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

SPONSOR Griggs

ORIGINAL DATE 2/16/17
LAST UPDATED 2/20/17

HB

SHORT TITLE Changes to Tax Code Provisions

SB 343

ANALYST Graeser

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY17	FY18	FY19	FY20	FY21		
0.0	(34,627.0)	(68,821.0)	(81,634.0)	(81,588.0)	Recurring	General Fund
0.0	74,000.0	89,300.0	92,800.0	108,000.0	Recurring	State Road Fund
0.0	27,392.0	30,310.0	33,700.0	37,516.0	Recurring	Counties
0.0	15,719.0	24,219.0	33,519.0	45,019.0	Recurring	Municipalities
0.0	8.0	8.0	8.0	8.0	Recurring	Small Counties
0.0	12.0	12.0	12.0	12.0	Recurring	Small Cities
0.0	5.6	5.6	5.6	5.6	Recurring	Municipal Equivalent Distribution

Parenthesis ( ) indicate expenditure decreases. ** R = recurring; NR = non-recurring

Duplicates, Relates to, Conflicts with, Companion to: this bill may conflict with other bills that amend portions of the income tax act, the corporate income tax act, the gross receipts and compensating tax act, the motor vehicle excise tax act

SOURCES OF INFORMATION
LFC Files

Responses Received From
Veterans Services Department (VSD)
Economic Development Department (EDD)
Department of Transportation (DOT)
Taxation and Revenue Department (TRD)

SUMMARY

Synopsis

Senate Bill 343 can be considered a mini tax reform bill. Major changes proposed in the bill are:

- Repeals the municipal food and medical hold-harmless distributions (7-1-6.46 and 7-1-6.47 NMSA 1978 in favor of a local government standalone Food and Medical Services gross receipts tax. This new tax is quite simplified. A single rate of 3.75% is applied to all food sold in the state. This uniform tax is distributed as shown in the table below. Similarly, a uniform local government standalone rate of 2% is imposed on all medical services (defined as in 7-9-93 NMSA 1978). This medical services tax is distributed as follows:

Food	3.75%
Food Sold In Cities -- Muni Share	3.25%
Food Sold In Cities -- County Share	0.50%
Food sold in County remainder -- to county	3.75%
Medical services	2.000%
Med Services in Cities -- Muni Share	1.750%
Med Services in Cities -- County Share	0.250%
Med Service sold in County remainder -- to county	2.000%

- Reduces the corporate income tax rate to 3% at all net income levels.
- Increases Working Families Tax credit from 10% to 11.5% of federal EITC.
- Decreases Rural Health Care Practitioner Tax Credit from $5,000 for doctors and $3,000 for other licensed (listed) healthcare practitioners to $2,000 for all
- Excludes interest and dividends received by taxpayers over the age of 55 from the personal income tax.
- Decreases the 50% gross receipts tax deduction applied to for-profit hospitals to 40%.
- Increases Motor Vehicle Excise Tax (MVX) from 3% to 3.5% for FY 18, 19 and 20 and to 4% for FY 21 and subsequent years and distributes the MVX 50-50 to general fund and state road fund.
- Creates a new "Recordation Tax Act", which imposes a tax on property transfers of $.20/$100 of (property tax) assessed value. It creates a companion mortgage initiation tax of $.075/$100 for recording mortgages on mortgage refinancing not accompanied by a property transfer. Mortgages under $25,000 are exempt.

A section-by-Section description is attached to this review.

PIT and CIT sections are applicable for tax years beginning January 1, 2018. MVX section is applicable to revenues collected beginning July 1, 2017. Effective date of the GRT sections is July 1, 2017.

No sections of the bill increasing tax expenditures are provided with a delayed repeal date. The LFC recommends adding a delayed repeal.

FISCAL IMPLICATIONS

Although this bill is a mixture of tax increases and tax decreases, in aggregate it proposes more tax increases than tax decreases. The portions of the bill that increase tax expenditures and decrease general fund revenues 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. In all the following charts, values are expressed as ($ thousands).

Section 3 -- County Equalization – do not include hold harmless in relative calculation						
FY 17	FY 18	FY 19	FY 20	FY 21	Recurring or Nonrecurring	Fund
0.0	283.0	289.0	296.0	302.0	Recurring	General Fund
0.0	(283.0)	(289.0)	(296.0)	(302.0)	Recurring	Counties

