

LEGISLATIVE BULLETIN

VOL. 2016-3

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At the Half-Way Point

The 2nd Session of the 52nd legislature came to the half-way point this. Wednesday was the last day to introduce legislation and the session is scheduled to end at noon February 18. Issues that are not directly related to a 30-day session, namely budgetary and appropriations topics, continue to dominate the headlines about the legislature. House Bill 99, Driver's License Issuance and Federal REAL ID, introduced by Representatives Paul Pacheco and Andy Nuñez, cleared two House Committees and then was passed by the House on a party line 39-30 vote. In the Senate, the Senate Public Affairs Committee gave the bill a Do Pass recommendation on an 8-1 vote after adding amendments to the bill. It now goes to Senate Judiciary.

Some of the bills the League are monitoring saw committee action during the week and some new bills were introduced during the final day for introductions.

House Bill 171, Law Enforcement Officers Returning to Work, introduced by Representative Larry Larrañaga, received a Do Pass as amended recommendation from the House Safety and Civil Affairs Committee. As amended, the bill allows certified police officers who have retired prior to December 31, 2015, to return to work for an affiliated public employer; however, a Class A county with a population of 600,000 or more or a municipality with a population of 50,000 or more in a Class A county may only hire retired members at the ranks below sergeant and shall not promote the retired member above the rank of sergeant at any time during the subsequent employment. A Class A county with a population of 600,000 or more or a municipality with a population of 50,000 or more in a Class A county may not employ a number of retired members that exceeds 10 percent of the affiliated public employer's authorized police force. An affiliated public employer not within those population parameters that is recruiting for a chief of police may hire a retired certified law enforcement officer in accordance with the established hiring process for the affiliated public employer. The bill now goes to the House Appropriations and Finance Committee.

House Bill 328, Local Option Gasoline and Special Fuels Taxes, introduced by Roberto "Bobby" Gonzales, authorizes local governments to enact a two cent tax on the retail sale of gasoline or special fuels or both. The taxes would be collected by the imposing local government, not the state Tax and Revenue Department. The use of these taxes would be for streets, roads and bridges. The bill was referred to House Rules and Order of Business Committee. Another piece of legislation, Senate Bill 284, introduced by Senator John Arthur Smith, would increase the Gasoline and Special Fuels Excise Tax by 10 cents with five cents going to local government and five cents to the state. The funds could only be used for maintenance or reconstruction and not new streets or roads. The bill was referred to Senate Corporations and Transportation Committee.

Senate Bill 281, Repeal Food Gross Receipts Deduction also introduced by Senator Smith, repeals the deduction for food sales, and adds the sale of food back into the gross receipts tax base for state and local governments. It would repeal the hold harmless provision and local government would receive the same amount in taxes. The bill goes to Senate Corporations and Transportation Committee.

LEAGUE OFFICE PARKING DURING THE SESSION

Because of the demand for parking around the Capitol during the session, we must protect the availability of parking for our municipal officials and staff. In order to reduce the possibility of accidents, a few areas in our lots are designated by signs as “NO PARKING” AREAS.” If you are visiting the session and need to park in the League lots, please help us by observing the following rules:

- 1. Do not park in the areas designated as “NO PARKING” zones.*
 - 2. Obtain a League Parking Permit from the reception desk and leave it on the rear-view mirror of your car so that it’s easily visible.*
 - 3. DOUBLE PARKING OR PARKING BEHIND ANOTHER CAR IS NO LONGER PERMITTED IN OUR LOTS.*
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YOUR LEGISLATIVE BULLETIN

This is the first in the series of weekly League **Legislative Bulletins** designed to communicate with municipal officials, legislators and the Executive Branch of state government.

The **Bulletin** will be sent by first class mail from Santa Fe each Friday afternoon so that it should arrive at its destination by the following Monday morning.

If you would like to receive the Bulletin electronically, we will send you a link by email each Friday. You can contact Roger Makin via e-mail (rmakin@nmml.org) or by fax (505-984-1392). Please be sure to include your name, title, municipality or agency, mailing address, and e-mail address. The Bulletin will also be posted each Friday on the League’s website at www.nmml.org. We urge you to take advantage of this service in order to reduce mailing costs and time delays.

Municipal officials who receive the **Bulletin** include all mayors, commissioners, councilors, trustees, managers, clerks, municipal judges, police chiefs and many other municipal officials.

The **Legislative Bulletin** contains:

- ◆ a brief review of all bills of municipal interest of which we have received a copy since the prior Bulletin (it will save you and us time if you make a note of the House or Senate Bill number you are interested in);
- ◆ a brief analysis of key legislative developments of the past week;
- ◆ detailed explanations of key municipal bills; and, perhaps,
- ◆ an Action Call if any important municipal bill is scheduled to be heard in committee or on the floor of either house.

