

Up-Date on 2013 Legislative Actions Relating to Taxation

Presentation to the
Revenue Stabilization & Tax Policy Committee
New Mexico state Legislature

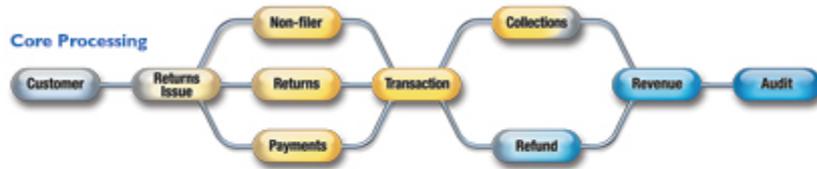
by

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New Mexico Taxation & Revenue Department

May 14, 2013

Tax Administration Initiatives

. . . making our tax systems work better
for New Mexicans



Support Functions



TRD Implements “Multi-generational” Upgrade to Core Tax Processing Systems -- GenTax

- Taxpayer Access Point (TAP) upgrades to user interface
- e-filing systems substantially enhanced and improved
- Enhanced internal reporting, verification, and processing upgrades
- Initial cut-over to new environment ~ July 1st, full integration of all upgrade before end of 2013

HB-299 Tax Administration Act Changes

[Chapter 27]

Sponsor: Rep. Thomas C. Taylor

Eff. Date: July 1, 2013

- Increased deadline for reporting of IRS changes from 90 to 180 days; clarification as to what changes are to be reported (§§7-1-13 & 7-1-32);
- Provides a straight 90-day time for filing a protest; Currently a taxpayer has 30 days to file a protest but can request a 60-day extension (§7-1-16);
- Clarifies that an assessment of tax resulting from an adjustment of a taxpayer's federal tax computation because of an IRS audit or the filing of an amended federal return to change an election cannot occur after three years after the calendar year in which the amended return is filed (§7-1-18);
- Spells out everything for which a claim for refund may be submitted; allows a taxpayer to claim a refund up to 3 years (instead of one) based on change in federal liability (7-1-26); and raises the threshold amount for Attorney General review for refunds and abatements (§§7-1-28 & 7-1-29)



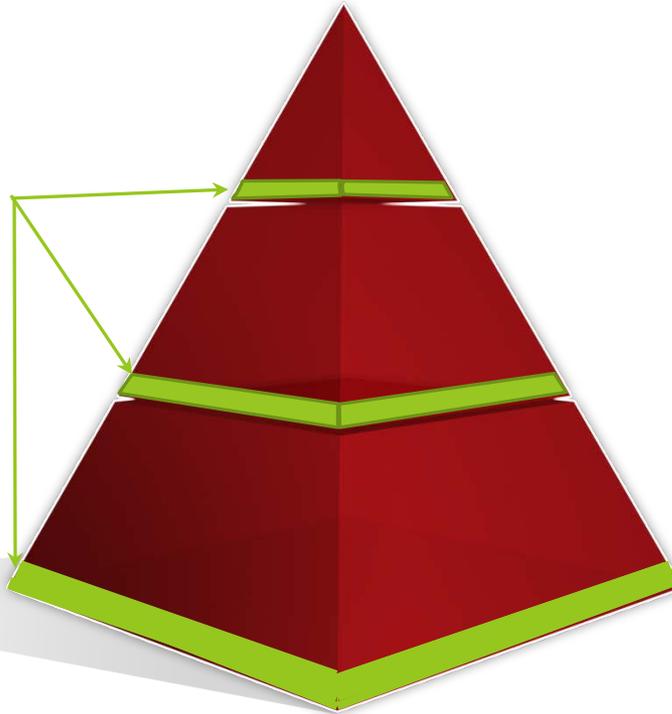
HB-315 TAX PAYMENT AND MANUFACTURER GROSS RECEIPTS

[Chapter 87]

Sponsor: Rep. James R.J. Strickler

Eff. Date: April 1, 2013

Tax Pyramiding



- Expressly authorizes the following agreements to transfer gross receipts (GRT) liability:
 - 1) an agreement to collect and pay over tax for persons in a business relationship;
 - 2) an agreement to collect and pay over taxes for direct sales company;
 - 3) a manufacturer's agreement to pay gross receipts tax or governmental gross receipts tax on behalf of a utility company.
- The bill also revises the existing definition of "taxpayer" in the Tax Administration Act to include those persons who have accepted the transfer of GRT.

