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

SPONSOR	Garcia Richard / Martinez, R / Cisneros	**ORIGINAL DATE**	02/20/17		
		LAST UPDATED		**HB**	332
SHORT TITLE	Nonprofit Gross Receipts Exemption			**SB**	
				ANALYST	Clark

REVENUE (dollars in thousands)

Estimated Revenue*					Recurring or Nonrecurring	Fund Affected
FY17	**FY18**	**FY19**	**FY20**	**FY21**		
$0.0	$0.0	$0.0 or $24,000.0	$0.0 or $24,000.0	$0.0 or $24,000.0	Recurring	General Fund
$0.0	$0.0	$0.0 or $22,000.0	$0.0 or $22,000.0	$0.0 or $22,000.0	Recurring	Local Government

Parenthesis ( ) indicate revenue decreases

* The estimated impacts are not ranges – revenue will either remain the same or be saved from losses under existing statute dependent on external outcomes (see Fiscal Implications)

SOURCES OF INFORMATION
LFC Files

Responses Received From
Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of Bill

House Bill 332 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, 2017.

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 numbers shown for the fiscal impact are due to the possibility of the contract for Los Alamos National Laboratory (LANL) being issued to either the current for-profit contract or another for-profit contractor (zero savings) or to a nonprofit contractor (roughly $24 million general fund savings). The estimate assumes the new contract would become effective mid- to late-2018 and potentially impact revenues in FY19 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 savings 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 estimate shown is a ballpark number. The local savings to Los Alamos is based off the state savings and the differential in the state and local GRT rates.

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 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.

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 contract request for proposals (RFP) no preferential treatment would be given to an application based on the applicant's ownership structure, and it is reasonable to assume the same case for the upcoming LANL RFP. 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.

TRD analysis notes this bill is considered as a "preventive" measure to account for potential GRT revenue loss that would occur if the operations of Los Alamos National Laboratory or Sandia National Laboratory were to change from "for-profit" to "not-for-profit." Under current law, gross receipts of all non-profits that are designated as 501(c)(3) organizations under the Internal Revenue Code are exempt from gross receipts tax (GRT), unless the receipts constitute unrelated business income as determine for federal income tax purposes. The proposed bill would create an exception to that exemption for 501(c)(3) organizations that operate the national labs.

TECHNICAL ISSUES

TRD reports some technical issues merit consideration. First, 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. Second, the exclusion is not tied to 501(c)(3) organizations. As existing law exempts 501(c)(3) and 501(c)(6) organizations, the exclusion is intended for those organizations and should be reflected in the verbiage of the bill.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

If this bill or a similar bill is not enacted in either this legislative session or the 2018 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

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