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## FISCAL IMPACT REPORT

**SPONSOR** Cisneros **ORIGINAL DATE** 03/06/09 **LAST UPDATED** 03/20/09 **HB** \_\_\_\_\_

**SHORT TITLE** Tax Administration Food & Medical Credits **SB** 641/aSFC

**ANALYST** Francis

### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY09	FY10	FY11		
	\$0.1*		Recurring	General fund
	* see narrative for more details			

(Parenthesis ( ) Indicate Revenue Decreases)

Relates to provisions in HB590

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Taxation and Revenue Department (TRD)

### SUMMARY

#### Synopsis of SFC amendment

The Senate Finance Committee amended Senate Bill 641 to remove provisions relating to the hold-harmless provisions of the food and medical deduction from gross receipts. Under current law, a local government's hold harmless distribution is made according to the rate in effect on January 1, 2007, regardless of whether it is lower or higher than the current rate. SB 641 originally changed that to be the lower of the current rate and the rate in effect on January 1, 2007: the amendment restores current law.

#### Synopsis of Original Bill

Senate Bill 641 amends the Tax Administration Act

- to allow disbursements for attorney fees and costs for all tax litigation not just for oil and gas litigation
- to allow the tax suspense fund to receive federal funds related to the temporary assistance for needy families to pay for credits for low income families

- to transfer the power to increase the number of public road miles maintained by the county from the state treasurer to TRD
- to clarify the gross receipts tax rate that is used for holding local governments harmless from the food and medical deduction
- to extend time for protest to 90 days and expand participation in protest hearings
- to raise the threshold for abatement to \$25,000 that require attorney general approval.

SB641 also amends the Tax Refund Intercept Program Act to include the refunds related to the Corporate Income and Franchise Tax Act which will allow TRD to intercept refunds to pay outstanding debts.

## **FISCAL IMPLICATIONS**

SB641 allows the tax suspense fund to receive federal funds for the purpose of paying credits claimed by low income taxpayers pursuant to the Temporary Assistance for Needy Families (TANF) program. As part of the 2009 solvency plan, \$22.1 million of TANF funds were appropriated to the Tax Suspense Fund for this purpose.

SB641 also allows the department to pay attorneys fees and court costs out of the tax suspense fund for litigation not related to oil and gas. Currently, these costs must be budgeted for which can impact the decision of which litigation to pursue.

## **SIGNIFICANT ISSUES**

According to TRD, the existing time of protest was criticized by the Council on State Taxation (COST), a national business taxpayers association, resulting in a lower rating. This should improve the state's rating.

### **TRD:**

The bill helps taxpayers who have disagreements with the Department by simplifying and improving the protest and hearing process in three significant ways: the protest period is extended from 30 days to 90 days; taxpayers may be allowed more than one informal hearing; and personal income taxpayers may be represented in a hearing by an enrolled agent.

The bill helps taxpayers by awarding administrative and litigation costs related to credits. If a taxpayer prevails in an administrative or court proceeding related to a credit, cost will be awarded to the taxpayer.

The bill helps the Department administer the tax law more effectively. The threshold required for additional review of refunds and abatements by the Department's attorney's (as delegates of the Attorney General) is increased to facilitate these payments to taxpayers. Corporate income and franchise taxes could be subject to setoff under the Tax Refund Intercept Program for debts owed by an employer. Disbursements of attorney's fees from the TAA suspense funds is allowed for all tax litigation, not just oil and gas tax cases.

The bill allows transfers of state or federal funds to the TAA suspense fund to be used to pay tax rebates and credits to low-income families with children. Refunds of rebates and credits to low-income families with children qualify as part of the State’s “maintenance of effort” to receive federal TANF matching funds, which could be used to pay the refunds.

**PERFORMANCE IMPLICATIONS**

According to TRD, the State Treasurer has asked TRD to take over the responsibility of making road fund calculations to simplify distribution.

**ADMINISTRATIVE IMPLICATIONS**

TRD reports that there will be a savings in legal services by raising the threshold that require Attorney General review.

**RELATIONSHIP**

SB 641 relates to HB590 which also allows TANF funds to be received by the Tax Suspense Fund.

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