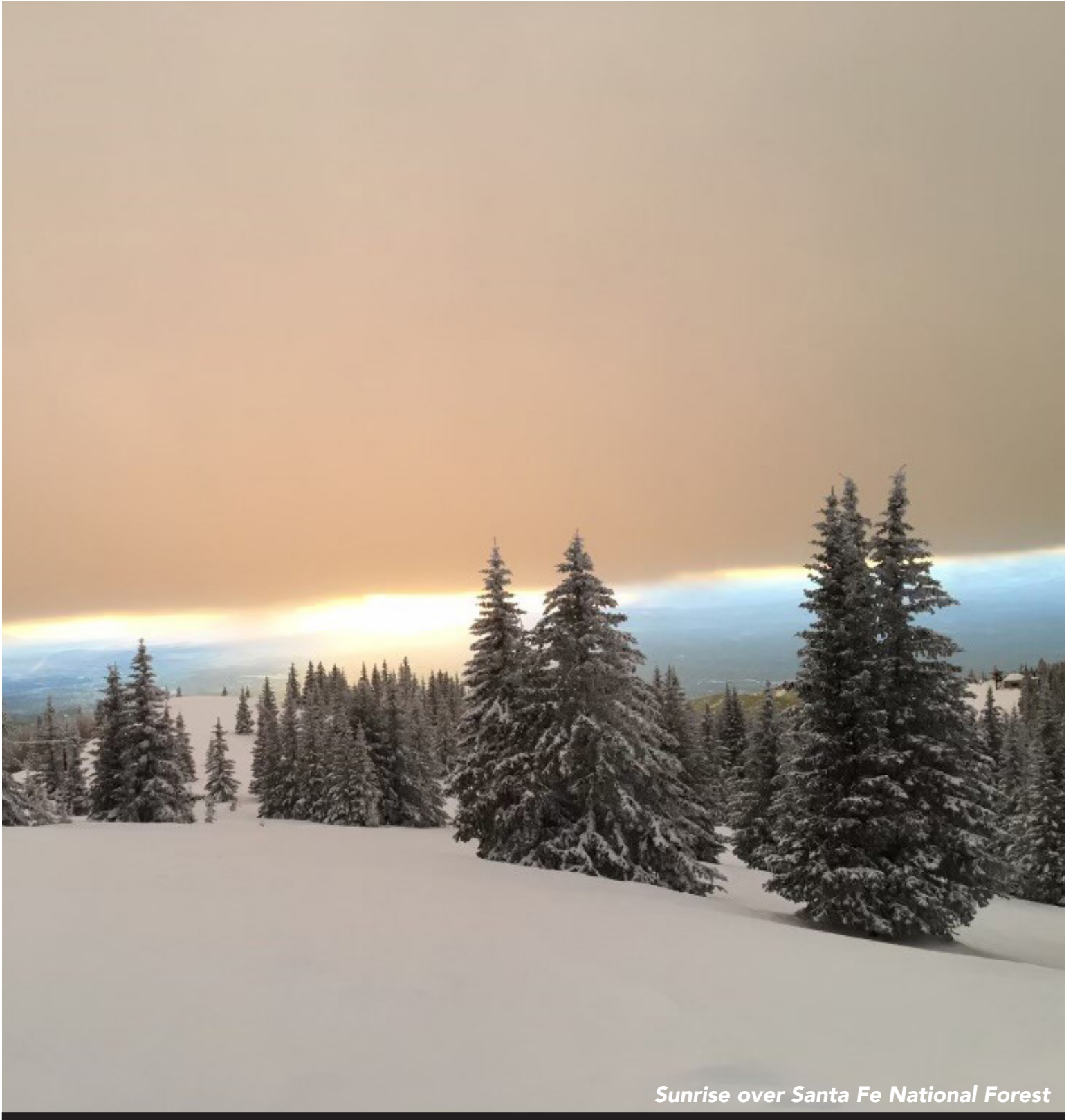


New Mexico
Municipal
League

The Municipal Reporter

A Publication of the New Mexico Municipal League

Winter 2022/2023



Sunrise over Santa Fe National Forest

New Mexico Municipal League

New Mexico Municipal League



1229 Paseo de Peralta
Santa Fe, NM 87501



(505) 982-5573



www.nmml.org

Municipal Reporter

Winter 2022/2023

Published quarterly by the New Mexico Municipal League

Executive Director - AJ Forte

Staff Editor - Alison Nichols

For any questions or comments about this newsletter, or to submit content for publication, please contact Alison Nichols at anichols@nmml.org

New Mexico Municipal League Board of Directors

Executive Committee

President: Mike Miller, Mayor Pro Tem (Portales)

President-Elect: Tessa Abeyta, Councilor (Las Cruces)

Vice President: Lynn Crawford, Mayor (Ruidoso)

Treasurer: Audrey Jaramillo, Mayor (Edgewood)

Immediate Past President: Javier Perea, CMO, Mayor (Sunland Park)

NMSIF Chair: Linda Calhoun, CMO, Mayor (Red River)

Directors

Stephen Aldridge, Mayor (Jal)

Elizabeth Allen, Judge (Grants)

Nora L. Barraza, CMO, Mayor (Mesilla)

Jeff Carr, Mayor (Eagle Nest)

Lori Chatterley, CMO, Commissioner (Raton)

Efren Cortez, Attorney (Hobbs)

JM DeYoung, Assistant City Manager (Gallup)

Joseph Eby, CMO, Councilor (Ruidoso)

Maria Gilvarry, Utilities Director (Las Vegas)

Gordon Hicks, CMO, Mayor Pro Tem (Socorro)

Robert Hudson, Airport Manager (Moriarty)

Greggory Hull, CMO, Mayor (Rio Rancho)

Janis Jakino, CMO, Councilor (Farmington)

Tim Keller, Mayor (Albuquerque)

Signe Lindell, Councilor (Santa Fe)

Don Lopez, CMO, Mayor (Los Ranchos de Albuquerque)

Rebecca Martinez, Clerk (Rio Rancho)

Michael Morris, Mayor (Clovis)

Margaret Neill, Library Administrator (Santa Fe)

Adam Ochoa, Plans Examiner/Inspector Supervisor (Las Cruces)

Klarissa Pena, Councilor (Albuquerque)

Leona Powell, Clerk-Treasurer (Village of Grady)

Michael Rael, CMO, Judge (Questa)

James Salas, Chief Executive Fire Officer (Dexter)

Dennis Tim Salazar, Mayor Pro Tem (Espanola)

Margarita Smith, Court Administrator (Clovis)

Stewart Steele, Police Chief (Rio Rancho)

Daniel J. Stoddard, Councilor (Rio Rancho)

Jack Torres, CMO, Mayor (Bernalillo)

President's Message

The holiday season in New Mexico is truly special. It's a time to slow down and connect with family and friends, enjoy our state's unique traditions, and savor New Mexican delicacies like tamales, posole, and biscochitos. And of course, for many of us at the Municipal League, the holiday season is also the prelude to our state's Legislative session, which kicks off on January 17 and runs for 60 days, bringing with it plenty of excitement, intensity, late nights – and hopefully, positive legislative outcomes for our municipalities.



