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February 13, 2014**

New Mexico State Report

New Mexico, like many of our surrounding states, is still in a drought with the snowfall far below what it should be; this only means the spring runoff that our farmers and ranchers depend on to feed the rivers and streams will not be enough, and will mean another year of struggling to survive. With a very depressed economy in New Mexico, this does not point to a very bright future for our state.

The 2014 30-Day Legislative Session began on January 21st and will end on February 20th. The Session began in total chaos in the House, which has a 37-33 Democratic majority; but two members are ill, resulting in a 35-33 majority. This has caused some committees like Business & Industry and Energy & Natural Resources to have six Democrats and six Republicans. On the Taxation and Revenue Committee, the Republicans have a one-vote majority, something I have never seen before.

February 5th was the last day for Bill introduction, and there were a total of 405 House Bills and 379 Senate Bills introduced—a record low for a 30-day session. With only seven days remaining in the session, only one bill has been passed through both chambers and sent to the Governor to be signed, and that was the Bill to fund the 30-day session. The House has been unable to pass a State Budget, failing twice on a 35-35 tie vote. Without a Budget, the House and Senate have almost come to a complete halt. This means that for the last five days, they will be working into the early morning hours trying to get something done.

These are some of the Bills we are tracking:

HB 74 – Introduced by Rep. Bobby Gonzales. House Bill 74 amends fuel excise tax rates and distributions to generate revenue with which to service debt on newly authorized highway project bonds, and authorizes \$300 million in “major investment highway projects.” House Bill 74 temporarily increases the gasoline tax for FY15 to FY24 from \$0.17 per gallon to \$0.22 cents per gallon. During the same period, the bill increases the special fuels excise tax from \$0.21 per gallon to \$0.26 per gallon (see Attachment for current gasoline and diesel excise tax rates).

The bill temporarily reduces the following distribution of gasoline taxes in FY15-FY24:

- to the state aviation fund from 0.26 percent to 0.20 percent;**
- to the motorboat fuel tax fund from 0.13 percent to 0.10 percent;**
- to municipalities and counties from 10.38 percent to 8.02 percent;**
- to the county government road fund from 5.76 percent to 4.45 percent;**
- to municipalities for roads from 5.76 percent to 4.45 percent;**
- to the municipal arterial program of the local government’s road fund from 1.44 percent to 1.11 percent.**

The bill also temporarily reduces the distribution of the special fuel excise tax in FY15-FY24 to the local governments road fund from 9.52 percent to 7.69 percent.

The bill creates the major investment highway project fund and creates a distribution of gasoline tax and special fuels excise tax revenues to fund for FY15-FY24. The distributions are equal to 22.73 percent of net gasoline tax receipts and 19.23 percent of special fuel tax receipts.

Money in the fund is dedicated to servicing the debt on “major investment highway project bonds” issued for the purpose of constructing and improving of major highways. Balances in the fund are nonreverting, provided that when the bonds have been retired, balances in the fund shall revert to the state road fund.

HB 74 authorizes the State Transportation Commission (STC) to issue major investment highway project bonds payable solely from taxes paid into the major investment highway project fund. The total aggregate outstanding principal amount of bonds issued may not exceed \$300 million without further legislative approval.

The project design life of a major investment highway project funded by the bonds must meet or exceed the life of the bonds issued for each project. The bill includes a clause preventing statutory changed from impairing the revenue source dedicated to servicing the debt on the bonds.

TRD calculated the distributions to the funds by comparing gasoline tax rates and fund distribution percentages under current law to those proposed in the bill. TRD points out the revenue table includes a revenue increase in the Tribal Governments Fund because TRD estimates in order for tribal governments to continue to qualify for their deductions at 100 percent they must increase their tribal tax rates by five cents (\$0.05).

TRD also used a Department of Transportation (DOT) forecast for taxable gallons of special fuels used. TRD estimates that the lower fund distribution rates for gasoline and special fuels will not show a significant change in revenue as the reduced distributions are offset by the increased gasoline and special fuels tax rates.

