

NMBA LEGISLATIVE REPORT

NEW MEXICO BANKERS ASSOCIATION
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Volume III – Monday, February 5, 2018

There are 11 days remaining in the 2018 30-day Legislature. The session ends on Thursday, February 15 at noon. As of last Wednesday, the last day for bill introduction, there were 370 bills introduced in the House and 317 in the Senate.

The House approved a \$6.3 billion budget last week on a 65-3 vote. The budget increases spending by \$249 million or 4% over this year's spending levels. The legislation provides \$80 million one-time funding for road projects statewide and sets aside \$643 million (10%) for cash reserves. Other provisions include

- **Public schools:** \$2.7 billion (2.2 percent increase)
- **Higher education:** \$786.7 million (0.9 percent increase)
- **Judicial branch:** \$283.3 million (3.3 percent increase)
- **Prosecutors:** \$65.7 million (5 percent increase)
- **Public defenders:** \$50.4 million (3.8 percent increase)
- **Medicaid:** \$933 million (1.9 percent increase)

The budget bill now moves to the Senate where the proposal will likely be substantially amended.

Representative Daymon Ely has introduced House Joint Memorial 17 which requests that the Legislative Council convene a task force to study the advisability of establishing a state bank of New Mexico. The task force would have seventeen members, including 6 legislators from both houses, ten members of the public with investor expertise in financial issues and a representative of the state treasurer. The task force would be required to report its findings, including topics for further study and a summary of legislation this is necessary to create a state bank to the appropriate

legislative interim committee by November 1, 2018. The memorial indicates that 22 states have undertaken studies to determine the feasibility of establishing a state-owned bank.

The NMBA-supported trust legislation is moving slowly through the process. SB 101, Uniform Directed Trust Act, has been approved by the Senate Public Affairs Committee and will be heard in the Senate Judiciary Committee this week. SB 137, the Trust Company Act revision, will also be heard in the Senate Judiciary Committee this week. This bill has had a very positive reception by legislators. SB 19, the Uniform Guardianship Conservatorship and other arrangements, has been met with resistance in the Senate Judiciary Committee. The district courts have indicated that there are an estimated 6,000 existing guardianship/conservatorship cases that would have to come into compliance under SB 19. Based on some cost estimates, \$7 million would be required in each of the first two years if SB 19 is enacted. HB 83, which addresses trust income taxation of nonresident investment trust beneficiaries, was heard in House Taxation and Revenue Committee last week. We are hopeful that the bill will be included in a House tax package which is likely to be submitted near the end of the session.

Last Friday, the full House passed a broad, bipartisan anti-crime package, 66-1. The bill would increase penalties for firearm possession for individuals previously convicted of violent felony offenses; require mental health and substance abuse screenings of inmates within 30 days of incarceration and expand Medicaid enrollment assistance for eligible inmates; make certain law enforcement officers who have at least 20 years of service to be eligible for \$15,000 retention bonuses from a combination of state and local funds; and add a stipulation that DWI ignition interlock devices can be removed only if a driver has recorded two or fewer tests with a blood alcohol concentration of 0.05 percent or higher during a six-month period and met other criteria. During debate on the House floor, the bill sponsor noted that the provisions of the bill will hopefully help alleviate the high crime rate in our state. New Mexico had the highest property crime rate and second-highest violent crime rate, after Alaska, in 2016, the last year for which FBI data was available.

Senator Howie Morales and Representative Bill McCamley have introduced legislation in response to the Federal Communications Commission's repeal of net neutrality rules. Their bill would prohibit paid prioritization of internet traffic as an unfair and deceptive trade practice under the NM Unfair Trade Practice Act, and provide funding to state prosecutors for enforcement. The sponsors noted that the FCC repealed the rules in late 2017 and gave internet service providers greater liberty to slow or block websites and apps as they determine and charge more for faster speeds.

The House Taxation and Revenue Committee last week tabled HB 113 which would repeal the cap on New Mexico's \$50 million annual limit on the rebate program for the film and television industry. The Governor's office has indicated that the industry is responsible for adding \$505 million to the state's economy in 2017.

