

LFC Requester:

Ismael Torres

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: 2/4/2025

Check all that apply:

Bill Number: HB 237

Original Correction
Amendment Substitute

Sponsor: Rep. Tanya Mirabal Moya,
Rep. Patricia A. Lundstrom,
and Rep. John Block

Agency Name and Code Number: 305 – New Mexico
Department of Justice

Person Writing

Short Title: Gross Receipts Credit for
Certain Businesses

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: N/A

Duplicates/Relates to Appropriation in the General Appropriation Act: N/A

SECTION III: NARRATIVE

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

Synopsis: HB 237 seeks to amend the Tax Administration Act and the Gross Receipts and Compensating Tax Act.

Proposed Section 1 seeks to amend Section 7-1-6.4 of the Tax Administration Act by adding clarifying language and by amending the language governing exception to municipal distributions in Section 7-1-6.4 to additionally except “net receipts for the month that would have been attributable to the gross receipts tax from the following locations but for which a credit is applied pursuant to Section 2 of this 2025 act.”

Proposed Section 2 seeks to add a new section to the Gross Receipts and Compensating Tax Act, NMSA 1978, §§ 7-9-1 to -121 (1966, as amended through 2024). Section 2(A) seeks to create a gross receipts tax credit for certain qualifying entities with no more than one million dollars in gross receipts in the previous calendar year, thereby benefiting small businesses. Proposed Section 2(A) provides that the proposed tax credit would be for “an amount equal to twenty-five percent of the taxpayer’s tax liabilities in a taxable period against the state gross receipts tax due; provided that the taxpayer received no more than one million dollars (\$1,000,000) in gross receipts in the calendar year prior to the taxable period in which the credit is claimed.” Proposed Section 2(A) provides that no more than twenty thousand dollars (\$20,000) in credit may be claimed per taxpayer per calendar year. It is notable that Proposed Section 2(A) has a built-in expiration of July 1, 2030.

Proposed Section 2(B) requires a claimant to apply for the tax credit with the Department of Taxation and Revenue.

Proposed Section 2(C) would allow the portion of credit that exceeds a taxpayer’s tax liability to be carried forward to succeeding taxable periods.

Proposed Section 2(D) provides that a taxpayer who claims another credit against gross receipts tax would be unable to receive the credit proposed in HB 237 during the same taxable period.

Proposed Section 2(E) requires a taxpayer receiving the tax credit to report the amount of the credit to the Department of Taxation and Revenue.

Proposed Section 2(F) requires the Department of Taxation and Revenue to include the credit in the tax expenditure budget pursuant to Section 7-1-84, including the annual aggregate cost of the credit.

Proposed Section 2(G) defines “tax liabilities” for the purpose of the statute as “state gross receipts tax liability and any local option gross receipts tax liabilities in a taxable period.”

Proposed Section 3 provides that the provisions of Proposed Section 2 apply to tax liabilities from taxable periods beginning on or after July 1, 2025.

Proposed Section 4 provides that the effective date of HB 237 would be July 1, 2025.

FISCAL IMPLICATIONS

N/A

SIGNIFICANT ISSUES

N/A

PERFORMANCE IMPLICATIONS

N/A

ADMINISTRATIVE IMPLICATIONS

N/A

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

The proposed tax credit may relate to other bills seeking to impact gross receipts tax, such as house bills 19, 45, 46, 184, 218, and senate bills 76, 89, 110, 111, 212, and 243. Notwithstanding, these bills are likely to have little or no interaction with HB 237 beyond HB 237’s exclusivity provision. Specifically, the proposed tax credit in HB 237 would be exclusive, meaning that a taxpayer likely could not claim the proposed tax credit if they already claimed another gross receipts tax credit contemplated in other law or bills.

TECHNICAL ISSUES

N/A

OTHER SUBSTANTIVE ISSUES

The bill provides a tax benefit to small businesses, but does not clearly indicate what exchange or consideration exists and, therefore, may violate the anti-donations clause. *See, e.g., Chronis v. State ex rel. Rodriguez*, 1983-NMSC-081, ¶ 30, 100 N.M. 342.

The bill does not treat business equally, benefitting those with less than \$1,000,000 in gross receipts and not those with more than \$1,000,000 in gross receipts. As such, an unintended consequence is that it could stop businesses from seeking to exceed \$1,000,000 in gross receipts (i.e., hindering growth) so they can remain eligible for the tax credit, even at \$1 less in gross receipts.

ALTERNATIVES

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS

N/A