Tax Matters

The Newsletter of the New Mexico Tax Research Institute

Issue No. 2014-02 **February 2, 2014**

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INTO THE LEGISLATIVE SESSION – IT BEGAN JANUARY 21, 2014

The 2014 Regular Session of the New Mexico Legislature convened at noon on Tuesday, January 21, and ends at noon on February 20. The deadline for bill introduction is February 5 (this Wednesday). Legislation not acted on by the governor is pocket vetoed on March 12. 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 21. 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.

So far, between "pre-filed" and those introduced in the first week of the session, there have been 569 bills introduced thus far. Of those, 301 are House bills, and the remaining 268 are from the Senate. If you can't wait to see what's already been introduced, click here to the see the daily bill locator.

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 Progress or Regress?

We're almost two weeks into the 30-day session and we're just days away from the bill introduction deadline. So, we've already seen the bulk of tax proposals that we're going to see. From this point it's more of a race while a game of clean-up and find-the-unintended-consequences is played by analysts trying to figure out what all the proposals actually do and cost, and while proponents react accordingly.

It's interesting to note the tax policy conversations during the interim—including--concerns over tax and fiscal policy, including the effectiveness of incentives; accelerated narrowing of the tax base through a proliferation of exemptions, deductions and credits; raising of rates; exacerbating pyramiding and regressivity; loss of competitiveness and ability to create jobs, fairness and equity. Lawmakers and policy wonks alike engage in the lament and self-flagellation over tax changes that have blown holes in our tax base while doing so little to actually make the structure more reliable, predictable, or less distortive or anti-competitive. The manufacturing consumables deduction is the broadest exception targeted at efficiency and competitiveness, and it was still limited to an industry. Otherwise, pyramiding has been made worse as our tax base has been increasingly focused on business inputs while rates go up and other areas of the base are chipped away. Accordingly, the negative effects of pyramiding on business competitiveness as well as vulnerable households are enhanced and magnified.

Once the interim is over, however, and the session begins, it's Katie bar the door while many different interests try to cut their best deal by cutting themselves out of the tax base. This being a year with little "new money" to fight over, and no broad based tax reform initiatives under discussion or consideration, bills are generally limited to the nickel and dime approach of turning our tax base into Swiss cheese.

What's this I hear about your TPS reports? We need more paperwork!!![1]

Even though the Taxation and Revenue Department can't process all the paper it gets as it is, there are numerous proposals to require more paperwork on the part of taxpayers and tax administrators. There's a legitimate sense of frustration on the part of lawmakers that they don't know exactly how much money is attributable to various deductions, exemptions, or credits—so-called "tax expenditures".

So, there are a couple of things going on. Governors Richardson and Martinez vetoed prior year legislation, although they produced tax expenditure

[1] From the movie "Office Space" in which the boss, pictured here, spends his time pestering employees to fill out paperwork.

reports anyway. Users weren't happy with the reports. (They can be subjective by nature and limited by the resources available). This year, Senator Keller has sponsored a constitutional amendment to put to the voters the question of whether we should have a bi-annual tax expenditure budget – see SJR 5). On top of that, as a result of requirements passed a couple of years ago by Senator Keller, most tax legislation introduced requires that pages of reporting, statements of purpose, legislative reports, and potential waiver of taxpayer confidentiality, all of which create work and complexity for taxpayers and the tax department.

Still, there are additional proposals to require more forms and more detailed reporting. Rep Harper and Sen Keller have proposals in the House (**HB 131**) and Senate (**SB 29**) that would require separate statement of most gross receipts tax deductions and exemptions. In a related proposal, Senator Keller and Rep. McCamley propose a requirement in the Tax Administration Act (meaning it would apply to all tax programs in NM except property taxes) that all "tax expenditures" be separately reported on the applicable return by taxpayers. Of course, that brings back the age-old question of what a "tax expenditure" is to begin with (i.e. you know it when you see it…), which is not addressed in the proposal (see **SB 30**). Even without passage of these measures, the weight of tax administration and compliance is going to continue to grow.

[NMTRI note: Information is not a bad thing, at least when reliable and reasonably accurate. We should publish a tax expenditure budget, be it by legislation or administrative practice or executive order. But we should also remind ourselves of the limitations of such tools. They don't, for instance, answer the questions that voters and lawmakers really want the answers to – effectiveness of tax exceptions – which requires considerably more cost, analysis and information than any of these proposals contemplate.

You get what you pay for – and since no money is proposed to support the efforts described above, whatever we get will come at the cost of tax administration and enforcement—as well as ever-increasing uncompensated burdens on taxpayers. What the conversation should boil down to is cost vs. benefit. Since the costs are real, they need to be quantified against the benefit…. And therein lies the problem.

