

# ***Tax Matters***

*The Newsletter of the New Mexico Tax Research Institute*

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New Mexico Tax Research Institute

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## **IN THIS “Tax Day” ISSUE OF *TAX MATTERS*:**

- **Its April 15, 2009, do you know what you owe Uncle Sam?**
- **6<sup>th</sup> Annual Tax Policy Conference – Register Now!**
- **Final Disposition of Passed Legislation**
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- **Tax Quotables – Happy April 15<sup>th</sup>!**



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## IT'S APRIL 15<sup>th</sup>!

If you're not aware that individual income tax returns are due, it's probably too late to do anything about it (In Albuquerque, the main Post Office location on Broadway is open until midnight). For those corporate taxpayers, New Mexico's first tax bill signed by the governor this year takes effect, and half of the first quarterly estimated payment is due today for calendar year filers. The Board and staff wish you all many happy returns!

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## **REGISTER NOW for the Sixth Annual New Mexico Tax Research Institute Tax Policy Conference: April 30 - May 1, at the Sandia Resort and Casino in Albuquerque.**

Members of NMTRI may attend for \$150.00 per person. Interested government or academic attendees may attend for \$155.00. Non-members are welcome for \$175.00. Registration includes continental breakfasts as well as lunch and reception on the 1<sup>st</sup>. Reservations and payment should be received no later than April 25, 2008; however last minute decision makers can call (505) 842-5833. CPE and CLE is available (depending on the final state of the agenda and MCLE Board determination, we anticipate 8.4 hrs of CLE and 10 hours of CPE).

The program will begin promptly at 9:00 a.m. (registration begins at 8:00 and a Board of Directors meeting will be held at 8:15 – see below).

### ***Speakers will include:***

*Patrick Driessen, Senior Economist, U.S. Congress, Joint Committee on Taxation*  
*Topic: Federal Tax Policy Update*

*Jim Eads, Executive Director, Federation of Tax Administrators*  
*Topic: State Taxes and Economic Turmoil*

*Bruce Fort, Esq., Multistate Tax Commission*  
*Topic: State Tax Litigation Landscape*

*Mark Haveman, Executive Director, Minnesota Taxpayer's Association*  
*Topic: Property Tax Assessment Limits: Lessons From Thirty Years of Experience*

*Rick Homans, NM Cabinet Secretary, Taxation and Revenue Department*  
*Topic: Taxation and Revenue Department Update*

*Jim Nunns, PhD, Tax Policy Director, New Mexico Taxation and Revenue Department/NMTRI*  
*Topic: Franchise Tax Proposal*

*Beth Cooley, Manager of State Government Relations, Council on State Taxation, (COST)  
Topic: Multistate Tax Legislation Update*

*David Paul, Fiscal Strategies Group  
Topic: Overview of New Mexico Capital Outlay Funding*

*Dale Craymer, Research Director, Texas Taxpayers and Research Association (TTARA)  
John LaBorde, Partner, Grant Thornton LLP  
Topic: Texas Margins Tax: Update and Discussion of Policy Issues*

*Thomas Pogue, Professor Emeritus, Univ. of Iowa  
Topic: Tax Expenditure Analysis*

*David Abbey, Director, N.M. Legislative Finance Committee (invited)  
Topic: State Budget Update*

*Philip Spilberg, Chief Economist, CA Department of Finance  
Topic: Budget Crisis and Tax Reform Initiatives*

*Luncheon Keynote Address: Garrey Carruthers, Dean of the New Mexico State University  
College of Business and former Governor of the State of New Mexico.*

Registration is currently available through the NMTRI website (under *Conferences* click *Upcoming Events*, or [click here](#)), or you can call (505)842-5833.

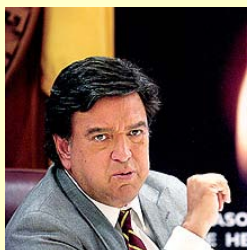
Reservations need be made individually and be sure and identify yourself as being a part of the NMTRI Annual Conference in order for the NMTRI discounted rate of \$149/night to apply.

**Individual reservations should be made by calling Sandia Resort and Casino's  
Reservations Department at  
1-800-526-9366 or 1-505-796-7500**

Don't miss your chance to hear from a distinguished panel of presenters and contribute to good tax policy in New Mexico.

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## **TIMES UP FOR GOVERNOR'S ACTION – DETAIL AND TABLE OF PASSED LEGISLATION**



The 2009 Regular Session of the New Mexico Legislature and ended at noon March 21<sup>st</sup>. The Governor's last day to act on passed legislation was Friday, April 10<sup>th</sup>. Most of the drama of the veto pen surrounded issues like the death penalty repeal (signed), the state worker "double-dipper" limitations (vetoed), and government records access and publication (vetoed). Most tax legislation that passed both houses has become law.

