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

		ORIGINAL DATE 01/27/16	
SPONSOR	Gentry	**LAST UPDATED**	**HB** 188
SHORT TITLE	Hotel and Restaurant Renovation Tax Credit		**SB**
		ANALYST	Alejandro

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY16	**FY17**	**FY18**	**FY19**	**FY20**		
($0)	($0 - $16,000.0)	($0 - $16,000.0)	($0 - $16,000.0)	($0 - $16,000.0)	Recurring	General Fund

Note: Fiscal impact is uncertain
Parenthesis ( ) indicate revenue decreases

SOURCES OF INFORMATION
LFC Files

Responses Received From
Economic Development Department (EDD)
Tourism Department (TD)

SUMMARY

Synopsis of Bill

House Bill 188 proposes enacting a new section of the Income Tax Act and the Corporate Income and Franchise Tax Act to create a tax credit for hotel and restaurant renovation projects, not to exceed 20 percent. To be eligible the facility under renovation must be owned by the taxpayer claiming the credit and be located in New Mexico. Renovations must cost a minimum of $75 thousand for restaurants and $2 million for hotels.

The purpose of the bill is to drive economic growth, create jobs, and to bolster neighborhood revitalization.

There is no effective date of this bill. It is assumed that the new effective date is 90 days after this session ends (May 18, 2016).

FISCAL IMPLICATIONS

The LFC staff calculations of the potential fiscal impact of this bill are based on the assumption that hotels and restaurants will spend approximately 2 percent of gross receipts on renovation projects annually. However, it cannot be estimated what portion of such renovations would meet the $75,000/$1,000,000 threshold set forth in the bill.

According to the Economic Development Department (EDD), "the fiscal impacts of this legislation are not great, the impact is restricted to eligible projects, which is renovation of hotels and restaurants so the impact to the general fund is negligible due to the fact that these renovations will create short term construction jobs as well as long term full-time jobs. These factors should more than outweigh the loss that these credits will create. Additionally these renovations most likely would not occur without this credit meaning that the impact is zero."

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

According to the Tourism Department (TD), the thresholds for qualifying for the tax credit (at least $75,000 for restaurants and at least $2,000,000 for hotels) heavily favor corporations or projects in urban areas. Small businesses in rural areas where tourism is heavily relied upon would have difficulty meeting these criteria.

Rural lodging and restaurant properties that suffer from deferred maintenance would have trouble justifying or qualifying for a loan of this size. Therefore, the expectation to spur neighborhood revitalization would only be relevant in certain neighborhoods in metro areas. However, construction projects of any size in rural areas are shown to create jobs and drive economic growth.

Hotel renovations that do meet the threshold could be expected to raise room rates and generate a greater amount of tax revenue. However, the language of this bill makes it difficult to predict of investments made by restaurants for $75,000 would generate any higher revenue (for instance, $75,000 in kitchen equipment or new restrooms don't necessarily equate to more customers or greater revenues).

PERFORMANCE IMPLICATIONS

The LFC tax policy of accountability is <u>not</u> met since TRD is <u>not</u> required in the bill to report annually 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.

ADMINISTRATIVE IMPLICATIONS

The bill requires EDD to adopt rules establishing procedures and to provide certificates of eligibility for the tax credits. It also requires TRD to compile an annual report on the effectiveness of the credit. According to EDD, administration of this bill will require more resources from TRD and EDD, most likely an additional ½ FTE in each department.

TECHNICAL ISSUES

This bill does not contain a delayed repeal date. The LFC recommends adding a delayed repeal date. In addition, the bill should require accountability provisions.

ALTERNATIVES

The Tourism Department offers the following suggestions:

- that the language include provisions to make the credit more attainable for small businesses in rural communities;
- that the criteria at Economic Development Department allow for analysis of expenses prior to approval to determine likelihood of delivering a return on investment; and
- including a local option for municipalities to create their own incentive fund using Lodger's tax proceeds.

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