

# ***Tax Matters***

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

- **The Legislative Session Moves On...**
  - **Ongoing Tax Activity**
  - **List of Tax Related Legislation**
  - **Senate Considers Corporate Tax Measures**
- **House Approves Budget**
- **Knick Knacks**
- **Tax Quotable**

## 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> was the last day that new bills or capital outlay requests could be introduced. So, the process will continue to slog along as the days get longer and longer.

As it was a week ago, still only five bills have been passed by both houses with the only tax related measure being Senator Smith's Senate Bill 80, the corporate income tax measure that restores the first estimated quarterly payment. Most tax provisions in the House that carry positive fiscal impacts end up temporarily tabled, and the House and Senate tend to end up in a periodic *détente*, where neither side really wants to hear any of the other's bills until theirs' begin to get heard. It's always good to remember there are always exceptions to the ways things generally work 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.

### 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=committee substitute; A=amended

Bill Number/ Sponsor:	Title: Link to bill language: Description	Assignments -Location:
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	HTRC-H Floor w/drn ref HTRC- HTRC

	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.	
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 DP/a-HAFC w/drn PASSED/H SJC/SFC- SJC
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 re-impose the local hospital GRT more than once up to a total of 40 years and to modify the uses to which revenue could be put.	HHGAC/HT RC-DP- HARK- DP=PASSE D/H- SRC/SJC- SRC
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; (2) the value of uncompensated care provided in the year and (3) tax liability. Applicable TYBA 1/1/2010.	HHGAC/HT RC- HHGAC- DP-HTRC
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	HBIC/HTRC -HBIC

	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.	
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 62 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- DP-HTRC- DP- PASSED/H (62-0) SCORC/SFC -SCORC
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, 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.	HENRC/HT RC/HAFC- HENRC

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- DP- PASSED/H- SCORC/SJC -SCORC
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-DP- HTRC
HB 135 Miera	<b>County health care GRT increment: <a href="#">HB 135</a></b> Authorizes the Bernalillo County Commission to continue to impose a 1/16% GRT option to fund health care for indigent patients after the June 30, 2009 sunset date in present law. The amendment adds an emergency clause which would make the bill effective immediately upon signature of the governor.	HHGAC/HT RC-DP/a- HTRC-DP PASSED/H (62-0) SCORC/SFC -SCORC
HB 160 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-w/drn ref HJC- w/drn-T
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-DP- HTRC
HB 178	<b>Unclaimed property recovery fee limit: <a href="#">HB 178</a></b>	HCPAC/HT

Crook	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.	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- DP- PASSED/H SPAC/SJC- SPAC
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- DP/a-HTRC- DP- PASSED/H SCORC/SFC -SCORC
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-DP- HARK-DP/a PASSED/H SCORC/SFC -SCORC
HB 261	<b>Estimated future property tax information to buyers: <a href="#">HB 261</a></b>	HBIC/HTRC

Sandoval	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
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 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."	HCPAC/HT RC-HCPAC DP-HTRC- DP- PASSED/H SCORC/SFC -SCORC
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- DP- HTRC- DP- PASSED/H SCORC/SFC -SCORC
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- DP-HTRC
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-DP- PASSED/H SCONC/SFC -SCONC
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-DP- HTRC
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	HBIC/HTRC -HBIC

	every year on all tax expenditures exceeding \$1 million annual general fund impact.	
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- DP/a-HTRC- DP- PASSED/H SCONC/SJC -SCONC- DP-SJC
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- DP-HTRC
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 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.	HTRC/HAF C-HTRC- DP-HAFC
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- DP-HTRC- DP- PASSED/H SPAC/SFC- SPAC
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-DP- HTRC
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-DP- HTRC
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	HHGAC/HT RC- HHGAC-

	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.	DP-HTRC-DP-PASSED/H SCORC/SFC-SCORC
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-DP-HTRC-DP-PASSED/H SCONC/SFC-SCONC
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/HAFC-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 amendment removes non-film PTE requirements.	HBIC/HTRC-HBIC-DP/a-HTRC-DP-PASSED/H SCORC/SFC-SCORC
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-DP-HTRC-DP-PASSED/H SCORC/SFC-SCORC
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/HTRC-HCPAC w/o rec-HTRC-DNP-CS/DP-

		PASSED/H-SPAC/SFC-SFC
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 w/o rec/a-HTRC
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-DP- HTRC
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-DP- HTRC-DP/a- PASSED/H- SCORC/SFC -SCORC
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-DP- HTRC-DP/a- T
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-DP- HTRC-DP-

		PASSED/H-SCORC/LFC-SCORC
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-HTRC-DP-HAFC-DP-PASSED/H-SJC/SFC-SJC
HB505 Trujillo	<b>Retail Communication Gross Receipts <a href="#">HB 505</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-DP-HTRC
HB509 B. Lujan	<b>Health care practitioner gross receipts <a href="#">HB 509</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-HHGAC-DP-HTRC
HB510 B. Lujan	<b>Clinical nonprofit lab service gross receipts <a href="#">HB 510</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-HHGAC-DP-HTRC
HB528 Vigil	<b>Increase liquor excise tax <a href="#">HB 528</a></b> Increases liquor excise tax from: \$1.60to \$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="#">HB 554</a></b> Creates a new deduction from gross receipts and special fuels (“diesel”) tax fuel consisting of ninety percent or more vegetable or animal fat. Effective July1, 2009.	HBIC/HTRC -HBIC-DP-HTRC
HB556 R. Gonzales	<b>Local option hospitality excise tax <a href="#">HB 556</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 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.	HBIC/HTRC /HAFC-HBIC
HB571 Mary Helen Garcia	<b>Chile production income tax credit <a href="#">HB 571</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-DP-HTRC
HB626 Sandoval	<b>Investment credit time period <a href="#">HB 626</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	HBIC/HTRC -HBIC

