



**Summary of  
2010 LAWS  
of Interest to  
Municipalities**

**April, 2010**

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## **2010 SUMMARY OF NEW MEXICO LAWS of Interest to Municipalities**

### **Chapter 5**

**SB 32**

**DWI CHEMICAL TEST FEE INCREASE (Feldman).** Amends §31-12-7 to raise the mandatory chemical test fee for DWI convictions from \$75 to \$85. Effective 7/1/10.

### **Chapter 9**

**SB 95**

**LAS CRUCES MAINSTREET DOWNTOWN TIDD (Papen).** Authorizes \$8 million in bonds secured by tax increments under the Tax Increment for Development Act for the Las Cruces MainStreet Downtown project. Effective 5/19/10.

### **Chapter 11**

**HB 112**

**LAS CRUCES: TAX INCREMENT PROJECT BONDS (A. Lujan).** Authorizes issuance of \$8 million in bonds secured by tax increments pursuant to the Tax Increment for Development Act for the City of Las Cruces Main Street Downtown Tax Increment Development Project; bond issue period is 25 years; limits legislative approval for capital outlay projects in the district during this period to listed government buildings and facilities; the legislature may authorize expenditures for economic development projects in the district. Effective 5/19/10.

### **Chapter 12**

**CS/HB 165 WHISTLEBLOWER PROTECTION ACT.** Enacts the Whistleblower Protection Act; prohibits a public employer from taking any retaliatory action against a public employee because the employee: 1) communicates to the public employer or a third party information about an action or a failure to act that the public employee believes in good faith constitutes an unlawful or improper act; 2) provides information to, or testifies before, a public body as part of an investigation, hearing or inquiry into an unlawful or improper act; or, 3) objects to or refuses to participate in an activity, policy or practice that constitutes an unlawful act or improper act. A “public employer” means: any department, agency, board, commission of the state; any political subdivision of the state created under general or special act; any entity or instrumentality of the state; and, every office or officer of the above. A public employer that violates the Act shall be liable to the public employee for actual damages, reinstatement with the same seniority status that the employee would have had but for the violation, two times the amount of back pay with interest on the back pay and compensation for any special damage sustained as a result of the violation. In addition, the employer shall be required to pay the employee’s litigation costs and reasonable attorney fees. Provides for an affirmative defense that the action taken by the public employer was due to the employee’s misconduct, poor job performance, a reduction in work force or other legitimate business purpose unrelated to conduct prohibited pursuant to this Act and that retaliatory action was not a motivating factor. The Act states that civil actions or criminal sanctions for libel, slander or other civil or criminal claims against a person who files a false claim are not precluded. A civil action is forever barred unless the action is filed within two years from the date of the retaliatory action; the provisions of this Act apply only to civil actions resulting from retaliatory actions that occurred on or after July 1, 2008. Effective 5/19/10.

### **Chapter 18**

**SFL/CS/**

**SB 207**

**PERA: RETURN TO WORK (Ulibarri).** Amends §10-11-8. Eliminates the current provisions allowing a retiree to return to work with a PERA affiliated employer and continue to collect their pension. “Grandfathers” those currently in return to work status but requires these

retirees to contribute the employee share beginning July 1, 2010. Eliminates the exemption for police chief and undersheriff positions and retains exemptions for retirees who are elected to office and those employed by the legislature for legislative session work. The law does not address employees who retire under ERA, the educational retirement system. Below is a summary by category:

Retirees Currently in Return to Work Status: These employees are “grandfathered” and are subject to the provisions in the law in effect when they returned to work. They may continue to receive their pensions; however, beginning July 1, 2010, they must contribute the employee share in an amount specified for that position. It is implied that the employer will continue to pay the employer share. (The employer previously paid both employer and employee share except for those who retired and were re-employed under the police chief and undersheriff exemptions.)

Retirees Returning to Work After July 1, 2010: Retirees returning to work with an affiliated employer must wait out 12 months and their pension is suspended when the new employment begins; the pension resumes when the subsequent employment ends.

Retirees returning to work have the option to elect to become a PERA member. If they elect not to be a member, they accrue no service credit and no contributions by the employee or employer are made. If they elect to become a member, service credit is accrued, both the employee and employer contributions shall be made, and the pension would be recalculated if the subsequent employment is for at least three years.

Contract employees: Retirees who return to work as an independent contractor with the affiliated employer from which they retired must wait out 12 months prior to re-employment and their pension is suspended upon re-employment.

Exemptions: Retains the exemptions for retirees who are elected to office and those employed by the legislature for legislative session work. Those in exempted status continue to collect their pensions but are not entitled to accrue service credit or acquire or purchase service credit in the future for the period of their re-employment. Effective 7/1/10.

## **Chapter 19**

### **HB 16**

**PERA: RETIREMENT BENEFICIARY DE-SELECTION OPTION (Trujillo & Sapien).** Amends §10-11-116 to authorize a retired member receiving a pension under form of payment B or C with a living designated survivor pension beneficiary other than the retired member's spouse or former spouse to exercise a one-time irrevocable option to de-select the designated beneficiary and elect to designate another survivor pension beneficiary, provided that the retired member has no option to change the current form of payment; and, the amount of the pension shall be recalculated and have the same actuarial present value, or have future payments made under form of payment A. Effective 5/19/10.

