BLUE RIBBON TAX REFORM COMMISSION

SELECTIVE EXCISE TAX COMMITTEE

OPTIONS FOR CONSIDERATION RESULTING FROM COMMITTEE DISCUSSIONS AND PRESENTATIONS

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MOTOR FUEL EXCISE TAXES

Background:
The motor fuel excise tax is the primary funding source for state highway and other transportation programs. The tax typically includes gasoline, diesel fuel and blended motor fuels. All 50 states and the District of Columbia impose a motor fuel excise tax. The motor fuel tax as been a traditional source of transportation funding, with 48 states adopting the tax before 1929. All states earmark motor fuel tax revenues to highway or transportation funds.

Comparison with rates from other states:
In 2003, state gasoline tax rates range from a low of 7.5 cents per gallon in Georgia to a high of 28 cents per gallon in Rhode Island. A number of states with low tax rates per gallon also impose additional sales taxes on gasoline. States adjoining New Mexico are as follows:

Arizona	18 cents	Colorado	22 cents	Oklahoma	16 cents
Texas	20 cents	Utah	24.5 cents		

New Mexico presently has a 17 cents per gallon excise tax on gasoline and assesses a petroleum products loading fee of 1.875 cents per gallon for a total of 18.875 cents per gallon.

State special fuel tax rates range from a low of 8 cents per gallon in Alaska to a high of 30.8 cents per gallon in Pennsylvania. A number of states with low tax rates per gallon also impose additional sales taxes on special fuel. States adjoining New Mexico are as follows:

Arizona	18 or 26 cents	Colorado	20.5 cents	Oklahoma	13 cents
Texas	20 cents	Utah	24.5 cents		

Note: In Arizona, commercial carriers pay 18 cents plus an additional 8 cent surcharge.

New Mexico presently has an 18 cents per gallon excise tax on special fuel and assesses a petroleum products loading fee of 1.875 cents per gallon for a total of 19.875 cents per gallon.

Method of assessment:
The motor fuel excise taxes are assessed on a per-unit basis. Revenue is dependent upon gallons consumed, which is influenced by oil prices, motor vehicle fuel efficiency, alternative fuel sources and consumer driving patterns. Following the oil price hikes of the 1970's and early 1980's, states increased their motor fuel excise tax rates to offset the decline in motor fuel consumption.

Adequacy:
The motor fuel excise taxes are an inelastic state revenue source – that is, collections fail to keep pace with inflation and economic growth at a given tax rate. States must periodically increase tax rates to generate the revenue growth required to keep pace with highway maintenance and construction

needs. The problem is exacerbated by increases in the fuel efficiency of cars and miles driven. The motor fuel tax share of total state taxes dropped from 13.1 percent in 1970 to 5 percent in 2001. In New Mexico, the motor fuel tax share of total state taxes dropped from 4.4 percent in 1992 to 2.7 percent in 2001.

One way that states have addressed the inelastic nature of the motor fuel tax is by indexing the tax rate. Indexing motor fuel tax rates annually to changes in the consumer price index, total fuel consumption or vehicle miles traveled may provide the revenue growth needed to meet transportation maintenance demands. States that do no use indexing face the task of raising motor fuel excise tax rates periodically when material and construction costs for highway and transportation systems have risen while motor fuel excuse tax rates gave remained the same. Ten states currently index their gas tax. New Mexico has not adjusted its gasoline excise tax rate since 1996. The special fuel tax was last adjusted in 1993.

Equity:

The motor fuel tax is a benefits tax – those who use the system pay for the system. Every state earmarks motor fuel excise taxes for highway maintenance, repair and construction. The benefits of motor fuel taxes are widely accepted by the public, and opposition to motor fuel tax increases typically is less vociferous than with other state taxes.

Some experts argue, however, that drivers of passenger automobiles pay a disproportionately large share of highway costs when measured by their contribution to highway wear and tear. Equity in motor fuel taxation would require that taxes be distributed according to costs generated, with relatively higher tax burdens on users that general higher costs. It is argued that motor fuel taxes violate this definition of equity because heavy trucks generate a disproportionate share of highway maintenance costs. Truckers argue that all consumers benefit from the current system because higher taxes on the industry would be passed to consumers through higher prices on consumer goods.

The motor fuel tax is a regressive tax, particularly in poor rural areas where residents must commute longer distances for work, shopping and other necessary activities. The poor pay a larger percentage of their incomes in motor fuel taxes than do middle- and upper-income taxpayers. The Consumer Expenditure Survey indicates that the average household uses about 920 gallons of gasoline per year. In New Mexico and other western states, the amount is probably a bit higher because of the large distances traveled. Using an estimate of 1,000 gallons per year per household, the impact of a 1 cent gasoline excise tax increase would be approximately $10.00 per household per year.

The majority of special fuel (diesel) is consumed by the commercial trucking industry. Large trucks consume greater quantities of fuel per mile and so have a higher tax burden per mile driven, yet the special fuel tax paid still does not pay for the damage and wear imposed on the road.

Administration and Compliance:

Motor fuel excise taxes generally are easier to administer and collect than other state taxes because the point of taxation may be limited to a few refiners or a few hundred distributors. For motor fuels, more than half the states tax at the distributor level, while at least 17 states tax at the terminal (refiners), and 3 more states impose the tax on special fuel at the terminal. Texas is in the process of phasing-in tax at the terminal.

All the states, with the exception of Alaska and Hawaii, participate in the International Fuel Tax Agreement (IFTA). IFTA was mandated by Congress in 1991 to make uniform the administration of motor fuel use taxation laws with respect to motor carrier vehicles that operate across state lines. Under the agreement, states are able to act cooperatively in the administration and collection of motor fuel use taxes. This essentially allows motor freight carriers to base their operations in one state and report their taxable activities on one fuel tax report in that state, rather than file separate reports in each state in which they operate. Fuel tax collections are allocated to states based upon miles traveled.

New Mexico taxes fuel at the distributor level. Compliance problems have been known to exist. The tax is quite difficult to audit and significant audit coverage is not feasible. The legislature has considered "Tax at the Rack" which has been known to create 3-5% revenue gains in other states. The proposal did not pass the legislature and is opposed by Native American petroleum vendors. The Gasoline Tax Technical Working Group is presently looking for solutions to the compliance issues and will present solutions to the Blue Ribbon Tax Reform Commission in August, 2003.

Competition:
IFTA has helped alleviate tax avoidance problems caused by differentials in state tax rates as applied to the trucking industry. However, the some potential exists for taxpayers in private vehicles to purchase gasoline in neighboring states that have lower rates.

Other Issues:
The possibility of converting the unit-based fuel taxes to value-based taxes was not viewed favorably by industry representatives testifying before the Selective Excise Tax Committee.

GASOLINE TAX

Issues Considered by Committee:

ISSUE: Revenue Adequacy

Options for Committee Decision:

Option 1 - No conclusion reached; issue requires additional study, but time available to the Committee is not adequate to reach a conclusion.

Option 2 - Committee concluded that the tax currently fails the "adequacy" test in supporting the required construction and maintenance of NM bridges and highways on the State system and for local governments.

Option 3 - Committee concluded that the tax currently meets the "adequacy" test in supporting necessary programs and no action recommended.

ISSUE: Unit Tax Rate Modification

Options for Committee Decision:

Option 1 - No conclusion reached; issue requires additional study, but time available to the Committee is not adequate to reach a conclusion..

Option 2 - Committee concluded that shifting to a value-based motor fuel tax system is inappropriate, but that the unit tax rates should be increased.

- Possibility A: Based on an analysis of inflation indices, the Department of Transportation suggested a gasoline tax increase of 5 cents per gallon (from the current 17 cents per gallon up to 22 cents per gallon). The Associated Contractors also suggested consideration of a 5 cent tax increase. Each 1 cent of gasoline tax raises about $8.4 million on a full year basis, so a 5 cent increase would raise about $38.5 million the first year and about $42 million in subsequent years. The increased revenue could be directed entirely to the state Road Fund, or could be shared with local governments.

- Possibility B: Committee staff suggest that such a 5 cent tax increase could be phased-in over a two-year period with a 2 or 3 cent increase in the first year and the remaining amount in the second year. A 3 cent increase the first year would raise about $23.1 million. A 2 cent increase the second year would raise an additional $15.4 million for a total of $40.6 million in the second year. By the third year the total revenue gain would be about $42 million. The increased revenue could be directed entirely to the state Road Fund, or could be shared with local governments.

- Possibility C: Committee staff suggest that such a tax increase could be phased-in over a three-year period at a rate of 2 cents per year. In this scenario, the total tax would be raised by 6 cents over a three-year period, since by the third year there would be an additional inflation adjustment to consider. Each 2 cent per year increase would raise about $15.4 the first year and about $16.8 million in subsequent years. The second year total would be about $32.2 million, the third year total would be about $49 million, and the fourth and subsequent year total would be about $50.4 million. The increased revenue could be directed entirely to the state Road Fund, or could be shared with local governments.

Comparison of possible gasoline tax increase proposals:

Gasoline Tax Rate Increase Possibilities – amounts in $ thousands					
Revenue Yield, assuming all money to State Road Fund				Revenue Yield, assuming current distribution shares	
Phase-In:	Possibility A 5 cent	Possibility B 3 / 2 cent	Possibility C 2 / 2 / 2 cent	State Road Fund	Local Government
1st Year	38,500			29,364	8,432
2nd Year	42,000			32,033	9,198
1st Year		23,100		17,618	5,059
2nd Year		40,600		30,966	8,891
3rd Year		42,000		32,033	9,198
1st Year			15,400	11,746	3,373
2nd Year			32,200	24,559	7,052
3rd Year			49,000	37,372	10,731
4th Year			50,400	38,440	11,038

Tax Burden Illustrations:

- The Consumer Expenditure Survey indicates that the average household uses about 920 gallons of gasoline per year. In New Mexico and other western states the amount is probably a bit higher. Assuming about 950 to 1,000 gallons per year per household:
  - o the impact of each 1 cent tax increase would be $9.50 to $10.00 per household per year.
  - o the impact of a 5 cent tax increase would be about $47.50 to $50.00 per household per year.

- The census reports about 678,000 New Mexico households and sample statistics reflect about 1,160,000 vehicles are owned by households (about 1.7 vehicles per household on average). MVD reports about 1.4 million cars and light trucks in total, so about 240,000 cars and trucks are probably owned by businesses.

- At an assumed average price of gasoline of about $1.50 per gallon in 2003, a 5 cent tax increase represents about a 3% increase in the cost of fuel.

Illustrations of Tax Burden Affect on Individual Drivers

Fuel Efficiency Miles per Gallon	Miles Driven per Year	Possibility A	Possibility B		Possibility C	
		5 cents 1st Year	3 cents 1st Year	5 cents 2nd Year	2 cents 1st Year	6 cents 3rd Year
15 mpg	10,000	$33.33	$20.00	$33.33	$13.33	$40.00
	15,000	$50.00	$30.00	$50.00	$20.00	$60.00
	20,000	**$66.67**	$40.00	**$66.67**	$26.67	**$80.00**
20 mpg	10,000	$25.00	$15.00	$25.00	$10.00	$30.00
	15,000	$37.50	$22.50	$37.50	$15.00	$75.00
	20,000	$50.00	$30.00	$50.00	$20.00	$60.00
25 mpg	10,000	**$20.00**	$12.00	**$20.00**	$8.00	**$24.00**
	15,000	$30.00	$18.00	$30.00	$12.00	$36.00
	20,000	$40.00	$24.00	$40.00	$16.00	$48.00

- The tax burden impact of a 5 cent tax increase would tend to range from $20 to $67 per year per driver. The impact on an average household would probable be about $50 per year.
- Since vehicle weight and fuel efficiency tend to vary inversely, and since the damage imposed on the roadways increases with vehicle weight, the varying tax burden associated with a particular vehicles does tend to reflect the damage to the roadway imposed by the vehicle.

Option 3 - Committee concluded that a gasoline tax increase should not be recommended.

ISSUE: Effective Date of a Tax Rate Increase:

The traditional date for fuel tax rate changes has been July 1. It was suggested that a January 1 effective date would have the advantage of not coinciding with the tendency for fuel prices to increase during the summer driving season. However, any special session legislation would require an Emergency Clause to be effective January 1, 2004. Waiting until January 1, 2005 would delay Department of Transportation initiatives.

Options for Committee Decision:

<u>Option 1</u> – Effective January 1, 2004 under an Emergency Clause;

<u>Option 2</u> – Effective January 1, 2004 under an Emergency Clause; otherwise, July 1, 2004 without an Emergency Clause;

<u>Option 3</u> – Effective July 1, 2004.

ISSUE: Indexing of the Unit Tax:

Options for Committee Decision:

<u>Option 1</u> - No conclusion reached; issue requires additional study, but time available to the Committee is not adequate to reach a conclusion..

<u>Option 2</u> - Committee concluded that shifting to a value-based motor fuel tax system is inappropriate, but that the statutory unit tax rate should be increased over time by adding an indexing feature.

A tax rate indexing feature would increase the tax rate imposed, based on the percentage increase in a price index since establishment of the statutory tax rate. While this concept is simple, there are a number of technical provisions that would have to be specified in any tax rate indexing legislation.

- Question A: What index should be used?
  - Consumer Price Index for All Urban Consumers (CPI-U)
  - Cost of State & Local Government Purchases of Goods and Services
  - Cost of State & Local Government Construction Spending
  - Statewide Average Price of Gasoline

In general, any of the first three choices work equally well. CPI-U is the most widely known inflation index. The Cost of State & Local Government Purchases of Goods and Services has been previously used in New Mexico law for purposes of the property tax "yield control" calculation. The Cost of State & Local Government Construction Spending may best reflect the fiscal policy behind the tax rate indexing concept.

An index on the Statewide Average Price of Gasoline has some drawbacks. Gasoline prices are volatile and unpredictable, so revenue estimating for purposes of accurate budget forecasts would be effectively disabled. Gasoline prices would probably be available from the American Automobile Association, but no actual "index" is prepared on a continuing basis by any authoritative entity.

The other indexes are regularly published by the U.S. Department of Labor (CPI-U) or the U.S. Department of Commerce, Bureau of Economic Analysis as part of the National Income and Product Accounts (NIPA), and the methodologies are thoroughly documented.

The changes over time in the indexes are as follows:

Comparison of Change in Indexes

	CPI-U	**S&L Govt Purchases**	**S&L Govt Construction**
Past 1 year	1.6%	1.2%	1.7%
Past 5 years	12.1%	13.4%	17.5%
Past 10 years	28.2%	28.9%	38.4%
Past 15 years	58.4%	50.6%	54.0%
Past 20 years	86.4%	83.0%	71.6%
20 Year Average per Year	4.3%	4.2%	3.6%

Assuming the indexes grow at between 2% and 4% per year, index calculations would tend to add about 1/3 of a cent to 9/10 of a cent per year. Thus, given a provision requiring rounding down to the nearest whole cent, the tax rate would probably be revised by 1 cent every two or three years. To allow for the unlikely event the economy experiences a period of price deflation, the index calculation should be structured to provide for a tax rate decrease.

- Question B: Definition of rounding conventions in the calculation
  - Round down to the nearest whole cent.
  - Standard rounding (up or down) to the nearest whole cent.
  - Round down to the nearest one-half cent (or one-tenth of one cent).
  - Standard rounding (up or down) to the nearest one-half cent (or one-tenth of one cent).

Note: Staff recommend rounding down to the nearest whole cent to minimize the frequency of tax rate changes.

- Question C: Should a limit be imposed on the amount of indexed adjustment each year?
  - o The index adjustment to the tax rate shall amount to no more than 1 cent per year.
  - o The index adjustment to the tax rate should not be limited to any particular amount.

  A 2 cent adjustment on a base rate of 17 cents would imply a percentage change in the index value of 11.76% per year. A 2 cent adjustment on a hypothetical tax rate of 25 cents would imply a percentage change in the index value of 8% per year. Neither of these percentage change levels are probable, so a limit on the index adjustment may be unnecessary. Changes in the indexes in the 8% to 12% range did occur in the 1978 to 1981 period, however, and having a limit on the adjustment would probably be prudent.

- Question D: What agency should be responsible for computing, monitoring and certifying the annual tax rate indexing provision?
  - o Taxation and Revenue Department
  - o Department of Transportation

- Question E: Definition of the effective date of an indexed tax rate change
  - o January 1
  - o July 1

Other technical issues can be defined by staff based on the answers to the questions above. Those issues generally define the periods to be considered for the "base year" and the "current year" of the index, computation dates and certification procedures, etc.

