THE STATE OF NEW MEXICO

CONTINUING DISCLOSURE

ANNUAL FINANCIAL INFORMATION FILING

FISCAL YEAR 2009

NEW MEXICO
STATE BOARD OF FINANCE

January 2010

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STATE OF NEW MEXICO
OUTSTANDING AND ADDITIONAL BONDS

Capital Program

Capital projects funded by the State of New Mexico (the "State") are financed primarily by surplus State general fund balances; General Obligation Bonds; Severance Tax Bonds, including Supplemental or Subordinate Severance Tax Bonds; and Transportation Bonds, backed primarily by the State Road Fund. Table 1 summarizes these capital funding sources for Fiscal Year 2005 through Fiscal Year 2009 and the first six months of Fiscal Year 2010 through December 31, 2009.

TABLE 1
Principal Sources of Capital Project Funding
Fiscal Year Ended June 30
(Dollars in millions)

	2005	2006	2007	2008	2009	2010 (Available As of 12/31/09)
Proceeds from General Obligation Bonding Program						
General Obligation Bonds	$ 121.7	$ 0.0	$ 142.8	$ 0.0	$ 223.4	$ 0.0
Subtotal	$ 121.7	$ 0.0	$ 142.8	$ 0.0	$ 223.4	$ 0.0
Proceeds from Severance Tax Bonding Program						
Severance Tax Bonds	$ 87.6	$ 136.1	$ 136.4	$ 153.6	$ 0.0	$ 218.5
Severance Tax Funding Notes[1]	87.8	102.1	193.3	150.9	188.7	59.9
Supplemental Severance Tax Bonds	10.5	0.0	0.0	0.0	0.0	0.0
Supplemental Severance Tax Funding Notes[1]	213.3	193.6	210.8	222.8	$ 240.8	0.0
Subtotal	$ 399.1	$ 431.8	$ 540.4	$ 527.3	$ 429.5	$ 278.4
Proceeds From Other Sources						
General Fund[2]	$ 238.6	$ 454.6	$ 548.4	$ 123.0	$ (148.6)	$ 0.0
Transportation Bonds[3]	0.0	0.0	459.4	0.0	200.0	$ 0.0
Subtotal	$ 238.6	$ 454.6	$ 1,007.8	$ 123.0	$ 51.4	$ 0.0
Total	**$ 759.0**	**$ 886.5**	**$ 1,690.9**	**$ 650.3**	**$ 704.3**	**$ 278.4**

(1) The State Board of Finance, in order to take advantage of 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.

(2) In Fiscal Year 2009, due to budgetary constraints $148.6 million previously appropriated for Capital Project Funding was reappropriated for purposes other than Capital Project Funding.

(3) 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 $200,000,000 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 Obligation Bonds

Sections 7 and 8 of Article IX, of the State Constitution, limit the power of State officials to incur general obligation indebtedness extending beyond the fiscal year in the following ways:

(a) The State may borrow money not exceeding the sum of two hundred thousand dollars ($200,000) in the aggregate to meet casual deficits or failure in revenue, or for necessary expenses.

(b) Other debt may be contracted by or on behalf of the State only when authorized by law for some specified work or object. Such a law takes effect only after being submitted to the qualified electors of the State and having received a majority of all votes cast thereon at a general election. No debt may be created if the total indebtedness of the State, exclusive of the debts of the territory and several counties thereof assumed by the State, would thereby be made to exceed 1 percent of the assessed valuation of all property subject to taxation in the State, as shown by the last preceding general assessment.

(c) The State may contract debts to suppress insurrection and to provide for the public defense.

Outstanding and Additional Parity General Obligation Bonds

The principal amounts of outstanding General Obligation Bonds, as of December 31, 2009, are shown in Table 2.

TABLE 2
Outstanding General Obligation Bonds

Series	Principal Outstanding
Series 2005	$ 73,780,000
Series 2007	112,885,000
Refunding Series 2008A	70,735,000
Series 2009	196,330,000
Total	**$ 453,730,000**

Source: New Mexico State Board of Finance.

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Future debt payments, by fiscal year, on General Obligation Bonds outstanding, as of December 31, 2009, are shown in Table 3.

TABLE 3
Future General Obligation Bond Debt Service[(1)]

Fiscal Year	Principal	Interest	Total
2010	$55,150,000	$11,219,550	$66,369,550
2011	61,725,000	19,929,000	81,654,000
2012	56,840,000	16,842,750	73,682,750
2013	59,755,000	14,000,750	73,755,750
2014	46,845,000	11,013,000	57,858,000
2015	49,170,000	8,670,750	57,840,750
2016	37,130,000	6,212,250	43,342,250
2017	38,990,000	4,355,750	43,345,750
2018	23,475,000	2,406,250	25,881,250
2019	24,650,000	1,232,500	25,882,500
Total	$453,730,000	$95,882,550	$549,612,550

(1) Figures may not add due to rounding.
Source: New Mexico State Board of Finance.

Voters must approve the issuance of additional General Obligation Bonds, other than for refunding purposes, and the levy of additional *ad valorem* taxes. Any such additional General Obligation Bonds may be issued on a parity with, or subordinate to, all outstanding General Obligation Bonds.

Calculation of 1 Percent Bonding Limitations	
Net taxable value as of December 31, 2009	$55,046,214,402
General obligation bond limitation @ 1 percent of net taxable value	$550,462,114
Total general obligation bonds outstanding as of December 31, 2009	$453,730,000
Ratio of total debt to net taxable value	0.824%

Source: Fiscal Strategies Group.

Underlying General Obligation Bonds

The following table presents information on county, city, local and public school district debt outstanding as of June 30, 2009. The table does not include debt of special districts or community colleges.

Certain Underlying General Obligation Debt

Counties	$248,425,000
Cities	$365,117,000
Schools	$1,570,154,000

Source: New Mexico Department of Finance and Administration, Local Government Division and New Mexico Department of Education.

Severance Tax Bonds

The Severance Tax Bonding Act, Sections 7-27-1 to 7-27-27 NMSA 1978, as amended, permits the State Board of Finance (the "Board") to issue two categories of bonds against Severance Tax Bonding Fund (the "Bonding Fund") revenues: "New Mexico Severance Tax Bonds," referred to herein as "Senior Severance Tax Bonds," and "New Mexico Supplemental Severance Tax Bonds," referred to herein as "Supplemental Severance Tax Bonds." The Board is prohibited by statute from issuing Senior Severance Tax Bonds and short-term Senior Severance Tax Funding Notes unless the aggregate amount of total Senior Severance Tax Bonds and Funding Notes outstanding, after giving effect to the proposed issuance, can be serviced with not more than 50 percent of the annual deposits into the Bonding Fund from the preceding fiscal year. The Board is prohibited by statute from issuing Supplemental Severance Tax Bonds unless the aggregate amount of Senior Severance Tax Bonds and Supplemental Severance Tax Bonds outstanding, after giving effect to the proposed issuance, can be serviced with not more than 62.5 percent of the annual deposits into the Bonding Fund from the preceding fiscal year. In addition, short-term Supplemental Severance Tax Funding Notes may be issued if the debt service on such Supplemental Severance Tax Funding Notes, when added to the debt service previously paid or scheduled to be paid during that fiscal year on Senior and Supplemental Severance Tax Bonds and Funding Notes does not exceed 95 percent of the deposits into the Bonding Fund from the preceding fiscal year. The Senior Severance Tax Bonds and Funding Notes fund all types of capital projects while Supplemental Severance Tax Bonds and Funding Notes are earmarked for capital projects for public education.

The Board has authority to issue Supplemental Severance Tax Bonds for public school projects in amounts certified to the Board from time to time by the Public School Capital Outlay Council of the State. The lien of the pledge of such Supplemental Severance Tax Bonds (including short-term funding notes) is subordinate to any outstanding Senior Severance Tax Bonds.

Section 7-27-8 NMSA 1978 requires that on each December 31 and each June 30 the State Treasurer shall transfer to the Severance Tax Permanent Fund all money in the Bonding Fund except the amount necessary to meet all principal and interest payments on bonds payable from the Bonding Fund on the next two ensuing semiannual payment dates.

Outstanding Senior Severance Tax Bonds

The principal amounts of outstanding Senior Severance Tax Bonds, as of December 31, 2009, are shown in Table 4.

TABLE 4
Outstanding Senior Severance Tax Bonds

Severance Tax Bonds, Series 2005A	$ 56,590,000
Severance Tax Bonds, Refunding Series 2005B-1	22,665,000
Severance Tax Bonds, Series 2006A	100,995,000
Severance Tax Bonds, Series 2007A	112,670,000
Severance Tax Bonds, Series 2008A-1	137,050,000
Severance Tax Bonds, Series 2009	218,450,000
Total	**$648,420,000**

Source: New Mexico State Board of Finance.

Future payments, by fiscal year, on outstanding Senior Severance Tax Bonds, as of December 31, 2009, are shown in Table 5.

TABLE 5
Future Senior Severance Tax Bond Debt Service[1]

Fiscal Year	Principal	Interest	Total
2010	$0	$13,193,953	$13,193,953
2011	75,400,000	26,454,044	101,854,044
2012	83,490,000	23,133,088	106,623,088
2013	87,520,000	19,452,088	106,972,088
2014	83,370,000	15,778,813	99,148,813
2015	77,680,000	12,269,694	89,949,694
2016	72,395,000	9,038,850	81,433,850
2017	64,345,000	6,097,638	70,442,638
2018	50,105,000	3,613,800	53,718,800
2019	35,515,000	1,728,775	37,243,775
2020	18,600,000	465,000	19,065,000
Total	$648,420,000	$131,225,740	$779,645,740

(1) Figures may not add due to rounding.
Source: New Mexico State Board of Finance.

Outstanding Supplemental Severance Tax Bonds

The principal amounts of Supplemental Severance Tax Bonds that are outstanding, as of December 31, 2009 are shown in Table 6.

TABLE 6
Outstanding Supplemental Severance Tax Bonds

Supplemental Severance Tax Bonds, Series 2003B	$ 4,630,000
Supplemental Severance Tax Bonds, Series 2004B	5,380,000
Supplemental Severance Tax Bonds, Refunding Series 2005B-2	14,335,000
Supplemental Severance Tax Bonds, Refunding Series 2008A-2	15,715,000
Total	**$40,060,000**

Source: New Mexico State Board of Finance.

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The future fiscal year debt payments on outstanding Supplemental Severance Tax Bonds, as of December 31, 2009, are shown in Table 7.

TABLE 7
Future Supplemental Severance Tax Bond Debt Service(1)

Fiscal Year	Principal	Interest	Total
2010	$0	$793,323	$793,323
2011	14,145,000	1,306,745	15,451,745
2012	14,710,000	722,414	15,432,414
2013	7,700,000	288,524	7,988,524
2014	2,355,000	108,283	2,463,283
2015	1,150,000	28,750	1,178,750
Total	$40,060,000	$3,248,039	$43,308,039

(1) Figures may not add due to rounding.
Source: New Mexico State Board of Finance.

Tax and Revenue Anticipation Notes

The State has issued, and expects to issue from time to time, Tax and Revenue Anticipation Notes ("Notes"). The Notes are not general obligations of the State. The purpose of the Notes is to fund a portion of the State's cash flow needs during the fiscal year in which the Notes are sold. As of December 31, 2009, there were not any outstanding Tax and Revenue Anticipation Notes.

Severance Tax Bonding Fund and Debt Service Requirements

Severance tax receipts contributed 94 percent of total revenue to the Bonding Fund in Fiscal Year 2009, with the remainder attributable to interest and reversions. Severance taxes are almost entirely attributable to natural gas, crude oil and coal sales. Natural gas and crude oil together accounted for approximately 95.5 percent of total Fiscal Year 2009 severance tax receipts as shown in Table 8. This percentage is calculated net of Intergovernmental Tax Credits.

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TABLE 8
Severance Tax Bonding Fund
Cash Receipts, Disbursements and Transfers
Fiscal Year Ended June 30[(1)(2)]
(Dollars in thousands)

	2005	2006	2007	2008	2009
Beginning Balance	$ 27,175	$103,909	$240,717	$224,860	$107,217
Receipts:					
Taxes:					
Oil and Gas Severance Tax	$372,943	$477,139	$433,357	$493,293	$492,885
Other Minerals Severance Taxes	18,637	20,198	19,545	18,501	23,431
Total Severance Taxes	$391,581	$497,336	$452,901	$511,794	$516,315
Other Income:					
Interest on Investments	$ 10,994	$ 27,573	$ 56,521	$ 57,410	$31,607
Other financing sources	2,975	9,766	718	4,391	2,300
Total Other Income	13,969	37,339	57,239	61,801	33,907
Total Receipts	$405,549	$534,676	$510,140	$573,595	$550,222
Disbursements:					
Senior Bond Debt Service	$ 7,551	$ 69,332	$ 72,886	$158,564	$12,433
Senior Short-term Obligations[(3)]	87,793	102,158	74,434	269,750	188,684
Supplemental Bond Debt Service	3,290	19,691	20,119	39,056	1,074
Supplemental Short-term Obligations[(3)]	$213,345	$193,577	$210,830	$222,799	$240,841
Fiscal Charges	518	738	446	665	895
Total Disbursements	$312,497	$385,495	$378,715	$690,834	$443,926
Transfers:					
To Severance Tax Permanent Fund	$ 16,318	$ 12,372	$147,282	$ 404	$41,195
Total transfers	$ 16,318	$ 12,372	$147,282	$ 404	$41,195
Ending Balance, June 30	$103,909[(4)]	$240,717[(5)]	$224,860	$ 107,217[(6)]	$172,318[(7)]

(1) All receipts, expenditures and balances exclude amounts in rebate accounts retained for potential arbitrage rebates.

(2) Proceeds attributable to refunding bonds are excluded from this table because such proceeds are reserved for payments on appropriate refunding bonds and are not available for debt service payments on other Severance Tax Bonds. Expenditures for debt service on refunding bonds are also excluded from this table.

(3) The Board, in order to take advantage of Bonding Fund revenues that would otherwise be transferred to the Severance Tax Permanent Fund, issues short-term Severance Tax funding notes and Supplemental Severance Tax funding notes to the State Treasurer which are retired within the same fiscal year with such revenue to fund authorized projects.

(4) The ending balance includes the amount of the transfer to the Severance Tax Permanent Fund, which was made on July 8, 2005 in the amount of $12.4 million.

