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## FISCAL IMPACT REPORT

SPONSOR: Papen DATE TYPED: 3/11/03 HB \_\_\_\_\_  
 SHORT TITLE: Nontaxable Transaction Certificates SB 586/aSFC  
 ANALYST: Smith

### APPROPRIATION

| Appropriation Contained |      | Estimated Additional Impact |      | Recurring or Non-Rec | Fund Affected |
|-------------------------|------|-----------------------------|------|----------------------|---------------|
| FY03                    | FY04 | FY03                        | FY04 |                      |               |
|                         |      |                             |      |                      |               |
|                         |      |                             |      |                      |               |

(Parenthesis ( ) Indicate Expenditure Decreases)  
 Duplicates HB339

### SOURCES OF INFORMATION

#### Responses Received From

Taxation and Revenue Department

### SUMMARY

#### Synopsis of SFC Amendment

The Senate Finance Committee Amendment strikes the appropriation in section 3 and adds a section mandating an electronic system of nontaxable transaction certificates. The system must be approved by the chief information officer and be in operation prior to June 30, 2005.

#### Synopsis of Original Bill

Senate Bill 586 makes a variety of technical/ administrative changes to the statutes governing nontaxable transaction certificates.

#### ***Section 1 amends Section 7-9-43 NMSA 1978:***

The purpose of the nontaxable transaction certificate (NTTC) program is to provide documentation that a transaction is deductible for purposes of the gross receipts tax. This proposal amends Section 7-9-43 to transition to the new series. The current series is scheduled to expire on December 31, 2003, but this proposal postpones the expiration date until December 31, 2004. This one-year extension is designed to allow the department time to ensure a smooth transition to a new electronic NTTC system. Certificates from the 1992 series will continue to be honored, and

taxpayers may apply for and begin executing certificates from the new series during the transition period.

A provision is also included which gives the department discretionary authority to reject application for or refuse to issue NTTCs if a taxpayer has failed to file a required tax return. NTTC application and issuance will be reconsidered when the taxpayer becomes current with all reporting requirements.

Currently under this section, the department may require a seller or lessor to file an annual report identifying the buyers and lessees from whom NTTCs have been accepted. This proposal removes the requirement that the report be made annually.

***Section 2 amends Section 7-9-54 NMSA 1978:***

Under Section 7-9-54, sales of tangible personal property to governmental agencies are deductible from gross receipts, with certain exceptions. Included among the exceptions are sales of construction material. A seller may accept a buyer's written assurance as proof that property sold is not construction material, and therefore qualifies for deduction.

The proposed amendment to this section is to clarify that if a seller deducts receipts based on good faith acceptance of written assurance allowed under Section 7-9-54, the department is prohibited from asserting in an audit or assessment of a *seller* that receipts from a sale are not deductible. Thus, protecting a seller who may erroneously deduct receipts based on a buyer's written assurance that the transaction qualifies for deduction pursuant to this section of statute. This provision does not bar the department from taking action against the buyer.

***Section 3 provides an appropriation:***

An appropriation of \$500 thousand is made to the department to fund the creation and implementation of an electronic system for issuing and executing the new NTTC series.

**FISCAL IMPLICATIONS**

Senate Joint Memorial 72 (2001 regular session) directed the department to study possible improvements to the NTTC system, with an emphasis on utilizing available technology to modernize the program. Hence planning the transition to the new series of NTTCs has been a major ongoing project. In the short term, the changeover to the new system will cost an estimated \$500.0 in contract system work, overtime, printing and advertising. The appropriation contained in this proposal will cover these design and implementation costs. The improvements put into operation in the short term will result in favorable future administrative impacts for the department and taxpayers.

**TECHNICAL ISSUES**

TRD notes that in order for the amendments to Section 7-9-54 to have the intended effect, on page 7, line 20, "of the seller" should be inserted after the word "audit".

**OTHER SUBSTANTIVE ISSUES**

TRD makes the following observations:

- The “Blue Ribbon Tax Reform Commission” is scheduled to make its tax policy recommendations no later than September 1, 2003. The one-year extension of changeover date will allow the department time to incorporate relevant changes to the new system, thus helping to ensure a smooth transition.
- Currently, the department may refuse NTTCs to *delinquent* taxpayers. This proposal would allow the department to refuse NTTCs to *non-filers*. There is an important distinction between delinquent taxpayers and non-filers. In order for a taxpayer to be considered delinquent under the law, the department first must issue assessments for non-filed periods. If the taxpayer doesn't pay or file a protest within 30 days, he becomes delinquent until he either furnishes security, pays, or files a retroactive extension of time to file a protest and then follows up with a protest. Thus, it can take a number of months before a "non-filer" turns into a "delinquent taxpayer." Under current law, the department may have to issue NTTCs to taxpayers who have a string of non-filed periods.
- Under the new electronic system, annual reports filed pursuant to 7-9-43 will become obsolete. The sellers and lessors will be reporting the buyers and lessees to whom they have executed NTTCs each time they execute an NTTC through the electronic system. The system itself is being designed to function as a constantly updated report, showing all entities to whom sellers have executed NTTCs.

In accordance with the provisions of SJM 72, the department has made a concentrated effort to modernize the NTTC system. In addition to expertise from internal personnel, the department has incorporated input from the legislature and private industry to streamline the process and minimize compliance and enforcement burdens. Included among the major improvements are plans to employ an electronic issuance process, including online application and approval, and plans to consolidate the number and types of NTTC's issued from 15 certificate types into 6 main classifications. Overall, these changes are expected to expedite the application process and improve compliance. This is accomplished by eliminating reliance on paper documentation thereby reducing the bureaucratic burden on taxpayers.

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