

Tax Matters

The Newsletter of the New Mexico Tax Research Institute

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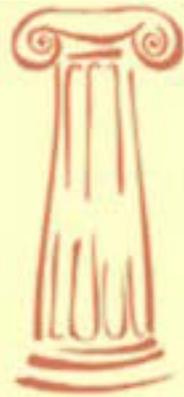
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IN THIS “LEGISLATIVE SESSION” ISSUE OF *TAX MATTERS*:



- **HOLD THE DATE – NMTRI Annual Tax Policy Conference April 27 and 28 at Sandia Resort and Casino**
- **Into the Legislative Session**
- **Don't Forget the Principles**
- **List of Tax Related Legislation**
- **Tax-pectations for the Session**
- **Knick Knacks**
- **Tax Quotable**

**HOLD THE DATE AND MARK YOUR CALENDARS NOW –
14TH ANNUAL NMTRI TAX
POLICY CONFERENCE IS COMING!**



**NEW MEXICO
TAX RESEARCH
INSTITUTE**

The Fourteenth (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 27-28th. You will be inundated with details shortly! We look forward to seeing you there!

INTO THE LEGISLATIVE SESSION – IT BEGAN - JANUARY 17, 2015



The 2016 Regular Session of the New Mexico Legislature convened at noon on Tuesday, January 17, and ends at noon (or somewhere thereabouts) on March 18. The deadline for bill introduction is February 16. Legislation not acted on by the governor is pocket vetoed on April 7. The effective date of legislation that's not a general appropriation bill, a bill carrying an emergency clause or other specified effective date takes

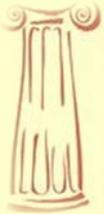
effect on June 16. Being a "long" or 60-day session, non-budgetary legislation and items not related to the budget are fair game and not limited by the call of the Governor as they are in short 30-day sessions. It is already a very busy session, as high profile and contentious issues in the wake of an election cycle that re-installed the Democratic majority in the House, not to mention the significant turnover in general membership and Peter Wirth replacing Michael Sanchez as Senate Majority Leader – may make things even harder but more interesting.

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.

Click [here](#) to see the daily bill locator on the legislative website. We have our list of introduced tax related legislation in 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 <https://www.nmlegis.gov/>. The site has become increasingly functional and reliable over time. Information is reasonably up to date and legislation can be easily followed from home.

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.



Tax-pectations for the Session

The 60-day session has arrived. In addition to a new year, we have several new members of both houses, as well as a new Democratic leadership in the House. Not being a “budget only” 30-day session, not just tax/budget issues and the controversy they bring are fair game, but so are other controversial issues, such as those we’ve seen from prior sessions that we’re sure to see again, like social promotion, crime, education, and minimum wage will come up.

This year however, all of the oxygen in the room will be consumed by matters of budget – or lack thereof – and taxes to a lesser extent. The beginning of most 60-day sessions is slow, and full of pomp and circumstance. This year however, the fact the state was in a deficit position for the current fiscal year we’re more than half-way through - even after the October Special Session – which was intended to fix just that – meant that the first week and half of this session were really a second special session on 2017 solvency. The December consensus revenue forecast had the legislature \$141 million short for 2017, and 2018 has a deficit of \$93M under 2017 appropriations (“negative new money”), and that doesn’t address increasing Medicaid and other costs, not to mention the need to budget for some money in reserve so we don’t have to have yet another special session on solvency again soon. The December consensus revenue estimate can be found on the LFC website [here](#).

[NMTRI Note: The forecast may be revised and cases for adjustments in both directions likely could be made, but the only good news we’re aware of (slow strength in the Permian) has already been baked in – so don’t hold your breath on manna from heaven...]

