



New Mexico Municipal League

LEGISLATIVE BULLETIN

VOL. 2022-5

February 18, 2022

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The Second Session of the 55th Legislature ended at noon on Thursday. The session took place against the backdrop of historic levels of state revenues, and legislators passed the largest budget in state history – nearly \$8.5 billion in recurring general fund spending. The last week of the session saw the development of two “omnibus” bills – one related to criminal justice and public safety, and another related to taxes. Both bills saw a flurry of changes in the final hours of the session. The crime bill includes several provisions that we advocated for, including increased funding for local law enforcement agencies. Funding will help our local police departments in filling vacancies and retaining officers, as well as providing officers with high-quality training – important steps towards law enforcement modernization.

The next step is bill signing. By March 9, the Governor must sign, veto, or fail to sign (pocket veto) bills that passed during the Legislative session. The Governor may also partially veto bills that include appropriations. So, we won’t know the final form of some bills until after March 9.

Tax cuts for many. The Legislature passed a major tax package ([House Bill 163](#)) that provides approximately \$550 million of tax relief to New Mexico businesses and residents, including income tax deductions for some Social Security and military retirement income, a child tax credit, tax rebates, and other tax credits and deductions. The bill enacts a quarter-percent reduction in the state gross receipts and compensating tax rates, phased in over two years, reducing the rate to 5% on July 1, 2022 and 4.875% on July 1, 2023. Reducing the state GRT and compensating tax rates won’t directly impact cities, but rate cuts will reduce funding to the small cities assistance fund, which receives compensating tax revenues. In addition, GRT deductions for business-to-business services sold to manufacturers, certain types of intermediary business services, and feminine hygiene products are estimated to reduce municipal and county GRT revenues by approximately \$6.8 million annually.

2022 Legislative Session by the Numbers

Introduced:

- 503 bills
- 138 memorials, joint memorials, resolutions, and joint resolutions

Passed and sent to Governor for action:

- 64 bills
- 53 memorials, joint memorials, resolutions, and joint resolutions

Another provision of the bill that affects certain municipalities is a change to food and medical hold harmless payments. The bill exempts municipalities that did not adopt a hold harmless GRT increment by June 30, 2019 from the 100% phase-out schedule in current law. These municipalities would continue to receive hold harmless payments of 80%, 50% or 30% of the deduction amounts, based on poverty levels. The bill’s [fiscal impact report](#) identifies 10 cities that may be eligible for exemption from the phase-out (see page 5), and we will conduct our own analysis to determine which cities qualify.

One of our key concerns was keeping a damaging provision out of the bill that would have imposed a five-year moratorium on local GRT enactments. We viewed this as a major infringement on local governance that would limit the ability of elected officials to plan for and respond to the needs of their constituents. We were relieved that legislators removed the moratorium provision from the tax bills – in large part because of the many calls and emails they received from League members.

We will share a more detailed analysis of the bill and its impacts on municipalities after the Governor’s bill signing.

More money for police departments. During the last week of the session, a number of crime and public safety bills were consolidated into a single omnibus bill ([House Bill 68](#)). HB68 contains, among other things, provisions for increased funding for law enforcement agencies, changes to training and certification requirements and oversight, increased penalties for some crimes, and creation of programs to improve police recruitment and retention (see sidebar for funding for municipal police departments). The bill includes two of our priority legislative proposals for this year – increasing distributions from the Law Enforcement Protection Fund to a rate of \$95,000 per department and \$1,500 per officer and increasing the death benefit for families of fallen officers from \$250,000 to \$1 million. We are especially proud that the increased death benefit will be the highest in the nation.

Funding for Municipal Police Departments in HB68 and HB2

Purpose	Est. Annual Funding for Municipal Police Depts	Funding Period
Increased LEPF distributions	\$15.5 million	Indefinite (starting in FY24)
Death benefits	\$1 million (per fallen officer)	Indefinite (starting in FY24)
Recruitment and retention stipends ¹	\$10 million	5 years
Retention payments for officers	\$1.8 million	Indefinite
Training support ²	\$1.3 million	3 years

¹ Program created in HB68; funding in HB2

² Funding in HB2

We are also glad that HB68 addresses police recruitment and retention. The bill creates the Law Enforcement Retention Fund to provide retention bonuses to officers at five-year intervals. Starting in FY24, the retention fund will receive transfers of excess balances from the LEPF, which we think is a good use of this funding stream. In addition, the bill creates a program to provide recruitment and retention stipends for local law enforcement agencies, prioritizing the development of investigative capacity. House Bill 2 provides \$10 million annually for five years for this purpose, in addition to \$1.3 million annually for three years for training. We are hopeful that the funding in HB68 and HB2 for departments and officers will move the needle on filling vacancies.

