NMBC Analysis of HB 547 Omnibus Tax Bill

HB 547 Omnibus tax bill was approved by a conference committee consisting of three members of the House and three from the Senate in the final days of the session. It considered most of the tax increases proposed throughout the session, but in the end, we were greatly relieved to see no increased Personal Income Taxes (PIT) for anyone.

There were many other significant tax increases and lots of taxpayer money giveaways that we oppose, and we are not going to pander to the politicians who passed it and say that overall, it was okay. ***It was not okay to increase any tax when the state had a $3.6 billion surplus, and we applaud those legislators who held this conviction and voted 'No'!***

HB 547 was brutal on the handling of capital gains taxes which will be yet another disincentive for savings and investment – not only by individuals, but by businesses as well. This will impact job creation and, thus, state revenue.

And this is just a sad fact of what happens when you have people who have never owned a business or worked in upper management think they can just take more from hardworking New Mexicans who have. Sadder still is the fact that there will be far more New Mexicans impacted by that bad decision than they realize because they are so out of tune with how to build wealth.

There are a few slightly bright spots in the bill: 1) The sunset of personal income tax exemption for a portion of military retiree pay was extended for five years; 2) The rebate touted by the governor for $750 single filers/$1,500 couples filing was scaled back to $500 per single filer, $1,00 per married couple filer; 3) Over the next four years, the state GRT rate will be reduced one half of one percent. However, consumers may not realize the savings depending on what local governments do, where those rates will still range from about 6% to 7.5%; 4) The bill adopts single sales factor apportionment for corporate taxes. That would be a welcome benefit to multi-state companies but wouldn't impact New Mexico's single-location businesses.

While there are some positive points in HB 547, this is done intentionally to draw attention away from the cumulative tax increases and to gain votes from certain legislators. None of them overcome all the negative aspects of this bill.

Summary of HB 547

Sections 1-4 Industrial Revenue Bonds: Authorizes local governments to use industrial revenue bonds for the construction of energy storage facilities.

Comment: Another step towards local governments taking over utility service. From HB 67 (Chandler/Ortez).

Section 5, 24, & 25: **Liquor Excise Tax** These sections increase liquor excise tax rates by about $0.05 per drink based on alcohol content and whatever measure the legislature thought was effective.

Comment: Too many tax increases sought . . . From HB 230 (Ferrary, Sedillo Lopez, Johnson, Pinto, and Thomson) and SB 259 (Sedillo Lopez, Tallman, and Pinto).

Section 6 Armed Forces Retirement Pay Exemption: Extends the sunset on the military retirement pay tax exemption from 2026 to 2031.

Comment: The sunset should be eliminated entirely**.** From HB 433 (H. Garcia).

Section 7 Income Tax Brackets – from the Fiscal Impact Report on HB 119 Income Tax Bracket Changes

Table 1					
Current Tax Brackets	**Taxable Income Range**	**Rate**	**Proposed Tax Brackets**	**Taxable Income Range**	**Rate**
Married filing separate					
1	Not over $4,000	1.7%	1	Not over $4,000	1.5%
2	$4,000 – not over $8,000	3.2%	2	$4,000 – not over $12,500	3.2%
3	$8,000 – not over $12,000	4.7%	3	$12,500 – not over $25,000	4.3%
4	$12,000 – not over $157,500	4.9%	4	$25,000 – not over $50,000	4.7%
5	Over $157,500	5.9%	5	$50,000 – not over $157,500	4.9%
			6	Over $157,500	5.9%
Married Filing Jointly, Heads of Households					
1	Not over $8,000	1.7%	1	Not over $8,000	1.5%
2	$8,000 – not over $16,000	3.2%	2	$8,000 – not over $25,000	3.2%
3	$16,000 – not over $24,000	4.7%	3	$25,000 – not over $50,000	4.3%
4	$24,000 – not over $315,000	4.9%	4	$50,000 – not over $100,000	4.7%
5	Over $315,000	5.9%	5	$100,000 – not over $315,000	4.9%
			6	Over $315,000	5.9%
Single					
1	Not over $5,500	1.7%	1	Not over $5,500	1.5%
2	$5,500 – not over $11,000	3.2%	2	$5,500 – not over $16,500	3.2%
3	$11,000 – not over $16,000	4.7%	3	$16,500 – not over $33,500	4.3%
4	$16,000 – not over $210,000	4.9%	4	$33,500 – not over $66,500	4.7%
5	Over $210,000	5.9%	5	$66,500 – not over $210,000	4.9%
			6	Over $210,000	5.9%

Comment: There are no longer any personal income tax increases in this legislation. In addition, the legislation lowers income taxes by $140 million, most of which goes to low- and middle-income families and some small businesses

Section 8 Low-Income Comprehensive Tax Rebate. This section mandates the income levels eligible to receive the low-income comprehensive tax rebate (LICTR) be adjusted to account for inflation each taxable year. It also adjusts the 2023 tax year base table, expanding the income range and slightly increasing the rebate amount.

