

Tax Matters

The Newsletter of the New Mexico Tax Research Institute

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HOLD THE DATE AND MARK YOUR CALENDARS NOW – 12TH ANNUAL NMTRI TAX POLICY CONFERENCE IS COMING MAY 7-8!

The TWELTH (can you believe it?) Annual NMTRI Tax Policy Conference and annual members meeting will be held at the Sandia Resort and Casino in Albuquerque May 7-8th. You will be inundated with details shortly! We look forward to seeing you there!

OUT OF THE LEGISLATIVE SESSION – IT BEGAN JANUARY 15, 2015



The 2015 Regular Session of the New Mexico Legislature convened at noon on Tuesday, January 20, and ends at noon (or somewhere thereabouts) on March 21. The deadline for bill introduction was February 19. Legislation not acted on by the governor is pocket vetoed on April 10. 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 19. Being a “long” or 60-day session, non-budgetary legislation and items not related to the budget were fair game and not limited by the call of the Governor as they are in short 30-day sessions. As expected, we saw high profile and contentious issues debated while other proposals languished. In the wake of an election cycle that re-installed Governor Martinez, not to mention created the significant turnover in the House membership – not to mention the change to majority status for the Republicans, have been the minority for over 60 years – made things a bit 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.

House members pre-filed 144 bills, while Senate members pre-filed 207 bills (usually you see more bills from House members but the turnover may well account for apparent shift). The Senate actually ended up introducing more bills this year than in the last 60-day session (642 in 2013), while the House did not (675 in 2013) before the end, the 19th, when the deadline for bill introduction passed. There were 639 House and 726 Senate bills introduced in the 2015 regular session. It should be noted with 28 more members than the Senate, the House was quite restrained with fewer bills introduced than the Senate. The 2015 legislative bill locator, which is a list of all bills, resolutions, and memorials introduced in the House or Senate, can be found [here](#). 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 or office.

The Last Gasp... What Just Happened?



While it didn't exactly come in like a lion, the 2015 legislative session in New Mexico pretty much went out like a lamb. The pace was never fast – some suggest intentionally. Still, budget deals were cut and the House compiled a tax package. The House produced a budget which the Senate amended. The House concurred and the Senate got their half (of the gaming compact revenue - \$5M) via their amendments. Then, things went south. The House amendments to

the capital outlay bill proved unacceptable to the Senate. Part of their objection was the use of the Governor's share of capital money on road funding (as opposed to fuels taxes or general fund). The Senate did not concur with the tax proposal from the House in the form of [SB 386](#) (see below). We counted eighteen tax proposals to make it to the Governor's desk. From a fiscal perspective, as expected, not a lot happened as the money was in the House proposal and most other proposals were "free" (like extending a tax break in the GRT for military acquisition programs that don't currently exist – as far as we know see Senator Burt's [SB 448](#)).

Although we only counted 18 or so tax provisions to make it to the Governor's desk, many more got close. Of greatest note from a policy perspective perhaps is the passage of Senator Jacob Candelaria's [SB 356](#), which creates a much more independent hearing officer process (it severs the bureau from the Taxation and Revenue Department and attaches them - administratively only – to the Department of Finance and Administration). Senator Munoz managed to pass his proposal to slightly broaden the ownership and control restrictions in the gross receipts tax deduction for intercompany expense allocations ([SB 302](#)). The "compromise" between local governments and the taxation and Revenue Department regarding softening the blow of some negative tax distributions – the subject of ongoing litigation – passed in similar House and Senate versions (see Senator Ingle's [SB 669](#) and Representative Dodge's [HB 581](#)). A table of all of the tax related proposals to pass both houses and make it to the Governor's desk is below. She has until April 10 to act on the proposals.

[NMTRI note: at least in recent history, the legislature sometimes takes it's time, but it does tend to get its biggest job – the budget – done. Also, while we sometimes take a slightly pithy or cynical perspective of the process, it's important to remember the process itself is by design slow and tedious. The legislative process is the sand in the wheels of progress – and that's not always a bad thing. For every good idea there are lots of not-so-good ones, and political expediency often yields the worst legislation. Even good policy requires extensive vetting to be well crafted and properly implemented. So, thank your elected officials for their hard work and a job well done.]

What Didn't Happen?



The answer is of course “not much” as not much could happen – beyond the almost free provisions in the table below - with otherwise only \$5M to spend. We mentioned previously that the House Ways and Means committee met, heard Senator Ingle’s [SB 386](#) (which expands existing refund authority in the Special Fuels Suppliers and Gasoline Tax, and Petroleum Products Loading Fee Acts to include certain situations where tax is paid more than once on the same gallons of fuel), and tacked an amendment onto the bill inserting a handful of provisions with an overall negative fiscal impact totaling around \$5M. The proposal passed the House floor and went to the Senate for concurrence. That never happened. Still, you’ll likely see at

least some of the proposals again. One consequence of its failure is that the “now it’s codified, now it’s not” unreimbursed medical expense personal income tax deduction no longer exists.

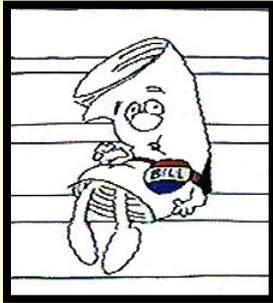
The equivalents of the following bills were included in the amendment to SB 386 in the House Ways and Means Committee:

Description	Same/similar to:
Angel Investment Credit Minimum Investments	HB 261
Unreimbursed Medical Deduction	HB 351
Change Certain Tax Filing Due Dates	HB 344
Single Sales Factor for Corporate Income	HB 286
Border Zone Trade-Support Gross Receipts	SB 332
U.S. Department of Defense Energy Gross Receipts	HB 94 ; SB 502
Technology Jobs and Research and Development Tax Credit	HB 230
Estate or Trust Distribution Tax Deduction	HB 406

Thanks for Reading!

