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FISCAL IMPACT REPORT

ORIGINAL DATE 3/05/19

SPONSOR Neville/Smith LAST UPDATED _____ HB _____

SHORT TITLE Local Option Food Gross Receipts Tax Act SB 584

ANALYST Graeser

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY19	FY20	FY21	FY22	FY23		
	(9,710.0)	(18,850.0)	(18,340.0)	(17,450.0)	Recurring	Counties (loss of food hold harmless)
	12,880.0	27,120.0	28,880.0	30,370.0	Recurring	Maximum Counties (impose Food Local Option GRT)
		To be Determined			Recurring	Counties (repeal portion of hold harmless GRT)
	(39,870.0)	(70,320.0)	(65,300.0)	(60,050.0)	Recurring	Municipalities (loss of food hold harmless)
	54,200.0	103,620.0	105,740.0	107,830.0	Recurring	Maximum Municipalities (impose Food Local Option GRT)
		To be Determined			Recurring	Municipalities (repeal portion of hold harmless GRT)
	49,580.0	89,170.0	83,640.0	77,500.0	Recurring	General Fund (gain from repeal of food hold harmless)
	(45,810.0)	(95,820.0)	(98,070.0)	(98,520.0)	Recurring	General Fund – loss of .125% GRT
	(940.0)	(1,890.0)	(1,890.0)	(1,890.0)	Recurring	General Fund – loss of .125% comp tax
	(130.0)	(249.9)	(249.9)	(249.9)	Recurring	Small Counties – loss of .125% comp
	(189.9)	(379.9)	(379.9)	(379.9)	Recurring	Small Cities – loss of .125% comp
	0.0	0.0	0.0	0.0	Recurring	Muni Equivalent – loss of .125% comp
	2,830.00	-8,540.00	-16,320.00	-22,910.00		General Fund Total

Parenthesis () indicate revenue decreases

* Recurring through June 2028, when the food hold harmless for larger municipalities would expire. The general fund revenue increase occurs because food hold harmless distributions to local governments – large and small – will expire as of January 2020. Note: medical hold harmless for smaller municipalities would be retained indefinitely.

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		Substantial to reconfigure the GenTax system for the changes. Could easily exceed 1,000.0			Nonrecurring	TRD Operating

Parenthesis () indicate expenditure decreases

SOURCES OF INFORMATION

LFC Files
 SB274 (2015) contained similar provisions
 See also FIR for SB585 (2019)

Responses Received From

New Mexico Municipal League (NMML) (on SB584)

SUMMARY

Synopsis of Bill

Senate Bill 584 would allow municipalities and counties to impose their local option gross receipts taxes on the retail sales of “food”, as defined for the US supplemental nutritional assistance program. It does this by repealing the deduction for such sales at 7-9-92 NMSA 1978. Unlike SB385, this is a new, standalone tax and is not coupled to the regular gross receipts tax. The food hold harmless distributions would be repealed for all jurisdictions. This new Local Option Food GRT could be cancelled if a majority of a municipal or county governing body voted for cancellation and notified TRD of this cancellation. Because the state would no longer be obligated to pay the food hold harmless distributions, the state rate would be decreased from 5.125 percent to 5 percent. The compensating tax on all goods and services would also remain at or be decreased to 5 percent, as well. Municipalities that have imposed a hold-harmless GRT in excess of 1/8 percent would have to repeal the excess rate, subject to bond covenants. Counties that have imposed a hold-harmless GRT in excess of 1/8 percent would have to repeal the excess rate, subject to bond covenants. Other features are added so as not to impair bonds.

Unlike the somewhat complicated combination of effective dates and applicability dates in SB584, the effective date of all provisions of this bill is July 1, 2019. Municipalities that have imposed a 3/8 percent municipal hold-harmless GRT would have to repeal 1/8 percent by July 1, 2021, and municipalities that had 1/4 percent imposed on July 1, 2021 would have to repeal 1/8 percent by July 1, 2022. Similar repeal dates are applicable to any county local option hold harmless GRT impositions.