## **Chapter 27**

### **HB 81**

**PETROLEUM STORAGE TANK DEFINITION CHANGES (Heaton).** Amends §74-4-3 of the Hazardous Waste Act and the Ground Water Protection Act to clarify the definition of above ground storage tank not to include those used for storing heating oil for consumptive use on the premises where stored. Amends §74-4-4 requiring the Environmental Improvement Board to adopt rules concerning storage tanks that implement the federal Energy Policy Act of 2005 and that are equivalent and no more stringent than the Energy Policy Act. Also includes in the rules criteria and procedures for classifying a storage tank facility as ineligible and reclassifying a

storage tank facility as eligible for the delivery, deposit, acceptance or sale of petroleum products; the tank shall be deemed ineligible if the storage tank facility has not installed equipment for spill prevention, overfill protection, leak detection or corrosion protection; a tank shall be deemed ineligible when the owner or operator has failed to comply with a written warning within a reasonable period of time and the warning concerns: 1) improper operation or maintenance of required equipment for spill prevention, overfill protection, leak detection or corrosion protection; 2) failure to maintain required financial responsibility for corrective action; or 3) operation of the storage tank facility in a manner that creates an imminent threat to the public health and environment. Rules adopted by the Board shall defer classifying a tank as ineligible if the ineligible classification would jeopardize the availability of, or access to, motor fuel in any rural and remote areas. Rules adopted shall allow the Department to authorize delivery or deposit of petroleum products to: 1) an emergency generator tank that is ineligible if a commercial power failure or other declared state of emergency exists and the tank provides power supply, stores petroleum and is issued solely in connection with an emergency system; or, 2) the ineligible storage tank facility is necessary to test or calibrate a tank. Amends §74-6B-3 to exclude from the definition of “owner”, for the purposes of tank registration requirements only, a person: 1) who had an underground storage tank taken out of operation on or before January 1, 1974; 2) had an underground storage tank taken out of operation after January 1, 1974 and removed from the ground prior to November 8, 1984; or 3) had an above ground storage tank taken out of operation on or before July 1, 2001. Effective 5/19/10.

## **Chapter 29 CS/HB 207**

**INTERLOCK FUND ELIGIBILITY.** Amends §66-8-102 & -102.3. Authorizes the Traffic Safety Bureau instead of the sentencing court to make a determination of whether a DWI offender is indigent and eligible to receive monies from the Interlock Device Fund to pay for the device’s installation. An offender who obtains an ignition interlock license and installs a device prior to conviction shall be given credit at sentencing for the time period the device has been in use. Provided that there is money in the Interlock Device Fund, the amount authorized to be paid for one vehicle per offender is limited to \$50 for the cost of installation, up to \$50 for removal, and up to \$30 monthly for verified active usage of the device; sets specific guidelines for the Traffic Safety Bureau to determine whether an offender is indigent based upon proof of enrollment in specific listed types of public assistance. The fee imposed on non-indigent DWI offenders for the Interlock device is now to be collected by the Motor Vehicle Division instead of by the vendor providing the device. Increases the percentage of the Fund that may be used by the Traffic Safety Bureau to administer the Fund from 5% to 10%. Effective 7/1/10.

## **Chapter 30 HB 233**

**NO SOLAR PANELS AS PROPERTY TAX IMPROVEMENTS (Stewart).** Amends §7-36-21.2 of the Property Tax Code. Provides that the addition of a solar energy installation shall not be considered a physical improvement for purposes of the limitation on increases in the valuation of residential property. Applies to property tax years beginning on or after January 1, 2010. Effective 5/19/10.

## **Chapter 31 \*HB 203**

**BUSINESS RETENTION GROSS RECEIPTS TAX & GAMING TAX (T. Garcia).** Authorizes counties containing racetracks with gaming licensees to impose a County Business Retention Gross Receipts Tax of up to  $\frac{1}{4}\%$ , subject to a county-wide referendum; an amount not to exceed \$750,000 shall be distributed to the state to reduce the impact to the General Fund of gaming tax lost to the state from the county from reduced gaming tax revenue due to decreased economic activity in the county; the remainder of the revenue the county may use for promotion or administration of the county, instructional or general purposes for a public post-secondary

educational institution, capital outlay to expand or relocate the educational institution, or funding professional services contracts related to implementing an economic development plan adopted by the governing body; the tax is in effect for five years. Allows the racetrack in the county to claim a tax credit of up to 50% of the monthly gaming tax liability up to \$750,000 per year if the combined net take and receipts are under \$15 million in the prior calendar year; if in the prior fiscal year the total amount of the County Gaming Tax credit claimed by the taxpayer exceeded the amount distributed to the state from the local gaming tax, the taxpayer shall be deemed to owe an amount equal to the excess credit and shall remit it to the state; the taxpayer cannot claim the gaming tax credit again until the excess amount has been remitted to the state. **EMERGENCY CLAUSE.** Effective 3/4/10.

## **Chapter 32**

**SB 167**

**MISSING PERSON INFORMATION ACT DEFINITIONS (Lopez).** Amends §29-15-1 to add to the definition of an endangered person a person who has been a victim of a crime pursuant to the Crimes Against Household Members Act or a person who was protected by an order issued under the Family Violence Protection Act; the definition of an immediate family member also includes a close friend; amends §29-15-7 to require a law enforcement agency, upon receiving a missing person report and within 12 hours of receiving the report, to notify the Department of Public Safety if the missing person is determined to be an endangered person. Effective 5/19/10.

## **Chapter 33**

**SB 55**

**MISSING PERSON AND AMBER ALERT INFO AND TRAINING (Rue).** New material requires a minimum of four hours of combined missing person and Amber Alert training for each basic law enforcement training class; the missing person and Amber Alert components of in-service training shall be required each year for certified police officers; defines state registrar as the employee designated by the Public Health Division of the Department of Health pursuant to the Vital Statistics Act; defines what information is to be included in a missing person report form; requires a law enforcement agency to accept without delay and without exception for any reason any report of a missing person and no later than two hours after receiving the report to initiate an investigation and to provide the state clearinghouse with information relating to the investigation. New material requires a law enforcement agency, within two hours of receiving a report of a missing child, to enter identifying and descriptive information into the National Crime Information Center computer and to notify, within 24-hours by telephone, facsimile or e-mail, the report of a missing child to the State Registrar; the Attorney General is to have enforcement responsibilities for provisions of the Missing Persons Information and Reporting Act; repeals §32A-14-1 through 4 NMSA 1978. Effective 5/19/10.