This bill creates a new fund and provides for continuing appropriations. The LFC has concerns with including continuing appropriation language in the statutory provisions for newly created funds, as earmarking reduces the ability of the legislature to establish spending priorities.

SIGNIFICANT ISSUES

Policymakers recognize infrastructure funding is critical to the public health, safety, and economic vitality within New Mexico’s communities. During the interim, the LFC heard reports of shrinking revenues and increasing needs and costs of planning, constructing, operating and maintaining the state’s roads, water systems, and state-owned and -operated facilities.

On January 23, 2014, at the direction of the State Transportation Commission, the New Mexico Finance Authority presented a “draft” of an official state for approval to issue transportation revenue bonds Series 2014A in the amount of approximately \$75 million to finance certain road projects, including the cost of the issuance. The bonds will be supported by revenue from the highway infrastructure fund. While the official statement does not list the specific use of the funds, the proceeds can only be used on the 14 designated road projects prioritized in 2003. US Highway 491 is an eligible project and may benefit from the proceeds of the issuance. It is anticipated the bonds will be issued at the end of February 2014, with a closing in March 2014.

ADMINISTRATIVE IMPLICATIONS

TRD reports a low impact on Financial Distribution Bureau processing and operations; and a moderate IT impact, involving changing rate changes of the combined fuel tax (CFT) program for tax and surcharge on gasoline and special fuel, setting up two new RA accounts to distribute funds to new recipients of gasoline surtax and special fuel surtax, and distribution rates changes of tax and surcharge on gasoline and special fuel, totaling 300 hours.

Forms and online reporting would need to change to incorporate the CFT surtax on the return. NM distributors/suppliers would need to be notified of the surtax and make changes to their electronic filing. A form, instructions, and backend systems will need to be developed for the inventory tax reporting for both the gasoline tax and the special fuels tax programs with the tax increase for tax due and then again with the tax decrease in 2024.

SB 285 - Introduced by Democrat C. Sanchez. Senate Bill 285 raises the minimum wage from \$7.50 to \$8 an hour, except for:

- (1) employers employing ten or few employees, who must pay employees no less than \$7.50 an hour; and**
- (2) a trainee employer must pay the trainee employee no less than \$7.50 an hour during the training period for no longer than six months from date of hire. The bill also adds language clarifying that the section setting these minimum wages shall not be construed to authorize or require an employer to lower an employee's hourly wage.**

This bill contains a delayed effective date of July 1, 2015.

FISCAL IMPLICATIONS

SPO reports that the total cost with state paid mandatory benefit (at 26/4%) to bring 173 state employees in all three branches of government to \$8.00 an hour is \$226,816. Since there is no stipulation in the bill regarding cost of living increases in future years, there is no additional recurring cost.

In addition, DWS estimates a \$1 thousand fiscal impact to update its wage claim forms and its website to reflect New Mexico's current minimum wage.

SIGNIFICANT ISSUES

The National Conference of State Legislatures reports the following minimum hourly wages for states near New Mexico:

- Arizona - \$7.90 (rate is increased annually based on a cost of living formula)**
- California - \$8.00 (\$9.00 eff. 7/1/2014, \$10.00 eff. 1/1/2016)**
- Colorado - \$8.00 (rate is increased annually based on a cost of living formula)**
- Oklahoma - \$7.25**
- Nevada - \$8.25 w/o health benefits, \$7.25 with health benefits (adjustments subject to increases in the federal minimum wage, tied to CPI)**
- Texas - \$7.25**

· Utah - \$7.25

DWS's Wage and Hour Bureau enforces the Minimum Wage Act. The Bureau investigates and gathers data on wages hour issues to enforce compliance with the Act. DWS also advises that the Fair Labor Standards Act sets a federal minimum hourly rate (\$7.25 per hour since 2009) for non-exempt employees, but states may enforce higher pay rates. If an employee is subject to both the state and federal minimum wage laws, the employee is entitled to the higher of the two minimum wages.