No safety net for cities. During the session, we worked on developing solutions to address the revenue losses that a few cities suffered as a result of destination-basing sourcing. We helped to develop [Senate Bill 137](#), which would have provided two years of support for cities that lost revenue due to impacts of destination-based sourcing. The bill also required more data gathering to help elected officials more clearly understand the effects of destination-based sourcing – and understand the effects of other parts of the tax code. We are disappointed that SB137 did not make it through the House before the session adjourned. We will continue to work to ensure that legislators understand the need to support cities negatively affected by tax code changes – and to push for more transparency in tax reporting.

Substantive Legislation that Passed

- **Historic capital outlay funding.** [Senate Bill 212](#) authorizes approximately \$828 million for capital projects – a 60% increase from the previous year’s capital outlay bill – including \$681 million from severance tax bond capacity, \$30 million from general fund, and \$117 million from other state funds. The bill includes \$189 million in funding for city and county projects through the Local Government Division of the Department of Finance and Administration. *See projects under Local Government Division [here](#), starting at the end of page 40. To see all funded projects in your area (including projects funded through state agencies), see list of projects by county [here](#).*

[Senate Bill 213](#) reauthorized almost 150 capital projects, typically to extend the time available for expenditure of project funds. *See a list of project reauthorizations [here](#), with city and county projects under Local Government Division.*

In addition, [House Bill 153](#) authorized a total of \$259 million in general obligation bonds for senior citizen facilities, libraries, and higher education projects statewide. *See project list [here](#).*

- **Special appropriations for local governments.** [Senate Bill 48](#) (the so-called “junior bill”) includes \$50 million in special General Fund appropriations for a range of agencies and local governments. *See special nonrecurring appropriations for local projects – funded through the Local Government Division of DFA – starting on page 2 of the bill’s fiscal impact [report](#).*
- **Limited changes to cannabis laws.** [Senate Bill 100](#) makes some changes to the Cannabis Regulation Act, Cannabis Tax Act, and other relevant laws. Changes include clarifying the process for criminal background checks, establishing minimum training requirements and sales limitation, increasing the number of plants allowed for cannabis microbusinesses, and allowing liquor license holders to also obtain cannabis licenses. Of potentially some impact to cities is a tax change that aligns cannabis excise tax with GRT by taxing at the buyer’s location, rather than at the retailer’s location (i.e. destination-based sourcing rules). Because most cannabis businesses are likely to be within city limits, some taxation could now shift to county locations. However, this would only apply to delivery of cannabis to buyers outside city limits, which is unlikely to constitute a substantial portion of sales, so any fiscal impact to cities is likely negligible. However, we will continue to track this issue, and other cannabis-related issues and concerns raised by our members, with potential for more substantive changes to cannabis laws during the 2023 60-day legislative session.
- **Grant support for local governments.** [House Bill 62](#) creates a grant opportunity council within the Local Government Division of DFA, in part to help support local governments in identifying and applying for federal and other grants. We’re glad to see more support for local governments, especially given the significant amounts of grant funding that will be available as part of the Infrastructure Investment and Jobs Act, although we were disappointed to see the removal of a \$1 million appropriation in the original bill for a matching grant fund.
- **Public funds for essential services.** [House Joint Resolution 1](#) will amend the anti-donation clause of the New Mexico Constitution, if approved by voters, to allow for the use of state funds or resources to provide essential services, such as internet, energy, water, or wastewater services. A majority of both houses of the Legislature must approve any legislation to use funds in this way. The proposed constitutional amendment is somewhat vague, but could allow for state funds to be used to support privately-owned infrastructure projects. While we see potential benefits for communities – for example, increased funding for infrastructure projects – we also have concerns about the ambiguity of the language and potential for abuse.
- **Increased procurement code preferences.** [Senate Bill 39](#) increases procurement preferences for resident businesses from 5% to 8% and expands the criteria to qualify for a veteran-owned preference. These changes could increase costs of contracts that are subject to the Procurement Code.