Descriptions of passed and vetoed tax related legislation is follows, as does our updated table of bills now becoming law.



## **PASSED AND SIGNED LEGISLATION:**

### *Econ. Dev./Enviro Tax Legislation:*

Although carrying a material fiscal impact, it was no surprise to see the extension of the investment credit and double weighted sales factor for manufacturers pass both houses in the form of Speaker Lujan's House Bill 75. The proposal was broadly seen as necessary for New Mexico to maintain a quasi-competitive position with other states relative to their taxation of manufacturing, and hence met with little opposition.

Also passing was Senate Bill 237 CS, which expands and restructures the advanced energy tax credits. Essentially an investment credit for 6% of the capital cost of specific types of power generation facilities, the credit currently applies to CRS taxes. SB 237 would expand this to include individual income tax and also corporate income tax. It permits dis-proportional allocation of the income tax credits, as well as a ten year carry forward.

Senate Bills 257 and 291 expand income tax credits for solar energy systems and sustainable buildings, while HB 375 creates credits (30% up to \$9,000) for the cost of installing geothermal heat pumps. House Bill 554 would make the sale of biodiesel consisting of 90% or more vegetable or animal fat tax free.

### *Local Government Related Legislation:*

Several changes to local option gross receipts tax changes passed both houses. House Bill 135 would allow Bernalillo County Commission to continue to impose its 1/16<sup>th</sup> % GRT option for health-related expenditures. Senate Bill 89 would allow, subject to voter approval, San Juan County to be authorized to re-impose the local hospital GRT more than once up to a total of 40 years and to modify the uses to which revenue could be put. Senate Bill 324 would allow Ruidoso and Ruidoso Downs to increase the Municipal Environmental GRT tax rate from 1/16% to 0.5%.

The tax increment financing of the Winrock parking garage in Albuquerque (SB467) was approved. Another TIDD related proposal, House Bill 451, enhances state oversight of Tax Increment Development Districts, and provide other changes and clarifications in their administration and notification obligations.

### *Property Tax Legislation:*

House Tax Committee Chair Ed Sandoval's House Bill B 261 requires that prospective buyers of existing homes be notified that the property tax will go up and also that they be provided an estimate of their likely tax liability. While this proposal will not fix the inequity that occurs

when property values are limited for years and only adjusted to current value when the property is sold, it will presumably give buyers some warning of what their real property taxes will be.

House Bill 297 provides an exemption for commercial water property owned or sold by a nonprofit mutual domestic water association. House Bill 388 would create a special valuation method for wastewater system property. Such property would be valued at \$2.49 per 1,000 gallons of wastewater transmitted.

Senate Bill 647 creates the renewable energy financing district act, allowing local governments to create special property tax districts composed of property owners who agree to be assessed a levy to pay off the cost of installing renewable energy equipment on their property. Under the proposal, Districts would be authorized to issue bonds to finance equipment purchase and installation.

House Bill 466 creates a property tax exemption for property that is leased to a public school district for public school purposes.

#### *Tax Administration Bills:*

House Bill 257 re-writes the taxpayer confidentiality provisions of the tax administration act. In addition to breaking up this section so that future amendments are not so cumbersome, the measure provides clearer guidelines for the use of confidential information, and addresses potential conflicts with other legislation, including House Bill 337, which allows the sharing of certain taxpayer information with water and sanitation districts and House Bill 860 allowing sharing with regional transit districts (vetoed).

Senate Bill 219 conforms cigarette tax act definitions with those in the Master Settlement Agreement, prohibits sale of cigarettes by manufacturers not in the MSA, and allows the Department to revoke or suspend licenses for violations of the tax escrow requirements. It also exempts tribal sales from the tobacco products tax. In another attempt to improve compliance and enforcement, weight distance tax underreporting penalties are also proposed to be increased (SB213).

#### **Vetoed Bills:**

Only one revenue bill was vetoed, [HB 860](#) which provided for distribution to regional transit districts of amounts collected from the county regional transit GRT. Perhaps the Governor was concerned about conflicts between this bill and others he has signed that also amended the TAA confidentiality statutes.

In addition to our table below, the Legislative Council Service maintains copies of bills, compiles locators, and publishes lists of bill conflicts during the session. Most information, to include Legislative Finance Committee (“LFC”) fiscal impact reports (“FIR’s”), is available in a reasonably timely and electronic fashion from their rather robust website, which can be reached at <http://legis.state.nm.us/lcs/>. If you’re curious what the New Mexico Taxation and Revenue Department thinks about proposed legislation, you can find out from the list of their own FIR’s that they maintain on their website here: <https://ec3.state.nm.us/pdflists09/pdfindex.asp>. The

NMTRD maintains a group of analysts dedicated to tax related issues, and their work often serves as a basis or source for other agencies such as the LFC.