(5) The ending balance includes the amount of the transfer to the Severance Tax Permanent Fund, which was made on July 12, 2006 in the amount of $123.2 million and an additional transfer of $22.3 million made on December 11, 2006.

(6) The ending balance includes the amount of the transfer to the Severance Tax Permanent Fund, which was made on July 31, 2008 in the amount of $41.1 million.

(7) The ending balance includes the amount of the transfer to the Severance Tax Permanent Fund, which was $27.5 million. An initial transfer of $31.1 million was made on July 14, 2009. After further review a reversal to the Severance Tax Bonding Fund of $2.6 million was made on November 23, 2009, to reflect the correct amount necessary to be transferred.

Source: New Mexico State Board of Finance based on the Central Financial Reporting and Accounting System (the "CFRAS System") for data provided from 2005 to 2006 and the Statewide Human Resources, Accounting, and Management Reporting System (the "SHARE System") for data provided from 2007 to present.

TABLE 9
State of New Mexico Severance Tax Bonds
Projected Cash Receipts, Debt Service Requirements and Coverage

Fiscal Year Ending 6/30	Projected STBF Revenues	Scheduled Senior Debt Service*	Projected Senior Debt Service Coverage	Scheduled Supplemental Debt Service	Projected Supplemental Coverage
2010	$323,013,978	$96,290,073	3.35x	$15,452,258	2.89x
2011	387,188,953	101,854,044	3.80x	15,451,745	3.30x
2012	399,477,639	106,623,088	3.75x	15,432,414	3.27x
2013	407,359,281	106,972,088	3.81x	7,988,524	3.54x
2014	416,312,082	99,148,813	4.20x	2,463,283	4.10x
2015	402,484,470	89,949,694	4.47x	1,178,750	4.42x
2016	393,284,655	81,433,850	4.83x	-0-	N/A
2017	384,330,837	70,442,638	5.46x	-0-	N/A
2018	375,616,237	53,718,800	6.99x	-0-	N/A
2019	367,134,266	37,243,775	9.86x	-0-	N/A
2020	358,878,521	19,065,000	18.82x	-0-	N/A

* Excludes debt service on refunded bonds which will be payable from escrowed securities and severance tax debt obligations sold to the State Treasurer which are retired within the same fiscal year.

Sources: New Mexico State Board of Finance and Fiscal Strategies Group.

Investments

The State Treasurer invests the funds on deposit in the Bonding Fund, including the Debt Service Accounts and Project Funds (established in accordance with the Bond Resolutions). The State Treasurer acts at the direction and with approval of the Board, pursuant to the State Treasurer's Investment Policy. Investments are made in securities, which are at the time legal investments of the State. No such investment or deposit shall violate any applicable restrictions imposed by the Code (defined below) or applicable Treasury Regulations relating to the market price and the existence of an established market.

Except for funds deposited into the Rebate Fund (defined in the Bond Resolutions), interest earned on the amounts on deposit in the Debt Service Account shall be retained therein, and interest earned on the amounts on deposit in the Project Fund shall be credited to the Debt Service Account and applied to the payment of principal and interest on the Bonds next becoming due. Any loss resulting from any such investment shall be charged to the applicable account from which such investments were made.

Severance Tax Collections and Reporting

Operators, purchasers and working interest owners are required to submit monthly reports to the Taxation and Revenue Department showing the total value, volume and kind of products sold from every production unit each month. Taxes must be paid at the same time and are due 55 days after the month of production. Each production report must be accompanied by a company identification number, which facilitates automated processing of return information. Production and associated tax liability is reported by "production unit" and a designation for a well or group of wells that is assigned by the Taxation and Revenue Department and is based on the master operation, property name identification and pool. A suffix is added to the production unit number to designate the specific land type and taxing authority including county, school district, and municipality.

The state maintains an automated database system ("ONGARD" for Oil and Natural Gas Administration and Revenue Database) to monitor production and sales activities of oil and natural gas producers.

ONGARD functions include: managing the inventory of lands within the state and tracking all leases to determine whether royalty payments are owed to the State; monitoring all oil and gas wells for compliance with unitization agreements and other production-related information; and processing tax and royalty payments due to the State. The integrated database gives the state enhanced capabilities to compare and evaluate production, tax and royalty reports, and to issue automated exception reports.

Severance taxes received by the Taxation and Revenue Department are deposited into the Oil and Gas Suspense Fund. Using the ONGARD system, the Taxation and Revenue Department reconciles monthly information reports with the payments received to identify the appropriate amounts to distribute to each tax beneficiary. Oil and gas severance tax amounts that have been reconciled are then transferred monthly to the Bonding Fund. Table 10 presents sales volume and total sales revenue for oil, natural gas and CO_2 subject to severance tax.

TABLE 10
New Mexico Oil, Natural Gas and CO_2 Subject to Taxation
Fiscal Years Ended June 30

	2005	2006	2007	2008	2009
Oil					
Sales Volume (million barrels)	63.1	60.4	60.2	60.1	62.3
Value (millions)	$2,859.0	$3,631.1	$3,553.7	$5,629.2	$4,034.8
Average Price (per barrel)	$45.34	$60.10	$59.10	$93.71	$64.70
Natural Gas					
Sales Volume (bcf)	1,547.0	1,527.4	1,516.7	1,428.9	$1,387.9
Value (millions)	$9,030.3	$11,496.1	$9,939.8	$11,992.0	$7,783.4
Average Price (per mcf)	$5.84	$7.53	$6.55	$8.39	$5.61
CO_2					
Sales Volume (bcf)	109.9	107.5	103.1	101.0	105.1
Value (millions)	$65.9	$79.5	$91.8	$123.6	106.6
Average Price (per mcf)	$.60	$.74	$.89	$1.22	$1.01

Source: New Mexico Taxation and Revenue Department, Tax Analysis, Research and Statistics Office (ONGARD, sales month basis as of January 2010).

Severance Taxes on Oil, Natural Gas, and Carbon Dioxide

The State collects taxes on the severance and sale of oil, natural gas and carbon dioxide. Table 11 summarizes the history of statutory tax rates imposed on natural gas, oil, and carbon dioxide. Tax rates are set by statute, Section 7-29-4 NMSA 1978, and are levied on the volume and/or value of product sold. With the exceptions noted below, tax rates have been imposed on an *ad valorem* basis, with deductions allowed for royalties paid to governments and also for certain expenses of transporting and processing products downstream of the production facility.

TABLE 11
History of Severance Tax Rates on Oil, Natural Gas and Carbon Dioxide

Year of Statutory Change	Natural Gas	Oil	Carbon Dioxide
1959	2.5%	2.5%	–
1974	3.75%	3.75%	–
1977	$0.05/mcf + surtax	$0.45/bbl + surtax	–
1980	$0.087/mcf + surtax	3.75%	–
1987	3.75%	3.75%	3.75%

Source: New Mexico Department of Finance and Administration.

Oil and Natural Gas Incentives

Although the State offers reduced severance tax rates for several categories of production, prices are above the threshold level, so none of these incentives are presently applicable. Table 12 summarizes incentive tax rates applying to various categories of production as of Fiscal Year 2009. Should prices decline in the future, some of these incentives may become applicable again.

TABLE 12
Oil and Natural Gas Tax Incentive Programs

Incentive Category	Incentive Tax Rate	Threshold Price Below Which Incentive Rate Applies	Qualified Production As a Percent of Fiscal Year 2009 Total
Production Restoration Project	0.0%(1)	$24.00 per barrel(2) $24.00 per barrel(2	0.0% Oil(4) 0.0% Natural Gas(4)
Well workover wells	2.45%	$24.00 per barrel(2) $24.00 per barrel(2	0.0% Oil(4) 0.0% Natural Gas(4)
Stripper wells	1.875%	$1.15 per mcf-Gas(3) $15.00 per barrel-Oil(3)	0.0% Natural Gas(4) 0.0% Oil(4)
	2.8125%	$1.35 per mcf-Gas(3) $18.00 per barrel-Oil(2)	0.0% Natural Gas(4) 0.0% Oil(4)
Enhanced oil recovery	1.875%	$28.00 per barrel(2)	0.0% Oil(4)

(1) The incentive rate applies for 10-years after the restoration project is completed. Each year's production is tested against the threshold price.
(2) Twelve-month average price for West Texas Intermediate crude oil as reported on Oil Postings for last day of each month.
(3) Average annual taxable value of natural gas or oil sold in New Mexico during the preceding calendar year.
(4) No oil or natural gas volumes are expected to qualify for these incentives during the period because average taxable value exceeds the threshold levels.
Source: New Mexico Taxation and Revenue Department, Tax Analysis, Research and Statistics Office.

Severance Tax on Indian Land

The State can tax non-Indian oil and natural gas production on tribal land, according to United States Supreme Court precedent in *Cotton Petroleum Co. v. State of New Mexico*, 490 U.S. 163, 104 L. Ed. 2d 209, 109 S. Ct. 1968 (1989). The State's authority to impose severance taxes on Indian oil and natural gas production on tribal land was upheld by the United States District Court in New Mexico in *Jicarilla Apache Tribe v. New Mexico Taxation and Revenue Department*, No. USDC 87-922. In

2009 however, in Ute Mountain Ute Tribe v Homans, No. CIV 07-772 JP/WDS, the United States District Court for the District of New Mexico (Judge Parker) held that the State may not impose severance taxes on non-tribal operators extracting oil and gas on the tribal land of the Ute Mountain Ute Tribe. The Taxation and Revenue Department has appealed the ruling. The impact of the ruling and its effect can not be determined at this time, although the Taxation and Revenue Department does not believe that the ruling will have an effect on taxes paid from production on other tribal lands in the State.

The Taxation and Revenue Department reports that natural gas production and crude oil production on Indian land was approximately 3.4 percent and 0.8 percent, respectively, of total taxable statewide production in Fiscal Year 2009. The Taxation and Revenue Department estimates that oil and natural gas production on Indian land generated $8.7 million in severance tax revenues to the State in the production months corresponding to Fiscal Year 2009 (net of Intergovernmental and Jicarilla Apache Capital Improvement Tax Credits). The Taxation and Revenue Department estimates that from Fiscal Year 2005 to Fiscal Year 2009 coal production on Indian land has ranged from 49.0 percent of total statewide production in Fiscal Year 2009 to 55.2 percent in Fiscal Year 2006. No potash, copper or carbon dioxide ("CO_2") is produced on Indian land.

Section 7-29C-1 NMSA 1978, enacted by the 1995 Legislature authorized a credit against state production and property taxes for similar taxes imposed by tribal governments. The credit applies to crude oil and natural gas from new wells drilled on or after July 1, 1995 on land within Indian reservation boundaries on March 1, 1995. The amount of the credit is 75 percent of the lesser of state taxes or tribal taxes imposed. If the applicable tribal taxes were raised after March 1, 1995, then the amount of the State's credit is lowered. The Taxation and Revenue Department estimates that total credits claimed under this provision were about $8.6 million in Fiscal Year 2009. About $3.4 million of these credits were applied against oil and natural gas severance tax liability. The Bonding Fund revenue projection assumes that this amount will grow slowly in the future.

The 2001 Legislature enacted Sections 7-29C-2, 7-9-88.2 and 9-11-12.2 NMSA 1978, which provided a similar 75 percent intergovernmental tax credit against severance tax and severance surtax on coal mined on the Navajo Nation. The Taxation and Revenue Department reports that this credit reduced Bonding Fund revenue by $3.5 million in Fiscal Year 2009. The enactment of Section 7-31-27 NMSA 1978 created the Jicarilla Apache Tribal Capital Improvement Tax Credit, but this credit does not apply against the severance tax revenues due on the same production. This tax credit is a maximum of 0.7 percent of the taxable value of oil and natural gas products produced on Jicarilla Apache Tribal lands, is in addition to the tax credit authorized in Section 7-29C-1 and is claimed as a reduction of emergency school tax amounts. Proceeds of the tax credit must be used exclusively to fund capital improvement projects on Jicarilla Apache tribal lands, although funds may not be used to finance commercial activity.

Carbon Dioxide

The Bravo Dome CO_2 field encompasses 1.2 million acres in Harding, Union and Quay Counties in the northeastern area of the State. It contains estimated resources of 16.3 trillion cubic feet, of which 7.0 to 10.6 trillion cubic feet are considered economically recoverable. Although the state has long produced limited quantities of liquid and solid CO_2 for use in the food and the engineering industries, the main commercial value of CO_2 deposits is derived from the use of the product in its gaseous form in enhanced oil recovery projects in the Permian Basin of Texas and New Mexico. Future sales ultimately will depend on the CO_2 requirements of such projects and on the State's proportion of the market, which is shared with Colorado's Sheep Mountain and Little Sheep Mountain, McElmo Dome and Doe Creek Fields. Severance Taxes on CO_2 are levied at the rate of 3.75 percent of taxable sales value. Deductions averaged 27.9 percent during Fiscal Year 2009 and 34.2 percent over the period from Fiscal

Year 1997 through 2009. Therefore, in Fiscal Year 2009, the 3.75 percent applied only to 72.1 percent of total sales volume.

History of Severance Tax and Severance Tax Surtax on Coal Production in New Mexico

Severance taxes have been levied on coal production in New Mexico since 1937. Revenues were distributed to the State General Fund until adoption of the Severance Tax Bonding Act in 1961. Tax rates were imposed on an *ad valorem* basis, 0.125 percent of value from 1937 to 1974, and 0.5 percent of value from 1974 to 1977. In 1977, rates were converted to $0.38 per short ton for steam coal and $0.18 per short ton for metallurgical coal. A severance surtax was also imposed. Subsequent rates were to be determined annually by multiplying the severance tax per short ton by the percentage increase in the Consumer Price Index (CPI) from 1976 to the calendar year just prior to the year in which the surtax rates were to be computed. The base severance tax rate was then increased to the current base rate of $0.57 per ton in 1980. A slightly reduced base rate of $0.55 per ton was provided for underground-mined coal in 1982.

Effective July 1, 1989, the severance surtax was frozen for a period of four years at $0.60 per ton for surface coal and $0.58 per ton for underground coal. When added to the base tax rate, this action had the effect of freezing the total rate at $1.17 per ton for surface coal and $1.13 per ton for underground coal. The surtax freeze was to terminate on July 1, 1993.

In 1990 the Legislature exempted from the surtax coal sold under new contracts entered into on or after July 1, 1990, and before July 1, 1994. The exemption also extended to incremental sales under existing contracts measured by the increase in sales over the annual average established in Fiscal Years 1987 to 1989. In 1992 the exemption was extended to incremental sales under renegotiated contracts.