	investment credits for one taxpayer of no more than \$2 million	
HB627 Maestas	<b>Albuquerque route 66 tax increment district <a href="#">HB 627</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- DP-HAFC
HB632 Lundstrom	<b>Increase weight distance tax rate <a href="#">HB 632</a></b> Weight determined tax rates for buses and non-buses are increased approximately 5% across the board. Effective July 1, 2009.	HTPWC/HT RC- HTPWC-DP- HTRC
HB649 R. Gonzales	<b>Increase motor vehicle excise tax &amp; create fund <a href="#">HB 649</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 Cote	<b>Military retiree rural health care tax credit <a href="#">HB 655</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- DP-HTRC
HB657 MH Garcia	<b>Substitute teaching tax deduction <a href="#">HB 657</a></b> Provides a personal income tax deduction of up to \$50,000 in income earned from substitute teaching by a retired full time teacher with 20 or more years of experience. TYBA 1/1/2009.	HEC/HTRC- HEC
HB680 Taylor	<b>Health practitioner gross receipts definition <a href="#">HB 680</a></b> Expands healthcare practitioner gross receipts tax deduction to include copayments and other patient payments made in connection with a healthcare insurer or managed health care provider. Effective July 1, 2009.	HHGAC/HT RC- HHGAC- DP-HTRC
HB682 Rehm	<b>Motor vehicle tax as actual price paid <a href="#">HB 682</a></b> Strikes current law provision that requires value for purposes of the motor vehicle excise tax be the “reasonable value” if the price paid does not reflect that, essentially limiting taxable value to the price paid.	HCPAC/HT RC-HCPAC- DP-HTRC
HB725 Kintigh	<b>Repeal film production tax credit <a href="#">HB 725</a></b> Repeals the film production tax credit and limits the amount and type of film related investments that can be made from the severance tax permanent fund. Effective July 1, 2008	HBIC/HTRC -HBIC
HB742	<b>Cigarette tax rated &amp; distribution <a href="#">HB 742</a></b> More than doubles the current cigarette tax rates (approx. 209% increase) while decreasing distribution percentages to specific beneficiaries by an average 31% (the general fund is the remaining beneficiary). The proposal also increases the tobacco products tax by 60% (25% to 40% of retail value) and reduces discounts for cigarette stamps. Effective July 1, 2009.	HBIC/HTRC -HBIC w/drn - ref HHGAC/HT RC- HHGAC- DP-HTRC

HB764 Begaye	<b>Local hospital gross receipts imposition <a href="#">HB 764</a></b> Relaxes eligibility for the local hospital gross receipts tax local option. Newly eligible counties can impose a quarter percent in eighth percent increments but must dedicate the revenue as matching funds for federal state programs benefitting a hospital in the county that is designated a sole community provider. Voter approval is not required to enact the increases. Effective July 1, 2009.	HBIC/HTRC -HBIC
HB783 Martinez	<b>Occupancy tax rates &amp; uses <a href="#">HB 783</a></b> Allows an increase in the occupancy (“lodgers”) tax a governing body can impose from 5% to 7%, but only municipalities that have a state-designated arts and cultural district within its boundaries. The additional revenue must be used for cultural development and heritage tourism activities located within the arts and cultural district.	HBIC/HTRC -HBIC
HB784 Gardner	<b>Biogas fuel production facility tax credit <a href="#">HB 784</a></b> Creates personal and corporate income tax credits for the production of biogas (>=50% methane and produced from qualified energy source) in the amount of \$2.92/million BTU’s produced. The credit is non-refundable and can be carried forward for five years.	HBIC/HTRC -HBIC
HB791 M. Garcia	<b>Tax increment district maximum period <a href="#">HB791</a></b> Limits years in which gross receipts may be dedicated to a tax increment development district be limited to 25 years.	HBIC/HTRC -HBIC
HB796 Gonzales	<b>Tax credits for renewable energy <a href="#">HB796</a></b> Creates and expands credits for certain renewable energy generating facilities and their owners to include gross receipts, compensating, and withholding tax programs.	HBIC/HTRC -HBIC
HB802 Lundstrom	<b>Weight distance tax on certain vehicles <a href="#">HB802</a></b> Increases the weight distance tax rate schedule for vehicles and buses over 48,001 lbs by approximately. Effective July 1, 2009.	HTPWC/HT RC-HTPWC
HB805 Barela	<b>Liquor excise tax distribution administration <a href="#">HB805</a></b> Limits liquor excise tax distributions to counties to for purposes of DWI programs to the maximum approved by the DWI grant council and limits allowable administrative costs to 5%. Emergency clause.	HBIC/HTRC -HBIC
HB815 Stewart	<b>Gross receipts to midwife-nurse insurance <a href="#">HB 815</a></b> Requires attorneys who participate in medical malpractice cases to separately report the receipts from those activities so the tax department can identify and distribute twenty percent of the net gross receipts attributable tax to a fund that is created to subsidize medical malpractice insurance for nurses and midwives.	HHGAC/HA FC-HHGAC
HB827 Trujillo	<b>Hybrid vehicle tax exemption <a href="#">HB 827</a></b> Creates a new motor vehicle exemption on issue of original certificate of a title a one-time motor vehicle excise tax exemption for certain hybrid vehicles purchased from July 1, 2009 through June 30, 2014.	HBIC/HTRC -HBIC
HB860 Barreras	<b>Regional transit tax distribution &amp; info <a href="#">HB 860</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.	HTPWC/HT RC-HTPWC

