

NMBA LEGISLATIVE REPORT

NEW MEXICO BANKERS ASSOCIATION

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There are five weeks remaining in the 2019 30-day Legislature. As of last Friday, there have been 449 bills introduced in the House and 437 in the Senate.

Last week was action-packed. Some of the legislative action of interest includes:

- The House Taxation and Revenue Committee approved the NMBA-sponsored HB 163 by a vote of 13-0. Thus far, it is the only tax bill which has been moved out of the tax committee for House floor consideration. House Bill 163 adds a new section to the Income Tax Act. It grants a deduction for taxpayers that are estates or trusts. The deduction is for the portion of the net income of the estate or trust that is set aside for future distribution to a nonresident individual beneficiary. The deduction excludes income derived from New Mexico real property, oil and gas, and water interests as well as income that the estate or trust would allocate or apportion to New Mexico. This bill also requires the Taxation and Revenue Department (TRD) to compile an annual report on this deduction and present the report to the specified legislative committees. The purpose of the bill is to expand the trust business in New Mexico. The bill will be considered by the full House early this week.
- HB 6, the tax reform bill for 2019, has been tabled in the House Taxation and Revenue Committee. The Speaker of the House indicated the bill would be revised and resubmitted to the tax committee for hearing. The Speaker said the revised bill would raise income tax on families with income at \$250,000 or greater, increases gasoline taxes and place gross receipts taxes on all online sales. The increased revenue from the increase in the gasoline tax would be earmarked entirely for roads. The additional tax revenues would be dedicated to education, including employing more teachers and increasing their salaries. Senator Carlos

Cisneros has also introduced a tax reform proposal, SB 241, as a Senate version of HB 6. His proposal includes a provision to bring food back under the gross receipts tax.

- Senator Nancy Rodriguez will introduce SB 2 this week which will eliminate the \$50 million cap on film rebate spending. In addition to eliminating the annual limit, the governor has said she also favors paying off an estimated backlog of \$324 million of submitted claims that have yet to be paid out because of the cap. That proposed expenditure would be included in a different spending bill. New Mexico's film incentive program functions as a rebate, offers a 25 percent tax rebate to film companies for most direct, in-state expenditures while long-running TV programs are eligible for a 30 percent tax rebate.
- The Governor has requested that the legislature include between \$300 million to \$400 million to improve state roads. The funding will ultimately be included in SB 280, the annual capital outlay/infrastructure bill. Although no decisions have been made, the Department of Transportation, which has the authority to prioritize projects, may well recommend reconstruction of heavily trafficked roads in Eddy County.
- HB 374, introduced last week by Senator Jeff Steinborn, would enact the Local Choice Energy Act. The proposal would allow local governments to purchase energy from whatever source. The sponsor indicated that the bill would result in local governments utilizing more energy from renewable sources including wind and solar. Eight states including California and Ohio have enacted similar legislation.
- The House Labor, Veterans' and Military Affairs Committee passed HB 85, which provides that only the state can establish laws prohibiting labor unions from collecting fees from non-union members in unionized workforces. Thus, the bill would bar state local governments from enforcing local right to work ordinances. Currently, ten counties and the village of Ruidoso have enacted right to work ordinances. A 2018 U.S. Supreme Court ruling struck down an Illinois law requiring nonunion workers to pay such fair share fees, but that ruling applied only to public sector unions. That means HB 85 would essentially apply only to private sector unions. In all, New Mexico had about 56,000 union members in 2018, according to U.S. Bureau of Labor Statistics, or approximately 6.8 percent of the state's total workforce.

