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## FISCAL IMPACT REPORT

**ORIGINAL DATE** 02/11/13  
**LAST UPDATED** 03/06/13    **HB** 463a/HJC

**SPONSOR** Gallegos, D.M.

**SHORT TITLE** Financial Institution Electronic Levy Warrant    **SB** \_\_\_\_\_

**ANALYST** Smith

### REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY13	FY14	FY15	FY16	FY17		
NFI						

(Parenthesis ( ) Indicate Revenue Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Taxation and Revenue Department (TRD)

### SUMMARY

#### Synopsis of HJC Amendment

The House Judiciary Committee amendment standardizes the electronic format used between the TRD and Financial institutions.

#### Synopsis of Original Bill

House Bill 463 allows the Taxation and Revenue Department (TRD) to serve warrants of levy upon financial institutions electronically as long as both the TRD and the financial institution agree to the electronic method.

This is Taxation and Revenue Department initiated bill.

The TRD notes that the department has broad authority to levy against a taxpayers real property as required to satisfy the taxpayers obligations, subject to significant procedural and notice requirements before such warrants of levy may be issued. However, if a warrant of levy is served upon a financial institution in New Mexico, the financial institution must survey all checking accounts, savings accounts, escrows for collection, safety deposit boxes, trusts, certificates of deposit and all other accounts or places in which it may possess or hold any

property or rights to property belonging to the taxpayer as of the date of service of the warrant of levy. Moreover, the financial institution upon which a warrant of levy is served must immediately surrender to the department any property or rights to property of the taxpayer which that institution possesses or holds as of the date of service of the warrant. Failure to do so makes the financial institution liable to the state of New Mexico in a sum equal to the value of the property or rights not surrendered. If a financial institution upon which a warrant of levy is served knows of property or rights to property of the taxpayer in the possession of another as of the date of the service of the warrant of levy, it must immediately report this fact to the agent of the department.

In an environment where electronic transactions and communications are commonplace, there is a gain of efficiency where receipt of a notification of time sensitive communications and legal actions is facilitated. The bill provides that service of such warrant of levy notification must be in an electronic format that has been mutual agreed upon between the financial institutions and the Department, assuring that common communication and documentation protocols are resolved prior to implementing the provisions of this bill.

**Effective Date:** July 1, 2013

#### **ADMINISTRATIVE IMPLICATIONS**

No fiscal impact is expected, except in the benefits of greater efficiency in administering the provisions of the Tax Administration Act relating to collection of tax obligations through issuance and enforcement of a levy against the real property of a delinquent taxpayer. These cost savings and efficiency gains cannot be forecast, but largely relate to the operational costs incurred by both the Department and the financial institutions receiving the warrants of levy.

Does the bill meet the Legislative Finance Committee tax policy principles?

1. **Adequacy:** Revenue should be adequate to fund needed government services.
2. **Efficiency:** Tax base should be as broad as possible and avoid excess reliance on one tax.
3. **Equity:** Different taxpayers should be treated fairly.
4. **Simplicity:** Collection should be simple and easily understood.
5. **Accountability:** Preferences should be easy to monitor and evaluate