

NMBA LEGISLATIVE REPORT

NEW MEXICO BANKERS ASSOCIATION
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There are 35 days remaining in the 2017 sixty-day Legislature. The cut-off date for introduction of legislation is February 16. Thus far, there have been 371 bills introduced in the House and 380 in the Senate.

The Senate has approved SB 6 which allows the New Mexico Department of Agriculture to issue licenses to grow industrial hemp for research and development purposes, including agriculture, agronomics, ecological, processing, sales and market research. The bill requires an institution of higher education, person, or business that plans to grow industrial hemp seed or industrial hemp fiber to obtain a grower's license by submitting an application to the department. Sixteen states have legalized industrial hemp production for commercial purposes and 20 have passed laws allowing research and pilot programs. More than half of all industrial hemp production in the United States is in Colorado. Industrial hemp is a variety of cannabis sativa and is the same plant species as marijuana. However, hemp is genetically different and is distinguished by its use and chemical makeup.

The House Elections Committee tabled HB 204 last week. The bill would have required all presidential candidates to release their tax returns to be listed on New Mexico's ballot. Legislatures in several states including New York, Ohio, California, Maryland and Maine have introduced similar bills.

The House Energy Committee tabled House Joint Memorial 5 which called for a temporary moratorium of leasing the federal land for oil and gas drilling in the Greater Chaco region. The memorial opposed leases for drilling until the resource management plan can be completed. The U.S. Bureau of Land Management in January leased 843 acres in the greater Chaco region.

The House Business and Industry Committee last week approved HB 202 which would allow for the collection of gross receipts tax from internet vendors. The bill would

redefine that it means to do business in New Mexico by classifying any business selling goods that generate more than \$100,000 worth of gross receipts taxes as doing business in the state. It would not matter if the business had a physical presence in the state. The bill may raise between \$8.8 million and \$38.3 million in the fiscal year beginning on July 1, 2017. Counties and municipalities could gain between \$5.9 million to \$20.4 million through local taxes during that same period. It is important to note there is not universal agreement this bill would not violate the 1992 U.S. Supreme Court decision in the Quill case which held that once the state identifies a taxpayer as having no physical presence in the state, the state cannot tax that person for gross receipt taxes and, thus, placing these new revenues in jeopardy if a court orders the taxes refunded to the tax payer.

The Uniform Partition of Heirs Property Act (HB 181) will be heard in the House Judiciary Committee this week and the Revised Fiduciary Access to Digital Access Act (SB 60) will be considered on the Senate floor for final action.

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 321: Raise Minimum Wage (Campos). This bill would provide for an employee who customarily receives more than \$30.00 a month in tips to be paid a minimum hourly wage of \$2.50. Also, if an employee has a valid server permit issued pursuant to the Alcohol Server Education Article of the Liquor Control Act, the tips combined with the employer's cash wage will be a minimum of \$9.75 per hour.

SB 326: Frontier Community Investment Tax Credits (Campos). This bill would establish that after January 1, 2018, a taxpayer who files an income tax return in New Mexico who is not a dependent of another taxpayer and makes a qualified investment may claim a credit against his or her tax liability in an amount up to \$100,000 of the qualified investment. The credit provided may be referred to as the "frontier community investment tax credit".

SB 330: Mortgage Foreclosure Deficiency Judgments (Stewart): This bill would prohibit deficiency judgments in certain mortgage foreclosures. The bill stipulates that the debtor who occupies the property that is subject to foreclosure must have occupied the property for a minimum of 120 days. It also establishes that a deficiency judgment for diminishing the value of a property may be entered against a debtor who damages the property or removes structures or fixtures on the property.

SB 339: Multiple Source Contract Dollar Limits (Payne). The bill would increase the dollar amount limits for multiple source contracts, specifically architectural and engineering services, to procure construction services and for purchase orders under those contracts. The limit is \$2,000,000 over four years and the limit on a single contract must not be higher than \$500,000 for any engineering or architectural project. The bill also stipulates that a state agency may procure multiple indefinite construction contracts provided that the amount of a contract does not exceed \$10,000,000 over three years and that no purchase order exceeds \$1,000,000.

SB 342: Community Solar Gardens Act (Lopez). The bill would enact the Community Solar Gardens Act. It establishes that a community solar garden must have a nameplate rating of ten megawatts or less and must not be co-located with another solar garden that exceeds that limit. It also establishes that a community solar garden must have at least ten subscribers and that no subscriber will have more than a 40% interest in the community solar garden. It also establishes that no more than 40% of a community solar garden be allocated to subscription larger than twenty-five kilowatts.

SB 345: Medical Marijuana Tribal Agreements (Shendo). This bill would require the Department of Health to enter into agreements with the New Mexico Indian nations, tribes and pueblos that participate in the state's medical marijuana program. The agreement would provide any assistance from the department of health that an Indian

nation, tribe or pueblo may request in implementing its medical marijuana program within the boundaries of the nation, tribe or pueblo. There would also be guidelines for compliance with department rules to govern the rights for Indian nations to transport or sell medical cannabis outside of the boundaries of the nation.

SB 350: Agricultural Land Valuations (Wirth). The bill would create a special method of valuation for land previously used for agricultural purposes. The value of land would be determined on the basis of the land's capacity to produce agricultural products multiplied by a factor of two. The bill would also provide for a recapture of tax savings if the land is subsequently subdivided or is developed for purposes other than for agricultural use.

