

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (legis.state.nm.us). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

ORIGINAL DATE 03/11/11

SPONSOR Maestas LAST UPDATED _____ HB 581

SHORT TITLE Self-Employed Gross Receipts Tax Deduction SB _____

ANALYST Golebiewski

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY11	FY12	FY13		
	(\$9,000.0)	(\$9,000.0)	Recurring	General Fund
	(\$6,000.0)	(\$6,000.0)	Recurring	Local Governments

(Parenthesis () Indicate Revenue Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY11	FY12	FY13	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		\$120.0	\$120.0	\$240.0	Recurring	Taxation and Revenue Department

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Economic Development Department (EDD)

Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of Bill

House Bill 581 would provide a GRT deduction for first-year businesses with self-employed owners. The incentive is designed to encourage entrepreneurship in New Mexico. EDD and TRD are responsible for producing an annual report on the economic effects of the deduction, such that a legislative committee can begin to review its effectiveness in 2015.

FISCAL IMPLICATIONS

Based on data from the Census, there were approximately 120 thousand nonemployee businesses in New Mexico in 2009, most of which are self-employed businesses. Assuming 5 percent of the businesses were first year businesses and that they had the same receipts as more tenured businesses, approximately 6 thousand businesses would qualify for the credit, with approximately \$235 million in receipts. Assuming the majority of these businesses locate in municipalities, this translates to approximately \$15 million per year in deductible gross receipts.

SIGNIFICANT ISSUES

The GRT credit proposed in HB 581 would likely incentivize individuals to start new businesses. It would contribute to economic development in the state to the extent that these businesses are able to survive the first year, then continue to provide services and even grow to provide job opportunities to other individuals in the future. The businesses would receive the deduction for the first year, and then would begin paying GRT on receipts in future years. Depending on the economic environment that causes many small businesses to fail in the first few years, this may help business owners to overcome the costly challenges that may otherwise put their businesses out of business in the first year.

Like other credits and deductions, though, HB 581, if passed, would create complexity in the New Mexico tax system and would introduce inefficiency by targeting certain taxpayers for deductions. These characteristics are at odds with the tax policy principles of efficiency and simplicity.

ADMINISTRATIVE IMPLICATIONS

House Bill 581 requires EDD and TRD to keep record of the amount of state revenue that is attributable to each sole proprietorship. It also mandates an annual report detailing the number of taxpayers, the percentage of them who were previously unemployed, the number of jobs created, the amount of the deduction approved and other information. Additionally, TRD will require an additional auditor. This translates to the equivalent of 1.5 FTE, or approximately \$120 thousand.

TECHNICAL ISSUES

The reporting requirements that this proposal places on TRD that include disclosing taxpayer information are in direct conflict with the general confidentiality statutes under Section 7-1-8 NMSA 1978. The general confidentiality statutes carry criminal penalties including imprisonment for up to one year. Without amending the general confidentiality statutes in Section 7-1-8, it is likely that the Department will not be able to comply with the reporting requirements.

HB 581 also leaves the tax deduction open to widespread abuse, as it simply allows the deduction to be used by a self-employed first year businesses.

The Legislative Finance Committee has adopted the following principles to guide responsible and effective tax policy decisions:

- 1. Adequacy:*** revenue should be adequate to fund government services.
- 2. Efficiency:*** tax base should be as broad as possible to minimize rates and the structure should minimize economic distortion and avoid excessive reliance on any single tax.
- 3. Equity:*** taxes should be fairly applied across similarly situated taxpayers and across taxpayers with different income levels.
- 4. Simplicity:*** taxes should be as simple as possible to encourage compliance and minimize administrative and audit costs.
- 5. Accountability/Transparency:*** Deductions, credits and exemptions should be easy to monitor and evaluate and be subject to periodic review.

More information about the LFC tax policy principles will soon be available on the LFC website at www.nmlegis.gov/lcs/lfc