FISCAL IMPACT REPORT

		LAST UPDATED	
SPONSOR	Thornton/Block/Tobiassen	**ORIGINAL DATE**	
SHORT TITLE	Small Business Income Tax Withholdings	**BILL NUMBER**	Senate Bill 448
		ANALYST	Graeser

REVENUE*
(dollars in thousands)

Type	FY25	FY26	FY27	FY28	FY29	Recurring or Nonrecurring	Fund Affected
PIT	**$0**	See fiscal implications	See fiscal implications	See fiscal implications	See fiscal implications	Recurring	General Fund
PIT	**$0**	See fiscal implications	See fiscal implications	See fiscal implications	See fiscal implications	Recurring	General Fund – State Treasurer's Earnings

Parentheses ( ) indicate revenue decreases.
*Amounts reflect the most recent analysis of this legislation.

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT*
(dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
TRD		**$20.0**			**Nonrecurring**	**General Fund**

Parentheses ( ) indicate expenditure decreases.
*Amounts reflect the most recent analysis of this legislation.

Sources of Information
LFC Files

Agency Analysis Received From
New Mexico Attorney General (NMAG)
Taxation and Revenue Department (TRD)
Economic Development Department (EDD)

SUMMARY

Synopsis of Senate Bill 448

Senate Bill 448 (SB448) amends Section 7-3-3 NMSA 1978 proposing to allow a small business with fewer than 50 employees to elect not to withhold state personal income tax (PIT) from these employees' wages and salaries. The employer must notify TRD and inform the employees of their obligation to file state income taxes quarterly.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns, or June 20, 2025, if enacted. The provisions of the bill are applicable for Tax Years beginning January 1, 2026.

FISCAL IMPLICATIONS

This analysis assumes SB448 would create a slight, non-recurring revenue impact because small business employers would no longer withhold income taxes from wages and salaries beginning January 1, 2026. Compliant employees would remit the taxes for the first quarter earnings on April 15, 2026, and for second quarter income on June 15, 2026. Third quarter taxes would be due September 15, 2026, and fourth quarter taxes would be due January 15, 2027. For compliant wage earners, there would be neither a recurring impact nor a non-recurring impact.

The following table derived from the federal Census Bureau Statistics of US Businesses indicates that there would be approximately 31,000 businesses and almost 200,000 employees would be impacted by the provisions of SB448.

	Establishments		Employees	
0	78.6%	125,804	0.0%	
1-4	11.9%	19,015	4.9%	31,656
5 - 9	3.3%	5,360	5.8%	37,518
10 - 19	2.3%	3,685	7.9%	51,587
20 - 49	1.8%	2,929	11.8%	76,990
50 - 99	0.6%	925	8.4%	55,105
100 -249	0.3%	462	9.0%	59,013
250 -499	0.1%	116	5.1%	33,219
500 - 999	0.8%	1,355	15.7%	102,417
1,000 or more	0.3%	406	31.4%	204,835
		160,057		652,340
1-50	19.4%	30,989	30.3%	197,751

Shifting the withholding burden from employers, who have historically been responsible for withholding, to exempt or non-exempt employees, who have not, may create issues for PIT compliance. Employees may not understand their new obligation to file income taxes, may do so incorrectly unintentionally, or may choose not to file to understate their income. Further, adding more than 150 thousand new quarterly state income tax filers may strain TRD's compliance function. Together, these factors may result in significant reductions in PIT revenue, although estimating the scale of these reductions is impossible without additional data.

TRD points out that the timing of receipt of funds would be affected.

> The proposed legislation provides employers with 50 or fewer employees an option to not withhold wages on behalf of their employees for state personal income taxes. The legislation does not change the employees' or employers' tax liability. It simply shifts the burden of payment to the employees. This burden shifting complicates tax collection and payment. See Technical comments below for details.
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> Because this bill would delay receipt of withholding tax revenue, classified under PIT, into the general fund, it would cause the State Treasurer's General Fund Investment Pool balances to be lower for certain periods within each fiscal year. Whereas employers remit withholding to the TRD monthly, employees would remit estimated payments quarterly. Lower STO cash

> balances would result in a decrease in general fund investment earnings from State Treasurer's balances. TRD would defer to the State Treasurer's Office (STO) to estimate reduced general fund revenue associated with STO earnings.

TRD will update forms, instructions and publication and make information system changes. Staff training to administer the changes to withholding will take place. This implementation will be included in the annual tax year changes. Implementing this bill will have a low impact on TRD's Information Technology Division requiring approximately 300 hours or about 2 months at a cost of $20 thousand of staff workload costs.

SIGNIFICANT ISSUES

The New Mexico Attorney General (NMAG) notes that the bill requires the employer to notify TRD of the election and the employees of their obligation to file and pay quarterly estimated taxes, there are no time frames established.

> However, this provision does not appear to clearly provide the time requirements for notifying the employee, and the period of time within which the employer may modify its decision, potentially resulting in a lack of clarity around those timelines.

The Economic Development Department (EDD) notes that employees would not be enthusiastic about the provisions of this bill:

> SB448 could ease administrative burdens for small businesses by simplifying payroll processes, potentially allowing them to allocate more resources toward growth and investment. However, the bill may also create tax compliance challenges, as employees might not make timely estimated payments, leading to penalties or financial strain when taxes come due.

TRD notes administrative and compliance issues:

> If enacted, the provisions of this bill would complicate tax administration by reducing tax compliance burden on small employers but adding additional compliance burden on their individual employees. One goal of tax policy is simplifying tax administration for the greatest number of taxpayers. Whereas current law requires an employer to monthly remit withholding, the proposal would lead anywhere from 1 to 49 employees per employer who elects this option to individually remit estimated payments quarterly. These employees currently file returns annually, but the bill will add additional quarterly requirements for individuals to comply with the income tax act and be in contact with TRD. Another goal of tax policy should be to place the burden of tax compliance on those best able to bear it. This bill goes against both these principles.
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> The benefit to the employer in reduced administrative burden is greatly outweighed by the additional administrative burden imposed on employees, who will now be required to calculate their own withholding amounts and make the quarterly estimated payments. These employers will still be required to withhold for federal income tax purposes, so their administrative savings are not significant. The bill therefore creates a new withholding requirement for employees while only marginally mitigating the existing withholding burden on employers. It would be more consistent and efficient for employers to handle both federal and state tax withholdings simultaneously, ensuring that employees are not burdened with the responsibility of making quarterly estimated payments.

Then, when the employee files their annual tax return (typically by April 15 of each year), the employee either owes additional tax and makes a payment or is owed a refund and receives the refund from TRD. This bill would result in more workers owing a significant amount of tax at the time they file their return, whereas under current law an amount roughly equal to a worker's tax liability is paid smoothly over each pay period. This may cause financial hardship for workers who are not anticipating owing a large amount when they file their return. Those workers could borrow money to pay their taxes or could incur penalty and interest from TRD.

If the intent of the bill is to provide a higher take home pay for the employees of small employers, it must be noted that the proposed legislation does not change the employee's tax liability or their disposable income. It simply changes the frequency at which the employee makes the tax payment from monthly to quarterly and shifts the burden of remitting tax from the employer to the employee. If the intent is to relieve small businesses of the accounting work necessary to withhold and report to TRD, this bill will not achieve that either.

This bill may widen the "tax gap" of taxes that are due but not collected. TRD's ability to ensure employers are appropriately remitting withholding monthly exceeds its ability to enforce compliance at the individual employee level.

The proposed legislation requires the eligible employers that elect to not withhold on behalf of their employees to notify TRD and their employees of the election. The bill, however, is silent on the frequency of such notification.

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