

Tax Matters

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IN THIS “60-DAY SESSION” ISSUE OF *TAX MATTERS*:

- **Into the Legislative Session**
- **List of Tax Related Introduced Legislation**
- **Supreme Court Rule in State Tax Cases**
- **Tax Quotable**

INTO 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 are fair game and not limited by the call of the Governor as they are in short 30-day sessions. It is expected to be a very busy session, as high profile and contentious issues in the wake an election cycle that re-installed Governor Martinez, not to mention the significant

turnover in the House membership – not to mention the change in the majority status as Republicans, who are now in the majority, have been the minority for over 60 years – may make things 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.

For several years now bills could be “pre-filed”, or introduced before the start of the session (meaning we have more bills in the hopper in the beginning of the session than we would without pre-filing). 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 are 639 House and 726 Senate bills introduced in the 2015 regular session... and that of course is all there will be. It should be noted with 28 more members than the Senate, the House has been 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.

Bills can still be amended or substituted. Also, one of the reasons for the large influx of bills we noted last week before the deadline was that of the introduction of “dummy” bills. “Dummy” bills are those introduced by committee chairs and other key legislators by the introduction deadline with titles like “For the Public Peace, Health, Safety, & Welfare.” Those bills do effectively nothing when introduced, but are “in the system” and can be used as vehicles for new legislation via amendment and substitution. The bill title is sufficiently broad to allow for practically anything. Both House and Senate have numerous dummy bills introduced, with the House dummy bills being those numbered 591-639, and, in the Senate, 678-726.

This Week’s Roundup



The beat goes on. Days are still getting longer as high-profile political debates continue to slow the process. The House debated the question of banning late term abortions late into the evening Friday night while having to return to committee hearings on Saturday. One Senate committee spent hours Sunday debating right to work legislation. Bills are still moving though. We’re still in the part of the process where the House and Senate are somewhat loathe to hear each other’s bills – at

least until they’ve finished processing their own and the other chamber is hearing their bills (a bit of a stand-off seems to occur for a period). There are of course few exceptions: while House Bill 1 – the “feed bill” (which funds the session), is still the only bill to have passed both chambers.

There are however now lots and lots of bills to have passed one house and crossed into the other's chamber, including House Bill 2 – the General Appropriation Act – which is now in the hands of Chairman John Arthur Smith and his Senate Finance Committee.

Less than two weeks left and it's off to the races...



Most bills to have crossed over are parked in their first committee of the other house awaiting their first hearing. The one exception – the front running tax bill awaiting hearing in its second and last committee on the other side's house – is Senator Ingle's [SB 386](#), which expands existing refund authority in the Special Fuels Suppliers and Gasoline Tax, and Petroleum Products Loading Fee Acts (the latter being a new provision and included via amendment to the bill in the Senate Finance Committee)

to include certain situations where tax is paid more than once on the same gallons of fuel. It passed its first of two House committees last week.

The bills that have crossed tend to have one thing in common – they are proposals that are administrative in nature and/or don't cost general fund money.

In addition to those we mentioned previously, new House bills to have crossed into the Senate. That includes two from Rep. Jim Trujillo. His [HB 39](#) provides for a another optional refund designation option on the personal income tax return: 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. His [HB 216](#) Provides for the assignment of film credits to financial institutions provides they have a legal tax filing obligation in New Mexico. Rep. Sarah Maestas Barnes got her [HB 296](#) to the Senate. It would expand 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.

In the Senate, Senator Martinez's [SB 105](#) would allow Class B counties (counties besides the largest five, De Baca, Harding and Los Alamos) with populations of less than 45K to impose a 3/4% GRT increment for the purpose of paying penalty and interest on revenue bonds issued for purposes of funding certain public and charter school capital spending. The increment would be subject to voter approval. Senator Rodriguez saw her proposal pass the Senate unanimously and join the other in the House. Her [SB 117](#) eliminates the GRT transfer from counties' GRT to the state's safety net care pool in 12/2018.

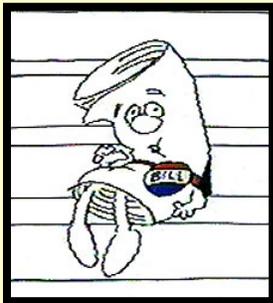
A couple of proposals that have passed the Senate but haven't been read into the House include Senator Cisneros's [SB 7](#), which would create a corporate income tax credit in an amount equal to generation costs, but not to exceed \$1/kilogram for the for the first 4 million kilograms of hydrogen sold by a qualified fuel generator or resource generator. The other is Senator Munoz's [SB 448](#) which would remove the 2016 sunset on the present law GRT deduction (7-9-94) from receipts from certain military program R&D, tests, and evaluations.

