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

FISCAL IMPACT REPORT

		LAST UPDATED	2/5/23
SPONSOR	Sharer	**ORIGINAL DATE**	2/1/23
SHORT TITLE	Tax Code Changes	**BILL NUMBER**	Senate Bill 38
		ANALYST	Torres/ Faubion/ Graeser

REVENUE* (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY23	FY24	FY25	FY26	FY27		
	($137,650 – $2,586,163)	($122,157 - $2,549,599)	($62,184 - $2,645,428)	($55,888 - $2,716,519)	Recurring	General Fund
	($21,370 - $117,000)	($66,130 - $93,910)	($67,330 - $96,290)	($69,100 - $97,680)	Recurring	Other State Funds
	$46,000- $954,700	$94,580 - $2,080,460	$97,744 - $2,157,470	$99,962 - $2,219,810	Recurring	Local Governments

Parenthesis ( ) indicate revenue decreases
*Amounts reflect most recent version of this legislation.

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT*
(dollars in thousands)

FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
$127.4	$1,449.6	$936.6	$2,513.4	Recurring	TRD – Operating Budget

Relates to the General Appropriation Act
Conflicts with many proposed tax bills

Sources of Information
LFC Files, TRD analysis
LFC FIR for SB358 of the 2019 legislative session

Responses Received From
Taxation and Revenue Department (TRD)
Tourism Department (NMTD)
Economic Development department (EDD)

SUMMARY

Synopsis of Senate Bill 38

Senate Bill 38 is a comprehensive, sweeping tax reform bill that eliminates most gross receipts tax (GRT) exemptions, deductions, and credits, significantly broadening the gross receipts tax base, lowers the GRT rates for the state but allows local governments to retain all local option GRT and compensating tax rates and changes the rates and brackets for personal and corporate income taxes. The bill repeals a number of tax acts, including the insurance premium tax and the motor vehicle excise tax, instead taxing these items through the GRT. In short, it turns the state's current hybrid of a pure GRT and a conventional sales tax into a true GRT or turnover tax. Below is a list of some key actions:

- Reduces state GRT and compensating tax rates from 4.875 percent to 2 percent;
- Reduces GGRT rate from 5 percent to 2 percent and reduces the rate for the Leased Vehicle Gross Receipts Tax to 2 percent;
- Repeals the 1.225 percent municipal state share and conforms numerous sections of law to this repeal;
- Repeals the Alternative Fuel Tax Act, Estate Tax Act, Railroad Car Company Tax Act, Investment Credit Act, rural job tax credit, Laboratory Partnership with Small Business Tax Credit Act, Technology Jobs and Research and Development Tax Credit Act, Film Production Tax Credit Act, Boat Excise Tax Act, Affordable Housing Tax Credit Act, high-wage jobs tax credit, and the Insurance Premium Tax Act, and makes a number of technical conforming changes to other statutes to reflect these repeals;
- Repeals state participation in tax increment development districts (TIDDs) but allows previously approved TIDDs to retain the state increment until any bonds have been fully retired;
- Changes several distributions of the repealed taxes to distributions of a percentage of the general fund GRT: for the Law Enforcement Protection Fund from 10 percent of the life, general casualty, and title insurance premium to .03 percent of GRT; for the fire protection fund from the net receipts of the property and vehicle insurance premiums tax to .21 percent of the GRT; for the healthcare affordability fund distribution from 30 percent of healthcare premiums surtax to .17 percent of the GRT; and distributes a portion of the GRT to the state road fund (.12 percent), transportation projects fund (.11 percent) and boat fund (.54 percent);
- Adjusts the rates and brackets for personal income tax, with rates of 2 percent, 4 percent, and a top marginal rate of 6 percent applying to taxable income over $60 thousand for married filing joint and $40 thousand for single filers. Also limits PIT capital gains deduction to $1,000;
- Repeals some of the personal income tax (PIT) and corporate income tax (CIT) credits, including the film production tax credit, the preservation of cultural property credit, qualified business facility rehabilitation credit, welfare-to-work tax credit, certain electronic equipment, certain conveyances of real property tax credit, job mentorship tax credit, solar market development tax credit, angel investment credit, renewable energy production tax credit, sustainable building tax credit, blended biodiesel fuel credit, rural health care practitioner tax credit, geothermal ground-coupled heat pump tax credit, advanced energy income tax credit, agricultural biomass income tax credit, participation in cancer treatment clinical trials credit, veteran employment tax credit, foster youth employment income tax credit, income set aside for future distribution from an estate or trust to a nonresident individual deduction, corporate-supported child care credit pursuant to the income tax act and corporate income and franchise tax act;
- Establishes new CIT rates and brackets, with rates of 2 percent, 4 percent, and a top marginal rate of 6 percent applying to taxable income over $500 thousand;

