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FISCAL IMPACT REPORT

ORIGINAL DATE 2/20/2007

SPONSOR Martinez LAST UPDATED HB

SHORT TITLE Northern New Mexico Economic Development Fund SB 767

ANALYST Schuss

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY07	FY08	FY09		
	(\$20,000.0)	(\$20,000.0)	Recurring	General Fund
	\$20,000.0	\$20,000.0	Recurring	Northern New Mexico Economic Development Fund

(Parenthesis () Indicate Revenue Decreases)

* The earmark sunsets June 30, 2014. Because of this extended period, both the General Fund loss from July 2007 through June 2014 and the General Fund gain from July 2014 forward would be classed as recurring.

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY07	FY08	FY09	3 Year Total	Recurring or Non-Rec	Fund Affected
Personnel		\$367.6	\$367.6	\$735.2	Recurring	General Fund
Other Costs (Including Start-Up Costs)		\$42.0		\$42.0	Recurring	General Fund
Total		\$409.6	\$367.6	\$777.2		

Relates to SB 1115; Duplicates HB 914

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Finance and Administration (DFA)
Economic Development Department (EDD)

SUMMARY

Synopsis of Bill

Senate Bill 767 creates the Northern New Mexico economic development fund and annually appropriates \$20,000,000 from the general fund to the Northern New Mexico economic development fund in FY08 through FY14. This fund shall consist of future distributions, appropriations, gifts, grants and donations. Income from investment of the fund shall be credited to the fund. Money in the fund shall not revert or be transferred to another fund. . The annual appropriation provided in SB 767 would be funded via a monthly disbursement from the tax administration suspense fund of \$1,666,667.

The fund would be used to provide grants to communities in the North Central New Mexico Economic Development District, which we understand to be a regional governmental entity created pursuant to the Joint Powers Agreement Act. According to its website, the district currently encompasses the following counties: Colfax, Los Alamos, Mora, Sandoval, Rio Arriba, San Miguel, Santa Fe, and Taos. (The North Central New Mexico Economic Development District website can be found at <http://www.ncnmedd.com/index.htm>.)

The fund would be administered and grants from the fund made by the Local Government Division of the Department of Finance and Administration (LGD). SB 767 requires LGD to develop grant award criteria in cooperation with the North Central New Mexico Economic Development District.

Grants could be made for (i) water and wastewater projects; (ii) airport construction or expansion; (iii) solid waste facilities; (iv) public transportation equipment and vehicles; (v) telecommunications systems; and (vi) other economic development projects

FISCAL IMPLICATIONS

The distribution of \$20,000,000 contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance shall not revert to the general fund. The funds are to be distributed to the Northern New Mexico economic development fund in monthly increments of \$1,666,667.

This bill creates a new fund and provides for continuing appropriations. The LFC has concerns with including continuing appropriation language in the statutory provisions for newly created funds, as earmarking reduces the ability of the legislature to establish spending priorities.

The funds distributed to the Northern New Mexico economic development fund are funds that are currently remaining in the tax administration suspense fund at months end. These funds would otherwise be distributed to the general fund.

This \$20,000,000 earmark represents approximately 34% of the gross receipts tax we anticipate the State will receive in FY08 as a result of management of the Los Alamos National Laboratory changing from the University of California, which qualified for a gross receipts tax deduction because it was a 501(c) (3) organization, to Los Alamos National Security, Inc., a private company. This earmark expires in FY14.

The LGD will administer the Fund and all distributions from it. SB 767, however, provides no appropriation to the LGD to cover its costs of administration. The LGD suggested that SB 767 be amended to allow it to recover its actual administrative costs from the fund, up to a maximum of 3% of the appropriations to the fund in a given fiscal year or, in years when there are no appropriations to the fund, 3% of the fund balance at the beginning of the fiscal year.

The LGD estimates that it would need the following additional staff to discharge its new duties under HB 914: four Management Analysts-Advanced and two Financial Coordinators-Advanced. The personnel cost figures in the “Estimated Additional Operating Budget Impact” subsection of Section II are based upon the current median salary at the Local Government Division for these positions; *i.e.*, \$42,448 per year for a Management Analyst-Advanced and \$56,669 for a Financial Coordinator-Advanced. Benefit costs were calculated at 30% of annual salary. Other costs could include start-up costs, such as computers, furnishings, and the like, for these new positions as well as on-going operational costs, such as telephone charges, postage, duplication, rule-making costs, etc. Start-up costs are estimated at \$7.0 per position, for a total of \$42.0 in FY08. Other costs cannot be reasonably anticipated at this time, but would not exceed the annual cap proposed.

SIGNIFICANT ISSUES

DFA notes that SB 767 proposes that the State share its “windfall gain” from the new taxability of the Los Alamos National Laboratory. This gross receipts taxability derives from the management by Los Alamos National Security – a private company – instead of the University of California, which qualified for a gross receipts tax deduction because it was a 501(c) (3) organization. SB 767 would earmark approximately 34% of this anticipated revenue for infrastructure projects in eight counties. If SB 767 is enacted, it can be anticipated that individual local governments or consortiums of local governments will seek to have other State revenue (e.g., oil and gas taxes) be earmarked for their regions because of their proximity to the taxable transactions.

