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FISCAL IMPACT REPORT

ORIGINAL DATE 2/9/16

SPONSOR Smith LAST UPDATED _____ HB _____

SHORT TITLE Repeal Food Gross Receipts Deduction SB 281

ANALYST Graeser

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY16	FY17	FY18	FY19	FY20		
	\$130,700.0	\$133,910.0	\$137,020.0	\$141,660.0	Recurring	General Fund
	(\$4,190.0)	(\$5,670.0)	(\$7,250.0)	(\$9,200.0)	Recurring	Counties and Municipalities

Parenthesis () indicate revenue decreases

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY16	FY17	FY18	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	\$1,000.0	(0.0)	(0.0)	\$1,000.0	Nonrecurring	TRD oper- ating

Parenthesis () indicate expenditure decreases

Conflicts with HB 233, which provides for an offset to food and medical hold harmless distributions in the case where counties or municipalities have imposed any increment of the allowed hold-harmless gross receipts local option tax.

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Municipal League (NMML)

Taxation and Revenue Department (TRD) Note: FIR will be updated when TRD submits detailed analysis.

Children, Youth and Families (CYFD)

SUMMARY

Synopsis of Bill

Senate Bill 281 makes a number of changes to the gross receipts and compensating tax act and the accompanying hold harmless food distributions. The two major impacts are to repeal the deduction for food for home consumption and to decrease the state gross receipts tax from 5.125% to 5.00 percent. In many respects, this bill reverses both the 2004 food deduction and the 2013 phase-out of the food hold harmless distribution. See “Significant Features” below for a discussion of winners and losers.

The effective date of this bill is July 1, 2016 and it contains an emergency clause, and would become effective immediately upon signature by the governor. The reason for the emergency clause is to allow TRD enough time to thoroughly revamp the GenTax processing system.

FISCAL IMPLICATIONS

Summary					
	FY16	FY 17	FY 18	FY 19	FY 20
Decrease GRT Rate by .125% to 5.000%	0	(68,200)	(71,600)	(75,000)	(78,300)
Repeal Food Deduction and correct for SNAP	0	119,600	123,300	126,700	130,900
Repeal Hold Harmless Distrib on Food and correct for decreased admin fee	0	78,900	81,800	84,900	88,600
Decrease Comp by .125% to 5.000%	0	(1,560)	(1,590)	(1,620)	(1,610)
General Fund share of comp	0	(1,170)	(1,190)	(1,220)	(1,210)
Slight decrease in muni equivalent distribution	0	80	80	90	80
Increase admin fee on distributions of tax on food	0	1,490	1,520	1,550	1,590
Gen Fund Net	0	130,700	133,910	137,020	141,660
Small Cities Share of Comp	0	(230)	(240)	(240)	(240)
Small Counties Share of Comp	0	(160)	(160)	(160)	(160)
Slight decrease in muni equivalent distribution	0	(80)	(80)	(90)	(80)
Loss of Hold Harmless distributions on Food	0	(78,900)	(81,800)	(84,900)	(88,600)
Repeal food deduction -- Counties (corrected for SNAP)	0	8,820	8,880	9,120	9,270
Repeal food deduction -- Municipalities (Corrected for SNAP)	0	66,360	67,730	69,020	70,610
Net Change to Local Governments	0	(4,190)	(5,670)	(7,250)	(9,200)

This complicated estimate is entirely consistent with the January 2016 Consensus Revenue Estimate.

A complete spreadsheet has been prepared and is available from LFC. This spreadsheet attempts to quantify the effect of this bill on each of the counties and municipalities. A number of approximations have been used, but, overall, the spreadsheet is consistent with the numbers reported in the table.

One notable issue involved in this analysis is the SNAP correction. Food purchased with SNAP (supplemental nutrition assistance program – formerly known as “food stamps”) vouchers is exempt from any sales tax or gross receipts tax pursuant to federal law. However, this subtlety was not made clear in the transition to implement the 2004 food deduction and corresponding hold-harmless distribution. Most observers assume that food deductions reported to TRD include the statutorily exempt SNAP purchases. Thus, the counties and municipalities have been receiving the hold-harmless distributions that include food purchased with SNAP. If this bill passes, the SNAP exemption would be reinstated and the local governments would not receive gross receipts taxes from food purchased with food stamps. This shows up in the small loss the counties and munis would experience in aggregate from the provisions of this bill. The fact that this loss grows is partially attributed to natural growth of population and inflation and partly attributable to the fact that the loss of SNAP revenue is determined based on the total GRT rate in effect in the communities.

