



# The NM EDGE County College

A Program of the Cooperative Extension Service and  
New Mexico Counties

Present

# The New Mexico County Assessor Handbook

November 2018 Edition





**NEW MEXICO  
COUNTY ASSESSOR**  
**A Reference Handbook and Practical Guide**

**November 2018  
12<sup>th</sup> Revised Edition**

**Revised by**  
Members of the  
New Mexico County Assessors Curriculum Committee and The NM EDGE

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Better Government through Education

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This handbook is intended as a general reference for informational purposes only. It is not all inclusive. Most importantly, it is not intended to serve as legal advice or interpretation in any way. When in doubt, ask your County Manager and County Attorney.

# FOREWARD

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 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, 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 Assessor 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 Assessor. 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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# CHAPTER 1

## KNOWING YOUR GOVERNMENT

*For more information on this Chapter take NM EDGE classes  
CPM 111- Knowing your Government, CPM 113- Knowing the Law and CPM 211-Knowing the  
Law II CPM 212-Cooperative Agreements Among Governments, & CARE 101A & B-  
Intergovernmental Relations in New Mexico*

In the United States and New Mexico, the respective Federal constitution and state constitution are the framework and the foundation for the structure of government and the creation of all law.

While the purpose of this chapter and this handbook is to provide the reader with a better understanding of county government and how county-elected offices function within the State of New Mexico, it is similarly important to understand the structure of government and how its history, culture and political influence have shaped the face of modern-day New Mexico.

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

Following the American separation from Great Britain, the original American Colonies formed a loosely aligned union under the *Articles of Confederation*, which provided for a weak central government and powerful state governments. While the central government (or national government) was responsible for handling foreign affairs and the business transactions between the states, it lacked the requisite resources and revenue (taxation power) to conduct its work.

With a number of varying practices, disputes between the states and the inability of the bankrupt national government to take action, Congress recognized the need to rethink and restructure the central government. As a result, a Constitutional Convention was established to address and revise the weaknesses within the original governing document. However, what resulted was more than a mere revision.

When the Constitutional Convention completed its work in September of 1787, the delegates representing each state had created a new document, which fundamentally changed the role of the Federal government and its relationship with the states. Ratified (or placed into law) in 1788, the US Constitution established a government based on two essential principles:

1. *Separation of Powers* – Rather than power centralized into one body or institution, the Framers of the Constitution saw a need to divide power between three independent, but interrelated branches: The Legislative (Congress), charged with creating laws; The Executive (President and Administration), charged with

approving laws passed by Congress and executing those laws; and the Judicial (Courts), charged with interpreting law.

2. *Checks & Balances* – While power is shared among the three branches, no single branch can act alone: there is a check on the execution of their power. For example, while Congress makes laws (with the approval of two separate houses), the President is responsible for signing such legislation into law or not (veto). In turn, the judiciary, as part of a common law system, has the ability to interpret the law as it has been applied when questioned in court.

While the Framers of the Constitution created a new, stronger central government, they also left intact the original state governments, creating a system of government we have come to know as Federalism.

In a Federal system, power is distributed between the central government and the state governments. Although the principle of Separation of Powers is applied to the shared authority among the three branches of the Federal government, the concept can be similarly recalled when applied to the respective, shared power among the central government and the states.

For a majority of the Framers, key to the creation of the new constitution (and the new American nation for that matter), was a reverence for individual freedom. It was their intention to see that no single government (Federal or state) or part of government could impede on individual liberties and rights. That is why some believed that it was important to outline, implicitly, individual rights in the original document.

Recognizing this matter, the states, while in the process of approving the Constitution, held that a *Bill of Rights* be added or amended to the document. Such a change was received and was one of the first actions taken by the First U.S. Congress. As a result, in 1791, the Bill of Rights (the first 10 amendments to the Constitution) was ratified.

While each of the first nine amendments to the Constitution are important in their own right, in this instance, the focus is on the tenth, which further highlights the balance of power between the Federal government and the states:

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

In this very statement, it holds that what the Federal government is not empowered to do by the Constitution is left to each state. However, we know that Federalism, even in its early days, is much more complex, and there are often times no clear boundaries.

## **1.2 The Role of State & Federal Government**

The concept of Federalism is often compared to marble cake because of how the roles of State government and Federal government often intertwine. While some may hold that the Tenth Amendment of the US Constitution clearly suggests that the powers not provided to the Federal government are left to the several states, others would point to the US Constitution's Sixth Article:

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, anything in the Constitution or Laws of any State to the Contrary notwithstanding.

This Article, and its Supremacy Clause, states that the laws of the Federal Government are supreme in their authority and trump similar decisions made by state governments. As a result of these two competing philosophies or views of how Federalism ought to work, we have witnessed an evolution or experiment in Federalism over the past several hundred years. It is a process wherein America has tried to answer the fundamental question of what the proper balance of power and responsibility is between the states and the Federal government.

For example, we know that the US Constitution does not explicitly task the Federal government with the responsibility of education, roads or the administration of a number of social programs. Yet the Federal government provides most funding to states for such programs and initiatives.

It is a question that we continue to struggle with answering, and responses have changed from time to time. Government has responded to changes in society and conformed to the needs of a modern America.

### 1.3 The New Mexico State Constitution

Like the US Constitution, the Constitution of the State of New Mexico was born in a place and time where there was little trust and great suspicion of government. Despite several earlier attempts at statehood, it was not until 1910 that Congress authorized the territorial government to write a state constitution in the process of becoming a part of the Union.

Elected on a party ballot, 100 delegates from around the state were selected to serve in a Constitutional Convention to last no longer than 60 days. The delegates came from a variety of professions with lawyers, bankers, ranchers, farmers, doctors, newspaper editors, and merchants represented. An overwhelming majority of the delegates were *Old Guard Republicans* who had staked financial interests in the state. There were few Democrats and Native-born Hispanics represented.

While the *Old Guard* knew that they had a majority in convention and could essentially create any document they desired, there were some key considerations that they had to keep in mind:

- They had to create a constitution that would be acceptable to all voters at that time, which included many Hispanics, and
- The document also had to be satisfactory to the conservative president, William Howard Taft, and a Congress suspicious of a state with a diverse population and an unknown terrain.

The *Old Guard* worked to create a constitution to establish a system of government that would be favorable to corporate interests and their personal investments in the state. They were also highly apprehensive of government in general and knew that they wanted to put in place a somewhat weak system, where there would be little governmental influence.

While they created a structure of government that is fundamentally similar to that of the Federal Government (separation of powers and checks & balances), there are some key differences, in that it:

- Established a fragmented executive: Rather than executive power being vested entirely to the Governor, power is shared among several elected-executive offices; and
- To ensure that the document would remain unchanged in key aspects, the *Old Guard* established an intricate standard to revise key pieces of the document, which have come to be known as the *Unamendables*.



The *Unamendables* are four sections of the state constitution that cannot be changed without extraordinary majorities for proposing and ratifying an amendment. They are:

- Sections One and Three of Article VII, Elective Franchise  
Prohibiting certain citizenship rights from being denied on account of religion, race, language or color, or inability to speak, read or write English or Spanish;
- Sections Eight and Ten of Article XII, Education  
Providing for bilingual (English/Spanish) training of teachers, prohibiting racial segregation in education and guaranteeing the right of children of Spanish descent to an equal education.

Passage of a proposed amendment to change the *Unamendables* of the New Mexico Constitution requires:

- Approval of 3/4 (75%) of the members elected to each house of the State Legislature.
- Ratification by at least 3/4 of the electors in the state voting on the question.

Unlike the US Constitution, the New Mexico State Constitution is significantly longer and constantly changing. If we were to compare the original US Constitution to the US Constitution of today, several additions, clarifications and a few changes to original text would be apparent, but the document would ultimately look the same. The opposite is true for the State of New Mexico Constitution, which has been amended, grown and changed several times.

Despite the vast differences between the US Constitution and that of the State of New Mexico, each document serves an importance purpose in the lives of the people it serves.

#### **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 which 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)* (Section 4-38-1 New Mexico Statutes Annotated). 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 respect the work of the others and work together towards the common good of the county. Each office is described in brevity.

## **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).

## **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 CARE in New Mexico: Engaging Cultural Awareness**

The NM EDGE in conjunction with the NM Counties’ Native American Committee have developed classes in the CARE (Cultural Awareness and Respectful Engagement) Track to raise awareness around our State’s rich cultural diversity, to share the lessons of the past so that they are not repeated in the future, and to open conversation in a respectful and meaningful manner.

The mutual goals of this project are to:

- Raise awareness of New Mexico cultures and their unique perspectives
- Develop and engage in mutual respect, understanding, and trust
- Find commonality for effective communication and engagement
- Encourage intergovernmental coordination and collaboration among elected and appointed officials, their staff, and employees
- Build effective and lasting relationships among New Mexico communities

Native American tribes lived throughout North America long before the Europeans came to explore and settle. These tribes had fully developed societies, with political, economic, and cultural practices of their own.

The Native American population in New Mexico is over 219,000 (NM Dept. of Indian Affairs) which is roughly 10% of the general population of New Mexico. Native Americans, in addition to being citizens of the United States and New Mexico, are also citizens of the tribes of which they are enrolled as members. Each tribe has the authority to determine who is eligible to be a member. Membership in a Tribe provides the individual with dual citizenship which means that Native Americans are entitled to vote in all elections plus tribal elections.

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

*“Consultation is built upon government-to-government exchange of information and promotes enhanced communication that emphasizes trust, respect, and shared responsibility. Communication will be open and transparent without compromising the rights of Indian Tribes or the government-to-government process.”*

*From U.S. Department of Interior Tribal Consultation Policy*

#### **1.14 Tribal Government Relationships with Other Governments**

**Researched and Written by Douglas Decker, JD, McKinley County Attorney**

Federal Indian Law --

“Prior to the creation of the United States, the entire land mass it now occupies was owned and governed by hundreds of Indian tribes. These tribes, sovereign nations under international law, were brought into the United States through a colonial process that was partly negotiated and partly imposed. Federal Indian law is the primary mechanism for mediating the **resulting intergovernmental relationships among the Indian nations, the United States, and the states of the Union.**” [Underlining added].

–Cohen’s Handbook of Federal Indian Law.

Some basic concepts to keep in mind in discussing Tribal Government relations with other Governments are:

- Tribal status as Federally-Recognized Tribal Governments.
- Tribes govern citizens of its government (Tribal Members); and, Territory, i.e. Indian Country.
- Tribal Sovereignty.

- Exclusive Federal Authority in Indian Affairs or Preemption.
  - No state authority over activity in Indian country if preempted by federal law.
  - Fee land within Indian Country is broader in scope than under constitutional law, and as such State law may apply.
  - State law will be preempted if it interferes or is incompatible with federal and tribal interests reflected in federal law, unless the state interests sufficiently justify the assertion of state authority. Balancing of interests of the three sovereigns.
  - Trust Responsibility of the United States Federal Government

Pre United States Constitution: Discovery, Settlement, and Colonial period.

- The “Rule of Discovery” simply put was the notion of 16th and 17th century European countries had to simply plant their flag in unknown lands; and, thereby exercise sovereign authority. This simple act of planting the flag divested all existing governments and simply left the inhabitants a Right of Occupancy.
- This rule was tempered somewhat when King George III issued the Proclamation of 1763 to prevent settlements of colonies west of the Appalachian Mountains.
- The framers of the US Constitution had examples of how a system of separation of powers in a central government worked. The IROQUOIS CONFEDERATION united several tribes (Mohawk, Oneida, Onondaga, Cayuga, and Seneca nations). The governance structure of the Confederation had three separate groups:
  - A Chief: as the Executive
  - Two groups of “lords”: as the Legislature
  - Fire Keepers: as the Judiciary

Ratification of the United States Constitution in 1789.

- The US Constitution Creates a bi-governance structure: a National or Central Government (separate Executive; Legislature; and, Judiciary) with enumerated powers; and, State Governments having significant independence and power. This notion of Federalism means USA has 51 different governments above local governments, i.e. the 50 States and the Federal Government. Tribal Governments are also addressed in the US Constitution with subsequent US Supreme Court Decisions and Federal Legislation.
- The US Constitution vests the federal government exclusive authority over commerce with Indian tribes and treaties with tribes. [See, US Constitution Article I Section 8(3); and, Article II Section 2(2)]. From 1790 to 1871, the United States

entered into just under 400 treaties with tribes. In 1871, Congress passed a statute that purportedly ended the President's authority to negotiate treaties with tribes. Now the United States still negotiates with tribes, but resulting agreements are adopted as legislation.

The United States Supreme Court interpreting the Constitution handed down three foundational Indian Law Opinions which are now referred to as the Marshall Trilogy or the Indian Cannons of Construction. They are:

- Johnson v. M'Intosh, 21 U.S. (8 Wheat.) 543 (1823).
- Cherokee v. Georgia, 30 U.S. (5 Peters) 1 (1831).
- Worcester v. Georgia, 31 U.S. (6 Pet.) 515 (1832).

### **Johnson v. M'Intosh**

- This case was a land dispute in the nature of ejectment, involving non-Indians -- One party purportedly acquiring title from a tribe through private purchase; and, the other party with a land patent.
- Case was viewed as collusive litigation by land speculators seeking to secure a decision to defeat the 1763 Royal Proclamation.
- Ruled on the Discovery Doctrine: discovering colonial power acquires title to the land, and tribes retain "aboriginal title" – a right to occupy the land

### **Cherokee v. Georgia**

- The State of Georgia declares the Cherokee territory to be "Cherokee County" and opened the lands for non-Indian settlement.
- Georgia purported to extend its jurisdiction into the Cherokee lands and render tribal laws null and void
- Georgia prohibited Indians from testifying in court.
- Cherokee Nation sued Georgia, relying on the US Constitution Article III, Section 2 original jurisdiction of the Supreme Court.
- The Supreme Court held: Indian tribes are not foreign nations, which would give the Supreme Court original jurisdiction under Article III, Section 2.
- The case is most cited for two other propositions: Tribes are Nations; and, Tribes are not states of the Union, but are "domestic dependent nations."
- In this case, the Court distinguishes between "external" and "internal" sovereignty. [External is the power to enter treaties with other nations, which Tribes do not have; and, Internal means that Tribes are part of the United States – i.e. the notion of federalism].
- The case did not resolve the crux of the dispute between the Cherokee Nation and Georgia and ultimately was not settled.



## **Worcester v. Georgia**

- Non-Indian missionary living in Cherokee Nation convicted in Georgia state court of violating state law forbidding non-Indians from being in Indian Country without a license.
- Georgia did not file a brief or appear at oral argument.
- The Supreme Court held that State law does not apply in Indian Country, Emphasizing the tribe's plenary authority in Indian Country.
- Today there is still a presumption against state authority in Indian Country

### **Self-Determination:**

“From the ratification of the US Constitution in 1789, Federal policy toward Indian tribes has moved in various decades from physical extirpation to measured separatism to removal to assimilation to self-determination – sometimes at the same time.”

-Prof. Matthew L.M. Fletcher

Today we are in what can be called the Self-Determination Era. This era has an origin in the late 1960's.

