



**SUMMARY
OF
2020 LAWS
of Interest to
Municipalities**

July, 2020

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PREFACE

New Mexico Chapter Laws are numbered in the order in which the Governor signs them.

The Governor has line-item veto power over bills containing appropriations. Partial vetoes are designated by striking through the deleted language.

The designation “CS/” or “FL/” before a bill means “Committee Substitute” or “Floor Substitute” indicating that a House or Senate Committee, or the entire House or Senate during a floor session, passed a rewritten version in place of the original bill.

The effective date of the signed bill is shown at the end of the chapter summary. Unless a specific effective date is listed in the bill, it is effective 90 calendar days after the close of the session (June 14 this year) or, if it is an appropriation, on July 1, the beginning of the new fiscal year. Bills with an emergency clause (*) become effective on the date signed by the Governor if passed by a two-thirds margin in each house.

Proposed Constitutional Amendments (CA) are in the form of joint resolutions passed by both houses and are numbered in order of final passage. They do not require the Governor’s signature, but are enacted if they receive voter approval by a majority vote at a statewide general or special election.

Joint Resolutions and Memorials are expressions of intent and usually request state agencies or committees to perform some task and report back to the Legislature. They have passed both houses, but do not require the Governor’s signature. Memorials are also expressions of intent or request for some action but need only pass the house in which they were introduced. They do not require the Governor’s signature.

All bills that were vetoed by the Governor this year are reported at the end of the Summary. A “pocket veto” designation means the Governor took no action on the bill within the required time limit. This effectively vetoes the measure.

More legislative information is available at the Legislature’s web site at www.nmlegis.gov.

Santa Fe, New Mexico

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2020 Summary of New Mexico Laws of Interest to Municipalities

(pv) = partial veto

Chapter 2

*SB 4

COMPLETE COUNT IN 2020 CENSUS (Burt, Herrera, Stefanics, Armstrong)

This bill appropriates funding from the general fund to the Department of Finance and Administration in FY20 to achieve a statewide complete count in the federal 2020 census. This bill contains an emergency clause and would become effective immediately on signature by the governor.

Chapter 5

SB 5

EXTREME RISK FIREARM PROTECTION ORDER ACT (Cervantes, Ely,

Garratt) This bill provides for a new civil process where a law enforcement officer can petition the appropriate district court for an extreme risk firearm protective order (“ERFP Order”) against a respondent who “poses a significant danger of causing imminent personal injury to self or others” by having custody or control of or purchasing, possessing or receiving a firearm.

The bill amends section 41-4-12 NMSA 1978 amended to read that the immunity granted pursuant to Subsection A of Section 41-4-4 NMSA 1978 does not apply to liability for personal injury, bodily injury, wrongful death or property damage resulting from assault, battery, false imprisonment, false arrest, malicious prosecution, abuse of process, libel, slander, defamation of character, violation of property rights, failure to comply with duties established pursuant to statute or law or deprivation of any rights, privileges or immunities secured by the constitution and laws of the United States or New Mexico when caused by law enforcement officers while acting within the scope of their duties. Effective July 1, 2020.

Chapter 9

HB 386

TRANSFER FIRE MARSHAL’S OFFICE (Small)

Section 10-11B-5 NMSA 1978 is amended to create the firefighters’ survivors supplemental death benefits review committee to advise the fire marshal of whether a firefighter has been killed in the line of duty. Section 59A-52-1 NMSA 1978 is amended to create the state fire marshal’s office as a division under the homeland security and emergency management department. Sections 10-11B-5 and 59A-52-1 are effective July 1, 2021.

Chapter 11

SB 72

PERA SOLVENCY (Munoz, Anderson)

Senate Bill 72 increases local government employee and employer pension contributions by 0.5 percent for four years for a total increase of 2 percent. Also outlined is contribution rate reductions; for eighty percent and less than ninety percent, the employer and employee contribution rates for the coverage plan shall each be reduced by five-tenths percent in the next fiscal year. With ninety percent and less than one hundred percent, the employer and employee contribution rates for the coverage plan shall each be reduced by one percent in the next fiscal year; or at one hundred percent, employer/employee contribution rates shall each be reduced by two percent in the next fiscal years. The bill notes that the

percentage of the employer/employer contribution shall not be reduced to less than contribution rates in effect on June 2020. Effective July 1, 2022.

