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# Comments on Tax Policy

Lee A. Reynis

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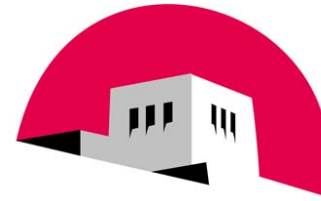
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## Comments on Tax Policy

Conference on Understanding the New Mexico Legislative  
Budget Process

January 9, 2010

Dr. Lee A. Reynis, Director

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**Data Bank**

**FOR- UNM Economic Forecasting Service**

**Census Project**

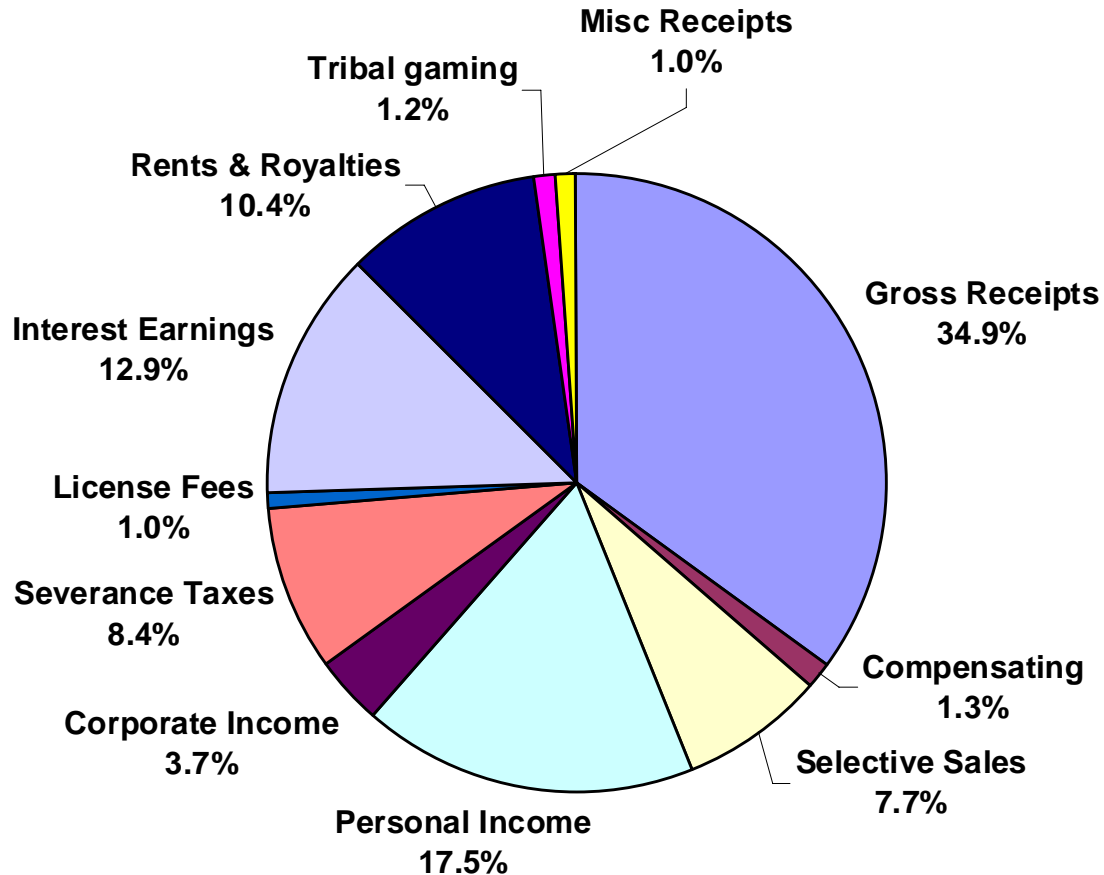
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# Funding Government in New Mexico

# State of New Mexico General Fund Recurring Revenue Sources FY 09



Total Recurring Revenues = \$5,245 Million

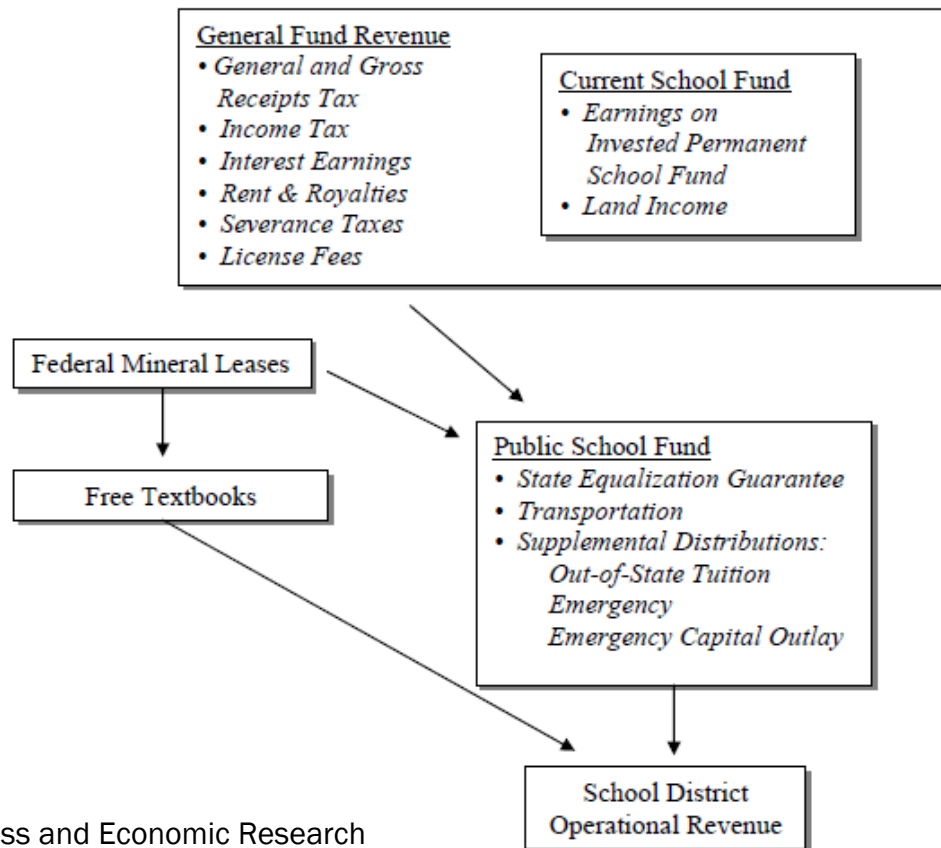
Source: NM Dept of Finance and Administration, Dec. 2009

# Financing Public School Operations in New Mexico

## OPERATIONAL FUNDING:

### WHERE DOES THE MONEY COME FROM?

Nearly all state-level school district operational funds are distributed through the Public School Fund. Revenues are derived from the following sources: the General Fund, the Current School Fund, and the Federal Mineral Leasing Revenue. Only one significant state appropriation is not distributed through the Public School Fund, the Free Textbook appropriation, which is made from Federal Mineral Leasing revenue. The remainder of the Federal Mineral Leasing revenue is deposited to the Public School Fund. The Free Textbook allocation is made on the basis of the 40<sup>th</sup> day membership [22-15-9 NMSA 1978].



