

# LEGISLATIVE DRAFTING MANUAL



# Legislative Drafting Manual



Legislative Council Service

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Legislative Drafting Manual  
Legislative Council Service  
411 State Capitol  
Santa Fe, New Mexico 87501  
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# FOREWORD

*The Legislative Drafting Manual has been written to help legislative employees and others to prepare bills, memorials, resolutions, amendments and other legislative documents in conformance with New Mexico legislative drafting style. The New Mexico drafting style is driven by a simple directive:*

***A law should be easily understood by those who must enforce or administer it and by those who must abide by its provisions.***

To make the jobs of writing, administering and obeying legislation simpler, if not easier, the New Mexico Legislative Council has adopted a uniform style of format and usage. The Constitution of New Mexico provides certain phrases and styles that must be used; the rules of the New Mexico Legislature provide others. Custom, economy of effort and ease of use provide the basis for other guidelines.

The conventions, formulas and rules that bill drafters adhere to will not guarantee a well-drafted law. The Legislative Council Service believes, however, that these conventions, formulas and rules do contribute to the efficiency with which the legislature is served and to the readability of the law.

This manual will not provide the answer to every drafting circumstance; however, a clear understanding of New Mexico law and New Mexico drafting style may help a drafter think through uncharted territory. When in doubt, consult the Legislative Council Service assistant director for drafting or a senior staff attorney.

The *Legislative Drafting Manual* is divided into two major sections. Chapters 1 through 11 contain the explanatory text; appendices at the end of the manual cover several subjects in greater detail than provided in the chapters. In addition to the forms for types of legislation, the manual discusses common forms for other documents frequently used by the legislature.

Complete samples of bills, memorials, resolutions and other legislative documents are provided in the *Legislative Document Sample Book*. It is recommended that the *Sample Book* be used in conjunction with the *Legislative Drafting Manual*.

Many citations used in this manual are fictitious and the whimsical text of some of the examples has been included by the author only to illustrate certain points.

# CHAPTER 1: BILLS — DRAFTING GUIDELINES AND BILL PREPARATION

*Legislative drafting is more art than science. It is not possible to set forth a succession of steps that, if followed, will produce a good bill draft. Substance, objectives and legislative tactics often dictate the form and style of a bill draft. The drafter may select from among several alternatives the particular approach that will best accomplish the goal of the requester. Like an artist, the drafter must master the tools and materials of the drafter's art, and this is the purpose of a drafting manual.*

## ***Drafting Guidelines***

Before putting pencil to paper or fingers to keyboard, a drafter should read the pertinent constitutional, statutory and legislative rule provisions governing legislation, including the compiler's notes, court decisions and attorney general opinions.

The *Legislative Drafting Manual* builds upon that framework to provide drafters with suggestions for preparing certain recommended forms. It attempts to give the shortest, most efficient phrases for the most common types of legislation used in New Mexico. This manual does not attempt to discuss fundamental problems such as limits to delegated authority, types of administration that have proven most successful or other similar substantive matters. It is assumed that the drafter knows the subject matter of the request and the administrative facilities that the law will rely on, either through study or from prior knowledge or instructions given by the requester. A few generally recognized, basic guidelines are set forth below in the hope that they will prove helpful to new drafters and will serve as a reminder to experienced drafters.

**Write short and uncomplicated sentences.** The goal of the drafter is to write clear, concise language. Lengthy and tortured sentence structure has proven to be problematic with respect to many laws. Witness, for example, this 1865 proposed amendment made in Parliament by an eminent Queen's counsel:

*"Every dog found trespassing on inclosed land unaccompanied by the registered owner of such dog or other person who shall on being asked give his true name and address may then and there be destroyed by such occupier or by his orders."*

This sentence raises more questions than it answers. Does the dog have to give his true name and address? Will the owner or other person be destroyed then and there? If the dog is unaccompanied, who is the shooter talking to?

It has been suggested that this type of writing may be traced to a time when the drafter and copyist were paid by the number of words in a bill. In recent times, however, it is more likely a holdover of legal drafting of contracts. **Contract language does not serve the purpose of bill drafting.**

**Use appropriate words and avoid the use of jargon whenever possible.** The words of the English language are the tools of the drafter's art. Absolute precision with the language is an impossible goal and sometimes complex policies cannot be expressed in simple terms; however, the drafter has a better chance of getting the point across if everyday words are used in their everyday meaning.

**Write to be understood by those who are supposed to administer or obey the provisions of the law.** Most laws must be administered by some authority, and the language should clearly indicate to that authority what it is expected to do. If the law will affect citizens who need to know what they are expected to do or refrain from doing, they, too, must be able to understand the law.

Most of the groups for which the drafter writes are not necessarily trained in the law. However, if these groups understand the law, there will be less need for it to reach the courts for interpretation. If the drafter makes the law clear to those who are supposed to understand the law, it is less likely that the courts will be required to interpret it; and, if it is required, the interpretation will be easier.

**Be consistent in the use of language throughout the bill.** Do not use the same word or phrase to convey different meanings; do not use different words to convey the same meaning. Such unnecessary changes merely create doubt and confusion. The law does not like synonyms. Although drafting often requires creative solutions, it does not require creative writing. Note the following admonition from the New Mexico Court of Appeals:

We note that the Act refers in various places to "taxpaying electors of the district," § 73-21-9(H), "taxpaying electors residing within the boundaries of the district," § 73-21-9(F), "qualified electors," § 73-21-15(B) (those who vote on whether to expand board to five members); and "qualified taxpaying electors of the districts," §§ 73-21-28 and -31 (those who vote on bonded indebtedness). **Such variation does not bespeak great care in drafting.** *Hughes v. Timberon Water & Sanitation Dist.*, 1999-NMCA-136, 128 N.M. 186, 991 P.2d 16.



**Be consistent in the arrangement of comparable provisions.** Arrange provisions in the same way as provisions are arranged in sections of the bill containing similar material.

**Avoid gender-based language.** Use gender-neutral terms when possible, such as "worker" for "workman" or "drafter" for "draftsman". Avoid gender-based pronouns by omitting them, rewriting the sentence or repeating the noun.

**Use definitions sparingly.** Other than administrative terms, which are defined for ease of use, a word should be defined only if the drafter is actually adding to or subtracting from the ordinary dictionary meaning of the word, since it is superfluous to enact into law the common dictionary meaning. In constructing a definition, the drafter is cautioned against straying from the path of logical thought. Perhaps a deviation from such logic produced this definition of a new building: "any building pulled or burnt down to or within ten feet from the surface of the adjoining ground". Another example in New Mexico law defined a motor boat as "any vessel propelled, or designed to be propelled, by sail".

**Take care when drafting powers and duties.** A duty could be incomplete without some form of sanction. To require an act without the sanction could undercut the effectiveness of the law. Penalties should be sufficient but not excessive, and they should bear some relevance to the degree of the offense. Ensure that penalties do not duplicate or conflict with other penalties.

**Write general provisions to apply in most cases.** Most requests are for general legislation. It is not possible to anticipate all exceptions or to preempt all legal arguments. The drafter is urged to resist the temptation to write an answer to every possible imagined argument against the bill; it makes for tortured writing and unreadable legislation.

**Consider separation of powers.** The drafter who puts administrative detail in a bill may create a separation of powers problem. The New Mexico Supreme Court has ruled that the New Mexico Legislature cannot impinge on the executive management function. Thus, the drafter should avoid micromanagement in legislation. Usually, the goal of legislation is to require a state agency or an entity to dot its "I"s and cross its "T"s, not how to draw the dot and

the cross. Also, keep in mind that a definition of "state agency" and the subsequent use of "each state agency" or "all state agencies" may inappropriately subject a state agency to the management of a different branch of government.

In like manner, the Supreme Court strongly guards its judicial power to determine rules of procedure for itself and the lower courts. The drafter should inform the requester of potential issues pertaining to the request, particularly separation of power issues, which could diminish the legislature's constitutional powers and duties.

Legislative Council Service staff should remember the importance of protecting the legislature as an institution, especially when drafting legislation that could inadvertently give away legislative powers, duties or responsibilities. Staff should keep in mind this provision in the enabling legislation of the Legislative Council Service:

Notwithstanding the availability of the legislative council service to the various departments, institutions and agencies of this state, it is a part of the legislative branch of the government, and **shall conduct itself with strict regard to the division of powers** among the legislative, executive and judicial branches of the government of this state.

**Avoid blind legislation**, particularly amendment by reference. While the courts have held that procedural law may be adopted by reference, substantive law cannot be amended in another section of law solely by reference to a Comp number or bill section number. (The Constitution of New Mexico does provide an exception for reference to the federal Internal Revenue Code of 1986.) Blind legislation includes not only amendment by reference but other choices made by the drafter that violate a basic tenet of bill drafting, which is that the purpose of a bill draft is to clearly inform the legislature what changes in the law are being proposed. Be aware that repeal and reenactment can be a form of blind legislation because only the new language will be shown; the old language will be deleted, not bracketed.

**Limit the bill to one subject.** The Constitution of New Mexico forbids passage of bills embracing more than one subject, with limited exceptions. The way in which the drafter expresses the idea of a bill in the title can lead to a court challenge under this prohibition, which could be avoided with a little more care. An act relating to divorce and annulment might be considered as covering two subjects, but an act relating to dissolution of marriage relates to a single subject.

**Beware of taking a provision of law out of context and placing it in a bill draft.** The lifted provision, particularly one taken from a different body of law, may lose its meaning and assume another, unintended result when transplanted. This is particularly true with defined terms, which have meaning only within the context of the specific act that defined them.

**Beware of copying from the laws of other states.** Do not lift the provisions of other state laws wholesale and place them in proposed New Mexico laws. Imagine the perplexity of the reader upon learning that one condition of licensure in New Mexico was the payment of the Michigan gross receipts and sales tax. Simply changing the name of another state to "New Mexico" will not work.

**Understand the drafting process.** A bill draft is an active instrument of government for the achievement of a desired purpose. It is both the statement of the objective and the first move toward the attainment of that objective. The drafting process is not an abstract process equally valid for every bill. Each bill has its own basic guiding principle to which the drafter must identify and adhere — otherwise, the bill will fall short of its purpose. However, bill section order, standard phrases and other legislative style rules must be fully understood before they are disregarded. **If a drafter needs to violate the rules, the drafter should be able to explain why it is important to do so.**

## ***Bill Preparation***

After a bill has been drafted, typed and proofread, it is prepared for introduction. In the Legislative Council Service, copies of the original draft are reproduced and one copy is bound

in the appropriate printed bill jacket (yellow for House, blue for Senate). This copy becomes the "original bill". The rules of each house specify the number of copies that must accompany the original bill when it is introduced. Only the original is jacketed. In addition, the Legislative Council Service provides one copy for the legislator and three copies for the file. One file copy is the "delivery copy", which notes when the bill was delivered, to whom it was delivered and by whom. The extra introduction copies are distributed by the appropriate chief clerk after the bill is introduced.

### ***Introduction of Bills***

Only legislators can introduce bills. After a bill has been drafted and prepared for introduction, it is presented to the chief clerk in open session and is assigned a sequential number. The reading clerk reads it twice by number and title along with the name of the principal sponsor. The presiding officer orders it printed and assigns it to one or more appropriate standing committees for consideration.

In 2007, the legislature amended Joint Rule 10-1 **to prohibit dual introduction of interim committee and state agency bills, resolutions and memorials**. The rule directs the Legislative Council Service to prepare such legislation for introduction in one house only. Joint Rule 11-1, also adopted in 2007, allows for co-sponsorship of legislation by members of the other house. A senator, for example, may co-sponsor a House bill by filing a written notice in open session with the chief clerk of the House prior to third reading. The names of the sponsor and co-sponsors of all bills, resolutions and memorials shall be shown on the face of the enrolled and engrossed legislation.

### ***Prefiling Bills***

The House of Representatives has had a prefiling rule since 1989, although it was rarely used until the Senate approved a prefiling rule in 2007. Both House and Senate rules now allow for prefiling before any regular session. **The prefiling period for both houses is between December 15 and the Friday before the regular session begins.**

## ***Printing of a Bill***

After introduction, a bill is printed by the State Printing Office during regular sessions and the Legislative Council Service Print Shop during special sessions. Bills are printed uniformly with numbered lines, on three-hole pre-punched paper that fits the binders supplied to legislators, standing committees and staff.

## ***Referral to Committees***

After its introduction, a bill is referred to one or more standing committees. The bill is given a hearing before the committee, then is reported to the floor with the recommendation of the committee. If the committee recommends amendments to or substitution of the bill, the committee report will note that action. Committee reports are subject to adoption by the full House or Senate. With the adoption of a favorable committee report from the last committee, the bill is placed on the calendar for third reading and final passage. *See* Chapter 6: Amendments for further discussion of committee reports.

## ***Final Passage of a Bill***

When a bill has been placed on the calendar for third reading, members debate its pros and cons in open session. The bill may be further amended at this stage by floor amendment, or a new bill may be substituted by floor substitute. Following debate, the final vote is recorded. If the bill passes, the original bill with all of its attachments is delivered to the chief clerk of the other house. There, it goes through a similar process — introduction, committee referral, committee action and, if favorable, final passage. If the second house amends the bill, the bill must be returned to the originating house for its concurrence with the amendments. If the second house substitutes the bill, the originating house cannot just concur with the changes made by the substitute, but must treat the substitute as a new bill.

## ***Enrolling & Engrossing a Bill***

If a bill passes both houses of the legislature, the introduced bill with all of its attachments (amendments and committee reports) is delivered to the appropriate committee, in the house of origin, that is responsible for enrolling and engrossing it. The enrolling and engrossing process, informally called E&E, consists of removing bracketed material, deleting underscoring and

conforming the bill to the instructions provided in adopted amendments. The bill is checked and prepared in final form. The E&E bill is signed by the officers of both houses and delivered to the governor for final action. After the session, the original bill with its attachments is filed in the Office of the Secretary of State as a subject of historical interest; the legal authority for the measure has now passed to the E&E bill. *See* Chapter 6: Amendments for further discussion of enrolled and engrossed bills.

### ***Action by the Governor***

The governor may sign a bill, veto it or refuse to act on it. If the governor fails to act on a bill received before the last three days of a session (Sundays excepted), it becomes law without the governor's signature, as long as the legislature is still in session. The governor has 20 days after the session has ended to act on those bills sent to the governor during the last three days of the session and those sent after the session has adjourned. If the governor does not sign or veto those bills within the 20-day limit, they are considered to be vetoed (pocket veto).

### ***Assignment of Session Law Chapter Numbers***

After the governor signs a bill, it is sent to the Office of the Secretary of State. The secretary of state assigns the next available chapter number and the act becomes part of the session laws for that year.

### ***Zoos***

The Legislative Council Service maintains an electronic database of every compiled section of New Mexico law, with hard copies on 8½-inch by 11-inch paper that are kept in individual files in the records room. This database is referred to as the "zoo", the sections of law as "zoos" and the person in charge of updating the zoos after each session as the "zookeeper". The zoos are "pasted up" from the enrolled and engrossed version of the laws by proofing staff and added to the zoo database by word processing staff.

These files are called zoo files because the zookeeper uses a rubber stamp of an animal to designate the official original copy of the section of law. Each zoo is stamped on the top of

each page and at the end to denote the end of a section. The purpose of the zoo is to provide drafters with "ready-made sections" of existing law that can be plugged into bills to amend existing law and to aid the word processing staff by providing existing law in WordPerfect.

Each zoo file contains the paste-up taken from the enrolled and engrossed chapter of session law and the original copy created by word processing staff from the paste-up. The original has a red stamp on the top of each page and at the end of the section. The original is photocopied, which means the stamps on the copies will be black. The copies with black stamps may be used by drafters. The original (red stamp) must remain in the zoo file. Drafters usually print zoos from their computers (using the Print Zoo function) rather than pulling copies from the zoo files.

## ***202 Files***

When a drafter receives a request from a legislator, an interim or standing committee or a state agency, the drafter fills out a **202 request in the 202 database** on the drafter's computer. The database assigns the next available 202 number to the file. A file folder label is produced in the Records Office that includes a brief subject heading, the date, the requester's name and the 202 number. The file is then returned to the drafter, who prepares the bill draft or other request.

Many documents written by the drafters of the Legislative Council Service are assigned a file number. Most files in the 202 series are requests for bill drafting and information memoranda. The 202 series number will be followed by a sequential six-digit number, e.g., 202.963501. On a bill, the 202 number will be found on the bottom of every page and will start with a period followed by the six-digit number and the point version, e.g., .195661.2.

## ***Confidentiality and Neutrality***

In addition to the other constitutional and statutory provisions, the Legislative Council Service drafter must be familiar with Chapter 2 NMSA 1978, which covers the legislative branch. Of special import are the confidentiality and neutrality provisions of Section 2-3-13 NMSA 1978:

*Neither the director nor any employee of the council service shall reveal to any person outside of the service the contents or nature of any request or statement for service, except with the consent of the person making such request or statement. They shall not urge or oppose any legislation, nor give to any member of the legislature advice concerning the economic or social effect of any bill or proposed bill except upon the request of such member.*

Unless authorized by the requester, the fact of a request is as confidential as the content of the request, which includes the name of the requester and the particulars of the request. The drafter should discuss confidentiality with the requester to determine what degree of confidentiality is to be maintained on the file.

A Legislative Council Service drafter is generally prohibited from supporting or opposing legislation. The one exception to this rule is when a drafter is assisting the sponsor of legislation that is recommended by an interim committee staffed by the drafter; in that case, the drafter may express a supportive opinion before a standing committee. In all other cases, when requested to testify on technical points of a bill, the drafter is required to read the Legislative Council Service staff member's disclaimer, which is distributed to all drafters before session by the assistant director for drafting.





## CHAPTER 2: SESSION LAWS, NMSA 1978, HISTORIES AND CITATIONS

*New Mexico statutes are published in two forms: the session laws and the New Mexico Statutes Annotated, 1978 Compilation, known as "the Compilation" or more commonly as "the Comp" and referred to as NMSA 1978 in statutory and other references.*

### ***Session Laws***

After each session of the legislature, all bills enacted into law are published in a volume entitled "Laws of New Mexico, (year)". These volumes are known as the "**session laws**". The laws are printed in the numerical sequence in which they are received and assigned chapter numbers by the secretary of state.

### ***The Comp — NMSA 1978***

The **NMSA 1978** (the Comp) is a series of volumes in which most session laws are compiled and assigned chapter, article and section numbers by subject matter. The Comp is available in

## ***New Mexico Statutes Annotated, 1978***

Various compilations of New Mexico law have been made, starting in 1880. The present compilation is the *New Mexico Statutes Annotated, 1978 Compilation*. It is referred to formally as the *NMSA 1978* and informally as "**the Comp**". Keep in mind that the Comp is not the law, but an annotated compilation of the law, organized by topic. When drafting legislation, drafters use the enrolled and engrossed version of the law (sections from our zoo database), not the Comp. The Comp just tells the drafter where to find the latest version of the law — in what chapter and section of a session law year.

**If you find an error in the NMSA 1978**, bring it to the attention of the LCS librarian and the proofing supervisor, who will notify the assistant director for drafting services and the compiler. Each LCS printed set of comps will need to be marked.

print format (red books) and electronic format via the New Mexico One Source of Law (One Source). The compiler updates the printed Comp by providing supplemental pamphlets following each session or, if a particular pamphlet has been changed extensively, by providing a replacement pamphlet. In the absence of instructions by the New Mexico Legislature, the compiler not only decides the order in which sections will appear in the Comp, but also determines which sections, because of their temporary nature, will not be compiled. The compiler annotates the text of compiled sections by bracketed notes, which are not part of the law. One Source is updated seamlessly without supplements.

In New Mexico, there is a very real difference between the law and the Comp. The NMSA 1978 is not the law; it is solely an annotated compilation of the law. It is a research tool that makes it easier to find the law. Prior to 1965, even the printed session laws were not the ultimate source of the law, because they were typeset from the E&E version of the law. If a conflict arose between the session laws and the E&E version, the E&E controlled. After 1965, the session laws were photographically reproduced from the E&E bills, and so were an exact duplicate. Now, the E&E version is transferred electronically to the compiler.

Only the session laws contain the full, complete and authentic copy of every law enacted, including temporary provisions. The Comp contains only substantive legislation that is intended to last longer than one or two years; ephemera such as appropriations, property transfers, effective dates and other temporary provisions are not compiled. Certain acts, such as the general appropriation act, House Bill 2; the feed bill, House Bill 1; and capital

outlay bills, are not compiled. Because it is not the source, but the resource, of the law, the Comp cannot be used for drafting purposes. **This is a paramount rule in drafting: do not draft from the NMSA 1978.** Previously, the only exception to this rule was that proposed amendments to the Constitution of New Mexico were drafted from the Comp because that was the only official published source. Now, sections of the constitution are available in the Legislative Council Service's zoo database. The zoo database includes every compiled section of law and every section of the Constitution of New Mexico. Drafters should use these zoos in drafting bills and constitutional amendments.

## ***Organization of the Comp***

All volumes of the printed Comp have cream-colored, tabbed divider cards labeled by chapter and subject and white supplement divider cards with red tabs. Each chapter will have one or more brown-covered pamphlets labeled as original or replacement pamphlets; replacement pamphlets will specify what year they were replaced. Behind *each* brown-covered pamphlet, whether original or replacement, is a supplement divider card. Regardless of whether there is a supplement for a given year, the supplement divider card should remain behind the brown pamphlet. Supplements are distinguished from regular pamphlets by not having a card stock cover; on the front is the year of the supplement and the chapter, subject and pamphlets to which the supplement relates. At the front of each volume is a colored annual contents card that lists the pamphlets and their supplements; the contents card is a different color each year. Behind the contents card of Volume 1 is the preface and the user's guide; other volumes have a table of chapters for the entire Comp, list of abbreviations and the particular volume contents. The drafter needs to be familiar with the information in the user's guide in order to properly use the Comp.

## ***Compiler's Notes***

The compiler frequently inserts reference citations in brackets following a citation in the law when an act refers to another act or to a different section of the same act. For example, if the law reads: "Any violation of Section 3 of this act. . .", the compiler will insert the corresponding Comp number in brackets as follows:

***Example: Compiler's Note***

"Any violation of Section 3 [17-15-3 NMSA 1978] of this act [17-15-1 to 17-15-16 NMSA 1978]. . .".

This practice, while helpful in using the Comp, includes language in brackets that the Legislature did not enact. In One Source, the referenced section is usually set up as a hyperlink. The compiler will correct typographical errors in the law by bracketing the correct spelling or will supply a word to clarify a section (e.g., ". . .provide for [the] actual cost. . ."). In at least one case, the New Mexico Supreme Court interpreted one word to be another and the compiler inserted the court's word after the word enacted by the legislature.

If the drafter is satisfied that the compiler's notes are necessary and correct, the changes should be incorporated into the bill by the appropriate use of brackets and underscoring. *See* Chapter 4: Bills — Legislative Actions for more about brackets and underscoring. This allows the legislature to decide whether the changes should be enacted into law. If a bill is enacted without a section heading, the compiler usually inserts one in brackets. The drafter may use the compiler's heading or may write a new heading when amending the section; in either case, the heading is underscored as new language. Often, such changes are pre-marked in the zoo of the section with an accompanying drafter's note.

***1953 Citations***

Drafters must be aware of the dangers of drafting from the Comp. The compiler may insert corrections and clarifications in brackets in sections of law in the Comp. These insertions are not law. It is not sufficient simply to remove any bracketed information in the section. The drafter should be aware that there are other compiler's changes that are not identified by any typographical distinction. For example, the compiler automatically converts pre-1978 short title references into NMSA 1978 numbers without brackets or other notation.

***Example: 1953 Citations***

Comp Revision: Sections **31-1-1 through 31-3-9 NMSA 1978** may be referred to as the "Criminal Procedure Act".

Session law: Sections **41-1-1 through 41-1-6 NMSA 1953** may be referred to as the "Criminal Procedure Act".

These sections were enacted in 1972 and have not been amended since the NMSA 1978 came into effect. To amend this section correctly, the drafter must bracket the 1953 Comp numbers and underscore the NMSA 1978 Comp numbers. The only way to know this is necessary, however, is to draft from the session laws (zoos). Most of these zoos have been marked and include drafter's notes.

There may be typographical errors in the NMSA 1978 that do not appear in the law; by drafting from the Comp, the drafter will correct a word that is not incorrect in the law. Typographical errors in the Comp must be checked against the session laws.

A bill proofread by the Legislative Council Service will be proofed against the E&E version in the form of "zoo files" in the zoo database, which has electronic copies of all compiled sections of law. Uncompiled sections of law are proofed against the session laws.

## ***Compilations***

Included in the history of certain sections of the Comp are references to earlier compilations, such as the Compiled Laws of 1884 (C.L. 1884), the Compiled Statutes of 1929 (C.S. 1929), the 1941 Compilation (1941 Comp.), the 1953 Compilation (1953 Comp.) or Code 1915.

### ***Code 1915***

Although appearing in a section's history, references to the compilations in the history do not refer to amendments to the cited law, **except for references to Code 1915** (*see* examples on next page). The changes to previous law by the 1915 recodification/compilation were so extensive that

## ***Compilation List***

In the Comp, you may see references to the following earlier compilations.

**C. L. 1884** — Compiled Laws of 1884

**C. L. 1897** — Compiled Laws of 1897

### **Code 1915**

**C. S. 1929** — Compiled Statutes of 1929

**1941 Comp.** — 1941 Compilation

**1953 Comp.** — 1953 Compilation

The current compilation is:

**NMSA 1978** — New Mexico Statutes Annotated 1978

The volumes of the Comp are kept current each year either by supplements, which are found at the end of each pamphlet, or by issuance of new pamphlets. When looking for a Comp number in the Comp, **you must always check the supplement first.**

One Source does not have supplements. It is updated after session and shows current sections.

the code is assumed to have amended all previous law. Therefore, a reference to Code 1915 is considered an amendment.

As a historical note, it appears that the same was true for the 1865 revised statutes. (*See In the Matter of Watts* 1 NM 541 (1872), which was a probate case.)

***Example: Being Laws — Section 4-3-3 NMSA 1978, as amended by Code 1915***

History: Laws 1899, ch. 3, § 8; **Code 1915, § 1066**; C.S. 1929, § 33-303; 1941 Comp., § 15-303; 1953 Comp., § 15-3-3

Correct citation: Section 4-3-3 NMSA 1978 (being Laws 1899, Chapter 3, Section 8, as amended)

***Example: Being Laws — Section 19-3-3 NMSA 1978, as amended by Code 1915***

History: Laws 1851-1852, p. 274; C.L. 1865, ch. 86(2d), § 1; C.L. 1884, § 2751; C.L. 1897, § 3745; **Code 1915, § 4634**; C.S. 1929, § 111-107; 1941 Comp., § 8-303; 1953 Comp., § 7-3-3

Correct citation: Section 19-3-3 NMSA 1978 (being Laws 1851-1852, p. 274, as amended)

Code 1915 **did not** enact section headings (*see* Code 1915, p. 1665). To find out if an old section of law has a section heading, the best way is to check the session law; in this example's case, by going back to the 1851-1852 laws. The other way is to check the NMSA 1978 to see if the heading is in brackets, which indicates that the compiler has written it for purposes of the compilation. If a heading has never been enacted, one must be written and underscored in the draft to show that it is new language. The drafter may use the compiler's heading or draft one.

The laws of 1915 were enacted after Code 1915; therefore, a section history that began in 1915 will only have "as amended" if there was an amendment after 1915.

## *Citation of New Mexico Law*

When amending existing law or repealing and reenacting a section, the lead-in to the section cites the Comp number, followed by the original session law enactment in parentheses (being Laws...).

### *Comp Numbers*

A Comp number is a three-part number that starts with the **Comp chapter number** (which has no relation to the chapter number assigned to acts in the session laws), followed by the **article number**; and ends with the **section number**. For example, Section 2-3-4 NMSA 1978 means **Chapter 2, Article 3, Section 4** of the Comp.

When citing a Comp number, always start with the word "Section". In the lead-in of a section of a bill draft, the Comp number will be stated as Section 2-3-4 NMSA 1978. However, after the colon and quotation marks before the section heading of a section of the bill draft, the Comp number will appear only as "2-3-4". Review the following example.

#### *Example: Comp Number in Bill*

```
10 | SECTION 6. Section 7-1-2 NMSA 1978 (being Laws 1965,  
11 | Chapter 248, Section 2, as amended) is amended to read:  
12 | "7-1-2. APPLICABILITY.--The Tax Administration Act  
13 | applies to... "
```

The history of the section must be shown parenthetically in the lead-in. If the section has been previously amended, it must be indicated as shown in the following examples.



***Examples: Being Laws — Not Amended & Amended***

SECTION 1. Section 2-3-10 NMSA 1978 (being Laws 1967, Chapter 271, Section 2) is amended to read:

\* \* \*

SECTION 7. Section 1-2-3 NMSA 1978 (being Laws 1886-1887, Chapter 15, Section 3953, as amended) is repealed and a new Section 1-2-3 NMSA 1978 is enacted to read:

Repeal sections must also cite the Comp number and its history, but that is done in the body of the section, not in the lead-in.

***Example: Being Laws — Repeal Section***

SECTION 1. REPEAL.--Section 2-3-10 NMSA 1978 (being Laws 1967, Chapter 271, Section 2) is repealed.

***Histories***

The history of a compiled section is obtained by finding the latest incarnation of the section in the Comp. The drafter must first look for the section in the supplement. If it is not there, the drafter should look in the original or replacement pamphlet. Directly under the text of the section is the **History**, which gives the sequence affecting that particular law from the year of original enactment through all subsequent amendments. It is important for the drafter to understand the history of the section, in part to ensure that the correct version is being inserted into a bill. In the Legislative Council Service, the Proofing Office verifies histories.

A law is cited parenthetically by the original session law year, chapter and section.

***Example: Being Laws — Section 14-59-2 NMSA 1978***

History: Laws 1968, ch. 68, § 2

Correct citation: Section 14-59-2 NMSA 1978 (being Laws 1968, Chapter 68, Section 2)

If the law was subsequently amended, the words "as amended" must follow the citation, regardless of the number of times the section has been amended.

***Example: Being Laws — Section 14-59-2 NMSA 1978, As Amended***

History: Laws 1968, ch. 68, § 2; **1973, ch. 72, § 4; 1976 (S.S.), ch.14, § 1**

Correct citation: Section 14-59-2 NMSA 1978 (being Laws 1968, Chapter 68, Section 2, as amended)

***Assignment of Comp Numbers***

Until recently, when a history in the Comp began by citing an NMSA, e.g., "1978 Comp., §" or "1953 Comp., §", it meant that the Comp number was assigned by the legislature, not the compiler. After about 2004, the compiler stopped noting whether a Comp number was assigned by the legislature.

**The following history shows that the drafter assigned the Comp number** when the drafter wrote the section in 1986. Notice also that the 2003 drafter recompiled Section 22-2-8.2 NMSA 1978 as Section 22-10A-20 NMSA 1978.

***Example: Section 22-10A-20 NMSA 1978 — Drafter-Assigned Comp Number***

History: **1978 Comp.**, § 22-2-8.2, enacted by Laws 1986, ch. 33, § 3; 1987, ch. 320, § 1; 1988, ch. 105, § 1; 1990 (1st S.S.), ch. 3, § 1; 1991, ch. 85, § 1; 1992, ch. 86, § 1; 1993, ch. 226, § 5; 1993, ch. 228, § 1; 1994, ch. 109, § 1; recompiled and amended as 1978 Comp., § 22-10A-20 by Laws 2003, ch. 153, § 51

Correct citation: Section 22-10A-20 NMSA 1978 (being Laws 1986, Chapter 33, Section 3, as amended)

The compiler has the right to reassign a drafter-assigned Comp number if deemed necessary. For example, in 1998, a section on appeal of final decisions by state agencies was enacted as Section 12-8A-1 NMSA 1978. The compiler thought the section should be in Chapter 39 NMSA 1978, which is about judgments, costs and appeals, so the section was recompiled as Section 39-3-1.1 NMSA 1978. **Drafters are strongly discouraged from assigning Comp numbers.** See Appendix B for a discussion of assignment of Comp numbers.

## ***Unusual Histories***

The following are **examples of unusual history citations**:

### ***Example: 1953 Enactment — Section 3-29-1 NMSA 1978***

History: 1953 Comp., § 14-28-1, enacted by Laws 1965, ch. 300.

Correct citation: Section 3-29-1 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-28-1)

### ***Example: Duplicate Enactment — Section 1-4-5.1 NMSA 1978***

History: 1978 Comp., § 1-4-5.1, enacted by Laws 1993, ch. 314, § 7 and by Laws 1993, ch. 316, § 7; 1997, ch. 209, § 1.

Correct citation: Section 1-4-5.1 NMSA 1978 (being Laws 1993, Chapter 314, Section 7 and Laws 1993, Chapter 316, Section 7, as amended)

Duplicate enactments used to be extremely rare, but they are becoming more common as the legislature passes more and more duplicate bills and the governor signs them.

## ***Multiple Amendments in the Same Year – Reconciling Zoos***

In the following example, the recitation of all the 1990 amendments lets the legislature know that something unusual has happened. Unless irreconcilable, all of the 1990 versions of Section 7-1-2 NMSA 1978 are construed together until the section is amended again, and the long history allows the legislature to track the versions. Traditionally, the bill draft would amend the section by using the 1990, Chapter 125 E&E version as the base and incorporating all of the 1990 amendments to that section. As of 2013, pursuant to Section 12-8-1 NMSA 1978, the New Mexico Compilation Commission, after consultation with the Legislative Council Service, will set out the reconciled version of the section in the Comp. The zoo will be marked as needed by the Zoo Reconciliation Committee, and an explanation will be provided in a drafter's note. Reconciled zoos have a "REC" designation in the upper right-hand corner. If a provision cannot be reconciled, it will be absent from the text when the section is amended and the drafter should repeal that section of the session laws. That action must be stated in the title of the bill. *See* Chapter 3: Bill Basics, *Reconciled Zoos — Notification of Conflicts Required in Title* for an example of stating the repeal of conflicting amendments. *See* the *Legislative Document Sample Book* for more on reconciled zoos.