Chapter 13
SB 29

SOLAR MARKET DEVELOPMENT INCOME TAX CREDIT (Stewart, McQueen) This bill allows residential or business owners and agricultural enterprises in New Mexico to apply for a 10% credit against the taxpayer's tax liability imposed pursuant to the Income Tax Act and shall not exceed six thousand per taxpayer per taxable year. Effective July 1, 2020.

Chapter 16
HB 50

AMENDING THE INDUSTRIAL REVENUE BOND ACT (Small) House Bill 50 amends the Industrial Revenue Bond Act (§3-32-1 et seq. NMSA 1978) and the County Industrial Revenue Bond Act, (§4-59-1 et seq. NMSA 1978) to include electric transmission facilities as eligible projects. The bill adds a new section to each Act that requires for electric transmission line projects the state would receive 5 percent of the total amount of in lieu tax payments to counties, municipalities and other local entities who levy taxes on the property. This also includes in-lieu tax payments to school districts and 5 percent of the value of other considerations paid by the transmission line project managers to local entities that are authorized to levy taxes on property. A copy of the agreement documenting the in lieu payments must be provided to the secretary of finance and administration with 30 days of written approval. Annual payments are to be made to DFA for deposit to the general fund no later than the end of the fiscal year as in-lieu tax payments are made to local taxing entities. Effective July 1, 2020.

Chapter 19
HB 117

LODGERS TAX EXEMPTIONS (Brown) HTRC Committee Substitute amends Section 3-38-13 NMSA 1978 and redefines taxable premise to be hotels, motels "or other premises used for lodging that is not the vendee's household or primary residence." Allows municipalities to collect the Lodgers' Tax revenue from the 31st day and subsequent days may be used for any municipal or county purposes so long as the uses are state in the ordinance imposing the tax not to exceed five percent of the gross taxable rent. The bill identifies exemptions to the occupancy tax and stipulates bond repayment provisions. Effective July 1, 2020.

Chapter 21
HB 176

LAND LEASES BETWEEN LOCAL GOVERNMENT & STATE (Romero) House Bill 176 amends Section 19-7-54 NMSA 1978 (being Laws 1929, Chapter 53, Section 1) allows state owned land within five miles of a municipality and may have use for the state lands, the municipality is authorized and empowered to lease the lands not to exceed 40 years by the commissioner. Effective July 1, 2020.

Chapter 29
HB 170

EXTEND SMALL BUSINESS SATURDAY (Gallegos, Neville) House Bill 170 extends the sunset date for the deduction from gross receipts for certain businesses on the first Saturday after Thanksgiving to prior to July 1, 2025. Effective July 1, 2020.

Chapter 30
HB 193

PERMANENT TAX DISTRIBUTION TO AVIATION FUND (Hochman-Vigil) This bill makes the distribution of 0.046 percent of general fund gross receipts revenue tax to the state aviation fund permanent and adds a sunset date of June 30, 2031 to the

distribution of a portion of the gross receipts tax to the state aviation fund. Effective July 1, 2020.

Chapter 31
HB 207

CHANGE LOCAL GOVERNMENT TRANSPORTATION PROJECT FUND (Garcia, Johnson, Allison, Lente, Alcon) This bill adds “maintenance project” as an eligible project while expressly excluding a “transportation enhancement project” from eligibility. The House Transportation, Public Works and Capital Improvements Committee amendment expands the definition of transportation infrastructure to include transit, bicycle, and pedestrian infrastructures while stipulating a transportation project does not include beautification projects as determined by the state transportation commission. Effective July 1, 2020.

Chapter 39
CS/SB 151

CAR TITLE & REGISTRATION E-SIGNATURE (Gonzales) The Senate Judiciary Committee Substitute amends the Motor Vehicle Code Section 1 allows for applications for registration and certification of car title to be signed by the owner electronically.

Section 66-3-10 NMSA is amended and identifies when the department is to issue the certificate of title, evidence of registration, and registration plate and validation sticker for a release of lien or odometer statement; subject to enumerated exceptions for certain types of vehicles. Effective January 1, 2021.