Here at the League, we're gearing up to advocate as best we can for the legislative priorities that our members identified over the past several months through our policy process. We will ask legislators to consider increased investments in public safety modernization; specifically, investing more in our underfunded local emergency medical services, ensuring all public safety agencies can take advantage of a new radio network, increasing firefighter survivors' benefits, and developing a database to help law enforcement agencies identify and hire the best officers.

We also want to see strategic investments in our state's critical infrastructure. We will advocate for increased distributions from motor vehicle excise taxes to state and local road funds to address the 56 percent of major roads and highways in poor or mediocre condition. We also want to see a dedicated state funding bill for airports to fill gaps in federal funding and address important projects – like hangars and terminals – that don't typically qualify for federal money, supporting community economic development, job creation, and health and safety priorities.

We will also continue to educate legislators on the importance of understanding how proposed tax changes would affect local government budgets. We provide more detail about all our legislative priorities in this issue of the Municipal Reporter.

As always, we'll share weekly legislative updates during the session to keep you informed and let you know how you can support our legislative priorities. Your voice is important – it's critical that legislators hear from us, whether in person, by phone, or by email, on proposed legislation that impacts municipalities. And please don't hesitate to reach out to me or to League staff with any questions or concerns about proposed legislation, or for assistance on navigating the session.

While the Legislative session can be intense and stressful at times, and while some disappointment is inevitable for anyone involved, it's important to remember that these 60 days are also the time that our state comes together to share ideas, debate important questions about our future, make new connections and strengthen existing ones – and maybe share a few drinks at the Bull Ring.

I wish all of you a happy, safe, and relaxing holiday season – we'll see you at the Roundhouse!

A handwritten signature in black ink that reads "Michael A. Miller".

Mike Miller, NMML President

Mayor Pro Tem, City of Portales

UPCOMING EVENTS

For a full list of events, please refer to the Municipal League website

January 6

New Mexico Airport Managers
Association Meeting
Albuquerque

January 17

First Day of New Mexico Legislative
Session
Santa Fe

February 17

NMML Municipal Day
Santa Fe

February 22

Aviation Day at the Roundhouse
Santa Fe

*The full Municipal League calendar for
2023 is being developed – we'll send out a
final calendar to members soon*

SAVE THE DATE

**Municipal Day
February 17**

**Evening Welcome Reception
on February 16**

La Fonda Hotel in Santa Fe

**More Details and Registration
Coming Soon!**



Municipal League Holds Joint Meeting with New Mexico Counties to Align on Legislative Priorities

Executive Committee members and staff from the Municipal League and New Mexico Counties met on November 4 to discuss each organization's legislative priorities for 2023. The meeting was the first time since 2020 that the two groups had held a joint meeting, and the first time since 2019 that they convened in person.

The organizations shared some legislative goals, including increased funding for emergency medical services across the state and ongoing support for law enforcement recruitment and retention. Other New Mexico Counties priorities included reimbursement for counties that transport state prisoners, funding for recruitment and retention of county detention staff, and state funding for courthouse construction and renovations.

The two organizations voted unanimously to endorse each others' legislative goals, setting up a positive collaborative relationship for the upcoming legislative session. Executive Committee members and staff also enjoyed a joint dinner together the evening before the meeting.

The Municipal League looks forward to working with New Mexico Counties on shared goals during the legislative session and beyond.



Executive Committee members and staff enjoy a dinner together ahead of the joint Municipal League-New Mexico Counties meeting

Fire Chiefs Hold Annual Conference in Ruidoso

The New Mexico Fire Chiefs Association (NMFCA) hosted the New Mexico Fire Service Conference (NMFSC) from Thursday, September 22 through Sunday, September 25 in Ruidoso. The conference was well attended with close to 200 registrants and 44 exhibits. This year the Conference was co-hosted by the Southwest Division of the International Association of Fire Chiefs and members from Arkansas, Louisiana, Oklahoma, and Texas were in attendance. There were also attendees representing 45 municipal, county, and volunteer departments from across New Mexico.

Thank you to all who attended and to the NMFCA Board/Planning Committee!

James Salas, President

NM Fire Chiefs Association

Chief Executive Fire Officer - Town of Dexter



The NMFCA welcomes newly elected and re-elected board members:

President Elect - Kevin Hope, Fire Chief, City of Artesia

Director - Mike Cherry - Deputy Fire Marshal, Quay County

Director - Justin Drumm, Fire Chief, Town of Clayton



New Mexico Municipal League 2023 Legislative Priorities

The First Session of the Fifty-Sixth Legislature kicks off at noon on January 17, 2023. League members and staff have been preparing for the legislative session for several months, identifying key legislative priorities through the League's policy process, and holding discussions with legislators and other stakeholders to educate them on municipalities' concerns.

The below list of legislative priorities is not exhaustive, and the League typically receives many requests to support legislation throughout the session. As always, League staff will send out a weekly legislative bulletin during the session to update members on how priority bills are faring, identify new bills with potential municipal impacts, and let you know when we need League member assistance to support or oppose bills.



KEY LEGISLATIVE SESSION DATES

January 3, 2023 - January 13:

Legislation may be prefiled

January 17:

Opening day (noon)

February 16:

Deadline for introduction of legislation

March 18:

Session ends (noon)

April 7:

Legislation not acted upon by governor is pocket vetoed

NMML Legislative Contacts

AJ Forte, Executive Director

ajforte@nmml.org

505-699-6944

Alison Nichols, Director of Policy

anichols@nmml.org

505-470-3931

KEY LEAGUE LEGISLATIVE PRIORITIES

COMPREHENSIVE PUBLIC SAFETY MODERNIZATION

- 1) Priority:** Increase funding for statewide EMS services by increasing EMS Fund Act appropriation by \$10 million through existing formula.