## **Chapter 35**

**SB 107**

**INDIAN ARTS AND CRAFTS CRIME CONSISTENCIES (Lovejoy).** Amends §30-33-9. makes a violation of the Indian Arts and Crafts Sales Act with a property value between \$500 and \$2,500 a fourth degree felony; property valued between \$2,500 and \$20,000 is a third degree felony; property valued at more than \$20,000 is a second degree felony; increases the civil penalty from \$500 to \$5,000 per violation. Effective 7/1/10.

## **Chapter 39**

**HB 15**

**CREATE EASTERN NM WATER UTILITY AUTHORITY (Crook).** Establishes the Eastern New Mexico Water Utility Authority that includes Curry County, City of Clovis, City of Portales, City of Texico, Town of Melrose, Town of Elida and Village of Grady; the purpose of the Act is to: 1) create a water authority to develop and construct a water delivery system based on a funding formula whereby 75 percent of the overall cost of the system is paid for by the

federal government, 15 percent is paid for by the state of New Mexico and 10 percent paid by the local governments that have the power to appoint members to the Authority's Board; and 2) to create an authority that will deliver water to local governments within the boundaries of the authority but that will not compete with local governments for the rights to deliver water to ultimate end users. Creates the Authority Board, sets its membership and powers, including issuance of revenue bonds. The Authority is not subject to the jurisdiction of the Public Regulation Commission unless it elects, by resolution, to become subject to PRC jurisdiction, but not relating to rate-making Commission purviews; the Authority is subject to the rules and regulations of the State Engineer and applicable laws in Chapter 72. Effective 7/1/10.

**Chapter 42**  
**CS/HB 25**

**MV: ONLINE AND TELEPHONE DRIVER'S LICENSE RENEWALS.** Amends §66-5-14, -21, & -403 that authorizes four- and eight-year driver's licenses to be issued provided that the applicant will not reach the age of 75 during the last four years of the eight-year license period or reach the age of 21 during any year within the term of the license; the license shall expire 30 days after the applicant's 75<sup>th</sup> birthday; a driver's license issued prior to an applicant's 21<sup>st</sup> birthday shall expire 30 days after the applicant's 21<sup>st</sup> birthday; a driver's licensee issued prior to an applicant's 21<sup>st</sup> birthday may be issued for a period of up to five years. Authorizes a person to renew a driver's license by telephone, mail or on-line at the Department's website provided the Department regulations shall ensure adequate security measures to safeguard personal information that is obtained in any issuance of a driver's license; authorizes the same renewal procedures for a four-year identification card. Effective 7/1/10.

**Chapter 44**  
**HB 30**

**GRT: CAPITAL OUTLAY GROSS RECEIPTS RESTRICTIONS (Trujillo).** Amends §7-19D-12 & §7-20E-21. Removes the requirement that all increments of the other local option gross receipts taxes be implemented prior to implementing the Capital Outlay Gross Receipts Tax in municipalities and counties. Effective 7/1/10.

**Chapter 46**  
**\*HB 38**

**PUBLIC PROJECT REVOLVING LOAN FUND PROJECTS (Lundstrom).** Authorizes the New Mexico Finance Authority to make loans from the Public Project Revolving Fund for the following municipal projects: **Angel Fire**: water, wastewater and solid waste; **Artesia**: building, equipment, infrastructure, special assessment district, public improvement district, refinancing, water rights and land acquisition; **Belen**: building, infrastructure, equipment, debt financing for water, wastewater and road and land; **Carrizozo**: building, infrastructure, equipment, debt financing for water, wastewater and road and land; **Causey**: building, equipment, infrastructure, debt refinancing, road, land acquisition, water, water rights, wastewater and solid waste; **Clayton**: building, equipment, infrastructure, debt refinancing, road, land acquisition, water, water rights, wastewater and solid waste; **Clovis**: solid waste; **Deming**: building, equipment, infrastructure, road, land acquisition, water, wastewater and solid waste; debt refinancing; **Des Moines**: building, equipment, infrastructure, debt refinancing, road, land acquisition, water, water rights, wastewater and solid waste; **Dora**: building, equipment, infrastructure, debt refinancing, road, land acquisition, water, water rights, wastewater and solid waste; **Española**: building, infrastructure, equipment, debt financing for water, wastewater and road and land; **Estancia**: debt refinancing projects; **Eunice**: building, infrastructure, equipment, debt financing for water, wastewater and road and land; **Farmington**: building, infrastructure, equipment, debt financing for water, wastewater and road and land; **Gallup**: building, infrastructure, equipment, debt financing for water, wastewater and road and land; **Grants**: building, infrastructure, equipment, debt financing for water, wastewater and road and land; **Hatch**: building, infrastructure, equipment, debt financing for water, wastewater and road and

land; **Hurley**: building, infrastructure, equipment, debt financing for water, wastewater and road and land; **Jal**: building, infrastructure, equipment and debt financing for water, wastewater and road and land; **Las Cruces**: building, infrastructure, equipment, debt financing for water, wastewater, road and land special assessment districts and public improvement district; **Las Vegas**: water, wastewater and solid waste; **Lordsburg**: building, infrastructure, equipment, debt financing for water, wastewater and road and land; **Los Lunas**: building, infrastructure, equipment, debt financing for water, wastewater and road and land; **Lovington**: building, equipment, infrastructure, debt refinancing, road, land acquisition, water, water rights, wastewater and solid waste; **Melrose**: building, equipment, infrastructure, debt refinancing, road, land acquisition, water, water rights, wastewater and solid waste; **Mesilla**: building, equipment, infrastructure, water and wastewater; **Moriarty**: building, equipment, infrastructure, debt refinancing, road, land acquisition, water, water rights, wastewater and solid waste; **Raton**: building, equipment and infrastructure; **Rio Rancho**: equipment, building, infrastructure, land acquisition and special assessment district projects; **Ruidoso**: building, infrastructure, equipment, debt financing for water, wastewater, road and land special assessment districts and public improvement district; **Ruidoso Downs**: building, equipment, infrastructure, debt refinancing, road, land acquisition, water, water rights, wastewater and solid waste; special assessment district and public improvement district; **San Jon**: building, equipment, infrastructure, debt refinancing, road, land acquisition, water, water rights, wastewater and solid waste; **Socorro**: building, equipment, infrastructure, water, wastewater, water rights and land acquisition; solid waste and infrastructure; **Sunland Park**: building, equipment, infrastructure, debt refinancing, water, wastewater, water rights, solid waste, road and land; **Taos**: building, infrastructure, equipment, debt financing for water, wastewater and road and land; **Texico**: building, equipment, infrastructure, debt refinancing, road, land acquisition, water, water rights, wastewater and solid waste; **Truth or Consequences**: water and wastewater; **Tucumcari**: building, equipment, infrastructure, debt refinancing, road, land acquisition, water, water rights, wastewater and solid waste; **Vaughn**: building, equipment, infrastructure, debt refinancing, road, land acquisition, water, water rights, wastewater and solid waste. EMERGENCY CLAUSE. Effective 3/8/10.

