

# ***Tax Matters***

*The Newsletter of the New Mexico Tax Research Institute*

Issue No. 2009-02

February 8, 2009

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## **IN THIS “60 DAY SESSION” ISSUE OF *TAX MATTERS*:**

- **Don't Forget the Principles**
- **The Legislative Session Moves On...Slowly**
- **List of Tax Related Legislation**
- **Possible Revenue Raisers, pros and cons**
- **Knick Knacks**
- **Tax Quotable**

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## 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. We've taken the opportunity to reprint ours, 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.

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## INTO THE LEGISLATIVE SESSION



The 2009 Regular Session of the New Mexico Legislature convened at noon on Tuesday, January 13, and ends at noon on March 21<sup>st</sup>. February 19<sup>th</sup> is the last day that new bills or capital outlay requests can be introduced.

The dismal revenue outlook has made for a tense atmosphere in the roundhouse, sooner than is usually the case in a 60-day sessions. Uncertainty about potential federal bailout money and a likely lower revised revenue forecast make serious budget decisions difficult and create the possibility of a special session

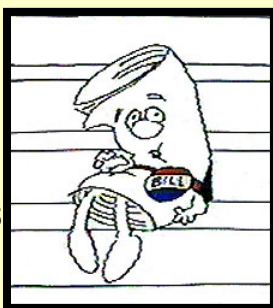
down the road. One of the first bills to the Governor's desk, along with the "feed" bill and budget bills aimed at reducing appropriations and turning slow project "capital outlay" into "capital inlay", was tax-related SB 80. It reinstates the first quarterly installment of corporate income tax estimated payments. The measure corrects a mistake and accelerates revenue to the state, helping to reduce the budget deficit. It is relatively non-controversial but for its timing (containing an "emergency clause" the change would become effective very shortly before the first payment would be due), so it has been amended to let the first installment, in 2009 only, be paid at 1/8 of annual liabilities with the other 1/8 of the first installment due along with the second installment. Other tax bills appear to be moving slowly through the beginnings of the committee process.

The tax measure attracting most attention last week was Rep. Stewart's HB 346, which raises gross receipts and compensating taxes by a half percent and also raises the top personal income rate to 6% from the current 4.9%. Revenue from the tax increase is earmarked in the bill for purposes of education, which was the subject of most conversation. What was notable about the hearing was that during the almost two hour discourse amongst the House's tax policy committee and others, there was amazingly little conversation on tax issues or tax policy. Representative Rodefer, a new member of the committee, criticized opponents of the tax increase proposals saying he was "ashamed" of their opposition, sentiments reportedly echoed by the president of the teacher's union quoted as saying opponents should "shut-up". While we at NMTRI are sensitive to the need for education spending, we firmly believe that a tax policy discussion over such a significant proposal must always take place regardless of the beneficiary of the funds. One job of the tax writing committees is to determine how revenue should be raised, and there are good reasons for questioning the particular revenue raising provisions in Rep. Stewart's bill. Thus, we hope that there continues to be an active discussion of this and all other tax policy measures in the legislature.

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.

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### **Bills with significant tax or revenue implications introduced in 2009 Legislative Session:**



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" indicates committee substitute; "a" indicates amended

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<b>Bill Number/ Sponsor:</b>	<b>Title: Link to bill language: Description</b>	<b>Assignments -Location:</b>
CS HB 8a B. Lujan	<b>Estimated tax payments and withholding: <a href="#">CS-HB 8</a></b> Effective in tax year 2009, adds a quarterly corporate income tax estimated tax payment by the 15 <sup>th</sup> day of the 4 <sup>th</sup> month of the tax year. A temporary provision applies to tax year 2009, with 1/8 of annual payments due by the fourth month and the remainder of the first quarterly payment due by the sixth month. Defines a “film performing artist entity” as pass-through entities for purposes of withholding tax. Quarterly withholding payments on owner’s net income are required of most pass through entities. The new withholding requirements take effect July 1, 2009 for film entities; January 1, 2010 for most other PTE’s. Exempt from the new requirements are distributions subject to the oil and gas withholding tax and distributions by a publicly traded partnership that is not treated as a corporation.	HTRC-H Floor w/drn ref HTRC- HTRC
HB 27 Rehm	<b>UNM hospitals health care surtax: <a href="#">HB 27</a></b> Creates a new gross receipts tax (“GRT”) surtax of 1/16% imposed statewide to fund UNMH; Eliminates property tax levy in Bernalillo County when surtax takes effect. Effective Jan. 2010	HHGAC/HT RC/HAFC- HHGAC
CS HB 29 Rehm	<b>Motor vehicle insurance violations: <a href="#">HB 29</a></b> Imposes a new \$75 reinstatement fee if vehicle registration lapses due to lack of insurance. Revenue would go to the motor Vehicle Division for enforcement. Changes the fine for lack of insurance from “up to \$300” to a fixed \$75 penalty assessment. Allows removal of license plate for lack of insurance and increases fee for replacing the plate from \$25 to \$100. Effective 7/1/2009.	HTRC/HJC/ HAFC-DNP- CS/DP-HJC
HB 34 Berry	<b>Property tax information disclosure: <a href="#">HB 34</a></b> Title insurance companies would be required to disclose to purchasers of residential property that the assessed value and property tax liability on the property are likely to increase substantially in the first year after purchase.	HBIC/HTRC -DP-HTRC
HB 48 Rehm	<b>UNM health care reimbursement from counties: <a href="#">HB 48</a></b> Counties other than Bernalillo would be required to reimburse UNM hospital for medical services provided to residents of the counties. Bernalillo County Commission would be required to reduce its property tax levy for hospitals to reflect such reimbursement.	HHGAC/HT RC-HHGAC
HB 55 Begaye	<b>Hospital GRT time and uses: <a href="#">HB 55</a></b> Subject to voter approval, San Juan County would be authorized to reimpose 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.	HHGAC/HT RC-DP- HTRC
HB 56 Begaye	<b>Medical recordkeeping tax credit: <a href="#">HB 56</a></b> Creates a new income tax credit for pharmacists or physicians for 100% of the cost of equipment required to maintain electronic records of their patients. Credits could be claimed over a period of five years, with annual credit claims limited to the lesser of (1) 20% of the cost of the equipment;	HHGAC/HT RC-HHGAC

