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

SPONSOR Munoz
ORIGINAL DATE 02/03/12
LAST UPDATED
HB

SHORT TITLE Heavy Rail Mass Transit Tax & Fund
SB 247

ANALYST Smith

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY12	**FY13**	**FY14**		
	See Narrative			

(Parenthesis ( ) Indicate Revenue Decreases)

SOURCES OF INFORMATION
LFC Files

Responses Received From
TRD
DOT

SUMMARY

Synopsis of Bill

Senate Bill 247 provides for a new excise tax to fund heavy rail mass transit systems, and creates a new act to be known as the "Heavy Rail Mass Transit Excise Tax Act." This new tax is a countywide excise tax to be imposed on any person engaging in business in a county served by a heavy rail mass transit system. The rate of the tax will be set and adjusted for each affected county annually by the Taxation and Revenue Department, based on Department of Transportation certification of the amount of total unfunded operation and maintenance costs of each heavy rail mass transit system in the state.

Effective Date: July 1, 2012

FISCAL IMPLICATIONS

DOT reports it is unlikely there would be certification of any amount of unfunded operation and maintenance costs attributable to heavy rail mass transit systems in the state. If such an amount were certified, the tax rate would be set to provide only that amount of revenue, so the revenue yield associated with this bill cannot be determined at this time.

TECHNICAL ISSUES

- Although the bill sets a maximum excise tax rate at ¼ percent, it is unclear to what base the tax rate is to be applied. Section 4, Subsection A imposes the excise tax on persons engaged in business in counties served by a state-financed heavy rail mass transit system. However, it is not specified whether or not the excise tax would be imposed on the gross receipts of such persons. The bill does not specify whether the tax is to be imposed on a person's income, real property, consumption, sales, or on some other basis.

- Although not subject to voter approval, this new tax is otherwise somewhat redundant with respect to the County Regional Transit Gross Receipts Tax (Section 7-20E-23 NMSA 1978). Regional transit gross receipts taxes have been imposed in Bernalillo, Los Alamos, Rio Arriba, Sandoval, Santa Fe, Taos, and Valencia counties at rates of one-eighth percent. NM-DOT reports that a Memorandum of Agreement stipulates that current funding for the Rail Runner comes through Rio Metro and the North Central Regional Transit District from revenue generated by gross receipts tax increments in Bernalillo, Sandoval, Valencia, and Santa Fe counties equal to a rate of one-sixteenth percent. Additional funding for maintenance and operations of the Rail Runner is provided from federal grant funds, passenger fares, advertising revenue, payments by BNSF and Amtrak, and any funding from DOT as directed by the annual General Appropriations Act (HB-2).

- Both the Rio Metro and North Central Regional Transit Districts have authority to enact additional gross receipts tax increments of the county regional transit gross receipts tax up to three-eighths percent (0.375%) subject to voter approval. The full additional existing gross receipts tax authority in the four counties served by the Rail Runner could generate an addition $77 million per year.

- NM-DOT reports the FY 2013 NMDOT budget does not contain any state tax revenue for the FY2013 Rail Runner operations and maintenance budget. NMDOT's only contribution to operations and maintenance is the $2 million of BNSF and Amtrak payments that flow through NMDOT for their use of NMDOT-owned track (that is shared by the Rail Runner, BNSF, and Amtrak).

- The bill imposes the new tax on businesses that are located in counties served by the New Mexico Rail Runner (counties in which a portion of a heavy rail mass transit system operates). This would affect businesses in Bernalillo, Sandoval, Santa Fe, and Valencia Counties.

OTHER SUBSTANTIVE ISSUES

This bill may be counter to the LFC tax policy principle of adequacy. According to the LFC staff General Fund Recurring Appropriation Outlook for FY14 and FY15, December 2011 forecasted revenues will be insufficient to cover growing recurring appropriations.

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

SS/lj