

NMBA LEGISLATIVE REPORT

NEW MEXICO BANKERS ASSOCIATION
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There are 13 days remaining in the 2017 sixty-day Legislature. The 2017 Legislature will adjourn promptly on Saturday, March 18 at noon.

The House Labor and Economic Development Committee tabled HB 432, the Employee Preference Act, last week. The bill often referred to as a “right-to-work law” supports persons to form, join or assist a labor organization or refrain from those activities. Membership and fees are not mandatory as a condition of hiring, promotion or continued employment. There are currently 28 states that have enacted right-to-work laws. The National Conference of State Legislatures in a brief summary of right-to-work laws explains that:

“In states without right-to work law, employees may be required to join a labor union if it represents workers at their place of employment. Those who refuse to join the union may still be required to pay for the costs of representation, since they profit from the union’s efforts in negotiating wages and benefits of behalf of all employees. Such ‘fair share’ payments are often equivalent to the cost of union dues. The first right-to-work laws were passed in the 1940s and 1950s, predominantly in Southern states. Most right-to-work laws were enacted by statute but 10 states adopted them by constitutional amendments. There was a surge of interest in the issue in the 1970s and again in the 1990s, but only a handful of states have enacted right to work laws since the initial wave of the 20th century. Federal law sets standards for the operation of labor unions in the private sector through the Labor-Management Reporting and Disclosure Act of 1959. Provisions of federal law govern union elections, management, finances and reporting. Right to work, however, has remained a state issue.

The House and the Senate have approved minimum wage bills which are only slightly different from one another. SB 386 raises the statewide minimum wage rate to \$9 per hour but permits employers to pay “training employees” a minimum wage of \$8 per hour for up to 60 days from the date of hire. The bill defines a training employee as

an employee who is being trained to perform the job for which the employee was hired. SB 386 raises the minimum wage for employees who customarily and regularly receive more than \$30 per month in tips from \$2.12 to \$2.63 per hour. The bill's minimum wage rates would go into effect July 1, 2017.

HB 442:

- Raises statewide minimum wage from \$7.50 an hour to \$9.25 an hour;
- Raises the tipped-employee minimum wage from \$2.13 an hour to 40 percent of \$9.25;
- Bars employers from lowering the hourly pay rate of employees solely because they already make more than \$9.25;
- Specifically preempts cities, counties and other political subdivisions of the state from enacting or keeping laws that regulate the schedule of work hours that private-sector employers provide their employees;

Currently, 29 states and D.C. have minimum wages above the federal minimum wage of \$7.25 per hour. Five states have not adopted a state minimum wage: Alabama, Louisiana, Mississippi, South Carolina and Tennessee. New Hampshire repealed their state minimum wage in 2011, but adopted the federal minimum wage by reference.

The full Senate approved an increase in the state's gasoline and special fuel tax last week by a vote of 29-13. The committee substitute for SB 95 and SB 131 provides the following provisions, effective January 1, 2017.

- Increases the gasoline tax by 10 cents per gallon (from 17 cents to 27 cents);
- Increases the special fuels tax by 5 cents per gallon (from 21 cents to 26 cents);
- Increase the motor vehicle excise tax by 1 percent (from 3 percent to 4 percent);
- Specifies the petroleum products loading (PPL) fee will be \$150 per load until state reserves reach 5 percent, and;
- Creates the state road maintenance fund.

In the fiscal year following state reserves reaching at least 5 percent:

- The revenues from the gasoline and special fuels taxes flowing to the tax stabilization reserve will instead be distributed to the state road maintenance fund, and to the municipalities and counties maintenance fund;
- The PPL fee will revert to amounts and distribution under current law, with funds no longer flowing to reserves; and
- New revenues from the 1 percent motor vehicle excise tax increase will flow to the state road maintenance fund.

This bill designates the newly created state road maintenance fund for improvement or maintenance of existing public roads or bridges. This will be a non-reverting fund in the state treasury and will be administered by the Department of Transportation and cannot be used for bonding.

The last increase in the state gasoline tax occurred in 1993, when the tax was raised from \$0.16 to \$0.22 per gallon. It has since been reduced twice to the current rate of \$0.17 per gallon. The special fuels tax rate was last increased in 2003, when it was raised from \$0.18 per gallon to its present rate of \$0.21 per gallon. New Mexico fuel taxes are lower than in surrounding states and lower than the national average.