	(2) the value of uncompensated care provided in the year and (3) tax liability. Applicable TYBA 1/1/2010.	
HB 57 Begaye	<b>Local liquor surtax and rates: <a href="#">HB 57</a></b> Replaces the present law Local Liquor Excise Tax (which has never been imposed) with a Local Liquor Surtax imposed on wholesalers at the rate of 25% of the amount of Liquor Excise Tax they owe on products distributed to retailers within the imposing county. Allows any county in the state to impose the surtax by a vote of their governing board. Imposition would be for 3 years and could be extended upon approval by the voters.	HBIC/HTRC -HBIC
HB 61 Taylor	<b>Rural health care tax credit eligibility: <a href="#">HB 61</a></b> Expands the definition of eligible areas to include those with a physician shortage of 15% or more as determined by the NM Dept. of Health. Expands the definition of “rural” to include municipalities less than 50,000. Effective 1/1/2009.	HHGAC/HT RC-DP- HTRC
HB 62a A. Lujan	<b>Farm and ranch employee worker’s compensation exemption: <a href="#">HB 62</a></b> Removes the exclusion of employees of family farms from worker’s compensation requirements if the employer has 3 or more employees. Allows employers to exclude family member employees from WC. SB 9 is similar. The amendment provides an effective date of July 1, 2010.	HLC/HBIC- DP/a-HBIC
HB 64 M. Garcia	<b>Restoring income tax progressivity: <a href="#">HB 64</a></b> Increases top individual income tax rate over several years from 4.9% to 8.2%. Also modifies the income levels at which various tax rates would take effect, levels shown would apply to married taxpayers filing joint returns in 2014 and after: Taxable Income above \$24,000 ..... 6% Taxable Income above \$40,000 ..... 7.1% Taxable Income above \$64,000 ..... 7.9% Taxable Income above \$100,000 ..... 8.2% Effective 1/1/2010.	HBIC/HTRC -HBIC
HB 67 J. Campos	<b>Mission transition program gross receipts: <a href="#">HB 67</a></b> Provides a GRT deduction for construction materials used on military installations.	HBIC/HTRC -DP-HTRC
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.	HBIC/HTRC DP-HTRC
HB 78 Varela	<b>Malt beverages as spirituous liquor: <a href="#">HB 78</a></b> Subjects flavored malt beverages to the liquor excise tax and directs revenue to programs for prevention of underage drinking.	HBIC/HTRC -HBIC
HB 84 Lundstrom	<b>Uranium Legacy Clean-up Act: <a href="#">HB 84</a></b> Imposes a new surtax on uranium severance and processing at a rate of 2% of taxable value under the Resource Excise Tax (the current tax rate is 0.75%). No tax would be imposed on the purification, UF6 conversion,	HNERC/HT RC/HAFC- HENRC

	enrichment, deconversion, reprocessing or disposal of uranium. Revenue from the new tax – and 50% of revenue from the existing tax on uranium – would go to a new fund for programs designed to mitigate health effects of uranium mining activities prior to July 1, 2009. Effective 1/1/2010.	
HB 89 Trujillo	<b>Hybrid vehicle excise tax exemption: <a href="#">HB 89</a></b> Extends – from June 30, 2009 to June 30, 2014 – the motor vehicle excise tax exemption for gasoline-electric hybrid fuel vehicles. Corrects erroneous references to hybrid vehicles in several other tax statutes.	HBIC/HTRC DP-HTRC
HB 98 T. Garcia	<b>Greenhouse gas registry fees: <a href="#">HB 98</a></b> Authorizes the environmental improvement board or a local board to impose fees on emitters of more than 1,000 tons of carbon dioxide emissions. Fees would be set at whatever rate is necessary to cover costs of programs to monitor and inventory carbon dioxide emissions. A maximum of \$200 thousand total fees and \$10,000 per emission source would be collected. Effective July 1, 2009.	HENRC/HT RC/HAFC – DP-HTRC
HB 115 Irwin	<b>Direct wine shipments: <a href="#">HB 115</a></b> Allows direct shipments to customers of limited amounts of wine. The same taxes would be due on the shipments as under wine deliveries under present law.	HBIC/HTRC DP/a-HTRC
HB 116 Heaton	<b>Orthotic and prosthetic device GRT deduction: <a href="#">HB 116</a></b> Makes orthotics and prosthetics practitioners eligible for the income tax credit for rural health practitioners and also eligible for the GRT deductions for reimbursements by Medicare and by managed care. Effective July 1, 2009.	HHGAC/HT RC-DP- HTRC
HB 129 Gutierrez	<b>Expand rural health practitioner tax credit: <a href="#">HB 129</a></b> Would make occupational therapist, physical therapists, social workers and speech-language pathologists eligible for the credit. Effective 1/1/2010.	HHGAC/HT RC-HHGAC
HB 132 Miera	<b>Educational property tax exemptions: <a href="#">HB 132</a></b> Exempts from property tax property that is leased to a public school district for public school purposes. Applies to 2009 and subsequent property tax years.	HEC/HTRC- HEC
HB 135a 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.	HHGAC/HT RC-DP/a- HTRC
HB 160a Park	<b>No revaluation of property upon transfer: <a href="#">HB 160</a></b> Eliminates the requirement that residential property be revalued when sold or transferred. The 3% annual limit on assessed value growth would apply to properties that are transferred. The amendment changes the bills application from property tax years 2009 and subsequent, to 2010 and subsequent.	HBIC/HTRC DP/a-HTRC
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.	HBIC/HTRC -HBIC

HB 178 Crook	<b>Unclaimed property recovery fee limit: <a href="#">HB 178</a></b> Limits the fee that may be collected for aiding in the recovery of unclaimed property to no more than 10% of the value of the property. Effective July 1, 2009.	HCPAC/HT RC-HCPAC
HB 179 Steinborn	<b>Expand rural health care practitioner tax credit: <a href="#">HB 179</a></b> Changes the definition of a medically underserved area for purposes of the tax credit. Also changes the definition of “rural” under the credit so that it would include all areas of the state except for Bernalillo County.	HBIC/HTRC -HBIC
HB 203 R.S. Martinez	<b>Expand rural health care practitioner tax credit: <a href="#">HB 203</a></b> Expands eligibility to occupational therapists, physical therapists, social workers and speech pathologists. Same as HB 129.	HHGAC/HT RC-DP- HTRC
HB 204 Sandoval	<b>Extend horse racing act to 2015: <a href="#">HB 204</a></b> Extends the sunset date on the horse racing act from July 1, 2011 to July 1, 2015.	HHGAC/HT RC- DP-HTRC
HB 241 Cote	<b>Child day care GRT deduction: <a href="#">HB 241</a></b> Provides a GRT deduction for providing child day care services that are reimbursed by the Children, Youth and Families Department. Effective 7/1/2009.	HBIC/HTRC DP-HTRC
HB 251 Park	<b>Updating property value with decreases: <a href="#">HB 251</a></b> Authorizes county assessors to decrease assessed value when necessary to bring property values to current and correct.	HHGAC/HT RC-HHGAC
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. Newly-authorized to receive returns information are U.S. attorneys; Law enforcement agencies conducting joint investigations with TRD; The Alcohol, Tobacco and Firearms division of the U.S.; The Regulation and Licensing Department could receive information if a license holder is delinquent on tax payment or filing; the Human Services Department for purposes of reporting the use of federal funds to pay state credits; and Tax Increment Development Districts could receive the same kinds of information currently shared with local governments.	HTRC/HJC- DP-HJC
HB 258 Sandoval	<b>Graduate gaming tax rate on smaller racetracks: <a href="#">HB 258</a></b> The gaming tax rate would be reduced from 26% for racetracks that had less than \$14 million of net win in the preceding year to 10% on the first \$10 million of net win and 26% thereafter. Effective 7/1/2009.	HBIC/HTRC -HBIC
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.	HBIC/HTRC -HBIC
HB 262 Sandoval	<b>Income tax credits: <a href="#">HB 262</a></b> The Income Tax Act would be substantially re-written. All tax brackets would be collapsed into one bracket with a 4.9% tax rate. The financial benefits currently provided by the lower rate brackets, the personal exemption, standardized deductions, the low- and middle-income personal	HCPAC/HT RC-HCPAC

