

NMBA LEGISLATIVE REPORT

NEW MEXICO BANKERS ASSOCIATION
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There are 42 days remaining in the 2017 sixty-day Legislature. The Legislature got off to a slow start as the majority of legislative time was spent on budgetary matters for the current fiscal year. With that issue resolved, it is evident that the Legislature is ready to roll.

Last week, the Governor signed into law three bills to balance the state's current year budget, taking \$46 million from reserves of public schools. She line-item vetoed cuts to the economic development program and the Public Education Department. The legislation now raises \$190 million for the state's general fund, closing a deficit for the current fiscal year of approximately \$80 million. The bills replenish the state's reserves at 1.8 percent, rather than the 3 percent that was originally proposed in early drafts of the legislation.

Last Thursday, the Governor signed into law HB 1, which appropriates \$8.6 million to cover costs of this sixty-day session. Included in the bill was a \$800,000 emergency appropriation for the courts which the Governor line item vetoed from the bill. In the Governor's message concerning the veto, she suggested that the Legislature had not thoroughly vetted current court spending levels.

Last week, the House Business and Industry Committee approved two NMBA-endorsed trust and estate related bills: HB 76, Income Tax Deduction for Trusts; and HB 181, Uniform Partition of Heirs Property Act. The Senate Public Affairs Committee approved SB 60, Revised Uniform Fiduciary Access to Digital Assets Act-another NMBA-endorsed trust-related bill.

HB 15, the Data Breach Notification Act, was approved by the House Consumer and Public Affairs Committee. The House Judiciary Committee considered the bill last week and has asked the sponsor to make considerable revisions to the bill before the committee takes final action on the bill.

Thus far, there have been 316 bills introduced in the House and 324 in the Senate.

Key Dates:

- February 16: Last day to introduce legislation
- March 18: 2017 session ends
- April 7: Deadline for governor to act on most legislation approved during the 2017 session

The New Mexico Bankers Association will prepare a weekly LEGISLATIVE REPORT throughout the 2017 Legislative Session. When a bill affecting our industry is first introduced, its pertinent provisions will be summarized. Thereafter, any further action taken on the bill will be reflected in subsequent reports. At any time you should desire a copy of a bill or additional information concerning any legislative matter, please direct your inquiry to the NMBA office at (505) 822-7900. To get copies of House and Senate bills online, go to <http://legis.state.nm.us> and then click on 'bill locator'. For a full text of the governor's "State of the State" address visit:<http://www.governor.state.nm.us>.



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Senate Bills and Resolutions:

SB 211: Liquor Dispenser License Privilege Leases. The bill amends the Liquor Control Act to allow certain dispenser licensees to lease a privilege granted by their license. It is unclear what a partial lease is according to the proposed act. In particular, it is unclear what effect a partial lease has on the licensee's ability to conduct business with a license that is partially leased. For instance, will the lessor be limited in any way

once the lessor has partially leased the license to a lessee? Without clarification of the limits to a lessor's license when partially leased, it appears that the proposed bill may circumvent current law which provides for the maximum number of licenses that may be issued.

SB 215: Renewable Energy Financing Districts Act (Wirth). The Renewable Energy Financing Districts Act (REFDA) is New Mexico's implementation of the concept known nationally as "PACE"-Property Assessed Clean Energy. With PACE, the installation of a renewable energy system, energy efficiency improvements, energy storage, or water conservations measures may be financed through a local taxing district that crates a special assessment and a lien against the improved property. SB 215 alters the priority of the REFDA lien to bring it into compliance with new FHA requirements. Only past-due payments will be superior to mortgage liens, and the principal cannot accelerate. In addition, without the bill's change to present law, new FMHA-insured mortgages may not be issued on a property subject to a REFDA lien, limiting the ability of property owners to sell or refinance (and lenders to participate in such financings). The bill also implements a test of savings versus improvement costs to protect property owners (and their mortgage lenders) from being burdened with over-sold and uneconomic improvements.

The bill clarifies that PACE financing is available for all property, including commercial and agricultural, and adds energy efficiency, energy storage, and water conservation as covered improvements. This provides more opportunities for property owners to make economic improvements, broadens the act from a sole focus on offsetting electricity purposes, and provides much broader economic opportunities for remodeling and construction jobs. The bill enables commercial financing as an alternative to bond issuance, and allows Districts to create programs with direct lender financing.

SB 255: Crime of Audit Obstruction. This bill creates a new criminal offense of obstruction of a state audit. This includes destroying or altering any document or record, making a false report, or impeding the state auditor. This offense would result in a fourth degree felony.

SB 264: Taxation of Internet Sales (White). The bill changes definitions to exclude any person without physical presence in the state and with less than \$100,000 in average gross receipts during the prior calendar year from gross receipts tax and compensating tax liability. By excluding those with less than \$100,000 in receipts, the bill includes larger out-of-state sellers. The intent appears to primarily be to allow for the collection of taxes from internet vendors. The bill includes in the definition of gross receipts third-party sales made over a multi-vendor marketplace platform that acts as

the intermediary between the seller and purchaser. This captures third-party sales made through websites such as Amazon and eBay.

