

## Legislative Update February 6, 2018

[HB 30](#) -- **SOFT SKILLS EDUCATION PROGRAMS** passed the House Education Committee and has not yet been scheduled for the House Appropriations and Finance Committee.

House Bill 30 appropriates \$250 thousand from the general fund to PED for development and implementation of soft skills education programs for high school students in FY19.

[HB 65](#) -- **WASTEWATER SYSTEM FINANCING** Passed House Agriculture and Water Resources Committee and is yet to be scheduled for House Appropriations and Finance Committee.

House Bill 65 appropriates \$1.1 million from the Public Project Revolving Fund (PPRF), administered by the New Mexico Finance Authority, to the Wastewater Facility Construction Loan Fund, also known as the Clean Water State Revolving Fund (CWSRF), administered by the New Mexico Environment Department (NMED). The appropriation will be used as the program's state match to a federal capitalization grant provided under the Clean Water Act. The use of the appropriation is consistent with Section 6-21-6.1(C)(1) of the New Mexico Finance Authority Act which delineates eligible appropriations from the PPRF to other funds.

[HB 66](#) -- **WASTEWATER PROJECT FUNDING ELIGIBILITY** Passed House Agriculture and Water Resources Committee and is yet to be scheduled for House Appropriations and Finance Committee.

House Bill 66 (HB66) amends the Wastewater Facility Construction Loan Act (WFCLA) to reflect changes made to the federal Clean Water Act (CWA). HB66 will align the definitions of "qualified borrower" and "eligible projects" with the CWA. The bill will also change the threshold for a zero percent interest loan. HB66 align the WFCLA with recent amendments to the CWA. HB66 adds definitions for "eligible project" and "qualified borrower," alphabetizes definitions and makes conforming changes. The eligible project definition encompasses projects including wastewater facilities, nonpoint source water pollution control projects, and watershed projects that meet the criteria of the CWA. The qualified borrower definition provides that any creditworthy borrower eligible pursuant to the CWA (see Attachment 1) may be eligible for CWSRF funding. The definitions of "eligible project" and "qualified borrower" both reference the CWA and do not attempt to provide an exhaustive list of either. This is done to make the program as flexible as possible to accommodate a wide range of projects while staying within the confines of applicable federal law.

House Bill 66 changes the criteria used to determine if a local authority is eligible for a zero percent interest rate for a CWSRF loan. Proposed criteria include the use of the local authority's per capita income (PCI) in place of median household income and user rate analysis as a percentage of income. Use of PCI is proposed because an analysis of census data shows PCI has a lower margin of error and data are available for more communities. The new calculation will be a more accurate portrayal of the local authority's financial situation and will align with industry standards. Accordingly, to qualify for a zero percent loan, a local authority must have a PCI less than  $\frac{3}{4}$  of the State PCI and average wastewater utility cost greater than 1.82 percent of the local authority's PCI. According to NMED, Adoption of HB66 may increase the number and diversity of applicants for CWSRF funding. This may in turn lead to increased utilization of the Fund.

[HB 73](#) -- **ECONOMIC IMPACT OF UTILITY ABANDONMENT** No Movement

[HB 82](#) -- **REDUCE QUARTERLY WORKERS' COMP FEE** No Movement

[HB 93](#) -- **DRINKING WATER SYSTEM FINANCING** Passed House Agriculture and Water Resources Committee and is yet to be scheduled for House Appropriations and Finance Committee.

House Bill 93, endorsed by the NMFA Oversight Committee, appropriates \$1.8 million from the public project revolving loan fund (PPRF) to the drinking water state revolving loan fund (DWSRLF) for the purpose of matching funds for the federal Safe Drinking Water Act and for the purposes of the Drinking Water State Revolving Loan Fund Act. The effective date of the bill is July 1, 2018.

[HB 94](#) --**PIPELINE SAFETY ACT VIOLATIONS** No Movement

[HB 98](#) -- **LOCAL ELECTION ACT** Scheduled for HOUSE LOCAL GOVERNMENT, ELECTIONS, LAND GRANTS & CULTURAL AFFAIRS on 2/6/2018

[HB 99](#) -- **PUBLIC PROJECT REVOLVING FUND PROJECTS** Passed House.

The House Appropriations & Finance Committee amendment increases the number of entities from 109 to 111 of which this legislation authorizes the New Mexico Finance Authority to provide loans from the public project revolving loan fund to these qualified state, local and political subdivision entities statewide for infrastructure projects.

[HB 133](#) -- **CAREER-TECHNICAL TEACHER DEVELOPMENT** No Movement

[HB 148](#) -- **ABQ-BERNALILLO WATER AUTHORITY WATER RIGHTS** No Movement

[HB 169](#) -- **EMPLOYEE PREFERENCE ACT** Scheduled for House and Labor Economic Committee on 02/07/2018

House Bill 169 proposes the Employee Preference Act. The bill supports persons in New Mexico to form, join or assist labor organization or to refrain from those activities. Membership and fees are not mandatory as a condition of hiring, promotion or continued employment and prohibits an employer to have the recommendation or approval of a labor union.