HB-641 Municipal and County Hold Harmless Distribution Changes

[Chapter 160]

Sponsor: Rep. Antonio “Moe”

Maestas

Effective Date: July 1, 2013

- Amends the hold harmless distributions to political subdivisions [§§7-1-6.46 and 7-1-6.47].
- Phases-out the food and medical gross receipts tax deduction-related hold harmless distributions over fifteen years:
 - Phase-out will be in 6% increments beginning in FY15 through FY20,
 - then in 7% increments through FY30.
- Exempted from this phase-out are political subdivisions that do not adopt the new “hold harmless gross receipts tax,” and are either a municipality with a population of less than 10,000, or a county with a population of less than 48,000. These small communities will continue to receive hold harmless distributions from the General Fund.



SB-2 State Aviation Fund Uses

[Chapter 19]

Sponsor: Sen. Michael S. Sanchez

Effective Date: July 1, 2013

- Continues distribution to the state aviation fund amounting to 0.046 percent of the net receipts attributable to the gross receipts tax distributable to the General Fund.
- This distribution is earmarked for the Air Service Assistance Program.
 - Removes delayed repeal language and extends the distribution from July 1, 2013 through June 20, 2018.



SB307 Public Records Changes

[Chapter 214]

Sponsor: Sen. Daniel Ivey-Soto

Effective Date: June 14, 2013

- Removes the existing requirement that, after ten years have passed after a tax lien was filed, the county clerk enter a notice in the record including the words *"canceled by act of legislature."* [amends §7-1-39]
- This law provides for several other amendments in regard to public records not related to taxation.

Personal Income Tax Initiatives

. . . tax policy initiatives improving equity
for individual taxpayers



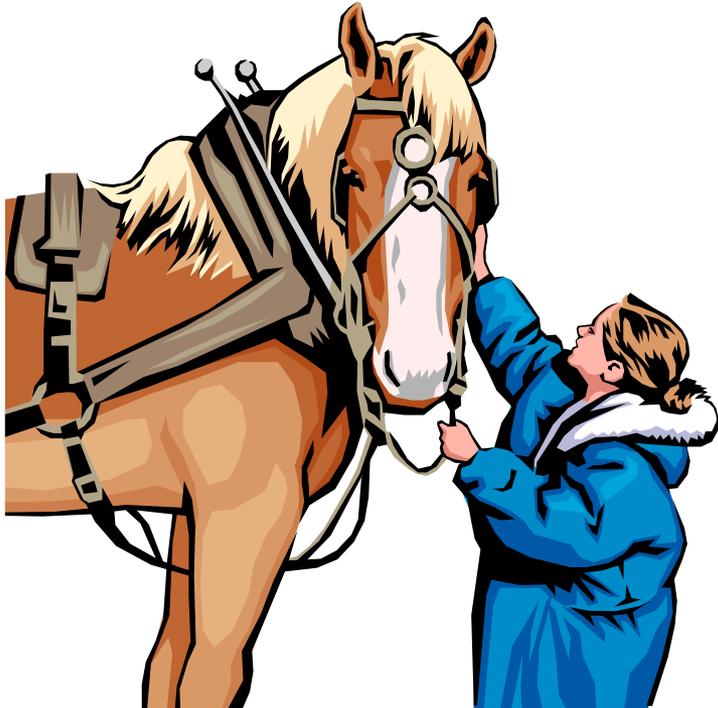
HB-172 Limit Tax Credit Paid to Another State

[Chapter 179]

Sponsor: Rep. Jim R. Trujillo

Effective Date: July 1, 2013
(app. to tax years \geq 1/1/13)

- This law specifies that an eligible taxpayer can claim the credit for taxes paid to another state [§7-2-13] up to the amount of New Mexico tax that the taxpayer would be liable for if the income was allocated to New Mexico.
- Replaces law capping the credit at a 5.5% rate.