Tax Burden Illustrations:

- The Consumer Expenditure Survey indicates that the average household uses about 920 gallons of gasoline per year. In New Mexico and other western states the amount is probably a bit higher. Assuming about 950 to 1,000 gallons per year per household:
  - o the impact of each 1 cent tax increase would be $9.50 to $10.00 per household per year. An indexed tax rate would tend to increase by 1 cent every 2 or 3 years.

- The census reports about 678,000 New Mexico households and sample statistics reflect about 1,160,000 vehicles are owned by households (about 1.7 vehicles per household on average). MVD reports about 1.4 million cars and light trucks in total, so about 240,000 cars and trucks are probably owned by businesses.

- At an assumed average price of gasoline of about $1.50 per gallon in 2003, a 1 cent tax increase represents about a 0.66% increase in the cost of fuel.

- The tax burden impact of a 1 cent tax increase would tend to range from $4.00 to $13.40 per year per driver. The impact on an average household would probable be about $10 per year, and could be expected to increase every 2 or 3 years.

- Since vehicle weight and fuel efficiency tend to vary inversely, and since the damage imposed on the roadways increases with vehicle weight, the varying tax burden associated with a particular vehicles does tend to reflect the damage to the roadway imposed by the vehicle.

<u>Option 3</u> - Committee concluded that indexing should not be recommended.

SPECIAL FUEL TAX

Issues Considered by Committee:

ISSUE: Revenue Adequacy

Options for Committee Decision:

Option 1 - No conclusion reached; issue requires additional study, but time available to the Committee is not adequate to reach a conclusion.

Option 2 - Committee concluded that the tax currently fails the "adequacy" test in supporting the required construction and maintenance of NM bridges and highways on the State system.

Option 3 - Committee concluded that the tax currently meets the "adequacy" test in supporting necessary programs and no action recommended.

ISSUE: Unit Tax Rate Modification

Options for Committee Decision:

Option 1 - No conclusion reached; issue requires additional study, but time available to the Committee is not adequate to reach a conclusion.

Option 2 - Committee concluded that shifting to a value-based motor fuel tax system is inappropriate, but that the unit tax rates should be increased.

- Possibility A: Based on an analysis of inflation indices, the Department of Transportation suggested a special fuel tax increase of 6 cents per gallon (from the current 18 cents per gallon up to 24 cents per gallon). Each 1 cent of special fuel tax raises about $4.4 million on a full year basis, so a 6 cent increase would raise about $24.2 million the first year and about $26.4 million in subsequent years. The increased revenue should probably be directed entirely to the state Road Fund.

- Possibility B: Committee staff suggest that such a 6 cent tax increase could be phased-in over a two-year period at a rate of 3 cents per year. A 3 cent increase the first year would raise about $12.1 million. A 3 cent increase the second year would raise an additional $12.1 million, and combined with the full year impact of the first 3 cents would result in a total of $25.3 million in the second year. By the third year the total revenue gain would be about $26.4 million. The increased revenue should probably be directed entirely to the state Road Fund.

- Possibility C: Committee staff suggest that such a tax increase could be phased-in over a three-year period at a rate of 3 cents the first year and 2 cents the second and third year. In this scenario, the total tax would be raised by 7 cents over a three-year period, since by the third year there would be an additional inflation adjustment to consider. The 3 cent increase would raise about $12.1 the first year and about $13.2 million in subsequent years. The second year total would be about $21.3 million, the third year total would be about $30.1 million, and the fourth and subsequent year total would be about $30.8 million. The increased revenue should probably be directed entirely to the state Road Fund.

Comparison of possible special fuel tax increase proposals:

Revenue Yield, assuming all money to State Road Fund (thousands of dollars)			
Phase-In:	**Possibility A 6 cent**	**Possibility B 3 / 3 cent**	**Possibility C 3 / 2 / 2 cent**
1st Year	24,200		
2nd Year	26,400		
1st Year		12,100	
2nd Year		25,300	
3rd Year		26,400	
1st Year			12,100
2nd Year			21,300
3rd Year			30,100
4th Year			30,800

Tax Burden Illustrations:

Illustrations of Tax Burden Affect on Individual Drivers							
Fuel Efficiency Miles per Gallon	**Miles Driven per Year**	**Possibility A**	**Possibility B**		**Possibility C**		
		6 cents 1st Year	**3 cents 1st Year**	**6 cents 2nd Year**	**3 cents 1st Year**	**7 cents 3rd Year**
15 mpg (Pick-up)	10,000	$40.00	$20.00	$40.00	$20.00	$46.67
	15,000	$60.00	$30.00	$60.00	$30.00	$70.00
	20,000	$80.00	$40.00	$80.00	$40.00	$93.33
5 mpg (Commercial Truck)	10,000	$120.00	$60.00	$120.00	$60.00	$140.00
	20,000	$240.00	$120.00	$240.00	$120.00	$280.00
	30,000	$360.00	$180.00	$360.00	$180.00	$420.00
	40,000	$480.00	$240.00	$480.00	$240.00	$560.00
	50,000	$600.00	$300.00	$600.00	$300.00	$700.00
	80,000	$960.00	$480.00	$960.00	$480.00	$1,120.00

- Since vehicle weight and fuel efficiency tend to vary inversely, and since the damage imposed on the roadways increases with vehicle weight, the varying tax burden associated with a particular vehicles does tend to reflect the damage to the roadway imposed by the vehicle.

Option 3 - Committee concluded that a special fuel tax increase should not be recommended.

ISSUE: Effective Date of a Tax Rate Increase:

The traditional date for fuel tax rate changes has been July 1. It was suggested that a January 1 effective date would have the advantage of not coinciding with the tendency for fuel prices to increase during the summer driving season. However, any special session legislation would require an Emergency Clause to be effective January 1, 2004. Waiting until January 1, 2005 would be problematic for Department of Transportation initiatives.

Options for Committee Decision:

Option 1 – Effective January 1, 2004 under an Emergency Clause;

Option 2 – Effective January 1, 2004 under an Emergency Clause; otherwise, July 1, 2004 without an Emergency Clause;

Option 3 – Effective July 1, 2004.

ISSUE: Indexing of the Unit Tax:

Options for Committee Decision:

Option 1 - No conclusion reached; issue requires additional study, but time available to the Committee is not adequate to reach a conclusion.

Option 2 - Committee concluded that shifting to a value-based motor fuel tax system is inappropriate, but that the statutory unit tax rate should be increased over time by adding an indexing feature.

A tax rate indexing feature would increase the tax rate imposed, based on the percentage increase in a price index since establishment of the statutory tax rate. While this concept is simple, there are a number of technical provisions that would have to be specified in any tax rate indexing legislation.

- Question A: What index should be used?
  - Consumer Price Index for All Urban Consumers (CPI-U)
  - Cost of State & Local Government Purchases of Goods and Services
  - Cost of State & Local Government Construction Spending
  - Average Regional Price of Diesel

  In general, any of the first three choices work equally well. CPI-U is the most widely known inflation index. The Cost of State & Local Government Purchases of Goods and Services has been previously used in New Mexico law for purposes of the property tax "yield control" calculation. The Cost of State & Local Government Construction Spending may best reflect the fiscal policy behind the tax rate indexing concept.

  An index on the Average Regional Price of Diesel has some drawbacks. Diesel prices are volatile and unpredictable, so revenue estimating for purposes of accurate budget forecasts would be effectively disabled. Diesel prices would probably be available from the U.S. Department of Energy, Energy Information Administration for the Rocky Mountain Region, but no actual "index" is prepared on a continuing basis by any authoritative entity.

The other indexes are regularly published by the U.S. Department of Labor (CPI-U) or the U.S. Department of Commerce, Bureau of Economic Analysis as part of the National Income and Product Accounts (NIPA), and the methodologies are thoroughly documented.

The changes over time in the indexes are as follows:

Comparison of Change in Indexes			
	CPI-U	S&L Govt Purchases	S&L Govt Construction
Past 1 year	1.6%	1.2%	1.7%
Past 5 years	12.1%	13.4%	17.5%
Past 10 years	28.2%	28.9%	38.4%
Past 15 years	58.4%	50.6%	54.0%
Past 20 years	86.4%	83.0%	71.6%
20 Year Average per Year	4.3%	4.2%	3.6%

Assuming the indexes grow at between 2% and 4% per year, index calculations would tend to add about 1/3 of a cent to 9/10 of a cent per year. Thus, given a provision requiring rounding down to the nearest whole cent, the tax rate would probably be revised by 1 cent every two or three years. To allow for the unlikely event the economy experiences a period of price deflation, the index calculation should be structured to provide for a tax rate decrease.

- Question B: Definition of rounding conventions in the calculation
  - Round down to the nearest whole cent.
  - Standard rounding (up or down) to the nearest whole cent.
  - Round down to the nearest one-half cent (or one-tenth of one cent).
  - Standard rounding (up or down) to the nearest one-half cent (or one-tenth of one cent).

Note: Staff recommend rounding down to the nearest whole cent to minimize the frequency of tax rate changes.

- Question C: Should a limit be imposed on the amount of indexed adjustment each year?
  - The index adjustment to the tax rate shall amount to no more than 1 cent per year.
  - The index adjustment to the tax rate should not be limited to any particular amount.

A 2 cent adjustment on a base rate of 18 cents would imply a percentage change in the index value of 11.1% per year. A 2 cent adjustment on a hypothetical tax rate of 25 cents would imply a percentage change in the index value of 8% per year. Neither of these percentage change levels are probable, so a limit on the index adjustment is probably unnecessary. Changes in the indexes in the 8% to 12% range did occur in the 1978 to 1981 period, however, and having a limit on the adjustment would probably be prudent.

- Question D: What agency should be responsible for computing, monitoring and certifying the annual tax rate indexing provision?
  - Taxation and Revenue Department
  - Department of Transportation

- Question E: Definition of the effective date of an indexed tax rate change
  - January 1
  - July 1

Other technical issues can be defined by staff based on the answers to the questions above. Those issues generally define the periods to be considered for the "base year" and the "current year" of the index, computation dates and certification procedures, etc.

Tax Burden Illustrations:

- The tax burden impact of a 1 cent tax increase would tend to range from about $6.67 to $13.33 per year for a diesel pickup, assuming 15 mpg and from 10,000 to 20,000 miles driven per year.

- The tax burden impact of a 1 cent tax increase would tend to range from about $40.00 to $160.00 per year for a commercial heavy vehicle, assuming 5 mpg and from 20,000 to 80,000 miles driven per year.

- Since vehicle weight and fuel efficiency tend to vary inversely, and since the damage imposed on the roadways increases with vehicle weight, the varying tax burden associated with a particular vehicles does tend to reflect the damage to the roadway imposed by the vehicle.

Option 3 - Committee concluded that indexing should not be recommended.

OTHER FUEL TAX ISSUES

Issues Considered by Committee:

ISSUE: Collection & Enforcement of Fuel Taxes

Options for Committee Decision:

Option 1 - No conclusion reached; issue requires additional study, but time available to the Committee is not adequate to reach a conclusion.

Option 2 - Committee concluded that the recommendations of the Gasoline Taxation Working Group in regard to "tax at the rack" should be adopted. The Gasoline TaxationWorking Group concluded that moving to "tax at the rack" is not a recommended option, but certain other compliance and system improvements could be made.

Option 3 - Committee concluded that "tax at the rack" should be recommended, despite the findings of Gasoline Tax Working Group. Further consideration should be given to moving toward a system like the one utilized in Arizona and the one being developed in Texas.

Option 4 - Committee concluded that increased enforcement efforts should be funded through the Taxation & Revenue Department.

- Possibility A: The Taxation and Revenue Department should be mandated to develop and implement more functional fuel tax processing and reporting systems that will provide support for adequate audit activity.

Option 5 - Committee concluded that current enforcement efforts are adequate.

ISSUE: Gross Receipts Tax On Fuel Taxes

Options for Committee Decision:

Option 1 - No conclusion reached; issue requires additional study, but time available to the Committee is not adequate to reach a conclusion.

Option 2 - Committee concluded that the concept of imposing the gross receipts tax on top of the motor fuels excise taxes should be pursued as a way to enhance revenue to the Department of Transportation and local governments.

- Possibility A: Actual GRT revenue to the state that is attributable to motor fuel sales would be tracked by the Taxation & Revenue Department, and be distributed to the State Road Fund. If identified, local government revenue attributable to motor fuel sales could be tracked and dedicated to road purposes.

  The necessary enhancements to TRD computer processing systems and taxpayer reporting requirements would be very significant and possibly quite expensive.

- Possibility B: A distribution to the State Road Fund could be made out of GRT state revenue, based on a computation of prior year fuel volume and average price information. This approximation of the actual revenue attributable to motor fuel would eliminate the need for enhanced computer system requirements and taxpayer reporting requirements. The enhanced revenue to local governments would not be identifiable as fuel tax revenue, and could not be dedicated to road purposes.

Option 3 - Committee concluded that application of the gross receipts tax to gasoline in addition to the present tax structure was not an appropriate solution.

WEIGHT-DISTANCE TAX, TRIP TAX AND OVERWEIGHT FEES

Background:
The weight-distance tax is a unit tax imposed on commercial vehicles (trucks) having a declared gross weight of gross vehicle weight in excess of 26,000 pounds for use of the public highways. The weight-distance tax attempts to assess a user fee to the commercial vehicles, who, by virtue of weight and distance, do the most harm to the highway infrastructure. New Mexico is one of four states imposing a weight-distance tax. Trucking operators not registered for weight-distance must pay the trip tax in lieu of the weight-distance tax and registration fees. These revenues are earmarked for the road fund.

Oversize permits are available to vehicles exceeding the state's height and width restrictions, for a fee of $15 per single trip or $60 per year. Transporters of manufactured homes are required to obtain single trip permits. Generally, the oversize vehicles are of less concern than overweight vehicles since most damage to the highways results from the weight, rather than the size, of a vehicle. These revenues are earmarked for the road fund.

Overweight permits are available to vehicles exceeding the state's maximum weight restriction of 86,400 lbs. for a fee of $15 per single trip. In some cases a $60 annual permit may be obtained "if the operation is to be within the vicinity of a municipality". Special overweight permits are available to liquid haulers, authorizing an increase of up to 25% in axle weight for liquid hauling tank vehicles, for a fee of $35 per single trip or $120 for an annual permit. These revenues are earmarked for the road fund.

Method of Assessment:
The weight-distance tax is assessed on a unit basis (tax per mile traveled), with higher tax rates applied to higher weight classes up to 80,000 pounds. Revenue is dependent upon miles traveled in the state being declared and paid. Trucking operations must register with the Taxation and Revenue Department and file tax returns quarterly.

The trip tax is imposed at the state's ports of entry on trucks not registered with the state for weight-distance tax purposes. The tax is imposed at a higher tax rate and applied against miles driven in the state.

Oversize and overweight fees are assessed on a single trip or by annual permit. Trucking operators must register with the Motor Transportation Division to obtain the permits.

Adequacy:
Weight-distance taxes generate approximately $50 million per year. Trip taxes, which amounted to over $9.7 million a few years ago, will probably generate only about $4.3 million in FY03. Compliance problems are known to exist in both weight-distance and trip taxes.

The State Road Fund is overly-reliant on fuel taxes, and weight-distance and trip tax offer an alternative revenue source. This tax provides a means to collect a fair and equitable user fee on heavy commercial vehicles doing the most damage to highways without imposing it on the public at large. New Mexico has not adjusted its weight-distance or trip tax schedule for over 20 years. However, this tax must be considered in the context of the entire tax burden imposed on the trucking industry in order to preserve economic development opportunities that are heavily affected by transportation.

Oversize and overweight fees generate about $1.3 million dollars per year for the state road fund. The permits are granted without regard to the amount a vehicle is overweight or oversize. The damage done to roads increases at a geometric rate with regard to weight, therefore, the current schedule of assessing one fee does not meet the adequacy standard. A more rational approach could be the establishment of a schedule of increased fees with increased weights.

