

# CHAPTER 8

## Elected Officials

### ARTICLE 1

#### Compensation

##### 8-1-1. Compensation of elective state officers.

A. Annual compensation of elective state officers shall be paid as follows:

governor . . . . .	\$169,714
lieutenant governor . . . . .	144,714
secretary of state . . . . .	144,714
state auditor . . . . .	144,714
state treasurer . . . . .	144,714
attorney general . . . . .	154,714
commissioner of public lands . . . . .	149,714.

B. Any person succeeding to the office of governor as provided in Article 5, Section 7 of the constitution of New Mexico shall receive the salary of the office. Every person serving as acting governor during the incapacity or absence of the governor from the state, shall receive five hundred dollars (\$500) as compensation for each day's service as acting governor.

C. All compensation under this section shall be paid from the general fund, except that the amount paid to the commissioner of public lands shall be paid from the state lands maintenance fund.

**History:** 1953 Comp., § 4-5-1, enacted by Laws 1971, ch. 260, § 1; 1975, ch. 305, § 1; 1977, ch. 346, § 2; 1980, ch. 133, § 1; 1981, ch. 286, § 1; 1986, ch. 49, § 1; 1989, ch. 237, § 1; 1998, ch. 108, § 21; 1999, ch. 255, § 1; 2002, ch. 95, § 1; 2020, ch. 9, § 14; 2023, ch. 131, § 1.

#### ANNOTATIONS

**Cross references.** — For mileage of legislators, see N.M. Const., art. IV, § 10.

**The 2023 amendment**, effective June 16, 2023, increased the compensation of elective state officers; in Subsection A, after "governor", deleted "\$110,000" and added "\$169,714", added "lieutenant governor . . . . \$144,714", after "secretary of state", deleted "\$85,000" and added "\$144,714", after "state auditor", deleted "\$85,000" and added "\$144,714", after "state treasurer", deleted "\$85,000" and added "\$144,714", after "attorney general", deleted "\$95,000" and added "\$154,714", and after "commissioner of public lands", deleted "\$90,000" and added "\$149,714"; and in

Subsection B, after "from the state", deleted "other than the secretary of state", and after "shall receive", deleted "two hundred fifty dollars (\$250)" and added "five hundred dollars (\$500)".

**Applicability.** — Laws 2023, ch. 131, § 3 provided that the provisions of Laws 2023, ch. 131 relating to the annual compensation set for the governor apply to that position for terms of office beginning on or after January 1, 2027.

**The 2020 amendment**, effective January 1, 2023, removed the provision providing the annual compensation for a public regulation commissioner; and in Subsection A, deleted "public regulation commissioner . . . 90,000".

Laws 2020, ch. 9, § 14 amended 8-1-1 NMSA 1978, effective January 1, 2023, contingent upon the adoption of Laws 2019, SJC/SRC/SJR Nos. 1 and 4, Constitutional Amendment 1, at the general election held on November 3, 2020. Constitutional Amendment 1 was adopted by a vote of 445,655 for and 355,471 against.

**The 2002 amendment**, effective May 15, 2002, increased the salary amounts in Subsection A.

**The 1999 amendment**, effective June 18, 1999, substituted "two hundred fifty dollars (\$250)" for "one hundred fifty dollars (\$150)" in Subsection B.

**The 1998 amendment**, effective January 1, 1999, substituted "public regulation" for "state corporation" near the end of Subsection A; substituted "72,500" for "65,000" at the end of Subsection A; and substituted "lands" for "land office" near the end of Subsection C.

**Right and duty to pay salary.** — This section clearly creates a right in the officer to require monthly payment of his statutory compensation, and a duty upon the disbursing officer to honor such demand. 1957 Op. Att'y Gen. No. 57-262.

**Am. Jur. 2d, A.L.R. and C.J.S. references.** — 7 Am. Jur. 2d Attorney General § 4; 38 Am. Jur. 2d Governor § 3; 63A Am. Jur. 2d Public Officers and Employees §§ 431 to 486.

Validity of contract by officer with public for rendition of new or special services to be paid for in addition to regular compensation, 159 A.L.R. 606.

De facto officer or employee, payment of salary to, as defense to action or proceeding by de jure officer or employee for salary, 64 A.L.R.2d 1375.

81A C.J.S. States §§ 104 to 119.

## **ARTICLE 2**

### **Governor-Elect**

#### **8-2-1. Policy of legislature.**

It is the policy of the legislature that the transition from the administration of one governor to the administration of another governor be orderly and without friction and confusion. The legislature finds that the lag between the election and the inauguration of a new governor is approximately two months and consequently there is a premium on the necessity of a well-planned period of transition. The legislature further finds that for an orderly and efficient transfer of executive authority, the resources required by a governor-elect include, as a minimum, temporary office space in close proximity to the governor's office and the department of finance and administration, the equipment and supplies for such an office and the use of a limited full-time staff and clerical employees.

**History:** 1953 Comp., § 4-28-1, enacted by Laws 1967, ch. 116, § 1.

#### **8-2-2. Governor-elect; office space and equipment.**

Whenever the governor-elect is a different individual than the incumbent governor, the legislative council shall upon his certification of election provide suitable office space in the legislative building and furniture and equipment for the temporary use of the governor-elect and his staff until the inauguration.

**History:** 1953 Comp., § 4-28-2, enacted by Laws 1967, ch. 116, § 2.

#### **8-2-3. Access to budget information.**

The secretary of finance and administration shall fully cooperate with the governor-elect and his staff and shall permit the governor-elect to have full access to all reports, hearings, information and data pertaining to the proposed executive budget.

**History:** 1953 Comp., § 4-28-3, enacted by Laws 1967, ch. 116, § 3; 1977, ch. 247, § 30.

## **ARTICLE 3**

### **Lieutenant Governor**

#### **8-3-1. Lieutenant governor; powers and duties.**

The lieutenant governor in addition to his other duties provided by law shall have the following powers and duties:

A. the lieutenant governor shall:

(1) facilitate and promote the cooperation and understanding between the people of this state and the agencies of state government, by assisting them in their dealings with such agencies, and by assisting the agencies to explain their functions, duties and administrative procedures insofar as they affect the people of this state;

(2) refer any complaints or special problems of the citizens of this state to the proper agency;

(3) keep records of his activities and make an annual report to the governor;  
and

(4) perform any other duties that may from time to time be assigned him by the governor.

**History:** 1953 Comp., § 4-1-3, enacted by Laws 1971, ch. 138, § 1.

### **ANNOTATIONS**

**Compiler's notes.** — This section, as enacted, did not contain a Subsection B.

**Cross references.** — For duties of lieutenant governor, see N.M. Const., art. V, § 7.

For service of lieutenant governor on cabinet, see 9-1-3 NMSA 1978.

**Am. Jur. 2d, A.L.R. and C.J.S. references.** — 81A C.J.S. States § 131.

### **8-3-2. Attorney general; cooperation of agencies.**

A. The attorney general shall provide, upon request, legal opinion and advice to the lieutenant governor.

B. All state agencies shall cooperate with the lieutenant governor in the performance of his duties.

**History:** 1953 Comp., § 4-1-4, enacted by Laws 1971, ch. 138, § 2.

### **8-3-3. Repealed.**

**History:** 1953 Comp., § 4-1-5, enacted by Laws 1971, ch. 138, § 3; 1977, ch. 346, § 1; 1980, ch. 133, § 2; 1981, ch. 286, § 2; 1986, ch. 49, § 2; 1989, ch. 237, § 2; 2002, ch. 95, § 2; 1978 Comp., § 8-3-3, repealed by Laws 2023, ch. 131, § 2.

### **ANNOTATIONS**

**Repeals.** — Laws 2023, ch. 131, § 2 repealed 8-3-3 NMSA 1978, as enacted by Laws 1971, ch. 138, § 3, relating to compensation, effective June 16, 2023. For provisions of former section, see the 2022 NMSA 1978 on *NMOneSource.com*.

## **ARTICLE 4**

### **Secretary of State**

#### **8-4-1. Repealed.**

#### **ANNOTATIONS**

**Repeals.** — Laws 1978, ch. 132, § 6, repealed 4-2-1, 1953 Comp. (8-4-1 NMSA 1978), relating to payment of bond premium for secretary of state, effective March 6, 1978.

#### **8-4-2. [Chief clerk as assistant; appointment; oath; bond.]**

The secretary of state is hereby authorized to appoint his chief clerk to be assistant secretary. Such assistant secretary shall, before entering upon the discharge of his duties give bond to the state in the sum of five thousand dollars (\$5,000.00), which bond shall be approved by the secretary of state and filed in his office, and shall take and subscribe an oath of office as required by law.

**History:** Laws 1903, ch. 75, § 1; Code 1915, § 5316; C.S. 1929, § 134-202; 1941 Comp., § 3-102; 1953 Comp., § 4-2-2.

#### **ANNOTATIONS**

**Bracketed material.** — The bracketed material was inserted by the compiler and is not part of the law.

**Cross references.** — For constitutional oath of office, see N.M. Const., art. XX, § 1.

**Number of assistants.** — This section does not allow the secretary of state to have more than two assistants who are not classified under the Personnel Act. 1966 Op. Att'y Gen. No. 66-109.

**Am. Jur. 2d, A.L.R. and C.J.S. references.** — Statutory conditions prescribed for public officers' bond as part of bond which does not in terms include them, or which expressly excludes them, 109 A.L.R. 501.

Liability of sureties on bond of public officer as affected by fact that it was not signed by him, 110 A.L.R. 959.

Public officer's bond as subject to forfeiture for malfeasance in office, 4 A.L.R.2d 1348.

81A C.J.S. States § 127.

### **8-4-3. [Assistant secretary; powers.]**

The assistant secretary shall have power, in the absence of the secretary, to file all instruments required by the laws of New Mexico to be filed in the office of the secretary of state, and to certify to copies thereof, under his hand and the great seal of the state, with the same force and effect as if the same had been filed or certified by the secretary of state.

**History:** Laws 1903, ch. 75, § 2; Code 1915, § 5317; C.S. 1929, § 134-203; 1941 Comp., § 3-103; 1953 Comp., § 4-2-3.

### **ANNOTATIONS**

**Bracketed material.** — The bracketed material was inserted by the compiler and is not part of the law.

**Am. Jur. 2d, A.L.R. and C.J.S. references.** — 81A C.J.S. States § 132.

### **8-4-4. Fees of secretary of state.**

A. The secretary of state shall collect the following fees to be deposited with the state treasurer for credit to the general fund:

- (1) photocopies of records, per page ----- twenty-five cents (\$0.25);
- (2) each certification -----three dollars (\$3.00);
- (3) search of records where another fee is not prescribed, per hour of search - ----- ten dollars (\$10.00);
- (4) duplicate commission of office or certificate----- three dollars(\$3.00);
- (5) service of process where another fee is not prescribed ----- twenty-five dollars (\$25.00);
- (6) computer printout of Uniform Commercial Code records, per page ----- one dollar (\$1.00); and
- (7) computer generated records other than voter registration records, per record -----ten cents (\$.10).

