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

SPONSOR	Smith	**ORIGINAL DATE** **LAST UPDATED**	1/17/2017	**HB**	
SHORT TITLE	Revert Balances of Certain Funds			**SB**	111
				ANALYST	Sallee/Martinez/Rogers

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY17	**FY18**	**FY19**		
($5,500.0)			Nonrecurring	Law Enforcement Protection Fund
($70,000.0)	($10,703.0)		Nonrecurring	Fire Protection Fund
($2,809.1)			Nonrecurring	Insurance Operations Fund
$78,309.1	$10,703.0		Nonrecurring	General Fund

(Parenthesis ( ) Indicate Revenue Decreases)

SOURCES OF INFORMATION
LFC Files

Responses Received From
The Public Regulation Commission
Office of the Superintendent of Insurance

SUMMARY

Synopsis of Bill

The bill would require all FY17 balances of the Insurance Operations Fund, Fire Protection Fund, Fire Protection Grant Fund and Law Enforcement Protection Fund to revert rather than carry forward for spending in FY18. The bill would align each of the funds' revenue with spending during the same fiscal year going forward beginning in FY18. The bill would temporarily halt spending from the fire protection fund to the fire protection grant fund, thus transfers would begin again in FY19 at the current allocation of 40.2 percent of remaining fire protection fund balances.

FISCAL IMPLICATIONS

The Law Enforcement Protection Fund (LEPF) in the state treasury is funded pursuant to the

New Mexico Insurance Code from 10 percent of all money received from fees, licenses, penalties and taxes from life, general casualty, and title insurance business, except for money received from health insurance premium surtaxes. The funds are paid monthly to the state treasurer and credited to the LEPF.
Funds from the LEPF are used for costs associated with advanced law enforcement planning and training, the repair and purchase of law enforcement apparatus and equipment, up to 50 percent of the cost of an officer's salary while they participating in basic law enforcement training under certain circumstances, and for match or contribution requirements for the receipt of federal funds relating to criminal justice programs.

Insurance revenues are collected on a monthly basis but are not distributed or transferred until the following year. The bill accelerates transfers to the general fund of amounts collected this year (FY17) and aligns future year revenues and expenses processes. Currently, the State Treasurer transfers to the general fund any balance in the LEPF over the $100 thousand that is not obligated and is certified by the local government division (LGD) of the Department of Finance and Administration to be distributed from the fund the fiscal year after the revenue is collected. This bill would allow transfers from the LEPF to the general fund of any amount over $100 thousand for FY17.

LFC analysis shows that historical reversions from the LEPF were $7.6 million in FY15 and $15.3 million in FY16. December revenue estimates project that $18.2 million will be reverted in FY17. These amounts do not include the estimated $5.5 million DFA will encumber for FY18 distributions.

Historical Reversions from the LEPF		
FY10	$	9,920.2
FY11	$	9,089.3
FY12	$	8,291.1
FY13	$	4,575.5
FY14	$	3,936.3
FY15	$	7,641.5
FY16	$	15,277.2
FY17 (projected)	$	18,200.0

Source: Audit Reports

The bill maintains current law by tasking LGD with determining annually on or before April 15 the funding needs of tribal, municipal, and university police and county sheriff's departments for money in the fund in the succeeding fiscal year. The bill makes no changes to the distribution rates needed to maintain the $350 thousand balance of the peace officers', New Mexico mounted patrol members' and reserve police officers' survivors fund.

The bill creates a new requirement for LGD to use periodic allotments (e.g. monthly allotments) approved by the division for the current fiscal year beginning in FY18 to make distributions paid by the State Treasurer to governmental entities and to the peace officers', New Mexico mounted patrol members' and reserve police officers' survivors fund.

The Fire Protection Fund is created by a three percent premium tax collection on auto and fire insurance, collected by the Office of the Superintendent of Insurance (OSI). The fees are collected in the Insurance Suspense Fund within OSI and transferred to the fire protection fund at the New Mexico Public Regulation Commission (PRC). The transfer is shown in PRC's budget as a cash balance from the previous fiscal year. This cash balance is used to pay the next fiscal year's expenses (see below). All revenues are collected before they are used, which allows funds to always be reverted.