Substantive Legislation that Did Not Pass

- **No major voting legislation passed.** Legislators created a last-minute omnibus election bill ([Senate Bill 144](#)) that incorporated provisions from other election-related bills (primarily [Senate Bill 6](#)). SB144 proposed many changes to the Election Code that would have made changes to voting processes and practices, including automatic voter registration at the Motor Vehicle Division, creation of a permanent absentee voter list, allowing felons to vote, and requiring training for election observers and others. While SB144 passed the Senate and House, the Senate failed to concur with changes made by the House, so the bill did not pass.
- **No Green Amendment.** The League had concerns about [House Joint Resolution 2](#) and [Senate Joint Resolution 2](#), which proposed adding a new provision to the New Mexico Constitution – a “Green Amendment” – guaranteeing certain rights related to a clean and healthy environment, if approved by voters. While the League is supportive of efforts to protect environmental and other rights of citizens, the proposed constitutional amendment, as worded, could have exposed municipal governments to significant liability risks, especially given that amendment violations could fall under the scope of the New Mexico Civil Rights Act. Neither resolution made it far during the legislative session.

If you have questions about any bills, please let us know. We will share another update on legislation after bill signing.

Thank you for all your help and support during the legislative session!

All Relevant Legislation that Passed

SM 1 PAID FAMILY AND MEDICAL LEAVE TASK FORCE (Mimi Stewart) **Action: Signed**

Senate Memorial 1 (SM 1) calls for a task force to be convened by the Workforce Solutions Department to recommend legislation for paid family and medical leave, including the establishment of a paid family and medical leave trust fund.

SM 6 STUDY UNIFIED JAIL & PRISON SYSTEM (Steven P. Neville) **Action: Signed**

Senate Memorial 6 (SM 6) calls for a task force to be convened by the New Mexico Association of Counties to study the feasibility of transitioning individual county detention centers to a unified jail and prison system.

HB 2 GENERAL APPROPRIATION ACT OF 2022 (Patricia A Lundstrom) **Action: Passed the Legislature**

As amended by the Senate, HAFC Committee Substitute for HB2 and HB3 appropriates \$8,466,579,900 in recurring general fund (GF) appropriations for legislative, judicial, general government, higher education and public education expenditures in FY23, and allows for about \$400 million in tax reductions. This represents a 13.9% increase from the FY22 budget and would leave a projected \$2.57 billion (30%) in the GF reserves.

HB 7 OPPORTUNITY ENTERPRISE ACT (Meridith Dixon) **Action: Passed the Legislature**

House Bill 7 (HB 7) adds new material that creates the Opportunity Enterprise Act in Public Finance; authorizes the New Mexico Finance Authority to provide for and establish terms for financing, loans and leases; creates the Opportunity Enterprise Revolving Fund; transfers excess revenue to the General Fund; creates and provides powers and duties for the Opportunity Enterprise Review Board; and requires reports.

HB 39 GRT DEDUCTION FOR NONATHLETIC SPECIAL EVENTS (Doreen Y Gallegos) **Action: Passed the Legislature**

House Bill 39 (HB 39) extends the deduction from gross receipts and governmental gross receipts for nonathletic special events at post-secondary educational institutions.

HB 42 PUBLIC PROJECT REVOLVING FUND PROJECTS (Susan K Herrera) **Action: Passed the Legislature**

House Bill 42 (HB 42) authorizes loans for various public projects from the Public Project Revolving Fund. This bill has an emergency clause, to take effect immediately.

HB 52 HARM REDUCTION ACT AMENDMENTS (Tara L. Lujan) **Action: Passed the Legislature**

Relating to health by amending the Harm Reduction Act to expand supplies or devices provided to harm reduction program participants, providing that possession of certain supplies or devices is not a violation of the Controlled Substances Act, adjusting the Department of Health and Advisory Committee Duties pertaining to the Harm Reduction Program, adjusting advisory committee membership, repealing Sections 24-2C-2 and 24-2C-6 NMSA1978 (Being laws 1997, Chapter 256, Sections 2 and 6).

