

COUNTY OF LINCOLN
New Mexico
Special Meeting
Board of County Commissioners

Jackie Powell, Chairwoman
Mark Doth, Member
Dallas Draper, Member
Glenna N. Robbins, Treasurer
Rhonda B. Burrows, Clerk

Preston Stone, Vice-Chair
Kathryn L. Minter, Member
Robert Shepperd, Sheriff
Paul Baca, Assessor
Stirling Spencer, Probate Judge

Nita Taylor, County Manager

Agenda

Commission Chambers, Thursday, January 2, 2014 @8:00 A.M

1. Call to Order
2. Roll Call
3. Invocation
4. Pledge of Allegiance
 - A. Pledge – U.S.A. Flag
 - B. Salute – N.M. Flag – (“I salute the flag of the State of New Mexico, the Zia Symbol of perfect friendship among united cultures”)
5. Selection of Chair and Vice-Chairman
6. Approval of Agenda
7. Executive Session Pursuant to the Open Meetings Act: discussion of all Threatened and/or Pending Litigation Section 10-15-1, Sub-Paragraph H(7); and Discussion of the Purchase, acquisition or disposal of real property or water rights by the public body, Section 10-15-1, Sub-Paragraph H.(8).
8. Consideration of Retention of Council to Represent the County of Lincoln Pertaining to the County’s withdrawal from GSWA
9. Commission Letter of Support of County Attorney with respect to GSWA Disciplinary Complaint
10. Request of Waiver of Restitution owed to Lincoln County by Gary Sugamoto
11. Consideration and Action on Bid 13-14-004 Loma Grande Ranch Water Impoundment Project

PLEASE NOTE: ALL SUBJECTS LISTED ON THIS AGENDA ARE TO BE CONSIDERED ACTION ITEMS BY THE BOARD OF COUNTY COMMISSIONERS UNLESS OTHERWISE INDICATED.

January 2, 2014: THIS AGENDA IS SUBJECT TO CHANGE

12. Resolution 2013-26 Supporting the Full Funding of Payment in Lieu of Taxes(PILT) from the Federal Government
13. Consideration and Action on NMAC Counter Proposal to NM Human Services Dept. for Funding Uncompensated Care Pool and Medicaid Base Rate Increase
14. Next Regular Meeting – Tuesday, January 14, 2014
15. Adjourn

PLEASE NOTE: ALL SUBJECTS LISTED ON THIS AGENDA ARE TO BE CONSIDERED ACTION ITEMS BY THE BOARD OF COUNTY COMMISSIONERS UNLESS OTHERWISE INDICATED.

January 2, 2014: THIS AGENDA IS SUBJECT TO CHANGE



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County of Lincoln

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AGENDA ITEM NO. 5

December 23, 2013

MEMORANDUM

TO: County Commissioners

FROM: Nita Taylor, Lincoln County Manager *nt*

SUBJECT: Selection of Chair and Vice-Chairman

Purpose: To select a Board of Commissioners Chair & Vice-Chairman.

Discussion:

In accordance with the attached County Ordinance 1993-1, the Board of County Commissioners shall, "at the first meeting of each year" choose a Chairman and Vice-Chairman.

Recommendation: Deliberate and select a Chair & Vice-Chair.

COUNTY OF LINCOLN
ORDINANCE NO. 1993-1

AN ORDINANCE CREATING A METHOD
FOR CHOOSING A CHAIRMAN AND VICE-CHAIRMAN
FOR THE LINCOLN COUNTY BOARD OF COMMISSIONERS

WHEREAS, it has become necessary to enact an Ordinance creating a method for choosing a chairman and vice-chairman for the Lincoln County Board of Commissioners, pursuant to the provisions of §4-38-10 (A) NMSA 1978.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners in and for the County of Lincoln, State of New Mexico, as follows:

Section 1: ELECTION OF CHAIRMAN

The Board of County Commissioners shall, at the first meeting of each year choose one of their number as Chairman, who shall preside at that meeting and all other meetings if present.

The Chairman shall have all the duties, powers and responsibilities of the set forth in § 4-38-11 NMSA 1978, or any other powers granted the Chairman by applicable law.

Section 2: ELECTION OF VICE-CHAIRMAN

The Board of County Commissioners shall, at the first meeting of each year, or as soon thereafter as practicable, choose one of their number as Vice-Chairman, who shall preside at the meetings in the absence or incapacity of the Chairman from any meeting. When presiding, the Vice-Chairman shall have all the duties, powers and responsibilities of the Chairman as set forth in § 4-38-11 NMSA 1978, or any other powers granted the Chairman by applicable law.

Section 3: SEVERABILITY

If any section, sub-section, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any federal or state Court of competent jurisdiction, each portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

Section 4: RECORDING:

This Ordinance shall be recorded in a book kept for that purpose and shall be authenticated by the signature of the Lincoln County Clerk.

Section 5: EFFECTIVE DATE:

This Ordinance shall take effect and be in full force and effect thirty (30) days after its recording in the book kept by the County for that purpose.

PASSED, APPROVED AND ADOPTED this 2 day of February

February 1993.

BOARD OF COUNTY COMMISSIONERS OF LINCOLN COUNTY, NEW MEXICO

Monroy Montes
MONROY MONTES, CHAIRMAN

Wilton Howell
WILTON HOWELL, MEMBER

Stirling Spencer
STIRLING SPENCER, MEMBER

L. Ray Nunley
L. RAY NUNLEY, MEMBER

Bill Schwettman
BILL SCHWETTMAN, MEMBER

ATTEST:

Martha W Proctor
MARTHA McKNIGHT PROCTOR
LINCOLN COUNTY CLERK

DATE: February 2, 1993

STATE OF NEW MEXICO	} SS
COUNTY OF LINCOLN	
Recorded this <u>2nd</u> day of	
<u>February</u> , 19 <u>93</u> , at <u>5:15 P. M.</u>	
in the County Ordinance Records	
Book <u>1</u> , Pages <u>852-854</u> .	
<u>Martha W Proctor</u> Lincoln County Clerk	
By <u>Loise Vallinoz</u> Deputy	
Rec. # <u>9300839</u>	Fees: <u>0.00</u>

Agenda Item No. 7

SUBJECT

Executive Session Pursuant to the Open Meetings Act: Discussion of all Threatened and/or Pending Litigation Section 10-15-1, Sub-Paragraph H.(7); and Discussion of the purchase, acquisition or disposal of real property or water rights by the public body, Section 10-15-1, Sub-Paragraph H.(8).