	exemption and the low-income comprehensive tax rebate would all be captured in a table of credits keyed to the taxpayer's income and number of exemptions. Taxpayers who itemize would still be able to deduct the excess of itemized over standard deductions. The definition of modified gross income would be simplified by eliminating some components. The credit amounts would be indexed to increase with inflation, reducing the effects of "bracket creep."	
HB 266 Trujillo	<b>Tax payments and installment agreements: <a href="#">HB 262</a></b> Lowers annual liability threshold for electronic payments requirement from \$25,000 to \$10,000. Electronic payments can be required for Cigarette tax, tobacco products tax and liquor excise tax. Third party payers would be subject to electronic payment requirements. Monthly filing threshold for CRS would be increased from \$200 to \$300. TRD would be allowed to serve warrants of levy upon financial institutions electronically. TRD could delay accrual of interest for disasters. Minimum penalty is increased from \$5 to \$25. Effective July 1, 2009.	HBIC/HTRC -HBIC
HB 276 Anderson	<b>Military retirement pay tax exemption: <a href="#">HB 276</a></b> Provides an income tax exemption for 50% of military retirement or retainer pay of an armed services retiree or surviving spouse. Applies to TYBA 1/1/2009.	HCPAC/HT RC-HCPAC
HB 277 Anderson	<b>Uniformed service retirement tax exemption: <a href="#">HB 277</a></b> Provides an income tax exemption for retirement payments and survivor's benefits payments for service in the uniformed services of the U.S. Applies to TYBA 1/1/2009.	HCPAC/HT RC-HCPAC
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.	HAGC/HTR C-DP-HTRC
HB 305 Rehm	<b>Front and rear vehicle license plates: <a href="#">HB 305</a></b> Requires two license plates for most vehicles beginning with their next renewal. Additional fee of up to \$5 is allowed to cover costs. Effective 1/1/2010.	HTPWC/HT RC-HTPWC
HB 320 Varela	<b>Require tax expenditure budget: <a href="#">HB 320</a></b> TRD would be required to prepare and present a tax expenditure budget every year on all tax expenditures exceeding \$1 million annual general fund impact.	HBIC/HTRC -HBIC
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. Various changes to statutes governing the districts.	HAGC/HTR C-HAGC
HB 344 King	<b>Dependent child day care expenses tax credit: <a href="#">HB 344</a></b> Increases the income threshold determining eligibility for the child care credit. Increases the maximum annual amount of credit that can be claimed by one taxpayer from \$480 to \$2,400. Applies to TYBA 1/1/2009.	HCPAC/HT RC-HCPAC
HB 346 Stewart	<b>Education income tax surtax: <a href="#">HB 346</a></b> In tax years beginning in 2010, the income tax rate on the top brackets	HTRC/HAF C-HTRC

	would be increased from 4.9% to 6.0%. TRD would estimate how much additional revenue this generates so that amount can be distributed to the public school fund. Beginning July 1, 2009, a surtax of 0.5% of the taxable base would be added to both the GRT and Compensating taxes.	
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.	HHGAC/HT RC-HHGAC
HB 359 J. Trujillo	<b>Child daycare services GRT deduction <a href="#">HB 359</a></b> Provides a credit against GRT from providing child daycare services after June 30, 2009. The credit applies only to the state's share of GRT – i.e. 3.775% times taxable gross receipts in municipal areas and in non-municipal areas.	HBIC/HTRC HBIC
HB 374 R. Gonzales	<b>Motor vehicle excise tax to state road fund <a href="#">HB 374</a></b> Beginning July 1, 2009, 16.5% of net receipts attributable to the Motor vehicle excise tax would be distributed to the state road fund. Currently those revenues are distributed to the General Fund.	HTRC/HAF C-HTRC
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.	HBIC/HTRC -HBIC
HB 376 R. Gonzales	<b>Local government capital outlay gross receipts tax <a href="#">HB 376</a></b> Removes the requirements that a municipality have imposed all increments of the municipal GRT, the municipal infrastructure GRT and NOT have imposed the supplemental municipal GRT prior to imposing the capital outlay GRT. Removes the requirements that a county have imposed all increments of the county GRT and the county infrastructure GRT prior to imposing the county capital outlay GRT.	HHGAC/HT RC-HHGAC
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.	HBIC/HTRC -HBIC
HB 392 Barela	<b>Greenfield tax increment district procedures <a href="#">HB 392</a></b> Defines a Greenfield TID district. Requires additional notice be given to the state of a local government's intention to form a TID. Requires the Secretary of Finance and Administration be a member of the governing body of a TID. Adds food and medical services hold harmless distributions to the amounts distributed to TID's. Limits the share of state GRT revenue that can be distributed to a TID to 50%, or to 20% in a Greenfield TID, but the 20% can increase to as much as 50% if various criteria are met. Revenue distributions to a TID in excess of the amount needed for debt service would revert to the local government that created the TID. A task force would be created to oversee implementation of the TID Act.	HBIC/HTRC /HAF- HBIC

