



HOUSING JOURNAL

Voice of New Mexico Home Builders Association Since 1970

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- Unemployment Insurance Frequently-Asked Questions
- New HUD Energy Efficiency Standards Helps More Buyers Qualify
- House Panel Approves NAHB-Supported Energy Bill



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On The Cover



This Southwest style home, custom-built by Alto Mesa Builders, Inc., sits on a high hillside in Ruidoso, and has 270 degrees of panoramic views, including an unobstructed eye-filling shot of Sierra Blanca Peak, Ruidoso's iconic mountain. With 5000 square feet of open floor plan and 3000 square feet of covered decks, it's designed for both inside and outside living, taking full advantage of Ruidoso's great weather. Alto Mesa Builders' owners, Mike and Andrew Buechter, consider this project one of their best.

Photo by:
Daisy Yokley, World of Daisy Photography
www.worldofdaisy.com

Membership Statistics

	July	Aug
Central New Mexico	653	655
Eastern NM	97	98
South Eastern NMHBA	92	91
Lincoln County	116	114
Las Cruces	316	317
Southwestern NMHBA	50	50
San Juan County	161	160
Santa Fe Area	461	456
Otero County	<u>105</u>	<u>106</u>
Total	2051	2047

2015 NMHBA Meeting Calendar

November All in Las Cruces, NM

- 6** Senior Officers, Government Affairs, Building Issues Committee Meetings
Installation of 2016 Officers @ NM Farm and Ranch Heritage Museum
- 7** NMHBA Board of Directors Meeting
Annual Meeting of the Members – NMHBA, NMHB PAF
- 26-27** Thanksgiving Holiday – NMHBA & NMLB Offices Closed

December

- 4** NMHBA Senior Officers and Executive Committee Meetings
- 25** Christmas Holiday – NMHBA & NMLB Offices Closed

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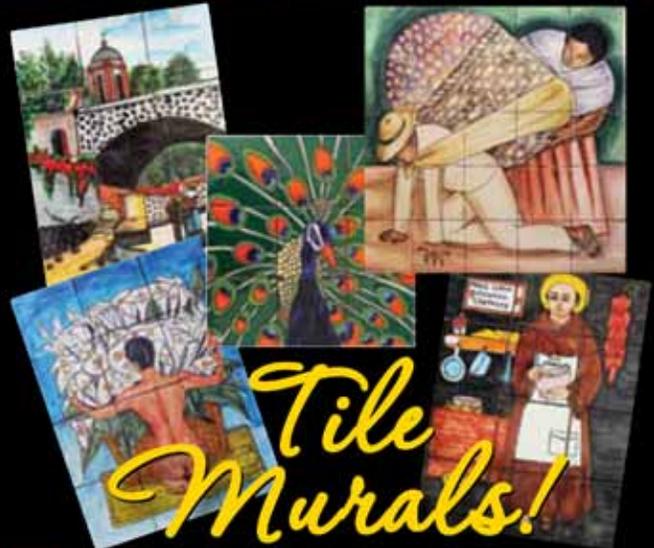


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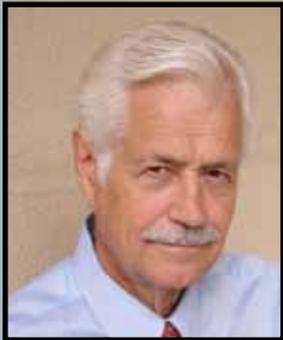
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A Message From The PRESIDENT



Skip Mead

A Partial 2015 Recap

It's hard to believe that this year is nearly over. A new and well-qualified group of Senior Officers led by Pat Bellestri-Martinez will take the helm December 1st. I am sure you will be well represented in the coming year as we continue to face many challenges for New Mexico and NMHBA.