The LGD would award grants from the Fund, based upon criteria it develops in cooperation with the North Central New Mexico Economic Development District. This vests discretion to award over \$20,000,000 annually in a single division of an executive agency. The LGD suggests that, instead, SB 767 be amended to create a council comparable to the New Mexico Community Development Council to make awards from the Fund. The New Mexico Community Development Council is created in the New Mexico Community Assistance Act, and given power to determine the recipients and amounts of community development block grant awards. Appropriately constituted, such a council would help ensure that grant awards are made based upon a broad range of interests and perspectives.

Alternatively, functions envisioned for the LGD could instead be vested in the New Mexico Finance Authority, whose membership already allows for a diverse range of interests and perspectives.

The creation of the Fund has the potential to impact communities in a positive manner in conformance with the mission statement of the Economic Development Department.

RELATIONSHIP

Relates to SB 1115, which requests that the same distribution be made to the Southwest and South Central economic development fund. SB 1115 creates this fund.

Duplicates HB 914

TECHNICAL ISSUES

DFA notes the following technical issues:

SB 767 does not define the “communities” that would be eligible to receive grants. In addition, the membership in the North Central New Mexico Economic Development District is not set by statute. Consequently, the underlying Joint Powers Agreement creating the district should be consulted to determine whether existing members could be excluded against their will and under what circumstances (if any) other counties (e.g., Harding County or Bernalillo County) could join the district. This is important because, if membership in this Joint Powers Agreement entity is determined by existing and would-be members, local governments themselves – rather than the Legislature – would determine who is eligible for grants from the fund.

Section 2 of SB 767 enacts a new section of the Tax Administration Act, Section 7-1-6.55 NMSA 1978, which requires a monthly distribution from the tax administration suspense fund of \$1,666,667, pursuant to Section 7-1-6.1 NMSA 1978. Unlike other regular distributions from the tax administration suspense fund required by Sections 7-1-6.2 through 7-1-6.54, this new distribution is not tied to the underlying revenue stream, in this case the State gross receipts tax generated by virtue of the Los Alamos National Security, Inc. managing the Los Alamos National Laboratory. Among other things, this means that, should anticipated laboratory gross receipts tax revenue fall short, distributions to the Northern New Mexico Economic Development Fund will come from other General Fund revenue that potentially bears no connection to the region being benefited.

Section 2 of SB 767 authorizes a disbursement to the Northern New Mexico Economic Development Fund but does not expressly appropriate money to the fund. Moreover, Section 1(B) of SB 767 provides that “all other money in the fund is appropriated to the division to make grants for infrastructure projects in communities in the North Central New Mexico economic development district.” The “other” before “money” could be read as limiting the appropriation for grants to money other than the distribution pursuant to Section 7-1-6.55 NMSA 1978.

AMENDMENTS

DFA suggested the following amendments:

Lack of Definitive Definition of Eligible Communities and Geographic Boundaries. Assuming the Legislature wanted to target the existing members of the North Central New Mexico Economic Development District, SB 767 could be amended to provide that all political subdivisions within the following counties are eligible to receive grants from the fund: Colfax, Los Alamos, Mora, Sandoval, Rio Arriba, San Miguel, Santa Fe, and Taos.

Local Government Division Administrative Costs. SB 767 vests responsibility for a \$20,000,000 program in the LGD without appropriating to it any money with which to meet the new responsibility. SB 767 should be amended so as to appropriate to the LGD from the Fund an amount sufficient to cover its actual administrative costs from the fund, with such expenses being capped at 3% of the appropriation to the fund in a given fiscal year or, in years when there are no appropriations to the fund, 3% of the fund balance at the beginning of the fiscal year. This money should be appropriated to the Division. Any unreserved unallocated balance for administrative costs remaining at the end of the fiscal year should revert to the Fund or to the General Fund.

Distribution Limited to Los Alamos National Laboratory Gross Receipts Tax Revenue. Section 2 of SB 767 ought to be amended to (i) require that the proposed monthly distribution be paid exclusively from State gross receipts tax generated by virtue of the Los Alamos National Security, Inc. managing the Los Alamos National Laboratory; (ii) that, in the event there is insufficient revenue to make a full distribution, the amount of the distribution shall be reduced to the amount of available revenue; and (iii) monthly shortfalls can be made up in subsequent months, revenue allowing.

Clarifying “Other Economic Development Projects”. Clarification should be considered that would outline allowable expenditures under “other economic development projects”. In addition, to the extent it is envisioned that such projects will be pursuant to the Economic Development Act, “other economic development projects” should be amended to read “other economic development projects, such projects to be in accordance with the Economic Development Act, to the extent applicable.”

Creating Council to Award Projects/New Mexico Finance Authority. A council, analogous to the New Mexico Community Development Council, should be created to award grants. Alternatively, the functions envisioned for the Local Government Division could instead be vested in the New Mexico Finance Authority.

Appropriation Language. Section 2 of SB 767 could be amended by adding the following language after the existing text: “This amount is appropriated to the northern New Mexico economic development fund for expenditure in accordance with all applicable laws and regulations.” Similarly, language giving the authority for the LGD to spend up to 3% of the balance of the fund for administration should be adopted (see above). Section 1(B) of SB 767 could be amended by striking “other” on page 2, line 3, so that the pertinent text would read “all money in the fund is appropriated to the division to make grants for infrastructure projects in communities in the North Central New Mexico economic development district.”

BS/csd