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FISCAL IMPACT REPORT

ORIGINAL DATE 1/22/08
 SPONSOR Gonzales LAST UPDATED 1/25/08 HB 24
 SHORT TITLE Capital Outlay Gross Receipts Tax Eligibility SB _____
 ANALYST Schardin

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY08	FY09	FY10		
	See Narrative		Recurring	Counties
	See Narrative		Recurring	Municipalities
	(See Narrative)		Recurring	General Fund

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Corrections
 New Mexico Municipal League (NMML)
 New Mexico Association of Counties (NMAC)
 Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of Bill

House Bill 24 amends sections 7-19D-12 and 7-20E-21 NMSA 1978 to allow all counties and municipalities to impose a local option capital outlay gross receipts tax in increments of 1/16 percent, not to exceed ¼ percent. Under current law, only those local governments that have fully imposed their local option gross receipts tax and local infrastructure gross receipts tax increments may do so.

The bill also amends language regarding restriction of the use of county capital outlay gross receipts tax revenue to match language pertaining to use of municipal capital outlay gross receipts tax revenue.

The bill's provisions will become effective July 1, 2008.

FISCAL IMPLICATIONS

The fiscal impact of this bill depends on if and when local governments choose to impose the capital outlay gross receipts tax. To illustrate the potential fiscal impacts of the bill, the tables below show the amount of revenue that could be generated by each municipality and county if the full ¼ percent capital outlay gross receipts tax were imposed in FY09. About \$101.4 million could be generated by counties and about \$77.2 million could be generated by municipalities if all were to fully impose the tax in FY09.

The tables below also indicate the potential general fund revenue loss that would occur if all local governments fully imposed the tax in FY09. The food and medical gross receipts tax deductions enacted in 2004 include “hold harmless” provisions to protect local governments from associated revenue losses. In 2007, legislation froze the tax rate at which some local governments are held harmless from the food and medical deductions. However, in smaller cities and counties, the general fund hold harmless distribution grows larger when higher local option taxes are imposed. The tables below shows that the general fund revenue loss would be about \$1,423.4 million in FY09 if all local governments chose to impose the tax. Fiscal impacts are expected to grow by 3.1 percent in FY10, which is the rate at which the December 2007 consensus revenue estimate expects gross receipts tax collections to grow.

**Illustration of Potential Revenue from Additional County
Local Option Increments - Fiscal Year 2009**

County	Potential Revenue: 1/4% County Capital Outlay GRT Increment	Potential General Fund Loss Due to Hold Harmless Distribution: 1/4% County Capital Outlay GRT Increment
Bernalillo	43,679,561	Hold Harmless Rate Frozen
Catron	85,723	(3,412)
Chaves	2,886,210	Hold Harmless Rate Frozen
Cibola	725,937	(71,895)
Coffax	844,495	(38,376)
Curry	1,982,460	(181,593)
De Baca	60,140	(5,623)
Dona Ana	8,363,636	Hold Harmless Rate Frozen
Eddy	5,509,913	Hold Harmless Rate Frozen
Grant	1,309,462	(139,051)
Guadalupe	Already Imposed	Already Imposed
Harding	31,126	(919)
Hidalgo	235,383	(8,305)
Lea	7,216,975	Hold Harmless Rate Frozen
Lincoln	1,258,738	(93,851)
Los Alamos	4,162,851	(124,108)
Luna	Already Imposed	Already Imposed
McKinley	Already Imposed	Hold Harmless Rate Frozen
Mora	63,187	(5,988)
Otero	2,048,969	Hold Harmless Rate Frozen
Quay	353,132	Hold Harmless Rate Frozen
Rio Arriba	1,539,580	(135,031)
Roosevelt	642,101	(61,701)
San Juan	10,210,651	Hold Harmless Rate Frozen
San Miguel	Already Imposed	Already Imposed
Sandoval	4,550,985	Hold Harmless Rate Frozen
Santa Fe	Already Imposed	Hold Harmless Rate Frozen
Sierra	373,510	(21,006)
Socorro	497,760	(52,715)
Taos	Already Imposed	Already Imposed
Torrance	537,464	(20,721)
Union	306,787	(14,125)
Valencia	1,959,477	Hold Harmless Rate Frozen
Total	101,436,215	(978,419)