This year, as your President, I have seen some firsts for New Mexico and some success for NMHBA and Builders Trust. In 2014, NMHBA Political Action Fund and Builders Trust were heavily involved in supporting business-friendly candidates to the NM House of Representatives. Nearly all of the candidates we supported won their elections. In January, the Republicans took the leadership of the House for the first time in some 60-odd years. This resulted in the House-supported bills put forth by NMHBA and BT and many of the bills passing the House. Unfortunately, the NM Senate controlled by the Democrats either would not take up many of these bills or let the clock run out, and thereby defeating legislation that would have been beneficial to New Mexico and the building industry. Some successes were had. Senate Bill 233 *Temporary Disability Benefit Changes* which clarifies the statute so that temporary worker compensation benefits are limited to 700 weeks passed. This is a huge benefit for participants in Builders Trust. In addition, Senate Bill 279 *Sustainable Building Tax Credits* (SBTC) passed, extending the SBTC for another 10 years. Both bills were signed into law by Governor Martinez. We continue to support legislation that will help restore economic vitality to New Mexico, and this will be an ongoing battle. I believe that growing our economy will be instrumental in returning the building industry to a more prosperous environment.

Challenges have also been hurled at us by Washington. The new definition by the EPA of the Waters of the United States (WOTUS), if carried to its full extent, will be detrimental to the building industry and put many small builders and contractors out of business. The new rules will make it difficult if not impossible for the small builder/contractor to compete in the development of lots for housing. Fortunately, New Mexico, along with twelve other states, have dodged this bullet for the time being. A federal Judge heard this case and ruled against the EPA. But, this fight is not over. EPA will appeal the ruling and, if successful, will come back and impose their rules on New Mexico. This is an issue that we and the NAHB need to keep an eye on. Also, at the national level, the North American Energy Security and Infrastructure Act of 2015 reforms DOE's role in the development of energy codes to require a 10-year pay back for any requirement to install energy efficient devices or appliances. We are in favor of the 10-year pay back rule, and NAHB is working with members of Congress to move this effort forward.

Lastly, I want to report to you on the financial condition of the state association. As I have mentioned in the past, I wanted to see the association's financial condition to "be in the black" at the end of my term. As everyone knows, the last four or five years have been financially tough on associations across the country. We are no different. We have been struggling with deficit budgets for a number of years. We are still a financially sound organization but it's time to stop dealing with red ink. The jury is still out on how we will finish the fiscal year but I believe we will be in the black or close to it by the end of the year. We will know in another month or so.

I want to express my thanks and appreciation to all of you that have participated on committees to make this association what is today. A special thanks to the Seniors Officers, NMHBA staff and Jack Milarch for all of their support over the year. It has been a pleasure and honor to serve as your President.





Jack C. Milarch, Jr.

Is “Lobbyist” a dirty word?

As I was spending some time on an exercise machine at my gym recently two women within earshot were loudly discussing the evils of today’s world, and predictably, soon landed on the topic of lobbyists. And once again, this lobbyist heard the opinion that lobbying activity has ruined our system of government. That’s a serious accusation. Since our membership is involved, via their membership and dues, in supporting a lobbying organization, and since the state’s campaign season is starting in earnest, I thought I should focus on this issue.

So, what exactly is it that gets so much bad publicity for lobbyists and lobbying? The most obvious answer involves money and political action funds, which are inevitably connected to lobbyists. First, let me state the obvious. Our system of government, at many levels, requires candidates for public office to run for election, and run quite often. The theory of this concept

is that the public regularly has a chance to either keep or switch out their public officials. The downside of this great theory is that candidates need money, and lots of it, every time they run for office.

So how is it that candidates and incumbents attract the great sums of money they inevitably do, often from lobbyists?

It begins with the ability of a public official to regulate some activity or person. Public officials and legislators are almost always in a position to create the future as they desire it to be. The more important the position, the more powerful is this reality. This ability to create, and to see, the future gives a public official almost god-like capabilities. That may seem like a shocking statement, but I don’t believe it is over-stated. None of us should be surprised that gaining favor with someone who can create a future that is either favorable or unfavorable to certain interests, directly linked to a candidates’ recurring need for large amounts of money, has created the system many of us now profess to abhor. But it doesn’t stop there.

