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## FISCAL IMPACT REPORT

ORIGINAL DATE 01/21/10

SPONSOR Trujillo LAST UPDATED \_\_\_\_\_ HB 30

SHORT TITLE Capital Outlay Gross Receipts Restrictions SB \_\_\_\_\_

ANALYST Gutierrez

### REVENUE (dollars in thousands)

| Estimated Revenue |                   |                   | Recurring<br>or Non-Rec | Fund<br>Affected |
|-------------------|-------------------|-------------------|-------------------------|------------------|
| FY10              | FY11              | FY12              |                         |                  |
|                   | \$0.0 - \$91,432  | \$0.0 - \$96,461  | Recurring               | Counties         |
|                   | \$0.0 - \$74,427  | \$0.0 - \$78,520  | Recurring               | Municipalities   |
|                   | (\$2,795) - \$0.0 | (\$2,949) - \$0.0 | Recurring               | General Fund     |

(Parenthesis ( ) Indicate Revenue Decreases)

Relates to HB42.

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Department of Finance and Administration (DFA)  
Taxation and Revenue Department (TRD)

### SUMMARY

#### Synopsis of Bill

House Bill 30 amends Sections 7-19D-12 and 7-20E-21 NMSA 1978 to allow all counties and municipalities to impose a local option capital outlay gross receipts tax in increments of 1/16 percent, not to exceed 1/4 percent. Under current law, only those local governments that have fully imposed their local option gross receipts tax and local infrastructure gross receipts tax increments may do so.

The bill also amends language regarding restriction of the use of county capital outlay gross receipts tax revenue to match language pertaining to use by municipalities.

The bill's provisions will become effective July 1, 2010.

**FISCAL IMPLICATIONS**

The fiscal impact of this bill depends on if and when local governments choose to impose the capital outlay gross receipts tax. To illustrate the potential fiscal impacts of the bill, the tables below show the amount of revenue that could be generated by each municipality and county if the full ¼ percent capital outlay gross receipts tax were imposed in FY11. About \$91 million could be generated by counties and about \$74 million could be generated by municipalities if all were to fully impose the tax in FY11.

The tables below also indicate the potential general fund revenue loss that would occur if all local governments fully imposed the tax in FY11. The food and medical gross receipts tax deductions enacted in 2004 include “hold harmless” provisions to protect local governments from associated revenue losses. In 2007, legislation froze the tax rate at which some local governments are held harmless from the food and medical deductions. However, in smaller cities and counties, the general fund hold harmless distribution grows larger when higher local option taxes are imposed. The tables below show that the general fund revenue loss would be about \$2.8 million in FY11 if all local governments chose to impose the tax. Fiscal impacts are expected to grow by 5.5 percent in FY12, which is the rate at which the December 2009 consensus revenue estimate expects taxable gross receipts to grow.

**Illustration of Potential Revenue from Additional County Local Option Increments  
Fiscal Year 2011**

| <b>County</b> | <b>Potential Revenue: 1/4%<br/>County Capital Outlay GRT<br/>Increment</b> | <b>Potential General Fund Loss Due to Hold<br/>Harmless Distribution: 1/4% County Capital<br/>Outlay GRT Increment</b> |
|---------------|--|--|
| Bernalillo    | 37,095,752   | Hold Harmless Rate Frozen  |
| Catron        | 73,475   | (3,612)  |
| Chaves        | 2,770,364  | Hold Harmless Rate Frozen  |
| Cibola        | Already Imposed  | Already Imposed  |
| Colfax        | 716,821  | (41,370)   |
| Curry         | 1,795,112  | (236,456)  |
| De Baca       | 53,450   | (5,966)  |
| Dona Ana      | 7,656,262  | Hold Harmless Rate Frozen  |
| Eddy          | 5,892,587  | Hold Harmless Rate Frozen  |
| Grant         | 1,120,058  | (150,066)  |
| Guadalupe     | Already Imposed  | Already Imposed  |
| Harding       | 162,114  | (1,153)  |
| Hidalgo       | 244,644  | (10,087)   |
| Lea           | 7,572,117  | Hold Harmless Rate Frozen  |
| Lincoln       | 1,104,344  | (104,274)  |
| Los Alamos    | 4,165,368  | (136,527)  |
| Luna          | Already Imposed  | Already Imposed  |
| McKinley      | Already Imposed  | Hold Harmless Rate Frozen  |
| Mora          | 73,499   | (6,851)  |
| Otero         | 2,012,104  | Hold Harmless Rate Frozen  |
| Quay          | 446,763  | (34,019)   |
| Rio Arriba    | 1,372,069  | (136,017)  |
| Roosevelt     | 559,834  | (65,889)   |
| San Juan      | 9,998,887  | Hold Harmless Rate Frozen  |
| San Miguel    | Already Imposed  | Already Imposed  |
| Sandoval      | 3,767,231  | Hold Harmless Rate Frozen  |
| Santa Fe      | Already Imposed  | Hold Harmless Rate Frozen  |
| Sierra        | 366,898  | (42,409)   |
| Socorro       | 488,204  | (59,256)   |
| Taos          | Already Imposed  | Already Imposed  |
| Torrance      | Already Imposed  | Already Imposed  |
| Union         | 343,297  | (15,035)   |
| Valencia      | 1,580,805  | Hold Harmless Rate Frozen  |
| <b>Total</b>  | <b>\$91,432,060</b>  | <b>(\$1,048,988)</b>   |