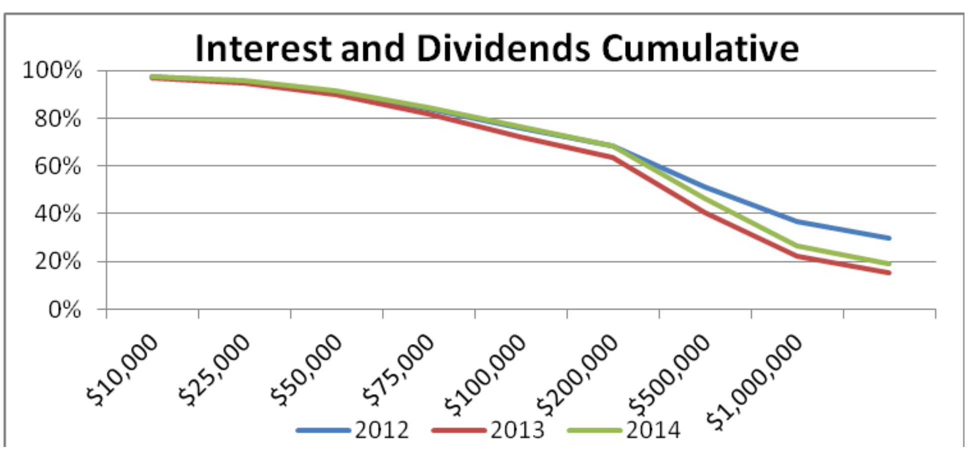
Parenthesis ( ) indicate expenditure decreases. ** R = recurring; NR = non-recurring

The bill repeals reference to food and medical hold harmless distributions in the calculation of the county equalization distribution. This distribution is based on the yield of 1/8% statewide, apportioned to each county based on ratio of county population to total state population less yield of 1/8% in each county. The bill does not include county revenues from the new Gross Receipts Taxes on Food and Medical Services Practitioners. The estimate above assumes that all counties receive a distribution, so this is an upper bound.

Section 5 -- PIT exemption for interest and dividends for > age 55						
FY 17	FY 18	FY 19	FY 20	FY 21	Recurring or Nonrecurring	Fund
0.0	(61,600.0)	(61,600.0)	(62,700.0)	(62,700.0)	Recurring	General Fund

Parenthesis ( ) indicate expenditure decreases. ** R = recurring; NR = non-recurring

From the 2015 Consumer Expenditure Survey published by the Bureau of Labor Statistics, 81% of interest and dividends (total) reported by US population are reported by residents 55 and older. This figure is applied to the trended average obtained from the Statistics of Income by state published by the IRS. This amount calculated for resident taxpayers has been increased by 10% to include non-resident (out-of-state) taxpayers. Note the distributions of taxable interest and dividends: 75% of all interest and dividends are reported on returns with over $75,000 adjusted gross income.



Sections 6 & 11 -- Conservation Restriction 50% reduce max claim from $250K to $100K						
FY 17	FY 18	FY 19	FY 20	FY 21	Recurring or Nonrecurring	Fund
0.0	730.0	730.0	730.0	730.0	Recurring	General Fund

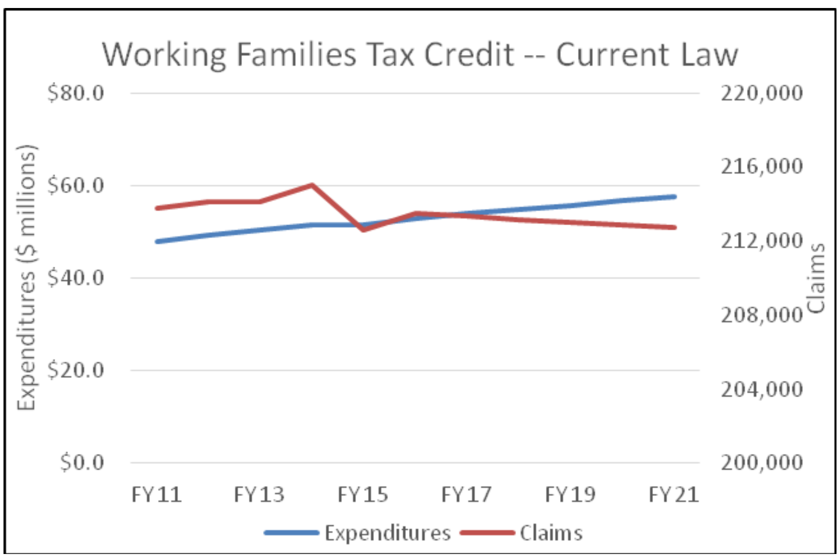
Parenthesis ( ) indicate expenditure decreases. ** R = recurring; NR = non-recurring

The base for this conservation restriction is about $1.7 million. The average claim (from the 2016 Tax Expenditure Report is $48,000. However, buried in this average, there is likely to be several claims in the $200K to $500K range, generating a credit of up to $250,000. The impact above is modeled assuming 4 taxpayers claim credits in the range of $100K to $250K.

