

Resolution No. R-16-45

**A Resolution Supporting the 2017 Legislative Priorities of the
New Mexico Association of Counties**

WHEREAS, in August 2016, the Board of Directors of the New Mexico Association of Counties approved four legislative priorities for consideration by the New Mexico Legislature at its 2017 regular legislative session; and

WHEREAS, NMAC has requested that the Board of County Commissioners in each of the state's 33 counties discuss and approve a resolution supporting NMAC's legislative priorities; and

WHEREAS, this is an important step in assuring maximum understanding of, and support for, NMAC's legislative priorities at the county level; and

WHEREAS, the adoption of such resolutions will enable NMAC to demonstrate to the state legislature strong local and statewide support for NMAC's legislative priorities; and

WHEREAS, the legislative priorities include support for legislation on the following four issues:

• Whistleblower Protection Act

Support amendments to, among other things, better define the definition of "good faith" by requiring some minimal threshold of evidence to file a claim, narrow the definition of "retaliatory action," limit "unlawful or improper act(s)" to violations of state or federal law, and narrow the universe of individuals to whom a complaint may be communicated as a precondition to filing a claim.

• New Mexico 911 Act Revision

Support an amendment to the 911 surcharge statute (63-9D, NMSA 1978) to ensure all technologies utilizing 911 services are contributing equally to the New Mexico 911 fund.

• Forfeiture Act

Support amendments to the Forfeiture Act that remove unreasonable burdens placed on law enforcement agencies, allow law enforcement agencies to retain forfeited property under limited circumstances, clarify appropriate use of forfeiture, and ensure that due process rights of parties involved are honored.

• Capital Outlay for Non-Governmental Entities

Support recommendations that allow local Board of County Commissioners to: accept, approve, and review non-governmental entities' capital outlay funds and their fiscal impacts to county's finances prior to submission to the state legislature; suspend acceptance of 2017 legislative session capital outlay funds for purchase of vehicles, information technology, and any capital outlay expenditure of less than \$50,000; and authorize the collection of a 3% administrative fee.

NOW, THEREFORE, BE IT RESOLVED that the Grant Board of County Commissioners does hereby support the legislative priorities of the New Mexico Association of Counties as set forth above, and urges that legislation incorporating these priorities be enacted by the state legislature during its 2017 regular session.

ADOPTED this 15th day of September, 2016.

**BOARD OF COUNTY COMMISSIONERS OF
GRANT COUNTY, NEW MEXICO**

Brett Kasten
Brett Kasten, Chairman, District #2 For/Against

Ron Hall
Ron Hall, Commissioner, District #3 For/Against

Gabriel Ramos, Commissioner, District #1 For/Against

ATTEST:

Robert Zamarripa
Robert Zamarripa
County Clerk



NEW MEXICO ASSOCIATION OF COUNTIES

Memorandum

Date: August 10, 2016

To: Board of Directors, Commissioners, Sheriffs, Managers, Attorneys, E911 Directors, Criminal Justice Reform Policy Committee members, and Economic Development & Infrastructure Policy Committee members

From: Steve Kopelman, NMAC Executive Director

Re: Protocol for Board of County Commissioners Priority Issue Meetings

In an effort to promote communication among NMAC and the 33 counties, NMAC requests that Board members do three things: 1) present the 2017 NMAC legislative priorities to their respective Board of County Commissioners for consideration and endorsement by resolution at the earliest possible date, 2) notify Susan Mayes, smayes@nmcounties.org, of the date on which the priorities will be on their agenda, and 3) report to the NMAC Board of Directors at the meeting on October 14, 2016 on their Commission meeting discussion.

The Commissioners, Sheriffs, Managers, Attorneys, E911 Directors, Criminal Justice Reform Policy Committee members, and Economic Development & Infrastructure Policy Committee members in each county should be able to serve as resources on their specific resolutions. They should be notified in advance of the Commission meeting.

In addition, attached are eight position statements supported by the Board in preparation of the 2017 Legislative session. These position statements will provide the NMAC legislative team with direction on issues that may arise during the session.

