

# ***Tax Matters***

*The Newsletter of the New Mexico Tax Research Institute*

Issue No. 2010-3

February 7, 2010

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## **IN THIS “30-DAY SESSION” AND “SUPERBOWL” ISSUE OF TAX MATTERS:**

- **The Legislative Session Moves On...**
  - **Ongoing Tax Activity**
  - **List of Tax Related Legislation**
- **Tax Quotable**
- **Don't Forget the Principles-Again!**

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## INTO THE LEGISLATIVE SESSION



The 2010 Regular Session of the New Mexico Legislature convened at noon on Tuesday, January 19, and ends at noon on February 18. The deadline for bill introduction passed last Wednesday, February 3. Legislation not acted on by the governor is pocket vetoed on March 10. Being a “short” or 30-day session, non-budgetary legislation and items not related to the budget are not fair game and are limited by the call of the

Governor. It is turning out to be a very busy session, given the state’s ongoing fiscal crisis, as high profile, contentious and painful budget and revenue issues are center stage.

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.

### Over half-way in-

With two weeks left and the bill introduction deadline passed, there are still no great surprises as the litany of tax proposals we’ve come to expect have appeared. The House submitted a budget in the form of [House Bill 2](#) that included minor cuts and relies on approximately \$300 million in tax increases and another couple of hundred million in uncertain federal money to balance. Tax bills passing the House include Speaker Lujan’s .5% gross receipts tax increase ([HB 119](#)) and Ed Sandoval’s 1.5% personal income tax surcharge ([HB 9](#)). Also passing the House was Speaker Lujan’s pass-through entity and oil and gas proceeds withholding expansion that would require quarterly withholding and limit exceptions to both types of withholding to resident individuals ([HB 120](#)). One other income tax proposal introduced by Representative Stewart ([HB 270](#)), requiring itemizers to add back state and local taxes deducted for federal purposes, died on the floor of the House by one vote.

Other new proposals include identical compensating tax “fix” proposals designed to address a problem made more obvious by the *Dell* decision, where “New Mexico sales” can be made by sellers without nexus with New Mexico – rendering the purchase arguably not subject to either compensating or gross receipts tax. Representative Miguel Garcia’s [HB 244](#) and Speaker Lujan’s [HB 281](#) require that compensating tax be accrued when purchases are made from sellers who would have been subject to the GRT had they purchased from sellers with nexus with New Mexico. The bill would require buyers to make nexus determinations of sellers in order to know whether or not to accrue tax. Both bills drew two committee assignments, albeit curiously different ones.

So far, no tobacco bill addressing the serious “leakage” problem has been introduced (dealing with the shifting of purchases to non-taxed sellers like tribes and internet retailers), however Senator Harden has introduced a measure to repeal the tribal deduction in its entirety. All such measures appear to moving quite slowly.

Both Senators Eichenberg ([SB 45](#); [SB 45](#)) and Boitano ([SB 139](#); [SB 217](#)) have introduced property tax measures, each in efforts to address “tax lightning,” as have Representative Giannini ([HB 132](#)) and Senator Neville ([SB 160](#)) and more recently, Representative Ed Sandoval ([HB 263](#)). Most proposals eliminate the feature found to be unconstitutional by two non-precedential district court decisions. Representative Sandoval’s bill raises the limitation on valuation to 5% in 2011, presumably an effort to allow values to adjust closer to current and correct. Representative Al Park has submitted a House Joint Resolution ([HJR 12](#)) calling for a constitutional amendment to preserve the status quo and provides for a process to apply statewide or multi-jurisdictional rates in some proportion to current and correct values. Representative Sandoval has also introduced a House Joint Memorial calling for a property tax limitation task force ([HJM 47](#)).

*[NMTRI note: while most proposals offer band-aids to bad law in response to the perceived inequities in present law as well as the constitutional question raised by the district court, it seems that a constitutional fix may not be necessary – it depends on what you’re actually trying to accomplish. A current and correct system is the ideal state and we’re dealing with the repercussions of departing from it. If the intention is what was originally purported – to protect the house rich and cash poor elderly – we could limit the benefit to primary residences of those below certain income levels and above certain ages. This would still be distortive but not nearly as noticeable relative to limiting the vast majority of the residential base. Alternatively or additionally, higher rates of limitation – at least for some – could be applied to prevent large short term valuation fluctuations while still allowing values to return to current and correct over time (a limitation percentage that exceeds long term growth rates would do this).]*

Mandatory combined reporting for corporate income taxes has been introduced in both houses, and two identical proposals exclude manufacturing from the requirements (Senator Wirth and Representative Begaye’s [HB62](#) and [SB90](#)). Representative Miguel Garcia has a combined reporting bill that also makes personal income tax and capital gain tax increases ([HB 215](#)). We mentioned last time that except for a manufacturing exception to the combined filing requirement, no policy changes or clarifications, such as the retention of the federal consolidated filing option or clarification on the treatment of net operating losses had yet to be proposed. That is no longer the case as Senator Wirth has proposed alternative corporate income tax legislation ([SB 259](#)), typically referred to as “add-back” legislation, that would require certain intercompany transactions be added back for purposes of determining separate company income. The intent of this sort of legislation is to eliminate tax planning that relies on the use of intercompany transactions that otherwise lack substance or business purpose. Most if not all states that require separate company filing have imposed some form of statutory add-back rules. The devil is in the detail however and some rules have been considered overly onerous and over-reaching.

Increases to the motor vehicle tax as well as the gasoline tax have been introduced, all with the intention of increasing funding for roads. Senator George Munoz has introduced a 6 cent gasoline surtax along with an increase in the motor vehicle excise tax to 4%, with the proceeds of both going to the road fund ([SB 239](#) and [SB 240](#), respectively). Representative Bobby Gonzales also introduced an increase in the motor vehicle excise tax to 4% with the additional revenue being distributed to the road fund and general fund ([HB 271](#)).

