

Tax Matters

The Newsletter of the New Mexico Tax Research Institute

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HOLD THE DATE AND MARK YOUR CALENDARS NOW – 8TH ANNUAL NMTRI TAX POLICY CONFERENCE IS COMING!

The Eighth Annual NMTRI Tax Policy Conference and annual members' meeting will be held at the Hotel La Fonda on the plaza in Santa Fe, May 12-13. You will be inundated with details following the end of session!

AGAIN, DON'T FORGET THE PRINCIPLES!



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

- State and local taxes should be adequate to provide an appropriate level of those goods and services best provided by the public sector, such as education, public safety, law enforcement, streets and highways, and the courts.
- State and local tax policy should do the least harm to the private economy. Therefore, tax bases should be as broad as possible so that tax rates can be as low as possible in order to raise the necessary revenues.
- State and local tax policy should be fair and equitable towards individuals and businesses similarly situated. Individuals with the same income level should be taxed the same. Businesses engaged in similar commercial activities should be subject to the same level of taxation.
- State and local tax policy should not be costly to administer and should be easily understood by taxpayers so as to minimize taxpayer compliance costs.
- The state and local tax burden should be evaluated on the basis of the impact of all taxes levied on a given taxpayer, not just a single tax or tax rate.

- Deviations from established tax policy in pursuit of economic development, social or other goals should be well-reasoned and pursued only when established tax policies are not significantly undermined and the results of such deviations can subsequently be measured and evaluated.

INTO THE LEGISLATIVE SESSION



The 2011 Regular Session of the New Mexico Legislature convened at noon on Tuesday, January 18, and ends at noon on March 19. The deadline for bill introduction was February 17. Legislation not acted on by the governor is pocket vetoed on April 8. The effective date of legislation without an emergency clause or effective date is June 17. Being a “long” or 60-day session, non-budgetary legislation and items not related to the budget are fair game and not limited by the call of the Governor. It continues to be a

busy session, given the state’s ongoing fiscal crisis, as high profile, contentious and painful budget and revenue issues are center stage along with anything else legislators wish to consider.

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.

And the Beat Goes On...

A total of 655 House and 628 Senate bills have been introduced. The last 48 bills in both houses were “dummy” or placeholder bills for “the public peace, safety and welfare.” Such bills are typically introduced near the deadline by committee chairs to be used as vehicles for legislation that requires introduction (via amendment or substitute) after the deadline. Our expectations regarding fewer tax proposals, plenty of accountability oriented bills, as well as “loophole” closures or “fairness” proposals continued to be met. Also met are continued expectations of less legislation in general, relative to other recent 60-day sessions (almost twice as many bills were introduced in prior legislative sessions). Still, we’re tracking well over a hundred tax and significant revenue related bills introduced thus far. (Let us know if you notice a bill not on the list that should be.)



The slow march to the corrals in the House Taxation and Revenue Committee and the Senate Finance Committee continue, as bills slowly move through the process. This last week, most of the attention was focused on the film bill as it was debated on the floor after escaping HTRC. (Last Saturday, the tax committee offered a committee substitute bill for Speaker Lujan’s [HB 607](#), which incorporated additional provisions from Rep. Taylor’s proposal, corrected some technical concerns expressed by the Taxation and Revenue Department, clarified that interest was not to be paid on delayed film credit payments, and further reduced the annual cap on approved film credits to \$45M.) Under the proposal, film credits in excess of one million

dollars would be paid out in two equal annual installments, and credits in excess of five million dollars would be paid out in three equal annual installments. Once it passed the House, the way was cleared for the budget to pass as well (see HB 2). Then the fight began over the driver's license bill.

Most Favored Bills Status

Several House tax related bills have now “crossed-over” from the House to the Senate, and vice a versa. Most bills that cross early don't cost money, and that's no exception here. The furthest along—the only to cross over last week—was Rep. Eleanor Chavez's [House Bill 161](#), which provides for a tax expenditure budget. The bill is still in Senate Corporations and isn't likely to be heard until they're done hearing Senate bills. Another tax related bill that doesn't cost general fund money is [House Bill 437](#), which enacts a property tax exemption for certain veteran's organizations. The exemption was authorized by constitutional amendment and is likely to pass. Property tax measures are easier to pass as they have very little implication for the general fund, but the property tax is also controlled by certain constitutional provisions, which limit the legislature's ability to tinker. Although they do not cost the general fund, measures like this do cost some taxpayers money as they shift tax burden from one class of taxpayer to the others.

Two other film bills in addition to the aforementioned [House Bill 607](#), have crossed over into the other houses. Senator Tim Keller's measure intended to improve industry accountability, is in the House Business and Industry Committee (see [Senate Bill 44](#)). Representative Bratton's [House Bill 627](#) provides for interest rates on loans for film productions made from the state's permanent funds. For films shot primarily in class A counties (Bernalillo), the rate is prime plus 1.5%, and for other counties, the rate is prime plus 1%.

The two bills that amend the Enhanced 911 Act, Representative Bobby Gonzalez's [House Bill 328](#) and Senator Rodriguez's [Senate Bill 422](#), have both crossed into the other side's territory and appear destined for enactment. They add and modify definitions providing authority to impose surcharges on Voice Over Internet Protocol (VOIP) and pre-paid phone communications, but also clarify that E911 charges would not be imposed on broadband Internet access charges. There isn't much opposition, and the counties support the measure. The bill does present some compliance burden for retailers and the Taxation & Revenue Department, and takes effect too quickly to be properly implemented, but that may be improved through amendment.

Senator Smith's [Senate Bill 194](#), an interim Revenue Stabilization and Tax Policy Committee endorsed bill, passed the Senate unanimously and is sitting in the House Business and Industry Committee. It repeals the Venture Capital Investment Act, a literally never-used tax credit found in Article 2D of Chapter 7, NMSA 1978 (and not to be confused with the Angel Investment Tax Credit).

And the winner is... Senator Phil Griego's [Senate Bill 84](#)! The proposal would extend the present deduction for jet fuel of 55% past FY13 to FY17, when it otherwise it falls to back to 40%. The bill, currently in the House Business and Industry Committee, is the only tax measure to cross houses that would actually cost money. Of course, it doesn't cost general fund money THIS fiscal year. It too is an interim Revenue Stabilization and Tax Policy Committee endorsed bill. (Who says Southwest isn't the airline of love?)