HB 404 Lujan	<b>Clarify film production tax credit <a href="#">HB 404</a></b> Defines a “film performing artist entity” as a company that accepts payments on behalf of performing artists as eligible for film credits as long as the entity pays withholding tax. Such entities are defined as pass-through entities for purposes of withholding tax. Quarterly withholding payments on owner’s net income are required of all pass through entities. The new withholding requirements take effect July 1, 2009 for film entities; January 1, 2010 for most other PTE’s. Exempt from the new requirements are distributions subject to the oil and gas withholding tax and distributions by a publicly traded partnership that is not treated as a corporation. Provides a GRT exemption for receipts of a film entity from another film entity.	HBIC/HTRC -HBIC
HB 405 Lujan	<b>Renewable energy production tax credit caps <a href="#">HB 405</a></b> Increases cap on production from solar-powered facilities from 500,000 megawatt-hours (MWh) to 1 million MWh. Creates new credit authority of up to 200,000 MWh for dairy or feedlot waste biomass facilities.	HBIC/HTRC -HBIC
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.	HBPAC/HT RC-HCPAC
HB 415 Arnold- Jones	<b>5-year old small business GRT credit <a href="#">HB 415</a></b> Creates a new non-refundable credit against GRT liability for businesses with fewer than 50 employees. The credit rate would start at 0.25% for businesses operating for at least 5 years, and increase to 1% for those operating for at least 20 years.	HBIC/HTRC -HBIC
HB 429 Cote	<b>Federal employee property tax income credit <a href="#">HB 429</a></b> Provides a non-refundable income tax credit for the lesser of property tax paid to another state or \$1,975 for non-resident taxpayers in the first three years they are employed at federal law enforcement facilities within 20 miles of the international border.	HLC/HTRC- HLC
HB 430 Cote	<b>Border business employee tax credit <a href="#">HB 430</a></b> Provides a non-refundable income tax credit for the lesser of property tax paid to another state or \$1,975 for non-resident taxpayers in the first three years they are employed at certain business facilities within 20 miles of the international border. Present law language allocating income of non-resident employees at certain border businesses to their state of residence is repealed.	HBIC/HTRC -HBIC
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.	HBIC/HTRC -HBIC
HB 460 Arnold- Jones	<b>Net income deduction of capital gain income <a href="#">HB 460</a></b> Increases the income tax deduction for capital gains income from 50% to 100%. Applies to TYBA 1/1/2010.	HBIC/NTRC -HBIC

HB 463 Miera	<b>Tax revenue to certain charter schools <a href="#">HB 463</a></b> Ballot measures in Bernalillo County on property taxes for public school improvements would not be required to contain funding for charter schools. Such schools would instead be funded as part of the school district's facilities master plan.	HEC/HTRC- HEC
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.	HEC/HTRC- HEC
HB 470 Sandoval	<b>Westland tax increment project bonds <a href="#">HB 470</a></b> Authorizes the issuance of \$408 million of bonds for the Westland upper petroglyphs development to be paid with GRT increment financing.	HBIC/HTRC -HBIC
HB 480 Stewart	<b>Economic development fiscal accountability <a href="#">HB 480</a></b> Requires the Economic Development Department to prepare a biennial report documenting economic development tax and spending initiatives.	HBIC/HTRC -HBIC
HB 490 Taylor	<b>Taxation and revenue department agreements with IRS <a href="#">HB 490</a></b> TRD would be allowed to enter the state income tax levy program which requires acceptance of electronic levies from IRS (which carry a fee) and allows TRD to charge IRS a comparable fee for levies.	HTRC/HAF C-DP-HTRC
HB505 Trujillo	<b>Retail Communication Gross Receipts <a href="#">HB505</a></b> Creates a five year phased in gross receipts and compensating tax deduction for the sale, lease, or use of most communications equipments and services by communications providers. Begins "fiscal year 2010".	HBIC/HTRC -HBIC
HB509 B. Lujan	<b>Health care practitioner gross receipts <a href="#">HB509</a></b> Expands the existing gross receipts tax deduction for certain healthcare services by certain healthcare practitioners to include receipts from co-payments and adding and broadening definitions. Effective July 1, 2009.	HHGAC/HT RC- HHGFAC
HB510 B. Lujan	<b>Clinical nonprofit lab service gross receipts <a href="#">HB510</a></b> Creates a credit against gross receipts for unpaid clinical laboratory services performed by a not-for-profit clinical laboratory. The credit is phased-in over three years beginning July 1, 2009.	HHGAC/HT RC- HHGFAC
HB528 Vigil	<b>Increase liquor excise tax <a href="#">HB528</a></b> Increases liquor excise tax from: \$1.60 to \$4.98 per liter of spirituous liquors; \$.41 to \$1.85 per gallon of beer; \$1.50 to \$2.77 per liter of fortified wine. The bill does not propose to increase the \$.08/gallon and \$.10/liter taxes on locally brewed beer or local small wine growers, respectively. Effective July 1, 2009	HBIC/HTRC -HBIC
HB554 R. Gonzales	<b>Special fuel from vegetable oil tax deduction <a href="#">HB554</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.	HBIC/HTRC -HBIC
HB556 R. Gonzales	<b>Local option hospitality excise tax <a href="#">HB556</a></b> Authorizes a new local option tax ("hospitality liquor excise tax") to be voter imposed by municipalities with populations of 15,000 or fewer according to the 2000 census. The tax would be 2% of the retail value of	HBIC/HTRC /HAF- HBIC

	alcoholic beverages served. Half the proceeds must be dedicated exclusively to economic development projects within the municipality, and the other half to that or certain other uses such as transportation, tax administration, and tourism.	
HB571 Mary Helen Garcia	<b>Chile production income tax credit <a href="#">HB571</a></b> Creates a personal and corporate income tax credit for chile producers, in the amount of \$200 per acre of planted chile. Applicable TYBA 1/1/2009 but prior to January 1, 2012.	HBIC/HTRC -HBIC
HB626 Sandoval	<b>Investment credit time period <a href="#">HB626</a></b> Extends to July 1, 2016 a higher rate of credit per additional employee. Also postpones to June 30, 2016 the effective date of annual limit on investment credits for one taxpayer of no more than \$2 million	HBIC/HTRC -HBIC
HB627 Maestas	<b>Albuquerque route 66 tax increment district <a href="#">HB627</a></b> Appropriates \$100,000 to the local government division of the DFA for the purpose of a study of the feasibility of establishing a tax increment district along the Central Avenue Route 66 corridor in Albuquerque. Unencumbered funds revert to the general fund at the end of fiscal year 2010.	HTRC/HAF C-HTRC
HB632 Lundstrom	<b>Increase weight distance tax rate <a href="#">HB632</a></b> Weight determined tax rates for buses and non-buses are increased approximately 5% across the board. Effective July1, 2009.	HTPWC/HT RC-HTPWC
HB649 R. Gonzales	<b>Increase motor vehicle excise tax &amp; create fund <a href="#">HB649</a></b> Increases the MVX to 4% from the current 3%. Creates “state transit fund” and distributes the additional tax to the fund, primarily for the purpose of supporting transportation services and districts. Effective July 1, 2009.	HTRC/HAF C-HTRC
HB655 N.Cote	<b>Military retiree rural health care tax credit <a href="#">HB655</a></b> Effectively exempting taxable income up to \$100,000, the proposal creates a new \$5,000 and 3,000 personal income tax credit. To be eligible, one must be an eligible military retiree healthcare practitioner providing health care services in an underserved rural area. Applicable TYBA 1/1/2009.	HCPAC/HT RC-HCPAC
HB657 MH Garcia	<b>Substitute teaching tax deduction <a href="#">HB 657</a></b> Provides a personal income tax deduction for income from substitute teaching. To qualify a taxpayer must be retired after 20 years service as a public school teacher.	HEC/HTRC- HEC
HJR 1 Steinborn	<b>Veteran’s organization property tax exemption: <a href="#">HJR 1</a></b> Proposed constitutional amendment would provide a property tax exemption for property of a veteran’s organization chartered by Congress.	HVEC/HTR C-DP-HTRC
HJR 3 Park	<b>Head of family property tax exemption: <a href="#">HJR 3</a></b> Proposes a constitutional amendment to increase the head of household property tax exemption from \$2,000 to \$20,000.	HVEC/HTR C-HVEC
HJR 4 E. Barela	<b>National guard property tax exemption: <a href="#">HJR 4</a></b> Proposes a CA to make national guard veterans eligible for the \$4,000 property tax exemption for veterans.	HVEC/HTR C-DP-HTRC