In 1969 the Senate Labor and Public Welfare's Special Subcommittee issued a report on “Indian Education; A National Tragedy – A National Challenge”. This report found among other things:

- “A nation that is massively uninformed and misinformed about the American Indian and his past and present.”
- “Prejudice, racial intolerance, and discrimination towards Indians far more widespread and serious than generally recognized.”

President Lyndon B. Johnson in a 1968 message to Congress: “The Forgotten American”, stated the goal of ending termination (the prior policy of ending the Trust Relationship) and stressing self-determination. Some of the goals set out by President Johnson included:

- Freedom of Choice: An opportunity [for Indians] to remain in their homelands, if they choose, without surrendering their dignity; an opportunity to move to the towns and cities of America, if they choose, equipped with the skills to live in equality and dignity.
- Full participation in the life of modern America, with a full share of economic opportunity and social justice.

President Richard M. Nixon's address on Indian affairs in 1970 stated the goals for national toward the Indian people to include:

- Strengthen the Indian's sense of autonomy without threatening his sense of community.
- Assure the Indian that he can assume control of his own life without being separated involuntarily from the tribal group.
- Make it clear that Indians can become independent of Federal control without being cut off from Federal concern and Federal support.

These goals and findings culminated in the adoption of the "Indian Self-Determination and Education Assistance Act of 1975.

- Rather than the Bureau of Indian Affairs (BIA) providing services, the tribes themselves have the option of providing and managing services.
- Recognition that tribes were in the best position to govern their affairs and determine their future.

Other considerations in Government to Government relations with Tribes:

- The US Constitution; Supreme Court Case Law; along with, International The Full Faith and Credit Clause—Article IV, Section 1, of the US Constitution—provides that the various states must recognize legislative acts, public records, and judicial decisions of the other states within the United States. It states that "Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State."

The Full Faith and Credit Clause ensures that judicial decisions rendered by the courts in one state are recognized and honored in every other state. It also prevents parties from moving to another state to escape enforcement of a judgment or to re-litigate a controversy already decided elsewhere, a practice known as forum shopping. This is the basis of Government to Government relations between States of the United States. Indian Tribes are not States; nor are they foreign nations, but are domestic dependent nations.

The US Constitution is the source for the government to government relationship between Tribes and the Federal Government. When developing a government to government relationship between States of the U.S. (or their political subdivisions – i.e. Counties and Municipalities) we borrow principals found in international law.

**The doctrine of comity** --- The U.S. Supreme Court's holding in *Hilton v. Guyot* (1895) where the Court held in that case: ..."Comity," in the legal sense, is neither a matter of absolute obligation, on the one hand, nor of mere courtesy and good will, upon the other. But it is the recognition which one nation allows within its territory to the legislative, executive or judicial acts of another nation, having due regard both to international duty and convenience, and to the rights of its own citizens or of other persons who are under the protection of its laws.

Comity in the U.S. between States (including the political subdivisions) and Tribes is stronger because the citizens of the Federally Recognized Indian Tribes are also citizens of the United States.

- Tribal Jurisdiction and Regulatory Authority  
Both Civil and Criminal Jurisdiction of Tribes hinge primarily on two factors: who and where.
  - Who (political identity): Member Indian, Non-Member Indian, Non-Indian.
  - Where: Indian Country

Other considerations in analyzing jurisdiction and how laws are applied include:

- *Montana v. U.S.* is the "path-marking case" standing for the Presumption in favor of Tribal regulatory authority in Indian Country.
- If the location is Fee Land within Indian Country and the person is a non-Indian; first look at treaties or federal statutes that may affirm/vest jurisdiction. If none, then the presumption is against tribal regulatory authority, unless:
  - Conduct threatens or directly affects the tribe's political integrity, economic security, or the health or welfare; or,
  - The non-Indian has consented to tribal jurisdiction
- Statutes or Federal regulations that grant authority to Tribes:
  - Clean Water Act
  - Clean Air Act

Congress may regulate in Indian Country pursuant to its broad authority. However, there is an outstanding question whether this can be done through generally applicable laws.

- New Mexico Police Power intergovernmental relations:
  - N.M.S.A. Section 29-8-3. Mutual aid agreements – a/k/a Cross Commission Agreements. “Any state, county or municipal agency having and maintaining peace officers may enter into mutual aid agreements with any public agency as defined in the Mutual Aid Act, with respect to law enforcement, provided any such agreement shall be approved by the agency involved and the governor.
  - See, *Loya v. Gutierrez*, 2015-NMSC-017, 350 P.3d 1155. The New Mexico Supreme Court only mentioned the Mutual Aid Act in passing. The facts of *Loya* did not include a validly executed Cross Commission agreement. The Court did hold that “Count[ies] must provide [non-county employee peace officers that are commissioned by the Sheriff] ...with a legal defense, including costs and attorney’s fees in conformity with the [New Mexico Tort Claims Act] NMTCA.

#### Further Resources

- Cohen’s Handbook of Federal Indian Law (LexisNexis Matthew Bender 2012).
- William C. Canby, Jr., *American Indian Law in a Nutshell* (6th ed. 2015).
- Matthew L.M. Fletcher, *Federal Indian Law* (West 2016).
- Lindsay Robertson, *Conquest By Law* (2012).

### **1.15 Cultural Awareness Engagement**

Researched and Written by Reese Fullerton, JD

It is imperative that each of us understand and embrace the importance of cultural awareness, competence, and humility when relating with Native American governments, individuals, families and communities.

How do we learn to respectfully interact with tribes and their citizens?

Direct interaction, experience and personal relationships build understanding and respect for different cultures.

We need to remember that there is great diversity in cultures among tribes and pueblos. Cultural customs vary significantly. Each community is unique and their customs are important to understand.

We need to have an open mind, a sense of humor, honest communication, be flexible and adaptable, tolerate ambiguity, be sensitive and respectful of differences, not make assumptions, be aware of the possibility of misunderstanding, let time

happen in a conversation, do not interrupt, listen carefully, seek guidance, always remember you are a guest, and be respectful, predictable and credible.

You can build trust by demonstrably respecting their values, sharing interest in their welfare and following through on commitments. When asking questions for understanding make the purpose explicit. A question about culture should relate to how services are to be provided in a culturally appropriate manner. Confidentiality and privacy are extremely important to insure for a tribe or a pueblo.

So your ability to value cultural differences, understand a range of dynamics that can occur in interactions among people of different cultures and your ability to adapt programs, projects and services to fit the cultural context of the individual, family or community is critically important.

So how do we do this?

- We need to be transparent and flexible.
- We need to explore joint purposes and inclusive priorities.
- We need to work together, be clear about the impact of a project or of services, clarify roles and responsibilities, and understand where there is agreement and differences.
- We need to keep discussing the process and checking in to insure that everyone is comfortable with how things are progressing.

Working together means that you will:

- Respect each other's authority and interests
- Follow cultural protocols
- Engage in meaningful two-way communications
- Create a collaborative environment for open conversation and transparent communication
- Be willing to consider alternatives
- And when appropriate, reach decisions based on informed consensus

Pay attention to:

- Transparency
- Flexibility
- Inclusive Participation and Leadership
- Differences of World Views

Explore:

- Mutual Concerns and Benefits
- Shared Priorities

## NOTES

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# 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, and 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, policy-makers (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, policy-makers 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 (policy-makers) must mobilize support for their policy proposal and how it will work to 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 the Legislative Finance Committee) 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 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 to also 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.

The State Legislature through Statutes and State Agencies through Rules and Regulations often delegate duties and obligations to carry out very specific tasks on Local governments, including counties. Generally, there are two types of mandates (Funded, and Unfunded) that can be placed upon counties. The permissibility of each depends on which law making authority is being used.

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

*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.)*

Here are some examples on the application of the Constitutional provision against State Rule or Regulation (Agency action)

Unfunded Mandates:

- In 1990, the State Environment Department adopted Solid Waste Landfill Permitting Regulations that required local governments to greatly expand the level of funding for the operation of Landfills. There was a Writ of Mandamus filed by the Counties and Cities which resulted in a suspension and delay of regulation implementation until the State provided funding. In 1992, the State Legislature passed the enabling legislation for Cities and Counties to adopt the Environmental Gross Receipts Tax, a new source of funding, thus providing funding for the mandate.
- For years, the State Department of Corrections refused to pay for “State Prisoners” (i.e. parole violators and persons sentenced as felons into the custody of the State Prison System) and would rely on the County’s to house these prisoners in the County Jails. This practice is still happening; however, after the San Miguel County Law Suit on this issue, the Legislature did partially fund the Sentencing Commission to pay out in a formula the funding which changes year to year in an effort to placate the counties on this unfunded mandate. The Department of Corrections is still relying on counties to house state prisoners without adequate funding.

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.

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. That is why it is critical for policy-makers 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 New Mexico Statutes Annotated)

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 covered under the Act.

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 are easily downloaded from the NM Attorney General's Office website, with other documents, at <http://www.nmag.gov/consumer/publications/openmeetingsactcomplianceguide>

The IPRA Compliance Guide and a Compliance Checklist are easily downloaded from the NM Attorney General's Office website, with other documents, at <http://www.nmag.gov/consumer/publications/inspectionofpublicrecordsactcomplianceguide2009>

## **2.6 General Requirements of County Elected Officers**

(§ 1-8-18A and 1-4-16B NMSA 1978)

- 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).

**Specific Requirements – County Assessor Must:**

- Be at least eighteen years of age (Art. 7 Sec. 2A)
- Be a resident of the county in which they serve as Assessor.

The candidate is certified to run in the general election as a political party candidate after being elected in a primary election. The primary is held in June of an election year. A simple majority of votes in a general election held in November of the election year qualifies a candidate to be considered the winner and may stand for the oath of office in January following the November election.

**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 and Abolishment of Office or Suspension of Assessor**

If an 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).

Any county of the A, B, and H class counties, may abolish the offices of County Assessor, County Clerk, County Surveyor and County Treasurer and transfer the powers and duties of those offices to the Board of County Commissioners in the manner hereinafter prescribed.

A petition may be filed with the Board of County Commissioners of the county requesting that an election be held to determine whether the county offices named in (§ 4-44-36 NMSA) 1978 are to be abolished and the powers and duties of such offices transferred to the board of County Commissioners of the county. Such petition shall be signed by at least ten (10) percent of the registered electors of the county.

Another instance where an Assessor's office may be abolished is where two counties are merged into one. It is generally observed that as these elected offices were created by statutory action they may also be eliminated by the same action.

A NM County Assessor may be removed from office by NMTRD, with the first step in removal being suspension of the County Assessor. The County Assessor's function can be suspended under the provisions provided in § 7-35-6 NMSA.

After suspension of the assessor by NMTRD, the removal of the assessor may be started. The assessor may be removed from office under certain provisions (§ 7-35-6 NMSA). The statutes that apply in this case are provided in § 4-39-6 NMSA

1. The secretary of taxation and revenue may, if grounds appear therefore, cause removal proceedings to be instituted against any assessor by the district attorney for the county for which the assessor was elected, or by the attorney general, in the manner provided by law for the institution and prosecution of removal proceedings against public officers by district attorneys.
2. The secretary of taxation and revenue shall cause removal proceedings to be instituted under Subsection A of this section against any assessor whose functions have been suspended under § 7-35-6 NMSA 1978 when any suspension under that section continues without interruption for a period of more than sixty days.

3. Nothing in this section shall be construed to repeal or limit any provisions of law relating to the liability of assessors as such or as public officers to fine, imprisonment or removal from office for failure, refusal or neglect to discharge any duty imposed upon them by law, but shall be in addition to them

### **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 commissioner-elect 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 in even numbered sessions of the legislature 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).

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 amendment was defeated by the voters.



# 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 are 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 diligently conducting 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 the 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 Advocates for Public Ethics (CAPE) offers a series of classes exploring these and other concepts in detail. Throughout this chapter we parenthetically note 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)**

When we apply these universal ethical principles to the work of public servants, we find principles like these:

- Public service is a trust to be used only to advance public interests, not personal gain.
- Decisions are to be made on the merits, 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 public 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 and conduct unbecoming a public servant.

### **3.3 Ethical Principles in New Mexico Law (PE 110 A&B- Ethics Knowing 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 <http://www.nmag.gov/> Select the Governmental Conduct Act Compliance Guide from the menu on the left.

#### **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 Whistle-blower 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. Local governments who use the State Procurement Code, §13-1-1 et seq. NMSA 1978, are subject

to ethical requirements related to their purchasing and contracting practices. 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 partially or wholly funded by federal grant money.

A listing of many of these laws is attached as Appendix II to the Attorney General's Compliance Guide on the Governmental Conduct Act <http://www.nmag.gov/>.

### **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 make full disclosure to the appropriate authorities.

#### **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; 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. Government suffers when civility lapses occur.

### **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.

### **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 consider ethical questions to assure that it does 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 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 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 the compliance of staff 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 on 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. If the leader is able to articulate a principled, factually supported reason for his or her decision, that reduces the concern that the leader plays favorites or responds 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 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 Knowing 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. Such measures 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 the 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

## THE NEW MEXICO COUNTY ASSESSOR

*For more information on this chapter take NM EDGE class AO/TO 100- Roles and Responsibilities of the Assessor and Treasurer Offices, AO 11 Introduction to Assessments, AO 106 Budgets & Revaluation Plan*

### 4.1 General Description

The duties of Assessor are primarily set forth in Articles 35 through 38 of chapter 7 of the NMSA, referred to as the “Property Tax Code”.

The office of County Assessor is prescribed by law in § 7-36-16A NMSA. In general, Assessors are responsible for valuing all real property, business personal property, manufactured homes and livestock for taxing authorities in their respective county. Taxing authorities include such organizations as school districts, counties, municipalities, conservancy districts, county hospitals, and flood control authorities. However, valuation of certain types of property such as: railroads, telephone, utilities, and mineral properties are excluded from the Assessor’s duties and are the responsibility of the New Mexico Property Tax Division of the Taxation and Revenue Department (NMTRD, PTD).

The Assessor is:

- Required to implement a program to maintain current and correct values of property, subject to the limitations on increases in valuation imposed by § 7-36-21.2 NMSA. Each year, the Assessor must present an annual report to the Board of County Commissioners, and a detailed re-appraisal plan per § 7-36-16-(E) NMSA.
- Required to mail notices of net taxable value of the property to all property owners in their county by April 1 of each tax year (§ 7-38-20 NMSA). The Assessor must certify the net taxable value of the county to the NMTRD PTD (§ 7-38-31 NMSA).
- Responsible for preparing and submitting the “tax roll” to the County Treasurer by October 1 each year for the Treasurer to utilize in the billing, collection, and distribution of property taxes. Tax bills must be mailed out by the Treasurer no later than November 1 of each year.
- The sole county elected official may receive additional compensation above the statutory amount for the successful completion of certain appraisal courses offered by The International Association of Assessing Officer (IAAO) and approved by the Property Tax Division per § 4-39-4 NMSA.

## Non-Disclosure

New Mexico is a non-disclosure state which means the sales price on a property is not disclosed to the public. In 2009 legislation was passed NMSA 47-13-4 that provides the County Assessor with an affidavit on all residential properties that discloses the sales price. The Assessor's office does not receive affidavits on vacant land and non-residential or commercial improved properties. This makes market valuation of non-residential sales difficult.