- Adds an additional annual registration fee of $650 for electric hybrid vehicles and $325 for plug-in hybrid vehicles;
- Reduces the manufacturers gaming tax from 10 percent to 2 percent, maintains the gaming tax imposed on racinos and non-profits at 10 percent, and increases the bingo and raffle tax from .5 percent to 2 percent.
- Sunsets several recent GRT and compensating tax deductions in 2033. These include the manufacturing tangible deduction, manufacturing equipment deduction and manufacturing services deduction, the locomotive fuel deduction from compensating tax, and feminine hygiene products deduction;
- Repeals the food and medical services hold harmless payments to municipalities and counties;
- Repeals most GRT and compensating tax exemptions, including the exemption for sales of agricultural products, receipts of non-profits and the receipt of interest and dividends;
- Repeals most GRT and compensating tax deductions including the resale provisions, but retaining interstate commerce deductions and some recent negotiated economic development deductions;
- Repeals most GRT credits;
- Repeals the boat excise tax; and
- Provides the repeal of certain taxes shall not impair outstanding bonds or loan guarantees.

The effective date of the provisions of the bill is January 1, 2024, which would allow TRD adequate time to reprogram the Gentax system. The changes to PIT and CIT apply to tax years beginning January 1, 2024.

FISCAL IMPLICATIONS

The following fiscal estimate, prepared by TRD and by LFC staff is, at best, an order-of-magnitude estimate. TRD notes there are numerous interactions between sections of the bill that have not been thoroughly modeled to provide a comprehensive revenue impact. Due to the complexity of the bill, more time and review would be recommended by economists across the executive and legislative bodies. The tables on page one reflect the range of estimates from LFC and TRD for only those revenues estimated. A full impact study of the bill would require thousands of hours of analysis, and would still be difficult to estimate due to the lack of available information needed.

LFC staff have attempted to merge the information from TRD with independent estimates created by that staff and have prepared the following three tables: (1) overall estimate of impact on the general fund from a studied, but not comprehensive review of the bill; (2) an estimate on other state funds, with the same caveats; and (3) an estimate for the counties and municipalities.

TRD's extensive section-by-section table is appended to this review.

The analysis of the provisions of this bill is divided into several parts:

1. Loss of general fund and local government funds from reducing the gross receipts,

compensating tax rate from 4.875 percent (effective from July 1, 2024 forward) to 2 percent, reducing the governmental gross receipts tax (GGRT) rate and the leased vehicle gross receipt tax (LVGRT) rate from 5 percent to 2 percent, and the impacts of the repeal of the 1.225 percent municipal state share.

2. Loss to various funds from the repeal of the Alternative Fuel Tax Act; Estate Tax Act; Motor Vehicle Excise Tax Act, Railroad Car Company Tax Act; Boat Excise Tax Act; and the Insurance Premium Tax Act.
3. Gain for the general fund and the local governments from the imposition of the 2 percent turnover tax, including the retention of certain GRT deductions and exemptions and the proposed percentage make-up distributions of GRT.
4. Gain from the repeal of the Investment Credit Act, rural job tax credit, Laboratory Partnership with Small Business Tax Credit Act, Technology Jobs and Research and Development Tax Credit Act, Film Production Tax Credit Act, Affordable Housing Tax Credit Act and high-wage jobs tax credit.
5. Loss from the PIT bracket restructure and gain from the cap on capital gains deductions.
    a. The PIT bracket restructure outlined in SB38 results in a revenue loss of approximately $420 million per year. LFC used 2021 tax return data to apply the new brackets and grew the estimate by PIT's average growth rate. There is a technical error in the calculation of the tax amounts for brackets 2 and 3 for all filing status (see technical issues). TRD assumes the correct formula for tax liability to calculate a $20 million to $23 million fiscal impact to the general fund for FY24 through FY27. The capital gains deduction analysis utilizes capital gains deduction amounts in the tax deviation report for years 2019 through 2021 to approximate the revenue gained from lowering the deduction amount. This amounts to between $74 million and $78 million in gained revenue per year.
6. Substantial net gain from the combination of a CIT bracket restructure and the repeal of the film production tax credit and other specific CIT tax credits:
    a. TRD reports a loss from the revision of the rate and bracket structure of between $5 million and $40 million. It would seem, however, that an increase in top marginal rate from 5.9 to 6.0 percent should result in an overall gain in revenue. In addition, several of the CIT tax credits are taken as credits to reduce liability, so when those credits are repealed, CIT collections should increase in commensurate fashion and be subject to the higher top marginal rate. For the purpose of this summary, we have presented this estimate as net zero;
    b. The consensus revenue estimating group (CREG) December forecast estimates that the film production credit will be around $166 million for FY26. The repeal of the credit, however, will not result in a gain of the full $166 million for two reasons: (1) some approved credits are paid over a three-year period; and (2) the film partners have entered into a contract with the state where the state has promised not to reduce the level of film production credits for the 10-year period of the contract.
7. Gain from the repeal of credits for the preservation of cultural property, qualified business facility rehabilitation credit, welfare-to-work tax credit, certain electronic equipment, certain conveyances of real property tax credit, job mentorship tax credit, solar market development tax credit, angel investment credit, renewable energy production tax credit, sustainable building tax credit, blended biodiesel fuel credit, rural health care practitioner tax credit, geothermal ground-coupled heat pump tax credit, advanced energy income tax credit, agricultural biomass income tax credit, participation in cancer treatment clinical trials credit, veteran employment tax credit, foster youth

employment income tax credit, income set aside for future distribution from an estate or trust to a nonresident individual deduction, corporate-supported child care credit pursuant to the income tax act and corporate income and franchise tax act.

