IN THIS “SESSION ENDS” ISSUE OF TAX MATTERS:

➢ The Last Gasp…What Just Happened?
➢ Table of Tax Bills on Governor’s Desk
➢ Don’t Forget the Principles
➢ Tax Quotables
The 2021 Regular Session of the New Mexico Legislature convened at noon on Tuesday, January 19, and ended at noon (or somewhere thereabouts) on Saturday, March 20. The deadline for bill introduction is February 18. Legislation not acted on by the governor is pocket vetoed on April 9. The effective date of legislation that is not a general appropriation bill, a bill carrying an emergency clause or other specified effective date takes effect on June 18. Being a “long” or 60-day “budget” session, non-budgetary legislation and items not related to the budget were fair game for introduction and were not limited by the call of the Governor. It was an interesting time.

New Mexico has an uncompensated volunteer legislature comprised of a 70-member House of Representatives and a 42-member Senate. Legislative sessions alternate between 30-day budget related sessions in even numbered years, and unconstrained 60-day sessions in odd-numbered years.

Click [here](https://www.nmlegis.gov/) to see the daily bill locator on the legislative website. We have our list of introduced tax related legislation in both chambers below.

The Legislative Council Service maintains copies of bills, compiles locators, and publishes lists of bill conflicts during the course of the session. Most information is available in a timely and electronic fashion from their robust website, which can be reached at [https://www.nmlegis.gov/](https://www.nmlegis.gov/). The site has become increasingly functional and reliable over time. Information is reasonably up to date and legislation can be easily followed from home.
The Last Gasp…What Just Happened?

As tax bills go, we were tracking 27 House and 33 Senate proposals (for a total of 60, not including the ones we have missed). Six House and four Senate proposals made it through to the Governor’s desk (see the list below).

**HB 11** is still the only House tax bill to be signed into law by the Governor. That’s the bill that appropriates $200M in general fund to an economic development recovery act fund for grants to certain small business for rent/lease payments, if certain conditions are met. It also created GRT revenue sharing provisions with some varying state and local portions going to the LEDA fund on LEDA projects where >$350M in capital investment is made, however those provisions were stripped in committee (so it ceased to be a tax bill, and efforts to resurrect those provisions failed). Rep. Ortez’s **HB 15**, which renames and sunsets early the new sustainable building tax credit and replaces it with the newer 2021 sustainable building credit is awaiting the Governor’s action. Also passed was **HB 89**, the proposal to allow personal income tax refunds to be earmarked to the healthy soil fund awaits the Governor’s action, as was the RSTP sponsored TRD proposals in **HB 90**. (their other effort in the form of **HB 98** did not make it through). Rep. Harper’s manufacturing and certain business service gross receipts tax deduction proposal (see **HB 278**) passed. It had the B-B service deduction portion stricken in the SFC, so it ended up just a manufacturing equipment deduction. Representatives Martinez and Chandler’s **HB 291** was perhaps the most contentious tax bill of the session. It started with a basket of proposed personal income tax related increases and breaks, property tax valuation changes, and a few other provisions. It was amended to include steeper PIT bracket increases than those proposed by the House, and increased corporate income (from 5.9-7.6% phased) At the end, the proposed tax increases were stricken, other amendment attempts were defeated on the Senate floor, and the bill that passed simply retained the earlier proposed expansions of the low-income comprehensive tax rebate (LICTR) and the Working Families Tax Credit.

Senator Wirth’s **SB 1** is still the only Senate tax bill to be signed into law thus far. It is the temporary gross receipts tax deduction for receipts of certain restaurants combined with the $600 personal income tax rebate for some people and families. The other three Senate bills to make it through alive are Senator Shendo’s **SB 218**, which reconciles provisions of the Multistate Tax Compact with recent changes to the Uniform Division of Income for Tax Purposes Act (UDITPA), Sen. Bobby Gonzales’s **SB 328**, which removes the six-year limitation on the .25% water and sanitation gross receipts tax that otherwise must go before voters periodically, and Sen. Burt’s **SB 410**, which attempts to conform New Mexico law with recent federal changes to how large partnerships are treated for federal tax purposes (in audit and other circumstances). There aren’t really any reasons to believe the Governor won’t sign those.
What about the Moto?