Source: RP500 from TRD, LFC Files

Illustration of Potential Revenue from Additional Municipal Local Option Increments - Fiscal Year 2011

| Municipality   | Potential Revenue:<br>1/4% Municipal<br>Capital Outlay GRT<br>Increment | Potential General Fund Loss<br>Due to Hold Harmless<br>Distribution: 1/4% Municipal<br>Capital Outlay GRT Increment | Municipality               | Potential Revenue:<br>1/4% Municipal<br>Capital Outlay GRT<br>Increment | Potential General Fund Loss Due<br>to Hold Harmless Distribution:<br>1/4% Municipal Capital Outlay<br>GRT Increment |
|----------------|---|---|----------------------------|---|---|
| Alamogordo     | Already Imposed   | Hold Harmless Rate Frozen   | Las Cruces                 | 5,439,930   | Hold Harmless Rate Frozen   |
| Albuquerque    | 31,090,876  | Hold Harmless Rate Frozen   | Las Vegas                  | 626,932   | (107,132)   |
| Angel Fire     | 174,076   | Hold Harmless Rate Frozen   | Logan                      | 31,775  | (4,968)   |
| Artisia        | Already Imposed   | Hold Harmless Rate Frozen   | Lordsburg                  | 136,472   | Hold Harmless Rate Frozen   |
| Aztec          | 387,215   | (51,161)  | Los Alamos                 | 4,165,368   | Hold Harmless Rate Frozen   |
| Bayard         | 44,135  | (7,610)   | Los Lunas                  | 776,341   | (163,874)   |
| Belen          | Already Imposed   | Already Imposed   | Los Ranchos De Albuquerque | 216,661   | (11,426)  |
| Bernalillo     | 352,685   | (101,672)   | Loving                     | 36,069  | (2,873)   |
| Bloomfield     | 608,103   | (6,618)   | Lovington                  | 562,379   | (49,685)  |
| Bosque Farms   | 83,022  | (4,397)   | Magdalena                  | 15,972  | (2,566)   |
| Capitan        | 32,082  | (11,426)  | Maxwell                    | 3,224   | -   |
| Carlsbad       | 1,751,628   | (205,078)   | Melrose                    | 12,573  | (1,006)   |
| Carrizozo      | 15,591  | Hold Harmless Rate Frozen   | Mesilla                    | 77,503  | (3,641)   |
| Causey         | 682   | -   | Milan                      | 158,222   | Hold Harmless Rate Frozen   |
| Chama          | Already Imposed   | Already Imposed   | Moriarty                   | 143,852   | (17,457)  |
| Cimmaron       | 22,618  | (22)  | Mosquero                   | 4,903   | (5)   |
| Clayton        | 130,224   | (15,034)  | Mountainair                | 32,882  | (242)   |
| Cloudcroft     | Already Imposed   | Hold Harmless Rate Frozen   | Pecos                      | 28,622  | (2,550)   |
| Clovis         | 1,531,096   | Hold Harmless Rate Frozen   | Peralta                    | 36,837  | Hold Harmless Rate Frozen   |
| Columbus       | 21,239  | (1,524)   | Portales                   | 410,474   | (64,792)  |
| Corona         | 10,248  | -   | Questa                     | 28,622  | (2,978)   |
| Corrales       | 163,771   | (1,309)   | Raton                      | 265,462   | Hold Harmless Rate Frozen   |
| Cuba           | Already Imposed   | Hold Harmless Rate Frozen   | Red River                  | 90,411  | (4,446)   |
| Deming         | 529,645   | Hold Harmless Rate Frozen   | Reserve                    | 12,767  | Hold Harmless Rate Frozen   |
| Des Moines     | 6,787   | Hold Harmless Rate Frozen   | Rio Rancho                 | 2,283,053   | Hold Harmless Rate Frozen   |
| Dexter         | 56,590  | (4,521)   | Roswell                    | 2,162,422   | (307,849)   |
| Dora           | 2,402   | Hold Harmless Rate Frozen   | Roy                        | 6,606   | (1,147)   |
| Eagle Nest     | Already Imposed   | Already Imposed   | Ruidoso                    | 578,658   | Hold Harmless Rate Frozen   |