{NMTRI note: there’s nothing that surprising about the bills that have moved successfully through their houses so far. They’re all still relatively non-controversial no-cost measures that promoters try to move quickly through the process before the political meltdowns begin.}

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 introduced in 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 16 McCamley	Surtax on Certain Corporations HB 16 Imposes a 1% Corporate Income Tax surtax on corporations that pays its chief executive or other senior officers more than 100% of the average annual salary of all other non-upper management employees.	HRPAC/HW MC-HRPAC
HB 18 McCamley	Separate Tax Deductions & Exemptions: HB 18 Creates separate reporting requirements for some of the Gross Receipts and Compensating Tax Act exemptions and deductions	HHC/HEENC /HBEC/HTP WC/HWMC- HHC-w/o rec- HEENRC
HB 21 Caballero	Phased-in Supplemental Income Tax: HB 21 Imposes an additional 0.3% tax on single individuals, married filing separately, and estates and trusts on taxable income in excess of \$100K in 2016. Married filing joint, surviving spouse and heads of households would be taxed at the same rate on taxable income in excess of \$150K. The tax rate would increase to 0.5% for taxable years beginning on or after January 1, 2017, to 0.8% in 2018, and 1.0% in 2019 and the years thereafter.	HRPAC/HW MC-HRPAC
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.	HTPWC/HW MC-HTPWC- w/drn-ref HWMC/HAF C-HWMC- DP-HAFC- DP/a-

		Passed/H-SCORC/SPAC-SCORC
HB 40 J Trujillo	Electric Vehicle Income Tax Credit: HB 40 Until January 1, 2021, creates a refundable personal income tax credit for the sale or lease of an electric vehicle in the amount of \$2500. The proposal also creates credit in the amount of \$3K or 30% of actual cost (whichever is less), for the purchase and installation of charging equipment. The program is capped at \$2M/yr. Also creates for the same period a personal and corporate income tax credit for the purchase and installation of electric vehicle charging units in an amount not to exceed \$3K (\$5K if solar powered). The program is capped at \$1M/yr.	HTPWC/HEENC/HJC-HTPWC-DP/a-HEENC-DP-HWMC
HB 58 Gonzalez	Increase Gas Tax for State Road Fund: HB 58 By 1 cent per gallon per year over 5 years, increases gasoline and special fuels tax (diesel) by 5 cents per gallon (from \$.17 - .22 and .21-.26/gal, respectively), adjusts/reduces other road fund distributions.	HTPWC/HWMC/HAFC-HTPWC
HB 64 Carl Trujillo	Home Energy & Water Efficiency Tax Credit: HB 64 Until 1/1/2022, creates a one-time personal income tax credit (available 2017/2018 for water or energy efficiency. The credit is a sliding scale of fixed dollar benefit (\$1200-\$4000 for energy; \$200-\$1000 for water) for efficiency improvement percentages of 15-35%+.	HEENC/HWMC-w/o rec-HWMC
HB 67 Carl Trujillo	Property Tax Schedule Change Requests: HB 67 Expands authority of the county treasurers to correct obvious errors made by the assessors (i.e. name, address, description, data entry of values, etc.) <i>Endorsed by the interim Revenue Stabilization and Tax Policy Committee.</i>	HEC/HWMC-HEC-DP-HWMC-DP-Passed/H-SCORC/SFC-SCORC
HB 70 Williams Stapleton	Extend Solar Market Development Tax Credit: HB 70 Extends the current sunset of the Solar Market Development Tax Credit from 12/31/2016 to 12/31/2020.	HEENC/HWMC-HEENC-DP-HWMC
HB 72 Christine Trujillo	Long-Term Care Insurance Tax Credit: HB 72 Creates a personal income tax credit in an amount equal to premiums paid for a long term care insurance policy. To qualify for the credit, the policy has to be approved through application with the Human Services Department. The credit cannot be transferred or carried over.	HHC-HWMC-HHC-DNP-CS/DP-HWMC
HB 94 Larranaga	U.S. Dept. of Energy Gross Receipts: HB 94 Creates a deduction for the sale of directed energy or satellite related research and development services and related materials to the department of defense.	HGEIC/HWMC-HGEIC-DP-HWMC
HB 110 McCamley	New Tax Bracket & Income Tax Rates: HB 110 Expands current income tax brackets and creates a new 5.9% bracket for taxable incomes in excess of \$60K (single), \$90K (married, HOH), and \$45K (MFS).	HRPAC/HWMC-HRPAC
HB 112 Gonzales	Define Agricultural Property Tax: HB 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</i>	HAWC/HWMC-HAWC-DP/a-HWMC-

	<i>Committee</i>	DNP/CS/DP- Passed /H
HB 137 Garcia	Reduce Income Tax & Create New Brackets: HB 137 Reduces rates in existing income tax brackets and creates three new brackets on higher incomes (with the first new bracket going as high as income of up to \$250K in the case of joint filers) with rates of 4.6, 6, and 7.1% respectively.	HRPAC/HBE C-HRPAC
HB 135 Gallegos	Delinquent Property Tax Electronic Levy: HB 135 Provides authority for electronic levies to be served on financial institutions.	HBEC/HWM C-HBEC
HB 158 McCamley	Gross Receipts Rate & Deductions: HB 158 Reduces the GRT statewide rate by 5.125 to 5.025 and repeals several GRT deductions including those for stadium surcharge, space vehicle fuel, publications, newspapers, hospitals, software development services, sales to film producers, and the “sales tax holiday”.	HRPAC/HW MC-HRPAC
HB 200 Ezzell	Live Horse Racing Gaming Tax Credit: HB 200 Creates a credit against gaming tax in the amount of \$12,500 per racing day for small racinos, and 7,500 for those who paid more than \$10M in gaming tax in the prior year.	HAWC/HW MC-HAWC- HWMC
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%	HWMC-DP- Passed/H- SPAC/SFC- SPAC
HB 210 James	Pollution Control Equipment Gross Receipts: HB 210 Creates a GRT exemption for pollution control equipment.	HGEIC/HW MC-HGEIC- w/o rec- HWMC
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.	HBEC/HWM C-DNP- CS/DP- HWMC-DP- Passed/H- SCORC/SJC- SCORC
HB 218 Gallegos/C Sanchez	Delinquent Tax Electronic Levy Warrants: HB 218 Provides authority for electronic levies to be served on financial institutions.	HWMC-DP- Passed/H- SCORC/SJC- SCORC
HB 219 Zimmerman	Out-of-State Event Gross Receipts: HB 219 Modifies the imposition of the governmental gross receipts tax to clarify the activities it is imposed upon occur in New Mexico.	HGEIC/HW MC-HGEIC- DP-HWMC- DP-Passed/H- SCORC/SFC- SCORC
HB 229 Carl Trujillo	Combat Veterans Income Tax Deduction: HB 229 Provides a 100% deduction from income tax for all income earned by a	HGEIC/HW MC-HGEIC-