Please contact me if you have any questions on the legislative priorities

Attachments: 1) packet of NMAC's four legislative priority resolutions and position statements with back-up material and 2) template of Board of County Commissioners support resolution

New Mexico Association of Counties



2017 NMAC Legislative Priorities And Position Statements

As approved by the
NMAC Board of Directors
August 4, 2016

**THE NEW MEXICO ASSOCIATION OF COUNTIES
EXECUTIVE COMMITTEE (as of August 8, 2016)**

Officers	District Representatives
Tyler Massey, President Hidalgo County Treasurer	Carol Bowman-Muskett, District One McKinley County Commissioner
Susan Flores, President Elect Otero County Commissioner	Gabriel J. Romero, District Two Taos County Commissioner
Rebecca Long, Vice President Lea County Commissioner	Susan Griffin, District Three Catron County Assessor
Sharon Stover, Past President Los Alamos County Clerk	Patrick Martinez, District Four Guadalupe County Clerk
Nicolas T. Leger, Treasurer (Ex-Officio) San Miguel County Commissioner	Linda Smrkovsky, District Five Luna County Commissioner
Steve Kopelman (Ex-Officio) NMAC Executive Director	James Duffey, District Six Chaves County Commissioner

THE NMAC BOARD OF DIRECTORS (as of August 8, 2016)

Tanya Giddings, Bernalillo County	Carol Bowman-Muskett, McKinley County
Susan Griffin, Catron County	Paula Garcia, Mora County
James Duffey, Chaves County	Steven Boyle, Otero County
Corrine Padilla, Cibola County	Mike Cherry, Quay County
Bill Sauble, Colfax County	Barney Trujillo, Rio Arriba County
Wesley Waller, Curry County	Malin Parker, Roosevelt County
Becky Harris, De Baca County	Scott Eckstein, San Juan County
David Garcia, Doña Ana County	Nicolas T. Leger, San Miguel County
Glenn Collier, Eddy County	Glenn Walters, Sandoval County
Ron Hall, Grant County	Liz Stefanics, Santa Fe County
Patrick Martinez, Guadalupe County	Kenneth C. Lyon, Sierra County
Phillip Trujillo, Harding County	Danny Monette, Socorro County
Marianne Stewart, Hidalgo County	Gabriel J. Romero, Taos County
Rebecca Long, Lea County	Betty Cabber, Torrance County
Rhonda Burrows, Lincoln County	Mary Lou Harkins, Union County
Sharon Stover, Los Alamos County	Jhonathan Aragon, Valencia County
Linda Smrkovsky, Luna County	
Ex-Officio members:	
Nicolas T. Leger, Treasurer	Susan Flores, WIR Board Member
Liz Stefanics, NACo Board Member	Wendell Bostwick, Multi-Line Pool Board Representative
Tyler Massey, NACo Board Member	Billy G. Garrett, Workers' Compensation Pool Board Representative
Danny Monette, WIR Board Member	Steve Kopelman, Executive Director



2017 NMAC LEGISLATIVE PRIORITY PROCESS

May Advisory Council Meeting

- Affiliates present legislative and position resolutions.

June Annual Conference

- Affiliates submit legislative and position resolutions during Conference.
- Non-elected official affiliates submit legislative and position resolutions through the Managers Affiliate for endorsement.

July Legislative Committee Meeting

- Review of affiliate legislative and position resolutions to determine that there is countywide impact and statewide significance and make recommendations to the Board at the August meeting.

August Board Meeting

- Endorse legislative resolutions to be considered as priorities and then voted on by the Board, which selects a limited number of resolutions as NMAC legislative priorities.

October Board Meeting

- Board members report on local Board of County Commissions' action on NMAC legislative priorities.



NEW MEXICO ASSOCIATION OF COUNTIES

2017 NMAC LEGISLATIVE PRIORITIES

The following were selected as priorities by the NMAC Board of Directors for the 2017 session. These are in no particular order.

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- **Whistleblower Protection Act**

Support amendments to, among other things, better define the definition of “good faith” by requiring some minimal threshold of evidence to file a claim, narrow the definition of “retaliatory action,” limit “unlawful or improper act(s)” to violations of state or federal law, and narrow the universe of individuals to whom a complaint may be communicated as a precondition to filing a claim.

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- **New Mexico 911 Act Revision**

Support an amendment to the 911 surcharge statute (63-9D, NMSA 1978) to ensure all technologies utilizing 911 services are contributing equally to the New Mexico 911 fund.

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- **Forfeiture Act**

Support amendments to the Forfeiture Act that remove unreasonable burdens placed on law enforcement agencies, allow law enforcement agencies to retain forfeited property under limited circumstances, clarify appropriate use of forfeiture, and ensure that due process rights of parties involved are honored.