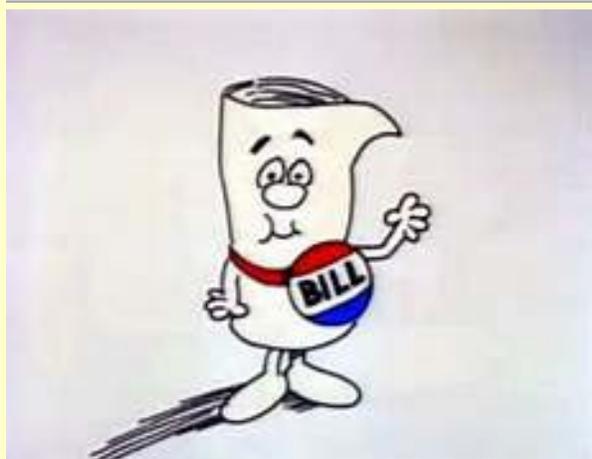
The 2017 solvency discussions were fairly cordial, in part because they were collectively sweeping, swapping, and deferring every dollar they could to cover the current year deficit. Taxes and/or more really painful cuts were never really a part of that conversation, because it was too late for those to be effective tools in the current year. Now, there aren’t any pennies left in the couch, we’re already flying on fumes, and the conversation is going to be nothing but budget and taxes for 2018. In her Executive budget (found [here](#) on the Governor’s website) Governor Martinez’s proposes to further reduce spending across government, and proposes requiring state workers to contribute more for their retirement, saving the state the portion on whatever was swapped. She argues it can be done without new taxes and has threatened to veto any such increases. Democrats in particular have strongly suggested revenue enhancements must be a part of the solution. The debate has really just barely begun.

[NMTRI note: “loopholes” might be acceptable revenue enhancements for both parties, but what they are may be in the eyes of the beholder...]

Thanks For Reading

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. Of course, tax proposals – particularly bad ones – tend to be regurgitated (so to speak) from year to year. So, merely recalling what’s been introduced (but failed to pass) in recent years will give you some idea of what will be introduced again. For confirmation of that, all you need do is scroll down to the table of bills already introduced below.

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Bills with significant tax implications introduced in 2017 Regular Legislative Session:

Note – Income Tax bills are effective tax years beginning on or after January 1, 2018 unless otherwise noted. “TYBA” = Tax years beginning on or after. Bills with an emergency clause are effective upon signature if enough votes are obtained. Bills with no effective date Other notes: “CS” indicates committee substitute; “a” indicates amended.

Bill Number/ Sponsor:	Title: Link to bill language: Description	Assignments- Location:
HB 8 Dodge/Lunds trom	Eliminate Cigarette Tax Distribution HB 8 Eliminates the 1.25% distribution to the NMFA from Cigarette Tax revenues. Associated bonds have been retired.	HRPAC/HW MC-HRPAC
HB 48 Maestas Barnes	Small Business Income Tax Deduction: HB 48 Creates a personal income tax deduction for Schedule C or E business income, of up to 50% up to \$250K in income (50% for the first \$50K, 40% for the 2 nd 50K, etc.)	HBIC/HTRC- HBIC-DP- HTRC
HB 55 C Trujillo	Liquor Tax to DWI Grant Fund & Drug Courts: HB 55 Makes permanent a previous temporary increase in distribution to the local DWI grant fund of 46%. The proposal also adds a 4% distribution to the administrative office of the courts.	HLELC/HTR C-HLELC- DP-HTRC
HB 61 Maestas Barnes	Extend Solar Market Tax Credit: HB 61 Reinstates the recently sunsetted Solar Market Development Tax Credit, but phases the credit amount down from 10% to 5% in 1% annual increments from 2019-2025.	HLEDC/HTR C-HLEDC- DP-HTRC
HB 63 Crowder/Go nzales	Local Option Fuel Tax: HB 63 Renames and expands the County and Municipal Gasoline Tax Act to apply to all municipalities and counties, and allows the inclusion of special fuel (diesel) in the tax program.	HLELC/HTR C-HLELC- DP-HTRC
HB 68 Garcia/T Salazar	Rural Healthcare Practitioner Tax Credit: HB 68 Changes the present law credit to	HHHC/HTRC -HHHC-DP- HTRC
HB 76 J Trujillo	Estate or Trust Distribution Tax Deduction: HB 76 Creates a deduction from trust income for distributions to non-New Mexico beneficiaries. Excluded from the deductions are those things, with the exception of business income, would otherwise not be subject to NM income tax if earned in NM by a nonresident.	HHHC/HTRC -HHHC-DP- HTRC
HB 82	Extend Solar Market Tax Credit: HB 82	HTPWC/HW