	combat veteran.	DP-HWMC
HB 230 Carl Trujillo	Tech Jobs & Research & Development Tax Credit: HB 230 Combines the present law technology jobs tax credit and research and development small business tax credit increases the basic credit percentage from 4 to 5% and limits the carryforward to three years. Also makes portions of the additional credit refundable.	HBEC/HWM C-HBEC- DP/a-HWMC
HB 239 Christine Trujillo	Repeal Capital Gains from Net Income: HB 239 Repeals the 50% deduction from personal income tax for capital gains, effective 2016.	HGEIC/HBE C-HGEIC- w/drn-ref- HWMC/HAF C-HWMC
HB 259 J Trujillo	Certain Physician Gross Receipts: HB 259 Expands the GRT deduction for healthcare practitioners to include deductibles paid to physicians, osteopaths, and podiatrists (only).	HHC/HWMC /HAF-C-HHC- DP-HWMC
HB 261 Powdrell- Culbert	Angel Investment Credit Minimum Investments: HB 261 Increases the amount of qualifying investment from \$100-250K, increases the annual program cap to \$2M, and extends the credits sunset to 2025.	HWMC/HAF C-HWMC
HB 262 Lundstrom	Gas Tax & Road Projects: HB 262 Rises the gasoline tax from 17 to 19 cents per gallon and then indexes it beginning 2017. Also raises the special fuels tax from 21 to 23 cents per year and indexes future increases. Also reduces distribution percentages to non-road fund beneficiaries.	HTPWC/HW MC/HAF-C- HTPWC- DNP-CS/w/o rec-HWMC
HB 275 Armstrong	Separate Reporting of Tax Expenditures: HB 275 Requires persons who reduce their tax liabilities with “tax expenditures” to separately state each “expenditure” on the person’s return.	HWMC/HAF C-HWMC
HB 279 Strickler	Reduce Corporate Income Tax Rates: HB 279 Changes the final CIT rate for incomes above 500K to 4.9% in tax year 2018 (the rates are currently being phased down to 5.9% in 2018)	HWMC/HBE C/HAF-C- HWMC
HB 286 James	Single Sales Factor For Corporate Income: HB 286 Expands the existing phasing in single sales factor election for manufacturers to include “headquarters” and regional back office operations to qualify for the election.	HBEC/HWM C/HAF-C- HBEC-DP- HWMC
HB 293 Maez	Increase Working Families Tax Credit: HB 293 Increases the WFTC from 10% of the Federal EITC to 12.5% in 2015 and 15% in taxable years 2106 and beyond.	HWMC/HAF C-HWMC
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.	HEENC/HW MC/HAF-C- HEENC-DP- HWMC- HAF-C-ref w/drn- HWMC-DP- Passed/H- SCONC/SCO RC/SFC-