B. The secretary of state shall not collect a fee for the following documents when filed in the office of the secretary of state:

- (1) oath of office; and
- (2) notice of appointment to a vacancy in office.

**History:** 1953 Comp., § 4-2-4, enacted by Laws 1969, ch. 272, § 1; 1982, ch. 17, § 1; 1993, ch. 13, § 1; 2023, ch. 39, § 91.

## ANNOTATIONS

**Repeals and reenactments.** — Laws 1969, ch. 272, § 1, repealed former 4-2-4, 1953 Comp., relating to the secretary taking possession of legislative property after adjournment, and enacted a new 4-2-4, 1953 Comp.

**The 2023 amendment,** effective June 16, 2023, prohibited the secretary of state from collecting filing fees for oaths office and notices of appointment to a vacancy in office; redesignated former Subsections A and B as Paragraphs A(1) and A(2), respectively; deleted former Subsection C and redesignated former Subsections D through H as Paragraphs A(3) through A(7), respectively; and added a new Subsection B.

**The 1993 amendment,** effective June 18, 1993, rewrote this section to the extent that a detailed comparison would be impracticable.

**Fees for recording collection agency bonds and continuation certificates.** 1944 Op. Att'y Gen. No. 44-4511 (rendered under former law).

**Am. Jur. 2d, A.L.R. and C.J.S. references.** — 81A C.J.S. States § 104.

### **8-4-5. Bureau of elections created; organization; duties.**

There is created within the office of the secretary of state a "bureau of elections." The bureau of elections shall be headed by a director who shall be appointed by the secretary of state and who shall be knowledgeable in the election laws of the state. The bureau of elections shall perform those duties pertaining to the state administration of elections as are assigned by the secretary of state and which are pursuant to the election laws of the state. Such duties shall include the conduct of schools, instruction and training pertaining to election administration and the preparation of instruction materials and manuals to promote uniformity of the administration of election laws in the state. There is created in the bureau of elections the position of state voting machine supervisor. The state voting machine supervisor shall be knowledgeable in the mechanical operation, repair and maintenance of voting machines used in this state. The state voting machine supervisor shall provide assistance to counties in the repair, maintenance, care and proper use of voting machines owned by the counties.

**History:** 1953 Comp., § 4-2-7, enacted by Laws 1969, ch. 191, § 1.

## ANNOTATIONS

**County voting machine technicians are trained by state voting machine supervisor.** 1973 Op. Att'y Gen. No. 73-13.

### **8-4-6. Distribution of session laws.**

A. The secretary of state shall transmit copies of the session laws without charge as follows:

- (1) one copy to each New Mexico supreme court justice;
- (2) one copy to each New Mexico court of appeals judge;
- (3) one copy to each New Mexico district court judge;
- (4) five copies to the New Mexico attorney general;
- (5) two copies to each New Mexico district attorney;
- (6) one copy to the board of county commissioners of each county;

(7) copies to other state officers and agencies, or additional copies to legislators upon request by the clerks of each house by January 30 and to those listed above if the copies or additional copies are needed for governmental purposes and are not to replace lost volumes; and

(8) copies to the New Mexico supreme court law library as may be required for exchange of similar materials with officers and agencies of the federal government, other states, districts, territories or possessions of the United States.

B. Copies of session laws supplied to officers and agencies of this state remain the property of the state and shall be delivered to their successors.

C. Whenever it is necessary to replace a volume of the session laws, because of the loss of the original volume, the secretary of state shall charge the officer or agency the same price that would be charged if it were sold to a private individual, and the money from the sale shall be deposited in the fund it would be deposited in if it resulted from a sale to a private individual.

**History:** 1953 Comp., § 10-1-13, enacted by Laws 1973, ch. 248, § 1; 1978, ch. 130, § 2; 1978 Comp., § 34-4-1; recompiled as 1978 Comp., § 8-4-6; Laws 2003, ch. 6, § 1.

### **ANNOTATIONS**

**Repeals and reenactments.** — Laws 1973, ch. 248, § 1, repealed former 10-1-13, 1953 Comp., relating to distribution of supreme court reports, statutes and session laws, and enacted a new 10-1-13, 1953 Comp.



**The 2003 amendment**, effective June 20, 2003, in Paragraph A(7) inserted "legislators upon request by the clerks of each house by January 30 and to" following "additional copies to"; in Paragraph A(8) inserted "New Mexico" preceding "supreme"; in Subsection C, substituted "that would be charged" for "they would charge".

**Am. Jur. 2d, A.L.R. and C.J.S. references.** — 73 Am. Jur. 2d Statutes §§ 84 to 87.

77 C.J.S. Reports § 1 et seq.; 82 C.J.S. Statutes § 63.

## **8-4-7. Corporations.**

As of July 1, 2013, the secretary of state, pursuant to Article 11, Section 19 of the constitution of New Mexico, shall assume responsibility for chartering corporations as provided by law, including the performance of the functions of the former corporations bureau of the public regulation commission. As used in Chapter 53, Articles 1, 2, 4 through 6, 7B, 8, 11 through 14 and 16 through 20 NMSA 1978, except for Subsection D of Section 53-5-8 NMSA 1978, references to the "public regulation commission", "state corporation commission" or "commission" shall be construed to be references to the secretary of state.

**History:** Laws 2013, ch. 75, § 9.

### **ANNOTATIONS**

**Effective dates.** — Laws 2013, ch. 75, § 54 made Laws 2013, ch. 75, § 9 effective July 1, 2013.

**Temporary provisions.** — Laws 2013, ch. 75, § 52, provided that:

A. On July 1, 2013, all personnel and all money, appropriations, records, furniture, equipment, supplies and other property belonging to or used by the corporations bureau of the public regulation commission are transferred to the secretary of state.

B. On and after July 1, 2013, all existing contracts, agreements and other obligations in effect for the corporations bureau of the public regulation commission shall be binding on the secretary of state.

C. On and after July 1, 2013, all pending cases, legal actions, appeals and other legal proceedings of every description and all pending administrative proceedings that involve the corporations bureau of the public regulation commission shall be unaffected and shall continue in the name of the office of the secretary of state.

D. On and after July 1, 2013, all rules, tariffs, orders and other official acts of the corporations bureau of the public regulation commission or of the public regulation commission on behalf of the corporations bureau shall continue in effect until amended, replaced or repealed by the secretary of state.

E. On and after July 1, 2013, all references in law, rules, tariffs, orders and other official acts to the corporations bureau of the public regulation commission or to the public regulation commission in regard to matters performed by the corporations bureau shall be construed to be references to the secretary of state.

## **ARTICLE 5**

### **Attorney General**

#### **8-5-1. [Creation of department of justice.]**

That the department of justice be, and same is hereby created, with the attorney general as head thereof, which shall be located at the seat of government.

**History:** Laws 1933, ch. 21, § 1; 1941 Comp., § 3-301; 1953 Comp., § 4-3-1.

#### **ANNOTATIONS**

**Bracketed material.** — The bracketed material was inserted by the compiler and is not part of the law.

#### **8-5-2. Duties of attorney general.**

Except as otherwise provided by law, the attorney general shall:

A. prosecute and defend all causes in the supreme court and court of appeals in which the state is a party or interested;

B. prosecute and defend in any other court or tribunal all actions and proceedings, civil or criminal, in which the state may be a party or interested when, in his judgment, the interest of the state requires such action or when requested to do so by the governor;

C. prosecute and defend all actions and proceedings brought by or against any state officer or head of a state department, board or commission, or any employee of the state in his official capacity;

D. give his opinion in writing upon any question of law submitted to him by the legislature or any branch thereof, any state official, elective or appointive, or any district attorney on any subject pending before them or under their control with which they have to deal officially or with reference to their duty in office;

E. prepare drafts for contracts, bonds and other instruments of writing which may be required for the use of the state whenever requested to do so by any state officer;

F. promptly account to the state treasurer for all state funds received by him;

G. report to the governor and legislature the condition of his office, the text of all opinions rendered and a summary of business transacted of public interest, which report shall be submitted each year;

H. keep a register of all opinions rendered and all actions prosecuted and defended by him, and of all proceedings in relation thereto;

I. attend and assist in the trial of any indictment or information in any county on direction of the governor;

J. appear before local, state and federal courts and regulatory officers, agencies and bodies, to represent and to be heard on behalf of the state when, in his judgment, the public interest of the state requires such action or when requested to do so by the governor; and

K. perform all other duties required by law.

**History:** Laws 1933, ch. 21, § 2; 1941 Comp., § 3-302; 1953 Comp., § 4-3-2; Laws 1966, ch. 28, § 15; 1975, ch. 327, § 1.

## ANNOTATIONS

**Cross references.** — For the duty of the attorney general to give advice to the lieutenant governor, see 8-3-2 NMSA 1978.

For publication and sale of the opinions and reports of the attorney general, see 8-5-6 NMSA 1978.

For the duty to represent any officer, deputy, assistant, agent or employee of the state or a state institution, see 8-5-15 NMSA 1978.

For term of office of the attorney general, see N.M. Const., art. V, § 1.

For the attorney general as member of the executive department, see N.M. Const., art. V, § 1.

For the attorney general residing and keeping books, papers, public records and seal of office at the seat of government, see N.M. Const., art. V, § 1.

For the qualifications for the office of attorney general, see N.M. Const., art. V, § 3.

For the attorney general's salary, see N.M. Const., art. V, § 12, and 8-1-1 NMSA 1978.

For attorney general as counsel for multistate tax commission member, see 7-5-5 NMSA 1978.

For attorney general as legal adviser to taxation and revenue department, see 9-11-11 NMSA 1978.

For representation of the state or any county by the attorney general, see 36-1-19 NMSA 1978.

## I. GENERAL CONSIDERATION.

**Discretion to determine public interest.** — The language of this section grants the attorney general discretion in determining when the public interest requires him to bring a civil action on behalf of the state. *State ex rel. Bingaman v. Valley Sav. & Loan Ass'n*, 1981-NMSC-108, 97 N.M. 8, 636 P.2d 279.

**Historical.** — In the Act of 1859, the duties of the attorney general were coextensive with the territory; but by the Act of 1862, his duties were expressly limited to the supreme court and district courts of the first and second districts. In the Act of January 28, 1863, § 25, the territorial limits within which the attorney general was to exercise his duties was again reduced and restricted to the first judicial district. *Territory ex rel. Wade v. Ashenfelter*, 1887-NMSC-013, 4 N.M. (Gild.) 93, 12 P. 879, appeal dismissed, 154 U.S. 493, 14 S. Ct. 1141, 38 L. Ed. 1079 (1893).

**Attorney general has no common-law powers or duties.** *State ex rel. Norvell v. Credit Bureau of Albuquerque, Inc.*, 1973-NMSC-087, 85 N.M. 521, 514 P.2d 40.

The office of attorney general in New Mexico was created by statute, and its powers and duties defined and limited by statute from its inception. No common-law powers were confirmed in the office of attorney general by the constitution of *New Mexico*. *State v. Davidson*, 1929-NMSC-016, 33 N.M. 664, 275 P. 373.

