acquired the trade or business or substantially all of the assets thereof, of an employing unit that at the time of the acquisition was an employer subject to the Unemployment Compensation Law; provided that where such an acquisition takes place, the secretary may postpone activating the separate account pursuant to Subsection A of Section 51-1-11 NMSA 1978 until such time as the successor employer has employment as defined in Subsection F of this section;

(3) any employing unit that acquired all or part of the organization, trade, business or assets of another employing unit and that, if treated as a single unit with such other employing unit or part thereof, would be an employer under Paragraph (1) of this subsection;

(4) any employing unit not an employer by reason of any other paragraph of this subsection:

(a) for which, within either the current or preceding calendar year, service is or was performed with respect to which such employing unit is liable for any federal tax against which credit may be taken for contributions required to be paid into a state unemployment fund; or

(b) which, as a condition for approval of the Unemployment Compensation Law for full tax credit against the tax imposed by the Federal Unemployment Tax Act, is required, pursuant to such act, to be an "employer" under the Unemployment Compensation Law;

(5) any employing unit that, having become an employer under Paragraph (1), (2), (3) or (4) of this subsection, has not, under Section 51-1-18 NMSA 1978, ceased to be an employer subject to the Unemployment Compensation Law;

(6) for the effective period of its election pursuant to Section 51-1-18 NMSA 1978, any other employing unit that has elected to become fully subject to the Unemployment Compensation Law; and

(7) any employing unit for which any services performed in its employ are deemed to be performed in this state pursuant to an election under an arrangement entered into in accordance with Subsection A of Section 51-1-50 NMSA 1978;

F. "employment" means:

(1) any service, including service in interstate commerce, performed for wages or under any contract of hire, written or oral, express or implied;

(2) an individual's entire service, performed within or both within and without this state if:

(a) the service is primarily localized in this state with services performed outside the state being only incidental thereto; or

(b) the service is not localized in any state but some of the service is performed in this state and: 1) the base of operations or, if there is no base of operations, the place from which such service is directed or controlled, is in this state; or 2) the base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed but the individual's residence is in this state;

(3) services performed within this state but not covered under Paragraph (2) of this subsection if contributions or payments in lieu of contributions are not required and paid with respect to such services under an unemployment compensation law of any other state, the federal government or Canada;

(4) services covered by an election pursuant to Section 51-1-18 NMSA 1978 and services covered by an election duly approved by the secretary in accordance with an arrangement pursuant to Paragraph (1) of Subsection A of Section 51-1-50 NMSA 1978 shall be deemed to be employment during the effective period of such election;

(5) services performed by an individual for an employer for wages or other remuneration unless and until it is established by a preponderance of evidence that:

(a) such individual has been and will continue to be free from control or direction over the performance of such services both under his contract of service and in fact;

(b) such service is either outside the usual course of business for which such service is performed or that such service is performed outside of all the places of business of the enterprise for which such service is performed; and

(c) such individual is customarily engaged in an independently established trade, occupation, profession or business of the same nature as that involved in the contract of service;

(6) service performed after December 31, 1977 by an individual in agricultural labor as defined in Subsection Q of this section if:

(a) such service is performed for an employing unit that: 1) paid remuneration in cash of twenty thousand dollars ($20,000) or more to individuals in such employment during any calendar quarter in either the current or the preceding calendar year; or 2) employed in agricultural labor ten or more individuals for some portion of a day in each of twenty different calendar weeks in either the current or preceding calendar year, whether or not such weeks were consecutive, and regardless of whether such individuals were employed at the same time;

(b) such service is not performed before January 1, 1980 by an individual who is an alien admitted to the United States to perform service in agricultural labor pursuant to Sections 214(c) and 101(15)(H) of the Immigration and Nationality Act; and

(c) for purposes of this paragraph, any individual who is a member of a crew furnished by a crew leader to perform service in agricultural labor for a farm operator or other person shall be treated as an employee of such crew leader: 1) if such crew leader meets the requirements of a crew leader as defined in Subsection L of this section; or 2) substantially all the members of such crew operate or maintain mechanized agricultural equipment that is provided by the crew leader; and 3) the individuals performing such services are not, by written agreement or in fact, within the meaning of Paragraph (5) of this subsection, performing services in employment for the farm operator or other person;

(7) service performed after December 31, 1977 by an individual in domestic service in a private home, local college club or local chapter of a college fraternity or sorority for a person or organization that paid cash remuneration of one thousand dollars ($1,000) in any calendar quarter in the current or preceding calendar year to individuals performing such services;

(8) service performed after December 31, 1971 by an individual in the employ of a religious, charitable, educational or other organization but only if the following conditions are met:

(a) the service is excluded from "employment" as defined in the Federal Unemployment Tax Act solely by reason of Section 3306(c)(8) of that act; and

(b) the organization meets the requirements of "employer" as provided in Subparagraph (a) of Paragraph (1) of Subsection E of this section;

(9) service of an individual who is a citizen of the United States, performed outside the United States, except in Canada, after December 31, 1971 in the employ of an American employer (other than service that is deemed "employment" under the provisions of Paragraph (2) of this subsection or the parallel provisions of another state's law), if:

(a) the employer's principal place of business in the United States is located in this state;

(b) the employer has no place of business in the United States, but: 1) the employer is an individual who is a resident of this state; 2) the employer is a corporation organized under the laws of this state; or 3) the employer is a partnership or a trust and the number of the partners or trustees who are residents of this state is greater than the number who are residents of any one other state; or

(c) none of the criteria of Subparagraphs (a) and (b) of this paragraph are met, but the employer has elected coverage in this state or, the employer having failed to elect coverage in any state, the individual has filed a claim for benefits, based on such service, under the law of this state.

"American employer" for purposes of this paragraph means a person who is: 1) an individual who is a resident of the United States; 2) a partnership if two-thirds or more of the partners are residents of the United States; 3) a trust if all of the trustees are residents of the United States; or 4) a corporation organized under the laws of the United States or of any state. For the purposes of this paragraph, "United States" includes the United States, the District of Columbia, the commonwealth of Puerto Rico and the Virgin Islands;

(10) notwithstanding any other provisions of this subsection, service with respect to which a tax is required to be paid under any federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund or which as a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act is required to be covered under the Unemployment Compensation Law;

(11) "employment" does not include:

(a) service performed in the employ of: 1) a church or convention or association of churches; or 2) an organization that is operated primarily for religious purposes and that is operated, supervised, controlled or principally supported by a church or convention or association of churches;

(b) service performed by a duly ordained, commissioned or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order;

(c) service performed by an individual in the employ of his son, daughter or spouse, and service performed by a child under the age of majority in the employ of his father or mother;

(d) service performed in the employ of the United States government or an instrumentality of the United States immune under the constitution of

the United States from the contributions imposed by the Unemployment Compensation Law except that to the extent that the congress of the United States shall permit states to require any instrumentalities of the United States to make payments into an unemployment fund under a state unemployment compensation act, all of the provisions of the Unemployment Compensation Law shall be applicable to such instrumentalities, and to service performed for such instrumentalities in the same manner, to the same extent and on the same terms as to all other employers, employing units, individuals and services; provided, that if this state shall not be certified for any year by the secretary of labor of the United States under Section 3304 of the federal Internal Revenue Code (26 U.S.C. Section 3304), the payments required of such instrumentalities with respect to such year shall be refunded by the department from the fund in the same manner and within the same period as is provided in Subsection D of Section 51-1-36 NMSA 1978 with respect to contributions erroneously collected;

(e) service performed in a facility conducted for the purpose of carrying out a program of rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury or providing remunerative work for individuals who because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market, by an individual receiving such rehabilitation or remunerative work;

(f) service with respect to which unemployment compensation is payable under an unemployment compensation system established by an act of congress;

(g) service performed in the employ of a foreign government, including service as a consular or other officer or employee or a nondiplomatic representative;

(h) service performed by an individual for a person as an insurance agent or as an insurance solicitor, if all such service performed by such individual for such person is performed for remuneration solely by way of commission;

(i) service performed by an individual under the age of eighteen in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;

(j) service covered by an election duly approved by the agency charged with the administration of any other state or federal unemployment compensation law, in accordance with an arrangement pursuant to Paragraph (1) of Subsection A of Section 51-1-50 NMSA 1978 during the effective period of such election;

(k) service performed, as part of an unemployment work-relief or work-training program assisted or financed in whole or part by any federal

agency or an agency of a state or political subdivision thereof, by an individual receiving such work relief or work training;

(l) service performed by an individual who is enrolled at a nonprofit or public educational institution that normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on as a student in a full-time program, taken for credit at the institution that combines academic instruction with work experience, if the service is an integral part of such program and the institution has so certified to the employer, except that this subparagraph shall not apply to service performed in a program established for or on behalf of an employer or group of employers;

(m) service performed in the employ of a hospital, if the service is performed by a patient of the hospital, or services performed by an inmate of a custodial or penal institution for any employer;

(n) service performed by real estate salesmen for others when the services are performed for remuneration solely by way of commission;

(o) service performed in the employ of a school, college or university if such service is performed by a student who is enrolled and is regularly attending classes at such school, college or university;

(p) service performed by an individual for a fixed or contract fee officiating at a sporting event that is conducted by or under the auspices of a nonprofit or governmental entity if that person is not otherwise an employee of the entity conducting the sporting event;

(q) service performed for a private, for-profit person or entity by an individual as a product demonstrator or product merchandiser if the service is performed pursuant to a written contract between that individual and a person or entity whose principal business is obtaining the services of product demonstrators and product merchandisers for third parties, for demonstration and merchandising purposes and the individual: 1) is compensated for each job or the compensation is based on factors related to the work performed; 2) provides the equipment used to perform the service, unless special equipment is required and provided by the manufacturer through an agency; 3) is responsible for completion of a specific job and for any failure to complete the job; 4) pays all expenses, and the opportunity for profit or loss rests solely with the individual; and 5) is responsible for operating costs, fuel, repairs and motor vehicle insurance. For the purpose of this subparagraph, "product demonstrator" means an individual who, on a temporary, part-time basis, demonstrates or gives away samples of a food or other product as part of an advertising or sales promotion for the product and who is not otherwise employed directly by the manufacturer, distributor or retailer, and "product merchandiser" means an individual who, on a temporary, part-time

basis builds or resets a product display and who is not otherwise directly employed by the manufacturer, distributor or retailer; or

(r) service performed for a private for-profit person or entity by an individual as a landman if substantially all remuneration paid in cash or otherwise for the performance of the services is directly related to the completion by the individual of the specific tasks contracted for rather than to the number of hours worked by the individual. For the purposes of this subparagraph, "landman" means a land professional who has been engaged primarily in: 1) negotiating for the acquisition or divestiture of mineral rights; 2) negotiating business agreements that provide for the exploration for or development of minerals; 3) determining ownership of minerals through the research of public and private records; and 4) reviewing the status of title, curing title defects and otherwise reducing title risk associated with ownership of minerals; managing rights or obligations derived from ownership of interests and minerals; or utilizing or pooling of interest in minerals; and

(12) for the purposes of this subsection, if the services performed during one-half or more of any pay period by an individual for the person employing him constitute employment, all the services of such individual for such period shall be deemed to be employment but, if the services performed during more than one-half of any such pay period by an individual for the person employing him do not constitute employment, then none of the services of such individual for such period shall be deemed to be employment. As used in this paragraph, the term "pay period" means a period, of not more than thirty-one consecutive days, for which a payment of remuneration is ordinarily made to the individual by the person employing him. This paragraph shall not be applicable with respect to services performed in a pay period by an individual for the person employing him where any of such service is excepted by Subparagraph (f) of Paragraph (11) of this subsection;

G. "employment office" means a free public employment office, or branch thereof, operated by this state or maintained as a part of a state-controlled system of public employment offices;

H. "fund" means the unemployment compensation fund established by the Unemployment Compensation Law to which all contributions and payments in lieu of contributions required under the Unemployment Compensation Law and from which all benefits provided under the Unemployment Compensation Law shall be paid;

I. "unemployment" means, with respect to an individual, any week during which he performs no services and with respect to which no wages are payable to him and during which he is not engaged in self-employment or receives an award of back pay for loss of employment. The secretary shall prescribe by regulation what constitutes part-time and intermittent employment, partial employment and the conditions under which individuals engaged in such employment are eligible for partial unemployment benefits;

J. "state", when used in reference to any state other than New Mexico, includes, in addition to the states of the United States, the District of Columbia, the commonwealth of Puerto Rico and the Virgin Islands;

K. "unemployment compensation administration fund" means the fund established by Subsection A of Section 51-1-34 NMSA 1978 from which administrative expenses under the Unemployment Compensation Law shall be paid. "Employment security department fund" means the fund established by Subsection B of Section 51-1-34 NMSA 1978 from which certain administrative expenses under the Unemployment Compensation Law shall be paid;

L. "crew leader" means a person who:

(1) holds a valid certificate of registration as a crew leader or farm labor contractor under the Migrant and Seasonal Agricultural Worker Protection Act;

(2) furnishes individuals to perform services in agricultural labor for any other person;

(3) pays, either on his own behalf or on behalf of such other person, the individuals so furnished by him for service in agricultural labor; and

(4) has not entered into a written agreement with the other person for whom he furnishes individuals in agricultural labor that such individuals will be the employees of the other person;

M. "week" means such period of seven consecutive days, as the secretary may by regulation prescribe. The secretary may by regulation prescribe that a week shall be deemed to be "in", "within" or "during" the benefit year that includes the greater part of such week;

N. "calendar quarter" means the period of three consecutive calendar months ending on March 31, June 30, September 30 or December 31;

O. "insured work" means services performed for employers who are covered under the Unemployment Compensation Law;

P. "benefit year" with respect to any individual means the one-year period beginning with the first day of the first week of unemployment with respect to which the individual first files a claim for benefits in accordance with Subsection A of Section 51-1-8 NMSA 1978 and thereafter the one-year period beginning with the first day of the first week of unemployment with respect to which the individual next files such a claim for benefits after the termination of his last preceding benefit year; provided that at the time of filing such a claim the individual has been paid the wages required under Paragraph (5) of Subsection A of Section 51-1-5 NMSA 1978;

Q. "agricultural labor" includes all services performed:

(1) on a farm, in the employ of any person, in connection with cultivating the soil or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training and management of livestock, bees, poultry and fur-bearing animals and wildlife;

(2) in the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation or maintenance of such farm and its tools and equipment, if the major part of such service is performed on a farm;

(3) in connection with the operation or maintenance of ditches, canals, reservoirs or waterways used exclusively for supplying and storing water for farming purposes when such ditches, canals, reservoirs or waterways are owned and operated by the farmers using the water stored or carried therein; and

(4) in handling, planting, drying, packing, packaging, processing, freezing, grading, storing or delivery to storage or to market or to a carrier for transportation to market any agricultural or horticultural commodity but only if such service is performed as an incident to ordinary farming operations. The provisions of this paragraph shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption.

As used in this subsection, the term "farm" includes stock, dairy, poultry, fruit, fur-bearing animal and truck farms, plantations, ranches, nurseries, greenhouses, ranges and orchards;

R. "payments in lieu of contributions" means the money payments made into the fund by an employer pursuant to the provisions of Subsection A of Section 51-1-13 NMSA 1978;

S. "department" means the labor department; and

T. "wages" means all remuneration for services, including commissions and bonuses and the cash value of all remuneration in any medium other than cash. The reasonable cash value of remuneration in any medium other than cash shall be established and determined in accordance with regulations prescribed by the secretary; provided that the term "wages" shall not include:

(1) subsequent to December 31, 1977, that part of the remuneration in excess of the base wage as determined by the secretary for each calendar year. The base wage upon which contribution shall be paid during any calendar year shall be sixty percent of the state's average annual earnings computed by

the division by dividing total wages reported to the division by contributing employers for the second preceding calendar year before the calendar year the computed base wage becomes effective by the average annual employment reported by contributing employers for the same period rounded to the next higher multiple of one hundred dollars ($100); provided that the base wage so computed for any calendar year shall not be less than seven thousand dollars ($7,000). Wages paid by an employer to an individual in his employ during any calendar year in excess of the base wage in effect for that calendar year shall be reported to the department but shall be exempt from the payment of contributions unless such wages paid in excess of the base wage become subject to tax under a federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund;

(2) the amount of any payment with respect to services performed after June 30, 1941 to or on behalf of an individual in its employ under a plan or system established by an employing unit that makes provision for individuals in its employ generally or for a class or classes of such individuals, including any amount paid by an employing unit for insurance or annuities, or into a fund, to provide for any such payment, on account of:

(a) retirement if such payments are made by an employer to or on behalf of any employee under a simplified employee pension plan that provides for payments by an employer in addition to the salary or other remuneration normally payable to such employee or class of such employees and does not include any payments that represent deferred compensation or other reduction of an employee's normal taxable wages or remuneration or any payments made to a third party on behalf of an employee as part of an agreement of deferred remuneration;

(b) sickness or accident disability if such payments are received under a workers' compensation or occupational disease disablement law;

(c) medical and hospitalization expenses in connection with sickness or accident disability; or

(d) death; provided the individual in its employ has not the option to receive, instead of provision for such death benefit, any part of such payment, or, if such death benefit is insured, any part of the premiums or contributions to premiums paid by his employing unit and has not the right under the provisions of the plan or system or policy of insurance providing for such death benefit to assign such benefit, or to receive a cash consideration in lieu of such benefit either upon his withdrawal from the plan or system providing for such benefit or upon termination of such plan or system or policy of insurance or of his service with such employing unit;

(3) remuneration for agricultural labor paid in any medium other than cash;

(4) any payment made to, or on behalf of, an employee or an employee's beneficiary under a cafeteria plan within the meaning of Section 125 of the federal Internal Revenue Code of 1986;

(5) any payment made, or benefit furnished to or for the benefit of an employee if at the time of such payment or such furnishing it is reasonable to believe that the employee will be able to exclude such payment or benefit from income under Section 129 of the federal Internal Revenue Code of 1986;

(6) any payment made by an employer to a survivor or the estate of a former employee after the calendar year in which such employee died;

(7) any payment made to, or on behalf of, an employee or his beneficiary under an arrangement to which Section 408(p) of the federal Internal Revenue Code of 1986 applies, other than any elective contributions under Paragraph (2)(A)(i) of that section;

(8) any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under Section 106 of the federal Internal Revenue Code of 1986; or

(9) the value of any meals or lodging furnished by or on behalf of the employer if at the time such benefit is provided it is reasonable to believe that the employee will be able to exclude such items from income under Section 119 of the federal Internal Revenue Code of 1986."

Chapter 7 Section 5

Section 5. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2000.

HOUSE BILL 176

CHAPTER 8

RELATING TO LAW ENFORCEMENT; EXPANDING THE LIST OF OFFENSES THAT ARE SEX OFFENSES; INCREASING PENALTIES FOR SEX OFFENDERS WHO FAIL TO COMPLY WITH REGISTRATION REQUIREMENTS; INCREASING REGISTRATION REQUIREMENTS FOR SEX OFFENDERS; AUTHORIZING ACTIVE COMMUNITY NOTIFICATION OF LICENSED DAYCARE CENTERS AND SCHOOLS; PROVIDING THE DEPARTMENT OF PUBLIC SAFETY WITH AUTHORITY TO ESTABLISH AN INTERNET WEB SITE REGARDING CERTAIN SEX OFFENDERS; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978; REPEALING LAWS 1999, CHAPTER 19, SECTION 11 REGARDING APPLICABILITY OF THE SEX OFFENDER REGISTRATION AND NOTIFICATION ACT.

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

Chapter 8 Section 1

Section 1. Section 29-11A-3 NMSA 1978 (being Laws 1995, Chapter 106, Section 3, as amended) is amended to read:

"29-11A-3. DEFINITIONS.--As used in the Sex Offender Registration and Notification Act:

A. "sex offender" means a person eighteen years of age or older who:

(1) is a resident of New Mexico who is convicted of a sex offense in New Mexico;

(2) changes his residence to New Mexico, when that person has been convicted of a sex offense in another state, pursuant to state, federal or military law;

(3) is a resident of New Mexico who is convicted of a sex offense, pursuant to federal or military law; or

(4) is a resident of another state and who has been convicted of a sex offense pursuant to state, federal or military law, but who is:

(a) employed full time or part time in New Mexico for a period of time exceeding fourteen days or for an aggregate period of time exceeding thirty days during any calendar year; or

(b) enrolled on a full-time or part-time basis in a private or public school in New Mexico, including a secondary school, a trade school, a professional institution or an institution of higher education; and

B. "sex offense" means:

(1) criminal sexual penetration in the first, second, third or fourth degree, as provided in Section 30-9-11 NMSA 1978;

(2) criminal sexual contact in the fourth degree, as provided in Section 30-9-12 NMSA 1978;

(3) criminal sexual contact of a minor in the third or fourth degree, as provided in Section 30-9-13 NMSA 1978;

(4) sexual exploitation of children, as provided in Subsection A, B or C of Section 30-6A-3 NMSA 1978;

(5) sexual exploitation of children by prostitution, as provided in Section 30-6A-4 NMSA 1978;

(6) kidnapping, as provided in Section

30-4-1 NMSA 1978, when the victim is less than eighteen years of age and the offender is not a parent of the victim;

(7) false imprisonment, as provided in Section 30-4-3 NMSA 1978, when the victim is less than eighteen years of age and the offender is not a parent of the victim;

(8) solicitation to commit criminal sexual contact of a minor in the third or fourth degree, as provided in Sections 30-9-13 and 30-28-3 NMSA 1978; or

(9) attempt to commit any of the sex offenses set forth in Paragraphs (1) through (7) of this subsection, as provided in Section 30-28-1 NMSA 1978."

Chapter 8 Section 2

Section 2. Section 29-11A-4 NMSA 1978 (being Laws 1995, Chapter 106, Section 4, as amended) is amended to read:

"29-11A-4. REGISTRATION OF SEX OFFENDERS--INFORMATION REQUIRED--CRIMINAL PENALTY FOR NONCOMPLIANCE.--

A. A sex offender residing in this state shall register with the county sheriff for the county in which the sex offender resides.

B. A sex offender who is a current resident of New Mexico shall register with the county sheriff no later than ten days after being released from the custody of the corrections department or being placed on probation or parole. A sex offender who changes his residence to New Mexico shall register with the county sheriff no later than ten days after establishing residence in this state. When a sex offender registers with the county sheriff, he shall provide the following registration information:

(1) his legal name and any other names or aliases that he is using or has used;

(2) his date of birth;

(3) his social security number;

(4) his current address;

(5) his place of employment;

(6) the sex offense for which he was convicted; and

(7) the date and place of his sex offense conviction.

C. A sex offender who is a resident of another state but who is employed in New Mexico or attending school in New Mexico shall register with the county sheriff for the county in which the sex offender is working or attending school.

D. A sex offender who is a resident of another state but who is employed in New Mexico or attending school in New Mexico shall register with the county sheriff no later than ten days after beginning work or school. When the sex offender registers with the county sheriff, he shall provide the following registration information:

(1) his legal name and any other names or aliases that he is using or has used;

(2) his date of birth;

(3) his social security number;

(4) his current address in his state of residence and, if applicable, the address of his place of lodging in New Mexico while he is working or attending school;

(5) his place of employment or the name of the school he is attending;

(6) the sex offense for which he was convicted; and

(7) the date and place of his sex offense conviction.

C. A sex offender who is a resident of another state but who is employed in New Mexico or attending school in New Mexico shall register with county sheriff for the county in which the sex offender is working or attending school.

D. A sex offender who is a resident of another state but who is employed in New Mexico or attending school in New Mexico shall register with the county sheriff no later than ten days after beginning work or school. When the sex offender registers with the county sheriff, he shall provide the following registration information:

(1) his legal name and any other names or aliases that he is using or has used:

(2) his date of birth;

(3) his social security number;

(4) his current address in his state of residence and, if applicable, the address of his place of lodging in New Mexico while he is working or attending school;

(5) his place of employment or the name of the school he is attending;

(6) the sex offense for which he was convicted; and

(7) the date and place of his sex offense conviction.

E. When a sex offender registers with a county sheriff, the sheriff shall obtain:

(1) a photograph of the sex offender and a complete set of the sex offender's fingerprints; and

(2) a description of any tattoos, scars or other distinguishing features on the sex offender's body that would assist in identifying the sex offender.

F. When a sex offender who is registered changes his residence within the same county, the sex offender shall send written notice of his change of address to the county sheriff no later than ten days after establishing his new residence.

G. When a sex offender who is registered changes his residence to a new county in New Mexico, the sex offender shall register with the county sheriff of the new county no later than ten days after establishing his new residence. The sex offender shall also send written notice of the change in residence to the county sheriff with whom he last registered no later than ten days after establishing his new residence.

H. Following his initial registration pursuant to the provisions of this section:

(1) a sex offender required to register pursuant to the provisions of Subsection D of Section 29-11A-5 NMSA 1978 shall annually renew his registration with the county sheriff prior to December 31 of each subsequent calendar year for a period of twenty years; and

(2) a sex offender required to register pursuant to the provisions of Subsection E of Section 29-11A-5 NMSA 1978 shall annually renew his registration with the county sheriff prior to December 31 of each subsequent calendar year for a period of ten years.

I. A sex offender who willfully fails to comply with the registration requirements set forth in this section is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978.

J. A sex offender who willfully provides false information when complying with the registration requirements set forth in this section is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978."

Chapter 8 Section 3

Section 3. Section 29-11A-5 NMSA 1978 (being Laws 1995, Chapter 106, Section 5, as amended) is amended to read:

"29-11A-5. LOCAL REGISTRY--CENTRAL REGISTRY--ADMINISTRATION BY DEPARTMENT OF PUBLIC SAFETY--PARTICIPATION IN THE NATIONAL SEX OFFENDER REGISTRY--RULES.--

A. A county sheriff shall maintain a local registry of sex offenders in his jurisdiction required to register pursuant to the provisions of the Sex Offender Registration and Notification Act.

B. The county sheriff shall forward registration information obtained from sex offenders to the department of public safety. The initial registration information and any new registration information subsequently obtained from a sex offender shall be forwarded by the county sheriff no later than ten working days after the information is obtained from a sex offender. If the department of public safety receives information regarding a sex offender from a governmental entity other than a county sheriff, the department shall send that information to the county sheriff for the county in which the sex offender resides.

C. The department of public safety shall maintain a central registry of sex offenders required to register pursuant to the provisions of the Sex Offender Registration and Notification Act. The department shall participate in the national sex offender registry administered by the United States department of justice. The department shall send conviction information and fingerprints for all sex offenders registered in New Mexico to the national sex offender registry administered by the United States department of justice and to the federal bureau of investigation.

D. The department of public safety shall retain registration information regarding sex offenders convicted for the following sex offenses for a period of twenty years following the sex offender's conviction, release from prison or release from probation or parole, whichever occurs later:

(1) criminal sexual penetration in the first or second degree, as provided in Section 30-9-11 NMSA 1978;

(2) criminal sexual contact of a minor in the third degree, as provided in Section 30-9-13 NMSA 1978;

(3) sexual exploitation of children, as provided in Subsection A, B or C of Section 30-6A-3 NMSA 1978;

(4) kidnapping, as provided in Section 30-4-1 NMSA 1978, when the victim is less than eighteen years of age and the offender is not a parent of the victim; or

(5) attempt to commit any of the sex offenses set forth in Paragraphs (1) through (4) of this subsection, as provided in Section 30-28-1 NMSA 1978.

E. The department of public safety shall retain registration information regarding sex offenders convicted for the following offenses for a period of ten years following the sex offender's conviction, release from prison or release from probation or parole, whichever occurs later:

(1) criminal sexual penetration in the third or fourth degree, as provided in Section 30-9-11 NMSA 1978;

(2) criminal sexual contact in the fourth degree, as provided in Section 30-9-12 NMSA 1978;

(3) criminal sexual contact of a minor in the fourth degree, as provided in Section 30-9-13 NMSA 1978;

(4) sexual exploitation of children by prostitution, as provided in Section 30-6A-4 NMSA 1978;

(5) false imprisonment, as provided in Section 30-4-3 NMSA 1978, when the victim is less than eighteen years of age and the offender is not a parent of the victim;

(6) solicitation to commit criminal sexual contact of a minor in the third or fourth degree, as provided in Sections 30-9-13 and 30-28-3 NMSA 1978; or

(7) attempt to commit any of the sex offenses set forth in Paragraphs (1) through (5) of this subsection, as provided in Section 30-28-1 NMSA 1978.

F. The department of public safety shall adopt rules necessary to carry out the provisions of the Sex Offender Registration and Notification Act."

Chapter 8 Section 4

Section 4. Section 29-11A-5.1 NMSA 1978 (being Laws 1999, Chapter 19, Section 8) is amended to read:

"29-11A-5.1. PUBLIC ACCESS TO INFORMATION REGARDING CERTAIN REGISTERED SEX OFFENDERS--ACTIVE COMMUNITY NOTIFICATION--INTERNET WEB SITE.--

A. If a sex offender is convicted of one of the following sex offenses, the county sheriff shall forward registration information obtained from the sex offender to the district attorney for the judicial district in which the sex offender resides and, if the sex offender is a resident of a municipality, the chief law enforcement officer for the municipality in which the sex offender resides:

(1) criminal sexual penetration in the first or second degree, as provided in Section 30-9-11 NMSA 1978;

(2) criminal sexual contact of a minor in the third or fourth degree, as provided in Section 30-9-13 NMSA 1978;

(3) sexual exploitation of children, as provided in Subsection A, B or C of Section 30-6A-3 NMSA 1978;

(4) sexual exploitation of children by prostitution, as provided in Section 30-6A-4 NMSA 1978; or

(5) attempt to commit any of the sex offenses set forth in Paragraphs (1) through (4) of this subsection, as provided in Section 30-28-1 NMSA 1978.

B. A person who wants to obtain registration information regarding sex offenders described in Subsection A of this section may request that information from the:

(1) county sheriff for the county in which the sex offenders reside;

(2) chief law enforcement officer for the municipality in which the sex offenders reside;

(3) district attorney for the judicial district in which the sex offenders reside; or

(4) secretary of public safety.

C. Upon receiving a request for registration information regarding sex offenders described in Subsection A of this section, the county sheriff, chief municipal law enforcement officer, district attorney or secretary of public safety shall provide that

registration information, with the exception of a sex offender's social security number, within a reasonable period of time, and no later than seven days after receiving the request.

D. Within seven days of receiving registration information from a sex offender described in Subsection A of this section, the county sheriff shall contact every licensed daycare center, elementary school, middle school and high school within a one-mile radius of the sex offender's residence and provide them with the sex offender's registration information, with the exception of the sex offender's social security number.

E. The department of public safety may establish and manage an internet web site that provides the public with registration information regarding sex offenders described in Subsection A of this section. The registration information provided to the public pursuant to this subsection shall not include a sex offender's social security number or a sex offender's place of employment, unless the sex offender's employment requires him to have direct contact with children."

Chapter 8 Section 5

Section 5. Section 29-11A-7 NMSA 1978 (being Laws 1995, Chapter 106, Section 7, as amended) is amended to read:

"29-11A-7. NOTICE TO SEX OFFENDERS OF DUTY TO REGISTER.--

A. A court shall provide a sex offender convicted in that court with written notice of his duty to register pursuant to the provisions of the Sex Offender Registration and Notification Act. The written notice shall be included in judgment and sentence forms provided to the sex offender. The written notice shall inform the sex offender that he is required:

(1) to register with the county sheriff for the county in which the sex offender will reside, pursuant to the provisions of the Sex Offender Registration and Notification Act;

(2) to report subsequent changes of address pursuant to the provisions of the Sex Offender Registration and Notification Act;

(3) to notify the county sheriff of the county he resides in if the sex offender intends to move to another state and that the sex offender is required to register in the other state, pursuant to the provisions of the Sex Offender Registration and Notification Act; and

(4) to read and sign a form that indicates that the sex offender has received the written notice and that a responsible court official, designated by the chief judge for that judicial district, has explained the written notice to the sex offender.

B. The corrections department, at the time of release of a sex offender in the department's custody, shall provide a written notice to the sex offender of his duty to register, pursuant to the provisions of the Sex Offender Registration and Notification Act. The written notice shall inform the sex offender that he is required:

(1) to register with the county sheriff for the county in which the sex offender will reside, pursuant to the provisions of the Sex Offender Registration and Notification Act;

(2) to report subsequent changes of address pursuant to the provisions of the Sex Offender Registration and Notification Act;

(3) to notify the county sheriff of the county he resides in if the sex offender intends to move to another state and that the sex offender is required to register in the other state, pursuant to the provisions of the Sex Offender Registration and Notification Act; and

(4) to read and sign a form that indicates that the sex offender has received the written notice and that a responsible corrections department official, designated by the secretary of corrections, has explained the written notice to the sex offender.

C. A court or the corrections department shall also provide written notification regarding a sex offender's release to the sheriff of the county in which the sex offender is released and to the department of public safety.

D. The department of public safety, at the time it is notified by officials from another state that a sex offender will be establishing residence in New Mexico, shall provide written notice to the sex offender of his duty to register, pursuant to the provisions of the Sex Offender Registration and Notification Act."

Chapter 8 Section 6

Section 6. A new section of the Sex Offender Registration and Notification Act is enacted to read:

"PROCEDURES WHEN A SEX OFFENDER MOVES FROM NEW MEXICO TO ANOTHER STATE.--

A. If a sex offender intends to move from New Mexico to another state, no later than thirty days prior to moving to the other state, he shall:

(1) notify the county sheriff of the county he resides in that he is moving to the other state; and

(2) provide the county sheriff with a written notice that identifies the state to which the sex offender is moving.

B. Within five days of receiving a sex offender's written notice of intent to move to another state, the county sheriff shall transmit that information to the department of public safety. Within five days of receiving that information from a county sheriff, the department shall contact the state agency responsible for registering sex offenders in the state to which the sex offender is moving. The department shall provide that state agency with registration information regarding the sex offender. The department shall also obtain information regarding registration requirements for sex offenders in the state to which the sex offender is moving. The department shall provide the sex offender with written notification of the registration requirements in the state to which the sex offender is moving.

C. A sex offender who willfully fails to comply with the requirements set forth in this section is guilty of a misdemeanor and shall be punished by imprisonment for a definite term less than one year or a fine of not more than one thousand dollars ($1,000) or both."

Chapter 8 Section 7

Section 7. REPEAL.--Laws 1999, Chapter 19, Section 11 is repealed.

Chapter 8 Section 8

Section 8. SEVERABILITY.--If any part or application of the Sex Offender Registration and Notification Act is held invalid, the remainder or its application to other situations or persons shall not be affected.

Chapter 8 Section 9

Section 9. APPLICABILITY.--The provisions of this 2000 version of the Sex Offender Registration and Notification Act apply to:

A. persons convicted of a sex offense on or after July 1, 1995; and

B. persons convicted of a sex offense prior to July 1, 1995 and who, on July 1, 1995, were incarcerated, on probation or on parole.

Chapter 8 Section 10

Section 10. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2000.

SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR

SENATE BILL 125, AS AMENDED

CHAPTER 9

RELATING TO MEDICAID PERSONAL SPENDING ALLOWANCES; INCREASING THE MONTHLY ALLOWANCE; MAKING AN APPROPRIATION.

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

Chapter 9 Section 1

Section 1. MEDICAID--PERSONAL SPENDING ALLOWANCES--INCREASES.--For fiscal year 2001, the medicaid personal spending allowance shall be forty-five dollars ($45.00) per month for each eligible recipient. Thereafter, the medicaid personal spending allowance shall be increased at the beginning of each fiscal year by the annual percentage increase in the consumer price index for all urban consumers for all items for the preceding calendar year.

Chapter 9 Section 2

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2000.

HOUSE BILL 41

CHAPTER 10

RELATING TO TAXATION; LIMITING INCREASES IN THE VALUE OF RESIDENTIAL PROPERTY FOR PROPERTY TAXATION PURPOSES.

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

Chapter 10 Section 1

Section 1. Section 7-36-16 NMSA 1978 (being Laws 1973, Chapter 258, Section 18) is amended to read:

"7-36-16. RESPONSIBILITY OF COUNTY ASSESSORS TO DETERMINE AND MAINTAIN CURRENT AND CORRECT VALUES OF PROPERTY.--

A. County assessors shall determine values of property for property taxation purposes in accordance with the Property Tax Code and the regulations, orders, rulings and instructions of the department. Except as limited in Section 7-36-21.2 NMSA 1978, they shall also implement a program of updating property values so that current and correct values of property are maintained and shall have sole

responsibility and authority at the county level for property valuation maintenance, subject only to the general supervisory powers of the director.

B. The director shall implement a program of regular evaluation of county assessors' valuation activities with particular emphasis on the maintenance of current and correct values.

C. Upon request of the county assessor, the director may contract with a board of county commissioners for the department to assume all or part of the responsibilities, functions and authority of a county assessor to establish or operate a property valuation maintenance program in the county. The contract shall be in writing and shall include provisions for the sharing of the program costs between the county and the department. The contract must include specific descriptions of the objectives to be reached and the tasks to be performed by the contracting parties. The initial term of any contract authorized under this subsection shall not extend beyond the end of the fiscal year following the fiscal year in which it is executed, but contracts may be renewed for additional one-year periods for succeeding years.

D. The department of finance and administration shall not approve the operating budget of any county in which there is not an adequate allocation of funds to the county assessor for the purpose of fulfilling his responsibilities for property valuation maintenance under this section. If the department of finance and administration questions the adequacy of any allocation of funds for this purpose, it shall consult with the department, the board of county commissioners and the county assessor in making its determination of adequacy.

E. To aid the board of county commissioners in determining whether a county assessor is operating an efficient program of property valuation maintenance and in determining the amount to be allocated to him for this function, the county assessor shall present with his annual budget request a written report setting forth improvements of property added to valuation records during the year, additions of new property to valuation records during the year, increases and decreases of valuation during the year, the relationship of sales prices of property sold to values of the property for property taxation purposes and the current status of the overall property valuation maintenance program in the county. The county assessor shall send a copy of this report to the department."

Chapter 10 Section 2

Section 2. A new section of the Property Tax Code, Section 7-36-21.2 NMSA 1978, is enacted to read:

"7-36-21.2. LIMITATION ON INCREASES IN VALUATION OF RESIDENTIAL PROPERTY.--

A. Residential property shall be valued at its current and correct value in accordance with the provisions of the Property Tax Code; provided that for the 2001 and subsequent tax years, the value of a property in any tax year shall not exceed the higher of one hundred three percent of the value in the tax year prior to the tax year in which the property is being valued or one hundred six and one-tenth percent of the value in the tax year two years prior to the tax year in which the property is being valued. This limitation on increases in value does not apply to:

(1) a residential property in the first tax year that it is valued for property taxation purposes;

(2) any physical improvements made to the property during the year immediately prior to the tax year; or

(3) valuation of a residential property in any tax year in which:

(a) a change of ownership of the property occurred in the year immediately prior to the tax year for which the value of the property for property taxation purposes is being determined; or

(b) the use or zoning of the property has changed in the year prior to the tax year.

B. If a change of ownership of residential property occurred in the year immediately prior to the tax year for which the value of the property for property taxation purposes is being determined, the value of the property shall be its current and correct value as determined pursuant to the general valuation provisions of the Property Tax Code.

C. To assure that the values of residential property for property taxation purposes are at current and correct values in all counties prior to application of the limitation in Subsection A of this section, a county for which a sales ratio may be determined pursuant to Section 7-36-18 NMSA 1978 shall not be subject to the limitations of Subsection A of this section if the sales ratio for that county for the 2000 tax year is less than eighty-five, as measured by the median ratio of value for property taxation purposes to sales price. Such a county shall conduct a reassessment of residential property in the county and may increase valuations for property taxation purposes, as necessary to meet the current and correct valuation requirement, in amounts that do not increase in any tax year more than the sum of three percent of the prior year value of residential property in the county plus the net new value of residential property and do not increase the value of a residential property in any tax year more than the sum of five percent of the prior year value of that property plus any applicable net new value. Such reassessment shall continue until the tax year following the first tax year in which the sales ratio for the county is eighty-five or greater.

D. As used in this section:

(1) "change of ownership" means a transfer to a transferee by a transferor of all or any part of the transferor's legal or equitable ownership interest in residential property except for a transfer:

(a) to a trustee for the beneficial use of the spouse of the transferor or the surviving spouse of a deceased transferor;

(b) to the spouse of the transferor that takes effect upon the death of the transferor;

(c) that creates, transfers or terminates, solely between spouses, any co-owner's interest;

(d) to a child of the transferor, who occupies the property as his principal residence at the time of transfer; provided that the first subsequent tax year in which that person does not qualify for the head of household exemption on that property, a change of ownership shall be deemed to have occurred;

(e) that confirms or corrects a previous transfer made by a document that was recorded in the real estate records of the county in which the real property is located;

(f) for the purpose of quieting the title to real property or resolving a disputed location of a real property boundary;

(g) to a revocable trust by the transferor with the transferor, the transferor's spouse or a child of the transferor as beneficiary; or

(h) from a revocable trust described in Subparagraph (g) of this subsection back to the settlor or trustor or to the beneficiaries of the trust;

(2) "net new value" means "net new value" as defined in Section 7-37-7.1 NMSA 1978; and

(3) "prior year value" means the value for property taxation purposes of residential property subject to valuation under the Property Tax Code in the prior tax year."

Chapter 10 Section 3

Section 3. APPLICABILITY.--The provisions of Sections 1 and 2 of this act apply to the 2001 and subsequent property tax years.

HOUSE BILL 366, AS AMENDED

CHAPTER 11

RELATING TO GOVERNING BOARDS OF TECHNICAL AND VOCATIONAL INSTITUTE DISTRICTS; EXTENDING THE DATE BY WHICH CERTAIN SPECIAL ELECTIONS ARE REQUIRED TO BE HELD.

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

Chapter 11 Section 1

Section 1. Section 21-16-5.1 NMSA 1978 (being Laws 1994, Chapter 83, Section 3, as amended) is amended to read:

"21-16-5.1. BOARD MEMBERS--ELECTED FROM DISTRICTS--ELECTIONS.--

A. A district board shall be composed of five or seven members elected for four-year terms who shall reside in and be elected from single-member districts as provided in this section. Any board, the members of which have not been elected from single-member districts, shall district and hold a special election to coincide with the school district elections of 2001. If the board is a seven-member board, board members shall be elected for all seven positions on the board, with the board members elected to positions 1, 3, 5 and 7 to be elected for initial terms of two years and the board members elected to positions 2, 4 and 6 to be elected for initial terms of four years. If the board is a five-member board, board members elected to positions 1, 3 and 5 shall be elected for initial terms of two years and board members elected to positions 2 and 4 shall be elected for initial terms of four years. After the initial election for a district board, each board member shall be elected for a term of four years.

B. Except where specific provision is otherwise provided by law, all election proceedings for technical and vocational institute district elections shall be conducted pursuant to the provisions of the School Election Law with the president of the institute serving in the place of the superintendent of schools in every case.

C. Once following each federal decennial census, the board shall redistrict the technical and vocational institute district into election districts to ensure that the districts remain as equal in population as is practicable. The new districts shall go into effect at the first regular board election thereafter. Candidates for the new single-member districts that are scheduled to be voted on at the election shall reside in and be elected from the appropriate new single-member district. Incumbent board members whose districts before redistricting were not scheduled to be voted on at the election need not reside in the new single-member districts corresponding to their position numbers and may serve out their terms. At the second regular board election held after the redistricting, all candidates for the new single-member districts that are scheduled to be voted on shall reside in and be elected from the appropriate single-member district.

D. All election districts covered by this section shall be contiguous, compact and as equal in population as is practicable.

E. A vacancy occurring on the board shall be filled in the same manner as provided for school board vacancies in Section 22-5-9 NMSA 1978; provided, however, a vacancy that occurs in an election district where a nonresident board member had been serving shall be filled with a resident of that district."

SENATE BILL 148, AS AMENDED

CHAPTER 12

RELATING TO OIL AND GAS WELL-PLUGGING FINANCIAL ASSURANCE; AUTHORIZING THE FURNISHING OF FINANCIAL ASSURANCE IN THE FORM OF AN IRREVOCABLE LETTER OF CREDIT.

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

Chapter 12 Section 1

Section 1. Section 70-2-14 NMSA 1978 (being Laws 1977, Chapter 237, Section 3, as amended) is amended to read:

"70-2-14. REQUIREMENT FOR FINANCIAL ASSURANCE.--

A. Each person, firm, corporation or association who operates any oil, gas or service well within the state shall, as a condition precedent to drilling or producing the well, furnish financial assurance in the form of an irrevocable letter of credit or a cash or surety bond to the oil conservation division running to the benefit of the state and conditioned that the well be plugged and abandoned in compliance with the rules of the oil conservation division. The oil conservation division shall establish categories of financial assurance after notice and hearing. Such categories shall include a blanket plugging financial assurance in an amount not to exceed fifty thousand dollars ($50,000) and one-well plugging financial assurance in amounts determined sufficient to reasonably pay the cost of plugging the wells covered by the financial assurance. In establishing categories of financial assurance, the oil conservation division shall consider the depth of the well involved, the length of time since the well was produced, the cost of plugging similar wells and such other factors as the oil conservation division deems relevant. In addition to the blanket plugging financial assurance, the oil conservation division may require a one-well financial assurance on any well that has been held in a temporarily abandoned status for more than two years. All financial assurance shall remain in force until released by the oil conservation division. The oil conservation division shall release financial assurance when it is satisfied the conditions of the financial assurance have been fully performed.

B. If any of the requirements of the Oil and Gas Act or the rules promulgated pursuant to that act have not been complied with, the oil conservation division, after notice and hearing, may order any well plugged and abandoned by the

operator or surety or both in accordance with division rules. If the order is not complied with in the time period set out in the order, the financial assurance shall be forfeited.

C. When any financial assurance is forfeited pursuant to the provisions of the Oil and Gas Act or rules promulgated pursuant to that act, the director of the oil conservation division shall give notice to the attorney general, who shall collect the forfeiture without delay.

D. All forfeitures shall be deposited in the state treasury in the oil and gas reclamation fund.

E. When the financial assurance proves insufficient to cover the cost of plugging oil and gas wells on land other than federal land and funds must be expended from the oil and gas reclamation fund to meet the additional expenses, the oil conservation division is authorized to bring suit against the operator in the district court of the county in which the well is located for indemnification for all costs incurred by the oil conservation division in plugging the well. All funds collected pursuant to a judgment in a suit for indemnification brought under the provisions of this section shall be deposited in the oil and gas reclamation fund."

HOUSE BILL 10

CHAPTER 13

RELATING TO LIQUOR LICENSE FEES; CHANGING THE LICENSE FEE FOR CLUBS LICENSED TO SELL ALCOHOLIC BEVERAGES.

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

Chapter 13 Section 1

Section 1. Section 60-6A-15 NMSA 1978 (being Laws 1981, Chapter 39, Section 32, as amended) is amended to read:

"60-6A-15. LICENSE FEES.--Every application for the issuance or renewal of the following licenses shall be accompanied by a license fee in the following specified amounts:

A. manufacturer's license as a distiller, except a brandy manufacturer, three thousand dollars ($3,000);

B. manufacturer's license as a brewer, three thousand dollars ($3,000);

C. manufacturer's license as a rectifier, one thousand fifty dollars ($1,050);

D. wholesaler's license to sell all alcoholic beverages for resale only, two thousand five hundred dollars ($2,500);

E. wholesaler's license to sell spirituous liquors and wine for resale only, one thousand seven hundred fifty dollars ($1,750);

F. wholesaler's license to sell spirituous liquors for resale only, one thousand five hundred dollars ($1,500);

G. wholesaler's license to sell beer and wine for resale only, one thousand five hundred dollars ($1,500);

H. wholesaler's license to sell beer for resale only, one thousand dollars ($1,000);

I. wholesaler's license to sell wine for resale only, seven hundred fifty dollars ($750);

J. retailer's license, one thousand two hundred fifty dollars ($1,250);

K. dispenser's license, one thousand two hundred fifty dollars ($1,250);

L. canopy license, one thousand two hundred fifty dollars ($1,250);

M. restaurant license, one thousand dollars ($1,000);

N. club license, for clubs with more than two hundred fifty members, one thousand two hundred fifty dollars ($1,250), and for clubs with two hundred fifty members or fewer, two hundred fifty dollars ($250);

O. wine bottler's license to sell to wholesalers only, five hundred dollars ($500);

P. public service license, one thousand two hundred fifty dollars ($1,250);

Q. nonresident licenses, for a total billing to New Mexico wholesalers:

(1) in excess of:

$3,000,000 annually $10,500;

1,000,000 annually 5,250;

500,000 annually 3,750;

200,000 annually 2,700;

100,000 annually 1,800;

and

50,000 annually 900;

and

(2) of $50,000 or less $300;

R. wine wholesaler's license, for persons with sales of five thousand gallons of wine per year or less, twenty-five dollars ($25.00), and for persons with sales in excess of five thousand gallons of wine per year, one hundred dollars ($100); and

S. beer bottler's license, two hundred dollars ($200)."

HOUSE BILL 14, AS AMENDED

CHAPTER 14

RELATING TO LAW ENFORCEMENT; ALLOWING THE TRAINING AND RECRUITING DIVISION OF THE DEPARTMENT OF PUBLIC SAFETY TO CHARGE FOR SERVICES; CREATING A FUND; MAKING AN APPROPRIATION.

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

Chapter 14 Section 1

Section 1. Section 29-7-12 NMSA 1978 (being Laws 1981, Chapter 114, Section 12, as amended) is amended to read:

"29-7-12. CHARGES--FUND CREATED--USE.--

A. The training and recruiting division of the department of public safety shall not charge local public bodies and New Mexico Indian tribes and pueblos for any expenses associated with providing basic law enforcement training programs to applicants for certification seeking commission pursuant to the provisions of the Law Enforcement Training Act. The division may charge state agencies and institutions and federal agencies and shall charge civilian participants for the cost of providing basic law enforcement training programs, which charges shall be specified in a tuition and fee schedule promulgated by the New Mexico law enforcement academy board and shall not exceed the actual cost of providing the training programs.

B. The training and recruiting division may charge state agencies and institutions, local public bodies, New Mexico Indian tribes and pueblos and federal agencies and shall charge civilian participants for the cost of providing advanced

training programs, which charges shall be specified in a tuition and fee schedule promulgated by the New Mexico law enforcement academy board and shall not exceed the actual cost of providing the training programs.

C. The training and recruiting division may charge for the rental or other use of the academy's facility, personnel and equipment, which charges shall be specified in a tuition and fee schedule promulgated by the New Mexico law enforcement academy board and shall not exceed the actual cost of the facility, personnel or equipment.

D. The "law enforcement training and recruiting fund" is created in the state treasury. Money received by the training and recruiting division for activities specified in this section shall be deposited in the fund. The department of public safety shall administer the fund, and money in the fund is appropriated to the division to offset the operational costs of the division. Unexpended or unencumbered balances in the fund shall revert to the general fund at the end of a fiscal year. Money shall be expended on warrants issued by the secretary of finance and administration upon vouchers signed by the secretary of public safety or his authorized representative.

E. As used in this section, "local public body" means all political subdivisions of the state and their agencies, instrumentalities and institutions."

HOUSE BILL 45, AS AMENDED

CHAPTER 15

RELATING TO PUBLIC SCHOOL ENROLLMENT; PROVIDING CONDITIONS UNDER WHICH LOCAL SCHOOL BOARDS MAY DENY ENROLLMENT OR

RE-ENROLLMENT; DECLARING AN EMERGENCY.

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

Chapter 15 Section 1

Section 1. Section 22-1-4 NMSA 1978 (being Laws 1975, Chapter 338, Section 1, as amended) is amended to read:

"22-1-4. FREE PUBLIC SCHOOLS--EXCEPTIONS--WITHDRAWING AND ENROLLING--OPEN ENROLLMENT.--

A. Except as provided by Section 24-5-2 NMSA 1978, a free public school education shall be available to any school-age person who is a resident of this state and has not received a high school diploma or its equivalent.

B. A free public school education in those courses already offered to persons pursuant to provisions of Subsection A of this section shall be available to any person who is a resident of this state and has received a high school diploma or its equivalent if there is available space in such courses.

C. Any person entitled to a free public school education pursuant to the provisions of this section may enroll or re-enroll in a public school at any time and, unless required to attend school pursuant to the Compulsory School Attendance Law, may withdraw from a public school at any time.

D. In adopting and promulgating rules concerning the enrollment of students transferring from a home school or private school to the public schools, the local school board shall provide that the grade level at which the transferring student is placed is appropriate to the age of the student or to the student's score on a student achievement test administered according to the statewide and local school district testing programs as determined by the state superintendent or both.

E. A local school board shall adopt and promulgate rules governing enrollment and re-enrollment at schools within the school district. These rules shall include:

(1) definition of the school district boundary and the boundaries of attendance areas for each school;

(2) for each school, definition of the boundaries of areas outside the school district boundary or within the school district but outside the school's attendance area, and within a distance of the school that would not be served by a school bus route as determined pursuant to Section 22-16-4 NMSA 1978 if enrolled, which areas shall be designated as "walk zones";

(3) priorities for enrollment of students as follows:

(a) first, persons residing within the school district and within the attendance area of a school;

(b) second, persons who previously attended the school; and

(c) third, all other applicants;

(4) establishment of maximum allowable class size if smaller than that permitted by law and ratification and description of the maximum class size in the charter of all charter schools within the district; and

(5) rules pertaining to grounds for denial of enrollment or re-enrollment at schools within the school district and the school district's hearing and appeals process for such a denial. Grounds for denial of enrollment or

re-enrollment shall be limited to:

(a) a student's expulsion from any school district in this state or any other state during the preceding twelve months; or

(b) a student's behavior in another school district in this state or any other state during the preceding twelve months that is detrimental to the welfare or safety of other students or school personnel.

F. As long as the maximum allowable class size established by law, by rule of a local school board or in the charter of a charter school, whichever is lower, is not met or exceeded in a school by enrollment of first-priority persons, the school shall enroll other persons applying in the priorities stated in the school district rules adopted pursuant to Subsection E of this section. If the maximum would be exceeded by enrollment of an applicant in the second or third priority, the school shall establish a waiting list. As classroom space becomes available, persons highest on the waiting list within the highest priority on the list shall be notified and given the opportunity to enroll."

Chapter 15 Section 2

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

HOUSE BILL 46, AS AMENDED, WITH EMERGENCY CLAUSE

SIGNED MARCH 6, 2000

CHAPTER 16

RELATING TO EMERGENCY MEDICAL SERVICES FUNDING; PROVIDING FOR ACCUMULATION OF FUND ALLOCATIONS BY A MUNICIPALITY OR COUNTY UNDER CERTAIN CIRCUMSTANCES.

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

Chapter 16 Section 1

Section 1. Section 24-10A-4 NMSA 1978 (being Laws 1978, Chapter 178, Section 4, as amended) is amended to read:

"24-10A-4. FUNDING PROGRAM--PURPOSE--DETERMINATION OF NEEDS.--

A. The "local emergency medical services funding program" is created. The program shall provide for the:

(1) establishment or enhancement of local emergency medical services, including the use of advanced technology equipment;

(2) operational costs other than salaries and benefits of local emergency medical services personnel;

(3) purchase, repair and maintenance of emergency medical services vehicles, equipment and supplies, including the use of advanced technology equipment; and

(4) training and licensing of local emergency medical services personnel.

B. Annually on or before June 1, the bureau shall consider and determine, in accordance with the formula adopted by rule of the department, the amount of distribution to municipalities and counties that have applied for money from the fund. In making its determination, the bureau shall ensure that no municipality or county receives money from the fund for the purpose of accumulation as defined by rule of the department; provided, however, that a municipality or county may accumulate balances for no more than three years to purchase vehicles or equipment if the accumulation and a purchase plan have been approved by the bureau. The bureau shall also ensure that each local recipient is in compliance with the rules of the department."

Chapter 16 Section 2

Section 2. APPLICABILITY.--The provisions of Section 1 of this act apply to the 2001 and subsequent funding cycles.

HOUSE BILL 54

CHAPTER 17

RELATING TO PROPERTY TAXATION; EXTENDING THE VETERAN EXEMPTION TO VETERANS WHO SERVED HONORABLY IN THE ARMED FORCES OF THE UNITED STATES ON ACTIVE DUTY DURING THE GRENADA CONFLICT.

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

Chapter 17 Section 1

Section 1. Section 7-37-5 NMSA 1978 (being Laws 1973, Chapter 258, Section 38, as amended) is amended to read:

"7-37-5. VETERAN EXEMPTION.--

A. Two thousand dollars ($2,000) of the taxable value of property, including the community or joint property of husband and wife, subject to the tax is exempt from the imposition of the tax if the property is owned by a veteran or the veteran's unmarried surviving spouse if the veteran or surviving spouse is a New Mexico resident or if the property is held in a grantor trust established under Sections 671 through 677 of the Internal Revenue Code, as those sections may be amended or renumbered, by a veteran or the veteran's unmarried surviving spouse if the veteran or surviving spouse is a New Mexico resident. The exemption shall be deducted from taxable value of property to determine net taxable value of property.

B. The veteran exemption shall be applied only if claimed and allowed in accordance with Section 7-38-17 NMSA 1978 and regulations of the department.

C. As used in this section, "veteran" means an individual who:

(1) has been honorably discharged from membership in the armed forces of the United States;

(2) served in the armed forces of the United States on active duty continuously for ninety days, any part of which occurred during a period specified in Paragraph (3) of this subsection; and

(3) served in the armed forces of the United States during one or more of the following periods of armed conflict under orders of the president:

(a) any armed conflict prior to World War I;

(b) World War I which, for the purposes of this section, is defined as the period April 6, 1917 through April 1, 1920;

(c) World War II which, for the purposes of this section, is defined as the period December 7, 1941 through December 31, 1946;

(d) the Korean conflict which, for the purposes of this section, is defined as the period June 27, 1950 through January 31, 1955;

(e) the Vietnam conflict which, for the purposes of this section, is defined as the period August 5, 1964 through May 7, 1975;

(f) the Grenada conflict which, for the purposes of this section, is defined as the period October 13 through December 31, 1983; or

(g) the Persian gulf conflict which, for the purposes of this section, is defined as the period August 2, 1990 through the date upon which the president of the United States or a competent military authority declares the conflict to be ended, but in no case earlier than July 1, 1992.

D. For the purposes of Subsection C of this section, a person who would otherwise be entitled to status as a veteran except for failure to have served in the armed forces continuously for ninety days is considered to have met that qualification if he served during the applicable period for less than ninety days and the reason for not having served for ninety days was a discharge brought about by service-connected disablement.

E. For the purposes of Paragraph (1) of Subsection C of this section, a person has been "honorably discharged" unless he received either a dishonorable discharge or a discharge for misconduct.

F. For the purposes of this section, a person whose civilian service has been recognized as service in the armed forces of the United States under federal law and who has been issued a discharge certificate by a branch of the armed forces of the United States shall be considered to have served in the armed forces of the United States."

Chapter 17 Section 2

Section 2. APPLICABILITY.--The provisions of this act apply to the 2001 and subsequent property tax years.

HOUSE BILL 62

CHAPTER 18

RELATING TO CAPITAL PROJECTS; PROVIDING LEGISLATIVE AUTHORIZATION FOR THE NEW MEXICO FINANCE AUTHORITY TO MAKE LOANS FOR PUBLIC PROJECTS FROM THE PUBLIC PROJECT REVOLVING FUND; DECLARING AN EMERGENCY.

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

Chapter 18 Section 1

Section 1. AUTHORIZATION OF PROJECTS.--Pursuant to the provisions of Section 6-21-6 NMSA 1978, the legislature authorizes the New Mexico finance authority to make loans from the public project revolving fund to the following qualified entities for the following public projects on terms and conditions established by the authority:

A. to the Agua Pura mutual domestic water consumers association for a water project;

B. to the Agua Sana mutual domestic water consumers association for a water project;

C. to the Alamogordo public schools for the acquisition of computer software;

D. to the Alpine Village sanitation district for a water project;

E. to Angel Fire for fire equipment acquisition;

F. to the Anthony water and sanitation district for a water project;

G. to the Aragon mutual domestic water consumers association for a water project;

H. to Artesia for a wastewater project;

I. to the Artesia rural water cooperative for a water project;

J. to Aztec for a building project;

K. to Bayard for a water project;

L. to Bayard, Santa Clara, or both, for a regional wastewater project;

M. to the Baylor Canyon water cooperative for a water project;

N. to Belen for a water project, two utility projects and the acquisition of fire equipment;

O. to Bernalillo for a wastewater project;

P. to Bloomfield for a wastewater project;

Q. to the Bluewater Lake mutual domestic water consumers association for a water project;

R. to the Bluewater water and sanitation district for a water project;

S. to Bosque Farms for a water project;

T. to the Brazito mutual domestic water consumers association for a water project;

U. to Brazos water cooperative for a water project;

V. to the Buena Vista mutual domestic water consumers association for a water project;

W. to the Butterfield mutual domestic water consumers association for a water project;

X. to Catron county for the Apache Creek fire department for a fire substation project;

Y. to Chama for a water and wastewater project;

Z. to Chaves county for the Berrendo fire district for equipment acquisition;

AA. to the Cumberland water system for a water project;

BB. to Chaves county for the Rio Felix volunteer fire department for equipment acquisition;

CC. to Cibola county for the Bluewater volunteer fire department for equipment acquisition;

DD. to Cimarron for a water project;

EE. to Clovis for a wastewater project;

FF. to Colfax county for a building project;

GG. to Colfax county for the Miami fire department for fire equipment acquisition;

HH. to Columbus for a water project, a road project and a refinancing project;

II. to Corona for a water project;

JJ. to the Cundiyo mutual domestic water consumers association for a water project;

KK. to De Baca county for a detention facility;

LL. to Deming for an infrastructure project and a water project;

MM. to the Desert Ranch water cooperative for a water project;

NN. to Des Moines for a water project;

OO. to the Dona Ana mutual domestic water consumers association for two water projects and a wastewater project;

PP. to the Dora water association for a water project;

QQ. to Edgewood for a wastewater project;

RR. to the El Prado water and sanitation district for a water project;

SS. to the state parks division of the energy, minerals and natural resources department for state park capital improvement projects;

TT. to the Entranosa water and wastewater cooperative association for a refinancing project and a water project;

UU. to Espanola for two water projects and a wastewater project;

VV. to the Farmbrough water cooperative for a water project;

WW. to Fort Sumner for a water project;

XX. to Gallup for a water project;

YY. to the Garfield mutual domestic water consumers association for a water project;

ZZ. to Gonzalez Ranch mutual domestic water consumers association for a water project;

AAA. to Grants for a water project;

BBB. to Hidalgo county or Hidalgo medical center, or both, for a primary care facility;

CCC. to the High Rolls community water cooperative for a water project;

DDD. to Hope for a water project;

EEE. to the Hope water cooperative for a water project;

FFF. to Jal for a water project;

GGG. to Jemez Springs for a wastewater project;

HHH. to the La Mesa mutual domestic water consumers association for a water project;

III. to the La Puebla mutual domestic water consumers association for a regional water project;

JJJ. to the La Union mutual domestic water consumers association for equipment acquisition;

KKK. to Las Cruces for a water project;

LLL. to Las Vegas for a wastewater project;

MMM. to the Lee Acres water users association for a water project;

NNN. to the Longhorn Estates water cooperative for a water project;

OOO. to Lordsburg for a water project;

PPP. to Los Alamos county for a water project;

QQQ. to Los Lunas for a water project;

RRR. to the Los Sisneros mutual domestic water consumers association for a water project;

SSS. to Loving for a water project;

TTT. to Lovington for a water project and a wastewater project;

UUU. to Luna county for the Sunshine fire district for fire equipment acquisition;

VVV. to Magdalena for a water project and for the acquisition of fire equipment;

WWW. to McKinley county for the acquisition of law enforcement vehicles, computer equipment and road equipment;

XXX. to Mesilla for a water project;

YYY. to the Mesquite mutual domestic water consumers association for a water project;

ZZZ. to the Moquino water system for a water project;

AAAA. to the Mora mutual domestic water consumers association and the mutual sewer works association for a water project;

BBBB. to Moriarty for a building project;

CCCC. to Mosquero for a water project;

DDDD. to the Mountain View mutual domestic water consumers association for a water project;

EEEE. to the Nogal mutual domestic water consumers association for a water project;

FFFF. to the north central solid waste planning committee, Rio Arriba county, Los Alamos county, Espanola, San Juan pueblo, Santa Clara pueblo or all or any of the above for an environmental study;

GGGG. to the North Star domestic water consumers and mutual sewer works cooperative for refinancing and for a water project;

HHHH. to the Organ water and sewer association for a water project;

IIII. to the Otis water cooperative for a water project;

JJJJ. to the Pena Blanca water and sanitation district for a water project;

KKKK. to the Peoples water cooperative for a water project;

LLLL. to Picuris pueblo for a wastewater project;

MMMM. to Pie Town for a drinking water project;

NNNN. to the Pineywoods Estates water association for a water project;

OOOO. to the Placitas West water cooperative for a water project;

PPPP. to Portales for a water project;

QQQQ. to the Quemado mutual domestic water consumers and sewer association for a water project;

RRRR. to the Ramah chapter of the Navajo nation or the Navajo nation for a water project;

SSSS. to Raton for a regional water project;

TTTT. to Raton, the Raton public service company, or both, for the acquisition of equipment;

UUUU. to Roswell for a drinking water project;

VVVV. to Ruidoso for a water project and a building project;

WWWW. to the San Acacia water association for a water project;

XXXX. to San Jon for a water project;

YYYY. to the San Mateo mutual domestic water consumers association for a water project;

ZZZZ. to San Miguel county for law enforcement vehicle acquisition;

AAAAA. to San Miguel county for the Sapello-Rociada fire department for fire equipment acquisition;

BBBBB. to the San Pablo mutual domestic water consumers association for a water project;

CCCCC. to the San Rafael water and sanitation district for a water project;

DDDDD. to San Ysidro for police equipment acquisition and for a water project;

EEEEE. to Santa Clara for a water project;

FFFFF. to Santa Fe for two water projects, water equipment acquisition and remote sensing and control equipment;

GGGGG. to Santa Rosa for a water project, equipment acquisition, a fire substation project and the acquisition of law enforcement equipment;

HHHHH. to Sierra county for a building project;

IIIII. to Socorro county for the Abeytas fire department for equipment acquisition;

JJJJJ. to Sunland Park for a wastewater project;

KKKKK. to the Tabletop water users association for a water project;

LLLLL. to the Tajique mutual domestic water consumers association for a water project;

MMMMM. to Tijeras for a water project;

NNNNN. to Torrance county for a judicial complex;

OOOOO. to Torrance county for the McIntosh fire department for fire equipment acquisition;

PPPPP. to Truth or Consequences for a wastewater project and a water project;

QQQQQ. to Tucumcari for water and wastewater projects and a street project;

RRRRR. to the board of regents of the university of New Mexico for the Gallup branch or to the Gallup branch for a building project;

SSSSS. to Upper Hondo soil and water conservation district for a building project;

TTTTT. to Valencia county for a solid waste project;

UUUUU. to Valencia county for the Valencia El Cerro fire department for an equipment acquisition project;

VVVVV. to Valencia county for the Valencia Rio Grande fire department for an equipment acquisition project;

WWWWW. to Vaughn for fire equipment acquisition;

XXXXX. to Virden water system for a water project;

YYYYY. to Watrous mutual domestic water consumers association for a water project;

ZZZZZ. to Angel Fire, Eagle Nest, Red River, Taos, Taos county intergovernmental council or all or any of the above for regional solid waste projects;

AAAAAA. to the Desert Sand mutual domestic water consumers association for a water project;

BBBBBB. to the Dixon mutual domestic water consumers association for a water project;

CCCCCC. to the Guadalupe soil and water conservation district for an infrastructure project;

DDDDDD. to Mountainair for a wastewater project;

EEEEEE. to Rio Rancho for a water project; and

FFFFFF. to the Tierra Amarilla mutual domestic water consumers association for a water project.