No proposals since the food/medical deductions (which started the trend of "line-item" reporting in order to make possible the hold harmless transfers to local governments), have had any sort of enforcement or penalty mechanism to make sure reporting is done accurately. In the absence of penalties (which are questionable in and of themselves), there is no incentive for accuracy. Unfortunately that probably means bad data. The tax department, of course, will still be under obligation to capture, process, catalogue, and report out on that bad data—potentially resulting in "garbage in - garbage out".

There is a potential upside, however. Given the ongoing trend in base narrowing and rate increases (see below), the efforts to make administration and compliance even more burdensome may do us the favor of hastening the collapse of our gross receipts tax structure and forcing the its replacement with something more useful sooner than would otherwise be required].

Taking the Consumption out of the Consumption Tax

The first tax proposals to be introduced are often gross receipts tax deductions. This year was no exception. We've got two aircraft related deductions proposed – one to remove the gross receipts tax from those providing parts and maintenance on aircraft. (This expands the "Eclipse" deduction which only extended a deduction to the aircraft manufacturer – since their business model included repair.) See Rep. White and Sen. Cisneros' **HB 14** and Sen. Cisneros's **SB 26**). The other proposal removes the gross receipts tax from the sale of commercial or military aircraft. Its purpose appears to be to support the industry efforts in the Roswell area where refurbishment, painting and other aircraft service activities take place. This one is clumsily crafted and implies we're extended a deduction for the sale of something we can't tax – military aircraft. The proposal, found in Rep. Wooley's **HB 24**, received a coveted "no fiscal impact" from the economists and thus has already achieved sufficient votes to reach escape velocity from the House Taxation and Revenue Committee ("HTRC"). (HTRC has a general policy of tabling all bills with fiscal impacts until later in the session, so HB 24 is out in front so to speak) Although the analysis of compensating tax implications was, for some reason, absent.

In another proposal, Rep. Gonzales wants to more directly subsidize private bus contractors by eliminating the gross receipts and compensating tax on bus fuel in his **HB 98**. (This fuel is only subject to GRT or comp tax because the special fuel (diesel) tax that goes to pay for the roads was eliminated by former Rep. Vigil, a – wait for it – school bus contractor from Ribera, and the exemption for special fuel in the GRT only applies to fuel subject to the road tax).

Healthcare gross receipts tax deductions are often the single most numerous, being that the healthcare industry is so large. That means that there's a huge tax base to be perforated and ulcerated in an unplanned and inconsistent way with tax exceptions. It's an industry big enough to support half the lobbyists in Santa Fe. Leading the charge are re-tread proposals from last year that eliminate dialysis facilities from the gross receipts tax base as it pertains to sales to Medicare, and the deduction for durable medical equipment for *certain* sellers (raising equity questions). The dialysis proposals can be found in Rep Gonzales's **HB 32** and Sen Cisneros's **SB 28**; while the DME proposal can be found in Rep. Trujillo's **HB 56** and Sen. Papen's **SB 88**. These proposals passed both houses last year and have interim committee endorsements, so look for them to pass this year.

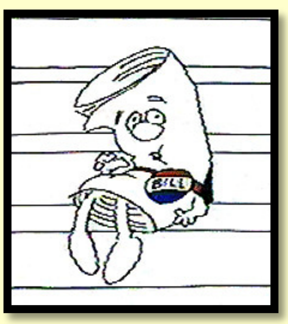
Probably the most expensive healthcare related proposal is that of Rep. Jim Trujillo's **HB 207** which like Rep. Gonzales and Sen. Cisneros found in **HB 118**, expands the mother of all healthcare GRT deductions , section 7-9-93 covering payments by insurance companies and HMO's, for an ever-growing laundry list of medical services and providers. It does so by broadening the deduction to include copayments on otherwise qualifying services, but appears more broad and even gives the impression, albeit incorrect, that fee for service payments by individuals aren't taxable. Other healthcare related gross receipts tax cut proposals can be found in Rep. Taylor's **HB 41**, which would expand the present law "Medicare/Doctor" GRT deduction to include receipts from the federal Energy Employees Occupational Illness Program

Act of 2000 for the provision of medical and related services by medical doctors and osteopaths. A proposal by Rep. Jim Trujillo would create a new deduction to eliminate tax on the sale of services to tax exempt non-profit hospitals (see his **HB 262**).

[NMTRI note: While we gently mock the approach and overall trajectory of our gross receipts tax policy – particularly as it pertains to healthcare – that's not to say that all deductions are bad or that a changing economy - as well as ever-upward spiraling tax rates – don't create legitimate hardship and need in some areas for changes or relief. That said, healthcare for example is one of the largest and most important industries in the state, and our approach to taxation and changes in policy should be coherent, fair, consistent and well thought through. That's not currently the case].

