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

ORIGINAL DATE 2/5/19
SPONSOR Armstrong, G **LAST UPDATED** **HB** 372

SHORT TITLE GRT Deduction For Processed Meat For Home **SB**

ANALYST Graeser

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY19	FY20	FY21	FY22	FY23		
	($490.0)	($500.0)	($510.0)	($520.0)	Recurring	General Fund (GRT)
	($320.0)	($330.0)	($340.0)	($350.0)	Recurring	Local Governments

Parenthesis ( ) indicate revenue decreases

SOURCES OF INFORMATION
LFC Files

Responses Received From
Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of Bill

House Bill 372 creates a new deduction under the Gross Receipts and Compensating Tax Act that allows for the receipts from the sale of meat from cattle, sheep, goats, swine, bison, poultry and ostriches for home consumption to be deducted from gross receipts. The deduction will be required to be separately reported and the Taxation and Revenue Department (TRD) is tasked with compiling and presenting an annual report to specified committees.

The effective date of this bill is July 1, 2019.

FISCAL IMPLICATIONS

TRD reports "unknown, but slightly negative" fiscal impact for both the general fund and local governments.

LFC staff, using the data from the Consumer Expenditure Survey published by the US Department of Labor and conforming these data to New Mexico County income patterns, estimate that in 2017, New Mexico consumers purchased $529 million worth of meat for home consumption. An unknown portion of this meat was not purchased in retail food stores pursuant to the definition of retail food store at 7-9-92 NMSA 1978.

> "retail food store" means an establishment that sells food for home preparation and consumption and that meets the definition of retail food store in 7 USCA 2012(k)(1) for purposes of the federal food stamp program, whether or not the establishment participates in the food stamp program."

For an illustration of potential impact, LFC staff assume that two percent of the meat was purchased from vendors not qualified for the 7-9-92 NMSA 1978 deduction.

Deductions claimed by non-retail vendors pursuant to the provisions of this bill would not trigger a food hold-harmless payment to municipalities and counties pursuant to 7-1-6.46 or 7-1-6.47 NMSA 1978.

This bill creates or expands a tax expenditure with a cost that is difficult to determine but may be significant. LFC has serious concerns about the significant risk to state revenues from tax expenditures and the increase in revenue volatility from erosion of the revenue base.

SIGNIFICANT ISSUES

The GRT deduction proposed in this bill largely duplicates the deduction of 7-9-92 NMSA 1978. The difference is that this bill allows the deduction by a small number of vendors that do not qualify as retail food stores pursuant to the food stamp/supplemental nutrition assistance program. Specialty stores selling meat at retail would probably qualify as a retail store for SNAP purposes.

There is also some duplication with the farm products exemption of 7-9-18 NMSA 1978 which exempts the receipts of growers, producers, trappers or nonprofit marketing associations from selling livestock or live poultry. Thus, the applicability of this deduction may be only a few taxpayers who purchase live meat, kill, butcher and wrap and sell to wholesale (or retail) customers from a facility that does not meet the definition of retail store for food stamp purchases.

Note that the proposed deduction does not permit hunters to market wild game using the deduction.

This bill narrows the gross receipts tax (GRT) base. Many of the efforts over the last few years to reform New Mexico's taxes focused on broadening the GRT base and lowering the rates. Narrowing the base leads to continually rising GRT rates, increasing volatility in the state's largest general fund revenue source. Higher rates compound tax pyramiding issues and force consumers and businesses to pay higher taxes on all other purchases without an exemption, deduction, or credit.

TRD notes a similar concern: "… the bill would remove the gross receipts tax on butchered meat for cattle, sheep, goats, swine, bison, poultry and ostriches. This would level the playing field with the food deduction. Deductions narrow the tax base, and results in higher taxation rates necessary to generate the same amount of revenue."

At first glance, this bill might compromise the local government hold harmless distributions, if retail food stores could choose to take advantage of this proposed deduction or the conventional deduction of 7-9-92 NMSA 1978. This could be allowed, since TRD is required to create a separate reporting requirement for the deduction of meat products. However, there is no benefit to either retail food markets or their customers for the retail food markets to adopt this deduction over the 7-9-92 deduction. Local governments would presumably prefer that this alternative not be adopted.

PERFORMANCE IMPLICATIONS

The LFC tax policy of accountability is met with the bill's requirement to report annually to an interim legislative committee regarding the data compiled from the reports from taxpayers taking the deduction and other information to determine whether the deduction is meeting its purpose. However, there is no penalty for a taxpayer who does not separately report this deduction, so that this apparent accountability provision may be ineffective.

ADMINISTRATIVE IMPLICATIONS

Implementing the separate reporting provisions of this bill may be relatively expensive for TRD and will clutter the CRS-1 reporting form.

TECHNICAL ISSUES

Because of the separate reporting requirement, retail food markets would have the choice to claim this deduction or the deduction of 7-9-92 NMSA 1978. The deduction claimed under the provisions of this bill would not trigger a food hold harmless deduction at 7-1-6.46 or 7-1-6.47 NMSA 1978. Either the use of this deduction by retail food stores should be prohibited or this deduction should be added to the food hold harmless distributions. LFC staff suggest that both provisions should be adopted: the former for certainty of the hold-harmless distributions and the latter for equity.

The definition in this bill for “"processed meat products" means the meat from cattle, sheep, goats, swine, bison, poultry and ostriches." This seems to have no relationship to a common interpretation of “processing”, which could include butchering, conversion into jerky or pemmican or even in producing SPAM® or similar canned food meat products. There is no other definition of processed meat products in the New Mexico Food Act [25-2-1 to 25-2-20 NMSA 1978] or elsewhere in statute. This somewhat unusual definition of “processed meat products” might invoke the requirement that the title of the bill accurately represent the substance of the bill. Article IV, Section 16 “The subject of every bill shall be clearly expressed in its title, …”

Requiring separate reporting without providing a penalty for failure to separately report renders the requirement somewhat moot.

This bill does not contain a delayed repeal date. LFC recommends adding a delayed repeal date.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

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

While perhaps improving equity, the provisions of this bill do not improve adequacy, efficiency or simplicity. The accountability provisions will be difficult to implement.

LG/sb/al