HJR 9 Taylor	<b>Limit state expenditure increases <a href="#">HJR 9</a></b> Proposes a constitutional amendment to limit annual increases in expenditures to no more than 3.6% plus the rate of population growth.	HVEC/HTR C/HAFC- HVEC
CS/SB 19 Papen	<b>Las Cruces downtown tax increment district: <a href="#">SB 19</a></b> Would authorize the issuance of \$8.0 million in bonds to be paid with GRT increment revenue. [TRD notes that approval of the bonds is not required for the Board of Finance to authorize dedication of a portion of the State's GRT.]	SCORC/SFC -SFC
SB 32 Cisneros	<b>Land grant property conveyance tax credit: <a href="#">SB 32</a></b> Would make land grants which are treated as a subdivision of the state eligible for the present law tax credit for land donations. The credit is for 50% of the value of donated land and can be transferred to a third party.	SCONC/SC ORC/SFC- SCORC
SB 35/a Harden	<b>Renewable energy transmission project bonds: <a href="#">SB 35</a></b> New Mexico Finance Authority could issue bonds on behalf of the Renewable Energy Transmission Authority (RETA). Property leased from or purchased from RETA would be exempt from property tax. State Investment Council and the State Treasurer would be authorized to purchase debt issued by RETA. In addition to the present law tax exemption for bonds issued by RETA, exemption from tax would apply to any mortgages used as security for the bonds, to any personal or real property acquired with bond funding, and to any lease agreements entered into by the RETA. Effective 7/1/2009.	SCONC/SC ORC/SFC- SCORC
SB 45 B. Sanchez	<b>Extend research and development tax credit: <a href="#">SB 45</a></b> Sunset date on the R&D Small Business Tax Credit would be extended from June 30, 2009 to June 30, 2013.	SCORC/SFC -SFC
SB 58 R. Martinez	<b>Expand rural health care tax credit: <a href="#">SB 58</a></b> Health care providers eligible for the credit would be expanded to include occupational therapists, physical therapists, social workers and speech and language pathologists. Effective 1/1/2010.	SCORC/SFC -SCORC
SB 69 Ortiz y Pino	<b>No soft drink GRT deduction: <a href="#">SB 69</a></b> Soft drinks would be excluded from eligibility for the GRT deduction for food for home consumption. Effective 7/1/2009.	SCORC/SFC -SCORC
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.	SCORC/SFC /HTRC- Signed
SB 88 Neville	<b>Expand definition of retail food store: <a href="#">SB 88</a></b> Expands definition of a food store for the GRT food deduction to include a store 75% of the gross revenue of which comes from ice, water and coffee.	SCORC/SFC -SFC

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 reimpose 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.	SCORC/SFC -SFC
SB 108 Beffort	<b>Temporary tax amnesty program: <a href="#">SB 108</a></b> Authorizes TRD to conduct a 90-day tax amnesty program for taxes covered by the Tax Administration Act during FY 2010. Appropriates \$500,000 to the Department for the purpose.	SCORC/SFC -SFC
SB 115 Boitano	<b>Leased school property tax exemptions: <a href="#">SB 115</a></b> Exempts from property tax property that is leased to a public school district for public school purposes. Applies to 2009 and subsequent property tax years.	SEC/SJC/SF C-SJC
SB 181 Boitano	<b>No property revaluation upon sale: <a href="#">SB 181</a></b> Eliminates the requirement that residential property be revalued when sold or transferred. The 3% annual limit on assessed value growth would apply to properties that are transferred. Applies to property tax years 2009 and subsequent.	SCORC/SFC -SCORC
SB 201 B. Sanchez	<b>Tax increment for development districts amendments: <a href="#">SB 201</a></b> Tax base for TIDD increments would include food and medical deductions. Modifies formulas for determining base and incremental GRT. Adds more local option GRT that can be dedicated to a TIDD. Any GRT increment dedicated to a TIDD in excess of the amounts needed for debt service would be distributed to the dedicating government entity.	SCORC/SFC -SCORC
SB 209 Rodriguez	<b>Expand affordable housing tax credits: <a href="#">SB 209</a></b> Removes the limitation making the credits available only in counties with population less than 100,000.	SCORC/SFC -SCORC
SB 213 Beffort	<b>Weight distance tax underreporting penalties: <a href="#">SB 213</a></b> Imposes new civil penalties for failure to report mileage or for underreporting either mileage or weight. Effective 7/1/2009.	SJC/SFC- SFC
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.	SCORC/SFC -SCORC
SB 237 Cisneros	<b>Renewable energy production tax credit: <a href="#">SB 237</a></b> Makes geothermal facilities eligible for the advanced energy tax credit. Expands the classes of entities that may qualify for the credit.	SCONC/SC ORC- SCONC
SB 249 Lopez	<b>Tax increment development projects: <a href="#">SB 249</a></b> Authorizes the issuance of \$408 million of bonds for the Westland Upper Petroglyphs project.	SCORC/SFC -SFC
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.	SCORC/SFC -SCORC