Recreational marijuana legalization and taxation proposals have been under intense scrutiny and discussion this year, as many expected a higher chance of something passing. While the Senate Judiciary Committee heard Sen. Pirtle’s HB 288, and eventually passed an amended version of Rep Martinez’s HB 12 to the Senate floor, but that’s as far as it went. Governor Lujan Grisham has indicated she would call a special session “roughly” March 31st to reconsider legalization of recreational marijuana. You can see her press release here.

We’ll be back soon with a deeper dive on the passed legislation and any updates on a special session.

[NMTRI note there’s always disappointment on the part of some, but sometimes less is more, and the policy makers behaved reasonably responsibly, sending excess money to vulnerable households, passing unceremoniously some technical corrections that needed to happen even thou few notice... so the system worked. They even took a baby step towards addressing pyramiding.]

Thanks for Reading

Join us weekly through the session as we try to provide balanced policy analysis, commentary and discussions of the tax and budget proposals that implicate tax policy in New Mexico. Of course, tax proposals – particularly bad ones – tend to be regurgitated (so to speak) from year to year. So, merely recalling what has been introduced (but failed to pass) in recent years will give you some idea of what will be introduced again. For confirmation of that, all you need do is scroll down to the table of bills already introduced below.

Join us weekly through the session as we try to provide balance policy analysis, commentary and discussions of the tax and budget proposals that implicate tax policy in New Mexico.
Bills with significant tax implications in the 2021 Regular Legislative Session that passed both houses:

Note – Income Tax bills are effective tax years beginning on or after January 1, 2022 unless otherwise noted. “TYBA” = Tax years beginning on or after. Bills with an emergency clause are effective upon signature if enough votes are obtained. Bills with no effective date Other notes: “CS” indicates committee substitute; “a” indicates amended.

<table>
<thead>
<tr>
<th>Bill Number/Sponsor</th>
<th>Title: Link to bill language: Description</th>
<th>Assignments-Location</th>
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<tr>
<td>HB 11 Chandler/Egolf</td>
<td>GRT &amp; Permanent Fund for LEDA Projects: <a href="#">HB 11</a> Appropriates $200M general fund to a economic development recovery act fund for grants to certain small business for rent/lease payments if certain conditions are met. It also creates permanent GRT revenue sharing provisions with some varying state and local portions going to the LEDA fund on LEDA projects where &gt;$350M in capital investment is made.</td>
<td>HCEDC/HTR S-HEDC-DP/a-HTRC-DNP-CS-DP-ref HAFC-w/drm – Passed/H-SFC-DP/a-fl/a-Passed S-H cncrd-SGND</td>
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<tr>
<td>HB 15 Ortez</td>
<td>Sustainable Building Tax Credit: <a href="#">HB 15</a> Renames and sunsets early the new sustainable building tax credit, and replaces it with the newer 2021 sustainable building credit.</td>
<td>HENRC/HTR -HENRC-DP-HTRC-DNP-CS/DP-STBTC/SJC-STBTC-DP/a-SFC-DP-Passed/S-h/concrd</td>
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<td>HB 89 Chatfield/Armstrong/Chandler</td>
<td>Healthy Soil Tax Refund Contribution: <a href="#">HB 89</a> Provides for the Taxation and Revenue Department to allow individual income tax filers to designate a portion of a refund due them to NMSU regents for the support of the healthy soil program.</td>
<td>HAWC/HTR C-HAWC-DP-HTRC-DP-Passed/H-SCONC/STB TC-SCONC-</td>
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<tr>
<td>Bill Number</td>
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<td>HB 98</td>
<td>Omnibus Tax Bill: <strong>HB 98</strong></td>
<td>Martinez/Harper</td>
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<td>HB 278</td>
<td>Manufacturing Services Gross Receipts: <strong>HB 278</strong></td>
<td>Harper</td>
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<td>HB 291</td>
<td>Tax Changes: <strong>HB 291</strong></td>
<td>Martinez/Chandler</td>
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<td>SB 1</td>
<td>Restaurant Gross Receipts Tax Deduction: <strong>SB 1</strong></td>
<td>Wirth/Candelaria/Hemphill</td>
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<td>SB 218</td>
<td>Uniform Division of Income for Tax Purposes: <strong>SB 218</strong></td>
<td>Shendo</td>
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<td>SB 328</td>
<td>Water and Sanitation Gross Receipts: <strong>SB 328</strong></td>
<td>Gonzales</td>
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<tr>
<td>SB 410</td>
<td>Adjustment of Certain Taxes: <strong>SB 410</strong></td>
<td>Burt</td>
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| Makes changes and adds definitions to the Tax Administration Act and Withholding Tax Act in an effort to conform to recent federal partnership audit procedure changes. | SFC-DP-Passed/S-HTRC-DP-Passed/H |
DON’T FORGET THE PRINCIPLES