Comment: This is in addition to the decreased tax rates above. It amounts to a substantial increase that will likely damage the state budget when we have a downturn in the oil and gas industry. This is part of the defined progressive path. From HB 81 (Chandler/Wirth).

Section 9 Rural Health Care Practitioner Tax Credit. Amends the rural healthcare practitioner tax credit against income tax to add several categories of health workers to the list of approved practitioners eligible to receive the credit. It adds pharmacists, registered nurses, clinical social workers, independent social workers, professional mental health counselors, professional clinical mental health counselors, marriage and family therapists, professional art therapists, alcohol and drug abuse counselors, midwives, and physical therapists to be eligible for a $3,000 annual credit. Expands the types of health care practitioners who are eligible to receive the rural health care underserved area tax credit.

Comment: This is a step in the right direction for attracting healthcare practitioners to the state. It is unfortunate that we are not addressing the real issue regarding the liability caps that have driven many in the healthcare industry to leave New Mexico. From HB 38 (M. Garcia) and some of HB 351 (Jones).

Section 10 Child Income Tax Credit: Increases the child tax credit for the lowest three income levels from $175 to $600, $150 to $400, and $125 to $200 and adds language to annually adjust the credit amounts to account for inflation for those making $75,000 or less.

Comment: Continues the progressive welfare state of socialism. From HB 144 (Chandler, Lente, and Stefanics).

Section 11 Capital Gains Deduction Limits capital gains that may be deducted from personal income tax to 40% on the sale of a New Mexico business up to $1 million in gain. It caps all other deductions to $2,500, down from 40% of any gain.

Comment: While they are attempting to take more from the ‘rich’ they are missing the entire point of Capital gains and the value of respectful tax policy towards them. Many New Mexicans own stock and this would be detrimental to growth in their savings and future retirement portfolios. Furthermore, it will be highly detrimental to businesses as we hope they will grow and be rewarded for that growth when they sell or retire. We don’t want to see our businesses punished for the success of what they have built. It’s this wrong thinking that keeps New Mexico as a bottom-feeder in the U.S. From HB 144 (Chandler).

Section 12 Income Tax Rebates: Provides a onetime personal income tax (PIT) rebate to be paid to all residents who filed state tax returns for tax year 2021. The proposed rebate is $500 for single filers and married individuals filing separate returns and $1,000 for married individuals filing joint returns, heads of household, and surviving spouses.

Comment: This is significantly less than amounts promised by the governor as part of her re-election campaign which were $1,500 for joint filers and $750 for single filers. From SB 10 which was a “Governor's bill.”

Section 13 Electric Vehicle Tax Credit Provides a $2,500 tax credit for the purchase or lease of an electric vehicle. Credit is $4,000 for those earning less than 200% of the federal poverty level. There is a limit of $10 million per year for credits which sunset on

1-1-28.

Comment: The rebate for low-income households do not make a lot of sense given the average high cost of electric vehicles. These households usually benefit from purchasing lower-priced gasoline vehicles and can often find nice vehicles in the resale market for even less than new vehicles. While the rebates do not apply to gasoline or used vehicles, many people would be money ahead investing that way rather than purchasing a new electric vehicle. From SB 22 (Tallman) and HB 412 (Gurrola, Szczepanski, Sariñana, Anyanonu, and Tallman).

Section 14 Charging Unit Income Tax Credits: Creates an electric vehicle charging unit income tax credit of up to $300 to cover the cost of purchasing and installing an electric vehicle charging unit.

Comment: Same issues as Section 13. In addition, science is now suggesting that charging electric vehicles can be dangerous and people should use discretion about charging vehicles in their homes. From SB 22 (Tallman) and HB 412 (Gurrola, Szczepanski, Sariñana, Anyanonu, and Tallman).

Section 15 Energy Storage System Income Tax Credit: Proposes a personal income tax credit of 40% of the cost of equipment and installation for an energy storage system installed for taxable years up to January 1, 2028 on the claimant's residential, agricultural, or commercial property. The credit amount is limited to a maximum of $5,000 per system for residential systems and $150 thousand for agricultural and commercial systems. EMNRD is required to certify installations will limit total awards of $4 million per year.

Comment: Renewable energy storage is still not cost productive and is generally way outside the realm of most individuals. In addition, due to the cost, the rebate won't be of great help. From HB 32 (Sariñana, Stewart and Lujan).

Sections 16 Corporate Income Tax Rate: Creates a single corporate income tax rate of 5.9% effective January 1, 2024. **By creating this single corporate tax rate, it increased the lower tier to 5.9%.**

Comment: We do not support any tax increases – especially at a time when the state is sitting on a $3.6 billion windfall. We do, however, support the extension of the single sales factor to all companies and not just corporate headquarters and manufacturers. From HB 322 (Harper and Maestas).

Note: Under a single sales factor formula, **the share of a corporation's total profit that a particular state tax would be based solely on the share of the corporation's nationwide sales occurring in the state**.

Section 18 and 19: Gross Receipts Tax (GRT): Reduces one-half of one percent over the next four years. This is in addition to the 1/8 percentage point approved last session which takes place this summer.