In 1993 the exemption was extended to July 1, 1994. The annual increase was to be based upon the Producer Price Index ("PPI") for coal instead of the CPI. The surtax formula provides that in no case will the surtax be decreased, so a fall in the PPI for coal will not trigger a drop in the surtax rate. In 1994 the exemption was extended to July 1, 1995. In 1995 it was extended to July 1, 1997. In 1997 it was extended to July 1, 1999.

Pursuant to actions of the 1999 Legislature, currently the following coal is exempt from the surtax: (1) coal sold and delivered pursuant to genuinely new contracts entered into on or after July 1, 1990; (2) coal sold and delivered pursuant to contracts already in effect on July 1, 1990, that exceeds the annualized average calendar year deliveries under the contract during production years 1987, 1988 and 1989 or the highest contract minimum during these three years, whichever is greater, unless the deliveries are reduced due to causes beyond the reasonable control of either party to the contract; (3) if a contract existing on July 1, 1990, and renegotiated after May 20, 1992, requires the purchaser to take annual coal deliveries in excess of the greater of the average calendar year deliveries from 1987-1989 or the highest annual contract minimum from 1987-1989, the surtax does not apply to such excess deliveries for the remaining term of the renegotiated contract. Taxpayers were required to register any contract for the sale of qualified coal with the department prior to taking the exemption.

A total of approximately $8.9 million in severance surtax was collected in Fiscal Year 2008 and $9.6 million in Fiscal Year 2009.

The surtax rate for surface-mined coal in Fiscal Year 2008 was $0.80 per ton and $0.77 per ton for coal mined underground; in Fiscal Year 2009: $0.83 and $0.80 per ton; in Fiscal Year 2010: $1.02 and $0.99 per ton. All coal mined underground is currently exempt from the surtax. The Taxation and Revenue Department believes that it has historically calculated the surtax rate at rates lower than provided by law.

The Taxation and Revenue Department believes that the rates for Fiscal Year 2010 should have been $1.99 per ton for surface-mined coal and $1.92 for coal mined underground. The Taxation and Revenue Department intends to use the correct method for calculating rates effective July 1, 2010.

The table below sets forth data on coal production, pricing and average tax rates for the past four fiscal years.

TABLE 13
Coal Production, Prices, Revenues, and Taxes
Fiscal Years 2006 to 2009

	2006	2007	2008	2009
Production:				
Total Sales Volume (tons)	26,566,669	25,591,892	22,801,290	25,482,801
Surface Mined Surtax Exempt	6,455,233	7,157,518	5,862,728	7,671,768
Surface Mined Non-Exempt	13,140,540	11,437,268	11,080,122	11,618,253
Underground Mined Surtax Exempt	6,970,895	6,997,106	5,858,440	6,192,780
Prices:				
Weighted Average Price per Ton for All Coal	$25.03	$26.49	$29.18	$31.09
Sales Revenue:				
Total Sales Revenue	$665,065,500	$677,872,102	$665,449,922	$792,304,607
Taxes Collected and Intergovernmental Tax Credits (ITC):				
Gross Severance Tax and Severance Surtax Due	$24,070,557	$22,796,639	$21,743,664	$24,044,491
Intergovernmental Tax Credit (ITC)	$5,886,169	$5,478,600	$4,534,144	$3,810,231
Net Severance Tax and Severance Surtax Liability (Net of ITC)	$18,184,388	$17,318,039	$17,209,520	$20,234,260
Effective Taxes:				
Effective Tax Rate	2.73%	2.55%	2.59%	2.55%
Effective Tax per Ton for all Coal (Net of ITC)	$0.68	$0.68	$0.75	$0.79

Source: New Mexico Taxation and Revenue Department, Tax Analysis, Research and Statistics Office (the "GenTax System").

Severance Taxes on Other Minerals

Many other minerals and natural resources are taxed in the State upon their severance from the earth or, in some cases, their sale or shipment. Existing tax rates are listed in Table 14. In many cases, flat percentage deductions are allowed to account for certain production costs. The result is that the taxable value is a percentage of the "full value." The "full value," in turn, is sometimes based upon published prices rather than actual revenues. Generally, for products with a price at the point of production, value is that price less deductions allowed for actual costs for hoisting, loading, and crushing of up to 50 percent of price. For products that must be processed before sale, deductions are allowed for cost of processing and freight charges to the point of sale. Several exceptions apply, as detailed below. For potash, the gross value is 40 percent of the posted field or market price, less those actual expenses of hoisting, crushing and loading necessary to place the severed product in marketable form and at a marketable price but allowable deductions may to exceed 50 percent. The gross value for each type of potash and potash product requiring processing or beneficiation (other than sizing) is 33.33 percent of the proceeds realized from the sale of muriate of potash and sulphate of potash magnesia, as standard grades, and 33.33 percent of the value of such products consumed in the production of other potash products, less 50 percent of such reported value as a deduction for expenses of hoisting, loading, crushing, processing, and beneficiation. Gross values for copper, lead and zinc, gold, and silver are 66.66 percent of specified Comex, London Metal Exchange cash price, London Metal Exchange Final, and London spot, U.S. Equivalent, respectively, as published in Metals Week, less 50 percent of the gross value as a deduction for the expenses of hoisting, loading, crushing, processing and beneficiation, regardless of actual expenses incurred. For molybdenum, gross value shall be the value of molybdenum contained in concentrates shipped or sold from a mine site, but in no event shall it be less than market value, less 50 percent of the sales value as a deduction for the expenses of hoisting, loading, crushing, processing and beneficiation, regardless of actual expenses incurred. For sand and gravel, in the absence of substantial evidence of a different posted field or market price, it is presumed that the gross value is $1.75 per ton. In the absence of evidence of lower deductible expenses the maximum 50 percent deduction will be allowed. In determining taxable value, rent and royalty payments to the federal government or the State government are deductible from gross value.

TABLE 14
Severance Tax Rates on Other Minerals

Mineral Resources	Tax Rate	Taxable Value as Percent of Full Value
Potash	2.500%	16.67%
Copper	0.500	16.67
Timber, Pumice, Gypsum, Clay, Fluorspar, Other	0.125	100.00
Molybdenum	0.125	50.00
Lead, Zinc	0.125	16.67
Gold	0.200	50.00
Silver	0.200	30.00
Uranium	3.500	50.00

Source: New Mexico Taxation and Revenue Department, Tax Analysis, Research and Statistics Office.

Severance tax revenue from potash was $2,014,091 in Fiscal Year 2009. Severance tax revenue from copper, which is limited because of the statutorily defined narrow tax base, was $334,523 in Fiscal Year 2009 after peaking at $760,288 in Fiscal Year 2008. Prior to the decrease in Fiscal Year 2009, these revenues rose from $610,966 in Fiscal Year 2007 and $526,380 in 2006. Weighted average copper prices were $2.23 per pound in Fiscal Year 2009.

GENERAL INFORMATION CONCERNING THE STATE OF NEW MEXICO

The State was admitted as the forty-seventh state on January 6, 1912. It is the fifth largest state geographically and contains approximately 121,593 square miles.

The State's climate is characterized by sunshine and bright skies in both winter and summer. Every part of the State receives no less than 70 percent sunshine year-round. Humidity ranges from 60 percent (mornings) to 30 percent (afternoons). Evenings are crisp and cool in all seasons because of low humidity. The State has a semiarid subtropical climate with light precipitation. Thunderstorms in July and August bring most of the moisture. December to March snowfalls vary from two inches (lower Rio Grande Valley) to 300 inches (north central mountains).

Major industries in the State include oil and natural gas production, manufacturing, services, tourism, arts and crafts, agribusiness, government, and mining. Major federally-funded scientific research facilities at Los Alamos, Albuquerque and White Sands are also a notable part of the State's economy. New Mexico's farmers make a significant contribution to the economy by producing high quality agricultural products. Agriculturalists capitalize on irrigation and the State's varied climates to produce crops ranging from chile to pecans.

Governmental Organization

The Executive Branch of State government consists of a Governor, Lieutenant Governor, Secretary of State, State Auditor, State Treasurer, Attorney General, and Commissioner of Public Lands. These officials are elected to four-year terms beginning January 1 after their election. An elected Executive Branch officer may succeed himself or herself in office once. The primary functions of the Executive Branch are currently carried out by the offices of each elected Executive Branch officeholder, in addition to approximately 22 cabinet departments, each headed by a cabinet secretary appointed by the Governor and approved by the Legislature, and 9 cabinet-level agencies.

The State Board of Finance has seven voting members consisting of the Governor, the Lieutenant Governor, the State Treasurer, and four members appointed by the Governor with the advice and consent of the Senate. No more than two appointed members may be from the same political party. The Department of Finance and Administration (DFA) Secretary serves as the Executive Officer of the Board and is a non-voting Board member. The Board, in addition to other powers and duties provided by law, has general supervisory authority over the fiscal affairs of the State and over the safekeeping and depositing of all money and securities belonging to, or in the custody of, the State. The Governor serves as the President of the Board.

The Department of Finance and Administration ("DFA") is the principal financial organization of State government and performs through its divisions the duties and functions relating to State and local government financing and general administration. The executive and administrative head of the DFA is the Secretary, who is appointed by the Governor with the advice and consent of the Senate.

The Legislature consists of 112 members and is divided into a Senate and a House of Representatives. Senators are elected for four-year terms and members of the House are elected for two-year terms. The Legislature convenes in regular session annually on the third Tuesday in January. Regular sessions are constitutionally limited in length to sixty calendar days in odd-numbered years and thirty calendar days in even-numbered years. Special sessions of the Legislature may be convened by the Governor. Extraordinary sessions may be convened by the Legislature under certain limited circumstances. Legislators do not receive any salary, but do receive per diem and mileage allowances while in session or performing official State business.

The judicial branch is composed of a statewide system including Magistrate and District Courts, the Court of Appeals and the Supreme Court. The District Courts are the trial courts of record with general jurisdiction.

Pension Funds

The Legislature enacted the Educational Retirement Act, Section 22-11-1 et seq. NMSA 1978, and the Public Employees Retirement Act, Section 10-11-1 et seq. NMSA 1978, which created the retirement plans that cover most employees of the State and its political subdivisions. These retirement plans are described below. In 1998, the voters adopted an amendment to Section 22D of Article XX of the State Constitution, which states that upon meeting the minimum service requirements of an applicable retirement plan created by law for employees of the State or any of its political subdivisions or institutions, a member of a plan shall acquire a vested property right with due process protections under the applicable provisions of the New Mexico and United States Constitutions. The Legislature establishes all financing provisions of the plans and the provisions are not subject to negotiation. Financing provisions include employee and employer contributions, fund investment provisions and benefit provisions. The balances reported below include both official data as of June 30, 2009 as well as data provided by the pension funds reflecting investment returns through September 30, 2009. As with other pension funds nationwide, New Mexico's pension funds were affected by the significant market turmoil related to the downturn in the nation's economy over the past two years. As of December 31, 2009, however, the funds have begun to recover some of the losses incurred during that period.

Educational Retirement Board

The Educational Retirement Board ("ERB") had 126,889 members as of June 30, 2009, including active, retired, inactive vested and inactive non-vested members. The market value of the Educational Retirement Fund as of September 30, 2009 was $7.92 billion, which was up from a low of $5.97 billion in February 2009. The ERB had investment gains in the quarters ended June 30, 2009 and September 30, 2009. The investment return for the quarter ending September 30, 2009 was a positive 12.6 percent and the investment returns for the calendar year through September 30, 2009 was a positive 21.4 percent. The investment return for the twelve month period ended September 30, 2009 was a positive 1.1 percent. An actuarial valuation of the Educational Retirement Fund completed by Gabriel Roeder, Smith & Co., reported that as of June 30, 2009 the actuarial value of assets was $9.4 billion and the unfunded accrued actuarial liability ("UAAL") was $4.5 billion. The funded ratio (ratio of the actuarial value of assets to actuarial accrued liability) decreased from 71.5 percent at June 30, 2008 to 67.5 percent at June 30, 2009. As of June 30, 2009, the UAAL had an amortization period of 45.0 years, compared to a period of 61.4 years as of the 2008 actuarial valuation. The amortization period, also referred to as the funding period, is a calculation based on actuarial models of the period required to amortize the UAAL, assuming ERB's experience exactly follows actuarial assumptions. The actuarial assumptions include an 8 percent rate of return. As required by Governmental Standards Accounting Board ("GASB") Statement 25, the calculation is based on current contribution rates and does not take into account the statutorily scheduled increases in those rates described below. The market value of the Educational Retirement Fund for quarter ended December 31, 2009 is estimated to be $8.3 billion. The investment return for the calendar year ended December 31, 2009 is estimated to be 28 percent; for the quarter ended December 31, 2009 the investment return is estimated to be to be 5 percent. The actuarial effect of these results will be reflected in future actuarial reports.

Member and employer contribution rates are established by State statute. In 2005, the Legislature amended Section 22-11-21 NMSA 1978 to increase the employer contribution rate by 75 basis points (0.75 percent) for each of the seven years beginning July 1, 2005, and to increase member contribution rates by 7.5 basis points (0.075 percent) for each of the four years beginning July 1, 2005. In the 2009 regular legislative session, the Legislature modified employer and member contribution rates for Fiscal Years 2010 and 2011 to shift 1.5 percent of the employer contribution rate to members whose annual salary exceeds $20,000. For those members whose annual salary is $20,000 or less, the contribution rates remain at 7.9 originally enacted by the Legislature. In Fiscal Year 2010, the employer contribution rate for members whose salary is greater than $20,000 is 10.9 percent and the rate for members whose salary is $20,000 or less is 12.4 percent. In Fiscal Year 2011, the employer contribution rate for members whose salary is greater than $20,000 will increase to 11.65 percent and the rate for members whose salary is $20,000 or less will increase to 13.15 percent. Member contribution rates in Fiscal Years 2010 and 2011 are 9.4 percent for members whose salary is greater than $20,000 and 7.9 percent for members whose salary is $20,000 or less. Beginning in Fiscal Year 2012, the employer contribution rate will be 13.9

percent for all members employed, while members will contribute 7.9 percent regardless of annual salary. In addition, New Mexico universities and colleges make an additional contribution of 3 percent of the salary of those employees who elect to participate in the Alternative Retirement Plan (“ARP”), a defined contribution retirement plan available to certain faculty and professional employees, to satisfy the UAAL attributable to participation in the ARP.