Equity:
The weight distance and trip tax is a benefits tax—those who use the system pay for the system. Conceivably as much as 80% of the weight-distance tax is exported to out-of-state taxpayers. The damage to roads by heavy commercial trucks far outweighs the damage imposed by lighter weight vehicles, yet the overall tax contribution from trucks is less than from other vehicles. Additionally, New Mexico is considered a “bridge” state. That is, a state where most shipments neither originate nor terminate in the state – the trucks merely cross through the state.

Trucking activity that occurs entirely within the state is subject to the additional burden of gross receipts tax. While the gross receipts tax possibly could be imposed on interstate trucking, the requirement that the tax be fairly apportioned to state jurisdictions would be exceedingly difficult to administer. The compliance issues associated with attempting to get interstate truckers to comply with a state gross receipts tax would also pose difficult problems.

The oversize and overweight permit fees are considered to be a benefit tax as well.

Administration and Compliance:
New Mexico is among only four states that continue to impose a weight-distance tax. Because of this, it cannot be viewed as a “uniform” tax. There appear to be significant compliance problems involving reporting of the weight-distance tax including failure to file and pay tax returns, possible failure to accurately report the number of miles driven in New Mexico and a failure of the tax system to crosscheck against miles reported on special fuels tax return. There appears to be a reticence in enforcement as well and the state appears to have backed off considerably in enforcement efforts in the wake of the C.R. England Trucking lawsuit that questioned the validity of the $5 “cab card” fee imposed under the weight-distance tax. Faced with these concerns, the state must decide if sufficient resources are being directed toward compliance and enforcement.

Competition:
While New Mexico must balance the relative tax burden attached to the trucking industry, the state’s need to maintain and improve its highway infrastructure continues to mount. New endeavors promoting multimodal and intermodal transportation opportunities could augment the trucking industry but require additional investment. In-state trucking companies might benefit more from a tax reform package that raises weight-distance tax and provides gross receipts tax relief.

New Mexico’s overweight fee is assessed without regard to weight. Many states, including Texas and Montana, assess fees on a graduated tax rate system based on weight. Oversize permits probably do not require radical adjustments since it is primarily the weight of a vehicle that imposes damage to highways.

WEIGHT-DISTANCE TAX

Issues Considered by Committee:

ISSUE: Revenue Adequacy

Options for Committee Decision:

Option 1 - No conclusion reached; issue requires additional study, but time available to the Committee is not adequate to reach a conclusion.

Option 2 - Committee concluded that the tax currently fails the "adequacy" test in supporting the required construction and maintenance of NM bridges and highways on the State system.

Option 3 - Committee concluded that the tax currently meets the "adequacy" test in supporting necessary programs and no action recommended.

ISSUE: Unit Tax Rate Modification

Options for Committee Decision:

Option 1 - No conclusion reached; issue requires additional study, but time available to the Committee is not adequate to reach a conclusion.

Option 2 - Committee concluded that the unit tax rates should be increased.

The Department of Transportation suggested a weight-distance tax increase of up to 80% could be justified on the basis of inflation since the tax rate was last adjusted some 20 years ago. Such an analysis, in isolation, does not take into account other taxes imposed on the trucking industry. While considering the following tax increase scenarios, it should be kept in mind that the gross receipts tax burden on trucking should also be considered, and gross receipts tax relief could be part of a final tax package. In-state trucking companies might benefit more from a tax reform package that raises weight-distance tax and provides gross receipts tax relief.

A state-by-state comparison of tax burdens imposed on trucking is presented on the following page. The analysis compares the tax on a hypothetical truck weighing 80,000 lbs and traveling 80,000 miles per year exclusively in the particular state.

New Mexico is presented under 6 differing scenarios, one assumes the current tax levels, one assumes imposition of a 6 cent special fuels tax increase, and four scenarios are presented assuming imposition of a 6 cent special fuels tax increase and additional increases in the weight-distance tax. Changes from the current level of tax are shaded in gray.

Heavy Truck Taxes -- Tax Burden Ranking

Combined taxes on 80,000 lbs traveling 80,000 miles exclusively within the state

State	Registration Fees	Diesel Tax Rate	Diesel Tax Percent Increase	Weight-Distance Tax Rate	Weight-Distance Tax Percent Increase	Diesel Tax Amount	Weight-Distance Tax Amount	Combined Taxes on 80,000 lbs traveling 80,000 miles	Combined Taxes Percent Increase
Oregon @	$320	$0.0000		$0.11970		$0	$9,576	$9,896	
New York @	$968	$0.3065		$0.04950		$4,302	$3,960	$9,230	
Arizona	$3,947	$0.2600				$3,649		$7,596	
New Mexico @	**$130**	**$0.2400**	33%	**$0.05000**	58%	$3,368	$4,000	$7,498	44%
New Mexico @	**$130**	**$0.2400**	33%	**$0.04500**	42%	$3,368	$3,600	$7,098	37%
Idaho	$3,360	$0.2500				$3,509		$6,869	
Illinois	$2,790	$0.2870				$4,028		$6,818	
New Mexico @	**$130**	**$0.2400**	33%	**$0.04000**	26%	$3,368	$3,200	$6,698	29%
New Mexico @	**$130**	**$0.2400**	33%	**$0.03500**	10%	$3,368	$2,800	$6,298	21%
Wisconsin	$1,988	$0.3011				$4,226		$6,214	
New Mexico @	**$130**	**$0.2400**	33%	**$0.03168**	0%	$3,368	$2,534	$6,033	16%
Kentucky @	$1,260	$0.1720		$0.02850		$2,414	$2,280	$5,954	
Pennsylvania	$1,508	$0.3080				$4,323		$5,831	
Vermont	$1,721	$0.2600				$3,649		$5,370	
California	$1,618	$0.2630				$3,691		$5,309	
Rhode Island	$1,044	$0.3000				$4,211		$5,255	
Kansas	$1,735	$0.2500				$3,509		$5,244	
Colorado	$2,364	$0.2050				$2,877		$5,241	
New Mexico @	**$130**	**$0.1800**		**$0.03168**	0%	**$2,526**	**$2,534**	**$5,191**	0%
Connecticut	$1,520	$0.2600				$3,649		$5,169	
Nevada	$1,360	$0.2700				$3,789		$5,149	
Indiana	$1,350	$0.2700				$3,789		$5,139	
Washington	$1,832	$0.2300				$3,228		$5,060	
Florida	$979	$0.2877				$4,038		$5,017	
Iowa	$1,695	$0.2250				$3,158		$4,853	
Ohio	$1,340	$0.2500				$3,509		$4,849	
Nebraska	$1,280	$0.2460				$3,453		$4,733	
West Virginia	$1,131	$0.2535				$3,558		$4,689	
Maryland	$1,280	$0.2425				$3,404		$4,684	
Montana	$750	$0.2775				$3,895		$4,645	
Michigan	$1,660	$0.2100				$2,947		$4,607	
Minnesota	$1,760	$0.2000				$2,807		$4,567	
South Dakota	$1,457	$0.2200				$3,088		$4,545	
Arkansas	$1,350	$0.2250				$3,158		$4,508	
Delaware	$1,280	$0.2200				$3,088		$4,368	
North Carolina	$963	$0.2340				$3,284		$4,247	
Massachusetts	$1,200	$0.2100				$2,947		$4,147	
Maine	$877	$0.2300				$3,228		$4,105	
Utah	$666	$0.2450				$3,439		$4,105	
Mississippi	$1,512	$0.1800				$2,526		$4,038	
North Dakota	$1,045	$0.2100				$2,947		$3,992	
Virginia	$1,080	$0.1950				$2,737		$3,817	
Tennessee	$1,366	$0.1700				$2,386		$3,752	
New Jersey	$1,223	$0.1750				$2,456		$3,679	
Texas	$840	$0.2000				$2,807		$3,647	
Missouri	$1,050	$0.1700				$2,386		$3,436	
Louisiana	$504	$0.2000				$2,807		$3,311	
New Hampshire	$712	$0.1800				$2,526		$3,238	
Alabama	$780	$0.1700				$2,386		$3,166	
South Carolina	$800	$0.1600				$2,246		$3,046	
Wyoming	$825	$0.1400				$1,965		$2,790	
Oklahoma	$948	$0.1300				$1,825		$2,773	
Georgia	$725	$0.1189				$1,669		$2,394	

Source for other states tax rates: Nevada Motor Transport Association Tax rates as of May, 2003.

Notes: @ indicates Weight-Distance Tax States.
Washington Registration Fees effective 8/1/2003.
California Diesel Tax includes Sales Tax.

- Possibility A: A 10.48% increase in weight-distance tax rates would raise the top tax rate on trucks in excess of 78,000 lbs from 3.169 cents to 3.5 cents per mile. The revenue impact would amount to about $4.1 million in the first year, and would amount to about $5.5 million in subsequent years.

- Possibility B: A 26.26% increase in weight-distance tax rates would raise the top tax rate on trucks in excess of 78,000 lbs from 3.169 cents to 4.0 cents per mile. The revenue impact would amount to about $10.4 million in the first year, and would amount to about $13.8 million in subsequent years.

- Possibility C: A 42.00% increase in weight-distance tax rates would raise the top tax rate on trucks in excess of 78,000 lbs from 3.169 cents to 4.5 cents per mile. The revenue impact would amount to about $16.6 million in the first year, and would amount to about $22.1 million in subsequent years.

- Possibility D: A 57.83% increase in weight-distance tax rates would raise the top tax rate on trucks in excess of 78,000 lbs from 3.169 cents to 5.0 cents per mile. The revenue impact would amount to about $22.9 million in the first year, and would amount to about $30.5 million in subsequent years.

Comparison of possible weight-distance tax increase proposals:

Comparison of Revenue Gains				
	Possibility A Top Rate = 3.5 cents 10.48% increase	**Possibility B** Top Rate = 4.0 cents 26.26% increase	**Possibility C** Top Rate = 4.5 cents 42.00% increase	**Possibility D** Top Rate = 5.0 cents 57.83% increase
1st Year	4,100	10,400	16,600	22,900
2nd Year	5,500	13,800	22,100	30,500

Tax Burden Illustrations:

The tax burden illustration on the previous page illustrates the combined impact of a 6 cent special fuels tax increase and the four possibilities for weight-distance tax increases presented above. That illustration assumes a hypothetical vehicle weighing 80,000 lbs and traveling 80,000 miles per year. The tax rates currently applied to vehicles weighing 26,000 to 28,000 lbs is about one-quarter of the rate applied to an 80,000 lb vehicle. Committee staff know of no information available that defines any “average vehicle” for weight-distance tax purposes, and know of no information that might allow assessment of the equity of the tax across differing weight classes. Presumably, since the tax has not been changed for 20 years, the current tax structure is fairly equitable among weight classes. Under the scenarios presented above, the current tax rate for each weight class would be increased by the same percentage. The tables below examine the weight-distance tax burdens by vehicle weight class. These tax burden amounts include the weight-distance tax only, and do not include the effect of any special fuels tax increase.

Possibility A: 10.48% Increase – Taxpayer Burden increase in Dollars					
Miles Driven per Year	**Weight Class**				
	28,000 to 30,000 lbs	**40,000 to 42,000 lbs**	**50,000 to 52,000 lbs**	**60,000 to 62,000 lbs**	**More than 78,000 lbs**
10,000	9.70	13.70	18.70	23.70	33.20
20,000	19.40	27.40	37.40	47.40	66.40
30,000	29.10	41.10	56.10	71.10	99.60
40,000	38.80	54.80	74.80	94.80	132.80
50,000	48.50	68.50	93.50	118.50	166.00
80,000	77.60	109.60	149.60	189.60	265.60

An 80,000 lb truck crossing the state along I-40 currently pays $11.72. Under this option the trip across the state would cost an additional $1.23.

Possibility B: 26.26% Increase – Taxpayer Burden increase in Dollars					
Miles Driven per Year	**Weight Class**				
	28,000 to 30,000 lbs	**40,000 to 42,000 lbs**	**50,000 to 52,000 lbs**	**60,000 to 62,000 lbs**	**More than 78,000 lbs**
10,000	24.30	34.30	46.80	59.40	83.20
20,000	48.60	68.60	93.60	118.80	166.40
30,000	72.90	102.90	140.40	178.20	249.60
40,000	97.20	137.20	187.20	237.60	332.80
50,000	121.50	171.50	234.00	297.00	416.00
80,000	194.40	274.40	374.40	475.20	665.60

An 80,000 lb truck crossing the state along I-40 currently pays $11.72. Under this option the trip across the state would cost an additional $3.08.

Possibility C: 42.00% Increase – Taxpayer Burden increase in Dollars					
Miles Driven per Year	**Weight Class**				
	28,000 to 30,000 lbs	**40,000 to 42,000 lbs**	**50,000 to 52,000 lbs**	**60,000 to 62,000 lbs**	**More than 78,000 lbs**
10,000	38.80	54.90	74.90	95.00	133.10
20,000	77.60	109.80	149.80	190.00	266.20
30,000	116.40	164.70	224.70	285.00	399.30
40,000	155.20	219.60	299.60	380.00	532.40
50,000	194.00	274.50	374.50	475.00	665.50
80,000	310.40	439.20	599.20	760.00	1,064.80

An 80,000 lb truck crossing the state along I-40 currently pays $11.72. Under this option the trip across the state would cost an additional $4.92.

Possibility D: 57.83% Increase – Taxpayer Burden increase in Dollars					
Miles Driven per Year	**Weight Class**				
	28,000 to 30,000 lbs	**40,000 to 42,000 lbs**	**50,000 to 52,000 lbs**	**60,000 to 62,000 lbs**	**More than 78,000 lbs**
10,000	53.40	75.50	103.20	130.80	183.20
20,000	106.80	151.00	206.40	261.60	366.40
30,000	160.20	226.50	309.60	392.40	549.60
40,000	213.60	302.00	412.80	523.20	732.80
50,000	267.00	377.50	516.00	654.00	916.00
80,000	427.20	604.00	825.60	1,046.40	1,465.60

An 80,000 lb truck crossing the state along I-40 currently pays $11.72. Under this option the trip across the state would cost an additional $6.78.

Option 3 - Committee concluded that a special fuel tax increase should not be recommended.

OVERSIZE AND OVERWEIGHT PERMIT FEES

Issues Considered by Committee:

ISSUE: Revenue Adequacy

Options for Committee Decision:

Option 1 - No conclusion reached; issue requires additional study, but time available to the Committee is not adequate to reach a conclusion.

Option 2 - Committee concluded that the tax currently fails the "adequacy" test in supporting the required construction and maintenance of NM bridges and highways on the State system.

Option 3 - Committee concluded that the tax currently meets the "adequacy" test in supporting necessary programs and no action recommended.

ISSUE: Unit Tax Rate Modification

Options for Committee Decision:

Option 1 - No conclusion reached; issue requires additional study, but time available to the Committee is not adequate to reach a conclusion.

Option 2 - Committee concluded that the current fixed fee schedule represents an inadequate tax structure, and that increased fee amounts are warranted. Based on information compiled by the Motor Transportation Division (obtained late in the committee process by committee staff and not presented to the committee), the average fixed fee amounts charged by other states are in excess of New Mexico's current fixed fee amounts.

- Possibility A: New Mexico's single trip permit fee could be doubled or tripled and still be in line with average fees charged in other states. The annual permit fees could be increased by a factor of 5 or 6 times the current fee and still be in line with average fees charged in other states. New Mexico's annual permit fee is only 4 times the fee imposed on single trips. The average fee for an annual permit in other states is 7 to 10 times greater than the fee for a single trip permit.

Comparison of Average State Oversize and Overweight Permit Fees (as compiled by the Motor Transportation Division)		
Permit Type	**New Mexico Permit Fee**	**Average of Other States Permit Fees**
Oversize Single Trip Permit	$15.00	$30.00
Overweight Single Trip Permit	$15.00	$48.00
OS/OW Single Trip Permit	$15.00	$40.00
Liquid Hauler Single Trip Permit	$35.00	no comparison available
Mobile Home Single Trip Permits	$15.00	$30.00
Self-issued Permits	$150.00 for book of 10	$220.00 for book of 10
Oversize Annual Permit	$60.00	$305.00
Overweight Annual Permit	$60.00	$355.00
OS/OW Annual Permit	$60.00	$330.00
Liquid Hauler Annual Permit	$120.00	no comparison available
Note: Other states may impose additional fees based on weight, dimensions, or distance traveled.		