[NMTRI random thought: has anyone noticed that at the state and federal level, many if not most tax proposals are now being labeled “surtax”, often actually defined as a tax on tax, as opposed to a “tax” even when the effect is to, for instance, increase the rate of a tax by a few pennies or percentage points.]

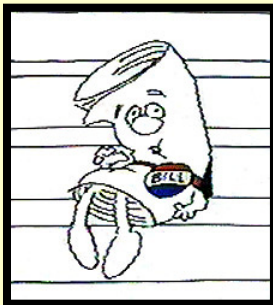
The food fight continues as Legislative Finance Committee Chair Senator Smith introduced legislation that would phase-in a repeal of the GRT deduction for food after three years ([SB 236](#)), and Senate President Pro-Tempore Tim Jennings has introduced legislation that would repeal the local government hold harmless distribution associated with the food and medical deductions over time ([SB 247](#)). Senator Jennings further stirred the pot with the introduction of a sure to be controversial measure to tax non-profit 501(c)(3)’s with commercial activity receipts over \$10 million (presumably targeting large healthcare organizations and some secular and parochial private schools) ([SB 261](#)). Another measure places caps on the annual allowable payout of the state’s major business incentive credits (including film, investment, and high-wage jobs tax credits), delays the phase-in of the GRT deduction for hospitals, and repeals the angel investor credit ([SB 248](#)). Senator Smith has also introduced a separate measure for the film credit, limiting the amount to \$2 million per production ([SB 235](#)).

A list of tax related bills is compiled for your information below. No new bills will come, however existing bills can be re-written with amendments, and the majority and minority leadership get essentially “empty” bills, typically titled “for the public peace, safety and welfare...”, introduced near the deadline. Often referred to as “dummy bills”, these bills are essentially vehicles for new legislation should the need arise. To see what we’re talking about, look at the end of the list of house and senate bills on the Legislative Council Service (“LCS”) bill locator [here](#).

The LCS 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 rather robust website, which can be reached at <http://legis.state.nm.us/lcs/>. The good news is that the key-word search function appears to be working again.

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**Bills with significant tax or revenue implications introduced in 2010 Legislative Session:**



If no effective date is mentioned, the bill lacks one and would take effect upon enactment, May 19, 2010. Effective date for GRT bills is July 1, 2010 unless otherwise noted. Income Tax bills are essentially retroactive being effective tax years beginning on or after January 1, 2010 unless otherwise noted. “TYBA” = Tax years beginning on or after. Other notes: “CS” indicates committee substitute; “a” indicates amended

<b>Bill Number/ Sponsor:</b>	<b>Title: Link to bill language: Description</b>	<b>Assignments -Location:</b>
HB 8 B. Lujan	<b>Development Training Funds <a href="#">HB 8</a></b> Appropriates \$5 million non-reverting funds for purposes of classroom	HLC/HAFC- HLC-DP-

	and in-plant employee development training programs.	HAFC-DP- Passed/H
HB 9 Sandoval	<b>Income Tax Surcharge: <a href="#">HB 9</a></b> Imposes a 1% surtax on taxable income in excess of \$133K in taxable income for single filers and in excess of \$200K for married filing joint returns. The provision is effective for tax years 2010-2012.	HTRC-DP/a- Passed/H- SCORC/SFC -SCORC
HB 29 Trujillo	<b>Research and Development Business Tax Credit: <a href="#">HB 29</a></b> Reinstates sun-setted R&D Small Business Tax Credit until June 30, 2014.	HBIC/HTRC -HBIC-DP/a- HTRC
HB 34 Egolf	<b>Liquor Surtax to School Fun: <a href="#">HB 34</a></b> Imposes a new 2.5% retail “liquor surtax” on the retail price of alcoholic beverages sold, and distributes the net receipts to the public school fund.	HBIC/HTRC -HBIC
HB 35 Egolf	<b>Cigarette Tax Increase Distribution: <a href="#">HB35</a></b> Increases cigarette and tobacco products taxes (\$1/pack; 40% of value respectively) and changes distribution percentages in order to distribute the additional increase to the public school fund.	HBIC/HTRC -HBIC
HB 36 Martinez	<b>Expand Rural Health Practitioner Tax Credit: <a href="#">HB 36</a></b> Would make occupational therapist, physical therapists, social workers and speech-language pathologists eligible for the credit. Effective 1/1/2010.	HBIC/HTRC -HBIC-DP- HTRC
HB 42 Martinez	<b>Municipal Enviro Service Gross Receipts: <a href="#">HB 42</a></b> Expands a non-voter approved local option tax up to .5% in sixteenth cent increments for the purpose of acquiring, constructing, maintaining, repairing and operating water, wastewater, solid waste, sewer and related systems.	HHGAC/HT RC- HHGAC- DP/a-HTRC
HB 50 Chavez	<b>Internet Sales Gross Receipts: <a href="#">HB 50</a></b> Eliminates the exception from “engaging in business” for third party content owners on a world wide web site located in NM for purposes of imposition of the GRT. Also creates a presumption of taxability of non-New Mexico businesses that are referred by potential customers to the seller via agreement with a NM resident and has cumulative gross receipts tax from such referrers in excess of \$10,000 (so-called “Amazon” proposal).	HBIC/HTRC -HBIC
HB 52 Kintigh	<b>Repeal Film Production Incentives: <a href="#">HB 52</a></b> Repeals the Film Production Tax Credit and limits the film related investment that can be made from the severance tax permanent fund (no more that 3% of the fund in total), requires market rates, and SIC approval with substantial NM presence.	HLC/HBIC/ HTRC-HLC
HB 62 Begaye/Wirth	<b>Corporate Tax Reporting &amp; Distribution: <a href="#">HB 62</a></b> Earmarks to the public school fund 1/6 of net revenue attributable to the corporate income tax. Mandates that all unitary corporations (with an exception for manufacturers) report as a combined group for corporate income tax purposes. Repeals the option for a corporation to report on a federal consolidated basis.	HBIC/HTRC -HBIC
HB 82 Chavez	<b>Develop Tax Expenditure Budget: <a href="#">HB 82</a></b> Requires the TRD to prepare an annual “tax expenditure budget” by	HTRC/HAF C-HTRC-