***Example: Multiple Amendments in Same Year — Section 7-1-2 NMSA 1978***

History: 1953 Comp., § 72-13-14, enacted by Laws 1965, ch. 248, § 2; 1966, ch. 54, § 1; 1969, ch. 156, § 1; 1971, ch. 276, § 3; 1973, ch. 346, § 1; 1974, ch. 13, § 1; 1975, ch. 301, § 1; 1978, ch. 182, § 22; 1979, ch. 144, § 2; 1982, ch. 18, § 1; 1983, ch. 211, § 3; 1985, ch. 65, § 1; 1986, ch. 20, § 2; 1987, ch. 45, § 20; 1987, ch. 268, § 1; 1988, ch. 71, § 1; 1988, ch. 73, § 1; 1989, ch. 263, § 1; 1989, ch. 325, § 1; 1989, ch. 326, § 10; 1989, ch. 327, § 1; **1990, ch. 86, § 1; 1990, ch. 88, § 1; 1990, ch. 99, § 45; 1990, ch. 124, § 12; 1990, ch. 125, § 1**

Correct citation: Section 7-1-2 NMSA 1978 (being Laws 1965, Chapter 248, Section 2, **as amended by Laws 1990, Chapter 86, Section 1 and by Laws 1990, Chapter 88, Section 1 and by Laws 1990, Chapter 99, Section 45 and by Laws 1990, Chapter 124, Section 12 and also by Laws 1990, Chapter 125, Section 1**)

***Repeal and Reenactment Histories***

The compiler has changed the history line for sections that have been repealed and reenacted. Before about 2006, when a section was repealed and reenacted, the prior history was deleted and the history of the section began anew with the reenactment. Now, because of database links with parallel tables and other sources, prior histories are saved in the history line.

***Examples: Repeals and Reenactments***

***Section 22-13-1 NMSA 1978***

History: 1978 Comp., § 22-13-1, enacted by Laws 2003, ch. 153, § 57; 2005, ch. 315, § 9; 2007, ch. 307, § 7; 2007, ch. 308, § 7

Annotations: **Repeals and reenactments.** — Laws 2003, ch. 153, § 57 repeals former 22-13-1 NMSA 1978, as enacted by Laws 1967, ch. 16, § 180, and enacts the above section, effective April 4, 2003. For provisions of former section, see New Mexico One Source of Law DVD. Section 1-14-16 NMSA 1978.

***Section 1-14-18 NMSA 1978***

History: 1953 Comp., § 3-14-20, enacted by Laws 1969, ch. 240, § 345; 1977, ch. 222, § 84; **repealed and reenacted by Laws 2008, ch. 41, § 3**

Regardless of the history line, for legislative drafting purposes, **the history begins with the new enactment in the "being Laws" of the zoo section.**

***Example: Being Laws — Section 1-14-16 NMSA 1978 — Repeal and Reenactment***

Section 1-14-16 NMSA 1978 (being Laws 2008, Chapter 41, Section 3)

### ***Historical Oddity***

This next history is dependent on the specific circumstances of the law's enactment. The history starts, in this case, with 1907 because there was no Sub-Sec. 250 in 1897. Section 2685 only went to Sub-Sec. 181; other subsections, including 250, were added in 1907. There are other sections that say "as added by" that should cite the history as the original enactment ", as amended". To write the history of these unusual sections correctly will require research.

***Example: Section 42-4-1 NMSA 1978***

History: C.L. 1897, § 2685 (250), added by Laws 1907, ch. 107, § 1 (250); Code 1915, § 4360; C.S. 1929, § 105-1801; 1941 Comp., § 25-801; 1953 Comp., § 22-8-1

Correct citation: Section 42-4-1 NMSA 1978 (being Laws 1907, Chapter 107, Section 1 (250), as amended)

### ***Session Law Citations***

When citing a session law in the text of a bill, the order of its parts depends on how far into a section the reference is reaching.

***Examples: Citation to Session Law Subdivisions***

Laws 1992, Chapter 248, Section 23

— but when going lower than the section level:

Subsection D of Section 23 of Chapter 248 of Laws 1992

— and —

Subparagraph (j) of Paragraph (18) of Subsection D of Section 23 of Chapter 248 of Laws 1992

## *Citation to the Constitution of New Mexico*

A citation to the Constitution of New Mexico is written in Arabic, not Roman, numerals. The numbers are converted from Roman numerals to Arabic, even in the lead-in and the text of a constitutional amendment. **The reference is always to "the constitution of New Mexico"**, not "the constitution" or "the New Mexico constitution".

### *Examples: Citation to the Constitution of New Mexico*

"It is proposed to amend Article 20, Section 19 of the constitution of New Mexico. . ."

". . .subject to the provisions of Article 4, Section 31 of the constitution of New Mexico."

## *Cross-Reference to Another Bill of Same Session*

On rare occasions, a drafter may need to refer in one bill to another bill of the same session (this kind of citation is done most often — though still rarely — in House Bill 2). The citation then is to the House or Senate bill number and the specific legislative session. In this kind of reference, it is usually necessary to refer to the bill's becoming law:

### *Example: Citation to Another Bill of Same Session*

". . .contingent upon House Bill 344 of the fifty-second legislature, second session, **becoming law**. . ."

It is not sufficient to say "contingent upon passage of House Bill 344. . .". The bill must be passed and signed by the governor before the contingency is operative. It may be prudent to add "or a substantively similar bill" after HB 344 to account for new or substitute bills.

## *Internal Citations*

Internal citations include references in a bill to other parts of the bill, references to existing state or federal law, references to court cases and references to state, local and federal agencies, programs, positions and funds, etc.

Drafters are reminded that **amendment by reference is prohibited by the Constitution of New Mexico**. The New Mexico Supreme Court has ruled that only procedural law may be adopted by reference. This rule is not always as clear-cut as drafters would like; distinguishing between substantive and procedural provisions may be difficult in certain cases.

Drafters are also reminded that the purpose of bill drafts is to clearly inform members of the legislature, and the public, what changes to the law are proposed. Drafters should endeavor to limit the reader's need to research other statutes, or even other pages of the bill, to understand the provisions of a given section. For example, a drafter should define a term in the section in which it is used or in the definition section of the short title act to which it applies, instead of sending the reader to another act or chapter to find the defined term's meaning. (An exception to this practice would be the use of references to federal citations and defined terms.)

### ***Cross-Reference Citations***

In a cross-reference or internal citation in the text of a bill, use the Comp number without any history (being Laws). Review the following example.

***Example: Citation to Comp Number — No "Being Laws"***

". . .pursuant to the provisions of Section 45-6-4 NMSA 1978"

When citing an entire chapter or article of the NMSA 1978, the following form is correct:

***Example: Citation to Chapter and Article***

"... pursuant to Chapter 5, Article 23 NMSA 1978"

If citing to the section level, the cite is:

***Example: Citation to Section***

"... pursuant to Section 5-23-56 NMSA 1978"

When citing to a subdivision of a compiled section, the following example should be followed.

***Example: Citation to Subdivision of a Compiled Section***

"... pursuant to Subsection A of Section 5-23-56 NMSA 1978"

## ***Use of Cross-References***

Cross-references to existing law, whether in the same act or not, should be used sparingly and only when the absence of the reference would lead to confusion or an unacceptable lack of clarity.

### ***Examples: Cross-References to Existing Law***

#### ***Use:***

". . .is at least sixteen years of age and has been emancipated by the court. . .".

#### ***Do not use:***

". . .is an adult as provided in Section 4-4-4 NMSA 1978. . .";

". . .state employee as defined in Subsection F of Section 3 of the Blah Blah Act. . ." [If the language is in a section of the Blah Blah Act, the defined term covers the whole act; the whereabouts of the definition does not need to be restated.]; or

". . .the board created in Section 14-3-3 NMSA 1978. . ." [It does not matter in what section the board was created; that it exists is sufficient.].

It is the drafter's choice as to how specific a cross-reference is, and the specificity will probably depend on the request and the material. For example, the drafter may need the specificity of "Subparagraph (d) of Paragraph (4) of Subsection G of Section 5 of the Blah Blah Act" or the simpler "Section 5 of the Blah Blah Act" may suffice. A note of warning about very specific cross-references, that is, references to the most specific unit possible rather than the most general unit possible: there is more to keep track of and to remember to fix when subdivisions of sections are changed through the amendment process, either now or in the future.

## ***Federal Citations***

The Legislative Council Service drafter must double check federal citations to ensure the reference is correct. The Proofing Office is only responsible for checking federal short titles.

### ***Example: Federal Short Title Citation***

"...pursuant to the federal Patient Protection and Affordable Care Act..."



## ***Citation of Court Cases***

Use italics to set out the citation to a specific court case.

## ***Codification or Revision***

Codification or revision of the law is aimed at cleaning up the statutes and enacting them in

***Examples: Citation of Court Cases***

<i>Wood v. United States</i>	<i>State ex rel. Coll v. Carruthers</i>
------------------------------	---

systematic form. New Mexico has not had a complete codification since 1915. Codification does not ordinarily anticipate substantive changes, but such changes frequently occur; the danger of inadvertent changes and the expense involved probably account for the hesitancy of the legislature to attempt a complete new codification.

The codification or recodification of a discrete segment of the law relating to one subject, such as the Election Code, the Criminal Code, the Motor Vehicle Code or the New Mexico Insurance Code, is attempted more frequently and usually involves substantive changes. It is considered a "revision" for constitutional title requirement purposes.

## ***Provisions Pertaining to Drafting Issues***

Although a drafter is expected to read the entire constitution as well as any statutes pertaining to the subject of a request, there are provisions dealing specifically with drafting issues.

Following is a list of sections of the constitution with which all drafters should be familiar.

<b><i>Constitution of New Mexico</i></b>		
<b><i>Article</i></b>	<b><i>Section</i></b>	<b><i>Provisions</i></b>
2	18	Due process, equal protection; sex discrimination
2	19	Retroactive laws; bills of attainder; impairment of contracts
3	1	Distribution of powers
4	1	Vesting of legislative power
4	5	Items considered in even-numbered years
4	15	Laws to be passed by bill; alteration of bill; enacting clause
4	16	Subject of bill in title; appropriation bills
4	18	Amendment of statutes
4	23	Effective date of act; emergency acts
4	24	Local or special laws
4	26	Grant of franchise or privilege
4	27	Extra or increased compensation for officers, contractors, etc.
4	29	Laws creating debts
4	30	Payments from treasury to be upon appropriation
4	31	Appropriations to entities not under absolute control of state prohibited
4	32	Remission of debts due state or municipalities
4	33	Prosecution under repealed laws
4	34	Change of rights or procedure in pending cases
8	9	Elected governing authority prerequisite to levy tax
9	14	Anti-donation clause
10	6	Municipal home rule

## ***Constitution of New Mexico Continued***

<b><i>Article</i></b>	<b><i>Section</i></b>	<b><i>Provisions</i></b>
12	4	Current school fund
12	11	State educational institutions
14	1	State institutions
19	1	Single-subject constitutional amendments

Drafters should also be familiar with the following statutory provisions and legislative rules.

### ***Statutory Provisions***

<b><i>Section</i></b>	<b><i>Provisions</i></b>
Section 2-6-1 NMSA 1978	Time limit on introductions
Section 12-1-8 NMSA 1978	Rules of construction governing compilation of statutes
Section 12-2-3 NMSA 1978	Officer defined for certain statutes
Sections 12-2A-1 through 12-2A-20 NMSA 1978	Rules of statutory construction

### ***Legislative Rules***

House Rules 11-1 through 11-27	Senate Rules 11-1 through 11-27	Joint Rules 6-1, 9-1, 10-1 and 11-1
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## CHAPTER 3: BILL BASICS — STANDARDS, PARTS OF BILL AND FORMAT

*A bill is the vehicle used to propose laws. To state it succinctly, a bill proposes laws to mandate, prohibit or authorize certain acts. Under these three broad categories, bills create, empower, impose duties or obligations, prohibit acts, appropriate money or do any combination of these things.*

A bill is the only form of legislation that carries the phrase "AN ACT" in its title and has an enacting clause. Article 4, Section 15 of the Constitution of New Mexico states:

*"No law shall be passed except by bill, and no bill shall be so altered or amended on its passage through either house as to change its original purpose."*

A bill draft provides a form to propose:

- (1) new laws;
- (2) changes in existing laws;
- (3) repeals of existing laws;

- (4) recom compilations of existing laws; or
- (5) combinations of these.

## ***Standards***

The format of a bill requires the following items:

- (1) bill paper;
- (2) parts of bill order;
- (3) types of sections;
- (4) section subdivisions; and
- (5) section headings.

## ***Bill Paper***

All legislation is typed on bill paper that has 25 numbered, double-spaced lines down the left-hand side of the page. The numbered lines on the side of each page act as markers.

Amendments must identify on what page and line a change is proposed; committee and floor discussions often need to reference pages and lines. Review the following discussion draft example.

## ***Discussion Draft***

The first draft of a bill and subsequent revisions of the draft before it is prepared for introduction are labeled as discussion drafts. Discussion drafts follow a standard format. The words "DISCUSSION DRAFT" will appear on line 6 of the first page of the bill. The date of the draft will appear in the upper right hand corner of the first page of the bill above the heading. This date will change to correspond with each date on which the bill draft is revised.

When the bill draft is ready for introduction, the date and "DISCUSSION DRAFT" will be removed from the bill. The front cover of the bill's 202 folder will then be marked "Prep" or "Intro" and given to the bill clerks for preparation for introduction.

*Example: Bill Paper — Discussion Draft*

1/22/16

1 HOUSE BILL  
2 **52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016**  
3 INTRODUCED BY  
4  
5  
6 DISCUSSION DRAFT  
7  
8 FOR THE LAND GRANT COMMITTEE (IF COMMITTEE-ENDORSED BILL)  
9  
10 AN ACT  
11 RELATING TO TAXATION; PROVIDING FOR CERTAIN EXEMPTIONS FROM THE  
12 GROSS RECEIPTS AND COMPENSATING TAX; DECLARING AN EMERGENCY.  
13  
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:  
15 SECTION 1. Section 7-9-51 NMSA 1978 (being Laws 1982...

Please note that this example has an endorsement line. A bill will only have the endorsement if it has been endorsed by an interim committee.

*See Endorsement Line* under *Top of Bill* in this chapter for a further explanation.

## ***Parts of Bill Order***

### ***Top of the Bill***

- 1. Heading (mandatory)**
2. Endorsement Line
- 3. Title (mandatory)**
- 4. Enacting Clause (mandatory)**

### ***Body of the Bill***

5. Short Title
6. Legislative Findings — Purpose of Act
7. Definitions
- 8. Main Provisions (mandatory)**
9. Penalty
10. Liberal Interpretation
11. Saving Clause

### ***Back of the Bill***

12. Temporary Provisions  
(including Recompilation)
13. Appropriation (**must appear in title if in bill**)
14. Repeal (Delayed Repeal)
15. Severability
16. Applicability
17. Effective Date
18. Emergency Clause (**must appear in title if in bill**)

## ***Parts of Bill***

A bill may be broken down into three main segments, the top of the bill, the body of the bill and the back of the bill. Each of the three segments is composed of different parts of bill or types of sections. (Please note that none of the back of the bill sections are mandatory, so a bill may consist only of the parts and types of sections found in the first two segments.)

**Some parts of bill are mandatory, such as the heading, title, enacting clause and main provisions.** Other parts are not required in every bill, but may be necessary or useful in certain cases. The parts of a bill are as shown in the sidebar and should be used in a bill in the order shown.

### ***Top of the Bill***

The first segment of a bill includes the top of the bill or introductory parts. The introductory parts tell the reader what type of document it is (the heading) and what it is about (the title) and, at times, whether it is endorsed by a committee (optional). The enacting clause is also a requisite part of the top of the bill. Even though these parts will not become law, all, except the endorsement line, are mandatory.

### ***Heading***

The words centered on line 1 of the first page of a bill indicate the house of origin. Line 2 carries the heading for the specific session. The phrase

"INTRODUCED BY" is centered on line 3. Sponsoring legislators sign their names in the space provided under "INTRODUCED BY" between lines 3 and 10. Signatures should be written in black ink so the names will appear legibly on the printed bill.

**Example: Heading**

1	HOUSE BILL
2	<b>52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016</b>
3	INTRODUCED BY

Bills may originate in either house. By custom, the "Feed Bill", which appropriates money for the legislative session, originates in the House of Representatives as House Bill 1 and the general appropriations act, which appropriates money for state government, originates as House Bill 2.

**Endorsement Line**

A committee endorsement line may precede the title of the bill, usually on line 8. This line indicates that the bill was reviewed and endorsed by an interim committee.

**Example: Committee Endorsement**

8	FOR THE LEGISLATIVE HEALTH AND HUMAN SERVICES COMMITTEE
---	---

If the bill is a governor's bill or a state agency bill with the designation "GX" (X being the first letter of the governor's last name) or "SA" (state agency) after the 202 number at the bottom of the page, the endorsement line will say "ENDORSED BY" instead of "FOR".

**Example: Endorsement - Governor's or State Agency Bill**

8	ENDORSED BY THE INDIAN AFFAIRS COMMITTEE
---	--

For examples of a governor's bill and a state agency bill see the *Legislative Document Sample Book*, Part A.



## *Title*

The title of a bill, typed in capital letters, begins with the words "AN ACT" centered on line 10, followed by the "relating to" clause and other parts of the title. Review the following example.

### *Example: Title*

10	AN ACT
11	RELATING TO LEGISLATION; REQUIRING LEGISLATION TO BE PRINTED ON
12	SPECIAL PAPER; SPECIFYING CERTAIN CONDITIONS FOR SIGNATURES
13	BY SPONSORS.

## *One Subject*

The Constitution of New Mexico requires that the subject of every bill be clearly expressed in its title and **forbids passage of bills embracing more than one subject**, with the exception of general appropriation bills and bills for the codification or revision of the laws (Article 4, Section 16). The constitution further provides that if the title does not cover a part of the bill's subject matter, the part not covered is void. Since a properly prepared title is essential to the constitutionality of any bill that becomes law, the title should be carefully reviewed to determine that it covers everything in the bill.

There are two schools of thought concerning the drafting of titles. The first school, which has gone out of favor over the last several decades, believes that a title should be written as tightly as possible; this has the effect of severely limiting amendments to the bill. The other school holds the opinion that titles should be general in nature, with only enough detail to inform the reader of the contents of the bill. The selection of which type of title to write will depend on the details of the request and discussion between the drafter and the legislator who makes the request.

## *Drafting a General Title*

**A note of warning: the more detailed the title, the more danger there is of omitting reference to a part of the bill.** As mentioned, another reason for avoiding detailed titles is the chance that additions to the body of a bill made by amendment may not be covered by the title. These problems may be avoided if the original title is general rather than specific; however, the phrase "for other purposes" added to the title is not useful because the phrase will not include subject matter outside the scope of the language expressing the general subject.

The title should state the general subject of the bill and not index its contents in minute detail. The broad category is stated first, followed by the more specific categories in descending order, separated by semicolons. The title ends with a period and is written entirely in capital letters.

### *"Relating To" Clause*

By custom, most bill titles state the broad category as "RELATING TO. . .;". The general exceptions to this custom are simple appropriation bills and one-section repeal bills.

**Do not put "AND" in the relating to clause.** To do so opens the bill to very good constitutional arguments that the bill relates to more than one subject. For example, a bill "RELATING TO DIVORCE AND ANNULMENT" could violate

## *Title Drafting Key Points*

- ◆ **A title should state the general subject** of the bill and not index its contents in minute detail.
- ◆ **The broad category is stated first**, followed by the more specific categories in descending order, separated by semicolons and ending with a period.
- ◆ **A title should state the broad category** as "RELATING TO. . .;".
- ◆ **A title should not include "AND"** in the relating to clause.
- ◆ If a bill makes an **appropriation or carries an emergency clause**, the phrase "MAKING AN APPROPRIATION" or "DECLARING AN EMERGENCY" is required in the title.
- ◆ If the bill contains **criminal or civil penalties**, they should be noted in the title. PRESCRIBING PENALTIES (or singular) goes toward the end of the title, before MAKING AN APPROPRIATION.
- ◆ **The catch phrase, AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978**, though unnecessary, may be used in the title to sum up legislative actions in a bill.

Article 4, Section 16 of the Constitution of New Mexico. The relating to clause might be changed to "RELATING TO DISSOLUTION OF MARRIAGE".

### ***Contents of the Bill***

Writing a general title does not mean that there is no information conveyed. Unless directed to do otherwise by the sponsor, a title should give fair warning about the contents of the bill.

Writing a title such as "RELATING TO PROPERTY; AMENDING CERTAIN SECTIONS OF THE NMSA 1978" would seem to violate the spirit, if not the letter, of the constitutional requirement that the subject of the bill be clearly expressed in the title. There are exceptions to this rule, as there are to every rule, but the drafter should strive to avoid the exceptions unless absolutely necessary.

### ***Quick Reference***

Drafters should keep in mind that titles are used by legislative staff and others as quick references and that titles should contain as much information as possible within the confines of the request. Everything from committee referrals to bill indexing is made easier with an informative title.

### ***Required Language – Customary Language***

The rules of both houses require that for the convenience of legislators, if a bill makes an appropriation or carries an emergency clause, the phrase "MAKING AN APPROPRIATION" or "DECLARING AN EMERGENCY" is required in the title. The New Mexico Supreme Court has held that a tax that is earmarked for expenditure is an appropriation; therefore, the rule requiring the phrase "MAKING AN APPROPRIATION" in the title includes bills that provide for expenditure of fees, taxes or other revenues. "MAKING AN APPROPRIATION; DECLARING AN EMERGENCY." goes at the end of the title.

Custom requires that if the bill contains criminal or civil penalties, they be noted in the title. PRESCRIBING PENALTIES (or singular) goes toward the end of the title, before MAKING AN APPROPRIATION.

## ***Working Title***

Whether to write the title before or after the bill is drafted is a personal preference. Some drafters find it helpful to craft a working title first as a means of focusing on the purpose and design of the bill; others prefer to wait until the bill is written. Either way, the title *must* be checked against the bill to ensure the two agree.

## ***Titles and Court Decisions***

Up until 1970, Legislative Council Service drafting style required that every section of the Comp to be amended, repealed or added be listed in the title. This technique, however, was useful mainly to attorneys familiar with the Comp and was of little value to most legislators or ordinary citizens. In *Bureau of Revenue v. Dale J. Bellamah Corporation*, 82 N.M. 13, 474 P.2d 503 (1970), it was held that the inclusion of Comp numbers in the title narrowed the title to the point that it did not cover the entire bill. The court said:

Here, as in *Frohmler*, if the title had stated only 'An Act Relating to Taxation,' it would have been broad in scope and perhaps alerted its readers to anticipate anything in that field. . . . The natural reaction of the reader is to conclude that the specific references in the title limit the broad subject. (82 N.M., at 16)

Because of this decision, the inclusion of Comp numbers in the title is left to the discretion of the drafter or the legislator requesting the bill. A word of caution: listing Comp numbers and section histories offers a greater opportunity for proofing and typing errors and is unnecessary. If the drafter chooses to include Comp numbers, the drafter should always double-check the draft before releasing it to the requester. Incorrect citations might be cited as grounds for veto or court challenge. It is preferable to not include Comp numbers in the title; do so only if it is absolutely necessary.

### *Catch Phrases in Titles*

**It is not necessary to recite that the bill amends, repeals or enacts sections of the NMSA 1978 as a catch-all phrase at the end of the title** if the substantive wording of the title adequately conveys the contents of the bill. **In fact, the use of such a phrase is discouraged.** However, if the drafter wants to use that litany, it is put in "ARE order", which means legislative actions are listed as follows: "AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978". Note that using ARE order in the title has no relationship to section order in the bill itself. Do not list an action that is not taken in the bill. The catch phrase goes after the substantive language of the title and before "MAKING AN APPROPRIATION" or "DECLARING AN EMERGENCY".

#### *Example: Catch Phrase — One Action — Multiple Sections*

10	AN ACT
11	RELATING TO MOTOR VEHICLES; INCREASING THE PENALTY ASSESSMENT
12	FOR SPEEDING IN A CONSTRUCTION OR OTHER SAFETY ZONE; <b>AMENDING</b>
13	<b>SECTIONS OF THE NMSA 1978.</b>

#### *Example: Catch Phrase — Multiple Actions — NMSA and Session Law*

10	AN ACT
11	RELATING TO FINANCING OF HIGHWAY PROJECTS; INCREASING THE
12	GASOLINE TAX; <b>AMENDING, REPEALING AND ENACTING SECTIONS OF THE</b>
13	<b>NMSA 1978; AMENDING AND REPEALING SECTIONS OF LAWS 1995; MAKING</b>
14	<b>APPROPRIATIONS.</b>

#### *Example: No Catch Phrase*

10	AN ACT
11	RELATING TO PROPERTY TAXATION; ESTABLISHING A METHOD OF
12	DETERMINING TAXABLE VALUE FOR PERSONAL PROPERTY.

### ***Title Covering Enactment of New Sections or Provisions***

New provisions are stated briefly after the "relating to" clause. It is not necessary to say "enacting a new section to...". Review the following examples.

#### ***Example: New Sections and Provisions in Title***

10	AN ACT
11	RELATING TO TRAFFIC SAFETY; CREATING THE TRAFFIC SAFETY
12	COMMISSION; DEFINING ITS POWERS AND DUTIES; CREATING A FUND;
13	PROVIDING FOR LOANS AND GRANTS FROM THE FUND; MAKING AN
14	APPROPRIATION.

#### ***Example: Adoption of New Compact***

10	AN ACT
11	RELATING TO RAILROADS; PROVIDING FOR THE ADOPTION OF THE CUMBRES
12	AND TOLTEC SCENIC RAILROAD COMPACT; REPEALING THE COMPACT
13	PREVIOUSLY ADOPTED; MAKING AN APPROPRIATION; DECLARING AN
14	EMERGENCY.

For title purposes, if a drafter writes a new section of law, it is considered to be enacting a section of the NMSA 1978 even if the drafter does not assign a Comp number.

### ***Amending Sections Stated in Title***

A great number of bills consist primarily of amendatory sections. The title will list the changes that are to be made to existing law. It is the drafter's decision whether to use the phrase "AMENDING THE \_\_\_\_\_ ACT TO". Review the following examples.

***Example: Amending Sections of Act Stated in Title***

10	AN ACT
11	RELATING TO CONTROLLED SUBSTANCES; AMENDING THE CONTROLLED
12	SUBSTANCES ACT TO ADD AND REMOVE CERTAIN SUBSTANCES IN THE LIST OF
13	SCHEDULE I CONTROLLED SUBSTANCES.

***Example: Amending Phrase Not Stated in Title***

10	AN ACT
11	RELATING TO HIGHER EDUCATION; LIMITING TUITION INCREASES FOR
12	LOTTERY TUITION SCHOLARSHIP RECIPIENTS.

***Amending Specific NMSA Sections Stated in Title***

If a bill amends one or more sections of existing law and the drafter elects to list the amendatory sections of the NMSA 1978 in the title, they are listed in numerical (Comp number) order followed in parentheses by the citations to the original session laws enacting the sections (their histories). **The parenthetical listing of the session law citations must parallel the Comp number citations**, even if it is necessary to be repetitious.

If the Comp number sections or session law sections are consecutive, it is sufficient to set out the first and last sections with the word "THROUGH". If one or more Comp number sections in the series have been amended since their original enactment by subsequent session laws or Code 1915, insert the words "AS AMENDED" at the end of the parenthetical series. "AS AMENDED" appears only once, regardless of the number of amended sections.

Listing Comp numbers in the title is discouraged due to the complexity of writing out the histories, the high probability of error, the difficulty of amending a bill that has been so specifically set out and the fact that adding such a list does little to aid the reader in understanding the bill. Review the following example.

**Example: Comp Numbers in Title**

10	AN ACT
11	RELATING TO MOTOR VEHICLES; PROVIDING FOR UNIFORM TRAFFIC CONTROL
12	DEVICES; AMENDING SECTIONS 66-7-2, 66-7-6, 66-7-9 AND 66-7-101
13	THROUGH 66-7-109 NMSA 1978 (BEING LAWS 1978, CHAPTER 35, SECTIONS
14	372, 376, 379, 381 AND 382, LAWS 1989, CHAPTER 320, SECTION 7,
15	LAWS 1978, CHAPTER 35, SECTION 383, LAWS 2007, CHAPTER 368,
16	SECTION 1, LAWS 1978, CHAPTER 35, SECTION 384, LAWS 1953, CHAPTER
17	139, SECTIONS 34 AND 35, LAWS 1978, CHAPTER 35, SECTIONS 387 AND
18	388 AND LAWS 1953, CHAPTER 139, SECTION 38, AS AMENDED).

The Comp numbers and histories in the previous example are correct as of the 2013 update of the *Legislative Drafting Manual*. A drafter interested in writing this type of title should look up the Comp numbers and histories in the NMSA 1978 to understand how the histories vary.

In a variation of using a Comp number in the title, drafter may state the general subject, list the section and its parenthetical history and follow the citation with **a statement of what the bill does**.

**Example: Amending NMSA Section in Title — Being Laws & Statement of Action**

10	AN ACT
11	RELATING TO LARCENY; AMENDING SECTION 30-16-1 NMSA 1978 (BEING
12	LAWS 1963, CHAPTER 303, SECTION 16-1, AS AMENDED) TO INCREASE THE
13	PENALTY FOR LARCENY OF LIVESTOCK.



### ***Repealing Stated in Title***

When repealing a section of law, it is necessary that the action be indicated in the title, either as part of the catch phrase or as part of the title narrative. Review the following examples.

#### ***Examples: Repealing Stated in Titles***

10	AN ACT
11	RELATING TO ORIENTAL MEDICINE; LIMITING THE SCOPE OF PRACTICE;
12	REQUIRING INTERNSHIPS; REPEALING PROVISIONS OF LAW PERTAINING TO
13	PRESCRIPTIVE AUTHORITY OF DOCTORS OF ORIENTAL MEDICINE.

10	AN ACT
11	RELATING TO ORIENTAL MEDICINE; LIMITING THE SCOPE OF PRACTICE;
12	REQUIRING INTERNSHIPS; ELIMINATING PRESCRIPTIVE AUTHORITY;
13	AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

### ***Repealing Specific Sections Stated in Title***

If one purpose of a bill is to repeal a section of the Comp, the repealed section may be listed at the end of the title in Comp number order with its parenthetical session law citation in the same manner previously discussed for amendments. It is not mandatory that the title state what the section being repealed does, but this type of title does convey less "first-hand" information and is, therefore, less helpful to the person reading the title.

#### ***Example: Repealing Specific Section in Title***

10	AN ACT
11	RELATING TO CAPITAL IMPROVEMENTS; CREATING THE CAPITAL PROGRAMS
12	COUNCIL; PROVIDING POWERS AND DUTIES; REPEALING SECTION 6-4-1
13	NMSA 1978 (BEING LAWS 1975, CHAPTER 282, SECTION 3, AS AMENDED).

If the entire purpose of the bill is to repeal one or more sections, reference should be made to the subject matter of the sections being repealed. The title should be written as in the following example.

***Example: Repealing Specific Sections in Title — Reference to Subject***

10	AN ACT
11	REPEALING SECTIONS 15-5-1 THROUGH 15-5-6 NMSA 1978 (BEING LAWS
12	1963, CHAPTER 181, SECTIONS 1 THROUGH 6, AS AMENDED) RELATING TO
13	THE TELECOMMUNICATIONS BUREAU OF THE GENERAL SERVICES DEPARTMENT.

***Amending and Repealing Specific Sections Stated in Title***

If a bill amends and repeals sections and the drafter wishes to make reference in the title to the Comp numbers, these are listed in numerical sequence within each group, with the amendatory sections being listed first.

***Example: Amending and Repealing Specific Sections Stated in Title***

10	AN ACT
11	RELATING TO TAXATION; PROVIDING FOR THE IMPOSITION AND
12	REALLOCATION OF CERTAIN TAXES; AMENDING SECTIONS 7-19-2,
13	7-19-4, 7-19-11 AND 7-19-12 NMSA 1978 (BEING LAWS 1975 (S.S.),
14	CHAPTER 16, SECTION 2, LAWS 1978, CHAPTER 151, SECTION 1 AND
15	LAWS 1979, CHAPTER 397, SECTIONS 2 AND 3, AS AMENDED);
16	REPEALING SECTIONS 7-9-18 AND 7-9-19 NMSA 1978 (BEING LAWS
17	1969, CHAPTER 144, SECTIONS 11 AND 12, AS AMENDED); MAKING AN
18	APPROPRIATION; DECLARING AN EMERGENCY.

## ***Reconciled Zoos***

If a bill contains a section of law that was last amended more than once in the same session, those laws may need to be reconciled. If the amendments are identical, no action is taken. If the amendments are different but reconcilable, the Zoo Reconciliation Committee of the Legislative Council Service will review the versions and create a reconciled zoo. *See* Chapter 3 of this manual for further explanation.

### ***Notification of Conflicting Amendments in Title***

Multiple amendments are not always reconcilable. In the case of contradictory laws, one or more session laws will need to be repealed. That action must be included in the title by adding a clause that provides notice of the conflict and repeal. The clause should come toward the end of the title before the catch phrase, if one is used. Review the following example.

#### ***Example: Reconciling Conflicting Amendments to Same Section of Law***

10	AN ACT
11	RELATING TO PUBLIC FINANCE; CHANGING THE MEMBERSHIP OF THE WATER
12	TRUST FUND BOARD; CHANGING THE CONDITIONS FOR GRANTS AND LOANS;
13	CHANGING THE DISTRIBUTION FROM THE WATER PROJECT FUND;
14	RECONCILING CONFLICTING AMENDMENTS TO THE SAME SECTION OF LAW IN
15	LAWS 2008 BY REPEALING LAWS 2007, CHAPTER 14, SECTION 45; AMENDING
16	AND REPEALING SECTIONS OF THE NMSA 1978.

*See* the *Legislative Document Sample Book* for an in-depth discussion of reconciling zoos.

## ***Enacting Clause***

The enacting clause is mandatory in bills. The Constitution of New Mexico prescribes the exact wording of the enacting clause (Article 4, Section 15): "BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:".

Omission of the enacting clause or failure to use the prescribed wording renders the bill defective, invalidating it if the defect is not corrected by amendment prior to passage. A motion to strike the enacting clause is not a valid motion in the House (House Rule 12-2); such a motion is allowed in the Senate and is considered equivalent to rejection of the bill (Senate Rule 12-2).

The enacting clause, all in capital letters, begins at the left margin two numbered lines below the title.

### ***Example: Enacting Clause***

10	AN ACT
11	RELATING TO PUBLIC ASSISTANCE; EXTENDING BENEFITS TO
12	UNEMPLOYED PARENTS; CREATING JOB TRAINING PROGRAMS; MAKING AN
13	APPROPRIATION; DECLARING AN EMERGENCY.
14	
15	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

## ***Body of the Bill***

The following parts comprise the "body" of a bill. A bill may contain any number of provisions, or parts, as long as they all relate to the single subject expressed in the title. With the exception of the main provisions that carry out the purpose expressed in the title, none of the other parts is mandatory; however, if they are used, they are each contained in a separate section.