## Chapter 47

\*HB 56

**NMFA WATER FUND PROJECTS (Nunez)**. Authorizes the NM Finance Authority to make loans or grants from the Water Project Fund for the following water storage, conveyance and delivery projects in: **Albuquerque-Bernalillo County Water Utility Authority, Aztec, Belen, Bloomfield, Carlsbad, Clovis, Espanola, Estancia, Grants, Las Cruces, Los Lunas, Mesilla, Questa, Ruidoso, San Ysidro, Santa Fe, and Taos**. Also, for the following: **Albuquerque-Bernalillo County Water Utility Authority**: conservation, treatment, recycling or reuse; **Bernalillo**: for conservation, treatment, recycling or re-use; **Deming**: for conservation, treatment, recycling or re-use; **Hobbs**: for conservation, treatment, recycling or re-use; **Las Vegas**: for conservation, treatment, recycling or re-use; **Ruidoso**: for a flood prevention project; and, **Taos**: for a water conservation, treatment, recycling or reuse project. EMERGENCY CLAUSE. Effective 3/8/10.

## Chapter 51

\*HB 108

**DRINKING WATER SYSTEM FINANCING (B. Lujan)**. Appropriates \$2,714,600 from the Public Project Revolving Fund to the Drinking Water State Revolving Loan Fund for FY 2010 and subsequent years to provide state matching funds for federal Safe Drinking Water Act projects and to carry out purposes of the Fund. EMERGENCY CLAUSE. Effective 3/8/10.

**Chapter 52****HB 114**

**FIRE PROTECTION FUND: POSTPONING DISTRIBUTION (Wallace).** Amends §59A-53-5.2. Postpones the time at which the transfers from the Fire Protection Fund to the Fire Protection Grant Fund are due to be increased from June 30, 2011 to June 30, 2012; adjusts the following years' increases accordingly. Effective 5/19/10.

**Chapter 55****HB 144**

**UNEMPLOYMENT CONTRIBUTION SCHEDULE (Stewart).** Amends §§51-1-4, -19, -42. From July 1 through December 31, 2010 employers' unemployment insurance contributions are at the rate specified in Contribution Schedule 0; increases employers' contributions for the period of January 1, 2011 to December 31, 2011 using the rates specified in Contribution Schedule 1. Repeals §51-1-19.1 eliminating the State Unemployment Trust Fund. Effective 7/1/10.

**Chapter 61****\*HB 266**

**UNEXPENDED FUNDS FOR NM RECOVERY FUND (Heaton).** Amends §6-4-2.5 to extend the period to include fiscal years 2010 and 2011 for which certain unexpended General Fund appropriations shall be credited to the New Mexico Recovery and Reinvestment Fund. **EMERGENCY CLAUSE.** Effective 3/8/10.

**Chapter 62****CS/SB 60**

**HAZARDOUS DUTY OFFICERS' EMPLOYEE RELATIONS.** New material creates the Hazardous Duty Officers' Employer-Employee Relations Act; defines hazardous duty officer as an individual who is employed full-time by the state or a political subdivision of the state as a firefighter, emergency medical technician or paramedic, provided that officer does not include an individual who has not completed the probationary period established by the individual's employer; establishes a variety of conditions under which a hazardous duty officer may be interrogated for an alleged action that could result in an administrative sanction; each interrogation session is to last no more than two hours and there is to be no more than one interrogation session within a 24-hour period unless mutually agreed upon by the parties; requires that the interrogation sessions be recorded and the complete interrogation shall be published as a transcript; authorizes any hazardous duty officer to produce documents, witnesses or other evidence and allows cross-examination of witnesses during any grievance hearing. No documentation containing adverse comments about a hazardous duty officer shall be entered into the officer's personnel file unless the officer has read and signed the document; when an officer refuses to sign such document, it may be entered into the file if: 1) the officer's refusal is noted on the document by the chief administrator of the officer's employer; and 2) the notation is witnessed by a third party; officers may file a written response to any document entered into their personnel file; a hazardous duty officer shall not be required to provide information concerning the officer's financial status, unless all other reasonable investigative means have been exhausted or as required by law; an officer shall not be prohibited by an employer from engaging in any political activity when the officer is off duty, except otherwise provided by law. Effective 7/1/10.

**Chapter 63****\*SB 66**

**ECONOMIC DEVELOPMENT REVOLVING FUND PROJECTS (Papen).** Authorizes the New Mexico Finance Authority to provide financing assistance in the form of loan participations with private lenders for up to 49 percent of total individual project financing, not to exceed \$5 million per project, from the Economic Development Revolving Fund for a variety of economic development projects statewide. **EMERGENCY CLAUSE.** Effective 3/8/10.

**Chapter 64****SB 77**

**STATE AGENCY CREDIT CARD PROCESSING FEE (Campos).** Amends §6-10-1.2 to authorize state agencies and local public bodies to charge a convenience fee to cover the exact fees imposed by the financial institution for the costs of processing a credit card or electronic transfer transaction; the fee is charged to the person using the credit card; amounts collected are appropriated to the state agency or local governing body to defray the cost of processing the transaction. Effective 5/19/10.

