

HIGHLIGHTS
OF THE
FORTY-FIFTH LEGISLATURE, SECOND SESSION
AND THE
FIRST SPECIAL SESSION
SECOND SPECIAL SESSION (CONCURRENT)
FIRST EXTRAORDINARY SESSION

Acts carrying an emergency clause become effective immediately upon signature by the governor; all other acts passed during the session and approved by the governor become effective 90 days after adjournment of the legislature, the first moment of May 15, 2002, or at a date specified in the act.

New Mexico Legislative Council Service
Room 411, State Capitol
Santa Fe, New Mexico

TABLE OF CONTENTS

INTRODUCTION	i
ALCOHOLIC BEVERAGES	1
APPROPRIATIONS AND FINANCE	1
Appropriations	2
Capital Outlay	2
State Investments and Bonding	3
New Mexico Finance Authority	4
BUSINESS AND LABOR, BANKING AND SECURITIES	4
COURTS, CORRECTIONS AND PUBLIC SAFETY	5
Courts	5
Criminal Sentencing and Corrections	6
Drug Reform	7
Public Safety	7
EDUCATION	8
Public Schools	8
Public School Capital Outlay	9
Post-Secondary Education	10
ELECTIONS	10
GAMING	11
HEALTH AND PUBLIC ASSISTANCE	13
INSURANCE	16
INTERGOVERNMENTAL AND INDIAN AFFAIRS	17
MISCELLANEOUS	18
MOTOR VEHICLES	20
PUBLIC OFFICERS AND EMPLOYEES	21

TAXATION	21
Gross Receipts and Compensating Tax	22
Income Taxes	23
Tax Administration	24
Miscellaneous	24
UTILITIES AND TELECOMMUNICATIONS	24
WATER AND ENVIRONMENT	25
FIRST SPECIAL SESSION	33
SECOND SPECIAL SESSION (CONCURRENT)	34
FIRST EXTRAORDINARY SESSION	35
APPENDIX	
Legislation Statistics	
Regular Session	39
First Special Session	42
Second Special Session (Concurrent)	45
First Extraordinary Session	48
Table 1 — Summary of General Fund Appropriations, Regular & Extraordinary Sessions	51
Table 2 — General Appropriation Act of 2002 (Senate Bill 1)	52
General Fund Appropriations Pie Chart	58
Table 3 — Special Appropriations and Other Bills Affecting General Fund Revenue	59
Table 4 — 2002 Capital Outlay Projects (HTRC/HB 88 (Chapter 110, Regular Session))	61
Table 5 — General Obligation Bond Projects	99
Table 6 — Capital Outlay Statistics	106
Capital Outlay Pie Charts	107

Reauthorizations and Reappropriations 109

Table 7 — NMFA Public Project Revolving Fund Projects 122

Concordances, All Sessions 128

- Chapter to Bill
- House Bill to Chapter
- Senate Bill to Chapter
- Vetoed Bills

INTRODUCTION

"All government – indeed, every human benefit and enjoyment, every virtue and every prudent act – is founded on compromise and barter."

Edmund Burke, March 22, 1775, in a speech entitled
"On Conciliation with the American Colonies"

The second session of the forty-fifth legislature, and the work that continued in the weeks following its adjournment, would test the veracity of Burke's words.

Compromise on a general appropriation act twice eluded the legislature and governor during the 2002 regular session, repeating what occurred in the 1998, 1999 and 2000 legislative sessions. What was different this time was the governor's response: he announced he would simply continue to operate state government without appropriations made by the legislature. The legislature's response was less novel: the speaker and president pro tempore appointed a bipartisan committee to work on a compromise.

Three months later, a compromise spending plan proposed by the bipartisan committee proved to be acceptable to a majority of the legislature, which approved it during the state's first-ever extraordinary session. The spending plan was immediately vetoed by the governor and the legislature in turn immediately overrode the veto — only the second override of one of Governor Gary E. Johnson's vetoes.

Although a general appropriation act was not enacted during the regular session, the legislature enacted a variety of other legislation during the 2002 session, ranging from first-in-the-nation authority for psychologists to prescribe certain medications to a requirement that drivers convicted of certain drunken driving offenses install ignition interlock devices in their automobiles. An even wider variety of legislation was considered, but not enacted, ranging from a proposal to repeal part of the gross receipts tax on the sale of food to a proposed constitutional amendment to allow some cities to conduct runoff elections.

Legislators also concerned themselves with the unfinished work of the first special session of the forty-fifth legislature, which was convened to deal with the task of redistricting following the 2000 census. When legislators met in January, new district boundaries for the

senate had not yet been decided nor was the issue before a state district court (unlike boundaries for the house of representatives, congress, the public regulation commission and the state board of education). The legislature took the opportunity to pass a compromise senate redistricting plan that the governor signed, averting litigation on that issue.

Also worth noting is that at the end of the special session on redistricting, the governor called a concurrent special session — the first time that has occurred in New Mexico — to consider emergency funding for the attorney general's office, the Cumbres and Toltec scenic railroad commission and the district attorney in the eleventh judicial district.

The *Highlights* is an annual publication of the legislative council service summarizing much, but not all, of the legislation approved during the session. Omission of certain bills is not an indication that those bills are not important. As subjective as the selection of bills are the categories into which they are placed. Many bills defy single-topic categorization, and the staff has tried to adequately organize and cross-reference them. Each bill that passed is listed in the *Concordance* in the *Appendix*.

ALCOHOLIC BEVERAGES

Of the four bills relating to alcoholic beverage consumption passed by the legislature and signed by the governor, two are discussed in other topical categories in the *Highlights*. Senate Bill 133 (Chapter 82), requiring ignition interlock devices to be installed in the cars of some people convicted of driving while under the influence of intoxicating liquor, is discussed under *Courts, Corrections and Public Safety*. House Bill 163 (Chapter 107), permitting the sale and serving of alcoholic beverages in the area where gaming machines are located on the premises of a nonprofit gaming operator licensee, is discussed under *Gaming*.

House Bill 385 (Chapter 108) adds the New Mexico state fair commission to the definition of "governmental entity" in Section 60-6A-10 NMSA 1978, which provides for government licenses under the Liquor Control Act. The section describes to whom and under what circumstances a governmental liquor license may be issued. The definition of "governmental facility" is also amended to include all facilities on the New Mexico state fairgrounds. The new law allows the New Mexico state fair or its lessee to sell, serve and permit the consumption of alcoholic beverages on the fairgrounds.

The provisions of the Liquor Control Act relating to Sunday and Christmas day sales of alcoholic beverages are expanded by **Senate Public Affairs Committee Substitute for Senate Bill 152 (Chapter 104)**. The law amends Section 60-7A-1 NMSA 1978 to change the provision that allowed only beer and wine to be sold on Christmas day to now allow the sales, service or consumption of alcoholic beverages by the drink on Christmas day from noon until 10:00 p.m. if the liquor licensee has a valid food establishment permit. The law still provides for the prohibition of Christmas day sales if the voters of a local option district elect to do so. The new law, by amendment of Section 60-7A-2 NMSA 1978, also allows for Sunday sales at resorts without regard to local option. The change puts resorts in the same category as racetracks in being able to surmount local option. "Resort" is defined in the section as a lodging establishment or complex, open to the public, offering at least 100 guest rooms or at least 100 recreational vehicle parking or camping spaces, where meals are regularly furnished to the public. The establishment or complex must offer at least two recreational activities from the list appearing in the text of the section or be located adjacent to or within a national park, national monument, national forest, state park or state monument.

APPROPRIATIONS AND FINANCE

The national economic recession, with its projected impact on New Mexico, coupled with sharply falling oil and gas prices, set the stage for a very difficult budget-building exercise during the regular session. According to the January 2002 *Report of the Legislative Finance Committee to the Forty-Fifth Legislature, Second Session*, recurring general fund revenues for FY 2002 were revised down by \$226 million, compared to the February 2001 estimate, and new revenue for FY 2003 was forecast to grow by less than one percent from this lowered base amount. The net result of the weak revenue forecast was that only \$8 million of "new money" was available to legislators to fund government operations for FY 2003. New money is

calculated as the difference between recurring revenues for the budget year and the operating budget for the previous fiscal year.

The bleak budget outlook was lessened, to some extent, by the large amount of nonrecurring money available for appropriation. General fund reserve balances at the end of FY 2001 were \$449 million, or 13 percent of recurring appropriations. In addition, the FY 2002 revenue estimates included \$90 million of nonrecurring revenues from settlement of a lawsuit concerning Indian gaming compacts. These nonrecurring revenues provided a reserve the legislature could draw upon to meet spending obligations in the short run. In fact, the question of how far down to draw the reserves in support of recurring spending became a major issue during the budget negotiations and was one of the reasons given for the governor's veto of House Bill 2 and Senate Bill 1, the general appropriation acts.

Appropriations

Once again, the governor vetoed two general appropriation acts passed by the legislature during the regular session. What was different this time, however, was that initially the governor said he would not call a special session to provide funding for state agencies, courts, public schools and universities in FY 2003, and he would order the financial control division of the department of finance and administration to fund government as if the General Appropriation Act of 2001 continued to be the law. Obviously, that was a controversial plan, and negotiations subsequently began between the legislature and the governor on how to resolve the impasse.

Other appropriation bills enacted during the regular session included **House Bill 7 (Chapter 106)**, which appropriated \$8 million from the general fund and \$2 million from the TANF (temporary assistance for needy families) block grant for in-plant training. **House Appropriations and Finance Committee Substitute for House Bill 451 (Chapter 109)** appropriated \$30 million to protect, enhance or conserve New Mexico's water resources. In-plant training is discussed further under *Business and Labor, Banking and Securities*. The water projects bill is discussed further under *Water and Environment*.

