

## New Issue

*This Official Statement has been prepared by the State Board of Finance to provide information on the State of New Mexico \$47,790,000 Severance Tax Bonds, Series 2011A-1 (the "Series 2011A-1 Bonds") and the \$75,715,000 State of New Mexico Severance Tax Bonds, Refunding Series 2011A-2 (the "Series 2011A-2 Bonds" and, collectively with the Series 2011A-1 Bonds, 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**  
**\$47,790,000 SEVERANCE TAX BONDS, SERIES 2011A-1**  
**\$75,715,000 SEVERANCE TAX BONDS, REFUNDING SERIES 2011A-2**

**Dated: Delivery Date**

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

<i>Ratings</i>	"Aa1" Moody's Investors Service, Inc.  "AA" Standard & Poor's Ratings Services, a Standard & Poor's Financial Services LLC business.
<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 a specific preference item or included in adjusted current earnings 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>Redemption of Series 2011A-1 Bonds</i>	The Series 2011A-1 Bonds maturing on or after July 1, 2018 are subject to optional redemption by the State in whole or in part on any date on or after July 1, 2017 at par plus accrued interest.
<i>No Optional Redemption of Series 2011A-2 Bonds</i>	The Series 2011A-2 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 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 2011A-1 Bonds are being used to provide funds to finance capital improvements approved by the State Legislature. Net proceeds of the Series 2011A-2 Bonds are being used for the advance refunding of the July 1, 2014 through July 1, 2018 maturities of the State's Severance Tax Bonds, Series 2008A-1.
<i>Interest Payment Dates</i>	January 1 and July 1, commencing July 1, 2012.
<i>Closing/Settlement</i>	On or about December 6, 2011.
<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, Director, 505-827-3930; stephanie.schardin@state.nm.us

Dated: November 15, 2011

**SERIES 2011A-1 BONDS**

<b>CUSIP<sup>(1)</sup></b>	<b>Year (July 1)</b>	<b>Principal Amount</b>	<b>Interest Rate</b>	<b>Yield at Issuance<sup>(2)</sup></b>	<b>Price at Issuance<sup>(2)</sup></b>
647310N23	2012	\$1,570,000	2.00%	0.20%	101.023%
647310N31	2013	\$3,225,000	4.00%	0.42%	105.594%
647310N49	2014	\$4,780,000	4.00%	0.69%	108.415%
647310N56	2015	\$4,965,000	5.00%	0.94%	114.217%
647310N64	2016	\$5,215,000	5.00%	1.24%	116.652%
647310N72	2017	\$5,475,000	5.00%	1.50%	118.632%
647310N80	2018	\$5,750,000	2.00%	2.00%	100.000%
647310N98	2019	\$5,470,000	2.25%	2.25%	100.000%
647310P21	2020	\$5,595,000	2.75%	2.62%	100.668%
647310P39	2021	\$5,745,000	3.00%	2.84%	100.817%

**SERIES 2011A-2 BONDS**

<b>CUSIP<sup>(1)</sup></b>	<b>Year (July 1)</b>	<b>Principal Amount</b>	<b>Interest Rate</b>	<b>Yield at Issuance<sup>(2)</sup></b>	<b>Price at Issuance<sup>(2)</sup></b>
647310P47	2014	\$13,810,000	4.00%	0.69%	108.415%
647310P54	2015	\$14,365,000	5.00%	0.94%	114.217%
647310P62	2016	\$15,080,000	5.00%	1.24%	116.652%
647310P70	2017	\$15,835,000	5.00%	1.50%	118.632%
647310P88	2018	\$16,625,000	5.00%	1.75%	120.085%

<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

SUSANA MARTINEZ  
*Governor*

DIANNA J. DURAN *Secretary of  
State*

JOHN A. SANCHEZ  
*Lieutenant Governor*

JAMES B. LEWIS  
*State Treasurer*

HECTOR H. BALDERAS *State  
Auditor*

GARY K. KING  
*Attorney General*

RAY POWELL *Commissioner of  
Public Lands*

### Public Regulation Commissioners:

JASON A. MARKS  
*District I*

PATRICK H. LYONS  
*District II*

DOUGLAS J. HOWE  
*District III*

THERESA BECENTI-AGUILAR  
*District IV*

BEN L. HALL  
*District V*

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**STATE BOARD OF FINANCE**  
Ex Officio Members  
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SAMUEL SPENCER  
*Member*

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*Secretary*

THOMAS E. CLIFFORD, PhD  
*Executive Officer*

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**BOND COUNSEL**  
*Sutin, Thayer & Browne  
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**DISCLOSURE COUNSEL**  
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**FINANCIAL ADVISORS**  
*Fiscal Strategies Group, Inc.  
Berkeley, California Public  
Resources Advisory Group  
(as subcontractor)  
Los Angeles, California*

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

### **\$47,790,000 SEVERANCE TAX BONDS, SERIES 2011A-1** **\$75,715,000 SEVERANCE TAX BONDS, REFUNDING SERIES 2011A-2**

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.

<i>Dated:</i>	Delivery Date.
<i>Interest Payment:</i>	Interest is payable semi-annually on January 1 and July 1, commencing on July 1, 2012.
<i>Principal Payment:</i>	The Bonds mature in serial installments as set forth on the inside cover page of this Official Statement.
<i>Redemption of Series 2011A-1 Bonds</i>	The Series 2011A-1 Bonds maturing on or after July 1, 2018 are subject to optional redemption by the State in whole or in part on any date on or after July 1, 2017 at par plus accrued interest.
<i>No Optional Redemption of Series 2011A-2 Bonds:</i>	The Series 2011A-2 Bonds are not subject to optional redemption prior to maturity.
<i>Registration:</i>	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.
<i>Legal Opinion:</i>	The Bonds are offered when, as and if issued, subject to the approval of legality by Sutin, Thayer & Browne A Professional Corporation, Bond Counsel.
<i>Security:</i>	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.
<i>Additional Parity Bonds:</i>	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**

(Dollars in thousands)

	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>
Projected Bonding Fund Receipts	\$418,387	\$429,576	\$435,250	\$429,785	\$422,988
Senior Bond Debt Service <sup>(1)(2)(3)</sup>	\$123,017	\$126,451	\$118,991	\$109,661	\$100,966
Senior Bond Debt Service Coverage Ratio	3.42x	3.50x	3.67x	3.92x	4.18x
Supplemental Bond Debt Service <sup>(2)</sup>	\$29,300	\$21,483	\$15,605	\$13,986	\$12,495
Supplemental Bond Debt Service Coverage Ratio	2.76x	2.99x	3.24x	3.48x	3.72x
	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>
Bonding Fund Receipts	\$510,140	\$573,595	\$550,222	\$374,234	\$398,576
Senior Bond Debt Service	\$72,886	\$81,270	\$96,019	\$96,290	\$102,901
Senior Bond Debt Service Coverage Ratio	7.00x	7.06x	5.73x	3.89x	3.87x
Supplemental Bond Debt Service	\$20,119	\$18,020	\$15,391	\$15,452	\$19,212
Supplemental Bond Debt Service Coverage Ratio	5.48x	5.78x	4.94x	3.35x	3.26x

<sup>(1)</sup> Includes debt service on the Series 2011A-1 Bonds.

<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 Series 2011A-2 Bonds and gives effect to the refunding of the July 1, 2014 through July 1, 2018 maturities of the State Severance Tax Bonds, Series 2008A-1.

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**THE STATE OF NEW MEXICO**  
**\$47,790,000 SEVERANCE TAX BONDS, SERIES 2011A-1**  
**\$75,715,000 SEVERANCE TAX BONDS, REFUNDING SERIES 2011A-2**

**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 \$47,790,000 State of New Mexico Severance Tax Bonds, Series 2011A-1 (the "Series 2011A-1 Bonds") and \$75,715,000 State of New Mexico Severance Tax Bonds, Refunding Series 2011A-2 (the "Series 2011A-2 Bonds" and, collectively with the Series 2011A-1 Bonds, 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 a resolution of the Board adopted on October 18, 2011 (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:

Contact:	State Board of Finance Attn: Stephanie Schardin Clarke
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E-mail:	<a href="mailto:stephanie.schardin@state.nm.us">stephanie.schardin@state.nm.us</a>
Web Site:	<a href="http://www.nmdfa.state.nm.us/Board_of_Finance.aspx">http://www.nmdfa.state.nm.us/Board_of_Finance.aspx</a>

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## THE 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 July 1, 2012. 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.

### Redemption of Series 2011A-1 Bonds

The Series 2011A-1 Bonds maturing on or after July 1, 2018 will be subject to optional redemption, at the option of the Board, in whole or in part on any date on or after July 1, 2017, at a redemption price equal to 100 percent of the principal amount redeemed plus accrued interest on the principal amount redeemed to the date of redemption.

If less than all of the outstanding Series 2011A-1 Bonds of a particular maturity are to be redeemed, the selection of Series 2011A-1 Bonds or portions of Series 2011A-1 Bonds to be redeemed, in amounts of \$5,000 or any integral multiple thereof, shall be made by lot within that maturity by the State Treasurer, as Registrar/Paying Agent, in such manner as the Registrar/Paying Agent may determine. If less than the full amount of any Series 2011A-1 Bond is to be redeemed, then, upon surrender of such Series 2011A-1 Bond by the owner to the Registrar/Paying Agent for payment of the redemption price, the Registrar/Paying Agent shall deliver to such owner, without charge, a new Series 2011A-1 Bond or Series 2011A-1 Bonds of any authorized denomination or denominations in an aggregate principal amount equal to the unmatured and unredeemed portion of, and with the same interest rate and maturity date as, the Series 2011A-1 Bond surrendered.

The Board shall give the Registrar/Paying Agent notice that Series 2011A-1 Bonds will be called for redemption not less than 30 nor more than 45 days prior to the redemption date. The Board will give, or cause to be given, notice of redemption to the owners of Series 2011A-1 Bonds to be called for redemption by sending a copy of such notice by registered or certified first-class postage prepaid mail not less than 30 nor more than 45 days prior to the redemption date to the registered owner of each Series 2011A-1 Bond, or portion of a Series 2011A-1 Bond, to be redeemed at the address shown as of the fifth day prior to the mailing of notice on the registration books kept by Registrar/Paying Agent. So long as a book-entry system is used for determining beneficial ownership of the Series 2011A-1 Bonds, such notice of redemption will be given to DTC, or its nominee, as registered owner of the Series 2011A-1 Bonds. Such notice shall be sent to DTC by a secure means as set forth in the letter of representation from the Board and the Registrar/Paying Agent to DTC or as otherwise agreed to with DTC from time to time (the “Letter of Representation”) in a timely manner designed to assure that such notice is in DTC’s possession at the time set forth in the Letter of Representation.

In addition, if the Series 2011A-1 Bonds are not being held by DTC, notice of redemption shall be published at least once, not less than 30 days nor more than 60 days prior to the date of redemption, in a newspaper published and of general circulation in the State. Neither the Board’s failure to give such notice to the Registrar/Paying Agent, nor the failure to publish such notice, nor the Board’s failure to give such notice to the registered owner of any Series 2011A-1 Bond, or any defect in such notice, shall affect the validity of the proceedings for the redemption of any Series 2011A-1 Bonds for which proper notice was given by mail as set forth in this paragraph. All notices shall specify the maturity dates and the

numbers of the Series 2011A-1 Bonds to be redeemed (if less than all are to be redeemed) the amount of such Series 2011A-1 Bond to be redeemed (if less than the full amount of any Series 2011A-1 Bond is to be redeemed), the date fixed for redemption, the redemption price to be paid and shall further state that on such redemption date there will become and be due and payable upon each Series 2011A-1 Bond to be redeemed at the office of the Registrar/Paying Agent the unpaid principal amount of such Series 2011A-1 Bond, or the portion of such Series 2011A-1 Bond so redeemed, plus accrued interest on such principal amount to the redemption date and that from and after such date interest will cease to accrue on such principal amount. The notice of redemption shall also include additional provisions required by the Letter of Representation. Notice having been given in the manner provided, the Series 2011A-1 Bond or Series 2011A-1 Bonds called for redemption shall become due and payable on the redemption date designated and if an amount of money sufficient to redeem all Series 2011A-1 Bonds or portions of Series 2011A-1 Bonds called for redemption is on deposit with the Registrar/Paying Agent on the redemption date, the Series 2011A-1 Bonds or portions of Series 2011A-1 Bonds to be redeemed shall no longer be deemed to be outstanding and shall cease to bear interest from and after such redemption date. Upon presentation of any Series 2011A-1 Bond redeemed at the office of the Registrar/Paying Agent, the redemption price of such Series 2011A-1 Bond or Series 2011A-1 Bonds shall be paid as set forth in the Bond Resolution.

### **No Optional Redemption of Series 2011A-2 Bonds**

The Series 2011A-2 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 Bonds

The 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 Severance Tax Bonds. 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 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 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 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 Bonds, all currently outstanding Senior Severance Tax Bonds, and any Senior Severance Tax Bonds issued on a parity with the Bonds will have a pledge and lien senior to any Supplemental Severance Tax Bonds now outstanding or hereafter issued.

## **USE OF PROCEEDS**

### **Purpose**

The proceeds of the Series 2011A-1 Bonds are being used to provide funds to finance capital improvements approved by the State Legislature. The proceeds of the Series 2011A-2 Bonds are being used for advance refunding of the July 1, 2014 through July 1, 2018 maturities of the State's Severance Tax Bonds, Series 2008A-1. The purpose of the advance refunding is to achieve annual and present value savings.

### **Bonds to be Refunded**

The proceeds of the Series 2011A-2 Bonds are being used to provide funds for the advance refunding of the State of New Mexico Severance Tax Bonds, Series 2008A-1 (July 1, 2014 through 2018 maturities) (collectively the "Refunded Bonds"). Proceeds of the Series 2011A-2 Bonds will be used to fund an escrow account ("Escrow Account") created pursuant to an Escrow Agreement that will provide for payments of interest on the Refunded Bonds from the closing of the Series 2011A-2 Bonds to their earliest call date of July 1, 2013 as well as for the redemption of the Refunded Bonds at the July 1, 2013 call date.

## **Refunding and Defeasance**

The proceeds of the Series 2011A-2 Bonds will be deposited into the Escrow Account for the Refunded Bonds pursuant to an Escrow Agreement among the State, the State Treasurer as paying agent, registrar and authenticating agent for the Refunded Bonds and Wells Fargo Bank, N.A., as Escrow Agent, in amount sufficient, together with investment income thereon, to pay the principal of and interest on the Refunded Bonds as set forth below in the Summary of Refunded Bonds.

Moneys in the Escrow Account established under the Escrow Agreement for the payment of the Refunded Bonds may be invested, as provided in the Escrow Agreement, in the following classes of securities: (i) direct obligations of, or obligations as to full and timely payment of principal and interest on which is unconditionally guaranteed by, the United States of America; (ii) obligations issued or guaranteed as to full and timely payment of principal and interest by an agency or person controlled by and acting as an instrumentality of the United States of America, pursuant to authority granted by 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 noncallable 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 clauses (i) and (ii) are not available to satisfy 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 or Moody's Investors Service, or similar rating agency in its highest rating category (without regard to any refinement or gradation by numerical modifier or otherwise).

The initial investment of the Escrow Account will be designed to produce sufficient funds to provide fully for the payments of interest due on the Refunded Bonds from the closing of the Series 2011A-2 Bonds to the Redemption Date. The Board reserves the right to modify the investments in the Escrow Account at any time and from time to time upon the condition that any reinvestments meet the sufficiency requirement in the preceding sentence. If the initial or any subsequent investment of the Escrow Account, or either of them, are solely in cash and/or Defeasance Obligations which are certified by an independent public accounting firm of national redemption to satisfy the sufficiency requirements stated above, the Refunded Bonds will be deemed to be defeased and no longer entitled to the benefit of the lien on the Bonding Fund revenues.

## **Summary of Refunded Bonds**

The following table sets forth the maturity dates, maturity amounts, interest rates and redemption date of the Refunded Bonds.

Severance Tax Bonds, Series 2008A-1

<u>Maturity</u> <u>July 1</u>	<u>Interest</u> <u>Rate</u>	<u>Principal</u> <u>Refunded</u>	<u>Redemption</u> <u>Date July 1</u>
2014	4.00%	\$15,235,000	2013
2015	4.00%	15,845,000	2013
2016	4.00%	16,475,000	2013
2017	4.00%	17,135,000	2013
2018	4.00%	17,820,000	2013

The accuracy of computations indicating that the amount on deposit in the Escrow Account for the Refunded Bonds is sufficient to make the required payments in connection with the refunding of the Refunded Bonds will be verified by Causey Demgen & Moore, Inc., Denver, Colorado. See “VERIFICATION OF MATHEMATICAL CALCULATIONS”.

**Sources and Uses**

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

SOURCES:	<u>Series 2011 A-1 Bonds</u>	<u>Series 2011 A-2 Bonds</u>
Par Amount	\$47,790,000.00	\$75,715,000.00
Original Issue Premium	\$3,277,393.70	\$12,005,013.60
Transfer from Prior Issue Debt Service Fund	<hr/>	<hr/> \$1,375,166.67
<b>TOTAL SOURCES</b>	<hr/> <b>\$51,067,393.70</b>	<hr/> <b>\$89,095,180.27</b>
USES:		
Deposit to Capital Project Account	\$50,943,000.00	
Deposit to Escrow Account		\$88,897,678.15
Underwriter’s Discount	\$124,050.68	\$196,536.88
Contingency	<hr/> \$343.02	<hr/> \$965.24
<b>TOTAL USES</b>	<hr/> <b>\$51,067,393.70</b>	<hr/> <b>\$89,095,180.27</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 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 25th 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. **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, Senior 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 2007 through Fiscal Year 2011.

