

## New Issue

*This Official Statement has been prepared by the State Board of Finance to provide information on the State of New Mexico \$43,780,000 Severance Tax Bonds, Refunding Series 2010C (the "Series 2010C Bonds" or the "Bonds"). Selected information is presented on this cover page for the convenience of the user. To make an informed decision, a prospective investor should read the entire Official Statement. Certain capitalized terms used in the cover page and elsewhere in this Official Statement have the meanings given in the Official Statement.*

### THE STATE OF NEW MEXICO \$43,780,000 SEVERANCE TAX BONDS, REFUNDING SERIES 2010C

**Dated: Delivery Date**

**Due: July 1, as shown on the inside front cover**

<i>Ratings on Series 2010C Bonds</i>	"Aa1" Moody's Investors Service, Inc.  "AA" Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies, Inc.
<i>Tax Exemption</i>	In the opinion of Sutin, Thayer & Browne A Professional Corporation, Bond Counsel, under existing laws, regulations, rulings and judicial decisions, and assuming continuing compliance with the covenants described herein, interest on the Bonds is excluded from gross income for federal income tax purposes and is not an item for purposes of the federal alternative minimum tax. Bond Counsel is also of the opinion that interest on the Bonds is exempt from State of New Mexico personal income taxes as described herein. See "TAX MATTERS."
<i>No Optional Redemption</i>	The Bonds are not subject to optional redemption prior to maturity.
<i>Sources of Payment</i>	The Bonds are special limited obligations of the State payable primarily from, and secured by, taxes levied upon certain natural resource products severed and saved from the soil of the State deposited into the Severance Tax Bonding Fund.
<i>Priority</i>	The Bonds are being issued under the authority of the State of New Mexico Severance Tax Bonding Act. The Series 2010C Bonds will be on a parity with Severance Tax Bonds now or hereafter outstanding and senior to Supplemental Severance Tax Bonds now or hereafter outstanding.
<i>Purposes</i>	Net proceeds of the Series 2010C Bonds are being used for the refunding of the 2011 through 2015 maturities of the State of New Mexico Severance Tax Bonds, Series 2005A.
<i>Interest Payment Dates</i>	January 1 and July 1, commencing January 1, 2011.
<i>Closing/Settlement</i>	On or about June 30, 2010.
<i>Denominations</i>	\$5,000
<i>Book-Entry System</i>	The Depository Trust Company
<i>Registrar/Paying Agent</i>	State Treasurer of New Mexico
<i>Bond Counsel</i>	Sutin, Thayer & Browne A Professional Corporation
<i>Disclosure Counsel</i>	Brownstein Hyatt Farber Schreck, LLP
<i>Issuer Contact</i>	State Board of Finance: Stephanie Schardin Clarke, Interim Director, 505-827-3930; <a href="mailto:stephanie.schardin@state.nm.us">stephanie.schardin@state.nm.us</a>

Dated: June 15, 2010

**SERIES 2010C BONDS**

<b><u>CUSIP</u></b> <sup>1</sup>	<b><u>Year</u></b> <b><u>(July 1)</u></b>	<b><u>Principal</u></b> <b><u>Amount</u></b>	<b><u>Interest</u></b> <b><u>Rate</u></b>	<b><u>Yield at</u></b> <b><u>Issuance</u></b> <sup>2</sup>	<b><u>Price at</u></b> <b><u>Issuance</u></b> <sup>2</sup>
647310L66	2011	\$7,795,000	2.000%	0.350%	101.650
647310L74	2012	8,165,000	5.000%	0.670%	108.599
647310L82	2013	8,680,000	5.000%	1.070%	111.582
647310L90	2014	9,225,000	5.000%	1.430%	113.840
647310M24	2015	9,915,000	5.000%	1.790%	115.295

<sup>1</sup> The State takes no responsibility for the accuracy of CUSIP numbers, which are included solely for the convenience of owners of the Bonds.

<sup>2</sup> This information not provided by State.

**ELECTED STATE OFFICIALS**

BILL RICHARDSON  
*Governor*

MARY HERRERA  
*Secretary of State*

DIANE D. DENISH  
*Lieutenant Governor*

JAMES B. LEWIS  
*State Treasurer*

HECTOR H. BALDERAS  
*State Auditor*

GARY K. KING  
*Attorney General*

PATRICK H. LYONS  
*Commissioner of Public Lands*

Public Regulation Commissioners:

JASON A. MARKS  
*District I*

DAVID W. KING  
*District II*

JEROME D. BLOCK  
*District III*

CAROL K. SLOAN  
*District IV*

SANDY R. JONES  
*District V*

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**STATE BOARD OF FINANCE**

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*STATE TREASURER*  
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*Member*

ROBERT APODACA<sup>(2)</sup>  
*Member*

KATHERINE B. MILLER  
*Executive Officer*

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*Brownstein Hyatt Farber Schreck, LLP*  
*Albuquerque, New Mexico*

**FINANCIAL ADVISORS**  
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*Swarthmore, Pennsylvania*  
*Public Resources Advisory Group*  
*(as subcontractor)*  
*Los Angeles, California*

<sup>(1)</sup> Appointed by the Governor of the State on February 26, 2010, and reappointed by the Governor of the State on March 11, 2010. Member Dibachi's term expires on December 31, 2010.

<sup>(2)</sup> Appointed by the Governor of the State on May 10, 2010. Member Apodaca's term expires on December 31, 2010.

In connection with the offering of the Bonds, the Underwriters may over-allot or effect transactions, which stabilize or maintain the market price of such Bonds at a level above that which might otherwise prevail in the open market. Such stabilizing, if commenced, may be discontinued at any time.

No dealer, broker, salesperson or other person has been authorized to give any information or to make any representation other than those contained in this Official Statement and, if given or made, such information or representation must not be relied upon. This Official Statement does not constitute an offer to sell or solicitation of an offer to buy, nor shall there be any sale of the Bonds by any person, in any jurisdiction in which it is unlawful to make such an offer, solicitation or sale. The information and expressions of opinion herein are subject to change without notice. Neither the delivery of this Official Statement nor any sales hereunder shall under any circumstances create any implication that there has been no change in the affairs of the State of New Mexico or in the imposition and collection of severance taxes since the date hereof.

This Official Statement contains statements relating to the State's receipt of future revenues that are "forward-looking statements" as defined in the Private Securities Litigation Reform Act of 1995. When used in this Official Statement, the words "estimate," "intend," "expect" and similar expressions are intended to identify forward-looking statements. Such statements are subject to risks and uncertainties that could cause actual results to differ materially from those contemplated in such forward-looking statements. Readers are cautioned not to place undue reliance on these forward-looking statements, which speak only as of the date hereof.

The issuer is the author of this Official Statement and is responsible for its accuracy and completeness. The Underwriters are not the authors of the Official Statement. In accordance with their responsibilities under federal securities laws, the Underwriters are required to review the information in this Official Statement and must have a reasonable basis for their belief in the accuracy and completeness of this Official Statement. Both the Preliminary Official Statement and the Official Statement are "deemed final" by the State Board of Finance for purposes of Rule 15c2-12 of the Securities and Exchange Commission.

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## SUMMARY OF INFORMATION

### \$43,780,000 SEVERANCE TAX BONDS, REFUNDING SERIES 2010C

The following material represents a summary of information concerning the Bonds and the security therefor set forth in this Official Statement and is qualified in its entirety by the detailed information herein. Purchasers of the Bonds should review the entire Official Statement before making an investment decision.

- Dated:* Delivery Date.
- Interest Payment:* Interest is payable semi-annually on January 1 and July 1, commencing on January 1, 2011.
- Principal Payment:* The Bonds mature in serial installments as set forth on the inside cover page of this Official Statement.
- No Optional Redemption:* The Bonds are not subject to optional redemption prior to maturity.
- Registration:* The Bonds are being issued solely in book-entry form in the denomination of \$5,000 or any integral multiple thereof. The Bonds are being registered to Cede & Co., as nominee of The Depository Trust Company (“DTC”), New York, New York, which will act as depository.
- Legal Opinion:* The Bonds are offered when, as and if issued, subject to the approval of legality by Sutin, Thayer & Browne A Professional Corporation, Bond Counsel.
- Security:* The Bonds constitute special limited obligations of the State of New Mexico and will be payable solely from deposits to and revenues of the Severance Tax Bonding Fund, consisting primarily of receipts from certain taxes levied on certain natural resource products severed and saved from the soil of the State of New Mexico as more fully described herein.
- Additional Parity Bonds:* The State Board of Finance is prohibited by State statute from issuing Senior Severance Tax Bonds unless the aggregate amount of Senior Severance Tax Bonds outstanding, including the bonds to be issued, can be serviced with not more than 50 percent of the annual deposits into the Severance Tax Bonding Fund, as determined by the deposits during the fiscal year preceding the issuance of the bonds.

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**TABLE 1**

**Summary of Projected and Historical Coverage in Severance Tax Bonding Fund  
Fiscal Year Ended June 30<sup>(1)</sup>**

(Dollars in thousands)

	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>
Projected Bonding Fund Receipts	\$367,782	\$399,458	\$404,117	\$411,071	\$416,255
Senior Bond Debt Service <sup>(2) (3)</sup>	\$96,290	\$105,554	\$122,651	\$122,935	\$115,107
Senior Bond Debt Service Coverage Ratio	3.82x	3.78x	3.29x	3.34x	3.62x
Supplemental Bond Debt Service <sup>(2) (3)</sup>	\$15,452	\$19,212	\$29,300	\$21,483	\$15,605
Supplemental Bond Debt Service Coverage Ratio	3.29x	3.20x	2.66x	2.85x	3.18x
	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>
Bonding Fund Receipts	\$405,549	\$534,676	\$510,140	\$573,595	\$550,222
Senior Bond Debt Service <sup>(4)</sup>	\$68,204	\$69,902	\$72,886	\$81,270	\$96,019
Senior Bond Debt Service Coverage Ratio	5.95x	7.65x	7.00x	7.06x	5.73x
Supplemental Bond Debt Service <sup>(4)</sup>	\$19,008	\$19,646	\$20,119	\$18,020	\$15,391
Supplemental Bond Debt Service Coverage Ratio	4.65x	5.97x	5.48x	5.78x	4.94x

<sup>(1)</sup> The State Consensus Revenue Estimating Group (the "Consensus Group") updated oil and natural gas price estimates in January 2010. The updated price estimates have been used for purposes of calculating revenue and bonding capacity. December Consensus Group estimates are being used for budget and policy purposes.

<sup>(2)</sup> Excludes debt service on refunded bonds, which will be paid from escrowed securities and severance tax debt obligations sold to the State Treasurer which are retired within the same fiscal year.

<sup>(3)</sup> Includes debt service on the Bonds.

<sup>(4)</sup> Represents scheduled debt service by fiscal year.

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**THE STATE OF NEW MEXICO**  
**\$43,780,000 SEVERANCE TAX BONDS, REFUNDING SERIES 2010C**

**INTRODUCTION**

The purpose of this Official Statement, including the cover page, the Summary of Information, and the Appendices hereto, is to furnish information regarding the issuance of the \$43,780,000 State of New Mexico Severance Tax Bonds, Refunding Series 2010C (the “Series 2010C Bonds” or the “Bonds”), the State of New Mexico (the “State”), and the State Board of Finance (the “Board”).

The Bonds are being issued under authority of the State Severance Tax Bonding Act, Sections 7-27-1 through 7-27-27 NMSA 1978, as amended (the “Severance Tax Bonding Act”), and pursuant to resolutions of the Board adopted on May 21, 2010 and expected to be adopted on June 15, 2010 (collectively, the “Bond Resolution”).

This Official Statement contains summaries of the terms of the Bonds, certain fiscal matters of the State, and the Severance Taxes (defined below) imposed by the State. The descriptions included in this Official Statement do not purport to be comprehensive or definitive, and such summaries and descriptions are qualified in their entirety by reference to such laws, and the definitive forms of documents, exhibits or appendices where applicable.

Requests for additional information about the State, the Severance Taxes, or requests for copies of any document or statute referred to in this Official Statement, may be directed to:

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## THE SENIOR SEVERANCE TAX BONDS

### General Terms

The Bonds are dated their date of delivery, bear interest until the principal amount thereof is paid, and mature as set forth on the inside cover page hereof. Interest on the Bonds is payable on January 1 and July 1, commencing on January 1, 2011. The Bonds are being issued solely in book-entry form in denominations of \$5,000 or integral multiples thereof. The Bonds are being registered in the name of Cede & Co., as nominee of The Depository Trust Company (“DTC”), New York, New York, which will act as depository for the Bonds. The Bonds are subject to transfer and exchange as set forth in the Bond Resolution.

### No Optional Redemption of Bonds

The Bonds are not subject to optional redemption prior to maturity.

### Security for the Bonds

There are two categories of bonds issued by the State Board of Finance wherein the money in the Severance Tax Bonding Fund (the “Bonding Fund”) is pledged for their retirement. Those bonds are referred to in the Severance Tax Bonding Act as “New Mexico Severance Tax Bonds” and as “New Mexico Supplemental Severance Tax Bonds” but, for clarity, are referred to herein as “Senior Severance Tax Bonds” and “Supplemental Severance Tax Bonds,” respectively. Where appropriate, Senior Severance Tax Bonds and Supplemental Severance Tax Bonds are collectively referred to herein as “Severance Tax Bonds.”

#### Security for the Series 2010C Bonds

The Series 2010C Bonds are special obligations of the State secured by and payable solely from, on a parity basis to Senior Severance Tax Bonds now or hereafter outstanding and on a prior lien basis to Supplemental Severance Tax Bonds now or hereafter outstanding, deposits to the Bonding Fund into which are deposited, pursuant to the Severance Tax Bonding Act, the net receipts from taxes levied in accordance with the Severance Tax Act Sections 7-26-1 through 7-26-11 NMSA 1978, as amended (the “Severance Tax Act”) and the Oil and Gas Severance Tax Act Sections 7-32-1 through 7-32-28, as amended (the “Oil and Gas Severance Tax Act”) upon certain natural resource products severed and saved from the soil of the State (“Severance Taxes”), investment earnings on such deposits and on unused bond proceeds in certain accounts, and such other moneys as the Legislature in its sole discretion may from time to time determine. On June 30 and December 31 of each year, the excess money in the Bonding Fund over the amount necessary to meet all principal and interest payments on all outstanding Severance Tax Bonds on the next two ensuing semiannual payment dates must be transferred to the Severance Tax Permanent Fund.

**Once moneys are so transferred, they no longer may be used to pay, or to secure payment of, principal, premium, if any, or interest on any Senior Severance Tax Bonds. Senior Severance Tax Bonds are not general obligations of the State and the State is prohibited by law from using the proceeds of property taxes as a source of payment of revenue bonds, including Senior Severance Tax Bonds.**

The State Treasurer keeps separate accounts for all money collected as Severance Taxes, and is directed by State statute to pay Severance Tax Bonds from moneys on deposit in the

Bonding Fund. The Bond Resolution provides for the creation of a separate Debt Service Account within the Bonding Fund for the payment of principal and interest on the Series 2010C Bonds.

The State Board of Finance is prohibited by the Severance Tax Bonding Act from issuing Senior Severance Tax Bonds unless the aggregate amount of total Senior Severance Tax Bonds outstanding, including the bonds to be issued, can be serviced with not more than 50 percent of the annual deposits into the Bonding Fund, as determined by the deposits during the fiscal year preceding the issuance of the bonds. The total aggregate principal amount of outstanding Severance Tax Bonds issued by the State does not now, nor will such amount upon the issuance of the Bonds, exceed any applicable limit prescribed by the Constitution or laws of the State.

The Severance Tax Bonding Act requires the Legislature to provide for the continued assessment, levy, collection and deposit into the Bonding Fund of Severance Taxes which, together with such other moneys as may be deposited into the Bonding Fund, will be sufficient to produce an amount at least equal to annual debt service on all outstanding Severance Tax Bonds.

In addition, the Board covenants in the Bond Resolution that the State will use its best efforts to collect and deposit in the Bonding Fund sufficient income from Severance Taxes so that, when combined with other moneys deposited in the Bonding Fund, the amount deposited annually in the Bonding Fund will equal at least 200 percent of the amount of the principal and interest scheduled to be due in each fiscal year on all Senior Severance Tax Bonds, including the Series 2010C Bonds. However, the Board does not have the power to levy or impose Severance Taxes, and no assurance exists that the 200 percent requirement will be met.

The Severance Tax Bonding Act also permits the Board to issue Supplemental Severance Tax Bonds also payable from amounts in the Bonding Fund, but subject to the prior payment of Senior Severance Tax Bonds. The Series 2010C Bonds, all currently outstanding Senior Severance Tax Bonds, and any Senior Severance Tax Bonds issued on a parity with the Series 2010C Bonds will have a pledge and lien senior to any Supplemental Severance Tax Bonds now outstanding or hereafter issued.

### **USE OF PROCEEDS**

Proceeds of the Series 2010C Bonds will be used for the current refunding of the 2011 through 2015 maturities of State of New Mexico Severance Tax Bonds, Series 2005A. Bond proceeds deposited in the project accounts or used for the redemption of the current refunded bonds are not available for the payment of debt service on the Bonds except to the extent that upon completion or abandonment of the project or expiration of a statutorily created reversionary period (which may be extended by the Legislature) for the project, amounts remaining in the project account for that project must be transferred to the Bonding Fund, and become available to pay debt service on Severance Tax Bonds until transferred to the Severance Tax Permanent Fund. Costs incurred in the issuance of the Bonds (other than the underwriters' discount) are payable from the Bonding Fund, not from proceeds of the Bonds. The costs incurred to issue the Series 2010C Bonds are expected to be approximately \$215,000.

The sources and uses of funds for the Bonds are as follows:

SOURCES:	<u>Series 2010C Bonds</u>
Par Amount	\$43,780,000.00
Reoffering Premium	4,629,282.70
Transfer from Prior Issue Debt Service Fund	<u>966,200.00</u>
<b>TOTAL SOURCES</b>	<b><u>\$49,375,482.70</u></b>
USES:	
Deposit to Refunding Account	\$49,276,200.00
Underwriters' Discount	98,545.19
Additional Proceeds	<u>737.51</u>
<b>TOTAL USES</b>	<b><u>\$49,375,482.70</u></b>

### **SEVERANCE TAX BONDING FUND AND DEBT SERVICE REQUIREMENTS**

Severance Taxes have been collected by the State since the adoption of the Severance Tax Act in 1937. Since 1959, certain Severance Tax receipts and certain other moneys determined by the Legislature have been deposited into the Bonding Fund and used, in part, to service bond issues, which have funded a variety of capital improvements in the State.

Pursuant to the provisions of the Severance Tax Act and the Oil and Gas Severance Tax Act, Severance Tax receipts, including penalties and interest, and such other moneys as the Legislature in its sole discretion may from time to time determine (including interest earnings on moneys in the Bonding Fund and the project accounts and reversions from project accounts in the Bonding Fund), are deposited into the Bonding Fund. As of the date of this Official Statement other moneys including interest earnings on moneys in the Bonding Fund, reversions from project accounts in the Bonding Fund, prepayments and tax settlements have been deposited. See the table entitled "SEVERANCE TAX BONDING FUND RECEIPTS, DISBURSEMENTS AND TRANSFERS" herein. The moneys in the Bonding Fund are pledged for the payment of principal, premium, if any, and interest on Severance Tax Bonds and Supplemental Severance Tax Bonds, and there are no other liens or encumbrances of any nature on or against (i) the Bonding Fund, or (ii) the net revenues derived from Severance Taxes that are required to be credited to the Bonding Fund.

Severance taxation is determined by State statute. For a description of the various Severance Tax rates and methods of their calculation, see "SEVERANCE TAX REVENUE" below.

### **Investments**

Funds on deposit in the Bonding Fund, including the Debt Service Accounts and the Project Funds (established by the Bond Resolution), are invested by the State Treasurer at the direction and approval of the Board, pursuant to the State Treasurer's Investment Policy ("Investment Policy"). For a description of the Investment Policy, see "Appendix A." Investments are made in securities, which are at the time legal investments of the State, and no

such investment or deposit shall violate any applicable restrictions imposed by the Code (defined below) and applicable Treasury Regulations relating to the market price and the existence of an established market.

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

### **Issuance of Severance Tax Bonds**

The Severance Tax Bonding Act authorizes the issuance and sale of Senior Severance Tax Bonds and Supplemental Severance Tax Bonds payable from the net receipts from taxes levied upon certain natural resource products severed and saved from the soil (“Severance Taxes”) in accordance with the provisions of, and as described in, the Severance Tax Bonding Act.

Severance Taxes are collected on a monthly basis by the New Mexico Taxation and Revenue Department (the “TRD”) and deposited in the Extraction Taxes Suspense Fund within the General Fund of the State. On or around the 25<sup>th</sup> day of the month following the collection of the Severance Taxes, if the TRD determines that there is no substantial risk of protest or litigation over those tax revenues, they are released from the Extraction Taxes Suspense Fund and deposited in the Bonding Fund; otherwise the tax revenues are held in the Extraction Taxes Suspense Fund until the substantial risk of protest or litigation is no longer present.

On December 31 and June 30 of each fiscal year, excess funds in the Bonding Fund are transferred into the Severance Tax Permanent Fund. Excess funds are defined as funds in excess of the next two semi-annual payments of debt service on Severance Tax Bonds and Supplemental Severance Tax Bonds. **Balances in the Severance Tax Permanent Fund are not pledged as security for the Bonds.**

In addition to the sale of long-term Senior Severance Tax Bonds and Supplemental Severance Tax Bonds, the State issues short-term Severance Tax Funding Notes and Supplemental Severance Tax Funding Notes from time to time to utilize excess capacity available in the Bonding Fund, as authorized by the Legislature, and to make those funds available for capital projects of the State. These short-term obligations generally are taxable for federal income tax purposes, have a maturity of five days or less, mature in the fiscal year in which they are issued and are purchased by the State Treasurer.

### **State Capital Program**

State General Fund balances and proceeds from General Obligation Bonds, Severance Tax Bonds, Supplemental Severance Tax Bonds and Transportation Bonds are important sources of capital financing for the State. The following table summarizes the capital funding administered by the Board and certain other sources for fiscal year 2005 through fiscal year 2009 and the first nine months of fiscal year 2010 through March 31, 2010.

**TABLE 2**

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

	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u> (As of 3/31/10)
<b>Proceeds from General Obligation Bonding Program</b>						
General Obligation Bonds	<u>\$121.7</u>	<u>\$0.0</u>	<u>\$142.8</u>	<u>\$0.0</u>	<u>\$223.4</u>	<u>\$0.0</u>
<b>Subtotal</b>	<u>\$121.7</u>	<u>\$0.0</u>	<u>\$142.8</u>	<u>\$0.0</u>	<u>\$223.4</u>	<u>\$0.0</u>
<b>Proceeds from Severance Tax Bonding Program</b>						
Severance Tax Bonds	\$87.6	\$136.1	\$136.4	\$153.6	\$0.0	\$388.3
Severance Tax Funding Notes <sup>(1)</sup>	87.8	102.1	193.6	150.9	188.7	91.5
Supplemental Severance Tax Bonds	10.5	0.0	0.0	0.0	0.0	112.9
Supplemental Severance Tax Funding Notes <sup>(1)</sup>	<u>213.3</u>	<u>193.6</u>	<u>210.8</u>	<u>222.8</u>	<u>240.8</u>	<u>0.0</u>
<b>Subtotal</b>	<u>\$399.1</u>	<u>\$431.8</u>	<u>\$540.8</u>	<u>\$527.3</u>	<u>\$429.5</u>	<u>\$592.7</u>
<b>Proceeds From Other Sources</b>						
General Fund <sup>(2)</sup>	\$238.6	\$454.6	\$548.4	\$123.0	\$(148.6)	\$(259.2)
Transportation Bonds <sup>(3)</sup>	<u>0.0</u>	<u>0.0</u>	<u>459.4</u>	<u>0.0</u>	<u>200.0</u>	<u>0.0</u>
<b>Subtotal</b>	<u>\$238.6</u>	<u>\$454.6</u>	<u>\$1,007.8</u>	<u>\$123.0</u>	<u>\$51.4</u>	<u>\$(259.2)</u>
<b>Total</b>	<u><b>\$759.0</b></u>	<u><b>\$886.5</b></u>	<u><b>\$1,691.4</b></u>	<u><b>\$650.3</b></u>	<u><b>\$704.3</b></u>	<u><b>\$333.5</b></u>

<sup>(1)</sup> The State Board of Finance, in order to take advantage of Bonding Fund revenue that would otherwise be transferred to the Severance Tax Permanent Fund, issues Funding Notes to the State Treasurer (which are retired within the same fiscal year with such revenue) to fund authorized projects.

<sup>(2)</sup> In fiscal year 2009, due to budgetary constraints, \$148.6 million previously appropriated for Capital Project Funding was reappropriated for purposes other than Capital Project Funding. In fiscal year 2010, due to budgetary constraints, \$259.2 million previously appropriated for Capital Project Funding was reappropriated for purposes other than Capital Project Funding.

<sup>(3)</sup> On October 19, 2006, the New Mexico Finance Authority issued \$450,400,000 of new money bonds secured by a pledge of, and payable from, funds on deposit in the State Road Fund and the Highway Infrastructure Fund. On July 1, 2008, the New Mexico Finance Authority entered into a line of credit with a bank to provide an additional \$200,000,000 of available new money funding secured by a pledge of, and payable from, funds on deposit in the State Road Fund and the Highway Infrastructure Fund.

Source: *New Mexico State Board of Finance, the Department of Finance and Administration and the New Mexico Finance Authority.*

In addition to the General Obligation Bonding Program, the Severance Tax Bonding Program and the Supplemental Severance Tax Bonding Program issued and administered by the Board, there are a number of other sources of funds for statewide capital projects. These other sources of funding include surplus General Fund appropriation, special appropriations and proceeds of bonds issued by, among others, the New Mexico Finance Authority, the State Transportation Commission and state educational institutions.

**Outstanding and Additional Senior Severance Tax Bonds**

The Series 2010C Bonds will be secured on a parity with the following Senior Severance Tax Bonds currently outstanding (exclusive of those Senior Severance Tax Bonds additionally secured by escrowed securities). The Series 2010C Bonds will be issued with a lien senior to the Supplemental Severance Tax Bonds currently outstanding prior to the delivery of the Bonds. See “Outstanding and Additional Supplemental Severance Tax Bonds” under this caption.

**TABLE 3**

**Outstanding Senior Severance Tax Bonds**

	<b><u>Prior to Delivery</u></b>	<b><u>After Delivery and July 1 Principal Payments</u></b>
Severance Tax Bonds, Series 2005A	\$56,590,000	\$ 0
Severance Tax Bonds, Refunding Series 2005B-1	22,665,000	15,455,000
Severance Tax Bonds, Series 2006A	100,995,000	88,440,000
Severance Tax Bonds, Series 2007A	112,670,000	100,635,000
Severance Tax Bonds, Series 2008A-1	137,050,000	124,395,000
Severance Tax Bonds, Series 2009A	218,450,000	195,785,000
Severance Tax Bonds, Series 2010A	132,265,000	132,265,000
Severance Tax Bonds, Refunding Series 2010C	<u>0</u>	<u>43,780,000</u>
<b>Total</b>	<b><u>\$780,685,000</u></b>	<b><u>\$700,755,000</u></b>

*Source: New Mexico State Board of Finance.*

Additional senior lien bonds may be issued in the future if all outstanding Senior Severance Tax Bonds, including the proposed bonds, can be serviced with not more than 50 percent of the annual deposits into the Bonding Fund as determined by the deposits during the fiscal year preceding the date of issuance of such Senior Severance Tax Bonds.

**Outstanding and Additional Supplemental Severance Tax Bonds**

Supplemental Severance Tax Bonds are authorized pursuant to an amendment to the Severance Tax Bonding Act enacted in May 1999. Long-term Supplemental Severance Tax Bonds may be issued if all outstanding Senior Severance Tax Bonds and Supplemental Severance Tax Bonds, including the proposed bonds, can be serviced with not more than 62.5 percent of the annual deposits into the Bonding Fund as determined by the deposits during the fiscal year preceding the date of issuance of such Supplemental Severance Tax Bonds. In addition, short-term supplemental Severance Tax Funding Notes may be issued with a term that does not extend beyond the then current fiscal year if the debt service on such Supplemental Severance Tax Funding Notes, when added to the debt service previously paid or scheduled to be paid during that fiscal year on Severance Tax Bonds and Supplemental Severance Tax Bonds and Severance Tax Funding Notes and Supplemental Severance Tax Funding Notes, does not exceed 95 percent of the deposits into the Bonding Fund during the preceding year. The Legislature has authorized the Board to issue Supplemental Severance Tax Bonds for public school projects in amounts certified to the Board from time to time by the Public School Capital Outlay Council of the State. The lien of the pledge of such Supplemental Severance Tax Bonds (including short-term funding notes) is subordinate to any Senior Severance Tax Bonds.

**TABLE 4**

**Outstanding Supplemental Severance Tax Bonds  
Upon the Delivery of the Bonds**

Supplemental Severance Tax Bonds, Series 2003B	\$ 4,630,000
Supplemental Severance Tax Bonds, Series 2004B	5,380,000
Supplemental Severance Tax Bonds, Refunding Series 2005B-2	14,335,000
Supplemental Severance Tax Bonds, Refunding Series 2008A-2	15,715,000
Supplemental Severance Tax Bonds, Series 2010B	<u>100,000,000</u>
<b>Total</b>	\$140,060,000

*Source: New Mexico State Board of Finance.*

The following tables set forth actual and projected results for the Bonding Fund including receipts, disbursements, debt service requirements, transfers and projected debt service coverage ratios.

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**TABLE 5**

**Severance Tax Bonding Fund  
Receipts, Disbursements and Transfers  
Fiscal Year Ended June 30<sup>(1)(2)</sup>  
(Dollars in thousands)**

	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>
Beginning Balance	\$27,175	\$103,909	\$240,717	\$224,860	\$107,217
Receipts:					
Taxes:					
Oil and Gas Severance Tax	\$372,943	\$477,139	\$433,357	\$493,293	\$492,885
Other Minerals Severance Taxes	<u>18,637</u>	<u>20,198</u>	<u>19,545</u>	<u>18,501</u>	<u>23,431</u>
Total Severance Taxes	\$391,581	\$497,336	\$452,901	\$511,794	\$516,315
Other Income:					
Interest on Investments	\$10,994	\$27,573	\$56,521	\$57,410	\$31,607
Other financing sources	<u>2,975</u>	<u>9,766</u>	<u>718</u>	<u>4,391</u>	<u>2,300</u>
Total Other Income	\$13,969	\$37,339	\$57,239	\$61,801	\$33,907
Total Receipts	\$405,549	\$534,676	\$510,140	\$573,595	\$550,222
Disbursements:					
Senior Bond Debt Service	\$7,551	\$69,332	\$72,886	\$158,564	\$12,433
Senior Short-term Obligations <sup>(3)</sup>	87,793	102,158	74,434	269,750	188,684
Supplemental Bond Debt Service	3,290	19,691	20,119	39,056	1,074
Supplemental Short-term Obligations <sup>(3)</sup>	213,345	193,577	210,830	222,799	240,841
Fiscal Charges	<u>518</u>	<u>738</u>	<u>446</u>	<u>665</u>	<u>895</u>
Total Disbursements	\$312,497	\$385,495	\$378,715	\$690,834	\$443,926
Transfers:					
To Severance Tax Permanent Fund	<u>\$16,318</u>	<u>\$12,372</u>	<u>\$147,282</u>	<u>\$404</u>	<u>\$41,195</u>
Total Transfers	\$16,318	\$12,372	\$147,282	\$404	\$41,195
Ending Balance, June 30	\$103,909 <sup>(4)</sup>	\$240,717 <sup>(5)</sup>	\$224,860	\$ 107,217 <sup>(6)</sup>	\$172,318 <sup>(7)</sup>

<sup>(1)</sup> All receipts, expenditures and balances exclude amounts in rebate accounts retained for potential arbitrage rebates.

<sup>(2)</sup> Proceeds and expenditures attributable to refunding bonds are excluded from this table because such proceeds and expenditures are reserved for payments on appropriate refunding bonds and are not available for debt service payments on other Severance Tax Bonds.

<sup>(3)</sup> The Board, in order to take advantage of Bonding Fund revenues that would otherwise be transferred to the Severance Tax Permanent Fund, issues short-term Severance Tax funding notes and Supplemental Severance Tax funding notes that are sold to the State Treasurer which are retired within the same fiscal year with such revenue to fund authorized projects.

<sup>(4)</sup> The ending balance includes the amount of the transfer to the Severance Tax Permanent Fund, which was made on July 8, 2005 in the amount of \$12.4 million.

<sup>(5)</sup> The ending balance includes the amount of the transfer to the Severance Tax Permanent Fund, which was made on July 12, 2006 in the amount of \$123.2 million and an additional transfer of \$22.3 million made on December 11, 2006.

<sup>(6)</sup> The ending balance includes the amount of the transfer to the Severance Tax Permanent Fund, which was made on July 31, 2008 in the amount of \$41.1 million.

<sup>(7)</sup> The ending balance includes the amount of the transfer to the Severance Tax Permanent Fund, which was \$27.5 million. An initial transfer of \$31.1 million was made on July 14, 2009. After further review, a reversal to the Severance Tax Bonding Fund of \$2.6 million was made on November 23, 2009, to reflect the correct amount necessary to be transferred.

Source: New Mexico State Board of Finance based on the Central Financial Reporting and Accounting System (the "CFRAS System") for data provided from 2005 to 2006 and the Statewide Human Resources, Accounting, and Management Reporting System (the "SHARE System") for data provided from 2007 to present.

**TABLE 6**

**Severance Tax Bonding Fund Projected Receipts**  
**Fiscal Year Ending June 30<sup>(1)(2)</sup>**  
*(Dollars in thousands)*

	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>
<b>Severance Tax Bonding Fund Receipts</b>					
Taxes: Natural Gas	\$175,890	\$206,092	\$205,189	\$206,060	\$205,955
Oil	<u>143,910</u>	<u>149,736</u>	<u>154,082</u>	<u>159,682</u>	<u>164,370</u>
Subtotal-Oil & Gas Severance Tax	\$319,800	\$355,829	\$359,270	\$365,742	\$370,325
Coal	\$22,516	\$19,883	\$19,700	\$19,883	\$19,883
Other Minerals	<u>2,368</u>	<u>3,546</u>	<u>3,546</u>	<u>3,546</u>	<u>3,546</u>
Subtotal-Other Severance Tax	\$24,884	\$23,429	\$23,246	\$23,429	\$23,429
Investment Earnings	20,459	18,600	19,900	20,200	20,700
Other Income	<u>2,639</u>	<u>1,600</u>	<u>1,700</u>	<u>1,700</u>	<u>1,800</u>
<b>Total Receipts</b>	\$367,782	\$399,458	\$404,117	\$411,071	\$416,255
<b>Scheduled Senior Debt Service<sup>(3)</sup></b>	\$96,290	\$105,554	\$122,651	\$122,935	\$115,107
<b>Senior Bond Debt Service Coverage</b>	3.82x	3.78x	3.29x	3.34x	3.62x
<b>Scheduled Supplemental Debt Service<sup>(3)</sup></b>	\$15,452	\$19,212	\$29,300	\$21,483	\$15,605
<b>Supplemental Bond Debt Service Coverage</b>	3.29x	3.20x	2.66x	2.85x	3.18x

<sup>(1)</sup> Columns may not total due to rounding.

<sup>(2)</sup> The Consensus Group updated oil and natural gas price estimates in January 2010. The updated price estimates have been used for purposes of calculating revenue and bonding capacity. December Consensus Group estimates are being used for budget and policy purposes.

<sup>(3)</sup> Includes debt service on the Bonds. Excludes debt service on refunded bonds which will be payable from escrowed securities and severance tax and supplemental severance tax debt obligations sold to the State Treasurer which are retired within the same fiscal year.

Source: *New Mexico Department of Finance and Administration and Fiscal Strategies Group.*

See also, "NATURAL GAS PRODUCTION AND SEVERANCE TAX REVENUE – Projections of Severance Tax Revenues from Natural Gas," "OIL PRODUCTION AND SEVERANCE TAX REVENUE – Projections of Severance Tax Revenues from Oil," and "COAL PRODUCTION AND SEVERANCE TAX REVENUE – Projections of Severance Tax Revenue from Coal" herein.

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**TABLE 7**  
**State of New Mexico Severance Tax Bonds**  
**Projected Cash Receipts, Debt Service Requirements and Coverage<sup>(1)</sup>**

<b>Fiscal Year Ending 6/30</b>	<b>Projected STBF Revenues</b>	<b>Scheduled Senior Debt Service<sup>(2)</sup></b>	<b>Projected Senior Debt Service Coverage*</b>	<b>Scheduled Supplemental Debt Service<sup>(2)</sup></b>	<b>Projected Supplemental Coverage</b>
2010	\$367,782,000	\$96,290,073	3.82x	\$15,452,258	3.29x
2011	399,458,161	105,554,336	3.78x	19,212,443	3.20x
2012	404,116,689	122,650,813	3.29x	29,299,714	2.66x
2013	411,071,309	122,935,413	3.34x	21,483,074	2.85x
2014	416,254,690	115,106,713	3.62x	15,604,958	3.18x
2015	402,484,470	105,891,569	3.80x	13,986,175	3.36x
2016	393,284,655	97,308,775	4.04x	12,495,425	3.58x
2017	384,330,837	87,085,138	4.41x	12,223,675	3.87x
2018	375,616,237	70,344,675	5.34x	11,989,675	4.56x
2019	367,134,266	53,853,900	6.82x	11,781,175	5.59x
2020	358,878,521	35,658,500	10.06x	11,586,425	7.60x

<sup>(1)</sup> The Consensus Group updated oil and natural gas price estimates in January 2010. The updated price estimates have been used for purposes of calculating revenue and bonding capacity. December Consensus Group estimates are being used for budget and policy purposes.

<sup>(2)</sup> Includes debt service on the Bonds. Excludes debt service on refunded bonds which will be payable from escrowed securities and severance and supplemental severance tax debt obligations sold to the State Treasurer which are retired within the same fiscal year.

Sources: *New Mexico State Board of Finance and Fiscal Strategies Group.*

See also, the table entitled “SEVERANCE TAX BONDING FUND PROJECTED RECEIPTS” herein.

### SEVERANCE TAX REVENUE

The minerals extracted from the State that contribute the largest portion of Severance Tax revenues are natural gas, oil and coal. Severance Tax collections on these three mineral resources produced 99.5 percent of total fiscal year 2009 Severance Tax Bonding Fund tax collections. Severance Taxes from natural gas and oil together represent 95.5 percent of total fiscal year 2009 Bonding Fund tax receipts.

The State’s Energy, Minerals, and Natural Resources Department (“EMNRD”) records and generates data on mineral resources in the State. EMNRD produces annual reports on the State’s mineral resources. The TRD compiles reports of taxable volume, value, deductions and tax receipts by commodity and land type. The State Consensus Revenue Estimating Group (the “Consensus Group”) is composed of economists from the executive and legislative branches of New Mexico state government. The Consensus Group annual production estimates and projections of Severance Tax receipts are made jointly by the Department of Finance and Administration (the “DFA”), the TRD, the Department of Transportation and the Legislative Finance Committee. See “Appendix C: FORM OF ATTORNEY GENERAL’S NO LITIGATION LETTER” for a discussion of pending litigation and other proceedings concerning the collection of Severance Taxes.

### Severance Tax Collections and Reporting

Operators, purchasers and working interest owners are required to submit monthly reports to the TRD showing the total value, volume and kind of products sold from every production unit

each month. Taxes must be paid at the same time and are due 55 days after the month of production. Each production report must be accompanied by a company identification number, which facilitates automated processing of return information. Production and associated tax liability are reported by “production unit” and a designation for a well or group of wells that is assigned by the TRD based on the master operation, property name identification and pool. A suffix is added to the production unit number to designate the specific land type and taxing authority including county, school district, and municipality. During calendar year 2009, the TRD received an average of 575 oil and natural gas returns per month containing an average of 97,716 lines of detailed information about production from different production units.

