FISCAL IMPACT REPORT

SPONSOR Sweetser **ORIGINAL DATE** 1/30/2020 **LAST UPDATED** 2/07/2020 **HB** 163/aHCPAC

SHORT TITLE Community Supplemental Support Fund **SB**

ANALYST Edwards

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY20	FY21		
	$5,000.00	Nonrecurring	Community Supplemental Support Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY20	FY21	FY22		
	($5,000.00)		Nonrecurring	Public Project Revolving Loan Fund

(Parenthesis ( ) Indicate Revenue Decreases)

Relates to House Bill 27, House Bill 47, House Bill 167, Senate Bill 69, and Senate Bill 103

SOURCES OF INFORMATION
LFC Files

Responses Received From
New Mexico Finance Authority (NMFA)
New Mexico Environment Department (NMED)
Department of Finance and Administration (DFA)

SUMMARY

Synopsis of HCPAC Amendment

The House Consumer and Public Affairs Committee amendment to House Bill 163 clarifies that data from the American Community Survey (ACS) will be used to determine which municipalities are eligible to receive funds from the Community Supplemental Support Fund.

The ACS is defined as the most recent five-year ACS published by the United States Census Bureau that has enough data to determine whether a municipality meets the eligibility criteria outlined in Section 6-21-6.1(C)(1) NMSA.

Synopsis of Original Bill

House Bill 163:

1. Removes sections 1A and 1B of existing statute regarding issuance of bonds to capitalize the fund.
2. Creates the Community Supplemental Support Fund and permits the fund to receive transfers from the Public Project Revolving Loan Fund (PPRF). The fund will assist municipalities with 1) populations between ten thousand and twenty-five thousand and 2) have a percentage of population below the federal poverty that is greater than the percentage of population below the poverty level in the state.
3. Moves responsibility for the Public Project Revolving Fund from the Environment Department to the Department of Finance and Administration (DFA) to work with the New Mexico Finance Authority oversight committee regarding recommendations. These recommendations may be made annually to each regular session of the legislature for each fund.
4. Updates language pertaining to a "local government" planning fund from the water and wastewater planning fund.
5. Appropriates $5 million from the PPRF in FY21 to the Community Supplemental Support Fund for expenditure in fiscal year 2021 and subsequent fiscal years.

There is no effective date of this bill. It is assumed that the effective date is 90 days following adjournment of the Legislature.

FISCAL IMPLICATIONS

The appropriation of $5 million contained in this bill is a nonrecurring expense to the Public Project Revolving Loan Fund (PPRF). Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert.

This bill relates to SB103, HB167, and HB47. If all these bills are signed by the governor, the new obligations from the PPRF could be upwards of $16 million.

This bill appears to be an attempt to access financial support in the absence of the ability to impose gross receipts taxes on food.

PPRF cash balances currently stand at approximately $42 million with about $60 million in obligations; the timing on some large obligations is unknown as some projects are slower to close than others. If the PPRF does not have cash to cover obligations before quarterly bonds issuances to replenish loan funds, NMFA can draw on a $100 million line-of-credit. Line-of credit draws are typically outstanding no longer than 90 days.

HB163, and other bills like it, will come from governmental gross receipts taxes (GGRT) that is collected by the Taxation and Revenue Department and distributed monthly to NMFA’s bond trustee. NMFA explains “after bonds are paid (June 15th), and assuming GGRT is not needed to make up shortfalls (which it never has), the GGRT is used to replenish bond reserves, pay certain costs and make distributions to the Funds as appropriated by the legislature. The remaining money is then considered unobligated PPRF funds and used to make loans. If all bills pass, then the amount that flows through to the loan fund is less than has historically been received. Given the amount of capital outlay available in the state (last year's and this year's and likely for the next several years) and the very low interest rate environment, we don't believe that all bills passing would materially impact the PPRF or our ability to meet loan demand."