**Chapter 69****SB 100**

**FIRE PROTECTION FUND FOR VOLUNTEER STIPENDS (Nava).** Amends §59A-53-19 to add paying stipends to volunteer firefighters in underserved areas as another use of the Fire Protection Fund; when considering applications to pay stipends, the Fire Protection Grant Council shall: 1) define underserved areas; 2) ensure the proposed stipend will comply with the federal Fair Labor Standards Act and U.S. Labor Department standards for maintaining volunteer status; 3) require a basic level of training before a volunteer may receive a stipend; 4) consider whether the fire district requires a service commitment from its volunteer firefighters in exchange for stipends; and 5) weigh the application against other criteria or requirements determined by the Council. Effective 5/19/10.

**Chapter 70****SB 137**

**ALTERNATIVE DRIVER'S LICENSE RENEWAL (Griego, P).** Amends §66-5-14, -21, & -403 that authorizes four- and eight-year driver's licenses to be issued provided that the applicant will not reach the age of 75 during the last four years of the eight-year license period or reach the age of 21 during any year within the term of the license; the license shall expire 30 days after the applicant's 75<sup>th</sup> birthday; a driver's license issued prior to an applicant's 21<sup>st</sup> birthday shall expire 30 days after the applicant's 21<sup>st</sup> birthday; a driver's licensee issued prior to an applicant's 21<sup>st</sup> birthday may be issued for a period of up to five years. Authorizes a person to renew a driver's license by telephone, mail or on-line at the Department's website provided the Department regulations shall ensure adequate security measures to safeguard personal information that is obtained in any issuance of a driver's license; authorizes the same renewal procedures for a four-year identification card. Effective 7/1/10.

**Chapter 73****CS/SB 200**

**PUBLIC BUILDING ENERGY EFFICIENCY STANDARDS.** New material requires any new building, a selected building addition that adds 3,000 square feet or more to an existing building or building renovation that includes renovation or addition to the HVAC, electrical systems or indoor environment climate controls that is financed with legislative appropriations, severance tax bonds or general obligation bonds to meet the Energy Star qualifications of the United State Environmental Protection Agency or equivalent standards specified by the Energy, Minerals and Natural Resources Department. The requirements do not apply to: 1) a new building, selected addition or renovation for which the initial appropriation was made prior to January 1, 2011; 2) a new building, addition or renovation for which, in the Energy, Minerals and Natural Resources Department's opinion, substantial design expenditures have been made prior to July 1, 2010; 3) a building addition to an existing building or renovation if the existing building is listed in the State Register of Cultural Properties of the National Register of Historic Places; or 4) a new building, addition or renovation if the Department determines that the cost of compliance would exceed the estimated life-cycle savings of the building, addition or renovation. Effective 5/19/10.

**Chapter 74****SB 209**

**MV: DISABLED PARKING AND LAW ENFORCEMENT (Ortiz y Pino).** Amends §28-10-2 to require the Governor's Commission on Disability to provide training to state and local law enforcement officers regarding matters pertaining to accessible parking for persons with disabilities; amends §66-1-4.1 to require after January 1, 2011 an accessible aisle to be marked with the words "NO PARKING" in capital letters, each of which shall be at least one foot high and two inches wide, placed at the rear of the parking space; authorizes a disabled parking placard to be valid for four years from the date of issue; signs posted after July 1, 2010 at an accessible parking space shall contain the language "Violators are subject to a fine and/or towing"; amends §66-7-352.5 to state that a law enforcement officer may issue a citation or authorize towing of a vehicle for a violation of parking in a disabled space without a placard regardless of the presence of the driver. Effective 5/19/10.

**Chapter 76****SB 254**

**CONSIDERATION OF CRIME CONVICTION FOR JOBS (Harden).** Amends §28-2-3 to add "a board, department or agency of the state or any of its political subdivisions shall not make an inquiry regarding a conviction on an initial application for employment and shall only take into consideration a conviction after the applicant has been selected as a finalist for the position." Effective 5/19/10.

**Chapter 77****CS/SB 201****& 202**

**GRT: DEDUCTION FOR UTILITY GENERATING FACILITIES.** Enacts one new section; amends §7-9-54.3. Creates a new "Advanced Energy Deduction" from gross receipts and compensating tax for receipts from selling tangible personal property or services that are eligible generation plant costs to a person who holds an interest in a qualified generating facility; the holder of the interest must deliver a nontaxable transaction certificate to the seller; sets a maximum tax benefit allowed of \$60 million and the deduction is available for a ten-year period from the year of development of facility begins; the Environment Department determines if the facility is a qualified generating facility and shall report annually to an interim legislative committee so they may analyze the effectiveness of the deduction, including the amount of emissions identified as reduced and removed; defines all relevant terms; a qualified generating facility must begin construction not later than December 31, 2015. Expands the gross receipts tax deduction for selling wind generation equipment to governments to include sales of solar generation equipment to a government for the purpose of installing a wind or solar electric generation facility. "Government" is the United States or the state or a governmental unit or a subdivision, agency, department or instrumentality of the federal government or the state; also defines "related equipment", "solar generation equipment", and "wind generation equipment". Effective 7/1/10.

**Chapter 78****CS/HB 261****& 277**

**GRT: SOLAR AND WIND ENERGY EQUIPMENT GROSS RECEIPTS.** Enacts one new section; amends §7-9-54.3. Creates a new "Advanced Energy Deduction" from gross receipts and compensating tax for receipts from selling tangible personal property or services that are eligible generation plant costs to a person who holds an interest in a qualified generating facility; the holder of the interest must deliver a nontaxable transaction certificate to the seller; sets a maximum tax benefit allowed of \$60 million and the deduction is available for a ten-year period from the year of development of facility begins; the Environment Department determines if the facility is a qualified generating facility and shall report annually to an interim legislative committee so they may analyze the effectiveness of the deduction, including the amount of

emissions identified as reduced and removed; defines all relevant terms; a qualified generating facility must begin construction not later than December 31, 2015. Expands the gross receipts tax deduction for selling wind generation equipment to governments to include sales of solar generation equipment to a government for the purpose of installing a wind or solar electric generation facility. “Government” is the United States or the state or a governmental unit or a subdivision, agency, department or instrumentality of the federal government or the state; also defines “related equipment”, “solar generation equipment”, and “wind generation equipment”. Effective 7/1/10.