See attached list.

Alan P. Morel, P.A.

Attorney at Law

700 Mechem Drive, Suite 12
Post Office Box 1030
Ruidoso, New Mexico 88355-1030

Jira Plaza
Telephone (575) 257-3556
Facsimile (575) 257-3558

January 2, 2014

LINCOLN COUNTY EXECUTIVE SESSION PURSUANT TO THE OPEN MEETINGS ACT: DISCUSSION OF ALL THREATENED AND/OR PENDING LITIGATION SECTION 10-15-1, SUBPARAGRAPH H.(7); AND DISCUSSION OF THE PURCHASE, ACQUISITION OR DISPOSAL OF REAL PROPERTY OR WATER RIGHTS BY THE PUBLIC BODY, SECTION 10-15-1, SUBPARAGRAPH H.(8)

New or Updated Matters since last report = *

1. Lodger=s Tax Issue B Casa del Cocinero B making regular payments

*2. *Cooper, Gale and DeBaca County News v. County of Lincoln, Sheriff of Lincoln County, et al.* D-1329-CV-200701364. Suit filed: October 15, 2007. Verified Complaint for Declaratory Judgment Ordering Production of Certain Records and Information. Hearing took place Dec. 13, 2013 with new filings of Suggestion of Death December 19, 2013.

3. *Michael Wheaton v Paul F. Baca, Lincoln County Assessor, et. al.* D-1226-CV-2011-00341. Suit filed October 18, 2011. Notice of Appeal of Final Order of the Lincoln County Valuation Protests Board.-Attorney has agreed to stay the case pending the decision from the Court of Appeals.

4. *Coble Constructors, LLC, et al v Carl Kelley Construction Ltd. Co, et al.* D-1226-CV-2012-00003. Suit filed January 15, 2012. Complaint to Foreclose Mechanic=s Lien. Order granting motion for resetting 4/17/13. Waiting on court date.

5. *Alto Lakes Golf & Country Club, Inc. v. Barbara Fleming, and Jesus and Maria Guardiola, et al.* D-1226-CV-2011-00044. Suit filed February 18, 2011. Complaint to Foreclose Lien. Counterclaim and Crossclaim suit filed by Washington Federal Savings on September 21, 2012 naming Board of Commissioners of Lincoln County and Lincoln County Solid Waste Authority. *Stipulated and Default Judgment, Decree for Foreclosure, Order of Sale, and Appointment of Special Master, entered by the Court on 8-12-13. L.C.=s lien was not extinguished and is still a valid lien against the subject property. Order approving sale and Special Master=s Report filed Oct. 23, 2013

6. *Johnathan Warren v. Lincoln County Detention Center, Emerald Healthcare Systems, et al.* 2:12-CV-01086-CG-LAM. Suit filed October 19, 2012. Complaint for the Recovery of Damages Caused by the Deprivation of Civil Rights.
7. *Greentree Solid Waste Authority v. Lincoln County, et. al. D-0101-CV-2013-00104.* Suit filed January 9, 2013. Petition for Declaratory Judgment; Preliminary and Permanent Injunction. *Order Granting ALW&SD=s Motion for Judgment on the Pleadings and for Summary Judgment entered by the court on 6-15-13. Mediation with Mr. Walker Nov. 11, 2013 was unsuccessful. Hearing for plaintiff's Motion to Reconsider scheduled with Judge Singleton Jan. 24, 2013
8. *Rio Grande-Alameda, Ltd. v Paul Baca, Lincoln County Assessor D-1226-CV-2013-00005.* Suit filed January 9, 2013. Complaint for Refund of Taxes Paid. Defendant=s first motion to dismiss or Summary Judgment filed August 29, 2013, with plaintiff=s response filed Oct. 4, 2013. Defendant=s Reply to Motion to Dismiss or for Summary Judgment filed Oct. 21, 2013 Hearing scheduled Jan. 6, 2014.
- *9. *Washington Federal Savings v. Timothy Rose; Chanda Rose; and Lincoln County D-1226-CV-2013-00105.* Suit filed April 15, 2013. Complaint for Foreclosure. July 29, 2013 Ltr to Bishop, White, Marshall & Weibel, P.S. advising of payoff amount through Aug. 5, 2013. Lots 139, 169, 170 paid in full. Stipulated and Default Judgment ordering foreclosure filed Nov. 22, 2013, with legal notices published in local newspapers.
10. *Wells Fargo Bank, NA, et al v. Jerry Turner, Board of County Commissioners of the County of Lincoln, New Mexico, et al. D-1226-CV-2013-00129.* Suit filed May 6, 2013. First Amended Complaint for Foreclosure filed by Morel on June 21, 2013.
11. *State of New Mexico (Lincoln County) v. Stephen Gore M-30-MR-2013-00113.* Citation filed June 17, 2013. Lincoln County Solid Waste Ordinance 2009-03 Violation. Notice of Sentencing Hearing scheduled for Dec. 4, 2013. Documentation was supplied showing Mr. Gore in in compliance. Dismissal filed Dec. 4, 2013.
12. *Steven Miller, et al. v. State Forestry Division, NM Energy, Minerals, and Natural Resources Department, County of Lincoln, et al. D-1226-CV-2013-00160.* Suit filed June 15, 2013. Lincoln County Manager and Commissioners served July 9, 2013. Complaint for Negligence, Injury and Damages. On August 2, 2013, NMAC advised Attorney Bryan Evans has been assigned as counsel for Lincoln County. Peremptory challenge of Judge Angie Schneider filed by Commission Chair Jackie Powell. Judge Waylon Counts has been assigned the case Oct. 25, 2013. Hearing requested Nov. 25, 2013 for state's motion to dismiss.
13. *Barbara Diane Latham, et al v. Neal Cox, Ben Hazen, Lincoln County Sheriff=s Department and the County of Lincoln. D-1226-CV-2013-00191.* Suit filed July 19, 2013. Complaint for

Violation of Civil Rights, Wrongful Death and Damages by Attorney Gary Mitchell. LCSO and LC Manager were served on August 5, 2013. Tort Claim Notice was filed on October 27, 2011. Advised NMAC has assigned the case to Brennan and Sullivan Law Firm 9/5/13. Case has been moved to Federal Court August 30, 2013.