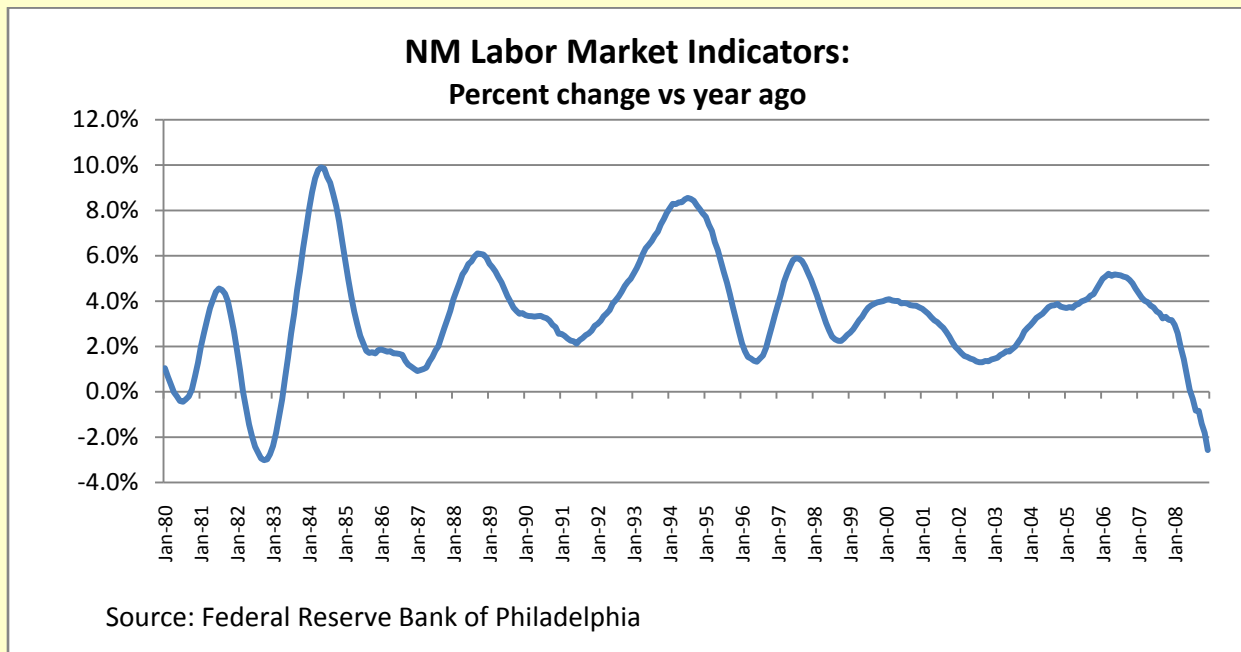
SB 272 Nava	<b>Federal employee property tax income credit <a href="#">SB 272</a></b> Provides a non-refundable income tax credit for the lesser of property tax paid to another state or \$1,975 for non-resident taxpayers in the first three years they are employed at federal law enforcement facilities within 20 miles of the international border.	SCORC/SFC -SCORC
SB 291 Feldman	<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.	SCORC/SFC -SCORC
SB 324 Jennings	<b>Municipal environmental GRT rate <a href="#">SB 324</a></b> This local option tax rate would be increased from 1/16% to 1%. No voter approval is required to impose the tax.	SCORC/SFC -SCORC
SB 327 B. Sanchez	<b>Chile production income tax credit <a href="#">SB 327</a></b> New non-refundable individual and corporate income tax credits would be provided equal to \$200 per acre of chile planted.	SCORC/SFC -SCORC
SB 333 Boitano	<b>Reduce undeveloped property tax ratio <a href="#">SB 333</a></b> Reduces the assessment ratio for property tax purposes from 1/3 to 1/6.	SCORC/SFC -SCORC
SB 340 Morales	<b>Tax refund anticipation loan act <a href="#">SB 340</a></b> Companies offering refund anticipation loans would be required to be licensed and pay a \$1,000 fee. Imposes disclosure requirements and prohibits a variety of activities. Establishes fines for violations of the act.	SCORC/SFC -SCORC
SB 355 Campos	<b>Nonpublic school scholarship tax credit <a href="#">SB 355</a></b> Creates non-refundable corporate and individual income tax credits for donations to certain scholarship-granting organizations. Maximum annual credit amounts are \$500 (single), \$1,000 (Joint) and \$50,000 (corporate).	SEC/SFC- SEC
SB 366 Smith	<b>Tax distribution to retiree health care <a href="#">SB 366</a></b> Deletes the sunset date on the annual distribution of \$3 million of net individual income tax revenue to the retiree health care fund. Increases employer contribution to the fund.	SCORC/SFC -SCORC
SB 374 Ortiz y Pino	<b>Expand rural health care tax credit <a href="#">SB 374</a></b> Expands eligibility for the rural health care practitioners tax credit to include pharmacists and pharmacy technicians.	SCORC/SFC -SCORC
SB 384 Griego	<b>Water and sanitation districts <a href="#">SB 384</a></b> Districts could receive the same kinds of tax return information about taxpayers within their district as is currently granted to local governments. Other changes are made to the sanitation district act.	SCONC/SJC -SCONC
SB 389 Wirth	<b>Corporate tax to public school fund <a href="#">SB 389</a></b> 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. Repeals the option for a corporation to report on a federal consolidated basis.	SCORC/SFC -SCORC
SB 412 Nava	<b>Education GRT surtax: <a href="#">SB 412</a></b> Adds a 0.75% surtax to both the GRT and the Compensating tax with revenue earmarked to public school funding. Implementation is contingent on passage by the current legislature of revisions to the public	SEC/SFC- SEC

	school funding formula.	
SB 430 Nava	<b>Border business income tax credit: <a href="#">SB 430</a></b> Provides a non-refundable income tax credit for the lesser of property tax paid to another state or \$1,975 for non-resident taxpayers in the first three years they are employed at certain business facilities within 20 miles of the international border. Present law language allocating income of non-resident employees at certain border businesses to their state of residence is repealed.	SPAC/SCOR C-SPAC
SB 438 Harden	<b>Dyed special fuel GRT: <a href="#">SB 438</a></b> A new GRT deduction would be created for special fuel that is dyed under federal regulations. Dyed fuel is also deductible for purposes of the special fuels excise tax. Effective July 1, 2009.	SCORC/SFC -SCORC
SB 440 Wirth	<b>Cultural property transfer income tax credit: <a href="#">SB 440</a></b> Increases the maximum cultural property income tax credit from \$25,000 to \$50,000 and from \$50,000 to \$75,000 if the property is in an arts and cultural district. Reduces the rate of the corporate income tax credit from 50% to 20% of property value. Increases the maximum amount of corporate income tax credit that may be claimed for one property from \$25,000 to \$125,000 or \$250,000 if in an arts and cultural district. Makes both tax credits transferable. Applies to properties receiving approval on or after 1/1/2010.	SPAC/SFC- SPAC
SB 442 Cisneros	<b>Geothermal heat pump tax credit: <a href="#">SB 442</a></b> Provides new income tax and corporate income tax credits for 30% of the cost of installing “ground-coupled” heat pumps in residential or commercial buildings. Total credits claimed by one taxpayer are limited to \$9,000. Unused credits could be carried forward for ten years. A maximum of \$2 million per year in tax credits may be allowed to all taxpayers. Applies to tax years between 1/1/2010 and 12/31/2020.	SCORC/SFC -SCORC
SB 452 M.J. Garcia	<b>Retail communications services GRT: <a href="#">SB 452</a></b> Creates new GRT and compensating tax deductions for the sale or lease of communications equipment to a provider of retail communications services who provides an NTTC. The deductions are phased in over five years beginning in fiscal year 2010.	SCORC/SFC -SCORC
SB 455 Ortiz y Pino	<b>Special fuel from vegetable oil tax deduction: <a href="#">SB 455</a></b> Provides deductions from special fuels tax and GRT for fuel made from vegetable oil or animal fat that is used in an auxiliary fuel system. Effective 7/1/2009.	SCORC/SFC -SCORC
SB 457 Boitano	<b>2005 value for certain transferred properties: <a href="#">SB 457</a></b> Residential property transferred between January 1, 2005 and December 31, 2009 would be re-valued at its 2005 value for property tax purposes. Effective 1/1/2010.	SCORC/SFC -SCORC
SB 458 Boitano	<b>Valuation of new residential construction: <a href="#">SB 458</a></b> Newly constructed residential property would be valued at 80% of its price for property tax purposes. Applies to TYBA 1/1/2010.	SCORC/SFC -SCORC
SB 467 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.	SCORC/SFC -SCORC