		SCONC
HB 301 Maestas- Barnes	Outdoor Water Conservation Gross Receipts: HB 301 Creates a new GRT deduction for the sales “water saving tangible personal property” to non-business consumers. The deduction would only be available from March 1 – March 8.	HAWC/HW MC-HAWC- DP/a-HWMC
HB 302 Adkins	Uniformed Service Retiree Tax Deduction: HB 302 Creates a new personal income tax deduction for uniformed military retirement or retainer pay, not to exceed \$50K.	HWMC/HAF C-HWMC
HB 323 Rehm	County Hospital Funding Property Tax Levy: HB 323 Significantly reduces the maximum mill levy rates that can be imposed my Class A counties (Bernalillo) for county hospital funding (UNMH). Provides authority for a voter imposed levy not to exceed 1 mill for up to eight years for the safety net care pool.	HHC/HJC/H WMC-HHC- w/o rec-HJC
HB 325 Egolf	Remove Some TV Shows From Film Tax Credit Cap: HB 325 Removes the annual \$50M cap for series productions, leaving it solely applicable to stand-alone productions.	HBEC/HWM C-HBEC
HB 326 Gonzales	Lodger’s Tax Audits: HB 326 Allows municipalities to outsource lodgers’ tax audits and use that contractor to bring actions against taxpayers.	HGEIC/HBE C/HWMC- HGEIC-DP- HBEC
HB 333 Strickler	Equal Opportunity Scholarship & Tax Credits: HB 333 Creates a 25% personal and corporate income tax credit for contributions to a 501(c)(3) that is a tuition scholarship organization.	HEC/HWMC- HEC-DP- HWMC-
HB 337 Strickler	Rural Infrastructure Tax Credit: HB 337 Creates	HTPWC/HW MC-HTPWC- DP-HWMC
HB 344 Scott	Change Certain Tax Filing Due Dates: HB 344 Provides for electronic filing of corporate income tax and pass-through entity returns, and extends the return and payment due date to the end of the month for those that do so.	HWMC-DP- Passed/H- SCORC/SPA C-SCORC
HB 358 Maestas- Barnes	Small Business Income Tax Deduction: HB 358 Creates a personal income tax deduction for taxpayers with “business income” less than \$350K and for the underlying business(s) employ at least one full time employee. The credit phases down from in 50K increments from 100% for the first \$50K to 10% for the seventh \$50K	HWMC/HAF C-HWMC
HB 368 Crowder	Vending Machine Gross Receipts: HB 368 Creates a new gross receipts tax deduction for food sold in coin operated vending machines by businesses with less than \$2M in gross annual revenue.	HWMC/HAF C-HWMC
HB 372 Little	Deductions as Tax “Net Income”: HB 372 Removes the add back of itemized state and local taxes deducted for federal income tax purposes - to net income for state tax purposes.	HBEC/HWM C-HBEC-w/o rec-HWMC
HB 396 James	Remittance of Governmental Gross Receipts: HB 396 Provides for a pro rata return of unexpended GGRT, based on GGRT paid, to the GGRT taxpayers.	HGEIC/HW MC-HGEIC
HB 406	Estate or Trust Distribution Tax Deduction: HB 406	HSCAC/HW

J Trujillo	Creates an income tax deduction for undistributed income from trusts to nonresident beneficiaries, except income from real estate, oil and gas interests, and water rights.	MC-HSCAC-DP-HWMC
HB 421 Harper	Local Gov't Gross Receipts & Hold Harmless: HB 421 Limits hold harmless distributions to reduce incentive to impose hold harmless increments provided in 2013 earlier than necessary to replace lost revenue and to prevent "double dipping".	HGEIC/HW MC-HGEIC
HB 444 Herrell	School Contributions Tax Credit: HB 444 Creates a new personal income tax credit not to exceed \$1000 for the contributions to qualified scholarship organizations and public schools. The credit may be carried forward five years.	HEC/HWMC- HEC
HB 454 Carl Trujillo	Hydrogen Fuel Production Tax Credit: HB 454 Creates a corporate income tax credit in an amount equal to generation costs, but not to exceed \$1/kilogram for the for the first 4 million kilograms of hydrogen sold by a qualified fuel generator or resource generator.	HEENC/HW MC-HEENC- w/o rec- HWMC
HB 475 Hall	Tax & Rev. dept. Info to NMFA: HB 475 Creates an additional exception to the state's taxpayer confidentiality provisions by expressly providing that information regarding a local government's gross receipts may be provided to the New Mexico Mortgage Finance Authority.	HGEIC/HW MC-HGEIC- DP-HWMC
HB 476 Baldonado	Special Needs Adopted Child Tax Credit: HB 476 Increases the amount of the special needs adoption tax credit in the personal income tax from \$1000 to \$1500 per adoption.	HGEIC/HW MC-HGEIC- DP-HWMC
HB 491 Harper	Reduce Multiple Tax Rates: HB 491 Eliminates many GRT exemptions and deductions and reduces GRT and compensating tax rates	HTPWC/HBE C/HGEIC/HE ENC/HHC/H WMC/HAFC- w/o rec- HBEC
HB 495 Caballero	Corporate Tax for Preschool Programs: HB 495 Creates a "corporate low wage tax" imposed on business entities (not just corporations) with "global gross income" in excess of \$1B, at the rate of \$1 for every low wage hour paid (defined as an amount when multiplied by 2080 results in an amount more than 200% below the federal poverty level).	HBEC/HWM C/HAFC- HBEC
HB 512 Gallegos	Natural Gas Car Tax Deductions & Credits: HB 512 Creates and new GRT deduction for the purchase and installation of natural gas equipment on a vehicle. Creates personal and corporate income tax credits for the purchase or lease of qualified natural gas vehicles, and exempts natural gas vehicles from the motor vehicle excise tax	HEENC/HW MC-HEENC- DP-HWMC
HB 515 Brown	Direct Sales Company Tax Liability: HB 515 Adds clarifying language to the provisions in the tax administration act that provide for agreements to collect and pay taxes on behalf of another – in this case, direct sales companies – where it's made clear the agreement if for the tax on the sale of property by the distributor and the	HBEC/HWM C-HBEC

