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

SPONSOR Dow
ORIGINAL DATE 02/24/21
LAST UPDATED 03/03/21
HB 350

SHORT TITLE Movie Theater Gross Receipts
SB

ANALYST Graeser

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY21	FY22	FY23	FY24	FY25		
	($1,990.0)	($2,590.0)	($3,170.0)	($3,750.0)	Recurring *	General Fund
	($1,330.0)	($1,730.0)	($2,110.0)	($2,500.0)	Recurring *	Local Government

Parenthesis ( ) indicate revenue decreases.

* Note: this deduction is classified as recurring, even though the deduction expires for receipts after July 1, 2025.

	FY21	FY22	FY23	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	5.2	0.0	0.0	5.2	Non-Recurring	TRD Operating Fund – ITD Staff Workload

SOURCES OF INFORMATION
LFC Files

Response Received from
Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of Bill

House Bill 350 allows a full deduction from gross receipts for receipts from sale of movie tickets and concessions by a movie theater. This deduction would be separately reported and TRD would be required to report to the Legislature the number of taxpayers and the amount of deduction. The deduction would cease for receipts after July 1, 2025.

The effective date of this bill is July 1, 2021. The text provides an effective delayed repeal date of July 1, 2025.

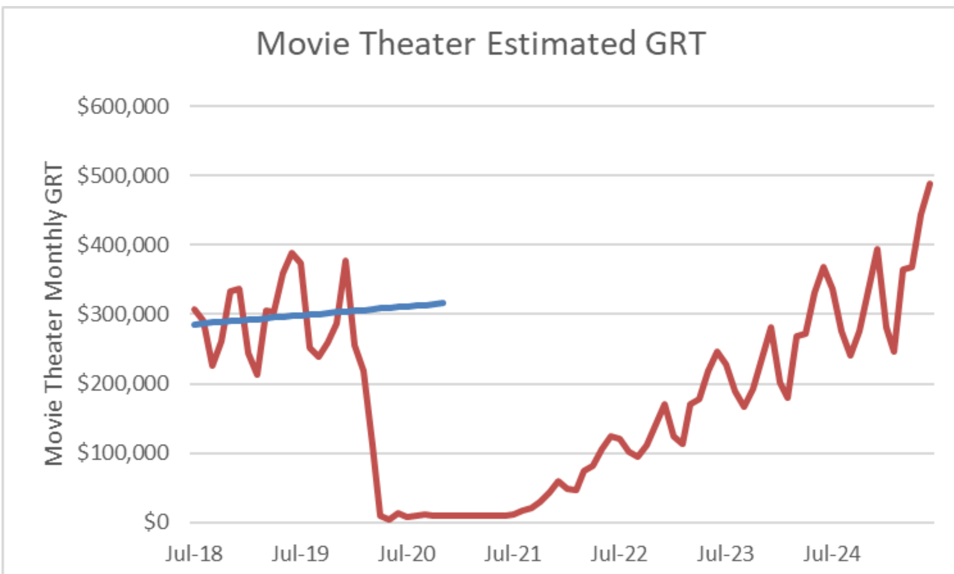
FISCAL IMPLICATIONS

This bill narrows the gross receipts tax (GRT) base. See *Significant Issues* for more information.

This bill creates or expands a tax expenditure with a cost that is difficult to determine but likely significant. LFC has serious concerns about the significant risk to state revenues from tax expenditures and the increase in revenue volatility from erosion of the revenue base. As indicated in the chart below, movie theaters have been closed since March 2020 as a public health measure in response to the Covid-19 pandemic.

The GRT deduction expires for receipts after July 1, 2025.

Although the fiscal impact of the provisions of this bill are largely indeterminate, LFC staff have prepared a simulation based on a linear recovery from July 1, 2021 through June 30, 2025 to a level based on a short-term trend analysis from TRD's RP80 reports for the NAICS codes 512131 - Motion Picture Theaters (except Drive-Ins) and 512132 - Drive-In Motion Picture Theaters. The history and linear recovery projection are shown in the following graph. This may be a slight underestimate because some of the underlying historical data have been redacted for confidentiality.



This simulation results in the following fiscal impact.