FISCAL IMPLICATIONS

NMML describes the overarching effect this bill as follows:

The provisions of this bill allow the state to stop paying food hold harmless amounts to municipalities and counties ten years earlier than currently scheduled. In a sense both levels of government come out financially ahead: the state because it sheds its obligation to minimize the revenue impacts from the state’s food tax deduction of 2004 and the larger municipalities and counties (as well of some of the smaller jurisdictions who have levied “hold harmless” local option tax increments) because tax receipts will exceed the hold harmless distribution amounts (which, in the process of being phased out, are only fractions of the actual “food” tax amounts). Taxpayers, of course, resume picking up the tab after a 14-year reprieve.

Contrary to most gross receipts tax bills, this one broadens the base. See *Significant Issues* for more information.

LFC staff maintain a comprehensive Excel spreadsheet¹ with data on total matched taxable gross receipts, tax distributions, food deductions, food hold harmless distributions, medical deductions and medical hold harmless distributions for each of the 105 (106 with Los Alamos) municipalities and 33 counties. Data is also retained on distributions to TIDDs and Indian tribes, nations and pueblos. This spreadsheet embeds the 1.225 percent state municipal share distributions, so no further adjustment is necessary. One adjustment for both municipalities and counties is for the municipalities under 10,000 population and counties under 48,000 population. If these jurisdictions imposed an increment of the municipal or county hold harmless gross receipts tax, then these smaller jurisdictions would join the larger jurisdictions in the phase-down of the medical hold harmless distribution. Unlike SB-385, however, a county or municipality could repeal its enactment of the hold-harmless GRT and rejoin the smaller jurisdictions until such time as the population of the jurisdiction might exceed the ceilings and the medical hold harmless distribution would then be cancelled.

This analysis assumes that, because of the difficulty TRD will have to implement the new scheme, the effective date of the provisions of the bill will be moved forward to January 1, 2020.

The model was run in reverse, to calculate the gain to all counties and municipalities for reinstating the gross receipts tax on food. Of course, for the smaller municipalities and counties that have not imposed a hold harmless gross receipts tax, the amount of new local option tax on food will just equal the amount of the loss from the repeal of the hold harmless distribution. For larger municipalities and counties and for smaller municipalities and counties that have imposed a hold harmless gross receipts tax, the gain from the new tax imposition is roughly 1 ½ times the loss and this ratio increases over time.

A table is attached showing both the gains and losses for each county and municipality. A summary chart is shown here:

	Repeal Food Hold Harmless Distributions				Impose Local Option Rate on Food			
	FY 20	FY21	FY22	FY23	FY 20	FY21	FY22	FY23
Counties	(9,710.0)	(18,850.0)	(18,340.0)	(17,450.0)	12,880.0	27,120.0	28,880.0	30,370.0

¹ This spreadsheet is known as “The Conundrum,” expressing the complication to the overall gross receipts tax system caused by the food and medical service deductions, the accompanying food and medical services hold harmless distributions and the later phase-out of these distributions (zero for distributions after June 30, 2029) over an 18-year period for the larger counties and municipalities.

Municipalities	(39,870.0)	(70,320.0)	(65,300.0)	(60,050.0)	54,200.0	103,620.0	105,740.0	107,830.0
State Total	49,580.0	89,170.0	83,640.0	77,500.0				

The fiscal impact of the reduction of state level GRT from 5.125 percent to 5.00 percent is also estimated from the Conundrum spreadsheet. This may not quite cross-foot to the December 2018 Consensus Revenue Estimating Group’s estimate.

The compensating tax reduction was estimated from the December 2018 CREG general fund, correcting for the 15 percent small counties distribution, the 10 percent small cities distribution and the 7.17/7.37 percent

The revenue impact of repealing up to 2/3rd of the county or municipal local option gross receipts tax rates will be reported in a separate document available by request of LFC.