[NMTRI note: getting across houses first doesn't always help, as the House and Senate tend to play "chicken" and hold each other's bills hostage until the other House begins hearing their bills... so they tend to stack up in committees like Senate Corporations or House Business & Industry before they start getting heard.]

And other stuff

The HTRC is still temporarily tabling all proposals with fiscal impacts, per committee policy. They won't likely bring bills off the table with negative fiscal impacts until a budget accord is reached, and it's not clear what if any money is set aside to pay for any new proposals. As previously mentioned, the Senate Finance Committee has not been entertaining much in the way of spending proposals, and no tax increase proposals have been passed to the SFC thus far. Now that a budget is passed, it will be interesting to see how much money is left over for spending measures. We should know the answer quickly, as favored bills have to start moving soon. "Good bill day" in the House Taxation and Revenue Committee, the day when certain bills are taken off the table and allowed to go to the floor for vote, should happen this week (if at all).

Senator Peter Wirth's perennial proposal calling for mandatory combined filing for those businesses subject to the corporate income tax was tabled, again, in the Senate Corporations and Transportation Committee (see [Senate Bill 6](#)). This follows the tabling of his other pre-filed corporate income tax expense "add-back" proposal, based on the Multistate Tax Commission's model act, several weeks ago. Speaker Lujan's [House Bill 429](#), which corrects an unintended "loophole" in the compensating tax (created last year when another loophole was closed) moved out of the House Taxation and Revenue Committee without recommendation and will be voted on by the House.

[NMTRI note: the compensating tax bill is a no-brainer, as there is no reason to have a tax structure that leaks in favor of out-of-state consumption... although such proposals are politically difficult for R's. Also, there appears to be no reason why the state should not enact some form of related party expense add-back in the corporate income tax. On the subject of corporate income tax, it would be nice to resolve New Mexico's policy regarding this minor (6% of revenues) tax program, create rules that make sense along with some predictability, and move on more important tax and revenue issues.]

Senator Cisneros's [Senate Bill 210](#), which would have created a personal and corporate income tax credit in an amount equal to generation costs, but not to exceed \$1/kilogram for the for the first 4 million kilograms of hydrogen sold by a qualified fuel generator or resource generator, got out of the Senate Finance Committee only to fail on the floor of the Senate.

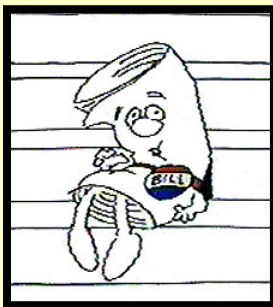
Senator Eichenberg's proposal to address tax lightning is furthest along, having escaped the Senate Finance Committee for a Senate floor vote. His [Senate Bill 108](#) revalues properties sold from 2004 through present, limits the increase in value of residential property at 3% per year but caps them at current and correct values, and provides for a sales ration approach for valuing new construction. Representative Sandoval's approach in [House Bill 511](#) drew three committee assignments and is still waiting to be heard in its first committee, the House Consumer and Public Affairs Committee. Senator Neville's approach in his [Senate Bill 189](#) is languishing in its

first committee as well, the Senate Judiciary Committee, but he's been working with Senator Eichenberg on his proposal as they have in prior years.

Stay tuned... there are only two weeks left, and as with college students, most work actually done will get crammed into the last couple of weeks... so there's plenty of action to come.

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 New Mexico Taxation and Revenue Department publishes their fiscal impact reports ("FIR's") and provides access to proposed legislation [here](#) on their website. The TRD's FIR's are the primary source relied upon by the LFC's for their tax related FIR's.

Bills with significant tax or revenue implications introduced in 2011 Legislative Session:



If no effective date is mentioned, the bill lacks one and would take effect upon enactment, June 17, 2010. Effective date for GRT bills is July 1, 2011 unless otherwise noted. Income Tax bills are effective tax years beginning on or after January 1, 2011 unless otherwise noted. "TYBA" = Tax years beginning on or after. Other notes: "CS" indicates committee substitute; "a" indicates amended

Bill Number/ Sponsor:	Title: Link to bill language: Description	Assignments -Location:
HB 19 D.Kintgh	No Film Tax Credit & Limit film Investments HB 19 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/HTRC- HLC (tbl'd)
HB 23 M.H. Garcia	Liquor Excise Tax Distribution to Schools: HB 23 Increases the liquor excise tax across all beverage categories (i.e. beer from \$.41to \$1.48/gal, and spirits from \$1.60 to \$3.85/liter) and changes distributions in an effort to distribute the additional increase to the public school fund and hold the DWI grant fund to current distributions. Small wineries and local microbreweries are held harmless under this proposal.	HBIC/HTRC -HBIC
HB 25 Rehm	Reduce Hospital Tax Levy For Hospital Funding: HB 25 Effectively phases-out the property tax mill levy for UNMH in Bernalillo county to 10% of 2011 mill rates over four years.	HHGAC/HT RC-HHGAC
HB 39 Trujillo/P. Griego	Plug-in Electric Car Exemption: HB 39 Exempts qualified electric plug-in vehicles from the Motor Vehicle Excise Tax, changes the exemption from the GRT and compensating tax from vehicles held for sale or lease to plug-ins instead, and include it in the definition of "alternative energy vehicle" for purpose of the	HBIC/HTRC -HBIC-DP/a- HTRC