**Waiving sovereign immunity.** — The attorney general's authority is broad enough to include making litigation decisions such as waiving an immunity defense. *Abreau v. N.M. Children, Youth and Families Dep't*, 646 F.Supp. 2d 1259 (D.N.M. 2009).

Section 8-5-2 NMSA 1978, which specifies the powers of the attorney general, does not expressly confer on the attorney general the authority to waive Eleventh Amendment immunity. *Guttman v. Khalsa*, 320 F.Supp. 2d 1164 (D.N.M. 2003).

## II. SUPREME COURT AND COURT OF APPEALS.

**Attorney general must represent state in any appeal.** *State ex rel. Maloney v. Sierra*, 1970-NMSC-144, 82 N.M. 125, 477 P.2d 301.

**Filing of brief by special assistant attorney general.** — Where brief erroneously filed by district attorney was ordered stricken and attorney general and regular assistants disqualified, the special assistant attorney general was allowed 20 days in which to file a brief on the merits. *State v. Aragon*, 1950-NMSC-053, 55 N.M. 421, 234 P.2d 356.

### III. OTHER COURTS.

**Disqualification of attorney general.** — The attorney general is the state's highest ranking law enforcement officer, elected by the people of New Mexico. For a court to forbid the attorney general from engaging in a prosecution within the jurisdiction of the office is a serious encroachment on the executive branch. The disqualification of the attorney general is an action that should be undertaken with the greatest circumspection. *State v. Armijo*, 1994-NMCA-136, 118 N.M. 802, 887 P.2d 1269; cert. denied, 119 N.M. 20, 888 P.2d 466.

The approval as to form of a contract that was the subject of a criminal prosecution by the attorney general for financial impropriety was not grounds for disqualifying the attorney general. *State v. Armijo*, 1994-NMCA-136, 118 N.M. 802, 887 P.2d 1269; cert. denied, 119 N.M. 20, 888 P.2d 466.

**Duty to prosecute.** — Attorney general is charged by statute with the duty of prosecuting in court any action when in his judgment the interest of the state requires such action. *State ex rel. Maloney v. Sierra*, 1970-NMSC-144, 82 N.M. 125, 477 P.2d 301.

**Prosecution in federal court.** — The attorney general may delegate the power to institute juvenile proceedings in federal court to U.S. attorneys. *U.S. v. Dennison*, 652 F. Supp.211 (D.N.M. 1986).

**Protecting state's interests.** — Inherent in the attorney general's duty to "prosecute" is the power to initiate civil lawsuits when, in his judgment, the interest of the state is in need of protection. *State ex rel. Bingaman v. Valley Sav. & Loan Ass'n*, 1981-NMSC-108, 97 N.M. 8, 636 P.2d 279.

**Prosecution of actions.** — This section and 8-5-3 NMSA 1978 permit the attorney general to bring an action on behalf of the state if no other provision has been made for it to be brought, or to step into litigation brought by another where the interests of the state are not being adequately represented or protected. *State v. Koehler*, 1981-NMSC-060, 96 N.M. 293, 629 P.2d 1222.

**Real party in interest.** — The attorney general's duty of prosecuting any action when, in his judgment, the interest of the state is present, makes him a real party in interest. *State ex rel. Bingaman v. Valley Sav. & Loan Ass'n*, 1981-NMSC-108, 97 N.M. 8, 636 P.2d 279.

**Right to maintain suit in water-law cases.** — The attorney general may maintain suit on behalf of state to enjoin use of unappropriated water for irrigation contrary to law. *State ex rel. Bliss v. Dority*, 1950-NMSC-066, 55 N.M. 12, 225 P.2d 1007, appeal dismissed, 341 U.S. 924, 71 S. Ct. 798, 95 L. Ed. 1356 (1951).

### IV. STATE OFFICERS AND EMPLOYEES.

**Governor as defendant to constitutional challenge.** — The governor, as represented by the attorney general, because of his ability to influence the prosecution of violators, is the proper defendant in an action alleging that the statute prohibiting dissemination of "harmful" material to a minor over a computer network is facially invalid on First Amendment grounds. *American Civil Liberties Union v. Johnson*, 4 F. Supp. 2d 1024 (D.N.M. 1998), aff'd, 194 F.3d 1149 (10th Cir. 1999).

**Attorney general's prosecution of state officer he formerly represented.** — The appointment of the New Mexico attorney general, and a deputy attorney general, to act as special assistant United States attorneys for prosecution of criminal charges against the state investment officer and an assistant state treasurer alleging a conspiracy to extort a political contribution involved no inherent or actual conflict of interest under the rules of professional responsibility or this section. An inherent conflict of interest does not arise merely because a state attorney general prosecutes a state officer whom he formerly represented. *United States v. Troutman*, 814 F.2d 1428 (10th Cir. 1987).

**Representation of state corporation commission (now public regulation commission) and customers.** — The attorney general's representation both of the state corporation commission (now public regulation commission) and of unrepresented customers of a utility is proper. His representation of other parties before the commission is not a conflict of interest and not a violation of his constitutional duty to represent the commission. *Mountain States Tel. & Tel. Co. v. Corporation Comm'n*, 1982-NMSC-127, 99 N.M. 1, 653 P.2d 501.

## V. DISTRICT ATTORNEYS.

**No right to displace generally.** — Nothing in this section suggests a right in the attorney general to displace the district attorney in a case where the rights of the state are being actively advocated. *State ex rel. Attorney Gen. v. Reese*, 1967-NMSC-172, 78 N.M. 241, 430 P.2d 399.

**Relation between attorney general and district attorneys.** — There is nothing in the laws making the attorney general the superior of the district attorneys. The most that can be said concerning the powers of the attorney general in this section is that it gives concurrent right with the district attorney to bring an action, and there is nothing in this section which remotely suggests a right to supplant or take over from a district attorney who is performing his legal duties. *State ex rel. Attorney Gen. v. Reese*, 1967-NMSC-172, 78 N.M. 241, 430 P.2d 399.

**Appeal of criminal cases.** — District attorney has authority to take an appeal, but it is the prerogative and duty of the attorney general to brief the case and to present it in the supreme court, and a district attorney may appear on appeal in a criminal case only by permission of the attorney general and in association with him. *State v. Aragon*, 1950-NMSC-053, 55 N.M. 421, 234 P.2d 356.

## VI. OPINIONS.

**Weight given by supreme court.** — The supreme court is not bound by attorney general opinions, and gives them such weight only as it deems they merit and no more. If the court thinks the opinions are right, it follows and approves, and if convinced they are wrong the court rejects them. *City of Santa Rosa v. Jaramillo*, 1973-NMSC-119, 85 N.M. 747, 517 P.2d 69; *First Thrift & Loan Ass'n v. State ex rel. Robinson*, 1956-NMSC-099, 62 N.M. 61, 304 P.2d 582; *Perea v. Board of Torrance County Comm'rs*, 1967-NMSC-056, 77 N.M. 543, 425 P.2d 308.

**Opinions may be overruled by supreme court.** — Opinions of the attorney general are entitled to great weight, however, to the extent they conflict with the conclusions announced by the supreme court, they must be overruled. *Hanagan v. Board of County Comm'rs*, 1958-NMSC-053, 64 N.M. 103, 325 P.2d 282.

**Conflict over interpretation subject to declaratory judgment.** — Where there was an administrative stalemate, detrimental to public interest, in which attorney general claimed that entire chapter on liquor sales was unconstitutional, contrary to assertion of director of department of alcoholic beverage control, and attorney general construed a separate chapter on liquor sales to allow sale of alcoholic beverages by the drink on Sundays, but director denied such an interpretation, there existed an actual controversy between interested parties rendering suit proper for declaratory judgment relief even though a licensed dispenser of alcoholic beverages was not a party. *State ex rel. Maloney v. Sierra*, 1970-NMSC-144, 82 N.M. 125, 477 P.2d 301.

**Attorney general is legal representative of state agencies, departments, etc.** — While a district attorney is to advise state officers within his district when requested, this means "advise these officers on matters relating to the judicial district in which he is located." This position is made firm when we remember that the attorney general is the legal representative of all state agencies, departments, etc. 1961 Op. Att'y Gen. No. 61-61.

**Magistrates.** — As a magistrate is a state officer, he is entitled to be represented by the attorney general's office when he is sued as a result of action taken by him in his official capacity. 1971 Op. Att'y Gen. No. 71-83.

**Formal and informal.** — The attorney general is authorized to render formal and official opinions only to those officials stated in this section. However, an informal and unofficial expression of view may be given to nonenumerated officials. 1970 Op. Att'y Gen. No. 70-59.

**New Mexico Attorney General's office issues opinions on questions of law.** — The Attorney General's Office issues opinions on questions of law, is not an adjudicative body, and does not resolve factual disputes that may be resolved by a court. [2024 Op. Att'y Gen. Adv. Ltr. No. 2024-02](#).

**Opinion on qualification of legislator unauthorized.** — This section and N.M. Const., art. III, § 1 (separation of powers provision) bar the attorney general from giving an

opinion of the issue of whether or not a public school teacher is prohibited from becoming a state legislator. Only the legislature itself can decide the qualifications of its members. 1975 Op. Att'y Gen. No. 75-21.

**Law reviews.** — For article, "Resolving Land-use Disputes by Intimidation: SLAPPSuits in New Mexico," see 32 N.M.L. Rev. 217 (2002).

**Am. Jur. 2d, A.L.R. and C.J.S. references.** — 7 Am. Jur. 2d Attorney General §§ 9 to 13.

Right of attorney general to intervene in divorce suit, 22 A.L.R. 1112.

Dismissal of criminal proceedings on motion to attorney general, 66 A.L.R. 1378.

Power of attorney general to compromise, settle or dismiss suit or proceeding, 81 A.L.R. 124.

Quo warranto, concurrent or conflicting powers of prosecuting attorney and attorney general as to bringing action of, 131 A.L.R. 1212.

Right of attorney general to represent or serve administrative officer or body to exclusion of attorney employed by such officer or body, 137 A.L.R. 818.

Will contest: right of attorney general to intervene in will contest case involving charitable trust, 74 A.L.R.2d 1066.

Duty of trustees of charitable trust to furnish information and records to attorney general relating to trust administration, 86 A.L.R.2d 1375.

Consumer protection: right of public official to seek restitution of fruits of consumer fraud, without specific statutory authorization, 55 A.L.R.3d 198.

7A C.J.S. Attorney General § 7.

### **8-5-2.1. Attorney general; legal service fees for state agencies.**

The attorney general may charge state agencies, as defined herein, for the provision of legal services in noncriminal cases requested by the agencies according to a fee schedule approved by the department of finance and administration. For the purpose of this section "state agency" means any department, institution, board, bureau, commission, district or committee of government of the state of New Mexico and every office or officer thereof.