Chapter 41
***SB 270**

ELECTRONIC COMMUNICATION SEARCH & SEIZURE (Ivey-Soto, Chasey) This bill amends Sections 10-16F-1 to 10-16F-1 and requires that information obtained through execution of a search warrant that is unrelated to the objective of the warrant or is not exculpatory to the target be “sealed” rather than “destroyed,” and not subject to further use or disclosure except pursuant to a court order or to comply with discovery, and provides for the destruction of unrelated information as soon as feasible after the current investigation and related investigations or proceedings are terminated.

The bill further requires: A government entity that receives information voluntarily disclosed by a service provider to “seal,” rather than “destroy,” the information within 90 days, and provides that the information is not subject to further use or disclosure except pursuant to a court order.

The immediate “sealing” rather than “destruction” of information obtained by a government entity because of an emergency if a court finds an emergency did not exist. The sealed information is not subject to further use or disclose except pursuant to a court order or to comply with discovery.

Makes explicit that a government entity can require an employee to return an electronic device owned by the entity.

Modifies the information required in annual reports submitted by government entities to the New Mexico Attorney General.

This bill contains an emergency clause and would become effective immediately on signature by the governor.

Chapter 46

CS/SB 131 TOBACCO PRODUCTS ACT (Lopez, Ramos, Thomson, Ferrary) This bill allows municipalities to conduct random, unannounced inspections of facilities where tobacco products are sold, manufactured or distributed to ensure compliance with the provisions of the Tobacco Products Act and upon issuance of a citation will report alleged violations of the act to the division. When adopting an ordinance pertaining to the sales of tobacco products, municipalities, including home rule, must be consistent with the provisions of the Tobacco Products Act. Effective January 1, 2021.

Chapter 47

CS/SB 98 PUBLIC PROJECT PREVAILING WAGE COMPLAINTS (Candelaria, Chandler) The Senate Judiciary Committee Substitute bill amends the Public Works Minimum Wage Act Section 13-4-11 1978 to Prevailing Wage and Benefit Rates Determined—Minimum Wages and Fringe Benefits on Public Works—Weekly Payment—Withholding Funds. Contracts in excess of sixty thousand dollars shall contain a provision stating the minimum wages and fringe benefits to be paid to various classifications of laborers and mechanics as determined by the director each year. Effective July 1, 2020.

Chapter 48

CS/HB 364 PUBLIC SECTOR COLLECTIVE BARGAINING (Stapleton) The House Labor, Veterans’ and Military Affairs Substitute makes changes to the Public Sector Collective Bargaining Changes.

Clarify definition of management employee to exclude an employee whose fiscal responsibilities are routine, incidental or clerical, and to include as public employees those whose positions are partially or wholly funded by grants (Section 1);

Remove references to and definition of “fair share”, in light of the U.S. Supreme Court ruling in *Janus v. AFSCME*, which held; public sector unions cannot charge fees to employees who decline to join the union but are covered by its collective bargaining agreement.

Add “other concerted activities” to the rights of public employees, but expressly continue the prohibition against strikes;

Enumerate specific administrative remedies. The board is authorized to impose: actual damages related to dues, back pay including benefits, reinstatement with the same seniority status, declaratory or injunctive relief (including temporary restraining orders or preliminary injunctions, but prohibiting awards of punitive damages or attorney fees;

Define events causing a local board to cease to exist, as well as outlines that local board rules, must comply with state law, and are subject to state board approval;

Require state and local board rules be posted on publicly accessible website, along with listing of members of board, and require local board notice to state board of changes in rules or membership within 30 days;

Require jobs included in a bargaining unit under a local ordinance in effect on January 1, 2020 remain in that unit;

Upon acceptance of valid petition for election, require public employer to provide contact information for bargaining unit employees; continue the 40 percent requirement for valid elections; and authorize “card check” as alternative to election if a majority of employees in bargaining unit have signed valid authorization cards, subject to a verification challenge by the employer, in which case the state or local board must hold a fact-finding hearing to confirm majority of employees in unit have signed valid authorization cards;

Codify six month statute of limitations for public employee claims of breach of the duty of fair representation;

Require public employer grant an exclusive union representative reasonable access to and information concerning bargaining unit employees, as well as use of public employees’ facilities or property, all as defined in this section;

Prohibit a competing labor organization from seeking an election within 12 months of initial certification;

