

NMBA LEGISLATIVE REPORT

NEW MEXICO BANKERS ASSOCIATION
316 Osuna Rd. NE, Suite 502, Albuquerque, NM 87107

Find information about the NMBA and our services at www.nmbankers.com or



Volume V – Monday, February 20, 2017

There are 29 days remaining in the 2017 sixty-day Legislature. The cut-off date for introduction of legislation was February 16. There have been 577 bills introduced in the House and 538 in the Senate.

The state's revenue estimates for the next fiscal year are in. The state is on track to take in approximately \$123 million less in revenue in the next fiscal year than current spending levels. In addition, the state's reserves have been largely depleted and are projected to be 1.6 percent of the state spending, which is far below the recommended level of 5 percent. Economists said the outlook for oil prices has improved since December 2016, but the outlook for job growth and personal income has worsened. Although \$123 million will be needed to maintain current spending levels, the finance committee chairs have told the Legislature that they may have to raise \$250 million of the new money for the next fiscal year to increase reserves and keep state programs operating.

A report released this week by the Rio Grande Foundation, a nonpartisan think tank that favors open markets, found that New Mexico's state spending as a percentage of its gross domestic product is still higher than that of all of its neighboring states and is fourth highest in the United States. The Speaker of the House, Brian Egolf, announced shortly after the state's revenue estimates were reported that House Democrats will propose a budget-balancing plan this week which will raise \$200 million in new revenue for the next fiscal year. The plan includes:

- Requirement of out-of-state online and catalog retailers to collect gross receipts tax from customers-\$20 million in estimated revenue;
- Increase excise tax rate on new and used vehicle sales from 3 percent to 4 percent-\$49 million in estimated revenue;

- Impose new \$90 permit fee on commercial trucks-\$63 million in estimated revenue;
- Reduce and streamline tax deduction for hospitals and health clinics-\$65 million in estimated revenue.

Representative Jason Harper introduced a 347 state tax reform page proposal, (HB 412), last week. The bill is intended to overhaul New Mexico's gross receipts tax by repealing most exemptions and deductions and lowering the tax base. One of the most controversial provisions in the legislation is the reinstatement of the gross receipts tax on food and medical services. Although the bill does not specifically set a new tax rate, the sponsor of the bill said the rate would likely drop from 5.125 percent to 2.7 percent. New Mexico currently levies a 5.125 percent gross receipts tax on most goods and services and a portion of the tax revenue is distributed back to local governments. Municipalities and counties can also levy gross receipts taxes in addition to the base rate. In Santa Fe, for example, the gross receipts tax is 8.3125 percent. Additionally, the bill provides for a single rate of five percent for both corporate and personal income tax.

Another tax reform bill, SB 243, was introduced last week by Senator Ron Griggs. The bill:

- Reduces the corporate income tax rate to 3% at all income levels;
- Increases the Working Families Tax credit from 10% to 11.5% of federal EITC;
- Decreases the Rural Health Care Practitioner Tax Credit from the current \$5,000 for doctors and \$3,000 for other licenses (listed) healthcare practitioners to \$2,000 for all practitioners;
- Decreases the 50% gross receipts tax deduction applied to for-profit hospitals to 40%;
- Creates a new Recordation Tax Act, which imposes a tax on property transfers of \$.20/\$100 of property tax assessed value. It creates a companion mortgage initiation tax of \$0.75/\$100 for recording mortgages on mortgage refinancing not accompanied by a property transfer,
- Repeals the municipal food and medical hold-harmless distributions as provided by law in favor of a local government standalone food and medical services gross receipts tax. A single rate of 3.75 percent is applied to all food sold in the state, and a uniform local government standalone rate of 2 percent is imposed on all medical services.

HB 190 and a duplicate Senate bill, SB 210, have been introduced to create the Consumer Protection for the Solar Distribution Generation Act. The bill provides a number of points of required disclosures, including a four page written agreement that details performance guarantees for power generation, total cost, payments, and how

solar installation could affect property. The bills also require solar customers to consult with tax experts and their utility companies for advice relating to solar installation. The proposals require solar companies to tell consumers about changes in assessed property values should they install solar panels. Critics of the proposal have suggested that the legislation will curb solar growth.

House Memorial 7 has been introduced. It requests the Legislative Finance Committee to undertake a study of ways in which the resources of the New Mexico Finance Authority could be more accessible to persons and businesses, including the option of forming a state-owned bank.

Key Dates:

- 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>.



John W. Anderson, Esq.
Legislative Counsel
New Mexico Bankers Association

Mark Anderson
Legislative Assistant
New Mexico Bankers Association

Senate Bills and Resolutions:

SB 382: Local Government Investment Pool Charges to (Munoz). The bill would expand the authorized expenditure by the State Treasurer's Office of management fees that it collects from the local government investment pool to include operations of the State Treasurer's Office. Additionally, any remaining balance at year end would not revert to the general fund. The current statutory requirement for expenditure of these funds to be subject to legislative appropriation remains.