Chapter 18 Section 2

Section 2. VOIDING OF AUTHORIZATION.--If a qualified entity listed in Section 1 of this act has not certified to the New Mexico finance authority by the end of fiscal year 2003 its desire to continue to pursue a loan from the public project revolving fund for a public project listed in that section, the legislative authorization granted to the New Mexico finance authority by that section to make a loan from the public project revolving fund to that qualified entity for that public project is void.

Chapter 18 Section 3

Section 3. CERTIFICATES OF PARTICIPATION--AUTHORIZATION TO PURCHASE LOANS.--Pursuant to the provisions of Section

6-21-6 NMSA 1978, the legislature authorizes the New Mexico finance authority to use funds on deposit in the public project revolving fund to purchase loans from the trust estates created for the authority's pooled equipment certificates of participation series 1994A, equipment certificates of participation series 1995A, equipment certificates of participation series 1996A and equipment certificates of participation series 1996B, which loans were used to finance the following projects:

A. Angel Fire police department for equipment acquisition;

B. Bayard fire department for a pumper truck;

C. Carlsbad fire department for a pumper truck;

D. Chama for fire station additions;

E. Chaves county for the Berrendo fire district for a fire apparatus;

F. Chaves county for the fire district 8 for a fire apparatus;

G. Cibola county for the Candy Kitchen fire district for a brush truck;

H. Cibola county sheriff's department for vehicle acquisition;

I. Colfax county for the French Tract fire department for a fire station building;

J. Corrales for a fire apparatus;

K. Cuba for a fire station building;

L. Curry county for the Pleasant Hill fire department for a fire station building;

M. De Baca county for the Lake Sumner fire district for a fire apparatus;

N. De Baca county for the Lake Sumner fire district for a steel building;

O. Des Moines for a fire apparatus;

P. Eagle Nest fire department for an equipment truck;

Q. Gallup police department for a blood alcohol testing vehicle;

R. Grant county for the Whiskey Creek fire district for a fire substation building;

S. Grant county for the Lower Mimbres fire district for the acquisition of pumper trucks;

T. Grants for road equipment and police vehicles;

U. Guadalupe county for the Anton Chico fire district for a brush truck;

V. Guadalupe county for the acquisition of dump trucks;

W. Guadalupe county for the acquisition of sheriff vehicles;

X. Hagerman for the acquisition of a fire apparatus and a substation building;

Y. Harding county for the rural fire district 1 for a brush unit;

Z. Jemez Springs police department for a vehicle;

AA. Las Vegas for various equipment;

BB. Las Vegas for a fire apparatus;

CC. Lincoln county for the Glencoe-Palo Verde fire district for a fire apparatus;

DD. Lincoln county for the Fort Sumner fire district for a class A pumper;

EE. Lordsburg for a road grader;

FF. Lordsburg for a garbage truck;

GG. Lovington fire department for a fire truck;

HH. Lovington police department for an IBM AS400 computer system;

II. Luna county for the Florida Mountains fire district for a fire apparatus;

JJ. Mora county for the Guadalupita volunteer fire district for a fire station project;

KK. Mora county for the Mora fire district for a fire station;

LL. Mora county for the Watrous volunteer fire district for fire station additions;

MM. Portales fire department for a class A pumper;

NN. Quay county for the Bard-Endee fire district for a brush truck;

OO. Quay county road department for blades and a dozer;

PP. Quay county for the Jordan fire district for a fire apparatus;

QQ. Quay county for sheriff vehicles;

RR. Red River fire department for a tanker;

SS. Red River police department for a vehicle;

TT. Rio Arriba county for the Chamita fire district for a fire apparatus;

UU. Rio Arriba county for the Tierra Amarilla fire district for a fire station building;

VV. Rio Rancho for a fire apparatus;

WW. Ruidoso for a street sweeper;

XX. San Jon fire department for a pumper;

YY. San Jon for a backhoe;

ZZ. San Jon for a fire apparatus;

AAA. San Jon for a police vehicle;

BBB. Santa Fe county for sheriff and other vehicles;

CCC. Santa Fe county for the Pojoaque volunteer fire district for a brush and rescue unit;

DDD. Santa Rosa for police vehicles;

EEE. Socorro county for various equipment;

FFF. Sunland Park fire department for fire station construction;

GGG. Taos county for the Ojo Caliente fire district for a brush truck;

HHH. Tatum police department for a vehicle;

III. Tatum for a flatbed and pickup;

JJJ. Torrance county for the northeast Torrance county fire district for a fire apparatus;

KKK. Torrance county for the McIntosh fire district for a fire station and water system;

LLL. Tularosa for water meter equipment;

MMM. Union county for the Grenville fire district for a fire apparatus; and

NNN. Williamsburg for a police vehicle.

Chapter 18 Section 4

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

HOUSE BILL 65, AS AMENDED, WITH EMERGENCY CLAUSE

SIGNED MARCH 6, 2000

CHAPTER 19

RELATING TO FINANCE; REVOKING LEGISLATIVE AUTHORIZATION TO THE NEW MEXICO FINANCE AUTHORITY TO MAKE LOANS FROM THE PUBLIC PROJECT REVOLVING FUND FOR CERTAIN PUBLIC PROJECTS; DECLARING AN EMERGENCY.

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

Chapter 19 Section 1

Section 1. PUBLIC PROJECT REVOLVING LOAN FUND--REVOCATION OF LEGISLATIVE AUTHORIZATION.--The legislative authorization granted to the New Mexico finance authority pursuant to the provisions of Section 6-21-6 NMSA 1978 to make loans from the public project revolving fund is revoked with respect to the following qualified entities for the specified public projects:

A. the Alamo Navajo school board, incorporated, for an early childhood development center building project as specified in Subsection Z of Section 1 of Chapter 166 of Laws 1997;

B. the Capitan-Carrizozo natural gas association for a natural gas utility project as specified in Subsection A of Section 1 of Chapter 166 of Laws 1997;

C. the Cibola general hospital, incorporated, for acquisition of medical and related equipment as specified in Subsection DDDD of Section 1 of Chapter 72 of Laws 1998;

D. Clovis for a special events center project as specified in Subsection B of Section 1 of Chapter 166 of Laws 1997;

E. Cochiti Lake for a community center project as specified in Subsection P of Section 1 of Chapter 72 of Laws 1998;

F. the Cottonwood water cooperative for a water project as specified in Subsection U of Section 1 of Chapter 68 of Laws 1999;

G. Farmington fire department for the acquisition of a rescue unit and related fire protection equipment as specified in Subsection AA of Section 1 of Chapter 72 of Laws 1998;

H. Gallup for a wastewater lift station as specified in Subsection KK of Section 1 of Chapter 68 of Laws 1999;

I. Gallup for a wastewater treatment plant as specified in Subsection KK of Section 1 of Chapter 68 of Laws 1999;

J. the Lea county solid waste authority for a solid waste project as specified in Subsection F of Section 1 of Chapter 8 of Laws 1996 (S.S.);

K. Lovington for land acquisition and improvement as specified in Subsection GGGGG of Section 1 of Chapter 68 of Laws 1999;

L. Mora county for a solid waste project as specified in Subsection S of Section 1 of Chapter 8 of Laws 1996 (S.S.);

M. Mosquero for a wastewater project as specified in Subsection E of Section 1 of Chapter 187 of Laws 1995;

N. Quay county for a solid waste project as specified in Subsection D of Section 1 of Chapter 8 of Laws 1996 (S.S.);

O. Roswell for replacement and renovation of fire stations as specified in Subsection CCC of Section 1 of Chapter 72 of Laws 1998;

P. Torrance county for a detention facility project as specified in Subsection TTT of Section 1 of Chapter 72 of Laws 1998;

Q. Twin Forks mutual domestic water consumers association for a water project as specified in Subsection YYY of Section 1 of Chapter 72 of Laws 1998; and

R. the Twining water and sanitation district for a wastewater project as specified in Subsection K of Section 1 of Chapter 166 of Laws 1997.

Chapter 19 Section 2

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

HOUSE BILL 66, AS AMENDED, WITH EMERGENCY CLAUSE

SIGNED MARCH 6, 2000

CHAPTER 20

RELATING TO EDUCATIONAL STANDARDS; REQUIRING STUDENTS TO ATTAIN A LEVEL OF PROFICIENCY REQUIRED BY ESTABLISHED CONTENT STANDARDS; PROVIDING FOR REMEDIATION AND ACADEMIC IMPROVEMENT PROGRAMS; PROVIDING FOR STUDENT ASSISTANCE TEAMS; RESTRICTING PROMOTIONS.

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

Chapter 20 Section 1

Section 1. Section 22-2-8.6 NMSA 1978 (being Laws 1986, Chapter 33, Section 7, as amended) is amended to read:

"22-2-8.6. EDUCATIONAL CONTENT STANDARDS--REMEDIATION PROGRAMS--PROMOTION POLICIES--RESTRICTIONS.--

A. The state board shall identify educational content standards as measured by the state assessment program and establish performance levels of proficiency. Remediation programs, academic improvement programs and promotion policies shall be aligned with content standards and based on the following:

(1) statewide assessment results;

(2) alternative school-district-determined assessment results; and

(3) student performance in school.

B. Local school boards shall approve district-developed remediation programs and academic improvement programs to provide special instructional assistance to students in grades one through eight who fail to attain a level of proficiency established by the content standards. The cost of remediation programs and academic improvement programs shall be borne by the school district. Remediation programs and academic improvement programs shall be incorporated into the school district's educational plan for student success and filed with the department of education.

C. The cost of summer and extended day remediation programs and academic improvement programs offered in grades nine through twelve shall be borne by the parent or guardian; however, where parents are determined to be indigent according to guidelines established by the state board, the local school board shall bear those costs.

D. Diagnosis of weaknesses identified by the reading or writing performance assessment instrument administered pursuant to Section 22-2-8.5 NMSA 1978 may serve as criteria in assessing the need for remedial programs or retention.

E. A parent or guardian shall be notified no later than the end of the second grading period that his child is failing to attain appropriate grade level proficiency in content standards, and a conference consisting of the parent or guardian and the teacher shall be held to discuss possible remediation programs available to assist the student in attaining the required level of proficiency established by the content standards. Specific academic deficiencies and remediation strategies shall be explained to the student's parent or guardian and a written plan developed containing timelines, academic expectations and the measurements to be used to verify that a student has overcome his academic deficiencies. Remediation programs and academic improvement programs include tutoring, extended day or week programs, summer programs and other research-based models for student improvement.

F. At the end of grades one through seven, three options are available, dependent on a student's attainment of the required level of proficiency established by the content standards:

(1) the student has attained the level of proficiency required by the content standards and shall enter the next higher grade;

(2) the student has not attained the required level of proficiency and shall participate in the required level of remediation. Upon certification by the school district that the student has successfully overcome his areas of deficiency, he shall enter the next higher grade; or

(3) the student has not attained the level of proficiency required by the content standards upon completion of the prescribed remediation program and upon the recommendation of the certified school instructor and school principal shall either be:

(a) retained in the same grade for no more than one school year with an academic improvement plan developed by the student assistance team in order to attain proficiency of content standards, at which time the student shall enter the next higher grade; or

(b) promoted to the next grade if the parent or guardian refuses to allow his child to be retained pursuant to Subparagraph (a) of this paragraph. In this case, the parent or guardian shall sign a waiver indicating his desire that the student be promoted to the next higher grade with an academic improvement plan designed to address specific academic deficiencies. The academic improvement plan shall be developed by the student assistance team outlining timelines and monitoring activities to ensure progress toward overcoming those academic deficiencies. Students failing to attain proficiency of content standards at the end of that year shall then be retained in the same grade for no more than one year in order to have additional time to master the required content standards.

G. At the end of the eighth grade, a student who fails to attain proficiency of content standards shall be retained in the eighth grade for no more than one school year in order to attain proficiency of content standards or if the student assistance team determines that retention of the student in the eighth grade will not assist the student attain the appropriate level of academic achievement and proficiency of standards, the team shall design a high school graduation plan to meet the student's needs for entry into the workforce or a post-secondary educational institution. If a student is retained in the eighth grade, the student assistance team shall develop a specific academic improvement plan that clearly delineates the student's academic deficiencies and prescribes a specific remediation plan to address those academic deficiencies.

H. A student who fails to attain proficiency of content standards for two successive school years shall be referred to the student assistance team for placement in an alternative program designed by the school district. Alternative program plans shall be filed with the department of education.

I. Promotion and retention decisions affecting a student enrolled in special education shall be made in accordance with the provisions of the individual educational plan established for that student.

J. For the purposes of this section:

(1) "academic improvement plan" means a written document developed by the student assistance team that describes the specific content standards required for a certain grade level that a student has not achieved and that prescribes specific remediation programs such as summer school, extended day or week school and tutoring;

(2) "alternative school-district-determined assessment results" means the results obtained from student assessments developed by a local school board and conducted at an elementary grade level or middle school level;

(3) "educational plan for student success" means a student-centered tool developed to define the role of the academic improvement plan within the district that addresses methods to improve a student's learning and success in school and that identifies specific measures of a student's progress;

(4) "statewide assessment results" means the results obtained from the New Mexico achievement assessment that is administered annually to grades three through nine pursuant to state board rule; and

(5) "student assistance team" means a group consisting of a student's:

(a) teacher;

(b) school counselor;

(c) school administrator; and

(d) parent or legal guardian."

HOUSE FLOOR SUBSTITUTE FOR

HOUSE BILLS 78 AND 225, AS AMENDED

CHAPTER 21

RELATING TO TAXATION; ESTABLISHING A METHOD OF VALUATION FOR PROPERTY TAXATION PURPOSES FOR CERTAIN RESIDENTIAL PROPERTY; FREEZING VALUES FOR SINGLE-FAMILY DWELLINGS OCCUPIED BY CERTAIN LOW-INCOME OWNERS SIXTY-FIVE YEARS OF AGE AND OLDER.

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

Chapter 21 Section 1

Section 1. A new section of Chapter 7, Article 36 NMSA 1978 is enacted to read:

"LIMITATION ON INCREASE IN VALUE FOR SINGLE-FAMILY DWELLINGS OCCUPIED BY OWNER SIXTY-FIVE YEARS OF AGE OR OLDER.--

A. For the 2001 and subsequent tax years the valuation for property taxation purposes of a single-family dwelling owned and occupied by a person who is sixty-five years of age or older and whose modified gross income, as defined in the Income Tax Act, for the prior taxable year did not exceed eighteen thousand dollars ($18,000) shall not be greater than the valuation of the property for property taxation purposes in the:

(1) 2001 tax year; or

(2) the year in which the owner has his sixty-fifth birthday, if that is after 2001.

B. The limitation of value specified in Subsection A of this section shall be applied in a tax year in which the owner claiming entitlement files with the county assessor an application for the limitation on a form furnished to him by the assessor at the time notices of valuation are sent out by the assessor pursuant to Section 7-38-20 NMSA 1978. The application form shall be designed by the department and shall provide for proof of age, occupancy and income eligibility for the tax year for which application is made."

Chapter 21 Section 2

Section 2. APPLICABILITY.--The provisions of this act apply to the 2001 and subsequent property tax years.

HOUSE BILL 82, AS AMENDED

CHAPTER 22

RELATING TO HIGHWAYS; PROHIBITING TRASH ON HIGHWAYS; INCREASING THE PENALTY ASSESSMENT MISDEMEANOR FOR LITTERING; AMENDING AND REPEALING SECTIONS OF THE NMSA 1978.

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

Chapter 22 Section 1

Section 1. Section 66-7-364 NMSA 1978 (being Laws 1978, Chapter 35, Section 468) is amended to read:

"66-7-364. PUTTING INJURIOUS MATERIAL OR TRASH ON HIGHWAY PROHIBITED.--

A. No person shall throw or deposit upon a highway any trash, glass bottles, glass, nails, tacks, wire or cans.

B. A person who drops or permits to be dropped or thrown upon any highway any destructive or injurious material or trash shall immediately remove the same or cause it to be removed.

C. A person removing a wrecked or damaged vehicle from a highway shall remove any glass or other injurious substance dropped upon the highway from the vehicle.

D. As used in this section, "trash" means any article or substance that when discarded creates or contributes to an unsanitary, offensive or unsightly condition. "Trash" includes waste food; paper products; cans, bottles and other containers; household furnishings and equipment; parts or bodies of vehicles and other metallic junk or scrap; and collections of ashes, dirt, yard trimmings and other rubbish."

Chapter 22 Section 2

Section 2. Section 66-8-116 NMSA 1978 (being Laws 1978, Chapter 35, Section 524, as amended) is amended to read:

"66-8-116. PENALTY ASSESSMENT MISDEMEANORS--DEFINITION--SCHEDULE OF ASSESSMENTS.--

A. As used in the Motor Vehicle Code, "penalty assessment misdemeanor" means violation of any of the following listed sections of the NMSA 1978 for which the listed penalty assessment is established:

COMMON NAME OF OFFENSE	SECTION VIOLATED	PENALTY ASSESSMENT
Permitting unlicensed minor to drive	66-5-40	$ 10.00
Failure to obey sign	66-7-104	10.00

Failure to obey signal	66-7-105	10.00
Speeding	66-7-301	
(1) up to and including ten miles an hour over speed limit		15.00
(2) from eleven up to and including fifteen miles an hour over speed limit		30.00
(3) from sixteen up to and including twenty miles an hour over speed limit		65.00
(4) from twenty-one up to and including twenty-five miles an hour over speed limit		100.00
(5) from twenty-six up to and including thirty miles an hour over the speed limit		125.00

(6) from thirty-one up to

and including thirty-five

miles an hour over the

speed limit
150.00

(7) more than thirty-five

miles an hour over the

speed limit
200.00

Unfastened safety belt 66-7-372
25.00

Child not in restraint device

or seat belt 66-7-369 25.00

Minimum speed 66-7-305
10.00

Speeding 66-7-306
15.00

Improper starting 66-7-324
10.00

Improper backing 66-7-354
10.00

Improper lane 66-7-308
10.00

Improper lane 66-7-313
10.00

Improper lane 66-7-316
10.00

Improper lane 66-7-317
10.00

Improper lane	66-7-319	
10.00		
Improper passing	66-7-309 through 66-7-312	
10.00		
Improper passing	66-7-315	
10.00		
Controlled access violation	66-7-320	
10.00		
Controlled access violation	66-7-321	
10.00		
Improper turning	66-7-322	
10.00		
Improper turning	66-7-323	
10.00		
Improper turning	66-7-325	
10.00		
Following too closely	66-7-318	
10.00		
Failure to yield	66-7-328 through 66-7-332	
10.00		
Failure to yield	66-7-332.1	
25.00		
Pedestrian violation	66-7-333	
10.00		
Pedestrian violation	66-7-340	
10.00		

Failure to stop	66-7-341 through 66-7-346	10.00
Passing school bus	66-7-347	100.00
Failure to signal	66-7-325 through 66-7-327	10.00
Failure to secure load	66-7-407	100.00
Operation without oversize-overweight permit	66-7-413	50.00
Improper equipment	66-3-801	10.00
Improper equipment	66-3-901	20.00
Improper emergency signal	66-3-853 through 66-3-857	10.00
Operation interference	66-7-357	5.00
Littering	66-7-364	300.00
Improper parking	66-7-349 through 66-7-352 and 66-7-353	5.00

Improper parking	66-7-352.5	50.00
Improper parking	66-3-852	5.00
Failure to dim lights	66-3-831	10.00
Riding in or towing occupied house trailer	66-7-366	5.00
Improper opening of doors	66-7-367	5.00
No slow-moving vehicle emblem or flashing amber light	66-3-887	5.00
Open container - first violation	66-8-138	25.00.

B. The term "penalty assessment misdemeanor" does not include any violation that has caused or contributed to the cause of an accident resulting in injury or death to any person.

C. When an alleged violator of a penalty assessment misdemeanor elects to accept a notice to appear in lieu of a notice of penalty assessment, no fine imposed upon later conviction shall exceed the penalty assessment established for the particular penalty assessment misdemeanor and no probation imposed upon a suspended or deferred sentence shall exceed ninety days."

Chapter 22 Section 3

Section 3. REPEAL.--Section 30-8-10 NMSA 1978 (being Laws 1963, Chapter 303, Section 8-7) is repealed.

Chapter 22 Section 4

Section 4. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2000.

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR

HOUSE BILL 137, AS AMENDED

CHAPTER 23

MAKING AN APPROPRIATION FOR DRINKING WATER SYSTEM FINANCING; DECLARING AN EMERGENCY.

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

Chapter 23 Section 1

Section 1. APPROPRIATION.--Pursuant to Section 6-21-6.1 NMSA 1978, one million five hundred forty thousand dollars ($1,540,000) is appropriated from the public project revolving fund to the drinking water state revolving loan fund for expenditure in fiscal year 2000 and subsequent fiscal years to carry out the purposes of the Drinking Water State Revolving Loan Fund Act. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert to the public project revolving fund.

Chapter 23 Section 2

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

HOUSE BILL 139, AS AMENDED, WITH EMERGENCY CLAUSE

SIGNED MARCH 6, 2000

CHAPTER 24

RELATING TO THE NEW MEXICO FINANCE AUTHORITY; PROVIDING FOR FINANCING OF EMERGENCY PROJECTS FROM THE WATER AND WASTEWATER PROJECT GRANT FUND; DECLARING AN EMERGENCY.

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

Chapter 24 Section 1

Section 1. Section 6-21-6.3 NMSA 1978 (being Laws 1999, Chapter 186, Section 2) is amended to read:

"6-21-6.3. WATER AND WASTEWATER PROJECT GRANT FUND--CREATION--ADMINISTRATION--PURPOSES.--

A. There is created in the authority the "water and wastewater project grant fund", which shall be administered by the authority. The authority shall adopt, in accordance with the New Mexico Finance Authority Act, rules necessary to administer the fund.

B. The following shall be deposited directly into the water and wastewater project grant fund:

(1) the net proceeds from the sale of bonds issued pursuant to the provisions of Section 6-21-6.1 NMSA 1978 for the purposes of the water and wastewater project grant fund and payable from the public project revolving fund;

(2) money appropriated by the legislature to implement the provisions of this section; and

(3) any other public or private money dedicated to the fund.

C. Money in the water and wastewater project grant fund is appropriated to the authority to make grants to qualified entities for water or wastewater public projects pursuant to specific authorization by law for each project and to pay administrative costs of the water and wastewater project grant program.

D. The authority shall adopt rules governing the terms and conditions of grants made from the water and wastewater project grant fund. Grants may be made from the fund only with participation from the qualified entity in the form of a local match. The local match requirement shall be determined by a sliding scale based on the qualified entity's financial capacity to pay a portion of the project from local resources. Grants from the water and wastewater project grant fund may be made only as all or part of financing for a complete project after the authority has determined that the financing for the complete project is cost effective.

E. The authority may make grants from the water and wastewater project grant fund to qualified entities for emergency public projects without specific authorization by law. Each emergency public project shall be designated as such by the authority prior to making the grant. The aggregate amount of grants for emergency public projects in any one fiscal year shall not exceed three million dollars ($3,000,000)."

Chapter 24 Section 2

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

HOUSE BILL 140, WITH EMERGENCY CLAUSE

SIGNED MARCH 6, 2000

CHAPTER 25

RELATING TO FINANCE; PROVIDING LEGISLATIVE AUTHORIZATION FOR THE NEW MEXICO FINANCE AUTHORITY TO MAKE GRANTS FOR PUBLIC PROJECTS FROM THE WATER AND WASTEWATER PROJECT GRANT FUND; AUTHORIZING THE ISSUANCE OF NEW MEXICO FINANCE AUTHORITY REVENUE BONDS FOR WATER AND WASTEWATER PROJECT GRANTS; DECLARING AN EMERGENCY.

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

Chapter 25 Section 1

Section 1. AUTHORIZATION OF PROJECTS.--Pursuant to the provisions of Subsection C of Section 6-21-6.3 NMSA 1978, the legislature authorizes the New Mexico finance authority to make grants from the water and wastewater project grant fund to the following qualified entities for the following public projects on a first-come, first-served basis based on the receipt of a completed application and on terms and conditions established by the authority:

A. to the Agua Sana mutual domestic water consumers association for a water project;

B. to the Alcalde mutual domestic water consumers association for a water project;

C. to Bayard, Santa Clara, or both, for phase 1 of a regional wastewater project;

D. to Belen for a water or wastewater project or both;

E. to the Canyon mutual domestic water consumers association for a water project;

F. to Chama for a water or wastewater project or both;

G. to the Cundiyo mutual domestic water consumers association for a water project;

H. to the El Prado water and sanitation district for a water project;

I. to Espanola for a water or wastewater project or both;

J. to Fort Sumner for a water project;

K. to the Gonzales Ranch mutual domestic water consumers association for a water project;

L. to Grants for a water project;

M. to Hope for a water project;

N. to Jemez Springs for a wastewater project;

O. to the La Mesa mutual domestic water consumers association for a water project;

P. to Las Vegas for a wastewater project;

Q. to Lovington for a water project and a wastewater project;

R. to Magdalena for a water project;

S. to the Malaga mutual domestic water consumers and sewage works association for a water project;

T. to the Mora mutual domestic water consumers association and the mutual solid waste association for a water project;

U. to the Northstar mutual domestic water consumers association for a water project;

V. to Picuris pueblo for a wastewater feasibility study;

W. to the Quemado mutual domestic water consumers and sewer association for a water project;

X. to the Ramah chapter of the Navajo nation for a water project;

Y. to Sunland Park for a wastewater project;

Z. to Truth or Consequences for a wastewater project;

AA. to Tucumcari for water and wastewater projects;

BB. to the Upper Canoncito mutual domestic water consumers association for a water project;

BB. to the Berino mutual domestic water consumers association for a water project;

CC. to the Butterfield Park mutual domestic water consumers association for a water project;

DD. to the Cebolla mutual domestic water consumers association for a water project;

EE. to the Dixon mutual domestic water consumers association for a water project;

FF. to the Desert Sands mutual domestic water consumers association for a water project;

GG. to the Tajique mutual domestic water consumers association for a water project;

HH. to Taos for a wastewater project;

II. to the Tierra Amarilla mutual domestic water consumers association for a water project; and

JJ. to the Youngsville mutual domestic water consumers association for a water project.

Chapter 25 Section 2

Section 2. VOIDING OF AUTHORIZATION.--If a qualified entity listed in Section 1 of this act has not certified to the New Mexico finance authority by the end of fiscal year 2003 its desire to continue to pursue a grant from the water and wastewater project grant fund for a public project listed in Section 1 of this act, then the legislative authorization granted to the New Mexico finance authority by that section to make a grant from the water and wastewater project grant fund to that qualified entity for that public project shall be void.

Chapter 25 Section 3

Section 3. NEW MEXICO FINANCE AUTHORITY REVENUE BONDS--PURPOSES.--The New Mexico finance authority may issue and sell revenue bonds payable from the public project revolving fund in compliance with the New Mexico Finance Authority Act in installments or at any one time in an amount not to exceed five million dollars ($5,000,000), the net proceeds of which shall be deposited in the water and wastewater project grant fund and used pursuant to the provisions of Section 6-21-6.3 NMSA 1978.

Chapter 25 Section 4

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

HOUSE BILL 141, AS AMENDED, WITH EMERGENCY CLAUSE

SIGNED MARCH 6, 2000

CHAPTER 26

RELATING TO TAXATION; AMENDING A SECTION OF THE GROSS RECEIPTS AND COMPENSATING TAX ACT PERTAINING TO A GROSS RECEIPTS TAX DEDUCTION FOR PROCESSING AND OTHER HANDLING AND TREATMENT OF AGRICULTURAL PRODUCTS.

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

Chapter 26 Section 1

Section 1. Section 7-9-59 NMSA 1978 (being Laws 1969, Chapter 144, Section 49, as amended) is amended to read:

"7-9-59. DEDUCTION--GROSS RECEIPTS TAX--WAREHOUSING, THRESHING, HARVESTING, GROWING, CULTIVATING AND PROCESSING AGRICULTURAL PRODUCTS.--

A. Receipts from warehousing grain or other agricultural products may be deducted from gross receipts.

B. Receipts from threshing, cleaning, growing, cultivating or harvesting agricultural products, including the ginning of cotton, testing and transporting milk for the producer or nonprofit marketing association from the farm to a milk processing or dairy product manufacturing plant or processing for growers, producers or nonprofit marketing associations of agricultural products raised for food and fiber, including livestock, may be deducted from gross receipts."

Chapter 26 Section 2

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2000.

HOUSE BILL 146, AS AMENDED

CHAPTER 27

RELATING TO THE STATE FISC; ABOLISHING THE RISK RESERVE IN THE GENERAL FUND; TRANSFERRING BALANCES FROM THE RISK RESERVE TO THE FUNDS FROM WHICH THE RISK RESERVE WAS CREATED; MAKING AN APPROPRIATION; DECLARING AN EMERGENCY.

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

Chapter 27 Section 1

Section 1. Section 10-2-16 NMSA 1978 (being Laws 1978, Chapter 132, Section 4, as amended) is amended to read:

"10-2-16. SURETY BOND FUND.--

A. There is created in the state treasury a "surety bond fund".

B. Money deposited in the surety bond fund may be expended by the department:

(1) to provide surety bond coverage;

(2) to create a retention fund to cover all or any portion of the surety bond risks of state agencies and covered educational entities;

(3) to pay claims of state agencies and covered educational entities covered by a surety bond certificate of coverage issued by the department; and

(4) to pay any costs and expenses of carrying out the provisions of this section.

C. Claims against the surety bond fund shall be made in accordance with a certificate of coverage issued by the department to each state agency and covered educational entity. If the secretary has reason to believe that the surety bond fund would be exhausted by the payment of all claims allowed against the fund during a particular state fiscal year, the amounts paid for each claim shall be prorated with each state agency and covered educational entity receiving an amount equal to the percentage that its claims bear to the total of claims outstanding and payable from the fund. Any amounts due and unpaid as a result of such proration shall be paid in the following fiscal years.

D. The department shall collect or transfer funds from each state agency and covered educational entity to cover costs of coverage of employees of the agency as required by this section. Money collected or transferred from a state agency or covered educational entity pursuant to this subsection shall be deposited in the surety bond fund. Income from the surety bond fund shall be credited to the fund.

E. The department may provide individual surety bond coverage protecting employees who are employers or supervisors from personal losses for which they may be responsible, which losses were caused by the lack of honesty or faithful performance of employees under their supervision or control.

F. The department shall have the right to recover from a public employee for any loss under the Surety Bond Act for which the public employee was responsible.

G. The risk management advisory board shall review:

(1) specifications for all surety bond coverage to be purchased by the department;

(2) the form and legal sufficiency of any surety bond coverage to be purchased by the department; and

(3) the form, purpose and content of any surety bond certificate of coverage to be issued by the director."

Chapter 27 Section 2

Section 2. Section 13-5-1 NMSA 1978 (being Laws 1981, Chapter 101, Section 1, as amended) is amended to read:

"13-5-1. STATE AGENCY PUBLIC PROPERTY--INSURANCE--RESERVES FOR LOSSES OF STATE AGENCIES--PUBLIC PROPERTY RESERVE FUND CREATED.--

A. The risk management division of the general services department shall purchase a blanket insurance policy for public buildings of state agencies against loss or damage by fire, windstorm, hail, smoke, explosion, riot or civil commotion. The risk management division may provide coverage to covered educational entities under the public property reserve fund through blanket or individual policies. The risk management division shall create a reserve for the uninsured value of any such public building and for the uninsured loss or damage to any such building by flood, subject to any deductible that the risk management advisory board determines shall be borne by individual state agencies or covered educational entities.

B. Subject to any deductible to be borne by individual state agencies or covered educational entities, the risk management division of the general services department may purchase insurance, establish reserves or provide a combination of insurance and reserves to cover, in any amount not to exceed replacement cost:

(1) buildings of state agencies or covered educational entities destroyed or damaged by any peril other than a peril set forth in Subsection A of this section;

(2) personal property that is destroyed or damaged by any peril; or

(3) personal property that is stolen.

C. Any insurance purchased pursuant to Subsections A and B of this section may be purchased with such deductible provisions as may be deemed desirable by the risk management advisory board.

D. The director of the risk management division of the general services department shall include in his annual report to the legislature an inventory of all public buildings insured by the division, the estimated total value of the buildings, the total insured value of the buildings and the amount of any deductible or maximum loss provisions in the current insurance policy covering the buildings.

E. There is created in the state treasury the "public property reserve fund". The fund shall consist of assessments of state agencies and covered educational entities deposited in the fund, money appropriated to the fund, income earned by the fund and money received as proceeds of insurance purchased pursuant to this section. The fund may be used to:

(1) purchase property insurance;

(2) pay any claim covered by a certificate of coverage issued by the director of the risk management division of the general services department; provided such claims shall only be paid to the extent of actual expenses that have been or will be incurred to repair, reconstruct and replace covered property;

(3) pay the cost of repair, reconstruction and replacement of property and expense incidental thereto arising from damage or destruction covered pursuant to this section;

(4) enter into consulting and other contracts as may be necessary or desirable in carrying out the provisions of this section; and

(5) pay costs and expenses incurred in carrying out the provisions of this section.

F. The director of the legislative council service may elect to cover all or any part of public buildings or property under his jurisdiction through the public property reserve fund by giving written notice of such election to the director of the risk management division of the general services department and paying assessments that the director of the risk management division prescribes.

G. For purposes of this section, "state agency" means the state or any of its branches, agencies, departments, boards, instrumentalities or institutions.

H. For the purposes of this section, "covered educational entities" means school districts as defined in Section 22-1-2 NMSA 1978 and educational institutions established pursuant to Chapter 21, Articles 13, 16 and 17 NMSA 1978 that request and are granted coverage from the risk management division of the general services department, if the coverage is commercially unavailable; except that coverage shall be provided to a school district only through the public school insurance authority or its successor unless the district has been granted a waiver by the authority or the authority is not offering the coverage for the fiscal year for which the division offers its coverage. A local school district to which the division may provide coverage may provide for marketing and servicing to be done by licensed insurance agents who shall receive reasonable compensation for their services."

Chapter 27 Section 3

Section 3. Section 15-7-6 NMSA 1978 (being Laws 1977, Chapter 385, Section 9, as amended) is amended to read:

"15-7-6. WORKERS' COMPENSATION RETENTION FUND.--

A. There is created in the state treasury the "workers' compensation retention fund".

B. Money deposited in, earned by or appropriated to the workers' compensation retention fund may be used by the director to:

(1) purchase workers' compensation insurance;

(2) establish appropriate reserves to provide workers' compensation coverage for employees of state agencies or employees of covered educational entities;

(3) pay workers' compensation claims in accordance with the Workers' Compensation Act;

(4) enter into consulting and other contracts as may be necessary or desirable in carrying out the provisions of this section; and

(5) pay costs or expenses incurred in carrying out the provisions of this section.

C. For the purposes of this section, "covered educational entities" means school districts as defined in Section 22-1-2 NMSA 1978 and educational institutions established pursuant to Chapter 21, Articles 13, 16 and 17 NMSA 1978 that request and are granted coverage from the risk management division of the general services department, if the coverage is commercially unavailable; except that coverage shall be provided to a school district only through the public school insurance authority or its

successor unless the district has been granted a waiver by the authority or the authority is not offering the coverage for the fiscal year for which the division offers its coverage. A local school district to which the division may provide coverage may provide for marketing and servicing to be done by licensed insurance agents who shall receive reasonable compensation for their services."

Chapter 27 Section 4

Section 4. Section 41-4-23 NMSA 1978 (being Laws 1977, Chapter 386, Section 17, as amended) is amended to read:

"41-4-23. PUBLIC LIABILITY FUND CREATED--PURPOSES.--

A. There is created the "public liability fund". The fund and any income from the fund shall be held in trust, deposited in a segregated account and invested by the general services department with the prior approval of the state board of finance.

B. Money deposited in the public liability fund may be expended by the risk management division of the general services department:

(1) to purchase tort liability insurance for state agencies and their employees and for any local public body participating in the public liability fund and its employees;

(2) to contract with one or more consulting or claims adjusting firms pursuant to the provisions of Section 41-4-24 NMSA 1978;

(3) to defend, save harmless and indemnify any state agency or employee of a state agency or a local public body or an employee of such local public body for any claim or liability covered by a valid and current certificate of coverage to the limits of such certificate of coverage;

(4) to pay claims and judgments covered by a certificate of coverage;

(5) to contract with one or more attorneys or law firms on a per-hour basis, or with the attorney general, to defend tort liability claims against governmental entities and public employees acting within the scope of their duties;

(6) to pay costs and expenses incurred in carrying out the provisions of this section;

(7) to create a retention fund for any risk covered by a certificate of coverage;

(8) to insure or provide certificates of coverage to school bus contractors and their employees, notwithstanding Subsection F of Section 41-4-3 NMSA 1978, for any comparable risk for which immunity has been waived for public employees pursuant to Section 41-4-5 NMSA 1978, if the coverage is commercially unavailable; except that coverage for exposure created by Sections 41-4-9, 41-4-10 and 41-4-12 NMSA 1978 shall be provided to its member public school districts and participating other educational entities of the public school insurance authority, by the authority, and except that coverage shall be provided to a contractor and his employees only through the public school insurance authority or its successor, unless the district to which the contractor provides services has been granted a waiver by the authority or the authority is not offering the coverage for the fiscal year for which the division offers its coverage. A local school district to which the division may provide coverage may provide for marketing and servicing to be done by licensed insurance agents who shall receive reasonable compensation for their services; and

(9) to insure or provide certificates of coverage for any ancillary coverage typically found in commercially available liability policies provided to governmental entities, if the coverage is commercially unavailable.

C. No settlement of any claim covered by the public liability fund in excess of five thousand dollars ($5,000) shall be made unless the settlement has first been approved in writing by the director of the risk management division of the general services department. This subsection shall not be construed to limit the authority of an insurance carrier, covering any liability under the Tort Claims Act, to compromise, adjust and settle claims against governmental entities or their public employees.

D. Claims against the public liability fund shall be made in accordance with rules or regulations of the director of the risk management division of the general services department. If the director of the risk management division has reason to believe that the fund would be exhausted by payment of all claims allowed during a particular state fiscal year, pursuant to regulations of the risk management division, the amounts paid to each claimant and other parties obtaining judgments shall be prorated, with each party receiving an amount equal to the percentage his own payment bears to the total of claims or judgments outstanding and payable from the fund. Any amounts due and unpaid as a result of such proration shall be paid in the following fiscal years."

Chapter 27 Section 5

Section 5. Section 51-1-45 NMSA 1978 (being Laws 1977, Chapter 227, Section 7, as amended) is amended to read:

"51-1-45. STATE GOVERNMENT UNEMPLOYMENT COMPENSATION RESERVE FUND CREATED--PURPOSES--ASSESSMENTS.--

A. There is created a "state government unemployment compensation reserve fund". The fund and any income from the fund shall be held in trust, deposited

in a segregated account and invested by the director of the risk management division of the general services department with the prior approval of the state board of finance. Money in the fund is appropriated to carry out the purposes of the fund.

B. The director of the risk management division of the general services department shall assess each state agency at the end of each calendar quarter in accordance with the rate schedule prescribed by the risk management division plus an additional amount to pay reasonable costs of administration of the fund. Assessments shall be deposited in the state government unemployment compensation reserve fund to carry out the purposes of Laws 1977, Chapter 227, as amended. The director of the risk management division shall approve the method of computing the amounts that are payable under this subsection by each state agency and the time and manner of payments.

C. Money deposited in the state government unemployment compensation reserve fund may be used by the director of the risk management division of the general services department to:

(1) pay the department for benefits paid to employees of state agencies;

(2) pay costs or expenses incurred in protesting benefits paid by the department;

(3) pay other costs incurred in carrying out the provisions of this section; and

(4) establish and maintain a reserve fund for paying reimbursements of benefits paid to employees of state agencies."

Chapter 27 Section 6

Section 6. TEMPORARY PROVISION--FUND TRANSFER.--On the effective date of this act, the balance of each risk reserve account shall be transferred to the appropriate fund for which the account is kept.

Chapter 27 Section 7

Section 7. REPEAL.--Section 6-4-2.4 NMSA 1978 (being Laws 1996 (S.S.), Chapter 3, Section 1) is repealed.

Chapter 27 Section 8

Section 8. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

HOUSE BILL 157, WITH EMERGENCY CLAUSE

SIGNED MARCH 6, 2000

CHAPTER 28

RELATING TO TAXATION; CHANGING CERTAIN PROVISIONS OF THE TAX ADMINISTRATION ACT; AMENDING AND ENACTING CERTAIN SECTIONS OF THE NMSA 1978.

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

Chapter 28 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) Venture Capital Investment Act;

(4) Gross Receipts and Compensating Tax Act and any state gross receipts tax;

(5) Liquor Excise Tax Act;

(6) Local Liquor Excise 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) Capital Equipment Tax Credit Act;

(18) rural job tax credit;

(19) Corporate Income and Franchise Tax Act;

(20) Uniform Division of Income for Tax Purposes Act;

(21) Multistate Tax Compact;

(22) Tobacco Products Tax Act; and

(23) 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;

(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;

(12) Enhanced Oil Recovery Act;

(13) Natural Gas and Crude Oil Production Incentive Act; and

(14) intergovernmental production tax credit and intergovernmental production equipment tax credit;

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) 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;

(3) Uniform Unclaimed Property Act;

(4) 911 emergency surcharge and the network and database surcharge, which surcharges shall be considered taxes for purposes of the Tax Administration Act;

(5) 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;

(6) 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

(7) the gaming tax imposed pursuant to the Gaming Control 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."

Chapter 28 Section 2

Section 2. Section 7-1-3 NMSA 1978 (being Laws 1965, Chapter 248, Section 3, as amended) is amended to read:

"7-1-3. DEFINITIONS.--Unless the context clearly indicates a different meaning, the definitions of words and phrases as they are stated in this section are to be used, and whenever in the Tax Administration Act these words and phrases appear, the singular includes the plural and the plural includes the singular:

A. "automated clearinghouse transaction" means an electronic credit or debit transmitted through an automated clearinghouse payable to the state treasurer and deposited with the fiscal agent of New Mexico;

B. "department" means the taxation and revenue department, the secretary or any employee of the department exercising authority lawfully delegated to that employee by the secretary;

C. "division" or "oil and gas accounting division" means the department;

D. "director" means the secretary;

E. "director or his delegate" means the secretary or the secretary's delegate;

F. "electronic payment" means a payment made by automated clearinghouse deposit, any funds wire transfer system or a credit card debit card or electronic cash transaction through the internet;

G. "employee of the department" means any employee of the department, including the secretary, or any person acting as agent or authorized to represent or perform services for the department in any capacity with respect to any law made subject to administration and enforcement under the provisions of the Tax Administration Act;

H. "financial institution" means any state or federally chartered, federally insured depository institution;

I. "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended;

J. "levy" means the lawful power, hereby invested in the secretary, to take into possession or to require the present or future surrender to the secretary or the secretary's delegate of any property or rights to property belonging to a delinquent taxpayer;

K. "local option gross receipts tax" means a tax authorized to be imposed by a county or municipality upon the taxpayer's gross receipts, as that term is defined in

the Gross Receipts and Compensating Tax Act, and required to be collected by the department at the same time and in the same manner as the gross receipts tax; "local option gross receipts tax" includes the taxes imposed pursuant to the Municipal Local Option Gross Receipts Taxes Act, Supplemental Municipal Gross Receipts Tax Act, County Local Option Gross Receipts Taxes Act, Local Hospital Gross Receipts Tax Act, County Correctional Facility Gross Receipts Tax Act and such other acts as may be enacted authorizing counties or municipalities to impose taxes on gross receipts, which taxes are to be collected by the department in the same time and in the same manner as it collects the gross receipts tax;

L. "net receipts" means the total amount of money paid by taxpayers to the department in a month pursuant to a tax or tax act less any refunds disbursed in that month with respect to that tax or tax act;

M. "overpayment" means an amount paid, pursuant to any law subject to administration and enforcement under the provisions of the Tax Administration Act, by a person to the department or withheld from the person in excess of tax due from the person to the state at the time of the payment or at the time the amount withheld is credited against tax due;

N. "paid" includes the term "paid over";

O. "pay" includes the term "pay over";

P. "payment" includes the term "payment over";

Q. "person" means any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, limited liability company, limited liability partnership, joint venture, syndicate, other association or gas, water or electric utility owned or operated by a county or municipality; "person" also means, to the extent permitted by law, a federal, state or other governmental unit or subdivision, or an agency, department or instrumentality thereof; and "person", as used in Sections 7-1-72 through 7-1-74 NMSA 1978, also includes an officer or employee of a corporation, a member or employee of a partnership or any individual who, as such, is under a duty to perform any act in respect of which a violation occurs;

R. "property" means property or rights to property;

S. "property or rights to property" means any tangible property, real or personal, or any intangible property of a taxpayer;

T. "secretary" means the secretary of taxation and revenue and, except for purposes of Subsection B of

Section 7-1-4 and Subsection E of Section 7-1-24 NMSA 1978, also includes the deputy secretary or a division director or deputy division director delegated by the secretary;

U. "secretary or the secretary's delegate" means the secretary or any employee of the department exercising authority lawfully delegated to that employee by the secretary;

V. "security" means money, property or rights to property or a surety bond;

W. "state" means any state of the United States, the District of Columbia, the commonwealth of Puerto Rico and any territory or possession of the United States;

X. "tax" means the total amount of each tax imposed and required to be paid, withheld and paid or collected and paid under provision of any law made subject to administration and enforcement according to the provisions of the Tax Administration Act and, unless the context otherwise requires, includes the amount of any interest or civil penalty relating thereto; "tax" also means any amount of any abatement of tax made or any credit, rebate or refund paid or credited by the department under any law subject to administration and enforcement under the provisions of the Tax Administration Act to any person contrary to law and includes, unless the context requires otherwise, the amount of any interest or civil penalty relating thereto;

Y. "taxpayer" means a person liable for payment of any tax, a person responsible for withholding and payment or for collection and payment of any tax or a person to whom an assessment has been made, if the assessment remains unabated or the amount thereof has not been paid; and

Z. "tax return preparer" means a person who prepares for others for compensation or who employs one or more persons to prepare for others for compensation any return of income tax, a substantial portion of any return of income tax, any claim for refund with respect to income tax or a substantial portion of any claim for refund with respect to income tax; provided that a person shall not be a "tax return preparer" merely because such person:

(1) furnishes typing, reproducing or other mechanical assistance;

(2) is an employee who prepares an income tax return or claim for refund with respect to an income tax return of the employer, or of an officer or employee of the employer, by whom the person is regularly and continuously employed; or

(3) prepares as a trustee or other fiduciary an income tax return or claim for refund with respect to income tax for any person."

Chapter 28 Section 3

Section 3. Section 7-1-8 NMSA 1978 (being Laws 1965, Chapter 248, Section 13, as amended) 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 7-12-13 and Sections 7-12-15 and 7-12-17 NMSA 1978 to a committee of the legislature for a valid legislative purpose or to the attorney general for purposes of Section 6-4-13 NMSA 1978 and the master settlement agreement defined in Section 6-4-12 NMSA 1978;

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 7-1-63 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 pursuant to provisions of this subsection that is revealed other than as provided in this subsection shall subject the person revealing the information to the penalties contained in Section 7-1-76 NMSA 1978;

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 countywide basis or only for the areas of that county outside of any incorporated municipalities within that county in the case of a county local option gross receipts tax imposed only in areas of the county outside of any incorporated municipalities. The department may also release the information described in this paragraph quarterly or upon such other periodic basis as the secretary and the county may agree;

(2) in the case of a local option gross receipts tax imposed by a county on a countywide 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 countywide 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. 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 public regulation 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.

Chapter 28 Section 4

Section 4. Section 7-1-12 NMSA 1978 (being Laws 1965, Chapter 248, Section 17, as amended) is amended to read:

"7-1-12. IDENTIFICATION OF TAXPAYERS.--

A. The secretary by regulation shall establish a system for the registration and identification of taxpayers and shall require taxpayers to comply therewith.

B. The registration system shall be devised so as to facilitate the exchange of information with other states and the United States and to aid in statistical computations.

C. The secretary by regulation also shall provide for a system for the registration and identification of purchasers or lessees who, by reason of their status or the nature of their use of property or service purchased or leased, are ordinarily entitled to make nontaxable purchases or leases of some kinds of property or service and may require such purchasers or lessees to comply therewith.

D. Any document, issued by the department under authority of this section, which is required to be posted on the business premises of the taxpayer shall contain a brief reference to the requirements of Section 7-1-61 NMSA 1978."

Chapter 28 Section 5

Section 5. Section 7-1-13.1 NMSA 1978 (being Laws 1988, Chapter 99, Section 3, as amended) is amended to read:

"7-1-13.1. METHOD OF PAYMENT OF CERTAIN TAXES DUE.--

A. Payment of the taxes, including any applicable penalties and interest, described in Paragraph (1), (2) or (3) of this subsection shall be made on or before the date due in accordance with Subsection B of this section if the taxpayer's average tax payment for the group of taxes during the preceding calendar year equaled or exceeded twenty-five thousand dollars ($25,000):

(1) Group 1: all taxes due under the Withholding Tax Act, the Gross Receipts and Compensating Tax Act, local option gross receipts tax acts, the Interstate Telecommunications Gross Receipts Tax Act and the Leased Vehicle Gross Receipts Tax Act;

(2) Group 2: all taxes due under the Oil and Gas Severance Tax Act, the Oil and Gas Conservation Tax Act, the Oil and Gas Emergency School Tax Act and the Oil and Gas Ad Valorem Production Tax Act; or

(3) Group 3: the tax due under the Natural Gas Processors Tax Act.

For taxpayers who have more than one identification number issued by the department, the average tax payment shall be computed by combining the amounts paid under the several identification numbers.

B. Taxpayers who are required to make payment in accordance with the provisions of this section shall make payment by one or more of the following means on or before the due date so that funds are immediately available to the state on or before the due date:

(1) electronic payment; provided that a result of the payment is that funds are immediately available to the state of New Mexico on or before the due date;

(2) currency of the United States;

(3) check drawn on and payable at any New Mexico financial institution provided that the check is received by the department at the place and time required by the department at least one banking day prior to the due date; or

(4) check drawn on and payable at any domestic non-New Mexico financial institution provided that the check is received by the department at the time and place required by the department at least two banking days prior to the due date.

C. If the taxes required to be paid under this section are not paid in accordance with Subsection B of this section, the payment is not timely and is subject to the provisions of Sections 7-1-67 and 7-1-69 NMSA 1978.

D. For the purposes of this section, "average tax payment" means the total amount of taxes paid with respect to a group of taxes listed under Subsection A of this section during a calendar year divided by the number of months in that calendar year containing a due date on which the taxpayer was required to pay one or more taxes in the group."

Chapter 28 Section 6

Section 6. A new section of the Tax Administration Act, Section 7-1-13.4 NMSA 1978, is enacted to read:

"7-1-13.4. ELECTRONIC PAYMENTS--REVERSALS.--

A. The department is authorized to accept payment by automated clearinghouse transaction, federal reserve system wire transfer and such other means of electronic payment as the department, with the concurrence of the state board of finance, may choose.

B. With respect to automated clearinghouse transactions, federal reserve system wire transfers and electronic payments by means the department has chosen, neither the department nor the fiscal agent of New Mexico shall refuse to accept the funds or to reverse the transaction when funds have been received by the fiscal agent designating the department as the payee together with sufficient information to identify the name of the taxpayer. The department or the fiscal agent of New Mexico may refuse to accept such a payment or to cause the reversal of the transaction only when the transaction is not successful in making the funds to be transferred available or in identifying the taxpayer. The department and the fiscal agent of New Mexico may refuse to accept electronic payments tendered by means other than automated clearinghouse deposit, federal reserve system wire transfer or those other means the department has chosen.

C. When an electronic payment transaction is reversed through the taxpayer's action or a check is dishonored by the taxpayer's financial institution, neither the department nor the fiscal agent of New Mexico is obligated to resubmit the transaction or check for payment. If the reversal or dishonoring causes the final payment of taxes to be not timely, then the provisions of Sections 7-1-67 and 7-1-69 NMSA 1978 apply."

Chapter 28 Section 7

Section 7. Section 7-1-19 NMSA 1978 (being Laws 1971, Chapter 21, Section 1, as amended) is amended to read:

"7-1-19. LIMITATION OF ACTIONS.--No action or proceeding shall be brought to collect taxes administered under the provisions of the Tax Administration Act and due under an assessment or notice of the assessment of taxes after the later of either ten years from the date of such assessment or notice or, with respect to undischarged amounts in a bankruptcy proceeding, one year afer the later of the issuance of the final order or the date of the last scheduled payment."

Chapter 28 Section 8

Section 8. Section 7-1-24 NMSA 1978 (being Laws 1965, Chapter 248, Section 26, as amended) is amended to read:

"7-1-24. ADMINISTRATIVE HEARING--PROCEDURE.--

A. Any taxpayer may dispute the assessment to the taxpayer of any amount of tax, the application to the taxpayer of any provision of the Tax Administration Act or the denial of or failure to either allow or deny a claim for refund made in accordance with Section 7-1-26 NMSA 1978 by filing with the secretary a written protest against the assessment or against the application to the taxpayer of the provision or against the denial of or the failure to allow or deny the amount claimed to have been erroneously paid as tax. Every protest shall identify the taxpayer and the tax involved and state the grounds for the taxpayer's protest and the affirmative relief requested. The statement of grounds for protest shall specify individual grounds upon which the protest is based and a summary statement of the evidence expected to be produced supporting each ground asserted, if any; provided that the taxpayer may supplement the statement at any time prior to ten days before any hearing conducted on the protest pursuant to Subsection E of this section or, if a scheduling order has been issued, in accordance with the scheduling order. The secretary may, in appropriate cases, provide for an informal conference before setting a hearing of the protest or acting on any claim for refund.

B. Any protest by a taxpayer shall be filed within thirty days of the date of the mailing to the taxpayer by the department of the notice of assessment or mailing to, or service upon, the taxpayer of other peremptory notice or demand, or the date of mailing or filing a return. Upon written request of the taxpayer made within the time permitted for filing a protest, the secretary may grant an extension of time, not to exceed sixty days, within which to file the protest. If a protest is not filed within the time required for filing a protest or, if an extension has been granted, within the extended time, the secretary may proceed to enforce collection of any tax if the taxpayer is delinquent within the meaning of Section 7-1-16 NMSA 1978. Upon written request of the taxpayer made after the time for filing a protest but not more than sixty days after the expiration of the time for filing a protest, the secretary may grant a retroactive extension of time, not to exceed sixty days, within which to file the protest; provided that the taxpayer demonstrates to the secretary's satisfaction that the taxpayer was not able to file a protest or to request an extension within the time to file the protest and that the grounds for the protest have substantial merit. The fact that the department did not mail the

assessment or other peremptory notice or demand by certified or registered mail or otherwise demand and receive acknowledgment of receipt by the taxpayer shall not be deemed to demonstrate the taxpayer's inability to protest or request an extension within the time for filing a protest within the required time. The secretary shall not grant a retroactive extension if a levy has already been served under Section 7-1-31 or 7-1-33 NMSA 1978 or a jeopardy assessment has been made under Section 7-1-59 NMSA 1978. No proceedings other than those to enforce collection of any amount assessed as tax and to protect the interest of the state by injunction, as provided in Sections 7-1-31, 7-1-33, 7-1-34, 7-1-40, 7-1-53, 7-1-56 and 7-1-58 NMSA 1978, are stayed by timely filing of a protest under this section.

C. Claims for refund shall be filed as provided for in Section 7-1-26 NMSA 1978.

D. Upon timely receipt of a protest, the department or hearing officer shall promptly set a date for hearing and on that date hear the protest or claim.

E. A hearing officer shall be designated by the secretary to conduct the hearing. Taxpayers may appear at a hearing for themselves or be represented by a bona fide employee, an attorney, a certified public accountant or a registered public accountant. Hearings shall not be open to the public except upon request of the taxpayer and may be postponed or continued at the discretion of the hearing officer.

F. In hearings before the hearing officer, the technical rules of evidence shall not apply, but in ruling on the admissibility of evidence, the hearing officer may require reasonable substantiation of statements or records tendered, the accuracy or truth of which is in reasonable doubt.

G. In hearings before the hearing officer, the Rules of Civil Procedure for the District Courts shall not apply, but the hearing shall be conducted so that both complaints and defenses are amply and fairly presented. To this end, the hearing officer shall hear arguments, permit discovery, entertain and dispose of motions, require written expositions of the case as the circumstances justify and render a decision in accordance with the law and the evidence presented and admitted.

H. In the case of the hearing of any protest, the hearing officer shall make and preserve a complete record of the proceedings. At the beginning of the hearing, the hearing officer shall inform the taxpayer of the taxpayer's right to representation. The hearing officer, within thirty days of the hearing, shall inform the protestant in writing of the decision, informing the protestant at the same time of the right to, and the requirements for perfection of, an appeal from the decision to the court of appeals and of the consequences of a failure to appeal. The written decision shall embody an order granting or denying the relief requested or granting such part thereof as seems appropriate.

I. Nothing in this section shall be construed to authorize any criminal proceedings hereunder or to authorize an administrative protest of the issuance of a subpoena or summons."

Chapter 28 Section 9

Section 9. 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 D, E and F of this section, a written claim for refund. Except as provided in Subsection I of this section, a refund claim shall include the taxpayer's 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.

B. The secretary or the secretary's delegate may allow the claim in whole or in part or may deny the claim.

(1) If the claim is denied in whole or in part in writing, no claim may be refiled with respect to that which was denied but the person, within ninety days after either the mailing or delivery 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 Subsection C of this section.

(2) 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 C of this section or may within ninety days elect to pursue one, but only one, of the remedies in Subsection C of this section. After the expiration of the two hundred ten days from the date the claim was mailed or delivered to the department, the department may not approve or disapprove the claim unless the person has pursued one of the remedies under Subsection C of this section.

C. A person may 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 or portion thereof, 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.

D. Except as otherwise provided in Subsections E and F 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 Capital Equipment Tax Credit Act or for the rural job tax credit pursuant to Sections 7-2E-1 and 7-2E-2 NMSA 1978;

(b) an assessment of tax is made;

(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

(d) payment of tax was made if the payment was not made within three years of the end of the calendar year in which the original due date of the tax or date of the assessment of the department occurred; 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.

E. 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 7-13-17 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.

F. 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 D 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.

G. 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.

H. 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.

I. 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."

Chapter 28 Section 10

Section 10. 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, with the prior written approval of the attorney general, may abate any part of an assessment determined by the secretary or the secretary's delegate to have been incorrectly, erroneously or illegally made, 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 Section 7-13-17 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;

(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; and

(3) abatements amounting to less than five thousand dollars ($5,000) may be made without the prior written 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 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."

Chapter 28 Section 11

Section 11. 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 on a daily basis; provided that if a different rate is specified by a compact or other interstate agreement to which New Mexico is a party, 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."

Chapter 28 Section 12

Section 12. 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 on a daily basis; provided that if a different rate is specified by a compact or other interstate agreement to which New Mexico is a party, 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 or the Corporate Income and Franchise 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 Internal Revenue Code, 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.

E. Nothing in this section shall be construed to require the payment of interest upon interest."

Chapter 28 Section 13

Section 13. 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 evade or defeat any tax, to pay when due any amount of tax required to be paid, to pay in accordance with the provisions of Section 7-1-13.1 NMSA 1978 when required to do so 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, 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 willful intent to evade or defeat any tax, 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. If demand is made for payment of any tax, including penalty imposed pursuant to this section, and if such tax is paid within ten days after the date of such demand, no penalty shall be imposed for the period after the date of the demand with respect to the amount paid.

E. If a taxpayer makes electronic payment of any tax but the payment does not include all of the information required by the department pursuant to the provisions of Section 7-1-13.1 NMSA 1978 and if the department does not receive the required information within five business days from the later of the date a request by the department for that information is received by the taxpayer or the due date, the taxpayer shall be subject to a penalty of two percent per month or any fraction of a month from the fifth day following the date the request is received. If a penalty is imposed under Subsection A of this section with respect to the same transaction for the same period, no penalty shall be imposed under this subsection."

Chapter 28 Section 14

Section 14. TEMPORARY PROVISION--PAYMENT OF CLAIMS FOR REFUND.--Any claim for refund paid in the period July 1, 1997 through June 30, 2000 by the department pursuant to the provisions of Section 7-1-26 NMSA 1978 that complied with all provisions of the Tax Administration Act except for the one-hundred-twenty-day restriction in Subsection B of that section is hereby approved.

Chapter 28 Section 15

Section 15. APPLICABILITY.--

A. The rate of interest applicable under Sections 7-1-67 and 7-1-68 NMSA 1978 for periods ending on or prior to January 1, 2001 shall be the rate in effect under the provisions of those sections immediately prior to January 1, 2001. For periods beginning on or after January 1, 2001 or beginning prior to that date but ending after January 1, 2001, the applicable rate shall be the rate provided in Sections 11 and 12 of this act.