a. The repeal of these tax exemptions results, eventually, in an approximate revenue gain of $8 million per year for PIT and $140 thousand for CIT. Most of the CIT costs are from the repeal of the film tax credit and the renewable energy tax credit. There is significant uncertainty in the magnitude and the timing of these gains.

This bill repeals or sunsets many tax expenditures, however with costs that are difficult to determine. 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. LFC staff has concerns in estimating these costs and recommends the bill and action be postponed until the implications can be more fully studied due to these uncertainties.

General Fund	FY23	FY24	FY25	FY26	FY27	
PIT Rates & Brackets		(293,900.0)	(435,200.0)	(435,600.0)	(434,700.0)	General Fund
PIT Limit Capital Gains Deduction		0.0	74,000.0	75,300.0	77,300.0	General Fund
PIT Gain from Repealing Some Credits		0.0	8,000.0	8,000.0	8,000.0	General Fund
CIT Rates and Brackets				Indeterminate		General Fund
CIT Repeal of Film Production Credit, net of Contractual Amounts from Netflix and NBC studios			37,235.0	121,100.0	121,100.0	General Fund
GRT General Fund		136,000.0	267,600.0	264,600.0	260,600.0	General Fund
Compensating Tax General Fund		(19,540.0)	(40,130.0)	(41,470.0)	(42,410.0)	General Fund
ITGRT Loss From Repeal		(130.0)	(270.0)	(280.0)	(280.0)	General Fund
ITGRT Gain From Imposing GRT		360.0	740.0	770.0	790.0	General Fund
MVEX General Fund		(32,800.0)	(26,500.0)	(27,500.0)	(28,200.0)	General Fund
MVEX General Fund (Makeup)		(29,270.0)	(30,080.0)	(31,070.0)	(31,780.0)	General Fund loss from earmarks
Insurance General Fund		(181,900.0)	(430,300.0)	(438,900.0)	(451,700.0)	General Fund
Insurance General Fund		115,600.0	273,400.0	278,900.0	287,100.0	General Fund gain from GRT
Insurance General Fund (Insurance earmarks)		(15,590.0)	(16,010.0)	(16,550.0)	(16,930.0)	General Fund loss from earmarks
Bingo Raffle		$157.0	$315.0	$315.0	$315.0	General Fund
Gaming Manufacturer's Excise		($121.0)	($242.0)	($242.0)	($242.0)	General Fund
Combined Credits (ITC, rural jobs, lab partnership, tech jobs, high-wage, affordable housing TOTAL CREDITS		$4,181.0	$18,611.0	$8,908.0	$9,142.0	General Fund
Repeal Estate Tax		$0.0	$0.0	$0.0	$0.0	General Fund
Alternative Fuel Tax Act		($60.0)	($123.0)	($126.0)	($128.0)	General Fund
Private Railcar Tax		($537.0)	($1,103.0)	($1,139.0)	($1,165.0)	General Fund
Insurance Fire Protection Fund		(54,500.0)	(128,900.0)	(131,500.0)	(135,400.0)	General Fund
Insurance Healthcare Affordability Fund		(41,900.0)	(99,200.0)	(101,200.0)	(104,100.0)	General Fund
Insurance Law Enforcement Protection Fund		(3,200.0)	(7,600.0)	(7,700.0)	(7,900.0)	General Fund
Total General Fund		(417,150.0)	(535,757.0)	(475,384.0)	(490,588.0)	General Fund

Counties & Municipalities	FY23	FY24	FY25	FY26	FY27	
GRT Counties		$501,000.0	$1,031,400.0	$1,068,300.0	$1,094,600.0	Counties
GRT Municipalities		$228,000.0	$477,700.0	$503,300.0	$522,700.0	Municipalities
Compensating Tax Small Counties Fund		(2,600.0)	(5,350.0)	(5,530.0)	(5,650.0)	Small Counties Fund
Compensating Tax Small Cities Fund		(3,910.0)	(8,030.0)	(8,290.0)	(8,480.0)	Small Cities Fund
Compensating Tax Municipalities (Local Option Comp)		(5,210.0)	(10,700.0)	(11,060.0)	(11,310.0)	Municipalities (Local Option Comp)
Compensating Tax Counties (Local Option Comp)		780.0	870.0	900.0	920.0	Counties (Local Option Comp)
ITGRT		(540.0)	(1,110.0)	(1,150.0)	(1,180.0)	Munis & Los Alamos
ITGRT		280.0	580.0	600.0	610.0	Munis & Los Alamos
MVEX Counties & Municipalities		71,000.0	202,600.0	210,100.0	215,600.0	Counties & Municipalities
Insurance Counties & Municipalities		165,900.0	392,500.0	400,300.0	412,000.0	Counties & Municipalities from GRT
Total Local Governments		$954,700.0	$2,080,460.0	$2,157,470.0	$2,219,810.0	