Tort Claims Notices Received or Threatened

2013

Allen, Katherine Elizabeth- Notice of Tort Claim against Lincoln County Detention Center for alleged injuries sustained during transport.

Borrego, Albert - Tort Claim Notice received from attorney Gary Mitchell on June 14, 2013, alleging continued harassment to Albert G. Borrego by police while responding to a noise complaint at Mr. Borrego=s residence on February 28, 2013, and a separate incident resulting in Mr. Borrego=s arrest on March 5, 2013, due to an outstanding warrant, during which Mr. Borrego allegedly sustained injuries while in custody due to an existing broken back injury.

Espinoza, Robert B Tort Claim Notice received from Robert Espinoza on June 4, 2013, alleging property damage from vehicle accident while Linda Mullins, driving the LC Senior Center meal delivery van ran off road hitting chain link fence, poles and railroad ties.

Harrisburg Documents- Attempts to recover Lincoln County documents illegally taken from the county. County Clerk Rhonda Burrows has been in contact with Harrisburg, PA in recovery efforts.

Montoya, Emilia L. - Tort Claim Notice received by attorney Freda Howard McSwane on April 23, 2013, alleging injuries sustained by Ms. Montoya when a physical altercation took place at the LCDC.

Ramos, Aaron - Tort Claim Notice received by attorney Robert J. Beauvais on April 18, 2013, (correspondence dated September 13, 2011) alleging concerns about Mr. Ramos= safety and welfare and violation of his U.S. Constitutional rights.

Silva, Elmo B Tort Claim Notice received from attorney Richard Marquez November 6, 2013. Alleges false imprisonment for Mr. Silva, who was sentenced in the 12th Judicial District Court to 38 years filed on July 3, 1990.

2012

Cathy and Steve Altstatt B Telephone conference with Cathy Altstatt on April 19, 2012, concerning their unbuildable and unsellable Deer Park Valley lot due to lot size, septic tank set back requirements, and an easement granted to Alto Lakes Water & Sanitation District for a water well.

Riordan, J.T. B Correspondence received from Theresa Riordan on March 28, 2012, concerning her son=s treatment and detention conditions while being held in LCDC.

Sheridan, Michael B Tort Claim Notice received from Attorney, Jennifer Burrill on February 21, 2012, claiming the Lincoln County Sheriff=s Department forced him to register as a sex offender when he did not meet the requirements.

Biggs, M. Jolene B Tort Claim Notice received from Attorney, Adam Rafkin on February 6, 2012, claiming liability by the County of Lincoln by failing to maintain the surface of the parking lot across from the Lincoln County Courthouse in Carrizozo, NM.



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AGENDA ITEM NO. 8

December 30, 2013

MEMORANDUM

TO: County Commissioners

FROM: Nita Taylor, Lincoln County Manager *NT*

SUBJECT: Retention of Council to Represent Lincoln County in its Potential Withdrawal from Greentree Solid Waste Authority

Purpose: To grant authorization to Manager and Attorney to retain Council.

Discussion:

The Commission has directed Manager and Attorney to identify Council to assist the County in the legal process to withdraw from GSWA, should the decision be made to take that action. Manager and Attorney have worked with several firms that have the experience and skills to assist the county with this matter. Final selection and details of the agreement are to be worked out.

Recommendation: Grant to Manager and Attorney authorization to finalize selection of Council and terms of agreement.



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AGENDA ITEM NO. 9

December 30, 2013

MEMORANDUM

TO: County Commissioners

FROM: Nita Taylor, Lincoln County Manager 

SUBJECT: Commission Letter of Support for Attorney Morel to NM Disciplinary Board

Purpose: Consider and Take Action on Issuing Letter of Support for Attorney Morel

Discussion: At its December 20th meeting, GSWA handed out a copy of the formal letter of complaint it sent to the New Mexico Disciplinary Board against Lincoln County Attorney Alan Morel. The letter was dated December 15th (Sunday). **Based on the letter**, key points are:

1. The complaint involves Mr. Morel's representation of Sierra Contracting LLC, a private for-profit company which directly competes with GSWA;
2. GSWA operated successfully and within budget until 2012, when efforts began to form the Alto Lakes Water and Sanitation District (ALWSD);
3. When ALWSD went out to bid, Sierra Contracting obtained the bid;
4. Mr. Morel had a fiduciary duty to disclose his interest and representation of a competing private solid waste collection business to the County, and to recuse himself from advising Lincoln County regarding its participation in GSWA, or ALWSD;
5. GSWA accuses Mr. Morel of violating Rule 16-107 NMRA by breaching his duties of loyalty and independent judgment;
6. Mr. Morel arranged for attorney Jack Brant to enter an appearance on behalf of Lincoln County without the knowledge or informed written consent of his client.

While Mr. Morel and his council will be formally responding to the complaint with facts and legal argument, the Commission should consider issuing a letter of support for Mr. Morel's service to Lincoln County to the Disciplinary Board. The letter would illustrate his long-term loyalty and independent judgment to the Commission and the residents of Lincoln County; his disclosures to the Commission of possible conflicts; and the latitude granted to Mr. Morel as terms of his contract.

Recommendation: Direct Manager to send a letter of support for Mr. Morel to the NM Disciplinary Board.



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AGENDA ITEM NO. 10

December 30, 2013

MEMORANDUM

TO: County Commissioners

FROM: Nita Taylor, Lincoln County Manager *nt*

SUBJECT: Request of Waiver for Restitution Owed to Lincoln County by Gary Sugamosto

Purpose: Consider / Take Action on Waiver Request for Restitution Owed the County

Discussion:

Mr. Sugamosto was ordered by the Court to pay restitution to the County for expenses incurred while a detainee at the Lincoln County Detention Center. Monthly payments have been received since November, 2011. The County has received a request to have that obligation waived. Mr. Morel will explain the details for the cause for the payments and the subsequent request to have them waived.

Recommendation: Deny the waiver request.



