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## FISCAL IMPACT REPORT

ORIGINAL DATE 2/2/09

SPONSOR Gonzales LAST UPDATED \_\_\_\_\_ HB 376

SHORT TITLE Local Government Capital Outlay Gross Receipts SB \_\_\_\_\_

ANALYST Gutierrez

### REVENUE (dollars in thousands)

| Estimated Revenue |       |      | Recurring<br>or Non-Rec | Fund<br>Affected |
|-------------------|-------|------|-------------------------|------------------|
| FY09              | FY10  | FY11 |                         |                  |
|                   | \$0.1 |      | Recurring               | Counties         |
|                   | \$0.1 |      | Recurring               | Municipalities   |
|                   | \$0.1 |      | Recurring               | General Fund     |

(Parenthesis ( ) Indicate Revenue Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Taxation and Revenue Department (TRD)  
New Mexico Corrections Department (NMCD)

### SUMMARY

#### Synopsis of Bill

House Bill 376 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 1/4 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 by municipalities.

The bill's provisions will become effective July 1, 2009.

**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 FY10. About \$100 million could be generated by counties and about \$69.5 million could be generated by municipalities if all were to fully impose the tax in FY10.

The tables below also indicate the potential general fund revenue loss that would occur if all local governments fully imposed the tax in FY10. 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 show that the general fund revenue loss would be about \$2.5 million in FY10 if all local governments chose to impose the tax. Fiscal impacts are expected to grow by 3.4 percent in FY11, which is the rate at which the December 2008 consensus revenue estimate expects taxable gross receipts to grow.

**Illustration of Potential Revenue from Additional County Local Option Increments  
Fiscal Year 2010**

| County       | <b>Potential Revenue: 1/4%<br/>County Capital Outlay GRT<br/>Increment</b> | <b>Potential General Fund Loss Due to Hold<br/>Harmless Distribution: 1/4% County<br/>Capital Outlay GRT Increment</b> |
|--------------|----------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------|
| Bernalillo   | 41,753,640                                                                 | Hold Harmless Rate Frozen                                                                                              |
| Catron       | 78,402                                                                     | (2,866)                                                                                                                |
| Chaves       | 3,098,441                                                                  | Hold Harmless Rate Frozen                                                                                              |
| Cibola       | Already Imposed                                                            | Already Imposed                                                                                                        |
| Colfax       | 837,620                                                                    | (41,364)                                                                                                               |
| Curry        | 1,895,384                                                                  | (259,638)                                                                                                              |
| De Baca      | 57,953                                                                     | (5,891)                                                                                                                |
| Dona Ana     | 8,356,432                                                                  | Hold Harmless Rate Frozen                                                                                              |
| Eddy         | 5,806,009                                                                  | Hold Harmless Rate Frozen                                                                                              |
| Grant        | 1,240,874                                                                  | (170,471)                                                                                                              |
| Guadalupe    | Already Imposed                                                            | Already Imposed                                                                                                        |
| Harding      | 79,715                                                                     | (1,071)                                                                                                                |
| Hidalgo      | 209,745                                                                    | (10,906)                                                                                                               |
| Lea          | 8,083,272                                                                  | Hold Harmless Rate Frozen                                                                                              |
| Lincoln      | 1,271,179                                                                  | (109,306)                                                                                                              |
| Los Alamos   | 3,513,209                                                                  | (129,350)                                                                                                              |
| Luna         | Already Imposed                                                            | Already Imposed                                                                                                        |
| McKinley     | Already Imposed                                                            | Hold Harmless Rate Frozen                                                                                              |
| Mora         | 76,178                                                                     | (5,729)                                                                                                                |
| Otero        | 2,133,354                                                                  | Hold Harmless Rate Frozen                                                                                              |
| Quay         | 403,862                                                                    | Hold Harmless Rate Frozen                                                                                              |
| Rio Arriba   | 1,459,136                                                                  | (146,125)                                                                                                              |
| Roosevelt    | 615,786                                                                    | (67,445)                                                                                                               |
| San Juan     | 11,045,125                                                                 | Hold Harmless Rate Frozen                                                                                              |
| San Miguel   | Already Imposed                                                            | Already Imposed                                                                                                        |
| Sandoval     | 4,290,779                                                                  | Hold Harmless Rate Frozen                                                                                              |
| Santa Fe     | Already Imposed                                                            | Hold Harmless Rate Frozen                                                                                              |
| Sierra       | 395,436                                                                    | (22,857)                                                                                                               |
| Socorro      | 457,199                                                                    | (61,439)                                                                                                               |
| Taos         | Already Imposed                                                            | Already Imposed                                                                                                        |
| Torrance     | 451,958                                                                    | (16,796)                                                                                                               |
| Union        | 481,157                                                                    | (15,280)                                                                                                               |
| Valencia     | 1,893,948                                                                  | Hold Harmless Rate Frozen                                                                                              |
| <b>Total</b> | <b>\$99,985,793</b>                                                        | <b>(\$1,066,533)</b>                                                                                                   |