**Principal Sources of Capital Project Funding**  
**Fiscal Year Ended June 30**  
(Dollars in millions)

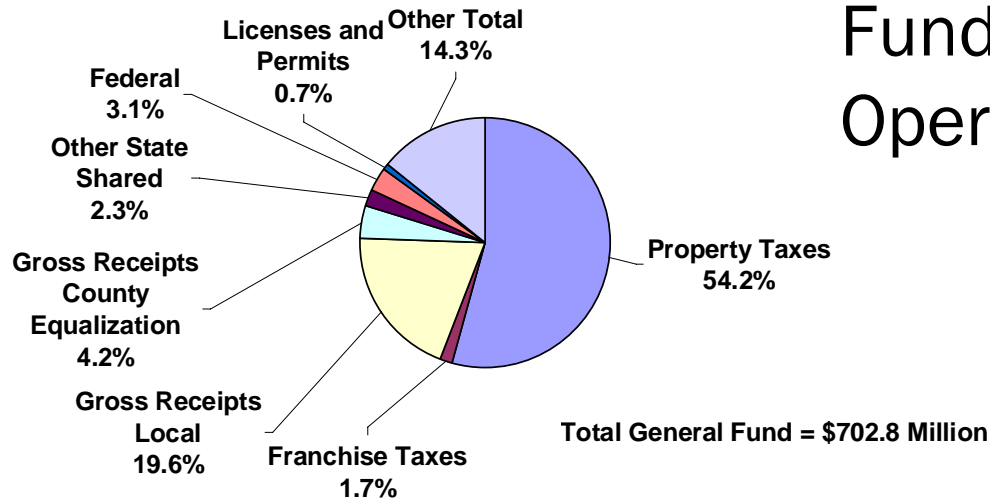
	2004	2005	2006	2007	2008	2009 (Estimated as of 6/1/09)
<b>Proceeds from General Obligation Funding Program</b>						
General Obligation Bonds	\$ 0.0	\$ 121.7	\$ 0.0	\$ 142.8	\$ 0.0	\$ 196.3
<b>Subtotal</b>	<b>\$ 0.0</b>	<b>\$ 121.7</b>	<b>\$ 0.0</b>	<b>\$ 142.8</b>	<b>\$ 0.0</b>	<b>\$ 196.3</b>
<b>Proceeds from Severance Tax Bonding Program</b>						
Severance Tax Bonds	\$ 74.5	\$ 87.6	\$ 136.1	\$ 136.4	\$ 153.6	\$ 0.0
Severance Tax Funding Notes <sup>(1)</sup>	63.7	87.8	102.1	193.3	150.9	169.4
Supplemental Severance Tax Bonds	10.0	10.5	0.0	0.0	0.0	0.0
Supplemental Severance Tax Funding Notes <sup>(1)</sup>	\$ 151.9	\$ 213.3	\$ 193.6	\$ 210.8	\$ 222.8	\$ 105.5
<b>Subtotal</b>	<b>\$ 300.0</b>	<b>\$ 399.1</b>	<b>\$ 431.8</b>	<b>\$ 540.4</b>	<b>\$ 527.3</b>	<b>\$ 274.9</b>
<b>Proceeds and Funds From Other Sources</b>						
General Fund	\$ 184.4	\$ 238.6	\$ 454.6	\$ 548.4	\$ 123.0	\$ 0.0
Transportation Bonds <sup>(2)</sup>	\$ 743.6	\$ 0.0	\$ 0.0	\$ 459.4	\$ 0.0	\$ 100.0
<b>Subtotal</b>	<b>\$ 927.0</b>	<b>\$ 238.6</b>	<b>\$ 454.6</b>	<b>\$1,007.8</b>	<b>\$ 123.0</b>	<b>\$ 100.0</b>
<b>Total</b>	<b>\$1,227.1</b>	<b>\$ 759.0</b>	<b>\$ 886.5</b>	<b>\$1,690.9</b>	<b>\$ 650.3</b>	<b>\$ 571.2</b>

<sup>(1)</sup> The Board, in order to take advantage of Severance Tax Bonding Fund revenue that would otherwise be transferred to the Severance Tax Permanent Fund, issues Funding Notes to the State Treasurer (which are retired within the same fiscal year with such revenue) to fund authorized projects.

<sup>(2)</sup> On May 20, 2004, the New Mexico Finance Authority issued \$700,000,000 of new money bonds secured by a pledge of, and payable from, funds on deposit in the State Road Fund and the Highway Infrastructure Fund. On October 19, 2006, the New Mexico Finance Authority issued \$450,400,000 of new money bonds secured by a pledge of, and payable from, funds on deposit in the State Road Fund and the Highway Infrastructure Fund. On July 1, 2008, the New Mexico Finance Authority entered into a line of credit with a bank to provide an additional \$100,000,000 of available new money funding secured by a pledge of, and payable from, funds on deposit in the State Road Fund and the Highway Infrastructure Fund.

Source: New Mexico State Board of Finance, the Department of Finance and Administration and the New Mexico Finance Authority.

