F I S C A L   I M P A C T   R E P O R T

SPONSOR Ortiz y Pino **ORIGINAL DATE** 2/4/07 **LAST UPDATED** 3/05/07 **HB**

SHORT TITLE Working Families Tax Credit **SB** 317/aSCORC/aSFC/aSFL#1

ANALYST Francis/Schardin

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY07	FY08	FY09		
(22,750.0)	(106,345.0)	(77,263.0)	Recurring	General Fund
	(288.0)	(415.0)	Recurring	Local Government

(Parenthesis ( ) Indicate Revenue Decreases)

Relates to HB 236, HB 530, HB 785, HB 838, HB 839, SB 1, SB 265, SB 284, SB 291, SB 463, SB 477, SB 701, SB 785, SB 809, SB 1138

Conflicts with HB 23, HB 256, HB 524, SB 161, SB 326

SOURCES OF INFORMATION
LFC Files

Responses Received: Several agencies responded to the underlying bills that are related to the provisions amended here.

SUMMARY

Synopsis of Senate Floor Amendments

Accelerate Income Tax Rate Reductions: This provision accelerates the current phase-in of the personal income tax rate reductions. Under current law, the top personal income tax rate will be 5.3 percent in tax year 2007 and 4.9 percent in 2008. This bill would accelerate the schedule so the rate would be 4.9 percent in 2007 forward, a reduction of 0.4 percent in the top personal income tax rate in 2007.

Tax Rate Cut

Tax Year	Current Law	SB265
2006	5.3%	5.3%
2007	5.3%	4.9%
2008	4.9%	4.9%

Tuition Scholarship Tax Credit: The Senate Floor amendment would provide an income tax credit for contributions to private elementary and secondary schools in New Mexico. Credits totaling up to $500 would be allowed in any tax year for contributions to organizations who provide scholarships for non-governmental primary and secondary schools. At least 75 percent of the scholarships the organization provides must be for low-income students. These are referred to as "tuition scholarship tax credits" in the proposal. The credit would not be refundable. They would not be allowed if the associated donations are deducted against federal income tax obligations.

Agricultural Water Conservation Tax Credits: The Senate Floor amendment allows a taxpayer to claim a credit against personal or corporate income tax liability of incurred expenses up to $10,000 for eligible improvements that conserve water used in agriculture. The taxpayer must own or lease the water right for the land, file an NM tax return, not be a dependent of another taxpayer and does not take the credit for both personal and corporate income tax. The credit is 35 percent of eligible expenditures in FY08, 55 percent of eligible expenditures in FY09 and 75 percent in FY10.

An eligible improvement is one made after January 1, 2008, is consistent with a water conservation plan approved by the local soil and water conservation district, and designed to conserve water on farm, ranch or timber land. Co-owners of the land can receive pro-rata shares of the credit and the credit can be carried forward for five years if it exceeds the liability in the current year.

Renewable Energy Production Tax Credits: The Senate Floor amendment changes the existing renewable energy production credit in the corporate income tax act and includes the credit in the income tax act. The existing credit of one cent per kilowatt hour (kWh) of electricity produced by renewable energy sources is limited to wind and biomass energy sources while a new more expansive credit is allowed for electricity produced by solar energy sources. The solar credit is a staged credit as follows:

Phase-in of solar credit

Year of Production	Credit per kWh	
1	$	0.015
2	$	0.020
3	$	0.025
4	$	0.030
5	$	0.035
6	$	0.040
7	$	0.035
8	$	0.030
9	$	0.025
10	$	0.020

The solar credit is allowed for the first 200,000 megawatt hours (mWh) and for only ten years of qualified electricity generation.

The amendment also expands the definition of biomass to match the definition used for the gross receipts tax and lowers the size of electric generating plant to 1 megawatt (MW) from the current

10 MW. The bill sets the total eligible electricity generated by all plants at 2 million mWh plus an additional 500 thousand mWh for solar power. The Energy Minerals and Natural Resources Department (EMNRD) must approve the credit before the Taxation and Revenue Department (TRD) will accept it.

For credits awarded prior to October 1, 2007, there is a five year carry-forward if the credit amount exceeds the tax liability. Credits awarded on or after October 1, 2007, are refundable to the taxpayers meaning the excess above the tax liability is refunded.

The effective date is January 1, 2008.

Armed Services Income Tax Exemption: The Senate Floor amendment exempts income earned from active duty service from the state personal income tax. The effective date is January 1, 2007 so would apply for tax year 2007.

Sustainable Building Tax Credit: The Senate Floor amendment allows a new credit under both the Income Tax Act and the Corporate Income and Franchise Act for the construction or renovation of a commercial building or the construction of a residential building following "sustainable" guidelines as established by the US green building council, Homebuilders of NM, or the Environmental Protection Agency for manufactured housing. The guidelines, referred to as LEED for "leadership in energy and environmental design," have different levels of compliance and the credit is scaled accordingly.

New Table of Credit Amounts

Commercial	First 10,000 sq ft	10,001 to 50,000 sq ft	50,001 to 500,000 sq ft
LEED NC Silver	$3.50	$1.75	$0.70
LEED NC Gold	4.75	2.00	1.00
LEED NC Platinum	6.25	3.25	2.00
LEED EB/CS Silver	2.50	1.25	0.50
LEED EB/CS Gold	3.35	1.40	0.70
LEED EB/CS Platinum	4.40	2.30	1.40
LEED CI Silver	1.40	0.70	0.30
LEED CI Gold	1.90	0.80	0.40
LEED CI Platinum	2.50	1.30	0.80

Residential	First 2,000 sq ft	2,001 + sq ft
Build Green NM Gold	$4.50	$2.00
LEED H Silver	5.00	2.50
LEED H Gold	6.85	3.40
LEED H Platinum	9.00	4.45
EPA Energy Star	$3 up to 3,000 sq ft	

A taxpayer, who is the owner of the building certified according to LEED standards and for which a credit has not previously been claimed, would apply to the Energy Minerals and Natural Resources Department (EMNRD) to validate the credit. EMNRD issues a certificate that can be transferred through sale, exchange or other means to another taxpayer. The taxpayer holding the certificate can claim the credit against tax liability over four years if the credit amount exceeds $25,000 in 25 percent increments. If the credit value is less than $25,000, the taxpayer can claim all of it in the taxable year the certificate was issued. If the credit exceeds liability in either case, the taxpayer can carry the credit forward for up to seven years.

The credit can be claimed for certification of either commercial or residential buildings. EMNRD can only issue an aggregate of $11.25 million in credits per year, $5 million for commercial buildings, $5 million for residential buildings and $1.25 million for manufactured housing. A solar thermal or photovoltaic system can be claimed as part of sustainable building if a solar market development credit has not been and will not be claimed.

The credit is allowable for tax years 2007 through 2013.

Home Schooling Income Tax Deduction: The Senate Floor amendment provides a credit against personal income tax liability of $175 for expenses attributable to tutoring or home schooling. The credit is allowed for taxpayers whose dependent attended a public school and was also tutored on a subject included in the public school curriculum, whose dependent was home schooled, and whose dependent was or would have been claimed as a dependent on the resident's federal income tax return.

The effective date is January 1, 2007, and so is applicable to the 2007 tax year.

Rural Health Care Practitioner Tax Credit: The Senate Floor amendment provides a credit to a health care practitioner who has provided services in a rural health care underserved area. The credit is against personal income tax liability and can be carried forward for three years if the credit exceeds tax liability. The maximum allowable credit for a physician, dentist, osteopathic physician, clinical psychologist, podiatrist or optometrist is $5,000. The maximum allowable credit for dental hygienists, physician assistants, certified nurse-midwives, certified registered nurse anesthetists, certified nurse practitioners or clinical nurse specialists is $3,000.

To qualify for the full credit, a practitioner must have provided health care for 2,080 hours at a practice site in an approved area. If the practitioner provided health care for at least 1,040 hours, the practitioner is eligible for 50 percent of the credit. The Department of Health will determine whether the practitioner's application qualifies for the credit and will issue a certificate to the Taxation and Revenue Department.

