

SECOND SESSION

JOURNAL OF THE SENATE

FIRST LEGISLATIVE DAY

This being the day designated for the convening of the Second Session of the Thirty-Second Legislature of the State of New Mexico, the members of the Senate of the Second Session of the Thirty-Second Legislature of New Mexico assembled in the Senate Chamber in the Capitol Building in the City of Santa Fe, New Mexico, on the Twentieth day of January, A.D. 1976.

The Senate was called to order by the Honorable Robert E. Ferguson, Lieutenant Governor of the State of New Mexico, at twelve o'clock noon.

The Reverend Father Larry Hill delivered the invocation.

The President asked the Chief Clerk to call the roll.

On roll call, the following Senators responded to their names:

Ben D. Altamirano, District 28, Manny M. Aragon, District 14, Eddie R. Barboa, District 11, Paul F. Becht, District 22, Consuelo Kitzes Burrell, District 25, Matias L. Chacon, District 5, Willie M. Chavez, District 29, John E. Conway, District 39, R. Leo Dow, District 10, Aubrey L. Dunn, District 40, Odis L. Echols, Jr., District 27, Joseph A. Fidel, District 30, Joseph E. Gant, District 34, Fred A. Gross, Jr., District 21, Lamar E. Gwaltney, District 36, Fred G. Hansen, District 33, Gladys Hansen, District 37, John B. Irick, District 20, Bill L. Lee, District 42, Tom Lee, District 3, Ray Leger, District 8, Alex G. Martinez, District 24, Harry M. McAdams, District 41, D. J. Michelson, District 12, Theodore R. Montoya, District 9, Jack M. Morgan, District 1, Frank O. Papen, District 38, James S. Peironnet, Jr., District 15, George (Red) Pennington, District 2, R. Wayne Radosevich, District 4, John D. Rogers, District 23, Tom Rutherford, District 16, Edward C. Sandoval, District 13, Kenneth M. Schlientz, District 26, William A. Sego, District 18, I. M. Smalley, District 35, John M. Tannehill, District 19, Donald L. Thompson, District 17, R. E. Thompson, District 32, and C. B. Trujillo, District 6

EXCUSED: John L. Morrow, District 7, and Bob E. Wood, District 31.

The President requested that the Senators come forward and sign the official roster.

On motion of Senator Trujillo, which carried, the members of the Senate as constituted in the First Session of the Thirty-Second Legislature, constitute the Senate of the Second Session, Thirty-Second Legislature, until such time as the Senate shall ascertain the status of any vacancies and duly appointed successors.

On motion of Senator Trujillo, which carried, the Second Session of the Thirty-Second Legislature of the Senate proceeded temporarily under the rules adopted by the First Session of the Thirty-Second Legislature, subject to the report of the Committee on Rules of this session, and membership of standing committees will remain the same as during the First Session, subject to the adoption of the reports of the Committees' Committee.

On motion of Senator Trujillo, which carried, the officers of the Senate elected at the First Session of the Thirty-Second Legislature constitute the Officers of the Second Session until such time as the Senate shall ascertain the status of any vacancies.

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On motion of Senator Trujillo, which carried, the Senate as a body stood in a moment of silent prayer in memory of Senator Frank S. Lillywhite, deceased.

Senator Trujillo reported that a vacancy existed as a result of the resignation and subsequent death of Senator Frank S. Lillywhite of San Juan County.

On motion of Senator Trujillo, seconded by Senator Echols, Jr., the Senate proceeded to receive the commission of appointment from the qualified appointee, the Board of County Commissioners of San Juan County, of the member to serve in this Senate to represent San Juan County from Senatorial District 2.

The Sergeant-at-Arms was directed to deliver the commission to the President, and upon examination of the Commission of Appointment, the President appointed Senators Morgan, Altamirano and R. E. Thompson to escort the Honorable George (Red) Pennington to the rostrum for the purpose of taking the oath of office.