## **4.2 Developing Budgets**

New Assessors should become familiar with the current year budget and prior year budgets. Questions about budgets should be referred first to the chief financial officer of the county (typically the Finance Director or the County Manager). The State of New Mexico Department of Finance and Administration (DFA) also has a budget analyst assigned to each county. Contact their department to determine which analyst is assigned to your county.

The Assessor has two budget sources that fund their operation. First is the "General Fund" which is funded from county coffers. In addition, assessors have a "1% Re-Valuation Fund." In essence all entities that collect a property tax levy share the cost of re-appraisal and assessment of parcels within their jurisdiction by contributing 1% of their property tax revenue to this fund.

In order to obtain statutory compliance, the Assessor must obtain from the County Commission the necessary budget and other resources needed to attain a comprehensive, fair and equitable tax roll while assuring for the accountable and efficient use of those resources. These budgets should also include adequate resources to promote, motivate, and generate a professional staff by encouraging and allowing for their participation and attendance at professional education classes, conferences and meetings and assist them in acquiring professional designations that will help render professional appraisals and the ability to defend those values as a professional and expert witness in a court of law. The budget should be reviewed to assure that the One-percent (1%) Revaluation Fund is being spent for reappraisal purposes only.

Assessors are the only county office that can protest the budget that is set by BOCC. The Department of Finance and Administration shall not approve the operating budget of any county in which there is not an adequate allocation of funds to the county assessor, for the purpose of fulfilling the responsibilities for property valuation maintenance.

The NM EDGE County College has an entire track of classes in management and leadership as well as another track devoted to finance and budgeting. In addition, the NM EDGE offers classes specific to the office of NM Assessors and their staff. Each of these classes is three hours in length and provide information specific to New Mexico. For information regarding class specifics or delivery schedule, contact the NM EDGE at (575) 646-0314.

### **4.3 Property Tax Calendar**

Note: Some dates shown below are approximate.

**January 1st:** Property is assessed to the owner of record according to its current condition as of this date. This is the date by which all property subject to valuation for property taxation purposes shall be valued each tax year (7-38-7 NMSA). Taxes on real and personal property are liens against the property from January 1st of the tax year for which the taxes are imposed (7-38-38 NMSA).

**January 10th:** Deadline for filing claims for Refund in District Court (7-38-40 NMSA)

**Last Day of February:** Deadline to turn in rendition on Business Personal Property. This is also the deadline to apply for religious, charitable or educational exemptions. This date also applies to loss of status for eligibility for exemptions.

**During February or March:** Assessor mails a Notice of Value (Property Notice of Valuation) to all property owners in the county. The Assessor is required to mail the Notice of Value by April 1st of each year.

**By The Last Day of The 30-Day Protest Period:** (Thirty days after Notice of Valuation is mailed) Last date for a property owner to file a valuation protest with the Assessor, to claim a Family or Veteran exemption or to apply for agricultural valuation, reporting improvements costing more than \$10,000; and/or statement of decrease in value.

**April 10th:** Due date for second half taxes (7-38-28 NMSA)

**April 19th:** County Treasurer publishes the notice of the second half delinquency date of May 10 (7-38-46 NMSA) in the paper for three consecutive weeks.

**May 10th:** Second half taxes due without penalty.

**May 11th:** Treasurer applies delinquency charges to second half taxes (7-38-49/50 NMSA).

**June 10th:** County Treasurer mails notices of delinquency and notices of transfer to state (7-31-51/60 NMSA).

**June 15th:** County Assessor certifies the County's full valuation to the State Property Tax Division.

**June 30th:** Notification to Department of Motor Vehicles of unpaid taxes on mobile homes (7-38-52A NMSA).

**July 1st:** County Treasurer transfers delinquent tax roll to the state (7-38-61 NMSA)

**August 1st:** State Department of Taxation & Revenue certifies the final Net Taxable Values to the Department of Finance and Administration for setting tax rates.

**September 1st:** State Department of Finance and Administration issues mil rates for current tax year (7-38-33 NMSA). This is the last date for County Commission to suspend the minimum penalty requirements on delinquent taxes (7-38-50 NMSA).

**October 1st:** County Treasurer receives the tax roll from the County Assessor (7-38-36 NMSA). After October 1st, the Assessor has only limited authority to request changes to the tax schedule.

**November 1st:** Tax bills are mailed (7-38-36 NMSA).

**November 10th:** Due date for first half taxes (7-38-38 NMSA).

#### **4.4 Geographical Information Systems (GIS)**

The Assessor is responsible for locating all Residential and Non Residential Properties within the boundaries of their county in accordance with (7-36-2 NMSA)

The location of properties depicted on the maps is based upon recorded documents and are not survey accurate. It is the recorded document that provides the legal description and location of the property. There are several legal types: Lot/Block, Metes and Bounds and Section, Township and Range. Sometime the legal may be too vague to locate the exact location.

Splits and Combination of Land: The owners of land can split the existing land into more parcels or combine several into one parcel. The record will reflect the property as of January 1<sup>st</sup> of each year. When a split or combine happens after the 1<sup>st</sup> of the year the change will be reflected on January 1<sup>st</sup> of the following year. The current year's taxes may have to be paid in advance before the boundaries of assessed parcels can be changed.

#### **4.5 Customer Service, Ownership Changes, and Deed Examiner**

A main function of the Assessor's Office is Customer Service. A helpful and engaged staff is essential to the office of a public servant. Taxpayers come into the office for various reasons such as ownership changes, address changes, and to apply for exemptions or protest their value.

Ownership Records: The Assessor's office maintains the ownership records on all property assessed in the county. Property is transferred through a legal document (Deed, Real Estate Contract or Court Order). The Assessor's office must verify existing owner to legal document to insure clear chain of title. If an issue exists, then the deed examiner can research and in some cases send notification to the parties. All change of address need to be filed with the Assessor's office and signed by the current owner.

Exemptions and protests will be covered in other chapters.

#### **4.6 Appraisal or Valuation of Property**

The Assessor's office uses Mass appraisal (appraising a group of properties) instead of Fee Appraisal (Value of one property at a time)

The Assessor's office will use standard appraisal methods to value property within the county. There are three methods of appraisal.

1. Sales or Market Approach: This is the preferred method of appraisal and most reflected of current and correct Value. Based on Sales of comparable properties.
2. Cost Approach: this approach is used on new construction, unique one of a kind properties and in absence of sales. Accumulation of all the depreciated cost components of the improvement added to market value of land.
3. Income Approach: This method is used mainly on commercial income producing properties and uses income and cap rate to determine value.

Appraisers will value all vacant land, new splits and combines, improved properties, manufactured homes and Business Personal Property. These values must be set by March of each year in preparation for the notice of value.

#### **4.7 Office Facilities, Tools and Resources**

Note: Be sure to check with your County Purchasing Department to follow New Mexico Procurement Code requirements when contracting for services or making large purchases.

General recommendations on facilities, computers, equipment, and supplies needed in assessment administration can be found in The **IAAO Standard "Facilities, Computers, Equipment and Supplies."** The recommendations are general in nature as detailed recommendations are not made due to rapid technology changes and because the specific needs of an assessment office cannot be determined without reference to the functions and workload of that office.

Assessment offices must have the facilities, tools, and other resources needed for cost-effective performance of the assessment function. Historically, governments have allocated inadequate resources for assessment administration. Moreover, agencies sometimes receive or acquire superfluous resources or resources poorly matched to their needs. Assessment offices may also undertake comprehensive reappraisal projects that can significantly increase the size of staff and support facilities for several years. The purpose of the IAAO standard, therefore, is to enumerate the basic facilities, including computers, equipment, and supplies, needed in assessment administration. Assessment offices may not need all of the resources mentioned here, and some jurisdictions may have needs not covered by this standard. Guidelines for staffing an assessor's office can be found in IAAO self-evaluation manual.

The NM EDGE County College has an entire track of classes in Management and Leadership, another track devoted to Finance and Budgeting, and Public Purchasing classes. Classes are three hours in length and provide information specific to New Mexico. For information regarding class specifics or delivery schedule, contact the NM EDGE at [nmedge@nmsu.edu](mailto:nmedge@nmsu.edu).

#### **4.8 Contracting for Services**

Another means of completing the duties of the assessor is to contract all or part of the functions to a private contractor. Again, be sure to work closely with your County Purchasing Department to assure compliance with the New Mexico Procurement Code. An excerpt from the "IAAO'S Standard on Contracting for Assessment Services" is as follows:

- 1. Scope**

This standard describes and makes recommendations on the development, awarding, and monitoring of contracts for assessment services.

- 2. Overview**

- 2.1 Assessment Contracts**

Assessment contracts are developed to provide assessment services to government agencies by firms or private individuals. Throughout this standard the government agency awarding the contract will be referred to as the "assessment agency" and the firm or private individual to whom the contract is awarded as the "contractor."



## 2.2 Available Services

Assessment service contracts can cover any services relating to the discovery, listing, appraisal, and assessment of property, including data collection, mapping, development of construction cost or valuation manuals, complete or partial revaluations, specialized consulting services, tax policy matters, and system design and implementation, including development of appraisal and assessment software.

## 2.3 Advantages and Disadvantages

Contracting for assessment services provides assessment agencies the opportunity to obtain a specified product at a known cost in a given period of time, thereby reducing the time and cost associated with internal development and implementation. In many cases the products and services represent years of research and development and have been tested and proven in other assessment agencies. Widespread implementation (or the possibility thereof) allows the contractor to amortize research, development, and other fixed costs among various clients and customers. In addition, most contractors maintain an experienced professional staff, whose skills and knowledge become immediately available to the assessment agency. At the same time, however, contracting for assessment services may result in a dependence upon the contractor and its products or services. The assessment agency may be less likely to develop internal expertise, and the staff may remain small and not develop a thorough understanding of, or commitment to, the product. In addition, the contractor may not fully understand or be properly concerned with local needs and requirements. As a result, future product modifications required by statutory changes or procedural enhancements can be cumbersome and costly. When contracting for assessment services, the assessment agency can minimize potential disadvantages through the development of thoughtful, detailed requests for proposals (RFPs), careful research of potential contractors and their work in other jurisdictions, development of strict quality control procedures, good planning and coordination with the successful bidder, and diligent monitoring and review of project results. Some assessment services are more suited to contracting than others. In general, services or products that are relatively standardized can be provided most efficiently by contract. Complex tasks requiring specialized expertise not available internally can also be suitable for contracting or consultation services.

The assessment agency can minimize potential disadvantages when contracting for assessment services through:

- Detailed and meaningful requests for proposals (RFPs)
- Careful research of potential contractors through in-depth past performance

reviews

- Strict quality control procedures through diligent monitoring and reviews of the project
- Improved working relationships with the contractor through good planning and coordination
- Complete, thorough, and precise documentation from the contractor through the use of project management tools

### **3. Request for Proposal (RFP)**

#### **3.1 Purpose of the RFP**

The request for proposal (RFP) is the document that sets forth the requirements of the project. It should clearly describe the desired products or services, performance standards, completion dates, and any continuing responsibilities of the successful contractor. It should also explain briefly the background of the project, relevant legal considerations, time and funding constraints, and project objectives. A clear, complete, and detailed RFP is the key to achieving desired project results.

# CHAPTER 5

## NM TAXATION & REVENUE DEPARTMENT OVERSIGHT & ASSISTANCE for COUNTY ASSESSORS

*For more information on this Chapter take class AO/TO 100-Roles and Responsibilities of the Assessor and Treasurer Offices*

### **5.1 New Mexico Taxation & Revenue Department Supervisory Authority**

*(AO 117) (§7-35-3 NMSA 1978)*

The New Mexico Taxation and Revenue Department (NMTRD) Property Tax Division (PTD) has general supervisory authority over County Assessors for purposes of implementation and compliance with the New Mexico Property Tax Code (Articles 35 to 38 of Chapter 7 NMSA) and applicable regulations, orders, rulings and instructions of the department. PTD must evaluate the effectiveness of the assessor's office annually. The NMTRD, PTD provides evaluation and feedback regarding the assessor's valuation activities with the yearly Assessor's Evaluation Form.

Recommendations for improving compliance with the provisions are also provided by TRD. An assessor found to be out of compliance with the laws and regulations will be officially notified, as will the Board of County Commissioners (BOCC) for that county.

The assessor may request and receive assistance from PTD to assess property values. PTD maintains a "property valuation fund" to assist assessors in the implementation of resources to meet the requirements of the property tax code. To aid the BOCC in determining whether the assessor is operating an efficient program, the assessor must submit a written report accompanying their annual budget requests. (§7-36-16 E. NMSA) This annual report to County Commissioners sets forth all the activities associated with the assessor's maintenance plan.

As required by § 7-36-18 NMSA, PTD conducts an annual sales ratio study of each county to compare the level of assessed values to the actual market prices. This process indicates the effectiveness of the property tax administration currently in place.

### **5.2 Department to Provide Training and Other Materials (§7-35-4 & 5 NMSA)**

According to statute, the department shall prepare, issue and periodically revise valuation manuals, cost and valuation schedules, bulletins and annotated digests of property tax laws

and regulations in handbook form for the use of its employees, the County Assessors, and their employees, and other persons involved in the administration and collection of the property tax.

Other manuals such as Business/Personal Property Manuals, Mapping Manuals, Manufactured Housing Manuals, and Land Use Manuals, though not updated frequently, can also be obtained from PTD. PTD does supply each county with an updated version of the New Mexico Selected Taxation and Revenue Laws and Regulations each year. It is good practice to read all of the statutes and regulations for Property Tax (Articles 35 thru 38) as there may be changes from year to year. Statute also dictates that the department shall make the foregoing materials available to members of the public and may charge a fee for the materials to offset the cost of physical preparation. Attendance at Affiliate Meetings and NM EDGE classes is also recommended.

Statute dictates that the department shall conduct or sponsor special courses of instruction and in-service and intern training programs on the technical, legal, and administrative aspects of property taxation. The department may cooperate with educational institutions and appropriate organizations interested in the property valuation or taxation field in the conduct or sponsorship of training programs. The department may reimburse the expenses incurred by assessors and employees of the state and its political subdivisions who attend training programs with the approval of the department. Due to the fiscal constraints of state agencies, this may not be feasible.

The department shall establish a training, program for persons elected or appointed as County Assessors who have not held office as a County Assessor within the ten years prior to the beginning of the term for which the person was elected or from the date of appointment. The department shall require attendance and satisfactory completion of such a program by such persons elected or appointed after the effective date of this 1991 Act.

The department provides additional educational opportunities to assessors, appraisers, and other staff. Annually, they provide appraisal courses to enhance the knowledge and expertise of the assessor, appraisers and staff. These courses may count towards IAAO Certification and possible increase in salaries as the student progresses through a series of at least four week-long courses.

The Taxation and Revenue Department, in cooperation with the International Association of Assessing Officers (IAAO) and the Real Estate Appraisers Board, have established four grades of courses in the field of property valuation and property tax administration. The courses shall be graded in order of increasing difficulty and shall be administered by the department. Persons completing a course and passing an examination as specified by statute shall be issued an appraiser's certificate of the appropriate grade. A person shall not be issued an appraiser's certificate of a particular grade unless the person has been issued an appraiser's certificate for each one of the lesser grades (§ 7-35-5 NMSA, Reg. 3.6.3.16)

Once one passes all IAAO classes, in increasing difficulty, and passes the examination one shall be designated New Mexico Certified Appraiser and shall be provided by the taxation and revenue department with a certificate granting this designation.

