



**SUMMARY  
OF  
2019 LAWS  
of Interest to  
Municipalities**

July, 2019

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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](http://www.nmlegis.gov).

*Santa Fe, New Mexico*

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# 2019 Summary of New Mexico Laws of Interest to Municipalities

(pv) = partial veto

## Chapter 6

### HB 74

**TRADITIONAL HISTORIC COMMUNITY QUALIFICATIONS (Gonzales, Romero, Lara, Herrera)** This bill changes eligibility for areas that qualify as an urbanized territory under NMSA 1978, Section 3-2-3, striking two sections of statute. The first section amended by this bill strikes reference to county class and population between 95,000 and 99,500, based on the 1990 federal decennial census. This bill also changes eligibility for areas that qualify as a traditional historic community. This bill strikes references to county class and population between 95,000 and 99,500, based on the 1990 federal decennial census. Effective July 1, 2019.

## Chapter 7

### HB 97

**LOCAL GOVERNMENT INVESTMENT POOL PARTICIPANTS (Salazar)** This bill amends Section 6-10-10.1 NMSA 1978 to specifically allow the Public Employees Retirement Association (PERA), Educational Retirement Board (ERB) and the State Investment Council (SIC) to participate in the local government investment pool. Effective July 1, 2019.

## Chapter 10

### HB 217

**INFRASTRUCTURE DEVELOPMENT ZONE MEETING (Trujillo, L.)** This bill amends Chapter 5, Article 17 NMSA 1978, cited as the Infrastructure Development Zone Act, to allow the petitioner(s) to send a notification of a public hearing by first class mail or electronic mail to property owners within the area proposed to be included within the infrastructure development zone as listed on the records of the county clerk. Failure to notify all property owners by first class or by email would not provide grounds for a challenge to the hearing being held. The bill replaces the term “certified” with the term “first class” mail and would also allow notifications to property owners to be sent by email to those owners that have an email address. Effective July 1, 2019.

## Chapter 13

### HB 229

**REGIONAL AIR CENTER SPECIAL ECONOMIC DISTRICT (Ezell, Anderson, Nibert)** Contains specific requirements related to authority member eligibility, term limits, conflicts of interest, and removal. The district itself would consist of land and real property formerly associated with a United States military base. However, the Bill also allows other land to be included as well. To that end, the authority is granted with the power to seize land through eminent domain. The authority governing the district itself would be given a number of other specific, enumerated powers, including: bringing lawsuits, adopting policies and procedures, employing personnel, and altering the boundaries of the district. Effective July 1, 2019.

**Chapter 14**

**HB 237**

**EXTEND UNIVERSITY POLICE OFFICER AUTHORITY (Ruiloba)** Amends Section 29-5-2 NMSA 1978, which currently limits authority of university police to lands controlled by universities. This bill extends that authority to roadways immediately adjacent to school campuses, and replaces use of the pronoun “him” with “the officer.” Effective July 1, 2019.

**Chapter 18**

**HB 276**

**ESTABLISH ADVANCED MAPPING FUND (Sweetser)** Creates a new fund to support advanced mapping techniques for water resources. Effective July 1, 2019.

**Chapter 20**

**SB 18**

**LOCAL GOVERNMENT PLANNING FUND (Candelaria, Salazar)** Appropriates \$3 million from the public project revolving loan fund (PPRF) to the local government planning fund (LGPF) administered by the New Mexico Finance Authority (NMFA) for the purpose of funding local governments and other qualified entities to evaluate, estimate, and determine the most feasible costs or alternatives for infrastructure, and to develop planning documents for water or wastewater public projects, water conservation, long-term master plans, economic development plans, and energy audits. The bill allows for payment of the administrative costs incurred by NMFA for administration of the LGPF. Effective July 1, 2019.

**Chapter 25**

**SB 106**

**SHORT TERM OCCUPANCY RENTALS TAX (Sapien)** Removes an exemption from the local-option occupancy tax (3-38-13 et seq. NMSA 1978) for short-term rentals (less than 30 days) by a vendor that 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. It appears the intent of this bill is to remove an unanticipated tax exemption for homeowners who rent rooms through third-party websites and applications, as well as to level the playing field between designated and compliant accommodations and somewhat less compliant accommodations. The effective date of this bill is January 1, 2020 per SCORC amendment.

**Chapter 27**

**SB 118**

**PROTECT CONFIDENTIALITY OF CRIME VICTIMS (Candelaria, Hochman-Vigil)** Amends the Inspection of Public Records Act by: providing that the law enforcement records exception applies to portions of law enforcement records that reveal, before charges are filed, the names of victims and non-law enforcement witnesses to specified crimes of assault, stalking, criminal sexual penetration, and criminal sexual contact. The bill provides that the presence of information covered by the exception does not exempt the record from inspection; and amending the “catch all” exception to protect public records from the right to inspect as otherwise provided by the New Mexico Constitution, statute, or rules promulgated by the New Mexico Supreme Court. Senate Bill 118 adds a new section to the Inspection of Public Records Act that contains the provision governing the redaction of protected personal identifier information currently in Section 14-2-1(B) of the Act. The House Judiciary Committee’s amendment to Senate Bill 118 adds the “address, contact information, or protected personal identifier information” of a covered individual to the information SB 118 exempts from the right to inspect public records. Effective July 1, 2019.



**Chapter 39**

**SB 199**

**ELECTRONIC COMMUNICATIONS PRIVACY ACT (Wirth)** Will require law enforcement and other government entities to seek court approval in order to acquire, retain, and use electronic information found on mobile phones, found on tablets or similar devices, and/or obtained from mobile telephone and internet service providers, with some exceptions. Effective July 1, 2019.

**Chapter 44**

**SB 11**

**GROSS RECEIPTS FOR NONPROFIT (Cisneros, Martinez, Chandler, Romero)** Amends Section 7-9-29 NMSA 1978, which provides an exemption from gross receipts taxes (GRT) on receipts of 501(c)(3) nonprofits. Broadens the applicability of the bill, removing from the tax exemption not just the receipts of a prime contractor derived from operating a national laboratory but also the receipts of a prime contractor derived from operating a research facility owned by the state. This is intended to address concerns about the prior exclusion being too narrow, now broadening it to prime contractor receipts from the state or federal government through a contract to operate a state-owned research facility or national laboratory. Effective July 1, 2019.

**Chapter 47**

**SB 162**

**INSURANCE PREMIUM TAX PROVISIONS (Sanchez)** Amends Section 53-8-51 NMSA 1978 by requiring each type of business subject to the statute to submit an additional statement as part of articles of dissolution, confirming that it has resigned as registered agent, or that it is not a registered agent of another entity. The bill also updates the filing office as the Secretary of State. Effective July 1, 2019.

**Chapter 50**

**SB 42**

**MISSING PERSON NOTIFICATIONS (Martinez)** Amends the Missing Person and Information Act (“MPI Act”) to require a silver alert when an “endangered person,” as defined by the MPI Act, is missing and is fifty years or older, or suffers from Alzheimer’s disease or another form of dementia, regardless of age. The bill expands the silver alert requirements developed and implemented by DPS for disseminating information about a person subject to an alert, including notification to DOIT that a silver alert has been issued.

Upon notification, DOIT is required to transmit the notification to all “state field operations employees.” The bill provides DPS to require cellular service companies to implement silver alerts in accordance with the FCC’s wireless emergency alerts processes, and that only DPS may terminate a silver alert. Under SB 42, DPS is required to develop a silver alert plan that includes, in addition to the notification to DOIT, procedures for: notifying the “lead station,” as defined by the MPI Act, that a silver alert has been declared; other state and private news media sources to alert the public of the missing person; notifying cellular service companies and paging service companies, who will send a text message to their customers at no additional expense to the recipients; notifying all local and federal law enforcement agencies about an alert; the dissemination of information about the missing person to the lead station, DOIT, and local law enforcement agencies; and collecting and maintaining specified records regarding each silver alert issued. SB 42 requires DPS to distribute the silver alert plan and provide training to all local law enforcement agencies. Effective July 1, 2019.

**Chapter 55**

**HB 124**

**FIRE PROTECTION FUND CHANGES (Sweetser, Armstrong)** Amends the Fire Protection Fund Act by clarifying that municipalities and county fire districts may use Fire Protection Fund (FPF) money to buy land for fire stations and substations, and allowing these entities with obligations from the fund to solicit additional awards. This bill adds that FPF money may go towards refinancing cost associated building and operating fire stations and substations, and fire station equipment, and simplifies language around the prohibited use of FPF money for cost associated water supply systems, fire hydrants, and water distribution from an entity's water system. This bill states that an entity may use money from the FPF if they own the land on which it intends to build without any liens, or land is donated to the entity for the use of building construction. HB124 clarifies that the purchase of land is an allowable expenditure of the Fire Protection Fund money. HB 124 also removes the statutory limitation imposed on municipal fire departments ("Departments") and county fire districts ("Districts") requiring that only one land acquisition, fire station, or substation obligation can be outstanding at any time.