**History:** Laws 1980, ch. 2, § 1.

## **ANNOTATIONS**



**Cross references.** — For representation of state officer by attorney general, see 8-5-15 NMSA 1978.

### **8-5-3. [Action in civil and criminal cases.]**

That upon the failure or refusal of any district attorney to act in any criminal or civil case or matter in which the county, state or any department thereof is a party or has an interest, the attorney general be, and he is hereby, authorized to act on behalf of said county, state or any department thereof, if after a thorough investigation, such action is ascertained to be advisable by the attorney general. Provided, that the attorney general shall, upon direction of the governor, investigate any matter or matters in any county of the state in which the county, state or any department may be interested. After such investigation, the attorney general be, and he is hereby authorized to take such action as, in his opinion, conditions warrant. The cost of such investigation shall be paid out of the general fund of the county wherein such investigation shall have been made, and the costs of any prosecution arising out of such investigation shall be paid as are the costs in cases prosecuted by district attorneys.

**History:** Laws 1933, ch. 21, § 3; 1941 Comp., § 3-303; 1953 Comp., § 4-3-3.

#### **ANNOTATIONS**

**Bracketed material.** — The bracketed material was inserted by the compiler and is not part of the law.

**Governor as defendant to constitutional challenge.** — The governor, as represented by the attorney general, because of his ability to influence the prosecution of violators, is the proper defendant in an action alleging that the statute prohibiting dissemination of "harmful" material to a minor over a computer network is facially invalid on First Amendment grounds. *American Civil Liberties Union v. Johnson*, 4 F. Supp. 2d 1024 (D.N.M. 1998), aff'd, 194 F.3d 1149 (10th Cir. 1999).

**No right to displace generally.** — There is nothing in the laws making the attorney general the superior of the district attorneys. Otherwise, the provision granting the attorney general a right to displace a district attorney only "upon the failure or refusal of any district attorney to act" would be clearly surplusage and unnecessary. *State ex rel. Attorney Gen. v. Reese*, 1967-NMSC-172, 78 N.M. 241, 430 P.2d 399.

**Powers when district attorney delegates prosecution.** — This section and 8-5-2 NMSA 1978 permit the attorney general to bring an action on behalf of the state if no other provision has been made for it to be brought, or to step into litigation brought by another where the interests of the state are not being adequately represented or protected. Where a district attorney delegates a prosecution to the attorney general, the attorney general may proceed under the authority of this section. *State v. Koehler*, 1981-NMSC-060, 96 N.M. 293, 629 P.2d 1222.

**Am. Jur. 2d, A.L.R. and C.J.S. references.** — Right of attorney general to intervene in divorce suit, 22 A.L.R. 1112.

7A C.J.S. Attorney General §§ 11, 12, 13.

#### **8-5-4. [Employment of legal assistance for departments.]**

No compensation shall be allowed to any person for services as an attorney or counsellor [counselor] to any department of the state government, or the head thereof, or to any state board or commission, except in cases specially authorized by law, but special legal assistance, may be employed by the attorney general, under his direction and control, at a reasonable compensation, in any pending action or proceeding to protect the interest of the state, with the consent and approval of the governor upon showing made by the attorney general that his department cannot for reasons stated perform such services. The costs of such special legal assistance shall be paid by the department out of which such suit or proceeding originated.

**History:** Laws 1933, ch. 21, § 4; 1941 Comp., § 3-304; 1953 Comp., § 4-3-4.

#### **ANNOTATIONS**

**Bracketed material.** — The bracketed material was inserted by the compiler and is not part of the law.

**Cross references.** — For attorney general as counsel for taxation and revenue department, see 9-11-11 NMSA 1978.

**Employment of counsel by state transportation highway commission.** — Under 67-3-12 and 67-3-14 NMSA 1978, the state highway commission [state transportation commission] has power to employ special counsel to advise and assist it in the performance of its duties. *State v. Davidson*, 1929-NMSC-016, 33 N.M. 664, 275 P. 373.

**Am. Jur. 2d, A.L.R. and C.J.S. references.** — 7A C.J.S. Attorney General § 4.

#### **8-5-5. Assistant attorneys general; other employees; appointment.**

A. The attorney general may appoint a deputy attorney general and as many other assistant attorneys general together with stenographic, clerical and other necessary employees on a full- or part-time basis, at salaries to be fixed by him within budget allowances and appropriation limits, as the business of the department shall require and who shall hold office at the pleasure of the attorney general. The deputy attorney general and the assistant attorneys general shall, subject to the direction of the attorney general, have the same power and authority as the attorney general.

B. Within legislative appropriations, the attorney general may appoint full-time salaried members of his staff as peace officers for the full-time investigation of violations of, and, and the full-time enforcement of, the criminal laws of the state. These employees shall comply with the certification provisions of Section 29-7-8 NMSA 1978 [repealed].

**History:** Laws 1933, ch. 21, § 5; 1941 Comp., § 3-305; 1953 Comp., § 4-3-5; Laws 1955, ch. 119, § 1; 1965, ch. 214, § 1; 1979, ch. 356, § 1; 1988, ch. 92, § 1.

## ANNOTATIONS

**Bracketed material.** — The bracketed material was inserted by the compiler and it is not a part of the law. Laws 1993, ch. 255, § 11 repealed 29-7-8 NMSA 1978, effective July 1, 1993.

**Cross references.** — For special assistant attorney general representing oil conservation commission, see 70-2-35 NMSA 1978.

**Duty to appoint assistant attorneys general as special prosecutors.** — If a district attorney does not perform properly and adequately his legal duties of investigation and prosecution of civil and criminal cases, and particularly where the district attorney and the attorney general recused their respective offices from participation because of a possible conflict, then the attorney general not only has the power, but it is his duty, where conditions warrant, to perform these functions and to appoint assistant attorneys general as special prosecutors for the appropriate purposes. *State v. Naranjo*, 1980-NMSC-061, 94 N.M. 407, 611 P.2d 1101.

**Formal swearing-in ceremony not required.** — Assistant attorneys general appointed pursuant to this section are not required to undergo the same formal swearing-in ceremony as the attorney general or other public official. *State v. Koehler*, 1981-NMSC-060, 96 N.M. 293, 629 P.2d 1222.

**The Personnel Act applies to all state employees, including employees of the office of the attorney general, unless specifically excluded.** — Where, in 2015, the newly elected New Mexico attorney general, before taking office, terminated certain employees within the office of the attorney general (OAG), and where the employees appealed to the state personnel board (board) claiming that 10-9-4 NMSA 1978 made all employees of the OAG classified employees who could not be discharged without the procedural protections of the Personnel Act, 10-9-1 to -25 NMSA 1978, and where the attorney general claimed that all employees of the OAG are exempt because they all serve at the pleasure of the attorney general pursuant to 8-5-5 NMSA 1978, the board erred in concluding that it did not have subject matter jurisdiction to hear the employees' appeal on the ground that the employees were not entitled to the protections of the Personnel Act, because the Personnel Act, as a comprehensive revision of the law on the subject of state public employment, supersedes 8-5-5 NMSA 1978, and the plain language of this section specifically provides that the Personnel Act

applies to "all state positions" except those falling within specific categories. *Landau v. N.M. Att'y Gen.*, 2019-NMCA-041, cert. denied.

**Assistant attorney general's salary set by attorney general.** — As assistant attorney general is a state officer not subject to the salary classification of the Personnel Act. Further, the legislature has delegated to the attorney general of the state of New Mexico the exclusive right to set the salaries of his assistants. Such power is subject only to the budget allowances and appropriation limits. Thus, it is apparent if the attorney general has the funds available for the payment of his assistants, he may pay them individually such salaries as in his opinion shall be warranted. 1958. Op. Att'y Gen. No. 58-29.

This section clearly indicates that the attorney general of New Mexico shall fix the salaries of his assistants subject only to budget allowances and appropriation limits. 1958 Op. Att'y Gen. No. 58-29.

**Am. Jur. 2d, A.L.R. and C.J.S. references.** — 7A C.J.S. Attorney General § 4.

## **8-5-6. Opinions and report.**

The New Mexico compilation commission shall receive all opinions and advisory letters of the attorney general and shall maintain the attorney general's opinions and advisory letters as part of the master database of the commission. The attorney general shall provide the commission with an electronic copy of all opinions and advisory letters as issued in a format mutually agreed upon by the commission and the attorney general.

**History:** 1978 Comp., § 8-5-6, enacted by Laws 1979, ch. 106, § 1; 1982, ch. 7, § 1; 2019, ch. 74, § 1.

## **ANNOTATIONS**

**Repeals and reenactments.** — Laws 1979, ch. 106, § 1, repealed former 8-5-6 NMSA 1978 and enacted a new section.

**Cross references.** — For general powers and duties of compilation commission, see 12-1-3 NMSA 1978.

**The 2019 amendment**, effective May 3, 2019, required the New Mexico attorney general to provide an electronic copy of all attorney general opinions and advisory letters to the New Mexico compilation commission, required the commission to maintain the attorney general's opinions and advisory letters as part of its master database, and removed the provision requiring the compilation commission to sell bound volumes of attorney general opinions; in the section heading, deleted "sale"; after "receive all opinions", added "and advisory letters", after "the attorney general and shall", deleted "publish and sell bound annual volumes to officers and agencies of the state and other individuals and entities at a price fixed by the compilation commission. The price fixed

by the compilation commission shall not be less than the replacement cost of the volume of opinions plus a markup of not less than twenty-five percent nor more than fifty percent of the replacement cost. Copies of individual opinions may be sold by the compilation commission. All revenue collected from the sale of attorney general opinions shall be credited to the New Mexico compilation fund" and added the remainder of the section.

**Temporary provisions.** — Laws 2019, ch. 74, § 9 provided:

A. On the effective date of this act, May 3, 2019, all state, local and district officers designated by the New Mexico compilation commission to receive distributions of sets of the compilation, replacement volumes or replacement pamphlets may dispose of such sets according to procedures set out for disposal of surplus property. Sets shall not be delivered or returned to the office of the commission in Santa Fe. The commission shall determine how many full sets of the printed statutes and other publications it will maintain for historical, reference and possible replacement purposes, and the remainder of the sets held by the commission may be disposed of according to procedures set out for the disposal of surplus property.

B. All contracts in effect on the effective date of this act, May 3, 2019, shall continue to be effective until the contract has been completed or the commission decides to terminate the contract.

C. On the effective date of this act, May 3, 2019, all references in law and other legal documents to the New Mexico statutes annotated or the NMSA 1978 shall be deemed to be references to the content of the master database.

**Am. Jur. 2d, A.L.R. and C.J.S. references.** — 7A C.J.S. Attorney General § 9.

### **8-5-7. Repealed.**

**History:** 1953 Comp., § 4-3-8, enacted by Laws 1959, ch. 20, § 2; 1979, ch. 106, § 2; repealed by Laws 2019, ch. 74, § 10.

### **ANNOTATIONS**

**Repeals.** — Laws 2019, ch. 74, § 10 repealed 8-5-7 NMSA 1978, as enacted by Laws 1959, ch. 20, § 2, relating to proceeds of sale, credit to New Mexico compilation fund, effective May 3, 2019. For provisions of former section, see the 2018 NMSA 1978 on *NMOneSource.com*.

### **8-5-8 to 8-5-13. Repealed.**

### **ANNOTATIONS**

**Repeals.** — Laws 1979, ch. 106, § 6, repealed 8-5-8 to 8-5-13 NMSA 1978, as enacted by Laws 1959, ch. 20, § 3, and Laws 1959, ch. 21, §§ 1, 3-6, relating to sale of opinions and reports of the attorney general, indexing of the opinions and disposition of proceeds.

