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FISCAL IMPACT REPORT

		LAST UPDATED	2/10/25
SPONSOR	Moya/Lundstrom/Block	**ORIGINAL DATE**	2/9/25
SHORT TITLE	Gross Receipts Credit for Certain Businesses	**BILL NUMBER**	House Bill 237
		ANALYST	Torres

REVENUE*
(dollars in thousands)

Type	FY25	FY26	FY27	FY28	FY29	Recurring or Nonrecurring	Fund Affected
GRT	($186,700)	($201,300)	($204,900)	($210,300)	($218,300)	Recurring	General Fund
Muni. Subsidy	($32,600)	($35,100)	($35,800)	($36,700)	($38,100)	Recurring	General Fund
TOTAL	**($219,300)**	**($236,400)**	**($240,700)**	**($247,000)**	**($256,400)**	Recurring	General Fund

Parentheses ( ) indicate revenue decreases.
*Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

Agency Analysis Received From
New Mexico Attorney General (NMAG)
Economic Development Department (EDD)
Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of House Bill 237

House Bill 237 (HB237) creates a gross receipts tax credit for businesses that generated no more than $1 million in gross receipts in the previous calendar year. The credit allows eligible taxpayers to reduce their state gross receipts tax liability by 25 percent, with a maximum annual credit of $20 thousand per taxpayer. The bill also requires that the gross receipts for which the credit is applied be included in the calculation for municipal gross receipts tax distributions. The credit is applicable for taxable periods beginning on or after July 1, 2025, and would remain in effect until July 1, 2030.

The effective date of this bill is July 1, 2025.

FISCAL IMPLICATIONS

The bill is expected to reduce state general fund revenue due to decreased gross receipts tax

collections from eligible businesses. According to a study from Ernst and Young conducted in 2018,[1] 93.4 percent of all New Mexico GRT filers would qualify for this credit, which represents over an estimated 40 thousand tax filers. While the credit is capped at $20 thousand per taxpayer per year, the average liability of taxpayers above $100 thousand a year is expected to reach the cap. Taxpayers under $100 thousand a year are expected to utilize only the 25 percent credit at an average of $1,100 per filer. The estimates for the smallest businesses may underestimate the impact due to the assumptions made on average liability. Therefore, the costs in the revenue table may be higher than estimated.

Using Ernst and Young's 2018 study, RP 500 data from TRD, and GRT growth estimates from the latest consensus revenue estimating group publication, the costs are estimated below:

FY	2025	2026	2027	2028	2029
General Fund Share of Cost	100%	100%	100%	100%	100%
Reimbursed to Locals	1.225%	1.225%	1.225%	1.225%	1.225%
Half of Avg. Filer Growth FY24	3.1%	3.1%	3.1%	3.1%	3.1%
CREG GRT Growth	2.7%	4.5%	3.1%	2.6%	3.3%
Total # of returns/taxpayers	44,785	46,193	47,645	49,142	50,687
centage of taxpayers taking the deduction	93.4%	93.4%	93.4%	93.4%	93.4%
Taxpayers taking the deduction	41,829	43,144	44,500	45,899	47,342
Effective GRT rate	7.02%	7.02%	7.02%	7.02%	7.02%
$100K Deduction Cost of Revenue Lost	($186,700)	($201,300)	($204,900)	($210,300)	($218,300)
General Fund Initial Cost	($186,700)	($201,300)	($204,900)	($210,300)	($218,300)
General Fund 1.225% Cost to Reimburse Locals	($32,600)	($35,100)	($35,800)	($36,700)	($38,100)
TOTAL General Fund Cost	**($219,300)**	**($236,400)**	**($240,700)**	**($247,000)**	**($256,400)**
*Dollars in thousands					

The state currently distributes 1.225 percent of the state's own gross receipts tax (GRT) collections to local governments. Under this bill, that distribution must continue even for receipts not collected due to the tax credit. Because the state will not collect the tax on credited receipts, it will bear an additional revenue loss equal to 1.225 percent of the forgone taxable amount to maintain the required distribution to municipalities. The general fund impact accounts for both the loss in state GRT revenue and the additional cost of subsidizing local governments to offset their share of the 1.225 percent distribution.

