

NMBA LEGISLATIVE REPORT

NEW MEXICO BANKERS ASSOCIATION
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Volume II – Monday, January 28, 2019

There are six weeks remaining in the 2019 30-day Legislature. As of last Friday, there have been 364 bills introduced in the House and 345 in the Senate. It is estimated that as many as 2,000 total bills may be introduced this session before the February 14 deadline for introduction.

Last week was very busy. Some of the legislation of interest includes:

- The House Labor, Veterans' and Military Affairs Committee approved HB 31 which would raise the minimum wage to \$10 an hour beginning July 1, 2019. The bill would also eliminate an existing lower based wage level for tipped employees. Under the bill, the minimum wage would increase to \$11 per hour in July 2020 and \$12 per hour in July 2021. In July 2022, the minimum wage would be tied to the federal inflation rate. The bill would not pre-empt local ordinances whose minimum wages are higher than the state minimum.
- HB 356 which would legalize and regulate the recreational use of cannabis was introduced last week. The bill would prohibit cannabis sales to persons under 21 and impose a 9 percent excise tax on sales. Tax revenues would be earmarked to a number of health and education related programs. The bill would also automatically and retroactively seal certain cannabis-related criminal records. The bill also allows municipalities and counties to opt out of allowing commercial sales of cannabis and establish a licensing system for business. It is estimated that when fully implemented, the new tax revenues derived from sales could reach \$40 million per year.

- There were a number of gun control proposals considered by the Legislature last week including:
 - HB and SB 8 would make it a crime to sell a firearm without conducting a background check. Both bills were approved in committee hearings.
 - HB 40 requires any vendor at a gun show to conduct a background check before transferring a weapon to another person. The bill was approved in committee.
 - HB 83 allows family members or police officers to seek a court order to take guns temporarily from someone they believe is an immediate threat. The bill was approved in committee.
 - HB 87 prohibits a person convicted of battery on a household member from having a firearm. People subject to a restraining order, in some circumstances, would also be banned from having a firearm. The bill was approved in committee.
- The Senate Public Affairs Committee approved (4-3) SB 196 which would make New Mexico a sanctuary state. The bill would prohibit state and local governments, including sheriffs' offices, from using their resources to try to detect or detain people they suspect are in the country illegally, or from assisting federal agents.
- The State Education Committee approved SB 1 which raises teacher salaries, increases the amount of money for at-risk student resources and creates funding sources for extended learning time programs that would add extra instructional days, professional development days, and after-school programs to the school year. The bill is estimated fiscal impact to the state general fund is estimated to be between \$290 million and \$423 million for the next state fiscal year.
- The House Taxation and Revenue Committee continues to consider HB 6, a tax reform bill that makes multiple changes to the gross receipts tax (grt) and other taxes and fees, notably including lowering the grt rate by 0.5 percent effective July 1, 2019. The bill provides:
 - The state's top personal income tax rate would go from 4.9 percent to 6.5 percent. New brackets would also be created, based on

annual income, starting with an increase to 5.2 percent for a single filer making \$23,500.

- The state gross receipts tax rate would drop by 0.5 percentage point—from 5.125 percent to 4.625 percent.
 - Not-for-profit hospital services would be taxed at the same rate as for-profit hospital services.
 - The state’s gasoline tax rate would jump from 17 cents a gallon to 27 cents.
 - State hold-harmless subsidies for city and county governments would end in the 2022 budget year.
 - Online sales could be taxed immediately by both the state and local governments.
- Mandates corporate income tax combined reporting and market-based scarcity.

It is of note that untaxed Internet sales are eroding New Mexico’s retail sales tax base and reducing general fund revenues by tens of millions of dollars annually. Taxing local retailers but not large, online retail operations creates significant disparities and makes it very difficult for local businesses to compete with remote sellers. Amazon is now paying tax on direct sales but not on sales by other parties that use Amazon as a sales platform. Third party sales represent 70 percent of all sales through Amazon, indicating New Mexico continues to lose tax revenue on the majority of Amazon sales. Further, Amazon is only paying the state portion of the GRT, not the local government portion, which creates a disparity in the total rate that favors out-of-state sellers over local businesses and means local governments are not receiving any tax revenue. HB 6 levels the playing field for local businesses by requiring all remote sellers that sell more than a specified base level within New Mexico to collect and pay GRT on all sales, including third-party platform sales. Under this bill, sales will be determined to take place at the location to which the product is delivered, and after a short period of revenue sharing with local governments, local GRT rates will apply to these sales beginning in FY22.