B. The provisions of Section 8 of this act apply to protests filed on or after July 1, 2000.

Chapter 28 Section 16

Section 16. EFFECTIVE DATES.--

A. The effective date of the provisions of Sections 1 through 10 and 13 of this act is July 1, 2000.

B. The effective date of the provisions of Sections 11 and 12 of this act is January 1, 2001.

HOUSE BILL 177

CHAPTER 29

RELATING TO MOTOR VEHICLES; PROVIDING FOR ACCESS TO MOTOR VEHICLE RECORDS BY SELF-STORAGE FACILITIES.

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

Chapter 29 Section 1

Section 1. Section 66-2-7.1 NMSA 1978 (being Laws 1995, Chapter 135, Section 4, as amended) is amended to read:

"66-2-7.1. MOTOR VEHICLE-RELATED RECORDS--CONFIDENTIAL.--

A. It is unlawful for any department employee or contractor or for any former department employee or contractor to disclose to any person other than another employee of the department any personal information about an individual obtained by the department in connection with a driver's license or permit, the titling or registration of a vehicle or an identification card issued by the department pursuant to the Motor Vehicle Code except:

(1) to the individual or the individual's authorized representative;

(2) for use by any governmental agency, including any court, in carrying out its functions or by any private person acting on behalf of the government;

(3) for use in connection with matters of motor vehicle and driver safety or theft; motor vehicle emissions; performance monitoring of motor vehicles, motor vehicle parts and dealers; motor vehicle market research activities, including survey research; motor vehicle production alterations, recalls or advisories; and removal of non-owner records from original owner records of motor vehicle manufacturers;

(4) for use in research activities and for use in producing statistical reports, so long as the personal information is not published, redisclosed or used to contact individuals;

(5) for use by any insurer or insurance support organization or by a self-insured entity or its agents, employees or contractors in connection with claims investigation activities, antifraud activities, rating or underwriting;

(6) for providing notice to owners of towed or impounded vehicles;

(7) for use by an employer or its agent or insurer in obtaining or verifying information relating to a holder of a commercial driver's license;

(8) for use by any requester if the requester demonstrates that it has obtained the written consent of the individual to whom the information pertains;

(9) for use by an insured state-chartered or federally chartered credit union; an insured state or national bank; an insured state or federal savings and loan association; or an insured savings bank, but only:

(a) to verify the accuracy of personal information submitted by an individual to the credit union, bank, savings and loan association or savings bank; and

(b) if the information as submitted is not correct or is no longer correct, to obtain the correct information, but only for the purpose of preventing fraud by pursuing legal remedies against or recovering on a debt or security interest from the individual;

(10) for providing organ donor information as provided in the Uniform Anatomical Gift Act or Section 66-5-10 NMSA 1978; or

(11) for providing the names and addresses of all lienholders and owners of record of abandoned vehicles to storage facilities or wrecker yards for the purpose of providing notice as required in Section 66-3-121 NMSA 1978.

B. Any person who violates the provisions of this section is guilty of a misdemeanor and upon conviction shall be sentenced in accordance with the provisions of Section 31-19-1 NMSA 1978."

HOUSE BILL 181, AS AMENDED

CHAPTER 30

RELATING TO BUDGET ADJUSTMENT REQUESTS; EXCEPTING DISASTER AND EMERGENCY ASSISTANCE FUNDS FROM THE TEN-DAY ABEYANCE.

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

Chapter 30 Section 1

Section 1. Section 6-3-25 NMSA 1978 (being Laws 1992, Chapter 2, Section 3) is amended to read:

"6-3-25. BUDGET ADJUSTMENT PROCEDURE.--

A. Except for federal funds, disaster assistance funds and emergency response funds, any budget adjustment request to transfer, decrease or increase funds shall be held in abeyance for ten calendar days after the director of the state budget division of the department of finance and administration has approved the request and has filed the request with the director of the legislative finance committee or his designee. The request shall be accompanied by a statement, in writing, of the conditions under which the budget adjustment request is approved, together with justification for approval.

B. If within ten days the director of the legislative finance committee or his designee objects to the request, the request shall not go into effect until it is reviewed by the legislative finance committee at a public hearing held within thirty-five calendar days of receipt of the proposed budget adjustment by the director of the legislative finance committee or his designee. If the state fiscal year ends prior to the date scheduled for a hearing, the request shall go into effect on the last day of the fiscal year.

C. If within ten days of receipt of a budget adjustment request the director of the legislative finance committee or his designee indicates that no objection will be forthcoming, the proposed budget adjustment request may be implemented immediately. If no public hearing is held within the required thirty-five days, the request may be implemented."

HOUSE BILL 194

CHAPTER 31

RELATING TO RETIREE HEALTH CARE; AMENDING THE RETIREE HEALTH CARE ACT TO AUTHORIZE PREMIUMS BASED ON YEARS OF CREDITED SERVICE.

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

Chapter 31 Section 1

Section 1. Section 10-7C-13 NMSA 1978 (being Laws 1990, Chapter 6, Section 13, as amended) is amended to read:

"10-7C-13. PAYMENT OF PREMIUMS ON HEALTH CARE PLANS.--

A. Each eligible retiree shall pay a monthly premium for the basic plan in an amount set by the board not to exceed fifty dollars ($50.00) plus the amount, if any, of the compounded annual increases authorized by the board, which increases shall not

exceed nine percent in any fiscal year. In addition to the monthly premium for the basic plan, each current retiree and nonsalaried eligible participating entity governing authority member who becomes an eligible retiree shall also pay monthly an additional participation fee set by the board. That fee shall be five dollars ($5.00) plus the amount, if any, of the compounded annual increases authorized by the board, which increases shall not exceed nine percent in any fiscal year. The additional monthly participation fee paid by the current retirees and nonsalaried eligible participating entity governing authority members who become eligible retirees shall be a consideration and a condition for being permitted to participate in the Retiree Health Care Act. Eligible dependents shall pay monthly premiums in amounts that with other money appropriated to the fund shall cover the cost of the basic plan for the eligible dependents.

B. Eligible retirees and eligible dependents shall pay monthly premiums to cover the cost of the optional plans that they elect to receive, and the board shall adopt rules for the collection of additional premiums from eligible retirees and eligible dependents participating in the optional plans. An eligible retiree or eligible dependent may authorize the authority in writing to deduct the amount of these premiums from the monthly annuity payments, if applicable.

C. The participating employers, active employees and retirees are responsible for the financial viability of the program. The overall financial viability is not an additional financial obligation of the state.

D. For eligible retirees who become eligible for participation on or after July 1, 2001, the board may determine monthly premiums based on the retirees' years of credited service with participating employers."

HOUSE BILL 195

CHAPTER 32

RELATING TO TAXATION; CHANGING CERTAIN PROVISIONS OF THE PROPERTY TAX CODE CONCERNING THE PROPERTY TAX SCHEDULE.

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

Chapter 32 Section 1

Section 1. Section 7-38-77 NMSA 1978 (being Laws 1973, Chapter 258, Section 117, as amended) is amended to read:

"7-38-77. AUTHORITY TO MAKE CHANGES IN PROPERTY TAX SCHEDULE AFTER ITS DELIVERY TO THE COUNTY TREASURER.--After delivery of the property tax schedule to the county treasurer, the amounts shown on the schedule as taxes due and other information on the schedule shall not be changed except:

A. by the county treasurer to correct obvious clerical errors in:

(1) the name or address of the property owner or other persons shown on the schedule;

(2) the description of the property subject to property taxation; or

(3) the mathematical computation of taxes;

B. by the county treasurer to cancel multiple valuations for property taxation purposes of the same property in a single tax year, but only if:

(1) a taxpayer presents tax receipts showing the payment of taxes by him for any year in which multiple valuations for property taxation purposes are claimed to have been made;

(2) a taxpayer presents evidence of his ownership of the property, satisfactory to the treasurer, as of January 1 of the year in which multiple valuations for property taxation purposes are claimed to have been made; and

(3) there is no dispute concerning ownership of the property called to the attention of the treasurer, and he has no actual knowledge of any dispute concerning ownership of the property;

C. by the county treasurer, to correct the tax schedule so that it no longer contains personal property that is deemed to be unlocatable, unidentifiable or uncollectable, after thorough research with verification by the county assessor or appraiser, with notification to the department and the county clerk;

D. as a result of a protest, including a claim for refund, in accordance with the Property Tax Code, of values, classification, allocations of values determined for property taxation purposes or a denial of a claim for an exemption;

E. by the department or the order of a court as a result of any proceeding by the department to collect delinquent property taxes under the Property Tax Code;

F. by a court order entered in an action commenced by a property owner under Section 7-38-78 NMSA 1978;

G. by the department as authorized under Section 7-38-79 NMSA 1978;

H. by the department of finance and administration as authorized under Section 7-38-77.1 NMSA 1978; or

I. as specifically otherwise authorized in the Property Tax Code."

Chapter 32 Section 2

Section 2. Section 7-38-81.1 NMSA 1978 (being Laws 1983, Chapter 109, Section 1) is amended to read:

"7-38-81.1. LIMITATION ON ACTIONS FOR COLLECTION OF ANY LEVY OR ASSESSMENT IN THE FORM OF PROPERTY TAXES--PRESUMPTION OF PAYMENT AFTER TEN YEARS.--

A. Property may not be sold and proceedings may not be initiated for the collection of any levy or assessment in the form of property taxes levied or assessed under the provisions of Sections 73-14-1 through 73-18-43 NMSA 1978 that have been delinquent for more than ten years.

B. Property that has not been included on a property tax schedule or a levy or assessment schedule may not be subjected to the imposition of any levy or assessment in the form of property taxes levied or assessed under the provisions of Sections 73-14-1 through 73-18-43 NMSA 1978 for more than ten tax years immediately preceding the date of its entry on the property tax schedule or levy or assessment schedule.

C. Any levy or assessment in the form of property taxes levied or assessed under the provisions of Sections 73-14-1 through 73-18-43 NMSA 1978 that has been delinquent for more than ten years, together with any penalties and interest, is presumed to have been paid. The county treasurer or appropriate conservancy district officer shall indicate on the property tax schedule or levy or assessment schedule that all such levies or assessments in the form of property taxes and any penalties and interest have been "presumed paid by act of the legislature".

D. The county treasurer may correct the tax schedule so that it no longer contains personal property that is deemed to be unlocatable, unidentifiable or uncollectable, after thorough research with verification by the county assessor or appraiser, with notification to the department and the county clerk."

Chapter 32 Section 3

Section 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2000.

HOUSE BILL 198

CHAPTER 33

RELATING TO TAXATION; AMENDING VARIOUS TAX ACTS TO MAKE CORRECTIONS AND RECONCILE PROVISIONS.

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

Chapter 33 Section 1

Section 1. Section 7-2-14.4 NMSA 1978 (being Laws 1994, Chapter 111, Section 2) is amended to read:

"7-2-14.4. AUTHORIZATION TO FUND PROPERTY TAX REBATE FOR LOW-INCOME TAXPAYERS--TAX IMPOSITION--ELECTION.--

A. The board of county commissioners of any county may adopt a resolution to submit to the qualified electors of the county the question of whether a property tax at a rate not to exceed one dollar ($1.00) per thousand dollars ($1,000) of taxable value of property should be imposed for the purpose of providing the necessary funding for the property tax rebate for low-income taxpayers provided in the Income Tax Act if the county has adopted an ordinance providing the property tax rebate.

B. The resolution shall:

(1) specify the rate of the proposed tax, which shall not exceed one dollar ($1.00) per thousand dollars ($1,000) of taxable value of property;

(2) specify the date an election will be held to submit the question of imposition of the tax to the qualified electors of the county;

(3) impose the tax for one, two, three, four or five property tax years and limit the imposition of the proposed tax to no more than five property tax years; and

(4) pledge the revenue from the tax solely for the payment of the income tax revenue reduction resulting from the implementation of the property tax rebate for low-income taxpayers.

C. The resolution authorized in Subsection A of this section shall be adopted no later than May 15 in the year prior to the year in which the tax is proposed to be imposed. By adoption of an appropriate resolution, the board of county commissioners may submit the question of imposing the tax for successive periods of one, two, three, four or five years to the qualified electors of the county. The procedures for the election and for the imposition of the tax for subsequent periods shall be the same as those applying to the initial imposition of the tax. The election shall be scheduled so that the imposition of the tax for successive periods results in continuity of the tax.

D. An election on the question of imposing the tax authorized pursuant to this section may be held in conjunction with a general election or may be conducted as or held in conjunction with a special election, but the election shall be held by the date necessary to assure that the results of the election on the question of imposing the tax

may be certified no later than July 1 of the first property tax year in which the tax is proposed to be imposed. Conduct of the election shall be as provided by the Election Code.

E. As used in this section, "taxable value of property" means the combined total of net taxable value of property allocated to the county under the Property Tax Code; the assessed value of products severed and sold in the county for the calendar year preceding the year for which a determination is made as determined under the Oil and Gas Ad Valorem Production Tax Act; the assessed value of equipment in the county as determined under the Oil and Gas Production Equipment Ad Valorem Tax Act; and the taxable value of copper mineral property in the county pursuant to Section 7-39-7 NMSA 1978."

Chapter 33 Section 2

Section 2. Section 7-2E-2 NMSA 1978 (being Laws 1999, Chapter 183, Section 2) is amended to read:

"7-2E-2. CONTINUED APPLICABILITY OF RURAL JOB TAX CREDIT.--The balance of any rural job tax credit granted with respect to qualifying periods occurring after July 1, 2006 or remaining on a tax credit document issued prior to that date may be applied after that date in the manner provided in Section 7-2E-1 NMSA 1978 against the holder's modified combined tax liability or corporate or personal income tax liability as if the provisions of Section 7-2E-1 NMSA 1978 were still in effect."

Chapter 33 Section 3

Section 3. Section 7-3-2 NMSA 1978 (being Laws 1990, Chapter 64, Section 1, as amended) 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. "owner" means a partner in a partnership not taxed as a corporation for federal income tax purposes for the taxable year, a shareholder of an S corporation or of a corporation other than an S corporation that is not taxed as a corporation for federal income tax purposes for the taxable year, a member of a limited liability company or any similar person holding an ownership interest in any pass-through entity;

F. "pass-through entity" means any business association other than:

(1) a sole proprietorship;

(2) an estate or trust; or

(3) a corporation, limited liability company, partnership or other entity not a sole proprietorship taxed as a corporation for federal income tax purposes for the taxable year;

G. "payor" means any person making payment of a pension or annuity to an individual domiciled in New Mexico;

H. "payroll period" means a period for which a payment of wages is made to the employee by his employer;

I. "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;

J. "wagerer" means any person who receives winnings that are subject to withholding;

K. "wages" means remuneration in cash or other form for services performed by an employee for an employer;

L. "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;

M. "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

N. "withholder" means a payor, an employer or any person required to deduct and withhold from winnings that are subject to withholding."

Chapter 33 Section 4

Section 4. Section 7-3-6 NMSA 1978 (being Laws 1969, Chapter 25, Section 1) is amended to read:

"7-3-6. DATE PAYMENT DUE.--Except for amounts withheld pursuant to the provisions of Section 7-3-12 NMSA 1978, taxes withheld under the provisions of the Withholding Tax Act must be paid on or before the twenty-fifth day of the month following the month when the taxes were required to be withheld. Amounts withheld pursuant to Section 7-3-12 NMSA 1978 must be paid on or before the due date of the return for the pass-through entity."

Chapter 33 Section 5

Section 5. Section 7-3-12 NMSA 1978 (being Laws 1999, Chapter 14, Section 3) is amended to read:

"7-3-12. INFORMATION RETURN REQUIRED FROM PASS-THROUGH ENTITY--WITHHOLDING.--

A. A pass-through entity doing business in this state shall file an annual information return with the department on or before the due date of the entity's federal return for the taxable year. The information return shall be signed by the business manager or one of the owners of the pass-through entity.

B. The information return required by this section shall contain all information required by the department, including:

(1) the pass-through entity's gross income;

(2) the pass-through entity's net income;

(3) the amount of each owner's share of the pass-through entity's net income; and

(4) the name, address and tax identification number of each owner entitled to a share of net income.

C. A pass-through entity shall provide to each of its owners sufficient information to enable the owner to comply with the provisions of the Income Tax Act and the Corporate Income and Franchise Tax Act with respect to the owner's share of net income.

D. The pass-through entity shall deduct and withhold from each nonresident owner's share of net income an amount equal to the owner's share of net income multiplied by a rate set by department regulation. In the case of an owner who is an individual or entity not taxed as a corporation for federal income tax purposes for the taxable year, the rate shall not exceed the rate for composite returns. In the case of an owner that is a corporation or other entity taxed as a corporation for the taxable year, the rate shall not exceed the maximum rate for corporate income tax.

E. The provisions of Subsection D of this section shall not apply with regard to the share of net income of a nonresident owner who has executed an agreement in accordance with regulations or instructions of the department that the owner will report and pay tax, if required, on its own return pursuant to the Income Tax Act or the Corporate Income and Franchise Tax Act.

F. Amounts deducted from the owner's share of net income under the provisions of this section shall be a collected tax. No owner shall have a right of action against the pass-through entity for any amount deducted and withheld from the owner's share of net income."

Chapter 33 Section 6

Section 6. Section 7-20C-2 NMSA 1978 (being Laws 1991, Chapter 176, Section 2, as amended by Laws 1997, Chapter 54, Section 1 and also by Laws 1997, Chapter 129, Section 1) 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);

(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);

(4) a class B county having a population of less than twenty-five thousand according to the 1990 federal decennial census and having a net taxable value for rate-setting purposes for the 1993 property tax year of more than ninety-one million dollars ($91,000,000) but less than one hundred twenty-five million dollars ($125,000,000);

(5) a class B county having a population of more than seventeen thousand but less than twenty thousand according to the 1990 federal decennial census and having a net taxable value for rate-setting purposes for the 1993 property tax year of more than one hundred fifty-three million dollars ($153,000,000) but less than one hundred fifty-six million dollars ($156,000,000); or

(6) a class B county having a population of more than fifteen thousand according to the 1990 federal decennial census and having a net taxable value for rate-setting purposes for the 1996 property tax year of more than one hundred fifty million dollars ($150,000,000) but less than one hundred seventy-five million dollars ($175,000,000);

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. "health care facilities contract" means an agreement between a hospital or health clinic not owned by the county and a county imposing the tax authorized by the Local Hospital Gross Receipts Tax Act that obligates the county to pay to the hospital revenue generated by the tax authorized in that act as consideration for the agreement by the hospital or health clinic to use the funds only for nonsectarian purposes and to make health care services available for the benefit of the county;

E. "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;

F. "local hospital gross receipts tax" means the tax authorized to be imposed under the Local Hospital Gross Receipts Tax Act;

G. "person" means an individual or any other legal entity; and

H. "state gross receipts tax" means the gross receipts tax imposed under the Gross Receipts and Compensating Tax Act."

HOUSE BILL 205

CHAPTER 34

RELATING TO BOATS; AMENDING THE BOAT ACT TO ALLOW BOATS TO BE REGISTERED IN THIS STATE BY OWNERS WHO ARE NOT DOMICILED IN NEW MEXICO.

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

Chapter 34 Section 1

Section 1. Section 66-12-4 NMSA 1978 (being Laws 1959, Chapter 338, Section 4, as amended) is amended to read:

"66-12-4. OPERATION OF UNNUMBERED MOTORBOATS PROHIBITED.--

A. Every motorboat which is propelled by sail or machinery operating on the waters of this state shall be numbered. No person shall operate or give permission for the operation of any motorboat on the waters of this state unless the motorboat is numbered in accordance with the Boat Act or in accordance with applicable federal law or in accordance with a federally approved numbering system of another state and unless the certificate of number awarded to the motorboat is in force and the identifying number set forth in the certificate of number is displayed on each side of the bow of the motorboat.

B. Every boat operating on the waters of this state and owned by a person who is domiciled in this state shall be titled. No person shall operate or give permission for the operation of any boat on the waters of this state unless the boat is titled as provided in the Boat Act.

C. A person who is not domiciled in this state but who operates a boat on the waters of this state may, pursuant to the provisions of the Boat Act, elect to register the boat in this state."

HOUSE BILL 268

CHAPTER 35

RELATING TO AGRICULTURE; PROVIDING FOR ELECTION OF COTTON BOLL WEEVIL CONTROL COMMITTEES BY A MAJORITY OF THOSE PRODUCERS VOTING IN A DISTRICT; DECLARING AN EMERGENCY.

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

Chapter 35 Section 1

Section 1. Section 76-6A-3 NMSA 1978 (being Laws 1996, Chapter 77, Section 3, as amended) is amended to read:

"76-6A-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 voting 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;

G. "director" means the director of the New Mexico department of agriculture; and

H. "organic cotton producer" means any person growing cotton who is certified by the organic commodity commission as a producer of organic or transitional cotton."

Chapter 35 Section 2

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

HOUSE BILL 269, WITH EMERGENCY CLAUSE

SIGNED MARCH 6, 2000

CHAPTER 36

RELATING TO HUMAN IMMUNODEFICIENCY VIRUS TESTING; PROVIDING FOR TESTING WITHOUT INFORMED CONSENT FOR EXPOSED INDIVIDUALS.

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

Chapter 36 Section 1

Section 1. 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, 24-2B-5.2 or

24-2B-5.3 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 if there is documentation in the medical record that the test has been explained and the consent has been obtained."

Chapter 36 Section 2

Section 2. Section 24-2B-5 NMSA 1978 (being Laws 1989, Chapter 227, Section 5) is amended to read:

"24-2B-5. INFORMED CONSENT NOT REQUIRED.--Informed consent for testing is not required and the provisions of Section 24-2B-2 NMSA 1978 do not apply for:

A. a health care provider or health facility performing a test on the donor or recipient when the health care provider or health facility procures, processes, distributes or uses a human body part, including tissue and blood or blood products, donated for a purpose specified under the Uniform Anatomical Gift Act or for transplant recipients or semen provided for the purpose of artificial insemination and such test is necessary to assure medical acceptability of a recipient or such gift or semen for the purposes intended;

B. the performance of a test in bona fide medical emergencies when the subject of the test is unable to grant or withhold consent and the test results are

necessary for medical diagnostic purposes to provide appropriate emergency care or treatment, except that post-test counseling or referral for counseling shall nonetheless be required when the individual is able to receive that post-test counseling. Necessary treatment shall not be withheld pending test results;

C. the performance of a test for the purpose of research if the testing is performed in a manner by which the identity of the test subject is not known and may not be retrieved by the researcher; or

D. the performance of a test done in a setting where the identity of the test subject is not known, such as in public health testing programs and sexually transmitted disease clinics."

Chapter 36 Section 3

Section 3. A new section of the Human Immunodeficiency Virus Test Act, Section 24-2B-5.3 NMSA 1978, is enacted to read:

"24-2B-5.3. INFORMED CONSENT NOT REQUIRED--TESTING OF PERSONS WHO ARE SOURCE INDIVIDUALS.--

A. As used in this section:

(1) "exposed individual" means a health care provider, first responder or other person, including an employee, volunteer or independent contracted agent of a health care provider or law enforcement agency, while acting within the scope of his employment; or a person who, while receiving services from a health care provider, is significantly exposed to the blood or other potentially infectious material of another person, when the exposure is proximately the result of the activity of the exposed individual or receipt of health care services from the source individual;

(2) "significantly exposed" means direct contact with blood or other potentially infectious material of a source individual in a manner that is capable of transmitting the human immunodeficiency virus; and

(3) "source individual" means a person whose blood or other potentially infectious material may have been or has been the source of a significant exposure.

B. A test designed to identify the human immunodeficiency virus or its antigen or antibody may be performed without the consent of a source individual when an exposed individual is significantly exposed.

C. If consent to perform a test on a source individual cannot be obtained pursuant to the provisions of Section 24-2B-2 or 24-2B-3 NMSA 1978, the exposed individual may petition the court to order that a test be performed on the source

individual; provided that the same test shall first be performed on the exposed individual. The test may be performed on the source individual regardless of the result of the test performed on the exposed individual. If the exposed individual is a minor or incompetent, the parent or guardian may petition the court to order that a test be performed on the source individual.

D. The court may issue an order based on a finding of good cause after a hearing at which both the source individual and the exposed individual have the right to be present. The hearing shall be conducted within seventy-two hours after the petition is filed. The petition and all proceedings in connection with the petition shall be under seal. The test shall be administered on the source individual within three days after the order for testing is entered.

E. The results of the test shall be disclosed only to the source individual and the exposed or the exposed individual's parent or guardian. When the source individual or the exposed individual has a positive test result, both shall be provided with counseling as provided in Section

24-2B-4 NMSA 1978."

HOUSE BILL 276, AS AMENDED

CHAPTER 37

RELATING TO TAXATION; CLARIFYING WHO MUST PAY OCCUPANCY TAX PURSUANT TO THE LODGERS' TAX ACT.

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

Chapter 37 Section 1

Section 1. Section 3-38-14 NMSA 1978 (being Laws 1969, Chapter 199, Section 2, as amended) 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 the 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 and attractions and tourist-related 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 or his agent furnishing lodgings in the exercise of the taxable service of lodging."

Chapter 37 Section 2

Section 2. Section 3-38-16 NMSA 1978 (being Laws 1969, Chapter 199, Section 4) is amended to read:

"3-38-16. EXEMPTIONS.--The occupancy tax shall not apply:

A. if a vendee:

(1) has been a permanent resident of the taxable premises for a period of at least thirty consecutive days; or

(2) enters into or has entered into a written agreement for lodgings at the taxable premises for a period of at least thirty consecutive days;

B. if the rent paid by a vendee is less than two dollars ($2.00) a day;

C. to lodging accommodations at institutions of the federal government, the state or any political subdivision thereof;

D. to lodging accommodations at religious, charitable, educational or philanthropic institutions, including accommodations at summer camps operated by such institutions;

E. to clinics, hospitals or other medical facilities;

F. to privately owned and operated convalescent homes or homes for the aged, infirm, indigent or chronically ill; or

G. if the vendor does not offer at least three rooms within or attached to a taxable premises for lodging or at least three other premises for lodging or a combination of these within the taxing jurisdiction."

Chapter 37 Section 3

Section 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2000.

HOUSE BILL 393

CHAPTER 38

RELATING TO EDUCATION; PROVIDING FOR CHANGES TO THE CERTIFICATE REQUIREMENTS FOR SUBSTITUTE TEACHERS.

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

Chapter 38 Section 1

Section 1. Section 22-10-3 NMSA 1978 (being Laws 1975, Chapter 306, Section 3, as amended) is amended to read:

"22-10-3. CERTIFICATE REQUIREMENT--TYPES OF CERTIFICATES--FORFEITURE OF CLAIM--EXCEPTION--ADMINISTRATOR APPRENTICESHIP.--

A. Any person teaching, supervising an instructional program, counseling or providing special instructional services in a public school or state agency, any person administering in a public school and any person providing health care and administering medication or performing medical procedures in a public school shall hold a valid certificate authorizing the person to perform that function.

B. All certificates issued by the state board shall be standard certificates except that the state board may issue alternative, substandard and substitute certificates under certain circumstances. If a person applies for and is qualified to receive an alternative certificate, the state board shall issue an alternative certificate to a person not meeting the requirements for a standard certificate. If a local school board or the governing authority of a state agency certifies to the state board that an emergency exists in the hiring of a qualified person, the state board may issue a substandard certificate to a person not meeting the requirements for a standard certificate. The state board may also issue a substitute certificate to a person not meeting the requirements for a standard certificate to enable the person to perform the functions of a substitute teacher pursuant to the rules of the state board. All substandard certificates issued shall be effective for only one school year. An alternative certificate may be effective for up to three years, provided that after a person has satisfactorily completed a minimum of one year up to three years of teaching under the supervision of a mentor or clinical supervisor, the state board shall issue a standard certificate to that person. No person under the age of eighteen years shall hold a valid certificate, whether a standard, alternative or substandard.

C. Any person teaching, supervising an instructional program, counseling or providing special instructional services in a public school or state agency and any person administering in a public school without a valid certificate after the first three months of the school year shall thereafter forfeit all claim to compensation for services rendered.

D. This section shall not apply to a person performing the functions of a practice teacher as defined in the rules of the state board.

E. Any school nurse certified by the department of education shall also be licensed by the board of nursing.

F. Notwithstanding any existing requirements, any person seeking certification as an administrator shall be required to serve a one-year apprenticeship. The state board shall develop criteria and rules to implement the provisions of this subsection."

HOUSE BILL 409, AS AMENDED

CHAPTER 39

AMENDING THE EDUCATION TRUST ACT TO ELIMINATE RESIDENCY REQUIREMENTS AND AGE RESTRICTIONS.

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

Chapter 39 Section 1

Section 1. Section 21-21K-5 NMSA 1978 (being Laws 1997, Chapter 259, Section 5, as amended) is amended to read:

"21-21K-5. COLLEGE INVESTMENT AGREEMENT.--

A. An investor may enter into a college investment agreement with the board under which the investor agrees to make investments into the fund from time to time for the purpose of defraying the costs of attendance billed by institutions of higher education. An investor may enter into a college investment agreement on behalf of any beneficiary. The board shall adopt a form of the college investment agreement to be used by the board and investors.

B. The board shall provide for the direct payment of principal, investment earnings and capital appreciation accrued pursuant to a college investment agreement to the institution of higher education that the beneficiary actually attends.

C. A college investment agreement may be terminated by the investor at any time. The investor may modify the college investment agreement to designate a new beneficiary instead of the original beneficiary if the new beneficiary meets the requirements of the original beneficiary on the date the designation is changed and if the original beneficiary:

(1) dies;

(2) is not admitted to an institution of higher education following proper application;

(3) elects not to attend an institution of higher education or, if attending, elects to discontinue higher education; or

(4) for any other circumstance approved by the board, does not exercise his rights under the college investment agreement.

D. The board shall provide, by rule, procedures for determining the amount to be refunded for college investment agreements terminated pursuant to the provisions of this section. The balance of the accrued investment earnings and capital

appreciation less the amount refunded and administrative costs shall be credited to the fund.

E. The board shall establish a refund policy if a beneficiary receives additional student financial aid.

F. A college investment agreement terminates on the tenth anniversary of the date the beneficiary is projected to graduate from high school, not counting time spent by the beneficiary as an active-duty member of the United States armed services.

G. Gifts and bequests to the fund may be made in the name of a specific beneficiary or in the name of the fund in general. Gifts and bequests given for the benefit of a specific beneficiary shall be credited to that beneficiary, and gifts and bequests given to the fund in general shall be credited equally to each beneficiary of a college investment agreement.

H. Principal paid into the fund, together with accrued investment earnings and capital appreciation, shall be excluded from any calculation of a beneficiary's state student financial aid eligibility.

I. The board shall annually notify each investor of the status of the education trust fund."

HOUSE BILL 540

CHAPTER 40

RELATING TO CONSTRUCTION INDUSTRIES; ALLOWING MANUFACTURERS TO CHOOSE INDEPENDENT CERTIFICATION ORGANIZATIONS.

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

Chapter 40 Section 1

Section 1. Section 60-13-44 NMSA 1978 (being Laws 1967, Chapter 199, Section 52, as amended) is amended to read:

"60-13-44. TRADE BUREAUS--STANDARDS--CONFLICTS.--

A. The electrical bureau shall recommend to the commission minimum standards for the installation or use of electrical wiring. The recommendations shall substantially embody the applicable provisions of electrical standards for safety to life and property promulgated by a nationally recognized underwriting laboratory, as approved by a nationally recognized standards association, which standards are in general use in the United States or in a clearly defined region of the United States.

B. The mechanical bureau shall recommend to the commission minimum standards for the installation of all fixtures, consumers' gas pipe, appliances and materials installed in the course of a mechanical installation. The recommendations shall be in substantial conformity with the Uniform Mechanical Code published by the international conference of building officials and the Uniform Plumbing Code published by the international association of mechanical and plumbing officials. Manufacturers may choose the independent certification organization they wish to certify their products, if the certification organization is accredited by the American national standards institute or other accreditation organization selected by the commission.

C. The general construction bureau shall recommend to the commission minimum standards for the construction, alteration or repair of buildings, except for those activities within the jurisdiction of the electrical bureau or the mechanical bureau. The recommendations shall substantially embody the applicable provisions of a nationally recognized building code that is in general use in the United States or in a clearly defined region of the United States and shall give due regard to physical, climatic and other conditions peculiar to New Mexico. The standards shall include the authority to permit or deny occupancy of existing and new buildings or structures and authority to accept or deny the use of materials manufactured within or without the state. The general construction bureau may set minimum fees or charges for conducting tests to verify claims or specifications of manufacturers.

D. The general construction bureau shall recommend to the commission additional specifications for any public building constructed in the state through expenditure of state, county or municipal funds, bonds and other revenues, which specifications shall embody standards making the building accessible to individuals who are physically handicapped, and the specifications shall conform substantially with those contained in a nationally recognized standard for making public facilities accessible to the physically handicapped. All orders and rules recommended by the general construction bureau and adopted by the commission under the provisions of this section shall be printed and distributed to all licensed contractors, architects and engineers and to the governor's committee on concerns of the handicapped. The orders and rules shall take effect on a date fixed by the commission, which shall not be less than thirty days after their adoption by the commission, and shall have the force of law.

E. The general construction bureau shall have the right of review of all specifications of public buildings and the responsibility to ensure compliance with the adopted standards.

F. All political subdivisions of the state are subject to the provisions of codes adopted and approved under the Construction Industries Licensing Act. Such codes constitute a minimum requirement for the codes of political subdivisions.

G. The trade bureaus within their respective jurisdictions shall recommend to the commission standards for the installation or use of electrical wiring, the installation of all fixtures, consumers' gas pipe, appliances and materials installed in the

course of mechanical installation and the construction, alteration or repair of all buildings intended for use by the physically handicapped or persons requiring special facilities to accommodate the aged. The recommendations shall give due regard to physical, climatic and other conditions peculiar to New Mexico.

H. The trade bureaus within their respective jurisdictions shall recommend to the commission standards for the construction, alteration, repair, use or occupancy of manufactured commercial units, modular homes and premanufactured homes. The recommendations shall substantially embody the applicable provisions or standards for the safety to life, health, welfare and property approved by the nationally recognized standards association, which standards are in general use in the United States or in a clearly defined region of the United States, and shall give due regard to physical, climatic and other conditions peculiar to New Mexico. Wherever existing state codes or standards conflict with the codes and standards adopted by the commission under the provisions of this subsection, the provisions of the New Mexico Uniform Building Code, the New Mexico Electrical Code, the New Mexico Plumbing Code or the Natural Gas Code of New Mexico shall exclusively apply and control, except for codes and standards for mobile housing units.

I. Modular homes and premanufactured homes in existence at the time of the effective date of the Construction Industries Licensing Act shall have their use or occupancy continued if such use or occupancy was legal on the effective date of that act, provided such continued use or occupancy is not dangerous to life. Any change in the use or occupancy or any major alteration or repair of a modular home or premanufactured home shall comply with all codes and standards adopted under the Construction Industries Licensing Act.

J. The commission shall review all recommendations made under the provisions of this section and shall by rule adopt standards and codes that substantially comply with the requirements of this section that apply to the recommendations of the trade bureaus."

SENATE BILL 8, AS AMENDED

CHAPTER 41

RELATING TO PROCUREMENT; ELIMINATING RESIDENT PREFERENCE FOR BUS MANUFACTURERS; DECLARING AN EMERGENCY.

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

Chapter 41 Section 1

Section 1. Section 13-1-21 NMSA 1978 (being Laws 1979, Chapter 72, Section 1, as amended by Laws 1997, Chapter 1, Section 2 and Laws 1997, Chapter 2, Section 2 and also by Laws 1997, Chapter 3, Section 1) is amended to read:

"13-1-21. APPLICATION OF PREFERENCES.--

A. For the purposes of this section:

(1) "resident business" means a New Mexico resident business or a New York state business enterprise;

(2) "New Mexico resident business" means a business that is authorized to do and is doing business under the laws of this state and:

(a) that maintains its principal place of business in the state;

(b) has staffed an office and has paid applicable state taxes for two years prior to the awarding of the bid and has five or more employees who are residents of the state; or

(c) is an affiliate of a business that meets the requirements of Subparagraph (a) or (b) of this paragraph. As used in this section, "affiliate" means an entity that directly or indirectly through one or more intermediaries controls, is controlled by or is under common control with the qualifying business through ownership of voting securities representing a majority of the total voting power of the entity;

(3) "New York state business enterprise" means a business enterprise, including a sole proprietorship, partnership or corporation, that offers for sale or lease or other form of exchange, goods or commodities that are substantially manufactured, produced or assembled in New York state, or services, other than construction services, that are substantially performed within New York state. For purposes of construction services, a New York state business enterprise means a business enterprise, including a sole proprietorship, partnership or corporation, that has its principal place of business in New York state;

(4) "resident manufacturer" means a person who offers materials grown, produced, processed or manufactured wholly in the state; provided, however, that a

New York state business enterprise shall be deemed to be a resident manufacturer solely for the purpose of evaluating the New York state business enterprise's bid against the bid of a resident manufacturer that is not a New York state business enterprise;

(5) "recycled content goods" means supplies and materials composed in whole or in part of recycled materials; provided that the recycled materials content meets or exceeds the minimum content standards required by bid specifications; and

(6) "virgin content goods" means supplies and materials that are wholly composed of nonrecycled materials or do not meet minimum recycled content standards required by bid specification.

B. When bids are received only from nonresident businesses and resident businesses and the lowest responsible bid is from a nonresident business, the contract shall be awarded to the resident business whose bid is nearest to the bid price of the otherwise low nonresident business bidder if the bid price of the resident bidder is made lower than the bid price of the nonresident business when multiplied by a factor of .95.

C. When bids are received only from nonresident businesses and resident manufacturers and the lowest responsible bid is from a nonresident business, the contract shall be awarded to the resident manufacturer whose bid is nearest to the bid price of the otherwise low nonresident business bidder if the bid price of the resident manufacturer is made lower than the bid price of the nonresident business when multiplied by a factor of .95.

D. When bids are received only from resident businesses and resident manufacturers and the lowest responsible bid is from a resident business, the contract shall be awarded to the resident manufacturer whose bid is nearest to the bid price of the otherwise low resident business bidder if the bid price of the resident manufacturer is made lower than the bid price of the resident business when multiplied by a factor of .95.

E. When bids are received from resident manufacturers, resident businesses and nonresident businesses and the lowest responsible bid is from a resident business, the contract shall be awarded to the resident manufacturer whose bid is nearest to the bid price of the otherwise low resident business bidder if the bid price of the resident manufacturer is made lower than the bid price of the resident business when multiplied by a factor of .95.

F. When bids are received from resident manufacturers, resident businesses and nonresident businesses and the lowest responsible bid is from a nonresident business, the contract shall be awarded to the resident manufacturer whose bid is nearest to the bid price of the otherwise low nonresident business bidder if the bid price of the resident manufacturer is evaluated as lower than the bid price of the nonresident business when multiplied by a factor of .95. If there is no resident manufacturer eligible for award under this provision, then the contract shall be awarded to the resident business whose bid is nearest to the bid price of the otherwise low nonresident business bidder if the bid price of the resident business is made lower than the bid price of the nonresident business when multiplied by a factor of .95.

G. When bids are received for virgin content goods only or for recycled content goods only, Subsections B through F of this section shall apply.

H. When bids are received for both recycled content goods and virgin content goods and the lowest responsible bid is for virgin content goods, the contract shall be awarded to:

(1) a resident manufacturer offering the lowest bid on recycled content goods of equal quality if the bid price of the resident manufacturer when multiplied by a factor of .90 is made lower than the otherwise low virgin content goods bid price;

(2) a resident business offering a bid on recycled content goods of equal quality if:

(a) the bid price of no resident manufacturer following application of the preference allowed in Paragraph (1) of this subsection can be made sufficiently low; and

(b) the lowest bid price of the resident business when multiplied by a factor of .90 is made lower than the otherwise low virgin content goods bid price; or

(3) a nonresident business or nonresident manufacturer offering recycled content goods of equal quality if:

(a) the bid price of no resident business or resident manufacturer following application of the preference allowed in Paragraph (1) or (2) of this subsection can be made sufficiently low; and

(b) the lowest bid price of a nonresident offering recycled content goods when multiplied by a factor of .95 is made lower than the otherwise low virgin content bid price.

I. When bids are received for both recycled content goods and virgin content goods and the lowest responsible bid is for recycled content goods offered by a nonresident business or nonresident manufacturer, the contract shall be awarded to:

(1) a resident manufacturer offering the lowest bid on recycled content goods of equal quality if the bid price of the resident manufacturer when multiplied by a factor of .95 is made lower than the otherwise low recycled content goods bid price; or

(2) a resident business offering a bid on recycled content goods of equal quality if:

(a) the bid price of no resident manufacturer following application of the preference allowed in Paragraph (1) of this subsection can be made sufficiently low; and

(b) the lowest bid price of the resident business when multiplied by a factor of .95 is made lower than the otherwise low recycled content goods bid price offered by a nonresident business or manufacturer.

J. When bids are received for both recycled content goods and virgin content goods and the lowest responsible bid is for recycled content goods offered by a resident business, the contract shall be awarded to a resident manufacturer offering the lowest bid on recycled content goods of equal quality if the bid price of the resident manufacturer when multiplied by a factor of .95 is made lower than the otherwise low recycled content goods bid price.

K. This section shall not apply when the expenditure of federal funds designated for a specific purchase is involved or for any bid price greater than five million dollars ($5,000,000).

L. The provisions of this section shall not apply to the purchase of buses from a resident manufacturer or a New Mexico resident business that manufactures buses in New Mexico. It is the purpose of this subsection to:

(1) allow any bus manufacturer or business that manufactures buses to compete openly for public procurement contracts in New Mexico without giving preference to a business based on the location of the place of manufacture of the buses;

(2) give resident manufacturers and New Mexico resident businesses that manufacture buses an equal opportunity to sell their buses in states that have reciprocal preference laws; and

(3) eliminate all different treatment of any kind under New Mexico law and by all political jurisdictions in the state between New Mexico resident businesses and manufacturers that manufacture buses and businesses in other states that manufacture and sell buses."

Chapter 41 Section 2

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

SENATE BILL 18, WITH EMERGENCY CLAUSE

SIGNED MARCH 6, 2000

CHAPTER 42

RELATING TO PUBLIC ACCOUNTANCY; CHANGING THE OWNERSHIP REQUIREMENTS FOR A PERMIT TO PRACTICE AS A PUBLIC ACCOUNTANT FIRM; AMENDING A SECTION OF THE 1999 PUBLIC ACCOUNTANCY ACT.

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

Chapter 42 Section 1

Section 1. Section 61-28B-13 NMSA 1978 (being Laws 1999, Chapter 179, Section 13) is amended to read:

"61-28B-13. FIRM PERMITS TO PRACTICE, ATTEST EXPERIENCE, PEER REVIEW.--

A. The board may grant or renew a permit to practice as a firm to an applicant that demonstrates its qualification for the permit as provided in Subsection E of this section. A firm must hold a permit issued pursuant to the provisions of the 1999 Public Accountancy Act in order to provide attest services or use the title "certified public accountant", "CPA", "certified public accountant firm", "CPA firm", "registered public accountant", "RPA", "registered public accountant firm" or "RPA firm".

B. Permits shall be issued and renewed for periods not more than two years, expiring on June 30. Failure to pay the renewal fee shall be cause for the board to withhold renewal of a certificate without prior hearing pursuant to the provisions of the Uniform Licensing Act. A certificate holder whose certificate has been canceled for failure to pay the annual renewal fee may secure reinstatement of his certificate upon payment of the delinquency fee set by the board. If the renewal fee and delinquency fee are not paid by September 30 of the year in which the renewal fee was due, a certificate shall be reinstated only upon application and examination satisfactory to the board.

C. The board shall grant or deny an application for a permit no later than ninety days after the complete application is filed.

D. If an applicant appeals the decision of the board to deny a permit, the board may issue a provisional permit for no longer than ninety days while the board reconsiders its decision.

E. An applicant for initial issuance or renewal of a permit shall demonstrate that:

(1) a simple majority of the ownership of the firm, in terms of financial interests, profits, losses, dividends, distributions, options, redemptions and voting rights of all partners, officers, shareholders, members or managers, belongs to holders of a certificate who are licensed in some state. Such partners, officers, shareholders, members or managers, whose principal place of business is in New Mexico, and who perform professional services in New Mexico, must hold a valid

certificate. The firm and all owners must comply with the 1999 Public Accountancy Act. A firm may include owners who are not certificate holders; provided that:

(a) the firm designates a New Mexico certificate holder who is responsible for the proper registration of the firm and identifies that individual to the board;

(b) all owners who are not certificate holders are active individual participants in the certified public accountant firm or registered public accountant firm or affiliated entities; and

(c) the firm complies with the 1999 Public Accountancy Act; and

(2) an individual certificate holder who is responsible for supervising attest services or signs or authorizes someone to sign the accountant's report on the financial statements on behalf of the firm meets the experience requirements set out in the professional standards for such services.

F. An applicant for initial issuance or renewal of a permit shall be required to register each office of the firm within New Mexico with the board and to show that all attest services rendered in this state are under the charge of a person holding a valid certificate issued pursuant to the 1999 Public Accountancy Act or the corresponding provision of prior law or by some other state.

G. An applicant for initial issuance or renewal of a permit shall list all foreign and domestic jurisdictions in which it has applied for or holds permits as a certified public accountant firm and list any past denial, revocation or suspension of a permit by any jurisdiction. Each permit holder or applicant shall notify the board in writing, within thirty days of the occurrence of a change in the identities of partners, officers, shareholders, members or managers whose principal place of business is in this state, a change in the number or location of offices within this state, a change in the identity of the persons in charge of such offices and any issuance, denial, revocation or suspension of a permit by another jurisdiction.

H. A firm that falls out of compliance with the provisions of the 1999 Public Accountancy Act due to changes in firm ownership or personnel shall take corrective action to bring the firm back into compliance as quickly as possible. The board may grant a six-month period for a firm to take the corrective action. Failure to bring the firm back into compliance within six months shall result in the suspension or revocation of the firm permit.

I. As a condition to permit renewal, the board shall require the applicant to undergo a peer review conducted in accordance with board rules. The review shall include a verification that a person in the firm who is responsible for supervising attest services and signs or authorizes someone to sign the accountant's report on the

financial statements on behalf of the firm meets the experience requirements set out in the professional standards for the services as required by the board.

J. If a partner, shareholder or member is a legal business entity, that legal business entity must be a firm.

K. Attest services may only be provided by a certificate holder or a member of a firm that satisfies the requirements of this section. Attest services may not be performed by a certificate holder who is a member of a firm that does not meet the certificate holder's ownership requirements set forth in this section."

Chapter 42 Section 2

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2000.

SENATE BILL 31

CHAPTER 43

RELATING TO TAXATION; DECREASING THE LIQUOR EXCISE TAX ON BEER MANUFACTURED OR PRODUCED BY A MICROBREWER AND SOLD IN NEW MEXICO.

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

Chapter 43 Section 1

Section 1. 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 microbrewer and sold in this state, provided that proof is furnished to the department that the beer was manufactured or produced by a microbrewer, eight cents ($.08) 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 liters but less than three hundred seventy-five thousand liters; and

G. on cider, forty-one cents ($.41) per gallon."

Chapter 43 Section 2

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2000.

SENATE BILL 32

CHAPTER 44

RELATING TO HEALTH; AMENDING THE MEDICAL PRACTICE ACT TO ALLOW HOME HEALTH CARE AND HOSPICE CARE SERVICES UNDER CERTAIN CIRCUMSTANCES.

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

Chapter 44 Section 1

Section 1. Section 61-6-17 NMSA 1978 (being Laws 1973, Chapter 361, Section 8, as amended) is amended to read:

"61-6-17. EXCEPTIONS TO ACT.--The Medical Practice Act shall not apply to or affect:

A. gratuitous services rendered in cases of emergency;

B. the domestic administration of family remedies;

C. the practice of midwifery as regulated in this state;

D. commissioned medical officers of the armed forces of the United States and medical officers of the United States public health service or the veterans administration of the United States in the discharge of their official duties or within federally controlled facilities; provided that such persons who hold medical licenses in

New Mexico shall be subject to the provisions of the Medical Practice Act and provided that all such persons shall be fully licensed to practice medicine in one or more jurisdictions of the United States;

E. the practice of medicine by a physician, unlicensed in New Mexico, who performs emergency medical procedures in air or ground transportation of a patient from inside of New Mexico to another state or back, provided the physician is duly licensed in that state;

F. the practice, as defined and limited under their respective licensing laws, of:

(1) osteopathy;

(2) dentistry;

(3) podiatry;

(4) nursing;

(5) optometry;

(6) psychology;

(7) chiropractic;

(8) pharmacy;

(9) acupuncture and oriental medicine; or

(10) physical therapy;

G. any act, task or function performed by a physician assistant at the direction of and under the supervision of a licensed physician, when:

(1) the assistant is registered and has biennially renewed his registration with the board as one qualified by training or experience to function as an assistant to a physician;

(2) the act, task or function is performed at the direction of and under the supervision of a licensed physician in accordance with rules and regulations promulgated by the board; and

(3) the acts of the physician assistant are within the scope of duties assigned or delegated by the supervising licensed physician and the acts are within the scope of the assistant's training;

H. any act, task or function of laboratory technicians or technologists, x-ray technicians, nurse practitioners, medical or surgical assistants or other technicians or qualified persons permitted by law or established by custom as part of the duties delegated to them by:

(1) a licensed physician or a hospital, clinic or institution licensed or approved by the public health division of the department of health or an agency of the federal government; or

(2) a health care program operated or financed by an agency of the state or federal government;

I. a properly trained medical or surgical assistant or technician or professional licensee performing under the physician's employment and direct supervision or a visiting physician or surgeon operating under the physician's direct supervision any medical act that a reasonable and prudent physician would find within the scope of sound medical judgment to delegate if, in the opinion of the delegating physician, the act can be properly and safely performed in its customary manner and if the person does not hold himself out to the public as being authorized to practice medicine in New Mexico. The delegating physician shall remain responsible for the medical acts of the person performing the delegated medical acts;

J. the practice of the religious tenets of any church in the ministration to the sick or suffering by mental or spiritual means as provided by law; provided that the Medical Practice Act shall not be construed to exempt any person from the operation or enforcement of the sanitary and quarantine laws of the state; and

K. the acts of a physician licensed under the laws of another state of the United States who is the treating physician of a patient and orders home health or hospice services for a resident of New Mexico to be delivered by a home and community support services agency licensed in this state; provided that any change in the condition of the patient shall be physically reevaluated by the treating physician in the treating physician's jurisdiction or by a licensed New Mexico physician."

SENATE PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR

SENATE BILL 77

CHAPTER 45

RELATING TO TAXATION; PROVIDING FOR A LIMITED REFUND OF INVESTMENT CREDIT EARNED.

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

Chapter 45 Section 1

Section 1. Section 7-9A-8 NMSA 1978 (being Laws 1979, Chapter 347, Section 8, as amended) is amended to read:

"7-9A-8. CLAIMING THE CREDIT FOR CERTAIN TAXES.--

A. A taxpayer shall apply for approval for a credit within one year following the end of the calendar year in which the qualified equipment for the manufacturing operation is purchased or introduced into New Mexico.

B. A taxpayer having applied for and been granted approval for a credit by the department pursuant to the Investment Credit Act may claim an amount of available credit against the taxpayer's compensating tax, gross receipts tax or withholding tax due to the state of New Mexico; provided that no taxpayer may claim, except as provided in Subsection C of this section, an amount of available credit for any reporting period that exceeds eighty-five percent of the sum of the taxpayer's gross receipts tax, compensating tax and withholding tax due for that reporting period. Any amount of available credit not claimed against the taxpayer's gross receipts tax, compensating tax or withholding tax due for a reporting period may be claimed in subsequent reporting periods.

C. A taxpayer may apply by September 30 of the current calendar year for a refund of the unclaimed balance of the available credit up to a maximum of two hundred fifty thousand dollars ($250,000) if on January 1 of the current calendar year:

(1) the taxpayer's available credit is less than five hundred thousand dollars ($500,000); and

(2) the sum of the taxpayer's gross receipts tax, compensating tax and withholding tax due for the previous calendar year was less than thirty-five percent of the taxpayer's available credit but more than ten thousand dollars ($10,000)."

SENATE BILL 85, AS AMENDED

CHAPTER 46

RELATING TO ALCOHOL; PROVIDING A THIRTY-DAY PERIOD AFTER EMPLOYMENT FOR AN ALCOHOL SERVER TO OBTAIN ALCOHOL SERVER TRAINING; DECLARING AN EMERGENCY.

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

Chapter 46 Section 1

Section 1. Section 60-6E-4 NMSA 1978 (being Laws 1999, Chapter 277, Section 5) is amended to read:

"60-6E-4. SERVER TRAINING REQUIRED--ALCOHOL SERVICE OR SALES.--No person shall be employed as a server on a licensed premises unless that person obtains within thirty days of employment alcohol server training pursuant to the provisions of Chapter 60, Article 6E NMSA 1978."

Chapter 46 Section 2

Section 2. Section 60-7A-12 NMSA 1978 (being Laws 1981, Chapter 39, Section 78, as amended) is amended to read:

"60-7A-12. OFFENSES BY DISPENSERS, CANOPY LICENSEES, RESTAURANT LICENSEES, GOVERNMENTAL LICENSEES OR THEIR LESSEES AND CLUBS.--It is a violation of the Liquor Control Act for any dispenser, canopy licensee, restaurant licensee, governmental licensee or its lessee or club to:

A. receive any alcoholic beverages for the purpose of or with the intent of reselling the same from any person other than one duly licensed to sell alcoholic beverages to dispensers for resale;

B. sell, possess for the purpose of sale or bottle any bulk wine for sale other than by the drink for immediate consumption on his licensed premises;

C. directly, indirectly or through any subterfuge own, operate or control any interest in any wholesale liquor establishment or liquor manufacturing or wine bottling firm; provided that this section shall not prevent a dispenser from owning an interest in any legal entity, directly or indirectly or through an affiliate, that wholesales alcoholic beverages and that operates or controls an interest in an establishment operating pursuant to the provisions of Subsection B of Section 60-7A-10 NMSA 1978;

D. sell or possess for the purpose of sale any alcoholic beverages at any location or place except his licensed premises or the location permitted pursuant to the provisions of Section 60-6A-12 NMSA 1978;

E. employ or engage a person to sell, serve or dispense alcoholic beverages if the person has not received alcohol server training within thirty days of employment; or

F. employ or engage a person to sell, serve or dispense alcoholic beverages during a period when the server permit of that person is suspended or revoked."

Chapter 46 Section 3

Section 3. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

SENATE BILL 46, AS AMENDED, WITH EMERGENCY CLAUSE

SIGNED MARCH 6, 2000

CHAPTER 47

RELATING TO PUBLIC FINANCES; PROVIDING FOR LETTERS OF CREDIT ISSUED BY A FEDERAL HOME LOAN BANK AS SECURITY FOR DEPOSITS OF PUBLIC MONEY.

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

Chapter 47 Section 1

Section 1. Section 6-10-16 NMSA 1978 (being Laws 1969, Chapter 243, Section 1, as amended by Laws 1987, Chapter 79, Section 6 and also by Laws 1987, Chapter 307, Section 1) is amended to read:

"6-10-16. SECURITY FOR DEPOSITS OF PUBLIC MONEY.--

A. Deposits of public money shall be secured by:

(1) securities of the United States, its agencies or instrumentalities;

(2) securities of the state of New Mexico, its agencies, instrumentalities, counties, municipalities or other subdivisions;

(3) securities, including student loans, that are guaranteed by the United States or the state of New Mexico;

(4) revenue bonds that are underwritten by a member of the national association of securities dealers, known as "N.A.S.D.", and are rated "BAA" or above by a nationally recognized bond rating service; or

(5) letters of credit issued by a federal home loan bank.

B. No security is required for the deposit of public money that is insured by the federal deposit insurance corporation or the national credit union administration.

C. Securities which are obligations of the state of New Mexico, its agencies, institutions, counties, municipalities or other subdivisions shall be accepted as security at par value. All other securities shall be accepted as security at market value. The restrictions of Subsection A of this section apply to all securities subject to this subsection."

SENATE BILL 87

CHAPTER 48

RELATING TO TAXATION; PROVIDING A DEDUCTION FOR RECEIPTS FROM SALES TO CERTAIN CREDIT UNIONS.

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

Chapter 48 Section 1

Section 1. A new section of the Gross Receipts and Compensating Tax Act, Section 7-9-61.2 NMSA 1978, is enacted to read:

"7-9-61.2. DEDUCTION--RECEIPTS FROM SALES TO STATE-CHARTERED CREDIT UNIONS.--Receipts from selling tangible personal property to credit unions chartered under the provisions of the Credit Union Act are deductible to the same extent that receipts from the sale of tangible personal property to federal credit unions may be deducted pursuant to the provisions of Section 7-9-54 NMSA 1978."

Chapter 48 Section 2

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2000.

SENATE BILL 98

CHAPTER 49

RELATING TO MISDEMEANORS; PROVIDING FOR MISDEMEANOR COMPLIANCE PROGRAMS IN COUNTIES; PROVIDING FOR THE COLLECTION OF FEES TO OPERATE THE PROGRAMS; ENACTING A NEW SECTION OF THE NMSA 1978.

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

Chapter 49 Section 1

Section 1. MISDEMEANOR COMPLIANCE PROGRAMS--COUNTIES MAY ESTABLISH--FEES.--

A. A county may create a "misdemeanor compliance program" to monitor defendants' compliance with the conditions of probation imposed by a district or magistrate court. The program shall be limited to participation by persons who have been convicted of a misdemeanor criminal offense specified in the Criminal Code, convicted of driving while under the influence of intoxicating liquor or drugs or convicted of driving while the person's driver's license is suspended or revoked pursuant to the

Motor Vehicle Code. A county's program shall comply with guidelines established by the administrative office of the courts.

B. As a condition of probation, the district or magistrate court may require the defendant to pay a fee of not less than fifteen dollars ($15.00) nor more than thirty dollars ($30.00) per month to the county for the term of his probation. Money collected by the county pursuant to this subsection shall be used only to operate the misdemeanor compliance program.

Chapter 49 Section 2

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2000.

SENATE BILL 107, AS AMENDED

CHAPTER 50

RELATING TO TAXATION; AMENDING THE GASOLINE TAX ACT TO PROVIDE A DEDUCTION FOR CERTAIN RETAIL SALES ON AN INDIAN RESERVATION, PUEBLO GRANT OR TRUST LAND; DECLARING AN EMERGENCY.

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

Chapter 50 Section 1

Section 1. A new section of the Gasoline Tax Act, Section 7-13-4.4 NMSA 1978, is enacted to read:

"7-13-4.4. ADDITIONAL DEDUCTION--CERTAIN RETAIL SALES ON AN INDIAN RESERVATION, PUEBLO GRANT OR TRUST LAND.--In computing the gasoline tax due, a person other than a registered Indian tribal distributor may deduct from the total amount of gasoline received in New Mexico during the tax period, provided satisfactory proof is provided to the department, gasoline received in New Mexico and sold at retail in New Mexico if:

A. the sale occurs on an Indian reservation, pueblo grant or trust land;

B. the gasoline is placed into the fuel supply tank of a motor vehicle on that reservation, pueblo grant or trust land;

C. the Indian nation, tribe or pueblo has certified to the department that it has in effect an excise, privilege or similar tax on gasoline; provided that the gallons of gasoline deducted pursuant to this section shall be the total gallons sold in accordance with the provisions of this section multiplied by a fraction, the numerator of which is the

rate of the tribal tax certified to the department by the Indian nation, tribe or pueblo and the denominator of which is the rate of the gasoline tax imposed pursuant to the Gasoline Tax Act, but, if the fraction exceeds one, the fraction shall be deemed to be one for purposes of determining the deduction; and

D. the person is subject to and in compliance with the tax on gasoline imposed by the Indian nation, tribe or pueblo where the sale occurs."

Chapter 50 Section 2

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is April 1, 2000.

Chapter 50 Section 3

Section 3. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

SENATE BILL 109, WITH EMERGENCY CLAUSE

SIGNED MARCH 6, 2000

CHAPTER 51

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE; AMENDING SECTION 62-9-1 NMSA 1978 (BEING LAWS 1941, CHAPTER 84, SECTION 46, AS AMENDED) TO CLARIFY THE STATUS OF CERTAIN UTILITIES.

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

Chapter 51 Section 1

Section 1. Section 62-9-1 NMSA 1978 (being Laws 1941, Chapter 84, Section 46, as amended) is amended to read:

"62-9-1. NEW CONSTRUCTION.--

A. No public utility shall begin the construction or operation of any public utility plant or system or of any extension of any plant or system without first obtaining from the commission a certificate that public convenience and necessity require or will require such construction or operation. This section does not require a public utility to secure a certificate for an extension within any municipality or district within which it lawfully commenced operations before June 13, 1941 or for an extension within or to territory already served by it, necessary in the ordinary course of its business, or for an extension into territory contiguous to that already occupied by it and that is not receiving

similar service from another utility. If any public utility or mutual domestic water consumer association in constructing or extending its line, plant or system unreasonably interferes or is about to unreasonably interfere with the service or system of any other public utility or mutual domestic water consumer association rendering the same type of service, the commission, on complaint of the public utility or mutual domestic water consumer association claiming to be injuriously affected, may, upon and pursuant to the applicable procedure provided in Chapter 62, Article 10 NMSA 1978, and after giving due regard to public convenience and necessity, including reasonable service agreements between the utilities, make an order and prescribe just and reasonable terms and conditions in harmony with the Public Utility Act to provide for the construction, development and extension, without unnecessary duplication and economic waste.

B. As used in this section, "mutual domestic water consumer association" means an association created and organized pursuant to the provisions of:

(1) Laws 1947, Chapter 206; Laws 1949, Chapter 79; or Laws 1951, Chapter 52; or

(2) the Sanitary Projects Act."

SENATE FINANCE COMMITTEE SUBSTITUTE FOR

SENATE BILL 456

CHAPTER 52

RELATING TO LOTTERY DISTRIBUTIONS; PROVIDING FOR EQUAL DISTRIBUTION FOR SCHOLARSHIPS AND PUBLIC SCHOOL CAPITAL OUTLAY; REQUIRING LOTTERY TUITION SCHOLARSHIPS TO BE USED AFTER OTHER AVAILABLE FUNDS.

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

Chapter 52 Section 1

Section 1. Section 6-24-24 NMSA 1978 (being Laws 1995, Chapter 155, Section 24) is amended to read:

"6-24-24. DISPOSITION OF REVENUE.--

A. As nearly as practical, an amount equal to at least fifty percent of the gross annual revenues from the sale of lottery tickets shall be returned to the public in the form of lottery prizes.

B. The authority shall transmit all net revenues to the state treasurer, who shall deposit fifty percent of the revenues in the public school capital outlay fund for expenditure pursuant to the provisions of the Public School Capital Outlay Act and fifty percent in the lottery tuition fund. Estimated net revenues shall be transmitted monthly to the state treasurer for deposit in the funds; provided that the total amount of annual net revenues for the fiscal year shall be transmitted no later than August 1 each year.

C. In determining net revenues, operating expenses of the lottery include all costs incurred in the operation and administration of the lottery and all costs resulting from any contracts entered into for the purchase or lease of goods or services required by the lottery, including the costs of supplies, materials, tickets, independent audit services, independent studies, data transmission, advertising, promotion, incentives, public relations, communications, commissions paid to lottery retailers, printing, distribution of tickets, purchases of annuities or investments to be used to pay future installments of winning lottery tickets, debt service and payment of any revenue bonds issued, contingency reserves, transfers to the reserve fund and any other necessary costs incurred in carrying out the provisions of the New Mexico Lottery Act.

D. An amount up to two percent of the gross annual revenues shall be set aside as a reserve fund to cover bonuses and incentive plans for lottery retailers, special promotions for retailers, purchasing special promotional giveaways, sponsoring special promotional events, compulsive gambling rehabilitation and such other purposes as the board deems necessary to maintain the integrity and meet the revenue goals of the lottery. The board shall report annually to the governor and each regular session of the legislature on the use of the money in the reserve fund. Any balance in excess of fifty thousand dollars ($50,000) at the end of any fiscal year shall be transferred to the lottery tuition fund."

