

NEW MEXICO

COUNTY GOVERNMENT OVERVIEW

Counties

33

Government Form

Traditional¹

Governing Body Size

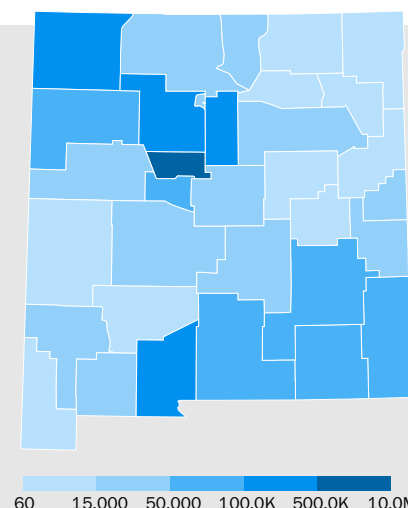
3-5

Population (2020)

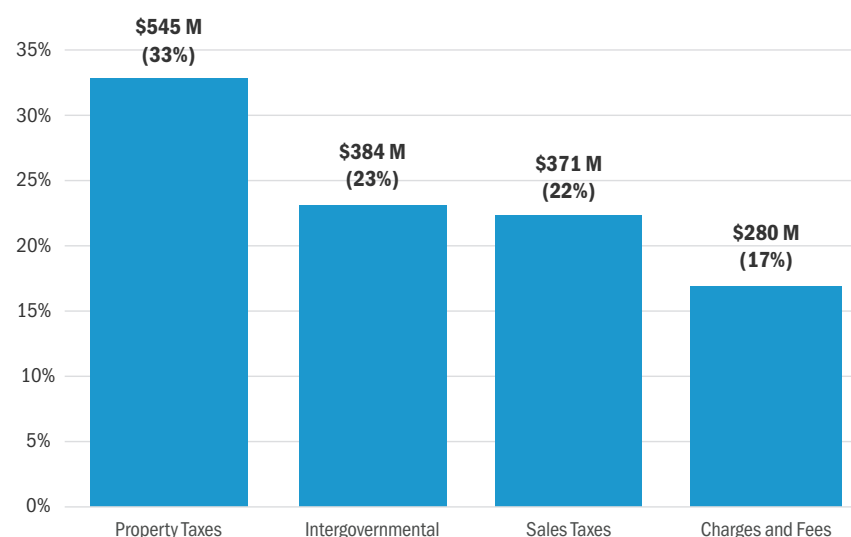
2.1 million²

County Authority

Mostly Dillon's Rule: Counties in New Mexico have not been granted home rule status by state legislation and therefore are governed under general law. Counties are limited to the powers and government structure that have been explicitly defined by the New Mexico constitution and state statute. Nevertheless, the state grants home rule to municipalities including Los Alamos County which is a city-county consolidated government.



TOP REVENUE SOURCES FOR NEW MEXICO COUNTIES



Source: NACo Analysis of U.S. Census Bureau - Census of Individual Governments: Employment, 2017

¹“Government Form” refers to the distribution of executive decision making authority in a county. “Traditional” county states mandate that counties exercise executive decision making power solely through the board of elected officials (commissioners, supervisors, etc.). “Reformed” county states mandate that counties employ an elected or appointed county executive, manager or similar position to take on at least some of the county’s executive decision making authority. “Mixed” county states means that some counties in that state are “traditional” and some are “reformed.”

²NACo Analysis of U.S. Census Bureau - 2020 Decennial Census

Summary of County Services

Services counties **MUST** provide:

- Provide health-related services to county residents including ambulance transportation and hospitals.
- Lay out, alter and discontinue county roads as needed.

Services counties **CAN** provide:

- Construct hospitals and provide childcare services.
- Own and operate public airports, either individually or jointly with a municipality.
- Form joint lowers agreements with other local governments to plan and support regional economic development projects.
- Regulate zoning in order to promote health, safety, morals and the general welfare of the county.

Services counties **CANNOT** provide:

- Public schooling.

STRUCTURE/AUTHORITY

SUMMARY

The legislative and executive decision-making authority for all New Mexico county governments is vested in the board of 3-5 county commissioners. In addition, every county except for Harding County has appointed a county manager to act as the chief administrative officer and conduct county business, serve as the personnel officer, fiscal director, budget officer, property custodian and to act as the administrative assistant to the board while assisting in the exercise of board duties. Despite almost every county having a manager, the position is optional. Counties have been empowered by the state legislature to provide for the safety, wellbeing and prosperity of the community and residents within their jurisdiction but must otherwise narrowly abide by the specific authorities and limitations that have been provided by the state.

