

**STATE EX REL. HUGHES V. MCNABB, 1933-NMSC-103, 38 N.M. 92, 28 P.2d 521
(S. Ct. 1933)**

STATE ex rel. HUGHES et al.

vs.

McNABB

No. 3855

SUPREME COURT OF NEW MEXICO

1933-NMSC-103, 38 N.M. 92, 28 P.2d 521

December 18, 1933

Appeal from District Court, Santa Fe County; Otero, Judge.

Mandamus proceedings by the State, on the relation of Thomas Hughes and the New Mexico Better Business Association, an unincorporated association, against J. A. McNabb, acting state comptroller. From a judgment granting a writ of mandamus, the defendant appeals.

COUNSEL

Frank H. Patton, Asst. Atty. Gen., for appellant.

Dudley Cornell and Hugh B. Woodward, both of Albuquerque, for appellees.

JUDGES

Zinn, Justice. Watson, C. J., and Sadler, Hudspeth, and Bickley, JJ., concur.

AUTHOR: ZINN

OPINION

{1} Appellees were granted a writ of mandamus against appellant as acting state comptroller, commanding him to give appellees access to certain records in his office that they may be informed of the amounts of gasoline taxes paid by each individual, corporation, firm, or association in the state engaged in the gasoline business.

{2} The question for decision herein is whether, pursuant to 1929 Comp. St. § 60-212, the records, books, papers, and returns of taxpayers of the gasoline excise tax, in the hands of the acting state comptroller, are public records subject to inspection by any interested person.

{3} In view of the fact that no substantial rights are involved, and the appellant is no longer the incumbent in office, and that 1929 Comp. St. § 60-212 was expressly repealed by Laws 1933, c. 176, § 26, the question is moot, and it is contrary to our policy to decide a moot cause. Board of County Commissioners v. Coors, 30 N.M. 482, 239 P. 524; State ex rel. Mirabal v. Greer, 37 N.M. 292, 21 P.2d 819.

{4} The appeal will be dismissed, and the cause remanded.

{5} It is so ordered.