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## FISCAL IMPACT REPORT

ORIGINAL DATE 2/13/07

SPONSOR Robinson LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_

SHORT TITLE Financial Management Fee Gross Receipts SB 801

ANALYST Schardin

### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY07	FY08	FY09		
	(\$125.0)		Recurring	General Fund
	(\$85.0)		Recurring	Local Governments

(Parenthesis ( ) Indicate Revenue Decreases)

Duplicates HB 683

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

State Investment Council (SIC)  
 Regulation and Licensing Department (RLD)  
 Economic Development Department (EDD)  
 Taxation and Revenue Department (TRD)

### SUMMARY

#### Synopsis of Bill

Senate Bill 801 creates a gross receipts tax deduction from receipts from fees received for performing management or investment advisory services for a mutual fund, hedge fund, or real estate investment trust (REIT).

The bill defines a “hedge fund” as a private investment fund or pool, the assets of which are managed by a professional management firm that trades or invests, is not an investment company, and is comprised of investments by Securities and Exchange Commission accredited investors. “Mutual fund” is defined as an entity registered pursuant to the federal Investment Company Act of 1940.

“Real Estate Investment Trust” is defined as an entity described in Section 856(a) of IRS code of 1986, with investments limited to interests in mortgages on real property and shares of or transferable certificates in an entity described in Section 856(a) of the same federal code.

The effective date of these provisions will be July 1, 2007.

### **FISCAL IMPLICATIONS**

TRD’s fiscal impact estimate of the amended bill is based on the Report 80, Analysis of Gross Receipts Tax by Industrial Classification. The state collects about \$4.2 million in gross receipts tax from investment advisory service providers. Only about 5 percent of this amount is expected to be eligible for the new deduction because the other 95 percent is believed to be attributable to “retail” level services, not services provided to fund managers. About 60 percent of this revenue decrease will accrue to the general fund, while about 40 percent will accrue to local governments.

### **SIGNIFICANT ISSUES**

According to SIC, EDD, and RLD, the bill may help attract hedge and mutual fund managers to New Mexico because most other states do not tax this type of activity. These types of investment firms provide high-wage jobs and improve the investment and financial planning sector environment.

However, any hedge and mutual fund management firms currently located in New Mexico will also receive the tax deduction. LFC is aware of one company already located in New Mexico, Thornburg Investment Management, which will benefit from the proposed deduction.

According to EDD, because most shares in New Mexico-based funds are owned by non-New Mexicans, the types of management services addressed in this bill have generally been regarded as provided outside of New Mexico, and therefore are not subject to gross receipts tax. EDD states that this bill is largely a symbolic act that signals New Mexico’s desire to attract financial services companies. The LFC cautions against altering the tax code for symbolic reasons because doing so unnecessarily complicates tax statutes and makes tax administration more difficult.

### **ADMINISTRATIVE IMPLICATIONS**

TRD will be able to administer the provisions of this bill with existing resources.

### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

Senate Bill 801 duplicates House Bill 683.

### **ALTERNATIVES**

If the intent of the bill is to encourage firms to relocate to New Mexico, the bill could be amended so that the deduction is only received by firms beginning operations in New Mexico after a certain date. Such an amendment would make the deduction more efficiently targeted.