The *Appendix* has charts and tables on appropriation and revenue bills.

Capital Outlay

The legislature passed two capital outlay bills this session, the regular capital outlay bill, **House Taxation and Revenue Committee Substitute for House Bill 88 (Chapter 110 p.v.)**, and the general obligation bond bill, **House Taxation and Revenue Committee Substitute for House Bill 89 (Chapter 93)**. The governor signed both bills without vetoing any projects; the total for capital outlay projects in both bills is \$322,899,646. The regular capital outlay bill authorizes \$101,357,377 in severance tax bonds for 1,414 projects, most of which are for local governments and public schools, and appropriates \$72,441,684 from the general fund to the capital project fund to pay for 28 projects that, for the most part, are considered statewide projects. The governor vetoed contingency language on the appropriation to the New Mexico finance authority for water and wastewater projects; case law indicates that the money, \$15 million, cannot be appropriated to the New Mexico finance authority fund and should remain in

the capital project fund. Other funding sources include the game protection fund, the New Mexico irrigation works construction fund and other special funds.

Voters will be presented five questions for approval of general obligation bonds (amounts include the cost of issuing the bonds):

- (1) senior citizen facility improvements and acquisitions, \$10,817,678;
- (2) state public education capital improvements and acquisitions, including public schools and post-secondary educational institutions, \$93,429,707;
- (3) public library acquisitions, including public and university libraries, \$16,080,000;
- (4) state facilities improvement and equipment, \$6,592,000; and
- (5) water projects, \$13,103,000.

Senate Finance Committee Substitute for Senate Bill 358 (Chapter 99), the "reauthorization bill", extends expenditure periods and changes agencies and purposes of many capital outlay projects authorized by the legislature in the past several years. Some reauthorizations were duplicated in the regular omnibus capital outlay bill. That bill was signed after Senate Bill 358, and statutory construction provides that if a law is amended more than once in a session, the last bill signed by the governor controls. While reauthorizations are not amendments in the strict sense, the assumption is that Chapter 110 will control over Chapter 99 in the case of a conflict.

Please see the *Appendix* for charts and tables on capital outlay and lists of severance tax bond reauthorizations.

State Investments and Bonding

House Bill 67 (Chapter 57) clarifies that for the purpose of state funds, earnings include realized and unrealized gains and losses. **House Bill 68 (Chapter 39)** requires state board of finance approval for certain state treasurer investments, raises the threshold for the amount of investments an investment company or trust must manage before the state treasurer may invest in those companies or trusts and limits the amount the state treasurer may invest in them.

Senate Bill 280 (Chapter 60) amends current law to allow the severance tax permanent fund to be invested directly in New Mexico film projects.

In 1999, the legislature provided 10-year severance tax bond funding totaling \$20 million for water and wastewater systems in the north and south valleys of Bernalillo county. The law required Albuquerque and Bernalillo counties to secure matching funds equal to four and one-

half times the amount of the bonds issued in any year. **Senate Bill 316 (Chapter 66)** lowers the match requirement to one and one-half times the amount of severance tax bonds issued.

New Mexico Finance Authority

Several bills requested by the New Mexico finance authority (NMFA) became law. **House Bill 16 (Chapter 52)** amends Section 6-21-6.2 NMSA 1978, which allows for emergency funding for public projects, to extend the delayed repeal of the section to June 30, 2005. **House Bill 17 (Chapter 53)** allows money in the public project revolving fund to be used to purchase bonds issued by NMFA. To forestall the proliferation of water and sewer associations and to encourage the consolidation of associations, **House Bill 235 (Chapter 23)** allows NMFA to adjust local match requirements for water and wastewater project grants based either on the financial capacity of the residents of the area that will benefit from the grant instead of on the capacity of the qualified entity applying on behalf of the residents or on the financial capacity of a benefitting qualified entity if it agrees to consolidate with the qualified entity that receives the grant. **Senate Bill 34 (Chapter 33)** appropriates a little over \$1.5 million from the public project revolving fund to the drinking water state revolving loan fund. **Senate Bill 40 (Chapter 26)** creates the water and wastewater planning fund and allows NMFA to issue revenue bonds backed by the public project revolving fund to fund the planning fund. The annual legislative authorization for public projects is contained in **Senate Bill 51 (Chapter 67)**; see the *Appendix* for a list of those projects. Legislative authorization for local government grants from the water and wastewater project grant fund, which was contained in Senate Bill 50, did not pass; the appropriation in the capital outlay bill that would have funded the grant program should remain in the capital project fund.

See *Education, Public Schools* for summaries of the School District Bond Anticipation Notes Act and the Teacher Housing Revenue Bond Act and other school district finance bills.

BUSINESS AND LABOR, BANKING AND SECURITIES

Because of concern about the state of the economy, there were a number of bills introduced that offered incentives or support for certain economic activities. However, except for some tax bills, few "economic development" measures made it to the governor's desk. Most bills in this area were "retreads" of past attempts. A relatively new interest in supporting farmers' markets resulted in a bill in each house, but neither passed. A bill that would have allowed convention center financing in Las Cruces was vetoed. Also see *Taxation* for bills of interest to businesses.

The legislature continues to support funding for in-plant training, which many believe is the single best economic development and business support measure the state has. Both House Bill 2 and Senate Bill 1, the two general appropriation acts that were vetoed, had funding for the development training fund. **House Bill 7 (Chapter 106)** appropriates \$8 million from the general fund to the development training fund for expenditure in FY 2002 and subsequent fiscal years and \$2 million from the TANF block grant to the income support division of the human services department for transfer to the development training fund for expenditure in FY 2003 and

subsequent fiscal years. These appropriations are for expenditures "for a development training program providing classroom and in-plant training to furnish qualified manpower resources for certain new or expanding industries and businesses in the state". Balances do not revert.

Businesses that bid for governmental contracts will be interested in the changes made to the Procurement Code by **Senate Bill 173 (Chapter 62)**. The purpose of the new law is to clarify that a contract is not executed until it has been signed by all parties and the necessary approval authorities. The impetus for the change came from recent litigation, *Renaissance Office, LLC and Michael Branch v. State of New Mexico, General Services Department, Property Control Division (2001-NMCA-066)*, in which the general services department was required to pay costs and reasonable profit to a contractor that the department had requested begin performance on a contract before the contract had been signed by all required approval authorities. Even though the facts of the case differ in the particulars, the case highlighted the lack of clarity about when an award is accomplished and a contract valid. The new law changes and clarifies the point before which or after which particular remedies are available to the contractor; the law replaces the word "award" with the more precise "execution of contract", which means after the contract has been signed by all required parties and authorities. Section 13-1-181 NMSA 1978 deals with remedies prior to execution of the contract and Section 13-1-182 NMSA 1978 deals with ratification or termination after execution of contract.

COURTS, CORRECTIONS AND PUBLIC SAFETY

During the 2002 session, the legislature considered bills that addressed acts of terror, DWI, domestic violence, criminal sentencing and corrections policy. Additionally, the governor's initiative to reform drug policy in New Mexico was the subject of intense debate by legislators. His proposals to decriminalize possession of small amounts of marijuana, authorize the use of marijuana to treat certain medical conditions and reduce criminal penalties for possession of controlled substances failed to pass the legislature. However, two other drug reform proposals supported by the governor were passed by both chambers and signed into law.

Courts

Current law is unclear on how and by whom metropolitan court judges pro tempore may be appointed to hear cases, whether retired metropolitan judges may serve as judges pro tempore in that court and how much they should be compensated for their service. **House Bill 151 (Chapter 40)** grants the chief metropolitan court judge the authority to appoint retired metropolitan court judges to serve as special masters, arbitrators or metropolitan judges pro tempore, subject to the availability of money in the metropolitan court operating budget. The law also specifies that metropolitan judges pro tempore shall be paid 90 percent of the compensation paid to district court judges pro tempore.

House Judiciary Committee Substitute for House Bill 242 (Chapter 35) and **Senate Bill 294 (Chapter 34)** are identical bills that bring New Mexico into compliance with requirements set forth in the federal Violence Against Women Act. The bills provide that alleged victims of domestic abuse who are also alleged victims of sexual offenses, crimes against

household members, harassment, stalking or violation of a protection order are not required to bear certain costs. Specifically, the alleged victims will not have to pay the costs of filing a criminal charge or the costs of issuing and serving a warrant, a witness subpoena or an order of protection. The new laws express a legislative finding that the state of New Mexico discourages dual arrests of persons involved in incidents of domestic abuse, and that law enforcement officers are directed to determine whether one of the parties acted in self-defense. Consequently, domestic abuse incident training will now be included in the curriculum of law enforcement training classes.

Criminal Sentencing and Corrections

As the prison population continued to swell, the legislature worked to find ways to balance public protection against the costs of building and operating more prisons. Two new laws were aimed at finding that balance. **House Judiciary Committee Substitute for House Bill 26 (Chapter 7)** provides a sentencing court with the authority to depart from the imposition of a mandatory, enhanced sentence for certain habitual offenders. Specifically, if the offender's prior felony conviction and the instant felony conviction are both for nonviolent felony offenses, the court may decide not to impose the enhanced sentence of one additional year. The court is required to make a specific finding that the prior conviction and instant conviction are both for nonviolent felony offenses and that there are substantial and compelling reasons for departing from imposition of the enhanced sentence. The bill defines a nonviolent felony offense as an offense in which the offender did not apply force, threaten force or use a deadly weapon.