SIGNIFICANT ISSUES

This bill does several things:

1. Repeals the deduction for food for home consumption.
2. Decreases the comp and GRT state rate from 5.125% to 5.000%
3. Repeals the hold-harmless food distributions to the counties and munis.
4. Slightly adjusts the classes for medical hold harmless. If a county < 48,000 pop or a muni < 10,000 has enacted a hold harmless GRT option, they are bounced up to the phase-out.
5. Strongly reduces the admin fee appropriated to TRD, but increases the admin fee for both TRD and the general fund on newly taxable food.
6. Because of the reduction in the compensating tax rate, there would be a corresponding decrease in the municipal equivalent distribution and the small cities and small counties assistance programs.

Feature #4 is almost irrelevant. In FY 17, only Fort Sumner and Corrales would be affected by this provision. Corrales would lose about \$8,100 in hold-harmless distributions and Fort Sumner would lose about \$750.

This is a net tax increase for taxpayers. It is almost revenue neutral for cities and counties and allows the cities and counties to control their own destiny. It broadens the tax base and lowers the aggregate tax rate. It reinstates the exemption for SNAP recipients. This is an important point that was largely lost in the 2004 debate as food stamp recipients at the time gained no advantage from the deduction directly and were indirectly penalized when the cost of the deduction was paid for by increasing the state tax rate on everything else purchased within municipal boundaries by .5%. Another factor that was discussed in 2004 that hasn't changed is that the Consumer Expenditure Survey indicates that food away from home is a substantial part of the financial budget of typical households – even in the lowest three deciles of income. Poor people who do not have access to kitchen facilities do not qualify for SNAP and will be disadvantaged by this bill. However, on the whole, the 2004 food deduction significantly increased the regressivity of the GRT. The provisions of this bill would not address all of that increase, but would remediate part of the problem.

NMML submits the following comments:

- Local governments provide a myriad of services to the citizens of New Mexico and the taking of the hold harmless distribution is adversely impacting the ability of local governments to continue to provide those services at a level that the public expects.
- For municipalities in the state Gross Receipts Tax Revenues represent 70% to 75% of the total revenue collected in the General Fund. This is the most significant source of revenue that most municipalities have.
- Imposing state and local gross receipts tax rates on food would restore the status quo that existed prior to 2004. Some will argue that this repeal will adversely affect the poorest in New Mexico, however there are programs in place such as the low income tax credit that allow a person or family to receive assistance to offset the tax. Additionally, anyone using the supplemental nutrition assistance program (SNAP) do not pay tax on food purchased with their SNAP benefit.
- The New Mexico Municipal League and its' members support this legislation.

PERFORMANCE IMPLICATIONS

In general, the cost of the food deduction, the food hold harmless and the companion medical services programs have been met since TRD voluntarily reports in its Tax Expenditure Reports these costs. However, neither TRD, nor LFC have ever analyzed the food and medical services deductions to determine if food insecurity has been affected by the deductions.

ADMINISTRATIVE IMPLICATIONS

When TRD submits their analysis of the administrative costs of this bill, this FIR will be corrected. Non-recurring costs shown in the table above are placeholders. TRD also will experience a significant change in administrative fees appropriated to the agency each year as an override in the General Appropriations Act.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Conflicts with HB-233, which provides for an offset to food and medical hold harmless distributions in the case where counties or municipalities have imposed any increment of the allowed hold-harmless gross receipts local option tax.

OTHER SUBSTANTIVE ISSUES

The bill does not require the repeal of the already enacted hold-harmless GRT option rates, nor does the bill address the repeal in 2004 of the municipal credit. As has been explained above, the benefits of allowing food to be purchased ex tax by all residents was balanced out by imposed an additional tax of .5% for all purchases within municipal boundaries. This bill does not reinstate the municipal credit.

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

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