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FISCAL IMPACT REPORT

SPONSOR Smith DATE TYPED 1/28/04 HB _____

SHORT TITLE Allow Local Option Compensating Taxes SB 118

ANALYST Taylor

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY04	FY05			
	(3,000.0)	(3,100.0)	Recurring	General Fund
	(750.0)	(770.0)	Recurring	Small Cities/Counties
	9,600.0	9,800.0	Recurring	Municipalities
	4,500.0	4,600.0	Recurring	Counties

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Response Received From

Taxation and Revenue Department (TRD)

SUMMARY

Senate Bill 118 allows county and municipal governments to impose a local option compensating tax. The local option compensating tax is imposed pursuant to current local option gross receipts taxes. Local option compensating tax rates mirror local option gross receipts tax rates. As is the case with the gross receipts tax, a credit against the state compensating tax is provided. The bill requires TRD to administer the tax and transfer payments to local governments in the same way it does the state compensating tax. It prescribes how to determine in which jurisdiction the use of property occurs. It extends the prohibition on TRD taking collection action to compensating tax liabilities to local option compensating taxes. It also extends the liability for payment of the compensating tax to the local option compensating tax. The bill has an effective date of July 1, 2004.

FISCAL IMPLICATIONS

TRD estimates that enacting a local government compensating tax in FY05 would increase local government recurring revenues by \$14.1 million (\$9.6 million for municipalities; \$4.5 million for counties) and reduce state general fund recurring revenues by \$3.0 million. There is also an estimated negative impact to the small cities and small counties assistance fund of \$750 thousand.

TRD's analysis assumes the FY05 compensating tax base is \$975 million. The 0.5 percent credit is applied for taxpayers living within municipal boundaries (approximately 77 percent implied by the analysis). Multiplying the tax base of \$975 by the 77 percent of the population living in municipalities' yields and then by the credit rate of 0.5 percent implies that state revenues will decline by \$3.75 million. Eighty percent or \$3 million of the revenue loss would be absorbed by the general fund and the remaining 20 percent would be lost to the small cities and small counties fund.

Revenue gains for the cities and counties can be estimated in the same way by applying an assumed municipal rate of about 1.25 percent and a county rate of 0.5 percent.

TRD provides the estimated revenue gains for all counties and cities. This table is reported in the other impacts section of this report.

ADMINISTRATIVE IMPLICATIONS

TRD reports that this bill would have major administrative impacts. Their analysis is repeated here:

The provisions in this bill would have a major administrative impact on the department. In order to capture the appropriate data to distribute revenue from the new local option taxes, larger Combined Revenue System ("CRS") reporting forms would be required. This, in turn would require at least two full-page scanners at a cost of about \$350 thousand apiece. Three additional FTE would be required to enter the additional data and verify distribution amounts. Absent full-page scanners and additional resources, there is a high likelihood of late revenue distributions to local governments resulting from increased time for processing tax returns.

Major computer systems changes would be necessary to make the appropriate local revenue distributions. Reprogramming the system is possible. ***However, the effective date of July 1, 2004 does not allow the department enough time to implement the changes by the effective date. An effective date of January 1, 2005 would give the department enough time to incorporate the changes.***

Section 7-1-6.41 NMSA 1978 authorizes the department to withhold an administrative fee for local option gross receipts taxes distributed. Similarly, current statutes regarding the various local option gross receipts taxes clearly recognize an administrative fee for collecting and distributing the revenue. However, this proposal does not contain similar provisions allowing an administrative fee to be withheld for local option compensating taxes. The costs of administering the provisions would therefore have to be funded out of the department's General Fund appropriation.

TECHNICAL ISSUES

TRD’s analysis also raises the following technical issue:

Section 8, beginning on page 16, provides a credit against municipal compensating tax paid. The value of the credit is equal to one-half percent (.5%) of the value of property for which the taxpayer is liable “if the rate of the municipal compensating tax in effect at the time of use was one-half percent.” To be consistent with the municipal credit for gross receipts tax paid, the value of the compensating tax credit should be .5% of the value of property if the rate of municipal tax is at least .5%. On page 16, line 11 “at least” should be inserted between “was” and “one-half”.