The Taxation and Revenue Department (TRD) will be responsible for administering the credit, which may result in additional administrative costs. The agency will need to process applications, verify eligibility, and track carryforward amounts.

TRD separately estimates up to $836 million in costs from the credit, should all eligible filers receive a maximum amount. On the low end, TRD estimates a $265 million impact.

This bill creates a tax expenditure with a cost that is difficult to determine but likely significant. LFC has concerns about the risk to state revenues from tax expenditures and the increase in revenue volatility from erosion of the revenue base. The committee recommends the bill adhere to the LFC tax expenditure policy principles for vetting, targeting, and reporting or action be postponed until the implications can be more fully studied.

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[1]https://www.nmlegis.gov/handouts/RSTP%20062518%20Item%203%20EY%20Tax%20Study%20Final%20Report.pdf

SIGNIFICANT ISSUES

This bill narrows the gross receipts tax (GRT) base. Many New Mexico tax reform efforts over the last few years have 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.

The bill may provide economic benefits by reducing tax burdens on small businesses, potentially enabling greater investment, employment, and business expansion. However, the extent to which the credit stimulates business activity sufficient to offset the loss in tax revenue is uncertain. The effectiveness of the credit in promoting economic growth should be evaluated throughout the period it remains in effect and after. Evaluation of the credit is not included in the bill.

The sunset provision of July 1, 2030, provides an opportunity for legislative review of the credit's fiscal and economic impact. If the credit results in excessive revenue losses without corresponding economic gains, adjustments may be necessary before the expiration date. Regular evaluation of participation rates, fiscal effects, and economic outcomes will be essential in determining whether the credit should be continued, modified, or allowed to expire.

According to the New Mexico Attorney General's Office:

> 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.

TRD also notes:

> The establishments targeted by the bill are typically considered small businesses, which present a high rate of openings and closings, making it a highly volatile segment. This might cause the number of taxpayers claiming the credit to exceed those assumed here during a particular taxable period. On the other hand, the fact that the bill prevents a taxpayer from claiming the credit if they have claimed another GRT credit might reduce the impact or reduce the impact of existing GRT credits. However, the magnitude of these effects is uncertain, given the unpredictability regarding the intrinsic dynamics of the small business segment and whether the maximum allowed tax credit set in the bill will generate the incentive to claim it. Taxpayers can be expected to evaluate the value of claiming this credit against the value of taking an alternative credit, if any are available, and amend their returns to maximize their tax benefits.
>
> Small businesses are an economically important component of the state economy and a key driver of production, employment, and growth. Tax policies aimed at alleviating the tax burden of small businesses may foster job growth and the production of a dynamic sector of the economy. Even so, the bill goes against the principle of equity, which ensures that all businesses face the same tax regime. Apart from treating businesses differently, establishments that meet the bill's requirements might benefit differently. For instance, the bill will benefit a restaurant and a tech startup equally. However, these two establishments might differ significantly regarding their taxable activity. The bill further erodes equity by treating similar businesses differently; a business with $999,999 in gross receipts would qualify for the credit, while an establishment with $1,000,001 would not

receive the credit.

While tax incentives may support particular industries or encourage specific social and economic behaviors, the proliferation of such incentives complicates the tax code. Adding more tax incentives: (1) creates special treatment and exceptions to the code, growing tax expenditures and/or narrowing the tax base, with a negative impact on the general fund; and, (2) increases the burden of compliance on both taxpayers and TRD. Adding complexity and exceptions to the tax code does not comport generally with the best tax policy.

This bill may unintentionally hinder economic growth by creating a “cliff effect”. The “cliff effect” is the sudden loss of benefits when going over an applicable threshold by even $1.00. A small business that might be poised to grow more may opt not to do so because doing so will increase its effective GRT rate by 25%, and result in a reduction of net income. That reduction might be substantial when a small change in gross receipts causes the taxpayer to cross the eligibility threshold. Similarly, an establishment poised to exceed the cap in gross receipts might reduce economic activity if the credit loss exceeds the amount of new net receipts. Additionally, the credit means that they will still charge the GRT to consumers, as required by the Gross Receipts and Compensating Tax Act; but businesses will reap the benefit of the credit while still charging the full rate to purchasers.

