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

ORIGINAL DATE 01/30/14
SPONSOR Garcia, M.H. & Papen **LAST UPDATED** 02/17/14 **HB** 129/aHTRC

SHORT TITLE Border Zone Trade-Support Gross Receipts **SB**

ANALYST van Moorsel

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY14	**FY15**	**FY16**	**FY17**	**FY18**		
0.0	(672.0)	0.0	0.0	0.0	Recurring	General Fund
0.0	(448.0)	0.0	0.0	0.0	Recurring	Local Governments
0.0	**(1,200.0)**	**0.0**	**0.0**	**0.0**	**Recurring**	**Total**

(Parenthesis ( ) Indicate Revenue Decreases)

SOURCES OF INFORMATION
LFC Files

Responses Received From
Taxation and Revenue Department (TRD)
Department of Finance and Administration (DFA)
Economic Development Department (EDD)

SUMMARY

Synopsis of HTRC Amendment

The House Taxation and Revenue Committee amendment reduced the duration of the deduction to one year, effectively sunsetting the deduction at the end of FY 15. The amendment has the effect of eliminating the fiscal impact in the out years.

Synopsis of Original Bill

House Bill 129 amends the Gross Receipts and Compensating Tax Act to extend eligibility for the gross receipts tax (GRT) deduction for trade-support companies in a border zone for seven years (fiscal years 2015-2021). Currently, the deduction is available only to trade-support companies that first locate in New Mexico within 20 miles of a port of entry on New Mexico's border with Mexico during fiscal years 2004-2013.

The bill requires a taxpayer taking such a deduction to report the amount of the deduction separately, and requires TRD to compile an annual report on the deductions taken. Every four years beginning in 2015, TRD must report its analysis of the deduction to the LFC and to RSTP.

The effective date of this bill is July 1, 2014. The sunset date of the deduction in this bill is July 1, 2021.

FISCAL IMPLICATIONS

TRD does not track what this deduction costs. More information needs to be collected about the cost of this deduction so that the Legislature may make an informed decision.

DFA cites the New Mexico International Business Accelerator in reporting an estimated three to five trade-support businesses per year are established as a result of the Union Pacific fueling facility, and these businesses have gross receipts of about $3 million to $5 million. Applying the midpoint of these figures, the additional impact is estimated to be $700 thousand to the general fund and $500 thousand to local governments in FY15 and subsequent years.

The TRD's discussion of their fiscal impact is reprinted below:

> Because the current deduction sunsets on July 1, 2013, the impact estimated is the full amount of the deduction. The deduction applies to a very narrow subset of taxpayers located within twenty miles of a port of entry on New Mexico's border with Mexico, and so actual taxpayer data can be used to estimate the impacts.
>
> The Taxation and Revenue Department (TRD) does not have industry data at a detailed enough level to identify only the applicable taxpayers. Instead, a slightly broader category is used: NAICS code 4885, Freight Transportation Arrangement, assuming that all of these taxpayers would qualify. The location coding is similarly broader in TRD's data than in the proposal. For this estimate, all of Sunland Park, Anthony, and unincorporated Luna and Doña Ana Counties were considered. Without the ability to separate the applicable deduction from any other deduction, the full amount of gross receipts deducted is estimated.
>
> Between FY2011 and FY2013, the taxpayers as described in the previous paragraph reported taxable gross receipts of about $250 thousand and gross receipts tax of about $16 thousand on average, for an average tax rate of about 6.4 percent. The same taxpayers deducted about $310 thousand in gross receipts. Applying the same effective average tax rate, this would be about $20 thousand in foregone revenue. Assuming that this deduction is the only one these businesses are taking, that would be the impact of reinstating the deduction.

This bill may be counter to the LFC tax policy principle of adequacy, efficiency and equity. Due to the increasing cost of tax expenditures revenues may be insufficient to cover growing recurring appropriations.

Estimating the cost of tax expenditures is difficult. Confidentiality requirements surrounding certain taxpayer information create uncertainty, and analysts must frequently interpret third-party data sources. The statutory criteria for a tax expenditure may be ambiguous, further complicating the initial cost estimate of the expenditure's fiscal impact. Once a tax expenditure has been approved, information constraints continue to create challenges in tracking the real costs (and benefits) of tax expenditures.

SIGNIFICANT ISSUES

New Mexico has three ports of entry: Santa Teresa, Columbus and Antelope Wells. Antelope Wells is located in the boot heel of New Mexico, a remote region that is not expected to have much business activity. Therefore, this legislation will largely impact businesses near the Santa Teresa and Columbus ports of entry.

This legislation could encourage the growth of the import-export industry in New Mexico, particularly when combined with the opening of the Union Pacific fueling station in Santa Teresa. Businesses could benefit from the new rail hub to move goods in and out of the country. This deduction provides an incubator for new businesses and better allows them to compete with trade-support companies located in neighboring border states. However, the deduction will decrease general fund revenues.

PERFORMANCE IMPLICATIONS

The LFC tax policy of accountability is met with the bill's requirement to report to an interim legislative 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.

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

PvM/ds:jl