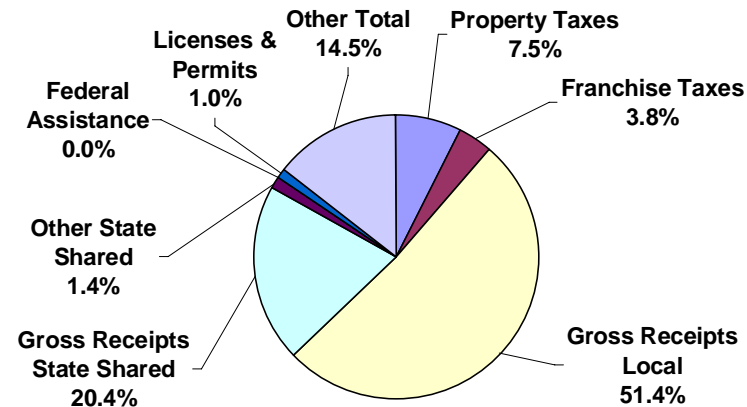
## GENERAL FUND REVENUE SOURCES NM COUNTIES, FY 08



Source: NM Local Government Division

# Funding Local Government Operations

## GENERAL FUND REVENUE SOURCES NM MUNICIPALITIES, FY 08



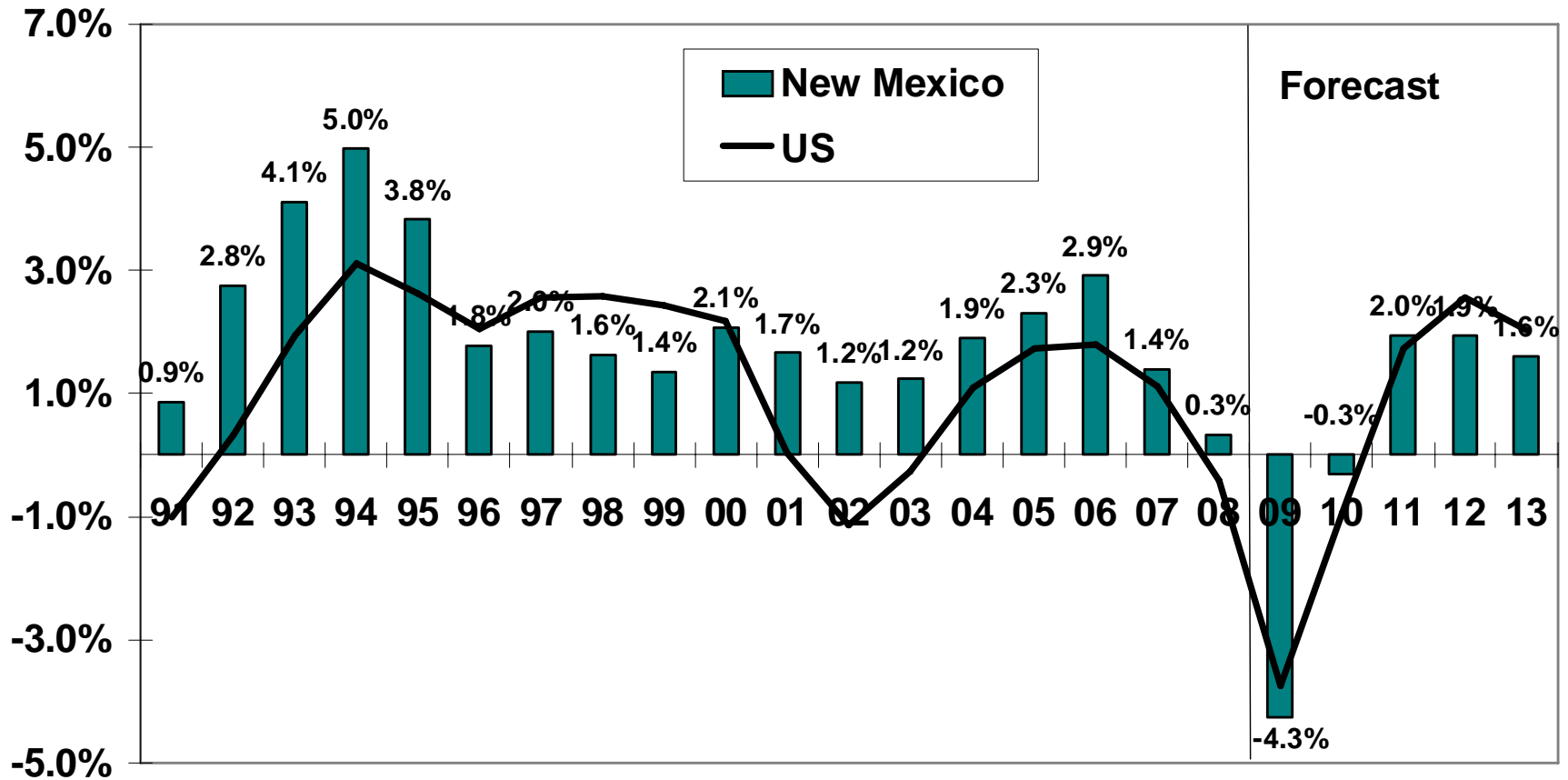
Total General Fund = \$1,178 Million



# Context: The Great Recession and State Revenue Shortfalls

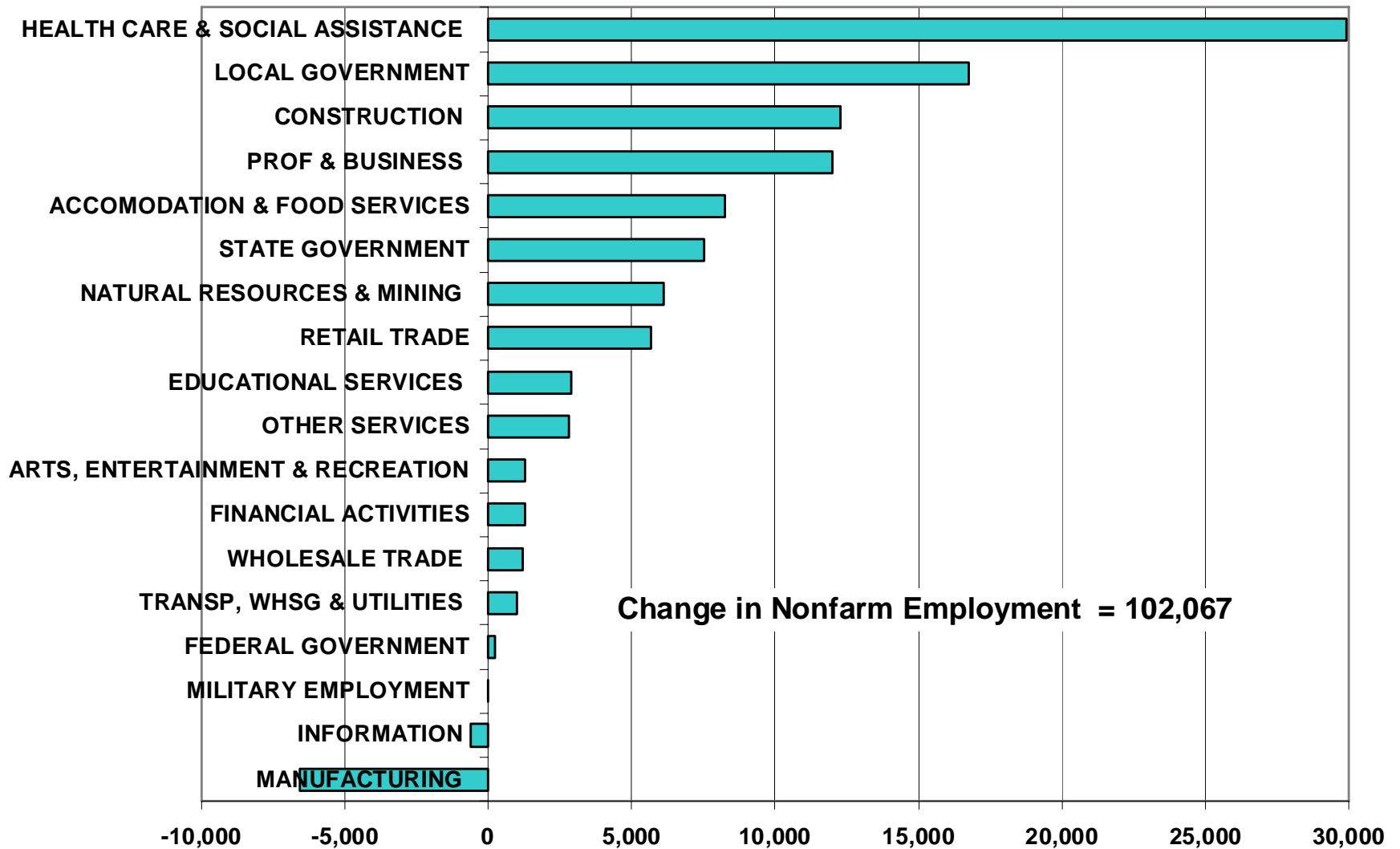
# Current job losses in New Mexico virtually unprecedented