Section 7 -- Working Families Tax Credit						
FY 17	FY 18	FY 19	FY 20	FY 21	Recurring or Nonrecurring	Fund
0.0	0.0	(8,200.0)	(8,400.0)	(8,500.0)	Recurring	General Fund

Parenthesis ( ) indicate expenditure decreases. ** R = recurring; NR = non-recurring

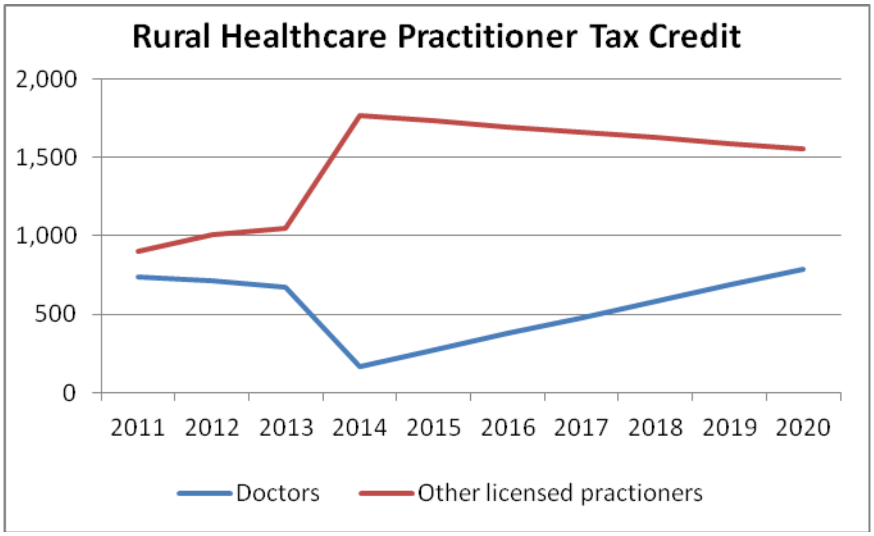
Under current law, the Working Families Tax Credit is 10% of the federal Earned Income Tax Credit. This bill increases the credit to 11.5% of the EITC. This credit has been stable for a number of years, with the average per taxpayer slightly increasing, but the number of claimants has been slightly decreasing.



Section 8 -- Rural Health Care Practitioner						
FY 17	FY 18	FY 19	FY 20	FY 21	Recurring or Nonrecurring	Fund
0.0	(3,400.0)	(3,700.0)	(3,900.0)	(4,200.0)	Recurring	General Fund

Parenthesis ( ) indicate expenditure decreases. ** R = recurring; NR = non-recurring

Pursuant to current law, this credit is consistent with a substantial decline in $5,000 claimants and a significant increase in number of $3,000 claimants. This change occurred between 2013 and 2014. It is not known if this change is a data artifact attributed to a change in TRD's Tax Expenditure Survey or represents reality. In any case, dropping both the $5,000 and $3,000 claimants will decrease this tax expenditure approximately in the amounts shown



Section 9 & 12 -- Veteran's Employment Tax Credit						
FY 17	FY 18	FY 19	FY 20	FY 21	Recurring or Nonrecurring	Fund
0.0	(50.0)	(50.0)	(50.0)	(50.0)	Recurring	General Fund

Parenthesis ( ) indicate expenditure decreases. ** R = recurring; NR = non-recurring

According the 2016 TRD Tax Expenditure Report, fewer than 3 claims were paid in FY 2011 and FY 2012, and no claims paid in FY 2013, 2014 or 2015. The current veteran's employment tax credit is (1) paid to the employer and not to the veteran; and (2) $1,000 for each veteran hired full-time within two years of discharge. The explanation for minimal uptake of this credit is that many veterans elect to return to college using VA tuition benefits and don't rejoin the ranks of the employed until after they complete their higher education. The estimate in the table is purely nominal and assumes that 10 veterans are hired annually.

Section 10 -- Corporate Income Tax Rate Reduction						
FY 17	FY 18	FY 19	FY 20	FY 21	Recurring or Nonrecurring	Fund
0.0	(26,000.0)	(67,000.0)	(72,400.0)	(78,400.0)	Recurring	General Fund

Parenthesis ( ) indicate expenditure decreases. ** R = recurring; NR = non-recurring

Reducing the top marginal rate to 3% irrespective of corporate net income is difficult to estimate. TRD expects the change for several of the fiscal years (FY 18 and FY 19) to reduce net general fund transfers below $0 because of net loss carryovers and valid refund claims for overpayments of estimated taxes. The estimate above attempts to quantify the specific effect of the change in marginal rate to 3%, not complicated by these essentially cash flow factors.