	October 15 of every year for the three preceding years, the current and upcoming fiscal years. Included are all tax expenditures in excess of \$5 million in the for all “significant general fund revenue sources” – meaning the primary tax programs.	DP/a-HAFC-HTRC-DP/a-HAFC-DP/a-Passed/H
HB 112 A. Lujan	<b>Las Cruces Tax Increment Project: <a href="#">HB 112</a></b> Authorizes the issuance of \$8 million for the Las Cruces main street downtown TIDD.	HBIC/HTRC -HBIC-DP/a-HTRC
HB 117 Begaye	<b>Drunk Person Transport Gross Receipts: <a href="#">HB 117</a></b> Creates a gross receipts tax deduction for receipts from transporting intoxicated persons a distance of not more than twenty miles for those holding a commercial license to transport passengers.	HCPAC/HT RC-HCPAC
HB 119 B. Lujan	<b>Temporary Gross Receipts Tax Increase: <a href="#">HB 119</a></b> Increases the gross receipt and compensating tax rate to 5.5% in 2010, and reduces the rate annually in eighth cent increments back to 5% in 2014. Also limits the imposition of certain local option taxes during the five year period if overall rate thresholds are exceeded, and creates and phases out a GRT credit for Medicaid providers providing pediatric dental services to Medicaid state children’s health insurance program.	HBIC/HTRC -HBIC-DP-HARK-DNP-CS/DP/a-Passed/H-SCORC/LFC-SCORC
HB 120 B. Lujan	<b>Withholding Tax Changes: <a href="#">HB 120</a></b> Merges to some extent the pass through entity (“PTE”) and oil and gas proceeds withholding requirements, and further requires quarterly withholding on oil and gas proceeds or share of a PTE owner’s net income unless payments are made to a New Mexico resident. The new withholding requirements take effect January 1, 2011. Definitions and “safe harbor” provisions have been added to the prior year’s proposal, and publicly traded partnerships are excluded.	HBIC/HTRC -HBIC-DP-HARK-DP-Passed/H-SCORC-SFC-SCORC
HB 132 Giannini	<b>Property Values to 2004 Levels &amp; Increases: <a href="#">HB 132</a></b> Eliminates the exception to the current 3% limitation on residential property valuation increases when a change of ownership occurs, limits valuations for residential properties to be the lesser of market value or the 2004 value increased by three percent per year. For properties first valued between 2002 and 2011 as well as new properties, creates a “pre-sales ratio” that is multiplied by current value to establish the initial tax value that would then be limited to increases of no more than 3% per year thereafter.	HTRC/HJC - HTRC
HB 133 Giannini	<b>Disposable Carry-Out Bag Tax Act: <a href="#">HB 133</a></b> Creates a 5 cents/bag tax on grocery bags with exceptions for other sorts of bags such as those used for carry meals home in restaurants or nails in hardware stores. The tax is imposed on the “first purchaser” of the bags.	HBIC/HTRC -HBIC
HB 134 Giannini	<b>Voltage Regulation Equipment Tax Credits: <a href="#">HB 134</a></b> Creates personal and corporate income tax credits at the rate of 30% of cost, not to exceed \$9,000, for taxpayers that purchase and install voltage regulation technology equipment (i.e. “smartgrid”) between 1/1/2011 and 12/31/2021. The credit may be carried forward for up to 10 years and is limited in both tax programs two an aggregate of \$2 million.	HBIC/HTRC -HBIC-DP-HTRC
HB 143	<b>Deducted State Taxes as Income: <a href="#">HB 143</a></b>	HBIC/HTRC

