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

SPONSOR	Martinez, R./Ferrary/Small	**ORIGINAL DATE** **LAST UPDATED**	01/27/17 02/27/17	**HB**	249/aHTRC
SHORT TITLE	College Special Event Gross Receipts			**SB**	
				ANALYST	Clark

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY17	**FY18**	**FY19**	**FY20**	**FY21**		
$0.0	($67.5)	($67.5)	($67.5)	($67.5)	Recurring	New Mexico Finance Authority
$0.0	($12.6)	($12.6)	($12.6)	($12.6)	Recurring	State Parks
$0.0	($9.0)	($9.0)	($9.0)	($9.0)	Recurring	Youth Conservation Corps
$0.0	($0.9)	($0.9)	($0.9)	($0.9)	Recurring	Office of Cultural Affairs

Parenthesis ( ) indicate revenue decreases

Duplicates SB94

SOURCES OF INFORMATION
LFC Files

Responses Received From
New Mexico State University (NMSU)
Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of HTRC Amendment

The House Taxation and Revenue Committee amendment provides a technical correction, expanding the deduction from gross receipts tax (GRT) to both GRT and governmental GRT (GGRT). This is in keeping with the fiscal impact scoring for the original bill showing a GGRT impact (unchanged with this amendment; see Fiscal Implications for details). The bill has no general fund impact.

Synopsis of Original Bill

House Bill 249 extends the expiration date of a tax expenditure. It delays the expiration of the gross receipts tax (GRT) deduction for nonathletic special events at post-secondary educational institutions within 50 miles of the New Mexico border. The venue must be located on a campus of the institution and accommodate at least 10 thousand people. The deduction is currently set to expire at the end of FY17, and the bill extends it to the end of FY22.

There is no effective date of this bill. It is assumed that the effective date is 90 days after this session ends.

FISCAL IMPLICATIONS

The fiscal impact uses a rounded six-year average cost of the deduction due to relatively large annual fluctuations in the cost and no strong trend. Over the last six years, the revenues deducted from gross receipts were as low as $1.5 million and as high as $2.2 million. Applying the 5 percent governmental gross receipts tax (GGRT) rate yields an estimated tax liability of $90 thousand. Governmental gross receipts tax collections are statutorily distributed as follows: 75 percent to the New Mexico Finance Authority's (NMFA's) public project revolving fund, 10 percent to the youth conservation corps program, 14 percent to state park and recreation area capital improvements, and 1 percent to the Cultural Affairs Department for capital improvements to state monuments.

Prior to 2007 when the original deduction was enacted, the Pan American center at NMSU had two income streams – lease payments from promoters and ticket sales from events directly produced by Pan American Center staff. Both streams were taxed as governmental gross receipts. After the GRT deduction was enacted, the contracts with performers for the events produced by the Pan American Center staff were revised to take advantage of the GRT deduction. If this bill is not enacted, presumably, the Pan American Center will again revise contracts to move the receipts, once again, under the GGRT provisions. This is why the fiscal impact is shown as a loss to GGRT beneficiaries rather than a loss to the state General Fund, the city of Las Cruces and Dona Ana County.

New Mexico State University (NMSU) asserts eliminating the deduction will not increase state GRT revenue, as many events will no longer perform in southern New Mexico. Elimination of the deduction could reduce GRT revenue since many of the local revenue sources, including student and other employment opportunities, would no longer exist without the events performing at NMSU Pan American Center.

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

The deduction is intended for the Pan American Center at NMSU to allow the event center to compete with similar facilities in El Paso for events. The deduction was originally enacted in 2007 and amended in 2012 to expire in 2017.

TRD reports that according to NMSU, the vast majority of non-athletic events held at the Pan American Center would otherwise be held in various venues located in El Paso, TX if it wasn't for the incentive generated by this deduction. NMSU agrees, stating, "If the deduction is not extended, artists and promoters will be incentivized to take events to the University of Texas El Paso as opposed to the Pan Am, possibly ending the major event/concert business for NMSU."

NMSU provided the following history and analysis.

The intent of the GRT deduction initially granted in July of 2007 was to neutralize an unfair competitive edge University of Texas El Paso (UTEP) facilities had over NMSU's facilities, including the Pan Am, in attracting and contracting major concert and performance events. The competitive disadvantage resulted when performers faced with the comparative option of playing a concert at either the Don Haskins Center (tax exempt) or Pan Am, would opt to play the UTEP facility because of a tax exemption from payment of sales and use tax granted since 1983. Artist management's concern was the impact to the artist who would have to pay the tax in New Mexico and face a decision of decreasing their own revenue potential (and pay the tax). The GRT payment would result in amounts ranging from $20 thousand to $50 thousand depending on concert gross receipts. Artists, tour managers, and concert promoters consider Las Cruces and El Paso as a single geographic area when identifying concert sites and as a result, artists are more inclined to perform in a location that offers the most financial advantage.

