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## FISCAL IMPACT REPORT

**ORIGINAL DATE**  
**SPONSOR** Neville **LAST UPDATED** 02/06/14 **HB** \_\_\_\_\_

**SHORT TITLE** Local Gov't Hold Harmless Gross Receipts **SB** 87

**ANALYST** van Moorsel

### REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY14	FY15	FY16	FY17	FY18		
\$0.0	(\$27,000.0)	(\$40,000.0)	(\$54,000.0)	(\$67,000.0)	Recurring	General Fund
\$0.0	\$27,000.0	\$40,000.0	\$54,000.0	\$67,000.0	Recurring	Local Governments
<b>\$0.0</b>	<b>\$0.0</b>	<b>\$0.0</b>	<b>\$0.0</b>	<b>\$0.0</b>	<b>Recurring</b>	<b>Total</b>

(Parenthesis ( ) Indicate Revenue Decreases)

Relates to HB 114, HB 132, HB 155, SB 170, SB 171, SB 217

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Taxation and Revenue Department (TRD)

New Mexico Municipal League (NMML)

### SUMMARY

#### Synopsis of Bill

Senate Bill 87 repeals the food and medical hold harmless distribution to municipalities and counties and creates a distribution to municipalities and counties equal to a 0.25 percent increment of the current 5.125 percent state gross-receipts tax rate (approximately 4.88 percent of GRT).

The bill permits municipalities and counties to impose up to a 1/8 percent hold harmless gross receipts tax in 1/16 percent increments if the revenue from the above distribution is less than:

- 100 percent of the food and medical deductions taken in the municipality times the gross receipts tax rate plus 1.225 percent; or

- 100 percent of the food and medical deductions taken in the county times the gross receipts tax rate.

SB 87 includes a temporary provision providing that a municipality or a county that has imposed a hold harmless gross receipts tax or prior to the effective date of SB 87 must conform to its provisions, requiring a municipality or county that imposed the hold harmless gross receipts tax that does not conform to the provisions of the bill to repeal such taxes on or before July 1, 2014.

The effective date of this bill is July 1, 2014.

## FISCAL IMPLICATIONS

This bill replaces the food and medical hold harmless distributions in current statute with a distribution of gross receipts tax that is based on the total GRT base, not just the food and medical deductions from the county or municipality. The bill then uses as a threshold for enacting the hold harmless tax, the amount of the food and medical deductions multiplied by the combined gross receipts tax (GRT) rate.

Decoupling the distribution from food and medical deductions has the net impact of increasing the total amount of the distribution. TRD projects the bill would cause some individual counties and municipalities to receive smaller distributions than under current law, while others receive larger distributions (see Attachment).

The impact is magnified by the fact that the current hold-harmless distributions to large counties and municipalities, which represent the great majority of the distributions by dollar amount, are reduced over time to zero, while the distributions created in SB 79 are not. TRD projects the cumulative negative impact to the general fund over the 15-year period of the current law phase out would approach **\$1.5 billion** as the gap between phasing out hold harmless distributions and the growing newly created distributions increases each year.

TRD provides a rough estimate of the FY 30 impact, assuming average growth rates for food and medical spending and overall GRT growth, is that the new distribution would be \$200 million larger than the mostly-phased-out hold harmless distribution in that year alone. Any forecast that far into the future is highly uncertain, but the order of magnitude can serve as a point of reference.

Some of the counties and municipalities for which the newly created distribution would not totally replace the current law phased-out hold harmless distributions may elect to enact the one-eighth percent hold harmless tax. Under this scenario, there would be no direct general fund impact from local governments enacting the tax, but local government revenue would increase.

The New Mexico Municipal League states the bill will result in some municipalities not receiving 100 percent of the hold harmless distribution even after the imposition of the 1/8 percent gross receipts tax. The Municipal League takes the position that all municipalities should be kept whole if the hold harmless distribution is repealed.

## SIGNIFICANT ISSUES

SB 79 provides an option for ending the hold-harmless phaseout created by statutory changes from the 2013 session. In October 2013, staff of the Legislative Council Service, the LFC, the Department of Finance and Administration, the Taxation and Revenue Department, and the New Mexico Tax Research Institute met with representatives of the New Mexico Municipal League (NMML) and the New Mexico Association of Counties (NMAC) to discuss issues related to the phase-out of the food and medical hold-harmless distribution and the local option hold harmless GRT rate authority created in Laws 2013, chapter 160. The group discussed issues with the implementation of that legislation and policy options to address them. The main issues and respective options were:

- “Stacking” county and municipal 3/8 percent GRT authority as authorized under current statute could result in a 3/4 percent GRT rate increase in municipalities.