Chapter 52 Section 2

Section 2. Section 21-1-2 NMSA 1978 (being Laws 1970, Chapter 9, Section 1, as amended) 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. These scholarships are in addition to the lottery tuition scholarships authorized in Section 21-1-4.3 NMSA 1978 and shall be granted to the full extent of available funds before lottery tuition scholarships are granted. The number of scholarships established and granted pursuant to this subsection 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. In the event that the number of athletic scholarships exceeds 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, the appropriate board of regents shall reduce the number of authorized tuition scholarships to comply with association rules and regulations.

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."

Chapter 52 Section 3

Section 3. 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 is 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. All other scholarship funds available to the board shall be used before granting any lottery tuition scholarships.

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 scholarship."

Chapter 52 Section 4

Section 4. Section 21-16-10.1 NMSA 1978 (being Laws 1996, Chapter 71, Section 6, as amended) is amended to read:

"21-16-10.1. 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. All other scholarship funds available to the board shall be used before granting any lottery tuition scholarships.

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 with renewal of an additional two years upon transfer.

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 scholarships."

Chapter 52 Section 5

Section 5. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2000.

SENATE BILL 114, AS AMENDED

CHAPTER 53

RELATING TO ORIENTAL MEDICINE; EXPANDING THE PRACTICE OF DOCTORS OF ORIENTAL MEDICINE; PROVIDING FOR APPROVAL OF EDUCATION PROGRAMS; ALLOWING FOR EXTERNS; ALLOWING FOR EXTENDED OR EXPANDED PRESCRIPTIVE AUTHORITY.

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

Chapter 53 Section 1

Section 1. Section 30-31-2 NMSA 1978 (being Laws 1972, Chapter 84, Section 2, as amended by Laws 1997, Chapter 244, Section 2 and also by Laws 1997, Chapter 253, Section 3) is amended to read:

"30-31-2. DEFINITIONS.--As used in the Controlled Substances Act:

A. "administer" means the direct application of a controlled substance by any means to the body of a patient or research subject by a practitioner or his agent;

B. "agent" includes an authorized person who acts on behalf of a manufacturer, distributor or dispenser. It does not include a common or contract carrier, public warehouseman or employee of the carrier or warehouseman;

C. "board" means the board of pharmacy;

D. "bureau" means the narcotic and dangerous drug section of the criminal division of the United States department of justice, or its successor agency;

E. "controlled substance" means a drug or substance listed in Schedules I through V of the Controlled Substances Act or regulations adopted thereto;

F. "counterfeit substance" means a controlled substance that bears the unauthorized trademark, trade name, imprint, number, device or other identifying mark or likeness of a manufacturer, distributor or dispenser other than the person who in fact manufactured, distributed or dispensed the controlled substance;

G. "deliver" means the actual, constructive or attempted transfer from one person to another of a controlled substance or controlled substance analog, whether or not there is an agency relationship;

H. "dispense" means to deliver a controlled substance to an ultimate user or research subject pursuant to the lawful order of a practitioner, including the administering, prescribing, packaging, labeling or compounding necessary to prepare the controlled substance for that delivery;

I. "dispenser" means a practitioner who dispenses and includes hospitals, pharmacies and clinics where controlled substances are dispensed;

J. "distribute" means to deliver other than by administering or dispensing a controlled substance or controlled substance analog;

K. "drug" or "substance" means substances recognized as drugs in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States or official national formulary or any respective supplement to those publications. It does not include devices or their components, parts or accessories;

L. "hashish" means the resin extracted from any part of marijuana, whether growing or not, and every compound, manufacture, salt, derivative, mixture or preparation of such resins;

M. "manufacture" means the production, preparation, compounding, conversion or processing of a controlled substance or controlled substance analog by extraction from substances of natural origin or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a controlled substance:

(1) by a practitioner as an incident to his administering or dispensing of a controlled substance in the course of his professional practice; or

(2) by a practitioner, or by his agent under his supervision, for the purpose of or as an incident to research, teaching or chemical analysis and not for sale;

N. "marijuana" means all parts of the plant Cannabis, including any and all varieties, species and subspecies of the genus Cannabis, whether growing or not, the seeds thereof and every compound, manufacture, salt, derivative, mixture or preparation of the plant or its seeds. It does not include the mature stalks of the plant, hashish, tetrahydrocannabinols extracted or isolated from marijuana, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil or cake, or the sterilized seed of the plant that is incapable of germination;

O. "narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis:

(1) opium and opiate and any salt, compound, derivative or preparation of opium or opiate;

(2) any salt, compound, isomer, derivative or preparation that is a chemical equivalent of any of the substances referred to in Paragraph (1) of this subsection, except the isoquinoline alkaloids of opium;

(3) opium poppy and poppy straw, including all parts of the plant of the species Papaver somniferum L. except its seeds; or

(4) coca leaves and any salt, compound, derivative or preparation of coca leaves, any salt, compound, isomer, derivative or preparation that is a chemical equivalent of any of these substances except decocainized coca leaves or extractions of coca leaves that do not contain cocaine or ecgonine;

P. "opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. "Opiate" does not include, unless specifically designated as controlled under Section 30-31-5 NMSA 1978, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). "Opiate" does include its racemic and levorotatory forms;

Q. "person" means an individual, partnership, corporation, association, institution, political subdivision, government agency or other legal entity;

R. "practitioner" means a physician, doctor of oriental medicine, dentist, physician assistant, certified nurse practitioner, clinical nurse specialist, certified nurse-midwife, veterinarian or other person licensed or certified to prescribe and administer drugs that are subject to the Controlled Substances Act;

S. "prescription" means an order given individually for the person for whom is prescribed a controlled substance, either directly from the prescriber to the pharmacist or indirectly by means of a written order signed by the prescriber, in accordance with the Controlled Substances Act or regulations adopted thereto;

T. "scientific investigator" means a person registered to conduct research with controlled substances in the course of his professional practice or research and includes analytical laboratories;

U. "ultimate user" means a person who lawfully possesses a controlled substance for his own use or for the use of a member of his household or for administering to an animal under the care, custody and control of the person or by a member of his household;

V. "drug paraphernalia" means all equipment, products and materials of any kind that are used, intended for use or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a

controlled substance or controlled substance analog in violation of the Controlled Substances Act. It includes:

(1) kits used, intended for use or designed for use in planting, propagating, cultivating, growing or harvesting any species of plant that is a controlled substance or controlled substance analog or from which a controlled substance can be derived;

(2) kits used, intended for use or designed for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances or controlled substance analogs;

(3) isomerization devices used, intended for use or designed for use in increasing the potency of any species of plant that is a controlled substance;

(4) testing equipment used, intended for use or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances or controlled substance analogs;

(5) scales or balances used, intended for use or designed for use in weighing or measuring controlled substances or controlled substance analogs;

(6) diluents and adulterants, such as quinine hydrochloride, mannitol, mannite dextrose and lactose, used, intended for use or designed for use in cutting controlled substances or controlled substance analogs;

(7) separation gins and sifters used, intended for use or designed for use in removing twigs and seeds from, or in otherwise cleaning and refining, marijuana;

(8) blenders, bowls, containers, spoons and mixing devices used, intended for use or designed for use in compounding controlled substances or controlled substance analogs;

(9) capsules, balloons, envelopes and other containers used, intended for use or designed for use in packaging small quantities of controlled substances or controlled substance analogs;

(10) containers and other objects used, intended for use or designed for use in storing or concealing controlled substances or controlled substance analogs;

(11) hypodermic syringes, needles and other objects used, intended for use or designed for use in parenterally injecting controlled substances or controlled substance analogs into the human body;

(12) objects used, intended for use or designed for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, such as:

(a) metal, wooden, acrylic, glass, stone, plastic or ceramic pipes, with or without screens, permanent screens, hashish heads or punctured metal bowls;

(b) water pipes;

(c) carburetion tubes and devices;

(d) smoking and carburetion masks;

(e) roach clips, meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small to hold in the hand;

(f) miniature cocaine spoons and cocaine vials;

(g) chamber pipes;

(h) carburetor pipes;

(i) electric pipes;

(j) air-driven pipes;

(k) chilams;

(l) bongs; or

(m) ice pipes or chillers; and

(13) in determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:

(a) statements by the owner or by anyone in control of the object concerning its use;

(b) the proximity of the object, in time and space, to a direct violation of the Controlled Substances Act or any other law relating to controlled substances or controlled substance analogs;

(c) the proximity of the object to controlled substances or controlled substance analogs;

(d) the existence of any residue of a controlled substance or controlled substance analog on the object;

(e) instructions, written or oral, provided with the object concerning its use;

(f) descriptive materials accompanying the object that explain or depict its use;

(g) the manner in which the object is displayed for sale; and

(h) expert testimony concerning its use;

W. "controlled substance analog" means a substance other than a controlled substance that has a chemical structure substantially similar to that of a controlled substance in Schedule I, II, III, IV or V or that was specifically designed to produce effects substantially similar to that of controlled substances in Schedule I, II, III, IV or V. Examples of chemical classes in which controlled substance analogs are found include the following:

(1) phenethylamines;

(2) N-substituted piperidines;

(3) morphinans;

(4) ecgonines;

(5) quinazolinones;

(6) substituted indoles; and

(7) arylcycloalkylamines.

Specifically excluded from the definition of "controlled substance analog" are those substances that are generally recognized as safe and effective within the meaning of the Federal Food, Drug and Cosmetic Act or have been manufactured, distributed or possessed in conformance with the provisions of an approved new drug application or an exemption for investigational use within the meaning of Section 505 of the Federal Food, Drug and Cosmetic Act;

X. "human consumption" includes application, injection, inhalation, ingestion or any other manner of introduction; and

Y. "drug-free school zone" means a public school or property that is used for public school purposes and the area within one thousand feet of the school property line, but it does not mean any post-secondary school."

Chapter 53 Section 2

Section 2. Section 61-14A-3 NMSA 1978 (being Laws 1993, Chapter 158, Section 11, as amended) is amended to read:

"61-14A-3. DEFINITIONS.--As used in the Acupuncture and Oriental Medicine Practice Act:

A. "acupuncture" means the surgical use of needles inserted into and removed from the body and the use of other devices, modalities and procedures at specific locations on the body for the prevention, cure or correction of any disease, illness, injury, pain or other condition by controlling and regulating the flow and balance of energy and function to restore and maintain health;

B. "board" means the board of acupuncture and oriental medicine;

C. "doctor of oriental medicine" means a person licensed as a physician to practice acupuncture and oriental medicine with the ability to practice independently, serve as a primary care provider and as necessary collaborate with other health care providers;

D. "moxibustion" means the use of heat on or above specific locations or on acupuncture needles at specific locations on the body for the prevention, cure or correction of any disease, illness, injury, pain or other condition;

E. "oriental medicine" means the distinct system of primary health care that uses all allied techniques of oriental medicine, both traditional and modern, to diagnose, treat and prescribe for the prevention, cure or correction of any disease, illness, injury, pain or other physical or mental condition by controlling and regulating the flow and balance of energy and function to restore and maintain health;

F. "primary care provider" means a health care professional acting within the scope of his license who provides the first level of basic or general health care for a person's health needs, including diagnostic and treatment services;

G. "techniques of oriental medicine" means:

(1) the diagnostic and treatment techniques used in oriental medicine that include diagnostic procedures; acupuncture; moxibustion; manual therapy, also known as tui na; other physical medicine modalities and therapeutic procedures; breathing and exercise techniques; and dietary, nutritional and lifestyle counseling;

(2) the prescription or administration of any herbal medicine, homeopathic medicine, vitamins, minerals, enzymes, glandular products, natural substances, protomorphogens, live cell products, gerovital, amino acids and dietary and nutritional supplements;

(3) the prescription or administration of devices, restricted devices and prescription devices, as those devices are defined in the New Mexico Drug, Device and Cosmetic Act, if the board determines by rule that such devices are necessary in the practice of oriental medicine and if the prescribing doctor of oriental medicine has fulfilled requirements for prescriptive authority in accordance with rules promulgated by the board for the devices enumerated in this paragraph;

(4) the prescription or administration of cosmetics, biological products, including therapeutic serum, and over-the-counter drugs, other than those enumerated in Paragraph (2) of this subsection, as those are defined in the New Mexico Drug, Device and Cosmetic Act, if the prescribing doctor of oriental medicine has fulfilled the requirements for prescriptive authority in accordance with rules promulgated by the board for the substances enumerated in this paragraph; and

(5) the prescription or administration of the following dangerous drugs or controlled substances as they are defined in the New Mexico Drug, Device and Cosmetic Act or the Controlled Substances Act, if the prescribing doctor of oriental medicine has fulfilled the requirements for extended or expanded prescriptive authority in accordance with rules promulgated by the board for the substances enumerated in this paragraph:

(a) sterile water;

(b) sterile saline;

(c) sarapin or its generic;

(d) caffeine;

(e) procaine;

(f) oxygen;

(g) epinephrine;

(h) vapocoolants;

(i) bioidentical hormones; and

(j) any of the drugs or substances enumerated in Paragraphs (2) and (4) of this subsection if at any time these substances or drugs are classified as dangerous drugs or controlled substances; and

H. "tutor" means a doctor of oriental medicine with at least ten years of clinical experience who is a teacher of acupuncture and oriental medicine."

Chapter 53 Section 3

Section 3. Section 61-14A-6 NMSA 1978 (being Laws 1993, Chapter 158, Section 14, as amended) is amended to read:

"61-14A-6. EXEMPTIONS.--

A. Nothing in the Acupuncture and Oriental Medicine Practice Act is intended to limit, interfere with or prevent any other class of licensed health care professionals from practicing within the scope of their licenses, but they shall not hold themselves out to the public or any private group or business by using any title or description of services that includes the term acupuncture, acupuncturist or oriental medicine unless they are licensed under the Acupuncture and Oriental Medicine Practice Act.

B. The Acupuncture and Oriental Medicine Practice Act shall not apply to or affect the following practices if the person does not hold himself out as a doctor of oriental medicine or as practicing acupuncture or oriental medicine:

(1) the administering of gratuitous services in cases of emergency;

(2) the domestic administering of family remedies;

(3) the counseling about or the teaching and demonstration of breathing and exercise techniques;

(4) the counseling or teaching about diet and nutrition;

(5) the spiritual or lifestyle counseling of a person or spiritual group or the practice of the religious tenets of a church;

(6) the providing of information about the general usage of herbal medicines, homeopathic medicines, vitamins, minerals, enzymes or glandular or nutritional supplements; or

(7) the use of needles for diagnostic purposes and the use of needles for the administration of diagnostic or therapeutic substances by licensed health care professionals."

Chapter 53 Section 4

Section 4. Section 61-14A-7 NMSA 1978 (being Laws 1993, Chapter 158, Section 15) is amended to read:

"61-14A-7. BOARD CREATED--APPOINTMENT--OFFICERS--COMPENSATION.--

A. The "board of acupuncture and oriental medicine" is created.

B. The board is administratively attached to the regulation and licensing department.

C. The board shall consist of seven members appointed by the governor for terms of three years each. Four members of the board shall be doctors of oriental medicine who have been residents of and practiced acupuncture and oriental medicine in New Mexico for at least five years immediately preceding the date of their appointment. Three members shall be appointed to represent the public and shall not have practiced acupuncture and oriental medicine in this or any other jurisdiction or have any financial interest in the profession regulated. No board member shall be the owner, principal or director of an institute offering educational programs in acupuncture and oriental medicine. No more than one board member may be from each of the following categories:

(1) a faculty member at an institute offering educational programs in acupuncture and oriental medicine;

(2) a tutor in acupuncture and oriental medicine; or

(3) an officer or director in a professional association of acupuncture and oriental medicine.

D. Members of the board shall be appointed by the governor for staggered terms of three years that shall be made in such a manner that the terms of board members expire on July 1. A board member shall serve until his successor has been appointed and qualified. Vacancies shall be filled for the remainder of the unexpired term in the same manner as the original appointment.

E. A board member shall not serve more than two consecutive full terms, and a board member who fails to attend, after he has received proper notice, three consecutive meetings shall be recommended for removal as a board member unless excused for reasons established by the board.

F. The board shall elect annually from its membership a chairman and other officers as necessary to carry out its duties.

G. The board shall meet at least once each year and at other times deemed necessary. Other meetings may be called by the chairman, a majority of board members or the governor. A simple majority of the board members serving constitutes a quorum of the board.

H. Members of the board shall be reimbursed as provided in the Per Diem and Mileage Act and shall receive no other compensation, perquisite or allowance."

Chapter 53 Section 5

Section 5. Section 61-14A-8 NMSA 1978 (being Laws 1993, Chapter 158, Section 16) is amended to read:

"61-14A-8. BOARD--POWERS.--In addition to any authority provided by law, the board has the power to:

A. enforce the provisions of the Acupuncture and Oriental Medicine Practice Act;

B. adopt, publish and file, in accordance with the Uniform Licensing Act and the State Rules Act, all rules necessary for the implementation and enforcement of the provisions of the Acupuncture and Oriental Medicine Practice Act;

C. adopt a code of ethics;

D. adopt and use a seal;

E. inspect facilities of approved educational programs, extern programs and the offices of licensees;

F. adopt rules implementing continuing education requirements for the purpose of protecting the health and well-being of the citizens of this state and maintaining and continuing informed professional knowledge and awareness;

G. employ such professional and clerical assistance as necessary to carry out the powers and duties of the board;

H. issue investigative subpoenas for the purpose of investigating complaints against licensees prior to the issuance of a notice of contemplated action;

I. administer oaths and take testimony on any matters within the board's jurisdiction;

J. 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; and

K. grant, deny, renew, suspend or revoke licenses to practice acupuncture and oriental medicine or grant, deny, renew, suspend or revoke approvals of educational programs and extern programs in accordance with the provisions of the Uniform Licensing Act for any cause stated in the Acupuncture and Oriental Medicine Practice Act or the rules of the board."

Chapter 53 Section 6

Section 6. Section 61-14A-10 NMSA 1978 (being Laws 1993, Chapter 158, Section 18, as amended) is amended to read:

"61-14A-10. REQUIREMENTS FOR LICENSING.--The board shall grant a license to practice acupuncture and oriental medicine to a person who has:

A. submitted to the board:

(1) the completed application for licensing on the form provided by the board;

(2) the required documentation as determined by the board;

(3) the required fees;

(4) an affidavit stating that the applicant has not been found guilty of unprofessional conduct or incompetency;

(5) proof, as determined by the board, that the applicant has completed a board-approved educational program in acupuncture and oriental medicine as provided for in the Acupuncture and Oriental Medicine Practice Act and the rules of the board; and

(6) proof that he has passed the examinations approved by the board; and

B. complied with any other requirements of the board."

Chapter 53 Section 7

Section 7. Section 61-14A-11 NMSA 1978 (being Laws 1993, Chapter 158, Section 19, as amended) is amended to read:

"61-14A-11. EXAMINATIONS.--

A. The board shall establish procedures to ensure that examinations for licensing are offered at least once a year.

B. The board shall establish the deadline for receipt of the application for licensing examination and other rules relating to the taking and retaking of licensing examinations.

C. The board shall establish the passing grades for its approved examinations.

D. The board may approve, and use as a basis for licensure, examinations that are used for national certification or other examinations.

E. The board shall require each qualified applicant to pass a validated, objective written examination that covers areas that are not included in other examinations approved by the board, including, as a minimum, the following subjects:

(1) anatomy and physiology;

(2) pathology;

(3) diagnosis;

(4) pharmacology; and

(5) principles, practices and treatment techniques of acupuncture and oriental medicine.

F. The board may require each qualified applicant to pass a validated, objective practical examination that covers areas that are not included in other examinations approved by the board and that demonstrates his knowledge of and skill in the application of the diagnostic and treatment techniques of acupuncture and oriental medicine.

G. The board shall require each qualified applicant to pass a written or a practical examination or both in the following subjects:

(1) hygiene, sanitation and clean-needle technique; and

(2) needle and instrument sterilization techniques.

H. The board may require each qualified applicant to pass a written examination on the state laws and rules that pertain to the practice of acupuncture and oriental medicine.

I. If English is not the primary language of the applicant, the board may require that the applicant pass an English proficiency examination prescribed by the board."

Chapter 53 Section 8

Section 8. Section 61-14A-12 NMSA 1978 (being Laws 1993, Chapter 158, Section 20) is amended to read:

"61-14A-12. REQUIREMENTS FOR TEMPORARY LICENSING.--

A. The board shall establish the criteria for temporary licensing of out-of-state doctors of oriental medicine.

B. The board may grant a temporary license to a person who:

(1) is legally recognized to practice acupuncture and oriental medicine in another state or a foreign country or is legally recognized in another state or foreign country to practice another health care profession and who possesses knowledge and skills that are included in the scope of practice of doctors of oriental medicine;

(2) is under the sponsorship of and in association with a licensed New Mexico doctor of oriental medicine or New Mexico institute offering an educational program approved by the board;

(3) submits the completed application for temporary licensing on the form provided by the board;

(4) submits the required documentation, including proof of adequate education and training, as determined by the board;

(5) submits the required fee for application for temporary licensing;

(6) submits an affidavit stating that the applicant has not been found guilty of unprofessional conduct or incompetency; and

(7) submits an affidavit from the sponsoring and associating New Mexico doctor of oriental medicine or New Mexico institute attesting to the qualifications of the applicant and the activities the applicant will perform.

C. The board may grant a temporary license to allow the temporary licensee to:

(1) teach acupuncture and oriental medicine;

(2) consult, in association with the sponsoring doctor of oriental medicine, regarding the sponsoring doctor's patients;

(3) perform specialized diagnostic or treatment techniques in association with the sponsoring doctor of oriental medicine regarding the sponsoring doctor's patients;

(4) assist in the conducting of research in acupuncture and oriental medicine; and

(5) assist in the implementation of new techniques and technology related to acupuncture and oriental medicine.

D. Temporary licensees may engage in only those activities authorized on the temporary license.

E. The temporary license shall identify the sponsoring and associating New Mexico doctor of oriental medicine or institute.

F. The temporary license shall be issued for a period of time established by rule; provided that temporary licenses may not be issued for a period of time to exceed eighteen months, including renewals.

G. The temporary license may be renewed upon submission of:

(1) the completed application for temporary license renewal on the form provided by the board; and

(2) the required fee for temporary license renewal.

H. In the interim between regular board meetings, whenever a qualified applicant has filed his application and complied with all other requirements of this section, the board's chairman or an authorized representative of the board may grant an interim temporary license that will suffice until the next regular licensing meeting of the board."

Chapter 53 Section 9

Section 9. Section 61-14A-14 NMSA 1978 (being Laws 1993, Chapter 158, Section 22, as amended) is amended to read:

"61-14A-14. APPROVAL OF EDUCATIONAL PROGRAMS.--

A. The board shall establish by rule the criteria for board approval of educational programs in acupuncture and oriental medicine. For an educational program to meet board approval, proof shall be submitted to the board demonstrating that the educational program as a minimum:

(1) was for a period of not less than four academic years;

(2) included a minimum of nine hundred hours of supervised clinical practice;

(3) was taught by qualified teachers or tutors;

(4) required as a prerequisite to graduation personal attendance in all classes and clinics and, as a minimum, the completion of the following subjects:

(a) anatomy and physiology;

(b) pathology;

(c) diagnosis;

(d) pharmacology;

(e) oriental principles of life therapy, including diet, nutrition and counseling;

(f) theory and techniques of oriental medicine;

(g) precautions and contraindications for acupuncture treatment;

(h) theory and application of meridian pulse evaluation and meridian point location;

(i) traditional and modern methods of qi or life-energy evaluation;

(j) the prescription of herbal medicine and precautions and contraindications for its use;

(k) hygiene, sanitation and clean-needle technique;

(l) care and management of needling devices; and

(m) needle and instrument sterilization techniques; and

(5) resulted in the presentation of a certificate or diploma after completion of all the educational program requirements.

B. All in-state educational programs in acupuncture and oriental medicine with the intent to graduate students qualified to be applicants for licensing examination by the board shall be approved annually by the board. The applicant shall submit the following:

(1) the completed application for approval of an educational program;

(2) the required documentation as determined by the board;

(3) proof, as determined by the board, that the educational requirements provided for in Subsection A of this section are being met; and

(4) the required fee for application for approval of an educational program.

C. Out-of-state educational programs in acupuncture and oriental medicine with the intent to graduate students qualified to be applicants for licensing examination by the board may apply for approval by the board. The applicant shall submit the following:

(1) the completed application for approval of an educational program;

(2) the required documentation as determined by the board;

(3) proof, as determined by the board, that the educational requirements provided for in Subsection A of this section are being met; and

(4) the required fee for application for approval of an educational program.

D. Each in-state approved educational program shall renew its approval annually by submitting prior to the date established by the board:

(1) the completed application for renewal of approval of an educational program on the form provided by the board;

(2) proof, as determined by the board, that the educational requirements provided for in Subsection A of this section are being met; and

(3) the required fee for application for renewal of approval of an educational program.

E. Each out-of-state approved educational program may renew its approval annually by submitting prior to the date established by the board:

(1) the completed application for renewal of approval of an educational program on the form provided by the board;

(2) proof, as determined by the board, that the educational requirements provided for in Subsection A of this section are being met; and

(3) the required fee for application for renewal of approval of an educational program.

F. A sixty-day grace period shall be allowed each educational program after the end of the approval period, during which time the approval may be renewed by submitting:

(1) the completed application for renewal of approval of an educational program on the form provided by the board;

(2) proof, as determined by the board, that the educational requirements provided for in Subsection A of this section are being met;

(3) the required fee for application for renewal of approval of an educational program; and

(4) the required fee for late renewal of approval.

G. An approval that is not renewed by the end of the grace period shall be considered expired, and the educational program must apply as a new applicant."

Chapter 53 Section 10

Section 10. Section 61-14A-15 NMSA 1978 (being Laws 1993, Chapter 158, Section 23) is amended to read:

"61-14A-15. LICENSE RENEWAL.--

A. Each licensee shall renew his license annually by submitting prior to the date established by the board:

(1) the completed application for license renewal on the form provided by the board; and

(2) the required fee for annual license renewal.

B. The board may require proof of continuing education or other proof of competency as a requirement for renewal.

C. A sixty-day grace period shall be allowed each licensee after the end of the licensing period, during which time the license may be renewed by submitting:

(1) the completed application for license renewal on the form provided by the board;

(2) the required fee for annual license renewal; and

(3) the required late fee.

D. Any license not renewed at the end of the grace period shall be considered expired and the licensee shall not be eligible to practice within the state. For reinstatement of an expired license within one year of the date of renewal, the board shall establish any requirements or fees that are in addition to the fee for annual license renewal and may require the former licensee to reapply as a new applicant."

Chapter 53 Section 11

Section 11. A new section of the Acupuncture and Oriental Medicine Practice Act is enacted to read:

"STUDENTS AND EXTERNS--SUPERVISED PRACTICE.--

A. A student enrolled in an approved educational program may practice acupuncture and oriental medicine under the direct supervision of a teacher or tutor as part of the educational program.

B. The board may promulgate rules to govern the practice of acupuncture and oriental medicine by externs. The rules shall include qualifications for externs and supervising doctors of oriental medicine or other supervising health care professionals and the allowable scope of practice for externs. The board may charge a fee for approval and renewal of approval of extern programs. Participation as an extern is optional and not a requirement for licensure."

Chapter 53 Section 12

Section 12. A new section of the Acupuncture and Oriental Medicine Practice Act is enacted to read:

"EXTENDED OR EXPANDED PRESCRIPTIVE AUTHORITY--CERTIFICATION.--

A. The board may issue certification for extended prescriptive authority as defined by the board to a doctor of oriental medicine who has submitted completed forms provided by the board, paid the application fee for certification and submitted proof of successful completion of additional training required by rule of the board.

B. The board may issue certification for expanded prescriptive authority only for the substances listed in this section to a doctor of oriental medicine who has

submitted completed forms provided by the board, paid the application fee for certification and submitted proof of successful completion of additional training required by rule of the board. The board shall adopt the rules determined by the board of pharmacy for additional training required for the prescription or administration of caffeine, procaine, oxygen, epinephrine and bioidentical hormones. The board and the board of pharmacy shall consult as appropriate."

Chapter 53 Section 13

Section 13. Section 61-14A-22 NMSA 1978 (being Laws 1993, Chapter 158, Section 30) is amended to read:

"61-14A-22. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The board of acupuncture and oriental medicine is terminated on July 1, 2005 pursuant to the Sunset Act. The board shall continue to operate according to the Acupuncture and Oriental Medicine Practice Act until July 1, 2006. Effective July 1, 2006, Chapter 61, Article 14A NMSA 1978 is repealed."

SENATE BILL 117, AS AMENDED

CHAPTER 54

RELATING TO ANATOMICAL GIFTS; PROVIDING POWERS AND DUTIES; CLARIFYING DUTIES AND PROCEDURES UNDER THE UNIFORM ANATOMICAL GIFT ACT AND THE UNIFORM HEALTH-CARE DECISIONS ACT; PROVIDING FOR ORGAN DONOR INFORMATION ON CERTAIN MOTOR VEHICLE RECORDS; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978.

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

Chapter 54 Section 1

Section 1. Section 24-6A-1 NMSA 1978 (being Laws 1995, Chapter 116, Section 1) is amended to read:

"24-6A-1. DEFINITIONS.--As used in the Uniform Anatomical Gift Act:

A. "anatomical gift" means a donation of all or part of a human body to take effect upon or after death;

B. "decedent" means a deceased individual and includes a stillborn infant;

C. "designated requester" means a person who has completed a course offered or approved by a procurement organization that trains persons to approach potential donor families and request anatomical gifts;

D. "document of gift" means a card, a statement attached to or imprinted on a motor vehicle driver's license, an identification card, a will or other writing used to make an anatomical gift;

E. "donor" means an individual who makes an anatomical gift of all or part of the individual's body;

F. "enucleator" means an individual who has completed a course in eye enucleation conducted and certified by an accredited school of medicine and who possesses a certificate of competence issued upon completion of the course;

G. "hospital" means a facility licensed, accredited or approved as a hospital under the law of any state or a facility operated as a hospital by the United States government, a state or a subdivision of a state;

H. "part" means an organ, tissue, eye, bone, artery, blood, fluid or other portion of a human body;

I. "person" means an individual, corporation, business trust, estate, trust, partnership, joint venture, limited liability company, association, government, governmental subdivision or agency or any other legal or commercial entity;

J. "physician" means an individual licensed or otherwise authorized to practice medicine or osteopathic medicine under the laws of any state;

K. "procurement organization" means a person licensed, accredited or approved under the laws of any state for procurement, distribution or storage of human bodies or parts. The term includes a nonprofit agency that is organized to procure eye tissue for the purpose of transplantation or research and that meets the medical standards set by the eye bank association of America;

L. "state" means a state, territory or possession of the United States, the District of Columbia or the commonwealth of Puerto Rico;

M. "technician" means an individual who, under the supervision of a physician, removes or processes a part; and

N. "vascular organ" means the heart, lungs, kidneys, liver, pancreas or other organ that requires the continuous circulation of blood to remain useful for transplantation purposes and does not include human tissue, bones or corneas."

Chapter 54 Section 2

Section 2. Section 24-6A-2 NMSA 1978 (being Laws 1995, Chapter 116, Section 2) is amended to read:

"24-6A-2. MAKING, AMENDING, REVOKING AND REFUSING TO MAKE ANATOMICAL GIFTS--BY INDIVIDUAL.--

A. An individual who is at least sixteen years of age may:

(1) make an anatomical gift for any of the purposes stated in Section 24-6A-6 NMSA 1978;

(2) limit an anatomical gift to one or more of those purposes;

(3) refuse to make an anatomical gift; or

(4) revoke an anatomical gift.

B. An anatomical gift may be made only by a document of gift signed by the donor or by complying with the provisions of Section 66-5-10 NMSA 1978. If the donor cannot sign, the document of gift shall be signed by another individual and by two witnesses, all of whom have signed at the direction and in the presence of the donor and of each other, and state that it has been so signed. Revocation, suspension, expiration or cancellation of the license or identification card does not invalidate the anatomical gift.

C. A document of gift may designate a particular physician to carry out the appropriate procedures. In the absence of a designation or if the designee is not available, the donee or other person authorized to accept the anatomical gift may employ or authorize any physician, technician or enucleator to carry out the appropriate procedures.

D. An anatomical gift by will takes effect upon death of the testator, whether or not the will is probated. If, after death, the will is declared invalid for testamentary purposes, the validity of the anatomical gift is unaffected.

E. A donor may amend or revoke an anatomical gift, not made by will, only by:

(1) a signed statement;

(2) an oral statement made in the presence of two individuals;

(3) any form of communication during a terminal illness or injury addressed to a physician; or

(4) the delivery of a signed statement to a specified donee to whom a document of gift had been delivered.

F. The donor of an anatomical gift made by will may amend or revoke the gift in the manner provided for amendment or revocation of wills or as provided in Subsection E of this section.

G. An anatomical gift that is not revoked by the donor before death is irrevocable and does not require the consent or concurrence of any person after the donor's death.

H. An individual may refuse to make an anatomical gift of the individual's body or part by:

(1) a writing signed in the same manner as a document of gift;

(2) complying with the provisions of Section 66-5-10 or 66-5-401 NMSA 1978; or

(3) any other writing used to identify the individual as refusing to make an anatomical gift. During a terminal illness or injury, the refusal may be an oral statement or other form of communication.

I. In the absence of contrary indications by the donor, an anatomical gift of a part is neither a refusal to give other parts nor a limitation on an anatomical gift under Section 24-6A-3 NMSA 1978 or on a removal or release of other parts under Section 24-6A-4 NMSA 1978.

J. In the absence of contrary indications by the donor, a revocation or amendment of an anatomical gift is not a refusal to make another anatomical gift. If the donor intends a revocation to be a refusal to make an anatomical gift, the donor shall make the refusal pursuant to Subsection H of this section."

Chapter 54 Section 3

Section 3. Section 24-6A-3 NMSA 1978 (being Laws 1995, Chapter 116, Section 3) is amended to read:

"24-6A-3. MAKING, REVOKING AND OBJECTING TO ANATOMICAL GIFTS--BY OTHERS.--

A. Any member of the following classes of persons, in the order of priority listed, may make an anatomical gift of all or a part of the decedent's body for an authorized purpose, unless the decedent, at the time of death, has made an unrevoked refusal to make that anatomical gift:

(1) a guardian of the person of the decedent at the time of death, if expressly authorized by the court to make health care decisions for the decedent;

(2) an agent under a durable power of attorney that expressly authorizes the agent to make health care decisions on behalf of the decedent;

(3) the spouse of the decedent unless legally separated or unless there is a pending petition for annulment, divorce, dissolution of marriage or separation;

(4) an adult son or daughter of the decedent if only one is present or a majority of adult children present;

(5) either parent of the decedent;

(6) an adult brother or sister of the decedent if only one is present or a majority of adult siblings present;

(7) a grandparent of the decedent; or

(8) an adult who has exhibited special care and concern for the decedent and who is familiar with the decedent's values.

B. An anatomical gift may not be made by a person listed in Subsection A of this section if:

(1) a person in a prior class is available at the time of death to make an anatomical gift;

(2) the person proposing to make an anatomical gift knows of a refusal or contrary indications by the decedent; or

(3) the person proposing to make an anatomical gift knows of an objection to making an anatomical gift by a member of the person's class or a prior class.

C. An anatomical gift by a person authorized under Subsection A of this section shall be made by:

(1) a document of gift signed by the person; or

(2) the person's telegraphic, recorded telephonic or other recorded message or other form of communication from the person that is contemporaneously reduced to writing and signed by the recipient.

D. An anatomical gift by a person authorized under Subsection A of this section may be revoked by any member of the same or a prior class if, before procedures have begun for the removal of a part from the body of the decedent, the physician, technician or enucleator removing the part knows of the revocation.

E. A failure to make an anatomical gift under Subsection A of this section is not an objection to the making of an anatomical gift."

Chapter 54 Section 4

Section 4. Section 24-6A-5 NMSA 1978 (being Laws 1995, Chapter 116, Section 5) is amended to read:

"24-6A-5. REQUIRED REQUEST--SEARCH AND NOTIFICATION--CIVIL OR CRIMINAL IMMUNITY.--

A. If, at or near the time of death of a patient, there is no medical record that the patient has made or refused to make an anatomical gift, the hospital administrator or a representative designated by the administrator shall discuss the option to make or refuse to make an anatomical gift and request the making of an anatomical gift pursuant to Subsection A of Section 24-6A-3 NMSA 1978. The request shall be made with reasonable discretion and sensitivity to the circumstances of the family. A request is not required if the gift is not suitable, based upon accepted medical standards, for a purpose specified in Section 24-6A-6 NMSA 1978. An entry shall be made in the medical record of the patient, stating the name and affiliation of the individual making the request and of the name, response and relationship to the patient of the person to whom the request was made. The secretary of health may adopt regulations to implement this subsection.

B. The following persons shall make a reasonable search for a document of gift or other information identifying the bearer as a donor or as an individual who has refused to make an anatomical gift:

(1) a law enforcement officer, firefighter, emergency medical technician, emergency medical services first responder or other emergency rescuer finding an individual who the searcher believes is dead or near death; and

(2) a hospital, upon the admission of an individual at or near the time of death, if there is not immediately available any other source of that information.

C. If a document of gift or evidence of refusal to make an anatomical gift is located by the search required by Paragraph (1) of Subsection B of this section and the individual or body to whom it relates is taken to a hospital, the hospital shall be notified of the contents and the document or other evidence shall be sent to the hospital.

D. If, at or near the time of death of a patient, a hospital knows that an anatomical gift has been made pursuant to Subsection A of Section 24-6A-3 NMSA 1978 or a release and removal of a part has been permitted pursuant to Section 24-6A-4 NMSA 1978, or that a patient or an individual identified as in transit to the hospital is a donor, the hospital shall notify the donee if one is named and known to the hospital; if

not, it shall notify an appropriate procurement organization. The hospital shall cooperate in the implementation of the anatomical gift or release and removal of a part.

E. A person who in good faith acts or attempts to act in accordance with the provisions of the Uniform Anatomical Gift Act or the anatomical gift laws of another state is not liable for damages in a civil action or subject to prosecution in a criminal proceeding for his acts."

Chapter 54 Section 5

Section 5. Section 24-6A-15 NMSA 1978 (being Laws 1995, Chapter 116, Section 15) is amended to read:

"24-6A-15. SHORT TITLE.--Chapter 24, Article 6A NMSA 1978 may be cited as the "Uniform Anatomical Gift Act"."

Chapter 54 Section 6

Section 6. A new section of the Uniform Anatomical Gift Act is enacted to read:

"DEATH RECORD REVIEWS.--Every hospital shall work jointly with the appropriate procurement organization to conduct death record reviews at least annually. The procurement organization shall compile the results of the death record reviews and provide a report to the department of health by September 1 of each year; provided that the report to the department shall not identify hospitals, individual donors or recipients."

Chapter 54 Section 7

Section 7. A new section of the Uniform Anatomical Gift Act is enacted to read:

"IDENTIFICATION OF POTENTIAL DONORS.--

A. Each hospital in New Mexico, with the concurrence of its medical staff, shall develop by July 1, 2000 a protocol for identifying potential donors. The protocol shall be developed in collaboration with a procurement organization. The protocol shall provide that at or near the time of a patient's death and prior to the removal of life support, the hospital shall contact a procurement organization to determine the suitability of the patient as a donor. The person designated by the hospital to contact the procurement organization shall have the following information available prior to making the contact:

(1) the patient's identifier number;

(2) the patient's age;

(3) the cause of death; and

(4) any past medical history available.

B. The procurement organization shall determine the suitability for donation. If the procurement organization determines that donation is not appropriate based on established medical criteria, that determination shall be noted by hospital personnel on the patient's record and no further action is necessary.

C. If the procurement organization determines that the patient is a suitable candidate for donation, the procurement organization shall initiate donor proceedings by making a reasonable search for a document of gift or other information identifying the patient as a donor or as an individual who has refused to make an anatomical gift.

D. The hospital must have and implement written protocols that:

(1) incorporate an agreement with a procurement organization under which the hospital must notify, in a timely manner, the procurement organization or a third party designated by the procurement organization of patients whose deaths are imminent and prior to the removal of life support from a patient who has died in the hospital;

(2) ensure that the retrieval, processing, preservation, storage and distribution of tissues and eyes does not interfere with vascular organ procurement;

(3) ensure that the family of each potential donor is informed of its options to donate organs, tissues or eyes or to decline to donate. The person designated by the hospital to initiate the request to the family must be an organ procurement organization employee or a designated requester;

(4) encourage discretion and sensitivity with respect to the circumstances, views and beliefs of the families of potential donors; and

(5) ensure that the hospital works cooperatively with the procurement organization in educating hospital staff on donation issues, reviewing death records to improve identification of potential donors and maintaining potential donors while necessary testing and placement of anatomical gifts take place.

E. Every hospital in the state shall establish a committee to develop and implement its organ and tissue donation policy and procedure to assist its staff in identifying and evaluating terminal patients who may be suitable organ or tissue donors. The committee shall include members of the administrative, medical and nursing staffs and shall appoint a member to act as a liaison between the hospital and the state procurement organization."

Chapter 54 Section 8

Section 8. A new section of the Uniform Anatomical Gift Act is enacted to read:

"IDENTIFICATION OF POTENTIAL DONEES.--

A. If an anatomical gift of a vascular organ is made in New Mexico to a New Mexico procurement organization for transplantation purposes and the donor does not name a specific donee and the vascular organ is deemed suitable for transplantation, the New Mexico procurement organization shall use its best efforts to determine if there is a suitable recipient in New Mexico.

B. The New Mexico procurement organization may in its sole discretion enter into reciprocal agreements for the sharing of vascular organs with procurement organizations in other states. The terms of these reciprocal vascular organ sharing arrangements may provide that a vascular organ donated to a New Mexico procurement organization may be transferred to a procurement organization in another state for transplantation.

C. A New Mexico procurement organization may transfer a vascular organ to a procurement organization in another state or suitable recipient located in another state for transplantation only if:

(1) a suitable donee awaiting organ transplant in New Mexico cannot be found in a reasonable amount of time; or

(2) the New Mexico procurement organization has a reciprocal agreement for the sharing of vascular organs with a procurement organization in another state."

Chapter 54 Section 9

Section 9. Section 24-7A-4 NMSA 1978 (being Laws 1995, Chapter 182, Section 4, as amended) is amended to read:

"24-7A-4. OPTIONAL FORM.--The following form may, but need not, be used to create an advance health-care directive. The other sections of the Uniform Health-Care Decisions Act govern the effect of this or any other writing used to create an advance health-care directive. An individual may complete or modify all or any part of the following form:

"OPTIONAL ADVANCE HEALTH-CARE DIRECTIVE

Explanation

You have the right to give instructions about your own health care. You also have the right to name someone else to make health-care decisions for you. This form lets you do either or both of these things. It also lets you express your wishes regarding the designation of your primary physician.

THIS FORM IS OPTIONAL. Each paragraph and word of this form is also optional. If you use this form, you may cross out, complete or modify all or any part of it. You are free to use a different form. If you use this form, be sure to sign it and date it.

PART 1 of this form is a power of attorney for health care. PART 1 lets you name another individual as agent to make health-care decisions for you if you become incapable of making your own decisions or if you want someone else to make those decisions for you now even though you are still capable. You may also name an alternate agent to act for you if your first choice is not willing, able or reasonably available to make decisions for you. Unless related to you, your agent may not be an owner, operator or employee of a health-care institution at which you are receiving care.

Unless the form you sign limits the authority of your agent, your agent may make all health-care decisions for you. This form has a place for you to limit the authority of your agent. You need not limit the authority of your agent if you wish to rely on your agent for all health-care decisions that may have to be made. If you choose not to limit the authority of your agent, your agent will have the right to:

(a) consent or refuse consent to any care, treatment, service or procedure to maintain, diagnose or otherwise affect a physical or mental condition;

(b) select or discharge health-care providers and institutions;

(c) approve or disapprove diagnostic tests, surgical procedures, programs of medication and orders not to resuscitate; and

(d) direct the provision, withholding or withdrawal of artificial nutrition and hydration and all other forms of health care.

PART 2 of this form lets you give specific instructions about any aspect of your health care. Choices are provided for you to express your wishes regarding life-sustaining treatment, including the provision of artificial nutrition and hydration, as well as the provision of pain relief. In addition, you may express your wishes regarding whether you want to make an anatomical gift of some or all of your organs and tissue. Space is also provided for you to add to the choices you have made or for you to write out any additional wishes.

PART 3 of this form lets you designate a physician to have primary responsibility for your health care.

After completing this form, sign and date the form at the end. It is recommended but not required that you request two other individuals to sign as witnesses. Give a copy of the signed and completed form to your physician, to any other health-care providers you may have, to any health-care institution at which you are receiving care and to any health-care agents you have named. You should talk to the person you have named as

agent to make sure that he or she understands your wishes and is willing to take the responsibility.

You have the right to revoke this advance health-care directive or replace this form at any time.

* * * * * * * * * * * * * * * * * * * *

PART 1

POWER OF ATTORNEY FOR HEALTH CARE

(1) DESIGNATION OF AGENT: I designate the following individual as my agent to make health-care decisions for me:

_____

(name of individual you choose as agent)

_____

(address) (city) (state) (zip code)

_____

(home phone) (work phone)

If I revoke my agent's authority or if my agent is not willing, able or reasonably available to make a health-care decision for me, I designate as my first alternate agent:

_____

(name of individual you choose as first alternate agent)

_____

(address) (city) (state) (zip code)

_____

(home phone) (work phone)

If I revoke the authority of my agent and first alternate agent or if neither is willing, able or reasonably available to make a health-care decision for me, I designate as my second alternate agent:

_____

(name of individual you choose as second alternate agent)

_____

(address) (city) (state) (zip code)

_____

(home phone) (work phone)

(2) AGENT'S AUTHORITY: My agent is authorized to obtain and review medical records, reports and information about me and to make all health-care decisions for me, including decisions to provide, withhold or withdraw artificial nutrition, hydration and all other forms of health care to keep me alive, except as I state here:

_____

_____

(Add additional sheets if needed.)

(3) WHEN AGENT'S AUTHORITY BECOMES EFFECTIVE: My agent's authority becomes effective when my primary physician and one other qualified health-care professional determine that I am unable to make my own health-care decisions. If I initial this box ›], my agent's authority to make health-care decisions for me takes effect immediately.

(4) AGENT'S OBLIGATION: My agent shall make health-care decisions for me in accordance with this power of attorney for health care, any instructions I give in Part 2 of this form and my other wishes to the extent known to my agent. To the extent my wishes are unknown, my agent shall make health-care decisions for me in accordance with what my agent determines to be in my best interest. In determining my best interest, my agent shall consider my personal values to the extent known to my agent.

(5) NOMINATION OF GUARDIAN: If a guardian of my person needs to be appointed for me by a court, I nominate the agent designated in this form. If that agent is not willing, able or reasonably available to act as guardian, I nominate the alternate agents whom I have named, in the order designated.

PART 2

INSTRUCTIONS FOR HEALTH CARE

If you are satisfied to allow your agent to determine what is best for you in making end-of-life decisions, you need not fill out this part of the form. If you do fill out this part of the form, you may cross out any wording you do not want.

(6) END-OF-LIFE DECISIONS: If I am unable to make or communicate decisions regarding my health care, and IF (i) I have an incurable or irreversible condition that will result in my death within a relatively short time, OR (ii) I become unconscious and, to a reasonable degree of medical certainty, I will not regain consciousness, OR (iii) the likely risks and burdens of treatment would outweigh the expected benefits, THEN I direct that my health-care providers and others involved in my care provide, withhold or withdraw treatment in accordance with the choice I have initialed below in **one** of the following three boxes:

[ ] I CHOOSE NOT To Prolong Life

I do not want my life to be prolonged.

[ ] I CHOOSE To Prolong Life

I want my life to be prolonged as long as possible within the limits of generally accepted health-care standards.

[ ] I CHOOSE To Let My Agent Decide

My agent under my power of attorney for health care may make life-sustaining treatment decisions for me.

(7) ARTIFICIAL NUTRITION AND HYDRATION: If I have chosen above NOT to prolong life, I also specify by marking my initials below:

[ ] I DO NOT want artificial nutrition OR

[ ] I DO want artificial nutrition.

[ ] I DO NOT want artificial hydration unless required for my comfort OR

[ ] I DO want artificial hydration.

(8) RELIEF FROM PAIN: Regardless of the choices I have made in this form and except as I state in the following space, I direct that the best medical care possible to keep me clean, comfortable and free of pain or discomfort be provided at all times so that my dignity is maintained, even if this care hastens my death:

_____

_____

(9) ANATOMICAL GIFT DESIGNATION: Upon my death I specify as marked below whether I choose to make an anatomical gift of all or some of my organs or tissue:

[ ] I CHOOSE to make an anatomical gift of all of my organs or tissue to be determined by medical suitability at the time of death, and artificial support may be maintained long enough for organs to be removed.

[ ] I CHOOSE to make a partial anatomical gift of some of my organs and tissue as specified below, and artificial support may be maintained long enough for organs to be removed.

_____

_____

[ ] I REFUSE to make an anatomical gift of any of my organs or tissue.

[ ] I CHOOSE to let my agent decide.

(10) OTHER WISHES: (If you wish to write your own instructions, or if you wish to add to the instructions you have given above, you may do so here.) I direct that:

_____

_____

(Add additional sheets if needed.)

PART 3

PRIMARY PHYSICIAN

(11) I designate the following physician as my primary physician:

_____

(name of physician)

_____

(address) (city) (state) (zip code)

_____

(phone)

If the physician I have designated above is not willing, able or reasonably available to act as my primary physician, I designate the following physician as my primary physician:

_____

(name of physician)

_____

(address) (city) (state) (zip code)

_____

(phone)

* * * * * * * * * * * * * * * * * * * *

(12) EFFECT OF COPY: A copy of this form has the same effect as the original.

(13) REVOCATION: I understand that I may revoke this OPTIONAL ADVANCE HEALTH-CARE DIRECTIVE at any time, and that if I revoke it, I should promptly notify my supervising health-care provider and any health-care institution where I am receiving care and any others to whom I have given copies of this power of attorney. I understand that I may revoke the designation of an agent either by a signed writing or by personally informing the supervising health-care provider.

(14) SIGNATURES: Sign and date the form here:

_____ _____

(date) (sign your name)

_____ _____

(address) (print your name)

_____ _____

(city) (state) (your social security number)

(Optional) SIGNATURES OF WITNESSES:

First witness Second witness

_____ _____

(print name) (print name)

_____ _____

(address) (address)

_____ _____

(city) (state) (city) (state)

_____ _____

(signature of witness) (signature of witness)

_____ _____

(date) (date)"."

Chapter 54 Section 10

Section 10. Section 24-7A-9 NMSA 1978 (being Laws 1995, Chapter 182, Section 9) is amended to read:

"24-7A-9. IMMUNITIES.--

A. A health-care provider or health-care institution acting in good faith and in accordance with generally accepted health-care standards applicable to the health-care provider or health-care institution is not subject to civil or criminal liability or to discipline for unprofessional conduct for:

(1) complying or attempting to comply with a health-care decision of a person apparently having authority to make a health-care decision for a patient, including a decision to withhold or withdraw health care or make an anatomical gift;

(2) declining to comply with a health-care decision of a person based on a belief that the person then lacked authority;

(3) complying or attempting to comply with an advance health-care directive and assuming that the directive was valid when made and has not been revoked or terminated;

(4) declining to comply with a health-care directive as permitted by Subsection E or F of Section

24-7A-7 NMSA 1978; or

(5) complying or attempting to comply with any other provision of the Uniform Health-Care Decisions Act.

B. An individual acting as agent, guardian or surrogate under the Uniform Health-Care Decisions Act is not subject to civil or criminal liability or to discipline for unprofessional conduct for health-care decisions made in good faith."

Chapter 54 Section 11

Section 11. A new section of the Motor Vehicle Code is enacted to read:

"DWI PREVENTION AND EDUCATION PROGRAM--ORGAN DONATION.--DWI prevention and education programs for instruction permits and driver's licenses shall include information on organ donation and the provisions of the Uniform Anatomical Gift Act."

SENATE BILL 129, AS AMENDED

CHAPTER 55

RELATING TO HEALTH; PROHIBITING CERTAIN ABORTION PROCEDURES; PROVIDING CIVIL REMEDIES AND CRIMINAL PENALTIES.

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

Chapter 55 Section 1

Section 1. SHORT TITLE.--This act may be cited as the "Partial-Birth Abortion Ban Act".

Chapter 55 Section 2

Section 2. DEFINITIONS.--As used in the Partial-Birth Abortion Ban Act:

A. "abortion" means the intentional termination of the pregnancy of a female by a person who knows the female is pregnant;

B. "fetus" means the biological offspring of human parents;

C. "partial-birth abortion" means a procedure in which any person, including a physician or other health care professional, intentionally extracts an

independently viable fetus from the uterus into the vagina and mechanically extracts the cranial contents of the fetus in order to induce death; and

D. "physician" means a person licensed to practice in the state as a licensed physician pursuant to the Medical Practice Act or an osteopathic physician licensed pursuant to Chapter 61, Article 10 NMSA 1978.

Chapter 55 Section 3

Section 3. PROHIBITION OF PARTIAL-BIRTH ABORTIONS.--No person shall perform a partial-birth abortion except a physician who has determined that in his opinion the partial-birth abortion is necessary to save the life of a pregnant female or prevent great bodily harm to a pregnant female:

A. because her life is endangered or she is at risk of great bodily harm due to a physical disorder, illness or injury, including a condition caused by or arising from the pregnancy; and

B. no other medical procedure would suffice for the purpose of saving her life or preventing great bodily harm to her.

Chapter 55 Section 4

Section 4. CIVIL REMEDIES.--

A. Except as provided in Subsection B of this section, the following persons may bring a civil action to obtain relief pursuant to this section against a person who has violated the provisions of Section 3 of the Partial-Birth Abortion Ban Act:

(1) the person on whom a partial-birth abortion was performed;

(2) the biological father of the fetus that was the subject of the partial-birth abortion; and

(3) the parents of the person on whom the partial-birth abortion was performed if that person had not reached the age of majority at the time of the abortion.

B. The persons named as having a right of action in Subsection A of this section are barred from bringing a civil action pursuant to this section if:

(1) the pregnancy of the person on whom the partial-birth abortion was performed resulted from criminal conduct of the person seeking to bring the action; or

(2) the partial-birth abortion was consented to by the person seeking to bring the action.

C. A person authorized to bring a civil action pursuant to this section may recover compensatory damages for loss caused by violation of Section 3 of the Partial-Birth Abortion Ban Act.

Chapter 55 Section 5

Section 5. CRIMINAL PENALTY--EXCEPTION.--

A. Except as provided in Subsections B, C, D and E of this section, a person who violates Section 3 of the Partial-Birth Abortion Ban Act is guilty of a fourth degree felony and shall be sentenced pursuant to Section 31-18-15 NMSA 1978.

B. The provisions of the Partial-Birth Abortion Ban Act shall apply only to the exact procedure specified in that act.

C. The provisions of the Partial-Birth Abortion Ban Act are not intended to criminalize any other method of terminating a woman's pregnancy.

D. The provisions of the Partial-Birth Abortion Ban Act are not intended to subject a woman, upon whom the procedure specified in that act is performed, to criminal culpability as an accomplice, aider, abettor, solicitor or conspirator.

E. The provisions of the Partial-Birth Abortion Ban Act are not intended to subject any person to criminal culpability pursuant to laws governing attempt, solicitation or conspiracy to commit a crime.

Chapter 55 Section 6

Section 6. SEVERABILITY--SECTION 3 NOT SEVERABLE.--

A. Except for Section 3 of the Partial-Birth Abortion Ban Act, if any part or application of that act is held invalid, the remainder or its application to other situations or persons shall not be affected.

B. If any part or application of Section 3 of the Partial-Birth Abortion Ban Act is held invalid, the remainder of that act or its application to other situations or persons shall be likewise invalid. Section 3 of that act is not severable.

SENATE BILL 140, AS AMENDED

CHAPTER 56

RELATING TO SANITARY PROJECTS ASSOCIATIONS; CHANGING THE PREREQUISITES FOR INITIATING A PROJECT; CHANGING THE APPROVAL REQUIRED FOR AN ASSOCIATION TO BECOME INDEBTED OR TO ISSUE BONDS;

ALLOWING COOPERATIVE ASSOCIATIONS AND NONPROFIT CORPORATIONS TO REORGANIZE UNDER THE SANITARY PROJECTS ACT; DECLARING AN EMERGENCY.

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

Chapter 56 Section 1

Section 1. Section 3-29-2 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-28-2, as amended) is amended to read:

"3-29-2. DEFINITIONS.--As used in the Sanitary Projects Act:

A. "community" means any rural unincorporated community and includes a combination of two or more rural unincorporated communities when they have been combined for the purpose of securing the benefits of the Sanitary Projects Act;

B. "association" includes any association organized under Laws 1947, Chapter 206, Laws 1949, Chapter 79 or Laws 1951, Chapter 52, as well as any association organized under the provisions of the Sanitary Projects Act;

C. "department" means the department of environment; and

D. "fund" means the sanitary projects fund."

Chapter 56 Section 2

Section 2. Section 3-29-5 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-28-5, as amended) is amended to read:

"3-29-5. PREREQUISITE FOR INITIATING A PROJECT.--

A. As a prerequisite to initiating a project, it shall be necessary for the sponsors of each project to submit

a written proposal to the department that shall:

(1) state the number of families in the association and that all rights of way needed can and will be obtained by the association;

(2) make formal application to the department for a grant-in-aid from the fund;

(3) agree to assist the engineer engaged to prepare the plans and specifications in every reasonable way; and

(4) agree to contribute all unskilled labor and such skilled labor as is available and desirable and shall further agree to contribute local materials such as sand, gravel, stone, timbers, vigas, adobes and other materials that it is feasible and desirable to obtain locally. They shall further agree to finish the project on or before the date specified at the time the contracts are awarded.

B. No new association shall be formed under the Sanitary Projects Act by original incorporation after January 1, 2000, and no new association shall be formed by reorganization after January 1, 2000, unless the predecessor entity was in existence on January 1, 2000, if the service area of either association includes property contiguous to an incorporated municipality. The restrictions on forming an association set forth in this subsection shall not apply if the contiguous incorporated municipality does not provide the services or cannot provide the services to be provided by the association at or below the cost proposed by the association.

C. No association may construct a project required in order to allow creation of a subdivision under the provisions of the Land Subdivision Act, the New Mexico Subdivision Act or Section 47-5-9 NMSA 1978; however, an association may construct a project serving a previously approved subdivision in the service area of the association.

D. After the association has been formed and a practicing professional engineer has been engaged to handle the plans, specifications and contract documents for the job, the engineer shall list separately the balance of all labor, materials and equipment and other items that are to be paid for from state funds and that are necessary to ensure the completion of an operating project, aside from the detailed estimates covering labor and material contributions by the association. Cost estimates shall be provided for all items listed in the mutual contract and the totals shall indicate the cost of the project to the state and also the estimated equivalent total cost the association is contributing. Projects shall not be approved unless the estimated equivalent total cost the association is contributing is equal to or exceeds one-third of the total estimated state cost for a completed job. Associations may contribute financial assistance in addition to the contributions of labor or materials as specified in this subsection in order to reach their one-third contribution or to provide for completion of a project not completely financed by the provisions of the Sanitary Projects Act. Should an association enter into a loan agreement with the farmers home administration or its successor agency, the department may deposit the amount of any grant-in-aid with the farmers home administration or its successor agency for the purpose of cooperating in the financing of a single contract covering one project.

E. After the department has been satisfied that the prerequisites specified in Subsection B of this section have been complied with, the association shall be eligible for a grant-in-aid from the fund.

F. Prior to approval of project plans and specifications by the department, such plans and specifications shall be submitted to and reviewed by the local government division of the department of finance and administration for conformity to countywide water and sewer plans. Approval of the plans by the local government division shall be a prerequisite to approval of the plans, specifications and contract documents by the department."

Chapter 56 Section 3

Section 3. Section 3-29-15 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-28-15, as amended) is amended to read:

"3-29-15. ASSOCIATION CONSTITUTES BODY CORPORATE--DEBTS--ISSUANCE OF BONDS.--

A. Upon the filing of each certificate and copy thereof as provided in Section 3-29-17 NMSA 1978, the persons so associating, their successors and those who may thereafter become members of the association constitute a body corporate by the name set forth in the certificate and by such name may sue and be sued, have capacity to make contracts, acquire, hold, enjoy, dispose of and convey property real and personal and do any other act or thing necessary or proper for carrying out the purposes of their organization.

B. Associations shall have power to become indebted or issue bonds in a form approved by the attorney general for expansion and improvement of the association's facilities by pledging future income from service charges. Such indebtedness by an association is contingent upon approval by the department and the department of finance and administration and upon a proper showing by the association to both departments that the indebtedness is for necessary refinancing, refunding, expansion or improvement purposes and that the financial condition and future income of the association warrant approval of such indebtedness or issuance of bonds by the association. No association has power to become indebted or issue bonds of any kind other than as permitted by this section."

Chapter 56 Section 4

Section 4. A new section of the Sanitary Projects Act is enacted to read:

"REORGANIZATION OF COOPERATIVE ASSOCIATIONS AND NONPROFIT CORPORATIONS PURSUANT TO THE SANITARY PROJECTS ACT.--

A. Cooperative associations formed pursuant to Sections 53-4-1 through 53-4-45 NMSA 1978 and nonprofit corporations formed under the Nonprofit Corporation Act may reorganize under the Sanitary Projects Act upon approval of the reorganization by a two-thirds' vote of the directors of the cooperative association or nonprofit corporation. Notice of the meeting to consider the reorganization and a copy of the

proposed certificate of association shall be sent at least fifteen days prior to such meeting by the cooperative association to each member at his last known address and by the nonprofit corporation to each member, if any, at his last known address. Upon approval of the reorganization by the two-thirds' vote of the directors, the cooperative association or the nonprofit corporation shall execute a certificate of association pursuant to Sections 3-29-16 and 3-29-17 NMSA 1978. The certificate of association shall state that it supersedes the articles of incorporation and all amendments to the articles of incorporation of the cooperative association or the nonprofit corporation.

B. Duplicate originals of the certificate of association shall be filed with the public regulation commission. One duplicate original of the certificate of association shall be returned to the association.

C. The certificate of association is effective upon filing and supersedes the articles of incorporation and all amendments to the articles of incorporation of the prior cooperative association or nonprofit corporation. The association shall:

(1) be the surviving entity, and the separate existence of the prior cooperative association or nonprofit corporation shall cease;

(2) have all of the rights, privileges, immunities and powers and shall be subject to all the duties and liabilities of an association organized pursuant to the Sanitary Projects Act;

(3) possess all the rights, privileges, immunities and franchises of the prior cooperative association or nonprofit corporation. All property, real, personal and mixed; all debts due on whatever account; all other choses in action; and all and every other interest of or belonging to or due to the prior cooperative association or nonprofit corporation shall be taken and deemed to be transferred to and vested in the association without further act or deed. The title to any real estate, or any interest therein, vested in the prior cooperative association or nonprofit corporation shall not revert or be in any way impaired by reason of the reorganization; and

(4) be liable for all the liabilities and obligations of the prior cooperative association or nonprofit corporation, and any claim existing or action or proceeding pending by or against the cooperative association or nonprofit corporation may be prosecuted as if the reorganization had not taken place or the new association may be substituted in its place. Neither the rights of creditors nor any liens upon the property of the cooperative association or nonprofit corporation shall be impaired by the reorganization."

Chapter 56 Section 5

Section 5. 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.

Chapter 56 Section 6

Section 6. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

SENATE BILL 143, AS AMENDED, WITH EMERGENCY CLAUSE

SIGNED MARCH 6, 2000

CHAPTER 57

RELATING TO THE INSURANCE DIVISION OF THE PUBLIC REGULATION COMMISSION; PROVIDING THAT CERTAIN EMPLOYEES OF THE DIVISION MAY BE DESIGNATED AS EXEMPT FROM THE PROVISIONS OF THE PERSONNEL ACT.

