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## FISCAL IMPACT REPORT

ORIGINAL DATE 02/24/13  
 SPONSOR SRC \_\_\_\_\_ LAST UPDATED 03/07/13 HB \_\_\_\_\_  
 SHORT TITLE Blue Ribbon Tax Reform Commission SB CS/502/aSRC  
 ANALYST Walker-Moran \_\_\_\_\_

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY13	FY14		
	\$250.0	Nonrecurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to SB 7, HM 44, and HB 490.

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Economic Development Department (EDD)  
 Indian Affairs Department (IAD)  
 New Mexico Municipal League (NMML)  
 State Treasurer's Office (STO)  
 Taxation and Revenue Department (TRD)  
 Department of Finance and Administration (DFA)

### SUMMARY

#### Synopsis of SRC Amendment

The Senate Rules Committee amendment to the Senate Rules Committee substitute for Senate Bill 502 specifies members of the commission will be appointed by leaders of each house.

#### Synopsis of Original Bill

The Senate Rules Committee substitute for Senate Bill 502 creates the blue ribbon tax reform commission. The commission shall consist of 23 members: 5 members of the house, and five members of the senate, appointed as follows: 2 by the majority floor lead of each house, 2 by the minority floor leader of each house, 1 by the president pro tempore of the senate, and 1 by the speaker of the house of representatives; one public member appointed by the speaker of the house of representatives and one appointed by the president pro tempore of the senate; 11 public members appointed by the governor to represent a broad range of views and expertise on

taxation issues. No more than five members appointed by the governor shall be of the same political party. The commission may elect such officers as it deems necessary to carry out its duties.

The commission will meet at least twice a month upon signature of this bill through November 1, 2013. The first meeting shall be held no later than May 1, 2013. A majority of the members appointed constitutes a quorum for the transaction of business. The commission shall develop recommendations for reform of New Mexico's tax laws to establish a balanced tax system that provides maximum economic development benefits and maintains necessary government services at an appropriate level and recognizes the need for tribal governments to raise tax revenues from economic activity within the tribal boundaries.

The commission shall examine New Mexico's tax system, identify its strength and deficiencies and consider a broad range of improvements that could be made to modernize the tax system and make it more conducive to economic growth, including economic growth on lands subject to the jurisdiction of an Indian tribe, nation or pueblo in New Mexico. The commission shall also examine all tax expenditures approved and determine if any changes are necessary and the structure of any such changes.

The commission shall submit a report of its findings, including specific recommendations and proposed legislation, to the governor and the New Mexico legislative council no later than November 1, 2013.

The commission is able to hire or contract for appropriate staff. Staff shall assist the commission as directed by the chair, including conducting interviews with parties that wish to express their views to the commission and synthesizing this information for the commission. The commission may request assistance from the Legislative Council Service, Legislative Finance Committee, and the Taxation and Revenue Department (TRD).

This bill contains an emergency clause, and would become effective immediately upon signature by the governor. The sunset date of this bill is November 1, 2013.

## **FISCAL IMPLICATIONS**

This bill contains an appropriation of \$250 thousand that is a nonrecurring expense to the general fund to carry out the provisions of this act in FY13 and FY14. The money is to be used for staff salaries and reimbursement of per diem and mileage expenses of the commission. Any unexpended or unencumbered balance remaining at the end of FY14 shall revert to the general fund.

## **SIGNIFICANT ISSUES**

New Mexico established a Blue Ribbon Tax Policy Commission in 2003. Some of the recommendations that came out of the commission are listed in the table on the last two pages of this FIR. Only a few of the recommendations have been adopted over the years.

The Blue Ribbon Tax Reform Commission (BRTRC) was created by Laws 2003, Chapter 77 (HB 168) and was charged to "develop recommendations for reform of New Mexico's tax laws to establish a balanced tax system that provides maximum economic development benefits and maintains necessary government services at an appropriate level."

The commission's general goal was to align New Mexico's taxes more closely with its economy and its future. The commission focused on 8 key issues when formulating its recommendations:

1. Tax relief for low and middle-income families
2. Gross receipts tax of medical practitioners and hospitals
3. Gross receipts tax on food for home consumption
4. Tax treatment of commercially active nonprofits
5. Personal income tax rates and capital gains
6. State road fund sources
7. Liquor and other excise taxes and
8. Corporate income taxes

In addition, the Commission sought to address a number of concerns about tax administration.

### RECOMMENDATIONS:

The Commission and their staff developed a comprehensive set of 196 separate proposals to improve the tax system. Of these 196 proposals considered, 71 specific recommendations were adopted by the commission. Recommendations affecting the General Fund were intended to be approximately revenue neutral, while those affecting the Road Fund were intended to raise revenue.