OTHER SUBSTANTIVE ISSUES

TRD notes a policy advantage to making the compensating tax equivalent to the gross receipts tax rate is that it would eliminate a tax induced incentive for buyers to purchase from out of state vendors.

These two tables, estimating county and municipal government distributions from the local option compensating tax, were provided by TRD.

Estimated Local Option Compensating Tax Distributions—Counties					
Bernalillo	1,064,982	Harding	545	Roosevelt	40,942
Catron	736	Hidalgo	9,862	Sandoval	163,814
Chaves	152,060	Lea	102,254	San Juan	414,175
Cibola	61,013	Lincoln	31,198	San Miguel	44,599
Colfax	25,705	Los Alamos	293,384	Santa Fe	672,127
Curry	58,115	Luna	55,375	Sierra	21,752
DeBaca	2,502	McKinley	272,004	Socorro	11,286
Dona Ana	320,367	Mora	4,343	Taos	152,454
Eddy	189,115	Otero	67,897	Torrance	22,524
Grant	77,656	Quay	18,779	Union	4,818
Guadalupe	6,480	Rio Arriba	61,375	Valencia	95,835
				All Counties	\$4,520,071

Estimated Local Option Compensating Tax Distributions—Municipalities					
Alamogordo	197,962	Eunice	18,168	Pecos	4,210
Albuquerque	3,506,484	Farmington	543,802	Portales	64,741
Angel Fire	30,384	Floyd	158	Questa	4,521
Artesia	129,195	Folsom	66	Raton	73,959
Aztec	38,358	Fort Sumner	5,438	Red River	18,009
Bayard	6,586	Gallup	249,169	Reserve	1,783
Belen	92,545	Grady	143	Rio Rancho	244,913
Bernalillo	27,266	Grants	58,562	Roswell	292,579
Bloomfield	40,601	Grenville	32	Roy	1,256
Bosque Farms	11,451	Hagerman	4,075	Ruidoso	141,860
Capitan	4,984	Hatch	9,857	Ruidoso Downs	35,031
Carlsbad	200,137	Hobbs	322,141	San Jon	1,898
Carrizozo	4,151	Hope	220	San Ysidro	3,067
Causey	31	House	625	Santa Clara	1,252
Chama	8,650	Hurley	2,699	Santa Fe	1,159,875
Cimarron	3,414	Jal	10,542	Santa Rosa	26,519
Clayton	15,848	Jemez Springs	1,840	Silver City	106,187
Cloudcroft	8,877	Lake Arthur	300	Socorro	39,593
Clovis	229,789	Las Cruces	732,908	Springer	3,283
Columbus	1,965	Las Vegas	108,534	Sunland Park	33,833
Corona	735	Logan	3,602	T or C	33,055
Corrales	15,051	Lordsburg	21,492	Taos	137,685
Cuba	6,985	Los Lunas	80,806	Taos Ski Valley	10,635
Deming	68,890	Los Ranchos	19,162	Tatum	4,589
Des Moines	1,844	Loving	1,878	Texico	2,349
Dexter	5,484	Lovington	44,099	Tijeras	6,220
Dora	192	Magdalena	2,240	Tucumcari	41,006
Eagle Nest	2,635	Maxwell	196	Tularosa	7,956
Edgewood	12,901	Melrose	2,515	Vaughn	2,354
Elephant Butte	3,282	Mesilla	10,713	Virden	36
Elida	1,121	Milan	24,826	Wagon Mound	1,228
Encino	380	Moriarty	24,204	Willard	247
Espanola	135,855	Mosquero	263	Williamsburg	842
Estancia	8,271	Mountainair	3,071		
				All Municipalities	\$9,637,223