This bill also requires the fire marshal to approve of expenditures related to water supply systems or their improvement or construction, the purchase, rental, installation or maintenance of fire hydrants, or any other appurtenance related to the distribution or use of water from its water supply system. The bill also states that money distributed from the fire protection fund to a municipality or county fire district shall not be expended for any public, private or other water system used for potable water supply. Effective July 1, 2019.

**Chapter 63**

**HB 430**

**LIBRARY PROCUREMENT CODE EXEMPTION (Trujillo)** Amends the Procurement Code Section 13-1-98 NMSA 1978 to exempt purchases of print, digital, or electronic format library materials by public, school and state libraries for access by the public and publishing and distribution services for materials produced and intended for resale by the cultural affairs department. Effective July 1, 2019.

**Chapter 65**

**SB 489**

**ENERGY TRANSITION ACT (Candelaria, Small, Stewart, Caballero, Egolf)** Creates the Energy Transition Act (ETA). The bill establishes new renewable and zero carbon emission portfolio standards for both utilities and rural electric cooperatives and authorizes an alternative mechanism for financing the retirement of coal-fired power plants. The mechanism (referred to as "energy transition bonds" in the bill, commonly known as "securitization") provides investor-owned utilities with 100 percent recovery of stranded costs at potentially lower cost to customers as compared to conventional financing mechanisms. It has been designed to accommodate the retirement in 2022 of units 1 and 4 of the San Juan Generation Station (SJGS) and to anticipate the closure of the Four Corners Power Plant in 2031. The bill also amends the duties and powers of the Environmental Improvement Board (EIB), requiring the EIB to promulgate a rule limiting carbon dioxide emissions from coal fired generating plants to an emissions standard of 1,100 lbs-CO2/MWh on or after January 1, 2023.

The ETA is also designed to mitigate some of the adverse economic effects on local communities. It allows for abandonment costs of a coal-fired plant to include mine reclamation costs and severance and job training costs for displaced workers. It requires the location of replacement power resources in the school district where the

abandoned facilities are located, taking into consideration system reliability. The bill creates three new funds – managed by the Indian Affairs Department (IAD), Economic Development Department (EDD) and the Department of Workforce Solutions (DWS) and – to be used to assist communities affected by abandoned coal plants and displaced workers. If a utility issues energy transition bonds, the bill requires some of the bond proceeds to be transferred to these funds. The ETA also establishes the Apprenticeship Assistance Act to be administered by the Workforce Solutions Department requiring the employment of apprentices during the construction of electric facilities in increasing percentages over time.

The bill indicates that the provisions of the act shall not apply to a qualifying utility that makes an initial application for a financing order more than 12 years after the effective date of this act. Effective July 1, 2019.

#### **Chapter 66**

##### **SB 143**

**PRC FIRE SAFETY STANDARDS (Stewart)** Requires the Public Regulation Commission (PRC) to promulgate rules requiring inspection and testing of fire and smoke dampers and smoke control systems in accordance with national fire protection association standards (NFPA) for a set list of occupancies. NFPA standards require inspection and testing upon installation, one year thereafter, and then every four years. This differs from the current requirement that requires inspections and testing at the time of installation. Effective July 1, 2019.

#### **Chapter 67**

##### **SB 672**

**EARLY & AUTO VOTER REGISTRATION (Lopez, Ivey-Soto, Trujillo I.)** Adds a new sections to the Election Code governing voter registration during early voting and requirements for registering to vote in connection with driver's licenses. The bill sets forth procedures for allowing qualified electors to register to vote or update a registration during early voting periods at the county clerk's office and alternative voting sites immediately before voting in the election. Effective July 1, 2019.

#### **Chapter 70**

##### **SB 43**

**DRINKING WATER SYSTEM FINANCING (Martinez, R.C.)** Appropriates \$2.5 million from the public project revolving fund (PPRF) to the drinking water state revolving loan fund (DWSRLF), to provide matching funds for the federal Safe Drinking Water Act and for the purposes of the Drinking Water State Revolving Loan Fund Act. Effective July 1, 2019.

#### **Chapter 72**

##### **SB 165**

**MUNICIPAL RECENT FOR BOND REPAYMENT (Sanchez, Powdrell-Culbert)** Strikes language that currently restricts municipalities from: Using gross receipts tax (GRT) revenue to repay utility bonds, joint utility bonds, or gas tax revenue bonds; Using gas tax revenue to repay utility bonds, joint utility bonds, or GRT bonds; and using the revenues of any utility or joint utility to repay GRT bonds or gas tax bonds. It also explicitly provides authority to municipalities to pledge revenues from one source to the payment of bonds that refund bonds payable from a different source of revenue. Effective July 1, 2019.

#### **Chapter 76**

##### **SB 326**

**WATER PROJECT FUND PROJECTS (Cervantes, Salazar)** Authorizes the New Mexico Finance Authority (NMFA) to make loans or grants for 30 projects from the water project fund. The NMFA establishes the terms and conditions of the loans and

grants awarded from the water project fund as recommended by the Water Trust Board (WTB). The bill contains an emergency clause. Effective July 1, 2019.

**Chapter 79**

**SB 517**

**DWI WITH MINOR IN THE VEHICLE (Ivey-Soto)** Creates a new section of Chapter 66, Article 8, NMSA 1978, that creates a new offense of driving under the influence of intoxicating alcohol or drugs in violation of 66-8-102 NMSA 1978. The new offense is a misdemeanor offense and only applies if the minor does not suffer great bodily harm or death, which shall be in addition to a charge for the violation of Section 66-8-102 NMSA 1978. The law defines minor as someone who is under the age of 13 years of age. Effective July 1, 2019.

**Chapter 81**

**HB 85**

**UNION SECURITY AGREEMENTS (Ely, Romero)** Creates a law permitting an employer or labor organization in the state to execute and apply an agreement requiring membership in a labor organization as condition of employment to the full extent allowed by federal law. HB85 precludes cities, counties, home rule municipalities, and other political subdivisions from adopting or continuing in effect ordinances, rules or resolutions that prohibit agreements requiring membership in a labor organization as a condition of employment in the state. Effective July 1, 2019.

**Chapter 86**

**SB 668**

**STATE ETHICS COMMISSION ACT (Stewart)** The act provides for the appointment of members of the State Ethics Commission, created under Article IV, Section 17 of the state constitution. The duties of the commission include receiving and investigating complaints against public officials and employees, government contractors and lobbyists; holding hearings to determine whether violations have merit; promulgating rules necessary to implement and administer the act; compiling and providing public access to advisory opinions and reports; drafting a code of ethics for public officials and employees; and submitting an annual report to the Governor. Effective July 1, 2019.

**Chapter 88**

**SB 12**

**WATER RIGHTS NOTIFICATIONS ONLINE (Cisneros, Salazar)** Enacts a new section of Chapter 2, Article 2 NMSA 1978 and amends other sections of state laws to provide when notice of certain water permit applications are required. If the state engineer determines that notice of an application shall be published: the State Engineer shall post on its website the facts of the application, the newspaper required to provide notice, its contact information and date objections may be filed, which is 70 days after the date of posting on its website; within five days of posting, the State Engineer shall instruct applicant to publish notice in a form and newspaper prescribed once a week for three weeks, with the last date of publication no less than ten days prior to the date objections may be filed; the applicant shall file with the State Engineer proof of publication as required within twenty days after the last date of publication; and if publication does not occur within sixty days of posting, the applicant shall request new publication instructions and deadlines from the State Engineer. The posting, publication and timeline instructions are repeated in each of five sections of the bill for five types of permit applications; Sections 72-5-4 (appropriation of surface water), Section 72-5A-5 (groundwater storage and recovery), Section 72-6-6 (water use leasing), Section 72-12- 3 (appropriation of groundwater), and Section 72-12B-1 (export of water outside the State). Effective July 1, 2019.

## **Chapter 101**

**HB 56 PROSTITUTION AS DELINQUENT ACT (Chasey, Trujillo)** Amends the Code to allow a law-enforcement officer to take into protective custody a child who the officer reasonably believes is engaged in prostitution or is a victim of human trafficking. Consistent with the Code's current language 32A-3B-3(A)) NMSA 1978 the law-enforcement officer would not need a court order to take custody of the child. The bill also requires that, when law enforcement notifies CYFD that they have taken a child into protective custody, CYFD must refer the child to Community based services regardless of whether CYFD returns the child to its parent, guardian, or custodian, or files a petition for custody be in the community. Effective July 1, 2019.