SB 483 McSorley	<b>Tax increment development district moratorium: <a href="#">SB 483</a></b> For a period from the effective date through March 31, 2011, prevents the approval or formation of new Greenfield TIDD's. Creates a task force to evaluate the TIDD program and to report to the Legislature by June 30, 2010. \$100,000 is appropriated to the Legislative Council Service to support the task force.	SCORC/SFC -SCORC
SB 487 Munoz	<b>Local liquor excise tax authority and limits: <a href="#">SB 487</a></b> Extends authority to impose a local liquor excise tax to any county. Newly eligible counties would be able to impose tax at new rates: \$0.99 per liter of spirituous liquors, \$0.25 per gallon of beer, \$0.28 per liter of wine, and \$0.93 per liter of fortified wine. Reduced tax rates are provided for micro-breweries and small winers. Effective 7/1/2009.	SCORC/SFC -SCORC
SB 501 Ortiz y Pino	<b>Transit district tax distribution: <a href="#">SB 501</a></b> Provides for distribution to regional transit districts of amounts collected from the county regional transit GRT. Provides an exemption from confidentiality requirements for regional transit districts to receive information pursuant to the tax.	SCORC/SFC -SCORC
SB 505 Payne	<b>Communication system property taxes: <a href="#">SB 505</a></b> Exempts from the special valuations methods for communications systems those systems used for one-way communications.	SCONC/SC ORC- SCONC
SB 508 Lopez	<b>Return income tax to pre-2004 rates: <a href="#">SB 508</a></b> Beginning in tax year 2010, income tax rates and brackets would revert to those that prevailed prior to the recent phase-in of reduced tax rates. Thus for example, married taxpayers filing joint returns would pay 6.0% on taxable income between \$24,000 and \$40,000, 7.1% between \$40,000 and \$64,000, 7.9% between \$64,000 and \$100,000 and 8.2% on amounts above \$100,000.	SCORC/SFC -SCORC
SB 509 McSorley	<b>Tax increment development district formation: <a href="#">SB 509</a></b> Applies an inflation factor to the calculation of base gross receipts tax for purposes of calculating incremental GRT for distribution to a TIDD. Imposes additional reporting requirements on TIDD's. Restricts the approval of TIDD's for Greenfield developments. Limits to 50% the share of GRT that can be earmarked to a TIDD. Requires annual reports to the legislature on the status of TIDD's.	SCORC/SFC -SCORC
SJR 3 Payne	<b>Limit real property taxes to one percent: <a href="#">SJR 3</a></b> Proposes a constitutional amendment to limit total property taxes levied on a property to no more than 1% of the current and correct value of the property.	SRC/SJC- SRC
SJR 9 Campos	<b>Double statewide debt limit: <a href="#">SJR 9</a></b> Increases the limit on total General Obligation debt outstanding from one percent to two percent of the total value of taxable property. Additional proceeds are earmarked for health care facilities and higher education facilities.	SRC/SJC/SF C-SRC

## Possible revenue raisers: Pros and cons

Since the state already faces a 5% budget shortfall in FY 2010 and the forecast revisions due February 16<sup>th</sup> are likely to be significantly worse, the legislature is being pressed to consider whether raising taxes should be part of the solution. Of course, any tax increase at the present time runs into an economy at its weakest point in decades, as is well illustrated in the following chart. But the question remains whether there are some revenue increases that pose less risk to the economy than others.



*“You owe it, (please) send it in”*

The Tax Department has come up with several initiatives aimed at improving compliance, or at least speeding up some payments already due to the state. The largest initiative, mandating a first quarter estimated payment by corporations, has already been passed and signed by the Governor. The requirement is estimated to bring in an extra \$65 million in FY 2009. Since these are only accelerations of existing liabilities, they provide no long term advantage to the state’s fisc. Another set of compliance-related initiatives targeted at pass-through entities is contained in HB 8 and HB 404. New quarterly withholding payments would be due from pass-through entities on their distributions of net income to their partners/shareholders. The Department estimates the provision will bring in \$20 million per year due to improved compliance, with about half that amount arriving in FY 2010 since the provisions first take effect January 1, 2010. In addition to several “technical” concerns with the provision, the main question is whether it couldn’t be better targeted? If most non-compliance is by out-of-state PTE shareholders, for example, is the state adding an unnecessary compliance burden to tens of thousands of in-state shareholders? TRD has also proposed yet another expansion of its

collection efforts, requesting several million additional dollars for auditors, collectors and software development, promising a return of several dollars for every additional dollar put in. Given the state of the economy and the fact that the Department has already taken several bites at this apple, one has to wonder whether the returns to this investment may diminish more than has been anticipated. TRD has also recently announced enforcement initiatives for the Motor Vehicle Excise Tax and the Weight Distance Tax for which it says it needs no statutory authority or additional budget. Finally, a bill taking the more “humane” approach to tax collection by providing for an amnesty has been proposed by Senator Beffort (SB 108). TRD estimates that, although an amnesty could bring in \$10 million or so in FY 2010, it would reduce revenue by more than this amount in future years because the department would have collected most of these funds eventually anyway, and the penalty and interest associated with them will be foregone. As the usual arguments for and against amnesties are trotted out, it would seem under the circumstances that the state might offer some relief to hard-pressed taxpayers given the array of “compliance enhancement initiatives” they are facing. Of course, some taxpayers already benefit from the state’s managed audit program which also eliminates interest and penalties. Meanwhile, given the unpredictability of revenue gained from compliance efforts, one hopes the state is not counting on every dollar of the projected amounts for purposes of balancing the budget. We tend to think that money-for-budget deals distract from the overall need to adequately fund such critical agencies and functions to begin with.