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AGENDA ITEM NO. 11

December 31, 2013

MEMORANDUM

TO: County Commissioners

FROM: Nita Taylor, Lincoln County Manager 

SUBJECT: Bid Award for Loma Grande Ranch Water Impoundment Project

Purpose: To award bid 13-14-004

Discussion:

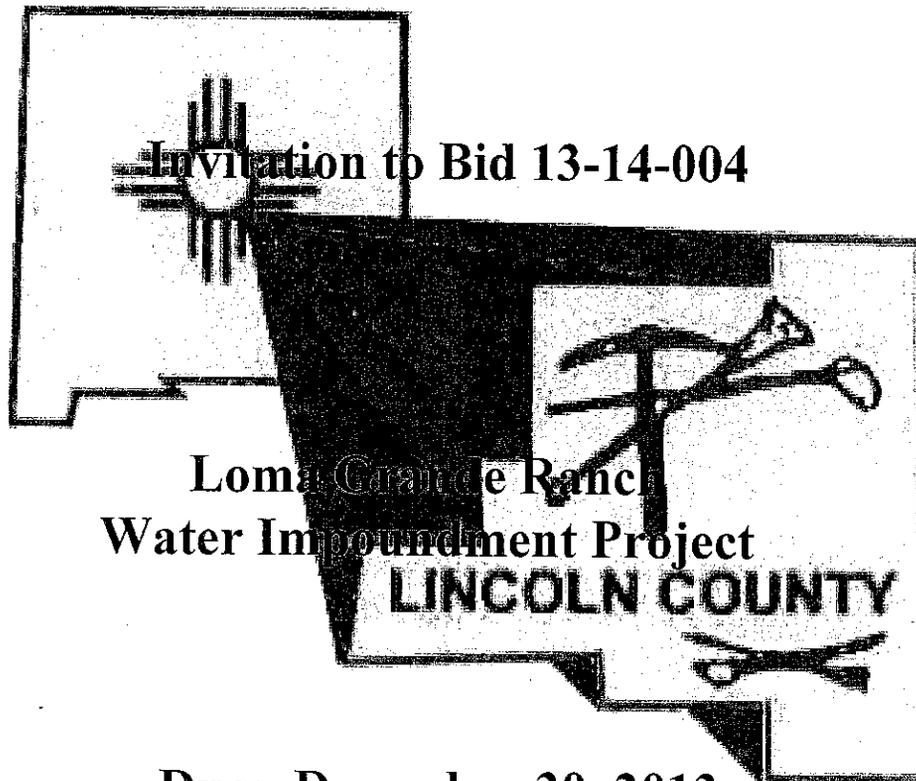
This bid is to install five (5) drainage retention ponds. The following bids were received and opened on Monday December 30, 2013:

1. Renegade Construction, LLC with a bid of \$28,013.36
2. Sierra Valley Contractors, LLC with a bid of \$28,357.58
3. Southwest Paving & Grading DBA Ruidoso Sand & Gravel with a bid of \$26,591.89

Recommendation: Manager recommends award to the low bidder, Southwest Paving & Grading DBA Ruidoso Sand & Gravel with a bid of \$26, 591.89.

COUNTY OF LINCOLN

Carrizozo, NM 88301



Due: December 30, 2013
2:00 p.m. Local Time

A mandatory pre-bid meeting will be held at the Lincoln County Emergency Operations Center located at 111 Copper Ridge Road, Angus, NM at 9:00 a.m. on December 23, 2013.

**COUNTY OF LINCOLN
Carrizozo, NM**

Invitation to Submit Bids

**Loma Grande Ranch
Water Impoundment Project**

Due: December 30, 2013 2:00 Local Time

SPECIFICATIONS

SCOPE OF WORK

Installing 5 drainage retention ponds

MANDATORY PRE-BID MEETING

A mandatory pre-bid meeting will be held at the Lincoln County Emergency Operation Center located at 111 Copper Ridge Road, Angus, New Mexico at 9:00 am on **December 23, 2013**.

Pre-Construction Meeting

A pre-construction meeting will be held at the Lincoln County Emergency Operation Center located at 111 Copper Ridge Road, Angus, New Mexico at 9:00 am on **January 6, 2014**

START AND COMPLETION DATES

Work shall commence by **January 6 2014**. Contractor shall notify Justin King, Project Manager, 719-510-0026, when ready to begin the projects.

Projects must be completed no later than **January 20, 2014**, weather permitting. The Project Manager must approve weather-related nonwork days.

FINAL APPROVAL

All work requires acceptance and final approval by the Project Manager.

WAGE RATES

This project does not require a wage decision.

BID SHEET

Only one Bidder will be awarded the total project based on the lowest cost shown in the **TOTAL PRICE** column. Bid prices shall include all taxes.

NEW MEXICO CONTRACTOR'S LICENSE

You must hold a current New Mexico Contractor's License to bid on this work. Your Contractor's License number must be provided on the Bid Sheet.

BONDING AND WORKERS' COMPENSATION

1. Bid Bond

A Bid Bond in the amount of at least 5% of the total price for the project must accompany the bid.

2. Performance and Payment Bonds

Performance and Payment Bonds in the full amount of the award, including applicable taxes, will be due before the Notice to Proceed is issued and before the commencement of work.

3. Workers' Compensation and General Liability Insurance

Successful Bidder must furnish proof of Workers' Compensation Insurance and General Liability Insurance (refer to *General Instructions, Terms and Conditions* enclosed) before Notice to Proceed can be issued and work begun.

NEW MEXICO RESIDENCE PREFERENCE NUMBER

If you hold a New Mexico Residence Preference Number and wish to have it applied to this bid, you must enter the Preference Number in the space provided on the Bid Sheet. Lincoln County is not responsible for determining your status or entering the Preference Number after the bid closes.

CAMPAIGN CONTRIBUTION DISCLOSURE FORM

Effective May 17, 2006 Chapter 81, Laws of 2006 requires any prospective contractor seeking to enter into a contract with any state agency or local public body to file a "Campaign Contribution Disclosure Form" with that state agency or local public body.

THIS FORM MUST BE FILED BY ANY PROSPECTIVE CONTRACTOR WHETHER OR NOT THEY, THEIR FAMILY MEMBER, OR THEIR REPRESENTATIVE HAS MADE ANY CONTRIBUTIONS SUBJECT TO DISCLOSURE.

GENERAL INSTRUCTIONS, TERMS AND CONDITIONS

Lincoln County *General Instructions, Terms and Conditions* are included in this bid and are applicable to it and the resulting award.



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AGENDA ITEM NO. 12

December 30, 2013

MEMORANDUM

TO: County Commissioners

FROM: Nita Taylor, Lincoln County Manager *nt*

SUBJECT: Payment in Lieu of Taxes (PILT)

Purpose: Consider / Take Action on Resolution No. 2013-26 Supporting the Full Funding of Payment in Lieu of Taxes from the Federal Government

Discussion: Lincoln County has been reliant of PILT funding for years, with the FY13 payment totaling \$1,536,831. As of this date, Congress has not yet acted to provide FY2014 funding for this program. Without this funding, all impacted counties will be forced to implement budget contingency plans, perhaps cutting critical local government services.