## **Chapter 102**

**HB 135 SEXUAL ASSAULT SURVIVOR'S BILL OF RIGHTS (Thomson)** Amends the Criminal Code to add a sexual assault survivor's bill of rights. The bill of rights requires a health care provider to, among other things, provide a survivor with a consent form authorizing the release of a sexual assault examination kit to a law enforcement agency and to contact law enforcement if the survivor consents. The obligations of a law enforcement agency that receives an examination kit include providing the survivor with test results and information related to any DNA profile obtained; and, with the survivor's consent, entering information from the kit into the DPS statewide sexual assault examination kit tracking system. The bill of rights requires a crime laboratory to complete the processing of an examination kit within 180 days of receiving the kit. Effective July 1, 2019.

## **Chapter 103**

**HB 151 LIQUOR DELIVERIES BY LICENSED MINORS (Ruiloba)** Amends the Liquor Control Act to allow minors of at least 18 years of age and who are licensed under the New Mexico Commercial Driver's License Act to deliver packaged alcoholic beverages to holders of dispenser, retailers, restaurant, club, small brewer, winegrower, craft distiller, manufacturer's or rectifier or any other license that allows for the purchase and delivery of alcoholic beverages. The bill also authorizes wholesalers to employ persons who are at least 18 years of age and licensed under the New Mexico Commercial Driver's License to deliver packaged alcoholic beverages to holders of dispenser, restaurant, club, small brewer, winegrower, craft distiller, manufacturer's or rectifier license or to any other licensee that allows for the purchase and delivery of alcoholic beverages by license wholesalers. Only sealed, unbroken packages may be delivered by minors. Effective July 1, 2019.

## **Chapter 105**

**HB 205 BABY CHANGES FACILITIES IN RESTROOMS (Romero)** Requires baby changing facilities be available in each restroom in a place of public accommodation. The bill identifies 12 types of facilities deemed to be public accommodations. No later than January 1, 2020, the authority having jurisdiction of RLD must adopt rules governing baby changing facilities for restrooms in these public accommodations. Every restroom must have baby changing facilities when a new restroom is constructed and those facilities can be provided in compliance with other local, state and federal laws regarding access for persons with disabilities and existing fire, health and safety standards. All drawings, specifications and other submittal documents for construction of a place of public accommodation shall incorporate the requirements of this section when submitted to the CID for plan review. No certificate of occupancy

can be issued unless the submitted documents are in compliance with this requirement. Effective July 1, 2019.

#### **Chapter 109**

**HB 389 GENDER FREE RESTROOMS (Rubio)** Requires that a single-user toilet facility in a public accommodation (which includes any establishment that provides or offers its services, facilities, or goods to the public) be made available to any person regardless of gender identity or sex, be designated for use by not more than one occupant at a time or for family or assisted use, and be identified with gender-neutral signage but clarifies that the provisions of the bill apply to existing and newly constructed restrooms, and do not require the construction of any new restrooms. Effective July 1, 2019.

#### **Chapter 110**

**HB 440 SOLAR ENERGY IMPROVEMENT ASSESSMENT (Akhil, Sarinana, Sanchez)** Allows for residents in municipalities to take advantage of the county solar energy improvement special assessment, which provides for counties to pay the up-front cost of renewable energy systems for individuals and be paid back through property tax assessment, if the municipality adopts an ordinance allowing it. The bill also allows the county to contract with a third party for help planning and administering the special assessment. Effective July 1, 2019.

#### **Chapter 114**

**SB 437 RAISE MINIMUM WAGE AND CREATE SEPARATE ONE (Sanchez)** The bill raises the minimum wage as follows: "A. Except as provided in Subsection B or C of this section, an employer shall pay to an employee a minimum wage rate of: (1) prior to January 1, 2020, at least seven dollars fifty cents (\$7.50) an hour; (2) beginning January 1, 2020 and prior to January 1, 2021, at least ten dollars (\$10.00) an hour; (3) beginning January 1, 2021 and prior to January 1, 2022, at least eleven dollars (\$11.00) an hour; and (4) on and after January 1, 2022, at least twelve dollars (\$12.00) an hour. B. Beginning January 1, 2023 and on January 1 of each successive year, the minimum wage rate provided in Subsection A of this section shall be increased by the lesser of three percent or the increase in the cost of living. The increase in the cost of living shall be measured by the percentage increase as of August of the immediately preceding year over the level as of August of the previous year of the consumer price index for all urban consumers, United States city average for all items, or its successor index, as published by the United States department of labor or its successor agency, with the amount of the minimum wage rate increase rounded to the nearest multiple of five cents (\$.05); however, the minimum wage rate shall not be adjusted downward as a result of a decrease in the cost of living. The workforce solutions department shall publish by October 1 of each year the adjusted minimum wage rates that shall take effect the following January 1." Finally, the amendment changes rates for tipped employees to, "that is thirty percent of the minimum hourly wage rate provided in Subsection A of this section at the time the hours were worked in addition to tips received." Effective July 1, 2019.

#### **Chapter 118**

**HB 324 PTSD AS FIREFIGHTER EMPLOYMENT CONDITION (Armstrong, D., Stansbury)** Amends the Occupational Disease and Disablement Law to add post-traumatic stress disorder (PTSD) to the list of conditions that are presumed to be caused by a firefighter's employment. If PTSD is added, an employer shall provide

medical treatment as would be done for other job-related conditions. The bill also makes minor adjustments such as changing references of “disease” to “condition”. Effective July 1, 2019.

#### **Chapter 120**

**HB 16 DEPARTMENT OF PUBLIC SAFETY INFORMATION SHARING (Sanchez)** Adds a new section to the Missing Persons Information and Reporting Act (29-15 NMSA 1978) titled the Mark Daniel Aguilar Information Sharing Requirement. The bill requires the Department of Public Safety (DPS) to share with the federal Department of Justice National Missing and Unidentified Persons System all information in the state missing persons information clearinghouse and all information DPS receives pursuant to 29-15 NMSA 1978 regarding the identification and location of missing and unidentified persons or human remains. Effective July 1, 2019.

#### **Chapter 121**

**HB 17 WATER LEASES & USE OF LEASED WATER (Chandler, Wirth)** Amends Section 72-6-3 NMSA 1978 by requiring that a water use lease permit may only be granted after OSE has heard objections to and approved the application. Makes the bill only applicable to water right leases served by an acequia or community ditch, and further provides that such water use be subject to approval by the acequia or community ditch in accordance with statutory procedures for approval of changes in point of diversion, place or use. Effective July 1, 2019.

#### **Chapter 123**

**HB 100 REPLACE COLUMBUS DAY AS INDIGENOUS PEOPLES DAY (Lente, Romero)** Amends section 12-5-2 NMSA 1978 to change “Columbus” to “Indigenous Peoples”, effectively changing Columbus Day to Indigenous Peoples’ Day. This bill also amends parts of section 57-12-21 NMSA 1978 to standardize language, as well as change “Columbus” to “Indigenous Peoples”, “Washington’s birthday” to “President’s day” and adds “Armistice day” to the list of business holidays stated in this section. Effective July 1, 2019.

#### **Chapter 127**

**HB 241 PUBLIC PROJECT REVOLVING FUND PROJECTS (Lundstrom, Candelaria).** The bill authorizes NMFA to provide loans from the public project revolving fund (PPRF) to 222 separate state and local government entities based on terms and conditions established by NMFA. This bill contains an emergency clause. The bill voids legislative authorization if a qualified entity does not notify NMFA by the end of FY2022 of its intent to pursue a loan from the NMFA. Effective July 1, 2019.

#### **Chapter 128**

**HB 256 ADD E-CIGARETTES TO CLEAN INDOOR AIR ACT (Ferrary, Thomson, Armstrong, Pratt, Trujillo)** Amends the Dee Johnson Clean Indoor Air Act to make two major changes: 1) Include e-cigarettes and their vapors from being used and inhaled in the spaces in which tobacco and similar products are prohibited by the act; 2) Further restrict the use of all tobacco and related products, including e-cigarettes, by eliminating areas where smoking traditional tobacco products or inhaling e-cigarettes could be used. The newly defined locations where smoking or using e-cigarettes would be permitted would include retail tobacco stores and cigar bars if they were in stand-alone buildings, state-licensed casinos and the like, designated outdoor smoking areas, private residences (unless a private residence was used for child care) or clubs, all

limousines for hire, enclosed areas within restaurants, bars, conference and meeting rooms, hotel or motel rooms designated as allowing smoking (but only 10 percent of all rooms in a given motel or hotel could be designated as allowing smoking), theatrical stages or motion picture sets when “necessary for performers to smoke as part of the performance.” In addition, a new definition of “secondhand smoke” is proposed, to include smoke emitted from cigarettes, cigars, pipes or hookahs or coming from other lighted or heated tobacco or other plant products (to include cannabis) or any other use of an e-cigarette. Effective July 1, 2019.