| Edgewood       | 215,320   | Hold Harmless Rate Frozen   | Ruidoso Downs              | 199,684   | (59,114)  |
| Elephant Butte | 49,874  | (1,168)   | San Jon                    | 10,998  | -   |
| Elida          | 5,466   | (1,011)   | San Ysidro                 | 10,427  | (1,382)   |
| Encino         | 1,035   | -   | Santa Clara                | 41,416  | Hold Harmless Rate Frozen   |
| Espanola       | Already Imposed   | Hold Harmless Rate Frozen   | Santa Fe                   | 6,524,804   | Hold Harmless Rate Frozen   |
| Estancia       | 55,296  | (4,515)   | Santa Rosa                 | 161,811   | Hold Harmless Rate Frozen   |
| Eunice         | 388,379   | Hold Harmless Rate Frozen   | Silver City                | 602,054   | (140,625)   |
| Farmington     | 4,879,074   | Hold Harmless Rate Frozen   | Socorro                    | 319,978   | (56,634)  |
| Floyd          | 6,706   | Hold Harmless Rate Frozen   | Springer                   | 20,384  | Hold Harmless Rate Frozen   |
| Folsom         | 357   | -   | Sunland Park               | 245,680   | Hold Harmless Rate Frozen   |
| Fort Sumner    | 38,091  | (5,882)   | Taos                       | 735,686   | Hold Harmless Rate Frozen   |
| Gallup         | Already Imposed   | Hold Harmless Rate Frozen   | Taos Ski Valley            | Already Imposed   | Already Imposed   |
| Grady          | 5,271   | -   | Tatum                      | 28,891  | (4,107)   |
| Grants         | Already Imposed   | Already Imposed   | Texico                     | 15,202  | Hold Harmless Rate Frozen   |
| Grenville      | 1,571   | -   | Tijeras                    | 79,307  | (68)  |
| Hagerman       | 27,774  | (2,183)   | Truth or Consequences      | 220,171   | (40,498)  |
| Hatch          | 54,430  | Hold Harmless Rate Frozen   | Tucumcari                  | 226,180   | (28,720)  |
| Hobbs          | 3,753,183   | (231,369)   | Tularosa                   | Already Imposed   | Already Imposed   |
| Hope           | 2,817   | Hold Harmless Rate Frozen   | Vaughn                     | 14,054  | (1,742)   |
| House          | 4,431   | -   | Virden                     | 1,892   | -   |
| Hurley         | 23,486  | -   | Wagon Mound                | 4,762   | (206)   |
| Jal            | 66,651  | (7,791)   | Willard                    | 9,752   | -   |
| Jemez Springs  | 10,787  | (269)   | Williamsburg               | 4,639   | -   |
| Lake Arthur    | 4,193   | Hold Harmless Rate Frozen   | <b>TOTAL ALL MUNIS</b>     | <b>\$74,427,026</b>   | <b>(\$1,746,291)</b>  |

Source: RP500 from TRD, LFC Files

**SIGNIFICANT ISSUES**

Under current law, only counties and municipalities that have fully imposed their local option gross receipts tax and their local option infrastructure gross receipts tax may impose a capital outlay gross receipts tax. Imposition of the capital outlay gross receipts tax requires voter approval.

In a similar bill presented during the 2008 session, the New Mexico Municipal League and the New Mexico Association of Counties stated that they supported the bill because they contend that local governments should not be required to fully impose the local option gross receipts tax of 1.5 percent in municipalities and 7/16 percent in counties, when they may need capital outlay revenue instead of general revenue.

Revenues raised by a county or municipality through a capital outlay gross receipts tax may be restricted for use to build, acquire or improve public buildings and their grounds, water and wastewater systems, firefighting equipment, local roads and bridges, airport facilities, recreational facilities and open space, or repayment of revenue bonds issued for infrastructure

purposes. County revenue may also be used for county correctional and juvenile detention facilities.