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

Chapter 57 Section 1

Section 1. Section 8-8-5 NMSA 1978 (being Laws 1998, Chapter 108, Section 5) is amended to read:

"8-8-5. CHIEF OF STAFF--DIVISION DIRECTORS--OTHER STAFF.--

A. The commission shall appoint a "chief of staff" who is responsible for the day-to-day operations of the commission staff under the general direction of the commission. The chief of staff shall serve at the pleasure of the commission.

B. With the consent of the commission, the chief of staff shall appoint division directors. Appointments shall be made without reference to party affiliation and solely on the ground of fitness to perform the duties of their offices.

C. Each director, with the consent of the chief of staff, shall employ such professional, technical and support staff as necessary to carry out the duties of his division. Employees shall be hired solely on the ground of their fitness to perform the job for which they are hired. Except as provided in Subsection D of this section, division staff are subject to the provisions of the Personnel Act.

D. With the consent of the chief of staff, the superintendent of insurance may designate the following insurance division positions as exempt from the provisions of the Personnel Act: deputy superintendents, chief actuaries and bureau chiefs."

SENATE BILL 145, AS AMENDED

CHAPTER 58

RELATING TO HEALTH; PROVIDING REQUIREMENTS FOR CERTAIN HEALTH PLANS.

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

Chapter 58 Section 1

Section 1. HEALTH PLAN REQUIREMENTS.--

A. As used in this section:

(1) "clean claim" means a manually or electronically submitted claim from a participating provider that:

(a) contains substantially all the required data elements necessary for accurate adjudication without the need for additional information from outside of the health plan's system;

(b) is not materially deficient or improper, including lacking substantiating documentation currently required by the health plan; or

(c) has no particular or unusual circumstances requiring special treatment that prevent payment from being made by the health plan within thirty days of the date of receipt if submitted electronically or forty-five days if submitted manually; and

(2) "health plan" means health maintenance organizations, provider service networks or third party payers or their agents.

B. A health plan shall provide for payment of interest on the plan's liability at the rate of one and one-half percent a month on:

(1) the amount of a clean claim electronically submitted by the participating provider and not paid within thirty days of the date of receipt; and

(2) the amount of a clean claim manually submitted by the participating provider and not paid within forty-five days of the date of receipt.

C. If a health plan is unable to determine liability for or refuses to pay a claim of a participating provider within the times specified in Subsection B of this section, the health plan shall make a good-faith effort to notify the participating provider by fax, electronic or other written communication within thirty days of receipt of the claim if submitted electronically or forty-five days if submitted manually of all specific reasons

why it is not liable for the claim or that specific information is required to determine liability for the claim.

D. No contract between a health plan and a participating provider shall include a clause that has the effect of relieving either party of liability for its actions or inactions.

E. By December 1, 2000, the insurance division of the public regulation commission, with input from interested parties, including health plans and participating providers, shall promulgate rules to require health plans to provide:

(1) timely participating provider access to claims status information;

(2) processes and procedures for submitting claims and changes in coding for claims;

(3) standard claims forms; and

(4) uniform calculation of interest.

SENATE PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR

SENATE BILLS 164 AND 317

CHAPTER 59

RELATING TO LAW ENFORCEMENT; REVISING THE RATE OF DISTRIBUTION FROM THE LAW ENFORCEMENT PROTECTION FUND; AMENDING A SECTION OF THE NMSA 1978.

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

Chapter 59 Section 1

Section 1. Section 29-13-4 NMSA 1978 (being Laws 1993, Chapter 179, Section 6) is amended to read:

"29-13-4. DETERMINATION OF NEEDS AND RATE OF DISTRIBUTION.--

A. Annually on or before April 15, the division shall:

(1) consider and determine the relative needs as requested by municipal and university police and county sheriff's departments for money in the fund pursuant to the provisions of Subsection B of this section; and

(2) calculate the amount of consideration due a tribal police department pursuant to the provisions of Paragraph (10) of Subsection C of Section 29-1-11 NMSA 1978.

B. The division shall determine the rate of distribution of money in the fund to each municipal and university police and county sheriff's department as follows:

(1) all municipal police and county sheriff's departments shall be rated by class pursuant to this paragraph in accordance with populations established by the most recently completed decennial census; provided that the population of any county shall not include the population of any municipality within that county that has a municipal police department. The rate of distribution to which a municipal police or county sheriff's department is entitled is the following:

CLASS	POPULATION	AMOUNT
1	0 to 20,000	$20,000
2	20,001 to 160,000	30,000
3	160,001 to 1,280,000	40,000;

(2) university police departments shall be entitled to a rate of distribution of seventeen thousand dollars ($17,000); and

(3) municipal and university police and county sheriff's departments shall be entitled, unless allocations are adjusted pursuant to the provisions of Subsection C of this section, to six hundred dollars ($600) for each police officer or sheriff's deputy employed full time by his department who has been certified by the New Mexico law enforcement academy as a police officer or has been authorized to act as a New Mexico peace officer pursuant to the provisions of Section 29-1-11 NMSA 1978.

C. After distributions are determined in accordance with Paragraph (2) of Subsection A and Paragraphs (1) and (2) of Subsection B of this section, if the balance in the fund is insufficient to permit the total allocations provided by Paragraph (3) of Subsection B of this section, the division shall reduce that allocation to the maximum amount permitted by available money."

SENATE BILL 186

CHAPTER 60

MAKING AN APPROPRIATION TO THE INSURANCE DIVISION OF THE PUBLIC REGULATION COMMISSION FOR THE ACQUISITION OF INFORMATION AND

COMMUNICATION EQUIPMENT, INCLUDING COMPUTER HARDWARE AND SOFTWARE.

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

Chapter 60 Section 1

Section 1. APPROPRIATION.--Four hundred thousand dollars ($400,000) of the excess money remaining on July 1, 1999 in the separate fund or account created by Subsection D of Section 3 of Chapter 6 of Laws 1996 is appropriated to the insurance division of the public regulation commission for expenditure in fiscal years 2000 and 2001 for the purpose of acquiring information and communication equipment, including computer hardware and software. Any unexpended or unencumbered balance remaining at the end of fiscal year 2001 shall be transferred to the general fund.

SENATE BILL 191

CHAPTER 61

RELATING TO INSURANCE; CLARIFYING AND EXPANDING THE DEFINITION OF HEALTH INSURANCE IN THE NEW MEXICO INSURANCE CODE; DECLARING AN EMERGENCY.

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

Chapter 61 Section 1

Section 1. Section 59A-7-3 NMSA 1978 (being Laws 1984, Chapter 127, Section 109) is amended to read:

"59A-7-3. "HEALTH" INSURANCE DEFINED.--"Health" insurance is:

A. insurance of human beings against bodily injury, disablement or death by accident or accidental means, or the expense thereof;

B. insurance of human beings against disablement or expense resulting from sickness, old age or accident; and

C. insurance appertaining to insurance described in Subsections A and B of this section, including:

(1) provisions operating to safeguard contracts of health insurance against lapse in event of strike or layoff due to labor disputes; and

(2) insurance that reimburses or pays on behalf of an employer or health care plan sponsor all or part of the employer's, sponsor's or health care plan's expenses or obligations arising pursuant to a health care plan."

Chapter 61 Section 2

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

SENATE BILL 194, AS AMENDED, WITH EMERGENCY CLAUSE

SIGNED MARCH 6, 2000

CHAPTER 62

RELATING TO TAXATION; AMENDING THE TAXATION AND REVENUE DEPARTMENT ACT TO AUTHORIZE THE SECRETARY OF TAXATION AND REVENUE TO ENTER INTO A COOPERATIVE AGREEMENT WITH NAMBE PUEBLO; AMENDING THE GROSS RECEIPTS AND COMPENSATION TAX ACT TO PROVIDE FOR TAX CREDITS.

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

Chapter 62 Section 1

Section 1. Section 7-9-88.1 NMSA 1978 (being Laws 1999, Chapter 223, Section 2) is amended to read:

"7-9-88.1. CREDIT--GROSS RECEIPTS TAX--TAX PAID TO SANTA ANA PUEBLO, LAGUNA PUEBLO OR NAMBE PUEBLO.--

A. If on a taxable transaction taking place on Santa Ana pueblo land, Laguna pueblo land or Nambe pueblo land a qualifying gross receipts, sales or similar tax has been levied by the pueblo, the amount of the pueblo tax may be credited against any gross receipts tax due this state or its political subdivisions pursuant to the Gross Receipts and Compensating Tax Act and any local option gross receipts tax on the same transaction. The amount of the credit shall be equal to the lesser of seventy-five percent of the tax imposed by the pueblo on the receipts from the transaction or seventy-five percent of the revenue produced by the sum of the rate of tax imposed pursuant to the Gross Receipts and Compensating Tax Act and the total of the rates of local option gross receipts taxes imposed on the receipts from the same transaction. Notwithstanding any other provision of law to the contrary, the amount of credit taken and allowed shall be applied proportionately against the amount of the gross receipts tax and local option gross receipts taxes and against the amount of distribution of those taxes pursuant to Section 7-1-6.1 NMSA 1978.

B. A qualifying gross receipts, sales or similar tax levied by the pueblo shall be limited to a tax that:

(1) is substantially similar to the gross receipts tax imposed by the Gross Receipts and Compensating Tax Act;

(2) does not unlawfully discriminate among persons or transactions based on membership in the pueblo;

(3) is levied on the taxable transaction at a rate not greater than the total of the gross receipts tax rate and local option gross receipts tax rates imposed by this state and its political subdivisions located within the exterior boundaries of the pueblo;

(4) provides a credit against the pueblo tax equal to the lesser of twenty-five percent of the tax imposed by the pueblo on the receipts from the transactions or twenty-five percent of the tax revenue produced by the sum of the rate of tax imposed pursuant to the Gross Receipts and Compensating Tax Act and the total of the rates of the local option gross receipts taxes imposed on the receipts from the same transactions; and

(5) is subject to a cooperative agreement between the pueblo and the secretary entered into pursuant to Section 9-11-12.1 NMSA 1978 and in effect at the time of the taxable transaction.

C. For purposes of the tax credit allowed by this section:

(1) "Santa Ana pueblo land" means all land located within the exterior boundaries of the Santa Ana reservation or pueblo grant and all land held by the United States in trust for Santa Ana pueblo;

(2) "Laguna pueblo land" means all land located within the exterior boundaries of the Laguna reservation or pueblo grant and all land held by the United States in trust for Laguna pueblo; and

(3) "Nambe pueblo land" means all land located within the exterior boundaries of the Nambe reservation or pueblo grant and all land held by the United States in trust for Nambe pueblo."

Chapter 62 Section 2

Section 2. Section 9-11-12.1 NMSA 1978 (being Laws 1997, Chapter 64, Section 1, as amended) is amended to read:

"9-11-12.1. COOPERATIVE AGREEMENTS WITH SANTA CLARA PUEBLO, SANTA ANA PUEBLO, LAGUNA PUEBLO AND NAMBE PUEBLO.--

A. The secretary may enter into cooperative agreements with Santa Clara pueblo, Santa Ana pueblo, Laguna pueblo and Nambe pueblo for the exchange of information and the reciprocal, joint or common enforcement, administration, collection, remittance and audit of gross receipts tax revenues of the party jurisdictions.

B. Money collected by the department on behalf of the pueblo in accordance with an agreement entered into pursuant to this section is not money of this state and shall be collected and disbursed in accordance with the terms of the agreement, notwithstanding any other provision of law.

C. The secretary is empowered to promulgate such rules and to establish such procedures as the secretary deems appropriate for the collection and disbursement of funds due the pueblo and for the receipt of money collected by the pueblo for the account of this state under the terms of a cooperative agreement entered into under the authority of this section, including procedures for identification of taxpayers or transactions that are subject only to the taxing authority of the pueblo, taxpayers or transactions that are subject only to the taxing authority of this state, and taxpayers or transactions that are subject to the taxing authority of both party jurisdictions.

D. Nothing in an agreement entered into pursuant to this section shall be construed as authorizing this state or the pueblo to tax persons or transactions that federal law prohibits that government from taxing, or as authorizing a state or pueblo court to assert jurisdiction over persons who are not otherwise subject to that court's jurisdiction or as affecting any issue of the respective civil or criminal jurisdictions of this state or the pueblo. Nothing in an agreement entered into pursuant to this section shall be construed as an assertion or an admission by either this state or the pueblo that the taxes of one have precedence over the taxes of the other when the person or transaction is subject to the taxing authority of both governments. An agreement entered into pursuant to this section shall be construed solely as an agreement between the two party governments and shall not alter or affect the government-to-government relations between this state and any other Indian nation, tribe or pueblo.

E. Nothing in an agreement entered into with Santa Clara pueblo pursuant to this section shall apply to a taxable transaction subject to the taxing authority of a municipality pursuant to a local option gross receipts tax act or distribution to a municipality from gross receipts taxes pursuant to Section 7-1-6.4 NMSA 1978, except that such agreement shall apply to such taxable transactions, and related distributions, reported from business locations on Santa Clara pueblo land annexed by a municipality after January 1, 1997."

Chapter 62 Section 3

Section 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2000.

SENATE BILL 232

CHAPTER 63

RELATING TO COUNTY IMPROVEMENT DISTRICTS; EXPANDING THE PURPOSES FOR WHICH COUNTY IMPROVEMENT DISTRICTS MAY BE CREATED; AMENDING A SECTION OF THE COUNTY IMPROVEMENT DISTRICT ACT.

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

Chapter 63 Section 1

Section 1. Section 4-55A-4 NMSA 1978 (being Laws 1980, Chapter 91, Section 4, as amended) is amended to read:

"4-55A-4. IMPROVEMENT DISTRICT--PURPOSE.--An improvement district may be created as authorized in the County Improvement District Act in order to construct, acquire, repair or maintain in one or more locations any one or any combination of the following projects, including any right-of-way, easement or privilege appurtenant or related thereto:

A. a street, road, bridge, walkway, overpass, underpass, parkway, alley, curb, gutter or sidewalk project, including median and divider strips, parkways and boulevards, ramps and stairways, interchanges, alleys and intersections, arches, support structures and pilings and the grading, regrading, oiling, surfacing, graveling, excavating, macadamizing, paving, repairing, laying, backfilling, leveling, lighting, landscaping, beautifying or in any manner improving of all or any part of one or more streets, roads, bridges, walkways, pathways, curbs, gutters or sidewalks or any combination of the foregoing;

B. any utility project for providing gas, water, electricity or telephone service;

C. any storm sewer project, sanitary sewer project

or water project, including investigating, planning, constructing, acquiring, excavating, laying, leveling, backfilling or in any manner improving all or any part of one or more storm sewers, drains, sanitary sewers, water lines, trunk lines, mains, laterals and property connections and acquiring or improving hydrants, meters, valves, catch basins, inlets, outlets, lift or pumping stations and machinery and equipment incidental thereto or any combination of the foregoing;

D. a flood control or storm drainage project, including the investigation, planning, construction, improvement, replacement, repair or acquisition of dams, dikes, levees, ditches, canals, basins and appurtenances such as spillways, outlets, syphons and drop structures, channel construction, diversions, rectification and protection with

appurtenant structures such as concrete lining, banks, revetments, culverts, inlets, bridges, transitions and drop structures, rundowns and retaining walls, storm sewers and related appurtenances such as inlets, outlets, manholes, catch basins, syphons and pumping stations, appliances, machinery and equipment and property rights connected therewith or incidental thereto convenient and necessary to control floods or to provide drainage and lessen their danger and damages; or

E. railroad spurs, railroad tracks, railyards, rail switches and any necessary real property."

Chapter 63 Section 2

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2000.

SENATE BILL 234

CHAPTER 64

RELATING TO TAXATION; PROVIDING A ONE-TIME INCOME TAX REBATE OF PROPERTY TAX PAID ON PROPERTY ELIGIBLE FOR THE DISABLED VETERAN EXEMPTION AUTHORIZED BY ARTICLE 8, SECTION 15 OF THE CONSTITUTION OF NEW MEXICO.

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

Chapter 64 Section 1

Section 1. A new section of the Income Tax Act is enacted to read:

"TAX REBATE OF PROPERTY TAX PAID ON PROPERTY ELIGIBLE FOR DISABLED VETERAN EXEMPTION--REFUND--LIMITATION.--

A. Any resident who files an individual New Mexico income tax return and paid property tax for the 1999 property tax year on property eligible for the property tax exemption authorized by Article 8, Section 15 of the constitution of New Mexico may claim a tax rebate for the amount of property tax paid.

B. The tax rebate provided for in this section may be deducted from the taxpayer's New Mexico income tax liability for taxable year 2000. If the tax rebate exceeds the taxpayer's income tax liability, the excess shall be refunded to the taxpayer.

C. The rebate provided for in this section may be claimed only on a return filed for taxable year 2000.

D. A husband and wife who file separate returns for taxable year 2000 and could have filed a joint return for taxable year 2000 may each claim only one-half of the tax rebate that would have been allowed on the joint return."

Chapter 64 Section 2

Section 2. APPLICABILITY.--The provisions of this act apply to the 2000 taxable year.

SENATE BILL 259

CHAPTER 65

AN ACT

RELATING TO GOVERNMENT; ENACTING THE GOVERNMENTAL DISPUTE RESOLUTION ACT; AUTHORIZING AGENCIES TO RESOLVE DISPUTES THROUGH ALTERNATIVE DISPUTE RESOLUTION.

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

Chapter 65 Section 1

Section 1. SHORT TITLE.--This act may be cited as the "Governmental Dispute Resolution Act".

Chapter 65 Section 2

Section 2. DEFINITIONS.--As used in the Governmental Dispute Resolution Act:

A. "agency" means the state, political subdivisions of the state and any of their branches, agencies, departments, boards, instrumentalities or institutions;

B. "alternative dispute resolution" means a process other than litigation used to resolve disputes, including mediation, facilitation, regulatory negotiation, fact-finding, conciliation, early neutral evaluation and policy dialogues; and

C. "neutral" means a person who provides services as a mediator, fact-finder or conciliator or who otherwise aids parties to resolve disputes.

Chapter 65 Section 3

Section 3. ALTERNATIVE DISPUTE RESOLUTION--AUTHORIZATION--PROCEDURES--AGENCY COORDINATORS.--

A. An agency may use an alternative dispute resolution procedure to resolve any dispute, issue or controversy involving any of the agency's operations, programs or functions, including formal and informal adjudications, rulemakings, enforcement actions, permitting, certifications, licensing, policy development and contract administration. Alternative dispute resolution procedures are voluntary and may be used at the discretion of the agency or at the request of an interested party to a dispute.

B. An agency that chooses to use an alternative dispute resolution process shall develop an agreement with interested parties that:

(1) provides for the appointment of neutrals, consultants or experts agreed upon by all parties and serving at the will of all parties. A neutral, consultant or expert shall have no official, financial or personal conflict of interest with any issue or party in controversy unless the conflict of interest is fully disclosed in writing to all of the parties and all parties agree that the person may continue to serve;

(2) specifies any limitation periods applicable to the commencement or conclusion of formal administrative or judicial proceedings and, if applicable, specifies any time periods that the parties have agreed to waive;

(3) establishes rules for the alternative dispute resolution procedures; and

(4) sets forth how costs and expenses shall be equitably apportioned among the parties.

C. An agreement, developed pursuant to Subsection B of this section, may be included in an enforcement order, stipulation, contract, permit or other document entered into or issued by the agency.

D. The administrative head of an agency may designate an employee as the alternative dispute resolution coordinator for that agency. The coordinator shall:

(1) make recommendations to the agency's executive staff on issues and disputes that are suitable for alternative dispute resolution;

(2) analyze the agency's enabling statutes and rules to determine whether they contain impediments to the use of alternative dispute resolution procedures and suggest any modifications;

(3) monitor the agency's use of alternative dispute resolution procedures;

(4) arrange for training of agency staff in alternative dispute resolution procedures; and

(5) provide information about the agency's alternative dispute resolution procedures to the agency's staff and to the public.

Chapter 65 Section 4

Section 4. AGENCY BUDGETS--CONTRACTS FOR SERVICES.--

A. An agency may take fiscal actions necessary to achieve the objectives of the Governmental Dispute Resolution Act and pay for costs incurred in taking those actions, including reasonable fees for training, policy review, system design, evaluation and the use of impartial third parties. Unless specifically prohibited by law, an agency may request category transfers pursuant to Sections 6-3-23 through 6-3-25 NMSA 1978 for the purpose of paying the necessary costs incurred in meeting the objectives of the Governmental Dispute Resolution Act.

B. An agency may contract with another agency or with a private entity for any service necessary to meet the objectives of the Governmental Dispute Resolution Act.

Chapter 65 Section 5

Section 5. EFFECT ON OTHER LAWS.--Nothing in the Governmental Dispute Resolution Act and agreements and procedures developed pursuant to that act:

A. limits other dispute resolution procedures available to an agency;

B. denies a person a right granted under federal or other state law, including a right to an administrative or judicial hearing;

C. waives immunity from suit or affects a waiver of immunity from suit contained in any other law;

D. waives immunity granted under the eleventh amendment to the constitution of the United States;

E. authorizes binding arbitration as a method of alternative dispute resolution;

F. authorizes or requires an agency to take any action that is inconsistent or contrary to any law or rule;

G. authorizes or requires any meeting, otherwise required to be open to the public, to be closed; or

H. authorizes or requires any record, otherwise open to public inspection, to be sealed.

SENATE BILL 262, AS AMENDED

CHAPTER 66

RELATING TO THE LEGISLATURE; ALLOWING FOR REIMBURSEMENT OF CERTAIN EXPENSES FOR TRAVEL; DECLARING AN EMERGENCY.

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

Chapter 66 Section 1

Section 1. Section 2-1-9 NMSA 1978 (being Laws 1971, Chapter 1, Section 11, as amended) is amended to read:

"2-1-9. OUT-OF-STATE TRAVEL--IN-STATE TRAVEL.--

A. Out-of-state travel of members, officers and employees of the legislative branch of government shall be exempt from approval by any member of the executive branch.

B. Members of the legislature serving on official business for interim committees within the state shall receive per diem at the internal revenue service per diem rate as provided in Section 2-1-8 NMSA 1978 for each day served, including travel time, and the cost of public transportation by the shortest, most direct route or mileage for each mile traveled by the shortest, most direct route by automobiles at the internal revenue service standard mileage rate or by privately owned aircraft at the air mileage rate set out by the rules adopted by the department of finance and administration pursuant to the Per Diem and Mileage Act.

C. Reimbursement for out-of-state travel on committee business shall be as follows:

(1) the cost of the tickets on public transportation by the shortest, most direct route and the cost of airport parking; or

(2) mileage at the same rates established for in-state travel if automobiles or private airplanes are used, based on official mileage by the shortest, most direct route; and

(3) per diem for the number of days spent in travel and on committee business at the in-state rate provided for in Section 2-1-8 NMSA 1978; and

(4) in no event, however, shall the reimbursement for out-of-state travel exceed the dollar amount that would be due if the member had used first class public air transportation by the shortest, most direct route."

Chapter 66 Section 2

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

SENATE BILL 278, AS AMENDED, WITH EMERGENCY CLAUSE

SIGNED MARCH 6, 2000

CHAPTER 67

MAKING AN APPROPRIATION TO THE NEW MEXICO VETERANS' SERVICE COMMISSION TO CONTRIBUTE STATE FUNDS TO THE WOMEN IN MILITARY SERVICE FOR AMERICA MEMORIAL LOCATED IN THE ARLINGTON NATIONAL CEMETERY, WHICH IS A TRIBUTE TO ALL WOMEN WHO HAVE DEFENDED AMERICA THROUGHOUT HISTORY.

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

Chapter 67 Section 1

Section 1. APPROPRIATION.--Twenty thousand dollars ($20,000) is appropriated from the general fund to the New Mexico veterans' service commission for expenditure in fiscal year 2001 to provide, in conjunction with women in the military services for America, for commemorative activities and services in honor of women veterans. Any unexpended or unencumbered balance remaining at the end of fiscal year 2001 shall revert to the general fund.

SENATE BILL 290, AS AMENDED

CHAPTER 68

RELATING TO TAXATION; AMENDING PROVISIONS OF THE SPECIAL COUNTY HOSPITAL GROSS RECEIPTS TAX TO ALLOW IMPOSITION AND USE OF THE TAX FOR AMBULANCE SERVICE AND A RURAL HEALTH CLINIC; DECLARING AN EMERGENCY.

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

Chapter 68 Section 1

Section 1. Section 7-20E-13 NMSA 1978 (being Laws 1987, Chapter 45, Section 3, as amended) is amended to read:

"7-20E-13. SPECIAL COUNTY HOSPITAL GROSS RECEIPTS TAX--AUTHORITY TO IMPOSE--ORDINANCE REQUIREMENTS.--

A. The majority of the members of the governing body may enact an ordinance imposing an excise tax on any person engaging in business in the county for the privilege of engaging in business. The rate of the tax shall be one-eighth of one percent of the gross receipts of the person engaging in business. The tax shall be imposed for a period of not more than five years from the effective date of the ordinance imposing the tax. Having once enacted an ordinance under this section, the governing body may enact subsequent ordinances for succeeding periods of not more than five years; provided that each such ordinance meets the requirements of the County Local Option Gross Receipts Taxes Act with respect to the tax imposed by this section.

B. The tax imposed by this section may be referred to as the "special county hospital gross receipts tax".

C. For the purposes of this section, "county"

means:

(1) a county:

(a) having a population of more than ten thousand but less than ten thousand six hundred, according to the last federal decennial census or any subsequent decennial census, and having a net taxable value for rate-setting purposes for the 1986 property tax year or any subsequent year of more than eighty-two million dollars ($82,000,000) but less than eighty-two million three hundred thousand dollars ($82,300,000);

(b) that has imposed a rate of one dollar fifty cents ($1.50) to each one thousand dollars ($1,000) of net taxable value of property as defined in the Property Tax Code for property taxation purposes in the county and to each one thousand dollars ($1,000) of the assessed value of products severed and sold in the school district as determined under the Oil and Gas Ad Valorem Production Tax Act and the Oil and Gas Production Equipment Ad Valorem Tax Act or has made an appropriation of funds or has imposed another tax that produces an amount not less than the revenue that would be produced by applying a rate of one dollar fifty cents ($1.50) to each one thousand dollars ($1,000) of net taxable value of property as defined in the Property Tax Code for property taxation purposes in the school district and to each one thousand dollars ($1,000) of the assessed value of products severed and sold in the school district as determined under the Oil and Gas Ad Valorem Production Tax Act and the Oil and Gas Production Equipment Ad Valorem Tax Act. The proceeds of any tax imposed or appropriation made shall be dedicated for current operations and maintenance of a hospital owned and operated by the county or operated and maintained by another party pursuant to a lease with the county; and

(c) having qualified at any time under this definition shall continue to be qualified as a county and authorized to implement the provisions of this section; and

(2) a class B county having a population of more than seventeen thousand five hundred but less than nineteen thousand according to the 1990 federal decennial census and having a net taxable value for property tax rate-setting purposes of under three hundred million dollars ($300,000,000).

D. The governing body of a county described in Paragraph (1) of Subsection C of this section shall, at the time of enacting an ordinance imposing the rate of the tax authorized in Subsection A of this section, dedicate the revenue for current operations and maintenance of a hospital owned and operated by the county or operated and maintained by another party pursuant to a lease with the county, and the use of these proceeds shall be for the care and maintenance of sick and indigent persons and shall be an expenditure for a public purpose. In any election held, the ballot shall clearly state the purpose to which the revenue will be dedicated, and the revenue shall be used by the county for that purpose.

E. The governing body of a county described in Paragraph (2) of Subsection C of this section shall, at the time of enacting an ordinance imposing the rate of the tax authorized in Subsection A of this section, dedicate the revenue for county ambulance transport costs or for operation of a rural health clinic. In any election held, the ballot shall clearly state the purposes to which the revenue will be dedicated, and the revenue shall be used by the county for those purposes.

F. Any ordinance enacted under the provisions of Subsection A of this section shall include an effective date of either July 1 or January 1 in accordance with the provisions of the County Local Option Gross Receipts Taxes Act.

G. The ordinance shall not go into effect until after an election is held and a simple majority of the qualified electors of the county voting in the election votes in favor of imposing the special county hospital gross receipts tax. The governing body shall adopt a resolution calling for an election within seventy-five days of the date the ordinance is adopted on the question of imposing the tax. The question may be submitted to the qualified electors and voted upon as a separate question in a general election or in any special election called for that purpose by the governing body. A special election upon the question shall be called, held, conducted and canvassed in substantially the same manner as provided by law for general elections. If the question of imposing a special county hospital gross receipts tax fails, the governing body shall not again propose a special county hospital gross receipts tax for a period of one year after the election. A certified copy of any ordinance imposing a special county hospital gross receipts tax shall be mailed to the department within five days after the ordinance is adopted in any election called for that purpose.

H. A single election may be held on the question of imposing a special county hospital gross receipts tax as authorized in this section on the question of imposing a special county hospital gasoline tax as authorized in the Special County Hospital Gasoline Tax Act and on the question of imposing a mill levy pursuant to the Hospital Funding Act."

Chapter 68 Section 2

Section 2. Section 7-20E-14 NMSA 1978 (being Laws 1987, Chapter 45, Section 8, as amended) is amended to read:

"7-20E-14. SPECIAL COUNTY HOSPITAL GROSS RECEIPTS TAX--USE OF PROCEEDS.--The funds provided through the special county hospital gross receipts tax shall be administered by the governing body of the county. In a county described in Paragraph (1) of Subsection C of Section 7-20E-13 NMSA 1978, the funds shall be disbursed by the county treasurer to a hospital within the county, subject to the approval by the governing body of a budget or plan for use of the funds submitted by that hospital's governing board."

Chapter 68 Section 3

Section 3. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

SENATE BILL 310, WITH EMERGENCY CLAUSE

SIGNED MARCH 6, 2000

CHAPTER 69

RELATING TO TAXATION; AUTHORIZING IMPOSITION OF THE COUNTY HOSPITAL EMERGENCY GROSS RECEIPTS TAX FOR AN ADDITIONAL PURPOSE IN AN ADDITIONAL COUNTY; AMENDING SECTIONS OF THE NMSA 1978; DECLARING AN EMERGENCY.

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

Chapter 69 Section 1

Section 1. Section 4-62-1 NMSA 1978 (being Laws 1992, Chapter 95, Section 1, as amended) is amended to read:

"4-62-1. REVENUE BONDS--AUTHORITY TO ISSUE--PLEDGE OF REVENUES--LIMITATION ON TIME OF ISSUANCE.--

A. In addition to any other law authorizing a county to issue revenue bonds, a county may issue revenue bonds pursuant to Chapter 4, Article 62 NMSA 1978 for the purposes specified in this section. The term "pledged revenues", as used in Chapter 4, Article 62 NMSA 1978, means the revenues, net income or net revenues authorized to be pledged to the payment of particular revenue bonds as specifically provided in Subsections B through K of this section.

B. Gross receipts tax revenue bonds may be issued for one or more of the following purposes:

(1) constructing, purchasing, furnishing, equipping, rehabilitating, making additions to or making improvements to one or more public buildings or purchasing or improving ground relating thereto, including but not necessarily limited to acquiring and improving parking lots, or any combination of the foregoing;

(2) acquiring or improving county or public parking lots, structures or facilities or any combination of the foregoing;

(3) purchasing, acquiring or rehabilitating firefighting equipment or any combination of the foregoing;

(4) acquiring, extending, enlarging, bettering, repairing, otherwise improving or maintaining storm sewers and other drainage improvements, sanitary sewers, sewage treatment plants, water utilities or other water, wastewater or related facilities, including but not limited to the acquisition of rights of way and water and water rights or any combination of the foregoing;

(5) reconstructing, resurfacing, maintaining, repairing or otherwise improving existing alleys, streets, roads or bridges or any combination of the foregoing or laying off, opening, constructing or otherwise acquiring new alleys, streets, roads or bridges or any combination of the foregoing; provided that any of the foregoing improvements may include the acquisition of rights of way;

(6) purchasing, acquiring, constructing, making additions to, enlarging, bettering, extending or equipping airport facilities or any combination of the foregoing, including without limitation the acquisition of land, easements or rights of way;

(7) purchasing or otherwise acquiring or clearing land or purchasing, otherwise acquiring and beautifying land for open space;

(8) acquiring, constructing, purchasing, equipping, furnishing, making additions to, renovating, rehabilitating, beautifying or otherwise improving public parks, public recreational buildings or other public recreational facilities or any combination of the foregoing;

(9) acquiring, constructing, extending, enlarging, bettering, repairing or otherwise improving or maintaining solid waste disposal equipment, equipment for operation and maintenance of sanitary landfills, sanitary landfills, solid waste facilities or any combination of the foregoing; or

(10) acquiring, constructing, extending, bettering, repairing or otherwise improving public transit systems or any regional transit systems or facilities.

A county may pledge irrevocably any or all of the revenue from the first one-eighth of one percent increment and the third one-eighth of one percent increment of the county gross receipts tax and the county infrastructure gross receipts tax for payment of principal and interest due in connection with, and other expenses related to, gross receipts tax revenue bonds for any of the purposes authorized in this section or specific purposes or for any area of county government services. If the revenue from the first one-eighth of one percent increment or the third one-eighth of one percent increment of the county gross receipts tax or the county infrastructure gross receipts tax is pledged for payment of principal and interest as authorized by this subsection, the pledge shall require the revenues received from that increment of the county gross receipts tax or the county infrastructure gross receipts tax to be deposited into a special bond fund for payment of the principal, interest and expenses. At the end of each fiscal year, money remaining in the special bond fund after the annual obligations for the bonds are fully met may be transferred to any other fund of the county.

Revenues in excess of the annual principal and interest due on gross receipts tax revenue bonds secured by a pledge of gross receipts tax revenue may be accumulated in a debt service reserve account. The governing body of the county may appoint a commercial bank trust department to act as trustee of the proceeds of the tax and to administer the payment of principal of and interest on the bonds.

C. Fire protection revenue bonds may be issued for acquiring, extending, enlarging, bettering, repairing, improving, constructing, purchasing, furnishing, equipping or rehabilitating any independent fire district project or facilities, including where applicable purchasing, otherwise acquiring or improving the ground for the project, or any combination of such purposes. A county may pledge irrevocably any or all of the county fire protection excise tax revenue for payment of principal and interest due in connection with, and other expenses related to, fire protection revenue bonds. These bonds may be referred to in Chapter 4, Article 62 NMSA 1978 as "fire protection revenue bonds".

D. Environmental revenue bonds may be issued for the acquisition and construction of solid waste facilities, water facilities, wastewater facilities, sewer systems and related facilities. A county may pledge irrevocably any or all of the county environmental services gross receipts tax revenue for payment of principal and interest due in connection with, and other expenses related to, environmental revenue bonds. These bonds may be referred to in Chapter 4, Article 62 NMSA 1978 as "environmental revenue bonds".

E. Gasoline tax revenue bonds may be issued for the acquisition of rights of way for and the construction, reconstruction, resurfacing, maintenance, repair or other improvement of county roads and bridges. A county may pledge irrevocably any or all of the county gasoline tax revenue for payment of principal and interest due in connection with, and other expenses related to, county gasoline tax revenue bonds. These bonds may be referred to in Chapter 4, Article 62 NMSA 1978 as "gasoline tax revenue bonds".

F. Utility revenue bonds or joint utility revenue bonds may be issued for acquiring, extending, enlarging, bettering, repairing or otherwise improving water facilities, sewer facilities, gas facilities or electric facilities or for any combination of the foregoing purposes. A county may pledge irrevocably any or all of the net revenues from the operation of the utility or joint utility for which the particular utility or joint utility bonds are issued to the payment of principal and interest due in connection with, and other expenses related to, utility or joint utility revenue bonds. These bonds may be referred to in Chapter 4, Article 62 NMSA 1978 as "utility revenue bonds" or "joint utility revenue bonds".

G. Project revenue bonds may be issued for acquiring, extending, enlarging, bettering, repairing, improving, constructing, purchasing, furnishing, equipping or rehabilitating any revenue-producing project, including as applicable purchasing, otherwise acquiring or improving the ground therefor and including but not limited to acquiring and improving parking lots, or may be issued for any combination of the foregoing purposes. The county may pledge irrevocably any or all of the net revenues from the operation of the revenue-producing project for which the particular project revenue bonds are issued to the payment of the interest on and principal of the project revenue bonds. The net revenues of any revenue-producing project may not be pledged to the project revenue bonds issued for any other revenue-producing project that is clearly unrelated in nature; but nothing in this subsection prevents the pledge to any of the project revenue bonds of the revenues received from existing, future or disconnected facilities and equipment that are related to and that may constitute a part of the particular revenue-producing project. A general determination by the governing body that facilities or equipment is reasonably related to and constitute a part of a specified revenue-producing project shall be conclusive if set forth in the proceedings authorizing the project revenue bonds. As used in Chapter 4, Article 62 NMSA 1978:

(1) "project revenue bonds" means the bonds authorized in this subsection; and

(2) "project revenues" means the net revenues of revenue-producing projects that may be pledged to project revenue bonds pursuant to this subsection.

H. Fire district revenue bonds may be issued for acquiring, extending, enlarging, bettering, repairing, improving, constructing, purchasing, furnishing, equipping and rehabilitating any fire district project, including where applicable

purchasing, otherwise acquiring or improving the ground therefor, or for any combination of the foregoing purposes. The county may pledge irrevocably any or all of the revenues received by the fire district from the fire protection fund as provided in the Fire Protection Fund Law and any or all of the revenues provided for the operation of the fire district project for which the particular bonds are issued to the payment of the interest on and principal of the bonds. The revenues of a fire district project shall not be pledged to the bonds issued for a fire district project that clearly is unrelated in its purpose; but nothing in this section prevents the pledge to such bonds of revenues received from existing, future or disconnected facilities and equipment that are related to and that may constitute a part of the particular fire district project. A general determination by the governing body of the county that facilities or equipment is reasonably related to and constitute a part of a specified fire district project shall be conclusive if set forth in the proceedings authorizing the fire district bonds.

I. Law enforcement protection revenue bonds may be issued for the repair and purchase of law enforcement apparatus and equipment that meet nationally recognized standards. The county may pledge irrevocably any or all of the revenues received by the county from the law enforcement protection fund distributions pursuant to the Law Enforcement Protection Fund Act to the payment of the interest on and principal of the law enforcement protection revenue bonds.

J. Hospital emergency gross receipts tax revenue bonds may be issued for acquisition, equipping, remodeling or improvement of a county hospital or county health facility. A county may pledge irrevocably, to the payment of the interest on and principal of the hospital emergency gross receipts tax revenue bonds, any or all of the revenues received by the county from a county hospital emergency gross receipts tax imposed pursuant to Section 7-20E-12.1 NMSA 1978 and dedicated to payment of bonds or a loan for acquisition, equipping, remodeling or improvement of a county hospital or county health facility.

K. Economic development gross receipts tax revenue bonds may be issued for the purpose of furthering economic development projects as defined in the Local Economic Development Act. A county may pledge irrevocably any or all of the county infrastructure gross receipts tax to the payment of the interest on and principal of the economic development gross receipts tax revenue bonds for any of the purposes authorized in this subsection.

L. Except for the purpose of refunding previous revenue bond issues, no county may sell revenue bonds payable from pledged revenue after the expiration of two years from the date of the ordinance authorizing the issuance of the bonds or, for bonds to be issued and sold to the New Mexico finance authority as authorized in Subsection C of Section 4-62-4 NMSA 1978, after the expiration of two years from the date of the resolution authorizing the issuance of the bonds. However, any period of time during which a particular revenue bond issue is in litigation shall not be counted in determining the expiration date of that issue.

M. No bonds may be issued by a county, other than an H class county, a class B county as defined in Section 4-36-8 NMSA 1978 or a class A county as described in Section 4-36-10 NMSA 1978, to acquire, equip, extend, enlarge, better, repair or construct a utility unless the utility is regulated by the public regulation commission pursuant to the Public Utility Act and the issuance of the bonds is approved by the commission. For purposes of Chapter 4, Article 62 NMSA 1978, a "utility" includes but is not limited to a water, wastewater, sewer, gas or electric utility or joint utility serving the public. H class counties shall obtain public regulation commission approvals required by Section 3-23-3 NMSA 1978.

N. Any law that imposes or authorizes the imposition of a county gross receipts tax, a county environmental services gross receipts tax, a county fire protection excise tax, a county infrastructure gross receipts tax, the gasoline tax or the county hospital emergency gross receipts tax, or that affects any of those taxes, shall not be repealed or amended in such a manner as to impair outstanding revenue bonds that are issued pursuant to Chapter 4, Article 62 NMSA 1978 and that may be secured by a pledge of those taxes unless the outstanding revenue bonds have been discharged in full or provision has been fully made therefor.

O. As used in this section:

(1) "county infrastructure gross receipts tax revenue" means the revenue from the county infrastructure gross receipts tax transferred to the county pursuant to Section 7-1-6.13 NMSA 1978;

(2) "county environmental services gross receipts tax revenue" means the revenue from the county environmental services gross receipts tax transferred to the county pursuant to Section 7-1-6.13 NMSA 1978;

(3) "county fire protection excise tax revenue" means the revenue from the county fire protection excise tax transferred to the county pursuant to Section 7-1-6.13 NMSA 1978;

(4) "county gross receipts tax revenue" means the revenue attributable to the first one-eighth of one percent and the third one-eighth of one percent increments of the county gross receipts tax transferred to the county pursuant to Section 7-1-6.13 NMSA 1978 and any distribution related to the first one-eighth of one percent made pursuant to Section 7-1-6.16 NMSA 1978;

(5) "gasoline tax revenue" means the revenue from that portion of the gasoline tax distributed to the county pursuant to Sections 7-1-6.9 and 7-1-6.26 NMSA 1978; and

(6) "public building" includes but is not limited to fire stations, police buildings, county or regional jails, county or regional juvenile detention facilities, libraries, museums, auditoriums, convention halls, hospitals, buildings for administrative

offices, courthouses and garages for housing, repairing and maintaining county vehicles and equipment.

P. As used in Chapter 4, Article 62 NMSA 1978, the term "bond" means any obligation of a county issued under Chapter 4, Article 62 NMSA 1978, whether designated as a bond, note, loan, warrant, debenture, lease-purchase agreement or other instrument evidencing an obligation of a county to make payments."

Chapter 69 Section 2

Section 2. Section 7-20E-12.1 NMSA 1978 (being Laws 1994, Chapter 14, Section 1, as amended) is amended to read:

"7-20E-12.1. COUNTY HOSPITAL EMERGENCY GROSS RECEIPTS TAX--AUTHORITY TO IMPOSE--USE OF PROCEEDS.--

A. A majority of the members of a governing body may enact an ordinance imposing an excise tax on a 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. On or after July 1, 1997:

(1) in a county described in Paragraph (1) of Subsection D of this section, the tax may be imposed for the period necessary for payment of bonds or a loan for acquisition, equipping, remodeling or improvement of a county hospital facility, but the period shall not exceed twenty years from the effective date of the ordinance imposing the tax for that period; and

(2) in a county described in Paragraph (2) of Subsection D of this section, the tax may be imposed for the period necessary for payment of bonds or a loan for acquisition, equipping, remodeling or improvement of a county health facility, but the period shall not exceed twenty years from the effective 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:

(1) if the effective date of the tax is prior to July 1, 1997, the governing body shall dedicate the revenue for current operations and maintenance of a hospital owned by the county or a hospital with which the county has entered into a health care facilities contract; provided that a majority of the members of a governing

body may enact an ordinance to change the purposes for which the revenue from a previously imposed tax is dedicated and to dedicate that revenue during the remainder of the tax imposition period to payment of bonds or a loan for acquisition, equipping, remodeling or improvement of a county hospital facility; and

(2) if the effective date of the tax is on or after July 1, 1997:

(a) the governing body of a county described in Paragraph (1) of Subsection D of this section shall dedicate the revenue for the period of time the tax is imposed to payment of a bond or loan for acquisition, equipping, remodeling and improvement of a county hospital facility; and

(b) the governing body of county described in Paragraph (2) of Subsection D of this section shall dedicate the revenue for the period of time the tax is imposed to payment of a bond or loan for acquisition, equipping, remodeling and improvement of a county health facility.

D. As used in this section, "county" means:

(1) 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); or

(2) 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 1997 property tax year of more than one hundred million dollars ($100,000,000) but less than one hundred twenty million dollars ($120,000,000)."

Chapter 69 Section 3

Section 3. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

SENATE BILL 353, AS AMENDED, WITH EMERGENCY CLAUSE

SIGNED MARCH 6, 2000

CHAPTER 70

RELATING TO MOTOR VEHICLES; PROVIDING FOR SPECIAL REGISTRATION PLATES FOR VOLUNTEER FIREFIGHTERS.

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

Chapter 70 Section 1

Section 1. Section 66-3-422 NMSA 1978 (being Laws 1998, Chapter 21, Section 1) is amended to read:

"66-3-422. SPECIAL REGISTRATION PLATES FOR FIREFIGHTERS AND VOLUNTEER FIREFIGHTERS.--

A. The department shall issue special registration plates to any person employed as a New Mexico firefighter, upon the submission by the person of proof satisfactory to the division that he is currently employed as a New Mexico firefighter, including submission of a signed consent form from the fire chief.

B. The department shall issue special registration plates to any person who is an active volunteer firefighter with a volunteer fire department recognized by the state fire marshal's office upon the submission by the person of proof satisfactory to the department that he is currently an active member of a recognized volunteer fire department. Such proof shall include the submission of a signed consent form from the fire chief.

C. No person shall represent himself to be a New Mexico firefighter or volunteer firefighter if he is, in fact, not a New Mexico firefighter or volunteer firefighter. The secretary shall determine what constitutes satisfactory proof of employment as a New Mexico firefighter or status as a volunteer firefighter.

D. A person who violates the provisions of Subsection C of this section is guilty of a petty misdemeanor and shall be sentenced pursuant to Section 31-19-1 NMSA 1978.

E. A fee of twenty-five dollars ($25.00), which shall be in addition to the regular motor vehicle registration fee, shall be collected by the department for the original issuance of the special registration plate for New Mexico firefighters and volunteer firefighters.

F. Ten dollars ($10.00) of the fee collected pursuant to Subsection E of this section shall be retained by the department and shall be appropriated to the department to defray the cost of making and issuing special registration plates for New Mexico firefighters and volunteer firefighters.

G. The amount of the fee collected pursuant to this section less any amount distributed pursuant to Subsection F of this section shall be deposited in the motor vehicle suspense fund for distribution in accordance with Section 66-6-23 NMSA 1978.

H. The secretary shall approve the final plate design for the special registration plates for New Mexico firefighters in accordance with New Mexico law. The

secretary shall approve and issue a separate and distinctive plate clearly marked as "volunteer" for issuance to volunteer firefighters.

I. When the firefighter holding a special plate ceases to be employed as a firefighter or serve as an active volunteer firefighter, he shall immediately remove the plate from the vehicle and return it to the secretary, at which time it shall be exchanged for a regular registration plate. When a firefighter holding a special plate retires from his position as firefighter, he may retain the special plate."

SENATE BILL 354

CHAPTER 71

RELATING TO MOTOR VEHICLES; AMENDING THE NEW MEXICO COMMERCIAL DRIVER'S LICENSE ACT TO COMPLY WITH FEDERAL REQUIREMENTS PERTAINING TO DISQUALIFICATIONS; INCREASING PENALTIES.

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

Chapter 71 Section 1

Section 1. Section 66-5-52 NMSA 1978 (being Laws 1989, Chapter 14, Section 1, as amended) is amended to read:

"66-5-52. SHORT TITLE.--Sections 66-5-52 through 66-5-71 NMSA 1978 may be cited as the "New Mexico Commercial Driver's License Act"."

Chapter 71 Section 2

Section 2. Section 66-5-68 NMSA 1978 (being Laws 1989, Chapter 14, Section 17, as amended) is amended to read:

"66-5-68. DISQUALIFICATION.--

A. The department shall disqualify a person from driving a commercial motor vehicle for a period of not less than one year if the person:

(1) refuses to submit to a chemical test when requested pursuant to the provisions of the Implied Consent Act; or

(2) is convicted of a violation of:

(a) driving a commercial motor vehicle under the influence of intoxicating liquor or drugs in violation of Section 66-5-68.1 NMSA 1978, Section 66-8-102 NMSA 1978, an ordinance of a municipality of this state or the law of another state;

(b) leaving the scene of an accident involving a commercial motor vehicle driven by the person in violation of Section 66-7-201 NMSA 1978 or an ordinance of a municipality of this state or the law of another state; or

(c) using a commercial motor vehicle in the commission of any felony.

B. The department shall disqualify a person from driving a commercial motor vehicle for a period of not less than three years if any of the violations specified in Subsection A of this section occur while transporting a hazardous material required to be placarded.

C. The department shall disqualify a person from driving a commercial motor vehicle for life if convicted of two or more violations of any of the offenses specified in Subsection A of this section, or any combination of those offenses, arising from two or more separate incidents, but the secretary may issue regulations establishing guidelines, including conditions, under which a disqualification for life under this subsection may be reduced to a period of not less than ten years. This subsection applies only to those offenses committed after July 1, 1989.

D. The department shall disqualify a person from driving a commercial motor vehicle for life if the person uses a commercial motor vehicle in the commission of any felony involving the manufacture, distribution or dispensing of a controlled substance or the possession with intent to manufacture, distribute or dispense a controlled substance.

E. The department shall disqualify a person from driving a commercial motor vehicle for a period of not less than sixty days if convicted of two serious traffic violations or one hundred twenty days if convicted of three serious traffic violations, if the violations were committed while driving a commercial motor vehicle, arising from separate incidents occurring within a three-year period.

F. The department shall disqualify a person from driving a commercial motor vehicle for a period of not less than one hundred eighty days nor more than two years if the person is convicted of a first violation of an out-of-service order while transporting hazardous materials required to be placarded pursuant to the federal Hazardous Materials Transportation Act or while operating a motor vehicle designed to transport more than fifteen passengers, including the driver. The department shall disqualify a person from driving a commercial motor vehicle for a period of not less than three years nor more than five years if, during any ten-year period, the person is convicted of any subsequent violations of out-of-service orders, in separate incidents, while transporting hazardous materials required to be placarded pursuant to that act or while operating a motor vehicle designed to transport more than fifteen passengers, including the driver.

G. When a person is disqualified from driving a commercial motor vehicle, any commercial driver's license held by that person is invalidated without separate proceeding of any kind and the driver is not eligible to apply for a commercial driver's license until the period of time for which the driver was disqualified has elapsed.

H. After disqualifying, suspending, revoking or canceling a commercial driver's license, the department shall, within ten days, update its records to reflect that action. After disqualifying, suspending, revoking or canceling a nonresident commercial driver's privileges, the department shall, within ten days, notify the licensing authority of the state that issued the commercial driver's license.

I. For purposes of this section, the term "convicted" includes a license revocation pursuant to the Implied Consent Act or the implied consent act of another state."

Chapter 71 Section 3

Section 3. Section 66-5-71 NMSA 1978 (being Laws 1998, Chapter 17, Section 5) is amended to read:

"66-5-71. PENALTIES FOR VIOLATION OF OUT-OF-SERVICE ORDERS.--

A. A driver who is convicted of violating an out-of-service order shall be subject to a civil penalty of not less than one thousand dollars ($1,000) or more than two thousand five hundred dollars ($2,500), in addition to disqualification as provided in Subsection C of this section.

B. An employer who is convicted of a violation of Subsection C of Section 66-5-58 NMSA 1978 shall be subject to a civil penalty of not less than two thousand five hundred dollars ($2,500) or more than ten thousand dollars ($10,000).

C. A driver who is convicted of violating an out-of-service order shall be disqualified for:

(1) not less than ninety days or more than one year if the driver is convicted of a first violation of an out-of-service order;

(2) not less than one year or more than five years if, during any ten-year period, the driver is convicted of two violations of out-of-service orders in separate incidents; and

(3) not less than three years or more than five years if, during any ten-year period, the driver is convicted of three or more violations of out-of-service orders in separate incidents."

SENATE BILL 365

CHAPTER 72

RELATING TO NATURAL RESOURCES CONSERVATION; MAKING AN APPROPRIATION FOR THE ACQUISITION OF EAGLE NEST LAKE.

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

Chapter 72 Section 1

Section 1. APPROPRIATION.--Four million dollars ($4,000,000) is appropriated from the game protection fund to the department of game and fish for expenditure in fiscal years 2001 through 2009 to begin acquiring Eagle Nest lake. The department may propose land for trade as part of the purchase agreement. The department shall report to the legislature by December 1, 2000 on the progress toward finalization of the purchase. Any unexpended or unencumbered balance remaining at the end of fiscal year 2009 shall revert to the game protection fund.

SENATE BILL 366, AS AMENDED

CHAPTER 73

RELATING TO WATER; PROVIDING FOR MUNICIPAL WATER USERS' ASSOCIATIONS' CONTRACTS WITH IRRIGATION DISTRICTS; DECLARING AN EMERGENCY.

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

Chapter 73 Section 1

Section 1. A new section of Chapter 73, Article 10 NMSA 1978 is enacted to read:

"MUNICIPAL WATER USERS' ASSOCIATIONS--CONTRACTUAL AUTHORITY WITH IRRIGATION DISTRICTS.--

A. Municipalities, counties, state universities, member-owned community water systems and public utilities supplying water to municipalities or counties, which supply water to lands within the boundaries of irrigation districts organized pursuant to Chapter 73, Articles 10 and 11 NMSA 1978; and the interstate stream commission, with approval of the irrigation district, may establish municipal water users' associations within the boundaries of irrigation districts organized pursuant to Chapter 73, Articles 10 and 11 NMSA 1978.

B. Municipal water users' associations may lease the use of annual allotments of project water from owners of tracts of land within the irrigation district boundaries pursuant to the provisions of this section.

C. An irrigation district organized pursuant to Chapter 73, Articles 10 and 11 NMSA 1978 may contract with a municipal water users' association to:

(1) consolidate assessments to district members participating in an association;

(2) assess an association for the total assessed acreage of district members participating in the association;

(3) coordinate the delivery of project water for all assessed acreage participating in the association; and

(4) place the association as the record owner on the irrigation district's tax statement for the duration of the participation by district members in an association.

D. An irrigation district organized pursuant to Chapter 73, Articles 10 and 11 NMSA 1978 may:

(1) make assessments and levies on land within a municipal water users' association;

(2) impose reasonable administrative fees on a municipal water users' association; and

(3) adopt rules to carry out the provisions of this section."

Chapter 73 Section 2

Section 2. Section 72-1-9 NMSA 1978 (being Laws 1985, Chapter 198, Section 1, as amended) is amended to read:

"72-1-9. MUNICIPAL, COUNTY, MEMBER-OWNED COMMUNITY WATER SYSTEMS AND STATE UNIVERSITY WATER DEVELOPMENT PLANS--PRESERVATION OF MUNICIPAL, COUNTY AND STATE UNIVERSITY WATER SUPPLIES.--

A. It is recognized by the state of New Mexico that it promotes the public welfare and the conservation of water within the state for municipalities, counties, state universities, member-owned community water systems, municipal water users' associations and public utilities supplying water to municipalities or counties to plan for the reasonable development and use of water resources. The state further recognizes

the state engineer's administrative policy of not allowing municipalities, member-owned community water systems, counties and state universities to acquire and hold, unused, water rights in an amount greater than their reasonable needs within forty years.

B. Municipalities, counties, state universities, member-owned community water systems, municipal water users' associations and public utilities supplying water to municipalities or counties shall be allowed a water use planning period not to exceed forty years, and water rights for municipalities, counties, state universities, member-owned community water systems, municipal water users' associations and public utilities supplying water to such municipalities or counties shall be based upon a water development plan the implementation of which shall not exceed a forty-year period from the date of the application for an appropriation or a change of place or purpose of use pursuant to a water development plan or for preservation of a municipal, county, member-owned community water system or state university water supply for reasonably projected additional needs within forty years."

Chapter 73 Section 3

Section 3. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

SENATE BILL 385, AS AMENDED, WITH EMERGENCY CLAUSE

SIGNED MARCH 6, 2000

CHAPTER 74

RELATING TO VOCATIONAL EDUCATION; PROVIDING THE STATE BOARD OF EDUCATION WITH AUTHORITY TO DETERMINE POLICY FOR VOCATIONAL PROGRAMS THAT ARE PART OF A JUVENILE CONSTRUCTION INDUSTRIES INITIATIVE; AMENDING A SECTION OF THE PUBLIC SCHOOL CODE.

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

Chapter 74 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, including vocational programs that are part of a juvenile construction industries initiative for juveniles who are committed to the custody of the children, youth and families department;

C. appoint a state superintendent;

D. purchase and loan instructional material to students pursuant to the Instructional Material Law and adopt rules 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 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 the New Mexico military institute;

K. adopt rules 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 adopt and promulgate rules 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 promulgated by any association or organization attempting to regulate any public school activity and invalidate any rule in conflict with any rule promulgated by the state board. The state board shall require any association or organization attempting to regulate any public school activity to comply with the provisions of the Open Meetings Act and be subject to the inspection of the Public Records Act. 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 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 rules; 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 rules 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;

Z. enforce requirements for home schools. Upon finding that a home school is not in compliance with law, the state board has authority to order that a student attend a public school or a private school; and

AA. develop a systemic framework for professional development that provides training to ensure quality teachers and principals and that improves and enhances student achievement. The state board shall work with public school educators, the commission on higher education and institutions of higher education to establish the framework. The framework shall include:

(1) the criteria for school districts to apply for professional development funds, including an evaluation component that will be used by the department of education in approving local school district professional development plans; and

(2) guidelines for developing extensive professional development activities for school districts, including teaching strategies, curriculum materials, distance learning networks and web sites to ensure that the state board's rules pertaining to content standards and benchmarks are used by New Mexico teachers."

Chapter 74 Section 2

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2000.

SENATE BILL 390

CHAPTER 75

RELATING TO HEALTH CARE FINANCING; INCLUDING CAPITAL EQUIPMENT IN THE DEFINITION OF CAPITAL PROJECT IN THE PRIMARY CARE CAPITAL FUNDING ACT.

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

Chapter 75 Section 1

Section 1. Section 24-1C-3 NMSA 1978 (being Laws 1994, Chapter 62, Section 9) is amended to read:

"24-1C-3. DEFINITIONS.--As used in the Primary Care Capital Funding Act:

A. "authority" means the New Mexico finance authority;

B. "capital project" means repair, renovation or construction of a facility; purchase of land; or acquisition of capital equipment of a long-term nature;

C. "department" means the department of health;

D. "eligible entity" means a community-based nonprofit primary care clinic or hospice that operates in a rural or other health care underserved area of the state and that has assets totaling less than ten million dollars ($10,000,000) and is a 501(c)(3) nonprofit corporation for federal income tax purposes;

E. "fund" means the primary care capital fund; and

F. "primary care" means the first level of basic or general health care for an individual's health needs, including diagnostic and treatment services; "primary care" includes the provision of mental health services if those services are integrated into the eligible entity's service array."

HOUSE BILL 38

CHAPTER 76

RELATING TO INVESTMENT OF THE SEVERANCE TAX PERMANENT FUND; CHANGING CERTAIN PROVISIONS PERTAINING TO INVESTMENT OF THE SEVERANCE TAX PERMANENT FUND IN NEW MEXICO VENTURE CAPITAL FUNDS.

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

Chapter 76 Section 1

Section 1. Section 7-27-5.15 NMSA 1978 (being Laws 1990, Chapter 126, Section 5, as amended) is amended to read:

"7-27-5.15. NEW MEXICO VENTURE CAPITAL FUND INVESTMENTS.--

A. No more than three percent of the market value of the severance tax permanent fund may be invested in New Mexico venture capital funds under this section.

B. If an investment is made under this section, not more than fifteen million dollars ($15,000,000) of the amount authorized for investment pursuant to Subsection A of this section shall be invested in any one New Mexico venture capital fund. The amount invested in any one New Mexico venture capital fund shall not exceed fifty percent of the committed capital of that fund.

C. In making investments pursuant to this section, the council shall give consideration to investments in New Mexico venture capital funds whose investments enhance the economic development objectives of the state.

D. The state investment officer shall make investments pursuant to this section only upon approval of the council and upon review of the recommendation of the venture capital investment advisory committee. The state investment officer is authorized to make investments pursuant to this section contingent upon a New Mexico venture capital fund securing paid-in investments from other accredited investors for the balance of the minimum committed capital of the fund.

E. As used in this section:

(1) "committed capital" means the sum of the fixed amounts of money which accredited investors have obligated for investment in a New Mexico venture capital fund and which fixed amounts may be invested in that fund on one or more payments over time; and

(2) "New Mexico venture capital fund" means any limited partnership, limited liability company or corporation organized and operating in the United States and maintaining an office staffed by a full-time investment officer in New Mexico that:

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

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

(c) has a minimum committed capital of fifteen million dollars ($15,000,000);

(d) has at least one full-time manager with at least three years of professional experience in assessing the growth prospects of businesses or evaluating business plans and who has established permanent residency in the state;

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

(f) accepts investments only from accredited investors as that term is defined in Section 2 of the federal Securities Act of 1933, as amended, (15 U.S.C. Section 77(b)) and rules and regulations promulgated pursuant to that section."

HOUSE BILL 114

CHAPTER 77

RELATING TO CIGARETTES; ENACTING THE CIGARETTE ENFORCEMENT ACT; PRESCRIBING CRIMINAL PENALTIES.

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

Chapter 77 Section 1

Section 1. SHORT TITLE.--This act may be cited as the "Cigarette Enforcement Act".

Chapter 77 Section 2

Section 2. DEFINITIONS.--As used in the Cigarette Enforcement Act:

A. "cigarette" means any roll of tobacco or any substitute therefor wrapped in paper or any substance other than tobacco;

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. "importer" means "importer" as that term is defined in 26 USCA 5702(1);

D. "package" means "package" as that term is defined in 15 USCA 1332(4); and

E. "secretary" means the secretary of taxation and revenue.

Chapter 77 Section 3

Section 3. PROHIBITED CONDUCT.--It is unlawful for a person to:

A. sell or distribute in this state; acquire, hold, own, possess or transport for sale or distribution in this state; or to import, or cause to be imported, into this state for sale or distribution in this state:

(1) cigarettes, the package of which:

(a) bears a statement, label, stamp, sticker or notice indicating that the manufacturer did not intend the cigarettes to be sold, distributed or used in the United States, including labels that state: "for export only", "U.S. tax exempt", "for use outside U.S." or similar wording; or

(b) does not comply with: 1) all requirements imposed by or pursuant to federal law regarding warnings and other information on packages of cigarettes manufactured, packaged or imported for sale, distribution or use in the United States, including the precise warning labels specified in 15 USCA 1333; and 2) all federal trademark and copyright laws;

(2) cigarettes imported into the United States on or after January 1, 2000 in violation of 26 USCA 5754, any other federal law or federal implementing regulations;

(3) cigarettes that the person acting in regard thereto otherwise knows or has reason to know the manufacturer did not intend to be sold, distributed or used in the United States; or

(4) cigarettes for which there has not been submitted to the secretary of the United States department of health and human services the list or lists of the ingredients added to tobacco in the manufacture of those cigarettes as required by 15 USCA 1335A;

B. alter the package of any cigarettes prior to sale or distribution to the ultimate consumer by removing, concealing or obscuring:

(1) a statement, label, stamp, sticker or notice described in Subparagraph (a) of Paragraph (1) of Subsection A of this section; or

(2) a health warning that is not specified in, or does not conform with the requirements of, 15 USCA 1333; or

C. affix a stamp required pursuant to the Cigarette Tax Act to a package of cigarettes described in Subsection A of this section or altered in violation of Subsection B of this section.

Chapter 77 Section 4

Section 4. DOCUMENTATION.--On the first business day of each month, each person licensed or registered to affix a state tax stamp to cigarettes pursuant to Section 7-12-9 NMSA 1978 shall file with the department for all cigarettes imported into the United States to which the person has affixed a tax stamp in the preceding month:

A. copies of:

(1) the permit issued pursuant to 26 USCA 5713 to the person importing the cigarettes into the United States allowing the person to import the cigarettes; and

(2) the customs form containing, with respect to the cigarettes, the internal revenue tax information required by the federal bureau of alcohol, tobacco and firearms;

B. a statement signed under penalty of perjury by the person affixing the state tax stamp identifying the brand and brand styles of all the cigarettes, the quantity of each brand style, the supplier of the cigarettes and the person to whom the cigarettes were conveyed for resale and a separate statement by that person under penalty of perjury, which is not confidential or exempt from public disclosure, identifying only the brands and the brand styles of the cigarettes; and

C. a statement signed under penalty of perjury by an officer of the manufacturer or importer of the cigarettes certifying that the manufacturer or importer has complied with the package health warning and ingredient reporting requirements of 15 USCA Sections 1333 and 1335a with respect to the cigarettes, including a statement indicating whether the manufacturer is or is not a participating manufacturer within the meaning of that federal law.