Join us weekly through the session as we try to provide balanced policy analysis, commentary (occasionally pithy) and discussions of the tax and budget proposals that implicate tax policy in New Mexico. We’ll have a lot more of that this year.

Bills with significant tax or revenue implications passing both houses in the 2015 Legislative Session:



Note – in the table below, if no effective date is mentioned, the bill lacks one and would take effect upon enactment, June 19, 2015. Effective date for GRT and other non-income tax bills is July 1, 2015 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 39 J Trujillo	Tax Refunds for Senior Services: HB 39 Provides for a another option designate a portion of a refund: in this case to donate all or a specified portion of one’s personal income tax refund to the North Central New Mexico Economic Development District for purposes of supplementing statewide senior services.	Passed
HB 204 Carl Trujillo	Liquor Excise Tax Distributions: HB 204 Increases distribution percentage to the local DWI grant fund from 41.5% to 46% until 6/18, after which it returns to 41.5%	Passed
HB 216 Jim Trujillo	Assignment of Film Production Tax Credits: HB 216 Provides for the assignment of film credits to financial institutions provides they have a legal tax filing obligation in New Mexico.	Passed
HB 218 Gallegos/C Sanchez	Delinquent Tax Electronic Levy Warrants: HB 218 Provides authority for electronic levies to be served on financial institutions.	Passed
HB 296 Maestas- Barnes	Solar Energy Installation Lease Tax Credit: HB 296 Expands the solar market development tax credit to include leases of solar photovoltaic and thermal solar systems, rather than just purchases as provided for in present law.	Passed
HB 581 Dodge	Local Option GRT Distribution Adjustments: HB 581 Makes changes to local government tax distribution rules particularly in the context of refunds and situations resulting in materially reduced/negative distributions, addresses reporting, changes taxpayer confidentiality provisions and provides that that taxpayer may waive a local governments repayment obligations.	Passed
SB 104 Sharer	Installments for Delinquent Property Taxes: SB 104 Allows county treasurers to act as agents for the states in collecting delinquent property tax payments from installment agreements. <i>Endorsed by the interim Revenue Stabilization and Tax Policy Committee.</i>	Passed
SB 105	County Gross Receipts for School Improvements: SB 105	Passed

Martinez	Allows Class B counties (counties besides the largest five, De Baca, Harding and Los Alamos), with populations less than 45K to impose a 3/4% GRT increment for the purpose of paying penalty and interest on revenue bonds issues for purposes of funding certain public and charter school capital spending. The increment would be subject to voter approval.	
SB 112 Cisneros	Define Agricultural Use for Property Tax: SB 112 Expands the definition of “agricultural use” for property tax purposes to include land used to raise or keep horses and certain resting of land. <i>Endorsed by the interim Revenue Stabilization and Tax Policy Committee.</i>	Passed
SB 271 Munoz	Out-of-State Event Gross Receipts: SB271 Modifies the imposition of the governmental gross receipts tax to clarify the activities it is imposed upon occur in New Mexico.	Passed
SB 279 Wirth	Sustainable Building Tax Credits: SB 279 Increases aggregate cap amounts and changes/adds categories for purposes of the credit. The proposal also reduces the amount of the credit in the residential category and creates a credit with water conservation requirements.	Passed
SB 302 Munoz	Admin & Accounting Svc Gross Receipts: SB 302 Slightly expands the control test for purposes of the GRT deduction for the sale of administrative services to affiliates allowing a to take the deduction if they are 50% controlled OR owned. Both are required under present law.	Passed
SB 356 Candelaria	Tax Administrative Hearings Office: SB 356 Moves the Taxation and Revenue Hearings Bureau to the Department of Finance and administration. Provides for a bi-partisan nomination process to provide names to the governor, who would appoint the chief hearing officer for a period of six years.	Passed
SB 448 Burt	Military Acquisition Gross Receipts End Dates: SB 448 Removes the 2016 sunset on the present law GRT deduction (7-9-94) from certain military program R&D, tests, and evaluations.	Passed
SB 506 Payne	Disabled Veteran Property Tax Exemption: SB 506 Provides that a disabled veteran or surviving spouse may extend may upon transfer leave the exemption in place or transfer it at any time to a new property regardless of present law rules/time limits.	Passed
SB507 Torraco	Tax & Rev. Tax Fraud Investigation Division: SB 507 Reconciles conflicts in current law regarding the establishment of the Tax Fraud Investigation Division as a statutory division.	Passed
SB 565 Payne	Limit Film Production Credit: SB 565 Limits certain credit eligibility for certain expenditures and makes other changes intended to shift more incentive to NM activity.	Passed
SB 669 Ingle	Local Option GRT Distribution Adjustments: SB 669 Makes changes to local government tax distribution rules particularly in the context of refunds and situations resulting in materially	Passed

reduced/negative distributions, addresses reporting, changes taxpayer confidentiality provisions and provides that that taxpayer may waive a local governments repayment obligations.

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 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*

“There may be liberty and justice for all, but there are tax breaks only for some.”

~*Martin A. Sullivan*



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!