- See Enclosure 1 for the NACo Legislative Action Alert and corresponding letters counties were requested to support;
- See Enclosure 2 for letter sent by Senators Udall and Heinrich and others to the chairs and ranking members of the Senate Appropriations Committee and Interior subcommittee calling on them to fully support and fund the PILT program.
- See Enclosure 3 for Lincoln County Resolution 2013-26, requesting swift passage of legislation to extend mandatory PILT funding for FY2014 to the previously authorized levels and beyond.

Recommendation: Approve Resolution 2013-26 supporting the passage of federal legislation extending PILT payments for FY 2014..

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NACo Legislative Action Alert

FY2014 Payment in Lieu of Taxes (PILT) Payments in Jeopardy Urge Congress to Fund the PILT Program In the Final FY2014 Appropriations Measure

Dear NACo Members and Friends:

Please join the National Association of Counties (NACo) in urging Congress to fund the PILT program! Congress has not yet acted to provide FY2014 funding for the Payment in Lieu of Taxes (PILT) program (administered through the U.S. Department of the Interior), which has caused much concern for counties that have already begun the budget process for next year. Without congressional action, counties will be forced to implement budget contingency plans—making cuts to critical local government services.

NACo is sending a letter to House and Senate Appropriations Committee leaders calling on them to fund PILT in FY2014. We need as many county officials, state associations of counties and other stakeholder groups to sign the letter as soon as possible! PLEASE DISTRIBUTE THIS TO YOUR NETWORKS!

• Click [here](#) to view the letter

Please complete the information below, to sign onto the PILT letter:

County:

State:

Name:

Title:

Email:

Submit



NACo on Capitol Hill
 Action Alerts
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 Policy Positions
 Fact Sheets

Conferences & Events
 Upcoming Events
 Future Conferences
 Annual Conference
 Legislative Conference
 WIR Conference
 Webinars

Key Groups
 Board of Directors
 Executive Committee
 Officers
 Steering Committees
 Rural Action Caucus
 Large Urban Caucus
 State Associations
 NACo Affiliates

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 County News
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 Model County Programs
 Publications
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Partnerships
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 Healthy Counties
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 Corporate Engagement

Inside NACo
 Presidential Initiative
 Staff Listing
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 Privacy Policy



ENCL 1

January ##, 2014

The Honorable Barbara Mikulski
Chairwoman
Committee on Appropriations
United States Senate
Washington, DC 20510

The Honorable Richard Shelby
Vice Chairman
Committee on Appropriations
United States Senate
Washington, DC 20510

The Honorable Hal Rogers
Chairman
Committee on Appropriations
United States House of Representatives
Washington, DC 20510

The Honorable Nita Lowey
Ranking Member
Committee on Appropriations
United States House of Representatives
Washington, DC 20510

Dear Chairwoman Mikulski, Chairman Rogers, Vice Chairman Shelby, and Ranking Member Lowey:

As the House and Senate Appropriations Committees works to develop a final Fiscal Year (FY) 2014 spending measure, we respectfully request that your committee fully support the Payment in Lieu of Taxes (PILT) program. The PILT program provides critical funding to nearly 1,900 counties in 49 states and three U.S. territories. As you know, the recently adopted budget resolution included a deficit neutral reserve fund placeholder for PILT. With this bipartisan acknowledgment to fund the program, we respectfully request that the program be fully funded and appropriately offset in the upcoming appropriations bill.

PILT is currently authorized at \$425 million for fiscal year 2014 to help offset losses to local governments from the presence of non-taxable federal lands through direct payments to counties and other local governments. Counties with federal land in their jurisdictions often provide vital services on those lands, such as solid waste management, search and rescue and emergency medical services. A fully funded PILT program helps to offset the loss of these important revenues and fulfill the federal governments' obligation to local communities with large amounts of federal land.

In July 2012, President Obama signed into law PL 112-141, the Moving Ahead for Progress in the 21st Century Act (MAP-21). Included in the legislation was mandatory funding for PILT. After implementation of the Budget Control Act (sequestration cuts), counties received roughly \$400 million in FY 2013. Unless Congress acts, Counties will have received their last fully funded PILT disbursement in June of 2013.

We urge you to consider the economic hardship that counties across the nation will face if the PILT program is not given consistent funding. We understand the Appropriations Committee has some difficult funding decisions coming up and we appreciate your consideration of this important issue. Moving forward, I hope that we can work together to seek a long-term funding solution to provide a consistent and stable source of funding for the nation's PILT counties.

Respectfully,

[insert list of county officials and state and national county organizations]

United States Senate

WASHINGTON, DC 20510

December 23, 2013

The Honorable Barbara Mikulski
Chairwoman
Committee on Appropriations
The Capitol S-128
Washington, DC 20510

The Honorable Richard Shelby
Vice Chairman
Committee on Appropriations
The Capitol S-146A
Washington, DC 20510

The Honorable Jack Reed
Chairman
Subcommittee on Interior, Environment
Committee on Appropriations
SD-131
Washington, DC 20510

The Honorable Lisa Murkowski
Ranking Member
Subcommittee on Interior, Environment
Committee on Appropriations
SH-125
Washington, DC 20510

Dear Chairwoman Mikulski, Vice Chairman Shelby, Chairman Reed, and Ranking Member Murkowski:

As the Senate Appropriations Committee works to develop a final Fiscal Year (FY) 2014 spending measure, we respectfully request that your committee fully support the Payments in Lieu of Taxes (PILT) program. The PILT program provides critical funding to nearly 1,900 counties in 49 states and 3 U.S. territories. While the Bipartisan Budget Act of 2013 included a placeholder for PILT, we want to make certain that the program is funded in the upcoming appropriations bill.

PILT is authorized at \$425 million for FY 2014 to help offset losses to local governments from the presence of non-taxable federal lands. As you know, property taxes fund county governments allowing them to provide essential services such as law enforcement, public safety, infrastructure maintenance, education, and health services for local communities. A fully funded PILT program helps to offset the loss of these important revenues and fulfill the federal government's obligation to local communities with large amounts of federal land.

