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FISCAL IMPACT REPORT

SPONSOR:	<u>Varela</u>	DATE TYPED:	<u>02/28/01</u>	HB	<u>930</u>
SHORT TITLE:	<u>New Mexico Taxpayer Bill of Rights</u>			SB	
		ANALYST:			<u>Williams</u>

SOURCES OF INFORMATION

LFC Files
Taxation and Revenue Department
Administrative Office of the Courts

SUMMARY

Synopsis of Bill

Endorsed by Revenue Stabilization and Tax Policy Committee. The bill creates the New Mexico Taxpayer Bill of Rights for the purposes of:

- Guaranteeing the rights, privacy and property of New Mexico taxpayers;
- Assuring that taxpayers are treated with dignity and respect; and
- Compiling in one act, brief but comprehensive statements that explain in simple, nontechnical terms, the rights of taxpayers.

The rights included in the bill include:

1. The right to available information and prompt, courteous and accurate response to questions and requests for assistance;
2. The right to be represented or advised by counsel or other qualified representation in administrative interactions with the department;
3. The right to have audits, inspections of records and meetings at a reasonable time and place;
4. The right to have the department begin and complete its audits in a timely and expeditious manner;
5. The right to simple, nontechnical information that explains procedures, remedies and rights during audit, protest, appeals and collection proceedings;
6. The right to be provided an explanation for the denial of refunds and the basis for an audit, assessment or denial of refunds;
7. The right to seek review of any findings or adverse decisions;
8. The right to have tax information kept confidential unless specified by law;
9. The right to abatement of tax assessments that have been incorrectly, erroneously or illegally made;
10. The right to information that if tax assessments are not paid, secured, protested or otherwise provided for, the taxpayer will be a delinquent taxpayer
11. The right to timely notice of any collection actions that will require sale or seizure of taxpayers' property;
12. The right to at least five days to review a jeopardy assessment before paying the tax or furnishing security for the tax;

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13. The right to procedures for retiring tax obligations by installment agreements, which recognize the taxpayer's financial condition and the best interests of the state;
14. The right to procedures that assure that individual department employees are not paid, evaluated or promoted on the basis of assessment or collection amounts.

The bill would require the taxation and revenue department to develop a brochure stating the taxpayer's bill of rights in simple, nontechnical language. The department would be required to distribute the brochure to taxpayers with the annual income and semiannual CRS tax forms.

The bill would allow a taxpayer who prevails in court proceedings covering the determination, collection or refund of any tax or penalty and interest on taxes governed by the provisions of the Tax Administration Act to be awarded a judgement or settlement for reasonable administrative costs.

The bill provides that a penalty against a taxpayer shall be abated if the failure to pay any amount of tax when due results from a mistake of law or fact made in good faith and on reasonable grounds.

The effective date of the bill is July 1, 2001.

Significant Issues

The recovery of litigation costs for taxpayers who prevail against the Department is a substantive expansion of taxpayer rights; however, only if TRD violates its own published guidelines will the plaintiffs be awarded attorney's fees. Note that TRD reflects zero to minimal fiscal and administrative implications.

The payer position is also enhanced by changing "disregard of rules and regulations" to "willful disregard of Department rules and regulations".

ADMINISTRATIVE IMPLICATIONS

TRD reports minimal administrative impact.

AW/njw