## ***Short Titles***

A short title defines a specific, discrete, cohesive body of law. If a draft of original legislation meets that description, it is useful to give it a short title for reference purposes. A short title is a drafter's tool and must be short to be worthwhile. It is a reference, not an exhaustive description of what the act does. Because the New Mexico Legislature can legislate only for New Mexico, it is unnecessary to use "New Mexico" as part of a short title. As well, it is usually not necessary to use the year of enactment in the title. Short titles designed to elicit emotion or to create catchy acronyms are discouraged; such requests should be referred to the assistant director for drafting.

### ***Examples: Short Titles***

<b><i>Use</i></b>	<b><i>Do Not Use</i></b>
Relocation Assistance Act	New Mexico Highway Relocation Assistance to Displaced Persons Act of 1983
Uniform Uniforms Act	Uniform Code of Standardized Clothing for State Guardsmen
Photographic Copies Act	Photographic Copies of Business and Public Records as Evidence Act of 1993
Election Code	New Mexico State Election Code

## ***Codes***

The term "code" is used to describe a large, complex body of law, e.g., the Election Code, the Criminal Code, the Motor Vehicle Code; a code may contain one or more short titled acts. Do not use "code" to describe what is simply an "act".

## ***Short Title Section***

The short title section, when used, is usually the first section of a bill, or at least the first section of an act. The short title is enclosed by quotation marks when it is being created; first letters of the short title are capitalized in the same manner as book titles. It is preferable not to include "the" as part of the short title; that is, do not place "the" inside the quotation marks either surround the short title when it is created.

**Example: Short Title — Entire Bill**

15           SECTION 1.   [NEW MATERIAL] SHORT TITLE.--This act may be  
16   cited as the "Pharmacy Act".

In some instances, a bill may contain a new short title act and also may amend sections of existing law or enact new sections of law that do not belong within the short title act. In either case, the sections of the bill that are covered by the short title must be specified.

**Example: Short Title — New and Amendatory Sections**

15           SECTION 1.   [NEW MATERIAL] SHORT TITLE.--Sections 1  
16   through 8 of this act may be cited as the "Pharmacy Act".

For further discussion of the New Material designation, *see* Chapter 4: Bills – Legislative Actions, *Enacting a New Section*.

It is extremely important to check and recheck the citations in the short title section, as additions to or deletions from the bill can alter those citations. For instance, if Section 4 is deleted from the bill referred to in the above example, it is necessary to renumber the sections and change the short title section to read "Sections 1 through 7 of this act".

The test of whether a short title section is inclusive or exclusive as to other sections in the bill is whether the other sections will be compiled. If a bill contains a short title act and uncompiled provisions, such as repeal, appropriation and effective date sections, it is not necessary to enumerate the sections under the short title. The short title section is written as "This act may be cited as. . ." **not** as "Sections 1 through 8 of this act may be cited as. ..". If the bill contains a short title act and other new or amendatory substantive provisions that are compilable, the short title will be written as "Sections 1 through 8 of this act may be cited as. .".

## ***Short Title Conversion***

If the drafter wishes to add a new section to an existing short title act, the reference to the short title must be checked to ensure that the section will be part of the act. That is, the words "This

act" or "Sections 1 through 8 of this act" must be converted to the actual Comp numbers in order to include the new section.

For example, to add a new section to the Per Diem and Mileage Act, it is also necessary to amend the short title section to make sure that the reference will include the new section. There are two acceptable ways to change a short title. Review the following examples. The first example is preferred where possible because it is a broader reference, which alleviates the need for future amendment, and it does not require the assignment of a Comp number to the new section. Its use, of course, depends on how the short title act fits in the Comp.

***Example: Short Title Conversion — All-Inclusive Reference — Preferred***

```
15 | SECTION 1. Section 10-8-1 NMSA 1978 (being Laws 1963,  
16 | Chapter 31, Section 1, as amended) is amended to read:  
17 | "10-8-1. SHORT TITLE.--[Sections 10-8-1 through 10-8-8]  
18 | Chapter 10, Article 8 NMSA 1978 may be cited as the "Per Diem  
19 | and Mileage Act"."
```

***Example: Short Title Conversion — Specific Reference — Narrow***

```
15 | SECTION 1. Section 10-8-1 NMSA 1978 (being Laws 1963,  
16 | Chapter 31, Section 1, as amended) is amended to read:  
17 | "10-8-1. SHORT TITLE.--Sections 10-8-1 through [10-8-8  
18 | 10-8-9 NMSA 1978 may be cited as the "Per Diem and Mileage  
19 | Act"."
```

### ***Short Title and Application of Definitions***

Once a section is made part of a short title act, the definitions of the act apply to that section. Conversely, an act's definitions do not apply to sections of law outside the confines of that act.

If a drafter forgets to amend the short title section, the new section that the drafter thought would be included in the act may not be covered by the definition section. Also, having a short title is the best way to avoid the use of "this act", a reference that is discouraged by New Mexico drafting style **because it loses its meaning over time**. The drafter should not enact a short title inappropriately or unnecessarily simply to avoid this problem, however.

The Short Title Index in the NMSA 1978 Index (red book) is a primary research tool for drafters; it is the fastest way to find particular statutes. When writing a new short title, the drafter should check the Short Title Index or the Red Quill web site's short title list to ensure that the name chosen for the short title act does not already exist.

### ***Legislative Findings and Purpose of Act Sections***

It is generally unnecessary to include a legislative findings or purpose of act section because it is the courts' role to interpret the purpose of a contested act. Certainly, a drafter may not rely on a purpose section as a substitute for thorough drafting in later sections of the law. Nor should the drafter seek to codify what is, essentially, committee testimony. At best, most purpose sections are redundant. At worst, they may conflict with or set a standard that is inconsistent with the remainder of the act; they may lead a court to interpret more broadly or narrowly than the sponsor and drafter ever expected; or they can become obsolete over time.

There are rare instances when a findings or purpose section may be necessary, such as when the legislature takes a position on the bill's relationship to some federal or state constitutional provision. For example, the drafter might want to specify why a general law cannot be made applicable in the instant case. The drafter might want to assert the constitutional basis for the particular bill or to counter an allegation of unreasonableness or arbitrariness by indicating the rational basis for action by the legislature.

#### ***Example: Purpose Section — Citing Constitution of New Mexico***

"18-9-2. Purpose.--The purpose of the Library Privacy Act is to preserve the intellectual freedom guaranteed by Sections 4 and 17 of Article 2 of the constitution of New Mexico by providing privacy for users of the public libraries of the state with respect to the library materials that they wish to use."



A bill may have both legislative findings and a purpose of act; if so, they are written in the same section, with findings first.

***Example: Legislative Findings and Purpose***

6-3A-2. Findings and purpose.--

A. The legislature finds that agencies should:

(1) be granted sufficient statutory authority and flexibility to use their resources in the best possible way in order to better serve the citizens of New Mexico through the efficient delivery of services and products and the effective administration of governmental programs;

(2) be held accountable for the services and products they deliver in accordance with clearly defined missions, goals and objectives;

(3) develop performance measures for evaluating performance and assessing progress in achieving goals and objectives, and those measures should be integrated into the planning and budgeting process and maintained on an ongoing basis;

(4) have incentives to deliver services and products in the most efficient and effective manner and, if appropriate, recommend the restructuring of ineffective programs or the elimination of unnecessary programs;

(5) have their performance in achieving desired outputs and outcomes and in efficiently operating programs measured and evaluated in an effort to improve program coordination, eliminate duplicate programs or activities and provide better information to the governor, the legislature and the public; and

(6) strive to keep the citizens of this state informed of the public benefits derived from the delivery of agency services and products and of the progress agencies are making with regard to improving performance.

B. The purpose of the Accountability in Government Act is to provide for more cost-effective and responsive government services by using the state budget process and defined outputs, outcomes and performance measures to annually evaluate the performance of state government programs.

## ***Definition Sections***

A definition section should be drafted when certain terms used in an act need to be defined or when it is desirable to substitute a single word for a long phrase that will be used many times. If a term is used in only one section, it may be defined in that section. The following guidelines should be used when drafting definitions.

**Do not define words that are being used in their normal dictionary meaning.** Unnecessary or superfluous definitions cloud meaning.

**Do not put substantive law in a definition section.** The problems caused by having substantive law in the definition section are both immediate and long lasting. The most obvious problem with legislating in the definition section is that no one will think to look for it there. This can cause unnecessary problems with amendments, as well as enforcement of the law.

**List defined terms alphabetically.** When creating a definition section, the drafter should resist the temptation to list definitions hierarchically; the drafter will find that, more often than not, other people will not agree with or even understand such a schema. Drafters are encouraged to maintain the alphabetical order of existing definition sections even when adding definitions by amendment. However, they must be sensitive to highly litigious areas of law, heavily amended definition sections and overly cross-

### ***Definition Drafting Key Points***

- ◆ Do not define words that are being used in their normal dictionary meaning.
- ◆ **Do not put substantive law** in a definition section.
- ◆ List defined terms alphabetically.
- ◆ Enclose defined terms in quotation marks.
- ◆ Place each definition in its own subdivision.
- ◆ Use the verb "means" and "includes" in the singular.
- ◆ If the definition is restrictive, use the word "means".
- ◆ If the definition is extensive, use the word "includes".
- ◆ Do not use "but is not limited to".
- ◆ Do not define "act" or "federal act".
- ◆ Do not define acronyms or abbreviations.
- ◆ Define administrative terms.
- ◆ Do not define terms that are not used in the bill.
- ◆ Do not define terms solely to use them in another definition.

referenced acts to ensure that they are not causing more harm than good when opting to reorder an existing definition section.

**Enclose defined terms in quotation marks.** Whatever is within the quotation marks must be the **precise** term that will be used in the bill. A different grammatical form of the defined term is allowed if the sentence structure requires, but if the precise term is not used predominantly, the drafter needs to rewrite the term.

**Place each defined term in its own subdivision.** Usually, each defined term occupies its own subdivision, that is subsection or paragraph, in a single definition section, but there are rare exceptions. Extensive codifications may have individual sections for each definition or series of definitions, particularly when a single definition section is several pages long and is frequently amended. The Motor Vehicle Code, which has close to 150 defined terms, has 21 definition sections, based on alphabetical order, to make it easier to change or add definitions.

**Use the verb "means" and "includes" in the singular.** Whether the defined word is singular, plural or collective, the verb "means" or "includes" always remains singular.

**If the definition is restrictive, use the word "means";** if the definition is extensive, use the word "includes". If it is necessary to exclude a meaning from an extensive definition, add the phrase "but does not include".

**Do not define "act" or "federal act".** It is not acceptable drafting style to define "act" or "federal act" to avoid using a long short title.

**Do not define acronyms or abbreviations.** It is not acceptable drafting style to define acronyms or use other abbreviations in the law, except for "a.m.", "p.m." and "NMSA" and, in certain sections, "DWI".

**Define administrative terms.** For example, define "department", "division", "board", "commission", "fund" and similar terms. Beware of defining a word that crosses governmental

lines. For example, defining "agency" to mean both a state agency and a municipal agency can cause untold — and unnecessary — problems in future amendments. Similarly, the drafter must ensure that a definition of "agency" does not inadvertently encompass legislative or judicial agencies if the scope of the term is intended to include executive agencies only; such an oversight can create separation of powers issues.

**Do not define terms that are not used in the bill.** This sometimes occurs when a drafter defines terms in the beginning of the drafting process that the drafter believes will be used in the act, but are not actually used in the completed bill draft or are subsequently removed from the bill. The drafter must remember to remove such terms from the definition section.

**Do not define terms solely to use them in another definition.** A defined term may be used in another definition; this is particularly prevalent with administrative terms. Do not use circular definitions.

### *Context of Defined Terms*

The definition section does not need to state that the definitions "control unless the context requires otherwise"; that is understood.

### *Rules of Statutory Construction*

The drafter must be familiar with the definition of "person" in the Uniform Statute and Rule Construction Act. "Person" will need to be defined in the bill if the drafter wants a definition other than that in the statutory construction act. Unlike the old statutory construction act, the new law is not permissive. The usual definitions of "person" include both natural (individuals) and artificial (corporate) persons; therefore, the drafter should not try to distinguish individuals from entities in the text. This is one of the best examples of the admonition against using synonyms in the law. There may be rare occasions when there is a legitimate reason to differentiate between person and individual, but the drafter would have to change the normal definition of person to accommodate the differentiation. Every drafter should be familiar with all of the terms defined in the Uniform Statute and Rule Construction Act.

**Example: Definition Section**

12	SECTION 3. [ <u>NEW MATERIAL</u> ] DEFINITIONS.--As used in the
13	Fish Act:
14	A. "department" means the department of game and
15	fish;
16	B. "fingerling" means a fish shorter than six inches
17	in length;
18	C. "fish" includes both game fish and nongame fish,
19	but does not include carp;
20	D. "fund" means the fish replenishment loan fund;
21	E. "hatchery" means a fish farm licensed by the
22	department and the federal department of the interior; and
23	F. "poaching" means the taking of fingerlings from a
24	lake or stream in the state by someone other than a department
25	representative.

Like the title of the bill, it is a matter of personal preference whether the definition section is drafted first or last. Perhaps the easiest way is to write the common or known definitions first, then leave the section open to revise, add or delete defined terms as the bill is drafted.

If a bill draft is conformed before introduction, the drafter should check to see if the revisions have necessitated the removal of a definition because it is no longer used or if the material added by revision requires a new defined term. The same is true of a bill that is amended after introduction. An amendment to strike an existing defined term or insert a new defined term may be necessary.

## ***Main Provision Sections***

A drafter must construct the main provisions of the bill to implement the intent of the requester, always keeping in mind the constitutional prohibition against bills embracing more than one subject. Main provisions may be new sections or amendatory sections. Review the following example.

### ***Example: Main Provision***

```
12 | SECTION 3.  [NEW MATERIAL] APPLICATION FOR LICENSE.--
13 | Application for a collection agency license, reposessor's
14 | license or manager's license shall be made to the director in
15 | such form as required by the director.
```

The design of the main provisions is the most flexible of all the parts of the bill and depends entirely upon the bill's purpose. Bill design does have to fit within the confines of legislative style, however.

There are several types of bills that are so common that a discussion of required contents, including their main provisions, is provided in Appendix A of this manual.

Appendix A covers the creation of boards and commissions; provisions that must be covered in licensing acts; requirements of licensure; provisions necessary for executive reorganization, that is, provisions creating or reorganizing a department or agency; capital outlay considerations, including authorization for bonds; tax bill requirements; Motor Vehicle Code additions or amendments; creation of funds; and considerations for the creation or filling of judgeships. The information should be helpful to the seasoned pro as well as the beginning drafter.

## ***Felonies and Misdemeanors***

**Crimes are classified into two major categories: felonies and misdemeanors.**

**A crime is a felony** if so designated by law or if it is punishable by imprisonment for one year or more.

**A crime is a misdemeanor** if so designated by law or if it is punishable by imprisonment for less than one year. Misdemeanors may be tried in either magistrate or district court; felonies may be tried only in district court.

**Crimes within the Criminal Code** (Chapter 30 NMSA 1978) are further classified as capital felonies; felonies of the first, second, third and fourth degrees; misdemeanors; and petty misdemeanors.

See Sections 31-18-15, 31-19-1 and 31-20-1 NMSA 1978 for the penalties.

**Crimes outside the Criminal Code** that are designated as felonies without specifying penalties constitute fourth degree felonies and carry the penalty specified in Section 31-18-15 NMSA 1978, which is part of the Criminal Sentencing Act. All other crimes outside the Criminal Code that do not specify the class of crime or that specify no penalty constitute petty misdemeanors and carry the penalty specified in Subsection B of Section 31-19-1 NMSA 1978.

See Section 31-18-13 NMSA 1978.

## ***Penalty Sections***

Following is a brief discussion of penalties, but any drafter who expects to draft criminal statutes, either within or outside of the Criminal Code, should be thoroughly familiar with the style and contents of the Criminal Code and the Criminal Sentencing Act.

### ***Classification of Crime***

Crimes are classified into two major categories: felonies and misdemeanors. Review the accompanying sidebar for a discussion of felonies and misdemeanors and their classifications and penalties.

### ***Special Penalties***

In certain cases, special penalties apply to a particular chapter, article or other part of the statutes. For example, any provision contained in Chapter 17 NMSA 1978 that classifies a violation of a game and fish law or rule as a misdemeanor, but does not specify a penalty, carries the penalty specified in Section 17-2-10 NMSA 1978 rather than the penalty specified in the Criminal Sentencing Act.

Similarly, misdemeanors in the Motor Vehicle Code not specifying penalties carry the penalty contained in Section 66-8-7 NMSA 1978. Pursuant to Section 66-8-9 NMSA 1978, Motor Vehicle Code felonies carry the same penalties as prescribed in Section 31-18-15 NMSA 1978.

## ***Crimes Within the Criminal Code***

If a bill amends the Criminal Code, any class of felony or misdemeanor may be stipulated without specifying a particular penalty. Review the following example.

### ***Example: Criminal Penalty — Within the Criminal Code (Chapter 30 NMSA 1978)***

```
15 | SECTION 1.  [NEW MATERIAL] REMOVING BONES FOR COMMERCIAL
16 | PURPOSES.--
17 |           A.  Removing bones for commercial purposes consists
18 | of any person removing bones from public property to sell,
19 | trade, exchange or barter for monetary or other gain.
20 |           B.  Whoever commits removing bones for commercial
21 | purposes is guilty of a _____ degree felony <or misdemeanor or
22 | petty misdemeanor>.
```

## ***Crimes Outside the Criminal Code***

The drafter should specify both the class and the penalty for any crime the drafter creates outside the Criminal Code. One method is to conform the penalty to that in the Criminal Sentencing Act. For example, if a felony penalty is desired, the drafter should examine Section 31-18-15 NMSA 1978 to see whether the penalty for one of the classes of felony specified there is appropriate. For misdemeanor penalties, the drafter should review Section 31-19-1 NMSA 1978. If the Criminal Sentencing Act penalty is appropriate, the penalty provided in the bill should conform. Reference the section as in the following example to provide the complete sentencing authority of Section 31-18-15 NMSA 1978.

### ***Example: Sentencing Authority Reference***

```
". . .is guilty of a _____ degree felony and shall be sentenced in
accordance with the provisions of Section 31-18-15 NMSA 1978."
```



The reason for this procedure is to create some uniformity between sentencing authority for crimes found in the Criminal Code and those found outside the code.

### ***Standard Penalty Clause***

New Mexico has determinate sentencing, which means the judge will sentence a person to a definite term of imprisonment or a fine of a definite amount of money, or both. When drafting outside the Criminal Code, if the drafter wants to provide a different penalty than that specified in Section 31-18-15 or 31-19-1 NMSA 1978, the style is to provide a penalty ceiling up to which the judge can sentence. The following is an example of a standard penalty clause.

#### ***Example: Standard Penalty Clause***

". . . shall be punished by a fine of not more than \_\_\_\_\_ (\$ ) or by imprisonment for a definite term not to exceed \_\_\_\_\_, or both."

It is not necessary to write "or to both such fine and imprisonment in the discretion of the judge"; the words "or both" say the same thing in a much simpler way. Consideration must be given as to whether the penalty fits the crime. In addition to the possible loss of freedom and money, a person convicted of a felony may lose certain rights.

#### ***Example: Criminal Penalties Outside Criminal Code — Misdemeanor***

15 | SECTION 4. [NEW MATERIAL] REMOVING BONES--PERSONAL USE--  
16 | PENALTY.--Any person who removes bones from public property for  
17 | personal use is guilty of a misdemeanor and shall be punished by  
18 | a fine of not more than five thousand dollars (\$5,000) or by  
19 | imprisonment for a definite term not to exceed one year, or both.

*Example: Criminal Penalties Outside Criminal Code — Felony*

15       SECTION 4.   [NEW MATERIAL] REMOVING BONES--COMMERCIAL USE--  
16 PENALTY.--Any person who removes bones from public property for  
17 commercial purposes is guilty of a third degree felony and shall  
18 be punished by a fine of not more than fifteen thousand dollars  
19 (\$15,000) or by imprisonment for a definite term not to exceed  
20 five years, or both.

*Placement of Penalty*

A penalty relating to only one section is placed in that section; a penalty pertaining to several sections or an entire act is put in a separate section.

*Corporate Penalties*

Sentencing corporations under the Criminal Code is governed by Section 31-20-1 NMSA 1978. For crimes outside the Criminal Code, the same rules apply as for individuals. Usually, corporations are sentenced to fines, since applying imprisonment to a corporation is problematic. However, there are several models in the statutes to support jail time for corporations, or at least corporate officers. Drafters can find examples in areas such as environmental protection (Volume 13 NMSA 1978), where the legislature has decided that the public good mandates that someone pay by loss of freedom and rights for such a serious harm against the citizens of the state. When looking at those laws, the drafter may note the way monetary penalties can accrue, for example "per violation per day".

*Civil Penalties*

Civil penalties are placed in the same position in a bill as criminal penalties. A bill may have both criminal and civil penalties. Unless otherwise provided by law, **civil penalties are deposited to the credit of the current school fund** (*see* Article 12, Section 4 of the Constitution of New Mexico).

### *Example: Civil Penalty*

15       SECTION 12.   [NEW MATERIAL] CIVIL PENALTY.--A person who  
16 violates Sections 5 through 10 of the Hazardous Tanks Act may be  
17 assessed a civil penalty not to exceed ten thousand dollars  
18 (\$10,000) per tank for each day during any portion of which a  
19 violation occurs.

### *Administrative Penalties*

Civil penalties are usually assessed by the court, but the legislature can give that right to a state agency. Until recently, administrative penalties were relatively rare in New Mexico law; the legislature traditionally had been hesitant to give over that judicial function to executive agencies. That is changing, however, as administrative penalties gain favor because of limited prosecutorial and judicial resources. The drafter should discuss the issue with the requester.

**When providing for administrative penalties**, the drafter needs to specify: (1) the amount of the penalty; (2) the reason for its assessment; (3) the procedures for assessing the penalty; (4) the procedures for protesting and appealing, including the provision of a hearing and appeal to a state court; (5) how a record of the hearing is taken and the scope of review; and (6) how the agency may enforce compliance.

In addition to civil penalties, the drafter may provide for private remedies.

### *Penalties Stated in Title*

Although not mandatory, it is good drafting practice to mention in the title that the bill provides penalties, particularly when criminal penalties are possible. Such notice in the title is generally expected and ensures proper committee referrals.

*Example: Penalties Stated in Title*

10 | AN ACT  
11 | RELATING TO ANIMALS; ENACTING THE PET STERILIZATION ACT;  
12 | PRESCRIBING CRIMINAL AND CIVIL PENALTIES; MAKING AN APPROPRIATION.

***Liberal Interpretation Sections***

A liberal interpretation section is intended to allow a court or administrator greater latitude in interpreting or carrying out the provisions of an act. Such a section is of uncertain value and might tend to blur the law, but if one is requested, the following language is suggested.

*Example: Liberal Interpretation Section — Short Title Act*

15 | SECTION 12. [NEW MATERIAL] LIBERAL INTERPRETATION.--The  
16 | Drafting Act shall be liberally construed to carry out its  
17 | purpose.

*Example: Liberal Interpretation Section — Sections of an Act*

15 | SECTION 12. [NEW MATERIAL] LIBERAL INTERPRETATION.--Sections  
16 | 1 through 11 of this act shall be liberally construed to carry  
17 | out their purpose.

Similar to the false safety of a severability clause, the requester might think that there is more protection in a liberal interpretation clause than there is. The courts will determine how to interpret the law and what is severable. The drafter should warn the requester of the limits of these two kinds of sections.

## ***Saving Clause Sections***

A saving clause is designed to preserve certain rights, duties or privileges that might otherwise be destroyed by a general enactment containing an amendment to or repeal of existing provisions of law. Saving clauses are not used very often in New Mexico law because Article 2, Section 19 and Article 4, Sections 33 and 34 of the Constitution of New Mexico cover the problem most of the time. If a saving clause is needed, the following language is suggested.

### ***Example: Saving Clause Section***

```
15 | SECTION 13. [NEW MATERIAL] SAVING CLAUSE.--The Radiation Act
16 | does not apply to pending litigation.
```

## ***Cumulative, Additional or Supplemental Remedies***

A type of saving clause is used to save existing law from implied repeal. An example is when the requester wants to provide for cumulative remedies. The section heading is usually written more specifically, e.g., "REMEDIES CUMULATIVE.--", instead of under the rubric "SAVING CLAUSE.--". The section is compiled, same as a saving clause section.

## ***Grandfather Clauses***

A grandfather clause is a special type of saving clause, usually used to ensure that persons lawfully engaged in a particular activity do not have to comply with certain provisions of a new law. For example, a grandfather clause may be used to exempt a current occupational practitioner from certain licensing provisions, such as testing or education, of a newly regulated occupation.

## ***Back of the Bill***

The third segment of a bill contains the back of the bill sections. Some are added to clarify a complicated bill; others are used for specific purposes. The drafter chooses if and when to use back of the bill sections, depending on the bill drafting request and the bill design. Usually, these sections are not compiled but are set out or referenced in the compiler's notes in the Comp. The compiler may choose to compile a section at the compiler's discretion.

### ***Temporary Provision Sections***

Temporary provision sections are used to instruct the compiler, e.g., to give recompilation instructions, or to provide for a one-time change, such as a transfer of property and budget when a function is transferred from one agency to another.

Labeling these types of provisions as temporary informs the compiler that the section should not be compiled with the permanent laws. The compiler has the right, however, to compile or not compile as the compiler sees fit.

Review the following examples for standard wording.

#### ***Example: Temporary Provision — Records Transfer***

15	<b>SECTION 168. TEMPORARY PROVISION--RECORDS.--</b> On the
16	effective date of the Rig Water Act, all records of the energy,
17	minerals and natural resources department pertaining to rig
18	water shall be transferred to the state engineer.

A temporary provision may be broken into subsections as in the next example.

***Example: Temporary Provision — Transfer of Functions, Personnel, Property, Contracts & References***

13           **SECTION 6. TEMPORARY PROVISION--TRANSFER OF FUNCTIONS,**  
14 **PERSONNEL, PROPERTY, CONTRACTS AND REFERENCES IN LAW.--On July**  
15 **1, 2016:**

16                   A. all functions, personnel, appropriations, money,  
17 records, equipment, supplies and other property of the  
18 grasshopper eradication board shall be transferred to the  
19 department of agriculture;

20                   B. all contracts of the grasshopper eradication  
21 board shall be binding and effective on the department of  
22 agriculture; and

23                   C. all references in law to the grasshopper  
24 eradication board shall be deemed to be references to the  
25 department of agriculture.

In the previous example, it is a policy decision whether to transfer personnel; sometimes the intent is to make a significant organizational change and start with new personnel. The drafter should ask the requester's intentions.

The next example is an atypical use of a temporary provision section. Normally, the material would be presented to the legislature as a memorial, not as a temporary provision. Presumably, this provision fit with the substantive portion of the request. Note that the task force will function for only one interim; the drafter was correct to mark it as a **TEMPORARY PROVISION** so as not to clutter the NMSA 1978 with short-term provisions. If the task force

were to function for a longer term, the compiler might compile the section regardless of the drafter's instructions.

***Example: Temporary Provision —Task Force***

10           SECTION 9. TEMPORARY PROVISION--MEDICAID TASK FORCE.--  
11                   A. The secretary of human services shall appoint a  
12 twenty-one-member "medicaid cost containment task force",  
13 consisting of three hospital administrators, three nursing home  
14 administrators, two physicians, one pharmacist, three primary  
15 health care providers, one home health agency administrator,  
16 five representatives of mental health and developmental  
17 disabilities advocacy groups and three members of the general  
18 public. The task force shall function from the date of its  
19 appointment, which shall be no later than July 1, 2016, until  
20 December 15, 2016.  
21                   B. The task force shall investigate federal and  
22 state statutes, rules and regulations regarding the medicaid  
23 program and other states' cost containment measures. The task  
24 force shall report its findings and recommendations to the  
governor and the legislature prior to January 1, 2017.

Recompilations of existing sections of law are also set out as temporary provisions. *See* Chapter 4: Bills – Legislative Actions, *Recompiling Existing Law*, for an example.



## *Appropriations — Required Language*

Article 4, Section 30 of the Constitution of New Mexico provides that an appropriation section must "distinctly specify the sum appropriated and the object to which it is to be applied". Tradition and drafting style require more information.

In a section appropriating money, specify:

1. the **amount** of money appropriated;
2. the fund or revenue **source** from which appropriated;
3. the **agency or fund** to which the money is to be allocated;
4. the **time period** during which the money can be spent;
5. the **purpose** of the appropriation; and
6. the **disposition** of any unexpended or unencumbered balance.

## *Appropriation Sections*

The Constitution of New Mexico has a great number of restrictions on the purposes for which appropriations and expenditures of public money can be made. The drafter should be familiar with all of them, particularly Article 4, Sections 30 and 31 and Article 9, Section 14 (commonly known as the Anti-Donation Clause, *see* Appendix E), so the drafter can advise the requester.

The Constitution of New Mexico also has specific language on the technique of making the appropriation (Article 4, Section 30) and specific requirements as to whether an appropriation should be made in the general appropriation act or in a separate bill (Article 4, Section 16).

## *General Appropriation Acts*

By recent custom, HAFC/HB 2, which usually becomes the general appropriation act, is drafted by the Legislative Finance Committee when the bill is substituted by the House Appropriations and Finance Committee. The original bill introduced by the House Appropriations and Finance Committee chair at the request of the governor is usually formatted and typed in the Legislative Council Service. All Legislative Council Service drafters should be familiar with the style, format and contents of the act, as well as the standing finance committees' requirements for amending the act.

## *New Agency Appropriations*

Article 4, Section 16 of the Constitution of New Mexico limits the appropriations in a general appropriation act to those for the expenses "required under existing law" and requires other appropriations to be made in separate acts. Consequently, when a new agency is created or an entirely new function is added to an existing agency, **the bill should contain an appropriation section to cover expenses for at least the first year.** Thereafter, the agency or function will become part of the general appropriation act.

## *Reversion Clauses*

Although money reverts unless the legislation specifies that it does not, drafting style requires that the standard reversion clause be used.

### *Example: Standard Reversion Clause*

"Any unexpended or unencumbered balance remaining at the end of (whatever fiscal year) shall revert (or not revert) to the (source)."

## *Reverting Funds*

If the reversion clause is left off, enough confusion can ensue that money may not be returned to its source for further appropriation by the legislature.

### *Example: Appropriation — Single Fiscal Year — Reverting*

15	SECTION 10. APPROPRIATION.--Twenty-five thousand dollars
16	(\$25,000) is appropriated from the general fund to the orchard
17	inspection commission for expenditure in fiscal year 2017 to
18	carry out the provisions of the Prune Act. Any unexpended or
19	unencumbered balance remaining at the end of fiscal year 2017
20	shall revert to the general fund.

## ***Nonreverting Funds***

If money is being appropriated to a **nonreverting** fund, the money must be provided for the current **and subsequent fiscal years** or the Financial Control Division of the Department of Finance and Administration will not permit expenditures past the named fiscal year.

### ***Example: Appropriation — Nonreverting***

```
18 | SECTION 6. APPROPRIATION.--One hundred thousand dollars
19 | ($100,000) is appropriated from the general fund to the tree farm
20 | fund for expenditure in fiscal year 2017 and subsequent fiscal
23 | years to provide loans to tree farmers as provided in the Tree
24 | Farm Loan Act. Any unexpended or unencumbered balance remaining
25 | at the end of a fiscal year shall not revert to the general fund.
```

The money in the previous example does not revert because the Tree Farm Fund was created as a nonreverting fund in the enabling legislation. As a convenience to the reader, include the nonreversion instructions in the appropriation section; that way, the reader will not have to research substantive law in order to find out what will happen to the balance of an appropriation.

## ***Unexpended or Unencumbered Balances***

Note the use of the phrase "unexpended or unencumbered balance" in the appropriation section examples. The whole phrase must be used. Review the following examples.

### ***Examples: Unexpended & Unencumbered Balances***

```
Any unexpended or unencumbered balance remaining at the end of
fiscal year 2017 shall revert to the general fund.
```

```
Any unexpended or unencumbered balance remaining at the end of a
fiscal year shall not revert to the general fund.
```

In government finances, money can be encumbered but not spent; therefore, by reverting only the "unexpended balance", the drafter could adversely affect contractual relationships and requirements in violation of the constitution.

### ***Multiple Year Appropriations***

There is always a concern that multiple year appropriations are vulnerable to amendment by future legislatures. Such an appropriation section *may* avoid the problem of trying to bind future legislatures because the money will be debited against the current fiscal year (fiscal year 2017 in the next example), with restricted expenditures over several fiscal years; however, it is possible for a future legislature to repeal the appropriation and take the remaining balance.

There have occasionally been bills drafted that provided for an appropriation each year for several years. These bills are even more vulnerable, because the money is being debited each year. This is a clear violation of the admonishment against binding future legislatures. This type of appropriation is discouraged, and the drafter should discuss this issue with the sponsor at the time of the request.

Review the following example for multiple year appropriation.

#### ***Reversion Clauses***

##### ***Money Appropriated for One Year (2017):***

Any unexpended or unencumbered balance remaining at the end of **fiscal year 2017** shall revert to the general fund.

##### ***Money Appropriated for Two or More Years (2017-2020):***

Any unexpended or unencumbered balance remaining at the end of **fiscal year 2020** shall revert to the general fund.

##### ***Nonreverting Funds:***

Any unexpended or unencumbered balance remaining at the end of **a fiscal year shall not** revert to the general fund.

*Example: Appropriation — Multiple Fiscal Years — Reverting*

15 |           **SECTION 3.**  APPROPRIATION.--Five million dollars  
16 | (\$5,000,000) is appropriated from the general fund to the higher  
17 | education department for expenditure in fiscal years 2017 through  
18 | 2020 to provide grants to state universities to purchase science  
19 | equipment.  No more than one million dollars (\$1,000,000) may be  
20 | expended in any one fiscal year.  Any unexpended or unencumbered  
21 | balance remaining at the end of fiscal year 2020 shall revert to  
22 | the general fund.

***Appropriation Must Be Stated in Title***

The rules of both houses require that the phrase "MAKING AN APPROPRIATION" must appear in the title of a bill that appropriates money.  This ensures assignment to the appropriate committee for review.

