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FISCAL IMPACT REPORT

SPONSOR Lundstrom ORIGINAL DATE 1/17/17
 LAST UPDATED 2/15/17 HB 6/aHAFC/ec

SHORT TITLE Reduce Appropriation and Transfer Funds SB _____

ANALYST Armstrong/Lucero

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY17	FY18	FY19		
\$63,248.2			Nonrecurring	General Fund
\$800.0			Nonrecurring	Non-Public School State Trust Land Beneficiaries

(Parenthesis () Indicate Expenditure Decreases)

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY17	FY18		
(\$32,200.0)		Nonrecurring	Reductions to prior General Fund Appropriations (see attachment)
\$60,048.2		Nonrecurring	Various Other State Funds appropriated to the General Fund (see attachment)
\$4,000.0		Nonrecurring	Game Protection Fund
\$7,500.0		Nonrecurring	State Road Fund
\$1,600.0		Nonrecurring	Motor Vehicle Suspense Fund

(Parenthesis () Indicate Revenue Decreases)

Relates to Appropriations in the General Appropriation Acts of 2015 and 2016

SOURCES OF INFORMATION

LFC Files

Responses Received From

NM Public School Insurance Authority
NM Livestock Board
Department of Game and Fish

SUMMARY

Synopsis of HAFC Amendment

The House Appropriations and Finance Committee amendment lowers the appropriation reduction to the Public Education Department from \$11.5 million, renames Section 4 to “Fiscal Year 2017 Appropriations”, increases the transfer amount from the NM Public School Insurance Authority from \$6 million to \$10 million, reduces the transfer from the state transportation pool account from \$5 million to \$1.5 million, and adds a \$2 million transfer from the Natural Resources Trustee Fund.

Synopsis of Bill

To achieve solvency for FY17, this bill reduces general fund appropriations for the current year, transfers cash balances in certain funds to the general fund, appropriates other state funds to offset some of the general fund reductions, provides authority to reduce agency operating budgets, and transfers remaining tobacco settlement fund cash balances to the operating reserve account of the general fund.

FISCAL IMPLICATIONS

This bill results in a \$95.4 million increase in general fund balances, including \$63.2 in revenue from other state funds and \$32.2 million in reduced spending.

Section 1. Reduces the 2015 general fund appropriation for Local Economic Development Act projects by \$11.6 million. The Economic Development Department (EDD) has \$34.3 million remaining in LEDA funds, and this reduction would leave the agency with \$14.8 million. EDD provided projections; however, the projections do not reconcile with SHARE reports, making it difficult to verify EDD’s projected encumbrances and available balances. The agency projects to spend \$60 million on speculative projects in the future.

Section 2. Reduces FY17 general fund appropriations by \$32.2 million.

Subsection A and B reduce appropriations to the Taxation and Revenue Department (TRD) for personnel costs by \$4.1 million, including \$2.5 million for the Tax Administration Program and \$1.6 million for the Motor Vehicle Program. Section 4(A) and 4(B) offset these reductions with appropriations from the State Road Fund.

Subsection C reduces appropriations to the Department of Public Safety’s (DPS) Law Enforcement Program for personnel costs by \$5 million. Section 4(D) offsets this reduction with an appropriation from the State Road Fund.

Subsection D reduces appropriations to the Public Education Department (PED) special “below-the-line” appropriations by \$11.5 million – excluding the public prekindergarten, K-3 Plus, and early reading initiative programs. The transfer reflects the same action

taken by the Legislature during the 2016 special legislative session but was vetoed by the governor.

Section 3. Authorizes the governor to reduce all agency general fund appropriations including the Legislature authorized in Laws 2016 Section 4 Chapter 11 (House Bill 2) and Subsection A of Section 3, and Sections 4, 5, 7 and 8 of Chapter 1 of Laws 2016 (Feed Bill) in FY17 \$60 million, or about 1 percent, if projected revenues are insufficient to meet general fund appropriations for fiscal year 2017. The bill exempts the Medicaid program and the Medicaid Behavioral Health program of the Human Services Department and the Developmental Disabilities Support program of the Department of Health from the general fund reductions.