Thereafter the oath of office was duly administered to the Honorable George (Red) Pennington, appointee from San Juan County, Senatorial District 2, to fill the vacancy created by the resignation of Senator Frank S. Lillywhite, as follows:

"I do solemnly swear that I will support the Constitution of the United States and the Constitution and Laws of the State of New Mexico, that I will true faith and allegiance bear to the same and defend them against all enemies whatsoever, and that I will faithfully and impartially discharge the duties of my office as a member of the Senate according to the best of my ability, so help me God."

The President then asked that Senator George (Red) Pennington sign the official roster.

By unanimous consent, requested by Senator Trujillo, the timepiece of the Majority Floor Leader was made the official timepiece of the Senate.

By unanimous consent, requested by Senator Trujillo, the Committees' Committee was designated as the committee to which bills may be referred on motion, to determine whether or not the bills come within the purview of the session, and whether or not the Legislature can, under the Constitution, take action on them.

By unanimous consent, requested by Senator Trujillo, the President appointed a committee consisting of Senators Chacon, Bill Lee, and Paul F. Becht to report to the House of Representatives that the Senate was duly organized and ready for the business of the Second Session of the Thirty-Second Legislature, and was ready to proceed to the House in Joint Session to hear the Governor's message.

On motion of Senator Trujillo, which carried, the Senate resolved itself into a Committee of the Whole for the purpose of proceeding with the Lieutenant Governor to the House of Representatives to hear the message of the Governor.

Senator Bill Lee reported that the message had been delivered to the House of Representatives and that the Senate was ready to proceed to the House to hear the Governor's message.

The Sergeant-at-Arms announced Representatives Mercer and Montoya from the House of Representatives. Representative Montoya reported that the House was now ready to receive the Senate in Joint Session to hear the Governor's message.

On motion of Senator Trujillo, which carried, the Senate stood in recess and proceeded in a body to the House of Representatives for a Joint Session.

JOINT SESSION

On assembly of both houses in Joint Session, Speaker Martinez requested that the President of the Senate preside, whereupon President Robert E. Ferguson took the chair.

The Joint Session was called to order by the Honorable Robert E. Ferguson, Lieutenant Governor of the State of New Mexico.

On motion of Representative Salman, which carried, the Joint Session resolved itself into a Committee of the Whole House and Senate for the purpose of hearing a message from the Governor.

On motion of Representative Salman, which carried, a committee consisting of Representatives Aiello, Kleppel and Malry, and Senators Irick, Smalley and Trujillo, was appointed to inform the Honorable Jerry Apodoca, Governor of the State of New Mexico, that the Committee of the Whole House and Senate was prepared to receive his message.

Governor Jerry Apodoca was received by the Committee of the Whole House and Senate and delivered his message as follows:

GOVERNOR'S MESSAGE

Mr. Speaker, Mr. President, distinguished members of this 32nd Legislature, elected officials, honored guests, ladies and gentlemen.

First let me thank you the members of the Senate and House for inviting me to deliver my State of the State message. As you all must realize...it is with great pride that I stand here today with so many of my good friends and former colleagues.

As we start the work of this session, I am reminded of how one statesman spoke of the last quarter of the 20th century:

He said: "The future does not belong to those who are content with today, apathetic towards common problems, timid in the face of new ideas and bold projects...

"Rather it will belong to those who can blend passion and reason and courage in a commitment to the ideals of the American society."

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This year we celebrate the bicentennial of this nation, a nation conceived in the proposition that all men are created equal and in the confidence that people can govern themselves.

You may remember a year ago I spoke to you of the noble experiment which we call the United States of America, one of the world's few remaining democracies. New Mexico is a vital part of that experiment.

And we need to work every day to insure the continued success of that experiment.

Every generation inherits a world it never made. This generation of New Mexicans has become the trustee of the future of our state and we want to make sure that we leave our descendants a better state in which to live.

Today we begin our regular 30-day legislative session.

As you all know, our state constitution limits this session. I think we all respect this constitutional purpose.

My experience as a legislator and my discussions with many of you have led me to the conclusion that I should limit my call to a very few requests.

