IN THIS “SPECIAL SESSION ENDS” ISSUE OF TAX MATTERS:

➢ The Last Gasp…What Just Happened?
➢ Table of Special Session Bills (3) on Governor’s Desk
➢ TRD Issues Proposed GRT Regs on Sourcing/Wayfair
➢ Don’t Forget the Principles
➢ Tax Quotables
The 2021 Regular Session of the New Mexico Legislature ended at noon on Saturday, March 20. The Governor called a special session for March 30 to reconsider an economic development proposal and recreational marijuana legalization/taxation/regulation. The session ended late on Wednesday, March 31st. No surprises.

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 to see the daily bill locator on the legislative website.

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/. 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 special session started at noon on Tuesday the 30th, and ended late the next day. Three bills, besides the feed bill, were passed on to the Governor’s desk. A few more bills were introduced, however all but Sen. Pirtle’s failed marijuana proposal were not considered germane.

In the special session, Rep. Martinez introduced the latest version of his Cannabis Regulation Act in the form of **HB 2**. It was amended in the House Taxation and Revenue Committee (HTRC) to increase the cannabis tax rate from 12% to 13% in FY2026, increasing 1% per year until it peaks at 18% in FY2031 and years after. The bill passed the House, was heard and passed out of the Senate Committee of the Whole amended, and passed the Senate floor. The House laterconcurred, sending the bill to the Governor.

The Senate produced the other major proposal the Governor was looking for. That was the proposal Senators Hemphill and Griggs, and Representatives Chandler and Harper in **SB 1** Expands the Local Economic Development Act and creates permanent GRT revenue sharing provisions with local governments to fund LEDA projects where >$350M in capital investment is made for ten years. That proposal seemed to garner the most bipartisan support of the special session, passing un-amended through the House and Senate. The other proposal to pass the Senate, **HB 2**, was unrelated to tax and pertained to expungement of certain marijuana related criminal records.

We will be back soon with a continued deeper dive into the passed legislation from the regular and special sessions, and any updates on the Governor’s action.

**[NMTRI note: While the outcome wasn’t ever really in question, we’re thankful it went quickly. The likelihood that the bills won’t be signed is somewhere south of zero, so no need to hold one’s breath in anticipation. We do wonder if there wasn’t a cleaner more straightforward way to reach the apparent goal of SB1.]**

**Thanks for Reading**

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.
**Tax Matters: The Newsletter of the New Mexico Tax Research Institute**

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(See the Bill Table on the Following Pages)

**Bills with significant tax implications in the 2021 Special 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>
</tr>
</thead>
<tbody>
<tr>
<td>HB 2 Martinez/Romero/Chandler/Egolf</td>
<td>Cannabis Regulation Act GRT: <a href="#">HB 2</a></td>
<td>HTRC/SJC-HTRC-DP/a-HJC-DP/a-fl/aa-Passed/H-SCW-DP/a-Passed S-h/cncrd</td>
</tr>
<tr>
<td>SB 1 Hemphill/Griegs/Chandler/Harper</td>
<td>LEDA Changes: <a href="#">SB 1</a></td>
<td>STBTC/-DP-Passed S-HTRC-DP-Passed/H</td>
</tr>
<tr>
<td>SB 2 Lopez/Romeo/Marinez/Duhigg/Ortiz y Pino</td>
<td>Expungement of Certain Criminal Records: <a href="#">SB 2</a></td>
<td>SJC-DNP-CS/DP-Passed/S-HJC-DP-Passed/H</td>
</tr>
</tbody>
</table>

**KNICK KNACKS**
TRD Issues Proposed GRT Regulations on new Sourcing/Wayfair Laws

Copied from the New Mexico Taxation and Revenue Department’s Thursday Press Release:

Michelle Lujan Grisham
Governor

Stephanie Schardin Clarke
Cabinet Secretary

Media Contact: Charlie Moore
Charlie.Moore@state.nm.us
(505) 670-5406

March 25, 2021

Hearing scheduled April 29 on new Gross Receipts Tax regulations

The New Mexico Taxation and Revenue Department will hold a public hearing April 29 on proposed new regulations governing how businesses report their Gross Receipts Taxes.

The proposed regulations are needed to administer changes mandated by a 2019 law. Starting July 1, 2021, most goods and services sold in New Mexico will be taxed at the rates in effect in the jurisdictions where they are delivered, a method known as “destination-based sourcing.”

“This is going to be a significant change for many New Mexico businesses, and taxpayers are encouraged to take part in the hearings process,” said Taxation and Revenue Secretary Stephanie Schardin Clarke. “Once the regulations have been adopted, we will provide additional guidance.”

Most taxpayers now pay the GRT rate for the location of their business, and retail operations will continue to do so for most sales completed at their business locations. Also, some providers of professional services will continue to calculate tax using their place of business after July 1, and special rules will also apply to construction services, transportation network companies, and sales and leases of real estate.

The 2019 law also allowed New Mexico to collect Gross Receipts Tax on internet sales for the first time. Receipts from those sales are currently taxed at the statewide 5.125%
rate. Starting July 1, 2021, receipts from these sales will also be subject to local option gross receipts rates.

The Public Hearing will be conducted on the WebEx virtual meeting platform beginning at 12 p.m. April 29, 2021. Interested parties can attend by going to https://nm-tax.webex.com/nm-tax/j.php?MTID=mf62ce1c91ba6017f237a822566543bbb Meeting number (access code): 132 352 9832 Meeting password: 04292021 or by telephone by dialing 1-844-621-3956.

Any oral comments made during this hearing will be recorded and any electronic written comments can be submitted during the hearing at policy.office@state.nm.us.

The proposed regulations can be found at https://www.tax.newmexico.gov/all-nm-taxes/proposed-regulations-hearing-notices/ and clicking on the hearing notice link. They also are available upon request by contacting the Tax Policy Office at policy.office@state.nm.us.

Written comments can be submitted by email to policy.office@state.nm.us or by mail to the Taxation and Revenue Department, Tax Information and Policy Office, Post Office Box 630, Santa Fe, New Mexico 87504-0630 or on or before April 29, 2021. All written comments received by the agency will be posted on www.tax.newmexico.gov no more than three business days following receipt to allow for public review.
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.
"No government can exist without taxation. This money must necessarily be levied on the people; and the grand art consists of levying so as not to oppress."

~ Frederick the Great, 18th Century Prussian King

“The Government that robs Peter to pay Paul can always depend upon the support of Paul.”

~ George Bernard Shaw

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.

Join NMTRI today!