SIGNIFICANT ISSUES

Small counties and municipalities will be held harmless to the food hold harmless provisions of this bill, because the new food tax will equal the loss of the food hold harmless. For larger counties and municipalities, the new food tax will generate substantially more revenue than the loss of revenue from the repeal of the food hold harmless. A very small exception to this general rule is that the medical hold harmless distribution of 7-1-6.46 NMSA 1978 for municipalities and 7-1-6.47 NMSA 1978 for counties is slightly adjusted so that a small county or small municipality having imposed a county or municipal hold harmless gross receipts tax would be able to repeal that authorization and return to the maximum medical hold harmless distributions. Small municipalities that have imposed a municipal hold harmless gross receipts tax are: Cimarron, Corrales, Cuba, Estancia, Jemez Springs, Reserve, Springer, and Taos Ski Valley. Small Counties (less than 48,000 population) that have imposed a county hold harmless gross receipts tax are: Cibola County, Colfax County, Curry County, DeBaca County, Grant County, Harding County, Luna County, Mora County, Rio Arriba County, Roosevelt County, San Miguel County, Sierra County and Socorro County. In all cases, it is assumed that the hold harmless GRT rate at 1/8 percent will still produce more revenue than the loss of revenue from the phase-down. Again, this detail will be estimated in a stand-alone document available by request from LFC.

PERFORMANCE IMPLICATIONS

The LFC tax policy of accountability is not applicable. The total levels of hold harmless distributions are reported by TRD every month in the RP-500.

ADMINISTRATIVE IMPLICATIONS

TRD will have to engage in substantial taxpayer education and will have to modify the CRS form to allow taxpayers to report the stand-alone county or municipal local option food tax. The GenTax processing system will have to be modified. These tasks cannot be accomplished before the effective date of the provisions of the bill. TRD advises that a January 2020 date will be feasible.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB6 proposes to repeal the phase-down for both food and medical services hold harmless distributions for municipalities with populations between 10,000 and 25,000 in favor of “locking” the distribution at 82 percent of the maximum amounts. Ten municipalities, including Gallup, would qualify.

HB479 repeals the hold harmless GRT and consolidates this and other restricted county and municipal local options. This will give both counties and municipalities more flexibility over their finances.

SB584 proposes a significant restructuring of the local option gross receipts tax system, including a repeal of the hold harmless distributions.

TECHNICAL ISSUES

Because of the difficulty with implementing a new tax in the GenTax system, TRD requests that the effective date of the provisions of this bill be advanced to January 1, 2020.

LG/sb/gb

	Repeal Food Hold Harmless Distributions				Impose Local Option Rate on Food			
	FY 20	FY21	FY22	FY23	FY 20	FY21	FY22	FY23
Counties	(9,710.0)	(18,850.0)	(18,340.0)	(17,450.0)	12,880.0	27,120.0	28,880.0	30,370.0
Municipalities	(39,870.0)	(70,320.0)	(65,300.0)	(60,050.0)	54,200.0	103,620.0	105,740.0	107,830.0
State Total	49,580.0	89,170.0	83,640.0	77,500.0				