There are ten states (AZ, CO, FL, MO, MT, NV, OH, OR, VT, and WA) that have increased minimum wage rates that are tied to the consumer price index. As a result of this linkage, the minimum wages in these states are normally increased each year, generally around January 1st of each year. Rhode Island's increase is provided by special legislation enacted in 2012 unrelated to the consumer price index. Meanwhile, Alabama, Louisiana, Mississippi, South Carolina, and Tennessee do not set state minimum wage standards. Employees in these states receive \$7.25 per hour, the minimum hourly wage set by the federal Fair Labor Standards Act.

During the 2014 State of the Union Address, President Barack Obama called for a near 40 percent increase to the federal minimum wage, endorsing a bill that would raise the federal minimum wage from \$7.25 per hour to \$10.10. *The Economist* reported in 2013 that America's minimum wage has long been low by international standards, equaling just 38 percent of the median wage in 2011, close to the lowest in the OECD.

Economists are divided on the economic effects of the minimum wage, and particularly over whether wage floors help or hurt job creation. Opponents of minimum wages argue the fixed price floor reduces demand for workers affected by the wage. Proponents of minimum wages argue higher minimums support job and economic growth by shifting income towards people who consume more of what they earn.

HJR 9 and SJR 13 - Proposes adding a new section to Article 20 of the Constitution of New Mexico to require that, effective July 1, 2015, the state minimum wage rate in effect on January 1, 2014 be increased in an amount equal to the total increase in the cost of living from January 1, 2009 through the date of the election in which this amendment is adopted. The minimum wage would then be adjusted annually to account for increases in the cost of living. The minimum wage may not be adjusted downward due to a reduction in the cost of living.

The joint resolution provides that the cost of living be measured by the percentage increase in the consumer price index for all urban consumers (CPI-U) in February of the current year over February of the previous year.

The joint resolution also requires that tipped employees not be paid wages less than 60 percent of the minimum wage so long as the tips, combined with wages, reach the minimum wage amount.

Local governments may adopt minimum wages above the state minimum wage. For example, starting January 1, 2014, Albuquerque's minimum wage is \$8.60 with no health benefits, and \$7.60 with health benefits. Albuquerque's minimum wage for tipped employees is \$5.16. In Santa Fe, the minimum wage rate is scheduled to rise from \$9.85 to \$10.29 per hour on March 1, 2014.

The amendment proposed by this resolution shall be submitted to the people for their approval or rejection at the next general election or at any special election prior to that date that may be called for that purpose.

FISCAL IMPLICATIONS

Assuming the voters approve the constitutional amendment at the next general election held in November 2014, in FY16 the minimum wage would increase by the growth in the CPI-U from CY2009 to CY2014. Global Insight, the economic forecasting service used by the LFC, the Taxation and Revenue Department, and the Department of Transportation, shows inflation 10.3 percent during this time. The current minimum wage is \$7.50, and the inflation adjustment would raise the minimum wage for FY16 to \$8.30 per hour. The FY17 minimum wage would grow to \$8.40, and FY18 would grow to \$8.60.

The State Personnel Office's 2013 compensation report notes 294 state employees fall into pay band 25, with an average salary of \$19,179. This analysis assumes 300 state employees would be subject to a raise after increasing the minimum wage from \$7.50 to \$8.40, at an increased salary cost of \$500 thousand. Assuming a 25 percent benefits cost, the FY16 cost of the wage increase totals \$624 thousand. The estimated increased wage cost of paying an assumed 320 state employees \$8.40 per hour in FY17 would be \$749 thousand. For FY18, paying an assumed 340 employees a wage of \$8.60 per hour would cost the state \$972 thousand.

Upcoming Events

The 2014 NMPMA Convention and Trade Show will be held August 19 and 20, 2014, at the Marriott Pyramid Hotel in Albuquerque.