[HB 189](#) --**STATE LAW OVER PRIVATE SECTOR EMPLOYMENT LAW** was tabled yesterday afternoon in the House Labor and Economic development Committee. Two amendments were offered, the first amendment listed the definition of fringe benefits, and the second amendment offered a tax credit for employers with less than fifty employees to become a "family friendly business" by offering fringe benefits to employees. The committee approved the first amendment and rejected the second.

House Bill 189 would prohibit political subdivisions of New Mexico (i.e., cities, counties) from passing bills, resolutions or policies that would regulate benefits provided by private employers to their employees. The prohibition would apply to paid or unpaid leave, fringe benefits, or benefits that would be an expense to the employer.

[HB 192](#) -- **REPEAL PUBLIC WORKS MINIMUM WAGE** No Movement

[HB 206](#) -- **COMPENSATING & GROSS RECEIPTS TAX CHANGES** No Movement

[HB 228](#) -- **GAS TAX INCREASE & ROAD FUND** This bill was rolled over and will be first on the agenda Thursday morning in the House Transportation, Public Works and Capital Improvements Committee

House Bill 228 contains the following provisions, effective July 1, 2018:

- increases the gasoline tax by 10 cents per gallon (from 17 cents to 27 cents),
- increases the special fuels tax by 10 cents per gallon (from 21 cents to 31 cents), and
- creates the state road maintenance fund.

[HB 245](#) -- "**CONSTRUCTION MATERIAL**" IN GROSS RECEIPTS ACT Passed House  
Transportation, Public Works and Capital Improvement Committee. House Floor 02/06/2018

Synopsis of Original Bill House Bill 245 attempts to resolve the issue of "cost segregation" that recently became a significant issue for governmental entities and business provided industrial revenue bonds (IRBs) by local governments. It amends the definition of "construction material" in the Gross Receipts and Compensating Tax Act to clarify that it does not include tangible personal property that would be classified for depreciation purposes on a three-, five-, seven-, or 10-year schedule for federal taxation purposes.

Synopsis of HTRC Amendment The House Taxation and Revenue Committee amendment adds language to specify the tangible personal property change to the "construction material" definition only applies if it "is or would be sold" to a nonprofit or government entity. This narrows the scope of the bill and may help reduce concerns about potential unintended consequences and negative impacts. However, the "or would be sold" phrasing seems vague and might raise concerns, but the Taxation and Revenue Department should address this issue in their analysis. Prior to receipt of such analysis, LFC staff recommend possible consideration of removing "or would be" leaving the phrasing as "is sold to a [nonprofit or government entity]".

[HB 307](#) -- **CONSTRUCTION CONTRACT INDEMNITY AGREEMENTS** No Movement

[HJM 5](#) -- **STUDY NATIONAL TRENDS IN WORKERS COMP ISSUES** Scheduled for HOUSE LABOR & ECONOMIC DEVELOPMENT on 2/7/2018

House Joint Memorial 5 (HJM5) requests the Workers' Compensation Administration (WCA) to commission an independent study on national trends in workers' compensation issues and other state's responses to those issues including information on topics such as return-to-work, opiate use, and effects on posttraumatic stress disorder claims. WCA is requested to report findings and recommendations of the study to legislative interim committees before December 1, 2018. Further, WCA is requested to commission follow-up studies every five years thereafter and report those studies to the Legislative Finance Committee (LFC) on or before December 31 of the year the study is conducted.

[SB 40](#) -- **WASTEWATER PROJECT FUNDING ELIGIBILITY** Passed Senate. House Intro

Senate Bill 40 (SB40) amends the Wastewater Facility Construction Loan Act (WFCLA) to reflect changes made to the federal Clean Water Act (CWA). SB40 will align the definitions of "qualified borrower" and "eligible projects" with the CWA. The bill will also change the threshold for a zero percent interest loan..... *more*

[SB 43](#) -- **WASTEWATER SYSTEM FINANCING** Passed Senate. House Intro

Senate Bill 43 appropriates \$1.1 million from the Public Project Revolving Fund (PPRF), administered by the New Mexico Finance Authority, to the Wastewater Facility Construction Loan Fund, also known as the Clean Water State Revolving Fund (CWSRF), administered by the New Mexico Environment Department (NMED). The appropriation will be used as the program's state match to a federal capitalization grant provided under the Clean Water Act. The use of the appropriation is consistent with Section 6-21-6.1(C)(1) of the New Mexico Finance Authority Act which delineates eligible appropriations from the PPRF to other funds.

[SB 49](#) -- **TAX REFORM** In Senate Corp and Transportation Committee – No Movement

Senate Bill 49 is a substantial tax reform package, making major modifications to the gross receipts tax (GRT), compensating tax, personal income tax, corporate income tax and other taxes. It lowers tax rates

and attempts to pay for the reductions by eliminating a wide array of tax exemptions, deductions, and credits. In short, it converts the state's tax system into a turnover tax instead of mixed system, with a subtraction method value added tax currently known as the Gross Receipts Tax. Below is a short list of key actions.....*more*

[SB 54](#) -- **CAPITAL OUTLAY PROJECT PUBLICATION** Passed Senate Rules Committee and referred to Senate Finance committee

Senate Bill 54 requires LCS to publish a list of all projects included in capital outlay bills passed by the legislature showing the amount of funding provided by each project sponsor, either a legislator or the governor, and the amount of funding, by sponsor, that would have been provided for each vetoed project. The list required by SB54 would be posted to the Legislature's website, with paper copies available upon request.