## **Chapter 85**

**SB 2**

**DOMESTIC VIOLENCE HOUSEHOLD MEMBER DEFINED (Wirth).** Amends §30-3-11 to include in the definition of a “household member” a present or former parent, grandparent or grandparent –in-law; a “continuing personal relationship” is a dating or intimate relationship. Effective 7/1/10.

## **Chapter 90**

**HB 127**

**STATE ELECTION CODE: QUALIFIED MINORS ON PRECINCT BOARDS (Steinborn & P. Campos).** Amends §1-2-7. Allows a county clerk to appoint not more than two minors to serve on a precinct board under the direct supervision of the presiding judge of a precinct; a minor appointed by the county clerk shall: 1) meet the qualifications for precinct board members, except the minor need not be eligible to vote; 2) be 16 or 17 years of age at the time of the election in which the minor is serving on the precinct board; 3) be a citizen at the time of the election; 4) have the approval of the minor’s parent or legal guardian, unless emancipated; 5) attend at least one school of instruction; and, 6) be appointed to the board of the precinct in which the minor’s parent or legal guardian resides, unless the county clerk determines there is a shortage or absence of precinct board members in certain precincts. Minors are prohibited from serving as a presiding judge or an election judge. Effective 5/19/10.

## **Chapter 99**

**HB 229**

**ESTABLISH METRO COURT IN CERTAIN COUNTIES (Nunez).** Amends §34-8A-1. Provides that a metropolitan court may be established in a Class A county with a population of more than 250,000 (increased from 200,000 population). Effective 5/19/10.

## **Chapter 100**

**\*CS/HB 269**

**UTILITY RIGHT-OF-WAY ACCESS FEES.** New material states municipal and county franchise agreements with public utilities, as defined by Subsection G of §62-2-3 NMSA 1978 (Public Utility Act), providing access to public rights-of-way that are in effect as of January 1, 2010, are valid and enforceable agreements, including those that provide for a payment of fees by the public utility expressed as a percentage of the public utility’s revenues or otherwise and including expired agreements that have continued to be honored by both the public utility and the local government according to their terms, regardless of the expiration date of the agreements, if both the public utility and the local government continue to abide by the terms of the expired agreement. **EMERGENCY CLAUSE.** Effective 3/9/10.

## **Chapter 105 (pv)**

**CS/SB 182**

**CAPITAL OUTLAY REVERSIONS FOR SOLVENCY.** The 200 + page bill voids appropriations totaling more than \$200 million in General Fund and Severance Tax Bond capital outlay projects. To see a summary of projects by county, go to: <http://www.nmlegis.gov/lcs/fileExists/capital/SB182%20Projects%20by%20County.pdf>.

Effective 5/19/10.

**Chapter 106****SB 40**

**CONCEALED HANDGUNS IN CERTAIN RESTAURANTS (Munoz).** Amends §30-7-3 to allow persons to carry a concealed handgun in a restaurant licensed to sell only beer and wine that derives no less than 60% of its annual gross receipts from the sale of food for consumption on the premises, unless the restaurant has a sign posted prohibiting the carrying of firearms, or the person is verbally instructed by the owner or manager that the carrying of a firearm is not permitted in the restaurant. Effective 7/1/10.

**RESOLUTIONS AND MEMORIALS OF INTEREST**

**HJM 9 BORDER SECURITY LIAISON (Cote).** Requests the Department of Public Safety, Department of Transportation, Homeland Security and Emergency Management Department and Border Authority to designate a border security liaison to work with the federal government and counties sharing a border with Mexico.

**HJM 25 VETERANS' WELLNESS AND HEALING CENTER CREATION (T. Garcia).** Commends the Veterans' Service Department, the Veterans Administration Medical Center and the Village of Angel Fire on their partnership to create a national Veterans' Wellness and Healing Center.

**HJM 30 STUDY STATE RAILROAD MUSEUM IN TUCUMCARI (Roch).** Requests the Cultural Affairs Department to study the feasibility of designating the Tucumcari Railroad Depot as the state railroad museum.

**HJM 40 STATE PLANNING AND COMMUNITY DESIGN DEPARTMENT (Gutierrez).** Requests that as the State of New Mexico considers the reorganization of state government, a State Planning and Community Design Department be created with the responsibilities of developing a long-range comprehensive plan for public facilities and public works and for providing community planning assistance; cites that such a department would provide the state with a comprehensive plan that coordinates plans of all communities, agencies and departments in the state as well as provide needed planning assistance to municipalities and counties and provide coordination of capital outlay.

**HJM 44 FEDERAL NARROWBAND MANDATE METHODOLOGY (Arnold-Jones).** Requests the Department of Information Technology and the Homeland Security and Emergency Management Department to collaborate with appropriate local government entities to organize a strategy to respond to the Federal Communications Commission mandate to implement narrowbanding in the state, with the Department of Information Technology taking the lead; cites that the state and local government public safety entities affected by the mandate do not have the dollars necessary to implement narrowbanding by the date dictated; a progress report is due to the appropriate legislative interim committee December 1, 2010.

**HM 4 USE POLLINATOR-FRIENDLY PLANTS IN LANDSCAPING (Stewart).** Requests state and county agencies, municipalities, public schools and colleges and universities to use pollinator-friendly plants, including native eco-region specific plant mixtures in landscaping projects to create pollinator habitats; also requests these agencies to consider providing educational signs explaining what is being done on the sites to support pollinators and to collaborate with scientists and organizations such as the North American Pollinator Protection

Campaign to study and plan pollinator conservation projects for New Mexico; requests the Governor to designate a Pollinator Appreciation Week.