*Example: Appropriation in Title*

10 |   AN ACT  
11 | RELATING TO PUBLIC SCHOOLS; ENACTING THE NATIVE NEW MEXICAN  
12 | TEACHER INCENTIVE PAY ACT; **MAKING AN APPROPRIATION.**

***Earmarked Revenue — Creating a Fund***

When providing for multiple year appropriations or for expenditures over several fiscal years, the drafter could consider creating a fund and providing a one-time appropriation to it, along with a mechanism for disbursements from the fund over the life of the project.  Creating a fund does not require numerous support sections, such as short title, definitions and other main provisions.  It can be as simple as two sections: one for the fund and one for the appropriation.

*Example: Earmarked Revenue — Creating a Fund — Making an Appropriation*

10 AN ACT  
11 RELATING TO ENERGY EFFICIENCY; AMENDING THE ENERGY EFFICIENCY AND  
12 RENEWABLE ENERGY BONDING ACT TO PROVIDE FOR ASSESSMENTS, **CREATE A**  
13 **REVOLVING FUND**, INCREASE THE DURATION OF INSTALLATION CONTRACTS  
14 AND REMOVE THE REQUIREMENT FOR A STATE PLAN; **MAKING AN**  
15 **APPROPRIATION.**

As noted in the discussion of titles in this chapter, an appropriation does not have to be as obvious as a separate section entitled "APPROPRIATION.--". An appropriation is deemed to be made any time that the legislature gives up its control of revenue. Earmarking a revenue source is an appropriation.

*Example: Earmarked Revenue — Making an Appropriation*

10 AN ACT  
11 RELATING TO REVENUES; DISTRIBUTING GOVERNMENTAL **GROSS RECEIPTS**  
12 **TAX PROCEEDS** TO THE ENERGY, MINERALS AND NATURAL RESOURCES  
13 DEPARTMENT FOR...; AMENDING AND ENACTING SECTIONS OF THE NMSA  
14 1978; **MAKING AN APPROPRIATION.**

*Special Requirements*

Please note in the following example that there is a potential problem with the amount of the appropriation. Under the Art in Public Places Act, a single appropriation for an existing building is limited to \$50,000; in addition, there may be a problem with appropriating money from the Art in Public Places Fund to an entity other than the Arts Division, as the Arts

Division is statutorily responsible for administering the Art in Public Places Program and Art in Public Places Fund. Any time a drafter is appropriating money from an existing fund, the drafter should read the statute concerning the fund to ensure compliance with its provisions. In appropriations, as in general law, the requester should be given enough information to make an informed decision regarding a request that is not in compliance with law.

***Example: Appropriation — Special Requirements of Fund — Potential Problem***

14        **SECTION 14. APPROPRIATION.**--One hundred thirty-two  
15 thousand six hundred dollars (\$132,600) is appropriated from  
16 the art in public places fund to the supreme court building  
17 commission for expenditure in fiscal years 2017 and 2018 to  
18 purchase and display art in the supreme court building. Any  
19 unexpended or unencumbered balance remaining at the end of  
20 fiscal year 2018 shall revert to the art in public places  
21 fund.

***Fiscal Years***

The state fiscal year begins on July 1 and ends on June 30 of the following calendar year. Prior to July 1, 1994, fiscal years were numbered beginning with the first year of statehood (1912), so that the fiscal year beginning July 1, 1994 *would have been* cited as the eighty-third fiscal year. Laws 1994, Chapter 12 amended Section 6-10-1 NMSA 1978 to change the way fiscal years are cited. That section provides that:

Beginning July 1, 1994, the fiscal year shall be cited by citing the calendar year in which the fiscal year ends. The fiscal year beginning July 1, 1994 shall be fiscal year 1995.

## ***Citations to Fiscal Years***

Drafters will encounter a mixture of old and new citations for a few years. Fiscal years before fiscal year 1995 should be cited in the older method of citation. Review the following.

. . . for expenditure in fiscal years 2017 and 2018 . . .  
. . . for expenditure in the eighty-second [~~through eighty-fifth fiscal years~~  
fiscal year and fiscal years 1995 through 1997 . . .

If needed, the drafter can determine what a fiscal year *would have been* in the old method by simply subtracting "1912" from the fiscal year (1994-1912 = 82, the 82nd fiscal year).

## ***Repeal Sections***

To eliminate an existing section of law, a repeal section must be used. Sections in conflict with a bill and sections not necessary after the passage of the bill should be expressly repealed. The Supreme Court has held that a general phrase such as "all acts or parts of acts in conflict with the provisions of this act are hereby repealed" has no effect. The phrase states an obvious fact and does not remove conflicting, obsolete or unnecessary laws from the Comp.

### ***Example: Repeal Section***

```
15 | SECTION 20. REPEAL.--Sections 4-19-7 and 4-19-8 NMSA 1978
16 | (being Laws 1991 (1st S.S.), Chapter 22, Sections 5 and 6) are
17 | repealed.
```

## ***Severability Sections***

A definite statement cannot be made as to the necessity of a severability clause. Therefore, if the act is severable, with parts that are constitutionally questionable, and it is desired that the remainder stand, a severability section may be advisable. The requester, though, should be warned that the section may not offer the protection that is desired. The use of such a clause has diminished. The following example provides a stock phrase that has survived the test of time, and it is suggested that the drafter not try to rewrite it.



***Example: Severability Section***

15           SECTION 10. SEVERABILITY.--If any part or application of  
16 the Rabid Rabbit Eradication Act is held invalid, the remainder  
17 or its application to other situations or persons shall not be  
18 affected.

There are times when the drafter wants to state that parts of a bill are **not** severable. A request for a nonseverable bill is rare, but, if necessary, the following section is recommended.

***Example: Not Severable***

15           SECTION 10. ACT NOT SEVERABLE.--If any part or  
16 application of this act is held invalid, the remainder or its  
17 application to other situations or persons shall likewise be  
18 invalid. The provisions of this act are not severable.

## ***Applicability Sections***

Applicability sections are used primarily in bills related to taxation, but there may be other times an applicability section is needed. Review the following examples.

***Example: Applicability Section — Taxation***

15           SECTION 6. APPLICABILITY.--The provisions of this act  
16 apply to taxable years beginning on or after January 1, 2017.

***Example: Applicability Section — Taxation***

1           SECTION 5. APPLICABILITY.--The provisions of this act  
2 apply to the 2016 and subsequent property tax years.

*Example: Applicability Section — Insurance Code*

12           SECTION 67. APPLICABILITY.--The provisions of this act  
13 apply to policies, plans, contracts and certificates delivered  
14 or issued for delivery or renewed, extended or amended in this  
15 state on or after January 1, 2017.

Sections of a bill may be assigned different applicabilities. The use of applicability provisions, particularly when applying different dates to different sections of a bill, requires the drafter to review the provisions carefully to ensure that no conflicts are created.

*Example: Applicability Section — Different Dates for Different Sections*

15           SECTION 24. APPLICABILITY.--  
16                   A. The provisions of Sections 1 through 10 of this  
17 act apply to taxable years beginning on or after January 1,  
18 2017.  
19                   B. The provisions of Sections 11 through 23 of this  
20 act apply to taxable years beginning on or after January 1,  
21 2018.

### *Effective Date Sections*

Article 4, Section 23 of the Constitution of New Mexico provides that **laws go into effect 90 days after the adjournment of the legislative session enacting them.** If the provisions of the bill are to be effective at a later date, the drafter must state the date in a separate section. Note that effective date sections are always written to provide that **the provisions** of the act or sections become effective on a given date.

### ***Example: Effective Date Section***

15 | SECTION 12. EFFECTIVE DATE.--The effective date of the  
16 | provisions of this act is July 1, 2016.

Do not use the short title in the effective date section. Use "this act" or "Sections \_\_\_ through \_\_\_ of this act". There have been enough horror stories in New Mexico law to make this a blanket prohibition, even if the only sections in the bill are under a short title. One example would be amending a bill to change the short title in the short title section but neglecting to change it in the effective date section, thereby rendering the effective date meaningless. Also, if the bill was amended to add a section that is not a part of the short title act, the effective date using the short title instead of "this act" would not apply to the added section.

### ***Multiple Effective Dates***

If an effective date section is written any differently than the previous example, the drafter must carefully think through both the intention and the effect of the change. All sections of the bill must be accounted for, preferably by inclusion in the effective date section (or through an emergency clause if one is included in the bill). Sections that are mentioned become effective when stated; sections not mentioned become effective 90 days after the session. The drafter must guard against unintended consequences when drafting an unusual effective date section.

### ***Example: Multiple Effective Dates***

15 | SECTION 15. EFFECTIVE DATE.--  
16 | A. The effective date of the provisions of Sections 1  
17 | through 9 and 13 of this act is July 1, 2016.  
18 | B. The effective date of the provisions of Sections 10  
19 | through 12 and 14 of this act is January 1, 2017.

### ***Contingent Effective Dates***

Effective date sections are also used when the effective date of the provisions of the act is to be contingent on the occurrence of some event, such as the passage of a constitutional amendment.

When a contingent law will become effective will determine which version of the section the drafter will use as the drafting base, and, perhaps, what is cited as the section history.

***Example: Contingent Effective Date***

15        **SECTION 43. CONTINGENT EFFECTIVE DATE.**--The provisions of  
16 this act shall become effective upon certification by the  
17 secretary of state that the constitution of New Mexico has been  
18 amended as proposed by a joint resolution of the second session  
19 of the fifty-second legislature, entitled "A JOINT RESOLUTION  
20 PROPOSING AN AMENDMENT TO ARTICLE 6, SECTION 16 ....".

***Notification of Occurrence of Event***

Since the Legislative Council Service and the compiler do not necessarily know whether the event occurred, the effective date should provide that both be notified when it does occur. The same reasoning applies to a repeal that is contingent on a remote event. The Legislative Council Service and the compiler need to know if the event happened so they know the state of the law.

***Example: Contingent Effective Date — Notification***

12        **SECTION 14. CONTINGENT EFFECTIVE DATE--NOTIFICATION.**--The  
13 provisions of this act become effective upon enactment into law  
14 of an appropriation for development training in the General  
15 Appropriation Act of 2016. The secretary of finance and  
16 administration shall notify the New Mexico compilation commission  
17 and the director of the legislative council service by July 1,  
18 2016 that the appropriation was made in that act.

***Example: Contingent Effective Date — Notification***

3           SECTION 6. CONTINGENT EFFECTIVE DATE--NOTIFICATION.--The  
4 effective date of the provisions of this act is January 1, 2007,  
5 unless congress or the United States department of transportation  
6 delays the implementation of the federal Unified Carrier  
7 Registration Act of 2005. If implementation of that act is  
8 delayed, the effective date of the provisions of this act will be  
9 the date determined by the federal government. The public  
10 regulation commission shall notify the New Mexico compilation  
11 commission and the director of the legislative council service if  
12 the effective date of this act is delayed and when the act  
13 becomes effective.

***Delayed Effective Dates***

The only difference in the wording of an effective date section and a delayed effective date section is the date.

***Example: Standard Delayed Effective Date Section***

18           SECTION 46. EFFECTIVE DATE.--The effective date of the  
19 provisions of this act is January 1, 2018.

Since effective dates are not compiled, if a drafter has to change a delayed effective date, it must be done in the session law. When amending a delayed effective date section, the drafter should convert references to "this act" to session law citations.

*Example: Amending Session Law to Change Delayed Effective Date*

16           SECTION 3. Laws 1990, Chapter 3, Section 10, as amended  
17 by Laws 1992, Chapter 17, Section 1 and also by Laws 1992,  
18 Chapter 104, Section 1, is amended to read:  
19           "Section 10. EFFECTIVE DATE.--  
20                   A. The effective date of the provisions of  
21 Sections 1, 2, 4, 5, 7 and 9 of [~~this act~~] Chapter 3 of Laws  
22 1990 is January 1, 1991.  
23                   B. The effective date of the provisions of  
24 Sections 6 and 8 of [~~this act~~] Chapter 3 of Laws 1990 is  
25 January 1, [~~2015~~] 2018."

When an effective date is delayed, a Comp number may have two or more disparate — or subtly different — sections set out in the Comp that show the compiled section as it will be until a predetermined date and as it will be after that future date. In the Comp, the existing section shows the "effective until" date in parentheses; the future section appears in italics immediately after.

The drafter may be required to choose between using a standard delayed effective date section at the end of the bill or putting delayed provisions in the substantive section. The advantage of putting the action in the substantive section is that it may lessen future problems with tracking and amending uncompiled delayed effective date sections. While there is no set drafting rule for this problem, the drafter is cautioned to think through the likelihood of future amendments to delayed dates.

## *Effective Date and Emergency Clause*

A bill that **does not** contain an emergency clause cannot have an effective date earlier than 90 days after the end of the legislative session. A drafter may use an emergency clause and still give an effective date for certain sections of the bill. Review the following example.

### *Example: Effective Date and Emergency Clause*

```
15 | SECTION 22. EFFECTIVE DATE.--The effective date of the
16 | provisions of Sections 14 through 20 of this act is July 1,
17 | 2016.
18 | SECTION 23. EMERGENCY.--It is necessary for the public
19 | peace, health and safety that this act take effect immediately.
```

## *Emergency Clause Sections*

If the bill is an emergency measure, **it is effective immediately upon passage and approval by the governor** instead of the **usual 90 days after the session**.

## *Emergency Clause Must be Stated in Title*

The rules of both houses require the phrase "DECLARING AN EMERGENCY" to appear in the title of a bill with an emergency clause.

### *Example: Emergency Clause in Title*

```
10 | AN ACT
11 | RELATING TO TAXATION; PROVIDING FOR CERTAIN EXEMPTIONS FROM THE
12 | GROSS RECEIPTS AND COMPENSATING TAX; DECLARING AN EMERGENCY.
```

The Constitution of New Mexico provides that the emergency clause must be stated in a separate section and that the bill must be passed by a two-thirds' vote of each house (Article 4,

Section 23). If the required vote is not achieved, the emergency clause is removed from the bill. An emergency clause cannot be added in the second house. The emergency clause is the last section of a bill and uses standard language. Review the following example.

***Example: Emergency Clause***

```
15 | SECTION 10. EMERGENCY.--It is necessary for the public
16 | peace, health and safety that this act take effect immediately.
```

Note that the phrase "this act" is allowed in the emergency clause, certain effective date sections and certain temporary provisions; otherwise it is not normally allowed as a sole reference. For a discussion of the use of "this act", see Chapter 9: Legislative Style and Language Provisions and Information Memoranda.

## ***Bill Format and Subdivisions***

A bill is divided into numbered sections. If a section is long or contains several distinct narrative breaks, it is easier to read, understand and refer to if it is broken into subdivisions, referenced as subsections, paragraphs, subparagraphs and items. The subject matter determines to what extent the subdivision should be made. To enable readers to know the level of the subdivision without checking back to the prior subdivision, the following standard form is required by legislative rule.

***Example: Section Subdivisions***

```
15 | SECTION 1. [NEW MATERIAL] HEADING.--Intro words (indented
16 | 5 spaces):
17 |     A. subsection (indented 10 spaces):
18 |         (1) paragraph (indented 15 spaces):
19 |             (a) subparagraph (indented 20 spaces); and
20 |             (b) subparagraph, including: 1) item; and
21 | 2) items (not indented); and
22 |         (2) paragraph; and
23 |     B. subsection.
```



When used in a bill, sections carry a number designation, e.g., "**SECTION 1.**". The other subdivisions of a section carry the appropriate letter or number designation. If a subdivision is made in a bill, there must be at least two of them. Said another way, there cannot be an "A." without a "B." a "(1)" without a "(2)" and so forth.

## ***Section Headings***

The section heading immediately precedes the text and indicates the contents of the section. Headings should be descriptive, but not exhaustive. Failure to be inclusive in the heading does not invalidate the section. Since section headings are obvious quick-reference and research tools, the drafter should write them with that in mind.

Each section of a bill draft has a heading that briefly describes what the section is about. The heading is typed in capital letters. Parts of the heading are separated by dashes (--) with no spaces between them or the words they separate; the heading ends with a period and a dash, followed directly by the body of the section. Review the following example.

### ***Example: Section Heading — No Subdivisions***

12	SECTION 3. [NEW MATERIAL] TREE FARM LOAN FUND--
13	ADMINISTRATION.--The "tree farm loan fund" is created in the
14	state treasury. The fund shall be administered by the forestry
15	division of the energy, minerals and natural resources
16	department.

When the body of the section begins with a subsection, the heading line ends with a period and a dash, but the first line of the subsection (beginning with "A.") is indented 10 spaces on the following line. Review the following example.

*Example: Section Heading — Section with Subdivisions*

12           SECTION 3.   [NEW MATERIAL] FILM PRODUCTION TAX CREDIT.--  
13                    A.   The tax credit created by this section may be  
14 referred to as the "film production tax credit".  An eligible  
15 film production company may apply for and the taxation and  
16 revenue department may allow, a tax credit...

When changes are made to sections in a bill, whether through conforming the bill draft or making amendments to the introduced bill, the drafter should review section headings and make corresponding changes to the headings if needed.



## CHAPTER 4: BILLS — LEGISLATIVE ACTIONS

*Each section of a bill performs a legislative action. Upon receiving a request for a bill, a drafter must determine what sections should be included in the bill to achieve its purpose.*

To do this, the drafter may research what other states have done in similar circumstances, possible conflicts with federal law, general background and other pertinent information and then determine which sections, if any, of the current law will need to be changed and what other legislative actions must be taken. These actions should be cited in the title of the bill.

In terms of legislative actions, a section of a bill may:

- (1) enact a new law;
- (2) amend an existing law;
- (3) repeal an existing law;
- (4) repeal an existing law and enact a new section in its place;

### ***Key Points: New Material***

**A new substantive section (section to be compiled) must have** the new material designation. The drafter must decide whether or not instructions as to where the section will be placed in the Comp should be given in the lead-in of the section. (Examples of the different formats are shown in the following pages.) This decision will determine the format of the section. The format will be affected by whether the section is:

- (1) being assigned a Comp number;
- (2) being placed in an existing short title act or other existing law (chapter or article of the NMSA 1978);
- (3) being repealed and a new section is being enacted in its place; or
- (4) is not being assigned a Comp number and is not being placed in existing law.

The point of [NEW MATERIAL] is to alert the reader that the entire section is new and will not have bracketed and underscored material. In sections that are made a part of an existing act or that assign Comp numbers, the reader is also notified that the NMSA 1978 might have to be studied to understand the section and how it relates to current law.

Back of the bill sections (sections that will not be compiled) do not carry the new material designation. Severance tax bond distributions and reauthorizations do not require the designation.

- (5) recompile an existing law;
- (6) recompile and amend an existing law; or
- (7) be one of a number of uncompiled sections.

A bill may contain any one or a combination of these types of sections.

## ***Enacting a New Section***

A drafter may choose to draft a bill to enact a new section of law when the purpose of a legislative request is not covered by existing law. When drafting a new section, in addition to determining the substantive language of the section, the drafter should consider:

- ◆ where the new section will fit into existing law, that is, will it be added to an existing short title act or chapter of the NMSA or will it be part of a new short title act; and
- ◆ whether to assign a Comp number to the section.

## ***New Material Designation***

New substantive sections (sections that will be compiled) must have the words [NEW MATERIAL] (capitalized, bracketed and underscored) inserted directly before the section heading. Review the examples on the following pages.

## *New Material and the Assignment of Comp Numbers*

If a law is being enacted for the first time, a compilation number, or "Comp number" may or may not be assigned to it by the drafter. ***Unless absolutely necessary, the drafter should leave the assignment of Comp numbers for new sections to the compiler.***

### ***Example: New Material — Assignment of Comp Number***

7           SECTION 7. A new Section 4-5-6 NMSA 1978 is enacted to  
8 read:  
9           "4-5-6. [NEW MATERIAL] ASSIGNMENT OF COMPILATION NUMBERS--  
10 WHEN USED.--  
11           A. The drafter should not assign compilation numbers  
12 unless it is absolutely necessary to ensure proper placement of  
13 the section in the compilation.  
14           B. The drafter may assign compilation numbers if:  
15               (1) the section is intended to be inserted into  
16 and be construed as an integral part of a sequence of compiled  
17 sections;  
18               (2) the section is being added to an article or  
19 act and there is a strong possibility that the bill will not  
20 give the compiler a clue as to where the section should be  
21 compiled; or  
22               (3) the section is being repealed and reenacted  
23 because the revisions are so substantial and require so many  
24 changes that to use brackets and underscoring would make it  
25 almost impossible to read and understand the changes."

See Appendix B for a further discussion of the assignment of Comp numbers.

### ***Quotation Marks***

If a Comp number is being assigned to a new section, as in the previous example, the designation [NEW MATERIAL] must precede the section heading. It will be inserted after the bill section lead-in and the beginning quotation marks.

The body of such a section always starts with the Comp number and is set off in quotation marks. Only that portion of the section within quotes will appear in the Comp. Note that there are quotation marks at the beginning and the end of the section in the previous example.

If the drafter decides not to assign a Comp number or give instructions for placement of the section in the section lead-in, the format will be different. Review the following example.

#### ***Example: New Section — No Comp Number or Placement Instructions***

13	SECTION 1. <u>[NEW MATERIAL]</u> PET STERILIZATION REQUIRED--
14	ANIMAL SHELTERS TO PROVIDE.--
15	A. All animals adopted from animal shelters shall be
16	sterilized before adoption.
17	B. Every animal shelter operating in the state shall
18	provide sterilization services. The animal shelter may charge a
19	reasonable fee for the sterilization services provided.
20	C. Sterilization of animals in animal shelters may
21	be performed by a nonveterinarian if the nonveterinarian has
22	taken and passed the board's course for volunteer sterilizers.

Note that new sections without assigned Comp numbers or attachment to an existing short title act or NMSA chapter **do not have quotation marks at the beginning and end of the section.**

### ***Placing New Section in Existing Short Title Act***

If the intent is to have the new section become part of an existing short title act, the drafter must affirmatively express that intent by way of a directive. This directive is part of the lead-in of the bill section.

Review the following examples for enactment with and without assignment of a Comp number and with and without instructions for placement in a short title act.

#### ***Example: New Material Section — Placement in Short Title Act — No Comp Number***

```
15 | SECTION 3. A new section of the Controlled Substances Act
16 | is enacted to read:
17 | "[NEW MATERIAL] FORFEITURES--USE OF PROPERTY.--"
```

#### ***Example: New Material Section — Placement in Short Title Act — With Comp Number***

```
15 | SECTION 3. A new section of the Controlled Substances Act,
16 | Section 30-31-34.1 NMSA 1978, is enacted to read:
17 | "30-31-34.1. [NEW MATERIAL] FORFEITURES--PROPERTY USE..."
```

Please note that in the next example, all sections of the bill are new sections, but one section is being placed in an existing short title act. This placement is directed by the bill section lead-in. All of the new sections require the new material designation, but the format will be different.



***Example: New Material Sections — Placed in Short Title Act & Not Placed***

12           SECTION 1. A new section of the Community Corrections  
13 Act is enacted to read:  
14           "[NEW MATERIAL] GROUP HOMES--TORT CLAIMS ACT COVERAGE.--  
15 Group homes operated by providers contracting with the state  
16 are covered by the Tort Claims Act."  
17           SECTION 2. [NEW MATERIAL] SHORT TITLE.--Sections 2  
18 through 14 of this act may be cited as the "Contractors  
19 Liability Act".

***New Material and Amendatory Sections in Same Bill***

When a new section is to be included in a bill that has amendatory sections, the new section will have the new material designation. An amendatory section will have a lead-in that ends with "is amended to read:".

Changes are shown in the amendatory section by bracketing language to be deleted and underscoring any new language that is to be added to the existing section. *See* the section entitled *Amending Existing Law* in this chapter for more about bracketing and underscoring. The new material section will not have any bracketing or underscoring.

The following example shows a new material section and an amendatory section in one bill.

***Example: New Material Section and Amendatory Section***

17       **SECTION 5.**    [NEW MATERIAL] ANNUAL REPORT.--Every creator of  
18 short examples shall file a report annually with the commission.  
19 The commission shall issue a short notice of receipt of the  
20 short example.

21       **SECTION 6.**    Section 5-5-5 NMSA 1978 (being Laws 1955, Chapter  
22 5, Section 5, as amended) is amended to read:

23       "5-5-5.    EXAMPLES RETAINED BY COMMISSION.--All examples less  
24 than [~~ten~~] five inches in length shall be retained by the  
25 commission in appropriate files."

***New Material — Repeal and Enact New Section***

There are times when changes to an existing section are so extensive that it may be preferable to repeal the section and in the same section of the bill enact a new section with the same Comp number instead of amending the existing section to effect the changes.

***Example: New Material — Repeal and Enact New***

1       **SECTION 15.**    Section 22-99-87 NMSA 1978 (being Laws 1914,  
2 Chapter 22, Section 87) is repealed and a new Section 22-99-87  
3 NMSA 1978 is enacted to read:

4       "22-99-87.    [NEW MATERIAL] SECRETARY OF STATE--  
5 PRESENCE AT ELECTION COUNT.--The secretary of state shall be  
6 present at every election count held pursuant to the Majority  
7 Rules Act."

## *Short Title Coverage*

Do not forget to check the short title section of the act to see if it needs updating, that is, if it will cover the addition of a new section. If the short title section still uses the session law section citations or if the citation from an earlier compilation has been enacted into law, the short title section should be added to the current bill and the appropriate amendment made to it. See the section *Short Title Conversion* in Chapter 3: Bill Basics, for a discussion on amending short title sections.

### *Example: Addition of New Section Stated in Title*

15	. . . AMENDING THE CONTROLLED SUBSTANCES ACT BY ADDING A
16	NEW SECTION TO ALLOW USE OF FORFEITED PROPERTY.

### *New Section Stated in Title of Bill*

The drafter may also want to mention the addition of a section to the short title act in the title.

## *Amending Existing Law*

An amendatory section is used to change an existing statute while retaining its original subject matter. The Constitution of New Mexico requires that the entire statutory section being amended **be set out in full** (Article 4, Section 18). In addition, Legislative Council Service drafting style requires that each statutory section being amended occupy its own numbered section in the bill.

To amend a section of existing law, the text published in the session law, not the Comp, is used. The Comp is used only to find the history of the section and to check the compiler's notes. The most recent session law citation in the history gives the appropriate session law text. Every section of compiled law has been saved in the Legislative Council Service's zoo database. These sections, known as zoos, must be used by drafters to amend existing sections of law. Zoos have been proofed and have been preformatted for insertion in bills.

## ***Bracketing and Underscoring***

The rules of both houses of the legislature require that any bill "amending existing law by the addition and deletion of language must have all new language underscored and must have all material that is to be deleted set forth in brackets".

### ***Example: Amendatory Section***

15           SECTION 1. Section 64-27-63 NMSA 1978 (being Laws 1933,  
16 Chapter 154, Section 48) is amended to read:  
17           "64-27-63. ARREST AND PROSECUTION OF VIOLATORS.--It  
18 [~~shall be~~] is the duty of the sheriffs of the counties to make  
19 arrests, and it is the duty of the district attorneys [~~and/or~~  
20 ~~attorney general~~] to prosecute all violations of [~~this act~~]  
21 Sections 64-27-1 through 64-27-65 NMSA 1978."

With bracketing and underscoring, the reader is able to clearly see the proposed changes to existing law. The reader may have to consult surrounding statutes for a full understanding of the effect of the change, but at least the full text of the section in question is set out in the bill.

The rules of both the House and the Senate require that new language in amendatory sections be underscored and that language being deleted from existing law be set out within brackets. For emphasis, the language to be deleted is lined through. The bracketed material then looks like this: [~~an obviousness of unwanted language~~].

Brackets, line-throughs and underscored new language clearly indicate what changes are proposed without the necessity of comparing one piece of paper (the bill) against a separate piece of paper (the law book). Without those indicators, a bill would be blind legislation. Brackets, line-throughs and underscoring are used in the following example.

**Example: Bracketing, Line-Throughs and Underscoring**

15 "47-8-3. FEE.--The fee for practicing the art of sword  
16 swallowing is [~~five dollars (\$5.00)~~] twenty-five dollars  
17 (\$25.00) a year. An application for a license [~~must~~] shall be  
18 filed on or before [~~the tenth of~~] January 10 of each year."

In the preceding example, please note that **the bracketed language comes before underscored language.**

**Correct Format & Changing Tense, Ending or Spelling**

When changing the tense, ending or spelling of a word, the entire word to be changed must be bracketed and the correct word inserted and underscored. Never bracket or underscore part of a word.

**Examples:**

**Incorrect:**

"Any person owning [~~twenty-five~~] one horse[s] may [~~shall~~]"

**Correct:**

"Any person owning [~~twenty-five horses may~~] one horse shall. . ."

**Incorrect:**

"Any person owning [~~one~~] six horses. . ."

**Correct:**

"Any person owning [~~one horse~~] six horses. . ."

In the preceding examples, please note that the bracketed language comes before underscored language.

**Changing Possessive Case**

When changing or creating the possessive case, the incorrect word is bracketed and the correct word is underscored.

**Examples:**

[officer's] officers'

[lobbyists] lobbyist's

[drivers'] driver's

[legislators] legislator's

**Changing Money Amounts**

When changing a dollar amount, the entire phrase is bracketed and the new amount is underscored.

**Examples:**

**Incorrect:**

"A fee of one thousand three hundred dollars [~~(\$1,000)~~] (\$1,300). . ."

**Correct:**

"A fee of [~~one thousand dollars (\$1,000)~~] one thousand three hundred dollars (\$1,300). . ."

**Changing Capitalization**

Brackets and underscoring are not used when the only change consists of changing the upper or lower case.

**Example:**

If the sentence reads: "The Public Education Department shall..." simply change it to: "The public education department shall..."

**Do not bracket and underscore:** "The [~~Public Education Department~~] public education department..."

**Bracketing and Underscoring Guidelines**

Use the following rules and guidelines in regard to bracketing and underscoring:

◆ **Parentheses are never used in place of brackets.** Substitution of parentheses for brackets has caused ambiguity in the law in the past and does not constitute deletion of material within the parentheses.

◆ Brackets and underscoring are used only when amending existing law or constitutional provisions.

◆ **Bracketed material comes before underscored material.** Complete all bracketing before underscoring; that is, do not bracket one or two words, underscore a couple of words, then bracket again. The point is to maintain the flow of the language, which choppy bracketing and underscoring certainly does not do.

**Example: Incorrect Bracketing and Underscoring**

"[~~five dollars~~] twenty-five dollars [~~(\$5.00)~~] (\$25.00) a year. . ."

## ***Changing Capitalization and Punctuation***

Brackets and underscoring are not used when the only change consists of changing capitalization or adding or deleting punctuation. Both capitalization and punctuation changes should be made as necessary so that sections being amended conform to New Mexico drafting style.

### ***Examples:***

#### **Session law reads:**

#### **When amending, change to:**

". . .by the Attorney General, State Auditor, or Governor. . ."

". . . by the attorney general, state auditor or governor. . ."

". . .by the Attorney General, State Auditor, or Governor. . ."

". . .by the attorney general, state auditor or [~~Governor~~] governor. . ."

"No person shall litter. Provided that any person. . ."

"No person shall litter; provided that any person. . ."

## ***Inserting or Deleting Entire Subsections, Paragraphs or Subparagraphs***

All consecutive text being deleted needs only initial and closing brackets regardless of the number of lines, pages or indentations involved.

When inserting or deleting entire subsections, paragraphs or subparagraphs, underscore or bracket the letter or number along with the language, then bracket or underscore the letter or number at the next item as appropriate.

Review the following example.

*Example: Inserting or Deleting Entire Subsections*

10 SECTION 3. Section 76-6A-3 NMSA 1978 (being Laws 1932,  
11 Chapter 19, Section 3, as amended) is amended to read:  
12 "76-6A-3. DEFINITIONS.--As used in the Fruits and  
13 Vegetables Act:  
14 [A. ~~"board" means the board of regents of New Mexico~~  
15 ~~state university;~~  
16 B.] A. "department" means the New Mexico department of  
17 agriculture;  
18 B. "division" means the agricultural products  
19 marketing division of the economic development department;  
20 C. "chile" means the Spanish adaptation of the chili  
21 pepper and includes both green and red varieties;  
22 D. "fruit" means [~~apples, cherries, and plums~~] fruit  
23 grown by New Mexico farmers; and  
24 [E. ~~"pinto beans" means frijoles;~~  
25 E. "vegetable" means chile, pinto beans and squash."

*Amending Section with Delayed Effective Date*

When amending a section that has more than one version, the drafter must be sure that the correct version is amended. All drafters should be aware of the complexity of amending multiple versions of a section with different effective dates. **Note the lead-in in the following example.**



***Example: Amending a Section with Delayed Effective Date***

15       SECTION 15. That version of Section 7-9-3 NMSA 1978 (being  
16 Laws 1978, Chapter 46, Section 1, as amended by Laws 2003, Chapter  
17 28, Section 1 and also by Laws 2003, Chapter 203, Section 2) that  
18 is to become effective July 1, 2018 is amended to read:  
19           "7-9-3. DEFINITIONS.--As used in the Gross Receipts and  
20 Compensating Tax Act:. . ."

***Reconciled Zoos***

If a section to be amended was amended twice (or more times) in the same legislative session the last time that it was amended, the zoo section may need to be reconciled. If the changes made to the section by various bills in the same session are identical, no adjustments to the zoo section are necessary.

If there are differences between the versions, the zoo will need to be reconciled by the Zoo Reconciliation Committee of the Legislative Council Service. Two versions of the zoo are prepared. One version is the "Marked Reconciliation", which carries the designation "MREC" on the top of the zoo and which shows the reconciliation changes that need to be made by highlighting language to be added and bracketing language to be deleted. The MREC version is for informational purposes only. The second version is the actual reconciled zoo, which carries the "REC" designation and which incorporates the changes made by the reconciliation without any demarcation. The REC version is the one to be used in any subsequent bills.

If reconciliation is impossible, the earlier version should be repealed and adjustments made to the remaining version. As of 2013, pursuant to Section 12-8-1 NMSA 1978, the New Mexico Compilation Commission, after consultation with the Legislative Council Service, will set out the reconciled version of the section in the Comp. For a more detailed discussion of reconciled zoos, see the *Legislative Document Sample Book*.

## *Amending Session Law*

If changes need to be made to a section of law that has not been compiled, the session law must be amended. The rules of bracketing and underscoring apply. Review the following example.