Next time we'll focus more on local government issues, tax increases and reductions, the road fund proposals, and economic development ideas. 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 introduced in 2014 Legislative Session:



Note – in the table below, if no effective date is mentioned, the bill lacks one and would take effect upon enactment, May 21, 2014. Effective date for GRT and other non-income tax bills is July 1, 2014 unless otherwise noted. Income Tax bills are effective tax years beginning on or after January 1, 2015 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 14 White/Cisneros	**Aircraft Parts & Maintenance Gross Receipts HB 14** Expands an existing deduction to provide a gross receipts tax deduction for sales of aircraft parts and services.	HTRC/HAFC -HTRC
HB 24 Wooley	**Commercial or Military Aircraft Gross Receipts: HB 24** Expands the present law gross receipts tax deduction for the sale of certain services on certain services on military or commercial aircraft would be expanded to include the sale of the aircraft themselves (currently subject to tax but privy to a 50% deduction).	HTRC/HAFC
HB 26 Wooley	**Real Property Sale Assessor Affidavits: HB 26** Expands current real property disclosure to include nonresidential property that isn't used primarily for agricultural purposes.	HROBC
HB 30 Gonzales/Keller	**Alternative Fuel Tax Definitions & Payment: HB 30** Adds detail to volume definitions of alternative fuels by specifying the associated weight per unit of volume; narrows the category of those that can make lump sum annual payments in lieu of the usage based tax.	HTPWC/HTRC/HTPWC
HB 32	**Dialysis Facility Gross Receipts: HB 32**	HHGIC/HTR

Gonzales	Adds dialysis centers to the laundry list of "qualified practitioners" eligible for the deduction for the sale of services to Medicare. Endorsed by the interim Revenue Stabilization and Tax Policy Committee.	C-HHGIC-DP-HTRC
HB 38 Cote	**Transfer of Property to State Tax Exemption: HB 38** Provides an exception to the property tax rule that owners pay taxes penalty and interest in a year where the property was divided or combined when the owner has entered into an agreement for transfer of the property to the state or its political subdivision.	HTRC
HB 40 Cote	**Affordable Housing Act Tax Credit Definitions: HB 40** Narrows the definition of who a "person" is for purposes of who the MFA may issue an investment voucher to by excluding county and municipal governments.	HCPAC/HTRC-DP-HTRC
HB 41 Taylor	**Federal EEOIC Program Gross Receipts: HB 41** Expands the present law "Medicare/Doctor" GRT deduction to include receipts from established by the federal Energy Employees Occupational Illness Program Act of 2000 for the provision of medical and related services by medical doctors and osteopaths.	HTRC/HAFC-HTRC
HB 45 Larranaga	**U.S. Dept. of Energy Gross Receipts: HB 45** Creates a deduction for the sale of directed energy or satellite related research and development services and related materials to the department of defense, but the deduction, oddly, is limited to the amount of property and sales tax paid by the taxpayer.	HTRC/HAFC-HTRC
HB 56 J. Trujillo	**Durable Medical Equipment Gross Receipts: HB 56** Creates a new gross receipts tax deduction for the sale of prescription drugs to include the sale or lease of prescribed durable medical equipment and supplies. It requires special/separate reporting on the part of taxpayers and the TRD, and is effective until July 1, 2021. Not all sellers are created equal for purpose of this deduction: taxpayers may not take the deduction if they don't participate in the Medicaid program or received less than 90% of their revenue from the sale or lease of the goods/services made deductible or from the sale of infusion therapy services. Endorsed by the interim Revenue Stabilization and Tax Policy Committee. The amendment only slightly enhanced the special reporting Kellerization language.	HTRC/HAFC-HTRC-DP/a-HAFC
HB 57 J. Trujillo/M. Sanchez	**Tax Refunds for Senior Services: HB 57** 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.	HTRC-DP-T
HB 74 Gonzales	**Gas Tax Increase for Major Road Projects: HB 74** For a period of ten years, increases gasoline and special fuels tax (diesel) by 5 cents per gallon (from $.17 - .22 and .21-.26/gal, respectively), reduces other road fund distributions, and sends the proceeds to the Major Road Projects fund created in the same legislation.	HTPWC/HTRC-HTPWC
HB 89 Martinez	**Delinquent Property Tax to County Treasurer: HB 89** Funnels delinquent property tax, penalty and interest through the county treasurers offices and requires them to distribute proceeds monthly to the	HTRC/HAFC-HTRC