## **Chapter 129**

**HB 129 SCHOOL SECURITY PERSONNEL & DEADLY WEAPONS (Trujillo)** Adds new sections to New Mexico Statutes providing armed school security personnel. Section 1: language is added to Chapter 22, Article 5 NMSA 1978 providing only local school boards have authority to authorize school security personnel to carry firearms on public school premises or other school district property. This action must be made in an open meeting. Section 2: a new section is added to the Charter Schools Act providing only the governing board of a charter school has the authority to authorize school security personnel to carry firearms on charter school premises or other charter school property. This action must be made in an open meeting. Section 3: definitions for “armed school security personnel”, “firearm”, “local school board”, “school district”, “school premises” and “school security guard” are added to the Public School Code.

PED shall promulgate rules pertaining to persons who are prohibited from employment as armed school security personnel. Prior to an offer of employment, the school district shall require from each potential armed school security personnel: proof the retired or former law enforcement officer was certified and commissioned for no less than three years and left law enforcement in good standing; successful completion of school security personnel training; successful completion of background check as stipulated in HB 129/HJCS; other conditions required by law, PED rule, or school district policy; holding no other job title or job duties in the school district. Prior to being allowed to carry firearms as authorized by local school board policy, the armed school security personnel must successfully pass a physical and psychological evaluation as prescribed by PED. PED shall approve one or more nationally recognized armed school security personnel training programs that include cultural competency and prohibited profiling practices. Section 4: Nothing in HB 129/HJCS shall be construed as allowing armed school security personnel to carry a firearm on school premises if doing so would be a violation of state or federal law. HB 129/HJCS does not apply to school resource officers. Effective July 1, 2019.

## **Chapter 133**

**HB 312 SEIZURE & DISPOSITION OF FORFEITED PROPERTY (Chandler, Ivey-Soto)** Amends Section 8(H), governing the property of innocent owners, by requiring that forfeited firearms, ammunition, or explosives subject to forfeiture that are not returned to an innocent owner must be destroyed upon a motion by the law enforcement agency and an order of the court. The bill clarifies that abandoned property is not subject to the provisions of 29-1-14 NMSA 1978 which governs unclaimed property including deadly weapons, controlled substances, and other contraband. The bill adds an exemption for animals that are subject to seizure, impoundment removal from custody or destruction for public health, safety and welfare purposes.



The bill also exempts real property or personal property that is located on real property that is subject to destruction to protect public health, safety and welfare, and it exempts forfeiture that results from a lien for charges or assessments. When determining the value of a forfeited asset, the bill allows the court to consider the nonmonetary value of the property the defendant would suffer if the forfeiture occurs. The bill authorizes two expenses before revenues are deposited in to the general fund: 1) reimburse the costs to the State Treasurer to store forfeited items and 2) pay reasonable expenses for law enforcement agencies or the Treasurer to dispose of property. The bill requires the preparation of an annual report within 60 days following the conclusion of each fiscal year regarding seizures and forfeitures conducted pursuant to “applicable state law” rather than the Forfeiture Act. This bill has an emergency clause and is effective April 2, 2019.

## **Chapter 140**

**HB 429 PROPERTY TAX INCREASE LIMIT FOR SOME PEOPLE (Rehm, Powdrell-Culbert)** The modified gross income limits are increased from \$32,000 to \$35,000. This income limit is indexed to the Consumer Price Index (CPI-U), with a base year of 2020 and a calculation year of September of the year before the tax year. This restructuring will allow indexing to actually work to increase the \$35,000 limit each year to account for inflation. There is no effective date of this bill. It is assumed that the effective date is 90 days after this session ends, or June 14, 2019. The new provision would affect the 2020 property tax year.

## **Chapter 147**

**HB 651 WATER DATA ACT (Stansbury, Armstrong, Sedillo, Lopez)** The Water Data Act creates the directing agencies, and directs the establishment of a water data account. The bill defines “agencies” and provides that the purpose of the Water Data Act is to develop a modern, integrated approach to collecting, sharing and using data and information by state agencies for water management, and to integrate federal, tribal, state, local, and nongovernmental data.

The act also establishes a fund to accept both state and outside monies to support improvements to water data. The bill creates a new interagency water data council to be administered, co-chaired, and staffed by the Bureau of Geology and Mineral Resources (the entity charged with maintaining the data) and the Interstate Stream Commission at OSE (the primary state agency charged with state water planning. The mission of the council is to; identify water data, information, and tools; Develop common water data standards and best practices for data collection, sharing, transparency, and integration; develop an integrated water data and information platform; and identify data and information gaps and needs for further development. By September 1 each year, the council would submit a plan assessing water data needs, goals, and actions, progress and performance metrics, and budgetary needs for the next fiscal year. The council would organize an advisory group of federal, tribal, local, and nongovernmental stakeholders to advise the council on water data needs and collaborate on water data integration. Effective July 1, 2019.

## **Chapter 151**

**SB 76 PROHIBIT COYOTE KILLING CONTESTS (Moores, Steinborn)** Senate Bill 76 prohibits organized or sponsored competition with the objective of killing coyotes for prizes or entertainment and establishes penalties. A person that organizes, causes, sponsors, arranges, provides a venue for, or holds a coyote-killing contest would be

guilty of a misdemeanor and a person who participates in a coyote-killing contest would be guilty of a petty misdemeanor. Senate Bill 76 further provides that killing a coyote in the protection of a person or property will continue to be permitted, unless otherwise prohibited by law. Effective July 1, 2019.

**Chapter 152**

**SB 84 SENIOR CENTER FOOD GARDENS (Stefanics, Armstrong)** The purpose of Senate Bill 84 is to encourage the growing of food crops at senior centers, with ALTSO permitting any senior center to develop programs for producing edible fruits and vegetables by senior citizens and senior center staff, and to use the harvested crops from these efforts in food service at these institutions or to be given to senior participants. Effective July 1, 2019.

**Chapter 153**

**SB 88 PROCUREMENT FUNCTIONS TO GSD (Tallman)** Requires sole source and emergency procurements to be posted to the websites of the purchasing agency and the GSD website, narrows and clarifies provisions for emergency procurements. Section 1 of the bill requires DFA to collect and maintain information on the amount of state agency contracts awarded to in-state and out-of-state contractors and to make an annual report to the Purchasing Division of the General Services Department (GSD) on the amount of the state agency contracts awarded to in-state and out-of-state contractors. Sections 2 and 3 strike references to DFA in relation to review and award of professional services and small purchase contracts. Section 4 requires GSD and the central purchasing office of any government entity to post intent to award a sole source contract to its website 30 days prior to the procurement. Section 5 alters the test for award of emergency procurement but maintains that agencies show an immediate need to make the procurement related to a serious threat to public health, welfare, safety or property caused by disasters enumerated in the section. Section 6 transfers all employees and related equipment, funding, and records from the contract review bureau at DFA to GSD. Effective July 1, 2019.

**Chapter 154**

**SB 107 FINANCIAL RESPONSIBILITY ELECTRONIC EVIDENCE (Sapien)** Amends Section 66-5-299 NMSA 1978 to allow an owner or operator of a vehicle to provide evidence of financial responsibility in print or via accessibility through a portable electronic device. The owner or operator of a vehicle who provides evidence of financial responsibility through a portable electronic device assumes all liability for any resulting damage to the portable device and is presumed to not consent to provide access to law enforcement to any other information stored on the portable electronic device. Effective July 1, 2019.

**Chapter 158**

**SB 147 SCHOOL SAFETY DRILL REQUIREMENTS (Brandt)** Amends Section 22-13-14 NMSA 1978, public and private school must: During the first four weeks of the school year, each school shall conduct one shelter in place drill that includes preparation to respond to an” active shooter, one evacuation drill and two fire drills. After the first four weeks, for the remainder of the school year, each school shall conduct a least four more emergency drills, at least two of which shall be fire drills. The requirement for public and private schools to conduct monthly emergency drills throughout the school year after the first four weeks of the school year is stricken. Effective July 1, 2019.