Schedule of Revised Oversize and Overweight Permit Fees (Possibility A)		
Permit Type	**Current Permit Fee**	**Proposed Permit Fee**
Oversize Single Trip Permit	$15.00	$30.00
Overweight Single Trip Permit	$15.00	$45.00
OS/OW Single Trip Permit	$15.00	$45.00
Liquid Hauler Single Trip Permit	$35.00	$35.00
Mobile Home Single Trip Permits	$15.00	$30.00
Self-issued Permits	$150.00 for book of 10	$300.00 for book of 10
Oversize Annual Permit	$60.00	$300.00
Overweight Annual Permit	$60.00	$450.00
OS/OW Annual Permit	$60.00	$450.00
Liquid Hauler Annual Permit	$120.00	$350.00

Current revenue from OS/OW fees is approximately $1.1 million to $1.4 million per year. The proposed permit fee increase would raise about $2.9 million to $3.8 million per year.

Revenue Gains by Type of Permit		
Permit Type	Number of Permits FY2003	Revenue (thousands)
Oversize Single Trip Permit	24,716	370 to 475
Overweight Single Trip Permit	576	17 to 22
OS/OW Single Trip Permit	12,180	365 to 470
Liquid Hauler Single Trip Permit	none	none
Self-issued Permits	1,200	180 to 230
Oversize Annual Permit	79	19 to 24
Overweight Annual Permit	621	240 to 310
OS/OW Annual Permit	4,344	1,695 to 2,170
Liquid Hauler Annual Permit	167	38 to 50
TOTAL ALL PERMITS	43,883	2,924 to 3,751

Option 3 - Committee concluded that the Option 2 provisions should be recommended in regard to ***oversize*** vehicles only, and that the appropriate treatment of ***overweight*** vehicles requires a more radical structural modification in the permit fee (see next issue). The revenue gains associated with Option 2 as applied to ***oversize*** vehicles only, would be about $570 thousand to $730 thousand.

Option 4 - Committee concluded that changes to the oversize and overweight permit fees should not be recommended.

ISSUE: Permit Fee Structural Modification

Options for Committee Decision:

Option 1 - No conclusion reached; issue requires additional study, but time available to the Committee is not adequate to reach a conclusion.

Option 2 - Committee concluded that the current fixed fee schedule represents an inadequate tax structure in regard to ***overweight*** vehicles, and that a revised fee structure is warranted. Based on information provided to the committee by the Department of Transportation, the structure of a fixed permit fee does not adequately compensate the state for damage inflicted on the roads by overweight vehicles. A structural change should be made to overweight permit fees to capture increased fees for increased weight and increased mileage.

- Possibility A: A number of states impose a fixed permit fee plus an additional permit fee based on weight and (or) distance traveled by an overweight commercial vehicle. The additional permit fee commonly takes the form of a fee imposed on overweight tonnage and miles traveled. State overweight fees imposed on each ton-mile range from a low of 0.9 cents per ton-mile in Illinois, up to 20 cents per ton-mile in Washington on weights in excess of 180,000 lbs.

Illustration of State Overweight Fees per Ton-Mile	
State	**Fee Imposed per ton-mile**
Alaska	8 cents; 6.67 cents; 6 cents; 5.6 cents; 5 cents
Illinois	0.9 cents
Indiana	2.5 cents; 1.7 cents; 2.86 cents
Maine	2 cents
Montana	5.6 cents
New York	3 cents; 5 cents; 8 cents
Pennsylvania	3 cents
South Dakota	2 cents
Tennessee	5 cents
Washington	1.4 cents up to 8.5 cents (20 tax rates); 20 cents
West Virginia	4 cents
Wyoming	4 cents

The Department of Transportation suggested a fixed fee charge of \$30 per trip and an additional ton-mile tax rate of 5 cents per ton-mile. The fee for a 200 mile trip at a weight of 150,000 lbs would be \$30 + \$318. A 200 mile trip at a weight of 120,000 lbs would be \$30 + \$168, and at a weight of 100,000 lbs would be \$30 + \$68.

Technical issues that require further study include the treatment of liquid hauler and wrecker vehicles that make frequent or unforeseen overweight trips. These vehicles should probably be provided some kind of annual permit for operation within specified weight limits. The annual permit fees outlined in Option 2 might be appropriate for liquid hauler and wrecker vehicles. Otherwise, the annual permit for overweight vehicles would be eliminated and replaced by the \$30 + 5 cents per ton-mile fee structure.

The revenue gains associated with this tax structure are difficult to project, since information on average weight and miles driven is not currently available, and the number of trips driven under annual permits is not available (the Motor Transportation Division is exploring whether such data might be obtained for later analysis). Assuming most overweight trips would average about 200 miles, and assuming an average weight of about 120,000 lbs (33,600 lbs overweight) the revenue yield from a 5 cent ton-mile tax might be about $14.5 million. Given the uncertainty in the miles, weights, and number of trips per year, an estimate of the revenue gain might be in the range of from $10 million to $20 million per year.

Option 3 - Committee concluded that changes to the oversize and overweight permit fees should not be recommended.

MOTOR VEHICLE EXCISE TAX

Background:

The Motor Vehicle Excise Tax is a tax imposed on the issuance of every original and subsequent certificate of title for vehicles, except for mobile homes and vehicles specifically exempted. The tax base is generally the selling price of the vehicle at time of sale, less the value of any trade-in vehicle. The tax is imposed at the rate of 3% and the revenue goes entirely to the General Fund. Most taxpayers basically understand the imposition of the tax and there is an understanding of the burden. The 3% Motor Vehicle Excise Tax is estimated to generate approximately $117 million in FY2004, or about $39 million for each 1% of the tax imposed.

Comparison with other states: New Mexico's Vehicle Excise Tax is generally lower than our surrounding states, except for Colorado:

Arizona	5.6%	Colorado	2.9%
Oklahoma	3.25%	Texas	6.25%
New Mexico	3.00%		

Method of assessment: The tax is imposed on the selling price of the vehicle at time of sale, the value of any trade-in vehicle. The tax is collected in conjunction with the transfer of title at the time of registration under the new owner.

Equity: There is little tax policy justification to argue that vehicles should be taxed at lower rates than other tangibles purchased in New Mexico. One historic argument is that the purchase of a vehicle is one of the largest purchases many people make. Another argument is that vehicles tend to be resold multiple times, whereas few other previously-owned goods tend to be resold through business establishments where they would be subject to tax. Auto dealers argue that a vehicle is taxed each time it is sold at the used car price, and the total tax imposed on a vehicle over its life span approximates the general gross receipts tax rate. For example, 3% on new value, plus 3% on half original value after 5 years, plus 3% on one-quarter of original value after 10 years, equals 5.25% of original value split over the three transactions.

Administration and Compliance: There are administrative problems with the tax, primarily in regard to valuing used vehicles. The "honor system" that allows a buyer and seller conspire to declare a lower than actual price on a bill of sale makes it difficult to capture an adequate tax on transactions between individuals.

MOTOR VEHICLE EXCISE TAX

Issues Considered:

ISSUE: Revenue Adequacy and Tax Rate Equity with general sales taxes

Options for Decision:

Option 1 - No conclusion reached; issue requires additional study, but time available is not adequate to reach a conclusion.

Option 2 - Concluded that the Motor Vehicle Excise Tax rate is generally inadequate and a tax rate increase should be enacted. A tax rate increase would lessen the discrepancy between the Motor Vehicle Excise Tax and the Gross Receipts Tax rates.

- Possibility A: Increase the Motor Vehicle Excise Tax from 3% to 4%.

  Revenue:
  Revenue increase of $39 million on a full year basis at FY2004 projected levels.

  Tax Burden:

Illustration of Excise Tax Changes on Vehicle Purchases			
Sales Price (net after trade-in)	**Current Excise Tax**	**Proposed Excise Tax**	**Tax Increase**
$20,000	$600	$800	$200
$15,000	$450	$600	$150
$10,000	$300	$400	$100
$ 5,000	$150	$200	$ 50
$ 2,000	$ 60	$ 80	$ 20

- Possibility B: Increase the Motor Vehicle Excise Tax from 3% to 5%.

  Revenue :
  Revenue increase of $78 million on a full year basis at FY2004 projected levels.

  Tax Burden:

Illustration of Excise Tax Changes on Vehicle Purchases			
Sales Price (net after trade-in)	**Current Excise Tax**	**Proposed Excise Tax**	**Tax Increase**
$20,000	$600	$1,000	$400
$15,000	$450	$ 750	$300
$10,000	$300	$ 500	$200
$ 5,000	$150	$ 250	$100
$ 2,000	$ 60	$ 100	$ 40

- Possibility C: Increase the Motor Vehicle Excise Tax from 3% to 6%.

  Revenue:
  Revenue increase of $117 million on a full year basis at FY2004 projected levels.

  Tax Burden:

Illustration of Excise Tax Changes on Vehicle Purchases			
Sales Price (net after trade-in)	**Current Excise Tax**	**Proposed Excise Tax**	**Tax Increase**
$20,000	$600	$1,200	$600
$15,000	$450	$ 900	$450
$10,000	$300	$ 600	$300
$ 5,000	$150	$ 300	$150
$ 2,000	$ 60	$ 120	$ 60

Option 3 - Concluded that the Motor Vehicle Excise Tax rate is generally adequate and no increase is recommended. The difference in the tax rate on motor vehicles compared to other goods is a reasonable distinction.

ISSUE: Distribution of Revenue

Option 1 - No conclusion reached; issue requires additional study, but time available is not adequate to reach a conclusion.

Option 2 - Concluded that the Motor Vehicle Excise Tax is an appropriate source of funding for the State Road Fund.

- Possibility A: Creation of State Transit Fund and distribution of receipts attributable to a tax rate of 1/3% to state public transportation uses.
  The New Mexico Passenger Transportation Association proposed dedication of revenue from a 1/3% Motor Vehicle Excise Tax rate to statewide public transit uses.
  The assumed effective date is July 1, 2004, and applicable to the distribution of July tax receipts.
  Revenue:

Revenue from 1/3% Tax Rate to Public Transit		
Affected Fund	1st Year Impact ($ thousands)	Full Year Impact ($ thousands)
State Transit Fund	13,000	13,000

Note: This option would reduce revenue impact associated with other Revenue Distribution Options presented below.

- Possibility B: Road Fund share of 25% given a 4% Motor Vehicle Excise Tax rate.

  The assumed effective date is July 1, 2004, and applicable to the distribution of July tax receipts.

Revenue:

25% Road Fund Distribution of a 4% MV Excise Tax		
Affected Fund	1st Year Impact ($ thousands)	Full Year Impact ($ thousands)
State General Fund	0	0
State Road Fund	39,000	39,000

- Possibility C: Road Fund share of 25% given a 5% Motor Vehicle Excise Tax rate.

  The assumed effective date is July 1, 2004, and applicable to the distribution of July tax receipts.

Revenue:

25% Road Fund Distribution of a 5% MV Excise Tax		
Affected Fund	1st Year Impact ($ thousands)	Full Year Impact ($ thousands)
State General Fund	29,250	29,250
State Road Fund	48,750	48,750

- Possibility D: Road Fund share of 25% given a 6% Motor Vehicle Excise Tax rate.

  The assumed effective date is July 1, 2004, and applicable to the distribution of July tax receipts.

Revenue:

25% Road Fund Distribution of a 6% MV Excise Tax		
Affected Fund	1st Year Impact ($ thousands)	Full Year Impact ($ thousands)
State General Fund	58,500	58,500
State Road Fund	58,500	58,500

- Possibility E: Road Fund share of 33% given a 4% Motor Vehicle Excise Tax rate.

  The assumed effective date is July 1, 2004, and applicable to the distribution of July tax receipts.

Revenue:

33% Road Fund Distribution of a 4% MV Excise Tax		
Affected Fund	1st Year Impact ($ thousands)	Full Year Impact ($ thousands)
State General Fund	(12,480)	(12,480)
State Road Fund	51,480	51,480

- Possibility F: Road Fund share of 33% given a 5% Motor Vehicle Excise Tax rate.
  The assumed effective date is July 1, 2004, and applicable to the distribution of July tax receipts.
  Revenue:

33% Road Fund Distribution of a 5% MV Excise Tax		
Affected Fund	1st Year Impact ($ thousands)	Full Year Impact ($ thousands)
State General Fund	13,650	13,650
State Road Fund	64,350	64,350

- Possibility G: Road Fund share of 33% given a 6% Motor Vehicle Excise Tax rate.
  The assumed effective date is July 1, 2004, and applicable to the distribution of July tax receipts.
  Revenue:

33% Road Fund Distribution of a 6% MV Excise Tax		
Affected Fund	1st Year Impact ($ thousands)	Full Year Impact ($ thousands)
State General Fund	39,780	39,780
State Road Fund	77,220	77,220

Option 3 - Concluded that the Motor Vehicle Excise Tax is not an appropriate source of funding for highway and bridge infrastructure.

ISSUE: Administration and Compliance

Options for Decision:

Option 1 - No conclusion reached; issue requires additional study, but time available is not adequate to reach a conclusion.

Option 2 - Concluded that NM should implement legislation to provide for a firm, statutorily-specified value for used vehicles, including passenger vehicles, RV's and trucks for taxation purposes. The specified value could be derived from a standard nationally-recognized source similar to NADA book values, or could be a percentage schedule tied to Manufacturer's suggested retail price (MSRP) on all vehicles. This would eliminate the present "honor system" of declaring the value of used vehicles.

Revenue: Revenue estimate not available at this time.

Option 3 - Concluded that the Motor Vehicle Division should implement software in their system that does not allow clerks to override the system in regard to registration of vehicles in excess of 26,000 GVW.

Elimination of the present approach of some dealers leasing trucks which have a GVW in excess of 26,000, who "shop around" until they find a Motor Vehicle Office that will mistakenly register them without payment of the Motor Vehicle Excise Tax (the exemption from Motor Vehicle Excise Tax for long-term leased vehicles does not apply to trucks weighing over 26,000 lbs).

Revenue: Revenue estimate not available at this time.

Option 4 - Concluded that administration of the Motor Vehicle Excise Tax is adequate, and no changes are recommended at this time.

LEASED VEHICLE GROSS RECEIPTS TAX AND SURCHARGE

Background:
The Leased Vehicle Gross Receipts Tax is imposed "in lieu of" the Motor Vehicle Excise Tax on vehicles purchased for short-term rentals that will be subject to the Gross Receipts Tax. The tax probably benefits the industry by lowering the initial capital outlay cost of purchasing new vehicles. The tax rate is 5% on the cost of short-term vehicle rental charges. The revenue is distributed to the Highway Infrastructure Fund (75%) and to the Local Governments Road Fund (25%). Revenue from the tax amounted to $6 million in FY2003.

The Leased Vehicle Surcharge is a tax of $2 per day on short-term vehicle rentals. The revenue is distributed entirely to the state general fund. Revenue from the surcharge amounted to $6.1 million in FY2003.

Method of assessment:
Both the Leased Vehicle Gross Receipts Tax and the Leased Vehicle Surcharge are collected on a monthly basis in conjunction with the regular gross receipts tax return. The Leased Vehicle Gross Receipts Tax is imposed on a business's gross receipts attributable to the short-term rental of vehicles. The Leased Vehicle Surcharge is imposed at a rate of $2 per day on each short-term vehicle rental.

Equity:
The Leased Vehicle Gross Receipts Tax is imposed "in lieu of" the Motor Vehicle Excise Tax on vehicles purchased for short-term rentals that will be subject to the Gross Receipts Tax. The tax probably benefits the industry by lowering the initial capital outlay cost of purchasing new vehicles. This in turn, lowers the cost structure of the rental car industry allowing lower basic charges for vehicle rentals. Effectively, the tax burden of the Motor Vehicle Excise Tax is passed-on to the consumer through a tax on rental cars, rather than through a marginally higher rental charge.

The Leased Vehicle Surcharge was initially imposed with the thought of exporting the tax burden to tourists, who were assumed to be the predominate users of rental cars.

Administration and Compliance:
The Committee knows of no particular administrative or compliance issues in these areas of taxation.

Issues Considered:

ISSUE: Revenue Adequacy

Options for Decision:

Option 1 - No conclusion reached; issue requires additional study, but time available is not adequate to reach a conclusion.

Option 2 - Concluded that the taxes imposed currently fail the "adequacy" test in supporting the State General Fund, the Highway Infrastructure Fund and Local Governments Road Fund.