	Department, while retaining current property tax, penalty and interest.	
HB 94 Powdrell-Culbert/Keller	**Angel Investment Tax Credit Changes: HB 94** Eliminates the 2016 sunset provision 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 award from $750K to $2M, and eliminates the restrictions on partnership investment.	HTRC/HAFC-HTRC
HB 96 C. Trujillo/Padilla	**Tech Jobs and Research Development Tax Credit: HB 96** 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.	HTRC/HAFC-HTRC
HB 98 Gonzales	**School Bus Fuel Gross Receipts: HB 98** Provides an exemption from the gross receipts and compensating tax for the receipts/use of “fuel” for school buses.	HTRC/HAFC-HTRC
HB 114 Lundstrom	**Reduction in Hold Harmless Gross Receipts: HB 114** Make several changes to the hold harmless phase-out provisions enacted in the previous year, as they pertain and for the apparent benefit of Gallup, but could apply to parts of Espanola.	HTRC/HAFC-HTRC
HB 118 Gonzales/Cisneros	**Healthcare Practitioner Gross Receipts: HB 118** Appears to add copayments to the growing laundry list of receipts eligible for the medical gross receipts tax deduction under 7-9-93.	HTRC/HAFC-HTRC
HB 131 Harper/Keller	**Itemize Gross Receipts Deductions and Exemptions: HB 131** Requires the many different gross receipts tax exemptions and deductions to be separately stated and itemized; sunset many exemptions and deductions in 2025.	HTRC/HAFC-HTRC
HB 132 Harper	**Local Government Hold Harmless Gross Receipts: HB 132** Make several changes to the hold harmless phase-out provisions enacted in the previous year, as they pertain to municipalities and counties. The proposal limits when and to what extent additional GRT can be imposed, eliminates incentives to impose GRT increments and ensures in certain cases that distributions would not be impaired.	HTRC/HAFC-HTRC
HB 133 Harper	**Solar Energy Equipment Tax Valuation: HB 133** Defines and provides for the valuation of solar generation equipment for property tax purposes to be actual cost less federal credits with a ten year straight line depreciable life.	HENRC-HTRC/HENRC
HB 136 J Trujillo	**Electronic Vehicle Tax Credit: HB 136** Until January 2020, 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.	HTPWC/HTRC-HTPWC
HB 155 Lundstrom	**Local Gov’t Hold Harmless Gross Receipts: HB 155** Creates an exception to the hold harmless phase outs for a “class B county that does not have in effect a county hold harmless gross receipts	

	tax through ordinance and that has a population of seventy thousand or more…. and a property valuation of more than $730M and less than $1B. Hmmm… McKinley maybe?	
HB 168 Roybal Caballero/Wirth	**Phased-in Supplemental Income Tax: HB 168** Essentially phases in a new top tax bracket beginning 2015 – in one year increments through 2018 – an additional .3% to .5% to .8% and finally to 1% for years 2018 and after, resulting in a top marginal rate of 5.9%. The upper bracket for income over $100K in the case of single filers, estates, trusts, and married individuals filing separately; and $150K for married, head of household or surviving spouse	HTRC/HAFC-HTRC
HB 180 Sandoval	**Working Families Tax Credit: HB 180** Increases the Working Families Tax Credit (a mirror of the federal Earned Income Tax Credit) to a 15% of the federal EITC from the present law 10%. Endorsed by the interim Revenue Stabilization and Tax Policy Committee.	HTRC/HAFC-HTRC
HB 204 Gentry	**Transfer of Credit Between Taxpayers: HB 204** Generally provides for a three year statute of limitations and makes transferable several present law credits, including the Qualified Business Facility Rehabilitation Credit (personal and corporate income tax versions), the Job Mentorship Tax Credit (personal and corporate income tax versions), and the Angel Investment Tax Credit.	HTRC/HAFC-HTRC
HB 207 J. Trujillo	**Health Care Practitioner Gross Receipts: HB 207** Expands the gross receipts tax deduction for sales of services by a "health care practitioner", extends the deduction to copays and deductibles, and pretends to also include fee for service payments.	HHGIC/HTRC
HB 210 Strickler	**Reduce Corporate Income Tax: HB 210** Increase the rate and amount of reduction in the top marginal corporate income tax rate (on net income in excess of $500K) by reducing the scheduled top rate from 6.2% to 5.4% in 2017; and from 5.9% to 4.9% in years 2018 and after.	HCPAC/HTRC/HAFC-HCPAC
HB 221 Sheryl Williams Stapleton	**Property Tax Exemption For Certain Age: HB 221** Creates a property tax exemption of up to 100% of taxable value for primary residences of New Mexico residents 70 years of age or older who has modified gross income of $40K or less. The exemption is 50% for those 70-75, 75% for those 75-80, and 100% for those 80 years of age and older.	HTRC/HAFC-HTRC
HB 233 Dodge	**Renewable Energy Tax Credit Eligibility: HB 233** Extends the present law renewable production tax credit to apply to qualified energy generators on or before 1/1/2021 (from 1/1/2018), and increases the cap on the amount of electricity that can be produced by the qualified energy generators from 2 to 4 million MW, and for solar the addition 500MW is increased to 1 million MW.	HENRC/HTRC-HENRC
HB 234 Dodge	**Exclude NOL Carryover For Up to 20 Years: HB 234** Provides for an increase in the number of years a net operating loss for corporate income tax may be carried forward from 5 to 20 years.	HTRC/HAFC-HTRC
HB 248 Alcon	**Native American Veteran's Tax Settlement: HB 248** Revives the already lapsed period of time a Native American veteran or	HTRC/HAFC-HTRC