House Judiciary Committee Substitute for House Bill 263 (Chapter 8) enacts the Corrections Population Control Act. The act creates a commission with authority to take appropriate action when the inmate population exceeds the capacity of correctional facilities. The commission has authority to implement an incremental series of measures to ease the overcrowding, including early release of nonviolent offenders within 180 days of their release date. The seven-member commission, led by the secretary of corrections, is also charged with forecasting projected growth in the inmate population, measuring the impact of changes in sentencing policies on the inmate population and analyzing the need for additional correctional facilities.

On the DWI front, **Senate Judiciary Committee Substitute for Senate Bill 133 (Chapter 82)** provides for the installation of an ignition interlock device on motor vehicles driven by a DWI offender. Upon a first conviction for an aggravated DWI offense (blood alcohol level of .16 or higher) or a conviction for a subsequent DWI offense, as a condition of probation the offender shall be required to have an ignition interlock device installed and operating for a period of one year on all motor vehicles driven by the offender. Upon a first conviction for a non-aggravated DWI offense, the sentencing court has the discretion to order the installation of an ignition interlock device for a period of one year on all motor vehicles driven by the offender. If an offender drives a motor vehicle that is not equipped with an ignition interlock device, the offender may be in violation of the conditions of his probation. The law also creates an interlock device fund to cover the costs of installing and leasing ignition interlock

devices to DWI offenders who are indigent. Responsibility for determining indigency is placed on the sentencing court. The new law goes into effect January 1, 2003.

Drug Reform

The first of the governor's drug policy reform initiatives passed by the legislature was **Senate Finance Committee Substitute for Senate Bill 5 (Chapter 4)**, which enacts the Forfeiture Act. The law creates uniform procedures for the seizure and forfeiture of real and personal property associated with the commission of certain criminal offenses. Importantly, the new act requires that the criminal proceeding and the forfeiture proceeding be held together, but that they be addressed separately by the same trier of fact. Moreover, the rules of criminal procedure apply to the criminal proceeding and the rules of civil procedure apply to the forfeiture proceeding. Property is not subject to forfeiture if the owner of the property is not convicted of the criminal offense presented in the criminal proceeding. Finally, money from the sale of forfeited property shall be distributed in the following order of priority: (1) to pay expenses for the storage and sale of the property; (2) to provide restitution to crime victims of the crime related to the forfeiture; and (3) to the governing body of the seizing law enforcement agency to be used for drug abuse treatment, drug prevention and education programs or for enforcing narcotics laws.

See *Health and Public Assistance* for a discussion of **House Bill 11 (Chapter 6)** and **Senate Bill 129 (Chapter 5)**, related to restoration of TANF eligibility for certain convicted felons.

Public Safety

The following two bills were enacted in response to the September 11 terrorist attacks. **House Bill 261 (Chapter 76)** requires the department of public safety, in conjunction with the department of health, to update the state all-hazards emergency operations plan. Additionally, the agencies are directed to conduct two statewide tests of the plan by the end of October 2002 to ensure that emergency systems, procedures and contingency plans are in working order. **Senate Bill 149 (Chapter 84)** amends the Procurement Code to explicitly add acts of terrorism and fires to the list of emergency conditions that are exempted from normal procurement methods. The events of September 11 and the likelihood of another serious wildfire season in 2002 spurred awareness that immediate, emergency procurement could be necessary at any time to preserve lives and property. For related legislation, see *Health and Public Assistance*.

House Bill 297 (Chapter 46) amends procedures related to fingerprinting individuals arrested for the alleged commission of a misdemeanor or felony offense. The bill provides for the assignment of state tracking numbers to all fingerprint records. The implementation of a state tracking number will enhance the ability of law enforcement agencies, prosecutors, the criminal defense bar, the courts and other criminal justice entities to share information concerning convicted criminals and individuals arrested for the alleged commission of a crime.

The bill also sets forth a process that will permit an individual to seek the expungement of arrest information if the arrest was for a petty misdemeanor or misdemeanor offense and was not for a crime of moral turpitude.

Senate Bill 39 (Chapter 78) amends the Peace Officers' Survivors Supplemental Benefits Act, the act under which death benefits to the families of peace officers killed in the line of duty are paid. Previously, benefits accrued only to the surviving spouse or children of an officer. However, in 2001, three young officers who had not yet started their own families were killed in the line of duty. This bill makes the death benefits available to the surviving parents of an officer who does not have a spouse or child. The provisions of the bill are retroactive in their application to January 1, 2001, so that the parents of the three officers killed in 2001 may receive the benefits.

EDUCATION

The failure last year of public school reform meant the topic would surely be addressed again this session. Although last year's sponsors of the legislation proposed by the education initiatives and accountability task force decided against reintroducing that bill, the governor prepared a bill that included vouchers, additional charter schools and a mandatory reduction of the number of school districts among other changes. There were also a significant number of bills introduced at the behest of the legislative education study committee, many dealing with the same issues raised in educational reform; however, given other concerns of the session, only a few of the introduced education bills passed. None of the several constitutional amendments proposing to change the governance structure of the state department of public education passed.

Public Schools

House Bill 204 (Chapter 41) and its duplicate, **Senate Bill 126 (Chapter 81)**, provide for a limited teaching license for teachers of Native American language and culture. The license recipient must be proficient in a Native American language and culture of a New Mexico tribe or pueblo and meet criteria established by the state board of education, but a baccalaureate degree is not required. Also see the discussion of these bills in *Intergovernmental and Indian Affairs*.

Senate Bill 61 (Chapter 68) amends the Public School Finance Act to change the method of calculating the at-risk index for determining additional at-risk program units. The bill changes the current method of calculating the at-risk index to a three-year average rate of Title 1 allocation membership, a three-year average rate of English language learners (limited English proficient) membership and a three-year average rate of student mobility. The change in the calculation is intended to provide greater stability in funding and allow districts to calculate their indexes without the need to purchase specialized software. For school years beginning in 2002-2003, school districts will receive not less than 90 percent of the at-risk funding generated in the immediately preceding fiscal year.

Senate Bill 205 (Chapter 63) amends the Public School Code by changing the program unit calculation under the state equalization guarantee distribution. In 1999, the legislature

changed the calculation to prior year funding; thus, the majority of school districts are now funded based on the average membership of the 40th, 80th and 120th days of the prior year. Senate Bill 205 amends the current law so that all school districts will be funded based on prior year average membership. Senate Bill 205 also amends sections relating to property tax receipts generated by the half-mill levy, forest reserve receipts and impact aid receipts that are to be budgeted and expended for capital outlay.

Public School Capital Outlay

The School District Bond Anticipation Notes Act, **House Bill 18 (Chapter 54)**, provides a mechanism for school districts to obtain short-term financing for capital projects. As the name implies, anticipation notes contemplate, or anticipate, the issuance of school bonds. The notes may be issued for no more than one year and are retired when the school district's regular general obligation bonds are issued. The school district must have prior general obligation bond authorization or capacity before anticipation notes may be issued and the notes may be issued for no more than will be available through the bond issuance.

In many places in New Mexico, rental housing is either very expensive or nonexistent, which makes recruiting and keeping teachers and other school personnel difficult. For several years, the legislature has considered measures to make housing more available and more affordable for teachers. This year, House Bill 359 proposed amendments to the School Revenue Bond Act to include teacherages as income projects for which revenue bonds may be issued by a school district. That bill made other changes to the School Revenue Bond Act that were sweeping and far-reaching, including the possibility of pledging income from future projects for a current project. **House Floor Substitute for House Bill 359 (Chapter 22)** narrowed the reach of the original bill by enacting the Teacher Housing Revenue Bond Act. This act still allows federal funds to be pledged for teacher housing revenue bonds, but does not include the provision that would have allowed income on future projects to be pledged. Like other revenue bond acts, the Teacher Housing Revenue Bond Act makes clear that bonds are payable solely from pledgeable revenue and do not constitute indebtedness or general obligations of the school district, the state or other political subdivisions of the state. The state board of education is required to approve the issuance of teacher housing revenue bonds.

Senate Bill 286 (Chapter 65) provides that no more than three percent of the amount appropriated from the following three sources to correct deficiencies in public school facilities may be used to cover expenditures related to project management: supplemental severance tax bond proceeds, severance tax bond proceeds appropriated to the public school capital outlay fund and the general fund appropriation to the public school capital outlay fund. In addition, the bill reappropriates \$1.1 million from the general fund appropriation to the public school capital outlay fund for expenditure by the public school capital outlay council for the core administrative functions of the deficiencies correction unit in FY 2003.

Post-Secondary Education

House Bill 171 (Chapter 73) creates the Taos branch community college of the university of New Mexico. The point of the law is to comply with the statutory requirement that

no new post-secondary institutions, including branches, community colleges and off-campus instruction, may be created without permission of the legislature.

House Bill 307 (Chapter 19) allows boards of county commissioners to establish learning center districts. Prior to the new law, a learning center district could be established upon the adoption of a resolution by the local school board or a community college board or it could be established to include more than one district with two or more local school boards jointly adopting resolutions. Under the new law, the board of county commissioners must provide a showing of need for the district, and each community college board or local school board located wholly or partially within the county must approve of the establishment of the district prior to the adoption of the resolution.

Senate Bill 14 (Chapter 31) creates the faculty endowment fund to establish endowments for chairs, professorships and faculty development programs at four-year public post-secondary educational institutions. Receiving a disbursement from the fund is contingent upon the institution receiving matching funds for the endowment from nongovernmental sources in an amount that is equal to or greater than the endowment amount.