HB 62 GRANT OPPORTUNITIES COUNCIL (Meridith Dixon) **Action: Passed the Legislature**

House Bill 62 (HB 62) creates the Grant Opportunities Council which advises the Department of Finance and Administration on grant matters and creates the Grants Matching Fund which allows grants for projects that provide services to rural and smaller communities.

HB 67 TECH READINESS GROSS RECEIPTS TAX CREDIT (Christine Chandler) **Action: Passed the Legislature**

House Bill 67 (HB 67) extends the Technology Readiness Gross Receipts Tax Credit and repeals the tax credit fund.

HB 68 CRIMINAL CODE CHANGES (Meridith Dixon) **Action: Passed the Legislature**

House Bill 68 (HB 68) creates the crime of criminal threat, increases the penalty for unlawful possession of a handgun by a person, prohibits the unlawful carrying of a deadly weapon in a school zone (instead of just on school premises), clarifies the penalty for receipt, transportation or possession of a firearm or destructive device by a serious violent felon, adds penalties for aggravated fleeing a law enforcement officer, provides sentence enhancements when a firearm is used in a drug deal or serious violent offense, and clarifies that a firearm used during the commission of a drug deal or serious violent offense may be seized.

HB 73 EDUCATIONAL RETIREES RETURNING TO WORK (Joy Garratt) **Action: Passed the Legislature**

House Bill 73 (HB 73) amends Public Schools to allow certain retirees to return to work without a suspension of retirement benefits.

HB 132 INTEREST RATES FOR CERTAIN LOANS (Susan K Herrera) **Action: Passed the Legislature**

SHPACa/Hflaaa/HB 132 relates to financial institutions. SHPACa/Hflaaa/HB 132 changes the permitted percentage rates for loans pursuant to the New Mexico Bank Installment Loan Act of 1959 and the New Mexico Small Loan Act of 1955. SHPACa/Hflaaa/HB 132

requires a license for certain lenders. SHPACa/Hflaaa/HB 132 changes certain reporting requirements. SHPACa/Hflaaa/HB 132 requires notice.

HB 144 COMMERCIAL DRIVER'S LICENSE REQUIREMENTS (Angelica Rubio) **Action: Passed the Legislature**

HB 144 relates to commercial driver's licenses and aligning New Mexico commercial driver's license requirements with Federal Law while modifying and repealing and enacting Sections of the HMSA 1978.

HB 153 GENERAL OBLIGATION BOND PROJECTS (Christine Chandler) **Action: Passed the Legislature**

House Bill 153 (HB 153) issues Capital Projects General Obligation Bonds (GO Bonds) for senior citizen facilities, construction, libraries, higher education institutions, state schools, and tribal schools. HB 153 provides for a property tax levy to repay the bonds. HB 153 requires approval by voters at the 2022 General Election and declares an emergency.

HB 163 TAX CHANGES (Christine Chandler) **Action: Passed the Legislature**

House Bill 163 (HB 163) makes the following tax changes: reduces the rate of Gross Receipt (GRT) and Compensative Tax (CT) rates one-quarter of a percent; provides for an increase in GRT if GRT revenue decreases; creates the one-time only Nurse Income Tax Credit; creates the Child Income Tax Credit; exempts Social Security Income; extends the New Solar Market Development Income Tax Credit; shortens the repeal date of the Sustainable Building Tax Credit; creates a GRT deduction for sales of services to manufacturers and feminine hygiene products; and defines disclosed agency for purposes of GRT. HB 163 declares an emergency.

HB 171 RURAL AIR SVC. ENHANCEMENT GRANT CHANGES (Dayan Hochman-Vigil) **Action: Passed the Legislature**

HB 171 relates to aviation by modifying the Rural Air Service Enhancement Act to broaden eligibility for rural air service enhancement grants. It increases the amount of grants and allows the Director of the Aviation Division of the Department of Transportation to extend the time frame of existing grants. The bill temporarily reserves a portion of the Rural Air Service Enhancement Fund for eligible applicants with new or expanded air routes to be used by aircraft with a capacity of not more than nine persons. HB 174 makes an appropriation.