Source: Taxation and Revenue Department, Office of Research and Statistics

Illustration of Potential Revenue from Additional Municipal Local Option Increments - Fiscal Year 2009

Municipality	Potential Revenue: 1/4% Municipal Capital Outlay GRT Increment	Potential General Fund Loss Due to Hold Harmless Distribution: 1/4% Municipal Capital Outlay GRT Increment	Municipality	Potential Revenue: 1/4% Municipal Capital Outlay GRT Increment	Potential General Fund Loss Due to Hold Harmless Distribution: 1/4% Municipal Capital Outlay GRT Increment
Alamogordo	Already Imposed	Hold Harmless Rate Frozen	Las Cruces	6,136,891	Hold Harmless Rate Frozen
Albuquerque	37,259,572	Hold Harmless Rate Frozen	Las Vegas	Already Imposed	Hold Harmless Rate Frozen
Angel Fire	Already Imposed	Hold Harmless Rate Frozen	Logan	Already Imposed	Already Imposed
Artisia	1,240,252	Hold Harmless Rate Frozen	Lordsburg	138,781	(8,365)
Aztec	Already Imposed	Already Imposed	Los Alamos	4,162,851	Hold Harmless Rate Frozen
Bayard	50,531	(6,318)	Los Lunas	998,665	Hold Harmless Rate Frozen
Belen	468,758	(79,717)	Los Ranchos De Albuquerque	251,944	(10,433)
Bernalillo	356,014	(18,459)	Loving	20,416	(2,234)
Bloomfield	Already Imposed	Already Imposed	Lovington	572,442	(38,849)
Bosque Farms	101,713	(4,289)	Magdalena	27,336	(3,129)
Capitan	33,671	(8,962)	Maxwell	2,497	-
Carizozo	33,991	(1,543)	Melrose	15,369	(880)
Carlsbad	1,563,960	Hold Harmless Rate Frozen	Mesilla	Already Imposed	Already Imposed
Causey	1,033	-	Milan	207,509	(13,307)
Chama	51,760	(8,412)	Moriarty	195,353	Hold Harmless Rate Frozen
Cimmaron	23,955	(154)	Mosquero	2,270	(638)
Clayton	Already Imposed	Already Imposed	Mountainair	22,648	(1,275)
Cloudcroft	55,818	Hold Harmless Rate Frozen	Pecos	30,398	(1,766)
Clovis	Already Imposed	Hold Harmless Rate Frozen	Portales	502,282	Hold Harmless Rate Frozen
Columbus	17,972	(983)	Questa	31,528	(2,827)
Corona	4,987	(320)	Raton	355,770	(28,672)
Corrales	211,534	(1,153)	Red River	Already Imposed	Hold Harmless Rate Frozen
Cuba	48,862	Hold Harmless Rate Frozen	Reserve	10,652	(2,105)
Deming	617,241	Hold Harmless Rate Frozen	Rio Rancho	3,181,489	Hold Harmless Rate Frozen
Des Moines	12,517	Hold Harmless Rate Frozen	Roswell	2,362,917	Hold Harmless Rate Frozen
Dexter	61,615	(3,382)	Roy	6,479	(910)
Dora	5,532	Hold Harmless Rate Frozen	Ruidoso	622,922	(25,021)
Eagle Nest	15,024	-	Ruidoso Downs	225,019	Hold Harmless Rate Frozen
Edgewood	177,095	Hold Harmless Rate Frozen	San Jon	Already Imposed	Already Imposed
Elephant Butte	55,512	(764)	San Ysidro	9,135	(1,533)
Elida	6,204	(974)	Santa Clara	10,148	(9)
Encino	2,653	-	Santa Fe	Already Imposed	Hold Harmless Rate Frozen
Espanola	Already Imposed	Hold Harmless Rate Frozen	Santa Rosa	Already Imposed	Hold Harmless Rate Frozen
Estancia	89,547	(3,360)	Silver City	688,952	Hold Harmless Rate Frozen
Eunice	299,919	Hold Harmless Rate Frozen	Socorro	354,526	(48,668)
Farmington	5,448,374	Hold Harmless Rate Frozen	Springer	32,198	(619)
Floyd	6,233	Hold Harmless Rate Frozen	Sunland Park	285,319	Hold Harmless Rate Frozen
Folsom	896	-	Taos	877,450	Hold Harmless Rate Frozen
Fort Sumner	32,912	(5,559)	Taos Ski Valley	Already Imposed	Hold Harmless Rate Frozen
Gallup	1,548,360	Hold Harmless Rate Frozen	Tatum	33,978	(3,442)
Grady	1,795	-	Texico	11,571	(1,203)
Grants	408,238	(57,250)	Tijeras	85,069	Hold Harmless Rate Frozen
Grenville	1,298	-	Truth or Consequences	223,192	(19,266)
Hagerman	21,825	(1,122)	Tucumcari	Already Imposed	Already Imposed
Hatch	65,067	(11,550)	Tularosa	64,784	(6,993)
Hobbs	3,933,359	Hold Harmless Rate Frozen	Vaughn	21,385	(1,574)
Hope	2,468	-	Virden	560	-
House	6,345	Hold Harmless Rate Frozen	Wagon Mound	3,801	(165)
Hurley	10,515	-	Willard	2,378	(0)
Jal	67,415	(6,143)	Williamsburg	8,611	-
Jemez Springs	12,233	(708)			
Lake Arthur	6,434	-	TOTAL ALL MUNIS	77,238,495	(445,003)

