THE STATE OF NEW MEXICO

CONTINUING DISCLOSURE

ANNUAL FINANCIAL INFORMATION FILING

FISCAL YEAR 2010

NEW MEXICO
STATE BOARD OF FINANCE

January 2011

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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") were 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 2006 through Fiscal Year 2010.

TABLE 1

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

	2006	2007	2008	2009	2010
Proceeds from General Obligation Bonding Program(1)					
General Obligation Bonds	$0.0	$142.8	$0.0	$223.4	$0.0
Subtotal	$0.0	$142.8	$0.0	$223.4	$0.0
Proceeds from Severance Tax Bonding Program(1)					
Severance Tax Bonds	$136.1	$136.4	$153.6	$0.0	$315.3
Severance Tax Funding Notes(2)	102.1	193.3	150.9	188.7	178.6
Supplemental Severance Tax Bonds	0.0	0.0	0.0	0.0	112.9
Supplemental Severance Tax Funding Notes(2)	193.6	210.8	222.8	240.8	97.0
Subtotal	$431.8	$540.5	$527.3	$429.5	$703.8
Proceeds From Other Sources					
General Fund Appropriations(3)	$454.6	$548.4	$123.0	$(148.6)	$(259.2)
Transportation Bonds(4)	0.0	459.4	0.0	122.6	77.4
Lease Appropriation Bonds	0.0	0.0	0.0	60.0	0.0
Subtotal	$454.6	$1,007.8	$123.0	$34.0	$(181.8)
Total	**$886.5**	**$1,691.1**	**$650.3**	**$686.9**	**$522.0**

(1) Dollar amounts from State Board of Finance bonding programs reflect net proceeds available for capital expenditure.
(2) 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.
(3) 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. In Fiscal Year 2010, due to budgetary constraints, $259.2 million previously appropriated for Capital Project Funding was reappropriated for purposes other than Capital Project Funding.
(4) On October 19, 2006, the New Mexico Finance Authority issued $459,400,000 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.

The State also has, on a limited basis, funded capital projects backed by the state gross receipts tax and cigarette tax revenue.

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 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, 2010, are shown in Table 2.

TABLE 2

Outstanding General Obligation Bonds

Series	Principal Outstanding
Series 2005	$ 62,895,000
Series 2007	101,065,000
Refunding Series 2008A	50,660,000
Series 2009	183,960,000
Total	**$ 398,580,000**

Source: New Mexico State Board of Finance.

Future debt payments, by fiscal year, on General Obligation Bonds outstanding, as of December 31, 2010, are shown in Table 3.

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TABLE 3

Future General Obligation Bond Debt Service[(1)]

Fiscal Year	Principal	Interest	Total
2011	$61,725,000	$9,964,500	$71,689,500
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	$398,580,000	$74,698,500	$473,278,500

(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, 2010	$51,040,955,114
General obligation bond limitation @ 1 percent of net taxable value	$510,409,551
Total general obligation bonds outstanding as of December 31, 2010	$398,580,000
Ratio of total debt to net taxable value	78%

Source: Fiscal Strategies Group.

At an election in November 2010, the electorate authorized the issuance of approximately $20 million in additional General Obligation Bonds. The State anticipates that the additional General Obligation Bonds will be issued in Fiscal Year 2011.

Underlying General Obligation Bonds

The following table presents information on county, city, local and public school district debt outstanding as of June 30, 2010. The table does not include debt of special districts or community colleges.

Certain Underlying General Obligation Debt

Counties	$273,467,980
Cities	$249,180,000
Schools	$1,678,109,000

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

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 and Additional Senior Severance Tax Bonds

The principal amounts of outstanding Senior Severance Tax Bonds, as of December 31, 2010, are show in Table 4.

TABLE 4

Outstanding Senior Severance Tax Bonds

Severance Tax Bonds, Refunding Series 2005B-1	$15,455,000
Severance Tax Bonds, Series 2006A	13,180,000
Severance Tax Bonds, Series 20007A	25,900,000
Severance Tax Bonds, Series 2008A-1	124,395,000
Severance Tax Bonds, Series 2009A	195,785,000
Severance Tax Bonds, Series 2010A	132,265,000
Severance Tax Bonds, Refunding Series 2010C	43,780,000
Severance Tax Bonds, Refunding Series 2010D	140,520,000
	$691,280,000

Source: New Mexico State Board of Finance.

Future payments, by fiscal year, on outstanding Senior Severance Tax Bonds, as of December 31, 2010, are shown in Table 5.

TABLE 5

Future Senior Severance Tax Bond Debt Service[(1)]

Fiscal Year	Principal	Interest	Total
2011		$12,866,251	$12,866,251
2012	$93,520,000	29,496,900	123,016,900
2013	96,895,000	25,584,275	122,479,275
2014	92,290,000	21,525,550	113,815,550
2015	87,045,000	17,442,800	104,487,800
2016	82,475,000	13,421,100	95,896,100
2017	76,050,000	9,619,575	85,669,575
2018	62,655,000	6,320,000	68,975,000
2019	50,180,000	3,673,900	53,853,900
2020	34,000,000	1,658,500	35,658,500
2021	16,170,000	404,250	16,574,250
Total	$691,280,000	$142,013,101	$833,293,101

(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, 2010, are shown in Table 6.

TABLE 6

Outstanding Supplemental Severance Tax Bonds
Upon the Delivery of the Bonds

Supplemental Severance Tax Bonds, Series 2003B	$ 3,555,000
Supplemental Severance Tax Bonds, Series 2004B	4,370,000
Supplemental Severance Tax Bonds, Refunding Series 2005B-2	7,310,000
Supplemental Severance Tax Bonds, Refunding Series 2008A-2	10,680,000
Supplemental Severance Tax Bonds, Series 2010B	100,000,000
Total	$125,915,000

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, 2010, are shown in Table 7.

TABLE 7

Future Supplemental Severance Tax Bond Debt Service(1)

Fiscal Year	Principal	Interest	Total
2011		$2,957,198	$2,957,198
2012	$23,920,000	5,379,714	29,299,714
2013	17,000,000	4,483,074	21,483,074
2014	11,770,000	3,834,958	15,604,958
2015	10,705,000	3,281,175	13,986,175
2016	9,725,000	2,770,425	12,495,425
2017	9,945,000	2,278,675	12,223,675
2018	10,215,000	1,774,675	11,989,675
2019	10,525,000	1,256,175	11,781,175
2020	10,865,000	721,425	11,586,425
2021	11,245,000	224,900	11,469,900
Total	$125,915,000	$28,962,393	$154,877,393

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

Tax Revenue Anticipation Notes

The State has issued, and expects to issue from time to time, Tax Revenue Anticipation Notes ("TRAN "). 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. The State Treasurer's Office issued $200 million in TRAN which closed on July 21, 2010 at a cost of 0.30524%. The TRAN will mature on June 30, 2011.