Another powerful reality is that public officials have limited time, and not nearly enough time for meaningful interaction with everybody who wants to present information to them and persuade them to understand and support their particular interest. The more things there are that come under the public official’s regulatory/legislative authority, the more people there are who want some of the official’s time. Face time matters and everybody knows that. From my experience, practically all public officials really do try their best to overcome this reality of limited time by trying to give time and attention to everybody concerned, but it’s like trying to hold back the tide. Getting time to tell your story becomes very difficult. So, the more face time becomes limited, the more valuable it becomes. Therefore the lobbyist who contributed major resources and who helped the candidate/public official get elected will also likely gain access and face time at critical moments. And getting that all-important access dramatically increases the lobbyist’s chances of being successful. It’s a very powerful symbiotic relationship. Yes . . . friendship, family, previous relationships, professional interests, and the like still count a lot, but for this presentation I am trying to explain why money and other contributed campaign resources are such powerful tools in forging a working relationship between lobbyists and candidates/government officials. So whether we like it or not, contributions matter. Which is why NMHBA created and promotes a political action committee that is active during the election cycles.

There is one further dynamic I would like to present in my discussion of politicians and lobbyists. It involves the lobbyist’s ability to be available to a legislator at critical moments. Modern political processes take up large blocks of time. Over my many years of representing NMHBA at the Legislature I have often tried to get a member to stay with me in Santa Fe, at the legislature, for a long enough time period to really interact with the legislative processes and make a difference. It is nearly impossible. A number of our members have joined us for the annual organized visits to the Legislature each year, and their impact is clearly important. But at the end of the day members must return to their homes and businesses. In contrast, Legislative committee hearings occur all the time, during

the day and often into the night. Toward the end of the Session, they go on almost constantly without regard to the time of the day or night. Floor Sessions go many hours without a break. Critical information is often needed on a moment's notice, and special knowledge of the intricacies of the system is vital to success. That is why most groups engage someone to stay close to the whole long process and represent them. That someone is their lobbyist, and their lobbyist is an integral and important part of the system. Professional lobbyists understand the tie between critical access and campaign contributions, and participate continuously in order to be successful for their clients.

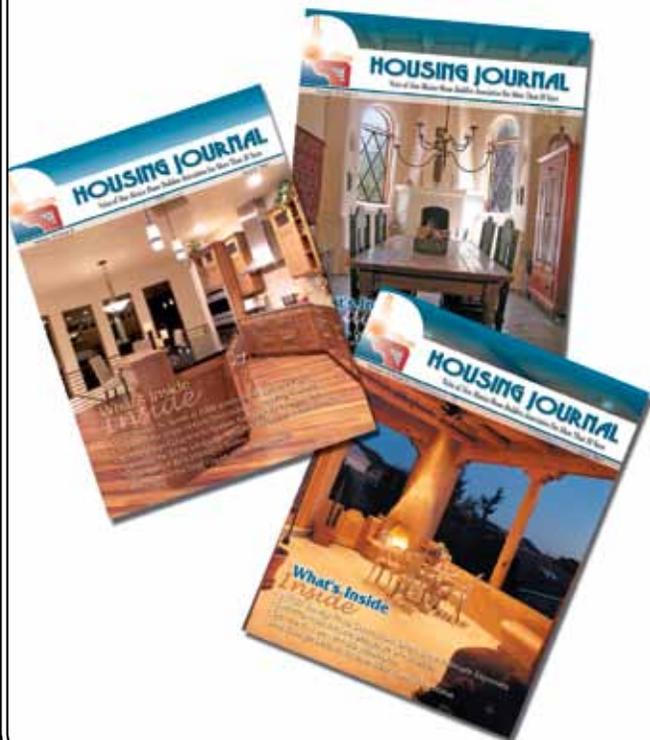
So, have lobbyists wrecked the political system as we know it? I don't think so. Lobbyists, and the organizations that support each lobbyist, have a legitimate place in the political system. It would be extremely difficult for the modern political system to function without lobbyists and the benefits they bring to the political processes. Can the position of lobbyist and public official be exploited in an abusive manner? Absolutely! It happens all the time. Which leaves the obvious question: How can we be honorable participants of this very complex and temptation-strewn system? I firmly believe it is up to each lobbyist and each group supporting those lobbyists to have a strong moral compass to guide them through the many temptations that will surely present themselves. I make the same admonition to legislators and all public officials. Campaign contribution reporting laws and limits may be an important tool too, but strong internal direction within each of us is our best protection against our governmental systems being abused and ultimately ruined.