Other State Funds	FY23	FY24	FY25	FY26	FY27	
GGRT State Park & Rec Area Capital		(1,800.0)	(3,800.0)	(3,900.0)	(4,000.0)	State Park & Rec Area Capital
GGRT Office of Cultural Affairs		(130.0)	(270.0)	(280.0)	(290.0)	Office of Cultural Affairs
GGRT NMFA Public Project Revolving		(9,900.0)	(20,300.0)	(20,900.0)	(21,400.0)	NMFA Public Project Revolving
GGRT NM Youth Conservation Corp		(1,300.0)	(2,700.0)	(2,800.0)	(2,900.0)	NM Youth Conservation Corp
LVGRT Infrastructure		(2,100.0)	(4,300.0)	(4,400.0)	(4,500.0)	Leased Vehicle -Infrastructure
LVGRT County Road		(700.0)	(1,400.0)	(1,500.0)	(1,500.0)	Leased Vehicle - County Road
MVEX State Road Fund		(30,300.0)	(61,700.0)	(64,000.0)	(65,700.0)	State Road Fund
MVEX Transportation Project Fund		(26,000.0)	(52,900.0)	(54,900.0)	(56,300.0)	Transportation Project Fund
MVEX State Road Fund		4,560.0	4,690.0	4,840.0	4,950.0	State Road Fund
MVEX Transportation Project Fund		4,180.0	4,300.0	4,440.0	4,540.0	Transportation Project Fund
MVEX Boat Fund		20,530.0	21,090.0	21,790.0	22,290.0	Boat Fund
Insurance Fire Protection Fund		1,140.0	1,170.0	1,210.0	1,240.0	Fire Protection Fund
Insurance Law Enforcement Protection Fund		7,990.0	8,200.0	8,480.0	8,670.0	LEPF
Insurance Healthcare Affordability Fund		6,460.0	6,640.0	6,860.0	7,020.0	Healthcare Affordability Fund
Electric Vehicle Fees		$6,000.0	$7,370.0	$8,770.0	$10,200.0	66-6-23 Distribution Entities
Total Other State Funds		(21,370.0)	(93,910.0)	(96,290.0)	(97,680.0)	

SIGNIFICANT ISSUES

LFC staff recommend review of the analysis prepared by TRD. This analysis is available at the following address: https://bit.ly/3Y7sVUm. TRD's extensive fiscal tables are included in Appendix A.

Excerpts of the TRD analysis are included with LFC narrative throughout this report.

TRD noted the following policy issues related to this bill overall:

> This bill proposes a complete amendment not only for Gross Receipts but also for Personal and Corporate Income Taxes that provide nearly 60 percent of the general fund revenues. The bill's purpose appears to be a redistribution of the contributions of these three main components without reducing revenue to the general fund substantially. Although the GRT contributions to the general fund are expected to decline, the repeal of various tax incentives in the form of business credits and deductions, seek to compensate for this revenue loss. However, it is difficult to know for sure whether the losses are fully compensated, due to the number of assumptions that must be made when evaluating the fiscal impact of each section. In cases like this, where the bill attempts to reform different tax programs simultaneously, TRD supports an implementation in stages to observe and assess how taxpayers and the economy respond to each reform, one at a time. Additionally, the amount of preparation and education that would be needed to prepare TRD and the public would require the implementation date to be pushed out beyond January 1, 2024 as an effective date for this legislation.
>
> On the other hand, the bill aims, seemingly, at aligning the tax structure with the principle of simplicity and efficiency. By repealing most of the deductions and exemptions, administering and filing will be potentially easier to TRD and taxpayers. In addition, without deductions and exemptions almost all activities will be taxed and treated the same way, reducing market distortions. For its part, the services-to-manufactures deduction proposed will reduce pyramiding for a quite dynamic and labor-intensive sector.
>
> The bill repeals several structural credits that aid in supporting and incentivizing specific industries in the state or social policy initiatives in the state. For example, the film credit has become part of the framework of building the film industry in the state, diversifying

> the economy, and growing the job base. As discussed within the context of the CIT forecast, there are unknown dynamic effects that may occur with the repeal of this credit. Other credits help support rural areas in the state that struggle to bring more economic growth and jobs, such as the rural jobs credit. Again, there may be unforeseen consequences to having an abrupt repeal of tax incentives that have slowly been built up.

PIT

The personal income tax brackets proposed in SB38 will increase taxes for the lowest-earning taxpayers by raising their rate from 1.7 percent to 2 percent. It also raises the effective tax rate for high-income earners by increasing their rate from 5.9 percent to 6 percent. Under the proposed tax bracket changes, approximately 50 percent of taxpayers will be in the 2 percent tax bracket, 22 percent in the 4 percent tax bracket, and 28 percent in the 6 percent bracket, improving the spread of taxpayers across brackets. However, a large majority of the overall tax burden will fall on the 6 percent tax bracket as those making less than $40 thousand have a much lower tax liability.