	commissions.	
HB 520 Herrell	Military Acquisition Program Gross Receipts: HB 520 Removes the 2016 sunset on the present law GRT deduction (7-9-94) from certain military program R&D, tests, and evaluations.	HWMC-DP/a- Passed/H- SCORC
HB 540 Maestas	New High-Income Tax Bracket: HB 540 Creates a new 5.9% top bracket in the personal income tax for taxable incomes in excess of \$150K (single filers), \$225K (MFJ), and \$112.5 (MFS).	HBEC/HWM C-HBEC
HB 568 Crowder	Quarterly Payment of Weight Distance Tax: HB 568 Eliminates the provision for annual reporting of the weight distance tax on the part of certain taxpayers.	HTPWC/HW MC-HTPWC- DP-HWMC
HB 571 Garcia	Limit Certain Newspaper Gross Receipts: HB 571 Limits the gross receipts deductions for publishing newspapers or magazines and for selling newspapers to those with a net paid circulation of \$50,000 or less.	HBEC/HWM C-HBEC
HB 580 Montoya	Tax & Rev. Info to Other States: HB 580 Provides an exception to the states confidentiality provisions to allow the TRD to share confidential taxpayer information with an authorized representative of a local government of another state who is charged with administering that state's tax laws by that state.	HWMC-DP- Passed/H
HB 583 Maestas	Cultural Property Tax Credit Provisions: HB 583 Repeals the present cultural property preservation income and corporate income tax credits and replaces it with a new section that restructures the benefits relative to present law, makes the credit refundable (currently it provide a four year carry-forward) and imposes an annual cap on the program cost of \$1.5 million.	HRPAC/HW MC-HRPAC- DP-HWMC
SB 7 Cisneros/ Carl Trujillo	Hydrogen Fuel Production Tax Credit: SB 7 Creates a corporate income tax credit in an amount equal to generation costs, but not to exceed \$1/kilogram for the for the first 4 million kilograms of hydrogen sold by a qualified fuel generator or resource generator.	SCORC/SCO NC/SFC- SCORC-DP- SCONC-DP- SFC-DP/a- Passed/S
SB 9 Cisneros/ Gonzales	Electric Vehicle Income Tax Credit: SB 9 Until January 1, 2021, creates a refundable personal income tax credit for the sale or lease of an electric vehicle in the amount of \$2500. The proposal also creates credit in the amount of \$3K or 30% of actual cost (whichever is less), for the purchase and installation of charging equipment. The program is capped at \$2M/yr. Also creates for the same period a personal and corporate income tax credit for the purchase and installation of electric vehicle charging units in an amount not to exceed \$3K (\$5K if solar powered). The program is capped at \$1M/yr.	SCONC/SCO RC/SFC- SCONC-DP- SCORC-w/o rec-/a SFC
SB 56 Wirth	Unitary Corporation Combined Tax Reporting: SB 56 Deletes recent language requiring retailers to file on a unitary combined basis and requires all corporations to that are unitary to file on a unitary	SCORC/SFC- SCORC

	combined basis.	
SB 57 Wirth	Unitary Corp Restaurant Reporting: SB 57 Adds a section similar to the retailer provision requiring corporations that are restaurants and unitary to file corporate income tax on a unitary combined group basis.	SCORC/SFC- SCORC
SB 75 Cotter	Limit Spaceport Bond & Tax Authority: SB 75 Effectively reduces the budget of Spaceport America by limiting the use of 75% of Spaceport GRT revenue for payment of bonds and interest only, limits the ability to issue new bonds, and eliminates the ability to impose Spaceport GRT increments anywhere in NM.	SCORC/SFC- SCORC-DP- SFC
SB 77 Cotter	Income Tax Exemption Requirements: SB 77 Reduces the present law threshold for the exemption from personal income tax for those 100 years of age and over, to 97 years of age and over.	SCORC/SFC- SCORC-DP- SFC
SB 99 Cisneros/ Gonzales	Cybersecurity Device Gross Receipts: SB 99 Creates a GRT deduction until June 30, 2025 for the sale of cybersecurity device that is a port locking device, a port monitoring device, or port monitoring software. <i>Endorsed by the interim Revenue Stabilization and Tax Policy Committee.</i>	SCORC/SFC- SCORC-DP- SFC
SB 101 Neville	Gross Receipts & Hold Harmless Tax Changes: SB 101 Reduces the statewide GRT rate by one quarter percent and authorizes additional rate authority (and in smaller increments) for local governments.	SCORC/SFC- SCORC- DNP-CS/w/o rec-SFC
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>	SCORC/SPA C-SCORC- DP-SPAC
SB 105 Martinez	County Gross Receipts for School Improvements: SB 105 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.	SEC/SFC- SEC-DP- SFC-DP- Passed/S- HGEIC/HW MC-HGEIC
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>	SCONC/SCO RC/DNP- CS/DP- SCORC
SB 114 Griggs	Local Gov’t Special Fuels Taxes: SB 114 Would allow counties that can imposes a municipal gasoline tax to also impose a municipal special fuels (diesel) tax in 1 cent increments up to 2 cents.	SCORC/SFC- SCORC-DP- SFC-DP/a- Passed/S- HTPWC/HW MC-HTPWC

