

# ***Tax Matters***

*The Newsletter of the New Mexico Tax Research Institute*

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

- **HOLD THE DATE – NMTRI Annual Tax Policy Conference May 7 and 8 at Sandia Resort and Casino**
- **Into the Legislative Session**
- **Don’t Forget the Principles**
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## **HOLD THE DATE AND MARK YOUR CALENDARS NOW – 12<sup>TH</sup> ANNUAL NMTRI TAX POLICY CONFERENCE IS COMING MAY 7-8!**

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

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### **INTO THE LEGISLATIVE SESSION – IT BEGAN TODAY - 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 is 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 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.

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## 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-pectations for the Session

The 60-day session has arrived. Not being a “budget only” 30-day session, not just tax/budget issues and the controversy they bring are fair game, but so are other controversial issues, such as those from prior sessions like social promotion in schools, driver’s licenses for undocumented residents, will likely again be debated. This year, right to work is expected to be a hotly debated non-budget issue. There will of course be non-controversial legislation, some of which might still fall victim of politics or the clock.

Money is tight this year, with the consensus revenue forecast predicting \$141 million in “new money” available over 2015 appropriations in an environment of falling oil prices – that’s the number we’re currently budgeting to (see the LFC report on their website [here](#)). The forecast may be revised in early February and there are adjustments in both directions likely to be made. Regardless there won’t be lots of new money for the legislature to play with. You might even see some contingent appropriations at the end of the day. Still, that won’t stop anyone as there are many tax interests and agendas out there and lots of tax and fiscally related legislation was pre-filed. The Executive and LFC budget recommendations are quite similar and only \$2 million or so apart. An LFC document summarizing and comparing the two can be found on their website [here](#) and the actual proposals can be found on the respective websites as well.

The economic development community in general, the Legislative Jobs Council, and the Governor all support more funding for the Job Training Incentive Program (“JTIP”), Local Economic Development Act (“LEDA”) “closing fund” and other economic development programs. Many of those proposals have already been introduced and will also be included in budgets. The Angel Investment Credit changes that almost passed last year will be back, and it has the support of the administration. Most are modest in cost or, in the case of LEDA, can look to non-general fund sources. The passage of most is likely however those seeking certain funding targets won’t likely get all they’re hoping for.

The Interim Revenue Stabilization and Tax Policy Committee (“RSTP”), chaired by Representative Ed Sandoval for the last time, only endorsed five pieces of legislation this year. All have been introduced and are in the table below. From a tax policy perspective, it’s not an impressive list. The least controversial/questionable endorsed the following legislation and all proposals have been introduced.

1. Sunset Safety Net Care Pool Transfer ([SB 117](#) –Rodriguez)
2. County treasurer’s to accept installment delinquent property payments ([SB 104](#) – Sharer)
3. County treasurer to correct obvious errors in property tax ([HB 67](#) - Carl Trujillo)
4. Define agricultural property to include raising of horses and resting of land ([HB 112](#) – Gonzales/[SB 112](#) – Cisneros)
5. Cybersecurity device gross receipts (deduction) ([SB 99](#) – Cisneros/Gonzales)

All of the endorsed interim committee legislation has been introduced. Also, several of the proposals that weren’t endorsed by the committee will also likely be introduced. For some reason, the interim committee had many fewer requests for bills to be heard than what they usually experience.

*[NMTRI note: this year did not represent a high water mark for the committee. Of the five proposals, the first was the result of a “deal” amongst impacted parties, the second grants authority that may already exist; the next is innocuous and perhaps useful, while the fourth more definitively creates winner and losers. The last proposal – made for purposes of economic development, makes no sense. Not only are such narrowly targeted proposals clearly benefiting a single taxpayer, but in this case appears utterly unnecessary as it contemplates relieving the tax on something that isn’t taxable to begin with. Now there’s a cheap tax expenditure!]*

Lastly, 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. The worst is probably yet to come as bills can be introduced until February 19<sup>th</sup>. We ain’t seen nothin’ yet...