**TABLE 2**

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

	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>
<b>Proceeds from General Obligation Bonding Program<sup>(1)</sup></b>					
General Obligation Bonds	<u>\$142.8</u>	<u>\$0.0</u>	<u>\$223.4</u>	<u>\$0.0</u>	<u>\$19.7</u>
<b>Subtotal</b>	<u>\$142.8</u>	<u>\$0.0</u>	<u>223.4</u>	<u>\$0.0</u>	<u>\$19.7</u>
<b>Proceeds from Severance Tax Bonding Program<sup>(1)</sup></b>					
Severance Tax Bond	\$136.4	\$153.6	\$0.0	\$315.3	\$0.0
Severance Tax Funding Notes <sup>(2)</sup>	193.3	150.9	188.7	178.6	27.3
Supplemental Severance Tax Bonds	0.0	0.0	0.0	112.9	0.0
Supplemental Severance Tax Funding Notes <sup>(2)</sup>	<u>210.8</u>	<u>222.8</u>	240.8	<u>97.0</u>	<u>206.1</u>
<b>Subtotal</b>	<u>\$540.5</u>	<u>\$527.3</u>	<u>\$429.5</u>	<u>\$703.8</u>	<u>\$233.4</u>
<b>Proceeds From Other Sources</b>					
General Fund <sup>(3)</sup>	\$548.4	\$123.0	\$(148.6)	\$(259.2)	\$0.0
Transportation Bonds <sup>(4)</sup>	0.0	0.0	40.0	80.5	81.1
Lease Appropriation Bonds	<u>0.0</u>	<u>0.0</u>	<u>60.0</u>	<u>0.0</u>	<u>0.0</u>
<b>Subtotal</b>	<u>\$548.4</u>	<u>\$123.0</u>	<u>\$(48.6)</u>	<u>\$(178.7)</u>	<u>\$81.1</u>
<b>Total</b>	<b><u>\$1,231.7</u></b>	<b><u>\$650.3</u></b>	<b><u>\$604.3</u></b>	<b><u>\$638.0</u></b>	<b><u>\$324.2</u></b>

<sup>(1)</sup> Dollar amounts from State Board of Finance funding programs reflect net proceeds available for capital expenditure. Amounts vary annually by legislative action.

<sup>(2)</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>(3)</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>(4)</sup> In July 2008, the New Mexico Finance Authority entered into a \$200,000,000 line of credit which was drawn upon for transportation related capital expenditures in Fiscal Years 2009-2011. In Fiscal Year 2011, the New Mexico Finance Authority refunded the line of credit through the issuance of State Transportation Revenue Refunding Indexed Notes (Subordinate Lien), Series 2011A-1, 2011A-2 and 2011A-3, the proceeds of which are available for transportation related capital expenditures.

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 capital projects throughout the State. 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 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 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  
Upon the Delivery of the Bonds**

	<b><u>Prior to Delivery</u></b>	<b><u>After Delivery</u></b>
Severance Tax Bonds, Refunding Series 2005B-1	\$7,910,000	\$7,910,000
Severance Tax Bonds, Series 20007A	13,265,000	13,265,000
Severance Tax Bonds, Series 2008A-1	111,110,000	28,600,000
Severance Tax Bonds, Series 2009A	167,640,000	167,640,000
Severance Tax Bonds, Series 2010A	121,330,000	121,330,000
Severance Tax Bonds, Refunding Series 2010C	35,985,000	35,985,000
Severance Tax Bonds, Refunding Series 2010D	140,520,000	140,520,000
Severance Tax Bonds, Series 2011A-1	0	47,790,000
Severance Tax Bonds, Refunding Series 2011A-2	0	75,715,000
	<u>\$597,760,000</u>	<u>\$638,755,000</u>

*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	\$ 2,430,000
Supplemental Severance Tax Bonds, Series 2004B	3,330,000
Supplemental Severance Tax Bonds, Refunding Series 2008A-2	5,445,000
Supplemental Severance Tax Bonds, Series 2010B	<u>90,790,000</u>
<b>Total</b>	<b>\$101,995,000</b>

*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>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>
Beginning Balance	\$240,717	\$224,860	\$107,217	\$172,318	\$130,346
Receipts:					
Taxes:					
Oil and Gas Severance Tax	\$433,357	\$493,293	\$492,885	\$325,761	\$350,718
Other Minerals Severance Taxes	<u>19,545</u>	<u>18,501</u>	<u>23,431</u>	<u>24,362</u>	<u>16,009</u>
Total Severance Taxes	\$452,901	\$511,794	\$516,315	\$350,123	\$366,727
Other Income:					
Interest on Investments	\$56,521	\$57,410	\$31,607	\$21,610	\$18,102
Refunding Proceeds	0	0	0	0	2,924
Bond Proceeds	0	0	0	369	0
Other financing sources	<u>718</u>	<u>4,391</u>	<u>2,300</u>	<u>2,131</u>	<u>10,823</u>
Total Other Income	\$57,239	\$61,801	\$33,907	\$24,111	\$31,850
Total Receipts	\$510,140	\$573,595	\$550,222	\$374,234	\$398,576
Disbursements:					
Senior Bond Debt Service	\$72,886	\$158,564	\$12,433	\$96,290	\$103,867
Senior Short-term Obligations <sup>(3)</sup>	74,434	269,750	188,684	178,594	27,273
Supplemental Bond Debt Service	20,119	39,056	1,074	15,452	19,212
Supplemental Short-term Obligations <sup>(3)</sup>	210,830	222,799	240,841	97,001	206,130
Fiscal Charges	<u>446</u>	<u>665</u>	<u>895</u>	<u>1,396</u>	<u>7,762</u>
Total Disbursements	\$378,715	\$690,834	\$443,926	\$388,734	\$364,245
Transfers:					
To Severance Tax Permanent Fund	<u>\$147,282</u>	<u>\$404</u>	<u>\$41,195</u>	<u>\$27,472</u>	<u>\$3,488</u>
Total Transfers	\$147,282	\$404	\$41,195	\$27,472	\$3,488
Ending Balance, June 30	\$224,860	\$ 107,217 <sup>(4)</sup>	\$172,318 <sup>(5)</sup>	\$130,346 <sup>(6)</sup>	\$161,190 <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 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 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 31, 2008 in the amount of \$41.1 million.

<sup>(5)</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 \$30.1 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.

<sup>(6)</sup> The ending balance includes the amount of the transfer to the Severance Tax Permanent Fund, which was made on July 1, 2010 in the amount of \$3.5 million.

<sup>(7)</sup> The ending balance includes the amount of the transfer to the Severance Tax Permanent Fund, which was made on August 3, 2011 in the amount of \$7.6 million.

Source: New Mexico State Board of Finance based on the Statewide Human Resources, Accounting, and Management Reporting System (the "SHARE System").

**TABLE 6**

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

	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>
<b>Severance Tax Bonding Fund Receipts</b>					
Taxes: Natural Gas	\$181,718	\$190,846	\$197,605	\$193,103	\$189,158
Oil	<u>\$191,823</u>	<u>\$193,401</u>	<u>\$191,716</u>	<u>\$190,853</u>	<u>\$188,000</u>
Subtotal-Oil & Gas Severance Tax	\$373,541	\$384,247	\$389,321	\$383,956	\$377,158
Coal	\$19,700	\$19,883	\$19,883	\$19,883	\$19,883
Other Minerals	<u>\$3,546</u>	<u>\$3,546</u>	<u>\$3,546</u>	<u>\$3,546</u>	<u>\$3,546</u>
Subtotal-Other Severance Tax	\$23,246	\$23,429	\$23,429	\$23,429	\$23,429
Investment Earnings	\$19,900	\$20,200	\$20,700	\$20,700	\$20,700
Other Income	<u>\$1,700</u>	<u>\$1,700</u>	<u>\$1,800</u>	<u>\$1,700</u>	<u>\$1,700</u>
<b>Total Receipts</b>	\$418,387	\$429,576	\$435,250	\$429,785	\$422,987

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

<sup>(2)</sup> The Consensus Group updated oil and natural gas price estimates in October 2011. The updated price estimates have been used for purposes of calculating revenue and bonding capacity.

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**

<b><u>Fiscal Year Ending 6/30</u></b>	<b><u>Projected STBF Revenues</u></b>	<b><u>Scheduled Senior Debt Service<sup>(1)</sup></u></b>	<b><u>Projected Senior Debt Service Coverage</u></b>	<b><u>Scheduled Supplemental Debt Service<sup>(1)</sup></u></b>	<b><u>Projected Supplemental Coverage</u></b>
2012	\$418,387,473	\$123,016,900	3.40x	\$29,299,714	2.75x
2013	429,576,273	126,450,732	3.31x	21,483,074	2.84x
2014	435,250,210	118,990,538	3.66x	15,604,958	3.23x
2015	429,785,151	109,661,188	3.92x	13,986,175	3.48x
2016	422,987,807	100,966,038	4.19x	12,495,425	3.73x
2017	412,708,410	90,730,288	4.55x	12,223,675	4.01x
2018	404,873,487	74,022,788	5.47x	11,989,675	4.71x
2019	397,210,804	58,974,913	6.74x	11,781,175	5.61x
2020	389,639,046	41,516,250	9.39x	11,586,425	7.34x
2021	382,532,503	22,418,531	17.06x	11,469,900	11.28x

<sup>(1)</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 99.4 percent of total Fiscal Year 2011 Severance Tax Bonding Fund tax collections. Severance Taxes from natural gas and oil together represent 95.6 percent of total Fiscal Year 2011 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’s 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 the rate established for individuals under Internal Revenue Code Section 6621 computed on a daily basis 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 20 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 Tenth Circuit Court of Appeals overturned the district court opinion and held that the State severance taxes are not preempted by federal law. *Ute Mountain Ute Tribe v. Rodriguez*, 2011 WL 3134838 (10th Cir. 2011). The Ute Mountain Ute Tribe petitioned for an en banc review, which the court denied on September 12, 2011. The Tribe has until December 12, 2011 to petition the United States Supreme Court for a writ of certiorari.

Information reported on the “ONGARD” website by TRD based on oil and gas tax return data indicates that natural gas production and crude oil production on Indian land was approximately 3.4 percent and 0.6 percent, respectively, of total taxable statewide production in Fiscal Year 2011. The TRD estimates that oil and natural gas production on Indian land generated \$8.1 million in severance tax

revenues to the State in the production months corresponding to Fiscal Year 2011 (net of Intergovernmental Production Tax Credit). Coal production on Indian land was 35.0 percent of total statewide production in Fiscal Year 2010. No potash, copper or carbon dioxide (“CO2”) 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 ONGARD website reports that total credits claimed under this provision were about \$3.1 million in Fiscal Year 2011. About \$1.3 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 \$2.3 million in Fiscal Year 2010.

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 2000 to 2009. This is the latest data available from the EIA. 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 16,644 billion cubic feet (bcf) at the end of calendar year 2009, down from 16,750 bcf at the end of calendar year 1999, a decade earlier. Reserves decreased by about 106 bcf during the period, and production was about 15,344 bcf. Additions through new discoveries and revised estimates have offset 99.3 percent of the production during the decade. The current reserve estimate represents a New Mexico reserve-to-current-production ratio of 12.0:1.

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.

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 and further development 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 12.0:1 in 2009. 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. Reserves are the amounts companies expect with reasonable certainty can be produced with current technology at current prices. Therefore, as prices increase, all other things being equal, we can expect reserves to increase.

**TABLE 8**

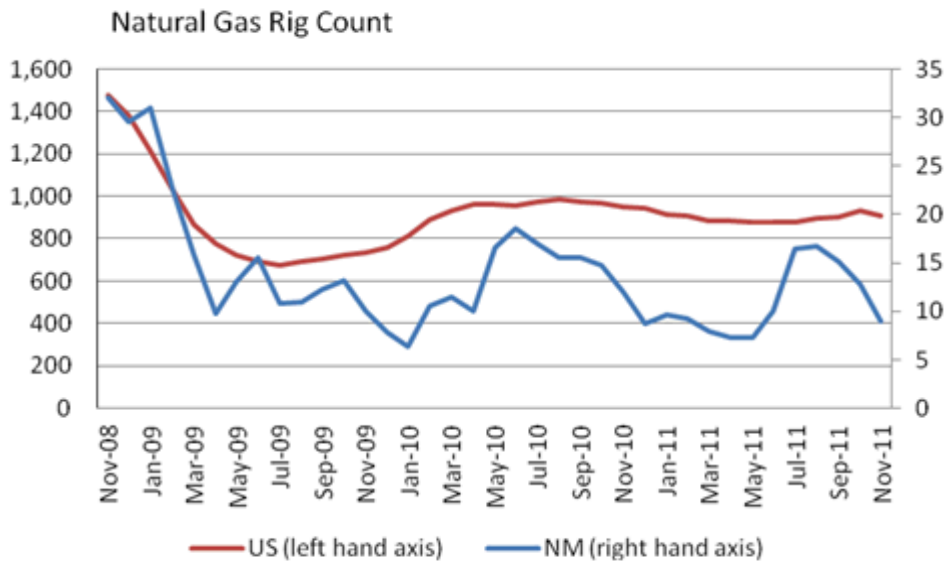
**New Mexico Natural Gas Reserves<sup>(1)</sup>  
(Natural Gas numbers in billion cubic feet)**

<b><u>Calendar Year</u></b>	<b><u>Beginning Reserves</u></b>	<b><u>Net Additions/ Adjustments</u></b>	<b><u>Estimated Production</u></b>	<b><u>Ending Reserves</u></b>
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
2009	17,347	687	1,390	16,644

<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: U.S. Energy Information Administration and the “ONGARD System.”

Information on gas drilling activity in New Mexico and in the United States published by the Baker Hughes Company is presented in the following graph. Baker Hughes reports the number of drilling rigs actively exploring for oil and gas. Gas drilling activity in New Mexico fell by roughly two-thirds from 2008 to 2009 in response to the sharp decrease of natural gas prices in 2009. Since then drilling has stabilized at a reduced level of activity. According to the Baker Hughes Company, there has been a significant shift from traditional vertical wells to horizontal wells in recent years. The use of horizontal drilling, combined with hydrologic fracking, has increased production per well dramatically, albeit at a significant additional cost.



Source: BakerHughes.com.

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. Production was approximately 25.8 million cubic feet in Fiscal Year 2010, slightly higher than in Fiscal Year 2008. 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 2010 production from the Raton Basin was approximately 2.0 percent of total natural gas production in the State, the San Juan Basin 64.0 and the Permian Basin 34.0 percent.

On May 9, 2008, EMNRD (Oil Conservation Division) adopted new “pit rules” regulating the maintenance of open pits. 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 such cost increase could reduce the amount of money invested in the state, the effect of the cost increase on drilling activity is difficult to determine because drilling incentives are also dependent on the fluctuations in commodity prices. Regulatory changes in other states may also affect the incentive to invest in New Mexico. Industry groups have submitted proposed amendments to the pit rules and the drilling rules to the Oil Conservation Commission. The Oil Conservation Commission is expected to hold public hearings on the rule proposals in late 2011 and early 2012.

Table 9 presents information on the number of natural well completions in New Mexico compiled by the Oil Conservation Division of the N.M. Energy, Minerals and Natural Resources Department. After peaking at 1,777 completions in 2007, natural gas well completions fell to 546 in 2010. In part this was a response to the sharp drop of natural gas prices in 2009. In addition, companies have shifted their attention to drilling oil wells because the relative value of oil compared with natural gas has increased dramatically in recent years. Currently, the ratio of oil prices to natural gas prices is roughly 23-to-1, compared with 9-to-1 in 2007.

**TABLE 9**

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

2001	1,421
2002	1,292
2003	1,555
2004	1,703
2005	1,777
2006	1,758
2007	1,482
2008	1,202
2009	849
2010	546

*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 has remained flat. During the period 2005 to 2008, increased demand due to the growing economy was offset by reduced demand as consumers shifted to lower-cost alternative in response to higher prices. Demand growth has been minimal over the last two years in response to the sluggish economy. Since the fall of natural gas prices in 2009, the relatively low price of natural gas has led power generators to substitute natural gas for coal to the greatest extent possible. Recent industry reports suggest that combined cycle power plants fueled by natural gas are now the lowest cost source of new electricity supplies.

According to the EIA, after peaking around 23 Trillion cubic feet (tcf) in the mid-1970's, annual production of natural gas declined in response to falling prices to a low of 16.8 tcf in 1986. Since then production has increased steadily in response to rising prices and technological innovations that has lowered production costs. Total production was 22.6 tcf in 2010 according to EIA, roughly equal to its previous peak level in the 1970's.

The gap between domestic production and domestic consumption has been met by growing imports, which increased from 0.8 tcf in 1986 to 3.8 tcf in 2007. Net imports have fallen sharply in the last four years, as domestic production has expanded while demand has grown more slowly, reducing the demand for imports.

Average annual wellhead prices for the U.S. and New Mexico are presented in Table 10. Prices increased steadily from 2002 to 2008, but have fallen sharply since then. The gradual economic recovery has been enough to lift prices somewhat from their low-point in 2009. However, the expansion of domestic supplies has been sufficient to limit the increase of prices.

**TABLE 10****Average Wellhead Price by Calendar Year  
(\$ per thousand cubic feet)**

	<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>	<u>2010</u>
National Average Wellhead Price	\$4.00	\$2.95	\$4.88	\$5.46	\$7.33	\$6.39	\$6.25	\$7.97	\$3.67	\$4.16
New Mexico Producers	\$3.89	\$2.68	\$4.56	\$4.97	\$6.91	\$6.18	\$6.88	\$8.40	\$4.38	\$4.69
NM as a percentage of National Average	97.3%	90.8%	93.4%	91.0%	94.3%	96.7%	110.1%	105.4%	119.3%	112.7%

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

New Mexico producers have benefited from somewhat higher-than-average wellhead natural gas prices since 2006. This may be a reflection of the significant increase in supply resulting in lower prices in some eastern markets due to new production from shale formations. Increased eastern supplies have resulted in New Mexico producers sending almost all of their production to western markets in California, Arizona and Nevada. These markets have not yet been impacted by shale gas increases as much as eastern markets.

**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 2010 coal seam natural gas production accounted for approximately 29.7 percent of total statewide production. Total statewide production began to decline in 2002, falling below 1,600 bcf in Fiscal Year 2003. Gross sales revenue increased steadily from 2002 to 2008 as the price of natural gas continued to increase. Gross sales revenue peaked at \$12 billion in 2008. Prices fell sharply in 2009 and have remained in the range of \$5.00 to \$5.60 since then, resulting in gross sales revenue of approximately \$6.8 billion. Taxable production volume, sales revenue and average price per thousand cubic feet for Fiscal Years 2002 through 2011 are presented in the following table.

**TABLE 11****Natural Gas Subject to Taxation  
Production, Revenues and Average Price  
Fiscal Years 2002-2011**

	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>
Sales Volume (bcf)	1,627	1,576	1,545	1,547	1,523	1,516	1,428	1,390	1,282	1,224
Gross Sales Revenues (millions)	\$4,000	\$6,213	\$7,359	\$9,030	\$11,462	\$9,935	\$12,002	\$7,797	\$6,657	\$6,805
Gross Average Price per mcf	\$2.46	\$3.94	\$4.76	\$5.84	\$7.53	\$6.56	\$8.40	\$5.61	\$5.20	\$5.50
Net Taxable Value (millions)	\$3,126	\$5,030	\$6,045	\$7,451	\$9,514	\$8,074	\$9,700	\$6,083	\$5,098	\$5,223
Net Average Price per mcf	\$1.92	\$3.19	\$3.91	\$4.82	\$6.25	\$5.33	\$6.79	\$4.38	\$3.97	\$4.22

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 2010.