Option 3 - Concluded that the taxes imposed currently meet the "adequacy" test in supporting the State General Fund, the Highway Infrastructure Fund and Local Governments Road Fund. and no action recommended.

Option 4- Concluded that the taxes currently exceed the "adequacy" test in supporting the State General Fund, the Highway Infrastructure Fund and Local Governments Road Fund. and should be reduced.

ISSUE: General Tax Rate Modification

Options for Decision:

Option 1 - No conclusion reached; issue requires additional study, but time available is not adequate to reach a conclusion.

Option 2 - Concluded that the taxes imposed on rental vehicles, (Gross Receipts Tax, Leased Vehicle Tax and Leased Vehicle Surcharge, that can total around 18+%) is generally adequate and no increase is recommended.

Option 3 - Concluded that the taxes imposed on rental vehicles, (Gross Receipts Tax, Leased Vehicle Tax and Leased Vehicle Surcharge, that can total around 18+%) is generally inadequate and an increase to be determined is recommended.

Option 4 - Concluded that the taxes imposed on rental vehicles, (Gross Receipts Tax, Leased Vehicle Tax and Leased Vehicle Surcharge, that can total around 18+%) is generally too high and should be reduced.

The industry suggested that the Leased Vehicle Surcharge may impose an undue burden on state residents. The Leased Vehicle Surcharge was initially imposed with the thought of exporting the tax burden to tourists, who were assumed to be the predominate users of rental cars. In the case of "replacement car rentals" (rentals to replace a vehicle while it is being repaired), state residents are generally the users of those rental cars. Insurance companies cover the cost of replacement rentals at an agreed upon daily price, but the renter of the vehicle is generally required to pay the Leased Vehicle Surcharge. Since replacement rentals may often be required for an extended period of time, the surcharge may impose an annoying tax burden on residents who expected their insurance would cover the costs.

- Possibility A: Repeal of the Leased Vehicle Surcharge.
  Revenue from this $2 per day surcharge amounts to $6.1 million to $6.4 million for the State General Fund.

- Possibility B: Exemption from the Leased Vehicle Surcharge for certain rentals.
  An exemption from the surcharge should be provided for "replacement car rentals". "Replacement car rentals" could be defined as rentals extending for a period of 10 days or more, and might further be defined to be those rentals that are paid for by an auto insurance company on behalf of the person renting the vehicle.

VEHICLE REGISTRATION FEES

Background:
New Mexico Vehicle Registration Fees are generally low in comparison to other states. Of the 17 western states, New Mexico ranks 13th highest (5th lowest) in fees charged to register a typical vehicle. Further, in those 17 western states, 11 states impose annual value-based taxes on vehicles in lieu of a state or local personal property tax (AZ, CA, CO, KS, MT, NE, NV, OK, UT, WA, WY). The effective tax rates in those states range from 0.3% to 4.2% of the value of a vehicle, although most states are in the 1% to 2% range. Texas allows a local option property tax, but only a few jurisdictions choose to impose the tax. New Mexico does not impose any annual value-based taxes on vehicles.

Western States Vehicle Registration Fees

STATE	AUTOMOBILES			HEAVY SINGLE-UNIT TRUCKS	
	APPROXIMATE RANGE		FEE FOR TYPICAL VEHICLE	FEE FOR TYPICAL VEHICLES	
	FROM	TO		NON-FARM	FARM
Arizona	8.00	8.00	8.00	8.00	8.00
Oklahoma	20.00	90.00	100.25	100.00	35.00
North Dakota	36.00	90.00	60.00	116.00	116.00
Texas	40.80	58.80	50.80	180.07	95.19
Nevada	33.00	33.00	33.00	252.00	252.00
Washington	33.00	33.00	33.00	138.00	81.00
Oregon	30.00	30.00	30.00	190.00	60.00
South Dakota	21.00	40.00	30.00	49.00	49.00
Idaho	25.25	37.25	29.25	144.65	62.33
California	28.00	28.00	28.00	285.00	285.00
Kansas	27.25	37.25	27.25	132.25	42.25
Colorado	19.00	28.20	26.60	117.00	46.10
New Mexico	**23.00**	**42.00**	**23.00**	**129.00**	**86.00**
Utah	21.00	49.50	21.00	70.50	37.00
Nebraska	17.50	17.50	17.50	138.00	24.50
Montana	10.25	15.25	15.25	43.25	21.25
Wyoming	15.00	15.00	15.00	60.00	60.00
Average (excluding Arizona)	**25.00**	**40.30**	**33.74**	**134.05**	**84.54**

Note: NM light truck registration fees are $30 for 4,000 lb, $41 for 6,000 lbs, and $52 for 8,000 lbs.

Western States Imposing Annual Value-based Taxes on Vehicles

AZ	2.4%	MT	2% to 2.5%	UT	1.5%
CA	0.3% to 2%	NE	0.6% to 1.87%	WA	2.2% to 2.5%
CO	0.45% to 2.1%	NV	1.4%	WY	1.8%
KS	1.6% to 4.2%	OK	1.25%		

Method of assessment:
New Mexico Vehicle Registration Fees are imposed at a flat rate based on vehicle weight class and two categories based on the age of the vehicle. A one-year or two-year registration must be renewed upon expiration of the previous registration. New Mexico utilizes a "staggered" registration renewal system; that is, vehicles are registered for a 12 month or 24 month period, rather than renewing all vehicles at the same time each year. About 1.5 million to 1.6 million vehicles are registered in the state.

Illustration of NM Vehicle Registration Fees		
Passenger Vehicles:	**up to 5 years old**	**6 or more years old**
up to 2,000 lbs	$20.00	$16.00
2,001 lbs to 3,000 lbs	$29.00	$23.00
more than 3,000 lbs	$42.00	$34.00
Trucks and SUVs:	**up to 5 years old**	**6 or more years old**
up to 4,000 lbs	$30.00	$24.00
4,001 lbs to 6,000 lbs	$41.00	$32.80
6,001 lbs to 8,000 lbs	$52.00	$41.60
8,001 lbs to 10,000 lbs	$63.00	$50.40
10,001 lbs to 12,000 lbs	$74.00	$59.20
12,001 lbs to 14,000 lbs	$85.00	$68.00
14,001 lbs to 16,000 lbs	$96.00	$76.80
16,001 lbs to 18,000 lbs	$107.00	$85.60
18,001 lbs to 20,000 lbs	$118.00	$94.40
20,001 lbs to 22,000 lbs	$129.00	$103.20
22,001 lbs to 24,000 lbs	$140.00	$112.00
24,001 lbs to 26,000 lbs	$151.00	$120.80
26,001 lbs to 48,000 lbs	$88.50	$88.50
48,001 lbs and over	$129.50	$129.50
Note: Trucks in excess of 26,000 lbs are subject to the Weight-Distance Tax		

The overall effective rate of fees is about $38 per year, excluding the commercial vehicles registered under the International Registration Program (IRP). The current fees were last revised in 1987.

Vehicle registration fee revenue, amounting to about $55 million to $60 million per year is shared between the State Road Fund and local governments. The State Road Fund receives 66.541% or about $36 to $40 million per year. Local governments receive 25.422% to be used for road purposes (about $15 million per year), and an additional 8.037% that may be used for general purposes (about $5 million per year.

Equity:
Vehicle Registration Fees are generally viewed as a "benefits tax"; that is, those people paying the tax receive the benefit of the use of roads and highways on which the tax money is spent. Registration fees are not, however, a very accurate version of a benefits tax, since there is no accounting for the miles driven by each vehicle during a year. A vehicle driven 1,000 miles per year will pay as much as a vehicle driven 20,000 miles or more in a year. The registration fee schedule does take into account the weight of the vehicle, which provides for additional revenue to reflect the increased wear on the roads imposed heavier vehicles.

The low registration fees paid by the heaviest trucks (over 26,000 lbs) appropriately reflects that those trucks are subject to the Weight-Distance Tax which is imposed on the basis of weight and actual miles traveled in the state.

Administration and Compliance:
The Committee knows of no particular administrative or compliance problems associated with this revenue source.

Issues Considered:

ISSUE: Revenue Adequacy and Unit Tax Rate Maintenance

Options for Decision:

Option 1 - No conclusion reached; issue requires additional study, but time available is not adequate to reach a conclusion.

Option 2 - Committee concluded that the tax currently fails the "adequacy" test in supporting the required construction and maintenance of NM bridges and highways on the State system and for local governments.

Given the fact that many other states impose a value-based license fee or personal property tax on vehicles in addition to fixed annual vehicle registration fees, the possibilities presented below incorporate the assumption that any vehicle registration fee structure amounting to less than $100 per year on vehicles weighing 8,000 lbs or less would not be considered excessive in comparison to other states. Many states impose value-based taxes at rates in the 1% to 2% range.

Illustration of Other States' Value-based Vehicle Fees		
Vehicle Value	**Other States' Fees at 1% of value**	**Other States' Fees at 2% of value**
30,000	$300	$600
20,000	$200	$400
15,000	$150	$300
10,000	$100	$200
5,000	$50	$100
2,000	$20	$40

Note: The value-based fees shown above are in addition to the fixed fees imposed by other states as shown on previous pages (average of $34 per year).

- Possibility A: 50% increase in Vehicle Registration Fees.

Based on an analysis of inflation indices, the Department of Transportation suggested an increase of 50% could be justified to update the adequacy of fees to the levels that were in effect in 1987 when the fees were last adjusted.

Revenue:

Illustration of Revenue Impact from 50% increase in Registration Fees		
Affected Fund	**1st Year Impact ($ 000)**	**Full Year Impact ($ 000)**
State Road Fund	20,600	20,600
Local Government Road Funds	7,900	7,900
Local Government General Funds	2,500	2,500
TOTAL:	**31,000**	**31,000**

Fee Schedule (Tax Burden):

Illustration of 50% increase in Vehicle Registration Fees				
	Current Fees		**Increased Fees**	
Passenger Vehicles:	**up to 5 years old**	**6 or more years old**	**up to 5 years old**	**6 or more years old**
up to 2,000 lbs	$20.00	$16.00	$30.00	$24.00
2,001 lbs to 3,000 lbs	$29.00	$23.00	$43.50	$34.50
more than 3,000 lbs	$42.00	$34.00	$63.00	$51.00
Trucks and SUVs:	**up to 5 years old**	**6 or more years old**	**up to 5 years old**	**6 or more years old**
up to 4,000 lbs	$30.00	$24.00	$45.00	$36.00
4,001 lbs to 6,000 lbs	$41.00	$32.80	$61.50	$49.20
6,001 lbs to 8,000 lbs	$52.00	$41.60	$78.00	$62.40
8,001 lbs to 10,000 lbs	$63.00	$50.40	$94.50	$75.60
10,001 lbs to 12,000 lbs	$74.00	$59.20	$111.00	$88.80
12,001 lbs to 14,000 lbs	$85.00	$68.00	$127.50	$102.00
14,001 lbs to 16,000 lbs	$96.00	$76.80	$144.00	$115.20
16,001 lbs to 18,000 lbs	$107.00	$85.60	$160.50	$128.40
18,001 lbs to 20,000 lbs	$118.00	$94.40	$177.00	$141.60
20,001 lbs to 22,000 lbs	$129.00	$103.20	$193.50	$154.80
22,001 lbs to 24,000 lbs	$140.00	$112.00	$210.00	$168.00
24,001 lbs to 26,000 lbs	$151.00	$120.80	$226.50	$181.20
26,001 lbs to 48,000 lbs	$88.50	$88.50	$132.75	$132.75
48,001 lbs and over	$129.50	$129.50	$194.25	$194.25
Note: Trucks in excess of 26,000 lbs are subject to Weight-Distance Tax.				

- Possibility B: 75% increase in Vehicle Registration Fees.

Revenue:

Illustration of Revenue Impact from 75% increase in Registration Fees		
Affected Fund	**1st Year Impact ($ 000)**	**Full Year Impact ($ 000)**
State Road Fund	30,940	30,940
Local Government Road Funds	11,820	11,820
Local Government General Funds	3,740	3,740
TOTAL:	**46,500**	**46,500**

Fee Schedule (Tax Burden):

Illustration of 75% increase in Vehicle Registration Fees				
	Current Fees		**Increased Fees**	
Passenger Vehicles:	**up to 5 years old**	**6 or more years old**	**up to 5 years old**	**6 or more years old**
up to 2,000 lbs	$20.00	$16.00	$35.00	$28.00
2,001 lbs to 3,000 lbs	$29.00	$23.00	$50.75	$40.25
more than 3,000 lbs	$42.00	$34.00	$73.50	$59.50
Trucks and SUVs:	**up to 5 years old**	**6 or more years old**	**up to 5 years old**	**6 or more years old**
up to 4,000 lbs	$30.00	$24.00	$52.50	$42.00
4,001 lbs to 6,000 lbs	$41.00	$32.80	$71.75	$57.40
6,001 lbs to 8,000 lbs	$52.00	$41.60	$91.00	$72.80
8,001 lbs to 10,000 lbs	$63.00	$50.40	$110.25	$88.20
10,001 lbs to 12,000 lbs	$74.00	$59.20	$129.25	$103.60
12,001 lbs to 14,000 lbs	$85.00	$68.00	$148.75	$119.00
14,001 lbs to 16,000 lbs	$96.00	$76.80	$168.00	$134.40
16,001 lbs to 18,000 lbs	$107.00	$85.60	$187.25	$149.80
18,001 lbs to 20,000 lbs	$118.00	$94.40	$206.50	$165.20
20,001 lbs to 22,000 lbs	$129.00	$103.20	$225.75	$180.60
22,001 lbs to 24,000 lbs	$140.00	$112.00	$245.00	$196.00
24,001 lbs to 26,000 lbs	$151.00	$120.80	$264.25	$211.40
26,001 lbs to 48,000 lbs	$88.50	$88.50	$154.88	$154.88
48,001 lbs and over	$129.50	$129.50	$226.62	$226.62
Note: Trucks in excess of 26,000 lbs are subject to Weight-Distance Tax.				

- Possibility C: 100% increase in Vehicle Registration Fees.

Revenue:

Illustration of Revenue Impact from 100% increase in Registration Fees		
Affected Fund	**1st Year Impact ($ 000)**	**Full Year Impact ($ 000)**
State Road Fund	41,200	41,200
Local Government Road Funds	15,800	15,800
Local Government General Funds	5,000	5,000
TOTAL:	**62,000**	**62,000**

Fee Schedule (Tax Burden):

Illustration of 100% increase in Vehicle Registration Fees				
	Current Fees		**Increased Fees**	
Passenger Vehicles:	**up to 5 years old**	**6 or more years old**	**up to 5 years old**	**6 or more years old**
up to 2,000 lbs	$20.00	$16.00	$40.00	$32.00
2,001 lbs to 3,000 lbs	$29.00	$23.00	$58.00	$46.00
more than 3,000 lbs	$42.00	$34.00	$84.00	$68.00
Trucks and SUVs:	**up to 5 years old**	**6 or more years old**	**up to 5 years old**	**6 or more years old**
up to 4,000 lbs	$30.00	$24.00	$60.00	$48.00
4,001 lbs to 6,000 lbs	$41.00	$32.80	$82.00	$65.60
6,001 lbs to 8,000 lbs	$52.00	$41.60	$104.00	$83.20
8,001 lbs to 10,000 lbs	$63.00	$50.40	$126.00	$100.80
10,001 lbs to 12,000 lbs	$74.00	$59.20	$148.00	$118.40
12,001 lbs to 14,000 lbs	$85.00	$68.00	$170.00	$136.00
14,001 lbs to 16,000 lbs	$96.00	$76.80	$192.00	$153.60
16,001 lbs to 18,000 lbs	$107.00	$85.60	$214.00	$171.20
18,001 lbs to 20,000 lbs	$118.00	$94.40	$236.00	$188.80
20,001 lbs to 22,000 lbs	$129.00	$103.20	$258.00	$206.40
22,001 lbs to 24,000 lbs	$140.00	$112.00	$280.00	$224.00
24,001 lbs to 26,000 lbs	$151.00	$120.80	$302.00	$241.60
26,001 lbs to 48,000 lbs	$88.50	$88.50	$177.00	$177.00
48,001 lbs and over	$129.50	$129.50	$259.00	$259.00
Note: Trucks in excess of 26,000 lbs are subject to Weight-Distance Tax.				

- Possibility D: Impose an annual value-based tax on vehicles.