HJR 1 PUBLIC ASSISTANCE FOR HOUSEHOLD SVCS., CA (Anthony Allison) **Action: Passed the Legislature**

House Joint Resolution 1 (HJR 1) proposes to amend Article 9, Section 14 of the NM Constitution to allow public assistance to provide funding for essential household services, upon the enactment of general implementing legislation by a majority vote of each house.

HM 11 STUDY UNIFIED JAIL & PRISON SYSTEM (Micaela L Cadena-Lara) **Action: Passed the Legislature**

House Memorial 11 (HM 11) calls for a task force to be convened by the New Mexico Association of Counties to study the feasibility of transitioning individual county detention centers to a unified jail and prison system.

HM 35 LAW ENFORCEMENT RECOMMENDATION TASK FORCE (Pamelya Herndon) **Action: Passed the Legislature**

House Memorial 35 (HM 35) asks that a task force be established to recommend how to provide incentives for the retention of law enforcement officers.

SB 4 PREVAILING WAGE AND FRINGE BENEFIT RATES (Katy Duhigg) **Action: Passed the Legislature**

Senate Bill 4 (SB 4) amends Minimum Wages on Public Works to specify the determination date and implementation date for prevailing wage and fringe benefit rates. SB 4 also provides an appeal will not stay the rate implementation unless modified by a final decision of the Labor and Industrial Commission or final judgment of a district court.

SB 17 AUTHORIZATION FOR CERTAIN WATER PROJECTS (Stuart Ingle) **Action: Passed the Legislature**

Senate Bill 17 (SB 17) authorizes the New Mexico Finance Authority to make loans or grants from the Water Project Fund for certain water projects and declares an emergency. SB 17 declares an emergency. The NM Finance Authority Oversight Committee requested the introduction of SB 17.

SB 37 PUBLIC PROJECT REVOLVING FUND APPROPRIATIONS (Nancy Rodriguez) **Action: Passed the Legislature**

Senate Bill 37 (SB 37) makes non-reverting appropriations from the Public Project Revolving Fund to the Drinking Water State Revolving Loan Fund, the Wastewater Facility Construction Loan Fund, and the Cultural Affairs Facilities Infrastructure Fund.

SB 39 PROCUREMENT PREFERENCES CHANGES (Benny Shendo) **Action: Passed the Legislature**

Hfsub1/SB 39: House floor substitute one for Senate Bill relates to procurement. Hfsub1/SB 39 increases the preference for New Mexico resident businesses and contractors. Hfsub1/SB 39 eliminates the time limitation for special preferences for New Mexico resident veteran businesses and resident veteran contractors. Hfsub1/SB 39 provides for a preference for New Mexico Native American resident and resident veteran businesses and contractors.

SB 48 GEN APPROPRIATIONS AND AUTH EXPENDITURES (George K Munoz) **Action: Passed the Legislature**

SFC Committee Substitute for SB48 ('Junior') as amended by HAFC makes \$50.4 million in member-designated General Fund appropriations to State departments, agencies, boards & commissions, the judiciary and courts, public education, higher education, and local governments. It includes \$25.2 million in one-time appropriations for expenditure in FY22 and FY23, and \$25.2 million in recurring budget appropriations for FY23.

SB 134 NM HOUSING TRUST FUND (Nancy Rodriguez) **Action: Passed the Legislature**

Senate Bill 134 (SB 134) relates to public finance. SB 134 allocates severance tax bonding capacity to the New Mexico Housing Trust Fund. SB 134 authorizes severance tax bonds. SB 134 requires certain reversions to the Severance Tax Bonding Fund. SB 134 requires the New Mexico Mortgage Finance Authority to prioritize expending or encumbering certain balances in the New Mexico Housing Trust Fund.

SB 138 MEDICAL & HEALTH CARE GROSS RECEIPTS (Gay G. Kernan) **Action: Passed the Legislature**

Senate Bill 138 (SB 138) provides that receipts from a Medicare administrative contractor qualify for a Gross Receipts Tax (GRT) deduction for certain services.