CORRECTION:

In regard to the new rules proposal from CID I noted in my last column that "In addition the new rules draft targets construction foam application contractors with a new requirement that to get, or keep, a license they must maintain a membership in the Spray Polyurethane Foam Alliance...". This should have said ..."they must maintain a certification from the Spray Polyurethane Foam Alliance...". Certification services by SPFA are open to all, not just members, although non-members generally pay higher fees for those services.

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NMHBA is looking for high-quality photos of your work to feature on upcoming Housing Journal covers.

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You may deliver your photo(s) to our office anytime during business hours. NMHBA will determine whether or not the photo will be used. All photos will be returned to you. Please contact Nancy Barron at 505-344-7072 with any questions.

Unemployment Insurance Frequently Asked Questions

By Melanie Lawton

This is the final in our three-part series on the New Mexico Unemployment Insurance crisis that has caused rates to increase for most in the construction industry at the beginning of 2015. See the August 2015 and September 2015 issues for explanations of how we got to this point and the limited options for employers trying to control their costs.

The Unemployment Insurance (UI) situation has drastically changed since the Great Recession resulted in large job losses and the NM Unemployment Insurance Fund toppled from the best in the country in 2007 to near insolvency by the middle of 2012. Many questions have been posed by NMHBA members. Here are the answers to some of the most often asked:

Q.: How long will these high UI rates continue, and where do we stand with the UI Fund today?

A.: The UI Fund reached an all-time low of \$40 million in the second quarter of 2012. As of July 31st the fund had risen to \$236 million. The estimated goal is to get the fund back to approximately \$400 million. If things continue as they are, the UI Fund could achieve its goal by next summer, and potentially result in lowered rates for most employers by the beginning of 2017.

Q.: My statement said I had paid a large amount of money into the UI over the years. Why were my rates raised when I had not exhausted the funds in my account?

A.: For many years states were sending quarterly statements that included information that made it appear each employer had an “account” within the UI, much like their Work Comp Deposit account. The UI Fund does NOT work like that. Every employer pays into a communal pool from which each unemployed worker receives benefits. The employer pays into that communal pool based upon their usage of the UI Fund. The confusion on this has led the state to change the format of employer statements for 2016.

Q.: How is the Reserve Factor set?

A.: State law provides the guidelines under which the Department of Workforce Solutions (Department) develops regulations that specify how the guidelines are to be met. The law states the way the “adequacy” of the UI Fund is to be figured (which is how the Department arrived at the \$400 million goal) and sets Reserve Factor rates of one through four. The regulations contain the calculations for when to raise the Reserve Factor and formulas for the Department Secretary to determine whether the Reserve Factor should be four, three, or two for the next year.

Quick Fact:

There are 21,500 employers in New Mexico with 1-4 employees.

Q.: When is the Reserve Factor set?

A.: The Department sets the next year’s Reserve Factor in August, based upon the funds reported in July for the June payroll.

Q.: What Schedule are we currently on?

A.: The old Schedules for determining employers’ rates of contributions were replaced in 2015 with the formula based upon each employer’s use of the UI Fund, as evidenced by the payouts “charged” to the employer over the previous three years. (See the earlier two articles for how these formulas work.) Prior to 2011, NM was on Schedule 0; for 2011 & 2012, Schedule 1; then for 2013 & 2014, Schedule 2. The Department Secretary estimates the system should have been on Schedule 6 since 2008, when the Fund first began to drain.

Q.: What can we expect to happen to the rates for 2016?