TRD noted the following regarding the PIT changes proposed in this bill:

> Personal income tax (PIT) represents a consistent source of revenue for many states. While this revenue source is susceptible to economic downturns, it is also positively responsive to economic expansions. New Mexico is one of 42 states, along with the District of Columbia, that impose a broad-based PIT. The PIT is an important tax policy tool that has the potential to further both horizontal equity, by ensuring the same statutes apply to all taxpayers, and vertical equity, by ensuring the tax burden is based on taxpayers' ability to pay.
>
> The last substantial amendment to the PIT brackets was passed in 2005, though the changes made by that amendment were not fully implemented until tax year 2008. (In 2019, an amendment was passed adding an additional 5.9 percent income bracket to each filing status, effective from tax year 2021.) As New Mexico PIT brackets are not indexed to inflation, taxpayers have gradually moved into higher tax brackets, described as "bracket creep", despite the fact that their "real income", or the purchasing power of their income, has not changed. Over time, the effective PIT rate, which is the average tax rate paid by a taxpayer on their total gross income, has increased. The federal personal income tax indexes both the standard deduction and tax brackets. The revisions proposed in this bill appear reflective of not indexing the brackets for inflation since 2008 as they further collapse the 5 current brackets into 3 brackets, and create more of a flat, proportional tax for taxpayers. These changes decrease the progressivity of PIT, progressivity being where higher-earning taxpayers pay a larger share of their income in tax compared to lower-earning taxpayers.
>
> The proposed brackets changes maintain the so-called "marriage penalty". As defined by the Tax Foundation, a marriage penalty exists when a state's income brackets for married taxpayers filing jointly are less than double the bracket widths for single filers. As of tax year 2022, New Mexico is one of 15 states which has a "marriage penalty" built into its income tax brackets.

CIT

Under the current CIT structure, any business earning less than $500 thousand per year is taxed at a rate of 4.8 percent. Businesses earning more than $500 thousand are taxed at a rate of 5.9 percent. This proposal effectively lowers the tax rate for all those earning less than $500 thousand to 2 percent for businesses earning less than $250 thousand and 4 percent for those earning between $250 thousand and $500 thousand. It increases the tax rate for businesses making more than $500 thousand from 5.9 percent to 6 percent. This adds more progressivity into the CIT tax structure.

The largest impact to CIT revenues proposed in this bill is the repeal of the film tax credit and the renewable energy tax credit, resulting in approximately $70 million and $20 million in revenue gains, respectively. Repealing the film tax credit will cause uncertainty for film partners and could discourage new and existing partners from working in the state. It is also unclear if the state is able to cease payment to existing film partners without contractual violations. Repealing the renewable energy tax credit will eliminate the tax incentive to invest in renewable energy technologies and could set the state back in achieving its carbon goals. In addition, a number of wind and solar installations have been approved for credits but cannot receive these credits until the early adopters have capped their eligibility.

GRT

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.

TRD highlights:

> Although the GRT contributions to the general fund are expected to decline, the repeal of various tax incentives in the form of business credits and deductions, seek to compensate for this revenue loss. However, it is difficult to know for sure whether the losses are fully compensated, due to the number of assumptions that must be made when evaluating the fiscal impact of each section. In cases like this, where the bill attempts to reform different tax programs simultaneously, TRD supports an implementation in stages to observe and assess how taxpayers and the economy respond to each reform, one at a time. Additionally, the amount of preparation and education that would be needed to prepare TRD and the public would require the implementation date to be pushed out beyond January 1, 2024 as an effective date for this legislation.
>
> On the other hand, the bill aims, seemingly, at aligning the tax structure with the principle of simplicity and efficiency. By repealing most of the deductions and exemptions, administering and filing will be potentially easier to TRD and taxpayers. In addition, without deductions and exemptions almost all activities will be taxed and treated the same way, reducing market distortions. For its part, the services-to-manufactures deduction proposed will reduce pyramiding for a quite dynamic and labor-intensive sector.
>
> Various GRT deductions have a delayed repeal of July 1, 2033. The intent of lowering the GRT rate is to remove associated deviations in the tax code, such as deductions and to

treat taxpayers equally. The advantage of lowering the GRT rate is lost for the next ten years if these deductions are not removed in parallel with the rate reduction. There is no reason for taxpayers to need to adjust to losing the deduction. This may incentive them to leave the state in 2033 with the eventual repeal of the deductions.

The Tourism Department notes:

The reduction of the state GRT rate from 5 percent to 2 percent will reduce the tax dollars the state collects from visitor spending. In 2021, visitors to New Mexico contributed $7.2 billion in direct spending, which resulted in $472 million in state taxes. This contribution from visitors would be reduced by 60 percent.

