BILL ANALYSIS AND FISCAL IMPACT REPORT
Taxation and Revenue Department

February 26, 2025

Bill: SB-448 **Sponsor:** Senators Anthony L. Thornton, Jay C. Block and Nicole Tobiassen

Short Title: Small Business Income Tax Withholdings

Description: This bill amends Section 7-3-3 NMSA 1978 to allow an employer with 50 or fewer employees to elect not to withhold from those employees' wages for income taxes. Any eligible employer making this election must notify both the department and each employee of this election. This will create a responsibility for employees to make quarterly estimated payments pursuant to Section 7-2-12.2 NMSA 1978.

Effective Date: Not specified; 90 days following adjournment (June 20, 2025). Applicable to taxable years beginning on or after January 1, 2026.

Taxation and Revenue Department Analyst: Sara Grubbs

Estimated Revenue Impact*					R or NR**	Fund(s) Affected
FY2025	FY2026	FY2027	FY2028	FY2029		
--	See narrative	--	--	--	R	General Fund – State Treasurer's Investment Earnings

* In thousands of dollars. Parentheses ( ) indicate a revenue loss. ** Recurring (R) or Non-Recurring (NR).

Methodology for Estimated Revenue Impact: 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 T below for details.

Because this bill would delay receipt of withholding tax revenue, classified under Personal Income Tax (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 Taxation & Revenue Department (Tax & Rev) 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. Tax & Rev would defer to the State Treasurer's Office (STO) to estimate reduced general fund revenue associated with STO earnings.

Policy 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 Tax & Rev. 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.

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.

Withholding payments are submitted by an employer to approximate an employee's PIT liability. 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 Tax & Rev. 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 Tax & Rev.

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 Tax & Rev, this bill will not achieve that either.

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

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

Other Issues: None.

Administrative & Compliance Impact: Tax & Rev will update forms, instructions and publications 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 Tax & Rev's Information Technology Division (ITD), requiring approximately 300 hours or about 2 months at a cost of $19,992 of staff workload costs.

Estimated Additional Operating Budget Impact*				**R or NR****	**Fund(s) or Agency Affected**
FY2025	**FY2026**	**FY2027**	**3 Year Total Cost**		
--	$19.9	--	$19.9	NR	ITD – Staff workload

* In thousands of dollars. Parentheses ( ) indicate a cost saving. ** Recurring (R) or Non-Recurring (NR).

Related Bills: Similar to SB-161 (2021 Regular Session)