Stewart	Requires the add-back of state taxes itemized and deducted for purposes of computing federal taxable income when computing New Mexico taxable income.	-HBIC
HB 153 Barela	<b>Property Tax Payment Requirements: <a href="#">HB 153</a></b> Amends the property tax code to require that property tax liabilities be satisfied before subdivision, rezoning or other requests are honored. Also provides for the collection of reasonable collection costs, places delinquent taxpayers on the delinquent property list more quickly, and provides authority for counties to collect delinquent taxes and enter into agreements to with the property tax division to work together on older delinquencies.	HHGAC/HT RC/HHGAC
HB 155 Sandoval	<b>Income Tax Act Changes: <a href="#">HB 155</a></b> Narrower “simplification” bill creates “tax table income”, decouples from federal standard and personal deductions, and indexes the current tax brackets and benefits of the personal and standard deductions, LICTR, and working families credit – but in an amount of 1% less than the inflation rate.	HHGAC/HT RC/HHGAC -DP-HTRC
HB 170 Begaye	<b>Hospital Gross Receipts as Matching Funds: <a href="#">HB 170</a></b> Expands the local hospital gross receipts tax local option to provide up to .25% (in 1/8 <sup>th</sup> increments) which can used to match federal or state funds benefiting hospitals. The option would not be allowed in Bernalillo County.	HHGAC/HT RC/HHGAC -DP-HTRC
HB 171 Lujan	<b>Transport of Dairy Waste for Gas Tax Credit: <a href="#">HB 171</a></b> Creates transferrable personal and corporate income tax credits for feedlots and dairies in the amount of \$5 per wet ton of agricultural biomass (i.e. manure) transported to a facility that uses biomass to generate electricity or make biofuels. The credit is capped at \$5 million dollars per tax program on a first come first serve basis.	HBIC/HTRC -HBIC-DP- HTRC
HB 186 Rehm	<b>Medical Marijuana Tax Act: <a href="#">HB 186</a></b> Creates the Medical Marijuana Tax Act and imposes a tax of 25% on the product value of medical marijuana produced or distributed by those licensed to do so in this state	HTRC/HJC- HTRC
HB 189 Trujillo	<b>Restaurant Receipt Surtax &amp; Tourism Fund: <a href="#">HB 189</a></b> Imposes a .25% “surtax” on the gross receipts of prepared food or alcoholic beverage retailers and distributes the net proceeds to the created tourism promotion fund.	HBIC/HTRC -HBIC
HB 202 T. Garcia	<b>Municipal Enviro Service Gross Receipts Rate: <a href="#">HB 202</a></b> Expands a non-voter approved local option tax up to 1% in sixteenth cent increments for the purpose of acquiring, constructing, maintaining, repairing and operating water, wastewater, solid waste, sewer and related systems in class B counties with populations exceeding 1040 but under 1050 (Angel Fire).	HHGAC/HT RC/HHGAC
HB 203 T. Garcia	<b>Business Retention Gross Tax &amp; Gaming Tax: <a href="#">HB 203</a></b> Creates a new county local option tax subject to voter approval in an amount up to ¼% in 1/16% increments. The bill also creates a gaming tax credit for racetracks with takes under \$20 million not to exceed \$1 million per fiscal year if the county imposes the business retention gross receipts	HBIC/HTRC -HBIC-DP/a- HTRC

	tax.	
HB 214 R. Martinez	<b>County Gross Receipts for County Purposes: <a href="#">HB 214</a></b> Provides for a 1/16% increment of the county gross receipts tax be allowed to be used for purposes of county infrastructure and bonding	HBIC/HTRC -HBIC-DP- HTRC
HB 215 M. Garcia	<b>Tax Rate Changes &amp; Combined Reporting: <a href="#">HB 215</a></b> Requires combined reporting for corporate income tax purposes, creates new personal income tax brackets and rates up to 6.9% at relatively high income levels (6.9% over \$667K single/over \$1 million married filing joint), requires the add-back of itemized state taxes for purposes of determining NM taxable income, and eliminates the 50% capital gain deduction for those most likely to incur significant capital gains. Contains estimated penalty transition provision for income tax and add-back provisions – corporate and capital gains changes effective 1/1/2011.	HBIC/HTRC -HBIC
HB 233 Stewart	<b>No Solar Panel as Property Tax Improvements: <a href="#">HB 233</a></b> Excepts “solar energy system installations” from the “improvements” which would other be exempt from the 3% limit on residential property valuation.	HHGAC/HT RC/HHGAC -DP-HTRC
HB 234 Maestas	<b>Higher Income Level Tax Brackets: <a href="#">HB 234</a></b> Creates new personal income tax brackets and rates up to 6.9% at relatively high income levels (6.9% over \$1M single/over \$1.5 million married filing joint). Contains estimated penalty transition provision.	HCPAC/HT RC/HCPAC
HB 244 M. Garcia	<b>Tax on Certain Untaxed Transactions <a href="#">HB 244</a></b> Changes compensating tax imposition to include tangible personal property that would have been subject to GRT had it been acquired “from a person with nexus with New Mexico”.	HBIC/HTRC -HBIC
HB 245 M. Garcia	<b>Return Capital Gains to Pre-2003 Rates <a href="#">HB 245</a></b> Eliminates present law 50% income tax deduction for capital gains.	HBIC/HTRC -HBIC
HB 250 Giannini	<b>Soft Drink, Candy &amp; Pastry Gross Receipts <a href="#">HB 250</a></b> Narrows GRT food definition of food subject to deduction to eliminate certain soft drinks, candy and pastries, popped popcorn, cheese puffs, chewing gum, pork rinds or mixtures of the aforementioned from the present law definition.	HBIC/HTRC -HBIC
HB 261 M.H. Garcia	<b>Solar &amp; Wind Energy Equipment Gross Receipts <a href="#">HB 261</a></b> Expands present law GRT deduction for sale of wind energy nacelles and related equipment to governmental entities to include supporting structures (“construction”) and solar energy generation equipment and related equipment for generation and transmission.	HRC
HB 262 Sandoval	<b>Tax &amp; Rev Dept Administrative Fee Increase <a href="#">HB 262</a></b> Increases the scope and rate of distributions for which administrative fees are collected by the TRD. The fee is increased from 3% to 3.25% and distributes .25% to the TRD for purposes of audit and compliance, with the remaining additional fees going to the general fund.	HTRC/HAF C-HTRC
HB 263 Sandoval	<b>Property Tax Valuation Limit <a href="#">HB 263</a></b> Eliminates the exception to the current 3% limitation on residential property valuation increases when a change of ownership occurs, and increases the limitation on valuation increases to 5% for the 2011 tax year	HCPAC/HT RC-HCPAC