As indicated above, as of June 30, 2009, ERB has an amortization or funding period of 45.0 years, based on the employer and member contribution rates in effect as of July 1, 2009. The employer contribution in Fiscal Year 2009 that would have been required in order to amortize the UAAL over 30 years was 12.45 percent. Under current law, the employer rate will increase to 13.9 percent on July 1, 2011. As GASB Statement 25 does not permit the consideration of contribution rates not yet in effect, the 45.0 year funding period must be reported.

The Public Employees Retirement Association

The Public Employees Retirement Association (“PERA”) had 82,549 members as of June 30, 2009. Gabriel, Roeder, Smith & Co. completed an actuarial valuation of the Public Employees Retirement PERA Fund, Judicial Retirement Fund, Magistrate Fund, Legislative Division and Volunteer Firefighter Fund (“VFF”) as of June 30, 2009. The Public Employees Retirement Board accepted the actuary’s conclusions that the assets, benefit values, reserves and computed contribution rates reflect utilization of an inflation rate of 4 percent per annum, compounded annually, and other risk assumption changes including salary increases for longevity and merit, the real rate of return on investments, mortality, active member withdrawals, disability and retirement rates to allow for expected future experience. For the quarter ended September 30, 2009, the quarterly PERA total fund return was a positive 12.93 percent. For the 12 month period ended September 30, 2009, the annual PERA total fund return was a negative 2.85 percent. The total market value of PERA Fund as of September 30, 2009 was $10.2 billion up from a recent low of $7.6 billion on March 9, 2009. The investment return for the quarter ended December 31, 2009 is estimated to be 4.3 percent.

As of June 30, 2009, PERA has an amortization or funding period of 111 years, based on the employer and member contribution rates in effect as of July 1, 2009. Member and employer rates are established pursuant to Section 10-11-1 through 10-11-141 NMSA 1978. The funded ratio (ratio of the actuarial value of assets to accrued actuarial liability) was 84.2 percent as of June 30, 2009. As of June 30, 2009, the unfunded accrued actuarial liability of PERA has been calculated to be approximately $2.3 billion. On a market value basis, PERA’s funded ratio is approximately 59 percent as of June 30, 2009. Due to the rebound in the financial markets over the past nine months, PERA is not currently considering proposing changes of contribution amounts in the upcoming 2010 legislative session.

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Actuarial information for each fund as of June 30, 2009 is shown in Table 15.

TABLE 15
Summary of State Retirement Funds
(Dollars in thousands)

	PERA[1]	Judicial	Magistrate	VFF	Legislative
Membership	82,549	242	127	4,753	285
Actuarial Information					
Accrued Liability[2]	$ 14,908,279	$ 120,841	$ 47,568	$ 19,869	$ 24,345
Value of Assets[3]	$ 12,553,986	$ 73,161	$ 31,524	$ 48,192	$ 21,156
Unfunded (Overfunded) Accrued Liability	$ 2,354,293	$ 47,679	$ 16,043	$28,323	$ 3,189
Present Value of Statutory Obligations	$ 18,563,875	$ 154,104	$ 56,329	$ 30,328	$ 27,753

(1) Includes both the state and municipal divisions.
(2) Includes the accrued liability of both the retired and active members.
(3) The valuation of assets is based on an actuarial value of assets whereby gains and losses relative to an 8 percent annual return are smoothed in over a four-year period.
Source: Public Employees Retirement Association.

New Mexico Retiree Health Care Authority

The Retiree Health Care Act was enacted in Sections 10-7C-1 through 10-7C-19 NMSA 1978, for the purpose of providing comprehensive group health insurance coverage for persons who have retired from certain public service positions in the State and their eligible dependents. The New Mexico Retiree Health Care Authority ("NMRHCA") offers both pre Medicare and Medicare plans, as well as dental, vision and life insurance plans to eligible retirees. There are approximately 44,000 NMRHCA enrolled participants as of June 30, 2009.

The Retiree Health Care Act provides that the benefits offered to retired public employees may be modified, diminished or extinguished by the Legislature, and that the Act does not create any contract, trust or other rights in public employees to health care benefits.

The NMRHCA, the agency that administers the Retiree Health Care Act, has a revenue base comprised of active employee payroll deductions, participating employer contributions, monthly premium contributions of enrolled participants, investment income, and amounts distributed annually from the Taxation Administration Suspense Fund ("TAA Fund"). A separate distribution from the TAA Fund, established at $3,000,000 per year, was scheduled to sunset on June 30, 2010, but legislation passed during the 2009 legislative session removed the sunset. Employer and employee contribution rates are established in statute as is the amount distributed from the TAA Fund. Respective employer/employee contribution rates are currently 1.3 percent and 0.65 percent of the participating employee's salary. However, as a result of legislation enacted during the 2009 legislative session, the employer/employee contribution is scheduled to increase to 3 percent beginning on July 1, 2010, phased in over the next three fiscal years.

The increase to the employer/employee contribution will have a substantial, positive impact on the NMRHCA's solvency projection. As recently as four years ago, the NMRHCA was projected to be insolvent as early as 2014. However, actions taken by the NMRHCA decreasing subsidy levels, increasing premiums and modifying plan designs, coupled with the mandated increase to the employer/employee contribution have extended the NMRHCA's solvency to approximately 2026.

The recent shortfall in revenues for the State could, however, reverse some of the positive gains and have a significant, negative impact on the solvency and financial position of the NMRHCA. For example, historically the NMRHCA has relied on a 4 percent growth assumption in payroll for its long-term financial projections. It is unlikely that New Mexico will see any growth in public payroll for Fiscal Year 2011 or in the foreseeable future, and it is possible that payroll growth will be negative. Additionally, any effort to delay the scheduled increase to the employer/employee increase scheduled to take effect in Fiscal Year 2011 to help ease the State's budget problems would result in deficit spending by the NMRHCA. Combining the two, a delay in the employer/employee increase and flat or declining payroll growth, would rapidly reverse the gains the NMRHCA, Legislature and Governor have made in recent years to stabilize the NMRHCA and preserve a retiree health care benefit for current and future retirees.

Based on the GASB Statement 43 valuation for Fiscal Year 2009, and assuming that the NMRHCA Fund is an equivalent arrangement to an irrevocable trust and, hence using a discount rate of 5 percent, the unfunded actuarial accrued liability ("UAAL") has been calculated to be approximately \$2.9 billion. As required by GASB Statement 43, this calculation takes into consideration only current assets of the NMRHCA Fund. The UAAL is approximately \$1.1 billion less than calculated in the June 30, 2006 GASB Statement 43 valuation. In addition, the June 30, 2009 GASB Statement 43 valuation indicates that the State's annual required contribution (the amount necessary to fully fund normal cost plus a 30-year amortization of the UAAL) is approximately \$100 million less than in the June 30, 2006 valuation. The Board has taken several actions to reduce the UAAL in 2009 and in future years, including raising premiums and increasing contributions from retirees for the most generous plans, instituting new plan designs, increasing co payments and out-of-pocket maximums and implementing cost sharing for its Medicare Supplement participants. The NMRHCA's revenues remain, however, significantly less than what is necessary to fund the normal cost and amortization of the UAAL over a 30-year period.

The NMRHCA continues to look for additional opportunities to further strengthen the financial standing of the NMRHCA including increasing years of service requirements and tapping into other revenue sources.

The NMRHCA suffered investment losses in Fiscal Years 2008 and 2009; however, the NMRHCA's fund balance has begun to recover and as of December 31, 2009 stood at \$161 million, over a 16 percent increase from June 30, 2009.

FINANCIAL OVERVIEW

State Auditing and Accounting Systems

The financial affairs of every agency in the State are examined and audited each year by the State Auditor, personnel of the State Auditor's office designated by the State Auditor, or by the independent auditors approved by the State Auditor, as required by Section 12-6-3 NMSA 1978. The audits are conducted in accordance with generally accepted auditing standards. The audit reports include financial statements that are presented in accordance with generally accepted accounting principles.

In July 2006, the State implemented a Statewide Human Resources, Accounting and Management Reporting System ("SHARE System"). The SHARE System replaced the State's existing central accounting system, central payroll system, personnel system, treasury reconciliation accounting and cashiering system, and 114 additional systems then in place at various State agencies. Since June 2007, the State has officially used SHARE as its books of record.

Generally, the transition to SHARE was carried out as expected, however, for the last three years there has been a material weakness in the State Treasurer's audited financial statements related to the timeliness of the book to bank reconciliation. This issue stems from certain SHARE system limitations as well as required improvements to accounting procedures at the State Treasurer's Office. The 2009 Legislature appropriated $1.2 million to address these issues and a project to address this finding is underway. A resolution is anticipated in the Fiscal Year 2010 annual financial statements.

State Budgetary and Appropriation Process

All State agencies are required by Section 6-3-19 NMSA 1978 to submit completed budget forms to the DFA Budget Division by September 1 of each year. Guidelines and forms are provided to State agencies in advance of the September 1 deadline. Budget hearings to examine the merits of budget requests are scheduled through the fall and are usually completed by mid-December. The DFA Budget Division presents comprehensive budget recommendations to the Governor, as required by Section 6-3-15(B) NMSA 1978.

The Governor is required by Section 6-3-21 NMSA 1978 to submit a budget for the upcoming fiscal year to the Legislature in early January. The Governor's budget includes the executive recommendations for public education; higher education; State agencies; and historical information on prior expenditures, revenues and revenue projections, among other information. The State budget is contained in a General Appropriation Act, which also may contain proposals for supplemental and deficiency appropriations for the current fiscal year.

Upon passage by the Legislature, the Governor may sign the General Appropriation Act, veto it, veto line items or veto parts of it. After the Governor has signed the General Appropriation Act, the DFA Budget Division approves the agency budgets and monitors the expenditure of the funds beginning on July 1, the first day of the fiscal year.

State Treasurer's Investment Responsibilities

Pursuant to Section 6-10-10(I) NMSA 1978, the State Treasurer, with the advice and consent of the State Board of Finance, may invest money not immediately needed for government operations. These investment responsibilities are conducted in accordance with the State Treasurer's Investment Policy (the "Investment Policy") which is adopted by the State Treasurer and approved by the State Board of Finance. The Investment Policy states that in keeping with the office's fiduciary responsibility, all investment decisions made by the State Treasurer will adhere to the following three fundamental principles: safety, liquidity and return. The Investment Policy applies to all financial assets of the State invested by the Treasurer in the exercise of the Treasurer's statutory authority or invested as directed by other agencies which have specific investment authority and for which the Treasurer acts as the investing authority. The public money includes the State's General Fund, the Local Government Investment Pool, Bond Proceeds Investment Pools, bond debt service funds, and other special funds with respect to which the State Treasurer is the investing authority.

The State Treasurer's Office invested a portion of the General Fund and the State Bond Proceeds Investment Pool in the Reserve Primary Fund ("RPF"), a money market fund, in Fiscal Years 2007 and 2008 respectively. On September 15, 2008, the balance of the General Fund's RPF investment was $448.7 million, and the balance of the State Bond Proceeds Investment Pool's RPF investment was $311.6 million. On September 16, 2008, the RPF net asset value fell below $1.00 and holdings in the fund were frozen. Since then, RPF has returned approximately $0.92 per share to shareholders. The remaining RPF position held in the General Fund is $36 million, and the remaining position in the State Bond Proceeds Investment Pool is $25 million. The remaining positions in the RPF are non-performing assets. On February 26, 2009, RPF announced that it was withholding $3.5 billion of RPF assets for anticipated and pending litigation against it, which amount could increase or decrease as RPF evaluates information related to such litigation. As a result, the State Treasurer's Office cannot anticipate what the actual losses to the General Fund and the State Bond Proceeds Investment Pool from the RPF may be or when they may be realized. No actual losses have been realized to date. On May 5, 2009, the U.S. Securities and Exchange Commission filed a civil lawsuit in federal court against the operators of RPF, alleging fraud, seeking the pro rata distribution of the remaining RPF assets, and seeking the release of the $3.5 billion currently being withheld from investors pending the outcome of the lawsuits against RPF. On May 20, 2009, the New Mexico Attorney General filed a complaint and injunction petition in State district court on behalf of the New Mexico State Treasurer's Office and the New Mexico Finance Authority (collectively "the investors") against RPF. The Attorney General's complaint alleges that RPF's setting aside $3.5 billion to pay legal fees and expenses is a willful and intentional conversion of the investors' assets and a breach of contract. The complaint further alleges that RPF's failure to honor redemption requests on September 16, 2008, is a breach of contract. Additionally, the Attorney General's injunction petition seeks the release of the investors' pro rata share of the $3.5 billion RPF set aside for its anticipated and pending legal costs. On November 25, 2009, the United States District Court for the Southern District of New York issued an order which provides for a pro rata distribution of the remaining assets. Based on this ruling, shareholders can expect to recover approximately $.99 per share.

According to the Investment Policy, an Investment Committee must be appointed by the State Treasurer with the specific purpose and responsibility of establishing, maintaining and administering the Investment Policy. The Investment Committee consists of five (5) voting members: the State Treasurer, or designee, who serves as Investment Committee Chair; the State Treasurer's Chief Investment Officer (with the State Cash Manager as an alternate); the Director of the State Board of Finance or designee; and two additional members. These additional members must be participants in the private investment community or have expert knowledge or professional experience in public finance or public fund investing. One member is appointed by the State Treasurer and approved by the Board and one member is appointed by the Board and approved by the State Treasurer.

The Investment Committee is charged with the following responsibilities:

- Reviewing the Investment Policy, no less than annually, and recommending, if advisable, modifications in the Investment Policy from time to time;
- Assessing, no less than annually, the utility and efficacy of established internal controls as loss prevention measures with respect to the investment portfolio;
- Determining, no less than annually, whether legislation affecting the investment activities of the State Treasurer should be recommended;
- Recommending investment procedures that may be useful or required in maintaining currency with public money investment practices;
- Deliberating on such topics as economic outlook, portfolio diversification and maturity structure, potential risks, the target rate of return on the investment portfolio;
- Identifying potential violations of and suggesting remedial actions to achieve conformity with the Investment Policy;
- Recommending, no less than annually, action on depositories, custodians, broker/dealers and investment managers and advisors; and
- Assessing whether the Investment Policy is being properly implemented by the individuals and entities involved in the administration and management of investment activities.

On October 26, 2005, then-New Mexico State Treasurer Robert Vigil resigned following his indictment on multiple charges of extortion, money laundering and conspiracy related to his time in office. On September 30, 2006, Mr. Vigil was convicted of one count of attempted extortion and acquitted on 23 other charges. The State Treasurer who preceded Mr. Vigil pleaded guilty to extortion for actions he took as State Treasurer.