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

The State maintains an automated database system (“ONGARD” for Oil and Natural Gas Administration and Revenue Database) to monitor production and sales activities of oil and natural gas producers. ONGARD functions include: managing the inventory of lands within the state and tracking all leases to determine whether royalty payments are owed to the State; monitoring all oil and natural gas wells for compliance with unitization agreements and other production-related information; and processing tax and royalty payments due to the State. The integrated database gives the State enhanced capabilities to compare and evaluate production, tax and royalty reports, and to issue automated exception reports.

Severance taxes received by the TRD are deposited into the Oil and Gas Suspense Fund. Using the ONGARD system, the TRD reconciles monthly information reports with the payments received to identify the appropriate amounts to distribute to each tax beneficiary. Oil and gas severance tax amounts that have been reconciled and as to which TRD has determined no substantive risk of protest or litigation is present are then transferred monthly to the Bonding Fund.

### **Severance Tax on Indian Land**

The State can tax non-Indian oil and natural gas production on tribal land, according to United States Supreme Court precedent in *Cotton Petroleum Co. v. State of New Mexico*, 490 U.S. 163, 104 L. Ed. 2d 209, 109 S. Ct. 1968 (1989). The State’s authority to impose severance taxes on Indian oil and natural gas production on tribal land was upheld by the United States District Court in New Mexico in *Jicarilla Apache Tribe v. New Mexico Taxation and Revenue Department*, No. USDC 87-922. In 2009 however, in *Ute Mountain Ute Tribe v. Homans*, No. CIV 07-772 JP/WDS, the United States District Court for the District of New Mexico (Judge Parker) held that the State may not impose severance taxes on non-tribal operators extracting oil and natural gas on the tribal land of the Ute Mountain Ute Tribe. The TRD has appealed the ruling. The outcome and its effect are uncertain. Regardless of the

outcome, however, it is unlikely that the decision will have any impact on taxes paid from production on other reservations in the State.

The TRD reports that natural gas production and crude oil production on Indian land was approximately 3.3 percent and 0.8 percent, respectively, of total taxable statewide production in fiscal year 2009. The TRD estimates that oil and natural gas production on Indian land generated \$4.4 million in severance tax revenues to the State in the production months corresponding to fiscal year 2009 (net of Intergovernmental and Jicarilla Apache Capital Improvement Tax Credits). The TRD estimates that from fiscal year 2005 to fiscal year 2009 coal production on Indian land has ranged from 49.0 percent of total statewide production in fiscal year 2009 to 55.2 percent in fiscal year 2006. No potash, copper or carbon dioxide (“CO<sub>2</sub>”) is produced on Indian land.

Section 7-29C-1 NMSA 1978, enacted by the 1995 Legislature, authorized a credit against state production and property taxes for similar taxes imposed by tribal governments. The credit applies to crude oil and natural gas from new wells drilled on or after July 1, 1995 on land within Indian reservation boundaries on March 1, 1995. The amount of the credit is 75 percent of the lesser of state taxes or tribal taxes imposed. If the applicable tribal taxes were raised after March 1, 1995, then the amount of the State’s credit is lowered. The TRD estimates that total credits claimed under this provision were about \$10.9 million in fiscal year 2009. About \$4.4 million of these credits were applied against oil and natural gas severance tax liability. The Bonding Fund revenue projection assumes that this amount will grow slowly in the future.

The 2001 Legislature enacted Sections 7-29C-2, 7-9-88.2 and 9-11-12.2 NMSA 1978, which provided a similar 75 percent intergovernmental tax credit against severance tax and severance surtax on coal mined on the Navajo Nation. The TRD reports that this credit reduced Bonding Fund revenue by \$3.8 million in fiscal year 2009.

The enactment of Section 7-31-27 NMSA 1978 created the Jicarilla Apache Tribal Capital Improvement Tax Credit, but this credit does not apply against the severance tax revenues due on the same production. This tax credit is a maximum of 0.7 percent of the taxable value of oil and natural gas products produced on Jicarilla Apache Tribal lands, is in addition to the tax credit authorized in Section 7-29C-1 and is claimed as a reduction of emergency school tax amounts. Proceeds of the tax credit must be used exclusively to fund capital improvement projects on Jicarilla Apache tribal lands, although funds may not be used to finance commercial activity.

## **NATURAL GAS PRODUCTION AND SEVERANCE TAX REVENUE**

### **Natural Gas Reserves and Well Completions**

Table 8 presents the U.S. Energy Information Administration (“EIA”) estimates of natural gas “proved reserves” in New Mexico over the years 1999 to 2008. Proved reserves are estimates of recoverable volumes under existing economic and operating conditions. They represent the narrowest measurement of energy resources. Each year the EIA updates its estimates to reflect new information, new discoveries and the production during the year. Increases due to revisions and new discoveries usually offset some or all of the decline due to current production.

New Mexico's proved natural gas reserves were estimated to be 17,347 billion cubic feet (bcf) at the end of calendar year 2008, up from 16,259 bcf at the end of calendar year 1998, a decade earlier. Reserves increased by about 1,088 bcf during the period, and production was about 15,588 bcf. Additions through new discoveries and revised estimates have offset 103.8 percent of the production during the decade. The current reserve estimate represents a New Mexico reserve-to-current-production ratio of 12.4:1.

New Mexico's proved natural gas reserves increased in the early 1990's due to exploration and development in coal seams that was triggered by the federal income tax credit (Section 29 of the Internal Revenue Code). The credit was worth more than \$1.00 per thousand cubic feet (mcf) of production and grew with inflation, but it is no longer available for production occurring after 2002. In fiscal year 2009 production from coal seam formations accounted for approximately 30.3 percent of total statewide natural gas production.

The "proven reserves-to-production" ratio is a measure analogous to inventory-to-production for manufacturers. It represents the known resources that could be developed at today's prices. As is the case for other industries, oil and natural gas producers have to balance their need for adequate inventories with the cost of exploring and developing the reserves. Although they have maintained higher ratios at times in the past, the industry has targeted lower ratios in recent years as a cost savings measure.

Over the last decade, natural gas producers have replaced most of their production with new discoveries. As a result, reserves of natural gas at the end of calendar year 2008 were 17,347 bcf, 1,088 bcf above the level at the end of 1998, which were 16,259 bcf, although 15,588 bcf had been produced in the period. Replacement of reserves by new discoveries and further development of existing formations is a key component of the State's long-term production forecast. New discoveries are expected to offset much of future production. As a result, annual production is expected to decline only gradually. Over time, technological improvements like horizontal drilling have advanced the discovery of new reserves and the production capability for reserves. The reserve-to-current production ratio has steadily increased from 10.0:2 in 1999 to 12.4:1 in 2008. Although additions to reserves in 2007 and 2008 were significantly lower than in previous years, proved reserves are those a company believes with reasonable certainty can be produced with current technology at current prices. Accounting rules in place for 2008 and prior years required companies to calculate proved reserves based on end-of-year prices. New accounting standards adopted by the Securities and Exchange Commission will now require companies to use an annual average price. Therefore, as prices increase we can expect reserves to increase.

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**TABLE 8****New Mexico Natural Gas Reserves<sup>(1)</sup>  
(Natural Gas numbers in billion cubic feet)**

<b>Calendar Year</b>	<b>Beginning Reserves</b>	<b>Net Additions/ Adjustments</b>	<b>Estimated Production</b>	<b>Ending Reserves</b>
1999	16,259	2,135	1,644	16,750
2000	16,750	3,405	1,646	18,509
2001	18,509	1,706	1,656	18,559
2002	18,559	1,493	1,599	18,453
2003	18,453	1,326	1,553	18,226
2004	18,226	3,011	1,550	19,687
2005	19,687	1,186	1,529	19,344
2006	19,344	1,301	1,541	19,104
2007	19,104	760	1,467	18,397
2008	18,397	353	1,403	17,347

<sup>(1)</sup> As measured by wet after lease separation. Wet after lease separation represents the volume of natural gas that is marketable after exclusion of pentanes, hydrocarbons and nonhydrocarbons. The presence of these chemicals renders natural gas unmarketable.

Source: Taxation and Revenue Department Tax Analysis, Research and Statistics Office (U.S. Energy Information Administration and the "ONGARD System").

Drilling activity in New Mexico had increased substantially from the nadir recorded in 1998 and 1999. The collapse of oil prices in 1998 caused sharp cutbacks in drilling for both oil and natural gas wells. With the exception of a price-driven dip in 2002, the drilling rig count in the State steadily increased from 1999 until 2006 when it peaked and began to decline. Historically, the number of drilling rigs increases as oil and natural gas prices rise. This relationship has changed, however. High-productivity horizontal rigs are used more frequently in unconventional coal seam gas production. According to PIRA, rig counts moved steadily higher from mid-January 2009 in the face of extensive gas price erosion. Since mid-2009, rig efficiencies associated with non-horizontal, non-shale output have moved sharply higher in relation to declining rig counts. Fiscal year 2008 witnessed a slight temporary dip in rig counts despite record prices, but fiscal year 2009 saw a significant decline in rig counts, along with gas prices. Tightening credit markets for new rigs also may have contributed to the decline in the total number of rigs given the state of the economy. Growth resumed in fiscal year 2010. New Mexico had more rigs than Colorado through fiscal year 2006 and the same number during the first two quarters of fiscal year 2007. Colorado significantly surpassed New Mexico in rig count during the third quarter of fiscal year 2007, but the gap narrowed during the third quarter of fiscal year 2009 when Colorado passed more stringent environmental regulations. Both states had the same number of rigs during the first quarter of fiscal year 2010, but New Mexico again surpassed Colorado during the second quarter.

In early August 1999, a joint venture between Sonat Raton and PennzEnergy Corporation announced plans for an extensive development program in the Raton Basin in northeastern New Mexico. Production from the Raton Basin steadily increased until fiscal year 2006 when it leveled off at approximately 25.8 million cubic feet and has since ranged from approximately 25.6 million cubic feet in fiscal year 2008 and 26.2 in fiscal year 2009. Historically, natural gas prices from production in the Raton Basin exceeded prices in the San Juan Basin due to differences in pipeline access to markets, but that price difference ceased at the end of 2005. In fiscal year 2009 production from the Raton Basin was approximately 1.9 percent of total natural gas production in the State, the San Juan Basin 63.2 and the Permian Basin 34.9 percent.

On May 9, 2008, EMNRD (Oil Conservation Division) adopted new “pit rules” regulating the maintenance of open pits. Members of the industry estimated that the new rules would increase drilling costs by between \$30,000 and \$150,000 per well or approximately 7 to 8 percent of the total cost of each well. However, recent discussions with operators indicate that while these costs initially were accurate, the costs are decreasing as the industry gains experience. The costly portion of the rule change is not the requirement of lined pits for use in drilling and workover operations, but the hauling and proper disposal of wastes generated during the process so as not to contaminate ground water. Some industry representatives assert that the increased costs associated with protecting the groundwater during oil and gas operations will have a negative effect on the number of drilling rigs working in New Mexico. While any cost increase will reduce the amount of money invested, the effect of the cost increase is difficult to determine given the fluctuations in the commodity price and the expectations for price changes.

**TABLE 9**  
**Number of Natural Gas Well Completions by Calendar Year**

2000	1,224
2001	1,422
2002	1,292
2003	1,554
2004	1,703
2005	1,778
2006	1,757
2007	1,481
2008	1,202
2009	842

*Source: New Mexico Energy, Minerals and Natural Resources Department, Oil Conservation Division*

## Natural Gas Markets

Between 1986 and 2002, total United States consumption of natural gas grew in all but one year, reaching 23 trillion cubic feet (tcf) in calendar year 2002. Since 2002, total consumption declined to 22.3 tcf in calendar year 2003, 22.4 tcf in 2004, 22 tcf in 2005, and 21.7 tcf in 2006, but returned to 2002 levels in 2007 at 23 tcf and exceeded these levels in 2008 at 23.2 tcf. Consistently higher prices from 2005 through 2008 over the past several years have resulted in a decrease in demand for natural gas as users switched to alternative coal or petroleum-based products or were priced out of the market, although prices for alternative products increased in 2008 as well. More recently, however, the relative low price of natural gas has led power generators to substitute natural gas for coal. According to the EIA, during the period 1986 through 2003, domestic natural gas production increased steadily from approximately 16.1 tcf in 1986 to 19.1 tcf in calendar year 2003. From 2003 to 2006, domestic production decreased by 3 percent to 18.5 tcf; however, in 2007, domestic production increased again to near 2003 levels at approximately 19.1 tcf and exceeded these levels in 2008 at 20.4 tcf. Prior to 2008, declining production in mature provinces such as West Texas has been offset by sharp production increases from coal-bed methane formations and deepwater Gulf of Mexico deposits. The gap between domestic production and domestic consumption has been met by growing imports, increasing from 0.8 tcf in 1986 to 2.6 tcf in 2008. New drilling methods led to sharp increases in domestic production of shale and tight formation natural gas in 2008.

The balance between supply and demand has shifted periodically during the 1990’s, depending on the availability of pipeline capacity for expanded imports, as well as weather-

related conditions. Average wellhead prices steadily increased from 1998 through 2005, with the exception of 2002. From 2005 to 2007, wellhead prices ranged from \$6.18 to \$6.91 per thousand cubic feet. For the purposes of comparison, national average wellhead prices and average New Mexico wellhead prices for calendar years 1999 through 2008, as reported by the EIA, are presented in the following table.

**TABLE 10**

**Average Wellhead Price by Calendar Year  
(\$ per thousand cubic feet)**

	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>
National Average Wellhead Price	\$2.19	\$3.68	\$4.00	\$2.95	\$4.88	\$5.46	\$7.33	\$6.39	\$6.25	\$7.96
New Mexico Producers	\$2.11	\$3.43	\$3.89	\$2.68	\$4.56	\$4.97	\$6.91	\$6.18	\$6.88	\$8.40
NM as a percentage of National Average	96.3%	93.2%	97.3%	90.8%	93.4%	91.0%	94.3%	96.7%	110.1%	105.5%

*Sources: Taxation and Revenue Department, Tax Analysis, Research and Statistics Office (U.S. Energy Information Administration).*

New Mexico’s producers have benefited from higher wellhead prices since the mid 1990s. Economic growth in California, the end-use market for a majority of natural gas produced in the State, has caused prices received in the San Juan Basin to increase relative to eastern markets. Additions to pipeline infrastructure have enabled the State’s producers to move natural gas east or west to more profitable markets. This has improved New Mexico wellhead prices compared to the national average. In fact, in 2007 and 2008 New Mexico wellhead prices exceeded the national average.

**Natural Gas Production**

Total natural gas production in New Mexico increased sharply in the early 1990’s due to increased coal seam production in the San Juan Basin. This production was stimulated by federal income tax credits that expired at the end of calendar year 2002. In fiscal year 2009 coal seam natural gas production accounted for approximately 30.3 percent of total statewide production. After rising steadily through the 1990s, total statewide production began to decline in 2002, falling below 1,600 bcf in fiscal year 2003. Total revenue almost doubled in fiscal year 2001 as shortages caused natural gas prices to spike to unprecedented levels during the winter of 2000-2001. Since that time, revenue continued to rise through fiscal year 2008 as the price of natural gas continued to increase, spiking in fiscal year 2006 and setting records in fiscal year 2008. On July 3, 2008, the Henry Hub price reached \$13.58 per mcf and the weighted average price for New Mexico natural gas reached \$12.55 per mcf in July 2008. Taxable production volume, sales revenue and average price per thousand cubic feet for fiscal years 2000 through 2009 are presented in the following table.

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**TABLE 11**  
**Natural Gas Subject to Taxation**  
**Production, Revenues and Average Price**  
**Fiscal Years 2000-2009**

	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>
Sales										
Volume (bcf)	1,655	1,650	1,627	1,576	1,545	1,547	1,522	1,514	1,427	1,389
Gross Sales										
Revenues (millions)	\$4,446	\$8,431	\$4,000	\$6,213	\$7,359	\$9,030	\$11,459	\$9,920	\$11,994	\$7,784
Gross Average Price per mcf	\$2.69	\$5.11	\$2.46	\$3.94	\$4.76	\$5.84	\$7.53	\$6.55	\$8.40	\$5.60
Net Taxable Value (millions)	\$3,553	\$6,938	\$3,126	\$5,030	\$6,045	\$7,451	\$9,511	\$8,067	\$9,703	\$6,077
Net Average Price per mcf	\$2.15	\$4.20	\$1.92	\$3.19	\$3.91	\$4.82	\$6.25	\$5.33	\$6.80	\$4.38

Source: *New Mexico Taxation and Revenue Department, Tax Analysis, Research and Statistics Office (the "ONGARD System").*

The following table sets forth the production levels of the State's largest natural gas producers in calendar year 2009.

**TABLE 12**  
**Ten Largest Natural Gas Producers in New Mexico and 2009 Production**

	<b>Thousand Cubic Feet</b>
Burlington Resources Oil & Gas Company, LP	317,497,138
ConocoPhillips Company	196,318,739
BP America Production Company	79,630,299
Devon Energy Production Company, LP	77,988,114
XTO Energy, Inc.	70,828,864
Energen Resources Corporation	66,381,290
Williams Production Company, LLC	52,915,393
Yates Petroleum Corporation	41,153,724
Chevron USA Inc.	37,896,166
El Paso E&P Company, LP	26,124,386

Source: *New Mexico Energy, Minerals and Natural Resources Department, Oil Conservation Division*

## Severance Taxes on Natural Gas

Severance taxes are levied by State statute on the sale or transport out of state of natural gas produced in the State. State taxation of minerals production for the General Fund began as early as 1933. The Severance Tax Bonding Act, enacted in 1961, earmarked a portion of the existing severance tax to pay debt service on severance tax bonds, with remaining revenues going to the General Fund. The severance tax at that time was 2.5 percent of the marketable sales value, with deductions allowed for royalties to governments and for certain processing and transportation expenses. Beginning in 1973, the Severance Tax Permanent Fund was created, receiving excess severance tax revenues not required for debt service payments.

The tax rate was increased to 3.75 percent of value in 1974. Beginning in 1977, the tax rate was converted to a per unit basis, \$0.05 per mcf of natural gas, with a deduction allowed for

royalties to governments. A surtax was added, equal to the base tax rate times the percentage increase in the Consumer Price Index (CPI) from the base year. This surtax rate was updated annually. The base tax rate was increased to \$0.087 per mcf in 1980, and the surtax provision continued to apply.

By July 1, 1986 the surtax had reached \$0.076 and the total tax rate was \$0.163 per mcf. With the sharp decline in wellhead natural gas prices in 1986, the effective severance tax rate was over 8 percent of gross sales value. The combined effective tax rate on natural gas production, including General Fund taxes, was over 11 percent, significantly higher than in neighboring natural gas-producing states. The 1987 Legislature responded to declining prices by converting the tax to 3.75 percent of value on a phased in basis. Beginning July 1, 1990, the new tax rate applied to all production.

The 1995 Legislature authorized reduced severance tax rates for certain categories of production. A 10-year exemption from Severance Taxes was provided for production from previously non-producing wells (“restoration”). A 50 percent rate reduction was provided for incremental production from a qualifying work over project (“recompletion”).

In response to sharply lower oil prices and declining production of oil and associated natural gas, the 1999 Legislature adopted new severance tax incentives for production from recompletion wells and stripper wells. For natural gas, a stripper well is defined as one having average daily production of less than 60,000 cubic feet per day. For oil wells, the threshold is 10 barrels per day. Instead of a 50 percent rate reduction (from 3.75 percent to 1.875 percent) for only the *incremental* production from recompletion wells, a tax rate of 2.45 percent was applied to *all* production from qualified wells.

For stripper well production, the 1999 legislation introduced a sliding scale of applicable tax rates, depending on the prevailing taxable value of products.

The following table summarizes incentive tax rates applied to various categories of oil and natural gas production in New Mexico as of fiscal year 2009. However, due to the rise in oil and natural gas prices, none of these incentive programs are currently in effect and are not expected to come into effect in the five-year forecast period based on the Consensus Group’s revenue forecast. Should prices decline in the future, some of these incentives may become applicable again.

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**TABLE 13**  
**Oil and Natural Gas Tax Incentive Programs**

<u>Incentive Category</u>	<u>Incentive Tax Rate</u>	<u>Threshold Price Below Which Incentive Rate Applies</u>	<u>Qualified Production As a Percent of Fiscal Year 2009 Total</u>
Production Restoration Project	0.0% <sup>(1)</sup>	\$24.00 per barrel <sup>(2)</sup> \$24.00 per barrel <sup>(2)</sup>	0.0% Oil <sup>(4)</sup> 0.0% Natural Gas <sup>(4)</sup>
Well workover wells	2.45%	\$24.00 per barrel <sup>(2)</sup> \$24.00 per barrel <sup>(2)</sup>	0.0% Oil <sup>(4)</sup> 0.0% Natural Gas <sup>(4)</sup>
Stripper wells	1.875%	\$ 1.15 per mcf-Gas <sup>(3)</sup> \$15.00 per barrel-Oil <sup>(3)</sup>	0.0% Natural Gas <sup>(4)</sup> 0.0% Oil <sup>(4)</sup>
	2.8125%	\$ 1.35 per mcf-Gas <sup>(3)</sup> \$18.00 per barrel-Oil <sup>(2)</sup>	0.0% Natural Gas <sup>(4)</sup> 0.0% Oil <sup>(4)</sup>
Enhanced oil recovery	1.875%	\$28.00 per barrel <sup>(2)</sup>	0.0% Oil <sup>(4)</sup>

<sup>(1)</sup> The incentive rate applies for 10 years after the restoration project is completed. Each year's production is tested against the threshold price.

<sup>(2)</sup> Twelve-month average price for West Texas Intermediate crude oil as reported on Oil Postings for last day of each month.

<sup>(3)</sup> Average annual taxable value of natural gas or oil sold in New Mexico during the preceding calendar year.

<sup>(4)</sup> No oil or natural gas volumes are expected to qualify for these incentives during the period because average taxable value exceeds the threshold levels.

Source: *New Mexico Taxation and Revenue Department, Tax Analysis, Research and Statistics Office.*

### Projections of Severance Tax Revenues from Natural Gas

The natural gas price outlook is based on analysis by the Consensus Group, which relies on forecasts by the U.S. Energy Information Administration, PIRA (formerly Petroleum Industry Research Associates), and Global Insight and NYMEX futures contracts. Natural gas prices rose to levels that were unprecedented during the winter of 2000-2001. Supplies failed to keep up with increasing demand and inventories reached record low levels. After falling back to lower levels, in response to the economic recession and slower economic growth, prices rose again in anticipation of the war with Iraq. The 2005 hurricane season and resulting damage of the natural gas infrastructure in the Gulf of Mexico caused prices to increase to historically high levels. Volatility in oil producing countries such as Iran and Nigeria also caused natural gas prices to increase in 2006. In 2008, increased consumption, exacerbated by speculation in commodities markets, resulted in record prices. Commodities markets subsequently tumbled along with financial markets, with the price for Henry Hub falling as low as \$2.66 on September 2, 2009, but have regained strength. As of May 15, 2010, the price for Henry Hub was \$4.40 per mcf. The ongoing recession has caused a steep decline in demand.

For fiscal year 2009, New Mexico producers received a weighted average price of \$5.60 per mcf, down from \$8.40 in fiscal year 2008 and \$6.55 in fiscal year 2007. In December 2009, the Consensus Group estimated an average price for fiscal year 2010 of \$4.30 per mcf and \$5.40 for fiscal year 2011. Prices are expected to increase to \$5.65, \$5.90 and \$6.10 per mcf for fiscal years 2012, 2013 and 2014 respectively.

Natural gas volume production decreased by 2.87 percent in fiscal year 2009, from 1,429 bcf in fiscal year 2008 to 1,389 bcf in fiscal year 2009. Because of lower prices and production, severance tax revenue for New Mexico producers decreased 37.5 percent in fiscal year 2009.

Natural gas production in New Mexico has declined since fiscal year 2000 with the exception of fiscal year 2005, which registered a slight increase. Fiscal years 2006, 2007, 2008 and 2009 saw decline rates of 1.59, 0.57, 5.70 and 2.71 percent, respectively. In December 2009, the Consensus Group's revenue forecast assumed that natural gas production would decline by approximately 4.68, 4.15, 3.94, 2.46 and 2.52 percent in fiscal years 2010, 2011, 2012, 2013 and 2014 respectively. This is a somewhat steeper decline than has been assumed in the past.

Historically, regional factors have held down prices for New Mexico natural gas producers with production in the northern Rocky Mountain region growing faster than the pipeline capacity for carrying that fuel to markets. If Rockies gas cannot go east, it goes south to the San Juan basin depressing prices there. Producers bid down prices in an effort to get their natural gas into the scarce pipeline space available resulting in highly discounted prices for New Mexico producers from October 2008 through May 2009. Completion of an eastbound pipeline from the Rocky Mountain area has relieved some of this price competition. The Rockies Express Pipeline has now reached Appalachia. However, a singular weld failure caused a leak on a section of the pipeline near Clarington, Ohio just two days after the leg opened in November, resulting in the declaration of a force majeure, which remained in effect through January 2010. Environmental concerns have been raised regarding the use of hydraulic fracturing to break apart natural gas formations and increase gas flows in tight plays, including oil shale and coal seams. Some states are independently imposing restrictions on the development of oil shale plays and the use of hydraulic fracturing and horizontal drilling in their states. Restrictions on hydraulic fracturing at the federal level or in competing states would improve the cost competitiveness of conventional gas production in the State.

Most of the wells in the State have been producing for a prolonged period and the loss of pressure in natural gas formations will lead to declines in per well production that will be partially offset by new drilling. Natural gas development in the Raton Basin has peaked and volumes are declining. Any new development on the Otero Mesa, in Mora, Rio Arriba and Santa Fe Counties, and in the Pedernal uplift areas is not expected by the State to add measurably to production volume in the foreseeable future. Moreover, local governments in Mora, Rio Arriba and Santa Fe Counties have either imposed or are considering the implementation of tighter restrictions on drilling activity in their respective counties.

Natural gas markets have been redefined by technological improvements in the extraction of unconventional natural gas, like coal bed methane, shale and tight formation natural gas. Efforts to extract shale in Texas increased reserves and producers have intensified efforts to extract unconventional natural gas in other states. New Mexico's production of conventional and coal seam natural gas accounts for close to 10 percent of the United States total, although the State has no shale or tight formation natural gas that is currently developable.

Almost all new power plant capacity being planned at the present time is natural gas-fired. The only notable exception in the State is a proposed coal-fired power plant in San Juan County located on the Navajo Nation reservation, which is the subject of a Federal challenge filed by the State and environmental groups who claim that various procedural requirements related to the Clean Air Act and Endangered Species Act were not met. Environmental concerns with coal power make natural gas a preferred option. In addition, deregulation of electric power markets places a premium on "distributed generation" – power generation facilities that are closer to end use markets than traditional, central-station facilities.

The severance tax base for natural gas is defined as the wellhead value less deductions for the expense of transporting and processing product to the first point of sale. In addition,

deductions are allowed for royalties paid to governmental entities (federal, state and tribal). The combined value of all deductions has averaged 19.7 percent of gross wellhead sales value from fiscal year 2000 through 2009. The percentage was 21.93 percent in fiscal year 2009. For the December 2009 forecast the Consensus Group assumed deductions of 24.0 percent in fiscal year 2010, 23.0 percent in 2011 and 22.0 percent in fiscal years 2012 through fiscal year 2014.

**TABLE 14**

**New Mexico Natural Gas Volume, Price and Severance Tax Projections  
Fiscal Years Ending June 30<sup>(1)</sup>**

	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>
Natural gas sales (bcf)	1,325	1,270	1,220	1,190	1,160
Average sales price (\$ per mcf)	\$4.38	\$5.62	\$5.75	\$5.92	\$6.07
Severance Taxes on					
Natural Gas (in thousands)	\$165,400	\$206,092	\$205,189	\$206,060	\$205,955

<sup>(1)</sup> Reflects the Consensus Group's December forecast.

Source: *The Consensus Group*.

**OIL PRODUCTION AND SEVERANCE TAX REVENUE**

**Oil Reserves and Production**

The table below presents the EIA's estimate of oil "proven reserves" from 1998 to 2008. Proved reserves are those a company believes with reasonable certainty can be produced with current technology at current prices. They represent the narrowest measurement of the country's energy resources. Each year the EIA updates its estimates to reflect new information, new discoveries and production during the year. The EIA reports on proven reserves of crude oil in the State on the basis of company surveys. Accounting rules in place for 2008 and prior years required companies to calculate proved reserves based on end-of-year prices. New accounting standards adopted by the Securities and Exchange Commission will now require companies to use an annual average price. Therefore, as prices increase we can expect reserves to increase. Oil reserves at the end of calendar year 2008 are higher than they were at the end of 1998 but lower than they have been in any year since, likely due to the low price on December 31, 2008. The price of West Texas Intermediate ("WTI") crude was \$39.03 per barrel on December 30, 2008. The weighted average monthly price received by New Mexico producers in February 2009 was \$32.28, prices not seen since January 2004.

Although production has declined gradually since 2001 when 70 million barrels were produced, there was a steeper decline in 2005 to approximately 63 million barrels. Production remained fairly stable at around 60 million barrels from fiscal year 2006 through fiscal year 2008. Preliminary ONGARD data indicate that in fiscal year 2009 production increased by 3.46 percent to approximately 62.2 million barrels. The Consensus Group is forecasting decline rates ranging from 1.64 to 1.78 percent during fiscal years 2010 through 2014.

In 2008, New Mexico reserves represented approximately 10.7 years of production. This "proven reserves-to-production" ratio is a measure analogous to inventory-to-production for manufacturers. It represents the known resources that could be developed at 2008 prices. As is the case for other industries, oil producers have to balance their need for adequate inventories with the cost of exploring and developing the reserves. Although they have maintained higher

ratios at times in the past, the industry has targeted lower ratios in recent years as a cost savings measure.

**TABLE 15**  
**New Mexico Oil Reserves**  
**Crude Oil<sup>(1)</sup>**

<u>Year</u>	<u>Beginning Reserves</u>	<u>Additions/ Adjustments</u>	<u>Estimated Production</u>	<u>Ending Reserves</u>
1999	620	166	68	718
2000	718	71	70	719
2001	719	66	70	715
2002	715	64	69	710
2003	710	34	67	677
2004	677	57	65	669
2005	669	82	61	690
2006	690	75	60	705
2007	705	90	60	735
2008	735	(20)	61	654

<sup>(1)</sup> Barrels in millions.

Source: Taxation and Revenue Department, Tax Analysis, Research and Statistics Office (U.S. Energy Information Administration and the "ONGARD System").

Potential new development of oil resources is indicated by exploration and drilling activity. Secondary or tertiary recovery projects (water or carbon dioxide injection) typically require new development wells. The following chart presents oil well completions during the period 2000 through 2009.

**TABLE 16**  
**Number of Oil Well Completions by Calendar Year**

2000	772
2001	726
2002	511
2003	674
2004	763
2005	897
2006	1,163
2007	896
2008	1,261
2009	970

Source: New Mexico Energy, Minerals and Natural Resources Department, Oil Conservation Division

The following table sets forth the production levels of the largest oil producers in the State in calendar year 2009.

**TABLE 17**

**Ten Largest Oil Producers in New Mexico and 2009 Production**

	<u>Barrels</u>
COG Operating, LLC	6,276,576
Chevron USA Inc.	4,536,937
Occidental Permian Ltd.	3,876,644
ConocoPhillips Company	3,674,008
Marbob Energy Corporation	3,482,726
Apache Corporation	3,242,851
Devon Energy Production Company, LP	2,412,540
OXY USA, Inc.	2,150,574
Yates Petroleum Corporation	1,968,617
XTO Energy, Inc.	1,930,229

Source: *New Mexico Energy, Minerals and Natural Resources Department, Oil Conservation Division*

**Severance Taxes on Oil**

Severance taxes are levied on oil on the basis of sales value at the time of either sale or transportation from the State. Oil production and oil sales are related but are not directly proportional because of stockpiling and price fluctuations from period to period. Estimates of oil sales occurring in the last 10 fiscal years are presented in the following table.

**TABLE 18**

**Oil Subject to Taxation  
Production, Revenues and Average Prices  
Fiscal Years 2000-2009**

	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>
Sales Volume (bbl in millions)	68.8	70.0	69.3	68.4	67.0	63.1	60.4	60.1	60.0	62.2
Gross Sales Revenues (millions)	\$1,691	\$1,992	\$1,522	\$1,930	\$2,139	\$2,859	\$3,633	\$3,552	\$5,626	\$4,033
Gross Average Price per bbl	\$24.57	\$28.47	\$21.96	\$28.24	\$31.93	\$45.34	\$60.08	\$59.10	\$93.72	\$64.86
Net Taxable Value (millions)	\$1,543	\$1,811	\$1,383	\$1,754	\$1,944	\$2,595	\$3,289	\$3,189	\$5,048	\$3,615
Net Average Price per bbl	\$22.41	\$25.88	\$19.95	\$25.66	\$29.02	\$41.15	\$54.40	\$53.06	\$84.10	\$58.13

Source: *New Mexico Taxation and Revenue Department, Tax Analysis, Research and Statistic Office (the "ONGARD System")*.

The severance tax rate on oil was increased to 3.75 percent of sales value in 1974. Beginning in 1977, the rate was converted to \$0.45 per barrel, with a surtax indexed to the CPI. In 1980, the tax rate was converted back to 3.75 percent of value.

In 1992, the Legislature provided a 50 percent reduction of the severance tax rate applied to oil produced through enhanced recovery methods. Enhanced methods include carbon dioxide miscible fluid displacement, water flood, pressure maintenance and thermal methods. The reduced rate applies to all production from an enhanced recovery project following certification of a positive production response by EMNRD's Oil Conservation Division.

The 1995 Legislature authorized reduced severance tax rates for certain categories of production. A 10-year exemption from Severance Tax was provided for production from

previously non-producing wells (“restoration”). A 50 percent rate reduction was provided for incremental production from a qualifying work over project (“recompletion”). During fiscal year 1999, 100,000 barrels of oil had qualified for the restoration tax exemption. During the same period, 500,000 barrels of oil had qualified for the recompletion rate reduction. Combined, these volumes represent less than 1 percent of annual production of oil. Qualified volumes are expected to grow slowly over time. The 1999 Legislature expanded the incentive program for recompletion wells and created a new incentive for stripper wells. Presently, no production qualifies for the incentives because the price of oil is above the ceiling prices provided in the incentives. The December 2009 revenue forecast by the Consensus Group assumes that the incentives will not apply through fiscal year 2014.

### **Projections of Severance Tax Revenues from Oil**

*Volume of Production:* The natural rate of production decline from an oil field, absent application of enhanced recovery methods (“EOR”) or additional drilling for exploration and development, is usually estimated at 10 percent per year. During most of the 1990’s, producers prevented a decline in total production by a combination of new well drilling, well maintenance activity and EOR investment. Oil producers responded to higher world oil prices by increasing output to 70 million barrels in fiscal year 2001, up from 68.8 million barrels in fiscal year 2000. Although production has declined gradually since 2001, there was a steeper decline in 2005 to approximately 63.1 million barrels. Production remained fairly stable at around 60 million barrels between 2006 and 2008 and increased to approximately 62.2 million barrels in 2009. Production increased by 3.46 percent in fiscal year 2009. The Consensus Group is forecasting decline rates ranging from 1.64 to 1.78 percent during fiscal years 2010 through 2014.

*Prices:* Over the past ten fiscal years weighted average annual oil prices received by New Mexico producers have ranged from \$21.96 in fiscal year 2002 to a high of \$93.72 in fiscal year 2008. A dramatic cycle in crude oil prices was initiated in the fall of 1997, when the OPEC cartel announced its intention to increase production quotas. Coincident with a worldwide economic slowdown, the announcement led to a drop of about 50 percent in world crude oil prices. A new agreement to reduce production levels was reached by the cartel during the spring of 1999. The OPEC action and the dramatic rise in the domestic price for natural gas led to a spike in oil prices in 2001. Prices abated in 2002 as world economic growth slowed, rose gradually in 2002 and 2003, and spiked again in 2005 in anticipation of potential production shortfalls related to the war in Iraq and other potential instability in oil-producing countries. Prices continued to rise dramatically until June 2008 when New Mexico producers received a weighted average price of \$130.69 per barrel. Two of the drivers supporting these record-setting prices were market speculation and geopolitical risks. Since September 2008 West Texas Intermediate crude oil prices have declined and remained well below \$100 per barrel. The expectation for New Mexico is a long-term downward trend in production levels, with prices stabilizing, as set forth in the table below. The revenue forecast performed by the Consensus Group released in December 2009 assumes a price per barrel of \$47 in fiscal year 2010, \$75 in fiscal year 2011, \$79 in fiscal year 2012, \$83 in fiscal year 2013, and \$87 in fiscal year 2014.

*Revenues:* Severance tax revenues from oil were \$135.7 million in fiscal year 2009, down 28.4 percent from fiscal year 2008. The five year forecast by the Consensus Group, reflected in Table 19, expects revenues to increase steadily as the national economy improves.

**TABLE 19**  
**New Mexico Oil Volume, Price, and Severance Tax Projections**  
**Fiscal Years Ending June 30<sup>(1)</sup>**

	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>
Oil sales (million barrels)	61.3	60.2	59.1	58.0	57.0
Average price (\$/barrel)	\$66.03	\$74.11	\$77.68	\$82.03	\$85.92
Severance Taxes on Oil (in thousands)	\$135,849	\$149,736	\$154,082	\$159,682	\$164,370

<sup>(1)</sup> Reflects the Consensus Group's December 2009 forecast.

Source: *The Consensus Group.*

## COAL PRODUCTION AND SEVERANCE TAX REVENUE

### Coal Reserves and Production

The State's main coal-bearing strata are the Mesa Verde and Fruitland Formations in the San Juan Basin and the Raton and Vermejo Formations in the Raton area. Currently, all coal is being produced in the San Juan Basin. The quality of coal located in the State ranges from high-heat content bituminous coal to lower rank sub-bituminous coal. Coal found in the State is relatively low in sulfur content, ranging from 0.5 to 1.1 percent, compared to the national average of 1 to 2 percent. The State's coal varies widely in ash and moisture content. The majority of New Mexico coal is used for electrical generation.

According to the EIA, as of January 1, 2009, the State had the following estimated recoverable reserves: 2,782 million short tons of underground coal and 4,140 million short tons of surface coal for a total of 6,922 million short tons. Estimated recoverable reserves include the coal in the demonstrated reserve base considered recoverable after excluding coal estimated to be unavailable due to land use restrictions or currently economically unattractive for mining, and after applying assumed mining recovery rates. The State had the following demonstrated reserve base: 6,114 million short tons of underground coal and 5,906 million short tons of surface coal for a total of 12,020 million short tons. The demonstrated reserve base includes publicly available data on coal mapped to measured and indicated degrees of accuracy and found at depths and in coal bed thicknesses considered technologically minable at the time of determinations.

During fiscal year 2009, there were five coal mining companies in New Mexico: BHP Navajo Coal Company; Chevron Mining, Inc.; El Segundo Coal Company, LLC; Lee Ranch Coal Company; and San Juan Coal Company. BHP Navajo Coal Company and the San Juan Coal Company are owned by BHP Billiton Marketing, Inc. The El Segundo Coal Company and the Lee Ranch Coal Company are owned by Peabody Natural Resources.

All of the coal produced in the BHP Navajo Mine goes to the Four Corners Power Plant in New Mexico, which is a mine-mouth power plant. It is the largest power producing plant by generation capacity in New Mexico and transmits electricity throughout New Mexico, as well as Arizona and California. The Arizona Public Service Company operates the plant. Output from the BHP Navajo Coal Company was 9.1 million tons in fiscal year 2009, up 11.6 percent from fiscal year 2008. BHP is planning a large expansion of its mining operations to feed the Desert Rock Power Plant. The EPA initially issued an air quality permit, but a review board questioned its plans for carbon sequestration, resulting in the partial remanding of the permit back to the

EPA. Until the final permit is issued, BHP can continue with its engineering phase but cannot continue construction of or opening of the plant.