	only, returning the limit to 3% in subsequent years.	
HB 270 Stewart	<b>Add Back Certain Tax Deductions <a href="#">HB 270</a></b> Requires the add-back of state taxes itemized and deducted for purposes of computing federal taxable income when computing New Mexico taxable income.	HTRC-DP/a- H Floor
HB 271 Gonzales	<b>Motor Vehicle Tax Increase to Road Fund <a href="#">HB 271</a></b> Increases the motor vehicle excise tax to 4% from 3%, and makes an distributes 12.5% of the total proceeds including associated penalties and interest to the state road fund.	HTPWC/HT RC-HTPWC
HB 277 M.H. Garcia	<b>Energy Generation Facility Gross Receipts <a href="#">HB 277</a></b> Creates a gross receipts and compensating tax deduction for the value of eligible generation plant costs from the sale of tangible personal property. The deduction requires nontaxable transaction certificates and certification from the department of environment.	HENRC/HT RC-HENRC
HB 281 Lujan	<b>Untaxed Transaction Gross Receipts <a href="#">HB 281</a></b> Changes compensating tax imposition to include tangible personal property that would have been subject to GRT had it been acquired “from a person with nexus with New Mexico”.	HCPAC/HT RC-HCPAC
HB 282 Lujan	<b>Natural Gas Vehicles Tax Credits <a href="#">HB 282</a></b> Creates 70% corporate and personal income tax credits for the cost associated with converting automobiles from the use of gasoline to diesel. The applies to calendar years 2010 to 2017, can be taken only in the year of conversion, and is subject to a \$2 million annual aggregate cap. Also creates a personal and corporate income tax credit for purchasing and installing natural gas dispensing equipment at a retail station from calendar years 2010 to 2016, also with a \$2 million aggregate cap.	HBIC/HTRC -HBIC
HB 285 Lujan	<b>Omnibus Tax Bill <a href="#">HB 285</a></b> Makes minor and inconsequential changes to the income, gross receipts, cigarette, gasoline, and motor vehicle excise taxes.	HHGAC/HT RC-HHGAC
HJR 12 Park	<b>Property Tax Valuation Upon Owner Change, CA <a href="#">HJR 12</a></b> Proposes a constitutional amendment to preserve the status quo and provides for a process to apply statewide or multi-jurisdictional rates in some proportion to current and correct values.	HVEC/HTR C-HVEC
SB 8 Sharer	<b>No Severance Tax in Certain Counties: <a href="#">SB 8</a></b> Precludes issuance of severance tax bonds for purposes of benefiting a project in municipalities or counties that have imposed ordinances that have an onerous effect on the extractive industries.	SCC/SCON C/SFC-SCC
SB 10 B. Sanchez	<b>Narrow Food Tax Deduction to Staple Foods: <a href="#">SB 10</a></b> Narrows the scope of the deduction for food by defining “staple foods” more narrowly than “food” under current law, with the former meaning poultry, fish, bread, cereal, vegetables, fruit and dairy products as defined in the federal supplemental nutrition assistance program, rather the	SCC/SCORC /SFC-SCC- grmn- SCORC-w/o rec/a-SFC

	present definition which looks to the federal food stamp program definition.	
SB 23 Keller	<b>Tax &amp; Rev Dept. Tax Expenditure Budget: <a href="#">SB 23</a></b> Requires the TRD to prepare an annual “tax expenditure budget” by October 15 of every year for the three preceding years, the current and upcoming fiscal years. Included are all tax expenditures in excess of \$5 million in the for all “significant general fund revenue sources” – meaning the primary tax programs.	SCC/SCORC /SFC-SCC- grmn- SCORC
SB 25 Ortiz Y Pino	<b>Federal Deduction as State Taxable Income: <a href="#">SB 25</a></b> Requires the add-back of state taxes itemized and deducted for purposes of computing federal taxable income when computing New Mexico taxable income.	SCC/SCORC /SFC-SCC- grmn- SCORC
SB 29 Feldman	<b>Untaxed Insurance Service Gross Receipts: <a href="#">SB 29</a></b> Amends the gross receipts tax act and insurance code to make currently nontaxable receipts from “administrative services only contracts” taxable gross receipts.	SCC/SCORC /SFC-SCC- grmn- SCORC
SB 30 Feldman/Pic raux	<b>Cigarette Tax Increase &amp; Distribution: <a href="#">SB 30</a></b> Increases cigarette and tobacco products taxes (\$1/pack; 40% of value respectively) and changes distribution percentages in order to distribute the additional increase to the county-supported Medicaid fund.	SCC/SCORC /SFC-SCC- grmn- SCORC
SB 31 Feldman/Pci raux	<b>No Soft Drink Gross Receipts Tax: <a href="#">SB 31</a></b> Narrows the current food deduction by excluding from the food stamp definition of “food” soft drinks or other sweetened beverages and distributes the additional revenue to the county supported Medicaid fund.	SCC/SCORC /SFC-SCC- grmn- SCORC
SB 38 Cisneros	<b>Renewable Energy Tax Credit Generators: <a href="#">SB 38</a></b> Expands definitions and increases the cap on credits eligibility for solar-light-derived or solar-heat-derived qualified energy resources from 500K megawatt hours to \$1 million megawatt hours.	SCC/SCORC /SFC-grmn- SCORC-DP- SFC
SB 39 Cisneros	<b>Change Gaming tax on Certain Racetracks: <a href="#">SB 39</a></b> Reduces the gaming tax on gaming operators with a net take in the prior year under \$14 million (\$10 million in subsequent years) from 26% to 10% (phased-in over three years).	SCC/SCORC /SFC-SCC- grmn- SCORC
SB 45 Eichenberg	<b>Property Tax Limit on Certain Homes: <a href="#">SB 45</a></b> Creates a new means for valuing newly acquired residential property of those over 65 who sold a home within the same year by creating a sales ratio of the old and new property and applying that ratio to the real value of the new property.	SCC/SJC/SF C-SCC- grmn-SJC
SB 46 Eichenberg	<b>Property Tax Valuation Limit on Some Homes: <a href="#">SB 46</a></b> Eliminates the exception to the current 3% limitation on residential property valuation increases when a change of ownership occurs.	SCC/SJC/SF C-SCC- grmn-SJC
SB 47 Keller	<b>Economic Development Tax Incentive Changes: <a href="#">SB 47</a></b> Creates guidelines for the creation and review of economic development incentives.	SCC/SCORC /SFC-SCC- grmn-