**TABLE 12**

**Ten Largest Natural Gas Producers in New Mexico and 2010 Production**

	<b><u>Thousand Cubic Feet</u></b>
Burlington Resources Oil & Gas Company, LP	297,445,594
ConocoPhillips Company	174,197,642
BP America Production Company	70,957,250
XTO Energy, Inc.	70,168,597
Energen Resources Corporation	68,903,167
Devon Energy Production Company, LP	67,915,812
Williams Production Company, LLC	53,641,164
Yates Petroleum Corporation	35,303,718
Chevron USA Inc.	34,752,847
COG Operating, LLC	30,620,335

*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 2011. 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.

**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>	0.0% Oil <sup>(4)</sup>
		\$24.00 per barrel <sup>(2)</sup>	0.0% Natural Gas <sup>(4)</sup>
Well workover wells	2.45%	\$24.00 per barrel <sup>(2)</sup>	0.0% Oil <sup>(4)</sup>
		\$24.00 per barrel <sup>(2)</sup>	0.0% Natural Gas <sup>(4)</sup>
Stripper wells	1.875%	\$ 1.15 per mcf-Gas <sup>(3)</sup>	0.0% Natural Gas <sup>(4)</sup>
		\$15.00 per barrel-Oil <sup>(3)</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: Sections 7-29A and 7-29B New Mexico Statutes Annotated 1978. .

**Projections of Severance Tax Revenues from Natural Gas**

The natural gas price outlook is based on analysis by the Consensus Group, comprised of economists from both the Legislative and Executive branches of New Mexico government. The Consensus Group relies on forecasts by the U.S. Energy Information Administration, the Global Insight economic forecasting service, and public information about NYMEX futures contracts.

For Fiscal Year 2011, New Mexico producers received an estimated weighted average price of \$5.50, up from \$5.20 mcf in Fiscal Year 2010 and down from \$5.61 per mcf in Fiscal Year 2009, \$8.40 in Fiscal Year 2008 and \$6.56 in Fiscal Year 2007. In October 2011, the Consensus Group estimated an average price for Fiscal Year 2012 of \$5.35 per mcf and \$5.80 for Fiscal Year 2013. Prices are expected to increase to \$6.20, \$6.55 and \$6.25 per mcf for Fiscal Years 2014 and 2015, respectively. The forecast

of gradual price increases is based on increased demand as the national economic recovery gathers steam. In addition, some fuel-switching to natural gas is expected as natural gas-fired power plants become the preferred source for new electricity generation facilities due to environmental concerns with alternative power sources. These prices reflect the full value of all natural gas products, including natural gas liquids. The latter have been adding significantly more value to natural gas production in recent years, offsetting the decrease of prices for “dry” natural gas.

Natural gas volume production decreased by 4.5 percent in Fiscal Year 2011, from 1,282 bcf in Fiscal Year 2010 to 1,224 bcf in Fiscal Year 2011. Because of higher prices and lower production, gross revenue for New Mexico producers increased 0.98 percent in Fiscal Year 2011. In October 2011, the Consensus Group’s revenue forecast assumed that natural gas production would decline by approximately 4.5 percent in Fiscal Year 2011, by 3.3 percent in Fiscal Year 2012, and by 3.1 percent each year in Fiscal Years 2013 through 2015.

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). Over the past 10 years, deductions have ranged from 17.0 percent of gross value in Fiscal Year 2006 to 23.4 percent in Fiscal Year 2010. For the October 2011 forecast, the Consensus Group assumed deductions of 23.5 percent for Fiscal Years 2012 through 2016. Rates for the pipeline transportation have been increasing in the San Juan Basin. Since the deductions percentage is a ratio of deductions to gross value, lower prices and volumes would also result in a higher deductions percentage, assuming the absolute value of deductions does not change.

**TABLE 14**

**New Mexico Natural Gas Volume, Price and Severance Tax Projections  
Fiscal Years Ending June 30**

	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>
Natural gas sales (bcf)	1,184	1,147	1,111	1,077	1,055
Average sales price (\$ per mcf)	\$5.35	\$5.80	\$6.20	\$6.25	\$6.25
Severance Taxes on Natural Gas (in thousands)	\$181,718	\$190,846	\$197,605	\$193,103	\$189,158

*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 2000 to 2009. This is the latest data available from the EIA. 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.

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. Production increased by 3.46 percent in Fiscal Year 2009 to approximately 62.3 million barrels and by 0.71 percent in Fiscal Year 2010 to 62.7 million barrels. The Consensus Group is forecasting annual growth in production of 6.5 percent for Fiscal Year 2011 and 4.0 percent for Fiscal Year 2012. The Consensus Group is forecasting an annual decrease in production of 1.6 percent for Fiscal Year 2013, 1.5 percent for Fiscal Year 2014 and 1.0 percent for Fiscal Year 2015.

In 2009, New Mexico reserves represented approximately 13.2 years of production. This is the latest EIA data available. 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 2009 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.

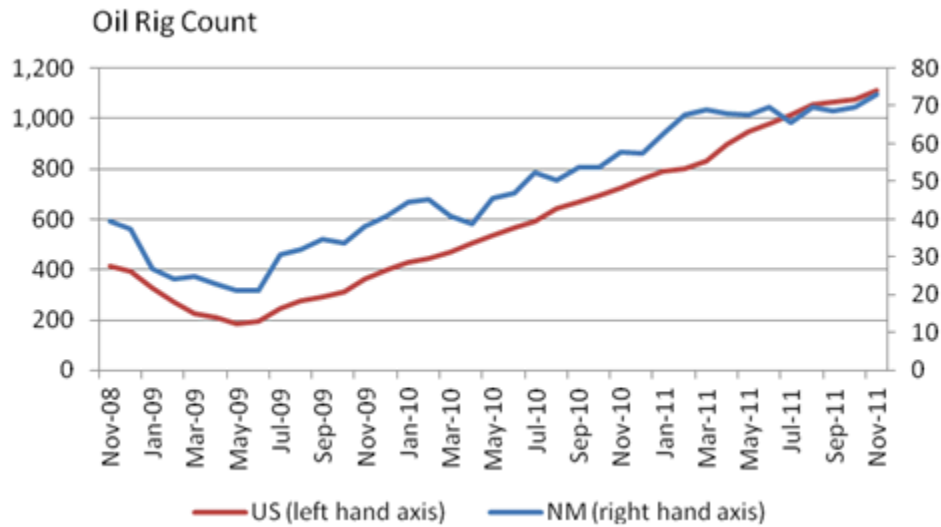
**TABLE 15**  
**New Mexico Oil Reserves**  
**Crude Oil<sup>(1)</sup>**

<u>Year</u>	<u>Beginning Reserves</u>	<u>Additions/ Adjustments</u>	<u>Estimated Production</u>	<u>Ending Reserves</u>
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
2009	654	99	53	700

<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”).

Information on oil drilling activity in New Mexico and in the United States published by the Baker Hughes Company is presented in the following graph. Baker Hughes reports the number of drilling rigs actively exploring for oil and gas. Oil drilling activity in New Mexico fell by roughly 50 percent from 2008 to 2009 in response to the sharp decrease of oil prices. Since then drilling activity has increased significantly, and has tracked closely with nationwide drilling trends. According to the Baker Hughes Company, there has been a significant shift from traditional vertical wells to horizontal wells in recent years. The use of horizontal drilling, combined with hydrologic fracking, has increased production per well dramatically, albeit at a significant additional cost.



Source: BakerHughes.com

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 2001 through 2010. There has been a significant increase in oil completion activity in recent years. This reflects the successful application of horizontal drilling and fracking in the Permian Basin located in the southeastern corner of the state. This activity has resulted in the increased production levels recorded in the last two fiscal years.

**TABLE 16**

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

2001	722
2002	510
2003	677
2004	766
2005	894
2006	1,150
2007	896
2008	1,271
2009	1,010
2010	1,261

*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 2010.

**TABLE 17**

**Ten Largest Oil Producers in New Mexico and 2010 Production**

	<u>Barrels</u>
COG Operating, LLC	8,697,836
Chevron USA Inc.	4,417,923
Apache Corporation	4,007,273
Occidental Permian Ltd.	3,800,812
ConocoPhillips Company	3,512,784
Marbob Energy Corporation	3,096,400
Cimarex Energy Co. of Colorado	2,714,823
Devon Energy Production Company, LP	2,383,695
OXY USA, Inc.	2,090,630
XTO Energy, Inc.	2,067,480

*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. Information on 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 2002-2011**

	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>
Sales Volume (bbl in millions)	69.3	68.4	67.0	63.1	60.5	60.1	60.0	62.3	62.9	67.0
Gross Sales Revenues (millions)	\$1,522	\$1,930	\$2,140	\$2,859	\$3,634	\$3,553	\$5,628	\$4,037	\$4,470	\$5,547
Gross Average Price per bbl	\$21.96	\$28.24	\$31.93	\$45.34	\$60.08	\$59.11	\$93.74	\$64.84	\$71.29	\$84.20
Net Taxable Value (millions)	\$1,383	\$1,754	\$1,945	\$2,595	\$3,290	\$3,189	\$5,049	\$3,618	\$4,007	\$4,958
Net Average Price per bbl	\$19.95	\$25.66	\$29.02	\$41.15	\$54.40	\$53.06	\$84.11	\$58.12	\$63.91	\$75.72

*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 October 2011 revenue forecast by the Consensus Group assumes that the incentives will not apply through Fiscal Year 2015.

### 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 to around 60 million barrels between 2006 and 2008, it has increased in recent years, reaching 67 million barrels in Fiscal Year 2011. The Consensus Group is forecasting an annual increase in production of 4.0 percent for Fiscal Year 2012. The Consensus Group is forecasting an annual decrease in production of 1.6 percent for Fiscal Year 2013, 1.5 percent for Fiscal Year 2014 and 1.0 percent for Fiscal Year 2015.

*Prices:* Over the past 10 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 \$93.74 in Fiscal Year 2008. The revenue forecast by the Consensus Group released in October 2011 assumes a price per barrel of \$84.20 in Fiscal Year 2011, \$82.00 in Fiscal Year 2012, \$84.00 in Fiscal Year 2013, \$84.50 in Fiscal Year 2014 and \$85.00 in Fiscal Year 2015.

*Revenues:* In Fiscal Year 2010, severance tax revenues from oil were \$150.0 million, net of the Intergovernmental Production Tax Credit. The five-year forecast by the Consensus Group, reflected in Table 19, projects revenues will increase steadily as the national economy improves. The forecasts are also net of the Intergovernmental Production Tax Credit.

**TABLE 19**  
**New Mexico Oil Volume, Price, and Severance Tax Projections**  
**Fiscal Years Ending June 30**

	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>
Oil sales (million barrels)	69.7	68.6	67.6	66.9	65.9
Average price (\$/barrel)	\$82.00	\$84.00	\$84.50	\$85.00	\$85.00
Severance Taxes on Oil (in thousands)	\$191,823	\$193,401	\$191,716	\$190,853	\$188,000

*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 the February 3, 2011, the State had the following estimated recoverable reserves for 2009: 2,776 million short tons of underground coal and 4,123 million short tons of surface coal for a total of 6,899 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: 6,101 million short tons of underground coal and 5,883 million short tons of surface coal for a total of 11,984 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 2010, 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 operated by Peabody Natural Resources, a subsidiary of Peabody Energy Corporation.

During Fiscal Year 2010, 65.5 percent of all coal produced in the State and supplied to electricity generating stations was supplied to power plants in New Mexico. The remaining 34.5 percent was transported by rail to electricity generators in Arizona.

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 8.1 million tons in Fiscal Year 2010, down 11.0 percent from Fiscal Year 2009.

Until 2007, Chevron operated two mines, McKinley North and South. The North Mine is on the Navajo Reservation. The South Mine is a checkerboard of Navajo allotment, federal, state, and private lands. Chevron closed its South Mine in 2007 and its North Mine in December 2009. 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 1.3 million tons in Fiscal Year 2010 compared to 3.1 million tons in Fiscal Year 2009. All of the coal produced in

Fiscal Year 2010 was sold to the Apache Station, Cholla Station, and the H. Wilson Sundt Generating Station in Arizona.

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 2.1 million tons in Fiscal Year 2010, up 2.7 percent from Fiscal Year 2009. The El Segundo Coal Company commenced operations in June 2008. In Fiscal Year 2010, El Segundo produced 5.7 million tons, up 10.6 percent from Fiscal Year 2009. 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 since fiscal year 2008 when it produced 5.4 million tons. In addition, 20 to 30 percent of Peabody's coal is sold to industrial customers, which are likely being affected by the ongoing recession. In Fiscal Year 2010, coal produced by Peabody's El Segundo Mine was sold to the Apache Station and Springerville Generating Station in Arizona, which is operated by Tucson Electric Power Company. In Fiscal Year 2010, Peabody's Lee Ranch Mine supplied the Apache Station and Cholla Station in Arizona and the Escalante Generating Station near Prewitt, New Mexico. At the time that the El Segundo Mine commenced operations, the Tucson Electric Power Company expected to take 3 million tons per year for 20 years for its Springerville Generating Station and Arizona Public Service Company and as much as 4 million tons of coal per year for 19 years for its Cholla Generating Station in eastern Arizona.

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 the Public Service Company of New Mexico and other utilities. The Public Service Company of New Mexico operates the plant. Output from the San Juan Coal Company was 6.0 million tons in Fiscal Year 2010, down 2.3 percent from Fiscal Year 2009. The San Juan Coal Company intentionally stockpiled coal in Fiscal Year 2008 to enable a more steady supply, so that at least a part of the decline in production was expected 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.

### **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.

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

Table 20 sets forth data on coal production, prices, revenue and average tax rates for the past five 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 has always been 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 2010**

	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>
<b>Production:</b>					
Total Sales Volume (tons)	26,566,669	25,591,892	22,801,290	25,482,801	23,213,759
Surface Mined Surtax Exempt	6,455,233	7,157,518	5,862,728	7,671,768	7,144,637
Surface Mined Non-Exempt	13,140,540	11,437,268	11,080,122	11,618,253	10,019,543
Underground Mined Surtax Exempt	6,970,895	6,997,106	5,858,440	6,192,780	6,049,579
<b>Prices:</b>					
Weighted Average Price per Ton for All Coal	\$25.03	\$26.49	\$29.18	\$31.09	\$28.97
<b>Sales Revenue:</b>					
Total Sales Revenue	\$665,065,500	\$677,872,102	\$665,449,922	\$792,304,607	\$672,551,118
<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	\$23,330,785
Intergovernmental Tax Credit (ITC)	\$5,886,169	\$5,478,600	\$4,534,144	\$3,810,231	\$2,257,604
Net Severance Tax and Severance Surtax Liability (Net of ITC)	\$18,184,388	\$17,318,039	\$17,209,520	\$20,234,260	\$21,073,181
<b>Effective Taxes (Net of ITC):</b>					
Effective Tax Rate	2.73%	2.55%	2.59%	2.55%	3.13%
Effective Tax per Ton for all Coal (Net of ITC)	\$0.68	\$0.68	\$0.75	\$0.79	\$0.91

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 123.4 bcf in Fiscal Year 2010, an increase of 17.1 percent from 105.1 bcf during Fiscal Year 2009. Production is expected to increase to 130.0 bcf in Fiscal Year 2011 and increase by 5.0 bcf each fiscal year from Fiscal Year 2012 through Fiscal Year 2015. The weighted average wellhead price of CO<sub>2</sub> sales for Fiscal Year 2010 was \$1.04 per mcf reported at the production facility, and is expected to increase to \$1.10 during Fiscal Year 2011, increase by \$0.05 per mcf in each Fiscal Year between 2012 and 2014 and stabilize at \$1.25 in Fiscal Year 2015. Severance Taxes on CO<sub>2</sub> are levied at the rate of 3.75 percent of taxable sales value. Deductions have ranged from 27.4 percent in Fiscal Year 2007 to 46.7 percent in Fiscal Year 2004. Weighted average deductions were 28.0 percent in Fiscal Year 2010. For the October 2011 forecast, a deductions rate of 28.0 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**

<u>Mineral Resources</u>	<u>Tax Rate</u>	<u>Taxable Value as Percent of Full Value</u>
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 \$1.9 million in Fiscal Year 2010, down from \$2.0 million in Fiscal Year 2009. Severance tax revenue from copper, which is limited because of the statutorily defined narrow tax base, was \$297,156 in Fiscal Year 2010, down from \$334,523 in Fiscal Year 2009 after peaking at \$760,288 in Fiscal Year 2008. Weighted average copper prices were \$3.04 per pound in Fiscal Year 2010.

**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 2010 and reflect an average sales price of \$71.29 per barrel for oil and \$5.18 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 and tax credits. 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 and tax credits.

**TABLE 22**  
**Tax Rates on Oil and Natural Gas**  
**Fiscal Year 2011**

	<u>Volume</u>	<u>FY 11 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	65,471,446	\$84.72						
Natural Gas	1,237,789,134	\$5.50						
Type of Tax:								
Oil and Gas			3.15%	\$2.67	\$2.39	4.00%	\$0.22	\$0.17
Emergency School Tax								
Oil and Gas Severance Tax			3.75%	\$3.18	\$2.84	3.75%	\$0.21	\$0.16
Oil and Gas Conservation Tax			0.19%	\$0.16	\$0.14	0.19%	\$0.01	\$0.01
Subtotal - excludes ad valorem taxes			7.09%	\$6.01	\$5.38	7.94%	\$0.44	\$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 Legislature and signed into law by Governor Richardson increased 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 all quarters in Fiscal Year 2010 exceeded \$70.00. 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 \$34.3 million in Fiscal Year 2010, when total coal production was approximately 23.2 million tons. Thus, the average effective tax per ton was approximately \$1.48. With total sales revenue of over \$672.6 million, the average effective tax was 5.10 percent of total sales revenue. This does not include the gross receipts tax. The average burden of production, property, and gross receipts taxes on a ton of coal produced and sold during Fiscal Year 2010 is shown in Table 23:

**TABLE 23**

**Tax Burden on Coal**

<u>Type of Tax</u>	<u>Tax per Ton</u>	<u>Effective Tax Rate</u>	<u>Taxes Collected</u>
Severance Tax and Surtax (Net of ITC)	\$0.91	3.13%	\$21,073,181
Resource Excise Tax	\$0.20	0.70%	\$4,744,111
Conservation Tax	<u>\$0.05</u>	<u>0.18%</u>	<u>\$1,201,841</u>
<b>Total Production Taxes</b>	<u>\$1.16</u>	<u>4.01%</u>	<u>\$27,019,134</u>
Property Tax	\$0.31	1.09%	\$7,299,951
Gross Receipts Tax	<u>\$1.73</u>	<u>5.99%</u>	<u>\$40,255,048</u>
<b>Total Production and Non-Production Taxes</b>	<u>\$3.21</u>	<u>11.08%</u>	<u>\$74,574,133</u>
Price per Ton			\$28.97
Total Production (Short Tons)			23,213,759
Total Value			\$672,551,118

<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 2010. 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 2009 and due in Fiscal Year 2010.

