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

ORIGINAL DATE 02/10/10
SPONSOR Jennings **LAST UPDATED** **HB**

SHORT TITLE Nonprofit Organization Gross Receipts **SB** 271

ANALYST Gutierrez

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY10	FY11	FY12		
	$11,000.0 - $14,000.0	$11,000.0 - $15,000.0	Recurring	Counties
	$46,000.0 - $63,000.0	$49,000.0 - $66,000.0	Recurring	Municipalities
	$43,000.0 - $58,000.0	$38,000.0 - $52,000.0	Recurring	General Fund

(Parenthesis ( ) Indicate Revenue Decreases)

Conflicts with SB261

SOURCES OF INFORMATION
LFC Files

Responses Received From
Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of Bill

Senate Bill 271 repeals Section 7-9-29 NMSA 1978 which exempts nonprofit 501(c) (3) and 501(c) (6) organizations from the gross receipts tax. This bill also amends Section 7-9-39 NMSA 1978 adding donations to the list of exempted receipts (currently only has dues and fees) from the gross receipts tax of nonprofit social, fraternal, political, trade, labor or professional organizations and this bill also adds chambers of commerce, visitor bureaus and convention bureaus. This bill also adds language which would require these organizations to demonstrate that they have been granted exemption from federal income tax by the commissioner of internal revenue to be eligible for this exemption.

Because no effective date is provided in the bill, its provisions will become effective ninety (90) days after the 2010 legislative session adjourns.

FISCAL IMPLICATIONS

The fiscal impact is intended to give you a flavor of the impact but allows for a range due to the large amount of assumptions that had to be made.

By broadening the gross receipts tax base slightly, the bill would allow a lower tax rate to generate the same amount of revenue. This improves the economic efficiency of the tax.

TRD:

The basic data used for this estimate is Form 990 from the U.S. Internal Revenue Service (IRS). This form gives information on income and assets of all 501(c) organizations.

The 501(c)'s were grouped into hospital and non-hospital 501(c) 3s, 501(c) 3 foundations, and 501(c) (6) s for separate treatment in the calculations. The majority of foundation income was assumed to come from donations or investment income which would remain exempt from the gross receipts tax. Also a quarter of regular 501(c) (3) income and two-thirds of 501(c) (6) income was assumed to remain exempt because it comes from donations or dues and registration fees. Roughly half of all non-exempt income from these organizations was assumed to be deductible under existing gross receipts tax deductions, which is comparable to the portion of other service sector entities.

Hospitals must be separated out because they account for almost 40% of all 501(c) (3) income and would qualify for the Hospital Gross Receipts Tax Credit once they become taxable. This credit is in the process of phasing in and by FY12 it will remove the portion of their gross receipts tax liability that is distributed to the State. In FY11 it removes 80% of this liability.

The IRS data contains the main address of each organization; however, there is no data to apportion the organization's income between States. It was assumed that all income from entities with New Mexico addresses was from inside New Mexico. The total income for non-hospital entities in New Mexico was increased to account for non-New Mexico headquartered organizations. For example there is a separate unit of Goodwill for New Mexico but not for the Salvation Army.

*** This bill has no specified effective date so it would become effective on May 19, 2010 affecting approximately six weeks of FY10. This estimate does not include the revenue that would be received for these first six weeks. It is likely that many non-profits will file late the first few months.

SIGNIFICANT ISSUES

TRD:

Exempting non-profit receipts from taxation is a tax expenditure. However, nonprofits are generally involved in activities that are similar to or direct alternatives to, activities by governments. Removing tax exemption could therefore require additional spending by government or forgoing the benefits of the activities currently conducted by nonprofits.

ADMINISTRATIVE IMPLICATIONS

TRD:

There would be high education needs for these organizations and little time to implement. The department would need to modify instructions, publications, and attempt to reach affected entities through a mail notice. A specific effective date would make the bill cleaner to implement.

CONFLICT

This bill conflicts with SB261 because it repeals the section to which SB261 amends.

TECHNICAL ISSUES

TRD:

Donations, defined as “gifts” in this bill, are not gross receipts as defined in Section 7-9-3.5, and therefore are not currently subject to gross receipts tax.

OTHER SUBSTANTIVE ISSUES

To the extent that non-profits are engaged in the same kinds of commercial activities as for-profit organizations, this proposal could be seen as “leveling the playing field”. This improves equity and efficiency.

BLG/mew

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