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

SPONSOR Cisneros / Martinez / Rep Garcia Richard **ORIGINAL DATE** 01/23/18 **LAST UPDATED** **HB**

SHORT TITLE Gross Receipts for Certain Nonprofits **SB** 17

ANALYST Clark

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY18	**FY19**	**FY20**	**FY21**	**FY22**		
$0.0	Helps preserve tens of millions of dollars of existing revenues*				Recurring	General Fund
$0.0	Helps preserve millions of dollars of existing revenues*				Recurring	Local Government

Parenthesis ( ) indicate revenue decreases

*The bill would not add to the revenue forecast but would help preserve revenues already accounted for in the forecast if the upcoming Los Alamos National Laboratory management contract were issued to a nonprofit.

SOURCES OF INFORMATION
LFC Files

Responses NOT Received From
Taxation and Revenue Department (TRD)

Responses Received From
New Mexico Municipal League

SUMMARY

Synopsis of Bill

Senate Bill 17 amends Section 7-9-29 NMSA 1978, which provides an exemption from gross receipts taxes (GRT) on receipts of 501(c)(3) nonprofits. The bill removes from this exemption the receipts of a prime contractor that are derived from operating a national laboratory in New Mexico.

The effective date of this bill is July 1, 2018.

FISCAL IMPLICATIONS

The bill would have no fiscal impact if the state's two national laboratories continue to be operated by for-profit prime contractors; however, it provides a mechanism to protect the majority of the current revenue stream should the management contract be issued to a nonprofit organization. The estimate for the possible loss of state GRT revenues if the contract for Los Alamos National Laboratory (LANL) is issued to a nonprofit contractor is roughly $25 million to $30 million. The new contract would become effective in September 2018, potentially impacting revenues for most of FY18 and subsequent fiscal years. The Sandia contract was reissued in December 2016 to another for-profit entity and will not be reissued within the forecast period.

The projected potential loss for the LANL contract was estimated by LFC staff based on documents provided by the national lab contractors, including historical GRT payments. However, the documentation is somewhat limited in detail, and the $25 million to $30 million estimate is a ballpark number. The local government would also see a significant loss of GRT revenues if the contract were awarded to a nonprofit under current statute.

This bill would not allow the state to continue receiving corporate income tax (CIT) payments from a nonprofit prime contractor but would substantially reduce the possible overall fiscal impact by maintaining current GRT revenues.

This bill addresses the LFC tax policy principles of adequacy and equity by ensuring a continued flow of revenue from the national laboratory operators, regardless of organizational structure.

SIGNIFICANT ISSUES

Sandia and Los Alamos National Laboratories are managed by for-profit companies; however, the current LANL contract expires in 2018. If the new management contract is awarded to a nonprofit entity, it will significantly impact New Mexico's tax revenue collections. There will be no CIT revenues, and a significant portion of the GRT revenues will be at risk.

Due to the local and state revenues at risk, the New Mexico Municipal League supports this legislation.

Sandia paid $76 million in total GRT in 2015, the highest amount in at least a decade and up from a low of $46 million in 2009. LANL paid $77 million in total GRT in 2015, down from a high of $101 million in 2011 but up from a low of $41 million in 2006.

The National Nuclear Security Administration (NNSA) reported during the Sandia and LANL contracts requests for proposals (RFP) no preferential treatment would be given to an application based on the applicant's ownership structure. However, under current New Mexico statute, a nonprofit organization would have the benefit of operating with the existing GRT exemption for nonprofits and propose the use the savings to increase programs at the laboratory. This could give such an applicant an edge in the bidding process, and it would also benefit the local community by providing increased employment opportunities.

Sandia National Laboratories provides extensive economic impact data in an annual public report. Here are some key figures from the 2015 report:

- Sandia paid $69.6 million to New Mexico for GRT and CIT combined in federal fiscal year 2015; and

- Sandia made $982.8 million in contract-related payments in New Mexico and California in FFY15, and 39 percent of these payments went to New Mexico contractors.

LANL provides nearly as much useful economic impact data as Sandia. Here are the key economic impact figures provided in its 2015 report:

- LANL made $617.3 million in contract-related payments, and 53 percent of these payments went to New Mexico contractors.

TECHNICAL ISSUES

TRD reported in analysis on a prior, similar bill that some clarification to the bill is recommended. "Prime contractor" is not defined, raising potential questions as to whether it would be possible to structure around the exclusion.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

If this bill or a similar bill is not enacted in the 2018 legislative session and the LANL contract is issued to a nonprofit, the state and local government will lose tens of millions of dollars in GRT revenues.

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

JC/jle