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## FISCAL IMPACT REPORT

SPONSOR Wallace DATE TYPED 3/5/05 HB 572/aHGUAC  
 SHORT TITLE Release of Taxpayer Info to LFC SB \_\_\_\_\_  
 ANALYST Rosen

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
	NFI		NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to SB524, HB411, HB424, HB431 and SB240.

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Attorney General's Office (AGO)  
 Taxation and Revenue Department (TRD)

FOR THE LEGISLATIVE FINANCE COMMITTEE

### SUMMARY

#### Synopsis of HGUAC Amendment

House Government and Urban Affairs Committee amendment to House Bill 572 addresses technical issues, replacing "audit" with "review" (page 1, line 13), replacing "audit" with "review of the operation and management" (page 13, line 18 and 19), and after "department" inserting "pursuant to Section 2-5-4 NMSA 1978" (page 13, line 19).

AGO indicates this amendment clarifies that information in tax returns may be released to LFC during a "review of the operation and management of the [taxation and revenue] department pursuant to Section 2-5-4 NMSA 1978". That section gives LFC statutory authority to conduct annual reviews of the operation and management of selected state agencies, and make appropriate recommendations to the legislature.

Synopsis of Original Bill

House Bill 572 amends the Tax Administration Act to allow release of information in tax returns to LFC during an audit of TRD by LFC. It authorizes release of procedural or evidentiary rulings by TRD hearing officers, as long as the name and identification number of the taxpayer requesting the ruling are redacted, and prohibits TRD from releasing information regarding whether a person has filed a tax return, subject to certain exceptions listed in Section 7-1-8.

Significant Issues

LFC audit staff will be bound by the same confidentiality requirements as those currently binding TRD employees and financial auditors.

The legislature relies on timely and accurate analysis of tax collection and distribution information to formulate state agency budgets and make appropriations. LFC performance review of the tax collection and distribution process is frequently requested. Providing LFC performance auditors access to this information will reduce delays in the audit process, allowing LFC to perform more thorough and accurate analysis of tax collection and distribution processes and provide timely feedback.

The LFC audit unit reports that LFC access to taxpayer information has been restricted despite LFC willingness to execute confidentiality agreements, hampering the extent of audit procedures LFC performance auditors are able to perform. During LFC audit of the GenTax computer system, LFC could not perform an adequate analysis of how the system is processing and distributing taxes because LFC was not allowed to review how individual tax information is received and processed. In some cases tax collections placed into suspense due to processing errors are not resolved until research is performed, affecting the distribution of revenues. LFC had to rely on TRD staff to extract the individual information, delaying the audit for several months.

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

Relates to SB524.

AGO notes HB411, HB424, HB431 and SB240 amend the same section of statute.

**TECHNICAL ISSUES**

According to AGO, the exception allowing release to the LFC refers to “information” and it is assumed this means all information in taxpayer returns. It is also unclear as to the nature of the audit mentioned, or whether this bill is intended to grant the LFC the right to audit TRD. The LFC is authorized to examine the operation and management of selected state agencies pursuant to NMSA Section 2-5-4, but TRD is not specifically mentioned and that examination is not referred to as an “audit”.

According to AGO, because of the reference to the “name and identification number of the taxpayer requesting the ruling”, the bill might prohibit the release of procedural or evidentiary rulings requested by TRD.

**ALTERNATIVES**

AGO indicates consideration should be given to defining the type of taxpayer return information that will be released to the LFC under this bill, along with the type of “audit” referred to and the statutory basis for that audit.

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?**

LFC will not have the right to request and receive taxpayer information and the legislature will not be able to expect timely or accurate performance audits of the tax collection and distribution systems of the state.

JR/njw:yr