SB 384: Hospital Billing Guides (Brandt). This bill would establish guidelines for hospital billing and enact a new section of the Unfair Practices Act. A hospital would ensure that all billing related to a single episode of care that occurs on the site of that same hospital is made in a single statement that the hospital provides to the patient within sixty days of discharge. The statement would include:

- Which items and services provided to the patient during the episode of care are billed by a participating provider and which services are billed by a nonparticipating provider; and
- For each item or service, what amount is being billed to any third-party payer and clearly distinguish what the patient's responsibility is from any third-party payer's responsibility.

SB 386: Raise Minimum Wage and Allow Trainee Wage (Sanchez). The bill would raise the minimum wage to \$9.00 an hour. It would also establish that an employer that employs trainee employees must pay a trainee employee during the training period a minimum wage of \$8.00 an hour. The training period must not exceed sixty days from the date of hire.

SB 388: Installment Loan Fee Limits (Sanchez). The bill is the same HB 347 (Lundstrom).

SB 390: Film Tax Credit "Production Facility" (Steinborn). This bill changes the definition of "qualified production facility" as it applies to the film production tax credit by reducing the acreage on which a standing film set must be located from at least 50 acres to at least 45 acres.

SB 391 Captive Real Estate Investment Trust Income (Wirth): This bill would amend the definition of "net income" to add back any deduction claimed in calculating federal taxable income of a corporation for expenses and costs paid to a "captive real estate trust". A captive real estate trust is a limited subset of all real estate trusts that are not regularly traded on an established securities market and the shares of which are more than 50 percent owned by the reporting corporation.

SB 408: Limit Capital Gains Deduction from Income (Wirth). This bill would reduce the net capital gains deduction to \$1,000 from the current maximum of \$1,000 or 50 percent of the capital gains included on a federal tax return. The bill also contains a temporary provision waiving penalties and interest due to underpayments made as a result of the changes in this bill-a necessary provision given the effective date of the bill of January 1, 2017.

SB 414: Disclosure of Tax Refund Loan Fees (Munoz). This bill would amend the New Mexico Small Loan Act of 1955. It would require disclosures of fees and interest associated with tax refund anticipation loans. The bill would also establish permitted changes for tax refund anticipation loans.

SB 415: Uniformity of Employment Law Terms (Munoz). This bill stipulates that a political subdivision of the state, including a home rule municipality, or an institution of the state, may not adopt a law, policy or resolution that:

- Regulates or attempts to regulate the hours, scheduling or leave that a for-profit or not-for-profit private-sector employer provides its employees; or
- Requires or attempts to require a for-profit or not-for-profit private-sector employer to provide an employee:
 - paid or unpaid leave;
 - a fringe benefit;
 - a benefit for which the employer would incur an expense.

House Bills and Resolutions:

HB 326: Protection of Vulnerable Adults (Maestas Barnes). This bill would enact the Protecting Vulnerable Adults from Financial Exploitation Act. If a qualified individual reasonably believes that financial exploitation of an eligible adult may have occurred, that person may promptly notify relevant agencies. The person who makes a disclosure of financial exploitation will be immune from administrative or civil liability that may arise from such a disclosure.

HB 378: Promote NM Agricultural Products (Romero). This bill would make an appropriation to the Economic Development Department to contract with an economic development center to promote the expansion and sustained growth of local farms, ranches and food entrepreneurs and the production, marketing and distribution of New Mexico agricultural products. The department would contract with an economic development center in Bernalillo County to promote:

- The expansion and sustained growth of local farms, ranches and food entrepreneurs;
- Value-added services support and improvements to the complete process from origin of local foods through distribution to the marketplace;
- Market and facility development and improved infrastructure;
- Intrastate, e-commerce and international trade of New Mexican food products; and
- The promotion and expansion of awareness and benefits of good nutrition through the purchase of clearly labeled food.

HB 382: Mineral Lease Districts Act (Nibert). This bill would enable counties to establish mineral lease districts and specifies the form and function of the board of directors for such districts. A mineral lease district would distribute funds received from federal mineral leases. Such districts would sunset every two years unless reauthorized by the county.

HB 401: “Manufactured Home” Definition (Sweetser). This bill would amend the definition of “manufactured home” in the motor vehicle code to include a park model home or park model trailer.

HB 412: Tax Reform (Harper). This bill would change the distribution of the Liquor Excise Tax. It also would distribute a portion of the Motor Vehicle Excise Tax to the State Road Fund and the Local Governments Road Fund. It would also create the Local Government Stabilization Fund. It would create a single bracket and a single rate for the income tax and for the corporate income tax. It would also update the low-income comprehensive tax rebate. It would modify certain tax credits so that the credits cannot be applied against modified combined tax liabilities. It would rename the Gross Receipts Taxes to the State Sales Tax and the Local Option Sales Taxes and the Compensating Tax to the Use Tax. It would base the rate of the state and local taxes on a formula using estimates of baseline and revenue projections. It would also provide that a person that has less than \$100,000 in gross receipts is not engaging in business in New Mexico. It would provide alternative evidence other than a nontaxable transaction certificate to entitle persons to a deduction from gross receipts. It would de-earmark certain local option taxes. It would change a deduction from gross receipts for the sale of food to beneficiaries of the Federal Supplemental Nutrition Assistance Program. It would require municipalities and counties to impose a Local Option Use Tax. It would change provisions that limit increases in value of residential property for property taxation purposes. It would narrow the Premium Tax in lieu of provision to revenue and receipts for which the Premium Tax is assessed. It would provide that changes or repeals of certain local option gross receipts taxes will not impair outstanding revenue bonds. It would also provide a moratorium of new increments of

local option gross receipts or sales taxes. It would provide that previously dedicated revenue attributable to a local option gross receipts tax will continue to be dedicated for the same purposes.