The fee structure and revenue impact of this option have not been estimated due to time constraints. If so directed, staff will prepare and analyze possibilities suggested by the Committee.

Option 3 - Concluded that the taxes imposed currently meet the "adequacy" test in supporting the required construction and maintenance of NM bridges and highways on the State system and for local governments, and no action is recommended.

TOBACCO TAX (Cigarette Tax and Tobacco Products Tax)

Background:
Most states impose excise taxes on cigarettes, chewing tobacco, cigars, snuff and other tobacco products. Most cigarette and tobacco taxes were adopted before 1950; only eight states have adopted these taxes since 1951. Cigarette and tobacco taxes provided about 2 percent of total state tax revenue in FY 2001. States may also impose sales or gross receipts tax on retail sales, but these revenues are included in sales tax figures instead of in excise tax figures. In New Mexico, revenues of approximately $17.9 million in FY 2002 represent about one-half of a percent of total state general fund. Total tax revenue from cigarette and tobacco taxes amounted to about $22.8 million in FY 2002.

Proponents of increasing tobacco taxes argue that such taxes improve the efficiency of the free market by including the social costs of smoking—public health care costs, for example—in the price of tobacco products. Opponents argue that smokers and tobacco users already pay their fair share of these costs, and that excise taxes are a highly regressive form of taxation that single out one class of citizens for punitive taxation.

Comparison with rates from other states:

Cigarette tax:
Tax rates on cigarettes range from $2.05 per pack in New Jersey (effective 7/1/2003) to 2.5 cents per pack in Virginia. The median rate in January 2003 was about 46 cents per pack. The tax rate in New Mexico, effective July 1, 2003, is $0.91 per pack. States adjoining New Mexico are as follows:

Arizona	$1.18 per pack	Colorado	$0.20 per pack	Oklahoma	$0.23 per pack
Texas	$0.41 per pack	Utah	$0.695 per pack		

The budget shortfalls experienced in some states in 2002 have spawned a new round of cigarette tax activity, with 20 states raising cigarette taxes for more than $3 billion dollars in estimated revenues. This was the largest net increase of any tax category in 2002, and the likelihood of more tax increases during 2003 is high.

Other Tobacco Taxes:
Forty-seven states also levy taxes on other tobacco products such as cigars, loose tobacco and smokeless tobacco. Kentucky, Pennsylvania and Virginia do not tax tobacco products other than cigarettes. Tobacco taxes usually are imposed as a percentage of the wholesale price, although this varies. In some state, the tax is based on the manufacturer's price or by weight or quantity. New Mexico and adjoining state cigar tax rates follow:

New Mexico	25% Product value (Manufacturer's or Wholesaler's price)
Arizona	$0.132 - $1.30/10 cigars
Colorado	20% Manufacturer's price
Oklahoma	40% Manufacturer's price (smoking tobacco)
Texas	$0.1 - $0.15/10 cigars
Utah	35% Manufacturer's price

New Mexico and adjoining states tobacco and snuff tax rates follow:

New Mexico	25% Product value (Manufacturer's or Wholesaler's price)
Arizona	$0.133/ounce
Colorado	20% Manufacturer's price
Oklahoma	30% Manufacturer's price (snuff and chewing tobacco)
	40% Manufacturer's price (smoking tobacco)
Texas	35.213% Manufacturer's price
Utah	35% Manufacturer's price

Method of assessment:
The excise tax is imposed on the privilege of selling, giving or consuming cigarettes and other tobacco products. The tax is imposed on each cigarette sold, given or consumed or the product value of cigars or other tobacco product sold. The state sells stamps to cigarette manufacturers or wholesalers and the stamps are affixed to cigarette packages.

The tobacco products tax is imposed on the first purchase of the product in the state, and so may be based either on the manufacturer's price or the out-of-state wholesaler's price. The tax is not reported separately for cigars, snuff or loose tobacco, so no information is available as to the tax imposed on different types of tobacco products.

Revenue from tobacco taxes (prior to the 2003 cigarette tax rate increase) were:

	FY2000 (1999-2000)	FY2001 (2000-2001)	FY2002 (2001-2002)
CIGARETTE TAX: Net Receipts	$20,513,108	$19,755,422	$19,223,585
Disbursements:			
State General Fund	$15,209,971	$14,578,184	$14,212,603
UNM Cancer Center	$964,207	$941,316	$911,088
NM Finance Authority	$1,446,310	$1,411,974	$1,366,631
Dedicated Health Research Fund	$0	$0	$0
County and Municipal Recreation Fund	$964,207	$941,316	$911,088
County and Municipal Cigarette Fund	$1,928,413	$1,882,632	$1,822,175
Total Disbursements	$20,513,108	$19,755,422	$19,223,585
TOBACCO PRODUCTS TAX: Net Receipts	$3,729,384	$3,843,946	$3,683,461
Disbursements:			
State General Fund	$3,729,384	$3,843,946	$3,683,461

Adequacy:
Cigarette taxes are not a stable source of revenue. Like other excise taxes, they are levied on a per-unit basis that does not automatically provide revenue growth in response to price increases. The decline in per capita cigarette consumption since 1970 and the failure of tax rates to keep pace with inflation have led to a significant decline in the share of state revenues attributable to cigarette taxes—from 4.8 percent of state tax revenue in 1970 to 2 percent in 2001. Since 2000, however, states have increasingly turned to cigarette taxes as a way of generating revenue. In five years, the median tax rate has increased from 31 cents per pack to 41 cents per pack. In New Mexico, the cigarette tax was increased from 15 cents per pack to be 21 cents per pack in FY1994, and was further increased to 91 cents per pack in FY2004.

Taxes on other tobacco goods generally are levied as a percentage of the product price. When the price goes up so does the tax revenue. However, at high tax rates, there is a significant incentive for consumers to shift to lower priced, an thus lower taxed, products. Additionally, other tobacco products make up a small share of total tobacco sales. In FY 2001, smokeless tobacco and cigars accounted only for 6 percent of total tobacco tax revenue, which only represented .001 percent of total state tax revenue.

A popular trend in recent years has been to earmark tobacco tax revenues for health-related programs. Even if tax rates go up, however, tobacco taxes are not a growth revenue source in the long run. Any program that relies on tobacco taxes is likely to see declining revenues in the future. New Mexico earmarks 44.06% of tobacco taxes to various entities including county and municipal recreation fund, county and municipal cigarette fund, UNM Cancer Center, NMFA, UNM Health Sciences Center, Department of Health, and the NMFA Credit Enhancement Account.

Equity:
Cigarette and tobacco taxes are highly regressive. In fact, recent studies show that those taxes are the most regressive of the major excise taxes, with households with incomes below $30,000 contributing about 47 percent of the total tobacco taxes paid. This is because low-income taxpayers statistically are more likely to use tobacco than are upper-income taxpayers. Also, unlike other goods that are subject to excise taxes, tobacco consumption is unlikely to vary significantly with income.

Tobacco tax proponents argue that the tax is equitable because it helps recoup some of the social costs of smoking that are not included in the market price of tobacco products. They contend that using taxes as a way to include public health costs in the price of tobacco products, actually leads to a more economically efficient market outcome by reducing consumption levels below the level they would be without taxes.

Tobacco taxes are deliberately designed to violate the principle of economic neutrality. Tobacco taxes single out specific products for high tax rates and influence consumer consumption choices.

Administration and Compliance:
States typically levy the cigarette tax at the wholesale level. Wholesalers are required to affix a tax stamp to each pack of cigarettes, proving that the tax has been paid. All states except Alaska, North Carolina, North Dakota and South Carolina have a tax stamp requirement. Hawaii, the last state to adopt one, did so in 2000. The small number of wholesalers minimizes direct administrative and compliance costs for the states. However, stamping is an expensive process and many states reimburse wholesalers for some of their costs of compliance by allowing them to retain an administrative fee.

In New Mexico, allocation of significant resources to administration and enforcement has been and continues to be a problem. Legislation has been introduced in past legislative sessions to address the perceived problem of contraband tobacco products. With the significantly large recent increase in the cigarette tax rate, there has been controversy as to whether the expected revenue gains will materialize, or whether tribal sales and bootlegging activity will significantly erode the expected revenue gain.

The tobacco products tax is paid by the wholesaler and levied on cigars, pipe tobacco and chewing tobacco at a percentage of the wholesale price. The varying size and composition of this wide range of tobacco products makes administrative compliance difficult. There is no requirement that non-cigarette tobacco products bear a tax stamp.

Competition:
Tobacco taxes vary greatly among the state making interstate competition and bootlegging an important issue, especially in states that share populated border areas. The proliferation of on-line sales has also exacerbated the problem of illegal cigarettes.

Added to these issues, the Supreme Court has ruled that states may not tax the sale of tobacco products sold to tribal members on an Indian reservation. However, sales on reservations to non-Indian customers are taxable. One difficulty for states is requiring Indian retailers to segregate sales to Indian and non-Indian customers. Some states, such as Arizona and Montana, have reached cooperative agreements with tribes that respect the legal exemptions for sales to tribal members and provide for voluntary tax collections from non-Indian customers.

New Mexico law provides an exemption under the cigarette tax for cigarettes sold "*to the governing body or to any tribal member licensed by the governing body of any Indian nation, tribe or pueblo for use or sale on that reservation or pueblo grant.*" Sales by tribal entities have been approximately 20 million packs per year, or about 20% of the cigarette taxable base of about 98 million packs.

CIGARETTE TAX

Issues Considered by Committee:

ISSUE: Revenue Adequacy

Options for Committee Decision:

Option 1 - No conclusion reached; issue requires additional study, but time available to the Committee is not adequate to reach a conclusion.

Option 2 - Committee concluded that the tax currently fails the "adequacy" test in supporting the General Fund, local governments and other programs such as the UNM Cancer Center. The possibility of additional tax increases on cigarettes should be explored and recommended.

Option 3 - Committee concluded that the current tax rate is probably adequate, but that the significant recent tax rate increase will likely result in increasing problems of tax "leakage". The assistance of tribal governments should be sought through government-to-government negotiations to address the issue of variations between the retail price of cigarettes within tribal boundaries and the prices in he rest of the state.

Option 4 - Committee concluded that the current tax rate is probably adequate, but that the significant recent tax rate increase will likely result in increasing problems of tax compliance. The legal incidence of the tax, along with reexamination of the current tribal exemption, should be considered given the context of the recently increased cigarette tax rate.

Option 5 - Committee concluded that the tax currently meets the "adequacy" test in supporting necessary programs and no action is recommended, particularly in view of the tax increase on cigarettes implemented by the 2003 Legislature.

ISSUE: Administrative Provisions

Options for Committee Decision:

Option 1 - No conclusion reached; issue requires additional study, but time available to the Committee is not adequate to reach a conclusion.

Option 2 - Committee concluded that the tax currently fails the "adequacy" test in regard to the County and Municipal Recreation Fund distribution. The amount of revenue distributed to cities and counties each month is often so small as to be less than useful to the recipient, and further imposes an unnecessary burden on state revenue distribution processes. The Committee concluded that the separate distribution to county and municipal recreation uses be combined with the distribution to city and county general funds.

Illustration of Revised Distribution to Local Governments (at FY2002 levels)			
Current Distribution	**FY2002 (2001-2002)**	**Revenue Impact**	**Proposed Distribution**
County and Municipal Recreation Fund	911,088	(911,088)	0
County and Municipal Cigarette Fund	1,822,175	911,088	2,733,263

Option 3 - Committee concluded that the current "tax stamp discount" allowance provided to taxpayers to defray the cost of affixing tax stamps is no longer appropriate and should be eliminated. The archaic provision has outlived its usefulness in the contemporary era of increased mechanization, concentration among fewer distributors, and a public policy of punitive taxation of tobacco products.

Elimination of the "tax stamp discount" would increase total cigarette revenue by about $900 thousand per year (preliminary committee staff estimate, not reviewed by TRD). The revenue gain would be shared by all revenue recipients in proportion to current shares of the tax.

Option 4 - Committee concluded that no action is necessary in regard to administrative provisions of the tax at this time.

TOBACCO PRODUCTS TAX

Issues Considered by Committee:

ISSUE: Revenue Adequacy

Options for Committee Decision:

Option 1 - No conclusion reached; issue requires additional study, but time available to the Committee is not adequate to reach a conclusion.

Option 2 - Committee concluded that the tax currently fails the "adequacy" test in supporting the General Fund. The possibility of a tax increase on non-cigarette tobacco products should be explored and recommended.

Option 3 - Committee concluded that the tax currently meets the "adequacy" test in supporting necessary programs and no action is recommended.

ISSUE: Tax Rate Equity on non-cigarette Tobacco Products

Given the recent large increase in the cigarette tax rate, it may be appropriate to examine the tobacco products tax rate and equalize the tax burden imposed on non-cigarette tobacco with the burden imposed on cigarettes.

Options for Committee Decision:

Option 1 - No conclusion reached; issue requires additional study, but time available to the Committee is not adequate to reach a conclusion.

Option 2 - Committee concluded that the tax rate on non-cigarette tobacco products is probably adequate, since the tax is a value-based tax rather than a unit-based tax. The tax will continue to grow and to approach parity with the tax imposed on cigarettes.

Option 3 - Committee concluded that the tax rate on non-cigarette tobacco products should be increased to a level equivalent to the current tax on cigarettes, even though the equivalency will not necessarily be maintained over time since one tax is unit-based and one tax is value-based.

Historically, tobacco products have been subject to a higher tax burden than have cigarettes. Taxation and Revenue Department staff report that the current cigarette tax rate is about 25% of retail value. Depending on the assumptions used in regard to the amount of retail mark-up, and the base price on which that mark-up applies, the tobacco products tax rate could be set at between 40% and 47% to achieve a tax rate equivalent to 25% on retail.

Wholesale Tax Rate Required to equal 25% on Retail		
Assumed Retail Mark-up	Mark-up Applies to Tax	Wholesale Tax Rate
20%	No	40
20%	Yes	43
25%	No	41.7
25%	Yes	45.5
28%	No	42.7
28%	Yes	47.2

- Possibility A: Increase tax on tobacco products other than cigarettes from 25% of product value to 40% of product value (this option assumes an average 20% retail mark-up, and that the retail mark-up is not applied to the amount of the tax).

  Given the variation in the type of product and price, it is difficult to illustrate the tax burden change on a typical consumer. The 60% tax burden increase would represent a 10% increase in overall price.

  The revenue gain to the state general fund would be about $2,250 thousand per year on a full year basis, and about $2,062 thousand in the first year.

- Possibility B: Increase tax on tobacco products other than cigarettes from 25% of product value to 45% of product value (this option assumes an average 25% retail mark-up, and that the retail mark-up is applied to the amount of the tax).

  Given the variation in the type of product and price, it is difficult to illustrate the tax burden change on a typical consumer. The 80% tax burden increase would represent a 16% increase in overall price.

  The revenue gain to the state general fund would be about $3,000 thousand per year on a full year basis, and about $2,750 thousand in the first year.

- Possibility C: Since the tobacco products tax is a value-based tax rather than a unit-based tax, the tax will continue to grow and approach parity with the tax rate imposed on cigarettes. An increase in tax on tobacco products other than cigarettes from 25% of product value to 35% of product value will facilitate catching-up with the cigarette tax while not surpassing the level of the cigarette tax in subsequent years.

  Given the variation in the type of product and price, it is difficult to illustrate the tax burden change on a typical consumer. The 40% tax burden increase would represent an 8% increase in overall price.

  The revenue gain to the state general fund would be about $1,500 thousand per year on a full year basis, and about $1,375 thousand in the first year.

LIQUOR TAX

Background:
Most states have imposed excise taxes on alcoholic beverages since the 1930's. Alaska and Oklahoma, in 1959, were the last states to impose the tax.

States fall into two categories in the taxation of alcoholic beverages. Thirty-two states and the District of Columbia are license states that allow private retailers to sell liquor, beer and wind. For these states, revenues are generated exclusively through excise taxes that are imposed at the wholesale level. States also may impose sales taxes on retail sales, but these revenues are included in sales tax figures instead of in excise tax figures.

In the other states, government-owned stores sell liquor at retail, while licensed stores sell beer and wine at retail. State revenues are generated through a retail markup on liquor and through an excise tax on beer and wine. Markups in the control states are categorized as "other revenue" by the Census Bureau, while excise taxes are counted as taxes. This makes tax comparisons difficult between license and control states.