Severance Tax Bonding Fund and Debt Service Requirements

Severance tax receipts contributed 93.6 percent of total revenue to the Bonding Fund in Fiscal Year 2010, 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 93.0 percent of total Fiscal Year 2010 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
Receipts, Disbursements and Transfers
Fiscal Year Ended June 30[1][2]
(Dollars in thousands)

	2006	2007	2008	2009	2010
Beginning Balance	$103,909	$240,717	$224,860	$107,217	$172,318
Receipts:					
Taxes:					
Oil and Gas Severance Tax	$477,139	$433,357	$493,293	$492,885	$325,761
Other Minerals Severance Taxes	20,198	19,545	18,501	23,431	24,362
Total Severance Taxes	$497,336	$452,901	$511,794	$516,315	$350,123
Other Income:					
Interest on Investments	$27,573	$56,521	$57,410	$31,607	$21,610
Bond Proceeds	0	0	0	0	369
Other financing sources	9,766	718	4,391	2,300	2,131
Total Other Income	$37,339	$57,239	$61,801	$33,907	$24,111
Total Receipts	$534,676	$510,140	$573,595	$550,222	$374,234
Disbursements:					
Senior Bond Debt Service	$69,332	$72,886	$158,564	$12,433	$96,290
Senior Short-term Obligations[3]	102,158	74,434	269,750	188,684	178,594
Supplemental Bond Debt Service	19,691	20,119	39,056	1,074	15,452
Supplemental Short-term Obligations[3]	193,577	210,830	222,799	240,841	97,001
Fiscal Charges	738	446	665	895	1,396
Total Disbursements	$385,495	$378,715	$690,834	$443,926	$388,734
Transfers:					
To Severance Tax Permanent Fund	$12,372	$147,282	$404	$41,195	$27,472
Total Transfers	$12,372	$147,282	$404	$41,195	$27,472
Ending Balance, June 30	$240,717[4]	$224,860	$ 107,217[5]	$172,318[6]	$130,346[7]

(1) All receipts, expenditures and balances exclude amounts in rebate accounts retained for potential arbitrage rebates.
(2) Proceeds and expenditures attributable to refunding bonds are excluded from this table because such proceeds and expenditures are reserved for payments on appropriate refunding bonds and are not available for debt service payments on other Severance Tax Bonds.
(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 that are sold 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 12, 2006 in the amount of $123.2 million and an additional transfer of $22.3 million made on December 11, 2006.
(5) 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.
(6) The ending balance includes the amount of the transfer to the Severance Tax Permanent Fund, which was $27.5 million. An initial transfer of $30.1 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.
(7) The ending balance includes the amount of the transfer to the Severance Tax Permanent Fund, which was made on July 1, 2010 in the amount of $3.5 million.

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[(1)]	Projected Senior Debt Service Coverage	Scheduled Supplemental Debt Service[(1)]	Projected Supplemental Coverage
2011	$386,947,607	$102,900,978	3.76x	$ 19,212,443	3.17x
2012	420,994,857	123,016,900	3.42x	29,299,714	2.76x
2013	441,404,418	122,479,275	3.60x	21,483,074	3.07x
2014	445,990,509	113,815,550	3.92x	15,604,958	3.45x
2015	447,582,576	104,487,800	4.28x	13,986,175	3.78x
2016	441,839,322	95,896,100	4.61x	12,495,425	4.08x
2017	436,192,598	85,669,575	5.09x	12,223,675	4.46x
2018	430,640,621	68,975,000	6.24x	11,989,675	5.32x
2019	425,181,642	53,853,900	7.90x	11,781,175	6.48x
2020	419,813,944	35,658,500	11.77x	11,586,425	8.89x
2021	414,535,845	16,574,250	25.01x	11,469,900	14.78x

(1) Excludes debt service on refunded bonds which will be payable from escrowed securities and severance and supplemental 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

Funds on deposit in the Bonding Fund and in the various Project Funds are invested by the State Treasurer at the direction and approval of the Board, pursuant to the State Treasurer's Investment Policy ("Investment Policy"). For a description of the Investment Policy, see "Appendix A." Investments are made in securities, which are at the time legal investments of the State, and no such investment or deposit shall violate any applicable restrictions imposed by the Code (defined below) and applicable Treasury Regulations relating to the market price and the existence of an established market.

Except for funds deposited into the Rebate Fund for any bond series (defined in the Bond Resolution), net interest earned on the amounts on deposit in the Debt Service Account for those bonds shall be retained therein, and net interest earned on amounts on deposit in the Project Fund for those bonds shall be credited to the Debt Service Account for those bonds and applied to the payment of principal and interest on the bonds next becoming due. Any net loss, after applying any earnings in that account or fund to the loss, resulting from any investment shall be charged to the applicable account from which such investment was made.

Severance Tax Collections and Reporting

Operators, purchasers and working interest owners are required to submit monthly reports to the TRD 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 are reported by "production unit" and a designation for a well or group of wells that is assigned by the TRD 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. During calendar year 2009, the TRD received an average of 575 oil and natural gas returns per month containing an average of 97,716 lines of detailed information about production from different production units.

Complete reporting forms must be mailed or delivered, or their information electronically transmitted, on or before the twenty-fifth day of the second month after the calendar month for which the report is required. Taxpayers whose total tax liability for the month (including the oil and gas emergency school tax, the oil and gas conservation tax and the oil and gas *ad valorem* tax, as well as the oil and gas severance tax) exceeds $25,000 must provide payment by automated clearinghouse or by wire transfer on or before the due date. Taxpayers who fail to report or pay in a timely fashion are assessed interest at a rate of 1.25 percent per month beginning the day after the due date and continuing until the date the tax is reported or paid. A penalty is assessed when a taxpayer fails to pay any tax or file any report by the due date because of negligence or disregard of rules and regulations. A penalty is charged at a rate of 2 percent per month, up to a maximum of 10 percent of the tax due.

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 natural 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 TRD are deposited into the Oil and Gas Suspense Fund. Using the ONGARD reporting system, the TRD 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 and as to which TRD has determined no substantive risk of protest or litigation is present are then transferred monthly to the Bonding Fund.

TABLE 10

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

	2006	2007	2008	2009	2010
Oil					
Sales Volume (million barrels)	60.5	60.1	60.0	62.3	62.9
Value (millions)	$3,634	$3,553	$5,628	$4,037	$4,487
Average Price (per barrel)	$60.08	$59.11	$93.74	$64.84	$71.29
Natural Gas					
Sales Volume (bcf)	1,523	1,516	1,428	1,390	1,288
Value (millions)	$11,462	$9,935	$12,002	$7,797	$6,669
Average Price (per mcf)	$7.53	$6.56	$8.40	$5.61	$5.18
CO_2					
Sales Volume (bcf)	107.5	103.1	101.0	105.1	123.7
Value (millions)	$79.5	$91.8	$123.6	106.6	128.4
Average Price (per mcf)	$.74	$.89	$1.22	$1.01	$1.04

Source: New Mexico Taxation and Revenue Department, Tax Analysis, Research and Statistics Office (ONGARD, sales month basis as of December 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 ("CO_2"). Table 11 summarizes the history of statutory tax rates imposed on natural gas, oil, and CO_2. 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 2010. 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–Oil(2) $24.00 per barrel–Oil(2)	0.0% Oil(4) 0.0% Natural Gas(4)
Well workover wells	2.45%	$24.00 per barrel-Oil(2) $24.00 per barrel-Oil(2)	0.0% Oil(4) 0.0% Natural Gas(4)
Stripper wells	1.875%	$ 1.15 per mcf-Natural Gas(3) $15.00 per barrel-Oil(3)	0.0% Natural Gas(4) 0.0% Oil(4)
	2.8125%	$ 1.35 per mcf-Natural 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-Oil(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 natural gas on the tribal land of the Ute Mountain Ute Tribe. The TRD has appealed the ruling. The outcome and its effect are uncertain. Regardless of the outcome, however, it is unlikely that the decision will have any impact on taxes paid from production on other reservations in the State.