Your legislator can be reached by name through the **Legislative Switchboard: (505) 986-4300** in Santa Fe. For those of you on line, the Legislature’s web site also contains the e-mail addresses of those legislators who use the service. That address is: <http://www.nmlegis.gov>. Also check the League’s web site (www.nmml.org) for League information.

CAPITAL PROJECT FUNDING BILLS

Capital outlay project requests in recent years have not been introduced as legislative bills, but submitted as “capital outlay requests.” All approved requests are then included in a major capital outlay bill for final passage.

In past years we have reported these requests as we received the printed copies. The legislature will track all capital outlay requests electronically only. Therefore, we are no longer able to report the requests for you as we had in the past. However, the good news is that all requests will be listed on the legislative web site at nmlegis.gov (click on Capital Outlay). Each request is listed under the appropriate county and then alphabetically by title and includes the description of the request along with the dollar amount. Legislative Council Service will be updating the information every Tuesday and Friday evenings so the new introductions will be available for you early on Wednesdays and Saturdays. As always, you can contact your legislators directly to find out when your project will be scheduled for hearing.

BIOGRAPHY OF A BILL

A bill is introduced by a sponsoring legislator on the floor of either house, numbered by the clerk and referred for consideration to one or more committees of that house. The deadline for introduction of all bills except appropriations bills or bills requested by the Governor (*special messages*) is Noon on the 15th day of a 30-day session (**February 3**). Committee recommendations usually determine the success or failure of a bill. A bill may be amended in committee or on the floor at any point in the process — sometimes changed so severely that its own author would not recognize it — or a substitute measure with the same number and general subject matter may be put in its place.

If you are interested in a particular bill, do not be dismayed if it seems to sit for a long time in committee, particularly in a tax, finance or appropriations committee. Bills which ask for money or for taxing authority often lie dormant until the last few days of a session and then move with unbelievable speed.

If a bill passes successfully through its committee referrals, it returns to the floor of the house in which it was introduced for floor consideration. If it passes that house, it goes to the other house. However, it may also be tabled, referred again or defeated.

In the second house the bill is again considered in one or several committees and it may again be amended or substituted. If it gets through its committee assignments, it returns to the floor of that house for consideration and may from there be referred, tabled, passed or defeated.

If the bill passes the second house and it has been amended or substituted by the second house, the originating house must concur or fail to concur with the changes. If the originating house fails to concur, a conference committee representing both houses is appointed to decide what to present to both houses for acceptance.

A bill that has been passed in some agreed-upon form by both the House and the Senate goes to the Governor for signature. The Governor may choose to sign or to veto the bill. If the bill contains an appropriation, the Governor may veto portions if she wishes (*line item veto*); if it does not, she may only veto the entire bill. If vetoed, 2/3 of the House and 2/3 of the Senate must vote in favor of the bill in order to override the veto. If the veto override fails, the bill is dead.

Most bills do not reach the Governor's desk before the Legislature adjourns (**Noon, February 18**). The Governor has 20 days following the close of the session (**Noon, March 9**) to sign, veto or fail to sign (*pocket veto*) any bill that he did not act on during the session. Any bill is much more likely to have died in committee or on the floor before even reaching the Governor's desk.

In New Mexico, no more than 1/4 to 1/3 of bills introduced ever make it all the way to enactment. The historic trend in New Mexico is for more and more introductions each succeeding session.

ABBREVIATION CODE

HB	House Bill	SB	Senate Bill
HCR	House Concurrent Resolution	SCR	Senate Concurrent Resolution
HJR	House Joint Resolution	SJR	Senate Joint resolution
HJM	House Joint Memorial	SJM	Senate Joint Memorial
HM	House Memorial	SM	Senate Memorial

* Contains Emergency Clause (effective immediately on Governor's signing)
CA - Constitutional Amendment (requires approval by statewide electorate)

HOUSE COMMITTEES

HAFC	Appropriations and Finance
HAGC	Agriculture and Water Resources
HBEC	Business and Employment
HEC	Education
HEENC	Energy, Environment and Natural Resources
HGEIC	Government, Elections and Indian Affairs
HHC	Health
HJC	Judiciary
HRPAC	Regulatory and Public Affairs
HRC	Rules and Order of Business
HSCAC	Safety and Civil Affairs
HTPWC	Transportation and Public Works
HWMC	Ways and Means
HCW	Committee of the Whole
HEEC	Enrolling and Engrossing