	their survivors can claim a refund for income taxes incorrectly withheld while they were domiciled on their own or spouse's tribal land, from 12/31/2012 to 12/31/2019.	
HB 262 J. Trujillo	**Nonprofit Hospital Services Gross Receipts: HB 262** Creates a new gross receipts tax deduction for sales of services by a "health care practitioner" to a nonprofit hospital pursuant to a contract with the hospital.	HTRC/HAFC -HTRC
HB 288 Gonzales	**Biodiesel Tax Deduction: HB 288** Creates a deduction from the Petroleum Products Loading Fee for biodiesel that will ultimately be subsequently blended by a rack operator (newly defined in the Act).	HTPWC/HTR C-HTPWC
SB10 Papen/Gentr y	**New Revenue Income Tax Credit: SB10** Creates a new refundable personal and corporate income tax credit in the amount of 30% of new revenue created, and contains employment increase and other requirements. Applicants must receive a certificate of eligibility from the Economic Development Department, and cannot use the Investment Credit, High Wage Jobs Tax Credit, Technology Jobs Tax Credit, Rural Jobs Tax Credit, Local Economic Development Act funds, or JTIP incentives in conjunction.	SCC/SCORC/ SFC-SCC- germane- SCORC
SB17 Wirth/Egolf	**Unitary Corporate Bank Combined Return: SB 17** Requires banks subject to corporate income tax and filing a separate company basis to report under a mandatory unitary combined filing basis.	SCC/SCORC/ SFC-SCC- germane- SCORC
SB 26 Cisneros	**Aircraft Parts and Maintenance Gross Receipts: SB 26** Expands an existing deduction to provide a deduction for retail sales of aircraft parts and services by FAA certified providers.	SCC/SCORC/ SFC-SCC- germane- SCORC
SB 28 Cisneros	**Dialysis Facility Gross Receipts: SB 28** Adds dialysis centers to the laundry list of "qualified practitioners" eligible for the deduction for the sale of services to Medicare. The deduction is phased-in over three years beginning 7/1/14 in 33 1/3% increments.	SCC/SCORC/ SFC-SCC- germane- SCORC
SB 29 Keller/Harpe r	**Itemize Gross Receipts Deductions and Exemptions: SB 29** Requires the many different gross receipts tax exemptions and deductions to be separately stated and itemized; sunset many exemptions and deductions in 2025.	SCC/SCORC/ SFC-SCC- germane- SCORC
SB 30 Keller/McCa mley	**Separate Reporting of Tax Expenditures: SB 30** Amends provisions of the Tax Administration Act to require taxpayers who reduce their tax liability with a tax expenditure to separately report that tax expenditure on the applicable tax return.	SCC/SCORC/ SFC-SCC
SB 36 Keller	**State Graduate Employment Tax Credit: SB 36** Creates a non-refundable personal and corporate income tax credit in the amount of $5000 for hiring New Mexico graduates within 18 months of	SCC/SCORC/ SFC-SCC- germane-