Some of the more significant recommendations included:

- Provide income tax relief targeted at low- and middle-income households;
- Phase out the capital gains deduction for high-income taxpayers;
- GRT deduction for medical practitioners' reimbursements from managed care and Medicare "Part C";
- Reducing pyramiding of the GRT by repealing the "next sale taxable" requirement for sales of a service to another business;
- Require corporate income taxpayers to file on a unitary basis and reduce the top corporate income tax rate to 6.4 percent
- Increase GRT deduction for for-profit hospitals from 50 percent to 100 percent;
- Impose local option compensating taxes;
- Apply compensating tax to imported services;
- Raise the motor vehicle excise tax to 4.5 percent with 0.5 percent earmarked to the Road Fund;
- Impose cigarette tax on sales to non-Indians on tribal lands;
- Increase oil and gas emergency school tax rate to 4 percent on oil (same as gas);
- Increase gasoline tax rate by 2 cents per gallon and index the rate for inflation;
- Increase the special fuels tax by 3 cents per gallon and index the rate;
- Increase weight distance tax rates by 26 percent;
- Increase vehicle registration fees.

Among the more important proposals that were not recommended were removing GRT from sales of food for home consumption, and imposing GRT on commercially active non-profits.

In the immediate aftermath of the Commission, the 2003 Special Session adopted a number of its recommendations for increasing Road Fund revenue. Subsequent legislative sessions have adopted a number of other recommendations:

- Income tax credits and exemptions targeted at low- and middle-income households;
- GRT deductions for medical service providers;
- GRT credits for hospitals;
- Consolidate the head of household filing status with married filing joint;
- Provide motor vehicle excise tax relief for fuel-efficient vehicles;
- Provide a small business R&D GRT “holiday;”
- Create a high-wage jobs tax credit;
- Expand the Governmental GRT tax base;
- Increase GRT authority for counties; and
- Tax administration proposals.

In addition, the GRT deduction for food sold for home consumption was adopted, along with repeal of the 0.5 percent credit in municipal areas. Although the commission adopted 71 recommendations, many of these recommendations have still not been adopted by legislation.

#### TAX POLICY PRINCIPLES:

In 2009, the Legislative Finance Committee adopted a set of tax policy principles that would provide guidelines to the legislature when considering legislation affecting revenues.

1. **Adequacy:** revenue should be adequate to fund government services.
2. **Efficiency:** tax base should be as broad as possible to minimize rates and the structure should minimize economic distortion and avoid excessive reliance on any single tax.
3. **Equity:** taxes should be fairly applied across similarly situated taxpayers and across taxpayers with different income levels.
4. **Simplicity:** taxes should be as simple as possible to encourage compliance and minimize administrative and audit costs.
5. **Accountability:** Preferences should be easy to monitor and evaluate and be subject to periodic review.

Most policies involve trade-offs between different principles. For example, it is difficult to provide carefully targeted – and therefore efficient – tax relief without increasing complexity. Estimating the cost of tax expenditures is difficult. Confidentiality requirements surrounding certain taxpayer information create uncertainty, and analysts must frequently interpret third-party data sources. The statutory criteria for a tax expenditure may be ambiguous, further complicating the initial cost estimate of the expenditure’s fiscal impact. Once a tax expenditure has been approved, information constraints continue to create challenges in tracking the real costs (and benefits) of tax expenditures.

As reported by the Indian Affairs Department (IAD), SB 502 provides that eleven public members shall be appointed by the governor to represent a broad range of views and expertise on

taxation issues; provided that these members shall include at least one member to represent municipal governments, at least one member to represent county governments and at least one member to represent Native American tribes, pueblos and nations. The IAD believes this to be an important and necessary provision for the tribes, pueblos and nations.

The bill allows for interviews and collaboration with parties that wish to express their views. Per the IAD, this is important to the tribes, nations and pueblos of New Mexico that have tax agreements and certain provisions of the tax code that apply differently to tribes. For example, there are provisions that apply to the gasoline excise tax, cigarette tax, and others. The IAD is the lead agency in coordinating state-tribal relations and would be hopeful to assist the commission in working with the tribes. The tribes hold the position that any revisions to the tax code that specifically affect Indian tribes should be made through consultation first, as opposed to legislation without consultation.