We urge you to consider the economic hardship and uncertainty that counties across the nation will face if the PILT program is not given consistent funding. We understand the Appropriations Committee has some tough funding decisions in the coming weeks, and we appreciate your consideration of this important issue. Moving forward, we hope that we can work together to seek a long-term solution to provide a consistent and stable source of funding for the nation's PILT counties.

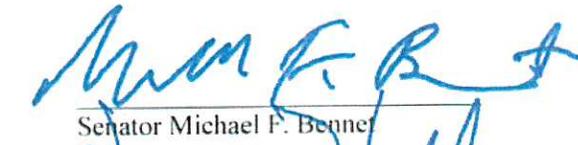
Sincerely,



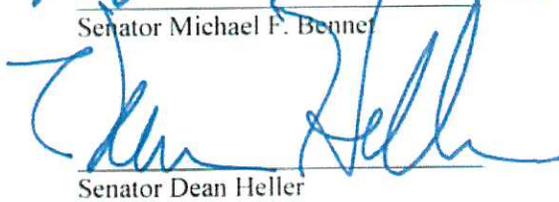
Senator Michael B. Enzi



Senator Tom Udall



Senator Michael F. Bennet



Senator Dean Heller



Senator Carl Levin



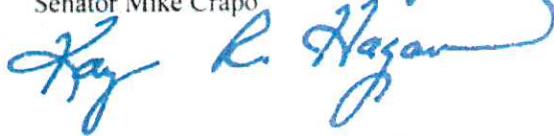
Senator James Risch



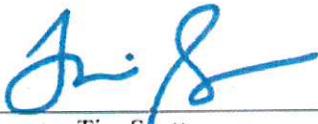
Senator John D. Rockefeller IV



Senator Mike Crapo



Senator Kay R. Hagan



Senator Tim Scott



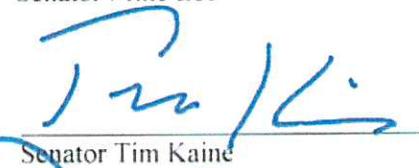
Senator James Inhofe



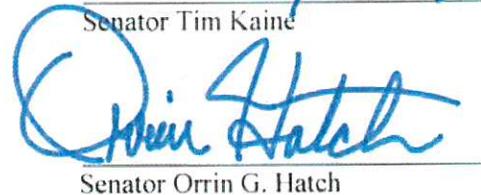
Senator Martin Heinrich



Senator Mike Lee



Senator Tim Kaine



Senator Orrin G. Hatch



Senator Debbie Stabenow



Senator John Barrasso

RESOLUTION NO. 2013-26
SUPPORTING THE FULL FUNDING OF PAYMENT IN LIEU OF TAXES (PILT)
FROM THE FEDERAL GOVERNMENT

WHEREAS, the Board of County Commissioners met in a Special Commission Meeting at 8:00 a.m. on January 2, 2014, in the Lincoln County Commission Chambers, 300 Central Ave, Carrizozo, New Mexico; and

WHEREAS, The PILT program was established in 1976 to offset costs incurred by counties for services provided to the federal government and to the users of public land; and

WHEREAS, according to estimates from the National Association of Counties, current PILT funding provides a small fraction of what counties would receive in property taxes if the lands and facilities were privately owned; and

WHEREAS, Congress needs to ensure that PILT payments adequately reimburse local governments for lost tax revenue associated with federal ownership of public lands; and

WHEREAS, PILT has become a critical component of local government budgets; and

WHEREAS, this funding ensures that Counties remain able to provide necessary basic services ranging from fire suppression to law enforcement activities; and

WHEREAS, in 2013 Lincoln County received \$1,536,831 in PILT; and,

WHEREAS, among other things, this money aided in funding fire suppression, law enforcement, and road improvements in the County; and,

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Lincoln County that the county respectfully requests swift passage of legislation to extend mandatory PILT funding for FY 2014 to the previously authorized levels and beyond; and

PASSED, APPROVED AND ADOPTED by the Lincoln County Board of Commissioners at its' special meeting of January 2, 2014.

Board of Commissioners
Lincoln County, State of New Mexico

Jackie Powell, Chairwoman

Preston Stone, Vice Chair

Kathryn Minter, Member

Mark Doth, Member

Dallas Draper, Member

ATTEST:

Rhonda Burrows, Clerk

ENCL 3



www.lincolncountynm.net

County of Lincoln

P.O Box 711 • 300 Central Ave. • Carrizozo, New Mexico 88301-0711 • (575) 648-2385

AGENDA ITEM NO. 13 *NT*

December 30, 2013

MEMORANDUM

TO: County Commissioners

FROM: Nita Taylor, Lincoln County Manager

SUBJECT: County Contribution to Uncompensated Care Pool & Medicaid Rate Increases

Purpose: Consider / Take Action on NMAC Proposed Counter-Proposal to NM Human Services Department Proposal for Hospital Funding

Discussion: At its December 17th meeting, the Commission heard comments from Scott Annala, Indigent Health Care Administrator, regarding recommended solutions to the changing costs of providing care to Lincoln County's indigent community and to making payments for Uncompensated Care to Lincoln County Medical Center. Mr. Annala and Manager attended the Legislative Health and Human Services Committee meeting held in Santa Fe on December 20th. Addressing the Committee were: 1) Brent Earnest, Deputy Secretary, Human Services Department; 2) Steve Kopelman, NMAC Executive Director; and 3) Jeff Dye, President, New Mexico Hospital Association.

- See Enclosure 1 for Handout illustrating historical, current and future processes for dealing with support to hospitals. On January 1, the Sole Community Provider Program is being replaced with the Safety Net Care Pool (also called the Uncompensated Care Pool), and hospital rate increases for former SCP hospitals. Individual payments to hospitals from the state (with matching federal funds) will be tied more directly to the amount of care provided by each hospital rather than the amount of funds contributed by the counties in which the hospital resides. Per Mr. Earnest's proposal, these initiatives would be funded by each county dedicating an existing 1/8th tax increment (or its equivalent) to this program.

- See Enclosure 2 for a spreadsheet that illustrates the county contributions for the past three years, compared to the amount that the 1/8th GRT increment would equate to (\$566,385). The 1/8th increment is less than what the county has paid historically.

NMAC's counter-proposal is basically to obtain from each county an annual commitment for funding in an amount that would equal 1/16th GRT increment. (\$283,192) It would be the County's option as to how the funds were funded. i.e., GRT increment, general fund, mill levy. It would not be intercepted funds.