### *Example: Amending Session Law*

```
12 | SECTION 1. Laws 1999, Chapter 177, Section 5 is amended to
13 | read:
14 | "SECTION 5. APPLICABILITY.--The provisions of Laws 1999,
15 | Chapter 177, Sections 1 and 3 [of this act] shall apply to
16 | taxable events occurring on and after July 1, 1999 and prior to
17 | July 1, [2002] 2016."
```

## *Repealing Existing Law*

A repeal section is used to eliminate existing statutory sections. A repeal section may be part of a larger bill in which other legislative actions are required to fulfill the purpose of the bill. If the repeal is part of a larger bill, it is placed with the back of the bill sections as in the following examples.

### *Example: Repeal Section — Part of Larger Bill*

```
15 | SECTION 14. REPEAL.--Section 59-60-61 NMSA 1978 (being Laws
16 | 1929, Chapter 113, Section 2, as amended) is repealed.
```

When repealing more than one section of the Comp, the sections are listed in Comp number order and the parenthetical session law citations that follow must parallel the Comp number sections. If any one of the sections has been amended, "as amended" appears only once before the closing parenthesis.

***Example: Repealing Multiple NMSA 1978 Sections***

15 SECTION 10. REPEAL.--Sections 12-1-8, 15-38-3 through  
16 15-38-6 and 15-43-21 NMSA 1978 (being Laws 1937, Chapter 39,  
17 Section 8, Laws 1955, Chapter 176, Sections 1 through 4 and Laws  
18 1919, Chapter 16, Section 1, as amended) are repealed.

***Example: Repealing Multiple NMSA 1978 Sections***

15 SECTION 24. REPEAL.--Sections 55-12-1 through 55-12-16 and  
16 55-13-1 through 55-13-7 NMSA 1978 (being Laws 1969, Chapter 235,  
17 Sections 1 through 8, Laws 1971, Chapter 146, Section 8, Laws  
18 1969, Chapter 235, Sections 10 through 14, 16 and 17 and Laws  
19 1971, Chapter 102, Sections 1 through 7, as amended) are  
20 repealed.

A repeal may also be set out as the only section of a bill. The repeal should be stated in the title. To repeal the Project Mainstream Employment Tax Credit Act, the title of this repeal-only bill would be written as follows.

***Example: Title of a Repeal Bill***

10 AN ACT  
11 REPEALING SECTIONS 7-1A-1 THROUGH 7-1A-5 NMSA 1978 (BEING LAWS  
12 1998, CHAPTER 126, SECTIONS 1 THROUGH 5) TO ELIMINATE THE PROJECT  
13 MAINSTREAM EMPLOYMENT TAX CREDIT ACT.

***Example: Repeal Section — Only Section of Bill***

15        SECTION 1. REPEAL.--Section 7-1A-1 through 7-1A-5 NMSA 1978  
16 (being Laws 1998, Chapter 126, Sections 1 through 5) are repealed.

***Delayed Repeal***

Delayed repeals may result in complications. For example, a Comp number may have two or more different versions set out in the Comp that show the compiled section as it will be until a predetermined date and as it will be after that future date. The existing section shows the "effective until" date in parentheses; the future section appears in italics immediately after and shows the effective date in parentheses.

The drafter must determine whether to use a standard delayed repeal section at the end of the bill or to put delayed provisions in the substantive section. The advantage of putting the provisions in the substantive section is that it may lessen future problems with tracking and amending uncompiled delayed repeal sections. While there is no set drafting rule for this problem, the drafter is cautioned to think through the likelihood of future amendments to delayed dates.

***Example: Delayed Repeal Section***

15        SECTION 45. DELAYED REPEAL.--Section 6-6-6 NMSA 1978  
16 (being Laws 1990, Chapter 666, Section 6, as amended) is  
17 repealed effective January 1, 2018.

For ease of reading, a repeal section may be broken into subsections. Review the following example.

***Example: Complicated Delayed Repeal Section — Multiple Effective Dates***

**SECTION 3. DELAYED REPEAL.--**

5           A. Sections 7-25A-1 and 7-25A-2 NMSA 1978 (being Laws  
6 2006, Chapter 48, Sections 1 and 2, as amended) are repealed  
7 effective January 1, 2018.

8           B. That version of Section 7-25A-3 NMSA 1978 (being  
9 Laws 1999, Chapter 177, Section 2, as amended) that was amended in  
10 Section 4 of this 2016 act is repealed effective January 1, 2019.

11           C. Sections 7-25A-4 through 7-25A-6 NMSA 1978 (being  
12 Laws 1966, Chapter 48, Section 4, Laws 1966, Chapter 48, Section 5  
13 and Laws 1999, Chapter 177, Section 2, as amended) are repealed  
14 effective July 1, 2020.

***Amending Section and Repealing Same Section in Same Bill***

In an instance in which a section of law is being amended for the first time in one section of a bill and the requester wants a delayed repeal of the section, the section history (being laws) in the delayed repeal section must read ", as amended". Please review the following example for standard wording.

*Example: Amending Section and Repealing Same Section in Same Bill*

4           SECTION 1. Section 7-70-7 NMSA 1978 (being Laws 2001,  
5 Chapter 543, Section 1) is amended to read: . . .

22           SECTION 6. DELAYED REPEAL.--Section 7-70-7 NMSA 1978  
23 (being Laws 2001, Chapter 543, Section 1, as amended by Section  
24 1 of this act) is repealed effective January 1, 2018.

***Sunset Provisions***

Delayed repeal and sunset provisions are two distinctly different provisions. Delayed repeal pertains to the future repeal of a section of law; sunset pertains to the termination of an agency. The Sunset Act provides the procedures for legislative review, termination and renewal of agency life. It also provides a one-year period for the agency to wind up its affairs. To subject an agency to sunset is to subject it to all the provisions of the Sunset Act. Prior to termination, the agency is subject to Legislative Finance Committee review.

Sunset is most often used when creating professional and occupational licensing boards or other types of regulatory organizations that are administratively attached to executive departments or that are adjunct agencies. Such agencies are more likely to have their own funding stream, such as licensing fees, separate from the general fund; therefore, sunset may be appropriate because they probably do not receive the same scrutiny each year through the budget process that regular general fund agencies receive.

**Sunset begins July 1 of an odd-numbered year and repeal occurs July 1 of the next even-numbered year.** In the agency's statutes, the termination section includes a delayed repeal of the agency's statutes. The sunset section is standard and should not vary. Review the following example.

### *Example: Correct Sunset Provision*

15        **SECTION 23.**    [NEW MATERIAL] TERMINATION OF AGENCY LIFE--  
16 DELAYED REPEAL.--The jewelers' board is terminated on July 1,  
17 2021 pursuant to the provisions of the Sunset Act. The board  
18 shall continue to operate according to the provisions of the  
19 Jewelry Act until July 1, 2022. Effective July 1, 2022, the  
20 Jewelry Act is repealed.

If the drafter wishes to sunset an agency, the drafter must follow the format set out in the previous example. It is **not correct** to simply write "The Private Investigations Act is repealed effective July, 1 2018".

### *Repealing Existing Section and Enacting New Section*

After serious contemplation of the consequences, a drafter may decide to repeal a statute and put new material in its place (with the same Comp number). Repeal and reenactment is a form of blind legislation because legislators must go back to current law and compare it to the new section to see how the current law is being changed. This drafting alternative should be used sparingly; it is generally better to bracket and underscore if the new material is similar to the current law. *See Appendix B* for a discussion of when it is acceptable to repeal and reenact Comp numbers.

In the past, when a section was repealed and reenacted, the old history was struck from the Comp when the new section was published. Now, since the Comp is part of a comprehensive database, the history notes for each section are maintained even when the section is repealed and reenacted. The history note will include the notation of repeal and reenactment. Review the following example.

***Example: History with Repeal and Reenactment***

**History:** 1953 comp., § 3-14-20, enacted by Laws 1969, ch. 240, § 345; 1977, ch. 222, § 84; **repealed and reenacted** by Laws 2008, ch. 41, § 3.

For drafting purposes, the "being Laws" for a section of a bill with the history shown in the previous example will begin with Laws 2008 as shown in the next example.

***Example: Being Laws – Repeal and Reenactment***

18	SECTION 1. Section 1-14-16 NMSA 1978 (being Laws 2008,
19	Chapter 41, Section 3) is amended to read:
20	"1-14-16. RECOUNT OR RECHECK PROCEEDINGS.--. . ."

A section that is being repealed and then reenacted becomes a new section and must have [NEW MATERIAL] before the section heading. Review the following example.

***Example: Repeal and Reenactment Section***

15	SECTION 4. Section 4-4-4 NMSA 1978 (being Laws 1887, Chapter
16	87, Section 7, as amended) is repealed and a new Section 4-4-4
17	NMSA 1978 is enacted to read:
18	"4-4-4. <u>[NEW MATERIAL]</u> SECTION SAME AS ENACTMENT.--. . ."



## *Recompiling Existing Law*

There are times when a drafter may need to move sections from one place in the Comp to another; this is done by recompiling the Comp numbers. This is not a drafting alternative to be undertaken lightly because of the confusion that can result with cross-references in statutes, regulations and court cases. Thus, it is strongly discouraged and the drafter should consult with the assistant director for drafting services before recompiling sections.

### *Temporary Provision*

A recompilation section usually is a **temporary provision** because it is an instruction to the compiler. In a simple recompilation, the section itself is not set out. Review the following example for standard format and wording.

#### *Example: Recompiling Sections — Temporary Provision*

```
15 | SECTION 23. TEMPORARY PROVISION--RECOMPILATION.--Sections
16 | 15-28-38 through 15-28-40 NMSA 1978 (being Laws 1965, Chapter 21,
17 | Sections 2 through 4, as amended) are recompiled as Sections
18 | 15-28A-1 through 15-28A-3 NMSA 1978.
```

However, if the drafter wishes to amend as well as recompile a section, then the section will be set out and changes marked with bracketing and underscoring. *See Recompiling and Amending Existing Law* in this chapter for further discussion and example.

Review the next example for another way to recompile multiple sections. Note that the sections to be recompiled are listed in Comp number order of the existing sections, not in the order of the recompiled numbers. A recompilation section may be divided into subdivisions.

***Example: Recompiling Sections***

12 SECTION 14. TEMPORARY PROVISION--RECOMPILATION.--  
13 A. Section 22-5-1 NMSA 1978 (being Laws 1918, Chapter  
14 14, Section 1) is recompiled as Section 76-3-52 NMSA 1978.  
15 B. Section 22-5-2 NMSA 1978 (being Laws 1918, Chapter  
16 14, Section 2, as amended) is recompiled as Section 76-3-61 NMSA  
17 1978.  
18 C. Section 22-5-3 NMSA 1978 (being Laws 1918, Chapter  
19 14, Section 3) is recompiled as Section 76-3-55 NMSA 1978.  
20 D. Section 22-5-4 NMSA 1978 (being Laws 1918, Chapter  
21 14, Section 8, as amended) is recompiled as Section 76-3-59 NMSA  
22 1978.  
23 E. Section 22-5-5 NMSA 1978 (being Laws 1918, Chapter  
24 14, Section 9, as amended) is recompiled as Section 76-3-53 NMSA  
25 1978.

***Recompiling Section to Another Chapter, Article or Short Title Act***

It is possible that the drafter wants to move one or more sections of law from one chapter/article to another or from one short title act to another, but does not want to assign new Comp numbers. In that case, the drafter must simply provide adequate information so the compiler will know where to place the sections.

Review the following examples.

*Example: Recompiling — Instructions to Compiler — Insertion in Chapter*

7           SECTION 14. TEMPORARY PROVISION--RECOMPILATION  
8 INSTRUCTIONS.--The compiler shall recompile Sections 11-111-11  
9 and 11-111-12 NMSA 1978 (being Laws 1899, Chapter 2, Sections  
10 23 and 28, as amended) as part of Chapter \_\_\_\_, Article \_\_\_\_ NMSA  
11 1978.

*Example: Recompiling — Instructions to Compiler — Insertion in Short Title Act*

7           SECTION 14. TEMPORARY PROVISION--RECOMPILATION  
8 INSTRUCTIONS.--The compiler shall recompile Sections 11-111-11  
9 and 11-111-12 NMSA 1978 (being Laws 1899, Chapter 2, Sections 23  
10 and 28, as amended) as part of the Section Moving Act.

## ***Recompiling and Amending Existing Law***

A section recompiling and amending existing law is set out in full and is placed with the main provisions of the bill. As in any amendatory section, changes to existing law are shown with bracketing and underscoring.

**The placement order of each such section in the bill is determined by the new Comp number that the section is being assigned.**

Review the following example.

**Example: Recompiling and Amending**

1       SECTION 1. Section 3-14-1 NMSA 1978 (being Laws 1918,  
2 Chapter 14, Section 1) is recompiled as Section 2-3-19 NMSA 1978  
3 and is amended to read:

4       "2-3-19. RECOMPILATION--CONSULTATION.-- [~~Sec. 4592~~]  
5 Recompilation shall [~~not~~] be attempted only after consultation  
6 with senior legislative council service drafting staff."

7       SECTION 2. Section 3-9-8 NMSA 1978 (being Laws 1990,  
8 Chapter 900, Section 3) is recompiled as Section 2-3-20 NMSA 1978  
9 and is amended to read:

10       "2-3-20. RECOMPILATION--CROSS-REFERENCES.--

11           A. When recompiling a statute, the drafter [~~may~~] shall  
12 search the statutes, agency rules and court cases to determine any  
13 complications created by recompiling sections of the NMSA 1978.

14           B. The compiler [~~shall~~] may annotate statutory  
15 references affected by the recompilation.

16           C. If a section is being recompiled and amended, the  
17 drafter shall use the new compilation number to determine where,  
18 in the substantive portion of the bill, the section belongs....

19           D. For the purposes of this section, "agency rules"  
20 means those rules that have been filed in accordance with the  
21 State Rules Act."

## ***Combination of Sections***

A bill may contain a combination of any of the actions discussed in the previous sections of this chapter. Except for the standard repeal or recompilation section, all sections of the bill appear in numerical order by Comp number. In a bill that includes amendatory sections and new sections without Comp numbers, it is solely a function of bill design whether the new material goes before, after or between the amendatory sections. What matters is that the reader can understand the internal logic and flow of the bill as a whole.

## ***Uniform Acts and Model Legislation***

Uniform acts are developed by the uniform law commissioners, a national legislative drafting organization to which New Mexico belongs. Model legislation is usually developed by national industry or other interest groups. Since these proposals are shopped around the nation, they do not match New Mexico style.

**The Legislative Council Service drafter is expected to conform these proposals to New Mexico style and format in the same way the drafter would conform any other draft proposal submitted to the office.** The Uniform Commercial Code is an example of an exception to this conform rule.

## ***Bill Samples***

Complete samples of bills and their various sections are provided in the *Legislative Document Sample Book*. It is recommended that the *Sample Book* be used in conjunction with the *Legislative Drafting Manual*.

## CHAPTER 5: SUBSTITUTE BILLS

*A substitute may be made for a bill whenever the bill is open to amendment. If adopted, the substitute takes the place of the original bill. Article 4, Section 15 of the Constitution of New Mexico, which states that no bill shall be so altered or amended on its passage as to change its original purpose, applies to substitute bills. The subject matter of the substitute must be substantively related to the subject matter of the original bill.*

A substitute bill goes through the same process as an original bill, that is, it must pass both houses. For example, a Senate bill that substitutes a House bill must go back to the House for passage; it is not an amendment that the House can concur in or ask the Senate to recede from.

**Substitute bills are either committee substitutes or floor substitutes.** A substitute bill may be adopted by a standing committee as a substitute for a bill referred to that committee if the bill is in the committee or a substitute bill may be adopted on the floor of either house as a substitute for a bill on third reading and final passage.

## *Format of Substitute Bills*

A substitute bill is the same as a bill prepared for introduction, except for some formatting differences. For example, the heading, which appears on line 1 and one or more single spaces above line 1, states that it is either a committee or floor substitute for a particular bill. Since there are no individual sponsors on a substitute bill, the phrase "INTRODUCED BY" is omitted.

The differences in the format of a substitute bill and a regular bill are:

- (1) the heading;
- (2) no "INTRODUCED BY" ;
- (3) the use of "slugs" on the second and succeeding pages;
- (4) the use of a label on the bill jacket; and
- (5) on a generic bill, the wording of the introductory (relating to) clause in the title.

From the title on, a substitute bill proceeds in the same fashion as a regular bill. Substitute bills can also be substituted, either by another committee or on the floor. One house can also substitute a bill originating in the other house.

## *Committee Substitutes*

### *Heading*

The heading of a committee substitute bill will start above line 1 and end on line 1. Since the bill is not introduced (it is a substitute of an already introduced bill), **line 3 is blank**. It **does not** say "INTRODUCED BY". The heading for each type of substitute is specific.

The top line of the heading for a committee substitute includes the name of the committee followed by "substitute for" in the heading.

Review the following example.

***Example: Heading of Committee Substitute***

1	HOUSE APPROPRIATIONS AND FINANCE COMMITTEE SUBSTITUTE FOR
	HOUSE BILL 451
2	<b>52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016</b>
3	

For committee substitutes, the drafter should check the *Daily Bill Locator* to make sure the bill has a referral to the committee for which the substitute is being prepared.

***Substitutes for Multiple Bills***

If a substitute bill is adopted, the original bill is no longer in play. That is, if another version is to be introduced, it must substitute the substitute, not the original bill. For example, if the House Judiciary Committee adopts a substitute for House Bill 85, the new bill would be House Judiciary Committee Substitute for House Bill 85. If the same committee decides to substitute that bill, it would become House Judiciary Committee Substitute for House Judiciary Committee Substitute for House Bill 85.

If the substitute goes to another committee and that committee decides to introduce a substitute and adopts it, it would become, for example, House Appropriations and Finance Committee Substitute for House Judiciary Committee Substitute for House Judiciary Committee Substitute for House Bill 85.

It could also be substituted on the floor, resulting in House Floor Substitute for House Appropriations and Finance Committee Substitute for House Judiciary Committee Substitute for House Judiciary Committee Substitute for House Bill 85.

When the substitute moves to the other house, it could be substituted again, for example, Senate Finance Committee Substitute for House Floor Substitute for House Appropriations and



Finance Committee Substitute for House Judiciary Committee Substitute for House Judiciary Committee Substitute for House Bill 85. Consideration should be taken when determining whether to substitute a bill in the second house. If such a substitute is adopted and passed, it will have to go back to the first house and be introduced as a new bill. Time constraints may preclude its passage. Another choice would be to amend the substitute in the second house; then only the amendments would have to be concurred upon in the first house.

A single bill may be substituted for many bills on the same subject. Substitutes can be created using one bill as a base or by combining two or more bills on the same subject. If the House Appropriations and Finance Committee substituted three House bills and two Senate bills that all appropriated money for AIDS services, the heading would be as in the following example.

*Example: Committee Substitute for Multiple Bills*

1	HOUSE APPROPRIATIONS AND FINANCE COMMITTEE SUBSTITUTE FOR HOUSE BILLS 5, 7 & 22 AND SENATE BILLS 14 & 132
2	<b>52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016</b>
3	

*Slugs*

Starting with the second page, slug lines are typed on substitute bills on the top of each page, alternating left for even pages and right for odd pages. The slug for House Regulatory and Public Affairs Committee Substitute for House Bill 235 would be HRPAC/HB 235. The slash indicates "substitute for". Review the following examples for a substitute and its slug.

*Example: Heading for Substitute for Single Bill*

1	HOUSE BUSINESS AND EMPLOYMENT COMMITTEE SUBSTITUTE FOR HOUSE BILL 388
2	<b>52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016</b>

*Example: Slug — Substitute for Single Bill*

```
HBEC/HB 388
1     SECTION 2.  A new section of the Absent Voter Act is enacted
2 to read:
```

Slugs for substitute bills that are substitutes for multiple bills must list all of the bills that are being substituted. Review the following example.

*Example: Heading for Committee Substitute for Multiple Bills*

```
HOUSE APPROPRIATIONS AND FINANCE COMMITTEE SUBSTITUTE FOR
HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
1 HOUSE BILLS 18, 32 & 110 & SENATE BILL 45 AND HOUSE BILL 85
2 52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016
3
```

*Example: Slug — Substitute for Multiple Bills*

```
HAFC/HJC/HB 18, 32 & 110 & SB 45 and HB 85
1     SECTION 2.  A new section of the Absent Voter Act is enacted
2 to read:
```

Please note the use of both ampersands and "and" in the preceding example. This usage denotes that the HJC substitute is for House Bills 18, 32 and 110 and Senate Bill 45; it does not include House Bill 85. The HAFC substitute covers the HJC substitute and House Bill 85.

***No Endorsement Lines***

Committee endorsements, such as "FOR THE LEGISLATIVE HEALTH AND HUMAN SERVICES COMMITTEE" or "ENDORSED BY THE INDIAN AFFAIRS COMMITTEE", which are usually found on line 8 of the first page of the bill, must be removed from substitute bills.

## ***Substitute Bill Title***

When substituting a bill, especially a substitute for several bills, the title must be appropriate and adequate for the new bill. The new title must cover all of the actions that the drafter wishes to retain from the bills that are being substituted. The substitute bill must still cover only one subject. The relating to clause will probably remain the same.

## ***Body of Substitute Bill***

From the title on, the body of a substitute bill follows the same style and format as a regular bill. A substitute bill must adhere to the parts of bill order and must include the mandatory types of sections. The substitute bill may be composed of any of the types of sections used in a regular bill. *See* Chapter 3: Bill Basics for a discussion of types of sections.

Section divisions and headings must be formatted as in a regular bill. *See* Chapter 3: Bill Basics for further discussion of divisions and headings and examples.

## ***Floor Substitutes***

### ***Heading***

The heading of a substitute bill starts above line 1 and ends on line 1. Since the bill is not introduced (it is a substitute of an already introduced bill), **line 3 is blank**. It **does not** say "INTRODUCED BY". The heading for each type of substitute is specific.

A floor substitute **does not have a committee name** before the words "FLOOR SUBSTITUTE". It will simply state the house of origin.

### ***Example: Floor Substitute Heading***

1	HOUSE FLOOR SUBSTITUTE FOR HOUSE BILL 451
2	<b>52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016</b>
3	

## *Slugs*

Starting with the second page, slug lines are typed on substitute bills on the top of each page, alternating **left for even pages** and **right for odd pages**. The slash indicates "substitute for".

Review the following example.

### *Example: Heading — Floor Substitute*

1	SENATE FLOOR SUBSTITUTE FOR SENATE BILL 73
2	<b>52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016</b>
3	

### *Example: Slug — Floor Substitute*

	SF1/SB 73
1	SECTION 2. A new section of the Absent Voter Act is
2	enacted to read:

In the floor substitute slug, SF1/SB 73, the "S" stands for Senate and the "F1" stands for floor. Please note that it is a lowercase "L" following the "F" and not the number "one".

The rest of a floor substitute bill is the same as a committee substitute.

## *Labels*

A label must be typed for the bill jacket of each substitute bill. The label will state the name of the substitute bill. A label can have up to three lines. The word processor will break the lines in order to get the information on the label. A label might look like this:

*Example: Substitute Bill Label*

HOUSE FLOOR SUBSTITUTE FOR HOUSE  
BUSINESS AND EMPLOYMENT COMMITTEE  
SUBSTITUTE FOR SENATE BILL 144

***Preparation of Substitute Bills for Introduction***

The number and distribution of introduction copies of a substitute bill are the same as for a regularly introduced bill. Substitute bills are bound in the bill jacket of the house submitting the substitute, regardless of the original bill's house of origin. Additional copies of a proposed committee substitute are provided to committee; additional floor copies are provided whether the substitute is a committee or floor substitute. Senate substitutes require 60 floor copies and House substitutes require 80 floor copies, or as many copies as required by the respective chief clerk.

***Generic Bills***

A need may arise for a new bill to be drafted after the official cut-off date for introduction of legislation (30 days after the 60-day session begins, 15 days after the 30-day session begins). To allow for that contingency, **generic bills** are introduced for substitution at a later date.

***Bill Title***

These bills have specific wording in the title that signifies they are generic bills. "RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;" must appear at the beginning of the title.

*Example: Generic Bill Upon Introduction*

1	HOUSE BILL 466
2	<b>52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016</b>
3	INTRODUCED BY
4	
5	
6	
7	
8	
9	
10	AN ACT
11	RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE.
12	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:
13	

The title will be followed by an enacting clause. The bill will contain no other text and will be introduced in that form.

### ***Generic Bill Substitutes***

As the need arises, the generic bills will be substituted by actual bills. These substitutes are usually requested by the leaders of either house or by committee chairs. The heading is the same as for other substitute bills and INTRODUCED BY will not appear on line 3. Review the following example.

*Example: Generic Bill Substitute — Heading*

1 HOUSE APPROPRIATIONS AND FINANCE COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 466  
2 **52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016**  
3

***Substitute Title***

A generic bill title must begin with the original relating clause, "RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE"; the substantive title for the substitute bill follows in typical title clauses after that.

*Example: Generic Bill Substitute Title*

10 AN ACT  
11 **RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;**  
12 **PROVIDING ADDITIONAL DUTIES FOR THE PUBLIC SCHOOL CAPITAL**  
13 **OUTLAY COUNCIL RELATING TO THE OVERSIGHT OF PUBLIC SCHOOL**  
14 **CAPITAL OUTLAY PROJECTS; MAKING TRANSFERS FROM THE PUBLIC**  
15 **EDUCATION DEPARTMENT TO THE PUBLIC SCHOOL CAPITAL OUTLAY**  
16 **COUNCIL.**  
17  
18 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:**

The rest of the generic bill substitute is in the format and style of other substitute bills.

## CHAPTER 6: AMENDMENTS

*Amendments are used to make changes to bills, resolutions and memorials during the legislative process. As with substitute bills, amendments may come from a committee or from the floor.*

Anyone can propose an amendment to a committee. There is no prohibition, either by law or rule, against citizens proposing amendments to a legislative committee; in fact, at one time, amendments were frequently proposed by lobbyists. However, tradition has changed and all amendments are now sponsored by legislators, even if they have been drafted by lobbyists. Floor amendments, of course, can only be offered by legislators in their respective houses.

If a committee adopts amendments to a bill, they are included in the committee report for that bill. Proposed amendments are not effective unless they are included in a committee report adopted by the chamber. Likewise, floor amendments are only effective if they are accepted by majority vote of the chamber.

Before drafting an amendment, the drafter must check the most recent issue of the *Daily Bill Locator* to find out where the bill is and what amendments have been previously adopted. Occasionally, particularly toward the end of the session, the *Locator* may not reflect the latest location of a bill or amendments that have been adopted because, although the actions took place on the same calendar day, they took place on different legislative days.



If the bill has been amended previously, the drafter should mark those amendments in a copy of the printed bill along with the language that is being proposed in the new amendment, so that the drafter can see if everything fits properly in the bill. Once the new language has been determined, it is necessary to check the title and the remainder of the bill for any other changes required by the amendment.

There are several types of amendments:

- (1) proposed amendments directed to a committee;
- (2) floor amendments;
- (3) committee reports with amendments; and
- (4) conference committee reports with amendments.

Amendments have a standard form and style just like bills. In addition to letting the legislature know what changes are being proposed for a bill, amendments instruct the E&E staff how to prepare the final version of the bill. For a discussion of enrolling and engrossing, *see* the section entitled *Enrolled and Engrossed Bills* in this chapter.

E&E clerks are often temporary legislative employees; it makes their job easier if they can depend on uniform instructions. There are, of course, times when form and style have to be violated, but the drafter should make every effort to conform amendments to the standards.

### ***Proposed Amendment Directed to a Committee***

Drafters are often asked to draft amendments to a bill for consideration by a standing committee to which the bill has been referred. These proposed amendments may later become part of a committee report of that standing committee. Committee amendments have a standard format.

### ***Committee Amendment Heading***

Proposed committee amendments are prepared on white paper and have a standard heading. Review the following example.

***Example: Heading — Committee Amendment***

FIFTY-SECOND LEGISLATURE  
SECOND SESSION

PROPOSED AMENDMENT DIRECTED TO A COMMITTEE

January 28, 2016

Mr. Chair:

I propose to the SENATE JUDICIARY COMMITTEE the following amendments to

SENATE BILL 175

At the upper margin, the legislature and session is centered, then PROPOSED AMENDMENT DIRECTED TO A COMMITTEE is centered one or two spaces below. The date is flush right. In the Legislative Council Service, committee amendments are always dated the day they are prepared by the office, not pre- or post-dated. Committee amendments are addressed to "Mr. Chair" or "Madam Chair". Most format spacing is a function of the length of the amendment; the point is to make the document look attractive.

If a bill has been amended previously, that fact must appear as part of the bill heading on the amendment.

***Example: Lead-In — Committee Amendment — Previously Amended Bill***

January 28, 2016

Madam Chair:

I propose to the HOUSE EDUCATION COMMITTEE the following amendments to

HOUSE BILL 28, **as amended**

Amendments drafted for one committee are frequently duplicated for use in other committees, so the chair designation must be adjusted as needed. Generally, the House Rules and Order of Business Committee and the Senate Committees' Committee do not hear amendments. Bills are assigned to those committees to determine germaneness.

## ***Body of a Committee Amendment***

Multiple items on a proposed amendment directed to a committee are considered **separate amendments**. Therefore, the **lead-in** must specify "amendment" or "amendments" depending on the number of items listed.

### ***Example: Lead-In — One Amendment***

I propose to the HOUSE APPROPRIATIONS AND FINANCE COMMITTEE the following **amendment** to

### ***Example: Lead-In — Multiple Amendments***

I propose to the HOUSE APPROPRIATIONS AND FINANCE COMMITTEE the following **amendments** to

Amendment language and technical requirements are the same for committee amendments and floor amendments. *See Language and Technical Requirements* in this chapter for a full discussion of drafting amendments and examples.

## ***Committee Amendment Closing***

The closing of a committee amendment follows a specific format, which is different from that of a floor amendment. Note that the word "Senator" or "Representative" does not appear before the legislator's name under the signature line; and that the name may be left blank. **There must be a 202 number at the bottom of the page.**

***Example: Committee Amendment Closing***

Respectfully submitted,

---

John Doe

.142888.1

***Second Page — Slugs***

The top of the second page has a specific format. The page number is shown on the top right-hand side of the page. The designation on the top left-hand side of the page is the **slug**. It is the shorthand or abbreviated version of the name of the bill. If the bill has not previously been amended, the top of the page will show the simple bill slug. In this example, SB 175 stands for SENATE BILL 175. (This example corresponds to the first heading example.) HB 28, aa stands for HOUSE BILL 28, as amended.

***Example: Slug for a Simple Bill — Not Previously Amended***

SB 175 Page 2

***Example: Slug for a Simple Bill — Previously Amended***

HB 28, aa Page 2

***Floor Amendments***

Floor amendments are prepared on special paper with a blue (Senate) or yellow (House) stripe down the left margin. Every page of the completed amendment is printed on this paper.

## ***Floor Amendment Heading***

The heading of a floor amendment is different from that of a committee amendment. It is **not** addressed to Mr. Chair or Madam Chair, and the sponsor is listed with the title of Senator or Representative preceding the sponsor's name.

### ***Example: Floor Amendment Heading***

FIFTY-SECOND LEGISLATURE  
SECOND SESSION

February 12, 2016

HOUSE FLOOR AMENDMENT number \_\_\_\_\_ to HOUSE BILL 10

Amendment sponsored by **Representative** Mary White

Please note that the floor amendment must specify either HOUSE or SENATE. Also note that, in this example, the legislator's name is listed on the sponsor line. The sponsor line must be included in the format but the name may be left blank until the sponsor is determined.

## ***Body of a Floor Amendment***

The various individual amendments on a floor amendment are considered **items of the amendment**. The rules and format for drafting the items of a floor amendment are the same as drafting the amendments in a proposed amendment directed to a committee. *See Language and Technical Requirements* in this chapter for a full discussion of drafting amendments and examples.

## ***Floor Amendment Closing***

The closing of a floor amendment is specific and is different from that of a committee amendment. Remember that a floor amendment is printed on striped border paper.

### ***Example: Floor Amendment Closing***

_____	
Jane Doe	
Adopted _____	Not Adopted _____
(Chief Clerk)	(Chief Clerk)

Please note that there is no "Respectfully submitted" line before the signature line. Also note that the name under the signature line is not preceded by Senator or Representative, and that the name may be left blank.

## ***Second Page — Slugs***

The top of the second page of a floor amendment has a specific format. The legislature heading will be repeated, followed by a blank line. The next line will show the slug and the page number.

### ***Example: Slug for a Simple Bill***

FIFTY-SECOND LEGISLATURE	
SECOND SESSION	
HF1/HB 10	Page 2

In the preceding example, HF1 stands for HOUSE FLOOR AMENDMENT. Please note that the "l" in "Fl" is a lowercase "L". HB 10 stands for HOUSE BILL 10. If the bill has been amended previously (SENATE FINANCE COMMITTEE SUBSTITUTE FOR SENATE BILL 358, **as amended**), the slug must reflect the previous amendment.

***Example: Slug for a Substitute Bill — Previously Amended***

FIFTY-SECOND LEGISLATURE  
SECOND SESSION

HF1/SFC/SB 358, aa Page 2

## ***Committee Reports with Amendments***

**Committee reports** are also prepared on special paper with a blue (Senate) or yellow (House) stripe on the left margin.

### ***Committee Report Heading***

The heading of a committee report has a specific format. It is addressed to "Mr. President" or "Madam President" in the Senate and "Mr. Speaker" or "Madam Speaker" in the House. The committee name and the bill name are listed. If the bill has been previously amended, it must state ", as amended".

***Example: Committee Report Heading — Senate Committee***

FIFTY-SECOND LEGISLATURE  
SECOND SESSION  
February 2, 2016

Mr. President:

Your FINANCE COMMITTEE, to whom has been referred

SENATE BILL 51, as amended

has had it under consideration and reports same with recommendation that it DO PASS, amended as follows:

A House committee report will say Mr. (Madam) Speaker instead of Mr. (Madam) President.

### ***Body of a Committee Report***

Multiple items on proposed amendments to a committee and committee reports are considered **separate amendments**. Amendments are drafted as they are prepared for a proposed amendment or floor amendments.

### ***Committee Report Closing***

The closing of a committee report begins with "Respectfully submitted," after the last item is listed. A committee report will end with a voting record.

#### ***Example: Committee Report Closing***

Respectfully submitted,

\_\_\_\_\_

John Doe, Chair

Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

(Chief Clerk) (Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 10 For 0 Against  
Yes: 10  
No: 0  
Excused: None  
Absent: None



## ***Second Page — Slugs***

The second page of a committee report has a specific format. The **committee designated** in the introductory line must be noted in the slug on the second and subsequent pages.