TRD has significant concerns that businesses may engage in tax planning to artificially separate into multiple taxpayers in order to ensure each individual business’ gross receipts are under $1 million. There is significant potential for abuse and a higher fiscal impact if that should occur. Businesses have legitimate reasons to form multiple LLCs, etc, and TRD would likely not have authority or resources to deny credit claims based on the speculation that a business has been artificially separated to be eligible for this credit…

It is unclear who would benefit from the significant tax relief provided in this proposal. Businesses are liable for GRT but generally pass the tax along to consumers. In this bill, credit eligibility is based on prior calendar year receipts being under $1 million. A business may still pass along GRT to consumers, even if the business is ultimately eligible for this credit. So, the benefits may increase the profitability of businesses but not result in any tax relief passed along to New Mexico consumers.

For ease of taxpayer reporting, ease of tax administration, and to ensure tax relief is shared between businesses and consumers, TRD recommends this proposal instead be a GRT deduction rather than a GRT credit. Deductions are claimed on GRT returns by taxpayers and allow businesses to not pass the GRT on to their consumers in real time, and TRD simply processes them. This is much more straightforward than the proposal in this bill. Here, taxpayers would be required to apply for the credit on forms and in the manner required by TRD, which results in more administrative burden for the department. Conversely, deductions are claimed on the regular GRT return. Furthermore, with this credit, TRD would have to track carryforward of unused credits. The great majority of gross receipts tax returns are filed monthly, adding even more to the burden of tracking these credit carry-forwards.

TECHNICAL ISSUES

On page 4, on line 14: TRD recommends inserting the word "certified" before the word "credit" so that lines 14-16 read: "The amount of credit certified shall not exceed twenty thousand dollars ($20,000) per taxpayer per calendar year."

As the amount of credit that exceeds the taxpayer's tax liability for the period can be carried forward, TRD notes that the amount of time the credit can be carried forward should be limited. TRD suggests on page 4, line 22, after the word "forward" delete "to succeeding taxable periods" and replace with "for thirty-six consecutive taxable periods."

The tax credit is based on calendar year activities, which means taxpayers calculate their eligibility based on their gross receipts for an entire calendar year. However, the applicability date for the credit is set to begin on or after July 1, 2025, which represents only six months of 2025. This misalignment can lead to confusion and potential administrative complexities for taxpayers and TRD. A taxpayer that typically has less than $2 million in receipts in calendar year 2025 may have less than $1 million in receipts in the last six months of 2025 – creating an unintended fiscal impact for credit claims in 2026. In addition, with an effective date of July 1, 2025, the taxpayer will only be able to take the credits for six months of 2025. TRD suggests an applicability and effective date of January 1, 2026. This provides time for taxpayers and TRD to prepare for the implementation of the credit and align all criteria to the calendar year.

OTHER SUBSTANTIVE ISSUES

In assessing all tax legislation, LFC staff considers whether the proposal is aligned with committee-adopted tax policy principles. Those five principles:

- **Adequacy**: Revenue should be adequate to fund needed government services.
- **Efficiency**: Tax base should be as broad as possible and avoid excess reliance on one tax.
- **Equity**: Different taxpayers should be treated fairly.
- **Simplicity**: Collection should be simple and easily understood.
- **Accountability**: Preferences should be easy to monitor and evaluate

In addition, staff reviews whether the bill meets principles specific to tax expenditures. Those policies and how this bill addresses those issues:

Tax Expenditure Policy Principle	Met?	Comments
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.	✗	
Targeted: The tax expenditure has a clearly stated purpose, long-term goals, and measurable annual targets designed to mark progress toward the goals. Clearly stated purpose Long-term goals Measurable targets	✗	
Transparent: The tax expenditure requires at least annual reporting by the recipients, the Taxation and Revenue Department, and other relevant agencies	✓	
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. Public analysis Expiration date	✓	
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. Fulfills stated purpose Passes "but for" test	?	
Efficient: The tax expenditure is the most cost-effective way to achieve the desired results.	?	
Key: ✓ Met ✗ Not Met ? Unclear		

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