Chapter 77 Section 5

Section 5. VIOLATION OF ACT CONSTITUTES AN UNFAIR TRADE PRACTICE.--A violation of Section 3 or 4 of the Cigarette Enforcement Act constitutes an unfair trade practice pursuant to the Unfair Practices Act.

Chapter 77 Section 6

Section 6. UNFAIR CIGARETTE SALES.--For the purposes of the Cigarette Enforcement Act, cigarettes imported or reimported into the United States for sale or distribution under a trade name, trade dress or trademark that is the same as, or is confusingly similar to, a trade name, trade dress or trademark used for cigarettes manufactured in the United States for sale or distribution in the United States is presumed to have been purchased outside of the ordinary channels of trade.

Chapter 77 Section 7

Section 7. CRIMINAL PENALTIES FOR VIOLATION.--

A. A person who knowingly commits an act prohibited by Section 3 of the Cigarette Enforcement Act is guilty of a fourth degree felony and upon conviction shall be sentenced in accordance with Section 31-18-15 NMSA 1978.

B. A person who fails to comply with a requirement of Section 4 of the Cigarette Enforcement Act is guilty of a fourth degree felony and upon conviction shall be sentenced in accordance with Section 31-18-15 NMSA 1978.

Chapter 77 Section 8

Section 8. ADMINISTRATIVE PENALTIES FOR VIOLATION.--

A. The secretary may revoke or suspend the registration or license of a person licensed or registered pursuant to Section 7-12-9 NMSA 1978 who violates Section 3 or 4 of the Cigarette Enforcement Act. The decision to revoke or suspend shall be taken and is subject to review in accordance with the Tax Administration Act.

B. Cigarettes acquired, held, owned, possessed, transported in, imported into or sold or distributed in this state in violation of the Cigarette Enforcement Act are contraband and are subject to seizure, forfeiture and destruction by the department or a law enforcement agency.

Chapter 77 Section 9

Section 9. APPLICABILITY.--The provisions of the Cigarette Enforcement Act do not apply to:

A. cigarettes allowed to be imported or brought into the United States for personal use free of federal tax or duty or voluntarily abandoned to the federal secretary of the treasury at the time of entry; and

B. cigarettes sold or intended to be sold as duty-free merchandise by a duty-free sales enterprise in accordance with the provisions of 19 USCA 1555(b) and implementing regulations, but if the cigarettes are brought back in customs territory for resale within the customs territory, the provisions of that act apply.

Chapter 77 Section 10

Section 10. GENERAL PROVISIONS.--

A. The Cigarette Enforcement Act shall be enforced by the department; provided that, at the request of the department, the state police and all local police authorities shall enforce the provisions of the Cigarette Enforcement Act.

B. For the purpose of enforcing the Cigarette Enforcement Act, the department may request information from any state or local agency, and may share information with, and request information from, any federal agency and any agency of any other state or any local agency thereof.

C. In addition to any other remedy provided by law, including enforcement as provided in subsection A of this section, any person may bring an action for appropriate injunctive or other equitable relief for a violation of the Cigarette Enforcement Act; actual damages, if any, sustained by reason of the violation; and, as determined by the court, interest on the damages from the date of the complaint, taxable costs and reasonable attorney's fees. If the trier of fact finds that the violation is flagrant, it may increase recovery to an amount not in excess of three times the actual damages sustained by reason of the violation.

Chapter 77 Section 11

Section 11. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2000.

HOUSE BILL 266, AS AMENDED

CHAPTER 78

RELATING TO TAXATION; PROVIDING A ONE-TIME INCOME TAX REBATE OF PROPERTY TAX PAID ON PROPERTY ELIGIBLE FOR THE DISABLED VETERAN EXEMPTION AUTHORIZED BY ARTICLE 8, SECTION 15 OF THE CONSTITUTION OF NEW MEXICO.

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

Chapter 78 Section 1

Section 1. A new section of the Income Tax Act is enacted to read:

"TAX REBATE OF PROPERTY TAX PAID ON PROPERTY ELIGIBLE FOR DISABLED VETERAN EXEMPTION--REFUND--LIMITATION.--

A. Any resident who files an individual New Mexico income tax return and paid property tax for the 1999 property tax year on property eligible for the property tax exemption authorized by Article 8, Section 15 of the constitution of New Mexico may claim a tax rebate for the amount of property tax paid.

B. The tax rebate provided for in this section may be deducted from the taxpayer's New Mexico income tax liability for taxable year 2000. If the tax rebate

exceeds the taxpayer's income tax liability, the excess shall be refunded to the taxpayer.

C. The rebate provided for in this section may be claimed only on a return filed for taxable year 2000.

D. A husband and wife who file separate returns for taxable year 2000 and could have filed a joint return for taxable year 2000 may each claim only one-half of the tax rebate that would have been allowed on the joint return."

Chapter 78 Section 2

Section 2. APPLICABILITY.--The provisions of this act apply to the 2000 taxable year.

HOUSE BILL 278

CHAPTER 79

AUTHORIZING THE ISSUANCE OF NEW MEXICO FINANCE AUTHORITY REVENUE BONDS FOR AN ADMINISTRATION BUILDING FOR THE RETIREE HEALTH CARE AUTHORITY; MAKING APPROPRIATIONS; DECLARING AN EMERGENCY.

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

Chapter 79 Section 1

Section 1. A new section of the Retiree Health Care Act is enacted to read:

"BOARD MAY PROVIDE FOR AN ADMINISTRATION BUILDING--PAYMENT OF OBLIGATIONS FROM CONTRIBUTIONS.--The board may take all actions reasonably necessary to provide an administration building for the authority, including the acquisition of real property for that purpose. The board is authorized to make payments from the first money received each month as contributions pursuant to Section 10-7C-15 NMSA 1978 to pay principal of, interest on and other expenses or obligations related to revenue bonds issued by the New Mexico finance authority to plan, design, acquire, construct, furnish and equip an administration building for the authority, including the acquisition of real property."

Chapter 79 Section 2

Section 2. 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 two million five hundred thousand dollars ($2,500,000) for the purpose of planning, designing, acquiring, constructing, equipping and furnishing an administration building for the retiree health care authority, including the acquisition of real property for that purpose.

B. The New Mexico finance authority may issue and sell revenue bonds authorized by this section when the board of the retiree health care authority certifies the need for issuance of the bonds. The net proceeds from the sale of the bonds are appropriated to the retiree health care authority for the purposes described in Subsection A of this section.

C. The first money received each month as contributions to the retiree health care fund pursuant to Section 10-7C-15 NMSA 1978 in an amount sufficient to pay the principal of, interest on and any other expenses or obligations related to the revenue bonds is appropriated to the New Mexico finance authority and shall be distributed monthly to the New Mexico finance authority to be pledged irrevocably for the payment of the principal of, interest on, any premium and expenses related to the issuance and sale of the bonds authorized pursuant to this section.

D. The amounts from the retiree health care fund distributed to the New Mexico finance authority shall be deposited in a special bond fund or account of the New Mexico finance authority. Any money remaining in the special fund or account from distributions made to the New Mexico finance authority during each fiscal year, after all principal of, interest on and any other expenses or obligations related to the bonds in that fiscal year are fully paid, shall be returned to the retiree health care fund. Upon payment of all principal of, interest on and any other expenses or obligations related to the bonds, the New Mexico finance authority shall certify to the retiree health care authority that all obligations for the bonds issued pursuant to this section have been fully discharged and direct the retiree health care authority to cease distributing money to the New Mexico finance authority.

E. The legislature shall not repeal, amend or otherwise modify any law that affects or impairs any revenue bonds of the New Mexico finance authority secured by a pledge of the contributions to the retiree health care fund, unless the revenue bonds have been discharged in full or provisions have been made for a full discharge.

F. The New Mexico finance authority may additionally secure the revenue bonds issued pursuant to this section by a pledge of money in the public project revolving fund with a lien priority on the money in the public project revolving fund as determined by the New Mexico finance authority.

Chapter 79 Section 3

Section 3. APPROPRIATION.--Four hundred thousand dollars ($400,000) received by the retiree health care authority from the sale of a building is appropriated from the retiree health care fund to the retiree health care authority for expenditure in fiscal years 2000 through 2002 to plan, design, acquire, construct, equip and furnish an administration building for the retiree health care authority, including the acquisition of real property. Any unexpended or unencumbered balance remaining at the end of fiscal year 2002 shall revert to the retiree health care fund.

Chapter 79 Section 4

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

HOUSE BILL 417, WITH EMERGENCY CLAUSE

SIGNED MARCH 7, 2000

CHAPTER 80

RELATING TO FINANCE; AMENDING THE NEW MEXICO FINANCE AUTHORITY ACT TO RESTRICT THE POWER OF THE AUTHORITY TO MAKE GRANTS FROM THE PUBLIC PROJECT REVOLVING FUND; DECLARING AN EMERGENCY.

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

Chapter 80 Section 1

Section 1. Section 6-21-2 NMSA 1978 (being Laws 1992, Chapter 61, Section 2, as amended) is amended to read:

"6-21-2. LEGISLATIVE FINDINGS--DECLARATION OF PURPOSE.--

A. The legislature finds that:

(1) there are necessary state and local capital improvement and infrastructure needs that cannot be met with existing capital financing methods and funding sources;

(2) there is no coordinating entity or process for accomplishing long-term state and local capital planning, needs assessment or inventory of needs; setting priorities; and making more effective use of existing capital financing methods and funding sources;

(3) the uncertain nature of revenues available from the proceeds of severance tax bonds and other state and local revenues have frustrated state and local government efforts to finance needed state and local capital projects; and

(4) in order to meet public capital and infrastructure needs, a central state mechanism to coordinate the planning and financing of public projects is necessary.

B. It is the purpose of the New Mexico Finance Authority Act to create a governmental instrumentality to coordinate the planning and financing of state and local public projects, to provide for long-term planning and assessment of state and local capital needs and to improve cooperation among the executive and legislative branches of state government and local governments in financing public projects.

C. It is the further purpose of the New Mexico Finance Authority Act to provide financing for public projects in a manner that will not impair the capacity of the public project revolving fund to provide future financing to qualified entities for public projects. Funding shall not be provided from the public project revolving fund unless revenues in an amount sufficient to avoid a negative impact on the financing capacity of the public project revolving fund are contemporaneously pledged or dedicated for deposit to the public project revolving fund. Pursuant to Section 6-21-6.1 NMSA 1978, the authority may provide funding from the public project revolving fund for the purposes of the Wastewater Facility Construction Loan Act, the Rural Infrastructure Act, the Solid Waste Act or the Drinking Water State Revolving Loan Fund Act."

Chapter 80 Section 2

Section 2. Section 6-21-5 NMSA 1978 (being Laws 1992, Chapter 61, Section 5) is amended to read:

"6-21-5. POWERS OF THE AUTHORITY.--The authority is granted all powers necessary and appropriate to carry out and effectuate its public and corporate purposes, including the following powers:

A. to sue or be sued;

B. to adopt and alter an official seal;

C. to make and alter bylaws for its organization and internal management and to adopt subject to the review and approval of the New Mexico finance authority oversight committee such rules as are necessary and appropriate to implement the provisions of the New Mexico Finance Authority Act;

D. to appoint officers, agents and employees, prescribe their duties and qualifications and fix their compensation;

E. to make, enter into and enforce all contracts, agreements and other instruments necessary, convenient or desirable in the exercise of the authority's powers and functions and for the purposes of the New Mexico Finance Authority Act;

F. to acquire, construct, hold, improve, mortgage, sell, lease, convey or dispose of real and personal property for its public purposes;

G. to make loans and purchase securities and contract to make loans and purchase securities;

H. to make grants to qualified entities to finance public projects; provided that such grants are not made from the public project revolving fund;

I. to procure insurance to secure payment on any loan, lease or purchase payments owed to the authority by a qualified entity in such amounts and from such insurers, including the federal government, as it may deem necessary or desirable and to pay any premiums for such insurance;

J. to fix, revise from time to time, charge and collect fees and other charges in connection with the making of loans and any other services rendered by the authority;

K. to accept, administer, hold and use all funds made available to the authority from any sources;

L. to borrow money and to issue bonds and provide for the rights of the holders of the bonds;

M. to establish and maintain reserve and sinking fund accounts to insure against and have funds available for maintenance of other debt service accounts;

N. to invest and reinvest its funds and to take and hold property as security for the investment of such funds as provided in the New Mexico Finance Authority Act;

O. to employ attorneys, accountants, underwriters, financial advisers, trustees, paying agents, architects, engineers, contractors and such other advisers, consultants and agents as may be necessary and to fix and pay their compensation;

P. to apply for and accept gifts or grants of property, funds, services or aid in any form from the United States, any unit of government or any person and to comply, subject to the provisions of the New Mexico Finance Authority Act, with the terms and conditions of the gifts or grants;

Q. to maintain an office at any place in the state it may determine;

R. subject to any agreement with bondholders, to:

(1) renegotiate any loan or agreement;

(2) consent to any modification of the terms of any loan or agreement; and

(3) purchase bonds, which may upon purchase be canceled; and

S. to do any and all things necessary or convenient to carry out its purposes and exercise the powers given and granted in the New Mexico Finance Authority Act."

Chapter 80 Section 3

Section 3. 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 rules 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 money 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 money is pledged for or secures 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 a 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:

(1) the acquisition of equipment for:

(a) fire protection;

(b) law enforcement and protection;

(c) computer and data processing;

(d) street and road construction and maintenance;

(e) emergency medical services;

(f) solid waste collection, transfer and disposal;

(g) radio and telecommunications; and

(h) utility system purposes; and

(2) 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 a reserve for bonds issued by the authority, including bonds payable from sources other than the public project revolving fund, and the authority may covenant in a bond resolution or trust indenture to maintain and replenish the reserve from money deposited in the public project revolving fund after issuance of bonds by the authority."

Chapter 80 Section 4

Section 4. Section 6-21-8 NMSA 1978 (being Laws 1992, Chapter 61, Section 8) is amended to read:

"6-21-8. PUBLIC PROJECT FINANCE PROGRAM--LOANS--PURCHASE OR SALE OF SECURITIES.--To implement a program to assist qualified entities in financing public projects, the authority, subject to specific authorization by law for projects financed with money in the public projects revolving fund, may:

A. make loans to qualified entities that establish one or more dedicated sources of revenue to repay the loan from the authority;

B. make, enter into and enforce all contracts necessary, convenient or desirable for the purposes of the authority or pertaining to:

(1) a loan to a qualified entity;

(2) a grant to a qualified entity from money available to the authority except money in the public project revolving fund;

(3) a purchase or sale of securities individually or on a pooled basis; or

(4) the performance of its duties and execution of its powers under the New Mexico Finance Authority Act;

C. purchase or hold securities at prices and in a manner the authority considers advisable, giving due consideration to the financial capability of the qualified

entity, and sell securities acquired or held by it at prices without relation to cost and in a manner the authority considers advisable;

D. prescribe the form of application or procedure required of a qualified entity for a loan or purchase of its securities, fix the terms and conditions of the loan or purchase and enter into agreements with qualified entities with respect to loans or purchases;

E. charge for its costs and services in review or consideration of a proposed loan to a qualified entity or purchase by the authority of securities, whether or not the loan is made or the securities purchased;

F. fix and establish terms and provisions with respect to:

(1) a purchase of securities by the authority, including date and maturities of the securities;

(2) redemption or payment before maturity; and

(3) any other matters that in connection with the purchase are necessary, desirable or advisable in the judgment of the authority;

G. to the extent permitted under its contracts with the holders of bonds of the authority, consent to modification of the rate of interest, time and payment of installment of principal or interest, security or any other term of a bond, contract or agreement of any kind to which the authority is a party;

H. in connection with the purchase of any securities, consider the ability of the qualified entity to secure financing from other sources and the costs of that financing and the particular public project or purpose to be financed or refinanced with the proceeds of the securities to be purchased by the authority;

I. acquire and hold title to or leasehold interest in real and personal property and to sell, convey or lease that property for the purpose of satisfying a default or enforcing the provisions of a loan agreement; and

J. in the event of default by a qualified entity, enforce its rights by suit or mandamus or may use all other available remedies under state law."

Chapter 80 Section 5

Section 5. Section 6-21-11 NMSA 1978 (being Laws 1992, Chapter 61, Section 11) is amended to read:

"6-21-11. BONDS OF THE AUTHORITY--USE--SECURITY.--

A. The authority may issue and sell bonds in principal amounts it considers necessary to provide sufficient money for any purpose of the New Mexico Finance Authority Act, including:

(1) purchase of securities;

(2) making loans through the purchase of securities;

(3) making grants for public projects from money available to the authority except money in the public project revolving fund;

(4) the construction of public projects;

(5) the payment, funding or refunding of the principal of or interest or redemption premiums on bonds issued by the authority, whether the bonds or interest to be paid, funded or refunded have or have not become due;

(6) the establishment or increase of reserves or sinking funds to secure or to pay principal, premium, if any, or interest on bonds; and

(7) all other costs or expenses of the authority incident to and necessary or convenient to carry out its corporate purposes and powers.

B. Except as otherwise provided in the New Mexico Finance Authority Act, all bonds or other obligations issued by the authority shall be obligations of the authority payable solely from the revenues, income, fees, charges or funds of the authority that may, pursuant to the provisions of the New Mexico Finance Authority Act, be pledged to the payment of such obligations, and the bonds or other obligations shall not create an obligation, debt or liability of the state. No breach of any pledge, obligation or agreement of the authority shall impose a pecuniary liability or a charge upon the general credit or taxing power of the state or any political subdivision of the state.

C. As security for the payment of the principal, interest or premium, if any, on bonds issued by the authority, the authority is authorized to pledge, transfer and assign:

(1) any obligation of a qualified entity that is payable to the authority;

(2) the security for the qualified entity's obligations;

(3) money in the public project revolving fund or a subaccount of that fund subject to the provisions of Subsection C of Section 6-21-6 NMSA 1978;

(4) any grant, subsidy or contribution from the United States or any of its agencies or instrumentalities; or

(5) any income, revenues, funds or other money of the authority from any other source authorized for such pledge, transfer or assignment other than from the public project revolving fund under the New Mexico Finance Authority Act."

Chapter 80 Section 6

Section 6. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

HOUSE BILL 434, WITH EMERGENCY CLAUSE

SIGNED MARCH 7, 2000

CHAPTER 81

RELATING TO THE ELECTION CODE; TEMPORARILY FREEZING PRECINCT BOUNDARIES FOR REDISTRICTING PURPOSES; PROVIDING FOR DELAYED REPEAL; DECLARING AN EMERGENCY.

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

Chapter 81 Section 1

Section 1. SUSPENSION OF CERTAIN REQUIREMENTS--PRECINCT BOUNDARY FREEZE--EXCEPTIONS.--

A. For the purpose of legislative and congressional redistricting, the authority of boards of county commissioners to create new precincts or combine precincts and to alter their boundaries pursuant to Section 1-3-2, 1-3-3 or 4-38-21 NMSA 1978 is suspended until January 31, 2002, and all precinct boundaries are frozen until January 31, 2002, except those precinct boundaries not in compliance with the provisions of the Precinct Boundary Adjustment Act.

B. The secretary of state may authorize a board of county commissioners to adjust precinct boundaries in accordance with the Precinct Boundary Adjustment Act and shall notify the legislative council service of any adjustments.

Chapter 81 Section 2

Section 2. DELAYED REPEAL.--This act is repealed effective January 31, 2002.

Chapter 81 Section 3

Section 3. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

HOUSE BILL 480, WITH EMERGENCY CLAUSE

SIGNED MARCH 7, 2000

CHAPTER 82

AMENDING THE ENROLLMENT PROCEDURES FOR STUDENTS IN CHARTER SCHOOLS; DECLARING AN EMERGENCY.

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

Chapter 82 Section 1

Section 1. Section 22-1-4 NMSA 1978 (being Laws 1975, Chapter 338, Section 1, as amended) is amended to read:

"22-1-4. FREE PUBLIC SCHOOLS--EXCEPTIONS--WITHDRAWING AND ENROLLING--OPEN ENROLLMENT.--

A. Except as provided by Section 24-5-2 NMSA 1978, a free public school education shall be available to any school-age person who is a resident of this state and has not received a high school diploma or its equivalent.

B. A free public school education in those courses already offered to persons pursuant to the provisions of Subsection A of this section shall be available to any person who is a resident of this state and has received a high school diploma or its equivalent if there is available space in such courses.

C. Any person entitled to a free public school education pursuant to the provisions of this section may enroll or re-enroll in a public school at any time and, unless required to attend school pursuant to the Compulsory School Attendance Law, may withdraw from a public school at any time.

D. In adopting and promulgating rules concerning the enrollment of students transferring from a home school or private school to the public schools, the local school board shall provide that the grade level at which the transferring student is placed is appropriate to the age of the student or to the student's score on a student achievement test administered according to the statewide and local school district testing programs as determined by the state superintendent or both.

E. A local school board shall adopt and promulgate rules governing enrollment and re-enrollment at public schools other than charter schools within the district. These rules shall include:

(1) definition of the district boundary and the boundaries of attendance areas for each public school;

(2) for each public school, definition of the boundaries of areas outside the district boundary or within the district but outside the public school's attendance area and within a distance of the public school that would not be served by a school bus route as determined pursuant to Section 22-16-4 NMSA 1978 if enrolled, which areas shall be designated as "walk zones";

(3) priorities for enrollment of students as follows:

(a) first, persons residing within the district and within the attendance area of a public school;

(b) second, persons who previously attended the public school; and

(c) third, all other applicants; and

(4) establishment of maximum allowable class size if smaller than that permitted by law.

F. As long as the maximum allowable class size established by law or by rule of a local school board, whichever is lower, is not met or exceeded in a public school by enrollment of first-priority persons, the public school shall enroll other persons applying in the priorities stated in the district rules adopted pursuant to Subsection E of this section. If the maximum would be exceeded by enrollment of an applicant in the second or third priority, the school shall establish a waiting list. As classroom space becomes available, persons highest on the waiting list within the highest priority on the list shall be notified and given the opportunity to enroll."

Chapter 82 Section 2

Section 2. Section 22-8B-4 NMSA 1978 (being Laws 1999, Chapter 281, Section 4) is amended to read:

"22-8B-4. CHARTER SCHOOLS' RIGHTS AND RESPONSIBILITIES--OPERATION.--

A. A charter school shall be subject to all federal and state laws and constitutional provisions prohibiting discrimination on the basis of disability, race, creed, color, gender, national origin, religion, ancestry or need for special education services.

B. A charter school shall be administered and governed by a governing body in the manner set forth in the charter.

C. A charter school shall be responsible for its own operation, including preparation of a budget, contracting for services and personnel matters.

D. A charter school may negotiate or contract with a local school district, a university or college or any third party for the use of a facility, its operation and maintenance and the provision of any service or activity that the charter school is required to perform in order to carry out the educational program described in its charter.

E. In no event shall a charter school be required to pay rent for space that is deemed available, as negotiated by contract, in school district facilities; provided that the facilities can be made available at no cost to the district. All costs for the operation and maintenance of the facilities used by the charter school shall be subject to negotiation between the charter school and the district.

F. A charter school may negotiate with a local school district to provide transportation to students eligible for transportation under the provisions of the Public School Code.

G. A charter school may negotiate with a local school district for capital expenditures.

H. A charter school shall be a nonsectarian, nonreligious and non-home-based public school that operates within a public school district.

I. Except as otherwise provided in the Public School Code, a charter school shall not charge tuition or have admission requirements.

J. A charter school shall be subject to the provisions of Sections 22-1-6 and 22-2-8 NMSA 1978.

K. A charter school may acquire, pledge and dispose of property; provided that upon termination of the charter, all assets of the charter school shall revert to the local school board that authorized the charter.

L. A charter school may accept or reject any charitable gift, grant, devise or bequest; provided that no such gift, grant, devise or bequest shall be accepted if subject to any condition contrary to law or to the terms of the charter. The particular gift, grant, devise or bequest shall be considered an asset of the charter school to which it is given.

M. A charter school may contract and sue and be sued. A local school board that approves a charter school shall not be liable for any acts or omissions of the charter school.

N. A charter school shall comply with all state and federal health and safety requirements applicable to public schools."

Chapter 82 Section 3

Section 3. A new section of the 1999 Charter Schools Act, Section 22-8B-4.1 NMSA 1978, is enacted to read:

"22-8B-4.1. CHARTER SCHOOLS' ENROLLMENT PROCEDURES.--

A. Start-up schools and conversion schools are subject to the following enrollment procedures:

(1) a start-up school may either enroll students on a first-come, first-served basis or through a lottery selection process if the total number of applicants exceeds the number of spaces available at the start-up school; and

(2) a conversion school shall give enrollment preference to students who are enrolled in the public school at the time it is converted into a charter school and to siblings of students admitted to or attending the charter school. The conversion school may either enroll all other students on a first-come, first-served basis or through a lottery selection process if the total number of applicants exceeds the number of spaces available at the conversion school.

B. In subsequent years of its operation, a charter school shall give enrollment preference to:

(1) students who have been admitted to the charter school through an appropriate admission process and remain in attendance through subsequent grades; and

(2) siblings of students already admitted to or attending the same charter school."

Chapter 82 Section 4

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

SENATE BILL 67, WITH EMERGENCY CLAUSE

SIGNED MARCH 7, 2000

CHAPTER 83

RELATING TO TAXATION; INCREASING THE DISTRIBUTION FROM THE LIQUOR EXCISE TAX TO THE LOCAL DWI GRANT FUND; PROVIDING FOR DETOXIFICATION CENTERS IN CERTAIN CLASS A AND CLASS B COUNTIES; MAKING AN APPROPRIATION.

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

Chapter 83 Section 1

Section 1. Section 7-1-6.40 NMSA 1978 (being Laws 1997, Chapter 182, Section 1) is amended to read:

"7-1-6.40. DISTRIBUTION--LOCAL DWI GRANT FUND.--A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the local DWI grant fund in an amount equal to the following percent of the net receipts attributable to the liquor excise tax:

A. for the period from July 1, 2001 through June 30, 2002, thirty-two and seven-tenths percent; and

B. after June 30, 2002, twenty-seven and two-tenths percent."

Chapter 82 Section 2

Section 2. Section 11-6A-3 NMSA 1978 (being Laws 1993, Chapter 65, Section 3, as amended) is amended to read:

"11-6A-3. LOCAL DWI GRANT PROGRAM--FUND.--

A. The division shall establish a local DWI grant program to make grants to municipalities or counties for new, innovative or model programs, services or activities to prevent or reduce the incidence of DWI, alcoholism and alcohol abuse. Grants shall be awarded by the council pursuant to the advice and recommendations of the division.

B. The "local DWI grant fund" is created in the state treasury and shall be administered by the division. Two million dollars ($2,000,000) of liquor excise tax revenues distributed to the fund and all other money in the fund, other than money appropriated in fiscal year 2002 for distribution pursuant to Subsection C of this section and money appropriated for DWI program distributions, are appropriated to the division to make grants to municipalities and counties upon council approval in accordance with the program established under the Local DWI Grant Program Act. An amount equal to the liquor excise tax revenues distributed annually to the fund less four million dollars ($4,000,000) in fiscal year 2002 and two million dollars ($2,000,000) in each fiscal year thereafter is appropriated to the division to make DWI program distributions to counties upon council approval of programs in accordance with the provisions of the Local DWI Grant Program Act. No more than one hundred thousand dollars ($100,000) of liquor excise tax revenues distributed to the fund in any fiscal year shall be expended for administration of the grant program. Balances in the fund at the end of any fiscal year shall not revert to the general fund.

C. In fiscal year 2002, two million dollars ($2,000,000) of the liquor excise tax revenues distributed to the local DWI grant fund is appropriated to the

division for distribution to the following counties in the following amounts for funding of alcohol detoxification and treatment facilities:

(1) one million seven hundred thousand dollars ($1,700,000) to class A counties with a population of over three hundred thousand persons according to the 1990 federal decennial census; and

(2) three hundred thousand dollars ($300,000) to class B counties with a population of more than ninety thousand but less than ninety-six thousand persons according to the 1990 federal decennial census.

D. In awarding DWI grants to local communities, the council:

(1) may fund new or existing innovative or model programs, services or activities of any kind designed to prevent or reduce the incidence of DWI, alcoholism or alcohol abuse;

(2) may fund existing community-based programs, services or facilities for prevention, screening and treatment of alcoholism and alcohol abuse;

(3) shall give consideration to a broad range of approaches to prevention, education, screening, treatment or alternative sentencing, including programs that combine incarceration, treatment and aftercare, to address the problem of DWI, alcoholism or alcohol abuse; and

(4) shall make grants only to counties or municipalities in counties that have established a DWI planning council and adopted a county DWI plan or are parties to a multicounty DWI plan that has been approved pursuant to Chapter 43, Article 3 NMSA 1978 and only for programs, services or activities consistent with that plan.

E. The council shall use the criteria in Subsection D of this section to approve DWI programs, services or activities for funding through the county DWI program distribution."

Chapter 83 Section 3

Section 3. Section 11-6A-6 NMSA 1978 (being Laws 1997, Chapter 182, Section 2) is amended to read:

"11-6A-6. DISTRIBUTION OF CERTAIN DWI GRANT PROGRAM FUNDS--APPROVAL OF PROGRAMS.--

A. An amount equal to the liquor excise tax revenues distributed to the local DWI grant fund for the fiscal year less four million dollars ($4,000,000) in fiscal year 2002 and two million dollars ($2,000,000) in each fiscal year thereafter shall be

available for distribution in accordance with the formula in Subsection B of this section to each county for council-approved DWI programs, services or activities; provided that each county shall receive a minimum distribution of at least one-half of one percent of the money available for distribution.

B. Each county shall be eligible for a DWI program distribution in an amount derived by multiplying the total amount of money available for distribution by a percentage that is the average of the following two percentages:

(1) a percentage equal to a fraction, the numerator of which is the retail trade gross receipts in the county and the denominator of which is the total retail trade gross receipts in the state; and

(2) a percentage equal to a fraction, the numerator of which is the number of alcohol-related injury crashes in the county and the denominator of which is the total alcohol-related injury crashes in the state.

C. A county shall be eligible to receive the distribution determined pursuant to Subsection B of this section if the board of county commissioners has submitted to the council a request to use the distribution for the operation of one or more DWI programs, services or activities in the county and the request has been approved by the council.

D. No later than August 1 each year, each board of county commissioners seeking approval for the DWI program distribution pursuant to this section shall make application to the division for review and approval by the council for one or more local DWI programs, services or activities in the county. Application shall be made on a form and in a manner determined by the division. The council shall approve the programs eligible for a distribution no later than September 1 of each year. The division shall make the annual distribution to each county in quarterly installments on or before each October 10, January 10, April 10 and July 10, beginning in October 1997. The amount available for distribution quarterly to each county shall be the amount determined by applying the formula in Subsection B of this section to the amount of liquor excise tax revenues in the local DWI grant fund at the end of the month prior to the quarterly installment due date and after five hundred thousand dollars ($500,000) has been set aside for the DWI grant program and, in fiscal year 2002, after the appropriation and distribution pursuant to Subsection C of Section 11-6A-3 NMSA 1978.

E. If a county has no council-approved DWI program, service or activity or does not need the full amount of the available distribution, the unused money shall revert to the local DWI grant fund and may be used by the council for the local DWI grant program.

F. As used in this section:

(1) "alcohol-related injury crashes" means the average annual number of alcohol-related injury crashes during the period from January 1, 1993 through December 31, 1995, as determined by the traffic safety bureau of the state highway and transportation department; and

(2) "retail trade gross receipts" means the total reported gross receipts attributable to taxpayers reporting under the retail trade industry sector of the state for the most recent fiscal year as determined by the taxation and revenue department."

Chapter 83 Section 4

Section 4. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2001.

SENATE WAYS AND MEANS COMMITTEE SUBSTITUTE FOR

SENATE BILL 96, AS AMENDED

CHAPTER 84

RELATING TO TAXATION; CHANGING CERTAIN PROVISIONS OF THE GROSS RECEIPTS AND COMPENSATING TAX ACT REGARDING CONSTRUCTION AND PERFORMING SERVICES.

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

Chapter 84 Section 1

Section 1. Section 7-9-3 NMSA 1978 (being Laws 1978, Chapter 46, Section 1, as amended) is amended to read:

"7-9-3. DEFINITIONS.--As used in the Gross Receipts and Compensating Tax Act:

A. "department" means the taxation and revenue department, the secretary of taxation and revenue or any employee of the department exercising authority lawfully delegated to that employee by the secretary;

B. "buying" or "selling" means any transfer of property for consideration or any performance of service for consideration;

C. "construction" means building, altering, repairing or demolishing in the ordinary course of business any:

(1) road, highway, bridge, parking area or related project;

(2) building, stadium or other structure;

(3) airport, subway or similar facility;

(4) park, trail, athletic field, golf course or similar facility;

(5) dam, reservoir, canal, ditch or similar facility;

(6) sewerage or water treatment facility, power generating plant, pump station, natural gas compressing station, gas processing plant, coal gasification plant, refinery, distillery or similar facility;

(7) sewerage, water, gas or other pipeline;

(8) transmission line;

(9) radio, television or other tower;

(10) water, oil or other storage tank;

(11) shaft, tunnel or other mining appurtenance;

(12) microwave station or similar facility;

(13) retaining wall, wall, fence gate or similar structure; or

(14) similar work;

"construction" also means:

(15) leveling or clearing land;

(16) excavating earth;

(17) drilling wells of any type, including seismograph shot holes or core drilling; or

(18) similar work;

D. "financial corporation" means any savings and loan association or any incorporated savings and loan company, trust company, mortgage banking company, consumer finance company or other financial corporation;

E. "engaging in business" means carrying on or causing to be carried on any activity with the purpose of direct or indirect benefit, except that "engaging in business" does not include having a world wide web site as a third-party content provider on a computer physically located in New Mexico but owned by another nonaffiliated person;

F. "gross receipts" means the total amount of money or the value of other consideration received from selling property in New Mexico, from leasing property employed in New Mexico, from selling services performed outside New Mexico the product of which is initially used in New Mexico or from performing services in New Mexico. In an exchange in which the money or other consideration received does not represent the value of the property or service exchanged, "gross receipts" means the reasonable value of the property or service exchanged.

(1) "Gross receipts" includes:

(a) any receipts from sales of tangible personal property handled on consignment;

(b) the total commissions or fees derived from the business of buying, selling or promoting the purchase, sale or leasing, as an agent or broker on a commission or fee basis, of any property, service, stock, bond or security;

(c) amounts paid by members of any cooperative association or similar organization for sales or leases of personal property or performance of services by such organization; and

(d) amounts received from transmitting messages or conversations by persons providing telephone or telegraph services.

(2) "Gross receipts" excludes:

(a) cash discounts allowed and taken;

(b) New Mexico gross receipts tax, governmental gross receipts tax and leased vehicle gross receipts tax payable on transactions for the reporting period;

(c) taxes imposed pursuant to the provisions of any local option gross receipts tax that is payable on transactions for the reporting period;

(d) any gross receipts or sales taxes imposed by an Indian nation, tribe or pueblo; provided that the tax is approved, if approval is required by federal law or regulation, by the secretary of the interior of the United States; and provided further that the gross receipts or sales tax imposed by the Indian nation, tribe

or pueblo provides a reciprocal exclusion for gross receipts, sales or gross receipts-based excise taxes imposed by the state or its political subdivisions;

(e) any type of time-price differential; and

(f) amounts received solely on behalf of another in a disclosed agency capacity.

(3) When the sale of property or service is made under any type of charge, conditional or time-sales contract or the leasing of property is made under a leasing contract, the seller or lessor may elect to treat all receipts, excluding any type of time-price differential, under such contracts as gross receipts as and when the payments are actually received. If the seller or lessor transfers his interest in any such contract to a third person, the seller or lessor shall pay the gross receipts tax upon the full sale or leasing contract amount, excluding any type of time-price differential;

G. "manufacturing" means combining or processing components or materials to increase their value for sale in the ordinary course of business, but does not include construction;

H. "person" means:

(1) an individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, limited liability company, limited liability partnership, joint venture, syndicate or other entity, including any gas, water or electric utility owned or operated by a county, municipality or other political subdivision of the state; or

(2) a national, federal, state, Indian or other governmental unit or subdivision, or an agency, department or instrumentality of any of the foregoing;

I. "property" means real property, tangible personal property, licenses, franchises, patents, trademarks and copyrights. Tangible personal property includes electricity and manufactured homes;

J. "leasing" means an arrangement whereby, for a consideration, property is employed for or by any person other than the owner of the property, except that the granting of a license to use property is the sale of a license and not a lease;

K. "service" means all activities engaged in for other persons for a consideration, which activities involve predominantly the performance of a service as distinguished from selling or leasing property. "Service" includes activities performed by a person for its members or shareholders. In determining what is a service, the intended use, principal objective or ultimate objective of the contracting parties shall not be controlling. "Service" includes construction activities and all tangible personal property that will become an ingredient or component part of a construction project. Such

tangible personal property retains its character as tangible personal property until it is installed as an ingredient or component part of a construction project in New Mexico. However, sales of tangible personal property that will become an ingredient or component part of a construction project to persons engaged in the construction business are sales of tangible personal property;

L. "use" or "using" includes use, consumption or storage other than storage for subsequent sale in the ordinary course of business or for use solely outside this state;

M. "secretary" means the secretary of taxation and revenue or the secretary's delegate;

N. "manufactured home" means a movable or portable housing structure for human occupancy that exceeds either a width of eight feet or a length of forty feet constructed to be towed on its own chassis and designed to be installed with or without a permanent foundation;

O. "initial use" or "initially used" means the first employment for the intended purpose and does not include the following activities:

(1) observation of tests conducted by the performer of services;

(2) participation in progress reviews, briefings, consultations and conferences conducted by the performer of services;

(3) review of preliminary drafts, drawings and other materials prepared by the performer of the services;

(4) inspection of preliminary prototypes developed by the performer of services; or

(5) similar activities;

P. "research and development services" means an activity engaged in for other persons for consideration, for one or more of the following purposes:

(1) advancing basic knowledge in a recognized field of natural science;

(2) advancing technology in a field of technical endeavor;

(3) the development of a new or improved product, process or system with new or improved function, performance, reliability or quality, whether or not the new or improved product, process or system is offered for sale, lease or other transfer;

(4) the development of new uses or applications for an existing product, process or system, whether or not the new use or application is offered as the rationale for purchase, lease or other transfer of the product, process or system;

(5) analytical or survey activities incorporating technology review, application, trade-off study, modeling, simulation, conceptual design or similar activities, whether or not offered for sale, lease or other transfer; or

(6) the design and development of prototypes or the integration of systems incorporating advances, developments or improvements included in Paragraphs (1) through (5) of this subsection;

Q. "local option gross receipts tax" means a tax authorized to be imposed by a county or municipality upon the taxpayer's gross receipts and required to be collected by the department at the same time and in the same manner as the gross receipts tax; "local option gross receipts tax" includes the taxes imposed pursuant to the Municipal Local Option Gross Receipts Taxes Act, Supplemental Municipal Gross Receipts Tax Act, County Local Option Gross Receipts Taxes Act, Local Hospital Gross Receipts Tax Act, County Correctional Facility Gross Receipts Tax Act and such other acts as may be enacted authorizing counties or municipalities to impose taxes on gross receipts, which taxes are to be collected by the department; and

R. "prescription drugs" means insulin and substances that are:

(1) dispensed by or under the supervision of a licensed pharmacist or by a physician or other person authorized under state law to do so;

(2) prescribed for a specified person by a person authorized under state law to prescribe the substance; and

(3) subject to the restrictions on sale contained in Subparagraph 1 of Subsection (b) of 21 USCA 353."

Chapter 84 Section 2

Section 2. Section 7-9-48 NMSA 1978 (being Laws 1969, Chapter 144, Section 38, as amended) is amended to read:

"7-9-48. DEDUCTION--GROSS RECEIPTS TAX--GOVERNMENTAL GROSS RECEIPTS--SALE OF A SERVICE FOR RESALE.--Receipts from selling a service for resale may be deducted from gross receipts or from governmental gross receipts if the sale is made to a person who delivers a nontaxable transaction certificate to the seller. The buyer delivering the nontaxable transaction certificate must resell the service in the ordinary course of business and the resale must be subject to the gross receipts tax or governmental gross receipts tax."

Chapter 84 Section 3

Section 3. Section 7-9-51 NMSA 1978 (being Laws 1969, Chapter 144, Section 41) is amended to read:

"7-9-51. DEDUCTION--GROSS RECEIPTS TAX--SALE OF TANGIBLE PERSONAL PROPERTY TO PERSONS ENGAGED IN THE CONSTRUCTION BUSINESS.--

A. Receipts from selling tangible personal property may be deducted from gross receipts if the sale is made to a person engaged in the construction business who delivers a nontaxable transaction certificate to the seller.

B. The buyer delivering the nontaxable transaction certificate must incorporate the tangible personal property as:

(1) an ingredient or component part of a construction project which is subject to the gross receipts tax upon its completion or upon the completion of the overall construction project of which it is a part;

(2) an ingredient or component part of a construction project which is subject to the gross receipts tax upon the sale in the ordinary course of business of the real property upon which it was constructed; or

(3) an ingredient or component part of a construction project that is located on the tribal territory of an Indian nation, tribe or pueblo."

Chapter 84 Section 4

Section 4. Section 7-9-52 NMSA 1978 (being Laws 1969, Chapter 144, Section 42) is amended to read:

"7-9-52. DEDUCTION--GROSS RECEIPTS TAX--SALE OF CONSTRUCTION SERVICES TO PERSONS ENGAGED IN THE CONSTRUCTION BUSINESS.--

A. Receipts from selling a construction service may be deducted from gross receipts if the sale is made to a person engaged in the construction business who delivers a nontaxable transaction certificate to the person performing the construction service.

B. The buyer delivering the nontaxable transaction certificate must have the construction services performed upon:

(1) a construction project which is subject to the gross receipts tax upon its completion or upon the completion of the overall construction project of which it is a part;

(2) a construction project which is subject to the gross receipts tax upon the sale in the ordinary course of business of the real property upon which it was constructed; or

(3) a construction project that is located on the tribal territory of an Indian nation, tribe or pueblo."

Chapter 84 Section 5

Section 5. Section 7-9-54 NMSA 1978 (being Laws 1969, Chapter 144, Section 44, as amended) is amended to read:

"7-9-54. DEDUCTION--GROSS RECEIPTS TAX--GOVERNMENTAL GROSS RECEIPTS TAX--SALES TO GOVERNMENTAL AGENCIES.--

A. Receipts from selling tangible personal property to the United States or New Mexico or any governmental unit or subdivision, agency, department or instrumentality thereof may be deducted from gross receipts or from governmental gross receipts. Unless contrary to federal law, the deduction provided by this subsection does not apply to:

(1) receipts from selling metalliferous mineral ore;

(2) receipts from selling tangible personal property that is or will be incorporated into a metropolitan redevelopment project created under the Metropolitan Redevelopment Code;

(3) receipts from selling tangible personal property that will become an ingredient or component part of a construction project; or

(4) that portion of the receipts from performing a "service", as defined in Subsection K of Section 7-9-3 NMSA 1978, that reflects the value of tangible personal property utilized or produced in performance of such service.

B. Receipts from selling tangible personal property to an Indian tribe, nation or pueblo or any governmental subdivision, agency, department or instrumentality thereof for use on Indian reservations or pueblo grants may be deducted from gross receipts or from governmental gross receipts."

Chapter 84 Section 6

Section 6. Section 7-9-56.1 NMSA 1978 (being Laws 1998, Chapter 92, Section 1) is amended to read:

"7-9-56.1. DEDUCTION--GROSS RECEIPTS TAX--INTERNET SERVICES.--On and after July 1, 1998, receipts from providing leased telephone lines,

telecommunications services, internet services, internet access services or computer programming that will be used by other persons in providing internet access and related services to the final user may be deducted from gross receipts if the sale is made to a person who is subject to the gross receipts tax or the interstate telecommunications gross receipts tax."

Chapter 84 Section 7

Section 7. Section 7-9-57 NMSA 1978 (being Laws 1969, Chapter 144, Section 47, as amended) is amended to read:

"7-9-57. DEDUCTION--GROSS RECEIPTS TAX--SALE OF CERTAIN SERVICES TO AN OUT-OF-STATE BUYER.--

A. Receipts from performing a service may be deducted from gross receipts if the sale of the service is made to an out-of-state buyer who delivers to the seller either an appropriate nontaxable transaction certificate or other evidence acceptable to the secretary unless the buyer of the service or any of the buyer's employees or agents makes initial use of the product of the service in New Mexico or takes delivery of the product of the service in New Mexico.

B. Receipts from performing a service that initially qualified for the deduction provided in this section but that no longer meets the criteria set forth in Subsection A of this section shall be deductible for the period prior to the disqualification."

Chapter 84 Section 8

Section 8. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2000.

SENATE BILL 103, AS AMENDED

CHAPTER 85

RELATING TO GENERATION AND TRANSMISSION COOPERATIVES; LIMITING PUBLIC REGULATION COMMISSION REGULATION OF ELECTRIC GENERATION AND TRANSMISSION COOPERATIVES; DECLARING AN EMERGENCY.

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

Chapter 85 Section 1

Section 1. 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 or the rates, service, securities or class I or class II transactions of a generation and transmission cooperative as defined in the Electric Utility Industry Restructuring Act of 1999. No inspection or supervision fees shall be paid by generation and transmission cooperatives, or 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 with respect to a generation and transmission cooperative as defined in the Electric Utility Industry Restructuring Act of 1999, except location control pursuant to Section 62-9-3 NMSA 1978 and limited rate regulation to the extent provided in Subsection D of this section, or of production or sale price at the wellhead of gas or petroleum.

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. 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.

D. New Mexico rates proposed by a generation and transmission cooperative shall be filed with the commission in the form of an advice notice, a copy of which shall be simultaneously served on all member utilities. Any member utility may file a protest of the proposed rates no later than twenty days after the generation and transmission cooperative files the advice notice. If three or more New Mexico member utilities file protests and the commission determines there is just cause in at least three of the protests for reviewing the proposed rates, the commission shall suspend the rates, conduct a hearing concerning reasonableness of the proposed rates and establish reasonable rates. Each protest must contain a clear and concise statement of the specific grounds upon which the protestant believes the proposed rates are unreasonable or otherwise unlawful; a brief description of the protestant's efforts to resolve its objections directly with the generation and transmission cooperative; a clear and concise statement of the relief the protestant seeks from the commission; and a formal resolution of the board of trustees of the protesting member utility authorizing the filing of the protest. In order to determine whether just cause may exist for review, the commission shall consider whether each protestant has exhausted remedies with the generation and transmission cooperative or whether the generation and transmission cooperative has unreasonably rejected the protestant's objections to the proposed rates. A member utility shall present its objections to the generation and transmission cooperative in writing and allow a reasonable period for the generation and transmission cooperative to attempt resolution of, or otherwise respond to, those objections. A period of seven days after receipt of written objections will be deemed reasonable for the generation and transmission cooperative to provide a written response to the member utility, but a written response is not required if such time period extends beyond twenty days after the date on which the generation and transmission cooperative filed the advice notice. The generation and transmission cooperative and its members are expected to make a good faith effort to resolve the member utility's objections to the proposed rates during that period of time."

Chapter 85 Section 2

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

SENATE BILL 159, AS AMENDED, WITH EMERGENCY CLAUSE

SIGNED MARCH 7, 2000

CHAPTER 86

RELATING TO THE ENVIRONMENT; PROVIDING FOR RADIATION LICENSE, REGISTRATION AND OTHER RELATED FEES; CREATING THE RADIATION

PROTECTION FUND; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978; MAKING AN APPROPRIATION.

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

Chapter 86 Section 1

Section 1. Section 74-1-7 NMSA 1978 (being Laws 1971, Chapter 277, Section 10, as amended) is amended to read:

"74-1-7. DEPARTMENT--DUTIES.--

A. The department is responsible for environmental management and consumer protection programs. In that respect, the department shall maintain, develop and enforce rules and standards in the following areas:

(1) food protection;

(2) water supply, including implementing a capacity development program to assist water systems in acquiring and maintaining technical, managerial and financial capacity in accordance with Section 1420 of the federal Safe Drinking Water Act and establishing administrative penalties for enforcement;

(3) liquid waste, including exclusive authority to implement and administer an inspection and permitting program for on-site liquid waste systems;

(4) air quality management as provided in the Air Quality Control Act;

(5) radiation control and collection of license, registration and other related fees as provided in the Radiation Protection Act;

(6) noise control;

(7) nuisance abatement;

(8) vector control;

(9) occupational health and safety as provided in the Occupational Health and Safety Act;

(10) sanitation of public swimming pools and public baths;

(11) plumbing, drainage, ventilation and sanitation of public buildings in the interest of public health;

(12) medical radiation, health and safety certification and standards for radiologic technologists as provided in the Medical Radiation Health and Safety Act;

(13) hazardous wastes and underground storage tanks as provided in the Hazardous Waste Act; and

(14) solid waste as provided in the Solid Waste Act.

B. Nothing in Subsection A of this section imposes requirements for the approval of subdivision plats in addition to those required elsewhere by law. Nothing in Subsection A of this section preempts the authority of any political subdivision to approve subdivision plats."

Chapter 86 Section 2

Section 2. Section 74-1-8 NMSA 1978 (being Laws 1971, Chapter 277, Section 11, as amended) is amended to read:

"74-1-8. BOARD--DUTIES.--

A. The board is responsible for environmental management and consumer protection. In that respect, the board shall promulgate rules and standards in the following areas:

(1) food protection;

(2) water supply, including a capacity development program to assist water systems in acquiring and maintaining technical, managerial and financial capacity in accordance with Section 1420 of the federal Safe Drinking Water Act and rules authorizing imposition of administrative penalties for enforcement;

(3) liquid waste, including exclusive authority to implement and administer an inspection and permitting program for on-site liquid waste systems;

(4) air quality management as provided in the Air Quality Control Act;

(5) radiation control and establishment of license, registration and other related fees not to exceed fees charged by the United States nuclear regulatory commission for similar licenses as provided in the Radiation Protection Act;

(6) noise control;

(7) nuisance abatement;

(8) vector control;

(9) occupational health and safety as provided in the Occupational Health and Safety Act;

(10) sanitation of public swimming pools and public baths;

(11) plumbing, drainage, ventilation and sanitation of public buildings in the interest of public health;

(12) medical radiation, health and safety certification and standards for radiologic technologists as provided in the Medical Radiation Health and Safety Act;

(13) hazardous wastes and underground storage tanks as provided in the Hazardous Waste Act; and

(14) solid waste as provided in the Solid Waste Act.

B. Nothing in Subsection A of this section imposes requirements for the approval of subdivision plats in addition to those required elsewhere by law. Nothing in Subsection A of this section preempts the authority of any political subdivision to approve subdivision plats.

C. Administrative penalties collected pursuant to Paragraph (2) of Subsection A of this section shall be deposited in the water conservation fund.

D. Radiation license, registration and other related fees shall be deposited in the radiation protection fund."

Chapter 86 Section 3

Section 3. Section 74-3-5 NMSA 1978 (being Laws 1971, Chapter 284, Section 5, as amended) is amended to read:

"74-3-5. RADIATION PROTECTION CONSULTANT--RADIATION REGULATIONS--INSPECTION.--

A. The board shall be the radiation protection consultant for all agencies and institutions of the state and shall, with the advice and consent of the council, have the authority, after considering the facts and circumstances and following the procedures set forth in Section 74-1-9 NMSA 1978, to promulgate rules:

(1) concerning the health and environmental aspects of the use, management, storage and disposal of radioactive material and the operation of ionizing and non-ionizing radiation emitting equipment;

(2) prescribing license, registration and other related fees, all of which shall be deposited in the radiation protection fund;

(3) requiring the posting of a bond running only to the state for licensed activities, which bond shall be adequate to insure, in the event of abandonment, default or other performance inabilities of the licensee, compliance with the requirements of the rules or license conditions, including actions of the licensee required during or after the cessation of operations, which bond shall be released upon demonstration by the licensee that the conditions of the license have been satisfied; and

(4) establishing continued care fund deposit requirements and other continued care requirements as provided in Section 74-3-6 NMSA 1978.

B. Upon adoption, rules shall be furnished to interested parties upon request.

C. In order to carry out the purposes of the Radiation Protection Act, the director or his authorized representatives may, as a condition of license or registration, enter at all reasonable times in or upon any private or public property where the director has reasonable cause to believe there is radioactive material or radiation equipment."

Chapter 86 Section 4

Section 4. Section 74-3-9 NMSA 1978 (being Laws 1971, Chapter 284, Section 7, as amended) is amended to read:

"74-3-9. LICENSING OF RADIOACTIVE MATERIAL--APPEAL.--

A. It is unlawful for a person to possess, use, store, dispose of, manufacture, process, repair or alter any radioactive material unless he holds:

(1) a license issued by the nuclear regulatory commission and notification by the licensee to the agency of license identification;

(2) a license issued by an agreement state and notification by the licensee to the agency of license identification; or

(3) a license issued by the agency.

B. The agency shall issue licenses, collect license, registration and other related fees and deposit those fees in the radiation protection fund and shall approve requests for reciprocity in accordance with procedures prescribed by rule of the board. License applications shall be made on forms provided by the agency. The agency shall not issue a license unless the applicant has demonstrated the capability of complying with all applicable rules of the board.

C. The board may, by rule, establish radiation license, registration and other related fees and exempt from the requirements of licensure specific quantities of any radioactive material determined by the board not to constitute a health or environmental hazard.

D. The holding of a license issued by the agency, the nuclear regulatory commission or an agreement state does not relieve the licensee from the responsibility of complying with all applicable rules of the board.

E. A person who is or may be affected by licensing action of the agency may appeal to the district court pursuant to the provisions of Section 39-3-1.1 NMSA 1978."

Chapter 86 Section 5

Section 5. A new section of the Radiation Protection Act is enacted to read:

"FEE EXEMPTION.--All medical, dental and veterinary x-ray equipment is exempt from fees imposed pursuant to the Radiation Protection Act."

Chapter 86 Section 6

Section 6. A new section of the Radiation Protection Act is enacted to read:

"RADIATION PROTECTION FUND CREATED.--The "radiation protection fund" is created in the state treasury. Radiation license, registration and other related fees shall be deposited in the fund. All earnings from investment of the fund shall be credited to the fund. Money in the fund is appropriated to the department of environment to carry out provisions of the Radiation Protection Act. Disbursements from the fund shall be by warrant drawn by the secretary of finance and administration pursuant to vouchers signed by the secretary of environment or his designee. Any unexpended or unencumbered balance in the radiation protection fund at the end of any fiscal year shall not revert to the general fund."

SENATE BILL 163, AS AMENDED

CHAPTER 87

RELATING TO TAXATION; AMENDING A SECTION OF THE GROSS RECEIPTS AND COMPENSATING TAX ACT PERTAINING TO A GROSS RECEIPTS TAX DEDUCTION FOR PROCESSING AND OTHER HANDLING AND TREATMENT OF AGRICULTURAL PRODUCTS.

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

Chapter 87 Section 1

Section 1. Section 7-9-59 NMSA 1978 (being Laws 1969, Chapter 144, Section 49, as amended) is amended to read:

"7-9-59. DEDUCTION--GROSS RECEIPTS TAX--WAREHOUSING, THRESHING, HARVESTING, GROWING, CULTIVATING AND PROCESSING AGRICULTURAL PRODUCTS.--

A. Receipts from warehousing grain or other agricultural products may be deducted from gross receipts.

B. Receipts from threshing, cleaning, growing, cultivating or harvesting agricultural products, including the ginning of cotton, testing and transporting milk for the producer or nonprofit marketing association from the farm to a milk processing or dairy product manufacturing plant or processing for growers, producers or nonprofit marketing associations of agricultural products raised for food and fiber, including livestock, may be deducted from gross receipts."

Chapter 87 Section 2

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2000.

CHAPTER 88

RELATING TO ELECTRIC UTILITIES; PROVIDING FOR LIMITED AUTHORITY TO EXERCISE THE POWER OF EMINENT DOMAIN FOR CERTAIN REASONS BY PUBLIC ELECTRIC UTILITIES; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978; DECLARING AN EMERGENCY.

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

Chapter 88 Section 1

Section 1. LIMITED POWER OF EMINENT DOMAIN CONDEMNATION BY PUBLIC ELECTRIC UTILITY.--

A. To the extent necessary or appropriate to implement a plan or any provision of a plan for transition to retail competition pursuant to the Electric Utility Industry Restructuring Act of 1999, a public electric utility is granted the authority to condemn any covenant or other provision of any lease or any other contract, agreement, instrument or document comprising part of the related transactions of which any lease is part, to which the public electric utility is a party or by which it or property leased by it is or may be bound, if such covenant or provision may otherwise impair or impede the orderly separation of supply and energy-related services from transmission and distribution services at reasonable cost.

B. A public electric utility may use the condemnation authority granted by this section only with the express approval of the public regulation commission. The

commission shall act upon a request to use such condemnation authority within thirty days. In exercising the authority granted in this section, the public electric utility shall proceed pursuant to the applicable provisions of the Eminent Domain Code.

Chapter 88 Section 2

Section 2. Section 62-8-10 NMSA (being Laws 1977, Chapter 175, Section 1, as amended) is repealed and a new Section 62-8-10 NMSA 1978 is enacted to read:

"62-8-10. UTILITY SERVICE--SERIOUSLY ILL INDIVIDUALS.--Utility service shall not be discontinued to any residence where a seriously or chronically ill person is residing if the person responsible for the utility service charges does not have the financial resources to pay the charges and if a licensed physician, physician assistant, osteopathic physician, osteopathic physician's assistant or certified nurse practitioner certifies that discontinuance of service might endanger that person's health or life and the certificate is delivered to a manager or officer of the provider of the utility service at least two days prior to the due date of a billing for service. The commission shall provide by rule the procedure necessary to carry out this section."

Chapter 88 Section 3

Section 3. Laws 1998, Chapter 108, Section 82 is amended to read:

"Section 82. DELAYED REPEAL.--The following are repealed effective July 1, 2003:

A. the Public Utility Act, except for Section 62-8-10 NMSA 1978;

B. Chapter 63, Article 7 NMSA 1978;

C. the Telephone and Telegraph Company Certification Act;

D. the New Mexico Telecommunications Act; and

E. the Cellular Telephone Services Act."

Chapter 88 Section 4

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

SENATE BILL 196, AS AMENDED, WITH EMERGENCY CLAUSE

SIGNED MARCH 7, 2000

CHAPTER 89

RELATING TO THE EDUCATIONAL TECHNOLOGY FUND; PROVIDING AN EQUITY ADJUSTMENT TO ASSURE MINIMUM DISTRIBUTIONS TO SCHOOL DISTRICTS FROM THE EDUCATIONAL TECHNOLOGY FUND.

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

Chapter 89 Section 1

Section 1. Section 22-15A-9 NMSA 1978 (being Laws 1994, Chapter 96, Section 9) is amended to read:

"22-15A-9. EDUCATIONAL TECHNOLOGY FUND--DISTRIBUTION.--

A. Upon annual review and approval of a school district's educational technology plan, the bureau shall determine a separate distribution from the educational technology fund for each school district.

B. On or before July 31 of each year, the bureau shall distribute money in the educational technology fund directly to each school district in an amount equal to ninety percent of the district's estimated adjusted entitlement calculated pursuant to Subsection C of this section. A school district's unadjusted entitlement is that portion of the total amount of the annual appropriation that the projected membership bears to the projected membership of the state. Kindergarten membership shall be calculated on a one-half full-time equivalent basis.

C. After calculation of a school district's unadjusted entitlement as provided in Subsection B of this section, the bureau shall calculate a base allocation for each school district by multiplying the total annual appropriation by a base equity factor of seventy-five thousandths of one percent. The adjusted entitlement amount for each school district whose entitlement falls at or below the base allocation amount shall be an amount equal to the base allocation. The bureau shall then subtract from the total annual appropriation amount the total of the adjusted entitlement amounts calculated for distribution to those school districts that will receive the base allocation amounts and subtract from the total projected state membership the membership of those school districts that will receive the base allocation amount. The adjusted entitlement amount for each of the remaining school districts shall be the amount of the adjusted annual appropriation that the projected membership of each remaining district bears to the projected membership of all remaining districts.

D. On or before January 30 of each year, the bureau shall recompute each adjusted entitlement using the final funded membership for that year and shall allocate the balance of the annual appropriation adjusting for any over- or under-projection of membership.

E. Any school district receiving funding pursuant to the Technology for Education Act is responsible for the purchase, distribution, use and maintenance of educational technology.

F. As used in this section, "membership" means the total enrollment of qualified students, as defined in the Public School Finance Act, on the current roll of class or school on a specified day. The current roll is established by the addition of original entries and re-entries minus withdrawals. Withdrawal of students, in addition to students formally withdrawn from the public school, includes students absent from the public school for as many as ten consecutive school days."

SENATE BILL 214, AS AMENDED

CHAPTER 90

RELATING TO GAMING; INCREASING THE HOURS OF OPERATION ON CERTAIN RACE TRACK GAMING OPERATOR LICENSEES' PREMISES.

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

Chapter 90 Section 1

Section 1. Section 60-2E-27 NMSA 1978 (being Laws 1997, Chapter 190, Section 29) is amended to read:

"60-2E-27. GAMING OPERATOR LICENSEES--SPECIAL CONDITIONS FOR RACETRACKS--NUMBER OF GAMING MACHINES--DAYS AND HOURS OF OPERATIONS.--

A. A racetrack licensed by the state racing commission pursuant to the Horse Racing Act to conduct live horse races or simulcast races may be issued a gaming operator's license to operate gaming machines on its premises where live racing is conducted.

B. A racetrack's gaming operator's license shall automatically become void if:

(1) the racetrack no longer holds an active license to conduct pari-mutuel wagering; or

(2) the racetrack fails to maintain a minimum of three live race days a week with at least nine live races on each race day during its licensed race meet in the 1997 calendar year and in the 1998 and subsequent calendar years, four live race days a week with at least nine live races on each race day during its licensed race meet.

C. A gaming operator licensee that is a racetrack may have up to three hundred licensed gaming machines, but the number of gaming machines to be located on the licensee's premises shall be specified in the gaming operator's license.

D. Gaming machines on a racetrack gaming operator licensee's premises may be played only on days when the racetrack is either conducting live horse races or simulcasting horse race meets. A gaming operator licensee that is a racetrack shall be permitted to conduct such games on only the aforementioned days for a daily period not to exceed twelve hours at the discretion of such licensee.

E. Alcoholic beverages shall not be sold, served, delivered or consumed in the area restricted pursuant to Subsection F of Section 60-2E-26 NMSA 1978."

SENATE BILL 264

CHAPTER 91

RELATING TO PUBLIC ACCOUNTANCY; PROHIBITING CERTAIN ACTS.