HB870 Park	<b>Winrock tax increment development project <a href="#">HB 870</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.	HBIC/HTRC -HBIC
HB872 Gardner	<b>No severance tax project in certain counties <a href="#">HB 872</a></b> Restricts the issuance of severance tax bonds for the benefit of city or county projects that have zoning or other onerous ordinances that have an onerous effect upon the extractive industries.	HENRC/HT RC-HENRC
HB877 M. Garcia	<b>Restore income tax progressivity <a href="#">HB877</a></b> Adds an additional 5.3% tax bracket to the existing rate/bracket structures for single, married and head of household income tax filers in tax years beginning on or after 1/1/2010, followed by a 6.0% bracket in 2011 and a 6.8% bracket in 2012.	HCPAC/HT RC-HCPAC
HB888 T. Garcia	<b>Veterans' employment tax credit <a href="#">HB888</a></b> Provides a personal and corporate income tax credit of an amount up to \$300 of wages paid to eligible veterans (discharged within prior year). The credit can be taken for up to two years per individual veteran, and can be carried forward for three years.	HBIC/HTRC -HBIC
HJM 34 Taylor	<b>Tax &amp; rev business advisory committee: <a href="#">HJM 34</a></b> Calls for the Taxation and Revenue Department to establish a business tax advisory committee.	HBIC-DP- PASSED/H -SRC- SCORC- SRC
HJM70 Begaye	<b>Military duty income tax withholding <a href="#">HJM 70</a></b> Requests the department of defense study the extent of state income tax withholding from pay of Native Americans who were domiciled within their tribal boundaries during their time in the military.	HCPAC
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-DP- PASSED/H- SRC/SJC- SRC
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-DP- PASSED/H- SRC/SJC- SRC
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/a 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 -Passed Senate
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- SFC
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- SFC
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 Feb. 6, Ch. 4 Laws 2009
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/a 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 2010 and subsequent property tax years.	SEC/SJC/SF C-SFC
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 -SFC
SB 201/aaa 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. TIDD's would be asked to contribute to a fund to finance costs of TRD's system changes.	SCORC/SFC -Passed Senate
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 -SFC
SB 213/a Beffort	<b>Weight distance tax underreporting penalties: <a href="#">SB 213</a></b> Imposes new civil penalties for underreporting either mileage or weight. Effective 7/1/2009.	SJC/SFC- Passed Senate HTPWC/HJ C-HTPWC
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 - Passed Senate HBIC/HJC- HBIC
CS/SB 237 SCONC	<b>Renewable energy production tax credit: <a href="#">SB 237</a></b> Creates new personal and corporate income tax credits equal to 6% of investments in certain power generating facilities. The credits are non-refundable but may be carried forward for 10 years. The same investments are eligible for a GRT credit under present law Section 7-9G-2 but not for other GRT credits. Criteria for the present law credit are modified to include geothermal facilities and solar facilities linked to a conventional power plant.	SCONC/SC ORC- SCORC
SB 249aa 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 -Passed Senate HBIC/HTRC

		-HBIC
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
CS SB 291 SCORC	<b>Sustainable building tax credit <a href="#">SB 291</a></b> Credits could be applied to manufactured housing that otherwise meets the requirements. Credit cap earmarked for commercial buildings could be used for multi-family housing if all current cap for residential housing has been allocated. Increases the credit rate for certain building types. Allows credits to be earned by non-profit organizations, thus enabling them to transfer the credits to other taxpayers.	SCORC/SFC -SFC
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 -SFC
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 -SFC
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.	SCONC/SJC -SCONC

	Other changes are made to the sanitation district act.	
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 school funding formula.	SEC/SFC- SEC
SB 430a 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. The credit is not available if the taxpayer claimed an itemized deduction for their property tax. Present law language allocating income of non-resident employees at certain border businesses to their state of residence is repealed.	SPAC/SCOR C-SCORC
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- SFC
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 NTT. The deductions are phased in over five years beginning in fiscal year 2010.	SCORC/SFC -SFC
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.	SCORC/SFC -SCORC

	Effective 7/1/2009.	
SB 457 Boitano	<b>2005 value for certain transferred properties:</b> <a href="#">SB 457</a> 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:</b> <a href="#">SB 458</a> 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 467aaa Ortiz y Pino	<b>Winrock tax increment development project:</b> <a href="#">SB 467</a> Authorizes the issuance of \$137 million for the first two portions of the Winrock TIDD and another \$27 million for the third stage. Requires additional oversight by the Legislative Finance Committee and by the New Mexico Finance Authority.	Passed Senate HBIC/HTRC -HBIC
SB 483 McSorley	<b>Tax increment development district moratorium:</b> <a href="#">SB 483</a> 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:</b> <a href="#">SB 487</a> 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:</b> <a href="#">SB 501</a> 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/a Payne	<b>Communication system property taxes:</b> <a href="#">SB 505</a> Exempts from the special valuations methods for communications systems those systems used for one-way communications.	SCONC/SC ORC- SCORC
SB 508 Lopez	<b>Return income tax to pre-2004 rates:</b> <a href="#">SB 508</a> 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:</b> <a href="#">SB 509</a> 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