SB-274 Horse Shelter Rescue Fund

[Chapter 49]

Sponsor: Sen. George K. Munoz

Effective Date: June 14, 2013

(app. to tax years \geq 1/1/13)

- Provides a new section to the Income Tax Act to for an optional tax refund contribution to the Horse Shelter Rescue Fund.
- Creates the Horse Shelter Rescue Fund under the Livestock Code.

Corporate Income Tax Initiatives

. . . tax policy initiatives improving New
Mexico business climate



HB-641 Corporate Income Tax Rate Reduction and Combined Reporting

[Chapter 160]

Sponsor: Rep. Antonio "Moe"
Maestas

Effective Date: January 1, 2014
(Section 7-2A-5); July 1, 2013
(Section 7-2A-8.3)

- Decreases the highest corporate income tax rate from 7.6% to 5.9% over five years, beginning in tax year 2014 [amends §7-2A-5]
- Requires mandatory combined reporting for corporations with retail facilities exceeding 30,000 square feet [amends §7-2A-8.3]
 - Provides an exclusion from requirements for combined reporting with the provision that the corporation also employ 750 people in "non-retail" business activities.



HB-641 Single Weighted Sales Factor Apportionment for Manufacturers

[Chapter 160]

Sponsor: Rep. Antonio "Moe"
Maestas

Effective Date: January 1, 2014
(app. to tax years \geq 1/1/14)

- Allows a taxpayer whose principal business activity is "manufacturing" [as defined in §7-4-10] to elect to have their business income apportioned to New Mexico using a single weighted sales factor [amends §§7-4-10 and 7-4-17].
- Apportionment change phased-in over a period of five years.

Gross Receipts Tax Initiatives

. . . improving business opportunities for
New Mexico enterprises



HB-120 Locomotive Fuel Gross Receipts

[Chapter 120]

Sponsor: Rep. Patricia A.

Lundstrom

Effective Date: July 1, 2013

(app. to GRT and CompTax
periods \geq 7/1/13)

- Railroad operators become eligible to receive fuel on a gross receipts tax-deductible basis after making a capital investment of at least \$50 million on eligible infrastructure improvements, including railroad locomotive refueling facilities, railroad track and signals and supporting railroad network located in New Mexico after July 1, 2012.
- Law also includes criteria that must be met for a deduction from compensating tax on fuel loaded or used by a common carrier in a locomotive engine.

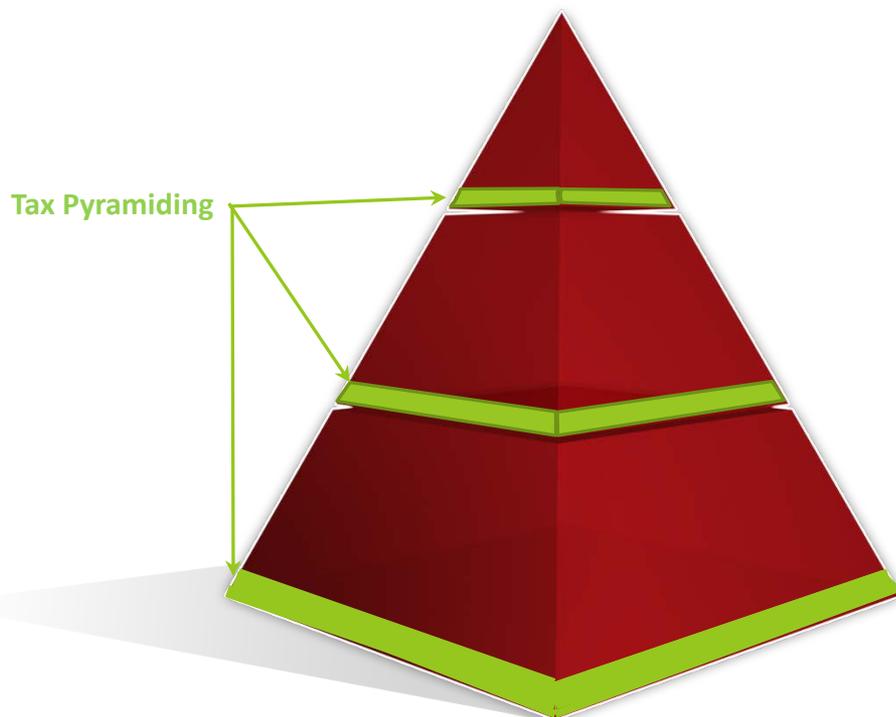
HB-641 Definition of “Consumables” for Manufacturers