Alcoholic beverage taxes have fallen to minimal importance in the state revenue mix due to the effect of inflation, the growth in other revenue sources and decreasing consumption. Taxes on alcoholic beverages provided less than 1 percent of state tax collections in FY 2001, down from 3 percent in 1970 and a high of 7.7 percent in 1940.

In New Mexico, revenues from liquor excise taxes are approximately $38.8 million. Funds from liquor excise taxes are distributed 34.57% to the local driving while intoxicated grant program with 65.43% going to the general fund. Distributions to the general fund accounted for .6% of total general fund in FY 2002 down from 1.1% in 1994.

Excise taxes on alcohol are intended to discourage consumption by increasing prices to the consumer. Proponents argue that alcoholic beverage excise taxes improve the efficiency of the free market by including the social costs of drinking in the price of the product, while opponents argue that alcoholic beverage taxes are a highly regressive form of taxation.

Comparison with rates from other states:

In most states, alcoholic beverage taxes are imposed at proportionately higher rates on beverages with higher alcohol content. Most have separate tax rates for beer, wine, sparkling wine and spirits. Rates on beer range from 2 cents per gallon in Wyoming to $1.07 per gallon in Alaska. Wine and liquor tax rates display the same dramatic variations among states.

A comparison of New Mexico's rates with adjoining states follows:

<u>Distilled Spirits</u>:

New Mexico	$6.06/gallon	plus gross receipts taxes
Arizona	$3.00/gallon	plus sales taxes
Colorado	$2.28/gallon	plus sales taxes
Oklahoma	$5.56/gallon	plus sales taxes
Texas	$2.40/gallon	plus sales taxes plus 14% on-premise
Utah	Government controlled plus sales taxes	

Wine:

New Mexico	$1.70/gallon	plus gross receipts taxes
Arizona	$0.84/gallon	plus sales taxes
Colorado	$0.32/gallon	plus sales taxes
Oklahoma	$0.72/gallon	plus sales taxes
Texas	$0.20/gallon	plus sales taxes plus 14% on-premise
Utah	Government controlled plus sales taxes	

Beer:

New Mexico	$0.41/gallon	plus gross receipts taxes
Arizona	$0.16/gallon	plus sales taxes
Colorado	$0.08/gallon	plus sales taxes
Oklahoma	$0.40/gallon	plus sales taxes
Texas	$0.19/gallon	plus sales taxes plus 14% on-premise
Utah	$0.35/gallon	plus sales taxes, over 3.2% alcohol content sold at state stores

Method of Assessment:
The excise tax is imposed on any wholesaler who sells or distributes alcoholic beverages. The tax is reported and paid monthly to the taxation and revenue department.

Adequacy:
Collections from alcoholic beverage taxes have been declining relative to other state taxes for two primary reasons. First, unlike sales taxes, per-unit taxes fail to generate additional revenue when prices increase. Rates must be increased legislatively simply to keep revenues on par with inflation and economic growth, and lawmakers have not been inclined to adopt significant increases in alcoholic beverages taxes during the last decade. Second, nationally per capita consumption of alcoholic beverages has been stable or declining for the last two decades. This declining consumption further erodes the productivity of the tax.

In New Mexico, however, liquor excise taxes last received a rate adjustment in 1995 and have remained relatively stable since then. Taxable volumes have increased minutely since 1995 and beer consumption has risen. Per capita, New Mexicans have approximately 50 “drinks” of wine, 140 “drinks” of spirits, and 300 “drinks” of beer in FY 2002.

Equity:
Alcoholic beverage taxes are regressive. Lower-income households pay a larger share of their incomes in taxes than do higher-income households, assuming the same level of consumption. Price elasticity estimates show that beer consumption is the least responsive to price changes, while wine consumption is most responsive. This suggests that beer taxes may have the least effect on reducing consumption and, therefore, would most affect low-income beer consumers. Excise taxes also tend to impose higher tax burdens on low-income taxpayers because they are levied at flat rates, instead of on the sales price. Taxpayers pay the same excise tax on a $100 bottle of wine as on a $5 bottle.

Alcoholic beverage tax proponents argue that the taxes are equitable because they help recoup some of the social costs of drinking that otherwise are not included in the price. They further contend that including these social costs in the price of alcoholic beverages reduces consumption and leads to a more economically optimal level of consumption. However, there is no agreed upon methodology for social cost accounting, nor any movement to apply social cost tax adjustments consistently for products thought to have social costs. For these reasons, some economists find social cost studies more interesting than useful in guiding public policy. Additionally, a growing body of evidence is establishing that there may be certain health benefits to moderate consumption of alcohol.

Proponents of high taxes on alcoholic beverages sometimes argue that liquor excise taxes be viewed as "user fees" that should be dedicated to alcoholism treatment and anti-DWI initiatives. It is probably true that a minority of the people (heavy drinkers) pay a majority of the tax, but on the other hand, a majority of the people (light and moderate drinkers) tend not to require alcoholism treatment and anti-DWI services. To view the liquor tax as a "user fee" probably has some degree of merit, but it stretches the concept of a "user fee" a bit far from a strict tax policy perspective.

Administration and Compliance:
Excise taxes typically are levied on the manufacturer, distributor or importer of alcoholic beverages. States have been shifting from a payment system that requires sellers to affix tax stamps to each bottle of liquor to a report system that allows sellers to remit taxes based upon reported sales. The report system significantly reduces compliance costs for businesses but may increase the likelihood of tax evasion. From the state perspective, administrative costs are relatively low because the tax is collected monthly from a limited number of wholesalers, importers and distributors instead of from a large number of retailers. In state allowing sales only through state-operated stores, retail markups (tax levels) are determined by state liquor control agencies.

Interstate and International Competition:
Although differentials in state tax rates can be significant, the weight and volume of alcoholic beverages as well as state regulations on direct shipping of alcohol make large-scale smuggling much more difficult than for tobacco products. However, states that have significantly higher prices than neighboring states, with higher taxes contributing to the price differential may experience reduced sales at border locations. In addition, once consumers make the choice to purchase alcohol in a neighboring state, it is possible that other goods will be purchased as well and the economic loss will be spread beyond lost alcoholic beverage sales.

New Mexico is one of many states that allow shipments of alcohol from other states to individual consumers. This method of purchase circumvents all state liquor taxes and gross receipts taxes. The volume and extent of this practice is not known, but has been assumed to be of limited significance to overall revenue levels. From the standpoint of equitable taxation of consumers, and to assure a level playing field for domestic businesses, the issue of "mail order" liquor sales may be of some concern.

Accountability:
Alcoholic beverage excise taxes and markups are embedded in the price of products sold at retail. Although most taxpayers are aware that taxes are levied, the exact amount of the sales price that represents taxes is not known to most consumers. Therefore, alcoholic beverage taxes do not score well on the principle of accountability.

LIQUOR EXCISE TAX

Issues Considered by Committee:

ISSUE: Revenue Adequacy and Tax Rate Equity between Types of Alcoholic Beverages

Options for Committee Decision:

Option 1 - No conclusion reached; issue requires additional study, but time available to the Committee is not adequate to reach a conclusion.

Option 2 - Committee concluded that the tax currently fails the "adequacy" test in supporting the General Fund and the DWI Grant Fund. The possibility of a tax increase should be explored and recommended.

NOTE: New Mexico is a high tax state in regard to alcoholic beverages, in a relatively low tax region of the country. Although a comparison is presented comparing tax rate proposals to the high tax states, compliance (bootlegging) issues may arise with all but the most modest of revenue raising proposals (see regional tax rate comparisons presented in the Liquor Tax Overview).

Each "Revenue Increase" amount shown in the following illustrations could be directed to any specified use. It is assumed the State General Fund and DWI Grant Fund would maintain current funding levels, and the Commission would direct the additional revenue to specific recipients.

- Possibility A: 10% increase in current tax rates.

Illustration of 10% increase in current tax rates					
	Proposed Tax Rate Beer (gallons) Wine/Spirits (liters)	**Tax Per Drink (equiv alc)** Beer - 12 oz., Wine - 5 oz. Spirits - 1.5 oz.	**Tax as % of price** (approximate)	**Total Revenue**	**Revenue Increase**
Beer	$0.45	$0.042	6.25%	$22,414,906	$2,037,719
Wine	$0.50	$0.073	7.88%	$5,276,438	$479,676
Spirits	$1.76	$0.078	12.46%	$13,916,178	$1,265,107
TOTAL				$41,607,522	**$3,782,502**

Proposed NM Tax Rate per Gallon: Beer: $0.45 Wine: $1.89 Spirits: $6.66

New Mexico would have the highest tax rate on spirits of any state.

Illustration of Highest and Average State Tax Rates (tax per gallon)						
Beer	$1.07 – AK	$1.05 – AL	$0.92 - HI	$0.77 - SC	$0.53 - NC	$0.185 - Average
Wine	$2.25 – FL	$1.75 – IA	$1.70 - AL	**$1.70 - NM**	$1.51 – GA & VA	$0.60 - Average
Spirits	$6.50 – FL	$6.44 – NY	**$6.06 - NM**	$5.92 - HI	$5.60 – AK	$3.30 - Average

- Possibility B: 25% increase in current tax rates.

Illustration of 25% increase in current tax rates					
	Proposed Tax Rate Beer (gallons) Wine/Spirits (liters)	**Tax Per Drink (equiv alc)** Beer - 12 oz., Wine - 5 oz. Spirits - 1.5 oz.	**Tax as % of price** (approximate)	**Total Revenue**	**Revenue Increase**
Beer	$0.51	$0.048	7.11%	$25,471,485	$5,094,297
Wine	$0.56	$0.083	8.95%	$5,995,952	$1,199,190
Spirits	$2.00	$0.089	14.16%	$15,813,839	$3,162,768
TOTAL				$47,281,275	**$9,456,255**

Proposed NM Tax Rate per Gallon: Beer: $0.51 Wine: $2.12 Spirits: $7.57

New Mexico would have the highest tax rate on spirits of any state, and the second highest tax on wine.

Illustration of Highest and Average State Tax Rates (tax per gallon)						
Beer	$1.07 – AK	$1.05 – AL	$0.92 - HI	$0.77 - SC	$0.53 - NC	$0.185 - Average
Wine	$2.25 – FL	$1.75 – IA	$1.70 - AL	**$1.70 - NM**	$1.51 – GA & VA	$0.60 - Average
Spirits	$6.50 – FL	$6.44 – NY	**$6.06 - NM**	$5.92 - HI	$5.60 – AK	$3.30 - Average

- Possibility C: 50% increase in current tax rates.

Illustration of 50% increase in current tax rates					
	Proposed Tax Rate Beer (gallons) Wine/Spirits (liters)	**Tax Per Drink (equiv alc)** Beer - 12 oz., Wine - 5 oz. Spirits - 1.5 oz.	**Tax as % of price** (approximate)	**Total Revenue**	**Revenue Increase**
Beer	$0.62	$0.058	8.53%	$30,565,781	$10,188,594
Wine	$0.68	$0.100	10.74%	$7,195,142	$2,398,381
Spirits	$2.40	$0.106	16.99%	$18,976,607	$6,325,536
TOTAL				$56,737,530	**$18,912,510**

Proposed NM Tax Rate per Gallon: Beer: $0.62 Wine: $2.57 Spirits: $9.08

New Mexico would have the highest tax rate on spirits and wine of any state, and the fifth highest tax rate on beer.

Illustration of Highest and Average State Tax Rates (tax per gallon)						
Beer	$1.07 – AK	$1.05 – AL	$0.92 - HI	$0.77 - SC	$0.53 - NC	$0.185 – Average
Wine	$2.25 – FL	$1.75 – IA	$1.70 - AL	**$1.70 - NM**	$1.51 – GA & VA	$0.60 – Average
Spirits	$6.50 – FL	$6.44 – NY	**$6.06 - NM**	$5.92 - HI	$5.60 – AK	$3.30 – Average

- Possibility D: Increase the taxes on beer, wine and spirits to a rate of 7.5 cents per "drink" based on approximate alcohol content equivalency.

Illustration of 7.5 cents per "Drink" Tax Rates					
	Proposed Tax Rate Beer (gallons) Wine/Spirits (liters)	**Tax Per Drink (equiv alc)** Beer - 12 oz., Wine - 5 oz. Spirits - 1.5 oz.	**Tax as % of price** (approximate)	**Total Revenue**	**Revenue Increase**
Beer	$0.80	$0.075	11.09%	$38,946,440	$18,569,253
Wine	$0.51	$0.075	8.07%	$5,388,793	$592,031
Spirits	$1.69	$0.075	11.97%	$13,315,607	$664,536
TOTAL				$57,650,840	**$19,825,820**

Proposed NM Tax Rate per Gallon: Beer: $0.80 Wine: $1.93 Spirits: $6.40

New Mexico would have the third highest tax rate on spirits, the second highest on wine, and the fourth highest tax rate on beer.

Illustration of Highest and Average State Tax Rates (tax per gallon)						
Beer	$1.07 – AK	$1.05 – AL	$0.92 - HI	$0.77 - SC	$0.53 - NC	$0.185 – Average
Wine	$2.25 – FL	$1.75 – IA	$1.70 - AL	**$1.70 - NM**	$1.51 – GA & VA	$0.60 – Average
Spirits	$6.50 – FL	$6.44 – NY	**$6.06 - NM**	$5.92 - HI	$5.60 – AK	$3.30 – Average

- Possibility E: Increase the taxes on beer, wine and spirits to a rate of 10 cents per "drink" based on approximate alcohol content equivalency.

Illustration of 10 cents per "Drink" Tax Rates					
	Proposed Tax Rate Beer (gallons) Wine/Spirits (liters)	**Tax Per Drink (equiv alc)** Beer - 12 oz., Wine - 5 oz. Spirits - 1.5 oz.	**Tax as % of price** (approximate)	**Total Revenue**	**Revenue Increase**
Beer	$1.07	$0.100	14.79%	$51,186,547	$30,809,359
Wine	$0.68	$0.100	10.76%	$7,112,662	$2,315,900
Spirits	$2.25	$0.100	15.96%	$17,306,928	$4,655,857
TOTAL				$75,606,136	**$37,781,116**

Proposed NM Tax Rate per Gallon: Beer: $1.07 Wine: $2.57 Spirits: $8.52

New Mexico would have the highest tax rate on <u>all alcoholic beverages</u> of any state.

Illustration of Highest and Average State Tax Rates (tax per gallon)						
Beer	$1.07 – AK	$1.05 – AL	$0.92 - HI	$0.77 - SC	$0.53 - NC	$0.185 – Average
Wine	$2.25 – FL	$1.75 – IA	$1.70 - AL	**$1.70 - NM**	$1.51 – GA & VA	$0.60 – Average
Spirits	$6.50 – FL	$6.44 – NY	**$6.06 - NM**	$5.92 - HI	$5.60 – AK	$3.30 – Average

- Possibility F: Double the current tax rates (100% increase).

Illustration of 100% increase in current tax rates					
	Proposed Tax Rate Beer (gallons) Wine/Spirits (liters)	**Tax Per Drink (equiv alc)** Beer - 12 oz., Wine - 5 oz. Spirits - 1.5 oz.	**Tax as % of price** (approximate)	**Total Revenue**	**Revenue Increase**
Beer	$0.82	$0.077	11.37%	$39,877,318	$19,500,131
Wine	$0.90	$0.133	14.32%	$9,337,146	$4,540,385
Spirits	$3.20	$0.142	22.65%	$23,500,202	$10,849,131
TOTAL				$72,714,666	**$34,889,646**

Proposed NM Tax Rate per Gallon: Beer: $0.82 Wine: $3.41 Spirits: $12.11

New Mexico would have by far the highest tax rate on spirits and wine. This would likely result in tax compliance (bootlegging) problems, particularly for spirits.

New Mexico would have the fourth highest tax rate on beer.

Illustration of Highest and Average State Tax Rates (tax per gallon)						
Beer	$1.07 – AK	$1.05 – AL	$0.92 - HI	$0.77 - SC	$0.53 - NC	$0.185 – Average
Wine	$2.25 – FL	$1.75 – IA	$1.70 - AL	**$1.70 - NM**	$1.51 – GA & VA	$0.60 – Average
Spirits	$6.50 – FL	$6.44 – NY	**$6.06 - NM**	$5.92 - HI	$5.60 – AK	$3.30 – Average

<u>Option 3</u> - Committee concluded that the tax currently meets the "adequacy" test overall, but that increased funding should be provided to a specific use at the expense of other recipients of liquor tax revenue.