The increase in the GRT could result in high rates in some municipalities. One option to address this issue is to amend statute to limit the imposition of the county option GRT to “rest of county.” However, this could result in county hold harmless local option GRT revenue being insufficient to make up for lost hold harmless revenue. TRD analysis shows that, under this option, seven counties would not generate sufficient revenue to replace their hold harmless distributions, including four counties large enough to be automatically phased out. This option could be fine tuned to limit one or two of the authorized 1/8 percent increments imposed by counties to “rest of county” areas.

- Timing differences between the GRT imposition and the hold-harmless phase-out could result in local governments receiving a windfall during the phase-out period.

Amending statute to "offset" the windfall could provide an incentive to impose a lower rate or to defer tax impositions until the additional money is needed to meet the loss from the hold harmless phase-out. This could be accomplished by accelerating the phase-out of hold harmless distributions to local governments in the event that the local option GRT revenue would exceed the hold harmless payments. Another option is to limit the imposition of local option GRT to the increment necessary to make up for lost hold harmless revenue.

- For some municipalities a 3/8 percent rate increase is not sufficient to make up for lost hold harmless revenue

Per TRD’s analysis during the interim, several municipalities would face a net revenue loss after the hold harmless phase-out, even after imposing the maximum 3/8 percent GRT. Revenue shortfalls would not occur until later in the phase-out of the hold harmless distribution, and municipalities could generate excess revenue early in the phase-out by imposing the local option GRT increase. The timing of the phase-out could give local governments time to adjust budget priorities to prepare for an eventual reduction in revenue.

- Referendum vs. no referendum for imposition of local option GRT. Should the imposition be subject to referendum either by request of the local governing body or by petition of the voters?

Statute changes to allow the imposition of any local option GRT increase to be subject to

local referendum could be implemented in several ways. One option is to make any local option GRT imposition subject to referendum, while another option is to allow referendum on GRT increments that would generate revenue in excess of the reduction in the hold harmless distribution.

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

**Estimated Revenue Impact – Detailed Discussion:**

While the net impact of this bill would be positive for local governments, many counties and municipalities would have net losses while others would have gains, as shown in the tables below.

Table 1: Counties

County	Gross Tax Remainder of County FY13	New Distrib. = 0.25%/5.125%*Gross Tax	Total HH FY13	Change = HH - New Distrib.
02002 - Bernalillo County	\$131,481	\$6,414	\$10,085	-\$3,671
01001 - Santa Fe County	\$33,913	\$1,654	\$3,423	-\$1,768
04004 - Chaves County	\$9,626	\$470	\$818	-\$349
14014 - Valencia County	\$7,760	\$379	\$596	-\$217
11011 - Roosevelt County	\$3,209	\$157	\$329	-\$173
33033 - Cibola County	\$3,375	\$165	\$316	-\$151
20020 - Taos County	\$10,548	\$515	\$612	-\$97
12012 - San Miguel County	\$4,814	\$235	\$302	-\$67
10010 - Quay County	\$2,082	\$102	\$126	-\$25
19019 - Luna County	\$4,423	\$216	\$236	-\$20
21021 - Sierra County	\$4,000	\$195	\$208	-\$13
27027 - De Baca County	\$370	\$18	\$22	-\$4
24024 - Guadalupe County	\$1,306	\$64	\$63	\$1
31031 - Harding County	\$771	\$38	\$1	\$36
28028 - Catron County	\$1,724	\$84	\$12	\$72
23023 - Hidalgo County	\$2,090	\$102	\$24	\$78
30030 - Mora County	\$1,875	\$91	\$4	\$87
25025 - Socorro County	\$3,784	\$185	\$89	\$96
18018 - Union County	\$3,282	\$160	\$55	\$105
17017 - Rio Arriba County	\$12,612	\$615	\$503	\$112
22022 - Torrance County	\$3,894	\$190	\$72	\$118
05005 - Curry County	\$14,773	\$721	\$599	\$122
09009 - Colfax County	\$4,047	\$197	\$49	\$149
08008 - Grant County	\$12,334	\$602	\$401	\$200
26026 - Lincoln County	\$6,339	\$309	\$106	\$203
29029 - Sandoval County	\$17,899	\$873	\$507	\$367
13013 - McKinley County	\$38,542	\$1,880	\$1,442	\$438
15015 - Otero County	\$20,190	\$985	\$416	\$569
07007 - Dona Ana County	\$50,645	\$2,470	\$1,901	\$569
16016 - San Juan County	\$86,954	\$4,242	\$2,625	\$1,617
32032 - Los Alamos (city & county)	\$91,399	\$4,458	\$2,134	\$2,325
06006 - Lea County	\$71,388	\$3,482	\$329	\$3,154
03003 - Eddy County	\$99,168	\$4,837	\$348	\$4,489
<b>Total</b>	<b>\$760,618</b>	<b>\$37,103</b>	<b>\$28,754</b>	<b>\$8,350</b>

All numbers are in thousands of dollars.