	Alternative Energy Products Manufacturers Tax Credit. The proposal is a Revenue Stabilization and Tax Policy Committee endorsed bill.	
HB 44 Williams Stapleton	Severance Tax Fund Investment in Energy: HB44 Provides for the investment of up to 10% of the severance tax permanent fund in “New Mexico renewable energy” only if the investment is in a “New Mexico renewable energy private equity fund”.	HENRC/HT RC-HENRC
HB 61 Rehm	“Net Income” Definition For Income Taxes: HB 61 Eliminates the requirement to add back state and local taxes itemized for federal purposes. The proposal essentially undoes the prior year’s change to require the add back, but fails to require taxpayers to include in income refunds of taxes previously deducted.	HCPAC/HT RC-HCPAC
HB 75 Gonzales	Geothermal Pump Tax Credit Refundability: HB 75 Makes the credit refundable above and beyond any existing taxpayer income tax liability, requires taxpayers to obtain certificates of eligibility, and requires an annual report on the credit be prepared jointly by the EMNRD and TRD.	HBIC/HTRC -HBIC-DP- HTRC
HB 89 Sandoval/UI ibarra	Veteran Owned Business Gross Receipts: HB 89 Creates an exorbitantly expensive gross receipts tax deduction for sales of services pursuant to a contract or sub-contract with the federal government, if the seller is a veteran-owned business. This bill was endorsed by the Military and Veterans’ Affairs committee.	HBIC/HTRC -HBIC-DP- HTRC
HB 102 E. Chavez	Internet Sales Gross Receipts: HB 102 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 119 D. Chavez	Income Tax Exemption For People Over 65: HB 119 Exempts from New Mexico personal income tax the income of <u>individuals</u> with adjusted gross income of \$70,000 or less, who are 65 years of age or older.	HCPAC/HT RC-HCPAC
HB 156 E. Chavez	Budget and Corporate Transparency: HB 156 Requires a tax expenditure budget of sorts, beginning with an incorrect definition of tax expenditure. Makes certain reporting requirements for “corporations” but not other business or non-business entities or individuals similarly situated. Adds agency reporting requirements regarding procurement of services.	HBIC/HHG AC/HTRC- HBIC
HB 161 E. Chavez	Tax Expenditure Budget Development and Report: HB 161 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.	HHGAC/HT RC- HHGAC- DP-HTRC- DP-fl/a PASSED/H- SCORC/SFC -SCORC

HB 165 Crook	Define "Modified Combined Tax Liability: HB 165 Makes a consistent definition of "Modified Combined Tax Liability" across tax credit programs (narrows some to gross receipts, compensating, and withholding taxes only... a change with little or no taxpayer impact). The proposal also makes clear that "modified combined tax liability" does not include local option taxes. The proposal is a Revenue Stabilization and Tax Policy Committee endorsed bill.	HBIC/HTRC -HBIC-DP- HTRC
HB 166 Sandoval	Review Certain Tax Credits: HB 166 Inserts language into most business tax credits requiring the credits be reviewed every six years, usually by the Taxation and Revenue Department and other applicable agencies such as the Economic Development Department. Credits. Such reviews are intended to be evaluate the effectiveness of the credits relative to their cost, and intent, current circumstances with the notion that ineffective credits be amended or repealed. The proposal is a Revenue Stabilization and Tax Policy Committee endorsed bill.	HBIC/HTRC -HBIC-DP- HTRC
HB 198 B. Lujan	Tax Credits for Natural Gas as Vehicle Fuel: HB 198 Creates personal and corporate income tax credits of 70% of the cost of conversion of a motor vehicle to natural gas use, 50% of the installation cost of natural gas dispensing equipment (all after applicable federal credits), and an exemption from the Motor Vehicle Excise Tax for the one- time purchase of vehicles that can use natural gas. Conversion credit would expire 6/30/17, with the other credits and exemption expiring 6/30/16. The proposal is a Revenue Stabilization and Tax Policy Committee endorsed bill.	HBIC/HTRC -HBIC-DP/a- HTRC
HB 200 Strickler	Reducing Corporate Income Tax Rates: HB 200 Phases in rate/bracket reduction by eliminating resulting in a single and top rate of 4.8% for tax years beginning on or after January 1, 2014.	HBIC/HTRC -HBIC-DP- HTRC
HB 222 Egolf	Reduce Unequal Treatment of Taxes & Credits: HB 222 Reduces the statewide gross receipts and compensating tax rate to 4 7/8% from 5 1/8% and increases severance tax rates on oil, natural gas, molybdenum, potash, and coal.	HBIC/HTRC -HBIC
HB 239 Garcia	Veteran Employment Tax Credit: HB 239 Creates a personal and corporate income tax credit for taxpayers who hire "qualified veterans" (discharged within the last eight months) and employ them for eight or more months.	HBIC/HTRC -HBIC-DP- HTRC
HB 250 Stewart	Define "Tobacco Products" & Enact Minimum Tax: HB 250 Expands the definition of "tobacco products" to include cigars and any product containing tobacco that is consumed without combustion. The proposal also more than doubles the rate of tax from 25% to 57% of the product value. Also creates a new category of tobacco product ("retail unit") and provides for a minimum tax of \$1.66/retail unit.	HBIC/HTRC -HBIC
HB 265 McMillan	Military Retirement Income Tax Exemption: HB 265 Creates an exemption in the amount of 100% of military retirement or retainer pay otherwise included in income, for a military retiree or surviving spouse.	HHGAC/HT RC- HHGAC- DP-HTRC
HB 273	Small Business Tax Credit Eligibility Period: HB 273	HBIC/HTRC

Trujillo	Reinstates the Research and Development Small Business Tax Credit for the periods 7/1/2011 – 6/30/2015, except for applicability to the compensating tax, and attempts to structurally roll forward credits that could have been earned in the period the credit was expired (7/09-6/11).	-HBIC-DP-HTRC
HB 281 Spence-Ezzell	TRD Secretary Approve Certain Evidence: HB 281 Adds “other evidence acceptable to the Secretary” to nontaxable transaction certificates for purposes of supporting the deduction provided in Section 7-9-47 NMSA 1978 (sale of tangible property for resale). Limits applicability to transactions for which a taxpayer’s administrative or judicial remedies have not been exhausted.	HBIC/HTRC -HBIC-DP/a-HTRC
HB 287 Jeff	Special Fuel Tax Deduction on Indian Land: HB 287 Creates a “special fuel” (aka diesel) tax deduction for retail sales of fuel on tribal reservation, pueblo grant or trust lands, provided the tribe impose a same or similar tax and the seller is in compliance with those tribal tax laws.	HBIC/HTRC -HBIC
HB 288 Jeff	Teacher Income Tax Deduction on Indian Land: HB 288 Provide a personal income tax deduction in the amount of income earned by teaching full time at an Indian school if the teacher lived “full time” on the reservation. The deduction is effective tax years beginning 1/1/2011	HEC/HTRC- HEC-DP- HTRC
HB 304 Powdrell-Culbert	Angel Investment Tax Credit Extension: HB 304 Extends the availability of the Angel Investment Credit Act to investments made prior to 12/31/2015.	HBIC/HTRC -HBICDP/a-HTRC
HB 327 Gonzales	Property Value, Certain Tax Credits Accepted: HB 327 Precludes the use of federal tax credits when determining the value of certain “low-income” properties for purposes of property tax valuation and assessment.	HHGAC/HT RC-HHGAC
HB 328 Gonzales	Surcharges Imposed on Communication Services: HB 328 Amends the Enhanced 911 Act to add and modify definitions providing authority to impose surcharges on Voice Over Internet Protocol (VOIP) and pre-paid phone communications.	HBIC/HTRC -HBIC-DP/a-HTRC-DP/a- Passed/H-SJC/SFC-SJC
HB 335 Rehm	Reduce Mill Levy to Pay for County Hospital: HB 335 Repeals the UNMH mill levy imposed in Bernalillo County effective 1/01/2012. In exchange, the proposal authorizes a voter approved mill levy of up to 65 cents/\$1000 of net taxable value, requires periodic reauthorization, and provides for limits and reductions based on need.	HHGAC/HT RC-HHGAC
HB 343 Lujan	Political Subdivision Qualification to Tax: HB 343 Declares legislative intent with respect to taxes imposed by political subdivisions (cities, counties, universities, school districts, other) authorized by virtue of area, population, net taxable base for rate-setting purposes or other criteria to not be viewed as automatically precluding a subdivision from continuing to impose or re-impose that tax even though it may no longer meet one or more of the criteria that qualified it, provided that the tax has not been repealed or terminated.	HHGAC/HT RC- HHGAC- DP-HTRC
HB 361 Egolf	Point-of-Sale Surtax on Retail Alcohol Sales: HB 361 Essentially imposes an additional retail sales tax at the rate of 2.5% on the	HBIC/HTRC -HBIC