ELECTIONS

Campaign election reforms and redistricting dominated discussion of election issues this session, with the state avoiding further litigation over redistricting with the enactment of a compromise state senate redistricting plan.

House Bill 268 (Chapter 89) amends the Campaign Reporting Act to require campaign committees and political committees to register with the secretary of state upon receiving, contributing or expending in excess of \$500. The new law lowers the registration threshold from the former \$2,000 threshold. The bill also prohibits a campaign committee or political committee from using its money to pay, directly or indirectly, for a telephone campaign of 500 or more telephone calls in an election cycle without disclosing to the recipient the name of the organization that authorized or paid for the call. The telephone campaign must advocate support for or opposition to a candidate or ballot measure to fall within the prohibition. Records of telephone campaign scripts and recorded messages must be retained for at least 90 days following the election. Campaign committees and political committees shall not contract with phone bank vendors that do not disclose the information required in this section of the Campaign Reporting Act.

House Bill 422 (Chapter 51) provides procedures for the precinct board to follow in case an incorrect ballot is used in an election. Also, the bill provides for a legal remedy in case the use of an incorrect ballot affects the outcome of a contested election.

The districting and election provisions for boards of county commissioners are changed by **Senate Bill 157 (Chapter 61)**. The changes remove contradictions and inconsistencies in current law by clarifying the number of county commissioners to be elected and provide for

mandatory and discretionary districting. The thrust of the new law is to give counties with populations of 13,000 or fewer and three-member boards of county commissioners the option to elect the commissioners by countywide vote or by the voters of the district in which each commissioner resides. This provision also applies to H class counties, although Los Alamos, the only H class county in the state, is currently governed by a seven-member council.

The Senate Redistricting Act of 2002, **Senate Bill 485 (Chapter 98)**, redraws the boundaries of the senate's 42 seats, thus setting the stage for the 2004 senate elections. Congressional, state house of representatives and state board of education districts were redrawn by the state district court after the legislature and the governor were unable to agree on plans during the first special session.

GAMING

As one might expect in a year of meager revenues, there were a couple of unsuccessful attempts to " earmark" some of the gaming tax revenue for special purposes. Lottery tuition scholarships also received some attention as they had in the 2001 session, but no changes were forthcoming in spite of predictions of future revenue reductions. There were no attempts at major substantive changes in New Mexico's gaming laws; however, bills were introduced and passed addressing very specific and narrow gaming issues.

House Bill 162 (Chapter 101) removes the requirement for certifying specific officers that hold or apply for nonprofit gaming operator licenses. Under the changed law, only "key executives", rather than named officers of the organization must be certified. **House Bill 163 (Chapter 107)** removes the Gaming Control Act prohibition of selling, serving, delivering or consuming alcoholic beverages in areas where gaming machines are installed on the premises of a nonprofit gaming operator licensee.

House Bill 352 (Chapter 48) enacts a change in the provision for distributing 20 percent of a racetrack gaming operator licensee's net take to purses. The new language enables the operator to expend not more than 20 percent of the interest earned on the balance in the distribution fund to pay for the costs of administering the distribution.

Senate Bill 199 (Chapter 102) makes several mostly technical changes in gaming laws after five years of experience with the Gaming Control Act. Among the changes are provisions:

- modifying definitions relating to gambling offenses found in the Criminal Code to redefine "gambling device" to clarify what are considered illegal devices and making corresponding changes in the definition of "gaming machine" in the Gaming Control Act;
- making technical adjustments by minor changes in several other definitions in the Gaming Control Act, but making a significant substantive change in the definition of "manufacturer" in an attempt to exclude from that

term, and the attendant requirement for licensing, those firms that manufacture only certain components for slot machines that arguably should not subject them to licensing requirements;

- allowing temporary possession of gaming machines by post-secondary educational institutions and for the purposes of trade shows and testing components;

- authorizing the executive director to issue administrative citations for violation of provisions of the Gaming Control Act or gaming control board rules;

- shifting authority for background investigations to the gaming control board's law enforcement officers;

- authorizing the gaming control board to, in its discretion, waive the requirement for a manufacturer's license as long as the waiver is consistent with the purposes of the Gaming Control Act;

- authorizing the gaming control board to obtain certain information from the taxation and revenue department concerning applicants, including copies of their tax returns;

- tightening distributor licensing requirements;

- deleting a provision for board review and remand of a hearing officer's decision;

- changing time limits for and venue of administrative appeals of board actions;

- establishing time limits on seeking judicial review;

- increasing the threshold for imposing an unpaid child support lien from \$600 to \$1,200; and

- creating a new crime of unlawful possession of a gaming device.

The membership of the gaming control board is changed by the enactment of **Senate Bill 210 (Chapter 103)**. The chair of the board of the New Mexico lottery authority, an ex-officio gaming control board member, will be replaced by a public member having experience in business management and financing to be appointed by the governor.

HEALTH AND PUBLIC ASSISTANCE

As usual, health-related initiatives were very popular in the legislature. Chief among the legislature's concerns this year was the rate of medical inflation, which prompted legislators to look for ways to control rising health care costs, particularly the cost of prescription drugs and medicaid. The legislature created a prescription drug program for seniors who have no drug coverage and the medicaid program was charged with establishing a drug formulary (list of approved drugs) based on negotiated discounts or rebates. A medicaid reform committee with an advisory group was created to review that program's services, delivery, funding and policy and provide recommendations for a new legislature and a new administration. The medicaid budget shortfalls, as well as the program's growth and increasing share of the state's expenditures, were the focus of numerous budget discussions, and one of the reasons cited by the governor in his budget veto message. Partially in response to the shortage of psychiatrists, New Mexico became the first state to allow psychologists to prescribe certain psychotropic drugs. A severe shortage of nurses resulted in a bill calling for a statewide study on available nursing resources and projected needs. Several initiatives relating to public health and safety were introduced in response to the threat of terrorist and bioterrorist activities. There was considerable debate about the need to overhaul all provisions relating to public health and safety, emergency preparedness, quarantine and the need for a model emergency health powers bill. However, it was determined that the state's laws provide ample protection and appropriate response in the event of an emergency. Two bills made minor modifications to existing law for state emergency preparedness. See *Courts, Corrections and Public Safety* for a discussion of the bills that passed and were signed in this area.

The state capitol was one of the last public building holdouts to permit smoking in designated areas. With the passage and signing of **House Bill 10 (Chapter 2)**, the state capitol will be completely smoke-free. The bill amends the Clean Indoor Air Act to prohibit smoking anywhere inside the state capitol or the capitol north. Private offices and the house and senate lounges can no longer be designated as smoking-permitted areas.

Pursuant to federal welfare reform law, states may provide that a person convicted of a drug-related felony on or after August 22, 1996 is ineligible to be included in a benefit group for TANF benefits for five years following the date of release or termination of probation. Even if barred from financial assistance, the federal law allows the provision of other services if the human services department and the corrections department determine that such services would enhance the ex-felon's rehabilitation and employment success. **House Bill 11 (Chapter 6)** and **Senate Bill 129 (Chapter 5)** are duplicate measures that restore TANF eligibility to a person who completes his sentence following a conviction for a drug-related felony offense. With the enactment of these laws, New Mexico joins many other states that have elected to waive the limitation on eligibility for benefits, ensuring assistance to an offender trying to make a successful transition from prison back into society.

House Bill 41 (Chapter 55) requires health care practitioners who manufacture, distribute or dispense controlled substances to register annually with the board of pharmacy. Previously, practitioners were able to register with their respective examining and licensing

authorities, which would in turn provide the registration information to the board of pharmacy. Practitioners must now register directly with the board of pharmacy.

With the enactment of **House Bill 170 (Chapter 100)**, New Mexico becomes the first state to allow psychologists to prescribe psychotropic drugs for the treatment of mental disorders. A psychologist may apply to the board of pharmacy for a conditional prescription certificate if he holds a doctorate in psychology, has a current license to practice psychology in New Mexico, has successfully completed pharmacological training and has passed a national certification examination that tests his knowledge of pharmacology in the diagnosis, care and treatment of mental disorders. The applicant psychologist must successfully complete 450 hours of specialized training in medicine and pharmacology, an 80-hour practicum in clinical assessment and pathophysiology and an additional 400-hour supervised practicum treating no fewer than 100 patients with mental disorders under the supervision of a psychiatrist or physician who is sufficiently competent to train the applicant. Lastly, the applicant must carry malpractice insurance and meet all other requirements of the board of pharmacy.

Prior to this session, New Mexico law provided that if a person infected with a threatening communicable disease refused voluntary treatment, detention or observation, a physician or other person with knowledge was required to report him to a public health official who was required to petition the court for a detention order. **House Bill 195 (Chapter 74)** retains the requirement for detention if the person is a contagious threat to the public and does not voluntarily comply with treatment or precautions. However, the requirement for mandatory treatment is now eliminated. Instead, the detention continues and can only be terminated by a court if it finds that the infected person no longer poses a risk of infecting others, the infected person voluntarily complies with appropriate treatment and contagion precautions or there are exceptional circumstances warranting termination of the detention. Additionally, the law was amended to ensure that the state, rather than the infected person, has the burden of proof under a clear and convincing standard for imposing or maintaining an order to detain. A provision was added to provide for recording of the proceedings, but the proceedings must be closed to the general public and the records sealed. Lastly, a person reported as being infected may sue for damages only if there was negligent or intentional reporting of inaccurate information or disclosure to an unauthorized person.

