

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill Number: HB 235a

51st Legislature, 1st Session, 2013

Tracking Number: .191357.1SA

Short Title: Border Zone Company Gross Receipts

Sponsor(s): Representative Mary Helen Garcia

Analyst: Ian Kleats

Date: March 5, 2013

AS AMENDED

The House Business and Industry Committee amendments require that the Taxation and Revenue Department (TRD) annually report to the interim Revenue Stabilization and Tax Policy Committee information including:

- the aggregate amount of border zone gross receipts tax deductions taken;
- the number of taxpayers claiming the deduction; and
- any other information necessary to determine that the deduction performs its intended purpose.

Original Bill Summary:

HB 235 amends a section of the *Gross Receipts and Compensating Tax Act* to extend by six years the time in which a trade-support company may first locate in New Mexico within 20 miles of a port of entry on the border of Mexico until July 1, 2019 from July 1, 2013 in order to qualify for a gross receipts tax deduction.

Fiscal Impact:

HB 235 does not contain an appropriation.

Estimated Revenue Impact*				R or NR**	Fund(s) Affected
FY 13	FY 14	FY 15	FY 16		
0	(816)	(840)	(866)	R	General Fund
0	(544)	(560)	(577)	R	Local Governments

* In thousands of dollars. Parentheses () indicate a revenue loss.

** Recurring (R) or Nonrecurring (NR).

The Economic Development Department (EDD) bill analysis states that New Mexico's exports have doubled over the last two years to more than \$2.0 billion. Assuming that this trend continues, the estimated revenue impact assumes roughly \$20.0 million of gross receipts could result from trade-support companies locating in the state. The estimate further assumes growth in those gross receipts at a rate of 3.0 percent, relatively conservative compared to growth in previous years.

Based on a statewide average gross receipts tax rate of 6.8 percent split between General Fund and local governments on a 60:40 ratio, the deduction could result in foregone revenue of about \$1.3 million.

TRD currently is unable to track the use or cost of this deduction. As such, the TRD bill analysis does not contain a projection of revenue impact.

Fiscal Issues:

The estimated fiscal impact of HB 235 could reduce General Fund revenue by approximately \$816,000 in FY 14 and each year thereafter until FY 2024.

Based on *General Appropriation Act* appropriations for the last five years, the Legislature has appropriated approximately 43.5 percent of General Fund revenue for public education. The reduction of revenue from the General Fund as proposed in this bill could result in decreased annual appropriations of \$355,000 for public education.

Substantive Issues:

Economic multiplier effects of any tax expenditure should be judged relative to multiplier effects from the likely use of the foregone government revenue. General Fund appropriations comprise many diverse uses, with the largest proportion going to fund public education. Without strong evidence to the contrary, an assertion that this deduction has an economic multiplier higher than economic base jobs and expenditures associated with public education or any other governmental program might be considered speculative.

Moreover, New Mexico's State Equalization Guarantee education funding formula implies that over 40 percent of government revenue would be spread equitably across the state, impacting small rural communities in a proportionate level to larger urban communities. It is unclear whether this deduction could ensure the same equitable economic impact to all communities that public school funding would provide, even absent any discussion of the relative economic multiplier effects of the tax policy.

The EDD bill analysis suggests that the bill is critical to retaining those customs brokerages and freight forwarding firms that have located on the New Mexico side of the border. Counter to the EDD assertions, though, the provisions of HB 235 would carry no implications for companies already located in New Mexico. Those taxpayers would still qualify for the deduction under its current provision for a five-year period. Instead, the provisions of HB 235 more accurately address recruitment, rather than retention, of trade-support firms.

Technical Issues:

HB 235 declares an emergency resulting in its provisions being effective once enacted. However, the provisions amended by HB 235 are of consequence only on or after July 1, 2013. Even without an emergency provision, the legislation would become effective in mid-June 2013, prior to that date. As a result, it is unclear why the emergency provision is necessary.

Committee Referrals:

HBIC/HTRC/HAFC

Related Bills:

None as of March 5, 2013.