F I S C A L   I M P A C T   R E P O R T

ORIGINAL DATE 02/04/10
SPONSOR Griego, P. **LAST UPDATED** 02/15/10 **HB**

SHORT TITLE Temporary Tax Amnesty Program **SB** 180/aSCORC/aSFC

ANALYST Lucero

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY10	FY11		
	None	Nonrecurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue Impact*						Recurring or Non-Rec	Fund(s) Affected
FY10	FY11	FY12	FY13	FY14	FY 10-14		
	$2,136.0	$6,854.0	($3,338.0)	($904.0)	$4,748.0	Nonrecurring	General Fund
	$915.0	$2,938.0	($1,431.0)	($387.0)	$2,035.0	Nonrecurring	Other State Funds and Local Governments

(Parenthesis ( ) Indicate Revenue Decreases)

SOURCES OF INFORMATION
LFC Files

Responses Received From
Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of SFC Amendment

The Senate Finance Committee Amendment to Senate Bill 180 removes the appropriation to the Taxation and Revenue Department for conducting a tax amnesty program.

Synopsis of SCORC Amendment

Senate Corporations and Transportation Committee (SCORC) amendment to Senate Bill 180 clarifies that under the proposed amnesty, a taxpayer shall not "have been" assessed taxes for a requested managed audit, instead of shall not "be" assessed taxes.

Synopsis of Original Bill

Senate Bill 180 appropriates five hundred thousand dollars ($500,000) from the General Fund to the Taxation and Revenue Department (TRD) for the purpose of conducting a tax amnesty program for taxes and tax acts administered under the Tax Administration Act.

This bill authorizes TRD, with the concurrence of the governor, to declare an amnesty period of no more than ninety days provided that that amnesty period shall occur within the fiscal year 2011. All revenue collected as a result of the tax amnesty shall be identified specifically and reported to the first session of the fifty-first legislature.

The bill also authorizes the secretary of TRD to waive, during the amnesty period, interest and penalty on taxes that were due and not assessed prior to the day amnesty period begins. The amnesty is to be conducted as a managed audit, and the Secretary is authorized to waive certain eligibility requirements of the managed audit program currently available to eligible New Mexico taxpayers.

The amnesty would be available to taxpayers eligible for the current managed audit program, and potentially to taxpayers TRD is currently pursuing for non-filed returns, taxpayers with existing debt, and taxpayers who have been audited in the past who have unreported and unassessed taxes.

The provisions of this Act are repealed effective July 1, 2011.

FISCAL IMPLICATIONS

The appropriation of five hundred thousand dollars ($500,000) contained in this bill is a non-recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of 2011 shall revert to the General Fund.

The estimated revenue accounts for several components:

1. Increased collections during the amnesty,
2. Reduced revenues the would have been collected through regular collection efforts, as well as penalty and interest associated with these revenues,
3. Revenues due to new filers brought into the system through the amnesty, and
4. Reduced revenues that stem from diversion of resources from other collection activities.

The estimated revenue impact, provided by TRD, relies in part on data from, and assumptions regarding, the 1999 amnesty. Approximately 40 percent of collections ($19.2 million) from the 1999 amnesty are assumed to result from unassessed liabilities that meet the requirements of the managed audit program. 64 percent of collections occurred during the 1999 amnesty period; the remaining 36 percent occurred during the two-year installment payment period. To estimate collections of unassessed taxes that would result from the proposed amnesty, the full value of those collected during FY1999 as well as 20 percent of those collected during FY2000 and FY2001 are adjusted to current values by accounting for the growth in collections over time. Although the 1999 amnesty allowed for installment payment agreements, this is not a characteristic of the amnesty proposed by this bill. However, because payment of liabilities assessed during managed audits are typically paid over a period of about one year from application for the managed audit, TRD assumed that 30 percent of revenues resulting from the proposed amnesty are collected during FY2011 and the remaining 70 percent are collected during FY2012.

A portion of revenues collected in the 1999 amnesty program (an assumed 85 percent) would have been collected even in the absence of an amnesty. Today's improved collection efforts would tend to increase the percent of revenues that would have been collected in the absence of an amnesty. However, because the proposed amnesty covers only unassessed liabilities and is structured as a managed audit, its scope is narrower and thus fewer taxpayers are eligible. TRD therefore, assumed that 60 percent of revenues collected during the proposed amnesty could have been collected via regular collection efforts. In addition, had these taxes been collected through regular collection efforts rather than in the amnesty, interest and penalty would have been collected. Data collected during the 1999 amnesty indicates that penalty and interest that was waived during the amnesty amounted to 56 percent of collections. Because the statutes now impose a lower interest rate than that which was imposed at the time of the 1999 amnesty, TRD estimates that lost penalty and interest would equal 40 percent of collections in the FY2011 amnesty. These two components of the revenue estimate, taking into account amounts that would otherwise have been collected in managed audits (with no interest or penalty), are distributed over several fiscal years; TRD assumed that 20 percent would have occurred during FY2011, 35 percent in FY2012, 25 percent in FY2013, 10 percent in FY2014, and the remaining 10 percent in subsequent fiscal years.

Additional filers brought into the system by the amnesty would have a positive effect on revenues in FY2012 and subsequent years. The amnesty is assumed to bring new filers into the system such that revenues increase by 0.01 percent in FY2012 and subsequent fiscal years.

Finally, the amnesty would divert resources away from regular collection and audit activities (TRD estimates 5 percent of resources will be diverted), thereby reducing regular revenue collections by a total of approximately $2.6 million in FY2011 and FY2012.

It is assumed that 70 percent of the revenue impact will affect the General Fund; the remaining 30 percent is assumed to impact other state funds and local governments.

All revenue estimates are contingent on the Department receiving the $500,000 appropriation requested to cover costs associated with implementing the amnesty program. Without the appropriation, current Department resources would have to be used to implement the amnesty program, which would result in an overall negative revenue impact.

ADMINISTRATIVE IMPLICATIONS

TRD reports that an amnesty program could have an impact to information technology (IT) systems, including GenTax. GenTax would have to be programmed to remove penalty and interest from case files that qualify under the amnesty. There will also be other additional costs including promotion or advertising of the amnesty program, postage, and diverted staff time.

RELATIONSHIP

Relates to the General Appropriations Act

DL/mew:svb:mt:mew