### **8-5-14. Repealed.**

**History:** 1953 Comp., § 4-3-15, enacted by Laws 1959, ch. 21, § 7; 1979, ch. 106, § 3; repealed by Laws 2019, ch. 74, § 10.

#### **ANNOTATIONS**

**Repeals.** — Laws 2019, ch. 74, § 10 repealed 8-5-14 NMSA 1978, as enacted by Laws 1959, ch. 21, § 7, relating to cumulative supplemental index, publication, distribution, effective May 3, 2019. For provisions of former section, see the 2018 NMSA 1978 on *NMOneSource.com*.

### **8-5-15. [Representation of officer, deputy, assistant, agent or employee of state or state institution.]**

The attorney general of New Mexico is directed to act, if requested, as attorney for any officer, deputy, assistant, agent or employee of the state or of a state institution in the event such person is named as a party in any civil action in connection with an act growing out of the performance of his duty; provided, however, this section shall not apply to any suits or proceedings on behalf of the state against such person.

**History:** 1953 Comp., § 4-3-16, enacted by Laws 1959, ch. 45, § 1.

#### **ANNOTATIONS**

**Bracketed material.** — The bracketed material was inserted by the compiler and is not part of the law.

**Attorney general not allowed to supplant district attorney.** — Where, in a suit by a district attorney, in the name of the state, seeking the recovery of funds paid a state officer, the attorney general seeks to represent the state in lieu of the district attorney and his pleading closely parallels the answer filed by the defendant state officer and the effect of the pleading would be to leave the case uncontested on the side of the state, the proper situation for the application of this section is presented, and the attorney general will not be allowed to supplant the district attorney. *State ex rel. Attorney Gen. v. Reese*, 1967-NMSC-172, 78 N.M. 241, 430 P.2d 399.

**Attorney general to use all means available to defend state employee.** — If a defendant, a state employee, has requested representation by the attorney general under this section, the attorney general is under a duty to defend him and is at liberty to use all means available to him in that defense. This representation can be in addition to

any representation by the attorneys for an insurance company covering traffic accidents wherein a state employee is involved. 1962 Op. Att'y Gen. No. 62-42.

**But not county official such as sheriff.** — A sheriff is a county official, as distinguished from a state official or employee, and therefore the attorney general's office is not under an obligation to represent a sheriff in a civil action arising from his official conduct in office. 1959 Op. Att'y Gen. No. 59-98.

**Am. Jur. 2d, A.L.R. and C.J.S. references.** — 7A C.J.S. Attorney General § 15.

## **8-5-16. Repealed.**

**History:** Laws 1995, ch. 140, § 1; repealed by Laws 2003, ch. 280, § 8.

### **ANNOTATIONS**

**Repeals.** — Laws 2003, ch. 280, § 8 repealed 8-5-16 NMSA 1978, as enacted by Laws 1995, ch. 140, § 1, relating to office of guardianship services, effective July 1, 2003. For provisions of former section, see the 2002 NMSA 1978 on *NMOneSource.com*. For present comparable provisions, see 28-16B-1 NMSA 1978 et seq.

## **8-5-17. Attorney general; consumer representation before commission.**

A. The attorney general shall represent residential and small business consumers in matters before the public regulation commission as the attorney general deems appropriate.

B. The attorney general:

- (1) shall research, study and analyze residential and small business consumer interests;
- (2) shall prepare and present briefs, arguments, proposed rates or orders and intervene or appear on behalf of residential and small business consumers before the public regulation commission as a party in interest;
- (3) may accept grants and donations in the name of the state to carry out the provisions of this section;
- (4) may cooperate with tribal and pueblo governments in New Mexico to ensure that the interests of Indian residential and small business consumers are being represented appropriately before the public regulation commission; and

(5) shall report by December 1 of each year to the legislature and the governor on the activities of his office on behalf of residential and small business consumers.

**History:** Laws 1998, ch. 108, § 22.

### **8-5-18. Guadalupe Hidalgo treaty division.**

A. The "Guadalupe Hidalgo treaty division" is created within the office of the attorney general. The division shall review, oversee and address concerns relating to the provisions of the Treaty of Guadalupe Hidalgo that have not been implemented or observed in the spirit of Article 2, Section 5 of the constitution of New Mexico and Section 47-1-25 NMSA 1978.

B. The division shall consist of such personnel and have such duties as the attorney general shall designate.

C. The attorney general shall report the findings and recommendations of the division to the legislature annually.

**History:** Laws 2003, ch. 101, § 1; 2006, ch. 49, § 1.

#### **ANNOTATIONS**

**Cross references.** — For the Treaty of Guadalupe Hidalgo, see the treaty of peace between the United States and Mexico published in Volume 1 of the NMSA 1978 and on *NMOneSource.com*.

**The 2006 amendment,** effective May 17, 2006, changed the requirement in Subsection C that the division report to the second session of the forth-sixth legislature to a requirement that the division report annually to the legislature.

### **8-5-19. Attorney general; authority to investigate and prosecute missing indigenous persons cases.**

The attorney general shall assist, with the consent of an Indian nation, tribe or pueblo, with the investigation and prosecution of all missing persons cases in which one or more indigenous persons are reasonably believed to be victims pursuant to the Missing Persons Information and Reporting Act [Chapter 29, Article 15 NMSA 1978].

**History:** Laws 2022, ch. 2, § 1.

#### **ANNOTATIONS**

**Emergency clauses.** — Laws 2022, ch. 2, § 7 contained an emergency clause and was approved February 24, 2022.



## **8-5-20. Missing indigenous persons specialists; duties.**

A. The position of "missing indigenous persons specialist" is created within the office of the attorney general.

B. The attorney general shall employ one or more missing indigenous persons specialists, who shall work in collaboration with local, state, federal and tribal law enforcement agencies on missing indigenous persons cases pursuant to the Missing Persons Information and Reporting Act [Chapter 29, Article 15 NMSA 1978].

C. The missing indigenous persons specialists shall:

(1) review entries in the database of the national crime information center of the United States department of justice and other databases, including the missing persons information clearinghouse, to ensure records of missing indigenous persons are accurate, complete and made in a timely fashion;

(2) collaborate with other state and international missing persons programs and the national center for missing and exploited children to aid in locating indigenous children who are unlawfully taken out of or unlawfully brought into New Mexico;

(3) provide public outreach and education on missing indigenous persons issues and the prevention of indigenous child abductions;

(4) provide support and technical assistance to law enforcement agencies regarding data collection, data sharing and the cooperative use of available resources;

(5) compile reports of pending missing indigenous persons cases, including the status of pending missing indigenous persons cases, the clearance rate of investigating agencies responsible for tracking missing indigenous persons cases and an analysis by year of the characteristics of missing indigenous persons;

(6) assist with alerts and advisories at the request of the department of public safety to assist in locating a missing indigenous person; and

(7) collaborate with the New Mexico law enforcement academy to facilitate training for law enforcement agencies related to missing indigenous persons cases.

**History:** Laws 2022, ch. 2, § 2.

### **ANNOTATIONS**

**Emergency clauses.** — Laws 2022, ch. 2, § 7 contained an emergency clause and was approved February 24, 2022.

## **8-5-21. Partnership in Native American communities network grant program; created; purpose. (Repealed effective July 1, 2024.)**

A. The "partnership in Native American communities network grant program" is created within the office of the attorney general. The purpose of the program is to create a network to support the efforts by the state's Indian nations, tribes and pueblos to identify, report and find Native Americans who are missing.

B. The "partnership in Native American communities network" shall be developed and operated by the office of the attorney general as an online portal with a database to securely upload information regarding missing indigenous persons.

C. The office of the attorney general shall award grants to create and administer the Native American communities network and develop the application and criteria for the grant program. The partnership in Native American communities network grant program criteria shall include:

(1) policies and standards for technology equipment, including data storage and security of information entered into the network;

(2) standards for data verification;

(3) job qualifications and requirements for a data specialist to administer the network; and

(4) development of a system to provide automatic initial alerts pursuant to law enforcement, tribal and community organizations when a missing indigenous person report is made.

D. The office of the attorney general may also award grants through the partnership in Native American communities network grant program to a qualifying tribal agency at each Indian nation, tribe and pueblo as matching funds for a tribal agency to create and maintain access to the partnership in Native American communities network.

**History:** Laws 2022, ch. 2, § 3.

### **ANNOTATIONS**

**Delayed repeals.** — Laws 2022, ch. 2, § 6 repeals 8-5-21 NMSA 1978, effective July 1, 2024.

**Emergency clauses.** — Laws 2022, ch. 2, § 7 contained an emergency clause and was approved February 24, 2022.

## **8-5-22. Partnership in Native American communities network grant fund; created. (Repealed effective July 1, 2024.)**

The "partnership in Native American communities network grant fund" is created in the state treasury. The fund consists of appropriations, gifts, grants and donations. Money in the fund at the end of fiscal year 2024 shall revert to the consumer settlement fund of the office of the attorney general. The office of the attorney general shall administer the fund, and money in the fund is appropriated to the office of the attorney general to administer the partnership in Native American communities network grant program and to carry out the provisions of Section 3 [8-5-21 NMSA 1978] of this 2022 act. Disbursements from the fund shall be made by warrant signed by the secretary of finance and administration pursuant to vouchers signed by the attorney general or the attorney general's authorized representative.

**History:** Laws 2022, ch. 2, § 4.

### **ANNOTATIONS**

**Delayed repeals.** — Laws 2022, ch. 2, § 6 repeals 8-5-22 NMSA 1978, effective July 1, 2024.

**Emergency clauses.** — Laws 2022, ch. 2, § 7 contained an emergency clause and was approved February 24, 2022.

## **ARTICLE 6**

### **State Auditor, Treasurer and Secretary of Finance and Administration**

#### **8-6-1. [Treasurer and auditor; offices; bonds.]**

The state treasurer and the state auditor shall keep their offices at the seat of government of the state. They shall, before entering upon the discharge of their duties, respectively, execute, and deliver to the secretary of state a bond to the state in the sum of three hundred thousand dollars [(\$300,000)] for the treasurer, and twenty-five thousand dollars [(\$25,000)] for the auditor, with good and sufficient sureties to be approved by the governor and conditioned for the faithful discharge of the duties required or which may be required of them by law. The approval of the governor and the date thereof shall be endorsed on the bond.

**History:** Laws 1851-1852, p. 169; C.L. 1865, ch. 102, § 10; C.L. 1884, § 1771; Laws 1891, ch. 27, § 1; C.L. 1897, § 2608; Laws 1905, ch. 69, § 1; Code 1915, § 5327; C.S. 1929, § 134-406; 1941 Comp., § 3-201; 1953 Comp., § 4-4-1.

### **ANNOTATIONS**

**Bracketed material.** — The bracketed material was inserted by the compiler and is not part of the law.

**Cross references.** — For terms of office, see N.M. Const., art. V, § 1.

For members of the executive department generally, see N.M. Const., art. V, § 1.