Make changes to scope of bargaining:

Allowing parties to bargain regarding employer “pick up” of retirement contributions, subject to limitations of this section;

Clarifying bargaining agreement does not conflict with statute if it grants greater rights, remedies and procedures;

Dictating procedures regarding how and when dues deductions are determined, and addressing issue of liability in wake of Janus decision; and

Recognizing the duty to bargain in good faith during term of agreement, unless parties clearly and unmistakably waived right to bargain, provided that no party may be required to renegotiate existing terms of agreements already in place;

Remove deadline for resolving impasse; and

Make public employer expenditure of public funds to influence an election regarding representation a prohibited practice. Effective July 1, 2020.

Chapter 49

HB 25

PREGNANT WORKER ACCOMMODATION (Chasey, Stefanics) House Bill 25 amends the New Mexico Human Rights Act NMSA 1978 §28-1-1 and §28-1-7 (the “Act”) to include pregnancy, childbirth or conditions related to pregnancy or childbirth as a basis for an unlawful discriminatory practice. The current Act does not include pregnant workers as a protected class but now pregnancy, childbirth or condition related to pregnancy or childbirth as a prohibited basis of discrimination in the connect of employment, membership in a labor organization public accommodation, housing accommodation and financial assistance as related to housing accommodation or real property.

The bill also adds definitions to §28-1-1 for “reasonable accommodation: and “undue hardship” and will apply to all subsequent provisions of the statute, not just pregnancy

related complaints. The bill also provides additional discretionary remedies which may be imposed against employers.

The bill would require an employer to make reasonable accommodation for an employee or job applicant with a need arising from pregnancy, childbirth or condition related to pregnancy or childbirth (§ 28-1-7(J)). The bill further prohibits an employer from requiring an employee with a need arising from pregnancy, childbirth or condition related to pregnancy or childbirth to take paid or unpaid leave if another reasonable accommodation can be provided, unless the employee voluntarily requests to be placed on leave or the employee is placed on leave pursuant to federal law.

The bill requires employers to notify applicants and new and continuing employees of their rights under the Act. The bill does not require exhaustion of state administrative remedies before filing an action in court. The bill also provides claimants with administrative and judicial review, which may result in actual, punitive and treble damages as well as costs and attorney fees to an employer found to be violating the Act. A court in any action brought under the Act may order appropriate injunctive relief, including requiring an employer to post in the employer's place of business a description violation by the employer. Effective July 1, 2020.

Chapter 54
CS/HB 6

PTSD PRESUMPTION FOR FIRST RESPONDERS (Matthews, Bash, Thomson, Hochman-Vigil, Stansbury) The Senate Judiciary Committee Amendment to the House Judiciary Committee Substitute for House Bills 6, 36, and 113 expands permissible payouts from the law enforcement protection fund. This bill also increases the penalty for any felon in possession of a firearm from a fourth degree felony to a third degree felony; and increases from one year to three years the current basic sentence enhancement for a first noncapital felony in which a firearm was brandished. Effective July 1, 2020.

Chapter 55
HB 22

CLARIFY MILITARY LEAVE (Hochman-Vigil, Ezzell, Nibert) This bill modifies Section 20-7-5 NMSA 1978 to allow members of the Civil Air Patrol to use military leave pursuant to Section 20-4-7 NMSA 1978 for "official duties as assigned by the director of the civil air patrol of the department of military affairs or an incident commander of an active mission" instead of strictly for "search and rescue mission." Effective July 1, 2020.

Chapter 60
HB 76

EASTERN NM WATER UTILITY AUTHORITY MEMBERSHIP (Crowder) This bill amends Section 73-27-4 to read as Eastern New Mexico water Utility Authority – Created and benefits four members including the city of Clovis, Portales, Texico and the Town of Elida. It identifies board appointments along with powers and duties. Effective July 1, 2020.