The elimination of the Film Tax Credit could reduce the number of productions filmed in New Mexico. While not a significant contributor to visitation numbers, film tourism does account for a percent of annual visitation to the state. In 2021, for example, the Longwoods International Travel USA Visitor Profile for New Mexico showed that 13 percent of visitors to New Mexico cited film tourism as a special activity of interest.

The Economic Development Department highlighted the following:

By placing a sunset on the Local Economic Development Act gross receipt tax share, this will indicate to larger projects, both in the state and outside the state, that New Mexico is creating an environment that is not predictable. These projects are likely to be larger scale businesses that rely heavily on reliability to make these types of investments. This section of the Local Economic Development Act has already produced significant, positive results in the state and is likely to continue to do so.

The bill will change the current corporate income tax system by introducing a new tier into the system. Currently, there are two tiers of taxable income, at or below or above $500 thousand. Now there will be below $250 thousand, above $250 thousand but below $500 thousand and above $500 thousand. This will likely lower the amount of taxable income that is subject to corporate income tax. This could help spur economic growth around the state of New Mexico by increasing private investment. This may lead to an increase in the number of jobs, salaries, and investments into equipment to increase productivity.

The bill will place a sunset on the deduction of gross receipt and compensating taxes for use within a locomotive engine. By placing the sunset, it is unlikely that the state will lose the companies that qualify for the deductions because it is difficult for them to pick up and move those large-scale investments to other states. But by doing this we would create an environment that loses predictability which large-scale locomotive companies rely on.

The bill would repeal the film production tax credit which could decimate an entire industry. The industry is reliant on the credit and the credit answers the "but for" question. The film industry has been instrumental in helping to diversify the state's economy. The industry employs thousands of employees and pays over the average state wage.

The bill would repeal the rural job tax credit which could negatively impact employers located in rural areas of the state. This could hurt chances of those employers to expand within those areas and may push them to relocate.

The repeal of the high wage jobs tax credit, which is used throughout the state to encourage high paying jobs, could put New Mexico at a strategic disadvantage when working to recruit companies that offer these types of wages. This credit is used in various industries across the state and could hamper diversification efforts made by the economic development department.

PERFORMANCE IMPLICATIONS

The repeal of many exemptions, deductions and credits comports well with the LFC tax policy of accountability and public analysis of various tax expenditures. Since at least 2013, TRD has published its annual TRD Tax Expenditure Report. Unfortunately, few tax expenditures are accompanied by a declaration of purpose or quantitative goals.

ADMINISTRATIVE IMPLICATIONS

TRD reports significant implementation impacts of the provisions of this bill:

TRD will need to make extensive information system changes and update nearly all of its forms and publications, as well as many regulations. These changes will be too great to incorporate into annual tax year implementation and represent additional workload and contractual costs for the Information Technology Division (ITD) and Motor Vehicle Division (MVD).

The changes proposed are also so extensive that TRD would require additional operating budget to expand its call center capacity to handle taxpayer inquiries.

This bill will have high impact on TRD's Administrative Services Division (ASD). A new position at pay band 80 will be required to be dedicated to work with TRD's contractor "FAST" to make the necessary system changes. The new position will be responsible for defining business requirements, testing revenue accounting and general ledger functions and reporting changes in both Gentax and Tapestry, coordinating "all hands-on deck" rate testing for Gentax, and developing and providing training for all staff. Testing will be required from 6 FTE from different pay band classifications 40 hours each to perform required system testing. The testing costs are summarized below.

Estimated Additional Operating Budget Impact*				R or NR**	Fund(s) or Agency Affected
FY2023	FY2024	FY2025	3 Year Total Cost		
--	$970.8	$726.9	$1,697.7	NR	TRD - ITD
--	$255	--	$255	NR	TRD - MVD
$27.4	$109.6	$109.6	$246.5	R	TRD – ASD New FTE
--	$14.2	--	$14.2	NR	TRD – ASD Rate Testing
$100.0	$100.0	$100.1	$300.0	NR	TRD – ACD Call Center

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

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

The provisions of this bill conflict with virtually all tax bills of this session.

TECHNICAL ISSUES

In section 25 of this bill, the amount of marginal tax liability calculated to be added to the proposed personal income brackets 2 and 3 are not accurate. For example, for married filing separate returns, for income between $10 thousand and $30 thousand it should be $200.00 plus 4 percent of the excess over $10 thousand versus $85.00 in the bill.

Section 41 provides a new exemption from gross receipts for donations to 501(c)(3) organizations. Thus, operating income of non-profits will become GRT taxable, but donations to the organizations will be exempt.

The repeal of Section 7-9-79 NMSA may be unintended. This section provides two GRT credits: (1) when a similar tax has been paid to another state; and (2) when a compensating tax has been previously paid on real estate constructed. Both of these credits seem reasonable.

Section 78 which amends the TRD notice of Section 5-15-27 NMSA 1978 is repealed. However, the A paragraph applies to notification when a TIDD is formed without state participation. Only the B paragraph should be repealed. Similarly, Section 7-1-6.54 NMSA 1978 repealed in Section 80 of the bill should be similarly amended.

