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

SPONSOR	McCamley	**ORIGINAL DATE LAST UPDATED**	2/5/15	**HB**	158
SHORT TITLE	Gross Receipts Rate & Deductions			**SB**	
				ANALYST	van Moorsel

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY15	**FY16**	**FY17**	**FY18**	**FY19**		
$0.0	$0.0	$0.0	$0.0	$0.0	Recurring	General Fund
$0.0	$34,300.0	$35,800.0	$37,400.0	$39,000.0	Recurring	Local Governments

(Parenthesis ( ) indicate revenue decreases

Conflicts with HB18 – Separate Tax Deductions & Exemptions and SB101 – Gross Receipts and Hold Harmless Changes

SOURCES OF INFORMATION
LFC Files

Responses Received From
Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of Bill

House Bill 158 amends the Gross Receipts Tax and Compensating Act to repeal selected gross receipts tax and compensating tax exemptions and deductions. To offset the revenue gains from these expansions of the taxable gross receipts base, the bill reduces the state gross receipts tax rate by 1/10 percent, from 5.125 percent to 5.025 percent.

Specifically, the bill repeals the following tax preferences:

- 7-9-13.3 – GRT exemption, receipts from sales at a minor league baseball stadium on which a stadium surcharge is imposed;
- 7-9-26.1 – GRT or Comp Tax exemption, receipts from sale or use of space vehicle fuel;
- 7-9-40 – GRT exemption, purses and jockey remuneration at New Mexico racetracks and receipts from gross amounts wagered.

- 7-9-57.2 – GRT deduction, receipts from the sale of software development services.
- 7-9-61.2 – GRT deduction, receipts from sales to state-chartered credit unions.
- 7-9-63 – GRT deduction, receipts from publishing newspapers/magazines, selling magazines.
- 7-9-64 – GRT deduction, receipts from selling newspapers.
- 7-9-73.1 – GRT deduction, 50 percent of gross receipts of hospitals licensed by DOH.
- 7-9-86 – GRT deduction, sales to a qualified film production company.
- 7-9-95 – deduction of receipts from certain sales during the August tax holiday weekend.

The effective date of the provisions of the bill is July 1, 2015.

FISCAL IMPLICATIONS

The provisions of this bill appear intended to be approximately revenue neutral to the general fund. That is, the general fund revenue generated by the repeals is used to offset the general fund revenue loss resulting from the GRT rate reduction. However, the expansion of the taxable gross receipts base, combined with unchanged local government taxing authority, would result in increased revenue to the state's municipalities and counties.

This is echoed in TRD's analysis of the legislation, which notes the bill has the combined effect of broadening the GRT base by eliminating selected exemptions and deductions and lowering the tax rate. However, those taxpayers who would otherwise take the deductions and exemptions would experience a tax increase, which would be passed on to the purchaser.

TRD emphasizes that deductions, and particularly exemptions, can be difficult to measure because deductions are typically not individually reported, and exemptions are by definition not reported at all. Therefore, the broadening effect of eliminating them is a fairly rough estimate with significant uncertainty.

Assuming the the repealed deductions and exemptions would increase revenues by about $55 million in FY15, this would correspond to an increase in taxable gross receipts of about $1.3 billion. The lower state rate proposed in the bill is is then applied to the now broader base, for a net change of very close to zero on the general fund side.

However, for local governments, the impact would be an increase in revenue, as they will experience the same broadening of the base without the corresponding rate reduction. Growth is based on consensus GRT growth rates.

SIGNIFICANT ISSUES

TRD notes the risk of proposal such as this bill is that the general fund neutrality of this proposal is dependent on the accurate estimation of the size of the deductions being repealed in order to calculate the appropriate tax rate reduction.

TRD states its position that some of the repealed exemptions and deductions serve to reduce pyramiding or double taxation. In particular, Section 7-9-40 NMSA 1978, exempts jockey purses and remuneration from GRT and compensating tax because this income is already taxed under the Income Tax Act. TRD explains that these taxpayers would now be paying both GRT and income tax on this portion of their income.

TRD adds that the repeal of the tax deduction on hospitals may return more money than anticipated. With the expansion of Medicaid, receipts for the hospitals should be up sharply and be paid primarily by the federal government. Volume 1 of the LFC Report for Fiscal Year 2016 echoes this notion, stating the restoration to the tax base of certain healthcare services is supported by the implementation of the Affordable Care Act, which expands healthcare coverage to over 100 thousand uninsured adults and diminishes the need for subsidization of healthcare costs.

TRD also notes the limited repeal of the equipment and services provided to film production companies removes the film tax credit incentives provided to those who make brick-and-mortar investment in New Mexico in film related business while preserving the incentives for the film production companies.

This bill supports the LFC tax policy principle of efficiency, which states that the tax base should be as broad as possible and should avoid excess reliance on one tax.

The Gross Receipts and Compensating Tax Act provides for a large number of exemptions, credits, and deductions. These provisions have contributed to a narrowed tax base, and to maintain revenue adequacy, the state GRT rate of 5.125 percent, combined with local option GRT impositions, has increased to as high as 8.69 percent in some municipalities. This violates the LFC tax principle of efficiency, which states the tax base should be as broad as possible and avoid excess reliance on one tax. Legislation enacted in 2013 granting local governments additional rate authority (see below) could lead to even higher tax rates.

Further, pyramiding remains an issue in some industries as GRT applies to business-to-business purchases of supplies, raw materials, and equipment, creating an extra layer of taxation at each stage of production. Legislation enacted in 2012 to address tax pyramiding in the manufacturing and construction sectors was onerous to administer and more open-ended than intended, doubling its estimated impact. The manufacturing deduction allows firms to deduct tangible property consumed in manufacturing. The construction-service and equipment-leasing deductions apply to sales to a construction business for a taxable construction project. Future antipyramiding legislation should be carefully constructed to avoid ambiguity and uncertainty.

ADMINISTRATIVE IMPLICATIONS

TRD reports a moderate impact stemming from required Gentax updates, taxpayer education, and updates to rate tables and forms.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

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/bb