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 2010, 65.5 percent of all coal produced in the State and supplied to electricity generating stations was supplied to power plants in New Mexico. The remaining 34.5 percent was transported by rail to electricity generators in Arizona. 94.8 percent of all coal produced in New Mexico is subject to the gross receipts tax. The combined state and local tax rate is 6.315 percent of taxable gross receipts.

### **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 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 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 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 escrow 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 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 Bonds, due or to become due, shall otherwise be paid to the owners of the outstanding 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.

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 Standard & Poor's Financial Services LLC business 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 Resolution 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 Bonds for any of the following purposes: (a) before or after issuance of the Series 2011A-1 Bonds to add to, subtract from, or amend or clarify the list of Projects; (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 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 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 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 (15th) 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 of and interest on the Bonds is 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 is not a specific preference item or included in adjusted current earnings 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. For example, the American Jobs Act of 2011 proposed by President Obama on September 12, 2011 contains a provision that would, if enacted in its present form, result in additional federal income tax for the years beginning after 2012 on taxpayers that own tax-exempt bonds, including the Bonds, if they have incomes above certain thresholds. Although a bill including this proposal recently failed to advance in the Senate on a procedural vote, it cannot be predicted whether this proposal, or other proposals, will be enacted in the future. 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.

## **VERIFICATION OF MATHEMATICAL CALCULATIONS**

Prior to the delivery of the Series 2011A-2 Bonds, Causey, Demgen & Moore, Inc., Denver, Colorado, will deliver a report on the mathematical accuracy of certain computations contained in schedules relating to the adequacy of the maturing principal amounts of the securities held by the Escrow Agent and interest to be earned thereon to pay all the principal of and interest on the Refunded Bonds when due.

Based on the mathematical computations of the accountants, the Series 2011A-2 Bonds Escrow Account will be funded in an amount sufficient such that the Refunded Bonds to be refunded with proceeds of the Series 2011A-2 Bonds will be deemed to have been paid and will no longer be outstanding as of the date of the establishment of the Series 2011A-2 Escrow Account.

## **RATINGS**

The Bonds have received ratings from Moody's Investors Service, Inc. and Standard & Poor's Ratings Services, a Standard & Poor's Financial Services LLC business, 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, 2012, 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"). 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.

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## 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/ Susana Martinez  
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 2,059,179. 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. Elections for all statewide offices were held on November 2, 2010.

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 (the "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 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 State Board of Finance is a division of the DFA. The Director of the Board is appointed by the Secretary with the approval of the Board.

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, 2011 and 2012**

Recurring general fund revenues were \$4.80 billion in Fiscal Year 2010. The price of oil realized in New Mexico averaged \$71.29 per barrel and the price of natural gas averaged \$5.20 per mcf for Fiscal Year 2010.

General and selective sales taxes declined by 10.8 percent from Fiscal Year 2009 to Fiscal Year 2010, while personal income taxes decreased by 0.2 percent. Corporate income taxes fell by 23.0 percent in Fiscal Year 2010. Mineral production taxes declined by 11.2 percent from Fiscal Year 2009, while rents and royalties declined by 22.2 percent, although oil and natural gas prices recovered substantially in Fiscal Year 2010.

Fiscal Year 2010 also included \$479.9 million of non-recurring revenues. In addition, as the result of solvency measures, including actions taken in the 2009 1st special, 2010 regular and 2010 2nd special sessions of the Legislature and expenditure reductions mandated of executive branch agencies by Executive Order 2009-044, \$172.6 million was transferred to the Appropriation Account from the Tax Stabilization Reserve Fund. 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 federal American Recovery and Reinvestment Act of 2009 (“ARRA”) funds. In addition to this nonrecurring general fund revenue, New Mexico received 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. New Mexico received additional federal funding in August 2010 that provided a one-time payment of \$65 million for education and \$126 million for Medicaid to avoid states’ revenue shortfalls across the nation.

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, contained \$5.36 billion of recurring appropriations, a decrease of 11.2 percent over the Fiscal Year 2009 adjusted budget. 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 shifting funding sources or cancelling \$271.1 million in capital outlay projects. General fund reserves were \$278.1 million at the end of Fiscal Year 2010, 5.2 percent of current-year recurring appropriations.

Based upon preliminary results for Fiscal Year 2011, recurring general fund revenues are projected to have risen 12.3 percent to approximately \$5.4 billion on a year-over-year basis. The price of oil is expected to have averaged \$84.20 per barrel and the price of natural gas is expected to have averaged \$5.50 per mcf in Fiscal Year 2011. General and selective sales taxes are projected to have increased by 11.6 and 18.3 percent, respectively, reflecting an increase in the statewide gross receipts tax and the compensating tax from 5 to 5.125 percent that took effect on July 1, 2010, closure of a compensating tax loophole relating to the applicability of compensating tax to sellers with no nexus to the state, and an increase in the cigarette tax rate of \$0.75 per package of cigarettes. Income taxes are projected to have increased by 19.8 percent, including the impact of eliminating a deduction for state and local taxes paid. Mineral production taxes in Fiscal Year 2011 are projected to have increased by 9.2 percent from Fiscal Year 2010 and rents and royalties are expected to have increased by 12.9 percent. General fund balances are expected to close at \$470.1 million at the end of Fiscal Year 2011, 9.0 percent

of current-year recurring appropriations. The Legislature mandated the Governor to proportionately reduce allotments to all general funded entities, excluding most Medicaid programs. As a result of the July 2010 revenue estimate, one allotment reduction in the amount of 3.2 percent was implemented for most programs on September 1, 2010. Additionally, the Governor requested state agencies reduce expenditures which resulted in an increase in general and other fund reversions and build reserve balances.

Based on the CREG projections for Fiscal Year 2012 made in October 2011, recurring general fund revenues are projected to increase by approximately 2.3 percent or \$124.0 million over Fiscal Year 2011. The Fiscal Year 2012 budget contains approximately \$5.4 billion of recurring appropriations. Among the measures taken to balance the budget were decreasing the fire protection fund distribution by \$1.3 million, reducing the film tax credit by \$23.3 million, shifting an additional 1.75 percent of annual State pension contributions from employer to employees to save \$49.7 million, improving the system for payment of unemployment insurance by State agencies resulting in cost savings of \$3 million, and implementing government efficiencies to save \$2.5 million. General fund reserves are projected to be \$564.0 million at fiscal year end, approximately 10.4 percent of current-year recurring appropriations for Fiscal Year 2012. The Governor has expressed goals of maintaining reserves of 10 percent in future fiscal years, and providing for five-year expenditure forecasts to accompany consensus revenue forecasts.

## **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. 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. 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 that began in 2008. As of June 30, 2011, the funds had recovered a significant portion of the losses incurred during that period.

Recent legislative changes enacted during the 2009, 2010 and 2011 regular legislative sessions amended various provisions of the Educational Retirement Act, the Public Employees Retirement Act, and the New Mexico Retiree Health Care Act to improve the long-term stability of these funds.

House Bill 573 (Chapter 288, Laws 2009) increased the years of service requirement from 25 years to 30 years for new members who joined the Educational Retirement Board (the "ERB") and the Public Employees Retirement Association ("PERA") on or after July 1, 2010. Existing ERB and PERA members remain under the 25-year service requirement. In addition, House Bill 573 increased payroll contributions by employers and employees to the New Mexico Retiree Health Care Fund (the "NMRHCF"). House Bill 573 also included training requirements for members of the ERB and PERA boards and established 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.

House Bill 631 (Chapter 286, Laws 2009) added 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) increased the employer/employee contribution to the NMRHCF from 1.95 percent to 3 percent for most employers and employees. The contribution increase

was slightly higher for employees in an enhanced retirement plan. The increase is being 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.

House Bill 854 (Chapter 124, Laws 2009) modified 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.

House Bill 628 (Chapter 178 Laws 2011), which passed the Legislature during the regular 2011 legislative session, extended the 1.5 percent shift made in House Bill 854 for two or more fiscal years and shifts an additional 1.75 percent of the annual contribution rate from employers to employees for Fiscal Year 2012 and Fiscal Year 2013. The employer and employee contribution rates in effect for the plans administered by PERA and for the ERB in Fiscal Year 2012 may continue in Fiscal Year 2013 if the Secretary of the DFA certifies to the Legislative Finance Committee, the ERB and PERA that: (a) general fund revenues in Fiscal Year 2012 will not be at least \$100 million more than forecast to be in the Fiscal Year 2012 budget; and, (b) total state reserve funds at the end of Fiscal Year 2012 will be less than 5% of general fund appropriations in Fiscal Year 2012. House Bill 628 also required an actuarial study by PERA and ERB prior to September 20, 2013 to analyze whether contribution rate changes have had an adverse actuarial effect on the retirement systems.

The 2011 legislature also passed House Bill 129, which requires retired members who return to work with an educational employer pursuant to Paragraphs A, B or F of Section 22-11-25.1 to pay non-refundable contributions to the Educational Retirement Fund equal to the amount paid by non-retired employees. Formerly, the employers had paid those contributions. Employers would continue to pay the employers' contributions to the Fund for retired members who return to work under the statute.

*Educational Retirement Board.* The Educational Retirement Board ("ERB") had 130,147 members as of June 30, 2011, including active, retired, inactive vested and inactive non-vested members. The market value of Educational Retirement Fund (the "Fund") as of June 30, 2011 was \$9.5 billion, which was up from a low of \$5.97 billion in February 2009. The ERB had investment gains for the fiscal year ended June 30, 2011 of 19.9 percent.

In April 2011, the ERB voted to change its assumed rate of return on the pension fund's investments from 8.0 percent to 7.75 percent. This change will affect the actuarial valuation study of the Educational Retirement Fund that the ERB's actuaries, Gabriel Roeder, Smith & Co., are preparing for the fiscal year ended June 30, 2011. The following information is based on the June 30, 2010 actuarial valuation study that Gabriel Roeder, Smith & Co. completed using the 8 percent assumed rate of return, updated with preliminary estimates that the actuaries provided based on the 7.75 percent assumed rate of return. As of June 30, 2010 the actuarial value of assets was \$9.43 billion and the unfunded accrued actuarial liability ("UAAL") was \$4.92 billion. Based on the 7.75 percent assumed rate of return, the estimated UAAL as of June 30, 2011 is \$5.9 billion. This is approximately \$473 million higher than it would have been using an 8 percent assumed rate of return. The funded ratio (ratio of the actuarial value of assets to actuarial accrued liability) decreased from 67.5 percent at June 30, 2009 to 65.7 percent at June 30, 2010. Based on the 7.75 percent assumed rate of return, the estimated funding ratio as of June 30, 2011 is 61.6 percent. If the funded ratio were calculated using the market value of assets rather than the actuarial value, it would have been 57.4 percent as of June 30, 2010. That was an increase from 51.2 percent as of June 30, 2009. The funded ratio calculation based on the market value of assets as of June 30, 2011 will be available when the valuation study is completed.

As of June 30, 2010, the UAAL had an amortization period of 62.5 years, compared to a period of 45 years as of the 2009 actuarial valuation; both of these estimates were based on an 8 percent assumed rate of return. Based on the 7.75 percent assumed rate of return on investments, the estimated period to amortize the UAAL is infinite. 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. 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.

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 7 years beginning July 1, 2005, and to increase member contribution rates by 7.5 basis points (0.075 percent) for each of the 4 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, resulting in a member contribution rate of 9.4 percent. In the 2011 regular legislative session, the Legislature again modified employer and member contribution rates for Fiscal Year 2012 to extend the 1.5 percent shift and add an additional 1.75 percent shift; for members whose salary exceeds \$20,000, the Fiscal Year 2012 contribution rate is 11.15 percent. In Fiscal Year 2013, the contribution rate for those members will be 9.4 percent, provided that the Secretary of DFA does not issue the certification described above. For those members whose annual salary is \$20,000 or less, the contribution rate remains at 7.9 percent.

In both the 2010 and the 2011 regular legislative sessions, the Legislature also modified employer contribution rates. In Fiscal Years 2010 and 2011, the employer contribution rate for members whose salary is greater than \$20,000 was 10.9 percent. The employer contribution rate for those members is 9.15 percent in Fiscal Year 2012. The employer contribution rate will return to 10.9 percent in Fiscal Year 2013, provided that the Secretary of DFA does not issue the certification described above. The contribution rate for members whose salary is \$20,000 or less is 12.4 percent in Fiscal Years 2010, 2011, 2012, and 2013. In Fiscal Year 2014, the employer contribution rate for all members employed, regardless of salary, will increase to 13.15 percent. Beginning in Fiscal Year 2015, the employer contribution rate will be 13.9 percent for all members employed. 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.

ERB pensions are adjusted annually beginning on the later of either July 1 of the year in which a member reaches age 65 or July 1 following the year a member retires. The adjustment is  $\frac{1}{2}$  of the CPI percentage increase, except that it will not exceed 4 percent or be less than 2 percent in absolute value. If the absolute value of the CPI percentage increase is less than 2 percent, the adjustment is the same as the CPI percentage increase. Pensions cannot be decreased if there is a decrease in the CPI.

As of June 30, 2010, ERB had an amortization or funding period of 62.5 years, based on the employer and member contribution rates in effect as of July 1, 2010 and an assumed 8 percent rate of return on investments. The employer contribution required in order to amortize the UAAL over 30 years was 13.39 percent. Under current law, the employer rate will increase to 13.15 percent on July 1, 2013 and 13.9 percent on July 1, 2014. As GASB Statement 25 does not permit the consideration of contribution rates not yet in effect, the funding period must be reported on the contribution rates actually in effect. If the ERB's assumed investment return is 7.75 percent per year in the future and if the employer contribution rate increases as scheduled under current law, the amortization period for the UAAL is estimated to be infinite.

*The Public Employees Retirement Association.* The Public Employees Retirement Association (“PERA”) had 85,746 members as of June 30, 2011. Cavanaugh Macdonald Consulting, LLC 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, 2011. In July, 2011, the Public Employees Retirement Board accepted the actuary’s revised assumptions that the assets, benefit values, reserves and computed contribution rates reflect utilization of an inflation rate of 3.5 percent per annum, a real rate of return on investment of 7.75 percent and salary increases for longevity and merit at 4.0 percent, each compounded annually. The actuary reviewed other risk assumption changes including mortality, active member withdrawals, disability and retirement rates to allow for expected future experience.

As of June 30, 2011, the total market value of PERA Fund was \$12.1 billion. The June 30, 2011 quarterly PERA total fund investment return was 0.80 percent and the 12 month total fund investment return as of that date was 22.50 percent.

As of June 30, 2011, PERA has an amortization or funding period designated as infinite, based on the employer and member contribution rates in effect as of July 1, 2011. 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 70.5% percent as of June 30, 2011 and the unfunded accrued actuarial liability (UAAL) of the PERA Fund has been calculated to be approximately \$\$4.97 billion. On a market value basis, PERA’s funded ratio is approximately 70 percent as of June 30, 2011. The PERA Board has reviewed the results of its June 30, 2011 actuarial valuation, which indicates that either additional contributions or benefit reductions will be required in order to properly fund the PERA retirement plans. Because decreased funding criteria within PERA’s Funding Policy was triggered, legislation to increase contribution rates totaling 8 percent over 4 years for State General, Judicial, Magistrate, Municipal Police and Municipal Fire retirement plans was submitted to the Legislature during the 2011 legislative session. Although this proposed legislation was not adopted, the Legislature is expected to be presented with proposals to address PERA solvency issues in future legislative sessions.

Actuarial information for each fund as of June 30, 2011 is shown in Table 15.

**TABLE A-1**

**Summary of State Retirement Funds Managed by PERA  
(Dollars in thousands)**

	<u>PERA<sup>(1)</sup></u>	<u>Judicial</u>	<u>Magistrate</u>	<u>VFF</u>	<u>Legislative</u>
Membership	85,746	253	139	7,259	294
<u>Actuarial Information</u>					
Accrued Liability <sup>(2)</sup>	\$ 16,826,932	\$ 139,710	\$ 55,429	\$ 27,109	\$ 26,347
Actuarial Value of Assets <sup>(3)</sup>	\$ 11,855,217	\$ 78,199	\$ 33,121	\$ 47,005	\$ 23,508
Unfunded (Overfunded) Accrued Liability	\$ 4,971,175	\$ 61,511	\$ 22,308	\$(19,896)	\$ 2,839
Present Value of Statutory Obligations	\$ 20,249,290	\$ 166,802	\$ 62,061	\$ 31,055	\$ 29,221

<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.*

Effective July 1, 1992, the Public Employees Retirement Act was amended to provide a fixed annual cost of living adjustment (“COLA”) of 3 percent regardless of inflation or age, beginning two full

calendar years after retirement and compounding annually. The COLA is taken into account in the statutory contribution rates of PERA plans. The actuary includes the COLA as part of the normal cost calculation which is the portion of the total contribution rate that pays for the ongoing service credit as opposed to the UAAL. In 1998, the voters amended the State Constitution, adopting Section 22 of Article XX 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.

In September 2010, the Retirement System Solvency Task Force (the “Task Force”) received a recent study by Chicago economists that placed New Mexico among 31 states predicted to run out of state pension fund money within the next 16 years. The Task Force also heard from Colorado-based consultants who predicted a decrease in funded ratios, but whose report was not as pessimistic as the report from the Chicago economists.

*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 50,000 enrolled participants as of October 2011 and approximately 300 participating public entities.

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”). 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 1.666 percent and 0.833 percent of the participating employee’s salary for Fiscal Year 2011. By July 1, 2012, additional phased in increases will bring the employer contribution to 2 percent and the employee contribution to 1 percent.

As recently as 4 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 increases in employer/employee contribution rates have extended the NMRHCA’s solvency to approximately 2027.