## Chapter 165

### **SB 264 RURAL LIBRARY DEVELOPMENT PROGRAM & FUND (Ortiz y Pino)**

Creates a rural libraries endowment fund in the State Treasury to fund rural libraries (defined as any public or tribal library serving a population under 3,000 or any nonprofit library serving an unincorporated area), as well as specialized rural library services, administered by the state librarian. Starting in FY22, earnings on the fund shall be distributed based on a formula using the fund's average investment earnings, in a total amount up to 5 percent of the year-end market value of the fund for the preceding calendar year. The funds shall be distributed to the rural libraries program fund (95 percent of the distribution) and to the department of cultural affairs for the delivery of specialized services to rural libraries (5 percent of the distribution). SB264 also creates the rural libraries program fund, administered by the State Librarian, into which disbursements from the rural libraries endowment fund are made. Funding in the rural libraries program fund shall be distributed in the forms of grants to rural libraries, including both developing and established rural libraries. Rural libraries are defined as any library located in unincorporated areas with populations less than 3,000, established by a political subdivision of the state or tribal government or established as a nonprofit corporation. Effective July 1, 2019.

## Chapter 167

### **SB 278 DRIVERS LICENSE CHANGES (Ortiz y Pino, Ivey-Soto)**

Amends the Motor Vehicle Code to mandate only two types of driver's licenses— REAL ID-compliant and a standard driver's licenses—distinguishing each by their use or nonuse for official federal purposes and by federal agencies. TRD will ensure the REAL-ID compliant and standard driver's licenses that are distinguishable in color or design but only to the extent that a standard driver's license shall bear the statement: "NOT INTENDED FOR FEDERAL PURPOSES" and a REAL ID-compliant driver's license shall include a gold star. It sets requirements for each type of license. Expiration of licenses are either four or eight years from the effective date of the license instead of being linked to the applicant's birthday. The bill changes language throughout statute to REAL ID-compliant driver's license and standard driver's license instead of non-REAL ID driver's license. Identification cards will also be REAL ID-compliant or a standard identification card with requirements for each. For a standard driver's license, a valid license or ID card shall satisfy the department's identity, age and New Mexico residency requirements. The bill also repeals Section 66.5.15.2 NMSA 1978 requiring photographs and fingerprints of individuals applying for a driver's license or identification card. The substitute also adds the licensee's organ donor status to the information required on any driver's license. This bill adds a new section that makes it unlawful for a public accommodation to refuse to accept a standard driver's license identification card if federal identification is not required. This bill also amends Section 66-8-111.1 NMSA 1978 requiring a law enforcement officer to serve immediate written notice of revocation and of right to a hearing to a person who refuses to permit chemical testing and whose chemical test results indicate a blood alcohol concentration in the person's blood or breath that exceed statutory limits. The bill also eliminates language that requires a law enforcement officer to take and send to the department a person's driver's license upon serving the written notice of revocation and right to a hearing. The bill includes a temporary provision that current driver's authorization cards are valid until expiration. The effective date of the provisions of the bill is October 1, 2019.

## **Chapter 170**

**SB 473** **ADDITIONAL INVESTMENT VEHICLES (Rodriguez)** Makes it clear it is the duty of the treasurer to bring to the Board of Finance amendments to the investment policy and receive consent before the amendments take effect. It is also clarified the investment policy must be reviewed at least every two years, but there is no requirement to amend it as part of every review and allows the State Treasurer and county and municipal treasurers to invest in securities issued by a supranational issuer. It permits the State Treasurer to invest in securities issued by all United States government sponsored enterprises. It also restricts the maturity timeframe for most investments by county and municipal treasurers, providing maximum maturity dates not to exceed 10 years from the date of purchase in many cases, five years for supranational securities (this is also a limitation for the State Treasurer), and 180 days for commercial paper. The bill adds definitions for investment policy, supranational issuer, and United States government sponsored enterprises. Effective July 1, 2019.

## **Chapter 177**

**SB 123** **PUBLIC & PRIVATE CAREGIVER LEAVE ACTS (Padilla)** Creates the Caregiver Leave Act and the Public Employee Caregiver Leave Act. The new Act would require public and private employers to allow their employees to use accrued sick leave to care for “domestic partner,” as defined in the Acts. The Acts would not apply to employees whose employers do not provide sick leave; provides that the term “sick leave” as used in the Acts does not include leave to which an employee is entitled through the federal Family and Medical Leave Act. SB 123 requires the Workforce Solutions Department (WSD) to promulgate rules implementing the Caregiver Leave Act, including grievance procedures that accord eligible private sector employees recourse for violations of the Act. SB 123 requires SPO to promulgate rules implementing the Public Employee Caregiver Leave Act, including grievance procedures, for state agencies covered by the Personnel Act. Effective July 1, 2019.

## **Chapter 181**

**SB 288** **SAFE SCHOOLS FOR ALL STUDENTS ACT (Soules)** Creates the Safe Schools for All Students Act (SSASA) within the Public School Code. The bill requires the Public Education Department (PED) to develop and promulgate rules for a model policy for local school boards on bullying prevention. The SSASA would require local school boards to adopt and enforce bullying prevention policies by January 1, 2020 and establish an annual bullying prevention program for students, to be included in New Mexico’s health education content standards with benchmarks and performance standards. The SSASA also requires PED to issue guidance for bullying prevention programs and policies in accordance with the Act. Effective July 1, 2019.

## **Chapter 202**

**HB 291** **EFFICIENT USE OF ENERGY ACT CHANGES (Romero)** Current requirement to fund investor-owned utility energy efficiency (EE) and load management (LM) from a set amount of 3 percent of sales for electric utilities to a minimum of 3 percent and a maximum of 5 percent of sales, and changing funding for gas utilities from 3 percent to 5 percent, (2) removing the savings requirement for electric utilities of 8 percent of 2005 retail sales by 2020 and replacing it a savings goal of 5 percent of 2020 retail sales by 2025 based on program implementations between 2021 and 2025, directing the Commission to establish subsequent savings requirements in a rulemaking, raising the threshold for achievable savings that would be necessary for

the Commission to lower the savings goal, (3) directing the Commission to approve a rate adjustment mechanism which decouples the revenue per customer from the quantity of electricity actually sold, upon petition by the public utility to identify and remove regulatory disincentives, (4) establishing that regulatory disincentives inhibit the development the utilities of EE and LM resources, (5) establishing that fair returns on common equity is vital to sustain investor-owned utilities' incentive to invest in EE and to prudently invest in electric service in New Mexico, (6) directing the Commission to not reduce a utility's return on equity based on the approval of a revenue decoupling mechanism or on profit incentives pursuant to the EUEA, and (7) preventing the Commission from adjust the discount rate for taxes when considering the lifecycle costs and benefits of EE and LM programs. Effective July 1, 2019.

## **Chapter 203**

### **HB 370**

**CRIMINAL RECORD EXPUNGEMENT ACT (Maestas, Romero, O'Neil)** House Bill 370 creates the Criminal Record Expungement Act. The act allows a person to petition for criminal record expungement to the appropriate district attorney, the Department of Public Safety, and the law enforcement agency that arrested the person if: 1. they are wrongfully identified in arrest records or public records as a result of identity theft, arrested, indicted or charged for a crime; 2. they are released without conviction for a violation of a municipal ordinance, misdemeanor, or felony; 3. they are convicted of a violation of a municipal ordinance, misdemeanor, or felony, following the completion of the sentence and the payment of any fines and fees owed to the state for the conviction.

The court is required to conduct a hearing on the petition and to issue an order, where appropriate, within 30 days of the hearing that requires that all related arrest records and public records be expunged, provided the required showings and findings are made as required by the bill. The bill requires the court to deliver a copy of the order to all relevant law enforcement agencies and courts. The order is required to prohibit the law enforcement agencies and courts from releasing copies of the related arrest records and public records to any person, except upon an order of the court. The bill requires AOC and DPS to develop rules and procedures to implement the act, including procedures to notify the accused of the person's rights under the act. Under the bill, upon entry of an order to expunge, the proceedings are required to be treated as if they never occurred, and officials and the person who received the order to expunge may reply to an inquiry for records that no record exists with respect to the person. The bill repeals Section 29-3-8.1 NMSA 1978 governing petition to expunge arrest information of a misdemeanor or petty misdemeanor offense when the arrest was not for a crime of moral turpitude. In Section 5 (G), the amendment specifically excludes embezzlement from the records expungement law pursuant to 30-16-8 NMSA 1978. The HJC amendment strikes the original repeal section provisions and instead adds the repeal of 29-3-8.1 NMSA 1978, Identification of Criminals (Petition to expunge arrest information) and 31-26-16 NMSA 1978 of the Victims of Crime Act (Expungement from police and court records). Effective July 1, 2019.

