Fiscal Impact Report

Prepared by New Mexico Municipal League

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:

Original • **Amendment** ____
Correction ____ **Substitute** ____

Date Dec 6, 2014
Bill No: ____________

Sponsor: ____________
Short Title: Food & Tax Trade

Reviewing ____________
Person Writing NMML
Phone: ____________ **Email** ____________

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY15	FY16		
None	None	N/A	N/A

(Parenthesis ( ) Indicate Expenditure Decreases)

REVENUE (dollars in millions)

Item	Estimated Revenue			Recurring or Nonrecurring	Fund Affected
	FY16	FY17	FY18		
Repeal food distribution	**103.4**	**99.4**	**95.4**	Rec	State General
GR rate cut	**(53.5)**	**(55.9)**	**(58.4)**	Rec	State General
Comp rate cut	**(1.7)**	**(1.7)**	**(1.8)**	Rec	State General
LICTR	**(22.0)**	**(22.0)**	**(22.0)**	Rec	State General
Total state	**26.2**	**19.8**	**13.2**		
Municipal GR	**88.0**	**89.1**	**90.3**	Rec	Various Muni
Mun Food Dist	**(83.0)**	**(79.8)**	**(76.6)**	Rec	Various Muni
Comp: Muni	**(0.33)**	**(0.35)**	**(0.36)**	Rec	Small Cities
Net Muni	**4.67**	**8.95**	**13.34**		
County GR	**21.6**	**21.9**	**22.2**	Rec	Various County
Cnty Food Dist	**(20.4)**	**(19.6)**	**(18.8)**	Rec	Various County
Comp: County	**(0.22)**	**(0.23)**	**(0.24)**	Rec	Small Counties
Net County	**0.98**	**2.07**	**3.16**		

(Parenthesis ( ) Indicate Expenditure Decreases)

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: (1) Tax swap: Converts the existing distribution (7-1-6.4) to each municipality of a portion of the State's gross receipts tax revenue from that municipality to an equivalent grant of municipal local option tax authority (7-19D-9) at a rate of 1.225%. For municipalities created in the future, this authority may be imposed by municipal government action without referendum. For existing municipalities, it is imposed by this bill to maintain continuity of revenues. Grants gross receipts taxpayers a new credit against State gross receipts tax liability in the amount of tax due under the new 1.225% municipal tax authority. There is no net gain or loss to the taxpayer, State or municipalities as a result of these changes. Combined with the provisions described under (2) below, however, local option gross receipts taxes, including the municipal tax equivalent of the distribution from State gross receipts tax revenues, will apply to sales of food.

(2) Food & related hold harmless provisions: Converts the existing deduction for sales of food (7-9-92) to a credit (adjusted to eliminate interaction with the new credit proposed in (1) above). This credit means that the State gross receipts tax will continue to not apply to sales of food. Revises and simplifies the hold harmless distributions at 7-1-6.46 (municipalities) and 7-1-6.47 (counties) to eliminate any distribution with respect to food. Repeals the authority for the municipal (7-19D-18) and county (7-20E-28) hold harmless local option gross receipts taxes, except (on constitutional grounds) for those local governments that have already imposed the tax and bonded the proceeds.

(3) State tax rates: Lowers the gross receipts and compensating tax rates from 5.125% to 5%.

(4) Low income comprehensive tax rebate (LICTR): Significantly increases the rebate amounts of this income tax provision and extends eligibility by an additional $1,000 in modified gross income. This offsets for these low tax rebate claimants all or part of their increased net gross receipts tax burden due to the other provisions of this bill. The proposal intends to roughly double the amount provided to claimants under this program.

(5) Technicalities: Throughout the bill, technical changes are made to ensure smooth implementation of the features explained above. For example, provisions regarding the administrative fee charged by the State against certain local option gross receipts tax revenues are simplified (mainly to dump dead language) but also adjusted so that neither the State nor the local governments gain or lose revenue. Also, the existing distribution from State gross receipts tax revenues (7-1-6.4) is retained for the relatively small amounts due from taxpayers on municipal land (e.g., airports) outside the boundaries of the municipality because municipalities may not impose their local option gross receipts taxes on such taxpayers.

FISCAL IMPLICATIONS

Estimates for the repeal of the food hold harmless distribution derive from the FIR for the final version of 2013's CS/HB641, in the absence of any later available information. We note that the gross receipts tax revenue forecast for FY 2016 used for preparation of the CS/HB641 FIR was $2,202.3 million, which is actually slightly higher than the current projection of $2,195.0.

The benefit to the General Fund declines, not because food sales drop, but because the percentage of actual qualified food sales falls by 6%/annum under present law for large municipalities and counties. Distributions to small municipalities (those under 10,000) and small counties (those under 48,000), however, remain at 100% under current law. It is assumed that about 20% of the total distribution would accrue to these small governments. The annual reduction in distributions thus is assumed to apply only to 80% of the food distribution amount.

The split of distribution proceeds between municipalities (80.3%) and counties (19.7%) was estimated using the actual distribution of hold harmless amounts from October 2013 through September 2014.

The estimates of the cost of the gross receipts and compensating tax rate cuts are the December 2014 relevant revenue estimates for FY 2016, FY2017 & FY2017 times 0.9756, the ratio of 5% to 5.125%.

Taxation and Revenue Department reported (pursuant to an IPRA request by NMML) on September 30 that about $22.3 million was paid to LICTR claimants for income tax year 2013. 983,300 exemptions were involved. With a more generous benefits table, especially in the lower ranges, and the addition of a new $22,000 to $23,000 bracket, it can be assumed that more claimants will apply for tax year 2015. On the other hand, inflation, modest though it may be currently, and the slowly recovering economy will reduce the number of claimants as time passes. Without access to the data cell-by-cell, the intended additional amount of $22 million may be off. Given the uncertainty of the FY2016 number and possible eligibility erosion in the following years, it would be false precision to adjust the estimate for FY2017 and FY 2018.

Under this proposal, municipalities and counties will impose their local option taxes on sales of food. Unlike the hold harmless distributions, the taxes will be imposed on 100% of the food sales. The pattern of local option gross receipts taxes assumed for purposes of estimating the hold harmless distributions is assumed for purposes of estimating revenues from the impositions of local option gross receipts taxes on food. Additionally, large local governments (33 in all) were restricted for hold harmless purposes to their rates in place on 1/1/2007; this restriction will not apply to tax imposition. Of these, 18 have subsequently raised their tax rates and one, the largest—Albuquerque—cut its tax by 0.125%. We added an arbitrary $1 million to these total gross receipts estimates for all 3 years to account for these rate changes.

SIGNIFICANT ISSUES

Partially reverses the 2004 decision to remove receipts from sale of food for home preparation and consumption from the gross receipts tax base. Also allows municipalities and counties more control over their own finances.

ADMINISTRATIVE IMPLICATIONS

Taxation and Revenue Department will have to revise its computer programming and related reports.

OTHER SUBSTANTIVE ISSUES

Converting the municipal 1.225% distribution to a municipal tax authorization makes it clearer which governments benefit from imposition of gross receipts taxes.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

There are two related, long-term consequences. The gradual shrinking of the gross receipts tax base built into current law will force higher local option rates—leading to pressure on the Legislature by taxpayers to grant even more exemptions and deductions in the name of fairness and by local governments for more rate authorization. Since both major tax revenues for local governments—property tax and gross receipts tax—are circumscribed, local governments would be increasingly dependent on state largess to continue performing their functions. This proposal counters both trends, reducing the pressure otherwise placed on the tax system.