It should be noted in passing that the 2013 corporate income tax rate reduction (Laws 2013, chapter 160, § 3, reducing top marginal rate for the corporate income tax from 7.6% to 5.9% over five years, was enacted as an economic development measure. Testimony in 2013 indicated that a major impediment to economic development in the state – particularly for marquee projects like Tesla, or the superconducting-supercollider project, United Airlines repair facilities, the Saturn plant, Nike Headquarters and a number of other big projects – was a top marginal corporate income tax out of line with our neighboring states and competitor state. No mention was made at the time that companies seeking to expand or relocate are few in number. In hindsight, it is extremely difficult to determine the influence that tax policy has on corporate relocation and expansion decisions. In the case of New Mexico, current testimony indicates that the big impediment to economic development in New Mexico is the gross receipts tax. From the perspective of "bang for the buck," it is highly unlikely that this further reduction to a tax that is no longer the most-complained-about tax in the state would have any noticeable impact on economic development. Also note that PNM is spending $45 million to build a 30 megawatt solar facility to provide Facebook's new call center with green energy.[1]

A story in September, 2016 in the Albuquerque Journal reported some of the details of the Facebook deal:

> Attracting Facebook to the Land of Enchantment required substantial investment on the local and state levels. Los Lunas passed both an industrial revenue bond measure of up to $30 billion, a $10 million Local Economic Development Act measure, and promised the company a monthly reimbursement of the village's share of gross tax revenues. The state also offered Facebook access to up to $3 million in Job Training Incentive Program funding, according to Economic Development Secretary Jon Barela, although it is unclear how much of the money Facebook will use. [2]

Section 15 -- New Gross Receipts Tax on Food and Medical Services						
FY 17	FY 18	FY 19	FY 20	FY 21	Recurring or Nonrecurring	Fund
0.0	0.0	0.0	0.0	0.0	Recurring	General Fund
0.0	77,100.0	80,800.0	84,800.0	88,600.0	Recurring	Food Sold in Munis. Dist. To Munis
0.0	11,900.0	12,400.0	13,000.0	13,600.0	Recurring	Food Sold in Munis Dist. To Counties
0.0	23,400.0	24,500.0	25,700.0	26,900.0	Recurring	Food Sold in County Area to Counties
0.0	37,200.0	39,000.0	41,000.0	42,800.0	Recurring	Med. Sold in Munis Dist. To Munis
0.0	5,300.0	5,600.0	5,900.0	6,100.0	Recurring	Med. Sold in Munis Dist. To Counties
0.0	9,600.0	10,000.0	10,500.0	11,000.0	Recurring	Med. Sold in County Area to Counties

Parenthesis ( ) indicate expenditure decreases. ** R = recurring; NR = non-recurring

These estimates were provided by TRD and confirmed by an independent LFC model. In aggregate, the new tax generates significantly more revenue than the loss of the hold harmless distributions.

FY 18	FY 19	FY 20	FY 21	
39,900.0	51,200.0	63,800.0	79,000.0	Net repeal of hold harmless w. new tax

Section 18: -- 7-9-62 NMSA 1978 Ag implements						
FY 17	FY 18	FY 19	FY 20	FY 21	Recurring or Nonrecurring	Fund
0.0	270.0	270.0	270.0	270.0	Recurring	General Fund (From GRT & Comp)
	140.0	140.0	140.0	140.0	Recurring	Local Gov't GRT
	8.0	8.0	8.0	8.0	Recurring	Small Counties
	12.0	12.0	12.0	12.0	R	Small Cities
	5.6	5.6	5.6	5.6	R	Municipal Equivalent Distribution

[1] http://www.santafenewmexican.com/news/local_news/new-mexico-governor-utility-unveil-facebook-solar-plans/article_fd738294-7aaa-5b72-8ef0-051d5d052e75.html

[2] https://www.abqjournal.com/844876/facebook-picks-los-lunas-for-its-data-center.html

Parenthesis ( ) indicate expenditure decreases. ** R = recurring; NR = non-recurring

SB343 changes a 50% deduction to a 40% for the sale of vehicles that do not have to be registered. This is primarily farm equipment and heavy construction equipment, but may include other types of vehicles as well. 7-9-62 NMSA 1978 has three parts: (A) deduction for fifty percent of the receipts from selling agricultural implements, farm tractors, aircraft or vehicles that are not required to be registered under the Motor Vehicle Code; (B) receipts of an aircraft manufacturer or affiliate from selling aircraft or from selling aircraft flight support, pilot training or maintenance training services may be deducted from gross receipts; and (C) receipts from selling aircraft parts or maintenance services for aircraft or aircraft parts may be deducted from gross receipts. The change proposed in this bill would only affect the motor vehicle sales section but not the aircraft sales and training and maintenance services or sales of parts and repair services. The deduction as reported in the 2016 Tax Expenditure Report is for the deductions of all three kinds. For the purpose of this estimate, the TER estimate has been halved and allocated partially to gross receipts tax and partially to compensating tax. This may be an overestimate of the general fund and other beneficiary's revenue gain.