The table below indicates that as of January 2010, 17 municipalities and 6 counties currently impose the capital outlay gross receipts tax while 8 municipalities and 2 counties are currently eligible but do not impose the tax. Notably, several more municipalities were eligible to impose the capital outlay gross receipts tax until January 1, 2007, when new legislation increased the maximum increment of municipal gross receipts tax from 1.25 to 1.5 percent.

| <b>Local Option Capital Outlay Gross Receipts Tax</b>     |                 |   |
|---|-----------------|---|
| <u>Municipalities Currently Imposing</u>                  |                 | <u>Counties Currently Imposing</u>                  |
| Alamogordo  | Logan           | Guadalupe   |
| Angel Fire  | Mesilla         | Luna  |
| Aztec   | Red River       | McKinley  |
| Bloomfield  | San Jon         | San Miguel  |
| Clayton   | Santa Fe        | Santa Fe  |
| Clovis  | Santa Rosa      | Taos  |
| Cuba  | Taos Ski Valley |   |
| Espanola  | Tucumcari       |   |
| Las Vegas   |                 |   |
| <u>Municipalities Currently Eligible but not Imposing</u> |                 | <u>Counties Currently Eligible but not Imposing</u> |
| Artesia   | Eagle Nest      | Cibola  |
| Belen   | Gallup          | Torrance  |
| Chama   | Grants          |   |
| Cloudcroft  | Tularosa        |   |

Source: TRD, Enactment dates of local option taxes as of January 1, 2010

New Mexico’s municipalities and counties are authorized to impose over 4 percent of local option gross receipts taxes (that figure excludes several additional local option taxes that have been authorized for selected local governments). On average, a local option gross receipts tax of about 2.2 percent is actually imposed by local governments statewide. Combined with the state gross receipts tax of 5 percent, the average statewide tax rate is therefore 7.2 percent.

**RELATIONSHIP**

This bill relates to HB42 which amends Section 7-19D-10 to allow municipalities to impose a municipal environmental services gross receipts tax at a rate not to exceed 0.5 percent.

**OTHER SUBSTANTIVE ISSUES**

New Mexico’s gross receipts tax (GRT) is imposed on many business-to-business transactions. This adds to overhead, putting New Mexico companies at a competitive disadvantage with out-of-state businesses. It also disadvantages small versus large businesses. These problems are exacerbated by higher tax rates.

The gross receipts tax is by far the largest single revenue source for operations of state and local government. Diverting a portion of this revenue for capital outlay may have the long-term effect of reducing funds available for operations.

TRD:

The capital outlay gross receipts tax can be imposed in smaller increments (i.e., 1/16%) than the municipal or county gross receipts tax increments, or the initial infrastructure gross receipts tax increment which all must be imposed in 1/8% increments. Election questions to impose such smaller tax increments of the municipal capital outlay gross receipts tax might be more acceptable to voters who would otherwise vote against election questions to impose tax increments with the larger increments required for the municipal or county gross receipts tax or the infrastructure gross receipts tax.

DFA:

By amending this section local governments would have the ability to impose taxes to generate revenue for a specific usage as they deem necessary, i.e. when they may need capital outlay revenue instead of general operating revenue. With the current economic downturn, and the possible withdrawal of previous legislatively appropriated capital outlay monies may require that local governments have the ability to impose the capital outlay gross receipts tax in order to generate revenue and complete infrastructure projects that are already underway.

## POSSIBLE QUESTIONS

The county and municipal gross receipts taxes contribute to general revenue. Is there any reason a local government that has not yet fully imposed its local option gross receipts tax could not, under current law, impose additional increments of that tax to use for the same capital outlay-related purposes?

BLG/svb

***The Legislative Finance Committee has adopted the following principles to guide responsible and effective tax policy decisions:***

- 1. Adequacy:*** revenue should be adequate to fund government services.
- 2. Efficiency:*** tax base should be as broad as possible to minimize rates and the structure should minimize economic distortion and avoid excessive reliance on any single tax.
- 3. Equity:*** taxes should be fairly applied across similarly situated taxpayers and across taxpayers with different income levels.
- 4. Simplicity:*** taxes should be as simple as possible to encourage compliance and minimize administrative and audit costs.
- 5. Accountability/Transparency:*** Deductions, credits and exemptions should be easy to monitor and evaluate and be subject to periodic review.

***More information about the LFC tax policy principles will soon be available on the LFC website at [www.nmlegis.gov/lcs/lfc](http://www.nmlegis.gov/lcs/lfc)***