Row Officers	Elected/ Appointed	Required/ Optional
Assessor	Elected	Mandatory
Clerk	Elected	Mandatory
Probate Judge	Elected	Mandatory
Sheriff	Elected	Mandatory
Treasurer	Elected	Mandatory



COUNTY STRUCTURE

Legislative Branch: A board of 3-5 commissioners acts as the sole legislative decision-making body for counties.

Executive Branch: The board of commissioners also acts as the sole executive decision-making body for counties.

Judicial Branch: New Mexico is organized into 13 judicial districts with 94 judges covering the state's 33 counties. District courts have general jurisdiction over criminal cases in which jury trials are held. Probate courts, on the other hand, hear estate and informal probate cases. There is a probate judge in each county.

Optional Forms of Government:

- Board of commissioners
- Commission-administrator
- City-county consolidated



COUNTY AUTHORITY

Executive Power: All counties in New Mexico receive the same powers that are granted by the state statute to municipalities, except where a power is explicitly denied to counties by state legislature. The powers that counties have include those that are necessary to allow counties to provide safety, preserve community health, promote prosperity and improve the order of the county and its inhabitants. The board of county commissioners may enact any ordinance to discharge these powers so long as they are not inconsistent with limitations imposed by the state.

Ability to Form Partnerships: County may enter into agreements to cooperate with cities to sponsor a flood control project and they may also cooperate with the federal government to seek aid under the Watershed Protection and Flood Prevention Act. A board of county commissioners may enter into franchise agreements with utility companies as well. In addition, two or more contiguous counties have the authority to consolidate to form a new county. Counties and cities also collaborate on public service answering points (PSAPs).

Call a State of Emergency: Emergencies may only be declared by the state as counties do not have this authority. Regarding emergencies related to forest fires, counties may exercise whatever actions necessary to clear undergrowth and to remove fire-damaged trees within the area of the disaster.

Special Districts: New Mexico has approximately 800 special districts spread throughout the state. There are around 15 different types of districts that may be formed. Among these special district types are flood control, economic advancement and regional transit districts.

SERVICES

OVERVIEW OF COUNTY SERVICES

Counties are authorized to deliver any and all of the services that municipalities provide unless explicitly prohibited by state legislature. Some of the services that counties have the authority to provide include public hospitals, airports, ambulances and foreign trade zones. Counties are also required by the state to consider plans and regulations for water conservation and drought management in unincorporated areas.



HEALTH AND HUMAN SERVICES

Health, Generally: Counties are responsible for the health of their residents. This includes, but is not limited to, ambulance transportation, hospitals and other avenues for providing health care.

Health Departments: Counties are authorized to establish county public health departments and even join with other local government entities to form district health departments.

Hospitals: Counties are authorized with the power to construct, maintain, fund and regulate county public hospitals. Hospitals can be established by counties individually or jointly with a municipality. Counties may issue general obligation bonds and revenue bonds for the construction, purchase, renovation, remodeling, equipping or re-equipping of a county hospital or a jointly owned county-municipal hospital.

Child Welfare: Services for childcare and protections for children are established by the state via the Children's Code Act which provides for the care, protection and wholesome mental and physical development of children.

Welfare: The state department of human services is responsible for establishing branches in local communities. However, many counties provide public health services, specifically behavioral health, mental health, substance abuse and DWI programs.



INFRASTRUCTURE

Roads: The board of county commissioners of each county is responsible for the duty of laying out, altering or discontinuing any road running through their county. Counties may also order and direct the construction of bridges and provide and appropriate related funds.

Airports: The boards of county commissioners may acquire by purchase, condemnation, gift or lease lands for use as an airport and to establish, construct, own, lease, control, equip, improve, maintain and operate an airport. County commissioners may also cooperate and join with any municipality within their county to jointly operate, finance, maintain and control publicly owned airports.

Utilities: A board of county commissioners may enter into franchise agreements with utility companies and impose a franchise fee in exchange for the county's reasonable expenses incurred in granting the franchise and for the utilities' use of public highways, streets and alleys under the franchise agreements.

SERVICES, CONTINUED



PUBLIC AMENITIES

Parks and Recreation: A county board of commissioners may establish a system of supervised recreation and it may, by resolution or ordinance, vest the power to manage and provide for the park and recreation system to a park board or other governing body.

Libraries: Counties have the power to establish libraries and enter contracts with third parties in order to do so. A county may also use gifts and donations received by the county for the purpose of establishing, increasing or improving the library.

Fairs: The county board of commissioners may expend up to \$1,000 annually for the purpose of supporting their county's ability to display products at the New Mexico state fair in Albuquerque.