NMFA also explains that these bills, and the other bills like it, "allow NMFA to model the appropriations and help mitigate impacts. Most importantly, the appropriations do not impact bondholders. The impact of these bills passing each year will have to be evaluated each year. All PPRF appropriations will be made annually, which will provide some flexibility – NMFA could, for instance, forego appropriations to the local government planning fund or issue bonds to fund some of the contemplated uses. The new bills also call for streamlined coordination. Assuming GGRT grows at 3 percent (the 7-year average growth), the contemplated appropriations would all fall within the statutory framework in 10 years." If NMFA believes the additional appropriations were materially impacting the program, NMFA would make changes to the program to negate that impact. NMFA has done this before when the combined appropriations from the PPRF for both contemplated and solvency appropriations totaled $54 million from FY 15-17. In those years, NMFA curtailed significantly the disadvantaged funding provided and issued more bonds (with a corresponding drop in our bond coverage from 1.65x in FY14 to 1.32x in FY17).

This year, NMFA's best guess is that GGRT will total approximately $33.9 million. Last year, GGRT was unusually high - $37.3 million - due to a one-time correction totaling $4.8 million (excluding the one-time payment, the amount was $32.5 million). The three year average (FY17-19), including the one-time correction, is $32.9 million; excluding the one-time correction, the three year average is $31.8 million.

NMFA explains:

> The PPRF has achieved an AAA/Aa1 senior lien bond rating and an AAA/Aa2 subordinate lien bond rating by effectively structuring underlying PPRF loans and utilizing legislative and strategic credit enhancements. The key PPRF credit enhancement is the 75 percent share of GGRT received by the PPRF pursuant to Section 7-1-6.38(A) of the Tax Administration Act. Funded indentured reserve accounts in the form of the NMFA's Senior Lien Common Debt Service Reserve Fund ("CDSRF") and Subordinate Lien Supplemental Credit Reserve Fund ("SCRF") are the visible strategic credit enhancements.
>
> The PPRF has a legal obligation to make all PPRF debt service payments when due in December and June of each year. During the course of each fiscal year, all PPRF loan revenues and all Governmental Gross Receipts Tax ("GGRT") disbursements are legally dedicated to bond debt service of PPRF bonds and held in a trust bank account until all bond debt service payments are made for the fiscal year, concluding on June 15th. After June 15th, any excess loan revenues and available GGRT funds are available to be designated for one of three purposes in ascending level of legal availability: (1) replenishing or enhancing to required levels the PPRF's two indentured reserve funds mentioned above, namely (i) the senior lien CDSRF, and (ii) the subordinate lien SCRF; (2) funding annual legislatively enacted mandates, pursuant to Section 6-21-6.1(C) of the NMFA Act; and (3) paying PPRF operating costs and providing the PPRF with ongoing liquidity and capacity enhancing new

> money. This mechanism ensures accountability of the use of PPRF funds for other than PPRF purposes and enables the NMFA to manage PPRF appropriations with rating agencies and investors in a manner that is deemed acceptable.
>
> On its own, the $5 million appropriation contained in HB163 is within the framework provided in Section 6-21-6.1(C) of the NMFA Act. In combination with other proposed legislation requesting appropriations during the 2020 Regular Session, the anticipated requests for appropriations in FY20 exceeds the 35 percent framework provided in Section 6-21-6.1(C), potentially reaching 48 percent. NMFA has concluded that this higher level of appropriations, if signed into law, will not materially impact the PPRF for FY2021, as the large amount of capital outlay made available last year and anticipated again this year, coupled with the low interest rate environment, has decreased the demand for disadvantaged loans and other funding. However, there are long-term consequences with regularly breaching the statutory framework. The impacts of the appropriations can be mitigated through proper coordination with the Department of Finance and Administration.
>
> NMFA uses the remaining 65 percent of GGRT to fund loans to disadvantaged communities at either a 0 percent or 2 percent interest rates depending on Median Household Income metrics. Nonetheless, in order to ensure adequate PPRF liquidity, NMFA limits below market interest rate loans in those years in which appropriations from the PPRF exceed the statutory framework.

DFA provided the following analysis:

> With the ongoing phase-out of gross receipts tax "hold harmless" distributions by the State of New Mexico, certain cities are being especially impacted. HB 163 targets those cities that are most impacted and in need of state support, and it does so without using any general fund dollars. Rather, HB163, which was jointly drafted with New Mexico Finance Authority staff and with the support of the New Mexico Municipal League, makes use of local governments' own tax dollars, paid to NMFA via the Governmental Gross Receipts Tax, without adversely impacting NMFA's important infrastructure finance and economic development programs.