SENATE COMMITTEES

SCC	Committee's Committee
SCONC	Conservation
SCORC	Corporations and Transportation
SCW	Committee of the Whole
SEC	Education
SFC	Finance
SIAC	Indian and Cultural Affairs
SJC	Judiciary
SPAC	Public Affairs
SRC	Rules

9-11, 3-9-13.1, 66-5-408, 66-8-111.1, enacting new material and repealing §1-12-4.1; the bill requires a government issued ID card that contains a picture to be presented to obtain an absentee ballot or at the time of voting. The Motor Vehicle Division is to be reimbursed from the Public Election Fund for ID cards issued to those who need the cards just for voting. Effective 7/1/16. HRC

- HB 317 PUBLIC BODY SECURITIES SALES (Powdrell-Culbert)** same as SB 89. HRC
- HJR 15 LAS VEGAS LAND TRANSFER (Salazar, T.)** Same as SJR 13. HRC/HJC
- HJR 20 CA: DENIAL OF BAIL FOR CERTAIN FELONIES (Rehm)** Amending Article 2, Section 13 of the New Mexico Constitution to expand the criteria for denying bail to include offenses involving acts of violence on another person or sexual assault offenses, when there is proof or a great presumption of guilt and the court finds the defendant's release would result in great bodily harm to others or when the court finds the defendant has threatened another with great bodily harm and would carry out the threat if released. If bail is allowed it may be based on the seriousness of the offense, previous criminal record of the defendant, and the probability of the defendant appearing at trial. The court may allow a defendant to be released on the defendant's own recognizance. HSCAC
- HM 70 COMPANION ANIMAL OVERPOPULATION & WELFARE (Lechuga-Tena)** Requesting the superintendent of regulation and licensing to convene a working group to make recommendations to reduce companion animal overpopulation and increase their welfare. The working group must include a representative from county and municipal shelters. Findings are to be reported to a legislative committee no later than 8/1/16. HRPAC/HAFC
- SB 227 CHANGE REVERSION DATES FOR CERTAIN PROJECTS (Cervantes)** New material; bonds for projects authorized prior to 2013 that have not been issued by January 1, 2016 shall be void; same date for reversion of General Fund funding of projects not encumbered. EMERGENCY CLAUSE. SCORC/SFC
- *SB 231 DRIVER'S LICENSE ISSUANCE & REAL ID (Campos)** New material creates a REAL ID –compliant driver's license; license shall be issued for four or eight years; foreign national could apply with proper documentation; provides for penalties for misuse of cards; creates a non-compliant driver's license and identification cards; must contain the wording "not for federal purposes." EMERGENCY CLAUSE. SPAC
- SB 244 WORKERS' COMP AND "FARM & RANCH LABORERS" (Neville)** Amends §51-1-6; adds the following rationals for exempting farm and ranch laborers from Workers' Comp: 1) temporary nature of the work and high rate of turnover; 2) farming and ranching are subject to the vagaries of weather; and) limitations of federal commodities pricing laws that make it difficult for employers reasonably assess, on a seasonal basis, laborers' costs, income, labor and insurance needs. SCONC
- SB 245 MEDICAL CANNABIS AS REIMBURSABLE BENEFIT (Sanchez, C.)** Amends §52-1-49, §52-3-15; a workers' compensation carrier or an employer providing workers' comp benefits is not liable for a claim for reimbursement associated with medical cannabis. SCC/SCORC/SJC/SFC
- SB 247 BROADBAND TELECOMMUNICATIONS GROSS RECEIPTS DEDUCTION (Padilla)** Same as HB 128. SCORC
- SB 249 WORKERS' COMP BENEFITS ENTITLEMENT (Smith, Ingle)** Amends §§52-1-25.1 & 26; a worker is not entitled to temporary total disability of modification if the worker is terminated for a post-injury misconduct connected with employment; provided that if an employer terminates the worker for the pre-textual reasons of attempting to avoid of benefits to the worker as retaliation for seeking benefits, the worker shall be entitled to temporary total disability or modification and the employer shall be subject to penalties. SCORC