Section 19 -- Reduction in For-profit hospital 50% deduction to 40% (7-9-73.1 NMSA 1978)						
FY 17	FY 18	FY 19	FY 20	FY 21	Recurring or Nonrecurring	Fund
0.0	4,600.0	4,700.0	4,900.0	5,000.0	Recurring	General Fund
	3,100.0	3,200.0	3,300.0	3,400.0	Recurring	Municipalities
	500.0	500.0	500.0	500.0	Recurring	Counties

Parenthesis ( ) indicate expenditure decreases. ** R = recurring; NR = non-recurring

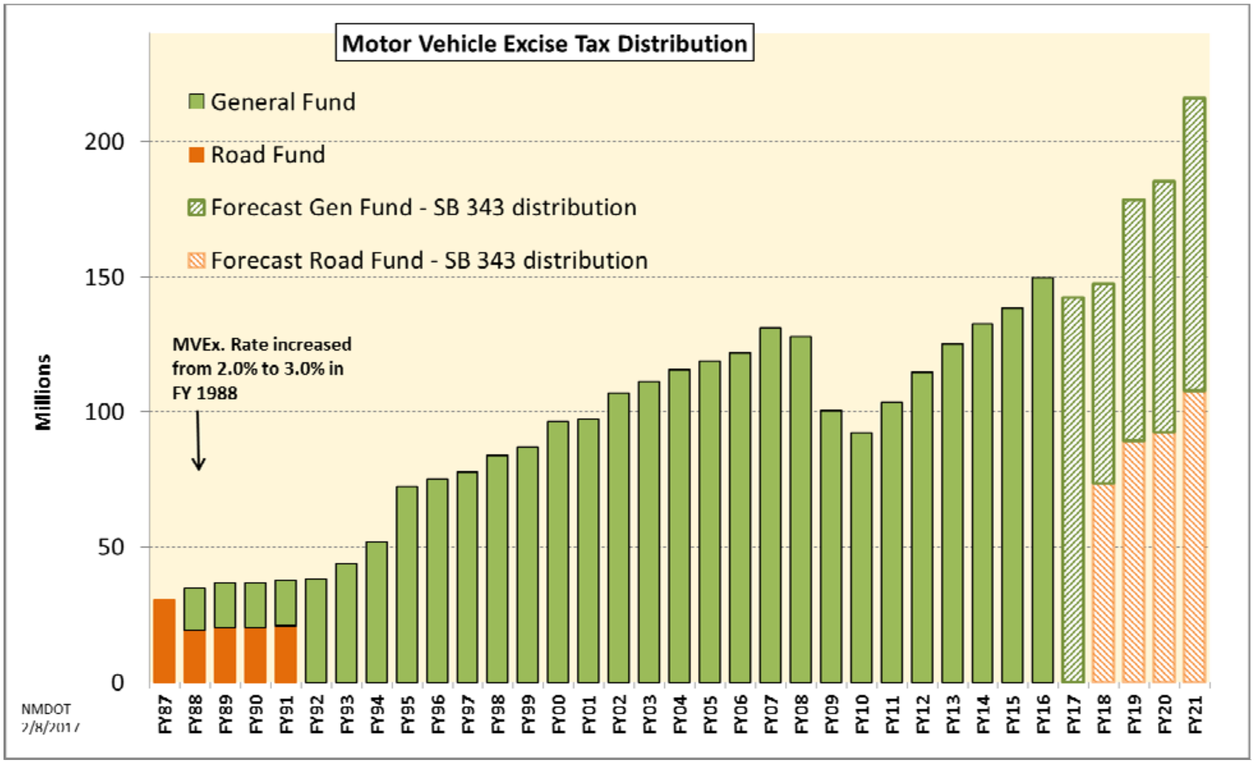
LFC and TRD differ somewhat in the interpretation of the data. For FY 2016, based on RP-80 data, for-profit hospitals reported $1.9 billion in total gross receipts and $570 million in taxable gross receipts. One way of interpreting these is to assume that the hospitals are claiming practitioner's deductions (7-9-93 NMSA 1978) of $149 million, a deduction for Medicare and/or Medicaid to the tune of the $654.3 million and a 50% deduction of $570 million. The estimates shown here are LFC's.

Section 20 & 21-- increases MVX to 3.5% and then to 4%. Splits the increase between state road and general fund						
FY 17	FY 18	FY 19	FY 20	FY 21	Recurring or Nonrecurring	Fund
0.0	(73,800.0)	(63,800.0)	(66,300.0)	(54,000.0)	Recurring	General Fund
0.0	73,800.0	89,300.0	92,800.0	108,000.0	Recurring	State Road Fund

Parenthesis ( ) indicate expenditure decreases. ** R = recurring; NR = non-recurring

Note: the 50-50 distribution is effective from July 1, 2017. The increase in motor vehicle excise tax to 3.5% occurs July 1, 2018. The increase to 4% would be effective July 1, 2020.

This is a tax expenditure of long standing. Prior to 1987, the MVX was about 50% of the companion total gross receipts tax rate. The only argument in favor of this tax expenditure was, loosely, that each time a vehicle changed ownership, the MVX was imposed. Over the course of a lifetime, it was argued, the MVX about equaled the gross receipts tax. Local governments have long objected to separating the MVX from the Gross Receipts tax base, since this caused a significant leakage in local gross receipts tax collections. When the tax was increased to 3% in 1987, the tax was completely redirected to the State Road Fund. This lasted, however, only one year. For four years – FY 88 through FY 91, 2/3rd of the tax collections were retained in the road fund and 1/3 in the General Fund. From FY 1992 to date, 100% of the net Motor Vehicle Excise Tax has been distributed to the General Fund.