Section 4. Subsections A, B, and D appropriate a total of \$7.5 million from the State Road Fund and repurpose \$1.6 million of prior appropriations to offset general fund reductions for TRD and DPS in Section 2. Subsection C increases FY17 appropriations from the Game Protection Fund to the Department of Game and Fish (DGF) by \$4 million to increase the payment to the State Land Office (SLO) for hunting and fishing access to state trust lands.

Section 5. Transfers \$60 million from other state funds to the general fund.

Subsection A transfers \$2.9 million from the state infrastructure bank (SIB). This transfer will result in a reversion of approximately \$7 million in federal matching funds. The Department of Transportation reports difficulty in attracting communities to the loan program. Audits from FY11 through FY16 show zero expenditures from the SIB in that period.

Subsection B transfers \$4 million from the Rural Infrastructure Revolving Loan Fund. While this will reduce the fund's unobligated balance to \$2 million, revenue from repayments will allow it to continue operating as a revolving loan fund. According to the Environment Department's FY15 audit, the fund was scheduled to receive repayments totaling \$6.9 million from FY16 through FY20.

Subsection C transfers \$4 million from prior general fund appropriations to the Wastewater Facility Construction Loan Fund (WWFCLF). This will result in a reversion of approximately \$16 million in federal matching funds from WWFCLF's \$150 million balance, \$88.9 million of which is unobligated due to difficulty attracting communities to the loan program.

Subsection D transfers \$4 million from the Enhanced 911 Fund. LFC staff projects the fund would end FY17 with a balance of nearly \$1.5 million and grow by over \$3 million by the end of FY18.

Subsection E transfers \$2 million from the Day-Care Fund. The fund receives close to \$800 thousand in revenue from fees collected for certified copies of birth certificates, is not budgeted for FY17, and is not included in the FY18 LFC recommendation. LFC staff projects the fund will end FY17 with a balance of \$2.4 million and grow to nearly \$3.3 million at the end of FY18.

Subsection F transfers \$1.65 million from surplus cigarette tax distributions for New

Mexico Finance Authority issued bonds for Department of Health facilities.

Subsection G transfers \$2 million from the Taxation and Revenue Department's Oil and Gas Accounting Suspense Fund. This balance and transfer were identified and recommended by the Department of Finance and Administration.

Subsection H transfers \$10 million from the New Mexico Public School Insurance Authority (NMPSIA) for risk-related coverage. NMPSIA reports a projected fund balance deficit of approximately \$11 million which reflects a fund transfer of \$6 million during the 2016 special legislative session and actuarial increases to case reserves for FY17. This transfer may make it difficult to fund future claims and may require higher premiums from the risk pool, or preferably, greater cost-sharing from districts with high cost claims. Although NMPSIA is not subject to the same funding reserve requirements as are other insurance companies transacting business in the state, it seeks to maintain fund reserve levels to cover claims at their ultimate cost, however, more often than not closes claims for less than what they were reserved at due to loss prevention efforts.

Subsection I transfers \$10 million from the Public Liability Fund administered by the Risk Management Division (RMD) of the General Services Department. The fund receives revenue from premium assessments from state agencies as well as from some cities, counties, and other local public bodies. The RMD seeks to maintain minimum fund reserve levels of at least 50 percent of estimated outstanding losses. The transfer will drop the fund health of the Public Liability Fund based on current estimates for outstanding losses, from 50 percent to 40 percent. However, estimates for case reserves have been decreasing and claims are also being closed for less than what they were reserved at.

Subsection J transfers \$1.5 million from the state transportation pool account of GSD. The fund receives revenue from vehicle leasing rates built into state agency operating budgets. These rates include factors for overhead, maintenance, and a five-year vehicle replacement cycle. GSD reports the transfer may impact the vehicle replacement cycle.

Subsection K transfers \$699.3 thousand from the Public Property Reserve Fund administered by the RMD of GSD. Along with the Public Liability Fund, this fund also receives revenue from premium assessments from state agencies as well as from some cities, counties and other local public bodies to cover vehicle and other property losses. This transfer will not drop the fund below RMD's targeted reserve level of 50 percent.