The credit is effective for tax years beginning with 2007.

Space Program Gross Receipts: The provision allows receipts from the provision of research, development, testing and evaluation services for the U.S. Air Force operationally responsive space program to be deducted from gross receipts. That program is authorized pursuant to 10 U.S.C. 2273a.

The effective date of these provisions will be July 1, 2007.

Border Zone Gross Receipts: The provision extends the sunset of an existing gross receipts tax deduction for the receipts of a trade-support company that locates within twenty miles of a port of entry on New Mexico's border with Mexico. For the purposes of this deduction, a trade-support company is defined as a customs brokerage firm or a freight forwarder. To be eligible for the deduction, receipts must be received within five years of the trade-support company's establishment in New Mexico and the company must employ at least two people in New Mexico.

Currently, the deduction applies to companies locating near a port of entry between July 1, 2003 and July 1, 2008, but the bill would allow companies locating near a New Mexico port of entry before July 1, 2013 to qualify for the deduction.

Aircraft Manufacturing Gross Receipts: This provision expands an existing deduction for receipts of an aircraft manufacturer from selling aircraft to include receipts from an aircraft manufacturer's affiliate from selling aircraft parts, components, flight support, pilot training, or maintenance training services.

An affiliate is defined as a business entity that is directly or indirectly controlled by an aircraft manufacturer. Flight support is defined as providing navigation data, charts, weather information, online maintenance records and other aircraft or flight-related information and the software needed to access such information. An aircraft manufacturer is defined as a business entity that designs and builds FAA certified private or commercial aircraft. Control of a business is defined to mean at least 50 percent of total voting power and at least 50 percent of equity in the business.

The effective date of these provisions will be July 1, 2007.

For Profit Hospital Gross Receipts: The provision creates a gross receipts tax credit for hospitals licensed by the Department of Health (for-profit hospitals). The credit equals roughly 20 percent of the state gross receipts tax rate in FY08, 40 percent in FY09, 60 percent in FY10, 80 percent in FY11, and the entire state gross receipts tax rate in FY12 and beyond.

The bill will be applicable to tax reporting periods after July 1, 2007.

Military Transition Gross Receipts: This provision creates a new gross receipts tax deduction for receipts from military construction services provided at New Mexico military installations to implement special operations mission transition projects pursuant to contracts with the U.S. Department of Defense. The deduction will only apply to reporting periods between July 1, 2007 and December 31, 2010.

The effective date of these provisions will be July 1, 2007.

Disabled Street Vendor Gross Receipts: This provision creates a gross receipts tax exemption for the receipts from sale of goods by a disabled street vendor. For the purposes of the provision, a person qualifies as disabled if they are blind, permanently disabled with medical improvement not expected pursuant to 42 USCA 421 for the purposes of the federal Social Security Act, or permanently and totally disabled pursuant to the state Workers' Compensation Act.

A street vendor is defined as a person licensed by a local government to sell tangible personal property by newly setting up a sales site daily or selling from a movable cart, blanket, or other device.

The effective date of these provisions will be July 1, 2007.

Small Business Laboratory Partnership Gross Receipts: The provision expands the existing laboratory partnership with small business tax credit. It increases the credit that a national laboratory can claim against its gross receipts tax liability for assistance to each small business in Bernalillo County from $5 to $10 thousand per year, and increases the credit that a national laboratory can claim for assistance to each small business outside of Bernalillo County from $10 to $20 thousand per year. The total amount of credits that can be claimed by a national laboratory is increased from $1.8 to $2.4 million per year.

National laboratories claiming this credit will be required to submit a joint annual report to the Taxation and Revenue Department (TRD), the Economic Development Department (EDD), and the appropriate legislative interim committee by October 15 of each year. The report will summarize program results, describe projects funded, provide results of surveys of small businesses that received assistance, quantify the total amount of credits claimed, and include an economic impact study of jobs created and retained.

If more than one national lab claims the credit, those labs will be required to coordinate their efforts.

The provision also expands eligibility requirements for claiming the laboratory partnership with small business tax credit. To be eligible for the credit, the national laboratory providing small business assistance will be required to 1) offer each small business receiving assistance the option of obtaining ownership of license to property developed through the assistance; 2) acknowledge that the small business assistance is rendered once it is completed; and 3) provide forms for small business assistance requests and for completion of small business assistance that are in accordance with state and federal laws.

The effective date of these provisions is July 1, 2007.

Increase Tobacco Products Tax: The provision increases the excise tax on tobacco products other than cigarettes from 25 percent to 40 percent.

The effective date of these provisions is July 1, 2007.

Tax Incentives for Certain Health Insurers: The provision amends sections of the Insurance Code to provide an increased premium tax credit for health insurers who pay assessments to the New Mexico Medical Insurance Pool (NMMIP). Currently, health insurers who pay these assessments get a credit equal to 30% - 50% of the amount paid. The provision increases those credits to 50% of the assessed amount for most members and 75% of the assessed amount attributable to Pool policy holders that receive premiums through the federal Ryan White CARE Act, the Ted R. Montoya hemophilia program at the University of New Mexico health sciences center, the Children's Medical Services bureau of the Public Health Division of the Department of Health or other programs receive state funding or assistance.

The effective date of these provisions is July 1, 2007.

Synopsis of Original Bill

Working Families Tax Credit:
The Senate Finance Committee amended Senate Bill 317 clarifying that only NM residents can claim the credit. The amendment also deletes a section referring to married filing separate filers which was unnecessary as the federal earned income credit excludes this filing category.

Synopsis of SCORC Amendment. The Senate Corporation and Transportation Committee amended Senate Bill 317 to allow those taxpayers claiming the Low-Income Comprehensive Tax Rebate (LICTR) to also claim the Working Families Tax Credit and change the percentage of the federal credit from 10 percent to 7.5 percent.

Synopsis of Original Bill. Senate Bill 317 creates a new personal income tax credit called the "Working Families Tax Credit" (WFTC) that is calculated as 10 percent of the federal Earned Income Credit (EIC). The credit is refundable, meaning if the credit exceeds the taxpayer's liability, the excess is refunded to the taxpayer. SB 317 also amends the low-income comprehensive tax rebate (LICTR) to make a taxpayer ineligible for LICTR if the taxpayer receives the WFTC. SB 317 also explicitly excludes credits provided in the Income Tax Act from the calculation of modified gross income.

The effective date is January 1, 2007.

FISCAL IMPLICATIONS

Title	FY07	FY08	FY09		
HOSPITAL GROSS RECEIPTS CREDIT	-	(3,097)	(6,637)	Recurring	General Fund
AIRCRAFT MANUFACTURER GROSS RECEIPTS	-	(158)	(238)	Recurring	General Fund
	-	(106)	(158)	Recurring	Local Government
BORDER ZONE TRADE SUPPORT GROSS RECEIPTS	-	-	-	Recurring	General Fund
MILITARY MISSION TRANSITION GROSS RECEIPTS	-	(273)	(364)	Recurring	General Fund
	-	(182)	(243)	Recurring	Local Government
SPACE PROGRAM GROSS RECEIPTS	-	-	(20)	Recurring	General Fund
	-	-	(13)	Recurring	Local Government
DISABLED STREET VENDOR SALES GROSS RECEIPTS	*	*	*	Recurring	General Fund
	*	*	*	Recurring	Local Government
RURAL HEALTH CARE PRACTITIONER TAX CREDIT	-	(3,400)	(3,400)	Recurring	General Fund
ACCELERATE INCOME TAX RATE REDUCTIONS	(19,800)	(46,200)	-	Recurring	General Fund
AGRICULTURAL WATER CONSERVATION TAX CREDITS	-	(2,993)	(7,695)	Recurring	General Fund
RENEWABLE ENERGY PRODUCTION TAX CREDITS	-	-	(4,225)	Recurring	General Fund
ARMED SERVICES INCOME TAX EXEMPTION	(2,950)	(11,990)	(10,400)	Recurring	General Fund
SUSTAINABLE BUILDING TAX CREDITS	-	(450)	(700)	Recurring	General Fund
HOME SCHOOLING INCOME TAX DEDUCTION	-	(1,225)	(1,225)	Recurring	General Fund
CERTAIN SCHOLARSHIP DONATION TAX CREDITS	-	(2,100)	(2,100)	Recurring	General Fund
NATIONAL LAB SMALL BUSINESS TAX CREDITS	-	(1,200)	(1,200)	Recurring	General Fund
TAX INCENTIVES FOR CERTAIN HEALTH INSURERS	-	(7,700)	(12,400)	Recurring	General Fund
INCREASE TOBACCO PRODUCTS TAX	-	1,541	1,525	Recurring	General Fund