SB 523 Ortiz y Pino	<b>Federal income deductions as state income: <a href="#">SB 523</a></b> Individual income taxpayers who itemize deductions on their federal return would be required to add back any state and local taxes included in their itemized deductions in determining taxable income for state income tax purposes. Applies to TYBA 1/1/2009.	SCORC/SFC -SCORC
SB 530 Campos	<b>Energy generators renewable tax credit: <a href="#">SB 530</a></b> Increases the annual amount of renewable energy production tax credits from 2.5 million megawatt hours to 3.2 million MWh. Imposes new limits on total credits according to the source of the power. Applies to TYBA 1/1/2009.	SCONC/SFC -SCONC
SB 537 Boitano	<b>Property taxation &amp; valuation upon sale: <a href="#">SB 537</a></b> Requires re-valuation of residential property in tax year 2010 to bring all counties up to at least 92% of current and correct market value. The 3% annual limit on residential property value increases would be reinstated beginning in tax year 2011. The 3% limit would continue to apply when a property is sold.	SCORC/SFC -SCORC
SB 541/a Lovejoy	<b>Native American veterans' tax settlement fund: <a href="#">SB 541</a></b> Makes several administrative changes to the management of the fund. Appropriates \$2 million from the General Fund to the fund for its purposes.	SIAC/SFC- SFC
SB 552 Martinez	<b>County correctional facility taxes: <a href="#">SB 552</a></b> Increases the county correctional facilities GRT option from 1/8% to ¼%. Voter approval would be required prior to imposing the additional 1/8%.	SCORC/SFC -SCORC
SB 554 Ulibarri	<b>County gross receipts tax for bond repayment: <a href="#">SB 554</a></b> Authorizes counties to use an additional 1/16% of their county local option GRT for bond debt service repayment.	SFC-SFC
SB 558 Beffort	<b>Retired military medical practitioner tax deduction: <a href="#">SB 558</a></b> Allows an income tax deduction for the retirement pay of a retired military medical practitioner who provides at least 2,080 hours per year of medical services in a medically underserved area. Applies to TYBA 2009.	SPAC/SFC- SFC
SB 559 McSorley	<b>Employer family medical leave tax credit: <a href="#">SB 559</a></b> Allows employers an individual or corporate income tax credit for 25% of the wage cost of providing family medical leave. The credit is non-refundable and no carryover is provided. Applies TYBA 1/1/2009.	SCORC/SFC -SCORC
SB 564 Duran	<b>Property tax increase disclosure info: <a href="#">SB 564</a></b> County assessors would be required to provide a good faith estimate of the potential increase in property taxes after a home is sold. Property owners would be required to provide the information to any prospective purchaser.	SCONC/SC ORC- SCONC
SB 576 Fischmann	<b>Tax increment defined: <a href="#">SB 576</a></b> Narrows the definition of GRT increment revenue to the GRT paid by new companies or companies newly-located in New Mexico.	SFC/SCORC -SCORC
SB 578 Cisneros	<b>Local option hospitality liquor tax act: <a href="#">SB 578</a></b> Authorizes municipalities of less than 15,000 population to impose a 2% tax on the retail value of alcoholic beverages. Imposition would be	SCORC/SFC -SCORC

	subject to voter approval and funds would be used for economic development projects.	
SB 595 Munoz	<b>State lodgers gross receipts surtax: <a href="#">SB 595</a></b> Imposes a 10% tax on gross receipts from offering temporary lodging. Proceeds are earmarked to new funds and to the General Fund. Effective 1/1/2010.	SCORC/SFC -SCORC
CS SB 601 SCONC	<b>Use of conserved water from tax credits: <a href="#">SB 601</a></b> Allows water for which the tax credit for agricultural water conservation has been claimed to be put to beneficial consumptive use pursuant to a permit issued by the State Engineer.	SCONC/SFC -SFC
SB 603 Campos	<b>Private school tuition tax deduction: <a href="#">SB 603</a></b> Creates an income tax deduction for up to \$500 per year of tuition for a dependent to attend a private, non-profit elementary or secondary school.	SEC/SFC- SFC
SB 618 Sharer	<b>Internet investment tax credit: <a href="#">SB 618</a></b> Creates a non-refundable credit against CRS taxes for 100% of expenses of constructing high-speed internet delivery systems in counties other than Class A counties. Applies to TYBA 1/1/2010.	SCORC/SFC -SCORC
SB 619 Sharer	<b>Taxation of energy imports: <a href="#">SB 619</a></b> Exempts from corporate income tax income from the sale of energy outside the state. The exclusion begins at 100% and phases down to 25%. Applies TYBA 1/1/2010.	SCORC/SFC -SCORC
SB 620 Sharer	<b>Energy exporting jobs tax credit: <a href="#">SB 620</a></b> Creates a new refundable credit against CRS taxes for 25% of the wages and benefits paid to a new employee in an energy-exporting job. Applies TYBA 1/1/2020.	SCORC/SFC -SCORC
SB 641 Cisneros	<b>Tax administration food &amp; medical credits: <a href="#">SB 641</a></b> Allows for the downward adjustment of the hold harmless distribution rate when a municipality or county reduces its total GRT imposed. Extends period of time to file a protest from 30 days to 90 days. Allows representation by enrolled agents for state income tax hearings. Increases the threshold for tax abatements requiring AG's approval from \$10,000 to \$25,000. Other administrative changes are made to the Tax Administration Act.	SCORC/SFC -SCORC
SB 647 Wirth	<b>Renewable energy financing district act: <a href="#">SB 647</a></b> Allows local governments to create special property tax districts composed of property owners who agree to be assessed a levy to pay off the cost of installing renewable energy equipment on their property. Districts would be authorized to issue bonds to finance equipment purchase and installation.	SPAC/SFC- SFC
SB 648 Wirth	<b>Corporate income tax rates and payments: <a href="#">SB 648</a></b> Corporate income tax rates would be modified to 0% on the first \$250,000 of taxable income and 7.6% on amounts above \$250,000. The corporate franchise tax would be increased by a tax at a rate of 0.0084% times the sum of 1) the excess above \$5 million of the taxpayer's property in the state, (2) the excess above \$1.2 million of the taxpayer's payroll and (3) the excess above \$9.3 million of the taxpayer's sales in New Mexico. Property, payroll and sales would be defined as under the apportionment	SCORC/SFC -SCORC

