

Tax Matters

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OUT OF THE LEGISLATIVE SESSION – IT BEGAN JANUARY 19, 2016



The 2016 Regular Session of the New Mexico Legislature convened at noon on Tuesday, January 19, and ended at noon on February 18. The deadline for bill introduction was February 3. Legislation not acted on by the governor is pocket vetoed on March 9. The effective date of legislation that's not a general appropriation bill, a bill carrying an emergency clause or other specified effective date is May 18. Being a

“short” or 30-day session, non-budgetary legislation and items not related to the budget are not fair game and are limited by the call of the Governor. It is expected to be a very busy session, as there will be many high profile, contentious and painful issues on top of those dealing with the budget and revenue.

New Mexico has an uncompensated volunteer legislature comprised of a 70 member House of Representatives and a 42 member Senate. Legislative sessions alternate between 30-day budget related sessions in even numbered years, and unconstrained 60-day sessions in odd-numbered years.

There were 722 bills introduced in the 2016 regular session. Of the 722 bills, 378 are House bills, and the remaining 344 are from the Senate. Of those, 101 made it to the Governor for further action. Click [here](#) to see the daily bill locator on the legislative website. We have our list of tax related legislation having passed both chambers below.

The Legislative Council Service maintains copies of bills, compiles locators, and publishes lists of bill conflicts during the course of the session. Most information is available in a timely and electronic fashion from their rather robust website, which can be reached at <http://legis.state.nm.us/lcs/>. The site has become increasingly functional and reliable over time. Information is reasonably up to date and legislation can be easily followed from home.

Legislative Post-Mortem...

What Just Happened?



While it didn't exactly come in like a lion, the 2016 legislative session in New Mexico pretty much went out like a lamb. The pace was never fast although much proposed legislation beyond the scope of a normal budget session was introduced. Being in an election cycle, there was no shortage of red meat for all. Not a whole lot was accomplished in regards to those issues, although a few crime bills were passed and legislators agreed on a compromise that will make New Mexico drivers licenses Real ID compliant.

Of the 722 bills introduced, only 101 bills passed both chambers (49 House and 51 Senate bills). As for tax bills, as predicted few proposals made it to the Governor's desk at all, and none carry a negative fiscal impact to the general fund. By our count, there were three Senate and three House bills to pass both houses that were tax related. Representative Carl Trujillo's [HB 249](#) conforms certain NM state tax deadlines that was prodded by recent federal changes in tax return due dates. Another bill, Senator Clemente Sanchez' [SB 47](#), would impact certain centrally assessed utilities by excluding from valuation certain property contributed or acquired with contributed funds for power distribution or transmission related activities. Senator Payne's [SB 19](#) proposes to shield emergency responders from corporate, personal, use, and property taxes to the extent they're here during a declared emergency. That proposal is similar to those being passed in other states. Chairman Larranaga proposes to make adjustments to dampen the effects of formulary adjustments resulting in recent state unemployment costs increasing – quite significantly in some cases for some employers – in his [HB 283](#). Representatives Spence Ezell and Wooley propose to add “minimum revenue guarantee payments” for air service by municipalities to the narrow list of things that Lodgers Tax revenue can be used for ([HB 192](#)). Finally, Senator John Ryan's [SB 211](#) proposes minor technical changes to the Film Production Tax Credit Act and the Tax Administration Act necessitated mostly by recent law changes (it makes no substantive changes otherwise).

As for the budget, the legislature did fulfill their primary obligation and passed one. The saga of declining oil prices could be seen in the consensus revenue forecast revisions, going from \$293M of new money in August, to \$232M in December (usually the last revision and used for purposes of crafting the budget), to \$30M (keeping in mind \$80M or so was needed to cover increasing Medicaid costs). Finally, another \$125M was taken out of the budget, but with no layoffs or apparent drastic cuts necessary - yet. Fund balances are being swept and the reserves will more than likely shrink – possibly to as low as 3-4% or worse if things really got bad. There is a provision, if the consensus revenue forecast falls further, requiring one-percent (mostly) across the board cuts (“sanding”) in 2017, .5% for 2016, but they don't include significant healthcare spending and may not be sufficient in a worst case scenario to bridge funding gaps.

In contrast to last year, the legislature did manage to accomplish something they almost always do – passage of a capital (“pork”) bill.

What Didn't Happen?



On the topic of what didn't get done, we can start with tax reform – but that's not ready for prime time but still a topic of conversation. Senator Sharer introduced a variation of his reform proposal from last year, but it only served to keep the conversation alive. The revenue concerns kept other tax proposals from happening. Around 22 tax credit proposals failed to pass (not to mention other cuts). Many will be back next year. Tax increases also didn't happen although conversations got more serious given the financial circumstances. They also failed to bail out our struggling road fund. Prior year notions of redirecting the motor vehicle excise tax to the road fund seemed fall away in correlation with the falling price of oil. The lottery also remains unfixed, as of course to a host of social and education problems

beyond the scope of this publication. All will be back for conversation in the 60-day session next year.

What Happens Next?



Of the 101 bills on the Governor's desk, only 1, House Bill 1 (the “feed bill”) has been signed. If the Governor fails to act on legislation timely, it's pocket vetoed on March 9. The tax proposals on Governor Martinez' desk can be found in the table below. While some bills and capital items are likely to suffer the veto pen, the tax proposals are non-controversial.

Of greater interest will be the ongoing saga of the budget, forecast, and price of oil. That will answer the question of whether a special session will be called, or mandatory sanding measures invoked.

