The NM EDGE
County College

A Program of the Cooperative Extension Service and
New Mexico Counties

Present

The New Mexico County Treasurer Handbook

December 2024 Edition

NEW MEXICO
COUNTY TREASURER
A Reference Handbook and Practical Guide

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Revised by
Members of the
NM EDGE Treasurers Curriculum Committee

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Better Government through Education

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FORWARD

As Associate Dean and Director for the New Mexico Cooperative Extension Service in the College of Agricultural, Consumer, and Environmental Sciences (ACES) at New Mexico State University, I have had the pleasure of working with the New Mexico Counties (NMC) on a number of projects—none more important than bringing education and resources to New Mexico's 33 counties. We appreciate the vision of the New Mexico Counties leadership in pursuing collaboration with the Cooperative Extension Service to create and help sustain the NM EDGE County College.

NMSU College of ACES' Cooperative Extension Service delivers the land-grant mission to the people through a century of service to New Mexico residents. Today, the Cooperative Extension Service continues to deliver education deeply rooted in tradition, innovation and collaboration.

In addition to the vital role county agents, specialists, and staff play in providing non-formal, educational programs in every community around the state, we are proud of the evolving role of NM EDGE in pursuit of its goal of Better Government through Education and its statewide reach. Building on the foundation of County College, New Mexico Counties and Cooperative Extension Service joined together to offer high quality, meaningful and accessible education at affordable prices and later expanded to include the nationally recognized Certified Public Manager® Program. NM EDGE continues to work closely with NMC to bring you county-specific classes and resources.

First created and published by Cooperative Extension Service in 1975, this handbook is periodically updated and revised to assure that it remains relevant and factual. This handbook ties directly to the classes being taught in the New Mexico County Treasurer curriculum so that the information is consistent and supportive of both handbook and classes.

We hope you will find this handbook a useful and practical resource in your role as New Mexico County Treasurer. We also encourage you to give us feedback on ways to make this handbook even more helpful. We sincerely thank you for your service to New Mexico County Government.

Dr. Jon C. Boren

Associate Dean, NMSU College of Agriculture, Consumer, and Environmental Sciences
Director, New Mexico Cooperative Extension Service

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KNOWING YOUR GOVERNMENT

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It all begins with the Oath of Office.

I, ________________, having been (appointed or elected) to the office of _______________ in the (County of ____________), State of New Mexico, do solemnly swear that I will support the Constitution of the United States, the Constitution and the laws of the State of New Mexico, and will faithfully discharge the duties of said office to the best of my abilities, so help me God.

This is the oath taken by all New Mexico elected officials, through which they agree to support the US Constitution, the State Constitution and the laws of New Mexico. This handbook begins with a brief history of these fundamental documents and outlines their powers.

1.1 The U.S. Constitution: Establishing a Federal System of Government

The most important thing about a federal system of government is that power is divided between a central national government and state and local governments.

The system is based on two traditional values of a democracy: 1) the natural rights of every citizen to life, liberty, and the pursuit of happiness; and 2) a social contract or agreement, in which citizens agree that they will form a government and live by its rules.

The US Constitution was preceded by first the Declaration of Independence from Great Britain and King George III in 1776, at the beginning of the Revolutionary War (1775 – 1783). Then, in 1781, the thirteen colonies made an attempt at selfgovernment: the Articles of Confederation, the first written constitution in the history of the world. The colonies kept most of their local power and gave only very limited power to the new federal system, allowing it to deal with other nations and to print money. But the colonies did not provide the new national government a source of revenue or a way to enforce its decisions.

The Constitution that followed the Articles of Confederation in 1787, fundamentally changed this powerful local and weak national government relationship. It created a strong national system called Federalism, with two basic principles:

1) Separation of powers, with three interrelated but independent branches of government: legislative, executive, and judicial. Laws are created by the legislative branch, put into action by the executive, and interpreted by the courts of the judicial branch.

2) Checks and balances, in which each of the three branches can affect the way that another branch exercises its power. For example, the President (executive) must act to sign or veto laws proposed by the Congress (legislative), but the court (judicial) has the power to decide what the law is or says, and whether or not it conforms to the Constitution.

One of the first actions taken by the new Congress was to add a Bill of Rights to the new Constitution in 1791: ten amendments that limited the power of the federal government over its citizens. These rights include protection for freedom of speech and religion, the right to bear arms and the prevention of cruel and unusual punishment. The tenth amendment clarifies that all powers that are not specifically given to the federal government, belong to the states, and to the people.

Women, slaves, and Native Americans were not considered whole people under the new government. The words slaves and slavery do not appear and there was an agreement not to discuss this most divisive issue for a period of twenty years.

The thirteenth amendment ended slavery in 1865, and women won the right to vote under the nineteenth amendment in 1910.

1.2 The Role of Federal and State Government

Separation of powers and checks and balances exist at the state and local level as well as nationally, in the form of a state system of Governor, Legislature, and state courts, and local systems of county and municipal commissions and councils, managers, and municipal courts.

At both the national and local levels, the struggles for power between the three branches of government continue to this day. As executives try to exert more power over the legislative branch through executive orders and transfers of money, legislators pass laws mandating their power over the executive as appropriators of funding, and courts strike down laws and sometimes prevent action by the executive branch.

Among the most significant of the seventeen amendments that have been added to the US Constitution in the more than two hundred years since it was written, is the Fourteenth Amendment. It was approved in 1868, after the Civil War, to prohibit the states from denying any person of life, liberty or property without due process, and from denying any person equal protection of the laws. This meant that citizens' most basic rights were protected against actions by state governments as well as by the federal government.

1.3 The New Mexico Constitution

New Mexico was one of the last two states to become a part of the United States in 1910, 66 years after the end of the Mexican War and the Treaty of Guadalupe Hidalgo, which had promised statehood to the territory. Arizona followed in 1912. The delegates to the 1910 New Mexico constitutional convention had the same mistrust of government as existed in Philadelphia in 1787. There was similar mistrust of the West in Washington, where the Congress added a special requirement for the New Mexico constitution: the President's acceptance of the document, as well as their own approval.

Two thirds of the 100 delegates in Santa Fe were conservative Republicans, about a third were Democrats and there was one Socialist. There were no women, no Native Americans, and few Hispanics. Many delegates supported statehood as a way to strengthen corporate business interests through mining, water, and land ownership rights.

Although the new constitution set up a checks and balances system of government, executive power was shared by a large number of elected offices such as Treasurer, Auditor, Secretary of State and Land Commissioner. One of the few things that all the convention delegates agreed upon was to guarantee the civil, religious, and political rights to the descendants of Hispanic Mexicans. They wrote a Bill of Rights that preserved the agreements of the Treaty of Guadalupe Hidalgo, which ended the war with Mexico, in 1848. They also made the bilingual provisions of both the Education Article and the Elective Franchise Article almost un-amendable, by freezing them into the constitution, requiring that they could only be amended by a three-quarters (75%) majority vote statewide and by a two-thirds (67%) majority vote in each county.

1.4 County Government in New Mexico

Unlike state government or the Federal government, counties are not autonomous organizations that function with implicit power. Counties are entities created by the state to serve as administrative units or extensions of the state on a local basis. Initially, counties had a general purpose of assessing and collecting property taxes for the state, enforcing laws, running elections, managing records, and maintaining the roads. While the county continues to fulfill all of these responsibilities, county government has transformed into a vital resource for the constituencies they have been created to serve.

The State Constitution's Tenth Article has three provisions that are the only limits on the State Legislature's power over counties. They include:

- A provision that outlines elections and terms of office for county officials (Section Two)
- A provision which states that a county seat can be removed with the approval of 3/5 of the voters in a given county (Section Three), and
- A provision that prevents the legislature from passing special laws that only affect one or a few counties (Section 24).

Beyond these three items, the state is free to exercise its power over the county. While there are many laws and common practices that define how counties function, there are essentially three vital roles that the county plays in NM (as outlined by Garcia, Hain, Clair & Seckler, 2006):

- They serve as an administrative unit of the state.
- They provide and maintain vital services for their constituents, especially those living in non-urban areas; and
- They provide innovative and entrepreneurial leadership that will help to further enhance the lives of those they serve.

Additionally, New Mexico counties are mandated by law to provide adequate housing for the district attorney, the office of the district court, and public health facilities.

1.5 Organization of County Government

The form of organization for County Government in New Mexico is established by the State Constitution. The powers of the county as a political and corporate entity are exercised by a *Board of County Commissioners (BOCC)* (§4-38-1 NMSA). The BOCC has broad authority, including adopting the annual budget, approving tax levies, and enacting ordinances to provide for the health, safety, welfare and prosperity and morals of the community. In addition, the BOCC has significant appointive, administrative, and regulatory powers.

While the BOCC serves as the governing body of the county, they must also cooperatively share their power with other elected county officials in a number of different aspects. These offices include the Assessor, Clerk, Sheriff, Treasurer, and Probate Judge. Each elected office is organizationally equal with a few very specific exceptions such as the BOCC must serve in specific oversight capacity when acting as the Canvassing Board or the Board of Finance. It is important that each office respects the work of the others and work together towards the common good of the county.

1.6 County Assessor

In general, the Assessor is responsible for the proper and timely assessment of most property subject to valuation for taxation purposes within the county (§7-36-16A NMSA). In addition, the Assessor is responsible for mailing notices of tax valuation within their jurisdiction. Though serving in an elected position, the Assessor works cooperatively with the Taxation & Revenue Department.

1.7 County Clerk

The County Clerk serves an important role for the BOCC and the state. The County Clerk is the ex-officio Clerk of the BOCC (§4-40-3 through 8 NMSA) and, therefore, the Clerk must attend all sessions of the BOCC, though a surrogate may be sent in their place. In this role, the Clerk is responsible for recording all action taken by the BOCC and any supporting materials. The Clerk is also mandated by statute to subscribe to and maintain files of all newspapers published in the county (§4-40-7, 8 NMSA). Additionally, the Clerk's office receives a multitude of documents from the public for filing and recording, such as property records, marriage certificates, and informal probates, which is a service to the state.

1.8 County Sheriff

The elected County Sheriff is the principal preserver of the peace in the county and is charged with the suppression of assaults and batteries, and the apprehension and commitment to jail of all offenders violating criminal state laws or county ordinances (§4-41-2 NMSA). All Law Enforcement officers in New Mexico must wear body-worn cameras.

1.9 County Treasurer

The Treasurer's statutory duties (§4-43-2 NMSA) include:

- to keep account of all monies received and disbursed;
- to keep regular accounts of all checks and warrants drawn on the Treasury and paid;
- to keep the books, papers, and monies pertaining to this Office ready for inspection by the Board of County Commissioners at all times.

The Treasurer is responsible for the collection of taxes, penalties, and interest due under the property tax code. The Treasurer also supervises the deposit, safekeeping, and investment of all county funds, with the advice and consent of the Board of County Commissioners (BOCC), sitting as the Board of Finance, regarding the determination and qualification of banks, savings and loans, and credit unions to receive the county's deposits (§6-10-8, §6-10-10 NMSA).

1.10 Probate Judge

In 1865, the part-time position of elected Probate Judge was created for each county to help with the settlement of wills and estates (§34-7-1 NMSA). The Probate Judge is not required to be a lawyer but is required to hold court in the county seat (§34-7-4 NMSA). The county is responsible for housing the Probate Judge and providing additional administrative resources.

1.11 District Judge

There are 13 judicial districts in New Mexico, with one or more District Judges in each district. Districts include two or more counties except for the Second (Bernalillo) and Third (Doña Ana) Judicial Districts, which contain only one. District Judges are charged with presiding over cases of general jurisdiction at the trial level. District Judges hear both criminal and civil cases, and divisions to address specific matters can be created.

Each county is required to provide adequate quarters for the operation of the District Court. The provision of office space includes necessary utilities and maintenance service for the operation and upkeep of District Court facilities (§34-6-24 NMSA).

1.12 District Attorney

While the District Attorney is elected locally, they are an employee of the state and all salaries and expenses, except office space, which is the responsibility of the county, are paid from state funds appropriated to the District Attorney (§36-1-8 NMSA). The District Attorney is charged with prosecuting and defending criminal and civil cases in which the State or county is a party or may be interested in all courts of record (i.e., magistrate courts are not "courts of record") within the district. The District Attorney is also authorized and required by law to represent the BOCC upon request, to advise all county and state officers whenever requested, and to represent any county in the district in all civil cases in which the county may be concerned in the Supreme Court or Court of Appeals, except in suits brought in the name of the State (§36- 1-18 NMSA).

1.13 Tribal Government

The 1848 Treaty of Guadalupe Hidalgo also contained an agreement by the US government to recognize Indian land holds, and to allow Indian customs and languages. The definition of citizenship for Indian people contained in the Treaty, together with its definition of land rights and tenure, created a fundamentally unique legal status in the American system of law, which holds that each tribe has the inherent right to govern itself, its people, and its land, and is recognized as having control over its own destiny or sovereignty.

Tribal government authority includes the right to form governments, enact laws, establish membership, hold elections, operate courts and law enforcement, provide for public health and safety, and engage in economic development. Tribal government structure in New Mexico is similar for Nations, Tribes, and Pueblos, and consists generally of a President, Governor, or Chairman (executive), a Council and Committees (legislative), and a Tribal Judiciary.

In New Mexico, Native American groups are designated as nations, tribes, and pueblos, each with sovereign status. While commonly referred to as "tribes" the distinction among the various designations is important to understand and honor. Here is a list of the Native entities in New Mexico:

- Navajo Nation
- Jicarilla Apache Nation
- Mescalero Apache Tribe
- Fort Sill Apache Tribe
- 19 Pueblos
    - Acoma | Cochiti | Isleta | Jemez| Laguna | Nambe | Ohkay Owingeh | Picuris | Pojoaque | Sandia | San Felipe | San Ildefonso | Santa Ana | Santa Clara | Kewa/Santo Domingo | Taos | Tesuque | Zia | Zuni

Land tenure/holdings vary according to the creation designation.

- Those tribes in New Mexico with reservations designated by treaty are the Navajo Nation (Executive Order), the Jicarilla Apache Nation and the Mescalero Apache Nation.

- The Pueblo lands were designated through Land Grants and are held in communal fee-simple trust.

Areas of collaborative services among Native and non-native government in New Mexico, to name a few, are:

- Taxes
- Law Enforcement and Public Safety
- Public Health
- Infrastructure
- Social Services
- Environment & Natural Resources
- Economic Development
- Elections
- Education

For more information on building collaborative relationships among governments, take CARE 111 A & B and CPM 212.

NOTES

CHAPTER 2
KNOWING THE LAW

For more information on this Chapter, take NM EDGE classes
CPM 113- Knowing the Law, CPM 114-Public Policy Making Process, CPM 153-Public Meetings,
CPM 211- Knowing the Law II, & CO 113- Open Meetings

In order to understand law in the United States and New Mexico, we must first understand the sources of law. Generally, there are two sources of law: primary and secondary. Primary sources of law are laws created by an established body of government and have the potential to impact the citizenry. Secondary sources of law are essentially background resources that do not have the weight of law but help us to understand primary law. Here are some examples of each:

- Primary Sources of Law: Constitutions, Statutes (state or Federal laws), ordinances (local government laws), administrative regulations or executive orders (by the President, Governor or a cabinet-level secretary), and court decisions (rulings made by the courts that interpret or clarify the law).
- Secondary Sources of Law: Opinions issued by the Attorney General, legal publications and dissenting court opinions (arguments against court rulings).

While it is always good to know about secondary sources of law, it is of greater importance, for the purpose of this text, to understand our primary sources of law and who has the authority to make such laws.

2.1 The Power to Make Law

In general, it is Congress and the New Mexico State Legislature who have the authority to make law in New Mexico. However, those laws (as legislation) must be signed into effect by the President or the Governor. Such laws are often the subject of dispute and interpretation and that is when the court systems, both federal and state, have the ability to further define the law and thus make policy through precedence.

While the federal government does have the ability to make laws that affect all states and the laws that they make individually, not all federal laws are applicable in each state. Conversely, laws made in New Mexico only affect New Mexico. Nonetheless, the law in New Mexico can affect how the federal government operates within the state.

2.2 The Lawmaking Process

Although both Congress and the New Mexico State Legislature follow ultra-specific procedures in the lawmaking process, all laws are made following a rather general process (model adaptation from Kraft & Furlong, 2007):

- **Agenda Setting**: This is where an issue, problem or desired change is presented before a policy making body such as the State Legislature or the Board of County Commissioners (BOCC). The influences at this point are essential. The public, policymakers (lawmakers), current events or legal mandates (laws about law making) all play a role in determining what becomes part of the agenda.

- **Policy Formulation**: Once there is a specific issue or item being discussed by a policy-making body, policymakers must discuss, create, and outline how they will address a particular issue. This process occurs in a political system and there are often clashes of values.

- **Policy Legitimation**: During the process of formulating policy, lawmakers (policymakers) must mobilize support for their policy proposal and how it will achieve its outlined goals. This is the politicking of the process. Not everyone or every policy will prevail. This part of the process often requires compromise and change to a policy in order for it to be adopted.

- **Policy Implementation**: Once a policy has gone through a very complex and lengthy process of approval and adoption (very few items make it this far), it is time to put it into place. Some laws take effect immediately, while others are implemented at a later time or slowly phased into place.

- **Policy Evaluation**: While it is becoming more and more common for a law to require revision within a given period of time, not all laws require future review. However, most laws, should they need to be modified and adapted, will require evaluation. This part of the policy-making process is often left to professionals (such as the Legislative Council Service) and results are presented to the policy-making body.

- **Policy Change**: If a law or policy requires change, it will have to reenter the competitive process as listed above. It will again have to compete for a place on the agenda and be walked through the complexities of the political process.

For specific details on the lawmaking processes in New Mexico and in Congress, please see the following resources:

- Federal lawmaking: "How Our Laws are Made," Revised and Updated in 2007, by John V. Sullivan, Parliamentarian, U.S. House of Representatives
  https://www.congress.gov/resources/display/content/How+Our+Laws+Are+Made+-+Learn+About+the+Legislative+Process

- USHistory.org
  http://www.ushistory.org/gov/6e.asp

2.3 Other Law-Making Bodies

Although legislative bodies are typically regarded as the sole creators of law in America, it is important to keep in mind that is not always the case. Administrative decisions and rules set by governmental units also have the effect of law. For example, while the BOCC creates policy for Human Resources within a given county, the Board cannot make a law for every possible HR-related issue. Rather, the Human Resources Department, under the direction of the county Manager, tends to be provided with a general law that they have to interpret and apply as they believe was expressed by the BOCC. While their decisions can be overturned by the BOCC (or another governing body, such as the courts), most administrative decisions or policies have the effect of law.

2.4 The Impact of Laws

While counties also follow the policy-making process as a lawmaking entity, it is important also to watch how such a process plays out at both the Federal and state level. While laws have the ability to impact a number of groups and stakeholders, laws at the state and Federal level have a significant impact on local government.

Local governments, including counties, are often delegated or mandated to carry out very specific tasks and duties. Generally, there are two types of mandates that can be placed upon counties. Here is what they are, with some examples:

- *Funded Mandates*: If the State Legislature were to pass a law requiring counties to provide immunizations to all those who present themselves and provided the funding and/or requisite resources to purchase the vaccines and deliver such a service, the county has been given a funded mandate.

- *Unfunded Mandates*: On the other hand, if the State were to require the county to provide immunizations but provided zero funding and/or resources beyond their general appropriations that would be an unfunded mandate. The county, through the BOCC, would be forced to find a way to pay for such a requirement.

In an effort to prevent the Federal Government from placing unfunded burdens on counties, the Unfunded Mandates Reform Act of 1995 (UMRA) was established to curb such a practice. Under this act, Congress and Federal agencies are required to identify and evaluate mandates placed on other governmental entities.

In New Mexico, Article X, Section Eight of the State Constitution holds that the state government cannot place mandates on local governments unless requisite resources or funding are provided. Note that the language does not apply to un-funded laws passed by the legislature:

> A state rule or regulation mandating any county or city to engage in any new activity, to provide any new service or to increase any current level of activity or to provide any service beyond that required by existing law, shall not have the force of law, unless, or until, the state provides sufficient new funding or a means of new funding to the county or city to pay the cost of performing the mandated activity or service for the period of time during which the activity or service is required to be performed. (Adopted by the people November 6,1984.)

Despite these efforts, unfunded mandates are still handed down to local government. However, through effective intergovernmental relations and communication, there are things that can be done to curb these types of directives.

