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

ORIGINAL DATE 2/15/15
SPONSOR Crowder **LAST UPDATED** 2/16/15 **HB** 368

SHORT TITLE Vending Machine Gross Receipts **SB**

ANALYST van Moorsel

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY15	**FY16**	**FY17**	**FY18**	**FY19**		
$0.0	($1,180.0)	($1,290.0)	($1,410.0)	($1,540.0)	Recurring	General Fund
$0.0	($790.0)	($860.0)	($940.0)	($1,020.0)	Recurring	Local Governments
$0.0	($1,970.0)	($2,150.0)	($2,350.0)	($2,560.0)	Recurring	Total

(Parenthesis ( ) indicate revenue decreases)

SOURCES OF INFORMATION
LFC Files

Responses Received From
Taxation and Revenue Department (TRD)
Economic Development Department (EDD)

SUMMARY

Synopsis of Bill

House Bill 368 creates a new section of the Gross Receipts and Compensating Tax Act to create a new exemption from gross receipts of receipts from the sale of food, as defined by the federal supplemental nutrition assistance program, 7 USC 2012, from a coin-operated vending machine owned by a resident New Mexico business that has a total gross annual revenue of less than $2 million.

The bill defines a "resident New Mexico business" as a business that is licensed to do business in the state and that files an affidavit with TRD certifying that:

- the business has paid property taxes or rent on real property in the state and paid at least one other tax administered by the state in each of the three years immediately preceding the submission of the affidavit;

- if the business is a new business, the owner or majority of owners has paid property taxes or rent on real property in the state and has paid at least one other tax administered by the state in each of the three years immediately preceding the submission of the affidavit; or
- if the business is a relocated business, at least 80 percent of the total personnel of the business in the year immediately preceding the submission of the affidavit were residents of the state and that, prior to the submission of the affidavit, the business either leased real property for ten years or purchased real property greater than one $100 thousand in value in the state.

There is no effective date of this bill. It is assumed that the new effective date is 90 days after this session ends.

FISCAL IMPLICATIONS

TRD reports that in FY14, taxpayers reported $1.7 million in gross receipts tax (GRT) from sales from vending machines. In FY11 through FY14, this revenue grew at an average rate of 9 percent. This rate of growth is assumed to continue to estimate out-year impacts.

This bill may be counter to the LFC tax policy principle of adequacy, efficiency and equity. Due to the increasing cost of tax expenditures revenues may be insufficient to cover growing recurring appropriations.

Estimating the cost of tax expenditures is difficult. Confidentiality requirements surrounding certain taxpayer information create uncertainty, and analysts must frequently interpret third-party data sources. The statutory criteria for a tax expenditure may be ambiguous, further complicating the initial cost estimate of the expenditure's fiscal impact. Once a tax expenditure has been approved, information constraints continue to create challenges in tracking the real costs (and benefits) of tax expenditures.

SIGNIFICANT ISSUES

EDD reports that in 2012, US Census data showed there were about 20 vending machine operators employing about 140 people. EDD adds that in that same year, there were 155 non-employing (sole proprietors) vending machine operators in the state.

Exemptions are by definition not reported and gathering data on the size and cost of the exemption, as well as the economic impact, is extremely difficult. This issue is discussed further in the TRD 2014 Tax Expenditure Report. The impact of the tax preference may be better studied if it were separately stated deduction rather than an exemption.

PERFORMANCE IMPLICATIONS

The LFC tax policy of accountability is <u>not</u> met since TRD is <u>not</u> required in the bill to report annually to an interim legislative committee regarding the data compiled from the reports from taxpayers taking the exemption and other information to determine whether the deduction is meeting its purpose.

TECHNICAL ISSUES

This bill does not contain a sunset date. The LFC recommends adding a sunset date.

Does the bill meet the Legislative Finance Committee tax policy principles?

1. **Adequacy**: Revenue should be adequate to fund needed government services.
2. **Efficiency**: Tax base should be as broad as possible and avoid excess reliance on one tax.
3. **Equity**: Different taxpayers should be treated fairly.
4. **Simplicity**: Collection should be simple and easily understood.
5. **Accountability**: Preferences should be easy to monitor and evaluate

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