For the qualifications for office, see N.M. Const., art. V, § 3.

For salaries of state officers, see N.M. Const., art. V, § 12 and 8-1-1 NMSA 1978.

For the amount of bond of state treasurer, see 6-10-38 NMSA 1978.

For payment of accounts audited by board of trustees of supreme court law library, see 18-1-6 NMSA 1978.

**Am. Jur. 2d, A.L.R. and C.J.S. references.** — 72 Am. Jur. 2d States, Territories, and Dependencies §§ 64, 65, 77.

Statutory conditions prescribed for public officer's bond which does not in terms include them, or which expressly excludes them, 109 A.L.R. 501.

Liability of sureties on bond of public officer as affected by fact that it was not signed by him, 110 A.L.R. 959.

Public officer's bond as subject to forfeiture for malfeasance in office, 4 A.L.R.2d 1348.

81A C.J.S. States § 127.

## **8-6-2. Seal of state treasurer.**

There is adopted an official seal of the treasurer of the state of New Mexico.

The seal shall be in substantially the following form:



The seal above has not been amended or altered in any way.

The seal shall contain the words "Treasurer of the State of New Mexico" running clockwise around the upper portion of the outer edge, and the date "1912" on the lower part of the outer edge, running from left to right; and there shall be in the center a Mexican eagle grasping a serpent in its beak, the cactus in its talons, shielded by the American eagle with outspread wings, and grasping arrows in its talons; and a key under the eagles. When the state treasurer shall hereafter be required to seal any documents or instruments, he shall use the official seal as adopted by this section.

**History:** 1953 Comp., § 4-4-2, enacted by Laws 1967, ch. 103, § 1.

### ANNOTATIONS

**Compiler's notes.** — Laws 1967, ch. 103, § 1, enacted a new 4-4-2, 1953 Comp., which replaced former 4-4-2, 1953 Comp., (Laws 1851-1852, p. 169; C.L. 1865, ch. 102, § 11; C.L. 1884, § 1761; C.L. 1897, § 2591; Code 1915, § 5333; C.S. 1929, § 134-601; 1941 Comp., § 3-202), prescribing duties of auditor, which was repealed by Laws 1957, ch. 252, § 16.

**Cross references.** — For the keeping of the seal at the seat of government, see N.M. Const., art. V, § 1.

### 8-6-3. Duties of treasurer; receipts.

The state treasurer shall receive and keep all money of the state except when otherwise specially provided; disburse the public money upon warrants drawn according to law and not otherwise; keep a just, true and comprehensive account of all money received and disbursed; render the state treasurer's accounts to the financial control division of the department of finance and administration annually, or more often if required; and report to the legislature, at the commencement of each regular session, a detailed statement of the condition of the treasury. The state treasury shall grant duplicate receipts for all money paid into the treasury, and the person receiving the duplicate receipts shall record the entry in the centralized accounting system administered by the department of finance and administration.

**History:** Laws 1851-1852, p. 170; C.L. 1865, ch. 102, § 14; C.L. 1884, § 1769; C.L. 1897, § 2602; Code 1915, § 5322; C.S. 1929, § 134-401; 1941 Comp., § 3-204; 1953 Comp., § 4-4-4; Laws 1957, ch. 252, § 12; 2011, ch. 88, § 3.

### ANNOTATIONS

**Cross references.** — For the keeping of public records, books and papers at seat of government, see N.M. Const., art. V, § 1.

For the investment of special road fund balances, see 6-10-12, 6-10-13 NMSA 1978.

For the appointment of a deputy treasurer, see 6-10-38 NMSA 1978.

For the penalty for receiving consideration for placing deposit, see 6-10-40 NMSA 1978.

For signing checks for state funds, see 6-10-58 NMSA 1978.

For the application of federal forest reserve funds, see 6-11-2 NMSA 1978.

For the penalty for misapplication of federal forest reserve funds, see 6-11-4 NMSA 1978.

For authorization to borrow to pay interest on bonds, see 6-12-1, 6-12-2 NMSA 1978.

For the authority to purchase bonds authorized by fifteenth legislature, see 6-12-3 NMSA 1978.

For refunding bonds generally, see 6-12-6 NMSA 1978 et seq.

**The 2011 amendment**, effective July 1, 2011, required persons who receive duplicate receipts for funds paid into the state treasury to record the entry in the centralized accounting system administered by the department of finance and administration.

**Am. Jur. 2d, A.L.R. and C.J.S. references.** — 72 Am. Jur. 2d States, Territories, and Dependencies §§ 64, 77.

81A C.J.S. States § 135.

### **8-6-3.1. State cash manager; powers and duties.**

A. The "office of the state cash manager" is established under the office of the state treasurer. The state treasurer shall appoint the state cash manager, who shall manage efficiently all state cash balances in the custody of the state not otherwise invested or deposited, and in consultation with the state board of finance perform the duties necessary to carry out that management responsibility.

B. The duties of the state cash manager include:

(1) issuance of cash management regulations, procedures and enforcement policy to assure implementation of and compliance with the federal Cash Management Improvement Act of 1990 and other provisions of law;

(2) obtaining from each state agency periodic reports of all money from any source in the agency's custody, including detailed information on receipts, disbursements and balances on hand or on deposit in a financial institution;

(3) periodic review of all deposits made and balances on hand to assure that all money received by each state agency is deposited in a timely manner in the state fiscal agent bank and, if applicable, to the state agency's account in the state treasury;

(4) projection of the state's short-term and long-term cash needs to determine the amount available for short-term and long-term investment;

(5) determination and periodic update of the warrant clearance pattern to project the time lag between warrant issuance date and warrant clearance date to facilitate cash management activities; and

(6) preparation of a monthly written report showing state fund balances in each financial institution and sending the report to the state board of finance, the legislative finance committee, the state investment council, the educational retirement board and the retirement board of the public employees retirement association.

C. In addition to the specific duties in Subsection B of this section, the state cash manager shall ensure that non-income producing state cash balances are kept to a minimum in accordance with established guidelines. The state cash manager shall report any actual or anticipated deviations from such established guidelines to the state board of finance, the investing board or council, and the legislative finance committee.

D. The state cash manager shall have access to all accounts, files and other records of funds in the custody of the state. Upon approval of the state board of finance, the state cash manager may conduct any periodic investigation he deems necessary to enable him to perform his duties pursuant to this section.

E. As used in this section, "state agency" means the state of New Mexico or any of its branches, agencies, departments, boards, instrumentalities or institutions, other than state educational institutions designated by Article 12, Section 11 of the constitution of New Mexico, and includes the New Mexico mortgage finance authority and the New Mexico finance authority.

**History:** Laws 1993, ch. 105, § 1.

## **ANNOTATIONS**

**Compiler's notes.** — The federal Cash Management Improvement Act of 1990 is Public Law 101-453, 104 Stat. 1058, and amended several sections in Title 31 of the United States Code.

### **8-6-4. Disbursement of funds; warrant from secretary; interest.**

It shall be unlawful for the state treasurer to disburse or pay out any funds in his hands, the proceeds of any regular or special tax or any moneys that may come to his hands as treasurer of the state of New Mexico, except on warrant of the secretary of finance and administration; provided, that in the case of the payments of maturing interest coupons on the bonded debt of the state and in the case of the payment of retiring bonds of this state - either at the maturing of the optional period of the maturity thereof, wherein the law authorizing the issue of such bonds and coupons specifically

designates a place of payment other than the office of the state treasurer - the said treasurer may remit such moneys as are necessary, to the places of payment so designated, to take up and pay such state obligations; and immediately upon receipt of such coupons and bonds so paid, he shall present same to the secretary properly cancelled and itemized, and when so presented to the secretary it shall be the duty of that official to issue his warrant chargeable against the proper funds, for the payment so made; provided further, that this article shall not affect or apply to cash appropriations made by the United States government to state institutions, over which the state has no jurisdiction as to expenditure and wherein such appropriations are remitted to the state treasurer, and by him immediately transferred to the treasurers of such institutions.

**History:** Laws 1909, ch. 40, § 1; Code 1915, § 5329; C.S. 1929, § 134-408; 1941 Comp., § 3-210; 1953 Comp., § 4-4-9; Laws 1957, ch. 252, § 13; 1977, ch. 247, § 14.

## ANNOTATIONS

**Cross references.** — For payments and disbursement of public funds, see 6-10-46 NMSA 1978.

**Generally.** — Comp. Laws 1897, § 2597 was a general limitation upon the authority of the auditor, under which he could audit only such accounts as had been expressly allowed by acts passed, and he was required to report claims not so allowed to the next legislative assembly for its action thereon. *Garcia v. Territory ex. rel. Bursum*, 1900-NMSC-006, 10 N.M. 43, 61 P. 207.

**Construction.** — When Laws 1957, chs. 248 and 252, were construed by the rule of "pari materia" the supreme court found the duties of the auditor substantially the same as previously performed by him, except preaudit duties and the duty of issuing warrants, which duties had been transferred to the director of the department of finance and administration (now secretary of finance and administration) by the 1957 act. *Torres v. Grant*, 1957-NMSC-061, 63 N.M. 106, 314 P.2d 712.

**Constitutionality.** — Laws 1957, ch. 252, providing warrants on state funds may be drawn only by director of department of finance and administration (now secretary of finance and administration), was not unconstitutional on theory that it removed from the state auditor, a constitutional officer, substantially all the powers and duties of that office. *Torres v. Grant*, 1957-NMSC-061, 63 N.M. 106, 314 P.2d 712.

**Effect of approval of warrant.** — The warrant of the superintendent of insurance on the insurance fund, approved by the auditor (now secretary of finance and administration), was not the warrant of the auditor (now secretary). *State ex rel. Chavez v. Sargent*, 1914-NMSC-018, 18 N.M. 627, 139 P. 144.

**Am. Jur. 2d, A.L.R. and C.J.S. references.** — 81A C.J.S. States § 226.

**8-6-5. Repealed.**



## ANNOTATIONS

**Repeals.** — Laws 1983, ch. 265, § 62, repealed 8-6-5 NMSA 1978, as enacted by Laws 1921, ch. 124, § 1, relating to registration of bonds and debentures by treasurer, effective April 7, 1983.

### **8-6-6. [Malfeasance and neglect of duty by auditor or treasurer.]**

If the auditor or treasurer shall wilfully [willfully] neglect or refuse to perform any duty enjoined by law, or shall be guilty of any oppression or extortion in the performance of any legal duty, or shall receive any fee or reward for the performance of any legal duty not allowed by law, or by color of his office shall knowingly do any act not authorized by law, or in any other manner than is required by law, he shall, upon conviction upon indictment, be adjudged guilty of a misdemeanor in office and be fined any sum not exceeding one thousand dollars [(\$1,000)]. The state or any person injured, in the name of the state, may sue, either before or after an indictment found, upon the bonds of the auditor and treasurer, for any damages suffered by reason of any of the acts of the auditor or treasurer in this section mentioned.

**History:** Laws 1851, p. 170; C.L. 1865, ch. 102, § 15; C.L. 1884, § 1772; C.L. 1897, § 2609; Code 1915, § 5341; C.S. 1929, § 134-609; 1941 Comp., § 3-222; 1953 Comp., § 4-4-21.