SB 278: Cannabis Revenue and Freedom Act (Ortiz y Pino). The bill would enact the Cannabis Revenue and Freedom Act, which would establish a comprehensive regulatory framework regarding marijuana. It seeks to eliminate problems caused by the prohibition and uncontrolled manufacture of marijuana in the state. It also would establish a licensing and permitting system for industrial hemp. It would also seek to decrease the distribution of marijuana to minors, revenue from marijuana sales going criminal enterprises, and driving under the influence of marijuana. It would also create the Cannabis Control Board to regulate the program established under the Act. It would also revise the Lynn and Erin Compassionate Use Act

SB 280: Employee Credit Information Privacy (Tallman). This bill would prevent prospective employers, employment agencies, labor organizations and joint apprenticeship committees from discriminating against an individual based on credit information. An employer may not demote, promote or discriminate in matters of compensation, terms, conditions or privileges of employment against an employee based on that employee's credit information. A prospective employer may not fail to or refuse to recruit or interview a prospective employee with respect to employment based on that person's credit information.

SB 288: Taxes and Surtaxes for Early Childhood Fund (Padilla). The bill would impose an emergency surtax on oil and gas revenues. It would subsequently create both the Electricity Production Tax Act and the Early Childhood Education Fund. It would provide for distributions to be made to the Early Childhood Education Fund from both the oil and gas surtax and the Electricity Production tax.

SB 296: Use of Nationwide Mortgage Lending System (Sharer). This bill would allow the Director of the Financial Institutions Division of the Regulation and Licensing Department to utilize the Nationwide Mortgage Licensing System and Registry to receive and process applications for licenses under the Collection Agency Regulatory Act and the Motor Vehicle Sales Finance Act.

House Bills and Resolutions:

HB 281: Transfer of Car Titles Upon Death of Owner (Herrell): This bill would provide for the transfer of a title of an automobile upon the death of the owner utilizing a beneficiary form as provided by the state. The bill also provides that the decedent's net estate does not include the value of a motor vehicles if the title has been transferred utilizing the beneficiary form.

HB 289: Agriculture in Economic Development Finance Act (Small). This bill would expand the statewide Economic Development Finance Act to include agricultural enterprises.

HJR 9: Term Limits (R. Montoya). The proposed constitutional amendment would change the individual terms of service for state legislators to four year. It provides that election for state legislators shall coincide with gubernatorial elections. The amendment limits state legislators to sixteen years of service.

Status of Senate Bills and Resolutions Previously Summarized:

SB 1: Combined Reporting (Wirth). Senate Corporations and Transportation Committee

SB 14: Defective Constructions Actions (Payne). Senate Corporations Committee

SB 15: Usury (Soules). Senate Corporations Committee

SB 18: Resident Business Set-Aside Act (Padilla). Senate Judiciary Committee

SB 41: Solar Market Development Tax Credit (Stewart). Senate Corporations Committee

SB 60: Revised Fiduciary Access to Digital Access Act (Wirth). Senate Judiciary Affairs Committee

SB 78: Private Employee Repayment (O'Neill). Senate Public Affairs Committee

SB 85: Uniform Environmental Covenants Act (R. Martinez). Senate Conservation Committee

SB 166: State Employee Loan Repayment (Ortiz y Pino). Senate Public Affairs Committee

SB 199: Reduction of Corporate Income Tax (Smith). Senate Corporations Committee

SB 202: Forfeiture Act (Ivey-Soto). Senate Public Affairs Committee

SB 212: Public Records (Griggs). Senate Public Affairs Committee

SJR 3: Funding for Early Childhood Education (Padilla). Senate Rules Committee

Status of House Bills and Resolutions Previously Summarized:

HB 15: Data Breach Notification Act (Rehm). House Judiciary Committee

HB 26: Small Loan Interest Caps (Roybal-Caballero). House Businesses and Industry Committee

HB 27: Minimum Wage (Roybal-Caballero). House Businesses and Industry Committee

HB 48: Small Business Income Tax Deduction (Barnes). House Taxation and Revenue Committee

HB 67: Minimum Wage (M. Garcia). House Business and Industry Committee

HB 76: Income Tax Deduction for Trusts (J. Trujillo). House Taxation and Revision Committee

HB 82: Solar Market Development Tax Credit (McQueen). House Labor and Economic Development Committee

HB 100: Positive Credit Reporting (J. Martinez). House Consumer and Public Affairs Committee

HB 128: Economic Development-Severance Tax Permanent Fund (C. Trujillo). House Taxation and Revenue Committee

HB 177: Auto Recyclers (Ruiloba). House Consumer and Public Affairs Committee

HB 180: Revised Uniform Limited Liability Act (Cook). House Judiciary Committee

HB 181: Uniform Partition of Heirs Property Act (Cook). House Judiciary Committee

HB 182: UCC-Lost Negotiable Instrument (Cook). House Judiciary Committee

HB 192: Film Production Tax Credit Increase (Ely). House Business and Industry Committee

HB 193: Solar Taxation (Ely). House Business and Industry Committee

HB 205: Deed of Trust Foreclosure (Cook). House Business and Industry Committee

HB 239: State Employees' Loan Repayment (Ferrary). House State Government, Indian and Veteran Affairs Committee

HB 251: Public Finance (Stapleton). House State Government, Indian and Veteran Affairs Committee

HB 276: Uniform Money Services Act (Strickler). House State Government, Indian and Veteran Affairs Committee

HJR 1: Distribution of Permanent Fund for Early Childhood Education (Maestas). House Education Committee

HJR 2: Economic Stimulus Programs (McCamley). House Labor and Economic Development Committee

