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

SPONSOR Griego, E. **ORIGINAL DATE** 02/01/11 **LAST UPDATED** **HB**

SHORT TITLE Income Surtax, Distribution, and School Funds **SB** 94

ANALYST Golebiewski

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY11	**FY12**	**FY13**		
$1,057.0	**$12,402.0**	**$13,699.0**	Nonrecurring Impact after FY15	Public School Fund
$1,057.0	**$12,402.0**	**$13,699.0**	Nonrecurring Impact after FY15	Human Services Dept.
$13,786.0	**$161,696.0**	**$178,602.0**	Nonrecurring Impact after FY15	General Fund
$15,900.0	**$186,500.0**	**$206,000.0**	Nonrecurring Impact after FY15	Total

(Parenthesis ( ) Indicate Revenue Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY11	FY12	FY13	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		$65.0		$65.0	Nonrecurring	TRD

(Parenthesis ( ) Indicate Expenditure Decreases)

Companion to SB 171.

SOURCES OF INFORMATION
LFC Files

Responses Received From
Taxation and Revenue Department (TRD)
Public Education Department (PED)

SUMMARY

SB 94 proposes a new surtax at a rate of 3.3% on taxable income in excess of:

1. $75 thousand for married individuals filing separate returns
2. $150 thousand for heads of household, surviving spouses and married individuals filing joint returns; or
3. $100,000 for single individuals and for estates and trusts

This new surtax is only in effect for taxable years 2011 through 2013.

SB 94 proposes distributions of net income tax receipts, beginning July 2011, of six and sixty-five hundredths percent to the public school fund and six and sixty-five hundredths percent to the Human Services Department for expenditure for the state's Medicaid program. The bill also amends Section 22-8-14 NMSA 1978 to prevent the reversion of remaining funds from the Public School Fund to the General Fund at the end of each fiscal year.

FISCAL IMPLICATIONS

Estimated Revenue Impact*						**R or NR****	**Fund(s) Affected**
FY2011	**FY2012**	**FY2013**	**FY2014**	**FY2015**	**FY 11-15**		
1,057	12,402	13,699	6,038	366	33,562	R#	Public School Fund
1,057	12,402	13,699	6,038	366	33,562	R#	Human Services Dept.
13,786	161,696	178,602	78,724	4,768	437,576	R#	General Fund
15,900	**186,500**	**206,000**	**90,800**	**5,500**	**504,700**	**R#**	**Total**

* In thousands of dollars. Parentheses ( ) indicate a revenue loss. ** Recurring (R) or Non-Recurring (NR). #Personal Income Tax revenue is generally treated as recurring for budget purposes; however, the revenue impact of this bill cease after FY15.

TRD:

> A simulation model was used to estimate each calendar year's tax liability at 2008 income levels (the most recent year for which complete tax return data is available). Personal income growth factors were used to increase the liability estimates to the relevant income levels. Calendar year liabilities were converted to fiscal years by applying historical payment patterns. Estimates assume that withholding tables are not revised until July 1, 2011. As a result, FY 2011 revenues are assumed to increase only due to estimated payments; withholding is unaffected until FY 2012 and the majority of the calendar year 2011 revenue impact is delayed until FY 2012 and FY 2013, thereby inflating the revenue impact for FY 2012 and FY 2013. Based upon payment due dates stipulated in current statute, 50% of tax year 2011 estimated payments are assumed to be made in FY 2011; the remaining 50% are assumed to be made in FY 2012.

SIGNIFICANT ISSUES

The surtax represents a substantial increase in tax burden for those in the relevant tax brackets. Raising the personal income tax rate by such a large amount during a period of economic recovery is also risky. More personal income tax revenue for the state translates to less money spent and invested by the residents of New Mexico. This may delay the process of economic recovery, which is currently projected to increase at a slow but steady pace.

TRD:

The proposal creates a trade-off between two desirable goals of tax policy. On the one hand, it would impose a greater portion of the personal income tax burden on taxpayers with greater ability to pay. On the other hand, raising income tax rates would reduce the after-tax return on labor and capital invested in the New Mexico economy, thus reducing the competitiveness of New Mexico's economy by discouraging business location and investment as well as employment and work effort.

ADMINISTRATIVE IMPLICATIONS

TRD:

Under current law there is a set monthly distribution of personal income (PIT) tax revenue to the retiree health care fund and the remainder is distributed to the General Fund. Currently all PIT revenue is treated the same regardless of which tax year it came from or whether it was attributable to penalties and interest versus regular liabilities. Making a distribution to a new recipient does not create a large burden; however, creating special distribution rules for revenue from penalties and interest separately or special distribution rules for revenue based on taxable year requires significant configuration changes to the processing systems for PIT tax revenue. The Department's IT Division estimates that the changes will require approximately 720 employee hours as a cost of $64,800. Increased administrative burdens to the Department without additional resources increase the likelihood of distributions being delayed or incorrect. Increased administrative burdens also have an opportunity cost. They prevent work that could either increase revenue through compliance initiatives or help taxpayers correctly file their taxes with the least possible cost and time.

In addition, because withholding tables have already been developed for tax year 2011, tables will need to be revised mid-year.

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CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

This bill is related to SB 171.

TECHNICAL ISSUES

TRD:

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."

The proposal introduces two “wrinkles” into the distribution process for income tax revenue: (1) It establishes a distribution of revenue “exclusive of penalties and interest,” and (2) it establishes a different distribution formula according to the tax year from which tax liabilities arise. Attempting to comply with these new requirements will require a significant restructuring of the way PIT revenue is processed and distributed. See **Administrative & Compliance Impact** [above].

JAG/bym