The New Mexico Municipal League (NMML) policy recognizes that tax policy promulgated by the Legislature and Governor has a profound impact on New Mexico Municipalities. Because of these profound consequences, the NMML should be included in discussions and decisions regarding state tax policy. Proposals that create exemptions from the Gross Receipts Tax, change the use or level of taxes on gasoline, alcohol or other taxable goods and services have an effect on the level of revenues received by municipalities to provide services to the citizenry.

<b>Blue Ribbon Tax Commission Recommendations</b>	
1	Streamlined Sales Tax
2	Expand LICTR:
	Add column for seven exemptions
	Rename "Family and Individual Rebate (FAIR)"
	Update rebate levels
	Add food stamps to Modified Gross Income
	New exemption for low and middle income taxpayers up to \$3,000
3	Phase out capital gains deduction for high income taxpayers
4	Provide capital gains deduction for sales of closely held businesses.
5	Consolidate filing status of HOH and MFJ
6	Reduce/Eliminate GRT on health care practitioners under commercial managed care and Medicare C contracts
7	GRT pyramiding: repeal next sale taxable provision except for sales to non profits and governments
8	Establish a two tier CIT rate structure with top rate at 6.4 percent.
9	Require corporations to use unitary filing.
10	Decouple from federal bonus expensing provisions
11	High wage job tax credit
12	One-time motor vehicle excise tax exemption for purchase of clean, fuel-efficient vehicles.
13	Provide a tax holiday for small high-tech research businesses
14	Increase franchise tax from \$50 to \$100
15	Impose franchise tax on LLCs and other flow through entities
16	Increase annual filing fee for corporations and non profits to \$100
17	Implement an independent hearing process attached to GSD rather than TRD
18	Raise minimum amount of tax for which an assessment may be issued to \$25
19	Allow taxpayer to elect to use rules of civil procedure rather than TRD internal procedures
20	Formalize provision for protective claims
21	Conform interest on deficiencies and overpayments to IRS rate
22	Raise the minimum penalty for failing to file to \$25
23	Allow taxpayers to request regulations
24	Extend/eliminate NTTC conversion deadline
25	Convert non profit exemption to deduction for more complete reporting

26	Expand deduction for for-profit hospitals to 100 percent
27	Tax employee leasing similar to temporary services
28	Tax bail bondsmen under GRT rather than insurance premium
29	Repeal GRT deduction for R&D sales to one specific aerospace corp
30	Convert out of state deduction of exports of tangible property to a 'delivery rule' rather than risk of loss and title transfer
31	Put agricultural vehicles, airplanes and vehicles not required to be registered under the motor vehicle excise tax
32	Repeal GRT deduction for newspapers
33	Eliminate deduction for sales of chemicals and reagents in excess of 18 tons
34	repeal GRT deduction for leasing vehicles used in interstate commerce
35	Remove the \$5,000 limit for property used in jewelry manufacturing
36	Apply GRT to rental of storage units
37	Reduce GRT muni credit and increase muni distribution to 1.25 percent
38	Impose local option compensating taxes
39	Apply compensating taxes to services
40	Impose compensating tax to on-reservation purchases of mobile homes
41	Expand Govt GRT to include parking, airport, marina fees operated by governments
42	Raise interstate telecommunications grt to five percent
43	Increase leased vehicle gross receipts tax surcharge to \$4/day
44	Enact property transfer tax on residential re-sales with graduated rates for above and below \$100k
45	Raise rate to MV excise tax to 4.5 percent with 0.5 percent going to state road fund
46	Establish default value for sales of used vehicles
47	Tax sales of tobacco to non indians on tribal land
48	Combine distributions to local governments for simplicity
49	Eliminate stamping discount
50	Raise tobacco products tax from 25 to 45 percent
51	Subject third party administrators of self insurance plan to grt
52	Implement pilot project to enhance Insurance Division funding
53	Eliminate economic development tax credit for race tracks and earmark receipts to state fair
54	Expand hours at racetracks to 16 hours/day
55	Change boxing/wrestling taxes to fees and negotiate with tribes
56	Exempt boxing and wrestling matches from GRT
57	Increase oil and gas emergency school tax to 4 percent
58	Enact 33 percent tax on collected punitive damages after atty fees and expenses and earmark to public trust fund
59	Increase gas excise tax by two cents
60	Index gas excise tax with a max increase of one cent
61	Increase special fuels tax by three cents
62	Index special fuels tax
63	Improve administration of weight distance tax and charge admin fee
64	Increase weight distance tax by 26.26 percent
65	Increase fixed fees on oversize/overweight permits to equal liquid hauler fee
66	Impose add'l ton mile fee for overweight
67	Increase vehicle registration fees by \$12.50 per year
68	Consolidate local county options to reflect municipal options

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