Key Dates:

- January 16: Session began
- January 31: Last day to have filed 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 Judiciary Committee

SB 109: Tax Delinquent Property Sales (Baca). Senate Corporations Committee

SB 112: NM Housing Trust Fund (Rodriguez). Senate Finance Committee

SB 118: Residential Energy Conservation Program (Martinez). Senate Finance Committee

SB 137: Trust Company Act (Ingle). Senate Judiciary Committee

SB 141: Decrease Marijuana Penalties (Cervantes). Senate Committee's Committee

SB 143: Public Service Law Loan Repayment Cap. Senate Judiciary Committee

SB 155: Broadband Access Unfair Trade Practices (Morales). Senate Committee's Committee

SB 177: Gas Tax, Road Fund and Carlsbad Brine Well (Smith, Gonzales). Senate Corporations Committee

SB 179: Employee Preference Act (Ingle). Senate Public Affairs Committee

SJR 2: Land Grant Funds for Education (Padilla). Senate Finance Committee

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

SJR 4: Marijuana Possession, Use and Taxes (Ortiz y Pino). Senate Rules Committee

SJR 7: Severance Tax Fund for Early Childhood (Sapien). Senate Rules Committee

SM 12: Data Breach Notification Act Compliance (Stefanics). Senate Rules Committee

SM 38: Glass-Steagall Act (Soules). Senate Rules 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

HB 140: NM Housing Trust Tax Refund Contributions (Alcon). House Consumer and Public Affairs Committee

HB 144: Broadband Access Unfair Trade Practices (McCamley). House Rules Committee

HB 163: Unimproved Land Property Tax Valuation (Gentry, Gonzales, Wirth, Neville). House Labor and Economic Development Committee

HB 172: Film Production Revolving Loan Fund Act (McCamley). House Rules Committee

HB 187: Extend Certain Multi-Term Contract Terms (Dodge Jr.). House State Government Committee

HB 189: State Law Over Private Sector Employment Law (Youngblood). House Labor and Economic Development Committee

HB 192: Repeal Public Works Minimum Wage (Scott, Townsend, Gallegos, Wooley). House State Government Committee

HB 194: Alternative Evidence for Tax Deductions (Harper, Trujillo, Brown, Sanchez). House floor

HB 195: Alternative Retirement Investment Reporting (McCamley). House Rules Committee

HB 201: Make Angel Investment Credit Refundable (Trujillo, Small). House Labor and Economic Development 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 180: Regional Air Center Special Economic (Ingle, Pirtle). This bill creates the Regional Air Center Special Economic District Act and allows for the formation of industrial air center economic districts and authorities to govern the districts.

SB 198: Frontier Community Investment Tax Credits (Campos). This bill creates tax credits for investments in frontier communities. A frontier community is defined as an area designated by the economic development department as a frontier community on the basis of its economic and rural characteristics.

SB 199: Change State Investment Council Membership (McSorley). This bill changes the composition of the State Investment Council and changes the terms concerning attendance at council meetings. The state investment council will now be composed of a member appointed by initially and for alternating terms, the dean of the school of management at the University of New Mexico and for all other terms, the dean

of the college of business at New Mexico State University; the state treasurer; the commissioner of public lands; the secretary; the chief financial officer of a state of institution of higher education appointed by the governor with the advice and consent of the senate; four members, no more than two of whom are members of the same political party, and none of whom is employed by the council, appointed by the New Mexico legislative council with the advice and consent of the Senate; two members, neither of whom is employed by the council, appointed by the governor with the advice and consent of the senate. The council will select from its members a chair and a vice chair. A person or entity that appoints a member of the council can remove a member from the council for the member's failure to attend at least eighty percent of the regularly scheduled council meetings in a calendar year or for other cause.

SB 206: Raise Minimum Wage (Munoz). This bill raises the minimum wage to \$9.00 an hour. The minimum wage for a trainee employee is raised to \$8.00 an hour. A trainee employee means an employee who is being trained to perform the job for which the employee was hired. The bill also raises the minimum wage for an employee who receives more than \$30.00 a month in tips to \$2.63 per hour.

SB 211: Payment of Restitution for Crimes (Moores, Candelaria). This bill provides that a criminal defendant's obligation to pay restitution continues after completion of any probation or parole periods. It also provides that a court shall award full restitution in most cases and requires a defendant to prepare financial disclosure statements. It also provides that an order of restitution satisfies the application requirements for writs of garnishment and attachment of defendant's property.

SB 216: Uniform Commercial Code Collateral (Payne). This bill conforms a provision in the acceptance of collateral in full or partial satisfaction of obligation. Specifically, it stipulates that a secured party may accept collateral in full or partial satisfaction of the obligation it secures only if the collateral is consumer goods, the collateral is not in the possession of the debtor when the debtor consents to the acceptance.