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY21	FY22	FY23	FY24	FY25		
	($360.0)	($980.0)	($1,600.0)	($2,200.0)	Recurring *	General Fund
	($300.0)	($810.0)	($1,300.0)	($1,800.0)	Recurring *	Local Government

TRD used the same RP80 data source, however, was able to use unredacted data available only to TRD staff. However, TRD's methodology assumes that recovery would be immediate on July 1, 2021 to 2019 levels. LFC staff expects a gradual recovery, as shown in the simulation graph above.

TRD's Methodology for Estimated Revenue Impact: The revenue estimate uses data from the TRD RP-80 report from FY19 that provides sector and subsector data on taxable gross receipts. The effective rates are applied to determine the impact to the general fund and local governments. The estimate uses the February 2021 Consensus Revenue Estimating Group (CREG) growth rates for gross receipts tax (GRT).

Estimated Revenue Impact*					**R or NR****	**Fund(s) Affected**
FY2021	**FY2022**	**FY2023**	**FY2024**	**FY2025**		
--	($3,370)	($3,500)	($3,620)	($3,750)	NR	General Fund
--	($2,240)	($2,330)	($2,420)	($2,500)	NR	Local Governments

* In thousands of dollars. Parentheses ( ) indicate a revenue loss. ** Recurring (R) or Non-Recurring (NR).

The amounts shown in the table on page 1 use TRD's FY 2025 estimate for full recovery and averaged the LFC staff expectation and the TRD expectation.

SIGNIFICANT ISSUES

This bill narrows the gross receipts tax (GRT) base. Many of the efforts over the last few years to reform New Mexico's taxes focused on broadening the GRT base and lowering the rates. Narrowing the base leads to continually rising GRT rates, increasing volatility in the state's largest general fund revenue source. Higher rates compound tax pyramiding issues and force consumers and businesses to pay higher taxes on all other purchases without an exemption, deduction, or credit.

However, as the graph above indicates, the movie theater industry was shut down in March 2020 and will not recover until at least July 2021 depending on the success of the Covid vaccination efforts. Reopening of the movie theaters will probably occur county-by-county, as each county moves from red to yellow to green based on infection rates and transmission rates.

The provisions of this bill could be considered a part of the overall Covid recovery efforts.

TRD notes the following policy issues:

The movie theater industry suffered significant revenue losses in 2020 that continue into 2021 due to the economic conditions and health-related closures that impacted the sector and general economy. The deduction will erode horizontal equity among businesses subject to GRT. Other businesses have also been impacted by economic conditions and closures. By basing the deduction on one business category, taxpayers in similar economic circumstances are no longer treated equally.

The temporary deduction for movie tickets and concessions at movie theaters against GRT may increase business at these locations due to the overall effective cost to the consumer. The deduction may improve businesses' financial standing, result in increases in hiring or reduce job losses, and may induce more consumption, helping the economic recovery locally and for the state.

The deduction reduces revenue to the general fund and local governments. Government revenues have also been negatively impacted by the conditions that impacted the movie theater industry, and this reduction in tax revenue may result in a decline in governmental services, an increase in taxes in other areas, or both.

PERFORMANCE IMPLICATIONS

The LFC tax policy of accountability is met with the bill's requirement to report annually to an interim legislative committee regarding the data compiled from the reports from taxpayers taking the deduction and other information to determine whether the deduction is meeting its purpose.

ADMINISTRATIVE IMPLICATIONS

TRD Reports a low impact:

> The implementation of the legislation will have a low impact on the Information Technology Division (ITD) of TRD, approximately 100 hours of effort or approximately ½ a month for an estimated $5,164 of staff workload costs. This will require a new deduction code to report separately.
>
> TRD expects to be able to absorb the impact of these changes as outlined in this standalone bill within the annual tax year implementation. This July 1, 2021, TRD implements the conversion for the Combined Reporting System (CRS) redesign project, as was authorized by the legislature. On July 1, 2021, TRD also implements the local option compensating tax, local option GRT on internet sales, a new version 12 of Gentax, and moves to destination-based sourcing of the GRT. Due to the effective date of July 1, 2021 for this bill and other proposed bills, any changes to rates, deductions and distributions adds to the complexity and risk TRD faces on July 1 to ensure complete readiness and testing of all processes. If several bills with similar effective dates become law, there will be a greater impact to TRD and additional staff workload costs or contract resources may be needed to complete the changes specified by the effective date(s) of each bill. TRD recommends an effective date of date of January 1, 2022 or July 1, 2022 to ensure proper implementation of the legislation in TRD administration and system processes.

LG/al/sb/rl