**Bills with significant tax or revenue implications passed and signed:**



If no effective date is mentioned, the bill lacks one and would take effect upon enactment, June 19, 2009. Effective date for GRT bills is July 1, 2009 unless otherwise noted. “TYBA” = Tax years beginning on or after. Other notes: CS=committee substitute; A =amended

<b>Bill Number/ Sponsor:</b>	<b>Title: Link to bill language: Description</b>	<b>Assignments -Location:</b>
HB 75 B. Lujan	<b>Manufacturing &amp; investment tax credits: <a href="#">HB 75</a></b> Extends corporate income tax double-weighted sales apportionment option sunset date from January 1, 2011 to January 1, 2020. Extends to the same date sunset in the investment tax credit on a higher rate of credit per additional employee. Also postpones to January 1, 2020 the effective date of annual limit on investment credits for one taxpayer of no more than \$2 million.	Ch. 147
HB 135 Miera	<b>County health care GRT increment: <a href="#">HB 135</a></b> Authorizes the Bernalillo County Commission to continue to impose a 1/16% GRT option to fund health care for indigent patients after the June 30, 2009 sunset date in present law. The amendment adds an emergency clause which would make the bill effective immediately upon signature of the governor.	Ch. 61
HB 174 Roch	<b>School event services GRT deduction: <a href="#">HB 174</a></b> Provides a GRT exemption for receipts from officiating at public school athletic events.	Ch.62
HB 257 Varela	<b>Tax administration confidentiality: <a href="#">HB 257</a></b> Section 7-1-8 is re-written to make definitions and requirements clearer for entities that are authorized to receive tax return information under some circumstances.	Ch. 243
HB 261 Sandoval	<b>Estimated future property tax information to buyers: <a href="#">HB 261</a></b> Potential buyers of residential property would be provided with an estimate of the possible property tax liability on the property calculated by multiplying the prevailing tax rates in the jurisdiction by one-third of the estimated sales price of the home. This information would be provided by real estate brokers, title companies and lending institutions.	Ch. 165
HB 297 Heaton	<b>Property tax on mutual domestic associations: <a href="#">HB 297</a></b> Exempts from property taxation commercial water property owned or sold by a nonprofit mutual domestic water association. Applies to TYBA 1/1/2010.	Ch. 246

HB 337 R. Gonzales	<b>Water and sanitation district revenue: <a href="#">HB 337</a></b> TRD could release GRT taxpayer names and ID numbers to a water and sanitation district.	Ch. 241
HB 351 Varela	<b>Retiree health care fund distribution <a href="#">HB 351</a></b> Removes the June 30, 2010 sunset date on the \$3 million annual distribution of income tax receipts to the retiree health care fund.	Ch. 287
HB 375 R. Gonzales	<b>Geothermal heat pump tax credits <a href="#">HB 375</a></b> Provides corporate and individual income tax credits for 30% of the cost of installing a geothermal heat pump up to a maximum of \$9,000 per taxpayer. A maximum of \$2 million of credits could be awarded in one year. The credits are non-refundable but could be carried forward for 10 years. The credits sunset in 2020.	Ch. 271
HB 388 Barreras	<b>Property tax treatment of wastewater <a href="#">HB 388</a></b> Creates a special valuation method for wastewater system property. Such property would be valued at \$2.49 per 1,000 gallons of wastewater transmitted.	Ch. 247
HB 407 T. Garcia	<b>Tax contribution to Vietnam veteran's memorial <a href="#">HB 407</a></b> Creates a new income tax check-off for donations to a veteran's memorial fund.	Ch. 175
HB 451 Lundstrom	<b>Tax increment development district oversight <a href="#">HB 451</a></b> Local governments voting to establish a tax increment development district ("TIDD") would be required to provide notice to the state. The Secretary of Finance and Administration would be a member of the governing board of any TIDD. Food and medical deductions would be added to the base for determining GRT distributions to a TIDD. GRT amounts distributed to a TID in excess of amounts needed to cover debt service obligations would revert to the taxing authority creating the TIDD.	Ch. 179
HB 466 Miera	<b>Public school lease purchase <a href="#">HB 466</a></b> Exempts from property tax property that is leased to a public school district for public school purposes. Makes several other changes to requirements for property tax impositions for public school capital purposes.	Ch. 132
HB 554 R. Gonzales	<b>Special fuel from vegetable oil tax deduction <a href="#">HB 554</a></b> Creates a new deduction from gross receipts and special fuels ("diesel") tax fuel consisting of ninety percent or more vegetable or animal fat. Effective July 1, 2009.	Ch. 99
SB 80/aa Smith	<b>Corporate income tax reporting dates: <a href="#">SB 80</a></b> As amended, adds a quarterly estimated tax payment on the 15 <sup>th</sup> day of the fourth month of the tax year. Temporary provisions reduce the quarterly payment otherwise due by April 15, 2009 to 1/8 of annual estimated payments. The remainder of the 25 percent first quarterly payment is due June 15. Applied to TYBA 1/1/2009.	Ch. 4
SB 89 Neville	<b>Local hospital GRT changes: <a href="#">SB 89</a></b> Subject to voter approval, San Juan County would be authorized to re-	Ch. 16