*“On second thought”*

A natural starting point in the search for revenue is revisiting tax breaks adopted during the recent “flush” times to see if we overshot the mark. Such proposals face the stiff political challenge of implying that we might have made a mistake, but in tough times it is prudent to at least consider the wisdom of decisions made under sunnier skies. Undoing income tax rate-reductions is on several lawmakers’ wish lists. This proposal has the advantages of adequacy – the revenue would be almost certain to actually appear -- simplicity and of restoring some progressivity to the state’s tax system. The downsides are the impact on the state’s competitiveness and the risk of sending the message that tax reductions in New Mexico are not permanent. Since New Mexico’s economic development lags well behind that of most states in the region, we should ask ourselves whether we can afford to have some of the highest income tax rates. Unlike targeted tax incentives, broad-based rate reductions have the advantage of not discriminating among their beneficiaries. This meets both the efficiency and equity goals of good tax policy. Speaking of targeted incentives, revisiting tax breaks recently provided to the film production industry and to the health care industry both offer significant revenue potential. The former now cost \$40 to \$50 million per year, while the latter – which include tax credits for hospitals and premiums tax credits for health insurers as well as the GRT deduction for healthcare service providers – add up to several tens of millions per year. Contrary to prior expectations, the trade off of food and medical deductions for repealing the 0.5% credit turns out not to be revenue neutral, but is instead costing the General Fund on the order of \$80 million per year. Undoing these provisions would significantly reduce the pyramiding of the GRT, helping to reduce the single biggest problem with the state’s tax system. The primary argument against is the regressive impacts on low-income households. However, the state has added significant amounts of low- and middle-income tax relief through the income tax over the last several years, thus addressing the main justification for the food and medical deductions.

*“First, do no (more) harm”*

Tax policy arguments come down strongly against increases in the gross receipts tax (“GRT”), however worthy the proposed uses for the revenue. The statewide rate already averages 7%, and local governments have been given authority to raise that to over 10%. With an estimated one-third of this tax base imposed on business-to-business transactions, New Mexico already has the reputation as one of the lower chambers of “business tax hell.” For evidence of the problem, one need look no further than the stream of interests requesting exemptions/deductions from the tax, and the lawmakers eager to accommodate them. The acceleration of these two trends – increasing rates and narrowing the base – is the state’s own version of the “race to the bottom,” although some might say we don’t have far to go.

Another well the state has tapped close to the bottom is crude oil and natural gas production taxes. This industry will be spending the next year trying to figure out whether its new cost structure is viable in a world of \$40 oil and \$4 natural gas, something that is by no means a given. Since the state’s taxes are imposed on industry gross revenue, they impose a proportionately greater burden in a falling price regime. Much harm could be done by increasing that burden at this time.

A final no-harm area to avoid is the option of creating a new “minimum tax,” an idea some states have turned to capture revenue from corporate taxpayers with no net income tax liability. Since New Mexico already has the Mother of All Gross Revenue Taxes, adding more straws to that load violates simplicity and efficiency.

*“The man behind the tree”*

An audience can almost always be found for hidden tax increases, i.e. ones that at least appear to fall on someone else. One example in current discussion is forcing taxpayers who itemize deductions to add back any state and local taxes they have deducted on their federal income tax return. This proposal has the advantage that opponents will be hard pressed to explain a purpose for the present law provision, and its advocates will argue its progressivity. Persons familiar with complicated federal law “phase-outs” might argue that we would be compounding an already byzantine set of provisions that make it almost impossible to predict what income tax bracket one is actually in. Real wonks in the audience might point to the fact that deductibility has the advantage of reducing the sting of relatively high tax rates, and thus plays a role in reducing tax disparities among states.

Cigarette smokers appear to be on many people’s lists of men behind trees. The nationwide consensus on the subject has apparently caused other states’ rates to float high enough that New Mexico’s 91 cent-per-pack rate can be described as “low.” Two counter-arguments can be offered to this proposal. One is that the current tax rates – without even counting the hidden tax imposed by the Master Settlement Agreement -- are already far out of proportion to any perceived social harm inflicted by smokers, raising the unanswerable question “how high is up?” Second, New Mexico’s unwillingness to tax tribal sales to non-tribe members leaves a gaping hole in the tax base that can be counted on to eliminate any hoped-for disincentive effects of higher tax rates. Experience from the 71-cent increase passed six years ago has amply demonstrated this effect.

Mandating combined reporting for corporate income taxpayers is the prototypical hidden tax increase. It holds out the prospect of bringing within the state's tax system revenue and income earned in other states, literally importing tax base. In practice, however, it opens the door to a lucrative "litigation lottery" for both the state and for taxpayers, with the likeliest beneficiaries being sophisticated tax attorneys. While "some of our best friends are tax attorneys," any anticipated revenue gain from the proposal should be included in the "high risk" portion of the state's portfolio. Meanwhile, the state's reputation for business climate will take another hit, leaving economic developers to invent more incentives to attract investment.

*"What's left?"*

So what is left on the least bad list of revenue raisers? One harm reduction strategy would be to make any increases temporary, perhaps lasting two years, to see if that is enough to get the state through fiscal crisis. The personal income tax would be a likely target if relatively large amounts of revenue (over \$100 million) are needed. The list of taxes with unjustifiably low tax rates is a short one, but it includes at least two from which significant amounts can be raised -- the Motor Vehicle Excise Tax and the Insurance Premiums Tax. For the longer term, the state should embark upon membership in the Streamlined Sales Tax Project. In addition to helping address GRT base erosion through remote sales, this would help to address the numerous weaknesses in the compensating tax, thus providing long term relief to local government budgets. Equity and efficiency could both be served.

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## **KNICK KNACKS**

California has failed to reach a hoped-for budget compromise this week. Mandatory state employee furloughs have begun, and refunds continue to go unpaid. Meanwhile, California, Connecticut, Minnesota, and North Carolina have introduced proposals designed to impose New York-style internet nexus standards, generally where direct or indirect references by residents to potential customers of remote sellers. Also, tax compliance folks should keep your eyes open for tax amnesty programs, as they tend to proliferate in times of economic need.

The Legislative Finance Committee recently identified and now prints good tax policy principles of their own on each tax related fiscal impact report they issue. The importance of viewing tax policy through the context of rational principles cannot be overstated. Kudos to the LFC, who prints the following in their tax related FIR's for the legislators to see:

**The Legislative Finance Committee has adopted the following principles to guide responsible and effective tax policy decisions:**

- 1. Adequacy: revenue should be adequate to fund government services.**
- 2. Efficiency: tax base should be as broad as possible to minimize rates and the structure should minimize economic distortion and avoid excessive reliance on any single tax.**
- 3. Equity: taxes should be fairly applied across similarly situated taxpayers and across taxpayers with different income levels.**

4. **Simplicity:** taxes should be as simple as possible to encourage compliance and minimize administrative and audit costs.
5. **Accountability/Transparency:** Deductions, credits and exemptions should be easy to monitor and evaluate and be subject to periodic review.

More information about the LFC tax policy principles will soon be available on the LFC website at [www.nmlegis.gov/lcs/lfc](http://www.nmlegis.gov/lcs/lfc)

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## TAX QUOTABLE:

"Its income tax time again, Americans: time to gather up those receipts, get out those tax forms, sharpen up that pencil, and stab yourself in the aorta."

~ *Dave Barry*

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**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.

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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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