ZONING AND DEVELOPMENT

Zoning Power: All counties are zoning authorities for the purpose of promoting health, safety, morals and the general welfare of the county. Counties may regulate and restrict building height, densities of populations, locations for certain structures and more within their jurisdiction. Counties may also divide territory within their jurisdiction into districts, in which counties may regulate or restrict the erection, construction, alteration, repair or use of buildings, structures or land.

Zoning Restriction: All counties have land use plans and may establish planning and zoning services. Currently, only seven counties have official planning and zoning departments. Counties that choose to operate planning and zoning services have specific requirements established by statute, including the establishment of an oversight board.

Housing Projects: The board of county commissioners for all counties have the power to maintain and operate housing projects.

Water Conservation: The board of commissioners in each county is required by state law to always consider potential ordinances and codes that will encourage water conservation and drought management planning.

Foreign Trade Zone: With prior written approval from the economic development department, counties may apply for a grant to establish, operate and maintain a foreign trade zone and provide related facilities and exercise such powers as may be necessary to operate and maintain a foreign trade zone.

Economic Development: Counties may enter into joint powers agreements with other local governments and non-profits to plan and support regional economic development projects which may include infrastructure, improvement, economic development, job creation and retail related development projects. Funding for these projects by any county cannot exceed 10 percent of the annual general fund expenditures.

SERVICES, CONTINUED



PUBLIC SAFETY

Law Enforcement: The county sheriff, deputy sheriff, constable and other county law enforcement officers are responsible for enforcing the provisions of all county ordinances. Counties have statutory authority to enact general police power. Counties may also adopt local traffic ordinances that are not inconsistent with the state laws.

Jails: Counties may, either individually or in contract with another county or municipality, construct and maintain a county or county-municipality jail. These jails may be administered by the sheriff of where the facility is located, an agreed upon jail administrator or by a third party.

Courthouses: The board of county commissioners in each county must provide adequate quarters for the operation of the district court, including juvenile probation services, and must provide necessary utilities and maintenance service for the operation and upkeep of district court facilities.

Fire: Counties may establish and operate county fire departments or they may contract out their firefighting if it is deemed more economical or voted on to do so. All counties now have their own fire departments.

Ambulance: A county may provide an ambulance service to transport sick or injured persons to a place of treatment in the absence of an established ambulance service if authorized by the state corporation commission. Counties may also contract with other local governments or with private ambulance services for the provision of ambulance services.

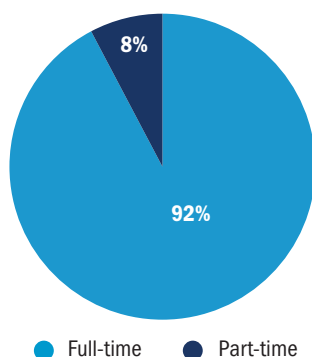


SCHOOLS

Education, Generally: Public school requirements, regulations and funding are set by the state department of education. Counties have little to no involvement in public schooling as this is primarily governed by school boards at the local level.

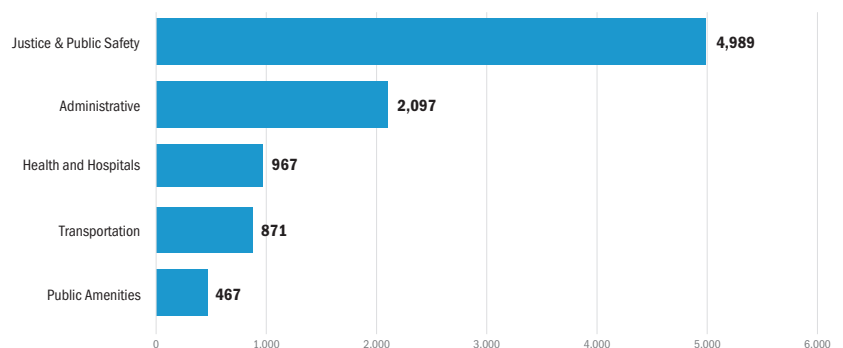
School Board: Local school boards are formed from counties or from districts within counties that have more than 16,000 people.