SB 117 Rodriquez	Sunset County Gross Receipts Safety Pool: SB 117 Eliminates the GRT transfer from counties GRT to the state's safety net care pool in 12/2018.	SPAC/SFC- SPAC-DP- SFC-DP- Passed/S- HGEIC- /HWMC- HGEIC
SB 131 Stewart	Local Gov't IRB Notices & Impacts: SB 131 Changes and adds notification requirements for Industrial Revenue Bond project proposals to include all property tax beneficiaries (entities with taxing authority), requires taxpayer funded studies of impacts to school districts, and requires payments in lieu of taxes be negotiated to the satisfaction of the school district for those projects deemed to have a "significant impact" on the school district.	SEC/SFC- SEC
SB 201 Sapien	School Bus Fuel Gross Receipts: SB 201 Creates an exemption from gross receipts and compensating tax for fuel used in school buses.	SEC/SFC- SEC-DP-SFC
SB 214 Leavell	Motor Vehicle Tax to Road Fund: SB 214 Phases in over four years a redirection of motor vehicle excise tax revenues from the general fund to the road fund.	SCORC/SFC- SCORC-DP- SFC
SB 240 Griego	Live Horse Race Gaming Tax Credit: SB 240 Creates a credit against gaming tax in the amount of \$12,500 per racing day for small racinos, and 7,500 for those who paid more than \$10M in gaming tax in the prior year.	SCORC/SFC- SCORC-w/o rec-SFC
SB 242 Griego	Renewable Energy Tax Credit Changes: SB 242 Makes changes to rates of credit, amount allowed, other technical changes, adds geothermal as a qualifying generator.	SCONC/SCO RC/SFC- SCONC-DP- SCORC-w/o rec-SFC
SB 261 Candelaria	Increase Working Families Tax Credit: SB 261 Increases the rate of the working families tax credit from 10 to 12.5% of the federal EITC in 2015, and 15% in 2016 and thereafter.	SPAC/SFC- SPAC-DP- SFC
SB 265 Munoz	Liquor Tax Proceeds For Homeless: SB 265 Allows local governments to amend or create ordinances that provide no less than \$100K in local liquor excise tax revenues for winter homeless shelters.	SPAC/SFC- SPAC-DP/a- SFC-DP- Passed/S- HHC/HWMC -HHC
SB 266 Munoz	Exclude Certain Counties from Hold Harmless: SB 266 Creates an exception to the county hold harmless distribution reductions in the case of counties who have not imposed hold harmless increments and seen tax base growth below 11.7%	SPAC/SFC- SPAC-w/o rec-SFC
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.	SCORC/SFC- SCORC-DP- SFC-DP- Passed/S- HBEC/HWM

		C-HBEC
SB 274 Smith	Hold Harmless & Fund Deduction Changes: SB 274 Reduces the statewide GRT and compensating tax rate to 5%, increases the working families, repeals the hold harmless distribution, changes the GRT deduction for food to a credit, and increase local government GRT rate authority.	SCORC/SFC- SCORC-w/o rec-SFC
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.	SCORC/SFC- SCORC- DP/a- SCORC-w/o rec-SFC
SB 280 Wirth	Water Harvesting Income Tax Credit: SB 280 Creates a personal income tax credit for the purchase of qualified water harvesting equipment not to exceed \$5K. The program is capped at \$2M/yr and claims are to be processed when received.	SCONC/SCO RC/SFC- SCONC-DP- SCORC
SB 281 Wirth	Income for Tax Purposes Act Changes: SB 281 Strikes present law language providing that services and intangibles be sourced on a greater of cost of performance basis and inserts language requiring apportionment on a destination basis, creating a “market based sourcing” rule.	SCORC/SFC- SCORC
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.	SCORC/SFC- w/o rec-SFC
SB 316 Burt	Uniformed Service Retiree Tax Deduction: SB 316 Creates a personal income tax deduction in an amount not to exceed \$50K for military pension income received by a uniformed service retiree or his/her spouse.	SCORC/SFC- SCORC- DP/a-SFC
SB 332 Cervantes	Border Zone Trade-Support Gross Receipts: SB 332 Resurrects (from 7/15-7/21) the GRT deduction for trade support services that locate open/locate and employee at least two people. A taxpayer may take the deduction for five years.	SCORC/SFC- SCORC
SB 337 Campos	Small Business Investment Tax Credit: SB 337 Creates a personal income tax credit for small business investments not to exceed \$250K. A taxpayer may make up to five qualified investments in different businesses per yer. The program is capped at \$2M annually, and claims are processed and approved in the order received by the Economic Development Department.	SCORC/SFC- SCORC
SB 346 Sharer	Tax Reform: SB 346 Reduces the GRT rate, repeals numerous exemptions and deductions, the compensating tax and many other tax programs.	SCORC/SFC- SCORC- DP/a-SFC
SB 347 Moores	Natural Gas Motor Vehicle Tax Credits: SB 347 Creates and new GRT deduction for the purchase and installation of natural gas equipment on a vehicle. Creates personal and corporate income tax credits for the purchase or lease of qualified natural gas	SCORC/SFC- SCORC- DNP-CS/DP- SFC

