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FISCAL IMPACT REPORT

ORIGINAL DATE 02/24/11

SPONSOR Ingle LAST UPDATED _____ HB _____

SHORT TITLE Oil & Gas Withholding Info to Legislature SB 436

ANALYST Lucero

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY11	FY12	FY13	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		NFI	NFI			

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Taxation and Revenue Department (TRD)
State Land Office (SLO)

SUMMARY

Synopsis of Bill

Senate Bill 436 amends Section 7-3A-9NMSA 1978 the Oil and Gas Proceeds and Pass-Through Entity Withholding Tax Act to require the Taxation and Revenue Department (TRD) to submit to the Legislature by December 1 of each year a report showing:

1. the total amount of taxes withheld by remitters and paid to the department during the previous calendar year pursuant to the Oil and Gas Proceeds and Pass-Through Entity Withholding Tax Act; and
2. the amount of taxes that were credited against income taxes or corporate income taxes by remitees during the previous calendar year.

FISCAL IMPLICATIONS

TRD reports there no fiscal impact.

SIGNIFICANT ISSUES

TRD interprets the bill to require the department to report aggregate information.

Additional data may add more clarity to the report. The bill could require the department to report resident versus nonresident total taxes withheld.

TECHNICAL ISSUES

TRD suggests:

In 2010 the oil and gas proceeds withholding act was expanded to apply to all pass-through entities. The proposal would require that the total amount collected from all entities – oil and gas remitters as well as other types of pass-through entities – be included in the Department’s report. If the intent of the legislation is to get a report that separately states the amount attributable to oil and gas proceeds, the language should be modified accordingly.

There is no effective date on this bill which implies that the department would need to compile the first report by December 1, 2011.

OTHER SUBSTANTIVE ISSUES

According to TRD’s website, partnerships and other pass-through/non-corporate entities, including limited liability partnerships (LLP), limited liability investment companies (LLIC) — but excluding estates and trusts — are not subject to New Mexico personal income tax, but individual members of the partnership or company are.

If the entity has any partner or owner who is a New Mexico resident, or if the entity has any income from New Mexico sources, it must provide each partner or owner with the information necessary to file a New Mexico personal income tax return.

A pass-through entity reports and pays withholding tax on behalf of all nonresident partners or owners having New Mexico source income unless the partner or owner has completed Form PTE-TA assuming responsibility for filing a New Mexico personal income tax return. See the instructions for Form PTE for details on pass-through entity filing requirements.

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