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FISCAL IMPACT REPORT

ORIGINAL DATE 1/29/08
 SPONSOR Miera LAST UPDATED 1/30/08 HB 435
 SHORT TITLE County Correctional Facility Gross Receipts SB _____
 ANALYST Schardin

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY08	FY09	FY10		
	(See Narrative)		Recurring	County Governments
	(See Narrative)		Recurring	General Fund

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of Bill

House Bill 435 increases the maximum rate at which a county correctional facility gross receipts tax may be imposed from 1/8 to 1/4 percent. Counties will still be able to impose the tax in any one-sixteenth percent increment.

Under current law, up to 1/8 percent may be imposed with an optional county referendum. The bill would allow leave a referendum optional for the first two 1/16 percent increments but require a vote to impose the third or fourth 1/16 percent increments.

Since the bill has no effective date it is assumed to become effective on May 14, 2008, 90 days after the 2008 legislative session adjourns.

FISCAL IMPLICATIONS

The fiscal impact of this bill depends on if and when county governments choose to impose county correctional gross receipts tax rates above the current limit of 0.125 percent. The table below, based on data provided by TRD, indicates the potential revenue increase to each county if

an additional 1/8 percent tax were imposed in FY09. If all counties chose to impose an additional 1/8 percent tax, about \$58.9 million in revenue would be generated.

The table below also indicates the potential general fund revenue loss that would occur if all counties imposed an additional 1/8 percent tax in FY09. The food and medical gross receipts tax deductions enacted in 2004 include “hold harmless” provisions to protect local governments from associated revenue losses. In 2007, legislation froze the tax rate at which some local governments are held harmless from the food and medical deductions. However, in smaller cities and counties, the general fund hold harmless distribution grows larger when higher local option taxes are imposed. The general fund revenue loss would be about \$668 thousand in FY09 if all local governments chose to impose the tax.

**Illustration of Potential Revenue from Additional County
Local Option Increments - Fiscal Year 2009**

County	Potential Revenue: 1/8% County Correctional Facility GRT Increment	Potential General Fund Loss Due to Hold Harmless Distribution: 1/8% County Correctional Facility GRT Increment
Bernalillo	21,839,781	Hold Harmless Rate Frozen
Catron	42,862	(1,706)
Chaves	1,443,105	Hold Harmless Rate Frozen
Cibola	362,968	(35,947)
Colfax	422,248	(19,188)
Curry	991,230	(90,796)
De Baca	30,070	(2,811)
Dona Ana	4,181,818	Hold Harmless Rate Frozen
Eddy	2,754,956	Hold Harmless Rate Frozen
Grant	654,731	(69,526)
Guadalupe	192,720	(7,867)
Harding	15,563	(460)
Hidalgo	117,692	(4,153)
Lea	3,608,488	Hold Harmless Rate Frozen
Lincoln	629,369	(46,926)
Los Alamos	2,081,426	(62,054)
Luna	418,578	(43,400)
McKinley	1,330,096	Hold Harmless Rate Frozen
Mora	31,594	(2,994)
Otero	1,024,484	Hold Harmless Rate Frozen
Quay	176,566	Hold Harmless Rate Frozen
Rio Arriba	769,790	(67,516)
Roosevelt	321,051	(30,850)
San Juan	5,105,325	Hold Harmless Rate Frozen
San Miguel	429,856	(51,451)
Sandoval	2,275,493	Hold Harmless Rate Frozen
Santa Fe	4,965,236	Hold Harmless Rate Frozen
Sierra	186,755	(10,503)
Socorro	248,880	(26,358)
Taos	802,158	(76,190)
Torrance	268,732	(10,361)
Union	153,394	(7,062)
Valencia	979,739	Hold Harmless Rate Frozen
Total	58,856,751	(668,118)

Source: Taxation and Revenue Department, Office of Research and Statistics

SIGNIFICANT ISSUES

Any county in New Mexico may impose the county correctional facility gross receipts tax. Imposition of this tax does not require approval by a majority of county voters, although voters may petition an election to approve or disapprove the tax.

County revenue collected due to a county correctional facility gross receipts tax is restricted for use in operating, maintaining, constructing, purchasing, furnishing, equipping, rehabilitating, expanding, or improving a judicial correctional or county correctional facility. Revenue may also be used to transport or extradite prisoners or to pay principal and interest on county correctional facility gross receipts tax bonds.

Currently, counties are experiencing escalating costs to extradite and transport prisoners. For example, Bernalillo County reports that the county jail’s operating budget grew by an average of 9.5 percent per year from 1995 to 2007.

New Mexico’s municipalities and counties are authorized to impose over 4 percent of local option gross receipts taxes (that figure excludes several additional local option taxes that have been authorized for selected local governments). Due to increasing imposition of local option taxes, the statewide gross receipts tax rate is increasing steadily. On average, a local option gross receipts tax of about 1.9 percent will be imposed by local governments statewide by FY09. Combined with the state gross receipts tax of 5 percent, the statewide tax rate is therefore 6.9 percent.

ADMINISTRATIVE IMPLICATIONS

The administrative impact on TRD will be minimal.

TECHNICAL ISSUES

TRD notes technical issues with existing statute that could be fixed in this bill:

On page 3, line 3, cite Section 7-20F-1 NMSA 1978.

On page 3, line 8, add the words “Paragraph (1)” before the words “Subsection A” to clarify that these first two increments are subject to the optional referendum, as distinguished from an election.

On page 4, line 8 add a comma after, “the redemption fund” to indicate these three separate items.

SS/bb