**HM 6** **NMSU COURSE ON ELECTED OFFICIALS (Cote).** Requests New Mexico State University to develop a model course on ethics for public officials and make recommendations on how the course can be made available to public officials; also requests that this course be made available to the state's public officials and become part of their orientation training.

**HM 9** **CONTINUE REVIEW OF STATE TRANSPORTATION NEEDS (Lundstrom).** Requests the Secretary of Transportation to appoint a technical committee whose members shall include representatives of: the Department of Transportation; Taxation and Revenue Department; New Mexico Division of the Federal Highway Administration; Associated Contractors of New Mexico; American Council of Engineering Companies of New Mexico; New Mexico Passenger Transportation Association; regional planning organizations; metropolitan planning organizations; New Mexico Municipal League; New Mexico Association of Counties; New Mexico Trucking Association; other transportation and aviation associations; chambers of commerce and other interested business and community leaders. The Committee is requested to develop an education campaign to inform the residents of New Mexico on the current state of the transportation system and the importance of preserving, maintaining and enhancing the transportation infrastructure for the future of New Mexico. In addition, the Committee is tasked with recommending alternative funding strategies to be available for use by decision-makers to aid in addressing sustainable transportation systems for New Mexico. Results of this effort are to be submitted to the Governor and appropriate interim legislative committee no later than November 15, 2010.

**HM 19** **“NEW MEXICO MAINSTREET DAY” (Taylor).** Requests the Governor to declare August 14, 2010 “New Mexico MainStreet Day” and that the main street communities of New Mexico be congratulated for their excellent, results-oriented community economic development work through the MainStreet four-point approach. Urges the Economic Development Department to continue appropriate support to each existing MainStreet community and set up additional funding streams for new local MainStreet communities and arts and cultural districts.

**HM 21** **SANTA FE DRINKING WATER SAFETY (Egolf).** Urges the U.S. National Nuclear Security Administration of the U.S. Department of Energy to actively work with the Buckman Direct Diversion Board and Los Alamos National Lab to ensure the safety of Santa Fe’s drinking water; a report to the appropriate interim legislative committee shall be provided by July 1, 2010.

**HM 29** **POLICY FOR DETENTION OF 18-21 YEAR-OLDS (Miera).** Requests the Children, Youth and Families Department to convene a group to create policy for the detention of youth 18 to 21 years of age; the group includes: jail and juvenile detention center administrators; representatives from the New Mexico Association of Counties; the Administrative Office of the Courts; the Public Defender Department; the New Mexico District Attorney’s Association; the Statewide Entity for Behavioral Health; the New Mexico Association of Chiefs of Police; the Corrections Department; and, youth advocates. Tasks the working group to join with other similar groups to share resources, research and recommendations and to otherwise coordinate efforts. Recommendations on changes needed to state law in order to protect the rights and safety of all parties are due to the Secretary of Children, Youth and Families and the Courts and Corrections legislative interim committee before November 30, 2010.

**HM 32** **BARRIERS TO HOUSING FOR CONVICTED FELONS (Chasey).** Requests the New Mexico congressional delegation to support and promote measures to eliminate barriers to public

housing for convicted felons and certain misdemeanants; cites that released felons and misdemeanants who are unable to find a place to live are at higher risk of homelessness, relapse and recidivism.

**HM 60 ENACT COMPREHENSIVE IMMIGRATION REFORM (MP Garcia).** Requests Congress to enact comprehensive immigration reform legislation to include elements to ensure: efficient border security; reunification of immigrant families; a path to citizenship for undocumented workers currently in the U.S.; a legal means of immigration for foreign nationals who want to work in the U.S. temporarily, as well as for those who desire to become legal permanent residents or gain citizenship; resources to help cities alleviate the economic impact of delivering services to new residents, and resources to help cities integrate new residents into the community.

**HM 61 STATE RAILROAD MUSEUM IN BELEN (Barela).** Requests the Cultural Affairs Department to study the feasibility of designating the Belen Harvey House as a state railroad museum.

**HM 65 AGGRESSIVE GROSS RECEIPTS COLLECTION (Trujillo).** Requests the Taxation and Revenue Department to implement a public information campaign to educate the public and businesses about the gross receipts tax and urges the Department to aggressively enforce and collect the tax. States that better enforcement could substantially increase state revenue without imposing a new tax.

**HM 71 GOVERNMENT EFFECTS ON AGRICULTURE (Rodella).** Requests that agriculture and other natural resource procurement occupations be respected as essential to maintaining the unique and traditional western heritage, customs and cultures; encourages federal, state and local agencies to determine and document the effects of their activities, laws, regulations and policies in cooperation and consultation with county governments, affected communities and individuals to consider the impact of their actions on the rural communities, economies, traditions, customs and cultures.

**SJM 34 E911 COMMITTEE TESTIMONY TO LEGISLATURE (Martinez).** Requests the Local Level E911 Advisory Committee and the State E911 Coordinating Committee to ensure that, in addition to the agencies and other entities with which the Committees are required to work by executive order, the Committees ensure broad consensus by also working with the Department of Finance and Administration, the Taxation and Revenue Department, the Homeland Security and Emergency Management Department, the Department of Information Technology, the New Mexico State Police, the Department of Public Safety, the Public Regulation Commission and the Department of Health; requests the two Committees to review the Enhanced 911 Act, the Emergency Medical Services Act, the Homeland Security and Emergency Management Department Act, the Department of Information Technology Act, the Public Safety Telecommunications Training Act and other relevant statutes or rules with a focus on identifying conflicts, overlaps or uncoordinated policies as well as funding considerations. Requests the two Committees present their findings to the Science, Technology and Telecommunications interim committee, the Legislative Finance Committee and the Governor by August 31, 2010.