McQueen	Reinstates the recently sunsetted Solar Market Development Tax Credit, but phases the credit amount down from 10% to 5% in 1% annual increments from 2019-2025.	MC/HAFC- HTPWC
HB 89 McCamley Martinez	Cannabis Revenue & Freedom Act: HB 89 Creates several Acts and regimes for the purpose of regulating and taxing recreational cannabis. The tax portion imposes a statewide tax, distributed to public schools, in the amount of 15%. The proposal provides for 5% general purpose local option taxes for municipalities and counties that can be approved by the governing bodies without voter approval.	HCPAC/HBI C/HAFC- HCPAC
HB 96 Baldonado	Hospital Tax Levy Petitions for Action: HB 96 Provides that services called for in ballot measures may not begin less than seven years after the ballot measure, but must begin within four years unless otherwise stated. If services have not commenced timely, any elector or owner may petition the requirement of the services begin, alternative approved use of the funding, or request a refund of the taxes.	HHHC/HTRC -HHHC-DP- HTRC
HB 102 Rehm	Marijuana Tax Act: HB 102 Creates a new act that creates registration and recordkeeping requirements for marijuana production, distribution and sale. The proposal imposes a \$25/ounce tax on medical marijuana sales (the proposal does not address recreational sales/use)	HBIC/HTRC/ HAFC-HBIC
HB 117 Caballero	Supplemental Income Tax: HB 117 Effectively creates a higher tier tax bracket for those earning over \$100/150K (single/family) that increases the top rate .3% in 2017, .5% in 2019, .8% in 2019, and 1% in 2020 where it becomes permanent.	HLEDC/HTR C-HLEDC
HB 148 Alcon, Wooley, Johnson	Native American Income Tax Settlement Fund: HB 148 Creates an appropriation for the Native American veteran's income tax fund" to pay claims past the time limit on state taxes withheld from native servicemen and/or spouses that wasn't previously refunded.	HSIVC/HAF C-HSIVC
HB 152 Thomson	Tax Expenditure Budget: HB 152 Requires tax expenditure and dedicated revenue reports from the consensus revenue estimating group by October 15 of every year	HSIVC/HTR C-HSIVC
HB 167 Little	Car Excise Tax To Road Fund: HB 167 In 25% increments over 4 years, the proposal moves 100% of motor vehicle excise tax distributions from the general fund to the road fund.	HTPWC/HTR C-HTPWC
HB 169 Little	Income Tax Deductions: HB 169 Eliminates the exclusion from personal income tax itemized deductions for state and local personal income or sales taxes paid.	HCPAC/HBI C/HTRC- HCPAC
HB 176 Ezell, Nibert, Wooley	Muni Enviro Services Gross Receipts: HB 176 Expands the uses of and renames the municipal environmental services gross receipts tax increment (to "municipal infrastructure and environmental gross receipts...)	HLELC/HTR C-HLELC
HB 184 Youngblood	Property Tax Revenue To Charter Schools: HB 184 Requires treasurers to report to charter schools and school districts the amounts share of tax due the charter school and requires the school	HEC/HTRC- HEC