The TRD reports that natural gas production and crude oil production on Indian land were approximately 3.3 percent and 0.7 percent, respectively, of total taxable statewide production in Fiscal Year 2010. The TRD estimates that oil and natural gas production on Indian land generated $6.4 million in severance tax revenues to the State in the production months corresponding to Fiscal Year 2010 (net of Intergovernmental Production Tax Credit). Coal production on Indian land was 35.0 percent of total statewide production in Fiscal Year 2010. No potash, copper or 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 TRD estimates that total credits claimed under this provision were about $2.6 million in Fiscal Year 2010. About $1.1 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 TRD reports that this credit reduced Bonding Fund revenue by $2.3 million in Fiscal Year 2010.

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. Sales of CO_2 were approximately 123.4 bcf in Fiscal Year 2010, an increase of 17.1 percent from 105.1 bcf during Fiscal Year 2009. Production is expected to increase to 130.0 bcf in Fiscal Year 2011 and increase by 5.0 bcf each fiscal year from Fiscal Year 2012 through Fiscal Year 2015. The weighted average wellhead price of CO_2 sales for Fiscal Year 2010 was $1.04 per mcf reported at the production facility, and is expected to increase to $1.10 during Fiscal Year 2011, increase by $0.05 per mcf in each Fiscal Year between 2012 and 2014 and stabilize at $1.25 in Fiscal Year 2015. Severance Taxes on CO_2 are levied at the rate of 3.75 percent of taxable sales value. Deductions have ranged from 27.4 percent in Fiscal Year 2007 to 46.7 percent in Fiscal Year 2004. Weighted average deductions were 28.0 percent in Fiscal Year 2010. For the December 2010 forecast, a deductions rate of 28.0 percent was assumed over the five-year forecast period.

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 seam 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. A series of additional legislative actions extended the exemption 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.

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

TABLE 13

Coal Production, Prices, Revenues, and Taxes
Fiscal Years 2006 to 2010

	2006	2007	2008	2009	2010
Production:					
Total Sales Volume (tons)	26,566,669	25,591,892	22,801,290	25,482,801	23,213,759
Surface Mined Surtax Exempt	6,455,233	7,157,518	5,862,728	7,671,768	7,144,637
Surface Mined Non-Exempt	13,140,540	11,437,268	11,080,122	11,618,253	10,019,543
Underground Mined Surtax Exempt	6,970,895	6,997,106	5,858,440	6,192,780	6,049,579
Prices:					
Weighted Average Price per Ton for All Coal	$25.03	$26.49	$29.18	$31.09	$28.97
Sales Revenue:					
Total Sales Revenue	$665,065,500	$677,872,102	$665,449,922	$792,304,607	$672,551,118
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	$23,330,785
Intergovernmental Tax Credit (ITC)	$5,886,169	$5,478,600	$4,534,144	$3,810,231	$2,257,604
Net Severance Tax and Severance Surtax Liability (Net of ITC)	$18,184,388	$17,318,039	$17,209,520	$20,234,260	$21,073,181
Effective Taxes (Net of ITC):					
Effective Tax Rate	2.73%	2.55%	2.59%	2.55%	3.13%
Effective Tax per Ton for all Coal (Net of ITC)	$0.68	$0.68	$0.75	$0.79	$0.91

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 not 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 is 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 $1.9 million in Fiscal Year 2010, down from $2.0 million in Fiscal Year 2009. Severance tax revenue from copper, which is limited because of the statutorily-defined narrow tax base, was $297,156 in Fiscal Year 2010, down from $334,523 in Fiscal Year 2009 after peaking at $760,288 in Fiscal Year 2008. Weighted average copper prices were $3.04 per pound in Fiscal Year 2010.

GENERAL INFORMATION CONCERNING THE STATE OF NEW MEXICO

The State, admitted as the forty-seventh state on January 6, 1912, is the fifth largest state, containing approximately 121,593 square miles. The current population of the State is 2,059,179. The State has a semiarid subtropical climate with light precipitation. Its 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). Thunderstorms in July and August bring most of the moisture. December to March snowfalls vary from 2 inches (lower Rio Grande Valley) to 300 inches (north central mountains).

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 22 departments, each headed by a cabinet secretary appointed by the Governor and approved by the Legislature, and approximately 9 cabinet-level agencies. Elections for all Executive Branch offices were held on November 2, 2010.

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 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 60 calendar days in odd-numbered years and 30 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 amended the State Constitution, adopting Section 22 of Article XX 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 official data as of June 30, 2010. 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 June 30, 2010, however, the funds had recovered a significant portion of the losses incurred during that period.

Several bills enacted during the 2009 regular legislative session amended various provisions of the Educational Retirement Act, the Public Employees Retirement Act, and the New Mexico Retiree Health Care Act to improve the long-term stability of these funds. House Bill 573 (Chapter 288, Laws 2009) increased the years of service requirement from 25 years to 30 years for new members who joined the Educational Retirement Board (the "ERB") and the Public Employees Retirement Association ("PERA") on or after July 1, 2010, while existing ERB and PERA members remain under the 25-year service requirement. In addition, House Bill 573 increased payroll contributions by employers and employees to the New Mexico Retiree Health Care Fund (the "NMRHCF"). House Bill 573 also included training requirements for members of the ERB and PERA boards and established a 25-member retirement systems solvency task force to study the pension plans and make recommendations to the Legislature and Governor by October 1, 2010. House Bill 631 (Chapter 286, Laws 2009) added a section to the Educational Retirement Act to extend the rule whereby ERB members could retire with full benefits if their combined service and age at retirement met or exceeded 75, to a combined service and age at retirement of 80 for ERB members hired after July 1, 2010.

House Bill 351 (Chapter 287, Laws 2009) increased the employer/employee contribution to the NMRHCF from 1.95 percent to 3 percent for most employers and employees. The contribution increase was slightly higher for employees in an enhanced retirement plan. The increase is being phased-in over a four-year period. Due to the passage of this legislation, the NMRHCA estimates that solvency will be extended from approximately 2018 to 2027.

Finally, House Bill 854 (Chapter 124, Laws 2009) modified most employer and employee contributions to the State's retirement funds for Fiscal Years 2010 and 2011, shifting 1.5 percent of the annual contribution rate from employers to employees for those employees with a full-time equivalent annual salary greater than $20,000. In Fiscal Year 2012, the employee contribution rate is scheduled to return to previous levels, although the Legislature may consider additional proposals during the legislative session which began on January 18, 2011.