### **The House Is A Different Place This Year**

When new management of anything takes over they often take time to re-organize and re-brand. The New Mexico House of Representatives is no different. Now officially in control with Representative Don Tripp at the helm as Speaker of the House, the Republicans have made some changes to committee structures and names. The former House Taxation and Revenue Committee, for example, is now the House Ways and Means Committee. The Business and Industry Committee is now the Business and Employment Committee. Representative Jason Harper, a historically tax active and interested legislator, has been named chair of the new tax committee and veteran Larry Larranaga will chair Appropriations and Finance. The majority leader is now Nate Gentry, with Alonzo Baldonado the new whip. The minority leader is now Brian Egolf, with Sheryl Williams Stapleton maintaining her role as whip, but with the minority this year. The only leadership change in the Senate was the filling of the vacancy created by Tim Keller who was majority whip. Michael Padilla is now his replacement. You can see the new committees as well as their new membership on the legislative website [here](#).

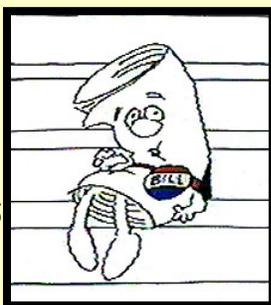
The House is off to a slower start than the Senate for obvious reasons. Some of the House bills now have committee assignments and a couple of committees have met as well (as an aside, a few clear tax bills missed assignments to Ways and Means for some reason, and Rep. McCamley’s separate reporting of exemptions and deductions bill ([HB 18](#)) drew five House committee assignments... that’s a lot). We expect the committees will become more active this week as the wheels continue to turn forward. We’ll keep you posted.

### **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.

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### **Bills with significant tax or revenue implications introduced in 2015 Legislative Session:**



5

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

<b>Bill Number/ Sponsor:</b>	<b>Title: Link to bill language: Description</b>	<b>Assignments- Location:</b>
HB 16 McCamley	<b>Surtax on Certain Corporations <a href="#">HB 21</a></b> 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	<b>Separate Tax Deductions &amp; Exemptions: <a href="#">HB 18</a></b> Creates separate reporting requirements for some of the Gross Receipts and Compensating Tax Act exemptions and deductions	HHC/HEENC /HBEC/HTP WC/HWMC- HHC
HB 21 Caballero	<b>Phased-in Supplemental Income Tax: <a href="#">HB 21</a></b> 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	<b>Tax Refunds for Senior Services: <a href="#">HB 39</a></b> 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
HB 40 J Trujillo	<b>Electric Vehicle Income Tax Credit: <a href="#">HB 40</a></b> 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/HEE NC/HJC- HTPWC
HB 42 Youngblood	<b>Include E-Cigarette in Tobacco Products Act: <a href="#">HB 42</a></b> Subjects e-cigarette <i>devices</i> to the Tobacco Products Tax Act.	HHC/HJC- HHC
HB 58 Gonzalez	<b>Increase Gas Tax for State Road Fund: <a href="#">HB 58</a></b> 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/HW MC/HAFC- HTPWC
HB 64 Carl Trujillo	<b>Home Energy &amp; Water Efficiency Tax Credit: <a href="#">HB 64</a></b> Until 1/1/2022, creates a one-time personal income tax credit (available 2017/2018for water or energy efficiency. The credit is a sliding scale of fixed dollar benefit (\$1200-\$4000 for energy; \$200-\$1000 for water) for	HPREF

