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

SPONSOR: Godbey DATE TYPED: 02/03/02 HB 310

SHORT TITLE: Municipal Governmental Gross Receipts Tax SB

ANALYST: Neel

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY02	**FY03**			
	($4,875.0)	($4,875.0)	Recurring Significant – See Narrative	Public Project Revolving Fund
	($650.0)	($650.0)	Recurring	Other State Funds/Youth Conservation Corp. Fund
	($975.0)	($975.0)	Recurring	Other State Funds/State Parks Capital Improvements

(Parenthesis ( ) Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files
New Mexico Finance Authority (NMFA)
Energy, Minerals & Natural Resources Department (EMNRD)

No Response
Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of Bill

House Bill 310 enacts a new section of the Tax Administration Act to provide a tax refund to municipalities with populations greater than 300,000 for the Government Gross Receipts Tax (GGRT).

Significant Issues

GGRT is imposed on the following receipts of state and local governments:

- The sale of sewer and refuse collection services;
- The performance of or admissions to amusement, recreational, athletic or entertainment events or services when the facilities are open to the public;
- The sale of tangible personal property by governmental entities to the public or other governments; and
- The sale of tangible personal property by one governmental entity to another governmental entity;

The disposition of the GGRT is as follows:

- After necessary refunds and interest are paid, 25 percent of receipts are distributed to the Energy, Minerals and Natural Resources Department (of which 40 percent of the 25 percent is earmarked for the Youth Conservation Corps Program and the other 60 percent distributed for state park and recreation area capital improvements); and
- 75 percent is distributed to the Public Project Revolving Fund (PPRF) administered by the New Mexico Finance Authority.

However, not more than 30 percent of GGRT proceeds distributed to the PPRF may be appropriated by the legislature to support programs administered by the department of environment pursuant to the following acts: Wastewater Facility Constructions Act, Rural Infrastructure Act, Solid Waste Act, and Drinking Water State Revolving Loan Fund Act.

FISCAL IMPLICATIONS

HB 310 does not contain an appropriation. However, according to the NMFA, during fiscal years 1998 through 2000 the City of Albuquerque's portion of the GGRT averaged approximately $6.5 million, or approximately 35.5% of the total GGRT.

The NMFA's sources of funding for making PPRF loans are bonds sold, which are backed by loan repayments and GGRT. The NMFA also makes loans from cash, which comes from the GGRT not used to pay debt service and from repayments on previously made cash loans. The NMFA pledges GGRT as additional collateral along with loan repayments in order to be able to sell its bonds at an AAA bond rating and get the lowest rate possible for its borrowers. Without the GGRT backup, NMFA borrowers would either not be able to get loans at all in the credit market or pay a much higher interest rate on the loans based only on their own credit. Additionally, the NMFA uses the GGRT to pay costs of issuance and underwriter's fees for each loan, which makes the overall cost of borrowing far less expensive than entities, can get on their own.

OTHER SUBSTANTIVE ISSUES

The NMFA cites the Non-Impairment clause in Section 7-1-6.38 (C) specifically says that the State Legislature will not limit, reduce or alter the distribution of net receipts from the GGRT to the

NMFA or to Energy, Minerals or Natural Resources Department while bonds payable from GGRT are outstanding. NMFA believes that HB 310 may violate the Non-Impairment clause by reducing the distribution of GGRT to the NMFA.

Non-Impairment language was required by the Rating Agencies and is included in the pledge to Bondholders and Bond Insurance Companies. NMFA first issued bonds in 1995 and included the non-impairment pledge and language in the Master Trust Indenture.

Violation of the Non-Impairment clauses would be a breach of contract with Rating Agencies, Bond Insurers and Bond Holders. House Bill 310 ignores all of those prior agreements with Bondholders, Rating Agencies and Bond Insurers.

SS/ar