Those that I feel are of an emergency nature and of special concern to you, me, and the people of New Mexico.

I realize this is a significant departure from the practices of the past.

But I would rather break precedents than promises.

I respect the magnitude and importance of your legislative work and I would not burden you with hundreds of proposals in a limited session.

I hope my efforts to limit this year's messages will make your task easier and our joint efforts more productive.

While I am bound by my own interpretation of our constitutional responsibility, I do recognize there are many citizens who feel this body should act on a great many issues which I will not include with my messages this year.

For this reason, I suggest that you consider offering a constitutional amendment setting an annual 60-day legislative session that would consider any and all matters.

This proposal, I realize, is strictly a legislative decision and I make the suggestion not to interfere, but only for you to reflect on the constitutional purpose of the 30-day session.

STATE OF THE STATE

Today, I come to report to you on the State of the State.

I am pleased to say New Mexico is beginning to move in the right directions.

As you remember, at the end of 1974 New Mexico ranked 49th of the 50 states in per capita income.

This year, indicators show that our economic growth over the past year was unequalled in the Rocky Mountain Region and in the West our economic advisers tell us this growth will move us out of this low national ranking.

These accomplishments in no small way, stand in tribute to many of the measures that were passed by this body during the last legislative session. Many of these measures gave our administration the mechanisms to move New Mexico forward.

Additionally, our administration has been committed to making each state agency a lean, responsive, and efficient instrument to serve the citizens of New Mexico. It has not been an easy year. At times it has been quite difficult - with many agonizing decisions - and certainly some controversy.

But, this administration will never hesitate to terminate personnel, programs or policies that have outlived their usefulness, or to follow new paths when the needs arise.

And it is in this spirit that I make my budgetary proposal to you today.

1975-76 BUDGET

There is a growing sentiment in this nation and among the people of this state that government has grown beyond reasonable bounds. And that it has grown for its own sake and not in the interest of the citizens who pay for it.

I can sympathize with this sentiment and that is why we must legislate and appropriate with caution.

For I have learned the public interest does not always consist of the sum total of all the demands of special interests - no matter how worthy their goals may be.

Sometimes you and I must say "No".

It is not easy.

But sometimes we must.

We should not accede to every request just because it is another year.

We must all remember that ours is a society of individuals and there are limits to what government can and should seek to accomplish. We will be better off doing fewer things and doing them better.

Concerning our state fiscal condition, I am pleased to report a budgetary surplus of an estimated \$31.9 million at the end of the current fiscal year.

We did not arrive at this position by accident, rather we are there by design.

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This surplus is the result of the caution exercised by the legislature, this administration, and administrations which preceded this one.

In the days that follow, we will be submitting for your consideration our carefully chosen priorities in the use of this surplus.

And in making our capital outlay recommendation we would hope that the same prudent judgment of past years be continued.

During the upcoming fiscal year, our budget experts anticipate recurring revenues of \$506 million.

I feel it is our responsibility to appropriate the amount which has been collected on the priority needs of the public.

This represents another change from the patterns of the past.

And I would like to discuss the reasons why I advocate we depart from tradition.

Just as our budgetary surpluses have occurred by design, the past year's economic expansion did not just happen, rather it is the product of reasonable investment by both the private and public sectors into the New Mexico economy.

I do not feel it is wise public policy to continue to pile on staggering budget surpluses when critical unmet public needs continue to be ignored.

As you know, this administration has pledged itself to no tax increase.

That is a pledge we intend to keep. And our ledgers will remain in the black.

We are anticipating substantial reversions to the general fund. A sum which contributes greatly to the unappropriated surplus.

These reversions might be expected to continue, especially within the public school appropriation.

These reversions will provide some of the surplus that we might anticipate in the future.

But I do not agree that we serve the public good by holding millions of dollars of revenue from our state's economy.

But, in addition, we are taking several steps to assure that our expenditures will never exceed revenues.

Beginning this year, we have required that each state agency identify up to five percent of its annual budget which could be eliminated if necessary.