	sale of alcoholic beverages	
HB 388 Gutierrez	College Textbook Purchase Gross Receipts: HB 388 Converts a gross receipts tax exemption to a deduction and make the sale of textbooks deductible students enrolled in New Mexico public post-secondary institutions.	HEC/HTRC- HEC
HB 421 Vigil	Increase Liquor Excise Tax: HB 421 Increases the liquor excise tax across all beverage categories (i.e. beer from \$.41to \$1.85/gal, and spirits from \$1.60 to \$4.98/liter) Small wineries and local microbreweries are held harmless under this proposal, and distributions of the tax revenues remain the same.	HBIC/HTRC -HBIC
HB 429 Lujan	Compensating Tax Transaction Requirements: HB 429 Closes a perceived loophole in the compensating tax imposition statute (7-9-7), and raises the compensating tax on services to 5.125% to match the other compensating and statewide gross receipts tax rates.	HBIC/HTRC -HBIC-w/o rec-T
HB 437 T.A. Garcia	Veteran's Property Tax Exemption: HB 437 Creates a property tax exemption for certain veteran's organizations property.	HTRC-DP- Passed/H- SCORC/SFC -SCORC
HB 440 M.H. Garcia	Advanced Energy Tax Deductions for Some Leases: HB 440 Adds "leasing" of tangible personal property to the gross receipts tax deduction for certain eligible generation plant costs under Section 7-9-114, and extends the applicable period of the deduction from the year qualifying expenditures begin from 10 to 25 years.	HBIC/HTRC -HBIC-DP- HTRC
HB 444 Ben Lujan	Tax Credit for Certain Oil & Gas Wells: HB 444 Creates a oil and gas severance tax credit in an amount equal to 50% of the expenditures on a closed loop drilling circulation system, not to exceed \$100K per well. The credit would be effective 1/1/2011 – 12/31/2016 and cannot be carried forward.	HENRC/HT RC-HENRC
HB 448 D. Chavez	Tax Deduction for Certain Depreciable Assets: HB 448 Provides for state level Section 179 treatment of asset purchases (expensing rather than capitalization and depreciation) for assets otherwise precluded from being expensed by Section 179. Requires the inclusion of the expense in "base income" in the same year.	HBIC/HTRC -HBIC-DP- HTRC
HB 465 Martinez	Tax on Special Fuel Shipments: HB 465 Changes definitions such that diesel fuel that is loaded at a refinery or terminal of into tanks, cars, etc. for purposes of transportation to another rack, terminal, or facility that produces, blends, refines or compounds diesel fuel is not "received" (which is what subjects the fuel to taxation).	HENRC/HT RC-HENRC
HB 470 Ezell	Underpayment of Estimated Tax Penalty Changes: HB 470 Increases the threshold for the personal income tax estimated payment penalty exception from \$500 to \$1000 before underpayment penalties apply.	HBIC/HTRC -HBIC-DP- HTRC
HB 479 White	Reduce Film Production Tax Credit: HB 479 Reduces the tax credits rate of subsidy on qualified expenditures from 25% in present law to 15%	HBIC/HTRC -HBIC
HB 482	Estimated Tax In Notices of Value: HB 482	HTRC

M. Garcia	Require county assessors to include an estimate of due, calculated against the net taxable value with the prior year's tax rate less exemptions, in required annual notices of value.	
HB 511 Sandoval	Valuing Owner-Occupied Residential Property: HB 511 Narrows valuation limitation on residential property to owner occupied and employs a tax ratio for purposes of calculating taxable value.	HCPAC/HA RK/SJC- HCPAC
HB 516 Maestas	Adjust Income Tax Rates: HB 516 Stretches out existing tax brackets and adds a 5%, 6% and 7% bracket with the highest applying to incomes above \$1M for singles, and \$1.5M for married filing joint returns.	HCPAC/HT RC-HCPAC
HB 520 Stewart	Equalize Emergency School Tax Rates: HB 520 Increase the rate of the emergency school tax on oil from 3.15% to 4%.	HEC/HTRC- HEC
HB 523 Powdrell- Culbert	Locomotive Fuel Tax Gross Receipts Deduction: HB 523 The proposal would provide an exemption from the compensating and gross receipts tax (GRT) on fuel used by locomotives. The exemptions are contingent on certification by the Economic Development Department certification that the construction of a locomotive refueling facility in Dona Ana County has commenced by July 1, 2012. (Note: essentially represents the third extension of this exemption, apparently resulting from construction delays).	HTPWC//HT RC- HTPWC- DP/a-HTRC
HB 560 Espinoza	Health Care Tax Credit: HB 560 Provides a refundable personal income tax credit in an amount equal to premiums paid for by persons, and 50% of amounts paid by employers, and 35% of premiums paid by tax-exempt employers.	HCPAC/HT RC-HCPAC
HB 561 Doyle	Post-Secondary Intern Tax Credits: HB 561 Provides a personal and corporate income tax credit in an amount equal to 10% of wages paid to qualified interns.	HEC/HTRC- HEC
HB 568 Gonzales	Special Fuel Excise & Gas Tax Rate Change: HB 568 Changes the taxes imposed on diesel and gasoline from a volume based/fixed price per gallon (\$.21 and \$.17/gal, respectively) to a value-based percentage (8.7% and 7.2%, respectively).	HTPWC//HT RC-HTPWC
HB 571 M.P. Garcia	Capital Gains Deduction Limit: HB 571 Eliminates the \$1000 minimum deduction and reduces the present law 50% deduction to 25% for single filers in excess of \$200 in taxable income, or in the case of married and HOH filers, \$250K.	HBIC/HTRC -HBIC
HB 572 M.P. Garcia	Restore Progressivity to the Income Tax Rates: HB 572 Adds income tax brackets (one per year over three years) to the present law 4.9% (5.3% over \$167K single, \$250K married filing jointly/HOH; 6% over \$333K single, \$500K married filing jointly/HOH; 6.8 % over \$667K single, \$1M married filing jointly/HOH).	HCPAC/HT RC-HCPAC
HB 581 Maestas	Self-Employed Gross Receipts Tax Deduction: HB 581 Provides a gross receipts tax deduction for services performed by self-employed individuals for 365 days within the date of registration of an individual who hadn't been previously registered with the Taxation and Revenue Department.	HCPAC/HT RC-HCPAC