Educational Retirement Board

The Educational Retirement Board ("ERB") had 128,878 members as of June 30, 2010, including active, retired, inactive vested and inactive non-vested members. The market value of Educational Retirement Fund as of June 30, 2010 was $8.2 billion, which was up from a low of $5.97 billion in February 2009. As of September 30, 2010 the market value was $8.8 billion. The ERB had investment gains for the fiscal year ended June 30, 2010 of 18.2 percent. For the 12 months ended September 30, 2010, the ERB had an investment return of 13.4 percent. The ERB's investment return for 2009 calendar year was 27.8 percent. An actuarial valuation of the Educational Retirement Fund completed by Gabriel Roeder, Smith & Co. reported that as of June 30, 2010 the actuarial value of assets was $9.43 billion and the unfunded accrued actuarial liability ("UAAL") was $4.92 billion. The funded ratio (ratio of the actuarial value of assets to actuarial accrued liability) decreased from 67.5 percent at June 30, 2009 to 65.7 percent at June 30, 2010. If the funded ratio were calculated using the market value of assets rather than the actuarial value, it would be 57.4% as of June 30, 2010. That is an increase from 51.2% as of June 30, 2009. As of June 30, 2010, the UAAL had an amortization period of 62.5 years, compared to a period of 45 years as of the 2009 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.

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, resulting in a member contribution rate of 9.4 percent. For those members whose annual salary is $20,000 or less, the contribution rates remain at 7.9 percent. In the 2010 regular legislative session, the Legislature again modified employer contribution rates. In Fiscal Years 2010 and 2011, 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 2012, the employer contribution rate for all members employed, regardless of salary, will increase to 13.15 percent. Beginning in Fiscal Year 2013, the employer contribution rate will be 13.9 percent for all members employed. 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, 2010, ERB has an amortization or funding period of 62.5 years, based on the employer and member contribution rates in effect as of July 1, 2010. The employer contribution required in order to amortize the UAAL over 30 years is 13.39 percent. Under current law, the employer rate will increase to 13.15 percent on July 1, 2011 and 13.9 percent on July 1, 2012. As GASB Statement 25 does not permit the consideration of contribution rates not yet in effect, the 62.5 year funding period must be reported. If the ERBs investment return is 8 percent per year in the future and if the employer contribution rate increases as scheduled under current law, the UAAL would be amortized in approximately 44 years.

The Public Employees Retirement Association

The Public Employees Retirement Association ("PERA") had 84,528 members as of June 30, 2010. Cavanaugh Macdonald Consulting, LLC 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, 2010. 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 4.5 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 June 30, 2010, the quarterly PERA total fund return was negative 6.40 percent. For the 12 month period ended June 30, 2010, the annual PERA total fund return was 15.02 percent. The total market value of PERA Fund as of June 30, 2010 was $10.2 billion. The investment return for the quarter ended September 30, 2010 was 9.64 percent and the total market value of the PERA portfolio was $11.1 billion.

As of June 30, 2010, PERA has an amortization or funding period designated as infinite, based on the employer and member contribution rates in effect as of July 1, 2010. 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 78.5 percent as of June 30, 2010. As of June 30, 2010, the unfunded accrued actuarial liability of PERA has been calculated to be approximately $3.3 billion. On a market value basis, PERA's funded ratio is approximately 65 percent as of June 30, 2010. The PERA Board has reviewed the results of its June 30, 2010 actuarial valuation, which indicates that additional contributions are required in order to properly fund the PERA retirement plans, and will propose several remedies for legislative consideration in 2011. During the legislative session which began on January 18, 2011, the Legislature may take action on these or additional proposals to address PERA's solvency issues.

Actuarial information for each fund as of June 30, 2010 is shown in Table 15.

TABLE 15

Summary of State Retirement Funds
(Dollars in thousands)

	PERA[(1)]	Judicial	Magistrate	VFF	Legislative
Membership	84,528	245	128	5,966	287
Actuarial Information					
Accrued Liability[(2)]	$ 15,601,461	$ 130,136	$ 52,677	$ 20,466	$ 26,675
Value of Assets[(3)]	$ 12,243,713	$ 79,645	$ 34,652	$ 47,346	$ 22,126
Unfunded (Overfunded) Accrued Liability	$ 3,357,749	$ 50,491	$ 18,025	$(26,880)	$ 4,550
Present Value of Statutory Obligations	$ 19,190,714	$ 161,609	$ 58,407	$ 30,674	$ 29,113

(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.

In September 2010, the Retirement System Solvency Task Force (the "Task Force") received a recent study by Chicago economists which places New Mexico among 31 states predicted to run out of state pension fund money within the next 16 years. The Task Force also heard from Colorado-based consultants who predicted a decrease in funded ratios, but whose report was not as pessimistic as the report from the Chicago economists.

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 were approximately 45,000 enrolled participants as of October 2010 and approximately 500 participating public entities.

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"). 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 1.666 percent and 0.833 percent of the participating employee's salary for Fiscal Year 2011. By July 1, 2012, additional phased in increases will bring the employer contribution to 2 percent and the employee contribution to 1 percent.

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 increases in employer/employee contribution rates 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.

Based on the GASB Statement 43 valuation for Fiscal Year 2010, 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 $3.3 billion. As required by GASB Statement 43, this calculation takes into consideration only current assets of the NMRHCA Fund. 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 November 2010 stood at $175 million.

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 3 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 reconciliation procedures at the State Treasurer's Office. In the 2009 legislative session, an appropriation in the amount of $1.2 million was made to address these issues and a project to address this finding is underway. The material weakness related to timeliness of book to bank reconciliation was reduced to a significant deficiency in the State Treasurer's Fiscal Year 2010 annual financial statements, and is anticipated to be resolved completely by the time the Fiscal Year 2011 annual financial statements are released.

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 operating 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 approved by the State Treasurer's Investment Committee and 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 Year 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 $0.99 per share to shareholders. On September 30, 2010, the remaining RPF position held in the general fund was $4.3 million, and the remaining position in the State Bond Proceeds Investment Pool was $3 million. The remaining positions in the RPF are non-performing assets. 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. Given that $0.99 per share has been recovered, any additional recovery of funds is expected to be quite small. 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. In late November 2010, the multi-district litigation judge in the Southern District of New York entered an order requiring the RPF to liquidate the remainder of the money in the fund and distribute it on a pro-rata basis. Based on the ruling, shareholders have recovered approximately $0.99 per share. The order also sets aside $87.5 million that the RPF may use for pending indemnification claims, includes an injunction barring any further claims against the RPF that would be subject to indemnification, and requires pro-rata distribution to investors of any funds not spent on any pending indemnification claims. The actual losses from the RPF will not be known until all pending litigation is settled and the remaining balance of the fund is distributed.