Until 2007 Chevron operated two mines, McKinley North and South. Chevron closed its South Mine in 2007 and is expected to close its North Mine, which is on the Navajo Reservation. By the end of calendar year 2008 Chevron Mining neared the end of its reserves at its North Mine, and the price of coal was too low for them to be economically mined at the existing market prices. Chevron Mining notified its main customer, Arizona Public Service, that it was nearing the end of its reserves, so Arizona Public Service contracted with another provider. When the price of coal increased enough for Chevron Mining to economically mine its remaining reserves, it had no buyer. Therefore, it continued to sell its stockpiled coal under a letter agreement through the first calendar quarter of 2010. Chevron has notified the TRD that it has ceased operations effective March 31, 2010. Output from the Chevron Mining was 3.1 million tons in fiscal year 2009, down 5.6 percent from fiscal year 2008.

The El Segundo Coal Company and the Lee Ranch Coal Company are owned by Peabody Natural Resources, which has acquired contracts to produce coal in mines formerly operated by Chevron. Output from the Lee Ranch Coal Company was 2.0 million tons in fiscal year 2009, down 63.0 percent from fiscal year 2008. Output from the El Segundo Coal Company was 131,397 tons in June 2008, its first month of production. In fiscal year 2009, El Segundo produced 5.1 million tons. Peabody is preferentially pulling coal out of its El Segundo Mine, which partially explains why production from the El Segundo Mine has increased significantly while output from the Lee Ranch Coal Company has decreased significantly. In addition, 20 percent – 30 percent of Peabody's coal is sold to industrial customers, which are likely being affected by the ongoing recession. Coal produced by Peabody's El Segundo Mine is transported to the Springerville Generating Station in east-central Arizona, which is operated by Tucson Electric Power Company. Tucson Electric Power Company expects to take 3 million tons per year for 20 years for its Springerville Generating Station and Arizona Public Service Company will take as much as 4 million tons of coal per year for 19 years for its Cholla Generating Station in eastern Arizona. Peabody's Lee Ranch Mine also supplies the Cholla and Springerville Generating Stations, as well as the Escalante Generating Station near Prewitt, New Mexico.

All of the coal produced by San Juan Coal Company goes to the San Juan Generating Station, which is also a mine-mouth power plant owned by BHP. The Public Service Company of New Mexico operates the plant. Output from the San Juan Coal Company was 6.2 million tons in fiscal year 2009, up 5.7 percent from fiscal year 2008. The increase is explained by intentional stockpiling to enable a more steady supply, so a future decline in production is likely and unrelated to a decline in demand. The San Juan Coal Company has been burying ash produced by coal incineration by the San Juan Generating Station. The Sierra Club has filed a lawsuit, claiming that there has been water contamination due to leakage of the buried ash.

During Fiscal Year 2009, 64.7 percent of all coal produced in the State and supplied to electricity generating stations was supplied to power plants in New Mexico. The remaining 35.3 percent was transported by rail to electricity generators in Arizona.

### **History of Severance Tax and Severance Tax Surtax on Coal Production in New Mexico**

Severance taxes have been levied on coal production in New Mexico since 1937. Revenues were distributed to the State General Fund until adoption of the Severance Tax Bonding Act in 1961. Tax rates were imposed on an *ad valorem* basis, 0.125 percent of value

from 1937 to 1974, and 0.5 percent of value from 1974 to 1977. In 1977, rates were converted to \$0.38 per short ton for seam coal and \$0.18 per short ton for metallurgical coal. A severance surtax was also imposed. Subsequent rates were to be determined annually by multiplying the severance tax per short ton by the percentage increase in the Consumer Price Index (CPI) from 1976 to the calendar year just prior to the year in which the surtax rates were to be computed. The base severance tax rate was then increased to the current base rate of \$0.57 per ton in 1980. A slightly reduced base rate of \$0.55 per ton was provided for underground-mined coal in 1982.

Effective July 1, 1989, the severance surtax was frozen for a period of four years at \$0.60 per ton for surface coal and \$0.58 per ton for underground coal. When added to the base tax rate, this action had the effect of freezing the total rate at \$1.17 per ton for surface coal and \$1.13 per ton for underground coal. The surtax freeze was to terminate on July 1, 1993.

In 1990 the Legislature exempted from the surtax coal sold under new contracts entered into on or after July 1, 1990, and before July 1, 1994. The exemption also extended to incremental sales under existing contracts measured by the increase in sales over the annual average established in fiscal years 1987 to 1989. In 1992 the exemption was extended to incremental sales under renegotiated contracts.

In 1993 the exemption was extended to July 1, 1994. The annual increase was to be based upon the Producer Price Index ("PPI") for coal instead of the CPI. The surtax formula provides that in no case will the surtax be decreased, so a fall in the PPI for coal will not trigger a drop in the surtax rate. In 1994 the exemption was extended to July 1, 1995. In 1995 it was extended to July 1, 1997. In 1997 it was extended to July 1, 1999.

Pursuant to actions of the 1999 Legislature, currently the following coal is exempt from the surtax: (1) coal sold and delivered pursuant to genuinely new contracts entered into on or after July 1, 1990; (2) coal sold and delivered pursuant to contracts already in effect on July 1, 1990, that exceeds the annualized average calendar year deliveries under the contract during production years 1987, 1988 and 1989 or the highest contract minimum during these three years, whichever is greater, unless the deliveries are reduced due to causes beyond the reasonable control of either party to the contract; (3) if a contract existing on July 1, 1990, and renegotiated after May 20, 1992, requires the purchaser to take annual coal deliveries in excess of the greater of the average calendar year deliveries from 1987-1989 or the highest annual contract minimum from 1987-1989, the surtax does not apply to such excess deliveries for the remaining term of the renegotiated contract. Taxpayers were required to register any contract for the sale of qualified coal with the department prior to taking the exemption.

A total of approximately \$9.6 million in severance surtax was collected in fiscal year 2008 and \$8.9 million in fiscal year 2009.

### **Severance Tax Revenue on Coal**

Table 20 sets forth data on coal production, prices, revenue and average tax rates for the past four fiscal years. As reflected in the table, gross average prices have ranged from \$25.03 per ton in fiscal year 2006 to \$31.09 in fiscal year 2009. Output in short tons over the same period has ranged from 22.8 million in fiscal year 2008 to 26.6 million in fiscal year 2006. Total coal sales are expected to decline gradually in the revenue forecast due to increased competition from other electricity sources and environmental concerns. An increasing portion of total sales is

expected to be eligible for the surtax exemption. A total of approximately \$8.9 million in severance surtax was collected in fiscal year 2008 and \$9.6 million in fiscal year 2009.

The surtax rate for surface-mined coal in fiscal year 2008 was \$0.80 per ton and \$0.77 per ton for coal mined underground; in fiscal year 2009, the surface-mined tax rate was \$0.83 and the underground-mined tax rate was \$0.80 per ton; in fiscal year 2010, the surface-mined tax rate was \$1.02 and the underground-mined tax rate was \$0.99 per ton. All coal mined underground is currently exempt from the surtax. In fiscal year 2011, the surface-mined surtax rate will be \$1.13 per short ton and the underground-mineral surtax rate will be \$1.09.

**TABLE 20**  
**Coal Production, Prices, Revenues, and Taxes**  
**Fiscal Years 2006 to 2009**

	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>
<b>Production:</b>				
Total Sales Volume (tons)	26,566,669	25,591,892	22,801,290	25,482,801
Surface Mined Surtax Exempt	6,455,233	7,157,518	5,862,728	7,671,768
Surface Mined Non-Exempt	13,140,540	11,437,268	11,080,122	11,618,253
Underground Mined Surtax Exempt	6,970,895	6,997,106	5,858,440	6,192,780
<b>Prices:</b>				
Weighted Average Price per Ton for All Coal	\$25.03	\$26.49	\$29.18	\$31.09
<b>Sales Revenue:</b>				
Total Sales Revenue	\$665,065,500	\$677,872,102	\$665,449,922	\$792,304,607
<b>Taxes Collected and Intergovernmental Tax Credits (ITC):</b>				
Gross Severance Tax and Severance Surtax Due	\$24,070,557	\$22,796,639	\$21,743,664	\$24,044,491
Intergovernmental Tax Credit (ITC)	\$5,886,169	\$5,478,600	\$4,534,144	\$3,810,231
Net Severance Tax and Severance Surtax Liability (Net of ITC)	\$18,184,388	\$17,318,039	\$17,209,520	\$20,234,260
<b>Effective Taxes:</b>				
Effective Tax Rate	2.73%	2.55%	2.59%	2.55%
Effective Tax per Ton for all Coal (Net of ITC)	\$0.68	\$0.68	\$0.75	\$0.79

*Source: New Mexico Taxation and Revenue Department, Tax Analysis, Research and Statistics Office (the "GenTax System").*

## OTHER MINERAL PRODUCTION AND SEVERANCE TAXES

### Carbon Dioxide

The Bravo Dome CO<sub>2</sub> field encompasses 1.2 million acres in Harding, Union and Quay Counties in the northeastern area of the State. It contains estimated resources of 16.3 trillion cubic feet, of which 7.0 to 10.6 trillion cubic feet are considered economically recoverable. Although the State has long produced limited quantities of liquid and solid CO<sub>2</sub> for use in the food and the engineering industries, the main commercial value of CO<sub>2</sub> deposits is derived from the use of the product in its gaseous form in enhanced oil recovery projects in the Permian Basin of Texas and New Mexico. Future sales ultimately will depend on the CO<sub>2</sub> requirements

of such projects and on the State's proportion of the market, which is shared with Colorado's Sheep Mountain and Little Sheep Mountain, McElmo Dome and Doe Creek Fields. Sales of CO<sub>2</sub> were approximately 105.1 bcf during fiscal year 2009 and are expected to increase to 120.0 bcf in fiscal year 2010 and increase by 5.0 bcf in fiscal year 2011 and again in 2012, and then remain stable over the remaining forecast period. The weighted average wellhead price of CO<sub>2</sub> sales for fiscal year 2009 was \$1.01 per mcf reported at the production facility, and is expected to remain at \$1.00 per mcf during fiscal year 2010 and increase by \$0.05 per mcf in each of the remaining four fiscal years in the forecast period. Severance Taxes on CO<sub>2</sub> are levied at the rate of 3.75 percent of taxable sales value. Deductions averaged 27.9 percent during fiscal year 2009 and 34.2 percent over the period from fiscal year 1997 through 2009. Therefore, in fiscal year 2009, the 3.75 percent applied only 72.1 percent of total sales volume. However, the long-term weighted average deductions are 34.2 percent. For the December 2009 forecast, a deductions rate of 33.0 percent was assumed over the five-year forecast period.

### **Other Minerals**

Many other minerals and natural resources are taxed in the State upon their severance from the earth or, in some cases, their sale or shipment. Existing tax rates are listed in Table 21. In many cases, flat percentage deductions are allowed to account for certain production costs. The result is that the taxable value is a percentage of the "full value." The "full value," in turn, is sometimes based upon published prices rather than actual revenues. Generally, for products with a price at the point of production, value is that price less deductions allowed for actual costs for hoisting, loading, and crushing of up to 50 percent of price. For products that must be processed before sale, deductions are allowed for cost of processing and freight charges to the point of sale. Several exceptions apply, as detailed below. For potash, the gross value is 40 percent of the posted field or market price, less those actual expenses of hoisting, crushing and loading necessary to place the severed product in marketable form and at a marketable price but allowable deductions may not exceed 50 percent. The gross value for each type of potash and potash product requiring processing or beneficiation (other than sizing) is 33.33 percent of the proceeds realized from the sale of muriate of potash and sulphate of potash magnesia, as standard grades, and 33.33 percent of the value of such products consumed in the production of other potash products, less 50 percent of such reported value as a deduction for expenses of hoisting, loading, crushing, processing, and beneficiation. Gross values for copper, lead and zinc, gold, and silver are 66.66 percent of specified Comex, London Metal Exchange cash price, London Metal Exchange Final, and London spot, U.S. Equivalent, respectively, as published in Metals Week, less 50 percent of the gross value as a deduction for the expenses of hoisting, loading, crushing, processing and beneficiation, regardless of actual expenses incurred. For molybdenum, gross value is the value of molybdenum contained in concentrates shipped or sold from a mine site, but in no event shall it be less than market value, less 50 percent of the sales value as a deduction for the expenses of hoisting, loading, crushing, processing and beneficiation, regardless of actual expenses incurred. For sand and gravel, in the absence of substantial evidence of a different posted field or market price, it is presumed that the gross value is \$1.75 per ton. In the absence of evidence of lower deductible expenses the maximum 50 percent deduction will be allowed. In determining taxable value, rent and royalty payments to the federal government or the State government are deductible from gross value.

**TABLE 21**

**Severance Tax Rates on Other Minerals**

<b><u>Mineral Resources</u></b>	<b><u>Tax Rate</u></b>	<b><u>Taxable Value as Percent of Full Value</u></b>
Potash	2.500%	16.67%
Copper	0.500	16.67
Timber, Pumice, Gypsum, Clay, Fluorspar, Other	0.125	100.00
Molybdenum	0.125	50.00
Lead, Zinc	0.125	16.67
Gold	0.200	50.00
Silver	0.200	30.00
Uranium	3.500	50.00

*Source: New Mexico Taxation and Revenue Department, Tax Analysis, Research and Statistics Office.*

Severance tax revenue from potash was \$2,014,091 in fiscal year 2009. Severance tax revenue from copper, which is limited because of the statutorily defined narrow tax base, was \$334,523 in fiscal year 2009 after peaking at \$760,288 in fiscal year 2008. Prior to the decrease in fiscal year 2009, these revenues rose from \$610,966 in fiscal year 2007 and \$526,380 in 2006. Weighted average copper prices were \$2.23 per pound in fiscal year 2009.

**OTHER TAXES OF NATURAL RESOURCES NOT PLEDGED**

Rates for unpledged production and property taxes on New Mexico natural resources are summarized below. As discussed in prior sections of this Official Statement, proceeds from the Severance Tax and the Oil and Gas Severance Tax are pledged to the Bonding Fund for payment of interest, premium and principal of the Bonds. **Proceeds of other taxes shown below are not pledged to the payment of principal, premium, if any, or interest on Severance Tax Bonds.**

**Production and Property Taxes on Oil and Natural Gas**

Current effective production tax rates expressed on ad valorem and unit bases are shown below. The rates were based on data from fiscal year 2009 and reflect an average sales price of \$64.86 per barrel for oil and \$5.60 per thousand cubic feet (mcf) for natural gas. The gross rates presented in the table below show taxes paid as a percentage of gross sales value before subtracting allowable deductions. The gross tax per unit is also based on gross sales value. The net tax per unit, however, is based on taxable value net of allowable deductions.

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**TABLE 22****Tax Rates on Oil and Natural Gas  
Fiscal Year 2009**

	<u>Volume</u>	<u>FY 09 Price</u>	<u>Crude Oil</u>			<u>Natural Gas</u>		
			<u>Gross Rate</u>	<u>Gross Tax Per Barrel</u>	<u>Net Tax Per Barrel</u>	<u>Gross Rate</u>	<u>Gross Tax Per mcf</u>	<u>Net Tax Per mcf</u>
Oil	62,178,256	\$64.86						
Natural Gas	1,388,793,598	\$6.50						
Type of Tax:								
Oil and Gas Emergency School Tax			3.15%	\$2.04	\$1.83	4.00%	\$0.22	\$0.17
Oil and Gas Severance Tax			3.75%	\$2.43	\$2.18	3.75%	\$0.21	\$0.16
Oil and Gas Conservation Tax			0.19%	\$0.12	\$0.11	0.19%	\$0.01	\$0.01
Subtotal - excludes ad valorem taxes			7.09%	\$4.59	\$4.12	7.94%	\$0.45	\$0.34

Source: New Mexico Taxation and Revenue Department, Tax Analysis, Research and Statistics Office (the "ONGARD System").

The Emergency School Tax rate of 3.15 percent imposed on natural gas was raised to 4 percent effective July 1, 1993. This action was taken partially to compensate for the large decreases in revenues due to the 1987 tax changes for natural gas. Further, it was believed that the tax increase was tolerable to industry because of relatively higher prices. The School Tax rate imposed on crude oil continues to be 3.15 percent.

Statutory rates on oil for the Emergency School Tax (3.15 percent), the Oil and Gas Severance Tax (3.75 percent) and the Conservation Tax (0.19 percent) are effectively reduced by deductions allowed for trucking costs and for Federal, State and Indian royalties. House Bill 208 passed by the 2010 New Mexico State Legislature and signed into law by Governor Richardson increases the Conservation Tax rate on oil from 0.19 percent to 0.24 percent when the average price of WTI in the previous quarter exceeds \$70.00 per barrel, effective June 1, 2010. The average price for the first quarter of 2010 was \$78.64. Statutory rates on natural gas for the Emergency School Tax (4 percent), the Oil and Gas Severance Tax (3.75 percent), and the Conservation Tax (0.19 percent) are effectively reduced by deductions for Federal, State and Indian royalties and by deductions for transportation and processing tariffs upstream of the sales location. The *oil and gas production ad valorem* tax and the *oil and gas production equipment ad valorem equipment* tax are imposed in lieu of property taxes on mineral reserves and equipment located on the leasehold. Tax rates applied to these tax bases are local rates and vary by jurisdiction. The ad valorem production tax is subject to the same deductions as for School Tax, Severance Tax and Conservation Tax. The tax base for the Oil and Gas Production Equipment Ad Valorem Tax is the wellhead price, not reduced by the value of royalties.

**Production, Sales, and Property Taxes on Coal**

Total State production and property taxes on coal amounted to approximately \$28.9 million in fiscal year 2008, when total coal production was approximately 22.8 million tons. Thus, the average effective tax per ton was approximately \$1.27. With total sales revenue of over

\$665.4 million, the average effective tax was 4.34 percent of total sales revenue. The average burden of production and property taxes on a ton of coal produced and sold during fiscal year 2009 is shown in Table 23:

**TABLE 23**  
**Tax Burden on Coal**

Type of Tax	Tax per Ton	Effective Tax Rate	Taxes Collected
Severance Tax and Surtax (Net of ITC)	\$0.79	2.55%	\$20,234,260
Resource Excise Tax	\$0.21	0.69%	\$5,428,852
Conservation Tax	<u>\$0.05</u>	<u>0.17%</u>	<u>\$1,375,306</u>
<b>Total Production Taxes</b>	<u>\$1.06</u>	<u>3.41%</u>	<u>\$27,038,418</u>
Property Tax	\$0.23	0.74%	\$5,833,150
Gross Receipts Tax	<u>\$1.87</u>	<u>6.01%</u>	<u>\$47,610,572</u>
<b>Total Production and Non-Production Taxes</b>	<u>\$3.15</u>	<u>10.16 %</u>	<u>\$80,482,140</u>
Price per Ton			\$31.09
Total Production (Short Tons)			25,482,801
Total Value			\$792,304,607

<sup>(1)</sup> The figures reported in this table come from the New Mexico Taxation and Revenue Department's GenTax System. They reflect only the information contained in all tax returns and amendments filed during fiscal year 2009. These figures differ from actual distributions made by the Taxation and Revenue Department's Financial Services Bureau, as the distributions include penalties, interest, and other modifications such as previously unallocated or unidentified receipts. Total production is based on volumes reported on severance tax returns, which differ from the volumes reported on resource excise tax returns.

<sup>(2)</sup> Property taxes were billed in calendar year 2008 and collected in fiscal year 2009.

Source: *New Mexico Taxation and Revenue Department, Tax Analysis, Research and Statistics Office (the GenTax System, Financial Services Bureau and Property Tax Division's Central Assessment Unit).*

Statutory rates for the resources excise tax and the conservation tax are effectively reduced by a deduction for Federal, State and Indian royalties. The effective severance tax rate on coal reflects the mix of old and new contract sales and of underground and surface mines. Property tax pertains to both equipment and production values. Fundamental differences in tax bases preclude a true comparison between property taxes and other taxes shown above. However, property taxes are included in this analysis to prevent understating the tax burden.

In addition to production taxes, gross receipts tax is imposed on coal produced and sold within the State. During fiscal year 2009, 64.7 percent of all coal produced in the State and supplied to electricity generating stations was supplied to power plants in New Mexico. The remaining 35.3 percent was transported by rail to electricity generators in Arizona. 95.2 percent of all coal produced in New Mexico is subject to the gross receipts tax. The combined state and local tax rate is 6.309 percent of value.

### BOOK-ENTRY-ONLY SYSTEM

*The information in this section concerning DTC and DTC's book-entry system has been obtained from sources that the State believes to be reliable, but the State takes no responsibility for the accuracy thereof.*

The Depository Trust Company ("DTC"), New York, New York, will act as securities depository for the Bonds. The Bonds will be issued as fully-registered securities registered in the name of Cede & Co. (DTC's partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully-registered Bond certificate will be issued for each

maturity of such issue of the Bonds, each in the aggregate principal amount of such issue, and will be deposited with DTC.

DTC, the world's largest securities depository, is a limited-purpose trust company organized under the New York Banking Law, a "banking organization" within the meaning of the New York Banking Law, a member of the Federal Reserve System, a "clearing corporation" within the meaning of the New York Uniform Commercial Code, and a "clearing agency" registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues, and money market instruments (from over 100 countries) that DTC's participants ("Direct Participants") deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities, through electronic computerized book-entry transfers and pledges between Direct Participants' accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation ("DTCC"). DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly ("Indirect Participants"). DTC has Standard & Poor's highest rating: AAA. The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at [www.dtcc.com](http://www.dtcc.com) and [www.dtc.org](http://www.dtc.org).

Purchases of Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for the Bonds on DTC's records. The ownership interest of each actual purchaser of each Bond ("Beneficial Owner") is in turn to be recorded on the Direct and Indirect Participants' records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Bonds are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in Bonds, except in the event that use of the book-entry system for the Bonds is discontinued.

To facilitate subsequent transfers, all Bonds deposited by Direct Participants with DTC are registered in the name of DTC's partnership nominee, Cede & Co., or such other name as may be requested by an authorized representative of DTC. The deposit of Bonds with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Bonds; DTC's records reflect only the identity of the Direct Participants to whose accounts such Bonds are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to

Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time.

Redemption notices shall be sent to DTC. If less than all of the Bonds within an issue are being redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in such issue to be redeemed.

Neither DTC nor Cede & Co. (nor any other DTC nominee) will consent or vote with respect to Bonds unless authorized by a Direct Participant in accordance with DTC's MMI Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to the State as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts Bonds are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Redemption proceeds, distributions and dividend payments on the Bonds will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts upon DTC's receipt of funds and corresponding detail information from the State, on the payable date in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC, Agent or Issuer, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of redemption proceeds, distributions, and dividend payments to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of the State or Agent, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

DTC may discontinue providing its services as depository with respect to the Bonds at any time by giving reasonable notice to the State or Agent. Under such circumstances, in the event that a successor depository is not obtained, Bond certificates are required to be printed and delivered.

The State may decide to discontinue use of the system of book-entry only transfers through DTC (or a successor securities depository). In that event, Bond certificates will be printed and delivered to DTC.

**THE STATE WILL NOT HAVE ANY RESPONSIBILITY OR OBLIGATION TO THE DTC PARTICIPANTS OR BENEFICIAL OWNERS.**

SO LONG AS CEDE & CO., AS NOMINEE OF DTC, IS THE REGISTERED OWNER OF THE BONDS, REFERENCES HEREIN TO THE BONDHOLDERS OF THE BONDS WILL MEAN CEDE & CO., AND WILL NOT MEAN THE BENEFICIAL OWNERS OF THE BONDS.

When reference is made to any action which is required or permitted to be taken by the Beneficial Owners, such reference only relates to those permitted to act by State statute, regulation or otherwise on behalf of such Beneficial Owners for such purposes. When notices are given, they are to be sent to DTC, and the State does not have responsibility for distributing such notices to the Beneficial Owners.

The State does not have any responsibility or obligation to the DTC Participants or the Beneficial Owners with respect to (a) the accuracy of any records maintained by DTC or any DTC Participant; (b) the payment by DTC or any DTC Participant of any amount due to any Beneficial Owner in respect of the principal of and premium, if any, and interest on the Bonds; (c) the selection of the Beneficial Owners to receive payment in the event of any partial redemption of the Bonds; (d) any consent given or other action taken by DTC, or its nominee, Cede & Co., as Bond Owner; or (e) the distribution by DTC to DTC Participants or Beneficial Owners of any notices received by DTC as registered owner of the Bonds.

## **SUMMARY OF CERTAIN PROVISIONS OF THE BOND RESOLUTION**

The following summarizes certain provisions of the Bond Resolution relating to the Series 2010C Bonds. This summary does not purport to be complete and reference is made to the Bond Resolution for a full and complete statement of its provisions.

### **Covenants**

So long as any Bonds are outstanding, the State and the Board have covenanted and agreed with the owners of Bonds that: (a) the State will use its best efforts to collect and deposit in the Bonding Fund proceeds from Severance Taxes as set forth in the Severance Tax Bonding Act which, when combined with other amounts the State Legislature, in its sole discretion, may from time to time deposit in the Bonding Fund, will equal (i) at least two hundred percent (200 percent) of the amount of the principal of and interest scheduled to be due in each fiscal year of the State on the Senior Severance Tax Bonds, including the Series 2010C Bonds and (ii) at least one hundred sixty percent (160 percent) of the amount of principal and interest scheduled to be due in each fiscal year of the State on the Senior Severance Tax Bonds and Supplemental Severance Tax Bonds; (b) the State will promptly pay the principal of and the interest on the Bonds, at the places, on the dates and in the manner specified in the Bond Resolution and in the Bonds; (c) the State will keep proper books of record and account, separate and apart from all other records and accounts, showing complete and correct entries of all transactions relating to Severance Taxes, the Bonding Fund and each project account; (d) any registered owner or Beneficial Owner of any of the Bonds or any duly authorized agent of such registered owner or Beneficial Owner, shall have the right, at all reasonable times, to inspect all records, accounts and data relating to the Bonds, the collection of Severance Taxes and the Bonding Fund; provided, however, that pursuant to Section 6-14-10E NMSA 1978, records with regard to the ownership of or pledges of the Bonds are not subject to inspection or copying; (e) the State will prepare annual statements or audits of collections and disbursements of Severance Taxes in sufficient detail to show compliance with requirements of the Bond Resolution and the State will furnish a copy of such audit to any owner of Bonds upon written request therefor; (f) in order to prevent any accumulation of claims for interest after maturity, the State will not directly or indirectly extend or assent to the extension of time for the payment of interest on any of the Bonds; (g) the State will make no use of the proceeds of the Bonds or any funds reasonably expected to be used to pay the Bonds which will cause the Bonds to be arbitrage bonds within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended (the "Code"), or which would result in the loss of the exclusion from gross income for federal income tax purposes of the interest on the Bonds; (h) the State (i) will take or cause to be taken such actions which may be required of it for the interest on the Bonds to be and remain excluded from gross income for federal income tax purposes, and (ii) will not take or permit to be taken any actions which would adversely affect that exclusion, and the State or persons acting for it, will, if necessary to maintain such exclusion, among other acts of compliance, (1) apply, or cause to be applied, the proceeds of the Bonds to the purpose of

the borrowing, (2) restrict the yield on investment-type property acquired with those proceeds, (3) make timely rebate payments to the federal government in accordance with Section 148 of the Code and the Bond Resolution, (4) maintain books and records and make calculations and reports, and (5) refrain from certain uses of proceeds, all in such manner and to the extent necessary to assure such exclusion of that interest under the Code.

## **Defeasance**

If the State shall pay all of the outstanding Series 2010C Bonds, or shall cause them to be paid and discharged in accordance with the next paragraph of this section, or if all payments of principal of and interest on the Series 2010C Bonds, due or to become due, shall otherwise be paid to the owners of the outstanding Series 2010C Bonds, then the Bond Resolution shall cease to be effective and become null and void (except for those provisions surviving in accordance with the last paragraph of this section), and the covenants, agreements and obligations of the Board and the State under the Bond Resolution shall be released, discharged and satisfied.

All or any part of the Bonds shall be deemed to have been paid and discharged if: (1) the Registrar/Paying Agent shall, in advance of any payment to the owners of the outstanding Bonds, have received sufficient moneys for the payment in full of the principal of and interest on the Bonds, or part thereof, or (2) there shall have been placed in trust for the payment of the Bonds and irrevocably committed to such payment, non-callable Defeasance Obligations (defined below) which are certified by an independent public accounting firm of national reputation to be of such maturities or redemption dates and interest payment dates, and scheduled to bear such interest, as will be sufficient, together with any moneys on deposit with the Registrar/Paying Agent available to pay principal of and interest on the Bonds, without further investment or reinvestment of either the principal amount or the interest earnings on such Defeasance Obligations (which earnings are to be held likewise in trust and so committed, except as provided herein), for the payment in full of all principal of and interest on the Bonds, or part of the Bonds, deemed to have been paid, at their maturity or prior redemption dates, as the case may be; provided, that if any Bonds or portions of Bonds are to be redeemed prior to their maturities, notice of that redemption shall have been duly given or irrevocable provision shall have been made for the giving of that notice.

As used in the Bond Resolution, “Defeasance Obligations” means, as permitted by law:

(i) direct obligations of, or obligations the full and timely payment of the principal of and interest on which is unconditionally guaranteed by, or obligations issued by or backed by the full faith and credit of corporations sponsored by, the United States of America;

(ii) obligations issued or guaranteed as to full and timely payment of principal and interest by any agency or person controlled by and acting as an instrumentality of the United States of America, pursuant to authority granted by the Congress of the United States of America; and

(iii) obligations described in Section 103(a) of the Code (a) provisions for the payment of the principal of, premium, if any, and interest on which (1) shall have been made by the irrevocable deposit, with a bank or trust company acting as a trustee or escrow agent for holders of such obligations, of non-callable securities described in clauses (i) and (ii) above, the maturing principal of and interest on which, when due and payable, without further investment or reinvestment, will provide sufficient moneys to pay when due the principal of and interest on such obligations, and (2) which securities described in clause (i) and (ii) are not available to

satisfy year any other claim, including any claim of such trustee or escrow agent or of any person claiming through such trustee or escrow agent or to whom such trustee or escrow agent may be obligated, including claims in the event of the insolvency of such trustee or escrow agent or proceedings arising out of such insolvency or (b) rated by either Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies, Inc. or Moody's Investors Service, Inc., or similar rating agency in its highest rating category (without regard to any refinement or gradation by numerical modifier or otherwise).

Any moneys held in trust in accordance with the defeasance provisions of the Bond Resolutions may be invested only in non-callable Defeasance Obligations having maturity dates, or having redemption dates which, at the option of the holder of such Defeasance Obligations, shall not be later than the date or dates at which moneys will be required for the purposes described above. Within fifteen (15) days after any Bonds are deemed to be paid and discharged, a written notice of such deemed payment and discharge shall be given to each registered owner of Bonds as shown on the registration books kept by the Registrar/Paying Agent on the date on which such Bonds are deemed paid and discharged. Such notice shall state the numbers of the Bonds deemed paid and discharged or state that all Bonds are deemed paid and discharged and set forth a description of the obligations held.

Notwithstanding that Bonds may be deemed to have been paid, any provisions of the Bond Resolution which relates to the maturity of Bonds, interest payments and dates thereof, exchange, transfer and registration of Bonds, replacement of mutilated, destroyed, lost or stolen Bonds, the safekeeping and cancellation of Bonds, nonpresentment of Bonds, and the duties of the Registrar/Paying Agent in connection with all of the foregoing, shall remain in effect and be binding upon the State and the Registrar/Paying Agent until final payment of all Bonds notwithstanding the release and discharge of the Bond Resolution. Notwithstanding any provision of the Bond Resolution to the contrary, any provisions of the Bond Resolution which relates to the exclusion of interest from gross income for federal tax purposes shall remain in effect and be binding upon the State and the Registrar/Paying Agent.

### **Amendment of Bond Resolution**

The Bond Resolution may be amended or supplemented from time to time without the consent of or notice to the holders of the Series 2010C Bonds for any of the following purposes: (a) before or after issuance of the Bonds to add to, subtract from, amend or clarify the list for which Bond Proceeds will be used; (b) to cure any ambiguity, omission, formal defect or inconsistency; or (c) to make any change that, in the judgment of the Board, in reliance upon an opinion of counsel, does not have a material adverse effect on the rights of the owners of any Bonds; or (d) to achieve compliance with any applicable federal securities or tax laws or to ensure the exclusion of interest on the Bonds from the gross income of the owners of the Bonds for federal income tax purposes.

Except as provided above, the Bond Resolution may only be amended or supplemented by resolution adopted by the Board in accordance with applicable law, with or without receipt by the State of any additional consideration, but with the written consent of the owners of a majority in principal amount of the Series 2010C Bonds then outstanding; provided, however, that no such resolution shall have the effect of permitting: (i) an extension of the maturity of any Bond; or (ii) a reduction in the principal amount of, the rate of interest on, or the redemption premium on any Bond; or (iii) a reduction of the principal amount of Bonds required for consent to such amendatory or supplemental resolution; or (iv) the establishment of priorities as between Bonds

issued and outstanding under the provisions of the Bond Resolution; or (v) the modification of, or otherwise affecting, the rights of the owners of less than all of the Bonds then outstanding.

### **Remedies of Holders of Bonds**

The registered owners, or Beneficial Owners, of not less than 25 percent in aggregate principal amount of Series 2010C the Bonds then outstanding may bring an action to protect the rights of the registered owners and Beneficial Owners of Bonds under the Bond Resolution in any court of competent jurisdiction, for the specific performance of any covenant or agreement contained in the Bond Resolution or to enjoin any act or thing which may be unlawful or in violation of any right of any owner of the Bonds. All such proceedings at law or in equity shall be instituted, had and maintained for the equal benefit of all owners of the Series 2010C Bonds then outstanding. The failure of any registered owner or owners or Beneficial Owner or Beneficial Owners of Bonds to so proceed shall not relieve the State or the Board of any obligation to perform any duty under the Bond Resolution. Each right or privilege of such owner and Beneficial Owner is in addition and cumulative to any other right or privilege, and the exercise of any right or privilege by or on behalf of any registered owner or Beneficial Owner shall not be deemed a waiver of any other right or privilege.

### **Payment of Principal and Interest**

The Bonds and the interest accruing on the Bonds shall be payable and collectible out of the Bonding Fund, which is pledged for such payment as provided in the Severance Tax Bonding Act. Interest on the Bonds shall be payable by check or draft mailed to their registered owners, as shown on the registration books for the Bonds maintained by the Registrar/Paying Agent at the address appearing in such books at the close of business on the fifteenth (15<sup>th</sup>) day of the calendar month next preceding each applicable interest payment date (the "Record Date"), or, if such date is not a business day, the first business day thereafter, or in such other manner as may be agreed upon by the Registrar/Paying Agent and the registered owner of a Bond. Interest which is not timely paid or duly provided for shall cease to be payable to the owners of the Bonds (or of one or more predecessor Bonds) as of the Record Date, but shall be payable to the registered owners of the Bonds (or of one or more predecessor Bonds) at the close of business on a special record date (the "Special Record Date") for the payment of that overdue interest to be fixed by the Registrar/Paying Agent. The Special Record Date shall be fixed by the Registrar/Paying Agent whenever moneys become available for payment of the overdue interest, and notice of the Special Record Date shall be given to owners of Bonds not less than ten (10) days prior to such date. The principal and the redemption price of the Bonds are payable upon presentation and surrender of the Bonds without deduction for exchange or collection charges at the office of the Registrar/Paying Agent. Principal of and interest on the Bonds are payable in lawful money of the United States of America.

While registered in the name of DTC or its nominee, payments of principal of and interest on the Bonds shall be made to DTC or its nominee as set forth in the Letter of Representation between DTC and the State.

## **TRANSCRIPT AND LEGAL OPINIONS**

The Board will prepare an official transcript of proceedings of the authorization and issuance of the Bonds.

Legal matters incident to the issuance of the Bonds and the exclusion from gross income for Federal and State of New Mexico income tax purposes of interest on the Bonds (see “TAX MATTERS” below and the form of opinion of Bond Counsel attached hereto as Appendix D) are subject to the approving legal opinions of Sutin, Thayer & Browne A Professional Corporation, Bond Counsel to the State (“Bond Counsel”). Certain legal matters will be passed upon for the State of New Mexico by Brownstein Hyatt Farber Schreck, LLP, Disclosure Counsel. Certain legal matters will be passed upon for the State of New Mexico by the Office of the Attorney General of the State of New Mexico.

## **TAX MATTERS**

The Internal Revenue Code of 1986 (the “Code”) imposes certain requirements that must be met subsequent to the issuance and delivery of the Bonds for interest thereon to be excluded from gross income for Federal income tax purposes. Noncompliance with such requirements could cause the interest on the Bonds to be included in gross income for Federal income tax purposes retroactive to the date of issue of the Bonds. The issuer has covenanted to comply with the applicable requirements of the Code in order to maintain the exclusion of the interest on the Bonds from gross income for Federal income tax purposes.

In the opinion of Sutin, Thayer & Browne A Professional Corporation, Bond Counsel, under existing law and assuming compliance with the aforementioned covenant, interest on the Bonds is excluded from gross income for Federal income tax purposes. Bond Counsel is also of the opinion that the interest on the Bonds will not be treated as a preference item for purposes of computing the alternative minimum tax imposed by Section 55 of the Code.

In rendering its opinion, Bond Counsel will rely on, and will assume the accuracy of, certain representations and certifications, and compliance with certain covenants of the issuer. Bond Counsel will not independently verify the accuracy of the certifications and representations made by the issuer. In addition, Bond Counsel has not been engaged, and will not undertake, to monitor the issuer’s compliance with the covenants or to inform any person as to whether the covenants are being complied with; nor has Bond Counsel undertaken to determine or to inform any person as to whether any actions taken or not taken, or events occurring or not occurring, after the date of the issuance of the Bonds may affect the federal tax-exempt status of the interest on the Bonds.

Bond Counsel is also of the opinion that the difference between the principal amount of the Bonds and the initial offering price to the public (excluding bond houses, brokers, or similar persons or organizations acting in the capacity of underwriters or wholesalers) at which price a substantial amount of each Bond of the same maturity was sold constitutes to an initial purchaser amortizable bond premium which is not deductible from gross income for Federal income tax purposes. The amount of amortizable bond premium for a taxable year is determined actuarially on a constant interest basis over the term of each Bond. For purposes of determining gain or loss on the sale or other disposition of a Bond, an initial purchaser who acquires such obligation in the initial offering to the public at the initial offering price is required to decrease such purchaser’s adjusted basis in such Bond annually by the amount of amortizable bond premium for the taxable year. The amortization of bond premium may be taken into account as a reduction in the amount of tax-exempt income for purposes of determining various other tax consequences of owning the Bonds. Owners of the Bonds are advised that they should consult with their own advisors with respect to the state and local tax consequences of owning the Bonds.

Interest on the Bonds is subject to information reporting in a manner similar to interest paid on taxable obligations. Backup withholding may be imposed on payments made to any bondholder who fails to provide certain required information including an accurate tax payer identification with the number to any person required to collect such information pursuant to Section 6049 of the Code.

Future legislative proposals, if enacted into law, clarification of the Code or court decisions may cause interest on the Bonds to be subject, directly or indirectly, to federal income taxation or to be subject to or exempted from state income taxation, or otherwise prevent Owners from realizing the full current benefit of the tax status of such interest. The introduction or enactment of any such future legislative proposals, clarification of the Code or court decisions may also affect the market price for, or marketability of, the Bonds. Prospective purchasers of the Bonds should consult their own tax advisers regarding any pending or proposed federal or state tax legislation, regulations or litigation, as to which Bond Counsel expresses no opinion.

Bond Counsel has not undertaken to advise in the future whether any events after the date of issuance of the Bonds may affect the tax status of interest on the Bonds. No assurance can be given that future legislation, or amendments to the Code, if enacted into law, will not contain provisions which could directly or indirectly reduce the benefit of the exclusion of the interest on the Bonds from gross income for Federal income tax purposes. Furthermore, Bond Counsel expresses no opinion as to any Federal, State or local tax law consequences with respect to the Bonds, or the interest thereon, if any action is taken with respect to the Bonds or the proceeds thereof upon the advice or approval of bond counsel other than Bond Counsel.