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- **Capital Outlay for Non-Governmental Entities**

Support recommendations that allow local Board of County Commissioners to: accept, approve, and review non-governmental entities’ capital outlay funds and their fiscal impacts to county’s finances prior to submission to the state legislature; suspend acceptance of 2017 legislative session capital outlay funds for purchase of vehicles, information technology, and any capital outlay expenditure of less than \$50,000; and authorize the collection of a 3% administrative fee.

NEW MEXICO ASSOCIATION OF COUNTIES

MANAGERS AFFILIATE RESOLUTION #1

Short Title or Subject: Concerning the Whistleblower Protection Act

Affected Affiliates: Attorneys, Managers

Impact on County Revenues/Finances: Substantial Liability Exposure

Legislative Resolution or Non-Legislative Resolution or Resolution for Congressional Delegation: (circle one)

Requested as NMAC Legislative Priority for 2017 Session: Yes No (circle one)

WHEREAS, the Whistleblower Protection Act ("Act") was enacted by the New Mexico Legislature in 2010; and

WHEREAS, the Act was intended to prohibit public employers from retaliating against public employees who take action, object to, or refuse to participate in a matter the employee believes, in good faith, to be an unlawful or improper act.; and

WHEREAS, the Act provided for a two-year statute of limitations for bringing a claim and authorized the claim to be filed in any court of competent jurisdiction; and

WHEREAS, the Act is a non-exclusive remedy, meaning that a claim under the Act may be brought independently of any other employment-related claim; and

WHEREAS, it is in the interest of county and municipal governments in promoting the safety of their citizens to deal with these offenders quickly and effectively; and

WHEREAS, current state and federal law provided for legal remedies against employers for prohibited activities, including retaliation-based claims; and

WHEREAS, county and municipal governments have experienced a significant increase in the number of employment-related lawsuits that include a whistleblower claims; and

WHEREAS, portions of the Act are vague and subject to multiple interpretations.

NOW THEREFORE BE IT RESOLVED that the New Mexico Association of Counties supports legislation that would amend the Whistleblower Protection Act to better define the definition of "good faith" by requiring some minimal threshold of evidence for an employee to file a claim under the Act; and

BE IT FURTHER RESOLVED that the Act be amended to narrow the definition of "retaliatory action" as the current definition encompasses any "adverse employment action against a public employee"; and

BE IT FURTHER RESOLVED that the Act be amended to limit "unlawful or improper act(s)" to violations of state or federal law; and

BE IT FURTHER RESOLVED that the Act be amended to narrow the universe of individuals to whom a complaint may be communicated as a precondition to filing a claim under the Act.



Signed MM Schenck
NMAC Managers Affiliate Chair

Date 6/24/2016

NEW MEXICO ASSOCIATION OF COUNTIES
911 DIRECTORS AFFILIATE RESOLUTION #1 2016

-Short Title or Subject: New Mexico 911 Act Revision

Affected Affiliates: 911, Managers, Commissioners, Fire and Emergency Managers, GIS/RA, Sheriffs

Impact on County Revenues/Finances: Counties will bear the costs for all 911 center equipment and training that the fund does not cover

Legislative Resolution or Non-Legislative Resolution or Resolution for Congressional Delegation: (circle one)

Requested as NMAC Legislative Priority for 2017 Session: Yes or No (circle one)

WHEREAS, 93-9D NMSA 1978 provides that a surcharge be paid by all landline and wireless customers in New Mexico, to provide 911 equipment and training for New Mexico's 47 public safety answering points (PSAP's) and

WHEREAS, the revenue generated from the 911 surcharge declines at a rate of 3.25% annually due to a decrease in landline customers and an increase in emerging technology including, but not limited to, prepaid wireless and voice over internet protocol, and

WHEREAS, prepaid wireless and voice over internet protocol customers do not currently pay the 911 surcharge, but receive the same quality of 911 service as the customers who pay the surcharge, and

WHEREAS, HB 328 was introduced during the 2011 New Mexico legislative session as a NMAC priority and was passed by both the House and the Senate before being vetoed by the Governor, and

WHEREAS, HB 126 was introduced during the 2015 New Mexico legislative session with the endorsement of the Science, Technology and Telecommunications Interim Committee; and

WHEREAS, the NMAC Healthcare Policy Committee has endorsed this resolution and supports the request to bring this bill forward during the 2017 legislative session as an NMAC priority;

NOW THEREFORE BE IT RESOLVED that the New Mexico Association of Counties supports legislation that would amend the 911 surcharge statute (63-9D, NMSA 1978) to ensure all technologies utilizing 911 services are contributing equally to the New Mexico 911 fund.