Chapter 66
***FL/HB 319**

MULTIPLE SOURCE CONTRACTS AMOUNT LIMITS (Gallegos, Stapleton, Campos, Payne, Sanchez) This bill amends Section 13-1-154.1 NMSA 1978 for local public bodies are able to procure multiple architectural or engineering service contracts for multiple projects under a single qualifications-based request for proposals; provided that the total amount of multiple contracts and all renewals for and does not exceed seven million five hundred thousand dollars over four years and that a single

contract including any renewals does not exceed six hundred fifty thousand dollars; and multiple indefinite quantity construction contracts pursuant to a price agreement for multiple projects under a single request for proposals; provided that the total amount of a contract and all renewals does not exceed twelve million five hundred thousand dollars over three years and the contract provides that any one purchase order under the contract may not exceed four million.

The bill also outlines provisions for multiple service contracts and that contracts shall not exceed seven million five hundred thousand dollars in any four-year period for architectural or engineering services; or twelve million five hundred thousand dollars in any three-year period for construction. Local public bodies shall report specific aggregate amounts for each contractor.

This bill contains an emergency clause and becomes effective immediately on signature by the governor.

Chapter 67
CS/HB 184

LAW ENFORCEMENT OFFICERS AT SCHOOL (Ruiloba) The House Appropriations and Finance Committee amendment to the House Judiciary Committee Substitute of the bill delays the effective date of the revised law Enforcement Protection Fund distributions to July 1, 2022 and changes the date by which law enforcement officers already serving as school resource officers (SROs) when the bill take effect 2022-2023 school year must complete their training to July 1, 2023 to correspond with this delayed effective date. Officers who are newly assigned to serve as SROs during the 2022-2023 school year and subsequent school years still have 12 months to complete their training. Section 29-13-2 NMSA 1978 is amended to provide for the equitable distribution of money to municipal police and to sustain at a reasonable level the payments available to the surviving eligible family members of a peace officer killed in the line of duty.

The bill also amends Section 29-13-4 NMSA 1978 to determine the rate of distribution of money for municipal police shall be entitled to a rate of distribution of forty-five thousand dollars; and one thousand dollars for each police officer employed full time by that department who has been verified by the academy, or by a regional law enforcement training facility 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 and: shall be entitled to one thousand dollars for each assigned school resource officer's training. Effective July 1, 2022.

Chapter 68
***SB 19**

WATER PROJECT FUND AUTHORIZATION (Candelaria, Salazar, Cervantes) This bill authorizes qualifying water projects pursuant to Section 72-4A-9 NMSA 1978 to make loans or grants from the water project fund to qualifying entities: the city of Anthony for a flood prevention project, the city of Bloomfield for a water conservation or treatment, recycling or reuse project, the city of Clovis for a water conservation or treatment, recycling or reuse project, the village of Columbus for a flood prevention project, to the city of Deming for a water conservation or treatment, recycling or reuse project, the city of Gallup for a water storage, conveyance and delivery project, the city of Grants for a water storage, conveyance and delivery project and two flood prevention projects; Los Alamos county for a water conservation or treatment, recycling or reuse project; the city of Portales for a water storage, conveyance and delivery project; the city of Ruidoso Downs for a water storage,

conveyance and delivery project, the city of Santa Fe for a water storage, conveyance and delivery project; the city of Santa Rosa for a water storage, conveyance and delivery project; the city of Truth or Consequences for a water storage, conveyance and delivery project. This bill contains an emergency clause and becomes effective immediately on signature by the governor.

Chapter 69

SB 57

PET FOOD FEE FOR NEUTERING & SHELTERING (Candelaria, Ferrary).

Senate Bill 57 creates a new spay and neuter program fee in the Commercial Feed Act to be collected by New Mexico Department of Agriculture on each brand name of commercial feed distributed in New Mexico for pet consumption. The fee is \$50 starting January 1, 2021; \$75 starting January 1, 2022; and \$100 on and after January 1, 2023 and is collected at the same time as the two dollar registration fee under existing law. Prescription pet food prescribed by a veterinarian and pet food manufactured by a person whose tax-year gross revenue from distribution of that feed is no more than \$3 million are exempted from this fee. Fees collected will be credited to the spay and neuter subaccount of the existing animal care and facility fund, except for 4 percent that is distributed to New Mexico Department of Agriculture.

The bill also limits assistance provided for the spay and neuter program to those individuals whose income, and to groups who provide assistance to recipients whose incomes, do not exceed 200 percent of current federal poverty level guidelines. The bill contains a delayed repeal date, repealing the fee effective July 1, 2026. Effective July 1, 2020.