SIGNIFICANT ISSUES

DFA explains that the legislation creates a new Community Supplemental Support Fund to be administered by the Department of Finance and Administration's Local Government Division utilizing a mechanism similar to the Small Cities Assistance Act {3-37A-3} and the County Equalization Distribution statute {7-1-6.16}, to assist eligible municipalities to provide health and human services, public safety and other general governmental services.

> Prior to October 1 of each fiscal year, money in the fund shall be distributed to each eligible municipality in the portion that the population of all the eligible municipality is to the total population of all eligible municipalities. An "eligible municipality" means, that according to the most recent five-year American Community Survey published by the United States census bureau has;
>
> (1) a population of at least ten thousand (10,000) but not greater than twenty five thousand (25,000) ; and
> (2) a percentage of population below the federal poverty level that is greater than the

percentage of population below the poverty level in the state.

With the ongoing phase-out of gross receipts tax “hold harmless” distributions by the State of New Mexico, certain cities are being especially impacted. HB 163 targets those cities that are most impacted and in need of state support, and it does so without using any General Fund dollars. Rather, HB 163, which was jointly drafted with New Mexico Finance Authority staff and with the support of the New Mexico Municipal League, makes use of local governments ‘own tax dollars, paid to NMFA via the Governmental Gross Receipts Tax, without adversely impacting NMFA’s important infrastructure finance and economic development programs.

DFA provided the following detailed analysis:

Hold Harmless Phase-Out

In 2004, New Mexico exempted food and some medical services from gross receipt taxes. In a spirit of fairness to local governments, the state provided hold harmless distributions to cities and counties to replace their lost GRT revenue. During the 2013 legislative session, lawmakers passed a bill to phase out these hold harmless payments over a 15-year period beginning in 2015. In exchange, cities and counties were given the authority to impose up to 3/8ths of a percent increments to their local GRT rates to compensate for the lost state payments. Cities with populations below 10,000 were protected from the phase-out; however, nothing more has been done for cities with populations over 10,000.

Certain cities now find themselves in a position where even if they impose the entire 3/8th GRT increments, they would still not be made whole for the lost hold harmless payments, once fully phased out. HB 163 begins to address this situation, and it does so by “recycling” money paid by local governments, rather than relying upon the General Fund.

GGRT and NMFA Fund Flows

GGRT is a tax imposed on the gross receipts of local governments for services rendered such as water, sewer and solid waste collection. Three quarters (75 percent) of GGRT collections are appropriated to NMFA’s Public Project Revolving Fund by statute. NMFA’s 3-year average share of GGRT collections was $32.9 million in fiscal year 2019. These monies provide credit enhancement for the PPRF, which pools local infrastructure projects across New Mexico and finances them with low-cost, tax-exempt bonds issued by NMFA. The bonds benefit from the credit support provided by PPRF’s net fund balances ($273 million as of 6/30/2019) and the GGRT revenue stream that NMFA receives.

Once the bond principal and interest is paid, there is some money left over that may be appropriated by the state Legislature for specific purposes These appropriations do not adversely impact the credit enhancement that GGRT revenues provide to the PPRF, since bondholders receive their principal and interest before these monies are expended.

Municipalities eligible for a distribution from the Community Supplement Sup-port Fund in FY 21, by meeting both population range, (10,000 to 25,000), and higher poverty rate than the state poverty rate (19.5 percent) are: 1) Artesia, 2) Deming, 3) Gallup, 4) Las Vegas, 5) Portales, 6) Sunland Park, and 6) Espanola.

Money in the fund shall be distributed to each eligible municipality in the proportion that the population of the eligible municipality is to the total population of all eligible municipalities.

MUNICIPALITY	POPULATION/TOTAL POPULATION	% OF TOTAL POPULATION (rounded up)	% POVERTY RATE	FACTOR X 5,000,000	AMOUNT OF DISTRIBUTION
ARTESIA	12,202/100,545	12.10%	21.70%	.121 x 5,000,000	$ 605,000
DEMING	14,292/100,545	14.20%	34.60%	.142 x 5,000,000	$ 710,000
GALLUP	22,105/100,545	22.00%	29.20%	.220 x 5,000,000	$ 1,100,000
LAS VEGAS	13,341/100,545	13.30%	35.00%	.133 x 5,000,000	$ 665,000
PORTALES	11,974/100,545	11.90%	30.30%	.119 x 5,000,000	$ 595,000
SUNLAND PARK	16,602/100,545	16.50%	38.80%	.165 x 5,000,000	$ 825,000
ESPANOLA	10,029/100,545	10.00%		.100 x 5,000,000	$ 500,000
				Total:	**$ 5,000,000**

NMFA explains "the dedication by statute of GGRT to the PPRF is what has made the PPRF program what it is today. The PPRF has a reputation with national banking firms, investors, rating agencies and other knowledgeable parties as being among the most effective and best structured state infrastructure financing programs in the country."

