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

		ORIGINAL DATE	2/14/15		
SPONSOR	Muñoz	**LAST UPDATED**		**HB**	
SHORT TITLE	Exclude Certain Counties from Hold Harmless			**SB**	266
				ANALYST	van Moorsel

REVENUE (dollars in thousands)

Estimated Revenue					**Recurring or Nonrecurring**	**Fund Affected**
FY15	**FY16**	**FY17**	**FY18**	**FY19**		
$0.0	($18,783.0)	($18,621.0)	($18,284.0)	($17,802.0)	Recurring	General Fund
$0.0	$18,783.0	$18,621.0	$18,284.0	$17,802.0	Recurring	Local Governments
$0.0	$0.0	$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)
New Mexico Municipal League (NMML)

SUMMARY

Synopsis of Bill

Senate Bill 266 creates a new section of the Tax Administration Act to exclude a county from the hold harmless phase-out enacted in Chapter 160 of Laws 2013 if the county does not experience certain gross receipts tax base increases.

Specifically, the bill provides that a county that has not imposed the county hold harmless gross receipts tax authorized in Chapter 160 of Laws 2013, and the county has had growth in its gross receipts tax base of less than 11.7 percent.

The bill defines "gross receipts tax base" as the gross receipts tax base of a county, not including the deductible food and medical receipts.

The effective date of this bill is July 1, 2015.

FISCAL IMPLICATIONS

TRD reports this bill, as written, would eliminate the phase out of hold harmless distribution from every county that is over 48,000 in population as of the most recent decennial census that has not and does not enact the hold harmless tax. TRD notes the definition of "gross receipts tax base" used in this bill creates policy, technical, and estimating difficulties.

The bill effectively removes the phase-out for any county that does not enact the tax, creating a large negative impact to the general fund, with a directly offsetting positive impact to counties.

TRD's analysis includes the attached table, which shows fiscal impacts by county. For this analysis, GRT base is estimated by subtracting the two listed deductions from total gross receipts.

SIGNIFICANT ISSUES

Under the current law, the hold harmless distributions to large counties and counties that have imposed a county hold harmless GRT are phased out over fifteen years in six or seven percent increments, beginning in FY16. The bill would have the effect of eliminating the hold harmless distribution phaseout for all counties currently subject to the phaseout. Although the bill does provide for a scenario that would make the county subject to the phaseout, TRD reports most counties would not normally have an average annual increase in a gross receipts tax base of 11.7 percent.

Smaller counties not automatically subject to the phaseout would continue to receive the hold harmless distributions.

ADMINISTRATIVE IMPLICATIONS

TRD states that because the bill does not specify when calculations required in the bill are to be done, it is unable to determine the impact this bill will have on administration. The impact would be low if hold harmless distribution rates would have to be recalculated annually. However, the impact would be high if hold harmless distribution rates would have to be recalculated regularly to monitor counties that might fall in or out of the threshold growth rates.

TECHNICAL ISSUES

TRD identifies a technical problem in calculating the GRT base as it is defined. It defines gross receipts tax base as the gross receipts tax base of a county, not including receipts that may be deducted under Sections 7-9-92 or 7-9-93 NMSA 1978. By providing an express exclusion for the food and health care services deductions, this definition implies that other receipts from other transactions that are exempt or deductible under the gross receipts tax would be included within the definition. Such a construction is inconsistent with common notions of a "tax base" because it includes receipts that would not be subject to gross receipts tax.

In short, if the definition includes receipts from exempt transactions, there is no ready method for determining the amount of those exempt receipts, meaning there would be no way to calculate the GRT base. TRD notes this issue is extensively discussed in its 2014 Tax Expenditure Report. TRD suggests defining "gross receipts tax base" as the taxable gross receipts of a county, which can be readily identified.

Further, TRD notes the time frame over which the average annual growth rate is calculated is not specified. As written, it is unclear how to calculate the average.

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/aml