It’s important, particularly when dealing with tough economies, tough decisions, and the emotionally charged subject of taxes, to view the world in the context of principles. Taxes are good in that they raise the money we need to pay for the services we need. They can also be bad if they create inefficiencies, distortions, or inequities. It’s a more rational approach to look at our entire tax system rather than getting lost in the weeds focusing only on a particular rate or some item we choose to tax or not tax. We must raise the revenue we need for government (putting aside the debate over how much) while doing the least harm to the economy and to those things we need most (e.g. job creation) while being fair and protecting the most vulnerable in our communities. Accordingly, we’ve taken the opportunity to reprint our principles of good tax policy here:

State and local taxes should be adequate to provide an appropriate level of those goods and services best provided by the public sector, such as education, public safety, law enforcement, streets and highways, and the courts.

- State and local tax policy should do the least harm to the private economy. Therefore, tax bases should be as broad as possible so that tax rates can be as low as possible in order to raise the necessary revenues.

- State and local tax policy should be fair and equitable towards individuals and businesses similarly situated. Individuals with the same income level should be taxed the same. Businesses engaged in similar commercial activities should be subject to the same level of taxation.

- State and local tax policy should not be costly to administer and should be easily understood by taxpayers so as to minimize taxpayer compliance costs.

- The state and local tax burden should be evaluated on the basis of the impact of all taxes levied on a given taxpayer, not just a single tax or tax rate.

- Deviations from established tax policy in pursuit of economic development, social or other goals should be well-reasoned and pursued only when established tax policies are not significantly undermined and the results of such deviations can subsequently be measured and evaluated.
TAX QUOTABLES

"We stand today at a crossroads:
One path leads to despair and utter hopelessness.
The other leads to total extinction.
Let us hope we have the wisdom to make the right choice."

~Woody Allen

"Tax reform means, 'Don't tax you, don't tax me. Tax that fellow behind the tree.'"

~Russell Long

COMMENTS: Your suggestions and comments on this newsletter, the conferences (past or future), the Distinguished Lectures Series, our research or any aspect of NMTRI’s operation and programs are welcome. Please send them to richard.anklam@nmtri.org, call 505-269-6791 or mail them to P.O. Box 91657, Albuquerque, New Mexico 87199-1657. We genuinely solicit your input and thank you for your support.

"The power to tax involves the power to destroy" - McCulloch v. Maryland, 17 U.S. 316 (1819), Chief Justice John Marshall.

“Taxes are what we pay for civilized society” Campaña General de Tabacos v. Collector, 275 U.S. 87, 100 (1927), Justice Oliver Wendell Holmes, dissenting.

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