- A bill has been introduced which would increase the royalty rates for oil and natural gas wells on state lands. Under the proposal, the royalty cap would be increased to a high of 25 percent on future leases. The State Land Office currently can assess up to 20 percent. The bill also calls for companies to pay royalties on gas released through venting or flaring processes.
- House Joint Resolution 1, which would draw one percent from the \$17.5 billion State Land Grant Permanent Fund for early childhood education, is scheduled for this week. It is estimated that the one percent would cost the fund approximately \$150 million per year. If the amendment is adopted by the Legislature, voters would have to approve it in the 2020 general election. Then, the U.S. Congress would have to ratify the amendment.
- The Governor signed an executive order last week having the state to join 18 other states in the U.S. Climate Alliance. The state coalition, formed in 2017 after the President withdrew from the Paris Agreement, commits member states to implement policies to reduce greenhouse gas emissions. Specifically, the Governor has called for the state to reduce emissions by 45 percent below 2005 levels over the next 12 years. The governor also directed the state to develop statewide regulations to reduce methane emissions from oil and gas operations.

The New Mexico Bankers Association will prepare a weekly LEGISLATIVE REPORT throughout the 2019 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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House Bills and Resolutions

HB 375: Decrease Maximum APR for Small Loans (Roybal Caballero and Figueroa). The bill lowers the maximum annual percentage rate for loans. Under the bill, no lender, other than a federally insured deposit institution, can make a loan greater than 36%, lowered from 175%.

HB 377: Repeal Public Works Minimum Wage Act (Scott, Gallegos, Ezzell and Townsend). The bill would repeal the Public Works Minimum Wage Act. It would not affect a contract existing or a contract that is entered into for bids that are outstanding relating to the Public Works Minimum Wage Act at the time of enactment.

HB 378: Employee Preference Act (Scott). This bill would enact the Employee Preference Act, which prohibit mandatory labor organization membership or payment to a labor organization as a condition of public employment. This bill would enact right to work legislation.

HB 382: Use of Criminal Records for Employment (Romero). The bill expands the list of criminal records that may not be used used, distributed or disseminated in connection with an application for public employment, license or other authority. The list is expanded to:

- A conviction that has been sealed, dismissed, expunged or pardoned;
- A juvenile adjudication; or
- A conviction that occurred more than three years before the date of the petition except for a conviction of:
 - A felony committed with violence against a person, threatened violence or a likelihood of serious bodily injury;
 - A felony in which the defendant was armed with or used a deadly weapon;
 - A felony in which the defendant inflicted great bodily injury.

The bill also creates a process to allow a person to petition a board at any time for a decision on whether or not the individual's criminal record would disqualify him or her from licensure.

HB 386: Installment and Small Loan Maximum Interest (Herrera). The bill is the same as HB 375.

HB 393: Investment in Tax Stabilization Reserve Fund (Salazar). This bill would provide that the tax stabilization reserve consist of money directed or appropriated to it by law and all income from investment of the reserve. The state investment officer, subject to the approval of the state investment council, would invest money in the reserve:

- In accordance with the prudent investor rule set forth in the Uniform Prudent Investor Act; and
- In consultation with the state treasurer.

The state investment officer would report quarterly to the Legislative Finance Committee and the State Investment Council on the investments made pursuant to this section. Annually, a report would be submitted no later than October 1 each year to the Legislative Finance Committee, the Revenue Stabilization and Tax Policy Committee and any other appropriate interim committees.

HB 398: Oil, Gas and Vented Gas Royalties (Lente). This bill would declare that if any well on leased state trust lands produces in excess of (an amount determined in accordance with Section 19-10-4.4 NMSA 1978) barrels of oil per month or in excess of (an amount determined in accordance with that section) m.c.f. of gas per month during any reported calendar month, the royalty on oil and gas would be one-fourth, to be taken or paid as set forth above for the remaining term of the lease. The lessee would use all reasonable means to prevent the underground or above-ground waste of oil or gas and to avoid the physical waste, venting or flaring of gas produced from the leased premises. The lessee would pay royalty as on all oil or gas wasted, including but not limited to all gas vented or flared, spills, uncontrolled releases, theft and any other loss. Upon written request by the lessee, the lessor may, in its sole discretion, waive the royalty due for gas necessarily vented or flared on the lease.