HB 602 Strickler	Manufactured Home Tax Amnesty: HB 602 Authorizes county treasurers to declare an amnesty period not to exceed three months in fiscal year 2012 for purposes of property taxes on manufactured homes. The amnesty is to be conducted in a manner consistent with those for managed audits in the Tax Administration Act (which applies to non-property state taxes). The proposal also provides for a permanent additional reduction in value of a manufactured home for property tax purposes in the amount of \$5000.	HHGAC/HT RC-HHGAC
HB 607 Ben Lujan	Film Production Tax Credit Act: HB 607 Caps the film credit at \$45, requires two and three year installments for credits in excess of \$1 and 5 million, respectively; narrows and limits certain qualified expenditures, precludes interest on installment payments of credits, requires audits of credits in excess of \$5 million.	HTRC-DNP- CS/DP-T
HB 622 Taylor	Public Peace, Health, Safety, & Welfare: HB 622 Caps the film credit at \$65, requires two and three year installments for credits in excess of \$1 and 5 million, respectively; narrows and limits certain qualified expenditures.	HTRC- succeeding entries H 607
SB 6 Wirth	Combined Tax Reporting for Some Corporations: SB 6 Mandates that all unitary corporations report as a combined group for corporate income tax purposes, but provides an exception – an election to file separately for manufactures. Repeals the option for a corporation to report on a federal consolidated basis.	SCORC/SFC -SCORC
SB 7 Wirth	Net Taxable Income Determination SB 7 Imposes requirements to “add back” certain related party expenses separate company filers for purposes of determining taxable income for corporate income tax purposes.	SCORC/SFC -SCORC
SB 39 Keller	Tax Forms Itemizing Gross Receipts Exemptions: SB 39 Requires taxpayers with gross receipts to report most exemptions and all but one deduction separately by category, requiring substantially more effort on the part of taxpayers and the TRD in an effort to garner more detailed information from taxpayers. The proposal is a Revenue Stabilization and Tax Policy Committee endorsed bill.	SCORC/SFC -SCORC
SB 44 Keller	Film Production Tax Credit Tracking & Review: SB 44 Requires additional information be disclosed and reported by film production companies utilizing film production tax credits. The proposal is a Revenue Stabilization and Tax Policy Committee endorsed bill.	SCORC/SFC -SCORC- DP/a-SFC- DP/a-fl/a- Passed/S - HTRC
SB 46 Griego	Extend Jet Fuel Gross Receipts Tax Credit: SB 46 Extends the present law deductions of 55% for jet fuel from the gross receipts and compensating tax from 6/2012 to 6/2017, and reduces the deduction to 40% in years thereafter.	SCORC/SFC -SCORC
SB 47 Keller	Tax & Rev Dept. Tax Expenditure Budget: SB 47 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	SCORC/SFC -SCORC- w/o rec-SFC- DNP-CS-DP

	million for all “significant general fund revenue sources” – meaning the primary tax programs. The proposal is a Revenue Stabilization and Tax Policy Committee endorsed bill.	
SB 67 Ryan	Administrative Hearing Act: SB 67 Creates an Administrative Hearing Office with the General Services Department in which most state administrative hearing officers would be consolidated.	SRC/SJC/SF C–SRC- DNP-CS/DP- SJC
SB 81 Feldman	Tobacco Products Tax & Definitions: SB 81 Expands the definition of “tobacco products” to include cigars and any product containing tobacco that is consumed without combustion. The proposal also more than doubles the rate of tax from 25% to 57% of the product value. Also creates a new category of tobacco product (“retail unit”) and provides for a minimum tax of \$1.66/retail unit.	SCORC/SFC -SCORC
SB 84 P. Griego	Jet Fuel Gross Receipts Credit: SB 84 Extends the present law deductions of 55% for jet fuel from the gross receipts and compensating tax from 6/2012 to 6/2017, and reduces the deduction to 40% in years thereafter. The proposal is a Revenue Stabilization and Tax Policy Committee endorsed bill.	SCORC/SFC –SCORC- DP-SFC-DP- Passed/S- HBIC/HTRC -HBIC
SB 94 E. Griego	Income Surtax, Distribution, & School Funds: SB 94 Creates a personal income tax “surtax” for taxable years 2011 through 2013, and distributes the proceeds to the public school fund and Medicaid program. The surtax is 3.3% of taxable income in excess of \$100K for singles and \$150K for married, head of household and surviving spouse filer. Married individual filing separately would pay the surtax on taxable incomes above \$75K.	SCORC/SFC –SCORC
SB 95 E. Griego	Internet Sales Gross Receipts: SB 95 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).	SCORC/SJC/ SFC – SCORC-DP- SJC-DP-SFC
SB100 M.J. Garcia	Decrease Oil and Gas Severance Rates: SB 100 Would increase oil and gas emergency school tax rates while commensurately reducing the severance tax rates, effectively moving capital outlay money while adding approx \$100M/yr to the general fund.	SEC/SFC – SEC-DP- SFC
SB 108 Eichenberg	Extend Annual Property Valuation Increases: SB 108 Revalues properties sold from 2004 through present, limits the increase in value of residential property at 3% per year, but caps them at current and correct values, and provides for a sales ration approach for valuing new construction.	SCORC/SFC –SCORC- DNP-CS/DP- SFC-DP/a
SB 113 Boitano	Tax Credit for Certain Scholarship Donations: SB 113 Creates a personal income tax credit for donations to private school scholarship fund of up to \$500/yr. The TRD must analyze the effectiveness of the credit and report to the Revenue Stabilization and Tax	SEC/SFC- SEC