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; the State Treasurer's Chief Investment Officer (with the State Cash Manager as an alternate), who serves as Investment Committee Chair; the Director of the Board 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 (currently rated AAAm); 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 2007 through 2009, revenues, expenditures and ending fund balances for Fiscal Year 2010, as well as projections for results for Fiscal Years 2011 and 2012

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TABLE 16

General Fund Financial Summary
Fiscal Year 2007 – Fiscal Year 2012
(Dollars in thousands)

	Actual 2007	Actual 2008	Actual 2009	Actual 2010	Projected 2011	Projected 2012
A. APPROPRIATION ACCOUNT						
Recurring Receipts:						
General and Selective Sales Taxes	$ 2,315,105	$ 2,323,298	$ 2,306,913	$ 2,058,176	$ 2,238,600	$ 2,323,900
Income Taxes	1,640,161	1,568,119	1,120,990	1,081,661	1,275,000	1,355,000
Severance Taxes	486,564	625,937	440,191	390,702	373,100	411,300
License Fees	48,959	50,676	50,098	50,267	52,000	53,900
Investment Income	602,132	661,359	692,544	646,325	646,000	652,700
Rents and Royalties	551,533	610,267	543,671	423,004	427,000	441,900
Miscellaneous Receipts	37,017	50,263	42,707	44,351	47,200	43,900
Tribal Revenue Sharing	56,158	66,560	65,385	64,118	65,400	67,200
Tobacco Settlement	-	-	-	-	-	-
Reversions/Adjustments	36,867	58,992	57,243	40,000	40,000	40,000
Total Recurring Receipts	**5,774,497**	**6,015,471**	**5,319,742**	**4,798,603**	**5,164,300**	**5,389,800**
Total Nonrecurring and Adjustments	**1**	**47,160**	**371,207**	**479,876**	**2,136**	**6,854**
Total Receipts	**$ 5,774,498**	**$ 6,062,632**	**$ 5,690,949**	**$ 5,278,480**	**$ 5,166,436**	**$ 5,396,654**
Recurring Appropriations:						
Legislative	$ 17,334	$ 18,809	$ 28,465	$ 24,577	$ 18,421	$ -
Judicial	180,824	205,779	217,928	206,181	194,531	-
General Control	165,885	197,706	205,295	198,050	173,924	-
Commerce and Industry/Exam. and Lic.	51,365	58,369	61,735	57,767	49,493	-
Agriculture, Energy and Natural Resources	75,409	86,560	90,529	82,100	69,299	-
Health, Hospitals and Human Services	1,233,645	1,393,378	1,526,696	1,297,961	1,233,341	-
Public Safety	333,262	383,336	411,585	393,287	362,292	-
Other Education	27,805	53,982	57,053	48,226	30,088	-
Higher Education	761,957	846,342	884,846	817,917	762,282	-
Public School Support	2,265,662	2,430,696	2,551,012	2,231,900	2,309,175	-
Total Recurring Appropriations	**5,113,148**	**5,674,956**	**6,035,143**	**5,357,966**	**5,202,847**	**5,389,800**
Nonrecurring Appropriations[(1)]	**814,286**	**295,062**	**(80,071)**	**93,160**	**1,050**	**-**
Total Appropriations	**$ 5,927,433**	**$ 5,970,018**	**$ 5,955,072**	**$ 5,451,126**	**$ 5,203,897**	**$ 5,389,800**
Transfer from/(to) Other Reserve Accounts	-	-	55,700	172,647	37,460	-
TRANSFER FROM/(TO) OPERATING RESERVE	**$ (152,936)**	**$ 92,614**	**$ (208,423)**	**$ -**	**$ (0)**	**$ 6,854**
B. OPERATING RESERVE						
Beginning Balance	**$ 359,530**	**$ 156,138**	**$ 247,246**	**$ 37,451**	**$ 36,236**	**$ 34,735**
Revenues/Repayments/Reversions	377	0	-	-	-	-
Appropriations:						
Contingencies	(9,300)	-	-	-	-	-
Other Appropriations and Adjustments	(1,533)	(1,506)	(1,372)	(1,215)	(1,500)	-
Total Appropriations[(2)]	**(10,833)**	**(1,506)**	**(1,372)**	**(1,215)**	**(1,500)**	**-**
Transfers:						
From/(To) General Fund Appropriations Account	(152,936)	92,614	(208,423)	-	(0)	6,854
Special Session/Appropriation Contingency Fund	(40,000)	-	-	-	-	-
To Tax Stabilization Reserve Fund	-	-	-	-	-	-
Total Transfers	**(192,936)**	**92,614**	**(208,423)**	**-**	**(0)**	**6,854**
Ending Balance[(3)]	**$ 156,138**	**$ 247,246**	**$ 37,451**	**$ 36,236**	**$ 34,735**	**$ 41,589**

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

TABLE 16

General Fund Financial Summary
Fiscal Year 2007 – Fiscal Year 2012
(Dollars in thousands)

	Actual 2007	Actual 2008	Actual 2009	Actual 2010	Projected 2011	Projected 2012
C. STATE SUPPORT RESERVE						
Beginning Balance	**$ -**	**$ 1,000**	**$ 1,000**	**$ 1,000**	**$ 1,000**	**$ 1,000**
Transfers From Operating Reserve/ Appropriation Account[4]	1,000	-	-	-	-	-
Ending Balance	**$ 1,000**	**$ 1,000**	**$ 1,000**	**$ 1,000**	**$ 1,000**	**$ 1,000**
D. APPROPRIATION CONTINGENCY FUND						
Beginning Balance, Excluding Education Reform	**$ 19,851**	**$ 47,664**	**$ 27,531**	**$ 11,536**	**$ 29,642**	**$ 18,985**
Receipts:						
Reversions	1,636	6,724	8,330	3,029	5,343	5,343
Transfers From General Fund	40,000	-	-	25,000	-	-
Expenditures/Appropriations:[5]						
Disasters	(18,161)	(17,857)	(11,241)	(9,923)	(16,000)	(16,000)
Other	(4,663)	-	(13,084)	-	-	-
Prior period adjustment for water rights (Laws 2008, Chapter 111, Section 78)	9,000	(9,000)	-	-	-	-
Ending Balance, Excluding Education Reform	**$ 47,664**	**$ 27,531**	**$ 11,536**	**$ 29,642**	**$ 18,985**	**$ 8,328**
Education Reform:						
Beginning Balance, Education Reform	**$ 79,828**	**$ 74,928**	**$ 69,051**	**$ 19,047**	**$ 53,047**	**$ 37,032**
Transfers In	-	-	-	40,000	-	-
Expenditures	(4,900)	(7,527)	(48,354)	(6,000)	(16,015)	-
Audit Adjustment	-	1,650	(1,650)	-	-	-
Ending Balance, Education Reform	**$ 74,928**	**$ 69,051**	**$ 19,047**	**$ 53,047**	**$ 37,032**	**$ 37,032**
Ending Balance, Appropriation Contingency Fund	**$ 122,591**	**$ 96,581**	**$ 30,583**	**$ 82,689**	**$ 56,017**	**$ 45,360**
E. TAX STABILIZATION RESERVE						
Beginning Balance	**$ 254,355**	**$ 254,355**	**$ 254,355**	**$ 198,655**	**$ 26,008**	**$ 655**
Transfers In	-	-	-	-	-	-
Transfers Out	-	-	(55,700)	(172,647)	(25,353)	-
Ending Balance[6]	**$ 254,355**	**$ 254,355**	**$ 198,655**	**$ 26,008**	**$ 655**	**$ 655**
F. TOBACCO SETTLEMENT PERMANENT FUND RESERVE[7]						
Beginning Balance	**$ 84,629**	**$ 116,719**	**$ 135,884**	**$ 120,956**	**$ 132,031**	**$ 142,860**
Transfers In	36,240	44,864	48,856	40,950	39,983	39,501
Transfers Out	(18,120)	(22,432)	(48,856)	(40,950)	(39,984)	(19,751)
Gains Losses	13,970	(3,267)	(14,928)	11,075	10,830	11,710
Ending Balance	**$ 116,719**	**$ 135,884**	**$ 120,956**	**$ 132,031**	**$ 142,860**	**$ 174,321**
G. TAXPAYER DIVIDEND FUND						
Beginning Balance	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**
Transfers In	-	-	-	-	-	-
Transfers Out	-	-	-	-	-	-
Gains/Losses	-	-	-	-	-	-
Ending Balance	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**
H. TOTAL RESERVE BALANCES						
Beginning Balance	**$ 798,193**	**$ 650,803**	**$ 735,066**	**$ 388,645**	**$ 277,964**	**$ 235,268**
Ending Balance	**$ 650,803**	**$ 735,066**	**$ 388,645**	**$ 277,964**	**$ 235,268**	**$ 262,925**
Reserves as a Percentage of Current-Year Recurring Appropriations	12.7%	13.0%	6.4%	5.2%	4.5%	4.9%