	graduation form a New Mexico institution. The credit cannot be taken in conjunction with the High Wage Jobs Tax Credit, the Rural Jobs Tax Credit, or the Technology Jobs Tax Credit, and cannot be carried forward. Endorsed by the interim Revenue Stabilization and Tax Policy Committee.	SCORC
SB 47 Keller/Cook	**Business Facility Reinvestment Tax Rebate: SB 47** Creates a 25% corporate income tax rebate for taxes paid (may be carried forward seven years) for qualified investments new businesses of no less than $1,000,000, or in existing businesses in excess of $250,000. The EDD issues a certificate of eligibility.	SCC/SCORC/ SFC-SCC- germane- SCORC
SB 51 Keller/Stewa rt	**Increase Working Families Tax Credit: SB 51** Increase the state credit amount from 10 to 17% of the federal earned income tax credit ("EITC") and repeals the 50% deduction for capital gains for purposes of the personal income tax.	SCC/SCORC/ SFC-SCC- germane- SCORC
SB 59 Keller/Smith	**Tech Commercialization Gross Receipts: SB 59** Creates a 50% gross receipts tax credit for "distributions" made by a taxpayer to an eligible endowment fund of a university or nonprofit. The credit can be divided by twelve and taken against gross receipts tax owed over 12 months. The program is capped and $2M/yr and processed in the order received. A credit cannot exceed $500K/taxpayer.	SCC/SCORC/ SFC-SCC- germane- SCORC
SB 87 Neville	**Local Gov't Hold Harmless Gross Receipts: SB 87** Makes changes to the recent hold harmless phase out provisions limiting municipal and county rate authority to 1/8% in 1/16% increments (from 3.8% in 1/8% increments) and requires entities having passed taxes pursuant to these provisions to conform to the new limitations.	SCC/SCORC/ SFC-SCC- germane- SCORC
SB 88 Papen	**Infusion Therapy & Med Supply Gross Receipts: SB 88** Creates a new deduction from gross receipts for the sale of infusion therapy services or for the sale or lease of durable medical equipment. Not all sellers are created equal for purpose of this deduction: taxpayers may not take the deduction if they don't participate in the Medicaid program or received less than 90% of their revenue from the sale or lease of the goods/services made deductible by this proposal.	SCC/SCORC/ SFC-SCC- germane- SCORC
SB 106 Leavell	**Exclude NOL Carryover For Up To 20 Years: SB 106** Provides for an increase in the number of years a net operating loss for corporate income tax may be carried forward from 5 to 20 years.	SCC/SCORC/ SFC-SCC- germane- SCORC
SB 114 Griego	**Angel Investment Tax Credit Changes: SB 114** Eliminates the 2016 sunset provision 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 award from $750K to $2M, and eliminates the restrictions on partnership investment.	SCC/SCORC/ SFC-SCC- germane- SCORC
SB 117 Wirth	**Sole Member LLC Tax Status: SB 117** Provides that SMLLC's are treated the same as 501(c)(3) owners for purposes of the gross receipts and compensating tax exemptions.	SCC/SCORC/ SFC-SCC- germane- SCORC

SB 140 Ivey-Soto	**Tax Increment District Base-Years: SB 140** Provides authority and process to revise the base year of a tax increment development districts base year once during the life of a district if the year revised is a completed calendar year, no tax increment bonds have been issues, and upon finding that the revision is reasonable and in the best interest of the state.	SCC/SCORC/ SFC-SCC- germane- SCORC
SB 142 Munoz	**Native American Veterans' Tax Settlements: SB 142** Revives the already lapsed period of time a Native American veteran or their survivors can claim a refund for income taxes incorrectly withheld while they were domiciled on their own or spouse's tribal land, from 12/31/2012 to 12/31/2019.	SCC/SCORC/ SFC-SCC- germane- SCORC
SB 147 Pinto	**Gas Tax For US Highway 491 Project: SB 147** Beginning 7/1/14, creates a new 1 cent/ gallon surtax on gasoline and special fuels (diesel) for 15 years and sends the money to a fund created by the proposal – the US Highway 491 Project Fund, along with bonding authority up to $123M for the purpose of funding improvement to Highway 491.	SCC/SCORC/ SFC-SCC- germane- SCORC
SB 156 C Sanchez	**Exclude NOL Carryover For Up To 20 Years: SB 156** Provides for an increase in the number of years a net operating loss for corporate income tax may be carried forward from 5 to 20 years.	SCC/SCORC/ SFC-SCC- germane- SCORC
SB 170 Munoz	**Reduction in Hold Harmless Gross Receipts: SB 170** Make several changes to the hold harmless phase-out provisions enacted in the previous year, as they pertain and for the apparent benefit of Gallup, but could apply to parts of Espanola.	SCC/SCORC/ SFC-SCC- germane- SCORC
SB 171 Munoz	**Local Gov't Hold Harmless Gross Receipts: SB 171** Creates an exception to the hold harmless phase outs for a "class B county that does not have in effect a county hold harmless gross receipts tax through ordinance and that has a population of seventy thousand or more…. and a property valuation of more than $730M and less than $1B. Hmmm… McKinley maybe?	SCC/SCORC/ SFC-SCC- germane- SCORC
SB 172 Cotter	**Spaceport Gross Receipts Tax Uses: SB 172** Amends present law to limit the use of proceeds from the county regional spaceport gross receipts tax to debt retirement and service (precluding use for purposes of operational expenses).	SCC/SCORC/ SFC-SCC- germane- SCORC
SB 175 Beffort	**Software Development Gross Receipts: SB 174** Creates a new gross receipts tax deduction for the sale of "software development services", defined to include "activities such as design, development, programming testing, or the deployment of nontangible custom software or the adaption of commercially available software…".	SCC/SCORC/ SFC-SCC- germane- SCORC
SB 184 Munoz	**U.S. Dept. of Defense Energy Gross Receipts: SB 184** Creates a deduction for the sale of directed energy or satellite related research and development services and related materials to the department of defense, but the deduction, oddly, is limited to the amount of property and sales tax paid by the taxpayer.	SCC/SCORC/ SFC-SCC- germane- SCORC