	vehicles, and exempts natural gas vehicles from the motor vehicle excise tax.	
SB 349 Cervantes	Student Loan Interest Tax Deduction: SB 349 Creates a personal income tax deduction not to exceed \$2000 for student loan interest that is deductible for federal income tax purposes.	SCORC/SFC- SCORC
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.	SPAC/SJC- SPAC-DP/a- SJC-DP
SB 373 Candelaria	Student Loan Interest Income Deduction: SB 373 Creates a personal income tax deduction not to exceed \$2000 for student loan interest that is deductible for federal income tax purposes.	SCORC/SFC- SCORC-DP- SFC
SB 386 Ingle	Prevent Double Taxing of Certain Gas: SB 386 Expands existing refund authority in the Special Fuels and Gasoline Tax Petroleum Products Loading Fee Acts (the latter being a new provision and included via amendment to the bill in the Senate Finance Committee) to include situations where tax is paid more than once on the same gallons of fuel.	SCORC/SFC- SCORC-DP- SFC-DP/a- Passed/S- HEENC/HW MC-HEENC- DP-HWMC
SB 391 Stewart	Extend Solar Market Development Tax Credit: SB 391 Extends the sunset provision in the solar market development tax credit from 12/2016 to 12/2020.	SCONC/SCO RC/SFC-DP- SCORC-w/o rec-SFC- w/drn
SB 394 Smith	Increase & Index Gas Tax for Road Fund: SB 394 Raises the gasoline tax from 17 to 19 cents per gallon and then indexes it beginning 2017. Also raises the special fuels tax from 21 to 23 cents per year and indexes future increases. Also reduces distribution percentages to non-road fund beneficiaries.	SCORC/SFC- SCORC-w/o rec-SFC
SB 402 Griego	Delete Some Occupancy Tax Exemptions: SB 402 Removes the exception for vendors who don't offer at least three rooms on the premises or three other premises or any combination thereof within the taxing jurisdiction.	SCORC/SFC- SCORC-DP- SFC
SB 413 Clemente Sanchez	Angel Investment Minimum & Sunset: SB 413 Extends the 2016 sunset provision to 2025 and increases the number of investments that can be made per year from 2 to 5, increases the maximum amount of investment subject to the credit from \$100K to \$250K, increases the credit carryforward provision from 3 to five years, and, increases the cap on credits that may be awarded from \$750K to \$2M, and eliminates the restrictions on partnership investment.	SCORC/SFC- SCORC-DP- SFC
SB 414 Clemente Sanchez	Cultural Property Tax Credit Changes: SB 414 Repeals and re-enacts sections of the property tax credit related to use, cost and benefit (typically 50%).	SCORC/SFC- SCORC-DP- SFC
SB 448 Munoz	Military Acquisition Gross Receipts End Dates: SB 448 Removes the 2016 sunset on the present law GRT deduction (7-9-94)	SCORC/SFC- SCORC-DP-

	from certain military program R&D, tests, and evaluations.	SFC-DP- Passed/S
SB 464 Cisneros	Lodgers' Tax Audits: SB 464 Allows municipalities to outsource lodgers' tax audits and use that contractor to bring actions against taxpayers.	SCORC/SFC- SCORC-w/o rec-SJC
SB 477 Campos	Frontier Community Investment Tax Credit: SB 477 Creates a transferable credit (program capped at \$750K/yr). The total amount of credit that can be claimed by a taxpayer or aggregate members in a partnership is 25% of a qualified investment not to exceed \$25K. The investment must be made in a qualified business that hires three new FTE's. The investments are to be certified by the EDD. Also weakens taxpayer confidentiality provisions.	SCORC/SFC- SCORC
SB 502 Munoz	U.S. Department of Energy Gross Receipts: SB 502 Creates a deduction for the sale of directed energy or satellite related research and development services and related materials to the department of defense.	SCORC/SFC- SCORC-DP- SFC
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.	SPAC/SJC- SPAC-DP- SJC
SB 508 Torraco	Change Tax Evasion Penalties: SB 508 Amends present law felony and fine imposition for willful attempts to evade or defeat tax to a graduated hierarchy of felonies (4 th -2 nd) based on the amount of tax owed, as well as making the taxpayer responsible for costs of prosecution.	SCORC/SJC- SCORC-DP- SJC
SB 555 Munoz	Exclude Some Local Gov'ts From Hold Harmless: SB 555 Make several changes to the hold harmless phase-out provisions limiting their application to counties and municipalities when their gross receipts tax bases grow less than 2% per year in counties with poverty rates in excess of 30% (Gallup/McKinley).	SCORC/SFC- SCORC-w/o rec-SFC
SB 561 Candelaria	Corporate Tax for Preschool Programs: SB 561 Creates a "corporate low wage tax" imposed on business entities (not just corporations) with "global gross income" in excess of \$1B, at the rate of \$1 for every low wage hour paid (defined as an amount when multiplied by 2080 results in an amount more than 200% below the federal poverty level).	SCORC/SJC/ SFC-SCORC
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.	SCORC/SFC- SCORC- DNP-CS/DP- SFC
SB 577 Leavell	Insurance Code Tax, Fee, and Other Changes: SB 577 Restructure fees, changes the tax base for the health insurance premium surtax, and makes other technical changes to insurance provisions.	SCORC/SJC/ SFC-SCORC- DNP-CS/DP- SJC