2.5 Encouraging Public Involvement in Policy Making & Transparency

While there is an expectation that lawmakers understand and know the needs of their constituency, it is impossible to expect that representatives in government are all-knowing which is why it is critical for policymakers to engage the public in all decisions they make. **Inclusive government** is vital to the preservation of a democratic society. To aid public servants in their inclusive efforts, there are two key laws that all elected officials should know.

The first is the New Mexico Open Meetings Act (OMA), which was established to ensure that the public has every opportunity to involve themselves in the policy making process. The purpose of this Act holds that:

- Representative government depends upon an informed electorate
- All persons are entitled to the greatest possible information regarding affairs of government and the official acts of public officers and employees; and
- Providing such information is an essential function of government and an integral part of the routine duties of public officers and employees (Section 14-2-5 NMSA)

The act provides explanations for what types of meetings fall under the law, public notice requirements for meetings, and proper issuance of agendas, minutes, and closed meetings. Also covered in the Act are remedies, penalties, and exceptions to the law.

The second is the Inspection of Public Records Act (IPRA), which serves as New Mexico's version of the Federal Freedom of Information Act and is designed to provide the public with access to virtually all public records. Such a law is intended to see that all work and action of the government is visible to the public. Of course, there are some limited restrictions on what is open.

For more information on both of these laws, please see the New Mexico Attorney General's compliance guides. These guides aid local governmental agencies in meeting each respective act's requirements.

The OMA Compliance Guide and a Compliance Checklist may be downloaded from the NM Attorney General's Office website, with other documents, https://nmdoj.gov/publications/compliance-guides/

The IPRA Compliance Guide and a Compliance Checklist are easily downloaded from the NM Attorney General's Office website, with other documents, at https://nmdoj.gov/publications/compliance-guides/

2.6 General Requirements of County Elected Officers

(§1-8-18A and 1-4-16B NMSA)

- Office holders must be elected;
- Residents of the district or county as of the date of proclamation;
- Every candidate shall run only under the name and political party indicated on the certificate of voter registration;
- The certificate of voter registration is the only document or means by which the requirements will be satisfied;
- Any person convicted of a felonious or infamous crime, unless such person has been pardoned or restored to political rights, shall not be qualified to be elected or appointed to any public office in this state (§10-1-2 NMSA);
- Citizenship of the United States is a requirement to register to vote and a general requirement to run for elective office in New Mexico. (Const. Art, VII, Sec 1 and 2(A).
- All county officers are to establish and maintain their offices and headquarters for the transaction of business at the county seat (§4-44-34 NMSA).

2.7 Terms of Office

The New Mexico Constitution provides that all county officers are to be elected for four-year terms.

The general election is held in even-numbered years; the term of office of every state, county, or district officer commences on the first day of January after the election (NM Const. Art. XX, Sec. 3).

After holding the office for two consecutive terms, a county officer may not hold any county elected office for the next two years (Art. X, Sec. 2). An elected officer is limited to a total of two consecutive terms regardless of whether they serve them in different counties.

Terms among the members of the Board of County Commissioners (BOCC) are staggered, which means that at every general election in New Mexico, members are elected to each county's BOCC (§4-38-6 NMSA). To provide for staggered County Commissioner terms, in counties with three County Commissioners, the terms of no more than two commissioners shall expire in the same year. In counties with five County Commissioners, the terms of no more than three commissioners shall expire in the same year (NM Const. Art. X, Sec. 2). A commissioner holds office until their successor is qualified and enters upon the duties of the office (§4-38-7 NMSA).

2.8 Vacancy in Office

Whenever any vacancy occurs due to death, resignation or otherwise in any county or precinct office in any New Mexico county, other than a vacancy in the office of County Commissioner, the Board of County Commissioners of the county where the vacancy has occurred fills the vacancy by appointment, and the appointee may hold the office until a successor is duly elected and qualified according to law (§10-3-3 NMSA).

A person who is appointed to fill a vacancy in a county office may serve out the term of their predecessor and still be eligible to run for two consecutive terms. If a person has served one full term as an elected county official and then is appointed to fill a vacancy in office, they are still eligible to run for one more term (A.G. Opinion 1949-50:5286).

Circumstances under which a vacancy occurs in local elective office are defined as follows:

- Death of the party in office
- Removal of the officer as provided by law (See 4.6 below)
- Failure of the officer to qualify as provided by law
- Expiration of term of office when no successor has been chosen as provided by law (the incumbent continues to serve until a successor is appointed by the Governor)
- Removal of the officer from the county in which they are elected
- Absence from the county for a period of six consecutive months, unless the law provides that the duties may be discharged by a deputy and the absence is due to illness or other unavoidable cause
- Resignation of the officer and
- Accepting/undertaking the discharge of duties of another incompatible office (§10-3-1 NMSA).

- A Commissioner representing a district, once elected and qualified, loses their right to office by leaving their residence within the district (NM Constitution, Art. X, Sec. 7). A person appointed to fill a vacancy as a County Commissioner must, at the time of the appointment, be a resident of the commission district from which their predecessor was elected (AG Opinion 1915- 16:335).

If a vacancy occurs in the office of County Commissioner, the Governor fills the vacancy by appointment. The appointee holds office until the next general election at which time a successor is chosen (NM Const. Art. XX, Sec. 4). In the event that the vacancy occurs during the first two years of a four-year term, the person appointed must run in that general election, even though it is not the ordinary cycle in the staggered four-year term procedure. The successor who is then elected at the general election will serve out the unexpired portion of the original four-year term, which will have the effect of restoring the proper cycle. That person is then eligible to hold office for two additional four-year terms (NM Const. Art. XX, Sec. 4 and Art. X, Sec. 2). In this unusual circumstance, one person could serve up to two years through the appointment and then two four-year terms for a total time of ten years.

2.9 Removal from Office

New Mexico statutes provide circumstances under which a person may be removed from office (§10-4-2 NMSA). They are as follows:

- Conviction of any felony or of any misdemeanor involving moral turpitude
- Failure, neglect or refusal to discharge the duties of the office or failure, neglect or refusal to discharge any duty devolving upon the officer by virtue of his office
- Knowingly demanding or receiving illegal fees
- Failure to account for money coming into the hands of such an officer
- Gross incompetence or gross negligence in discharge of the duties of the office
- Any other act or acts, which in the opinion of the court or jury amount to corruption in office or gross immorality rendering the incumbent unfit to fill the office.
- In order to be removed from office, a local official must either be indicted by a grand jury and found guilty at trial, or recalled by the voters.

Recall occurs when a petition for recall is signed by one third or more of the voters who voted when that person was elected to office. The allegations supporting the petition must be examined and probable cause found by the district court. Following the court's determination of probable cause, a recall election will be held. If the recall election is successful, the office is declared vacant (NM Const. Art. X, Sec. 9).

2.10 Abandonment of Office

If an elected official fails to devote the usual and normal amount of time during working hours to their duties for a period of thirty or more successive days, they are considered to have resigned from and permanently abandoned public office and employment (§10-6-3 NMSA).

2.11 Oath of Office

Each County Official, whether elected or appointed, must take an oath that they will support the Constitution of the United States and the Constitution and laws of the State of New Mexico. Further, that they will faithfully and impartially discharge the duties of that office to the best of their ability (NM Const. Art. XX, Sec. 1). In the event that a newly elected official does not subscribe to the required oath of office, the office becomes vacant, and the incumbent continues in office until a successor is qualified and assumes the duties of the office.

2.12 Bonds

The elected official shall give an official bond payable to the state and conditioned for the faithful performance of his duties during his term of office and until a successor is elected or appointed and is qualified. The officer will pay all money received in their official capacity to the person entitled to receive it. The bond shall be executed by a corporate surety company authorized to do business in this state. The amount of the bond required shall be fixed by the Board of County Commissioners in a sum equal to twenty percent of the public money handled by the county officer during the preceding fiscal year, but not to exceed $5,000 for County Assessors, Commissioners, and Probate Judges; $10,000 for County Clerks, flood Commissioners and small claims Clerks, $20,000 for County Sheriffs and $50,000 for County Treasurers. (§10-1-13 NMSA). County officers are prohibited from being sureties for other officers who are required to give a bond (§10-2-3 NMSA). Violation of this statute constitutes a misdemeanor in office (§10-2- 4 NMSA). When any county officer is required to give a surety company bond, the premium on that bond is to be paid out of the county's General Fund (§10-1-13 NMSA). Failure by a newly elected official to post a bond causes that office to become vacant (§10-1-13 NMSA).

The County Manager, or risk manager if one exists, will assist the county elected officials in meeting the statutory bonding requirements through the New Mexico Counties Insurance Authority, or other insurer.

2.13 Compensation

Maximum salaries of county officials are fixed by the State Legislature and vary according to the county classification (NM Const. Art. X, Sec. 1). The legislature is limited in its financial control of county officers by the fact that they can neither increase nor decrease the compensation of any county officer during their term of office (NM Const. Art. IV, Sec. 27). The salaries of county officers are subject to change and if approved by the BOCC, will become effective January 1 of the following year, or other date as set by the BOCC (See §4-44 NMSA).

<u>**2024 General Election Update:**</u> **During the 2024 General Election, Constitutional Amendment 4, proposing an amendment to Article X, Section 1 of the Constitution of New Mexico, was passed by the voters of New Mexico. This amendment provides that the salaries of county officers shall be established by the Board of County Commissioners. The amendment also removes references to the first Legislative session and clarifies that any fees collected by a county official shall be paid to the treasury of the county.**

Despite the fact that the BOCC may approve a newly authorized [by the legislature] salary increase, county officials are not eligible to receive an increase in pay during their term of office. Salaries may only be increased prior to the county official assuming office for the first time, or upon re-election.

Historical Note: Constitutional Amendment 2, on the November 2008, ballot would have allowed Boards of County Commissioners the option of giving mid-term raises to county elected officials. The voters defeated the amendment.

CHAPTER 3
ETHICS & PROFESSIONALISM IN THE PUBLIC SECTOR

For more information on this chapter, take NM EDGE classes
PE 110 A & B- Ethics: Know the Law I & II, CPM 112- Answering the Call to Public Service,
CPM 121- Ethics and Professionalism, CPM 142- Ethics and Managing Public Funds.
More classes may be referenced throughout the chapter.

Introduction - Ethics Are Essential to Government

People judge their government by the caliber of those who serve in it. The public's belief in the integrity of their government will be determined entirely by the ethics of its elected officials and appointed personnel, from the highest elected officials making policy, to the thousands of public employees dedicated to performing the daily work of government.

When members of the public trust their government to act with integrity, they are more likely to vote, voice opinions on issues, resolve disputes through the courts and administrative agencies, pay their taxes, cooperate with government authorities, and otherwise comply with the law. Their trust in government depends upon the belief that it will keep its promises, perform diligently and competently, give out truthful and complete information, act transparently, distribute public benefits and burdens fairly, and use publicly funded resources for the benefit of the community.

Nothing erodes public confidence in government more than unethical or dishonest leadership. Even the perception of impropriety or corrupt behavior among elected public officials can be sufficient to destroy public trust and political careers. More important, however, is the impact on the larger community. The cynicism and distrust of government that usually follows political scandals over ethical violations diminishes the public trust in its leaders, institutions, and laws. Both history and current events offer numerous examples where the public found dishonesty and favoritism so pervasive that they attacked the very legitimacy of their governments.
(NM EDGE class *PE 226 - Leadership and the Public Trust* offers further discussion of this topic.)

This chapter will offer a brief overview of ethical government for public officials, including:

- Universal ethical principles
- Ethical principles for public servants
- Ethical requirements in New Mexico law

- Ethical rules for specific areas of public service
- How leaders create a culture of ethics
- Suggested models for ethical decision-making
- Consequences of misconduct

This chapter is intended only as an overview. The NM EDGE curriculum for Certified Advocate for Public Ethics (CAPE) offers a series of classes exploring these and other concepts in detail. Parenthetically noted throughout this chapter are NM EDGE ethics classes in which material is explored, either as Public Ethics (PE) or Certified Public Manager (CPM) classes. All classes noted may be credited toward attaining a CAPE certificate from NM EDGE.

3.1 Universal Ethical Principles

(PE 120- Do the Right Thing, CPM 139- Creating an Ethical Culture)

Ethicists have attempted to identify ethical principles valued in all settings and across many different cultures. While there are some differences among their lists, several principles appear on virtually all of them. According to one typical formula, universal ethical principles include:

- Trustworthiness
- Responsibility
- Compassion
- Respect
- Fairness
- Loyalty
- Tying all these principles together is a general rule, familiar to all of us, that has been stated in various ways over the millennia:

Treat Others as You Would Yourself Wish to Be Treated.

3.2 Ethical Principles for Public Servants

(PE 239- Ethical Leadership)

Universal ethical principles for public servants include:

- Public service is a trust to be used only to advance public interests, not personal gain.
- Decisions are to be made on the merits of an issue, free of partiality or prejudice and unimpeded by conflicts of interest.
- Government is to be conducted openly, so the public can make informed judgments

and hold public officials and servants accountable.

- Leaders of governmental agencies are responsible for ensuring that they, and all other public servants under their authority, conduct the public's business efficiently, equitably, and honorably. All officials must observe the letter and spirit of the laws.
- Public officials are responsible for safeguarding public confidence in the integrity of government by avoiding appearances of impropriety or conduct unbefitting a public servant.

3.3 Ethical Principles in New Mexico Law

(PE 110 A&B- Ethics: Know the Law, CPM 142- Ethics and Public Finance, & CPM 153- Public Meetings and Public Hearings)

New Mexico has embedded many ethical principles into its statutes. Conduct that does not violate the law may still violate other ethical principles. But violating ethical laws may lead to administrative, civil and even criminal sanctions. Ethical violations that do not violate the law still have consequences, discussed elsewhere in this chapter, such as undermining public trust.

A. Governmental Conduct Act:

The primary law governing ethical conduct by officials of New Mexico state and local government is the Governmental Conduct Act, §10-16-1 et seq. NMSA 1978.

This law applies to officials and employees of all levels of government. Originally focused on state government, the legislature has extended coverage of this law to officials and employees of local government, including judges and many board and commission members. It has therefore become crucial that all state and local government officers and employees in New Mexico, including volunteer boards and commission members, understand their ethical responsibilities under the Act. To that end, the Attorney General has published a Compliance Guide to explain the provisions of the Governmental Conduct Act and clarify their application to covered officials and employees. In addition, the Guide will enable members of the public to become more knowledgeable about the standards of conduct the Act requires and assist them in holding their representatives in government accountable to those standards.

The Attorney General's Compliance Guide on the Governmental Conduct Act may be found online at https://nmdoj.gov/publications/compliance-guides/ .

In 2020, the State Ethics Commission approved a model code of ethics, promulgated at 1.8.4 NMAC. The code includes an executive summary, the code provisions approved by the State Ethics Commission, and a corresponding commentary and examples applying the model code provisions in particular hypothetical circumstances.
https://www.sec.nm.gov/education/

B. Other Ethics Laws Applicable to Local Government

The Governmental Conduct Act is not the only New Mexico law that imposes ethical restrictions on officials and employees of local governments. For example, the Whistleblower Protection Act, §10-16C-1 et seq. NMSA 1978, protects public employees against retaliation for disclosing improper conduct at their public agencies. The Open Meetings Act and Inspection of Public Records Act, both described in section 2.5 of this Handbook, are designed to ensure transparency of governmental decision making, so citizens can provide their input and hold their elected representatives accountable for their actions. The State Procurement Code, §13-1-28 NMSA 1978, provides additional ethical requirements relating to purchasing and contracting. Local governments must comply with these ethical provisions, as well as those in the Governmental Conduct Act, unless they have Home Rule. Local governments with home rule may adopt their own procurement policies. Some local governments have adopted local ordinances governing the ethical conduct of public officials. A number of state laws prohibit government employees from committing serious unethical practices such as embezzling funds, receiving kickbacks or unlawful fees, or nepotism. And federal laws also control conduct by local government officials in certain circumstances. One example is the limitation on political activities imposed by the Hatch Act, 5 USC §1502, on officials whose jobs are primarily or wholly funded by federal grant money.
A listing of many of these laws is attached in the Appendices to the Attorney General's Compliance Guide on the Governmental Conduct Act
https://nmdoj.gov/publications/compliance-guides/.

3.4 Ethical Rules for Specific Aspects of Public Service

(PE 110A&B and PE 120- Do the Right Thing)

Public servants elected or appointed to positions in local government are required to comply with ethical rules in discharging all of their responsibilities. What follows are some examples, briefly described, of ethical rules that arise frequently for those working in the public sector.

A. Conflicts of Interest

The Governmental Conduct Act, Criminal Laws, and the Procurement Code, all referenced above, contain numerous restrictions to prevent people from using their public position to unlawfully benefit themselves, family or friends. For example, these laws restrain people from being involved in hiring or contracting decisions from which they or close family members may benefit. Even former employees of government are restricted from benefiting from certain transactions involving their former agencies. The first step to overcoming ethical problems arising from conflicts is to disclose any conflicts fully to the appropriate management personnel.

B. Abuses of Power **(PE 147- Risky Business)**

Public officials cannot take advantage of their authority to harass other people, improperly gain political advantage, or seek unauthorized special favors. Examples of abuse of power include sexual harassment or other forms of bias; offering or withholding public services based on the political affiliations of those requesting them; avoiding criminal citations because of one's official position; making employment decisions based on a personal connection with the applicant or employee; directing the use of county facilities for personal or political events; or directing county employees to work on the official's property, especially during ordinary work hours.

C. Managing Public Funds **(CPM 142- Ethics and Managing Public Funds)**

Special rules apply to those in charge of managing public funds, to ensure that the funds are protected and used as intended. Those having these responsibilities must be aware of their duties as fiduciaries, including the obligation to act with diligence, responsibility, loyalty and honesty.

D. Civility **(PE 123- Promoting Civility)**

This is one area where ethical principles require positive behavior, even when laws may not. Public officials should treat all people with whom they come in contact— colleagues, employees, citizens, the media, everyone else they serve—courteously and openly.

The reputation and effectiveness of government suffer when the civility of public officials lapses.

E. Transparency (CPM 153- Public Meetings and Public Hearings)

Government can only be trusted when it operates as much as possible in the open. When citizens understand what officials have decided and, even more importantly, how they decided it, the public will be more inclined to trust the officials' efforts and less inclined to oppose them. This applies both to meetings and government documents, but with exceptions to protect the public interest. See section 2.5 of this Handbook, above.

F. Managing Staff (PE 239- Ethical Leadership)

Supervisors are required to treat those they supervise with fairness, respect and sensitivity to their rights as employees. Employees must be treated with impartiality when being hired or promoted and must receive due process when being disciplined.

G. Politics (PE 147- Risky Business)

When public officials campaign for office, it is unethical to use public resources or employment status in support of one's election or other political objectives. Officials are prohibited from requesting, or even "advising," any employee to contribute to or to work on a political campaign.

H. Research (CPM 271- Role of Research in Public Service)

Research is an important tool of government and must take into account ethical standards to assure that its findings do more good than harm.

3.5 Ethical Leadership (PE 239- Ethical Leadership)

Elected public officials have special obligations to ensure that government adheres to the highest ethical standards. It is not enough for elected officials to be honest personally; they are also accountable to the public for the honesty of all appointed public officials they supervise and contractors they approve. Meeting these expectations requires elected leaders, as well as other managers, to make several commitments:

A. Understand the Importance of Appearances

Leaders of government organizations must recognize that appearances count for as much as reality. A public official may know, for example, that he or she will be fair and unbiased when dealing with a request by a relative or close friend for some service.

But to outside observers, just dealing with such a person gives the appearance that the official cannot help but be influenced by the relationship. Unlike in much of the private sector, public officials are working with the community's resources, not their own. Thus, appearances matter.

B. Create a Culture of Ethics

(CPM 139- Creating an Ethical Culture; PE 239- Ethical Leadership)

A leader must inspire ethical conduct within the organization. The leader must demonstrate every hour of every day that ethical conduct is valued and emphasized. Employees and colleagues must know that choosing the ethical course of action will be respected and rewarded, even when it may not be the fastest or easiest way to attain other goals. It is equally important to convey the message that unethical conduct will not be tolerated or overlooked, even when it is done in the name of a desirable goal.