Although Bond Counsel has rendered an opinion that interest on the Bonds is excluded from gross income for Federal income tax purposes, a Beneficial Owner's Federal, State or local tax liability may otherwise be affected by the ownership or disposition of the Bonds. The nature and extent of these other tax consequences will depend upon the Beneficial Owner's other items of income or deduction. Without limiting the generality of the foregoing, prospective purchasers of the Bonds should be aware that (i) Section 265 of the Code denies a deduction for interest on indebtedness incurred or continued to purchase or carry the Bonds, (ii) with respect to insurance companies subject to the tax imposed by Section 831 of the Code, Section 832(b)(5)(B)(i) reduces the deduction for loss reserves by 15 percent of the sum of certain items, including interest on the Bonds, (iii) interest on the Bonds earned by certain foreign corporations doing business in the United States could be subject to a branch profits tax imposed by Section 884 of the Code, (iv) passive investment income, including interest on the Bonds, may be subject to Federal income taxation under Section 1375 of the Code for Subchapter S corporations that have Subchapter C earnings and profits at the close of the taxable year if greater than 25 percent of the gross receipts of such Subchapter S corporation is passive investment income and (v) Section 86 of the Code requires recipients of certain Social Security and certain Railroad Retirement benefits to take into account, in determining the taxability of such benefits, receipts or accruals of interest on the Bonds. Bond Counsel has expressed no opinion regarding any such other tax consequences.

Unless separately engaged, Bond Counsel is not obligated to defend the issuer or the Beneficial Owners regarding the tax-exempt status of the Bonds in the event of an audit examination by the IRS. Under current procedures, parties other than the issuer and their appointed counsel, including the Beneficial Owners, would have little, if any, right to participate in the audit examination process. Moreover, because achieving judicial review in connection with an audit examination of tax-exempt bonds is difficult, obtaining an independent review of the IRS positions with which the issuer legitimately disagrees, may not be practicable. Any

action of the IRS, including but not limited to selection of the Bonds for audit, or the course or result of such audit, or an audit of bonds presenting similar tax issues may affect the market price for, or the marketability of, the Bonds, and may cause the issuer or the Beneficial Owners to incur significant expense.

Bond Counsel is also of the opinion that interest on the Bonds is exempt from State of New Mexico personal income taxes as described herein.

A copy of the proposed form of opinion of Bond Counsel is attached hereto as Appendix D.

**The foregoing is not intended to be an exhaustive discussion of collateral tax consequences arising from receipt of interest on or ownership of the Bonds. Prospective purchasers or owners should consult their tax advisors with respect to collateral tax consequences, including without limitation the calculations of alternative minimum tax, environmental tax or foreign branch profits tax liability, inclusion of Social Security or other retirement payments in taxable income and the state and local tax rules in New Mexico and other states.**

## LITIGATION

At the time of the original delivery of the Bonds, the Board will deliver a no-litigation certificate to the effect that no litigation or administrative action or proceeding is pending, or, to the knowledge of the appropriate State officials, threatened, restraining or enjoining, or seeking to restrain or enjoin, the issuance and delivery of the Bonds, the effectiveness of the legislation authorizing the issuance of the Bonds, the levying or collecting of any taxes for the payment of the debt service on the Bonds (other than those cases described in Appendix C, which proceedings are not, in the opinion of the State Attorney General, reasonably expected to have a material effect on the bondholders), or contesting or questioning the proceedings and authority under which the Bonds have been authorized and are to be issued, sold, executed or delivered, or the validity of the Bonds.

The State is a party to various legal proceedings seeking damages or injunctive relief and generally incidental to its operations which proceedings are unrelated to the Bonds, and to the security therefor. The ultimate disposition of such proceedings is not presently determinable. Such proceedings are not, in the opinion of the State Attorney General, reasonably expected to have a material adverse effect on the Bonds or the security for the payment of the Bonds for the following reason: Severance Taxes are the primary source of payment for the Bonds which are limited obligations of the State. See Appendix C for a summary of litigation and administrative action or proceedings that impact Severance Taxes.

## FINANCIAL ADVISORS

The Board has retained Fiscal Strategies Group, Inc., as Financial Advisor in connection with the preparation of this Official Statement and with respect to the issuance of the Bonds. Fiscal Strategies Group, Inc. has contracted with Public Resources Advisory Group (together with Fiscal Strategies Group, Inc., the "Financial Advisors") in connection with the preparation of this Official Statement and with respect to the issuance of the Bonds. The Financial Advisors are not obligated to undertake, and have not undertaken to make, an independent verification or to

assume responsibility for the accuracy, completeness, or fairness of the information contained in this Official Statement nor the information, covenants and representations contained in any of the Bond documentation with respect to the federal income tax status of the Bonds. The Financial Advisors are independent advisory firms and are not engaged in the business of underwriting, trading or distributing municipal securities or other public securities. The financial advisory fee for services performed with respect to the Bonds is contingent upon the issuance and delivery of the Bonds but is payable from the Bonding Fund.

## **RATINGS**

The Bonds have received ratings from Moody's Investors Service, Inc. and Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies, Inc., as set forth on the cover of this Official Statement.

Such ratings reflect only the views of the respective organizations. An explanation of the significance of each rating may be obtained from the rating agency furnishing such rating. There is no assurance that such ratings will continue for any given period of time or that they will not be revised downward or withdrawn entirely by such rating agencies if, in the judgment of such rating agencies, circumstances so warrant. Any downward revision or withdrawal of either rating can be expected to have an adverse effect on the market price of the Bonds.

## **CONTINUING DISCLOSURE UNDERTAKING**

The Board will agree, by means of a continuing disclosure undertaking (the substantial form of which appears in Appendix E) to be delivered to the purchaser of the Bonds at closing, for the benefit of owners of the Bonds, to provide certain annual financial information relating to the State by no later than 210 days after the end of each fiscal year of the State, commencing with the fiscal year ending June 30, 2011, and to provide notices of occurrence of certain enumerated events, if material. The Board will further agree in the continuing disclosure undertaking that if its audited financial statements are not provided as part of the annual financial information, the Board will provide such audited statements when available. The annual financial information and audited financial statements (when available) will be filed by the Board with the Municipal Securities Rulemaking Board and with any New Mexico State Information Depository. In the event of a failure of the Board to comply with any provision of the continuing disclosure undertaking, any owner of Bonds (including beneficial owners of the Bonds) may seek specific performance by court order from a State court in Santa Fe County, New Mexico.

The continuing disclosure undertaking is being executed by the Board to assist in complying with Rule 15c2-12(b)(5) promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934 (the "Rule"). Except as set forth in the succeeding sentences, the State has never failed to comply in all material respects with any previous undertakings with regard to the Rule to provide annual reports or notices of material events. Continuing disclosure undertakings previously entered into by the Board in relation to the State's Capital Projects General Obligation Bonds and Severance Tax Bonds called for it to file audited financial statements of the State as part of the Board's annual financial information disclosures, or when available if the financial statements had not been finally audited by the time that it was required to make the annual financial disclosures. Due to the investigation by federal authorities of potentially criminal activity by two prior elected State Treasurers, and the seizure of financial information from the State Treasurer's Office to further that investigation, preparation and

auditing of the audited financial statements of the State for the fiscal year ended June 30, 2005 was substantially delayed, and the audited financial statements were not available until August 22, 2006. The State filed the audited financial statements on October 31, 2006, and, on that date, the State notified the Municipal Securities Rulemaking Board of the filing.

Continuing disclosure undertakings previously entered into by the Board in relation to the State's Capital Projects General Obligation Bonds and Severance Tax Bonds state that if audited financial statements are not available by the time the other annual financial information must be provided, unaudited financial statements shall be provided as part of the annual financial information. In connection with its continuing disclosure obligations for fiscal year 2008, the State timely filed its annual financial information on January 23, 2009. At that time, neither unaudited nor audited financial statements from the State of New Mexico State General Fund Annual Financial Report (the "General Fund Audit") and the State of New Mexico Office of the State Treasurer Financial Statements (the "STO Audit") for the fiscal year ended June 30, 2008, were available. The annual financial information disclosed this fact and provided that as soon as they were available the unaudited and audited financial statements would be submitted. On February 17, 2009, the State filed the unaudited financial statements from the General Fund Audit. On March 5, 2009, the State filed the audited financial statements from the STO Audit. On March 31, 2009, the State filed the audited financial statements from the General Fund Audit. The Board believes that it is now in compliance with all its continuing disclosure undertakings.

The continuing disclosure undertaking will be in effect from and after the issuance and delivery of the Bonds and shall extend to the earliest of: (i) the date the principal and interest on the Bonds is paid or deemed paid; (ii) the date the Board is no longer an "obligated person" with respect to the Bonds within the meaning of the Rule; and (iii) the date on which those portions of the Rule which require the continuing disclosure undertaking are held invalid or repealed.

### **MISCELLANEOUS**

The foregoing summaries, descriptions and references do not purport to be comprehensive or definitive, and such summaries, descriptions and references are qualified in their entirety by reference to each statute, document, exhibit or other materials summarized or described. The instruments and other materials referred to in this Official Statement may be examined, or copies thereof will be furnished in reasonable amounts, upon written request to the New Mexico State Board of Finance, 131 South Capitol Street, Bataan Memorial Building, Room 181, Santa Fe, New Mexico 87501, or by telephone at (505) 827-4980.

Statements made in this Official Statement involving matters of opinion, forecasts or estimates, whether or not expressly so stated, are intended as such and not as representations of fact. The Appendices are integral parts of this Official Statement and must be read with all other parts of this Official Statement.

This Official Statement has been authorized and issued by the Board.

STATE BOARD OF FINANCE  
OF THE STATE OF NEW MEXICO

By s/ Bill Richardson  
President

**APPENDIX A**

**GENERAL INFORMATION CONCERNING THE STATE OF NEW MEXICO**

## **GENERAL INFORMATION CONCERNING THE STATE OF NEW MEXICO**

The State, admitted as the forty-seventh state on January 6, 1912, is the fifth largest state, containing approximately 121,593 square miles. The current population of the State is 2,009,671. The State has a semiarid subtropical climate with light precipitation. Its climate is characterized by sunshine and bright skies in both winter and summer. Every part of the State receives no less than 70 percent sunshine year-round. Humidity ranges from 60 percent (mornings) to 30 percent (afternoons). Thunderstorms in July and August bring most of the moisture. December to March snowfalls vary from 2 inches (lower Rio Grande Valley) to 300 inches (north central mountains).

### **Governmental Organization**

The Executive Branch of State government consists of a Governor, Lieutenant Governor, Secretary of State, State Auditor, State Treasurer, Attorney General, and Commissioner of Public Lands. These officials are elected to four-year terms beginning January 1 after their election. An elected Executive Branch officer may succeed himself or herself in office once. The primary functions of the Executive Branch are currently carried out by the offices of each elected Executive Branch officeholder, in addition to approximately 22 cabinet departments, each headed by a cabinet secretary appointed by the Governor and approved by the Legislature, and approximately 9 cabinet-level agencies.

The State Board of Finance has seven voting members consisting of the Governor, the Lieutenant Governor, the State Treasurer, and four members appointed by the Governor with the advice and consent of the Senate. No more than two appointed members may be from the same political party. The Department of Finance and Administration (DFA) Secretary serves as the Executive Officer of the Board and is a non-voting Board member. The Board, in addition to other powers and duties provided by law, has general supervisory authority over the fiscal affairs of the State and over the safekeeping and depositing of all money and securities belonging to, or in the custody of, the State. The Governor serves as the President of the Board.

The Department of Finance and Administration (“DFA”) is the principal financial organization of State government and performs through its divisions the duties and functions relating to State and local government financing and general administration. The executive and administrative head of the DFA is the Secretary, who is appointed by the Governor with the advice and consent of the Senate.

The Legislature consists of 112 members and is divided into a Senate and a House of Representatives. Senators are elected for four-year terms and members of the House are elected for two-year terms. The Legislature convenes in regular session annually on the third Tuesday in January. Regular sessions are constitutionally limited in length to 60 calendar days in odd-numbered years and 30 calendar days in even-numbered years. Special sessions of the Legislature may be convened by the Governor. Extraordinary sessions may be convened by the Legislature under certain limited circumstances. Legislators do not receive any salary, but do receive per diem and mileage allowances while in session or performing official State business.

The judicial branch is composed of a statewide system including Magistrate and District Courts, the Court of Appeals and the Supreme Court. The District Courts are the trial courts of record with general jurisdiction.

### **State Budget for Fiscal Years 2010 and 2011**

Based upon Consensus Group revenue projections for fiscal year 2010 made in December 2009, recurring General Fund revenues, adjusted for 2010 legislation, are projected to decrease by 9.2 percent over fiscal year 2009 to approximately \$4.8 billion. The price of oil is expected to average \$70.00 per

barrel and the price of natural gas is expected to average \$4.30 per mcf for the fiscal year. General and selective sales taxes are projected to decline by 6.6 percent while income taxes are projected to increase by 3.3 percent. Mineral production taxes are projected to decline by 18.9 percent over the previous fiscal year, while rents and royalties are expected to decline by 38.4 percent over the previous fiscal year. The revenue forecast for fiscal year 2010 also includes \$450 million of nonrecurring revenue, which includes actions taken in the 2009 1<sup>st</sup> special, 2010 regular and 2010 2<sup>nd</sup> special sessions of the Legislature and expenditure reductions mandated of executive branch agencies by Executive Order 2009-044. The legislative sessions and executive order actions include reductions to operating budget and capital appropriations, expenditures, including furloughs, transfers of certain fund balances to the general fund, and use of American Recovery and Reinvestment Act of 2009 (“ARRA”) funds. The expenditure reductions mandated by the executive order are currently reflected as nonrecurring revenue increases because they are expenditure reductions, not appropriation reductions. In New Mexico, only the Legislature may decrease appropriations, but the mandated expenditure reductions in the executive order create a liability to the general fund in the form of reversions. In addition to this nonrecurring General Fund revenue, New Mexico is expected to receive just over \$2 billion in federal stimulus funding from ARRA for use in fiscal years 2009 through 2011. New Mexico’s share of the federal funding contained in ARRA for fiscal years 2009 through 2011 includes \$536.0 million for Medicaid, \$260.4 million for education, and \$57.9 million for general purposes.

After adjusting for Governor’s vetoes, the fiscal year 2010 General Fund budget, enacted in the 2009 regular session and further adjusted during the October 2009 special session of the Legislature, contains \$5.35 billion of recurring appropriations, a decrease of 8.8 percent over the fiscal year 2009 adjusted budget. The spending side of the budget was balanced using \$406.2 million (\$180.5 for Medicaid and \$225.7 for Education Stabilization) in ARRA funding to avoid significant reductions in public and higher education and Medicaid, temporarily substituting \$28.1 million of State Medicaid funding with annual tobacco settlement payments, shifting 1.5 percent of annual State pension contributions from the employer to employees to save \$42.6 million, reducing State agency, public education, and higher education budgets by \$139 million, mandating expenditure reductions to save \$79 million in general fund expenditures, implementing furloughs to save \$8.6 million in general fund expenditures and shift funding sources or cancel \$271.1 million in capital outlay projects. An executive branch initiative to collect all outstanding tax obligations owed to the State by taxpayers is expected to increase recurring revenue by \$21.3 million in fiscal year 2010. General Fund balances are expected to close at \$272.2 million at the end of fiscal year 2010, 5% of current-year recurring appropriations.

Based upon revenue projections for fiscal year 2011 made in December 2009, recurring General Fund revenues, adjusted for 2010 legislation are projected to increase by 9.9 percent over fiscal year 2010 to approximately \$5.1 billion. The price of oil is expected to average \$75.00 per barrel and the price of natural gas is expected to average \$5.40 per mcf for the fiscal year. General and selective sales taxes are projected to increase by 7.0 percent while income taxes are projected to increase by 15.6 percent. Mineral production taxes are projected to increase by 7.9 percent over the previous fiscal year, while rents and royalties are expected to increase by 21.5 percent over the previous fiscal year. Newly enacted revenue increases include changes in tax withholding (\$15.6 million), increases in cigarette taxes (\$35.8 million), and increases in gross receipts and compensating taxes (\$137.9 million). The budget was balanced using \$203.3 million (\$168.5 for Medicaid and \$34.8 million for Education Stabilization) in ARRA funding to avoid significant reductions in public and higher education and Medicaid, temporarily substituting \$23.2 million of State Medicaid funding with annual tobacco settlement payments, continuing to shift 1.5 percent of annual State pension contributions from the employer to employees to save \$42.6 million, delay scheduled educational retirement contributions to save \$18.7 million and further reducing agency budgets. General Fund balances are expected to close at \$222.5 million at the end of fiscal year 2011, 4% of current-year recurring appropriations. If actual revenues and transfers to the general fund are insufficient to fund legislatively authorized appropriations, the legislature mandated the Governor to proportionately reduce allotments to all general funded entities, excluding most Medicaid programs.

## **Pension Funds**

The Legislature enacted the Educational Retirement Act, Section 22-11-1 et seq. NMSA 1978, and the Public Employees Retirement Act, Section 10-11-1 et seq. NMSA 1978, which created the retirement plans that cover most employees of the State and its political subdivisions. These retirement plans are described below. In 1998, the voters adopted an amendment to Section 22D of Article XX of the State Constitution, which states that upon meeting the minimum service requirements of an applicable retirement plan created by law for employees of the State or any of its political subdivisions or institutions, a member of a plan shall acquire a vested property right with due process protections under the applicable provisions of the New Mexico and United States Constitutions. The Legislature establishes all financing provisions of the plans and the provisions are not subject to negotiation. Financing provisions include employee and employer contributions, fund investment provisions and benefit provisions. The balances reported below include both official data as of June 30, 2009 as well as data provided by the pension funds reflecting investment returns through September 30, 2009. As with other pension funds nationwide, New Mexico's pension funds were affected by the significant market turmoil related to the downturn in the nation's economy over the past two years. As of December 31, 2009, however, the funds have begun to recover some of the losses incurred during that period.

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

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

Finally, House Bill 854 (Chapter 124, Laws 2009), which was enacted during the 2009 regular legislative session, modifies most employer and employee contributions to the State's retirement funds for fiscal years 2010 and 2011, shifting 1.5 percent of the annual contribution rate from employers to employees for those employees with a full-time equivalent annual salary greater than \$20,000. In fiscal year 2012, the employee contribution rate will return to previous levels.

## **Educational Retirement Board**

The Educational Retirement Board (“ERB”) had 126,889 members as of June 30, 2009, including active, retired, inactive vested and inactive non-vested members. The market value of Educational Retirement Fund as of December 31, 2009 was \$8.28 billion, which was up from a low of \$5.97 billion in February 2009. The ERB had investment gains in the quarters ended June 30, 2009, September 30, 2009 and December 31, 2009. The investment return for the quarter ending December 31, 2009 was a positive 4.9 percent and the investment returns for the 2009 calendar was a positive 27.8 percent. The investment return for the fiscal year to date (July to December 31, 2009) was a positive 18.6 percent. An actuarial valuation of the Educational Retirement Fund completed by Gabriel Roeder, Smith & Co., reported that as of June 30, 2009 the actuarial value of assets was \$9.4 billion and the unfunded accrued actuarial liability (“UAAL”) was \$4.5 billion. The funded ratio (ratio of the actuarial value of assets to actuarial accrued liability) decreased from 71.5 percent at June 30, 2008 to 67.5 percent at June 30, 2009. As of June 30, 2009, the UAAL had an amortization period of 45.0 years, compared to a period of 61.4 years as of the 2008 actuarial valuation. The amortization period, also referred to as the funding period, is a calculation based on actuarial models of the period required to amortize the UAAL, assuming ERB’s experience exactly follows actuarial assumptions. The actuarial assumptions include an 8 percent rate of return. As required by Governmental Standards Accounting Board (“GASB”) Statement 25, the calculation is based on current contribution rates and does not take into account the statutorily scheduled increases in those rates described below. The market value of the Educational Retirement Fund for the quarter ended December 31, 2009 is estimated to be 8.3 billion. The investment return for the calendar year ended December 31, 2009 is estimated to be 28 percent; for the quarter ended December 31, 2009 the investment return is estimated to be 5 percent. The actuarial effect of the 2009 results will be reflected in future actuarial reports.

Member and employer contribution rates are established by State statute. In 2005, the Legislature amended Section 22-11-21 NMSA 1978 to increase the employer contribution rate by 75 basis points (0.75 percent) for each of the seven years beginning July 1, 2005, and to increase member contribution rates by 7.5 basis points (0.075 percent) for each of the four years beginning July 1, 2005. In the 2009 regular legislative session, the Legislature modified employer and member contribution rates for fiscal years 2010 and 2011 to shift 1.5 percent of the employer contribution rate to members whose annual salary exceeds \$20,000. For those members whose annual salary is \$20,000 or less, the contribution rates remain at 7.9 originally enacted by the Legislature. In fiscal year 2010, the employer contribution rate for members whose salary is greater than \$20,000 is 10.9 percent and the rate for members whose salary is \$20,000 or less is 12.4 percent. In fiscal year 2011, the employer contribution rate for members whose salary is greater than \$20,000 will increase to 11.6 percent and the rate for members whose salary is \$20,000 or less will increase to 13.15 percent. Member contribution rates in fiscal years 2010 and 2011 are 9.4 percent for members whose salary is greater than \$20,000 and 7.9 percent for members whose salary is \$20,000 or less. Beginning in fiscal year 2012, the employer contribution rate will be 13.9 percent for all members employed, while members will contribute 7.9 percent regardless of annual salary. In addition, New Mexico universities and colleges make an additional contribution of 3 percent of the salary of those employees who elect to participate in the Alternative Retirement Plan (“ARP”), a defined contribution retirement plan available to certain faculty and professional employees, to satisfy the UAAL attributable to participation in the ARP.

As indicated above, as of June 30, 2009, ERB has an amortization or funding period of 45 years, based on the employer and member contribution rates in effect as of July 1, 2009. The employer contribution in fiscal year 2009 that would have been required in order to amortize the UAAL over 30 years was 12.45 percent. Under current law, the employer rate will increase to 13.9 percent on July 1, 2011. As GASB Statement 25 does not permit the consideration of contribution rates not yet in effect, the 45.0 year funding period must be reported.

## The Public Employees Retirement Association

The Public Employees Retirement Association (“PERA”) had 82,549 members as of June 30, 2009. Gabriel, Roeder, Smith & Co. completed an actuarial valuation of the Public Employees Retirement PERA Fund, Judicial Retirement Fund, Magistrate Fund, Legislative Division and Volunteer Firefighter Fund (“VFF”) as of June 30, 2009. The Public Employees Retirement Board accepted the actuary’s conclusions that the assets, benefit values, reserves and computed contribution rates reflect utilization of an inflation rate of 4 percent per annum, compounded annually, and other risk assumption changes including salary increases for longevity and merit, the real rate of return on investments, mortality, active member withdrawals, disability and retirement rates to allow for expected future experience. For the quarter ended December 31, 2009, the quarterly PERA total fund return was 4.44 percent. For the 12 month period ended December 31, 2009, the annual PERA total fund return was 21.56 percent. The total market value of PERA Fund as of December 31, 2009 was \$10.6 billion up from a recent low of \$7.6 billion on March 9, 2009. The investment return for the quarter ended March 31, 2010, is estimated to be 4.19 percent.

As of June 30, 2009, PERA has an amortization or funding period of 111 years, based on the employer and member contribution rates in effect as of July 1, 2009. Member and employer rates are established pursuant to Section 10-11-1 through 10-11-141 NMSA 1978. The funded ratio (ratio of the actuarial value of assets to accrued actuarial liability) was 84.2 percent as of June 30, 2009. As of June 30, 2009, the unfunded accrued actuarial liability of PERA has been calculated to be approximately \$2.3 billion. On a market value basis, PERA’s funded ratio is approximately 59 percent as of June 30, 2009. This fall the PERA Board will review the results of the June 30, 2010 actuarial valuation, which may indicate that additional contributions be required in order to properly fund the PERA retirement plans.

Actuarial information for each fund as of June 30, 2009 is shown in Table 15.

**TABLE A-1**

**Summary of State Retirement Funds**  
(Dollars in thousands)

	<u>PERA</u> <sup>(1)</sup>	<u>Judicial</u>	<u>Magistrate</u>	<u>VFF</u>	<u>Legislative</u>
Membership	82,549	242	127	4,753	285
<u>Actuarial Information</u>					
Accrued Liability <sup>(2)</sup>	\$ 14,908,279	\$ 120,841	\$ 47,568	\$ 19,869	\$ 24,345
Value of Assets <sup>(3)</sup>	\$ 12,553,986	\$ 73,161	\$ 31,524	\$ 48,192	\$ 21,156
Unfunded (Overfunded) Accrued Liability	\$ 2,354,293	\$ 47,679	\$ 16,043	\$ 28,323	\$ 3,189
Present Value of Statutory Obligations	\$ 18,563,875	\$ 154,104	\$ 56,329	\$ 30,328	\$ 27,753

<sup>(1)</sup> Includes both the state and municipal divisions.

<sup>(2)</sup> Includes the accrued liability of both the retired and active members.

<sup>(3)</sup> The valuation of assets is based on an actuarial value of assets whereby gains and losses relative to an 8 percent annual return are smoothed in over a four-year period.

Source: Public Employees Retirement Association.

## New Mexico Retiree Health Care Authority

The Retiree Health Care Act was enacted in Sections 10-7C-1 through 10-7C-19 NMSA 1978, for the purpose of providing comprehensive group health insurance coverage for persons who have retired from certain public service positions in the State and their eligible dependents. The New Mexico Retiree Health Care Authority (“NMRHCA”) offers both pre Medicare and Medicare plans, as well as dental, vision and life insurance plans to eligible retirees. There were approximately 44,000 enrolled participants as of May, 2010.

The Retiree Health Care Act provides that the benefits offered to retired public employees may be modified, diminished or extinguished by the Legislature, and that the Act does not create any contract, trust or other rights in public employees to health care benefits.

The NMRHCA, the agency that administers the Retiree Health Care Act, has a revenue base comprised of active employee payroll deductions, participating employer contributions, monthly premium contributions of enrolled participants, investment income, and amounts distributed annually from the Taxation Administration Suspense Fund (“TAA Fund”). A separate distribution from the TAA Fund, established at \$3,000,000 per year, was scheduled to sunset on June 30, 2010, but legislation passed during the 2009 legislative session removed the sunset. Employer and employee contribution rates are established in statute as is the amount distributed from the TAA Fund. Respective employer/employee contribution rates are currently 1.3 percent and 0.65 percent of the participating employee’s salary. However, as a result of legislation enacted during the 2009 legislative session, the employer/employee contribution is scheduled to increase to 3 percent beginning on July 1, 2010, phased in over the next three fiscal years.

The increase to the employer/employee contribution will have a substantial, positive impact on the NMRHCA’s solvency projection. As recently as four years ago, the NMRHCA was projected to be insolvent as early as 2014. However, actions taken by the NMRHCA decreasing subsidy levels, increasing premiums and modifying plan designs, coupled with the mandated increase to the employer/employee contribution have extended the NMRHCA’s solvency to approximately 2026.

The recent shortfall in revenues for the State could, however, reverse some of the positive gains and have a significant, negative impact on the solvency and financial position of the NMRHCA. For example, historically the NMRHCA has relied on a 4 percent growth assumption in payroll for its long-term financial projections. It is unlikely that New Mexico will see any growth in public payroll for fiscal year 2011 or in the foreseeable future, and it is possible that payroll growth will be negative. Additionally, any effort to delay the scheduled increase to the employer/employee increase scheduled to take effect in fiscal year 2011 to help ease the State’s budget problems would result in deficit spending by the NMRHCA. Combining the two, a delay in the employer/employee increase and flat or declining payroll growth, would rapidly reverse the gains the NMRHCA, Legislature and Governor have made in recent years to stabilize the NMRHCA and preserve a retiree health care benefit for current and future retirees.

Based on the GASB Statement 43 valuation for fiscal year 2009, and assuming that the NMRHCA Fund is an equivalent arrangement to an irrevocable trust and, hence using a discount rate of 5 percent, the unfunded actuarial accrued liability (“UAAL”) has been calculated to be approximately \$2.9 billion. As required by GASB Statement 43, this calculation takes into consideration only current assets of the NMRHCA Fund. The UAAL is approximately \$1.1 billion less than calculated in the June 30, 2006 GASB Statement 43 valuation. In addition, the June 30, 2009 GASB Statement 43 valuation indicates that the State’s annual required contribution (the amount necessary to fully fund normal cost plus a 30-year amortization of the UAAL) is approximately \$100 million less than in the June 30, 2006 valuation. The Board has taken several actions to reduce the UAAL in 2009 and in future years, including raising premiums and increasing contributions from retirees for the most generous plans, instituting new plan designs, increasing co payments and out-of-pocket maximums and implementing cost sharing for its Medicare Supplement participants. The NMRHCA’s revenues remain, however, significantly less than what is necessary to fund the normal cost and amortization of the UAAL over a 30-year period.

The NMRHCA expects to receive a new solvency report in June 2010 and a new GASB valuation in October 2010.

The NMRHCA continues to look for additional opportunities to further strengthen the financial standing of the NMRHCA including increasing years of service requirements and tapping into other revenue sources.

The NMRHCA suffered investment losses in fiscal years 2008 and 2009; however, the NMRHCA's fund balance has begun to recover and as of April 30, 2010 stood at \$167 million.

### **Severance Tax Permanent Fund and the Land Grant Permanent Fund**

The Severance Tax Permanent Fund ("STPF") was established in the State Treasury in 1973 to receive the residual revenues from the Bonding Fund and serve as an endowment for future capital projects. In 1976, the electorate approved a constitutional amendment giving the STPF constitutional status. In 1982, the electorate approved a second constitutional amendment that removed the discretionary power of the Legislature to appropriate funds from the corpus of the STPF. Distributions from investments of the STPF, however, may be appropriated by the Legislature in the same manner as other general revenues are appropriated. Severance tax receipts have been the primary source of funding for the STPF. The State Investment Officer under the direction of the State Investment Council ("SIC") invests the corpus and non-appropriated income of the STPF. The market value of the STPF as of June 30, 2009 was approximately \$3.2 billion, a decrease of approximately 26 percent from the prior fiscal year. For the quarter ended September 30, 2009, the SIC estimated gains of approximately 8 percent in the STPF. For the twelve month period ended September 30, 2009, the SIC estimated losses of approximately 14 percent in the STPF. For the quarter ended December 31, 2009, the SIC had gains of approximately 5.0 percent in the STPF. For the quarter ended March 31, 2010, the STPF returned 4.7 percent, outperforming its policy by 0.2 percent. Money on deposit in the STPF is not pledged to and may not be used to pay any Bonds.

The Land Grant Permanent Fund ("LGPF") is designed solely to benefit the public educational system of the State and other specified institutions. The origins of the LGPF are found in the Fergusson Act of 1898, which granted two sections of land in every township for the benefit of the public schools in the territories of New Mexico. Also under this Act, specific acreage was granted to individual education, medical and penal institutions in the territory. The initial grant totaled in excess of 5.5 million acres. In 1910, the Enabling Act granted additional lands to various beneficiaries in New Mexico, including the public schools, with the latter receiving the largest share. This brought the total lands placed in trust for the common school system and other beneficiaries to over 13 million acres. Over the years, some land has been sold (and the proceeds used to increase the corpus of the LGPF), so the current total is nine million surface acres and 12.8 million subsurface acres.

Pursuant to Section 19-1-1 NMSA 1978, the State Land Office is charged with the custody and disposition of the land granted to the State. The Commissioner of Public Lands sells or leases these properties in accordance with the provisions of the appropriate statutes. The State Investment Officer under the direction of the SIC invests the corpus and income of the LGPF. As of June 30, 2009, the market value of the LGPF was approximately \$7.9 billion, a decrease of approximately 22 percent from the prior fiscal year. For the quarter ended September 30, 2009, the SIC estimated gains of approximately 9 percent in the LGPF. For the twelve month period ended September 30, 2009, the SIC estimated losses of approximately 9 percent in the LGPF. For the quarter ended December 31, 2009, the SIC had gains of approximately 5.3 percent in the LGPF. For the quarter ended March 31, 2010, the LGPF returned 4.8 percent, outperforming its policy index by 0.2 percent. The corpus of the LGPF is constitutionally protected from appropriation and amounts on deposit therein are not pledged to and may not be used to pay debt. The LGPF is also protected by the Federal Enabling Act of 1910.

In November 1996, the State electorate approved a constitutional amendment regarding distributions from both of the State's permanent funds. Distributions are now based on a total return basis

rather than an income distribution method. In addition, distributions to beneficiaries are now based on a formula under which 4.7 percent of the previous average five-year market value of the fund is distributed.

In September 2003, the State electorate approved a constitutional amendment increasing the rate of distribution from the LGPF from 4.7 percent to 5 percent of the five-year average market value of the LGPF beginning in fiscal year 2005. Certain additional distributions shall be made to implement and maintain educational reforms as provided by law. An additional 0.8 percent has been and will be distributed in fiscal years 2005 through 2012 and an additional 0.5 percent will be distributed in fiscal years 2013 through 2016. A three-fifths majority of each house of the Legislature may suspend this additional distribution.

In May 2009 in connection with an ongoing investigation undertaken by the New York Attorney General relating to the use of third party placement agents in connection with investment transactions of that state's retirement fund, Saul Meyer, the founding partner of Aldus Equity Partners ("Aldus"), an investment advisor to that fund, was indicted in New York for allegedly paying illegal kickbacks in connection with investment recommendations to that fund. Aldus had acted as an investment advisor to the SIC and ERB on private equity investments until being terminated shortly after the May 2009 indictment of Mr. Meyer. In October 2009, Mr. Meyer pled guilty to a fraud charge relating to investments made by the New York retirement fund and recommended by Aldus. In connection with that plea, Mr. Meyer stated that from 2004 to 2009 Aldus had acted as an advisor to the SIC and the ERB and that, contrary to his fiduciary responsibilities to the SIC and ERB, he ensured that Aldus recommended certain proposed investments pushed on him by politically connected individuals or their associates who stood to benefit financially or politically from the investments, and that the investments were not necessarily in the best interests of the State. Several days later in October 2009, Gary Bland, the State Investment Officer, resigned.

In response to these and other events and the negative returns suffered by the State's various investment funds during the market turmoil associated with the downturn in the nation's economy, the Board and the Legislative Council Service ("LCS") co-sponsored an Independent Fiduciary and Operational Review of State Investment Policies, Procedures and Practices prepared by Ennis, Knupp & Associates, Inc. (the "Review"). The scope of the work of this Review included among other things, review and recommendations for appropriate governance and organizational structure, investment best practices for investing agencies and the use of third party marketer fees. The findings and recommendations of the Review were reported to the Board at a meeting on January 13, 2010. In order to address certain recommendations of the Review, during the 2010 legislative session the Legislature, among other things, modified the composition of the SIC, clarified the authority of the SIC and the State Investment Officer, provided for the appointment of the State Investment Officer by the SIC and changed the method of appointment of public members of the SIC. The SIC, ERB and PERA with the assistance of the Board and the LCS, continue to prioritize and address the recommendations contained in the Review based on the needs and resources of the investing agencies and will report to the Board on an ongoing basis.

## **Financial Processes and Procedures**

*State Auditing and Accounting Systems.* The financial affairs of every agency in the State are examined and audited each year by the State Auditor, personnel of the State Auditor's office designated by the State Auditor, or by the independent auditors approved by the State Auditor, as required by Section 12-6-3 NMSA 1978. The audits are conducted in accordance with generally accepted auditing standards. The audit reports include financial statements that are presented in accordance with generally accepted accounting principles.

In July 2006, the State implemented a Statewide Human Resources, Accounting and Management Reporting System ("SHARE System"). The SHARE System replaced the State's existing central

accounting system, central payroll system, personnel system, treasury reconciliation accounting and cashing system, and 114 additional systems then in place at various State agencies. Since June 2007, the State has officially used SHARE as its books of record.

Generally, the transition to SHARE was carried out as expected, however, for the last 3 years there has been a material weakness in the State Treasurer's audited financial statements related to the timeliness of the book to bank reconciliation. This issue stems from certain SHARE system limitations as well as required improvements to accounting procedures at the State Treasurer's Office. In the 2009 Legislative session, an appropriation in the amount of \$1.2 million was made to address these issues and a project to address this finding is underway. A resolution is anticipated in the fiscal year 2010 annual financial statements.

*State Budgetary and Appropriation Process.* All State agencies are required by Section 6-3-19 NMSA 1978 to submit completed budget forms to the DFA Budget Division by September 1 of each year. Guidelines and forms are provided to State agencies in advance of the September 1 deadline. Budget hearings to examine the merits of budget requests are scheduled through the fall and are usually completed by mid-December. The DFA Budget Division presents comprehensive budget recommendations to the Governor, as required by Section 6-3-15(B) NMSA 1978.

The Governor is required by Section 6-3-21 NMSA 1978 to submit a budget for the upcoming fiscal year to the Legislature in early January. The Governor's budget includes the executive recommendations for public education; higher education; State agencies; and historical information on prior expenditures, revenues and revenue projections, among other information. The State budget is contained in a General Appropriation Act, which also may contain proposals for supplemental and deficiency appropriations for the current fiscal year.

Upon passage by the Legislature, the Governor may sign the General Appropriation Act, veto it, veto line items or veto parts of it. After the Governor has signed the General Appropriation Act, the DFA Budget Division approves the agency budgets and monitors the expenditure of the funds beginning on July 1, the first day of the fiscal year.

### **State Treasurer's Investment Responsibilities**

Pursuant to Section 6-10-10(I) NMSA 1978, the State Treasurer, with the advice and consent of the State Board of Finance, may invest money not immediately needed for government operations. These investment responsibilities are conducted in accordance with the State Treasurer's Investment Policy (the "Investment Policy") which is adopted by the State Treasurer and approved by the State Board of Finance. The Investment Policy states that in keeping with the office's fiduciary responsibility, all investment decisions made by the State Treasurer will adhere to the following three fundamental principles: safety, liquidity and return. The Investment Policy applies to all financial assets of the State invested by the Treasurer in the exercise of the Treasurer's statutory authority or invested as directed by other agencies which have specific investment authority and for which the Treasurer acts as the investing authority. The public money includes the State's General Fund, the Local Government Investment Pool, Bond Proceeds Investment Pools, bond debt service funds, and other special funds with respect to which the State Treasurer is the investing authority.

The State Treasurer's Office invested a portion of the General Fund and the State Bond Proceeds Investment Pool in the Reserve Primary Fund ("RPF"), a money market fund, in fiscal year 2007 and 2008 respectively. On September 15, 2008, the balance of the General Fund's RPF investment was \$448.7 million, and the balance of the State Bond Proceeds Investment Pool's RPF investment was \$311.6 million. On September 16, 2008, the RPF net asset value fell below \$1.00 and holdings in the fund were frozen. Since then, RPF has returned approximately \$0.97 per share to shareholders. The remaining RPF position held in the General Fund is \$6.1 million, and the remaining position in the State

Bond Proceeds Investment Pool is \$4.3 million. The remaining positions in the RPF are non-performing assets. On February 26, 2009, RPF announced that it was withholding \$3.5 billion of RPF assets for anticipated and pending litigation against it, which amount could increase or decrease as RPF evaluates information related to such litigation. As a result, the State Treasurer's Office cannot anticipate what the actual losses to the General Fund and the State Bond Proceeds Investment Pool from the RPF may be or when they may be realized. No actual losses have been realized to date. On May 5, 2009, the U.S. Securities and Exchange Commission filed a civil lawsuit in federal court against the operators of RPF, alleging fraud, seeking the pro rata distribution of the remaining RPF assets, and seeking the release of the \$3.5 billion currently being withheld from investors pending the outcome of the lawsuits against RPF. On May 20, 2009, the New Mexico Attorney General filed a complaint and injunction petition in State district court on behalf of the New Mexico State Treasurer's Office and the New Mexico Finance Authority (collectively "the investors") against RPF. The Attorney General's complaint alleges that RPF's setting aside \$3.5 billion to pay legal fees and expenses is a willful and intentional conversion of the investors' assets and a breach of contract. The complaint further alleges that RPF's failure to honor redemption requests on September 16, 2008, is a breach of contract. Additionally, the Attorney General's injunction petition seeks the release of the investors' pro rata share of the \$3.5 billion RPF set aside for its anticipated and pending legal costs. In late November, the multi-district litigation judge in the Southern District of New York entered an order requiring the RPF to liquidate the remainder of the money in the fund and distribute it on a pro-rata basis. Based on the ruling, shareholders can expect to recover approximately \$.99 per share. The order also sets aside \$87.5 million that the RPF may use for pending indemnification claims, includes an injunction barring any further claims against the RPF that would be subject to indemnification, and requires pro-rata distribution to investors of any funds not spent on any pending indemnification claims. The actual losses from the RPF will not be known until all pending litigation is settled and the remaining balance of the fund is distributed.