Following the indictment of Mr. Vigil, the State engaged the law firm of Hogan and Hartson, LLP and Deloitte Financial Advisory Services L.L.P. to conduct a special audit of the State Treasurer's Office. The special audit found a significant number of internal control weaknesses and deficiencies in the operations of the State Treasurer's Office; however, the special audit did not find that the integrity of funds held at the State Treasurer's Office had been compromised. The special audit recommended a slate of legislative, rulemaking and control enhancements designed to ensure that funds held by the State Treasurer's Office are prudently invested and safely handled.

The State Treasurer's Office has implemented many of the recommendations of the special audit and has implemented a detailed corrective action plan of the type necessary to establish an effective internal control management program. Additionally, the State Treasurer's Office and the Board revised the Investment Policy to increase transparency and oversight and ensure better operating procedures in the State Treasurer's Office. These changes include a requirement to use electronic trading; a requirement to attain a financing rating for the Local Government Investment Pool from a national rating agency; a provision that the investment consultants used by the State Treasurer be approved by the Board and that they establish performance benchmarks for the State Treasurer's Office and report performance relative to that benchmark; improved reporting requirements and more meaningful controls over trading activity; requirements for the State Treasurer to adopt an employee code of conduct policy, a campaign contributions policy, and a whistleblower policy; and a requirement that the State Treasurer and employees involved in the investment process refrain from personal business activity that may impair their ability to make impartial investment decisions.

General Fund

The State derives the majority of its recurring General Fund revenue from four major sources: general and selective sales taxes, income taxes, taxes and royalties on natural resource production, and investment earnings both on its two permanent funds and on cash balances.

Weakness in crude oil and natural gas markets in the 1980s contributed to a major restructuring of the State's tax base by the 1986, 1987, 1988, 1990, 1993 and 1994 Legislatures. Reliance on sales and income taxes was increased to offset declines in mineral resource taxes and royalty revenues. From Fiscal Years 2004 through 2008 significant increases in oil and natural gas prices resulted in an increased percentage of General Fund revenues generated from oil and gas taxes. However, in Fiscal Year 2009 natural gas prices averaged $5.65 per 1,000 cubic feet. Table 16 lists audited revenues, expenditures and ending fund balances for Fiscal Years 2006 through 2009 as well as projections for results for Fiscal Years 2010 and 2011.

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TABLE 16

General Fund Financial Summary
Fiscal Year 2006 – Fiscal Year 2011
(Dollars in thousands)

	Actual 2006	Actual 2007	Actual 2008	Actual 2009	Projected 2010	Projected 2011
A. APPROPRIATION ACCOUNT						
Recurring Receipts:						
General and Selective Sales Taxes	$2,147,069	$2,315,105	$2,323,298	$2,306,913	$2,154,477	$2,234,174
Income Taxes	1,504,277	1,640,161	1,568,119	1,120,990	1,149,500	1,257,000
Severance Taxes	541,797	486,564	625,937	440,191	357,060	385,430
License Fees	48,971	48,959	50,676	50,385	47,490	48,760
Investment Income	590,193	602,132	661,359	692,544	645,100	649,400
Rents and Royalties	609,236	551,533	610,267	543,671	334,800	406,800
Miscellaneous Receipts	39,325	37,017	50,263	42,707	41,790	44,160
Tribal Revenue Sharing	49,520	56,158	66,560	65,385	63,100	64,100
Tobacco Settlement	34,892	0	0	0	0	0
Reversions/Adjustments	14,319	36,867	58,992	56,813	30,000	31,000
Total Recurring Receipts	**$5,579,599**	**$5,774,497**	**$6,015,471**	**$5,319,599**	**$4,823,317**	**$5,120,824**
Total Non-Recurring and Adjustments	**$ (62,461)**	**$ 1**	**$ 47,160**	**$ 425,507**	**$ 376,566**	**$ 0**
Total Receipts	**$5,517,138**	**$5,774,498**	**$6,062,632**	**$5,745,106**	**$5,199,882**	**$5,120,824**
Recurring Appropriations:						
Legislative	$ 16,113	$ 17,334	$ 18,809	$ 28,465	$ 19,975	-
Judicial	161,500	180,824	205,779	217,928	210,293	-
General Control	151,048	165,885	197,706	205,295	198,851	-
Commerce and Industry/Exam. and Lic.	47,695	51,365	58,369	61,735	58,209	-
Agriculture, Energy and Natural Resources	70,449	75,409	86,560	90,529	82,100	-
Health and Human Services	1,119,210	1,233,645	1,393,378	1,526,696	1,297,961	-
Public Safety	295,766	333,262	383,336	411,585	393,287	-
Other Education	24,705	27,805	53,982	57,053	48,226	-
Higher Education	714,951	761,957	846,342	884,846	853,195	-
Public School Support	2,107,196	2,265,662	2,430,696	2,551,012	2,325,584	-
Recurring Appropriations	4,708,633	5,113,148	5,674,956	6,035,143	5,487,683	5,120,824
Other Recurring Appropriations	0	0	0	0	0	
Total Recurring Appropriations	**$4,708,633**	**$5,113,148**	**$5,674,956**	**$6,035,143**	**$5,487,683**	**$5,120,824**
Nonrecurring Appropriations(1)	**656,065**	**814,286**	**295,062**	**(81,541)**	**18,401**	**0**
Total Appropriations	**$5,364,698**	**$5,927,433**	**$5,970,018**	**$5,953,602**	**$5,506,083**	**$5,120,824**
Transfer to Appropriation Contingency Fund	0	0	0	0	0	0
TRANSFER TO RESERVES	**$152,440**	**$(152,936)**	**$92,614**	**$(208,496)**	**$(133,820)**	**$0**
B. OPERATING RESERVE						
Beginning Balance	**$330,071**	**$359,530**	**$156,138**	**$247,246**	**$37,377**	**$(98,693)**
Revenues/Repayments/Reversions	0	377	0	0	0	0
Appropriations:						
Contingencies	(277)	(9,300)	0	0	0	0
Other Appropriations and Adjustments	(1,400)	(1,533)	(1,506)	(1,372)	(2,250)	0
Total Appropriations(2)	**$(1,678)**	**$(10,833)**	**$(1,506)**	**$(1,372)**	**$(2,250)**	**$0**
Transfers:						
From General Fund Appropriations Account	$152,440	$(152,935)	$92,614	$(208,496)	$(133,820)	$0
Special Session/Appropriations Contingency Fund	0	(40,000)	0	0	0	0
To Tax Stabilization Reserve Fund	(121,304)	0	0	0	0	0
Total Transfers	**$31,136**	**$(192,936)**	**$92,614**	**$(208,496)**	**$(133,820)**	**$0**
Ending Balance(3)	**$359,530**	**$156,138**	**$247,246**	**$37,377**	**$(98,693)**	**$(98,693)**

Note: Detail may not add to column total due to independent rounding.

TABLE 16

General Fund Financial Summary
Fiscal Year 2006 – Fiscal Year 2011
(Dollars in thousands)

	Actual 2006	Actual 2007	Actual 2008	Actual 2009	Projected 2010	Projected 2011
C. STATE SUPPORT RESERVE						
Beginning Balance	**$0**	**$0**	**$1,000**	**$1,000**	**$1,000**	**$1,000**
Transfers From Operating Reserve/ Appropriation Account[4]	0	1,000	0	0	0	0
Ending Balance	**$0**	**$1,000**	**$1,000**	**$1,000**	**$1,000**	**$1,000**
D. APPROPRIATION CONTINGENCY FUND						
Beginning Balance, Excluding Education Reform	**$42,276**	**$19,851**	**$47,664**	**$27,531**	**$11,536**	**$24,463**
Expenditures/Appropriations[5]						
Disasters	(13,309)	(18,161)	(17,857)	(11,241)	(16,000)	(16,000)
Other	(9,525)	(4,663)	0	(13,084)	(1,416)	0
Prior period adjustment for water rights (Laws 2008, Chapter 111, Section 78)	0	9,000	(9,000)	0	0	0
Reversions	409	1,636	6,724	8,330	5,343	5,343
Transfers From General Fund	0	40,000	0	0	25,000	0
Ending Balance, Excluding Education Reform	**$19,851**	**$47,664**	**$27,531**	**$11,536**	**$24,463**	**$13,806**
Education Reform						
Beginning Balance, Education Reform	**$105,350**	**$79,828**	**$74,928**	**$69,051**	**$19,047**	**$0**
Transfers In	0	0	0	0	40,000	0
Expenditures	(25,523)	(4,900)	(7,527)	(48,354)	(59,047)	0
Audit Adjustment	0	0	1,650	(1,650)	0	0
Ending Balance, Education Reform	**$79,828**	**$74,928**	**$69,051**	**$19,047**	**$0**	**$0**
Ending Balance, Appropriation Contingency Fund	**$99,679**	**$122,591**	**$96,581**	**$30,583**	**$24,463**	**$24,463**
E. TAX STABILIZATION RESERVE						
Beginning Balance	**$133,051**	**$254,355**	**$254,355**	**$254,355**	**$198,655**	**$83,655**
Transfers In	121,304	0	0	0	0	0
Transfers Out	0	0	0	(55,700)	(115,000)	0
Ending Balance[6]	**$254,355**	**$254,355**	**$254,355**	**$198,655**	**$83,655**	**$83,655**
F. TOBACCO SETTLEMENT PERMANENT FUND RESERVE[7]						
Beginning Balance	**$77,332**	**$84,629**	**$116,719**	**$135,884**	**$120,956**	**$130,876**
Transfers In	34,892	36,240	44,864	48,856	45,532	44,558
Transfers Out	(35,257)	(18,120)	(22,432)	(48,856)	(45,532)	(22,279)
Gains Losses	7,662	13,970	(3,267)	(14,928)	9,920	10,730
Ending Balance	**$84,629**	**$116,719**	**$135,884**	**$120,956**	**$130,876**	**$163,885**
G. TAXPAYER DIVIDEND FUND						
Beginning Balance	**$0**	**$0**	**$0**	**$0**	**$0**	**$0**
Transfers In	0	0	0	0	0	0
Transfers Out	0	0	0	0	0	0
Gains Losses	0	0	0	0	0	0
Ending Balance	**$0**	**$0**	**$0**	**$0**	**$0**	**$0**
H. TOTAL RESERVE BALANCES						
Beginning Balance	**$688,080**	**$798,193**	**$650,803**	**$735,066**	**$388,572**	**$141,301**
Ending Balance	**$798,193**	**$650,803**	**$735,066**	**$388,571**	**$141,301**	**$179,653**
Reserves as a Percentage of Current Year Recurring Appropriations	17.0%	12.7%	13.0%	6.4%	2.6%	3.5%

Note: Detail may not add to column total due to independent rounding

NOTES TO GENERAL FUND FINANCIAL SUMMARY:

(1) Appropriation Account, Nonrecurring Appropriations:

FY06 includes $0.06 million from the General Appropriation Act of 2005 (Laws 2005, Chapter 33, Item 43); $0.817 million from SB 190 (Laws 2005, Chapter 34); $0.2562 from HB901 (Laws 2005, Chapter 284); $37.5 million for LIHEAP (Laws 2005 (1st SS), Chapter 2); $158.6 million from the General Appropriation Act of 2006 (Laws 2006, Chapter 109, Sections 5 and 6); $4.3 million from HB1 (Laws 2006, Chapter 1); and $454.6 million from HB622 (Laws 2006, Chapter 111).

FY07 includes $68.6809 million from the General Appropriation Act of 2006 (Laws 2006, Chapter 109); and $0.2835 million from HB337 for judgeships (Laws 2006, Chapter 99, Sections 5 and 12); $2.093 million from the "Junior" bill (Laws 2006, Chapter 110); and $743.411 million from various bills from the Laws of 2007.

FY08 includes the following appropriations from Laws 2007: $15 million water trust fund transfer from General Appropriation Act of 2007 (Chapter 28); $0.2 million in a prior period adjustment related to the Secretary of State supplemental appropriation (Chapter 28); $8 million for development training programs (Chapter 363); $0.2 million for judgeships (Chapter 140); $12 million for faculty endowments (Chapter 364), $3.2 million for breast cancer research (Chapter 26); and $10.8 million from the “Junior” bill (Chapter 21).

FY08 includes the following appropriations from Laws 2008: $118.3 million from Sections 4, 5 and 6 of the General Appropriation Act of 2008 (Chapter 3); $5.9 million for expenses of the Legislature (Chapter 1); and $121.8 million for capital outlay (Chapter 92).

FY09 includes the following appropriations from Laws 2008: $18.1 million for special appropriations from the General Appropriation Act of 2008 (Chapter 3), less $5.2 million in information technology contingent appropriations not certified by CIO in FY09; $0.5 million from HB140 for Soil and Water Districts (Chapter 78); $8.5 million from SB 165 "Junior" (Chapter 6); $1.5 million from SB 471 (Chapter 92), less $0.5 million in contingencies that did not materialize; and $45.8 million for various projects (2nd Special Session, Chapters 3, 5-8 and 10).

FY09 includes the following appropriations from Laws 2009: -$2.5 million from HB 9 (Chapter 5); -$161.0 million from HB 10 (Chapter 2), -$27.1 million from SB79 (Chapter 3); and $40.4 million from the General Appropriation Act of 2009 (Chapter 124, Sections 5 and 6).

FY10 includes the following appropriations from Laws 2008: $5.2 million in information technology appropriations transferred from FY09 (Chapter 3); and $0.5 million in capital outlay appropriation transferred from FY09 (Chapter 92). The contingencies for these appropriations did not materialize during FY09.

FY10 includes the following appropriations from Laws 2009: $100 million transferred to various funds (Laws 2009, Chapter 124, Section 12); -$0.1 million in reductions to appropriations for the Legislature (1st Special Session, Chapter 4); -$89.0 million in reductions to appropriations made in Section 4 of the General Appropriation Act of 2009 (1st Special Session, Chapter 5); -$1.2 million in reductions to appropriations made in Section 5 of the General Appropriation Act of 2009; and $3 million for public school supplemental funding (1st Special Session, Chapter 5).

(2) General Fund Operating Reserve Appropriations:

FY06 includes $1.4 million for State Board of Finance Emergency Fund (Laws 2005, Chapter 33, Section 4, Subsection C); and $0.2774 million for the Corrections Department (Laws 2005, Chapter 33, Section 4, Subsection G).

