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FISCAL IMPACT REPORT

SPONSOR Leavell DATE TYPED 1/25/2005 HB _____

SHORT TITLE Partnership Info Filing Requirement Exemption SB 30

ANALYST Taylor

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY05	FY06			
	Insignificant	Insignificant	Recurring	General Fund

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of Bill

The withholding Tax Act requires pass through entities doing business in New Mexico to deduct and withhold taxes from nonresident owners' share of net income. The amount withheld is the owner's share multiplied by a rate determined by TRD regulations.

SB 30 would provide an exemption from this requirement to publicly traded partnerships.

FISCAL IMPLICATIONS

TRD reports that this legislation would not significantly impact state revenues. They note that publicly traded partnerships are rare, there being about 60 in the country, with about half in the oil and gas industry. They also say that although eliminating the withholding requirement might be expected to reduce tax compliance, most of the affected businesses are in the oil and gas industry and therefore subject to the oil and gas proceeds withholding tax.

ADMINISTRATIVE IMPLICATIONS

TRD indicates that this bill would reduce the cost of administering the Withholding Tax Act.

TECHNICAL ISSUES

TRD submitted this technical issue:

The bill does not exempt publicly traded partnerships from filing information returns. It adds publicly traded partnerships to Subsection E of Section 7-3-12 NMSA. Subsection E provides that Subsection D—the tax withholding requirement—will not apply in certain instances. Subsection E does not provide for exemption from the requirement of filing an information return contained in Subsection A of Section 7-3-12. Therefore, the bill is inconsistent with its title: “...EXEMPTING PUBLICLY TRADED PARTNERSHIPS FROM INFORMATION RETURN FILING REQUIREMENTS PURSUANT TO THE WITHHOLDING TAX ACT.” If the intent is to exempt publicly traded partnerships from filing information returns, the measure should be amended accordingly.

OTHER SUBSTANTIVE ISSUES

TRD’s analysis also reported this issue:

Most PTPs operate in more than one state. A typical PTP has millions of units held by thousands of investors. Hence it is difficult for PTPs to determine the correct amount of tax to withhold from their continuously changing groups of investors. They assert that their unique structure makes the current withholding requirement excessively burdensome.

BT/yr