Sub Total - Amendments	(22,750)	(79,245)	(49,079)	Recurring	General Fund
	-	(288)	(415)	Recurring	Local Government

WORKING FAMILIES TAX CREDIT	-	(27,100)	(28,184)	Recurring	General Fund

Grand Total	**(22,750)**	**(106,345)**	**(77,263)**	**Recurring**	**General Fund**
	-	**(288)**	**(415)**	**Recurring**	**Local Government**

Working Families Tax Credit: Enacting this credit would reduce general fund personal income tax revenue by $27.1 million per tax year based on $360 million in estimated federal EIC. Even though the credit is for tax year 2007, it is assumed that it will be claimed in the filing season in 2008 and so all of the impact is in FY08. In 2004, 199,552 New Mexican taxpayers received the federal EIC and 90 percent of the credits were in excess of liability.

Accelerate Income Tax Rate Reductions: Using a model provided by the Taxation and Revenue Department (TRD), the full year impact would be a $66 million reduction in personal income tax collections. Thirty percent of the impact, or $19.8 million, occurs in FY07 because the first quarter of 2007 personal income tax collections will have been at the current rates. In FY08, the impact is $46.2 million or 70 percent of the tax year impact. While this would reduce current estimates of recurring general fund revenues, the reduction is only for these two fiscal years and does not recur in the future.

Agricultural Water Conservation Tax Credits: In 2002, according to the Department of Agriculture, there were 15,000 farms in New Mexico that spent $17 million on irrigation or an average of $1,120 per farm. The credit allows for 75 percent of the eligible expenditures or $840 per farm phased-in over three years. The average tax liability for farmers, which includes both farm and non-farm income, is approximately $1,400 so it is assumed that all farms will qualify for $840 in tax credit. It is assumed that tax years are evenly split over fiscal years.

	TAX YEAR			
	2008	**2009**	**2010**	**2011**
Eligible Expenditures	1140	1140	1140	1140
% Credit	0.35	0.55	0.75	0.75
Credit Amount	399	627	855	855
# Returns	15000	15000	15000	15000
Tax Year Impact	5,985,000	9,405,000	12,825,000	12,825,000

	FY08	**FY09**	**FY10**	**FY10**
Fiscal Year Impact	2,992,500	7,695,000	11,115,000	12,825,000

Renewable Energy Production Tax Credits: According to the Taxation and Revenue Department (TRD), the provisions will reduce general fund revenue by about $8 million per year but growing as the industry develops. Under current law, the credit is expected to grow to $10 million by 2012. The credit is expected to be $25 million in 2012. The credit has a maximum for all electricity of 2 million mWh (or 2 billion kWh) plus an additional 500 thousand mWh. Using an effective 1 cent for the 2 million mWh, recognizing that wind will be the majority, and 3 cents for solar, the credit is limited to $35 million in any given year for both PIT and CIT. This cap increases if solar power is a greater part of the mix of renewable energy than wind.

Fiscal impacts by provision:

	Fiscal Year Impacts ($ thousands)				
	2008	**2009**	**2010**	**2011**	**2012**
Allow Credit against PIT		($2,800)	($2,300)	($2,500)	($2,700)
Refundable for new wind facilities		($1,425)	($1,650)	($2,180)	($2,620)
Refundable for new biomass facilities			($2,083)	($1,372)	($1,367)
Refundable for new solar at increasing rate			($1,778)	($2,416)	($3,799)
Total	$0	($4,225)	($7,811)	($8,468)	($10,486)

Assumptions:
New Wind facilities added at 30MWe per year
New Biomass: one 35 MWe facility in FY 2009
New Solar: 18 MWe in 2009, added 10 MWe per year thereafter.
Source: TRD

In tax year 2006, under current law, the renewable energy production tax credit (REPTC) totaled $1.7 million with an expectation that that would increase to approximately $8.5 million by 2012, mostly due to wind energy (table). Only ten percent of the approved credit is expected to be claimed in any given year and the remainder carried forward (for up to five years).

Under the proposal, which takes effect on January 1, 2008, TRD estimates that 50 percent of the existing approved credits will be claimed, primarily because they will now apply to the personal income tax credit as well as the corporate income tax and many of the businesses operate under partnerships where the PIT liability is higher than the CIT liability. This will dramatically increase the cost of the credit to the general fund for existing approved credits. For new facilities, the credit is refundable against tax liability so 100 percent of these facilities will claim the credit. The credit in 2012 is expected to almost reach $20 million, making the net impact in 2012, $11.4 million.

Armed Services Income Tax Exemption: Exempting active duty salaries from personal income tax would result in a $10 million reduction in personal income tax revenues going to the general fund. Since the tax year straddles two fiscal years, the FY07 impact is $3 million, reflecting 30 percent of the tax year and the FY08 impact is $12 million, which include 70 percent of tax year 2007 and 50 percent of tax year 2008.

According to TRD, the fiscal impact is based on approximately 7,000 active duty military in New Mexico earning an average $45,000 per year as well as an additional 3,000 active duty National Guard and army reserve members. The average tax relief to service members would be $1,350 and $133 for National Guard and army reserve members.

Sustainable Building Tax Credit: According to Taxation and Revenue Department (TRD), the fiscal impact would start out as a $450 thousand reduction in general fund revenues in FY08 and increase to over $3.3 million by FY13. This assumes an increasing amounts of eligible square footage over time (see table 2) and 50 percent of the credits actually being claimed, due to transferability. The average credit per square foot was assumed to be $250.

Assumed Total Eligible Square Footage: (Thousands of square feet)

Calendar year:	Commercial buildings:	Residential buildings:
2007	250	100
2008	375	150
2009	563	225
2010	844	338
2011	1,266	506
2012	1,898	759
2013	2,847	1,139

Source: TRD

Home Schooling Income Tax Deduction: The fiscal impact has been calculated without the benefit of Taxation and Revenue Department analysis. TRD input may change the fiscal impact upward or downward. Public Education Department (PED) has reported there are 7,000 home schooled students recognized by PED. The Senate Floor amendment provides a $175 per pupil credit that is refundable making the impact $1.3 million in FY08.

Rural Health Care Practitioner Tax Credit: TRD prepared the following fiscal impact analysis:

> Fiscal impacts were estimated using information provided by the New Mexico Department of Health and information from individual income tax returns. The Department of Health conducted an analysis of the number of physicians in each specialty with residences in rural underserved areas of the state. This analysis yielded an estimate of approximately 1,250 practitioners, approximately 900 of whom were physicians eligible for the $5,000 credit. Multiplying this population by the maximum credit amounts yields a potential revenue loss of $5.5 million. This impact was then adjusted downward to reflect the following considerations:
>
> (1) A 2003 report by the N.M. Health Policy Commission estimated that approximately 55 percent of the respondents to a survey of licensed practitioners were actively practicing medicine in New Mexico. A large percentage was practicing in other states and some were retired. A separate study by the Center for Health Workforce Studies estimated that only 52 percent of licensed physicians were actively practicing in the state.
>
> (2) Some of the practicing physicians living in rural areas may be practicing only pat-time in the rural area, thus they will receive the reduced tax credit.
>
> (3) A $3,000 tax credit could offset tax on about $60,000 of taxable income, equivalent to about $75,000 of total income. A $5,000 credit could completely offset tax on $100,000 of taxable and $125,000 of total income. Although many physicians are likely to make enough to fully utilize the credits, other practitioners are less likely to be able to do so.