The New Mexico Bankers Association will prepare a weekly LEGISLATIVE REPORT throughout the 2019 Legislative Session. When a bill affecting our industry is first introduced, its pertinent provisions will be summarized. Thereafter, any further action taken on the bill will be reflected in subsequent reports. At any time you should desire a copy of a bill or additional information concerning any legislative matter, please direct your inquiry to the NMBA office at (505) 822-7900. To get copies of House and Senate bills online, go to <http://legis.state.nm.us> and then click on 'bill locator'. For a full text of the governor's "State of the State" address visit: <http://www.governor.state.nm.us>.



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House Bills and Resolutions

HB 239: Children's Saving Account (Romero): The bill would enact the Children's Savings Account Act to allow families to plan and save for their children's higher education by providing for the creation and initial funding of children's savings accounts for eligible individuals.

HB 247: Corporate Income Taxation (Chandler): The bill would increase corporate income tax rates.

HB 264: Paid Family Medical Leave (Chandler): The bill would enact the Paid Family and Medical Leave Act which would provide for the paid family and medical leave program to pay an eligible employee a percentage of the employee's salary to the employee to assist with the birth of a new child or to care for a family member. The bill limits the time allowed for paid leave and excepts certain employees. Employee is defined as a person working within the state who performs a service for wages or other remuneration under a contract of hire, written or oral, express or implied, and includes a person employed by the state or a political subdivision of the state. An employer is a person that has one or more employees within the state and includes an agent of an employer and the state or a political subdivision of the state.

HB 271: Liquor License Dispenser's License (Montoya): The bill is the same as SB 79.

HB 272: New Restaurant Liquor License (Montoya). Bill same as SB 210.

HB 283: Utilities (Small). The bill increases the requirements of the renewable portfolio standard for rural electric cooperative and public utilities. The renewable portfolio standard for cooperatives will increase so that renewable energy will comprise the following percentages of the distribution cooperatives' total retail sales to New Mexico:

- (a) twenty-five percent by January 1, 2025;
- (b) forty percent by January 1, 2030;
- (c) fifty-five percent by January 1, 2035;
- (d) seventy percent by January 1, 2040; and
- (e) eighty percent by January 1, 2045

For public utilities other than rural electric cooperatives and municipalities, the renewable standards are:

- no later than January 1, 2015, renewable energy shall comprise no less than fifteen percent of each public utility's total retail sales to New Mexico customers;
- no later than January 1, 2020, renewable energy shall comprise no less than twenty percent of each public utility's total retail sales to New Mexico customers;
- no later than January 1, 2025, renewable energy shall comprise no less than forty percent of each public utility's total retail sales to New Mexico customers;
- no later than January 1, 2030, renewable energy shall comprise no less than fifty percent of each public utility's total retail sales to New Mexico customers;
- no later than January 1, 2035, renewable energy shall comprise no less than sixty-five percent of each public utility's total retail sales to New Mexico customers; and
- after January 1, 2040 and each year thereafter, renewable energy shall comprise no less than eighty percent of each public utility's total retail sales to New Mexico customers.

Under the definition section of the bill, “renewable energy resource” is defined as:

- solar, wind and geothermal resources;
- hydropower facilities brought in service after July 1, 2007;
- fuel cells that do not use fossil fuels to create electricity; and
- landfill gas and anaerobically digested waste biogas.

“Renewable portfolio standard” is defined as minimum percentage of retail sales of electricity by a public utility to electric consumers in New Mexico that is required by the Renewable Energy Act to be generated from renewable energy.

HB 286: Public Projects (Lundstrom). The bill would enact a Public-Private Partnership Act. The bill would allow state and local governments to enter into partnerships with private sector partners to facilitate financing for capital projects.

HB 293: Filing of Public Records (Nibert). The bill changes the requirements for filing and recording duplicates of instruments of writing. The bill provides that if an original instrument of writing is unavailable but, if it were available, could be filed and recorded, a duplicate of that instrument will be accepted for filing and recording if accompanied by affidavit. The affidavit must”

- (1) provide the name, phone number and mailing address of the affiant;
- (2) provide information regarding the execution of the instrument, consideration paid, delivery or other information establishing that the original instrument, if it were available, would be entitled to be recorded
- (3) specify the reason the duplicate is filed and recorded in place of the original instrument;
- (4) include a statement that the duplicate is a true and correct copy of the original instrument; and

(5) be acknowledged and made under oath confirming that the statements set forth in the affidavit are true and correct and of the personal knowledge of the affiant.