Why: EMS services, especially in rural areas, face significant staffing and financial challenges, and capital costs are high. Existing revenue sources often do not cover operational expenses. Currently, the EMS Fund Act distributes approximately \$2.8 million annually through a funding formula.

- 2) Priority:** Increase firefighter survivors' benefit to \$1 million.

Why: Firefighter survivors' benefit should align with peace officer survivors' benefit (which will increase to \$1 million beginning in FY24). Increased benefits would come from Fire Protection Fund, which receives distributions from insurance premium taxes; increased benefits would not affect insurance costs.

- 3) Priority:** Support public safety agencies' implementation of state's Public Safety Radio Communications network through an appropriation to the Department of Information Technology.

Why: Local public safety agencies benefit from joining the P25 - Digital Trunked Radio System (DTRS), which provides interoperable communications between agencies. However, subscription fees are a barrier for some agencies to sign up. Covering subscribers' fees through an appropriation to DoIT would ensure that all agencies can participate, strengthening public safety communications statewide.

- 4) Priority:** Create database to track incidences of excessive use-of-force and other serious violations by law enforcement officers.

Why: Providing law enforcement agencies with a searchable, transparent database to track violations that are already public documents would help local law enforcement agencies identify "bad actors" and avoid hiring them.



ROAD INFRASTRUCTURE INVESTMENT

Priority: Use Motor Vehicle Excise Tax (MVEX) Revenues to invest in statewide road infrastructure.

Why: New Mexico has approximately \$2.8 billion in unfunded transportation projects across the state, and the Legislative Finance Committee recently noted that “persistent underfunding of infrastructure projects led to the need for both recurring and nonrecurring appropriations to pay for maintenance and construction statewide.” Fifty-six percent of major roads and highways in New Mexico are in poor or mediocre condition.

Currently, 60% of MVEX revenues go to the General Fund, 22% to the State Road Fund, and 18% to the Transportation Project Fund. Investing a greater share of MVEX revenues in state and local road funds would help to address critical road project backlogs.

MUNICIPAL REVENUE STABILITY

Priority: Ensure stability of municipal tax revenue sources.

Why: NMML supports tax reform efforts to modernize and simplify the tax code, while ensuring stability of existing municipal revenue sources. Cuts to local revenues can have serious impacts on cities’ ability to pay for essential services, such as public safety. Tax reform proposals should be carefully analyzed for effects on local government revenues, and analysis should consider effects on *individual* cities or counties, not just the “average” impact, which can disguise significant differences in local government tax bases (for example – destination-based sourcing).

AIRPORT INFRASTRUCTURE FUNDING

Priority: Invest state funds strategically in local airport infrastructure, prioritizing communities’ top airport projects as identified through the Department of Transportation’s Airport Capital Improvement Plan.

Why: Federal Aviation Administration (FAA) funding provides significant support for some aviation projects in the state, but some key projects, including hangars, terminals, and ramps are typically not eligible for FAA funding. State funding for prioritized airport projects would address project backlogs across the state and support communities’ economic development, job creation, and health and safety needs.



LEVERAGING FEDERAL FUNDS

Priority: Establish a state matching fund to allocate monies to local governments for non-federal match requirements included in the federal Infrastructure Investment and Jobs Act (IIJA).

Why: Local governments in New Mexico are eligible for significant levels of competitive grant funding for transportation, water infrastructure, broadband, energy infrastructure, and more – but most federal grant programs require a local match, which smaller communities may struggle to meet. A state matching fund would ensure that communities are able to leverage the significant amounts of federal funding coming to the state.

New Mexico Self Insurers' Fund Update

Fund Achievements in 2022; More on the Horizon for 2023

By Linda Calhoun, Mayor of Red River, NMSIF Board Chair

As we approach our holiday season, there's little shortage of opportunity for further growth and renewed commitment to local governments across our state. The New Mexico Self-Insurers' Fund Board of Trustees is committed to delivering on its ideals of integrity, inclusion, and initiative, and while we're proud of our achievements so far in those areas, we feel confident we can deliver even more for the organization and its members.

Our property program is front-of-mind for me this time of year. In our efforts to provide the most comprehensive property program possible, **we contracted with CBIZ Valuation Group to conduct and manage a boots-on-the ground appraisal of our exposure portfolio.** This appraisal will determine the replacement cost of your buildings, non-traditional structures, and fine arts so that your premiums are modern, equitable, and accurate. CBIZ began its work in October and has reviewed nearly six hundred buildings over the course of two months. We expect that project to be completed within the next calendar year.

Loss Control staff have visited nearly 30 cities to date, and taught courses including defensive driving, first aid/CPR, claims, safety principles, hazard communications, and use of personal protective equipment to hundreds of students across the state. Underwriting, through remote and in-person services, hit similar targets within this year, complementing loss control coursework with technical expertise supporting safety and writeability of coverage. To my knowledge, this represents the most extensive travel schedule in my time as a member of the Board, and is responsible for increased engagement from members.

We're monitoring, with close attention, developments within the New Mexico Civil Rights Act. In addition to the expanded coverage I spoke about in my previous letter, we are actively engaged in identifying emergent risks as claims come in the door. And with respect to law enforcement liability, we are committed to providing effective tools and resources to support our law enforcement agencies. This includes additional training, document and policy review, agency-wide analyses, accreditation, and cross-agency collaboration, such as at our upcoming law enforcement conference.

Speaking of upcoming events, we're looking forward to several events in December where members will be able to share knowledge and network. In Albuquerque, members of law enforcement, city management, and city attorneys will meet in their respective subsection groups to discuss common challenges. The National League of Cities hosts its board of directors meeting, at which we hold a seat on the underwriting committee and contribute to national risk management philosophy. And of course, we formally approve member premiums for next year at our following Board of Trustees meeting.

As next year kicks off with a sixty-day legislative session, we'll have the chance to see what the fifty-sixth legislature brings to bear. My hope is that greater support for our first responders, including increased investment and education at the local level, will win the day. Until then, I wish you happy holidays and a joyful New Year!

NMSIF MONTHLY EDUCATION SERIES

Starting in December, the New Mexico Self-Insurers' Fund is launching a monthly education series, providing members with the opportunity to learn about a wide variety of topics – from risk management to public safety, as well as other areas.