SB 584 Griego	Geothermal Heat Pump Tax Credit: SB 584 Expands the current geothermal income tax credit to provide that it can apply to multiple pumps on multiple units within a property.	SCONC/SCORC/SFC- SCONC-DP- SCORC- DNP-CS/DP- SFC
SB 608 Sanchez	Local Liquor Excise Tax & Rates: SB 608 Makes changes to definitions, imposition, and rate structures of the local liquor excise tax.	SPAC/SFC- SPAC-DP- SFC
SB 612 Brandt/Harper	Teacher School Supply Purchase Deduction: SB 612 Provides a personal income tax deduction for the cost of school supplies purchased by the teacher during the year, but not to exceed \$500 in 2015, and \$1000 in tax years thereafter.	SEC/SCORC/ SFC-SEC- DP-SCORC
SB 623 Stewart	Phase In Higher Income Supplemental Tax: SB 623 Imposes an additional 0.3% tax on single individuals, married filing separately, and estates and trusts on taxable income in excess of \$100K in 2016. Married filing joint, surviving spouse and heads of households would be taxed at the same rate on taxable income in excess of \$150K. The tax rate would increase to 0.5% for taxable years beginning on or after January 1, 2017, to 0.8% in 2018, and 1.0% in 2019 and the years thereafter.	SCORC/SFC- SCORC
SB 621 Munoz	Eliminate Hold Harmless Reductions: SB 621 Eliminates the hold harmless phase out and reinstates the hold harmless distributions. In the case of municipalities with populations in excess of 10K and counties in excess of 48K, the distribution is based on local tax rates in effect in 2007, whereas the smaller local governments are reimbursed on the basis of currently imposed rates.	SCORC/SFC- SCORC
SB 633 Munoz	Eliminate Some Hold Harmless Reductions: SB 633 Eliminates the hold harmless phase out and for those who have not enacted a hold harmless tax increment reinstates the hold harmless distributions. In the case of municipalities with populations in excess of 10K and counties in excess of 48K, the distribution is based on tax local tax rates in effect in 2007, whereas the smaller local governments are reimbursed on the basis of currently imposed rates.	SCORC/SFC- SCORC
SB 635 Rue	Remittance of Gov't Gross Receipts: SB 635 Provides for a pro rata return of unexpended GGRT, based on GGRT paid, to the GGRT taxpayers.	SCORC/SFC- SCORC
SB 654 Smith	Tax Valuation of Certain Properties: SB 654 Removes a property tax provision that creates valuation floor of 12.5% of cost of tangible personal property.	SCORC/SFC- SCORC
SB 655 Smith	Fund Safety Net Care Pool Fund: SB 655 Appropriates \$833,333 to the safety net care pool fund, defines "qualifying hospital", provides that counties that haven't pledged any of their revenue from their first 1/8 increment to bonds can receive a distribution from the fund, and reduces the rate of GRT credit available to qualifying hospitals.	SCORC/SFC- SCORC
SB 656	Raise Gas Tax & Create Road Maintenance Fund: SB 656	SCORC/SFC-

Smith	Raises the gasoline tax from 17 to 27 cents per gallon (after 1/1/24) and then indexes it beginning 2025. It also raises the special fuels tax from 21 to 31 cents per year and indexes future increases. Also creates the road maintenance fund and effects distributions.	SCORC-w/o rec-SFC
SB 662 Payne	Art Sale At Auctions Gross Receipts: SB 662 Creates a gross receipts tax <i>exemption</i> for sales at auctions in Santa Fe.	SCORC/SFC-SCORC
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 reduced/negative distributions, addresses reporting, changes taxpayer confidentiality provisions and provides that that taxpayer may waive a local governments repayment obligations.	SCORC/SFC-SCORC-DNP-CS/DP



SUPREME COURT RULES IN TWO STATE TAX CASES

The U.S. Supreme Court did something twice last week that it rarely does at all: it ruled in two state tax-related cases. In the case of [Alabama Department of Revenue v. CSX Transportation, Inc.](#), the court adopted a fairly broad standard for what is prohibited tax discrimination under the 4-R Act. The court ruled in this case that the imposition of use tax on the use of locomotive fuel relative to the states of imposition of a separate diesel tax for trucks and other users did not constitute discrimination and was remanded.

A high profile case from Colorado related to the on-line/remote seller taxation issue and their efforts to impose information reporting requirement on remote sellers has been touted by some as a victory for the on-line retailers (versus brick and mortar sellers and other interests in allowing state taxation of remote sales where the seller has not tax nexus), but that perception would be a bit misleading. In the case of [Direct Marketing Association v. Brohl](#), the court ruled unanimously in favor of the Direct Marketing Association, however the basis of the decision was rooted in determining the applicability of the Tax Injunction Act, which, while an issue in this case, does not speak to the constitutionality of remote seller taxation by the states.

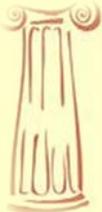
What really sent shock waves through the tax community – and certainly not favorable to remote sellers were the following comments in the concurring opinion offered by Justice Kennedy:

“Given these changes in technology and consumer sophistication, it is unwise to delay any longer a reconsideration of the Court’s holding in *Quill*. A case questionable even when decided, *Quill* now harms States to a degree far greater than could have been anticipated earlier. See *Pearson v. Callahan*, 555 U. S. 223, 233 (2009) (*stare decisis* weakened where “experience has pointed up the precedent’s shortcomings”). It should be left in place only if a powerful showing can be made that its rationale is still correct. The instant case does not raise this issue in a manner appropriate for the Court to address it. It does provide, however, the means to note the importance of reconsidering doubtful

authority. The legal system should find an appropriate case for this Court to reexamine *Quill* and *Bellas Hess*.”

[NMTRI Note: Justice Kennedy’s remarks really are a big deal. The links in the citations above will take you to sections pertaining to those cases on the blog of the U.S. Supreme Court – SCOTUSblog – where you can get copies of the opinions and other filings as well as analysis of the cases.]

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

"There is an ancient belief that the gods love the obscure and hate the obvious. Without benefit of divinity, modern men of similar persuasion draft provisions of the Internal Revenue Code."
~ *Martin D. Ginsburg*

"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...]



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" *Campanía General de Tabacos v. Collector*, 275 U.S. 87, 100 (1927), Justice Oliver Wendell Holmes, dissenting.

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