[SB 69](#) -- **CANCELLATION OF BID & RFP INVITATIONS** No Movement

Senate Bill 69 amends Section 13-1-131 to clarify in the Procurement Code the authority of public entities to purchase goods and services in the open market in the event an invitation to bid (ITB) or request for proposals (RFP) was unsuccessful after two attempts. The bill also requires posting of the two solicitations for thirty days before being cancelled and a form containing the reasons for the unsuccessful solicitations to become part of the procurement file.

[SB 72](#) -- **SOUTHWEST NM WATER PROJECTS** Passed Senate Conservation and referred to Senate Finance. Duplicate to HB 127

Senate Bill 72 appropriates \$50 million from the New Mexico unit fund to the Interstate Stream Commission (ISC) for four identified purposes: 1) \$12 million to fully implement a regional water project; 2) \$34 million to construct Water Trust Board-approved water supply projects in southwest New Mexico that meet a water supply demand and are included in 2017 infrastructure capital improvement plans; 3) \$3.5 million to collect ground water and geologic data to improve the ground water flow model of the Mimbres basin aquifer system; and 4) \$500 thousand for the evaluation and planning of alternatives for a remote well field for the City of Deming in a comparatively stable area of the Mimbres basin aquifer...  
*More*

[SB 94](#) -- **GENERAL OBLIGATION BOND PROJECTS** Senate Finance

[SB 128](#) -- **TAX CODE CLEANUP & REPORTING** Senate Corps and Transportation Committee

Senate Bill 128 performs various tax code cleanup and reporting functions. It removes a potential loophole that would prevent taxation of the prime contractor of a national laboratory, such as Los Alamos National Laboratory (LANL), if the contract is awarded to a nonprofit instead of the current for-profit contractors. It removes another potential loophole in the insurance "in lieu of" provision, where the possibility exists for taxpayers in the future to merge with an insurance company or begin selling insurance policies to avoid nearly all other taxes, including gross receipts tax (GRT).....*more*

[SB 142](#) -- **WATER PROJECT FUND PROJECTS** Duplicates SB 142; Relates to SB 63/HB 123

Senate Bill 142, endorsed by the New Mexico Finance Authority Legislative Oversight Committee, authorizes 22 projects to be eligible for funding from the water project fund. The NMFA establishes the terms and conditions of the loans and grants awarded from the water project fund as recommended by the Water Trust Board (WTB). Senate Bill 142 contains an emergency clause.

[SB 148](#) -- **CAPITAL OUTLAY REFORM ACT** Senate Rules Committee

Senate Bill 148, the Capital Outlay Reform Act, creates a Capital Planning and Assistance Division within the Department of Finance and Administration (DFA), creates a Capital Outlay Oversight Task Force, expands the membership of the Capitol Buildings Planning Commission, and requires an Annual Statewide Capital Improvements Plan. The bill duplicates SB392 from the 2017 regular legislative session.....*more*

[SB 149](#) -- **CAPITAL OUTLAY PLANNING & MONITORING** Senate Public Affairs

Senate Bill 149, the Capital Outlay Planning and Monitoring Act, has a stated purpose of increasing fiscal and programmatic oversight of capital outlay projects and expenditures. The Act creates a Capital Outlay Planning and Monitoring Division within DFA, allows the new division to promulgate rules necessary for the administration of the Act, requires the new division to prepare and annually update a five-year state capital improvement plan, and repeals New Mexico statute that deals with capital programs, preparations and duties. The effective date of the bill is July 1, 2018.....*more*

[SB 170](#) -- **WATER PROJECT FUND PROJECTS** Passed Senate. House Intro.

Senate Bill 170, endorsed by the New Mexico Finance Authority Legislative Oversight Committee, authorizes 22 projects to be eligible for funding from the water project fund. The NMFA establishes the terms and conditions of the loans and grants awarded from the water project fund as recommended by the Water Trust Board (WTB). Senate Bill 170 contains an emergency clause.

[SB 179](#) -- **EMPLOYEE PREFERENCE ACT** Scheduled for Senate Public Affairs Committee on 2/6/2018

Senate Bill 179 proposes the Employee Preference Act. The bill supports persons in New Mexico to form, join or assist labor organization or to refrain from those activities. Membership and fees are not mandatory as a condition of hiring, promotion or continued employment and prohibits an employer to have the recommendation or approval of a labor union.

[SB 181](#) -- **ELIMINATE SOME MULTI-SOURCE CONTRACTS** No Movement

[SB 215](#) -- **"CONSTRUCTION MATERIAL" IN GROSS RECEIPTS ACT** Duplicates HB 245

[SB 228](#) -- **DEDUCTION OF CERTAIN BUSINESS EXPENSES** No Movement

[SB 248](#) -- **LEGISLATIVE PUBLIC WORKS COMMITTEE** No Movement