Each month, members will have the chance to hear from and engage with guest speakers. The first month's topic is cybersecurity. Stay tuned for more information about the first class!

We're excited to expand our offerings, and we're always looking for more feedback. We look forward to seeing you soon.

Clinton Nicley – cnicley@nmsif.org
Risk Services Director, New Mexico Self Insurers' Fund

Around the State

New Mexico Department of Transportation Selects 32 Locations for EV Charging Station Grants

The New Mexico Department of Transportation (NMDOT) announced recipients of grant contracts totaling \$5.1 million, as part of the Level 3 Direct Current Electric Vehicle Charging Station Grant Program. The program is funded through the American Rescue Plan Act (ARPA), and funds must be used for planning, engineering, design, and installation of electric vehicle charging stations along a designated Alternative Fuel Corridor. Charging stations must be located in publicly accessible areas.

Applicants submitted proposals for installation of charging stations, and NMDOT selected 32 locations in the first round of grant funding, with additional rounds of funding to be announced in the future. The grant program prioritized rural locations, as well as low- and moderate-income areas of the state.



Level 3 charging is also referred to as “fast charging” and represents the most advanced type of electric vehicle charging. Level 3 chargers can typically charge a car battery in less than 30 minutes. According to NewMexico.org, there are approximately 130 Level 3 charging stations in New Mexico.

Communities Selected for EV Charging Station Grant Funding:

- | | | | |
|--------------|------------------|----------------|-------------------|
| • Alamogordo | • El Rito | • Jemez Pueblo | • San Jon |
| • Angel Fire | • Elephant Butte | • Ojo Caliente | • Taos |
| • Artesia | • Elida | • Pecos | • Tatum |
| • Carlsbad | • Española | • Peñasco | • Tierra Amarilla |
| • Chama | • Farmington | • Questa | • Truchas |
| • Columbus | • Fort Sumner | • Red River | • Tucumcari |
| • Cuba | • Hobbs | • Roswell | • Vaughn |
| • Des Moines | • Hondo | • Ruidoso | • Zuni |

For a list with detailed location information, see NMDOT's [website](#).

FCC Releases New National Broadband Maps; Accurate Information Critical for New Mexico's Broadband Funding

The Federal Communications Commission (FCC) released a draft of its new National Broadband Map on November 18, a step toward the creation of comprehensive, standardized maps of broadband availability across the U.S. The new map address-level information about broadband services, which represents an update from previous map version that only included census block-level information.

View the map: broadbandmap.fcc.gov



The release of the draft map also begins a public challenge process, allowing the public to see information about the availability of fixed and mobile internet services reported by internet providers. If fixed services shown on the map are not available at the location, users – including operators, individuals, or state, local or tribal governments – can file a challenge with the FCC to correct the map information. Users can also add missing locations to the map. Challenges should be submitted by January 13, 2023 in order to be included in the final version of the map.

Ensuring accurate map information is critical to communities in New Mexico. The Broadband Equity, Access, and Deployment (BEAD) Program, which will provide over \$42 billion in grant funding to expand high-speed internet access nationwide, will allocate money to states based on the numbers of underserved locations in each state.

Learn how to submit map challenges: fcc.gov/BroadbandData/consumers

Adult-Use Cannabis Sales: Higher Than expected? Data Reveals Big Boom for Smaller Communities

By Abigail Tiarks, Policy Analyst, New Mexico Municipal League

A year and a half out from the passage of the Cannabis Regulation Act (CRA) during the March 2021 special legislative session, and eight months since adult-use recreation sales began in April 2022, we can finally begin to examine and compare projections with the actual money that's been generated for the state and local governments.

The fiscal impact report (FIR) for the CRA legislation estimated that sales for adult-use cannabis during the first three months of legalized sales would generate cannabis excise tax revenue of approximately \$3.5 million for local governments alone. While the period between April 2022 and June 2022 did not end up bringing in as much as was forecasted – local governments received approximately \$2.4 million – July, August, and September 2022 all had higher sales, and all but September had higher excise tax revenues than the high mark set in May 2022 at \$820,487.

Additionally, a fiscal impact that we are not yet able to analyze is the job creation and market expansion that proponents of CRA posited. The Department of Workforce Solutions has announced its intention to conduct a survey on the initial job creation and will continue to track industry jobs.

While it is encouraging to see that the total monthly sales exceeded \$37 million in the six months for which data is available, it does beg the question, **how much are local governments receiving?** Adult-use recreational cannabis generates income for local governments through two types of taxes: cannabis excise and gross receipts (see sidebar for an overview of the tax types).

Unfortunately, the Taxation and Revenue Department does not code for adult-use recreational marijuana in its monthly GRT reports (RP-500), so we are unable to determine how much of GRT revenues come from sales at licensed sellers.

Looking at excise tax revenues across several municipalities that offer geographic diversity and cover a large population range (Albuquerque, Las Cruces, Clovis, Gallup, Sunland Park, Anthony, Cloudcroft, and Eagle Nest), we see that **our two**



CANNABIS TAX OVERVIEW

- Cannabis excise tax is imposed solely on the receipts from the sale of cannabis products. Currently, the cannabis excise tax is 12%; however it will slowly rise, ending up at 18% beginning in July 1, 2030.
- Gross receipts tax is imposed on both the sale of cannabis products and any other items sold. Gross receipts tax varies by location due to the taxing increments that each local government implements.
- Medical-use cannabis was taxed previously, but since the passage of the CRA, it is not subject to either cannabis excise tax or gross receipts tax.

largest municipalities generated the most in both sales and excise tax revenues – as expected. However, we also see that **on a per capita basis, some smaller municipalities are generating significant amounts of excise tax revenues, more than larger municipalities.** It appears that municipalities close to the Texas market and those with established tourism industries are particularly benefiting from significant per capita revenues.

Looking forward, two of three of New Mexico's neighboring states legalized adult-use recreational cannabis – Colorado in 2012 and Arizona in 2020. While those markets are substantially larger and more developed, they may offer some insight as to the trends New Mexico can expect with its sales.