Based on NMHSD estimations, Lincoln County Medical Center would receive more funds, based on uncompensated care levels, than the County would contribute. That is not the case with a number of counties.

Both recommendations are merely recommendations at this time. However, legislation is a certainty. See Enclosure 3 for an e.mail correspondence from Steve Kopelman transmitting a memo and a request for information from David Abbey, Director of the Legislative Finance Committee. It is clear that Mr. Abbey thinks the Counties should be able to collectively contribute the \$36 million to the program, when in the past the collective total was \$56 million in FY12.

Recommendation: Consider opting into NMAC's counter-proposal, which would commit funding in the estimated amount of \$283,192 toward the state's new Safety Net Care Pool and rate increases for higher Medicaid rates; OR review the information at the January 14th Commission meeting.

Sole Community Provider Payments – Historically

- The program provided additional payments to support hospitals in New Mexico that are the principal or sole provider of hospital services in their service areas, as well as the primary point of access to health care for uninsured or indigent patients.
- Available funding generally grew every year, and payments reached \$278 million by FY11. Counties, since the program's inception, contributed matching funds for these payments. State general fund appropriations did not support this program.
- The program helped county governments meet their statutory obligations to provide or pay for the care of indigent patients in their counties.

Change and Transition in 2013

- At the end of 2012, the state faced a reduction in the amount of money available for hospitals under the Sole Community Provider Program.
- The change would have reduced payments by more than 70% -- from \$246 million to only \$69 million dollars for FY13.
- Recognizing the severe impact this reduction would have on hospitals, HSD proposed a new payment structure to the federal government (CMS) that resulted in payments in FY13 of \$159 million.
 - The state and the managed care organizations now participate in these payments
 - Counties continue to provide the state matching funds
- Payment structure serves as a bridge to new program starting in 2014.

Safety Net Care Pool and Hospital Rate Increase

- HSD negotiated with the Centers for Medicare and Medicaid Services (CMS), through the Centennial Care waiver, a replacement program and funding for this same set of hospitals.
- Beginning January 1, the Sole Community Provider Program is replaced by:
 1. Safety Net Care Pool – Payments to reduce uncompensated care (beginning Jan. 1, 2014) and hospital quality improvements (beginning 2015); \$68.8 million in 2014
 - \$68.8 million available for payments to address uncompensated care

- Requires a standard definition approved by CMS
 - UC pool payments focused first on smaller hospitals
2. Hospital rate increases for former SCP hospitals;
- \$120 million to \$130 million for higher Medicaid rates for former-SCP hospitals, increasing the amount they receive for inpatient services
 - Larger hospitals that do more Medicaid business benefit from this increase
- These changes will alter the distribution based on the amount of services provided by hospitals.
 - Individual hospital payments can no longer be tied directly to the amounts contributed by counties.
 - Instead tied more directly to the amount of care provided by those hospitals
 - To put these payments into effect, HSD needs a consistent, dedicated revenue stream. HSD cannot turn these payments on and off depending on a changing level of county support.
 - County funding is still necessary to continue supporting these hospitals.
 - Proposed dedicating an existing 1/8th tax increment, or the equivalent amount, to this program.
 - HSD, counties and hospitals working to find an agreeable county funding solution, because without a dedicated, consistent revenue stream, HSD cannot increase base hospital rates.
 - Dedicating an existing 1/8th tax increment, or its equivalent, would mean counties, in total, would contribute less money than they have historically.
 - And new general fund appropriations may be necessary to make up the difference, or the hospital rate increase would need to be lower.

Other Considerations and Benefits

- Medicaid expansion significantly reduces the burden on county indigent fund programs and reduces uncompensated care at hospitals. Coverage options through the health insurance exchange will do the same.
- Creates a stable, more predictable, and more transparent hospital payment structure.

	County Contributions Under the Sole Community Provider and UPL Programs			FY13 2nd 1/8th GRT Increment	FY13 3rd (1/8th) GRT Increment	Est. Rev. 1/16th	Estimated County Share for Additional Hospital Payments		
	Total SFY 11	Total SFY 12	Total SFY 2013				Estimated County Share for UC Payment	Estimated County Share for Base Rate Increase	Total Estimated Annual Need
BERNALILLO	-	-	-	18,272,920	18,272,920	9,136,460	-	-	-
CATRON	-	-	-	40,431	40,431	20,215	-	-	-
CHAVES	4,062,076	1,999,999	1,008,406	1,363,054	1,363,054	681,527	2,288,512	4,002,037	
CIBOLA	1,689,492	2,761,116	2,044,105	378,518	378,518	189,259	338,898	1,382,589	
COLFAX	212,252	199,814	135,974	335,777	335,777	167,888	105,548	849,273	
CURRY	792,219	763,375	941,884	1,180,719	1,180,719	590,360	1,632,423	1,849,872	
De BACA	-	-	-	27,079	27,079	13,539	-	-	-
DONA ANA	8,714,482	12,607,632	4,669,688	3,999,247	3,999,247	1,999,623	6,711,061	6,946,876	
EDDY	1,227,643	1,779,149	1,582,801	4,545,729	4,545,729	2,272,865	991,291	1,817,908	
GRANT	3,202,739	5,354,943	2,129,368	592,723	592,723	296,361	608,787	1,467,084	
GUADALUPE	1,084,155	1,603,442	1,276,743	85,581	85,581	42,791	17,045	556,759	
HARDING	-	-	-	-	-	-	-	-	
HIDALGO	14,272	21,023	10,860	70,541	70,541	35,271	-	-	
LEA	2,081,949	1,000,515	916,471	5,321,319	5,321,319	2,660,659	1,023,305	3,348,046	
LINCOLN	701,374	1,210,320	559,076	566,385	566,385	283,192	378,041	1,917,208	
LOS ALAMOS	701,087	837,301	253,079	1,510,774	1,510,774	755,387	290,493	421,177	
LUNA	834,281	878,443	529,107	357,825	357,825	178,913	1,493,368	1,780,007	
MCKINLEY	2,234,683	3,323,105	1,341,275	1,461,533	1,461,533	730,767	1,267,779	2,081,750	
MORA	-	-	-	41,032	41,032	20,516	-	-	
OTERO	867,910	1,224,341	705,551	1,080,300	1,080,300	540,150	498,306	775,800	
QUAY	989,103	1,603,822	835,684	176,588	176,588	86,294	1,014,739	1,063,316	
RIO ARRIBA	669,613	1,020,076	634,524	404,916	404,916	202,458	777,291	2,275,599	
ROOSEVELT	660,718	1,103,377	997,905	247,455	247,455	123,728	107,571	1,303,605	
SAN JUAN	5,558,809	9,119,658	3,679,568	4,272,983	4,272,983	2,136,492	2,161,448	2,161,448	
SAN MIGUEL	177,488	166,208	86,220	418,308	418,308	209,154	531,691	1,356,469	
SANDOVAL	-	-	-	1,676,568	1,676,568	838,284	-	-	
SANTA FE	5,840,732	2,264,282	1,451,424	4,062,166	4,062,166	2,031,083	3,341,791	3,341,791	
SIERRA	801,181	1,352,118	1,498,755	183,706	183,706	91,853	41,433	812,207	
SOCORRO	860,897	1,128,520	680,784	218,124	218,124	-	214,140	1,373,946	
TAOS	2,127,383	2,097,300	597,206	686,722	686,722	343,361	503,868	1,854,259	
TORRANCE	-	-	-	196,668	196,668	98,334	-	-	
UNION	730,346	1,239,390	820,438	120,469	120,469	60,235	42,759	387,053	
VALENCIA	-	-	-	771,855	771,855	385,928	-	-	
Total	46,836,883	56,659,271	29,386,895	54,449,892	41,100,907	27,224,946	21,217,911	45,106,079	

