

# ***Tax Matters***

*The Newsletter of the New Mexico Tax Research Institute*

Issue No. 2010-2

January 31, 2010

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

- **The Legislative Session Moves On...**
  - **Ongoing Tax Activity**
  - **List of Tax Related Legislation**
- **Knick Knacks**
  - **Oregon Increases Taxes on Income and Business**
  - **States Propose Unlikely Business Tax Reductions**
  - **California Governor’s Shout Out to NM**
- **Tax Quotables**
- **Don’t Forget the Principles-Redux**

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## INTO THE LEGISLATIVE SESSION



The 2009 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 is this coming 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, joined by others such as domestic partnerships and defining marriage.

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.

Thus far, there are still no great surprises as the litany of tax proposals we’ve come to expect have already appeared and similar ones continue to do so. There are various income tax increase proposals, as well as those for alcohol and tobacco. The interesting thing about the income tax proposals is that they do vary, both in structure, fiscal impact and effective date... not to mention committee assignments. So far, no tobacco bill addressing the serious “leakage” problem have been introduced (dealing with the shifting of purchases to non-taxed sellers like tribes and internet sellers), however Senator Harden has introduced a measure to repeal the tribal deduction in its entirety.

Both Senators Eichenberg and Boitano have introduced property tax legislation in efforts to address “tax lightning”, as have Representative Giannini and Senator Neville. Mandatory combined reporting for corporate income taxes has been introduced in both houses, and two identical proposals exclude manufacturing from the requirements. That aside, no good policy changes or clarifications, such as the retention of the federal consolidated filing option, have yet to be proposed. On the subject of “not yet proposed” tax hikes, no increases to the motor vehicle tax has yet been seen, nor have measures to increase oil and gas taxes, gasoline taxes, or insurance premiums taxes (other measures frequently discussed in interim committees and the governor’s task force).

The proposal to increase gross receipts taxes by Speaker Lujan (HB119) passed its first committee and is waiting to be heard in its last House committee, the House Taxation and Revenue Committee, as has the Speaker’s revised pass-through entity and oil and gas proceeds withholding expansion (HB120). House Bill 50 from Representative Eleanor Chavez eliminates the exception from “engaging in business” for third party content owners on a world wide web site located in NM for purposes of the gross receipts tax. It 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 (similar to so-called “Amazon” proposals in other states). The proposal may not be constitutional, however there is a recent trend of states’ attempting to broaden their

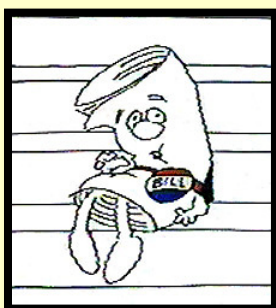
taxation of internet commerce in this way, and New Mexico’s prohibition on the collection of compensating tax presents an ever-growing are of lost revenue and taxpayer inequity.

A list of tax related bills is compiled for your information below. More will come, of course, at least through Wednesday...

The Legislative Council Service maintains copies of bills, compiles locators, and publishes lists of bill conflicts during the course of the session. Most information is available in a timely and electronic fashion from their 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, June 19, 2009. Effective date for GRT bills is July 1, 2010 unless otherwise noted. Income Tax bills are 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 and in-plant employee development training programs.	HLC/HAFC- HLC
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
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
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

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 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.	HARK/HAF C-HARK- DP/a-HAFC
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
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- HTRC
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	HBIC/HTRC -HBIC-DP- HTRC

	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 affect January 1, 2011. Definitions and "safe harbor" provisions have been added to the prior year's proposal, and publicly traded partnerships are excluded.	
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
HB 143 Stewart	<b>Deducted State Taxes as Income: <a href="#">HB 143</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.	HBIC/HTRC -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
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

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
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 tax.	HBIC/HTRC -HBIC
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
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
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

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 present definition which looks to the federal food stamp program definition.	SCC/SCORC /SFC-SCC- grmn- SCORC
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
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	SCC/SJC/SF C-SCC- grmn-SJC

	ratio of the old and new property and applying that ratio to the real value of the new property.	
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
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
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	SCC/SCORC /SFC-SCC

	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.	
SB 90 Wirth/Bega ye	<b>Corporate Income Tax Reporting and Distribution: <a href="#">SB 90</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 (with an exception for manufacturers). Repeals the option for a corporation to report on a federal consolidated basis.	SCC/SCORC /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
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	<b>Property Valuation Time &amp; Increases: <a href="#">SB 139</a></b>	SCC/SJC/SF

Boitano	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.	C-SCC-grmn-SFC
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 from \$.41to \$.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.	SCC/SCORC /SFC-SCC-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
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/SCORC/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
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
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
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
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 Lopez	<b>Increase Certain Income Tax Rates: SB 210</b> Creates a new personal income tax rate of 5.9% all filers with taxable income in excess of \$100K.	SCC/SCORC /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

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## **Knick Knacks**

### **Oregon Enacts Higher Income and Business Taxes**

Oregon's recent tax referendum passed in a very close vote along class lines. Oregon had put the question of increasing personal and corporate income taxes before the voters and narrowly passed both. The well done Wall Street Journal article can be found [here](#), and in a tax calculator and links to numerous blogs on the subject can be found on *The Oregonian* website [here](#).

### **Some States Propose Tax Cuts**

Despite the economic bad and times, and perhaps because of them, several states have proposed business tax cuts, in part or whole motivated by the desire to create jobs. Many involve corporate taxes. New Mexico has room for concern given its already uncompetitive overall structure in the region. Although the likelihood of significant tax reductions in these budgetary times is quite low. Oklahoma has proposed a single weighted sales factor, Arizona a repeal of the corporate income tax entirely, and Utah another rate reduction.

### **Governor Schwarzenegger's Shout Out to New Mexico**

In his 2010 state of the State address, California Governor Arnold Schwarzenegger singled out New Mexico when speaking of fairness in federal spending, commenting that they get many fewer federal dollars for every dollar paid in taxes:

“Now, another major item is this: Federal funds have to be part of our budget solution because the federal government is part of our budget problem. When President Clinton was in office, California got back 94 cents on the dollar from the federal government. Today we only get 78 cents back. But in the meantime, Texas gets 94 cents, Pennsylvania gets \$1.07, Alaska, with all its oil, gets back \$1.84 for every dollar. And guess what New Mexico gets? \$2.03. This should be much more fair and equitable. We are not looking for a federal bailout, just for federal fairness. (Applause)”

The governor is not incorrect in that New Mexico does in fact receive over \$2 for every dollar paid in federal taxes (see Tax Foundation report on the subject [here](#)... we win by a penny over Mississippi in 2005). However, he forgets that California is a wealthy state regardless of their inability to balance their budget and tax and tax or not spend. Taxes are both based on ability to pay as well as services received, so it should come as no surprise that one of the poorest states in the nation receives relatively more federal dollars per capita than one of the richest.

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## **TAX QUOTABLE:**

“I like to pay taxes. It is purchasing civilization.”

-- *Oliver Wendell Holmes*

“Any tax is a discouragement and therefore a regulation so far as it goes.”

-- *Oliver Wendell Holmes, Jr.*

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## DON'T FORGET THE PRINCIPLES - REDUX



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:

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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