HB 413: Rental Property Writs of Restitution (Baldonado). The bill would amend the Uniform Owner-Resident Relations Act to lift the stay of execution on an appeal by a resident of a writ of restitution and would allow a court to require an appellant to post a bond pending the appeal. A defendant and all other occupants would be enjoined and prohibited from reentering certain premises without the permission of the owner for 180 days following the execution of the writ. This prohibition on return will not affect the owner's duty to make any personal property of the defendant left in the unit available for three days following the execution of the writ of restitution.

HB 432: Employee Preference Act (Townsend). This bill would enact the Employee Preference Act. The bill stipulates that all persons will have, and be protected in the exercise of, the right to form, join or assist labor organizations or to refrain from those activities, freely and without fear of penalty (Right to work).

HB 438: Disclosure of Tax Refund Loan Fees (Ruiloba). This bill would amend the New Mexico Small Loan Act of 1955. It would also require disclosures of fees and interest associated with tax refund anticipation loans. The amendment would require a licensee to disclose more information to the consumer at the time that an application for a refund anticipation loan is submitted. The bill would establish further requirements, permitted charges, and prohibited acts for licensees when issuing tax refund anticipation loans to a consumer.

HB 442: Minimum Wage (Rodella). This bill would raise the minimum wage to \$9.25.

HB 467: Benefit Corporation Act (Cook). The bill would enact the Benefit Corporation Act. A benefit corporation must have a purpose of creating a general public benefit.

HJM 4: Infrastructure Funding Interim Committee (Ely). This joint memorial proposes the creation of an interim committee of the Legislature to study the problems of unspent infrastructure funds and to make recommendations to the Legislature concerning measures to improve the state's infrastructure process. The interim committee would consist of members of the New Mexico Legislative Council and Legislative Finance Committee.

HJM 7: Impact of Affordable Care Repeal (Thomson). This joint memorial seeks to have the Superintendent of Insurance convene a task force to study the impact of an Affordable Care Act repeal, in full or in part, on New Mexico businesses and its citizens.

HM 7: State-Owned Bank Study (L. Trujillo). The memorial requests that the Legislative Finance Committee undertakes a study of ways in which the resources of the New Mexico Finance Authority could be made more accessible to businesses in the state, including the option of forming a state-owned bank.

Status of Senate Bills and Resolutions Previously Summarized:

SB 1: Combined Reporting (Wirth). Committee Substitute bill referred to Senate Finance 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). Passed Senate (41-0). House Business and Industry Committee

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 Judiciary 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 Sales (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

SB 321: Raise Minimum Wage (Campos). Senate Public Affairs Committee

SB 326: Frontier Community Investment Tax Credits (Campos). Senate Corporations Committee

SB 330: Mortgage Foreclosure Deficiency Judgments (Stewart). Senate Corporations Committee

SB 339: Multiple Source Contract Dollar Limits (Payne). Senate Corporations Committee

SB 342: Community Solar Gardens (Lopez). Senate Conservation Committee

SB 345: Medical Marijuana Tribal Agreement (Shendo). Senate Public Affairs Committee

SB 350: Agriculture Land Valuations (Wirth). Senate Corporations Committee

SB 356: Notifications of Public Improvement Districts (Rodriguez). Senate Corporations Committee

SB 368: Five Percent Biodiesel Standard (Ingle). Senate Conservation Committee

SB 377: Uniform Money Services Act (Munoz). 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). Committee Substitute passed House (68-0).

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). Passed House (54-11).

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). Tabled in 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 Judiciary Committee

HB 289: Agriculture in Economic Development Finance Act (Small). House Business and Industry Committee

HB 318: Student Loan Bill of Rights Act (Caballero). House Education Committee

HB 325: Uniform Securities Violation Penalties (Barnes). House Business and Industry Committee

HB 327: Minimum Wage for Persons with Disabilities (Ferrary). House Health and Human Services Committee

HB 329: Unclaimed Property Sales by Peace Officers (Ruiloba). House Local Government and Elections Committee

HB 331: Landlord Return of Tenant Deposit (Thomson). House Business and Industry Committee

HB 334: Local Approval of Marijuana Locations (Townsend). House Local Government and Elections Committee

HB 335: Resolution of Prevailing Wage Complaints (McCamley). House Labor and Economic Development Committee

HB 347: Financial Institutions (Lundstrom). House Business and Industry Committee

HB 356: Local Economic Development Act (R. Martine). House Labor and Economic Development Committee

HB 361: State Banks (Cook). House Business and Industry Committee

Hb 368: Reporting Requirements for Small Loan Act (Lente). House Business and Industry 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