## Annual Growth in Nonfam Employment New Mexico and US



Source: FOR-UNM, November 2009  
Global Insight, November 2009

# Growth in NM Wage & Salary Employment This Decade, 2000-08

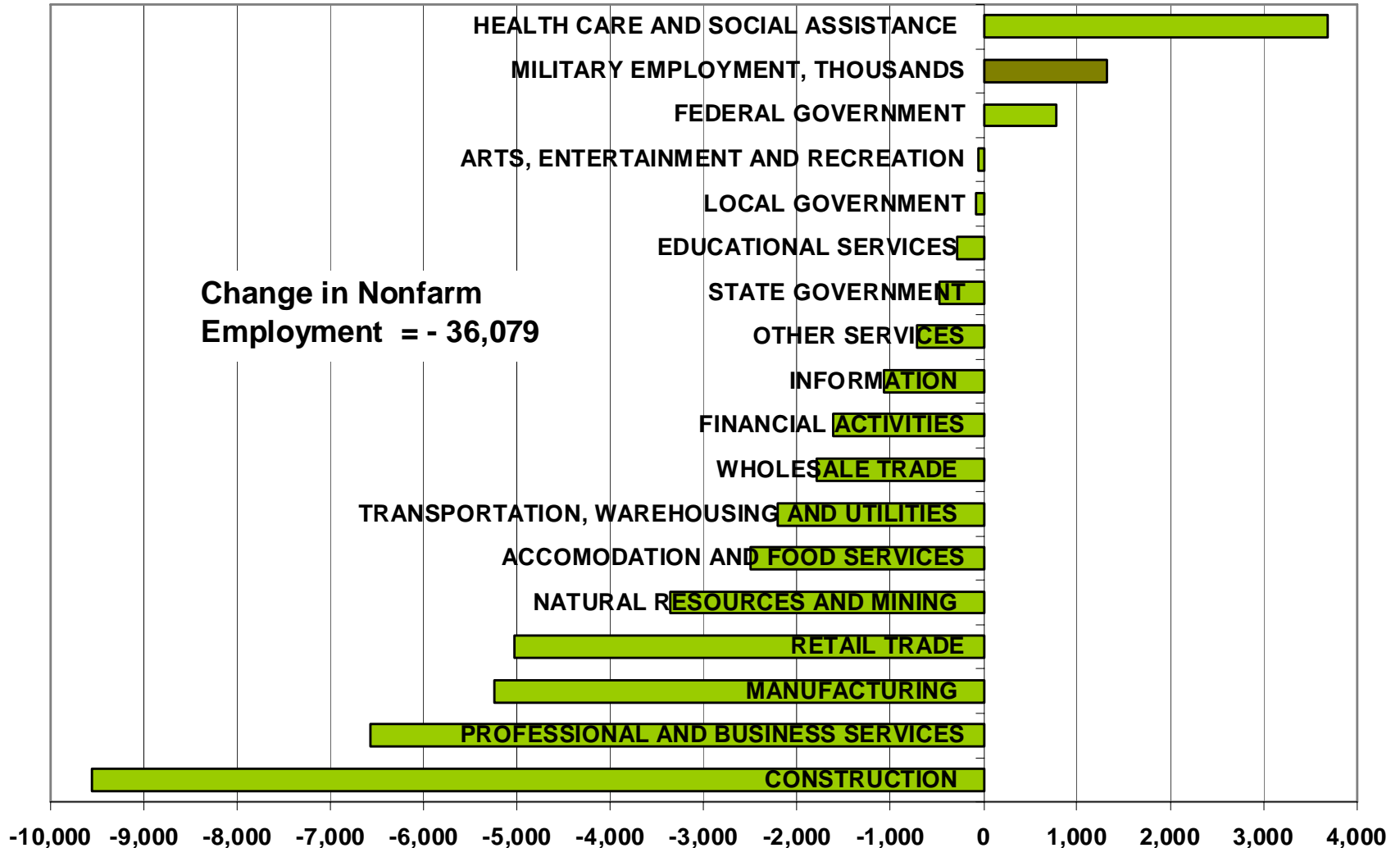


Note: Figures for State & Professional & Business Services adjusted to reflect current ownership of Los Alamos National Laboratory.

Source: NM Dept of Workforce Solutions, Bureau of Economic Analysis (military)

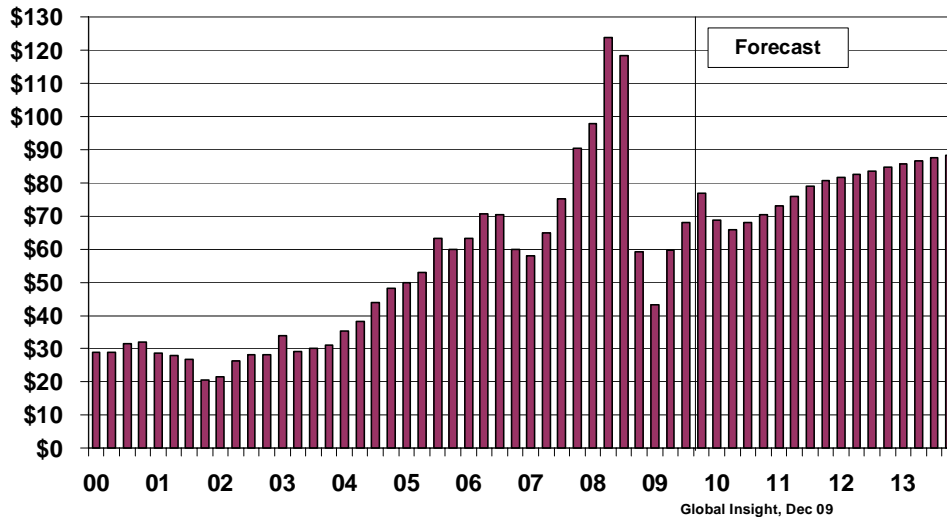
# 2009 – The Worst Downturn in Decades

## Change in New Mexico Employment 2008 to 2009

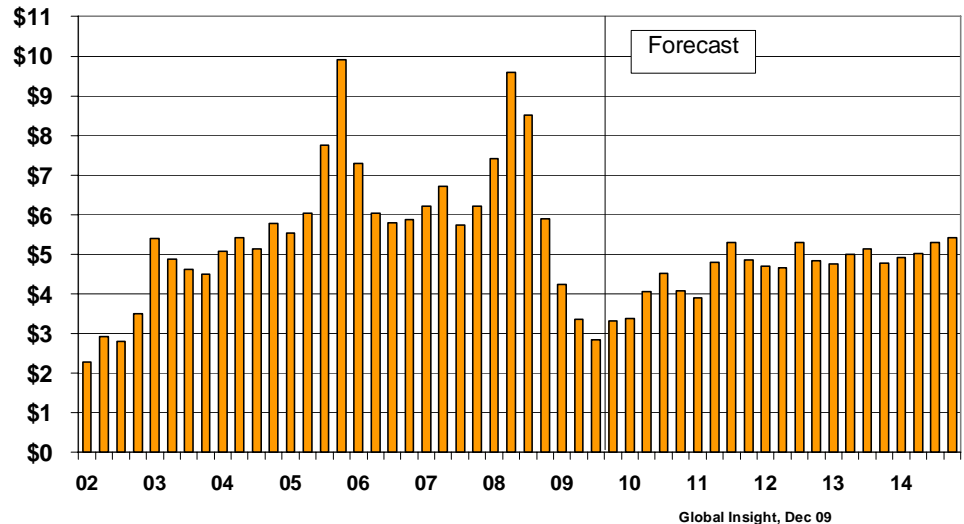


Run-up in oil & gas prices after 2002 culminating in 2008 spike.  
 After August 08, energy prices and forecasts fell off the butte....