These considerations warrant a downward adjustment of 50 percent or more. To be on the fiscally conservative side, the estimates in the table are adjusted down by approximately 40%.

Space Program Gross Receipts: According to EDD the operationally responsive space program currently consists of three part-time contractors who earn about $500 thousand per year in salaries and benefits. Assuming the program does not expand, taxed at the statewide rate of 6.6 percent, the bill would reduce gross receipts tax collections by about $33 thousand. About 60 percent of this revenue loss will accrue to the general fund and the other 40 percent will accrue to the local government in which the operationally responsive space program is located.

The amount and timing of this fiscal impact depends on if and when the operationally responsive space program locates in New Mexico. EDD believes that FY09 is the earliest time operations could begin. EDD reports that the fiscal impacts of this deduction will grow larger over time but cannot predict how much.

Border Zone Gross Receipts: TRD expects the fiscal impacts of this provision, beginning in FY09, to be minimal. However, LFC notes that construction of a large Union Pacific facility near Santa Teresa may lead more companies to claim this deduction in future years.

Aircraft Manufacturing Gross Receipts: Based on industry information and the Report 80, "Analysis of Gross Receipts by Standard Industrial Classification," TRD estimates taxable gross receipts for this new deduction will total about $4 million in FY08 and about $6 million thereafter. With a statewide average gross receipts tax of 6.6 percent, the provision will reduce gross receipts tax revenue by about $264 thousand in FY08. About 60 percent of this revenue loss will accrue to the general fund and the remaining 40 percent will accrue to local governments.

For Profit Hospital Gross Receipts: All of the state's for-profit hospitals are currently located within municipal areas, where the state tax rate is 3.775 percent. Therefore, the credit will eliminate the state gross receipts tax paid by for-profit hospitals once it is fully phased in. The bill does not apply to local option gross receipts taxes, so for-profit hospitals will still pay a little over 1 percent local gross receipts tax.

A New Mexico Hospital Association survey on hospital gross receipts indicates that for-profit hospitals paid gross receipts tax of $16.5 million in FY05 and $21.4 million in FY06, of which 60 percent went to the state and 40 percent went to local governments. Assuming that the impacted tax base will grow by 10 percent each year, the credit will reduce general fund revenue by about $3,096.9 thousand in FY08, $6,637.3 thousand in FY09, and $10,951.6 thousand in FY10, $16,062.4 thousand in FY11, and $22,085.7 thousand once it is fully phased-in in FY12.

Military Transition Gross Receipts: EDD estimates that construction projects at Cannon AFB eligible for the proposed deduction will cost $9.2 million in FFY08, $9.2 million in FFY09, and $15 million in FFY10. Taxed at a statewide rate of 6.6 percent, the deduction would reduce gross receipts tax revenue by $607.2 thousand in FFY08, $607.2 thousand in FFY09, and $990.0 thousand in FFY10. Translating those impacts into state fiscal years yields a revenue reduction of $455.4 thousand in FY08, $607.2 thousand in FY09, $758.1 thousand in FY10, and $247.5 thousand in FY11. About 60 percent of the revenue reduction will accrue to the general fund and the remaining 40 percent will accrue to local governments.

This estimate is uncertain because funding for these projects depends on the federal budget process; delay of these projects would lessen the bill's fiscal impact or shift the impact into the farther future.

Disabled Street Vendor Gross Receipts: LFC and TRD believe the fiscal impact of this provision will be small due to the limited number of disabled street vendors operating in New Mexico.

Small Business Laboratory Partnership Gross Receipts: Under current law, Sandia National Laboratories (SNL) and Los Alamos National Laboratory (LANL) are each eligible to claim $1.8 million per calendar year in credits (LANL became eligible for the credit in 2006 when its new contract made it liable for the gross receipts tax). By increasing the total amount of credits that each national laboratory can claim to $2.4 million per calendar year, the bill will reduce state gross receipts tax collections from each lab by $600 thousand per year, for a total of $1.2 million per year. The fiscal impact assumes that SNL will be able to reach the higher cap of $2.4 million in calendar year 2007, while LANL will not reach the cap until calendar year 2008.

Since this gross receipts tax credit can only be claimed against the state portion of gross receipts tax liability it has no impact on local governments.

Increase Tobacco Products Tax: Raising the tax rate on tobacco products will increase revenue collected but not by the full amount at current consumption due to elasticity effects. The elasticity on tobacco products is estimated to be -1.18 meaning that there is a negative response to a price increase. Combined with the increase in the tax, the net effect is to lower consumption of tobacco products by 18 percent, according to the Taxation and Revenue Department (TRD). The Department of Health (DOH) reports that this negative elasticity presented itself when the tax on cigarettes was raised:

> New Mexico’s increase in the cigarette tax from $0.21 to $0.91 per pack in 2003, which may have reduced cigarette smoking among youth, also carried the potential unintended consequence of increasing the use of smokeless and other tobacco products among youth. SB888 would decrease the price disparity between cigarettes and other tobacco products, thereby discouraging youth and adults from switching from cigarettes to other tobacco products.

Fiscal Impact with Elasticity Effect

	2008	2009
Base	$19,454	$19,259
Rate @ 25%	25%	25%
Tobacco Products Tax	$4,863	$4,815
Snuff is 85% of the Revenue	$16,535	$16,370
Average Price Per Can	2.50	2.50
Cans	6,614	6,548
Units After Elasticity Effect	5,443	5,389
New Base	$13,609	$13,473
Tax @ 40%	**$5,443**	**$5,389**
Cigars & Other	$2,918	$2,889
Average Price per Unit	$3.50	$3.50
Units		

Fiscal Impact with Elasticity Effect		
	834	825
Units After Elasticity Effect	686	679
New Base	2,402	2,378
Tax @ 40%	**$961**	**$951**
General Fund	**$6,404**	**$6,340**
New Revenue to General Fund	**$1,541**	**$1,525**

Source: TRD

Tax Incentives for Certain Health Insurers: Insurance premium taxes are collected by the Public Regulation Commission for the benefit of the general fund. Thus, premium tax credits reduce the amount of premium tax revenue to the general fund. NMMIP has projected future assessments to grow from more than $20 million in 2006 to $50 million in 2009.

Under current law, the 30 and 50 percent tax credits result in a $14.6 million revenue loss for the general fund for FY08. Under projections provided by NMMIP, the 50 and 75 percent tax credits proposed in this bill result in a $22.3 million general fund revenue loss – a $7.7 million difference.

Under current law, and assuming the same rate of growth in the 2008 assessment, the revenue impact of the 30 and 50 percent credits for FY09 is $32.5 million. The 50 and 75 percent tax credits proposed in this bill result in a $44.9 million general fund revenue loss – a $12.4 million difference.

The projections assume the same in growth rate in the tax credit for the 2008 assessment as in the 2007 assessment. This near doubling rate of growth is not expected in future years as the Pool reaches its saturation point.

SIGNIFICANT ISSUES

Working Families Tax Credit: Twenty states, including the District of Columbia, currently offer a state level EIC (Colorado's EIC is tied to their TABOR rules and so some years they do not allow the credit). The credit has proven to be a simple and efficient credit. It is also popular since it only goes to individuals and families with earned income. One of the key elements is the refundability of the credit: the taxpayer receives the full amount of the credit regardless of the tax liability. Twelve of the seventeen state EICs are refundable, according to research at the Institute on Taxation and Economic Policy. New York and Vermont have the most generous EICs allowing over 30 percent of the federal credit and making it refundable. Rhode Island has a 25 percent credit but it is not refundable which restricts its effectiveness.