FY07 includes $1.533 million for State Board of Finance Emergency Fund (Laws 2006, Chapter 109), $0.7 million contingency for water litigation (Laws 2002, Chapter 4 (1st E.S.) as reauthorized by Laws 2006, Chapter 109); and $8.6 million contingency for the spaceport (Laws 1998 (1st SS), Chapter 13, Laws 1998 (1st SS), Chapter 11 and Laws 2005, Chapter 347, Section 173).

FY08 includes $1.5 million for State Board of Finance Emergency Fund.

FY09 includes $1.4 million for State Board of Finance Emergency Fund.

FY10 includes $2.25 million for State Board of Finance Emergency Fund.

(3) Year-ending Balances in the Operating Reserve:

Annually, if the balance in the General Fund Operating Reserve exceeds 8% of the previous year's recurring appropriations, the excess over 8% is transferred to the Tax Stabilization Reserve.

FY06 -- On the date the excess over 8.0% was calculated, $8.73 million in FY07 activity in the General Fund Operating Reserve had been recorded. The transfer of $121,303,940 from the Operating Reserve to the Tax Stabilization Reserve brought the balance in the Operating Reserve to 8.2% as of the end of FY06, but to 8.0% on the date of the transfer.

(4) State Support Reserve (See Section 22-8-31 NMSA 1978):

FY07 includes $1 million transfer from the Appropriation Account (Laws 2007, Chapter 28, Section 5).

(5) Appropriation Contingency Fund Appropriations:

FY06 includes $13.309 million for disaster allotments and $0.525 million to Department of Public Safety for criminal background check contingency (Laws 2005, Chapter 33, Section 4 Subsection G), $4.5 million for Interstate Stream Commission (ISC) for land and water rights for augmentation, $4.5 million to ISC for augmentation services (Laws 2006, Chapter 111); and $25.523 million for Public Education Reform.

FY07 includes $18.161 million for disaster allotments; $2.0 million for DOH Behavioral Health Services Program (Laws 2006, Chapter 109); $1.9125 million for Santa Fe Community College (Laws 2006, Chapter 109); $4.9 million to PED for education reform initiatives (Laws 2007, Chapter 28); $0.750 million contingency to Corrections Department (Laws 2005, Chapter 33, Section 4) for FY06; and $9 million appropriation reduction prior period adjustment for water rights appropriations (Laws 2006, Chapter 111, Sec 78 (HB 622).

FY08 includes $17.9 million for disaster allotments; $9 million contingency appropriation for water rights appropriations (Laws 2006, Chapter 111, Sec 78 (HB 622; see prior period adjustment in FY07); $7.527 million for education reform appropriations from the General Appropriation Act of 2008 (Laws 2008, Chapter 3, Section 5); and $1.65 million deleted from FY08 and added to FY09 for an unexpended appropriation from education reform for a PED IT system.

FY09 includes the following appropriations from Laws 2008: $11.2 million for disaster allotments; $0.5 million contingency to the Economic Development Department for the X-Prize (Chapter 3, Section 5, Item 51); $12.6 million contingency for the Public Education Department (Chapter 3, Section 5, Item 98); and $1.65 million contingency appropriation transferred from FY08 to FY09 for an unexpended appropriation from education reform for a Public Education Department information technology system (Chapter 3).

FY09 includes the following appropriations from Laws 2009: $35.8 million for the State Equalization Guarantee (Chapter 3, Section 9); and $12.6 million for education reform appropriations from the General Appropriation Act of 2009 (Chapter 124, Section 5, Items 57-60 and 63).

FY10 includes the following appropriations from Laws 2008: $0.5 million in the balance remaining of a contingency appropriation to the Public Education Department transferred from FY09.

(6) Year-ending Balances in the Tax Stabilization Reserve:

Annually, if the balance in the Tax Stabilization Reserve exceeds 6.0% of the previous year's recurring appropriations, the excess over 6% is transferred to the Taxpayer's Dividend Fund.

FY06 -- $121.3 million was transferred from the General Fund Operating Reserve, the excess in that fund of 8% of prior year recurring appropriations prior to the date of the transfer.

FY06 -- if the transfer of amounts in excess over 8.0% in the Operating Reserve had been done as of the end of FY06, the transfer would have been $130,033,940 -- $8,730,000 more than the actual transfer calculated in December 2006. However, even if the transfer had been calculated earlier, the balance in the Tax Stabilization reserve would have been 5.996% of prior year's recurring appropriation. There would not have been a sequential transfer of any excess in the Tax Stabilization Reserve to the Taxpayer's Dividend Fund.

FY09 includes $55.7 million transfer from the Tax Stabilization Reserve into the Appropriation Account (Laws 2009, Chapter 3).

FY10 includes $115.0 million transferred from the Tax Stabilization Reserve into the Appropriation Account (1st Special Session, Laws 2009, Chapter 3).

(7) Tobacco Settlement Permanent Fund Reserve established (see Laws 2003, Chapter 312).

FY09 -- A total of $48.9 million, an additional $24.4 million, was transferred from the Tobacco Settlement Permanent Fund to the Tobacco Settlement Program Fund for Medicaid (Laws 2009, Chapter 3).

FY10 -- A total of $45.5 million, an additional $22.7 million, is estimated to be transferred from the Tobacco Settlement Permanent Fund to the Tobacco Settlement Program Fund for Medicaid (Laws 2009, Chapter 3).

Source: New Mexico Department of Finance and Administration

Review of Results and Projections in the General Fund

Fiscal Year 2007. In Fiscal Year 2007, recurring General Fund revenue grew by 3.5 percent to $5.8 billion. This growth followed three consecutive years in which General Fund recurring revenue grew at least 10 percent year-over-year. Prices for oil and natural gas remained high by historical standards, but were lower than in Fiscal Year 2006. Mineral production tax collections fell by 10.2 percent, while rents and royalties fell 9.5 percent. General and selective sales taxes grew by 7.8 percent, while income tax growth was 9 percent. Revenues from investments increased by 2 percent. Total recurring appropriations for the fiscal year totaled $5.1 billion, representing 8.6 percent growth over the previous year. General fund balances of $814.3 million were appropriated largely for capital investments. Year-ending reserves in the General Fund decreased by $147.4 million to $650.8 million, or 12.7 percent of Fiscal Year 2007 recurring appropriations. Year-ending General Fund operating reserves did not exceed 8 percent of the 2006 Fiscal Year recurring appropriations, therefore no additional amounts were transferred from the General Fund Operating Reserve to the Tax Stabilization Reserve. The balance in the Tax Stabilization Reserve remained at $254.4 million or just under 5 percent of Fiscal Year 2007 recurring appropriations.

Fiscal Year 2008. Recurring General Fund revenues increased by 4.2 percent to $6.0 billion in Fiscal Year 2008. Both oil and natural gas prices peaked late in the fiscal year, with oil prices averaging $132.14 per barrel in June 2008 for New Mexico producers. Natural gas prices ranged from $6.25 to $11.70 per thousand cubic feet ("mcf") through the fiscal year. On balance, strength in mineral production taxes and royalties offset slow growth in the broad-based taxes. Mineral production taxes and rents and royalties increased 28.6 percent and 10.6 percent respectively. General and selective sales taxes increased for the fiscal year by 0.4 percent, while income taxes declined by 4.4 percent, due to the final step in the 2003 personal income tax rate cuts and an accounting policy change that shifted some corporate income tax payments to the next fiscal year. Although short-term interest rates decreased in the course of the fiscal year, investment income grew by 9.8 percent. Recurring appropriations for the fiscal year totaled $5.7 billion, representing 11.0 percent growth over the previous fiscal year. The Legislature appropriated and the Governor approved $295.1 million for nonrecurring projects during the 2007 and 2008 regular legislative sessions. Fiscal Year 2008 year-end reserves in the General Fund increased by $84.3 million to $735.1 million, or 13.0 percent of Fiscal Year 2008 recurring appropriations.

Fiscal Year 2009. Recurring General Fund revenues decreased by 11.6 percent from the previous fiscal year to approximately $5.3 billion. The price of oil averaged $64.71 per barrel and the price of natural gas averaged $5.65 per mcf for the fiscal year. General and selective sales taxes declined by 0.7 percent while income taxes decreased by 28.5 percent. General Fund balances decreased by $346.5 million to $388.6 million, or 6.4 percent of Fiscal Year 2009 recurring appropriations.

In addition to legislative actions taken during the 2009 regular legislative session, the executive branch continues to implement a partial hiring freeze as well as other austerity measures such as freezing salary increases, eliminating non-essential overtime, prohibiting upward reclassification of postings through June 30, 2010, suspending awards of compensatory time and buyouts for annual leave for exempt employees, reducing expenses related to travel, equipment, supplies and furniture and employing energy conservation strategies. The Governor also requested elected public officials and the legislative and judicial branches to contribute to the overall effort to reduce expenditures.

The 2009 Legislature adopted and the Governor signed four bills revised the Fiscal Year 2009 budget. Laws 2009, Chapter 5 (House Bill 9) cancelled the authorization for various capital outlay projects that were previously appropriated from the General Fund and Severance Tax bond funds and reauthorized certain other projects. Laws 2009, Chapter 2 (House Bill 10) provided for a 2.5 percent reduction in certain General Fund operating budgets for Fiscal Year 2009, and other appropriations, with variations and exemptions for certain agencies and programs. Laws 2009, Chapter 3 (Senate Bill 79) reduced and repealed General Fund appropriations and authorized transfers to the General Fund from several other funds. This bill also partially restored reductions to public schools and Medicaid from appropriations from two reserve funds. The bill appropriated $35.8 million from the Appropriation Contingency Fund's education reform balance to diminish the public schools budget reduction from 2.5 percent to 1.1 percent, and appropriated $22.6 million from the Tobacco Settlement Permanent Fund to diminish the Medicaid budget reduction from 2.5 percent to 1 percent. Laws 2009, Chapter 4 (Senate Bill 80) restored the requirement that was inadvertently deleted in 2003 legislation for a first quarterly installment of corporate estimated income tax, causing some corporate income tax revenue to arrive during Fiscal Year 2009 instead of Fiscal Year 2010. Lastly, the executive branch implemented an initiative to sell certain stocks held in unclaimed property and transfer the proceeds to the General Fund. Finally, a measure was enacted in the special session of the Legislature in October 2009 that authorized the Department of Finance and Administration to transfer funds from the General Fund Operating Reserve to the Appropriation Account.

Fiscal Year 2010. Based upon consensus revenue projections for Fiscal Year 2010 made in December 2009, recurring General Fund revenues are projected to decrease by 9.3 percent over Fiscal Year 2009 to approximately $4.8 billion. The price of oil is expected to average $70.00 per barrel and the price of natural gas is expected to average $4.30 per mcf for the fiscal year. General and selective sales taxes are projected to decline by 6.6 percent while income taxes are projected to increase by 2.5 percent. Severance taxes are projected to decline by 18.9 percent over the previous fiscal year, while rents and royalties are expected to decline by 38.4 percent over the previous fiscal year. The revenue forecast for Fiscal Year 2010 also includes $376.6 million of nonrecurring revenue, which includes actions taken in the 2009 special session of the Legislature and expenditure reductions mandated of executive branch agencies by Executive Order 2009-044. The special session and executive order actions include reductions to operating budget appropriations, furloughs, transfers of certain fund balances to the general fund, and use of American Recovery and Reinvestment Act of 2009 ("ARRA") funds. The expenditure reductions mandated by the executive order are currently reflected as nonrecurring revenue increases because they are expenditure reductions, not appropriation reductions. In New Mexico, only the Legislature may decrease appropriations, but the mandated expenditure reductions in the executive order create a liability to the general fund in the form of reversions. In addition to this nonrecurring General Fund revenue, New Mexico is expected to receive just over $2 billion in federal stimulus funding from ARRA for use in Fiscal Years 2009 and 2010. New Mexico's share of the federal funding contained in ARRA for Fiscal Years 2009 and 2010 includes $544.6 million for Medicaid, $260.4 million for education, and $57.9 million for general purposes.

After adjusting for Governor's vetoes, the Fiscal Year 2010 General Fund budget, enacted in the 2009 regular session and further adjusted during the 2009 special session of the Legislature, contains $5.5 billion of recurring appropriations, a decrease of 9.1 percent over Fiscal Year 2009. General Fund balances are expected to fall to $141.3 million, or 2.6 percent of Fiscal Year 2010 recurring appropriations. The budget was balanced using $406.2 million ($180.5 for Medicaid and $225.7 for Education Stabilization) in ARRA funding to avoid significant reductions in public and higher education and Medicaid, temporarily substituting $28.1 million of State Medicaid funding with annual tobacco settlement payments, shifting 1.5 percent of annual State pension contributions from the employer to employees to save $42.6 million, reducing State agency, public education, and higher education budgets by $139 million, mandating expenditure reductions to save $79 million, implementing furloughs to save $8.3 million in general fund expenditures and shift funding sources or cancel $130 million in capital outlay projects. An executive branch initiative to collect all outstanding tax obligations owed to the State by taxpayers is expected to increase recurring revenue by $21.3 million in Fiscal Year 2010.

Fiscal Year 2011. Based upon revenue projections for Fiscal Year 2011 made in December 2009, recurring General Fund revenues are projected to increase by 6.2 percent over Fiscal Year 2010 to approximately $5.1 billion. The price of oil is expected to average $75.00 per barrel and the price of natural gas is expected to average $5.40 per mcf for the fiscal year. General and selective sales taxes are projected to increase by 3.7 percent while income taxes are projected to increase by 9.4 percent. Severance taxes are projected to increase by 7.9 percent over the previous fiscal year, while rents and royalties are expected to increase by 21.5 percent over the previous fiscal year. If Fiscal Year 2011 recurring appropriations are cut to the level of anticipated Fiscal Year 2011 recurring revenues and no further actions are taken for Fiscal Year 2010, the General Fund is expected to have closing balances of 179.7 million at the end of Fiscal Year 2011. It is expected that the Legislature and the Governor will agree on some mix of non-recurring palliatives, recurring expenditure cuts and perhaps, some tax increases, as well as applying the last of the ARRA funds to build a balanced budget for Fiscal Year 2011.

General Fund Taxes and Revenues

Programs and operations of the State are predominantly funded through a system of 28 major taxes, and a substantial number of minor taxes, administered by the Taxation and Revenue Department. The Public Regulation Commission collects taxes on insurance premiums. The Regulation and Licensing Department collects professional licensing fees and a number of charges for regulating activities and professions in the state. In addition, interest income and earnings from the Land Grant Permanent Fund, the Severance Tax Permanent Fund and cash balances invested by the State Treasurers Office provide important sources of revenue for State purposes. The most important tax and revenue sources, as measured by magnitude of revenue generation, and the application of the monies to certain funds and purposes, are described below.