Does the bill meet the Legislative Finance Committee tax policy principles?

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

Attachments

1. Appendix A: Verbatim Table of Fiscal Impacts by Bill Section

IT/JF/LG/rl/ne

Appendix A: Verbatim Table of Fiscal Impacts by bill Section

Estimated Revenue Impact*					R or NR**	Fund(s) Affected
FY2023	FY2024	FY2025	FY2026	FY2027		
--	($2,562,600)	($2,640,000)	($2,736,600)	($2,805,700)	R	Section 29 – General Fund – New GRT rate
	($2,700)	($2,900)	($3,000)	($3,000)	R	Section 15 – General Fund
--	($1,900)	($2,000)	($2,100)	($2,100)	R	Section 16 – General Fund
--	($600)	($600)	($600)	($600)	R	Section 17 – General Fund
--	($8,900)	($9,000)	($9,400)	($9,600)	R	Section 18 – General Fund
--	($40,000)	($41,100)	($42,500)	($43,500)	R	Section 31 – General Fund – New COMP tax rate
--	($54,600)	($59,300)	($58,800)	($60,900)	R	Section 101 – General Fund – Repeal Insurance Premium Tax Act
--	$300	$400	$400	$400	R	Section 15 – Law Enforcement Protection Fund
--	$2,400	$2,500	$2,600	$2,600	R	Section 15 – Fire Protection Fund
--	($135,200)	($86,000)	($89,100)	($92,500)	R	Section 16 – Health Care Affordability Fund
--	$600	$600	$600	$600	R	Section 17 – Land Grant-Merced Assistance Fund
--	$1,400	$1,400	$1,500	$1,500	R	Section 18 – State Road Fund
--	$1,300	$1,300	$1,300	$1,400	R	Section 18 – Transportation Project Fund
--	$6,200	$6,300	$6,600	$6,700	R	Section 18 – Boat Fund
--	--	($20,600)	($21,600)	($22,400)	R	Section 25 – General Fund – PIT Brackets
--	--	$74,000	$75,300	$77,300	R	Section 26 – General Fund – Capital Gains deduction
--	--	($5,000 - $40,000)	($5,000 - $40,000)	($5,000 - $40,000)	R	Section 27 – General Fund – CIT Brackets
--	$6,000	$7,370	$8,770	$10,200	R	Section 68 – Electric Vehicle Fees
--	$1,153	$2,390	$2,479	$2,567	R	Section 84 – Rural Job Tax Credit – General Fund
--	$72,450	$164,470	$166,100	$166,100	R	Section 85 - Film Tax Credit Repeal - General Fund
--	Unknown	Unknown	Unknown	Unknown	R	Section 86 - Estate Tax Repeal - General Fund
--	$989	$2,032	$ 2,100	$ 2,148	R	Section 89 - Investment Credit Act
--	($591)	($1,214)	($1,255)	($1,283)	R	Section 90 - Interstate Telecomms GRT Gen Fund
--	($133)	($272)	($281)	($288)	R	Section 90 - Interstate Telecomms GRT Muni's
--	$ 649	$1,333	$ 1,377	$ 1,408	R	Section 91 - Lab Partnership Credit
--	$ 332	$ 683	$706	$ 722	R	Section 92 - Tech Jobs Credit
--	$ 936	$ 1,923	$ 1,988	$2,033	R	Section 93 - High Wage Credit
--	$ 86	$ 176	$ 182	$186	R	Section 94 - Affordable Housing Credit
--	$ 18	$ 37	$ 38	$ 39	R	Section 95 - Alternative Energy Product Manufacturers Tax Credit
--	($537)	($1,103)	($1,139)	($1,165)	R	Section 96 - Railroad Car Company Tax Act (Gen Fund)
--	($82,300)	($167,700)	($173,900)	($178,400)	R	Section 97 - MVX Act - Gen Fund
--	($30,040)	($61,210)	($63,480)	($65,120)	R	Section 97 - MVX Act - Road Fund
--	($97)	($199)	($203)	($207)	R	Section 98 - Alternative Fuel Tax Act - Gen Fund
--	($60)	($123)	($126)	($128)	R	Section 98 - Alternative Fuel Tax Act - Road Fund
--	Unknown	Unknown	Unknown	Unknown	R	Section 99 - Supplemental Muni GRT and Local Option GRT
--	Unknown	Unknown	Unknown	Unknown	R	Section 100 - County and Muni Gasoline Tax
--	$69,288	$141,185	$ 146,405	$ 150,194	R	Section 87 - 7-9-22 GRT imposed on Vehicle Sales
--	491	$1,008	$1,042	$1,065	R	Section 87 - 7-9-13.4 Exemption Sale of Textbooks GRT
--	Unknown	Unknown	Unknown	Unknown	R	Section 87 - 7-9-24 GRT Exemption Insurance
--	$ 9	$ 19	$ 20	$20	R	Section 87 - 7-9-40 GRT Purses and Jockey Remuneration - General Fund
--	$5	$ 11	$ 11	$ 12	R	Section 87 - 7-9-40 GRT Purses and Jockey Remuneration - Local Governments
--	$ 12	$ 25	$ 26	$ 26	R	Section 87 - 7-9-41.4 GRT Deduction Officiating NM Activities - General Fund
--	$8	$ 17	$ 17	$ 18	R	Section 87 - 7-9-41.4 GRT Deduction Officiating NM Activities - Local Governments
--	$ 17	$ 36	$ 37	$ 38	R	Section 87 - 7-9-56.3 Border Zone Trade-Support Company GRT - General Fund