SB 219: New Industry Job Growth and Forecasting (Shendo, Jr.). This bill appropriates \$150,000 from the general fund to the Legislative Council Service for expenditure in fiscal year 2019 to contract for job growth and economic forecasting research. The research will identify and prioritize new and emerging industries in New Mexico that can succeed in the state but currently represent less than ten percent of the state's gross state product. The research will also estimate the economic and job growth for identified industries. Results of the research will be reported to the legislative finance committee and other appropriate interim legislative committees no later than December 15, 2018.

SB 227: Insurance Tax for Substance Use Disorder (Martinez, Cisneros). This bill assesses an additional health insurance premium surtax to fund substance use disorder response through state medical assistance programs and through county health care assistance funds statewide. It also provides for the creation of a substance use disorder response plan for medical assistance recipients and the distribution of a portion of health insurance premium surtax proceeds to implement the plan. An amount equal to four hundred ninety-five thousandths percent of the net receipts attributable to the health insurance premium surtax will be transferred to the substance use disorder response fund from the balance remaining in the insurance department fund. An amount equal to four hundred ninety-five thousandths percent of the net receipts attributable to the health insurance premium surtax, to be distributed in equal parts to each health care assistance fund, will be transferred to the substance use disorder response fund from the balance remaining in the insurance department fund.

SB 228: Deduction of Certain Business Expenses (Ortiz y Pino). This bill adds to the definition of “base income” for the purpose of the Income Tax Act to exclude, “for taxpayers that conduct lawful businesses pursuant to the laws of this state, an amount equal to any expenditure that is eligible to be claimed as a federal income tax deduction but is disallowed by Section 280E of the Internal Revenue Code, as that section may be amended or renumbered.” The bill, for the purpose of the Corporate Income and Franchise Tax Act, adds to the definition of “base income” to include, “for taxpayers that conduct lawful businesses pursuant to the laws of this state, an amount equal to any expenditure that is eligible to be claimed as a federal income tax deduction but is disallowed by Section 280E of the Internal Revenue Code, as that section may be amended or renumbered.”

SB 244: Public Disclosure of Cybersecurity Info (Candelaria). This bill exempts from public disclosure certain information concerning cybersecurity. Specifically, the bill stipulates that those portions of meetings addressing cybersecurity preparations against or responses to cyberattacks or cyberthreats if that discussion in an open meeting would prevent the public body engaging in it from effectively addressing cybersecurity measures or otherwise would compromise the public body’s network security should it not be available for public knowledge.

SB 253: Investment in Supranational Institutions (Rodriguez). This bill authorizes the state treasurer and a treasurer of a Class A county or of certain municipalities located in a Class A county to invest in securities issued by a supranational institution. It also authorizes these same municipalities to invest in securities that are denominated in United States dollars, have a maturity date than does not exceed five years from the date of issuance, and are rated at least “AA” or the equivalent by a nationally recognized rating agency.

SB 255: Motor Vehicle Manufacturers as Dealers (Ortiz y Pino). This bill allows motor vehicle manufacturers to be licensed as motor vehicle dealers under certain conditions. The conditions added include that a manufacturer does not have any independent franchise dealers in this state and sells and services only line-of-make motor vehicles that it manufactures. “Line-make” means a motor vehicle that is offered for sale, lease or distribution under a common name, trademark, service mark or brand name of the manufacturer of that same motor vehicle. It also establishes that it is unlawful for a manufacturer, distributor or representative to require a dealer’s successor to construct a new dealership, require a relocation of an existing dealership or substantially change, alter or remodel a dealer’s facility except as to comply with health and safety laws or technology requirements or to remodel or change an existing dealership before the tenth anniversary of the date that the change was completed.

SB 257: Increase Film Tax Credit Aggregate Cap (Campos). This bill increases the annual aggregate cap for the tax credit provided for in the Film Production Tax Credit Act. The annual aggregate cap for the tax credit provided for in the Film Production Tax Credit Act is increased to \$60,000,000.

SB 262: Treasurer Use of Certain Revenues (Munoz). This bill expands the allowable used of income from charges for local government investment pool services by the office of the state treasurer. It also provides that balances from those charges are not used to offset the charges for investment pool and related services and may be used for the office’s operations.