Sections 22 - 27 -- Recordation Tax Act						
FY 17	FY 18	FY 19	FY 20	FY 21	Recurring or Nonrecurring	Fund
0.0	4,200.0	4,800.0	4,900.0	5,500.0	Recurring	General Fund -- Deed Recordation Fee (existing Homes)
0.0	1,500.0	1,500.0	1,300.0	1,200.0	Recurring	General Fund -- Deed Recordation Fee (New Construction Homes)
	2,500.0	2,700.0	2,700.0	2,900.0	Recurring	General Fund (Mortgage re-cordation refi's x 80%)
	254.0	278.0	275.0	297.0	Recurring	Counties (admin Fee)

Parenthesis ( ) indicate expenditure decreases. ** R = recurring; NR = non-recurring

LFC used a number of data sources to estimate this impact:

- New Mexico Realtors "Housing Trends", which provides data on homes sold by realtors in the state. In Calendar Year 2016, 19,933 homes and apartments were sold at an average $185,000 per unit.[3] Although this number could have been higher because of FSBO sales, this number represents almost the totality of the base.
- TRD's RP-80 for FY 16 for the NAICS code 5312 - Offices of Real Estate Agents and Brokers. These data were not useful because so many transactions are split between buyer's agents and seller's agents and it is difficult to determine if there is double counting or delinquencies.
- Bureau of Business and Economic Research's FOR-UNM model, which tracks and forecasts single and multiple family construction authorizations. This probably gives appropriate trends. For example, for a peak of 16,363 units authorized in CY 2005, the model

[3] http://www.nmrealtor.com/housing-trends/

estimates 3,624 units were sold in CY 2016 (only 82 multifamily units were authorized in 2016).

- Data provided by FNMA to determine the ratio between original issue mortgages and re-financing mortgages.

From FNMA annual			
	Refi Mtgs	Purchase	Total Mtgs
FNMA/Freddie Mac Mtgs	1,072,738	869,909	1,942,647
Value	$236,875,000,000	198,854,000,000	$435,729,000,000
Average Value	$220,813.47	$228,591.73	$224,296.54
	55.2%	54.4%	

These data were combined to produce the estimate as shown.

Section 23 -- Repeal Hold Harmless						
FY 17	FY 18	FY 19	FY 20	FY 21	Recurring or Nonrecurring	Fund
0.0	124,700.0	121,100.0	117,100.0	110,000.0	Recurring	General Fund
0.0	(101,300.0)	(98,400.0)	(95,200.0)	(89,400.0)	Recurring	Municipalities
	(23,300.0)	(22,700.0)	(21,900.0)	(20,600.0)	Recurring	Counties

Parenthesis ( ) indicate expenditure decreases. ** R = recurring; NR = non-recurring

These estimates were provided by TRD and confirmed by an independent LFC model. In aggregate, the new tax generates significantly more revenue than the loss of the hold harmless distributions. See Section 15 above.

SIGNIFICANT ISSUES

This bill proposes two important new taxes; four reductions in tax expenditures; two increases in tax expenditures, one new tax expenditure and four reductions in tax rates or distributions:

New Taxes:

- Gross Receipts Taxes on Food and Healthcare Practitioners
- Recordation and Mortgage Refinancing Recordation Tax

New Tax Expenditure:

- Interest and dividends exemption from personal income tax for taxpayers 55 and older;

Increases in Tax Expenditures:

- Increase from 10% of EITC to 11.5% of EITC for Working Families tax credit;
- Increase from $1,000 to $5,000 in veteran's employment tax credit (PIT & CIT)

Decreases in Tax Expenditures:

- Reduction from $250,000 to $100,000 in value of property restricted for the conservation restriction 50% (marketable) tax credit (PIT & CIT);
- Reduction in Rural Healthcare Practitioner Tax Credit from $5,000 for Doctors, Dentists, DOs, etc and $3,000 for other licensed healthcare workers to $2,000 for all.

- Decrease in deduction for agricultural equipment and vehicle not required to be registered from 50% to 40%;
- Decrease from 50% of total for-profit hospital receipts to 40%.

Changes in tax rates or distributions:

- Increase motor vehicle excise tax from 3% to 3.5% and to 4% after July 1, 2020; distribution of MVX would be split 50-50 between General Fund and State Road Fund, effective July 1, 2017.
- Enact Gross Receipts Taxes on Food and Healthcare Practitioner Services at fixed rates and distributions to Counties and Municipalities. The base for the Healthcare Practitioner Services tax would be identical to the current 7-9-93 practitioner deduction.
- Repeal Food and Medical Hold Harmless distributions;
- Reduce the corporate income tax from a two-bracket tax to a flat 3% tax.