	rules in section 7-4 NMSA. Taxpayers would be allowed to take a credit against the new tax for the amount of corporate income tax they pay. Applies TYBA 1/1/2010.	
SB 660 Cisneros	<b>Liquor excise tax distributions: <a href="#">SB 660</a></b> Creates a new distribution of \$20,000 per month of net liquor tax receipts to Taos County for alcohol detoxification and treatment programs.	SCORC/SFC -SCORC
SB 665 Cravens	<b>Malt beverages as spirituous liquor: <a href="#">SB 665</a></b> Subjects flavored malt beverages to the liquor excise tax and directs revenue to programs for prevention of underage drinking.	SCORC/SFC -SCORC
SB 673 Eichenberg	<b>State-assessed property tax revenue fund: <a href="#">SB 673</a></b> Provides a distribution of 1% of property taxes collected from state-assessed property to a fund for the Property tax Division for administrative purposes.	SCORC/SFC -SCORC
SB 677 Boitano	<b>No elected county assessors: <a href="#">SB 677</a></b> Converts county assessor positions from elected to appointed.	SPAC/SJC- SPAC
SB 684 Keller	<b>Oil and gas revenue predictability: <a href="#">SB 684</a></b> Authorizes the State Board of Finance to enter into hedging contracts if the Board finds that the contracts will reduce volatility of severance tax bonding fund revenue.	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



### Senate Considers Major Corporate Income Tax Changes

Two significantly different proposals have been introduced in the Senate, each of which would make significant changes in the corporate income and franchise tax code. Senate Bill 389 mandates that unitary corporations file a combined return rather than being able to file as separate entities. Senate Bill 648 creates a new add-on to the corporate franchise tax based on a percentage of the taxpayer's New Mexico factors – payroll, property and sales – used to apportion corporate income tax. Taxpayers would be allowed a credit against the new tax for the amount of corporate income tax they owe. The bill also provides a CIT cut for firms with taxable income below \$1 million by creating a new “zero bracket” for the first \$250,000 of taxable income. The proposals could be combined. Alternatively, the franchise tax proposal could be used to “buy down” the relatively

high corporate tax rate of 7.6%, or replace the corporate income tax altogether. It is not clear which direction the sponsor of both proposals, Senator Peter Wirth, will take. The mandatory combined proposal has been introduced several times previously in its current form; however the franchise tax proposal has not been seen before and was crafted by the Taxation and Revenue Department. The proposals raise a number of issues – including some that apply to both measures and some that are specific to each.

*Issues common to both bills:*

- Both bills are designed to increase corporate income taxes significantly. If revenue raising is the primary political goal, a key question is how much revenue needs to be raised? As noted below, the answer to this question affects the choice of provisions in implementing combined reporting. The corporate income tax is inherently uncertain and unpredictable, and is thus a poor candidate to provide significant long-term revenue. The franchise tax proposal is probably a more predictable revenue source.
- Since corporations are merely a legal form for doing business, their net income is eventually passed through to their owners where much of it is taxed again. This double taxation does not apply to other forms of doing business like limited liability corporations. By increasing tax on the corporate form of doing business, both proposals exacerbate the unfairness of the existing tax system to some extent.
- Given the added complexity associated with each bill, it seems unlikely/unreasonable to expect that both would be approved. Thus it appears that a choice should be made between the bills.
- Also given the added complexity, neither provision should take effect before January 1, 2010 or even 2011.
- Economic incidence of the corporate income tax is unclear, even after decades of research. This has several implications. One is that arguments for or against either proposal based on incidence should not play a prominent role in the choice between the two bills. Another is that the proposals would both suffer from the same weakness – we don't know who will bear the ultimate burden of the tax.
- Notwithstanding uncertainty about incidence, such significant increases in tax on the corporate sector raise the potential for negative impacts on the state's competitive position. Some studies have shown that New Mexico places a relatively heavy tax burden on investment when compared with other western states. The proposals both have the effect of increasing that burden to some extent.

*Issues specific to Senate Bill 389, Mandatory combined reporting:*

Revenue adequacy:

The revenue estimate for this bill is highly uncertain – more so than that for SB 648. The estimate is based on a survey of estimates by other states, data are not available from actual New Mexico tax returns. One source of uncertainty is what approach the bill proposes to the treatment of NOL's of unitary group members. A review of other states' estimates by Ernst & Young found that, if the NOL's of each group member are allowed on the group's return – a treatment we recommend as outlined below -- the net revenue gain from mandating combined may be decreased significantly. This is probably more true in the current economic environment than otherwise because of the prevalence of losses. Current conditions could bring in newly generated losses to new combined groups as well, regardless of NOL treatment.

As is the case in another bill, Rep Stewart's House Bill 346, the proposal attempts to create the appearance of linking the proposal to a particular revenue need; education funding increases is the espoused goal/beneficiary here. **NMTRI Note:** Whenever revenue streams are "dedicated" to beneficiaries but are still subject to appropriation, there is no guarantee the beneficiary will benefit or the tax will be used in the apparently intended manner. Not only do such mechanisms likely constitute "log rolling", they represent an insubstantial political tactic and should be ignored when viewing the merits of a proposal in the context of good tax policy principles.