To create a culture of ethics, a leader must ensure that everyone working with the organization understands that he or she is expected to behave ethically at all times. This requires training in ethics for everyone in the organization, and clear statements of the standards of expected conduct. The disciplinary consequences of unethical conduct must also be clearly defined, and, when necessary, applied. Leaders must assess how well staff comply with ethical standards, both through periodic performance reviews and through closer, more frequent monitoring as needed to resolve problems.

To ensure the credibility of the agency's commitment to ethics, leadership must train everyone to recognize and respond appropriately to trouble signs, whether those signs point to inappropriate conduct internal to the organization or in dealing with the public. Staff and the public must have clear, easily accessible directions on how to report ethical concerns, and each concern must be acted upon promptly and appropriately. Staff must also be confident that a fair and efficient mechanism exists for resolving disputes within the organization, so that they will resort to those mechanisms for constructive conflict resolution before disputes escalate.

C. Commit to a Principle-Based Approach to Ethical Decision-Making

(PE 120- Do the Right Thing; PE 220-Value Based Decision Making)

Decisions with ethical consequences often come with little warning and under intense pressure, especially for leaders with weighty responsibilities. Decisions are most difficult when there are advocates for both sides, each emotionally involved. It is therefore valuable for decision makers to understand and commit in advance to use one or more systems of ethical decision-making. While there are different ways to resolve ethical dilemmas, the important thing is to commit to using a principle-based approach. Leaders who are able to articulate principled, factually supported reasons for their decisions reduce the concern that they play favorites or respond without adequately understanding the situation.

To begin a principle-based ethical decision-making process, it is helpful to start with several preparatory steps.

- First, seek as much information about the issue as possible. Information obtained from a single source will likely omit facts important to other perspectives.
- Second, review and consider all the facts, to anticipate the possible consequences of the decision.
- Third, review your own emotions and put them in context. While reason is usually a more reliable guide than emotion, “gut reactions” may be helpful in matters such as reining in offensive conduct. But it is important to analyze whether the emotion involved is an appropriate one.
- Fourth, be open to all solutions, since the most ethical and productive decision may not be the one that has been used before or that first comes to mind.

Examples of principle-based approaches include:

- a “virtuous character” test (what would [insert the name of your personal role model] do in this situation?);
- a “disclosure” test (has the process been open and transparent?);
- a “professional ethics” test (does the decision satisfy the professional requirements in the relevant field?);
- an “intuitive ethics” test (which decision feels right?).

Each of these tests has some strengths and some weaknesses, making each appropriate in some circumstances and less appropriate in others. The point is not to select one in advance and stick to it for every decision. Rather, the point is to recognize which test is operating in the decision-making process, to articulate how it has been applied, and to check whether the chosen approach is the most suitable and persuasive to others.

3.6 Consequences of Ethical Breaches

(PE 110 A&B- Ethics: Know the Law)

As discussed in the beginning of this chapter, unethical conduct in government does serious harm to the public interest and to citizen confidence in government. A critical job for elected officials is to use every available tool to prevent ethical problems before they arise. When they arise despite the best efforts of agency leadership, a rapid and predictable response should follow.

A. Education

The first response need not always be punitive. Even employees trained in ethical conduct may not understand the rules, especially when they are new to government. Misconduct may result from honest mistakes. In such cases, education may be sufficient to prevent further errors, provided that the breach can be adequately addressed. Relying on education where possible also encourages other employees to report problems, since the consequences to the offender may not be criminal charges or administrative discipline.

B. Administrative Sanctions

Most ethical misconduct is handled through disciplinary action. Any disciplinary measures should be only as harsh as the seriousness of the misconduct; a warning should come first, whenever possible. More serious responses may include reassignment, suspension or dismissal, among others. Consult your county attorney.

C. Civil Action

When serious infractions have occurred, the Governmental Conduct Act provides for civil cases to be filed. These suits can be used to recoup losses caused by unethical conduct and prevent further such actions.

D. Criminal Proceedings

When public officials break the law, it may be necessary to refer the matter for prosecution. Most infractions of the Governmental Conduct Act and state criminal laws are classified as misdemeanors, but some are felonies. Criminal laws may also provide for forfeiture of salary or benefits.

Conclusion

Everyone who chooses to enter public service, whether through election or appointment, commits to abide by rules of ethical conduct. It is incumbent on all government personnel to learn the rules and observe them. Leaders have an additional obligation: to ensure that the culture of their government agency includes a commitment to ethics.

CHAPTER 4

ROLES & RESPONSIBILITIES OF THE NEW MEXICO COUNTY TREASURER

For more information on this chapter, take NM EDGE classes
TO 100- Roles & Responsibilities of the Assessors and Treasurers Offices, TO 101- Resources for Treasury Officials

4.1 Term of Office

The county treasurer serves a four-year term (§4-38-6 New Mexico Statutes Annotated 1978).

4.2 General Duties

The treasurer's statutory duties (§4-43-2 NMSA) include:

- to keep account of all monies received and disbursed;
- to keep regular accounts of all checks and warrants drawn on the Treasury and paid;
- to keep the books, papers, and monies pertaining to this Office ready for inspection by the Board of County Commissioners at all times.

County revenues consist of property and other taxes, various fees, licenses, and distributions and grants from the state and federal governments. The county treasurer is the ex-officio collector of all county revenues and has all powers and duties provided by law to county collectors. (§4-43-3 NMSA). The treasurer is responsible for the collection of taxes, penalties, and interest due under the property tax code. County revenues are also distributed by the county treasurer (§6-10-36 NMSA), and an administrative charge is to be assessed to each entity that receives funding through an ad valorem distribution (§7-38-38.1 NMSA).

After valuation of all property, it is the responsibility of the treasurer and assessor to administer and enforce property tax matters.

The treasurer also supervises the deposit, safekeeping and investment of all county funds, with the advice and consent of the Board of County Commissioners (BOCC) sitting as the Board of Finance regarding the determination and qualification of banks, savings and loans and credit union to receive the county's deposits (§6-10-8 NMSA).

The treasurer also assists with compiling the budget that is approved by the board of commissioners and the Department of Finance and Administration (DFA) and operating the office within budgetary limitations. The treasurer may be required to expend resources to achieve federal or state policy goals without being provided funding to cover the costs. The Unfunded Mandates Reform Act of 1995 is intended to help curb the practice of unfunded mandates.

On a monthly basis the treasurer must prepare a financial statement (§10-17-4 NMSA). See Calendar of Events for County Treasurer for this and other deadlines at Appendix A.

4.3 Assuming/Departing the Office

When a treasurer leaves office, he/she is required to make a full and complete settlement with the Board of County Commissioners and deliver in the presence of the county clerk all books, papers, and other property to his/her successor. The Board of County Commissioners is required to file a comprehensive financial statement with the state auditor including all unfinished business of the treasurer that is passed on to a successor. The books must be balanced before being passed on to the successor (§4-43-4 NMSA).

4.4 Salary

The salary of all county treasurers is controlled by state law. The state constitution authorizes the state legislature to set the salaries, and it has done so based upon the classification of each county (§4-44-1 through 4-44-14 NMSA). The classification and salary level for New Mexico county treasurers are found at http://nmdfa.state.nm.us/County_Classifications.aspx

2024 General Election Update: During the 2024 General Election, Constitutional Amendment 4, proposing an amendment to Article X, Section 1 of the Constitution of New Mexico, was passed by the voters of New Mexico. This amendment provides that the salaries of county officers shall be established by the Board of County Commissioners. The amendment also removes references to the first Legislative session and clarifies that any fees collected by a county official shall be paid to the treasury of the county.

4.5 Bond and Oath of Office

The law requires all county officers to be bonded, to assure faithful performance of the duties required by law (§10-1-13 NMSA). Any elected county official failing to meet the nominal bonding requirements by January 10th following his/her election or within ten days after appointment shall have his office declared vacant. The treasurer must also take and subscribe to an oath of office as must any appointed deputies. It is evident the law is somewhat outdated, as it requires that the amount of the bond is to be fixed by the

Board of County Commissioners in an amount equal to 20% of all public monies received during the preceding fiscal year, but not to exceed the following amounts:

- County Treasurer $50,000
- County Commissioner $5,000
- County Assessor $5,000
- County Clerk $10,000
- County Sheriff $20,000
- County Surveyor $5,000
- Probate Judge $5,000
- County Flood Commissioner $10,000
- Small Claims Court Clerk $10,000

The cost of the bond for all county officers is to be paid from the county general fund, and the terms of this statute are usually fulfilled by coordination between the elected officer and the county's risk manager, in cooperation with the New Mexico Counties' insurance pool that insures many New Mexico counties. As the county treasurer, when sworn in, validate that bonding is transferred and current by January 1st.

4.6 Vacancy in Office

When a vacancy occurs in a county office by reason of death, resignation or otherwise, then the Board of County Commissioners appoints a qualified person to hold the office until a successor is duly elected and qualified (§10-3-3 NMSA). See Chapter 2 Section 8 for additional explanation.

4.7 Removal, Suspension and Abandonment of Office

Any county officer may be removed from office on the following grounds:
conviction of any felony or of any misdemeanor involving moral turpitude; failure, neglect or refusal to discharge the duties of the office; knowingly demanding or receiving illegal fees; failure to account for money coming into his/her hands; gross incompetency or gross negligence; and any other act or acts which, in the opinion of a jury or court, amount to corruption in office or gross immorality rending the officer unfit to fill the office (§10-4-1, §10-4-2 NMSA).

In addition to the grounds and process involved in the statutes identified above, the secretary of the Department of Finance and Administration may suspend any local official (§10-5-1 through 10-5-8 NMSA 1978) when an audit reveals any of the following:

- fraudulent misappropriation or embezzlement of public monies;
- fiscal mismanagement of an office resulting in a violation of law;
- willful violation of DFA regulations;
- or willful failure to perform any duty required by any law which the secretary of DFA is charged with enforcing.

Upon such suspension, the secretary of DFA may take charge of the office of the person suspended. The statutes provide for a hearing and a petition for reinstatement. The suspended officer may be reinstated by order of the district court if the secretary of DFA does not show reasonable cause for the suspension, or at the discretion of the secretary, if the suspended officer makes a proper showing satisfactory to the secretary that he/she is willing and able to conduct his office as provided by law and that no loss will be suffered by the county.

Where there are grounds for removal from office, the secretary of DFA may cause removal proceedings to be initiated by the district attorney (§10-5-8 NMSA).

The statutes also provide for the temporary replacement of officers serving active duty in the military service and for replacement of officers who permanently abandon their offices.

Permanent abandonment is defined as the acceptance of public office or employment (other than military service) or private employment for compensation when such office or employment results in failure to devote the usual and normal amount of time during ordinary working hours to duties of his office for a period of 30 successive days or more (§10-6-1 through 10-6-6 NMSA).

4.8 Abolishment of Office Permitted

Any county of the third, fourth, fifth or H class may abolish the offices of county assessor, clerk, surveyor and treasurer and transfer the powers and duties of the abolished offices to the Board of County Commissioners (§4-44-36 NMSA). The procedures for abolishing these Offices may be initiated by a petition signed by at least 10% of the registered voters in the county (§4-44-37 NMSA). The procedures for challenging the petition and conducting an election on the question are set forth in statutes 4-44-38 to 4-44-43 NMSA. The statutes also provide for the re-establishment of the abolished offices by similar procedures (§4-44-44 NMSA).

Legal Resources and Information

The treasurer should have some knowledge of the legislative process. There are several NM EDGE classes which cover this information. Additional information may be found on the web.

Sunshine Laws, such as the NM Open Meetings Act (§10-15-1 through 10-15-4 NMSA 1978) explain what types of meetings fall under the law, public notice requirements for meetings, and proper issuance of agendas, minutes, and closing meetings. The Act covers remedies, penalties, requirements and exceptions to the law.

The Inspection of Public Records Act (§14-2-1 through 14-2-12 NMSA 1978) is meant to provide the public with access to virtually all public records. There is a Compliance Guide that is prepared and updated by the NM Attorney General's Office that aids state and local governments in meeting the requirements of the Act. This guide and others are available on-line at https://nmdoj.gov/publications/compliance-guides/

NOTES

CHAPTER 5
PROPERTY TAXES AND OTHER SPECIAL LEVIES

For more information on this chapter, take NM EDGE classes
TO 105- Real Property Collections, TO 10- Legal Issues Relevant to the Treasurer's Office

There are various types of taxes that the treasurer must be familiar with. The most common tax encountered is the property tax which is imposed under authority of the Property Tax Code. Some of the most pertinent provisions follow.

5.1 Valuation Increase Limitations

Limitation on increases in valuation of residential property (§7-36-21.2 NMSA).

A. Residential property shall be valued at its current and correct value in accordance with the provisions of the Property Tax Code [Chapter 7, Articles 35 to 38 NMSA 1978]; provided that for the 2001 and subsequent tax years, the value of a property in any tax year shall not exceed the higher of one hundred three percent of the value in the tax year prior to the tax year in which the property is being valued or one hundred six and one-tenth percent of the value in the tax year two years prior to the tax year in which the property is being valued. This limitation on increases in value does not apply to:
   1. a residential property in the first tax year that it is valued for property taxation purposes;
   2. any physical improvements made to the property during the year immediately prior to the tax year or omitted in a prior tax year; or
   3. valuation of a residential property in any tax year in which:
      a. a change of ownership of the property occurred in the year immediately prior to the tax year for which the value of the property for property taxation purposes is being determined; or
      b. the use or zoning of the property has changed in the year prior to the tax year.

B. If a change of ownership of residential property occurred in the year immediately prior to the tax year for which the value of the property for property taxation purposes is being determined, the value of the property shall be its current and correct value as determined pursuant to the general valuation provisions of the Property Tax Code (Chapter 7, Articles 35 to 38 NMSA 1978).

C. To assure that the values of residential property for property taxation purposes are at current and correct values in all counties prior to application of the limitation in Subsection A of this section, the department shall determine, for the 2000 tax year, the sales ratio pursuant to Section 7-36-18 NMSA 1978 or, if a sales ratio cannot be determined pursuant to that section, conduct a sales-ratio analysis using both independent appraisals by the department and sales. If the sales ratio for a county for the 2000 tax year is less than eighty-five, as measured by the median ratio of value for property taxation purposes to sales price or independent appraisal by the department, the county shall not be subject to the limitations of Subsection A of this section and shall conduct a reassessment of residential property in the county so that by the 2003 tax year, the sales ratio is at least eighty-five. After such reassessment, the limitation on increases in valuation in this section shall apply in those counties in the earlier of the 2004 tax year or the first tax year following the tax year that the county has a sales ratio of eighty-five or higher, as measured by the median ratio of value for property taxation purposes to sales value or independent appraisal by the department. Thereafter, the limitation on increases in valuation of residential property for property taxation purposes in this section shall apply to subsequent tax years in all counties.

D. The provisions of this section do not apply to residential property for any tax year in which the property is subject to the valuation limitation in Section 7-36-21.3 NMSA 1978.E. As used in this section, "change of ownership" means a transfer to a transferee by a transferor of all or any part of the transferor's legal or equitable ownership interest in residential property except for a transfer:
   1. to a trustee for the beneficial use of the spouse of the transferor or the surviving spouse of a deceased transferor;
   2. to the spouse of the transferor that takes effect upon the death of the transferor;
   3. that creates, transfers or terminates, solely between spouses, any co- owner's interest;
   4. to a child of the transferor, who occupies the property as his principal residence at the time of transfer; provided that the first subsequent tax year in which that

person does not qualify for the head of household exemption on that property, a change of ownership shall be deemed to have occurred;

5. that confirms or corrects a previous transfer made by a document that was recorded in the real estate records of the county in which the real property is located;
6. for the purpose of quieting the title to real property or resolving a disputed location of a real property boundary;
7. to a revocable trust by the transferor with the transferor, the transferor's spouse or a child of the transferor as beneficiary; or
8. from a revocable trust described in Paragraph (7) of this subsection back to the settlor or trustor or to the beneficiaries of the trust.

E. As used in this section, solar energy system installation means an installation that is used to provide space heat, hot water or electricity to the property in which it is installed and is:

1. an installation that uses solar panels that are not also windows
2. a dark-colored water tank exposed to sunlight or
3. a not-vented trombe wall.

History: 1978 Comp., §§ 7-36-21.2, enacted by Laws 2000, ch. 10, §§ 2; 2001, ch. 321, §§ 1; 2003, ch. 118, §§ 1.

5.2 Limitation on Increase in Value for Single-Family Dwellings Occupied by Low-Income Owners Sixty-Five Years of Age or Older or Disabled (§7-36-21.3 NMSA).

Limitation on increase in value for single-family dwellings occupied by low-income owners sixty-five years of age or older or disabled (§7-36-21.3 NMSA).

A. The valuation for property taxation purposes of a single-family dwelling owned and occupied by a person who is sixty-five years of age or older or disabled and whose modified gross income for the prior taxable year did not exceed the greater of thirty-five thousand dollars ($35,000) or the amount calculated pursuant to Subsection F of this section shall not be greater than the assessed valuation of the property for property taxation purposes:

(1) for a person sixty-five years of age or older in the tax year in which the owner qualifies and files an application; or

(2) for a person who is disabled in the tax year in which the owner qualified and files an application for the limitation provided by this section.

B. The limitation provided by this section may be claimed by filing proof of eligibility with the county assessor on an application form furnished by the assessor. The application shall be filed no later than thirty days after the date of mailing by the assessor of the notice of valuation. The application form shall be designed by the department and shall provide for proof of age or disability, occupancy and income eligibility. An owner who applies for the limitation of value specified in this section and files proof of income eligibility for the three consecutive years immediately subsequent to the tax year for which the application is made need not claim the limitation for subsequent tax years if there is no change in eligibility. The county assessor shall apply the limitation automatically in subsequent tax years until a change in eligibility occurs.

C. An owner who has claimed and been allowed the limitation of value specified in this section for the three consecutive tax years immediately prior to the 2020 tax year is not required to claim the limitation for subsequent tax years if there is no change in eligibility, unless the county assessor requests updated information on the owner's modified gross income. The county assessor shall apply the limitation automatically in subsequent tax years until a change in eligibility occurs.

D. A person who has had a limitation applied to a tax year and subsequently becomes ineligible for the limitation because of a change in the person's status or income or a change in the ownership of the property against which the limitation was applied shall notify the county assessor of the loss of eligibility for the limitation by the last day of February of the tax year immediately following the year in which loss of eligibility occurs.

E. A person who knowingly violates the provisions of this section by intentionally claiming and receiving the benefit of a limitation to which the person is not entitled or who fails to comply with the provisions of Subsection D of this section shall be liable for all taxes due, interest and a civil penalty of one thousand dollars ($1,000).

F. For the 2020 tax year and each subsequent tax year, the maximum amount of modified gross income in Subsection A of this section shall be adjusted to account for inflation. The department shall make the adjustment by multiplying thirty-five thousand dollars ($35,000) by a fraction, the numerator of which is the consumer price index ending during the prior tax year and the denominator of which is the consumer price index ending in tax year 2019. The result of the multiplication shall be rounded down to the nearest one hundred dollars ($100), except that if the result would be an amount less than the corresponding amount for the preceding tax year, then no adjustment shall be made.

G. The department shall publish annually the amount determined by the calculation made pursuant to Subsection F of this section and provide the calculated amount to each county assessor no later than December 1 of each tax year.

H. The limitation of value specified in Subsection A of this section does not apply to:

(1) a change in valuation resulting from any physical improvements made to the property during the year immediately prior to the tax year or a change in the permitted use or zoning of the property during the year immediately prior to the tax year; or

(2) a residential property in the first tax year that is valued for property taxation purposes.

I. As used in this section:

(1) "consumer price index" means the consumer price index for all urban consumers published by the United States department of labor for the month ending September 30;

(2) "disabled" means a person who has been determined to be blind or permanently disabled with medical improvement not expected pursuant to 42 USCA 421 for purposes of the federal Social Security Act or is determined to have a permanent total disability pursuant to the Workers' Compensation Act [Chapter 52, Article 1 NMSA 1978]; and

(3) "modified gross income" means "modified gross income" as used in the Income Tax Act [Chapter 7, Article 2 NMSA 1978].

History: Laws 2000, ch. 21, § 1; 2001, ch. 321, § 2; 2003, ch. 78, § 1; 2008, ch. 26, § 1; 2013, ch. 161, § 1; 2019, ch. 140, § 1; 2020, ch. 73, § 1.