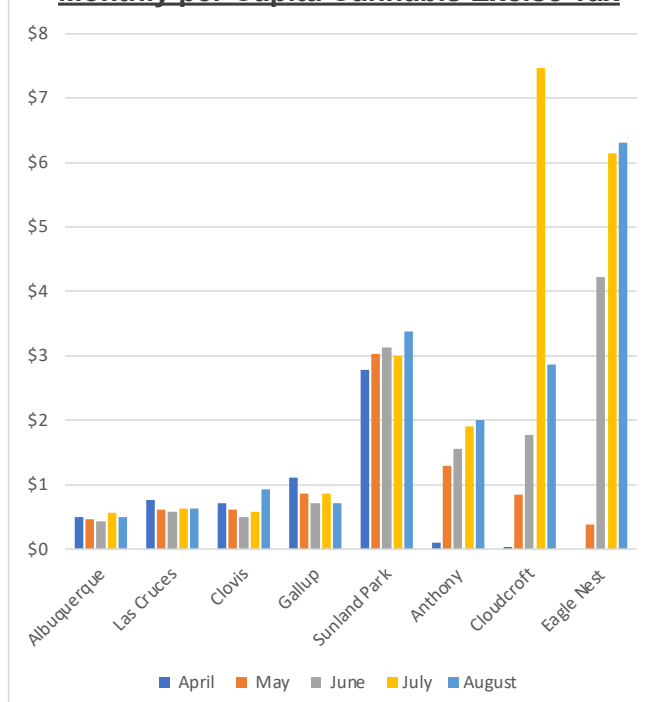
Colorado, for instance, saw a high mark in sales of \$2 billion in 2020, but total sales have been declining since that time.

Due to legalization in those two states, only Eastern New Mexico will likely continue to benefit from border sales. At this time, it appears unlikely that Texas will legalize the sale of adult-use cannabis. On the 2022 campaign trail, Governor Greg Abbott advocated for certain expungements from cannabis-related charges, but not legalization of cannabis itself. It is expected that the eastern side of the state will continue to benefit substantially from both medical and adult-use cannabis sales from Texas residents until adult-use sales are federally legalized.

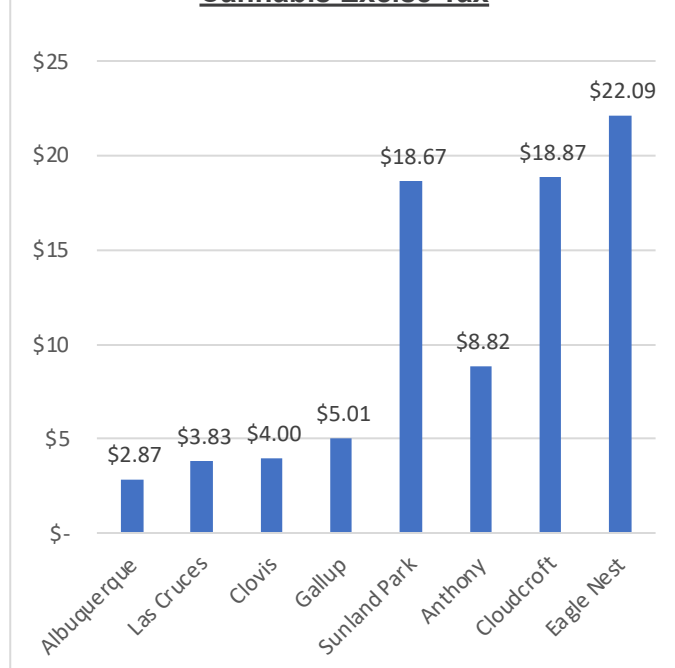
Monthly Cannabis Excise Tax Revenue

Municipality	Population	April	May	June	July	August	September	TOTAL
Albuquerque	564,559	\$283,532	\$261,270	\$247,075	\$318,070	\$287,080	\$221,340	\$1,618,367
Las Cruces	111,385	\$85,059	\$69,308	\$65,628	\$69,728	\$70,582	\$66,660	\$426,965
Clovis	38,567	\$27,428	\$23,474	\$19,483	\$22,311	\$35,830	\$25,897	\$154,423
Gallup	21,899	\$24,282	\$18,783	\$15,635	\$19,109	\$15,725	\$16,214	\$109,748
Sunland Park	16,702	\$46,625	\$50,586	\$52,362	\$50,213	\$56,494	\$55,529	\$311,809
Anthony	8,693	\$964	\$11,225	\$13,591	\$16,623	\$17,368	\$16,887	\$76,658
Cloudcroft	750	\$29	\$637	\$1,324	\$5,601	\$2,154	\$4,405	\$14,150
Eagle Nest	315	\$0	\$123	\$1,329	\$1,932	\$1,984	\$1,587	\$6,955

Monthly per Capita Cannabis Excise Tax



Five-Month Total Per Capita Cannabis Excise Tax



Fear Not the First Amendment Audit, Keep Calm and Carry On

by Laura Vega, Litigation Counsel, NMSIF and Dillon Fisher-Ives, Litigation Attorney, NMSIF



Encounters between public employees and unexpected, sometimes confrontational, visitors equipped with a mobile phone and myriad questions seem to be a growing trend in this digital age. So-called “First Amendment auditors” often seek to provoke reactions from police or other government officials in the hopes of gaining social media exposure – and sometimes, a payday. However, filming in public places is generally permissible by law, and municipal officials and staff should be prepared in the event of a visit from a First Amendment auditor.

What is a First Amendment audit?

Self-proclaimed social media activists or independent journalists have sought to exercise their rights under the First Amendment, and test the boundaries thereof, by accessing public buildings and other spaces and recording their encounters with public officials.

These “auditors” are generally not violent, but typically do not shy away from confrontation; indeed, their ulterior, if not primary, motive is often to provoke a reaction (search “First Amendment Audit” on YouTube for examples). While auditors’ motives may differ, many auditors are driven by social media exposure, as well as the potential for legal claims and ensuing payouts.

Some local governments have settled claims with First Amendment auditors when faced with liability risk or have found themselves targeted as a result of their interactions with auditors (see examples in sidebar).

What does the law say about First Amendment audits?

As recently as of July 11, 2022, the holding of the United States Court of Appeals for the Tenth Circuit in the case of *Irizarry v. Yehia* reminds us that the law clearly establishes the right to record police officers as a form of speech protected by the First Amendment. As part of the basis for this holding, the Court cited the First Circuit in noting that “there is an undoubted right to gather news from any source by means within the law.” While this case involves the act of filming police activity in public areas, First Amendment auditors have extrapolated, not unreasonably, the body of case law concerning First Amendment exercise to extend to the right to film public officials in public places.