A.: The notices of rates should go out to employers shortly. The Department Secretary has provided the following statistics for the 2016 rates – 57% of employers will see no change in their UI rates; 26% should see a small decrease as the “heavy layoff year of 2011” is removed from their 3-year history of benefit payouts; 17% of employers will see an increase as their 2015 layoff history is added on, when they may have utilized the UI Fund for recent terminations.

Q.: Are all industries treated equally?

A.: Yes. Federal law forbids any group of employers

Quick Fact:

The Average weekly benefit in NM is \$306.86 – only CA & AZ are lower in this region. NV, UT, CO & TX all pay higher weekly benefits.

receiving special consideration by the state. The problem for the construction industry is that there is no accommodation for “seasonal” or “temporary” employees hired for a project’s duration and laid off when the project is completed. Construction companies (including residential, commercial, and highway) account for 11.5% of employment in NM – the third largest single segment in the state.

Q.: I got a notice from the Department that they were going to “charge” my company for an employee who worked for me for only 3 months a year ago. The employee has gone on to another job. Why did I get the notice?

A.: As explained in last month’s article, your former employee’s benefits are charged against all employers for whom he has worked during the prior 5 quarters. Until the former employee has been employed by someone else (or a combination of “someone elses”) for a total of five quarters, you have to keep responding to those notices from the Department.

Q.: I “won” a protest to deny a former employee benefits because he was terminated “for cause.” Now I got a notice on the employee again. Can I throw this notice away?

A.: The record of that case of termination does not follow the employee to the new employer, nor is it kept in a file of the employer’s “history.” So, when a former employee submits a new claim for unemployment from a new employer, the notices go out to all employers for whom he has worked during the prior 5 quarters. You will need to respond to this new notice within 10 days, and inform the Department of the case number and outcome of that case.

Q.: What does a “typical” construction employer pay?

A.: No two companies are the same. However, we know for example, the average Builders Trust participant is an employer of 5 workers, with a payroll of \$150,000/year. If you are the “average” participant, and lay off one worker who earns \$25,000/year, and that employee stays on unemployment for the full 26 weeks, your UI rate would raise from the minimum .33% to 5.44% (including

continued on page 8



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continued from page 7

an excess use penalty.) This would ordinarily take your out-of-pocket payments from approximately \$463.32 annually to \$636.45 annually. HOWEVER, if you increase your payroll, your annual payments would go up by more than 500% because of the higher rate.

Q.: The federal government extended benefits by an additional 26 weeks during the Great Recession. How did this impact the UI Fund? Is it their fault we now have to pay these high rates?

A.: Indirectly. While the extended benefits paid out were not “charged” against an employer’s record for purposes of calculating their new rate, the extension of unemployment benefits by the federal government had a definite impact on the health of the UI Fund. In 2008 the Bush Administration approved an extension of 7 weeks’ of unemployment, and 12 weeks in states where the unemployment rate exceeded 6%. The Department has determined that once employees knew there was an additional time to receive benefits, they tended to stay on state unemployment for the entire 26-week period allowed by law. This behavior is still lingering. NM has become the 12th highest in the nation for those who use all their benefits to the point of “exhaustion,” which led to an increased drain on the NM UI Fund. This increased drain led to the NM UI Fund dropping from a high near \$600 million to approximately \$150 million in just eighteen months.

Because the NM economy was in such bad shape in 2009-2012, the Legislature froze employer contributions at the 2008 levels while the drain continued. It took nearly four years for the UI Fund to be depleted, but the formulas to rebuild the UI Fund anticipate immediate action to replenish the fund as soon as it drops below its optimum level, resulting in a whiplash-like action to replenish the UI Fund. In essence, the UI Fund contributions went from going 1 mph to 40 mph overnight, and no release from the accelerator is expected until January 2017, when the UI Fund is expected to reach its goal of \$400 million. Then the foot not only comes off the accelerator, but hits the brakes to take the Reserve Factor from its current 4 to a likely 2.

Quick Fact:
The federal government lent money to the states whose UI Funds actually became insolvent. Those states (NM was not one of them) now have their employers not only building up their UI Fund, but also paying off the loan from the federal government. Some employers in Utah are rumored to be paying rates as high as 30%!