	impose the local hospital GRT more than once up to a total of 40 years and to modify the uses to which revenue could be put.	
SB 213/a Beffort	<b>Weight distance tax underreporting penalties: <a href="#">SB 213</a></b> Imposes new civil penalties for underreporting either mileage or weight. Effective 7/1/2009.	Ch. 196
SB 219 Morales	<b>Cigarette tax act changes: <a href="#">SB 219</a></b> Conforms cigarette tax act definitions with those in the Master Settlement Agreement. Prohibits sale of cigarettes by manufacturers not in the MSA. Allows the Department to revoke or suspend licenses for violations of the tax escrow requirements. Exempts tribal sales from the tobacco products tax.	Ch. 197
CS/SB 237 SCONC	<b>Renewable energy production tax credit: <a href="#">SB 237</a></b> Creates new personal and corporate income tax credits equal to 6% of investments in certain power generating facilities. The credits are non-refundable but may be carried forward for 10 years. The same investments are eligible for a GRT credit under present law Section 7-9G-2 but not for other GRT credits. Criteria for the present law credit are modified to include geothermal facilities and solar facilities linked to a conventional power plant.	Ch. 279
SB 257 Keller	<b>Solar market development tax credit <a href="#">SB 257</a></b> The income tax credit for solar equipment would be 10% of the system cost without reference to any federal credit for which the equipment is also eligible. Under present law, the credit rate is 30%, but any federal credits must be subtracted from the 30%. Applies to TYBA 1/1/2009.	Ch. 280
CS SB 291 SCORC	<b>Sustainable building tax credit <a href="#">SB 291</a></b> Credits could be applied to manufactured housing that otherwise meets the requirements. Credit cap earmarked for commercial buildings could be used for multi-family housing if all current cap for residential housing has been allocated. Increases the credit rate for certain building types. Allows credits to be earned by non-profit organizations, thus enabling them to transfer the credits to other taxpayers.	Ch. 59
CS/SB 324/a SFC	<b>Municipal environmental GRT rate <a href="#">SB 324</a></b> Ruidoso and Ruidoso Downs would be authorized to increase the rate of the Municipal Environmental GRT to 0.5%.	Ch. 284
SB 467aaa Ortiz y Pino	<b>Winrock tax increment development project: <a href="#">SB 467</a></b> Authorizes the issuance of \$137 million for the first two portions of the Winrock TIDD and another \$27 million for the third stage. Requires additional oversight by the Legislative Finance Committee and by the New Mexico Finance Authority.	Ch. 58
SB 541/a Lovejoy	<b>Native American veterans' tax settlement fund: <a href="#">SB 541</a></b> Makes several administrative changes to the management of the fund. Appropriates \$2 million from the General Fund to the fund for its purposes.	Ch. 289
SB 647 Wirth	<b>Renewable energy financing district act: <a href="#">SB 647</a></b> Allows local governments to create special property tax districts composed of property owners who agree to be assessed a levy to pay off the cost of installing renewable energy equipment on their property.	Ch. 180

	Districts would be authorized to issue bonds to finance equipment purchase and installation.	
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## Knick Knacks

### States Facing Deficits Look at Tax Increases

The Wall Street Journal reported this week that at least 10 states are looking at large tax increases to address fiscal imbalances. In the western region these include Arizona, Oregon, Washington and California. Using information collected by the Rockefeller Institute of Government, the article reported that most western states faced deficits at least as serious as New Mexico's. The Journal article may be viewed [here](#).

### NMTRI on the Radio

NMTRI staff Richard Anklam and Tom Clifford will be interviewed on radio Saturday morning on 770 Kkob AM. The program, targeted to matters of business and finance, will be aired at 6:00 am Saturday morning and hosted by NMTRI member Brad Steward of Pulakos & Alongi LTD. Richard and Tom will review the recent legislative session, discuss general tax policy issues and describe NMTRI's efforts to improve tax policy in the state.

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## TAX QUOTABLE:

"When there is an income tax, the just man will pay more and the unjust less on the same amount of income.

*~Plato*

"The hardest thing to understand in the world is the income tax. "

*~Albert Einstein*

"The income tax has made liars out of more Americans than golf."

*~Will Rogers*



**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](mailto:richard.anklam@nmtri.org), call 505-269-6791 or mail them to P.O. Box 91657, Albuquerque, New Mexico 87199-1657. You may also e-mail them to [tom.clifford@nmtri.org](mailto:tom.clifford@nmtri.org) or call him at 505-228-7129. 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!