Source: Taxation and Revenue Department, Office of Research and Statistics

SIGNIFICANT ISSUES

Under current law, only counties and municipalities that have fully imposed their local option gross receipts tax and their local option infrastructure gross receipts tax may impose a capital outlay gross receipts tax. Imposition of the capital outlay gross receipts tax requires voter approval.

The New Mexico Municipal League and the New Mexico Association of Counties support the bill because they contend that local governments should not be required to fully impose the local option gross receipts tax of 1.5 percent in municipalities and 7/16 percent in counties, when they may need capital outlay revenue instead of general revenue.

Revenues raised by a county or municipality through a capital outlay gross receipts tax may be restricted for use to build, acquire or improve public buildings and their grounds, water and wastewater systems, firefighting equipment, local roads and bridges, airport facilities,

recreational facilities and open space, or repayment of revenue bonds issued for infrastructure purposes. County revenue may also be used for county correctional and juvenile detention facilities.

The table below indicates that as of January 2008, 16 municipalities and six counties currently impose the capital outlay gross receipts tax. The counties of Cibola and Torrance are currently eligible to impose the tax, but no additional municipalities are eligible. Notably, several municipalities were eligible to impose the capital outlay gross receipts tax until January 1, 2008, when new legislation increased the maximum increment of municipal gross receipts tax from 1.25 to 1.5 percent.

Local Option Capital Outlay Gross Receipts Tax		
Municipalities Currently Imposing		Counties Currently Imposing
Alomogordo	Logan	Guadalupe
Angel Fire	Mesilla	Luna
Aztec	Red River	McKinley
Bloomfield	San Jon	San Miguel
Clayton	Santa Fe	Santa Fe
Clovis	Santa Rosa	Taos
Espanola	Taos Ski Valley	
Las Vegas	Tucumcari	
Municipalities Currently Eligible but not Imposing		Counties Currently Eligible but not Imposing
none		Cibola
		Torrance

Source: TRD, Enactment Dates of Local Option Taxes

New Mexico’s municipalities and counties are authorized to impose over 4 percent of local option gross receipts taxes (that figure excludes several additional local option taxes that have been authorized for selected local governments). On average, a local option gross receipts tax of about 1.9 percent is actually imposed by local governments statewide. Combined with the state gross receipts tax of 5 percent, the statewide tax rate is therefore 6.9 percent.

ADMINISTRATIVE IMPLICATIONS

The administrative impact on TRD will be minimal.

TECHNICAL ISSUES

TRD notes that the current law may not sufficiently limit local option capital outlay gross receipts tax revenue for use in infrastructure.

OTHER SUBSTANTIVE ISSUES

New Mexico Department of Corrections reports that by allowing Bernalillo County to impose the capital outlay gross receipts tax, the county could use funds to ease crowding at the Metropolitan Detention Center. This, in turn, could allow the Department of Corrections to more easily house its offenders there on a short-term basis when necessary.

POSSIBLE QUESTIONS

The county and municipal gross receipts taxes contribute to general revenue. Is there any reason a local government that has not yet fully imposed its local option gross receipts tax could not, under current law, impose additional increments of that tax to use for the same capital outlay-related purposes?

SS/bb