NOTE: As provided in LFC policy, this report is intended for use by the standing finance committees of the legislature. The Legislative Finance Committee does not assume responsibility for the accuracy of the information in this report when used in any other situation.

Only the most recent FIR version, excluding attachments, is available on the Intranet. Previously issued FIRs and attachments may be obtained from the LFC office in Suite 101 of the State Capitol Building North.

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

SPONSOR:	Romero	DATE TYPED:	02/12/01	HB	
SHORT TITLE:	Floral Products Gross Receipts Exemption			SB	354
				ANALYST:	Eaton

REVENUE

Estimated Revenue		**Subsequent Years Impact**	**Recurring or Non-Rec**	**Fund Affected**
FY01	**FY02**			
$ (5.0)	$ 0.0	$ 0.0	Non-Recurring	General Fund
$ (3.0)	$ 0.0	$ 0.0	Non-Recurring	Local Govt.

(Parenthesis ( ) Indicate Revenue Decreases)

SOURCES OF INFORMATION

Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of Bill

This bill exactly reverses the origin/destination taxability. Receipts of an in-state florist from the FTD or similar clearing house for flowers delivered to a New Mexico location are taxable. Receipts of a New Mexico florist from an in-state customer ordering flowers for delivery out of state become exempt.

FISCAL IMPLICATIONS

The Taxation and Revenue Department (TRD) report that since this bill exactly reverses the origin/destination taxability, and there is no particular reason to believe the price of flowers to non-New Mexicans for delivery in New Mexico is different than the price to New Mexicans of flowers for delivery out of state, there is no recurring impact of this bill. The non-recurring impact derives from the transition from a taxable event that is essentially the receipt of the order to a taxable event that is the receipt of payment from the clearing house for the out-of-state order. This may differ by a week.

ADMINISTRATIVE IMPLICATIONS

Minimal.

TECHNICAL ISSUES

The Taxation and Revenue Department requests a July 1, 2001 effective date, so that the change is in phase with the ordinary business monthly accounting cycle.

OTHER SUBSTANTIVE ISSUES

The Taxation and Revenue Department (TRD) provided the following background information.

Last year, the Taxation and Revenue Department (TRD) proposed a regulation, 3.2.55.13 NMAC, confirming the previous practice of taxing a New Mexico florist on wire orders received from New Mexicans requesting delivery of flowers out of state. The in-state customer pays the florist generally via a credit card. The in-state florist transmits the order to the out-of-state florist and remits the wholesale price, plus a commission for the nationwide organization that acts as a clearing house for payments. The proposed regulation retained this same taxability at the point of origin. Industry representatives testified that every other state uses a destination taxability principle and that it would be a hardship to process the paperwork to take advantage of the credit mechanism built into the gross receipts at 7-9-79 and 7-9-79.1 NMSA 1978. This bill exactly reverses the chain of taxability to conform to all-other state practice. The order placed in New Mexico for delivery outside the state becomes exempt. The order delivered in-state by an in-state florist is taxable at the time the money is received from the clearing house. This is an example of the increasing national pressure on New Mexico to conform with tax practices in the majority of states.

The 1997 Economic Census reports 138 retail florist, employing 608 employee and $5.671 million in payroll and $27.6 million in sales for florists. An unknown fraction of this business is derived from interstate, FTD type sales.

JBE/njw