	Policy Committee on their findings every 4 years.	
SB 135 Beffort	Family Assistance Employer Tax Credits: SB 135 Updates names and references of the former welfare-to-work personal and corporate income tax credits, and creates additional accountability and reporting requirements on the part of the TRD.	SCORC/SFC -SCORC- DP-SFC
SB 149 Ulibarri	Veteran Owned Business Preference: SB 149 Amends procurement code to creates new preference categories (“veteran-owned business”, “veteran owned-manufacturer”), and changes preference factors to favor the new veteran categories relative to resident non-veteran businesses, who in turn maintain a preference to nonresident businesses.	SPAC/SJS- SPAC-DP- SJC
SB 160 Ingle	Military Construction Service gross Receipts: SB 160 Reinstates the deduction for construction services performed on Cannon AFB from 7/1/11 – 12/31/14.	SCORC/SFC -SCORC- DP-SFC
SB 169 Smith	Film Production Tax Credit Cap: SB 169 Limits allowable film tax credits for production and post production recipients to \$2 million dollars.	SCORC/SFC -SCORC
SB 170 Smith	Tax Itemization & Return Filing: SB 170 Requires taxpayers with gross receipts to report most exemptions and all but one deduction separately by category, requiring substantially more effort on the part of taxpayers and the TRD in an effort to garner more detailed information from taxpayers like SB39. Also requires more detailed reporting on the part of gasoline retailers, wholesalers, distributors, and rack operators as well as interstate telecommunications gross receipts taxpayers.	SCORC/SFC -SCORC
SB 178 Cisneros	Dialysis Facility Service Gross Receipts: SB 178 Adds and defines “dialysis facilities” to the ever-growing list of medical related professions and operations deductible when sold to Medicare or Tricare pursuant to Section 7-9-77.1	SCORC/SFC -SCORC- DP/a-SFC
SB 179 Nava	Locomotive Fuel Gross Receipts: SB 179 The proposal would provide an exemption from the compensating and gross receipts tax (GRT) on fuel used by locomotives. The exemptions are contingent on certification by the Economic Development Department certification that the construction of a locomotive refueling facility in Dona Ana County has commenced by July 1, 2012. (Note: essentially represents the third extension of this exemption, apparently resulting from construction delays)	SCORC/SFC -SCORC- DNP-CS/DP- SFC
SB 189 Neville	Property Tax Increases & Revaluations: SB 189 Provides for a phased-in return to current and correct value for residential properties for purposes of tax valuation and assessment. The proposal would limit property tax increases, regardless of change in ownership, to 3% per year for years following 2016.	SJC/SFC- SJC
SB 194 Smith	Repeal Venture Capital Investment Act: SB 194 Repeals a never used tax credit found in Article 2D of Chapter &, NMSA 1978. The proposal is a Revenue Stabilization and Tax Policy Committee endorsed bill.	SCORC/SFC -SCORC- DP-SFC-DP- Passed/S- HBIC/HTRC

		-HBIC
SB 210 Cisneros	Hydrogen Fuel Production Tax Credits: SB 210 Creates a personal and corporate income tax credit in an amount equal to generation costs, but not to exceed \$1/kilogram for the for the first 4 million kilograms of hydrogen sold by a qualified fuel generator or resource generator. The credit can be carried forward for ten years and creates reporting requirements for the TRD.	SCORC/SFC -SCORC- DP-SFC-DP- Failed/S
SB 217 Sharer	Military Retirement Pay Tax Exemption: SB 217 Creates an exemption in the amount of 100% of military retirement or retainer pay otherwise included in income, for a military retiree or surviving spouse.	SCORC/SFC -SCORC- DP-SFC
SB 234 Leavell	Solar Energy Gross Receipts: SB 234 Expands the GRT deduction for sales of solar energy systems to include the lease of such systems. It also expands the definition of solar energy system to one that supplies public utilities in addition to the property it's on.	SCONC/SC ORC/SFC- SCONC
SB 243 Fischmann	Tax Increment District Requirements: SB 243 Limits Tax Increment District authorizations to only those districts that include at least twenty private property owners without business or family interests in the district, is limited to redevelopment of public improvements to existing infrastructure for urban renewal ("brown field redevelopment"). Improvements must remain owned by the local government or state, approved by the board of finance, and authorized by law.	SCORC/SFC -SCORC
SB 244 Fischmann	Motor Excise Tax Increase & Offset: SB 244 Increases the Motor Vehicle Excise Tax from 3% to 3% of the first \$10K of value and 5% on any excess. The proposal also phases-out the trade-in deduction over time, to zero beginning 7/1/2013.	SCORC/SFC -SCORC
SB 256 Ortiz y Pino	Soft Drink Sales Gross Receipts: SB 256 Amends the gross receipts tax deduction for food (Section 7-9-93) to exclude the "soft drinks." The proposal also creates a new distribution in the amount of the additional tax to the county-supported Medicaid fund. Implicit implications are more detailed and complicated reporting will likely be required to implement the distribution requirements of the bill.	SPAC/SCOR C/SFC- SPAC
SB 258 B. Sanchez	Adjust Liquor Tax Distribution: SB 258 Increases the liquor excise tax across all beverage categories (i.e. beer from \$.41to \$1.48/gal, and spirits from \$1.60 to \$3.85/liter) and changes distributions in an effort to hold the DWI grant fund to current distributions. Small wineries and local microbreweries are held harmless under this proposal. A new "mental health and substance abuse treatment fund" is created with and distributes 25.26% of the receipts from the tax to the new fund.	SCORC/SFC -SCORC
SB 264 Harden	Cigarette Taxes on Tribal Land: SB 264 Narrow's the tribal exemption of the cigarette tax to apply only to sales of cigarettes to a tribe or licensed tribal member for sale to a tribal member on that tribe's land. A "tax-credit stamp" is also created.	SIAC/SCOR C/SFC-SIAC
SB 282	Tax Liability For Certain Physician Services: SB 282	SCORC/SFC