	district to distribute that share to the charter school if the money goes to it first.	
HB 192 Ely, McCamley	Film Tax Credits & Residency: HB 192 Removes the \$50M program cap and instead provides for the cap to be indexed to the CPI (i.e. 53.8M in 2018)	HBIC/HTRC- HBIC
HB 193 Ely	Solar Market Tax Credit Permanent: HB 193 Expands and makes permanent the recently sunsetted credit, increase the prior \$2M annual cap to \$5M, and increases the credit percentage from 10% to 15% for those making less than \$43,871 in taxable income. Extends the credit to corporate income taxpayers.	HBIC/HTRC- HBIC
HB 202 Carl Trujillo	Tax of Business Without Physical Presence: HB 202 Narrows engaging in business for purposes of the GRT to not include those without nexus and unregistered with less than \$100K sales in NM, changes the definition of place of business to include the buyers location in the case of those selling goods or services with no other place of business in NM	HBIC/HTRC- HBIC
HB 249 Martinez, Ferrary, Small,	College Special Event Gross Receipt: HB 249 Extends the gross receipts tax deduction for NMSU's Pan Am Center (only) and creates a new governmental gross receipts tax deduction for the same purpose.	HEC/HTRC- HEC
HB 266 Carl Trujillo	Short-Term Rental Occupancy Tax: HB 266 Effectively expands the lodgers tax act by striking the limitation that three or more units be available (expanding scope to single-unit rentals)	HBIC/HTRC- HBIC
SB 1 Wirth	Unitary Group Combined Reporting: SB 1 Requires mandatory unitary combined reporting on a waters edge basis. Provides elections for alternate worldwide combined and nexus-consolidated filing groups.	SCORC/SFC- SCORC
SB 50 O'Neill	Electric Vehicle Income Tax Credit: SB 50 Restores the top 8.2% personal income tax rate	SCORC/SFC- SCORC
SB 94 Papen	Nonathletic Event Gross Receipts: SB 94 Extends the gross receipts tax deduction for NMSU's Pan Am Center (only) and creates a new governmental gross receipts tax deduction for the same purpose.	SCORC/SFC- SCORC
SB 95 Sanchez	Gas Tax Increase & Distribution: SB 95 Increase the gasoline tax by 10 cents and the special fuel (diesel) tax by 5%, reducing distribution percentages commensurately to hold consistent distributions to smaller fund beneficiaries	SCORC/SFC- SCORC
SB 100 Pirtle	Payments to Partners Gross Receipts: SB 100 Clarifies that payments of guaranteed payments to partners to	SCORC/SFC- SCORC
SB 123 Sharer	Tax Reform: SB 123 Proposes a broad elimination of gross receipts tax exemptions and deductions, reduces rates.	SCORC/SFC- SCORC
SB 131 Smith, Gonzalez	Gas Tax, Road Fund & Distributions: SB 131 Increases the gasoline and special fuels taxes by 10 cents/gallon until 7/1/19, at which time the rate would be indexed to the chained price	SCORC/SFC- SCORC

	index. Distributions are adjusted, and a new fund is created. Half of new revenue is shared with local governments for road maintenance, and the other half can be used for up to five years for general fund reserves.	
SB 132 Smith, Gonzalez	Gas Tax, Road Fund & Distributions: SB 132 Increases the gasoline and special fuels taxes by 10 cents/gallon until 7/1/19, at which time the rate would be indexed to the chained price index. Distributions are adjusted, and a new fund is created. Half of new revenue is shared with local governments for road maintenance, and the other half can be used for up to five years for general fund reserves.	SCORC/SFC- SCORC
SB 138 Candelaria	Enrolled Agents At Tax Protests: SB 138 Amends the Tax Administration Act to allow enrolled agents to represent taxpayers in matters beyond income taxes.	SCORC/SFC- SCORC
SB 181 Shendo	Colleges As Tax Refund Intercept Claimants: SB 181 Adds the higher education department to the definition of “claimant agency” for purposes of refund offset in the NMTRD tax refund offset program.	SCORC/SFC- SCORC
SB 196 Campos	Small Business Investment Tax Credit: SB 196 Creates a personal income tax credit on qualified investments in NM not to exceed 25% of a qualified investment not to exceed \$250K. The credit may be carried forward for 5 years and the program has a \$2M annual payout cap (first come...)	SCORC/SFC- SCORC
SB 199 Smith	Delay Certain Tax Changes: SB 199 Restores last year’s corporate income tax rate and single sales factor election percentage (HQ) to last year’s levels, and freezes them until 2019	SCORC/SFC- SCORC
SB 231 Morales	Increase Cigarette & E-Cigarette Taxes: SB 231 Slightly more than triples the tobacco products tax, and includes e-cigarette and other tobacco smoking devices not currently taxable (i.e. pipes, papers, etc.). Also, the proposal almost doubles the cigarette tax.	SCORC/SFC- SCORC
SB 232 Ortiz y Pino	Carbonated Beverage Gross Receipts: SB 232 Specifically excludes “carbonated beverages” from the definition of “food” for purposes of the GRT food deduction found in 7-9-92.	SCORC/SFC- SCORC