911 Directors Affiliate Chair

Date 6/24/2016

NEW MEXICO ASSOCIATION OF COUNTIES

CRIMINAL JUSTICE REFORM POLICY COMMITTEE RESOLUTION #1

Short Title or Subject: Forfeitures

Affected Affiliates: Sheriffs

Impact on County Revenues/Finances:

Legislative Resolution or Non-Legislative Resolution or Resolution for Congressional Delegation: (circle one)

Requested as NMAC Legislative Priority for 2017 Session: Yes or No (circle one)

WHEREAS, comprehensive amendments were made to the New Mexico Forfeiture Act in 2014, several of which have had some unintended consequences detrimental to law enforcement operations; and

WHEREAS, the amended Act, among other things, provides that the sheriff's office is responsible for holding all abandoned property, not just seized property, within the county, and is required to deliver all abandoned property to the state treasurer; requires that property be returned to the claimant if the property is the only reasonable means for a defendant to pay for legal representation and provides that the value of the property is calculated to include any hardship to the claimant; allows a person to petition the court at any time following conclusion of a forfeiture proceeding to determine whether the forfeiture was unconstitutionally excessive; requires that forfeited currency and all sale proceeds be distributed only to the state general fund and nothing to the county or law enforcement agencies, regardless of whether they incurred costs and expenses related to the investigation, seizure, storage, protection, and transfer of the property; requires return of property even if the claimant should have known that the act giving rise to the forfeiture was criminal; and doesn't allow the law enforcement agency to retain forfeited property under any circumstances; and

WHEREAS, the sheriffs affiliate is committed to making needed improvements to make the Act more reasonable and equitable.

NOW THEREFORE BE IT RESOLVED that the New Mexico Association of Counties supports legislation that would amend the Forfeiture Act to support appropriate use of forfeiture, to remove unreasonable burdens placed upon law enforcement agencies, to allow law enforcement agencies to retain forfeited property under limited circumstances, and to ensure that the due process rights of the parties involved are honored.



Signed _____
NMAC Criminal Justice Reform Policy Committee Chair

Date 7/14/2016

NEW MEXICO ASSOCIATION OF COUNTIES

ECONOMIC DEVELOPMENT & INFRASTRUCTURE POLICY COMMITTEE RESOLUTION #1

Short Title or Subject: Capital Outlay for Use by Non-Governmental Entities

Affected Affiliates: Commissioners, Managers, and others

Impact on County Revenues/Finances: Could be significant

Legislative Resolution or Non-Legislative Resolution or Resolution for Congressional Delegation: (circle one)

Requested as NMAC Legislative Priority for 2017 Session: Yes or No (circle one)

WHEREAS, the New Mexico State Legislature appropriates capital outlay funds to various non-governmental entities, such as not-for-profit or non-profit agencies;

WHEREAS, the State of New Mexico funds capital outlay projects with Severance Tax Bonds, resulting in increased regulations and responsibilities for the County to comply with State-imposed conditions in regards to contracts, anti-donation issues, contract monitoring, accounting, and reporting requirements;

WHEREAS, the State of New Mexico requires the local government to own all property, equipment, or vehicles and lease to any non-governmental entity the property, equipment, or vehicles purchased with capital outlay funds in a manner that meets the value of the capital outlay appropriated and does not violate the anti-donation clause as interpreted by the State Attorney General's Office;

WHEREAS, the Attorney General's Office and the State Department of Finance require all conditions set by both agencies to be met prior to executing grant agreements and starting the capital outlay purchasing and/or project implementation, resulting in average time periods of three (3) months to over one (1) year to satisfactorily meet all conditions and begin the process of expending the capital outlay funds;

WHEREAS, the increased regulations to expend capital outlay funds have greatly burdened the County with administrative and staff costs required to administer the process which are not eligible for reimbursement using capital outlay funding; and

WHEREAS, the State of New Mexico requires the County to budget for, and fund all capital outlay projects "up front," after which the County will be reimbursed by the State of New Mexico if the State approves the request for payment;