## **Chapter 205**

### **HB 694**

**LOCAL GOVERNMENT TRANSPORTATION PROJECT FUND (Ruiloba)** House Bill 694 creates the local government transportation project fund. The fund would contain appropriations from the Legislature for construction of local government road projects. HB 694 requires the secretary of the Department of Transportation (DOT) to submit a proposed list of local government transportation

projects identified by the department's metropolitan planning organizations (MPO) and regional transportation planning organizations (RTPO) to the State Transportation Commission (STC). The STC is authorized to provide project grants up to 95 percent of project costs for selected projects, but may grant up to 100 percent of project costs should the local government obtain a hardship waiver from the Department of Finance and Administration. Effective July 1, 2019.

## **Chapter 208**

**HB 37 NO LEDA FUNDS FOR WATER RIGHTS PURCHASES (Garcia, M.)** House Bill B37 amends the Local Economic Development Act (LEDA) to exclude the purchase or lease of water rights as a qualified use of LEDA appropriated funds. Effective July 1, 2019.

## **Chapter 209**

**HB 98 FINGERPRINTS TO RENEW A BUSINESS NOT REQUIRED (Rehm)** Exempts the financial institutions division of RLD from the prohibition against additional fingerprints when it is utilizing the nationwide multistate licensing system and registry; Remove existing language in a section of the School Personnel Act that grants good faith immunity to those making reports required by that section of that Act, and also remove language granting the right to sue for negligent or intentional reporting of inaccurate information based upon such a report; Add a new section to the Uniform Licensing Act that provides that applicants who have submitted fingerprints as part of the initial license application do not have to submit fingerprints again to renew a license, but shall submit to a background investigation if required; and Extend the only-upon-initial-licensure or registration fingerprint requirement to psychologists, private investigators, real estate broker and real estate appraisers, and add language clarifying the state criminal history background check to be performed by Department of Public Safety for these last two types of licensees. Effective July 1, 2019.

## **Chapter 210**

**HB 157 EMERGENCY COMMUNICATION & MEDICAL TAXES (Dow)** Directs revenue from "the county area and countywide emergency communications and emergency medical and behavioral health services taxes" may be used for an emergency communications center. The bill restores the language "emergency medical and behavioral health services" in the recurring phrase "County area emergency communications and [emergency medical and behavioral] health services tax revenue." Effective July 1, 2019.

## **Chapter 211**

**HB 342 CRIMINAL JUSTICE REFORM (Maestas, Onasey, Rue, Martinez)** Amends Section 31-22-14 NMSA 1978 to remove the requirement the crimes covered by the act have to be reported to the police within 30 days. The amendments do not remove the current statutory requirement the application for reparation be made within two years after the relevant injury or death from a covered or designated crime. The amendment removes the reporting within 30 days waivers for victims of domestic violence, sexual assault, and for certain crimes against children reported to CYFD. The amendments also revise the Victim's Rights Section of New Mexico law (Section 31-26-4 NMSA) to require that victims be notified by the district attorney of the availability of and procedures to apply for crime victims reparation. The SPAC amendment also amends Section 31-22-7 which governs eligibility for reparation for victims. Amends proposed language so an order for reparation can be made whether or

not someone is prosecuted or convicted of a crime if the crime is reported to police or reported from “to a medical or mental health care provider, victim counselor or other counseling provider” to “to a licensed medical, mental health or counseling provider or tribal health provider.”

Requiring the Behavioral Health Services Division (BHSD) of the Human Services Department (HSD) to, subject to appropriation, create, implement, and evaluate a framework of interventions for adult and juvenile offenders incarcerated in New Mexico to address offender’s needs while they are incarcerated and continue serving their needs upon release with the aim of reducing recidivism. Creates a new section of the Human Services Department Act to create a county funding program to assist counties in providing behavioral health services to individuals incarcerated in county correctional facilities. Expands limited immunity for those who seek medical assistance for someone experiencing a drug-related overdose to include alcohol overdose. Exempts property from forfeiture and adds certain immunities. The bill also provides similar protections for the person who is experiencing an overdose who seeks assistance.

House Bill 342 also creates the limited liability for those who seek medical assistance for someone experiencing alcohol- or drug-related overdose for a violation of the statutory provisions against selling or giving alcohol to minors. Amends the procedures for post-conviction consideration of DNA evidence by mandating a petitioner has prompt proceedings, that DNA samples shall be testing according to the DNA Identification Act and that the results of the testing shall be entered in in the FBI national DNA index system, and mandates that the Rules of Evidence and Rules of Civil Procedure of the District Court shall apply to proceedings. Changes the statutory eligibility requirements for preprosecution diversion so all that is required in statute is that the defendant have no prior felony convictions for violent crime and is willing to participate in the program and submit to program requirements while allowing the district attorney to set any additional requirements. Removes the mandatory reimbursement of costs presently in statute to participate in preprosecution diversion and makes removal from a program discretionary, rather than mandatory, for failure to comply with requirements of a program. Requires that a person shall be placed on parole only for a felony conviction when a person is sentenced of imprisonment of more than one year, unless the parties agree parole should be imposed. Amends the section of the Crime Victims Reparations Act on eligibility for reparations by broadening the language and including that the act or omission constituting a crime has been reported to a medical or mental health provider, victim counselor, or other counseling provider. Under present law, the report has to have been made to the police.

Additionally, the Crime Victims Reparation Commission would need to make a finding that the claimant or victim fully cooperated with the appropriate law enforcement agencies, as in present law, or, in the new language, that they acted reasonably under the circumstances. Creates the Accurate Eyewitness Identification Act, requiring criminal justice entities that conduct eyewitness identification procedures to adopt and comply with written policies for using eyewitnesses in live lineups or showups, or in a photo lineup. These policies must be provided to the secretary of Department of Public Safety (DPS), who shall make them public. The policies shall be biennially reviewed to incorporate new scientifically supported protocols. The policies must adopt practices shown by reliable evidence to enhance the accuracy of identification procedures, and include practices to enhance the objectivity

and reliability of eyewitness identifications and to minimize the possibility of mistaken identifications. House Bill 342 also requires DPS to have training programs on these procedures. Requires the New Mexico Sentencing Commission to create fiscal impact statements for bills that create new crimes or repeal existing crimes for which imprisonment is authorized; increases or decreases the period of imprisonment authorized for an existing crime; imposes or removes mandatory minimum terms of imprisonment; or modifies the law governing release of inmates in such a way that the time served in prison will increase or decrease. The fiscal impact statement shall reflect the estimated change in annual operating costs for NMCD attributable to the bill if the bill were to become law. FISCAL IMPLICATIONS The behavioral health framework to be created, implemented, and evaluated by BHSD is to be subject to appropriation by the legislature; this bill does not include an appropriation for this purpose. The bill already creates a new section of the Human Services Department Act to create a county funding program to assist counties in providing behavioral health services to individuals incarcerated in county correctional facilities. It is unclear whether the bill is creating a new fund or referring to existing programs like the Community Assistance and Community Services Block Grants administered by HSD for programs including assistance for food, housing, medicine, work, and education. Effective July 1, 2019.

## **Chapter 212**

**HB 407 ELECTION LAWS 50 YEAR TUNE-UP (Trujillo, L., Gonzales, Anderson, Ivey-Soto)** House Bill 407 revises and repeals numerous existing provisions of New Mexico's election code, as well as adding new sections to other existing laws. It defines the term "statewide elections" as used in the code to mean primary and general elections as well as regular local elections. In the Local Election Act, enacted in 2018 as Chapter 79, the existing provision requiring annual local government assessments is removed, enacts the Recall Act, and directs the SOS to take certain actions to implement the changes made in the bill and authorizes the expenditure of money in the election fund, upon a finding of sufficient funding by the SOS, to reimburse local governments for transitional costs due to the implementation of the Local Election Act in FY19 and FY 20. Effective July 1, 2019.

## **Chapter 222**

**HB 43 BEHAVIORAL HEALTH INTERVENTIONS (Stapleton)** House Bill 43 gives the Behavioral Health Services Division authority to serve individuals incarcerated in county facilities Effective July 1, 2019.

