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

SPONSOR: Altamirano DATE TYPED: 2/11/03 HB

SHORT TITLE: Lab Gross Receipts Tax Deduction SB 485

ANALYST: Smith

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY03	**FY04**			
	25,400.0	61,000.0	Recurring	General Fund (GRT on Lab)
	3,400.0	8,100.0	Recurring	General Fund (Sale of Tangibles)
	2,300.0	5,400.0	Recurring	Local Governments (Sale of Tangibles)
	(3,500.0)	(8,500.0)	Recurring	General Fund (Sale of Tangibles)
	(2,400.0)	(5,700.0)	Recurring	Local Governments (Resale Deduction)
	25,300.0	60,600.0	Recurring	Net General Fund
	(100.0)	(300.0)	Recurring	Net Local Govern-ments

(Parenthesis ( ) Indicate Revenue Decreases)

SOURCES OF INFORMATION

Responses Received From

TRD

SUMMARY

Synopsis of Bill

Senate Bill 485 removes the gross receipts and compensating tax exemptions for a national laboratory classified as a 501(C)(3) organization (Los Alamos National Laboratory). The bill also amends Section 7-9-60 to remove the deduction allowed for sales of tangible personal property to the laboratory. The revenues attributable to the state gross receipts tax, as well as all local option gross receipts taxes imposed on the laboratory are to be distributed to the general fund. The tax exemptions and deduction are repealed effective January 1, 2004; the distribution provision is effective February 1, 2004.

FISCAL IMPLICATIONS

TRD reports 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 the 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.

The compensating tax potential is limited because the lab contract is structured for "management services". Thus most property that would otherwise be subject to compensating tax pursuant to this proposal, is actually owned by the Department of Energy. 80% of net compensating tax collections go to the state general fund, and the remaining 20% is split evenly with the small cities and small counties assistance funds.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB-317 removes the gross receipts and compensating tax exemptions and deductions for the national laboratory and distributes the net receipts to the Public School Fund; HB-316 *phases-out* the exemptions and deductions in 20% increments and distributes the gross receipts proceeds to the Public School Fund.

TECHNICAL ISSUES

TRD notes that the language inserted on page 5, line 9 may not be totally on point. Ostensibly, the intent of the change is to exclude gross receipts tax attributable to the lab from the calculation of the 1.225% share of state gross receipts tax that would otherwise be allocated to Los Alamos County. This ensuring that 100% of the proceeds from the gross receipts tax imposed on the laboratory are directed to the general fund. The language in the proposal implies that the national laboratory is a business location, not a taxpayer. The intent may be stated more clearly as (beginning on line 8); *"...net receipts for the month attributable to the gross receipts tax, other than the net receipts attributable to the gross receipts tax imposed on a national laboratory, from business locations...."*

OTHER SUBSTANTIVE ISSUES

- The rationale for the effective date is to give LANL a chance to include the tax in its budgetary negotiations. 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.

- This proposal targets one taxpayer. If it were to pass, it could conceivably be challenged on equal protection grounds. However, New Mexico taxes the receipts of one laboratory and exempts another because it is a "not for profit" although both entities' central mission and ultimate source of funding are the same. TRD is studying this complicated issue.

- TRD notes that this bill explicitly directs revenue derived from local option taxes to the general fund. Hence, the effective state gross receipts tax rate on the laboratory is 6.0625%. The department is unaware of any precedent for this provision.

SS/prr