**Oil Price - West Texas Intermediate**  
 Price per Barrel



**Natural Gas Average Wellhead Price**  
 Price Per Million BTU



# State Revenues:

## Recurring General Fund (December 09)

### \$Millions

	FY 08 Actual	FY09 Prelim	FY10 Forecast	FY 11
Total	\$6,015	\$5,320	\$4,823	\$5,121
General Sales	1,923	1,902	1,760	1,815
Income Taxes	1,568	1,121	1,150	1,257
Mineral Taxes	626	440	357	385
Rents & Royalties	610	544	335	407

Source: Presentation by DFA Secretary Katherine Miller to the Legislative Finance Committee on the October 2009 Consensus Revenue Estimates.

## December 2009 Consensus General Fund Revenue Outlook

(million dollars)

	<u>FY09</u>	<u>FY10</u>	<u>FY11</u>	<u>FY12</u>	<u>FY13</u>	<u>FY14</u>
February 2009 Revenue Estimate	5,727.0	5,485.1	5,756.1	5,992.3	6,180.6	6,397.0
August 2009 Revisions	(309.1)	(433.1)	(358.3)	(331.5)	(352.7)	(409.4)
October 2009 Revisions	(98.3)	(218.5)	(224.1)	(147.1)	(86.3)	(20.7)
<u>December 2009 Revisions</u>	<u>-</u>	<u>(10.3)</u>	<u>(52.6)</u>	<u>(97.5)</u>	<u>(134.3)</u>	<u>(169.9)</u>
<b>Total Recurring Revenue</b>	<b>5,319.6</b>	<b>4,823.3</b>	<b>5,121.0</b>	<b>5,416.2</b>	<b>5,607.3</b>	<b>5,796.9</b>
Annual percent change	-11.6%	-9.3%	6.2%	5.8%	3.5%	3.4%

## ISSUES FOR HEARING

### Updated Consensus Revenue Estimates

#### SUMMARY:

- FY10 revenue is down by \$10 million and FY11 by \$53 million compared with the October 2009 consensus estimate.
- After solvency initiatives, FY10 appropriations exceed revenue by \$279 million.
- FY10 ending reserves are less than 1 percent of appropriations. If all announced savings from Executive Orders are realized, reserves increase to 2.6 percent.
- Long-term revenue growth is 5.1 percent, below the 5.5 percent growth of personal income.

Source: Presentation by DFA Secretary Katherine Miller to the Legislative Finance Committee on the October 2009 Consensus Revenue Estimates.

# Evaluating the Revenue Options



# Evaluating the Revenue Options -- Some Criteria

- Temporary, permanent; quick fix, longer term
- Adequacy of revenues
- Responsiveness of revenues to underlying growth of the economy
  - Elastic (grows faster than income) versus inelastic (grows slower)
  - Stability over time
  - Performance over the business cycle, over the construction cycle
- Responsiveness of revenues to changes in the tax (price elasticity)
- Tax burden by income category – vertical equity
  - Proportional – rises proportionate with income
  - Regressive – falls disproportionately on those with lower income
  - Progressive – burden increases with ability to pay
- Fairness, horizontal equity – do those in similar situation pay similar amounts
- Economic effects
  - Neutrality, distorts market signals
  - Helps to bring private costs in line with social costs (carbon tax, cigarette tax)
- Ease of administration
- Political feasibility, consistency with other policy objectives
- Exportability
- Federal law, State constitution
- Impact on local taxing jurisdictions

# Revenue Options: Gross Receipts Tax

The **gross receipts tax** is a tax on the seller for the privilege of doing business in New Mexico. Unlike most sales taxes, the gross receipts tax is a very broad-based tax. Some activities and industries are exempt from the state gross receipts tax, many by virtue of their taxation under other laws. Various deductions are also allowed, including (since 2005) receipts from the sale of certain food and certain medical services. In spite of the numerous specified exemptions and deductions from gross receipts taxation, the general presumption is that all receipts of a person engaging in business in the State are subject to the state gross receipts tax.

With excerpts from the *City of Albuquerque Annual Financial Statement, FY 2009*.

**State General Sales Tax Collections  
Per Capita\*  
Fiscal Year 2007**

State	Collections Per Capita	Rank	State	Collections Per Capita	Rank
U.S.	\$787	–	Mont. (a)	\$0	–
Ala.	\$494	43	Nebr.	\$839	19
Alaska (a)	\$0	–	Nev.	\$1,270	4
Ariz.	\$909	11	N.H. (a)	\$0	–
Ark.	\$1,029	8	N.J.	\$962	9
Calif.	\$897	13	N.M.	\$942	10
Colo.	\$461	45	N.Y.	\$564	39
Conn.	\$866	14	N.C.	\$580	38
Del. (a)	\$0	–	N.D.	\$758	25
Fla.	\$1,198	5	Ohio	\$679	30
Ga.	\$676	31	Okla.	\$546	41
Hawaii	\$1,997	1	Ore. (a)	\$0	–
Idaho	\$862	17	Pa.	\$698	29
Ill.	\$610	36	R.I.	\$826	20
Ind.	\$858	18	S.C.	\$740	28
Iowa	\$599	37	S.D.	\$898	12
Kans.	\$811	22	Tenn.	\$1,106	6
Ky.	\$667	32	Tex.	\$864	15
La.	\$816	21	Utah	\$748	26
Maine	\$801	23	Vt.	\$538	42
Md.	\$615	35	Va.	\$461	44
Mass.	\$633	33	Wash.	\$1,691	2
Mich.	\$791	24	W.Va.	\$624	34
Minn.	\$864	16	Wis.	\$744	27
Miss.	\$1,085	7	Wyo.	\$1,349	3
Mo.	\$559	40			

\* May include gross receipts taxes in some states.

(a) No state-level general sales tax.

Note: See table 38 for average people per household by state.

Source: U.S. Census Bureau, Tax Foundation.

Source: National Tax Foundation, *Facts and Figures Handbook: How Does Your State Compare*,  
<http://www.taxfoundation.org/publications/show/2181.html>

State tax rate used by Tax Foundation for NM is 5.375% and this rate gives ranking of 29<sup>th</sup> compared to other states (highest to lowest). Total tax rates within NM municipalities in many cases considerably exceed 7%. Difference with other states is that our tax base is much, much broader.

## Possible options for raising additional revenue from State gross receipts tax:

- Increase State rate (currently 5%)
- Eliminate deduction for food sales entirely or selectively (soda pop)
- Restore tax on food sales and simultaneously restore 0.5% municipal credit, so that tax rates in municipalities fall by 0.5%.
- Eliminate various tax expenditures, or the special treatment provided some industries

See last page of this handout for LFC estimates of \$ impacts.

## Revenue Options: Selective Sales Taxes:

- Increase gasoline tax
- Increase auto excise tax
- Increase cigarette tax
- Increase liquor taxes

See last page of this handout for LFC estimates of \$ impacts.