5.3 Rate of Tax Cumulative; Determination; Governmental Units' Entitlement to Tax. (§7-37-6 NMSA).

A. The rate of the tax is cumulative and shall be determined for application against any property in a tax year by adding all of the rates authorized by this article and set by the department of finance and administration for the use of the governmental units to which the net taxable value of the property is allocated.

B. Each governmental unit that is authorized a rate under this article is entitled to that portion of the tax collected by applying the governmental unit's rate set for the tax year to the net taxable value of property allocated to the governmental unit.

C. For the purposed of this section and Section 7-37-3 NMSA 1978, the net taxable value of all property subject to the tax is considered allocated to the state when determining or applying tax rates authorized for the use of the state.

History: 1053 Comp.,§ 72-30-6, enacted by Laws 1073, ch. 258, §39.

5.4 Tax Rates Authorized; Limitations (§7-37-7NMSA).

A. The tax rates specified in Subsection B of this section are the maximum rates that may be set by the department of finance and administration for the use of the stated governmental units for the purposes stated in that subsection. The tax rates set for residential property for county, school district or municipal general purposes or for the purposes authorized in Paragraph (2) of Subsection C of this section shall be the same as the tax rates set for nonresidential property for those governmental units for those purposes unless different rates are required because of limitations imposed by Section 7- 37-7.1 NMSA 1978. The department of finance and administration may set a rate at less than the maximum in any tax year.

In addition to the rates authorized in Subsection B of this section, the department of finance and administration shall also determine and set the necessary rates authorized in Subsection C of this section. The tax rates authorized in Paragraphs (1), (3) and (4) of Subsection C of this section shall be set at the same rate for both residential and nonresidential property.

Rates shall be set after the governmental units' budget-making and approval process is completed and shall be set in accordance with Section 7-38-33 NMSA 1978. Orders imposing the rates set for all units of government shall be made by the Boards of County Commissioners after rates are set and certified to the boards by the Department of Finance and Administration (DFA).

The Department of Finance and Administration shall also certify the rates set for nonresidential property in governmental units to the department for use in collecting taxes imposed under the Oil and Gas Ad Valorem Production Tax Act (7-32-1 NMSA), the Oil and Gas Production Equipment Ad Valorem Tax Act (7-39-1 NMSA).

B. The following tax rates for the indicated purposes are authorized: (7-37 NMSA)
   1. for the use of each county for general purposes for 1987 and subsequent property tax years a rate of eleven dollars eighty-five cents ($11.85) for each one thousand dollars ($1,000) of net taxable value of both residential and nonresidential property allocated to the county;
   2. for the use of each school district for general operating purposes, a rate of fifty cents ($.50) for each one thousand ($1,000) of net taxable value of both residential and nonresidential property allocated to the school district;
   3. for the use of each municipality for general purposes for 1987 and subsequent property tax years a rate of seven dollars sixty-five cents ($7.65) for each

thousand ($1,000) of net taxable value of both residential and nonresidential property allocated to the municipality.

C. In addition to the rates authorized in Section B of this section, there are also authorized:
   1. Those rates or impositions authorized under provisions of law outside of the Property Tax Code (Articles 35 to 38 of Chapter 7 NMSA 1978) that are for the use of the governmental units indicated in those provisions and are for the stated purpose of paying principal and interest on a public general obligation debt incurred under those provisions of law;
   2. Those rates or impositions authorized under provisions of law outside of the Property Tax Code that are for the use of the governmental units indicated in those provisions, are for the stated purposes authorized by those provisions and have been approved by the voters of the governmental unit in the manner required by law;
   3. Those rates or impositions necessary for the use of a government unit to pay a tort or workers' compensation judgment for which a county, municipality or school district is liable, subject to the limitations in Section B of §41-4- 25 NMSA, but except as provided in Paragraph (4) of this subsection, no rate or imposition shall be authorized to pay any judgment other than one arising from a tort or workers' compensation claim and
   4. Those rates or impositions ordered by a court pursuant to §22-24-5.5 NMSA and for the use of a school district to pay a judgment pursuant to that section.

D. The rates and impositions authorized under Subsection C of this section shall be on the net taxable value of both residential and nonresidential property allocated to the unit of government specified in the provisions of the other laws or judgments.

History: 1953 Comp., § 72-30-7, enacted by Laws 1973, ch 258, § 40: 1974, ch. 92, § 6: 1975, ch. 132, § 1; 1981, ch. 176, § 2; 1986, ch. 20, § 110; 1990, ch. 125, § 5; 2004, ch. 125, § 3.

Special procedures for administration of taxes on real property divided or combined. (2013)

1. For real property subject to valuation for property taxation purposes in a taxable year that is divided or combined, a county shall proceed to determine the taxes

due on the property by using the prior year's tax rate, if the current tax rates have not been set, and the prior year's value, if the current year value has not been set, and proceed to immediately collect the taxes, venalities, interest and fees through the taxable year in which the property is divided and combined.

2. A taxpayer shall pay the taxes, penalties, interest and fees due on real property divided or combined through the taxable year in which the property is divided or combined prior to filing a plat.

History: Laws 2013, ch. 119, § 1

DFA is authorized and directed to promulgate regulations covering the receipt of, accounting for, and distribution of funds received under Property Tax Code by the county treasurers as taxes. DFA may provide that taxes collected by the state and amounts withheld by them as their portion due be credited and shown as paid by the treasurer on the property tax schedule.

5.5 Property Tax Schedule and Tax Bills (§7-38-35(A) NMSA)

After receipt of the rate setting order by the Board of County Commissioners and the order imposing the tax, but no later than October 1 of each year, the county assessor prepares a property tax schedule of all property located in the county that is subject to taxation.

The schedule is in a form containing the following information (§7-38-35(A) NMSA):

1. description of property, and if personal property, its location;
2. property owner's name and address, and name and address of any person other than the owner to whom the tax bill is to be sent;
3. classification of the property;
4. value of the property determined for taxation purposes;
5. the tax ratio;
6. the taxable value of the property;
7. the amount of any exemption allowed and a statement of the net taxable value of the property after deducting the exemption;
8. the allocations of net taxable value to governmental units;
9. tax rate in dollars per thousand of net taxable value for all taxes imposed on the

property;
10. the amount of taxes due on the property; and
11. the amount of penalties and interest already imposed and due on the described property.

The property tax schedule is a public record and must be prepared and delivered by the assessor to the county treasurer by October 1 of each tax year (§7-38-35(B) NMSA).

The treasurer is generally restricted in making any changes to the schedule, but is authorized by statute to make some limited changes under certain conditions (§7-38-77 NMSA).

For additional information, please reference the following statues:
(§7-38-36 NMSA), (§7-38-36.1 NMSA), (§7-38-38 NMSA)

5.5.1 Notices; Mailing (§7-38-84)

A. Any notice that is required to be made to a property owner by the Property Tax Code (Articles 35 to 38 of Chapter 7 NMSA 1978) is effective if mailed by regular first class mail to the property owner's last address or to the address of any person other than the owner to whom the tax bill is to be sent as shown by the valuation records unless the provisions of the code require a different method of notification or mailing, in which case the notice is effective if given in accordance with the provisions of the code.

B. If a property owner notifies, in writing or by electronic mail, the county assessor or the county treasurer that the property owner wants to receive notices pursuant to the Property Tax Code by electronic mail rather than by regular first class mail, the county assessor or the county treasurer may thereafter provide such notices to the property owner with the requirements of the Electronic Authentication of Documents Act (§14-5-1 through 14-5-6 NMSA) and the Uniform Electronic Transactions Act (Chapter 14, Article 16 NMSA 1978). A property owner's request to receive notices by electronic mail shall be effective until revoked in writing or by electronic mail to the county assessor and the county treasurer. Wherever the Property Tax Code requires a method of notification or mailing done only by the county assessor or county treasurer, other than by regular first-class mail, the notice is effective if given in accordance with the provisions of that code.

C. An electronic mail address provided by a property owner pursuant to this section shall not be considered a valuation record pursuant to §7-38-19 NMSA and shall be retained by the county assessor as a confidential record that is not subject to inspection pursuant to the Inspection of Public Records Act (Chapter 14, Article 2 NMSA 1978).

History 1953 Comp., §72-31-84, enacted by Laws 1973, ch. 258, §124; 1974, ch. 92, §29; 2015, ch. 2, §1.

5.6 Authority to Make Changes in Property Tax Schedule After Its Delivery to the County Treasurer (§7-38-77 NMSA).

A. After delivery of the property tax schedule to the county treasurer, the amounts shown on the schedule as taxes due and other information on the schedule shall not be changed except:

(1) by the county treasurer to correct obvious errors in the mathematical computation of taxes;

(2) by the county treasurer to correct obvious errors by the county assessor in:

(a) the name or address of the property owner or other persons shown on the schedule;

(b) the description of the property subject to property taxation, even if the correction results in a change in the amount shown on the schedule as taxes due;

(c) the data entry of the value, classification, allocation of value and limitation on increases in value pursuant to §7-36-21.2 and §7-36-21.3 NMSA of property subject to property taxation by the county assessor; or

(d) the application of eligible, documented and qualified exemptions;

(3) by the county treasurer to cancel multiple valuations for property taxation purposes of the same property in a single tax year, but only if:

(a) a taxpayer presents tax receipts showing the payment of taxes by the taxpayer for any year in which multiple valuations for property taxation purposes are claimed to have been made;

(b) a taxpayer presents evidence of ownership of the property, satisfactory to the treasurer, as of January 1 of the year in which multiple valuations for property taxation purposes are claimed to have been made; and

(c) there is no dispute concerning ownership of the property called to the attention of the treasurer, and the treasurer has no actual knowledge of any dispute concerning ownership of the property;

(4) by the county treasurer, to correct the tax schedule so that it no longer contains personal property that is deemed to be unlocatable, unidentifiable or uncollectable, after thorough research with verification by the county assessor or appraiser, with notification to the department and the county clerk;

(5) as a result of a protest, including a claim for refund, in accordance with the Property Tax Code, of values, classification, allocations of values determined for property taxation purposes or a denial of a claim for an exemption;

(6) by the department or the order of a court as a result of any proceeding by the department to collect delinquent property taxes under the Property Tax Code;

(7) by a court order entered in an action commenced by a property owner under § 7-38-78 NMSA;

(8) by the department as authorized under §7-38-79 NMSA;

(9) by the department of finance and administration as authorized under §7-38-77.1 NMSA or

(10) as specifically otherwise authorized in the Property Tax Code.

B. As used in this section, "obvious errors" does not include the method used to determine the valuation for, or a difference of opinion in the value of, the property subject to property taxation.

History: 1953 Comp., § 72-31-77, enacted by Laws 1973, ch. 258, § 117; 1974, ch. 92, § 27; 1981, ch. 37, § 79; 1995, ch. 65, § 1; 2000, ch. 32, § 1; 2015, ch. 39, § 1.

5.7 Exemptions

The constitution and statutes of New Mexico provide exemptions for property valuation and taxation. Some of these exemptions depend upon who owns the property while other exemptions depend upon how the property is used. The primary exemptions issued are those for veterans, head-of-family and non-government entities. Tax exemption on property continues as long as the use is for the exempted purpose. Berger v. U.N.M., 28 N.M. 666, 217 P. 245 (1923).

5.7.1 Head-of-family Exemption (§7-37-4 NMSA)

A. Up to two thousand dollars ($2,000) of the taxable value of residential property subject to the tax is exempt from the imposition of the tax if the property is owned by the head of a family who is a New Mexico resident or if the property is held in a grantor trust established under Sections 671 through 677 of the Internal Revenue Code, as those sections may be amended or renumbered, by a head of a family who is a New Mexico resident.

The exemption allowed shall be in the following amounts for the specified property tax years:

1. for the property tax years 1989 and 1990, the exemption shall be eight hundred dollars ($800);
2. for the property tax years 1991 and 1992, the exemption shall be one thousand four hundred dollars ($1,400); and
3. for the 1993 and subsequent tax years, the exemption shall be two thousand dollars ($2,000).

B. The exemption shall be deducted from taxable value of property to determine net taxable value of property.

C. The head-of-family exemption shall be applied only if claimed and allowed in accordance with §7-38-17 NMSA and regulations of the department.

D. As used in this section, head of a family means an individual New Mexico resident who is either:

1. a married person, but only one spouse in a household may qualify as a head of a family;
2. a widow or a widower;
3. a head of household furnishing more than one-half the cost of support of any related person;
4. a single person, but only one person in a household may qualify as a head of family; or
5. a member of a condominium association or like entity who pays property tax through the association.

E. A head of a family is entitled to the exemption allowed by this section only once in any tax year and may claim the exemption in only one county in any tax year even though the claimant may own property subject to valuation for property taxation purposes in more than one county.

History: 1953 Comp., § 72-30-4, enacted by Laws 1973, ch. 258, § 37; 1983, ch. 219, § 1;1989, ch. 81, § 1; 1991, ch. 228, § 1; 1993, ch. 343, § 1.

5.7.2 Veteran Exemption (§7-37-5 NMSA)

A. Up to four thousand dollars ($4,000) of the taxable value of property, including the community or joint property of husband and wife, subject to the tax is exempt from the imposition of the tax if the property is owned by a veteran or the veteran's unmarried surviving spouse if the veteran or surviving spouse is a New Mexico resident or if the property is held in a grantor trust established under Sections 671 through 677 of the Internal Revenue Code of 1986, as those sections may be amended or renumbered, by a veteran or the veteran's unmarried surviving spouse if the veteran or surviving spouse is a New Mexico resident. The exemption shall be deducted from taxable value of [property] to determine net taxable value of property. The exemption allowed shall be in the following amounts for the specified tax years:
   1. for tax year 2004, the exemption shall be three thousand dollars ($3,000);
   2. for tax year 2005, the exemption shall be three thousand five hundred dollars ($3,500); and
   3. for tax year 2006 and each subsequent tax year, the exemption shall be four thousand dollars ($4,000).

B. The veteran exemption shall be applied only if claimed and allowed in accordance with §7-38-17 NMSA and regulations of the department.

C. As used in this section, veteran means an individual who:
   1. has been honorably discharged from membership in the armed forces of the United States; and
   2. except as provided in this section, served in the armed forces of the United States on active duty continuously for ninety days.

D. For the purposes of Subsection C of this section, a person who would otherwise be entitled to status as a veteran except for failure to have served in the armed forces continuously for ninety days is considered to have met that qualification if he served during the applicable period for less than ninety days and the reason for not having served for ninety days was a discharge brought about by service-connected disablement.

E. For the purposes of Subsection C of this section, a person who has been "honorably discharged" unless he received either a dishonorable discharge or a discharge for misconduct.

F. For the purposes of this section, a person whose civilian service has been recognized a service in the armed forces of the United States under federal law and who has been issued a discharge certificate by a branch of the armed forces of the United States shall be considered to have served in the armed forces of the United States.

<u>2024 General Election Update</u>
During the 2024 general election, voters approved two Constitutional amendments.

<u>Constitutional Amendment 1</u> proposed an amendment to Article VIII, Section 15 of the Constitution of New Mexico to extend a property tax exemption, currently allowed only for one hundred percent disabled veterans and their widows and widowers, to veterans with less than a one hundred percent disability and their widows and widowers and basing the amount of the exemption on a veteran's Federal disability rating.

<u>Constitutional Amendment 2</u> proposed and amendment to Article XIII, Section 5 of the Constitution of New Mexico to increase a property tax exemption for honorably discharged members of the armed forces and their widows and widowers.

History: 1953 Comp., § 72-30-5, enacted by Laws 1973, ch. 258, § 38; 1975, ch. 3, § 1; 1975, ch. 77, § 1; 1977, ch. 140, § 1; 1977, ch. 168, § 1; 1981, ch. 187, § 1; 1983, ch. 330, §1; 1986, ch. 104, § 1; 1989, ch. 236, § 1; 1989, ch. 353, § 1; 1991, ch. 228, § 2; 1992, ch. 68,§ 1; 2000, ch. 17, § 1; 2003, ch. 57, § 1. <u>2005, ch. 230, § 1</u>.

5.8 Payment of Property Taxes (§7-38-36.1 NMSA)

- Property taxes in the amount of ten dollars ($10.00) and over are payable to the county treasurer in two equal installments due November 10th in the year which the tax bill was prepared and on April 10th of the following year.
- Taxpayers have 30 days after the due date to pay without penalty and interest. Taxes become delinquent on December 11 and May 11 of each tax year.
- The Board of County Commissioners may provide by ordinance that taxes under ten dollars ($10.00) are due and payable in one single payment on November 10th.
- If property taxes are less than five dollars ($5.00), the Board of County Commissioners may authorize an administrative fee equal to the difference between the tax and five dollars ($5.00).
- No administrative fee is due if no tax is due.
- If an overpayment is made by the taxpayer, the county treasurer may refund the overpayment if:
    1. a written request is made by the taxpayer and received by the treasurer within sixty days of the date the payment was made; or
    2. the treasurer on his/her own initiative determines by June 30th of the following year that an overpayment was made.

- The Board of County Commissioners may, by resolution and additional publication efforts, provide the taxpayers an opportunity to pre-pay property taxes if the tax due is one hundred dollars ($100) or more.
    - The first payment is due July 10th in an amount equal to twenty-five percent of the total tax due.
    - Pre-payment for the second installment is due by January 10th in the amount equal to fifty percent of the tax due (§7-38-38.2 NMSA).
    - No penalty and interest shall be applied for failure to pay or to pay late any optional pre-payment of property taxes as authorized by this section.

- A board of county commissioners may, by resolution, provide property owners the option of making prepayments of property taxes in ten monthly payments beginning June 1 of the year in which the tax bill is prepared and ending March 1 of the following year. The first nine monthly payments shall each be in an amount equal to ten percent of the prior year's property tax bill and the final payment on March 1 shall be in an amount equal to the balance of the tax due, as indicated on the tax bill prepared and mailed pursuant to Sections 7-38-36 and 7-38-37 NMSA 1978; provided that an option otherwise allowed pursuant to this section may not be exercised if taxes are escrowed for the property owner and included in the property owner's monthly mortgage payment.

5.9 Protesting Values (§7-38-25 through §7-38-28 NMSA)

A County Valuation Protest Board is created in each county to hear all protests filed by property owners (§7-38-25 and 21 NMSA). All testimony is taken under oath. Protests must be decided within 180 days of the date the protest is filed. If the property owner or his authorized representative fails to appear without reasonable cause, the protest will be denied (§7-38-27C NMSA). The assessor must maintain a file of all orders issued by the valuation protest board.

If a property owner has not pursued an administrative protest of the valuation pursuant to §7-38-21 NMSA (includes issues such as the property classification, the allocation of value, the fact of or the amount of an administrative fee charged, or a denial for claim of exemption), the property owner may also protest property values after receipt of the tax bill (§7-38-39 NMSA) by filing a claim for refund. This means that the taxes that he disputes to be due, and owing must first be paid prior to the delinquency date. The payment that is contested will be deposited into a fund called the property tax suspense fund (§7-38-41 NMSA). These monies are used to pay refunds if the taxpayer prevails.

Claims for a refund are filed as a civil action in District Court. When it is decided, the treasurer will receive a copy of the final order from the district court regarding the claim and should submit a copy to the assessor and to the director of the state property tax division so they can update their records accordingly.

5.10 Delinquent Taxes (§7-38-22 and §7-38-24 NMSA)

Property taxes that are not paid within thirty days after the date on which they are due are delinquent unless a timely protest has been made under §7-38-22 and §7-38-24 NMSA, and in that case that amount of taxes attributable to the net taxable value of the property that is not in controversy becomes delinquent if not paid within thirty days after the due date.

If property taxes would have otherwise been delinquent but for a timely protest having been made under §7-38-22 and §7-38-24 NMSA, property taxes are also delinquent if the owner:

1. fails to pay taxes or appeal a decision of the county valuation protest board, the PTD, or Court with the time allowed for an appeal; or
2. fails to pay taxes as ordered within ten days after entry of a final order. Collection of delinquent property taxes, penalties, and interest is applied first to the oldest outstanding due.

The treasurer is responsible for publishing a notice within the county in a newspaper of general circulation of the date taxes become delinquent. The notice must be published at least once per week for three weeks immediately preceding the week in which the delinquency date, for both the first and second installments are due (§7-38-46 NMSA). Interest due begins accruing on the thirty-first day of delinquency at the rate of one percent per month until paid (§7-38-49 NMSA). A penalty of one percent per month not to exceed five percent is also due on the unpaid balance. The minimum payment that can be imposed is five dollars. Counties may suspend the minimum charge for one tax year by resolution of the Board of County Commissioners (§7-38-50 NMSA).

