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

SPONSOR: Smith DATE TYPED: 3/17/03 HB

SHORT TITLE: Border Trade-Support Gross Receipts SB 492/aSFC

ANALYST: Neel

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY03	**FY04**			
	NFI		Recurring	General Fund
			Recurring	Local Governments (Dona Ana County)

(Parenthesis ( ) Indicate Revenue Decreases)

SOURCES OF INFORMATION

Responses Received From

TRD

SUMMARY

Synopsis of SFC Amendment

The Senate Finance Committee amendment would narrow the definition of "trade-support company" thereby eliminating the fiscal impact.

The deduction is limited to businesses locating in the state after July 1, 2003. The Economic Development Department reports that, at present and in the recent past, there are no and have been no new trade support businesses being created at New Mexico's Ports of Entry. This may be due to temporary economic conditions. The near term fiscal impacts of the provision are likely to be small due to the limited number of eligible businesses being formed.

According to TRD, the fiscal impact estimate assumes no multiplier effects associated with increased border trade activity. Since the department does not have enough information about individual businesses to determine whether a particular incentive is the key factor influencing the decision to locate in the state, it is assumed the level of economic activity is unaffected by the passage of any individual piece of legislation.

<u>Synopsis of Original Bill</u>

Senate Bill 492 enacts a new section of the Gross Receipts and Compensating Tax Act to provide a gross receipts tax deduction for receipts of a border trade-support company located within twenty miles of a port of entry on New Mexico's border with Mexico. The receipts may be deducted if:

- the company first locates in New Mexico between July 1, 2003 and July 1, 2008;
- the receipts are received within a five-year period beginning on the date the company locates in New Mexico; and
- the company employs at least two employees in New Mexico.

A "port of entry" is defined as an international port of entry in New Mexico at which customs services are provided by the U.S. Customs Service. This limits the bill's provisions to the Santa Teresa port of entry in Dona Ana County. A "trade-support company" means a customs brokerage firm, freight forwarder, a third-party logistics firm, a trucking cross-dock operation, or other similar business.

FISCAL IMPLICATIONS

TRD notes the following assumptions:

- A trade support company is defined to include customs brokerage firms, freight forwarders, third-party logistics firms, trucking cross-dock operations and other similar businesses. The inclusion of "other similar businesses" in the list of establishments qualifying for deduction may open the door for such activities as warehousing, computer systems consulting and management, legal services and industrial planning, among other business services.

- The deduction is limited to businesses established after July 1, 2003. This estimate assumes four new qualifying businesses, that generate average taxable gross receipts of $500 thousand annually, are established after the effective date. The fiscal impact will increase as more trade support companies are established.

OTHER SUBSTANTIVE ISSUES

TRD makes the following tax policy arguments:

- This proposal is targeted to benefit a handful of companies. Targeting tax incentives to specific businesses is not good tax policy. It increases complexity and sets a precedent that other businesses can use to obtain similar favors.
- This proposal represents further erosion of the principle that everyone engaging in business should be subject to the gross receipts tax.
- The "Blue Ribbon Tax Reform Commission" is scheduled to make its tax policy recommendations no later than September 1, 2003. This and similar proposals should be reviewed by the commission for consistency with the state's overall tax policy objectives.
- A trade support company is defined to include customs brokerage firms, freight forwarders, third-party logistics firms, trucking cross-dock operations and other similar businesses. The inclusion of "other similar businesses" may create some problems with administering the de-

duction. Loose definitions do not work well in tax law. Care should always be taken to establish “bright lines” in the tax code in order to avoid confusion, protest and litigation.

SS/njw