On the marijuana front, the House Business and Industry Committee defeated a proposal (HB 89) to legalize the recreational use of cannabis. The bill would have enacted a 15 percent state tax rate on cannabis sales from licensed dispensaries and deposited revenue in funds earmarked for schools, judicial branch agencies and treatment programs. Cities and counties would have been able to levy an additional local government tax.

The full Senate voted 33-9 to approve SB 258, which would reduce the penalty for the possession of a half-ounce or less of cannabis from a criminal misdemeanor to a \$50 civil fine.

The House approved (42-26) and the Senate (30-12). HB 144 substitute which requires the New Mexico Department of Agriculture to institute and administer an industrial hemp research program for the purpose of studying the growth, cultivation, and marketing of industrial hemp in New Mexico or any other purpose allowed by federal regulation or law. The bill defines "industrial hemp" as the plant *Cannabis sativa* L. and any part of the plant, whether growing or not, containing a delta-9-tetrahydrocannabinol (THC) concentration of no more than 0.3 on a dry weight basis. The bill now goes to the Governor for her consideration.

The Senate Corporations Committee approved SB 288, which amends the New Mexico Small Loan Act and the New Mexico Bank Installment Loan Act by limiting fees and charges for certain installment loans and providing for reporting to credit agencies. As proposed, this bill would substitute a fee-based financing structure for all small loans under \$5,000 and eliminate payday loans. This bill creates a Financial Literacy Fund. The effective date of this bill is July 1, 2017. The same bill, HB 347, is currently scheduled to be considered in the House Judiciary Committee.

Finally, the House approved the HB 202 substitute by a vote of 37-32 last week. The proposal would raise \$250 million for the general fund and restore cash reserves to four percent by:

- Closing the loophole and leveling the playing field by allowing collection of gross receipt tax on internet sales;
- Leveling the playing field in the healthcare industry through comprehensive healthcare gross receipts tax reform and creation of a 60% “universal deduction”;
- Increasing the motor vehicle excise tax from 3 percent to 4 percent;
- Reducing monthly distributions to the legislative retirement fund; and
- Adding a second part to the fee for weight distance tax applications-a \$90 permit fee.

The health care section is the most controversial part of the bill. Hospitals and private practice health care providers argue that physicians will be forced into employed practice and hospitals will be forced to cut services and reduce staff, and some may be forced to close. The bill is now scheduled to be heard in the Senate Finance Committee.

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>.



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Status of Senate Bills and Resolutions Previously Summarized:

SB 1: Combined Reporting (Wirth). Committee Substitute bill referred to Senate Finance Committee

SB 14: Defective Construction 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: Uniform Fiduciary Access to Digital Assets Act (Wirth). Passed Senate (41-0). House Business and Industry Committee

SB 78: Private Employee Repayment (O'Neill). Passed Senate (34-2). House Business and Industry Committee

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

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

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

SB 202: Forfeiture Act (Ivey-Soto). Passed Senate (40-0). House Judiciary Committee

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

SB 212: Public Records (Griggs). Passed Senate (31-0). House Judiciary Committee

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

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

SB 264: Taxation of Internet Sales (White). Senate Finance 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 Judiciary Committee

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

SB 345: Medical Marijuana Tribal Agreement (Shendo). Senate floor

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

SB 356: Notifications of Public Improvement Districts (Rodriguez). Passed Senate (31-0). House Labor and Economic Development Committee

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

SB 377: Uniform Money Services Act (Munoz). Senate Corporations Committee

SB 382: Local Government Investment Pool Changes (Munoz). Senate floor

SB 384: Hospital Billing Guides (Brandt). Senate Public Affairs Committee

SB 386: Raise Minimum Wage and Allow Trainee Wage (Sanchez). Passed Senate (24-6). House Labor and Economic Development Committee

SB 388: Installment Loan Fee Limits (Sanchez). Senate Judiciary Committee

SB 390: Film Tax Credit “Production Facility” (Steinborn). Senate Finance Committee

SB 391: Captive Estate Investment Trust Income (Wirth). Senate Finance Committee

SB 408: Limit Capital Gains Deduction From Income (Wirth). Senate Corporations Committee