### **5.3 Value Certification and Rate Determination** (see also 11.2)

- The preparation of an abstract of values by the assessor is governed by §7-38-31 NMSA, § 7-38-32 NMSA, and § 7-38-33 NMSA.
- The certification of values is submitted by June 15th to PTD. They will compile the numbers and then submit the final values to the Department of Finance & Administration (DFA).
- DFA uses the values to set the tax rate for each tax district within the county.
- By September 1st of each year the certificate of tax rates is mailed to the chair of the BOCC with copies to the assessor and treasurer. They are then certified by the BOCC.
- By October 1st, the assessor must prepare and submit to the treasurer the tax roll.
- At this point the tax bills for each tax payer are prepared, printed and mailed out no later than November 1st.
- This is done using forms supplied by PTD.

### **5.4 County Assessor to Certify Net Taxable Values to the Property Tax Department** (§ 7-38-31 NMSA) (see also Chapter 11 of this book)

Each year the values of all state assessed property in the county are certified to the assessor by PTD.

After receiving those values, the County Assessor determines the net taxable value for all property for all allocated taxing districts in the county.

This is done for all property whether valued by the assessor or by PTD and should be completed and certified to PTD no later than June 15 of each year.

**5.5 Property Tax Department to Prepare a Compilation of Net Taxable Values to be Used for Budget Making and Rate Setting (§ 7-38-32 NMSA)**

(see also Chapter 11 of this book)

This statute describes the duties of PTD in compiling the abstract values for each county and submitting those values to DFA to be used for setting the tax rates for each taxing district.

# CHAPTER 6

## VALUATION OF PROPERTY

*For more information on this chapter take NM EDGE County College classes  
AO 101 Introduction to Assessments, AO 104 Property Valuation Appeal, AO 112  
Determination & Treatment of Tax Exempt Properties*

### **6.1 Responsibility for Valuation and Determining Classification (§7-36-2)**

County Assessors are responsible and authorized to value all property subject to valuation for property tax purposes in the counties except property specified by Subsections B and C of § 7-36-2 NMSA (i.e., traditional residential and non-residential property). Property outlined in sections B and C is assessed by the PTD's state assessed bureau. These properties include: railroad, communications systems, pipelines, airline and public utilities, etc. Under certain circumstances, the NMTRD may delegate authority to the County Assessor for valuation and classification of property for which the NMTRD would be responsible pursuant to Subsections B through C (§7-36-2).

County Assessors are also responsible for classifying property described in Subsections A through C as either residential or nonresidential under provisions of §7-36-2.1 NMSA 1978. The department by regulation, ruling, order, or other directive must implement a classification system and include a method for apportioning the value of multiple-use properties between residential and nonresidential components (§7-36-2.1).

### **6.2 Property Subject to Valuation (§7-36-7)**

Except for the property listed in Subsection B of this section or exempt pursuant to § 7-36-8 NMSA 1978, all property is subject to valuation for property taxation purposes under the Property Tax Code if it has a taxable situs in the state (§ 7-36-7 NMSA). Property has a taxable situs in the state if it is real property located in the state, it is an interest in real property located in the state or it is business personal property present in the state on January 1 of each year, the official date of property tax valuation (§7-36-14 NMSA).

Property that is not subject to valuation for property taxation purposes under the Property Tax Code as specified by subsection B of §7-36-7 NMSA includes:

1. Property Exempt from Property Taxation Under the Federal or State Constitution, Federal Law, the Property Tax Code or Other Laws, but:
  - a. This does not include property all or a part of the value of which is

exempt because of the application of the veteran, disabled veteran or head-of family exemption;

- b. This provision does not excuse an owner from obligations to report his property as required by § 7-38-8.1 NMSA 1978 or to claim its exempt status under Subsection C of § 7-38-17 NMSA 1978;
  - c. This includes property of a museum that:
    - i. has been granted exemption from the federal income tax by the United States commissioner of internal revenue as an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended or renumbered;
    - ii. is used to provide educational services; and
    - iii. grants free admission to each student who attends a public school in the county in which the museum is located;
2. Oil and Gas Property subject to valuation and taxation under the Oil and Gas Ad Valorem Production Tax Act (§ 7-36-14 NMSA; § 7-36-14 NMSA; § 7-32-NMSA 1978) and the Oil and Gas Production Equipment Ad Valorem Tax Act (§ 7-34-1 NMSA 1978); and
  3. Productive Copper Mineral Property subject to valuation and taxation under the Copper Production Ad Valorem Tax Act (§ 7-39-1 NMSA 1978).

Except as provided in Subsection B of this section, tangible personal property owned by a person is exempt from property taxation (§ 7-36-8).

The following tangible personal property owned by a person is subject to valuation and taxation under the Property Tax Code (Articles 35 to 38 of Chapter 7 NMSA 1978):

1. livestock;
2. manufactured homes;
3. aircraft not registered under the Aircraft Registration Act (§ 64-4-1 NMSA 1978);
4. private railroad cars, the earnings of which are not taxed under the provisions of the Railroad Car Company Tax Act (§ 7-11-1 NMSA 1978);



5. tangible personal property subject to valuation under §7-36-22 through §7-36-25 and §7-36-27 through §7-36-32 NMSA 1978;
6. vehicles not registered under the provisions of the Motor Vehicle Code (§ 66-1-1 NMSA 1978) and for which the owner has claimed a deduction for depreciation for federal income tax purposes during any federal income taxable year occurring in whole or in part during the twelve months immediately preceding the first day of the property tax year, and
7. other tangible personal property not specified in Paragraphs (1) through (6) of this subsection:

(a) that is used, produced, manufactured, held for sale, leased or maintained by a person for purposes of the person's profession, business or occupation; and

(b) for which the owner has claimed a deduction for depreciation for federal income tax purposes during any federal income taxable year occurring in whole or in part during the twelve months immediately preceding the first day of the property tax year.

### **6.3 Property to be Valued at Market Value**

Unless a property is assessed with a special valuation method under § 7-36-20 through § 7-36-33 NMSA 1978, the property is assessed at market value as determined by the sales comparison, income, or cost valuation method, or any combination of methods. The methods employed in appraising properties must employ generally accepted appraisal techniques (§ 7-36-15).

### **6.4 Assessors to Maintain Current and Correct Values (§ 7-36-16 NMSA)**

County Assessors shall determine values of property for property taxation purposes in accordance with the Property Tax Code and the regulations, orders, rulings and instructions of the department. Except as limited in § 7-36-21.2 NMSA 1978, they shall also implement a program of updating property values so that current and correct values of property are maintained and shall have sole responsibility and authority at the county level for property valuation maintenance, subject only to the general supervisory powers of the secretary of TRD as required by § 7-35-3.

The director of the PTD must implement a program of regular evaluation of the assessor's valuation activities with particular emphasis on the maintenance of current and correct

values. When establishing or operating a property valuation maintenance program in the county, the County Assessor may request that the director of PTD contract with the Board of County Commissioners for PTD to assume all or part of the responsibilities. The department of finance and administration shall not approve the operating budget of any county in which there is not an adequate allocation of funds to the County Assessor for the purpose of fulfilling the responsibilities for property valuation maintenance under this section.

To aid the Board of County Commissioners in determining whether a County Assessor is operating an efficient program of property valuation maintenance and in determining the amount to be allocated to him or her for this function, the assessor must present with his or her annual budget request a written report, known as the “Annual Report”, setting forth improvements of property added to valuation records during the year, additions of new property to valuation records during the year, increases and decreases of valuation during the year, the relationship of sales prices of property sold to values of the property for property taxation purposes, and the current status of the overall property valuation maintenance program in the county. The County Assessor shall send a copy of this report to the NMTRD.

## **6.5 Limitations on Increases in Valuation for Residential Properties**

(§ 7-36-21.2)

Residential property shall be valued at its current and correct value in accordance with the provisions of the Property Tax Code provided that for the 2001 and subsequent tax years, the value of a property in any tax year shall not exceed the higher of either one hundred three (103) 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 (106.1) percent of the value in the tax year two years prior to the tax year in which the property is being valued. The limitation does not apply to a residential property being valued for the first time (i.e. new construction), any physical improvements made to the property in the prior year or omitted in a prior year, a change of ownership in the year immediately prior to the tax year in which the property is being valued, and a change of use or zoning.

## **6.6 Limitation on Increase in Value for Single-Family Dwellings Occupied by Low-Income Owners 65 Years of Age or Older or Disabled (§ 7-36-21.3)**

A. For the 2001 and subsequent tax years the valuation for property taxation purposes of a single-family dwelling owned and occupied by a person who is 65 years of age or older and whose modified gross income, as defined in the Income Tax Act (§ 7-2-1 NMSA 1978), for the prior taxable year did not exceed the greater of eighteen thousand dollars (\$18,000) or the amount calculated pursuant to Subsection C of this section shall not be greater than the valuation of the property for property taxation purposes in the:

2001 tax year; year in which the owner has his 65th birthday, if that is after 2001; or tax year following the tax year in which an owner who turns 65 or is 65 years of age or older first owns and occupies the property, if that is after 2001.

B. For the 2009 and subsequent tax years, the valuation for property taxation purposes of a single-family dwelling owned and occupied by a person who is disabled and whose modified gross income, as defined in the Income Tax Act (7-2-1 NMSA 1978), for the prior taxable year did not exceed the greater of thirty two thousand dollars (\$32,000) or the amount calculated pursuant to Subsection C of this section shall not be greater than the valuation of the property for property taxation purposes in the:

2009 tax year; year in which the owner is determined to be disabled, if that is after 2009; or tax year following the tax year in which an owner who is disabled or who is determined in that year to be disabled first owns and occupies the property, if that is after 2009.

C. For the 2003 and subsequent tax years, the valuation for property taxation purposes of a single-family dwelling owned and occupied by a person who is disabled and whose modified gross income, as defined in the Income Tax Act, for the prior taxable year did not exceed the greater of eighteen thousand dollars (\$18,000) or the amount calculated pursuant to Subsection I of this section shall not be greater than the valuation of the property for property taxation purposes in the: 2003 tax year; year in which the owner is determined to be disabled, if that is after 2003; or tax year following the tax year in which an owner who is disabled or who is determined in that year to be disabled first owns and occupies the property, if that is after 2003.

D. An owner who is entitled to a limitation in valuation pursuant to more than one subsection of this section may designate the subsection pursuant to which the limitation shall be applied.

E. The limitation of value specified in Subsections A, B and C of this section shall be applied in a tax year in which the owner claiming entitlement files with the county assessor an application for the limitation on a form furnished by the assessor. The application form shall be designed by the department and shall provide for proof of age or disability, occupancy and income eligibility for the tax year for which application is made.

F. 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 2014 tax year need not claim the limitation for subsequent tax years if there is no change in eligibility. The county assessor shall apply that limitation automatically in subsequent tax years until a change in eligibility occurs.

Sections G and H state that the owner must notify the assessor of a change of eligibility and the penalties for not reporting said change.

G. For the 2002 tax year and each subsequent tax year the maximum amount of modified gross income in Subsections A, B and C of this section shall be adjusted to account for inflation. The department shall make the adjustment by multiplying the maximum amount for tax year 2000 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 2000. The result of the multiplication shall be rounded down to the nearest one hundred dollars (\$100), except that if the result is an amount less than the corresponding amount for the preceding tax year then no adjustment shall be made. For purposes of this subsection, "consumer price index" means the consumer price index for all urban consumers published by the United States Department of Labor each September 30. The department shall publish annually the amount determined by the calculation and distribute it to each county assessor no later than December 1 of each tax year.

H. The limitation of value specified in Subsections A, B and C of this section does not apply to:

- 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
- a residential property in the first tax year that is valued for property taxation purposes

As used in section K, “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 (42 USC § 301 et seq.) or is determined to have a permanent total disability pursuant to the Workers’ Compensation Act (§ 52-1-1 NMSA 1978) & (§ 7-36-21.3).

**6.7 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)

This limitation freezes the value of a single family dwelling that is owned and occupied by a person who is sixty-five years of age or older or is totally disabled and whose modified gross income does not exceed an amount set in statute and adjusted to account for inflation. It should be emphasized to the homeowner at the time of their first application that this is a valuation freeze, not a freeze of their taxes, and that their actual tax bill may fluctuate up or down depending on the tax rate. In 2013 the statute was amended to alter the application process for this limitation. Under the old provision, the homeowner was required to apply for the valuation freeze annually with the appropriate documentation. With the change in 2013, once the homeowner has applied and qualified for three consecutive years they are no longer required to qualify for the limitation by annual application. After the three years, if their income were to exceed the limit set by statute and as adjusted for inflation they are required to notify their County Assessor and advise them of that change so that the limitation can be removed.



# CHAPTER 7

## SPECIAL METHOD OF VALUATION

*For more information on this Chapter take class AO 101 Introduction to Assessments, AO 102 Business Personal Property Reporting & Valuation, AO 107 Agricultural Property Valuation and AO 108 Manufactured Home Valuation*

### **7.1 Valuation of Property (§7-36-2)**

The responsibilities of the County Assessor and the Property Tax Division (PTD) are contained in §7-36-2 for the valuation of various types of property. The Assessor is responsible for the valuation of all property subject to valuation for property taxation purposes in the county except for properties listed in §7-36-2B and §7-36-2C. Included in the list of properties to be valued by the department are railroads, communication systems, pipelines, public utilities, airlines, electricity generating plant, mineral properties, and machinery, equipment, and other personal property used in construction in more than one county.

There are thirteen special methods of valuation listed in §7-36. Of those, three are special methods that are assigned to the local assessor. Those three special methods of valuation are land used primarily for agricultural purposes, livestock and manufactured homes.

### **7.2 Special Method of Valuation: Land Used Primarily for Agricultural Purposes (§7-36-20)**

The value of land used primarily for agricultural purposes shall be determined on the basis of the land's capacity to produce agricultural products. The owner of land must make application to the County Assessor in a tax year in which this special method is first claimed but no later than 30 days after the mailing of the notice of value. The application must contain the information required by department rules. The property owner must be prepared to prove that agriculture is the primary use of the land. Once agricultural use is established in one or more of the three tax years preceding the year in which the determination is made and the use of the land has not changed since the most recent valuation, a presumption is created that the land continues to be entitled to that valuation. The owner of land valued under this section shall report to the County Assessor whenever the use of the land has changed and it is no longer being used primarily for agricultural purposes. Agricultural use in this section means land used for the production of plants, crops, trees, forest products orchard crops, livestock, poultry, captive deer or elk, or fish.