WHEREAS, the State of New Mexico grants capital outlay to the County and holds the County responsible for meeting all requirements throughout the life cycle of the grant, and should requirements not be met, the State will not reimburse the County;

WHEREAS, "up front" funding and assuring regulatory compliance of third-party non-government entities create significant risks to the County's fund balance; and

WHEREAS, any use of County funds for "up-front" funding of non-governmental agencies' capital outlay requests; the purchasing of additional land or buildings for exclusive use by non-governmental agencies; the purchasing of information technology equipment or vehicles that depreciate to the point of obsolescence by the County once the lease term is completed; should be reviewed for its compliance with the County's Strategic Plan, and evaluated for project viability, risk to County funds, and potential recurring costs.

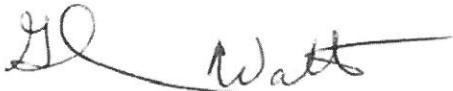
NOW THEREFORE BE IT RESOLVED that the New Mexico Association of Counties supports legislation that would recommend that acceptance of State of New Mexico Capital Outlay funds on behalf of non-governmental entities should require approval of the local Board of Commissioners prior to submission to any member of the State Legislature; and

BE IT FURTHER RESOLVED that any project presented by non-governmental entities shall be reviewed for its fiscal impact to the County's current and recurring finances; and

BE IT FURTHER RESOLVED that the local County Commissioners suspend acceptance of 2017 Legislative Session, State of New Mexico Capital Outlay funds, on behalf of a non-governmental entity, for:

1. Purchase of vehicles and information technology;
2. Any capital outlay expenditure less than \$50,000.

ADDITIONALLY BE IT FURTHER RESOLVED that the local County Commissioners shall approve the collection of a three percent (3%) administrative fee based on the amount of capital outlay, from any non-governmental entity with whom the County enters into an agreement to expend State of New Mexico Capital Outlay funds beginning with the 2017 State Legislative Session appropriations. The administrative fee may be waived or modified by majority vote of the local County Commission.



NMAC Economic Development & Infrastructure
Policy Committee Chair

6/23/2016
Date



NEW MEXICO ASSOCIATION OF COUNTIES

2017 NMAC POSITION STATEMENTS

The following eight position statements were supported by the NMAC Board of Directors for the 2017 session. These position statements will provide the NMAC legislative team with direction on issues that may arise during the session.

- **Restoring Detention Facility Reimbursement Fund**

Support an increase in the 2016 General Appropriations Act to fund the County Detention Facilities Reimbursement Act for the actual cost of holding the three categories of prisoners specified under the Act.

- **Protecting County Funding of Health Care**

Support county autonomy and discretion to utilize the county imposed Indigent Health Care gross receipts tax revenues; support county participation in discussions and planning regarding the Safety Net Care Pool (SNCP), Medicaid, and other health services; and oppose increasing the financial burden on counties to fund health care initiatives.

- **County and State Collaboration**

Ensure that counties have formal representation and voting membership on all state oversight boards involving the LDWI program and indigent health care; assurance that county obligations to low income non-Medicaid eligible residents continue to be met; require transparent and accountable reporting from HSD, hospitals, MCOs, and all others receiving county funding; and assurance that current or better levels of service are met.

- **Capital Outlay Reform**

Support legislation, processes, and rule changes that would help reform the legislative capital outlay process to make it more transparent, efficient, and effective.

- **Economic Development Job Growth**

Support economic development and job growth throughout New Mexico that would: maintain state Local Economic Development Act funding at \$50 million, maintain Job Training Incentive Program funding at \$10 million, appropriate \$5 million for local Economic Development Commission staff augmentation, appropriate \$2 million for the NM Partnership, and appropriate \$2 million to the Rapid Workforce Deployment program.



NEW MEXICO ASSOCIATION OF COUNTIES

- **Affordable High-Speed Connectivity Services**

Continue to study connectivity enhancement, ascertain local community needs, and coordinate efforts to facilitate the development of affordable high-speed internet access for all New Mexicans and infrastructure sufficient to meet the needs of communities, economic development, education, government, healthcare, and public safety.

- **LDWI Funding For Local Programs**

Oppose funding Drug Court Programs from the LDWI grant fund.

- **Transfer of LDWI Program from DFA to HSD**

Oppose the transfer of the LDWI Grant Program from DFA to HSD.