Bernalillo
Total
9,136,460
18,088,486

18,272,920
36,176,972

Nita Taylor

Subject: FW: Indigent Care--Response Needed!

From: Steve Kopelman [<mailto:skopelman@nmcounties.org>]

Sent: Monday, December 30, 2013 8:32 AM

To: Managers Affiliate; Health Care Affiliate

Cc: Executive Committee

Subject: Indigent Care--Response Needed!

The Legislative session is fast approaching, and the issue of financing the uncompensated care pool and sole community hospital base rate increase is far from resolved. On Friday I received the attached letter from David Abbey, the Legislative Finance Committee Director. David would like a summary of how counties have used the second 1/8th gross receipts tax increment. Section 7-20E-9.D of the New Mexico General Statutes reads, in part, that “[a] county...imposing the second one-eighth increment of county gross receipts tax shall be required to dedicate the entire amount of revenue produced...for the support of indigent patients who are residents of that county.”

I would appreciate if each county would provide the following information for FY 2013. Since time is of the essence I request that you respond no later than **January 3rd**:

Ambulance Services:	\$ <u>21,896.55</u> _____;
Sole Community Hospital:	\$ <u>1,371,889.88</u> _____;
Hospital (Out of County):	\$ <u>197,525.79</u> _____;
Mental Health:	\$ <u>93,086.89</u> _____;
Nursing Home/Rehab:	\$ <u>0</u> _____;
Hospice:	\$ <u>5,360.00</u> _____;
Substance Abuse/Rehab:	\$ <u>9,342.00</u> _____;
Community-Based— (Primary care, office visits, Prenatal, dental, labs)	\$ <u>56,015.77</u> _____;
Indigent Burials:	\$ <u>9,800.00</u> _____;
TOTAL:	\$ <u>1,764,916.88</u> _____.

In addition, please provide below any additional funds your county expended for your indigent care program including, without limitation, administrative costs (salary and benefits, operating and planning, etc.):

\$ <u>44,695.84</u> _____	.Salaries
\$ <u>8,552.48</u> _____	.Benefits
\$ <u>4,806.07</u> _____	.Operational
\$ <u>50,467.74</u> _____	.Care of Prisoners
\$ <u>108,522.13</u> _____	.TOTAL

Please contact me if you have any questions in responding to this survey. **Again, this information is crucial and we need your responses by January 3rd**. Thank you.

Steven Kopelman
Executive Director

Representative Luciano "Lucky" Varela
Chairman

Representative William "Bill" J. Gray
Representative Larry A. Larrafaga
Representative Henry "Kiki" Saavedra
Representative Nick L. Salazar
Representative Edward C. Sandoval
Representative Don L. Tripp
Representative James P. White

State of New Mexico
LEGISLATIVE FINANCE COMMITTEE

325 Don Gaspar, Suite 101 • Santa Fe, NM 87501
Phone: (505) 986-4550 • Fax (505) 986-4545

David Abbey
Director



Senator John Arthur Smith
Vice-Chairman

Senator Sue Wilson Beffort
Senator Pete Campos
Senator Carlos R. Cisneros
Senator Carroll H. Leavell
Senator Howie C. Morales
Senator George K. Munoz
Senator Steven P. Neville

December 23, 2013

Mr. Steven Kopelman, Executive Director
New Mexico Association of Counties
444 Galisteo Street
Santa Fe, NM 87501

Dear Steven,

I have been pleased at the continuing dialogue between the Association, the counties, the hospitals, the administration, and the legislature over financing a replacement for the Sole Community Provide (SCP) program. However, time is short before the 2013 legislative session, and I believe that an informed debate over the merits of the proposals to finance the uncompensated care pool and hospital provider rate increase is hampered due to a lack of information about county spending on indigent and uncompensated healthcare.

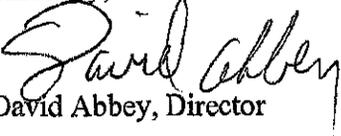
HSD data shows that county contributions toward SCP and upper payment limit programs exceeded \$46 million in FY11 and \$56 million in FY12, and yet the counties believe the \$36 million transfer requested by HSD, which would net \$192 million in federal funds, would be a hardship. Counties indicate that funds are needed for indigent services, despite the impending implementation of Medicaid expansion for adults. We need a comprehensive report on uses by county of the 1/8th gross receipts tax receipts by the start of the 2014 legislative session. We don't believe this would be difficult—Section 27-5-5.1 of the Indigent Hospital and County Health Care Act already requires an annual report on all indigent health care funded by counties.

This information would greatly assist all parties to understand care components that might not benefit from Medicaid expansion and for which other funding sources might be obtained. This in turn, might further relieve the counties from the burden of providing indigent care.

Letter to Mr. Steven Kopelman
Page 2 of 2, December 23, 2013

Thank you for your assistance.

Sincerely,


David Abbey, Director

DA/jl

Cc: Representative Luciano, "Lucky" Varela, Chairman, Legislative Finance Committee
Senator John Smith, Chairman, Legislative Finance Committee
Dr. Tom Clifford, Secretary, Department of Finance and Administration