House Bill 200 (Chapter 75) and **Senate Bill 91 (Chapter 80)** create a senior prescription drug program for New Mexico residents age 65 or older who have no other prescription drug benefit. A qualified program member is required to pay a \$60.00 annual enrollment fee to be used by the retiree health care authority for program administration costs. The qualified program member's cost for a prescription drug is the discounted price available to the retiree health care authority plus a dispensing fee. The legislation also creates the senior prescription drug program fund, into which collected fees, rebates and other contributions will be deposited, along with appropriations for program administration.

Senate Bill 10 (Chapter 30) changes certain clinical trial provisions. Previously, health care plans that were to become effective after July 1, 2002 would have been exempt from the

provisions relating to cancer clinical trials. That exempting provision has been struck and health care plans effective on or after July 1, 2002 will no longer be excluded from providing coverage for routine patient care costs incurred as a result of a patient's participation in a phase 2, 3 or 4 cancer clinical trial. Medicaid and the state children's health insurance program are now exempt from the requirement for an expedited appeal of a denial of coverage and resolution within 30 days since those programs have their own expedited appeal process. Additionally, language in the law is revised from "multiple project assurance contract" to "federal-wide assurance of protection for human subjects", the correct name for the contract setting out responsibilities between an institution conducting human research and the appropriate federal office.

Shortages of health care professionals continue to be a major area of concern. Vacancy rates in New Mexico are 20 percent for registered nurses and between 11 and 20 percent for other types of nurses. Because nurses play a critical role in the delivery of health care, **Senate Bill 42 (Chapter 27)** appropriates \$50,000 to the board of nursing to contract for a statewide study on the need for additional nurses and the types of education and training necessary to meet the state's health care needs.

Because of the September 11 terrorist attacks, various bills were introduced to update New Mexico statutes to ensure appropriate state government response in the event of an emergency. **Senate Bill 136 (Chapter 83)** adds a definition for "emergency" as part of the Uniform Licensing Act. The bill also provides for the temporary licensure of a person holding a license, certificate or other permit issued by another state or territory so that the person may render aid during a declared emergency or other disaster, subject to limitations or conditions prescribed by executive order.

Similar to recent legislative initiatives in other states, **Senate Bill 253 (Chapter 105)** gives the secretary of human services the statutory authority to negotiate discount prices or rebates for prescription drugs from manufacturers or labelers that include supplemental rebates for the medicaid program over and above those required by federal law. Those prescription drugs for which discounts or rebates are negotiated will be on a medicaid formulary, or list of permissible drugs. However, drugs not on the formulary may still be prescribed based on a prior authorization procedure involving medical personnel. The federal law requires that the formulary be developed by a committee consisting of physicians, pharmacists and others appointed by the governor. Federal law also requires that a response to a prior authorization request be provided within 24 hours and that at least a three-day supply of a covered outpatient prescription drug be provided in an emergency situation. The use of a formulary in the fee-for-service program is expected to save the medicaid program approximately \$1.5 million. The managed care organizations involved in the medicaid managed care program already use their respective formularies.

In an effort to reign in continually escalating medicaid costs, a medicaid reform committee is established by **Senate Bill 379 (Chapter 96)** to look at current resources and projected needs for the medicaid program's services, delivery, funding and policy. The committee is charged with a review of the current operating structure, oversight authority, fiscal

and policy decisions, concerns and recommendations expressed by others, cost and funding allocations, geographic distribution of health care resources and availability of all funding sources. In addition to the 12 legislators who make up the committee, the bill calls for an 18-member advisory group comprised of medicaid and health care experts appointed in equal numbers by the governor, the speaker of the house and the president pro tempore. The staff for the committee and the advisory group will be provided by the legislative council service. The committee is required to present its findings and recommendations by December 15, 2002, in time for the next legislative session and a new administration.

INSURANCE

Insurance legislation always receives its share of consideration in any regular session of the legislature. This year was no exception, but very few bills survived to become law. In an economy suffering from increased unemployment, there was interest in changing the Unemployment Compensation Law. Bills were introduced in both the house and senate to expand benefits, extend the time for receipt of benefits and increase the amount of benefits as well as other changes of a more technical nature. Although enactment of the proposed changes would not have increased employer taxes, the projected cost increases for administration of the expanded program were substantial and the bills died.

Duplicate measures, **House Bill 277 (Chapter 24)** and **Senate Bill 486 (Chapter 87)**, authorize the superintendent of insurance to issue a limited agent's license to applicants who are employees, agents or authorized representatives of retail vendors or lessors of certain kinds of communications equipment or services to enable them to sell insurance covering loss, theft, mechanical failure or malfunction of or damage to the communications equipment. These limited license agents are required to be under the oversight of a licensed general lines agent.

Senate Bill 256 (Chapter 64) enlarges exemptions from form-filing requirements of existing law by authorizing the superintendent of insurance to exempt from those requirements any person or class of persons or any market segment that he has exempted from any or all of the provisions of the Insurance Rate Regulation Law pursuant to Subsection C of Section 59A-17-2 NMSA 1978.

INTERGOVERNMENTAL AND INDIAN AFFAIRS

A total of 50 bills were introduced during the forty-fifth legislature, second session, that dealt with issues specifically affecting Native American individuals or tribal communities. Of those bills, eight were adopted by the legislature and some of those were duplicates introduced in both houses. Of the bills that passed the legislature, three were vetoed. House Education Committee Substitute for House Bill 28 and Senate Bill 198, which would have enacted the Indian Education Act; and House Appropriations and Finance Committee Substitute for House Bill 487, which would have appropriated cash balances of the New Mexico office of Indian affairs, were all vetoed.

House Taxation and Revenue Committee Substitute for House Bill 165 (Chapter 15) creates the "Jicarilla Apache tribal capital improvements tax credit" that will be computed against the oil and gas emergency school tax payable to the state from oil and gas products severed from land of the Jicarilla Apache Nation if the tribe imposes its own capital improvements tax. The tribal tax is to be dedicated for Jicarilla Apache Nation capital improvements, but not to finance the construction of buildings to be used for commercial activity. The amount of the tax credit is the lesser of the Jicarilla Apache tribal capital improvements tax imposed by the Jicarilla Apache Nation or seven-tenths of one percent of the taxable value of the products severed from qualifying wells. This credit is in addition to any other tax credits that may be applied to the severance of the same oil and gas claimed by the taxpayer. It is estimated that the tribe will annually receive about \$500,000 in credits after the first year in which the credit applies. The Jicarilla Apache Nation sees this as a first step in recovering some of the \$4 million to \$9 million in severance taxes it has paid to the state annually as a result of the United States supreme court decision in *Cotton Petroleum v. New Mexico*, 490 US 163 (1989).

House Bill 204 (Chapter 41) and **Senate Bill 126 (Chapter 81)** are duplicate bills that amend Section 22-10-3 NMSA 1978 to include a Native American language and culture teaching certificate for persons proficient in a Native American language and who are knowledgeable about the culture of a New Mexico Indian tribe. The state board of education will establish criteria for the certificate; a baccalaureate degree is not required for a person to receive the certificate. Many native languages are not written and several tribal communities in New Mexico have come close to losing their languages. Currently, there is a concerted effort among most tribes in the state to teach their languages to young children and to ensure that the languages are maintained. Much of the cultural training of a tribe is carried in its language, and tribes have noticed that the loss of their language is always accompanied by loss of their tribal cultural practices. School districts in New Mexico have not been required to acknowledge tribal languages as "foreign" languages that can satisfy foreign language requirements for graduation. The Native American language and culture teaching certificate is a step toward changing that. In an effort to protect tribal cultural privacy, some tribes in New Mexico will not allow their language to be taught in public school. If a tribe does not want its language taught in public school, the tribe might only be able to keep its specific dialect from being taught, since other tribes speaking the same language could choose to have their language taught in the school. Only the Pueblo of Jemez, the Jicarilla Apache Nation, the Mescalero Apache tribe and the Navajo Nation speak languages not spoken by any other New Mexico tribe.

House Bill 239 (Chapter 92 p.v.) provides an increase in the distributions from the law enforcement protection fund to tribes that have New Mexico law enforcement academy-certified police officers or peace officers who are authorized pursuant to Section 29-1-11 NMSA 1978 to issue New Mexico citations and who patrol in New Mexico. The distribution to the tribes is increased from \$300 to \$600 per certified officer per year. Tribes whose peace officers write citations to non-Indians to appear in tribal court are not eligible for a distribution from the fund.

And finally, the assets of the Gallup intertribal ceremonial were transferred in **House Bill 256 (Chapter 43)** to the city of Gallup to enable the municipality to choose the administrator of that tourist activity.

MISCELLANEOUS

Normally, the *Highlights* does not have a miscellaneous category, the authors preferring instead to assign bills to specific categories. However, this year's publication does not include all the usual categories because of the low number of new laws enacted and the broad range of subjects.

House Bill 43 (Chapter 56) formally creates the records center revolving fund and earmarks money from the sale of state records center publications, services, equipment, supplies and materials for deposit into the fund. The significant change is that the records center may now earn and use money from its publications and services, including its in-house publication of the *New Mexico Register* and the *New Mexico Administrative Code*.

House Bill 112 (Chapter 72) enacts the Sport Shooting Range Act. The act provides immunity for owners and operators of sport shooting ranges to nuisance actions based on noise pollution. Nevertheless, local governments can still regulate the location and construction of a sport shooting range. A provision carves out certain exceptions to immunity from civil liability, which include: recovery from negligent, reckless or willful misconduct involving a shooting range; nuisance actions based on trespass involving the operation of a shooting range; and operations involving the shooting range that substantially and adversely affect public health or safety.

House Bill 135 (Chapter 3) amends the Motor Vehicle Code to allow the secretary of taxation and revenue to designate documents that may be used in lieu of a social security number when applying for a driver's license.