{NMTRI note: while there will be some veto's, we don't expect any real excitement until the answers to the questions around the much mentioned revenue situation becomes more clear. The next forecast will quit likely result in “sanding” if things don't change. We suspect most, if not all, of the tax proposals will be signed}.

Join us weekly through the session as we try to provide balanced policy analysis, commentary and discussions of the tax and budget proposals that implicate tax policy in New Mexico.

Bills with significant tax or revenue implications passing both houses in 2016 Legislative Session:



Note – in the table below, if no effective date is mentioned, the bill lacks one and would take effect upon enactment, May 18, 2016. Effective date for GRT and other non-income tax bills is July 1, 2016 unless otherwise noted. Income Tax bills are effective tax years beginning on or after January 1, 2016 unless otherwise noted. “TYBA” = Tax years beginning on or after. Other notes: “CS” indicates committee substitute; “a” indicates amended

Bill Number/ Sponsor:	Title: Link to bill language: Description	Assignments- Location:
HB 192 Spence Ezell/Wooley	Lodgers Tax For Tourism Services: HB 192 Adds “minimum revenue guarantee” for air service to the list of eligible use of tax proceeds in the lodgers tax.	Passed
HB 249 Carl Trujillo	Corporate Income Tax Due Dates with Federal Law: HB 249 Changes personal and corporate income tax filing deadlines to conform to federal deadlines (recently changed) by pointing to the federal due dates rather than a specific month.	Passed
HB 283 Larranaga	Unemployment Compensation Contribution Rates: HB 283 Make adjustments to dampen the effects of formulary adjustments resulting in recent state unemployment insurance costs increasing for some employers	Passed
SB 19 Payne	Disaster Response Tax & Licensure Exemptions: SB 19 Amends the personal income tax act to add certain emergency responders to the list of those allowed to allocate certain NM earned income to their state of domicile. Also creates a new section of the tax administration act designed to define certain declared emergencies and exempt from tax those in the state, and their assets, for only that purpose.	Passed
SB 47 Clemente Sanchez	Utility Facility Property Tax Valuation: SB 47 For certain centrally assessed utilities, excludes from valuation certain property contributed or acquired with contributed funds for certain power distribution or transmission	Passed
SB 211 Ryan	Conform Tax Language to References in Law: SB 211 Makes minor technical changes to the tax administration act and the film production tax credit act.	Passed

**HOLD THE DATE AND MARK YOUR CALENDARS NOW –
13TH ANNUAL NMTRI TAX POLICY CONFERENCE IS
COMING!**

The Thirteenth (can you believe it?) Annual NMTRI Tax Policy Conference and annual members meeting will be held at the Sandia Resort and Casino in Albuquerque April 28-29th. You will be inundated with details shortly! We look forward to seeing you there!

TAX QUOTABLES

"We stand today at a crossroads:
One path leads to despair and utter hopelessness.
The other leads to total extinction.
Let us hope we have the wisdom to make the right choice."

~Woody Allen

"The nation should have a tax system that looks like someone designed it on purpose."

~ William Simon

[NMTRI note: the same is true of the states...]

DON'T FORGET THE PRINCIPLES



It's important, particularly when dealing with tough economies, tough decisions, and the emotionally charged subject of taxes, to view the world in the context of principles. Taxes are good in that they raise the money we need to pay for the services we need. They can also be bad if they create inefficiencies, distortions, or inequities. It's a more rational approach to look at our entire tax system rather than getting lost in the weeds focusing only on a particular rate or some item we choose to tax or not tax. We must raise the revenue we need for government (putting aside the debate over how much) while doing the least harm to the economy and to those things we need most (e.g. job creation) while being fair and protecting the most vulnerable in our communities. Accordingly, we've taken the opportunity to reprint our principles of good tax policy here:

- State and local taxes should be adequate to provide an appropriate level of those goods and services best provided by the public sector, such as education, public safety, law enforcement, streets and highways, and the courts.
- State and local tax policy should do the least harm to the private economy. Therefore, tax bases should be as broad as possible so that tax rates can be as low as possible in order to raise the necessary revenues.
- State and local tax policy should be fair and equitable towards individuals and businesses similarly situated. Individuals with the same income level should be taxed the same. Businesses engaged in similar commercial activities should be subject to the same level of taxation.
- State and local tax policy should not be costly to administer and should be easily understood by taxpayers so as to minimize taxpayer compliance costs.
- The state and local tax burden should be evaluated on the basis of the impact of all taxes levied on a given taxpayer, not just a single tax or tax rate.
- Deviations from established tax policy in pursuit of economic development, social or other goals should be well-reasoned and pursued only when established tax policies are not significantly undermined and the results of such deviations can subsequently be measured and evaluated.



COMMENTS: Your suggestions and comments on this newsletter, the conferences (past or future), the Distinguished Lectures Series, our research or any aspect of NMTRI's operation and programs are welcome. Please send them to richard.anklam@nmtri.org, call 505-269-6791 or mail them to P.O. Box 91657, Albuquerque, New Mexico 87199-1657. We genuinely solicit your input and thank you for your support.



"The power to tax involves the power to destroy" - *McCulloch v. Maryland*, 17 U.S. 316 (1819), Chief Justice John Marshall.

"Taxes are what we pay for civilized society" *Campaña General de Tabacos v. Collector*, 275 U.S. 87, 100 (1927), Justice Oliver

Wendell Holmes, dissenting.
Join NMTRI today!