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## FISCAL IMPACT REPORT

SPONSOR: Crook DATE TYPED: 03/07/03 HB 762/aHTRC

SHORT TITLE: Estimated Tax Payment Filing Prerequisites SB \_\_\_\_\_

ANALYST: Smith

### REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY03	FY04			
	NFI		Recurring	General Fund

(Parenthesis ( ) Indicate Revenue Decreases)

### SOURCES OF INFORMATION

LFC Files

Response Received From

Taxation and Revenue Department (TRD)

### SUMMARY

#### Synopsis of HTRC Amendment

House Taxation and Revenue Committee amendment to House Bill 762 corrects a technical error in Section 1, 7-2A-9.1(B) that would have resulted in a \$(500.0) reduction in revenue to the general fund. With this correction, the bill is essentially revenue neutral, except for lost investment income of approximately (\$7.0) which may be offset via administrative savings.

#### Synopsis of Original Bill

Senate Bill 762 amends NMSA 1978, § 7-2A-9.1, of the Corporate Income and Franchise Tax Act, to authorize a new procedure for estimating corporate tax payments. Under the new option, firms would estimate tax amounts due for each fiscal quarter of the current year, assuming the estimated amounts total at least 80 percent of the amount determined actually due for that quarter.

In addition to changing methods for estimating taxes due, the proposed measure modifies dates on which taxes are due.

Significant Issues

This bill makes eligibility of the estimated payments contingent upon the current years tax liability being greater than \$5.0 and removes the language regarding “reasonably expected to be”. This removes the problem for taxpayers who suddenly become late on estimated payments because they receive an unexpected increase in income in late quarters in the fiscal year, and offers them instead an annualized option. The measure reduces the likelihood of estimated payment obligations when circumstances (i.e. economic downturns) will result in no or reduced tax liability at the end of the year. Currently, estimated payments are often required when subsequent refund requests are inevitable. Additionally, this bill would bring New Mexico more closely in line with IRS estimated tax provisions.

**FISCAL IMPLICATIONS**

As written, there is a technical error in HB 762 that would result in a \$(500.0) reduction in revenue to the general fund. If corrected, TRD states that the bill would be revenue neutral.

The following summary assumes HB 762 is amended to correct the technical error:

According to the Taxation and Revenue Department (TRD), some taxpayers would make lower estimated payment tax payments than presently, or no estimated payments at all, due to removal of the stipulation that taxes in a previous year must total at least \$5.0. About 95% of all corporate income tax is paid by firms with obligations in excess of \$5.0. HB 762 would delay payment of taxes by some taxpayers that normally pay approximately \$5.0 in taxes annually. In tax year 2001, 350 firms paid taxes totaling between \$4.0 and \$5.0 and their tax obligations totaled approximately \$1.7 million. If 20% of such firms do not make estimated tax payments per this bill, \$350.0 in taxes would be received at a later date than under current law. Applying a 2% interest rate (the rate currently received on general fund deposits) for potential investment income, this bill would result in approximately (\$7.0) in lost revenues. However, TRD stated that the lost interest income would probably be offset by decreased processing costs.

**ADMINISTRATIVE IMPLICATIONS**

A computer system modification and changes in forms and instructions can be absorbed with resources currently available to TRD. Limited administrative efficiencies will occur because some taxpayers will no longer be making estimated tax payments.

**OTHER SUBSTANTIVE ISSUES**

A comparison of present law and the changes proposed in HB 762 is summarized below:

<b>Corporate Income Tax Estimation Procedures – Present Vs. HB 762</b>	
<b>Current Law</b>	<b>HB 762</b>
Corporations must pay estimated taxes in any particular year if their taxes after credits <i>can reasonably be expected to be</i> \$5,000 or more. Estimate via one of three methods:	Corporations must pay estimated taxes in any particular year if their taxes <i>are</i> \$5,000 or more in the current year. Estimate via one of four methods:
1) estimate tax due in current year if the esti-	1) Same as 1) under present law;

<p>mated amount is at least 80 percent of tax determined due for the current year;</p>	
<p>2) use 100 percent of tax due for <i>previous</i> year if a) the previous year was a full 12-month year, and b) the amount due in the previous year was at least \$5,000;</p>	<p>2) use 100 percent of tax due for <i>previous</i> year if the previous year was a full 12-month year – same as under present law except that condition b) is excluded.</p>
<p>3) use 110 percent of tax due in <i>the year prior to the previous year</i> if a) it was a full 12-month year, b) amount due in that year was at least \$5,000 and c) the return for the previous year has not been filed and d) the extended due date for filing the return has not occurred when the first installment is due in the current year.</p>	<p>3) use 110 percent of tax due in <i>the year prior to the previous year</i> if a) it was a full 12-month year, b) the return for the previous year has not been filed and c) the extended due date for filing the return has not occurred when the first installment is due in the current year – same as 3) under present law except that condition b) is excluded;</p>
	<p>4) estimate amount due, net of credits, for <i>each fiscal quarter of current year</i>, assuming estimated amount is at least 80 percent of amount determined due for that quarter.</p>

TECHNICAL ISSUES

HB 762 modifies the dates on which taxes are due – currently 25% of amounts are due on or before the 15th day of the 4th, 6th, 9th and 12th months of the tax year. As written, the proposed statute would require payments on the 6th, 9th and 12th months. **The bill is silent on the issue of when the first quarterly payment (4th month) would be made.** This appears to be a drafting error.

RLG/sb/njw