According to the Investment Policy, an Investment Committee must be appointed by the State Treasurer with the specific purpose and responsibility of establishing, maintaining and administering the Investment Policy. The Investment Committee consists of five (5) voting members: the State Treasurer, or designee, who serves as Investment Committee Chair; the State Treasurer's Chief Investment Officer (with the State Cash Manager as an alternate); the Director of the State Board of Finance or designee; and two additional members. These additional members must be participants in the private investment community or have expert knowledge or professional experience in public finance or public fund investing. One member is appointed by the State Treasurer and approved by the Board and one member is appointed by the Board and approved by the State Treasurer.

The Investment Committee is charged with the following responsibilities:

Reviewing the Investment Policy, no less than annually, and recommending, if advisable, modifications in the Investment Policy from time to time;

Assessing, no less than annually, the utility and efficacy of established internal controls as loss prevention measures with respect to the investment portfolio;

Determining, no less than annually, whether legislation affecting the investment activities of the State Treasurer should be recommended;

Recommending investment procedures that may be useful or required in maintaining currency with public money investment practices;

Deliberating on such topics as economic outlook, portfolio diversification and maturity structure, potential risks, the target rate of return on the investment portfolio;

Identifying potential violations of and suggesting remedial actions to achieve conformity with the Investment Policy;

Recommending, no less than annually, action on depositories, custodians, broker/dealers and investment managers and advisors; and

Assessing whether the Investment Policy is being properly implemented by the individuals and entities involved in the administration and management of investment activities.

On October 26, 2005, then-New Mexico State Treasurer Robert Vigil resigned following his indictment on multiple charges of extortion, money laundering and conspiracy related to his time in office. On September 30, 2006, Mr. Vigil was convicted of one count of attempted extortion and acquitted on 23 other charges. The State Treasurer who preceded Mr. Vigil pleaded guilty to extortion for actions he took as State Treasurer.

Following the indictment of Mr. Vigil, the State engaged the law firm of Hogan and Hartson, LLP and Deloitte Financial Advisory Services L.L.P. to conduct a special audit of the State Treasurer's Office. The special audit found a significant number of internal control weaknesses and deficiencies in the operations of the State Treasurer's Office; however, the special audit did not find that the integrity of funds held at the State Treasurer's Office had been compromised. The special audit recommended a slate of legislative, rulemaking and control enhancements designed to ensure that funds held by the State Treasurer's Office are prudently invested and safely handled.

The State Treasurer's Office has implemented many of the recommendations of the special audit and has implemented a detailed corrective action plan of the type necessary to establish an effective internal control management program. Additionally, the State Treasurer's Office and the Board revised the Investment Policy to increase transparency and oversight and ensure better operating procedures in the State Treasurer's Office. These changes include a requirement to use electronic trading; a requirement to attain a financing rating for the Local Government Investment Pool from a national rating agency; a provision that the investment consultants used by the State Treasurer be approved by the Board and that they establish performance benchmarks for the State Treasurer's Office and report performance relative to that benchmark; improved reporting requirements and more meaningful controls over trading activity; requirements for the State Treasurer to adopt an employee code of conduct policy, a campaign contributions policy, and a whistleblower policy; and a requirement that the State Treasurer and employees involved in the investment process refrain from personal business activity that may impair their ability to make impartial investment decisions.

### **Economic and Demographic Characteristics**

New Mexico is the 36th largest state by population and the fifth largest in land area. The population of the State as of the time of the 2000 United States Census was 1,819,046. In the 1990s, the State was the 12th fastest growing state, as the population increased 20.1 percent from 1990 to 1,820,704 in 2004. Over the same period of time, the national population grew 13.2 percent. From 2000 to 2008, the State's population grew 9 percent to 1,984,356, while the national population grew 7.8 percent over the same period.

There are four Metropolitan Statistical Areas ("MSAs") in the State. The Albuquerque MSA is comprised of Bernalillo, Sandoval, Torrance and Valencia Counties; the Las Cruces MSA is comprised of Doña Ana County; the Santa Fe MSA is comprised of Santa Fe County; and the Farmington MSA is comprised of San Juan County. The fastest growing counties in the State are Sandoval, Doña Ana, Bernalillo, Santa Fe, Valencia and San Juan. The following table sets forth information on population growth in New Mexico and nationally.

**TABLE A-2**

**Population**

**New Mexico and the United States  
2000-2009**

<b><u>Year</u></b>	<b><u>Population</u></b>		<b><u>Annual Percentage Change</u></b>	
	<b><u>New Mexico</u></b>	<b><u>United States</u></b>	<b><u>New Mexico</u></b>	<b><u>United States</u></b>
2000	1,820,813	282,171,957	0.7%	1.1%
2001	1,828,809	285,081,556	0.4%	1.0%
2002	1,850,035	287,803,914	1.2%	1.0%
2003	1,869,683	290,326,418	1.1%	0.9%
2004	1,891,829	293,045,739	1.2%	1.3%
2005	1,916,538	295,753,151	1.3%	0.9%
2006	1,942,608	298,593,212	1.4%	1.0%
2007	1,968,731	301,579,895	1.3%	1.0%
2008	1,986,763	304,374,846	1.0%	0.9%
2009	2,009,671	307,006,550	1.2%	0.9%

*Source : U.S. Census Bureau, Population Estimates Program ; Updated May 2010.*

Major industries in the State include oil and natural gas production, manufacturing, tourism, services, arts and crafts, agribusiness, government and mining. Major federally funded scientific research facilities at Los Alamos, Albuquerque and White Sands are also a notable part of the State's economy. The following table sets forth information on employment by industry over the period of 1999 through 2008.

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**TABLE A-3****Total New Mexico Full-time and Part-time Employment by North American Industry Classification System 1999-2008**

	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<b>Growth 2007-2008</b>	<b>Growth 1999-2008</b>
<b>Total employment</b>	942,689	964,673	968,929	979,946	999,286	1,023,303	1,046,746	1,076,098	1,100,456	1,117,433	1.54%	18.54%
Wage and salary employment	765,161	781,167	791,927	800,588	812,914	829,861	845,127	868,119	878,315	881,422	0.35%	15.19%
Proprietors employment	177,528	183,506	177,002	179,358	186,372	193,442	201,619	207,979	222,141	236,011	6.24%	32.94%
Farm proprietors employment	15,428	15,227	17,825	14,530	16,045	15,632	15,588	15,255	18,183	17,855	-1.80%	15.73%
Nonfarm proprietors employment	162,100	168,279	159,277	164,828	170,327	177,810	186,031	192,724	203,958	218,156	6.96%	34.58%
Farm employment	22,120	21,910	24,355	20,845	22,838	22,619	23,262	22,829	25,794	24,532	-4.89%	10.90%
Nonfarm employment	920,569	942,763	944,574	959,101	976,448	1,000,684	1,023,484	1,053,269	1,074,662	1,092,901	1.70%	18.72%
Private employment	721,909	740,439	739,416	750,194	762,831	783,120	804,832	838,993	864,806	880,216	1.78%	21.93%
Forestry, fishing, related activities <sup>(1)</sup>	5,900	5,489	5,163	5,096	4,979	5,181	5,239	5,136	5,167	5,410	4.70%	-8.31%
Mining <sup>(2)</sup>	17,252	19,016	19,612	17,957	18,576	19,245	21,171	23,726	24,865	27,555	10.82%	59.72%
Utilities	4,224	4,303	4,249	4,078	4,114	4,040	4,075	4,121	4,450	4,532	1.84%	7.29%
Construction <sup>(3)</sup>	59,814	60,690	63,293	61,864	64,135	68,382	73,978	79,826	80,573	79,641	-1.16%	33.15%
Manufacturing	46,176	46,979	45,621	43,908	41,544	40,542	41,106	42,710	42,732	41,611	2.62%	-9.89%
Durable goods manufacturing <sup>(4)</sup>	33,799	33,699	32,327	30,838	28,715	27,857	28,451	29,821	29,714	28,521	-4.01%	-15.16%
Nondurable goods manufacturing <sup>(5)</sup>	12,917	13,280	13,294	13,070	12,829	12,685	12,655	12,889	13,018	13,090	0.55%	1.34%
Wholesale trade	27,390	28,526	27,801	27,232	26,633	27,285	28,377	29,288	29,116	29,399	0.97%	7.33%
Retail trade <sup>(6)</sup>	112,089	113,080	110,010	111,167	112,445	114,169	116,097	116,750	118,932	119,843	0.77%	6.92%
Transportation and warehousing <sup>(7)</sup>	24,282	24,905	23,977	24,229	24,158	24,961	25,321	25,953	27,443	27,691	0.90%	14.04%
Information <sup>(8)</sup>	17,276	18,033	19,438	18,578	17,127	17,163	17,299	18,445	18,863	18,936	0.39%	9.61%
Finance and insurance <sup>(9)</sup>	32,034	31,613	30,848	31,251	31,544	31,769	32,039	32,172	33,567	34,575	3.00%	7.93%
Real estate and rental and leasing <sup>(10)</sup>	27,951	29,635	29,363	30,229	31,922	34,715	38,209	40,313	42,303	45,629	7.86%	63.25%
Professional, scientific and technical services	57,079	59,258	59,391	59,834	62,534	65,461	66,337	73,827	81,492	83,672	2.68%	46.59%
Management of companies and enterprises	5,906	5,810	6,049	6,129	5,440	5,354	6,354	6,425	6,084	5,663	-6.92%	-4.11%
Administrative and waste services <sup>(11)</sup>	47,958	51,414	53,226	54,229	53,292	54,598	55,224	58,489	60,352	60,954	1.00%	27.10%
Educational services	11,083	11,703	11,853	12,765	13,932	14,888	15,384	15,919	16,072	16,762	4.29%	51.24%
Health care and social assistance <sup>(12)</sup>	84,849	88,903	87,694	94,469	99,899	103,691	105,151	108,016	111,576	115,883	3.86%	36.58%
Arts, entertainment and recreation <sup>(13)</sup>	19,125	19,382	18,646	19,994	20,376	20,987	21,463	21,795	22,867	23,887	4.46%	24.90%
Accommodation and food services <sup>(14)</sup>	72,511	73,897	76,263	77,972	79,682	80,465	81,343	84,403	85,211	84,138	-1.26%	16.03%
Other services, except public administration <sup>(15)</sup>	48,370	47,803	46,919	49,213	49,699	50,224	50,665	51,679	53,141	54,435	2.44%	12.54%
Government and government enterprises <sup>(16)</sup>	198,660	202,324	205,158	208,907	213,617	217,564	218,652	214,276	209,856	212,685	1.35%	7.06%

(1) The "Forestry, fishing, related activities, and other" category includes: forestry and logging; fishing, hunting and trapping; agriculture and forestry support activities.

(2) The "Mining" category includes: oil and gas extraction; mining (except oil and gas); and support activities for mining.

(3) The "Construction" category includes: construction of buildings; heavy and civil engineering construction; and specialty trade contractors.

- (4) The “Durable good manufacturing” category includes: wood product manufacturing; nonmetallic mineral product manufacturing; primary metal manufacturing; fabricated metal product manufacturing; machinery manufacturing; computer and electronic product manufacturing; electrical equipment and appliance manufacturing; motor vehicles, bodies and trailers, and parts manufacturing; other transportation equipment manufacturing; furniture and related product manufacturing; and miscellaneous manufacturing.
- (5) The “Nondurable goods manufacturing” category includes: food manufacturing; beverage and tobacco product manufacturing; textile mills; textile product mills; apparel manufacturing; leather and allied product manufacturing; paper manufacturing; printing and related support activities; petroleum and coal products manufacturing; chemical manufacturing; and plastics and rubber products manufacturing.
- (6) The “Retail trade” category includes: motor vehicle and parts dealers; furniture and home furnishings stores; electronics and appliance stores; building material and garden supply stores; food and beverage stores; health and personal care stores; gasoline stations; clothing and clothing accessories stores; sporting goods, hobby, book and music stores; general merchandise stores; miscellaneous store retailers; and nonstore retailers.
- (7) The “Transportation and warehousing” category includes: air transportation; rail transportation; water transportation; truck transportation; transit and ground passenger transportation; pipeline transportation; scenic and sightseeing transportation; support activities for transportation; couriers and messengers; and warehousing and storage.
- (8) The “Information” category includes: publishing industries, except Internet; motion picture and sound recording industries; broadcasting, except Internet; Internet publishing and broadcasting; telecommunications; ISPs, search portals and data processing; and other information services.
- (9) The “Finance and insurance” category includes: monetary authorities-central bank; credit intermediation and related activities; securities, commodity contracts, investments; insurance carriers and related activities; and funds, trusts and other financial vehicles.
- (10) The “Real estate and rental and leasing” category includes: real estate; rental and leasing services; and lessors of nonfinancial intangible assets.
- (11) The “Administrative and waste services” category includes: administrative and support services; and waste management and remediation services.
- (12) The “Health care and social assistance” category includes: ambulatory health care services; hospitals; nursing and residential care facilities; and social assistance.
- (13) The “Arts, entertainment and recreation” category includes: performing arts and spectator sports; museums, historical sites, zoos and parks; and amusement, gambling and recreation.
- (14) The “Accommodation and food services” category includes: accommodation; and food services and drinking places.
- (15) The “Other services, except public administration” category includes: repair and maintenance; personal and laundry services; membership associations and organizations; private households;
- (16) The “Government and government enterprises” category includes: federal, civilian; military; state and local; and state government and local government.

Source: U.S. Department of Commerce, *Regional Economic Information System, Bureau of Economic Analysis, Last Updated: Thursday, March 25, 2010.*

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The following tables set forth selected additional economic and demographic data with respect to the State.

**TABLE A-4**  
**Employment and Labor Force**  
**New Mexico and the United States**  
**2000-2009**

<u>Year</u>	<u>Civilian Labor Force</u> (Thousands)		<u>Number of Employed</u> (Thousands)			<u>Unemployment Rate</u>		<u>N.M. as % of U.S. Rate</u>
	<u>New Mexico</u> <sup>(1)(2)</sup>	<u>United States</u> <sup>(1)(2)</sup>	<u>New Mexico</u> <sup>(1)(2)</sup>	<u>United States</u> <sup>(1)(2)</sup>	<u>New Mexico</u> <sup>(1)(2)</sup>	<u>United States</u> <sup>(1)(2)</sup>		
2000	852	142,583	810	136,891	5.0%	4.0%	125%	
2001	864	143,734	821	136,933	4.9%	4.7%	104%	
2002	872	144,863	823	136,485	5.5%	5.8%	95%	
2003	888	146,510	836	137,736	5.9%	6.0%	98%	
2004	902	147,401	850	139,252	5.8%	5.5%	105%	
2005	913	149,320	866	141,730	5.2%	5.1%	102%	
2006	931	151,428	892	144,427	4.1%	4.6%	89%	
2007	942	153,124	909	146,047	3.5%	4.6%	76%	
2008	961	154,287	918	145,362	4.5%	5.8%	78%	
2009	956	154,142	887	139,877	7.2%	9.3%	77%	

<sup>(1)</sup> Annual Averages. Estimates made in accordance with the U.S. Department of Labor.

<sup>(2)</sup> Details may not add to total because of rounding.

Source: New Mexico Department of Workforce Solutions, Economic Research and Analysis Bureau, Last Revised: March 20, 2010 for New Mexico figures and April 20, 2010 for U.S. figures.

**TABLE A-5**  
**Personal Income**  
**New Mexico and the United States**  
**2000-2009**

<u>Year</u>	<u>Personal Income</u> (Dollars in thousands)		<u>Annual Percentage Change</u>	
	<u>New Mexico</u>	<u>United States</u>	<u>New Mexico</u>	<u>United States</u>
2000	41,425,052	8,554,866,000	6.8%	8.2%
2001	45,335,831	8,878,830,000	9.4%	3.8%
2002	46,341,507	9,054,781,000	2.2%	2.0%
2003	48,141,274	9,369,072,000	3.9%	3.5%
2004	51,576,450	9,928,790,000	7.1%	6.0%
2005	55,342,340	10,476,669,000	7.3%	5.5%
2006	59,274,213	11,256,516,000	7.1%	7.4%
2007	63,182,025	11,879,836,000	6.6%	5.5%
2008	63,679,909	12,225,589,576	5.0%	2.9%
2009	66,304,015	12,015,534,968	0.0%	-1.9%

Source: U.S. Department of Commerce, Bureau of Economic Analysis, Last Revised: March 2010.  
Bureau of Business and Economic Research, UNM, Last Revised: April 1, 2010

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**TABLE A-6****Per Capita Personal Income  
New Mexico and the United States  
2000-2009**

<u>Year</u>	<u>Per Capita Income</u>		<u>N.M. as a % of U.S.</u>	<u>Annual Percentage Change</u>	
	<u>New Mexico</u>	<u>United States</u>		<u>N.M.</u>	<u>U.S.</u>
2000	22,751	30,318	75%	6.0%	7.0%
2001	24,790	31,145	80%	9.0%	2.7%
2002	25,049	31,462	80%	1.0%	1.0%
2003	25,748	32,271	80%	2.8%	2.6%
2004	27,263	33,881	80%	5.9%	5.0%
2005	28,876	35,424	82%	5.9%	4.6%
2006	30,513	37,698	81%	5.7%	6.4%
2007	32,093	39,392	81%	5.2%	4.5%
2008	33,389	40,166	83%	4.0%	2.0%
2009	32,992	39,138	84%	-1.2%	-2.6%

Source: U.S. Department of Commerce, Bureau of Economic Analysis, December 2009.

Bureau of Business and Economic Research, University of New Mexico, Last Update: April 2010.

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**TABLE A-7**  
**2001-2008**  
**Wages and Salaries by Industry Sector**

NAICS Earnings by Place of Work <sup>(1)</sup> Applicable to 2001-2008	New Mexico (Dollars in Thousands)				United States (Dollars in Millions)				Average Annual Percent Change 2001 - 2008		Distribution of 2008 Wages & Salaries	
	2008	2006	2004	2001	2008	2006	2004	2001	N.M.	U.S.	N.M.	U.S.
Farm Wage and Salary	208,698	219,765	189,172	176,815	20,721	20,005	19,109	17,926	18.0%	15.6%	0.2%	0.1%
Non-farm Wage and Salary	33,715,775	30,600,701	26,823,358	23,103,525	6,517,283	6,040,256	5,400,450	4,930,431	45.9%	82.2%	36.5%	35.3%
Private Wage and Salary	24,772,013	22,112,414	18,663,773	16,369,207	5,390,379	5,019,888	4,461,334	4,118,734	51.3%	30.9%	26.8%	29.2%
Forestry, Fishing, related activities, and other	59,740	58,724	53,726	48,420	12,923	11,993	10,812	9,711	23.4%	33.1%	0.1%	0.1%
Mining	1,434,355	1,147,049	787,524	737,368	62,230	47,867	34,856	32,011	94.5%	94.4%	1.6%	0.3%
Utilities	312,639	252,398	230,790	231,264	47,830	43,604	40,997	39,738	35.1%	20.4%	0.3%	0.3%
Construction	2,445,910	2,177,434	1,675,345	1,491,651	367,928	356,600	297,819	272,368	64.0%	35.1%	2.6%	2.0%
Manufacturing	1,708,923	1,688,940	1,476,915	1,576,829	741,831	738,484	693,091	712,816	8.4%	4.1%	1.8%	4.0%
Wholesale Trade	1,168,804	1,065,049	912,422	844,202	376,738	349,619	307,255	284,855	38.5%	32.3%	1.3%	2.0%
Retail Trade	2,501,968	2,359,401	2,176,025	1,928,437	417,338	408,360	380,491	354,110	29.7%	17.9%	2.7%	2.3%
Transportation and Warehousing	920,813	848,719	765,595	651,117	206,312	194,358	176,600	167,414	41.4%	23.2%	1.0%	1.1%
Information	681,221	619,675	534,061	573,774	215,134	204,231	192,338	209,312	18.7%	2.8%	0.7%	1.2%
Finance and Insurance	1,136,957	1,092,655	973,134	838,215	518,740	491,249	423,149	375,169	35.6%	38.3%	1.2%	2.8%
Real Estate and Rental and Leasing	367,554	354,529	294,687	245,480	95,738	95,016	81,648	70,280	49.7%	36.2%	0.4%	0.5%
Professional, Scientific, and Technical Services	3,805,813	3,135,727	2,386,588	1,987,406	595,728	519,853	437,091	412,697	91.5%	43.4%	4.1%	3.2%
Management of Companies and Enterprises	301,575	306,808	247,768	247,738	182,857	163,809	140,555	119,725	21.7%	52.7%	0.3%	1.0%
Administrative and Waste Services	1,460,751	1,326,078	1,147,985	1,002,275	266,043	248,521	217,562	192,949	45.7%	37.9%	1.6%	1.4%
Educational Services	322,727	272,132	247,916	185,864	109,293	94,694	84,982	69,003	73.6%	58.4%	0.3%	0.6%
Health Care and Social Assistance	3,629,952	3,165,313	2,757,001	2,073,310	677,182	598,933	531,725	438,217	75.1%	54.5%	3.9%	3.7%
Arts, Entertainment, and Recreation	196,907	172,465	152,909	132,041	71,203	65,582	57,472	50,672	49.1%	40.5%	0.2%	0.4%
Accommodations and Food Services	1,305,144	1,181,837	1,050,152	907,708	218,869	199,725	178,357	157,160	43.8%	39.3%	1.4%	1.2%
Other Services, Except Public Administration	1,010,260	887,481	802,190	666,108	206,462	187,390	174,534	150,572	51.7%	37.1%	1.1%	1.1%
Government and Government Enterprises	8,943,762	8,488,287	8,168,625	6,734,318	1,126,904	1,020,368	939,116	811,697	32.8%	38.8%	9.7%	6.1%
Total	92,412,261	83,533,581	72,517,661	62,753,072	18,445,666	17,120,405	15,281,343	13,997,567			100%	100%

<sup>(1)</sup> The estimates of wage and salary disbursements for 2001-2006 are based on the 2002 North American Industry Classification System (NAICS). The estimates for 2007 forward are based on the 2007 NAICS.

Source: U.S. Department of Commerce, Bureau of Economic Analysis, December 2009 (Table SA079).

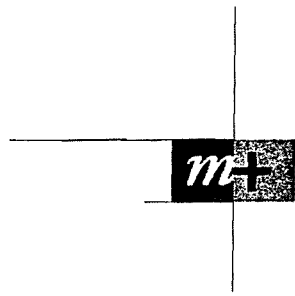
**APPENDIX B**

**STATE OF NEW MEXICO  
OFFICE OF THE STATE TREASURER FINANCIAL STATEMENTS  
FOR THE FISCAL YEAR ENDED JUNE 30, 2009**

**STATE OF NEW MEXICO**  
**OFFICE OF THE**  
**STATE TREASURER**  
**Financial Statements**  
**for the Year Ended**  
**June 30, 2009,**  
**and Independent**  
**Auditors' Report**

STATE OF NEW MEXICO  
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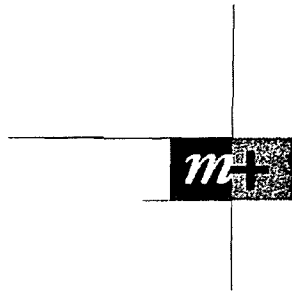
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**STATE OF NEW MEXICO  
OFFICE OF THE STATE TREASURER**

**Official Roster**

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**Year Ended June 30, 2009**

**Office of the State Treasurer**

James B. Lewis, State Treasurer

Mark F. Valdes, Deputy State Treasurer

**State Treasurer's Investment Committee**

James B. Lewis, Chairman

Sheila Duffy, Chief Investment Officer, Investment Division Director

Steve Bohlin, Member

Paul Cassidy, Member

Olivia Padilla-Jackson, State Board of Finance Member

# INDEPENDENT AUDITORS' REPORT

Honorable Bill Richardson, Governor  
State Board of Finance  
Honorable James B. Lewis, State Treasurer  
Honorable Hector H. Balderas, State Auditor  
Santa Fe, New Mexico

We have audited the accompanying financial statements of the governmental activities, each major fund, the aggregate remaining fund information and the budgetary comparisons for the general fund of the State of New Mexico Office of the State Treasurer (State Treasurer) as of and for the year ended June 30, 2009, which collectively comprise the State Treasurer's basic financial statements as listed in the table of contents. We have also audited the fiduciary funds presented as supplementary information in the accompanying combining and individual fund financial statements and schedules as of and for the year ended June 30, 2009, as listed in the table of contents. These financial statements are the responsibility of the State Treasurer's management. Our responsibility is to express opinions on these financial statements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the State Treasurer's internal control over financial reporting. Accordingly, we express no such opinion. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis of our opinions.

As discussed in Note 1, the financial statements of the State Treasurer are intended to present the financial position and changes in financial position of only that portion of the governmental activities, each major fund and the aggregate remaining fund information of the State of New Mexico that is attributable to the transactions of the State Treasurer. They do not purport to, and do not present fairly the financial position of the entire State of New Mexico as of June 30, 2009, and the changes in the financial position for the year then ended, in conformity with accounting principles generally accepted in the United States of America.



Honorable Bill Richardson, Governor  
State Board of Finance  
Honorable James B. Lewis, State Treasurer  
Honorable Hector H. Balderas, State Auditor  
Santa Fe, New Mexico

In our opinion, the financial statements referred to above present fairly, in all material respects, the respective financial position of the governmental activities, each major fund and the aggregate remaining fund information of the State Treasurer as of and for the year ended June 30, 2009, and the respective changes in financial position thereof, and the respective budgetary comparison for the general fund for the year then ended, in conformity with accounting principles generally accepted in the United States of America. In addition, in our opinion, the financial statements referred to above present fairly, in all material respects, the respective financial position of the fiduciary funds of the State Treasurer as of June 30, 2009, and the respective changes in financial position, where applicable, thereof for the year then ended, in conformity with accounting principles generally accepted in the United States of America.

In accordance with *Government Auditing Standards*, we have also issued our report dated December 14, 2009, on our consideration of the State Treasurer's internal controls over financial reporting and our tests of its compliance with certain provisions of laws, regulations, contracts and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* and should be read in conjunction with this report in considering the results of our audit.

Management's discussion and analysis presented on pages 4 through 13 is not a required part of the basic financial statements but is supplementary information required by the Governmental Accounting Standards Board (GASB). We have applied certain limited procedures, which consisted principally of inquiries of management regarding the methods of measurement and presentation of the required supplementary information. However, we did not audit the information and express no opinion on it.

Our audit was made for the purpose of forming opinions on the basic financial statements and the combining and individual fund financial statements. The additional schedules listed as supplementary information in the table of contents (Schedules 1 and 6 through 10) are presented for purposes of additional analysis and have been subjected to the auditing procedures applied in the audit of the basic financial statements and in our opinion are fairly stated, in all material respects, in relation to the basic financial statements taken as a whole.

*Meynors + Company, LLC*

December 14, 2009

**STATE OF NEW MEXICO  
OFFICE OF THE STATE TREASURER**

**Management's Discussion and Analysis  
Year Ended June 30, 2009**

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The State of New Mexico Office of the State Treasurer's (State Treasurer) Management's Discussion and Analysis (MD&A) is designed to assist the reader in focusing on significant financial issues, provide an overview of the State Treasurer's financial activity, identify changes in the State Treasurer's financial position (ability to address future year challenges), identify any material deviations from the financial plan, and identify any fund issues of concern.

The MD&A is designed to focus on the past year's activities, resulting changes and currently known facts; please read it in conjunction with the State Treasurer's financial statements and notes which follow this section.

**Significant Highlights**

New Mexico State Treasurer James B. Lewis accepted the recommendations of his Blue Ribbon Commission to provide staff with continuing education and training to further achieve the goals of the State Treasurer's Office. Treasurer Lewis offered to all staff members approximately 12 training and education seminars, including four levels of training in Microsoft Excel and Word applications, supervisory training, orientation on banking operations, trading updates, information technology systems certification, and professional and governmental classes. This continuing education and training has enhanced the skills and performance of State Treasurer's Office staff and management.

The Statewide Human Resources, Accounting, and Management Reporting System (SHARE) presented significant challenges to the State Treasurer's Office and to most, if not, all state agencies. Through the collaborative efforts of the State Treasurer's Office and the Department of Finance and Administration (DFA) these challenges are being addressed. The State Treasurer's Office and the DFA designed the State Treasurer's Investment Transaction Matrix, which was tested with positive results. The transaction matrix has led to timely and accurate updates to banking and investment processes and more efficient business practices. State agencies also have a clearer understanding of their responsibilities and the responsibilities of the State Treasurer's Office. The State Treasurer's Investment Transaction Matrix is currently undergoing a review by the State Treasurer and DFA in relation to the "Book to Bank Reconciliation." These changes, which should be implemented in fiscal year 2010, will greatly enhance the reconciliation and completion of the "Book to Bank Reconciliation."

Treasurer Lewis, his staff, the agency's legal counsel, the State Personnel Office and the labor union have reviewed all existing internal policies and procedures to ensure compliance with state and federal law, the collective bargaining agreement, and State Personnel Board rules. The policy and procedures manuals were reviewed during fiscal year 2008 were finalized in 2009.

The State Treasurer's Office developed a disaster recovery plan, with a "hot site" location in Albuquerque and received partial funding to implement the plan. Now completed, it is the first true business continuity plan implemented in the case that an unforeseen disaster at the current office location prevents treasury operations as usual from occurring. The "hot site" location will provide equipment and office space to allow critical staff to perform their banking, investment and administrative functions off site to ensure business continuity.

**STATE OF NEW MEXICO  
OFFICE OF THE STATE TREASURER**

**Management's Discussion and Analysis - continued  
Year Ended June 30, 2009**

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**Significant Highlights - continued**

During fiscal year 2008, the State Treasurer's Office worked with state law enforcement authorities to apprehend suspects engaging in check fraud schemes with the state's bank accounts. A large meeting was sponsored by the State Treasurer's Office, which included Attorney General, State Auditor, the DFA, federal, state and local law enforcement and the state's fiscal agent bank to discuss and seek solutions to the bank/check/warrant fraud problem. In 2009, a large forum sponsored by the Albuquerque Chamber of Commerce was scheduled to raise awareness in the business community about the problem and discuss ways of preventing fraudulent bank transactions using state accounts.

The Cash Management Division solicited additional human resources from various internal and external sources in fiscal years 2008 and 2009 to assist with the backlog of unreconciled items in the bank reconciliation from prior fiscal years. These resources originated from internal assistance of other divisions, temporary external employee assignments from the DFA and through temporary hires. Significant progress was made on this backlog during fiscal years 2008 and 2009.

In fiscal year 2009, the State Treasurer's Office reviewed, made necessary revisions and received State Board of Finance approval to the State Treasurer's Investment Policy and the Approved Broker/Dealer list. This is done annually as mandated by the State Treasurer's Investment Policy.

The State Treasurer's Office implemented the new state Linked Deposit program that was authorized the 2007 Legislature and signed into law by the Governor. State Treasurer's staff met with the New Mexico Bankers Association and Independent Community Bankers Association to discuss this new program and also the administration of the existing Certificate of Deposit program, where the State Treasurer deposits state funds in banks across the state. These investments in banks provide economic development to communities, statewide.

**Financial Highlights**

- The State Treasurer's net assets decreased by \$82,946,270.
- The General Fund's main revenue was appropriations, which amounted to ninety-nine percent (99%) of all revenue.

**Overview of the Financial Statements**

This discussion and analysis is intended to serve as an introduction to the State Treasurer's basic financial statements. The State Treasurer's basic financial statements comprise three components: 1) government-wide financial statements, 2) fund financial statements, and 3) notes to the financial statements. This report also contains other supplementary information in addition to the basic financial statements themselves.

**STATE OF NEW MEXICO  
OFFICE OF THE STATE TREASURER**

**Management's Discussion and Analysis - continued  
Year Ended June 30, 2009**

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**Overview of the Financial Statements - continued**

**Government-wide Financial Statements**

The government-wide financial statements are designed to provide a broad overview of the State Treasurer's finances, in a manner similar to a private sector business. The statement of net assets presents information on all of the State Treasurer's assets and liabilities, the difference between the two being reported as net assets.

The statement of activities presents information showing how the government's net assets changed during the most recent fiscal year. All changes in net assets are reported as soon as the underlying event giving rise to the change occurs, regardless of the timing of related cash flows. Thus, revenues and expenses are reported in this statement for some items that will result in cash flows in future fiscal year periods (e.g., uncollected taxes and earned but unused vacation leave).

**Fund Financial Statements**

A fund is a grouping of related accounts that is used to maintain control over resources segregated for specific activities or objectives. The State Treasurer, like other State and local government entities, uses fund accounting to ensure and demonstrate compliance with finance-related legal requirements. All of the funds of the State Treasurer can be divided into two categories: governmental funds and fiduciary funds.

**Governmental Funds**

Governmental funds are used to account for essentially the same functions reported as governmental activities in the government-wide financial statements. However, unlike the government-wide financial statements, governmental fund financial statements focus on near-term inflows and outflows of spendable resources, as well as on balances of spendable resources available at the end of the fiscal year. Such information may be useful in evaluating a government's near-term financing requirements.

Because the focus of governmental funds is narrower than that of the government-wide financial statements, it is useful to compare the information presented for governmental funds with similar information presented for governmental activities in the government-wide financial statements. By doing so, readers may better understand the long-term impact of the government's near term financing decisions. Both the governmental fund balance sheet and the governmental fund statement of revenues, expenditures, and changes in fund balances provide a reconciliation to facilitate this comparison between governmental funds and governmental activities.

**STATE OF NEW MEXICO  
OFFICE OF THE STATE TREASURER**

**Management's Discussion and Analysis - continued  
Year Ended June 30, 2009**

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**Overview of the Financial Statements - continued**

**Fund Financial Statements - continued**

**Governmental Funds - continued.**

The State Treasurer maintains four individual governmental funds. Information is presented separately in the governmental fund balance sheet and statement of revenues, expenditures, and changes in fund balances for the General Fund, General Obligation Bond Fund, Severance Tax Bond Fund, and the Gaming Suspense Fund, all of which are considered to be major funds. The General Obligation and Severance Tax Bond funds combine into a single, aggregated presentation of the activity of each individual bond issue.

Individual bond transaction data of these governmental funds is provided in the form of combining statements elsewhere in this report.

The State Treasurer adopts an annual operating budget for its General Fund. A budgetary comparison statement has been provided for the General Fund to demonstrate compliance with this budget.

**Fiduciary Funds**

Fiduciary funds are used to account for resources held for the benefit of parties outside the State Treasurer. Fiduciary funds are not reflected in the government-wide financial statement because the resources of those funds are not available to support the State Treasurer's own programs.

Fiduciary funds provide the same type of information as the government-wide financial statements, only in more detail. The fiduciary fund financial statements provide separate information for the Short-term Investment Pool, Consolidated Investment Pool, and State Funds Investment Pool and The Reserve Contingency Pool. The State Treasurer's fiduciary funds account for cash, securities, and other investments identified and held in custody on behalf of local and State government agencies, and are separately identified by the types of State and local agencies for which the funds are held. The Short-term Investment Pool accounts for the Local Government Investment Pool (LGIP), the Consolidated Investment Pool accounts for funds held in custody for both State and local government agencies, and the State Funds Investment Pool accounts for funds identified and held in custody on behalf of State agencies. The Reserve Contingency Pool accounts for funds held in custody for local government agencies.

**Notes to the Financial Statements**

The notes to the financial statements provide additional information that is essential to a user's full understanding of the data provided in the government-wide and fund financial statements, and begin on page 24 of this report.

**STATE OF NEW MEXICO  
OFFICE OF THE STATE TREASURER**

**Management's Discussion and Analysis - continued  
Year Ended June 30, 2009**

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**Other Information**

The combining statements referred to earlier in connection with the General Obligation and Severance Tax Bond funds are presented immediately following the notes to the financial statements. Combining statements, schedules of capital assets, and schedules of long-term debt can be found beginning on page 70 of this report. Fiduciary schedules begin on page 90.

**Required Supplementary Information (Other than MD&A)**

In addition to the basic statements and accompanying notes, this report also presents certain required supplementary information concerning the State Treasurer's progress in funding its obligation to provide pension benefits to its employees.

**STATE OF NEW MEXICO  
OFFICE OF THE STATE TREASURER**

**Management's Discussion and Analysis - continued  
Year Ended June 30, 2009**

**Government-wide Financial Analysis**

**Net Assets:** Table A-1 summarizes the State Treasurer's net assets for the fiscal year ended June 30, 2009. Total State Treasurer net assets for fiscal year 2009 are \$250,548,731. However, most of those net assets are restricted as to the purposes for which they can be used.

**Table A-1  
The State Treasurer's Net Assets**

	2009	2008
<b>Assets:</b>		
Cash, cash equivalents and repurchase agreements	\$ 232,919,856	106,800,299
Due from other agencies	48,085,681	1,014,225,384
Accrued interest and other receivables	461	3,821,128
Prepaid expense	-	97,796,098
Capital assets, net	<u>151,677</u>	<u>148,206</u>
<b>Total assets</b>	<b>\$ <u>281,157,675</u></b>	<b><u>1,222,791,115</u></b>
<b>Current liabilities:</b>		
Accounts payable and other	\$ 30,465,262	850,103,059
Compensated absences, amounts due in one year	<u>143,682</u>	<u>144,638</u>
<b>Total liabilities</b>	<b>30,608,944</b>	<b>850,247,697</b>
<b>Net assets:</b>		
Invested in capital assets	151,677	148,206
Restricted	249,877,585	372,539,850
Unrestricted	<u>519,469</u>	<u>(144,638)</u>
<b>Total net assets</b>	<b><u>250,548,731</u></b>	<b><u>372,543,418</u></b>
<b>Total liabilities and net assets</b>	<b>\$ <u>281,157,675</u></b>	<b><u>1,222,791,115</u></b>

As noted earlier, net assets may serve over time as a useful indicator of a government's financial position. In the case of the State Treasurer, assets exceeded liabilities by \$250,548,731 at the close of the most recent fiscal year.

By far the largest portion of the State Treasurer's net assets reflects amounts to be provided to satisfy its General Obligation and Severance Tax Bond obligations. It is the responsibility of the State Treasurer to record and administer debt on behalf of the agencies and departments of the State of New Mexico. The proceeds of bond issues authorized by the State Board of Finance are transferred to various State agencies in the form of grants.

**STATE OF NEW MEXICO  
OFFICE OF THE STATE TREASURER**

**Management's Discussion and Analysis - continued  
Year Ended June 30, 2009**

**Government-wide Financial Analysis - continued**

The State Treasurer anticipates the future tax revenues generated will be adequate to service the debt obligations.

An additional portion of the State Treasurer's net assets, \$249,877,585, represents resources that are subject to external restrictions on their use.

**Changes in Net Assets:** Governmental activities decreased the State Treasurer's net assets in the governmental financial statements by \$82,946,270. Key elements of this increase are shown in Table A-2.