NEW MEXICO COUNTIES EMPLOY 10,978 GOVERNMENT EMPLOYEES



Source: NACo Analysis of U.S. Census Bureau - Census of Individual Governments: Employment, 2017

NEW MEXICO COUNTY GOVERNMENT EMPLOYEES BY TOP FUNCTIONAL CATEGORIES



Source: NACo Analysis of U.S. Census Bureau - Census of Individual Governments: Employment, 2017

TAXATION/FINANCES

OVERVIEW OF COUNTY FINANCE STRUCTURE

As New Mexico counties are governed by general law, most of the authorities regarding taxes are heavily regulated by state legislature. However, counties have the authority to propose certain taxes, many of which require voter approval before they may be imposed. Counties collect most of their revenue from property taxes which totaled \$545 million dollars in 2017. In addition, a board of county commissioners may also choose to impose a sales tax and almost every county has done so. Finally, counties have the option of imposing a privilege tax and a liquor license tax.



FINANCES, TAXES AND LIMITATIONS

Property Tax: A board of county commissioners may levy a tax on all taxable property in the county for general county purposes, including salaries and expenses of county officers, deputies and employees. The board may also adopt a resolution with voter approval for an additional property tax for the purpose of providing health care to sick residents and those in need within the county, at a maximum rate of 0.15 percent.

Personal Property: Counties may not assess personal property for property taxes.

Income Tax: Counties cannot impose local income taxes.

Sales Tax (Local Option Gross Receipts Tax): A county board of commissioners may impose, by ordinance through a referendum, an excise tax on the gross receipts of a person engaging in business in the county or the county area at a maximum rate of 1.25 percent. Gross receipt tax increments can be designated for general use or specific purposes such as fire, public health, ambulances and environmental services. These earmarks are often only available to specific counties based upon statutory restrictions.

Mineral Tax: Counties cannot impose a mineral tax.

Gas/Fuel Taxes: A county board of commissioners may adopt an ordinance imposing a tax of up to two cents (\$0.02) per gallon on all gasoline sold within the county. The proceeds of a county gasoline tax must be expended towards bridge and road projects or public transportation related trails.

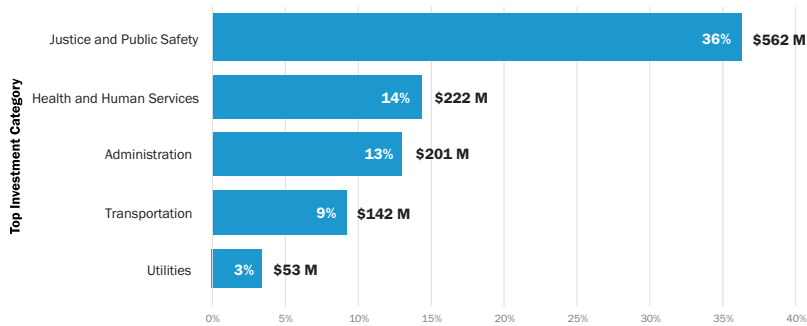
Debt and Debt Limit: The state assumes the debts of all the counties. Counties may only seek debt for public buildings, payment of capital projects, projects to supply water and sewage services, construction of an airport or landfill, public space or resources for libraries. Bonds may only be issued after approved by a general election and the length of the bond cannot exceed 50 years.

Other Tax Info:

- **Privilege Tax:** A county board of commissioners may enact an ordinance imposing an excise tax on any person engaging in business in the county for the privilege of engaging in business, at a maximum rate of 0.125 percent. The purpose of this tax is to collect revenue to be expended towards county hospital expenses.
- **Liquor License Tax:** A county board of commissioners may impose a license tax on persons holding state liquor licenses. The tax may have a maximum rate of 6 percent and the revenue collected must be expended towards education and alcohol treatment.
- **Local Government Road Fund:** There is a state level local government road fund that includes a revenue stream shared between counties and the state to support four different types of local government roads: County Arterial Program, Cooperative Program, School Bus Route Program and a Municipal Arterial Program.

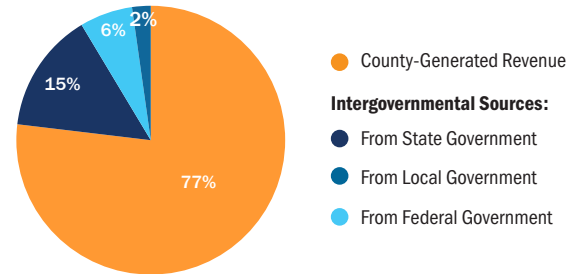
TAXATION/FINANCES, CONTINUED

NEW MEXICO COUNTIES INVEST \$1.5 BILLION ANNUALLY



Source: NACo Analysis of U.S. Census Bureau - 2017 Census of Individual Governments: Finance

NEW MEXICO COUNTIES RECEIVE \$384 MILLION FROM INTERGOVERNMENTAL SOURCES



Source: NACo Analysis of U.S. Census Bureau - Census of Individual Governments: Finance, 2017