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. This comment is applicable to the changes in five tax expenditures. The policy is met for the veterans employment credit for which TRD is required to report to the relevant legislative committees annually. The policy is met, but is ineffective for the agricultural implements deduction, which is not reported separately from the 100% deductions for sales of aircraft, aircraft parts or aircraft maintenance.

ADMINISTRATIVE IMPLICATIONS

All provisions of the bill, except for the new recordation fee, affect taxes administered by TRD. For the most part, TRD can alter systems for motor vehicle excise tax and personal and corporate income tax in the ordinary course of business. Adapting the current GenTax gross receipts tax processing system to the new Gross Receipts taxes on Food and Healthcare Practitioner Services will be a major undertaking and will probably require TRD to contract the bulk of the work. This, in turn, may require a supplemental appropriation.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

The provisions of this bill may conflict with other bills that amend portions of the income tax act, the corporate income tax act, the gross receipts and compensating tax act, the motor vehicle excise tax act. At midpoint of the session (about now), Legislative Council Service publishes a NMSA section-by-section conflicts list. A final list is published after all bills passed and sent to the Governor's office for signing or vetoing should be included in a final version of the conflicts list.

TECHNICAL ISSUES

Neither the new taxes nor the changes in tax expenditures are subject to a delayed repeal. LFC recommends adding a sunset date.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

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 (RSTP), 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
Vetted	✘	
Targeted		
Clearly stated purpose	✘	
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		

SB-343 – Section by Section

Section 1: Includes the new "Gross Receipts Taxes on Food and Healthcare Practitioners Services Act" and the "Recordation Tax Act" in the applicability of the Tax Administration Act. This allows money from the taxes, however collected, to flow to the general fund.

Section 2: Allows TRD to adjust distributions to the counties and municipalities of the revenue collected from the new "Gross Receipts Taxes on Food and Healthcare Practitioners Services Act". It does not allow TRD to adjust distributions from the "Recordation Tax Act." On the other hand, the revenues attributed to the recordation tax will be collected by the county treasurer and sent by warrant to TRD (less the 3% administrative fee). This is an unusual procedure, but is mirrored by the treatment of the state mill levy for state GO bonds. These funds are collected by county treasurers and remitted eventually to the Board of Finance. TRD receives data monthly from the county treasurers regarding the ad valorem production equipment tax. It is unclear exactly how the state GO bond levy makes its way to the Board of Finance. In any event, this tax is not so unusual that the county treasurers and TRD would be unable to implement the provision.

Section 3: This section adjusts the county equalization distribution to delete the additional 5% of 7-9-92 and 7-9-93 NMSA 1978. This will be a revenue loss to the counties and a gain to the state. This amount is 5% of total food and medical deductions times 1/8%, allocated to each county in the ratio of each county's population to the state total. Total food and medical deductions for FY 18 are expected to be about 4.5 billion, making this change to the county equalization about 280.0

Section 4: Gross Receipts Tax on Food and Health care Practitioner Services. This uses the phrase, "of the net receipts attributable to the gross receipts tax on food sold in the municipality". This means that the entire amount of the newly authorized GRT will be distributed. However, if this is strictly a local tax without reference to the general fund, then the distribution doesn't belong in the TAA but in the County and Municipality GRT acts.

- a 86.76% of GRT/Food to municipality based on net receipts attributable to the gross receipts tax on food sold in the municipality
- b 13.24% of GRT/Food to county based on net receipts attributable to the gross receipts tax on food sold in municipality
- c 100% of GRT/Food to county based on net receipts attributable to the gross receipts tax food sold in remainder county
- d 87.5% of GRT/Healthcare Services to municipality based on net receipts attributable to the gross receipts tax on Healthcare Services sold in municipality
- e 12.5% of GRT/Healthcare Services to county based on net receipts attributable to the gross receipts tax on Healthcare Services sold in municipality
- f 100% of GRT/Healthcare Services to county based on set receipts attributable to the gross receipts tax on Healthcare Services sold in remainder county
- g distributions may be adjusted by TRD pursuant to 7-1-6-15

TRD may withhold 3% as administrative fee. The additional .25% admin fee for audit, as authorized in HB-2, is not imposed because these new revenues are not distributed in 7-1-6.46 or 7-1-6.47 NMSA 1978.

Section 5: Interest and dividends of taxpayers over the age of 55 are excluded from the personal income tax.

Section 6: Reduction of 50% credit for conservation restriction with limit of 250K reduced to 100K per claim. These credits are transferable, so will be claimed as soon as possible after being earned.

Section 7: Increase Working Families Tax credit from 10% to 11.5% of federal EITC.

