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

SPONSOR Neville **ORIGINAL DATE** 1/23/08 **LAST UPDATED** 1/24/08 **HB**

SHORT TITLE Gross Receipts Exemption for Minimal Earnings **SB** 163

ANALYST Schardin

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY08	FY09	FY10		
	(324.9)	(336.1)	Recurring	General Fund
	(229.9)	(237.8)	Recurring	Local Governments

(Parenthesis ( ) Indicate Revenue Decreases)

SOURCES OF INFORMATION
LFC Files
Bureau of Economic Analysis, U.S. Department of Commerce (BEA)
Taxation and Revenue Department (TRD)

Responses Received From
New Mexico Municipal League

SUMMARY

Synopsis of Bill

Senate Bill 163 would create a gross receipts tax exemption for receipts from services performed in New Mexico by an individual whose only gross receipts tax obligation for the reporting period is for services with receipts totaling less than 10 percent of New Mexico per capita personal income, on an "annualized basis." Annual per capita personal income is defined as the amount estimated by the bureau of economic analysis of the U.S. Department of Commerce for the most recent year for which data is available (see Technical Issues).

The bill's effective date is July 1, 2008.

FISCAL IMPLICATIONS

This fiscal impact analysis assumes that taxpayers with taxable gross receipts from services totaling less than 10 percent of per capita personal income will be eligible for the proposed exemption. The fiscal impact would be smaller if the bill were interpreted to apply only to taxpayers with total gross receipts (before deductions) less than 10 percent of per capita personal income (see Technical Issues).

According to TRD, there were 73,142 gross receipts tax filers with taxable gross receipts less than 10 percent of per capita personal income in CY06. Taxable gross receipts for this group totaled $19.3 million. It is assumed that 40 percent of these receipts were for provision of services, and that receipts eligible for the exemption will grow by 2 percent per year. These assumptions generate a tax base of $20.3 million in FY09. Taxed at a statewide gross receipts tax rate of 6.9 percent, the exemption will reduce gross receipts tax revenue by $554.7 thousand in FY09. About 59 percent of that revenue loss will be from the general fund and the remaining 41 percent will be from local governments.

SIGNIFICANT ISSUES

This bill would allow individuals who sell a sufficiently small amount of services an exemption from the gross receipts tax. If receipts from services in a reporting period (a month) total less than 10 percent of New Mexico per capita personal income "on an annualized basis" (see Technical Issues), no gross receipts tax return will need to be filed. In 2006, New Mexico per capita personal income was preliminarily estimated at $29,673. To qualify for the exemption at this time, an individual's receipts from services would need to be less than $2,967 on an annualized basis.

While exemptions from the gross receipts tax reduce the burden on taxpayers by not requiring that a tax return be filed, exemptions also result in less transparency and accountability than gross receipts tax deductions and credits. While the amount of credits and deductions must be explicitly claimed on gross receipts tax returns, exempted receipts are not reported. Exemptions are therefore more difficult to audit and more difficult to weigh costs and benefits.

LFC notes that while individual credits, deductions and exemptions from the gross receipts tax may have small fiscal impacts, their cumulative effect significantly narrows the gross receipts tax base. Narrowing the gross receipts tax base increases revenue volatility and requires a higher tax rate to generate the same amount of revenue.

The bill will reduce local government gross receipts tax collections. Many of New Mexico's local governments are highly dependent on gross receipts tax revenue.

ADMINISTRATIVE IMPLICATIONS

It may be difficult for TRD to administer this deduction because of the technical issues identified below. Also, it would be difficult for TRD to audit the proposed exemption.

TECHNICAL ISSUES

The bill should be amended to define "annualized basis." It is unclear what methodology would be used to calculate what an individual's receipts from one month would total on an annualized basis. Different possibilities include one month's receipts multiplied by 12, one month's receipts converted into 365 days receipts. For the same reason, it is unclear whether a taxpayer would need to file a gross receipts tax return for single months in which receipts are higher than the

limit set in the bill.
It is unclear whether the exemption applies to taxpayers whose taxable gross receipts are less than 10 percent of per capita personal income on an annualized basis, or to taxpayers whose total gross receipts (before deductions) are less than 10 percent of per capital personal income on an annualized basis. This fiscal impact analysis assumes the exemption will apply to taxable gross receipts, but the bill should be amended to clarify this issue.

It is unclear what taxpayers will need to do if they become eligible or ineligible for the exemption in past periods when the Bureau of Economic Analysis (BEA) revises New Mexico's per capita personal income estimate. BEA first estimates state per capita personal income in the March following the end of a calendar year. That preliminary figure is revised in September and may be revised again at any point in the future.

POSSIBLE QUESTIONS

How will TRD be able to ensure that exemptions are not improperly claimed by individuals whose receipts are greater than 10 percent of per capita personal income on an annualized basis?

If estimated per capita personal income is revised, will some taxpayers be eligible for refunds or owe additional payments?

SS/jp