In response to the anticipated loss of events and concerts and negative economic impact, the Legislature granted the GRT deduction in 2007. Since the enactment of the deduction, NMSU Pan Am has competed and contracted a list of major events. The impressive list of attracted events include major national concert tours with a wide range of major artists such as Luke Bryan, Carrie Underwood, Trans-Siberian Orchestra, World Wrestling Entertainment, Jeff Dunham, and George Strait. Without the deduction, events and economic benefits would be reduced at a high rate.

The information below illustrates how the GRT deduction has contributed to the local and state economy. The direct financial and economic impact of hosting these events include areas such as: student and general employment, merchandise and food/beverage sales, and local services industry revenues. These identified categories have correlating tax revenue/benefits to the state of New Mexico from product sales and payroll taxes. These benefits to the state are lost if major events and concerts no longer appear at NMSU and the Pan Am. Maximizing potential state and local tax, GRT revenue from hotel and restaurant GRT could also be adversely impacted with the loss of the deduction. Financially, local hotels, restaurants, and travel related businesses would be negatively impacted as well.

The loss of these nonathletic events would negatively impact revenues brought to New Mexico from Texas consumers. Ticketmaster analytics indicates an average of 25 percent – 30 percent of the buying market is generated from the El Paso/Texas region. The state of New Mexico would lose any benefit derived from these revenues generated from out of state consumers. Local quality of life would be impacted, since fans would be required to travel to other cities for event entertainment.

The financial data below identifies areas of economic impact including payroll, merchandise sales (gross and net), and food and beverage revenue resulting from major events and concerts held in the Pan Am over the last five years. It illustrates the potential economic loss (excluding ticket sales revenue of which approximately 30 percent is generated from Texas), including loss in employment dollars for students, staff, and contracted labor:

Student Payroll	Non-Student Payroll	Contracted Labor	Merchandise Sales	Food & Beverage
$ 207,619	$ 64,537	$ 733,362	$ 1,360,547	$ 720,064

Note: It is estimated over 900 different students have been employed for these shows.

The additional impact of nonathletic events and shows can be identified in the information from the local tourism industry. A brief study by representatives of the Las Cruces Convention and Visitors verified that major concerts typically result in sold out hotels. In addition, restaurants indicated a significant increase in business during events.

PERFORMANCE IMPLICATIONS

The LFC tax policy of accountability is not met since TRD is not 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.

DUPLICATION

This bill duplicates SB94.

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

Does the bill meet the Legislative Finance Committee tax expenditure policy principles?

1. **Vetted**: The proposed new or expanded tax expenditure was vetted through interim legislative committees, such as LFC and the Revenue Stabilization and Tax Policy Committee, to review fiscal, legal, and general policy parameters.
2. **Targeted**: The tax expenditure has a clearly stated purpose, long-term goals, and measurable annual targets designed to mark progress toward the goals.
3. **Transparent**: The tax expenditure requires at least annual reporting by the recipients, the Taxation and Revenue Department, and other relevant agencies.
4. **Accountable**: The required reporting allows for analysis by members of the public to determine progress toward annual targets and determination of effectiveness and efficiency. The tax expenditure is set to expire unless legislative action is taken to review the tax expenditure and extend the expiration date.
5. **Effective**: The tax expenditure fulfills the stated purpose. If the tax expenditure is designed to alter behavior – for example, economic development incentives intended to increase economic growth – there are indicators the recipients would not have performed the desired actions "but for" the existence of the tax expenditure.
6. **Efficient:** The tax expenditure is the most cost-effective way to achieve the desired results.

LFC Tax Expenditure Policy Principle	Met?	Comments (if applicable)
Vetted	✘	
Targeted		
Clearly stated purpose	?	Not clearly stated but obvious due to limited scope
Long-term goals	✘	
Measurable targets	✘	
Transparent	✘	
Accountable		
Public analysis	✘	
Expiration date	✓	
Effective		
Fulfills stated purpose	?	
Passes "but for" test	?	
Efficient	?	
Key: ✓ Met ✘ Not Met ? Unclear		

JC/sb/al