Based on the GASB Statement 43 valuation for Fiscal Year 2010, and assuming that the NMRHCA Fund is an equivalent arrangement to an irrevocable trust and, hence using a discount rate of 5 percent, the UAAL has been calculated to be approximately \$3.3 billion. As required by GASB Statement 43, this calculation takes into consideration only current assets of the NMRHCA Fund. The NMRHCA continues to look for additional opportunities to further strengthen the financial standing of the NMRHCA including increasing years of service requirements, further plan modifications and increases from all revenue sources. The NMRHCA is developing a five- year solvency plan to ensure the long term financial stability of the program.

The NMRHCA suffered investment losses in Fiscal Years 2008 and 2009; the NMRHCA's fund as of October 2011 stood at \$190 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, thereby creating a permanent endowment fund. 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, 2011 was approximately \$3.9 billion, an increase of approximately 22.6 percent from the prior Fiscal Year. Performance for the one year period ended June 30, 2011 was 2.3 percent below the Fund benchmark, and underperformance for the quarter ended June 30, 2011 was 0.6 percent below the fund policy index. Funds on deposit in the STPF are 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 federal 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, which received 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 13.4 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, 2011, the market value of the LGPF was approximately \$10.69 billion, an increase of approximately 22.4 percent over the prior fiscal year. Performance for the year ended June 30, 2011 trailed its benchmark by 2.6 percent, while investment returns for the quarter were 0.8 percent below the LGPF's policy index. The corpus of the LGPF is constitutionally protected from appropriation and LGPF assets 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 calculated on a total return basis rather than assuming an income distribution method. In addition, distributions to beneficiaries are now based on a formula under which a statutorily specified percentage 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 the previous 4.7 percent to a new base distribution of 5 percent of the LGPF's five-year average market value 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. Mr. Meyer has not yet been sentenced. To date, no criminal charges have been filed by state or federal investigators in New Mexico, but their work is believed to be ongoing. In line with new statutory authority, in May 2011, the SIC in conjunction with the Day Pitney Law Firm and New Mexico Attorney General, filed the first of what is expected to be several recovery lawsuits against more than a dozen placement agents, former Investment Officer Bland, and other individuals, alleging that these individuals improperly benefited from pay-to-play and kickback schemes involving SIC investments.

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 in 2008 and 2009, 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 regarding the use of and payment 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. As of October 2011, the SIC has implemented or is in the process of implementing more than 50 of the 82 reform recommendations made by Ennis Knupp.

## **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 reconciliation 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 concluded in December 2010. The material weakness related to timeliness of book to bank reconciliation was reduced to a significant deficiency in the State Treasurer's Fiscal Year 2010 annual financial statements, and is anticipated to be resolved completely by the time Fiscal Year 2011 annual financial statements are released.

*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 Sections 6-10-10(I) through 6-10-10(O) 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 State Treasurer is the investing authority for the State's general fund, the Local Government Investment Pool, Bond Proceeds Investment Pools, and bond debt service funds.

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 \$0.994 per share to shareholders. The remaining positions in the RPF, \$4.33 million of the general fund and \$3.01 million of the State Bond Proceeds Investment Pool, are non-performing assets. 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; however, any additional recovery of funds is expected to be quite small. No actual losses have been realized to date. 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; the State Treasurer's Chief Investment Officer (with the State Cash Manager as an alternate), who serves as Investment Committee Chair; 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.

In addition to Investment Committee oversight and recommendations, the State Treasurer contracts with an independent investment advisor to provide guidance and advice on investments, market conditions and benchmarks. The investment advisor provides quarterly performance reports on all of the State Treasurer's portfolios and information relating to the economic outlook and market trends.

## 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 2010 United States Census was 2,059,179. From 2000 to 2010, the State's population grew 13.2 percent, while the national population grew 9.7 percent.

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  
2001-2010**

<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>
2001	1,828,437	285,049,647	0.4%	1.0%
2002	1,849,187	287,745,630	1.1%	0.9%
2003	1,868,121	290,242,027	1.0%	0.9%
2004	1,890,215	292,936,109	1.2%	0.9%
2005	1,914,699	295,618,454	1.3%	0.9%
2006	1,940,631	298,431,771	1.4%	1.0%
2007	1,966,357	301,393,632	1.3%	1.0%
2008	1,984,179	304,177,401	0.9%	0.9%
2009	2,007,315	306,656,290	1.2%	0.8%
2010	2,033,875	309,050,816	1.3%	0.8%

*Source: U.S. Census Bureau, Population Division. Last Revised: February 2011*

Major industries in the State include oil and natural gas production, manufacturing, service, 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 2001 through 2010.

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**TABLE A-3**

**Total New Mexico Full-time and Part-time Employment by North American Industry Classification System 2001-2010**

	<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>	<u>2010</u>	<u>Growth</u> <u>2009-</u> <u>2010</u>	<u>Growth</u> <u>2001-</u> <u>2010</u>
<b>Total employment</b>	968,929	979,946	999,286	1,023,303	1,046,746	1,076,098	1,100,589	1,103,123	1,070,984	1,064,422	-0.6%	9.8%
Wage and salary employment	791,927	800,588	812,914	829,861	845,127	868,119	878,205	881,348	848,392	839,600	-1.0%	6.0%
Proprietors employment	177,002	179,358	186,372	193,442	201,619	207,979	222,384	221,775	222,592	224,842	1.0%	27.0%
Farm proprietors employment	17,825	14,530	16,045	15,632	15,588	15,255	18,193	17,745	17,581	18,003	2.4%	1.0%
Nonfarm proprietors employment	159,177	164,828	170,327	177,810	186,031	192,724	204,191	204,030	205,011	206,839	0.9%	30.0%
Farm employment	24,355	20,845	22,838	22,619	23,262	22,829	25,804	24,416	24,549	24,649	0.4%	1.2%
Nonfarm employment	944,574	959,101	976,448	1,000,684	1,023,484	1,053,269	1,074,785	1,078,707	1,046,435	1,039,793	-0.6%	10.2%
Private employment	739,416	750,194	762,831	783,120	804,832	838,993	864,918	865,478	830,307	822,486	-0.9%	11.2%
Forestry, fishing, related activities and other <sup>(1)</sup>	5,163	5,096	4,979	5,181	5,239	5,136	5,164	5,332	5,131	5,326	3.8%	3.2%
Mining <sup>(2)</sup>	19,612	17,957	18,576	19,245	21,171	23,726	25,165	28,359	24,470	25,954	6.0%	32.3%
Utilities	4,249	4,078	4,114	4,040	4,075	4,121	4,418	4,570	4,805	4,560	-5.1%	7.3%
Construction <sup>(3)</sup>	63,293	61,864	64,135	68,382	73,978	79,826	80,568	77,969	67,210	62,437	-7.1%	-1.4%
Manufacturing	45,621	43,908	41,544	40,542	41,106	42,710	42,753	40,600	36,358	37,192	2.3%	-18.4%
Durable goods manufacturing <sup>(4)</sup>	32,327	30,838	28,715	27,857	28,451	29,821	29,719	27,979	24,358	23,873	-2.0%	-26.1%
Nondurable goods manufacturing <sup>(5)</sup>	13,294	13,070	12,829	12,685	12,655	12,889	13,034	12,621	12,000	11,831	-9.0%	-11.0%
Wholesale trade	27,801	27,232	26,633	27,285	28,377	29,288	29,951	28,705	26,657	26,805	0.6%	-3.6%
Retail trade <sup>(6)</sup>	110,010	111,167	112,445	114,169	116,097	116,750	118,998	118,176	114,066	111,834	-2.0%	1.7%
Transportation and warehousing <sup>(7)</sup>	23,977	24,229	24,158	24,961	25,321	25,953	27,312	26,672	24,317	24,710	1.6%	3.1%
Information <sup>(8)</sup>	19,438	18,578	17,927	17,163	17,299	18,445	18,648	18,749	17,313	16,876	-2.5%	-13.1%
Finance and insurance <sup>(9)</sup>	30,848	31,251	31,544	31,769	32,039	32,172	33,357	34,809	36,160	36,646	1.3%	18.8%
Real estate and rental and leasing <sup>(10)</sup>	29,363	30,229	31,922	34,715	38,209	40,313	42,406	41,858	40,019	39,700	-0.8%	35.2%
Professional and technical services	59,391	59,834	62,534	65,461	66,337	73,827	81,546	81,578	80,716	79,140	-2.0%	33.3%
Management of companies and enterprises	6,049	6,129	5,440	5,354	6,354	6,425	6,076	5,912	5,571	5,510	-1.1%	-8.9%
Administrative and waste services <sup>(11)</sup>	53,226	54,229	53,292	54,598	55,224	58,489	60,429	60,315	55,858	55,522	-0.6%	4.3%
Educational services	11,853	12,765	13,932	14,888	15,384	15,919	15,767	15,986	16,152	16,756	3.7%	41.4%
Health care and social assistance <sup>(12)</sup>	87,694	94,469	99,899	103,691	105,151	108,016	111,935	114,850	118,184	120,085	1.6%	36.9%
Arts, entertainment and recreation <sup>(13)</sup>	18,646	19,994	20,376	20,987	21,463	21,795	22,952	23,311	23,251	23,405	0.7%	25.6%
Accommodation and food services <sup>(14)</sup>	76,263	77,972	79,682	80,465	81,343	84,403	85,141	84,022	81,722	81,627	-0.1%	7.1%
Other services, except public administration <sup>(15)</sup>	46,919	49,213	49,699	50,224	50,665	51,679	53,332	53,705	52,347	50,889	-2.8%	8.52%
Government and government enterprises <sup>(16)</sup>	205,158	208,907	213,617	217,564	218,652	214,276	209,867	213,229	216,128	217,307	0.5%	5.9%

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

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

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

<sup>(4)</sup> 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.

<sup>(5)</sup> 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; and
- (16) The “Government and government enterprises” category includes: federal, civilian; military; state and local; and state government and local government.

Source: *Regional Economic Information System, Bureau of Economic Analysis, September 22, 2011.*

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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  
2001-2010**

<u>Year</u>	<u>Civilian Labor Force</u>		<u>Number of Employed</u>		<u>Unemployment Rate</u>		<u>N.M. as % of U.S. Rate<sup>(1)</sup></u>
	<u>New Mexico<sup>(1)</sup></u>	<u>United States<sup>(1)</sup></u>	<u>New Mexico<sup>(1)</sup></u>	<u>United States<sup>(1)</sup></u>	<u>New Mexico<sup>(1)</sup></u>	<u>United States<sup>(1)</sup></u>	
2001	864	143,734	821	136,933	4.9%	4.7%	104%
2002	872	145,066	823	136,426	5.5%	6.0%	92%
2003	888	146,729	836	138,441	5.9%	5.7%	104%
2004	902	148,059	850	140,125	5.8%	5.4%	107%
2005	913	150,030	866	142,752	5.2%	4.9%	106%
2006	925	152,732	887	145,970	4.1%	4.4%	93%
2007	934	153,936	902	146,272	3.4%	5.0%	68%
2008	952	154,669	910	143,324	4.5%	7.3%	62%
2009	942	153,172	876	137,960	7.0%	9.9%	71%
2010	956	153,690	874	139,206	8.6%	9.4%	91%

<sup>(1)</sup> Figures rounded to nearest thousand.

Source: United States Department of Labor; Bureau of Labor Statistics; Last Revised: February, 2011.

**TABLE A-5**

**Personal Income  
New Mexico and the United States  
2001-2010**

<u>Year</u>	<u>Personal Income (Dollars in thousands)</u>		<u>Annual Percentage Change</u>	
	<u>New Mexico</u>	<u>United States</u>	<u>New Mexico</u>	<u>United States</u>
2001	45,335,681	8,878,830,000	9.4%	3.8%
2002	46,340,515	9,054,702,000	2.2%	2.0%
2003	48,139,404	9,369,072,000	3.9%	3.5%
2004	51,578,691	9,928,790,000	7.1%	6.0%
2005	55,341,826	10,476,669,000	7.3%	5.5%
2006	59,274,367	11,256,516,000	7.1%	7.4%
2007	63,043,607	11,899,853,000	6.4%	5.7%
2008	66,724,334	12,379,745,000	5.8%	4.0%
2009	66,744,715	12,165,474,000	0.0%	-1.7%
2010	69,675,815	12,357,113,000	0.4%	0.0%

Source: U.S. Department of Commerce, Bureau of Business & Economic Research, Last Revised: August 9, 2011.

**TABLE A-6****Per Capita Personal Income  
New Mexico and the United States  
2001-2010**

<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>
2001	24,751	31,157	80%	8.8%	2.8%
2002	24,977	31,481	80%	0.9%	1.0%
2003	25,639	32,295	80%	2.7%	2.6%
2004	27,092	33,909	80%	5.7%	5.0%
2005	28,641	35,452	82%	5.7%	4.6%
2006	30,209	37,725	81%	5.5%	6.4%
2007	31,675	39,506	81%	4.9%	4.7%
2008	33,505	40,947	83%	5.8%	3.6%
2009	32,394	38,846	84%	-3.3%	-5.1%
2010	33,368	39,945	84%	3.0%	2.8%

Source: U.S. Department of Commerce, Bureau of Business & Economic Research, Last Revised: September 22, 2011.

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**TABLE A-7**  
**2000-2010**  
**Wages and Salaries by Industry Sector**

NAICS Earnings by Place of Work <sup>(1)</sup> Applicable to 2000-2010	New Mexico (Dollars in Thousands)		United States (Dollars in Millions)		Average Annual Percent Change 2000 - 2010		Distribution of 2010 Wages & Salaries	
	2010	2000	2010	2000	N.M.	U.S.	N.M.	U.S.
Farm Wage and Salary	\$259,852	\$175,927	\$23,958	\$16,974	47.7%	41.1%	0.8%	0.4%
Non-farm Wage and Salary	33,484,889	21,768,869	6,376,376	4,806,753	53.8%	32.7%	99.2%	99.6%
Private Wage and Salary	24,014,545	15,499,869	5,202,622	4,036,501	55.0%	28.9%	71.2%	81.3%
Forestry, Fishing, related activities, and other	61,309	48,710	13,095	9,881	25.9%	32.5%	0.2%	0.2%
Mining	1,387,603	655,321	58,698	29,596	74.4%	98.3%	4.1%	0.9%
Utilities	319,804	216,386	48,962	38,553	47.8%	27.0%	0.9%	0.8%
Construction	1,901,821	1,329,587	289,253	256,653	43.0%	12.7%	5.6%	4.5%
Manufacturing	1,557,409	1,608,961	674,177	744,469	6.8%	5.6%	4.6%	10.5%
Wholesale Trade	1,107,646	810,747	356,373	282,226	36.6%	26.3%	3.3%	5.6%
Retail Trade	2,378,805	1,859,564	402,405	345,355	27.9%	16.5%	7.0%	6.3%
Transportation and Warehousing	813,820	672,520	198,222	164,529	21.0%	20.5%	2.4%	3.1%
Information	620,037	528,684	205,165	213,363	17.3%	6.2%	1.8%	3.2%
Finance and Insurance	1,171,675	789,215	487,074	348,707	48.5%	39.7%	3.5%	7.6%
Real Estate and Rental and Leasing	344,010	241,608	89,609	67,824	42.4%	32.1%	1.0%	1.4%
Professional, Scientific, and Technical Services	3,844,579	1,875,284	593,609	404,183	50.1%	46.9%	11.4%	9.3%
Management of Companies and Enterprises	309,509	227,540	185,820	120,606	36.0%	54.1%	0.9%	2.9%
Administrative and Waste Services	1,380,887	883,242	257,471	189,320	56.3%	36.0%	4.1%	4.0%
Educational Services	323,596	185,864	118,483	62,931	74.1%	88.3%	1.0%	1.9%
Health Care and Social Assistance	3,990,102	1,955,118	730,408	413,244	40.8%	76.7%	11.8%	11.4%
Arts, Entertainment, and Recreation	194,489	136,637	71,072	47,977	42.3%	48.1%	0.6%	1.1%
Accommodations and Food Services	1,323,915	858,820	219,094	151,741	54.2%	44.4%	3.9%	3.4%
Other Services, Except Public Administration	983,529	633,074	203,632	145,543	55.4%	39.9%	2.9%	3.2%
Government and Government Enterprises	9,470,344	6,268,322	1,173,754	770,252	51.1%	52.4%	28.0%	18.3%
Total	\$91,244,175	\$59,229,869	\$17,979,332	\$13,667,181				

<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.

<sup>(2)</sup> Under 2007 NAICS, internet publishing and broadcasting was reclassified to other information services. All dollar estimates are in current dollars (not adjusted for inflation).

Source: U.S. Department of Commerce, Bureau of Economic Analysis, September 22, 2011.

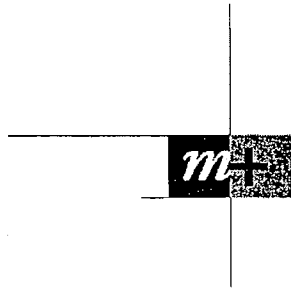
**APPENDIX B**

**STATE OF NEW MEXICO  
OFFICE OF THE STATE TREASURER FINANCIAL STATEMENTS  
FOR THE FISCAL YEAR ENDED JUNE 30, 2010**

STATE OF NEW MEXICO  
OFFICE OF THE  
STATE TREASURER  
Financial Statements  
for the Year Ended  
June 30, 2010,  
and Independent  
Auditors' Report

STATE OF NEW MEXICO  
OFFICE OF THE STATE TREASURER

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STATE OF NEW MEXICO  
OFFICE OF THE STATE TREASURER

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STATE OF NEW MEXICO  
OFFICE OF THE STATE TREASURER

Official Roster

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Year Ended June 30, 2010

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

Stephanie Schardin-Clarke, 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, 2010, 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, 2010, 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 for 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, 2010, 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.

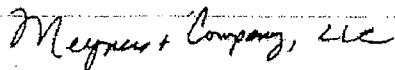
Honorable Bill Richardson, Governor  
State Board of Finance  
Honorable James B. Lewis, State Treasurer  
Honorable Hector H. Balderas, State Auditor  
Santa Fe, New Mexico

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, 2010, 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 financial position of the fiduciary funds of the State Treasurer as of June 30, 2010, and the respective changes in financial position 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 13, 2010, 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 considered in assessing 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 accounting principles generally accepted in the United States of America. 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 conducted 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.



December 13, 2010

STATE OF NEW MEXICO  
OFFICE OF THE STATE TREASURER

Management's Discussion and Analysis - continued  
Year Ended June 30, 2010

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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**

During fiscal year 2010, the State Treasurer's office (STO) had several staff resignations and held positions vacant to address budget reductions due to state revenue shortfalls. Existing staff members were required to take on additional duties since some positions were not filled. The executive management team continued to identify potential savings, reviewing weekly budget status reports, anticipating future budget reductions.