Gross Receipts and Compensating Taxes

The gross receipts tax is levied on the total amount of money or the value of other consideration received from selling tangible and certain intangible personal property in the State, from leasing property employed in the State, from performing services in the State and from research and development services performed outside the State on products initially used in the State. The tax is remitted by the seller but generally passed on to the purchaser. The compensating tax is imposed generally on property used in the State but purchased elsewhere. Gross receipts and compensating taxes are due on the 25th day of the month following the month in which the transaction occurs.

The general presumption is that all receipts of a person engaging in business are subject to the gross receipts tax, even though there are over 100 specified exemptions and deductions from gross receipts taxation. Exemptions from the gross receipts tax include, but are not limited to, certain receipts of governmental agencies and certain non-profit organizations; receipts from the sale of certain vehicles; occasional sales of property or services; wages; certain agricultural products; and dividends, interest and receipts from natural gas, oil or mineral interests sales or leases. Deductions from the gross receipts tax include, but are not limited to, receipts from various types of sales or leases of tangible personal property or service; receipts from certain sales of property to governmental agencies or to certain non-profit organizations; receipts from certain processing of some agricultural products; receipts from certain publication sales; certain receipts from interstate commerce transactions; and as set forth below, certain food and medical services as of January 1, 2005.

The gross receipts and compensating taxes are together the single largest source of State General Fund revenue. The gross receipts tax is also a significant source of revenue for cities and counties. The gross receipts tax includes the 5 percent statewide gross receipts tax levy, plus several city and county local-option gross receipts taxes. Until January 1, 2005, a credit of 0.5 percent against the statewide rate of 5 percent was allowed for transactions taking place in municipalities. Receipts from the statewide gross receipts tax levy, less certain disbursements, are deposited in the State General Fund. The disbursements include 1.225 percent of the taxable gross receipts reported in each incorporated municipality to that municipality. The State Aviation Fund receives a monthly distribution equal to 4.79 percent of the reported value of jet fuel sales, and a statutory monthly distribution which increased from $167,000 to $250,000 in July 2009 as specified in Section 7-1-6.7 (D) NMSA 1978. An additional $530,000 is currently distributed monthly to the New Mexico Finance Authority's State Building Fund Bonding Fund, pursuant to Section 7-1-6.42 NMSA 1978. Pursuant to legislation enacted in 2009, that distribution to the State Building Bonding Fund will increase to $680,000 per month on the later of July 1, 2011 or upon certification that the distribution is needed to make debt service payments on bonds issued pursuant to Laws 2009, Chapter 114 for construction of a new executive office building near the State Capitol in Santa Fe. A distribution of state gross receipts tax revenues, known as the County Equalization Distribution, is made annually to counties. After all other distributions, the General Fund share of gross receipts tax collections is approximately 57 percent. Receipts from the compensating tax, less distributions, are transferred to the state General Fund. Compensating tax distributions include 10 percent to the small cities assistance fund and 10 percent to the small counties assistance fund, and a distribution to municipalities based on the level of their taxable gross receipts.

In 2005, the Legislature made a number of changes to the state gross receipts tax laws in Sections 7-1-6.16, 7-1-6.46, 7-1-6.47, 7-9-92 and 7-9-93 NMSA 1978. The credit of 0.5 percent granted to municipalities against the statewide rate was eliminated. The tax on food and certain medical services also was eliminated. The legislation created a deduction for gross receipts tax from retail sales of food as defined for federal food stamp program purposes. Retailers are required to report receipts from sales of groceries and then claim a deduction for the receipts. The deduction does not apply to receipts of restaurants and sellers of prepared foods. The legislation also created a gross receipts tax deduction for some receipts of licensed health care providers (broadly defined) from Medicare Part C and managed health care plans, and health care insurers. This medical deduction was modestly expanded in the 2007 legislative session. The legislation also provides for payments from the State to reimburse local governments for lost gross receipts tax revenues. The legislation initially enacted significant penalties for improper filings, but all penalties were repealed and a credit created for past payment of penalties in the 2007 session.

In June 2008, the New Mexico Court of Appeals decided a tax dispute case, *Dell Catalog Sales L.P. v. Taxation and Revenue Dep't*, No. 26,843, which could impact the collection of New Mexico gross receipts and compensating taxes from businesses conducting commerce across jurisdictional lines by creating uncertainty regarding which jurisdiction's taxes are imposed and collected. The New Mexico Supreme Court declined to hear the case, as did the United States Supreme Court.

Based upon unaudited revenue results for Fiscal Year 2009, total distributions to the General Fund from gross receipts and compensating taxes declined by 1.1 percent over the previous fiscal year to $1.9 billion, comprising almost 36 percent of recurring General Fund revenue.

Personal Income Tax

The personal income tax is imposed on the net income of every individual resident and upon the net income from business, property, or employment of individual nonresidents. Collections, net of refunds, are deposited in the General Fund. State taxable income is generally equal to federal adjusted gross income less deductions and amounts not taxable by State or federal laws. The State allows deductions for income earned by Indians on reservations, graduated deductions for income earned by taxpayers 65 years or older, and deductions for low- and middle-income taxpayers.

New Mexico's personal income tax structure has changed significantly in recent years, starting in 2003. The Legislature enacted significant personal income tax reductions that reduced the top marginal personal income tax rate from 8.2 percent in 2002 to 4.9 percent by 2008, codified in Section 7-2-7 NMSA 1978.

This law combined the Head of Household filers' tax rate with the Married, Joint and Surviving Spouse filers' tax rate, beginning in 2006. Single parents are now taxed at the same rate as married couples. Statutory changes enacted in 2005 also provided low and middle-income tax exemptions, a personal income tax exemption for medical expenses, incentives to encourage business formation in rural areas, and incentives to encourage renewable energy production in the State.

Based upon unaudited revenue results for the 2009 Fiscal Year, total distributions to the General Fund from personal income tax declined by 21 percent over the previous fiscal year to $958.5 million, and generated 18 percent of total recurring General Fund revenue.

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State tax rates by filing status effective Calendar Years 2009 and 2010 are set forth below:

If the taxable income is:	Married Filing Separate:	If the taxable income is:	Surviving Spouse, Married Filing Joint and Head of Household
Not over $4,000	1.7% of taxable income	Not over $8,000	1.7% of taxable income
$4,001 to $8,000	$68.00 plus 3.2% of excess over $4,000	$8,001 to $16,000	$136.00 plus 3.2% of excess over $8,000
$8,001 to $12,000	$196.00 plus 4.7% of excess over $8,000	$16,001 to $24,000	$392.00 plus 4.7% of excess over $16,000
Over $12,000	$384.00 plus 4.9% of excess over $12,000	Over $24,000	$768.00 plus 4.9% of excess over $24,000

If the taxable income is:	Single Including Trust and Estates:
Not over $5,500	1.7% of taxable income
$5,501 to $11,000	$93.50 plus 3.2% of excess over $5,500
$11,001 to $16,000	$269.50 plus 4.7% of excess over $11,000
Over $16,000	$504.50 plus 4.9% of excess over $16,000

Corporate Income Tax

The corporate income tax is imposed on the net income of a corporation doing business in the State or deriving any income from property or employment in the State by Section 7-2A-3 NMSA 1978. Collections, net of refunds, are transferred to the General Fund. Corporations are required to file a return on or before the 15th day of the third month following the end of each taxable year at which time corporate income taxes are also due. A corporation is required to make estimated tax payments if the tax, net of credits, is $5,000 or more. Insurance companies do not pay corporate income tax; rather, they pay a tax on insurance premiums. Nonprofit organizations and retirement trust funds do not pay corporate income tax.

Tax rates are established under a graduated table and range from 4.8 percent on the first $500,000 or less of taxable income to 7.6 percent on income in excess of $1,000,000. Based upon unaudited revenue results for the 2009 Fiscal Year, total distributions to the General Fund of net receipts from corporate income taxes totaled $162.5 million. This is a decrease of 54.2 percent from the prior fiscal year and generated 3.1 percent of recurring General Fund revenue.

In recent years, a number of credits administered through the corporate income tax system have been enacted. These include: the film production credit, enacted pursuant to Section 7-2F-1 NMSA 1978; the real property tax credit, enacted pursuant to Section 7-2-18.10 NMSA 1978; the rural jobs tax credit, enacted pursuant to Section 7-2E-1 NMSA 1978; the biodiesel production and sale credit, enacted pursuant Section 7-2-18.21 NMSA 1978; the agricultural water conservation tax credit, enacted pursuant to 7-2-18.20 NMSA 1978; the sustainable building tax credit, enacted pursuant to Section 7-2-18.19 NMSA 1978; and the renewable energy production tax credit, enacted pursuant to Section 7-2A-19 NMSA 1978.

Mineral Production Taxes

Mineral production taxes (Resource Excise Tax, Natural Gas Processors Tax, Oil and Gas Conservation Tax, and Oil and Gas Emergency School Tax) are levied on producers and others on the value of severed minerals and material resources from within the State and these taxes are disbursed to the General Fund. The Oil and Gas Emergency School Tax is imposed for the privilege of engaging in the business of severing oil, natural gas, liquid hydrocarbons and carbon dioxide from the soil of the State. The Oil and Gas Emergency School Tax is imposed at a rate of 3.15 percent of taxable value of oil and 4 percent of taxable value for natural gas. Taxable value reflects gross sales value less deductions for royalties paid to government entities and for certain processing and transportation expenses. The same definition of taxable value is used for calculation of oil and gas severance tax liability.

Based upon unaudited revenue results for the 2009 Fiscal Year, distributions to the General Fund from Oil and Gas Emergency School Tax receipts totaled $370.4 million. This represents a 33.6 percent decrease from the prior fiscal year. Other General Fund taxes on natural resource production totaled $69.8 million. For Fiscal Year 2009, mineral production taxes contributed 8.3 percent of recurring General Fund revenue.

In 2002, the Legislature created the Jicarilla Apache Tribal Capital Improvement Tax Credit, codified in Section 7-31-27 NMSA 1978. This tax credit can reduce the Oil and Gas Emergency School Tax on products severed from wells drilled on the Jicarilla Apache Nation by up to 0.7 percent of the taxable value of production. This credit totaled $1.2 million for Fiscal Year 2009.

Royalties, Rents and Bonuses

Federal Lands. Under terms of the 1920 Federal Mineral Leasing Act, the State receives 50 percent of all income generated from leasing federal lands located in the State for mineral production. Principal sources of income are royalty payments on oil and natural gas production. Additional income is derived from bonus payments for oil and natural gas leases and royalty payments on production of coal, potash and other minerals. The U.S. Minerals Management Service collects federal mineral lease income and deducts the State’s share of administrative costs. The State receives payments on a monthly basis and makes deposits to the General Fund. Based upon preliminary revenue results for the 2009 Fiscal Year, total distributions to the General Fund from federal mineral leases totaled $507.2 million. This equals 9.5 percent of recurring General Fund receipts for the fiscal year.

Federal Fiscal Year 2009 appropriations bills implemented a two percent administrative fee cut from the federal royalty payments to states. However, this two percent fee cut was restored in the Federal Fiscal Year 2010 appropriations bills. Approximately $2.7 million was deducted from the federal mineral leasing payments to the State for Fiscal Year 2009 and $3.0 million is expected to be deducted in Fiscal Year 2010.

State Lands. The State Land Office manages lands acquired by the State under the federal Fergusson Act enacted prior to statehood, as well as under the State Constitution. All income from State lands is dedicated to specific educational purposes and institutions. As with federal lands, the oil and natural gas industry is the principal source of revenue from State lands. Bonus income is also collected in the form of cash payments as a result of competitive bidding for State leases. Rentals and bonus income are distributed to the respective beneficiary institutions. The largest beneficiary group is the State’s public school system. Mineral production from State trust lands also generates royalty income which is deposited in the State Land Grant Permanent Fund (“LGPF”). Royalties are imposed on most mineral production values at the rate of 12.5 percent, although there is a provision for rates of up to 20 percent for new leases on developed acreage. LGPF beneficiaries and “State lands” beneficiaries are the same: educational institutions and public schools.

Severance Tax Permanent Fund and the Land Grant Permanent Fund

The Severance Tax Permanent Fund was established in the State Treasury in 1973 to receive the residual revenues from the Bonding Fund and serve as an endowment for future capital projects. In 1976, the electorate approved a constitutional amendment giving the Severance Tax Permanent Fund constitutional status. In 1982, the electorate approved a second constitutional amendment that removed the discretionary power of the Legislature to appropriate funds from the corpus of the Severance Tax Permanent Fund. Distributions from investments of the Severance Tax Permanent Fund, however, may be appropriated by the Legislature in the same manner as other general revenues are appropriated. Severance tax receipts have been the primary source of funding for the Severance Tax Permanent Fund. The State Investment Officer under the direction of the State Investment Council ("SIC") invests the corpus and non-appropriated income of the Severance Tax Permanent Fund. The market value of the Severance Tax Permanent Fund as of June 30, 2009 was approximately $3.2 billion, a decrease of approximately 26 percent from the prior fiscal year. Since the end of Fiscal Year 2008, this fund has experienced a material loss in value related to the downturn in the nation's economy. For the quarter ended September 30, 2009, the SIC estimates gains of approximately 8 percent in the Severance Tax Permanent Fund. For the twelve month period ended September 30, 2009, the SIC estimates losses of approximately 14 percent in the Severance Tax Permanent Fund. For the quarter ended December 31, 2009, the SIC had gains of approximately 5 percent in the Severance Tax Permanent Fund. Money on deposit in the Severance Tax Permanent Fund is not pledged to and may not be used to pay any Bonds.

The LGPF is designed solely to benefit the public educational system of the State and other specified institutions. The origins of the LGPF are found in the Fergusson Act of 1898, which granted two sections of land in every township for the benefit of the public schools in the territories of New Mexico. Also under this Act, specific acreage was granted to individual education, medical and penal institutions in the territory. The initial grant totaled in excess of 5.5 million acres. In 1910, the Enabling Act granted additional lands to various beneficiaries in New Mexico, including the public schools, with the latter receiving the largest share. This brought the total lands placed in trust for the common school system and other beneficiaries to over 13 million acres. Over the years, some land has been sold (and the proceeds used to increase the corpus of the LGPF), so the current total is nine million surface acres and 12.8 million subsurface acres.