**State Gasoline Tax Rates**  
**As of April 3, 2009**  
**(Cents Per Gallon)**

State	Tax Rate	Rank	State	Tax Rate	Rank
Ala.	20.9¢	35	Nebr.	27.3¢	19
Alaska (a)	0¢	50	Nev.	33.1¢	8
Ariz.	19¢	41	N.H.	19.6¢	39
Ark.	21.8¢	33	N.J.	14.5¢	47
Calif.	39.9¢	2	N.M.	18.8¢	42
Colo.	22¢	31	N.Y.	42.5¢	1
Conn.	36.4¢	4	N.C.	30.2¢	14
Del.	23¢	28	N.D.	23¢	28
Fla.	34.5¢	5	Ohio	28¢	17
Ga.	12.4¢	49	Okla.	17¢	45
Hawaii	33.6¢	7	Ore.	25¢	21
Idaho	25¢	21	Pa.	32.3¢	10
Ill.	33.8¢	6	R.I.	31¢	12
Ind.	29.7¢	16	S.C.	16.8¢	46
Iowa	22¢	31	S.D.	24¢	25
Kans.	25¢	21	Tenn.	21.4¢	34
Ky.	22.5¢	30	Tex.	20¢	36
La.	20¢	36	Utah	24.5¢	24
Maine	29.9¢	15	Vt.	20¢	36
Md.	23.5¢	26	Va.	19.1¢	40
Mass.	23.5¢	26	Wash.	37.5¢	3
Mich.	30.9¢	13	W.Va.	32.2¢	11
Minn.	25.6¢	20	Wis.	32.9¢	9
Miss.	18.8¢	42	Wyo.	14¢	48
Mo.	17.3¢	44	DC	20¢	—
Mont.	27.8¢	18			

Note: The American Petroleum Institute (API) has developed a methodology for determining the average tax rate on a gallon of fuel. Rates may include any of the following: excise taxes, environmental fees, storage tank taxes, other fees or taxes, and general sales tax. In states where gasoline is subject to the general sales tax, or where the fuel tax is based on the average sale price, the average rate determined by API is sensitive to changes in the price of gasoline. States that fully or partially apply general sales taxes to gasoline: CA, CO, GA, IL, IN, MI, NY.

(a) Alaska's 8 cents per gallon tax is suspended from 9/1/08 through 8/31/09.

Source: American Petroleum Institute.

**State Cigarette Excise Tax Rates**  
**As of July 1, 2009**  
**(Cents Per 20-Pack)**

State	Tax Rate	Rank	State	Tax Rate	Rank
Ala.	\$0.425	44	Nebr.	\$0.64	37
Alaska	\$2.00	9	Nev.	\$0.80	33
Ariz.	\$2.00	9	N.H.	\$1.78	15
Ark.	\$1.15	25	N.J.	\$2.70	3
Calif.	\$0.87	31	N.M.	\$0.91	30
Colo.	\$0.84	32	N.Y.	\$2.75	2
Conn.	\$2.00	9	N.C.	\$0.35	47
Del.	\$1.15	25	N.D.	\$0.44	43
Fla.	\$1.339	22	Ohio	\$1.25	23
Ga.	\$0.37	45	Okla.	\$1.03	27
Hawaii (a)	\$2.60	4	Ore.	\$1.18	24
Idaho	\$0.57	41	Pa.	\$1.35	21
Ill.	\$0.98	29	R.I.	\$3.46	1
Ind.	\$0.995	28	S.C.	\$0.07	50
Iowa	\$1.36	20	S.D.	\$1.53	17
Kans.	\$0.79	34	Tenn.	\$0.62	38
Ky.	\$0.60	39	Tex.	\$1.41	19
La.	\$0.36	46	Utah	\$0.695	35
Maine	\$2.00	9	Vt.	\$2.24	7
Md.	\$2.00	9	Va.	\$0.30	48
Mass.	\$2.51	6	Wash.	\$2.025	8
Mich.	\$2.00	9	W.Va.	\$0.55	42
Minn.	\$1.504	18	Wis.	\$2.52	5
Miss.	\$0.68	36	Wyo.	\$0.60	39
Mo.	\$0.17	49	DC	\$2.00	—
Mont.	\$1.70	16			

Note: Local option taxes not included.

(a) Hawaii's cigarette excise tax will increase to \$2.80 on July 1, 2010 and \$3.00 on July 1, 2011.

Source: Tax Foundation, state revenue departments.

# Liquor Taxes, July 1, 2009

	Tax Per Gallon	State Ranking
State Spirits Tax	\$6.06	14
Wine	1.70	4
Beer	.41	9

Source: National Tax Foundation, *Facts and Figures Handbook: How Does Your State Compare*,  
<http://www.taxfoundation.org/publications/show/2181.html>



# Revenue Options: Personal Income Tax

Increase marginal rate for higher income tax payers  
(e.g., with AGI above \$200k)

- Roll back tax reductions put in place in 2003
- Impose personal income tax surcharge on higher income tax payers
- Make changes temporary or permanent

See last page of this handout for LFC estimates of \$ impacts.

## New Mexico Individual Income Tax Rates, 2002-09

State	Federal Deductibility	Marginal Rates and Tax Brackets for Single Filers (a)	Standard Deduction		Personal Exemptions (c)	
			Single	Joint	Single	Dependents
As of July 1, 2009	No	1.7% > \$0 3.2% > \$5,500 4.7% > \$11,000 4.9% > \$16,000	\$5,450 (a)	\$10,900 (a)	\$3,500 (a)	\$3,500 (a)
As of July 1, 2008	No	1.7% > \$0 3.2% > \$5,500 4.7% > \$11,000 5.3% > \$16,000	\$5,150 (a)	\$10,300 (a)	\$3,300 (a)	\$3,300 (a)
As of July 1, 2007	No	1.7% > \$0 3.2% > \$5,500 4.7% > \$11K <b>5.3% &gt; \$16K (a)</b>	\$5,150 (a)	\$10,300 (a)	\$3,300 (a)	\$3,300 (a)
As of July 1, 2006	No	1.7% > \$0 3.2% > \$5,500 4.7% > \$11K <b>5.7% &gt; \$16K</b>	\$5,000 (a)	\$10,000 (a)	\$3,200 (a)	\$3,200 (a)
As of July 1, 2005	No	1.7% > \$0 3.2% > \$5,500 4.7% > \$11K 6% > \$16K <b>6.8% &gt; \$26K</b>	\$4,850 (a)	\$9,700 (a)	\$3,100 (a)	\$3,100 (a)
As of July 1, 2004	No	1.7% > \$0 3.2% > \$5,500 4.7% > \$11K 6% > \$16K 7.1% > \$26K <b>7.7% &gt; \$42K</b>	<b>\$ 4,750 (a)</b>	<b>\$ 9,500(a)</b>	<b>\$ 3,050 (a)</b>	<b>\$ 3,050 (a)</b>
As of July 1, 2003	No	<b>1.7% &gt; \$0</b> <b>3.2% &gt; \$5,500</b> <b>4.7% &gt; \$11K</b> <b>6% &gt; \$16K</b> <b>7.1% &gt; \$26K</b> <b>7.9% &gt; \$42K</b> <b>8.2% &gt; \$65K</b>	<b>\$ 4,700 (c)</b>	<b>\$ 7,850(c)</b>	<b>\$ 3,000 (a)</b>	<b>\$ 3,000 (a)</b>
As of July 1, 2002	No	1.7% > \$0 3.2% > \$4K 4.7% > \$8K 6% > \$16K 7.1% > \$28K 7.9% > \$46K 8.2% > \$50K	\$ 4,550 (a)	\$ 7,600 (a)	\$ 2,900 (a)	\$ 2,900 (a)