[Chapter 160]

Sponsor: Rep. Antonio “Moe”

Maestas

Effective Date: January 1, 2013



- Defines real property “consumable” for purposes of deduction from GRT.
 - The definition of “consumable” includes electricity, fuels, water, manufacturing aids and supplies, chemicals, gases, repair parts, spares and other tangibles used to manufacture a product.
- Excludes tangible personal property used in the generation of power, the processing of natural resources, and the preparation of meals for immediate consumption on- or off-premises.



HB-641 Municipal and County Hold Harmless Gross Receipts Tax

[Chapter 160]

Sponsor: Rep. Antonio “Moe”

Maestas

Effective Date: July 1, 2013

- Allows discretionary imposition by individual political subdivisions of up to an additional $3/8^{\text{th}}$ percent local option gross receipts tax through implementation of one or more ordinances.
- Tax increments are to be known as the “municipal hold harmless gross receipts tax,” and the “county hold harmless gross receipts tax.”
- Intended to offset the funds that will no longer be received by municipalities and counties as a result of the hold harmless distribution phase-out.

Tax Credit Initiatives

. . . improving New Mexico economic
development opportunities through tax
expenditure policies



HB-641 High Wage Jobs Tax Credit Definitions and Extension

[Chapter 160]

Sponsor: Rep. Antonio “Moe”

Maestas

Effective Date: June 14, 2013

- Clarifies and imposes additional limitations on the application of the high-wage jobs tax credit [amends §7-9G-1].
- Extends the credit for an additional five years.
- Modifies the threshold in the definition of a municipality, (increasing to a population of at least 60,000) and extending to include areas within ten miles of the boundaries of municipality.
 - Raises threshold for new high wage jobs (created after 7/1/2015) to \$40,000 outside a municipality, and \$60,000 within a municipal area.
- Excludes job from eligibility if the result of various conditions relating to a business merger, acquisition or other change in organization.



HB-641 Film Tax Credit Changes

[Chapter 160]

Sponsor: Rep. Antonio “Moe”

Maestas

Effective Date: June 14, 2013

- Allows an additional five percent to be added to the calculation of the film production tax credit for television shows, subject to certain requirements [amends §7-2F-1].
- Allows for an annual film credit that is unused under the \$50 million cap, up to a maximum of \$10 million, to be carried forward and added into the subsequent fiscal year’s cap.
- Allows in a year that the \$50 million cap is not reached, the next scheduled payment for multi-year credit claims can be made in that year.
 - Provides more specific requirements for withholding taxes related to services provided by artists under the “direct production expenditures” provisions of the credit.
 - Specifically defines “qualified production facility.”
 - Clarifies tax obligations for non-resident vendor services.

SB-14 Extend Sustainable Building Tax Credit

[Chapter 92]

Sponsor: Sen. Peter Wirth and

Rep. Carl Trujillo

Effective Date: January 1, 2014



- Extends the sustainable building tax credit for three years (through December 31, 2016).
- Total amount of sustainable building tax credit certificates issued by EMNRD in any calendar year shall not exceed an aggregate amount of \$1 million with respect to sustainable commercial buildings and an aggregate amount of \$4 million with respect to sustainable residential buildings.
- No more than \$1.25 million of the aggregate amount with respect to sustainable residential buildings shall be for manufactured housing.