#### Complexity:

Mandating combined filing would impose additional complexity for New Mexico taxpayers. Firms would have to determine the nature of the unitary group that has connection to New Mexico. Currently over 18,000 of the state's roughly 20,000 corporate income taxpayers file as separate entities. Many of these would probably not be affected by the combined requirement, but the new requirements would nonetheless affect a large number of taxpayers. It is hard to predict how much additional litigation this would cause, but it seems likely that at least in the early years there would be increased litigation over which members belong in the unitary group. The Tax Department currently lacks expertise to administer the provisions, an important reason to delay the implementation.

#### Economic development:

The bill would significantly increase tax on the corporate sector. Since New Mexico already imposes tax at one of the highest rates in the region, this would almost certainly create economic development concerns. Since the New Mexico CIT base depends heavily on mining and manufacturing firms, both of which export significant amounts of their products, it could be argued that the proposal will have negative impacts on exports, thus reducing the potential multiplier effects of investments by these firms. A likely consequence would be increased pressure for economic development incentives, which would exacerbate unfairness and complexity.

#### Fairness:

One argument for the proposal is that mandating combined is fairer to the "legitimately" separate entity corporations. This is perhaps true in general, but as noted below, much of the intended fairness may be negated depending on how the provisions are implemented. Also, as part of a transition, taxpayers who have located in the state in recent years could be grandfathered in for a few years, to prevent a punishing form of "bait and switch".

#### Suggested changes to balance the bill:

- The definition of "unitary" should be modified in statute. The Blue Ribbon Tax Reform Commission recommended the definition from Colorado statutes, which attempts to provide a number of quantitative guidelines and thereby reduce uncertainty. The present law definition is very broad and lacking in measurable criteria.
- NOL's, credits, and other tax attributes should be usable at the group level and not trapped at the individual company level. This treatment is most consistent with the "theory" behind

- unitary reporting. One consequence is that the revenue gain is lower in the short run than if NOL use is denied.<sup>1</sup>
- The proposal should not remove the present law option to file as a federal consolidated group. This is a taxpayer-friendly approach to simplify compliance, which is generally consistent with the principles of combined reporting. The downside is the potential for inclusion on the consolidated return of non-unitary businesses with NOL's, which could reduce total tax liability.
  - Depending on the revenue need, lowering the corporate income tax rate would help to mitigate the potential for negative economic development impacts.
  - Given the added complexity, a delayed effective date – To January 1, 2011, would ease the transition.
  - As a further reform measure, the sponsor could consider repealing the “throwback” rule in present law (section 7-4-17(B)(2)). These rules are used to include in the New Mexico tax base sales that occur in states where the taxpayer does not have nexus. The notion is that these “nowhere sales” somehow escape taxation. The problem with this argument is that it deliberately departs from the logical structure of the apportionment rules for the simple reason of increasing state tax revenues. This is arbitrary and aggressive tax policy.
  - Other issues that should be addressed in statute for clarity and ease of compliance/administration include the “Joyce/Finnegan” issue. (Sourcing of factors of non-nexus entities in the combined group.)

*Issues specific to Senate Bill 648, Increased corporate franchise tax:*

Revenue adequacy:

The fiscal impact estimate for SB 648 was based on an analysis of N.M. CIT returns. It is probably a more reliable estimate of the actual revenue to be realized than the estimate for SB 389. However, because the revenue impacts are based on the net increase from the new tax over the amount taxpayers will owe under the CIT, the difficulty of forecasting the latter makes the estimate of the former that much more uncertain.<sup>2</sup> In addition, the newness of the tax, and the uncertainty about many rules that will have to be developed, creates uncertainty about the estimate. One source of uncertainty in the estimate is the inclusion of factors of all businesses at least 20% owned by a C-corporation. These factors may not be reflected currently on CIT returns. Although this additional tax base offers the potential of additional revenue to be gained from the proposal, it also means that the true reach and burden of the tax is unknown. In

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<sup>1</sup> This implies that TRD should be directed to repeal portions of 3.4.1.11 NMAC which currently limits NOL's used by combined groups, as it is of a questionable basis in statute and contrary to the NMTRD's general policy of encouraging taxpayer movement “up the ladder” to combined reporting. Maintaining these regulations while mandating combined reporting would result in the greatest positive fiscal impact resulting from an unprincipled and inequitable application of bad tax policy.

<sup>2</sup> Although this uncertainty may not be a concern to the state, it could certainly be of concern to some taxpayers. The new tax essentially guarantees the state they will receive a certain amount – the greater of CIT or the new tax. Thus, if the current CIT forecast turns out to be too high, the new tax will generate more than is currently estimated, but the state's total revenue from CIT and the new tax combined is the same. For taxpayers, however, there is a material difference. If their CIT liability turns out to be lower than the state currently expects, the new tax becomes an even larger new burden. Since this situation could result if, for example, the economy weakens more than expected, the additional tax burden will come at a particularly inopportune time.

addition to the issues mentioned below, rules will be required to determine the method of calculating ownership shares.