### **7.3 Special Method of Valuation: Livestock (§7-36-21)**

Livestock is valued subject to an order sent from PTD each tax year establishing the various classes of livestock and their value. This order shall be made no later than December 1st of the year prior to the tax year that the values will be used. The values on this order establish a minimum value. The assessor can use a higher value but must be prepared to defend that higher value if a protest is filed. If an assessor uses the value on the order the department will defend those values in the event a protest is filed. All livestock located in the state as of January 1 shall be valued for property taxation purposes as of January 1. Any livestock coming into the state after January 1 and located here for more than twenty days shall be valued as of the first of the month following the month in which they have remained in the state for more than twenty days. Their value will be prorated based on the time they are located in the county. The owner's report of livestock located in the county as of January 1 shall be filed with the County Assessor no later than the last day of February.

### **7.4 Special Method of Valuation: Manufactured Homes (§7-36-26)**

Statute still requires a manufactured home owner to report the manufactured home annually for valuation to the County Assessor of the county in which the manufactured home is located as of January 1. Although this is currently required by statute, in practice, some assessors do not require a manufactured home owner to report annually. They treat them the same as other residential property owners. The special method of valuation for manufactured homes, as stated in statute, shall be a cost method applying generally accepted appraisal techniques by determining the initial cost and then allowing for physical, as well as, functional and economic depreciation. Manufactured homes are unique in that prior to selling and/or moving, any prior year taxes due, as well as the current year taxes, must be paid in advance. Any request for a change of title presented to the Motor Vehicle Department must be accompanied by a tax release from the County Treasurer showing that all property taxes have been paid. Any mover of a manufactured home should be presented with a tax release and movement certificate issued by the County Assessor prior to moving the manufactured home.

### **7.5 Special Methods of Valuation: Other**

There are various methods used for the other types of properties that receive a special method of valuation. They include but are not limited to annual net production, acquisition cost plus capital improvements, and cost less accumulated depreciation. Please refer to the applicable statute for the particular property type to determine how it is to be valued by the department.



## **7.6 Limitations on Increases in Valuation of Residential Properties**

(§7-36-21.2)

The limitation referred to in this section limits valuation increases on residential properties to no more than one hundred and 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 of the value in the tax year two years prior to the tax year in which the property is being valued. The exceptions to this limitation of value are a newly constructed residential property, any physical improvements made to the property in the year immediately preceding the tax year or improvements omitted in a prior year, a change of ownership of the property that occurred in the year immediately prior to the year the property is being valued, for a change of use or change in zoning.

If a change of ownership occurs in the tax year immediately prior to the tax year for which the property value for tax purposes is being determined, then the value of the property will be its current and correct market value. There are eight exceptions to the change of ownership provisions such as a transfer to a spouse, transfer to a child to use as their primary residence, a correction deed, etc. Please refer to 7-36-21.2E for a complete list of those exceptions.



# CHAPTER 8

## PROPERTY TAX EXEMPTIONS

*For more information on this Chapter take class AO 101 Introduction to Assessments, 206 Principles of Taxation and AO 112 Determination & Treatment of Tax Exempt Properties*

Tax exemptions represent a value that is deducted from the tax base because it is exempt from taxation. The relief they provide to taxpayers is the product of the exemption amount and the tax rate which is applied to the associated tax base. Because the value is reduced by the amount of the exemption, the tax burden reduced to the taxpayer.

### **8.1 Provisions of New Mexico Constitution - Article VIII-Section 3**

Article VIII, Section 3 contains only three paragraphs and 239 words. Yet, because it defines what is or is not exempt from property taxation, understanding Section 3 is crucial to understanding exemptions.

#### **Article VIII Section 3 [Tax Exempt Property]**

The property of the United States, the state and all counties, towns, cities and school districts and other municipal corporations, public libraries, community ditches and all laterals thereof, all church property not used for commercial purposes, all property used for educational or charitable purposes, all cemeteries not used or held for private or corporate profit and all bonds of the state of New Mexico, and of the counties, municipalities and districts thereof shall be exempt from taxation.

Provided, however, that any property acquired by public libraries, community ditches and all laterals thereof, property acquired by churches, property acquired and used for educational or charitable purposes, and property acquired by cemeteries not used or held for private, or corporate profit, and property acquired by the Indian service and property acquired by the United States government or by the state of New Mexico by outright purchase or trade, where such property was, prior to such transfer, subject to the lien of any tax or assessment for the principal or interest of any bonded indebtedness shall not be exempt from such lien, nor from the payment of such taxes or assessments.

Exemptions of personal property from ad valorem taxation may be provided by law if approved by a three-fourths majority vote of all the members elected to each house of the legislature. (As amended November 3, 1914, November 5, 1946, and November 7, 1972.)

The first paragraph of Section 3 thus exempts, from property taxation:

1. property owned by various governments, including the U.S. government, the State of New Mexico, its municipalities, school districts, public libraries, community ditches and similar entities;
2. church property that is not used for commercial purposes;
3. all property used for educational or charitable purposes; and
4. non-profit cemeteries.

The second paragraph simply states that property acquired by essentially all of the entities listed above is not exempt if it was subject to taxation for the purpose of debt service prior to when it was acquired by the entities. This provision insures public bond holders that they will receive payment and interest irrespective of whether property used to secure their bonds were to be purchased by public entities.

The third paragraph allows the legislature to exempt personal property from taxation via a three-fourths majority vote of its members.

To download a copy of the New Mexico Constitution please go to

[http://www.sos.state.nm.us/Public\\_Records\\_And\\_Publications/2013nmconst.pdf](http://www.sos.state.nm.us/Public_Records_And_Publications/2013nmconst.pdf)

## **8.2 Property that is Exempt, May Be Exempt, and Must Be Taxed**

Since the NM Constitution contains a number of property tax exemptions, courts have concluded that the framers of the constitution did not intend for exemptions to be in the Property Tax Code that are not in the constitution. Otherwise, writers of the constitution would not have bothered to place specific property tax exemptions in it; they would have simply stated conditions under which real property could be exempt.

Hence:

1. Real property or personal property is exempt if it is listed as so in the constitution.
2. Real or personal property may be exempt via constitutional amendment.
3. Personal property may be exempt by a two-thirds majority vote of the legislature;
4. all other property that has situs in New Mexico must be taxed.

## **8.3 Individual Property Tax Exemptions in the New Mexico Constitution**

**Article VIII, Section 5** - Head of Family and Veteran Exemptions:

“A \$2,000 head of family exemption is provided for in the New Mexico Constitution under

Article VIII, Section 5. A \$4,000 veteran exemption is also provided to honorably discharged veterans and the surviving widow or widower of the veteran. Section 5 contains no indication of whether the veterans and head of family exemptions apply to assessed or taxable value, but the limitation has traditionally been applied to taxable value.

***Article VIII, Section 15*** - Property Tax Exemption for Disabled Veterans:

The disabled veteran exemption provided by Article VIII, Section 15 of the New Mexico Constitution and defined in 7-37-5.1 exempts from property taxation the principal place of residence and up to five acres of land of a one hundred percent permanent and total service connected disabled veteran and their unmarried surviving spouse. The disability must be service connected, and veterans must be honorably discharged.

## **8.4 Exemptions in the Property Tax Code and Applicable Regulations**

### ***New Mexico Statutes Annotated (NMSA) §7-37-4***

#### *Head of Family Exemption*

This section restates the head of family exemption of up to \$2,000 allowed to property owners listed in the constitution. It defines a head of family as an individual New Mexico resident who is either:

1. a married
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 or
5. a member of a condominium association or similar entity who pays property tax through the association.

The statute also states that one person per household may claim the exemption. Additional stipulations determining eligibility for the exemption are in Section 7-37-4 and the associated regulation -- New Mexico Administrative Code (NMAC) 3.6.6.11, among the clarifications are stipulations that the exemption may be claimed by taxpayers that have no dependents and military personnel living outside the state as long as they remain legal residents of New Mexico.

### ***NMSA §7-37-5 - Veteran Exemption***

This section reiterates the veterans' exemption of up to \$4,000 allowed to property owners as provided in the constitution. To qualify, veterans must have been honorably discharged from the U. S. armed service and have served on active duty for at least ninety days and is available to an unmarried surviving spouse of a veteran who would have otherwise qualified for this benefit. The exemption may also be used for a 1/3 discount when registering a vehicle in New Mexico. NMAC 3.6.6.12 provides clarification on residency, time served to receive the exemption and the veteran's ownership interest in the property. If multiple veterans are listed as owners of the property, each one may claim their exemption on that property.

The New Mexico Department of Veterans' Services shall assist the department and the County Assessors in determining which veterans qualify for the veteran exemption

### ***NMSA §7-37-5.1 - Disabled Veteran Exemption***

This section restates the exemption provided by Article VIII, Section 15 of the New Mexico constitution, exempting from property taxation the property of a one hundred percent permanent and total service-connected disabled veteran. Property must be primary residence and up to five acres of land. This benefit is available to an unmarried surviving spouse of a veteran who would have otherwise qualified for this benefit. NMAC 3.6.6.13 provides definitions for principal place of residence and occupy the property continuously.

The New Mexico Department of Veterans' Services shall assist the department and the County Assessors in determining which veterans qualify for the disabled veteran exemption.

## **8.5 Claiming Exemptions - Application Process, Required Application Date and Application Documents**

Exemptions are claimed by filing appropriate forms with County Assessor's offices. Section 7-38-17 NMSA requires use of forms promulgated by the Taxation and Revenue Department. Forms employed by various counties are similar, but do, in fact, vary. Many are posted on county web sites.

Application must be made for exemptions no later than thirty days after valuation notices are mailed to property owners by County Assessors. County Assessors are required to mail valuation notices to property owners by April 1 of each year. Hence April 30 is the final date for claiming exemptions. Once claimed and allowed in a particular tax year, exemptions need not be claimed in subsequent tax years if eligibility for the exemptions or ownership of the associated property does not change.

The New Mexico Veteran's Service Commission determines eligibility for various service-related exemptions and issues a certificate to veterans that apply for and are qualified by the Commission for the exemptions. Once taxpayers receive the certificates from the Commission, the certificates must be submitted to County Assessors to claim the associated exemptions. Hence the first step in claiming the service-related exemptions is to complete an appropriate application with the Veterans Service Commission. An application form is provided on the New Mexico Department of Veterans Services web site:

**<http://www.dvs.state.nm.us/benefits.html>**





# CHAPTER 9

## ADMINISTRATION & ENFORCEMENT OF PROPERTY TAX

*For more information on this Chapter take classes AO 102 Business Personal Property Reporting & Valuation, AO 104 Property Valuation Appeal, AO 107 Agricultural Property Valuation, AO 108 Manufactured Home Valuation, AO 110 Tax Rate Certification, AO 112 Determination & Treatment of Tax Exempt Properties*

### **9.1 Investigative Authority and Powers**

§7-38-2 NMSA provides that the Director of the Property Tax Division may issue subpoenas to require any person to produce any pertinent records within ten days or to appear and testify under oath concerning the subject matter of:

1. determining whether property is subject to property taxation;
2. establishing or determining the value of any property for property taxation purposes;
3. determining the extent of liability for and the amount of any property tax due from any person; and
4. enforcing any statute administered by the department or administered by county officers under the supervision of the department.

In the same statute there is also a provision that requires a property owner or their agent to allow for inspection of records pertinent to the valuation of the property and with the permission of the property owner or agent allow entry or inspection of the property for tax purposes. If the owner refuses the director or assessor may file an action in district court. The court after notice, hearing and showing good cause may require the person to appear, produce records for examination or to allow entry onto the property.

As a practical matter this statute is rarely used to force compliance from a property owner. In the event a property owner does not allow inspection of records or entry onto the property, the assessor can estimate the valuation of the property based on information obtained from properties that are similar in nature or estimate the dimensions of the property to determine size. With the technology available to an assessor including orthophotography and oblique images, the estimation of property size is easy to determine.

### **9.2 Confidentiality of Information**

§7-38-4 NMSA provides for the confidentiality of certain information obtained during the normal course of doing business as the Secretary of DFA, or an employee of the department, or as an assessor, or an employee of the assessor's office. Most of the

information obtained by the Assessor's office is public information except for the items outlined in §7-38-19E NMSA. Those items include income, expenses, profits and losses of the specific property, as well as interior diagrams, alarm systems or plumbing and electrical diagrams. These items are not a public record.

In addition, assessors are collecting affidavits containing sales prices of residential properties which are not a part of the valuation records. Assessor's offices are also collecting income tax information on taxpayers so that we may qualify them to receive the "Over 65 or Disabled Low Income Freeze". Of course, none of that information is a public record and should be considered highly confidential.

The Secretary of DFA, any employee or any former employee of the department or any other person subject to the provisions of this section who willfully releases information in violation of this section is guilty of a misdemeanor and shall be fined not more than \$1000 or imprisoned for a definite term of less than one year or both.

### **9.3 Presumption of Correctness**

§7-38-6 NMSA states that values of property for taxation purposes determined by the division or the County Assessor are presumed to be correct. To overcome this presumption of correctness provided in this section, the taxpayer has the burden of coming forward with evidence showing that values for property taxation purposes determined by either the division or the County Assessor or determination of tax rates, classifications, allocations of net taxable values of property to governmental units and the computation and determination of property taxes made by the officer or agency responsible are incorrect. The taxpayer has the burden of providing evidence that would dispute the factual correctness of any of the above, otherwise, the relief they are seeking will be denied. Just raising the issue without any evidence to the contrary will not overcome the presumption of correctness. In any event, the department or the County Assessor should be prepared to defend their value, classification or allocation when it is challenged.

The purchase price of a property where value is the subject of the dispute does not overcome the presumption of correctness if the evidence of comparable sales indicates the sale price was not the market value. This would apply not only to the taxpayer but to a County Assessor, as well, who is trying to justify the value of the property based on the sale price of that same property. The sale price of the property in dispute may be the market value but it should be supported by other comparable sales.

Once the presumption of correctness is overcome, the burden of showing a correct value then shifts to the department or the County Assessor.

#### **9.4 Valuation/Situs Date**

§7-38-7 NMSA provides that the valuation date for all property with two exceptions is January 1st of each year. The two exceptions are for the valuation of livestock and tangible personal property of construction contractors. The status of the property on January 1st will determine its status for the entire year. For example, a property that is taxable on January 1st and is subsequently sold to an exempt entity during the course of that year is subject to property taxes for the entire year. The reverse is also true. If a property is exempt on January 1st and is sold to a taxable entity during the year it is exempt for the entire year. There is no proration of taxes by the assessor or treasurer's offices.

Also, if a property is destroyed or improved during the year, any decrease or increase in value will not be reflected until the following year. There is no correction, reassessment or proration of taxes in the current tax year allowed based on improvements to or destruction of the property.

#### **9.5 Reporting of Property Valuation; Penalties for Failure to Report**

§7-38-8 NMSA provides various requirements and penalties for properties that are either reported to the department or to the County Assessor.

Property that is required to be reported to the department, in other words, state assessed property shall be reported no later than the last day of February. If there is a failure or a refusal to report, the department shall determine the value based on the best information available.

Once a property has been reported to the assessor it does not need to be reported to the assessor in subsequent years. If property has not been valued in the previous year it shall be reported to the assessor no later than the last day of February. If a property is no longer subject to valuation by the County Assessor that information will be reported to the assessor no later than the last day of February of the year following the change. Any real property owner that has made improvements to their property in excess of \$10,000 will report to the assessor by the last day of February the property improved, the improvements made, and the cost of the improvements. Manufactured homes, livestock and land used for agricultural purposes have separate reporting requirements according to Sections §7-36-26, §7-36-21 and §7-36-20 NMSA, respectively.