Section 8	Decrease Rural Health Care Practitioner Tax Credit from 5,000 for doctors and 3,000 for other licensed (listed) healthcare practitioners to 2,000 for all
Section 9:	Increases from 1,000 to 5,000 veteran's employment tax credit. "Veteran" for this purpose must have been discharged within 2 years of employment date. Total credit must be reported separately to TRD and TRD must report annually to the legislature. This credit has been underutilized, with fewer than 6 taxpayers availing themselves of this credit in the period FY 2011 through FY 2015. Increasing the credit to 5,000 per newly employed veteran will result in minimal impact.
Section 10:	Drops the corporate income tax rate from 4.8% on the first 500,000 of net income and 24,000 plus 5.9% of the net income over 500K to 3% of net income.
Section 11:	CIT version of conservation restriction, reducing the amount of the credit that may be claimed by the taxpayer to not exceed 100,000. It was previously 250,000.
Section 12	CIT version of the veteran's employment credit
Sections 13 through 17:	Short Titled "Gross Receipts Taxes on Food and Health Care Practitioner Services Act"
Section 14:	Defines "engaging in business" restricted to selling food and health care practitioner services; "food" is the SNAP definition; "food gross receipts" as excluding regular GRT, time-price differentials, etc. "food gross receipts tax" is not defined here, although the phrase is used as a exclusion from the food gross receipts base. This may be a technical problem. LFC staff suggests adding the words at Section 14, C(2), "pursuant to the Gross Receipts Taxes on Food and Health Care Practitioner Services Act" on line 4, Page 54. This same defect is noted on page 57 relative to health care practitioner services gross receipts. This section defines "health care practitioner" as the same list from 7-9-93 NMSA 1978 with the exception that this bill adds "registered" for an occupational therapist. In total, these definitions mirror those that establish the food and medical deductions with subsequent distributions to the local governments known as the "hold harmless" gross receipts taxes.
Section 15:	The section imposes a food gross receipts tax of 3.75% that is uniform across the state. This is approximately equal to the average GRT rate of 2.76% for municipalities and .6% for counties. The section also imposes a uniform healthcare practitioner tax of 2% of the gross receipts that take advantage of 7-9-93 NMSA 1978. These are commercial contract services, Medicare part C MCOs. This uniform revenue is distributed to each county and municipality in ratios expressed in Section 4 of this bill. The attempt is to simplify from the bewildering complexity of the local options where each of the 105 municipalities and 33 counties have differing total rates.
Section 16:	Allows exemptions from the new taxes mirroring exemptions allowed for the Gross Receipt and Compensating Tax Act. These are primarily for healthcare services provided by non-profit hospitals.
Section 17:	Administrative section that requires a return to be filed and taxes paid by the 25th of the month following sale. Same as 7-9-11 NMSA 1978 imposing the Gross Receipts and Compensating Tax.
Section 18:	Changes 50% deduction to 40% deduction for selling agricultural implements, farm tractors, aircraft or vehicles -- such as heavy construction equipment -- not required to be registered. This deduction is after the trade-in allowance allowed in 7-9-71 NMSA 1978.
Section 19:	Decreases the 50% deduction for for-profit hospitals to 40%.
Section 20:	Increases MVX from 3% to 3.5% for FY 18, 19 and 20 and to 4% for FY 21 and subsequent.
Section 21:	Distributes the MVX 50-50 to general fund and state road fund.

Section 22:	Short titled "Recordation Tax Act"
Section 23:	Imposes a .20/100 deed recordation fee based on prior year assessed value. In case of undeveloped land, the county will determine the value on request. The tax will be paid by the seller.
Section 24:	Imposes a .075/100 mortgage tax on amounts of the mortgage exceeding 25,000. This tax is based on the actual amount of the mortgage. The tax will be paid by the mortgagor, although the financial burden will probably be transferred to the mortgagee. . This tax is imposed only mortgages not associated with the tax of Section 23. This, in effect, will mean this mortgage tax will be imposed on refinanced mortgages but not original mortgages.
Section 25:	The county treasurer is required to report and transfer proceeds "of this section" monthly to TRD and the county may collect a 3% administrative fee. The specific language is deficient. It references "this section" -- meaning Section 25, when it means the two taxes imposed in sections 22 though 27, which are short titled, "The Recordation Tax Act." It would be better to use, "this act", rather than "this section" for the requirement.
Section 26	Provides exemptions to the recordation tax act. These importantly include an exemption from the tax imposed on mortgages for which the deed transfer tax is collected. This means that refinancing is subject to the .075/100 tax.
Section 27:	Provides a cap on amounts imposed by the Recordation Tax Act. This cap is 100,000. At .20/100, this cap represents the sale of property with assessed value of 50,000,000. Few, if any, real properties worth 55,000,000 to 60,000,000 transfer in any year. The average assessment ratio runs about 85% in most counties. That is, assessed values are about85% of market value.
Section 28:	Repeals both the food and medical services Hold Harmless distributions.
Section 29	PIT and CIT sections are applicable for tax years beginning January 1, 2018. MVX section is applicable to revenues collected beginning July 1, 2017.
Section 30:	Effective Date of the GRT sections is July 1, 2017.

LG/sb