

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the Legislature. LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

FISCAL IMPACT REPORT

SPONSOR Lente LAST UPDATED _____
ORIGINAL DATE 2/17/2025
BILL _____
SHORT TITLE Tax Return Information for LFC Evaluation NUMBER House Bill 199
ANALYST Gray/Fischer

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
TRD	\$0	\$98.4	\$130.3	\$230.7	Recurring	General Fund
TRD	\$0	\$45.3	\$0	\$45.3	Nonrecurring	General Fund

Parentheses () indicate expenditure decreases.

*Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

Agency Analysis Received From

Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of Bill

House Bill 199 (HB199) allows the Taxation and Revenue Department (TRD) to share certain tax data with the Legislative Finance Committee (LFC), pursuant to a data sharing agreement. The data—which is otherwise unavailable due to confidentiality requirements—can be used for program evaluations. The bill provides that no data shall be shared that is otherwise prohibited by state or federal law.

The effective date of this bill is July 1, 2025.

FISCAL IMPLICATIONS

HB199 will require an increase in staff time for TRD and LFC for certain evaluations. LFC estimates the agency will utilize the provisions of this bill about once per year and does not believe this will require a major increase in staff time. TRD estimates recurring costs equivalent to about 1.4 FTE, or about \$130 thousand per year. The agency also estimates about \$45 thousand in nonrecurring costs in FY26.

SIGNIFICANT ISSUES

TRD analysis notes that the Internal Revenue Service places strict restrictions on state agencies that receive federal tax information, including TRD. Federal law does not permit access to federal tax information not involved with tax administration.

The bill provides that the only information that TRD can share with LFC would be information that is not prohibited by federal law. TRD writes that the nature of its tax system would make meeting federal law “challenging if this bill is passed,” in part because state tax data is comingled with federal tax data. TRD staff may be required to spend a “significant amount of staff time and resources,” to meet the requirements of HB199.

TRD also points out that most other agencies and local governments with access to certain taxpayer data under 7-1-8 NMSA 1978 have access to that data for the purposes of program administration and ensuring compliance or for essential executive branch functions at the state, county, and municipal levels.

LFC staff analysis points out that many legislatures have access to this type of information. In these states, this data helps inform an essential form of legislative oversight, wherein staff’s access to lawfully distributed tax data and helps legislators perform their role as the oversight branch. This analysis acknowledges this proposal creates administrative complexity and adds an additional burden to TRD ensure federal compliance. At the same time, this bill attempts to satisfy a key legislative prerogative. Policymakers may wish to consider the tradeoff between the additional burden placed on the agency and the legislative prerogative to provide sufficient oversight over the use of taxpayer dollars.

In October 2024, LFC staff queried members of other states on their statutory access to tax records through the National Legislative Program Evaluation Society. Most offices replied that rather than having specific access to tax records, they have broad statutory language in their office’s enabling legislation, allowing them access to tax records. For example, Kansas’s Legislative Division of Post Audit has broad access “to all books, accounts, records, files, documents and correspondence, confidential or otherwise of any person or state agency subject to the legislative post audit act or in the custody of any such person or state agency.” This access includes tax records.

The Minnesota Office of the Legislative Auditor carries sweeping statutory authority under Minnesota Statutes 2023, 3.978, which they have used to access state tax returns:

All public officials and their deputies and employees, and all corporations, firms, and individuals having business involving the receipt, disbursement, or custody of public funds shall at all times: (1) afford reasonable facilities for examinations by the legislative auditor; (2) provide returns and reports required by the legislative auditor; (3) attend and answer under oath the legislative auditor’s lawful inquiries; (4) produce and exhibit all books, accounts, documents, data of any classification, and property that the legislative auditor requests to inspect; and (5) in all things cooperate with the legislative auditor.

The Maine Legislative Office of Program Evaluation and Government Accountability gains access to confidential information through Maine’s Title 3 Section 997(4): “Upon request of the office and consistent with the conditions and procedures set forth in this section, state agencies or other entities subject to program evaluation must provide the office access to information that is

privileged or confidential as defined by Title 1, chapter 13, which governs public records and proceedings.” Further, the Maine statute also provides access under Title 3 Section 1001(1): “A. The office may request confidential information from the Department of Administrative and Financial Services, Maine Revenue Services or other state agencies as necessary to address the evaluation objectives and performance measures approved under section 999, subsection 1.”

TECHNICAL ISSUES

TRD notes several technical issues that could be addressed through amendments to the bill. The agency writes:

Subsection B, on page 6, line 15 references data aggregation for certain tax programs “to three taxpayers.” For clarity, TRD suggests removing “to three taxpayers” and replacing it with “of at least three taxpayers.”

Subsection B, on Page 6, and subsection E, on page 7: The two subsections appear to have a conflict of language between subsection (B), “redacting any prohibited information” and subsection (C), “clearly marked notification of confidential return information.” Confidential return information could fall into the category of prohibited information. Clarity in the language of the bill will help shape the intent of the bill and how TRD must prepare the requested data.

Subsection G on page 7, lines 17-19, conflicts with Section 7-1-8 B(4) NMSA 1978. TRD suggests that subsection G be reworded to reference 7-1-8 B(4) NMSA 1978, on line 18 after the word “destroyed” the remainder of the sentence that ends on line 19 be struck and replaced with “in accordance with 7-1-8 B(4) NMSA 1978.”

To protect the integrity of the confidential taxpayer information and consistent with other data sharing statutes, TRD suggests adding a new section on page 7, after subsection G to requiring that a “state professional economist” complete training on protecting confidential information, the same as a department employee is required to do, prior to receiving information would be prudent. Language from Section 7-1-8.9 B NMSA 1978 states “The department may require that a municipal or county official or employee satisfactorily complete appropriate training on protecting confidential information prior to receiving the information pursuant to... this section.”

Consistent with other data sharing statutes, TRD suggests adding a new subsection on page 7, after subsection G to state: “The director and staff of the legislative finance committee receiving the information as provided in this section shall be subject to the confidentiality provisions of Section 7-1-8 NMSA 1978 and the penalty provisions of Section 7-1-76 NMSA 1978.”

TRD suggests amending the bill to ensure that any information disclosed by TRD through the provisions of this bill that would not be subject to release pursuant to the Inspection of Public Records Act (IPRA) once it is in the possession of the LFC.