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## FISCAL IMPACT REPORT

SPONSOR: Wilson                      DATE TYPED: 1/27/00    HB \_\_\_\_\_  
 SHORT TITLE: Change Gross Receipts Provision                      SB 103  
 ANALYST: Eaton

### REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY00	FY2001			
	<(25.0)		Recurring	General Fund, Local Govt.

(Parenthesis ( ) Indicate Revenue Decreases)

### SOURCES OF INFORMATION

Taxation and Revenue Department (TRD)

### SUMMARY

#### Synopsis of Bill

A detailed section by section description is included on the following page. This bill clarifies that "retaining wall, wall, fence, gate or similar structure" are "construction", subject to the gross receipts tax. Changes to improve administration and taxpayer convenience (but with negligible fiscal impact) include: 1) eliminating the requirement that the value of a purchased service be separately stated on its re-sale; 2) construction materials and construction sub-contract services for a project on Indian land are deductible, even though the completed construction project is not taxable; 3) "backbone" Internet services deduction provision currently scheduled to sunset 6/30/00 made permanent.

TRD reports allowing contractors to present NTTCs for materials and sub-contract services for projects on Indian land removes a particularly onerous "gotcha". If the tribe and contractor are sophisticated, all sub-contracted services will be signed by the tribe and thereby receive the protection of federal preemption. Since this tax can be so easily avoided, there is little reason to keep the hurdle in the statutes. Similar reasoning applies to construction materials.

### FISCAL IMPLICATIONS

Impact of including fences, gates and retaining walls in "construction" is estimated at less than 25K. Most contractors have been remitting tax for these projects. The administrative provisions are not expected to cost any money. This may be offset by the potential loss on some construction materials used in construction projects for Indian nations, tribes and pueblos.

**ADMINISTRATIVE IMPLICATIONS**

Administrative activity consists of creating regulations and instructing auditors. This can be accomplished within existing resources.

**TECHNICAL ISSUES**

Effective date not stated. Effective 90 days after adjournment -- May 17, 2000. TRD requests certain effective date, for example, July 1, 2000, to aid administration.

**SECTION by SECTION DESCRIPTION:**

Bill Section	NMSA Section	Description
1	7-9-3	Definitions: "retaining wall, wall, fence, gate or similar structure" to "construction".
2	7-9-48	Deduction <sup>3</sup> / <sub>4</sub> sale for re-sale of a service: Eliminates requirement that the value of the purchased service be separately stated on its re-sale. The Department occasionally sustains an audit assessment on this issue, but most taxpayers conform to the requirement as a somewhat gratuitous administrative provision required to claim an appropriate deduction for resale.
3	7-9-51	Deduction <sup>3</sup> / <sub>4</sub> construction materials: construction materials to be incorporated on a project on Indian land are deductible.
4	7-9-52	Deduction <sup>3</sup> / <sub>4</sub> construction services: construction services to be incorporated on a project on Indian land are deductible.
5	7-9-56.1	Deduction <sup>3</sup> / <sub>4</sub> "backbone" Internet services: provision made permanent (scheduled to sunset 6/30/00).
6	7-9-57	Deduction <sup>3</sup> / <sub>4</sub> export of services: makes the text conform to the catch line; the buyer must be an out-of-state buyer.

JE/gm