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

NOTES TO GENERAL FUND FINANCIAL SUMMARY:

(1) Appropriation Account, Nonrecurring Appropriations:
FY07 includes the following appropriations from Laws 2006: $68.7 million from Sections 5 and 12 of the General Appropriation Act of 2006 (Chapter 109); $0.3 million from HB337 for judgeships (Chapter 99); and $2.1 million from the "Junior" bill (Chapter 110).
FY07 includes the following appropriations from Laws 2007: $186.7 million from Sections 5 and 6 of the General Appropriation Act of 2007 (Chapter 28); $7.9 million from the Feed Bill (Chapter 1); $0.1 million for the Albuquerque Science and Engineering Fair (Chapter 52); $0.2 million for Mortgage Finance Authority oversight of regional housing authorities (Chapter 50); $487.4 million for capital outlay expenditures (Chapters 2 and 42); $1.0 million for capitol buildings planning and facilities (Chapter 64); and $60.0 million for transportation projects (1st Special Session, Chapter 3).
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 $121.5 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); $8.4 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: -$1.0 million from HB 9 (Chapter 5); -$161.0 million from HB 10 (Chapter 2), -$27.1 million from Sections 1 and of 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 appropriations 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); -$1.2 million in reductions to appropriations made in Section 5 of the General Appropriation Act of 2009 (1st Special Session, Chapter 2); $3 million for public school supplemental funding (1st Special Session, Chapter 5); and -$20.15 million in reductions of appropriations made by Laws 2009 (1st Special Session, Chapter 7, SB 28).
FY10 includes the following appropriations from Laws 2010: $-0.2 million in reductions of appropriations made by Laws 2009 (Chapter 105); $5.0 million for development training funds (Chapter 79); $0.5 million from Section 5 of the General Appropriation Act of 2010 (2nd special Session, Chapter 3); and $0.5 million for the temporary tax amnesty program (2nd special session, Chapter 2).
FY11 includes the following appropriations from Laws 2010: $1.1 million from Section 5 of the General Appropriation Act of 2010 (2nd Special Session, Chapter 3).

(2) General Fund Operating Reserve Appropriations:
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 $1.2 million for State Board of Finance Emergency Fund.
FY11 includes $1.5 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.

(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:
FY07 includes $18.2 million for disaster allotments; $2.0 million for DOH Behavioral Health Services Program (Laws 2006, Chapter 109); $1.9 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, Section 78 (HB 622; see prior period adjustment in FY07)); $7.5 million for education reform appropriations from the General Appropriation Act of 2008 (Laws 2008, Chapter 3, Section 5), less $1.7 million transferred to FY09 because the contingency on an appropriation for a PED IT system was not met until FY09.
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 $1.7 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/transfers from Laws 2009: $9.9 million for disaster allotments; $25.0 million transferred from the general fund for general purposes (Chapter 124); and $40.0 million transferred from the Appropriation Account for education reform (Chapter 124).
FY10 includes the following appropriations/transfers from Laws 2010: $6.0 million for education reform appropriations from the General Appropriation Act of 2010 (2nd Special Session, Chapter 6, Section 5, Item 17).
FY11 includes the following appropriations/transfers from Laws 2010: $16.0 million for disaster allotments; $4.0 million for education

reform appropriations from the General Appropriation Act of 2010 (2nd Special Session, Chapter 6, Section 5, Item 16); and an estimated $12.015 million in estimated transfers authorized by the General Appropriation Act of 2010 transferred from the Appropriation Contingency Fund into the Appropriation Account (2nd Special Session, Chapter 6, Section 15).

(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.
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); and $57.6 million transferred from the Tax Stabilization Reserve into the Appropriation Account (2nd Special Session, Laws 2010, Chapter 6, Section 15).
FY11 includes an estimated $25.4 million transferred from the Tax Stabilization Reserve into the Appropriation Account (2nd Special Session, Laws 2010, Chapter 6, Section 15).

(7) Tobacco Settlement Permanent Fund Reserve (established by 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 $41.0 million, an additional $20.5 million, was transferred from the Tobacco Settlement Permanent Fund to the Tobacco Settlement Program Fund for Medicaid (Laws 2009, Chapter 3).
FY11 -- A total of $40.0 million, an additional $20.0 million, is estimated to be transferred from the Tobacco Settlement Permanent Fund to the Tobacco Settlement Program Fund for Medicaid (Laws 2010, Chapter 49).

Review of Results and Projections in the General Fund

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. 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 in Fiscal Year 2009. 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, limiting upward reclassification of postings, suspending awards of compensatory time 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 revising 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 with 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. As a result of this initiative, $7.9 million in proceeds were transferred 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 Estimating Group ("CREG") revenue estimates for Fiscal Year 2010 made in December 2010, recurring general fund revenues, adjusted for 2010 legislation, will be $4.80 billion. The price of oil realized in New Mexico is expected to have averaged $71.29 per barrel for Fiscal Year 2010. The price of natural gas is expected to have averaged $5.20 per mcf for Fiscal Year 2010.

General and selective sales taxes are projected to have declined by 10.8 percent from Fiscal Year 2009 to Fiscal Year 2010. Personal income taxes are projected to have decreased by .2 percent in Fiscal Year 2010. Corporate income taxes are expected to have fallen by 23.0 percent in Fiscal Year 2010. Mineral production taxes in Fiscal Year 2010 are projected to have declined by 11.2 percent from Fiscal Year 2009 and rents and royalties are projected to have declined by 22.2 percent, although oil and natural gas prices recovered substantially in Fiscal Year 2010.