Source: Reports 500 and Reports 80 from TRD

Illustration of Potential Revenue from Additional Municipal Local Option Increments - Fiscal Year 2010

| Municipality   | Potential Revenue:<br>1/4% Municipal<br>Capital Outlay GRT<br>Increment | Potential General Fund Loss<br>Due to Hold Harmless<br>Distribution: 1/4% Municipal<br>Capital Outlay GRT Increment | Municipality               | Potential Revenue:<br>1/4% Municipal<br>Capital Outlay GRT<br>Increment | Potential General Fund Loss Due<br>to Hold Harmless Distribution:<br>1/4% Municipal Capital Outlay<br>GRT Increment |
|----------------|-------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------|----------------------------|-------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------|
| Alamogordo     | Already Imposed                                                         | Hold Harmless Rate Frozen                                                                                           | Las Cruces                 | 5,988,184                                                               | Hold Harmless Rate Frozen                                                                                           |
| Albuquerque    | 35,719,342                                                              | Hold Harmless Rate Frozen                                                                                           | Las Vegas                  | Already Imposed                                                         | Already Imposed                                                                                                     |
| Angel Fire     | Already Imposed                                                         | Hold Harmless Rate Frozen                                                                                           | Logan                      | Already Imposed                                                         | Already Imposed                                                                                                     |
| Artisia        | Already Imposed                                                         | Hold Harmless Rate Frozen                                                                                           | Lordsburg                  | 115,031                                                                 | Hold Harmless Rate Frozen                                                                                           |
| Aztec          | Already Imposed                                                         | Already Imposed                                                                                                     | Los Alamos                 | 3,513,209                                                               | Hold Harmless Rate Frozen                                                                                           |
| Bayard         | 56,330                                                                  | (7,933)                                                                                                             | Los Lunas                  | 930,146                                                                 | (200,995)                                                                                                           |
| Belen          | Already Imposed                                                         | Already Imposed                                                                                                     | Los Ranchos De Albuquerque | 247,762                                                                 | (11,560)                                                                                                            |
| Bernalillo     | 356,970                                                                 | (53,117)                                                                                                            | Loving                     | 32,573                                                                  | (2,793)                                                                                                             |
| Bloomfield     | Already Imposed                                                         | Already Imposed                                                                                                     | Lovington                  | 582,143                                                                 | (45,730)                                                                                                            |
| Bosque Farms   | 88,364                                                                  | (3,511)                                                                                                             | Magdalena                  | 18,475                                                                  | (2,998)                                                                                                             |
| Capitan        | 36,719                                                                  | (9,691)                                                                                                             | Maxwell                    | 3,453                                                                   | -                                                                                                                   |
| Carrizozo      | 27,665                                                                  | (1,658)                                                                                                             | Melrose                    | 12,977                                                                  | (932)                                                                                                               |
| Carlsbad       | Already Imposed                                                         | Hold Harmless Rate Frozen                                                                                           | Mesilla                    | Already Imposed                                                         | Already Imposed                                                                                                     |
| Causey         | 909                                                                     | -                                                                                                                   | Milam                      | 167,577                                                                 | Hold Harmless Rate Frozen                                                                                           |
| Chama          | 49,296                                                                  | (7,606)                                                                                                             | Moriarty                   | 172,129                                                                 | (12,881)                                                                                                            |
| Cimmaron       | 25,150                                                                  | (180)                                                                                                               | Mosquero                   | 4,129                                                                   | -                                                                                                                   |
| Clayton        | Already Imposed                                                         | Already Imposed                                                                                                     | Mountainair                | 25,620                                                                  | (53)                                                                                                                |
| Cloudfcroft    | Already Imposed                                                         | Hold Harmless Rate Frozen                                                                                           | Pecos                      | 34,928                                                                  | (1,691)                                                                                                             |
| Clovis         | Already Imposed                                                         | Hold Harmless Rate Frozen                                                                                           | Peralta                    | 16,071                                                                  | Hold Harmless Rate Frozen                                                                                           |
| Columbus       | 27,509                                                                  | (1,656)                                                                                                             | Portales                   | 469,323                                                                 | (66,359)                                                                                                            |
| Corona         | 5,171                                                                   | (219)                                                                                                               | Questa                     | 32,105                                                                  | (1,730)                                                                                                             |
| Corrales       | 208,961                                                                 | (1,321)                                                                                                             | Raton                      | 319,637                                                                 | Hold Harmless Rate Frozen                                                                                           |
| Cuba           | Already Imposed                                                         | Hold Harmless Rate Frozen                                                                                           | Red River                  | Already Imposed                                                         | Already Imposed                                                                                                     |
| Deming         | 600,507                                                                 | Hold Harmless Rate Frozen                                                                                           | Reserve                    | 10,571                                                                  | Hold Harmless Rate Frozen                                                                                           |
| Des Moines     | 11,090                                                                  | Hold Harmless Rate Frozen                                                                                           | Rio Rancho                 | 2,804,230                                                               | Hold Harmless Rate Frozen                                                                                           |