This will become an annual budgetary practice. For too long we have operated under the assumption that once an agency or a program is created that it must exist forever.

That assumption will not be valid during our administration.

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Neither will it be assumed that each agency will expand just because it is another year.

As you may know, we have also created this year an executive budget review team.

This team has screened every agency budget request being proposed to you in our appropriations bill.

After close examination and many difficult decisions we are submitting a budget calling for an increase of 10.7 percent in general government costs.

As you will see, this essentially is a "no expansion" budget for state programs.

But it is a budget that will provide substantial salary increases for our state employees.

I do not apologize for my support of higher state salaries.

As you know, our administration has moved in numerous ways to demand high performance from our state personnel. I believe state government should be an all-consuming endeavor to serve the people of our state.

But we will reward those employees who improve the image of state government by their dedication and their commitment to excellence.

STATE GOVERNMENT REORGANIZATION

As you are aware, we have organized what we call a cabinet system, a system which has helped to improve communication and coordination among state agencies.

This new system has also served to highlight certain costly inefficiencies in the executive branch.

Therefore, I have come to the conclusion that a main focus of my administration will be to streamline our state government.

We cannot afford to wait any longer.

We cannot afford to subsidize waste and duplication.

We cannot afford the excess baggage of hundreds of boards and commissions, agencies, and divisions which blocks effective response to the needs and problems of the people.

That is why, with today's message, I am recommending the statutory consolidation of certain state agencies into more effective agency operations.

That is why, with today's message, I am recommending the statutory elimination of a number of boards and commissions which I feel have been either inactive or ineffective.

These proposals will be submitted to you by special messages in the days to come.

Simultaneously, I am abolishing other boards and commissions created by executive order which, to my way of thinking, have outlived their usefulness.

Now I know there may be many special interest groups who will oppose these measures for reform. But I welcome a full, open debate on my proposal. That is why I bring it to your attention at this time.

Today's proposals and suggestions for state government reform do not go far enough.

I would like to organize state government into fewer major agencies, with duties and responsibilities clearly defined.

That is why we're recommending for your consideration the passage of an executive reorganization act, enabling reorganization of state government by executive initiative and legislative authorization.

PUBLIC EDUCATION

In public education, an area of great concern to all of us, I am recommending the largest financial increase.

Though we are in a period of declining enrollment, I feel that our commitment to education must never waiver.

Indeed, this period should offer us a rare opportunity to serve the many unmet needs of our public school districts.

First of all, my recommendation in early childhood education calls for a full statewide program by September of this year.

If we make this commitment, then the opportunity to attend kindergarten will be available to every child in New Mexico for the first time in History. And that opportunity will go to all children, no matter where they were born, no matter who their parents are, no matter what their family financial conditions may be.

In the area of special education, I urge full service to the nearly 25,000 program units projected for next year, allowing us to meet our constitutional mandate for providing educational opportunities to every child in our state.

And finally, and most importantly, for the majority of our children who rely on the basic academic program for their education, a 12 percent increase in the basic appropriation.

This increase, along with those unmet needs in early childhood and special education, brings my recommended increase to \$33.4 million. A total appropriation of \$266.8 million for our public schools.

In the area of higher education, I am recommending a 17.8 percent increase, or a total appropriation of \$87.2 million.

With this amount, we will meet the requirements of a growing enrollment in our universities and in our branch community colleges.

But funding levels are only part of the education story.

This legislature, in the past, has been very generous to our educational efforts.

I ask no less a commitment today.

Yet, the promise of educational excellence for New Mexico does not depend on funding levels alone.

Education represents 75 cents of every tax dollar in New Mexico. Many of us have questions for the educational community.

We ask ourselves what are we getting in return for our investment. This is a legitimate question and we expect to get the answer.

However, without adequate funding, we cannot even address the issue.

I feel that we need to continue our past record of generous support for education.

SPECIAL MESSAGES

Over the past year, a number of special issues and concerns have developed.