**State Individual Income Tax Collections**  
**Per Capita**  
**Fiscal Year 2007**

State	Collections Per Capita	Rank	State	Collections Per Capita	Rank
U.S.	\$886	–	Mont.	\$875	26
Ala.	\$655	36	Nebr.	\$933	22
Alaska (a)	\$0	–	Nev. (a)	\$0	–
Ariz.	\$511	39	N.H. (b)	\$82	42
Ark.	\$768	29	N.J.	\$1,330	8
Calif.	\$1,465	5	N.M.	\$588	38
Colo.	\$996	16	N.Y.	\$1,793	2
Conn.	\$1,811	1	N.C.	\$1,181	12
Del.	\$1,194	10	N.D.	\$496	40
Fla. (a)	\$0	–	Ohio	\$875	25
Ga.	\$932	23	Okla.	\$949	20
Hawaii	\$1,218	9	Ore.	\$1,505	4
Idaho	\$949	19	Pa.	\$790	28
Ill.	\$734	33	R.I.	\$1,024	15
Ind.	\$730	34	S.C.	\$741	32
Iowa	\$895	24	S.D. (a)	\$0	–
Kans.	\$992	17	Tenn. (b)	\$37	43
Ky.	\$720	35	Tex. (a)	\$0	–
La.	\$753	30	Utah	\$980	18
Maine	\$1,032	14	Vt.	\$936	21
Md.	\$1,191	11	Va.	\$1,334	7
Mass.	\$1,770	3	Wash. (a)	\$0	–
Mich.	\$639	37	W.Va.	\$752	31
Minn.	\$1,397	6	Wis.	\$1,134	13
Miss.	\$482	41	Wyo. (a)	\$0	–
Mo.	\$825	27			

(a) No income tax.

(b) No tax on wages, but interest and dividend income taxed.

Note: See table 37 for average people per household by state.

Source: U.S. Census Bureau, Tax Foundation

Source: National Tax Foundation, *Facts and Figures Handbook: How Does Your State Compare*,  
<http://www.taxfoundation.org/publications/show/2181.html>

# Revenue Options: Corporate Income Tax

Move to Unitary Combined Reporting as has been advocated by Gerry Bradley with Voices for Children and Sen. Peter Wirth.

# ENSURING THAT MULTI-STATE CORPORATIONS PAY THEIR FAIR SHARE OF CORPORATE INCOME TAX

May 2007

Updated January 2009

## **INTENT**

Unitary combined reporting would require multi-state corporations that do business in New Mexico to pay corporate income tax (CIT) on the profits they make here.

## **PROBLEM**

New Mexico's tax code allows profitable, multi-state corporations to avoid paying some \$70 to \$90 million in corporate income taxes every year. These are the same corporations – big-box stores and national chains – that do business and pay income taxes on their profits in neighboring states.

Our tax laws allow multi-state corporations to report their New Mexico earnings in another state, such as Delaware, that doesn't collect CIT. So even though they are profitable here, their New Mexico tax returns don't show that profit.

This not only puts New Mexico corporations at a disadvantage – it undercuts the state's ability to provide important programs like public safety, education and health care for kids. It also means that the rest of us – including New Mexico small businesses – pay for the infrastructure that allows these multi-state corporations to do business here.

Some states, however, do not have this problem because they have a law that requires unitary combined reporting.

Unitary combined reporting means multi-state corporations doing business in Oregon, for example, must "combine" the income they earned in every state where they do business. A formula is then used to determine how much CIT the corporations owe to each state.

Closing this tax loophole would not hurt our efforts to attract new, out-of-state businesses because every state west of the Mississippi River – except New Mexico and Oklahoma – requires unitary combined reporting.\*

## **BACKGROUND**

In 2006, the state Taxation and Revenue Department took Wal-Mart to court, and an \$11.6 million tax assessment against the giant retailer was upheld.

The state has also taken K-Mart and Sonic to court over unpaid CITs. But taking corporations to court is an expensive and inefficient way to collect taxes.

## **CONCLUSION**

In 2003, the Blue Ribbon Tax Commission stated in its final report to the state Legislature that, "combined reporting is the fairest approach to corporate taxation at the state level." New Mexico should follow this advice.

\*Except those states that do not collect CIT.

# What about the Property Tax?

Unpopular tax – associated historically with the loss of titles to land

Railroad & public school interests combine early to minimize reliance on property tax and in support of what became the gross receipts tax.

Property tax's role in funding public school operations negligible since statewide property tax eliminated in early 1980's and remaining authority under 20 mill Constitutional limit was given to munis and counties. State takes credit for 0.5 mill levy imposed by local school districts and reduces revenues under equalization formula accordingly.

Now statewide property tax is only utilized for debt service on State GO bonds, which primarily fund educational purposes. Bonding capacity limited by Constitution (outstanding debt  $\leq$  1% assessed value)

# Property Tax – Tax Lightning Issue

## Judge Zaps Tax Lightning,

Sean Olson *Albuquerque Journal*, 8/14/09

In a decision that could force an overhaul of tax policy statewide, a district judge has struck down part of a law that often results in home buyers paying significantly higher property taxes than people already living in similar homes in the same neighborhood.

Second Judicial District Judge Theresa Baca ruled that a 2001 state law unfairly created a class of people who are taxed more because of when they bought their homes – a phenomenon known as "tax lightning."

Baca ruled that violated the state constitution [which “allows differences in taxation, but only based on age, income or whether a property is occupied by its owner”].

The 2001 law intended to protect the elderly and low-income families living in neighborhoods with rapidly rising property values placed a 3 percent annual cap on increases in assessed values – except when a home changes ownership.

When that happens, assessors are required to bring the property's assessed value to "current and correct" levels – at least 85 percent of market value – the next year.

As a result, homeowners who buy into existing neighborhoods often pay higher tax bills than their neighbors. In some cases, up to three times as much as the former owners.

# Property tax system needs an overhaul

Need to bring all properties to current and correct and keep them there through scheduled reassessments.

Assessors need the tools to do the job:

- Uniform disclosure of sales prices (& other consideration) for both residential and nonresidential properties. Eliminate confidentiality and make sales price a matter of public record.
- Education and training. Professionalize staff.
- Up-to-date & reliable computer systems. Knowledgeable staff.
- Effective oversight by TRD or an Equalization Board

If still necessary, require disclosure of likely future tax bills at time of sale.

Re-write laws to create effective circuit-breakers for those of fixed income and those with limited ability to pay (land rich cash poor)

Grapple with taxation of residential land and agricultural land. Consider deferrals until time of sale.

Retain yield control provisions and exercise oversight re: classification of new value vs. value maintained. Oversight on debt service obligations & fund balances.



# Where New Mexico ranks among the states in terms of total property taxes paid:

Property tax per capita (2005, 2008) 48

Property tax per \$100 of Income (2005) 47

Median property taxes on owner-occupied housing as a percent of median housing value (2008) 42

# Proposal: Reinstate Statewide Property Tax for Funding Public School Operations and Pre-K Programs

**Adequacy:** Tax is underutilized. 1 mill statewide should raise over \$50 M.

**Stability:** Less affected by cyclical swings in the economy but revenues will grow with population and as economy grows and wealth is created.

**Equity:** Statewide tax to fund equalization formula addresses inequities across communities in ability to pay and recognizes education as a public good. Horizontal and vertical equity possible but requires assessments to be fair and uniform, valuations to be current and correct with limitations on yield, and circuit breakers for those on fixed or of limited income.

More transparency.

**Administration:** System already in place for other taxing jurisdictions.

**Economic impacts:** Higher taxes hold down land values but investment in good school should increase. Good schools are good for economic development: educated workforce; helps businesses retain and attract good people. Treatment of land versus improvements. Low taxes can encourage land speculation. Consider deferral of taxes until sale.