| Dexter         | 72,617                                                                  | (3,848)                                                                                                             | Roswell                    | 2,448,831                                                               | (335,565)                                                                                                           |
| Dora           | 2,255                                                                   | Hold Harmless Rate Frozen                                                                                           | Roy                        | 8,333                                                                   | (1,067)                                                                                                             |
| Eagle Nest     | 17,812                                                                  | -                                                                                                                   | Ruidoso                    | 666,523                                                                 | Hold Harmless Rate Frozen                                                                                           |
| Edgewood       | 245,987                                                                 | Hold Harmless Rate Frozen                                                                                           | Ruidoso Downs              | 214,822                                                                 | (68,081)                                                                                                            |
| Elephant Butte | 57,610                                                                  | (1,017)                                                                                                             | San Jon                    | Already Imposed                                                         | Already Imposed                                                                                                     |
| Elida          | 5,706                                                                   | (963)                                                                                                               | San Ysidro                 | 9,329                                                                   | (1,341)                                                                                                             |
| Encino         | 1,054                                                                   | -                                                                                                                   | Santa Clara                | 12,698                                                                  | Hold Harmless Rate Frozen                                                                                           |
| Espanola       | Already Imposed                                                         | Hold Harmless Rate Frozen                                                                                           | Santa Fe                   | Already Imposed                                                         | Hold Harmless Rate Frozen                                                                                           |
| Estancia       | 60,804                                                                  | (3,536)                                                                                                             | Santa Rosa                 | Already Imposed                                                         | Hold Harmless Rate Frozen                                                                                           |
| Eunice         | 354,735                                                                 | Hold Harmless Rate Frozen                                                                                           | Silver City                | 657,156                                                                 | (160,673)                                                                                                           |
| Farmington     | 5,386,650                                                               | Hold Harmless Rate Frozen                                                                                           | Socorro                    | 318,848                                                                 | (58,429)                                                                                                            |
| Floyd          | 7,470                                                                   | Hold Harmless Rate Frozen                                                                                           | Springer                   | 27,384                                                                  | Hold Harmless Rate Frozen                                                                                           |
| Folsom         | (721)                                                                   | -                                                                                                                   | Sunland Park               | 264,832                                                                 | Hold Harmless Rate Frozen                                                                                           |
| Fort Sumner    | 32,954                                                                  | (5,826)                                                                                                             | Taos                       | 819,000                                                                 | Hold Harmless Rate Frozen                                                                                           |
| Gallup         | Already Imposed                                                         | Hold Harmless Rate Frozen                                                                                           | Taos Ski Valley            | Already Imposed                                                         | Already Imposed                                                                                                     |
| Grady          | 5,576                                                                   | -                                                                                                                   | Tatum                      | 49,776                                                                  | (2,755)                                                                                                             |
| Grants         | 398,020                                                                 | (65,992)                                                                                                            | Texico                     | 12,327                                                                  | Hold Harmless Rate Frozen                                                                                           |
| Grenville      | 5,943                                                                   | -                                                                                                                   | Tijeras                    | 72,103                                                                  | (65)                                                                                                                |
| Hagerman       | 23,528                                                                  | (3,423)                                                                                                             | Truth or Consequences      | 244,837                                                                 | (21,038)                                                                                                            |
| Hatch          | 75,751                                                                  | Hold Harmless Rate Frozen                                                                                           | Tucumcari                  | Already Imposed                                                         | Already Imposed                                                                                                     |
| Hobbs          | 4,099,961                                                               | (256,161)                                                                                                           | Tularosa                   | Already Imposed                                                         | Already Imposed                                                                                                     |
| Hope           | 2,819                                                                   | Hold Harmless Rate Frozen                                                                                           | Vaughn                     | 13,316                                                                  | (1,656)                                                                                                             |
| House          | 5,760                                                                   | -                                                                                                                   | Virden                     | 778                                                                     | -                                                                                                                   |
| Hurley         | 33,891                                                                  | -                                                                                                                   | Wagon Mound                | 3,457                                                                   | (189)                                                                                                               |
| Jal            | 59,272                                                                  | (7,059)                                                                                                             | Willard                    | 2,222                                                                   | -                                                                                                                   |
| Jemez Springs  | 13,719                                                                  | (716)                                                                                                               | Williamsburg               | 7,519                                                                   | -                                                                                                                   |
| Lake Arthur    | 8,952                                                                   | Hold Harmless Rate Frozen                                                                                           | <b>TOTAL ALL MUNIS</b>     | <b>69,538,959</b>                                                       | <b>(1,434,016)</b>                                                                                                  |