SB-557 Rural Job Tax Credit Definitions

[Chapter 58]

Sponsor: Sen. Carroll H.
Leavell

Effective Date: July 1, 2013

- Clarifies qualifying jobs not eligible for a rural jobs tax credit [amends §7-2E-1.1].
- Definition of wages amended to include all compensation paid by an eligible employer to an eligible employee (excluding benefits & the employer's share of payroll taxes).
 - Jobs are excluded from eligibility if the result of various conditions relating to a business merger, acquisition or other change in organization.

Property Tax Initiatives

. . . balancing New Mexico's property tax
policies and related issues

SB-37 Annual Delinquent Property Tax Sales

[Chapter 155]

Sponsor: Rep. Rodolpho “Rudy” S.
Martinez

Effective Date: January 1, 2014



- Requires the Property Tax Division of TRD to conduct at least one sale for delinquent property taxes in each county in which delinquent properties are listed in each calendar year beginning in 2014.
- Exception is provided when the Property Tax Division Director and the County Treasurer enter into an agreement to postpone the delinquent property tax sale. Agreement shall state the reason for the postponement and the proposed remedy that will allow the department to conduct the sale in the future.



HB-371 Public Improvement District Bond & Levies

[Chapter 45]

Sponsor: Rep. Jason C. Harper

Effective Date: July 1, 2013

- Incorporate increased due diligence, developer responsibilities, financial security, voting rights and disclosure to parties affected by Public Improvement Districts (PID) [amends §5-11-1].
 - Requires projections of property taxes, debt service liabilities and the potential that the PID capitalization structure will have on absorption and marketability within the PID.
 - Allows counties to charge fees to cover administration and the costs of due diligence concerning the PID.
- Sets requirements regarding the right to vote on formation of a district, as well as what must be done by district boards prior to issuing bonds.



SB-176 Subdivision Act Definitions

[Chapter 96]

Sponsor: Sen. Sue Wilson

Beffort

Effective Date: June 14, 2013

- Replaces one of the exclusions in the definition of "subdivision," with a new paragraph providing that the division of a tract of land into two parcels that conform with applicable zoning ordinances, and then is subsequently divided within five years, shall be subject to the provisions of the New Mexico Subdivision Act [amends §47-6-2].

SB-406 Divided & Combined Property Tax Collection

[Chapter 119]

Sponsor: Sen. John M. Sapien

Effective Date: April 2, 2013

- Requires special procedures for the administration of property tax on real property when it is divided or combined.
- Valuation of property in this situation requires the county is to determine the taxes, penalties and interest due on the property by using the prior year's tax rate, if the current rate has not been set, and the prior year's value, if the current value has not been set, and proceed to immediately collect the taxes through the taxable year in which the property is divided or combined.
- Requires a taxpayer to pay the taxes, penalties, interest and fees due on real property divided or combined through the taxable year in which the property is divided or combined prior to filing a plat.

SB-289 5-Year Property Tax Freeze

[Chapter 161]

Sponsor: Sen. Benny Shendo

Effective Date: June 14, 2013

- Specifies that value limitations must be claimed in order to be allowed. An owner who applies for the limitation of value and provides proof of eligibility for three consecutive years immediately prior to the tax year for which the application is made, or has been allowed the limitation for that period, is not required to claim the limitation for subsequent tax years if there is no change in eligibility [amends §7-36-21.3].
 - Requires that a person who has had a limitation and subsequently becomes ineligible must notify the county assessor of the loss of eligibility for the limitation by the last day of February of the tax year immediately following the year in which loss of eligibility occurs.
 - Violation of notification requirements may create liability for additional taxes due, interest and a civil penalty of three times the amount of additional taxes due.