The PPRF senior and subordinate liens are rated AAA/AAA by Standard and Poor's and Aa1/Aa2 by Moody's – though a revised Moody's methodology which is to be implemented in 2020 appears to place both liens in position for upgrades. GGRT is a serious focus for both rating agencies. For the most recent PPRF bond ratings, Moody's issued a one-page press release in May 2019 in which GGRT was mentioned seven times. S&P issued a two-page rating report in which GGRT was mentioned nine times and specifically including the sentence "Trust estate revenues secure the senior-lien bonds and include the [NMFA's] 75 percent portion of statewide GGRT collections." The rating agencies monitor GGRT very closely, both in terms of bond debt service coverage and in terms of subsequent PPRF program liquidity.

Annual input via a Memorandum of Understanding (MOU) between the New Mexico Environment Department (NMED), the Department of Finance and Administration (DFA) and the Department of Cultural Affairs will help inform decisions about PPRF allocations to various funds.

ADMINISTRATIVE IMPLICATIONS

NMFA states "appropriation requests pursuant to Section 6-26-6.1(C) are presented to the NMFA Oversight Committee each fall, but actual GGRT distribution for the year is not known until the following June. The appropriation contained in HB 163 would be made following the June 15th bond payment, replenishment of reserves and payment of administrative fees. Currently a reasonable estimate of the PPRF's FY20 GGRT distribution is $33.5 million, 35 percent (approximately $11.725 million) of which is available for distribution pursuant to

Section 6-21-6.1(C). HB 163 streamlines the recommendations for appropriation requests by providing that NMFA and DFA may coordinate the requests."

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

This bill relates to SB103, HB167, and HB47. Should all these bills be signed by the governor, the new obligations from the PPRF could be upwards of $16 million.

> House Bill 27 authorizes the New Mexico finance authority to make loans from the public project revolving fund to certain entities for public projects as defined in Section 6-21-3 NMSA 1978.
>
> House Bill 47 Local Government Planning Fund contains a $2 million appropriation from the PPRF to the Local Government Planning Fund at the NMFA for the purposes of making grants to public bodies for planning and feasibility studies.
>
> House Bill 167 Wastewater System Financing contains a $1.8 million appropriation from the PPRF to the Wastewater Facility Construction Loan Fund at the NM Environment Department to serve as a state match for a federal Clean Water EPA capitalization grant.
>
> Senate Bill 69 Drinking Water System Financing contains a $2.5 million appropriation from the PPRF to the Drinking Water State Revolving Loan Fund at the NMFA to serve as a state match for a federal Drinking Water EPA capitalization grant.
>
> Senate Bill 103 creates the Cultural Affairs Facilities Infrastructure Fund and amends 6-21-6.1 to make it eligible to receive an appropriation from the PPRF. Contains a $5 million appropriation from the PPRF in FY2021.

TECHNICAL ISSUES

NMFA also explains that "for legal, reputational and practical reasons, there is little the State can do to step away from the 75 percent GGRT distribution to the PPRF each year given the history of legislative affirmation to bondholders that they can rely on the 75 percent distribution. GGRT can be levied on additional uses and users not now within the established order of GGRT payers – hospitals, for example – and these funds can be segregated from the 75 percent distribution; but, the 75 percent distribution on GGRT receipts generated from the established order must go to the PPRF each year so long as the PPRF has bonds outstanding. Importantly, the new fund contained in HB 163 and the $5 million appropriation do not impact bondholders."

ALTERNATIVES

In the earlier years of the PPRF, NMFA issued bonds backed by the GGRT to fund the programs listed in 6-26-6.1(C). This alternative is available in those years in which the need for PPRF appropriation exceeds the 35 percent framework provided in statute.

TE/al/sb