HB 410: Liquefied Petroleum Limited Liability (Scott). This bill declares that no legal action will be commenced or maintained against a person engaged in this state in the business of selling at retail, supplying, handling or transporting liquefied petroleum gas if the alleged injury, damage or loss was caused by:

- The alteration, modification or repair of liquefied petroleum gas equipment or a liquefied petroleum gas appliance if the alteration, modification or repair was done without the knowledge and consent of the liquefied petroleum gas seller, supplier, handler or transporter; or
- The use of liquefied petroleum gas equipment or a liquefied petroleum gas appliance in a manner or for a purpose other than that for which the equipment or appliance was intended and that could not reasonably have been expected.

A person who follows the applicable procedures established by rules promulgated by the commission regarding the selling at retail, supplying, handling or transporting of liquefied petroleum gas will not be deemed to be grossly negligent or willful and wanton.

Senate Bills and Resolutions

SB 358: Tax Reform (Sharer). The bill would repeal the State Income Tax Act, the Corporate Income and Franchise Tax Act, the Estate Tax Act, the Motor Vehicle Excise Tax Act and several other state taxes. The bill also reduces the rate of gross receipts tax. The bill requires the Taxation and Revenue Department to adjust the gross receipts tax rate depending on the revenue collected from that tax. The bill also taxes internet sales. The bill expands the transactions that are subject to the gross receipts tax. The bill is purported to be revenue neutral.

SB 374: Local Choice Energy Act (Steinborn and Shendo). This bill would enact the Local Choice Energy Act, which would authorize local choice of energy providers. Customers within a municipality, county or tribal jurisdiction would have the right to aggregate their electric loads as members of their local community with a local choice energy provider.

SB 375: Tenancy Tax (Munoz). This bill would create the tenancy tax, meaning a tax on lodging authorized by the Lodgers' Tax Act when that lodging surpasses a term of thirty days. The tenancy tax will not apply:

- If the rent paid by a vendee is less than two dollars (\$2.00) a day;
- To lodging accommodations at institutions of the federal government, the state or any political subdivision thereof;

- To lodging accommodations at religious, charitable, educational or philanthropic institutions, including accommodations at summer camps operated by such institutions;
- To clinics, hospitals or other medical facilities;
- To privately owned and operated convalescent homes or homes for the aged, infirm, indigent or chronically ill; or
- If the vendor does not offer at least three rooms within or attached to a taxable premises for lodging or at least three other premises for lodging or a combination of these within the taxing jurisdiction.

SB 395: Uniform Probate Code (White). The bill revises the Uniform Probate Code in regard to protective arrangements. The Bill provides for certification of guardians and conservators. Section 13 (45-5-429) addresses the individual liability of a conservator.

SB 399: Wind Energy Production Tax Act (Salazar). This bill would enact the Wind Energy Production Tax Act for producing electricity from wind for sale or trade outside this state.

SB 400: Public Pension Changes (Munoz). This bill would enact a new section of the Public Employees Retirement Act. It would establish that on or before May 1 of each year, the retirement board would certify to the association the following actuarial valuation information as it applies to June 30 of the preceding calendar year and as it is projected by the association's actuary to apply to June 30 of the current calendar year:

- The funded ratio of the Public Employees Retirement Act plan;
- The amortization period of the Public Employees Retirement Act plan;
- The funded ratio of each coverage plan of the Public Employees Retirement Act plan; and
- The amortization period of each coverage plan of the Public Employees Retirement Act plan.

SB 402: MFA Funds for Youth Homelessness (Cisneros). This bill would appropriate \$413,000 to the Department of Finance and Administration for expenditure in fiscal years 2020 and 2021 to provide matching funds for the New Mexico Mortgage

Finance Authority for the \$3,370,000 grant for a youth homelessness demonstration program grant from the United States Department of Housing and Urban Development to address youth homelessness in New Mexico.