The State Treasurer's office worked on several cash management initiatives with the Department of Finance and Administration (DFA) and Legislative Finance Committee (LFC) to improve short-term cash investments. The Cash Forecasting Model was developed to identify annual/monthly cash flow projections. The Treasurer's office worked closely with the State Board of Finance and recipient agencies to identify cash flow needs for bond projects so bond proceeds investments could be appropriately laddered until project funding was needed. Also, discussions were held with agencies that had large negative fund balances and they were encouraged to increase the frequency of federal fund draw-downs to address this issue. These initiatives allowed the State Treasurer's office to more appropriately ladder and invest short-term funds after liquidity needs were met.

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 DFA, these challenges continue to be 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 accounting processes and more efficient business practices.

Another Cash Management Division initiative, the Streamlined Banking Project involves three state agencies, the State Treasurer's Office, DFA and the Department of Information Technology. There are two primary project goals: #1- Increase the success of the automated reconciliation function by establishing controls over data input and increase the efficiency of automated process to reduce the time required for reconciliation, and #2- Fully implement a daily book to bank reconciliation process by establishing business processes that prevent reconciling items other than timing differences related to the redemption of warrants, test and implement stale-dated warrant process and test and implement a standard process to void warrants. Project is projected to be completed by December 31, 2010.

STATE OF NEW MEXICO  
OFFICE OF THE STATE TREASURER

Management's Discussion and Analysis - continued  
Year Ended June 30, 2010

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**Significant Highlights - continued**

The transition to the new fiscal agent bank was completed on schedule with few outstanding issues. The transition was meticulously planned by the new bank and the state. The State Treasurer's Office and the DFA assigned a full time project team to implement the transition for the fiscal agent bank. Issues that plagued the last transition were anticipated and avoided.

The State Treasurer's Office worked with the State Personnel Office and the Communications Workers of America bargaining unit to assure that STO policies and procedures were updated to include current state and federal laws, rules and policies, State Personnel Board rules and terms of the new collective bargaining agreement effective July 21, 2009.

During FY 10, the State Treasurer's Office spent much of its time bolstering security. Since the advent this year of the ZeusV3-Bot, also known as the Z-Bot to target online banking, the STO IT Bureau has implemented a layered approach to cyber security. Traditional Anti-Virus techniques have proved ineffective in this latest round of targeted attacks to which the STO is particularly vulnerable. Through this layered approach to our security, we have implemented rapid centralized OS and Application updates through Windows Update Services also known as WSUS. In addition to rapid software patching, the STO has also implemented various firewall rules and policies to further inhibit successful cyber attacks. Malware filtering and Web reputation are additional methods the State Treasurer's Office implemented.

In fiscal year 2010, the State Treasurer's Office reviewed, made necessary revisions to and received State Board of Finance approval of 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 places a high priority on active participation on all of the boards and commissions he serves on as an ex-officio member. He has designated members of the executive staff to serve on his behalf on some boards and commissions if state statutes allow a designee. In fiscal year 2010, a significant amount of time was dedicated to service on boards and commissions.

A strong emphasis was placed on employee education and training again in fiscal year 2010. Training was provided on Title VII from the Equal Employment Opportunity Commission, stress management from the Employee Assistance Program Administrator, confidentiality requirements, housing assistance by the NM Mortgage Finance Authority, Social Security program and benefits, NM Public Employees Retirement Association program and benefits, NM Retirement Health Care Authority, NM Deferred Compensation Program, Impact of Cyber Crime and Xerox training.

STATE OF NEW MEXICO  
OFFICE OF THE STATE TREASURER

Management's Discussion and Analysis - continued  
Year Ended June 30, 2010

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### Financial Highlights

- The State Treasurer's net assets increased by \$17,892,435.
- 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.

### **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.

STATE OF NEW MEXICO  
OFFICE OF THE STATE TREASURER

Management's Discussion and Analysis - continued  
Year Ended June 30, 2010

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Overview of the Financial Statements - continued

**Fund Financial Statements - continued**

Governmental Funds - continued

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 governmental fund statement of revenues, expenditures, and changes in fund balances provide a reconciliation to facilitate this comparison between governmental funds and governmental activities.

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, 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.

STATE OF NEW MEXICO  
OFFICE OF THE STATE TREASURER

Management's Discussion and Analysis - continued  
Year Ended June 30, 2010

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**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.

**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 69 of this report. Fiduciary schedules begin on page 89.

**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, 2010

**Government-wide Financial Analysis**

**Net Assets:** Table A-1 summarizes the State Treasurer's net assets for the fiscal year ended June 30, 2010. Total State Treasurer net assets for fiscal year 2010 are \$268,441,166. 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**

YEARS ENDED JUNE 30,	2010	2009
Assets:		
Cash, cash equivalents and repurchase agreements	\$ 225,383,229	232,919,856
Due from other agencies	46,838,071	48,085,681
Accrued interest and other receivables	461	461
Capital assets, net	<u>141,278</u>	<u>151,677</u>
Total assets	\$ <u>272,363,039</u>	<u>281,157,675</u>
Current liabilities:		
Accounts payable and other	\$ 3,798,273	30,465,262
Compensated absences, amounts due in one year	<u>123,600</u>	<u>143,682</u>
Total liabilities	3,921,873	30,608,944
Net assets:		
Invested in capital assets	141,278	151,677
Restricted	268,438,422	249,877,585
Unrestricted	<u>(138,534)</u>	<u>519,469</u>
Total net assets	<u>268,441,166</u>	<u>250,548,731</u>
Total liabilities and net assets	\$ <u>272,363,039</u>	<u>281,157,675</u>

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 \$268,441,166 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, 2010

**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, \$268,438,422, represents resources that are subject to external restrictions on their use.

**Changes in Net Assets:** Governmental activities increased the State Treasurer's net assets in the governmental financial statements by \$17,892,435. 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,	2010	2009
<b>Governmental Activities:</b>		
Revenues:		
Program Revenues:		
Operating Grants	\$ <u>6,024</u>	<u>3,083</u>
Total Program Revenues	6,024	3,083
General Revenues:		
State General Fund appropriations (net)	4,061,407	4,425,902
State Property Tax Levy	58,318,809	65,075,456
Severance and Other Taxes	348,875,769	438,295,970
Interest Revenue	<u>27,251,066</u>	<u>50,806,488</u>
Total General Revenues	<u>438,507,051</u>	<u>558,603,816</u>
Total Revenues	438,513,075	558,606,899
Expenses:		
General Government	(8,294,373)	(6,511,432)
Debt Service Activity	(535,184,402)	(608,749,799)
Other Sources:		
Bond Proceeds	121,252,053	-
Operating Financing Sources	<u>1,606,082</u>	<u>(26,291,938)</u>
Net Expenses (Revenue)	<u>(420,620,640)</u>	<u>(641,553,169)</u>

STATE OF NEW MEXICO  
OFFICE OF THE STATE TREASURER

Management's Discussion and Analysis - continued  
Year Ended June 30, 2010

**Government-wide Financial Analysis - continued**

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

YEARS ENDED JUNE 30,	2010	2009
Increase (Decrease) in Net Assets	\$ 17,892,435	(82,946,270)
Net Assets, Beginning of Year	250,548,731	371,463,933
Prior Period Adjustment	-	(37,968,932)
Net Assets, Beginning of Year, Restated	<u>250,548,731</u>	<u>333,495,001</u>
Net Assets, End of Year	\$ <u>268,441,166</u>	<u>250,548,731</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 \$268,423,488, an increase of \$17,882,752 in comparison with the prior year. The primary reason for the increase in fund balance is a severance tax bond issuance for the purpose of refunding previously outstanding bonds. As of June 30, 2010, the proceeds of the issuance had been transferred to the State Treasurer's Office, however, the funds had not yet been used to refund the bonds.

The fund balance of the State Treasurer's general fund decreased by \$2,386 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 offset by a decrease 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, 2010

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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 half of one percent (0.50%). 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, 2010, amounts to \$141,278, net of accumulated depreciation. This investment in capital assets includes equipment. The State Treasurer's capital asset additions were \$29,256 with the purchase 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, 2010, the State Treasurer was responsible for administering debt service payments on total bonded debt outstanding of \$1,363,105,000, 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 increased, net by \$282,660,000 from the prior year due to four new bonds issued in fiscal year ended June 30, 2010.

	<u>Total</u>	
	<u>2010</u>	<u>2009</u>
General Obligation Bonds	\$ 398,580,000	453,730,000
Severance Tax Bonds	<u>964,525,000</u>	<u>626,715,000</u>
Total principal balances	\$ <u>1,363,105,000</u>	<u>1,080,445,000</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, 2010**

---

**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 2011.

**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

---

AS OF JUNE 30, 2010

	<u>Governmental Activities</u>
<b>ASSETS:</b>	
Investment in State General Fund Investment Pool	\$ 166,030
Repurchase agreements	225,217,199
Due from other agencies	46,838,071
Other receivables	461
Capital assets, net of accumulated depreciation:	
Equipment	<u>141,278</u>
<b>TOTAL ASSETS</b>	<b>\$ <u>272,363,039</u></b>
<b>LIABILITIES AND NET ASSETS:</b>	
Accounts payable	\$ 58,764
Accrued payroll	113,305
Accrued payroll taxes	26,280
Due to State General Fund	111,857
Due to Severance Tax Permanent Fund	3,488,067
Compensated absences	<u>123,600</u>
<b>TOTAL LIABILITIES</b>	<b>3,921,873</b>
<b>NET ASSETS:</b>	
Invested in capital assets	141,278
Restricted for:	
Debt service	267,143,573
Debt service-arbitrage	1,294,849
Unrestricted	<u>(138,534)</u>
<b>TOTAL NET ASSETS</b>	<b><u>268,441,166</u></b>
<b>TOTAL LIABILITIES AND NET ASSETS</b>	<b>\$ <u>272,363,039</u></b>

STATE OF NEW MEXICO  
OFFICE OF THE STATE TREASURER

Statement of Activities

YEAR ENDED JUNE 30, 2010

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	\$ 8,254,718	6,024	(8,248,694)
Interest on debt service activity	47,857,237	-	(47,857,237)
Depreciation	<u>39,655</u>	<u>-</u>	<u>(39,655)</u>
<b>TOTAL GOVERNMENTAL ACTIVITIES</b>	<b>\$ <u>56,151,610</u></b>	<b><u>6,024</u></b>	<b>(56,145,586)</b>
<b>GENERAL REVENUES:</b>			
State property tax levy			58,318,809
<b>UNRESTRICTED INVESTMENT EARNINGS</b>			
<b>BOND ACTIVITY:</b>			
Bond proceeds			121,252,053
Bond principal payments			(487,327,165)
<b>TRANSFER FROM (TO) STATE AGENCY:</b>			
State general fund appropriations			4,084,300
Reversions to State General Fund FY10			(22,893)
Other state agencies			1,606,082
Interest			27,251,066
Severance taxes			<u>348,875,769</u>
<b>TOTAL GENERAL REVENUES AND TRANSFERS</b>			<b><u>74,038,021</u></b>
<b>CHANGE IN NET ASSETS</b>			<b>17,892,435</b>
<b>NET ASSETS, BEGINNING</b>			<b><u>250,548,731</u></b>
<b>NET ASSETS, ENDING</b>			<b>\$ <u>268,441,166</u></b>

STATE OF NEW MEXICO  
OFFICE OF THE STATE TREASURER

Balance Sheet - Governmental Funds

AS OF JUNE 30, 2010

	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	\$ 166,030	-	-	86,419	252,449
Repurchase agreements	-	45,828,250	179,302,530	-	225,130,780
Other receivables	461	-	-	-	461
Due from other agencies	-	-	46,838,071	-	46,838,071
Interest receivable	-	-	-	-	-
Prepaid expense	-	-	-	-	-
<b>TOTAL ASSETS</b>	<b>\$ 166,491</b>	<b>45,828,250</b>	<b>226,140,601</b>	<b>86,419</b>	<b>272,221,761</b>
<b>LIABILITIES AND FUND BALANCES:</b>					
<b>LIABILITIES:</b>					
Accounts payable	\$ 16,402	-	42,362	-	58,764
Due to Severance Tax Permanent Fund	-	-	3,488,067	-	3,488,067
Due to other agencies	-	-	-	-	-
Due to State General Fund	25,438	-	-	86,419	111,857
Deferred revenue	-	-	-	-	-
Accrued payroll	113,305	-	-	-	113,305
Accrued payroll taxes	26,280	-	-	-	26,280
<b>TOTAL LIABILITIES</b>	<b>181,425</b>	<b>-</b>	<b>3,530,429</b>	<b>86,419</b>	<b>3,798,273</b>
<b>FUND BALANCES:</b>					
Reserved for:					
Debt service	-	44,533,401	222,610,172	-	267,143,573
Arbitrage	-	1,294,849	-	-	1,294,849
Unreserved, reported in general fund	(14,934)	-	-	-	(14,934)
Unreserved, reported in:					
Gaming Suspense Fund	-	-	-	-	-
<b>TOTAL FUND BALANCES</b>	<b>(14,934)</b>	<b>45,828,250</b>	<b>222,610,172</b>	<b>-</b>	<b>268,423,488</b>
<b>TOTAL LIABILITIES AND FUND BALANCES</b>	<b>\$ 166,491</b>	<b>45,828,250</b>	<b>226,140,601</b>	<b>86,419</b>	<b>272,221,761</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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AS OF JUNE 30, 2010

Total Fund Balance - Governmental Funds  
(Governmental Fund Balance Sheet)

\$ 268,423,488

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.

141,278

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.

(123,600)

Net assets of governmental activities (Statement of Net Assets)

\$ 268,441,166

STATE OF NEW MEXICO  
OFFICE OF THE STATE TREASURER

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

YEAR ENDED JUNE 30, 2010

	Major Funds				Total Governmental Funds
	General Fund	General Obligation Bond Fund	Severance Tax Bond Fund	Gaming Suspense Fund	
<b>REVENUES:</b>					
Federal funds	\$ 6,024	-	-	-	6,024
Other income	-	-	-	-	-
Interest income - debt service	-	5,622,749	21,628,317	-	27,251,066
Interest income - arbitrage	-	-	-	-	-
<b>TOTAL REVENUES</b>	<b>6,024</b>	<b>5,622,749</b>	<b>21,628,317</b>	<b>-</b>	<b>27,257,090</b>
<b>EXPENDITURES:</b>					
Current:					
Personnel services and employee benefits	3,147,095	-	-	-	3,147,095
Operating costs:					
Contractual services	208,134	-	-	-	208,134
Other administrative expenditures	685,332	-	-	-	685,332
Debt service:					
Principal and interest on long-term debt	-	75,276,567	184,312,339	-	259,588,906
Principal and interest on short-term debt	-	-	275,595,496	-	275,595,496
Arbitrage	-	-	-	-	-
Other charges	-	2,603,338	1,630,901	-	4,234,239
Capital outlay	29,256	-	-	-	29,256
<b>TOTAL EXPENDITURES</b>	<b>4,069,817</b>	<b>77,879,905</b>	<b>461,538,736</b>	<b>-</b>	<b>543,488,458</b>
<b>EXCESS (DEFICIENCY) OF REVENUES OVER (UNDER) EXPENDITURES</b>	<b>(4,063,793)</b>	<b>(72,257,156)</b>	<b>(439,910,419)</b>	<b>-</b>	<b>(516,231,368)</b>
<b>OTHER FINANCING SOURCES (USES):</b>					
State general fund appropriations	4,043,300	-	-	-	4,043,300
Special appropriation	41,000	-	-	-	41,000
Reversions to State General Fund FY10	(22,893)	-	-	-	(22,893)
Severance taxes	-	-	348,875,769	-	348,875,769
State property tax levy	-	58,318,809	-	-	58,318,809
Bond proceeds	-	-	121,252,053	-	121,252,053
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	-	65,928	1,540,084	-	1,606,082
<b>TOTAL OTHER FINANCING SOURCES (USES)</b>	<b>4,061,407</b>	<b>58,384,807</b>	<b>471,667,906</b>	<b>-</b>	<b>534,114,120</b>
<b>NET CHANGE IN FUND BALANCES</b>	<b>(2,386)</b>	<b>(13,872,349)</b>	<b>31,757,487</b>	<b>-</b>	<b>17,882,752</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>
<b>FUND BALANCES, June 30, 2010</b>	<b>\$ (14,934)</b>	<b>45,828,250</b>	<b>222,610,172</b>	<b>-</b>	<b>268,423,488</b>

STATE OF NEW MEXICO  
OFFICE OF THE STATE TREASURER

Reconciliation of the Statement of Revenues, Expenditures,  
and Changes in Fund Balances - Governmental Funds  
to the Statement of Activities

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YEAR ENDED JUNE 30, 2010

Net Change in Fund Balances - Total Governmental Funds  
(Statement of Revenues, Expenditures, and Changes in Fund Balances) \$ 17,882,752

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

Governmental funds report outlays for capital assets as expenditures because  
such outlays use current financial resources. In contrast, the Statement of  
Activities reports only a portion of the outlay as expense. The outlay is allocated  
over the assets' estimated useful lives as depreciation expense for the period.