## ANNOTATIONS

**Bracketed material.** — The bracketed material was inserted by the compiler and is not part of the law.

**Am. Jur. 2d, A.L.R. and C.J.S. references.** — Public officer's bond as subject to forfeiture for malfeasance in office, 4 A.L.R.2d 1348.

81A C.J.S. States §§ 127 to 129.

### **8-6-7. Wrongful drawing or payment of warrant by secretary or treasurer; penalty.**

A. If the secretary of finance and administration draws any warrant on the state treasurer when he knows or, with the use of available accounting information, should reasonably know there is an insufficient unexpended and unencumbered balance available for the purpose for which the warrant is drawn, he is in violation of this section unless the warrant will be redeemed using receivables accrued for that fiscal year pursuant to policies of the department of finance and administration.

B. If the state treasurer pays any warrant when he knows or, with the use of available accounting information, should reasonably know there are insufficient funds available in the treasury for the purpose to pay the warrant, he is in violation of this

section unless the warrant will be redeemed using receivables accrued for that fiscal year pursuant to policies of the department of finance and administration.

C. A violation of this section is punishable by a fine of not more than one thousand dollars (\$1,000) or by imprisonment for not more than one year or both.

**History:** 1978 Comp., § 8-6-7, enacted by Laws 1987, ch. 183, § 1; 1993, ch. 105, § 4; 2003, ch. 273, § 16.

## ANNOTATIONS

**Repeals and reenactments.** — Laws 1987, ch. 183, § 1 repealed former 8-6-7 NMSA 1978, as amended by Laws 1977, ch. 247, § 15, and enacted a new section, effective June 19, 1987.

**The 2003 amendment**, effective July 1, 2003, in Subsection A, substituted "is" for "shall be" following "is drawn, he", inserted "unless the warrant will be redeemed using receivables accrued for that fiscal year pursuant to policies of the department of finance and administration" at the end; in Subsection B, substituted "is" for "shall be" following "the warrant, he", substituted "will be redeemed using receivables accrued for that fiscal year pursuant to policies of the department of finance and administration" for "includes federal funds that will be receipted based upon established warrant-clearing patterns" at the end; in Subsection C, substituted "is" for "shall be" following "of this section", and substituted "or both" for "by both such fine and imprisonment in the discretion of the judge" at the end.

**The 1993 amendment**, effective June 18, 1993, added the language beginning "unless" at the end of Subsection B.

**Generally.** — If the auditor of the territory (now secretary of finance and administration) drew any warrant on the treasurer of the territory when there was no money in the treasury in the particular fund for which such warrant was drawn, he was liable to fine of not less than \$1,000 and imprisonment for not less than one year and summary removal from office by the governor. *Garcia v. Territory ex rel. Bursum*, 1900-NMSC-006, 10 N.M. 43, 61 P. 207.

**Am. Jur. 2d, A.L.R. and C.J.S. references.** — 81A C.J.S. States § 129.

## ARTICLE 7 Public Regulation Commission Apportionments

### 8-7-1. Repealed.

**History:** Laws 1997, ch. 262, § 1; repealed by Laws 2020, ch. 9, § 60.

## ANNOTATIONS

**Repeals.** — Laws 2020, ch. 9, § 60 repealed 8-7-1 NMSA 1978, as enacted by Laws 1997, ch. 262, § 1, relating to short title, effective January 1, 2023. For provisions of former section, see the 2022 NMSA 1978 on *NMOneSource.com*.

### 8-7-2. Repealed.

**History:** Laws 1997, ch. 262, § 2; repealed by Laws 2020, ch. 9, § 60.

## ANNOTATIONS

**Repeals.** — Laws 2020, ch. 9, § 60 repealed 8-7-2 NMSA 1978, as enacted by Laws 1997, ch. 262, § 2, relating to membership, effective January 1, 2023. For provisions of former section, see the 2022 NMSA 1978 on *NMOneSource.com*.

### 8-7-3. Repealed.

**History:** Laws 1997, ch. 262, § 3; repealed by Laws 2020, ch. 9, § 60.

## ANNOTATIONS

**Repeals.** — Laws 2020, ch. 9, § 60 repealed 8-7-3 NMSA 1978, as enacted by Laws 1997, ch. 262, § 3, relating to residence, effective January 1, 2023. For provisions of former section, see the 2022 NMSA 1978 on *NMOneSource.com*.

### 8-7-4. Repealed.

**History:** Laws 1997, ch. 262, § 4; 2001 (1st S.S.), ch. 3, § 1; repealed by Laws 2020, ch. 9, § 60.

## ANNOTATIONS

**Repeals.** — Laws 2020, ch. 9, § 60 repealed 8-7-4 NMSA 1978, as enacted by Laws 1997, ch. 262, § 4, relating to election, vacancy, effective January 1, 2023. For provisions of former section, see the 2022 NMSA 1978 on *NMOneSource.com*.

### 8-7-5. Repealed.

**History:** Laws 1997, ch. 262, § 5; 2001 (1st S.S.), ch. 3, § 2; repealed by Laws 2020, ch. 9, § 60.

## ANNOTATIONS

**Repeals.** — Laws 2020, ch. 9, § 60 repealed 8-7-5 NMSA 1978, as enacted by Laws 1997, ch. 262, § 5, relating to precincts, effective January 1, 2023. For provisions of former section, see the 2022 NMSA 1978 on *NMOneSource.com*.

## **8-7-6 to 8-7-10. Unconstitutional.**

**History:** 1978 Comp., § 8-7-6, enacted by Laws 2001 (1st S.S.), ch. 3, § 3.

### **ANNOTATIONS**

**Compiler's notes.** — The public regulation commission districts set forth in Sections 8-7-6 through 8-7-10 NMSA 1978, were held to be malapportioned and therefore unconstitutional in *Egolf v. Duran*, D-101-CV-2011-02942 (1st Jud. Dist. January 25, 2012). The redistricting plan embodied in Section 8-7-12 NMSA 1978 was adopted by that court.

## **8-7-11. Repealed.**

**History:** 1978 Comp., § 8-7-11, enacted by Laws 2001 (1st S.S.), ch. 3, § 8; repealed by Laws 2020, ch. 9, § 60.

### **ANNOTATIONS**

**Repeals.** — Laws 2020, ch. 9, § 60 repealed 8-7-11 NMSA 1978, as enacted by Laws 2001 (1st S.S.), ch. 3, § 8, relating to election of public regulation commissioners, effective January 1, 2023. For provisions of former section, see the 2022 NMSA 1978 on *NMOneSource.com*.

## **8-7-12. [Public regulation commission districts.]**

Public regulation commission district one is composed of Bernalillo county precincts 4 through 18, 20 through 30, 39, 86, 107, 108, 119 through 121, 125, 131, 150 through 154, 161 through 166, 180 through 187, 191 through 197, 211, 212, 215, 216, 241 through 246, 251 through 258, 271 through 275, 278, 281 through 287, 289 through 302, 304 through 308, 311 through 318, 321 through 324, 326 through 333, 341 through 347, 351 through 358, 371 through 375, 381 through 387, 400 through 456, 461 through 466, 471 through 478, 480 through 500, 502 through 550, 560 through 566, 568, 569 and 601 through 603; and Sandoval county precincts 11 through 13 and 57.

Public regulation commission district two is composed of Bernalillo county precincts 303, 551 through 559 and 570 through 573; Chaves county; Colfax county; Curry county; De Baca county; Eddy county; Guadalupe county; Harding county; Lea county; Lincoln county precincts 1, 3 through 5, 12, 14 through 16 and 19; Mora county precincts 3 and 7 through 11; Otero county precincts 1 through 13, 19, 20, 22 through 33, 35 and 37 through 41; Quay county; Roosevelt county; San Miguel county precincts 1 through

22 and 24 through 28; Santa Fe county precincts 15, 18, 19, 73, 84 and 85; Torrance county precincts 1 through 9 and 11 through 16; and Union county.

Public regulation commission district three is composed of Bernalillo county precincts 1 through 3, 19, 57, 68 through 70, 78 through 85, 87, 89, 110 through 118, 127 through 129, 134, 170, 171 and 567; Los Alamos county; Mora county precincts 1, 2 and 4 through 6; Rio Arriba county precincts 1 through 23, 28 and 31 through 42; San Miguel county precinct 23; Sandoval county precincts 1 through 6, 28 through 56, 58 through 76 and 80 through 86; Santa Fe county precincts 1 through 11, 13, 14, 16, 17, 20 through 71, 74 through 83 and 86 through 88; and Taos county.

Public regulation commission district four is composed of Bernalillo county precincts 31 through 38, 40 through 56, 58 through 67, 71 through 77, 88, 90 through 99, 101 through 106, 109, 122 through 124, 132, 133, 135 through 144, 214, 217, 221 and 223 through 226; Cibola county; McKinley county; Rio Arriba county precincts 24 through 27, 29 and 30; San Juan county; Sandoval county precincts 7 through 10, 14 through 27, 78 and 79; Santa Fe county precincts 12 and 72; Socorro county precincts 15 and 26; and Valencia county precinct 13.

Public regulation commission district five is composed of Catron county; Doña Ana county; Grant county; Hidalgo county; Lincoln county precincts 2, 6 through 11, 13, 17, 18, 20 and 21; Luna county; Otero county precincts 14 through 18, 21, 34 and 36; Sierra county; Socorro county precincts 1 through 14 and 16 through 25; Torrance county precinct 10; and Valencia county precincts 1 through 12 and 14 through 41.

## ANNOTATIONS

**Compiler's notes.** — The public regulation commission districts set forth in Sections 8-7-6 through 8-7-10 NMSA 1978, were held to be malapportioned and therefore unconstitutional in *Egolf v. Duran*, D-101-CV-2011-02942 (1st Jud. Dist. January 25, 2012). The redistricting plan embodied in Section 8-7-12 NMSA 1978 was adopted by that court.

## ARTICLE 8 Public Regulation Commission

### 8-8-1. Recompiled.

**History:** Laws 1998, ch. 108, § 1; 2007, ch. 161, § 1; § 8-8-1, recompiled and amended as § 62-19-1 by Laws 2020, ch. 9, § 15.

## ANNOTATIONS

**Recompilations.** — Laws 2020, ch. 9, § 15 recompiled and amended former 8-8-1 NMSA 1978 as 62-19-1 NMSA 1978, effective January 1, 2023.

## **8-8-2. Recompiled.**

**History:** Laws 1998, ch. 108, § 2; § 8-8-2, recompiled and amended as § 62-19-2 by Laws 2020, ch. 9, § 16.

### **ANNOTATIONS**

**Recompilations.** — Laws 2020, ch. 9, § 16 recompiled and amended former 8-8-2 NMSA 1978 as 62-19-2 NMSA 1978, effective January 1, 2023.