### ***Example: Slug for a Simple Bill***

FIFTY-SECOND LEGISLATURE	
SECOND SESSION	
SFC/SB 51	Page 2

## ***Action by Committee***

After considering a bill, a committee may take any one of several actions:

1. recommend to the legislative body that the bill **DO PASS**;
2. recommend that it **DO PASS**, as amended;
3. recommend that it **DO NOT PASS**;
4. recommend that it **DO NOT PASS**, but that the committee substitute **DO PASS**;
5. recommend that it **DO NOT PASS**, but that the committee substitute **DO PASS**, as amended;
6. refer the bill back to the floor **WITHOUT RECOMMENDATION**; or
7. refer the bill back to the floor **WITHOUT RECOMMENDATION**, as amended.

## ***Preparation of Committee Report***

If a committee is considering amendments to a bill, the proposed amendments offered by various sponsors are generally considered and voted on separately. All the amendments that are adopted by the committee are then included in the committee report.

Committee reports are usually prepared by the committee secretary under the direction of the committee chair. However, if accepted amendments are lengthy or require special attention, the Legislative Council Service may be requested to draft or prepare the committee report.

After the chair has signed the committee report, the jacketed bill and the committee report are released from the committee to the chief clerk's office. The committee secretary should consult that office for the proper procedures to follow when handling jacketed bills, including the committee's receipt, control and release of jacketed bills. One copy of the typed report should be retained by the committee secretary for the committee files.

### ***Distribution***

Assembly and distribution of the copies of the committee report are handled by the chief clerk after action is taken on the report. Distribution is the same as for bills.

### ***Conference Committee Reports***

When the House and the Senate fail to agree on certain amendments to a bill, a conference committee made up of members from each house is appointed to work out a version agreeable to both. Identical reports are drafted for each house. Each report has a place for conferees to sign. A majority of the conferees from the House must sign the House report, and a majority of the conferees from the Senate must sign the Senate report. The identical reports are read in both chambers, and the reports must be adopted by both houses in order for the bill to pass.

Conference committee reports are printed on blue- or yellow-margin paper, and the distribution is the same as for other committee reports. The Legislative Council Service prepares most conference committee reports. The primary exception is the House Bill 2 conference committee report, which is prepared by the Legislative Finance Committee. Samples of conference committee reports may be found in the *Legislative Document Sample Book*.

## *Language and Technical Requirements*

The language used in drafting amendments is the same whether the items are in a committee or floor amendment or a committee report. Technical requirements also apply to all. These requirements and the style and format of amendments have been established to provide consistency for ease of use by the reader and for E&E when preparing the bill.

### *Page and Line Numbers*

Amendments are made to specified pages and lines of the introduced bill, memorial, resolution or substitute. **Amendments must be in page and line order**; for example, do not amend page 3, then backtrack to page 1 for another amendment or make changes on line 15, then return to line 4 for other changes.

If the drafter wishes to change language affected by a previous amendment, that amendment must be struck and a new amendment written with the desired changes. Amendments striking previous amendments always come first in the set of amendments as in number 1 of the following example. *See Striking Previous Amendments* in this chapter for further discussion.

Some amendments are very simple and only require striking a word or words and replacing it or them with another word or words as in numbers 2 and 3. Please note that in the second amendment, the whole number was struck and replaced; it is not sufficient to strike "eight" and replace it with "nine". In number three, not only was the number changed, but the singular "member" had to be replaced with the plural "members".

Sometimes, it is possible simply to identify what language to delete by striking entire lines; other times the deletion needs to be tagged by a marker, a specific word or punctuation, as in numbers 4 and 8. *See Use of Markers* in this chapter for further discussion. Also note that, as in number 6, new language may need to be inserted between lines. The renumber/reletter instruction, as in numbers 7, 12 and 13, is required when sections or section subdivisions are added or deleted. The following pages discuss and give examples of different types of amendments.

***Example: Specified Page and Line Numbers***

I propose to the HOUSE APPROPRIATIONS AND FINANCE COMMITTEE the following **amendments** to

HOUSE BILL 43, as amended

1. Strike all items of Senate Floor Amendment number 1.
2. On page 2, line 19, strike "eight hundred" and insert in lieu thereof "nine hundred".
3. On page 2, line 20, strike "one member" and insert in lieu thereof "two members".
4. On page 2, line 22, after the second occurrence of "members", strike the remainder of the line, strike all of lines 23 and 24 and strike line 25 through the period.
5. On page 2, line 25, strike "Of" and insert in lieu thereof "of".
6. On page 3, between lines 8 and 9, insert the following new subsection:

"C. provide supervision to student interns;"
7. **Reletter** succeeding subsections accordingly.
8. On page 5, line 3, before the period, insert "; provided, however, that the secretary shall immediately notify the governor of the shortage".
9. On page 5, line 15, after the period, insert a closing quotation mark.
10. On page 5, strike lines 16 through 25.
11. On page 6, line 3, before "The", insert the subsection designation "B.".
12. **Reletter** succeeding subsections accordingly.
13. On pages 7 through 9, strike Section 12 in its entirety. - **or** - On page 7, strike lines 20 through 25, strike all of page 8 and on page 9, strike lines 1 through 5.
14. **Renumber** the succeeding section accordingly.

## *Use of Markers*

Sometimes it is possible simply to identify what to strike; at other times some word or punctuation needs to be used as a point of reference, or marker. Additions must always be placed by the use of a marker.

Generally, amendments are placed "after" a marker, rather than "before", simply as a matter of consistency. There are times, of course, when this format will not work, and the drafter should provide the instruction that will be the clearest one for E&E and other readers of the amendment.

When using a word that appears more than once in a line as a marker, the drafter will need to clarify which occurrence of the word marks the intended place of insertion. For example, if "and" occurs more than once in the line, the amendment would read "after the second occurrence of "and", insert...".

### *Example: Use of Markers*

1. On page 2, line 21, after the period, insert "The public members shall have no interest in the business regulated."

2. On page 2, line 22, after the second occurrence of "members", strike the remainder of the line, strike all of lines 23 and 24 and strike line 25 up to the period.

3. On page 3, line 3, before the period, insert "; provided, however, that the secretary shall immediately notify the governor of the shortage".

**Strike only the material that needs to be struck**, including punctuation; do not strike material and then reinsert it. Review the following examples.

### *Example: Incorrect and Correct Amendments — Use of Markers*

#### ***Incorrect:***

1. On page 1, line 16, strike "PRESCRIBING PENALTIES;" and insert in lieu thereof "PRESCRIBING CRIMINAL PENALTIES;".

#### ***Correct:***

1. On page 1, line 16, after "PRESCRIBING", insert "CRIMINAL".

***Example: Incorrect and Correct Amendments — Use of Markers***

***Incorrect:***

1. On page 1, line 13, strike the period and insert in lieu thereof a semicolon and "DECLARING AN EMERGENCY."

***Correct:***

1. On page 1, line 13, before the period, insert "; DECLARING AN EMERGENCY".

Do not use a phrase as a marker when a word will suffice. Do not use instructions such as "the word" or "the words and punctuation" when stating what to strike or insert. Nothing is added by saying "after *the word* "county", insert *the words and punctuation* ", special district"". **State the instruction as simply as possible:** after "county", insert ", special district". Review the following examples.

***Example: Incorrect and Correct Amendments — Use of Markers***

***Incorrect:***

1. On page 7, line 13, after "sheriffs and deputies", insert "and all volunteers".

***Correct:***

1. On page 7, line 13, after "deputies", insert "and all volunteers".

When simply striking a word or words, a marker is not usually needed. The amendment should be worded as follows.

***Example: Striking Language — No Marker Needed***

1. On page 1, line 15, strike "; MAKING AN APPROPRIATION".

2. On page 5, line 16, strike ", except as provided in Subsection E of this section".

## *Amending to Change Money Amounts*

To change dollar amounts, the entire "money string" must be deleted and the new money string inserted.

### *Example: The Bill*

```
10 | SECTION 42. APPROPRIATION.--Fifty-five thousand dollars
11 | ($55,000) is appropriated from the general fund to the local
12 | government division of the department...
```

To change the amount from \$55,000 to \$155,000, you cannot simply insert the words "one hundred" and the numeral "1". The amendment must be written as in the following example.

### *Example: Amendment to Change Money Amount*

```
1. On page 48, lines 10 and 11, strike "Fifty-five thousand
dollars ($55,000)" and insert in lieu thereof "One hundred fifty-five
thousand dollars ($155,000)".
```

## *Global E&E Instruction — Changing Money Amounts*

In amendments to certain appropriation bills, a global instruction may be given to address changes in subtotals and totals.

### *Example: Global E&E Instruction — Subtotals and Totals*

```
12. Adjust all subtotals and totals to correspond to these amendments.
```

## *Amending to Add or Delete Subdivisions*

Review the following bill and examples of amending to add or delete a subsection. Please note it make take several amendments to correctly complete the addition or deletion.

***Example: The Bill***

16           SECTION 24. [NEW MATERIAL] PROHIBITIONS.--Students cannot  
17 work in the following jobs and remain eligible for the state  
18 work-study program:  
19           A. jobs that advance a religious purpose;  
20           B. jobs that have an objective that is primarily  
21 religious;  
22           C. jobs that involve entanglements with a religious  
23 organization; and  
24           D. jobs that involve partisan political activity.  
25

- 9 -

***Example: Amendments — Adding a New Subsection***

1. On page 9, line 23, strike "and".
  
2. On page 9, line 24, strike the period and insert in lieu thereof "; and".
  
3. On page 9, between lines 24 and 25, insert the following new subsection:  

"E. jobs that are hazardous to the student's health."



### ***Example: Amendments — Deleting a Subsection***

1. On page 9, line 21, after the semicolon, insert "and".
2. On page 9, line 23, strike "; and" and insert in lieu thereof a period.
3. On page 9, strike line 24 in its entirety.

Please note that, in the example that adds a subsection, the insertion was placed between the lines. The example that deletes a subsection simply struck the line.

When inserting or deleting subsections, paragraphs, subparagraphs or items, check to see if **conjunctions** and **punctuation** have to be amended to agree with the insertion or deletion. Such adjustments may have to be made in a separate amendment. Review the previous example.

Also, the next amendment following the amendment making the change must provide for succeeding sections, subsections, paragraphs, subparagraphs or items to be renumbered or relettered.

### ***Renumber or Reletter Instruction***

When adding or deleting sections or subdivisions of sections, it may be necessary to add the instruction to E&E to renumber or reletter the succeeding sections or subdivisions (singular if only one is left). For a discussion of E&E, *see* the section entitled *Enrolled and Engrossed Bills* in this chapter.

In the next example, the new subsection will be inserted before the last existing subsection. The reletter instruction will be required.

**Example: The Bill**

15       SECTION 24.   [NEW MATERIAL] PROHIBITIONS.--Students cannot  
16 work in the following jobs and remain eligible for the state work-  
17 study program:

18           A.   jobs that advance a religious purpose;

19           B.   jobs that have an objective that is primarily  
20 religious;

21           C.   jobs that involve entanglements with a religious  
22 organization; and

23           D.   jobs that involve partisan political activity.

24       SECTION 25.   [NEW MATERIAL] ACADEMIC STANDARDS.--Students  
25 must maintain a grade ...

**Example: The Amendments — Reletter Instruction**

1. On page 9, line 22, strike "and".
  
2. On page 9, between lines 22 and 23, insert the following new subsection:

"D. jobs that are hazardous to one's health; and".
  
3. Reletter the succeeding subsection accordingly.

In the previous example, please note that if the new subsection was inserted before Subsection C, moving the "and" would be unnecessary, but the reletter instruction would still be needed.

The reletter or renumber instruction is used in lieu of having to go through the bill and change the letter or number of every succeeding subdivision by amendment.

***Example: Amendments — Renumber***

1. On pages 9 through 11, strike Section 25 in its entirety.
2. **Renumber** the succeeding sections accordingly.

Without such E&E instructions, the E&E committee would have to use a certificate of correction to fix the final bill. The reletter or renumber instruction may also be given globally at the end of the amendments in a committee amendment (or items of a floor amendment).

***Global E&E Instruction for Subdivision Changes***

When adding or deleting *several* subdivisions, one global E&E instruction at the end may suffice. "The end" for subdivisions means at the end of the amendments pertaining to that section; "the end" for sections means at the end of all of the amendments.

***Example: Global E&E Instruction — Reletter***

1. On page 3, lines 12 and 13, strike Subsection C in its entirety.
2. On page 3, lines 17 through 19, strike Subsections E and F in their entirety.
3. On page 4, lines 3 through 7, strike Subsection H in its entirety.
4. **Reletter** subsections to correspond with these amendments.

## *Amending to Remove a Section*

If an amendment will remove all changes from an amended zoo section (thereby returning it to its original state), the drafter should strike the entire section from the bill. There are also times when the requester or a committee may determine that a section should be deleted for other reasons. The amendment to remove an entire section would be written as follows.

### *Example: Amendments to Remove Entire Section*

5. On pages 23 and 24, strike Section 5 in its entirety.
6. **Renumber** the succeeding sections accordingly.

The amendment to strike should be followed by an amendment to renumber the following sections unless the section was the last section in the bill. If there is only one remaining section, the amendment would read "succeeding section"; if more than one is remaining, it would read "succeeding sections".

If there is any possibility of confusion, line numbers may be added to the amendment, as shown in the following examples.

### *Example: Amendments to Remove Sections, Citing Line Numbers*

1. On page 10, lines 12 through 24, strike Section 3 in its entirety.
2. Renumber the succeeding sections accordingly.
3. On page 12, line 3 through page 14, line 5, strike Section 5 in its entirety.
4. Renumber the succeeding sections accordingly.

## *Amending to Add a Compiled Section (Zoo)*

Since amendments are, by their nature, new, **there is no reason to bracket and underscore**

**in an amendment unless an entire existing section of law (a zoo) is being added** to the bill through an amendment.

When adding entire new sections or subdivisions, they usually go between lines. Unless the section is being added at the end of a bill, the renumber instruction is required. Review the following example.

***Example: Adding Entire Compiled Section (Zoo)***

1. On page 3, between lines 7 and 8, insert the following new section:

"SECTION 3. Section 2-1-4 NMSA 1978 (being Laws 1943, Chapter 18, Section 2, as amended) is amended to read:

"2-1-4. PAYMENT OF OTHER COMPENSATION TO LEGISLATOR FOR ACTING AS OFFICER OR EMPLOYEE OF STATE PROHIBITED.--It is unlawful for any officer of the state [~~of New Mexico~~] or a political subdivision of the state to pay to any member of the legislature during the term for which the member is elected compensation for services [~~rendered the state of New Mexico~~] performed as an officer or employee [~~thereof~~] of the state or political subdivision of the state except such compensation and expense money [~~which such~~] as the member is entitled to receive as a member of the legislature.""

2. Renumber the succeeding sections accordingly.

***Amending to Add Multiple Sections***

A drafter may choose to add more than one section in one amendment. This, of course, will only occur if the sections are sequential and are being inserted at the same place in the bill. Review the following example for standard language and format.

Also note that, in the second amendment of the example, two sections are deleted. Amendment three illustrates the use of the global E & E instruction to renumber.

### ***Example: Adding Multiple Sections***

1. On page 6, between lines 22 and 23, insert the following new sections:

"SECTION 7. Section 1-1-1 NMSA 1978 (being Laws 1909, Chapter 222, Section 2205, as amended) is amended to read:

"1-1-1. ADDING SECTIONS.--When [~~subtracting or~~] adding sections to a bill, follow [~~normal~~] standard drafting rules."

SECTION 8. Section 1-1-2 NMSA 1978 (being Laws 1909, Chapter 222, Section 2212, as amended) is repealed and a new Section 1-1-2 NMSA 1978 is enacted to read:

"1-1-2. [NEW MATERIAL] AMENDMENTS--ENROLLING AND ENGROSSING INSTRUCTIONS.--

A. When adding or deleting sections in an amendment, the drafter may use the reletter or renumber instruction several times or once, depending on the structure of the entire amendment.

B. A blanket instruction is preferred for an amendment that adds or deletes several sections throughout the bill.""

2. On pages 7 through 13, strike Sections 8 and 9 in their entirety.

3. Renumber sections of the bill to correspond with these amendments.

### ***Global E&E Instruction for Section Changes***

As in the preceding example, when adding or deleting multiple sections, a global renumber instruction may be used. The global instruction should only be used if the deletions and additions are complex, that is, when numerous sections are being added and deleted.

Otherwise, the drafter should renumber after each amendment making such a change. Any sections being added should be given the correct section number in light of any other section numbering changes made by the amendments.

***Example: Adding a New Material Section***

1. On page 6, between lines 17 and 18, insert the following new section:

"SECTION 8. A new section of the Trails Act is enacted to read:

"[NEW MATERIAL] SEPARATE TRAILS--MOTORIZED VEHICLES.--Separate trails may be established for motorized vehicles, but there shall not be trails designated for horseback riding, hiking, bicycling or roller skating.""

***Amending to Add a New Material Section***

An entire new material section may also be added by amendment. Note that, in the previous and the following examples, the new material designation is required.

***Insertion After Line 25***

***Example: Amendments — After Line 25***

9. On page 7, after line 25, insert the following new subsection:

"G. Support staff shall be subject to background checks."

10. Reletter the succeeding subsections accordingly.

An amendment added at the end of a page is usually worded to be inserted "after line 25"; however, there may be times when it is appropriate to put the amendment "before line 1" on the next page.

## *End of Bill Insertion*

To insert language at the end of the bill, you have to insert between the last line of text and the page number. Review the following example.

### *Example: The Bill*

```
17 | SECTION 42. TEMPORARY PROVISION--RECOMPILATION.--Sections
18 | 22-5-1 through 22-5-5 NMSA 1978 (being Laws 1918, Chapter 14,
19 | Sections 1 through 3, 8 and 9, as amended) are recompiled as
20 | Sections 76-3-52 through 76-3-56 NMSA 1978.
21 | - 14 -
```

### *Example: Amendment — Insertion at End of Bill*

15. On page 14, between lines 20 and 21, insert the following new section:

"SECTION 43. APPLICABILITY.--The provisions of this act apply to charter schools established after January 1, 2015."

## *Amending Cross-References*

Drafters are required to fix internal cross-references by specific amendment instead of a general E&E instruction. Thus, **drafters are required to calculate the correct section number or other subdivision indicator when adding and deleting**. For example, if the drafter strikes Section 12 and then inserts a new section before the printed Section 15, the new section will be inserted as Section 14, not Section 15. The E&E instruction to renumber succeeding subsections would still be needed.

When sections, subsections, etc., are added or deleted, **the entire bill must be read to find internal cross-references that may be affected**. Further amendments must be made to correct any cross-references that need to be changed.



## *Quotation Marks*

All beginning quotes must have ending quotes. Notice the `."` at the end of the section in the previous example. The first set of quotation marks at the end of the section is for the end of the section; the second set is for the end of the amendment; the first period ends the sentence; the second period ends the amendment. There are times it could look like `."`.

## *Punctuation and Capitalization*

Punctuation has to be deleted or added just like words, and capitalization has to be fixed. Review the following example.

### *Example: Amendments — Punctuation*

1. On page 1, line 12, strike `"MAKING AN APPROPRIATION;"`.
2. On page 3, line 9, strike the comma and insert in lieu thereof a semicolon.
3. On page 6, line 2, strike `--AUTHORIZATION"`.
4. On page 7, line 8, strike `". The"` and insert in lieu thereof `"; the"`.

## *Striking Previous Amendments*

To eliminate or even rewrite an amendment that was adopted previously, the drafter must give the instruction to strike the original amendment in the new set of amendments. Then, if the previous amendment is to be rewritten, the new amendment is added.

Strike specific committee amendments; strike specific items of floor amendments. **Do these strikes at the beginning** of the set of new amendments, regardless of where the changes would

actually fall in the bill. If there are multiple committee or floor amendments to strike, **strike in referral order**. See the *Daily Bill Locator* to determine what committee had first referral, etc.

Do not forget to include all of the amendments that pertain to the substantive amendment you want to strike; for example, if you strike an amendment that inserts or deletes a section, you have to strike the next amendment that provides for the renumbering of succeeding sections.

Note that, in the two versions of number 4 in the following example, the committee name is lower case when referring to generic amendments, but is capitalized when the amendments are "titled" by including their numbers.

***Examples: Striking Previous Amendments***

1. Strike House Energy, Environment and Natural Resources Committee Amendments 3, 4 and 7.
2. Strike Item 2 of House Floor Amendment number 1.
3. Strike all items of House Floor Amendment number 2.
4. Strike all senate conservation committee amendments. <or>
4. Strike Senate Conservation Committee Amendments 1 through 4.
5. On page 1, between lines 16 and 17, insert the following new section:  
  
"<a section set out in full>".

***Restoring Bracketed Language and Striking Underscored Language***

To restore bracketed material to the bill, an instruction must be given to **remove** the brackets and the line through the word or words and to strike underscored material. Always make sure the material will still "read" correctly after making these changes.

When a drafter receives a request to amend a bill by restoring bracketed language and striking any underscored language, the drafter must determine if such amendment will restore the section to the form it currently exists in law. In such a case, instead of restoring bracketed language and striking new language, line by line, the section should simply be removed from the bill. By striking the section, the drafter leaves it as it stands in the law. When striking a section, succeeding sections must be renumbered.

***Example: The Bill***

```
10 | "22-59-3.  DEFINITIONS.--As used in the Student Choice Act:
11 |         A.  ["board"] "commission" means the [board of
12 | educational finance] commission on higher education;
13 |         B.  "institution" means any independent nonprofit
14 | nonsectarian four-year college or university whose New Mexico
15 | campus is accredited by the north central accrediting
16 | association; ..."
```

***Example: Amendment — Restoring Bracketed Language***

1. On page 25, lines 11 and 12, remove the brackets and the line through ~~"board"~~, strike ~~"commission"~~, remove the brackets and the line through ~~board of educational finance~~ and strike ~~commission on higher education~~.

Review the following for other examples of restoring bracketed language and striking underscored language.

***Examples: Amendments — Restoring Bracketed Language — Striking Underscored Language***

1. On page 18, line 3, strike the underscored language "and final results".

2. On page 21, line 4, after the period, strike the remainder of the line and strike all of lines 5 through 17.

<or>

2. On page 21, lines 4 through 17, strike all underscored material.

3. On page 22, line 7, remove the brackets and the line through "public".

4. On page 31, lines 5 through 9, remove the brackets and the line through Subsection L in its entirety.

See Part E of the *Legislative Document Sample Book* for more examples of drafting amendments.

## ***Mock-Up Bills***

On very rare occasions, a mock-up bill is prepared. Amendments to a bill are inserted into the bill and shown with bracketing and underscoring and highlighting. This is sometimes done if the amendments are extensive and difficult to understand fully without making the changes to the bill itself.

**Mock-up bills are printed on pink paper** and have the designation "MOCK-UP" in large type on the front page between the heading and the title. Review the following examples.

***Example: Mock-Up Bill Heading***

1	HOUSE BILL 85
2	<b>52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016</b>
3	INTRODUCED BY
4	
5	
6	
7	
8	MOCK-UP
9	
10	AN ACT

The rest of the bill will follow standard bill format. All of the amendments will be included as highlighted bracketed or underscored language.

Mock-up bills also have a **mock-up watermark** on each page and a disclaimer that the bill is not for introduction, amendment or substitution on the top of the second and each subsequent page.

***Example: Mock-Up Disclaimer — Top of Second & Subsequent Pages***

HB 85
NOT FOR INTRODUCTION, AMENDMENT OR SUBSTITUTION

See the *Legislative Document Sample Book* for a complete sample and further discussion of mock-up bills.

## ***Enrolled and Engrossed Bills***

The term "enrolling and engrossing", commonly called "E&E", is used to describe the preparation of the final authoritative copy of a bill passed by both houses of the legislature. This preparation is performed by the house of introduction and incorporates all amendments adopted and agreed to by both houses.

The New Mexico Supreme Court has consistently ruled that in interpreting a law, it will not go behind the E&E bill even though the journal shows that, through a clerical error, the E&E bill does not correspond to the bill actually passed. For this reason, when enrolling and engrossing a bill, it is extremely important that the utmost care be taken to ensure that it reflects the exact legislative action on the original bill.

### ***Certificate of Correction***

No changes can be made in the bill at the E&E stage other than changes made to conform to legislative form and style and corrections of misspellings or other obvious typographical errors. Internal citations may be adjusted only if an amendment has directed it to be done. In short, changes in *form* are permissible; changes in *substance* are not permissible. All changes must be shown on a **certificate of correction** signed by either the chair or vice chair of the committee and attached to the E&E bill.

Every E&E bill is submitted to the governor with a printed cover page that contains the bill number and the names of the sponsors. The secretary of state inserts the chapter number on the cover page if the bill becomes law.

### ***Signature Page***

The signature page attached to each E&E bill contains blank spaces for signatures of the officers and the governor. Copies may contain typed signatures.

### ***Example: Signature Page***

(original)

John Q. Doe, Speaker

(copies)

s/John Q. Doe

John Q. Doe, Speaker

The E&E bill with its cover sheet and signature page is stapled on the left side approximately 3" from the top and bottom and ½" from the side.

### ***Approval Date***

Prior to binding, the Office of the Secretary of State inserts the bill number (or memorial or resolution number) and the approval date on the first page of the signed bill. This information is inserted two spaces below the last line and separated from the text by a 1¼" footnote line. Review the following example.

#### ***Example: Approval Date***

23	prior quarter and shall submit to the fifty-second	
24	legislature, second session, a report covering	SB 5
25	expenditures by the department.	Page 1
	SENATE BILL 5	
	Approved February 23, 2016	

Other copies of the E&E bill are distributed by the Office of the Secretary of State as follows: one for the secretary of state's files; two to the Legislative Council Service; and, if the bill

becomes law, one to the printer and one to the New Mexico Compilation Commission. If the bill does not become law, one copy goes to the Legislative Council Service and one goes to the State Records Center for historical purposes.

## ***The Journal***

The journals of the House and Senate are the official records of all legislative action. Article 4, Section 12 of the Constitution of New Mexico requires that each house keep a journal of its proceedings. In addition, the rules of the House and the Senate require the chief clerk to keep a correct journal of the proceedings in which are recorded in full, among other things, messages from the governor and titles of bills, resolutions and memorials.

The journal pages are typed on legal paper (8½" x 14"). Margins for the journal pages are as follows: left and right margins, 1¼" from the edge of the paper; top and bottom margins, 1" from the edge of the paper. Journal clerks should note that **all** text, including the page headings at the top and the page numbers at the bottom, must stay within 12" vertically.

## ***Legislative Reference Documents***

During the legislative session, the Legislative Council Service publishes several reference documents, including the *Daily Bill Locator*, the *Subject Index*, the *Sponsors List*, the *Multiple Sponsors List* and the *Conflicts List*.

### ***Daily Bill Locator***

The *Daily Bill Locator* tracks every piece of legislation introduced into the legislature. It informs the reader of the date of introduction, committee referrals, dates of progress, whether the legislation has been amended, date of passage in each house and the vote, date of signature by governor and chapter number. Each locator includes instructions on how to read and use it.



## ***Subject Index***

The *Subject Index* categorizes introduced bills by subject matter and is the primary resource for finding bills when the researcher does not know the number of the bill. There is a separate section for capital outlay certificates. A new subject index is published each week.

## ***Sponsors List***

The *Sponsors List*, also published weekly, shows all bills introduced by sponsor, with a separate section for capital outlay certificates.

## ***Multiple Sponsors List***

The *Multiple Sponsors List* identifies all of the legislators who signed as co-sponsors to a given bill.

## ***Conflicts List***

The *Conflicts List* shows bills that include the same compiled sections, and the action taken by each bill. The purpose is to inform the legislature that it may be amending, repealing or enacting the same section of law more than once, thus creating a potential conflict. The legislature can ameliorate conflicts by substituting several bills into one or by passing one bill and letting similar or conflicting bills die.

## CHAPTER 7: RESOLUTIONS

*A resolution is a formal declaration of the legislature concerning a certain subject that it cannot or does not wish to control by law. Resolutions are either simple, joint or concurrent and require no action on the part of the governor. By far, the most common resolution is a joint resolution proposing to amend the Constitution of New Mexico.*

### ***Simple Resolutions***

A simple resolution is a declaration by either house expressing the sentiment of that house on some subject. It does not require participation by the other house. It is used to adopt or amend rules of the House of Representatives or rules of the Senate. Otherwise, a simple resolution is a form that is rarely used.

### ***Heading***

The heading of a simple resolution is similar to the heading of a bill or simple memorial. It will state whether it is a House or Senate resolution.

***Example: Simple Resolution Heading***

1	HOUSE RESOLUTION
2	<b>52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016</b>
3	INTRODUCED BY

***Title***

The title does not specify HOUSE or SENATE. It should state the purpose of the resolution in broad terms.

***Example: Simple Resolution Title***

10	A RESOLUTION
11	REQUESTING THAT SOMEBODY DO SOMETHING ABOUT SOMETHING.

***WHEREAS Paragraphs***

The WHEREAS paragraphs (sometimes referred to as recitals) start two numbered lines from the end of the title. These paragraphs state the findings of the initiating house and its desires.

The first line of each WHEREAS paragraph is indented five spaces and each paragraph ends with a semicolon followed by "and".

The last WHEREAS paragraph ends with a semicolon, followed on the next numbered line by the resolving paragraph that also starts five spaces in from the margin.

Review the following example.



(3) express the approval of the legislature in those instances where by statute the legislature has required only legislative (not executive) approval for some action, such as approving the sale, trade or lease of state-owned real property as required by Section 13-6-3 NMSA 1978.

## ***Heading***

The heading of a joint resolution, including constitutional amendments, is the same as that for a simple resolution with the addition of the word "JOINT" after the house designation on line 1.

### ***Example: Joint Resolution Heading***

1	HOUSE JOINT RESOLUTION
2	<b>52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016</b>
3	INTRODUCED BY

## ***Constitutional Amendments***

Constitutional amendments are drafted in the form of joint resolutions. There is no specific provision for repealing all or any part of the constitution; therefore, deletions are submitted in the form of a proposed amendment to the constitution. The rules governing brackets and underscoring apply to constitutional amendments. (Formerly, in preparing a proposed constitutional amendment, the drafter would draft from the Comp as it was the only place the constitution appeared in its entirety as an official document. Now, zoos have been created for all sections of the Constitution of New Mexico.)

## ***Title on Ballot***

After a joint resolution proposing a constitutional amendment passes the legislature, it must go to the people for their approval. Only the title of the joint resolution proposing a constitutional amendment appears on the ballot, which means it is all the voter has to go by when trying to decide how to vote. It is incumbent upon the drafter to craft a title that clearly and fairly lets the voter know what the amendment does. Review the next example.

## *Resolving Clause*

The resolving clause of a joint resolution proposing to amend the constitution begins at the margin two numbered lines below the title and is typed all in capital letters. Review the following example.

### *Example: Title and Resolving Clause*

10	A JOINT RESOLUTION
11	PROPOSING AN AMENDMENT TO ARTICLE 7, SECTION 1 OF THE CONSTITUTION
12	OF NEW MEXICO TO LOWER THE VOTING AGE TO EIGHTEEN YEARS.
13	
14	BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

## *Sections in Constitutional Amendments*

Joint resolutions proposing constitutional amendments are divided into sections just as regular bills are; however, unlike bills, **constitutional amendments do not use section headings**.

Like bills, deletions and additions are shown in constitutional amendments by using bracketing and underscoring. Unlike bills, the new material designation is not used in constitutional amendments. *See* Chapter 4: Bills for more on bracketing and underscoring.

### *Example: Constitutional Amendment — Amending Existing Section*

17	SECTION 1. It is proposed to amend Article 16, Section 1
18	of the constitution of New Mexico to read:
19	"All county officers, <u>except county sheriffs</u> , shall be
20	elected for a term of two years..."

***Example: Constitutional Amendment — Adding New Section***

17       SECTION 2. It is proposed to amend Article 12 of the  
18 constitution of New Mexico by adding a new section to read:  
19       "Any elected local school board member..."

***Example: Constitutional Amendment — Repealing Existing Section***

17       SECTION 3. It is proposed to amend Article 12 of the  
18 constitution of New Mexico by repealing Section 3.

***Example: Constitutional Amendment — Repealing Existing Section & Adding New***

16       SECTION 4. It is proposed to amend Article 26 of the  
17 constitution of New Mexico by repealing Section 4 and adding a  
18 new Section 4 to read:  
19       "Each county sheriff shall maintain an office at the county  
20 seat of the sheriff's county."

## ***Election Section***

Each joint resolution, no matter how many sections, is considered to be only one amendment. A constitutional amendment is always made up of at least two sections; the last section is standard language. It is referred to as the election section.

***Example: Election Section***

16       SECTION 5. The amendment proposed by this resolution shall  
17 be submitted to the people for their approval or rejection at the  
18 next general election or at any special election prior to that  
19 date that may be called for that purpose.

## ***Single-Subject Requirement***

Drafters should be familiar with Article 19, Section 1 of the Constitution of New Mexico, which requires that if two or more proposals are initiated by the legislature, they must be submitted separately so as to enable the electors to vote on each of them separately. This section imposes a single-subject requirement on constitutional amendments just as Article 4, Section 16 does for bills.

The purpose of the provision is to prevent "logrolling", whereby the legislature joins two or more independent measures to coerce voters into accepting something they may not want in order to get something they do want. Two New Mexico Supreme Court cases on this issue include *State ex rel. Chavez v. Vigil-Giron*, 108 N.M. 45, 766 P.2d 305 (1988) and *State ex rel. Clark v. State Canvassing Bd.*, 119 N.M. 12, 888 P.2d 458 (1995). Drafters should consult the appropriate cases on this issue.

Amendments submitted by an independent commission created by law may be submitted by single ballot question.

## ***Other Joint Resolutions***

The format used for joint resolutions, other than constitutional amendments, is similar to that used in simple resolutions and memorials. The heading for other joint resolutions is the same as that used in constitutional amendments. Differences in format are illustrated in the following examples.

### ***Title and WHEREAS Paragraphs***

The title begins on line 10 with "A JOINT RESOLUTION". "HOUSE "or "SENATE" is not designated in the title. The WHEREAS paragraphs follow the same format as those in simple resolutions or memorials.





***Example: Joint Resolution Resolving Clause — Property Exchange***

11        WHEREAS, such an exchange of property would benefit the  
12 state;  
13        NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE  
14 STATE OF NEW MEXICO that an exchange of property at the southeast  
15 corner of St. Michael's Drive at St. Francis Drive in Santa Fe...

