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FISCAL IMPACT REPORT

ORIGINAL DATE 2/15/15
LAST UPDATED 3/12/15 **HB** 301/aHAWWC

SPONSOR Maestas Barnes

SHORT TITLE Outdoor Water Conservation Gross Receipts **SB** _____

ANALYST van Moorsel

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY15	FY16	FY17	FY18	FY19		
\$0.0	(\$1,300.0)	(\$1,360.0)	(\$1,410.0)	(\$1,470.0)	Recurring	General Fund
\$0.0	(\$870.0)	(\$910.0)	(\$940.0)	(\$980.0)	Recurring	Local Governments

(Parenthesis () indicate revenue decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Taxation and Revenue Department (TRD)
 Department of Finance and Administration (DFA)

SUMMARY

Synopsis of HAWWC Amendment

The House Agriculture, Water and Wildlife Committee amendment strikes the word “urban” from the definition to expand the definition of “water-saving tangible personal property.”

Synopsis of Original Bill

House Bill 301 creates a new section of the Gross Receipts and Compensating Tax Act to create a deduction from gross receipts of receipts from the sale at retail of water-saving tangible personal property if the sale occurs during the period beginning at midnight on March 1 and ending at midnight on March 8.

The purpose of the deduction provided by this section is to mitigate the effects of drought in New Mexico by creating an incentive for private property owners to reduce their outdoor water consumption through the use of products designed to decrease water waste.

The bill provides for reporting requirements. Taxpayers are required to separately state the deduction. TRD must compile an annual report on the deduction that includes the number of taxpayers that claimed the deduction, the aggregate amount of deductions claimed and any other information necessary to evaluate the effectiveness of the deduction. Beginning in 2016, TRD must compile and present the report to the Revenue Stabilization and tax Policy committee and the LFC with an analysis of the deduction.

The bill defines "water-saving tangible personal property" as products:

- intended for use on private, shared or communal property and not intended for business use, trade or resale; and
- whose use or planting in outdoor residential urban properties may result in:
 - water conservation or ground water retention;
 - water table recharge; or
 - a decrease in ambient air temperature that limits water evaporation; and

Water-saving tangible personal property includes:

- drought-tolerant live plants, turf and grass;
- soaker or drip-irrigation hosing;
- moisture controls for sprinkler or irrigation systems;
- mulches and soils;
- rain barrels and alternative rain and moisture collection systems;
- permeable ground cover surfaces that allow water to reach underground basins, aquifers or water collection points;
- plant and grass seeds coated with water-saving surfactants; and
- water-saving surfactants.

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

FISCAL IMPLICATIONS

To estimate the impact of the bill, TRD collected data on tax paid by the retail industry during the months of March in the last three years. The amounts were averaged and divided by four as this deduction is only applicable for one out of four weeks of the month. This amount was then multiplied by a ratio which was calculated by dividing the total expenditures in outdoor gardening equipment by households into the total expenditures in retail by households. The impact could potentially be higher if households decide to make all their purchases the first week of March because of this exemption. LFC staff grew the FY16 total by consensus GRT growth rates to estimate out year impacts.

TRD used average household expenditures data found in the 2012 National Gardening Association Report. The household expenditures data was estimated using U.S. Census figures and data provided by statista.com. The U.S. landscape industry industry is valued at approximately \$74 billion annually in 2013.

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

DFA points out this bill would provide a tax holiday for purchases of certain landscaping materials. Although water conservation is a desirable and beneficial outcome, this proposal may not be the most efficient means to achieve that goal. Homeowners already have incentive to xeriscape their properties through decreased water bills and increases in property value.

DFA adds many local utilities offer rebates and other incentives for the purchase and installation of rain barrels and irrigation systems. This proposal may allow taxpayers to receive multiple incentives from various sources for a single purchase.

The stated purpose of the bill is to reduce outdoor water usage to mitigate the effects of drought in the state. However, DFA notes the bill does not include a sunset date and therefore the deduction may extend into periods in which the state is no longer experiencing drought conditions.

Finally, DFA's analysis notes there is a likelihood the deduction will be used by persons who would have made landscaping purchases without this incentive, so this bill is unlikely to have widespread economic impact in New Mexico.

PERFORMANCE IMPLICATIONS

The LFC tax policy of accountability is met with the bill's requirement 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.

TECHNICAL ISSUES

This bill does not contain a sunset date. The LFC recommends adding a sunset date.

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