**SJM 49 MISSING PERSONS REPORTING AND COMMUNICATION (Lopez).** Requests the Department of Public Safety, in memory of Sandra Sanchez and all other missing persons and victims of domestic violence, to assemble a task force to study and identify opportunities to

increase reporting, communication and coordination by and among law enforcement agencies and to identify barriers to timely and effective investigations of reports of missing persons and incidents of domestic violence; the task force shall include the Director of the New Mexico Law Enforcement Academy; representatives of the Department of Public Safety, the New Mexico Association of Counties, the New Mexico Municipal League, local law enforcement agencies, the New Mexico Sheriffs' and Police Association, the New Mexico Coalition Against Domestic Violence, the National Latino Alliance for the Elimination of Domestic Violence and the New Mexico Coalition for Sexual Assault Programs; and other interested parties. Also requests the task force to address the extent to which local law enforcement agencies are complying with §29-15-7 NMSA 1978 of the Missing Persons Information Act and identify and recommend appropriate sanctions for those agencies that do not comply; asks the task force's recommendations be reported to the appropriate interim committee no later than November, 2010.

**SM 9 USE POLLINATOR-FRIENDLY PLANTS IN LANDSCAPING (Feldman).** Same as HM 4.

**SM 23 MAINSTREET DAY (Jennings).** Requests the Governor to declare August 14, 2010 as "New Mexico MainStreet Day" in recognition of the program's 25 years of providing economic revitalization projects in traditional town centers, courthouse squares and village plazas statewide.

**SM 34 YOUTH ADVISORY BOARDS (Ortiz y Pino).** Encourages the creation of Youth Councils at the incorporated municipality, pueblo and reservation levels and Youth Commissions at the county level; requests school districts, universities and community colleges to work with these councils and commissions to realize the success of future service learning and community and civic engagement programs.

**SM 48 STUDY ANTABUSE OPTION ON IGNITION INTERLOCKS (Payne).** Requests the Administrative Office of the Courts, the Motor Vehicle Division, the Department of Transportation, the Corrections Department and the Department of Public Safety to form a task force to study the feasibility and estimate the costs or savings of allowing disulfiram (antabuse) as a voluntary alternative to the installation of an ignition interlock device; the task force is to consider various methods of implementing the disulfiram option effectively, including having the driver take the drug in front of a probation officer before being allowed to drive.

**SM 55 CHILD ABUSE & DOMESTIC VIOLENCE TASK FORCE (Garcia).** Urges the Legislative Council to dedicate itself to focusing on means of solving the domestic violence and child abuse crisis in New Mexico and appoint a task force on stopping violence and child abuse; the task force is to be comprised of staff from the Children, Youth and Families Department, the Department of Health, law enforcement, hospital or emergency room staff with experience in trauma treatment, a psychologist and a social worker as well as the Governor's staff; requests the task force to report to the Legislative Council by October, 2010.

## **2010 Second Special Session**

### **GROSS RECEIPTS AND COMPENSATING TAX CHANGES**

#### **Chapter 7**

#### **Senate Finance Committee Substitute for Senate Bills 10, 12 & 13 (2<sup>nd</sup> SS) (partial veto)**

This law contains two major components: Federal deductions as State Taxable Income and Gross Receipts and Compensating Tax changes.

#### **Federal Deductions as State Taxable Income**

For personal income tax purposes, this law amends the definition of “net income” to repeal the itemized deduction for state and local income and sales taxes that are deductible under federal law for income tax purposes.

#### **Gross Receipts and Compensating Tax Changes**

The law increases the State Gross Receipts and Compensating Tax rate by one-eighth (.125) percent, from 5 percent to 5 and 1/8<sup>th</sup> percent.

The law also closes a loophole in the compensating tax. Previously certain sales to businesses from out-of-state business escaped taxation. Those sales are now subject to compensating tax.

Smaller municipalities and counties currently receive 10 percent distributions from the state’s compensating tax. The increase of 1/8<sup>th</sup> percent in compensating tax and the closing of the compensating loophole increase the amount of money available under the compensating tax, resulting in an increase to small municipalities and counties.

### **CIGARETTE TAX INCREASE**

#### **Chapter 5**

#### **House Taxation and Revenue Committee Substitute for House Bill 3 (2<sup>nd</sup> SS) (partial veto)**

The state tax on cigarettes increases by 75 cents, from 91 cents to \$1.61 per pack and will raise an estimated \$33 million for the State General Fund. The law eliminates the distributions previously made from cigarette tax revenues to municipalities and counties for recreation and General Fund purposes.

### **GENERAL OBLIGATION BONDS FOR LIBRARIES**

#### **Chapter 3**

#### **Senate Finance Committee Substitute for Senate Bill 1, 2010 Capital Projects GO Bond Act (2nd SS)**

This law contains a \$2 million General Obligation Bond provision for public libraries statewide that must be approved by voters in the 2010 November General Election.

**Vetoed Legislation**  
**49<sup>th</sup> Legislature, Second Session 2010**

|               |   |                 |
|---------------|---|-----------------|
| HB 21         | SCHOOL PRIORITY FOR CERTAIN STUDENTS (Giannini)           | Pocket Veto     |
| HB 116        | GAME & FISH LICENSES FOR MILITARY ON LEAVE (Garcia, T.)   | Pocket Veto     |
| HB 197        | SEVERANCE FUND INVESTMENT IN RENEWABLE ENERGY (Stapleton) | Pocket Veto     |
| HB 247        | LFC OVERSIGHT OF CERTAIN FEDERAL FUNDS (Gardner)          | Pocket Veto     |
| <br>*CS/SB 84 | <br>NEW SCHOOL SUSTAINABILITY FEATURES (McSorley)         | <br>Pocket Veto |
| SB 78         | ALTERNATIVE SCHOOL CURRICULAR PLANS (Nava)                | Pocket Veto     |
| SB 96         | WHISTLEBLOWER PROTECTION ACT (Beffort)                    | Pocket Veto     |
| SB 156        | HUMAN SERVICES DEPT. CONTRACTOR COMPENSATION (Feldman)    | Pocket Veto     |
| SB 165        | DELAY SCHOOL ATHLETICS EQUITY ACT (Nava)                  | Vetoed          |