SB 191 Griego	**Renewable Energy Tax Credit Changes: SB 191** Make several changes to the hold harmless phase-out provisions enacted in the previous year, as they pertain to Gallup and parts of Espanola.	SCC/SCONC/SCORC/SFC-SCC-germane-SCONC
SB 200 Cotter	**Income Tax Age Exemption: SB 200** Expands the present law personal income tax exemption for persons 100 years or older to persons 97 years old or older.	SCC/SCORC/SFC-SCC-germane-SCORC
SB 217 Munoz	**County Hold Harmless Gross Receipts: SB 217** Creates an exception to the hold harmless phase outs for a "class B county that does not have in effect a county hold harmless gross receipts tax through ordinance and that has a population of seventy thousand or more…. and a property valuation of more than $730M and less than $1B. Hmmm… McKinley perhaps?	
SB 222 Smith	**Pre-K Provider Gross Receipts: SB 222** Creates a gross receipts tax exemption for the receipts of for profit pre-kindergarten services providers for prekindergarten services provided pursuant to the Pre-Kindergarten Act.	SCC/SEC/SFC-SCC-germane-SEC
SB 228 Smith	**Gas Tax Increase, Index, & Distribution: SB 228** From 7/2019 through 7/2023 increases gasoline and special fuels (diesel) taxes $.13/gallon (from $.17 to $.30/gal for gasoline and from $.21 to $.33/ gallon for special fuels). After 7/2024, the rate is indexed to the CPI. The proposal also reduces the percentage distribution to the local government road fund after 7/1/2019.	SCC/SCORC/SFC-SCC-germane-SCORC
SB 233 Ingle	**Biodiesel Tax Deduction: SB 233** Creates a deduction from the Petroleum Products Loading Fee for biodiesel that will ultimately be subsequently blended by a rack operator (newly defined in the Act).	SCC/SCORC/SFC-SCC-germane-SCORC
SB 235 Ingle	**Vending Machine Gross Receipts: SB 235** Creates an exemption "from payment" from the gross receipts tax for the sale of food or beverages from a coin-operated vending machine.	SCC/SCORC/SFC-SCC-germane-SCORC
SB 248 Cisneros/Gonzales	**Agricultural Land Valuation: SB 248** Imposes a 3% valuation limitation on certain agricultural land (i.e. valued as agricultural for 9 of last 10 years and hasn't changed ownership except to family members…) that no longer qualifies for agricultural valuation (meaning its being developed for commercial or residential use).	SCC/SCORC/SFC-SCC
SB 263 M. Sanchez	**Allow Local Liquor Tax & Limit Rates: SB 263** Expands the applicability of the Local Liquor Excise Tax (removes limitation to Class B counties), specifies rates by type of alcoholic beverage, changes the activity the tax revenue must be dedicated to, and eliminates the administrative fee collected by the Taxation and Revenue Department.	SCC/SCORC/SFC-SCC

HOLD THE DATE AND MARK YOUR CALENDARS NOW – 11TH ANNUAL NMTRI TAX POLICY CONFERENCE IS COMING!

The ELEVENTH (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 24-25th. You will be inundated with details shortly! We look forward to seeing you there!

KNICK KNACKS

NMTRI Publishes Preliminary Study on Oil and Gas Revenue in New Mexico

The New Mexico Tax Research Institute has been working with Laird Graeser, the recently

retired but long serving chief economist from the New Mexico Taxation and Revenue Department and Department of Finance and Administration, to attempt to more definitively answer the question of how much the industry pays and where the money goes. Everyone knows the contributions are significant, so the answers aren't surprising or unexpected, but the undertaking and effort required is massive and Laird has done yeoman's work to compile the voluminous data involved in such a mammoth undertaking. It's preliminary because it's still under review and subject to criticism – we invite yours. There are still minor typos and page numbering issues we'll clean up in the next couple of weeks, but we wanted to make the information available so we could start getting feedback.