Subsection L through M transfer \$2.2 million from funds held by the Office of the Superintendent of Insurance, including:

- \$1.2 million from the Insurance Licensee Continuing Education fund. Fees are collected from continuing education students for certification and verification of their credentials. The producer licensing bureau within the Insurance Policy Program of the Office of the Superintendent of Insurance (OSI) has not requested to use these fees in the operating budget since the bureau has taken responsibility of the continuing education fees, resulting in a fund balance;
- \$784.2 thousand from the Insurance Fraud Bureau within the

Insurance Policy program of OSI. The Insurance Fraud Bureau sets aside five percent of the assessments that are collected for operating costs. The Insurance Fraud Bureau has not requested to use these funds in their operating budget, therefore leaving a fund balance; and

- \$202.6 thousand from the Title Insurance Maintenance Assessment Fund. These funds have also not been requested to be used in the Insurance Policy Programs operating budget, resulting in a surplus fund balance.

Subsection O transfers \$703.7 thousand from the New Mexico Medical Board Fund. The board generates approximately \$2 million per year from licensing fees. Legislation during the special session swept \$500 thousand from this account, leaving a projected fund balance of \$700 thousand.

Subsection P transfers \$1 million from the Livestock Inspection Fund. From FY12 to FY16, the balance in this fund more than doubled, rising from \$1.8 million to nearly \$4.6 million.

Subsection Q transfers \$1.25 from the Workers' Compensation Administration Fund. The fund receives close to \$12.5 to \$13 million in revenue from fees collected for operations of the Worker's Compensation Administration; \$12 is budgeted for FY17 and FY18. LFC staff projects the fund will end FY17 with a balance of \$3 million.

Subsections R through CC transfer \$9.7 million from New Mexico Environment Department (NMED) special revenue funds, which receive revenue from permit application and license fees to support different programs within the agency. The bill includes \$3.3 million from the Corrective Action Fund, \$948 thousand from the Food Service Sanitation Fund, \$903 thousand from the Water Conservation Fund, and \$720 thousand from the Air Quality Permit Fund. From the end of FY10 to the end of FY15, the total balance of NMED's special revenue funds grew by \$4.6 million, or 23 percent.

Subsection DD transfers \$313 thousand from the Concealed Handgun Carry Fund. The fund receives close to \$500 thousand per year in revenues from fees collected from concealed handgun carry permit fees. \$700 thousand is budgeted for use in FY17 and FY18. LFC staff projects the fund will end FY17 with a balance of \$732 thousand and grow to \$1.2 million in FY18.

Subsection EE transfers \$2 million from the natural resources trustee fund from court settlements with responsible parties to restore or protect natural resources.

Section 6. While part of the general fund reserves, the Tobacco Settlement Permanent Fund requires additional legislative action to access. Section 6 of this bill amends the statute governing the fund to allow any remaining balance in the fund on June 30, 2017, to be transferred to the operating reserve account of the general fund to meet the appropriations authorized by law from the general fund for fiscal year 2017. This is in addition to transfers authorized in Laws 2016 Second Special Session, Section 2 Chapter 4.

Section 7. Authorizes the transfer of FY17 Tobacco Settlement Permanent Fund revenues, in

excess of the amount transferred during the 2016 special session, to the general fund if revenues are insufficient to support FY17 appropriations.

Section 8. Provides the bill take effect immediately after being signed by the governor.

SIGNIFICANT ISSUES

Market pricing for oil and gas commodities collapsed contributing to weakened revenue projections for FY17 and FY18. Gross receipts, compensating tax, corporate income tax, and severance tax revenues also declined as various other sectors grew at a very slow pace.

It is necessary that the Legislature and the governor move to address this shortfall. This bill is part of a comprehensive approach to address fiscal solvency and leave an adequate reserve level at the end of FY17.

This bill along with its companion bills will address the FY17 \$85.5 million shortfall (based on the December consensus revenue estimate). If all companion legislation is enacted, reserves are projected at up to 3 percent at the end of FY17. LFC believes these actions are necessary to avoid possible legal issues and to comply with a constitutional mandate that appropriations not exceed revenues.