#### Complexity:

Adding a new tax without substituting it for another tax adds complexity. The tax relies on the payroll/property/sales definitions under UDITPA, which are not currently used to determine liability, only to apportion it among states. The property factor is especially troubling. It is based on historic cost with no allowance for depreciation and with no offset for the liabilities incurred in acquiring property. The sales factor for purposes of the new tax will probably differ significantly from that for CIT because the provisions of PL 86-272 will not apply. Although this expands the tax base, it also means the true scope of the tax is unknown. The state's current throwback rule could interact with the new provision in a way that will exacerbate the unfairness of the former. Sales that do not occur in New Mexico will be added to the base of the new tax, distorting the relationship between that base and the benefits justification for the tax. The "cost of performance" rules for sales apportionment often create distortions. The statute creates new rules for inclusion of "related business entities" that are different from present law and will require new analysis by taxpayers, essentially creating a new definition of "unitary" for purposes of this tax. Since the bill requires that the factors of related entities be reflected on the owner's tax return, and also that any CIT paid on behalf of an entity be allowed as a credit against the new tax, rules will be needed to clarify how these calculations will be done.

#### Economic development:

The new franchise tax liability is insensitive to net income – it will impose a heavier burden on less-profitable firms and in soft economies. The added burden will be especially heavy for firms with large amounts of sales and/or property and relatively low rates of profit. An example might be the operators of the national labs, who derive a small percentage profit relative to the dollar value of their sales. Although it uses income tax definitions, the new tax on factors is a hybrid of taxes on payroll, property and sales. Since New Mexico already imposes other taxes on those factors, those tax burdens will be exacerbated. Also, to the extent it falls on payroll and property, it will be seen as a disincentive to invest in those things in New Mexico.

#### Fairness:

The usual tax policy motivation of a franchise tax is that it compensates the state for the benefits of public services provided to companies operating in the state. In general, the UDITPA factors are a reasonable means of measuring business presence and therefore indirectly of benefits provided (although note the concerns mentioned under "Complexity"). The problem with the benefits rationale is that the tax appears discriminatory because it contains thresholds that exclude large numbers of taxpayers. Also, as a tax on only C-corporations<sup>3</sup>, it excludes most businesses in the state. Most of the other states that have implemented some kind of alternative business activity tax have tried to apply their tax to all types of business entities, not just to C-corporations.

#### Suggested changes to the bill:

- If the intent is to exclude S-corporations, that should be clarified.

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<sup>3</sup> We understand the bill may be modified so that the new franchise tax does not apply to S-corporations. All business types are drawn into the tax to the extent that they are at least 20% owned by a C-corporation.

- Some clarification is needed of the rules under which factors will be aggregated among related entities, and also how credit for CIT paid on behalf of an entity will be reflected appropriately on tax returns.
- Clarification could be provided for how ownership will be determined.

*Possible goals of the proposals:*

One premise for the two proposals could be that C-corporations are not paying enough tax in New Mexico. Some writers have pointed to the decrease of federal CIT collections when compared with total output, as well as to decreased collections in other states, as evidence that corporations are using avoidance to reduce their CIT liabilities. However, as the following chart indicates, CIT collections in New Mexico have actually increased relative to gross state product over the last 20 years. Even if the series were adjusted for trends in revenue from the oil and gas industry, there is no apparent downward trend that might justify the concern that avoidance activity has increased significantly.



The other problem with raising tax on C-corporations is that such taxation is difficult to justify. CIT was once justified as a tax on the privilege of access to capital markets (i.e. New York Stock Exchange) and limited liability, although it has been argued that limited liability should be encouraged rather than discouraged because it is an efficient way to organize large amounts of capital and to manage risk. In any case, since limited liability is no longer the exclusive province of C-corporations, that justification is no longer available. Another justification is that the tax contributes to the progressivity of the tax system. Unfortunately, analysis of the economic incidence of the tax is largely inconclusive, leaving the question of its progressivity unanswered. Finally, the tax is sometimes justified as a benefits tax, i.e. a payment by the corporate entity for the benefits derived from state and local public services. This argument is weakened because the tax only applies to certain business entities, whereas the benefits of public services are presumably derived by all forms of businesses. Thus, the tax policy justifications for increasing taxes on C-corporations do not seem to carry a great deal of weight.

The remaining possible rationale for the proposals is not just to raise revenue, but to improve the fairness and administrative simplicity of the system of corporate taxation. If this is the primary justification, then the sponsors could substantially improve the combined reporting proposal with some of the suggested changes outlined above. The new franchise tax proposal, on the other hand, although it offers the potential of improved simplicity relative to the CIT, would increase complexity in the near term while various rules are worked out. Even in the long run, the proposal would fail to improve fairness because it applies only to C-corporations. In contrast, business activity taxes in other states have focused on an approach that is neutral with respect to the legal form of organization. If the goal is a fairer way of taxing business activity, it seems that a different approach is needed.



### House Approves Budget with Lower State, Higher Federal Funding, No Major Tax Increases

The House of Representatives approved an operating budget last week that featured sharply lower state spending offset by much higher federal funding, leaving a small overall increase in spending with no major tax increases. The new recommendations and a comparison with the original FY 2009 budget, before recently enacted cuts in the latter, are presented in the following three tables. Total spending from all sources increases by 1.4%, or \$203 million to \$14.95 billion. State General Fund contributions decrease by \$527 million, while Federal Funds increase by \$645 million. Other State Funds – including Higher Education fees and tuition – increase by \$161 million. Public School spending is down slightly, as is Transportation spending. Spending on health care is up by \$240 million, despite a \$218 million cut in state funding. Sharply higher Federal Funds are partly due to a temporary increase in federal contributions for Medicaid. A portion of this spending is part of the Stimulus package and may be temporary. Total General Fund spending of \$5.472 billion is slightly higher than the consensus forecast of \$5.45 billion of recurring revenue. The difference may come from minor revenue increases or from drawing down reserves.