Chapter 78

***FL/HB 8**

ELECTRIC GENERATING FACILITY ECON DISTRICTS (Lundstrom, Garcia, Alcon, Johnson, Sanchez) This bill creates the Electric Generating Facility Economic District Act; allowing for the formation of an electric generating facility economic district and an authority to govern a district; providing powers and duties and creating the Electric Generating Facility Economic District Gross Receipts Tax to pay revenue bonds issued pursuant to the electric generating facility economic district act. This bill contains an emergency clause and becomes effective immediately on signature by the governor.

Chapter 80

HB 326

TAX CHANGES (Harper, Martinez) Contains clean-up and clarification from the 2019 session for House Bill 6 and House Bill 479. It significantly revises and expands the concepts of destination based sourcing in last year's HB6. It also provides relief to a taxpayer whom TRD determines by managed audit to owe gross receipts tax. It also provides relief to a taxpayer whom TRD determines by managed audit to owe gross receipts tax while revising a portion of the Uniform Division of Income for Tax Purposes Act statute (7-4-10 NMSA 1978) to allow wind and solar farms that produce wholesale electric power and are regulated by FERC and not PRC to qualify for "sales-only" factor in determining apportioned corporate income tax liability with SCORC amendment limiting this inclusion of tax years beginning before January 1 2024 and will have positive fiscal impact for FY24 and out years. The definition of "construction-related services" has been moved to the definition section 7-9-3.4 NMSA 1978. Retains the expansion of the deduction for resale of construction services and construction-related services included in 2019s HB6.

SCORC amendment adds a section to include Governmental Gross Receipts to section 7-9-117 NMSA 1978 ensuring that only one tax is remitted. Municipal and County governments are allowed/required to enact rate in increments of one hundredth percent, providing that the totals do not exceed the limits as established in last year's HB 479 and compiled in 7-19D-9 NMSA 1978. This is a temporary provision that considers any municipal or county local option enactments of repealed or consolidated rates required by provisions of last year's HB 479 to be continuous enactments of currently allowed local option enactments.

The bill also repeals the outdated federal prohibition on taxing sales through world wide websites originally enacted in 1998. The second repeal in this section is of the 10 percent credit for sales of certain services for resale. Also repealed is last year's version of 7-1-14 NMSA 1978 which proposed destination sourcing rules for Gross Receipts and Compensating tax purposes as identified in Section 1. Effective July 1, 2020.

Chapter 81 (pv)

***CS/HB 349 CAPITAL OUTLAY PROJECTS (Martinez, Trujillo)** The Senate Finance Committee amendment to House Bill 349 amended: Section 3 to change the reversion date for the overfunded projects from July 1, 2021, to July 1, 2020; Added \$4 million appropriated from the general fund for statewide emergency projects for administration by the Department of Finance and Administration, Local Government Division; and changed the \$2 million in funds appropriated from the public project revolving loan fund to instead be funded from the general fund.

As amended, House Bill 349 authorizes \$532.2 million, including approximately \$362 million from severance tax bond (STB) capacity, \$27.5 million from other state funds, and \$142.8 million from the general fund for the purpose of funding capital outlay projects statewide. This bill contains an emergency clause and becomes effective immediately on signature by the governor.

Chapter 84

***CS/SB 207 2020 CAPITAL PROJECTS GO BOND ACT (Munoz, Neville, Smith)** Senate Finance Committee Substitute for Senate Bill 207 authorizes the issuance of general obligation bonds (GOB) totaling approximately \$198.5 million. The bill proposes three bond issues two that affect municipalities include capital expenditures for senior citizen facilities statewide (\$33 million); and for library resource acquisitions (\$9.5 million). This bill contains an emergency clause and becomes effective immediately on signature by the governor.

Resolutions & Memorials

HM 1/

SM 7 CENTENNIAL OF 19TH AMENDMENT (Chasey, Hochman-Vigil, Fajardo, Stapleton, Cadena, Stefanics) The suffrage movement and the centennial anniversary of the adoption of the nineteenth amendment to the United States constitution be recognized and celebrated. **Signed**

2020 Vetoed Bills

PV = Pocket Veto

HB 45 **CHANGES TO RETIREE HEALTH CARE FUND (Salazar, Lara)**

Veto