TABLE 1: STATE EARNED INCOME TAX CREDITS BASED ON THE FEDERAL EITC			
State	**Percentage of Federal Credit (Tax Year 2006 Except as Noted)**	**Refundable**	**Workers Without Qualifying Children Eligible?**
Delaware	20%	No	Yes
District of Columbia	35%	Yes	Yes
Indiana[a]	6%	Yes	Yes
Illinois	5%	Yes	Yes
Iowa	6.5%	No	Yes
Kansas	15%	Yes	Yes
Maine	5%	No	Yes
Maryland[b]	20%	Yes	No
Massachusetts	15%	Yes	Yes
Michigan	10% (effective in 2008; to 20% in 2009)	Yes	Yes
Minnesota[c]	Average 33%	Yes	Yes
Nebraska	8%	Yes	Yes
New Jersey[d]	20%	Yes	No
New York[e, f]	30%	Yes	Yes
Oklahoma	5%	Yes	Yes
Oregon	5% (to 6% in 2008)	Yes	Yes
Rhode Island	25%	Partially[g]	Yes
Vermont	32%	Yes	Yes
Virginia	20%	No	Yes
Wisconsin	4% - one child 14% - two children 43% - three children	4% - one child 14% - two children 43% - three children	No

Notes: From 1999 to 2001, Colorado offered a 10% refundable EITC financed from required rebates under the state's "TABOR" amendment. Those rebates, and hence the EITC, were suspended beginning in 2002 due to lack of funds and again in 2005 as a result of a voter-approved five-year suspension of TABOR. Under current law, the EITC is projected to resume in 2010.

a Presently scheduled to expire in TY 2011.

b Maryland also offers a non-refundable EITC set at 50 percent of the federal credit. Taxpayers in effect may claim either the refundable credit or the non-refundable credit, but not both.

c Minnesota's credit for families with children, unlike the other credits shown in this table, is not expressly structured as a percentage of the federal credit. Depending on income level, the credit for families with children may range from 25 percent to 45 percent of the federal credit; taxpayers without children may receive a 25 percent credit.

d The New Jersey credit is available only to families with incomes below $20,000.

e The New York credit would be reduced automatically to the 1999 level of 20 percent should the federal government reduce New York's share of the TANF block grant.

f Beginning in 2006, New York also allows certain non-custodial parents who are making child support payments to claim an EITC that is the greater of 20 percent of the federal EITC that they would be eligible for with one qualifying child as a custodial parent or 250 percent of the federal EITC for taxpayers without qualifying children.

g Rhode Island made a very small portion of its EITC refundable effective in TY 2003. In 2006, the refundable portion was increased from 10 percent to 15 percent of the nonrefundable credit (i.e. 3.75 percent of the federal EITC).

Source: Economic Policy Institute (www.epi.org)

For a single or married taxpayer with no children, the cut-off for benefits is very low but for taxpayers with children, the benefit goes to many more. The federal EIC can only be claimed if someone is below the income cut-offs and

- has a valid social security number

- is not filing separately
- is a US citizen or resident alien
- does not have foreign income
- does not have more than $2,800 in investment income
- has some earned income.

Table one shows the cut-off and peak amounts and the maximum credit for each class of filer. For example, a married filer with one child and adjusted gross income of between $8,000 and $16,500 would receive the maximum federal credit of $2,747 (state credit = $275). The same filer with income over $34,001 in adjusted gross income would receive no federal credit and, thus, no state credit.

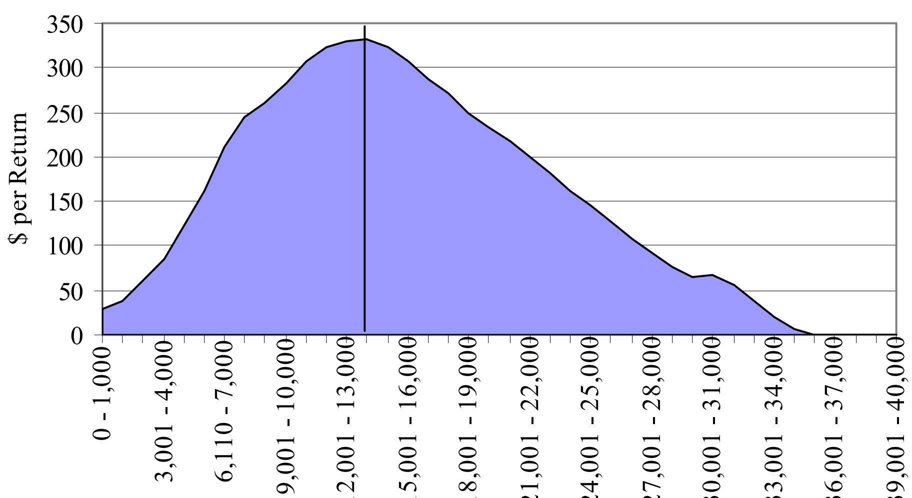
Table 1: Federal Income Cut-offs for Earned Income Credit

	Adjusted Gross Income			Maximum Credit
	Cut-off	Peak		
		Start	Finish	
Single				
No children	12,120	5,500	6,500	412
One child	32,001	8,500	14,500	2747
More than one child	36,348	11,500	14,500	4536
Married				
No children	14,120	5,500	8,500	412
One child	34,001	8,000	16,500	2747
More than one child	38,348	11,500	16,500	4536

Source: IRS 2006 Tax Year

For filers without children, they must be age 25 to 65, not a qualifying child or dependent of another person and must have lived in the United States for more than six months. For filers with children, the children must be younger than 19, younger than 25 if a full time student, or permanently disabled. The children also have to have lived with the filer for more than six months and cannot be claimed as a qualifying child or dependent of another person.

Figure Two: Working Families Tax Credit Phase-out



Source: TRD

One of the features of the EIC is that it phases-out at higher incomes. Figure two, which is based on 2005 data, shows the maximum average credit of about $325, which would be $3,250 for the federal EIC, is reached at an income level of $13,000. This is an average of all tax filers, whether single or not or childless or not.

Accelerate Income Tax Rate Reductions: In 2003, legislation was enacted lowering the top rate and collapsing the number of income brackets. In 2002, the top rate on taxable income over $100,000 for married filers and $65,000 for single filers was 8.2 percent. As a result of the 2003 legislation, by tax year 2007, the top rate would decrease to 4.9 percent and the top income bracket would begin at $24,000 in taxable income for married filers and $16,000 for single filers. In the 2005 session, the phase-in schedule for the top rate decrease was delayed until 2008 and the head-of-household filing status was merged with the married filing jointly status. The schedule was modified again in the 2005 special session as revenues came in stronger than expected. This bill restores the final phase-in year to 2007 rather than 2008. See table one for details about the changes to the personal income tax law over the last four years.

Proposed Rate Schedule

Taxable Income						
Married Filing Jointly, Surviving Spouses, Head of Household	Married Filing Separate	Single	2005	2006	2007	2008
<8000	<4000	<5500	1.7%	1.7%	1.7%	1.7%
8000-16000	4000-8000	5500-11000	3.2%	3.2%	3.2%	3.2%
16000-24000	8000-12000	11000-16000	4.7%	4.7%	4.7%	4.7%
24000+	12000+	16000+	**5.7%**	**5.3%**	**4.9%**	**4.9%**

Based on 2005 tax return data, a married filing jointly taxpayer reporting $24 thousand in taxable income has total adjusted gross income (AGI) of about $40 thousand. For singles reporting taxable income of $16 thousand, their AGI starts at $25 thousand. 311,000 taxpayers will receive the benefit of the lower rate, all of them above these AGI levels.

Tuition Scholarship Tax Credit: Organizations receiving the contributions must be exempt from federal taxation due to Section 501(c)(3) of the Internal Revenue Code, provide financial scholarships to students, and spend 100 percent of their tax-credit-qualifying revenues for scholarships at qualified schools. A qualified school is defined as "an accredited nongovernmental elementary or secondary school in New Mexico".

The tuition credit would be for contributions to an organization that provides scholarships for attendance at private schools, including religious schools. Whether state support of religious and private schools would pass a constitutional challenge is a significant issue. The Arizona credit faced such a challenge in 1998 and withstood it. PFAW also reports that 25 of the 35 organizations in Arizona set up to receive contributions provide tuition to religious schools.