		SCORC-DP-SFC
SB 50 E. Griego	<b>Create Tax Expenditure Study Commission: <a href="#">SB 50</a></b> Creates a seventeen-member commission to quantify and study the benefit of tax expenditures in New Mexico.	SCC/SPAC/ SFC-SCC- grmn-SPAC- DP-SFC
SB 54 Cravens	<b>Taxpayer Protection &amp; Expenditure Formula: <a href="#">SB 54</a></b> Creates an expenditure limitation formula for future state budgets by limiting future year budgets to prior year plus an allowance for population growth and 3.6% inflation or growth factor.	SCC/SJC/SF C-SCC
SB 56 Sapien	<b>Medical Marijuana Tax Act: <a href="#">SB 56</a></b> Creates the Medical Marijuana Tax Act and imposes a tax of 25% on the product value of medical marijuana produced or distributed by those licensed to do so in this state.	SCC/SJC/SF C-SCC- grmn-SJC
SB 57 Sapien	<b>Medical Marijuana Gross Receipts: <a href="#">SB 57</a></b> Amends GRT exemption for 501(c)(3)'s and the prescription drug deduction to exclude medical marijuana.	SCC/SCORC /SFC-SCC- grmn- SCORC
SB 59 P. Griego	<b>Extend Gas Tax Sharing Agreement Terms: <a href="#">SB 59</a></b> Increases the 10 year "buy-out", or payments made equal to 40% of the gasoline tax revenue associated with the sale of 250K gallons of gasoline per year to Nambe and Santo Domingo pueblos from ten to twenty years.	SCC/SCORC /SFC-SCC- grmn- SCORC-DP- SFC
SB 64 Keller	<b>Tax Refund Deposits to Multiple Accounts: <a href="#">SB 64</a></b> Provides that taxpayers may request on their personal income tax return that their refund be split in up to three direct deposits in different accounts.	SCC/SPAC/ SFC-SCC
SB 65 Ortiz y Pino	<b>Adjust Income Tax Rates: <a href="#">SB 65</a></b> Restores 2002 income rates (up to 8.2%) but expands the brackets significantly (8.2% bracket kicks in at \$667K in taxable income for individuals and over \$1million for heads of household and married filing joint returns).	SCC/SCORC /SFC-SCC- grmn- SCORC
SB 81 Neville	<b>Food Tax Retail Food Store Definition: <a href="#">SB 81</a></b> Changes the deduction for eligible food from that of federal food stamp program to that of the federal supplement nutritional assistance program and expands the definition of eligible food store to include coffee shops or others who make sales of coffee, bottled water or ice.	SCC/SCORC /SFC-SCC- grmn- SCORC
SB 86 E. Griego	<b>Property Tax Payment Requirements: <a href="#">SB 86</a></b> Amends the property tax code to require that property tax liabilities be satisfied before subdivision, rezoning or other requests are honored. Also provides for the collection of reasonable collection costs, places delinquent taxpayers on the delinquent property list more quickly, and provides authority for counties to collect delinquent taxes and enter into agreements to with the property tax division to work together on older delinquencies.	SCC/SCORC /SFC-SCC
SB 90	<b>Corporate Income Tax Reporting and Distribution: <a href="#">SB 90</a></b>	SCC/SCORC

Wirth/Begaye	Earmarks to the public school fund 1/6 of net revenue attributable to the corporate income tax. Mandates that all unitary corporations report as a combined group for corporate income tax purposes (with an exception for manufacturers). Repeals the option for a corporation to report on a federal consolidated basis.	/SFC-SCC-grmn-SCORC
SB 95 Papen	<b>Las Cruces Tax Increment Project: <a href="#">SB 95</a></b> Authorizes the issuance of \$8 million for the Las Cruces main street downtown TIDD.	SCC/SCORC /SFC-SCC-grmn-SCORC-DP-SFC-DP
SB101 Munoz	<b>Use of Liquor Tax for Drunk Transportation: <a href="#">SB101</a></b> Expands the allowable use of proceeds from the local liquor excise tax be used for a safe transportation shuttle system for transport of inebriated persons.	SCC/SCORC /SFC-SCC-grmn-SCORC
SB 121 B. Sanchez	<b>Increase Cigarette Tax: <a href="#">SB 121</a></b> Increases the cigarette tax by 50 cents, alter distributions, and reduces cigarette stamp discounts. Carries an emergency clause which would make it effective upon signing, and a contingency clause making the provisions effective July 1 if the necessary favorable votes aren't obtained.	SCC/SCORC /SFC-SCC-grmn-SCORC
SB 122 B. Sanchez	<b>High Income Taxpayer Surcharge: <a href="#">SB 122</a></b> Imposes an additional 1% surcharge on taxable income in excess of \$100K for single filers, and \$160K for head of household and married filing jointly returns. Includes a provision for protecting impacted individuals from running afoul of the estimated payment requirements resulting from the proposed change.	SCC/SCORC /SFC-SCC-grmn-SCORC
SB 125 Fischman	<b>Review Tax Exemptions &amp; Credits Every 5 Years: <a href="#">SB 125</a></b> Requires the Interim Revenue Stabilization and Tax Policy Committee to establish a schedule to provide for the review of all tax incentives, exemptions, deductions, credits or exclusions for their effectiveness.	SCC/SCORC /SFC-SCC
SB 126 Lovejoy	<b>Liquor Tax Increase &amp; Distribution: <a href="#">SB 126</a></b> Increases the liquor excise tax across all beverage categories (i.e. beer from \$.41to \$.95/gal, and spirits from \$1.60 to \$2.73/liter) and changes distributions in an effort to hold the DWI grant fund to current distributions. Small wineries and local microbreweries lose most of their tax benefit under this proposal.	SCC/SCORC /SFC-SCC-grmn-SCORC
SB 128 E. Griego	<b>Higher Income Level Surtax &amp; Distribution: <a href="#">SB 128</a></b> Imposes an additional 1% "income tax surtax" on taxable income in excess of \$100K for single filers, and \$150K for head of household and married filing jointly returns. The provision is effective for tax years 2010 – 2012.	SCC/SCORC /SFC-SCC-grmn-SCORC
SB 139 Boitano	<b>Property Valuation Time &amp; Increases: <a href="#">SB 139</a></b> Eliminates the revaluation on turnover and otherwise requires that property values not exceed 3% in excess of the prior year, or a little over twice that if on two year valuation cycles.	SCC/SJC/SF C-SCC-grmn-SJC
SB 142 B. Sanchez	<b>Liquor Excise Tax Increase &amp; Distribution: <a href="#">SB 142</a></b> Increases the liquor excise tax across most beverage categories (i.e. beer	SCC/SCORC /SFC-SCC-

