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FISCAL IMPACT REPORT

ORIGINAL DATE 01/26/10
 LAST UPDATED 02/02/10 HB 9/aHTRC

SPONSOR Sandoval

SHORT TITLE Income Tax Surtax SB _____

ANALYST Clifford

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY10	FY11	FY12		
\$5,569.0	\$66,667.0	\$77,041.0	Recurring	General Fund

(Parenthesis () Indicate Revenue Decreases)

Responses Received From
 Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of HTRC Amendment

The surtax rate would be increased to one and one-half percent rather than the one percent increase in the original bill. The income thresholds above which the increase would apply are the same as in the original bill.

Synopsis of Original Bill

Personal income tax rates would be increased by 1 percent on taxable income in excess of \$200,000 (married joint and head of household filers), \$133,000 (single) and \$100,000 (married separate). The increase would apply only in tax years 2010 through 2012.

FISCAL IMPLICATIONS

TRD reports that fiscal impacts were estimated using a detailed analysis of tax year 2007 data and then grown to reflect the estimated growth in income from 2007 to 2010 and beyond. TRD assumes that withholding tables will not be revised until July 1, 2010, so FY10 revenue is increased only by estimated payments. The remainder of the tax year 2010 impacts are delayed until FY11 and FY12. This causes a temporary increase in fiscal impacts above the level of annual revenues.

SIGNIFICANT ISSUES

The proposal presents a trade-off between two desirable goals of tax policy. On the one hand it improves vertical equity by increasing the tax burden on households with a greater ability to pay. On the other hand, it reduces economic efficiency by reducing the after-tax return on work and investment in the state. The latter effect is muted somewhat because New Mexico income taxes are allowed as an itemized deduction on the federal income tax return. Thus, if a taxpayer itemizes deductions, and is in the 33% federal tax rate bracket, their federal tax liability will go down by one-third of their state tax increase, effectively saving the taxpayer that much of the tax burden.

TRD provided the following table showing increased tax liability by income bracket:

**Distribution of Change in Tax Year 2010 Tax Liability
(2007 Income Levels)**

Adjusted Gross Income	Number of Affected Returns	Change in Tax Liability		
		Total (\$000)	Average	Percent Distribution
Under 200,000	1,353	334	247	0.7%
200,000 - 500,000	10,196	8,305	815	16.3%
500,000 or more	9,344	42,216	4,518	83.0%
Total	20,893	50,856	2,434	100.0%

As illustrated in the following table, New Mexico’s present law top tax rate is around the midpoint among states in the western region. Like several other states, NM has a relatively flat tax rate structure. NM tax as percent of income is toward low end of states with income tax. If HB 9 is adopted, New Mexico’s top rate would still be in the middle of these states, but, as TRD notes, it would be higher than all of our immediately neighboring states. This table does not reflect any changes the other states may have made as part of their FY10 budgets.

State	Range of Tax Rates*	Top Bracket Single/Married	Income Tax as % of Personal Income**
Arizona	2.59% to 4.54%	\$150,000/\$300,000	1.54%
California	1% to 10.3%	\$1 million/\$1 million	3.07%
Colorado	4.63%	All Income	2.17%
Idaho	1.6% to 7.8%	\$25,440/\$50,881	2.6%
Montana	1% to 6.9%	\$15,600/\$15,600	2.56%
New Mexico	1.7% to 4.9%	\$16,000/\$24,000	2.11%
Oklahoma	0.5% to 5.5%	\$8,700/\$15,000	2.49%
Utah	2.3% to 6.98%	\$5,500/\$11,000	2.85%

Sources: *2009 State Tax Handbook, CCH publishing. ** U.S. Census.

New Mexico personal income tax revenue has been reduced by several significant statutory changes in the last several legislative sessions as illustrated in the following table. As a result, total annual collections have been reduced by approximately \$450 million, roughly one-third of what collections would have been in the absence of the changes.

Session:	General Fund FY11 (\$ millions)
2003 Income tax deduction for capital gains	(36.0)
2003 Reduce income tax rates	(360.0)
2003 Withholding on oil and gas distributions	30.0
2005 Low & Moderate Income Tax Exemption	(30.0)
2007 Working Families Tax Credit	(40.0)
2007 Rural health care practitioner tax credit	(5.0)
2007 Armed forces income tax exemption	(10.0)
Total	(451.0)

Although some of the recently-enacted changes were targeted at low-income households, the majority of the tax relief was directed to higher income households. Since the personal income tax is the most progressive component of the state’s tax system, these changes have made the state’s tax system somewhat less progressive. A recent study sponsored by the government of the District of Columbia compared the combined burden of all state and local taxes on households with different income levels. For purposes of property tax comparisons, the study looked at a hypothetical household living in the largest city in each state. Among western states, New Mexico’s combined tax burden was less regressive than that of most other states. Results of the 2008 study are summarized in the following table. The overall tax burden in New Mexico was slightly above the average in the region, except for households making \$25,000.

State & Local Taxes as a Percent of Household Income

City, State	\$25,000	\$50,000	\$75,000	\$100,000	\$150,000
Albuquerque, NM	9.9%	7.7%	7.7%	7.9%	7.5%
Billings, MT	7.5%	4.4%	5.6%	6.1%	6.5%
Boise, ID	9.0%	6.2%	7.2%	8.0%	8.4%
Denver, CO	11.3%	6.6%	6.7%	7.3%	6.9%
Houston, TX	9.9%	6.1%	5.6%	5.4%	4.4%
Las Vegas, NV	9.8%	6.5%	5.4%	5.0%	4.0%
Los Angeles, CA	10.7%	10.0%	8.6%	8.5%	8.9%
Oklahoma City, OK	10.9%	7.3%	7.9%	8.2%	7.9%
Phoenix, AZ	11.6%	5.9%	5.8%	6.3%	5.9%
Salt Lake City, UT	11.4%	7.2%	7.7%	8.0%	7.7%
Average	10.2%	6.8%	6.8%	7.1%	6.8%

Source: Government of the District of Columbia.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Senate Bill 128 would impose an income tax surtax of 1 percent in tax years 2010 through 2012 on taxpayers making more than \$150,000 (married) or \$100,000 (single). Senate Bill 122 would impose an income tax surtax of 1 percent permanently on taxpayers making more than \$160,000

(married) or \$100,000 (single). Senate Bill 65 would increase tax rates to a maximum of 8.2 percent.

TC/svb