There are various penalties outlined in this section for failure to report according to the provisions of this statute. The penalties range from five percent of the taxes determined to be due up to a \$1,000 fine if convicted and found guilty of a misdemeanor.

## **9.6 Description of Property for Property Taxation Purposes**

§7-38-9 NMSA states that real property shall be described for property taxation purposes by a description sufficiently adequate and accurate to identify it. A description sufficiently adequate and accurate to identify real property is a description such that, if the description were included in a deed, title would pass and would identify it sufficiently to permit it to be located on the ground and its boundaries determined.

In the assessment of real property, legal descriptions are typically used to describe the property to be taxed and are included on the tax record for that property. However, if a legal description is too lengthy to be included on the tax assessment record the document recorded in the County Clerk's office describing the property can be referenced. That will be sufficient to adequately describe the property.

According to regulation every assessor's office is required to have a geographic information system (GIS) in place. A GIS system consists of three parts (a) a digitized map or set of maps for the county; (b) a computerized database or databases; (c) a set of rules relating the map features to each other and making sure that each parcel on the map is identified with a property in the database.

Per §7-38-10 NMSA if a county does not meet the above requirements for the description of real property and/or the requirement for a comprehensive mapping or geographic information system or to correct any deficiencies in this regard the director shall order the installation of maps or other increments of the property description system in the county. The county may then be asked to reimburse the department for the costs of that project.

## **9.7 Property Transfer Documents to be Furnished**

§7-38-12 NMSA states that whenever a deed or real estate contract transferring an interest in real property is received by a County Clerk for recording, a copy of the deed or real estate contract shall be given to the County Assessor. This enables the County Assessor to maintain current ownership records on all real property located within the county so that

the proper entity can be assessed. There are penalties provided in this section for any clerk who willfully fails to comply with the provision of this section.

### **9.8 Residential Property Transfer; Affidavit to be Filed with Assessor**

The affidavit required in this section (§7-38-12.1 NMSA) is required to be filed with the assessor whenever a deed, real estate contract or memorandum of real estate contract on residential property is recorded with the County Clerk's office. The affidavit can contain the following information only: (1) complete names of the transferors and transferees, (2) the current mailing addresses of all transferors and transferees, (3) the legal description of the real property interest transferred as it appears on the recorded document, (4) the full consideration, including money or any other thing of value paid or exchanged for the transfer to include terms and any seller incentives, and (5) the value of any personal property included in the sale price. The affidavit is to be used for statistical and analytical purposes.

Upon receipt of the affidavit, the County Assessor shall place on the original and on a copy the date of receipt. The copy shall be returned to the person presenting the affidavit. The affidavit shall be cross referenced to other records so that it pertains to the specific property described in the affidavit. The affidavit is a confidential record and as such, is not a part of the valuation record of the assessor. Therefore, the affidavit itself and its contents are not a public record.

There are seventeen transactions listed in this section that do not require an affidavit to be filed with the assessor's office. The requirement for this affidavit applies only to residential property.

### **9.9 Penalties**

A person who intentionally refuses to make a required report (the affidavit) within the time period specified (30 days from the date of filing in the clerk's office) or who knowingly makes a false statement on the affidavit is guilty of a misdemeanor and upon conviction shall be fined not more than one thousand dollars (\$1,000).

### **9.10 Statement of Decrease in Value of Property (§7-38-13 NMSA)**

No later than the last day of February of a tax year, any owner of property subject to valuation by the County Assessor who believes that the value of their property has decreased in the previous tax year may file a signed statement with the assessor. The

statement will describe the property affected, the cause and nature of the decrease in value and the amount by which the owner contends the valuation of the property has been decreased. Prior to a determination of the value, the assessor or an employee of the assessor must view the property described in the statement. The decrease in valuation can be due to a change of ownership or location or existence of personal property subject to local valuation, and in those cases the assessor or employee will verify the alleged change and make a note of the date of verification, the person who made it and any action taken or to be taken as a result.

#### **9.11 Duty of Condemning Authority to Notify County Assessor (§7-38-16 NMSA)**

A condemning authority that acquires land by a permanent order of the court or upon the issuance of a final order of condemnation shall notify the County Assessor in which the land is situate. The notification will include:

1. the fact of the issuance of an order making permanent an order of preliminary entry or an order of final condemnation and the date of the order;
2. the description and ownership of the land subject to the order; and
3. the date that physical possession of the land was or will be assumed by the condemning authority under a preliminary entry order.

Upon receipt of the notification, the County Assessor will make the appropriate changes in the valuation records to reflect the condemning authority as the owner of the property as of the date of possession or the date of the final order of condemnation.

This section does not authorize proration of taxes in the tax year that the condemning authority takes possession of the property but the condemning authority may contract or stipulate with the owner of the land for the proration of the owner's tax liability.

#### **9.12 Claiming Exemptions; Requirements and Penalties (§7-38-17 NMSA)**

This section provides for the claiming of exemptions with the County Assessor. These exemptions include the head of family, veteran exemption, disabled veteran exemption or veteran organization exemption. These exceptions must be applied no later than 30 days after mailing of notices of value. Once an exemption is claimed and applied, it need not be claimed in subsequent years if there is no change in eligibility or if there is no change in the ownership of the property. They will continue to be applied automatically in subsequent tax years. If an individual subsequently becomes ineligible for the exemption because of a change in the person's status or a change in the ownership of the property against which

the exemption was applied shall notify the County Assessor of the change before the last day of February of the tax year immediately following the year in which loss of eligibility occurs.

Other exemptions under section §7-36-7 NMSA for non-governmental entities shall be claimed to be allowed. Once an entity has claimed an exemption on their property they need not be claimed in subsequent years if there is no change in their eligibility. These are exemptions that are claimed by charitable, educational or religious organizations that are exempt per the constitution of the State of New Mexico. These organizations must apply on any property they own that they believe qualifies for the exemption and also must justify to the satisfaction of the County Assessor that the use of the property is for charitable, educational, or religious purposes. The exemption for non-governmental entities must be applied for no later than 30 days after the mailing of the notices of value.

Proof of eligibility for any of the above exemptions will be filed with the County Assessor. Procedures for determining eligibility of claimants for any exemption are done by regulation of the department.

For all veteran exemptions the veteran's service commission will issue a certificate of eligibility to those that qualify. That certificate is then presented to the assessor and will note on it the date that the exemption is first claimed. If a veteran presents a certificate that has been presented to another County Assessor, the Assessor in the county where the certificate has been presented will contact the prior county and determine that the exemption has been released.

Anyone applying for the head of family, veteran, or disabled veteran must be a resident of the State of New Mexico. A New Mexico resident means an individual who is domiciled in this state as of January 1 of the tax year for which the exemption is being claimed.

Any person that violates the provisions of this section by intentionally claiming and receiving the benefit of an exemption to which the person is not entitled or an individual that does not notify the assessor that their eligibility has changed is guilty of a misdemeanor and if found guilty is subject to a fine of not more than one thousand dollars (\$1,000).

### **9.13 Presumption of Nonresidential Classification; Declaration of Residential Classification**

In 1981 tax rates were issued for the first time with residential and non-residential rates. In prior years each school district had only one rate that was applied to all properties. In that same year the legislature drafted this section. Simply stated, beginning in tax year 1982, every property was presumed to be non-residential unless the property owner declared it to be residential. The assessor was required to mail to every property owner by January 31st a declaration form. The property owner was required to mail to the assessor's office by the last day of February the declaration stating that the property was residential. Upon receipt of the declaration and "reasonable steps" to verify by the assessor the valuation records were to be updated and the proper entries made. This kept the assessor from the daunting task of determining the classification of all property in their county and placed that responsibility on the property owner.

Although this statute is still a part of the tax code, it has become outdated based on current procedures in most assessors' offices. Assessors typically classify properties when they are placed on the tax roll for the first time. For example, if an appraiser from an assessor's office is out measuring a new home they will classify it as residential when it is placed on the tax roll.

### **9.14 Publication of Notice Relating to Property Valuation and Exemption (§7-38-18 NMSA)**

Each year during the first three full weeks in January the assessor will publish at least once a week in a newspaper of general circulation within their county a notice that includes a brief statement of certain provisions of the property tax code. The notice shall include a brief statement of the provisions

1. relating to requirements for reporting property for valuation for property taxation purposes,
2. relating to requirements for reporting exempt property,
3. relating to filing statements of decrease in value of property,
4. relating to requirements for claiming veteran, disabled veteran, head of family and other exemptions,
5. relating to the requirements for declaring residential property and changes in use of property, and



6. relating to requirements for claiming eligibility for the limitation on increases in 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.

The Property Tax Division in December of each year sends an order to each County Assessor with the “Notice of Reporting Requirements”. The County Assessor is responsible for placing and paying for the placement of this notice in the newspaper. The notice also includes reporting requirements for special method of valuation, livestock, and manufactured homes, but is not required by this statute.

### **9.15 Valuation Records (§7-38-19 NMSA)**

The County Assessor is required to maintain a record of the values determined for property taxation purposes on all property within the county subject to valuation under the property tax code whether the values are determined by the assessor or the department (state assessed properties). Valuation records shall contain the information required by the property tax code and regulations of the department.

Valuation records are public records with some exceptions. The following exceptions are not public records and cannot be released.

1. Sales affidavits information
2. Income and expense statements
3. Profit and loss statements associated with a particular property or property owner or diagrams of the interior arrangement of buildings
4. Alarm systems or electrical or plumbing systems.



# CHAPTER 10

## VALUATION NOTIFICATION & PROTESTS

*For more information on this Chapter take class AO 104 Property Valuation Appeal*

### **10.1 County Assessor and PTD to Mail Notices of Valuation (§7-38-20 NMSA)**

By April 1st of each year, County Assessors must mail notices of valuation to owners of each property valued by assessors.

By May 1st of each year, the New Mexico Property Tax Division of the Taxation and Revenue Department is required to mail a notice to owners of each property valued by the Division.

Failure of a property owner to receive the notice of value, does not invalidate the value set on the property, any property tax based on that value, or any subsequent procedure or proceeding instituted for the collection of the tax.

The notice of value mailed by County Assessors and the Property Tax Division shall contain:

1. the property owner's name and address;
2. the description or identification of the property valued;
3. the classification of the property valued;
4. the value set on the property for property taxation purposes;
5. the tax ratio;
6. the taxable value of the property for the previous and current tax years;
7. the tax rate from the previous tax year;
8. the amount of tax from the previous tax year;
9. with respect to residential property, instructions for calculating an estimated tax for the current tax year, which shall be prominently displayed on the front of the notice, and a disclaimer for such instructions similar to the following: "The calculation of property tax may be higher or lower than the property tax that will actually be imposed.";
10. the amount of any exemptions allowed and a statement of the net taxable value of the property after deducting the exemptions;
11. the allocations of net taxable values to the governmental units;
12. briefly, the eligibility requirements and application procedures and deadline for claiming eligibility for a limitation on increases in the valuation for property

taxation purposes of a single-family dwelling owned and occupied by a person sixty-five years of age or older; and

13. briefly, the procedures for protesting the value determined for property taxation purposes, classification, allocation of values to governmental units or denial of a claim for an exemption or for the limitation on increases in valuation for property taxation purposes.

County Assessors may mail the valuation notice to taxpayers with the preceding tax year's property tax bills if the net taxable value of the property has not changed since the preceding taxable year. In this early mailing, the County Assessor shall provide clear notice to the taxpayer that the valuation notice is for the succeeding tax year and that the deadlines for protest of the value or classification of the property apply to this mailing date.

## **10.2 Protests; Election of Remedies (§7-38-21 NMSA)**

A property owner may protest:

1. the value or classification determined for their property for property taxation purposes;
2. the allocation of value of their property to a particular governmental unit;
3. a denial of a claim for an exemption; or
4. a limitation on increase in value.

This process is initiated by:

1. filing a petition of protest with the Administrative Hearing Office for State Assessed Property Bureau or the County Assessor as provided in the Property Tax Code; or
2. filing a claim for refund in district court after paying their taxes by delinquency date as provided in the Property Tax Code. (The first half taxes must be paid "under protest" with the County Treasurer)

If a property owner files a protest with the assessor or the Administrative Hearing Office, they then cannot pursue a claim for refund in district court.

A property owner may also protest the application to his property of any administrative fee adopted pursuant to § 7-38-36.1 NMSA 1978, by filing a claim for refund after paying his taxes.

### **10.3 Protesting Values, Classification, Allocation and Denial of Exemption or Limitations by the County Assessor (§ 7-38-24 NMSA)**

Filing a protest petition in accordance with this section entitles the property owner to a hearing on his protest. Protest petitions shall:

1. Be filed with the County Assessor on or before:
  - a. The later of April 1st of the property tax year to which the notice of value applies or 30 days after the mailing by the assessor of the notice of valuation if the notice was mailed with the preceding year's tax bill;
  - b. 30 days after the mailing of a property tax bill on omitted property;
  - c. In all other cases, 30 days after the mailing of the notice of valuation by the assessor.
2. State the property owner's name and address and the description of the property;
3. State why the property owner believes the value, classification, allocation of value, denial of a claim of exemption, or of a limitation on increase in value is incorrect. The property owner must also state what he believes the correct value, classification, allocation of value or exemption to be; and
4. State the value, classification, allocation of value or exemption that is not in controversy.

Upon receipt of the protest petition, the County Assessor shall schedule a hearing before the County Valuation Protest Board and notify the property owner (by certified mail) of the date, time and place that he may appear to support his petition. The notice shall be mailed at least fifteen days prior to the hearing date. The County Assessor may provide for an informal conference prior to the actual protest hearing.

### **10.4 County Valuation Protest Boards (§ 7-38-25 NMSA)**

Each county has a County Valuation Protest Board. Each board shall consist of three voting members and three alternates. The alternates shall also be appointed to serve as voting members in the absence of each of the voting members. Voting members and alternates shall be appointed as follows:

1. one member and one alternate shall be a qualified elector of the county and shall be appointed by the Board of County Commissioners for a two-year term;
2. one member and one alternate shall be a qualified elector of the county, shall have demonstrated experience in the field of valuation of property (i.e., fee appraiser or field appraiser), and shall be appointed by the Board of County Commissioners for a two-year term; and

3. one member and one alternate shall be a property appraisal officer employed by the department, assigned by the director, and shall be the Chairman of the Valuation Protest Board.

Members of the board and alternates shall not hold any elective public office during the term of their appointment nor shall any such member or alternate be employed by the state, a political subdivision, or a school district during the term of his appointment.

Any vacancies occurring on the board shall be filled by the Board of County Commission making the original appointment and shall be for the unexpired two-year term of the vacated membership.

Members of the board and alternates, when serving as voting members, shall be paid as independent contractors at the rate of eighty dollars (\$80.00) a day for each day of actual service. The payment of board members and alternates and all other actual and direct expenses incurred in connection with protest hearings shall be paid by The Property Tax Division.

#### **10.5 Scheduling of Protest Hearings** (§ 7-38-26 & NMSA § 7-38-27 NMSA)

Before scheduling a protest hearing, the County Assessor shall notify the Director of the protests, so that the property appraisal officer board member assigned by the director will be available.