**SOURCE:** Taxation and Revenue Department

The impacts to municipalities are less certain at the individual level. The definition of the base for the hold harmless distribution and the newly defined distribution includes several possible locations that are not within the municipality proper, but whose distribution would flow into the municipalities. The table below lists all of the 85 municipalities that currently receive hold harmless distributions.

Table 2: Municipalities

Municipality	Gross Tax FY13	New Distrib. = 0.25%/5.125%*Gross Tax	Total HH FY13	Change = HH - New Distrib.
15116 - Alamogordo	\$39,385.1	\$1,921.2	\$3,012.9	-\$1,091.7
07105 - Las Cruces	\$173,287.5	\$8,453.0	\$9,399.0	-\$946.0
20126 - Taos (city)	\$22,704.3	\$1,107.5	\$1,958.6	-\$851.1
29120 - Bernalillo (city)	\$10,456.9	\$510.1	\$1,275.6	-\$765.5
29524 - Rio Rancho (Sandoval)	\$64,372.1	\$3,140.1	\$3,818.0	-\$677.9
08107 - Silver City	\$20,289.7	\$989.7	\$1,658.4	-\$668.6
17215 - Espanola (Rio Arriba)	\$16,476.4	\$803.7	\$1,459.8	-\$656.1
01320 - Edgewood	\$7,186.2	\$350.5	\$942.2	-\$591.6
14316 - Los Lunas	\$23,531.1	\$1,147.9	\$1,737.8	-\$590.0
14129 - Belen	\$11,323.0	\$552.3	\$1,094.5	-\$542.2
05103 - Clovis	\$55,751.5	\$2,719.6	\$3,155.1	-\$435.5
13114 - Gallup	\$52,816.8	\$2,576.4	\$2,983.3	-\$406.8
04101 - Roswell	\$65,793.3	\$3,209.4	\$3,601.0	-\$391.5
26501 - Ruidoso Downs	\$6,048.6	\$295.1	\$684.1	-\$389.0
16218 - Aztec	\$10,499.8	\$512.2	\$789.6	-\$277.4
21124 - Truth or Consequences	\$7,069.1	\$344.8	\$552.1	-\$207.3
19113 - Deming	\$17,421.4	\$849.8	\$1,054.6	-\$204.8
12122 - Las Vegas	\$21,127.6	\$1,030.6	\$1,235.4	-\$204.8
11119 - Portales	\$13,902.3	\$678.2	\$851.6	-\$173.4
01123 - Santa Fe (city)	\$221,761.2	\$10,817.6	\$10,980.0	-\$162.4
25125 - Socorro (city)	\$9,341.6	\$455.7	\$566.3	-\$110.6
07204 - Hatch	\$1,593.7	\$77.7	\$160.6	-\$82.8
17118 - Chama	\$1,494.8	\$72.9	\$146.2	-\$73.3
09102 - Raton	\$7,974.0	\$389.0	\$449.2	-\$60.2
26211 - Capitan	\$1,035.0	\$50.5	\$110.2	-\$59.8
15308 - Tularosa	\$1,489.2	\$72.6	\$114.3	-\$41.6
08206 - Bayard	\$977.7	\$47.7	\$85.7	-\$38.0
27104 - Fort Sumner	\$1,256.8	\$61.3	\$75.5	-\$14.1
28130 - Reserve	\$207.6	\$10.1	\$20.6	-\$10.5
10309 - Logan	\$1,117.2	\$54.5	\$61.6	-\$7.1
29409 - San Ysidro	\$354.5	\$17.3	\$22.8	-\$5.5
31109 - Roy	\$112.9	\$5.5	\$10.3	-\$4.8
29311 - Cuba	\$2,041.8	\$99.6	\$101.9	-\$2.3
11216 - Elida	\$221.6	\$10.8	\$11.1	-\$0.3