The resolving clause may be followed by "BE IT FURTHER RESOLVED" paragraphs just as in simple resolutions or memorials. Review the next example.

***Transmittal Clause***

The last clause of the resolution is usually the transmittal clause. The request may be for a copy or multiple copies of the resolution to be transmitted. The language should read as in the following example.

***Example: BE IT FURTHER RESOLVED Transmittal Clause***

11        BE IT FURTHER RESOLVED that the property be used for a  
12 public park; and  
13        BE IT FURTHER RESOLVED that copies of this **resolution be**  
14 **transmitted** to the public employees retirement association and  
15 the facilities management division of the general services  
16 department.

There are times when the standard language of the transmittal clause may vary, such as in a resolution ratifying a constitutional amendment. In such cases, "certified" copies may be required. Review the following example.

*Example: Resolving Clause Ratifying Federal Constitutional Amendment*

18       NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE  
19 STATE OF NEW MEXICO that the proposed amendment be hereby  
20 ratified by the state of New Mexico; and  
21       BE IT FURTHER RESOLVED that certified copies of this  
22 resolution be forwarded immediately to the administrator of  
23 general services, Washington, D.C., and to the president of the  
24 senate and the speaker of the house of representatives of the  
25 congress of the United States.

## *Concurrent Resolutions*

A concurrent resolution is a declaration by either house that is concurred with by the other house. It is used for the adoption of **joint rules** of the legislature. The concurrent resolution begins with a series of "WHEREAS" clauses and ends with one or more resolving clauses.

## *Heading*

The heading is standard and includes "CONCURRENT" on line 1.

*Example: Concurrent Resolution Heading*

1                                   SENATE CONCURRENT RESOLUTION  
2       **52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016**  
3                                   INTRODUCED BY

## ***Title***

The word "CONCURRENT" must also appear in the title on line 10. HOUSE or SENATE is not indicated.

### ***Example: Concurrent Resolution Title***

10	A CONCURRENT RESOLUTION
11	PROPOSING A NEW LEGISLATIVE JOINT RULE 10-6 TO PROHIBIT VIDEO
12	RECORDING.

## ***Resolving Clause***

The resolving clause of resolutions other than those amending the constitution comes toward the end of the draft, after the WHEREAS paragraphs.

## ***Concurring Phrase***

The resolving clause contains the "concurring" phrase. Review the following example for the necessary language. Note that the house that is listed first in the concurring phrase is the house of origin followed by the house that concurs. The remainder of a concurrent resolution is the same as a joint resolution. It may contain a transmittal clause.

### ***Example: Concurrent Resolution Resolving Clause***

10	NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF
11	NEW MEXICO, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN,
12	that....; <or the reverse>.

Samples of all types of resolutions may be found in the *Legislative Document Sample Book*.



## CHAPTER 8: MEMORIALS

*A memorial is an expression of legislative desire, usually addressed to another governmental body, in the form of a petition or declaration of intent. Memorials are either simple or joint and require no action on the part of the governor.*

Memorials are used by both houses of the legislature to make requests to other state or federal governmental agencies or to express concern, condolence or commendation to agencies or to private entities. Memorials are not signed by the governor; they do not appear in the compiled statutes. When passed, encomia and condolence memorials are prepared on special paper by the house of introduction and sent to the individuals specified in the memorial.

**Memorials are written in the subjunctive mood** and are written as requests, not as demands.

### *Simple Memorials*

Simple memorials are memorials of only one house and do not require the approval of the other house.

## ***Heading***

The heading will state HOUSE MEMORIAL or SENATE MEMORIAL on line 1. The heading of a memorial is similar to that of a bill. The only difference is that it says "MEMORIAL" instead of "BILL". Review the following example.

### ***Example: Memorial Heading***

1	HOUSE MEMORIAL
2	<b>52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016</b>
3	INTRODUCED BY

## ***Title***

Similar to a bill title, a simple memorial title begins with "A MEMORIAL". The title does not specify HOUSE or SENATE. The title begins on line 10.

### ***Example: Memorial Title***

10	A MEMORIAL
11	HONORING CANCER PATIENTS, SURVIVORS AND THEIR FAMILIES;
12	REMEMBERING THOSE PEOPLE WHO HAVE BEEN LOST TO CANCER; DECLARING
13	MONDAY, JANUARY 28, 2013, "CREATE HOPE FOR A CANCER-FREE WORLD
14	DAY" IN THE SENATE.

## ***WHEREAS Paragraphs***

The WHEREAS paragraphs start two numbered lines from the end of the title. These paragraphs state findings and legislative intents and desires and, at times, give praise or condolence.

The first line of each WHEREAS paragraph is indented five spaces. Each paragraph, except for the last paragraph before "NOW, THEREFORE, BE IT RESOLVED", ends with a semicolon followed by "and".

The last WHEREAS paragraph ends with a semicolon, followed on the next numbered line by the resolving paragraph, which also starts five spaces in from the margin. All but the last WHEREAS paragraph end with "; and".

**Example: WHEREAS Paragraphs**

10	A MEMORIAL
11	REQUESTING THE NEW MEXICO CONGRESSIONAL DELEGATION IN
12	WASHINGTON, D.C., TO VOTE TO SUPPORT LEGISLATION THAT WOULD
13	REMOVE THE DEADLINE FOR RATIFICATION OF THE EQUAL RIGHTS
14	AMENDMENT.
15	
16	WHEREAS, equal rights for women are not specifically
17	included in the United States constitution; and
18	WHEREAS, the rights of women in the United States to
19	receive equal pay for equal work, be protected against domestic
20	violence and have fair work-leave policies and access to the
21	reproductive health care services of their choice, among others,
22	are daily being questioned and restricted; and ...

It is best not to use language such as "the senate finds that" or "the house of representatives wishes to" in the WHEREAS paragraphs. Memorials are often duplicated from one house to the other and all such internal references must be changed to reference the appropriate house. Since these "dups" are usually rushes, such language creates a high potential for error.



## ***Resolving Clauses***

The resolving clause of a simple memorial must state the house of origin, i.e., the house stated in the heading.

### ***Example: Simple Memorial Resolving Clause***

```
11     NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF
12 NEW MEXICO that it call upon the New Mexico congressional
13 delegation in Washington, D.C., to vote in favor of legislation
14 that would remove the deadline for ratification of the equal
15 rights amendment so that efforts can proceed to get ratification
16 by the necessary additional three states so that, finally, the
17 guarantee of equal rights for women and men in the United States
18 will become the law of the land; and
```

There may be several subsequent resolving paragraphs. Each paragraph ends with "; and" until the final paragraph, usually the transmittal clause, which ends with a period.

### ***Example: Subsequent Resolving Paragraphs***

```
11     NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF
12 NEW MEXICO that it honor cancer patients, survivors and their
13 families; and
14
15     BE IT FURTHER RESOLVED that it remember those people who
16 have been lost to cancer; and
17
18     BE IT FURTHER RESOLVED that it declare Monday, January 28,
19 2013, "Create Hope for a Cancer-Free World Day" in the senate;
20 and...
```

## ***Transmittal Clause***

The last resolving paragraph contains the transmission instructions — the drafter usually indicates to whom the memorial is to be sent. The chief clerk of the initiating house is responsible for transmitting the appropriate copies. Review the following examples.

### ***Example: Transmittal Clause — Single Recipient***

```
11 | NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF
12 | REPRESENTATIVES OF THE STATE OF NEW MEXICO that ...; and
13 | BE IT FURTHER RESOLVED that a copy of this memorial be
14 | transmitted to the secretary of human services.
```

For mass distributions, it is appropriate to send the memorial to a single state agency for distribution by it. For example, if the memorial concerns school districts, it may be transmitted to the Public Education Department for distribution to school superintendents. If the memorial is to be transmitted to more than one recipient, the wording will refer to "copies". Review the following example.

### ***Example: Transmittal Clause — Multiple Recipients***

```
14 | BE IT FURTHER RESOLVED that copies of this memorial be
15 | transmitted to the legislative education study committee and the
16 | coalition of school administrators for appropriate distribution.
```

## ***Joint Memorials***

Joint memorials are memorials acted upon by both houses.

### ***Heading***

The heading of a joint memorial differs from a simple memorial in that it includes the word "JOINT".

***Example: Joint Memorial Heading***

1	SENATE JOINT MEMORIAL
2	<b>52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016</b>
3	INTRODUCED BY

***Title***

The title does not specify HOUSE or SENATE. The title must contain the word "JOINT". The title begins on line 10.

***Example: Joint Memorial Title***

10	A JOINT MEMORIAL
11	REQUESTING THE CONTINUATION OF THE STATEWIDE TASK FORCE TO ASSESS
12	AND RECOMMEND POLICY OPTIONS TO ADDRESS FAMILY-FRIENDLY
13	WORKPLACES FOR NEW MEXICO WOMEN AND FAMILIES.

***WHEREAS Paragraphs***

The WHEREAS paragraphs start two numbered lines from the end of the title. These paragraphs state the findings of the initiating house and legislative intents and desires and, at times, give praise or condolence.

The first line of each WHEREAS paragraph is indented five spaces. Each paragraph, except for the last paragraph before "NOW, THEREFORE, BE IT RESOLVED", ends with a semicolon followed by "and".



There may be several subsequent resolving paragraphs. Each paragraph ends with "; and" except the final paragraph, which ends with a period.

***Example: Subsequent Resolving Paragraphs***

11           NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE  
12 STATE OF NEW MEXICO that the New Mexico legislative council be  
13 requested to create a task force composed of legislators, school  
14 superintendents, other school personnel, school board members,  
15 public post-secondary educational institutions, the business  
16 community, parents and taxpayers to study the failures of the  
17 current educational system and the efficacy of a trifurcated  
18 diploma system; and  
  
19           BE IT FURTHER RESOLVED that the task force study the state's  
20 funding formula and make recommendations on changing the formula  
21 to comport with systemic recommendations; and  
  
22           BE IT FURTHER RESOLVED that the task force also study the  
23 current governance structure and make recommendations for the  
24 devolution of governance responsibility to the local level;  
25 and...

***Transmittal Clause***

The last resolving paragraph contains the transmission instructions — the drafter must indicate to whom the memorial is to be sent. The chief clerk of the initiating house is responsible for transmitting the appropriate copies. **Do not** include the word "joint" in front of "memorial" in the transmittal clause.

### ***Example: Transmittal Clause***

11           BE IT FURTHER RESOLVED that copies of this memorial be  
12 transmitted to the secretary of human services and the attorney  
13 general.

Examples of memorials may be found in the *Legislative Document Sample Book*.

### ***Preparation of Memorials***

Memorials are prepared for introduction in the same manner as bills. The "original" is jacketed, and the required copies are included. Joint memorials are usually printed, but frequently simple memorials will be ordered "not printed, not referred to committee" because of their limited function. Memorials are enrolled and engrossed after passage, a printed cover page is prepared and E&E copies are sent to the secretary of state for distribution.

### ***Certificates of Condolence, Congratulations and Recognition***

Joint rules of the Legislature prohibit the use of a bill, resolution or memorial for an official expression of condolence, congratulations or recognition of achievement; the rules provide for the issuance of appropriate certificates for these purposes.

As the Legislative Council Service is frequently requested to draft language for certificates of condolence, congratulations and recognition, every drafter should be familiar with the form of certificates. Certificates are generally written in Up Style. Care should be taken that names of persons cited in the certificate are spelled correctly, any titles or job descriptions are accurate and any family members are designated correctly. Include any background material used to draft the certificate in the 202 folder so that proofers may use it to verify facts. *See the Legislative Style Manual* for examples of writing in Up Style.

Examples of different types of certificates may be found in the *Legislative Document Sample Book*.



# CHAPTER 9: LEGISLATIVE STYLE AND LANGUAGE PROVISIONS AND INFORMATION MEMORANDA

*The Legislative Council Service uses a number of reference books as spelling, style and grammar guides. The American Heritage Dictionary of the English Language is its primary language authority. The Proofing Office also uses Fowler's Modern English Usage for questions of grammar and syntax, making sure to convert British English to American English. Proofreaders also consult certain provisions of The Elements of Style by Strunk and White and The Chicago Manual of Style and other grammar reference books.*

## **General Language Guidelines**

This section gives guidance on a wide range of language issues, including the use of statutory construction, number, verb tense and voice, gender neutrality, parallel construction, cross-references, certain words, concise language, capitalization and punctuation.



## ***Statutory Construction***

Every drafter should be familiar with the rules of statutory construction (Sections 12-2-3 and 12-2A-1 through 12-2A-20 NMSA 1978).

### ***Number***

Use singular nouns if possible. According to statutory construction, the singular includes the plural.

#### ***Example: Singular Noun Usage***

Use "person"; do not use "person or persons".

### ***Voice***

Use the active form of verbs rather than the passive form whenever possible.

#### ***Example: Active and Passive Voice***

***Active Voice:*** Lightning struck the barn.

***Passive Voice:*** The barn was struck by lightning.

### ***Tense***

Statutes are written primarily in the present tense, not the future tense.

#### ***Examples: Present Tense Usage***

***Use:*** It is unlawful...

***Do not use:*** It shall be unlawful...

***Use:*** The Safety Act applies...

***Do not use:*** The Safety Act shall apply...

## ***Gender Neutrality***

Section 2-3-13.1 NMSA 1978 requires the Legislative Council Service to "use gender-neutral language in drafting bills to enact, amend or revise laws and in drafting memorials, resolutions and other legislative documents". In keeping with this requirement, avoid using gender-based nouns (workman) and pronouns (he, his) when possible by replacing the noun with a gender-neutral one (worker), repeating the noun instead of using a pronoun or rewriting the sentence to omit the use of the pronoun. Do not use "they" or "their" to refer to a singular noun.

### ***Example: Correcting Gender-Specific Language***

***Avoid:*** A juror is entitled to ten dollars (\$10.00) for each day **he** serves.

***Use:*** A juror is entitled to ten dollars (\$10.00) for each day **of service**.

Use gender-neutral terms when possible, such as "drafter" for "draftsman".

Despite the general requirement for gender neutrality, please note that Section 2-3-13.1 NMSA 1978 further provides that "gender-neutral language shall not be used if language is intended or required to be gender-specific or the intended meaning of the language would otherwise be altered". The drafter should use judgment to determine when it is required or is otherwise not appropriate to use gender-neutral language pursuant to the provisions of Section 2-3-13.1 NMSA 1978.

## ***Parallel Construction***

New Mexico law is written in complete, grammatically correct sentences, even when subdividing into subsections, paragraphs, subparagraphs and items. The rules of parallel construction must be obeyed even in lists. *See the Legislative Style Manual* for more on parallel construction.

## ***Cross-References***

Avoid internal cross-references such as "as provided in this act" or "as defined in the Blah Blah Act" (when within that act). Even with a short title, these phrases are superfluous and should be omitted.

## *Word Usage*

This section illustrates the use of certain terms in statutory and LCS style.

### *State of New Mexico*

With some exceptions, reference to "the state of New Mexico" is unnecessary. New Mexico cannot legislate for another state. When necessary to refer to the state, use either "New Mexico" or "state". A good rule of thumb is to use "state" when referring to government and "New Mexico" when referring to geography.

### *"And" and "Or"*

If the intent is that any of several items, including all items, is sufficient, use the disjunctive "or". If the intent is that all items are necessary, use the conjunctive "and". Said another way, the idea of "and/or" is contained in the single word "or". If it is possible that confusion can result from the use of the disjunctive, use "this or this **or both**" to clear up the confusion.

#### *Example: Use of "or both"*

Any person who knowingly and willfully violates any provision of the Campaign Reporting Act is guilty of a misdemeanor and shall be punished by a fine of not more than one thousand dollars (\$1,000) or by imprisonment for not more than one year, or both.

### *"Shall", "May" and "Will"*

Use "shall" to indicate mandatory language. Do not use "must".

#### *Example: Mandatory*

The board shall promulgate rules in accordance. . . .

Use "may" to indicate permissive language.

#### *Example: Permissive*

The director may appoint a deputy director who. . . .

Avoid the use of "will". Statutes are written primarily in the present tense.

### ***"A", "An" and "The"***

Do not use "any", "each", "every", "all" or "some" if "a", "an" or "the" can be used with the same result. "Any" may be the best choice if the drafter is establishing a group of something (for example: notify any victim in the county).

### ***"Such", "Said", "Aforesaid" and "Whatsoever"***

Do not use "such" as a substitute for "the", "that", "it", "those", "them" or similar words. Do not use "said", "aforesaid", "whatsoever" or similar words of reference or emphasis.

### ***"That"***

Avoid beginning a section or sentence with "that".

### ***"Rule"***

"Rule" is the defined term in both the Uniform Statute and Rule Construction Act and the State Rules Act to mean a rule, regulation, order, standard or statement of policy. For the most part, use "rule" instead of "rules and regulations" or "regulation". For certain subject areas, such as the construction industry, rules are designated as regulations; therefore it may be best to use "regulation". The decision is the drafter's in consultation with the requester.

### ***"This Act"***

In new legislation, the phrase "this act" may be a clear statement. If amendments were never made to an act or if all sections of an act were simultaneously amended, the meaning of the phrase or its application might remain clear. Unfortunately, this is not usually the case; very few acts have remained untouched since their enactment.

Piecemeal amendments are made, sections are added or deleted and the meaning of "this act" becomes uncertain. If the phrase is included in the original section that is to be amended and is allowed to remain, it may refer to the amendatory act or to the entire original act as previously amended, but excluding the present amendment. "This act" also may be immediately confusing to the reader. Does "this act" refer to all pages of the draft, which may contain more than one act, or does it refer to a particular part of the statutes?

**Avoid the use of "this act" whenever possible.** This can be done by:

(1) referring to the short title of the act;

***Example: Short Title Reference***

As provided in the Radiation Act. . . .

(2) referring to a Comp number;

***Example: Comp Number Reference***

As provided in Section 1-1-1 NMSA 1978. . . .

(3) referring to the specific behavior prohibited; or

***Example: Reference to Specific Prohibited Behavior***

Any person selling goods below cost. . . .

(instead of "violating the provisions of this act").

(4) putting the penalty in the same section in which the violation is defined and referring to the section;

***Example: Reference to Section***

Any person violating the provisions of this section. . . .

(instead of "the provisions of this act").

When a reference to "this act" cannot be avoided, qualify it:

***Example: Qualification***

Pursuant to the provisions of Section 5 of this act. . . .

As used in Sections 1 through 3 of this act. . . .

As provided in this 2016 act. . . .

The qualification will enable the reader to identify the provisions, will provide adequate instructions to the compiler and will force a subsequent drafter to be specific when the drafter amends the act.

## ***Acceptable Use of "This Act" or "That Act"***

There are a few instances where the use of "this act" or "that act" is acceptable:

(1) when referring to a short title act more than once in a subsection, name the act first and use "that act" for subsequent references;

### ***Example: Subsequent Reference***

. . .the Rig Water Act. . .as provided in Section 4 of that act. . . .

(2) when creating a short title without assigning Comp numbers;

### ***Example: Creating Short Title***

This act may be cited as the "Self-Care Act".

(3) in the standard effective date section;

### ***Example: Effective Date Section***

The effective date of the provisions of this act is July 1, 2016.

(4) in the standard emergency clause;

### ***Example: Emergency Clause***

It is necessary for the public peace, health and safety that this act take effect immediately.

(5) in an applicability section where a cite to a short title would be incorrect;

### ***Example: Applicability Section***

The provisions of this act apply to taxable years beginning on or after January 1, 2017.

As in the preceding example, do not use an existing short title, instead of "this act", particularly when amending only a portion of that act. For example, to cite the entire Income Tax Act would be incorrect if the bill only amends tax tables for married, filing separately.

(6) in a severability section where no short title exists and all sections of the bill relate to the severability; and

***Example: Severability Section***

If any part or application of this act is held invalid, the remainder or its application to other situations or persons shall not be affected.

(Normally, if the drafter is worried about severability, the drafter probably has a bill that should have a short title.)

(7) in certain temporary provisions and appropriations.

***Example: Temporary Provisions & Appropriations***

. . . is appropriated to . . . to carry out the provisions of this act. . . .

On the effective date of this act, all property, . . . of the blah blah department shall be transferred. . . .

***Amending "This Act"***

In amendatory legislation, avoid "this act" in the added language and replace "this act" with a specific statutory citation when the phrase occurs in the original language. Frequently, the compiler has inserted a note in brackets giving this citation, but since the compiler is only guessing as to the legislative intent, the drafter must check the citation to see if it is a correct citation. The drafter must bracket the "this act" citation and underscore the correct citation in the bill.

***Example: Amending "This Act"***

"Any person violating the provisions of [~~this act~~] Sections 15-3-1 through 15-3-6 NMSA 1978. . ."

"As used in Sections [~~10 and 11 of this act~~] 33-33-33 and 33-33-34 NMSA 1978. . ."

## ***"Herein", "Hereinbefore", "Hereinafter", "Above" and "Below"***

Words and phrases such as "herein", "hereinbefore", "hereinafter", "above", "below", "the preceding section", "the following section" and the like will lose meaning even quicker than "this act". Absent a direct order from the requester, there is no instance when these words are acceptable in bill drafting.

## ***"Including, But Not Limited To"***

There is no need to write "including but is not limited to"; the word "including" implies an incomplete listing. Put another way, "including" or "includes" includes the concept of "not limited to".

## ***Commonly Misused Words***

There are a number of words that are commonly misused.

### ***Examples: Misused Words***

"Utilize" means to use something in a new and different way; most times, "use" is the correct word.

"Presently" means future; "at present" or "currently" means now.

"Insure" means insurance; "ensure" means to make certain.

The phrase "ex officio" indicates only that a person holds one office by virtue of holding another office. A law saying that "the governor is ex-officio president of the state board of finance" is unnecessary and simply means that any person holding the office of governor automatically becomes president of the State Board of Finance.

The phrase does not restrict any powers or duties of an officer while serving in the officer's ex-officio capacity; in particular, the phrase has nothing to do with the ability to vote. The drafter must specify that the ex-officio member cannot vote if that is the intent. Often, the phrase is not needed, because it is a given that the person serves ex officio — if the *governor* is president of the State Board of Finance, it is obvious that the *person* changes with who holds the office of governor.

## ***British Spelling***

Avoid the use of British spelling. "Canceled", "traveler" and the like should be spelled with one "l". "Judgement" should be spelled "judgment" without the middle "e".



## ***Abbreviations and Acronyms***

Do not abbreviate, except a.m. and p.m., when drafting legislation. Do not use acronyms except NMSA 1978. In certain acts, "DWI" may be used. Check usage in specific acts.

## ***Concise Language***

Use short phrases, sentences and paragraphs when possible rather than long, drawn-out phrases, sentences and paragraphs. Never use a phrase when a word will suffice. The following examples demonstrate use of concise language.

### ***Examples: Use of Concise or Preferred Language***

<b><i>Use</i></b>	<b><i>Avoid</i></b>
void	absolutely null and void is null and void and of no effect
may shall	is hereby authorized and empowered to It shall be unlawful
evidence of indebtedness	bonds, notes, checks, drafts and other evidences of indebtedness
on June 15, 1990	on and after June 15, 1990 exception: may be used in tax bills.
June 15, 1990	the fifteenth day of June, 1990 June 15th
January 1	the first day of January
if	in the event that
because	due to the fact that because of the fact
may	the director shall in the director's discretion
consider	give consideration to
applies	is applicable to

<i>Use</i>	<i>Avoid</i>
when the director retires	at the time of the director's retirement
adjudged	adjudged, ordered and decreed
sole	sole and exclusive
is	be and the same is hereby
fail	fail, refuse and neglect
means	is defined and shall be construed to mean
about	with reference to
in force	in full force and effect
do	do and perform
by or with	by and with
each or every	each and every
evidence	evidence, documentary or otherwise
shall	it shall be the director's duty to is ordered and directed to is hereby vested with power and authority and it shall be the secretary's duty in carrying out
conclusive	final and conclusive
valid	currently valid
trustee	trustees of trust estates created by will or contract or by declaration of trust or by implication of law
the or that	such, said, aforesaid, same

<i>Use</i>	<i>Avoid</i>
before	prior to
after	subsequent to or from and after
any person who violates this section shall be punished by	if any person shall violate this section, the person shall be punished by

## ***Capitalization***

The following rules of capitalization have been adopted by the Legislative Council Service for documents drafted in down style.

<b><i>All Caps</i></b>	
<b>Capitalize every letter</b> of the heading, title and enacting clause of a bill.	
<b>Every letter</b> of bill section headings. <i>Example:</i> SECTION 10. [NEW MATERIAL] BOARD CREATED--APPOINTMENT-- TERMS.--	
<b>Capitalize every letter</b> of the heading, title and resolving clause of memorials and resolutions and every letter of WHEREAS in memorials and resolutions.	
<b><i>Initial Caps</i></b>	
Capitalize the <b>first letter</b> of:	
<b><i>Proper Names</i></b>	
United States	John Smith
New Mexico	Albuquerque
<b><i>Short Title Acts</i></b>	
Blue Sky Law	Conflict of Interest Act
Sunset Act	federal Clean Water Act ("federal" not part of title)

<b><i>Capitalize</i></b>	
<b><i>Divisions of Calendar</i></b>	
January, December	Monday, Tuesday
<b><i>Derivatives of Proper Names</i></b>	
Spanish, English	Indian, American
<b><i>Specific Laws, Chapters, Articles, Sections and Section Subsections</i></b>	
Being Laws, Chapter 62, Section 10	
Paragraph (1) of Subsection A of Section 2 of the Drafting Act	
Article 4, Section 1 of the constitution of New Mexico	
Paragraphs (4), (6) and (7) of Subsection C of this section	
Item 2) of Subparagraph (b) of Paragraph (4) of Subsection G of Section 74-8-19 NMSA 1978	
Subsection B of this section	
Laws 2001, Chapter 45	
Subsection A of Section 1 of Chapter 1 of Laws 1955	
Chapter 14, Article 5 NMSA 1978	

<b><i>Do Not Capitalize</i></b>	
<b><i>General Political Subdivisions or Geographic Areas</i></b>	
whether used in conjunction with a proper name or not	
state of New Mexico	county of Dona Ana
Chaves county	Pecos river
Elephant Butte lake	Navajo Lake state park
Elephant Butte Lake state park	Rocky mountains
university of New Mexico	Highlands university
eastern New Mexico university	west Las Vegas school district
middle Rio Grande conservancy district	

<b><i>Do Not Capitalize</i></b>	
<b><i>Boards, Commissions, Institutions and Other Bodies</i></b>	
New Mexico board of medical examiners	department of health
New Mexico legislature	bureau of land management
house of representatives	legislative health and human services committee
western New Mexico university	Santa Fe city council
New Mexico school for the deaf	New Mexico legislative council
taxation and revenue department	water and natural resources committee
congress	
<b><i>Titles of Officials,</i></b> whether elective or appointive, unless the title is used in addressing them	
president	Mr. President
secretary of state	Secretary Smith
commissioner	Commissioner Wells
judge	Judge Walters
senator	Senator Ramirez
attorney general	Mr. Attorney General
speaker of the house	Mr. Speaker
governor	Governor Martinez
<b><i>Time of Day</i></b>	
7:00 a.m.	6:30 p.m.
daylight saving time	12:00 noon

## ***Do Not Capitalize***

### ***Derivatives of Proper Names with Acquired Independent Meanings***

pasteurize

watt

good samaritan

### ***The First Letter of the First Word of Subdivisions Following a Colon***

SECTION 3. [NEW MATERIAL] DEFINITIONS.--As used in the Game Act:

A. "game" means:

(1) animals; and

(2) fish; and

B. "hunter" means. . .

## ***Presentation Copies***

The rules of capitalization do not apply to presentation copies of memorials, resolutions and certificates of condolence, congratulations or recognition. In the final form of these, the word processor may embellish the specially designed paper with as many capital letters as desired.

## ***Punctuation***

The following rules of punctuation are specific to the Legislative Council Service and may differ from normal usage.

## ***Commas***

Use commas sparingly under rules of ordinary usage. Take particular care when adding or deleting commas, as such changes may change the original meaning of the statute. Do not use commas before the conjunction in a series. This comma is referred to as the penultimate or Oxford comma. Review next example.

**Example: No Penultimate Comma**

red, blue and green

**Semicolons**

In the title of an act, use semicolons to designate the break between one phrase and another.

**Example: Semicolons in Title**

10 AN ACT  
11 RELATING TO ANIMALS; PROVIDING FOR THE CONTROL OF VESICULAR  
12 EXANTHEMA IN SWINE; PROHIBITING THE FEEDING OF UNCOOKED GARBAGE  
13 TO SWINE.

Semicolons are used at the end of section subdivisions when following a colon.

**Example: Semicolons Ending Subdivisions**

7 SECTION 10. [NEW MATERIAL] CONTENTS OF POLICY.--Every policy  
8 shall specify:  
9 A. the names of the:  
10 (1) individual parties to the contract; and  
11 (2) corporate entities that may insure or  
12 reinsure the policy holder;  
13 B. the subject of the insurance; and  
14 C. the risks insured against.

Use semicolons to separate a series in which a compound list occurs.

## ***Colons***

### ***Example: Semicolons in Compound Lists***

draft and working animals; zoo animals, including lions, tigers and ocelots; companion animals; and feral animals.

The enacting clause of a bill and the resolving clause of a constitutional amendment are followed by a colon. Certain subdivisions of sections use colons. *See* the second example under *Semicolon* on the previous page for the use of a colon in creating subdivisions.

## ***Quotation Marks***

Punctuation is placed outside the quotation marks unless the punctuation applies to the quoted material. This is known as the "logical", or "English", style of punctuation.

### ***Examples: Quotation Marks***

In bills, memoranda, letters and "other documents produced by legislative staffers", when "the writer needs to quote", the punctuation is outside the quotation marks.

. . .the "Short Title Act". (New Material Section)

. . .the "Short Title Act"." (Amendatory Section)

Use quotation marks when amending existing sections of law to set off statutory language.

### ***Example: Amendatory Section and Quotation Marks***

13	SECTION 1. Section 23-1-5 NMSA 1978 (being Laws 1953,
14	Chapter 15, Section 2) is amended to read:
15	"23-1-5. DEPUTIES--POWERS AND DUTIES.--Deputies have all
16	the powers and duties of state police officers <u>and of</u>
17	<u>conservation officers.</u> "



Use quotation marks on new sections that are being assigned Comp numbers or new sections that are being inserted in an existing short title act or a chapter or article of the NMSA 1978.

**That is, use quotation marks on sections if the lead-in ends with a colon.**

*Example: New Material Lead-In and Quotation Marks*

21	SECTION 23. A new section of the Drafting Act is enacted
22	to read:
23	"[NEW MATERIAL] QUOTATION MARKS--WHEN USED.--

Use quotation marks when defining or referring to a term in a definition section or other section if there is no definition section.

*Example: Defined Term and Quotation Marks*

1	D. "shopper" means all persons who shop within the
2	exterior boundaries of the state, but "shopper" does not
	include residents of the state who shop by catalogue;

Use quotation marks in first stating the short title of an act or the name of a department, board, commission, program, position, fund or other thing created by an act.

*Examples: Creations and Quotation Marks*

13	SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be
14	cited as the "Good Examples Act".

7	SECTION 10. [NEW MATERIAL] PROBATE CODE COMMITTEE
8	CREATED.--The "Probate Code committee" is created as a joint
9	interim committee of the legislature.

7	SECTION 11. [NEW MATERIAL] INSURANCE PUBLICATIONS
8	REVOLVING FUND CREATED.--The "insurance publications revolving
9	fund" is created in the state treasury.

## ***Hyphens and Dashes***

Use a hyphen between parts of compound numbers.

### ***Examples: Compound Numbers***

twenty-one      one hundred fifty-five      sixty-three and one-third percent

Use a hyphen between elements of a fraction. If either the denominator or numerator is a compound number (is hyphenated), do not insert a hyphen between the denominator and the numerator.

### ***Examples: Fractions***

one-half      eighteen sixty-fourths      two-thirds' vote

Use a hyphen within Comp numbers (called dashes in Comp numbers).

### ***Example: Comp Number***

Section 10-11-12 NMSA 1978

Use a hyphen between compound adjectives.

### ***Examples: Compound Adjectives***

forty-hour week      three-year term      ninety-day period  
record-keeping function      full-time employee

Do not use a hyphen with adverb modifiers ending in "ly".

### ***Examples: "ly" Adjectives***

federally chartered      manually operated

Do not use a hyphen in certain compound words.

### ***Examples: Compound Words***

bylaws      nonpayment      semiannually      percent      statewide

Please note the following usage:

**Examples: Hyphen Use**

out-of-state vehicle	going out of state
mid-April	non-Indian
serve ex officio	ex-officio member
co-chair	vice chair
right-of-way acquisition	right of way (noun)
short- and long-term investments	state-supported and -financed

**Dashes**

Use a dash (actually two hyphens) with no spaces on either side between elements of a section heading and a period followed by a dash at the end of section headings to indicate the break between the section heading and the beginning of the text.

**Example: Section Heading and Dashes**

17	SECTION 10. [NEW MATERIAL] HOUSING PROJECTS--COOPERATION
18	BETWEEN AGENCIES.--The municipality and county. . . .

**Information Memoranda**

Legislators ask for information memoranda for a variety of reasons. They may want a summary of specific bills, arguments for or against specific bills or some other information concerning bills or other topics.

**Heading**

The heading of an information memorandum, found on the upper left corner of the page includes the address of the LCS, the telephone number and the fax number and the date. See the *Legislative Document Sample Book* for an example of the heading.

The "TO", "FROM" and "SUBJECT" lines come after the date. Note that the language following the SUBJECT line is in ALL CAPS.

***Example: Information Memoranda — To, From and Subject Lines***

TO: Senator Eulalia Griego

FROM: Bill Wrights

SUBJECT: SENATE BILL 34 — ARGUMENTS FOR AND AGAINST

***Disclaimers***

Information memoranda are written at the request of a legislator to provide information on a topic or piece of legislation. A memorandum must include a disclaimer at the beginning.

The two most common memoranda during the session are section-by-section bill analyses and arguments for and against. If the memorandum contains arguments for and against, the disclaimer should read as follows. Review the following examples.

***Example: Information Memoranda — Standard Disclaimer: Request for Information & Bill Analysis***

You have requested information concerning \_\_\_\_\_. The following memorandum is submitted in response to (or in compliance with) that request. Any opinions expressed are those of the author (sometimes the author disclaims the opinions also) and do not necessarily reflect the opinions of the New Mexico Legislative Council or other members of its staff.

