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FISCAL IMPACT REPORT

SPONSOR Torraco ORIGINAL DATE 2/15/15
LAST UPDATED _____ HB _____

SHORT TITLE Change Tax Evasion Penalties SB 508

ANALYST A. Sánchez

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NFI	NFI	NFI			

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the District Attorneys (AODA)

Taxation and Revenue Department (TRD)

New Mexico Sentencing Commission (NMSC)

New Mexico Corrections Department (NMCD)

SUMMARY

Synopsis of Bill

Senate Bill 508 proposes to change the penalties for tax evasion makes the evading or defeating of taxes of

- \$2,500 or less is a fourth degree felony,
- Greater than \$2,500 but less than \$20,000 is a third degree felony and
- Greater than \$20,000 is a second degree felony, and makes tax fraud of tax owed \$2,500 or less a fourth degree felony.

The bill also imposes fines commensurate with the degree of the felony committed contained in Section 31-18-15 NMSA 1978.

FISCAL IMPLICATIONS

TRD reports that it has a Tax Fraud Investigations Division that enforces the criminal statutes relative to the New Mexico Tax Administration Act and other related financial crimes, as they impact New Mexico state taxes, in order to identify and prosecute fraud, while encouraging and

achieving voluntary compliance with State of New Mexico tax laws. This bill changes the penalties associated with tax evasion and fraud which will facilitate TRD's fraud investigation efforts.

The NMCD estimates that the bill will ultimately likely result in a minimal to moderate increase in the number of offenders sentenced to NMCD custody, and thus a minimal to moderate increase to its prison population and/or probation/parole caseloads. It does not however, provide a dollar estimate of the increased cost. Currently, NMCD spends on average \$40.2 thousand per year to incarcerate each person committed to its custody.

SIGNIFICANT ISSUES

According to NMSC, the proposed amendments would align the criminal sanctions for tax evasion and tax fraud. Also, the proposed schedule of penalties are similar to penalties set forth in existing statutes regarding theft of property, found in Chapter 30, Article 16 NMSA 1978.

The AODA opines that eliminating misdemeanor offenses of tax fraud may increase resistance to prosecution, and hence have some impact on resources, for the responsible Agency and the courts. Standardizing the language of the penalties will provide a better reference point for parties to negotiate.

ADMINISTRATIVE IMPLICATIONS

TRD reports this bill changes the penalties for tax evasion and fraud. Personal income tax instructions will need to be updated accordingly and the department may want to consider adding these changes to all of the tax program instructions. Instructions can be added during the normal annual tax return modifications for tax year 2015 income tax forms and instructions at minimal incremental costs. TRD publications will also have to be modified.

ABS/bb