All three articles in this series may also be found on the NMHBA website at www.nmhba.org.



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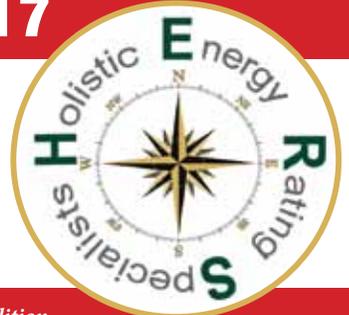
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New HUD Energy Efficiency Standards Helps More Buyers Qualify



The Federal Housing Administration on Sept. 30 published Mortgagee Letter 2015-22, which will allow more borrowers to qualify for homes that meet updated energy efficient standards.

The FHA letter updates the agency’s Energy Efficient Homes (EEH) minimum energy-efficiency standard to the most recent International Energy Conservation Code adopted by HUD for mortgages on new construction.

The new option builds on FHA’s existing EEH program, which allows for a borrower’s income qualifying ratios to be “stretched,” or increased, by two percentage points above the standard limits for homes that meet minimum energy efficiency standards.

For standard FHA loans, debt-to-income ratios are limited to 31% (front-end) and 43% (back-end). Under FHA policy for the EEH mortgage, these debt-to-income ratios can be increased to 33% and 45%, respectively.

FHA’s EEH stretch ratios can be applied across FHA’s Title II forward mortgage products and programs, including its existing energy efficiency options toolkit of products:

- The Energy Efficient Mortgage Program, which allows borrowers to finance up to 5% of the appraised value of a home to invest in energy efficiency improvements, as long as the energy savings is more than the cost of the improvements financed.
- The 203(k) Rehabilitation Mortgage Insurance Program, which allows borrowers to purchase or refinance a home and include the financing of rehabilitation costs – all in one loan.
- Solar and wind technologies policies, which allow borrowers to add the cost of a new solar or wind-driven energy system improvement to the loan amount under certain conditions.
- Weatherization policy in all FHA standard products and programs, which allows borrowers to finance up to \$3,500 to pay for basic weatherization items, such as thermostats and insulation.

For more information, contact Steve Linville at 800-368-5242 x8597.

New NMHBA Ad Rates for 2016

The Housing Journal is upgrading its look and adding “banner” ads on the NMHBA website at no extra cost for all advertisers!

We are encouraging all of our 1/4-page black & white advertisers to switch to full color ads by the December 2015 issue. As the transition takes place, we are offering full-color to our existing black & white advertisers at no charge for the August, September and October issues.

Starting with the December issue we will be reducing the cost of a 1/4-page color ad to \$125/issue for those who place their ads for the next year (9 issues). To look at the first sample banner ads, look at our home page at www.nmhba.org.

Cost of Ad Space

	Per-Issue Rate	Annual Discount Rate (all 9 per year)
Quarter Page Ad	\$200*	Quarter Page \$1,250*
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* = plus tax

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We appreciate having many of our advertisers who have supported the Housing Journal over the past two decades, and hope they will continue with us for many years more.

House Panel Approves NAHB-Supported Energy Bill

The House Energy and Commerce Committee approved NAHB-supported energy legislation in late September that will reform the role of the Department of Energy (DOE) in the development of energy codes and encourage meaningful savings for residential construction that are achievable and cost-effective.

Of note to the housing community, the North American Energy Security and Infrastructure Act of 2015 included a provision that would promote energy efficiency in buildings while ensuring that home builders and home owners are not burdened by unreasonable regulations.

Specifically, the provision would:

- Improve affordability by requiring any DOE-supported code proposal has a payback period of 10 years or less, meaning that these higher costs will be paid back through utility savings.
- Increase transparency in the development of model building energy codes by ensuring that all DOE code change proposals are made available to the public, including calculations on costs and savings.
- Ensure product neutrality by prohibiting DOE from advocating on behalf of certain products or technologies.
- Protect a state's right to adopt any code, standard or version deemed appropriate.