	from \$.41 to \$.94/gal, and spirits from \$1.60 to \$2.73/liter, but wine is left at current rates) and changes distributions in an effort to hold the DWI grant fund to current distributions. Local microbreweries lose most of their tax benefit under this proposal. The proposal also creates the “mental health and substance abuse treatment fund” and distributes 24.33% of the liquor excise tax net receipts to that fund.	grmn-SCORC
SB 144 Rodriguez	<b>Affordable Housing Tax Credit Use &amp; Vouchers: <a href="#">SB 144</a></b> Amends the affordable housing tax credit act by expanding the definition of “affordable housing project” to include counties with populations in excess of 100,000.	SCC/SPAC/ SFC-SCC- grmn-SPAC- DP-SFC-DP- Passed/S- HTRC/HAF C-HTRC
SB 153 Sapien	<b>Local School District Gross Receipts: <a href="#">SB 153</a></b> Creates non-voter approved gross receipts taxing authority for school districts in an 1/8% increments not to exceed .5%.	SCC/SCORC /SFC-SCC- grmn- SCORC
SB 158 Harden	<b>No Tribal Cigarette Tax Break for Non-Members: <a href="#">SB 158</a></b> Creates a specific presumption of taxability of cigarettes in New Mexico, removes the cigarette tax exemption for sales to tribes or tribal members, and requires the TRD in conjunction with the tribes to determine the number of stamps required for purposes of sales to tribal member.	SC/SCORC/ SFC-SCC-ref SIAC/SCOR C/SCC- grmn-SIAC
SB 160 Neville	<b>Property Tax Revaluation Methods: <a href="#">SB 160</a></b> Creates a 5% limit in annual valuation growth for purposes of residential property taxation, provided that the county retains a sales ratio of 95%.	SCC/SJC/SF C-SCC-SJC
SB162 Sapien	<b>County Gross Receipts for Certain Projects: <a href="#">SB 162</a></b> Provides for a 1/16% increment of the county gross receipts tax be allowed to be used for purposes of county infrastructure and bonding	SCC/SCORC /SFC-SCC- grmn- SCORC-DP- SFC
SB 163 Sapien	<b>Veteran Owned Business Gross Receipts: <a href="#">SB 163</a></b> Creates a gross receipts tax exemption for receipts of veteran owned businesses (51% or more owned by veterans) from the federal government.	SCC/SCORC /SFC-SCC- SCORC
SB 180 Griego	<b>Temporary Tax Amnesty Program: <a href="#">SB 180</a></b> Essentially provides for the expansion of the managed audit program for up to 90 days the consideration of the factors limiting the allowance of managed audits, appropriates \$500K for the purpose of the program, and requires reporting back to the legislature on the programs results.	SCC/SCORC /SFC-SCC- grmn- SCORC
SB 198 Campos	<b>Scholarship Donation Tax Credit: <a href="#">SB 198</a></b> Creates a personal income tax credit (up to \$500 for singles/\$1000 married-joint) and a corporate income tax credit (not to exceed \$50K) for contributions made to certain scholarship granting organizations for educational scholarships for eligible students at qualified schools. Credits under both tax programs are to be limited to \$10 million.	SCC/SEC/SF C-SCC
SB 210	<b>Increase Certain Income Tax Rates: <a href="#">SB 210</a></b>	SCC/SCORC