5.10.1 Delinquent Tax Notification (§7-38-60 NMSA)

The treasurer is required to mail a notice of delinquency for taxes that are past due thirty days as of June 30th of each year (§7-38-51 NMSA).

The specific information to be included on the delinquency notice includes:

1. the owner of the property as shown on the tax schedule and the address; and
2. any person other than the owner to whom the tax bill was sent to;
3. description of the property;
4. the amount of taxes due;
5. date taxes become delinquent;
6. interest accrual rate;
7. penalties that may be charged;
8. a statement that if taxes due on real property are not paid within three years from date of delinquency, the property will be sold and a deed issued by the PTD;

9. a statement that if taxes due on personal property are not paid, the property will be seized and sold for taxes under to authority of a demand warrant.

Taxes due are a first lien against property regardless of other liens and are in favor of the state until paid (§7-38-48 NMSA).

5.11 Personal Property Seizure (§7-38-53 through §7-38-59 NMSA)

The treasurer is authorized to issue for service a demand warrant by his/her office or by the county sheriff for the seizure of personal property (§7-38-53 NMSA). The treasurer may release all or part of the personal property seized if it is determined that the release will facilitate the collection of the delinquent taxes. However, the release does not prevent any subsequent claims or actions that may be taken against the property.

After the property is seized and before ten days of the proposed sale of the property, the treasurer must notify the owner by certified mail to the amount and kind of property seized, and that it will be sold for delinquent taxes unless they are paid prior to the sale. The notice must also state the taxes, interest, and penalties due. Failure of the owner to receive a notice of sale does not affect the validity of the sale (§7-38-57 NMSA).

Personal property seized must be offered for sale within sixty days (60) after seizure. A notice of sale must be published in a local newspaper of general circulation at least once a week for three weeks immediately preceding the week of the sale (§7-38-58 NMSA). At the time of the sale, the treasurer must deliver a certificate of sale to the purchaser.

5.12 Real Property Foreclosure (§7-38-65 through §7-38-67.1 NMSA)

Real property may be foreclosed upon for the payment of delinquent taxes. This is generally more involved than the sale of personal property; however, many of the same requirements are still present such as advance notice to the property owner of contemplated sale and publication in a newspaper of sale. More specific information may be obtained from the statutes dealing with real property and PTD.

5.13 Property Tax Delinquency List

By July 1st of each year the treasurer is to prepare a property tax delinquency list for all taxes two years or more delinquent. A notation is made on the property tax schedule indicating that the account is being transferred to PTD at the time the tax delinquency list is mailed to the division. PTD sends out specific instructions each year as to how the delinquency list is to be prepared, recorded with the County Clerk, and transmitted to the department.

5.14 State Actions

Upon receipt of the property tax delinquency list, the PTD may proceed to seize and sell property under the same procedures that are authorized of the county treasurer. Whenever taxes are paid, a copy of payment received is given to the property owner and a duplicate sent to the treasurer. The treasurer then notes payment on the property tax schedule.

5.15 Mobile Homes (§7-38-51 NMSA) and Livestock (§7-38-45 NMSA)

A. In the preparation of the tax delinquency notices, the county treasurer shall ascertain those persons who have failed to pay taxes on manufactured homes.

B. In addition to the information required under Section 7-38-51 NMSA 1978, delinquency notices sent to the persons determined under Subsection A of this section shall include the location and vehicle identification number of the manufactured home.

C. A copy of the delinquency notice of unpaid taxes on a manufactured home shall be sent to the motor vehicle division of the department. Upon receipt and filing of the notice by the motor vehicle division, the unpaid taxes, penalty and interest constitute a security interest in and a lien on the vehicle in accordance with §66-3-204 NMSA. The delinquency notice sent to the owner of the manufactured home shall notify the owner of the mailing of the copy of the notification to the motor vehicle division and of the legal effect of the filing of the notice by that division.

D. When the delinquent taxes, penalty and interest are fully paid, the county treasurer shall certify the fact of payment and shall prepare a notification of certified payment. The original notification shall be sent to the motor vehicle division of the department, and a copy shall be sent to the owner of the manufactured home.

E. The lien provided for in this section is in addition to any other remedy available to the state for the collection of delinquent property taxes.

History: 1953 Comp., § 72-31-52, enacted by Laws 1973, ch. 258, §92; 1974, ch. 92, §20; 1983, ch. 295, §3; 1991, ch. 166, § 9.

5.16 Delinquency Limitation (§7-38-81 NMSA)

Property tax delinquent in excess of ten years are indicated as "presumed paid by Act of the Legislature" (7-38-81 NMSA). This applies only to taxes in excess of ten years and the same holds true for levies and assessments in the form of property taxes under provisions of §73- 14-1 through 78-18-43 NMSA.

The county treasurer may correct the tax schedule so that it no longer contains personal property that is deemed to be unable to be located, unidentifiable or uncollectible, after thorough research with verification by the county assessor or appraiser, with notification to the department and the county clerk. (7-38-77, 7-38-77.1, and 7-38-79 NMSA).

5.17 Public Improvement Districts (PID)

In addition to collection of property taxes, the treasurers may be involved in billing and collecting special taxes imposed upon portions of the county voluntarily by the residents, through a statutory mechanism designed to provide an affordable method of financing needed public improvements within that particular locale, but not benefitting the county residents at large. The *Public Improvement District Act* provides a relatively complex system for residents and their boards of county commissioners to create public improvement districts inside the boundaries of the county (§5-11-1 through 27 NMSA). The treasurer may or may not be involved during the process of formation, but if the district is ultimately formed, it is the treasurer as the ex officio collector of the revenues of the county that will likely be responsible for collection of any special levy imposed to finance public improvements constructed within the public improvement district.

The public improvement district process begins when a petition, signed by at least 25% of the owners (by assessed value not acreage) of the real property proposed to be included within the area proposed to become the district is filed with the county clerk on behalf of the Board of County Commissioners, or presented directly to the Board of County Commissioners at one of its meetings (§5-11-3 NMSA). A resolution may be adopted by the Board of County Commissioners declaring its preliminary intent to form the district after a public hearing on the Petition. This preliminary resolution declaring the board's intent to consider the matter may require the persons petitioning for formation of the district to deposit with the treasurer an amount equal to the estimated costs of conducting the feasibility study and other estimated formation costs, to be reimbursed if the district is formed and the requested public improvements are financed (§5-11-3(B) NMSA).

A study of feasibility and estimated costs of improvements, and maximum benefit to be conferred on each parcel within the proposed public improvement district must be prepared, typically by private engineers and appraisers selected by the county before the board may hold the hearing on the issue of formation of the district. Objections to the formation of the public improvement district may be filed by persons claiming an interest in the real property within the area proposed to become a public improvement district. (§5-11-5 NMSA). At the public hearing (conducted by the BOCC) on the question of formation (after the studies are done and the costs and maximum benefit to each parcel has been provided by the expert engineer and/or appraiser and presented to the board), the board shall determine whether the public improvement district should be formed, and shall base its determination on factors of interest, convenience, necessity of the owners, residents and citizens of the county.

If the BOCC determines that the public improvement district should be formed, it shall adopt a resolution ordering formation of the public improvement district. In its decision, the BOCC shall delete property proposed to be in the district that it determines is not directly or indirectly benefitted by the public improvements; the BOCC may also modify the general plan. If the BOCC decides the public improvement district should be formed, it shall also order an election to be held on the question of whether or not to form the district (§5-11-6 NMSA). The election shall be conducted in accordance with the requirements of §5-11-7 NMSA. If the public improvement district passes at the election, and the bonds are issued to finance the public improvements, the treasurer will likely be involved to ensure that the provisions regarding implementation of the special levy are followed, and to oversee the collection of the special levy on each parcel within the public improvement district.

§5-11-23 NMSA provides the specifics regarding implementation of the special levy. For example, the property taxes for the operation and maintenance expenses of the public improvement district shall not exceed an amount equal to three dollars ($3.00) per one thousand dollars ($1,000) of net taxable value for all real and personal property in the district, absent an election approving same by qualified electors within the district. This statute also sets forth the public improvement district's board's duties; the Board of

County Commissioners is the ex officio district board unless another is appointed pursuant to §5-11-2 (F) NMSA.

§5-11-23 NMSA requires the district board to make annual statements and estimates of the operation and maintenance expenses of the district, the costs of public improvements to be financed by the taxes or special levy and the amount of all other expenditures for public infrastructure improvements and enhanced services proposed to be paid from the taxes or special levy and of the amount to be raised to pay general obligation bonds of the district or special levy bonds, all of which shall be provided for by the levy and collection of property taxes on the net taxable value of the real property in the district or by the imposition and collection of special levies. The district board shall file the annual statements and estimates with the clerk. The district board shall publish a notice of the filing of the estimate, shall hold hearings on the portions of the estimate not relating to debt service on general obligation bonds or special levy bonds and shall adopt a budget. The district board, on or before the date set by law for certifying the annual budget of the municipality or county, shall fix, levy and assess the amounts to be raised by property taxes or special levies of the district and shall cause certified copies of the order to be delivered to the local government division of the department of finance and administration.

5.18 Assessment for Local County Road Maintenance

A previous law attempting to address the issue of needed public improvements is still valid today, and provides that the Board of County Commissioners may adopt a resolution determining that any streets totally within an approved subdivision outside the corporate limits of any municipality, and which the board determines to have such a prospective population density as to require extraordinary street maintenance shall be maintained in part at the expense of the owner of any property which abuts upon the streets (§67-4-20 NMSA). The resolution shall only be adopted after a public hearing, notice of which has been advertised in a newspaper within the county for two consecutive weeks. The assessment for the expense of maintaining the streets shall be billed and collected by the county treasurer at the same time as the property taxes and shall become delinquent thirty days after the date of billing. All delinquent assessments shall be a lien against the tract or parcel of property abutting the street, and the lien shall be enforced as provided in §67-24-21 NMSA. 2001, ch. 3422.

Other statues for reference:

7-38-1 through 7-38-36: Preparation of the property tax roll

NOTES

CHAPTER 6
PUBLIC FUNDS AND INVESTMENTS

For more information on this Chapter, take NM EDGE classes
TO 204-Managing Investments for Treasurers & TO 103-Cash Management for Treasury

6.1 Cash Flow

It is important that the level of liquidity needed for county operations be accurately calculated. Cash flow needs will determine the amount, timing, and kind of investments. In actuality, this is usually done in conjunction with the board of finance (Board of County Commissioners), county manager and the finance department.

6.2 Deposits

Deposits are to be made in financial institutions located with the county that are insured either by FDIC, FSLIC or NCUA. Deposits in excess of $250,000 must be collateralized by the pledging of securities by the financial institutions. The depository must pledge 50% of the amount on deposit in excess of $250,000 (§6-10-17 NMSA). A depository bond issued by a surety company may secure a portion of the deposits. Collateral must consist of either securities of the United States, its agencies, instrumentalities, or securities of the State of New Mexico, its agencies or instrumentalities, counties, municipalities, or other political subdivisions, or by securities, including student loans, that are guaranteed by the United States or the State of New Mexico.

According to the Office of the State Auditor (OSA), in general, the “24-hour deposit rule” requires all public money received by ab state official or agency, “unless otherwise specified by statutory exception” be deposited into the state treasury before the close of the next succeeding business day after the receipt of the money. (§6-10-3) The OSA interprets §6-10-3 as applicable to all entities in the state who receive public funds and are subject to the Audit Rule.

Note: To read the law, go to http://www.nmonesource.com.

To read DFA and PTD regulations, Administrative Code, go to http://www.srca.nm.gov/nmac-home/

- Click on “Browse Compilation” in the menu at the top of the page.
- The next page gives you a list of the Titles for the administrative code. Treasurers

in our state are generally interested in the titles "Public Finance" and "Taxation".

- The selected title will take you to a page outlining the various chapters of that particular part of the administrative code.

Qualifying banks, savings and loans associations or credit unions are addressed in §6-10-10 of NMSA 1978. Copies of deposits slips are to be retained by the treasurer and the secretary of the board of finance (§6-10-10 (D) NMSA).

County treasurers have the power to invest in:

1. bonds or negotiable securities of the United States, the state or any county, municipality or school district with a taxable valuation of real property for the last preceding year of at least one million dollars and has not defaulted in the payment of any interest or sinking fund obligation or failed to meet any bonds at maturity at any time within five years last preceding; or

2. securities that are issued by the United States government or by its agencies or institutions and that are either direct obligations of the United States or are backed by the full faith and credit of the United States government or agencies guaranteed by the US government.

   Revenue bonds may qualify as security only if they are underwritten by a member of the National Association of Security Dealers (NASD) and are rated as "BAA" or above by the nationally recognized bond rating service.
   http://www.investopedia.com/terms/n/nasd.asp#axzz26lUkUfZN

Collateral coverage may exceed 50% if determined by the board of finance. The treasurer should periodically review collateral coverage to determine its sufficiency. (NMCPR 2.60.4.9)
Deposits include checking, savings, and certificates of deposit (C.D.'s).
Deposits must be done on a pro-rata basis as a percentage of the financial institution's net worth. This is calculated utilizing figures at the beginning of each year by adding total net worth's (assets minus liabilities) of all financial institutions located in the county and dividing each institution's net worth by the total.

This percentage is the pro-rata amount that must be maintained by the county.

6.3 Investments

The types of investments utilized are dependent upon the excess monies available and their future needs and dates needed. It is important that the county earn the highest return possible, with safety being the highest priority and liquidity being the next highest. Some of the more common short-term investments include:

- savings accounts
- C.D.'s
- Treasury Bills
- investments with the State treasurer
- Brokered CD's
- FICA's (Federally Insured Cash Accounts)

Savings accounts and C.D.'s are traditional and the easiest method but must be done in consideration of the institution's net worth and collateral requirements, as previously mentioned.

Another method to obtain a higher rate of return utilizing deposits in financial institutions is the use of re-purchase accounts. Re-purchase accounts can be invested on a daily basis which funds are invested in the institution's investment portfolio which typically consists of government securities, treasury bills and other securities that are the same allowed to counties by law. Not all institutions have re-purchase accounts available.

Treasury Bills (also known as T-bills) can be purchased directly at a premium or discount in increments of $10,000 and with a maturity of thirty days to one year. If the county is unable to receive a rate of return as set forth under §6-10-36 NMSA, then with the consent of the board of finance, and if the money required for expenditure is within 30 days or less, the county treasurer may remit it to the state treasurer for short term investments (§6-10-10.1 NMSA). The state treasurer will invest the money on behalf of the county.

Long-term investments are monies available for investment in excess of one year. Favorite county investments include C.D.'s, T-Bills, T-Notes, T-Bonds and GNMA's. Investments should generally be in government securities or government insured securities for safety and ease of convenience. The county may also invest in some of the following types of securities although they are generally the types invested in by the state. Because some of these securities are complex in nature, it is advisable for the county to invest in some of these securities only with prudent attention and a thorough knowledge of the nature of the particular instruments.

This knowledge can be gained from a qualified financial advisor or to some extent by education such as can be obtained from NM EDGE County College classes.

The minimum interest rate should never be less than US Treasury Bill for the same maturity on the day of the deposit (§6-10-36E NMSA).

Not more than fifty percent (50%) of the total of the permanent fund shall be invested in securities under Subsections 6-10-10.1(E) and 6-10-10.1(F).

Commissions paid for the purchase and sale of any security shall not exceed brokerage rates prescribed and approved by national stock exchanges or by industry practice.

6.4 Bonds

An important source of funds for the county involves the issuance of bonds. The most common type is the general obligation bond, which may not mature more than twenty years with interest payable either annually or semiannually.

- These types of bonds cannot exceed four percent of the assessed taxable value of property in the county (Article IX, Section 13 and 4-49-7).
- A two-year limitation applies to the issuance of the bonds.
- The time period begins at the date the first proceedings began (§6-15-9 NMSA). This latter restriction does not apply to bond refunding or if the validity of the bond or the bond election is in litigation.
- Bonds may be issued for various purposes including the construction of county buildings, hospitals, jails, airports, utility projects, and roads.
- When contemplated and before issuance, the county must submit a bond proposal to the Local Government Division of the Department of Finance and Administration for their review. DFA will then furnish the county information regarding the issuance such as tax rates, debt contracting power and authority, limitations, and other useful information.

Bonds issued under the County Industrial Revenue Bond Act, County Recreational Bond Act, and various other Acts, are not considered to be general obligation bonds.

6.5 Revenue Recipients Administrative Charge

The treasurer is required to bill revenue recipients for whom revenue has been received for an administrative charge equal to:

1. In Class A counties, three fourths of one percent of the revenues received not to exceed forty percent of the assessor's budget; and
2. In all other counties, one percent of the revenue received not to exceed forty percent of the county assessor's budget.

The provisions only apply to revenue recipients which include the state and any of its political subdivisions excluding institutions of high learning located in Class A and Class B counties having an assessed valuation of more than $300 million. Revenue in this case means money which the treasurer has a legal responsibility to collect, and which is owed to a revenue recipient as a result of the law.

Administrative charges collected by the treasurer are deposited to the county property valuation fund. Expenditures from this fund are made pursuant to a property valuation program presented by the county assessor and approved by the Board of County Commissioners (§7-38-38.1 NMSA).

NOTES

CHAPTER 7

FINANCIAL REPORTS

For more information on this Chapter, take NM EDGE classes
TO 202- Treasury Office Reporting Requirements

The county treasurer is responsible for the preparation of various reports. The types of reports vary from county to county depending upon the existence of a finance department and other factors. Some of the more common reports or financial items are as follows.

7.1 Checks and Warrants

Checks and warrants are issued by the finance department upon authorization of the Board of County Commissioners (BOCC). As they are presented to the bank and presented to the county for payment they are verified, and a treasurer's check is issued for payment.

7.1.1 County Orders for Payment from Treasury; Form and Signature (§4-45-4 NMSA)

County orders shall be signed by the chairman of the Board of County Commissioners or his/her designee and attested by the county clerk and shall specify the nature of the claim of service for which they were issued, and the money shall be paid from the county treasury on such orders and not otherwise. Money may be paid from the county treasury by check or warrant. If money is paid by check, the check must be signed by the chairman of the Board of County Commissioners or his/her designee and the county treasurer.

History: Laws 1876, ch. 1, § 21; C.L. 1884, § 352; C.L. 1897, § 670; Code 1915, § 1223; C.S. 1929, § 33-4237; 1941 Comp., § 15-4204; 1953 Comp., § 15-44-4; Laws 2001, ch. 147, § 2.

7.1.2 Canceled Checks and Warrants Register

The treasurer is required to cancel any unpaid checks or warrants issued after one year. A register of canceled checks and warrants is required to be kept showing the number, date, amount, to whom payable, fund payable out of, and date of cancellation (§6-10-57 NMSA).

Unclaimed Property

The statutory obligations of County Treasurers regarding the reporting of unclaimed properties belonging to individuals entail executing due diligence procedures, administering online registration processes and overseeing payment transactions associated with said properties. (All government agencies are governed by the provisions outlined in State Statute 7-8A-3 (13)).

Holder Due Diligence: The New Mexico Uniform Unclaimed Property Act requires a holder of property that is presumed abandoned to send written notice to the owner at the last known address in 60 days or less, but not more than 120 days before filing the report.

The written notice is required if:

1. The holder has an address in the holder's records for the apparent owner and the records do not indicate that the address is inaccurate
2. The claim of the apparent owner is not barred by any other law of this state
3. The value of the property (stale dated checks) is at least $ 50.00

File on or before November 1. If the due date falls on a weekend or holiday, the report is due the next business day and becomes delinquent on the first day thereafter.

Online Registration: You can conveniently register online at https//holdernm.unclaimedproperty.com, enabling you to report, pay and view reports related to unclaimed properties seamlessly through online platforms. All reports containing more than 25 properties are required to be submitted electronically.

If you have any questions, please contact the Unclaimed Property Office at:

New Mexico Taxation & Revenue Department

Unclaimed Property Office

Unclaimed.Property@tax.nm.gov

7.2 Treasurer's Financial Report

This report is compiled at the close of each month and covers fiscal year information. The report includes such information as fund information by section, record of investments, bank reconciliation information, bonded debt information, detail of receipts, tax distribution information (by fund and section), tax schedule maintenance (10 years), and taxes collected by school district by year. Copies of the report are sent to county commissioners, county manager, county clerk, county finance officer, and others as may be required by established county policy.