KNICK KNACKS

NMTRI to Publish New Study

NMTRI is also working on finalizing the 2015 and 2016 study endeavoring to answer the question of exactly how much does the oil and gas industry contribute to New Mexico coffers? Retired but always serving former chief economist from the New Mexico Taxation and Revenue Department and Department of Finance and Administration, Laird Graeser, has served as our primary researcher and has done yeoman's work to compile the voluminous data involved in such a mammoth undertaking. The 2014 and prior year study can be found on our website [here](#).

Here's the preliminary results for the general funds share of oil and gas contribution: The fall in GF percentage (35% high water mark in 2015) is not at all unexpected given what we've seen in that industry, falling to 33% in 2015 and 28% in 2016 (of a smaller general fund too). Stay tuned for the final report soon.

	FISCAL YEAR 2015			FISCAL YEAR 2016 (Unaudited)		
	Actual	OGAS Share	OGAS %	Estimate	OGAS Share	OGAS %
Gross Receipts	\$2,095.15	\$186.43	8.9%	\$1,975.40	\$96.21	4.9%
Compensating	\$71.84	\$17.42	24.2%	\$46.90	\$11.27	24.0%
Net Personal Income	\$1,339.71	\$134.59	10.0%	\$1,327.10	\$59.43	4.5%
Net Corporate Income	\$254.48	\$48.00	18.9%	\$118.50	\$20.15	17.0%
Oil & Gas School Tax	\$375.42	\$375.42	100.0%	\$236.80	\$236.80	100.0%
7% Oil Conservation	\$20.09	\$19.69	98.0%	\$11.40	\$11.17	98.0%
Natural Gas Processors	\$18.59	\$18.59	100.0%	\$20.40	\$20.40	100.0%
Land Grant Perm. Fund Incom	\$502.76	\$486.40	96.7%	\$555.08	\$537.02	96.7%
Earnings on State Balances (\$17.01	\$5.37	31.5%	\$21.60	\$6.81	31.5%
Sev Tax Perm. Fund Income	\$182.72	\$158.25	86.6%	\$193.51	\$167.59	86.6%
Federal Mineral Leasing	\$542.18	\$523.00	96.5%	\$390.00	\$376.00	96.4%
Land Office Income	\$42.23	\$28.72	68%	\$47.80	\$32.50	68%
Miscellaneous Receipts	\$56.15	\$1.23	2.2%	\$48.10	\$1.23	2.6%
Reversions	\$51.49	\$15.45	30.0%	\$54.20	\$16.26	30.0%
TOTAL Recurring Revenues	\$6,194.70	\$2,018.55	32.6%	\$5,708.78	\$1,592.85	27.9%

TAX QUOTABLES

“Like mothers, taxes are often misunderstood, but seldom forgotten.”

~ Lord Bramwell

“Tax reform is taking the taxes off things that have been taxed in the past and putting taxes on things that haven't been taxed before.”

~Art Buchwald



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!