SB-510 Agricultural Property Valuation

Time Periods

[Chapter 219]

Sponsor: Sen. Nancy

Rodriguez

Effective Date: June 14, 2013

- Changes the due date for an application to use the valuation method for land used primarily for agricultural purposes from the last day of February of the tax year, to thirty days after the date of mailing by the assessor of the notice of valuation.



Motor Vehicle Code Initiatives

. . . convenience, safety and security
issues

HB-164 Clarify Certain Speed Limit Violations

[Chapter 31]

Sponsor: Rep. Eliseo Lee Alcon

Effective Date: July 1, 2013

- Clarifies that the Motor Vehicle Division shall not use a violation where the posted speed limit is designated as fifty-five or sixty-five miles an hour [§66-7-301] for the purpose of suspending or revoking a driver's license unless the driver was exceeding the speed of seventy-five miles an hour.
- A similar provision is provided with regard to an insurer and the possible cancellation or refusal to renew an insurance policy based on a violation of §66-7-301.

SB-36 Penalties for Certain Motor Offenses

[Chapter 205]

Sponsor: Sen. Richard C. Martinez

Effective Date: July 1, 2013

- Increases the penalty assessment for permitting an unauthorized minor to drive; penalty assessments for improper equipment and operation interference are increased;
- New penalty assessments are added for the following violations:
 - Improper display of registration plate - \$25
 - Failure to notify of change of name or address - \$25
 - Lost or damaged registration plate or title - \$20
 - Permitting unauthorized person to drive - \$25
 - Minor on motorcycle without helmet - \$300
- Requires the court to notify the Taxation and Revenue Department if a defendant fails to appear on a charge of violating the Motor Vehicle Code or other law or ordinance related to motor vehicles.

HB-178 Electronic Criminal Citations and Fees

[Chapter 197]

Sponsor: Rep. Emily Kane

Effective Date: July 1, 2013

- Adds language providing that a citation may be either a paper citation, or an electronic version of a paper citation [amends §§31-1-6, 66-8-123, 66-8-128 and 66-8-130].
- Regardless of the form of citation used, a physical copy of the citation must be delivered to the person cited.

SB-37 Clarify Driver's License Suspensions

[Chapter 163]

Sponsor: Sen. Richard C. Martinez

Effective Date: July 1, 2013

- Clarifies the penalties imposed on a person who is convicted of driving with a revoked or suspended driver's license by separating the language related to driving with a suspended license from that related to driving with a revoked license.



SB-51 Protective & Undercover License Plates

[Chapter 66]

Sponsor: Sen. Sander Rue
Effective Date: June 14, 2013

- State vehicles that used for legitimate undercover law enforcement or other sensitive activities may be issued either undercover or protective license plates instead of plates that identify the vehicles as state vehicles.
- Allows for the issuance of undercover or protective plates to Indian nations, tribes or pueblos, counties, municipalities or other government entities.
 - The standards for the issuance of a protective plate are to be determined by rule jointly promulgated by the Transportation Services Division of the General Services Department and the Motor Vehicle Division of the Taxation and Revenue Department.

SB-345 Eliminate Some Open Container Exceptions

[Chapter 172]

Sponsor: Sen. John M. Sapien

Effective Date: June 14, 2013

- Removes exclusions for persons who carry alcoholic beverages for medicinal purposes, and clergymen who carry alcoholic beverages for religious purposes [amends §66-8-138].
- Does not change existing allowance that open containers are allowed in the trunk of the vehicle, the living quarters of a motor home or recreational vehicle, a truck camper, or the bed of a pick-up truck when the bed is not occupied by passengers.

SB-442 DWI Interlocks for Certain Crimes

[Chapter 101]

Sponsor: Sen. Ron Griggs

Effective Date: July 1, 2013

- Allows a person who has been convicted of homicide by vehicle or great bodily harm by vehicle while under the influence of intoxicating liquor or drugs to be eligible for an ignition interlock license, if the person has completed serving the sentence for that crime, including any period of probation and parole.