Pursuant to Section 19-1-1 NMSA 1978, the State Land Office is charged with the custody and disposition of the land granted to the State. The Commissioner of Public Lands sells or leases these properties in accordance with the provisions of the appropriate statutes. The State Investment Officer under the direction of the SIC invests the corpus and income of the LGPF. As of June 30, 2009, the market value of the LGPF was approximately $7.9 billion, a decrease of approximately 22 percent from the prior fiscal year. For the quarter ended September 30, 2009, the SIC estimates gains of approximately 9 percent in the LGPF. For the twelve month period ended September 30, 2009, the SIC estimates losses of approximately 9 percent in the LGPF. For the quarter ended December 31, 2009, the SIC had gains of approximately 5.3 percent in the LGPF. The corpus of the LGPF is constitutionally protected from appropriation and amounts on deposit therein are not pledged to and may not be used to pay debt. The LGPF is also protected by the Federal Enabling Act of 1910.

In November 1996, the State electorate approved a constitutional amendment regarding distributions from both of the State's permanent funds. Distributions are now based on a total return basis rather than an income distribution method. In addition, distributions to beneficiaries are now based on a formula under which 4.7 percent of the previous average five-year market value of the fund is distributed.

In September 2003, the State electorate approved a constitutional amendment increasing the rate of distribution from the LGPF from 4.7 percent to 5 percent of the five-year average market value of the LGPF beginning in Fiscal Year 2005. Certain additional distributions shall be made to implement and maintain educational reforms as provided by law. An additional 0.8 percent has been and will be distributed in Fiscal Years 2005 through 2012 and an additional 0.5 percent will be distributed in Fiscal Years 2013 through 2016. A three-fifths majority of each house of the Legislature may suspend this additional distribution.

In May 2009 in connection with an ongoing investigation undertaken by the New York Attorney General relating to the use of third party placement agents in connection with investment transactions of that state's retirement fund, Saul Meyer, the founding partner of Aldus Equity Partners ("Aldus"), an investment advisor to that fund, was indicted in New York for allegedly paying illegal kickbacks in connection with investment recommendations to that fund. Aldus had acted as an investment advisor to the SIC and ERB on private equity investments until being terminated shortly after the May 2009 indictment of Mr. Meyer. In October 2009, Mr. Meyer pled guilty to a fraud charge relating to investments made by the New York retirement fund and recommended by Aldus. In connection with that plea, Mr. Meyer stated that from 2004 to 2009 Aldus had acted as an advisor to the SIC and the ERB and that, contrary to his fiduciary responsibilities to the SIC and ERB, he ensured that Aldus recommended certain proposed investments pushed on him by politically connected individuals or their associates who stood to benefit financially or politically from the investments, and that the investments were not necessarily in the best interests of the State. Several days later in October 2009, Gary Bland, the State Investment Officer, resigned.

In response to these and other events and the negative returns suffered by the State's various investment funds during the market turmoil associated with the downturn in the nation's economy, the Board and the Legislative Council Service ("LCS") co-sponsored independent Fiduciary Reviews (the "Reviews") of the SIC, ERB and PERA. The Reviews analyzed State investment policies, procedures and practices and were prepared by Ennis, Knupp & Associates. Inc. The scope of the work of these Reviews included among other things, review and recommendations for appropriate governance and organizational structure, investment best practices for investing agencies and the use of third party marketer fees. The findings and recommendations of the Reviews were reported to the Board at a meeting on January 13, 2010. The SIC, ERB and PERA with the assistance of the Board and the LCS, will prioritize and address the recommendations contained in the Reviews based on the needs and resources of the investing agencies.

Investment Income

Investment earnings are generated from three primary sources: the LGPF, the Severance Tax Permanent Fund, and cash balances held by the State Treasurer. Income from the LGPF is distributed among the beneficiary institutions and public schools. The dedication received by the public schools, which is approximately 83 percent, is deposited in the General Fund. Based on preliminary revenue results for the 2009 Fiscal Year, $438.8 million of LGPF distributions were transferred to the General Fund for public school purposes. The State distributed $175.8 million of income from the Severance Tax Permanent Fund, all of which was deposited in the General Fund. In the 2009 Fiscal Year, the Treasurer's cash balances produced $22 million for the General Fund. Total investment income credited to the General Fund was $636.6 million. This is 11.5 percent of recurring General Fund receipts.

PROPERTY VALUATION AND TAXATION

The valuation of oil and natural gas production and the assessment of the *ad valorem* production tax are based on the actual value of production on a monthly basis from September 1 to August 31. Oil and natural gas are valued for the calendar year preceding the property tax year, as explained in Section 7-32-15 NMSA 1978. For rate setting, the Local Government Division of the DFA may adjust the State levy for changes in oil and natural gas values.

In November 1998, the New Mexico electorate approved an amendment to Section 1 of Article VIII of the State Constitution to authorize the Legislature to limit increases in residential property valuation for property taxes. The limitation may be applied to classes of residential property taxpayers based on owner-occupancy, age or income. The limitations may be authorized statewide or at the option of a local jurisdiction and may include conditions. Any valuation limitations authorized as a local jurisdiction option shall provide for applying statewide or multi-jurisdictional property tax rates to the value of the property as if the valuations increase limitation did not apply. This amendment and related legislation may have an impact on future property taxation increases.

The 2000 Legislature passed and the Governor signed legislation limiting the increase in the value of residential property for property valuation purposes. Section 7-36-21.3 NMSA 1978 provides for a freezing of values for single-family dwellings occupied by certain low-income owners 65 years of age or older. Another law provides that the value of a residential property in any tax year, starting with the year 2001, shall not exceed certain percentage increases based on whether the county where the property is situated has a sales assessment ratio of at least 85 percent, as codified in Section 7-36-21.2 NMSA 1978. Sales assessment ratios are computed annually by the Taxation and Revenue Department and measure a county's assessment valuations against current sales information. Counties that have at least an 85 percent sales assessment ratio are considered "current and correct" while counties that fall below that threshold are considered not "current and correct." If a property is situated in a current and correct county, the law limits the annual increase to no more than 3 percent (and 6.1 percent over the value two years ago). If a property is situated in a county that is not current and correct, the law limits the annual increase to 5 percent. In addition, in such a non-current and correct county, the law limits the aggregate annual increases for all properties (excluding net new properties added to the tax rolls) in that county to 3 percent. The annual limitations do not apply to new improvements or to any property that has had a change in ownership, use or zoning during the year.

The 2005 Legislature passed and the Governor signed a bill, codified as Section 7-38-12.1 NMSA 1978 of the Property Tax Code, requiring the disclosure only to the County Assessor of sale prices and other items of value upon the sale of residential real property. This amendment has led to an increase in the assessed value of some residential properties. The 2008 Legislature passed and the Governor signed legislation amending Section 7-36-15 NMSA 1978 to require county assessors to consider, in determining the market value of residential housing, any decrease in value that would be realized by an owner in the sale of the property because of the effects of any affordable housing subsidy, covenant or encumbrance under a federal, state or local housing program that restricts the future use or resale value of the property, or otherwise prohibits the owner from fully benefiting from any enhanced value of the property.

In August 2009, in the case of Dzur v. Bernalillo County Valuation Protests Board No. CV2008-12410, Judge Baca of the New Mexico Second Judicial District (comprising Bernalillo County, the county in which Albuquerque, New Mexico's largest city, is located) issued an opinion and order finding certain sections of the New Mexico Property Tax Code, providing for limitations on annual increases in valuations of residential property except for residential property as to which a change of ownership has occurred in the prior tax year, inconsistent with Article VIII, Section 1 of the New Mexico Constitution by creating an inappropriate classification limiting valuation increases on residential properties which did not apply to residential properties as to which a change of ownership occurred. Judge Baca's ruling ordered that the statute be applied in a manner so as to apply the valuation limitation without regard to when residential property is acquired. A similar ruling has been made by another district court judge in a separate case. Numerous other suits seeking refund of property taxes already paid by over 2,400 plaintiffs are reported to be pending in the Second Judicial District. The Bernalillo County Assessor decided not to appeal Judge Baca's decision and has announced an intention to roll back all potentially affected 2010 residential property values to reflect the two court rulings. Judge Baca has, in two pending but undecided cases, issued a certification order asking for review of the issue by the New Mexico Court of Appeals.

As of January 2010, the effect of the court cases, the Bernalillo County Assessor's announcement, and the possibility of further lawsuits in other counties is not known. Any material reduction in residential property values statewide could result in a diminution of state general obligation bond capacity. Additionally, limitations on assessments could cause an increase to the property tax levied against tax payers necessary to pay debt service on state general obligation bonds.

Table 17 sets forth the aggregate statewide net taxable valuations for the last 10 years.

TABLE 17
Final Net Taxable Valuations
(Dollars in thousands)

Property Tax Year	Residential	Non-Residential	Oil and Gas	Copper	Net Taxable Value
2000	15,311,042	9,946,121	2,166,427	160,906	27,584,497
2001	16,336,147	10,209,818	4,238,592	117,376	30,901,933
2002	17,133,856	10,336,906	3,024,570	–	30,495,332
2003	18,279,692	10,778,559	3,024,570	66,614	32,149,435
2004	19,421,800	10,839,281	5,563,785	65,157	35,890,023
2005	21,120,378	12,161,447	4,643,270	65,157	38,910,768
2006	23,016,630	12,605,105	7,259,891	103,402	42,985,028
2007	25,805,629	14,458,192	5,758,696	133,262	47,288,631
2008	27,798,246	15,259,324	7,245,955	160,279	50,463,804
2009	29,455,894	16,383,865	9,033,975	172,481	55,046,214

Source: New Mexico Department of Finance and Administration, Local Government Division.

Production and Property Taxes on Oil and Natural Gas

The Oil and Gas Emergency School Tax Act, Section 7-31-1 et seq. NMSA 1978 taxes oil and certain gases at 3.15 percent and natural gas 4.0 percent. The Oil and Gas Severance Tax Act, Section 7-29-4(A) NMSA 1978, imposes a 3.75 percent tax on both oil and natural gas. The Oil and Gas Conservation Tax Act, Section 7-30-4(A) NMSA 1978, taxes both oil and natural gas at 0.19 percent. Statutory tax rates are effectively reduced by deductions for royalties paid to governments and for certain transportation expenses. The *ad valorem* taxes are imposed in lieu of property taxes on reserves and lease equipment, and local rates vary in accordance with jurisdiction.

The 2005 Legislature amended severance tax laws to include helium and hydrocarbon gases in the definition of products subject to the oil and gas severance tax, the oil and gas conservation tax, the oil and gas school emergency tax and the oil and gas production *ad valorem* tax.

Current effective production and property tax rates expressed on *ad valorem* and unit bases are shown below. The rates were based on data from Fiscal Year 2009 and reflect an average sales price of $64.70 per barrel for oil and $5.61 per thousand cubic feet ("mcf") for natural gas. The effective rates presented in Table 18 show taxes paid as a percentage of gross sales value before subtracting allowable deductions.

TABLE 18
Effective Tax Rates applicable for Fiscal Year 2009

Type of Tax	Crude Oil Ad Valorem	Crude Oil Per Barrel	Natural Gas Ad Valorem	Natural Gas Per mcf
Price		**$64.70**		**$5.61**
Oil and Gas School Tax	2.82%	$1.83	3.09%	$0.17
Oil and Gas Severance Tax	3.36%	$2.18	2.91%	$0.16
Oil and Gas Conservation Tax (General Fund only)	0.15%	$0.1	0.14%	$0.01
Oil and Gas Conservation Tax (Reclamation)	0.0%	$0.016	0.016%	$0.001
Natural Gas Processors Tax	N/A	N/A	0.45%	$0.03
Oil and Gas Production *ad valorem* Tax	1.05%	$0.68	0.88%	$0.05
Oil and Gas Production Equipment *ad valorem* Tax	0.15%	$0.14	0.14%	$0.01
Total	**7.58%**	**$6.88**	**7.92%**	**$0.62**
Subtotal: State Tax Only (excludes *ad valorem* taxes)	6.35%	$4.11	6.59%	$0.37

Source: New Mexico Department of Finance and Administration.

Production, Sales, and Property Taxes on Coal

The average burden of production and property taxes on a ton of coal produced and sold during Fiscal Year 2009 is shown in Table 19:

Table 19
Tax Burden on Coal

Type of Tax	Tax per Ton	Effective Tax Rate	Taxes Collected
Severance Tax and Surtax (Net of ITC)	$ 0.79	2.55%	$ 20,234,260
Resource Excise Tax	$ 0.21	0.69%	$ 5,428,852
Conservation Tax	$ 0.05	0.17%	$ 1,375,306
Total Production Taxes	$ 1.06	3.41%	$ 27,038,418
Property Tax	$ 0.23	0.74%	$ 5,833,150
Gross Receipts Tax	$ 1.87	6.01%	$ 47,610,572
Total Production and Non-Production Taxes	$ 3.15	10.16%	$ 80,482,140
Price per Ton			$ 31.09
Total Production (Short Tons)			25,482,801
Total Value			$ 792,304,607

(1) The figures reported in this table come from the New Mexico Taxation and Revenue Department's GenTax System. They reflect only the information contained in all tax returns and amendments filed during Fiscal Year 2009. These figures differ from actual distributions made by the Taxation and Revenue Department's Financial Services Bureau, as the distributions include penalties, interest, and other modifications such as previously unallocated or unidentified receipts.
(2) Property taxes were billed in calendar year 2008 and collected in Fiscal Year 2009.
Source: New Mexico Taxation and Revenue Department, Tax Analysis, Research and Statistics Office (the GenTax System, Financial Services Bureau and Property Tax Division's Central Assessment Unit).

Statutory rates for the resources excise tax and the conservation tax are effectively reduced by a deduction for Federal, State and Indian royalties. The effective severance tax rate on coal reflects the mix of old and new contract sales and of underground and surface mines. Property tax pertains to both equipment and production values. Fundamental differences in tax bases preclude a true comparison between property taxes and other taxes shown above. However, property taxes are included in this analysis to prevent understating the tax burden.

In addition to production taxes, gross receipts tax is imposed on coal produced and sold within the State. During Fiscal Year 2009, 64.7 percent of all coal produced in the State and supplied to electricity generating stations was supplied to power plants in New Mexico. The remaining 35.3 percent was transported by rail to electricity generators in Arizona. 95.2 percent of all coal produced in New Mexico is subject to the gross receipts tax. The combined state and local tax rate is 6.309 percent of value.