	Repeal Food Hold Harmless Distributions				Impose Local Option Rate on Food			
	FY 20	FY21	FY22	FY23	FY 20	FY21	FY22	FY23
Bernalillo County	(3,610.0)	(7,080.0)	(6,970.0)	(6,640.0)	5,150.0	11,230.0	12,450.0	13,550.0
Catron County	0.0	(10.0)	(10.0)	(10.0)	0.0	10.0	10.0	10.0
Chaves County	(190.0)	(350.0)	(320.0)	(290.0)	270.0	550.0	580.0	600.0
Cibola County	(150.0)	(320.0)	(340.0)	(360.0)	150.0	320.0	340.0	360.0
Colfax County	(20.0)	(40.0)	(40.0)	(50.0)	20.0	40.0	40.0	50.0
Curry County	(120.0)	(220.0)	(200.0)	(170.0)	170.0	350.0	350.0	350.0
De Baca County	0.0	(10.0)	(10.0)	(10.0)	0.0	10.0	10.0	10.0
Dona Ana County	(590.0)	(1,130.0)	(1,080.0)	(1,000.0)	840.0	1,790.0	1,930.0	2,050.0
Eddy County	(110.0)	(190.0)	(170.0)	(150.0)	150.0	300.0	310.0	310.0
Grant County	(130.0)	(270.0)	(280.0)	(280.0)	130.0	270.0	280.0	280.0
Guadalupe County	(20.0)	(40.0)	(40.0)	(40.0)	20.0	40.0	40.0	40.0
Harding County	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Hidalgo County	(20.0)	(50.0)	(50.0)	(50.0)	20.0	50.0	50.0	50.0
Lea County	(110.0)	(220.0)	(210.0)	(200.0)	160.0	350.0	380.0	410.0
Lincoln County	(50.0)	(110.0)	(120.0)	(130.0)	50.0	110.0	120.0	130.0
Los Alamos County	(750.0)	(1,570.0)	(1,640.0)	(1,700.0)	750.0	1,570.0	1,640.0	1,700.0
Luna County	(80.0)	(170.0)	(170.0)	(170.0)	80.0	170.0	170.0	170.0
McKinley County	(550.0)	(1,040.0)	(970.0)	(890.0)	790.0	1,650.0	1,740.0	1,810.0
Mora County	(10.0)	(20.0)	(20.0)	(20.0)	10.0	20.0	20.0	20.0
Otero County	(140.0)	(260.0)	(240.0)	(230.0)	190.0	410.0	440.0	460.0
Quay County	(110.0)	(240.0)	(260.0)	(280.0)	110.0	240.0	260.0	280.0
Rio Arriba County	(120.0)	(240.0)	(240.0)	(240.0)	120.0	240.0	240.0	240.0
Roosevelt County	(130.0)	(260.0)	(260.0)	(260.0)	130.0	260.0	260.0	260.0
San Juan County	(700.0)	(1,260.0)	(1,130.0)	(980.0)	990.0	2,000.0	2,010.0	2,000.0
San Miguel County	(110.0)	(210.0)	(220.0)	(220.0)	110.0	210.0	220.0	220.0
Sandoval County	(130.0)	(240.0)	(210.0)	(190.0)	190.0	380.0	380.0	380.0
Santa Fe County	(960.0)	(1,740.0)	(1,560.0)	(1,370.0)	1,370.0	2,770.0	2,790.0	2,790.0
Sierra County	(60.0)	(120.0)	(120.0)	(120.0)	60.0	120.0	120.0	120.0
Socorro County	(30.0)	(60.0)	(60.0)	(60.0)	30.0	60.0	60.0	60.0
Taos County	(450.0)	(900.0)	(910.0)	(910.0)	450.0	900.0	910.0	910.0
Torrance County	(30.0)	(60.0)	(60.0)	(60.0)	30.0	60.0	60.0	60.0
Union County	(40.0)	(80.0)	(90.0)	(90.0)	40.0	80.0	90.0	90.0
Valencia County	(190.0)	(360.0)	(330.0)	(300.0)	270.0	570.0	600.0	620.0
	(9,710.0)	(18,850.0)	(18,340.0)	(17,450.0)	12,880.0	27,120.0	28,880.0	30,370.0