Some of these matters have been discussed at length at your interim committee hearings. Medical malpractice, sovereign immunity and others.

My staff and I have identified a limited number of issues which demand immediate attention. And these proposals will be submitted for your consideration in the coming days.

There is one continuing concern I would like to address at this time.

New Mexico municipalities have been hard pressed for sufficient funds to carry out their responsibilities.

State government, through a refined tax base and sophisticated collection procedures, continues to pile up annual surpluses.

Local governments, though, find it increasingly difficult to pave our streets and provide the essential services to their constituents - who are also our constituents.

I have long been an advocate of local government and I believe we must do all we can to assist local officials in their work.

That is why I am suggesting the passage of a resolution directed to our congressional delegation and the President, calling for the continuance of a revenue sharing program beyond December of this calendar year.

Additionally, that the present amount of funds allotted to state governments be designated to local governments exclusively.

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In an effort to show our good faith in this area, I would like to propose that we appropriate through a distribution formula our remaining \$6.5 million of revenue sharing monies to municipalities.

If action on the federal level followed our recommendation, then New Mexico municipalities would receive an additional \$13 million annually for their use.

For state and local governments should be partners - not antagonists.

We in America should be reaching a time of maturity. When we all work to make government the instrument through which the highest aspirations of a people are realized.

Many find it fashionable to condemn all government. We, on the other hand, condemn only inefficiency and irresponsibility.

Government will regain its lost reputation, but not by overpromising or over-programming.

We will gain only by taking stock, reflecting on the true goals and objectives of government. Assessing its capacity to accomplish those goals.

And then by working --- and working hard.

And that is why we are here today.

You face many long hours in front of you.

There will be disagreement. There will be discord. But that is to be expected.

I make no claims that any of us hold a monopoly of truth, wisdom or political courage.

We need to compromise to accomplish many of the same good things we have done together in the past.

We need not enter our Bicentennial Year with despair, for despair is merely a refuge, an unjustified refuge for cowards.

One needs only to travel the State of New Mexico as I have to see that despair in our state is unwarranted.

For we have great people here in every part of the state. People who are willing to work. Who love our land and want to keep it unspoiled.

People who love their neighbors and hope to see them succeed.

People who care about their future and are willing to make sacrifices to forge a better tomorrow for themselves and for their children.

No, we need not despair. We only have to make our government and state as good as its people.

With that same spirit of cooperation and good manners.

With the same self-reliance and common sense.

With the same generosity and lack of prejudice. We are faced with many complicated problems during this legislative session.

But we should look at problems as great opportunities.

Opportunities to live up to the promise our forefathers offered us in those revolutionary words... "We the people."

On motion of Representative Salman, which carried, the Committee of the Whole House and Senate voted to rise and report progress.

On motion of Representative Salman, which carried, the joint session dissolved.

The members of the Senate returned to the Senate Chamber in a body, and the Senate was called to order by the President.

On motion of Senator Trujillo, which carried, the Committee of the Whole Senate voted to rise and report progress.

On motion of Senator Trujillo, which carried, the Committee of the Whole Senate dissolved.

On motion of Senator Trujillo, which carried, the text of the Governor's message will be made an official part of the journal for this Legislative Day.

INTRODUCTION OF LEGISLATION

SB 1, introduced by Senators Trujillo, Dunn, Echols, Jr., and Smalley, entitled:

AN ACT RELATING TO TAXATION; AND PROVIDING FOR AN INDIVIDUAL INCOME TAX REDUCTION,

having been read twice by title, was ordered printed and referred to the Finance Committee.

SB 2, introduced by Senator Gross, Jr., entitled:

AN ACT RELATING TO STATE EDUCATIONAL INSTITUTION TUITION PAYMENTS FOR CERTAIN RESIDENT STUDENTS,

having been read twice by title, was ordered printed and referred to the Education Committee thence to the Finance Committee.