## **Chapter 224**

**HB 427 MOTOR VEHICLE CODE OFFENSE PENALTIES (Hochman-Vigil, Alcon, Maestas)** Amends Section 66-5-30 of the Motor Vehicle Code to distinguish between driver's license suspensions and "administrative suspensions." The bill provides that the Motor Vehicle Division of TRD may issue an administrative suspension of a driver's license if it is shown that the licensee has failed to fulfill a signed promise or notice to appear in court as required by law or a court, pay a penalty assessment within 30 days of issuance, or comply with the terms of a citation issued by a foreign jurisdiction that is a party to the Nonresident Violator Compact. Under existing law, those offenses are included among those for which MVD may suspend a license. See Sections 66-5-30(A) and 66-5-26 NMSA 1978. HB 427 amends Section 66-5-39 of the Code, which provides that a person who drives a motor vehicle when the person's privilege to do so is suspended is guilty of a misdemeanor. The bill reduces the



applicable criminal penalties by reducing imprisonment from between four and 364 days to not more than 90 days, and reducing the fine from not more than \$1,000 to not more than \$300. The bill deletes Section 66-5-39(C), which extends the period of suspension of driving privileges for up to one year after a conviction of driving with a suspended or revoked license.

HB 427 adds a new Section 66-5-39.2 to the Code, which provides that a person who drives when the person's privilege to do so is "administratively suspended" is guilty of a penalty assessment misdemeanor and may be punished in accordance with Section 66-8-116. The bill amends Section 66-8-116 to provide a \$25 penalty assessment for violations of Section 66-5-39.2. The bill amends Section 66-8-126 to provide that a violation of a person's written promise to appear in court given to a law enforcement officer upon issuance of a traffic citation is a penalty misdemeanor, and amends Section 66-8-116 to provide a \$50 penalty assessment for violations of Section 66-8-126. Effective July 1, 2019.

## **Chapter 226**

### **SB 190 INTIMATE PARTNER VIOLENCE SURVIVORS SUFFRAGE (Ivey-Soto)**

Senate Bill 190 creates the Intimate Partner Violence Survivor Suffrage Act in the Election Code. The Act provides for procedures under which a survivor of domestic violence who participates in the Confidential Substitute Address Program, Sections 40-13B-1 to -9 NMSA 1978, may, if eligible, qualified and certified, vote in statewide and special elections while all personal information relating to the voter remains confidential and not accessible to the public. Under SB 190, participants in the Confidential Substitute Address Program who are qualified voters would vote by mailed absentee ballots or mailed ballots. SOS would assign each voter participant a random identifier and a verification code for use on the ballots in place of the voter's identification and signature.

SB190 includes procedures for processing voter-participant ballots by the county clerks. SB190 requires SOS to maintain voter-participant registration records in a secured module. The registration records would not appear in the voter file or the county voter list and would not be accessible by any county user or the public. SOS also is required to maintain a register of voter participants, which would serve as a supplement to the applicable county register. In a court proceeding related to an election, SB190 allows the judge to permit in-camera inspection of a voter-participant's voter registration information and information related to participation in the Confidential Substitute Address Program. SB190 makes conforming amendments to the Confidential Substitute Address Act. Effective July 1, 2019.

## **Chapter 237**

**HB 501 INCREASE CERTAIN PERA & ERB CONTRIBUTIONS (Trujillo, Cadenz, Stapleton)** House Bill 501 reduces the employer contribution increase from 0.5 percent to 0.25 percent for PERA and ERB employers. Effective July 1, 2019.

## **Chapter 240**

**HB 512 FIREFIGHTER RETIREMENT SERVICE CREDIT (Martinez, Allison, Small, Madrid, H. Garcia)** House Bill 512 amends the Volunteer Firefighter Retirement act to allow a one-year period, through April 1, 2020, for a volunteer firefighter member to claim service credit earned for one or more years of service credit for years on or after January 1, 1984. HB 512 requires claims of earned service credit be made on a

notarized form prescribed by the retirement board with and signed by the mayor or city manager (municipal fire districts) or the chair of the board of county commissioners (county fire districts). Effective July 1, 2019.

#### **Chapter 246**

##### **SB 173**

**TRANSFER OF MUNICIPAL COURT JURISDICTION (Martinez)** Amends 35-14-1 NMSA 1978 by raising the population threshold that allows municipalities to determine whether the municipality should designate the magistrate court of the county as the court having jurisdiction over the municipal ordinances from a population of 1,500 persons to 10,000 persons. It also requires any designation to occur in places where the municipality is located within 25 miles from the nearest magistrate court. Effective July 1, 2019.

#### **Chapter 250**

##### **SB 239**

**ALLOW IMPOSITION OF LANDING FEES (White)** An airport facility that receives funds under the Aviation Act can now charge a landing fee for aircraft used in commercial activity or for any aircraft that weigh over 12,500 pounds. Effective July 1, 2019.

#### **Chapter 253**

##### **SB 328**

**ORDERS OF PROTECTION & FIREARM OWNERSHIP (White)** Senate Bill 328 makes the possession of a firearm or destructive device by any person subject to an order of protection or convicted of certain enumerated state or federal crimes a misdemeanor. The bill also makes it unlawful for the following persons to receive, transport, or possess a firearm or destructive device in New Mexico: Felons; A person subject to an order of; and Persons convicted of any of the following: battery against a household member, criminal damage to the property of a household member, a first offense of stalking, a crime listed in 18 U.S.C. The bill makes the relinquishment of firearms and the prohibition of acquiring firearms by restrained persons a mandatory requirement of any order of protection entered pursuant to Section 40-13-5 NMSA 1978 with no exception for individuals required to possess firearms by virtue of their employment. Effective July 1, 2019.

#### **Chapter 270**

##### **HB 6**

**TAX CHANGES (Trujillo, J., Martinez)** The Conference Committee Amendment makes personal income tax rate and bracket changes, bringing the top rate to 5.9 percent from the current 4.9 percent. The top rate is imposed on single filers and estates with taxable incomes over \$210 thousand, on married filing jointly and head-of-household filers with taxable incomes over \$315 thousand, and on married individuals filing separately with taxable incomes over \$157.5 thousand. These changes are contingent on FY20 general fund revenues exceeding FY19 revenues by less than 5 percent. The rates and brackets would take effect January 1, 2021.

The amendment makes changes to the distributions from motor vehicle excise tax revenues in addition to increasing the rate from the existing statutory rate of 3 percent to 4 percent in the following ways: For FY20 and FY21, the general fund will continue to receive the existing 3 percent, and the additional 1 percent will be sent to the Department of Transportation for expenditures needed to mitigate the emergency road conditions related to activity in the oil field in state transportation commission district 2; and For FY22 and subsequent fiscal years, the general fund will receive 2.5 percent

(0.5 percent less than current statute), and the remaining 1.5 percent will be split equally between the state road fund and half to the local governments road fund.

Remote Sellers and Marketplace Facilitators. Taxes remote (Internet) sales immediately and then applies local GRT increments and moves to destination-based sourcing (sourcing at the location of the buyer rather than the seller) with a two-year delay (effective July 1, 2019 and July 1, 2021, respectively); The transition to destination-based sourcing is a significant change to the structure of the GRT and will require much preparation by the Taxation and Revenue Department and taxpayers. The bill distributes \$24 million annually from the general fund to local governments in FY20-FY21 until the local increments are applied to remote sales Once destination sourcing take effect, all sales will have an in-state location, so current GRT transactions coded as out of state would be shifted into counties and municipalities (if inside municipal boundaries). Remote Sellers and Marketplace Facilitators. Taxes remote (Internet) sales immediately and then applies local GRT increments and moves to destination-based sourcing (sourcing at the location of the buyer rather than the seller) with a two-year delay (effective July 1, 2019 and July 1, 2021, respectively); The transition to destination-based sourcing is a significant change to the structure of the GRT and will require much preparation by the Taxation and Revenue Department and taxpayers. The bill distributes \$24 million annually from the general fund to local governments in FY20-FY21 until the local increments are applied to remote sales Once destination sourcing take effect, all sales will have an in-state location, so current GRT transactions coded as out of state would be shifted into counties and municipalities (if inside municipal boundaries).

For the first two years, the state would capture all online sellers, but local GRT increments would not yet apply due to the time needed to switch over to destination-based sourcing, which would provide for these sales to be deemed to take place at the buyer's location instead of the "out-of-state" GRT coding. In order to provide local governments with a portion of this revenue stream for those two years, \$24 million would be sent annually from the general fund to local governments, apportioned on a population basis. After these two years, GRT switches to destination-based sourcing, with all such sales deemed to take place at the buyer's location, and local increments would apply. Local governments should see a significant surge in revenues due to taxing the online sales the state currently taxes, taxing all the new online sales, and taxing other sales that are currently booked as out-of-state. Compensating Tax brings the state comp tax rates for services and tangible property into alignment and applies local government GRT increments to the compensating tax to equalize the rates (effective July 1, 2021); It is important to note that while generally, and for tangible personal property specifically, the sale location is determined by delivery location, professional services are an exception and are to be reported from the location at which the services are performed. Effective July 1, 2019.

