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GOVERNOR

RICHARD MAY
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STATE OF NEW MEXICO
DEPARTMENT OF FINANCE AND ADMINISTRATION
LOCAL GOVERNMENT DIVISION
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Via E-Mail

MEMORANDUM # BFB-11-03

TO: New Mexico Municipal and County Officials Elected
To Serve As Members Of Local Governing Bodies:
Mayors, Council Members, Trustees, Commissioners

FROM: John A. Gallegos, Budget & Finance Bureau Chief
DFA, Local Government Division

DATE: May 17, 2011

SUBJECT: Laws 2011, Chapter 106 – House Bill 411

A handwritten signature in blue ink that reads "John A. Gallegos".

Effective July 1, 2012 the Secretary of the Department of Finance and Administration (DFA) is authorized by the newly enacted Section 9-6-5.2 NMSA 1978 to temporarily withhold certain specific tax revenue distributions in increment(s) up to five percent (5%) to counties and municipalities. This action will be taken upon notification by the State Auditor to the DFA Secretary that a municipality or county has not submitted an audit report in a timely manner as required by the Audit Act. This action by the DFA Secretary will also be taken upon notification by the DFA, Local Government Division (LGD) that a municipality or county has not submitted two consecutive (quarterly) financial reports as required by a new Section 6-6-2 G as it pertains to Section 6-6-2 F NMSA 1978. The status of past due audits and quarterly reports will be reviewed every three (3) months to determine if they have been caught up, if any progress is being made, or if further withholding of tax distributions is warranted. This newly enacted statute also provides for the DFA Secretary to direct the Secretary of the Taxation and Revenue Department to temporarily withhold distributions pertaining to the "amounts withheld, the source of the amounts and the period of time" subject to specified guidelines.

Municipal and county officials are encouraged to administer the budget and finances of their respective local governments in a business professional manner that will keep submission of audits and financial reports current as required by statute. Equally important, the LGD will be reviewing very carefully whether Fiscal Year 2012 proposed (preliminary) budget submissions by local governing entities have sufficient funding earmarked to finance required audits that are required under the statute. Please note that the budgeted amount for the audit line item is one of the required items of information on the budget cover letter.

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Although this new statute impacting audit compliance does not take effect until July 1, 2012, please be advised that the DFA, Local Government Division will be closely monitoring how local governing entities fulfill all statutory audit and financial report requirements throughout the Fiscal Year 2012 period. Lack of compliance in Fiscal Year 2012 period will likely have significant repercussions as required by the new statute after the July 1, 2012 effective date.

If there are any questions, please do not hesitate to contact your LGD Budget and Finance Analyst. Thank you for your immediate attention to this priority matter.

cc: Richard E. May, DFA Cabinet Secretary
Sam Ojinaga, DFA/LGD Acting Director
Honorable Luciano "Lucky" Varela, State Representative
Cathy Fernandez, LFC Deputy Director
Charles Sallee, LFC Deputy Director
Honorable Hector Balderas, State Auditor
Antonio Corrales, OSA Chief of Staff
Patrick P. Stewart, OSA Chief Investigator
John A. Carey, N.M. CPA Society President
Bill Fulginiti, N.M. Municipal League Director
Paul Gutierrez, N.M. Association of Counties Director
Jim Wastvedt, TRD GenTax Bureau Chief
JoAnn Chavez, TRD Financial Distributions Bureau Chief
John Duff, NMFA Chief Executive Officer
Rick Martinez, NMFA Chief of Client Services
Greg Campbell, NMFA Controller
Steve Gonzales, DFA/FCD Acting Director
Hubert Quintana, SNMEDD Council of Governments, Director
DFA, Local Government Division – Budget & Finance Analysts
Municipal and County Finance Officers