**Table A-2  
Changes in the State Treasurer's Net Assets**

YEARS ENDED JUNE 30,	2009	2008
<b>Governmental Activities:</b>		
Revenues:		
Program Revenues:		
Operating grants	\$ <u>3,083</u>	<u>4,824</u>
Total Program Revenues	3,083	4,824
General Revenues:		
State General Fund appropriations (net)	4,425,902	4,345,364
State Property Tax Levy	65,075,456	56,195,565
Severance and Other Taxes	438,295,970	604,747,117
Interest Revenue	<u>50,806,488</u>	<u>58,303,246</u>
Total General Revenues	<u>558,603,816</u>	<u>723,591,292</u>
Total Revenues	558,606,899	723,596,116
Expenses:		
General Government	(6,511,432)	(5,028,092)
Debt Service Activity	(608,749,799)	(1,344,276,600)
Other sources (uses):		
Trans bond proceeds	-	775,646,750
Operating financing sources (uses)	<u>(26,291,938)</u>	<u>-</u>
Net Expenses (Revenue)	<u>(641,553,169)</u>	<u>(573,657,942)</u>

**STATE OF NEW MEXICO  
OFFICE OF THE STATE TREASURER**

**Management's Discussion and Analysis - continued  
Year Ended June 30, 2009**

**Government-wide Financial Analysis - continued**

**Table A-2  
Changes in the State Treasurer's Net Assets - continued**

Increase (Decrease) in Net Assets	\$ (82,946,270)	149,938,174
Net Assets, Beginning of Year	371,463,933	221,512,425
Prior Period Adjustment	<u>(37,968,932)</u>	<u>13,334</u>
Net Assets, Beginning of Year, Restated	<u>333,495,001</u>	<u>221,525,759</u>
Net Assets, End of Year	\$ <u>250,548,731</u>	<u>371,463,933</u>

**Financial Analysis of the Government's Funds**

As noted earlier, the State Treasurer uses fund accounting to ensure and demonstrate compliance with finance-related legal requirements.

**Governmental Funds.** The focus of the State Treasurer's governmental funds is to provide information on near-term inflows, outflows, and balances of spendable resources. Such information is useful in assessing the State Treasurer's financing requirements. In particular, unreserved fund balances may serve as a useful measure of a government's net resources available for spending at the end of the fiscal year.

At the end of the current fiscal year, the State Treasurer's governmental funds reported combined ending fund balances of \$250,540,736, a decrease of \$120,923,197 in comparison with the prior year. This decrease includes an adjustment to prior period of \$37,968,932. The primary reason for the significant increase in the overall change in net assets is the increase in severance tax receipts.

The fund balance of the State Treasurer's general fund decreased by \$12,548 during the current fiscal year. This was not a significant change from the prior year.

The fund balance of the State Treasurer's individual debt service funds increased in comparison to the prior year due to new bond issues and an increase in interest income as disclosed in Schedule 3 – Combining Schedule of Revenues, Expenditures and Changes in Fund Balances – General Obligation Bond Debt Service Funds, and Schedule 5 – Combining Schedule of Revenues, Expenditures and Changes in Fund Balances – Severance Tax Bond Debt Service Funds.

STATE OF NEW MEXICO  
OFFICE OF THE STATE TREASURER

Management's Discussion and Analysis - continued  
Year Ended June 30, 2009

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**General Fund Budgetary Highlights**

There were no significant variations between the original budget and the final amended budget.

There were no significant variances between final budget amounts and actual budget results for the General Fund. The General Fund actual expenditures were less than the final budgeted amounts by one percent (1%). There were no significant variances between final budget amounts and actual budget results for the General Fund.

**Capital Assets and Debt Administration**

**Capital Assets.** The State Treasurer's investment in capital assets for its governmental activities as of June 30, 2009, amounts to \$151,677, net of accumulated depreciation. This investment in capital assets includes equipment. The State Treasurer's capital assets increased by \$44,211, mainly due to purchases of equipment.

Additional information on the State Treasurer's capital assets can be found in Note 4 of this report.

GASB #34 requires the recording and depreciation of infrastructure assets such as roads, bridges and traffic signals. The State Treasurer does not own any infrastructure assets.

**Long-Term Debt.** For the year ended June 30, 2009, the State Treasurer was responsible for administering debt service payments on total bonded debt outstanding of \$1,080,445,000, all of which is secured by pledged tax revenues. More detailed information about the State Treasurer's long-term debt is presented in Note 5 to the financial statements and Schedule 6. Long-term debt decreased by \$242,212,208 from the prior year due to three new bonds issued in fiscal year ended June 30, 2009.

	<u>Total</u>	
	<u>2009</u>	<u>2008</u>
General Obligation Bonds	\$ 453,730,000	456,709,904
Severance Tax Bonds	<u>626,715,000</u>	<u>865,947,304</u>
Total principal balances	\$ <u>1,080,445,000</u>	<u>1,322,657,208</u>

**Economic Factors and Next Year's Budgets and Rates**

- Additional resources were added to improve the investment function. A portfolio manager was added to manage the new bond proceeds portfolio. The Local Government Investment Pool received its maiden rating (AAAm) from Standard & Poor's. These additional resources greatly benefited the investment function of the State Treasurer.

**STATE OF NEW MEXICO  
OFFICE OF THE STATE TREASURER**

**Management's Discussion and Analysis - continued  
Year Ended June 30, 2009**

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**Economic Factors and Next Year's Budgets and Rates - continued**

- The State Treasurer contracted for a higher level of legal services to assist with investment and other internal policy updates, provide legal counsel for various personnel lawsuits and grievance hearings, and draft proposed legislation and other miscellaneous legal advice.
- The State Treasurer added resources to implement numerous recommendations included in the forensic audit prepared by Deloitte.
- The State Treasurer initiated personnel, system, facility and security recommendations made by the Office of the Chief Information Officer.
- The State Treasurer reduced IT budget based on decommissioning of TRACS and recognized staffing efficiencies in banking operations due to SHARE implementation.
- During fiscal year 2010, the state of New Mexico has experienced some severe shortfalls in revenue due to the economic state of the financial markets worldwide. Drastic budget reductions occurred in fiscal year 2010 and will continue for the next two (2) years.

These factors were considered in preparing the State Treasurer's budget for fiscal year 2010.

**Contacting the State Treasurer's Financial Management**

This financial report is designed to provide a general overview of the State Treasurer's finances for those with an interest in the government's finances. Questions concerning any of the information provided in this report or requests for additional financial information should be addressed to:

James B. Lewis, State Treasurer  
Office of the State Treasurer  
P.O. Box 608  
Santa Fe, New Mexico 87504-0608

**FINANCIAL STATEMENTS**

STATE OF NEW MEXICO  
OFFICE OF THE STATE TREASURER

Statement of Net Assets

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AS OF JUNE 30, 2009

	<u>Governmental Activities</u>
<b>ASSETS:</b>	
Investment in State General Fund Investment Pool	\$ 290,198
Repurchase agreements	232,629,658
Due from other agencies	48,085,681
Other receivables	461
Capital assets, net of accumulated depreciation:	
Equipment	<u>151,677</u>
<b>TOTAL ASSETS</b>	<b>\$ <u>281,157,675</u></b>
<b>LIABILITIES AND NET ASSETS:</b>	
Accounts payable	\$ 128,935
Accrued payroll	121,011
Accrued payroll taxes	27,944
Due to State General Fund	67,836
Due to Severance Tax Permanent Fund	30,119,536
Compensated absences	<u>143,682</u>
<b>TOTAL LIABILITIES</b>	<b>30,608,944</b>
<b>NET ASSETS:</b>	
Invested in capital assets	151,677
Restricted for:	
Debt service	248,347,477
Debt service-arbitrage	1,530,108
Unrestricted	<u>519,469</u>
<b>TOTAL NET ASSETS</b>	<b><u>250,548,731</u></b>
<b>TOTAL LIABILITIES AND NET ASSETS</b>	<b>\$ <u>281,157,675</u></b>

STATE OF NEW MEXICO  
OFFICE OF THE STATE TREASURER

Statement of Activities

YEAR ENDED JUNE 30, 2009

Functions/Programs	Expenses	Program Revenue	Net (Expenses) Revenue and Changes in Net Assets  Primary Government
<b>PRIMARY GOVERNMENT:</b>			
<b>GOVERNMENTAL ACTIVITIES:</b>			
General government	\$ 6,471,033	3,083	(6,467,950)
Interest on debt service activity	40,760,215	-	(40,760,215)
Depreciation	40,399	-	(40,399)
<b>TOTAL GOVERNMENTAL ACTIVITIES</b>	47,271,647	3,083	(47,268,564)
<b>GENERAL REVENUES:</b>			
State property tax levy			65,075,456
<b>UNRESTRICTED INVESTMENT EARNINGS</b>			
<b>BOND ACTIVITY:</b>			
Bond principal payments			(567,989,584)
<b>TRANSFER FROM (TO) STATE AGENCY:</b>			
State general fund appropriations			4,465,600
Reversions to State General Fund FY09			(39,698)
Other state agencies			(26,291,938)
Interest			50,806,488
Severance taxes			438,295,970
<b>TOTAL GENERAL REVENUES AND TRANSFERS</b>			<b>(35,677,706)</b>
<b>CHANGE IN NET ASSETS</b>			(82,946,270)
<b>NET ASSETS, BEGINNING</b>			371,463,933
<b>RESTATEMENT</b>			(37,968,932)
<b>NET ASSETS, BEGINNING, restated</b>			333,495,001
<b>NET ASSETS, ENDING</b>		<b>\$</b>	<b>250,548,731</b>

STATE OF NEW MEXICO  
OFFICE OF THE STATE TREASURER

Balance Sheet - Governmental Funds

AS OF JUNE 30, 2009

	Major Funds				Total Governmental Funds
	General Fund	General Obligation Bond Fund	Severance Tax Bond Fund	Gaming Suspense Fund	
<b>ASSETS:</b>					
Investment in State General Fund					
Investment Pool	\$ 262,060	-	-	28,138	290,198
Repurchase agreements	-	59,700,599	172,929,059	-	232,629,658
Other receivables	461	-	-	-	461
Due from other agencies	-	-	48,085,681	-	48,085,681
Interest receivable	-	-	-	-	-
Prepaid expense	-	-	-	-	-
<b>TOTAL ASSETS</b>	<b>\$ 262,521</b>	<b>59,700,599</b>	<b>221,014,740</b>	<b>28,138</b>	<b>281,005,998</b>
<b>LIABILITIES AND FUND BALANCES:</b>					
<b>LIABILITIES:</b>					
Accounts payable	\$ 86,416	-	42,519	-	128,935
Due to Severance Tax Permanent Fund	-	-	30,119,536	-	30,119,536
Due to other agencies	-	-	-	-	-
Due to State General Fund	39,698	-	-	28,138	67,836
Deferred Revenue	-	-	-	-	-
Accrued payroll	121,011	-	-	-	121,011
Accrued payroll taxes	27,944	-	-	-	27,944
<b>TOTAL LIABILITIES</b>	<b>275,069</b>	<b>-</b>	<b>30,162,055</b>	<b>28,138</b>	<b>30,465,262</b>
<b>FUND BALANCES:</b>					
Reserved for:					
Debt service	-	58,170,491	190,852,685	-	249,023,176
Arbitrage	-	1,530,108	-	-	1,530,108
Unreserved, reported in general fund	(12,548)	-	-	-	(12,548)
Unreserved, reported in:					
Gaming Suspense Fund	-	-	-	-	-
<b>TOTAL FUND BALANCES</b>	<b>(12,548)</b>	<b>59,700,599</b>	<b>190,852,685</b>	<b>-</b>	<b>250,540,736</b>
<b>TOTAL LIABILITIES AND FUND BALANCES</b>	<b>\$ 262,521</b>	<b>59,700,599</b>	<b>221,014,740</b>	<b>28,138</b>	<b>281,005,998</b>

**STATE OF NEW MEXICO  
OFFICE OF THE STATE TREASURER**

**Reconciliation of the Balance Sheet to the  
Statement of Net Assets - Governmental Funds**

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**YEAR ENDED JUNE 30, 2009**

**Total Fund Balance - Governmental Funds**  
**(Governmental Fund Balance Sheet)** \$ 250,540,736

Amounts reported for governmental activities in the Statement of  
Net Assets are different because:

Capital assets used in governmental activities are not current financial  
resources and, therefore, are not reported in this fund financial  
statement, but are reported in the governmental activities of the  
Statement of Net Assets. 151,677

Some liabilities (compensated absences) are not due and payable  
in the current period and are not included in the fund financial  
statement, but are included in the governmental activities  
of the Statement of Net Assets. (143,682)

**Net assets of governmental activities (Statement of Net Assets)** \$ 250,548,731

**STATE OF NEW MEXICO  
OFFICE OF THE STATE TREASURER**

**Statement of Revenues, Expenditures and Changes  
in Fund Balances - Governmental Funds**

YEAR ENDED JUNE 30, 2009

	Major Funds				Total Governmental Funds
	General Fund	General Obligation Bond Fund	Severance Tax Bond Fund	Gaming Suspense Fund	
<b>REVENUES:</b>					
Federal funds	\$ 3,083	-	-	-	3,083
Other income	-	-	-	-	-
Interest income - debt service	-	7,780,075	43,026,413	-	50,806,488
Interest income - arbitrage	-	-	-	-	-
<b>TOTAL REVENUES</b>	<b>3,083</b>	<b>7,780,075</b>	<b>43,026,413</b>	<b>-</b>	<b>50,809,571</b>
<b>EXPENDITURES:</b>					
Current:					
Personnel services and employee benefits	3,241,236	-	-	-	3,241,236
Operating costs:					
Contractual services	245,850	-	-	-	245,850
Other administrative expenditures	910,236	-	-	-	910,236
Debt service:					
Principal and interest on long-term debt	-	67,401,652	111,823,430	-	179,225,082
Principal and interest on short-term debt	-	-	429,524,717	-	429,524,717
Arbitrage	-	-	-	-	-
Other charges	-	1,112,863	961,463	-	2,074,326
Capital outlay	44,211	-	-	-	44,211
<b>TOTAL EXPENDITURES</b>	<b>4,441,533</b>	<b>68,514,515</b>	<b>542,309,610</b>	<b>-</b>	<b>615,265,658</b>
<b>EXCESS (DEFICIENCY) OF REVENUES OVER (UNDER) EXPENDITURES</b>	<b>(4,438,450)</b>	<b>(60,734,440)</b>	<b>(499,283,197)</b>	<b>-</b>	<b>(564,456,087)</b>
<b>OTHER FINANCING SOURCES (USES):</b>					
State general fund appropriations	4,396,900	-	-	-	4,396,900
Special appropriation	68,700	-	-	-	68,700
Reversions to State General Fund FY09	(39,698)	-	-	-	(39,698)
Severance taxes	-	-	438,295,970	-	438,295,970
State property tax levy	-	65,075,456	-	-	65,075,456
Bond proceeds	-	-	-	-	-
Other proceeds	-	-	-	-	-
Bond premiums (discounts)	-	-	-	-	-
Other	-	-	-	-	-
Capital projects, reversions in	-	-	-	-	-
Payment to escrow agent	-	-	-	-	-
Miscellaneous other sources	-	-	-	-	-
Severance tax permanent fund, reversions out	-	-	-	-	-
Transfers in (out)	-	-	-	-	-
Transfer to (from) other state agency	-	1,595,084	(27,887,022)	-	(26,291,938)
<b>TOTAL OTHER FINANCING SOURCES (USES)</b>	<b>4,425,902</b>	<b>66,670,540</b>	<b>410,408,948</b>	<b>-</b>	<b>481,505,390</b>
<b>NET CHANGE IN FUND BALANCES</b>	<b>(12,548)</b>	<b>5,936,100</b>	<b>(88,874,249)</b>	<b>-</b>	<b>(82,950,697)</b>
<b>FUND BALANCES, June 30, 2008</b>	<b>-</b>	<b>53,764,499</b>	<b>317,695,866</b>	<b>-</b>	<b>371,460,365</b>
<b>RESTATEMENT</b>	<b>-</b>	<b>-</b>	<b>(37,968,932)</b>	<b>-</b>	<b>(37,968,932)</b>
<b>FUND BALANCES, JUNE 30, 2008, restated</b>	<b>-</b>	<b>53,764,499</b>	<b>279,726,934</b>	<b>-</b>	<b>333,491,433</b>
<b>FUND BALANCES, June 30, 2009</b>	<b>\$ (12,548)</b>	<b>59,700,599</b>	<b>190,852,685</b>	<b>-</b>	<b>250,540,736</b>



STATE OF NEW MEXICO  
OFFICE OF THE STATE TREASURER

Statement of Revenues and Expenditures -  
Major Governmental Funds -  
Budget and Actual (GAAP Basis)

YEAR ENDED JUNE 30, 2009

	GENERAL FUND			
	Budgeted Amounts		Actual	Variance From
	Original	Final	Amounts (GAAP Basis)	Final Budget Positive (Negative)
<b>REVENUES:</b>				
State General Fund appropriation	\$ 4,511,400	4,396,900	4,396,900	-
Special appropriation	68,700	68,700	68,700	-
Supplemental appropriation	-	-	-	-
Federal grants	20,000	20,000	3,083	(16,917)
Other	-	-	-	-
<b>TOTAL REVENUES</b>	<b>\$ 4,600,100</b>	<b>4,485,600</b>	<b>4,468,683</b>	<b>(16,917)</b>
<b>EXPENDITURES:</b>				
Current:				
Personnel services and benefits	\$ 3,240,400	3,255,400	3,241,236	14,164
Contractual services	421,000	254,000	245,850	8,150
Operating costs	938,700	976,200	954,447	21,753
<b>TOTAL EXPENDITURES</b>	<b>4,600,100</b>	<b>4,485,600</b>	<b>4,441,533</b>	<b>44,067</b>
<b>OTHER FINANCING SOURCES (USES):</b>				
Transfers in	-	-	-	-
Transfers out	-	-	-	-
<b>TOTAL OTHER FINANCING SOURCES (USES)</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
<b>EXCESS (DEFICIENCY) OF REVENUES OVER (UNDER) EXPENDITURES AND OTHER FUNDING SOURCES (USES)</b>	<b>\$ -</b>	<b>-</b>	<b>27,150</b>	<b>27,150</b>
<b>RECONCILIATION TO STATEMENT OF REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCE:</b>				
<b>UNBUDGETED REVERSIONS TO STATE GENERAL FUND</b>			(39,698)	
<b>NET CHANGE IN FUND BALANCES</b>			<b>\$ (12,548)</b>	

**STATE OF NEW MEXICO  
OFFICE OF THE STATE TREASURER**

**Statement of Fiduciary Net Assets**

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**AS OF JUNE 30, 2009**

	<u>Investment Trust Fund</u>
<b>ASSETS:</b>	
Cash and investments:	
Cash	\$ 151,589,655
Certificates of Deposit	204,100,000
Institutional Money Market	97,811,466
Commercial Paper	199,970,351
Asset Backed Securities	386,093,368
U.S. Government Securities	1,327,708,790
Corporate Bonds	812,234,557
Municipal Bonds	178,063,867
Repurchase agreements	<u>616,370,342</u>
Total cash and investments	3,973,942,396
Other assets	<u>16,826,437</u>
<b>TOTAL ASSETS</b>	<b>\$ <u>3,990,768,833</u></b>
<b>NET ASSETS HELD IN TRUST</b>	<b>\$ <u>3,990,768,833</u></b>
<b>TOTAL LIABILITIES AND NET ASSETS HELD IN TRUST</b>	<b>\$ <u>3,990,768,833</u></b>

**STATE OF NEW MEXICO  
OFFICE OF THE STATE TREASURER**

**Statement of Changes in Fiduciary Net Assets**

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**YEAR ENDED JUNE 30, 2009**

	<u>Investment Trust Fund</u>
<b>INVESTMENT INCOME</b>	\$ 96,539,470
<b>EXPENSES:</b>	
Management fees	<u>(384,000)</u>
<b>NET INVESTMENT INCOME</b>	96,155,470
<b>NET PROCEEDS OF DEPOSITS (WITHDRAWALS)</b>	(1,666,311,916)
<b>NET ASSETS, HELD IN TRUST FOR     POOL PARTICIPANTS, JUNE 30, 2008</b>	<u>5,560,925,279</u>
<b>NET ASSETS, HELD IN TRUST FOR     POOL PARTICIPANTS, JUNE 30, 2009</b>	\$ <u>3,990,768,833</u>

## NATURE OF ORGANIZATION

The Office of the State Treasurer (State Treasurer) has existed continuously since 1851 (Laws 1851-1852). The Legislative Assembly of the Territory of New Mexico passed an act to establish and regulate the Treasury Department of the Territory of New Mexico. This act established the office of territorial Treasurer and designed the duties of Treasurer. The Office of the State Treasurer is established by the New Mexico Constitution, Article V, Section 1, which provides in part:

*"The executive department shall consist of a governor, lieutenant governor, secretary of state, State auditor, State treasurer, attorney general, and commissioner of public lands, who shall, unless otherwise provided in the constitution of New Mexico, be elected for terms of four years beginning on the first day of January next after their election. The governor and lieutenant governor shall be elected jointly by the casting by each voter of a single vote applicable to both offices."*

Statutory powers and duties of the State Treasurer are contained in numerous articles of the New Mexico Statutes Annotated. Principal statutory provisions related to the New Mexico State Treasurer's Investment Fund are listed below:

- (1) Sections 8-6-1 through 8-6-7 NMSA 1978 (1983 Repl.), as amended. Section 8-6-3 NMSA 1978 (1983 Repl.) provides that the State Treasurer shall receive and keep all monies of the State, except when otherwise provided, shall disburse the public money upon lawful warrants and shall keep a just, true and comprehensive account of all monies received and disbursed.
- (2) Section 6-1-13 NMSA 1978 (1978 Repl.) provides that the State Treasurer shall authorize all State agency deposit accounts and shall establish conditions and reports appropriate to the accounts.
- (3) Section 6-8-2 NMSA 1978 (1988 Repl.) provides that the State Treasurer shall be a member of the State Investment Council. Section 6-8-6 NMSA 1978 (1988 Repl.) states that the State Treasurer shall maintain custody of the State permanent fund.
- (4) Sections 6-10-10 (G), (H), and (I) NMSA 1978 (1988 Supp.) empower the State Treasurer, with the advice and consent of the State Board of Finance, to invest money held in demand deposits and not immediately needed for the operation of State government in certain specified securities or investments.
- (5) Section 6-12A-2 NMSA 1978 is to ensure an orderly and uninterrupted flow of money to the general fund by anticipating the receipt of taxes and other State revenue.
- (6) Section 6-10-10.1 NMSA 1978. Short-term investment fund created; distribution of earnings; report of investment.

**STATE OF NEW MEXICO  
OFFICE OF THE STATE TREASURER**

**Notes to Financial Statements - continued**

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**NATURE OF ORGANIZATION – continued**

- a. There is created in the State treasury the "short-term investment fund." The fund shall consist of all deposits from governmental entities and Indian tribes or pueblos that are placed in the custody of the State Treasurer for short-term investment purposes pursuant to this section. The State Treasurer shall maintain a separate account for each governmental entity and Indian tribe or pueblo having deposits in the fund.
- b. If any local public body is unable to receive payment on public money at the rate of interest as set forth in Section 6-10-36 NMSA 1978 from financial institutions within the geographic boundaries of the governmental unit, then a local public finance official having money of that local public body in his custody required for expenditure within thirty days or less may, with the consent of the appropriate local board of finance, if any, remit some or all of such money to the State Treasurer, bank, savings and loan association or credit union for deposit for the purpose of short-term investment as allowed by this section.
- c. Before any local funds are invested or reinvested for the purpose of short-term investment pursuant to this section, the local public body finance official shall notify and make sure funds are made available to banks, savings and loan associations and credit unions located within the geographical boundaries of their respective governmental unit, subject to the limitation on credit union accounts. To be eligible for such funds, the financial institution shall pay to the local public body the rate established by the State Treasurer pursuant to a policy adopted by the State Board of Finance for such short-term investments.
- d. The local public body finance official shall specify the length of time each deposit shall be in the short-term investment fund, but in any event the deposit shall not be made for more than thirty days. The State Treasurer, through the use of the State fiscal agent, shall separately track each such deposit and shall make such information available to the public upon written request.
- e. The State Treasurer shall invest the fund as provided for State funds under Section 6-10-10 NMSA 1978 and may elect to have the short-term investment fund consolidated for investment purposes with the State funds under the control of the State Treasurer, provided that accurate and detailed accounting records are maintained for the account of each participating entity and Indian tribe or pueblo and that a proportionate amount of interest earned is credited to each of the separate government accounts. The fund shall be invested to achieve its objective, which is to realize the maximum return consistent with safe and prudent management.

**STATE OF NEW MEXICO  
OFFICE OF THE STATE TREASURER**

**Notes to Financial Statements - continued**

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**NATURE OF ORGANIZATION – continued**

- f. At the end of each month, all interest earned from investment of the short-term investment fund shall be distributed by the State Treasurer to the contributing entities and Indian tribes or pueblos in amounts directly proportionate to the respective amounts deposited in the fund and the length of time the amounts in the fund were invested. No fees or transfer expenses shall be charged to the participating entities and Indian tribes or pueblos for investment in the short-term investment fund.

The State Treasurer is responsible for making the State of New Mexico's debt service and interest payments on general obligation and severance tax bonds and maintaining the related accounting records. The proceeds from the issuance of these general obligation and severance tax bonds and the related debt are maintained in agency funds at the New Mexico Department of Finance and Administration (DFA) and are not part of this audit. Those funds are included in the DFA's financial statements. The debt service activity, including the ending balances for the general obligation and severance tax bonds and the amortization of bond premiums, discounts and issuance costs, are included in the Supplementary Information section of this report and the statewide Comprehensive Annual Financial Report (CAFR).

Certain investments owned and administered by the Department of Transportation are purchased through the State Treasurer's Office. The fair value and other gratuitous information related to these investments are not included in the financial statements of the Investment Trust Fund.

The State Treasurer's Office operates several investment pools which collectively represent the cash and investments held at the State Treasurer's Office. These pools represent amounts being held and invested for State agencies and for local governments. They have been identified as: 1) State funds investment pool, 2) short-term investment pool, 3) consolidated investment pool and 4) The Reserve Contingency Fund.

• **Oversight by the State Board of Finance**

The State Board of Finance (Board) by statute is comprised of the State of New Mexico governor, lieutenant governor, State treasurer and four members from the general public, and each is a voting member of the Board.

The Board has the responsibility for the issuance of the general obligation and severance tax bonds and for the investment and distribution of the proceeds from such bonds. In that regard, the Board approves the issuance of all such bonds, and provides information for bond prospectuses in order to ensure compliance with financial disclosure requirements and to present information concerning bond issues in a meaningful and informative format. Debt Service Funds are maintained by the State Treasurer for Bonds issued by the Board. The State Treasurer does not report the corresponding debt. The debt is reported on the statement of the Board. The details of the debt are reported in the supplementary and additional information sections in this report.

1. **SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

• **Financial Reporting Entity**

The financial statements for the State Treasurer have been prepared in accordance with accounting principles generally accepted in the United States of America (GAAP), as applied to governmental units. The Governmental Accounting Standards Board (GASB) is the standard-setting body for governmental accounting and financial reporting. Pronouncements of the Financial Accounting Standards Board (FASB) issued after November 30, 1989, are not applied in the preparation of the financial statements of the proprietary fund type in accordance with GASB No. 20. The GASB periodically updates its codification of the existing Governmental Accounting and Financial Reporting Standards, which, along with subsequent GASB pronouncements (Statements and Interpretations), constitutes GAAP for governmental units. The more significant of these accounting policies are described below.

In June 1999, the GASB unanimously approved GASB No. 34, *Basic Financial Statements and Management Discussion and Analysis for State and Local Governments*. This statement provides for the most significant change in financial reporting in over 20 years and is scheduled for a phased implementation based on size of government. The State Treasurer has implemented the provisions of GASB No. 34. As a part of this statement, there is a reporting requirement regarding the State Treasurer's infrastructure (road, bridges, etc.) The State Treasurer does not own any infrastructure assets and, therefore, is unaffected by this requirement.

The State Treasurer is an office of the State of New Mexico. The financial statements and notes to the financial statements include all funds for which the State Treasurer is responsible. These financial statements only present activity related to the State Treasurer's Office. The State Treasurer receives funding from State and federal sources and must comply with the requirements of these funding source entities. However, the State Treasurer is not included in any other governmental "reporting entity" as defined by GASB pronouncements, since the State Treasurer is elected by the public and has decision making authority, the power to designate management, and the ability to significantly influence operations and have primary financial accountability for fiscal matters. In addition, there are no component units as defined in GASB Statement 14 (amended by GASB 39) which are included in the State Treasurer's reporting entity.

• **Government-wide and Fund Financial Statements**

The government-wide financial statements (i.e., the statement of net assets and the statement of activities) report information on all of the nonfiduciary activities of the government. For the most part, the effect of interfund activity has been removed from these statements. Governmental activities, which normally are supported by taxes and intergovernmental revenues, are reported separately from business-type activities, which rely to a significant extent on fees and charges for support.

The statement of activities demonstrates the degree to which the direct expenses of a given function or segment are offset by program revenues. Direct expenses are those that are clearly identifiable with a

1. **SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES - continued**

• **Government-wide and Fund Financial Statements - continued**

specific function or segment. Program revenues include: 1) charges to customers or applicants who purchase, use, or directly benefit from goods, services, or privileges provided by a given function or segment, and 2) grants and contributions that are restricted to meeting the operational or capital requirements of a particular function or segment. Taxes and other items not properly included among program revenues are reported instead as general revenues.

Separate financial statements are provided for governmental funds and fiduciary funds, even though the latter are excluded from the government-wide financial statements. Major individual governmental funds are reported as separate columns in the fund financial statements.

• **Measurement Focus, Basis of Accounting, and Financial Statement Presentation**

The government-wide financial statements are reported using the economic resources measurement focus and the accrual basis of accounting, as are the fiduciary fund financial statements. Revenues are recorded when earned and expenses are recorded when a liability is incurred, regardless of the timing of related cash flows. Property taxes are recognized as revenues in the year for which they are billed.

Grants and similar items are recognized as revenue as soon as all eligibility requirements imposed by the provider have been met.

Governmental fund financial statements are reported using the current financial resources measurement focus and the modified accrual basis of accounting. Revenues are recognized as soon as they are both measurable and available. Revenues are considered to be available when they are collectible within the current period or soon enough thereafter to pay liabilities of the current period. For this purpose, the government considers revenues to be available if they are collected within 60 days of the end of the current fiscal period. Expenditures generally are recorded when a liability is incurred, as under accrual accounting. However, debt service expenditures, as well as expenditures related to compensated absences and claims and judgments, are recorded only when payment is due.

Federal grant revenue associated with the current fiscal period is all considered to be susceptible to accrual and so has been recognized as revenues of the current fiscal period. All other revenue items are considered to be measurable and available when cash is received by the government.

The government reports the following major governmental funds:

The **General Fund** is the government's primary operating fund. It accounts for all financial resources of the general government, except those required to be accounted for in another fund. The General Fund is funded through the 2008 General Appropriation Act (Laws of 2008, Chapter 3, Section F) and is subject to reversion.

1. **SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES - continued**

• **Measurement Focus, Basis of Accounting, and Financial Statement Presentation - continued**

The government reports the following **Debt Service Funds**:

The General Obligation Bond Fund accounts for payment of principal and interest on general obligation bonds. Financing sources are provided through the collection of property tax levies by other State agencies. The fund does not receive State General Fund appropriations that are subject to reversion.

The Severance Tax Bond Fund accounts for tax receipts levied by other State agencies upon natural resource products, severed and saved from the lands of the State of New Mexico, and to account for payment of principal and interest on severance tax bonds. The fund does not receive State General Fund appropriations that are subject to reversion.

The Gaming Suspense Fund (SHARE Fund 02000) was established to collect monies owed to the State from gaming establishments. The fund does not receive State General Fund appropriations that are subject to reversion.

Additionally, the government reports the following **Fiduciary Funds**:

The Short-Term Investment Pool (SHARE Fund 68599) accounts for cash, securities and other investments identified and held in custody only for the Local Government Investment Pool (LGIP).

The Consolidated Investment Pool (SHARE Fund 10199) accounts for cash and short-term securities, such as overnight repurchase contracts, held in custody for State agencies.

The State Funds Investment Pool (SHARE Fund 10099) accounts for securities and other investments identified and held in custody only for State agencies.

The Reserve Contingency Fund (SHARE Fund 68510) accounts for securities and other investments held in custody for local governments.

Amounts reported as **Program Revenues** include: 1) charges to customers or applicants for goods, services or privileges provided; 2) operating grants and contributions; and 3) capital grants and contributions, including special assessments. Internally dedicated resources are reported as **General Revenues** rather than as program revenues. Likewise, general revenues include all taxes.

The effect of interfund activity has been eliminated from the government-wide financial statements.

1. **SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES - continued**

• **Deposits and Investments**

The State Treasurer's cash and cash equivalents are considered to be cash on hand, demand deposits and short-term investments with original maturities of three months or less from the date of acquisition.

State statutes authorize the State Treasurer to invest in, subject to various restrictions, U.S. government obligations, commercial paper, corporate bonds, asset backed obligations, repurchase agreements, certificates of deposit, securities lending transactions, variable rate notes, tax-exempt securities and money market mutual funds.

• **Receivables and Payables**

Activity between funds that are representative of lending/borrowing arrangements outstanding at the end of the fiscal year are referred to as either "due to/from other funds" (i.e., the current portion of interfund loans) or "advances to/from other funds" (i.e., the non-current portion of interfund loans). All other outstanding balances between funds are reported as "due to/from other funds."

Advances between funds, as reported in the fund financial statements, are offset by a fund balance reserve account in applicable governmental funds to indicate that they are not available for appropriation and are not expendable available financial resources.

All receivables are reported at their gross value and, where appropriate, are reduced by the estimated portion that is expected to be uncollectible. In the government-wide and governmental fund financial statements, delinquent property taxes are not recorded as revenue until received.

• **Capital Assets**

Capital assets, which include equipment, are reported in the applicable governmental columns in the government-wide financial statements. Capital assets are defined by the government as assets with an initial, individual cost of more than \$5,000 (amount not rounded) and an estimated useful life in excess of one year. Such assets are recorded at historical cost or estimated historical cost if purchased or constructed. Donated capital assets are recorded at estimated fair market value at the date of donation. Information Technology Equipment including software is being capitalized and included in furniture, fixtures and equipment in accordance with NMAC 2.20.1.9 C (5) and *AICPA Statement of Position 98-1*.

The costs of normal maintenance and repairs that do not add to the value of the asset or materially extend assets' lives are not capitalized.

1. **SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES - continued**

• **Capital Assets - continued**

Equipment of the State Treasurer is depreciated using the straight line method over the following estimated useful lives:

<u>Assets</u>	<u>Years</u>
Office equipment	5
Computer equipment	5

• **Compensated Absences**

Employees are entitled to accumulate annual leave at the rate based on appointment date and length of continuous service. A maximum of 240 hours of such accumulated annual leave may be carried forward after the pay period beginning in December and ending in January. When employees terminate, they are compensated for accumulated unpaid annual leave as of the date of termination, up to a maximum of 240 hours.

Employees are entitled to accumulate sick leave at the rate of 3.69 hours per pay period. There is no limit to the amount of sick leave which an employee may accumulate. State agencies are allowed to pay fifty percent (50%) of each employee's hourly rate for accumulated sick leave over 600 hours up to 120 hours. Payment may be made only once per fiscal year at an employee-specified pay period in either January or July.

• **Long-term Obligations**

In the government-wide financial statements, long-term debt and other long-term obligations are not reported as liabilities in the applicable governmental activities. The State Treasurer is not the issuer of the debt, nor is it ultimately responsible for the debt. The details of the long-term debt are reported in the Supplementary Information section of the financial statements as Schedule 6. Bond premiums and discounts, as well as issuance costs, are deferred and amortized over the life of the bonds using the effective interest method, and are reported as Supplementary Information in Schedule 6 of the financial statements. Bonds payable are reported net of the applicable bond premium or discount in Schedule 6.

The State Treasurer reports the debt service activity of the State of New Mexico in its fund financial statements. Governmental fund types recognize bond premiums and discounts, as well as bond issuance costs, during the current period. The face amount of the debt issued is reported as other financing sources. Premiums received on debt issuances are reported as other financing sources, while discounts on debt issuances are reported as other financing uses. Issuance costs, whether or not withheld from the actual debt proceeds received, are reported as debt service expenditures.

Since the State Treasurer reports the debt service activity in its fund financial statements, but does not report the related liabilities in the governmental activities, the State Treasurer reports the debt service

1. **SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES - continued**

- **Long-term Obligations - continued**

activity of the State Board of Finance issued debt in its government-wide financial statements under general revenues and program expenses as follows:

**Bond Proceeds.** To report the proceeds received from bonds issued by the State Board of Finance.

**Bond Premiums.** To report premiums on bonds issued by the State Board of Finance.

**Bond Principal Payments.** To report principal payments on long-term debt made by the State Treasurer on debt issued by the State Board of Finance.

**Bond Appropriations Expense.** To report bond proceeds transferred to the DFA State Board of Finance for the agencies to draw down as needed.

**Debt Issuance Costs.** Debt issuance costs are reported as other charges and included in program expenses.

- **Fiduciary Net Assets**

The combining statement of changes in fiduciary net assets reports the deposits and withdrawals made by the participants in the Investment Trust Funds. These amounts are reported as net, rather than gross, due to the volume of transactions completed during a fiscal period.

- **Fund Balance**

In the fund financial statements, governmental funds report reservations of fund balance that are not available for appropriation or are legally restricted by outside parties for use for a specific purpose. Designations of fund balance represent tentative management plans that are subject to change.

- **Estimates**

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect certain reported amounts and disclosures. Accordingly, actual results could differ from those estimates.

- **Net Assets**

The government-wide financial statements utilize a net asset presentation. Net assets are categorized as investments in capital assets (net of related debt), restricted and unrestricted.

**Investments in capital assets** is intended to reflect the portion of net assets which is associated with non-liquid capital assets less outstanding capital asset related debt. The net related debt is debt less the outstanding liquid assets and any associated unamortized cost.

2. STEWARDSHIP, COMPLIANCE AND ACCOUNTABILITY

• Net Assets - continued

**Restricted assets** are liquid assets (generated from revenues and not bond proceeds) which have third-party (statutory or granting agency) limitation that is legally enforceable on their use. When there is an option, the State Treasurer spends restricted resources first. Net assets are restricted by the bond indenture for debt service. Restricted net assets total \$249,877,585.

**Unrestricted assets** are all other assets that do not meet the definition of “restricted assets” or “investments in capital assets”.

• Budgets and Budgetary Accounting

Per the General Appropriation Act, Laws of 2007, Chapter 28, Section 3, item N, “For the purpose of administering the General Appropriation Act of 2007 and approving operating budgets, the state of New Mexico shall follow the modified accrual basis of accounting for governmental funds in accordance with the manual of model accounting practices issued by the department of finance and administration.” The budget is adopted on the modified accrual basis of accounting except for accounts payable accrued at the end of the fiscal year that do not get paid by the statutory deadline per Section 6-10-4 NMSA 1978. Those accounts payable that do not get paid timely must be paid out of the next year’s budget. Encumbrances related to single year appropriations lapse at year end. Appropriation periods are sometimes for periods in excess of twelve months (multiple-year appropriations). When multiple-year appropriation periods lapse, the authority for the budget also lapses and encumbrances can no longer be charged to that budget. The legal level of budgetary control is at the appropriation unit level.

The debt service funds of the State Treasurer are not budgeted.

The State Treasurer follows these procedures in establishing the budgetary data reflected in the financial statements:

1. By September 1, the State Treasurer prepares a budget appropriation request by category to be presented to the next legislature.
2. The appropriation request is submitted to the DFA's Budget Division and to the Legislative Finance Committee (LFC):
3. The DFA makes recommendations and adjustments to the appropriation request which become the Governor's proposal to the Legislature.
4. LFC holds hearings on the appropriation request, also submitting recommendations and adjustments before presentation to the Legislature.

