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

ORIGINAL DATE 2/25/19
SPONSOR Ruiloba **LAST UPDATED** **HB** 595

SHORT TITLE Remittance of Gov't Gross Receipts **SB**

ANALYST Clark

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY19	**FY20**	**FY21**	**FY22**	**FY23**		
	($20,800.0)	($21,425.0)	($22,068.0)	($22,730.0)	Recurring	NMFA Public Project Revolving Fund
	$20,800.0	$21,425.0	$22,068.0	$22,730.0	Recurring	State and Local Governments Paying GGRT

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		Possibly Significant	Possibly Significant	Possibly Significant	Recurring	Taxation and Revenue Department

Parenthesis ( ) indicate expenditure decreases

SOURCES OF INFORMATION
LFC Files

Responses Received From
New Mexico Finance Authority (NMFA)
Energy, Minerals and Natural Resources Department (EMNRD)
Youth Conservation Corps (YCC)
Higher Education Department (HED)

SUMMARY

Synopsis of Bill

House Bill 595 requires that within sixty days of the conclusion of the New Mexico Finance Authority's (NMFA) fiscal year, and after all NMFA bond indenture payments are made, NMFA shall remit to the Taxation and Revenue Department (TRD) 65 percent of remaining governmental gross receipts tax (GGRT) revenues received by NMFA in that fiscal year. TRD would then refund the remitted GGRT revenues to each agency, institution, instrumentality, and political subdivision that paid GGRT revenues during that fiscal year in an amount equal to each entity's percentage of the total GGRT revenues paid in that fiscal year. NMFA will be required to annually provide an accounting of its use of GGRT during the preceding fiscal year to TRD.

There is no effective date of this bill. It is assumed that the effective date is 90 days after this session ends.

FISCAL IMPLICATIONS

The amounts shown in the table are the amounts NMFA estimates it would have to remit to TRD for distribution (grown by 3 percent per year), which would then be distributed to the government entities that paid GGRT in the fiscal year. This would be a significant loss of revenue for NMFA and a significant gain, in the aggregate, to the agencies paying GGRT, although it is indeterminate at this time how much impact any specific government entity would receive.

Currently, the GGRT is imposed at a rate of 5 percent (less than the state GRT rate of 5.125 percent, and local tax increments do not apply) on the receipts of state and local governments (except public schools and healthcare provider entities licensed by the Department of Health). These revenues are distributed 75 percent to the public project revolving fund (PPRF) of NMFA, 24 percent to the Energy, Minerals and Natural Resources Department, and 1 percent to the Cultural Affairs Department.

NMFA provided the following fiscal analysis:

> Remitting all or any of the 65 percent portion of GGRT to the entities paying GGRT would have a materially negative impact on the PPRF and its ability to fund loans to New Mexico communities, especially those communities with more limited local economies. All disadvantaged funding – currently available at either 0 percent or 2 percent interest rates in amounts up to $150 thousand for an equipment loan and up to $500 thousand for an infrastructure loan – would be eliminated.
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> Given that few PPRF loans are fully reimbursed by bond issues and loans below $100 thousand are not reimbursed, the PPRF would run out of liquidity sufficient to fund new loans approximately four to six months into the fiscal year. Only loans above $10 million and funded simultaneously with NMFA bond issues could be funded.
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> Entities across the state would need to find funding outside of the PPRF at much higher cost. Health and safety loans for fire and police departments would be particularly impacted.
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> NMFA would not be able to retire callable bonds, and ongoing loan revenues would be reduced, thereby impacting coverage ratios leading to a cycle of loss of lending capacity. Long-term capacity of the PPRF will be reduced by approximately $1 billion over 25 years.

Decreases in coverage and the almost complete loss of liquidity would lead to rating downgrades that would further increase borrowing costs in New Mexico.

SIGNIFICANT ISSUES

NFMA provided the following background information and policy implications of the bill.

This bill was not recommended by the NMFA Oversight Committee, a standing committee of the Legislature, and in fact the NMFA Oversight Committee was not consulted prior to the bill's introduction. Similar bills were introduced in the House and the Senate during the 2015 regular legislative session, and at both initial committee hearings of the House Government, Elections and Indian Affairs Committee and the Senate Corporations and Transportation Committee, the bills were placed on "action postponed indefinitely" status, in part because there was no recommendation from the NMFA Oversight Committee.

The funds being remitted result from a state tax imposed. If a policy decision is to be made that the PPRF is to be severely impacted by removing its primary funding source for new loans, then there may be other, higher priority uses rather than returning the funds to the entities that imposed the tax.

The PPRF is a rare New Mexico state program that is considered by investors, bankers, national rating agencies and other national entities to be among the very best pooled loan programs in the country. That status is primarily due to the annual influx of GGRT to the PPRF. Passage of this bill would negatively impact that status.

Standard & Poor's, which rates both the senior and subordinate liens of the PPRF as AAA, has been very clear in rating reports that, "*a significant reduction in the allocated governmental gross receipts tax revenues would likely lower the ratings.*" Moody's has similar language.

Loss by the PPRF of the 65 percent portion of GGRT would result in increased concentration of top loan borrowers. Increased concentration is also a factor that both Moody's and S&P have indicated as reasons for credit downgrades.

Remittance of the 65 percent portion of GGRT would fundamentally change the PPRF program. These significant changes would likely lead to a reduction in NMFA staffing for the PPRF, as well as other programs administered by NMFA for which it does not receive compensation for costs. In turn, NMFA's lending officers would not be able to provide services to portions of the state. The least credit worthy municipalities in the state, and especially those communities that are now able to borrow at subsidized disadvantaged rates, would be impacted the most.

With the recent downgrading of the state's general obligation bond rating, PPRF lending to school districts has dramatically increased. School districts do not generate GGRT. With reduced lending resources, the NMFA board would be forced to establish lending priorities that would likely result in school districts being barred from borrowing from the PPRF.

In its history, the PPRF has never turned down a borrower due to lack of funds. Should this bill pass, PPRF funds will have to be rationed to the detriment of many communities in New Mexico.

While outstanding PPRF bonds would not be impaired, the ability to issue new bonds would be severely constrained. Strategically, GGRT is NMFA's most important asset, and this would diminish one of the state's most effective infrastructure programs.

ADMINISTRATIVE IMPLICATIONS

There could be significant administrative implications for TRD, including the possibility the department might not be able to identify all the government entities paying GGRT in order to remit the excess proportionally back to them. NMFA reports TRD has been unable to provide NMFA with a breakdown of where GGRT receipts are generated. If TRD cannot provide NMFA with this information, which would be useful in demonstrating the benefits of the PPRF to local communities, it may be difficult for the department to properly remit GGRT back to the government entities.

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/sb