7.3 Public School District's Financial Statement

This report may be prepared by the treasurer if he/she is also the fiscal agent for any school district. The report contains current month activity and includes fund information by school district, detail of receipts by school district, bonded debt information, and investment information. Copies of reports are sent to DFA, each school district, public school finance board, and others as required.

7.4 Budget

Although the treasurer is not individually responsible for the preparation of the county budget, he/she may issue monthly reports showing the actual operating results compared to the budgeted amounts. In some larger counties, this may be done by a Finance Department.

7.5 Property Tax Collection Report to DFA

§6-6-2 NMSA charges the Local Government Division of the Department of Finance and Administration (LGD) with the responsibility of reviewing and approving budgets for local government bodies, which includes counties, municipalities and special districts.

As part of the process of reviewing budgets, the LGD reviews projected revenues and analyses of prior year collections and expenditures. This report is due to LGD by August 1, of each year.

7.6 Financial Reports (3.6.50.9)

A. Subsection F of §6-6-2 NMSA requires periodic financial reports of all local public bodies. §6-6-3 NMSA requires that every local public body shall make all reports as may be required by the local government division.

B. Every county shall file a financial report on a quarterly basis with the local government division through the Local Government Budget Management System (LGBMS). The first quarter is from July 1st to September 30th; the second quarter is from October 1st to December 31st; the third quarter is from January 1st to March 31st and the fourth quarter is from April 1st to June 30th. The reports are due at the local government division no later than thirty days following the end of the quarter.

C. Monthly financial reports shall be submitted to the county commission and may be requested by the local government division.

D. Quarterly financial reports shall be submitted to the Department of Finance and Administration Local Government Division through the LGBMS.

E. The treasurer's office should work cooperatively with the county manager's office or county finance department to ensure that reports are submitted accurately and timely.

NOTES

Chapter 8
SOURCES OF PUBLIC FINANCE
County Taxes & Revenues
(excerpted from NM Commissioners Handbook)

County revenues in New Mexico are administered by the Board of County Commissioners (BOCC) and are obtained from three main sources:

- property taxes
- gross receipts taxes
- fees and licenses

- ❖ County revenues are collected by the County Treasurer.
- ❖ State revenues are collected by the New Mexico Department of Taxation and Revenue or another state agency and then shared with county governments.
- ❖ Grants may be derived from a variety of sources such as federal, non-profit, and other agencies and entities.

Several sources of information on New Mexico county finances are available:

- The Legislative Council Service publishes an *Index to Revenue Sources in New Mexico*.
- Statistics are available in the annual reports of the Department of Finance & Administration's Local Government Division Budget & Finance Division (See Property Tax & Other Reports on their website)
- And in publications of the Taxation & Revenue Department (See Taxation & Revenue Department/Tax Library/Municipal & County Government or FYI Publication 120, for a description of all local option gross receipts taxes).

8.1 County Revenue Sources

County revenues are collected and distributed by the County Treasurer. Generally speaking, the largest components of county revenues are Property Taxes and Gross Receipts Taxes followed by Charges for Services and Licenses and Permits. The order of these varies by county. For the latest numbers contact Department of Finance Administration, Local Government Division, Budget and Finance Bureau, for the year-to-date report "Actual Revenues by Source: COUNTIES." Only some of the more common revenue sources are described in this handbook.

8.2 Property Taxes

Property taxes generally represent the single greatest source of county government revenue. Property subject to tax is valued for tax purposes at one-third of the current market value (Section 7-37-3 New Mexico Statutes Annotated). This taxable value is assigned by the County Assessor and constitutes the tax base. All property subject to taxation purposes shall be reported once a year to the Assessor's department (§7-38-8 NMSA). The property tax is levied on real property and tangible personal property that is used or held for business purposes (§7-36-8 NMSA). Property owned by governments and certain nonprofit organizations is exempt, while livestock, motor vehicles, personal property of banks and financial corporations and certain oil and gas properties are subject to separate tax laws. The County may charge an administrative fee on property taxes that are under $5.00 (§7-38-36.1 NMSA).

The total taxable property value for all counties is made up of local and state assessed property, copper ad valorem, and oil and gas production. The County Treasurer is responsible for the collection of all property taxes and is authorized to receive a maximum of $11.85 per $1,000 of taxable value for county operating expenses (§7-37-7 NMSA). Certificates of property tax rates for each county can be found on the DFA/LGD website, under Budget & Finance Bureau, Property Taxes & Annual Reports.

8.3 Low Income Property Tax Rebate

All BOCCs are required to consider, in January of every odd-numbered year, the question of whether or not to resolve to adopt a local ordinance that would authorize a property tax rebate for low-income property tax owners (§7-2-14.3(G) NMSA). If such an ordinance were to be adopted (following the process outlined in the statute, which also involves voter approval of the ordinance), the tax rebate would reduce the net revenues to the County. If such a tax rebate is authorized, the county offering the rebate shall notify the State about the adoption of the ordinance no later than September 1 of the first taxable year to which the ordinance applies. At the end of the year, the County should expect to receive from TRD a certified report with the amount of property tax revenues attributable to the ordinance rebate, and the County is required to promptly remit this amount to the State. Eligibility for the rebates is a modified gross income of $24,000 or lower.

The law provides for a property tax rebate for senior citizens over the age of sixty-five who file an individual New Mexico income tax return, and who are not dependents of another individual. The statute lists the amounts of such rebate (§7-2-18 NMSA).

There are also exemptions from property tax that are discussed in more detail in other county official manuals, (e.g. The NM County Assessors Handbook) such as the veterans and disabled veteran's exemptions, and the head of household exemption.

8.4 Fees and Licenses

Fees for county services may be collected by a variety of county departments in a variety of locations, for a variety of types of fees, but all must be deposited promptly with the County Treasurer.

Some fees received by the County are set by statute; some fees are set by county policy in the form of an ordinance or resolution. One example of a legislatively set fee is the one on most businesses operating outside of municipal limits, including real estate agents, hotels, inns, restaurants, amusement places and dealers in merchandise, except liquor. Since 1988, the maximum allowable fee has been $35.00 (§3-38-3 NMSA). Another example of a statutorily set fee is the authorization for BOCCs to charge an annual tax of up to $250 to those holding State liquor licenses and operating outside municipal limits [Note: to collect this fee, the BOCC must pass an annual resolution imposing the fee by June 1 of each year (§7-24-2 NMSA)].

Examples of fees set by county policy by way of resolution or ordinance are:

- kennel or multiple animal permit
- solid waste pick-up
- water and wastewater hook-up
- care of prisoners
- platting and subdivision review
- right-of-way access fees.

Fees set by ordinance and/or the regulations promulgated under authority of ordinance enable the County to enforce collection by prosecuting violators.

8.5 Lodgers Tax Act

The County may impose an ordinance authorizing an occupancy tax, with some exceptions, not to exceed five percent of gross taxable rent (§3-38-15 NMSA). The proceeds from the tax are primarily for advertising, publicizing, and promoting tourist related attractions, facilities and events. Under certain conditions, lodgers' tax proceeds may also be used to defray costs of police and fire protection for tourist-related events, or for acquiring, constructing and operating tourist- related facilities or services.

8.6 County Gross Receipts Taxes

The majority of the governing body of an eligible county may enact an ordinance imposing an excise tax on the gross receipts of any person engaging in business in the County for the privilege of doing business.

Effective July 1, 2019, House Bill 479 removes the restricted uses of several county local option gross receipts taxes. In doing so, several restricted local option rates are repealed in favor of increasing the unrestricted countywide local option rate from 7/16 percent to 1.25 percent, the unrestricted county remainder additional local option rate would be capped at .5 percent. Several local options for counties were not repealed but would add to the total rate imposed in each county. Certain new replacement authorizations will require a positive referendum.

The bill also removes restrictions on the use of various increments of the County Gross Receipts tax. The bill makes provision for the procedures and guarantees in situations where various local option gross receipts taxes have been used as a source of funds for retiring revenue bonds. Effective July 1, 2019, House Bill 479 retains the cap for local government local option gross receipts taxes but modifies the requirement for counties to take some local options taxes to the voters. For countywide local options, new authorizations that exceed 1.25 percent minus .25 percent, or 1.00 percent would have to go to the voters for approval. For county area (county remainder) local options, new authorizations that exceed 0.12 percent would require an authorizing election. Increments up to a total of twenty-five hundredths percent shall not go into effect until after an election is held and a majority of the voters in the county voting in the election votes in favor of the tax. Increments approved by voters prior to the effective date of this 2019 act shall be included in the increments approved by the voters, as provided in this paragraph. Remaining increments, totaling thirty-eight hundredths' percent, shall not go into effect until after an election is held and a majority of the voters in the county area voting in the election votes in favor of the tax. Increments approved by voters prior to the effective date of this 2019 act shall be included in the increments.

For a description of each county local option GRT, see TRD's publication: FYI-C120, County Gross Receipts Tax Local Options at http://www.tax.newmexico.gov

8.7 Bonding

The bonding process offers each county an opportunity to generate revenues for specific purposes. General obligation bonds may be issued by the BOCC after approval by a majority vote of property taxpayers (§4-49-5, 12 NMSA). These bonds may be used to construct courthouses, detention centers, bridges, hospitals and facilities for county fairs, cultural and athletic events, libraries, roads, airports, utilities and other facilities (§4-49-7 NMSA). Two restrictions apply to general obligation bonds:

- First, no county may issue bonds that total more than four percent of the assessed value of the taxable property in the County (NM Const. Art. IX, Sec. 13 and §4-49-7 NMSA).

- Second, no bonds can be issued or sold if four years have elapsed from the date on which the first proceedings for the bond election began (§6-15-9 NMSA). This latter restriction does not apply to bond refunding or if the validity of the bonds or the bond election is in litigation.

Issuance of these bonds and other public securities, such as notes and certificates of indebtedness require that the BOCC approve a resolution authorizing the issuance and that the notice of adoption be published in a local newspaper (§6-15-4 NMSA). Refunding of these bonds also requires a resolution from the BOCC (§6-15-12 NMSA).

Not all bonds are defined as a public security (§6-14-2 NMSA). Excluded from this category are revenue bonds and bonds issued by the New Mexico Finance Authority Act to support county projects. Bonds issued under the authority of these acts are not general obligation bonds, and therefore are not part of the county indebtedness.

When any county debt in the form of a bond or other certificate of indebtedness has been paid, documentary evidence of that debt may be destroyed, but only if the County has first obtained a certificate of destruction from the bank or third-party paying agent. The certificate must be retained by the BOCC for six years as required by the Bond Election Act (§6-15-23 NMSA).

8.8 Special Levies

There are several laws which provide for the creation of special districts for certain purposes, the cost of which is paid through the issuance of bonds by the County, and repayment is made by assessing those within the special district (See public improvement districts, below).

8.9 Special Levy by Livestock Board

This law requires the BOCC to impose a special tax, at a rate set by the New Mexico Livestock Board, for cattle, horses, sheep, goats and other livestock (§77-2-15 NMSA).

8.10 County and Municipal Gasoline Tax Act

This Act (§7-24A-1 through 21 NMSA) authorizes Class A and Class H counties to impose by ordinance a tax on gasoline sold outside of municipal boundaries. The tax may be as much as two cents per gallon in increments of one cent. After adoption, an ordinance approved under this Act must be approved by the voters. The proceeds may be used to meet public transportation needs as outlined in the statutes (§7-24A-3 NMSA), which also includes the establishment and/or operation and maintenance of a vehicle emissions inspection program.

8.11 Special County Gasoline Tax

Qualifying counties (definitions section narrowly defines “county” by population and net taxable value) are authorized to impose by ordinance, a tax on gasoline sold outside of municipal boundaries (§7-24B-1 through 10 NMSA). The tax may be as much as two cents per gallon, in increments of one cent. The proceeds shall be used for the operation and maintenance of a county-owned hospital. The ordinance is subject to referendum within sixty (60) days after the ordinance is adopted. This tax is in effect for five years and may be extended in additional five-year terms.

8.12 Public Improvement Districts

This Act (§4-55-1 et seq. NMSA) provides a process by which the property owners within a particular geographical area are assessed a special levy, which pays for needed or desired improvements financed through the issuance of public improvement bonds as authorized in the Act. The Act allows residents to petition, or the BOCC to order, the creation of a public improvement district (PID). If the district is created, the parcels within the district are assessed a special levy over a ten or twenty-year period to repay the bonds issued to finance the construction of the drainage/flood controls, road paving, sidewalks or other public improvement.

Neither the County's General Fund, nor other revenue streams are committed; the outstanding balance is equivalent to a lien against the property until paid in full. The proceeds from the issuance of these bonds and the construction projects must be administered by county staff, but it is the property owners that are assessed, not the public at large.

8.13 Tax Increment Development Districts

Tax Increment Development Districts (TIDDS) are a mechanism for providing gross receipts tax financing and property tax financing of public infrastructure, for the purpose of supporting economic development and job creation (§5-15-1 through 28 NMSA). TIDDS plans must be approved by a BOCC or by the governing board of a city within which the TIDDS projects are proposed.

8.14 State Revenue Sources

County governments in New Mexico share in a number of state government-administered-and-collected taxes. Major state revenue sources include the gasoline and cigarette taxes and motor vehicle registration and transaction fees. State-shared revenues account for approximately one-fifth of all county revenues. The New Mexico Legislature also has traditionally provided funds to counties for use in capital improvements on an individual county needs basis, although these funds have recently been severely curtailed, and in some cases, voided, because of the shortfall in state revenues.

8.15 Gasoline Tax

An excise tax of 17 cents per gallon is levied by the State on all gasoline received in New Mexico and is paid by gasoline distributors (§7-13-3 NMSA). Gasoline sold for export from the State and then sold to the federal government or its agencies is exempt from the tax with some credits and refunds allowable. Currently, 5.76% of the net receipts attributable to the gasoline tax are deposited by the State in the county government road fund (§7-1-6.19 NMSA). Revenues are distributed from the fund to each county based upon population and the proportionate share of roads in each county relative to the total miles of county roads in the State (§7-1-6.26 NMSA).

In addition, a special fuel excise tax of 21 cents per gallon is levied on diesel fuel, kerosene and all other alternative fuels used to propel motor vehicles (§7-16A-3 NMSA). Currently 11.11% of total special fuel tax proceeds are distributed to the road fund for allocation to the counties.

8.16 Cigarette Tax

This excise tax was increased by 75 cents per pack in 2010 (§7-12-1 through 17 NMSA) on cigarettes sold, given, or consumed in the State. Cigars are not taxed under the Act. The distribution of receipts from the Cigarette Tax Act to the County/Municipal Recreation Fund and the County/Municipal Cigarette Tax Funds were reduced by the legislature, but the Governor's veto of the bill removed these distributions entirely and gave those revenues to the State General Fund.

8.17 Cannabis (§7-1-6.68 NMSA)

This excise tax falls under the Cannabis Control Division of the Regulation and Licensing Department which licenses, adopts rules, and regulated the industry. Adult use cannabis is subject to both the Cannabis Excise Tax and the Gross Receipts Tax while medical cannabis is subject to neither. The Cannabis Excise Tax starts at 12% in FY22-FY25, increasing by 1% per year from FY26-FY31 to a final rate of 18%. 66.67% of the revenue goes to the State General Fund and 33.33% to the municipality or county area where the sale occurs. County area means that portion of a county located outside the boundaries of any municipality. (§7-1-6.68 NMSA)

8.18 Motor Vehicle Fees

Motor vehicle registration fees are levied according to the type, age, use and weight of the vehicles. The fees that are levied on motorcycles, passenger cars, trailers, trucks, road tractors, buses, vehicle manufacturers and dealers, wreckers, travel trailers, mobile homes and horseless carriages vary. Revenue from the balance in the motor vehicle suspense fund is distributed monthly according to statutory formulas (§66-6-23 and 23.1, 66-5-33.1 (B); 66-5-408 (A) NMSA).

8.19 Law Enforcement Protection Funds

The Act (§29-13-1 through 9 NMSA) provides limited funds to municipal and county Police and Sheriff Departments for maintenance and improvement of those departments. The funds are provided from fees, licenses and taxes paid to the State from the life, general, casualty and title insurance industry (§29-13-3 NMSA). The act outlines a distribution formula that provides annual payments of $20,000 for counties with populations less than 20,000 persons, to $40,000 for counties with populations greater than 160,000 persons. In addition, the Act pays $600 each year per full-time Sheriff's Deputy (§29-13-4 NMSA).

8.20 Local Government Corrections Fund

In 1983, a fund was created in the State treasury for the transfer of funds collected by courts to counties and municipalities (§33-3-25 NMSA). The fund is administered by the Administrative Office of the Courts. Monies are made available for:

- training jailers or juvenile detention officers
- construction planning, construction, maintenance and operation of county detention centers or juvenile detention facilities
- matching required for the receipt of federal funds.

Quarterly payments are made to the counties from penalties and fees collected by magistrate or metropolitan courts and fines paid to the Motor Vehicle Division of TRD. Exceptions include penalties and fees collected by a metropolitan court which are prorated between the county and the municipality based on whether the offenses were committed within the jurisdiction of the county or municipality (§33-3-25 NMSA).

8.21 Small County Assistance Act

This Act (§4-61-1 NMSA) provides funds to assist small counties meeting the specific requirements of a population of 48,000 or less, which impose property taxes of at least $8.85 per $1,000 of net taxable value. Qualifying counties received between $180,000 and $860,000 in September of 2019, based on their statutory eligibility. The base distribution is increased for counties imposing the 1/16th % general gross receipts tax increment and the jail increment. See http://www.tax.newmexico.gov for a description of these increments. The small county funds are provided from compensating taxes collected by the State.

8.22 Miscellaneous Revenues

Counties may also receive funds from the State in minor amounts from the Fire Protection Fund (§59-53-1 et seq. NMSA), the State Racing Commission, and for housing felony offenders in county detention facilities (§33-3-25 NMSA). An increase in the amount of money payable to county government from the Fire Protection Fund, which had in part been going to the State General Fund, was authorized by the legislature in 2007, but has been delayed because of State General Fund deficits. The annual authorization for the County Detention Facility Fund has been shaved several times, also because of state revenue shortfalls.

Fees resulting from the federal Taylor Grazing Act are also available to counties for special purposes (§6-11-5 NMSA). Eligible counties place the fees in the farm and range improvement fund, which is administered by the President of New Mexico State University or his appointee (§6-11-6 NMSA). These fees are to be used for conservation of soil and water, and rodent control, and are not administered by county officials.

8.23 Severance Tax Bonds

This Act (§7-27-1-27 NMSA) authorizes the New Mexico Board of Finance Division (BOF) of DFA to issue and sell severance tax bonds. By January 15 of each year, the BOF must estimate the amount of bonding capacity available for severance tax bonds to be authorized by the legislature. The division authorizes ten percent (10%) of the estimated bonding capacity each year, and the legislature authorizes the BOF to issue severance tax bonds in the annually deducted amount for use by the Water Trust Board to fund water projects statewide, with some exceptions specified in the statute.

The BOF is required to schedule the issuance and sale of the bonds in the most expeditious and economical manner possible, upon a finding by the Board that the project has been developed sufficiently to justify the issuance, and that the project can proceed to contract within a reasonable time. Any unexpended or unencumbered balance reverts to the Severance Tax Bonding Fund.

8.24 Federal Revenue Sources

A number of federal government programs provide funds for county governments. The major sources in recent years have been pass-through funds and grants for emergency relief, employment assistance and law enforcement assistance.

8.25 Payment-in-Lieu-of-Taxes

As a result of the Payment-in-Lieu-of-Taxes Act, codified at 31 U.S.C. 6902 et seq., counties receive a significant amount of revenue for federally owned lands that are located within the counties. Payments in Lieu of Taxes (PILT) are federal payments to local governments that help offset losses in property taxes due to nontaxable federal lands within their boundaries. Chart of PILT distribution available at http://www.tax.newmexico.gov/

The only New Mexico county not qualifying for PILT funding is Curry County because it does not contain qualifying non-taxable federal lands.

The amount of payments to local governments varies according to several factors built into a formula, which basically provides that the County will receive the greater of seventy-five cents per acre of entitlement land located within the boundaries of such unit of local government, reduced by the amount of payments already received pursuant to other existing laws during the preceding fiscal year (eliminate double compensation for the same federal lands), or ten cents per each acre of entitlement land located within the boundaries of such unit of local government. The law defines entitlement lands as:

- National Park System and National Forest System lands, including wilderness areas
- lands administered by the Secretary of the Interior through the Bureau of Land Management
- federally owned lands dedicated for use of water resource development projects.

