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FISCAL IMPACT REPORT

ORIGINAL DATE 2/07/06

SPONSOR Lujan, B. LAST UPDATED _____ HB 678

SHORT TITLE Leased Vehicle Surcharge Exemptions SB _____

ANALYST Earnest

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY06	FY07		
	None		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY06	FY07	FY08		
	(\$1,000.0)*	(\$1,000.0)*	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

* Estimates based on the assumption that about one-sixth of all vehicle leases are by New Mexico drivers. The consensus revenue estimating group estimates \$6.5 million from the leased vehicle surcharge in FY07 and FY08.

SOURCES OF INFORMATION

LFC Files

Responses Received From

Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of Bill

House Bill 678 would exempt persons with a valid with New Mexico drivers' license from the \$2.00 per day "leased vehicle surcharge" when renting a car in the state. The surcharge is applied to rentals of less than six months.

FISCAL IMPLICATIONS

The general fund revenue loss is estimated to be \$1 million per year. The estimate assumes that one-sixth of all vehicles are leased by New Mexico residents with a valid drivers' license. At this time, TRD does not have more precise figures.

SIGNIFICANT ISSUES

TRD indicates that the bill conflicts with Section 7-14A-4, which states that "it is presumed that all receipts of a person engaging in business [of leasing vehicles] are subject to the leased vehicle gross receipts and that all vehicles leased by that person are subject to the leased vehicle surcharge." Because some of the receipts would be exempted from the tax, the presumption would no longer apply. Section 7-14A-4 should also be amended to delete the presumption as to "all receipts."

TRD also finds, without citing precedent or case law, that the bill could be challenged under the equal protection clause of the federal constitution. Any type of restriction (tax) that falls solely on non-residents would be scrutinized. The state needs to articulate reasons for imposing a tax solely on non-residents who rent vehicles in New Mexico.

The bill does not address military personnel who reside in the state but do not have a NM driver's license.

ADMINISTRATIVE IMPLICATIONS

There would be some administrative impact to educate taxpayers and revise instructions and publications.

OTHER SUBSTANTIVE ISSUES

According to Blue Ribbon Commission testimony provided by TRD, the industry suggested the surcharge was initially imposed to export the tax burden to tourists, who were assumed to be the predominate users of rental cars. In the case of "replacement car rentals", however, state residents are generally the users of those rental cars. Insurance companies cover the cost of replacement rentals but the renter is usually required to pay the Leased Vehicle Surcharge. Since replacement rentals may often be required for an extended period of time, the surcharge might impose an annoying tax burden on residents who expected their insurance would cover the costs. Industry representatives report that seven states currently exempt "replacement car rentals" from similar taxes or surcharges – Maryland, Oklahoma, Indiana, Louisiana, Rhode Island, Utah, and Wisconsin.

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