SB 414: Disclosure of Tax Refund Loan Fees (Munoz). Senate Corporations Committee

SB 415: Uniformity of Employment Law Terms (Munoz). Senate Corporations Committee

SB 417: Create Business Recruitment Fund (Munoz). Senate Corporations Committee

SB 425: Enhanced Enterprise Zone Act (Sanchez). Senate Corporations Committee

SB 436: Gas and Special Fuels Tax Distribution (Campos). Senate Corporations Committee

SB 438: New Jobs and Investment Tax Credits (Munoz). Senate Corporations Committee

SB 452: Public Use and Eminent Domain (Munoz). Senate Corporations Committee

SB 457: Gross Receipts Tax Changes (Smith). Senate Corporations Committee

SB 467: Right of Redemption for Assignees in Foreclosure Proceedings (Sanchez). Senate Corporations Committee

SB 477: Title Insurance Market Stabilization Act (Stefanics). Senate Corporations Committee

SB 482: Employee Preference Act (Burt). Senate Public Affairs Committee

SB 488: Uniformity of Employment Law Terms (Burt). Senate Public Affairs Committee

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

Status of House Bills and Resolutions Previously Summarized:

HB 15: Data Breach Notification Act (Rehm). Committee Substitute passed House (68-0). Senate Public Affairs Committee

HB 26: Small Loan Interest Caps (Roybal-Caballero). Tabled in 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). Senate Corporations Committee

HB 177: Auto Recyclers (Ruiloba). House Judiciary Committee

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

HB 181: Uniform Partition of Heirs Property Act (Cook). Passed House (65-0).

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 Labor and Economic Development Committee

HB 251: Public Finance (Stapleton). House floor

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 floor

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

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

HB 325: Securities Violation Penalties (Barnes). House Judiciary Committee

HB 326: Protection of Vulnerable Adults (Barnes). House floor

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 Judiciary Committee

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

HB 334: Local Approval of Marijuana Locations (Townsend). House Labor and Economic Development Committee

HB 335: Resolution of Prevailing Wage Complaints (McCamley). House Judiciary Committee

HB 347: Financial Institutions (Lundstrom). House Judiciary Committee

HB 356: Local Economic Development Act (R. Martinez). House State Government Indian, and Veteran Affairs Committee

HB 361: State Banks (Cook). Passed House (55-11)

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

HB 378: Promote NM Agriculture Products (Romero). House Appropriations and Finance Committee

HB 382: Mineral Lease Districts Act (Nibert). House Energy Committee

HB 401: Manufactured Home Definition (Sweetser). House Business and Industry Committee

HB 412: Tax Reform (Harper). House Taxation and Revenue Committee

HB 413: Rental Property Writs of Restitution (Baldonado). House Judiciary Committee

HB 432: Employee Preference Act (Townsend). House Labor and Economic Development Committee

HB 438: Disclosure of Tax Refund Loan Fees (Ruiloba). House Business and Industry Committee

HB 442: Minimum Wage (Rodella). House floor

HB 467: Benefit Corporation Act (Cook). House Business and Industry Committee

HB 475: Modify Crime of Concealing Identity (Rehm). House Judiciary Committee

HB 480: Small Loan Interest Rates (Roybal). House Consumer and Public Affairs Committee

HB 487: Tax Gasoline at the Rack (Townsend). House Transportation Committee

HB 489: Exclude Greenfield Areas from TIDD Act (Romero). House State Government, Indian and Veterans' Affairs Committee

HB 494: Taxpayers' Rights Advocate Office Act (Powdrell—Culbert). House State Government, Indian and Veterans' Affairs Committee

HB 513: Public Funds (Egolf). House Business and Industry Committee

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

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

HJR 9: Term Limits (R. Montoya). Tabled in House State Government, Indian and Veteran Affairs Committee

HJM 4: Infrastructure Funding Intervention Committee (Ely). Passed House (35-33). Senate Rules Committee

HJM 7: Impact of Affordable Care Act Repeal (Thomson). House floor

HM 7: State-Owned Bank Study (L. Trujillo). House floor

Save the Date:

106th NMBA Annual Convention

June 8-9, 2017

Inn of the Mountain Gods