SB 3, introduced by Senator Gross, Jr., entitled:

AN ACT RELATING TO SHOOTING RANGES; CREATING A SHOOTING RANGE FUND; PROVIDING FOR ADMINISTRATION BY THE STATE GAME COMMISSION; PROVIDING FOR GRANTS TO COUNTIES AND MUNICIPALITIES; MAKING AN APPROPRIATION,

having been read twice by title, was ordered printed and referred to the Conservation Committee thence to the Finance Committee.

SB 4, introduced by Senator Sego, entitled:

AN ACT RELATING TO THE MORTGAGE FINANCE AUTHORITY ACT; SUSPENDING TEMPORARILY THE ACTIVITIES OF THE AUTHORITY UNDER THE ACT; PROTECTING STATE REVENUES; PROVIDING FOR A REPORT TO THE THIRTY-THIRD LEGISLATURE; AND DECLARING AN EMERGENCY,

having been read twice by title, was ordered printed and referred to the Finance Committee.

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On motion of Senator Trujillo, which carried, the Senate recessed until 10:00 A.M., Wednesday, January 21, 1976.

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The President called the Senate to order at 10:00 A.M.

On roll call, the following Senators responded to their names:

Altamirano, Aragon, Barboa, Becht, Burrell, Chacon, Chavez, Conway, Dow, Dunn, Echols, Jr., Fidel, Gant, Gross, Jr., Gwaltney, Fred G. Hansen, Gladys Hansen, Irick, Bill L. Lee, Tom Lee, Leger, Martinez, McAdams, Michelson, Morgan, Peironnet, Jr., Pennington, Radosevich, Rogers, Rutherford, Sandoval, Schlientz, Segó, Smalley, Tannehill, Donald L. Thompson, R. E. Thompson, Trujillo, and Wood

EXCUSED: Montoya, Morrow and Papen.

The invocation was delivered by the Reverend Father Larry Hill.

INTRODUCTION OF LEGISLATION

SM 1, introduced by Senators Leger, Burrell, Chavez and Sandoval, for the Health and Aging Study Committee, entitled:

A MEMORIAL DIRECTING THE BOARD OF OPTOMETRY AND THE SCHOOL OF MEDICINE AT THE UNIVERSITY OF NEW MEXICO TO COOPERATE IN THE DEVELOPMENT OF A CURRICULUM TO TRAIN OPTOMETRISTS IN THE USE OF TOPICALLY APPLIED DIAGNOSTIC AGENTS,

having been read twice by title, was ordered printed and referred to the Rules Committee.

SJR 1, introduced by Senators Fred G. Hansen and Trujillo, entitled:

A JOINT RESOLUTION FOR THE PURPOSE OF REQUESTING APPROPRIATE ACTION BY THE CONGRESS, EITHER ACTING BY CONSENT OF TWO-THIRDS OF BOTH HOUSES OR, UPON THE APPLICATION OF THE LEGISLATURES OF TWO-THIRDS OF THE SEVERAL STATES, CALLING A CONSTITUTIONAL CONVENTION TO PROPOSE AN AMENDMENT TO THE FEDERAL CONSTITUTION TO REQUIRE, WITH CERTAIN EXCEPTIONS, THAT THE TOTAL OF ALL FEDERAL APPROPRIATIONS MAY NOT EXCEED THE TOTAL OF ALL ESTIMATED FEDERAL REVENUES IN ANY FISCAL YEAR,

having been read twice by title, was ordered printed and referred to the Rules Committee.

SB 5, introduced by Senators Martinez, Burrell, Chacon and Rogers, entitled:

AN ACT PROVIDING FOR AN ADDITIONAL JUDGE FOR THE FIRST JUDICIAL DISTRICT,

having been read twice by title, was ordered printed and referred to the Judiciary Committee thence to the Finance Committee.

SM 2, introduced by Senator Rogers, entitled:

A MEMORIAL RELATING TO THE ENLARGEMENT OF BANDELIER NATIONAL MONUMENT BY ACQUISITION OF CERTAIN LANDS,

having been read twice by title, was ordered printed and referred to the Rules Committee thence to the Conservation Committee thence to the Finance Committee.
