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

SPONSOR HBEC **ORIGINAL DATE** 2/1/2016 **LAST UPDATED** **HB** 128/HBECS

SHORT TITLE Broadband Telecom Facility Gross Receipts **SB**

ANALYST Alejandro

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY16	**FY17**	**FY18**	**FY19**	**FY20**		
$0.0	($3,000.0)	($3,100.0)	($3,200.0)	($3,400.0)	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY16	FY17	FY18	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	$14.0			$14.0	Nonrecurring	TRD Budget

(Parenthesis ( ) Indicate Expenditure Decreases)

SOURCES OF INFORMATION
LFC Files

Responses Received From
Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of Bill

The House Business and Employment Committee substitute for House Bill 128 proposes enacting a new section of the Gross Receipts and Compensating Tax Act that would provide a deduction for broadband telecommunications network facilities from the gross receipts tax and compensating tax on components and construction services. To qualify, systems must have download speed of at least 10 megabits per second and upload speed of one megabit per second.

The bill's purpose is to promote the deployment of broadband telecommunications services in New Mexico.

The proposed effective date of this bill is July 1, 2016 and the delayed repeal date is July 1, 2026.

FISCAL IMPLICATIONS

Under its Connect America Fund, designed to extend broadband network access to rural communities throughout the country, the Federal Communications Commission (FCC) recently awarded Century Link and Frontier a combined $15.4 million to expand their networks in New Mexico. The funding will recur annually for six years, and is intended to supplement the firms' capital investment and operating expenses to bring broadband service to approximately 25,000 residences and business that are not currently connected.

LFC staff estimated the minimum annual revenue impact of this bill at $1.1 million based on the $15.4 million in annual FCC funding. However, the revenue impact could be higher depending on the amount of capital that Century Link and Frontier invest in these projects as well as broadband network expansion projects that may be undertaken in the future.

The figures in the table above were calculated by TRD and represent a more comprehensive estimate of the potential impact of the bill. TRD took into consideration a paper[1] published by the FCC that examined the composition of broadband network operating costs in both urban and rural areas. The paper highlights that capital expenses of broadband network communications are significant (see detailed discussion for more information) and recommends the leveraging of commercial technologies to achieve greater communications capabilities and to reduce costs. Also, because broadband telecommunication equipment providers do not have their own specific NAICS code, an assumption had to be made to use "NAICS 517" pertaining to telecommunication companies. TRD assumes the majority of the costs associated to service and expand the broadband telecommunication facilities in the state are transferred to the end users. The estimated impact for FY17 throughout FY20 was obtained by applying gross receipts growth rate from the December 2015 Consensus Revenue Estimating Group.

This bill may be counter to the LFC tax policy principle of adequacy, efficiency and equity. Due to the increasing cost of tax expenditures revenues may be insufficient to cover growing recurring appropriations.

Estimating the cost of tax expenditures is difficult. Confidentiality requirements surrounding certain taxpayer information create uncertainty, and analysts must frequently interpret third-party data sources. The statutory criteria for a tax expenditure may be ambiguous, further complicating the initial cost estimate of the expenditure's fiscal impact. Once a tax expenditure has been approved, information constraints continue to create challenges in tracking the real costs (and benefits) of tax expenditures.

POLICY IMPLICATIONS

The bill would effectively make the construction of nearly all telecommunications facilities, including some used for cable television, eligible for deduction of all gross receipts and compensating tax.

TRD indicated in its original analysis of this bill that because it provides an incentive for infrastructure, consideration should be given to a sunset provision.

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[1] "*A Broadband Network Cost Model: A basis for public funding essential to bringing nationwide interoperable communications to America's first responders*" Omnibus Broadband Initiative, Technical Paper No.2 Federal Communications Commission. May 2010

ADMINISTRATIVE IMPLICATIONS

TRD indicated in its analysis of the original bill that the CRS program documentation will need to be updated, but that the costs associated with the change can be absorbed with semi-annual review of the tax program documentation. Taxpayer education may need to be considered to the specific group which is impacted by this change. Auditors will need to be trained in how to inspect records to make sure this is being applied correctly. Overall staff will need to have a general knowledge in order to answer questions.

The IT administrative costs for TRD will include a non-recurring expense of approximately $14,000 in FY16 to establish a location code.

TECHNICAL ISSUES

Several of the suggestions for language modifications made by TRD in the original bill analysis have been implemented in this substitute, though some issues remain:

Page 1, line 21. A definition of "component" may help clarify what qualifies for the exemption.

Page 2, line 25. "any other item" is not defined. Is the intent to mean tangible personal properties? Does it include service directly related to a system capable of transmission?

This bill does not contain a delayed repeal date. The LFC recommends adding a delayed repeal date.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

If the bill is not enacted, overall project costs for Century Link and Frontier will be higher. However, the companies have already accepted the funding and presumably have committed to completing the projects.

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