Except for the rules relating to discovery, the technical rules of evidence and the Rules of Civil Procedure for the district courts do not apply at protest hearings before a County Valuation Protest Board. The hearing, however shall be conducted so that an ample opportunity is provided for the presentation of complaints and defenses. All testimony shall be taken under oath, and a verbatim record of the hearing shall be made. The record need not be transcribed unless it is required for appeal purposes.

Final action taken by the board shall be by written order and signed by the chairman or member of the board designated by the chairman. The order shall be made within 30 days after the date of the hearing, but this time limitation may be extended by mutual agreement of the board and the protestant. A copy of the order will then be sent immediately, by certified mail, to the property owner. Copies will also be sent to the director and the County Assessor.

All protests shall be decided within 180 days of the date that the protest was filed. The protest may be denied if the property owner, or his authorized representative, fails to appear without justifiable reason, to appear at the hearing. If the protest is not settled, or an extension granted by Property Tax Division (PTD) within 180 days, then the protestant prevails.

The Protest Board's order shall provide the date, the changes to be made to the valuation records, if any, and direct the County Assessor to take the appropriate action. Changes in the valuation records should clearly indicate that the prior entry has been superseded by the order of the Protest Board.

**10.6 Property Tax Division – PTD Protest Hearings** (§7-38-22 NMSA and §7-38-23 NMSA)

A property owner may protest to the Administrative Hearing Office, the value or classification determined by the Property Tax Division for the same reasons as a protest is filed with the County Assessor. (Refer to the above referenced statutes if necessary)

**10.7 Appealing Orders of a County Valuation Board or the Property Tax Division** (§7-38-28 NMSA)

A property owner may appeal an order made by the County Valuation Protest Board by filing an appeal pursuant to Section 39-3-1.1 NMSA 1978. The County Assessor will be served the notice of appeal by an officer of the court. After a hearing is conducted, the decision and order of the district court is distributed to all parties. The Assessor will then take the appropriate action to comply with the decision and order within 15 days of official receipt.

Note: An Assessor may appeal the Protest Board ruling, but unlike a property owner's appeal, the District Court is not required to hear the Assessor's appeal.

**10.8 Protesting Values and Claim for Refund – Civil Action** (Section 7-38-39 NMSA and Section 7-38-40 NMSA)

After receiving his property tax bill, and after making payment prior to the delinquency date of all property taxes due in accordance with the bill, a property owner may "pay their taxes under protest" to the County Treasurer for any of the reasons set out in Paragraph 10-2 herein.

Claims for refund shall then be filed by the property owner within 60 days of the due date of the tax bill, typically January 10, as a civil action in district court in the county in which the valuation was determined.





# CHAPTER 11

## VALUATION CERTIFICATION & TAX RATES

*For more information on this Chapter take class AO/TO 100 Roles and Responsibilities of Assessors and Treasurers, AO 105 Certifications Abstracts & Warrants, AO 106 Budgets and Reevaluation Plan, AO 110 Tax Rate Certification and AO 111 Tax Roll Corrections*

### **11.1 Property Tax Division (PTD) to Allocate and Certify Valuations to County Assessors**

§7-38-30 provides that by June 1st of each year the PTD will certify to each County Assessor all property allocated to governmental units i.e. school districts and subject to valuation by PTD. These values include but are not limited to utilities, railroads, airlines, pipelines, and out of state contractors. The PTD will indicate to the assessor the amount of the valuation that is subject to protest and the amount of value that is uncontroverted in the pending protests. For properties that are subject to protest, the PTD will have one page for each taxpayer labeled unprotested value, one page labeled protested value and a page labeled total value. Upon receipt of these centrally assessed values, the County Assessor will enter the unprotested values into their valuation records.

### **11.2 County Assessor to Certify Net Taxable Value to the Property Tax Division (see also 5.3)**

§7-38-31 provides that after receiving and then entering the certified values from the PTD into the county's valuation records, the County Assessor shall determine the net taxable value for all property allocated to governmental units in the county and subject to valuation, whether by the assessor or the department. The certification of net taxable values by the County Assessor shall be submitted to the PTD no later than June 15th of each year. The net taxable values of property shall be certified according to governmental units within the county. Again, as stated above, governmental units are the school districts within the county. The assessor's certification shall include a statement of all property valuations that are the subject of a pending protest, whether protested locally to the assessor or to the PTD, and a statement of the uncontroverted or uncontested valuations attributable to each governmental unit.

### **11.3 Property Tax Division (PTD) to Prepare Compilation of Net Taxable Values for Budgeting and Rate Setting**

§7-38-32 states that no later than June 30th, the PTD will compile all the net taxable values certified to it by the County Assessors and shall include the information regarding

protested properties furnished by the Assessors. This compilation will be used for the purpose of making budgets and eventually setting tax rates. This compilation will be sent immediately to the Cabinet Secretary of Finance and Administration.

By August 1<sup>st</sup>, the PTD will prepare an amended compilation and send it immediately to the Cabinet Secretary of the Department of Finance and Administration. This amended compilation shall include final valuations resulting from completed protests and updated information on pending protests. The Department of Finance and Administration (DFA) will use this final compilation for setting property tax rates. The net taxable values from the immediate preceding year may be considered for the purpose of estimating available revenue if the compilation of net taxable values is incomplete or indefinite due to pending protests.

#### **11.4 Department of Finance and Administration (DFA) to Set Tax Rates**

According to §7-38-33, by September 1st of each year, the Cabinet Secretary of Finance and Administration shall by written order set the tax rates for the governmental units sharing in the tax in accordance with the Property Tax Code and the budget of each as approved by the department of finance and administration. A copy of this order is sent to each Board of County Commissioners, each County Assessor and the PTD. This written order is called the “Certificate of Tax Rates”. Upon receipt of the certificate, the County Assessor should compare it to the previous year’s rate to check for reasonableness and accuracy. All columns should be checked to verify totals. Also, many assessors send the rates to the various entities that participate in the property tax so that they can review their individual rate and calculate the amount of revenue it will generate to verify its sufficiency.

#### **11.5 Board of County Commissioners to Order Imposition of Tax**

§7-38-34 states that within five days of receipt by the county of the property tax rate-setting order or certificate from the Department of Finance and Administration (DFA), each Board of County Commissioners (BOCC) shall issue a written order imposing the tax rates as set by the order allocated to the appropriate governmental units. A copy of the approved order shall be delivered immediately to the County Assessor.

Some BOCC’s have been hesitant to issue the order, especially if rates have increased, since it could be perceived or alleged that they raised taxes. It should be pointed out to the commission that they are not approving the rates but only ordering the assessor to impose the rates received from DFA as required by law.

## **11.6 Preparation of Property Tax Schedule by Assessor**

According to §7-38-35, after the assessor has received the rate setting order imposing the tax, but no later than October 1st of each tax year, the assessor will prepare a property tax schedule for all property subject to property taxation in the county. This schedule is also referred to as the tax roll. The tax schedule shall be in an electronic form and contain information required by regulations of the PTD and shall contain at least the eleven items outlined in this statute.

By October 1st of each year the County Assessor will submit to the PTD and the County Treasurer an abstract of the information contained in the property tax schedule including the property valued by PTD. The abstract will include information showing for each county the valuation of the different kinds of property, taxable values, exemptions allowed and the net taxable values. The property tax schedule or tax roll is a public record and is a part of the valuation records for the county.

## **11.7 Preparation of Property Tax Roll**

Per §7-38-36, a copy of the property tax schedule or tax roll shall be delivered to the County Treasurer on October 1st of each tax year. Upon receipt of the schedule the treasurer shall prepare and mail a tax bill to either the owner of the property or any person other than the owner to whom the tax bill is to be sent, i.e. mortgage or escrow companies. The deadline to mail tax bills is November 1st of each tax year. The failure of a person to receive a tax bill does not change the time the tax is due and payable, the validity of the tax or any subsequent proceeding instituted for the collection of the tax.

This statute does provide that a County Treasurer and County Assessor may stipulate by written agreement that the property tax bills may be prepared or mailed, or both, by the County Assessor. This agreement shall include provisions for the allocation of costs for those functions delegated to the County Assessor and must be approved by the Board of County Commissioners. Although this provision is rarely used, for smaller counties it could provide maximum efficiency and coordination.

## **11.8 Tax Roll Corrections (§7-38-77 NMSA 1978)**

Once the tax schedule has been presented to the county treasurer by the assessor there are limited reasons for making a change. The statute refers to the county treasurer as the one that initiates changes to the schedule but generally it is an agreement between the assessor

and treasurer that a change needs to be made. Typically, the paperwork starts in the assessor's office and the change to the schedule is completed in the treasurer's office. It is not unusual for an amended tax bill to be mailed to the property owner to notify them of the correction or change.

The reasons for changes to the schedule are provided in statute and listed below:

- (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 Sections 7-36-21.2 and 7-36-21.3 NMSA 1978 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 Section 7-38-78 NMSA 1978;
  - (8) by the department as authorized under Section 7-38-79 NMSA 1978;
  - (9) by the department of finance and administration as authorized under Section 7-38-77.1 NMSA 1978; or
  - (10) as specifically otherwise authorized in the Property Tax Code.

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.

As stated in the section above, this is not the time to make a correction due to a difference of opinion concerning valuation methods or the property's value. That should have been handled by the property owner or their agent during the protest period after the mailing of the notices of value or by filing a claim for refund in district court after the tax bill has been received according to §7-38-39 and §7-38-40 NMSA 1978.

### **11.9 Special Tax Districts**

A special tax district is a defined amount of land to which a specific tax rate will be applied. The assessed value will be reported separate for the district and a different tax rate will be applied. 100% Veterans are exempt from this tax according to state statute.

Per §73-9-26, a certified list of the lands in said district subject to tax hereunder, and upon the receipt of the certificate of said board of directors of the district certifying the total amount of money required to be raised for maintenance, operating and current expenses, as herein provided, to make an ad valorem levy thereupon, also to fix the specific tax per acre necessary to provide the amount of money required for any other purpose as in this act provided, and which are to be raised by the levy of taxes upon the lands of said district; and to certify said respective levies to the county commissioners of each other county embracing any portion of said district.



# CHAPTER 12

## PROFESSIONAL DEVELOPMENT

*For more information on this Chapter take classes CPM 121 Ethics & Professionalism, CPM 125 Developing a Professional Workplace and/or CPM 133 Creating a Safe & Productive Workplace*

### 12.1 NM EDGE

Originally a joint effort between New Mexico Counties (formerly known as New Mexico Association of Counties) and Cooperative Extension Service, the County College was created to address the gap between becoming a newly elected official and becoming a seasoned elected official by offering practical and meaningful training in professional county government. From this joint effort grew an umbrella organization known as the NM EDGE.

The New Mexico EDGE (Education Designed to Generate Excellence in the Public Sector) is an umbrella organization operated through NM Cooperative Extension Service and under which the County College (founded with NM Counties), the NM Certified Public Manager® Program, and other continuing education certification programs are administered. The idea behind the NM EDGE is to expand training programs beyond county government into other areas of the public sector such as municipal entities, state agencies and other public-oriented organizations that have a need for specialized training. Curriculum committees are established to help NM EDGE identify educational gaps and propose classes to fill those gaps. NM EDGE is a collaborative effort among its strategic partners and potential strategic partners in New Mexico's public sector.

With the purpose of encouraging “better government through education”, County College began in 2002 as a dream of the late Sam Montoya, the former executive director of the New Mexico Counties, who asked NMSU's College of Agricultural, Consumer and Environmental Sciences' Cooperative Extension Service to work with them to develop an educational program for New Mexico's county officials and employees.

In 2008, the NMSU Department of Government became a regular partner in County College and offered to develop the nationally recognized Certified Public Manager® (CPM) program in conjunction with Cooperative Extension Service's County College. With assistance from the Director of the Master in Public Administration (MPA) program at NMSU, a new core curriculum committee was developed and began work on the backbone of the NM CPM curriculum. After developing the NM CPM affiliate-specific curriculum

committees were created to address educational programs to meet their operational and professional development needs. Customized curriculum continues to be developed for groups requesting a certification program that can tie into the NM CPM.

Since 2003 when classes were first offered, 5,000 class units have been delivered with nearly 2,000 in 2010 alone. Participants in County College & NM CPM classes receive NMSU Continuing Education Units for each three-hour class unit.

Of those attending classes, nearly 100 individuals have earned the Certified Public Official designation, the first level of the certification program by completing 18 classes in fields such as knowing your government, management and human resources. Several students have also completed the second level certification to earn the Certified Public Supervisor designation and many of those students are working towards earning their Certified Public Manager® designation.

With the help and support of Dr. Jon Boren, Associate Dean and Director of NM CES and Steve Kopelman, NMC Executive Director, the program continues to grow and evolve. Under the umbrella of NM EDGE, the opportunity is emerging to help other public sector entities have a better educated workforce and thus Better Government through Education.

All Assessors' office employees have the opportunity to receive the NM Certified Public Assessment Officer designation from NMSU's NM EDGE Program.

Currently the program consists of 20 Assessment Officer (AO) required classes, 2 Certified Public Manger (CPM) classes, 2 elective and mini-portfolio.

To download a copy of the NM Certified Public Assessment Officer Requirements Checklist please go to our website at [www. NMEDGE.NMSU.EDU](http://www.NMEDGE.NMSU.EDU) or contact our offices at [nmedge@nmsu.edu](mailto:nmedge@nmsu.edu).

## **12.2 The International Association of Assessing Officers (IAAO)**

IAAO is a nonprofit, educational, and research association. It is a professional membership organization of government assessment officials and others interested in the administration of the property tax. IAAO was founded in 1934, and now has a membership of more than 7,000 members worldwide from governmental, business, and academic communities.



There are numerous resources available thru IAAO, including but not limited to, assessment courses online and in classroom settings, workshops, 1 day forums, webinars, and self-study programs in addition to a vast assessment library.

The New Mexico Property Tax Department recommends IAAO Courses in order to become a New Mexico Certified Appraiser. Courses are offered across the United States and at least once a year in New Mexico.

Learn more about IAAO at <http://www.iaao.org/>

### **12.3 New Mexico Property Tax Division (Cited for Regulation in 2012)**

The purpose of the New Mexico Certified Appraiser Certificate is to recognize professionalism and competency in the valuation of property for property taxation purposes.

Certified appraisers may use this designation in conjunction with the valuation of a wide range of property as it is customarily defined in their assessment jurisdiction in accordance with New Mexico Property Tax Division's commitment to excellence.

To qualify for certification, the following general educational requirements must be fulfilled.

To receive a New Mexico Certified Appraiser Certificate from the New Mexico Taxation and Revenue Department you must have credit for the following four (4) Qualifying Educational (QE) courses:

- (1) IAAO Course 101: Fundamentals of Real Property Appraisal (30 hrs)
- (2) IAAO Course 102: Income Approach to Valuation (30 hrs)
- (3) IAAO Course 300: Fundamentals of Mass Appraisal (30 hrs)
- (4) 30 hours of either; IAAO Course 201, Appraisal of Land; IAAO 400, Assessment Administration; IAAO 402, Property Tax Policy; IAAO 112, Income Approach to Valuation II; IAAO Course 311, Residential Modeling Concepts; IAAO Course 312, Commercial/Industrial Modeling Concepts; IAAO 320, Multiple Regression Analysis.