SB-94 Penalties for No Boat Flotation Devices

[Chapter 136]

Sponsor: Sen. William E. Sharer

Effective Date: June 14, 2013

- Provides that a violation of any rule of the State Parks Division shall be a penalty assessment misdemeanor, with a first-violation penalty of \$30.00. It also makes other amendments to provide similar penalties under the Boat Act.

SB-202 Farm-Related Industries Driver's License

[Chapter 210]

Sponsor: Sen. Cliff R. Pirtle

Effective Date: June 14, 2013

- Allows employees of certain farm-related service industries to obtain restricted commercial driver's licenses, if they meet all of the qualifications for that license, without having to take commercial driver's license knowledge and skills tests.

HB-225 Electronic Voter Registration Updates

[Chapter 184]

Sponsor: Rep. James E. Smith and
Sen. Timothy M. Keller

Effective Date: July 1, 2013

- Provides for submittal of electronic voter registration by the Motor Vehicle Division.
- Requires that the Secretary of State is to work with the Motor Vehicle Division to ensure compliance, ensure consistent implementation in the various counties, and develop procedures.
- Requires that the applicant's electronic signature be in conformance with the Electronic Authentication of Documents Act and the Uniform Electronic Transactions Act.



Liquor Excise Tax Initiatives

. . . encouraging business development
and managing the social issues

SB-81 Liquor Tax Microbrew Volume Limit

[Chapter 94]

Sponsor: Sen. Sue Wilson Beffort

Effective Date: January 1, 2014



- Amend the definition of “microbrewer” to mean:
 - 1) for years prior to 2014, a person who produces fewer than five thousand barrels of beer in a year;
 - 2) for years 2014 through 2023, a person who produces fewer than fifteen thousand barrels of beer in a year; and
 - 3) for year 2024 and subsequent years, a person who produces fewer than five thousand barrels of beer in a year [amends §7-17-2].
 - Increases the liquor excise tax on microbrewers to twenty-eight cents per gallon on all gallons sold more than ten thousand barrels but less than fifteen thousand [amends §7-17-5].

SB-116 Small Winegrower Volume Limit

[Chapter 95]

Sponsor: Sen. John Arthur Smith

Effective Date: January 1, 2014

- Increases the volume limit allowed to be considered a “small winegrower” from fewer than 950,000 liters of wine in a year to less than 1.5 million liters of wine in a year [amends §7-17-2].
- Increases the liquor excise tax on each liter of wine sold over 950,000 liters but not over 1.5 million liters to thirty cents per liter [amends §7-17-5].



SB-397 Local Liquor Excise Tax Proceed Uses & Rates

[Chapter 218]

Sponsor: Sen. George K. Munoz

Effective Date: July 1, 2013

- Increases the local liquor excise tax from five percent to six percent.
- Expands the use of revenue from the local liquor excise tax to include social detoxification at certain centers as a form of treatment.
- Specifies terms to be included in a joint powers agreement between the governing body of a county and the governing bodies of municipalities in that county when it comes to using revenue for social detoxification.



Special Fuels Tax Initiatives

. . . avoidance of double taxation on
biofuels production and blending

SB-160 Biodiesel Definitions

[Chapter 109]

Sponsor: Sen. Stuart Ingle

Effective Date: May 1, 2013



The U.S. biodiesel industry produced more than 1 billion gallons of fuel in 2012.

- Defines the term “biodiesel” to mean a renewable, biodegradable, mono alkyl ester combustible liquid fuel that is derived from agricultural plant oils or animal fats and that meets the ASTM Specifications for biodiesel fuel (i.e., B100 or B99 blend stock for distillate fuels).
- Defines “blended biodiesel” to mean diesel engine fuel that contains at least two percent biodiesel. Included in the definition of “special fuel” is biodiesel and blended biodiesel.
- Provides the following deductions for special fuel received:
 - 1) prior to July 1, 2014, special fuel that consists of at least 99% vegetable oil or animal fat; or
 - 2) special fuel that is biodiesel received or manufactured and delivered to a rack operator that is within the state for blending or resale.