**New Mexico**  
**State-Local Tax Burden Compared to U.S. Average**  
**1977-2008**

Year	State						U.S. Average	
	Rate	Rank (1 is highest)	Per Capita Taxes Paid to Own State	Per Capita Taxes Paid to Other States	Total State and Local Per Capita Taxes Paid	Per Capita Income	Rate	Per Capita Income
1977	8.7%	46	\$331	\$227	\$559	\$6,441	10.3%	\$7,787
1978	9.0%	42	\$394	\$253	\$648	\$7,181	10.2%	\$8,590
1979	8.8%	40	\$439	\$264	\$703	\$7,962	9.7%	\$9,510
1980	8.3%	41	\$441	\$281	\$722	\$8,693	9.5%	\$10,431
1981	8.5%	38	\$515	\$307	\$822	\$9,691	9.3%	\$11,532
1982	7.8%	43	\$490	\$338	\$828	\$10,592	9.3%	\$12,485
1983	7.6%	46	\$484	\$345	\$829	\$10,908	9.4%	\$13,011
1984	8.2%	43	\$594	\$379	\$973	\$11,807	9.7%	\$14,161
1985	8.2%	45	\$627	\$410	\$1,036	\$12,705	9.7%	\$15,349
1986	8.1%	44	\$654	\$421	\$1,075	\$13,233	9.7%	\$16,233
1987	8.9%	42	\$775	\$427	\$1,202	\$13,567	9.9%	\$17,095
1988	9.3%	36	\$882	\$449	\$1,331	\$14,254	9.8%	\$18,243
1989	9.4%	33	\$950	\$472	\$1,421	\$15,101	9.8%	\$19,562
1990	9.5%	31	\$1,005	\$496	\$1,501	\$15,842	9.9%	\$20,465
1991	9.4%	32	\$1,041	\$527	\$1,568	\$16,729	9.9%	\$21,101
1992	9.5%	33	\$1,086	\$567	\$1,653	\$17,422	10.1%	\$21,789
1993	9.5%	34	\$1,147	\$583	\$1,729	\$18,129	10.2%	\$22,636
1994	9.7%	30	\$1,235	\$609	\$1,844	\$18,971	10.2%	\$23,408
1995	9.5%	35	\$1,284	\$618	\$1,902	\$20,013	10.2%	\$24,587
1996	9.4%	34	\$1,333	\$616	\$1,949	\$20,715	10.0%	\$25,730
1997	9.4%	32	\$1,405	\$630	\$2,035	\$21,593	9.8%	\$27,335
1998	9.6%	25	\$1,532	\$652	\$2,184	\$22,738	9.7%	\$29,103
1999	9.3%	29	\$1,533	\$656	\$2,188	\$23,520	9.6%	\$30,798
2000	9.3%	25	\$1,587	\$653	\$2,240	\$24,053	9.5%	\$32,707
2001	8.9%	34	\$1,601	\$697	\$2,298	\$25,812	9.5%	\$33,725
2002	8.9%	34	\$1,645	\$739	\$2,385	\$26,794	9.5%	\$33,172
2003	8.9%	39	\$1,639	\$745	\$2,384	\$26,761	9.7%	\$33,644
2004	9.1%	35	\$1,779	\$803	\$2,582	\$28,304	9.8%	\$35,576
2005	9.0%	36	\$1,865	\$873	\$2,738	\$30,363	9.8%	\$38,206
2006	9.0%	37	\$1,958	\$1,003	\$2,962	\$32,826	9.9%	\$40,643
2007	8.8%	38	\$2,012	\$1,044	\$3,055	\$34,692	9.9%	\$42,817
2008	8.6%	39	\$2,051	\$1,063	\$3,114	\$36,031	9.7%	\$44,254

Source: Tax Foundation calculations based on data from the Bureau of Economic Analysis, the Census Bureau, the Council on State Taxation, the Travel Industry Association, Department of Energy, and others.

**General Fund Revenue Impacts of Various Revenue Raising Options**  
(Dollar amounts in millions)

<b>Income tax options:</b>	<b>Effect. Date</b>	<b>FY10</b>	<b>FY11</b>	<b>FY12</b>
1% income tax increase on current top bracket (married \$24,000/single \$16,000)	Tyba 1/1/2010	25.5	170.0	179.4
1% income tax increase over \$100,000 (single), \$150,000 (married)	Tyba 1/1/2010	5.0	58.1	59.4
Addback income tax deduction for state & local taxes	Tyba 1/1/2010	-	40.0	42.0
Reduce deduction for capital gains from 50% to 25%	Tyba 1/1/2010	-	18.0	20.0
<b>Corporate income tax options:</b>				
Require combined reporting for corporate income tax	Tyba 1/1/2011	-	12.0	30.0
Increase corporate franchise tax from \$50 to \$250 per year	Tyba 1/1/2010	-	7.5	7.5
<b>Gross receipts tax options:</b>				
Repeal GRT deduction for food	7/1/2010	-	228.0	238.9
Repeal GRT food deduction and reinstate 0.5% GRT credit in muni areas	7/1/2010	-	48.0	48.0
Repeal GRT deduction for medical services	7/1/2010	-	65.0	69.9
Apply compensating tax to in-state sales currently exempt from all tax	7/1/2010	-	13.2	13.8
Increase statewide GRT rate by 0.25%	7/1/2010	-	126.0	132.0
<b>Excise tax options:</b>				
Increase motor vehicle excise tax by 1.0%	4/1/2010	7.7	34.3	37.7
Increase O&G Emergency School Tax on oil by 1%	4/1/2010	10.1	40.4	41.8
Increase O&G Emergency School Tax on gas by 1%	4/1/2010	10.8	52.8	53.8
Increase liquor excise tax by 5 cents per drink	4/1/2010	10.0	40.0	40.7
Increase insurance premiums tax on health insurance by 1%	1/1/2011	-	22.0	47.0
Increase cigarette tax by \$1 per pack from \$0.91 to \$1.91 per pack	4/1/2010	7.5	30.0	30.0
Increase cigarette tax by \$1 with no exemption for tribal sellers for increase	4/1/2010	24.8	99.0	99.0
Increase tobacco products tax from 25% to 40%	4/1/2010	0.8	3.0	3.0
<b>Options to reduce tax expenditures:</b>				
Repeal angel investor tax credit	Tyba 1/1/2010	-	0.8	0.8
Reduce film production credit rate from 25% to 15% of expenditures	Tyba 1/1/2010	6.5	26.0	28.6
Reduce rate of high wage jobs tax credit from 10% to 7% of wages	7/1/2010	-	5.0	5.5
Reduce rate of technology jobs tax credit from 8% to 6% of expenditures	7/1/2010	-	1.5	1.7
Reduce rate of investment credit from 5% to 4% of expenditures	7/1/2010	-	1.8	1.8
Reduce renewable energy production credit by 20%	Tyba 1/1/2010	-	1.0	1.1
Freeze hospital GRT credit at FY10 level	7/1/2010	-	4.0	8.0
Reduce rate of credit for NMMIP assessments by 20%	7/1/2010	-	10.0	14.0
Eliminate GRT back to school tax holiday	7/1/2010	-	2.7	2.7
Reduce lab small business partnership credit by 50%	7/1/2010	-	2.0	2.1

"Tyba" = Tax years beginning on or after.