This is the amount by which depreciation expense of \$39,655 exceeded  
capital outlay expense of \$29,256 in the current period: (10,399)

Some expenses reported in the statement of activities do not require the use  
of current financial resources, and these are not reported as expenditures  
in governmental funds:

Decrease in compensated absences 20,082

Change in net assets of governmental activities \$ 17,892,435

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, 2010

	GENERAL FUND			
	Budgeted Amounts		Actual	Variance From
	Original	Final	Amounts (GAAP Basis)	Final Budget Positive (Negative)
<b>REVENUES:</b>				
State General Fund appropriation	\$ 4,212,100	4,043,300	4,043,300	-
Federal grants	4,000	4,000	6,024	2,024
Other	<u>41,000</u>	<u>41,000</u>	<u>41,000</u>	<u>-</u>
<b>TOTAL REVENUES</b>	<b>\$ <u>4,257,100</u></b>	<b><u>4,088,300</u></b>	<b>4,090,324</b>	<b><u>2,024</u></b>
<b>EXPENDITURES:</b>				
Current:				
Personnel services and benefits	\$ 3,190,600	3,151,800	3,147,095	4,705
Contractual services	366,900	215,900	208,134	7,766
Operating costs	<u>699,600</u>	<u>720,600</u>	<u>714,588</u>	<u>6,012</u>
<b>TOTAL EXPENDITURES</b>	<b><u>4,257,100</u></b>	<b><u>4,088,300</u></b>	<b><u>4,069,817</u></b>	<b><u>18,483</u></b>
<b>OTHER FINANCING SOURCES (USES):</b>				
Transfers in	-	-	-	-
Transfers out	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>
<b>TOTAL OTHER FINANCING SOURCES (USES)</b>	<b><u>-</u></b>	<b><u>-</u></b>	<b><u>-</u></b>	<b><u>-</u></b>
<b>EXCESS (DEFICIENCY) OF REVENUES OVER (UNDER) EXPENDITURES AND OTHER FUNDING SOURCES (USES)</b>	<b>\$ <u>-</u></b>	<b><u>-</u></b>	<b>20,507</b>	<b><u>20,507</u></b>
<b>RECONCILIATION TO STATEMENT OF REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCE:</b>				
UNBUDGETED REVERSIONS TO STATE GENERAL FUND			<u>(22,893)</u>	
<b>NET CHANGE IN FUND BALANCES</b>			<b>\$ <u>(2,386)</u></b>	

STATE OF NEW MEXICO  
OFFICE OF THE STATE TREASURER

Statement of Fiduciary Net Assets

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AS OF JUNE 30, 2010

	<u>Investment Trust Fund</u>
<b>ASSETS:</b>	
Cash and investments:	
Cash	\$ 407,666,044
Certificates of Deposit	54,300,000
Institutional Money Market	11,657,622
Commercial Paper	178,868,846
Asset Backed Securities	223,701,484
U.S. Government Securities	1,092,224,234
Corporate Bonds	711,613,534
Municipal Bonds	99,150,000
Repurchase agreements	<u>842,869,220</u>
Total cash and investments	3,622,050,984
Other assets	<u>8,496,632</u>
<b>TOTAL ASSETS</b>	<b>\$ <u>3,630,547,616</u></b>
<b>NET ASSETS HELD IN TRUST</b>	<b>\$ <u>3,630,547,616</u></b>
<b>TOTAL LIABILITIES AND NET ASSETS HELD IN TRUST</b>	<b>\$ <u>3,630,547,616</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, 2010

	<u>Investment Trust Fund</u>
INVESTMENT INCOME	\$ 42,974,868
EXPENSES:	
Management fees	<u>(413,899)</u>
NET INVESTMENT INCOME	42,560,969
NET PROCEEDS OF DEPOSITS (WITHDRAWALS)	(402,782,186)
NET ASSETS, HELD IN TRUST FOR POOL PARTICIPANTS, JUNE 30, 2009	<u>3,990,768,833</u>
NET ASSETS, HELD IN TRUST FOR POOL PARTICIPANTS, JUNE 30, 2010	\$ <u><u>3,630,547,616</u></u>

STATE OF NEW MEXICO  
OFFICE OF THE STATE TREASURER

Notes to Financial Statements

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## 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.

**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.

**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, is 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 non-fiduciary 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.*

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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 (SHARE Fund 18200)** 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 2009 General Appropriation Act (Laws of 2009, Chapter 3, Section F) and is subject to reversion.

STATE OF NEW MEXICO  
OFFICE OF THE STATE TREASURER

Notes to Financial Statements - continued

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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 (see Schedules 2 and 3 in the Supplementary Information section for SHARE Fund numbers) 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 (see Schedules 4 and 5 in the Supplementary Information section for SHARE Fund numbers) 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; U.S. government agency obligations; commercial paper; corporate bonds; asset backed obligations; repurchase agreements; bank, savings and loan association or credit union deposits; variable rate notes; tax-exempt securities; securities issued by the State or a political subdivision of the State, or an agency, institution or instrumentality of the State; 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.

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**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 \$268,438,422

**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 2009, Chapter 28, Section 3, item N, “For the purpose of administering the General Appropriation Act of 2009 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, 2010 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. As of May 1, 2010, the State Board of Finance entered into an agreement with Wells Fargo Bank in Albuquerque to provide banking services as Fiscal Agent for the State of New Mexico through May 1, 2012, with the option to renew for two additional years at the option of the State Board of Finance, not to extend beyond May 1, 2014.

• **Custody Bank**

The State Board of Finance and JP Morgan Chase entered into an agreement whereby JP Morgan Chase would provide banking services as Custody Bank for the State of New Mexico through June 30, 2012, with the option to renew for two additional years at the option of the State Board of Finance.

3. DEPOSITS AND INVESTMENTS - continued

• **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.

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.

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, 2010, collateral pledged to public money deposits was as follows:

		Fiscal Agent Account	Certificates of Deposit
Cash in bank (bank balance)	\$	142,827,830	54,300,000
Less FDIC insurance coverage		500,000	1,843,860
Total unsecured public funds	\$	142,327,830	52,456,140

STATE OF NEW MEXICO  
OFFICE OF THE STATE TREASURER

Notes to Financial Statements - continued

3. DEPOSITS AND INVESTMENTS - continued

• Investment Trust Fund – continued

	Fiscal Agent Account	Certificates of Deposit
Collateral requirement (50%-102% of uninsured public funds)	\$ 115,144,372	33,753,711
Collateral pledged:		
US Government securities	189,671,751	41,963,566
Surety Bond	<u>                  -</u>	<u>2,000,000</u>
Over collateralized	\$ <u>(74,527,379)</u>	<u>(10,209,855)</u>
See Schedule 10 for reconciliation.		

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, 2010 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, 2010.

• Brokered Transactions

The State Treasurer initiated electronic purchase trades with the following brokers during the year ended June 30, 2010:

Broker Name	Number of Transactions
CS First Boston	12
Citigroup	3
First Tennessee	1
Morgan Stanley	10
Bank of America	23
Goldman Sachs	9
JP Morgan Chase	2
Cantor Fitzgerald	4
Barclays	8
Bear Stearns	3
UBS	1
Greenwich Capital	5
BNP Paribas	14
Jeffries	10

STATE OF NEW MEXICO  
OFFICE OF THE STATE TREASURER

Notes to Financial Statements - continued

3. DEPOSITS AND INVESTMENTS – continued

• Brokered Transactions - continued

Broker Name	Number of Transactions
HSBC	14
DB Alex Brown	9
Nomura	10
Deutsche	2

• Investment Balances

The fair value of investments administered by the State Treasurer at June 30, 2010 follows:

	Amortized Cost	Carrying Amount Fair Value
Cash in Banks	\$ 407,666,044	407,918,493
Certificates of Deposit	54,300,000	54,300,000
Institutional Money Market	15,638,158	11,657,622
Commercial Paper	178,780,313	178,868,846
Mortgage-Backed Securities	221,997,546	223,701,484
U.S. Government Securities	1,087,270,384	1,092,224,234
Corporate Bonds	701,886,660	711,613,534
Municipal Bonds	99,150,000	99,150,000
Overnight Repurchase Agreements	1,068,000,000	1,068,000,000
	\$ 3,834,689,105	3,847,434,213

The fair value includes repurchase agreements of \$225,130,780 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 \$842,869,220 of repurchase agreements represents the investment portion of the investment trust fund reported in the Statement of Fiduciary Net Assets. In addition, it includes \$252,449 of cash in the governmental activities.

• General Fund Investment Pool

The General Fund is the State of New Mexico's main operating account. All State revenues are credited to the General Fund. Income taxes, sales taxes, rents and royalties, and other recurring revenues are deposited into the fund. The fund also comprises numerous State agency accounts whose assets, by statute, must be held at the State Treasury. Expenditures are disbursed only in accordance with appropriations authorized by the State Legislature.

3. DEPOSITS AND INVESTMENTS – continued

• **Tax-Exempt Bond Proceeds Investment Pool**

The Tax-Exempt Bond Proceeds Investment Pool comprises pooled assets received through the issuance of tax-exempt State of New Mexico general obligation bonds, severance tax bonds, and supplemental severance tax bonds. The fund's objective is to preserve capital, provide liquidity, and generate returns relative to the true interest cost of all State of New Mexico debt outstanding and in accordance with the Investment Policy of the Office of the State Treasurer.

• **Taxable Bond Proceeds Investment Pool**

The Taxable Bond Proceeds Investment Pool comprises pooled assets received through the issuance of State of New Mexico severance tax bonds. The fund's objective is to preserve capital, provide liquidity, and generate returns relative to a benchmark and in accordance with the State Treasurer's Investment Policy.

• **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, 2010, 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 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 (The Fund), a money market mutual fund established and managed by The Reserve Fund. On September 16, 2008, The 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 Fund, roughly 23% of the LGIP's total assets. On September 29, 2008, The Fund announced that it intended to liquidate its assets and distribute the proceeds on a pro rata basis to investors.

3. DEPOSITS AND INVESTMENTS – continued

• **Reserve Contingency Fund - continued**

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 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 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 Fund would flow into the Reserve Contingency Fund and be distributed to LGIP participants on a pro rata basis.

Based on analysis of The Fund’s schedule of investments as of June 30, 2010, and on review of an order issued by the U.S. District Court, it was determined that approximately 74.55% of the value of the LGIP’s investment in The Fund as of June 30, 2010 would ultimately be recoverable. The U.S. District Court order established an “Expense Fund,” which is not to be distributed unless ordered by the Court, and which will be used to satisfy anticipated costs and expenses of The Fund, including legal and accounting fees, claims for management fees and expenses, claims for indemnification, and potential claims by shareholders. At June 30, 2010, the “Expense Fund” represented approximately 25.45% of the total remaining fund assets. Management does not expect to be able to recover the portion of its investment in The Fund that was segregated into the Court established “Expense Fund.” For purposes of valuing the LGIP’s investment in The Fund at June 30, 2010, this amount was deemed to be unrecoverable, yielding the net realizable value of 74.55% as shown above. Since the investment in The Fund was being carried at 100% of face value (\$1.00 per share), the fair market value was adjusted downward by approximately 25.45% as reflected on Schedule 7 of the Supplementary Information section of this report.

At June 30, 2010, 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 25.45% as reflected on Schedule 7 of the Supplementary Information section of this report.

• **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

3. DEPOSITS AND INVESTMENTS – continued

• Investment Guidelines and Limitations - continued

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.

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.

3. DEPOSITS AND INVESTMENTS – continued

• **Investment Guidelines and Limitations - continued**

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:

• **Investments Permitted by Policy**

1. U.S. Government Obligations – Securities backed by the full faith and credit of the U.S. government including direct obligations of the U.S. Treasury and obligations of U.S. Government agencies and instrumentalities which are guaranteed by the U.S. Treasury. 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. These securities may be either fixed rate or variable rate.
  2. U.S. Government Agency Obligations – Securities issued or guaranteed by U.S. Government agencies, instrumentalities or sponsored enterprises, but which are not backed by the full faith and credit of the U.S. Government. These securities include mortgage-backed certificates, collateralized mortgaged obligations, and debentures issued by the Federal Home Loan Mortgage Corporation and the Federal National Mortgage Association. Also included are direct obligations of the Federal Farm Credit Bank and the Federal Home Loan Bank. These obligations shall consist of discount notes, notes and debentures with either fixed or LIBOR-based floating rate coupons. Investments in U.S. government agency obligations shall be limited to a maximum maturity of five (5) years at time of purchase.
  3. 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.
  4. 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.
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3. DEPOSITS AND INVESTMENTS – continued

• Investments Permitted by Policy – continued

5. 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.
6. 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.*
7. 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.
8. 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.
9. 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.

3. DEPOSITS AND INVESTMENTS – continued

• Investments Permitted by Policy – continued

10. 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.
11. Money Market Mutual Funds – Shares of an open-ended diversified investment company that: (i) is registered with the United States 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.
12. Local Government Investment Pool: General fund dollars may be invested in the Local Government Investment Pool (LGIP), up to five percent (5%) of the LGIP.

• 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

STATE OF NEW MEXICO  
OFFICE OF THE STATE TREASURER

Notes to Financial Statements - continued

3. DEPOSITS AND INVESTMENTS – continued

• **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.

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, 2010, \$56,105,589 of the State Treasurer's bank balances of \$668,144,894 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 ratings of investments in fixed income securities as described by nationally recognized statistical rating organizations (Standard & Poor's) at June 30, 2010 for the general fund investment pool are as follows:

Quality Rating	Fair Value	Percentage of Portfolio
<b>AAA:</b>		
U.S. Treasuries	\$ 101,343,753	7.71%
U.S. Government Agency	108,517,537	8.26%
Corporate Bonds	51,828,050	3.95%
<b>AA:</b>		
Corporate Bonds	23,199,550	1.77%

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>		
Corporate Bonds	\$ 15,433,350	1.17%
<b>A:</b>		
Municipal Bonds	4,210,000	0.32%
Corporate Bonds	50,124,559	3.82%
<b>B:</b>		
Corporate Bonds	4,975,000	0.38%
<b>Not rated and other:</b>		
Overnight Repurchase Pool	714,717,324	54.41%
Institutional Money Markets	4,579,957	0.35%
Mortgage-Backed Securities	53,087,572	4.04%
Certificates of Deposit	52,300,000	3.98%
Cash in Bank	301,126	0.02%
Municipal Bonds	94,940,000	7.23%
Commercial Paper	34,097,674	2.60%
<b>Grand Total</b>	<b>\$ 1,313,655,452</b>	<b>100.00%</b>

The quality ratings of investments in fixed income securities as described by nationally recognized statistical rating organizations (Standard & Poor's) at June 30, 2010, for the local government investment pool are as follows:

Quality Rating	Fair Value	Percentage of Portfolio
<b>AAA:</b>		
U.S. Treasuries	\$ 269,981,579	34.70%
U.S. Government Agency	64,992,500	8.35%
<b>Not rated and other:</b>		
Cash in Bank	407,617,367	52.39%
Commercial Paper	35,498,450	4.56%
<b>Grand Total</b>	<b>\$ 778,089,896</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 ratings of investments in fixed income securities as described by nationally recognized statistical rating organizations (Standard & Poor's) at June 30, 2010, for the bond proceeds investment pools are as follows:

Quality Rating	Fair Value	Percentage of Portfolio
<b>AAA:</b>		
U.S. Treasuries	\$ 354,521,941	20.24%
U.S. Government Agency	192,866,924	11.01%
Corporate Bonds	529,865,275	30.25%
<b>AA+:</b>		
Corporate Bonds	10,176,100	0.58%
<b>AA:</b>		
Corporate Bonds	10,036,000	0.57%
<b>A:</b>		
Corporate Bonds	15,975,650	0.91%
<b>Not rated and other:</b>		
Overnight Repurchase Pool	353,282,676	20.17%
Institutional Money Markets	3,180,938	0.18%
Certificates of Deposit	2,000,000	0.11%
Mortgage-Backed Securities	170,613,912	9.74%
Commercial Paper	109,272,722	6.24%
<b>Grand Total</b>	<b>\$ 1,751,792,138</b>	<b>100.00%</b>

The quality ratings of investments in fixed income securities as described by nationally recognized statistical rating organizations (Standard & Poor's) at June 30, 2010, for the Reserve Contingency Fund are as follows:

Quality Rating	Fair Value	Percentage of Portfolio
<b>Not rated and other:</b>		
Institutional Money Markets	\$ 3,896,727	100.00%
<b>Grand Total</b>	<b>\$ 3,896,727</b>	<b>100.00%</b>

3. DEPOSITS AND INVESTMENTS - continued

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

Notes to Financial Statements - continued

3. DEPOSITS AND INVESTMENTS - continued

• Concentration of Credit Risk – continued

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	\$ 101,343,753	7.71%
FFCB	24,683,660	1.88%
FHLB	72,570,857	5.52%
FHLMC	10,180,000	0.77%
FNMA	1,083,020	0.08%
<b>Municipal Bonds:</b>		
City of Albuquerque	29,150,000	2.22%
New Mexico Educational Assistance Foundation	70,000,000	5.33%
<b>Corporate Bonds:</b>		
Abbott Laboratories	10,951,300	0.83%
AIG	4,975,000	0.38%
Banc One Corp	7,129,089	0.54%
Credit Suisse	10,401,000	0.79%
First Mass	5,032,350	0.38%
Genworth Global	10,422,500	0.79%
Goldman Sachs	10,260,000	0.78%
HSBC	37,548,310	2.86%
Morgan Stanley	36,592,710	2.79%
Northern Illinois Gas	7,132,750	0.54%
Wal Mart	5,115,500	0.39%
<b>Mortgage-Backed Securities</b>		
FHLMC	53,087,572	4.04%
<b>Commercial Paper:</b>		
Straight A Funding	34,097,674	2.60%
<b>Overnight Repurchase Pool</b>	714,717,324	54.41%
<b>Certificates of Deposit</b>	52,300,000	3.98%

STATE OF NEW MEXICO  
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Notes to Financial Statements - continued

3. DEPOSITS AND INVESTMENTS - continued

• Concentration of Credit Risk – continued

Issuer	Fair Value	Percentage of Portfolio
Cash in Bank	\$ 301,126	0.02%
<b>Institutional Money Markets:</b>		
The Reserve – Primary Fund	4,579,957	0.35%
<b>Grand Total</b>	<b>\$ 1,313,655,452</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	269,981,579	34.70%
FHLB	\$ 64,992,500	8.35%
<b>Commercial Paper:</b>		
Straight A Funding	35,498,450	4.56%
Cash in Bank	407,617,367	52.39%
<b>Grand Total</b>	<b>\$ 778,089,896</b>	<b>100.00%</b>

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	\$ 354,521,941	20.24%
FFCB	11,696,021	0.67%
FHLB	160,733,001	9.18%
FHLMC	17,855,910	1.02%
FNMA	2,581,992	0.15%

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:</b>		
Bank of America	\$ 76,882,250	4.39%
Citigroup	76,676,125	4.38%
General Electric	10,176,100	0.58%
Goldman Sachs	65,910,050	3.76%
HSBC	77,728,650	4.44%
JP Morgan Chase	45,923,875	2.62%
Morgan Stanley	131,301,325	7.50%
US Central FCU	35,550,350	2.03%
Western Corporate FCU	10,171,300	0.58%
Wal-Mart	10,036,000	0.57%
Wells Fargo	25,697,000	1.47%
<b>Commercial Paper:</b>		
Straight A Funding	109,272,722	6.24%
<b>Mortgage-backed Securities:</b>		
FHLMC	170,613,912	9.74%
<b>Overnight Repurchase Pool</b>	353,282,676	20.17%
<b>Certificates of Deposit</b>	2,000,000	0.11%
<b>Institutional Money Markets:</b>		
The Reserve – Primary Fund	3,180,938	0.18%
<b>Grand Total</b>	\$ 1,751,792,138	100.00%

STATE OF NEW MEXICO  
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Notes to Financial Statements - continued

3. DEPOSITS AND INVESTMENTS - continued

- Concentration of Credit Risk – continued

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	\$ 3,896,727	100.00%
<b>Grand Total</b>	<b>\$ 3,896,727</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.
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.

