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

SPONSOR: Stewart   DATE TYPED: 2/13/03   HB 316

SHORT TITLE: National Lab Gross Receipts Tax Deduction   SB

ANALYST:

REVENUE

Estimated Revenue				Recurring or Non-Rec	Fund Affected
FY04	**FY05**	**FY06**	**FY07**		
1,500.0	3,300.0	5,000.0	6,900.0	Recurring	General Fund (GRT)
1,000.0	2,200.0	3,400.0	4,600.0	Recurring	Local Governments (GRT)
(1,600.0)	(3,500.0)	(5,300.0)	(7,200.0)	Recurring	General Fund (Tangibles)
(1,000.0)	(2,300.0)	(3,500.0)	(4,700.0)		Local Governments (Tangibles)
5,900.0	**13,300.0**	**20,200.0**	**27,600.0**		NET General Fund
5,100.0	11,300.0	17,400.0	23,700.0		NET Local Governments

SOURCES OF INFORMATION

Responses Received From

TRD

SUMMARY

Synopsis of Bill

House Bill 316 bill amends Sections 7-9-15 and 7-9-29 NMSA 1978 to remove the gross receipts and compensating tax exemptions for a national laboratory classified as a 501(C)(3) organization. The bill also amends Section 7-9-60 to remove the deduction allowed for sales of tangible personal property to the laboratory. Those current law provisions are replaced with temporary deductions that are phased-out over five years in increments of 20% per year (i.e., the lab, and sellers of tangible personal property to the lab, may deduct 80% of the relevant gross receipts in the first year, 60% in the second year, etc.). The deductions are scheduled to be completely phased-out by FY 2008. The net revenues attributable to the gross receipts tax imposed on the laboratory are to be distributed to the Public School Fund (PSF).

Significant Issues

The public school fund is effectively a sub account of the general fund.

FISCAL IMPLICATIONS

TRD notes that much of the information used to derive the fiscal impact estimate was obtained from *"The Economic Impact of the Department of Energy on the State of New Mexico-Fiscal Year 1995"* published by the Albuquerque Operations Office of the U.S. Department of Energy. The fiscal impact estimate assumes a $1.8 billion total contract amount for management services provided to the Department of Energy in federal fiscal year 2004. Of the total contract amount, approximately 56% is presumed to be taxable gross receipts. The estimate further assumes more than $220 million in taxable gross receipts for sellers of tangible personal property to the lab.

The amendments to Section 7-9-60 capture sales of tangible personal property to the laboratory. The gross receipts tax imposed on sellers of tangible personal property to the laboratory would be split between the general fund and local governments. The proposal only earmarks the net receipts derived from the gross receipts tax *imposed on the laboratory* to the general fund.

Receipts of selling a service for resale to the laboratory would become deductible under Section7-9-48 NMSA 1978. Under Section 7-9-48, a sale of a service for resale is deductible only if the buyer resells the service in the ordinary course of business ***and the resale is subject to the gross receipts tax***. Currently, sales of services for resale to a 501(c)(3) organization are taxable because the subsequent sale of the service is not taxable. Bringing the laboratory's sale of service into the gross receipts tax base allows sellers of services (to the laboratory) for resale to begin deducting these receipts (assuming possession of the requisite Type 5 NTTC). Hence the negative fiscal impact component presented above.

OTHER SUBSTANTIVE ISSUES

- If the lab's budget was not increased to accommodate the tax, then procurement or wages would be reduced accordingly.

- An Albuquerque Journal article noted that the president's budget called for a massive increase in weapons research funding; it would be roughly the same (in real terms) as it was during the height of the cold war. A significant portion of this money would flow to Los Alamos.

- TRD notes that this proposal targets one taxpayer. If it were to pass, it could conceivably be challenged on equal protection grounds.

SS/njw