According to an Arizona Department of Revenue report on the tuition credit, the largest single scholarship from one of the organization's set up to receive contributions went to a school for emotionally disabled children. The report which includes data on all schools that received scholarships from organizations shows that there were 345 private schools who received scholarships from organizations. The list includes mostly religious schools of all faiths. The report can be found at http://www.azdor.gov/ResearchStats/private_schl_credit_report_2006.pdf.

Agricultural Water Conservation Tax Credits: Farm income tax liability is generally low due to the nature of the industry and the tax treatment of agriculture both at the state level and the federal level. The average farm had a net income of $19,373 in 2002, according to the Department of Agriculture. Credits for expenditures such as irrigation equipment will have the effect of completely erasing tax liability in many cases.

Renewable Energy Production Tax Credits: Currently there is no significant electricity generation based on renewable sources other than wind power. TRD estimates that with this expanded credit, approximately 35 MW of biomass will come on line in 2009 and 18 MW of solar power will come on line in 2009 increasing by 10 MW per year. There is considerable interest in a large scale (at least 50MW) concentrating solar power plant somewhere in New Mexico due to the excellent solar resource here. A concentrating solar power plant or CSP plant is a field of solar mirrors that heat a liquid to high enough temperatures to create steam which turns a turbine. CSP was the subject of one of the renewable energy task forces that met in 2004. The full report can be found on EMNRD's website: http://www.emnrd.state.nm.us. [DISCLOSURE: The author of the economic impact section of the EMNRD study is the author of this FIR]

> Building a CSP plant, regardless of size, would have a positive economic impact and would increase the state's tax revenues. Creating a CSP manufacturing industry in New Mexico would add additional jobs and economic activity for the state.
> http://www.emnrd.state.nm.us/ecmd/ConcentratingSolarPower/documents/NMCSPFeasibilityStudy.doc

Making the credit refundable is probably the most significant factor in increasing the cost and increasing the application of the credit. Many of the power generation companies do not have significant tax liability in the initial years and so being able to use the whole credit right away should have a significant impact on the development of the industry. Lowering the allowed megawatts to 1 MW is another important factor as many smaller solar power plants, such as dish collector plants which concentrate solar rays on to photo-voltaic panels, will be able to take advantage of the credit. Allowing the credit against PIT is another important feature as many companies are partnerships or configurations other than corporations and so do not file corporate income tax.

The study cited above mentions "tax appetite" and recommends a refundable credit such as this one:

> Tax reduction incentives can be very effective for improving the cost competitiveness of CSP projects. A variety of tax incentives are currently used at the state and federal level to induce investment in alternative energy generation technologies. The effectiveness of tax incentives is often limited by "tax appetite" limitations. These limitations can be avoided if tax incentives are transferable or refundable. Tax incentives must also be constructed to avoid unfavorable interactions. Alternative financing structures are often developed to maximize tax benefits. Such structures include equity "flip" arrangements and sale/lease-back structures.

http://www.emnrd.state.nm.us/ecmd/ConcentratingSolarPower/documents/NMCSPFeasibilityStudy.doc

Sustainable Building Tax Credit: Transferability is an important feature of this bill and makes it a more effective credit by allowing start-ups and other entities that may not have sufficient tax liability to get immediate funds by trading or selling the credit. This is often how carbon or pollution taxes work. For example, if a small contractor commits to building sustainable buildings, it can claim the credit and sell it to a larger contractor who wants to offset its tax liability. There is no clear mechanism in the Senate Floor amendment to establish a clear and open market for these credits, such as an exchange similar to the Chicago Climate exchange.

It is important to note that the credit is not applicable to renovations of existing houses. The US Green Building Council, which established the LEED rating system, established the rating system to apply to new homes. However, as indicated in the bolded portion of the citation below, renovations may become part of the rating.

> "LEED for Homes was designed to assess and label newly constructed homes. It cannot be used to assess or label a portion of a home. Only a substantial or "gut" rehab project may be included in LEED for Homes **at this time.** Partially renovated homes cannot be rated under LEED for Homes." (bolding added) - *LEED for Homes Program Pilot Rating System, USGBC Jan 2007*

EMNRD:

SB 543 directly influences the impact of climate change and the reduction of greenhouse gas emissions through reduced fossil fuel consumption. By reducing the overall energy consumption in a building the cost-effectiveness of using onsite renewable energy increases. Most significantly, New Mexico lags behind other states in developing a robust supplier base for green building products, making it expensive to construct green buildings. This is a largely untapped opportunity for economic development.

The potential for economic benefit for New Mexico is great. New technology, product manufacturing and energy related specialty consulting businesses will be drawn to the state when a vibrant green building industry emerges.

The 2030ºChallenge, an initiative that includes the American Institute of Architects, reports data "from the U.S. Energy Information Administration illustrates that buildings are responsible for almost half (48%) of all greenhouse gas (GHG) emissions annually; globally the percentage is even greater. Seventy-six percent of all electricity generated in U.S. power plants goes to supply the 'Building Sector'. Immediate action in the Building Sector is essential if we are to avoid hazardous climate change."

Home Schooling Income Tax Deduction:

PED:

Under the Public School Code, "Home School" means the operation by a parent of a school-age person who instructs a home study program that provides a basic academic educational program, including reading, language arts, mathematics, social studies and science (Section 22-1-2E, NMSA, 1978). Section 22-1-2.1 NMSA, 1978 requires home school parents to: (1) notify the State Superintendent [Secretary of Education] in writing of the establishment of a home school; (2) maintain records of student immunization; and

(3) possess at least a high school diploma or its equivalent.

The burden of proof of home school establishment will be on the parent; however, since parents turn to the PED for verification of home schooling registration, this bill is likely to result in a significant increase in staff time needed to respond to home school requests, search the database and process the verification requests.

Rural Health Care Practitioner Tax Credit: Department of Health reports the Senate Floor amendment would establish a major new financial incentive for the recruitment and retention of health care practitioners in rural underserved areas. DOH also reports that thirty-one of New Mexico's thirty three counties are designated, entirely or partially, as primary medical care shortage areas by the Federal government.

Space Program Gross Receipts: The operationally responsive space program, which is part of the U.S. Department of Defense, will provide space launch and space reconnaissance capability within days to meet national security requirements. The program will consist of on-call space launch capability and satellites that can be configured quickly.

According to EDD, Kirtland Air Force Base is currently being considered as a location for the operationally responsive space program. EDD contends that if Kirtland AFB is chosen as the location of this program, state gross receipts tax revenues could rise by several million dollars.

Border Zone Gross Receipts: New Mexico's ports of entry that may benefit from this bill are located in Santa Teresa and Columbus.

EDD reports that as trade between Mexico and New Mexico grows so will the demand for trade support services. Customs brokers assist firms that trade internationally with necessary documentation. Currently, custom broker services are usually performed in El Paso instead of Santa Teresa. The additional time of stopping in El Paso before Santa Teresa may be a deterrent to trade in New Mexico.

EDD also reports that the deduction extended in this bill is currently being requested for the first time since it was enacted by a company moving to Santa Teresa. Another company, Juarez Customs Brokers' Association, is reportedly considering constructing a facility in Santa Teresa.

Aircraft Manufacturing Gross Receipts: According to EDD and Eclipse Aviation, this provision will help aviation manufacturing companies located in New Mexico competitively provide manufacturing services. New Mexico aircraft service providers compete with providers in other states that may not be subject to gross receipts or sales tax and that may have more convenient locations.

The language contained in this provision will benefit Eclipse Aviation's JetComplete program, which provides pilot and maintenance training, data services, flight support services, and aircraft repair and maintenance services on a fixed payment basis. Eclipse asserts that the deduction creates a favorable business climate for aircraft owners to have services performed in New Mexico instead of other out-of-state locations.