Illustration of Liquor Tax Revenue Distribution					
	FY1999	**FY2000**	**FY2001**	**FY2002**	**FY2003**
	(actual)	**(actual)**	**(actual)**	**(actual)**	**(approx.)**
Revenue Distribution %:					
State General Fund	72.80%	72.80%	72.12%	65.43%	65.43%
DWI Grant Fund	27.20%	27.20%	27.88%	34.57%	34.57%
Tax Disbursements:					
State General Fund	26,062,395	26,752,424	26,687,231	24,688,474	25,383,904
DWI Grant Fund	9,735,599	9,995,407	10,316,770	13,044,181	13,411,611
Total Disbursements	**35,797,994**	**36,747,831**	**37,004,001**	**37,732,655**	**38,795,515**

- Possibility A: The Committee recommends the share of revenue directed to the ____________________ fund be revised to be _________ percent.

Option 4 - Committee concluded that a need exists to provide additional funding to local governments to address issues related to the consumption of alcohol.

- Possibility A: Expansion of the Local Option Liquor Tax

The current "Local Liquor Excise Tax" (Section 7-24-8 through7-24-16 NMSA 1978) is a tax of up to 5% of the retail sales price of alcoholic beverages, and may only be imposed in McKinley County. McKinley County's tax has been in existence for about 13 years and currently raises about $805 thousand per year. The revenue is dedicated to funding "*educational programs and prevention and treatment of alcoholism and drug abuse within the county and for no other purpose.*" Imposition of the tax requires approval by the voters.

Legislative initiatives to expand the tax to all counties have been introduced in recent years, but have been unsuccessful. The Taxation and Revenue Department reports that expansion of this tax to all counties would impose an extreme administrative burden on the Department, and argues that similar results could obtained in a much more efficient manner through an increase in the state Liquor Excise Tax, and a formula distribution to the counties (see Possibility B, below).

Illustration of 5% Local Liquor Tax Revenue

County	Pop. & GRT weighting	FY2003-2004 (5% Tax Rate) Allocated by Pop. & GRT	3% TRD Admin Fee	Net County Revenue
BERNALILLO	32.69%	7,419,215	222,576	7,196,639
CATRON	0.10%	22,274	668	21,605
CHAVES	3.45%	782,756	23,483	759,274
CIBOLA	1.43%	324,558	9,737	314,821
COLFAX	0.83%	188,795	5,664	183,131
CURRY	2.48%	563,203	16,896	546,307
DE BACA	0.13%	29,698	891	28,807
DONA ANA	8.06%	1,829,614	54,888	1,774,725
EDDY	3.17%	719,118	21,574	697,544
GRANT	1.72%	391,378	11,741	379,637
GUADALUPE	0.28%	62,578	1,877	60,701
HARDING	0.04%	9,546	286	9,259
HIDALGO	0.51%	115,610	3,468	112,142
LEA	3.15%	715,936	21,478	694,458
LINCOLN	1.32%	300,163	9,005	291,158
LOS ALAMOS	1.26%	285,314	8,559	276,754
LUNA	1.10%	249,252	7,478	241,774
MCKINLEY	3.79%	860,184	25,806	**834,378**
MORA	0.20%	45,608	1,368	44,240
OTERO	2.76%	625,781	18,773	607,007
QUAY	0.65%	148,490	4,455	144,036
RIO ARRIBA	1.84%	416,834	12,505	404,329
ROOSEVELT	0.95%	215,311	6,459	208,852
SANDOVAL	3.88%	880,336	26,410	853,926
SAN JUAN	6.15%	1,396,870	41,906	1,354,964
SAN MIGUEL	1.52%	345,770	10,373	335,397
SANTA FE	8.79%	1,995,074	59,852	1,935,222
SIERRA	0.74%	167,582	5,027	162,555
SOCORRO	0.87%	197,280	5,918	191,362
TAOS	2.05%	465,623	13,969	451,655
TORRANCE	0.73%	166,521	4,996	161,526
UNION	0.24%	54,093	1,623	52,470
VALENCIA	3.11%	705,329	21,160	684,169
TOTAL	**100.00%**	**22,695,693**	**680,871**	**22,014,822**

The Taxation and Revenue Department's latest estimate of the retail value of alcoholic beverages (the tax base) is about $440 million per year. McKinley County's actual revenue was $805 thousand in FY2002.

- Possibility B: Rather than imposing the burden of an additional tax system on businesses and TRD, a portion of increased state Liquor Excise Tax revenue (see Option 2, above) should be directed to local governments under a formula-driven distribution. This option might include a repeal of the current "Local Liquor Excise Tax Act".

Illustration of $22 million Revenue Sharing with Counties

County	Pop. & GRT weighting	Net County Revenue
BERNALILLO	32.69%	7,196,639
CATRON	0.10%	21,605
CHAVES	3.45%	759,274
CIBOLA	1.43%	314,821
COLFAX	0.83%	183,131
CURRY	2.48%	546,307
DE BACA	0.13%	28,807
DONA ANA	8.06%	1,774,725
EDDY	3.17%	697,544
GRANT	1.72%	379,637
GUADALUPE	0.28%	60,701
HARDING	0.04%	9,259
HIDALGO	0.51%	112,142
LEA	3.15%	694,458
LINCOLN	1.32%	291,158
LOS ALAMOS	1.26%	276,754
LUNA	1.10%	241,774
MCKINLEY	3.79%	834,378
MORA	0.20%	44,240
OTERO	2.76%	607,007
QUAY	0.65%	144,036
RIO ARRIBA	1.84%	404,329
ROOSEVELT	0.95%	208,852
SANDOVAL	3.88%	853,926
SAN JUAN	6.15%	1,354,964
SAN MIGUEL	1.52%	335,397
SANTA FE	8.79%	1,935,222
SIERRA	0.74%	162,555
SOCORRO	0.87%	191,362
TAOS	2.05%	451,655
TORRANCE	0.73%	161,526
UNION	0.24%	52,470
VALENCIA	3.11%	684,169
TOTAL	**100.00%**	**22,014,822**

Option 5 - Committee concluded that the tax currently meets the "adequacy" test in supporting necessary programs and no action is recommended.

ISSUE: Administration

Option 1 - Committee concluded that an inequity and a compliance issue exists in regard to consumers obtaining alcoholic beverages from sources outside New Mexico.

- Possibility A: The Taxation and Revenue Department and the Regulation and Licensing Department's Alcohol and Gaming Division be requested to prepare recommended legislation for the 2004 regular session of the Legislature, relating to consumer purchases of untaxed alcoholic beverages from outside the state. In the event it is determined that no compliance option is feasible, a report detailing those findings should be presented to the Revenue Stabilization and Tax Policy Committee and the Legislative Finance Committee.

INSURANCE PREMIUM TAX

Background:
A premium tax of 3% of gross premiums is assessed to all insurance companies – including HMO's and bail bondsmen – with policies in force in New Mexico. Gross premiums include membership and policy fees on contracts covering risks within the state, reduced by return premiums and by premiums received for reinsurance on New Mexico risks. Payment of the premium tax, as well as other licenses and fees in the Insurance Code, are in lieu of all other taxes imposed by the state or its subdivisions, excepting only property taxes and income taxes on agents and solicitors. The insurance department collected approximately $98 million in premium taxes and $12 million in licenses and fees during fiscal year 2003.

The insurance premiums tax was first imposed, at a rate of 2 percent of gross premiums, as a substitute for all other taxes on insurance companies in 1909. In 1955, a reduced rate of 0.5 percent was introduced to benefit companies with 50 percent of admitted assets invested in New Mexico ("domestic" companies). Tax rates for both "domestic" and "foreign" companies were raised over time until finally equalized in July, 1993 at 3 percent. Specific exemptions apply to insurance purchased by the state.

Comparison with other states:
The Department of Insurance provided direct comparisons of insurance premium tax with neighboring states. According to the insurance department, New Mexico has the third highest premium tax rate and is equal with Mississippi and West Virginia. Surrounding state have the following insurance premium rates.

Arizona	2.000%	Colorado	2.000%
New Mexico	3.003%	Oklahoma	2.250%
Texas	1.600%	Utah	2.250%

A detailed comparison of other taxes assessed against the insurance industry has not been undertaken. Therefore, a complete burden analysis cannot be presented.

Method of assessment:
Insurance premium tax is collected by the Superintendent of Insurance with the Public Regulation commission. Tax returns for the calendar year are due on April 15 of the following year. Estimated tax is due on April 15, July 15, October 15 and January 15 with adjustments to actual occurring with the filing of the tax return by April 15. The insurance code provides that the amount paid must equal the prior year tax or must be equal to 80% of the tax liability for the current year.

Changing the reporting to a quarterly tax filing and reporting was discussed. Because of the practice of paying estimates, however, the additional administrative expense would probably out-weigh any acceleration of collection of the additional 20% of tax that may go unpaid until the return due date.

Adequacy:
Insurance premium taxes have been adopted by a majority of states as a surrogate for other forms of taxation. Rates are usually low in nominal terms but represent a significant component of total state and federal tax collections.

The bulk of the funds collected go to the General Fund, but receipts derived from property and vehicle insurance go to the Fire Protection fund. In addition, 10% of receipts derived from fees and taxes from life, general casualty and title insurance are transferred to the law enforcement protection fund.

Equity:
In New Mexico, the premium tax at 3 percent is well below the amount that would be collected if insurance premiums were subject to the gross receipts tax. Proponents for assessing the gross receipts tax argue that the insurance industry receives an unfair economic incentive not available to other industries because of the differential in the insurance premium tax and the gross receipts tax. Further, other businesses are discriminated against since the insurance industry is not subject to corporate income tax.

The insurance industry argues that it is the most highly regulated industry in the country. The insurance product is unlike any other. The product is a promise to pay the insured person if something bad happens to them unlike the purchase of goods or services. Because of this difference, it is taxed differently. Additionally, all costs associated with insurance are rolled into rate determinations and passed on to the consumers in New Mexico. If the industry were subject to gross receipts tax and local options, the rate determination would make New Mexico non-competitive to insurance companies currently doing business in the state.

The amount of gross receipts tax that would be collected on the insurance industry if enacted is unknown and would require further study. The assessment of gross receipts tax would entail a study of revenue sharing with local governments and a thorough look at double taxation of certain services.

A complication for this proposal is the existence in almost all states of "retaliatory taxes" on insurance companies. New Mexico has such a statute which provides that an insurer is subject o "additional fees or charges" whenever any "form or rate-filing fees in excess of those imposed by the laws of this state are charged to insurers in New Mexico doing business in another state or whenever any condition precedent to the right to issue policies in another state is imposed by the laws of that state over and above the conditions imposed upon insurers by the laws of New Mexico. In such cased, "the same form or rate-filing fees shall be imposed upon every insurer from every other state transacting or applying to transact business in New Mexico so long as the higher fees remain in force in the other state." Such statutes could lead to an increase in taxes on New Mexico-based companies on their operations in other states.

One unintended consequence of the current "in lieu of" language in the law is insurers engaged in other businesses exempt non-insurance revenues from taxation in situations where insurers provide third-party administration services and where hospitals are owned or operated by HMO's. Equity principles would argue that this preemption from taxation was not intended to cover non-insurance business.

Administration and Compliance:
The primary advantage of premium taxes appears to be administrative simplicity. Income taxation of insurance companies is a notoriously complex area of federal tax law. A separate subchapter of the Internal Revenue Code is dedicated to special rules applicable to income taxation of insurance companies. Were state to "piggyback" on federal income taxation of insurance companies, determining the appropriate allocation of income among the states would add to the complexity.

Since a significant portion of insurance company income is derived from investment income, allocation issues would be proportionately greater than for other, non-financial enterprises.

Premium taxes, in contrast, are based on an easily measured, and easily apportioned category of income. Insurance companies argue that this simplicity coupled with the low nominal rate have lead states to an over-reliance on premium taxes. Premium taxes in some states amount to several times the states corporate income tax that would be owed on federal taxable income at prevailing state tax rates.

The Insurance Department recommends a pilot program for dedicated funding be considered as a way to improve administration and compliance.

Competition:
As discussed in the equity section, the insurance premium tax creates, whether real or perceived, the perception of procedural inequities in the current tax system The industry believes that any additional costs would negatively affect individuals and businesses purchasing insurance products in New Mexico. This, in turn, would cause more people to be uninsured and more people to seek medical care through non-insured programs significantly impacting the medical industry. The insurance industry believes that a reduction in premium tax for companies who locate either a home office or a regional office in New Mexico and invest a certain percent of their assets in the states would encourage economic development in the state.

Issues Considered:

ISSUE: Revenue Adequacy

Options for Decision:

Option 1 - No conclusion reached; issue requires additional study, but time available is not adequate to reach a conclusion.

Option 2 - Concluded that the tax currently fails the "adequacy" test in supporting the General Fund and other programs.

Option 3 - Concluded that the tax currently meets the "adequacy" test in supporting the General Fund and necessary programs and no action recommended, in view of the current high level of tax as compared nationally.

ISSUE: General Tax Rate Modification

Options for Decision:

Option 1 - No conclusion reached; issue requires additional study, but time available is not adequate to reach a conclusion.

Option 2 - Concluded that the Insurance Premium Tax rate is generally adequate and that the preemption provision and the "in lieu of" provision of the Insurance Code continue to be valid concepts in the taxation of the industry. In addition, the insurance industry is subject to other fees and assessments in NM, such as assigned risk pools and other assessments.

Option 3- Concluded that the as an economic development incentive, an Insurance Premium Tax rate reduction should be offered to those companies who either locate a home office or a regional office in NM, and who invest a certain percentage of their assets in NM.

Option 4 - Concluded that the Insurance Premium Tax rate is generally inadequate and that the preemption provision and the "in lieu of" provision of the Insurance Code is not a valid concept. Repeal preemption provision and repeal Gross Receipts Tax exemptions. Apply both Gross Receipts Tax and Corporate Income Tax to the industry.

Option 5- Concluded that the Insurance Premium Tax rate is inadequate with respect to the health insurance sector. The concept is to increase the Premium Tax for the heath insurance sector, while at the same time eliminate the Gross receipts Tax on all medical services. This option would require detailed study.

- Possibility A: Implement a 4% Insurance Premium Tax for those companies who provide health insurance coverage, leave other insurance companies at the current 3% level. The Insurance Department says that about ½ of the premiums paid are for health insurance. At the same time, eliminate the Gross Receipts Tax on health care.

- Possibility B: Implement a 5% Insurance Premium Tax for those companies who provide health insurance coverage, leave other insurance companies at the current 3% level. The Insurance Department says that about ½ of the premiums paid are for health insurance. At the same time, eliminate the Gross Receipts Tax on health care.

ISSUE: Specific Tax Addition to Close Loophole-Third Party Administrators

Options for Decision:

Option 1 - No conclusion reached; issue requires additional study, but time available is not adequate to reach a conclusion.

Option 2 - Concluded that both insurance companies and private businesses providing administration of programs under contract to self insurers are not subject to the Insurance Premium Tax and it should be clear that they are subject to the Gross Receipts Tax and Corporate Income Tax statutes and the Preemption Clause under the Insurance Code should be clarified as to their taxability.

- Possibility A: Clarify statutes that the fees received by third party administrators are subject to the Gross Receipts Tax and Income Tax.

- Possibility B: Implement a "head tax" which applies on each employee covered for a year or portion of a year under a self insured program administered by a third party administrator in lieu of the Gross Receipts Tax and make it clear that the third party administrator. The "head tax" concept could also apply as a way to collect various assessments for risk pools and other fees regular insurance companies must pay.

ISSUE: Administration and Compliance

Recommendation by Insurance Superintendent for Dedicated Funding Pilot Program For Department

Options for Decision:

Option 1 - No conclusion reached; issue requires additional study, but time available is not adequate to reach a conclusion.

Option 2 - Committee concluded that NM should implement legislation to provide for a funding pilot program for the Department of Insurance, to sunset after 3 years.

Change reporting and payment of Premium Taxes to monthly rather that the quarterly basis currently used.

Options for Decision:

Option 1 - No conclusion reached; issue requires additional study, but time available is not adequate to reach a conclusion.

Option 2 - Concluded that NM should implement legislation to provide for a monthly reporting and payment of the Premium Tax.