- SB 251 INCREASE GASOLINE, SPECIAL FUELS TAX (Smith)** Amends §§7-13-3 & 7-16A-3; raises the gasoline tax from 17 cent per gallon to 22 cents per gallon; raises the special fuels tax from 21 cents per gallon to 26 cents per gallon. Effective 7/1/16. SCORC
- SB 256 DRIVER’S LICENSES AND REAL ID (Smith, Ingle)** The same bill that was introduced last year with a two-licensing provision that would make New Mexico driver’s licenses REAL ID-compliant. SPAC
- SB 257 CONVICTIONS IN CERTAIN COURTS AS “ADULTS” (Rodriguez)** Amends §31-21-5 of the Probation and Parole Act; an adult means any person convicted of a crime by a district court, magistrate, metropolitan or municipal court. SPAC
- SB 258 LAW ENFORCEMENT PROTECTION FUNDS FOR TRAINING (Sapien)** Same as HB 62. SPAC
- SB 264 LOCAL BEER AND WINE DELIVERY LICENSE (Ortiz y Pino)** New material: after July 1, 2016, a local option district may approve the issuance of a beer and wine delivery license for the consumption of beer and wine along with the concurrent sale and delivery of prepared food; allows governing bodies to adopt a resolution without a petition; requires the licensee to live in the local option district; applicants must provide to the Regulations & Licensing Department evidence of valid restaurant and food service licenses, valid business license; the sale and delivery of food must be more than the sale and delivery of beer and wine. Deliveries must have a minimum value of \$20 and will cease at the time the licensee’s meal sales or 10 p.m. or 9 p.m. on Sunday, whichever is earlier; a local option district may declare “do not deliver” addresses; requires the department to develop best practices for licensees; requires the delivery person to make an electronic record of the customer’s identification that include the customer’s date of birth and photograph; all sales must be made by credit card, debit card or other electronic payment; annual fee for a beer and wine delivery license is \$1,300; delivery license is exempt from the number of licenses issued by the department. Effective 7/1/16. SCORC/SJC
- SB 268 LOCAL PROJECT MONEY TO SMALL BUSINESS (Sanchez, M.)** New material requires the Economic Development Department to apply at least 25 percent of expenditures annually to carry out the purpose of the Local Economic Development Act to projects that directly support small businesses that are independently owned and operated and employ 25 or fewer employees; creates the Local Economic Development Fund. Effective 7/1/16. SCORC/SFC
- SB 269 EMPLOYEE PREFERENCE ACT (Moore)** New material creates the Employee Preference Act; a person shall not be required, as a condition of hiring, promotion or continued employment, to become a member of a labor organization or to pay dues, fees or assessments to a labor organization or other third party; an employer shall not require a person to be recommended or approved through a labor organization as a condition of employment; an agreement or practice, written or oral, between a labor organization that is in violation of the Act is unlawful; Attorney General and district attorneys shall investigate complaints; fines may not be more than \$1,000 or imprisonment of 90 days or both. The bill eliminates the “Fair Share” provision in the Public Employee Bargaining Act; the same provisions of not requiring prior participation applies to public employees; an ordinance adopted after October 1, 1991 allowing public employees to form union ties may use those ordinances and not the regulations in the Public Employee Bargaining Act, provided the ordinance contains provisions allowing the employees the right to refuse activities and assessments of labor unions or third parties in lieu of payment to the organizations. Effective 7/1/16. SPAC
- SB 270 OFF-HIGHWAY VEHICLES ON PAVED ROADS (Neville)** Amends §66-3-1011; unless prevented by an ordinance of a local authority, recreation and off-highway vehicles may be operated on a paved street or highway with a speed limit not exceeding 55 mph if : 1) the vehicle has one or more headlights and taillights that comply with the Off-Highway Motor Vehicle Act; 2) the vehicle has brakes, mirrors and mufflers; 3) the operator has a valid driver’s license, instruction permit or provisional license and an off-highway safety permit; 4) the operator is insured; and 5) the operator is wearing eye protection and a safety helmet. By ordinance or resolution, a local authority may establish separate speed limits and operating restrictions for off-highway vehicles where they are authorized to operate on paved streets or highways. SCORC/SPAC

- SB 271** **GALLUP DETOXIFICATION AND HOMELESS SHELTER (Muñoz)** Appropriates \$500,000 from the General Fund to the Local Government Division for a substance abuse detoxification and treatment center in Gallup. SPAC
- SB 276** **CAR TAX FOR ROAD PROJECTS & PROJECT FUND (Martinez)** Through June 30, 2031, the Motor Vehicle Tax is five percent; through June 30, 2031, receipts of the tax are to be distributed 60 percent to the General Fund and 40 percent to Highway District Project Fund; creates the Highway District Projects Fund that is to fund major road programs in six highway districts as determined by the State Transportation Commission; authorizes bonding of the tax. Effective 7/1/16. SCORC
- SJR 18** **CA: STATE MINIMUM WAGE (Soules)** Proposes to amend the New Mexico Constitution to have the state minimum wage, beginning on July 1, 2017, increase by the amount of the federal consumer price index rounded to the nearest 5 cents; an employer may pay an employee less, but not less than 50 percent of the state minimum wage, if the employee receives tips that combined with the wage is equal to or greater than the minimum wage; nothing shall prohibit a local government from imposing a minimum wage that exceeds the rate in this section. SRC/SJC