After the determination regarding the amount of the payment for federally owned land is made as described above, a third factor is introduced into the formula: population according to the most recent U.S. Census. This is used to determine the maximum amount of the payment to be made to any local government, in order to ensure that local governments do not receive funds for which there is no real need. In other words, the federal government does not intend to create wealth for local units; rather, it intends to help local governments that might have suffered from lost revenues resulting from federal ownership of lands.

8.26 Construction Grant Programs

The Housing and Community Development Act of 1974 made federal funds available to counties for community development programs. This Act consolidated Housing and Urban Development (HUD) programs in community development, housing and planning and made changes in housing programs administered by the Department of Agriculture. Non-metropolitan areas (cities under 50,000 population and rural areas) are targeted to share in the annual grants. The current HUD Program is known as the Community Development Block Grant (CDBG) Program. Most counties and municipalities have utilized this program to provide assistance to persons of low- and moderate-income levels. The intent of the program is to provide a suitable living environment, decent housing, essential community facilities and expanded economic opportunities. Certain restrictions apply and counties must meet eligibility requirements. Other federal grants and loans are also available for specific projects, including transportation, recreation and water and sewer facilities.

Contact the Community Development Bureau at the Local Government Division in Santa Fe for further information regarding grants and loans.

The HOME Investment Partnerships Program is another HUD program administered by the State. HOME provides funds for housing projects and has been used successfully by counties and municipalities throughout New Mexico.

Contact the New Mexico Mortgage Finance Authority for more information.

8.27 Tax Liability in Federal Areas

No person is relieved of liability for any tax levied by the State or duly constituted taxing authority by reason of residing within federal area, having property within a federal area or engaging in business within a federal area.

NOTES

CHAPTER 9
FINANCIAL ADMINISTRATION

For more information on this Chapter, take NM EDGE classes
CPM 143- Public Purchasing and Procurement, CPM 145- Investing & Growing Public Funds, CPM 146-Capital Planning, CPM 241/242- Public Budgeting

Financial administration of a county encompasses many different facets. As with many other areas of county operation, an elected official best serves their constituents, the public at large, and the County as an entity by attempting to learn from, to understand and to cooperate with the other elected officials and other county representatives. It is also helpful for the Board of County Commissioners (BOCC) and its administrative staff members to develop a close working relationship with the New Mexico Department of Finance and Administration (DFA), especially with the Local Government Division (LGD), which approves or rejects each county budget and has significant, if not absolute, control over certain county financial matters.

Some of the functions that the BOCC shares with other county officials and representatives relating to county finances are:

- preparation and approval of the County's budget
- purchasing and contracting for goods and services
- depositing and investment of the County's funds
- receipt and accounting for all funds received and expended by the various county departments
- issuance of bonds
- collection and monitoring activities authorized by the bond process, including
- the collection of special levies or assessments
- the collection of property taxes and other income due the County.

The fact that authority to act is spread amongst more than one elected office, and that the BOCC has several department divisions to assist it with its administrative functions, requires the timely and cooperative communication between all involved county elected officials, other department directors, and their respective staff members.

9.1 Specific Statutory Duties

Some of the specific duties/authorizations assigned to the BOCC are:

- The BOCC serves ex officio as the County Board of Finance (§6-10-8 NMSA)
- The BOCC must examine and settle all accounts of receipts and expenses of the County and all accounts chargeable against the County (§4-38-16 NMSA).
- Accounts must be itemized, and the Board can disapprove all or part of the accounts (§4-45-3 NMSA)
- The BOCC is responsible for assuring that a statement of receipts and expenditures is prepared on an annual basis (§4-38-27 NMSA)
- If the BOCC approves the payment of county funds without the authority of law, they are liable for the amount paid out, as well as the costs and fees associated with collecting those funds (§4-38-28 NMSA)
- The BOCC may impose, by ordinance, various local option gross receipts tax increments, as described in FYI-C120.
- The BOCC may issue revenue bonds upon approval from a majority of all the members of the Board (note: this is different from a majority vote of the Board present, which might be a majority of a quorum and less than the full Board) and may issue general obligation bonds after election and voter approval
- The BOCC, and/or its staff, serve as an agent of the United States Government for the expenditure of money authorized by U.S. Congress (§4-36-3 NMSA)

Despite this seemingly extensive authority, the BOCC, as manager of the County's funds, is subject to many other internal and external controls.

For example:

- The BOCC has no authority to divert money from one fund to another.
- If Commissioners attempt to pay warrants drawn from improper funds, the County Treasurer must refuse to pay the warrants.
- If a county has a history of problems with the budget and/or violates LGD's rules and regulations on a regular basis, the State (through the DFA Secretary) has the right to step in and take over the County's fiscal matters, in accordance with the statutory processes for same (§10-5-2 NMSA).

9.2 County Board of Finance

The BOCC constitutes the ex officio Board of Finance.

- The purpose of the Board of Finance is to coordinate with the Treasurer to determine the qualifications and selection of banks, savings and loan institutions, credit unions and other institutions to receive the County's deposits.
- The County Treasurer is responsible for the investment and safekeeping of public funds.
- The County Clerk serves ex officio as the Clerk for the Board of Finance. Board meetings are held upon request of the Treasurer or whenever the Board deems it necessary (§6-10-8 NMSA).

9.3 Deposits and Investments

The County Treasurer, with the advice and consent of the Board of Finance, makes the deposits and investments (§6-10-8 NMSA). Investment of sinking funds (See General Obligation Bonds, below) also requires the consent of the Board of Finance (§6-10-10 NMSA). In some counties, the Board of Finance formally delegates the authority relating to investments to the County Treasurer or other staff member competent in the field. In all cases, however, the Board retains ultimate responsibility.

County funds must be deposited in one or more accounts in federally insured banks, saving and loan institutions or federally insured credit unions within the County. Statute allows the requirement of additional security for the deposit of public money (§6-10-16 NMSA).

Deposits to interest earning accounts may be made to qualified institutions but must be distributed equally throughout the County (§6-10-36 C NMSA). No county may make such deposits in institutions outside of that county (§6-10-31 NMSA).

The rate of interest on all interest-bearing accounts shall be set at least quarterly by the New Mexico Board of Finance (NMBOF) and in no case shall the rate be lower than 100% of the price of the United States treasury bills. Any institution not paying this rate forfeits any right to an equitable share of deposits. Also, if the financial institutions do not pay the interest rate set by the NMBOF, then statute allows the county to place money not immediately needed into a short-term investment fund at the State

Treasurer's Office (§6-10-10.1 NMSA). These short-term investments should not exceed thirty days. Deposits of funds may be made in non-interest-bearing checking accounts to one or more qualified financial institutions located within the boundaries of the county (§6-10-36B NMSA). In all cases of deposits or investments, bank statements are due on the first day of each month and shall be provided to the State Board of Finance and to the County Treasurer (§6-10-29 NMSA), as well as to the County Manager and Finance Director.

9.4 Filing of Monthly Financial Statements

All county departments receiving and disbursing public money are required to file monthly financial statements with the County Clerk on the first Monday of each month. The financial report is to detail the amounts of all public monies received and disbursed by the department and is to be verified. The BOCC's duty is to audit and adjust the reports in accordance with the facts (§10-17-4 NMSA).

9.5 Budgeting

The county budget is not something that happens once a year, but rather is an ongoing process that needs and deserves county officials' time, patience, cooperation, and devoted attention throughout the entire year.

After each election, a newly elected official will be involved in the budget cycle within the first six months of taking office. It is important to fully engage in this process and to ask questions of the County Manager, County Treasurer, and County Finance Director who are there to help guide you through this process.

Purposes of a Budget:

- ✓ Required by statute
- ✓ Helps to set and reach goals and objectives
- ✓ To spend according to priorities
- ✓ To ensure continuation of services
- ✓ To ensure future financial viability and stability
- ✓ To know where you stand/accountability

Components of the Budget Cycle

- Budget Call – Initial distribution of preliminary budget worksheets to elected officials and department managers.
- Formulation – The process of forecasting revenues and expenditures, projecting necessary or required capital assets, scheduling debt service payments, analyze personnel costs, assess the County's current financial condition and analyzing economic developments.
- Budget Hearings – Public and internal meetings between BOCC and management to review and refine the budget prior to approval.
- Execution – Approval, distribution, and implementation of final BOCC/DFA/LGD approved budget. Tasks include revenue and expenditure administration, purchasing, and cash management.
- Audit – Continuous review of the budget for corrections and improvements.

DFA/LGD Recommended Budget Calendar (NMSA 1978 Section 6-6-2)

- Interim Budget Submission – **June 1 NOTE:** NM law <u>**does not**</u> allow time extensions
- Final Budget Submission – **July 31**
- Quarterly Budget Submissions

  9/30 due 10/31, 12/31 due 1/31, 3/31 due 4/30 & 6/30 due 7/31

DFA/LGD Recommended Budget Calendar

Task	Timing	Responsibility
1. Set up budget format for each fund, department, division and account.	January	Finance Department
2. Compare total actual expenditures from previous fiscal year to establish total expenditures and revenue for current fiscal year.	Mid-February	Finance Department
3. Prepare instructions for elected officials & department heads. Indicate any guidelines that should be considered, such as estimated gasoline increases, telephone, postage, etc.	Mid-February	Finance Department
4. Send instructions, appropriate budget page and appropriate analysis of expenditures.	First week in March	Finance Department
5. Complete or update estimates for this year and budget requests for next year.	Mid-March	Elected Officials & Department Heads

DFA/LGD Recommended Budget Calendar		
Task	**Timing**	**Responsibility**
6. Attach justification for budget requests and return.	April 1	Elected Officials & Department Heads
7. Review departmental requests and update revenue estimates and proposed adjustments.	First week in April	County/City Manager & Finance Department
8. Send budget proposals to Governing Body.	Second week in April	Finance Department
9. Hold workshops with elected officials, department heads, and have hearings for public input.	Third week in April	Governing Body
10. Return budget preparation turnaround worksheet to elected official or department head for review and comment.	End of April	Finance Department
11. Finalize budget and submit to governing body for review. Estimate ending cash balance as of June 30 and reflect on recap of budget.	Early-May	Finance Department
12. Review recommended budget and approve.	May Meeting	Governing Body
13. Prepare budget for submission to DFA/LGD.	By June 1	Finance Department
14. Budget approval granted.	By July 1	DFA/LGD
15. Hold final budget hearing, submit final adjustments and financial reports as of June 30 to DFA/LGD.	By July 31	Finance Department/Governing Body/Manager
16. Load budget into accounting system.	For July processing	Finance Department
17. Review and certify budget.	By 1st Monday in September	DFA/LGD
18. Load final budget adjustment into accounting system.	September	Finance Department
19. Certification of tax rates to counties.	September	DFA/LGD
20. Instructions to impose tax rate to county assessor.	September	Governing Body

The annual budget is the County's financial statement of expected income and planned expenditures for the fiscal year. The BOCC, or its budget officer, who is frequently also the County Manager, must plan the amount of money required to meet the County's needs. Specifically, each department estimates and justifies their operational needs. Management reviews the compiled departmental estimates and balances out a provisional budget. If there are more requests than revenues, cuts are made.

Some counties hold a series of both internal and public meetings during which members of the staff and the public respectively express their views and opinions regarding county priorities. Public meetings are subject to the “Open Meetings Act”. A BOCC can hold as many public meetings as necessary. However, a minimum of one (1) budget hearing must be held. Records of cuts must be kept since the BOCC and/or State Legislature may wish to know the reasons why cuts were made. Once the BOCC has approved the preliminary budget, it is transmitted, no later than June 1, to DFA/LGD for its review and approval. The final budget must be submitted by July 31.

DFA/LGD requires counties to keep 3/12th, 25%, of projected General Fund expenditures and 1/12th, 8.33%, of projected Road Fund expenditures **must be** maintained in the fiscal year ending cash balance on June 30. This requirement helps maintain an adequate cash flow if revenue shortfalls occur.

Budgets are submitted to DFA/LGD through the Local Government Budget Management System (LGBMS). LGBMS is the only method approved by DFA/LGD for submitting budgets, budget adjustments and quarterly reports. Further information about LGBMS may be accessed at: http://nmdfa.state.nm.us/lgbms.aspx

The fiscal year begins on July 1 and ends on June 30 (§6-10-1 NMSA). The statute provides that LGD must receive an approved, preliminary, proposed budget from each BOCC by June 1. The approval from LGD is due, by law, on the first of July (§6-6-2B NMSA). The division is to certify to each county its final budget and property tax rates before the first Monday in September of each year (§6-6-2E NMSA).

The final step in the budgetary process is budget execution. As revenues are received, the County Treasurer verifies their receipt and deposits them in banks or savings and loan institutions designated as official depositories for county funds (§6-10-36 NMSA). The county departments should be provided monthly statements reflecting the revenues/payments/deposits credited, and expenditures made, in order to enhance the monitoring of budget compliance countywide throughout the year.

DFA/LGD interprets Section §6-6-6 NMSA to apply to a Fund’s total budget. If a Fund’s total budget is not overspent, even if individual line items or department totals are overspent, then the fund is considered in compliance with Section §6-6-6 NMSA.

A budget is a continuously evolving document. Once a budget is approved, changes can, and should, be made to the budget throughout the year by means of a budget adjustment resolution (§6-6-2G NMSA). Some budget adjustments do not need approval from DFA/LGD, and some budget adjustments must be approved by DFA/LGD. All Budget Adjustment Resolutions (BARs) requiring DFA/LGD approval must be submitted using LGBMS. Below is a summary of when a budget adjustment does, and does not, require approval by DFA/LGD.

ADJUSTMENTS REQUIRING DFA/LGD APPROVAL:

- ☐ Increases and/or decreases to budgeted **revenues** (fund level)
- ☐ Increases and/or decreases to budgeted **expenditures** (fund level)
- ☐ Transfers, in or out (between funds)
- ☐ Transfers of cash, both permanent and temporary (between funds)
- ☐ Any combination of the above

ADJUSTMENTS NOT REQUIRING DFA/LGD APPROVAL:

- ☐ Transfers of budget between departments within a fund
- ☐ Transfers of budget between line items within a department within a fund

All BARs SHOULD BE approved by the BOCC (regardless of if they need to be approved by DFA/LGD) and should be reviewed by the effected elected officials and department managers within the county.

No expenditures or claims shall be made in excess of the operating budget.

At the end of the year, excess monies, if any, shall be applied to the budget estimate for the next succeeding year (§4-51-1 NMSA) or may be deposited in a Local Government Permanent Fund (§6-6-19 NMSA).

During every election cycle it shall be unlawful for the board of county commissioners, the county clerk or any other county official authorized to make purchases to disburse, expend or obligate any sum in excess of fifty per centum of the approved budget for the fiscal year during which the terms of office of any such official will expire. Simply stated, each incoming elected official has the right to receive 50% of the approved annual budget on January 1. Exceptions are outlined in Sections §6-6-7 and §6-6-9 NMSA. Penalties for failure to comply with the 50% requirement can be found in Section §6-6-10 NMSA.

9.6 Accounting

The BOCC fulfills several specific duties in the area of accountability for money received and expended within the County. Each January, the BOCC must see to it that an annual statement of receipts and expenditures is prepared (§4-38-27 NMSA). The BOCC must also examine and settle all accounts of receipts and expenditures for the County (§4-38-16 NMSA). All accounts must be itemized so that the BOCC can approve or disapprove them (§4-45-3 NMSA).

Every four years, or at the end of term of the elected Treasurer, the County Treasurer is required to make a full and complete settlement with the BOCC and deliver in the presence of the County Clerk all books, papers, and other property to the new Treasurer. The BOCC is then required to file a comprehensive financial statement with the State Auditor including all unfinished business of the previous County Treasurer that is passed on to a successor. The books must be balanced before being passed on to the successor (§4-43-4 NMSA).

The LGD prescribes the form for all budgets, books, records, and accounts used by county governments (§6-6-2 NMSA). Every county shall file a financial report on a quarterly basis with the local government division through the Local Government Budget Management System (LGBMS). The Statewide Uniform Budgeting System is a means of evaluating the total performance of a county government; it introduces other measures such as budget performance, outstanding encumbrances, fixed assets, control and usage of funds and efficiency of programs and services.

9.7 Local Government Permanent Fund

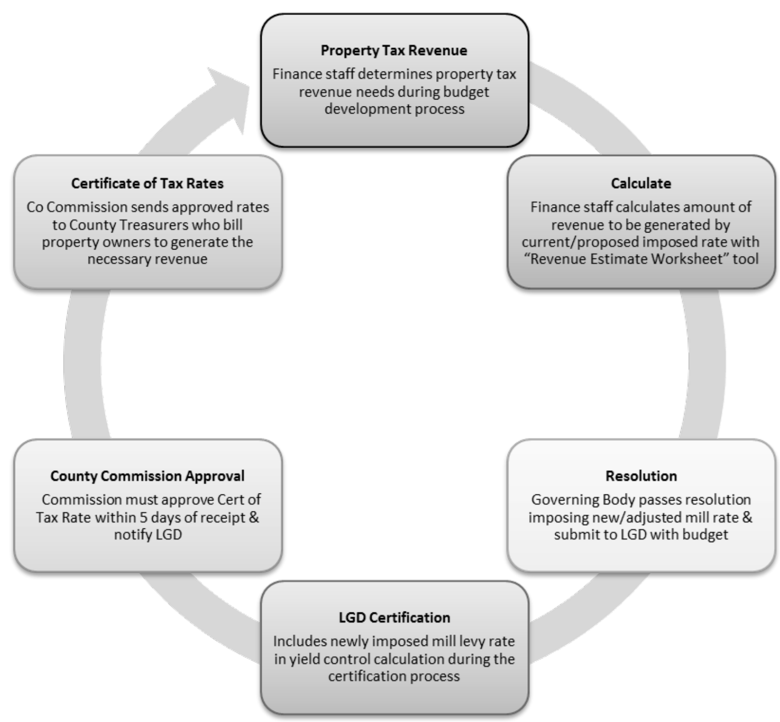
The law provides that the BOCC may establish a Local Government Permanent Fund and a Local Government Income Fund (§6-6-19 NMSA).

- Un-appropriated General Fund surplus in excess of fifty percent (50%) of the prior fiscal year's budget may be deposited into the Permanent Fund.
- The Permanent Fund is appropriated and expended only by approval of the voters of the County.
- Earnings from Permanent Fund investments are to be deposited in the Local Government Income Fund.
- Money in the Income Fund may be budgeted and appropriated for any purpose.

9.8 Revenue Collecting

As the county officials responsible for the levying of taxes, the BOCC plays a role in the collection of revenues. The County Treasurer is directly responsible for the collection of taxes, while the BOCC orders the amount of the levy.

Property Tax Related to Budget Process



Property tax imposition and collection are detailed in the New Mexico Property Tax Code (§7- 35-1 through 7-38-93 NMSA). Under these provisions, the BOCC must issue its written order imposing tax rates within five days of receiving DFA's rate-setting order, which is due by September 1 (§7-38-33, 34 NMSA). By October 1, the County Assessor must prepare the property tax schedule for the County (§7-38-35 NMSA). By November 1, the County Treasurer mails the property tax bills, which are payable in two installments, by November 10 and April 10 (§7-38-38A NMSA). Property taxes of $10 or less must be paid in one annual payment. The maximum allowable tax rates are set forth in the statutes (§7-37-7, 7-37-7.1 NMSA). The property tax revenues are distributed by the County to the County for use for general purposes, to the school districts, and to municipalities.

The county is entitled and mandated to collect an administrative fee from most ad valorem property tax revenue recipients, in an amount of one percent (1%) of the revenue to be received by the revenue recipient. Such fees are deposited in the County Property Valuation Fund, which is expended at the recommendation of the County Assessor, subject to the approval of the BOCC (§7-38-38.1 NMSA).

No later than June 10 of each year, the County Treasurer is required to mail notice to each property owner of property for which taxes have been delinquent for two years, advising that the delinquent taxes will be transferred to the TRD for collection (§7-38-60 NMSA). TRD has the responsibility to take all action necessary to collect delinquent taxes, including sale of the property (§7-38-62 NMSA). As of January 2014, the Legislature has mandated that, except in limited circumstances, the Taxation and Revenue Department offer real property for sale for delinquent taxes within four years after the first date shown on the tax delinquency list on which the taxes became delinquent. (§ 7-38-65 NMSA).