Source: Reports 500 and Reports 80 from Taxation and Revenue Department

**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.

In a similar bill presented during the 2008 session, the New Mexico Municipal League and the New Mexico Association of Counties stated that they supported 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 2009, 18 municipalities and 6 counties currently impose the capital outlay gross receipts tax. The counties of Cibola and Torrance are currently eligible to impose the tax and the municipalities of Artesia, Gallup, Cloudcroft, Tularosa and Belen are eligible. Notably, several more 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.

| <b>Local Option Capital Outlay Gross Receipts Tax</b>     |                 |                                                     |
|-----------------------------------------------------------|-----------------|-----------------------------------------------------|
| <u>Municipalities Currently Imposing</u>                  |                 | <u>Counties Currently Imposing</u>                  |
| Alamogordo                                                | Las Vegas       | Guadalupe                                           |
| Angel Fire                                                | Logan           | Luna                                                |
| Aztec                                                     | Mesilla         | McKinley                                            |
| Bloomfield                                                | Red River       | San Miguel                                          |
| Carlsbad                                                  | San Jon         | Santa Fe                                            |
| Clayton                                                   | Santa Fe        | Taos                                                |
| Clovis                                                    | Santa Rosa      |                                                     |
| Cuba                                                      | Taos Ski Valley |                                                     |
| Espanola                                                  | Tucumcari       |                                                     |
| <u>Municipalities Currently Eligible but not Imposing</u> |                 | <u>Counties Currently Eligible but not Imposing</u> |
| Artesia                                                   | Gallup          | Cibola                                              |
| Belen                                                     | Tularosa        | Torrance                                            |
| Cloudcroft                                                |                 |                                                     |

Source: TRD, Enactment dates of local option taxes as of January 1, 2009

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.

***The Legislative Finance Committee has adopted the following principles to guide responsible and effective tax policy decisions:***

- 1. Adequacy:** revenue should be adequate to fund government services.
- 2. Efficiency:** tax base should be as broad as possible to minimize rates and the structure should minimize economic distortion and avoid excessive reliance on any single tax.
- 3. Equity:** taxes should be fairly applied across similarly situated taxpayers and across taxpayers with different income levels.
- 4. Simplicity:** taxes should be as simple as possible to encourage compliance and minimize administrative and audit costs.
- 5. Accountability/Transparency:** Deductions, credits and exemptions should be easy to monitor and evaluate and be subject to periodic review.

***More information about the LFC tax policy principles will soon be available on the LFC website at [www.nmlegis.gov/lcs/lfc](http://www.nmlegis.gov/lcs/lfc)***

## **ADMINISTRATIVE IMPLICATIONS**

The administrative impact on TRD will be minimal.

## **TECHNICAL ISSUES**

TRD notes that it is not clear that the existing law limits the municipal or county capital outlay gross receipts tax to only infrastructure purposes.

## **OTHER SUBSTANTIVE ISSUES**

The New Mexico Corrections Department reports that counties can use the revenue to build or expand county jails. This could help relieve overcrowding, and reduce the attempts by some counties to figure out new ways to send their inmates to the Corrections Department.

### **TRD:**

The capital outlay gross receipts tax can be imposed in smaller increments (i.e., 1/16%) than the municipal or county gross receipts tax increments, or the initial infrastructure gross receipts tax increment which all must be imposed in 1/8% increments. Election questions to impose such smaller tax increments of the municipal capital outlay gross receipts tax might be more acceptable to voters who would otherwise vote against election questions to impose tax increments with the larger increments required for the municipal or county gross receipts tax or the infrastructure gross receipts tax.

## **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?

BLG/mt