However, the First Amendment is not absolute; it is subject to reasonable time, place, and manner restrictions. Traditional “public forums,” like streets, sidewalks, parks, and town squares are the most protected areas, or areas where the government is most limited in its regulation efforts. Conversely, there are “nonpublic forums,” like military bases, police and fire stations, public schools, courthouse lobbies, and the interiors of government office buildings not generally open to the public. In these “nonpublic forums,” the government may have more regulatory discretion.

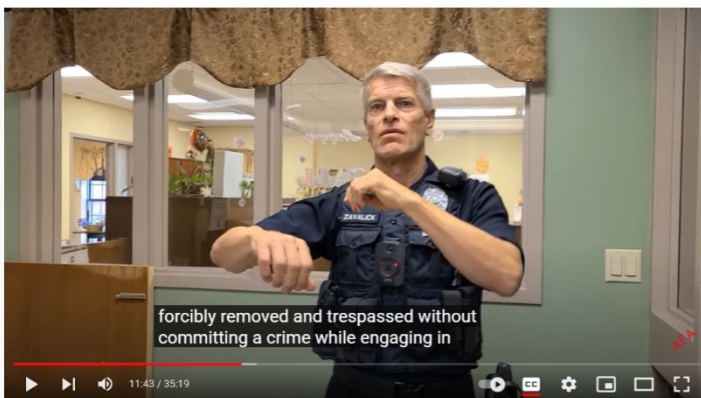
First Amendment Auditors in the News

- ***Colorado Springs to pay cameraman \$41,000 after First Amendment audit of police*** (Colorado Springs Gazette, May 31, 2018)
- ***YouTuber’s video of police incident leads to internal investigation*** (KRQE, May 1, 2019)
- ***Silverthorne pays \$9,500 settlement to ‘First Amendment auditor’ following incident at post office*** (Summit Daily, August 29, 2020)
- ***The city of Boston will pay \$170,000 to settle a lawsuit that forced a landmark ruling on a citizen’s First Amendment right to record the activities of police officers in public*** (Ars Technica, March 27, 2012)

How should municipalities respond to First Amendment auditors?

While dealing a First Amendment auditor might be distracting and disruptive, municipalities should have a plan in place in case a First Amendment auditor shows up:

- **Be prepared.** Clearly mark and identify restricted areas, or nonpublic forums. Typically, nonpublic forums are areas where visitors are not free to enter without an invitation, such as employee workspaces. Generally, if members of the public are allowed to be in a space, they can also record in that space (exceptions include public restrooms or locker rooms). Ensure that sensitive information – including information on computer screens – is not readily viewable in public areas.
- **Educate.** All employees should be familiar with the basics of the First Amendment and understand where and when a member of the public is allowed to enter and film. Employees should also know how to identify when First Amendment auditors go beyond their right to film in public areas.
- **Keep calm.** First Amendment auditors usually claim they are simply exercising their rights, but their motivation is often to provoke a negative reaction. Don't take the bait! The best deterrent is to remain calm, professional, and avoid an angry response that will get traction on social media.
- **Communicate.** If you receive a visit from a First Amendment auditor, contact other government entities in your area to alert them – auditors often visit multiple locations in the hopes of getting a headline-grabbing response. Consider setting up a mechanism to quickly contact others, such as a text alert group.



COP DESTROYED ON TRESPASS REFUSAL! 1ST AMENDMENT AUDIT! Colchester, Connecticut



These Cops Tried EVERYTHING But He Knew His Rights

The Great Reconsideration: Looking Ahead to the Next Stage of the Labor Market

The labor market continues to be unpredictable and driven by new challenges. As such, economists have signaled that the labor market is moving into another phase. Previously, there have been trends labeled as the Great Resignation and the Great Reshuffle. The Great Resignation referred to a mass movement of workers leaving the workforce. In contrast, the Great Reshuffle illustrated workers quitting one job they are unsatisfied with to take another—which has been a more accurate assessment. There has not been a mass exodus from work itself, as the term the Great Resignation suggested. While these terms still hold some truth to the current state of the market, some economists have even used a new term to describe the current worker sentiment: the Great Reconsideration. Instead, workers are seizing the unprecedented opportunity to reconsider and change their work experiences. They've had time to reflect on their jobs and consider opportunities with a fresh perspective.

This article examines the current labor market, highlights driving trends and offers tips for employers navigating the market.

Market Overview

The most recent U.S. Bureau of Labor Statistics (BLS) report revealed that the number of job openings rose to 11.2 million in July. This number was well above the estimate and still outnumbered unemployed workers by about 5.5 million. The July BLS numbers reinforced that there is still a considerable shortage of workers for available positions, with openings outnumbering available workers by a nearly 2-to-1 margin.

Employee quits, a top worker confidence metric, dropped from a record-high 4.53 million in March to 4.18 million at the end of July. The report also revealed that the employee quit rate declined one-tenth of a percentage point to 2.7%. Nonetheless, this number is still relatively high by historical standards.

Additionally, the unemployment rate has not yet reached pre-pandemic levels. In July, the rate sat at 3.7%. In a regular labor market, this could be a troubling sign; however, it indicates that the job market could be on its way to normalizing. From a retention and attraction perspective, these numbers further illustrate that it's a worker-friendly market.

The struggle to fill positions and related challenges have increased labor costs for employers as they raise wages and offer competitive benefits and other perks to attract talent. The market trends also demonstrate that workers remain confident enough to switch jobs for better pay and working conditions despite economic pressures like inflation.

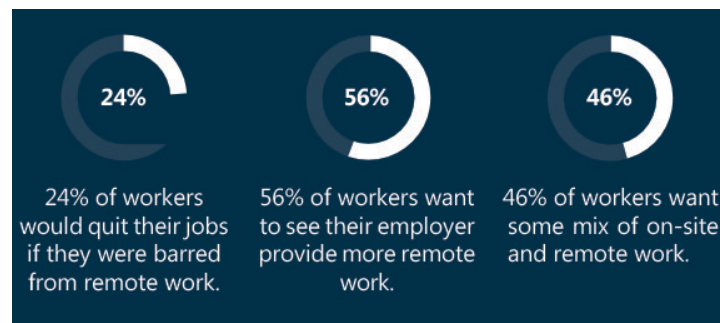
Driving Trends

The COVID-19 pandemic undoubtedly shifted the playing field for workers and organizations. Now, amid the Great Reconsideration, both parties are reevaluating various aspects of the workplace and the workday.

