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

SPONSOR Gallegos, DM/Brown/ Strickler/ Montoya **ORIGINAL DATE** 2/25/19 **LAST UPDATED** 2/26/19 **HB** 602

SHORT TITLE Oil & Gas Distribution To Gov'ts & Schools **SB**

ANALYST Iglesias

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY19	**FY20**	**FY21**	**FY22**	**FY23**		
$0.0	($10,400.0)	($11,020.0)	($11,510.0)	($11,920.0)	Recurring	General Fund
$0.0	$5,200.0	$5,500.0	$5,750.0	$5,950.0	Recurring	County Local Governments
$0.0	$5,200.0	$5,500.0	$5,750.0	$5,950.0	Recurring	Municipal Local Governments

Parenthesis ( ) indicate revenue decreases

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	$0.0	$70.0	$0.0	$70.0	Nonrecurring	Taxation and Revenue Department
Total	Indeterminate but high – see administrative implications and technical issues sections				Recurring	Department of Transportation (State Road Fund)

Parenthesis ( ) indicate expenditure decreases

Relates to HB555

SOURCES OF INFORMATION
LFC Files

<u>Responses Received From</u>
Taxation and Revenue Department (TRD)
Department of Transportation (NMDOT)

SUMMARY

<u>Synopsis of Bill</u>

House Bill 602 adds a new section to the Tax Administration Act to provide a distribution to counties equal to 1 percent of the net receipts attributable to that county from the oil and gas emergency school tax. A distribution is also provided in an amount of 1 percent of the net receipts attributable to the oil and gas emergency school tax in a county to eligible municipalities in that county based on the total municipal roadway miles in that county. The total municipal roadway miles are to be certified by the secretary of Transportation. The effective date of this bill is July 1, 2019.

FISCAL IMPLICATIONS

The fiscal impact estimates are based on the December 2018 consensus revenue forecast, which estimated about $520 million in emergency school tax revenue in FY20. The bill specifies 1 percent of that revenue will be distributed to counties based on their percentage contribution of the total emergency school tax net receipts. The other 1 percent of the revenue will be distributed to municipalities in each of the respective counties based upon their certified roadway miles in those counties. This totals about $5.2 million for each distribution in FY20, increasing each year by the rate of the projected growth in oil and gas value.

Using GenTax data provided by the Taxation and Revenue Department (TRD) on emergency school tax revenue generated in each county, the table below shows the estimated revenue distribution. Due to the small amounts in counties such as McKinley County and the rounding of numbers, the total presented below will differ from the summary total on page one.

Estimated Revenue Impact*					**Recurring or Nonrecurring**	**Fund(s) Affected**
FY19	**FY20**	**FY21**	**FY22**	**FY23**		
$0.0	$14.7	$15.5	$16.3	$16.8	Recurring	Chaves County & eligible municipalities
$0.0	$6.8	$7.2	$7.5	$7.8	Recurring	Colfax County & eligible municipalities
$0.0	$4,284.3	$4,531.5	$4,737.5	$4,902.3	Recurring	Eddy County & eligible municipalities
$0.0	$5.7	$6.0	$6.3	$6.5	Recurring	Harding County & eligible municipalities
$0.0	$5,980.0	$6,325.0	$6,612.5	$6,842.5	Recurring	Lea County & eligible municipalities
$0.0	$0.1	$0.1	$0.1	$0.1	Recurring	McKinley County & eligible municipalities
$0.0	$0.3	$0.4	$0.4	$0.4	Recurring	Quay County & eligible municipalities
$0.0	$95.0	$100.4	$105.0	$108.7	Recurring	Rio Arriba County & eligible municipalities
$0.0	$5.7	$6.0	$6.3	$6.5	Recurring	Roosevelt County & eligible municipalities
$0.0	$90.4	$95.7	$100.0	$103.5	Recurring	San Juan County & eligible municipalities
$0.0	$12.4	$13.2	$13.8	$14.2	Recurring	Sandoval County & eligible municipalities
$0.0	$2.3	$2.4	$2.5	$2.6	Recurring	Union County & eligible municipalities

*dollars in thousands

Importantly, there is no statutory provision that obligates a municipality to report the number of municipal roadway miles within the municipality to the Department of Transportation (DOT). DOT states this will have significant compliance costs on the agency – see administrative implications section below.