## **8-8-3. Recompiled.**

**History:** Laws 1998, ch. 108, § 3; § 8-8-3, recompiled and amended as § 62-19-3 by Laws 2020, ch. 9, § 17.

### **ANNOTATIONS**

**Recompilations.** — Laws 2020, ch. 9, § 17 recompiled and amended former 8-8-3 NMSA 1978 as 62-19-3 NMSA 1978, effective January 1, 2023.

### **8-8-3.1. Recompiled.**

**History:** Laws 2013, ch. 64, § 1; 2019, ch. 212, § 210; § 8-8-3.1, recompiled and amended as § 62-19-5 by Laws 2020, ch. 9, § 19.

### **ANNOTATIONS**

**Recompilations.** — Laws 2020, ch. 9, § 19 recompiled and amended former 8-8-3.1 NMSA 1978 as 62-19-5 NMSA 1978, effective January 1, 2023.

### **8-8-3.2. Recompiled.**

**History:** Laws 2013, ch. 64, § 2; § 8-8-3.2, recompiled and amended as § 62-19-6 by Laws 2020, ch. 9, § 20.

### **ANNOTATIONS**

**Recompilations.** — Laws 2020, ch. 9, § 20 recompiled and amended former 8-8-3.2 NMSA 1978 as 62-19-6 NMSA 1978, effective January 1, 2023.

## **8-8-4. Recompiled.**

**History:** Laws 1998, ch. 108, § 4; § 8-8-4, recompiled as § 62-19-9 by Laws 2020, ch. 9, § 59.

## ANNOTATIONS

**Recompilations.** — Laws 2020, ch. 9, § 59 recompiled former 8-8-4 NMSA 1978 as 62-19-9 NMSA 1978, effective January 1, 2023.

### **8-8-4.1. Recompiled.**

**History:** Laws 2009, ch. 216, § 1; § 8-8-4.1, recompiled as § 62-19-10 by Laws 2020, ch. 9, § 59.

## ANNOTATIONS

**Recompilations.** — Laws 2020, ch. 9, § 59 recompiled former 8-8-4.1 NMSA 1978 as 62-19-10 NMSA 1978, effective January 1, 2023.

### **8-8-5. Recompiled.**

**History:** Laws 1998, ch. 108, § 5; 2000, ch. 57, § 1; 2013, ch. 74, §1; § 8-8-5, recompiled as § 62-19-11 by Laws 2020, ch. 9, § 59.

## ANNOTATIONS

**Recompilations.** — Laws 2020, ch. 9, § 59 recompiled former 8-8-5 NMSA 1978 as 62-19-11 NMSA 1978, effective January 1, 2023.

### **8-8-6. Recompiled.**

**History:** Laws 1998, ch. 108, § 6; 2007, ch. 161, § 2; 2013, ch. 74, § 2; 2020, ch. 9, § 21; § 8-8-6, recompiled as § 62-19-12 by Laws 2020, ch. 9, § 59.

## ANNOTATIONS

**Recompilations.** — Laws 2020, ch. 9, § 59 recompiled former 8-8-6 NMSA 1978 as 62-19-12 NMSA 1978, effective January 1, 2023.

### **8-8-7. Recompiled.**

**History:** Laws 1998, ch. 108, § 7; 2001, ch. 245, § 1; 2013, ch. 75, § 10; § 8-8-7, recompiled as § 62-19-13 by Laws 2020, ch. 9, § 59.

## ANNOTATIONS

**Recompilations.** — Laws 2020, ch. 9, § 59 recompiled former 8-8-7 NMSA 1978 as 62-19-13 NMSA 1978, effective January 1, 2023.

## **8-8-8. Recompiled.**

**History:** Laws 1998, ch. 108, § 8; § 8-8-8, recompiled as § 62-19-14 by Laws 2020, ch. 9, § 59.

### **ANNOTATIONS**

**Recompilations.** — Laws 2020, ch. 9, § 59 recompiled former 8-8-8 NMSA 1978 as 62-19-14 NMSA 1978, effective January 1, 2023.

## **8-8-9. Repealed.**

**History:** Laws 1998, ch. 108, § 9; 2007, ch. 161, § 3; repealed by Laws 2013, ch. 74, § 40.

### **ANNOTATIONS**

**Repeals.** — Laws 2013, ch. 74, § 40 repealed 8-8-9 NMSA 1978, as enacted by Laws 1998, ch. 108, § 9, relating to the insurance division, effective March 29, 2013. For provisions of former section, see the 2012 NMSA 1978 on *NMOneSource.com*.

## **8-8-9.1. Recompiled.**

**History:** Laws 2001, ch. 80, § 1; recompiled by Laws 2020, ch. 9, § 57.

### **ANNOTATIONS**

**Recompilations.** — Laws 2020, ch. 9, § 57 recompiled former 8-8-9.1 NMSA 1978 as 59A-52-14.1 NMSA 1978, effective July 1, 2021.

## **8-8-9.2. Recompiled.**

**History:** Laws 2003, ch. 235, § 3; recompiled by Laws 2007, ch. 282, § 14.

### **ANNOTATIONS**

**Recompilations.** — Laws 2007, ch. 282, § 14 recompiled former 8-8-9.2 NMSA 1978 as 59A-2-9.5 NMSA 1978, effective June 15, 2007.

## **8-8-9.3. Repealed.**

**History:** Laws 2007, ch. 161, § 4; repealed by Laws 2020, ch. 9, § 61.

### **ANNOTATIONS**



**Repeals.** — Laws 2020, ch. 9, § 61 repealed 8-8-9.3 NMSA 1978, as enacted by Laws 2007, ch. 161, § 4, relating to fire marshal division, effective July 1, 2021. For provisions of former section, see the 2020 NMSA 1978 on *NMOneSource.com*.

### **8-8-10. Recompiled.**

**History:** Laws 1998, ch. 108, § 10; § 8-8-10, recompiled as § 62-19-15 by Laws 2020, ch. 9, § 59.

#### **ANNOTATIONS**

**Recompilations.** — Laws 2020, ch. 9, § 59 recompiled former 8-8-10 NMSA 1978 as 62-19-15 NMSA 1978, effective January 1, 2023.

### **8-8-11. Recompiled.**

**History:** Laws 1998, ch. 108, § 11; § 8-8-11; recompiled as § 62-19-16 by Laws 2020, ch. 9, § 59.

#### **ANNOTATIONS**

**Recompilations.** — Laws 2020, ch. 9, § 59 recompiled former 8-8-11 NMSA 1978 as 62-19-16 NMSA 1978, effective January 1, 2023.

### **8-8-12. Recompiled.**

**History:** Laws 1998, ch. 108, § 12; 2003, ch. 346, § 1; § 8-8-12, recompiled as § 62-19-17 by Laws 2020, ch. 9, § 59.

#### **ANNOTATIONS**

**Recompilations.** — Laws 2020, ch. 9, § 59 recompiled former 8-8-12 NMSA 1978 as 62-19-17 NMSA 1978, effective January 1, 2023.

### **8-8-12.1. Recompiled.**

**History:** Laws 2000, ch. 100, § 1; 2000, ch. 102, § 1; § 8-8-12.1, recompiled as § 62-19-18 by Laws 2020, ch. 9, § 59.

#### **ANNOTATIONS**

**Recompilations.** — Laws 2020, ch. 9, § 59 recompiled former 8-8-12.1 NMSA 1978 as 62-19-18 NMSA 1978, effective January 1, 2023.

### **8-8-13. Recompiled.**

**History:** Laws 1998, ch. 108, § 13; § 8-8-13, recompiled as § 62-19-19 by Laws 2020, ch. 9, § 59.

#### **ANNOTATIONS**

**Recompilations.** — Laws 2020, ch. 9, § 59 recompiled former 8-8-13 NMSA 1978 as 62-19-19 NMSA 1978, effective January 1, 2023.

#### **8-8-14. Recompiled.**

**History:** Laws 1998, ch. 108, § 14; 2003, ch. 346, § 2; 2013, ch. 74, § 3; § 8-8-14, recompiled as § 62-19-20 by Laws 2020, ch. 9, § 59.

#### **ANNOTATIONS**

**Recompilations.** — Laws 2020, ch. 9, § 59 recompiled former 8-8-14 NMSA 1978 as 62-19-20 NMSA 1978, effective January 1, 2023.

#### **8-8-15. Recompiled.**

**History:** Laws 1998, ch. 108, § 15; 2001, ch. 117, § 1; § 8-8-15, recompiled as § 62-19-21 by Laws 2020, ch. 9, § 59.

#### **ANNOTATIONS**

**Recompilations.** — Laws 2020, ch. 9, § 59 recompiled former 8-8-15 NMSA 1978 as 62-19-21 NMSA 1978, effective January 1, 2023.

#### **8-8-16. Recompiled.**

**History:** Laws 1998, ch. 108, § 16; § 8-8-16, recompiled as § 62-19-22 by Laws 2020, ch. 9, § 59.

#### **ANNOTATIONS**

**Recompilations.** — Laws 2020, ch. 9, § 59 recompiled former 8-8-16 NMSA 1978 as 62-19-22 NMSA 1978, effective January 1, 2023.

#### **8-8-17. Recompiled.**

**History:** Laws 1998, ch. 108, § 17; 2003, ch. 346, § 3; 2004, ch. 81, § 1; § 8-8-17, recompiled as § 62-19-23 by Laws 2020, ch. 9, § 59.

#### **ANNOTATIONS**

**Recompilations.** — Laws 2020, ch. 9, § 59 recompiled former 8-8-17 NMSA 1978 as 62-19-23 NMSA 1978, effective January 1, 2023.

### **8-8-18. Recompiled.**

**History:** Laws 1998, ch. 108, § 18; § 8-8-18, recompiled and amended as § 62-19-7 by Laws 2020, ch. 9, § 22.

#### **ANNOTATIONS**

**Recompilations.** — Laws 2020, ch. 9, § 22 recompiled former 8-8-18 NMSA 1978 as 62-19-7 NMSA 1978, effective January 1, 2023.

### **8-8-19. Recompiled.**

**History:** Laws 1998, ch. 108, § 19; § 8-8-19, recompiled and amended as § 62-19-8 by Laws 2020, ch. 9, § 23.

#### **ANNOTATIONS**

**Recompilations.** — Laws 2020, ch. 9, § 23 recompiled and amended former 8-8-19 NMSA 1978 as 62-19-8 NMSA 1978, effective January 1, 2023.

### **8-8-20. Recompiled.**

**History:** Laws 1998, ch. 108, § 20; § 8-8-20, recompiled and amended as 62-19-24 by Laws 2020, ch. 9, § 59.

#### **ANNOTATIONS**

**Recompilations.** — Laws 2020, ch. 9, § 59 recompiled former 8-8-20 NMSA 1978 as 62-19-24 NMSA 1978, effective January 1, 2023.

### **8-8-21. Repealed.**

**History:** 1998, ch. 108, § 80; repealed by Laws 2013, ch. 75, § 53.

#### **ANNOTATIONS**

**Repeals.** — Laws 2013, ch. 75, § 53 repealed 8-8-21 NMSA 1978, as enacted by 1998, ch. 108, § 80, relating to temporary provisions and transfers, effective July 1, 2013. For provisions of former section, see the 2012 NMSA 1978 on *NMOneSource.com*.