

# NMBA LEGISLATIVE REPORT

NEW MEXICO BANKERS ASSOCIATION  
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## Volume II – Monday, January 29, 2018

There are 18 days remaining in the 2018 30-day Legislature. The session ends at noon on Thursday, February 15. As of last Friday, there have been **257** bills introduced in the Senate. Bill introduction ends on Wednesday, January 31.

The Legislature received great news last week. The state will have \$292 million in new money in the next fiscal year beginning July 1, 2018. This is an increase of \$93 million from last month's estimate. New money is defined as the amount of unspent tax dollars above current appropriations. Economists reported that the vast majority of the increase is due to record crude oil production in the southeast part of the state. Approximately 70% of this year's growth in revenues is due to gains in severance tax collections and oil and gas related rents and royalties, and gross receipts tax revenues from Eddy and Lea counties. Senator John Arthur Smith, chairman of the Senate Finance Committee, indicated that due to the volatility of oil prices, the 2019 spending plan should not be increased from the final budget number set last December when new money was estimated at \$200 million. Regardless, there will be no shortage of ideas from the Legislature and Governor for how to spend the new money. Only time will tell.

**HB 83**, the NMBA-sponsored bill that revises the State Income Tax Act to create a deduction from net income for a trust sequestered within the trust for future distribution to a non-resident trust beneficiary, was approved unanimously by the House Business and Industry Committee last week. SB 19, the Uniform Guardianship, Conservatorship and Other Protective Arrangements Act, was approved 7-0 by the Senate Public Affairs Committee. It was substantially amended in the Committee. Due to high profile criminal investigations of two non-profit guardianship companies, the state Supreme Court appointed a task force last year to recommend changes in state guardianship laws. SB 19 incorporates many of those recommendations to include:

- Provide a notification system for family members and others who want to be alerted about hearings or changes in the guardianship of an individual;
- Require bonds for nonprofits and agencies that handle guardianship assets, so if there is wrongful spending, funds can still be recovered;
- Improve oversight of annual reports that are required of guardians, and provide for an electronic filing system and review;
- Make it clear that guardians cannot deny visitations from family members without court intervention
- Make guardianship petitions and court actions, now sealed from the court record, public, except for medical information.

There have been several proposed constitutional amendments introduced this session that provide for using more money from the state's \$17 billion Land Grant Permanent Fund for early childhood education and public safety. Five percent of the fund is already designated for select beneficiaries, including public schools. Approximately \$638 million is going to beneficiaries in this fiscal year. If approved by the Legislature and the voters, one proposal, HJR 1, would provide \$140 million more for education each year. This is the eighth year in which the Legislature has considered a similar proposal. All previous attempts have failed.

Senator Jacob Candelaria has introduced a controversial proposal, SB 47, that would allow the Public Service Company of New Mexico to recover losses from closing the coal-burning San Juan Generating Station. The bill would allow Public Service Company to sell bonds to recoup money lost if it closes the San Juan plant in 2022. The utility last year issued a plan that calls for ending the company's reliance on coal power completely by 2031. If the proposal becomes law, the Public Regulation Commission, which oversees the utility's rates, still would have to approve the issuance of any bonds. The commission also would have to approve of closing the San Juan Generating Station.

**Key Dates:**

- January 16: Session began
- January 31: Last day to file bills
- February 15: Session ends at noon
- March 7: Deadline for governor to act on most legislation approved during the session

The New Mexico Bankers Association will prepare a weekly LEGISLATIVE REPORT throughout the 2018 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:**

**SB 19: Uniform Guardianship, Conservatorship and Other Protective Arrangement Act (White).** Senate Judiciary Committee