Many employers are reassessing what workplace accommodations or transformations have—or have not—worked and what can be done to improve employee engagement and satisfaction. Simultaneously, workers are reconsidering their career goals and expectations for an employer.

Hybrid Work

Hybrid work continues to be a catalyst for modern workplace challenges. As such, more on-site workers want to leave their jobs than remote workers, according to a survey from professional services network KPMG. Consider the following additional statistics:



Many workers desire a hybrid workplace model to have more face-to-face time with their co-workers. The camaraderie with colleagues is a top reason why workers want to be in the office or similar settings part-time. Other motivators include creating a work-life balance, getting out of the house or benefiting from a regular change of environment. In the end, workers are looking for solid and united organizational cultures—and employers have an opportunity to act on this desire as they reconsider their workplace expectations and strategies. Employers who embrace hybrid work models may see improvements in employee productivity, morale and, most critically, retention.

Long COVID and the Labor Market

Long COVID-19—long-term effects stemming from COVID-19 infection—continues to impact the labor market and employees' health. The U.S. Census Bureau's latest Household Pulse Survey found that 16.3 million working-age Americans currently have long COVID. It has been reported that long COVID is even keeping some workers out of employment; an estimated 4 million workers are out of the labor market, according to Brookings Institution's nonresident senior fellow Katie Bach.

Long COVID can pose serious risks for employers, including decreased productivity and the loss of employees from the workforce entirely. Therefore, they must stay up to date on trends surrounding the condition's rates and other related topics, such as strategies other employers are using to respond to long COVID.

Salaries and Job Hopping


HR services provider ADP reported that salaries have been increasing rapidly, nearly on par with inflation. Annual pay raises rose by 7.6% in the period leading up to August 2022, compared to an average of 2% in early 2021. However, the most significant raises went to job hoppers. Those who found different jobs experienced salary gains of 16.1%, while employees who stayed loyal to an organization received an average increase of 7.6%.


Looming Recession


As the Federal Reserve struggles to tame skyrocketing prices, employers and employees alike are worried about entering a recession. Some might even say a recession has already begun. The reality for many business owners due to the employment market is slower growth and rising labor costs. As a result, many organizations have experienced or are planning layoffs and hiring freezes in the back half of this year.


What Are Employers Doing?


Although the Great Reconsideration is currently taking place, new labor challenges will likely surface. All employers can do is face the moment and put together a game plan. As a thought-starter, here are strategies some organizations are using to win over talent:

 **Review compensation.** As employers and employees continue to be hit by inflation, organizations should start reviewing and assessing their current compensation and benefits. It could be helpful to analyze pay raises from similar companies based on industry or geographic location.

 **Reimagine organizational culture.** Just as workers are reconsidering what they want for work and an employer, an organization can reevaluate its goals and what kind of employer they want to be. Culture can be an organization's best protection against losing employees—and offer a leg up on attracting new employees. There is usually a gap between organizational leadership and what employees experience, so there's a need to keep it aspirational but realistic.

 **Rethink perks.** Flexibility is no longer a generous workplace perk. It's a significant perk, but many employees already have a flexible working schedule or expect it from prospective employers. With remote or hybrid work becoming table stakes, employers will have to stand out against the competition with other unique perks (e.g., four-day workweek and flexible hours).

 **Prioritize real-time over real-life connections.** Workplace connection has often been thought of as something that happens during the workday in the hallway, at the coffee station or in other communal areas. However, employers can still plan for real-life connections without requiring employees to be working on-site all day. This can be achieved by making real-time communication a habit for employees by providing tools, opportunities and encouragement to connect. Employers are considering ways to create intentional spaces for peer connection that don't necessarily involve day-to-day work.

 **Invest in career growth.** With many workers reevaluating their career goals and paths, employers can invest in workers by expanding learning and development opportunities. Employers can enhance their staffing and worker skill levels by offering employees a chance to enrich their careers via upward mobility. Forward-thinking organizations will plan to recruit and retain employees for the skills needed today—and in the future.

In the end, many employers are reinventing their organizational culture to account for adjusted organizational mission and values, as well as employee expectations.



Loss Control Corner

Summary

Generally, job openings remain high as the demand for workers outweighs the supply. Many employers are at a disadvantage and struggling to fill positions. Unfortunately, experts expect talent challenges to continue. Yet, forward-thinking organizations are benefiting when they remember that workers are human. Workers are looking for an employer who matches their style, needs and beliefs. They want to work where they feel care and support from their employers. As the Great Reconsideration is in progress, employers will have to find ways to make their culture and workplaces look and feel authentic and reliable.

Employers should continue to monitor employment trends in the evolving market to stay competitive. Contact us for more resources.



*This article is not intended to be exhaustive, nor should any discussion or opinions be construed as professional advice.
© 2022 Zywave, Inc. All rights reserved.*

Community Spotlight

Oil and Gas Industry, Community Convene in Carlsbad

By Dale Janway, Mayor, City of Carlsbad

About ten years ago, Carlsbad residents began noticing more and more of an oilfield presence around town. We've had oil and gas here for a long time, mostly in northern Eddy County, but we began seeing a significant shift into the southern portion of Eddy County. We also began seeing more and more of the majors, such as Chevron and Exxon, as Carlsbad increasingly became the epicenter of domestic production.

We organized the energy summit as a way to bring the experts from the oil and gas industry to Carlsbad to explain to members of the community what was going on, and what we could expect in the future. It's an educational effort, but it's also a way to bring local school board members and county commissioners together under one roof with CEOs and vice presidents from Houston and Dallas. Gathering together in the middle of the Delaware Basin – where so much work is being done – is essential.

We held our tenth energy summit on October 20, and we believe the event was a tremendous success. Trade association leaders representing the New Mexico Oil and Gas Association, the Independent Petroleum Associates of New Mexico and the Permian Basin Petroleum Association led one panel discussion, while members of the industry itself participated in another. Robert Schwiens Jr., with Chevron, provided an overview of the future of the Delaware Basin. We also had presentations on workforce development, on the history of drilling in Eddy County (by Hanson Yates, with

Santo Petroleum), and on midstream developments. Greg Bloom, with the State Land Office, also provided an overview representing his agency.

Every year, we like to have one special guest at the energy summit, and this year, we were honored to have a presentation from weatherman Steve Stucker. Local high school students interested in journalism and broadcasting had a chance to ask Mr.

Stucker questions, and his speech was generally regarded as one of the best we've ever had. We also received an update from the Department of Energy, which pledged support for Carlsbad's Southeast New Mexico College.