Fire Protection Fund Distribution	
CASH BALANCE AS OF 06/30/16	82,726,747.07
ACCOUNTS PAYABLE	(50,980,348.00)
FIREFIGHTER BURN BUILDING APPROPRIATION	(1,000,000.00)
DUE FROM INSURANCE SUSPENSE FUND @ 06/30/16	1,071,222.39
DISTRIBUTION TO PERA FIREFIGHTER FUND	(750,000.00)
DISTRIBUTION TO FIRE PROTECTION GRANT FUND FOR SPACEPORT	(1,200,000.00)
STATE FIRE MARSHALL OFFICE FY 17 APPR	(3,622,200.00)
PRC POLICY AND REGULATION FY 17 APPR	(488,100.00)
PRC PROGRAM SUPPORT FY 17 APPR	(558,000.00)
REMAINING CASH BALANCE	25,199,321.46
FIRE PROTECTION GRANT FUND DISTRIBUTION @ 40.2%	(10,130,127.23)
DISTRIBUTION TO STATE GENERAL FUND	15,069,194.23

The bill aligns spending and revenue in the same year, beginning in FY18. As a result, all of FY17 balances will revert to the general fund, an estimated $70.1 million more than the CREG estimate of $15.4 million. Going forward, spending from the Fire Protection Fund, including distribution calculations, would remain the same as current law. The bill would require the State Treasurer's Office to make periodic distributions, typically one twelfth of total allotment, to fire districts according to a plan approved by the Fire Marshall. The bill would suspend transfers to the Fire Protection Grant Fund in FY17 and FY18.

For the Insurance Operations Fund, currently any balance in the fund at the end of the fiscal year greater than one half of the fiscal years appropriation reverts to general fund. This bill would revert any balance remaining at the end of each fiscal year to the general fund, amounting to $2.8 million at the end of FY17. The Office of the Superintendent of Insurance (OSI) sets these funds aside in anticipation for use in the operating budget; however the funds will not be used in FY17. This process will also simplify the year-end reversion for OSI.

SIGNIFICANT ISSUES

Revenue received by the Law Enforcement Protection Fund fluctuates from year to year depending on the volume of related insurance business activity.

For the Fire Protection Grant Fund, during fiscal year 2018, no distributions will be made to the Fire Protection Grant Fund; halting distribution awards to New Mexico certified fire departments for fiscal year 2018. Counties currently have approximately $37 million of fund balances that can be used for fire department needs if necessary (Attachment 1). Counties are currently spending fire protection grant awards on facility improvements, firefighting equipment, dedicated fire suppression water supply, training, communication equipment, etc. These necessities can be budgeted in the counties annual budget, rather than relying on grant awards from the Public Regulation Commission. The Fire Protection Fund will not make transfers at the end of FY17 to the grant fund. By not making transfers to the grant fund in FY18 as well, an additional $10 million will revert to the general fund in FY18.

ADMINISTRATIVE IMPLICATIONS

The State Fire Marshals Division (SFMD), Administrative Services Division of the Public Regulation Commission (PRC) and the Department of Finance and Administration will be required to increase the amount of SHARE financial transactions, generating payment vouchers to local governments upon establishment of periodic payments schedule. Under current law SFMD conducts one distribution of Fire Protection Funds to local governments at the beginning of the fiscal year. Local governments will still receive their Fire Protection Fund allocation, but in periodic payments. Transfers into the Fire Protection Fund from the Insurance Suspense fund fluctuate in amount, this will require the PRC to closely monitor revenue inflows and if necessary reduce distributions if revenue is not supporting the budget. Most state agencies with other state funds manage their budget using this process.

Local entities will need to adjust accounting methods in anticipation of receiving periodic payments, rather than a onetime allotment at the beginning of the fiscal year. The State Fire Marshall will need to prioritize critical needs of local entities, and if necessary, make disbursements to those entities first. Smaller local entities may not have adequate funding at any given time to meet expenses to include insurance fuel maintenance of equipment and facilities required for daily operation, especially unexpected emergencies (Apparatus failure, etc.) However, counties do have large fund balances as of July 1, 2016 (Attachment 1).

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