



Synopsis of HSIVC Amendment

The State Government, Indian and Veterans' Affairs Committee amendment creates an additional appropriation to HB91. The amendment adds \$230,000 to be appropriated out of the General Fund to the Department of Public Safety for expenditure in 2017 and 2018 for the extension of hours of commercial operation at the Santa Teresa port of entry. This amendment brings the total appropriation in HB91 to \$430,000.

Because the bill has appropriations, HB91 should be referred to the House Appropriation and Finance Committee.

Synopsis of Original Bill

House Bill 91 reduces appropriations to the Economic Development Department (EDD) General Fund by \$200,000 and appropriates \$200,000 to the EDD to extend the hours of operation at the Santa Teresa Port of Entry for its commercial traffic, declaring an emergency.

**FISCAL IMPLICATIONS**

The New Mexico Border Authority states that the anticipated annual expense for extended border operations for commercial traffic is estimated at \$450 thousand. The New Mexico Border Authority also states that one private sector entity has pledged up to \$250 thousand. With anticipated private funding, in addition to the \$200,000 appropriation in HB91, the cost of the northbound extended hours from 8:00pm to 12:00am for imports into the United States shall be covered. This will allow an increase of commercial traffic at the Port of Entry, with anticipation of an increase of product crossing over the New Mexico/Mexico border.

As of January 2017, LEDA fund balances are approximately \$25 million. The Economic Development Department states that these funds are encumbered or will be used for projects in the pipeline. However, amounts can be dis-encumbered to fund the emergency appropriation of \$200 thousand in HB91.

**SIGNIFICANT ISSUES**

The request will provide funds to the United States Customs and Border Protection Agency for the extension of hours of operation for commercial traffic at the Santa Teresa port of entry in New Mexico. It is an unknown whether the fundraising of private sector contributions has been fully exploited from the stakeholders who will benefit directly from the extended hours before committing public sector dollars.

These funds will provide additional commercial operational hours for the Santa Teresa port of entry. All private stakeholders currently routing freight through El Paso, Texas between the hours of 8:00pm and 12:00am will be able to take advantage of the extended hours for increased import binational commercial traffic into the United States via New Mexico, increasing dollars spent in the accommodations, food, retail industries within New Mexico.

**Significant issues raised by the Economic Development Department:**

Section 5-10-4 (A) of the Local Economic Development Act states: *No local or regional government shall provide public support for economic development projects as permitted pursuant to Article 9, Section 14 of the constitution of New Mexico except as provided in the Local Economic Development Act or as otherwise permitted by law.* This bill would be in conflict with several provisions of LEDA as identified below.

- 5-10-10 B. “*...Public support provided for an economic development project shall be in exchange for a substantive contribution from the qualifying entity.*” NMEDD, by legislative performance measures, has identified job creation and private investment by the qualified entity as acceptable substantive contributions. This bill and the activities associated do not appear to provide for job creation.
- 5-10-10 C. “*The qualifying entity shall provide security...to the State or entity ...providing public support for an economic development project.*” It is unclear what this security might be.
- 5-10-10 D. “*If a qualifying entity fails to perform its substantive contribution, the local or regional government shall enforce the project participation agreement to recover that portion of the public support for which the qualifying entity failed to provide a substantive contribution....*” It is unclear how this provision could be enforced.

**ALTERNATIVES**

The New Mexico Department of Transportation may be considered as their mission statement is to “Provide a safe and efficient transportation system for the traveling public, while promoting economic development and preserving the environment of New Mexico.”

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

The EDD will not receive funds to extend the hours of operation for the port of entry.

JM/jle/sb/al/jle