Eclipse currently plans to develop a national customer and product support headquarters in Albuquerque. This facility is expected to employ 77 workers at an average annual salary of $42.8

thousand and a median annual salary of $32 thousand.

For Profit Hospital Gross Receipts: Under current law, for-profit hospitals qualify for a 50 gross receipts tax deduction (Section 7-9-73.1 NMSA 1978). The bill effectively reduces the gross receipts tax paid by for-profit hospitals from 50 percent of the normal state rate to nothing once it is fully phased-in in FY12.

About half of New Mexico's hospitals are for-profit. For-profit hospitals compete with non-profit hospitals in New Mexico and hospitals in neighboring states that do not pay gross receipts tax. The New Mexico Hospital Association reports that this bill will remove a competitive disadvantage against New Mexico's for-profit hospitals.

According to the NMHA, rural hospitals have no choice but to absorb the costs of uncompensated care for patients who cannot pay. In addition, it is difficult for for-profit hospitals to pass gross receipts tax on to consumers because Medicare will not reimburse for it.

DOH believes removing the gross receipts tax from for-profit hospitals will make them more profitable and could allow them to provide enhanced services in New Mexico.

LFC notes that receipts of health practitioners have historically grown faster than receipts of other industries. Removing receipts from high-growth sectors from the gross receipts tax base makes it more difficult for tax revenue to keep pace with inflation.

Military Transition Gross Receipts: The gross receipts tax deduction created in this provision is targeted for construction projects at Cannon Air Force, which is located near Clovis, New Mexico. As a result of the Base Realignment and Closure (BRAC) recommendations, Cannon and the U.S. Department of Defense were directed to find a new mission for Cannon to prevent its closure. On June 20, 2006, it was announced that the base would transition to a special operations mission effective October 1, 2007. Cannon AFB's new special operations mission will require construction projects in FFY08 to FFY10.

Disabled Street Vendor Gross Receipts: The Division of Vocational Rehabilitation notes that since vendors are able to pass gross receipts tax on to their customers the provision does not provide tax relief to disabled vendors. However, it will relieve disabled street vendors of the responsibility to collect and pay the gross receipts tax.

Small Business Laboratory Partnership Gross Receipts: EDD reports that this credit has enabled SNL to help New Mexico businesses create 449 jobs with an average salary of $37 thousand per year over the last five years. According to TRD, this credit benefited 278 small businesses in 2004.

By doubling the cap on assistance a national laboratory may provide to each small business from $5 to $10 thousand in Bernalillo County and from $10 to $20 thousand in the rest of the state, the provision is likely to result in a smaller number of businesses receiving assistance, but those that do receive assistance will receive a larger amount.

Increase Tobacco Products Tax: Of the states that levy a tobacco tax based on value, the average tax 31 percent. The average for the states near NM is 41 percent. Table 2, compiled by Campaign for Tobacco-Free Kids shows all of the tax rates by type of non-cigarette tobacco.

State Tobacco Tax Rates

State	Smokeless & Chewing Tobacco Tax	Cigar Tax	Smoking Tobacco Tax	Snuff Tax
Alabama	1.5 cents/ounce	4.0 to 40.5 cents/10 cigars	4.0-6.0 cents/ounce	1.0-12.0 cents/ounce
Alaska	75% wholesale price	75% wholesale price	75% wholesale price	75% wholesale price
Arizona†	22.25 cents/ounce	20.25 to 218 cents/10 cigars	22.25 cents/ounce	22.25 cents/ounce
Arkansas	32% manufacturers price	32% manufacturers price	32% manufacturers price	32% manufacturers price
California*	54.89% wholesale price	54.89% wholesale price	54.89% wholesale price	54.89% wholesale price
Colorado	40% manufacturers price	40% manufacturers price	40% manufacturers price	40% manufacturers price
Connecticut	20% wholesale price	20% wholesale price	20% wholesale price	40 cents/ounce
Delaware	15% wholesale price	15% wholesale price	15% wholesale price	15% wholesale price
DC	12% retail price	12% but not on $2+ cigars	12% but not pipe tobacco	12% retail price
Florida	25% wholesale price	None	25% wholesale price	25% wholesale price
Georgia	10% wholesale price	2.5 cents/10 cigars; 23% wholesale	10% wholesale price	10% wholesale price
Hawaii	40% wholesale price	40% wholesale price	40% wholesale price	40% wholesale price
Idaho	40% wholesale price	40% wholesale price	40% wholesale price	40% wholesale price
Illinois	18% wholesale price	18% wholesale price	18% wholesale price	18% wholesale price
Indiana	18% wholesale price	18% wholesale price	18% wholesale price	18% wholesale price
Iowa	22% wholesale price	36 cents/cigar	22% wholesale price	22% wholesale price
Kansas	10% manufacturers price	10% manufacturers price	10% manufactures price	10% manufacturers price
Kentucky	7.5% wholesale price	7.5% wholesale price	7.5% wholesale price	9.5 cents/unit†
Louisiana	20% manufacturers price	8%-20% manufacturers price	33% manufacturers price	20% manufacturers price
Maine	78% wholesale price	20% wholesale price	20% wholesale price	78% wholesale price
Maryland	15% wholesale price	15% wholesale price	15% wholesale price	15% wholesale price
Massachusetts	90% wholesale price	30% wholesale price	30% wholesale price	90% wholesale price
Michigan	32% wholesale price	32% wholesale price	32% wholesale price	32% wholesale price
Minnesota	70% wholesale price	70% wholesale price	70% wholesale price	70% wholesale price
Mississippi	15% manufacturers price	15% manufacturers price	15% manufacturers price	15% manufacturers price
Missouri	10% manufacturers price	10% manufacturers price	10% manufacturers price	10% manufacturers price
Montana	50% wholesale price	50% wholesale price	50% wholesale price	85 cents/ounce
Nebraska	20% wholesale price	20% wholesale price	20% wholesale price	20% wholesale price
Nevada	30% wholesale price	30% wholesale price	30% wholesale price	30% wholesale price
New Hampshire	19% wholesale price	None	19% wholesale price	19% wholesale price
New Jersey	30% manufacturers price	30% manufacturers price	30% manufacturers price	75 cents/ounce
New Mexico	**25% manufacturers price**	**25% manufacturers price**	**25% manufacturers price**	**25% manufacturers price**
New York	37% wholesale price	37% wholesale price	37% wholesale price	37% wholesale price
North Carolina	3% wholesale price	3% wholesale price	3% wholesale price	3% wholesale price
North Dakota	16 cents/ounce	28% wholesale price	28% wholesale price	60 cents/ounce
Ohio	17% wholesale price	17% wholesale price	17% wholesale price	17% wholesale price
Oklahoma	60% manufacturers price	36 to 120 cents/10 cigars	80% manufacturers price	60% manufacturers price
Oregon	65% wholesale price	65% wholesale price	65% wholesale price	65% wholesale price
Pennsylvania	None	None	None	None
Rhode Island	40% wholesale price	40% wholesale price	40% wholesale price	100 cents/ounce
South Carolina	5% manufacturers price	5% manufacturers price	5% manufacturers price	5% manufacturers price
South Dakota	35% wholesale price	35% wholesale price	35% wholesale price	35% wholesale price
Tennessee	6.6% wholesale price	6.6% wholesale price	6.6% wholesale price	6.6% wholesale price
Texas	40% manufacturers price	1 to 15 cents/10 cigars	40% manufacturers	40% manufacturers
Utah	35% manufacturers price	35% manufacturers price	35% manufacturers price	35% manufacturers price
Vermont*	41% manufacturers price	41% manufacturers price	41% manufacturers price	$1.49/ounce
Virginia	10% manufacturers price	10% manufacturers price	10% manufacturers price	10% manufacturers price
Washington	75% taxable sales price	75% taxable sales price	75% taxable sales price	75% taxable sales price
West Virginia	7% wholesale price	7% wholesale price	7% wholesale price	7% wholesale price
Wisconsin	25% manufacturers price	25% manufacturers price	25% manufacturers price	25% manufacturers price
Wyoming	20% wholesale price	20% wholesale price	20% wholesale price	20% wholesale price
US Government	1.2 cents/ounce	$1.828 to $48.75/1000	7 cents/ounce	4 cents/ounce

†Effective 5/1/07. *Snuff changed from 41% of manufactures price to $1.49 per ounce on 7/1/06; will increase again to $1.69 on 7/1/08. States in bold type raised their non-cigarette taxes in 2002; states with cigarette tax rate in bold raised their cigarette tax rates since 1/1/02. Manufactures Price is the price charged to wholesalers/distributors by the tobacco company that makes the product. Wholesale Price is either the price charged to retailers by the wholesalers/distributors or, in some states, it is the same as the Manufactures Price. Check state statutes for details. Current price charged by the major cigarette manufacturers to wholesalers is approximately $2.28 per pack. Economic Resource Service, USDA, http://www.ers.usda.gov/Briefing/tobacco/Data/table9.pdf. New Jersey lowered its non-cigarette tax from 48% of wholesale price to 30% in 2002. Washington State lowered its non-cigarette tax from 129.42% to 75% in 2005.

