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FISCAL IMPACT REPORT

ORIGINAL DATE 1/30/2007

SPONSOR Snyder LAST UPDATED 2/8/2007 HB _____

SHORT TITLE Public Safety Finance Act SB 533/aSJC

ANALYST Kehoe

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
\$100,000.0		Non-Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Duplicates Appropriation in the General Appropriation Act
Relates to Appropriation in the General Appropriation Act

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY07	FY08	FY09		
\$100,000.0			Non-Recurring	Public Safety Permanent Fund
	\$7,225.0	\$7,313.0	Recurring	Public Safety Assistance Fund (See Fiscal Nar- rative)

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Public Safety

Department of Military Affairs

New Mexico Corrections Department

Department of Finance and Administration, Board of Finance

State Investment Council

SUMMARY

Synopsis of SJC Amendment

The Senate Judiciary Committee amendment Item 1 deletes the provision requiring a three-fourths vote of both the Senate and the House to increase the distribution from the public safety permanent fund to the public safety assistance fund. Item 2 deletes the provision restricting the purpose of the public safety assistance fund to be used only for technology, vehicles and equipment and to only law enforcement, fire departments and other first responders of qualifying entities.

Synopsis of Original Bill

Senate Bill 533 creates the Public Safety Finance Act, creates a public safety permanent fund, and appropriates \$100 million from the general fund to the public safety permanent fund for the purpose of providing financial assistance to qualifying entities such as law enforcement, fire departments and other first responders for technology, vehicles and equipment.

FISCAL IMPLICATIONS

Senate Bill 533, pursuant to the proposed Public Safety Finance Act, creates a public safety permanent fund in the state treasury. The fund will consist of money appropriated, donated or otherwise accrued to the fund. Money in the fund shall be invested by the state investment officer as the land grant permanent funds are invested. Earnings from investment of the fund would be credited to the fund. Balances in the fund at the end of a fiscal year shall not revert to the general fund.

Beginning July 1 of fiscal year 2009 and on July 1 of each fiscal year thereafter, an annual distribution of 85 percent of the annual investment growth of the public safety permanent fund would be transferred to the public safety assistance fund to be created within the New Mexico Finance Authority for the purpose of providing law enforcement or first responders' capital outlay funds. The bill authorizes NMFA to invest money in the fund in accordance with its investment rules and policies. The income shall be credited to the public safety assistance fund.

According to the State Investment Council (SIC), assuming growth of the fund at its average historical return of 8.5 percent per annum, and distribution equaling 85 percent of the annual profits, the \$100 million in the public safety permanent fund would create annual distributions of approximately \$7 million per year earmarked for expenditures from the public safety assistance fund. The annual distribution assumes today's market value of return of investments. It is not possible to predict from year to year how much money would be generated for the public safety assistance fund in a down year. In down years, earnings for this permanent fund could be negative.

The appropriation of \$100 million contained in this bill is a non-recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of fiscal year 2007 shall not revert to the general fund.

SIGNIFICANT ISSUES

Senate Bill 533 requires NMFA, in accordance with the New Mexico Finance Act, to adopt the rules, application process, and develop criteria necessary to administer the public safety assistance fund. The bill further provides that money in the public safety assistance fund shall be appropriated by the Legislature to qualifying entities for public safety assistance, and stipulates that appropriations made from the fund shall be made “only for technology, vehicles and equipment to law enforcement, fire departments and other first responders of qualifying entities.

The bill defines “qualifying entities” as eligible recipients of the public safety assistance fund to be a state agency, county, municipality, or a recognized Indian nation, tribe or pueblo whose boundaries are located wholly or partially in New Mexico.

OTHER SUBSTANTIVE ISSUES

The DFA states, “this proposal is reminiscent of the proliferation of funds created in the State treasury between 1973 and 1978. Because the OPEC oil embargo drove energy resource prices up, the State had more money than it needed to fund current services budgets. Rather than cut tax rates on mineral extraction, the finance committees siphoned a significant amount of money into dead-end funds. These were rainy day funds in all but name. Eventually DFA combed these funds and sponsored legislation to revert the money from the dead-end funds to the General Fund for current spending. Because the Public Safety Permanent Fund would be statutory and not constitutional, it could be tapped for money some year in the future when “new money” was not sufficient to cover inflation or emergency situations. The funds could be appropriated by majority vote of both houses and the signature of the governor.”

LMK/sb