Fiscal Year 2010 also included $479.9 million of non-recurring revenues. In addition, as the result of solvency measures, including actions taken in the 2009 1st special, 2010 regular and 2010 2nd special sessions of the Legislature and expenditure reductions mandated of executive branch agencies by Executive Order 2009-044, $172.6 million was transferred to the Appropriation Account from the Tax Stabilization Reserve Fund. The legislative sessions and executive order actions include reductions to operating budget and capital appropriations, expenditures, including furloughs, transfers of certain fund balances to the general fund, and use of federal American Recovery and Reinvestment Act of 2009 ("ARRA") funds. In addition to this nonrecurring general fund revenue, New Mexico received over $2 billion in federal stimulus funding from ARRA for use in Fiscal Years 2009 through 2011. New Mexico's share of the federal funding contained in ARRA for Fiscal Years 2009 through 2011 includes $536.0 million for Medicaid, $260.4 million for education, and $57.9 million for general purposes. New Mexico received additional federal funding in August 2010 that provided a one-time payment of $65 million for education and $126 million for Medicaid to avoid states' revenue shortfalls across the nation.

After adjusting for Governor's vetoes, the Fiscal Year 2010 general fund budget, enacted in the 2009 regular session and further adjusted during the October 2009 special session of the Legislature, contained $5.36 billion of recurring appropriations, a decrease of 11.2 percent over the Fiscal Year 2009 adjusted budget. 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 in general fund expenditures, implementing furloughs to save $8.6 million in general fund expenditures and shifting funding sources or cancelling $271.1 million in capital outlay projects. General fund reserves are expected to close at $278.1 million at the end of Fiscal Year 2010, 5.2 percent of current-year recurring appropriations.

Fiscal Year 2011. Based upon revenue projections for Fiscal Year 2011 made in December 2010, recurring general fund revenues are projected to rise 7.6 percent to approximately $5.2 billion on a year-over-year basis. The price of oil is expected to average $76.87 per barrel and the price of natural gas is expected to average $5.00 per mcf in Fiscal Year 2011. General and selective sales taxes are projected to increase by 8.8 percent, reflecting an increase in the statewide gross receipts tax and the compensating tax from 5 to 5.125 percent that took effect on July 1, 2010, closure of a compensating tax loophole relating to the applicability of compensating tax to sellers with no nexus to the state, and an increase in the cigarette tax rate of $0.75 per package of cigarettes. Income taxes are projected to increase by 17.9 percent, including the impact of eliminating a deduction for state and local taxes paid. Mineral production taxes in Fiscal Year 2011 are projected to decrease by 4.5 percent from Fiscal Year 2010 and rents and royalties are expected to increase by 0.9 percent. General fund balances are expected to close at $235.3 million at the end of Fiscal Year 2011, 4.5 percent of current-year recurring appropriations.

If actual revenues and transfers to the general fund are insufficient to fund legislatively authorized appropriations, the Legislature mandated the Governor to proportionately reduce allotments to all general funded entities, excluding most Medicaid programs. As a result of the July revenue estimate, the first such allotment reduction in the amount of 3.2 percent was implemented for most programs on September 1, 2010. An additional allotment reduction has been unnecessary.

Fiscal Year 2012. Based upon the CREG projections for Fiscal Year 2012 made in December 2010, recurring general fund revenues are projected to increase by approximately 4.4 percent or $225 million over the current fiscal year. Total general fund revenue is projected to be $5.39 billion. On January 18, 2011, a 60 day session of the Legislature commenced. The staffs of both the Legislature and newly-elected Governor currently anticipate that recurring expenditures for Fiscal Year 2012 will be approximately the same as recurring revenues for Fiscal Year 2012, resulting in reserves between 4.5 percent and 5 percent, depending on the need for supplemental funding for Fiscal Year 2011 for Medicaid and child care. The Governor has expressed a goal of maintaining reserves of at least 5 percent for Fiscal Year 2011 and Fiscal Year 2012 and reserves of 10 percent in future fiscal years. The Governor is expected to propose legislation to provide for five year expenditure forecasts to accompany consensus revenue forecasts and to establish by legislation the 10 percent reserve target for future fiscal years. Additionally, the Governor has requested that during the remaining five months of Fiscal Year 2011, state agencies reduce expenditures in order to enhance general and other fund reversions and build reserve balances.

The CREG will produce another revenue forecast prior to presentation by the Legislature of its final budget proposal for review by the Governor.

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 5.125 percent statewide gross receipts tax levy, plus several city and county local-option gross receipts taxes. The statewide gross receipts tax rate was increased from 5 to 5.125 percent effective July 1, 2010 as a result of action taken during the 2010 special legislative session. 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 increased distribution is needed to make debt service payments on bonds issued pursuant to Section 7-1-6.42 for construction of a new executive office building near the State Capitol in Santa Fe. The County Equalization Distribution is made annually from state gross receipts tax revenues; it has averaged $13.5 million over the past five years. After all other distributions, the General Fund share of gross receipts tax collections was 55 percent in Fiscal Year 2010 and is expected to be approximately 56 percent in Fiscal Year 2011 after the statewide rate increase. 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 or sales 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 2005 legislation also provided for payments from the State to reimburse local governments for all lost gross receipts tax revenues due to these deductions. Legislation in 2007 froze the rate, but not the size, of these payments for counties with a population over 48,000, and municipalities with a population greater than 10,000 or greater than average per capita taxable gross receipts.

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 revenue results for Fiscal Year 2010, total distributions to the General Fund from gross receipts and compensating taxes decreased by 11.4 percent over the previous fiscal year to $1.7 billion, comprising 35.1 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 revenue results for the 2010 Fiscal Year, total distributions to the General Fund from personal income tax declined by 0.2 percent over the previous fiscal year to $956.6 million, and generated 20.0 percent of total recurring General Fund revenue.

State tax rates by filing status effective Calendar Years 2010 and 2011 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 revenue results for the 2010 Fiscal Year, total distributions to the General Fund of net receipts from corporate income taxes totaled $125.1 million. This is a decrease of 23.0 percent from the prior fiscal year and generated 2.6 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 CO_2 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 revenue results for the 2010 Fiscal Year, distributions to the General Fund from Oil and Gas Emergency School Tax receipts totaled $324.5 million. This represents a 12.4 percent decrease from the prior fiscal year. Other General Fund taxes on natural resource production totaled $66.2 million. For Fiscal Year 2010, mineral production taxes contributed 8.1 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 $1.1 million for Fiscal Year 2010.

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 2010 Fiscal Year, total distributions to the General Fund from federal mineral leases totaled $355.3 million. This equals 7.4 percent of recurring General Fund receipts for the fiscal year.

