

Tax Matters

The Newsletter of the New Mexico Tax Research Institute

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



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- **Legislative Post Mortem - What Just Happened?**
- **Table of Governor’s Actions on Bills on Her Desk**
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REGISTER NOW FOR THE 2015 12th ANNUAL NMTRI TAX POLICY CONFERENCE



REGISTER NOW for the Twelfth Annual New Mexico Tax Research Institute Tax Policy Conference: May 7-8 (Thursday and Friday), at the Sandia Resort and Casino in Albuquerque. Members of NMTRI may attend for \$220.00 per person. Interested government or academic folks may attend for \$225.00. Other non-members are welcome for \$235.00. Registration includes continental breakfasts both days as well as lunch and a hosted reception on Thursday. Reservations and payment should be received no later than May 3, 2015; however last minute decision makers can call (505) 842-5833. CPE and CLE are available (depending on the final state of the agenda and MCLE Board determination, we anticipate 9+ hrs of CLE and 12+ hours of CPE). The conference program includes a 2 hr section on tax/business ethics. It will be offered at an early Friday morning (7:30 – 9:30) and everyone is encouraged to come. For those staying at the resort, CALL NOW to secure our preferred room rate as the reservation block expires 4/15 (505.796.7500 is their number). Don't miss returning Professor Rick Pomp, The Tax Foundation, COST, the Multistate Tax Commission, The National Association of State Budget Officers, not to mention our beloved Cabinet Secretaries from the Taxation and Revenue Department and Department of Finance and Administration, and executive staff from the Legislative Finance Committee and more. A final agenda will be published soon. **REGISTER NOW!**

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



The 2015 Regular Session of the New Mexico Legislature convened at noon on Tuesday, January 20, and ends at noon (or somewhere thereabouts) on March 21. The deadline for bill introduction was February 19. Legislation not acted on by the governor by Friday, April 10 was pocket vetoed on. The effective date of legislation that's not a general appropriation bill, a bill carrying an emergency clause or other specified effective date takes effect on June 19. Being a "long" or 60-day session, non-budgetary

legislation and items not related to the budget were fair game and not limited by the call of the Governor as they are in short 30-day sessions. As expected, we saw high profile and contentious issues debated while other proposals languished. In the wake of an election cycle that re-installed Governor Martinez, not to mention created the significant turnover in the House membership – not to mention the change to majority status for the Republicans, have been the minority for over 60 years – made things a bit more interesting.

New Mexico has an uncompensated volunteer legislature comprised of a 70 member House of Representatives and a 42 member Senate. Legislative sessions alternate between 30-day budget related sessions in even numbered years, and unconstrained 60-day sessions in odd-numbered years.

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



Legislative Post-Mortem... What Just Happened?

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

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

What Didn't Happen?



All but three of the nineteen bills tax bills to reach Governor Martinez were signed into law (see the table of final actions below). Two bills were vetoed directly: one Senate bill sponsored by a Democrat Richard Vigil, his [SB 105](#), would have allowed Rio Arriba county to impose a .75% Special county education gross receipts tax increment for the purpose of public school capital spending; the other was a House bill sponsored by freshman Republican Representative Sarah Maestas Barnes in the form of her [HB 296](#) which would have extended the solar market development tax credit to the leasing of solar systems – as opposed to the sale thereof. The third bill was pocket vetoed since it wasn't signed by the governor by the 10th. It was a

Senate bill sponsored by Democrat Senator Munoz ([SB271](#)). It would have modified the imposition of the governmental gross receipts tax to clarify the activities it is imposed upon occur in New Mexico. In case you were wondering, of the 16 bills that passed, 6 were House bills, 10 were Senate bills, with 8 being sponsored by Democrats and 7 sponsored by Republicans (the missing one – if you did the math – was HB 218 which was sponsored by a Republican and co-sponsored by a Democrat Senator).

[NMTRI note: while at the time of publication the Governor's website was down and the links to the Governor's messages the legislative site weren't functioning, it appears the veto in the case of the solar leases was the result of technical and policy concerns around the proposal. In the case of Rio Arriba, it may have been concerns over Espanola's already exceptionally high gross receipts tax rates (there are multiple) and the potential for other revenue sources to be exploited. With the pocket vetoed governmental gross receipts tax proposal, we may never know as there is typically no Executive message for inactions, but it may have been left alone over concerns of revenue loss, perceived necessity (or lack thereof), and/or technical concerns or breadth.]

What Happens Next?



