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FISCAL IMPACT REPORT

SPONSOR <u>Lente</u>	LAST UPDATED <u>3/15/2025</u>	ORIGINAL DATE <u>2/17/2025</u>
SHORT TITLE <u>Tax Return Information for LFC Evaluation</u>	BILL NUMBER <u>199/aSTBTC</u>	ANALYST <u>Gray/Fischer</u>

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
TRD	\$0	\$98.4	\$130.3	\$230.7	Recurring	General Fund
TRD	\$0	\$45.3	\$0	\$45.3	Nonrecurring	General Fund

Parentheses () indicate expenditure decreases.
 *Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

Agency Analysis Received From
 Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of STBTC Amendment to House Bill 199

The Senate Tax, Business, and Transportation Committee amendment to House Bill 199 (HB199) makes a variety of technical amendments. The amendment:

- Corrects references to the tax administration act,
- Requires confidentiality training for legislative finance staff,
- Requires timely destruction of tax records, and
- Clarifies the penalties for unauthorized disclosure of private information.

Synopsis of House Bill 199

HB199 allows the Taxation and Revenue Department (TRD) to share certain tax data with the Legislative Finance Committee (LFC), pursuant to a data sharing agreement. The data—which is otherwise unavailable due to confidentiality requirements—can be used for program evaluations. The bill provides that no data shall be shared that is otherwise prohibited by state or federal law.

The effective date of this bill is July 1, 2025.

FISCAL IMPLICATIONS

HB199 will require an increase in staff time for TRD and LFC for certain evaluations. LFC estimates the agency will utilize the provisions of this bill about once per year and does not

believe this will require a major increase in staff time. TRD estimates recurring costs equivalent to about 1.4 FTE, or about \$130 thousand per year. The agency also estimates about \$45 thousand in nonrecurring costs in FY26.

SIGNIFICANT ISSUES

TRD analysis notes that the Internal Revenue Service places strict restrictions on state agencies that receive federal tax information, including TRD. Federal law does not permit access to federal tax information not involved with tax administration.

The bill provides that the only information that TRD can share with LFC would be information that is not prohibited by federal law. TRD writes that the nature of its tax system would make meeting federal law “challenging if this bill is passed,” in part because state tax data is comingled with federal tax data. TRD staff may be required to spend a “significant amount of staff time and resources,” to meet the requirements of HB199.

TRD also points out that most other agencies and local governments with access to certain taxpayer data under 7-1-8 NMSA 1978 have access to that data for the purposes of program administration and ensuring compliance or for essential executive branch functions at the state, county, and municipal levels.

LFC staff analysis points out that many legislatures have access to this type of information. In these states, this data helps inform an essential form of legislative oversight, wherein staff's access to lawfully distributed tax data and helps legislators perform their role as the oversight branch. This analysis acknowledges this proposal creates administrative complexity and adds an additional burden to TRD ensure federal compliance. At the same time, this bill attempts to satisfy a key legislative prerogative. Policymakers may wish to consider the tradeoff between the additional burden placed on the agency and the legislative prerogative to provide sufficient oversight over the use of taxpayer dollars.

In October 2024, LFC staff queried members of other states on their statutory access to tax records through the National Legislative Program Evaluation Society. Most offices replied that rather than having specific access to tax records, they have broad statutory language in their office's enabling legislation, allowing them access to tax records. For example, Kansas's Legislative Division of Post Audit has broad access “to all books, accounts, records, files, documents and correspondence, confidential or otherwise of any person or state agency subject to the legislative post audit act or in the custody of any such person or state agency.” This access includes tax records.

The Minnesota Office of the Legislative Auditor carries sweeping statutory authority under Minnesota Statutes 2023, 3.978, which they have used to access state tax returns:

All public officials and their deputies and employees, and all corporations, firms, and individuals having business involving the receipt, disbursement, or custody of public funds shall at all times: (1) afford reasonable facilities for examinations by the legislative auditor; (2) provide returns and reports required by the legislative auditor; (3) attend and answer under oath the legislative auditor's lawful inquiries; (4) produce and exhibit all books, accounts, documents, data of any classification, and property that the legislative auditor requests to inspect; and (5) in all things cooperate with the legislative auditor.

The Maine Legislative Office of Program Evaluation and Government Accountability gains access to confidential information through Maine’s Title 3 Section 997(4): “Upon request of the office and consistent with the conditions and procedures set forth in this section, state agencies or other entities subject to program evaluation must provide the office access to information that is privileged or confidential as defined by Title 1, chapter 13, which governs public records and proceedings.” Further, the Maine statute also provides access under Title 3 Section 1001(1): “A. The office may request confidential information from the Department of Administrative and Financial Services, Maine Revenue Services or other state agencies as necessary to address the evaluation objectives and performance measures approved under section 999, subsection 1.”

BG/MF/SL2/sgs/SL2