With the oil and gas drilling that takes place in Eddy and Lea County playing such an important role in the entire



Hanson Yates, Managing Member and President of Santo Petroleum, presents a history of drilling in Eddy County

Oil and Gas Industry, Community Convene in Carlsbad continued...

state, it's no surprise that the energy summit also drew a large number of state representatives and senators, mayors, cabinet officials, candidates, and business owners. This year's energy summit had the highest number of sponsors we've ever had in the event's ten-year history, and the largest number of exhibitor booths. We're able to provide an excellent free lunch to everyone, thanks to our sponsors.

As mentioned earlier, one of the best parts of the energy summit is that it brings together members of our community with corporate leadership from the companies who are invested in this area. During our sponsor dinner the night before the summit, Carlsbad residents helped serve and seat our guests, and took their host duties very seriously. We also honored six "Spirit of the Oilfield" recipients – members of the area's workforce who go above and beyond in their commitment to safety and dedication to philanthropy.

Plans are already in development for the 2023 Energy Summit. The drilling that takes place in Southeast New Mexico is integral to every aspect of our state's budget, and we hope you'll come join us next year to learn about what's going on.



Industry panelists Brittany Steel (Oxy), Aaron Hunter (ConocoPhillips), John Raines (Devon Energy) and Brian McGowen (XTO Energy)

Four Corners Balloon Rally a Success *City of Farmington revives a historic event*

*By Georgette Allen, Public Affairs Administrator,
City of Farmington*

Over 20 balloons soared through the Farmington skies between September 23 to 25 for the Four Corners Balloon Rally. The City of Farmington hosted the three-day event, which attracted hundreds of spectators from around the area.

Holding a balloon rally in Farmington was not a novel concept. Farmington balloon rallies date back to the 1970s, as far as we know. The most recent was the Four Corners Invitational Balloon Rally, which ran for about 20 years and ended in the early 2000s. Event hosts have changed throughout the years, but one thing has always stayed consistent — hot air balloon events are a magical experience for people of all ages.

The city's assistant director of Parks, Recreation, and Cultural Affairs, Natalie Spruell, shared her experience as a rally organizer, "This was the first time I had ever been around a balloon event. It was an incredible experience, and as a long-time programmer, I was amazed at the organic nature of the event, which added such a fun element to the weekend for me."



Photo credit: Jessica Lazenby, Volunteer Partners Manager, City of Farmington

Balloons were scheduled to ascend Friday, Saturday, and Sunday morning from Lake Farmington. Due to the weather, balloons didn't fly on Sunday, but it was clear skies the rest of the mornings. San Juan College hosted an evening glow with music and Native American dancers on Friday in the Henderson Fine Arts parking lot. The glow was followed by Patrick and the Las Vegas Band in concert. The city hosted a balloon glow Saturday night at Justis Park, followed by The Guess Who in concert at Ricketts Park, home of the Connie Mack World Series.

Community Spotlight

The chatter on social media was abundant! Spectators and balloonists alike voiced their enthusiasm for future balloon rallies.

"The Farmington community was amazing. We loved flying in this event. Counting down till next year!!!!"

"Very cool! Glad it's back better than ever!"

"Looking forward to next year. Balloon glow at the college was wonderful!"

Some also reminisced about past rallies after the city posted nostalgic photos from the 1985 Memorial Day Weekend event.

"Seeing the pictures brings back memories. Splash and dash was fun."

"I was there as a child. My sister won a coloring contest at Village Inn, and she got to ride in a balloon that looked like the one on the Air Supply album. My brother Ronnie and I were there with her, so they let us ride in a different hot air balloon. Great memories."

"We watched them go right over our house; it was amazing. Had just moved here in April, and it was a wonderful way to be greeted in our new home."



Photo credit: City of Farmington

The city hopes to make the balloon rally an annual event. "We were pleased with the community's response and see the rally being a time-honored event," said City Manager Rob Mayes. "The excitement we saw from citizens shows us it has the potential to grow, and this growth comes with added social and economic benefits."

Studies have shown that major special events foster community pride, attract visitors, and help stimulate tourism, thus injecting additional money into host communities. For instance, the economic impact of the 2019 Albuquerque Balloon Fiesta was \$186.82 million. And it all started in 1972 with a small gathering of 13 balloons.

Will the Four Corners Balloon Rally grow that big? Only time will tell. We can certainly think big!

Planning for the 2023 rally will most likely start in the spring

Be sure to watch the City's Facebook page @CityOfFarmingtonNM for announcements and check out their rally website at FourCornersBalloonRally.com



From the Archives: Santa Fe New Mexican, February 1, 1901

Municipal League Memorial

In the fall of 1900 the cities of the territory, through their officials, organised the Municipal League of New Mexico, an organization of municipalities to co-operate in the study of all questions relating to municipal government, the promotion of proper legislation, etc. This body, through its committee, yesterday presented a lengthy memorial to the assembly.

To meet the many defects set forth in its preamble relative to the tax assessment and collection of taxes, and other alleged weak points in the existing laws governing municipal affairs, this memorial suggests that all property shall be assessed at 60 per cent of its market value, the valuation to

be made solely by the assessors and county commissioners. It also suggests that a Joint committee of the two branches of the legislature shall be appointed with authority to summons before it the county commissioners and assessors of the territory and examine them under oath as to the manner in which they or their predecessors have assessed property in their respective counties, and obtain from them such other information as will throw light on the subject, said committee to make report to their respective houses.

The memorial further suggests that municipal officers be elected for a term of two years; that all persons between the

ages of 21 and 55 shall pay \$2 a year street tax, otherwise they shall not vote at municipal elections; that authority be given cities and towns of over 1,500 population to tax and regulate prostitution within their limits, and for a distance of one mile beyond them; that cities of 2,000 population may prescribe the character of buildings erected in their midst, and that a simple and quick method of law providing for sidewalks and sewerage shall be enacted.

The document also suggests that the funding law provides for too low a rate of interest, and names 5 percent instead of 4 as a more satisfactory rate on municipal funding bonds.



1229 Paseo de Peralta
Santa Fe, NM 87501



The Municipal Reporter

A Publication of the New Mexico Municipal League

Winter 2022/2023

In this issue:

Upcoming Events

Municipal League News

Municipal League Legislative Priorities

Self Insurer's Fund Update

Tax Talk: Cannabis Sales