There is general disappointment in the public over the inability of the Legislature to pass a capital outlay measure. Either the Legislature waits until next year to do that, or they can call themselves into extraordinary session, which is unlikely, or the Governor can call a special session. She's not likely to do that unless there's some agreement in advance as to the capital package, and she hasn't been otherwise publicly encouraging. Similarly, the House is not likely to agree to anything unless the tax package that was a part of their "deal" with the Senate (as previously mentioned, the Senate got their share of

the gaming compact money and spent it in the form of the budget, which the Governor signed into law last week).

[NMTRI note: we suspect that the odds of the governor calling a special session are perhaps north of 50%, and if they do it's likely to last 48 hrs and consider two items: capital outlay and the tax package that failed to reach concurrence in the form of Ingle's [SB 386](#).

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

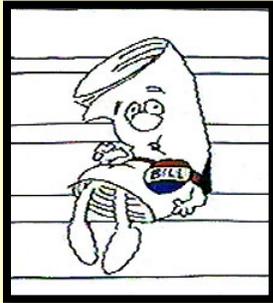
Description	Same/similar to:
Prevent Double Taxing of Certain Gas	SB 386
Angel Investment Credit Minimum Investments	HB 261
Unreimbursed Medical Deduction	HB 351
Change Certain Tax Filing Due Dates	HB 344
Single Sales Factor for Corporate Income	HB 286
Border Zone Trade-Support Gross Receipts	SB 332
U.S. Department of Defense Energy Gross Receipts	HB 94 ; SB 502
Technology Jobs and Research and Development Tax Credit	HB 230
Estate or Trust Distribution Tax Deduction	HB 406

[NMTRI note: we suspect that the odds of the governor calling a special session are perhaps north of 50%, and if she does its most likely to last 48 hrs and consider only two items: capital outlay and the tax package that failed to reach concurrence in the form of Senator Ingle's [SB 386](#).

Thanks for Reading!

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

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



Note – in the table below, if no effective date is mentioned, the bill lacks one and would take effect upon enactment, June 19, 2015. Effective date for GRT and other non-income tax bills is July 1, 2015 unless otherwise noted. Income Tax bills are effective tax years beginning on or after January 1, 2016 unless otherwise noted. “TYBA” = Tax years beginning on or after. Other notes: “CS” indicates committee substitute; “a” indicates amended

Bill Number/ Sponsor:	Title: Link to bill language: Description	Assignments- Location:
HB 39 J Trujillo	Tax Refunds for Senior Services: HB 39 Provides for a another option designate a portion of a refund: in this case to donate all or a specified portion of one’s personal income tax refund to the North Central New Mexico Economic Development District for purposes of supplementing statewide senior services.	Signed
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%	Signed
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.	Signed
HB 218 Gallegos/C Sanchez	Delinquent Tax Electronic Levy Warrants: HB 218 Provides authority for electronic levies to be served on financial institutions.	Signed
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.	VETO
HB 475 Hall	Tax & Rev Info to NMFA: HB 475 Would allow the NMTRD to provide certain reports regarding municipal and county gross receipts taxes and all governmental gross receipts taxes paid to the state.	Signed
HB 581 Dodge	Local Option GRT Distribution Adjustments: HB 581 Makes changes to local government tax distribution rules particularly in the context of refunds and situations resulting in materially reduced/negative distributions, addresses reporting, changes taxpayer confidentiality provisions and provides that that taxpayer may waive a local governments repayment obligations.	Signed
SB 104 Sharer	Installments for Delinquent Property Taxes: SB 104 Allows county treasurers to act as agents for the states in collecting	Signed

	delinquent property tax payments from installment agreements. <i>Endorsed by the interim Revenue Stabilization and Tax Policy Committee.</i>	
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.	VETO
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>	Signed
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.	Pocket Veto
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.	Signed
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 to take the deduction if they are 50% controlled OR owned. Both are required under present law.	Signed
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.	Signed
SB 448 Burt	Military Acquisition Gross Receipts End Dates: SB 448 Removes the 2016 sunset on the present law GRT deduction (7-9-94) from certain military program R&D, tests, and evaluations.	Signed
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.	Signed
SB507 Torraco	Tax & Rev. Tax Fraud Investigation Division: SB 507 Reconciles conflicts in current law regarding the establishment of the Tax Fraud Investigation Division as a statutory division.	Signed
SB 565 Payne	Limit Film Production Credit: SB 565 Limits certain credit eligibility for certain expenditures and makes other	Signed

	changes intended to shift more incentive to NM activity.	
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.	Signed

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

“This is too difficult for a mathematician. It takes a philosopher.” [on filing tax returns]

~Albert Einstein

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

Join NMTRI today!