SB 263: Hospital Gross Receipts Changes (Cisneros). This bill imposes the state gross receipts tax on nonprofit hospitals. It also imposes the governmental gross receipts tax on government hospitals. It provides that the net governmental gross receipts attributable to government hospitals will be distributed to the general fund. It establishes that fifty percent of the receipts of a hospital licensed by the department of health may be deducted from governmental gross receipts. It also requires a taxpayer allowed a deduction pursuant to this to report the amount of the deduction separately in a manner required by the department. The bill also establishes that the department of health will compile an annual report on the deductions provided that will include the number of taxpayers that claimed the deductions, the aggregate amount of deductions claimed and any other information necessary to evaluate the effectiveness of the deductions. The department will present the report to the legislative revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the cost of the deductions.

House Bills and Resolutions:

HB 240: Conform Income Tax to Federal Changes. This bill conforms the Income Tax Act to changes made in the Federal Internal Revenue Code of 1986 related to section 529 programs (payments into education trust fund).

HB 263: Carlsbad Brine Well Remediation Fund (Townsend, Scott, Brown). This bill appropriates \$35,000,000 from the general fund to the Carlsbad brine well remediation fund for expenditure in fiscal years 2019 through 2021 for remediation of the Carlsbad brine well.

HB 272: Create New Income Tax Brackets (Trujillo). This bill creates new income tax brackets for any taxable year beginning on or after January 1, 2019. For married individuals making over \$16,000 but not over \$160,000, they would be taxed \$504.50 plus 4.9% of excess over \$16,000; over \$160,000 but not over \$320,000, they would be taxed \$7,560.50 plus 6.2% of excess over \$160,000; over \$320,000, they would be taxed \$17,480.50 plus 6.5% of excess over \$320,000.

HB 288: Income Tax Changes (Maestas). This bill makes several changes to the calculation of net income, changes to personal income tax rates and brackets, and modification and repeal of various income tax credits. Specifically, beginning in tax year 2019, the bill changes the individual income tax rate to 4% of taxable income for \$25,000 or less for married individuals filing separately. Also, for married individuals filing separately, for \$25,000 to \$50,000 of income, the tax rate is changed to \$1,000 plus 5% of excess over \$25,000. Also, for married individuals filing separately, the tax rate for over \$40,000 is \$2,250 plus 6% of excess over \$50,000. For head of household, surviving spouses, married couples filing joint tax returns, single individuals, and estates and trusts, the tax rates are changed. For income of \$50,000 or less, the tax rate will be 4% of taxable income. For income of \$50,000 to \$100,000, the tax rate will be \$2,000 plus 5% of excess over \$50,000. For income over \$100,000, the tax rate will be \$4,500 plus 6% of excess over \$100,000.

HB 298: NM Catalyst Fund Job Creation Reporting (McCamley). This bill requires the Economic Development Department to report to the New Mexico Finance Authority Oversight Committee on the job-creation effects of the state's investment in the New Mexico Catalyst Fund, LP.

HB 303: Educational Economic Development Reporting (McCamley). This bill establishes that a public post-secondary educational institution or community college that administers or provides facilities for a program to support economic development must develop performance metrics that measure, if applicable, the:

- Number of jobs created through the program;

- Public or private investments made in the region or state in connection with the program.

The institution must report to the higher education department the institution's goals for the next fiscal year beginning on or before September 1, 2018. Beginning on or before August 1, 2020, the institution must report to the higher education department the institution's performance for the preceding fiscal year with respect to established performance metrics. Beginning on or before September 1, 2020, the higher education department will submit a report to the economic development department, the department of finance and administration, and the legislative finance committee the performance of institutions with respect to established metrics.

HB 307: Construction Contract Indemnity Agreements (Larranaga). This bill modified acceptable terms in indemnification provisions of construction contracts. It modifies the provisions to require one party to the contract to indemnify or hold harmless the other party to the contract, including reasonable attorney fees and court costs, only to the extent that the liability, damages, losses or costs are caused by the negligent acts or omissions of the indemnitor or its officers or employees or a person for whom the indemnitor is liable.

HB 314: Credit Report Security Freeze (Martinez and Sarinana). This bill amends the Fair Credit Reporting and Identity Security Act to allow placement of a security freeze on the credit report of a protected consume and adds definitions to the Fair Credit Reporting and Identity Security Act.

HJM 17: State Bank Study (Dow, Martinez). The joint memorial requests the Legislative Council to convene a task force to study the advisability of establishing a state bank of New Mexico.



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

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