Without Laird's passion for history, data and his interest in and background with the subject matter, this report would not have been possible. The general fund impacts are summarized in the table below. We believe we our approach was well reasoned and conservative. We'll be talking more about the results in the future, but in the meantime a PDF of the study can be accessed on the NMTRI website here. It should be noted that while we analyzed the fiscal impacts of taxes and royalties to state, local and tribal governments, we made no effort or comment on analyze the other issues and fiscal or other impacts the industry may have, be they environmental, regulatory, workforce related, etc.

Tabular Summary of Study Results

- **FY2013 General Fund contributions from oil and natural gas production**

FY 2013 General Fund			
Category	**Amount ($ millions)**	**OGAS Attributed Amounts ($ millions)**	**Approx. % OGAS**
Gross Receipts Tax	$1,912.7	$127.5	6.7%
Compensating Tax	$50.7	$14.8	29.2%
Selective Sales Taxes	$405.2	>0	0.0%
Net Personal Income	$1,225.7	$120.3	9.8%
Corporate Income Tax	$263.0	$54.0	20.5%
Oil & Gas School Tax	$385.0	$385.0	100.0%
7% Oil Conservation	$21.2	$20.2	95.2%
Resources excise	$15.1	$0.0	0.0%
Natural Gas Processors	$24.2	$24.2	100.0%
Perm. Fund Income	$440.9	$425.9	96.6%
Sev Tax Income Fund	$176.2	$151.5	86.0%
Federal Mineral Leasing	$459.6	$407.6	88.7%
Land Office Income	$44.6	$30.3	68.0%
All other categories	$166.2	$0.0	0.0%
Recurring General Fund/Total	$5,590.2	$1,761.2	31.5%

- **Percentage of LGPF attributed to Oil and Natural Gas Production**
  96.6%
- **Percentage of STPF attributed to Oil and Natural Gas Production**
  86%
- **Percentage of General Fund Attributed to Oil and Natural Gas Production**
  31.5%
- **FY 2013 Severance Taxes Paid to STBF and a portion thence to STPF (after bond repayments)**
  $419,992,937, with $0 to STPF
- **FY 2013 Severance Tax Bond projects**
  769 projects for $218,132,000 (of which $207,225,000 is attributed to Oil and Natural Gas production – Severance Taxes)
- **7-year total Severance Tax Bond Projects**
  $1,449,994,000 (of which, $1,248,767,000 attributed to Oil and Natural Gas production (severance taxes paid)
- **FY 2013 Ending Balance in STPF**
  $3,873,169,911
- **FY2013 Royalties paid for production on State Lands[2]**

[2] Note: this is the amount reported by SLO. From ONGARD, the reported royalties for FY 2013 production year were $500,922,225. This difference will be diagnosed and reconciled in the next phase of this study.

$494,082,929

- **FY2013 Bonus Payments to SLO for the right to produce on State Lands**
  $30,349,730
- **FY 2013 Ending Balance in LGPF**
  $13,280,000,000
- **Royalties Paid to MMS for production on Federal of which a portion is returned as federal revenue sharing**
  $835,156,988, with $407,603,643 returned as revenue sharing
- **Royalties paid for production on Indian Lands**
  $31,118,909
- **In Lieu of School and Severance Taxes paid for production on Indian Land**
  $3,159,824
- **Total Ad Valorem Production Taxes paid**
  $126,391,042 (approximately $6.3 million for state GO Bond Debt Service and $120.1 million for all local property tax beneficiaries)
- **Total Ad Valorem Production Equipment Tax**
  Approximately $79.4 million (approximately $4.0 million state GO Bond Debt Service and $75.4 million for all local property tax beneficiaries)
- **General Fund School Support to 89 local school districts (31.5%)**
  $714,223,614
- **General Fund Higher Education Funding (31.5%)**
  $227,797,800

Also, the results of the revised Business Tax Competitiveness Study will be posted on our website very shortly as well.

[NMTRI note: the website host for the NMTRI website has been acquired, necessitating a migration of our site to a different provider platform. While the URL will remain the same, there may be some periods where the website will be inaccessible pr only partially accessible, links may fail, or the like. We apologize for any inconvenience. Please bear with us- any problems or interruptions should be very temporary].

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 rationale 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

The term "tax humor" is no doubt an oxymoron to many people; to the more cynical, it is an apt description of the entire tax code.
~John F. Iekel

It's tax time. I know this because I'm staring at documents that make no sense to me, no matter how many beers I drink.
~ Dave Barry

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

Join NMTRI today!