F I S C A L   I M P A C T   R E P O R T

SPONSOR Campos **DATE TYPED** 3-09-2005 **HB**

SHORT TITLE Resale of Services Gross Receipts **SB** 369/aSCORC

ANALYST Taylor

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY05	FY06			
	($9,000.0)	Similar	Recurring	General Fund
	($6,000.0)	Similar	Recurring	Local Governments

(Parenthesis ( ) Indicate Revenue Decreases)

Duplicates HB 582

SOURCES OF INFORMATION
LFC Files
Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of SCORC amendment

The SCORC amendment strikes the emergency clause and replaces it with a July 1, 2005 effective date.

Striking the emergency clause eliminates the FY05 fiscal impact.

Synopsis of original bill

Senate Bill 369 provides a new, partial deduction for gross receipts and governmental gross receipts. The deduction is for the sale of services for resale, and is equal to 15 percent of receipts; the buyer of the service must resell the service and the resale must *not* be subject to the gross receipts tax or the governmental gross receipts tax (Note: sale of services for resale that are subject to the gross receipts or governmental gross receipts tax are already deductible). The buyer must also deliver a non-taxable transaction certificate.

The bill also strikes language voiding nontaxable transaction certificates issued before January 1, 2005, and requiring the Taxation and Revenue department to issue a new series of nontaxable transaction certificates beginning January 1, 2005.

The bill carries an emergency clause, making its provisions applicable upon signature by the governor.

FISCAL IMPLICATIONS

TRD estimates that sales of service for resale will total approximately $1.5 billion in FY06. Applying an average statewide gross receipts tax rate of 6.6 percent implies that the tax raises about $99 million of revenue. Multiplying this by the 15 percent deduction, implies a $15 million revenue loss. Approximately 60 percent, or $9 million, of the revenue loss is allocated to the state general fund; the remainder impacts local government revenues.

TRD reports that the fiscal impacts for FY05 are uncertain. The emergency clause would make the bill effective for about three months of the year, but the department's analysis notes that taxpayer information for this year has already been distributed, and that many eligible taxpayers might be unaware of the change in time to claim the deduction. On the other hand, assuming taxpayers learned of the change and took full advantage, the potential revenue loss in FY05 would be nearly $4 million ($2.4 general fund; $1.6 local funds).

ADMINISTRATIVE IMPLICATIONS

The Taxation and Revenue Department reports that it would be difficult to implement these changes within the emergency clause time requirements. They say that the changes could be made by a July 1, 2005 effective date.

OTHER SUBSTANTIVE ISSUES

The Taxation and Revenue Department submitted this discussion of the pyramiding issue:

> *"Pyramiding" in the Gross Receipts Tax:*
> New Mexico's gross receipts tax ("GRT") is one of the broadest-based transactions taxes of any state in the country. Maintaining a broad tax base enables New Mexico to collect adequate revenue with a relatively low tax rate. Transactions between businesses constitute a significant share of New Mexico's broad gross receipts tax base. Since the inputs and the outputs of businesses are subject to tax, the inclusion of business services in the tax base results in some degree of "pyramiding," i.e. multiple taxation of the same product or service. The GRT has been modified to limit pyramiding on sales of tangible items by providing deductions of sales for re-sale. In the case of services, the analogous deductions are limited to those cases where the next sale is taxable. In addition, many business services are not "for re-sale," but rather are "consumed" by the purchasing business. Thus, there exists a significant degree of multiple taxation of services within the GRT. The current system could be viewed as unfair to businesses that, due to the nature of their purchases, are subject to higher overall tax burdens than their competitors in New Mexico and in other states.
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> The proposal would address the pyramiding of tax on services to a limited extent. By removing a portion of tax from the sale of services for re-sale, the cumulative imposition of tax on re-sold services decreases. This would benefit, for example, a business re-selling services in

interstate commerce. In such a case, the re-sale would not be subject to gross receipts tax, but under present law, the initial sale would have been taxable.

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