Federal Fiscal Year 2009 appropriations bills implemented a 2 percent administrative fee cut from the federal royalty payments to states. However, this 2 percent fee cut was restored in the Federal Fiscal Year 2010 appropriations bills. Approximately $10.3 million was deducted from the federal mineral leasing payments to the State for Fiscal Year 2009 and $7.2 million was 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 ("STPF") was established in the State Treasury in 1973 to receive the residual revenues from the Bonding Fund and served as an endowment for future capital projects. In 1976, the electorate approved a constitutional amendment giving the STPF 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 STPF. Distributions from investments of the STPF, 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 STPF. The State Investment Officer under the direction of the State Investment Council ("SIC") invests the corpus and non-appropriated income of the STPF. The market value of the STPF as of June 30, 2010 was approximately $3.4 billion, an increase of approximately 12 percent from the prior Fiscal Year. For the quarter ended June 30, 2010, the SIC estimated losses of approximately 7 percent in the STPF. Performance for the one year period ended June 30, 2010 was 2.3 percent below the Fund benchmark, and performance for the quarter ended June 30, 2010 was 1.4 percent below the fund policy index. Money on deposit in the STPF is not pledged to and may not be used to pay any Bonds.

The Land Grant Permanent Fund ("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 13.4 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, 2010, the market value of the LGPF was approximately $8.8 billion, an increase of approximately 14 percent over the prior fiscal year. For the quarter ended June 30, 2010, the SIC estimated losses of approximately 6 percent in the LGPF. Performance for the year ending June 30, 2010 trailed its benchmark by 0.6 percent, while investment returns for the quarter were 0.3 percent below the Fund's policy index. 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. Meyer is scheduled for sentencing in February 2011. To date, no criminal charges have been filed by investigators in New Mexico, but their work is believed to be ongoing. Several civil complaints for breach of contract, including a filing by the ERB in October 2010, have been filed and are pending.

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 an Independent Fiduciary and Operational Review of State Investment Policies, Procedures and Practices prepared by Ennis, Knupp & Associates, Inc. (the "Review"). The scope of the work of this Review 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 Review were reported to the Board at a meeting on January 13, 2010. In order to address certain recommendations of the Review, during the 2010 legislative session the Legislature, among other things, modified the composition of the SIC, clarified the authority of the SIC and the State Investment Officer, provided for the appointment of the State Investment Officer by the SIC, and changed the method of appointment of public members of the SIC. The SIC, ERB and PERA, with the assistance of the Board and the LCS, continue to prioritize and address the recommendations contained in the Review based on the needs and resources of the investing agencies and will report to the Board on an ongoing basis.

Investment Income

Investment earnings credited to the General Fund are 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 allocation received by the public schools, which is approximately 83 percent, is deposited in the General Fund. Based on preliminary revenue results for the 2010 Fiscal Year, $436.2 million of LGPF distributions were transferred to the General Fund for public school purposes. The State distributed $196.7 million of income from the Severance Tax Permanent Fund, all of which was deposited in the General Fund. In the 2010 Fiscal Year, the Treasurer's cash balances produced $22.1 million for the General Fund. Total investment income credited to the General Fund was $646.3 million. This is 13.5 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 established 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, 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. CV-2008-12410, 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 *Wang v. Bernalillo County Assessor*, No. CV-2007-10109. 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 rolled back all potentially affected 2010 single family 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. Currently, the New Mexico Court of Appeals has placed on its general docket two cases that raise the constitutionality of the valuation cap on residential increases. The Legislature considered various bills dealing with the valuation cap on residential increases in the 2010 special legislative session, but no bills were enacted into law. To the extent that court or legislative action is taken or a further Constitutional amendment is passed amending the valuation provisions, it could have a material impact on the valuation of residential property.

As of January 2011, 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.

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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
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	16,383,859	9,033,975	172,481	55,046,209
2010	29,845,647	16,513,415	4,556,355	125,538	51,040,955

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

Production and Property Taxes on Oil and Natural Gas

Current effective production tax rates expressed on ad valorem and unit bases are shown below. The rates were based on data from Fiscal Year 2010 and reflect an average sales price of $76.87 per barrel for oil and $5.00 per thousand cubic feet (mcf) for natural gas. The gross rates presented in the table below show taxes paid as a percentage of gross sales value before subtracting allowable deductions and tax credits. The gross tax per unit is also based on gross sales value. The net tax per unit, however, is based on taxable value net of allowable deductions and tax credits.

TABLE 18

Effective Tax Rates applicable for Fiscal Year 2010

	Crude Oil		Natural Gas	
Type of Tax	**Ad Valorem**	**Per Barrel**	**Ad Valorem**	**Per mcf**
Price		**$76.87**		**$5.00**
Oil and Gas School Tax	2.82%	$2.17	3.08%	$0.15
Oil and Gas Severance Tax	3.36%	$2.58	2.89%	$0.14
Oil and Gas Conservation Tax (General Fund only)	0.22%	$0.17	0.15%	$0.01
Natural Gas Processors Tax	N/A	N/A	0.30%	$0.02
Oil and Gas Production *ad valorem* Tax	0.93%	$0.72	0.80%	$0.04
Oil and Gas Production Equipment *ad valorem* Tax	0.19%	$0.05	0.19%	$0.05
Total	**7.52%**	**$5.68**	**7.40%**	**$0.41**
Subtotal: State Tax Only (excludes *ad valorem* taxes)	6.40%	$4.92	6.41%	$0.32

Source: New Mexico Department of Finance and Administration.

Production, Sales, and Property Taxes on Coal

Total State production and property taxes on coal amounted to approximately $34.3 million in Fiscal Year 2010, when total coal production was approximately 23.2 million tons. Thus, the average effective tax per ton was approximately $1.48. With total sales revenue of over $672.6 million, the average effective tax was 5.10 percent of total sales revenue. This does not include the gross receipts tax. The average burden of production, property, and gross receipts taxes on a ton of coal produced and sold during Fiscal Year 2010 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)	$0.91	3.13%	$21,073,181
Resource Excise Tax	$0.20	0.70%	$4,744,111
Conservation Tax	$0.05	0.18%	$1,201,841
Total Production Taxes	$1.16	4.01%	$27,019,134
Property Tax	$0.31	1.09%	$7,299,951
Gross Receipts Tax	$1.73	5.99%	$40,255,048
Total Production and Non-Production Taxes	$3.21	11.08 %	$74,574,133
Price per Ton			$28.97
Total Production (Short Tons)			23,213,759
Total Value			$672,551,118

(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 2010. 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. Total production is based on volumes reported on severance tax returns, which differ from the volumes reported on resource excise tax returns.

(2) Property taxes were billed in calendar year 2009 and due in Fiscal Year 2010.

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 2010, 65.5 percent of all coal produced in the State and supplied to electricity generating stations was supplied to power plants in New Mexico. The remaining 34.5 percent was transported by rail to electricity generators in Arizona. 94.8 percent of all coal produced in New Mexico is subject to the gross receipts tax. The combined state and local tax rate is 6.315 percent of taxable gross receipts.

Additional Information

Additional financial information from government agencies of the State may be obtained online from the State's Sunshine Portal. The information contained in the Sunshine Portal database may change over time. The State Board of Finance assumes no responsibility or liability for the contents of the Sunshine

Portal. The State Board of Finance also maintains a website containing general information about the State and its bond programs.