SB 212 CAPITAL OUTLAY PROJECTS (Nancy Rodriguez) **Action: Passed the Legislature**

Senate Bill 212 (SB 212) authorizes conditions and issue of Severance Tax Bonds for capital projects in the amount of \$287,251,821. SB 212 also authorizes expenditures from other state funds and balances in the amount of \$111,426,500, makes appropriations, and declares an emergency. Projects authorized total \$398,678,321.

SB 213 CAPITAL PROJECT REAUTHORIZATIONS (Nancy Rodriguez) **Action: Passed the Legislature**

Senate Bill 213 (SB 213) makes changes to prior year Severance Tax Bonds projects including reauthorizing, reappropriating, expanding or changing projects, extending project periods, and changing agencies. SB 213 declares an emergency.

Anatomy of a Bill

A bill is introduced by a sponsoring legislator on the floor of either house, numbered by the clerk and referred for consideration to one or more committees of that house. The deadline for introduction of all bills except appropriations bills or bills requested by the Governor (special messages) is noon on the 30th day of a 60-day session or noon on the 15th day of a 30-day session.

Committee recommendations usually determine the success or failure of a bill. A bill may be amended in committee or on the floor at any point in the process – sometimes changed so significantly that its own author would not recognize it – or a substitute measure with the same number and general subject matter may be put in its place.

If you are interested in a particular bill, do not be discouraged if it seems to sit for a long time in committee, particularly in a tax, finance, or appropriations committee. Bills requesting money or taxing authority often lie dormant until the last few days of a session and then move quickly.

If a bill passes successfully through its committee referrals, it returns to the floor of the chamber in which it was introduced for floor consideration. If it passes that chamber, it goes to the other chamber. However, it may also be tabled, referred again, or defeated.

In the second chamber the bill is again considered in one or several committees and it may again be amended or substituted. If it gets through its committee assignments, it returns to the floor of that chamber for consideration and may from there be referred, tabled, passed, or defeated.

If the bill passes the second chamber after being amended or substituted, the originating chamber must concur or fail to concur with the changes. If the originating chamber fails to concur, a conference committee representing both chambers is appointed to decide what to present to both chambers for acceptance.

A bill that has been passed by both the House and the Senate goes to the Governor for signature. The Governor may choose to sign or veto the bill. If the bill contains an appropriation, the Governor may veto portions if she wishes (*line-item veto*); if it does not, she may only veto the entire bill. If vetoed, 2/3 of the House and 2/3 of the Senate must vote in favor of the bill in order to override the veto. If the veto override fails, the bill dies.

Most bills do not reach the Governor's desk before the Legislature adjourns. The Governor has 20 days following the close of the session to sign, veto, or fail to sign (*pocket veto*) any bill that he or she did not act on during the session. In New Mexico, few bills make it all the way to enactment. The historic trend in New Mexico is for more and more introductions each succeeding session.

General Abbreviation Codes

HB – House Bill
HCR – House Concurrent Resolution
HJR – House Joint Resolution
HJM – House Joint Memorial
HM – House Memorial
SB – Senate Bill
SCR – Senate Concurrent Resolution
SJR – Senate Joint Resolution
SJM – Senate Joint Memorial
SM – Senate Memorial
* - Contains Emergency Clause
CA – Constitutional Amendment

House Committees

HAFB – Appropriations and Finance
HAGC – Agriculture and Water Resources
HCEDC – Commerce and Economic Development
HCPAC – Consumer and Public Affairs
HCW – Committee of the Whole
HEC – Education
HENRC – Energy, Environment and Natural Resources
HHHC – Health and Human Services
HJC – Judiciary
HLLC – Local Government, Land Grants and Cultural Affairs
HLVMC – Labor, Veterans' and Military Affairs
HRC – Rules and Order of Business
HSEIC – State Government, Elections & Indian Affairs
HTPWC – Transportation, Public Works & Capital Improvements
HTRC – Taxation and Revenue

Senate Committees

SCC – Committee's Committee
SCONC – Conservation
SCW – Committee of the Whole
SEC – Education
SFC – Finance
SHPAC – Health and Public Affairs
SIRC – Indian, Rural and Cultural Affairs
SJC – Judiciary
SRC – Rules
STBTC – Tax, Business and Transportation