2. **STEWARDSHIP, COMPLIANCE AND ACCOUNTABILITY - continued**

• **Budgets and Budgetary Accounting – continued**

5. Both the DFA's and LFC's recommended appropriation proposals are presented to the Legislature for approval of the final budget plan.
6. Budgetary control is exercised at the category level of the State Treasurer as a whole and changes are approved by the DFA.
7. Formal budgetary integration is employed as a management control device during the year for the General Fund only. The debt service funds (General Obligation Bond Funds and Severance Tax Bonding Funds) are non-budgeted funds.
8. The General Appropriations Act of 2004 established the modified accrual basis of accounting as the budgetary basis of accounting for the State of New Mexico beginning July 1, 2004. Accordingly, future budgets will be prepared using the modified accrual basis of accounting.
9. The State Treasurer's budget for the fiscal year ending June 30, 2009, was amended in a legally permissible manner by reallocating line item category totals as the need arose during the fiscal year. Individual amendments were not material in relation to the original budget.

3. **DEPOSITS AND INVESTMENTS**

• **Fiscal Agent Bank**

The State Board of Finance and Bank of America in Albuquerque (Bank) entered into an agreement whereby the Bank would provide banking services as Fiscal Agent for the State of New Mexico through April 3, 2008, with the option to renew for two additional years at the option of the State Board of Finance, not to extend beyond April 12, 2010.

• **Custody Bank**

The State Board of Finance and Northern Trust entered into an agreement whereby Northern Trust would provide banking services as Custody Bank for the State of New Mexico through January 31, 2010, with the option to renew for two additional years at the option of the State Board of Finance.

• **Investment Trust Fund**

Cash on deposit represents the demand deposit account with the fiscal agent bank. Current year transactions reflect all banking activity for the fiscal year as well as the activity of investments purchased and disposed of during the fiscal year.

STATE OF NEW MEXICO  
OFFICE OF THE STATE TREASURER

Notes to Financial Statements - continued

3. DEPOSITS AND INVESTMENTS - continued

• **Investment Trust Fund – continued**

The State Treasurer invests all public monies held in excess of the minimum compensating balance maintained with the fiscal agent bank in accordance with an investment policy approved by the State Board of Finance.

The State Treasurer has implemented GASB Statement No. 31, *Accounting and Financial Reporting for Certain Investments*. This statement requires certain investments as defined in GASB Statement No. 31 to be valued at fair value. Fair value is based on quoted market prices as of the valuation date. The change in fair value is recognized as a component of investment income in the current year.

The State Treasurer invests excess cash balances on behalf of certain earmarked funds of State agencies identified by State statute and local governments. Interest earnings are distributed based on average outstanding cash balances for local governments and the State agencies where interest is allowed to be earned. All other interest earnings are transferred to the State General Fund.

The State Treasurer deposits public monies with New Mexico financial institutions in denominations which generally are in excess of the \$250,000 in insurance coverage provided by federal agencies. Accordingly, the State Treasurer requires that depository financial institutions provide additional collateral for such investments. The collateral generally is in the form of marketable debt securities and is required in amounts ranging from fifty percent (50%) to one hundred two percent (102%) of the par value of the investment dependent upon the institution's operating results and capital. Collateral for the fiscal agent account is required in amounts equal to 50 percent (50%) of the average investment balance.

At June 30, 2009, collateral pledged to public money deposits was as follows:

	Fiscal Agent Account	Certificates of Deposit
Cash in bank (bank balance)	\$ 143,229,755	204,100,000
Less FDIC insurance coverage	<u>143,229,755</u>	<u>3,022,505</u>
Total unsecured public funds	\$ <u>          -</u>	<u>201,077,495</u>
Collateral requirement (50% of uninsured public funds)	\$ -	142,663,850
Collateral pledged:		
US Government securities	64,733,800	100,338,114
Surety Bond	<u>          -</u>	<u>63,000,000</u>
(Over) under collateralized See Schedule 10 for reconciliation.	\$ <u>(64,733,800)</u>	<u>(20,674,264)</u>

STATE OF NEW MEXICO  
OFFICE OF THE STATE TREASURER

Notes to Financial Statements - continued

3. DEPOSITS AND INVESTMENTS - continued

• **Investment Trust Fund – continued**

As part of the Temporary Liquidity Guarantee Program, the FDIC instituted the "Transaction Account Guarantee Program," which, if a bank chooses to participate, insures all transaction deposit accounts paying no more than 0.50% interest. Bank of America, where the State Treasurer has its fiscal agent account, was participating in the program on June 30, 2009 and elected to have that account covered under the program. As a result, the entire fiscal agent account balance was covered by FDIC insurance at June 30, 2009.

• **Brokered Transactions**

The State Treasurer initiated electronic purchase trades with the following brokers during the year ended June 30, 2009:

Broker Name	Number of Transactions
Merrill Lynch	7
CS First Boston	5
Citigroup	18
First Tennessee	44
Morgan Stanley	62
Bank of America	49
Goldman Sachs	26
JP Morgan Chase	13
Cantor Fitzgerald	42
Barclays	20
Bear Stearns	9
UBS	1
Greenwich Capital	8
BB&T Capital	2
Morgan Keegan	1
Williams Financial	5
Piper Jaffrey	18
BNP Paribas	25
Stiffel Nicolaus	9
Jefferies	16
MFR	1
HSBC	30
RBS	6
Compass Bank	3
Union Banc	3
Vining	1
Deutsche	20

**STATE OF NEW MEXICO  
OFFICE OF THE STATE TREASURER**

**Notes to Financial Statements - continued**

**3. DEPOSITS AND INVESTMENTS – continued**

• **Investment Balances**

The fair value of investments administered by the State Treasurer at June 30, 2009 follows:

	<b>Amortized Cost</b>	<b>Carrying Amount Fair Value</b>
Cash in Banks	\$ 151,879,853	151,879,853
Certificates of Deposit	204,100,000	204,100,000
Institutional Money Market	114,690,897	97,811,466
Commercial Paper	200,122,000	199,970,351
Asset Backed Securities	386,977,167	386,093,368
U.S. Government Securities	1,307,798,000	1,327,708,790
Corporate Bonds	798,997,000	812,234,557
Municipal Bonds	177,998,000	178,063,867
Overnight Repurchase Agreements	849,000,000	849,000,000
	<b>\$ 4,191,562,917</b>	<b>4,206,862,252</b>

The fair value includes repurchase agreements of \$232,629,658 of debt service funds reported in the Statement of Net Assets – Governmental Activities and Governmental Funds Activity for general obligation funds and severance tax bond funds. The remaining \$616,370,342 of repurchase agreements represents the investment portion of the investment trust fund reported in the Statement of Fiduciary Net Assets. In addition, it includes \$290,198 of cash in the governmental activities.

• **Local Government Investment Pool**

Cities, counties, and other non-state agencies invest monies in the State Treasurer external investment pool (Local Government Investment Pool). The investments are recorded at fair value based on quoted market prices as of the valuation date in the financial statements; however, the individual participant balances remain at their carrying cost. At June 30, 2009, the Local Government Investment Pool carrying cost approximated the fair value.

The State Treasurer Local Government Investment Pool is not SEC registered. Section 6-10-10.1, NMSA 1978, empowers the State Treasurer, with the advice and consent of the State Board of Finance, to invest money held in the short-term investment fund in securities that are issued by the United States government or by its departments or agencies, and are either direct obligations of the United States or are backed by the full faith and credit of the United States government, or are agencies sponsored by the United States government. The Local Government Investment Pool investments are monitored by the same investment committee and the same policies and procedures that apply to all other State investments. The pool does not have unit shares. Per Section 6-10-10.1F, NMSA 1978, at the end of each month all interest earned is distributed by the State Treasurer to the contributing entities in

3. **DEPOSITS AND INVESTMENTS – continued**

• **Local Government Investment Pool - continued**

amounts directly proportionate to the respective amounts deposited in the fund and the length of time the amounts were invested. Participation in the Local Government Investment Pool is voluntary.

• **Reserve Contingency Fund**

The Reserve Contingency Fund was created to hold what was formerly a Local Government Investment Pool (LGIP) investment in the Primary Fund, a money market mutual fund established and managed by The Reserve Fund. On September 16, 2008, the Primary Fund wrote down the value of its debt securities issued by Lehman Brothers Holdings, Inc., to zero, driving the net asset value of the fund below \$1.00 to \$0.97. At that date, the LGIP had \$381.7 million invested in the Primary Fund, roughly 23% of the LGIP's total assets. On September 29, 2008, the Primary Fund announced that it intended to liquidate its assets and distribute the proceeds on a pro rata basis to investors. As of June 30, 2009, slightly less than 90% of the Primary Fund's balances have been returned to investors, including the LGIP.

In order to preserve the "AAAm" rating assigned by Standard & Poor's to the LGIP, the State Treasurer's Office effected an agreement on behalf of the LGIP and the state's General Fund CORE portfolio on September 22, 2008. The Agreement provided for the General Fund to purchase all \$381.7 million shares of the Primary Fund held by the LGIP at the par value of \$1.00 per share. The LGIP granted the General Fund a "put" option for those shares at par, plus interest at a stated rate.

On February 27, 2009, the State Treasurer's Office informed LGIP participants that it intended to segregate each participant's remaining balance attributable to LGIP holdings in the Primary Fund into a separate fund created by the State Treasurer's Office, the Reserve Contingency Fund. Balances transferred to the Reserve Contingency Fund would be based on each participant's share of the LGIP as of September 15, 2008. Any future distributions from the Primary Fund would flow into the Reserve Contingency Fund and be distributed to LGIP participants on a pro rata basis.

Based on analysis of The Reserve Primary Fund's schedule of investments as of June 30, 2009, it was determined that approximately 14.72% of the remaining value of the Primary Fund's component securities would expire worthless. This portion was entirely related to those debt securities held within the Primary Fund that were issued by Lehman Brothers Holdings, Inc. Since the investment in The Reserve Primary Fund was being carried at 100% of face value (\$1.00 per share), the fair market value has been adjusted downward by approximately 14.72% as reflected on Schedule 7 of the Supplementary Information section of this report.

At June 30, 2009, investments in The Reserve Primary Fund were also held in the General Fund Investment Pool and in both the Taxable and Tax-Exempt Bond Proceeds Investment Pools. Those investments' fair market values were also marked down by approximately 14.72% as reflected on Schedule 7 of the Supplementary Information section of this report.

3. DEPOSITS AND INVESTMENTS – continued

• **Investment Guidelines and Limitations**

The investment policy is a comprehensive guide governing the investment functions of the New Mexico State Treasurer with respect to all financial assets of the State of New Mexico invested by the State Treasurer in the exercise of his authority and for which the State Treasurer acts as the investing authority. These assets include, as examples only, the State General Fund, the Local Government Investment Pool, bond proceeds, bond debt service funds, and those pension and permanent funds and other special funds with respect to which the State Treasurer is the investing authority.

The investment policy and the public finance investment decisions of the State Treasurer must serve and satisfy several fiduciary, fiscal and financial obligations. In making these decisions and in resolving any conflict or competing considerations that may arise from time to time among these obligations, the State Treasurer will observe the following priority:

1. Preservation of Principal – to ensure the performance of basic governmental functions, the first priority must be accorded to the preservation and protection of the principal of the funds to be invested;
2. Maintenance of Liquidity – the second level of priority must be accorded to maintaining sufficient liquidity to satisfy the reasonably anticipated, continuing operational requirements of State Government; and
3. Maximum Return – the third priority must be accorded to maximizing investment return, through budgetary and economic cycles, consistent with the higher priority accorded to the security and liquidity of principal.

The standard of prudence to be applied in the investment of State assets shall be the “Prudent Person” rule that specifies that: “Investments shall be made with the judgment and care, under circumstances then prevailing, that persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived.”

The State Treasurer or his designees, acting in accordance with this policy and any other written procedures pertaining to the investment of public money and exercising due diligence, shall be relieved of personal responsibility, if any, for credit risk or market price changes of a particular security, provided that deviations from expectations are timely noted and appropriate action is taken to control and prevent further adverse developments.

3. **DEPOSITS AND INVESTMENTS – continued**

• **Investments Permitted by Policy**

The scope of investment authority of the State Treasurer is defined by the applicable investment statutes and constitutional provisions, principally Sections 6-10-10, 6-10-25, 6-10-26, 6-10-37, 6-10-44 and 6-14-10.1, NMSA 1978, as well as Article VIII, Section 4 of the New Mexico Constitution, specifying particular types of investments that may be made by the State Treasurer, which establish certain prerequisites, limitations and other requirements relating to those investments. Moreover, the State Treasurer, in his discretion, may further limit or restrict those investments.

The State Treasurer and the State Board of Finance have determined that only the following statutorily authorized investments may be made, and these investments shall be subject to further limitations or restrictions as follows:

1. U.S. Government Obligations – Securities, including discount notes, that are issued by the United States government or by its agencies or instrumentalities and that are either direct obligations of the United States or are backed by the full faith and credit of the United States government or agencies sponsored by the United States government. Investments shall be limited to a maximum maturity of five (5) years at time of purchase, except securities for any advance refunding escrow which may be invested in securities with a maturity of more than five (5) years.
2. Commercial Paper – Unsecured obligations with a maturity up to 270 days at time of purchase issued by corporations organized and operating within the United States. The commercial paper shall have investment grade ratings and shall not be split-rated. If the rating declines below investment grade, the State Treasurer's Investment Committee (STIC) will meet to evaluate a course of action.
3. Corporate Bonds – Debt instruments issued by a corporation organized and operating in the United States with a maturity not exceeding five (5) years at time of purchase. Corporate bonds with maturities up to three (3) years shall be rated A1 or better at the time of purchase. Corporate bonds with maturities between three (3) and five (5) years shall be rated AA or better. If the rating declines below investment grade, then the STIC will meet to evaluate a course of action.
4. Asset-Backed Obligations – Debt instruments which are backed by defined cash flows or receivables with a final maturity not exceeding five (5) years at time of purchase and rated AAA, or its equivalent, by all national rating agencies that rate the security. If the rating declines below AAA, or its equivalent, then the STIC will meet to evaluate a course of action.

3. DEPOSITS AND INVESTMENTS – continued

• Investments Permitted by Policy – continued

5. Repurchase Agreements – Contracts for the present purchase and resale at a specified time in the future of specific securities at specified prices at a price differential representing the interest income to be earned by the State. No contract shall be invested in unless the contract is fully secured by obligations of the United States, or its agencies or instrumentalities, or other securities backed by the United States having a market value of at least one hundred two percent (102%) of the amount of the contract. Repurchase agreements and flexible repurchase agreements shall be limited to a maximum maturity of one (1) year, but flexible repurchase agreements, in which bond proceeds are invested, may have a maximum maturity of three (3) years. Repurchase agreements for the Local Government Investment Pool shall be limited to a maximum maturity of thirty (30) days, although any underlying U.S. government obligations pledged as collateral may have maturities extending beyond the term of such repurchase agreements. Subject to these conditions and the prior approval of the State Board of Finance with respect to the custodial undertaking agreement, tri-party repurchase agreements are proper investments under this policy.
6. Bank, Savings and Loan Association or Credit Union Deposits – Deposits are allowed in certified and designated New Mexico financial institutions whose deposits are insured by an agency of the United States. All deposits will comply with state statute and State Board of Finance policies related to interest rate and collateral requirements. CD deposits shall not be made with custodial banks. Deposits shall be limited to a maximum maturity of three (3) years. A deposit in any credit union shall be limited to the amount insured by an agency of the United States.
7. Variable Rate Notes – Variable rate notes (VRN) may be United States government obligations, commercial paper or repurchase agreements. The use of VRNs is considered to be prudent in the management of the portfolio within certain maturity, indexing and concentration restrictions.
8. Tax Exempt Securities – Pursuant to 6-14-10.1, the State Treasurer or designee may also invest in tax exempt securities that at time of purchase are investment grade and have a final maturity of up to three (3) years. If the rating declines below investment grade, then the STIC will meet to evaluate a course of action.
9. Securities Issued by the State or a Political Subdivision of the State, or any Agency, Institution or Instrumentality of the State or a Political Subdivision – These include, but are not limited to, the New Mexico Mortgage Finance Authority, the New Mexico Finance Authority and the New Mexico Educational Assistance Foundation, if the statute authorizing the issuance of such securities expressly authorizes the State or the State Treasurer to purchase such security.

3. **DEPOSITS AND INVESTMENTS – continued**

• **Investments Permitted by Policy – continued**

10. Money Market Mutual Funds – Shares of an open-ended diversified investment company that:  
(i) is registered with the United State Securities and Exchange Commission; (ii) complies with the diversification, quality and maturity requirements of Rule 2a-7, or any successor rule, of the United States Securities and Exchange Commission applicable to money market mutual funds; (iii) assesses no fees pursuant to Rule 12b-1, or any successor rule, of the United States Securities and Exchange Commission, no sales load on the purchase of shares and no contingent deferred sales charge or other similar charges, however designated, provided that the State shall not, at any time, own more than five percent (5%) of a money market mutual fund's assets; and (iv) is rated AAA or equivalent by a nationally recognized rating agency. In addition, the State Treasurer may act as the investing authority for those agencies which have independent statutory authority to invest. The State Treasurer shall act in a manner consistent with each agency's guidelines and directives.

• **Unauthorized Investments/Investment Actions**

The State Treasurer will not borrow funds for the sole purpose of investing those funds at a higher yield. The State Treasurer is not authorized by law to invest or as a matter of policy has determined not to invest in securities, assets, investment agreements or instruments except as specifically permitted in this Investment Policy. Accordingly, as examples only, the following securities, assets, investment agreements or instruments are presently impermissible:

1. Common or preferred stock
2. Exchange traded future contracts
3. Inverse floaters
4. Whole-loan mortgage obligations
5. Interest only and principal strips only as they relate to asset-backed obligations
6. Currency swaps
7. Range notes and index amortizing notes
8. Reverse repurchase agreements
9. Short sales

• **Custodial Credit Risk**

Custodial credit risk is the risk that the State Treasurer will not be able to recover the value of its deposits, investments or collateral securities that are in the possession of an outside party if the counter party fails. Investment securities are exposed to risk if the securities are uninsured, are not registered in the name of State Treasurer and are held by either the counterparty of the counterparty's trust department of agent but not in State Treasurer's name.

**STATE OF NEW MEXICO  
OFFICE OF THE STATE TREASURER**

**Notes to Financial Statements - continued**

**3. DEPOSITS AND INVESTMENTS – continued**

• **Custodial Credit Risk – continued**

The State Treasurer’s Investment Policy for safekeeping and custody states that all investment securities purchased by the State, held as collateral on repurchase agreements or held as collateral on securities lending arrangements shall be held in third-party safekeeping at a fiduciary qualified to act in this capacity. All securities held for the State account will be held free and clear of any lien and all transactions will be conducted in compliance with Section 6-10-10(O) NMSA 1978, which requires contemporaneous transfer and same day settlement. On a monthly basis, the custodian will provide reports which list all transactions that occurred during the month and all securities held for the State at month-end, including the book and market value of holdings. The Fiscal agent and representatives of the custodian responsible for, or in any manner involved with, the safekeeping and custody process of the State shall be bonded in such a fashion as to protect from losses from malfeasance and misfeasance.

All investment and collateral securities were held by the State Treasurer or its Custodian in the name of the State Treasurer. As of June 30, 2009, \$52,649,923 of the State Treasurer’s bank balances of \$538,489,099 was exposed to custodial credit risk as uninsured and uncollateralized.

• **Credit Risk**

The State Treasurer’s fixed income portfolio investment policy sets credit quality rating guidelines and benchmark indices for each of its sub-asset classes and/or as outlined in each portfolio manager contract.

The quality rating of investments in fixed income securities as described by nationally recognized statistical rating organizations (Standard & Poor’s) at June 30, 2009, for the general fund investment pool are as follows:

Quality Rating	Fair Value	Percentage of Portfolio
<b>AAA:</b>		
U.S. Treasuries	\$ 149,726,750	8.97%
U.S. Government Agency	145,793,504	8.73%
Corporate Bonds	132,610,850	7.94%
<b>AA:</b>		
Corporate Bonds	23,405,212	1.40%
<b>AA-:</b>		
Corporate Bonds	9,931,100	0.59%
<b>A+:</b>		
Corporate Bonds	15,289,940	0.92%

**STATE OF NEW MEXICO  
OFFICE OF THE STATE TREASURER**

**Notes to Financial Statements - continued**

**3. DEPOSITS AND INVESTMENTS – continued**

• **Credit Risk - continued**

Quality Rating	Fair Value	Percentage of Portfolio
<b>A:</b>		
Municipal Bonds	\$ 7,925,867	0.47%
Corporate Bonds	49,624,424	2.97%
<b>BBB+:</b>		
Corporate Bonds	4,466,250	0.27%
<b>BB+:</b>		
Corporate Bonds	3,784,650	0.23%
<b>Not rated and other:</b>		
Overnight Repurchase Pool	497,978,754	29.82%
Institutional Money Markets	38,427,419	2.30%
Asset-Backed Securities	136,951,492	8.20%
Certificates of Deposit	164,100,000	9.83%
Cash in Bank	3,837,225	0.23%
Municipal Bonds	170,138,000	10.19%
Corporate Bonds	75,767,250	4.54%
Commercial Paper	40,086,724	2.40%
<b>Grand Total</b>	<b>\$ 1,669,845,411</b>	<b>100.00%</b>

The quality rating of investments in fixed income securities as described by nationally recognized statistical rating organizations (Standard & Poor's) at June 30, 2009, for the local government investment pool are as follows:

Quality Rating	Fair Value	Percentage of Portfolio
<b>AAA:</b>		
U.S. Treasury Notes	\$ 618,582,852	67.11%
<b>AA1:</b>		
Corporate Bonds	15,216,750	1.65%

STATE OF NEW MEXICO  
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Notes to Financial Statements - continued

3. DEPOSITS AND INVESTMENTS – continued

• Credit Risk - continued

Quality Rating	Fair Value	Percentage of Portfolio
<b>Not rated and other:</b>		
Certificates of Deposit	\$ 40,000,000	4.34%
Cash in Bank	148,042,628	16.06%
Commercial Paper	99,943,111	10.84%
<b>Grand Total</b>	<b>\$ 921,785,341</b>	<b>100.00%</b>

The quality rating of investments in fixed income securities as described by nationally recognized statistical rating organizations (Standard & Poor's) at June 30, 2009, for the bond proceeds investment pools are as follows:

Quality Rating	Fair Value	Percentage of Portfolio
<b>AAA:</b>		
U.S. Treasuries	\$ 99,789,000	6.31%
U.S. Government Agency	313,816,684	19.83%
Corporate Bonds	330,087,600	20.86%
Asset-backed Securities	10,100,000	0.64%
<b>AA+:</b>		
Corporate Bonds	10,293,600	0.65%
<b>AA:</b>		
Corporate Bonds	20,434,800	1.29%
<b>A:</b>		
Corporate Bonds	44,603,881	2.81%
<b>Not rated and other:</b>		
Overnight Repurchase Pool	351,021,246	22.18%
Institutional Money Markets	26,689,161	1.69%
Asset-Backed Securities	239,041,876	15.10%
Commercial Paper	59,940,516	3.79%
Corporate Bonds	76,718,250	4.85%
<b>Grand Total</b>	<b>\$ 1,582,536,614</b>	<b>100.00%</b>

STATE OF NEW MEXICO  
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Notes to Financial Statements - continued

3. **DEPOSITS AND INVESTMENTS - continued**

• **Credit Risk - continued**

The quality rating of investments in fixed income securities as described by nationally recognized statistical rating organizations (Standard & Poor's) at June 30, 2009, for the Reserve Contingency Fund are as follows:

Quality Rating	Fair Value	Percentage of Portfolio
<b>Not rated and other:</b>		
Institutional Money Markets	\$ 32,694,886	100.00%
<b>Grand Total</b>	<b>\$ 32,694,886</b>	<b>100.00%</b>

• **Concentration of Credit Risk**

Concentration of credit risk is the risk of loss that may arise in the event of default by a single issuer. It is the policy of the State to diversify its investment portfolios. Assets shall be diversified to reduce the risk of loss resulting from an over-concentration of assets in a specific maturity, a specific issuer or a specific class of securities. The following diversification limitations shall be imposed on the portfolio:

1. Investment maturities will be staggered to avoid undue concentration of assets in a specific maturity sector and to reflect cash flow requirements.
2. Investment in callable instruments is permitted for the State General Fund, but the amount invested in callable instruments should not exceed twenty-five percent (25%) of the total amount invested from the State General Fund. Investment in callable investments may be allowed in the local government investment pool, bond proceeds, bond debt service funds and such pension and permanent fund monies for which the State Treasurer is the investing authority. Investment in callable investments is prohibited for tax and revenue anticipation note proceeds (and any other liquidity vehicle).
3. The maximum level of CD deposits for the entire portfolio shall be \$350 million with not more than \$30 million in any single financial institution. The State Board of Finance urges banks to loan this money out in their respective local communities to spur economic development.
4. Investments in commercial paper, corporate bonds and asset-backed obligations shall not exceed forty percent (40%) of assets of each portfolio. Commercial paper and corporate bonds shall be limited, per issuer, to five percent (5%) of each portfolio.
5. Investments in United States agency securities issued by any single agency shall be limited to thirty-five percent (35%) of the combined portfolios.

**STATE OF NEW MEXICO  
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**Notes to Financial Statements - continued**

**3. DEPOSITS AND INVESTMENTS - continued**

• **Concentration of Credit Risk – continued**

6. Investment in repurchase agreements from any single provider shall be limited to twenty-five percent (25%) of the combined portfolios.
7. Investment in commercial paper and corporate bonds guaranteed by the full faith and credit of the United States government, with a final maturity not to exceed the expiration date of any such guarantee, shall not exceed forty percent (40%) of the assets of each portfolio. Commercial paper and corporate bonds guaranteed by the full faith and credit of the United States government shall be limited, per issuer, to twenty percent (20%) of each portfolio.

The following lists investments held in the general fund investment pool with a single issuer as a percentage of total:

Issuer	Fair Value	Percentage of Portfolio
<b>US Government Agency Obligations:</b>		
US Treasuries	\$ 149,726,750	8.96%
FFCB	25,167,500	1.51%
FHLB	82,840,394	4.96%
FAMC	26,189,000	1.58%
FHLMC	10,506,300	0.63%
FNMA	1,090,310	0.07%
<b>Municipal Bonds:</b>		
City of Albuquerque	32,928,867	1.97%
New Mexico Educational Assistance Foundation	145,135,000	8.68%
<b>Corporate Bonds:</b>		
Abbott Laboratories	10,804,800	0.65%
AIG	3,784,650	0.23%
Banc One Corp	7,510,225	0.45%
Credit Suisse	10,509,541	0.63%
First Mass	4,780,399	0.29%
Genworth Global	9,507,400	0.57%
Goldman Sachs	86,339,350	5.17%
HSBC	37,327,849	2.24%
International Lease Finance	4,466,250	0.27%

**STATE OF NEW MEXICO  
OFFICE OF THE STATE TREASURER**

**Notes to Financial Statements - continued**

**3. DEPOSITS AND INVESTMENTS - continued**

• **Concentration of Credit Risk – continued**

Issuer	Fair Value	Percentage of Portfolio
<b>Corporate Bonds - continued:</b>		
JP Morgan Chase	\$ 15,028,050	0.90%
Morgan Stanley	102,289,650	6.13%
Northern Illinois Gas	7,411,412	0.44%
Wal Mart	5,189,000	0.31%
Wells Fargo	9,931,100	0.59%
<b>Asset-Backed Securities</b>		
FNMA	37,126,179	2.22%
FHLMC	99,825,313	5.97%
<b>Commercial Paper:</b>		
Straight A Funding	40,086,724	2.40%
<b>Overnight Repurchase Pool</b>	497,978,754	29.82%
<b>Certificates of Deposit</b>	164,100,000	9.83%
<b>Cash in Bank</b>	3,837,225	0.23%
<b>Institutional Money Markets:</b>		
The Reserve – Primary Fund	38,427,419	2.30%
<b>Grand Total</b>	<b>\$ 1,669,845,411</b>	<b>100.00%</b>

The following lists investments held in the local government investment pool with a single issuer as a percentage of total:

Issuer	Fair Value	Percentage of Portfolio
<b>US Government Agency Obligations:</b>		
US Treasuries	\$ 618,582,852	67.11%
<b>Corporate Bonds:</b>		
General Reinsurance Corp	15,216,750	1.65%

**STATE OF NEW MEXICO  
OFFICE OF THE STATE TREASURER**

**Notes to Financial Statements - continued**

**3. DEPOSITS AND INVESTMENTS - continued**

• **Concentration of Credit Risk -- continued**

Issuer	Fair Value	Percentage of Portfolio
<b>Commercial Paper:</b>		
US Bancorp	\$ 49,940,000	5.42%
Straight A Funding	50,003,111	5.42%
<b>Cash in Bank</b>		
	148,042,628	16.06%
<b>Certificates of Deposit</b>		
	40,000,000	4.34%
<b>Grand Total</b>		
	\$ 921,785,341	100.00%

The following lists investments held in the bond proceeds fund investment pools with a single issuer as a percentage of total:

Issuer	Fair Value	Percentage of Portfolio
<b>US Government Agency Obligations:</b>		
US Treasuries	\$ 99,789,000	6.31%
FFCB	24,932,132	1.58%
FHLB	194,323,116	12.27%
FAMC	20,612,600	1.30%
FHLMC	30,317,524	1.92%
FNMA	43,631,312	2.76%
<b>Corporate Bonds:</b>		
Bank of America	76,110,750	4.81%
General Electric	10,293,600	0.65%
Goldman Sachs	70,994,950	4.49%
HSBC	87,697,450	5.54%
JP Morgan Chase	45,898,650	2.90%
Morgan Stanley	135,722,481	8.58%
Merrill Lynch	9,912,200	0.63%
Wal-Mart	10,319,600	0.65%
Wells Fargo	35,188,450	2.22%
<b>Commercial Paper:</b>		
Straight A Funding	59,940,516	3.79%

**STATE OF NEW MEXICO  
OFFICE OF THE STATE TREASURER**

**Notes to Financial Statements - continued**

**3. DEPOSITS AND INVESTMENTS - continued**

• **Concentration of Credit Risk – continued**

Issuer	Fair Value	Percentage of Portfolio
<b>Asset-backed Securities:</b>		
FHLMC	\$ 239,041,876	15.10%
Honda Auto Receivables Owners Trust	10,100,000	0.64%
<b>Overnight Repurchase Pool</b>		
	351,021,246	22.17%
<b>Institutional Money Markets:</b>		
The Reserve – Primary Fund	26,689,161	1.69%
<b>Grand Total</b>	<b>\$ 1,582,536,614</b>	<b>100.00%</b>

The following lists investments held in the Reserve Contingency Fund investment pools with a single issuer as a percentage of total:

Issuer	Fair Value	Percentage of Portfolio
<b>Institutional Money Markets:</b>		
The Reserve – Primary Fund	\$ 32,694,886	100.00%
<b>Grand Total</b>	<b>\$ 32,694,886</b>	<b>100.00%</b>

• **Interest Rate Risk**

Interest rate risk is the risk that changes in interest rates will adversely affect the fair value of the investments. The State Treasurer recognizes that any portfolio of marketable investment securities is subject to interest rate risk. The State Treasurer, in an attempt to limit the possibility of loss due to interest rate fluctuations, will attempt to match investments with anticipated cash requirements. The State Treasurer or designee shall give particular emphasis to the following factors when selecting a specific security for inclusion in the portfolio:

1. Relative Yield to Maturity: Comparison of return available from alternative investments for comparable maturity dates.
2. Marketability: Analysis of relative marketability of alternate investments in case of forced sale or possibility of future trades.

**STATE OF NEW MEXICO  
OFFICE OF THE STATE TREASURER**

**Notes to Financial Statements - continued**

**3. DEPOSITS AND INVESTMENTS - continued**

• **Interest Rate Risk – continued**

3. Intermarket Yield Analysis: Analysis of the spread relationship between sectors of the market (e.g., Treasury Bonds or Bills versus Agency Bonds or Discount Notes), to take advantage of aberrations in yield differentials.
4. Yield Curve Analysis: Analysis of the slope of the yield curve to determine the most attractive maturities for earning maximum return with minimal risk.
5. General Economic and Interest Rate Outlook: Review and analysis of current literature on interest rate projections to assist in timing transactions and selecting appropriate maturities.

Maturities on investments in the general fund investment pool are as follows:

Quality Rating	Fair Value	Maturities	
		Less Than 1 Year	1 – 5 Years
<b>AAA:</b>			
U.S. Treasuries	\$ 146,726,750	74,912,000	74,814,750
U.S. Government Agency	148,793,504	-	145,793,504
Corporate Bonds	132,610,850	-	132,610,850
<b>AA:</b>			
Corporate Bonds	23,405,212	-	23,405,212
<b>AA-:</b>			
Corporate Bonds	9,931,100	9,931,100	-
<b>A+:</b>			
Corporate Bonds	15,289,940	-	15,289,940
<b>A:</b>			
Municipal Bonds	7,925,867	7,925,867	-
Corporate Bonds	49,624,424	-	49,624,424
<b>BBB+:</b>			
Corporate Bonds	4,466,250	-	4,466,250

**STATE OF NEW MEXICO  
OFFICE OF THE STATE TREASURER**

**Notes to Financial Statements - continued**

**3. DEPOSITS AND INVESTMENTS - continued**

• **Interest Rate Risk - continued**

Quality Rating	Fair Value	Maturities	
		Less Than 1 Year	1 – 5 Years
<b>BB+:</b>			
Corporate Bonds	\$ 3,784,650	-	3,784,650
<b>Not rated and other:</b>			
Overnight Repurchase Pool	497,978,754	497,978,754	-
Institutional Money Markets	38,427,419	38,427,419	-
Asset-Backed Securities	136,951,492	136,951,492	-
Certificates of Deposit	164,100,000	164,100,000	-
Cash in Bank	3,837,225	3,837,225	-
Municipal Bonds	170,138,000	170,138,000	-
Corporate Bonds	75,767,250	-	75,767,250
Commercial Paper	40,086,724	40,086,724	-
<b>Grand Total</b>	<b>\$ 1,669,845,411</b>	<b>1,144,288,581</b>	<b>525,556,830</b>

Maturities on investments in the local government investment pool are as follows:

Quality Rating	Fair Value	Maturities	
		Less Than 1 Year	1 – 5 Years
<b>AAA:</b>			
U.S. Treasury Notes	\$ 618,582,852	618,582,852	-
<b>AA1:</b>			
Corporate Bonds	15,216,750	15,216,750	-
<b>Not rated and other:</b>			
Certificates of Deposit	40,000,000	40,000,000	-
Commercial Paper	99,943,111	99,943,111	-
Cash in Bank	148,042,628	148,042,628	-
<b>Grand Total</b>	<b>\$ 921,785,341</b>	<b>921,785,341</b>	<b>-</b>

**STATE OF NEW MEXICO  
OFFICE OF THE STATE TREASURER**

**Notes to Financial Statements - continued**

**3. DEPOSITS AND INVESTMENTS - continued**

• **Interest Rate Risk - continued**

Maturities on investments in the bond proceeds investment pools are as follows:

Quality Rating	Fair Value	Maturities	
		Less Than 1 Year	1 – 5 Years
<b>AAA:</b>			
U.S. Treasuries	\$ 99,789,000	49,968,500	49,820,500
U.S. Government Agency	313,816,684	124,533,155	189,283,529
Corporate Bonds	330,087,600	-	330,087,600
Asset-backed Securities	10,100,000	-	10,100,000
<b>AA+:</b>			
Corporate Bonds	10,293,600	-	10,293,600
<b>AA:</b>			
Corporate Bonds	20,434,800	10,115,200	10,319,600
<b>A:</b>			
Corporate Bonds	44,603,881	28,969,781	15,634,100
<b>Not rated and other:</b>			
Overnight Repurchase Pool	351,021,246	351,021,246	-
Institutional Money Markets	26,689,161	26,689,161	-
Asset-Backed Securities	239,041,876	-	239,041,876
Commercial Paper	59,940,516	59,940,516	-
Corporate Bonds	76,718,250	-	76,718,250
<b>Grand Total</b>	<b>\$ 1,582,536,614</b>	<b>651,237,559</b>	<b>931,299,055</b>

The Reserve Contingency Fund's investment in The Reserve Primary Fund has been frozen for redemptions. Currently, as the underlying holdings of The Reserve Primary Fund are maturing, they are refunding investors' money.

STATE OF NEW MEXICO  
OFFICE OF THE STATE TREASURER

Notes to Financial Statements - continued

3. DEPOSITS AND INVESTMENTS - continued

• **Foreign Currency Risk**

Foreign currency risk is the risk that changes in exchange rates will adversely affect the fair value of an investment or a deposit. The State Treasurer's investment policy does not have a specific policy on foreign currency risk. However, the listing of permissible investments includes descriptions on the limitations related to each investment type.

All holdings at June 30, 2009 were denominated in United States Dollars.

• **Securities Collateralizing Repurchase Agreements**

The State's Investment Policy states that no repurchase agreements shall be entered into unless the contract is fully secured by deliverable obligations of the United States or other securities backed by the United States having a market value of at least one hundred two percent (102%) of the amount of the contract. The State's collateral requirements follow:

1. The market value of the collateral including accrued interest must be equal to one hundred two percent (102%) of the amount of cash transferred by the State Treasurer to the dealer bank or security firm under the repurchase agreement plus accrued interest. If the market value of securities held as collateral slips below one hundred two percent (102%) of the value of the cash transferred plus accrued interest, then additional cash and/or acceptable securities must be delivered to the third party custodian sufficient to cure any deficiency; and
2. For repurchase agreements with terms to maturity of greater than one (1) day, the State will value the collateral securities continuously and require that, if additional collateral is required, then that collateral must be delivered within one business day. If a collateral deficiency is not corrected within this time frame, the collateral securities will be liquidated; and
3. The collateral on all repurchase agreements will have a maturity date that exceeds the term of the repurchase agreement. If the duration of the collateral is longer than ten (10) years than the term of the repurchase agreement, then the collateral margin must be 103% to compensate for market risk.

Credit ratings and concentration of risk on collateral securities are as follows:

Quality Rating	Fair Value	Percentage of Portfolio
<b>AAA:</b>		
US Government Agency Obligations	\$ 849,000,000	100.00%
US Treasury Notes	-	-
<b>Grand Total</b>	<b>\$ 849,000,000</b>	<b>100.00%</b>

STATE OF NEW MEXICO  
OFFICE OF THE STATE TREASURER

Notes to Financial Statements - continued

3. DEPOSITS AND INVESTMENTS - continued

• Securities Collateralizing Repurchase Agreements - continued

Maturities on collateral are as follows:

Quality Rating	Fair Value	Maturities				
		Less Than 1 Year	1-5 Years	6-10 Years	11-20 Years	Over 20 Years
<b>AAA:</b>						
US Government Mortgage Backed Securities	\$ 873,777,989	101,946,525	13,576,405	25,109,398	141,267,818	591,877,843
US Treasury Notes	-	-	-	-	-	-
<b>Grand Total</b>	<b>\$ 873,777,989</b>	<b>101,946,525</b>	<b>13,576,405</b>	<b>25,109,398</b>	<b>141,267,818</b>	<b>591,877,843</b>

Schedule 10 discloses collateral pledged for repurchase agreements.

4. CAPITAL ASSETS

Capital asset activity for the year ended June 30, 2009, was as follows:

	Balance <u>June 30, 2008</u>	Additions	Reclassifications	Adjustments/ Deletions	Balance <u>June 30, 2009</u>
Governmental activities:					
Non-depreciable assets:					
Construction in Progress (CIP)	\$ 112,490	-	(112,490)	-	-
Depreciable assets:					
Equipment	<u>258,291</u>	<u>44,211</u>	<u>112,490</u>	<u>17,316</u>	<u>397,676</u>
Total capital assets:	370,781	44,211	-	17,316	397,676
Less accumulated depreciation:					
Equipment	\$ <u>222,575</u>	<u>40,399</u>	<u>-</u>	<u>16,975</u>	<u>245,999</u>
Total	\$ <u>148,206</u>	<u>3,812</u>	<u>-</u>	<u>(341)</u>	<u>151,677</u>

Depreciation expense was charged to functions/programs of the State Treasurer's Office as follows:

Governmental activities:

  General government \$ 40,399

**STATE OF NEW MEXICO  
OFFICE OF THE STATE TREASURER**

**Notes to Financial Statements - continued**

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**4. CAPITAL ASSETS - continued**

Construction in progress consisted of Information Technology Equipment put in service during fiscal year 2009; therefore, costs of \$112,490 were reclassified into depreciable equipment. Current year capital asset additions totaled \$44,211.

