

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill Number: SB 94

50th Legislature, 1st Session, 2011

Tracking Number: .183830.1

Short Title: Income Surtax, Distribution & School Funds

Sponsor(s): Senator Eric G. Griego

Analyst: Eilani Gerstner

Date: February 2, 2011

Bill Summary:

SB 94 creates a new section of the *Tax Administration Act* to make the following distributions of net personal income tax receipts for taxable years 2011 through 2013:

- 6.65 percent to the Public School Fund; and
- 6.65 percent to the Human Services Department for the Medicaid program.

Also for taxable years 2011 through 2013, SB 94 amends the *Income Tax Act* to impose a surtax of 3.3 percent on taxable income in excess of:

- \$75,000 for married individuals filing separate returns;
- \$150,000 for heads of household, surviving spouses and married individuals filing joint returns; or
- \$100,000 for single individuals and for estates and trusts.

Finally, SB 94 amends the *Public School Finance Act* to require that dollars in the Public School Fund be non-reverting.

Fiscal Impact:

SB 94 does not contain an appropriation.

Fiscal Issues:

According to the Taxation and Revenue Department (TRD) analysis of SB 94, TRD estimates that the provisions in the bill would have the following revenue impact for FY 11 through FY 15:

Estimated Revenue Impact (dollars in thousands)						Funds Affected
FY 11	FY 12	FY 13	FY 14	FY 15	TOTAL*	
\$1,057	\$12,402	\$13,699	\$6,038	\$366	\$33,562	Public School Fund
\$1,057	\$12,402	\$13,699	\$6,038	\$366	\$33,562	Human Services Dept.
\$13,786	\$161,696	\$178,602	\$78,724	\$4,768	\$437,576	General Fund
\$15,900	\$186,500	\$206,000	\$90,800	\$5,500	\$504,700	Total

* "TOTAL" column added and calculated by LESC staff.

Technical Issues:

TRD raises the following technical issue in their analysis:

As currently drafted, Section 4 may be interpreted so that a taxpayer is deemed to have complied with *all* provisions of Section 7-2-12.2 if it makes the first required annual payment of estimated taxes based on the version of Section 7-2-7 applicable for the 2010 tax year. If the provisions of Section 4 are intended to specify compliance with Section 7-2-12.2 only as to the first required annual payment of taxes due for 2011, Section 4 should be clarified. This ambiguity could be resolved if the Section is amended to state, “for the taxable year 2011, a taxpayer is deemed to have complied with the provisions of Section 7-2-12.2 NMSA 1978 for the taxpayer’s first required annual payment of estimated taxes due for taxable year 2011 if that payment is based on the provisions of the version of Section 7-2-7 NMSA 1978 applicable on January 1, 2010 through December 31, 2010.”

TRD also notes that two effects of SB 94 may require a “significant restructuring of the way [Personal Income Tax] revenue is processed and distributed”: (1) a distribution of revenue “exclusive of penalties and interest,” and (2) a different distribution formula according to the tax year from which tax liabilities arise.

Substantive Issues:

According to current law, dollars in the Public School Fund revert to the General Fund at the end of each fiscal year. The Public Education Department notes in their analysis that, in years where federal Impact Aid credits are higher than anticipated, such as in FY 09, those dollars revert to the General Fund. SB 94 would allow those dollars to remain in the Public School Fund.

Related Bills:

None as of February 2, 2011.