

**From:** [Charlene Romero](#)  
**To:** [Liza Kerr](#)  
**Cc:** [Jason Clack](#)  
**Subject:** Comments re: proposed Audit Rule changes  
**Date:** Wednesday, February 1, 2023 11:20:51 AM

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Good morning,

NMSA 6-10-3 addresses payment of state money and requires all public money to be deposited to the state treasury by the close of the next succeeding business day. This statute specifically refers to money that is to be remitted to the state treasurer.

There are separate statutes that address deposit of money received by the courts.

#### District Courts

NMSA 34-6-36 requires all litigant funds to be deposited within two working days after receipt. NMSA 34-6-37 requires all fines, fees, costs and money not required to be deposited into the clerk trust account to be deposited within two working days after receipt by the clerk.

#### Magistrate Courts

NMSA 35-7-5 states that "All money collected by a magistrate court in connection with civil and criminal actions is public money of the state held in trust by the district court within the same judicial district until disbursed in accordance with law." NMSA 35-7-5(B) requires deposit of all public money within two banking days after its receipt. NMSA 35-7-4 requires each magistrate court to remit all fines, costs and forfeitures collected by the court during the previous month to the AOC by the date established by the AOC Director. Unlike the statutes that govern the district courts, NMSA 35-7-5 does not require separate accounts for trust funds (cash bonds) and fines, fees and costs that are to be remitted to the state, through AOC.

Since there are conflicting statutory requirements regarding deadlines for deposit, we would like to receive some clarification regarding the statute(s) that control the deposit requirements for money received by the courts. If the requirements in Chapters 34 and 35 control the requirements for the courts, we would respectfully request that the 2023 Audit Rule make an exception for deposit requirements in NMSA 6-10-3 when there are separate statutes that outline requirements for specific entities, such as the courts.

Please feel free to let me know if you have questions or require additional information. Thank you for your assistance.  
Charlene

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