**5. LONG-TERM OBLIGATIONS**

- **Compensated Absences**

As in prior years, the general fund is used to liquidate compensated absences. Following are the changes in compensated absences for the year ended June 30, 2009:

	<u>Balance</u> <u>June 30, 2008</u>	<u>Increase</u>	<u>(Decrease)</u>	<u>Balance</u> <u>June 30, 2009</u>	<u>Amounts Due</u> <u>Within</u> <u>One Year</u>
Compensated absences:    \$	<u>144,638</u>	<u>146,597</u>	<u>147,553</u>	<u>143,682</u>	<u>143,682</u>

**STATE OF NEW MEXICO  
OFFICE OF THE STATE TREASURER**

**Notes to Financial Statements - continued**

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**6. CONDENSED FINANCIAL STATEMENTS**

Condensed financial statements of the Investment Trust Fund, inclusive of external and internal participants for the fiscal year ended June 30, 2009, are as follows:

**ASSETS:**

Investments	\$ 3,973,942,396
Interest receivable	<u>16,826,437</u>

**TOTAL ASSETS**

**\$ 3,990,768,833**

**LIABILITY:**

Other liabilities	\$ -
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**NET ASSETS:**

External Participant account balances	960,780,619
Other Internal Participant account balances:	
Primary government	<u>3,029,988,214</u>

**TOTAL LIABILITIES AND NET ASSETS**

**\$ 3,990,768,833**

**INVESTMENT INCOME**

At June 30, 2009, the State Treasurer's investment income earnings were as follows:

Local Governmental Investment Pool	\$ 18,778,320
Consolidated Investment Pool	36,777,147
State Funds Investment Pool	40,984,003
Reserve Contingency Fund	<u>-</u>
	<b>\$ <u>96,539,470</u></b>

STATE OF NEW MEXICO  
OFFICE OF THE STATE TREASURER

Notes to Financial Statements - continued

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**7. APPROPRIATIONS**

The State Treasurer received the following appropriations for the year ended June 30, 2009:

<u>General Fund</u>	
General appropriation, (General Appropriation Act)	\$ 4,396,900
Special appropriation (Compensation Package)	<u>68,700</u>
Total appropriations	\$ <u>4,465,600</u>

**8. COLLATERAL IN TRUST**

The State Treasurer holds a variety of different types of collateral, government guaranteed loans and mortgages, certificates of deposit, surety bonds, etc., for certain State agencies, which are not included in the financial statements.

**9. DUE TO SEVERANCE TAX PERMANENT FUND AND REVERSIONS**

The State Treasurer is required by statute (Section 7-27-8 NMSA 1978, 1986 Repl.) to transfer to the Severance Tax Permanent Fund, all monies in the Severance Tax Bonding Fund, except the amount necessary to meet principal and interest payments on bonds payable of the next two ensuing semi-annual payment dates. The Severance Tax Bonding Fund that was due and payable to the Severance Tax Permanent Fund for the fiscal year ended June 30, 2009 was \$30,119,536.

**10. ARBITRAGE ON TAX EXEMPT BONDS**

Prior to the Tax Reform Act (TRA) of 1986, State and local governments had up to three years to use the proceeds from tax exempt bonds issued by them before arbitrage on such proceeds had to be paid to the Treasury Department. Arbitrage, as defined, is the excess interest earned by a State or local government on proceeds from the sale of its bonds over interest paid to bond holders.

TRA 1986 required rebate of such arbitrage to the Treasury Department on governmental bonds issued after August 31, 1986, and on private activity bonds issued after December 31, 1984, when the proceeds were held for six months or longer. These rebates must be calculated annually and paid at the end of every fifth year until the bonds are retired.

**STATE OF NEW MEXICO  
OFFICE OF THE STATE TREASURER**

**Notes to Financial Statements - continued**

**10. ARBITRAGE ON TAX EXEMPT BONDS - continued**

The Revenue Reconciliation Act of 1989 amended the six-month rule. For bonds issued after December 19, 1989, the rebate requirement does not apply if: 1) all of the gross proceeds of the issue, other than the reserve fund, are spent within the six-month period following the date of issue, and 2) the rebate requirement is satisfied for the reserve fund after the six month period. The term gross proceeds for purposes of the rule include both the sale proceeds received from the bond purchase on the issue date and investment earnings on such proceeds during the six-month period. Gross proceeds deposited in a reserve fund or bona fide debt service fund, however, are not subject to the expenditure requirement.

The following is a schedule of bond issues, along with the bond year ends and arbitrage rebate due dates. The State Treasurer's Office has had the first arbitrage computation for the bonds, completed as indicated:

	<b>First Computation Date</b>	<b>First Payment Due to IRS</b>	<b>First Computation of Arbitrage Completed</b>
General Obligation Capital Projects Bonds Series 1999	9/1/2004	10/1/2004	X
General Obligation Bonds Series 2001	3/21/2006	5/20/2006	X
General Obligation Bonds Refunding Series 2001A	9/1/2004	10/31/2004	X
General Obligation Bonds Refunding Series 2001B	9/1/2006	10/31/2006	X
General Obligation Bonds Series 2003	3/18/2008	5/17/2008	X
General Obligation Bonds Refunding Series 2003B	4/16/2008	6/15/2008	X
General Obligation Bonds Series 2005	3/1/2010	4/30/2010	X
Severance Tax Bonds Series 1993B	7/1/1998	8/31/1998	X
Severance Tax Bonds Series 1994B	7/1/1999	8/31/1999	X
Severance Tax Bonds Series 1995A	7/1/2000	8/31/2000	X
Severance Tax Bonds Series 1995B	7/1/2000	8/31/2000	X
Severance Tax Bonds Series 1996A	12/20/2001	2/20/2002	X
Severance Tax Refunding Bonds Series 1997A	7/1/2001	8/31/2002	X
Severance Tax Refunding Bonds Series 1998A	7/1/2003	8/31/2003	X
Severance Tax Bonds Series 1999B	7/1/2004	8/31/2004	X
Severance Tax Bonds Series 1999A Supplemental	11/17/2004	1/17/2005	X
Severance Tax Bonds Series 2000	7/1/2005	8/31/2005	X
Severance Tax Bonds 2000C Supplemental	11/16/2005	1/16/2006	X

**STATE OF NEW MEXICO  
OFFICE OF THE STATE TREASURER**

**Notes to Financial Statements - continued**

**10. ARBITRAGE ON TAX EXEMPT BONDS - continued**

	<b>Bond Year-End of First Rebate Computation</b>	<b>First Arbitrage Rebate Due Date</b>	<b>First Computation of Arbitrage Completed</b>
Severance Tax Bonds Refunding Series 2001A	12/20/2006	2/20/2007	X
Severance Tax Bonds Series 2002A Supplemental	1/16/2007	3/16/2007	X
Severance Tax Bonds Series 2002A	6/19/2007	8/18/2007	X
Severance Tax Bonds Series 2002B Supplemental	11/14/2007	1/13/2008	X
Severance Tax Bonds Series 2003A	6/27/2008	8/26/2008	X
Severance Tax Bonds Series 2003B Supplemental	10/14/2008	12/13/2008	X
Severance Tax Bonds Series 2004A	6/15/2009	8/14/2009	X
Severance Tax Bonds Series 2004B Supplemental	11/17/2009	1/16/2010	X
Severance Tax Bonds Series 2005A	6/15/2010	8/14/2010	X
Severance Tax Bonds Series 2005B-1 Refunding	6/15/2010	8/14/2010	
Severance Tax Bonds Series 2005B-2 Supplemental	6/15/2010	8/14/2010	
Severance Tax Bonds Series 2006A	6/20/2011	8/16/2011	
Severance Tax Bonds Series 2007A	6/28/2012	8/27/2012	
Severance Tax Bonds Series 2008A-1 Supplemental	7/1/2012	8/30/2012	
Severance Tax Bonds Series 2009A	7/30/2014	9/28/14	
Enhanced 911 Revenue Bonds Series 2000	9/12/2005	11/11/2005	X

Interest earnings on invested bond proceeds through June 30, 2009 did not exceed the interest costs of the bonds. Such amounts would have been included as a reservation of fund balance in the accompanying financial statements. Amounts due the Internal Revenue Service which are known and measurable are recorded as a liability - accrued arbitrage interest payable in the accompanying financial statements.

**11. TRANSFERS**

**Interfund Transfers**

Interfund transfers are completed to move revenue from Fund 41000, Severance Tax Bonding Fund, to the specific Debt Service funds per bond resolutions.

**STATE OF NEW MEXICO  
OFFICE OF THE STATE TREASURER**

**Notes to Financial Statements - continued**

**11. TRANSFERS - continued**

Debt Service:  
Severance Tax Bonds:

SHARE Fund	Transfer From	Amount	SHARE Fund	Transfer To	Amount
41000	Severance Tax Bonding Fund	\$ <u>100,151,000</u>	96300	STB – 2006A Debt Service	\$ 15,400,000
			57100	STB – 2005B2 Debt Service	7,794,000
			49200	STB – 2004A Debt Service	8,370,000
			18300	STB – 2004B Debt Service	1,235,000
			38800	STB – 2005B1 Debt Service	9,900,000
			41200	STB – 2005A Debt Service	9,335,000
			72010	STB – 2008A1 Debt Service	15,725,000
			72070	SSTB Ref – 2008A2 Debt Service	5,460,000
			88400	STB – 2003A Debt Service	8,760,000
			48400	STB – 2003B Debt Service	1,203,000
			53700	STB – 2007A Debt Service	<u>16,969,000</u>
	Total	\$ <u>100,151,000</u>		Total	\$ <u>100,151,000</u>

General Obligation Bonds:

SHARE Fund	Transfer From	Amount	SHARE Fund	Transfer To	Amount
41800	GO 2003B Refunding	\$ 13,557,000	03100	GO 2003 Debt Service	\$ 7,546,000
03100	GO 2003 Debt Service	979,349	03200	GO 2005 Debt Service	2,348,000
41400	GO 2001 Debt Service	263,306	41400	GO 2001 Debt Service	3,663,000
28900	2007 Series - Cost of Issuance	<u>13,338</u>	28800	GO 2007 Debt Service	13,338
			73030	2008A Series-Redemption	<u>1,242,655</u>
	Total	\$ <u>14,812,993</u>		Total	\$ <u>14,812,993</u>

**STATE OF NEW MEXICO  
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**Notes to Financial Statements - continued**

**11. TRANSFERS - continued**

**Interagency Transfers**

Debt Service:

Severance Tax Bonds:

**Transfers In From Other State Agencies**

<u>Transfers from (purpose)</u>	<u>Fund No.</u>	<u>Amount</u>	<u>Transfers to (purpose)</u>	<u>Fund No.</u>	<u>Amount</u>
Board of Finance	34101	\$ <u>2,313,683</u>	Severance Tax Bonding Fund	41000	\$ <u>2,313,683</u>
Total – Severance Tax Bond Funds		\$ <u>2,313,683</u>			\$ <u>2,313,683</u>

**Transfers Out To Other State Agencies**

<u>Transfers from (purpose)</u>	<u>Fund No.</u>	<u>Amount</u>	<u>Transfers to (purpose)</u>	<u>Fund No.</u>	<u>Amount</u>
Severance Tax Bonding Fund	41000	\$ <u>30,200,705</u>	Board of Finance	34100	\$ <u>30,200,705</u>
Total – Severance Tax Bond Funds		\$ <u>30,200,705</u>			\$ <u>30,200,705</u>

General Obligation Bonds:

**Transfers In From Other State Agencies**

<u>Transfers from (purpose)</u>	<u>Fund No.</u>	<u>Amount</u>	<u>Transfers to (purpose)</u>	<u>Fund No.</u>	<u>Amount</u>
Board of Finance	34101	\$ <u>1,638,418</u>	General Obligation 2003 Debt Service	03100	\$ 465,508
			General Obligation 2005 Debt Service	03200	175,561
			General Obligation 2007 Debt Service	28800	321,649
			General Obligation 2008A Debt Service	73010	12,908
			General Obligation 2008A Cost of Issuance	73000	197,094
			General Obligation 2009 Cost of Issuance	10650	<u>465,698</u>
Total – General Obligation Bond Funds		\$ <u>1,638,418</u>			\$ <u>1,638,418</u>

STATE OF NEW MEXICO  
OFFICE OF THE STATE TREASURER

Notes to Financial Statements - continued

11. TRANSFERS - continued

Interagency Transfers - continued

General Obligation Bonds - continued:

Transfers Out To Other State Agencies

Transfers from (purpose)	Fund No.	Amount	Transfers to (purpose)	Fund No.	Amount
General Obligation 2003 Debt Service	03100	\$ 37,134	Board of Finance	34100	\$ <u>43,334</u>
General Obligation 2005 Debt Service	03200	<u>6,200</u>			
Total - General Obligation Funds		\$ <u>43,334</u>			\$ <u>43,334</u>

12. PENSION PLAN – PUBLIC EMPLOYEES RETIREMENT ASSOCIATION

• **Plan Description**

Substantially all of the State Treasurer’s full-time employees participate in a public employee retirement system authorized under the Public Employees Retirement Act (Chapter 10, Article 11, NMSA 1978). The Public Employees Retirement Association (PERA) is the administrator of the plan, which is a cost-sharing multiple-employer defined benefit retirement plan. The plan provides for retirement benefits, disability benefits, survivor benefits and cost-of-living adjustments to plan members and beneficiaries. PERA issues a separate, publicly available financial report that includes financial statements and required supplementary information for the plan. That report may be obtained by writing to PERA, P.O. Box 2123, Santa Fe, NM 87504-2123. The report is also available on PERA’s website at [www.pera.state.nm.us](http://www.pera.state.nm.us).

• **Funding Policy**

Plan members are required to contribute 7.42% of their gross salary. The State Treasurer’s Office is required to contribute 16.59% of the gross covered salary. From the 2009 legislative session House Bill 854 temporarily shifts the burden of 1.5% of employer PERA contributions to state employees whose annual salaries exceed \$20,000. For the two-year period from July 1, 2009 to June 30, 2011, the employer contribution rates will be reduced by 1.5% and the employee contribution rates will be increased by 1.5%. After this temporary shift the burden will return to the employer. The contribution requirements of plan members and the State Treasurer’s Office are established in State statute under Chapter 10, Article 11, NMSA 1978. The requirements may be amended by acts of the legislature. The State Treasurer’s contributions to PERA for the fiscal years ending June 30, 2009, 2008 and 2007 were \$376,046, \$370,067 and \$324,931, respectively, which equal the amount of the required contributions for each fiscal year.

**13. POST-EMPLOYMENT BENEFITS – STATE RETIREE HEALTH CARE PLAN**

• **Plan Description**

The State Treasurer's Office contributes to the New Mexico Retiree Health Care Fund, a cost-sharing multiple-employer defined benefit postemployment healthcare plan administered by the New Mexico Retiree Health Care Authority (RHCA). The RHCA provides health care insurance and prescription drug benefits to retired employees of participating New Mexico government agencies, their spouses, dependents, and surviving spouses and dependents. The RHCA Board was established by the Retiree Health Care Act (Chapter 10, Article 7C, NMSA 1978). The Board is responsible for establishing and amending benefit provisions of the healthcare plan and is also authorized to designate optional and/or voluntary benefits like dental, vision, supplemental life insurance, and long-term care policies.

Eligible retirees are: 1) retirees who make contributions to the fund for at least five years prior to retirement and whose eligible employer during that period of time made contributions as a participant in the RHCA plan on the person's behalf unless that person retires before the employer's RHCA effective date, in which the event the time period required for employee and employer contributions shall become the period of time between the employer's effective date and the date of retirement; 2) retirees defined by the Act who retired prior to July 1, 1990; 3) former legislators who served at least two years; and 4) former governing authority members who served at least four years.

The RHCA issues a publicly available stand-alone financial report that includes financial statements and required supplementary information for the postemployment healthcare plan. That report and further information can be obtained by writing to the Retiree Health Care Authority at 4308 Carlisle NE, Suite 104, Albuquerque, NM 87107.

• **Funding Policy**

The Retiree Health Care Act (Section 10-7C-13 NMSA 1978) authorizes the RHCA Board to establish the monthly premium contributions that retirees are required to pay for healthcare benefits. Each participating retiree pays a monthly premium according to a service based subsidy rate schedule for the medical plus basic life plan plus an additional participation fee of five dollars if the eligible participant retired prior to the employer's RHCA effective date or is a former legislator or former governing authority member. Former legislators and governing authority members are required to pay 100% of the insurance premium to cover their claims and the administrative expenses of the plan. The monthly premium rate schedule can be obtained from the RHCA or viewed on their website at [www.nmrhca.state.nm.us](http://www.nmrhca.state.nm.us).

The Retiree Health Care Act (Section 10-7C-15 NMSA 1978) is the statutory authority that establishes the required contributions of participating employers and their employees. The statute requires each participating employer to contribute 1.3% of each participating employee's annual salary; each participating employee is required to contribute .65% of their salary. Employers joining the program

**STATE OF NEW MEXICO  
OFFICE OF THE STATE TREASURER**

**Notes to Financial Statements - continued**

**13. POST-EMPLOYMENT BENEFITS – STATE RETIREE HEALTH CARE PLAN - continued**

• **Funding Policy - continued**

after 1/1/98 are also required to make a surplus-amount contribution to the RHCA based on one of two formulas at agreed-upon intervals.

The RHCA plan is financed on a pay-as-you-go basis. The employer, employee and retiree contributions are required to be remitted to the RHCA on a monthly basis. The statutory requirements for the contributions can be changed by the New Mexico State Legislature.

The State Treasurer's contributions to the RHCA for the years ended June 30, 2009, 2008 and 2007 were \$29,467, \$29,002 and \$24,981, respectively, which equal the required contributions for each year.

**14. RISK MANAGEMENT**

The State Treasurer is exposed to various risks of loss for which the State Treasurer carries insurance (auto; employee fidelity bond; general liability; civil rights and foreign jurisdiction; money and securities; property; and workers' compensation) with the State of New Mexico Risk Management Division. Public employee fidelity bonding coverage is self-insured by the State of New Mexico. The current policy year is July 1, 2008 to June 30, 2009. The limit of coverage is \$5,000,000, with \$1,000 deductible per occurrence. All State Treasurer employees are covered by this bond.

**15. REVERSION TO THE STATE GENERAL FUND**

Under State Statute 6-5-10 NMSA, 1978, all unreserved, undesignated fund balances in reverting funds and accounts as reflected in the central accounting system as of June 30 shall revert by September 30 to the general fund. The division may adjust the reversion within forty-five days of release of the audit report for that fiscal year.

The amount expected to revert to the State General Fund as of June 30, 2009, is \$67,836.

Amounts reverted to the State General Fund during 2009 were as follows:

		<u>Appropriation</u>	<u>Reversion</u>
Reversion to State General Fund fiscal year 2009	\$	4,396,900	39,698
Subtotal - Reversion to State General Fund	\$	<u>4,396,900</u>	<u>39,698</u>
Gaming Suspense Fund			<u>28,138</u>
Total due to State General Fund			\$ <u>67,836</u>

STATE OF NEW MEXICO  
OFFICE OF THE STATE TREASURER

Notes to Financial Statements - continued

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16. **SHORT-TERM DEBT**

• **Taxation and Revenue Anticipation Notes**

The State Board of Finance issues six month, fixed-rate tax and revenue anticipation notes to provide short-term cash to carry on the State of New Mexico operations until tax revenues are received in June. Repayment of the notes comes from tax payments received in the year.

Short-term debt activity for the year ended June 30, 2009, was as follows:

	<b>Balance</b>			<b>Issuance</b>	<b>Balance</b>
	<b>July 1, 2008</b>	<b>Issued</b>	<b>Redeemed</b>	<b>Cost</b>	<b>June 30, 2009</b>
Tax and Revenue Anticipation Notes	\$ <u>775,187,500</u>	<u>-----</u>	<u>775,187,500</u>	<u>-----</u>	<u>-----</u>

STATE OF NEW MEXICO  
OFFICE OF THE STATE TREASURER

Notes to Financial Statements - continued

16. SHORT-TERM DEBT - continued

• **Sponge Bonds**

The State Board of Finance issues one to three day sponge bonds. Sponge bonds were purchased on the dates specified below. Bond proceeds are recorded by the State Board of Finance. Principal and interest payments were made from the Severance Tax Bonding Fund (SHARE Fund 41000) are as follows:

	<u>Purchased</u>	<u>Matured</u>	<u>Principal Payments</u>	<u>Interest Payments</u>	<u>Total</u>
Sponge Bond - Senior Note	12/30/08	12/31/08	\$ 169,376,000	8,281	169,384,281
Sponge Bond - Supplemental Note	12/30/08	12/31/08	105,497,400	5,158	105,502,558
Sponge Bond - Senior Note	06/29/09	06/30/09	19,299,184	211	19,299,395
Sponge Bond - Supplemental Note	06/29/09	06/30/09	<u>135,337,000</u>	<u>1,483</u>	<u>135,338,483</u>
Total			\$ <u>429,509,584</u>	<u>15,133</u>	<u>429,524,717</u>

Short-term debt activity for the year ended June 30, 2009 was as follows:

	<u>Balance July 1, 2008</u>	<u>Issued</u>	<u>Redeemed</u>	<u>Issuance Costs</u>	<u>Balance June 30, 2009</u>
Sponge Bonds	\$ <u>-</u>	<u>429,524,717</u>	<u>429,524,717</u>	<u>-</u>	<u>-</u>

**STATE OF NEW MEXICO  
OFFICE OF THE STATE TREASURER**

**Notes to Financial Statements - continued**

**17. RESTATEMENTS**

The following prior period adjustments were recorded as of June 30, 2009:

<b>SHARE Fund</b>	<b>Amount</b>	<b>Purpose</b>
41000	Beginning Fund Balance, 6/30/08	
	\$ 214,422,548	
	Severance Tax Bonding Fund	
	214,596	
	Severance Tax Bonding Fund	
	(41,127,605)	To book liability in correct year – FY08
	Severance Tax Bonding Fund	
	<u>1,344,153</u>	To account for interest revenue that should have been made in FY 2008
	Beginning Fund Balance, restated, 6/30/08	
	\$ <u>174,853,692</u>	
48400	Beginning Fund Balance, 6/30/08	
	\$ 8,851	
	Severance Tax Bond Debt Service – 2003 B	
	<u>1,079,486</u>	To reflect prepaid debt service payments
	Beginning Fund Balance, restated, 6/30/08	
	\$ <u>1,088,337</u>	
57100	Beginning Fund Balance	
	\$ 6,795	
	Severance Tax Bond Debt Service – 2005 B2	
	<u>520,438</u>	To correct current year interest expenditure recognized in prior year
	Total	
	\$ <u><u>527,233</u></u>	

**18. BOND ISSUANCE ACTIVITY**

During fiscal year 2009, there was one new bond issue as noted below;

- \$ 196,330,000                      Capital Projects General Obligation Bonds Series 2009

Total activity related to the bonds were approximately as follows; costs \$975,810, premiums \$28,082,010, and total transfers to other State agencies of \$347,065,000.

**19. FUND BALANCE DEFICIT**

The General Fund of the State Treasurer has a deficit fund balance of \$12,548 due to prior years' accounts payable amounts paid out of subsequent years' budgets.

**APPENDIX C**

**FORM OF ATTORNEY GENERAL'S NO LITIGATION LETTER**

[date]

State Board of Finance  
State of New Mexico  
Bataan Memorial Bldg., Ste. 181  
Santa Fe, New Mexico 87501

Sutin, Thayer & Browne  
A Professional Corporation  
P.O. Box 1945  
Albuquerque, NM 87103

Brownstein Hyatt Farber  
Schreck, LLP  
201 3rd St. NW, Ste. 1700  
Albuquerque, NM 87102

Re: \$ 43,780,000 State of New Mexico Severance Tax Bonds, Refunding Series 2010C

Ladies and Gentlemen:

This letter will serve as our certificate of litigation affecting New Mexico Severance Taxes.

In 2001, the New Mexico Taxation and Revenue Department (“TRD”) began assessing a number of taxpayers for additional taxes based upon the taxpayers’ under-valuation of carbon dioxide and natural gas. A number of taxpayers have paid assessments under these programs, filed for refunds, and initiated litigation against TRD. In a carbon dioxide case, in which the district partially granted the taxpayer’s refund claim, the taxpayer appealed to the New Mexico Court of Appeals; that appeal is still pending. The taxpayer’s payment of an assessment is not in suspense, as described below. On October 2, 2009, the federal district court ruled against TRD in a declaratory action (which sought prospective relief only) challenging the collection of severance taxes on oil and natural gas production by non-tribal members under a unique set of facts involving an unpopulated area of the Ute Mountain Ute reservation in northwestern New Mexico. TRD has appealed to the United States Court of Appeals for the Tenth Circuit, which appeal is still pending.

Finally, at any given time, a number of protests/refund claims are pending at the administrative level.

As of June 15, 2001, payments on severance tax assessments issued by TRD, including any on undervaluation assessments made after that date, typically are held in a suspense fund until the TRD Secretary determines that there is no substantial risk of protest or other litigation. See NMSA 1978, § 7-1-6.20(B) (2001).

While we are unable to predict with reasonable certainty the outcome of pending litigation and administrative proceedings, they would not, in our opinion, reasonably be expected to have a material effect on the bondholders.

This office is not aware of any other pending or threatened litigation that would affect the severance tax of the state or the authority of the state to issue these severance tax bonds.

Sincerely,

Assistant Attorney General

**APPENDIX D**

**FORM OF OPINION OF BOND COUNSEL  
STATE OF NEW MEXICO SEVERANCE TAX BONDS,  
REFUNDING SERIES 2010C**

FORM OF OPINION OF BOND COUNSEL  
SEVERANCE TAX BONDS, REFUNDING SERIES 2010C

June 30, 2010

State Board of Finance  
State of New Mexico  
Santa Fe, New Mexico

RE: \$43,780,000 State of New Mexico Severance Tax Bonds, Refunding Series 2010C

Ladies and Gentlemen:

We have examined the transcript of proceedings (the "Transcript") relating to the issuance of \$43,780,000 State of New Mexico Severance Tax Refunding Bonds, Series 2010C (the "Bonds") dated the date of delivery, and being a series of bonds in registered form maturing on July 1, 2011, and serially thereafter on July 1 of each year through 2015.

We have also examined the provisions of the Constitution and laws of the State of New Mexico (the "State") under authority of which the Bonds were issued, the resolutions authorizing the issuance and sale of the Bonds (the "Bond Legislation") adopted by the State Board of Finance (the "Board") on May 21, 2010, and June 15, 2010, an executed Bond of the first maturity, and the Tax Certificate of the State (the "Tax Certificate"). We have also made such further inquiries and investigations and have examined such further documents and matters as we have considered necessary in rendering this opinion.

Certain agreements, requirements and procedures contained or referred to in the Bond Legislation, the Tax Certificate and other relevant documents may be changed and certain actions (including, without limitation, the defeasance of Bonds) may be taken or omitted under the circumstances and subject to the terms and conditions set forth in such documents. No opinion is expressed herein as to any Bond or the interest thereon with respect to any such change or action taken or omitted upon the advice or approval of counsel other than ourselves.

The opinions expressed herein are based on an analysis of existing laws, regulations, rulings and court decisions and cover certain matters not directly addressed by such authorities. Such opinions may be affected by actions taken or omitted or events occurring after the date hereof. We have not undertaken to determine, or to inform any person, whether any such actions are taken or omitted or events do occur or any other matters come to our attention after the date hereof. Our engagement with respect to the Bonds has concluded with their issuance, and we disclaim any obligation to update this letter. Furthermore, we have assumed compliance with the covenants and agreements contained in the Bond Legislation and the Tax Certificate, including (without limitation) covenants and agreements compliance with which is necessary to assure that future actions, omissions or events will not cause interest on the Bonds to be included in gross income for federal income tax purposes. We call attention to the fact that the rights and obligations under the Bonds, the Bond Legislation and the Tax Certificate and their enforceability may be subject to bankruptcy, insolvency, reorganization, arrangement, fraudulent conveyance, moratorium and other laws relating to or affecting creditors' rights, to the application of equitable principles, to the exercise of judicial discretion in appropriate cases and to the limitations on legal remedies against the State of New Mexico. We express no opinion with respect to any indemnification, contribution, penalty, choice of law, choice of forum or waiver provisions contained in the documents described herein. Finally, we undertake no responsibility for the accuracy, completeness or fairness of the Official Statement or other offering material relating to the Bonds and express herein no opinion relating thereto.

Based on our examination, we are of the opinion that, under the law existing on the date of this opinion:

1. The Bonds constitute valid and binding special obligations of the State in accordance with the terms and provisions thereof.

2. The Bonds are payable solely from, and such payment is secured by a pledge (but not an exclusive pledge) of, the money on deposit in the Severance Tax Bonding Fund (defined in the Bond Legislation), consisting of the net receipts from taxes levied upon certain natural resource products severed and saved from the soil of the State and such other moneys as the State Legislature may, in its sole discretion, from time to time determine to deposit in the Severance Tax Bonding Fund, certain interest earnings on moneys on deposit in the bond accounts and such proceeds of the Bonds as may from time to time be deposited in the Severance Tax Bonding Fund as a result of statutorily required reversions or otherwise. Under the Bond Legislation, the Board may also issue additional obligations on a parity with the Bonds on the terms and conditions of the Bond Legislation. The owners of the Bonds have no right to have ad valorem taxes levied by the State for the payment of principal of or interest on the Bonds and the Bonds do not represent or constitute a debt or pledge of, or a charge against, the general credit of the State.

3. The Bond Legislation is valid and binding on the Board, is enforceable in accordance with its terms and creates the pledge which it purports to create.

4. The interest on the Bonds is excludable from gross income for federal income tax purposes under Section 103(a) of the Internal Revenue Code of 1986, as amended (the "Code"), and is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations. We express no opinion regarding other federal income tax consequences caused by the receipt or accrual of interest on or ownership of the Bonds.

5. The interest on the Bonds is exempt from income taxes imposed directly thereon by the State.

Very truly yours,

SUTIN, THAYER & BROWNE  
A Professional Corporation

**APPENDIX E**

**FORM OF  
CONTINUING DISCLOSURE UNDERTAKING**

## **CONTINUING DISCLOSURE UNDERTAKING**

This Continuing Disclosure Undertaking (the “Disclosure Undertaking”) is executed and delivered by the State Board of Finance (“Board”) of the State of New Mexico (the “State”) on behalf of the State in connection with the issuance by the State of \$43,780,000 State of New Mexico Severance Tax Refunding Bonds, Series 2010C (the “Series 2010C Bonds” or the “Bonds”). The Bonds are being issued pursuant to Bond Resolutions adopted by the Board on May 21, 2010 and June 15, 2010 (collectively, the “Resolution”).

### **BACKGROUND**

1. The Bonds are being issued to refund the 2011 through 2015 maturities of the State’s outstanding Severance Tax Bonds, Series 2005A.
2. In order to allow the underwriters of the Bonds to comply with Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended (17 CFR Part 240, § 240.15c2-12), to the date hereof, the State is required to make certain continuing disclosure undertakings for the benefit of owners (including beneficial owners) of the Bonds.
3. This Disclosure Undertaking is intended to satisfy the requirements of said Rule 15c2-12, as in effect on the date hereof.

### **STATE COVENANTS AND AGREEMENTS**

#### **Section 1. Definitions.**

(a) “Annual Financial Information” means the financial information or operating data with respect to the State, delivered at least annually pursuant to Section 2(a) and 2(b) hereof, of the type set forth in the sections of the final Official Statement identified on Exhibit A hereto. Annual Financial Information includes Audited Financial Statements.

(b) “Audited Financial Statements” means the annual financial statements for the State, prepared in accordance with generally accepted accounting principles, as in effect from time to time, audited by a firm of certified public accountants.

(c) “Event Information” means the information delivered pursuant to Section 2(d) hereof.

(d) “MSRB” means the Municipal Securities Rulemaking Board. The current address of the MSRB is 1900 Duke Street, Suite 600, Alexandria, Virginia, 22314, phone (703) 797-6600, fax (703) 797-6700.

(e) “National Repository” shall mean any Nationally Recognized Municipal Securities Information Repository for purposes of the Rule. Currently, the following is the only National Repository:

Electronic Municipal Market Access (“EMMA”)  
c/o Municipal Securities Rulemaking Board  
1900 Duke Street, Suite 600  
Alexandria, Virginia 22314  
[www.emma.msrb.org](http://www.emma.msrb.org)  
(703)797-6600

(f) “Official Statement” means the Official Statement dated February 16, 2010, delivered in connection with the original issue and sale of the Bonds.

(g) “Repository” means “EMMA” and any SID.

(h) “Rule” means Rule 15c2-12 promulgated by the SEC under the Securities Exchange Act of 1934, as amended (17 CFR Part 240, § 240.15c2-12), as the same may be amended.

(i) “SEC” means the Securities and Exchange Commission.

(j) “SID” means any State Information Depository operated or designated by the State that receives information from all issuers within the State. As of the date of this Disclosure Undertaking, no SID exists for the State.

**Section 2. Provision of Annual Information and Reporting of Event Information.**

(a) Commencing with the fiscal year ending June 30, 2011 and annually while the Bonds remain outstanding, the State agrees to provide or cause to be provided the Annual Financial Information to each Repository annually.

(b) Such Annual Financial Information shall be provided not later than 210 days after the end of each fiscal year for the State (*i.e.*, each June 30). If the Audited Financial Statements are not available by the time the other Annual Financial Information must be provided, unaudited financial statements shall be provided as part of the Annual Financial Information. If not provided as a part of the Annual Financial Information, the Audited Financial Statements will be provided when available.

(c) The State may provide Annual Financial Information by specific reference to other documents, including information reports and official statements relating to other debt issues of the State, which have been submitted to each Repository; provided, however, that if the document so referenced is a final official statement within the meaning of the Rule, such final official statement must also be available from the MSRB.

(d) At any time the Bonds are outstanding, the State shall provide, in a timely manner, to the MSRB and any SID notice of any of the following events with respect to the Bonds, if material (provided that any event under clauses (viii), (ix) or (xi) will always be deemed to be material):

- i. Principal and interest payment delinquencies;
- ii. Non-payment related defaults;
- iii. Unscheduled draws on debt service reserves reflecting financial difficulties;
- iv. Unscheduled draws on credit enhancements reflecting financial difficulties;
- v. Substitution of credit or liquidity providers, or their failure to perform;

- vi. Adverse tax opinions or events affecting the tax-exempt status of the security;
- vii. Modifications to rights of security holders;
- viii. Bond calls, other than mandatory sinking fund redemption;
- ix. Defeasances;
- x. Release, substitution or sale of any property securing repayment of the securities; and
- xi. Rating changes.

(e) At any time the Bonds are outstanding, the State shall provide, in a timely manner, to the MSRB and any SID notice of any failure of the State to timely provide the Annual Financial Information as specified in Sections 2(a) and 2(b) hereof.

**Section 3. Method of Transmission.** Subject to technical and economic feasibility, the State shall employ such methods of electronic or physical information transmission as is requested or recommended by the Repositories or the MSRB unless otherwise required by law.

**Section 4. Enforcement.** The obligations of the State hereunder shall be for the benefit of the owners (including the beneficial owners) of the Bonds. The owner or beneficial owner of any Bonds is authorized to take action to seek specific performance by court order to compel the State to comply with its obligations under this Disclosure Undertaking, which action shall be the exclusive remedy available to it or any other owners or beneficial owners of the Bonds. Any such action shall be brought only in a State court of competent jurisdiction in Santa Fe County, New Mexico. Breach of the obligations of the State hereunder shall not constitute an event of default under the Resolution and none of the rights and remedies provided by the Resolution shall be available to the owners (including the beneficial owners) of the Bonds.

**Section 5. Additional Information.** Nothing in the Disclosure Undertaking shall be deemed to prevent the State from disseminating any other information, using the means of dissemination set forth in this Disclosure Undertaking or any other means of communication, or including any other annual information or notice of occurrence of an event which is not Event Information, in addition to that which is required by this Disclosure Undertaking; provided that the State shall not be required to do so. If the State chooses to include any annual information or notice of occurrence of an event in addition to that which is specifically required by this Disclosure Undertaking, the State shall have no obligation under this Disclosure Undertaking to update such information or include it in any future annual filing or Event Information filing.

**Section 6. Term.** This Disclosure Undertaking shall be in effect from and after the issuance and delivery of the Bonds and shall extend to the earliest of (i) the date all principal and interest on the Bonds shall have been paid or legally defeased pursuant to the terms of the Resolution; (ii) the date that the State shall no longer constitute an “obligated person” with respect to the Bonds within the meaning of the Rule; or (iii) the date on which those portions of the Rule which require this Disclosure Undertaking are determined to be invalid by a court of competent jurisdiction in a non-appealable action, have been repealed retroactively or otherwise do not apply to the Bonds.

**Section 7. Amendments and Waivers.** Notwithstanding any other provision of this Disclosure Undertaking, the State may amend this Disclosure Undertaking from time to time,

and any provision of this Disclosure Undertaking may be waived, without the consent of the owners or beneficial owners of the Bonds upon the State's receipt of an opinion of counsel experienced in federal securities laws to the effect that such amendment or waiver will not adversely affect compliance with the Rule. Any Annual Financial Information containing amended operating data or financial information will explain, in narrative form, the reasons for the amendment and the impact of the change in the type of operating data or financial information being provided. If an amendment changes the accounting principles to be followed in preparing financial statements, the Annual Financial Information and Audited Financial Statements for the year in which the change is made will present a comparison between the financial statements or information prepared on the basis of the new accounting principles and those prepared on the basis of the former accounting principles. The State shall provide notice of any such amendment or waiver to each Repository.

**Section 8. Beneficiaries.** This Disclosure Undertaking shall inure solely to the benefit of the State and the owners (including beneficial owners) from time to time of the Bonds, and shall create no rights in any other person or entity.

**Section 9. Governing Law.** This Disclosure Undertaking shall be governed by the laws of the State.

Date: \_\_\_\_\_, 2010

STATE BOARD OF FINANCE

By \_\_\_\_\_  
President

By \_\_\_\_\_  
Secretary

**EXHIBIT A**

Portions of the Official Statement  
Containing the Type of Information  
To Be Included As Annual Financial Information

1. SEVERANCE TAX BONDING FUND AND DEBT SERVICE REQUIREMENTS
  - Investments
  - Issuance of Severance Tax Bonds
  - State Capital Program
  - Outstanding and Additional Senior Severance Tax Bonds
  - Outstanding and Additional Supplemental Severance Tax Bonds
    - Table entitled “Severance Tax Bonding Fund Receipts, Disbursements and Transfers”
    - Table entitled “State of New Mexico Severance Tax Bonds - Projected Cash Receipts, Debt Service Requirements and Coverage”  
Fiscal Year and Scheduled Debt Service columns
2. SEVERANCE TAX REVENUE
  - All
3. NATURAL GAS PRODUCTION AND SEVERANCE TAX REVENUE
  - Natural Gas Production
    - Data for chart entitled: “Natural Gas Subject to Taxation: Production, Revenues and Average Price”
  - Severance Taxes on Natural Gas
    - All
4. OIL PRODUCTION AND SEVERANCE TAX REVENUE
  - Severance Taxes on Oil
    - All
5. COAL PRODUCTION AND SEVERANCE TAX REVENUE
  - Severance Tax Revenue on Coal
    - All
6. OTHER MINERAL PRODUCTION AND SEVERANCE TAXES
  - Any statements therein relating to the severance tax collected and tax rates
7. OTHER TAXES OF NATURAL RESOURCES NOT PLEDGED
  - All
8. APPENDIX A - GENERAL INFORMATION CONCERNING THE STATE OF NEW MEXICO
  - All
9. STATE OF NEW MEXICO FINANCIAL STATEMENTS (Audited)