## **Chapter 272**

**HB 234 PUBLIC SERVICE OFFICERS & DETOX FACILITIES (Johnson)** House Bill 234 adds a definition of the term “public health service officer” as a “a civilian employee within a police department who is authorized by the police department to transport intoxicated or incapacitated persons to a treatment facility or detention center.” House Bill 234 would amend the Detoxification Reform Act (Section 43-2-2 NMSA 1978) to add to those authorized to request commitment of an alcohol- or drug-impaired facility to a detoxification facility. To the current list, which includes only

physicians and police officers would be added “public service officers.” “Public service officer” was not defined in the original bill, but the amendment adds the definition. Effective July 1, 2019.

#### **Chapter 274**

**CS/HB 479 DE-EARMARK LOCAL OPTION GROSS RECEIPTS (Harper, Chandler, Martinez J., Dow, Ivey-Soto)** House Bill 479 removes the restricted uses of a number of municipal and county local option gross receipts taxes. In doing so, a number of restricted local option rates are repealed in favor of increasing the unrestricted countywide local option rate from 7/16 percent to 1.25 percent, the unrestricted county remainder additional local option rate would be capped at .5 percent and the unrestricted municipal local option rate increased to 2.5 percent Effective July 1, 2019.

#### **Chapter 275**

**SB 566 LEGISLATIVE AUTHORIZATION OF TIDD BONDS (Ingle)** Senate Bill 566 amends the Tax Increment for Development Act (TIDA) to clarify existing statutes related to tax increment development districts (TIDDs) and to make a few changes. Existing statute requires legislative authorization in order for a TIDD to use a portion of the state gross receipts tax (GRT) increment, but this bill restructures the flow of the language to make that requirement clearer. The bill makes the following additional clarifications that likewise do not make any substantive changes from existing statute: The state GRT increment dedicated to a TIDD may only be used to secure GRT increment bonds and to pay the principal of, interest on, and any premiums due in connection with the bonds; If the state Board of Finance (BOF) adopts a resolution to dedicate a portion of the state GRT increment to a TIDD, it must make the dedication contingent on legislative authorization of the bonds for which the increment would be used – while this specific language did not previously exist in statute, the act already required legislative authorization, so this adds clarity to the process; The bill removes from the list of local GRT increments that can be dedicated to a TIDD a municipal increment that no longer exists in statute; The bill clarifies the timing of when the state GRT increment dedication shall be effective, noting it only becomes effective on specified dates (already in statute) following legislative approval of the bonds and notice to the Taxation and Revenue Department (TRD);

#### **Chapter 276**

**SB 126 LOCAL GOVERNMENT PRIMARY CARE CLINIC FUNDING (Papen)** Senate Bill 126 amends the Primary Care Capital Funding Act to allow local government-owned primary care clinics to be eligible for funding from the primary care capital fund (PCCF). Effective July 1, 2019.

#### **Chapter 277**

**SB 280 CAPITAL OUTLAY EXPENDITURES (Cisneros, Trujillo J.)** Authorizes \$933 million, including \$857.9 million from the general fund and \$75.1 million from other state funds to fund capital outlay projects statewide. The bill contains an emergency clause and is effective April 5, 2019.

#### **Chapter 278**

**SB 536 APPROPRIATIONS & EXPENDITURES (Smith)** Appropriates a total of \$30.3 million from the general fund to various state agencies and local governments for various purposes for expenditure in FY19 and FY20. The appropriation of \$15.1 million contained in this bill is a nonrecurring expense to the general fund and \$15.1

million is a recurring expense to the general fund any unexpended or unencumbered balance remaining at the end of Fiscal Year 2020 shall revert to the general fund unless otherwise indicated. Effective July 1, 2019.

#### **Chapter 279**

**HB 548 APPROPRIATIONS & EXPENDITURES (Lundstrom)** Appropriates a total of \$30.4 million from the general fund to various state agencies and local governments for various purposes for expenditure in FY19 and FY20. The appropriation of \$15.1 million contained in this bill is a nonrecurring expense to the general fund and \$15.3 million is a recurring expense to the general fund. Effective July 1, 2019.

#### **Chapter 280**

**HB 568 CAPITAL OUTLAY REAUTHORIZATIONS (Trujillo)** Reauthorizes 111 capital projects authorized in previous years from various funds. As of January 2019, the unexpended balance for the projects was approximately \$44.85 million. Reauthorizations of capital outlay projects range from changing the administering agency or the original purpose of the project, extending the reversion date, or expanding the purpose of the original project. The bill has an emergency clause and is effective April 5, 2019.

## **Resolutions & Memorials**

**HM 2 BETTER HEARING & SPEECH MONTH (Stapleton)** the governor be requested to designate the month of May 2019 as "Better Hearing and Speech Month" in New Mexico; and BE IT FURTHER RESOLVED that copies of this memorial be transmitted to the governor and the New Mexico speech-language and hearing association. **Signed**

**SM 144 RELOCATION OF FIRE MARSHAL DIVISION OF PRC (Burt)** public safety and emergency services are critical to the health, safety and welfare of the people of New Mexico; and WHEREAS, the fire marshal division of the public regulation commission is responsible for providing communication, training, investigations, inspections, code adoption and funding to municipal and county fire departments in New Mexico; and WHEREAS, the fire marshal division is currently located within the public regulation commission, and the public regulation commission chief of staff is tasked with providing oversight for the division; and WHEREAS, the public regulation commission is responsible for regulating public utilities, including electric, natural gas and water companies; transportation companies, including common and contract carriers; transmission and pipeline companies; including telephone, telegraph and information transmission companies and other public service companies, and there is no mention of the needed focus or support to ensure adequate fire services statewide; and WHEREAS, statewide representatives with technical and operational expertise about fire services should be actively engaged in determining the needs and objectives of fire services; and WHEREAS, the fire marshal division should be relocated either as a standalone entity or as an administratively attached entity in an appropriate state department; NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NEW MEXICO that the New Mexico municipal league and New Mexico counties be requested to convene a working group to evaluate relocation options for the fire marshal division of the public regulation commission; and BE IT FURTHER RESOLVED that the working group be composed of representatives of the: A.

homeland security and emergency management department; B. department of public safety; C. office of superintendent of insurance; D. public regulation commission; E. fire marshal division of the public regulation commission; F. New Mexico fire chiefs association; G. fire and emergency managers affiliate of New Mexico counties; H. New Mexico state firefighters association; I. New Mexico emergency medical technicians association; J. New Mexico fire marshal's association; K. metropolitan fire chiefs association; and L. New Mexico professional firefighters association; and BE IT FURTHER RESOLVED that the working group be requested to report its findings and conclusions to the appropriate interim legislative committee by September 1, 2019; and BE IT FURTHER RESOLVED that copies of this memorial be transmitted to the governor, the executive director of the New Mexico municipal league, the executive director of New Mexico counties, the secretary of homeland security and emergency management, the secretary of public safety, the superintendent of insurance, the chair of the public regulation commission, the director of the fire marshal division of the public regulation commission, the president of the New Mexico fire chiefs association, the president of the New Mexico state firefighters association, the president of the New Mexico emergency medical technicians association, the president of the New Mexico fire marshal's association, the president of the metropolitan fire chiefs association and the president of the New Mexico professional firefighters association.

**Signed**

## 2019 Vetoed Bills

PV = Pocket Veto

HB 156	COUNTY CORRECTIONAL GROSS RECEIPTS USES (Dow)	Veto
HB 167/a	PERIODIC LICENSE PLATE REPLACEMENT (Ruiloba)	Veto
HB 192/a	FIVE FEET FOR PASSING BICYCLES (Rubio)	Veto
HB 200	WINDOW SUNSCREEN RESTRICTIONS	PV
HB 411	LOCAL TAX DISTRIBUTION DEFINITIONS	PV
HB 564	PROBATION & PAROLE PROCEDURES (Maestas)	Veto
CS/SB 55/a	NO LIMITATION FOR CRIMES AGAINST CHILDREN (Steinborn)	Veto
SB 148	FORMER OFFICERS AS SCHOOL SAFETY PERSONNEL (Brandt, Craig)	PV
SB 154/a	PUBLIC PROPERTY DISPOSITION ACT (Papen0	PV
SB 174	JURY AFFIDAVIT EXEMPTION IF OVER AGE 75 (Martinez)	PV
SB 306/a	WINE & BEER SALES & PRIVATE CELEBRATIONS (Smith)	PV
CS/SB 404	3 YEAR MEDICAL MARIJUANA CERTIFICATION (O'Neil)	PV
SB 494/a	BEER & WINE LICENSES	Veto
CS/SB 472	ENHANCED E911 CONSULTATION (Stefanics)	PV