**SB 39: Prohibited Broadband Services Act (Morales).** Senate Committee's Committee

**SB 48: Personal Loan Benefit for State Employees (Tallman).** Senate Committee's Committee

**SB 50: Credit and Debit Card Campaign Contributions (McSorley).** Senate Committee's Committee

**SB 59: Credit Report Freezes for Minors (McSorley).** Senate Committee's Committee

**SB 70: Affordable Housing Act Oversight Duties (Ingle).** Senate Finance Committee

**SB 76: Regional Housing Authority Oversight (Papen).** Senate Finance Committee

**SB 81: Individual Development Account Provisions (Tallman).** Senate Finance Committee

**SB 90: Financial Services Campaign Contributions (Lopez).** Senate Committee's Committee

**SB 93: Liquor Dispenser's License Changes (Griggs).** Senate Committee's Committee

**SB 94: General Obligation Bonds (Cisneros).** Senate Finance Committee

**SB 101: Uniform Directed Trust Act (Ingle).** Senate Committee's Committee

**Status of House Bills and Resolutions:**

**HB 36: Reinstate Solar Market Development Tax Credit (Trujillo, Ruiloba, and Rodella).** House Energy Committee

**HB 60: Increase Minimum Wage (Roybal Caballero).** House Rules Committee

**HB 82: Reduce Quarterly Workers' Comp Fee (Crowder).** House Rules Committee

**HB 83: Estate or Trust Distribution Tax Deduction (Trujillo).** House Taxation and Revenue Committee

**HB 95: Broadband Access Unfair Trade Practices (McCamley).** House Rules Committee

**HB 110: Rental Property Restitution (Baldonado).** House Business and Industry Committee

**HB 113: Remove Film Tax Credit Annual Cap (Maestas).** House Taxation and Revenue Committee

**HJR 1: Land Grant Fund Distributions for Education (Maestas and Martinez).** House floor

**HJR 2: Land Grant Fund for Public Safety (Ely).** House Labor Committee

**HJR 3: Severance Tax Fund for Public Safety (Ely).** House Labor Committee

**Senate Bills and Resolutions:**

**SB 109: Tax Delinquent Property Sales (Baca).** This bill requires the Taxation and Revenue Department to annually conduct delinquent property tax sales for all property listed on each county's tax delinquency list.

**SB 112: NM Housing Trust Fund (Rodriguez).** This bill appropriates five million dollars from the general fund to the New Mexico housing trust fund for expenditure in fiscal year 2019 and subsequent fiscal years by the New Mexico mortgage finance authority for the purpose of carrying out the provisions of the New Mexico Housing Trust Fund Act.

**SB 118: Residential Energy Conservation Program (Martinez).** The bill appropriates one million dollars from the general fund to the department of finance and administration for expenditure in fiscal years 2019 and 2020 for the New Mexico mortgage finance authority to provide for a residential energy conservation program to increase the energy efficiency and reduce energy expenditures of homes occupied by low-income persons in New Mexico. No more than ten percent of this appropriation will be used for administrative expenses.

**SB 137: Trust Company Act (Ingle).** This bill revises the Trust Company Act to revise the definition of non-profit corporation to mean a pooled trust operating in compliance with federal law to provide trust services to disabled individuals. The bill also revises the requirements for an application for a certificate of authority to operate. The bill requires a fidelity bond in amounts based on the amount of trust assets of a company to be filed with the director. There are numerous other requirements for a fidelity bond contained in the bill. The bill also provides the director of FID emergency powers to summarily order a trust company to cease and desist from certain acts or practices determined to be potentially harmful to the trust assets or to apply to the district court to enjoin the trust company from acts in or compliance with the Trust Company Act.

**SB 141: Decrease Marijuana Penalties (Cervantes).** This bill decreases penalties for possession of marijuana and drug paraphernalia. Specifically, it declares that an individual in possession of less than one-half ounce of marijuana will be subject to a \$50.00 fine. An individual in possession of more than one-half ounce but less than one ounce of marijuana is, for the first offense, guilty of a petty misdemeanor and will be subject to a fine of not less than \$50.00 or more than \$100.00 and is subject imprisonment of no more than 15 days. An individual in possession of more than one-half ounce but less than once ounce, for a second or subsequent offense, is guilty of a misdemeanor and will be punished by a fine of \$100.00 and \$1,000.00 or is subject to imprisonment of less than one year. An individual in possession of more than one ounce and less than eight ounces of marijuana is guilty of a misdemeanor and will be punished by a fine of not less than \$100.00 and or more than \$1,000.00 or is subject to imprisonment of less than one year. An individual in possession of eight ounces or more of marijuana is guilty of a fourth degree felony.

**SB 143: Public Service Law Loan Repayment Cap.** This bill removes the earnings cap for eligibility for certain loan repayment assistance. Specifically, it removes the

provision that declares that an applicant who intends to practice as an attorney in a public service employment position that earns more than \$55,000 per year is not eligible for participation in the public service law loan repayment program.

**SB 155: Broadband Access Unfair Trade Practices (Morales).** This bill is the same as House Bill 95 and House Bill 144.

**SB 177: Gas Tax, Road Fund and Carlsbad Brine Well (Smith, Gonzales).** This bill increases the gasoline tax and the special fuel excise tax. It also distributes revenue from the increases to a new state road maintenance fund and to municipalities and counties for maintenance and repair of existing transportation infrastructure. It also provides for a portion of the revenue to assist with remediation of the Carlsbad brine well.

**SB 179: Employee Preference Act (Ingle).** This bill would make New Mexico a right to work state. The bill provides that a person shall not as a condition of employment become or remain a member of a labor organization or pay dues, fees, assessments or other charges to a labor organization or to a charity or other third party, in lieu of payment to a labor organization.

**SJR 2: Land Grant Funds for Education (Padilla).** This joint resolution provides for an additional annual distribution of one and one-half percent of the average of the year-end market values of the land grant permanent fund for the preceding five calendar years. The portion of the additional annual distribution will be used for early childhood education services.

**SJR 3: Early Childhood Education Dept. (Padilla).** This joint resolution amends the constitution of New Mexico by adding a new section to create the Early Childhood Education Department to provide for early childhood education services. It also allows the Early Childhood Education Department to use funds from the severance tax permanent fund to contract for the provision of nonsectarian, nondenominational early childhood education services.

