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## FISCAL IMPACT REPORT

ORIGINAL DATE 02/28/13

SPONSOR Dodge LAST UPDATED \_\_\_\_\_ HB 561

SHORT TITLE Tax Distribution & Transfer Corrections SB \_\_\_\_\_

ANALYST Smith

### REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY13	FY14	FY15	FY16	FY17		
Greater than (\$10 Million)					Recurring	General Fund

(Parenthesis ( ) Indicate Revenue Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

New Mexico Municipal League (NMML)

#### No Responses From

Taxation and Revenue Department (TRD)

### SUMMARY

#### Synopsis of Bill

House Bill 561 amends Section 7-1-6.15 of the Tax Administration Act. The new language shields local governments from refunds due to overpayments that were discovered after one year of the distribution, regardless of the reason for or size of the overpayment. It provides for notice of the impending increases or decreases in distributions unless the change is less than \$100. Authority is given to the secretary to deduct amounts over multiple future transfers or distributions. Installments may be used, with the agreement of the officials of the political subdivision, if a decrease in the transfer or distribution is greater than \$100 or greater than 10 percent of the average transfer or distribution for that political subdivision for the twelve months prior to the month in which the secretary's determination was made.

A decrease due to a political subdivision failing to submit a timely audit takes precedence over other decreases to a transfer or distribution.

**Effective Date:** Emergency Clause

## FISCAL IMPLICATIONS

This bill would materially diminish General Fund revenues. For example, taxpayers are generally provided a three year period for claiming refunds and these refunds are often quite large. Since local governments would be protected after the first year, the refund would be borne solely by the General Fund.

This bill may be counter to the Legislative Finance Committee (LFC) tax policy principle of adequacy, efficiency and equity. Due to the increasing cost of tax expenditures revenues may be insufficient to cover growing recurring appropriations.

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.

## SIGNIFICANT ISSUES

Through no fault of their own, some small cities are confronted with liabilities well beyond their ability to pay.

## PERFORMANCE IMPLICATIONS

The LFC tax policy of accountability is not met since the TRD is not required in the bill to report annually to an interim legislative committee regarding the data compiled from the reports from taxpayers taking the deduction and other information to determine whether the deduction is meeting its purpose.

## TECHNICAL ISSUES

This bill does not contain a sunset date. The LFC recommends adding a sunset date.

Does the bill meet the Legislative Finance Committee tax policy principles?

1. **Adequacy:** Revenue should be adequate to fund needed government services.
2. **Efficiency:** Tax base should be as broad as possible and avoid excess reliance on one tax.
3. **Equity:** Different taxpayers should be treated fairly.
4. **Simplicity:** Collection should be simple and easily understood.
5. **Accountability:** Preferences should be easy to monitor and evaluate