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

SPONSOR Wooley **ORIGINAL DATE** 01/24/14 **LAST UPDATED** 02/05/14 **HB** 24/aHTRC

SHORT TITLE Commercial or Military Carrier Gross Receipts **SB**

ANALYST van Moorsel

REVENUE (dollars in thousands)

Estimated Revenue					**Recurring or Nonrecurring**	**Fund Affected**
FY14	**FY15**	**FY16**	**FY17**	**FY18**		
See "Fiscal Implications," below					Recurring	General Fund

(Parenthesis ( ) Indicate Revenue Decreases)

SOURCES OF INFORMATION
LFC Files

Responses Received From
Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of HTRC Amendment

The House Taxation and Revenue Committee amendment to House Bill 24 creates a reporting requirement. A taxpayer allowed the deduction must report the amount of the deduction separately. TRD is required to compile annual reports and provide them and an analysis of the effectiveness of the deduction to the Revenue Stabilization and Tax Policy committee and the LFC every five years, beginning in 2019.

Synopsis of Original Bill

House Bill 24 expands an existing GRT deduction to include receipts from the sale of a commercial or military carrier over ten thousand pounds gross landing weight. Under current law, the deduction is only for receipts from maintaining, refurbishing, remodeling or otherwise modifying such carriers.

The effective date of this bill is July 1, 2014. There is no sunset date. The Legislative Finance Committee (LFC) recommends adding a sunset date.

FISCAL IMPLICATIONS

The Taxation and Revenue Department (TRD) reports it does not have any direct data to indicate that any such sales are currently taking place in New Mexico, except incidentally. As such, there would be minimal loss of any current tax revenue.

Foregone revenue on incidental sales could result in an impact to the general fund, but this is difficult to quantify.

Industry representatives support TRD's analysis, reporting that, although airplanes are maintained and repaired in-state, they are being flown outside of New Mexico for sale to avoid paying New Mexico's GRT. The deduction would permit the sale to take place in state and to avoid incurring the cost of flying out of New Mexico's tax jurisdiction to make the sale. This could provide an incentive for additional investment in airplane maintenance and repair in New Mexico, to the economic benefit of the state.

However, this analysis does not consider whether compensating tax is collected on the use of some of these aircraft – private commercial aircraft. A TRD report the compensating tax base for the use of private commercial aircraft, and whether compensating tax is being collected, would serve to inform the Legislature of the potential impact of this bill New Mexico provides a deduction for 50 percent of the value of aircraft when determining the amount of compensating tax due.

New Mexico's compensating tax, is in part, imposed on tangible personal property that is:

> "acquired inside or outside of this state as the result of a transaction with a person located outside this state that would have been subject to the gross receipts tax had the tangible personal property been acquired from a person with nexus with New Mexico".[1]

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

TRD cites industry sources in reporting this bill has the potential to attract business currently being diverted to states with more favorable tax situations. While this does create the loss of *potential* new revenue, the new business would also bring with it the potential for meaningful growth in jobs.

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[1]7-9-7(A) NMSA 1978

PERFORMANCE IMPLICATIONS

The LFC tax policy of accountability is not met since TRD is not required in the bill 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

PvM/jl:svb