In 2018, legislation was passed to assist with delinquent accounts that were on the tax roll for more than ten years. The law permits for a "right of first offer" to permit pueblos, land grants, and non-taxable entities such as counties, to have the right of first offer on land they may have previously owned before placing it through the auction process. It defines "abandoned real property" to be a part of a subdivision with a minimum of 5,000 delinquent vacant lots; part of a subdivision plotted on or before 1980; and the property taxes, penalty and interest have not been paid in at least ten years. It allows for real value to be taxed and collected instead of an inflated tax rate due to taxes that will never be resolved by permitting the department to "undergo exclusive good faith negotiations with the rights holder before offering abandoned real property for sale to the public." This is the first legislation that permits an online platform to sell abandoned delinquent accounts after all negotiations and public auction have occurred. (7-38-67.1 NMSA)

9.9 General Obligation Bonds

Article IX, Section 10, of the New Mexico Constitution states that no county may borrow money except for the following purposes:

- Erecting, remodeling and making additions to necessary public buildings
- Constructing or repairing public roads and bridges

- Constructing or acquiring a system for supplying water, including the acquisition of water and water rights, the necessary real estate or rights-of-way and easements
- Constructing or acquiring a sewer system, including the necessary real estate or rights-of-way and easements
- Constructing an airport or sanitary landfill, including the necessary real estate or rights-of-way and easements
- The purchase of books and other library resources for libraries in the County.

The statutes clarify that “public buildings” include detention centers, juvenile detention facilities, hospitals, libraries, recreation and athletic facilities, fair facilities and cultural facilities, as well as similar other facilities.

General obligation bond indebtedness can only be created to finance the construction or acquisition of specific public projects, and only if voted on and approved by the registered voters of the County. The general obligation bonds are repaid through property taxes. The total value of all outstanding general obligation bonds cannot exceed four percent of the total assessed value of county property (§4-49-7 and NM Const. Art. IX, Sec. 13). Bonds or other obligations in excess of four percent are invalid.

General obligation bonds, with the exception of refunding bonds, must mature within 20 years of the date of issuance. Interest must be payable semiannually or annually (§6-5-3 NMSA). Furthermore, the issuance of the bonds will be time-barred if they are not issued within four years of the date of the election (§6-5-10 NMSA). This time limitation does not apply to bond refunding.

A sinking fund may be used to secure payment of the principal, or principal plus interest, on general obligation bonds, and may be created by a resolution or ordinance by the BOCC (§6-15- 22 NMSA). The income generated by the sinking fund may be invested, reinvested, or deposited in a bank under an escrow agreement.

9.10 Revenue Bonds

Counties may issue, pursuant to statute (§4-62-1 through 10 NMSA):

- Gross Receipts Tax Revenue Bonds
- Fire Protection Revenue Bonds
- Environmental Revenue Bonds
- Gasoline Tax Revenue Bonds
- Utility Revenue Bonds
- Project Revenue Bonds

No county can issue revenue bonds pledging revenues that are not being collected or received.

In addition, the County Industrial Revenue Bond Act (§4-59-1 NMSA et seq.) authorizes counties to induce industry to locate to their county in order to spur economic development. This Act, which was broadened in 2015, allows the issuance of Industrial Revenue Bonds to be used to finance the proposed business project. When deciding whether or not to accept the project and adopt an inducement resolution (one of the first steps in the industrial revenue bond process), the BOCC should apply objective criteria, preferably reduced to a written policy, setting forth the factors they will consider before granting a request.

In other words, when the policy is applied consistently, the result should be that the type of business the BOCC intends to attract to the County is permitted to proceed.

Some factors that the BOCC may wish to use in considering and prioritizing these requests include:

- water usage
- industry for manufacturing, processing or assembling of agricultural or manufactured products
- a nonprofit engaged in healthcare services
- mass transit
- environmental hazards
- risk of pollution or contamination
- the types of jobs to be created

- number of jobs to be created
- the expected hourly rate or salary for these jobs
- the county of residence of future employees

The financial viability of the prospective industry is another factor that should always be carefully examined and considered during each part of the multi-step process.

9.11 Purchasing

An extremely important and daily administrative function of the BOCC is that of purchasing. The State's Procurement Code (§13-1-28 through 13-1-199 NMSA) applies to all expenditures by state agencies and local public bodies for the procurement of items of tangible personal property, services, and construction, unless specifically exempted or excluded by the Code (§13-1-30 NMSA).

Unfortunately, there are a tremendous number of exclusions and exemptions contained in the voluminous act that make it confusing and sometimes difficult to assess whether a proposed purchase is subject to the Code. In those cases, it is advisable to err on the side of free competition and issue a bid.

Counties are, as local public bodies, excluded from the requirement to purchase through the State's Central Purchasing Office. This does not mean however that counties are excluded from following the procurement process. Though counties may adopt their own purchasing rules and regulations, which may be more stringent than the State's, in the absence of local regulation, counties must follow the State's Procurement Code.

The Procurement Code requires that each county centralize its purchasing function in one officer or office responsible for making all purchases for the County (§13-1-97 C NMSA). This office ensures that state and county procurement rules are followed by the various departments, and that federal laws are complied with when federal funds are involved in a project. Federal laws usually involve equal opportunity, equal access, wage rates and minimum wages, environmental standards and other affirmations relating to compliance with the laws.

The State legislature has mandated that every public body employ a Chief Procurement Officer (CPO) to manage the purchases of that public body. This requirement may be met by your County Manager becoming certified or by your County Manager sending someone from your purchasing department, such as the Purchasing Manager, to become certified. It is prudent to have a backup in this role. Certification is managed through the State Purchasing Division (see their website.) and certification classes are offered through NM EDGE. The NM EDGE has a public purchasing curriculum for those who purchase often, as well as overview classes of public purchasing for policy makers.

Every time a Chief Procurement Officer is hired, the county is required to provide to the state purchasing agent the name of the county's chief procurement officer and information identifying the county's central purchasing office, if applicable. The Chief Procurement Officer is required to complete an initial certification and recertification every two years, and only a certified Chief Procurement Officer may:

1. make determinations, including determinations regarding exemptions, pursuant to the Procurement Code;
2. issue purchase orders and authorize small purchases pursuant to the Procurement Code; and
3. approve procurement pursuant to the Procurement Code (§ 13-1-95.2 NMSA).

Ideally, each county Central Purchasing Office provides training to the other county departments regarding the federal, state and local requirements for purchasing, as well as the forms and other procedures adopted by the County, to make it easier for all to understand and to abide by.

Some highlights of basic public procurement law follow:

- There are numerous items of goods or services that the Legislature has exempted from the provisions of the Procurement Code. The pertinent exceptions are listed in (§13-1-98 NMSA).
- Small purchases are not subject to a competitive bid, although other more informal requirements apply, to allow for fair competition.
    - A small purchase is defined as a tangible good not exceeding $20,000 in cost, and a professional service not exceeding $60,000 (§13-1-125 NMSA).
    - County regulations, however, may impose more stringent requirements than those found in the Procurement Code.
- Procurement of professional services such as accounting, architectural, engineering, surveying, legal and medical services are not subject to pricing controls, and decided

on the basis of qualifications and the respondent whose offer is most advantageous to the county.

- When no exceptions apply, invitations for sealed competitive bids must be published at least ten days in advance of any date set for opening of the bids (§13-1-104 NMSA) and must include specifications for the goods or services, terms, conditions, date, time and place of the bid opening (§13-1-103 NMSA).
    - Bids are to be evaluated based upon objective criteria also provided in the bid specifications.
    - Bids are to be opened in a public meeting with written notice sent to the lowest responsive bidder.
- When the county awards a construction contract that exceeds $25,000, the contractor must provide a performance bond (§13-4-18 NMSA).
- Bonds for contracts under $25,000 may be required at the discretion of the county, which should be included in the bid specifications.
- The bond may be reduced to less than 50 percent (50%) of the contract price when it is determined that it is less costly and more advantageous for the county to self-insure a portion of the performance of the contractor.
- The purchasing agent for the county is usually involved in the disposition of unused or obsolete property.
- The regulations governing the sale or other disposal of public property are contained in (§13-6-2 NMSA).

9.12 Preferences

To receive a business preference pursuant to Section 13-1-21 NMSA 1978 a business shall submit with its bid or proposal a copy of a valid certificate issued by the taxation and revenue department in one or more of the following categories:

- Resident business
- Resident veteran business
- Native American resident business
- Native American resident veteran business

To receive a contractor preference pursuant to Section 13-4-2 NMSA 1978 a contractor shall submit with its bid or proposal a copy of a valid certificate issued by the taxation and revenue department in one or more of the following categories:

- Resident contractor
- Resident veteran contractor
- Native American resident contractor
- Native American resident veteran contractor

CHAPTER 10
WEB RESOURCES
A partial list

NM Counties

http://nmcounties.org

NM EDGE

http://nmedge.nmsu.edu

NM Cooperative Extension Service

http://aces.nmsu.edu/

State of New Mexico

http://newmexico.gov

- Department of Finance Administration- DFA
  http://www.nmdfa.state.nm.us/
- DFA/ Local Government Division –LGD
  http://www.nmdfa.state.nm.us/Local_Government.aspx
- General Services/State Purchasing
  http://www.generalservices.state.nm.us/statepurchasing/
- Motor Vehicle Division
  https://www.mvd.newmexico.gov/
- NM Department of Justice
  https://nmdoj.gov/
- NM Finance Authority
  https://www.nmfinance.com/
- NM Governor's Office
  http://www.governor.state.nm.us/

- NM Legislature
  https://www.nmlegis.gov/
- NM Livestock Board
  https://www.nmlbonline.com/
- NM Manufactured Housing Association
  http://www.nmmha.com/
- NM Mortgage Finance Authority
  https://housingnm.org/
- NM Office of the State Auditor
  https://www.osa.nm.gov/
- NM State Ethics Commission
  https://www.sec.nm.gov/
- Secretary of State's Office
  http://www.sos.state.nm.us/
- State Land Office
  http://www.nmstatelands.org/
- State Records Center and Archives
  https://www.srca.nm.gov/
- State Treasurer's Office
  http://www.nmsto.gov/
- Tax and Revenue (TRD)
  http://www.tax.newmexico.gov/
- TRD/Property Tax Division- PTD
  http://www.tax.newmexico.gov/property-tax-division.aspx
- TRD/Unclaimed Property
  https://nmclaims.unclaimedproperty.com

New Mexico Compliance Guides
https://nmdoj.gov/publications/compliance-guides/

- The New Mexico Open Meetings Act (OMA) Compliance Guide
- The New Mexico Governmental Conduct Act Compliance Guide
- The New Mexico Inspection of Public Records (IPRA) Compliance Guide

GLOSSARY
COMMONLY USED WORDS & TERMS

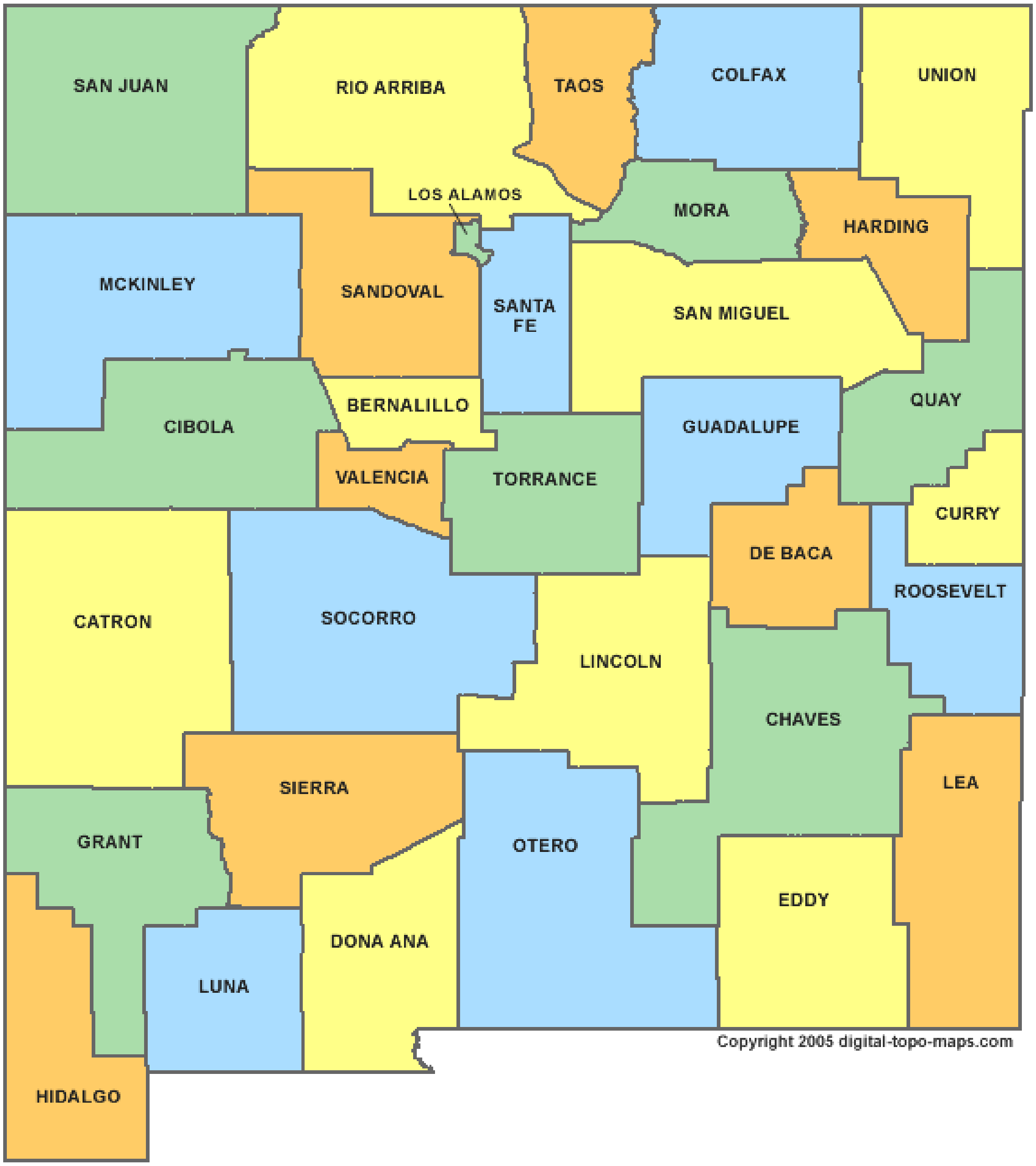
- **Accountability** - taking responsibility for your own actions as well as holding others responsible for theirs
- **Assessor, County** - an elected official who assesses property for taxation
- **Board of County Commissioners (BOCC)** - the legislative body of the County
- **Board of Finance** - Board of County Commissioners as ex officio
- **Canvassing Board** - Board of County Commissioners as ex officio
- **Clerk, County** - an elected official serving as custodian of records, commission minutes, and elections
- **Code of Ethics** - written statement of values Conflict of Interest- when one activity could potentially corrupt (or appear to corrupt) another
- **Cooperative Extension Service** - serves NM Counties and brings education to rural areas
- **County Classification** - based on population and the total assessed valuation of each county at the end of the preceding year
- **Per Diem and Mileage** - governs reimbursement for travel costs associated with legitimate county business
- **Fiduciary Responsibility** - the public trust
- **Funds, Designated** - specific to the enabling legislation allowing collection (e.g. Fire, Indigent, Hospital, etc.)
- **Joint Powers Agreement** - an agreement to share power between governmental entities
- **New Mexico Counties** - a private non-profit with a public purpose to serve as resource to New Mexico Counties
- **New Mexico Constitution** - foundation for law and government in New Mexico
- **New Mexico State Statutes** - laws created by the New Mexico State Legislature
- **New Mexico State Regulations** - policies made by administrative agencies
- **Open Meetings/Public Records Acts** - New Mexico sunshine laws which insure transparency
- **Probate Judge, County** - an elected official required to hold court overseeing matters of estates and wills
- **Public Trust** - the trust placed in one elected to public office
- **Sheriff, County** - an elected official responsible for preserving the peace
- **Stewardship** - a responsibility to take care of something one does not wholly own
- **Treasurer, County** - an elected office responsible for keeping account of all county funds received and disbursed, and serving as ex officio county tax collector
- **Voter Convenience Centers** - up to 10 combined precincts created within the County to offer greater access to voting

Appendix A
NM County Treasurer
Calendar of Events

Date	Activity or Subject	Legal Authority
Oct. 1	Treasurer should receive property tax schedule from assessor	§7-38-36(A)
By Nov. 1	Treasurer to prepare and mail property tax bills	§7-38-36 (B)
Nov. 10	Payment of first half (installment) of annual property tax bills are due	§7-38-8(A)
once a week for 3 weeks leading up to Dec 11	Treasurer must publish notice of delinquency date in newspaper of general circulation within county	§7-38-46(D)
Dec. 11	First installment property tax not paid becomes delinquent (unless protest pending on taxes not paid)	§7-38-46(D)
Jan. 1	The date from which the lien against the real property runs, when property taxes are unpaid	§7-38-48
Jan. 1-21	County assessors shall publish the uniform, state-approved notice required by this statute in a newspaper of general circulation within the county once each week for three weeks in January of each tax year.	§7-38-18
periodic	Prior to distribution to a recipient of revenue received by a county treasurer, the treasurer shall deduct as an administrative charge an amount equal to 1% of the revenues collected (and then deposit to the county property valuation fund).	§7-38-38.1(B) and (C)
Jan. 9	Claims for refunds must be filed no later than the sixtieth (60t)h) day after the first installment of property tax is due	§7-38-40(A)(1)
April 10 of year following the year for which the tax is being collected	The second installment of annual property tax bills are due	§7-38-38(A)
Once a week for 3 weeks leading up to May 11	Treasurer must publish notice of delinquency date in newspaper of general circulation within county	§7-38-46(D)
May 11 of year following the year for which the tax is being collected	Second installment of property taxes not paid become delinquent	§7-38-46(A)
June 10 Of Each Year	Treasurer Must Mail Notice To Each Property Owner For Which Taxes Have Been Delinquent For Two (2) Years (Form Of Notice Listed In Statute)	§7-38-52(A)

Date	Activity or Subject	Legal Authority
by June 30 of each year	Treasurer must mail a notice of delinquency to owners of property (and others with interest-*See* statute) with respect to any tax that is delinquent for more than 30 days as of June 10 of each year.	§7-38-51
by July 1	Treasurer shall prepare and submit to the State a property tax delinquency list of all property for which property taxes have been delinquent for more than two (2) years. He shall record same in the county clerk's Office. The Treasure shall note on the property tax schedule that the account has been transferred to the State for collection.	§7-38-61
No later than August 15	The State Dept. of Public Education submits to DFA the property tax rates for each school district	§7-37-8
No later than Sept. 1	DFA sets property tax rates	§7-38-33
Early September-varies	Within five (5) days of a county's receipt of DFA's written property-tax setting order, each board of county Commissioner shall issue its written order imposing such tax and deliver same to the assessor immediately after entry.	§7-38-34
NOTE	The county treasurer's and county budget reports should be mailed to the Local Government Division of DFA no later than the tenth (10^{th}) of the following month. The 'Public School District's treasurer's Financial Statement' should be submitted monthly with the treasurer's Report. A copy of the school report should also be mailed to the Public School Finance Division and to the individual school districts.	
NOTE	Property tax remittance should be submitted to the State treasurer on a monthly basis. Remittance should also be made to municipalities, school districts and other entities monthly. (*See* also §7-38-38.1)	

Map of NM Counties



We hope this book is useful to you in the performance of your job duties as a county elected official. If we may assist you in any way, please feel free to reach out to the NM EDGE County College (505-224-4059) or to New Mexico Counties (505 983 2101).

We strive to continuously improve and welcome your suggestions. You may contact NM EDGE County College at NMEDGE@NMSU.EDU. Best wishes for every success as a Public Servant in the great State of New Mexico!

The NM EDGE

County College

A Collaborative Program of
NM Cooperative Extension Service & NM Counties

Visit our website at NMEDGE.NMSU.EDU
Contact us at NMEDGE@NMSU.EDU

This book is intended as a general guide.
Consult your County Attorney for matters specific to your County
or to the duties of your office.

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