***Example: Information Memoranda — Disclaimer: Arguments For & Against***

You have requested arguments in favor of, and in opposition to, Senate Bill 1070. No claim is made for the validity or consistency of these arguments. Cogent and valid arguments may have been omitted by oversight. No attempt has been made to have the same number of arguments for or against the law, and the number of arguments does not indicate the weight that should be ascribed either in favor of or against the law. The following memorandum is submitted in compliance with that request. Any opinions expressed are those of the author and do not necessarily reflect the opinions of the New Mexico Legislative Council or any other member of its staff.

If the SUBJECT line states that the memorandum contains arguments for, make certain the arguments are indeed in favor of the bill, and vice versa for arguments against.

Other types of memoranda include speeches, talking points, op-eds and pros and cons. Each of these types requires a disclaimer.

***Example: Information Memoranda — Disclaimer: Talking Points, Op-Ed, Pros & Cons***

You have requested talking points/op-ed/pros & cons regarding \_\_\_\_\_ expressing the point of view articulated below. The following information is submitted in compliance with that request and does not necessarily reflect the opinions of the author or the New Mexico Legislative Council or any other member of its staff.

*See the Legislative Document Sample Book for full examples of information memoranda.*

## CHAPTER 10: MONEY AND NUMBERS IN LEGISLATIVE DOCUMENTS

*There are specific rules for writing amounts of money and numbers when drafting legislation. These rules are intended to provide clarity and, in some cases, redundancy to ensure accuracy.*

### ***Money***

Money is always written in the singular, regardless of the amount. Never use "moneys" or "monies".

Use "money" when talking about dollars; use "funds" when talking about accounts or revenue sources.

Use "percent", not "per cent" or "percentum".

Use "a year", not "per annum".

Use "attorney fees" rather than trying to figure out whether the word should be singular or plural possessive.

For amounts of money, spell out the amount, followed by figures and symbols in parentheses.

***Examples: Money Amounts***

**Amounts less than one dollar (\$1.00):**

eighty-five cents (\$.85)

eight cents (\$.08)

one-half cent (\$.005)

**Amounts from one dollar (\$1.00) through ninety-nine dollars ninety-nine cents (\$99.99):**

four dollars seventy-eight cents (\$4.78)

forty-seven dollars fifty cents (\$47.50)

seventy-five dollars (\$75.00)

**Amounts of one hundred dollars (\$100) or more:**

one hundred one dollars (\$101)

four hundred fifty dollars (\$450)

three thousand dollars (\$3,000)

ten thousand three hundred dollars fifty cents (\$10,300.50)

## ***Numbers***

The following guidelines should be used when drafting numbers.

**Do not use Roman numerals.** Even when referring to the articles of the Constitution of New Mexico, Arabic numerals should be used.

***Example: Reference to Article of the Constitution of New New Mexico***

to comply with the provisions of Subsection A of Section 24 of Article 2 of the constitution of New Mexico

Also convert federal title numbers and other citations from Roman to Arabic numerals.

***Example: Reference to Federal Title Number***

pursuant to Title 18 of the federal Social Security Act or, for medicaid patients, pursuant to Title 19 or Title 21 of the federal Social Security Act

***Example: Conversion of Roman Numeral***

freedom of choice provisions of Title [~~XIX~~] 19 of the Social Security Act

***Mills***

Mills are spelled out.

***Examples: Mills***

a tax of twelve mills      a twelve-mill tax

"Mill" is an obsolete term in drafting; the preferred use is " \_\_\_\_\_dollars (\$\_\_\_\_) per thousand dollars (\$1,000) of taxable value".

***Dates***

Dates are written as follows.

***Examples: Dates***

October 5, 1987      January 1, 2010      the third Tuesday in January

***Statutory References***

Reference to statutes are written as follows.

***Examples: Statutes***

Section 64-4-4 NMSA 1978      Article 6, Section 23 of the constitution of New Mexico

***Numbers in Bill Text***

Numbers in the body of a bill are written out. Only money has the figure enclosed in parentheses.



***Examples: Numbers in Bills***

<b><i>Use</i></b>	<b><i>Do Not Use</i></b>
one-half acre	one-half (1/2) acre
sixty percent	sixty (60) percent
twelve members	twelve (12) members
five dollars fifty cents (\$5.50)	

***Numbers in Non-Legislation Text***

When writing numbers in text other than legislation, single-digit numbers are written out and double-digit numbers may be written in numerals.

***Example: Number in Non-Legislation Text***

Write out numbers one through nine and then write 10, 14, 37, 189 through infinity.

***Formulas, Charts and Tables***

Formulas, charts and tables should be indented five spaces and set forth as follows. Please note that single spacing is allowed and all numbered lines must be covered.

***Example: Formula***

15	COUNTY POPULATION ACCORDING TO	
16	THE LAST OFFICIAL UNITED STATES	THE VOTES CAST FOR GOVERNOR
17	CENSUS	X IN EACH PRECINCT IN THE MOST
18	COUNTY VOTE FOR GOVERNOR IN MOST	RECENT GENERAL ELECTION

**Example: Chart**

14	B. Schedule 1			
15	Column 1	Column 2	Column 3	Column 4
16	Basic Program Staff Categories	Category Divisor	Category Maximum	Salary Unit
17				
18	(1) Teachers	Determine from Schedule 2	none	\$ 7,762
19	(2) Aides	200	none	4,274
20	(3) Coordinators	1,500	none	8,151
21	(4) Superintendent	250	1	10,701
22	(5) Financial Manager	6,000	1	9,506
23	(6) Secretarial	300	none	6,270.
24	C. Schedule 2			

**Example: Table**

15	B. The following fees shall be collected:	
16	Resident, ibex.....	\$50.00
17	Resident, javelina.....	10.00
18	Special gerbil license.....	5.00.

**Forms**

When creating forms, it is important to remember to place the parenthetical information **below** the lines to avoid confusion with underscored language. Review the following example.

**Example: Form**

10 | "DECLARATION OF CANDIDACY  
11 |  
12 | I, \_\_\_\_\_,  
13 | (Candidate's name on affidavit of registration)  
14 | being first duly sworn, say that I am a voter of precinct  
15 | \_\_\_\_\_ of the county of \_\_\_\_\_, state of New Mexico.  
16 | \_\_\_\_\_  
17 | (Declarant)  
18 | \_\_\_\_\_  
19 | (Mailing Address)  
20 | Subscribed and sworn to before me  
21 | this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.  
22 | \_\_\_\_\_  
23 | (Notary public)  
24 | My commission expires:  
25 | \_\_\_\_\_."

# CHAPTER 11: WORD PROCESSING AND FORMAT

*Bills, resolutions and memorials are all typed in the same manner. For simplicity's sake, this chapter will use bills as examples.*

## ***Spacing***

Print on one side of each page only. Bills are double-spaced except for certain charts, forms, tables and formulas, which may be single-spaced. Other legislative documents are single-spaced. These include House Bill 2, amendments, committee reports and legislative correspondence.

The only lines that may be blank in a bill are:

- (1) the numbered lines between INTRODUCED BY and AN ACT;
- (2) the numbered line between the end of the title and the enacting clause; and
- (3) the numbered lines between the page number and the 202 number on a multi-page bill.

## ***Indentation***

The beginning of sections, subsections, paragraphs and subparagraphs are indented in increments of five spaces. Section designations are in bold and in all caps. *See* Chapter 3, Bill Format and Subdivisions for more on indentation.

## ***Paper***

Bills are printed on 25-numbered-line, double-spaced, letter-sized paper (8½" x 11"). Floor amendments and committee reports are printed on special paper with a colored left border (blue for Senate, yellow for House).

## ***Page Numbering — Bills***

No page number appears on the first page of a bill because the title identifies it as page 1. The page numbers of the succeeding pages are centered at the bottom of the page two spaces (one double-space) below the text. The page number is typed between two hyphens.

### ***Example: Page Number — Bottom of Page***

24	a quitclaim deed signed by the ex-spouse to the seller and a
25	copy of the settlement.

- 2 -

### ***Example: Page Number — Last Page***

15	<b>SECTION 23. EMERGENCY.</b> --It is necessary for the public
16	peace, health and safety that this act take effect immediately.

- 76 -

## ***Reports and Amendments***

For committee reports or amendments, the second and succeeding pages are numbered at the top of the page on the right side, two single spaces below the printed heading.

### ***Example: House Appropriations and Finance Committee Report on House Bill 43***

FIFTY-SECOND LEGISLATURE	
SECOND SESSION	
HAFC/HB 43	Page 2

### ***Example: House Appropriations and Finance Committee Report on Senate Judiciary Committee Substitute for Senate Bill 113, as amended***

FIFTY-SECOND LEGISLATURE	
SECOND SESSION	
HAFC/SJC/SB 113, aa	Page 2

### ***Example: Senate Floor Amendment to House Bill 435, as amended***

FIFTY-SECOND LEGISLATURE	
SECOND SESSION	
SF1/HB 435, aa	Page 2

## ***Slug Lines***

Slug lines are typed on substitute bills on the outer margin of each page, alternating with the left margin for even pages and the right margin for odd pages. In the following examples, the slash indicates "substitute for". See Chapter 5: Substitute Bills for more on slugs.

### ***Examples: Slugs***

HHGIC/SB 3

SFC/SCONC/SB 3, 4 & 7 and HB 4, 27, 66 & 112

HJC/HBIC/HB 76, 137 & 285 & SB 4 and SB 5

## ***Copies***

The rules of each house specify the number of copies (in addition to the originals) of bills, memorials and resolutions to be delivered at the time of introduction. Additionally, the legislator introducing the bill usually wants a copy. The Legislative Council Service also keeps two or three copies in the file for later use. Additional copies may be provided at the request of the houses.

## ***Colors***

By tradition, the color yellow is associated with the House of Representatives and the color blue with the Senate. For example, the yellow line on the left side of committee report/floor amendment paper immediately identifies it as a House document, and an amendment photocopied on blue paper identifies it as a Senate amendment. These colors are used on legislative documents whenever possible, including calendars, committee agendas, amendments and the like. Printed House bills are green and printed Senate bills are white.

## ***Bill Jackets***

Each bill, memorial, resolution and substitute must have a bill jacket when introduced. These blue or yellow jackets are letter-sized file folders with the state seal on the front and a brief bill action form on the back for the chief clerks to record the history of the legislation's passage

through the legislature. The original is assembled, punched and inserted in the bill jacket before delivery to the sponsor.

### ***Labels***

The session designation is stamped on the foldover tab, and the word processor prepares a white gummed label to identify the bill. This label is attached to the folder tab on the right.

#### ***Examples: Labels***

HOUSE BILL \_\_\_\_\_  
  
SENATE JUDICIARY COMMITTEE  
SUBSTITUTE FOR SENATE BILL \_\_\_\_\_

The word processor is generally limited to three single-spaced lines starting at the top of the label. If it is necessary to abbreviate, the following form is suggested.

#### ***Examples: Label***

HOUSE APPROPRIATIONS & FINANCE  
COMMITTEE SUBSTITUTE FOR SFC SUBSTITUTE  
FOR SENATE BILLS \_\_\_\_\_ & \_\_\_\_\_

### ***Assembly***

The pages of each of the copies of a bill, memorial or resolution are stapled at the upper left corner, not more than one-half inch from both the top and left edges. The unstapled introductory copy is punched and inserted in the bill jacket using a 2-3/4" metal Acco® fastener. The assembler must carefully check the introductory copy and other copies to make sure that each page is a clean copy and that pages are in order.

The assembled copy is returned to the drafter for final review before delivery to the requester.



## ***Sponsors' Names***

Legislators sign their names in black ink on the jacketed bill, memorial or resolution and the required copies. The person signing directly below "INTRODUCED BY" is considered to be the prime sponsor.

## ***Standing Committee Acronyms***

Although not allowed in the actual text of legislation, there are many times when acronyms are used in other references. They are used in bill labels, E&E pagination, slug lines, calendars and the *Daily Bill Locator*.

The legislative word processor might see HGEIC/HB 76 as a slug line on a substitute bill. This says that the House Government, Elections and Indian Affairs Committee substituted House Bill 76. Note that the slash (/) stands for "substitute". There are times, such as succeeding pages of floor amendments, when the slash simply serves as a dividing device. Construing context may be required.

Word processors are expected to use the standard acronyms.

## ***House Standing Committees***

HAFC = Appropriations & Finance

HAWC = Agriculture, Water & Wildlife

HBEC = Business & Employment

HEC = Education

HEENRC = Energy, Environment & Natural Resources

HGEIC = Government, Elections & Indian Affairs

HHC = Health

HJC = Judiciary

HRPAC = Regulatory & Public Affairs

HSCAC = Safety & Civil Affairs

HTPWC = Transportation & Public Works

HWMC = Ways & Means

HCW = Committee of the Whole

HE&EC = Enrolling & Engrossing

HPSC = Printing & Supplies

## ***Senate Standing Committees***

SCC = Committees' Committee

SCONC = Conservation

SCORC = Corporations & Transportation

SCW = Committee of the Whole

SEC = Education

SFC = Finance

SIAC = Indian & Cultural Affairs

SJC = Judiciary

SPAC = Public Affairs

SRC = Rules



## APPENDIX A: PROVISIONS OF COMMON BILLS

*There are several types of bills that are so common that a discussion of required contents will be helpful to the seasoned pro as well as the beginning drafter. The items listed should not be considered exhaustive; their inclusion or exclusion depends upon the request.*

### ***Boards and Commissions***

A drafter is frequently called upon to create a board or commission to carry out some function of state government. The following are some of the issues to be determined prior to drafting. "Board" is used for purposes of brevity, but the same considerations apply to commissions.

### ***Drafting Considerations***

- ◆ Is the name of the board as short and simple as possible?
- ◆ Will the board be autonomous or advisory to an agency of the state? Will it be administratively attached to a state agency, be an adjunct agency or have administrative independence?

- ◆ Is the board a policymaking board whose staff is a state agency? Examples of this type of board are the Environmental Improvement Board and the Water Quality Control Commission, which oversee certain staff and functions of the Department of Environment; and the State Game Commission, which oversees the Department of Game and Fish. The Oil Conservation Commission has concurrent jurisdiction and authority with the Oil Conservation Division of the Energy, Minerals and Natural Resources Department over matters in its domain.
- ◆ How many members are on the board? What qualifications must members demonstrate? Are there ex-officio members? Is there a need to provide for geographical representation or to limit partisan participation?
- ◆ How are members appointed? What are their terms? If terms are staggered, does the bill provide for initial appointments? Are there term limitations? How are vacancies filled?
- ◆ How are officers selected? How often will the board be required to meet? How are meetings called? What constitutes a quorum?
- ◆ How are board members compensated? As a general rule, board members receive no compensation other than per diem and mileage. Usually, state officers or employees are excepted from this provision in the bill under the assumption that their agencies will pay their compensation.
- ◆ What are the powers and duties of the board? (It is good drafting practice to separate the "housekeeping" functions, e.g., how members are appointed, terms, meetings and payment, from the purpose, e.g., the powers and duties, of the board.)
- ◆ How will the board carry out its powers and duties? Is it granted the right to hire staff? How is staff organized?
- ◆ Will the board have access to an earmarked source of revenue? Does the board have the right to expend money or is that function given to its staff? Will the board or the staff agency receive an appropriation in the general appropriation act? The expenditure of state money must remain with a state agency. Giving citizens the right to expend state money may violate the constitutional provision requiring that the state retain "absolute control". (Article 4, Section 31 of the Constitution of New Mexico.)

## ***Licensing Acts***

Licensing acts for professions and occupations are found in Chapter 61 NMSA 1978. There are several decisions to be made and provisions that must be covered when providing for licensure of a profession or occupation; following are some of the typical policy questions that must be answered before a good draft can be written.

## ***Licensing Boards***

When creating a licensing board, refer to the previous discussion of boards and commissions in this Appendix. Also, consider whether the board will terminate pursuant to the Sunset Act.

## ***Licensure***

- ◆ Is the profession or occupation defined sufficiently? Are there persons who are exempt from the provisions of the act? Need there be a prohibition against using the professional or occupational name without licensure? Is a grandfather clause required?
- ◆ Is there a distinction between licensure and registration? Is that distinction maintained throughout the bill?
- ◆ Is there a distinction between licensure and certification?
- ◆ Is the process of application clear? Are the qualifications for licensure explicit? Is an examination required? Is reciprocity allowed? Are there limits to reciprocity? What is required for license renewal? Is there provision for inactive status of a license?
- ◆ Are there levels or categories of licensure? Are the distinctions between the categories clear?
- ◆ Are there schools or courses to be licensed for this profession or occupation?
- ◆ Upon what grounds may a license be denied, suspended or revoked? What are the procedures? Usually, disciplinary and administrative matters conform to the Uniform Licensing Act.
- ◆ Are there crimes created as a result of this profession or occupation being recognized? What are the penalties for violation of the act?

- ◆ What is the fee structure for application, licensure, examination, renewal, etc.?
- ◆ Avoid redundant phrases like "*certification* as a *certified* yo-yo stringer".

### ***Miscellaneous Considerations***

- ◆ Is there a fund into which license or other fees and other revenues are deposited? Does the interest on investment go to the fund or to the general fund? How are funds expended? Who signs the vouchers?
- ◆ Is a licensee required to post bond for any reason?
- ◆ Do local governments have any control over the profession or occupation or its activities?
- ◆ Are inspectors required?
- ◆ Does Section 61-1-2 NMSA 1978 need to be amended to include the new board in the Uniform Licensing Act?

### ***Executive Reorganization***

Most executive organization provisions are found in Chapter 9 NMSA 1978, although the drafter will probably have to amend other sections of law to correspond with changes contemplated by the request.

### ***Creating or Reorganizing Department or Agency***

- ◆ Has the drafter read the Executive Reorganization Act in preparation for drafting?
- ◆ Does the name of the department follow general state form, i.e., placing "department" at the end of the name to contrast with the federal habit of placing "department of" at the beginning of the name?
- ◆ Is the department to be a cabinet-level department?
- ◆ Are positions exempt or classified in conformance with the State Personnel Act and Executive Reorganization Act? If not, does the bill create an exception?

- ◆ Are the secretary's powers enumerated? Are powers and duties given to lower organizational units?
- ◆ Are organizational units enumerated?
- ◆ Are advisory committees needed? Are policymaking boards or commissions created? If so, are relationships with department staff clearly delineated?
- ◆ Are there administratively attached agencies? Is the agency being created to be administratively attached to another governmental unit or is it an adjunct agency?
- ◆ What other statutes need to be amended to comply with the new organization?
- ◆ Does the bill need to transfer functions, property, money, employees, legal references and contracts?
- ◆ Will the new department or agency need an appropriation?

### ***Capital Outlay***

Capital outlay projects are funded by the legislature either by direct appropriation or the issuance of bonds. *See* Chapter 3: Bill Basics for a discussion of what must be contained in an appropriation section, regardless of whether the money is for capital outlay or operational expenses.

By rule, capital outlay proposals are presented to the legislature as capital certificates instead of bills, but the same questions remain.

### ***General Issues***

- ◆ Is the money to be expended solely for construction or can equipment and furnishings be bought? What about purchase of property?
- ◆ Is the money to remodel or renovate? Usually, renovation is considered to be more extensive.



- ◆ Is the appropriation under the control of the state? Will the state need to be given title to land?

### ***Authorization for Bonds***

- ◆ Is the correct agency certifying the bonds to the State Board of Finance? Is the appropriation given to the correct agency?
- ◆ Is there a provision for balances to revert?
- ◆ Is there a limitation on how long the authorization is effective?
- ◆ When changing the purpose of a previously authorized bond, the drafter should know if the bond has been issued and the specificity of the bond as to purpose. If a specific purpose bond was issued, the drafter may want to inform the requester of potential problems with changing the purpose. *(This may be of concern only if current bond counsel thinks it is, but it does not hurt to provide the information to the requester.)*

### ***Tax Bills***

Tax bills have a strong potential for litigation, so the drafter must be very careful when drafting this kind of legislation. Constitutional issues are critical in tax legislation, including proper titles and unlawful delegation of the legislative power to tax. It is recommended that tax bills be drafted by the drafter responsible for drafting tax legislation or that the tax drafter review any tax legislation before its preparation for introduction.

### ***Motor Vehicle Code***

If creating a crime, will the penalty be pursuant to Section 66-8-7 NMSA 1978 or will another penalty be established? If creating a penalty assessment misdemeanor, the crime will need to be added to the schedule of assessments sections (Section 66-8-116, 66-8-116.1 or 66-8-116.2 NMSA 1978).

## ***Funds***

- ◆ Is the name of the fund as short as possible? Has the drafter checked the funds index to ensure that the name is not taken or that it is not too similar to an existing fund?
- ◆ Does each fund have its own section? Amend and use cross-references where necessary, but do not create a new fund in another fund's section.
- ◆ What is the source of income for the fund? Does the bill provide a direct appropriation or an earmarked revenue source?
- ◆ What happens to the investment income of the fund?
- ◆ Does the fund ever revert? If so, to what source?
- ◆ What agency will administer the fund? Are there requirements or restrictions on administration?
- ◆ How will money be expended? Normally, money is expended by warrant issued by the secretary of finance and administration upon vouchers signed by the administrator. It is very rare, and dangerous, to give check-writing powers to an agency other than the Department of Finance and Administration because of the loss of executive and legislative control.
- ◆ What is the basis for expenditure?
- ◆ If creating a loan fund, how is money paid back?

## ***Judgeships***

- ◆ When is the judgeship to be filled? If it is a magistrate position, does the requester want an interim appointment or will the new judge start January 1 after the next general election? Does that general election fall in line with when all other magistrates stand for election? If not, should the appointment extend until the general election in which all magistrates are elected for a four-year term?
- ◆ Even with merit selection, there should be an appointment and election section for justices and appeal courts, district court and metropolitan court judges.

- ◆ How are the judge and the judge's staff to be paid? Usually the bill requires an appropriation section.
- ◆ Is the election section included in the bill?

## APPENDIX B: ASSIGNMENT OF COMPILATION NUMBERS

### *New Mexico Compilation Commission*

*The assignment of Comp numbers is a function of the New Mexico Compilation Commission acting through the official compiler. The drafter should try to refrain from assigning Comp numbers as a matter of general practice. In certain cases, such as repeal and reenactment, the drafter may be risking conflicts and confusion in statutory cross-references, court cases or agency rules. A drafter can find and fix statutory cross-references in the same bill; however, court cases and agency rules are beyond the drafter's purview.*

Gratuitous assignment of a Comp number by the technique of repealing that section and enacting a new section with the same number is a form of blind legislation. The legislator may be lulled into thinking that an amendment to the old section is being made; it is difficult to determine the actual extent of the changes without extensive comparison with the text of the old section. On occasion, this technique of repeal and reenactment has been misconstrued as obscuring the changes to be made, even though it was only used for technical simplicity.

Assignment of Comp numbers should *never* be used as a device to avoid the bracketing of old material and the underscoring of new material.

### *Assignment of Comp Numbers by Drafter*

Assignment of Comp numbers by the drafter should be done only on those rare occasions where *not* to do so would result in confusion or misunderstanding of the law. For example:

(1) the section is all new law intended to become an integral part of a sequence of compiled sections and there is a strong possibility that the bill will not give the compiler a clue as to where the section should be compiled;

(2) the section has either been repealed previously or is being repealed by this bill and the new material needs to become an integral part of the sequence of compiled sections in a particular order; or

(3) a substantial revision of the section is involved that is long and requires so many changes that to use brackets and underscoring would make it almost impossible to read and understand the changes.

### *New Material Designation*

If it is necessary to assign a Comp number, the [NEW MATERIAL] designation is used to indicate an entirely new section to which a Comp number has been assigned, and each section of the bill is placed in numerical sequence by Comp number. (See Chapter 4, *New Material Designation* for more on using the designation.)

#### *Example: Comp Number Assigned*

10	SECTION 6. A new Section 61-14-22 NMSA 1978 is enacted to read:
11	"61-14-22. <u>[NEW MATERIAL]</u> PERMITS.--Permits shall be obtained
12	from the pigeon protection board for the purpose of. . ."

**Example: Comp Number Assigned — Placement in Existing Short Title Act**

10       SECTION 6. A new section of the Pigeon Protection Act, Section  
11       61-14-22 NMSA 1978, is enacted to read:  
12       "61-14-22. [NEW MATERIAL] PERMIT.--A permit shall be obtained  
13       from the pigeon protection board prior to killing barn pigeons."

**Example: Comp Number Assigned — Placement in Existing Law (Chapter, Article)**

10       SECTION 6. A new section of Chapter 75, Article 6 NMSA  
11       1978, Section 75-6-2 NMSA 1978, is enacted to read:  
12       "75-6-2. [NEW MATERIAL] LICENSE.--A license must accompany..."



## APPENDIX C: INTERNAL CITATIONS

*There are occasions when the drafter must draft citations within a bill, resolution, memorial or memorandum. Rigid rules on citation style are difficult to develop and may create more confusion than resolution. Some suggestions, however, are offered for the most common situations.*

### ***Constitutional Provisions***

When a constitutional provision is cited or referred to in a bill, resolution, memorial or memorandum, it should read as follows.

<b><i>Reference</i></b>	<b><i>Preferred Citation</i></b>
Article IV, Section 3 of the constitution of New Mexico	Article 4, Section 3 of the constitution of New Mexico
XIV Amendment to the constitution of the United States	14th Amendment to the United States constitution

Notice that Roman numerals are converted to Arabic numbers.



## ***Federal Provisions***

There are numerous ways that federal statutory provisions may be cited: short title, U.S.C. (United States Code) number, USCA (United States Code Annotated) number, P.L. (public law) number, statutes at large and acts of Congress. Statutes at large and act of Congress citations are rare and usually found only in very old laws. Similar to citing New Mexico law, short titles and USCA numbers are the preferred citations.

When citing a federal short title act, the drafter should indicate that it is a federal citation if the title does not include that knowledge. For example, the Clean Air Act could be either state or federal legislation; the drafter should state "the federal Clean Air Act" (federal is in lower case because it is not part of the short title).

<b><i>Reference</i></b>	<b><i>Preferred Citation</i></b>
P.L. 98-528 98 Stat. 2686 et seq.	Veterans' Health Care Act of 1984  or 38 USCA 101 et seq. (or specific cite)
<b><i>Other Examples:</i></b>	
28 U.S.C. Section 2201	
Section 511 (a) of the Internal Revenue Code of 1986	
Title 20 funds (the Roman numeral is converted to Arabic for New Mexico style)	
Title 20 of Some Federal Act	

## ***State Provisions***

State statutory provisions are normally cited to the latest official compilation or to session law.

### ***Compiled Sections of Law***

When compiled New Mexico laws are cited or referred to in the text of a bill, resolution, memorial or memorandum and the reference is to a specific section, the official citation form is used.

#### ***Example: Compiled Law***

Section 12-2-19 NMSA 1978

### *Noncompiled Sections of Law*

If the law has not been compiled, a citation to the session law is used.

#### *Example: Session Law*

Laws 1973, Chapter 4, Section 1

### *Footnotes and Parenthetical Citations*

Appropriate abbreviations of these citations may be used in footnotes and parenthetical citations in memoranda. Review the following example.

#### *Example:*

§12-2-19 NMSA 1978

L. 1973, Ch. 4, §1

### *Short Titles*

Official short titles of laws, in precisely their most recently amended form, are sometimes cited when a reference to a complete act is needed, e.g., "**as provided in the Per Diem and Mileage Act**", but use of short titles when specified sections of the law are intended is not encouraged.

#### *Example: Specific Section*

Use "Section 13-14-45 NMSA 1978" rather than "Section 45 of the Children's Code".

Of course, there is an exception to this rule. **When drafting original legislation with a short title**, if it is necessary to cross-reference within the bill, the reference is to the section number and the short title.

#### *Example: New Material Section*

". . .as provided in Section 4 of the Drafting Act. . ."

It is permissible to cite articles and chapters of the NMSA 1978 and to cite chapters of the session laws when such a broader reference is appropriate.

#### *Example: Broad Reference*

Chapter 14, Article 3 NMSA 1978

Laws 1992, Chapter 345

## *Judicial Decisions*

It is often necessary to cite judicial decisions in memoranda. Suggested style of citation for the following types of decisions is:

<i>Court of Decision</i>	<i>Cite As</i>
United States Supreme Court	Name of case as it appears in official reporter, volume and page of the United States Supreme Court Reports and the year of decision.  Example: <i>State v. Jones</i> , 254 U.S. 668 (1972)
United States Court of Appeals	Name of case as it appears in official reporter, volume and page of West's Federal Reporter, the deciding court and the year of decision.  Example: <i>State v. Jones</i> , 298 F.2d. 301 (10th Cir. 1972).
United States District Court	Name of case as it appears in official reporter, volume and page of the Federal Supplement, the deciding court and the year of decision.  Example: <i>State v. Jones</i> , 566 F. Supp. 692 (D.N.M. 1972).
New Mexico Supreme Court	Name of case as it appears in official reporter, volume and page of the official state reports, volume and page of the unofficial West regional reporter and the year of decision.  Example: <i>State v. Jones</i> , 82 N.M. 781, 256 P.2d 499 (1972).

For a detailed authority on citation style, the Legislative Council Service reference is *A Uniform System of Citation* by the Harvard Law Review Association.

Drafters are encouraged to use footnotes for citations in information memoranda. Internal citations set out in parentheses, primarily used for judicial documents, may be confusing or distracting for non-attorney legislators.

## APPENDIX D: THE GENERAL APPROPRIATION ACT

*The general appropriation act follows, as well as it can, the style and standards adopted for all other bills. However, there are certain requirements peculiar to this important piece of legislation, particularly those stated in the Constitution of New Mexico and those necessary because of the space allotted for columnar material. Some deviations from accepted style are necessary. Following are facts and foibles about House Bill 2.*

### ***House Bill 2***

The general appropriation act is traditionally introduced in the House of Representatives as House Bill 2. The original House Bill 2 is usually an executive measure and is introduced by the chair of the House Appropriations and Finance Committee at the request of the governor. That bill is prepared by the Legislative Council Service. The bill is substituted in HAFC.

In recent years, the governor and the legislature have agreed to allow the introduction of an incomplete bill to save money and trees, as the bill will be substituted in committee.

The short title of the general appropriation act includes the current year, e.g., the General Appropriation Act of 1993. If referring to a specific general appropriation act, the year must be included and the short title is capitalized; if referring generally to the act, do not capitalize. The general appropriation act is of limited duration, i.e., one fiscal year.

Article 4, Section 16 of the Constitution of New Mexico sets out what a general appropriation act is and what appropriations can be made in that act. The drafter will probably want to remind the sponsor that general appropriation acts are not intended to fund new programs.

Article 4, Section 23 of the Constitution of New Mexico provides that the general appropriation act take effect immediately upon passage and approval; therefore, it is not necessary to use an effective date or emergency clause.

### ***Sections of House Bill 2***

Typically, there are twelve sections in House Bill 2 as shown below.

1. Short Title
2. Definitions
3. General Provisions
4. Upcoming Fiscal Year Appropriations for all Branches (usually the largest section)
5. Special Appropriations
6. Deficiency and Supplemental Appropriations
7. Data Processing Appropriations
8. Compensation Appropriations
9. Additional Current Year Budget Adjustment (BAR) Authority
10. Upcoming Fiscal Year BAR Authority
11. Transfer Authority
12. Severability

There may be other sections in what is known as "the back of the bill", depending on the particular demands of a particular session.

### ***Format of House Bill 2***

House Bill 2 is printed in "landscape" format. The bill paper looks the same as other bill paper until Section 4; after that, there is a header on each page that divides the page into columns.

Amounts set out under column headings are expressed in thousands of dollars; for example, \$4,825,600 is written as "\$4,825.6". Amounts set out in the narrative text are stated as in other bills, that is, in words and figures.

### ***Substitute for House Bill 2***

The Legislative Finance Committee is responsible for drafting House Appropriations and Finance Committee Substitute for House Bill 2; it also prepares the Senate Finance Committee report and the conference committee report. However, Legislative Council Service drafters should be familiar with the form and format of the document.

Amendments for the Senate Finance Committee are prepared electronically and only certain drafters will prepare them.

### ***Funding***

Beginning in fiscal year 2001, the state moved to performance-based funding instead of categorical funding; however, there are still broad categories of funding, including Personal Services and Employee Benefits, Contractual Services, Other and Other Financing Uses.

### ***Budget Chart of Accounts***

The Chart of Accounts of the Department of Finance and Administration (DFA) may be found online at [http://www.nmdfa.state.nm.us/chart\\_of\\_accounts\\_08122015.pdf](http://www.nmdfa.state.nm.us/chart_of_accounts_08122015.pdf). Go to the DFA home page, click on "Financial Control", on the Financial Control page, click on "Resources",

found on the left sidebar and, on the drop down menu, click on "Chart of Accounts".

A direct link to this site may be found on the Agency Addresses list on Red Quill. Go to the Red Quill home page and click on "Agency Addresses" in the left sidebar. Then scroll to the DFA listing and click on "Chart of Accounts".

The online version of the *Legislative Drafting Manual* on Red Quill also has a direct link in Appendix D.

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## DRAFTER'S CHECKLIST

Numbers refer to pages of *Drafting Manual*

Article and section references underscored are to state constitution.

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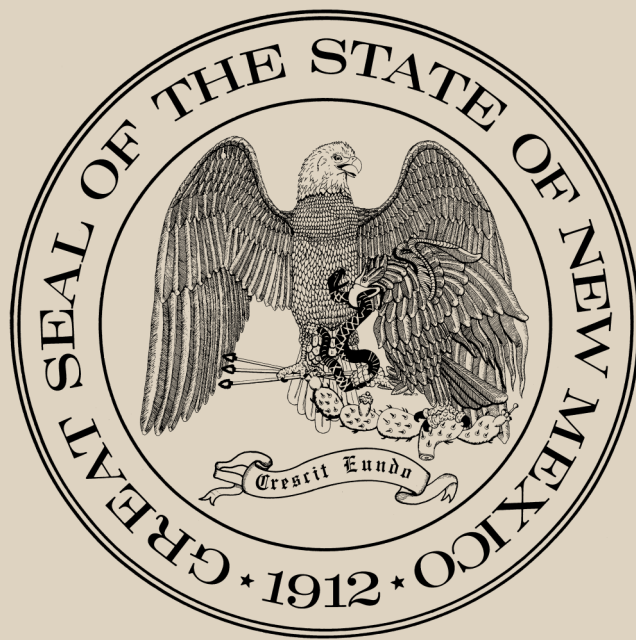
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