#### 2010 House-Approved Budget in Thousands of Dollars

	<u>General Fund</u>	<u>Other State Funds</u>	<u>Internal Service Funds</u>	<u>Federal Funds</u>	<u>Total</u>
Legislative	\$4,164				\$4,164
Judicial	\$211,789	\$17,652	\$9,713	\$2,227	\$241,381
General Control	\$200,855	\$407,889	\$875,213	\$17,916	\$1,501,873
Commerce & Industry	\$58,860	\$46,308	\$18,472	\$1,141	\$124,781
Agric., Energy & Nat. Resources	\$82,962	\$90,802	\$21,061	\$33,092	\$227,917
Health, Hospitals & Human Serv.	\$1,301,120	\$278,756	\$279,318	\$3,851,456	\$5,710,650
Public Safety	\$394,607	\$30,241	\$11,955	\$72,932	\$509,735
Transportation		\$446,685		\$359,516	\$806,201
Other Education	\$47,786	\$18,671	\$2,000	\$54,905	\$123,362
Higher Education	\$863,875	\$1,372,094	\$167	\$533,889	\$2,770,025
Public Scholl Support	\$2,349,940	\$850		\$627,092	\$2,977,882
Other	(\$43,930)				(\$43,930)
<b>Total</b>	<b>\$5,472,028</b>	<b>\$2,709,948</b>	<b>\$1,217,899</b>	<b>\$5,554,166</b>	<b>\$14,954,041</b>

**FY 2010 Budget As Passed by the House of Representatives**  
**Changes from Original FY 2009 Budget in Thousands of Dollars**

	<u>General Fund</u>	<u>Other State Funds</u>	<u>Internal Service Funds</u>	<u>Federal Funds</u>	<u>Total</u>
Legislative	(\$101)				(\$101)
Judicial	(\$1,790)	\$1,508	\$1,397	(\$470)	\$645
General Control	(\$443)	\$39,209	(\$32,858)	\$38	\$5,946
Commerce & Industry	(\$1,088)	(\$646)	\$1,438	\$435	\$139
Agric., Energy & Nat. Resources	(\$5,110)	\$38,452	(\$19,379)	(\$1,368)	\$12,595
Health, Hospitals & Human Serv.	(\$218,329)	\$35,835	(\$28,721)	\$451,275	\$240,060
Public Safety	(\$12,787)	\$1,759	\$1,025	\$12,637	\$2,634
Transportation		(\$20,988)		\$834	(\$20,154)
Other Education	(\$7,057)	\$1,036	\$1,000	\$4,531	(\$490)
Higher Education	(\$16,444)	\$64,932	(\$150)	(\$11,285)	\$37,053
Public School Support	(\$201,072)	\$100		\$188,705	(\$12,267)
Other	(\$63,075)				(\$63,075)
<b>Total</b>	<b>(\$527,296)</b>	<b>\$161,197</b>	<b>(\$76,248)</b>	<b>\$645,332</b>	<b>\$202,985</b>

**FY 2010 Budget As Passed by the House of Representatives**  
**Changes from Original FY 2009 Budget in Percent**

	<u>General Fund</u>	<u>Other State Funds</u>	<u>Internal Service Funds</u>	<u>Federal Funds</u>	<u>Total</u>
Legislative	-2.4%				-2.4%
Judicial	-0.8%	9.3%	16.8%	-17.4%	0.3%
General Control	-0.2%	10.6%	-3.6%	0.2%	0.4%
Commerce & Industry	-1.8%	-1.4%	8.4%	61.6%	0.1%
Agric., Energy & Nat. Resources	-5.8%	73.5%	-47.9%	-4.0%	5.8%
Health, Hospitals & Human Serv.	-14.4%	14.8%	-9.3%	13.3%	4.4%
Public Safety	-3.1%	6.2%	9.4%	21.0%	0.5%
Transportation		-4.5%		0.2%	-2.4%
Other Education	-12.9%	5.9%	100.0%	9.0%	-0.4%
Higher Education	-1.9%	5.0%	-47.3%	-2.1%	1.4%
Public School Support	-7.9%	13.3%		43.0%	-0.4%
Other	-329.5%				-329.5%
<b>Total</b>	<b>-8.8%</b>	<b>6.3%</b>	<b>-5.9%</b>	<b>13.1%</b>	<b>1.4%</b>

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## **Knick Knacks**

Items of interest continue to take place in the tax world. Wisconsin's legislature has approved mandatory combined reporting beginning with tax years beginning on or after January 1, 2009, and is conforming to Streamlined Sales Tax requirements. Governor Schwarzenegger line-item vetoed over a billion dollars of expenditures in the recently approved California budget, which includes new film incentives and a one-time election to file income tax under a single sales factor.

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## TAX QUOTABLE:

"We stand today at a crossroads:  
One path leads to despair and utter hopelessness.  
The other leads to total extinction.  
Let us hope we have the wisdom to make the right choice."

*~Woody Allen*



**COMMENTS:** Your suggestions and comments on this newsletter, the conferences (past or future), the Distinguished Lectures Series, our research or any aspect of NMTRI's operation and programs are welcome. Please send them to [richard.anklam@nmtri.org](mailto:richard.anklam@nmtri.org), call 505-269-6791 or mail them to P.O. Box 91657, Albuquerque, New Mexico 87199-1657. You may also e-mail them to [tom.clifford@nmtri.org](mailto:tom.clifford@nmtri.org) or call him at 505-228-7129. We genuinely solicit your input and thank you for your support.



"The power to tax involves the power to destroy" - McCulloch v. Maryland, 17 U.S. 316 (1819), Chief Justice John Marshall.

"Taxes are what we pay for civilized society" Campaña General de Tabacos v. Collector, 275 U.S. 87, 100 (1927), Justice Oliver Wendell Holmes, dissenting.

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