	Repeal Food Hold Harmless Distributions				Impose Local Option Rate on Food			
Hagerman	(20.0)	(40.0)	(40.0)	(40.0)	20.0	40.0	40.0	40.0
Hatch	(100.0)	(230.0)	(230.0)	(240.0)	100.0	230.0	230.0	240.0
Hobbs	(860.0)	(1,580.0)	(1,430.0)	(1,280.0)	1,230.0	2,510.0	2,560.0	2,610.0
Hope	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
House	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Hurley	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Jal	(150.0)	(300.0)	(300.0)	(310.0)	150.0	300.0	300.0	310.0
Jemez Springs	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Kirtland	(20.0)	(30.0)	(30.0)	(30.0)	20.0	30.0	30.0	30.0
Lake Arthur	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Las Cruces	(2,900.0)	(5,350.0)	(4,850.0)	(4,330.0)	4,150.0	8,500.0	8,670.0	8,840.0
Las Vegas	(430.0)	(780.0)	(710.0)	(630.0)	610.0	1,240.0	1,270.0	1,290.0
Logan	(40.0)	(80.0)	(90.0)	(90.0)	40.0	80.0	90.0	90.0
Lordsburg	(100.0)	(230.0)	(230.0)	(230.0)	100.0	230.0	230.0	230.0
Los Lunas	(440.0)	(830.0)	(750.0)	(670.0)	630.0	1,310.0	1,340.0	1,360.0
Los Ranchos de Albuquerque	(30.0)	(80.0)	(80.0)	(80.0)	30.0	80.0	80.0	80.0
Loving	(50.0)	(110.0)	(110.0)	(110.0)	50.0	110.0	110.0	110.0
Lovington	(160.0)	(320.0)	(290.0)	(260.0)	240.0	500.0	510.0	520.0
Magdalena	(10.0)	(20.0)	(20.0)	(20.0)	10.0	20.0	20.0	20.0
Maxwell	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Melrose	(10.0)	(30.0)	(30.0)	(30.0)	10.0	30.0	30.0	30.0
Mesilla	(10.0)	(10.0)	(10.0)	(10.0)	10.0	10.0	10.0	10.0
Milan	(60.0)	(140.0)	(140.0)	(140.0)	60.0	140.0	140.0	140.0
Moriarty	(50.0)	(80.0)	(90.0)	(90.0)	50.0	80.0	90.0	90.0
Mosquero	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Mountainair	(10.0)	(20.0)	(20.0)	(20.0)	10.0	20.0	20.0	20.0
Pecos	(10.0)	(20.0)	(20.0)	(20.0)	10.0	20.0	20.0	20.0
Peralta	(10.0)	(20.0)	(20.0)	(20.0)	10.0	20.0	20.0	20.0
Portales	(310.0)	(560.0)	(510.0)	(450.0)	440.0	880.0	900.0	920.0
Questa	(10.0)	(30.0)	(30.0)	(30.0)	10.0	30.0	30.0	30.0
Raton	(150.0)	(340.0)	(350.0)	(350.0)	150.0	340.0	350.0	350.0
Red River	(30.0)	(70.0)	(70.0)	(70.0)	30.0	70.0	70.0	70.0
Reserve	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Rio Communities	(10.0)	(10.0)	(10.0)	(10.0)	10.0	10.0	10.0	10.0
Rio Rancho	(770.0)	(1,430.0)	(1,290.0)	(1,160.0)	1,090.0	2,270.0	2,310.0	2,360.0
Roswell	(890.0)	(1,670.0)	(1,510.0)	(1,350.0)	1,280.0	2,650.0	2,700.0	2,760.0
Roy	0.0	(10.0)	(10.0)	(10.0)	0.0	10.0	10.0	10.0
Ruidoso	(110.0)	(270.0)	(280.0)	(290.0)	110.0	270.0	280.0	290.0
Ruidoso Downs	(440.0)	(850.0)	(870.0)	(890.0)	440.0	850.0	870.0	890.0
San Jon	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
San Ysidro	(10.0)	(20.0)	(20.0)	(20.0)	10.0	20.0	20.0	20.0
Santa Clara	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Santa Fe	(4,870.0)	(7,530.0)	(6,820.0)	(6,090.0)	6,960.0	11,950.0	12,190.0	12,430.0
Santa Rosa	(60.0)	(130.0)	(140.0)	(140.0)	60.0	130.0	140.0	140.0
Silver City	(510.0)	(840.0)	(760.0)	(680.0)	720.0	1,340.0	1,370.0	1,390.0

	Repeal Food Hold Harmless Distributions				Impose Local Option Rate on Food			
Socorro	(290.0)	(630.0)	(650.0)	(660.0)	290.0	630.0	650.0	660.0
Springer	(10.0)	(50.0)	(50.0)	(50.0)	10.0	50.0	50.0	50.0
Sunland Park	(30.0)	(50.0)	(50.0)	(40.0)	50.0	80.0	90.0	90.0
T or C	(330.0)	(580.0)	(590.0)	(600.0)	330.0	580.0	590.0	600.0
Taos	(710.0)	(1,500.0)	(1,530.0)	(1,560.0)	710.0	1,500.0	1,530.0	1,560.0
Taos Ski Valley	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Tatum	(10.0)	(20.0)	(30.0)	(30.0)	10.0	20.0	30.0	30.0
Texico	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Tijeras	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Tucumcari	(200.0)	(410.0)	(420.0)	(430.0)	200.0	410.0	420.0	430.0
Tularosa	(50.0)	(100.0)	(110.0)	(110.0)	50.0	100.0	110.0	110.0
Vaughn	(20.0)	(30.0)	(30.0)	(30.0)	20.0	30.0	30.0	30.0
Virden	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Wagon Mound	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Willard	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Williamsburg	0.0	(10.0)	(10.0)	(10.0)	0.0	10.0	10.0	10.0
	(39,870.0)	(70,320.0)	(65,300.0)	(60,050.0)	54,200.0	103,620.0	105,740.0	107,830.0