“This bill will help ensure that new homes become increasingly energy efficient, but not at a pace that the market cannot bear,” said John Floyd, principal of Ole South Properties in Nashville. “Our buyers want to be assured that the additional cost comes with a reasonable payback so they can recoup the money they spent.”

The problem this bill seeks to address came to light when the American Recovery and Reinvestment Act of 2009 (ARRA) required those states wishing to receive federal funds for economic development purposes to guarantee their building codes would be updated to the 2009 International Energy Conservation Codes by 2013, or the states would be required to repay the federal funding. Some states felt it was intrusive into state autonomy to force building codes for private construction be amended in order for the state to receive job-creating public works funding. New Mexico accepted the federal funding and adopted the 2009 IECC for implementation in 2011.

Subsequent to the ARRA situation, the DOE has been attempting to influence the development of future versions of the IECC to include certain products that would reduce the opportunity for competing products to be utilized in all states. Many of these attempts came in the form of Code Change Proposals submitted to the ICC during the code development process – most of which carried substantial increase in the cost of construction. Many in the construction industry felt this was inappropriate, and should not be the purpose of the DOE, whose expertise lies in technological review and gathering of statistics to determine the effectiveness of various energy code concepts. Another concern was that the Code Change Proposals being submitted by the DOE did not first go through a public hearing process where builders and other members of the public would be permitted to comment on the pros/cons of each Code Change Proposal.

The fact the North American Energy Security and Infrastructure Act of 2015 moves forward with this provision of such importance to business groups such as NAHB is a real “win” for all in the construction industry.



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Member Rebate Program Gives You Money!

The Member Rebate Program (MRP) is a free member benefit of the New Mexico Home Builders Association available to all active Builder and Remodeler Members. With over 4,900 active members nationwide, MRP gave an average of \$1,010.63 to members in 2014 alone!

NMHBA's Member Rebate Program lets builders and remodelers purchase products in the building and remodeling of homes. There are currently different product categories.

For the 2nd Quarter of 2015, MRP is proud to be adding Noritz Tankless Water Heaters and Outdoor Lifestyles. On top of adding new manufacturers, new products for our already participating manufacturers have also been added. Download a new claim form for this quarter or try a customized Excel template so you don't miss out on any possible rebates you're eligible for.

Once you are registered, you are eligible to claim on a quarterly basis. Any home, remodeling project, or multi-family unit completed from April -June 2015 is eligible to be submitted by August 21, 2015.

The claiming process is just as simple as registering. An address is ready to be submitted once it is completed. MRP will ask for your company name, the completed address, and the completion date(s). You then provide all of the information required for each manufacturer used.

The information required by most manufacturers typically include:

- Quantity used.
- Subcontractor or supplier name
- Model number

No receipts are needed!

Once a project is completed and the form is filled out, all you have to do is send it in. MRP will process your quarterly information, send it to the manufacturers, and issue you one lump-sum check for all of your rebates!

Nationwide, over 70% of the builders and remodelers who participated last year have received in rebates more than they paid in annual dues to their HBA.



Get the most of your membership by taking advantage of this free member benefit.

www.HBArebates.com



First you need to register: www.HBArebates.com. This tells MRP where to send your rebate check.

JUST A NOTE TO ALL MEMBERS...

Make sure your Local HBA has your correct contact information (including address, phone number, and email address). NAHB and NMHBA, as well as your Local HBA, use this info to send you information that could be important for your business.

OSHA Agrees to Postpone Confined Spaces Rule Enforcement



In a victory for single-family residential home builders, the Occupation Health and Safety Administration (OSHA) announced Oct. 2 its decision to delay enforcement of the new Confined Spaces in Construction Standard until Jan. 8, 2016.

Though the ruling became effective Aug. 3, OSHA has agreed to refrain from issuing citations to any employer that is making good-faith efforts to comply with the standard.

This temporary enforcement policy applies to construction on single-family homes, duplexes and townhouses in federal jurisdictions, but does not include multi-unit apartment building. For more information visit osha.gov/dcsp/osp.

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