STATE OF NEW MEXICO  
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Notes to Financial Statements - continued

3. DEPOSITS AND INVESTMENTS - continued

• Interest Rate Risk – continued

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	\$ 101,343,753	-	101,343,753
U.S. Government Agency	108,517,537	29,456,810	79,060,727
Corporate Bonds	51,828,050	-	51,828,050
<b>AA:</b>			
Corporate Bonds	23,199,550	12,248,250	10,951,300
<b>A+:</b>			
Corporate Bonds	15,433,350	5,032,350	10,401,000
<b>A:</b>			
Municipal Bonds	4,210,000	4,210,000	-
Corporate Bonds	50,124,559	29,027,849	21,096,710
<b>B:</b>			
Corporate Bonds	4,975,000	4,975,000	-
<b>Not rated and other:</b>			
Overnight Repurchase Pool	714,717,324	714,717,324	-
Institutional Money Markets	4,579,957	4,579,957	-
Mortgage-Backed Securities	53,087,572	-	53,087,572
Certificates of Deposit	52,300,000	52,300,000	-
Cash in Bank	301,126	301,126	-
Municipal Bonds	94,940,000	94,940,000	-
Commercial Paper	34,097,674	34,097,674	-
<b>Grand Total</b>	<b>\$ 1,313,655,452</b>	<b>985,886,340</b>	<b>327,769,112</b>

STATE OF NEW MEXICO  
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Notes to Financial Statements - continued

3. DEPOSITS AND INVESTMENTS - continued

• Interest Rate Risk – continued

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. Treasuries	\$ 269,981,579	269,981,579	-
U.S. Government Agency	64,992,500	64,992,500	-
<b>Not rated and other:</b>			
Commercial Paper	35,498,450	35,498,450	-
Cash in Bank	407,617,367	407,617,367	-
<b>Grand Total</b>	<b>\$ 778,089,896</b>	<b>778,089,896</b>	<b>-</b>

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	\$ 354,521,941	354,521,941	-
U.S. Government Agency	192,866,924	114,689,463	78,177,461
Corporate Bonds	529,865,275	45,157,000	484,708,275
<b>AA+:</b>			
Corporate Bonds	10,176,100	10,176,100	-
<b>AA:</b>			
Corporate Bonds	10,036,000	10,036,000	-
<b>A:</b>			
Corporate Bonds	15,975,650	-	15,975,650

STATE OF NEW MEXICO  
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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>Not rated and other:</b>			
Overnight Repurchase Pool	\$ 353,282,676	353,282,676	-
Institutional Money Markets	3,180,938	3,180,938	-
Asset-Backed Securities	2,000,000	2,000,000	-
Commercial Paper	170,613,912	-	170,613,912
Corporate Bonds	109,272,722	109,272,722	-
<b>Grand Total</b>	<b>\$ 1,751,792,138</b>	<b>1,002,316,840</b>	<b>749,475,298</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.

- 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, 2010 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

STATE OF NEW MEXICO  
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Notes to Financial Statements - continued

3. DEPOSITS AND INVESTMENTS - continued

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	\$ 1,089,375,191	100.00%
US Treasury Notes	-	-
<b>Grand Total</b>	<b>\$ 1,089,375,191</b>	<b>100.00%</b>

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	\$ 1,089,375,191	-	-	277,627,433	183,061,023	628,686,735
US Treasury Notes	-	-	-	-	-	-
<b>Grand Total</b>	<b>\$ 1,089,375,191</b>	<b>-</b>	<b>-</b>	<b>277,627,433</b>	<b>183,061,023</b>	<b>628,686,735</b>

Schedule 10 discloses collateral pledged for repurchase agreements.

STATE OF NEW MEXICO  
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Notes to Financial Statements - continued

4. CAPITAL ASSETS

Capital asset activity for the year ended June 30, 2010, was as follows:

	<u>Balance</u> <u>June 30, 2009</u>	<u>Additions</u>	<u>Deletions</u>	<u>Balance</u> <u>June 30, 2010</u>
Governmental activities:				
Depreciable assets:				
Equipment	\$ <u>397,676</u>	<u>29,256</u>	<u>83,726</u>	<u>343,206</u>
Total capital assets:	397,676	29,256	83,726	343,206
Less accumulated depreciation:				
Equipment	<u>245,999</u>	<u>39,655</u>	<u>83,726</u>	<u>201,928</u>
Total	\$ <u>151,677</u>	<u>(10,399)</u>	<u>      -</u>	<u>141,278</u>

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

Governmental activities:	
General government	\$ <u>      39,655</u>

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, 2010:

	<u>Balance</u> <u>June 30, 2009</u>	<u>Increase</u>	<u>(Decrease)</u>	<u>Balance</u> <u>June 30, 2010</u>	<u>Amounts Due</u> <u>Within</u> <u>One Year</u>
Compensated absences: \$	<u>143,682</u>	<u>124,287</u>	<u>144,369</u>	<u>123,600</u>	<u>123,600</u>

STATE OF NEW MEXICO  
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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, 2010, are as follows:

<b>ASSETS:</b>	
Investments	\$ 3,622,050,984
Interest receivable	<u>8,496,632</u>
<b>TOTAL ASSETS</b>	<b>\$ <u>3,630,547,616</u></b>
<b>LIABILITY:</b>	
Other liabilities	\$ -
<b>NET ASSETS:</b>	
External Participant account balances	782,156,208
Other Internal Participant account balances:	
Primary government	<u>2,848,391,408</u>
<b>TOTAL LIABILITIES AND NET ASSETS</b>	<b>\$ <u>3,630,547,616</u></b>

**INVESTMENT INCOME**

At June 30, 2010, the State Treasurer's investment income earnings were as follows:

Local Governmental Investment Pool	\$ 1,849,346
Consolidated Investment Pool	23,203,479
State Funds Investment Pool	17,922,043
Reserve Contingency Fund	<u>-</u>
	<b>\$ <u>42,974,868</u></b>

STATE OF NEW MEXICO  
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Notes to Financial Statements - continued

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7. **APPROPRIATIONS**

The State Treasurer received the following appropriations for the year ended June 30, 2010:

<u>General Fund</u>	
General appropriation (General Appropriation Act)	\$ 4,043,300
Other state funds (Special Appropriation)	<u>41,000</u>
Total appropriations	\$ <u>4,084,300</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, 2010 was \$3,488,067.

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  
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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:

	First Computation Date	First Payment Due to IRS	First Computation of Arbitrage Completed
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
General Obligation Bonds Series 2007	3/1/2012	4/30/2012	
General Obligation Bonds Series 2008A	3/1/2013	4/30/2013	
General Obligation Bonds Series 2009	5/25/2010	7/27/2014	
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

STATE OF NEW MEXICO  
OFFICE OF THE STATE TREASURER

Notes to Financial Statements - continued

10. ARBITRAGE ON TAX EXEMPT BONDS - continued

	Bond Year-End of First Rebate Computation	First Arbitrage Rebate Due Date	First Computation of Arbitrage Completed
Severance Tax Bonds Series 2000	7/1/2005	8/31/2005	X
Severance Tax Bonds 2000C Supplemental	11/16/2005	1/16/2006	X
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	X
Severance Tax Bonds Series 2005B-2 Supplemental and Refunding	6/15/2010	8/14/2010	X
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	6/25/2013	8/24/2013	
Severance Tax Bonds Series 2008A-2	6/25/2013	8/24/2013	
Severance Tax Bonds Series 2009A	7/30/2014	9/28/2014	
Severance Tax Bonds Series 2010A Supplemental	3/24/2015	5/23/2015	
Severance Tax Bonds Series 2010B Supplemental	3/24/2015	5/23/2015	
Severance Tax Bonds Series 2010C Refunding	6/30/2015	8/29/2015	
Enhanced 911 Revenue Bonds Series 2000	9/12/2005	11/11/2005	X

Interest earnings on invested bond proceeds through June 30, 2010 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.

STATE OF NEW MEXICO  
OFFICE OF THE STATE TREASURER

Notes to Financial Statements - continued

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.

Debt Service:

Severance Tax Bonds:

SHARE Fund	Transfer From	Amount	SHARE Fund	Transfer To	Amount
41000	Severance Tax Bonding Fund	\$ <u>108,374,466</u>	10750	STB – 2006A Debt Service	\$ 28,953,386
			10950	STB – 2010A Debt Service	1,260,000
			10960	STB – 2010B Debt Service	1,318,000
			18300	STB – 2004B Debt Service	1,239,000
			38800	STB – 2005B1 Debt Service	8,120,000
			41100	STB – 2004B Rebate	22,502
			41200	STB – 2005A Debt Service	9,789,139
			42700	STB – 2004A Rebate	229,949
			48400	STB – 2003B Debt Service	1,214,000
			53700	STB – 2007A Debt Service	14,029,000
			57100	STB – 2005B2 Debt Service	7,601,000
			72010	STB – 2008A1 Debt Service	13,256,000
			72070	SSTB Ref – 2008A2 Debt Service	5,413,500
			96300	STB – 2006A Debt Service	<u>15,928,990</u>
	Total	\$ <u>108,374,466</u>	Total		\$ <u>108,374,466</u>

General Obligation Bonds:

SHARE Fund	Transfer From	Amount	SHARE Fund	Transfer To	Amount
41800	GO 2003B Refunding	\$ 16,000,000	10630	GO 2009 Debt Service	\$ 5,000,000
03100	GO 2003 Debt Service	280,992	41300	GO 2003 Rebate	280,992
03200	GO 2005 Debt Service	<u>2,004,528</u>	42600	GO 2005 Rebate	2,004,528
			73010	GO 2008 Debt Service	<u>11,000,000</u>
	Total	\$ <u>18,285,520</u>	Total		\$ <u>18,285,520</u>

STATE OF NEW MEXICO  
OFFICE OF THE STATE TREASURER

Notes to Financial Statements - continued

11. TRANSFERS - continued

Interagency Transfers

Debt Service:

Severance Tax Bonds:

Transfers In From Other State Agencies

Transfers from (purpose)	Fund No.	Amount	Transfers to (purpose)	Fund No.	Amount
Board of Finance	34101	\$ <u>5,124,545</u>	Severance Tax Bonding Fund	41000	\$ <u>5,124,545</u>
Total – Severance Tax Bond Funds		\$ <u>5,124,545</u>			\$ <u>5,124,545</u>

Transfers Out To Other State Agencies

Transfers from (purpose)	Fund No.	Amount	Transfers to (purpose)	Fund No.	Amount
Severance Tax Bonding Fund	41000	\$ <u>3,584,461</u>	Board of Finance	34100	\$ <u>3,584,461</u>
Total – Severance Tax Bond Funds		\$ <u>3,584,461</u>			\$ <u>3,584,461</u>

General Obligation Bonds:

Transfers In From Other State Agencies

Transfers from (purpose)	Fund No.	Amount	Transfers to (purpose)	Fund No.	Amount
Board of Finance	34101	\$ <u>65,998</u>	General Obligation 2005 Debt Service	03200	\$ 65,888
			General Obligation 2007 Debt Service	28800	<u>110</u>
Total – General Obligation Bond Funds		\$ <u>65,998</u>			\$ <u>65,998</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 8.92% of their gross salary. The State Treasurer's Office is required to contribute 15.09% of the gross covered salary. 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, 2010, 2009 and 2008 were \$329,143, \$376,046 and \$370,046, 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.

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

• **Plan Description - continued**

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. During the fiscal year ended June 30, 2010, the statute required each participating employer to contribute 1.3% of each participating employee's annual salary; each participating employee was required to contribute .65% of their salary. In the fiscal years ending June 30, 2011 through June 30, 2013 the contribution rates for employees and employers will rise as follows:

For employees who are not members of an enhanced retirement plan, the contribution rates will be:

<u>Fiscal Year</u>	<u>Employer Contribution Rate</u>	<u>Employee Contribution Rate</u>
FY11	1.666%	.833%
FY12	1.834%	.917%
FY13	2.000%	1.000%

Also, employers joining the program after January 1, 1998 are 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, 2010, 2009 and 2008 were \$28,268, \$29,467 and \$29,002, respectively, which equal the required contributions for each year.

STATE OF NEW MEXICO  
OFFICE OF THE STATE TREASURER

Notes to Financial Statements - continued

**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, 2009 to June 30, 2010. 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, 2010 is \$111,857.

Amounts reverted to the State General Fund during 2010 were as follows:

		<u>Appropriation</u>	<u>Reversion</u>
Reversion to State General Fund fiscal year 2010	\$	4,043,300	22,893
Subtotal - Reversion to State General Fund	\$	<u>4,043,300</u>	22,893
Gaming Suspense Fund			86,419
Due to State General Fund prior years (federal grant money not used)			<u>2,545</u>
Total due to State General Fund			\$ <u>111,857</u>

**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.

There was no short-term taxation and revenue anticipation debt activity for the year ended June 30, 2010.

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 - Note	07/30/09	01/01/10	\$ 31,903,307	101,027	32,004,334
Sponge Bond - Senior Note	12/30/09	12/31/09	59,588,858	348	59,589,206
Sponge Bond - Senior Note	06/29/10	06/30/10	87,000,000	925	87,000,925
Sponge Bond - Supplemental Note	06/29/10	06/30/10	<u>97,000,000</u>	<u>1,031</u>	<u>97,001,031</u>
Total			\$ <u>275,492,165</u>	<u>103,331</u>	<u>275,595,496</u>

Short-term debt activity for the year ended June 30, 2010 was as follows:

	<u>Balance July 1, 2009</u>	<u>Issued</u>	<u>Redeemed</u>	<u>Issuance Costs</u>	<u>Balance June 30, 2010</u>
Sponge Bonds	\$ <u>-</u>	<u>275,595,496</u>	<u>275,595,496</u>	<u>-</u>	<u>-</u>

STATE OF NEW MEXICO  
OFFICE OF THE STATE TREASURER

Notes to Financial Statements - continued

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**17. BOND ISSUANCE ACTIVITY**

During fiscal year 2010, there were three new bond issues as noted below:

- \$218,450,000 Capital Projects and Refunding Severance Tax Bonds Series 2009A
- \$132,265,000 Capital Projects Severance Tax Bonds Series 2010A
- \$100,000,000 Capital Projects Severance Tax Bonds Series 2010B
- \$ 43,780,000 Refunding Severance Tax Bonds Series 2010C

Total activity related to the bonds was approximately as follows: costs \$1,047,000, premiums \$56,024,915 and total transfers to other State agencies of \$428,223,553.

**18. FUND BALANCE DEFICIT**

The General Fund of the State Treasurer has a deficit fund balance of \$14,934 due to prior years' accounts payable amounts paid out of subsequent years' budgets.

**19. SUBSEQUENT EVENT**

On June 30, 2010, the State Board of Finance issued Severance Tax Bond Series 2010C Refunding, with a principal amount of \$43,780,000 to provide refunding of Severance Tax Bond Series 2005A. The difference in cash flow required between the prior debt service requirements and new funding debt service requirements resulted in cash flow savings of \$3,924,848. The economic gain, or present value savings, was \$3,772,197. Although the issuance of Severance Tax Bond Series 2010C Refunding occurred in on June 30, 2010, in fiscal year 2010, the actual refunding of Severance Tax Bond Series 2005A did not occur until the following day, on July 1, 2010, in fiscal year 2011.

**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: \$47,790,000 State of New Mexico Severance Tax Bonds, Series 2011A-1  
\$75,715,000 State of New Mexico Severance Tax Bonds, Refunding Series 2011A-2

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. The United States Court of Appeals for the Tenth Circuit overturned the district court opinion and held that state severance taxes are not preempted by federal law. The Ute Mountain Ute tribe petitioned for an en banc review, which the court denied on September 12, 2011. The tribe has until December 12, 2011 to petition the United States Supreme Court for a writ of certiorari.

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 and supplemental severance tax bonds.

Sincerely,

Assistant Attorney General

**APPENDIX D**

**FORM OF OPINION OF BOND COUNSEL**

**STATE OF NEW MEXICO SEVERANCE TAX BONDS,  
SERIES 2011A-1**

**STATE OF NEW MEXICO SEVERANCE TAX BONDS,  
REFUNDING SERIES 2011A-2**

FORM OF OPINION OF BOND COUNSEL

\_\_\_\_\_, 2011

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

RE: \$47,790,000 State of New Mexico Severance Tax Bonds, Series 2011A-1  
\$75,715,000 State of New Mexico Severance Tax Bonds, Refunding Series 2011A-2

Ladies and Gentlemen:

We have examined the transcript of proceedings (the "Transcript") relating to the issuance of \$47,790,000 State of New Mexico Severance Tax Bonds, Series 2011A-1 (the "Series 2011A-1 Bonds") and \$75,715,000 State of New Mexico Severance Tax Bonds, Refunding Series 2011A-2 (the "Series 2011A-2 Bonds" and collectively with the Series 2011A-1 Bonds, the "Bonds") dated the date of delivery.

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 and approving the issuance and sale of the Bonds (the "Bond Legislation") adopted by the State Board of Finance (the "Board") on October 18, 2011 and November 15, 2011, executed Bonds of the first maturities, 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 the 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. 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 \$ \_\_\_\_\_ State of New Mexico Severance Tax Bonds, Series 2011A-1 (the “Series 2011A-1 Bonds”) and \$ \_\_\_\_\_ State of New Mexico Severance Tax Bonds, Refunding Series 2011A-2 (the “Series 2011A-2 Bonds” and, collectively with the Series 2011A-1 Bonds, the “Bonds”). The Bonds are being issued pursuant to Bond Resolutions adopted by the Board on October 18, 2011 and November 15, 2011 (collectively, the “Resolution”).

### **BACKGROUND**

1. The Series 2011A-1 Bonds are being issued to finance capital improvements approved by the State Legislature. The Series 2011A-2 Bonds are being issued to advance refund the July 1, 2014 through July 1, 2018 maturities of the State’s outstanding Severance Tax Bonds, Series 2008A-1.

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 November \_\_, 2011, 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, 2012 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, not in excess of ten business days, to the MSRB and any SID notice of any of the following events with respect to the Bonds (provided that any event under clauses (ii), (vii), (viii), (x), (xiv) and (xv) will be provided only if 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 the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Bonds;
- vii. Modifications to rights of Bond 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;
- xi. Rating changes;
- xii. Tenders offers;
- xiii. Bankruptcy, insolvency, receivership or similar proceedings;
- xiv. Mergers, consolidations, acquisitions, the sale of all or substantially all of the assets of the obligated person or their termination; and
- xv. Appointment of a successor or additional trustee or the change of name of a trustee.

(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: \_\_\_\_\_, 2011

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)