SB 356: Notification of Public Improvement Districts (Rodriguez). This bill requires that the treasurer of the county in which a public improvement district is formed be notified of the formation.

SB 368: Five Percent Biodiesel Standards (Ingle). This bill amends sections of the Petroleum Standards Act to provide for five percent biodiesel standards in diesel fuel. It would require retailers to maintain records verifying that diesel fuel sold in New Mexico contains at least five percent biodiesel.

SB 377: Uniform Money Services Act (Munoz). The bill increases the threshold revenue requirement for check cashing services licensure under the Uniform Money Services Act from \$500 to \$2,500.

House Bills and Resolutions:

HB 318: Student Loan Bill of Rights Act (Caballero). The bill would enact the Student Loan Bill of Rights Act. The bill would establish a student loan borrower educational course. Also, the bill would establish that a student loan servicer must submit a written application in order to receive a license to service student loans. The bill is intended to educate students about the complete scope of student loans. The FID director is directed to designate a student loan ombudsman within the department to assist student loan borrowers.

HB 325: Uniform Securities Violation Penalties (Barnes). This bill would amend violations to certain sections of the Uniform Securities Act. A person who willfully violates Section 58-13C-501 or 58-13C-502 NMSA 1978 through an action involving a person over the age of sixty is guilty of a second degree felony and, upon conviction, will be fined not more than \$10,000 or imprisoned no more than nine years, or both, for each violation.

HB 327: Minimum Wages for Persons With Disabilities (Ferrary). This bill would repeal Section 50-4-23 NMSA 1978, which provides for reduced minimum wages for persons with disabilities.

HB 329: Unclaimed Property Sales by Property Officers (Ruiloba). This bill would amend a section of NMSA 1978 that provides for the disposal of unclaimed personal property that is seized by a police officer. The amendment states that items that are of historical value that are no longer necessary for use in obtaining conviction may be transferred to a state museum. It also provides that personal property no longer necessary for conviction may be sold at public sale if the property has a market value of greater than \$500. The current value is set at \$50.

HB 331: Landlord Return of Tenant Deposits (Thomson). This bill provides that landlords who return tenant deposits and itemized statements of deduction by mailing the statement and the payment by certified mail are deemed to have complied with the Landlord Tenant Act.

HB 334: Local Approval of Marijuana Locations (Townsend). This bill would provide for local approval of the proposed location of a licensed marijuana producer. The secretary of health will notify the governing body of the municipality or county in which the license will be located of the address of the location and the intent to license for that location. The governing body can approve or disapprove of the location or can find another location within the county or municipality. Within 45 days, the governing body will hold a public hearing on whether to approve the location.

HB 335: Resolution of Prevailing Wage Complaints (McCamley). The bill would require prompt resolution of prevailing wage complaints. Specifically, it provides that on any construction project over \$60,000, the contract must pay the laborers on the project unconditionally and not less than once per week and without any unlawful deduction or rebate on any account. A laborer may file a complaint that a contractor has failed to pay wages or fringe benefits and there must be an investigation of the allegations of the complaint within ten days.

HB 347: Financial Institutions (Lundstrom). The bill amends the New Mexico Small Loan Act and the New Mexico Bank Installment Loan Act to limit fees and charges on certain installment loans. The bill provides for the creation of a financial literacy fund. The bill requires that a loan made under the New Mexico Small Loan Act or the New Mexico Bank Installment Loan Act be reported to a nationally recognized consumer reporting agency as to the terms of the loan and borrower performance.

HB 356: Local Economic Development Act (R. Martinez). The bill expands the purpose of the Local Economic Development Act to include the promotion of local businesses. The bill mandates for the fiscal year 2018, the economic development

department will spend \$2 million of funds appropriated to the department for projects that support resident businesses.

HB 361: State Banks (Cook). The bill reduces the required number of New Mexico resident directors of a state bank from two-thirds of the board to at least one director.

HB 368: Reporting Requirements for Small Loan Act (Lente). The bill revises and simplifies the reporting requirements for licensees under the New Mexico Small Loan Act of 1955.

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). Waiting final Senate floor consideration

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

SB 211: Liquor Dispenser License Privilege Leases (Griggs). Tabled in Senate Corporations Committee

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

SB 215: Renewable Energy Financing Districts Act (Wirth). Senate Corporations Committee

SB 255: Crime of Audit Obstruction (Cervantes). Senate Public Affairs Committee

SB 264: Taxation of Internet Sale (White). Senate Corporations Committee

SB 278: Cannabis Revenue and Freedom Act (Ortiz y Pino). Senate Judiciary Committee

SB 280: Employee Credit Information Privacy (Tallman). Senate Corporations Committee

SB 288: Taxes and Surtaxes for Early Childhood Education (Padilla). Senate Conservation Committee

SB 296: Use of Nationwide Mortgage Lending System (Sharer). Senate Corporations 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 Taxation and Revenue 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

HB 281: Transfer of Car Titles Upon Death of Owner (Herrell). House Business and Industry Committee

HB 289: Agriculture in Economic Development Finance Act (Small). House Labor and Economic Development 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

HJR 9: Term Limits (R. Montoya). House State Government, Indian and Veterans' Affairs Committee

Save the Date:

106th NMBA Annual Convention

**June 8-9, 2017
Inn of the Mountain Gods**

