

Tax Matters

The Newsletter of the New Mexico Tax Research Institute

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

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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!

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. 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 259 bills introduced thus far. Of those, 146 are House bills, and the remaining 113 are from the Senate. If you can't wait to see what's already been introduced, click [here](#) to 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.

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-pectations for the Session

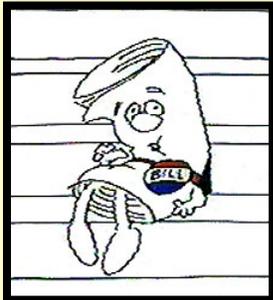
The 30-day session has arrived. While primarily a budget session, meaning taxes and the controversy they bring are fair game, other controversial issues from the prior sessions such as social promotion, driver’s licenses for undocumented residents, and the like are sure to come up. Still, there are many tax interests and agendas out there. As with last year, we anticipate fewer than normal tax increase proposals since it appears fairly clear that the Governor would not sign one.

You don’t have to be Nostradamus to get an idea of what sorts of tax legislation will be introduced. We’re in an election cycle and there is not a lot of new money on the table. The Executive has proposed allocating some money to economic development, including expansion of the Angel Investors Tax Credit and the Technology Jobs Tax Credit, as well as money for a closing fund vis-a-vis the Local Economic Development Act. The legislative budget makes no such allocations, but both proposals put most new money in other places such as education. The devil is in the detail of course, so there’s plenty of room for argument – but most fiscal fights this year won’t involve taxes.

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

Join us weekly through the session as we try to provide balance 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	HTRC/HAFC

	would be expanded to include the sale of the aircraft themselves (currently subject to tax but privy to a 50% deduction).	
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 Gonzales	Dialysis Facility Gross Receipts: HB 32 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.	HHGIC/HTRC-HHGIC
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
HB 41 Taylor	Federal EEOIC Program Gross Receipts: HB 42 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
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.	HTRC/HAFC
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.	HTRC/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

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.	HPREF
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 Department, while retaining current property tax, penalty and interest.	HPREF
HB 94 Powdrell- Culbert/Kelle r	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.	HPREF
HB 96 C. Trujillo/Padil la	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.	HPREF
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.	HPREF
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 to municipalities only.	HPREF
HB 118 Gonzales/Cis neros	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.	HPREF
HB 131 Harper/Kelle r	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.	HPREF
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.	HPREF
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.	HPREF
HB 136 J Trujillo	Electronic Vehicle Tax Credit: HB 136 Until January 2020, creates a refundable personal income tax credit for	HPREF

	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.	
SB10 Papen/Gentry	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.	SCORC/SFC-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
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
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
SB 29 Keller/Harper	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
SB 30 Keller/McCarmley	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 graduation from 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.	SCC/SCORC/SFC-SCC
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

SB 51 Keller/Stewart	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% capital gain deduction in the Personal Income Tax Act.	SCC/SCORC/ SFC-SCC
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
SB 87 Neville	Local Govt 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
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
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

KNICK KNACKS

NMTRI to Publish New Studies

The New Mexico Tax Research Institute has been working with Ernst & Young, LLP, to update the 2011/2012 New Mexico Business Tax Competitiveness Study in light of recent tax law and rate changes, both in New Mexico and its competing states.

NMTRI is also working on a study endeavoring to answer the question of exactly how much does the oil and gas industry contribute to New Mexico coffers? Recently retired but long serving chief economist from the New Mexico Taxation and Revenue Department and Department of Finance and Administration, Laird Graeser, has served as our primary researcher and has done yeoman’s work to compile the voluminous data involved in such a mammoth undertaking.

Elements of the preliminary results from both have trickled into the public and we’re doing our best to get both finalized and posted to our website in the upcoming hours or couple of days.

[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 or 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].

TAX QUOTABLES

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

~ *Lord Bramwell*

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

~*Art Buchwald*



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



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

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

Wendell Holmes, dissenting.
Join NMTRI today!