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

ORIGINAL DATE 01/30/12

SPONSOR Sapien **LAST UPDATED** **HB**

SHORT TITLE Agricultural Equipment Gross Receipts **SB** 138

ANALYST Walker-Moran

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY12	FY13	FY14	FY15	FY16		
$0.0	($8,873.0)	($9,183.2)	($9,504.6)	($9,837.3)	Recurring	General Fund
$0.0	($5,880.0)	($6,085.8)	($6,298.8)	($6,519.3)	Recurring	Local Government (GRT)
$0.0	($94.0)	($97.4)	($100.8)	($104.3)	Recurring	Small County Assistance Fund
$0.0	($94.0)	($97.4)	($100.8)	($104.3)	Recurring	Small City Assistance Fund

(Parenthesis ( ) Indicate Revenue Decreases)

SOURCES OF INFORMATION
LFC Files

Responses Received From
Taxation and Revenue Department (TRD)
New Mexico Department of Agriculture

SUMMARY

Synopsis of Bill

Senate Bill 138 adds a new section to the Gross Receipts and Compensating Tax Act to provide a deduction from the gross receipts tax and the compensating tax for capital investments in construction or equipment directly related to agricultural production or processing of agricultural goods.

The purpose of this deduction is to encourage the purchase of agricultural equipment in order to enable greater agricultural production and processing and to stimulate construction or renovation of agricultural processing facilities.

Taxpayers are required to report this deduction separately from all other deductions.

The effective date of this bill is July 1, 2012. The sunset date of this bill is July 1, 2017.

FISCAL IMPLICATIONS

This bill may violate the LFC tax policy principle of adequacy. According to the LFC General Fund Recurring Appropriation Outlook for FY14 and FY15 the December 2011 forecasted revenues will be insufficient to cover growing recurring appropriations. Since currently forecasted revenues in FY14 and FY15 may not be adequate to fund government services there is insufficient funds for additional tax cuts. It also violates the LFC tax policy principle of efficiency by narrowing the tax base.

According to TRD, this estimate assumes the bill will reduce gross receipts tax collections by approximately $14 million annually and compensating tax collections by approximately $940 thousand annually beginning in FY13. These numbers were then grown by 3.5% to account for inflation and economic growth across the out years.

Estimated Revenue Impact – Detailed Discussion: Data from the RP-90 report for FY2011 show that sectors that would likely claim this deduction paid roughly $940 thousand in compensating tax. This estimate assumes that all of the transactions that generated compensating tax would qualify for the deduction as equipment purchases.

Data from the 2007 Economic Census indicate that the food processing industry earned $2.7 billion in sales during the previous year. Because the 2007 Economic Census did not include the agricultural sector and the most recent data is several years old, this analysis assumes that total receipts are larger than $3 billion by now. Based on this figure, the analysis assumes the industry could support new construction of an order of magnitude exceeding $200 million annually. At an average gross receipts tax rate of 7 percent, this would generate at least $14 million in revenue which this bill would forego.

The estimate above accounts for the statutory distributions of compensating and gross receipts tax. As such, the line showing the impact to the General Fund includes a component from each of those taxes.

SIGNIFICANT ISSUES

The definition of “processing” provided within this bill would allow breweries, wineries and distilleries to qualify for this deduction. It is unclear whether this is an intended consequence of the legislation.

A variety of exemptions and deductions already exist to benefit agricultural production. Notable among them is Section 7-9-62 NMSA 1978, which provides a 50 percent deduction from gross receipts on the sale of agricultural implements, farm tractors, aircraft or vehicles that are not required to be registered under the Motor Vehicle Code.

PERFORMANCE IMPLICATIONS

The LFC tax policy of accountability is met when TRD is required to report annually, beginning in 2014, to the interim legislative revenue stabilization and tax policy 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

According to TRD there is a high administrative impact. TRD will need to modify instructions and publications related to the gross receipts and compensating tax program. A new special code can be used, but the use of a special code requires extra taxpayer and department employee education. A publication or other brochure and other advertisements of the new reporting requirement should be utilized to ensure proper reporting. In order to collect the specific information for the compensating tax, TRD will need to add lines to the CRS-1 Form. The current version of the CRS-1 Form does not collect information on compensating tax, so the form will need to be expanded and the size of the form increased which will affect the processing of paper returns, including slower processing time. The more information needed to be gathered, the greater the impact on the processing of the paper returns. Slower processing time affects the depositing of the money and the distribution of funds to counties and municipalities for those affected returns. Gentax and all CRS-1 online and backend processing systems will need modification.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

According to the NM Department of Agriculture, if SB 138 is not enacted, limited deductions from gross receipts and compensating taxes will not be available for certain agricultural capital equipment purchases and construction projects in New Mexico.

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

EWM/svb