HB 296: Real Property Conveyances and Encumbrances (Nibert). The bill creates actual authority for persons in certain offices or position to have authority to execute conveyances instruments and contracts for the transfer or encumbrance of real property owned by a business entity. These offices and positions include:

- for a cooperative association: president and vice president;
- for a professional corporation: president and vice president;
- for a nonprofit corporation: president and vice president;
- for a business corporation: president and vice president;
- for a limited liability company: manager, member manager, president and vice president;
- for a general partnership: partner;
- for a limited liability partnership: general partner; and
- for a limited partnership: general partner

A business entity may limit or expand the authority by filing with the county clerk, in the county where the real property is located, a statement reflecting limitations on the persons listed as having authority, requiring multiple persons to exercise such authority or authorizing other officers or positions to have the requisite authority to act to transfer or encumber real property owned by the business entity. The recorded statement shall be binding until the business entity revokes or amends the recorded statement and records the revocation or amendment with the county clerk.

HB 343: Liens (Powdrell-Culbert). The bill provides that the county clerk of the county in which a lien of a mechanic or a materialman is recorded shall, within ten business days of recordation, mail a copy of the lien to the owner of record of the real property encumbered by the lien. The county clerk may charge the person recording the lien a

fee of not more than twenty-five dollars (\$25.00) for providing a copy of the lien to the real property owner.

HB 356: Cannabis Regulation Act (J. Martinez). The bill would enact the Cannabis Regulation Act which provides for the legalization of the recreational use and sale of cannabis to adults.

Senate Bills and Resolutions

SB 275: Increase Renewable Portfolio Standards (Stewart). The bill is the same as HB 283.

SB 335: Combined Reporting (Wirth). The bill mandates combined reporting for a unitary group and market-based sourcing.

Status of House Bills and Resolutions

HB 6: Tax Reform (J. Trujillo). House Tax and Revenue Committee.

HB 31: Minimum Wage (M. Garcia). House Commerce and Economic Development Committee.

HB 46: Minimum Wage (Caballero). House Commerce and Economic Development Committee.

HB 63: Hemp Study (C. Trujillo). House Agriculture and Water Resources Committee.

HB 75: Emergency Repairs of Homes Occupied by Low-Income Persons (Gonzales). House State Government, Land Grants and Cultural Affairs Committee.

HB 97: Public Finance (Salazar). Senate Public Affairs Committee.

HB 150: Installment and Small Loan Revisions (Louis). House Commerce and Economic Development Committee.

HB 163: Tax Deduction for Non-Resident Trust Beneficiary (J. Trujillo). House Taxation and Revenue Committee.

HB 172: Student Loans (Caballero). House Commerce and Economic Development Committee.

HB 191: UCC Secured Transactions (Cook). House Commerce and Economic Development Committee.

HB 203: Economic Development (Small). Passed House (9-0). Senate Corporation's Committee.

HB 214: Public Audits (R. Martinez). Tabled indefinitely.

HB 219: Angel Investment Tax Audit (Small). House Consumer and Economic Development Committee.

HJR 1: Early Childhood Education (Maestas). House Education Committee.

Status of Senate Bills and Resolutions

SB 6: Taxation (Wirth). Senate Corporations Committee.

SB 7: Affordable Housing (Wirth). Senate Public Affairs Committee.

SB 19: Liquor License Reform (Griggs). Senate Corporations Committee.

SB 36: Pre-Purchase Homebuyers Education Program (Padilla). Senate Finance Committee.

SB 40: Regional Housing Authorities (Papen). Senate Finance Committee.

SB 56: Appraisal Management Company (Rue). Senate Finance Committee.

SB 57: Public Audits (Rue). Senate Public Affairs Committee.

SB 79: Liquor Licenses (Soules). Senate Corporations Committee.

SB 93: Municipal Liens (Tallman). Senate Public Affairs Committee.

SB 96: Employment of Ex-Convicts (O'Neill). Senate Public Affairs Committee.

SB 160: Student Loan Bill of Rights (Tallman). Senate Education Committee.

SB 168: Corporations (Sanchez). Senate Corporations Committee.

SB 169: Limit Liability Company (Sanchez). Senate Corporations Committee.

SB 176: Consumer Privacy (Padilla). Senate Corporations Committee.

SB 210: Liquor Licenses (Griggs). Senate Corporations Committee.

SB 212: Housing Trust Fund (Rodriguez). Senate Public Affairs Committee.

SB 217: Eminent Domain (Stefanics). Senate Judiciary Committee.

SB 237: Surveyors Liability (Cisneros). Senate Corporations Committee.

SB 252: Local Government Investment Pool (Munoz). Passed Senate (39-0).



JUNE 6 - 8, 2019

New Mexico Bankers Association

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DETAILS TO FOLLOW