House Bill 253 (Chapter 42) clarifies the legal basis of anatomical gifts. The statute specifically provides that a motor vehicle driver's license constitutes a document of gift and is legal authority to transfer an anatomical gift. Concomitant with this action, the statute also adds a new donor statement form to the driver's license application.

House Bill 353 (Chapter 50) amends the Uniform Commercial Code to reduce the filing fee for large electronic files. Previously, there was a \$20.00 fee for files between 15,000 and 30,000 bytes and a \$50.00 fee for files over 30,000 bytes, plus a \$5.00 fee per 1,000 bytes over 30,000. Now there is simply a \$20.00 filing fee for electronic files over 15,000 bytes. The law also allows the secretary of state to establish additional fees for the sale of data or records.

House Bill 292 (Chapter 44) creates the emergency service ribbon, which will be awarded by the adjutant general to members of the New Mexico national guard who honorably

perform their duty during an emergency situation. The governor must declare the situation to be an emergency and the guard member must be on duty status at the time the service is rendered.

The capitol buildings planning commission was created in 1997 to determine how best to develop state building resources in Santa Fe, particularly around the capitol and at the newer west capitol complex. **Senate Bill 111 (Chapter 69)** adds Albuquerque to the commission's responsibility, since it is the second largest location for state agencies.

Last year, chronic wasting disease, the incurable contagious disease that is the wildlife equivalent of mad cow disease, was discovered on game ranches in Colorado after a New Mexico game rancher purchased elk from one of the infected ranches. As a result of the discovery, the department of game and fish destroyed several of the elk purchased by the game rancher. Although the destroyed elk were found to be free of the disease, the potential for this or other contagious diseases sweeping through New Mexico game ranches and wild game herds highlighted the need for the statutory authority to handle these emergencies. In answer to the potential threat, **Senate Bill 151 (Chapter 70)** directs the department of game and fish to adopt rules for controlling or eradicating the spread of contagious disease in game animals. The law authorizes mitigation of diseased game animals through quarantine, treatment or destruction of the animals. The game protection fund may be used to purchase the diseased animals and disinfect the premises where the animals were housed.

Senate Bill 234 (Chapter 97) increases the amount a county clerk may charge for an equipment recording fee to \$4.00. The previous maximum fee allowed was \$3.00.

MOTOR VEHICLES

Legislation in this category covered diverse issues, including the acquisition of state-owned motor vehicles that operate on alternative fuel, insurance requirements for licensed dealer-owned vehicles, increased penalties for speeding in construction and safety zones and a new law regulating electric personal assistive mobility devices.

House Bill 95 (Chapter 71) increases the penalty assessment for speeding in a construction or other safety zone that is posted as a double fine zone. Section 66-7-301 NMSA 1978 was amended to add safety zones to the construction zone category and to specify that the increased penalties apply to zones posted as double fine zones. The legislation doubles the speeding penalties for these zones in accordance with the penalty assessments that are set out in the bill. Additionally, the legislation enacts a new section of the Motor Vehicle Code providing that in developing and applying a point system used as a basis for the suspension or revocation of driving privileges, the motor vehicle division shall not assign points for convictions for speeding on rural highways of the state. "Rural highway" is defined as that part of the highway located at least two miles outside the boundaries of a municipality. This no-points-assessed provision does not apply to rural highways in Bernalillo county, a speeding conviction arising from a motorist's excessive speed as a factor in an accident or a motorist cited while operating a motor vehicle weighing 12,000 pounds or more.

House Bill 206 (Chapter 16) cleans up the statutes related to the litter control and beautification fee that is imposed on motor vehicle registration. With the advent of two-year vehicle registration, it became unclear whether the \$.50 fee should be collected each time the registration was renewed or for each registration year; the statutory change clarifies that the fee is imposed for each registration year.

House Bill 298 (Chapter 38) establishes a new section of the Motor Vehicle Code regulating electric personal assistive mobility devices. An electric personal assistive mobility device is a scooter-like device on which the rider stands on a platform between two wheels. The legislation defines the device, sets standards for how it must be equipped, provides rules for operators and provides violation penalties. The new law does not apply to personal assistive mobility devices used by persons with disabilities.

Senate Bill 18 (Chapter 32) changes certain alternative fuel requirements for state motor vehicle fleets to align with federal law. Although state law had required that 100 percent of motor vehicles purchased by the state be capable of operating on alternative fuel, the actual percentage of such vehicles reportedly averaged less than 20 percent for the last five years. New Mexico has been able to meet its federal requirements for alternative fuel vehicles through the use of credits acquired from alternative fuel vehicle purchases in the early 1990s, but those credits will probably be exhausted after next year. Failure to meet the federal requirement that 75 percent of fleet purchases be alternative fuel vehicles may subject the state to losses of federal energy and air quality program grant funding.

This year's change to the section of law that had required that state-owned motor vehicles be assembled in North America will allow for the purchase of gas-electric hybrid vehicles, all of which are produced overseas. The move to gas-electric hybrids may help ameliorate the problem of the state's lack of the fuel infrastructure needed to make alternative fuel vehicles viable. The former Alternative Fuel Conversion Act has been renamed the Alternative Fuel Acquisition Act to more accurately reflect the scope of the law. The definition of "alternative fuel" has been amended to include fuel mixtures containing not less than 20 percent vegetable oil. Rather than the unrealistic expectation of 100 percent alternative fuel vehicles, the law has been changed to require that 75 percent of the vehicles purchased by agencies and departments of the state and educational institutions after FY 2002 be gas-electric hybrids or capable of operating on alternative fuel. Vehicles may be exempted from that requirement if alternative fuels are not available at a cost within 15 percent of the cost of conventional fuel or if an alternative fuel or gas-electric hybrid is not available from an original equipment manufacturer.

Senate Bill 395 (Chapter 86) clarifies the insurance requirements of an automobile owned by a licensed dealer when it is loaned to a person for demonstration purposes, as a temporary substitute vehicle or as a promotional courtesy vehicle or a courtesy vehicle. The dealer's insurance coverage applies only as excess coverage and the person using one of the categorized automobiles may assume primary coverage by signing an agreement that is set out in the legislation. The legislation further mandates that the agreement binds all insurers and self-insurers transacting insurance business in New Mexico.

PUBLIC OFFICERS AND EMPLOYEES

The legislature enacted two pieces of legislation dealing with salary increases for public officials. **Senate Bill 41 (Chapter 79)**, effective January 1, 2003, increases the salaries of elected county officers, except county surveyors, by 15 percent. However, in an H class county, which Los Alamos is, only the probate judge will receive the increase. **Senate Bill 64 (Chapter 95)** increases the salaries for certain elected state officers. The increases range from approximately 22 percent to 31 percent and take effect on January 1, 2003.

TAXATION

The major tax issue of the session that did not result in new law was the elimination of gross receipts tax on grocery store sales of food. Senate Bill 148 would have phased out the state portion of the tax over a three-year period and offset the revenue loss with a phased-in \$.60 per pack increase in cigarette taxes. House Bill 447 eliminated both state and local gross receipts taxation on food and offset the revenue loss by increasing the gross receipts tax rate by one quarter of one percent and raising cigarette taxes by \$.25 per pack. House Taxation and Revenue Committee Substitute for House Bills 410 and 447 and Senate Bill 148 did not change gross receipts taxation of food, but provided an income tax rebate to low-income taxpayers designed to offset the gross receipts tax charged on their food purchases, and increased cigarette taxes by \$.25 per pack.

Other areas of legislative interest were the bolstering of economic development through tax reductions, changes in the distribution of liquor excise tax and gaming revenues and taxation of health care, particularly eliminating gross receipts taxation of physicians' earnings. Governor Johnson submitted an income tax reduction proposal that amounted to an average three percent reduction in taxes. The proposal would have reduced the top marginal tax rate from 8.2 percent to 7.9 percent.

Gross Receipts and Compensating Tax

House Bill 37 (Chapter 49) changes gross receipts taxation of florists' "wire orders" to conform with the general practice in the industry. Generally, a florist who takes an order for flowers to be delivered out of state ("wire-out order") collects sales tax on the order, while the florist in the other state who fills and delivers the order ("wire-in order") does not collect tax. However, New Mexico's gross receipts tax imposed the tax in exactly the opposite manner. Chapter 49 amends the definition of gross receipts to specifically include receipts from wire-out orders and exclude receipts from wire-in orders, making New Mexico's taxation of this type of sale consistent with the practice in other states.

House Bill 40 (Chapter 10) provides a deduction from gross receipts for receipts from custom software design and development and web site design and development. To be eligible for the deduction, a business must be established after July 1, 2002 and must be located outside the municipal boundaries of Albuquerque, Las Cruces, Santa Fe and Rio Rancho.

House Bill 139 (Chapter 14) authorizes a new county local option gross receipts tax, the county emergency communications and emergency medical services tax. The tax may be imposed in one sixteenth of one percent increments up to a total of one quarter of one percent, and the imposition of the tax must be approved in a countywide election. The proceeds may only be used for operation of an emergency communications center or for county emergency medical services. To be eligible to impose the tax, a county must operate or be served by an emergency communications center that has been certified by the department of finance and administration to be a "consolidated public safety answering point".

House Bill 152 (Chapter 45) and **Senate Bill 21 (Chapter 28)** are duplicate bills amending an exception from gross receipts tax for certain call center activities to extend the exception to the provision of services primarily to non-New Mexico customers. These bills clarify the status of legislation passed in the 2001 session and signed by the governor, but not compiled because a bill amending the same section was also passed by the legislature and signed at a later time by the governor. Although last year's legislation, which was not compiled in the statutes, is considered law, the language was reenacted to ensure its compilation in the statutes, thus eliminating possible confusion.

