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## FISCAL IMPACT REPORT

ORIGINAL DATE 01/28/10

SPONSOR Giannini LAST UPDATED \_\_\_\_\_ HB 133

SHORT TITLE Disposable Carry-Out Bag Tax Act SB \_\_\_\_\_

ANALYST Gutierrez

### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY10	FY11	FY12		
	\$9,000.0 - \$18,000.0	\$9,000.0 - \$18,000.0	Recurring	Public School Fund
	\$2,000.0 - \$6,000.0	\$2,000.0 - \$6,000.0	Recurring	NM Youth Conservation corps fund
	\$2,000.0 - \$6,000.0	\$2,000.0 - \$6,000.0	Recurring	Environment Department
	\$15,000.0 - \$35,000.0	\$15,000.0 - \$35,000.0	Recurring	TOTAL

(Parenthesis ( ) Indicate Revenue Decreases)

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY10	FY11	FY12	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
<b>Total</b>		\$130.0	\$45.0	\$175.0	Recurring	TRD

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Taxation and Revenue Department (TRD)  
 New Mexico Environment Department (NMED)  
 Public Education Department (PED)

### SUMMARY

#### Synopsis of Bill

House Bill 133 creates the Disposable Carry-out Bag Tax Act, imposing an excise tax of \$0.05 per bag on each disposable carry-out bag to be paid by the retailer who provides the bag to its customers. The revenue from the excise tax shall be distributed to the public school fund (60 percent), the New Mexico youth conservation corps fund (20 percent) and the department of environment (20 percent).

The effective date of this bill's provisions is July 1, 2010.

## **FISCAL IMPLICATIONS**

TRD:

The maximum revenue impact of \$35 million assumes about 700 million bags per year, although no specific adjustment was made for bags not subject to the tax, particularly under Section 1, Subsection B, Paragraph (2), subparagraph (a), and no adjustment was made for possible conversion to “reusable carry-out bags” by retailers. The estimate was derived from national numbers (allocated to New Mexico based on population) including 10 billion paper bags (1999), an estimated 90 billion plastic bags that are not recycled, and a recycling rate of about 7% for plastic bags. The result is similar to a separate Australian study that concluded “almost one bag per person per day” in Australia.

The minimum revenue impact of \$15 million assumes retail customers will be extremely aware of the new tax and will exhibit substantial behavior to avoid or minimize the use of carry-out bags. This more closely approximates the forecast for the recent Washington, D.C. bag tax.

Since the tax is paid by the retailer, it is unclear how much this tax will affect behavior. If the retailers choose to pass on the tax in a way that is very clear to the consumers (i.e. a line item on their receipt), there may be behavioral changes and thus a reduction in the tax revenue. However, if the retailer chooses to not pass on the cost of the tax or passes it on in a manner that is not clear to the consumer where the increase in price has come from, there may be little to no behavior change.

This bill provides for continuing appropriations. The LFC has concerns with including continuing appropriation language in the statutory provisions as earmarking reduces the ability of the legislature to establish spending priorities.

## **SIGNIFICANT ISSUES**

On January 1, 2010 Washington D.C.'s 5 cent bag tax went into effect. This new tax was only imposed on paper and plastic bags at stores that sell food. The bill for the tax was very clear that the tax was not to be paid by the retailers but rather the customers.

According to the Environmental Protection Agency, more than 380 billion plastic bags are used in the United States every year. Of those, approximately 100 billion are plastic shopping bags, which cost retailers about \$4 billion annually.

## **ADMINISTRATIVE IMPLICATIONS**

TRD:

The bill creates a new tax program that will require new tax forms, instructions, audit procedures, changes to GenTax, and the processing of payments and reports. Recurring costs for processing this new tax program will require 1 or more FTE at a cost of \$45,000 per FTE. Advertising and taxpayer education will be needed. Adding a completely new tax program to the GenTax computer system will have

a moderate impact of 720 hours as follows:

- 1) Changes to the pipeline for E-DCR and Wausau capture for the new tax program - 320 hours
- 2) Changes to configuration for the new tax program – 160 hours
- 3) Changes to revenue accounting – 80 hours
- 4) Changes to TAP and NMWebFile – 160 hours

See page one for the estimated additional operating budget impact.

## OTHER SUBSTANTIVE ISSUES

NMED:

The Environment Department’s recycling programs would benefit from the funds provided in this law. The Department also has regulations and procedures in place to administer recycling grants through the Recycling and Illegal Dumping fund.

BLG/svb

***The Legislative Finance Committee has adopted the following principles to guide responsible and effective tax policy decisions:***

1. ***Adequacy:*** revenue should be adequate to fund government services.
2. ***Efficiency:*** tax base should be as broad as possible to minimize rates and the structure should minimize economic distortion and avoid excessive reliance on any single tax.
3. ***Equity:*** taxes should be fairly applied across similarly situated taxpayers and across taxpayers with different income levels.
4. ***Simplicity:*** taxes should be as simple as possible to encourage compliance and minimize administrative and audit costs.
5. ***Accountability/Transparency:*** Deductions, credits and exemptions should be easy to monitor and evaluate and be subject to periodic review.

***More information about the LFC tax policy principles will soon be available on the LFC website at [www.nmlegis.gov/lcs/lfc](http://www.nmlegis.gov/lcs/lfc)***