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

Chapter 91 Section 1

Section 1. Section 61-28B-3 NMSA 1978 (being Laws 1999, Chapter 179, Section 3) is amended to read:

"61-28B-3. DEFINITIONS.--As used in the 1999 Public Accountancy Act:

A. "attest" means to provide the following financial statement services:

(1) an audit or other engagement performed in accordance with the statements on auditing standards;

(2) a review of a financial statement performed in accordance with the statement on standards for accounting and review services; and

(3) an examination of prospective financial information performed in accordance with the statements on standards for attestation engagements;

B. "board" means the New Mexico public accountancy board;

C. "certificate" means the legal recognition issued to identify a certified public accountant or a registered public accountant pursuant to the 1999 Public Accountancy Act or prior law;

D. "certified public accountant" means a person certified by this state or by another state to practice public accountancy and use the designation;

E. "contingent fee" means a fee established for the performance of a service pursuant to an arrangement in which no fee will be charged unless a specific finding or result is attained or upon which the amount of the fee is dependent upon a finding or result. "Contingent fee" does not mean a fee set by the court or a public authority on a tax matter;

F. "director" means the executive director of the board;

G. "firm" means a sole proprietorship, professional corporation, partnership, limited liability company, limited liability partnership or other legal business entity that practices public accountancy;

H. "licensee" means a certified public accountant, certified public accountant firm, registered public accountant or registered public accountant firm;

I. "peer review" means a study, appraisal or review of one or more aspects of the professional work of a firm by a certified public accountant who is not affiliated with the firm being reviewed;

J. "permit" means the annual authority granted to practice as a certified public accountant firm or a registered public accountant firm;

K. "person" means a licensee;

L. "practice" means performing or offering to perform public accountancy for a client or potential client by a person holding himself out to the public as a permit holder or registered firm;

M. "public accountancy" means the performance of one or more kinds of services involving accounting or auditing skills, including the issuance of reports on financial statements, the performance of one or more kinds of management, financial advisory or consulting services, the preparation of tax returns or the furnishing of advice on tax matters;

N. "registered public accountant" means a person who is registered by the board to practice public accountancy and use the designation;

O. "report" means an opinion or other writing that:

(1) states or implies assurance as to the reliability of any financial statements;

(2) includes or is accompanied by a statement or implication that the person issuing it has special knowledge or competency in accounting or auditing indicated by the use of names, titles or abbreviations likely to be understood to identify the author of the report as a licensee; and

(3) includes the following types of reports as they are defined by board rule:

(a) a review report; or

(b) an audit report;

P. "specialty designation" means a designation indicating professional competence in a specialized area of practice; and

Q. "substantial equivalency" means a determination by the board that the education, examination and experience requirements for certification of another jurisdiction are comparable to or exceed the corresponding requirements of the 1999 Public Accountancy Act."

Chapter 91 Section 2

Section 2. Section 61-28B-17 NMSA 1978 (being Laws 1999, Chapter 179, Section 17) is amended to read:

"61-28B-17. ENFORCEMENT--UNLAWFUL ACTS.--

A. Except as provided in Subsection C of this section and Section 61-28B-18 NMSA 1978, it is unlawful for a person to engage in practice in New Mexico unless he is a licensee.

B. Except as provided in Subsection C of this section and Section 61-28B-18 NMSA 1978, no person or accountant shall issue a report or financial statement of a person or a governmental unit or issue a report using any form of language conventionally used respecting an audit or review of financial statements, unless he holds a current license or permit. The state auditor and his auditing staff are considered to be in the practice of public accountancy.

C. With the exception of persons cited in Section 61-28B-18 NMSA 1978, a person or accountant who prepares a financial accounting and related statements and who is not the holder of a certificate or a permit under the provisions of that act shall use the following statement in the transmittal letter: "I (we) have prepared the accompanying financial statements of (name of entity) as of (time period) and for the (time period) ending (date). This presentation is limited to preparing in the form of financial statements information that is the representation of management (owners). I (we) have

not audited nor reviewed the accompanying financial statements and accordingly do not express an opinion or any other form of assurance on them.".

D. No person or accountant shall indicate by title, designation, abbreviation, sign, card or device that he is a certified public accountant or a registered public accountant unless he is currently certified by the board pursuant to the 1999 Public Accountancy Act or is a firm currently permitted with the board pursuant to that act. Unless he is a holder of a current certificate or permit, no person or accountant shall use any title, initials or designation intended to or substantially likely to indicate to the public that he is a certified public accountant or registered public accountant.

E. No person shall engage in practice unless:

(1) he holds a valid certificate or current permit; or

(2) he is an employee and not a partner, officer, shareholder or member of a firm.

F. No person or firm holding a certificate or permit shall engage in practice using a professional or firm name or designation that is misleading about the legal form of the firm; provided, however, that names of one or more former partners, shareholders or members may be included in the name of a firm or its successors.

G. No person shall sell, offer to sell or fraudulently obtain or furnish any certificate or permit nor shall he fraudulently register as a certified public accountant or registered public accountant or practice in this state without being granted a certificate or permit as provided in the 1999 Public Accountancy Act.

H. A licensee or his firm shall not receive a commission to recommend or refer a product or service to a client or to recommend to anyone else a product or service to be supplied by a client during the period the licensee or his firm is engaged to perform the following services for that client and during the period covered by any historical financial statements involved in the services:

(1) an audit or review of a financial statement;

(2) a compilation of a financial statement when the licensee expects or might reasonably expect that a third party will use the financial statement, and the compilation report does not disclose the lack of independence by the licensee; or

(3) an examination of prospective financial information.

I. A licensee or his firm that is not prohibited from receiving a commission by Subsection H of this section and that is paid or expects to be paid a commission shall disclose that fact in writing to the person for whom the licensee or his firm performs a service or refers or recommends a product or service. A licensee or firm that

accepts or pays a referral fee for a service or to obtain a client shall disclose such acceptance or payment to the client in writing.

J. A licensee or his firm shall not charge or receive a contingent fee for a client for whom the licensee or his firm performs the following services:

(1) an audit or review of a financial statement;

(2) a compilation of a financial statement when the licensee expects or reasonably might expect that a third party will use the financial statement and the compilation report does not disclose a lack of independence;

(3) an examination of prospective financial information; or

(4) preparation of an original or amended tax return or claim for tax refund.

K. No licensee shall sign or certify any financial statements if he knows the same to be materially false or fraudulent."

Chapter 91 Section 3

Section 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2000.

SENATE BILL 266, AS AMENDED

CHAPTER 92

RELATING TO TAXATION; ENACTING AN EXEMPTION FROM PROPERTY TAXATION OF CERTAIN PROPERTY OWNED BY DISABLED VETERANS AS MANDATED BY ARTICLE 8, SECTION 15 OF THE CONSTITUTION OF NEW MEXICO; DECLARING AN EMERGENCY.

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

Chapter 92 Section 1

Section 1. A new section of the Property Tax Code is enacted to read:

"DISABLED VETERAN EXEMPTION.--

A. As used in this section:

(1) "disabled veteran" means an individual who:

(a) has been honorably discharged from membership in the armed forces of the United States or has received a discharge certificate from a branch of the armed forces of the United States for civilian service recognized pursuant to federal law as service in the armed forces of the United States; and

(b) has been determined pursuant to federal law to have a permanent and total service-connected disability; and

(2) "honorably discharged" means discharged from the armed forces pursuant to a discharge other than a dishonorable or bad conduct discharge.

B. The property of a disabled veteran, including joint or community property of the veteran and the veteran's spouse, is exempt from property taxation if it is occupied by the disabled veteran as his principal place of residence and has been especially adapted to his disability using a grant for specially adapted housing granted to the veteran by the federal government based on his permanent and total service-connected disability. Property held in a grantor trust established under Sections 671 through 677 of the Internal Revenue Code, as those sections may be amended or renumbered, by a disabled veteran or the veteran's surviving spouse is also exempt from property taxation if the property otherwise meets the requirements for exemption in this subsection or Subsection C of this section.

C. The property of the surviving spouse of a disabled veteran is exempt from property taxation if:

(1) the surviving spouse and the disabled veteran were married at the time of the disabled veteran's death;

(2) the property was exempt prior to the disabled veteran's death pursuant to Subsection B of this section; and

(3) the surviving spouse continues to occupy the property continuously after the disabled veteran's death as the spouse's principal place of residence.

D. The exemption provided by this section may be referred to as the "disabled veteran exemption".

E. The disabled veteran exemption shall be applied only if claimed and allowed in accordance with Section 7-38-17 NMSA 1978 and the rules of the department.

F. The New Mexico veterans' service commission shall assist the department and the county assessors in determining which veterans qualify for the disabled veteran exemption."

Chapter 92 Section 2

Section 2. Section 7-36-7 NMSA 1978 (being Laws 1973, Chapter 258, Section 15, as amended) is amended to read:

"7-36-7. PROPERTY SUBJECT TO VALUATION FOR PROPERTY TAXATION PURPOSES.--

A. Except for the property listed in Subsection B of this section or exempt pursuant to Section 7-36-8 NMSA 1978, all property is subject to valuation for property taxation purposes under the Property Tax Code if it has a taxable situs in the state.

B. The following property is not subject to valuation for property taxation purposes under the Property Tax Code:

(1) property exempt from property taxation under the federal or state constitution, federal law, the Property Tax Code or other laws, but this does not include property all or a part of the value of which is exempt because of the application of the veteran, disabled veteran or head-of-family exemption and this provision does not excuse an owner from obligations to report his property as required by regulation of the department adopted under Section 7-38-8.1 NMSA 1978 or to claim its exempt status under Subsection C of Section 7-38-17 NMSA 1978;

(2) oil and gas property subject to valuation and taxation under the Oil and Gas Ad Valorem Production Tax Act and the Oil and Gas Production Equipment Ad Valorem Tax Act; and

(3) productive copper mineral property subject to valuation and taxation under the Copper Production Ad Valorem Tax Act; for the purposes of this section, "copper mineral property" means all mineral property and property held in connection with mineral property when seventy-five percent or more, by either weight or value, of the salable mineral extracted from or processed by the mineral property is copper."

Chapter 92 Section 3

Section 3. Section 7-38-17 NMSA 1978 (being Laws 1973, Chapter 258, Section 57, as amended) is amended to read:

"7-38-17. CLAIMING EXEMPTIONS--REQUIREMENTS--PENALTIES.--

A. Subject to the requirements of Subsection E of this section, head-of-family exemptions claimed and allowed in the 1974 or a subsequent tax year, veteran exemptions claimed and allowed in the 1982 or a subsequent tax year or disabled veteran exemptions claimed and allowed in the 2000 or a subsequent tax year need not be claimed for subsequent tax years if there is no change in eligibility for the exemption

nor any change in ownership of the property against which the exemption was claimed. Head-of-family and veteran exemptions allowable under this subsection shall be applied automatically by county assessors in the subsequent tax years.

B. Beginning with the 1983 tax year, other exemptions of real property specified under Section 7-36-7 NMSA 1978 for nongovernmental entities shall be claimed in order to be allowed. Once such exemptions are claimed and allowed for a tax year, they need not be claimed for subsequent tax years if there is no change in eligibility. Exemptions allowable under this subsection shall be applied automatically by county assessors in subsequent tax years.

C. Any exemption required to be claimed under this section shall be applied for no later than the last day of February of the tax year in which it is required to be claimed in order for it to be allowed for that tax year.

D. Any person who has had an exemption applied to a tax year and subsequently becomes ineligible for the exemption because of a change in the person's status or a change in the ownership of the property against which the exemption was applied shall notify the county assessor of the loss of eligibility for the exemption by the last day of February of the tax year immediately following the year in which loss of eligibility occurs.

E. Exemptions may be claimed by filing proof of eligibility for the exemption with the county assessor. The proof shall be in a form prescribed by regulation of the department. Procedures for determining eligibility of claimants for any exemption shall be prescribed by regulation of the department, and these regulations shall include provisions for requiring the New Mexico veterans' service commission to issue certificates of eligibility for veteran exemptions in a form and with the information required by the department. The regulations shall also include verification procedures to assure that veteran exemptions in excess of the amount authorized under Section 7-37-5 NMSA 1978 are not allowed as a result of multiple claiming in more than one county or claiming against more than one property in a single tax year.

F. The department shall consult and cooperate with the New Mexico veterans' service commission in the development and promulgation of regulations under Subsection E of this section. The commission shall comply with the promulgated regulations. The commission shall collect a fee of five dollars ($5.00) for the issuance of a duplicate certificate of eligibility to a veteran.

G. Any person who violates the provisions of this section by intentionally claiming and receiving the benefit of an exemption to which he is not entitled or who fails to comply with the provisions of Subsection D of this section is guilty of a misdemeanor and shall be punished by a fine of not more than one thousand dollars ($1,000). Any county assessor or his employee who knowingly permits a claimant for an exemption to receive the benefit of an exemption to which he is not entitled is guilty of a misdemeanor and shall be punished by a fine of not more than one thousand dollars

($1,000) and shall also be automatically removed from office or dismissed from employment upon conviction under this subsection."

Chapter 92 Section 4

Section 4. Section 7-38-18 NMSA 1978 (being Laws 1973, Chapter 258, Section 58, as amended) is amended to read:

"7-38-18. PUBLICATION OF NOTICE OF CERTAIN PROVISIONS RELATING TO REPORTING PROPERTY FOR VALUATION AND CLAIMING OF EXEMPTIONS.--

A. Each county assessor shall have a notice published in a newspaper of general circulation within the county at least once a week during the first three full weeks in January of each tax year, which notice shall include a brief statement of the provisions of:

(1) Section 7-38-8 NMSA 1978 relating to requirements for reporting property for valuation for property taxation purposes;

(2) Section 7-38-8.1 NMSA 1978 relating to requirements for reporting exempt property;

(3) Section 7-38-13 NMSA 1978 relating to requirements for reporting improvements to real property and to filing statements of decrease in value of property;

(4) Section 7-38-17 NMSA 1978 relating to requirements for claiming veteran, disabled veteran, head-of-family and other exemptions; and

(5) Section 7-38-17.1 NMSA 1978 relating to the requirements for declaring residential property and changes in use of property.

B. The department shall develop and issue a uniform form of notice to be used by county assessors to fulfill the requirements of this section."

Chapter 92 Section 5

Section 5. APPLICABILITY.--The provisions of this act apply to the 2000 and subsequent property tax years.

Chapter 92 Section 6

Section 6. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

SENATE BILL 282, WITH EMERGENCY CLAUSE

SIGNED MARCH 7, 2000

CHAPTER 93

RELATING TO FINANCE; ALLOWING THE NEW MEXICO FINANCE AUTHORITY TO PAY ORIGINATING AND SERVICING COSTS FROM THE PUBLIC PROJECT REVOLVING FUND; EXTENDING THE TIME LIMIT FOR TEMPORARY LOANS FOR EQUIPMENT FINANCING; DECLARING AN EMERGENCY.

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

Chapter 93 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 may establish procedures and adopt rules 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 pay the reasonably necessary costs of originating and servicing loans, grants or securities funded by the fund and 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 money 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 money is pledged for or secures 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 two years 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:

(1) the acquisition of equipment for:

(a) fire protection;

(b) law enforcement and protection;

(c) computer and data processing;

(d) street and road construction and maintenance;

(e) emergency medical services;

(f) solid waste collection, transfer and disposal;

(g) radio and telecommunications; and

(h) utility system purposes; and

(2) the acquisition, construction and improvement of fire stations.

I. The amount of securities acquired from or the loan made to a qualified entity at any one time pursuant to Subsection H of this section shall not exceed five hundred thousand dollars ($500,000). The authority shall either obtain specific authorization by law for the projects funded through the equipment program at a legislative session subsequent to the acquisitions of the securities or the making of loans or issue bonds within two years of the date the securities are acquired or within two years 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.

J. Money on deposit in the public project revolving fund may be designated as a reserve 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 from money deposited in the public project revolving fund after issuance of bonds by the authority."

Chapter 93 Section 2

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

HOUSE BILL 67, AS AMENDED, WITH EMERGENCY CLAUSE

SIGNED MARCH 7, 2000

CHAPTER 94

RELATING TO TAXATION; ENACTING AN EXEMPTION FROM PROPERTY TAXATION OF CERTAIN PROPERTY OWNED BY DISABLED VETERANS AS MANDATED BY ARTICLE 8, SECTION 15 OF THE CONSTITUTION OF NEW MEXICO; DECLARING AN EMERGENCY.

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

Chapter 94 Section 1

Section 1. A new section of the Property Tax Code is enacted to read:

"DISABLED VETERAN EXEMPTION.--

A. As used in this section:

(1) "disabled veteran" means an individual who:

(a) has been honorably discharged from membership in the armed forces of the United States or has received a discharge certificate from a branch of the armed forces of the United States for civilian service recognized pursuant to federal law as service in the armed forces of the United States; and

(b) has been determined pursuant to federal law to have a permanent and total service-connected disability; and

(2) "honorably discharged" means discharged from the armed forces pursuant to a discharge other than a dishonorable or bad conduct discharge.

B. The property of a disabled veteran, including joint or community property of the veteran and the veteran's spouse, is exempt from property taxation if it is occupied by the disabled veteran as his principal place of residence and has been especially adapted to his disability using a grant for specially adapted housing granted to the veteran by the federal government based on his permanent and total service-connected disability. Property held in a grantor trust established under Sections 671 through 677 of the Internal Revenue Code, as those sections may be amended or renumbered, by a disabled veteran or the veteran's surviving spouse is also exempt from property taxation if the property otherwise meets the requirements for exemption in this subsection or Subsection C of this section.

C. The property of the surviving spouse of a disabled veteran is exempt from property taxation if:

(1) the surviving spouse and the disabled veteran were married at the time of the disabled veteran's death;

(2) the property was exempt prior to the disabled veteran's death pursuant to Subsection B of this section; and

(3) the surviving spouse continues to occupy the property continuously after the disabled veteran's death as the spouse's principal place of residence.

D. The exemption provided by this section may be referred to as the "disabled veteran exemption".

E. The disabled veteran exemption shall be applied only if claimed and allowed in accordance with Section 7-38-17 NMSA 1978 and the rules of the department.

F. The New Mexico veterans' service commission shall assist the department and the county assessors in determining which veterans qualify for the disabled veteran exemption."

Chapter 94 Section 2

Section 2. Section 7-36-7 NMSA 1978 (being Laws 1973, Chapter 258, Section 15, as amended) is amended to read:

"7-36-7. PROPERTY SUBJECT TO VALUATION FOR PROPERTY TAXATION PURPOSES.--

A. Except for the property listed in Subsection B of this section or exempt pursuant to Section 7-36-8 NMSA 1978, all property is subject to valuation for property taxation purposes under the Property Tax Code if it has a taxable situs in the state.

B. The following property is not subject to valuation for property taxation purposes under the Property Tax Code:

(1) property exempt from property taxation under the federal or state constitution, federal law, the Property Tax Code or other laws, but this does not include property all or a part of the value of which is exempt because of the application of the veteran, disabled veteran or head-of-family exemption and this provision does not excuse an owner from obligations to report his property as required by regulation of the department adopted under Section 7-38-8.1 NMSA 1978 or to claim its exempt status under Subsection C of Section 7-38-17 NMSA 1978;

(2) oil and gas property subject to valuation and taxation under the Oil and Gas Ad Valorem Production Tax Act and the Oil and Gas Production Equipment Ad Valorem Tax Act; and

(3) productive copper mineral property subject to valuation and taxation under the Copper Production Ad Valorem Tax Act; for the purposes of this section, "copper mineral property" means all mineral property and property held in connection with mineral property when seventy-five percent or more, by either weight or value, of the salable mineral extracted from or processed by the mineral property is copper."

Chapter 94 Section 3

Section 3. Section 7-38-17 NMSA 1978 (being Laws 1973, Chapter 258, Section 57, as amended) is amended to read:

"7-38-17. CLAIMING EXEMPTIONS--REQUIREMENTS--PENALTIES.--

A. Subject to the requirements of Subsection E of this section, head-of-family exemptions claimed and allowed in the 1974 or a subsequent tax year, veteran exemptions claimed and allowed in the 1982 or a subsequent tax year or disabled veteran exemptions claimed and allowed in the 2000 or a subsequent tax year need not be claimed for subsequent tax years if there is no change in eligibility for the exemption nor any change in ownership of the property against which the exemption was claimed. Head-of-family and veteran exemptions allowable under this subsection shall be applied automatically by county assessors in the subsequent tax years.

B. Beginning with the 1983 tax year, other exemptions of real property specified under Section 7-36-7 NMSA 1978 for nongovernmental entities shall be claimed in order to be allowed. Once such exemptions are claimed and allowed for a tax year, they need not be claimed for subsequent tax years if there is no change in eligibility. Exemptions allowable under this subsection shall be applied automatically by county assessors in subsequent tax years.

C. Any exemption required to be claimed under this section shall be applied for no later than the last day of February of the tax year in which it is required to be claimed in order for it to be allowed for that tax year.

D. Any person who has had an exemption applied to a tax year and subsequently becomes ineligible for the exemption because of a change in the person's status or a change in the ownership of the property against which the exemption was applied shall notify the county assessor of the loss of eligibility for the exemption by the last day of February of the tax year immediately following the year in which loss of eligibility occurs.

E. Exemptions may be claimed by filing proof of eligibility for the exemption with the county assessor. The proof shall be in a form prescribed by regulation of the department. Procedures for determining eligibility of claimants for any exemption shall be prescribed by regulation of the department, and these regulations shall include provisions for requiring the New Mexico veterans' service commission to issue certificates of eligibility for veteran exemptions in a form and with the information required by the department. The regulations shall also include verification procedures to assure that veteran exemptions in excess of the amount authorized under Section 7-37-5 NMSA 1978 are not allowed as a result of multiple claiming in more than one county or claiming against more than one property in a single tax year.

F. The department shall consult and cooperate with the New Mexico veterans' service commission in the development and promulgation of regulations under Subsection E of this section. The commission shall comply with the promulgated regulations. The commission shall collect a fee of five dollars ($5.00) for the issuance of a duplicate certificate of eligibility to a veteran.

G. Any person who violates the provisions of this section by intentionally claiming and receiving the benefit of an exemption to which he is not entitled or who

fails to comply with the provisions of Subsection D of this section is guilty of a misdemeanor and shall be punished by a fine of not more than one thousand dollars ($1,000). Any county assessor or his employee who knowingly permits a claimant for an exemption to receive the benefit of an exemption to which he is not entitled is guilty of a misdemeanor and shall be punished by a fine of not more than one thousand dollars ($1,000) and shall also be automatically removed from office or dismissed from employment upon conviction under this subsection."

Chapter 94 Section 4

Section 4. Section 7-38-18 NMSA 1978 (being Laws 1973, Chapter 258, Section 58, as amended) is amended to read:

"7-38-18. PUBLICATION OF NOTICE OF CERTAIN PROVISIONS RELATING TO REPORTING PROPERTY FOR VALUATION AND CLAIMING OF EXEMPTIONS.--

A. Each county assessor shall have a notice published in a newspaper of general circulation within the county at least once a week during the first three full weeks in January of each tax year, which notice shall include a brief statement of the provisions of:

(1) Section 7-38-8 NMSA 1978 relating to requirements for reporting property for valuation for property taxation purposes;

(2) Section 7-38-8.1 NMSA 1978 relating to requirements for reporting exempt property;

(3) Section 7-38-13 NMSA 1978 relating to requirements for reporting improvements to real property and to filing statements of decrease in value of property;

(4) Section 7-38-17 NMSA 1978 relating to requirements for claiming veteran, disabled veteran, head-of-family and other exemptions; and

(5) Section 7-38-17.1 NMSA 1978 relating to the requirements for declaring residential property and changes in use of property.

B. The department shall develop and issue a uniform form of notice to be used by county assessors to fulfill the requirements of this section."

Chapter 94 Section 5

Section 5. APPLICABILITY.--The provisions of this act apply to the 2000 and subsequent property tax years.

Chapter 94 Section 6

Section 6. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

HOUSE BILL 90, WITH EMERGENCY CLAUSE

SIGNED MARCH 7, 2000

CHAPTER 95

RELATING TO SEVERANCE TAX BONDS; AMENDING THE SEVERANCE TAX BONDING ACT TO CHANGE CERTAIN PROVISIONS PERTAINING TO SUPPLEMENTAL SEVERANCE TAX BONDS; AUTHORIZING THE ISSUANCE OF ADDITIONAL SUPPLEMENTAL SEVERANCE TAX BONDS FOR PUBLIC SCHOOL CAPITAL OUTLAY PURPOSES; MAKING AN APPROPRIATION.

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

Chapter 95 Section 1

Section 1. Section 7-27-14 NMSA 1978 (being Laws 1961, Chapter 5, Section 11, as amended) is amended to read:

"7-27-14. AMOUNT OF TAX--SECURITY FOR BONDS.--

A. The legislature shall provide for the continued assessment, levy, collection and deposit into the severance tax bonding fund of the tax or taxes upon natural resource products severed and saved from the soil of the state that, together with such other income as may be deposited to the fund, will be sufficient to produce an amount that is at least the amount necessary to meet annual debt service charges on all outstanding severance tax bonds and supplemental severance tax bonds.

B. The state board of finance shall issue no severance tax bonds unless the aggregate amount of severance tax bonds outstanding, and including the issue proposed, can be serviced with not more than fifty percent of the annual deposits into the severance tax bonding fund, as determined by the deposits during the preceding fiscal year.

C. The state board of finance shall issue no supplemental severance tax bonds with a term that extends beyond the fiscal year in which the bonds are issued unless the aggregate amount of severance tax bonds and supplemental severance tax bonds outstanding, and including the issue proposed, can be serviced with not more than sixty-two and one-half percent of the annual deposits into the severance tax bonding fund, as determined by the deposits during the preceding fiscal year.

D. The state board of finance may issue supplemental severance tax bonds with a term that does not extend beyond the fiscal year in which they are issued if

the debt service on such supplemental severance tax bonds when added to the debt service previously paid or scheduled to be paid during that fiscal year on severance tax bonds and supplemental severance tax bonds does not exceed seventy-five percent of the deposits into the severance tax bonding fund during the preceding fiscal year.

E. The provisions of this section shall not be modified by the terms of any severance tax bonds or supplemental severance tax bonds hereafter issued."

Chapter 95 Section 2

Section 2. SUPPLEMENTAL SEVERANCE TAX BONDS--PURPOSE FOR WHICH ISSUED--APPROPRIATION OF PROCEEDS.--

A. The state board of finance may issue and sell supplemental severance tax bonds in compliance with the Severance Tax Bonding Act in an amount not exceeding seventy-five million dollars ($75,000,000) when the public school capital outlay council certifies by resolution the need for the issuance of the bonds for public school critical capital outlay projects pursuant to the Public School Capital Outlay Act.

B. The state board of finance shall schedule the issuance and sale of the bonds in the most expeditious and economic manner possible upon a finding by the board that the projects have been developed sufficiently to justify the issuance and that the projects can proceed to contract within a reasonable time. The state board of finance shall further take the appropriate steps necessary to comply with the Internal Revenue Code of 1986, as amended.

C. The proceeds from the sale of the bonds are appropriated in the public school capital outlay fund to carry out the provisions of the Public School Capital Outlay Act. If the public school capital outlay council has not certified the need for the issuance of the bonds by the end of fiscal year 2005, authorization provided in this section shall expire. Any unexpended or unencumbered balance remaining from the proceeds of bonds issued pursuant to this section at the end of fiscal year 2006 shall revert to the severance tax bonding fund.

HOUSE BILL 279, AS AMENDED

CHAPTER 96

RELATING TO THE ENVIRONMENT; PROVIDING FOR ON-SITE LIQUID WASTE FEES; CREATING THE LIQUID WASTE FUND; AMENDING AND ENACTING SECTIONS OF THE ENVIRONMENTAL IMPROVEMENT ACT; MAKING AN APPROPRIATION.

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

Chapter 96 Section 1

Section 1. Section 74-1-7 NMSA 1978 (being Laws 1971, Chapter 277, Section 10, as amended) is amended to read:

"74-1-7. DEPARTMENT--DUTIES.--

A. The department is responsible for environmental management and consumer protection programs. In that respect, the department shall maintain, develop and enforce rules and standards in the following areas:

(1) food protection;

(2) water supply, including implementing a capacity development program to assist water systems in acquiring and maintaining technical, managerial and financial capacity in accordance with Section 1420 of the federal Safe Drinking Water Act and establishing administrative penalties for enforcement;

(3) liquid waste, including exclusive authority to collect on-site liquid waste system fees that are no more than the average charged by the contiguous states to New Mexico for similar permits and services and to implement and administer an inspection and permitting program for on-site liquid waste systems;

(4) air quality management as provided in the Air Quality Control Act;

(5) radiation control as provided in the Radiation Protection Act;

(6) noise control;

(7) nuisance abatement;

(8) vector control;

(9) occupational health and safety as provided in the Occupational Health and Safety Act;

(10) sanitation of public swimming pools and public baths;

(11) plumbing, drainage, ventilation and sanitation of public buildings in the interest of public health;

(12) medical radiation, health and safety certification and standards for radiologic technologists as provided in the Medical Radiation Health and Safety Act;

(13) hazardous wastes and underground storage tanks as provided in the Hazardous Waste Act; and

(14) solid waste as provided in the Solid Waste Act.

B. Nothing in Subsection A of this section imposes requirements for the approval of subdivision plats in addition to those required elsewhere by law. Nothing in Subsection A of this section preempts the authority of any political subdivision to approve subdivision plats."

Chapter 96 Section 2

Section 2. Section 74-1-8 NMSA 1978 (being Laws 1971, Chapter 277, Section 11, as amended) is amended to read:

"74-1-8. BOARD--DUTIES.--

A. The board is responsible for environmental management and consumer protection. In that respect, the board shall promulgate rules and standards in the following areas:

(1) food protection;

(2) water supply, including a capacity development program to assist water systems in acquiring and maintaining technical, managerial and financial capacity in accordance with Section 1420 of the federal Safe Drinking Water Act and rules authorizing imposition of administrative penalties for enforcement;

(3) liquid waste, including exclusive authority to establish on-site liquid waste system fees that are no more than the average charged by the contiguous states to New Mexico for similar permits and services and to implement and administer an inspection and permitting program for on-site liquid waste systems;

(4) air quality management as provided in the Air Quality Control Act;

(5) radiation control as provided in the Radiation Protection Act;

(6) noise control;

(7) nuisance abatement;

(8) vector control;

(9) occupational health and safety as provided in the Occupational Health and Safety Act;

(10) sanitation of public swimming pools and public baths;

(11) plumbing, drainage, ventilation and sanitation of public buildings in the interest of public health;

(12) medical radiation, health and safety certification and standards for radiologic technologists as provided in the Medical Radiation Health and Safety Act;

(13) hazardous wastes and underground storage tanks as provided in the Hazardous Waste Act; and

(14) solid waste as provided in the Solid Waste Act.

B. Nothing in Subsection A of this section imposes requirements for the approval of subdivision plats in addition to those required elsewhere by law. Nothing in Subsection A of this section preempts the authority of any political subdivision to approve subdivision plats.

C. Administrative penalties collected pursuant to Paragraph (2) of Subsection A of this section shall be deposited in the water conservation fund.

D. On-site liquid waste system fees shall be deposited in the liquid waste fund."

Chapter 96 Section 3

Section 3. A new section of the Environmental Improvement Act is enacted to read:

"LIQUID WASTE FUND CREATED.--The "liquid waste fund" is created in the state treasury. On-site liquid waste system fees shall be deposited in the fund. Money in the fund is appropriated to the department for administration of liquid waste regulations. Disbursements from the fund shall be by warrant drawn by the secretary of finance and administration pursuant to vouchers signed by the secretary of environment or his designee. Any unexpended or unencumbered balance or income earned from the money in the liquid waste fund remaining at the end of any fiscal year shall not revert to the general fund."

HOUSE BILL 478, AS AMENDED

CHAPTER 97

RELATING TO ECONOMIC DEVELOPMENT; CHANGING PROVISIONS PERTAINING TO INVESTMENT OF THE SEVERANCE TAX PERMANENT FUND; PROVIDING FOR INVESTMENT OF SEVERANCE TAX REVENUES IN SMALL BUSINESS EQUITY; ENACTING THE SMALL BUSINESS INVESTMENT ACT;

CREATING THE SMALL BUSINESS INVESTMENT CORPORATION; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978.

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

Chapter 97 Section 1

Section 1. Section 7-27-1 NMSA 1978 (being Laws 1961, Chapter 5, Section 2) is amended to read:

"7-27-1. SHORT TITLE.--Sections 7-27-1 through 7-27-27 NMSA 1978 may be cited as the "Severance Tax Bonding Act"."

Chapter 97 Section 2

Section 2. Section 7-27-5.15 NMSA 1978 (being Laws 1990, Chapter 126, Section 5, as amended) is amended to read:

"7-27-5.15. NEW MEXICO VENTURE CAPITAL FUND AND SMALL BUSINESS INVESTMENTS.--

A. No more than three percent of the market value of the severance tax permanent fund may be invested in New Mexico venture capital funds under this section.

B. If an investment is made under Subsection A of this section, not more than fifteen million dollars ($15,000,000) of the amount authorized for investment pursuant to Subsection A of this section shall be invested in any one New Mexico venture capital fund. The amount invested in any one New Mexico venture capital fund shall not exceed fifty percent of the committed capital of that fund.

C. In making investments pursuant to Subsection A of this section, the council shall give consideration to investments in New Mexico venture capital funds whose investments enhance the economic development objectives of the state.

D. The state investment officer shall make investments pursuant to Subsection A of this section only upon approval of the council and upon review of the recommendation of the venture capital investment advisory committee. The state investment officer is authorized to make investments pursuant to Subsection A of this section contingent upon a New Mexico venture capital fund securing paid-in investments from other accredited investors for the balance of the minimum committed capital of the fund.

E. As used in this section:

(1) "committed capital" means the sum of the fixed amounts of money which accredited investors have obligated for investment in a New Mexico venture capital fund and which fixed amounts may be invested in that fund on one or more payments over time; and

(2) "New Mexico venture capital fund" means any limited partnership, limited liability company or corporation organized and operating in the United States and maintaining an office staffed by a full-time investment officer in New Mexico that:

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

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

(c) has a minimum committed capital of fifteen million dollars ($15,000,000);

(d) has at least one full-time manager with at least three years of professional experience in assessing the growth prospects of businesses or evaluating business plans and who has established permanent residency in the state;

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

(f) accepts investments only from accredited investors as that term is defined in Section 2 of the federal Securities Act of 1933, as amended, (15 U.S.C. Section 77(b)) and rules and regulations promulgated pursuant to that section.

F. The state investment officer shall make a commitment to the small business investment corporation pursuant to the Small Business Investment Act to invest one-fourth of one percent of the market value of the severance tax permanent fund by July 1, 2001 to create new job opportunities by providing land, buildings or infrastructure for facilities to support new or expanding businesses. If invested capital in the small business investment corporation should at any time fall below one-fourth of one percent of the market value of the severance tax permanent fund, further commitments shall be made until the invested capital is equal to one-fourth of one percent of the market value of the fund."

Chapter 97 Section 3

Section 3. SHORT TITLE.--Sections 3 through 8 of this act may be cited as the "Small Business Investment Act".

Chapter 97 Section 4

Section 4. PURPOSE.--The purpose of the Small Business Investment Act is to implement Article 9, Section 14 of the constitution of New Mexico to create new job opportunities by providing land, buildings or infrastructure for facilities to support new or expanding businesses.

Chapter 97 Section 5

Section 5. DEFINITIONS.--As used in the Small Business Investment Act:

A. "board" means the small business investment corporation's board;

B. "corporation" means the small business investment corporation; and

C. "president" means the president of the corporation.

Chapter 97 Section 6

Section 6. SMALL BUSINESS INVESTMENT CORPORATION CREATED--POWERS OF THE CORPORATION.--

A. The "small business investment corporation" is created as a nonprofit, independent, public corporation for the purpose of creating new job opportunities by making equity investments in land, buildings or infrastructure for facilities to support new or expanding businesses. The corporation may:

(1) make equity investments in New Mexico small businesses that:

(a) have rural development business and industrial loans approved by the United States small business administration or the United States department of agriculture;

(b) are no more than forty-nine percent of the total capital equity of a business; and

(c) pay an annual dividend to the severance tax permanent fund of not less than five percent of the original capital equity investment by the corporation in the small business;

(2) hold redeemable preferred stock of a small business for a fixed period of time not to exceed ten years and have rural development business and

industrial loans approved by the United States small business administration or the United States department of agriculture;

(3) sue and be sued in all actions arising out of any act or omission in connection with its business or affairs;

(4) enter into any contracts or obligations relating to the corporation that are authorized or permitted by law;

(5) cooperate with small business development centers and regional economic development districts;

(6) invest not more than ten percent of the fund in any one small business enterprise; and

(7) make investments that consider the enhancement of economic development objectives of the state.

B. The corporation shall not be considered a state agency for any purpose. The corporation is exempted from the provisions of the Personnel Act and the Procurement Code.

C. The state shall not be liable for any obligations incurred by the corporation.

Chapter 97 Section 7

Section 7. CORPORATION BOARD OF DIRECTORS--APPOINTMENT--POWERS.--

A. The corporation shall be governed by the board. The corporation's board of directors shall consist of:

(1) the president of the board;

(2) the state treasurer;

(3) the state investment officer;

(4) the president of the New Mexico bankers association;

(5) the president of the New Mexico independent community bankers association;

(6) the director of the New Mexico district of the United States small business administration; and

(7) four members appointed or elected as provided in this section.

B. Each director shall hold office for the length of his term in office or until a successor is appointed or elected and begins service on the board.

C. The governor shall appoint, with the consent of the senate, the initial four public directors of the board, and the full board shall then elect the president.

D. After the governor appoints the initial four public directors of the board, those directors shall determine by lot their initial terms, which shall be two directors for two years and two directors for four years. Thereafter, each public member director shall be appointed or elected to a four-year term. At the expiration of the terms of the two initial directors whose terms are two years, the governor shall appoint one director and the board shall elect one director for full four-year terms. At the expiration of the terms of the two initial directors whose terms are four years, the governor shall appoint one director and the board shall elect one director for full four-year terms. Thereafter, as vacancies arise, public member directors shall be appointed or elected so that at all times two shall be appointed by the governor and two shall be elected by the board in accordance with provisions determined by the board.

E. The governor shall not remove a director he appoints unless the removal is approved by a two-thirds' vote of the members of the senate.

F. The governor's appointees to the board shall be public members who have general expertise in small business management, but they shall not be employed by or represent small businesses receiving equity investments from the corporation.

G. No two members of the board shall be employed by or represent the same company or institution.

H. The board shall annually elect a chairman from among its members and shall elect those other officers it determines necessary for the performance of its duties.

I. The power to set the policies and procedures for the corporation is vested in the board. The board may perform all acts necessary or appropriate to exercise that power.

J. Public members of the board shall be reimbursed for attending meetings of the board as provided in the Per Diem and Mileage Act and shall receive no other compensation, perquisite or allowance.

K. Public members of the board are appointed public officials of the state while carrying out their duties and activities under the Small Business Investment Act. The directors and the employees of the corporation are not liable personally, either jointly or severally, for any debt or obligation created or incurred by the corporation or

for any act performed or obligation entered into in an official capacity when done in good faith, without intent to defraud and in connection with the administration, management or conduct of the corporation or affairs relating to it.

L. The board shall conduct an annual audit of the books of accounts, funds and securities of the corporation to be made by a competent and independent firm of certified public accountants. A copy of the audit report shall be filed with the president. The audit shall be open to the public for inspection.

Chapter 97 Section 8

Section 8. PRESIDENT--POWERS AND DUTIES.--

A. The corporation is under the administrative control of the president. The board shall periodically review and appraise the investment strategy being followed, and the president shall report at least once a month to the board on investment results and related matters. The president shall:

(1) act for the corporation in collecting and disbursing money necessary to administer the corporation and conduct its business;

(2) sign contracts and incur obligations on behalf of the corporation;

(3) perform all acts necessary to exercise power, authority or jurisdiction over the corporation to discharge its functions and fulfill its responsibilities; and

(4) make investments pursuant to the Small Business Investment Act and upon approval of the board.

B. The president shall submit an annual report, independently audited in accordance with generally accepted procedures governing annual reports, by October 1 of each year to the governor, the legislative finance committee and any other appropriate legislative committee indicating the business done by the corporation during the previously completed fiscal year and containing a statement of the resources and liabilities of the corporation. The report shall include:

(1) the average rate of return enjoyed by the corporation on invested assets;

(2) recommendations concerning desired changes in the corporation to promote its prompt and efficient administration of policies and claims;

(3) recommendations to the legislature and the governor regarding the continued operation of the corporation; and

(4) any other information the president deems appropriate.

SENATE BILL 201, AS AMENDED

CHAPTER 98

RELATING TO TAXATION; CHANGING CERTAIN PROVISIONS OF THE GROSS RECEIPTS AND COMPENSATING TAX ACT REGARDING CONSTRUCTION ON TRIBAL LAND; DECLARING AN EMERGENCY.

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

Chapter 98 Section 1

Section 1. Section 7-9-51 NMSA 1978 (being Laws 1969, Chapter 144, Section 41) is amended to read:

"7-9-51. DEDUCTION--GROSS RECEIPTS TAX--SALE OF TANGIBLE PERSONAL PROPERTY TO PERSONS ENGAGED IN THE CONSTRUCTION BUSINESS.--

A. Receipts from selling tangible personal property may be deducted from gross receipts if the sale is made to a person engaged in the construction business who delivers a nontaxable transaction certificate to the seller.

B. The buyer delivering the nontaxable transaction certificate must incorporate the tangible personal property as:

(1) an ingredient or component part of a construction project which is subject to the gross receipts tax upon its completion or upon the completion of the overall construction project of which it is a part;

(2) an ingredient or component part of a construction project which is subject to the gross receipts tax upon the sale in the ordinary course of business of the real property upon which it was constructed; or

(3) an ingredient or component part of a construction project that is located on the tribal territory of an Indian nation, tribe or pueblo."

Chapter 98 Section 2

Section 2. Section 7-9-52 NMSA 1978 (being Laws 1969, Chapter 144, Section 42) is amended to read:

"7-9-52. DEDUCTION--GROSS RECEIPTS TAX--SALE OF CONSTRUCTION SERVICES TO PERSONS ENGAGED IN THE CONSTRUCTION BUSINESS.--

A. Receipts from selling a construction service may be deducted from gross receipts if the sale is made to a person engaged in the construction business who delivers a nontaxable transaction certificate to the person performing the construction service.

B. The buyer delivering the nontaxable transaction certificate must have the construction services performed upon:

(1) a construction project which is subject to the gross receipts tax upon its completion or upon the completion of the overall construction project of which it is a part;

(2) a construction project which is subject to the gross receipts tax upon the sale in the ordinary course of business of the real property upon which it was constructed; or

(3) a construction project that is located on the tribal territory of an Indian nation, tribe or pueblo."

Chapter 98 Section 3

Section 3. Section 7-9-54 NMSA 1978 (being Laws 1969, Chapter 144, Section 44, as amended) is amended to read:

"7-9-54. DEDUCTION--GROSS RECEIPTS TAX--GOVERNMENTAL GROSS RECEIPTS TAX--SALES TO GOVERNMENTAL AGENCIES.--

A. Receipts from selling tangible personal property to the United States or New Mexico or any governmental unit or subdivision, agency, department or instrumentality thereof may be deducted from gross receipts or from governmental gross receipts. Unless contrary to federal law, the deduction provided by this subsection does not apply to:

(1) receipts from selling metalliferous mineral ore;

(2) receipts from selling tangible personal property that is or will be incorporated into a metropolitan redevelopment project created under the Metropolitan Redevelopment Code;

(3) receipts from selling tangible personal property that will become an ingredient or component part of a construction project; or

(4) that portion of the receipts from performing a "service", as defined in Subsection K of Section 7-9-3 NMSA 1978, that reflects the value of tangible personal property utilized or produced in performance of such service.

B. Receipts from selling tangible personal property for any purpose to an Indian tribe, nation or pueblo or any governmental subdivision, agency, department or instrumentality thereof for use on Indian reservations or pueblo grants may be deducted from gross receipts or from governmental gross receipts."

Chapter 98 Section 4

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

SENATE BILL 279, AS AMENDED, WITH EMERGENCY CLAUSE

SIGNED MARCH 7, 2000

CHAPTER 99

RELATING TO ELECTIONS; ASSIGNING PRECINCTS TO SAN JUAN MAGISTRATE DISTRICT DIVISIONS; DECLARING AN EMERGENCY.

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

Chapter 99 Section 1

Section 1. Section 35-1-3 NMSA 1978 (being Laws 1968, Chapter 62, Section 5) is amended to read:

"35-1-3. MAGISTRATE COURT--ELECTION--TERMS.--Except as otherwise provided by law, magistrates shall be nominated and elected at large within each magistrate district at the primary and general elections. In magistrate districts having more than one magistrate, the separate offices shall be designated by divisions and, in all appointments to fill vacancies and in all nominations and elections to these offices, candidates shall be designated as appointed or elected to the office of magistrate of a specific division. Magistrates shall be nominated and elected in the 1968 primary and general elections to serve terms from January 1, 1969 until December 31, 1970. Subsequent terms shall be for four years."

Chapter 99 Section 2

Section 2. Section 35-1-27 NMSA 1978 (being Laws 1968, Chapter 62, Section 29, as amended) is amended to read:

"35-l-27. MAGISTRATE COURT--SAN JUAN DISTRICT ELECTION DIVISION PRECINCTS.--

A. There shall be four magistrate divisions in

San Juan magistrate district, each division having its own magistrate. Divisions 1 and 4 shall operate as a single court in Aztec and divisions 2 and 3 shall operate as a single court in Farmington.

B. Magistrate judges shall not be elected at-large from the district, but shall be elected by the voters of the division for which the magistrate sits. Magistrate judges may reside anywhere within the magistrate district and shall have district-wide jurisdiction. The composition of the divisions for elections purposes is:

(1) division 1 is composed of San Juan county precinct numbers 46, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 78, 79 and 82;

(2) division 2 is composed of San Juan county precinct numbers 2, 3, 4, 8, 9, 10, 11, 12, 13, 14, 15, 17, 18, 28, 29, 30, 31 and 32;

(3) division 3 is composed of San Juan county precinct numbers 20, 21, 22, 23, 24, 25, 26, 27, 41, 42, 43, 44, 45, 51, 52 and 54; and

(4) division 4 is composed of San Juan county precinct numbers 1, 5, 5A, 6, 7, 16, 19, 53, 55, 56, 57, 58, 75, 76, 77, 80, 81 and 83."

Chapter 99 Section 3

Section 3. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

SENATE BILL 432, WITH EMERGENCY CLAUSE

SIGNED MARCH 7, 2000

CHAPTER 100

RELATING TO TELECOMMUNICATIONS; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978; PROVIDING FOR PENALTIES; MAKING AN APPROPRIATION; DECLARING AN EMERGENCY.

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

Chapter 100 Section 1

Section 1. A new section of the Public Regulation Commission Act is enacted to read:

"TELECOMMUNICATIONS BUREAU.--

A. The telecommunications bureau is created in the utility division of the public regulation commission.

B. The telecommunications bureau shall:

(1) review disputes between telecommunications providers;

(2) investigate each complaint on an expedited basis;

(3) address other telecommunications-related duties as required by the New Mexico Telecommunications Act and the commission; and

(4) recommend actions to the commission.

C. Each complaint shall be resolved by the commission within sixty days unless extended for good cause by an order of the commission or hearing examiner that states with specificity the reason for and length of the extension."

Chapter 100 Section 2

Section 2. Section 63-7-23 NMSA 1978 (being Laws 1995, Chapter 175, Section 1, as amended) is amended to read:

"63-7-23. TELECOMMUNICATIONS--ADMINISTRATIVE FINES.--

A. For purposes of this section:

(1) "commission" means the public regulation commission; and

(2) "telecommunications provider" means any telegraph company, telephone company, transmission company, telecommunications common carrier, telecommunications company, cellular service company or pay telephone provider regulated in whole or in part by the commission under law, including the Telephone and Telegraph Company Certification Act, the New Mexico Telecommunications Act, the Cellular Telephone Services Act and Sections 63-9E-1 and 63-9E-3 NMSA 1978.

B. The commission may impose an administrative fine on a telecommunications provider for any act or omission that the provider knew or should have known was a violation of any applicable law or rule or order of the commission.

C. Except in the case of disputes between telecommunications providers, an administrative fine of not more than one thousand dollars ($1,000) may be imposed for each violation or each of multiple violations arising out of the same facts up to a maximum of twenty-five thousand dollars ($25,000); or an administrative fine of not more than one thousand dollars ($1,000) may be imposed for each day of a continuing violation arising out of the same facts up to a maximum of twenty-five thousand dollars ($25,000). Notwithstanding any other provision of this subsection, the commission may impose an administrative fine not to exceed twenty-five thousand dollars ($25,000) for a single violation:

(1) that results in substantial harm to the customers of the telecommunications provider or substantial harm to the public interest; or

(2) for failure to obtain a certificate of public convenience and necessity required by law or for operation outside the scope of that certificate.

D. In the case of disputes between telecommunications providers, an administrative fine of not more than one hundred thousand dollars ($100,000) may be imposed for the violation of a telecommunications provider interconnection agreement, telecommunications provider wholesale tariff, or commission regulation or order otherwise relating to the provision of services between telecommunications providers. An administrative fine of not more than one hundred thousand dollars ($100,000) may be imposed for each day of a continuing violation.

E. The amount of the fine should bear a reasonable relationship to the nature and severity of the violation.

F. The commission shall initiate a proceeding to impose an administrative fine by giving written notice to the provider that the commission has facts as set forth in the notice that, if not rebutted, may lead to the imposition of an administrative fine under this section and that the telecommunications provider has an opportunity for a hearing. The commission may only impose an administrative fine by written order that, in the case of contested proceedings, shall be supported by a preponderance of the evidence.

G. The commission may initiate a proceeding to impose an administrative fine within two years from the date of the commission's discovery of the violation, but in no event shall a proceeding be initiated more than five years after the date of the violation. This limitation shall not run against any act or omission constituting a violation under this section for any period during which the telecommunications provider has fraudulently concealed the violation.

H. The commission shall consider mitigating and aggravating circumstances in determining the amount of administrative fine imposed.

I. For purposes of establishing a violation, the act or omission of any officer, agent or employee of a telecommunications provider, within the scope of such

person's authority, duties or employment, shall be deemed the act or omission of the telecommunications provider.

J. Any telecommunications provider or other person aggrieved by an order assessing an administrative fine may appeal the order to the supreme court of New Mexico. A notice of appeal shall be filed within thirty days after the entry of the commission's order. Notice of appeal shall name the commission as appellee and shall identify the order from which the appeal is taken.

K. The commission shall promulgate procedural rules for the implementation of this section."

Chapter 100 Section 3

Section 3. Section 63-9A-2 NMSA 1978 (being Laws 1985, Chapter 242, Section 2, as amended) is amended to read:

"63-9A-2. PURPOSE.--The legislature declares that it remains the policy of the state of New Mexico to maintain the availability of access to telecommunications services at affordable rates. Furthermore, it is the policy of this state to have comparable telecommunications service rates, as established by the commission, for comparable markets or market areas. To the extent that it is consistent with maintaining availability of access to service at affordable rates and comparable telecommunications service rates, it is further the policy of this state to encourage competition in the provision of public telecommunications services, thereby allowing access by the public to resulting rapid advances in telecommunications technology. It is the purpose of the New Mexico Telecommunications Act to permit a regulatory framework that will allow an orderly transition from a regulated telecommunications industry to a competitive market environment. It is further the intent of the legislature that the encouragement of competition in the provision of public telecommunications services will result in greater investment in the telecommunications infrastructure in the state, improved service quality and operations and lower prices for such services."

Chapter 100 Section 4

Section 4. A new section of the New Mexico Telecommunications Act is enacted to read:

"IDENTIFYING SUBSIDIES--RULES--PRICE CAPS.--

A. No later than December 31, 2000, the commission shall review existing rates for public telecommunications services offered by incumbent local exchange carriers with more than fifty thousand access lines and identify all subsidies that are included in the rates. The commission shall issue rules requiring that the identified subsidies appear on customer bills and establish a schedule not later than April 1, 2001 whereby implicit subsidies be eliminated through implementation of the state rural

universal service fund or through revenue-neutral rate rebalancing or any other method consistent with the intent of the New Mexico Telecommunications Act.

B. No later than January 1, 2001, the commission shall adopt rules that:

(1) establish consumer protection and quality of service standards;

(2) ensure adequate investment in the telecommunications infrastructure in both urban and rural areas of the state;

(3) promote availability and deployment of high-speed data services in both urban and rural areas of the state;

(4) ensure the accessibility of interconnection by competitive local exchange carriers in both urban and rural areas of the state; and

(5) establish an expedited regulatory process for considering matters related to telecommunications services that are pending before the commission.

C. No later than April 1, 2001, but in no case prior to the adoption of the rules required in Subsection B of this section, the commission shall eliminate rate of return regulation of incumbent telecommunications carriers with more than fifty thousand access lines and implement an alternative form of regulation that includes reasonable price caps for basic residence and business local exchange services."

Chapter 100 Section 5

Section 5. A new section of the New Mexico Telecommunications Act is enacted to read:

"TELEPHONE SERVICE--SERIOUSLY ILL INDIVIDUALS.--

Basic local exchange telephone service shall not be discontinued to any residence where a seriously or chronically ill person is residing if the person responsible for the telephone service charges does not have the financial resources to pay the charges and if a licensed physician, physician assistant, osteopathic physician, osteopathic physician's assistant or certified nurse practitioner certifies that discontinuance of service might endanger that person's health or life and the certificate is delivered to a manager or officer of the provider of the local exchange service at least two days prior to the due date of a billing for telephone service. The commission shall provide by rule the procedure necessary to carry out this section."

Chapter 100 Section 6

Section 6. APPROPRIATION.--Two hundred fifty thousand dollars ($250,000) is appropriated from the general fund to the public regulation commission for expenditure

in fiscal years 2000 and 2001 and four hundred thousand dollars ($400,000) is appropriated from the general fund to the public regulation commission for expenditure in fiscal year 2001 to carry out the provisions of this act. Any unexpended or unencumbered balance remaining at the end of fiscal year 2001 shall revert to the general fund.

Chapter 100 Section 7

Section 7. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

SENATE FLOOR SUBSTITUTE FOR

SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR

SENATE BILL 123, AS AMENDED, WITH EMERGENCY CLAUSE

SIGNED MARCH 7, 2000

CHAPTER 101

RELATING TO TAXATION; CLARIFYING THAT CERTAIN USES OF A CALL CENTER DO NOT CONSTITUTE A BUSINESS OR ACTIVITY SUBJECT TO THE GROSS RECEIPTS TAX OR OTHER PROVISIONS OF THE GROSS RECEIPTS AND COMPENSATING TAX ACT; AMENDING SECTIONS OF THE NMSA 1978.

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

Chapter 101 Section 1

Section 1. Section 7-9-3 NMSA 1978 (being Laws 1978, Chapter 46, Section 1, as amended) is amended to read:

"7-9-3. DEFINITIONS.--As used in the Gross Receipts and Compensating Tax Act:

A. "department" means the taxation and revenue department, the secretary of taxation and revenue or any employee of the department exercising authority lawfully delegated to that employee by the secretary;

B. "buying" or "selling" means any transfer of property for consideration or any performance of service for consideration;

C. "construction" means building, altering, repairing or demolishing in the ordinary course of business any:

(1) road, highway, bridge, parking area or related project;

(2) building, stadium or other structure;

(3) airport, subway or similar facility;

(4) park, trail, athletic field, golf course or similar facility;

(5) dam, reservoir, canal, ditch or similar facility;

(6) sewerage or water treatment facility, power generating plant, pump station, natural gas compressing station, gas processing plant, coal gasification plant, refinery, distillery or similar facility;

(7) sewerage, water, gas or other pipeline;

(8) transmission line;

(9) radio, television or other tower;

(10) water, oil or other storage tank;

(11) shaft, tunnel or other mining appurtenance;

(12) microwave station or similar facility; or

(13) similar work;

"construction" also means:

(14) leveling or clearing land;

(15) excavating earth;

(16) drilling wells of any type, including seismograph shot holes or core drilling; or

(17) similar work;

D. "financial corporation" means any savings and loan association or any incorporated savings and loan company, trust company, mortgage banking company, consumer finance company or other financial corporation;

E. "engaging in business" means carrying on or causing to be carried on any activity with the purpose of direct or indirect benefit, except that:

(1) "engaging in business" does not include having a world wide web site as a third-party content provider on a computer physically located in New Mexico but owned by another nonaffiliated person; and

(2) "engaging in business" does not include using a nonaffiliated third-party call center to accept and process telephone or electronic orders of tangible personal property or licenses primarily from non-New Mexico buyers, which orders are forwarded to a location outside New Mexico for filling;

F. "gross receipts" means the total amount of money or the value of other consideration received from selling property in New Mexico, from leasing property employed in New Mexico, from selling services performed outside New Mexico the product of which is initially used in New Mexico or from performing services in New Mexico. In an exchange in which the money or other consideration received does not represent the value of the property or service exchanged, "gross receipts" means the reasonable value of the property or service exchanged.

(1) "Gross receipts" includes:

(a) any receipts from sales of tangible personal property handled on consignment;

(b) the total commissions or fees derived from the business of buying, selling or promoting the purchase, sale or leasing, as an agent or broker on a commission or fee basis, of any property, service, stock, bond or security;

(c) amounts paid by members of any cooperative association or similar organization for sales or leases of personal property or performance of services by such organization; and

(d) amounts received from transmitting messages or conversations by persons providing telephone or telegraph services.

(2) "Gross receipts" excludes:

(a) cash discounts allowed and taken;

(b) New Mexico gross receipts tax, governmental gross receipts tax and leased vehicle gross receipts tax payable on transactions for the reporting period;

(c) taxes imposed pursuant to the provisions of any local option gross receipts tax that is payable on transactions for the reporting period;

(d) any gross receipts or sales taxes imposed by an Indian nation, tribe or pueblo; provided that the tax is approved, if approval is required by

federal law or regulation, by the secretary of the interior of the United States; and provided further that the gross receipts or sales tax imposed by the Indian nation, tribe or pueblo provides a reciprocal exclusion for gross receipts, sales or gross receipts-based excise taxes imposed by the state or its political subdivisions;

(e) any type of time-price differential; and

(f) amounts received solely on behalf of another in a disclosed agency capacity.

(3) When the sale of property or service is made under any type of charge, conditional or time-sales contract or the leasing of property is made under a leasing contract, the seller or lessor may elect to treat all receipts, excluding any type of time-price differential, under such contracts as gross receipts as and when the payments are actually received. If the seller or lessor transfers his interest in any such contract to a third person, the seller or lessor shall pay the gross receipts tax upon the full sale or leasing contract amount, excluding any type of time-price differential;

G. "manufacturing" means combining or processing components or materials to increase their value for sale in the ordinary course of business, but does not include construction;

H. "person" means:

(1) an individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, limited liability company, limited liability partnership, joint venture, syndicate or other entity, including any gas, water or electric utility owned or operated by a county, municipality or other political subdivision of the state; or

(2) a national, federal, state, Indian or other governmental unit or subdivision, or an agency, department or instrumentality of any of the foregoing;

I. "property" means real property, tangible personal property, licenses, franchises, patents, trademarks and copyrights. Tangible personal property includes electricity and manufactured homes;

J. "leasing" means an arrangement whereby, for a consideration, property is employed for or by any person other than the owner of the property, except that the granting of a license to use property is the sale of a license and not a lease;

K. "service" means all activities engaged in for other persons for a consideration, which activities involve predominantly the performance of a service as distinguished from selling or leasing property. "Service" includes activities performed by a person for its members or shareholders. In determining what is a service, the intended use, principal objective or ultimate objective of the contracting parties shall not be

controlling. "Service" includes construction activities and all tangible personal property that will become an ingredient or component part of a construction project. Such tangible personal property retains its character as tangible personal property until it is installed as an ingredient or component part of a construction project in New Mexico. However, sales of tangible personal property that will become an ingredient or component part of a construction project to persons engaged in the construction business are sales of tangible personal property;

L. "use" or "using" includes use, consumption or storage other than storage for subsequent sale in the ordinary course of business or for use solely outside this state;

M. "secretary" means the secretary of taxation and revenue or the secretary's delegate;

N. "manufactured home" means a movable or portable housing structure for human occupancy that exceeds either a width of eight feet or a length of forty feet constructed to be towed on its own chassis and designed to be installed with or without a permanent foundation;

O. "initial use" or "initially used" means the first employment for the intended purpose and does not include the following activities:

(1) observation of tests conducted by the performer of services;

(2) participation in progress reviews, briefings, consultations and conferences conducted by the performer of services;

(3) review of preliminary drafts, drawings and other materials prepared by the performer of the services;

(4) inspection of preliminary prototypes developed by the performer of services; or

(5) similar activities;

P. "research and development services" means an activity engaged in for other persons for consideration, for one or more of the following purposes:

(1) advancing basic knowledge in a recognized field of natural science;

(2) advancing technology in a field of technical endeavor;

(3) the development of a new or improved product, process or system with new or improved function, performance, reliability or quality, whether or not

the new or improved product, process or system is offered for sale, lease or other transfer;

(4) the development of new uses or applications for an existing product, process or system, whether or not the new use or application is offered as the rationale for purchase, lease or other transfer of the product, process or system;

(5) analytical or survey activities incorporating technology review, application, trade-off study, modeling, simulation, conceptual design or similar activities, whether or not offered for sale, lease or other transfer; or

(6) the design and development of prototypes or the integration of systems incorporating advances, developments or improvements included in Paragraphs (1) through (5) of this subsection;

Q. "local option gross receipts tax" means a tax authorized to be imposed by a county or municipality upon the taxpayer's gross receipts and required to be collected by the department at the same time and in the same manner as the gross receipts tax; "local option gross receipts tax" includes the taxes imposed pursuant to the Municipal Local Option Gross Receipts Taxes Act, Supplemental Municipal Gross Receipts Tax Act, County Local Option Gross Receipts Taxes Act, Local Hospital Gross Receipts Tax Act, County Correctional Facility Gross Receipts Tax Act and such other acts as may be enacted authorizing counties or municipalities to impose taxes on gross receipts, which taxes are to be collected by the department; and

R. "prescription drugs" means insulin and substances that are:

(1) dispensed by or under the supervision of a licensed pharmacist or by a physician or other person authorized under state law to do so;

(2) prescribed for a specified person by a person authorized under state law to prescribe the substance; and

(3) subject to the restrictions on sale contained in Subparagraph 1 of Subsection (b) of 21 USCA 353."

Chapter 101 Section 2

Section 2. Section 7-9-10 NMSA 1978 (being Laws 1966, Chapter 47, Section 10, as amended) is amended to read:

"7-9-10. AGENTS FOR COLLECTION OF COMPENSATING TAX--DUTIES.--

A. Every person carrying on or causing to be carried on any activity within this state attempting to exploit New Mexico's markets who sells property or sells property and service for use in this state and who is not subject to the gross receipts tax

on receipts from these sales shall collect the compensating tax from the buyer and pay the tax collected to the department. "Activity", for the purposes of this section, includes, but is not limited to, engaging in any of the following in New Mexico: maintaining an office or other place of business, soliciting orders through employees or independent contractors, soliciting orders through advertisements placed in newspapers or magazines published in New Mexico or advertisements broadcast by New Mexico radio or television stations, soliciting orders through programs broadcast by New Mexico radio or television stations or transmitted by cable systems in New Mexico, canvassing, demonstrating, collecting money, warehousing or storing merchandise or delivering or distributing products as a consequence of an advertising or other sales program directed at potential customers, but "activity" does not include having a world wide web site as a third-party provider on a computer physically located in New Mexico but owned by another nonaffiliated person and "activity" does not include using a nonaffiliated third-party call center to accept and process telephone or electronic orders of tangible personal property or licenses primarily from non-New Mexico buyers, which orders are forwarded to a location outside New Mexico for filling.

B. To ensure orderly and efficient collection of the public revenue, if any application of this section is held invalid, the section's application to other situations or persons shall not be affected."

Chapter 101 Section 3

Section 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2000.

HOUSE BILL 261, AS AMENDED

CHAPTER 102

RELATING TO TELECOMMUNICATIONS; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978; PROVIDING FOR PENALTIES; MAKING AN APPROPRIATION; DECLARING AN EMERGENCY.

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

Chapter 102 Section 1

Section 1. A new section of the Public Regulation Commission Act is enacted to read:

"TELECOMMUNICATIONS BUREAU.--

A. The "telecommunications bureau" is created in the utility division of the public regulation commission.

B. The telecommunications bureau shall:

(1) review disputes between telecommunications providers;

(2) investigate each complaint on an expedited basis;

(3) address other telecommunications-related duties as required by the New Mexico Telecommunications Act and the commission; and

(4) recommend actions to the commission.

C. Each complaint shall be resolved by the commission within sixty days unless extended for good cause by an order of the commission or hearing examiner that states with specificity the reason for and length of the extension."

