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FISCAL IMPACT REPORT

SPONSOR Campos ORIGINAL DATE 2/05/2007
LAST UPDATED _____ HB 441
SHORT TITLE Gross Receipt Info For Municipalities SB _____
ANALYST Schuss

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY07	FY08	FY09	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		Unknown	Unknown	Unknown	Recurring	General

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Taxation and Revenue Department (TRD)

New Mexico Municipal League (NMML)

SUMMARY

Synopsis of Bill

House Bill 441 would expand the exception to confidentiality of tax return information to allow the Taxation and Revenue Department to release information to municipalities and counties about the amount of gross receipts taxes paid by individual taxpayers in their jurisdiction. Under present law the department is authorized to release to a county or municipality that has imposed a local option gross receipts tax the names, taxpayer identification numbers and addresses of registered gross receipts taxpayers reporting gross receipts within their jurisdiction. The proposal would expand this permission to include information on “gross receipts and gross receipts taxes paid” by taxpayers.

FISCAL IMPLICATIONS

TRD reports that there would be a need to add an additional FTE due to the additional requests for information regarding gross receipts tax.

SIGNIFICANT ISSUES

House Bill 441 gives further access to information for municipalities and counties. With passage of this bill, they will be able to access information on gross receipts taxes and gross receipts taxes paid by a request made to the Taxation and Revenue Department.

TRD notes that House Bill 441 also re-instates a section of the confidentiality statutes that was passed by the Legislature in 2005 but was “stepped on” by another bill amending the same section of law that was signed later. The re-instated section allows the department to provide information to the General Services Department to be used to develop jury selection pools.

NMML states that currently municipalities and counties have no method of determining if a taxpayer located in the municipality is reporting to the department correctly. Local government officials, given the ability to verify the amount of tax being reported by taxpayers in the municipality, could become an important mechanism to assure that the state and local governments are receiving the proper amount of tax from taxpayers. With employees of the municipality or county being subject to the same penalties as department employees the risk of distribution of the confidential information will be no greater than it is now.

The New Mexico Municipal League has passed a resolution supporting the issue.

ADMINISTRATIVE IMPLICATIONS

The Taxation and Revenue Department could see an increase in requests for this information which could have an impact on administration, depending on the number of requests received.

According to TRD, preparing reports in response to requests from local governments would become a new responsibility for the department. Since the likelihood is that almost all jurisdictions will want these reports on a regular basis, the new responsibility will require an FTE to handle these requests. System changes will be required that will entail additional non-recurring expense. The bill provides no appropriation, so these functions will have to be met out of the Department’s existing budget.

Information provided to the local governments will likely lead to numerous requests for TRD to follow-up, either with audits or less formal means of checking whether taxpayers have accurately reported tax due. Again, there are no added resources for the department proposed in the bill. TRD adds that the department’s auditors are fully committed at present and any new functions performed pursuant to the bill will simply crowd out ongoing audit and collection activities, with the likelihood that there would be no net increase -- and possibly a decrease -- in collections.

Municipalities and counties will be required to designate individuals that may receive and review the reports from TRD.

TECHNICAL ISSUES

According to TRD, the proposed amendments to Section 7-1-8 NMSA would make local government employees who receive taxpayer information subject to the same criminal penalties for misuse of the information that currently apply to the department’s employees and to employees of the Attorney General’s Office with such access. Since the proposal provides no guidelines as to who will receive the information or for what purpose it will be used, it would seem likely that some local government employees may end up exposed to possible misdemeanor prosecution. To help limit this problem, the proposal could be modified to explain that employees of local governments receiving the information could share it with other employees whose duties require that they have access to the information.

OTHER SUBSTANTIVE ISSUES

TRD has included the following in their analysis:

House Bill 441 would allow local governments to know whether all taxpayers in their jurisdiction are reporting and paying all of the tax that is due. It is unclear, however, how local governments would use this information. They do not have the authority to conduct audits, since this is reserved to the Taxation and Revenue Department. They would not be allowed to publish the information, or to confront taxpayers themselves. The most likely outcome is that they would make a series of requests of the department to conduct investigations into whether taxpayers are paying correctly. These requests will probably not provide important audit leads because the local governments do not have access to as much information – and do not have as much expertise with the tax code – as the Department’s audit managers, who currently determine the department’s priorities for audit work. The department already applies the overwhelming majority of its audit and collection resources to the Gross Receipts Tax. The proposal does not contain an appropriation to enable the department to expand those resources. Thus, the most likely outcome of the proposal is a series of requests for audits to which the department will be unable to respond.

Confidentiality of taxpayer information is an extremely important component in securing the voluntary compliance of taxpayers. Over 97 percent of all amounts collected by the state are voluntarily reported. Any policy change that undermines taxpayers’ motivation to voluntarily comply with tax requirements poses significant risks to the tax system.

BS/csd