In addition, the GRT will no longer be applied to the payment of medical deductibles and copays which amounts to an additional surcharge. We are hopeful this will be beneficial to healthcare providers and serve as somewhat of an incentive for them to stay.

Comment: We will support any tax reduction, but this represents a total decrease this session of .5% which is negligible when the state is sitting on a $3.6 billion surplus. This hardly goes far enough considering rates run 6.5% to 8% throughout the state and is being tacked on to virtually every state purchase/payment being made by consumers.

Section 20 Child Care Provider GRT Deduction: Creates a new GRT deduction for the sale of childcare assistance through either a licensed childcare assistance program or a for-profit prekindergarten provider.

Comment: This is one example of why we need the entire tax code rewritten. Instead of continually carving out pieces for select groups to be exempt from this ill-conceived tax structure, we should develop a fair tax code that can be equally administered across all sectors. From HB 137 (Cadena).

Section 21 Medicaid Renovation GRT Deduction: Allows a GRT deduction to an eligible provider that installs equipment or real property modifications to a residence of a Medicaid recipient to allow that resident to live safely at home.

Comment: See comment above and throughout this analysis regarding the problems with New Mexico's bad tax code. From HB 220 (Cates, Jaramillo and Thomson).

Section 22 Cigar Tax Rate: Removes the $0.50 per cigar cap on tobacco products. All cigars will be subject to the 25% tax applied to other tobacco products.

Comment: More of the same bad policy. This amounts to a $2.50 tax on a $10 cigar and is ridiculous. From HB 124 (Ferrary, Thomson, Jaramillo, Cates, Chasey).

Section 23 Motor Vehicle Excise Tax Distributions: Redistributes the motor vehicle excise tax (MVX) to the state road fund and the transportation project fund. In FY24 the distribution is 53.14% to the general fund, 21.86% to the state road fund, and 25% to the transportation project fund.

Comment: Instead of money from this tax going to the general fund to be squandered away, it will put more money into road improvements. This is where it should be going and to prop up a government that is overspending in unnecessary areas to the detriment of our roads and bridges. From SB 184 (Kernan and Gonzales).

Section 26-27: Provides effective dates of various sections because there is a multitude of dates throughout the bill.

House floor amendment:

"**SECTION 7.** Section 7-2-5.14 NMSA 1978 (being Laws 2022, Chapter 47, Section 7) is amended to read:

"7-2-5.14. EXEMPTION--SOCIAL SECURITY INCOME.--

A. An individual may claim an exemption in an amount equal to the amount included in adjusted gross income pursuant to Section 86 of the Internal Revenue Code, as that section may be amended or renumbered, of income includable except for this exemption in net income; provided that the individual's adjusted gross income shall not exceed the following amounts, except as provided in Subsection B of this section:

[~~A.~~] (1) seventy-five thousand dollars ($75,000) for married individuals filing separate returns;

[~~B.~~] (2) one hundred fifty thousand dollars ($150,000) for heads of household, surviving spouses and married individuals filing joint returns; and

[~~C.~~] (3) one hundred thousand dollars ($100,000) for single individuals.

Comment: New Mexico continues to fail its people regarding good tax policy. The progressive Democrats, who are the primary block of legislators and the governor making policy for the state are pressing hard for socialism. This is in the opposite direction of a free-market system where individuals determine their future. The progressive model provides for the government to 'take care of' the needs of New Mexicans, rather than creating an environment that will support and promote the *opportunity* for private sector jobs and prosperity for all.

That is the key difference between how the United States was originally conceived and the ideology of the far left: That people are free to create personal or corporate wealth as they desire with limited interference from the government. Instead, we see that the progressives are pursuing a hard path towards further socialism in which the government will dictate how people will live, how their children will be educated, and how much parents will be 'allowed' to be involved in their children's lives.

And through all of this, the government will have you pay for what they've created. If you are providing for your family to secure a free and prosperous lifestyle and retirement, they want to take that from you and give it to those who are not producing at the same level.

Is that fair? Is that what you want?

Unfortunately, it is what we have because of who was elected to serve.

This is a sad time for New Mexico. But it is also a time for people to decide if they will make a stand for the freedoms that people enjoy in other states. A time to decide if you've had enough of the progressive rule in our state. A time to decide if you are willing to take action and stop what is occurring. If you are willing, it is time to make a concerted effort to move back to New Mexico's ideals of being able to raise a family and retire in a state that respects your individual rights. It's time to move to a New Mexico that taxes everyone fairly for the common good, but not taking from those defined as 'rich' to serve the needs of those who are not.

We need to get back to a New Mexico that respects the rights of ALL New Mexicans and doesn't favor one group over another. That is something that began in earnest about four years ago and it is ripping this state apart. Often, we find ourselves pitted against each other when before we would've worked together for the good of all.

Let's get back to 'that' New Mexico. The one where all are equal, and everyone's rights matter. The one where we work together for the good of all. The one where we have debate by Republicans and Democrats and not a dictate by progressives.