**SJR 4: Marijuana Possession, Use and Taxes (Ortiz y Pino).** This joint resolution proposes an amendment to Article 20 of the New Mexico Constitution that would allow for possession and personal use of marijuana for adults only if the Legislature regulates the production, processing, transportation, sale and taxation of marijuana and provides for revenues from the taxation of marijuana to be distributed to the general fund.

**SJR 7: Severance Tax Fund for Early Childhood (Sapien).** This joint resolution amends the New Mexico Constitution by requiring an additional distribution from the severance tax permanent fund for early childhood education and care programs as provided by law. An additional distribution of eight-tenths percent of the average of the

year-end market values of the fund for the immediately preceding five calendar years will be made to general fund dedicated to early childhood education and care programs.

**SM 12: Data Breach Notification Act Compliance (Stefanics).** This memorial requests that the attorney general analyze the general compliance with notification requirements of the Data Breach Notification Act stemming from the 2017 Equifax data breach and the methods used by some states to eliminate charges to individual consumers seeking to place a freeze, or lock, on their credit reports.

**SM 38: Glass-Steagall Act (Soules).** This Senate Memorial requests that the New Mexico congressional delegation support passage of federal legislation to restore the provisions of the Glass-Steagall Act.

### **House Bills and Resolutions:**

**HB 140: NM Housing Trust Tax Refund Contributions (Alcon).** This bill creates an optional designation for a personal income tax contribution for the New Mexico housing trust fund. Any individual whose state income tax liability after application of allowable credits and tax rebates in any year is lower than the amount of money held by the department to the credit of such individual for that tax year may designate any portion of the income tax refund to the New Mexico housing trust fund.

**HB 144: Broadband Access Unfair Trade Practices (McCamley).** This bill declares it an unfair and deceptive trade practice for any person providing broadband internet access services to block lawful content, applications, services or use of a non-harmful device, except as necessary for reasonable network management. It also declares impairing lawful internet content, engaging in paid prioritization, and interfering with a user's ability to select content as deceptive trade practices. The bill is the same as House Bill 95.

**HB 163: Unimproved Land Property Tax Valuation (Gentry, Gonzales, Wirth, Neville).** The bill provides for the creation of a special method of valuation for unimproved land, and provides for a recapture of property tax savings if the use of land is changed.

**HB 172: Film Production Revolving Loan Fund Act (McCamley).** This bill authorizes the issuance and sale of up to \$10 million of severance tax bonds, the proceeds of which are appropriated to the film production revolving loan fund. The New Mexico Finance Authority will administer the act and the fund and make loans to qualified film projects for up to \$1 million.

**HB 187: Extend Certain Multi-Term Contract Terms (Dodge Jr.)** This bill extends the term of certain multi-term contracts. A multi-term contract for items of tangible personal property, construction or services except for professional services, in an amount under \$25,000, can be entered into for any period of time to be in the best interests of the state agency or a local public body that doesn't exceed four years, with several exceptions. If the amount of the contract is \$25,000 or more, the term cannot exceed ten years, including all extensions and renewals. Except for a contact entered into pursuant to the Public Facility Energy Efficiency and Water Conservation Act, the term cannot exceed 25 years, including all extensions and renewals.

**HB 189: State Law Over Private Sector Employment Law (Youngblood)**. This bill stipulates that a political subdivision of the state or an institution of the state cannot adopt a law, policy or resolution that regulates the hours, scheduling or leave that a private sector employer provides its employees. It also stipulates that a political subdivision of the state or an institution of the state cannot require a private sector employer to provide an employee paid or unpaid leave, a fringe benefit, or a benefit for which the employer would incur an expense.

**HB 192: Repeal Public Works Minimum Wage (Scott, Townsend, Gallegos, Wooley)**. This bill amends and repeals sections of the Public Works Apprentice and Training Act. It also repeals the Public Works Minimum Wage Act.

**HB 194: Alternative Evidence for Tax Deductions (Harper, Trujillo, Brown, Sanchez)**. This bill establishes that a person may establish entitlement to a deduction from gross receipts by presenting alternative evidence other than a nontaxable transaction certificate that demonstrates the facts necessary to support entitlement to the deduction. Alternative evidence includes:

- Invoices or contracts that identify the nature of the transaction;
- Documentation as to the purchaser's use or disposition of the property or service;
- A statement from the purchaser indicating that the purchaser sold or intends to resell the property or service purchased from the seller, either by itself or in combination with other property or services, in the ordinary course of business.

**HB 195: Alternative Retirement Investment Reporting (McCamley)**. This bill requires reporting on alternative investments made by the Educational Retirement Board, the Public Employees Retirement Association and the State Investment Council.

**HB 201: Make Angel Investment Credit Refundable (Trujillo, Small)**. This bill establishes that if an angel investment tax credit exceeds the income tax liability for the taxable year, the excess will be refunded to the taxpayer.

**SAVE THE DATE**  
**NMBA ANNUAL CONVENTION - JUNE 7-8, 2018**



**Sandia Resort & Casino- Albuquerque, New Mexico**  
**Details to follow!**