

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current and previously issued FIRs are available on the NM Legislative Website (www.nmlegis.gov).

FISCAL IMPACT REPORT

ORIGINAL DATE 1/31/2022

SPONSOR Dow LAST UPDATED _____ HB 123/ec

SHORT TITLE Face Mask Sale Gross Receipts SB _____

ANALYST Taylor

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY22	FY23	FY24	FY25	FY26		
Up to (\$53.0)	Up to (\$212.0)				Recurring	General Fund
Up to (\$38.0)	(\$152.0)				Recurring	Local Government

Parenthesis () indicate revenue decreases

SOURCES OF INFORMATION

LFC Files

<https://www.defense.gov/News/News-Stories/Article/Article/2215532/domestic-n95-mask-production-expected-to-exceed-1-billion-in-2021/>

Responses Received From

Attorney General's Office (NMAG)

No Response Received

Taxation and Revenue (TRD)

SUMMARY

Synopsis of Bill

House Bill 123, Face Mask Sale Gross Receipts, exempts the sale of face masks from the gross receipts tax, while a public health order by the Secretary of Health or an executive order by the governor related a public health emergency is in effect.

This bill contains an emergency clause and would become effective immediately upon signature by the governor.

FISCAL IMPLICATIONS

Estimating the fiscal impact for this bill is difficult because there are so many unknowns. Uncertainties include whether public health orders would be called in which years and for how long they would remain in effect. Estimates as to the quantity of masks purchased and their prices is also difficult to estimate, especially given the wide range of masks available in the market. Further complicating any analysis is the federal government's decision to distribute free N95 masks to major retailers such as Walgreens, Walmart and CVS. The Department of Defense has indicated that it will distribute 400 million such masks in 2022.

The Department of Defense reported that during the Covid-19 crisis, demand for N95 masks peaked to 140 million for a 3-month period. If the demand for such masks in New Mexico is proportional to its share of the U.S. population, the demand in New Mexico would be roughly 882 thousand masks. A search of the web suggests that the average price for a N95 is approximately \$1.40. Multiplying the three month base of 882 thousand by \$1.40 suggests that sales would total \$1.235 million.

If there was one three month public health emergency in effect in FY02, the impact on gross receipts tax revenues for the state would be a loss of \$53 thousand (1.235 million sales multiplied by (*) the average state gross receipts rate of 4.3 percent). The gross receipts impact for local governments would be \$38 thousand (1.235 million * the average gross receipts rate of 3.1 percent for local governments).

If there was a public health emergency declared for all of FY23, the impact on gross receipts tax revenues for the state would be a loss of \$212 thousand, and for local governments a loss of \$152 thousand.

SIGNIFICANT ISSUES

The federal government's distribution of free masks will have a large impact on the demand for masks.

The assumed purpose of the bill is to reduce the cost of masks, encourage their purchase, and save tax payers money. Assuming that a typical person purchases one N95 mask per week at \$1.40, this person would spend approximately \$73.00 per year on masks. Further assuming the tax deduction is fully passed along to the consumer in a lower price, the savings per person would be approximately \$5.00 to \$6.00 per year. Of course, the savings would increase for larger families.

PERFORMANCE IMPLICATIONS

The LFC tax policy of accountability is not met since TRD is not required in the bill to report annually to an interim legislative committee regarding the data compiled from the reports from taxpayers taking the exemption and other information to determine whether the exemption is meeting its purpose.

ADMINISTRATIVE IMPLICATIONS

The Taxation and Revenue Department may experience costs for administering this exemption,

but as of this time, they have not provided FIR analysis.

POSSIBLE QUESTIONS

<p>Does the bill meet the Legislative Finance Committee tax policy principles?</p> <ol style="list-style-type: none"> 1. Adequacy: Revenue should be adequate to fund needed government services. 2. Efficiency: Tax base should be as broad as possible and avoid excess reliance on one tax. 3. Equity: Different taxpayers should be treated fairly. 4. Simplicity: Collection should be simple and easily understood. 5. Accountability: Preferences should be easy to monitor and evaluate.

<p>Does the bill meet the Legislative Finance Committee tax expenditure policy principles?</p> <ol style="list-style-type: none"> 1. Vetted: The proposed new or expanded tax expenditure was vetted through interim legislative committees, such as LFC and the Revenue Stabilization and Tax Policy Committee, to review fiscal, legal, and general policy parameters. 2. Targeted: The tax expenditure has a clearly stated purpose, long-term goals, and measurable annual targets designed to mark progress toward the goals. 3. Transparent: The tax expenditure requires at least annual reporting by the recipients, the Taxation and Revenue Department, and other relevant agencies. 4. Accountable: The required reporting allows for analysis by members of the public to determine progress toward annual targets and determination of effectiveness and efficiency. The tax expenditure is set to expire unless legislative action is taken to review the tax expenditure and extend the expiration date. 5. Effective: The tax expenditure fulfills the stated purpose. If the tax expenditure is designed to alter behavior – for example, economic development incentives intended to increase economic growth – there are indicators the recipients would not have performed the desired actions “but for” the existence of the tax expenditure. 6. Efficient: The tax expenditure is the most cost-effective way to achieve the desired results.
--

LFC Tax Expenditure Policy Principle	Met?	Comments
Vetted	✘	
Targeted		
Clearly stated purpose	✘	
Long-term goals	✘	
Measurable targets	✘	
Transparent	✘	
Accountable		
Public analysis	✘	
Expiration date	✘	
Effective		
Fulfills stated purpose	✘	
Passes “but for” test	✘	
Efficient	✘	
Key: ✓ Met ✘ Not Met ? Unclear		