SB 419: Promote and Develop Cooperative Businesses (Ortiz y Pino). This bill would appropriate \$200,000 to the Economic Development Department for expenditure in fiscal years 2019 and 2020 to provide or contract for the provision of activities to promote and develop cooperative forms of business, including providing access to training and technical assistance to create and maintain cooperative businesses.

SB 421: Tax Reform (Cisneros). The bill is the Senate version of the House tax reform bill (HB 6) and contains a majority of those provisions contained in HB 6, including mandatory combined corporate income tax reporting, taxation of internet sales, taxation of nonprofit and government hospitals pursuant to the Gross Receipts Tax and increasing the rate of the motor vehicle excise tax.

SJR 1: PRC Election and Appointment (Wirth and Payne). This joint resolution proposes a constitutional amendment to replace the five-member elected Public Regulation Commission (PRC) with a PRC consisting of three elected members and two appointed members. The three elected members would be elected from each congressional district. Should the number of the state's congressional districts increase or decrease from the current three districts, then the legislature would establish the three districts from which the three PRC members would be elected. With regard to the two appointed members, they would be appointed by the governor with the advice and consent of the Senate. The appointed members may not be members of the same political party.

SJR 4: Transfer PRC from Elected to Appointed (Neville). This joint resolution proposes a constitutional amendment to replace the five-member elected Public Regulation Commission (PRC) with a five-member appointed PRC. The members would be appointed by the governor with advice and consent of the senate. Instead of election by district, the members would be appointed at large from the state.

SJR 8: Transfer of Probate Court Jurisdiction (Ivey-Soto). This joint resolution proposes a constitutional amendment to allow the legislature to provide county commissions the authority to close a probate court of the county and transfer its jurisdiction to a state court upon approval of the state Supreme Court.

SJR 10: Public Regulation Commission Membership (Wirth). This joint resolution proposes to a constitutional amendment to replace the five-member Public Regulation Commission (PRC) with a PRC consisting of three elected members and two appointed members. One member would be elected from each congressional district; provided that if there are more than or fewer than three congressional districts, the three

commission districts shall be established by law. One member would be appointed by the governor and one member appointed jointly by the president pro tempore of the Senate and the speaker of the House of Representatives. Members would serve four-year staggered terms; provided that, after serving two consecutive terms, members would be ineligible to hold office as commissioner until one full term has intervened.

SJR 16: Majority for Constitutional Amendments (Pirtle). This joint resolution proposes a constitutional amendment to require the approval of two-thirds of the members of each house of the legislature for passage of proposed amendments to the constitution instead of a majority.

Status of House Bills and Resolutions

HB 6: Tax Reform (J. Trujillo). House Tax and Revenue Committee.

HB 31: Minimum Wage (M. Garcia). House Commerce and Economic Development Committee.

HB 46: Minimum Wage (Caballero). House Commerce and Economic Development Committee.

HB 63: Hemp Study (C. Trujillo). House Appropriations and Finance Committee.

HB 75: Emergency Repairs of Homes Occupied by Low-Income Persons (Gonzales). House Appropriations and Finance Committee.

HB 97: Public Finance (Salazar). Passed House (68-0); Passed Senate (41-0).

HB 150: Installment and Small Loan Revisions (Louis). House Commerce and Economic Development Committee.

HB 163: Tax Deduction for Non-Resident Trust Beneficiary (J. Trujillo). House floor.

HB 172: Student Loans (Caballero). House Commerce and Economic Development Committee.

HB 191: UCC Secured Transactions (Cook). House Judiciary Committee.

HB 203: Economic Development (Small). Passed House (69-0); Passed Senate (41-0).

HB 214: Public Audits (R. Martinez). Tabled indefinitely.

HB 219: Angel Investment Tax Audit (Small). House Taxation and Revenue Committee.

HB 239: Children’s Saving Account (Romero). House Education Committee.

HB 247: Corporate Income Taxation (Chandler). House Consumer and Economic Development Committee.

HB 264: Paid Family Medical Leave (Chandler). House Consumer and Economic Development Committee.

HB 271: Liquor License Dispenser’s License (Montoya). House Consumer and Economic Development Committee.

