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

SPONSOR Garcia, MH & Cisneros **ORIGINAL DATE** 01/25/12 **LAST UPDATED** **HB** 23

SHORT TITLE School Nonathletic Event Gross Receipts **SB**

ANALYST Walker-Moran

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY12	FY13	FY14		
	(60.0)	(60.0)	R	New Mexico Finance Authority
	(11.2)	(11.2)	R	State Park and Recreational Area Capital Improvements
	(8.0)	(8.0)	R	NM Youth Conservation Corps
	(0.8)	(0.8)	R	Office of Cultural Affairs

(Parenthesis ( ) Indicate Revenue Decreases)

SOURCES OF INFORMATION
LFC Files

Responses Received From
Taxation and Revenue Department
New Mexico State University
Public Education Department

SUMMARY

Synopsis of Bill

House Bill 23 amends Section 7-9-104 NMSA 1978 to extend the deduction from gross receipts tax (GRT) for receipts from admissions to non-athletic special events at post-secondary educational institutions through June 30, 2017. The deduction established on July 1, 2007 sunsets on June 30, 2012.

House bill 23 provides for a 5 year extension of the sunset clause for the State of New Mexico Gross Receipts Tax deduction for the Pan American Center (PAC) at New Mexico State University (NMSU).

Proposed extended sunset date: June 30, 2017

During the 2007 legislative session, the State of New Mexico granted a deduction for events at the New Mexico State University (NMSU) from the Gross Receipts Tax (GRT).

The deduction was granted after NMSU raised the issue and concern that identified entertainment facilities in El Paso, Texas, and specifically facilities at the University of Texas at El Paso (UTEP), allowed for a similar exemption from Texas state tax. According to NMSU, prior to granting the deduction by the State of NM, the Texas exemption provided an unfair and competitive advantage for Texas facilities over the PAC at NMSU

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

Gross receipts tax deductions, such as the one proposed in this bill, do not guarantee any economic result, such as larger profits for businesses or lower prices for consumers. In the ordinary course of events, probably both results occur.

FISCAL IMPLICATIONS

According to the most recent estimate provided by administrators at the only qualified institution, total receipts from admissions have averaged $1.60 million annually from FY2010 through FY2012. Applying the 5% governmental gross receipts tax (GGRT) rate yields an estimated tax liability of $80 thousand. Governmental gross receipts tax collections are statutorily distributed as follows: 75 percent to 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 goes to the Cultural Affairs Department for capital improvements to state monuments.

<u>Estimated Revenue Impact – Detailed Discussion</u>: 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.

According to NMSU the impact on hosting entertainment events at the PAC would be dramatic if the deduction is not continued. The re-instatement of the GRT and its resulting net cost to the artist would incentivize artists and promoters to take events to UTEP as opposed to the PAC.

ADMINISTRATIVE IMPLICATIONS

Minimal impact. Minor modification to instructions and publications related to the CRS program. No costs associated with administration of this bill.

OTHER SUBSTANTIVE ISSUES

This bill extends a sunset provision in the original statute. The decision to extend this sunset will not benefit from an analysis of the tax expenditure's effects since its inception. To TRD's knowledge, no comprehensive assessment of this tax expenditure will have been released.

The underlying statute amended by this legislation meets the definition of an "economic development tax incentive" as defined in 9-15-56 NMSA 1978. Because the underlying statute was enacted prior to 9-15-56 NMSA 1978, none of the provisions set forth therein are met. Updating the underlying statute to comply with these more recent requirements should be considered. All relevant sections of 9-15-56 NMSA 1978 have been attached below.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

According to NMSU the GRT deduction has contributed to the PAC establishing itself as the primary touring stop for country music tours in the Southwest. In the last three years, NMSU has hosted concerts by George Strait (2), Reba McEntire (2), Brooks & Dunn, Zac Brown Band, and other artists. Upcoming country events confirmed for 2012 include Brad Paisley and Jason Aldean. Additional dates are being held for Rascal Flatts and Toby Keith, if PAC can remain competitive with El Paso. Examples of other types of events that would be impacted by not enacting this bill include Trans-Siberian Orchestra (2), World Wrestling Entertainment, Harlem Globetrotters,World Title Boxing with David Rodriquez and Enrique Iglesias in 2012.

POSSIBLE QUESTIONS

Does the bill meet the LFC tax policy principles?
Adequacy: Revenue should be adequate to fund needed government services.
Efficiency: Tax base should be as broad as possible and avoid excess reliance on one tax.
Equity: Different taxpayers should be treated fairly.
Simplicity: Collection should be simple and easily understood.
Accountability: Preferences should be easy to monitor and evaluate

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