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

SPONSOR Harper / Brown **ORIGINAL DATE** 1/27/16 **LAST UPDATED** **HB** 233

SHORT TITLE Hold Harmless Payments and Tax Distributions **SB**

ANALYST Graeser

REVENUE (dollars in thousands)

Estimated Revenue								Recurring or Non-Rec	Fund Affected
FY16	**FY17**	**FY18**	**FY19**	**FY20**	**FY21**	**FY22**	**FY23**		
	≈ 40,000	≈ 38,000	≈ 35,000	≈ 33,000	≈ 30,000	≈ 27,000	≈ 24,000	Recurring	General Fund (Hold-harmless offset)*
0	(-30,400)	(-62,800)	(-96,600)	(-114,800)	(-133,824)	(-153,563)	(-174,038)	Recurring	General Fund (MVX)
0	$18,240	$37,680	$57,960	$68,880	$80,294	$92,138	$104,423	Recurring	State Road (MVX)
0	$12,160	$25,120	$38,640	$45,920	$53,530	$61,425	$69,615	Recurring	Local Govt's RF

Parenthesis ( ) indicate revenue decreases

(*) The fiscal impact of the General Fund hold harmless offset is based on a partial analysis and is included here for information. The first year impact is approximately $40 million in gain to the general fund from the disallowance of a portion of the hold-harmless distributions. The full analysis will be completed before the House Ways and Means committee hearing.

SOURCES OF INFORMATION

LFC Files

Responses Received From
Department of Transportation (DOT)
Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of Bill

House bill 233, sections 1 and 2 adjust 2013's phase-out of the food and medical services hold harmless phaseout. The intent of the bill is to extinguish the fiscal benefits to counties and municipalities of revenues collected pursuant to enactments of the county and municipal hold harmless gross receipts tax rates. The rates can range up to 3/8 percent for municipalities and an additional 3/8 percent for counties (including within municipal areas). The bill defines an "applicable maximum distribution" exactly as previously specified in sections 7-1-6.46 and 7-1-6.47 NMSA 1978. For FY 16, this is 94 percent of the amount calculated as the product of applicable tax rates and municipal share rates and the taxable gross receipts for all food transactions or medical services transactions for the period. However, this bill then further provides that for any jurisdiction that has a hold harmless gross receipts tax in place, the state hold harmless distribution would be reduced by the amount of the municipal hold harmless gross receipts tax.

Section 3 of the bill provides for a phased-in transfer of the Motor Vehicle Excise (MVX) tax to the state road fund and the local government's road fund in the ratio of 60 percent State Road Fund (SRF) and 40 percent Local Government Road Fund (LGRF). The phased-in amount of the MVX would proceed according the following schedule, over the course of seven years:

	General Fund	SRF	LGRF
FY 17	80%	12%	8%
FY 18	60%	24%	16%
FY 19	40%	36%	24%
FY 20	30%	42%	28%
FY 21	20%	48%	32%
FY 22	10%	54%	36%
FY 23	0%	60%	40%

The effective date of this bill is July 1, 2016. There is no sunset date.

FISCAL IMPLICATIONS

DOT has submitted the following analysis based on the January 2015 Concensus Revenue Estimating Group (CREG) estimate of motor vehicle excise tax. The table on the previous page is based on a partial analysis of the hold-harmless offset and the motor vehicle excise tax swap.

Estimated Revenue								Recurring or Non-Rec	Fund Affected
FY16	**FY17**	**FY18**	**FY19**	**FY20**	**FY21**	**FY22**	**FY23**		
0	(30,400)	(62,800)	(96,600)	(114,800)	(133,824)	(153,563)	(174,038)	Recurring	General Fund
0	18,240	37,680	57,960	68,880	80,294	92,138	104,423	Recurring	State Road Fund
0	12,160	25,120	38,640	45,920	53,530	61,425	69,615	Recurring	Local Governments Road Fund

With the recent revenue estimate that has reduced FY 2017 revenue by $201 million, combined with corresponding reductions to the out years, the state may not be able to afford this net diversion of funds, which reaches $150 million net loss by FY23. Funding this swap by reducing the amount of hold-harmless distributions makes the analysis more difficult technically and from the perspective of policy. This bill may be counter to the LFC tax policy principle of adequacy. This bill is not classified as a tax expenditure, but as a reduction of a distribution coupled with a swap.

This bill does not create a new fund, only a general fund distribution of a statutory percentage of Motor Vehicle Excise Tax .

SIGNIFICANT ISSUES

DOT notes that, "HB 233 - Section 3 increases the overall SRF revenue of about five percent in FY 2017, nine percent in FY 2018, fourteen percent in FY 2019, and sixteen percent in FY 2020. The bill increases the LGRF revenue of about fifty-three percent in FY 2017, one hundred six percent in FY 2018, one hundred sixty percent in FY 2019 and one hundred eighty-eight percent in FY 2020."

Until the fiscal analysis in the out-years is complete, the policy implications of this bill cannot be fully discussed.

PERFORMANCE IMPLICATIONS

The LFC tax policy of accountability is met with the bill's requirement to report monthly in the RP-500 and the general fund report. The provisions of this bill and fully transparent.

LG/al/jo