SIGNIFICANT ISSUES

TRD provides the following discussion regarding this bill:

> The proposed distributions to counties whose natural resource production raises revenue for the state general fund, sets a precedent for all natural resource severance taxes producing revenue for only the general fund. Coal and copper mining are located in specific locations in the state and would legislation also need to consider general fund distributions to counties and municipalities impacted by these mining activities.
>
> The tax policy of adequacy in regards to supporting local services can certainly be seen from the point of view of the counties in question. The revenue obtained through the emergency school tax is not without costs to the areas of production. Road usage and maintenance, housing requirements and stresses on governmental services in those areas require higher revenue to keep up with the growing demands. Also at question is administrative efficiency and simplicity. Collecting revenue at the state level reduces the burdens to local governments. The proposed new distributions add layers of complication to the revenue distribution process thereby reducing efficiency and simplicity. For some counties, very small amounts would be distributed.

ADMINISTRATIVE IMPLICATIONS

According to NMDOT, the absence of a corresponding amendment obligating the municipalities to provide this information to NMDOT, the department will have to expend significant resources to compile the information initially and then update it annually in order to comply with this legislation. NMDOT states this task would cost a considerable number of man-hours, spent conducting an in-person survey of every municipality and reviewing related public records.

According to TRD, the implementation of this bill will have a high impact on the Financial Distribution Bureau (FSB) and the Information Technology Department (ITD). The bill adds multiple new distributions of the emergency school tax revenue. A detailed count of the eligible municipalities has not been calculated, but twelve counties would be receiving new distributions and all their respective municipalities. GenTax, the tax system of record for New Mexico, will need to establish and test these distributions. In addition, communication business processes must be established with DOT. The FSB will need to create new distribution accounts in the SHARE financial and human resources system and work with the Department of Finance and Administration to complete changes in distributions. Due to the complexity involved, TRD recommends an effective date of January 1, 2020.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Relates to House Bill 555, which amends the current distribution of excess of the five-year average of the emergency school tax to the tax stabilization reserve by adding another distribution to a newly created low-income home energy assistance fund.

TECHNICAL ISSUES

The bill as written would have a significant compliance burden for NMDOT. The department suggests adding a provision similar to Section 67-3-28.3 NMSA 1978 to require municipalities to certify the roadway miles to be enacted.[1] Furthermore, NMDOT suggest imposing a consequence for municipalities who fail to provide the requisite information in a timely manner. In the absence of such an amendment, NMDOT states it would be extremely time consuming and costly for the department to compile the information and then update it on annual basis.

Section 2(A) specifies the distribution criteria to the counties eligible to receive the revenue. TRD suggests adding further clarification on what period will determine the county's attributable percentage to the net receipts of the emergency school tax. TRD suggests using the average county taxable value contribution by filing period in the previous calendar year, because the lag would minimalize the effects of taxpayers amending returns.

Section 2(A) also conflicts with the new distribution statute for the tax stabilization reserve (also known as the state's "rainy day fund"). The statutory language in 7-1-6.61 NMSA 1978 provides for the rainy day fund to receive a distribution from the emergency school tax if year-to-date school tax net receipts exceed the previous five-year average. The proposed bill language also ties to the net receipts from the emergency school tax that 1 percent of receipts must be distributed to counties and 1 percent to the respective municipalities in those counties. The consensus revenue estimate forecasts distribution to the reserve in the current fiscal year through fiscal year 2023, and it is unclear whether the distribution languages will conflict. The impact analysis assumes the distributions to local governments will be calculated based on total net receipts, but the bill may be amended to clarify this.

The bill has an effective date of July 1, 2019. However, distributions to eligible municipalities is contingent on mileage certification by the Secretary of Transportation by April 1 of each year. Therefore, under this bill, no distributions to eligible municipalities can be made until April 1, 2020.

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[1] Presently, under Section 67-3-28.3 NMSA 1978, the board of county commissioners of each county is required to report to the Secretary of Transportation the total mileage of public roads maintained by each county by April 1 of every year. This information is then used to determine the amount that each county is entitled to for projects under the County Arterial Program, per Section 67-3-28.2 NMSA 1978.