ADMINISTRATIVE IMPLICATIONS

The Department of Finance and Administration (DFA) will be required to reduce the operating budgets, appropriations, and adjust agency distributions accordingly. The General Appropriation Act of 2016 provided budget adjustment request (BAR) authority to rearrange budgets between programs and expenditure categories thus allowing agencies to prioritize funding and flexibility to manage the reductions in this bill.

For the transfers of certain fund balances to the general fund, LFC staff worked to identify fund balances that are not budgeted and will not impact agency operations.

The \$4 million appropriation to DGF in Section 4(C) allows the State Game Commission (SGC) to reenter negotiations with SLO regarding payment for licensee access to trust lands; however, it does not require an increased payment which is left up to SGC's discretion. If SGC does not expend the appropriation for the stated purpose of increased payment to SLO for hunting and fishing licensee access, the funding will revert to the Game Protection Fund.

COMPANIONSHIP, RELATIONSHIP

This is a companion bill and relates to other bills that are also part of a solvency solution, including: a bill that voids capital outlay and swaps general fund appropriated for certain projects and replaces it with severance tax bond funding, a bill to align insurance revenue with generally accepted accounting principles, and a bill to take credit in the state equalization guarantee for school district cash balances and swaps the credit for general fund appropriations.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

1. Failing to pass solvency measures would result in a violation of Section 6-4-6 NMSA 1978 and possibly require the Secretary of Department of Finance and Administration to suspend issuing warrants and the State Treasurer to suspend the redemption of warrants.
2. The state will incur a budget deficit in violation of Article IX of the New Mexico Constitution.

JA/al/jle

Summary of Fiscal Implications

Revenues

\$ 63,248.2	General Fund
\$ 800.0	Non-Public School State Trust Land Beneficiaries

GF Appropriation Reductions

\$ 11,600.0	Local Economic Development Act Fund
\$ 7,500.0	State Road Fund
\$ 1,600.0	Motor Vehicle Suspense Fund
\$ 11,500.0	Public Education Department Special Appropriations
\$ 32,200.0	

Offsetting Appropriations

\$ 7,500.0	State Road Fund
\$ 1,600.0	Motor Vehicle Suspense Fund
\$ 9,100.0	

Appropriation Increase

\$ 4,000.0	Game Protection Fund
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Transfers

\$ 2,900.0	State Infrastructure Bank
\$ 4,000.0	Rural Infrastructure Revolving Loan Fund
\$ 4,000.0	Enhanced 911 Fund
\$ 4,000.0	Wastewater Facility Construction Loan Fund
\$ 2,000.0	Day-care Fund
\$ 1,649.5	Cigarette Tax distributions for Department of Health facilities
\$ 2,073.1	Oil and Gas Accounting Suspense Fund
\$ 10,000.0	Public School Insurance Authority Fund for risk related coverage
\$ 10,000.0	Public Liability Fund
\$ 1,500.0	State Transportation Pool
\$ 699.3	Public Property Reserve
\$ 1,213.7	Insurance Licensee Cont Educ
\$ 784.2	Insurance Fraud Fund
\$ 202.6	Title Ins Maintenance Assess
\$ 703.7	NM Bd Medical Examiners
\$ 1,000.0	Livestock Brd-General
\$ 1,250.0	Workers Compensation-Admin
\$ 3,282.7	Ground Water Corr Action Fund
\$ 948.4	Food Service Sanitation Fund
\$ 903.2	Water Conservation Fund
\$ 720.0	Air Quality Permit Fund
\$ 650.0	Liquid Waste Fund
\$ 641.8	Radiation Protection
\$ 635.1	Tire Recycling Fund
\$ 556.9	Water Quality Management Fund
\$ 390.0	Underground Storage Tank Fund
\$ 383.0	Hazardous Waste Fund
\$ 317.2	Water Recreation Facilities
\$ 307.4	Public Water Supply System OPF
\$ 313.0	Concealed Handgun Carry Fund
\$ 2,023.4	Natural Resources Trustee Fund
\$ 60,048.2	