House Bill 290 (Chapter 17) makes three changes to the Local Hospital Gross Receipts Tax Act. First, it extends the length of time the tax may be imposed by certain counties (Sierra and Torrance) from 20 years to 40 years and, second, expands the permitted uses of the tax revenue by those counties to include acquisition of or improvements to a hospital facility or

health clinic not owned by the county but operated by another party pursuant to a health care facilities contract with the county. Finally, the legislation adds Los Alamos county as a county eligible to impose the local hospital gross receipts tax at a rate not to exceed one half of one percent, and specifies that the revenue may be used for acquisition, leasing, improvements or operation of a hospital facility.

House Bill 299 (Chapter 18) conforms New Mexico law to the federal Mobile Telecommunications Sourcing Act, which established uniform rules for state taxation of mobile telecommunications services. The basic concept of the federal law is that taxes may be imposed only by the state in which the street address of the customer is located, regardless of where the call originates or terminates. Without this conforming legislation, New Mexico would have been barred after August 1, 2002 from taxing certain types of mobile telecommunications it currently taxes.

House Taxation and Revenue Committee Substitute for House Bill 312 (Chapter 20) provides an exemption from the gross receipts tax for the sale by a bookstore located on the campus of a public post-secondary educational institution of textbooks and other materials required for courses at the institution if the bookstore is operated pursuant to a contract with the institution and the sale is to a student enrolled at the institution. This law will have limited applicability since college or university bookstores that are operated by the institution are subject to governmental gross receipts tax rather than the gross receipts tax.

House Bill 321 (Chapter 21) expands the types of businesses that are eligible to claim a deduction from gross receipts for accounting and administrative services provided to an affiliated business.

Senate Bill 23 (Chapter 29) expands the gross receipts tax deduction for the sale of feed to farmers and ranchers to include baling wire or twine used to bundle feed.

Income Taxes

House Bill 118 (Chapter 36) provides a refundable tax credit to eligible film production companies equal to 15 percent of expenditures made in New Mexico that are attributable to the production of a film in New Mexico. The credit may be claimed against personal or corporate income tax liability, and if the credit exceeds the film production company's tax liability for the year in which the credit is claimed, the excess amount is refunded.

House Bill 388 (Chapter 91) provides personal and corporate income tax credits for water produced as a byproduct of oil and gas production. See *Water and Environment* for further discussion of this bill.

Senate Bill 95 (Chapter 58) creates an exemption from income tax for an individual 100 years of age or older who is not a dependent of another individual.

Senate Bill 187 (Chapter 59) provides a corporate income tax credit for certain renewable energy production. See discussion under *Utilities and Telecommunications*.

Tax Administration

House Bill 12 (Chapter 9) amends the Withholding Tax Act to exclude investment partnerships from the requirement imposed on pass-through entities to withhold New Mexico income tax or to solicit a promise to file from out-of-state partners.

House Bill 55 (Chapter 11) increases the threshold amount from \$5,000 to \$10,000 of refunds by the taxation and revenue department for which prior approval by the attorney general is required and for which records must be made available to the public.

House Bill 106 (Chapter 13) provides that if gasoline tax refund claims submitted by off-highway users to the taxation and revenue department are not processed and paid by the department within 75 days of the date the claim for refund is made, the department is required to pay interest on the refund claim. Prior to the enactment of this legislation, there was no provision requiring the payment of interest on these claims.

Miscellaneous

House Bill 94 (Chapter 12) extends until June 30, 2005 the reduced tax rate on copper in the resources tax and the processors tax. The reduced rate, which would have expired on June 30, 2002, is one quarter of one percent of the taxable value. The higher rate will be three quarters of one percent of taxable value.

House Bill 125 (Chapter 25) amends the Industrial Revenue Bond Act and the County Industrial Revenue Bond Act to add 501(c)(3) corporations to the entities whose projects may be financed or refinanced by municipal or county industrial revenue bonds. It also amends the Hospital Equipment Loan Act to expand the definition of health facility to include certain human services providers, thus making these organizations eligible for financing from the New Mexico hospital equipment loan council.

House Bill 143 (Chapter 37) provides tax incentives to electricity generation facilities. See discussion under *Utilities and Telecommunications*.

UTILITIES AND TELECOMMUNICATIONS

The most significant utilities bills passed this session target electric generation facilities, making available numerous tax incentives and credits to certain electric power generators.

Eligibility for industrial revenue bonds (IRBs) is extended to certain electric generation facilities and to nonprofit 501(c)(3) organizations by **House Taxation and Revenue Committee Substitute for House Bills 143, 373 and 377 (Chapter 37)**. Previously, only electric generation facilities in select counties were eligible for IRBs. In addition, the bill requires electric generation facilities that take advantage of IRBs to provide payments in lieu of taxes to

local school districts that will be affected by the property tax-exempt status of the facility. The bill also allows entities owning certain electric generation facilities to double-weight their sales when apportioning income, which can reduce the corporate income tax owed to the state. Finally, the bill allows a gross receipts tax deduction for some wind energy generation equipment sold to government agencies, including equipment used at facilities financed by IRBs.

A renewable energy production tax credit is created by **Senate Bill 187 (Chapter 59)**. The bill provides for a one-cent-per-kilowatt-hour production credit against corporate income tax for electric energy produced using certain renewable energy sources. The credit is available on a first-come, first-served basis for up to 10 years, with an overall limit of \$8 million in tax credits issued per year, and a limit of \$4 million per year that may be claimed by any one qualified corporation.

In the telecommunications arena, the only bill that passed was **House Government and Urban Affairs Committee Substitute for House Bill 314 (Chapter 90)**, which allows for municipal and county regulation of amateur radio antennas, though it exempts existing antennas from subsequent changes in zoning regulations.

WATER AND ENVIRONMENT

Although the state has grappled with the problems of water and state and regional water policies and plans for years, permanent solutions to both quantity and allocation have yet to be devised. New Mexico is facing two imminent water crises: compliance with delivery requirements of the Pecos River Compact and impending litigation with Texas on the Rio Grande. The water bills considered during the 2002 session reflected those concerns.

Faced with the continued effects of the current drought cycle, New Mexico has under-delivered water from the Pecos river to Texas in each of the last two years, consequently wiping out credits accrued in previous years. Pursuant to the United States supreme court decree that governs New Mexico's water debt to Texas, the state is not allowed to run a delivery deficit, and it may not pay money in lieu of the required water delivery. Consequently, New Mexico must deliver the required amount of water or it will face a contempt ruling. The court could impose sanctions and the river master or a special master could take control of daily operations of the river. In accordance with the Pecos River Compact and the state constitution, priority administration is required in the event of under-deliveries over a three-year accounting period. The state engineer sponsored a study in the early 1980s that indicated a priority call on the Pecos river could result in economic impacts of \$200 million. Several bills were introduced specifically to avoid supreme court sanctions and a priority call. For example, language in House Appropriations and Finance Committee Substitute for House Bills 225 and 417 was a direct result of negotiations convened by the interstate stream commission with an ad hoc committee of Pecos river water users in an attempt to develop a consensus plan for compliance with the supreme court order and to minimize the impacts of a priority call.

The interim water and natural resources committee heard testimony last year that Texas is planning litigation against New Mexico before the United States supreme court. The Texas legislature has appropriated as much as \$8 million to the Texas attorney general to "vigorously" pursue control of Rio Grande water from New Mexico. Environmental issues, Native American claims and economic development needs will all place additional, significant pressure on the state's resources in the coming years.

The legislature, through its interim committee and bill introduction, has considered several water enhancing measures, including watershed and riparian restoration, cloud seeding, increased conservation and better land use decisions. The water trust fund, created last year, has been seen as a mechanism for staging the financing of water projects; however, the governor vetoed the bill that provided the funding for the trust fund. This year, the legislature provided \$10 million to the fund, but that too was vetoed. The question of how to fund the water trust fund is still open; alternatives under consideration include a water user surcharge, a statewide one mill property tax levy, use of a share of the back payments of tribal gaming revenues, the tobacco settlement money, a portion of the severance tax revenue stream and general obligation bonds. The 2002 General Obligation Bond Act, **House Taxation and Revenue Committee Substitute for House Bill 89 (Chapter 93)**, will provide — if the voters approve the question — a little over \$13 million for water projects, including \$10 million for the state engineer to purchase Pecos river water rights. Both of the general appropriation bills vetoed by the governor included \$6 million to finance reduction of salt cedar along the state's rivers to enhance water flow.

House Appropriations and Finance Committee Substitute for House Bills 417 and 225 (Chapter 94) extends the appropriation originally made in 1998 from the New Mexico irrigation works construction fund to the end of fiscal year 2005. The purpose of the appropriation is to purchase and retire water rights in the Pecos river basin to achieve compliance with the Pecos River Compact, establish a base flow of the Pecos river of 50 cubic feet per second at the Artesia bridge and provide a reliable annual irrigation supply of 90,000 acre-feet of water for delivery of three acre-feet per acre of irrigated land in the Carlsbad irrigation district. The law contains a section requiring certain conditions for any money spent to comply with the Pecos River Compact with Texas. The interstate stream commission is required to:

(1) enter into contracts with the governing bodies of the Carlsbad irrigation district, the Pecos valley artesian conservancy district and the Fort Sumner irrigation district specifying actions to be taken or avoided to ensure that the expenditures will be effective toward permanent compliance with New Mexico's obligations under the Pecos River Compact and the United States supreme court's amended decree;

(2) purchase with the first available funding 6,000 acres of land with appurtenant water rights in approximately equal purchase increments from assessed land within the Carlsbad irrigation district and irrigated land located between Brantley dam and Sumner reservoir;

(3) subsequent to the purchase of the first 6,000 acres of land, purchase no more than one acre of land with appurtenant water rights from within the Carlsbad irrigation district for every three acres of land purchased between Brantley dam and Sumner reservoir; and

(4) make water rights acquired in excess of the need for compliance with the compact available for repurchase by the private sector (the original owner having the right of first refusal).

