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## FISCAL IMPACT REPORT

SPONSOR Lopez ORIGINAL DATE 02/13/10  
LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_  
SHORT TITLE Increase Certain Income Tax Rates SB 210  
ANALYST Clifford

### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY10	FY11	FY12		
\$7,000.0	\$68,100.0	\$77,500.0	Recurring	General Fund

(Parenthesis ( ) Indicate Revenue Decreases)

Responses Received From  
Taxation and Revenue Department (TRD)

### SUMMARY

#### Synopsis of Bill

Senate Bill 210 would increase personal income tax rates by 1 percent on taxable income in excess of \$100,000 (married joint and head of household filers), \$100,000 (single) and \$100,000 (married separate). The increase would apply in tax years 2010 and subsequent.

### FISCAL IMPLICATIONS

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

### SIGNIFICANT ISSUES

The proposal presents a trade-off between two desirable goals of tax policy. On the one hand it improves vertical equity by increasing the tax burden on households with a greater ability to pay. On the other hand, it reduces economic efficiency by reducing the after-tax return on work and investment in the state. The latter effect is muted somewhat because New Mexico income taxes are allowed as an itemized deduction on the federal income tax return. Thus, if a taxpayer

itemizes deductions, and is in the 33% federal tax rate bracket, their federal tax liability will go down by one-third of their state tax increase, effectively saving the taxpayer that much of the tax burden.

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

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

Adjusted Gross Income	Number of Affected Returns	Change in Tax Liability		
		Total (\$000)	Average	Percent Distribution
Under 200,000	26,943	5,719	212	10.8%
200,000 - 500,000	18,737	15,959	852	30.1%
500,000 or more	9,522	31,287	3,286	59.1%
<b>Total</b>	<b>55,202</b>	<b>52,965</b>	<b>959</b>	<b>100.0%</b>

As illustrated in the following table, New Mexico’s present law top tax rate is around the midpoint among states in the western region. Like several other states, NM has a relatively flat tax rate structure. NM tax as percent of income is toward low end of states with income tax. If SB 210 is adopted, New Mexico’s top rate would still be in the middle of these states, but, as TRD notes, it would be higher than all of our immediately neighboring states. This table does not reflect any changes the other states may have made as part of their FY10 budgets.

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

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

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

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

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

**State & Local Taxes as a Percent of Household Income**

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

Source: Government of the District of Columbia.

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

House Bill 9 and Senate Bill 128 would impose a temporary income tax surtax of 1 percent in tax years 2010 through 2012. Senate Bill 122 would impose an income tax surtax of 1 percent permanently on taxpayers making more than \$160,000 (married) or \$100,000 (single). Senate Bill 65 would increase tax rates to a maximum of 8.2 percent. House Bill 234 would also increase tax rates.

**TECHNICAL ISSUES**

The proposal would increase income tax liabilities in tax year 2010 which is already underway. TRD assumes that they will not modify withholding tables until July. This raises the possibility that some taxpayers making estimated payments according to present law requirements will be found to owe penalty for underpayment of estimated tax when the new tax rates take effect. To prevent imposing this penalty, the proposal could include language similar to this language from SB 122:

“TEMPORARY PROVISION.--For the taxable year 2010, a taxpayer is deemed to have complied with the provisions of Section 7-2-12.2 NMSA 1978 if the taxpayer has made the first required annual payment of estimated taxes due for taxable year 2010 based on the provisions of the version of Section 7-2-7 NMSA 1978 applicable on January 1, 2009.”

TC/mew