	efficiency improvement percentages of 15-35%+.	
HB 67 Carl Trujillo	<b>Property Tax Schedule Change Requests: <a href="#">HB 67</a></b> 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>	HPREF
HB 70 Williams Stapleton	<b>Extend Solar Market Development Tax Credit: <a href="#">HB 70</a></b> Extends the current sunset of the Solar Market Development Tax Credit from 12/31/2016 to 12/31/2020.	HPREF
HB 72 Christine Trujillo	<b>Long-Term Care Insurance Tax Credit: <a href="#">HB 72</a></b> 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.	HPREF
HB 94 Larranaga	<b>U.S. Dept. of Energy Gross Receipts: <a href="#">HB 94</a></b> Creates a deduction for the sale of directed energy or satellite related research and development services and related materials to the department of defense.	HPREF
HB 110 McCamley	<b>New Tax Bracket &amp; Income Tax Rates: <a href="#">HB 110</a></b> 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).	HPREF
HB 112 Gonzales	<b>Define Agricultural Property Tax: <a href="#">HB 112</a></b> 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>	HPREF
HB 137 Garcia	<b>Reduce Income Tax &amp; Create New Brackets: <a href="#">HB 137</a></b> 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.	HPREF
HB 133 Harper	<b>Solar Energy Equipment Tax Valuation: <a href="#">HB 133</a></b> 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	<b>Electronic Vehicle Tax Credit: <a href="#">HB 136</a></b> 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.	HPREF
SB 7 Cisneros/Car	<b>Hydrogen Fuel Production Tax Credit: <a href="#">SB 7</a></b> Creates a corporate income tax credit in an amount equal to generation	SCORC/SCONC/SFC-

I Trujillo	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
SB 9 Cisneros/Go nzales	<b>Electric Vehicle Income Tax Credit: <a href="#">SB 9</a></b> 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/SCORC/SFC-SCONC
SB 56 Wirth	<b>Unitary Corporation Combined Tax Reporting: <a href="#">SB 56</a></b> 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 combined basis.	SCORC/SFC-SCORC
SB 57 Wirth	<b>Unitary Corp Restaurant Reporting: <a href="#">SB 57</a></b> 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	<b>Limit Spaceport Bond &amp; Tax Authority: <a href="#">SB 75</a></b> 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
SB 77 Cotter	<b>Income Tax Exemption Requirements: <a href="#">SB 77</a></b> 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
SB 99 Cisneros/Go nzales	<b>Cybersecurity Device Gross Receipts: <a href="#">SB 99</a></b> 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
SB 101 Neville	<b>Gross Receipts &amp; Hold Harmless Tax Changes: <a href="#">SB 101</a></b> Reduces the statewide GRT rate by one quarter percent and authorizes additional rate authority (and in smaller increments) for local governments.	SCORC/SFC-SCORC
SB 104 Sharer	<b>Installments for Delinquent Property Taxes: <a href="#">SB 104</a></b> 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/SPAC-SCORC
SB 105 Martinez	<b>County Gross Receipts for School Improvements: <a href="#">SB 105</a></b> Allows Class B counties (counties besides the largest five, De Baca, Harding and Los Alamos), with populations less then 45K to impose a	SEC/SFC-SEC

	3/4% GRT increment for the purpose of paying penalty and interest on revenue bonds issues for purposes of funding certain public and charter school capital spending. The increment would be subject to voter approval.	
SB 112 Cisneros	<b>Define Agricultural Use for Property Tax: <a href="#">SB 112</a></b> 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>	SCORC/SFC- SCORC
SB 114 Griggs	<b>Local Gov’t Special Fuels Taxes: <a href="#">SB 114</a></b> 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
SB 117 Rodriquez	<b>Sunset County Gross Receipts Safety Pool: <a href="#">SB 117</a></b> Eliminates the GRT transfer from counties GRT to the state’s safety net care pool in 12/2018.	SPAC/SFC- SPAC
SB 131 Stewart	<b>Local Gov’t IRB Notices &amp; Impacts: <a href="#">SB 131</a></b> 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	<b>School Bus Fuel Gross Receipts: <a href="#">SB 201</a></b> Creates an exemption from gross receipts and compensating tax for fuel used in school buses.	SEC/SFC- SEC

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## 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](mailto: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.



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"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!