**SOURCE:** Taxation and Revenue Department

19212 - Columbus	\$431.6	\$21.1	\$21.3	-\$0.3
24207 - Vaughn	\$391.4	\$19.1	\$19.4	-\$0.3
Table 2 Continued				
06500 - Tatum	\$998.1	\$48.7	\$48.2	\$0.4
05302 - Texico	\$463.6	\$22.6	\$18.8	\$3.8
09301 - Springer	\$813.9	\$39.7	\$35.8	\$3.9
04300 - Hagerman	\$695.3	\$33.9	\$29.4	\$4.5
30115 - Wagon Mound	\$165.2	\$8.1	\$1.5	\$6.6
22127 - Mountainair	\$702.7	\$34.3	\$27.7	\$6.6
18128 - Clayton	\$3,828.1	\$186.7	\$178.2	\$8.6
05402 - Melrose	\$557.4	\$27.2	\$16.9	\$10.3
33227 - Grants	\$15,290.4	\$745.9	\$733.9	\$12.0
20222 - Questa	\$1,540.3	\$75.1	\$61.4	\$13.7
26406 - Corona	\$474.6	\$23.2	\$7.1	\$16.0
04400 - Lake Arthur	\$413.9	\$20.2	\$2.9	\$17.3
25221 - Magdalena	\$713.9	\$34.8	\$15.6	\$19.3
09202 - Maxwell	\$408.1	\$19.9	\$0.4	\$19.5
12313 - Pecos	\$733.0	\$35.8	\$13.4	\$22.3
26307 - Carrizozo	\$813.1	\$39.7	\$16.2	\$23.5
08305 - Santa Clara	\$547.8	\$26.7	\$0.5	\$26.2
04201 - Dexter	\$1,655.0	\$80.7	\$50.0	\$30.7
15213 - Cloudcroft	\$1,472.3	\$71.8	\$28.8	\$43.1
23110 - Lordsburg	\$3,363.4	\$164.1	\$115.9	\$48.2
22503 - Estancia	\$2,111.2	\$103.0	\$54.6	\$48.4
24108 - Santa Rosa	\$4,156.7	\$202.8	\$152.6	\$50.2
21319 - Elephant Butte	\$1,217.7	\$59.4	\$7.0	\$52.4
06306 - Jal	\$3,877.2	\$189.1	\$128.9	\$60.3
14412 - Peralta	\$1,746.5	\$85.2	\$13.3	\$71.9
09600 - Angel Fire	\$5,251.6	\$256.2	\$176.7	\$79.5
22223 - Moriarty	\$4,799.3	\$234.1	\$152.7	\$81.4
02318 - Tijeras	\$1,720.2	\$83.9	\$1.5	\$82.4
20317 - Red River	\$3,143.5	\$153.3	\$62.3	\$91.1
14505 - Bosque Farms	\$2,961.4	\$144.5	\$52.9	\$91.6
07303 - Mesilla	\$2,507.8	\$122.3	\$30.2	\$92.1
07507 - Anthony	\$2,762.4	\$134.7	\$30.5	\$104.3
10117 - Tucumcari	\$7,510.6	\$366.4	\$259.6	\$106.8
06210 - Eunice	\$4,409.7	\$215.1	\$101.1	\$114.0
33131 - Milan	\$5,216.9	\$254.5	\$138.5	\$116.0
20414 - Taos Ski Valley	\$2,639.1	\$128.7	\$6.1	\$122.6
03403 - Loving	\$4,902.6	\$239.2	\$42.3	\$196.8
29504 - Corrales (Sandoval)	\$4,585.6	\$223.7	\$18.4	\$205.3
02200 - Los Ranchos de Albuquerque	\$6,170.8	\$301.0	\$71.9	\$229.1
07416 - Sunland Park	\$8,964.9	\$437.3	\$99.8	\$337.5

**SOURCE:** Taxation and Revenue Department

16312 - Bloomfield	\$16,157.3	\$788.2	\$412.7	\$375.4
16121 - Farmington	\$126,512.7	\$6,171.3	\$5,707.6	\$463.8
06405 - Lovington	\$19,648.3	\$958.5	\$454.1	\$504.4
Table 2 Continued				
26112 - Ruidoso	\$20,604.1	\$1,005.1	\$473.9	\$531.2
03205 - Artesia	\$58,245.3	\$2,841.2	\$1,329.2	\$1,512.0
03106 - Carlsbad	\$85,975.5	\$4,193.9	\$2,417.0	\$1,777.0
02100 - Albuquerque	\$894,250.1	\$43,622.0	\$37,848.7	\$5,773.3
06111 - Hobbs	\$182,411.4	\$8,898.1	\$2,752.5	\$6,145.6
Other Locations With No HH Distrib.	\$41,847.2	\$2,041.3	\$0.0	\$2,041.3
<b>Total</b>	<b>\$2,453,203</b>	<b>\$119,668</b>	<b>\$108,619</b>	<b>\$11,049</b>

All numbers are in thousands of dollars.