Sources: Orzechowski & Walker, The Tax Burden on Tobacco, 2005; Federation of Tax Administrators, 2004, http://www.taxadmin.org; press reports; U.S. Bureau of Alcohol, Tobacco & Firearms, http://www.atf.treas.gov/alcohol/info/faq/subpages/atftaxes.htm. For more information on state tobacco taxes (and the benefits from increasing them), see the Campaign's website at http://tobaccofreekids.org/reports/prices.

Department of Health:

> About 8.5% of New Mexico youth report using smokeless tobacco (2005 NM Youth Risk & Resiliency Survey) compared to 3.2% of adults (2003 NM Adult Tobacco Survey). Passage of SB888 may help to eliminate this disparity by preventing youth initiation of tobacco products and encouraging cessation, as youth are more price-sensitive than adults.

Tax Incentives for Certain Health Insurers: The Medical Insurance Pool, established by Chapter 54 of the Insurance Code, is a non-profit corporation operating a high-risk health insurance pool. The premiums charged to members are not sufficient to cover the costs, and this shortfall is assessed to health insurance industry. Assessed insurers then receive a 30 percent premium tax credit for full premium plan losses and a 50 percent premium tax credit for reduced premium plan losses.

The Pool is projecting increases in the assessments that are being levied on the health insurance industry. The growth in these assessments is primarily the result of increased membership in the pool and expansion of the reduced premium plan, which is available to persons with low incomes. The projected growth is also from the executive's Insure New Mexico initiatives. Since the growth in assessments is primarily coming from the low-income subsidy and Insure New Mexico, this bill proposes that the cost be shifted to government away from the commercial insurance industry who otherwise would bear the brunt of the increase in assessments.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Working Families Tax Credit: HB436 is a related bill. Similar to SB317, SB 482 creates a State Earned Income Tax Credit of 10 percent of the federal EIC and SB482 also allows both the created credit and LICTR.
Accelerate Income Tax Rate Reductions: SB265 and HB788 duplicates this section.
Agricultural Water Conservation Tax Credits: SB291 is closely related to this section.
Renewable Energy Production Tax Credits: SB463 duplicates this section.
Armed Services Income Tax Exemption:

207	H	Cote	ARMED FORCES INCOME TAX EXEMPTION
368	H	Sandoval	ARMED SERVICE RETIREE INCOME TAX EXEMPTION
497	H	Foley	MILITARY RETIREMENT PAY TAX EXEMPTION
541	H	Anderson	ARMED FORCES INCOME TAX EXEMPTION
787	H	Foley	ARMED FORCES INCOME TAX EXEMPTION
43	S	Robinson	MILITARY PENSION INCOME TAX EXEMPTION
492	S	Carraro	ARMED SERVICES INCOME TAX EXEMPTION
493	S	Carraro	MILITARY PENSION INCOME TAX EXEMPTION

Sustainable Building Tax Credit: SB543 and HB534 are both closely related to this section.
Home Schooling Income Tax Deduction: SB781 is similar.
Rural Health Care Practitioner Tax Credit: SB1057 is similar.
Space Program Gross Receipts: This provision relates to Senate Bill 809 and House Bill 838.
Border Zone Gross Receipts: This provision relates to Senate Bill 701 and House Bill 785.
Aircraft Manufacturing Gross Receipts: This provision relates to Senate Bill 477 and House Bill 530. It conflicts with House Bill 256, which amends the same section to create a gross receipts tax deduction for belowground irrigation systems.
For Profit Hospital Gross Receipts: This provision conflicts with House Bill 524, Senate Bill

326, House Bill 23, and Senate Bill 161.
Military Transition Gross Receipts: This provision relates to Senate Bill 785 and House Bill 839.
Disabled Street Vendor Gross Receipts: SB1138 is a duplicate.
Small Business Laboratory Partnership Gross Receipts: This provision relates to Senate Bill 1 and House Bill 236.
Increase Tobacco Products Tax: SB888 is a duplicate.
Tax Incentives for Certain Health Insurers: SB565 is closely related.

TECHNICAL ISSUES

Armed Services Income Tax Exemption: According to the Department of Defense, "Active Duty" refers to "Full-time duty in the active service of a Uniformed Service, including fulltime training duty, annual training duty, and attendance while in the active service at a school designated as a Military Service school by law or by the Secretary concerned." SB492 refers to "active service" which is presumed to mean "active duty" though clarification may be a necessary correction.

TRD notes that, as written, the measure could be interpreted to include an exemption for federal personal income tax obligations. It should be amended to clarify that it does not.

Disabled Street Vendor Gross Receipts: DVR believes the definition of "disabled" provided in the provision will exclude individuals earning "substantial gainful activity," as defined by the Social Security Act, which is equivalent to $900 per month for persons with disabilities and $1,500 per month for those who are blind, from receiving the proposed gross receipts tax exemption. DVR recommends amending the bill so the definition of disability matches that cited in Section 504 of the federal Rehabilitation Act.

Small Business Laboratory Partnership Gross Receipts: TRD notes that to qualify for the program, small businesses must certify that assistance is not available at a reasonable cost through private sources. There is currently no mechanism in place to verify these assertions.

OTHER SUBSTANTIVE ISSUES

Armed Services Income Tax Exemption: By reducing state tax obligations, the proposed measure would tend to increase federal tax liability because state tax obligations are deductible against federal liability. Hence the net taxpayer benefit would be less than the $1,575 per claimant mentioned above. The $1,575 in state tax savings would, for example, be reduced to $1,260 ($1,575 x .8) for a taxpayer in the 20% federal tax bracket.

Sustainable Building Tax Credit: Other States with similar credits:

NEW YORK STATE: New York enacted a green building credit in 2001 and they are estimating it to cost almost $1 million in 2005.

> **Effective Date:** Effective for costs incurred on or after June 1, 1999 and certified by the Department of Environmental Conservation prior to 2004. The credit is allowable for tax years 2001 through 2009.
> **Description:** Taxpayers may claim a credit for the purchase of recyclable building materials and other environmentally preferable tangible personal property. Credits may

also be claimed for the purchase of fuel cells, photovoltaic modules, and environmentally sensitive non-ozone depleting refrigerants.
Estimates: 2002: $0.3 million - 2005: $0.9 million
Data Source: Personal Income Tax Clearing House data file

OREGON: Oregon has a Business Energy Tax Credit that is estimated to have cost $22 million in 2003 but saved $26 million in energy costs to businesses. EcoNorthwest, an economic consulting firm, prepared a report of the economic impact of Oregon's credits:
http://www.oregon.gov/ENERGY/CONS/docs/EcoNW_Study.pdf

The bill now excludes residential renovations from the credit not by language but by the current definition of the LEED for Homes. The US GBC may change this definition in the future and it would automatically be included in eligible projects. Including renovations would likely increase the fiscal impact significantly and so if the intent is to exclude renovations, a clearer definition is necessary.

SS/NF/csd