Chapter 102 Section 2

Section 2. Section 63-7-23 NMSA 1978 (being Laws 1995, Chapter 175, Section 1, as amended) is amended to read:

"63-7-23. TELECOMMUNICATIONS--ADMINISTRATIVE FINES.--

A. For purposes of this section:

(1) "commission" means the public regulation commission; and

(2) "telecommunications provider" means any telegraph company, telephone company, transmission company, telecommunications common carrier, telecommunications company, cellular service company or pay telephone provider regulated in whole or in part by the commission under law, including the Telephone and Telegraph Company Certification Act, the New Mexico Telecommunications Act, the Cellular Telephone Services Act and Sections 63-9E-1 and 63-9E-3 NMSA 1978.

B. The commission may impose an administrative fine on a telecommunications provider for any act or omission that the provider knew or should have known was a violation of any applicable law or rule or order of the commission.

C. Except in the case of disputes between telecommunications providers, an administrative fine of not more than one thousand dollars ($1,000) may be imposed for each violation or each of multiple violations arising out of the same facts up to a maximum of twenty-five thousand dollars ($25,000); or an administrative fine of not more than one thousand dollars ($1,000) may be imposed for each day of a continuing violation arising out of the same facts up to a maximum of twenty-five thousand dollars ($25,000). Notwithstanding any other provision of this subsection, the commission may impose an administrative fine not to exceed twenty-five thousand dollars ($25,000) for a single violation:

(1) that results in substantial harm to the customers of the telecommunications provider or substantial harm to the public interest; or

(2) for failure to obtain a certificate of public convenience and necessity required by law or for operation outside the scope of that certificate.

D. In the case of disputes between telecommunications providers, an administrative fine of not more than one hundred thousand dollars ($100,000) may be imposed for the violation of a telecommunications provider interconnection agreement, telecommunications provider wholesale tariff, or commission regulation or order otherwise relating to the provision of services between telecommunications providers. An administrative fine of not more than one hundred thousand dollars ($100,000) may be imposed for each day of a continuing violation.

E. The amount of the fine should bear a reasonable relationship to the nature and severity of the violation.

F. The commission shall initiate a proceeding to impose an administrative fine by giving written notice to the provider that the commission has facts as set forth in the notice that, if not rebutted, may lead to the imposition of an administrative fine under this section and that the telecommunications provider has an opportunity for a hearing. The commission may only impose an administrative fine by written order that, in the case of contested proceedings, shall be supported by a preponderance of the evidence.

G. The commission may initiate a proceeding to impose an administrative fine within two years from the date of the commission's discovery of the violation, but in no event shall a proceeding be initiated more than five years after the date of the violation. This limitation shall not run against any act or omission constituting a violation under this section for any period during which the telecommunications provider has fraudulently concealed the violation.

H. The commission shall consider mitigating and aggravating circumstances in determining the amount of administrative fine imposed.

I. For purposes of establishing a violation, the act or omission of any officer, agent or employee of a telecommunications provider, within the scope of such person's authority, duties or employment, shall be deemed the act or omission of the telecommunications provider.

J. Any telecommunications provider or other person aggrieved by an order assessing an administrative fine may appeal the order to the supreme court of New Mexico. A notice of appeal shall be filed within thirty days after the entry of the commission's order. Notice of appeal shall name the commission as appellee and shall identify the order from which the appeal is taken.

K. The commission shall promulgate procedural rules for the implementation of this section."

Chapter 102 Section 3

Section 3. Section 63-9A-2 NMSA 1978 (being Laws 1985, Chapter 242, Section 2, as amended) is amended to read:

"63-9A-2. PURPOSE.--The legislature declares that it remains the policy of the state of New Mexico to maintain the availability of access to telecommunications services at affordable rates. Furthermore, it is the policy of this state to have comparable telecommunications service rates, as established by the commission, for comparable markets or market areas. To the extent that it is consistent with maintaining availability of access to service at affordable rates and comparable telecommunications service rates, it is further the policy of this state to encourage competition in the provision of public telecommunications services, thereby allowing access by the public to resulting rapid advances in telecommunications technology. It is the purpose of the New Mexico Telecommunications Act to permit a regulatory framework that will allow an orderly transition from a regulated telecommunications industry to a competitive market environment. It is further the intent of the legislature that the encouragement of competition in the provision of public telecommunications services will result in greater investment in the telecommunications infrastructure in the state, improved service quality and operations and lower prices for such services."

Chapter 102 Section 4

Section 4. A new section of the New Mexico Telecommunications Act is enacted to read:

"IDENTIFYING SUBSIDIES--RULES--PRICE CAPS.--

A. No later than December 31, 2000, the commission shall review existing rates for public telecommunications services offered by incumbent local exchange carriers with more than fifty thousand access lines and identify all subsidies that are included in the rates. The commission shall issue rules requiring that the identified subsidies appear on customer bills and establish a schedule not later than April 1, 2001 whereby implicit subsidies be eliminated through implementation of the state rural universal service fund or through revenue-neutral rate rebalancing or any other method consistent with the intent of the New Mexico Telecommunications Act.

B. No later than January 1, 2001, the commission shall adopt rules that:

(1) establish consumer protection and quality of service standards;

(2) ensure adequate investment in the telecommunications infrastructure in both urban and rural areas of the state;

(3) promote availability and deployment of high-speed data services in both urban and rural areas of the state;

(4) ensure the accessibility of interconnection by competitive local exchange carriers in both urban and rural areas of the state; and

(5) establish an expedited regulatory process for considering matters related to telecommunications services that are pending before the commission.

C. No later than April 1, 2001, but in no case prior to the adoption of the rules required in Subsection B of this section, the commission shall eliminate rate of return regulation of incumbent telecommunications carriers with more than fifty thousand access lines and implement an alternative form of regulation that includes reasonable price caps for basic residence and business local exchange services."

Chapter 102 Section 5

Section 5. A new section of the New Mexico Telecommunications Act is enacted to read:

"TELEPHONE SERVICE--SERIOUSLY ILL INDIVIDUALS.--Basic local exchange telephone service shall not be discontinued to any residence where a seriously or chronically ill person is residing if the person responsible for the telephone service charges does not have the financial resources to pay the charges and if a licensed physician, physician assistant, osteopathic physician, osteopathic physician's assistant or certified nurse practitioner certifies that discontinuance of service might endanger that person's health or life and the certificate is delivered to a manager or officer of the provider of the local exchange service at least two days prior to the due date of a billing for telephone service. The commission shall provide by rule the procedure necessary to carry out this section."

Chapter 102 Section 6

Section 6. APPROPRIATION.--Two hundred fifty thousand dollars ($250,000) is appropriated from the general fund to the public regulation commission for expenditure in fiscal years 2000 and 2001 and four hundred thousand dollars ($400,000) is appropriated from the general fund to the public regulation commission for expenditure in fiscal year 2001 to carry out the provisions of this act. Any unexpended or unencumbered balance remaining at the end of fiscal year 2001 shall revert to the general fund.

Chapter 102 Section 7

Section 7. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR

HOUSE BILL 400, AS AMENDED, WITH EMERGENCY CLAUSE

SIGNED MARCH 7, 2000

CHAPTER 103

RELATING TO METROPOLITAN REDEVELOPMENT; AMENDING THE TAX INCREMENT FINANCING PROCEDURES IN THE TAX INCREMENT LAW; AUTHORIZING THE ISSUANCE OF TAX INCREMENT BONDS TO FINANCE METROPOLITAN REDEVELOPMENT PROJECTS; AMENDING DEFINITIONS IN THE METROPOLITAN REDEVELOPMENT CODE AND THE LOCAL ECONOMIC DEVELOPMENT ACT.

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

Chapter 103 Section 1

Section 1. Section 3-60A-4 NMSA 1978 (being Laws 1979, Chapter 391, Section 4, as amended) is amended to read:

"3-60A-4. DEFINITIONS.--As used in the Metropolitan Redevelopment Code:

A. "public body" means a municipality, board, commission, authority, district or any other political subdivision or public body of the state;

B. "local governing body" means the city council or city commission of a city, the board of trustees of a town or village, the council of an incorporated county or the board of county commissioners of an H class county;

C. "mayor" means the mayor or the chairman of the city commission or other officer or body having the duties customarily imposed on the head of a municipality;

D. "municipality" means any incorporated city, town or village, whether incorporated under general act, special act or special charter, an incorporated county or an H class county;

E. "clerk" means the clerk or other official of the municipality who is the chief custodian of the official records of the municipality;

F. "federal government" includes the United States of America or any agency or instrumentality, corporate or otherwise, of the United States;

G. "state" means the state of New Mexico;

H. "slum area" means an area within the area of operation in which numerous buildings, improvements and structures, whether residential or nonresidential, which, by reason of its dilapidation, deterioration, age, obsolescence or inadequate provision for ventilation, light, air, sanitation or open spaces, high density of population, overcrowding or the existence of conditions that endanger life or property by fire or other causes, is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency or crime and is detrimental to the public health, safety, morals or welfare;

I. "blighted area" means an area within the area of operation other than a slum area that, because of the presence of a substantial number of deteriorated or deteriorating structures, predominance of defective or inadequate street layout, faulty lot layout in relation to size, adequacy, accessibility or usefulness, insanitary or unsafe conditions, deterioration of site or other improvements, diversity of ownership, tax or special assessment delinquency exceeding the fair value of the land, defective or unusual conditions of title, improper subdivision or lack of adequate housing facilities in the area or obsolete or impractical planning and platting or an area where a significant number of commercial or mercantile businesses have closed or significantly reduced their operations due to the economic losses or loss of profit due to operating in the area, low levels of commercial or industrial activity or redevelopment or any combination of such factors, substantially impairs or arrests the sound growth and economic health and well-being of a municipality or locale within a municipality or an area that retards the provisions of housing accommodations or constitutes an economic or social burden and is a menace to the public health, safety, morals or welfare in its present condition and use;

J. "metropolitan redevelopment project" or "project" means an activity, undertaking or series of activities or undertakings designed to eliminate slums or blighted areas in areas designated as metropolitan redevelopment areas and that conforms to an approved plan for the area for slum clearance and redevelopment, rehabilitation and conservation;

K. "slum clearance and redevelopment" means the use of those powers authorized by the Metropolitan Redevelopment Code for the purpose of eliminating slum areas and undertaking activities authorized by the Metropolitan Redevelopment Code to rejuvenate or revitalize those areas so that the conditions that caused those areas to be designated slum areas are eliminated;

L. "rehabilitation" or "conservation" means the restoration and renewal of a slum or blighted area or portion thereof in accordance with any approved plan by use of powers granted by the Metropolitan Redevelopment Code;

M. "metropolitan redevelopment area" means a slum area or a blighted area or a combination thereof that the local governing body so finds and declares and designates as appropriate for a metropolitan redevelopment project;

N. "metropolitan redevelopment plan" means a plan, as it exists from time to time, for one or more metropolitan redevelopment areas or for a metropolitan redevelopment project, which plan shall:

(1) seek to eliminate the problems created by a slum area or blighted area;

(2) conform to the general plan for the municipality as a whole; and

(3) be sufficient to indicate the proposed activities to be carried out in the area, including but not limited to any proposals for land acquisition; proposals for demolition and removal of structures; redevelopment; proposals for improvements, rehabilitation and conservation; zoning and planning changes; land uses, maximum densities, building restrictions and requirements; and the plan's relationship to definite local objectives respecting land uses, improved traffic patterns and controls, public transportation, public utilities, recreational and community facilities, housing facilities, commercial activities or enterprises, industrial or manufacturing use and other public improvements;

O. "real property" includes all lands, including improvements and fixtures thereon, and property of any nature appurtenant thereto or used in connection therewith and every estate, interest, right and use, legal or equitable, therein, including terms for years and liens by way of judgment, mortgage or otherwise;

P. "bonds" means any bonds, including refunding bonds, notes, interim certificates, certification of indebtedness, debentures, metropolitan redevelopment bonds or other securities evidencing an obligation and issued under the provisions of the Metropolitan Redevelopment Code or other obligations;

Q. "obligee" includes any bondholder, agent or trustee for any bondholder or lessor demising to the municipality property used in connection with a metropolitan redevelopment project or any assignee or assignees of such lessor's interest or any part thereof;

R. "person" means any individual, firm, partnership, corporation, company, association, joint stock association or body politic or the state or any political subdivision thereof and shall further include any trustee, receiver, assignee or other person acting in a similar representative capacity;

S. "area of operation" means the area within the corporate limits of the municipality and the area outside of the corporate limits but within five miles of such limits or otherwise on municipally owned property wherever located, except that it shall not include any area that lies within the territorial boundaries of another municipality unless an ordinance has been adopted by the governing body of the other municipality declaring a need therefor;

T. "board" or "commission" means a board, commission, department, division, office, body or other unit of the municipality designated by the local governing body to perform functions authorized by the Metropolitan Redevelopment Code as directed by the local governing body; and

U. "public officer" means any person who is in charge of any department or branch of government of the municipality."

Chapter 103 Section 2

Section 2. Section 3-60A-21 NMSA 1978 (being Laws 1979, Chapter 391, Section 21, as amended) is amended to read:

"3-60A-21. TAX INCREMENT PROCEDURES.--The procedures to be used in the tax increment method are:

A. the local governing body of the municipality shall, at the time after approval of a metropolitan redevelopment project, notify the county assessor and the taxation and revenue department of the taxable parcels of property within the project;

B. upon receipt of notification pursuant to Subsection A of this section, the county assessor and the taxation and revenue department shall identify the parcels of property within the metropolitan redevelopment project within their respective jurisdictions and certify to the county treasurer the net taxable value of the property at the time of notification as the base value for the distribution of property tax revenues authorized by the Property Tax Code. If because of acquisition by the municipality the property becomes tax exempt, the county assessor and the taxation and revenue department shall note that fact on their respective records and so notify the county treasurer, but the county assessor, the taxation and revenue department and the county treasurer shall preserve a record of the net taxable value at the time of inclusion of the property within the metropolitan redevelopment project as the base value for the purpose of distribution of property tax revenues when the parcel again becomes taxable. The county assessor is not required by this section to preserve the new taxable value at the time of inclusion of the property within the metropolitan redevelopment project as the base value for the purposes of valuation of the property;

C. if because of acquisition by the municipality the property becomes tax exempt, when the parcel again becomes taxable, the local governing body of the municipality shall notify the county assessor and the taxation and revenue department of the parcels of property that because of their rehabilitation or other improvement are to be revalued for property tax purposes. A new taxable value of this property shall then be determined by the county assessor or by the taxation and revenue department if the property is within the valuation jurisdiction of that department. If no acquisition by the municipality occurs, improvement or rehabilitation of property subject to valuation by the assessor shall be reported to the assessor as required by the Property Tax Code, and

the new taxable value shall be determined as of January 1 of the tax year following the year in which the improvement or rehabilitation is completed;

D. current tax rates shall then be applied to the new taxable value. The amount by which the revenue received exceeds that which would have been received by application of the same rates to the base value before inclusion in the metropolitan redevelopment project shall be credited to the municipality and deposited in the metropolitan redevelopment fund. This transfer shall take place only after the county treasurer has been notified to apply the tax increment method to a specific property included in a metropolitan redevelopment area. Unless the entire metropolitan redevelopment area is specifically included by the municipality for purposes of tax increment financing, the payment by the county treasurer to the municipality shall be limited to those properties specifically included. The remaining revenue shall be distributed to participating units of government as authorized by the Property Tax Code; and

E. the procedures and methods specified in this section shall be followed annually for a maximum period of twenty years following the date of notification of inclusion of property as coming under the transfer provisions of this section."

Chapter 103 Section 3

Section 3. Section 3-60A-23 NMSA 1978 (being Laws 1979, Chapter 391, Section 23, as amended) is amended to read:

"3-60A-23. TAX INCREMENT METHOD APPROVAL.--The tax increment method shall be applicable only to the units of government participating in property tax revenue derived from property within a metropolitan redevelopment project and approving the use of the tax increment method for that property and only to the extent of the approval. An approval may be restricted to certain types or sources of tax revenue. The local governing body of each municipality shall request such approval for up to a twenty-year period for property included in the tax increment funding. The governor or his authorized representative shall approve, partially approve or disapprove the use of the method for state government; the governing body of each other participating unit shall approve, partially approve or disapprove by ordinance or resolution the use of the method for their respective units. At the request of a participating unit of government, made within ten days of receipt of the request by the municipality, the municipality shall make a presentation to the governor or his authorized representative and to the governing bodies of all participating units of government, which presentation shall include a description of the metropolitan redevelopment project and the parcels in the project to which the tax increment method will apply, and an estimate of the general effect of the project and the application of the tax increment method on property values and tax revenues. All participating units shall notify the local governing body of the municipality seeking approval within thirty days of receipt of the municipality's request. At the expiration of that time, the alternative method of financing set forth in this section shall be effective for a period of up to twenty tax years."

Chapter 103 Section 4

Section 4. A new section of the Metropolitan Redevelopment Code is enacted to read:

"TAX INCREMENT BONDS.--

A. For the purpose of financing metropolitan redevelopment projects, in whole or in part, a municipality may issue tax increment bonds or tax increment bond anticipation notes that are payable from and secured by real property taxes, in whole or in part, allocated to the metropolitan redevelopment fund pursuant to the provisions of Sections 3-60A-21 and 3-60A-23 NMSA 1978. The principal of, premium, if any, and interest on the bonds or notes shall be payable from and secured by a pledge of such revenues, and the municipality shall irrevocably pledge all or part of such revenues to the payment of the bonds or notes. The revenues deposited in the metropolitan redevelopment fund or the designated part thereof may thereafter be used only for the payment of the principal of, premium, if any, and interest on the bonds or notes, and a holder of the bonds or notes shall have a first lien against the revenues deposited in the metropolitan redevelopment fund or the designated part thereof for the payment of principal of, premium, if any, and interest on such bonds or notes. To increase the security and marketability of the tax increment bonds or notes, the municipality may:

(1) create a lien for the benefit of the bondholders on any public improvements or public works used solely by the metropolitan redevelopment project or portion of a project financed by the bonds or notes, or on the revenues of such improvements or works;

(2) provide that the proceeds from the sale of real and personal property acquired with the proceeds from the sale of bonds or notes issued pursuant to the Tax Increment Law shall be deposited in the metropolitan redevelopment fund and used for the purposes of repayment of principal of, premium, if any, and interest on such bonds or notes; and

(3) make covenants and do any and all acts not inconsistent with law as may be necessary, convenient or desirable in order to additionally secure the bonds or notes or make the bonds or notes more marketable in the exercise of the discretion of the local governing body.

B. Bonds and notes issued pursuant to this section shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction, shall not be general obligations of the municipality, shall be collectible only from the proper pledged revenues and shall not be subject to the provisions of any other law or charter relating to the authorization, issuance or sale of tax increment bonds or tax increment bond anticipation notes. Bonds and notes issued pursuant to the Tax Increment Law are declared to be issued for an essential public and governmental

purpose and, together with interest thereon, shall be exempted from all taxes by the state.

C. The bonds or notes shall be authorized by an ordinance of the municipality; shall be in such denominations, bear such date and mature, in the case of bonds, at such time not exceeding twenty years from their date, and in the case of notes, not exceeding five years from the date of the original note; bear interest at a rate or have appreciated principal value not exceeding the maximum net effective interest rate permitted by the Public Securities Act; and be in such form, carry such registration privileges, be executed in such manner, be payable in such place within or without the state, be payable at intervals or at maturity and be subject to such terms of redemption as the authorizing ordinance or supplemental resolution or resolutions of the municipality may provide.

D. The bonds or notes may be sold in one or more series at, below or above par, at public or private sale, in such manner and for such price as the municipality, in its discretion, shall determine; provided that the price at which the bonds or notes are sold shall not result in a net effective interest rate that exceeds the maximum permitted by the Public Securities Act. As an incidental expense of a metropolitan redevelopment project or portion thereof financed with the bonds or notes, the municipality in its discretion may employ financial and legal consultants with regard to the financing of the project.

E. In case any of the public officials of the municipality whose signatures appear on any bonds or notes issued pursuant to the Tax Increment Law shall cease to be public officials before the delivery of the bonds or notes, the signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if the officials had remained in office until delivery. Any provision of law to the contrary notwithstanding, any bonds or notes issued pursuant to the Tax Increment Law shall be fully negotiable.

F. In any suit, action or proceeding involving the validity or enforceability of any bond or note issued pursuant to the Tax Increment Law or the security therefor, any bond or note reciting in substance that it has been issued by the municipality in connection with a metropolitan redevelopment project shall be conclusively deemed to have been issued for such purpose and the project shall be conclusively deemed to have been planned, located and carried out in accordance with the provisions of the Metropolitan Redevelopment Code.

G. The proceedings under which tax increment bonds or tax increment bond anticipation notes are authorized to be issued and any mortgage, deed of trust, trust indenture or other lien or security device on real and personal property given to secure the same may contain provisions customarily contained in instruments securing bonds and notes and constituting a covenant with the bondholders.

H. A municipality may issue bonds or notes pursuant to this section with the proceeds from the bonds or notes to be used as other money is authorized to be used in the Metropolitan Redevelopment Code.

I. The municipality shall have the power to issue renewal notes, to issue bonds to pay notes and whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and to issue bonds partly to refund bonds then outstanding and partly for other purposes in connection with financing metropolitan redevelopment projects, in whole or in part. Refunding bonds issued pursuant to the Tax Increment Law to refund outstanding tax increment bonds shall be payable from real property tax revenues, out of which the bonds to be refunded thereby are payable or from other lawfully available revenues.

J. The proceeds from the sale of any bonds or notes shall be applied only for the purpose for which the bonds or notes were issued and if, for any reason, any portion of the proceeds are not needed for the purpose for which the bonds or notes were issued, the unneeded portion of the proceeds shall be applied to the payment of the principal of or the interest on the bonds or notes.

K. The cost of financing a metropolitan redevelopment project shall be deemed to include the actual cost of acquiring a site and the cost of the construction of any part of a project, including architects' and engineers' fees, the purchase price of any part of a project that may be acquired by purchase and all expenses in connection with the authorization, sale and issuance of the bonds or notes to finance the acquisition, and any related costs incurred by the municipality.

L. No action shall be brought questioning the legality of any contract, mortgage, deed of trust, trust indenture or other lien or security device, proceeding or bonds or notes executed in connection with any project authorized by the Metropolitan Redevelopment Code on and after thirty days from the effective date of the ordinance authorizing the issuance of such bonds or notes."

Chapter 103 Section 5

Section 5. Section 5-10-3 NMSA 1978 (being Laws 1993, Chapter 297, Section 3, as amended) is amended to read:

"5-10-3. DEFINITIONS.--As used in the Local Economic Development Act:

A. "department" means the economic development department;

B. "economic development project" or "project" means the provision of direct or indirect assistance to a qualifying business by a local or regional government and includes the purchase, lease, grant, construction, reconstruction, improvement or other acquisition or conveyance of land, buildings or other infrastructure; public works

improvements essential to the location or expansion of a qualifying business; payments for professional services contracts necessary for local or regional governments to implement a plan or project; the provision of direct loans or grants for land, buildings or infrastructure; loan guarantees securing the cost of land, buildings or infrastructure in an amount not to exceed the revenue that may be derived from the municipal infrastructure gross receipts tax or the county infrastructure gross receipts tax; grants for public works infrastructure improvements essential to the location or expansion of a qualifying business; purchase of land for a publicly held industrial park; and the construction of a building for use by a qualifying business;

C. "governing body" means the city council or city commission of a city, the board of trustees of a town or village or the board of county commissioners of a county;

D. "local government" means a municipality or county;

E. "municipality" means an incorporated city, town or village;

F. "person" means an individual, corporation, association, partnership or other legal entity;

G. "qualifying entity" means a corporation, limited liability company, partnership, joint venture, syndicate, association or other person that is one or a combination of two or more of the following:

(1) an industry for the manufacturing, processing or assembling of agricultural or manufactured products;

(2) a commercial enterprise for storing, warehousing, distributing or selling products of agriculture, mining or industry, but, other than as provided in Paragraph (5) or (6) of this subsection, not including any enterprise for sale of goods or commodities at retail or for distribution to the public of electricity, gas, water or telephone or other services commonly classified as public utilities;

(3) a business in which all or part of the activities of the business involves the supplying of services to the general public or to governmental agencies or to a specific industry or customer, but, other than as provided in Paragraph (5) of this subsection, not including businesses primarily engaged in the sale of goods or commodities at retail;

(4) an Indian nation, tribe or pueblo or a federally chartered tribal corporation;

(5) a telecommunications sales enterprise that makes the majority of its sales to persons outside New Mexico;

(6) a facility for the direct sales by growers of agricultural products, commonly known as farmers' markets; or

(7) a business that is the developer of a metropolitan redevelopment project; and

H. "regional government" means any combination of municipalities and counties that enter into a joint powers agreement to provide for economic development projects pursuant to a plan adopted by all parties to the joint powers agreement."

HOUSE BILL 103, AS AMENDED

CHAPTER 104

MAKING APPROPRIATIONS FOR THE CUMBRES AND TOLTEC SCENIC RAILROAD AND RELATED LITIGATION COSTS; DECLARING AN EMERGENCY.

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

Chapter 104 Section 1

Section 1. APPROPRIATION.--Four hundred thousand dollars ($400,000) is appropriated from the general fund to the Cumbres and Toltec scenic railroad commission for expenditure in fiscal years 2000 and 2001 for renovations and repairs; provided that this appropriation is contingent upon Colorado providing a match of at least four hundred thousand dollars ($400,000). Any unexpended or unencumbered balance remaining at the end of fiscal year 2001 shall revert to the general fund.

Chapter 104 Section 2

~~Section 2. APPROPRIATION.--Twenty-six thousand nine hundred dollars ($26,900) is appropriated from the general fund to the office of the attorney general for expenditure in fiscal years 2000 and 2001 to cover New Mexico's share of litigation costs related to defense of the Cumbres and Toltec scenic railroad commission. Any unexpended or unencumbered balance remaining at the end of fiscal year 2001 shall revert to the general fund.~~

Chapter 104 Section 3

Section 3. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

HOUSE BILL 203, AS AMENDED WITH EMERGENCY CLAUSE

SIGNED MARCH 7, 2000

CHAPTER 105

RELATING TO EDUCATION; PROVIDING FOR ESTABLISHMENT OF LEARNING CENTER DISTRICTS; AUTHORIZING CONTRACTS WITH ACCREDITED POST-SECONDARY EDUCATIONAL INSTITUTIONS TO PROVIDE EDUCATIONAL PROGRAMS AND SERVICES AT LEARNING CENTERS; AUTHORIZING IMPOSITION OF A PROPERTY TAX LEVY AND SUBMISSION OF THE TAX TO THE VOTERS OF THE DISTRICT; PROVIDING POWERS AND DUTIES.

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

Chapter 105 Section 1

Section 1. SHORT TITLE.--This act may be cited as the "Learning Center Act".

Chapter 105 Section 2

Section 2. FINDINGS--PURPOSE.--

A. The legislature finds that there are significant populations in New Mexico whose post-secondary education and workforce development needs are unserved or underserved and new and more effective means of delivering educational services must be explored.

B. It is the purpose of the Learning Center Act to:

(1) provide quality educational services to residents of the state based upon need and without regard to place of residence by enabling communities to establish learning centers to make necessary and appropriate educational programs available;

(2) avoid construction of new campuses and buildings; and

(3) encourage the use of technology by promoting innovation, collaboration and cooperation among existing institutions, public schools, government agencies, communities and the private sector through sharing of resources for educational purposes.

Chapter 105 Section 3

Section 3. DEFINITIONS.--As used in the Learning Center Act:

A. "board" means a learning center district board;

B. "commission" means the commission on higher education;

C. "community college board" means the governing body of a community college district;

D. "district" means a learning center district;

E. "extended learning services" means academic and vocational educational programs offered by an institution away from a campus of the institution without the facility of a learning center and as defined by commission rule consistent with the Learning Center Act;

F. "institution" means a regionally accredited public or private post-secondary educational institution;

G. "local school board" means the governing body of a school district; and

H. "taxable value of property" means the sum of the following:

(1) the "net taxable value", as that term is defined in the Property Tax Code, of property subject to taxation under the Property Tax Code;

(2) the "assessed value" of "products" as those terms are defined in the Oil and Gas Ad Valorem Production Tax Act;

(3) the "assessed value" of "equipment" as those terms are defined in the Oil and Gas Production Equipment Ad Valorem Tax Act; and

(4) the "taxable value" of "copper mineral property" as those terms are defined in the Copper Production Ad Valorem Tax Act.

Chapter 105 Section 4

Section 4. ESTABLISHMENT OF LEARNING CENTER DISTRICTS--DETERMINATION OF NEED--APPROVAL--ADVISORY COMMITTEE.--

A. A learning center district may be established in a school district or community college district upon adoption of a resolution by the local school board or community college board calling for establishment of a district and a showing of need for such a district. A district may also be established to include more than one school district and, in that case, the two or more local school boards shall jointly adopt a resolution and determine the need for a learning center. The boundaries of the district shall be coterminous with the boundaries of the school district, community college district or combined school districts constituting the district. No district shall be established without the written approval of the commission.

B. Upon a determination of need and receipt of written approval from the commission, the district shall be established and the local school board, community

college board or combined local school boards authorizing the district shall serve as the board. The board shall act as a representative of the communities in the district for the purpose of assessing local educational needs and contracting with one or more institutions to offer educational programs or services at one or more learning centers.

C. The board may appoint an advisory committee consisting of business representatives and citizens from the area being served by a learning center to advise and assist the board in determining the most appropriate educational and training programs and services to be offered at the learning center.

D. A learning center shall not be deemed to be an institution, but the students enrolled at the center shall be students of the respective institutions providing educational programs and services.

E. The commission shall develop criteria for determining the need for a district and the process and procedures for establishing and operating a learning center.

Chapter 105 Section 5

Section 5. LEARNING CENTER BOARD--POWERS AND DUTIES.--

A. To carry out the provisions of the Learning Center Act, the board shall:

(1) manage the operation of one or more learning centers in the district and the contracts with the institutions providing educational programs and services at the learning centers;

(2) select and contract with one or more institutions to:

(a) offer accredited educational programs and services at the learning center that meet local needs or provide degrees and certificates for students completing program requirements at an institution without the requirement that students relocate or commute to existing campuses of the institution;

(b) provide for transfer of credits for course work obtained by students from institutions other than the institution contracting to provide an educational program at the learning center; and

(c) set tuition and fees for educational programs and services provided by the institution at the learning center;

(3) monitor and evaluate how well the educational and training needs of the local communities are being served by the learning center and the participating institutions; and

(4) assess in an ongoing way the educational and training needs of the region to assure delivery and coordination of educational programs and services to the communities located within the district.

B. The board may:

(1) employ staff and enter into contracts and agreements as necessary to carry out its duties pursuant to the Learning Center Act;

(2) authorize the imposition of a property tax levy for the purpose of funding the operations of a learning center and provide for an election to submit the proposal to the voters of the district; and

(3) seek grants, gifts and other sources of funds for the operation of a learning center.

Chapter 105 Section 6

Section 6. LEARNING CENTER TAX LEVY AUTHORIZED--ELECTION.--

A. A board may adopt a resolution authorizing, for learning center operational purposes, the imposition of a property tax upon the taxable value of property in the district. The total tax imposition that may be authorized under the Learning Center Act shall not exceed a rate of five dollars ($5.00) on each one thousand dollars ($1,000) of taxable value of property in each district. A tax authorized pursuant to this section may not be imposed for a period of more than six years.

B. The tax authorized in Subsection A of this section shall not be imposed in a district unless the question of authorizing the imposition of the tax is submitted to the voters of the district at a regular school district election or a special election called for that purpose.

C. A resolution adopted pursuant to Subsection A of this section shall specify:

(1) the rate of the proposed tax;

(2) the date of the election at which the question of imposition of the tax will be submitted to the voters of the district;

(3) the period of time the tax is authorized to be imposed; and

(4) the proposed use of the revenues from the proposed tax.

D. The election required by this section shall be called, conducted and canvassed as provided in the School Election Law.

E. If a majority of the voters voting on the question votes for a learning center tax levy pursuant to a resolution adopted under the Learning Center Act, the tax shall be imposed. The tax rate shall be certified by the department of finance and administration and imposed, administered and collected in accordance with the provisions of the Oil and Gas Ad Valorem Production Tax Act, the Oil and Gas Production Equipment Ad Valorem Tax Act, the Copper Production Ad Valorem Tax Act and the Property Tax Code.

F. If a majority of the voters voting on the question votes against a learning center tax levy pursuant to a resolution adopted under the Learning Center Act, the tax shall not be imposed. The board shall not again adopt a resolution authorizing the imposition of a tax levy pursuant to the Learning Center Act for at least two years after the date of the resolution that the voters rejected.

G. The board may discontinue by resolution the imposition of any tax authorized pursuant to the Learning Center Act. The discontinuance resolution shall be mailed to the department of finance and administration no later than June 15 of the year in which a tax rate pursuant to that act is not to be certified.

Chapter 105 Section 7

Section 7. AVAILABILITY OF SCHOOL FACILITIES.--Public school facilities in a district shall be available to a learning center, if needed, but in a manner that will not interfere with the regular program of instruction and provided no public school funds shall be expended for the learning center. The learning center may arrange for the use of any other available facilities as needed and appropriate.

Chapter 105 Section 8

Section 8. LEARNING CENTERS SUBJECT TO APPROVAL AND PROVISIONS OF LEARNING CENTER ACT.--No person, institution or other entity shall undertake to operate a learning center except with the written approval of the commission and in accordance with the provisions of the Learning Center Act; provided that nothing in the Learning Center Act shall prohibit the provision of extended learning services or the provision of educational services by any organization or business for its own members or employees directly or by contracting with a provider of educational programs.

SENATE BILL 406, AS AMENDED

CHAPTER 106

RELATING TO CORRECTIONS; INCREASING STAFFING LEVELS; UPGRADING THE INMATE CLASSIFICATION SYSTEM, THE CRIMINAL MANAGEMENT INFORMATION SYSTEM AND AUDITING OF CONTRACTS FOR CORRECTIONAL SERVICES; INCREASING SALARIES FOR CORRECTIONAL OFFICERS; CREATING

A JOINT INTERIM LEGISLATIVE CORRECTIONS OVERSIGHT COMMITTEE; MAKING APPROPRIATIONS; DECLARING AN EMERGENCY.

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

Chapter 106 Section 1

Section 1. FINDINGS--APPROPRIATIONS TO THE CORRECTIONS DEPARTMENT.--

A. The legislature finds that "The Consultants' Report on Prison Operations in New Mexico Correctional Institutions", dated January 14, 2000, is a comprehensive work that sets forth viable solutions to problems that have plagued the correctional system for years. The report includes recommendations offered by the consultants as a guide to improving corrections operations in New Mexico. The legislature also finds that those recommendations include suggestions that should be implemented immediately, matters that should be studied carefully in preparation for implementation during the 2001 legislative session and, finally, systemic recommendations that will evolve over the course of several years. Therefore, the legislature finds it is necessary to appropriate money for the consultants' recommendations that must be implemented immediately, including funding for an improved inmate classification system, funding for increased efforts to reduce gang influence in correctional facilities, funding for improved auditing of private vendors who provide correctional services to the state, funding to provide salary increases for correctional officers and funding to renovate the penitentiary of New Mexico south identically or substantially similar to its current design and security features for use as a close-custody facility.

B. The legislature further finds that the consultants' report advises the state to immediately address the possibility of renegotiating the contracts for the Lea county and Guadalupe county facilities. The parties to the contracts are strongly urged to heed that specific recommendation.

C. The following amounts are appropriated from the general fund to the corrections department for expenditure in fiscal years 2000 and 2001 for the following purposes:

(1) fifty thousand dollars ($50,000) to perform an inmate classification study and to implement changes to the inmate classification system;

(2) sixty-six thousand six hundred dollars ($66,600) to pay salaries and benefits for two additional full-time employees for the bureau of classification at the central New Mexico correctional facility;

(3) four hundred eighty-six thousand two hundred dollars ($486,200) to pay salaries and benefits for fourteen additional full-time employees to serve as security threat group officers;

(4) ninety thousand seven hundred dollars ($90,700) to provide salaries and benefits for two additional full-time employees to serve as compliance auditors who audit private contracts entered into by the state for correctional services;

(5) one hundred seventy thousand three hundred dollars ($170,300) to provide salaries and benefits for three additional full-time employees to support the criminal management information system; and

(6) six hundred fifty-four thousand seven hundred dollars ($654,700) to provide a salary upgrade for correctional officers.

D. Any unexpended or unencumbered balance remaining at the end of fiscal year 2001 shall revert to the general fund.

Chapter 106 Section 2

Section 2. CORRECTIONS OVERSIGHT COMMITTEE CREATED--TERMINATION.--There is created a joint interim legislative committee that shall be known as the "corrections oversight committee". The committee shall function from the date of its appointment until the first day of December prior to the first session of the forty-seventh legislature.

Chapter 106 Section 3

Section 3. MEMBERSHIP--APPOINTMENT--VACANCIES.--

A. The corrections oversight committee shall be composed of eight members. Four members of the house of representatives shall be appointed by the speaker of the house of representatives. Four members of the senate shall be appointed by the senate committees' committee or, if the senate appointments are made in the interim, by the president pro tempore of the senate after consultation with and agreement of a majority of the members of the senate committees' committee.

B. Members shall be appointed from each house so as to give the two major political parties in each house equal representation on the corrections oversight committee as prevails in each house. However, in no event shall either party have less than one member from each house on the committee. The speaker of the house of representatives and the president pro tempore of the senate shall each appoint a co-chairman of the committee.

C. A vacancy on the corrections oversight committee shall be filled by appointment in the same manner as the original appointment.

D. No action shall be taken by the corrections oversight committee if a majority of the total membership from either house on the committee rejects the action.

Chapter 106 Section 4

Section 4. DUTIES--SUBPOENA POWER--COOPERATION.--

A. After its appointment, the corrections oversight committee shall hold one organizational meeting to develop a work plan and budget for the ensuing interim. The work plan and budget shall be submitted to the New Mexico legislative council for approval.

B. Upon approval of the work plan and budget by the New Mexico legislative council, the corrections oversight committee shall:

(1) oversee implementation of the recommendations set forth in the January 14, 2000 document entitled "The Consultants' Report on Prison Operations in New Mexico Correctional Institutions";

(2) assess the feasibility of expanding community corrections programming as a means to reduce the inmate population;

(3) monitor other issues related to the operation of public and private correctional facilities; and

(4) recommend legislation or changes, if they are found to be necessary, to the legislature.

~~C. The corrections oversight committee shall have the power to conduct hearings and to administer oaths. The committee shall have the power to subpoena, which may be enforced through any district court of the state. The subpoena power shall be used only upon approval by a majority of committee members, shall be related to the committee's powers and duties specified in this section and shall be within the scope of the January 14, 2000 document entitled "The Consultants' Report on Prison Operations in New Mexico Correctional Institutions". Service of committee process shall be made by any sheriff or any member of the New Mexico state police and shall be served without cost to the committee.~~

D. The corrections department and every other state agency and political subdivision of the state shall, upon request, furnish and make available to the corrections oversight committee documents, material or information requested by the members of the committee or its staff.

Chapter 106 Section 5

Section 5. SUBCOMMITTEES.--

A. Subcommittees shall be created only by majority vote of all members appointed to the corrections oversight committee and with the prior approval of the New Mexico legislative council. A subcommittee shall be composed of at least one member from the senate and one member from the house of representatives, and at least one member of the minority party shall be a member of the subcommittee.

B. All meetings and expenditures of a subcommittee shall be approved by the full corrections oversight committee in advance of subcommittee meetings or expenditures, and the approval shall be shown in the minutes of the committee.

Chapter 106 Section 6

Section 6. REPORT.--The corrections oversight committee shall make a report of its findings and recommendations for the consideration of the first session of the forty-fifth legislature; the second session of the forty-fifth legislature; the first session of the forty-sixth legislature; the second session of the forty-sixth legislature; and the first session of the forty-seventh legislature. The reports and suggested legislation shall be made available to the New Mexico legislative council on or before December 15 preceding each session.

Chapter 106 Section 7

Section 7. STAFF.--The staff for the corrections oversight committee shall be provided by the legislative council service. The legislative council service may also contract for staff services for the corrections oversight committee.

Chapter 106 Section 8

Section 8. APPROPRIATION.--One hundred thousand dollars ($100,000) is appropriated from the cash balances of the legislative council service to the legislative council service for expenditure in fiscal years 2000 and 2001 for the operation of and staffing of the corrections oversight committee. Any unexpended or unencumbered balance remaining at the end of fiscal year 2001 shall revert to the cash balances of the legislative council service.

Chapter 106 Section 9

Section 9. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR

SENATE BILLS 437 AND 438, AS AMENDED, WITH EMERGENCY CLAUSE

SIGNED MARCH 7, 2000

CHAPTER 107

RELATING TO EDUCATION; PROVIDING FOR OPTIONAL FULL-DAY KINDERGARTEN PROGRAMS.

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

Chapter 107 Section 1

Section 1. Section 22-2-8.1 NMSA 1978 (being Laws 1986, Chapter 33, Section 2, as amended) is amended to read:

"22-2-8.1. LENGTH OF SCHOOL DAY--MINIMUM.--

A. Regular students shall be in school-directed programs, exclusive of lunch, for a minimum of the following:

(1) kindergarten, for half-day programs, two and one-half hours per day or four hundred fifty hours per year or, for full-day programs, five and one-half hours per day or nine hundred ninety hours per year;

(2) grades one through six, five and one-half hours per day or nine hundred ninety hours per year; and

(3) grades seven through twelve, six hours per day or one thousand eighty hours per year.

B. Nothing in this section precludes a local school board from setting length of school days in excess of the minimum requirements established by Subsection A of this section.

C. The state superintendent may waive the minimum length of school days in those districts where such minimums would create undue hardships as defined by the state board."

Chapter 107 Section 2

Section 2. Section 22-8-19 NMSA 1978 (being Laws 1974, Chapter 8, Section 9, as amended) is amended to read:

"22-8-19. EARLY CHILDHOOD EDUCATION PROGRAM UNITS.--

A. The number of early childhood education program units is determined by multiplying the early childhood education MEM by the cost differential factor 1.44. Early childhood education students enrolled in half-day kindergarten programs shall be

counted for 0.5 early childhood MEM. Early childhood education students enrolled in full-day kindergarten programs shall be counted for 1.0 early childhood education MEM.

B. For the purpose of calculating early childhood education program units, developmentally disabled three- and four-year-old students shall be counted in early childhood education membership. No developmentally disabled three- or four-year-old student shall be counted for more than 0.5 early childhood education MEM."

Chapter 107 Section 3

Section 3. A new section of the Public School Code is enacted to read:

"FULL-DAY KINDERGARTEN PROGRAMS.--

A. The state board shall adopt rules for the development and implementation of child-centered and developmentally appropriate full-day kindergarten programs. Establishment of full-day kindergarten programs shall be voluntary on the part of school districts and student participation shall be voluntary on the part of parents.

B. The department of education shall require schools with full-day kindergarten programs to conduct age-appropriate assessments to determine the placement of students at instructional level and the effectiveness of child-centered, developmentally appropriate kindergarten.

C. The department of education shall monitor full-day kindergarten programs and ensure that they serve the children most in need based upon indicators in the at-risk factor. If the department of education determines that a program is not meeting the benchmarks necessary to ensure the progress of students in the program, the department of education shall notify the school district that failure to meet the benchmarks shall result in the cessation of funding for the following school year. The department of education shall compile the program results submitted by the school districts and make an annual report to the legislative education study committee and the legislature.

D. Full-day kindergarten programs shall be phased in over a five-year period as follows with priority given to those districts that serve children in schools with the highest proportion of students most in need based upon indicators in the at-risk factor:

(1) effective with the 2000-2001 school year, one-fifth of New Mexico's kindergarten classes may be full day;

(2) effective with the 2001-2002 school year, two-fifths of New Mexico's kindergarten classes may be full day;

(3) effective with the 2002-2003 school year, three-fifths of New Mexico's kindergarten classes may be full day;

(4) effective with the 2003-2004 school year, four-fifths of New Mexico's kindergarten classes may be full day; and

(5) effective with the 2004-2005 school year, all of New Mexico's kindergarten classes may be full day.

E. School districts shall apply to the department of education to receive funding for full-day kindergarten programs. In granting approval for funding of full-day kindergarten programs, the department of education shall ensure that full-day kindergarten programs are first implemented in schools that have the highest proportion of students most in need based upon the at-risk index and to schools with available classroom space."

Chapter 107 Section 4

Section 4. TEMPORARY PROVISION--FULL-DAY KINDERGARTEN--ASSESSMENT OF NUMBER OF CLASSROOMS.--

A. The state department of public education shall conduct an assessment of the number of classrooms that will be needed to fully implement full-day kindergarten. This assessment shall take into account projected student enrollment with consideration to school districts with declining student enrollment patterns.

B. The state department of public education shall report the findings from the assessment to the legislative education study committee by November 2000.

HOUSE APPROPRIATIONS AND FINANCE COMMITTEE SUBSTITUTE FOR

HOUSE BILL 211, AS AMENDED

HOUSE JOINT RESOLUTION 10

PROPOSING A LONG-TERM LEASE OF THE PENITENTIARY OF NEW MEXICO'S WATER SYSTEM TO SANTA FE COUNTY.

WHEREAS, Section 13-6-3 NMSA 1978 requires ratification and approval of any sale, trade or lease of state property over one hundred thousand dollars ($100,000) in value; and

WHEREAS, the property control division of the general services department is desirous of leasing the penitentiary of New Mexico's water system to Santa Fe county for a period not to exceed ninety-nine years; and

WHEREAS, the lease is contingent on Santa Fe county providing a mutually agreed upon amount of free water services to all state buildings serviced by the existing water system; and

WHEREAS, the lease is further contingent on Santa Fe county providing a water use plan to the property control division of the general services department, which shall be reviewed by the capitol buildings planning commission and reported to the legislative finance committee; and

WHEREAS, the real property, with improvements, is located on state highway 14 within Santa Fe county and consists of three wells and an underground storage tank and pump station to the north of the penitentiary main facility; an elevated storage tank to the south of the penitentiary main facility; an associated six-inch water main distribution system to the main facility, north facility, south facility, minimum facility, residences adjacent to state highway 14, corrections department central administration offices and training academy and other existing buildings on the penitentiary of New Mexico site; and rights to approximately three hundred eighty-seven acre-feet of water; and

WHEREAS, the state of New Mexico shall retain appropriate right-of-way easements and provide ingress and egress to Santa Fe county; and

WHEREAS, the lease shall be subject to reservations, restrictions or easements of record;

NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO that the proposed lease be hereby ratified and approved pursuant to the provisions of Section 13-6-3 NMSA 1978; and

BE IT FURTHER RESOLVED that a copy of this resolution be transmitted to the property control division of the general services department.

HOUSE JOINT RESOLUTION 10, AS AMENDED

HOUSE JOINT RESOLUTION 18

PROPOSING TO LEASE A BUILDING OF THE PENITENTIARY OF NEW MEXICO TO THE COUNTY OF SANTA FE.

WHEREAS, Section 13-6-3 NMSA 1978 requires ratification and approval by the legislature of any lease of state property for a consideration of one hundred thousand dollars ($100,000) or more; and

WHEREAS, the property control division of the general services department desires to lease a facility that is currently vacant to the county of Santa Fe; and

WHEREAS, the real property, with improvements, is located on state highway 14 in the county of Santa Fe and is commonly known as the main unit of the penitentiary of New Mexico, and includes all tangible personal property and appropriate ingress, egress and utility easements;

NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO that the proposed lease be hereby ratified and approved pursuant to the provisions of Section 13-6-3 NMSA 1978, subject to conditions provided in this resolution; and

BE IT FURTHER RESOLVED that the proposed lease require that any use of the facility shall meet the standards of the American correctional association; and

BE IT FURTHER RESOLVED that the proposed lease require that the attorney general shall approve the facility before any inmates are placed therein; and

BE IT FURTHER RESOLVED that the proposed lease require that, after operation, the facility be inspected quarterly by a county grand jury and that the grand jury issue a report to the district court; and

BE IT FURTHER RESOLVED that the proposed lease require that all proposed renovations be completed by the lessee prior to occupancy; and

BE IT FURTHER RESOLVED that the attorney general shall assist in the negotiations of the proposed lease to ensure that the state's interests are protected and to ensure that provisions for subleasing the property require compliance with the Procurement Code and other applicable laws; and

BE IT FURTHER RESOLVED that copies of this resolution be transmitted to the property control division of the general services department, the attorney general and the resource development division of the county of Santa Fe.

HOUSE JOINT RESOLUTION 18, AS AMENDED

OFFICIAL ROSTER OF THE STATE OF NEW MEXICO

UNITED STATES SENATORS

Jeff Bingaman, Democrat, Santa Fe
Pete V. Domenici, Republican, Albuquerque

UNITED STATES REPRESENTATIVES

Heather A. Wilson, Republican, District No. 1, Albuquerque

Joseph R. Skeen, Republican,	District No. 2, Picacho
Tom Udall, Democrat,	District No. 3, Santa Fe

STATE OFFICIALS

Gary Johnson, Republican	Governor
Walter D. Bradley, Republican	Lieutenant Governor
Rebecca Vigil-Giron, Democrat	Secretary of State
Domingo P. Martinez, Democrat	State Auditor
Michael A. Montoya, Democrat	State Treasurer
Patricia A. Madrid, Democrat	Attorney General
Ray Powell, Jr., Democrat	Commissioner of Public Lands
Herb Hughes, Republican	Public Regulation Commissioner, District 1
Bill Pope, Republican	Public Regulation Commissioner, District 2
Jerome D. Block, Democrat	Public Regulation Commissioner, District 3
Lynda M. Lovejoy, Democrat	Public Regulation Commissioner, District 4
Tony Schaefer, Republican	Public Regulation Commissioner, District 5

JUSTICES OF THE SUPREME COURT

Pamela B. Minzner, Chief Justice
Joseph F. Baca, Senior Justice
Gene Franchini
Petra J. Maes
Patricio M. Serna

JUDGES OF THE COURT OF APPEALS

Lynn Pickard, Chief Judge
Roderick T. Kennedy
Rudy S. Apodaca
Thomas A. Donnelly
A. Joseph Alarid
M. Christina Armijo
Jonathan B. Sutin
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	T. Glenn Ellington	Santa Fe
Division	II	James A. Hall	Santa Fe
Division	III	Carol J. Vigil	Santa Fe
Division	IV	Michael Vigil	Santa Fe
Division	V	Art Encinias	Santa Fe
Division	VI	Stephen D. Pfeffer	Santa Fe
Division	VII	Daniel Sanchez	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	Ted C. Baca	Albuquerque
Division	VI	Neil C. Candelaria	Albuquerque
Division	VII	W. Daniel Schneider	Albuquerque
Division	VIII	Ross C. Sanchez	Albuquerque
Division	IX	Mark A. Macaron	Albuquerque
Division	X	Theresa Baca	Albuquerque
Division	XI	Diane Dal Santo	Albuquerque
Division	XII	Wendy E. York	Albuquerque
Division	XIII	Robert Hayes Scott	Albuquerque
Division	XIV	W. John Brennan	Albuquerque
Division	XV	Richard J. Knowles	Albuquerque
Division	XVI	Robert L. Thompson	Albuquerque
Division	XVII	Ann M. Kass	Albuquerque
Division	XVIII	Susan M. Conway	Albuquerque
Division	XIX	Albert S. Murdoch	Albuquerque
Division	XX	William F. Lang	Albuquerque
Division	XXI	Angela J. Jewell	Albuquerque
Division	XXII	Deborah Davis Walker	Albuquerque
Division	XXIII	Geraldine E. Rivera	Albuquerque

THIRD JUDICIAL DISTRICT
DONA ANA COUNTY

Division	I	Robert E. Robles	Las Cruces
Division	II	Stephen Bridgforth	Las Cruces
Division	III	Lou Martinez	Las Cruces
Division	IV	Jerald A. Valentine	Las Cruces
Division	V	Thomas G. Cornish, Jr	. Las Cruces
Division	VI	Grace Duran	Las Cruces

FOURTH JUDICIAL DISTRICT
GUADALUPE, MORA, SAN MIGUEL COUNTIES

Division	I	Eugenio S. Mathis	Las Vegas
Division	II	Jay Gwynne Harris	Las Vegas

FIFTH JUDICIAL DISTRICT
CHAVES, EDDY, LEA COUNTIES

Division	I	Jay W. Forbes	Carlsbad
Division	II	Alvin F. Jones	Roswell
Division	III	Ralph W. Gallini	Lovington
Division	IV	Patrick J. Francoeur	Lovington
Division	V	James L. Shuler	Carlsbad
Division	VI	William Patrick Lynch	Roswell
Division	VII	Gary Linn Clingman	Lovington
Division	VIII	William P. "Chip" Johnson	Roswell

SIXTH JUDICIAL DISTRICT
GRANT, HIDALGO, LUNA COUNTIES

Division	I	V. Lee Vesely	Silver City
Division	II	Gary Jeffreys	Deming

SEVENTH JUDICIAL DISTRICT
CATRON, SIERRA, TORRANCE, SOCORRO COUNTIES

Division	I	Edmund H. Kase III	Socorro
Division	II	Thomas G. Fitch	Socorro
Division	III	Neil Mertz	Socorro

EIGHTH JUDICIAL DISTRICT
COLFAX, UNION, TAOS COUNTIES

Division	I	Peggy Jean Nelson	Taos
Division	II	Sam B. Sanchez	Raton

NINTH JUDICIAL DISTRICT
CURRY & ROOSEVELT COUNTIES

Division	I	Stephen Quinn	Clovis
Division	II	Robert C. Brack	Clovis
Division	III	David W. Bonem	Clovis, Portales

TENTH JUDICIAL DISTRICT
QUAY, DEBACA, HARDING COUNTIES

Division	I	Ricky D. Purcell	Tucumcari

ELEVENTH JUDICIAL DISTRICT
MCKINLEY, SAN JUAN COUNTIES

Division	I	William C. Birdsall	Aztec
Division	II	Joseph L. Rich	Gallup
Division	III	Wilfred Byron Caton	Aztec
Division	IV	Paul R. Onuska	Farmington
Division	V	Grant Foutz	Gallup
Division	VI	George A. Harrison	Aztec

TWELFTH JUDICIAL DISTRICT
LINCOLN, OTERO COUNTIES

Division	I	Jerry H. Ritter, Jr.	Alamogordo
Division	II	Robert M. Doughty, II	Alamogordo
Division	III	Karen L. Parsons	Carrizozo
Division	IV	Frank K. Wilson	Alamogordo

THIRTEENTH JUDICIAL DISTRICT
SANDOVAL, VALENCIA, CIBOLA COUNTIES

Division	I	John W. Pope	Los Lunas
Division	II	Kenneth G. Brown	Bernalillo
Division	III	William (Bill) Sanchez	Los Lunas

Division	IV	Joseph F. Arite	Grants
Division	V	Louis P. McDonald	Bernalillo

DISTRICT ATTORNEYS

First Judicial District	Henry R. Valdez	Santa Fe
Second Judicial District	Jeff Romero	Albuquerque
Third Judicial District	Susana Martinez	Las Cruces
Fourth Judicial District	Matthew J. Sandoval	Las Vegas
Fifth Judicial District	Thomas A. Rutledge	Carlsbad
Sixth Judicial District	Jim Foy	Silver City
Seventh Judicial District	Ron P. Lopez	Socorro
Eighth Judicial District	John M. Paternoster	Taos
Ninth Judicial District	Randall M. Harris	Clovis
Tenth Judicial District	Patricia Parke	Tucumcari
Eleventh Judicial District		
Division I	Sandra Price	Farmington
Division II	Forrest G. Buffington	Gallup
Twelfth Judicial District	Scot D. Key	Alamogordo
Thirteenth Judicial District	Michael Runnels	Los Lunas

STATE SENATORS SERVING IN THE FORTY-FOURTH LEGISLATURE
STATE OF NEW MEXICO
SECOND SESSION
CONVENED JANUARY 18, 2000

COUNTY	**DISTRICT**	**NAME**	**CITY**
San Juan	1	Raymond L. Kysar (R)	Farmington
San Juan	2	R. L. Stockard (R)	Bloomfield
McKinley & San Juan	3	John Pinto (D)	Tohatchi
Cibola & McKinley	4	Gloria Howes (D)	Gallup
Los Alamos, Rio Arriba & Sandoval	5	Arthur H. Rodarte (D)	Ojo Caliente
Mora, Santa Fe & Taos	6	Carlos R. Cisneros (D)	Questa
Colfax, Curry, Harding, Quay,	7.	Patrick H. Lyons (R)	Cuervo
San Miguel & Union DeBaca, Guadalupe, Lincoln,	8	Pete Campos (D)	Las Vegas

& San Miguel			
Bernalillo & Sandoval	9	Pauline Eisenstadt (D)	
Corrales			
Bernalillo	10	Ramsay L. Gorham (R)	
Albuquerque			
Bernalillo	11	Linda M. Lopez (D)	Albuquerque
Bernalillo	12	Richard M. Romero (D)	Albuquerque
Bernalillo	13	Dede Feldman (D)	Albuquerque
Bernalillo & Valencia	14	Manny M. Aragon (D)	
Albuquerque			
Bernalillo	15	L. Skip Vernon (R)	Albuquerque
Bernalillo	16	Cisco McSorley (D)	Albuquerque
Bernalillo	17	Shannon Robinson (D)	
Albuquerque			
Bernalillo	18	Mark L. Boitano (R)	Albuquerque
Bernalillo, Santa Fe & Torrance	19	Sue F. Wilson (R)	Albuquerque
Bernalillo	20	William Payne (R)	Albuquerque
Bernalillo	21	William F. Davis (R)	Albuquerque
Bernalillo, Los Alamos, McKinley	22	Leonard Tsosie (D)	Crownpoint
Rio Arriba & Sandoval			
Bernalillo & Sandoval	23	Joseph J. Carraro (R)	
Albuquerque			
Santa Fe	24	Nancy Rodriguez (D)	Santa
Fe			
Santa Fe	25	Roman M. Maes III (D)	SantaFe
Bernalillo	26	Philip J. Maloof (D)	Albuquerque
Chaves, Curry & Roosevelt	27	Stuart Ingle (R)	
Portales			
Catron, Grant & Socorro	28	Ben D. Altamirano (D)	Silver
City			
Valencia	29	Michael S. Sanchez (D)	Belen
Cibola, Socorro & Valencia	30	Joseph A. Fidel (D)	Grants
Dona Ana	31	Cynthia Nava (D)	Las Cruces
Chaves, Eddy & Otero	32	Timothy Z. Jennings (D)	
Roswell			
Chaves & Eddy	33	Rod Adair (R)	
Roswell			
Eddy, Lea & Otero	34	Don Kidd (R)	Carlsbad
Dona Ana, Hidalgo, Luna & Sierra	35	John Arthur Smith (D)	
Deming			
Dona Ana	36	Mary Jane M. Garcia (D)	Dona Ana
Dona Ana, Otero & Sierra	37	Leonard Lee Rawson (R)	Las Cruces
Dona Ana	38	Fernando R. Macias (D)	Mesilla
Bernalillo, Los Alamos, Sandoval,	39	Phil A. Griego (D)	San Jose
San Miguel, Santa Fe & Torrance			
Otero	40	Dianna J. Duran (R)	Tularosa

Eddy & Lea	41	Carroll H. Leavell (R)	Jal
Curry, Lea & Roosevelt	42	Billy J. McKibben (R)	Hobbs

STATE REPRESENTATIVES SERVING IN THE FORTY-FOURTH LEGISLATURE
STATE OF NEW MEXICO
SECOND SESSION
CONVENED JANUARY 18, 2000

COUNTY	DISTRICT	NAME	CITY
San Juan	1	Jerry W. Sandel (D)	Farmington
San Juan Farmington	2	Thomas C. Taylor (R)	
Rio Arriba & San Juan	3	Sandra L. Townsend (R)	Aztec
San Juan	4	Ray Begaye (D)	Shiprock
Shiprock McKinley	5	R. David Pederson (D)	Gallup
Cibola & McKinley Grants	6	George J. Hanosh (D)	
Valencia Lunas	7	P. David Vickers (R)	Los
Valencia	8	Fred Luna(D)	Los Lunas
McKinley & San Juan Navajo	9	Leo C. Watchman, Jr. (D)	
Bernalillo & Valencia Albuquerque	10	Henry "Kiki" Saavedra (D)	
Bernalillo Albuquerque	11	Rick Miera (D)	
Bernalillo Albuquerque	12	James G. Taylor (D)	
Bernalillo	13	Daniel P. Silva (D)	Albuquerque
Bernalillo Albuquerque	14	Miguel P. Garcia (D)	
Bernalillo	15	Raymond G. Sanchez (D)	Albuquerque
Bernalillo Albuquerque	16	Joe Nestor Chavez (D)	
Bernalillo	17	Edward C. Sandoval (D)	Albuquerque
Bernalillo	18	Gail C. Beam (D)	Albuquerque
Bernalillo	19	Sheryl M. Williams-Stapleton (D)	Albuquerque
Bernalillo Albuquerque	20	Ted Hobbs (R)	
Bernalillo	21	Mimi Stewart (D)	Albuquerque
Bernalillo	22	Ron Godbey (R)	Albuquerque
Bernalillo	23	Robert Burpo (R)	Albuquerque
Bernalillo Albuquerque	24	George D. Buffett (R)	

Bernalillo	25	Danice R. Picraux (D)	Albuquerque
Bernalillo	26	Art Hawkins (R)	Albuquerque
Bernalillo	27	Lorenzo A. Larranaga (R)	Albuquerque
Bernalillo	28	Joseph P. Mohorovic (R)	Albuquerque
Bernalillo	29	Timothy E. Macko (R)	Albuquerque
Bernalillo	30	Pauline K. Gubbels (R)	Albuquerque
Bernalillo	31	Joseph M. Thompson (R)	Albuquerque
Dona Ana, Luna & Sierra	32	Dona G. Irwin (D)	Deming
Dona Ana	33	J. Paul Taylor (D)	Mesilla
Dona Ana	34	Mary Helen Garcia (D)	Las Cruces
Dona Ana	35	Benjamin B. Rios (D)	Las Cruces
Dona Ana	36	E. G. Smokey Blanton (R)	Las Cruces
Dona Ana	37	Jon "Andy" Kissner (R)	Las Cruces
Grant, Luna & Sierra	38	F. Dianne Hamilton (R)	Silver City
Hidalgo & Grant	39	Manuel G. Herrera (D)	Bayard
Mora, Rio Arriba, San Miguel, Juan Pueblo	40	Nick L. Salazar (D)	San Juan Pueblo
Rio Arriba, Sandoval & Taos	41	Debbie A. Rodella (D)	Santa Fe & Taos
Taos	42	Roberto "Bobby" J. Gonzales (D)	Taos
Los Alamos & Sandoval	43	Jeannette Wallace (R)	Los Alamos
Sandoval	44	Judy Vanderstar Russell (R)	Rio Rancho
Santa Fe	45	Patsy G. Trujillo-Knauer (D)	Santa Fe
Santa Fe	46	Ben Lujan (D)	Santa Fe
Santa Fe	47	Max Coll (D)	Santa Fe
Santa Fe	48	Luciano "Lucky" Varela (D)	Santa Fe
Catron, Socorro, Sierra & Valencia	49	Don Tripp (R)	Socorro
Torrance, Bernalillo, & Santa Fe	50	Rhonda S. King (D)	Stanley
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
Carlsbad Eddy	55	John A. Heaton (D)	
Carlsbad			
Carlsbad Lincoln, Chaves & Otero	56	W.C. "Dub" Williams (R)	
Glencoe			
Chaves, Eddy, Lea & Roosevelt	57	Daniel R. Foley (R)	Roswell
Roswell Chaves & Eddy	58	Dara A. Dana (R)	Dexter
Chaves	59	David M. Parsons (R)	
Roswell			
Roswell Sandoval	60	Lisa L. Lutz (R)	Rio Rancho
Rio Rancho Lea	61	Donald L. Whitaker (D)	Eunice
Lea	62	Stevan E. Pearce (R)	Hobbs
Curry & Roosevelt	63	Mario Urioste (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	Bobbie K. Mallory (R)	
Tucumcari			
Curry & Roosevelt			
Colfax, Guadalupe, Mora	68	Jose R. Abeyta (D)	Wagon
Mound			
& San Miguel			
Cibola, McKinley, & Sandoval	69	W. Ken Martinez (D)	
Grants			
San Miguel	70	Richard D. Vigil (D)	Ribera