The law is the result of negotiations among the water users in the Pecos valley and lays the groundwork for further negotiations on management protocols for the river to meet the delivery obligations under the amended decree and maintain availability of \$4 million in the original appropriation toward that end.

House Appropriations and Finance Committee Substitute for House Bill 451 (Chapter 109) appropriates \$30 million from the tax stabilization reserve to the department of finance and administration to protect, enhance or conserve water resources. The department is required to transfer the appropriation to the interstate stream commission in three separate increments of \$10 million. At least \$10 million of the appropriation is required to be used to comply with New Mexico's obligations under the Pecos River Compact. The appropriation is contingent upon the governor declaring the expenditure necessary for the public peace, health and safety pursuant to Section 6-4-2.2 NMSA 1978 and certifying that the sum of the remaining balances in the appropriation contingency fund, the general fund operating reserve and the tax stabilization reserve will not be less than five percent of the recurring general fund appropriations for the prior fiscal year. The appropriation also requires a plan by the interstate stream commission, approved by the state board of finance after review by the water trust board, describing the proposed expenditures and an agreement by the state board of finance that the expenditure is necessary for the public peace, health and safety.

House Bill 421 (Chapter 77) enacts a new section of law that authorizes establishment of water banks by the irrigation districts, conservancy districts, artesian conservancy districts, community ditches, acequias or water users' associations in the lower Pecos river basin below Sumner dam. The water bank is to be established under rules developed and recommended by the interstate stream commission to the state engineer. Those rules shall include:

- (1) criteria, terms and conditions for deposit of a water right in the bank;
- (2) terms and conditions for the accrual, pooling, exchange, assignment and conditions of the deposit of a water right;
- (3) procedures for recording and annual reporting of all transactions to the interstate stream commission and the state engineer; and
- (4) procedures for temporarily transferring deposited water to new places and purposes of use without a formal hearing before the state engineer.

The operation of a water bank shall:

- (1) not impair other water rights;
- (2) not deplete water to a greater extent than would have occurred without a water bank transaction;
- (3) comply with state law; and
- (4) be within the same stream system or underground source.

The law amends Sections 72-5-28 and 72-12-8 NMSA 1978 to exempt any water deposited in a water bank from forfeiture for not being put to beneficial use. The bill was amended to provide acequias and community ditches the authority to establish internal water banks and allow temporary changes in use and points of diversion without formal proceedings before the state engineer. These internal acequia and community ditch water banks are not subject to recognition or approval by the interstate stream commission or the state engineer.

House Bill 173 (Chapter 88) appropriates \$25,000 from the New Mexico irrigation works construction fund to the local government division of the department of finance and administration for "a model water rights protection project, including the identification and acquisition of available water rights, at acequia de Alcalde".

House Business and Industry Committee Substitute for House Bill 388 (Chapter 91) provides an income tax credit of \$1,000, not to exceed \$400,000 per year total, per acre-foot of produced water from oil or gas drilling and production from a depth of 2,500 feet or more below the surface or from refining crude oil or from processing natural gas. In order to qualify for the credit, an operator must be in compliance with applicable water quality law and regulations, must deliver the water in a manner approved by the interstate stream commission for deliveries pursuant to the Pecos River Compact and must transfer title of the water to the interstate stream commission, which shall indemnify the operator from future liability.

In the environmental arena, **House Bill 341 (Chapter 47)** makes a simple technical change to the state's Hazardous Waste Act. It amends the act by adding a definition of "used oil" and authorizing the environmental improvement board to adopt rules on used oil. The department of environment has received primacy from the United States environmental protection agency to enforce the federal Resource Conservation and Recovery Act of 1976, which treats used oil as a hazardous waste because it is often contaminated with hazardous waste solvents. The environmental protection agency requires states to adopt regulations equal to the federal regulations. During the 2001 legislative session, the legislature enacted House Bill 701 to satisfy that requirement. House Bill 701 became law but was never compiled into the state statutes because a subsequent bill amending the same statute was also signed by the governor. With the 2002 enactment of House Bill 341, the provision will be compiled into the NMSA 1978, avoiding potential confusion about two different versions of the same law.

FIRST SPECIAL SESSION

SECOND SPECIAL SESSION (CONCURRENT)

FIRST EXTRAORDINARY SESSION

FIRST SPECIAL SESSION

The legislature met in special session, beginning September 4, 2001 and ending September 20, 2001, for the express purpose of redistricting the state's congressional, house of representatives, senate, public regulation commission, state board of education and San Juan county magistrate districts.

In addition to **House Bill 1 (Chapter 1)**, which was the Feed Bill, 21 redistricting bills were introduced in the house and 38 redistricting bills were introduced in the senate. The legislature sent the governor a total of eight redistricting bills, of which he signed two into law — **Senate Bill 14 (Chapter 2)**, which adjusted the boundaries of the San Juan county magistrate districts, and **Senate Judiciary Committee Substitute for Senate Rules Committee Substitute for Senate Bill 7 (Chapter 3)**, which redistricted the public regulation commission.

Two bills redistricting the house (House Bills 3 and 7) and two bills redistricting the senate (Senate Bills 2 and 34) were vetoed by the governor. Likewise, bills redistricting congress (Senate Bill 33) and the state board of education (House Voters and Elections Committee Substitute for House Bill 10) failed to survive the governor's veto.

Several lawsuits ensued, with Judge Art Encinias of the first judicial district court ordering (upon agreement of all remaining parties to the litigation) that the state board of education plan (House Voters and Elections Committee Substitute for House Bill 10), which was passed by the legislature, be adopted as the redistricting plan for that body. Judge Frank Allen,

assigned by the state supreme court to hear the case in the first judicial district, ordered adoption of a status quo plan for congress in which only eight precincts were shifted between districts to equalize population between those districts. Judge Allen also ordered the adoption of a house of representatives plan based upon House Floor Substitute for House Voters and Elections Committee Substitute for House Bill 3 as modified by plans submitted to the court by the Navajo and Jicarilla Apache nations. The senate passed and the governor approved a plan during the 2002 regular session that effectively ended litigation concerning senate redistricting.

SECOND SPECIAL SESSION (CONCURRENT)

The first-ever concurrent special session convened, and adjourned, on September 20, 2001. The governor called the session to allow for an emergency appropriation to the state board of finance. **House Bill 1 (Chapter 1)** appropriated money for operation and maintenance of the Cumbres and Toltec scenic railroad, water rights litigation with Texas, expenses related to the prosecution of a capital murder case in the eleventh judicial district and other emergency contingencies.

FIRST EXTRAORDINARY SESSION

On Saturday, May 18, 2002, the speaker of the house of representatives and the president pro tempore of the senate delivered to the governor's office the signatures of more than three-fifths of the members of the house and three-fifths of the members of the senate certifying that, in their opinion, an emergency existed in the affairs of the state and that, pursuant to Article 4, Section 6 of the constitution of New Mexico, an extraordinary session of the legislature should be convened. It was the first time in New Mexico's history that the legislature had taken such a step.

Less than a week later, on May 24, the legislature convened and, in a matter of hours, approved and then, with overwhelming bipartisan support, overrode the governor's veto of a general appropriation act for the next fiscal year. It was only the second time that the legislature had overridden one of Governor Johnson's vetoes.

During the extraordinary session, the legislature approved four other pieces of legislation that were part of the budget compromise package proposed by a bipartisan committee, including funding to purchase Eagle Nest lake and state police vehicles and radios. Other measures designed to boost the state's reserves were approved, but vetoed and not overridden on the heels of new revenue estimates showing that reserves in fiscal year 2003 would stand at nine percent of appropriations.

Senate Bill 1 (Chapter 4, 1st E.S.) was a compromise bill proposed by a 12-member bipartisan committee of the house and senate appointed by the legislative leadership shortly after the regular session. The committee worked with the executive, but in the end, the governor found fault with the proposal and vetoed Senate Bill 1 of the extraordinary session. The legislature overrode the veto later the same day and then adjourned.

The General Appropriation Act of 2002 appropriates \$3.863 billion in FY 2003 recurring revenue — an increase over the FY 2002 operating budget of just .37 percent. Public school support increased .6 percent to \$1.792 billion; spending on health, hospitals and human services increased 1.36 percent to \$812.8 million; and spending on public safety increased 1.25 percent to \$267.2 million.

Also enacted during the extraordinary session was **Senate Bill 2 (Chapter 2, 1st E.S.)**, which makes funds available to purchase Eagle Nest lake in Colfax county. The legislation was

the latest in the state's on-again, off-again attempt to purchase the fishing and recreation area, which it had leased for years. The law appropriates \$6 million from the capital projects fund, \$3.6 million from the general fund, \$3.5 million from the game protection fund and \$500,000 from the game and fish bond retirement fund, and authorizes the issuance of \$1.4 million in severance tax bonds to purchase the lake.

Senate Bill 3 (Chapter 1, 1st E.S.) authorizes \$2.6 million in severance tax bonds to purchase state police radios and \$1 million in severance tax bonds to purchase state police vehicles.