--	$ 12	$ 24	$ 25	$ 25	R	Section 87 - 7-9-56.3 Border Zone Trade-Support Company GRT - General Fund
--	$ 962	$1,977	$2,042	$ 2,089	R	Section 87 - 7-9-62 Sale and Use of Ag Implements - General Fund
--	$ 642	$1,318	$1,3612	$ 1,393	R	Section 87 - 7-9-62 Sale and Use of Ag Implements - Local Governments
--	$429	$ 882	$911	$932	R	Section 87 - 7-9-62.1 Aircraft Sales or Services GRT Deduction - General Fund
--	$274	$564	$582	$596	R	Section 87 - 7-9-62.1 Aircraft Sales or Services GRT Deduction - Local Governments
--	$44	$90	$93	$95	R	Section 87 - 7-9-63 Publication Sales GRT Deduction - General Fund
--	$29	$59	$61	$62	R	Section 87 - 7-9-63 Publication Sales GRT Deduction - Local Governments
--	$27	$55	$57	$58	R	Section 87 - 7-9-64 Newspaper Sales GRT Deduction - General Fund
--	$18	$37	$38	$39	R	Section 87 - 7-9-64 Newspaper Sales GRT Deduction - Local Governments
--	$25,799	$52,992	$54,765	$56,008	R	Section 87 - 7-9-73.1 DOH Licensed Hospitals GRT Deduction - General Fund
--	$ 4,240	$8,708.12	$ 9,000	$ 9,204	R	Section 87 - 7-9-73.1 DOH Licensed Hospitals GRT Deduction - Local Governments
--	$33,181	$ 68,153	$70,434	$72,033	R	Section 87 - 7-9-73.2 Prescription Drugs, Oxygen and Cannabis GRT Deduction - General Fund
--	$22,101	$45,395	$ 46,914	$47,979	R	Section 87 - 7-9-73.2 Prescription Drugs, Oxygen and Cannabis GRT Deduction - Local Governments
--	Unknown	Unknown	Unknown	Unknown	R	Section 87 - 7-9-77 Sale and Use of Ag Implements Comp Tax Deduction
--	Unknown	Unknown	Unknown	Unknown	R	Section 87 - 7-9-79.2 Biodiesel Blending Facility 30 percent Credit GRT and Compensating Tax
--	$198	$407	$ 421	$430	R	Section 87 - 7-9-83 Jet Fuel GRT Deduction - General Fund
--	$ 127	$ 260	$ 269	$ 275	R	Section 87 - 7-9-83 Jet Fuel GRT Deduction - Local Government
--	Unknown	Unknown	Unknown	Unknown	R	Section 87 - 7-9-83 Jet Fuel Deduction Compensating Tax
--	$ 27	$ 55	$ 57	$ 58	R	Section 87 - 7-9-85 Nonprofit Organizations Fundraisers GRT Deduction - General Fund
--	$ 18	$ 37	$ 38	$ 39	R	Section 87 - 7-9-85 Nonprofit Organizations Fundraisers GRT Deduction - Local Governments
--	$960	$ 1,972	$ 2,038	$ 2,084	R	Section 87 - 7-9-87 Lottery Retailer Receipts GRT Deduction - General Fund
--	$ 640	$ 1,314	$ 1,358	$1,388	R	Section 87 - 7-9-87 Lottery Retailer Receipts GRT Deduction - Local Governments
--	$ 30,372	$ 62,386	$64,473	$ 65,937	R	Section 87 - 7-9-92 Sale of Food at Retail Stores GRT Deduction - General Fund
--	$18,724	$ 38,460	$ 39,748	$ 40,650	R	Section 87 - 7-9-92 Sale of Food at Retail Stores GRT Deduction - Local Government

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

TRD Totals from those revenues that are estimated:

FY23	FY24	FY25	FY26	FY27		
	($2,586,163)	($2,549,599)	($2,645,428)	($2,716,519)	R	**TOTAL GENERAL FUND***
	($117,000)	($66,130)	($67,330)	($69,100)	R	**TOTAL OTHER STATE FUNDS**
	$46,046	$94,579	$97,744	$99,962	R	**TOTAL LOCAL GOVERNMENTS**

*The total fiscal impact presented here is not a comprehensive review of the bill and does not reflect the true grand total. These totals are reflected solely for reference in the table on page 1.