LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS

Bill Number: ***HB 315** **51st Legislature, 1st Session, 2013**

Tracking Number: **.190715.2SA**

Short Title: **Tax Payment & Manufacturer Gross Receipts**

Sponsor(s): **Representative James R.J. Strickler and Others**

Analyst: **Ian Kleats** **Date:** **February 25, 2013**

Bill Summary:

HB 315 adds a new section to the *Tax Administration Act* and amends sections in that act and the *Gross Receipts and Compensating Tax Act* applicable to receipts from transactions in tax periods beginning on or after May 1, 2013. Among its provisions, the bill would:

- allow for special agreements under which a person or company may assume liability for another taxpayer's gross receipts or governmental gross receipts tax owed;
- amend the definition of "taxpayer" in the *Tax Administration Act* to include persons that enter into such agreements; and
- remove tax expenditure reporting requirements from a gross receipts deduction for sales to manufacturers.

Finally, HB 315 contains an emergency clause.

Fiscal Impact:

HB 315 does not contain an appropriation. The revenue impact, as estimated by LESC staff, is illustrated in the table below.

Estimated Revenue Impact*				R or NR**	Fund(s) Affected
FY 13	FY 14	FY 15	FY 16		
(***)	(***)	(***)	(***)	R	General Fund
(***)	(***)	(***)	(***)	R	Local Governments

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

The provisions of HB 315 could result in an indeterminable negative impact on the General Fund and local government revenues.

The special agreements do not substantially change the underlying deduction for certain sales to manufacturers, but they do facilitate its use. As such, it is possible that taxpayers who otherwise would not claim the deduction because of an associated administrative burden would now utilize the tax expenditure. This development could be viewed as increasing the revenue impact of the existing deduction.

Substantive Issues:

HB 315 removes the requirement that the Taxation and Revenue Department (TRD) annually report to the interim Revenue Stabilization and Tax Policy Committee information necessary to determine that the deductions from sales to manufacturers are performing the purposes for which they were enacted. It also removes the requirement that taxpayers report separately the amount and disposition of each deduction claimed under that section.

One significant lesson learned from the *2012 New Mexico Tax Expenditure Report* is that data are necessary to gauge not only the revenue impact of deductions, but also the economic impact of those tax policies. Although reporting requirements impose an administrative burden on TRD and taxpayers, it could be considered a reasonable cost of receiving preferential treatment for tax purposes.

Economic multiplier effects of any tax expenditure should be judged relative to multiplier effects from the likely use of the foregone government revenue. General Fund appropriations comprise many diverse uses with the largest proportion going to fund public education. Without strong evidence to the contrary, an assertion that this deduction has an economic multiplier higher than economic base jobs and expenditures associated with public education or any other governmental program might be considered speculative.

Moreover, New Mexico's State Equalization Guarantee education funding formula implies that over 40 percent of government revenue would be spread equitably across the state, impacting small rural communities in a proportionate level to larger urban communities. It is unclear whether this deduction could ensure the same equitable economic impact to all communities that public school funding would provide, even absent any discussion of the relative economic multiplier effects of the tax policy.

For these reasons, it could be prudent to retain the reporting requirements of the deduction. The transference of tax liability through the special agreements proposed by HB 315 could ease the administrative burden sufficiently on its own.

Committee Referrals:

HBIC/HTRC/HAFC

Related Bills:

None as of February 25, 2013.