Lopez	Creates a new personal income tax rate of 5.9% all filers with taxable income in excess of \$100K.	/SFC-SCC-grmn-SCORC
SB 214 Rodriguez	<b>Small Winery Production Capacity: <a href="#">SB 217</a></b> Expands the allowable production of wine to be considered a “small winegrower” from 950K to 1.2M liters of wine per year. Also provides for the imposition of a voter approved local liquor excise tax at rates not to exceed specified rates (generally over 50% of current liquor excise tax rates).	SCC/SCORC /SFC-SCC-grmn-SCORC
SB 217 Boitano	<b>Residential Property Tax Limits: <a href="#">SB 217</a></b> Eliminates the exception to the current 3% limitation on residential property valuation increases when a change of ownership occurs, limits valuations for residential properties to be the lesser of market value or the prior year value increased by three percent. Proposal also provides for a county ordinance which would allow rollback of property values to 2001 levels increased by no more than 3% year and use of a sales ratio method of valuation for new construction.	SCC/SJC/SF C-SCC-grmn-SJC
SB 222 Ingle	<b>Transport of Dairy Waste for Gas Tax Credit: <a href="#">SB 222</a></b> Creates transferrable personal and corporate income tax credits for feedlots and dairies in the amount of \$5 per wet ton of agricultural biomass (i.e. manure) transported to a facility that uses biomass to generate electricity or make biofuels. The credit is capped at \$5 million dollars per tax program on a first come first serve basis.	SCC/SCORC /SFC-SCC-grmn-SCORC-DP-SFC
SB 234 Fischmann	<b>County Hospital Gross Receipts Purposes <a href="#">SB 234</a></b> Expands the allowed use of the local option tax increment for land or buildings as well as design and construction of county hospital facilities and provides for a non voter approved extension of the increment for 20 years.	SCC/SCORC /SFC-SCC-grmn-SCORC
SB 235 Smith	<b>Film Production Tax Credit Cap <a href="#">SB 235</a></b> Limits the credit for direct and post-production projects to \$2 million per project on eligible expenditures incurred on or after July1, 2001.	SCC/SCORC /SFC-SCC-grmn-SCORC
SB 236 Smith	<b>Phase Out Food Tax Deduction <a href="#">SB 236</a></b> Reduces the present law GRT deduction for food over time by deduction by reducing it to 75% of receipts on and after July 1, 2010, 50% on and after July 1, 2011, and 25% on and after July 1, 2012. After that no deduction remains. Also prohibits the “passing-on” of tax in excess of what is actually owed.	SCC/SCORC /SFC-SCC-grmn-SCORC
SB 239 Munoz	<b>Gas Surtax for Road Construction <a href="#">SB 239</a></b> Imposes a 6% per gallon surtax on gasoline and special fuels (diesel) received or used in NM, distributing 5/6 of the tax to a non-reverting fund intended to equally fund the state’s six transportation districts. The remaining sixth is distributed to county and municipal road funds based on relative fuel sales volume.	SCC/SCORC /SFC-SCC-grmn-SCORC
SB 240 Munoz	<b>Motor Vehicle Tax for Highway Projects <a href="#">SB 240</a></b> Increases the motor vehicle excise tax to 4% from 3%, and makes an additional distribution in proceeds to the highway priority project fund in	SCC/SCORC /SFC-SCC-grmn-

	the amount of 25% of the total proceeds including associated penalties and interest.	SCORC
SB 247 Jennings	<b>Food Tax Distribution to Local Gov't <a href="#">SB 247</a></b> Reduces local government “hold harmless” distributions associated with the food and medical practitioner GRT deductions in 20% increments/yr, beginning July 1, 2010, resulting in no distributions after July 1, 2014.	SCC/SCORC /SFC-SCC- grmn- SCORC
SB 248 Jennings	<b>Limit Certain Tax Credits &amp; Deductions <a href="#">SB 248</a></b> Places annual caps on energy production tax credits (\$5M), film production tax credit (\$50M), investment tax credit (\$7M), laboratory partnership with small business credit (\$1.2M), technology jobs tax credit (\$5M), and high wage jobs tax credit (\$10M), and provides that claims in excess are first in line in following year. Also delays the phase-in of GRT credit for receipts of hospitals to 7/1/2013.	SCC/SCORC /SFC-SCC- grmn- SCORC
SB 253 Sapien	<b>Gas Storage Tank Upgrade Tax Credit <a href="#">SB 253</a></b> Creates a personal and corporate income tax credit for 50% of the annual cost of compliance with environment department above ground storage tank requirements.	SCC/SCORC /SFC-SCC- grmn- SCORC
SB 255 Nava	<b>Oil &amp; Gas Tax Changes for Emergency Fund <a href="#">SB 255</a></b> Increases oil and gas severance tax rates and decreases oil and gas emergency school taxes in an attempt to bolster general fund revenues at the expense of severance tax capital funds in a net revenue neutral “rate swap”.	SCC/SCORC /SFC-SCC- grmn- SCORC
SB 259 Wirth	<b>Net Taxable Income Determination <a href="#">SB 259</a></b> Imposes requirements to “addback” certain related party expenses separate company filers for purposes of determining taxable income for corporate income tax purposes.	SCC/SCORC /SFC-SCC- grmn- SCORC
SB 261 Jennings	<b>Nonprofit Entity Gross Receipts <a href="#">SB 261</a></b> Limits the GRT exemption for 501(c)(3) non-profits such that they must demonstrate that they had under \$10 million in receipts from commercial activities to be eligible for the exemption.	SCC/SCORC /SFC-SCC- grmn- SCORC
SB 271 Jennings	<b>Nonprofit Organization Gross Receipts <a href="#">SB 271</a></b> Alters the GRT exemption for social organizations adding “donations” the language pertaining to exempt receipts, and requiring that the organization eligible for the exemption demonstrate that they’ve been granted exemption from federal income tax pursuant Section 501(c) of the IRC.	SCC/SCORC /SFC-SCC- grmn- SCORC

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**TAX QUOTABLE:**

The only thing that hurts more than paying an income tax is not having to pay an income tax.

*-Lord Thomas Robert Dewar*

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## DON'T FORGET THE PRINCIPLES – AGAIN!



It is important, particularly when dealing with tough economies, tough budget decisions, and the emotionally charged subject of tax increases, to view the world from the framework of sound principles. Taxes serve an important purpose in that they raise the money to pay for the government services we need. But taxes can also create inefficiencies, distortions, and sometimes inequities. It is a better 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. Apart from the debate about how much money our state government should spend and on what, the state has to raise that money in ways which don't harm to the economy, don't get in the way of job creation and that are seen as fair and equitable. Accordingly, we've taken the opportunity to reprint our principles of good tax policy here for you again:

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.



**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. We genuinely solicit your input and thank you for your support.

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"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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