HB 272: New Restaurant Liquor License (Montoya). House Consumer and Economic Development Committee.

HB 286: Public Projects (Lundstrom). House Labor Committee.

HB 293: Filing of Public Records (Nibert). House State Government, Elections and Indian Affairs Committee.

HB 296: Real Property Conveyances and Encumbrances (Nibert). House Consumer and Economic Development Committee.

HB 343: Liens (Powdrell-Culbert). House Local Government Committee

HB 356: Cannabis Regulation Act (J. Martinez). House Health Committee.

HJR 1: Early Childhood Education (Maestas). House Consumer and Economic Development Committee.

Status of Senate Bills and Resolutions

SB 6: Taxation (Wirth). Senate Corporations Committee.

SB 7: Affordable Housing (Wirth). Senate Public Affairs Committee.

SB 19: Liquor License Reform (Griggs). Senate Corporations Committee.

SB 36: Pre-Purchase Homebuyers Education Program (Padilla). Senate Corporations Committee.

SB 40: Regional Housing Authorities (Papen). Senate Finance Committee.

SB 56: Appraisal Management Company (Rue). Senate Floor.

SB 57: Public Audits (Rue). Senate Finance Committee.

SB 79: Liquor Licenses (Soules). Senate Corporations Committee.

SB 93: Municipal Liens (Tallman). Senate Public Affairs Committee.

SB 96: Employment of Ex-Convicts (O'Neill). Senate Judiciary Committee.

SB 160: Student Loan Bill of Rights (Tallman). Senate Education Committee.

SB 168: Business Entity Names (Sanchez). Senate Corporations Committee.

SB 169: Limit Liability Company (Sanchez). Senate Judiciary Committee.

SB 176: Consumer Privacy (Padilla). Senate Corporations Committee.

SB 210: New Liquor Licenses (Griggs). Senate Corporations Committee.

SB 212: Housing Trust Fund (Rodriguez). Senate Public Affairs Committee.

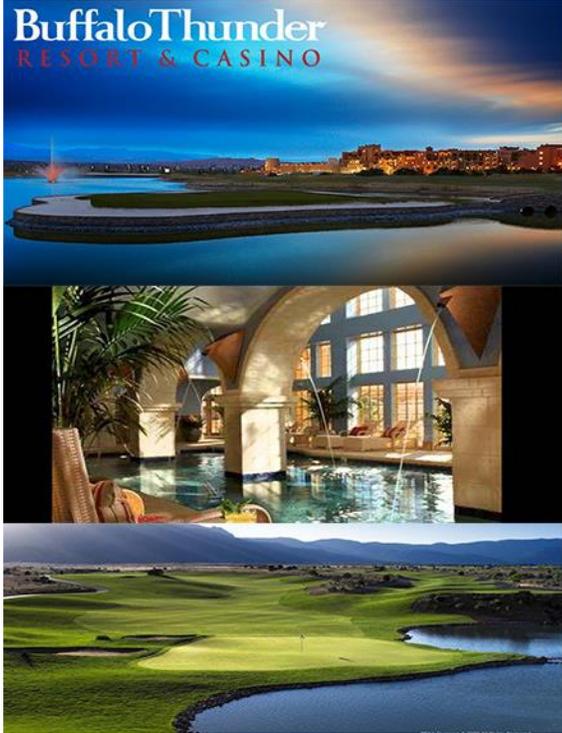
SB 217: Eminent Domain (Stefanics). Senate Conservation Committee.

SB 237: Surveyors Liability (Cisneros). Senate Corporations Committee.

SB 252: Local Government Investment Pool (Munoz). Passed Senate (39-0);
Tabled indefinitely.

SB 275: Increase Renewable Portfolio Standards (Stewart). Senate Conservation
Committee.

SB 335: Combined Reporting (Wirth). Senate Corporations Committee.



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New Mexico Bankers Association

*108th
Annual
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DETAILS TO FOLLOW