Jennings	Creates a credit for <i>doctors</i> in the amount of \$1000/ <i>patient</i> (up to 4) participating in cancer clinical trials. The purpose is to encourage physicians to participate as clinical trial investigators. The department is required to track the credit, along with all new credits, and report on its use and effectiveness annually.	-SCORC- DP-SFC
SB 288 Ortiz y Pino	Sweetened Beverage Excise Tax: SB 288 Creates an excise tax on distributors for the sale of certain sweetened beverages at the rate of .5cents/ounce. Sales to the federal government, to vendors on tribal or pueblos lands, and to other retailers would be exempt. The proposal also requires distributors to obtain surety bonds. 95% of the proceeds would be distributed to the county-supported Medicaid fund, with the remaining 5% going to the new child obesity prevention fund created by the proposal. The money distributed to the county-supported Medicaid fund would explicitly not be subject to appropriation and is required to be spent on Medicaid.	SCORC/SFC -SCORC
SB 317 Lovejoy	Native American Tax Settlement Approp: SB 317 Creates an appropriation in the amount of \$500K fund payment of settlements with certain native American veterans who had state income tax withheld during their terms of service.	SIAC/SFC- SIAC-DP- SFC
SB 326 Ingle	TRD Secretary Approve Certain Evidence: SB 326 Adds “other evidence acceptable to the Secretary” to nontaxable transaction certificates for purposes of supporting the deduction provided in Section 7-9-47 NMSA 1978 (sale of tangible property for resale). Limits applicability to transactions for which a taxpayer’s administrative or judicial remedies have not been exhausted.	SCORC/SFC -SCORC- DP-SFC
SB 342 Griego	Tax Credit for Certain Radio Stations: SB 342 Creates a gross receipts tax credit of 15% of the stations total gross receipts tax liability for a reporting period in which 20% of the music airtime is dedicated to “New Mexico musical acts.”	SCORC/SFC -SCORC
SB 409 Leavell	Advanced Energy Deduction for Certain Leases: SB 409 Adds “leasing” of tangible personal property to the gross receipts tax deduction for certain eligible generation plant costs under Section 7-9-114.	SCONC/SFC -SCONC- DP-SFC- DP/a
SB 416 Harden	Autism Treatment Services Gross Receipts: SB 416 Expands the gross receipts tax deduction for certain medical services (7-9-93) to include services performed by persons licensed by CYFD to provide round-the-clock services for the treatment of persons with autism.	SCORC/SFC -SCORC- DP-SFC
SB 422 Rodriguez	E911 Surcharge on Communications Services: SB 422 Amends the Enhanced 911 Act to add and modify definitions providing authority to impose surcharges on Voice Over Internet Protocol (VOIP) communications.	SJC/SFC- SJC-DP/a- SFC-DP/a- fl/a- Passed/S- HBIC/HTRC -HBIC
SB 431 Munoz	County Enviro Gross Receipts on energy: SB 431 Expands the 1/8 cent GRT county local option tax increment for county environmental services to include renewable energy facilities and systems	SCONC/SFC -SCONC- DP-SFC

	(in addition to the current water, wastewater, and sewer systems.	
SB 436 Ingle	Oil & Gas Withholding Info to Legislature: SB 436 Requires the Taxation and Revenue Department to report no later than December 1 of each year, the total amount of taxes withheld by remitters and paid to the Department during the previous calendar year, and the amounts credited against income taxes.	SCONC/SFC -SCONC- DP-SFC
SB 437 Beffort	Cigarette Taxes for Early Childhood Programs: SB 437 Requires a distribution from net receipts attributable to the cigarette tax in the amount of 5% each to the Public Education Department and Children, Youth and Families Department for purposes of early childhood development programs.	SCORC/SFC -SCORC- DP-SFC
SB 443 Sapien/B. Lujan	Weighted Sales Factor for Income Tax: SB 443 Creates tiered single sales factor elections based on qualified investments by manufacturers in a tax year (e.g. \$250M investment in year one would provide a two year single sale factor election for years 2 and 3, a \$500M investment would allow a 4yr election, \$750M a 6yr election, and \$1000M producing an 8yr elections. Investments in otherwise qualified equipment cannot be taken for purposes of the Investment Tax Credit.	SCORC/SFC -SCORC
SB 452 Smith	Food & Healthcare Tax Deduction Phase Out: SB 452 Phases out the gross receipts tax deductions for food and certain medical services (Section 7-9-93, 7-9-94) in ten percent increments over 10 years.	SCORC/SFC -SCORC
SB 455 Jennings	Film Production Tax Credit Changes: SB 455 Caps the film production tax credit at \$75 million and reduces municipal and county hold harmless distributions proportionally, where the respective populations exceed 30,000 people, by 40% of the film credit.	SCORC/SFC -SCORC
SB 462 Lopez	Manufacture Home Tax Amnesty: SB 462 Authorizes county treasurers to declare an amnesty period not to exceed three months in fiscal year 2012 for purposes of property taxes on manufactured homes. The amnesty is to be conducted in a manner consistent with those for managed audits in the Tax Administration Act (which applies to non-property state taxes). The proposal also provides for a permanent additional reduction in value of a manufactured home for property tax purposes in the amount of \$5000.	SCORC/SFC -SCORC
SB 472 Sanchez	High-Income Taxpayer Surtax: SB 472 Imposes an income tax surtax of 1% on taxable income in excess of \$100K dollars for individuals, and \$160K for married filing joint returns.	SCORC/SFC -SCORC
SB 483 Munoz	Taxation of Political Subdivisions: SB 483 Declares legislative intent with respect to taxes imposed by political subdivisions (cities, counties, universities, school districts, other) authorized by virtue of area, population, net taxable base for rate-setting purposes or other criteria to not be viewed as automatically precluding a subdivision from continuing to impose or re-impose that tax even though it may no longer meet one or more of the criteria that qualified it, provided that the tax has not been repealed or terminated.	SCORC/SFC -SCORC- DP-SFC
SB 507 Ortiz y Pino	Increase & Index Gas & Special Fuels Taxes: SB 507 Increases the diesel tax every July from \$.21/gal to \$.23, \$.25 and \$.27/gal and provides that the increases be indexed to rise annually thereafter with	SCORC/SFC -SCORC