To receive qualifying credit for the course you must pass the test with a 70% or better. Courses taken in satisfying the QE requirements shall not be repetitive in nature; each

course credited toward the required number of qualifying education hours shall represent an increase in appraiser's knowledge and none may be taken on-line.

Courses approved by the New Mexico Board of Real Estate Appraisers as Qualifying Education (QE) are allowed but must be at least 30 hours each, not taken on-line, similar to the above requirements and approved by Property Tax Division prior to completion of the course. An approved IAAO or New Mexico Board of Real Estate Appraisers, Uniform Standards of Professional Appraisal Practice (USPAP) course is highly encouraged at any time during the certification process and for continuing education hours after certification.

If you have received an equivalent real property appraiser certification or licensing from the New Mexico Board of Real Estate Appraisers and successfully completed IAAO Course 300, you may seek a waiver of all other educational requirements by submitting a copy of your license/certificate to the department.

Per Regulations, a minimum of 30 hours of continuing education (CE) shall be completed every 3 years by all certified appraisers. CE hours may be completed on-line. They can be IAAO or New Mexico Board of Real Estate Appraisers approved courses.

Courses for continuing education credit shall have significant intellectual or practical content and shall deal primarily with matters directly related to appraisal practice or to the ethical obligations of certificate holders. The primary objective of such courses shall be consistent with the department's charge to protect the public and to increase the professional competency of certificate holders.

# CHAPTER 13

## ASSESSOR EVALUATIONS

*For more information on this Chapter take class AO115 Mapping Procedures and Requirements*

### **13.1 Property Tax Division (PTD) Evaluations**

The director of the PTD has general supervisory authority over County Assessors for the purpose of assuring implementation of and compliance with the provisions of the Property Tax Code and the applicable regulations, orders, rulings, and instructions of the department. The director must evaluate the performance of County Assessors' during every calendar year and provide appropriate technical assistance to County Assessors. (NMSA 7-35-4 and NMAC 3.6.3.8)

The annual evaluation, as a minimum, should consist of the following:

- A copy of the written report the Assessor is required to submit to the Board of County Commissioners.
- The Assessor Office's knowledge of regulations, orders, rulings and instructions pertaining to the Property Tax Code.
- The Assessor's compliance with training requirements.
- The Assessor Office's attendance in training programs on the technical, legal and administrative aspects of property taxation.
- The Assessor's maintenance of current tax maps and ownership records.
- The Assessor's allowance or disallowance of exemptions.
- A field review by one or more division employees.
- Any additional information, required by the PTD, the Assessor may give to aid the division in completing the evaluation.

The evaluation should be used as a tool to improve performance, correct existing problems, to evaluate progress toward fulfilling the requirements of the office, and to measure compliance, growth and achievements in the office.

### **13.2 Annual Report to Board of County Commissioners (BOCC) & the Valuation Maintenance Plan**

In order to aid the BOCC in determining if the County Assessor is operating an efficient program the assessor shall submit a written report with the annual budget request. This written report should set forth improvements of property added to valuation records

during the year, additions of new property to valuation records during the year, increases and decreases during the year, the relationship of sales prices of property sold to values of property for taxation purposes, and the current status of the entire property valuation maintenance program for the county. A copy of this annual report must be sent to PTD. (NMSA 7-36-16 and NMAC 3.6.5.23)

The annual report is not an evaluation conducted by the BOCC but is an excellent tool for a self-evaluation of the Assessor's Office. The report allows the Assessor to examine the efficiencies of the assessment process that ensures a fair and equitable tax base. It is no coincidence that this report is given with the Assessor's annual budget request. Assessors must be keenly aware of the impact that they make on a county's budget because property tax is a significant portion of that budget. The new Assessor will become familiar with the detailed specifics of the office's procedures and their final results.

# CHAPTER 14 WEB RESOURCES

## A partial list of General Sites

### **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>

- Attorney General's Office  
<http://www.nmag.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](http://www.nmdfa.state.nm.us/Local_Government.aspx)
- General Services/State Purchasing  
<http://www.generalservices.state.nm.us/statepurchasing/>
- NM Governor's Office  
<http://www.governor.state.nm.us/>
- Secretary of State's Office  
<http://www.sos.state.nm.us/>
- State Land Office  
<http://www.nmstatelands.org/>
- State Treasurer's Office  
<http://www.nmsto.gov/>
- Tax and Revenue (TRD)  
<http://www.tax.newmexico.gov/>
- County classifications please go to:  
[http://nmdfa.state.nm.us/County\\_Classifications.aspx](http://nmdfa.state.nm.us/County_Classifications.aspx)
- TRD/Property Tax Division- PTD  
<http://www.tax.newmexico.gov/property-tax-division.aspx>
- NM Finance Authority  
<http://www.nmfa.net/>

### **Federal**

- Payment in Lieu of Taxes link to PILT map:  
<http://www.tax.newmexico.gov/Businesses/maps.aspx>

### **Publications**

- TRD's publication: FYI-C120, County Gross Receipts Tax Local Options  
<http://www.tax.newmexico.gov/Government/local-option-taxes.aspx>
- The Open Meetings Act (OMA) Compliance Guide and a Compliance Checklist

<http://www.nmag.gov/open-meetings-inspection-of-public-records-acts>



# **GLOSSARY**

## **COMMONLY USED WORDS & TERMS**

**Abstract** - report due October 1 of each year to Property Tax Division with final values of all properties in the county including all exemptions and state assessed values

**Accountability** - taking responsibility for your own actions as well as holding others responsible for theirs

**Affidavit of Real Property Transfer Declaration** - form that must be completed and notarized by seller or buyer of any residential property sold within the State of NM and returned to the County Assessor for statistical purposes only

**Assessor, County** - an elected official who assesses property for taxation

**Board of County Commissioners (BOCC)** - the legislative body of the County

**Business personal property** - any business that depreciates their personal property through the IRS must report to the Assessor's office each year for taxation purposes

**Canvassing Board** - Board of County Commissioners

**Certification** - report due June 15 of each year to Property Tax Division with all county values including state assessed values and allowing for outstanding protested values

**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 Board of Finance** - Board of County Commissioners

**County Classification** - based on population and the total assessed valuation of each county at the end of the preceding year

**County Valuations Protest Board** - made up of a qualified elector and alternate in each county with demonstrated experience in property valuation, and a member and alternate that is a property appraisal officer employed by the Property Tax Division, assigned by the director who serves as the chairman of the board. The county valuation protests board shall hear and decide protests of determinations made by county assessors and protested under §7-38-24 NMSA 1978. The local members are appointed by the BOCC for a two-year term.

**Exemptions** - allowances to each property owner to reduce their valuation totals if they meet specific requirements for any such exemption

**Fiduciary Responsibility** - the public trust

**Funds, Designated** - specific to the enabling legislation allowing collection (e.g. Fire, Indigent, Hospital, etc.)

**Industrial Revenue Bonds-** pursuant to the Industrial Revenue Bond Act, New Mexico municipalities and counties are authorized to issue IRBs to stimulate the expansion and relocation of commercial and industrial projects in the state

**Joint Powers Agreement** - an agreement to share power between governmental entities

**Livestock** – Per the Property Tax Code, consists of cattle, sheep, goats, ratites, elk, bison, mules, horses, mules, llamas, alpacas, swine, and dairy cattle and are in the county 20 days or more a year are required to be taxed

**Mill/Tax Rates-** the rates for each county that determine the amount of each property tax bill

**Net Taxable Value-** one third of the total value of property less exemption that is used for the taxable amount

**New Mexico Counties (NMC)-** 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

**NM Department of Finance Administration (DFA)-** provides budget direction and fiscal oversight to state agencies and local governments

**DFA Local Government Division** – Local Government Division of DFA provides administrative and technical support to local entities throughout the State of New Mexico

**New Mexico State Hierarchy-** Governor over Cabinet Secretaries over Departments then Divisions under Departments-Bureaus under Divisions

**New Mexico State Statutes** - laws created by the New Mexico State Legislature

**New Mexico State Regulations** - policies made by administrative agencies

**New Mexico Tax and Revenue Department (NMTRD)-** charged with the task of collecting tax dollars and distributing them according to state law, TRD administers taxation, revenue and motor vehicle laws passed by the Legislature and signed by the Governor

**New Mexico Property Tax Division-** The Property Tax Division of TRD helps local governments in the administration and collection of ad valorem taxes in the State of New Mexico

**Notice of Value** - current value of property that will be basis for taxable value of that current year and must be sent out by April 1

**Open Meetings/Public Records Acts** - New Mexico sunshine laws which insure transparency

**Per Diem and Mileage** - governs reimbursement for travel costs associated with legitimate county business

**Protest** - a property owner does not agree with the current year valuation of their property, they may take their protest to a formal Board in each county for a Hearing

**Protest Period** – a period of thirty days from the mailing date of a Notice of Value to protest or question the value the assessor’s office has placed on their property



**Probate Judge, County** - an elected official required to hold court overseeing matters of estates and wills

**Public Trust** - the trust placed in a person who is elected to public office; also can be a reference to public coffers

**Sales Ratio Study** - report due July 1 of each year to Property Tax Division with all sales for previous year whether valid or non-valid

**Sheriff, County** - an elected official responsible for preserving the peace

### **Special Tax Districts**

**Public Improvement District (PID)**- are created to help developers finance infrastructure in new communities such as roads, parks and other amenities. Bonds are sold to finance these improvements and property owners are each assessed a portion of the bonds. This assessment is added to an owner's property tax bill and paid off over time

**Tax Increment Development Districts (TIDD)**- are mechanisms to support economic development and job creation by providing gross receipts tax financing and property tax financing for public infrastructure

**Special Method Valuation**- used primarily for agricultural land, livestock, mobile homes, and such. See Table of Contents for chapter in this book on this topic.

**State Assessed/Centrally Assessed** - property that extends through more than one county is valued at the state level by Property Tax Division e.g. railroads, electric lines, pipelines, cell towers, large construction projects, temporary construction projects

**Stewardship** - a responsibility to take care of something one does not wholly own

**Tax Roll** - information for each property that is needed by the Treasurer to generate tax bills. The tax roll must be sent to the Treasurer's office by October 1 of each year

**Taxable value**- one third of the total assessed value of property

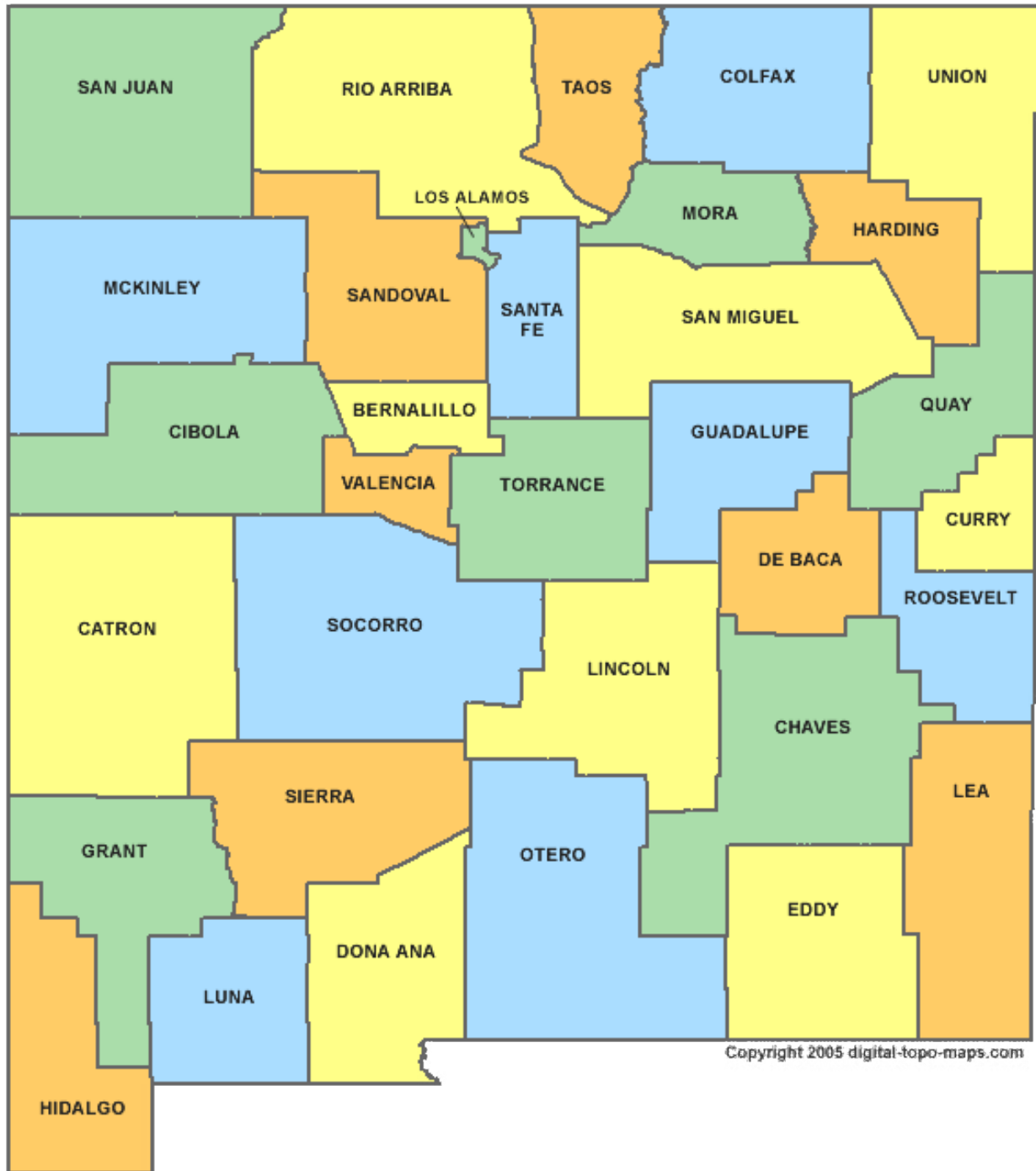
**Treasurer, County** - an elected official responsible for keeping account of all county funds received and disbursed, and serving as ex officio county tax collector

**Voter Convenience Centers** - up to 10 combined precincts created within the County to offer greater access to voting

**Warrant** – a report delivered to the Treasurer's office with total tax dollars to be collected by the Treasurer for each school/taxing district, municipality, special districts that bill through property taxes and all livestock rendered each tax year



# MAP OF NM COUNTIES



We hope this book is useful to you in the performance of your job duties as a county elected official. This handbook is intended as a general reference for informational purposes only. It is not all inclusive. Most importantly, it is not intended to serve as legal advice or interpretation in any way. When in doubt ask your County Attorney or County Manager.

If we may assist you in any way, please feel free to reach out to the NM EDGE County College (575 646 0314), New Mexico Cooperative Extension Service (575 646 3015), and 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](mailto:NMEDGE@NMSU.EDU).

Best wishes for every success as a Public Servant in the great State of New Mexico!





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