

LFC Requester:	Peter vanMoorsel
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**AGENCY BILL ANALYSIS
2015 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

DFA@STATE.NM.US

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:

Original	<input type="checkbox"/>	Amendment	<input checked="" type="checkbox"/>	Date	<u>February 23, 2015</u>
Correction	<input type="checkbox"/>	Substitute	<input type="checkbox"/>	Bill No:	<u>HB581</u>

Sponsor:	<u>Rep. George Dodge, Jr.</u>	Agency Code:	<u>Attorney General's Office</u>
Short Title:	<u>Gross Receipt Tax distribution adjustment and option to reveal gross receipts paid by taxpayers</u>	Person Writing	<u>Roscoe A. Woods, AAG</u>
		Email	<u></u>
		Phone:	<u>505.827.7411 : rwoods@nmag.gov</u>

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY15	FY16		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY15	FY16	FY17		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act:

SECTION III: NARRATIVE

This analysis is neither a formal Attorney General’s Opinion nor an Attorney General’s Advisory Letter. This is a staff analysis in response to an agency’s, committee’s, or legislator’s request.

BILL SUMMARY

Synopsis:

HB581 would eliminate the Secretary/TRD’s current ability to cure any erroneous transfers or distributions of gross receipt taxes either in excess or a deficiency, to a political subdivision—municipality or county.

Currently, the Secretary can cure any erroneous transfers by increasing or decreasing the next distribution amount, AFTER DETERMINATION, provided: 1) no decrease will be made to current or future transfers of any excess distribution made to the municipality or county more than a one year prior to said determination; and 2) Secretary may recover any excess amounts in installments from future distributions to the municipality or county pursuant to an agreement with official of the political subdivisions.

Rather, HB581 would change the current procedure by the implementation of a formula as a basis for recovery or distribution. The intent appears to implement an equalization formula or ratio in order to determine the amount with owed or to recovered. Assuming, the formula is correct and can accurately determine the specific amount would certainly provide clarity to any needed adjustments.

HB581, as currently provided, also enables the political subdivision to enter into a repayment agreement expressing the terms as to how the Secretary may recoup any recoverable amounts. However, HB581 also expands the Secretary power to recover any recoverable amounts regardless of an agreement, by withholding/decreasing future distributions by the enumerated formula.

HB581 would also increase the information that may be revealed to local governments and their agencies to include: taxable gross receipts paid by taxpayers from business locations attributed to that municipality provided that authorization from the IRS has been received.

FISCAL IMPLICATIONS

None for the AGO

SIGNIFICANT ISSUES

HB581 provides the Secretary unfettered discretion of the determination and collection of any recoverable amounts from a political subdivision. This may be contrary to adequate due process and may be unconstitutional—political subdivision(s) may not dispute the “recoverable amounts” as determined by the Secretary.

As previously mentioned HB581 would change the current procedure by the implementation of an equalization formula as a basis for recovery or distribution. Perhaps indication the actual formula would satisfy any ambiguities as to its application. For instance $X/Y = \text{equalization rate}$.

In regards to revealing taxable gross receipts paid by businesses, the implementation of same may raise some proprietary issues pertaining to profit corporation(s). The Federal authorization clause may cure such issues. Perhaps the information revealed, gross receipts paid should not be identified as applicable to any individual taxpayer.

PERFORMANCE IMPLICATIONS

None for AGO

ADMINISTRATIVE IMPLICATIONS

None for AGO.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP WITH BILLS INTRODUCED THIS SESSION

HB581 is a duplication of SB669

TECHNICAL ISSUES

None for AGO

OTHER SUBSTANTIVE ISSUES

None.

ALTERNATIVES

None.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status Quo

AMENDMENTS

None.