	the producer price index for highways, streets and other heavy construction. Gasoline was indexed similarly and raised from \$.17/gal to \$.19, \$.21, and \$.23/gallon every July until the indexing provision kicks in.	
SB 544 E. Griego	Opioid Treatment Income Tax Credit: SB 544 Creates a personal income tax credit not to exceed \$5000 in the amount of \$500/month per 10 average patients treated per month for providing medication-assisted opioid addiction therapy to an average minimum of ten patients per month and may claim an additional five hundred dollars (\$500) for every additional average ten patients per month for whom the taxpayer provides medication-assisted opioid addiction therapy. The credit is not refundable but can be carried forward or transferred.	SCORC/SFC -SCORC- DP-SFC
SB 551 Campos	Small winery Capacity for Liquor Tax: SB 551 Expands the production limit to qualify as a small winer from 900K liters to 1.2M liters, and creates tax limits by type (excluding small winers and a 5 cent/gallon rate for microbrewers) and expands authority for local liquor tax imposition and eliminates administration fee.	SCORC/SFC -SCORC
SB 552 Campos	Tax Definition of Livestock: SB 552 Adds examples of “livestock” for purposes of the gross receipts tax exemption for livestock found in Section 7-9-18, including horses, asses, mules, cattle, sheep, goats, swine, bison, poultry, ostriches, emus, rheas, camelids, and farmed cervidae (elk), as well as their carcasses, but not canines or felines.	SCORC/SC ONC- SCORC-DP- SCORC
SB 555 Rue	Film Production Tax Credit Reporting: SB 555 Requires film credit recipients report “all direct production expenditures and postproduction expenditures” as a condition of application for the film production tax credit.	SCORC/SFC -SCORC
SB 560 Payne	Headquarters Corporate Income Tax Credit: SB 560 Creates a corporate income tax credit for capital improvements in excess of \$10 million or more in new construction or renovations to regional, national or international corporate headquarters located in NM. The credit is in the amount of \$5000 for the gross wages paid to each new employee (not transfers) for up to three years. The credit cannot be carried forward or transferred, and taxpayers using the credit may not avail themselves of rural jobs, high wages jobs, or the additional credit portion of the technology jobs tax credits.	SCORC/SFC -SCORC- DP-SFC
SB 568 Smith	Film Production & Educational Retirement: SB 568 Caps annual film production tax credit payments at \$45 million per year (with those exceeding the cap being first in line in the following year), and creates a distribution to the retiree health care fund in the amount of \$2.5 million per month through July, 2016.	SEC/SCORC /SFC-SEC
SB 575 Morales	Chile Industry Modernization Tax Credit: SB 575 Provides a credit in the amount of gross receipts or compensating tax paid on qualifying chile production equipment. The credit can be applied against up to 85% of taxpayers “modified CRS” liability and can be carried forward indefinitely.	SCONC/SC ORC/SFC- SCONC
SB 612	Alternative Low-Income Property Tax Rebate: SB 612	SCORC/SFC

Phil Griego	The committee substitute bill provides counties with an alternative schedule for low-income property tax rebate table. Under present law, taxpayer eligible to claim this rebate can have a maximum modified gross income of \$24,000 (in Los Alamos and Santa Fe County only currently participating). This bill would allow a county to choose an alternate rate table with a maximum modified gross income amount of \$16,000.	-SCORC-DNP-CS/DP-SFC



Before the Sessions Started

In December and January, plenty of information was released. The consensus revenue forecast was revised for the last time in December. Some controversy and confusion was created prior to that when Governor Richardson’s estimates of the cost of providing current services differed dramatically from the Legislature’s (a \$450M vs. \$250M gap). The difference was due to assumptions (i.e. Legislative Finance Committee or “LFC” assumed continuation of the austerity measures already in place and the Governor did not). Good news followed with an optimistic revision to the revenue forecast, reducing the less daunting LFC budget shortfall to \$211M. Both the LFC and Martinez administration issued proposed budgets that manage towards the LFC shortfall number, and aren’t really that far apart in terms of approach. The December consensus forecast can be found on the LFC website [here](#). The LFC budget recommendations can be found on the LFC website [here](#), and the Martinez administration’s proposal can be found on the Department of Finance and Administration website [here](#).

KNICK KNACKS

Amazonian Arguments and Pushback

As we previously reported, Texas assessed Amazon.com \$269 million in unpaid sales tax and Amazon has sued to get access to certain documents used by the Comptroller in rendering that assessment. Amazon has also announced that it is pulling its distribution center and 119 employees out of Texas. The governor expressed concern over the loss of jobs, but the state's retail association responded that it would be unfair for Amazon to get away with not paying tax given that the tax is borne by the association's members, who compete directly with Amazon (and who employ 1.9 million in-state employees). Elsewhere, in Tennessee, the revenue department has cancelled the scheduled hearing on a regulation that would have exempted Amazon from collecting tax on sales to Tennessee customers, provided the company located a distribution center in the state. In South Carolina, the new governor is struggling with promises apparently made to induce Amazon to locate a distribution center in that state. In both states, competing retailers are now pushing back. In California, Amazon is threatening to cut off affiliates because the state is considering “Amazon law” legislation similar to that passed in New York and elsewhere. Major "brick and mortar" retailers such as Barnes and Noble are offering to partner with those same affiliates, to make up for the loss of contracts with Amazon. Finally, the Seattle Times, in an editorial recently, decried Amazon’s ongoing efforts to dodge sales tax collection obligations. The Times advice to Amazon: “Settle now and get it over with.”

[NMTRI note: it seems unlikely that Amazon would actually cut off its California affiliates. While Amazon cut off its Colorado affiliates, it did not cut off its affiliates in New York – the state that pioneered the agency nexus law that electronic retailers hate. Market size matters.]

The Good with the Bad

According to the U.S. Bureau of Labor Statistics, the unemployment rate fell under 8.9% in February, the lowest rate in almost two years. That may spell good news as the cycle of economic recovery continues. Not helping is the crisis in the Middle East, where revolution and insurrection have destabilized governments, security... and oil prices. Oil prices have gone up over 20% in the last couple of weeks, ending the week over \$106/barrel. States also continue to struggle as they deal with their varying degrees of budget crisis. Ben Bernanke, Chairman of the Federal Reserve connected the problems in the national economy to those of state and local governments. In his remarks prepared for Citizens Budget Commission in New York City, he stated "the fiscal problems of state and local governments have also had national implications, as their spending cuts and tax increases have been a headwind on the economic recovery."

TAX QUOTABLE:

"A fool and his money are soon parted. It takes creative tax laws for the rest".

~ Bob Thaves



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, 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.



Join NMTRI today!

"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" *Campanía General de Tabacos v. Collector*, 275 U.S. 87, 100 (1927), Justice Oliver Wendell Holmes, dissenting.