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

SPONSOR CC **ORIGINAL DATE** 1/17/17 **LAST UPDATED** 1/26/17 **HB**

SHORT TITLE Reduce Appropriation and Transfer Funds **SB** 113/CC

ANALYST Armstrong/Lucero

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY17	FY18	FY19		
$60,148.8			Nonrecurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY17	FY18		
($13,100.0)		Nonrecurring	Reductions to prior General Fund Appropriations (see attachment)
($8,000.0)	($8,000.0)	Recurring	Public Education Department Special Appropriations
$60,148.8		Nonrecurring	Various Other State Funds appropriated to the General Fund (see attachment)
$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
Relates to HB4, HB5, HB6, HB7, SB111, SB112, SB114

SOURCES OF INFORMATION
LFC Files

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

Department of Environment
Office of Natural Resources Trustee
Taxation and Revenue Department
Department of Public Safety
Workers' Compensation Administration
Higher Education Department

SUMMARY

Synopsis of Conference Committee Report

The bill, as amended by the conference committee report results in a $81.2 million increase in general fund balances in FY17. It reduces general fund appropriations by $21.1 million, including $4 million for Local Economic Development Act (LEDA) projects and $8 million for Public Education Department (PED) special appropriations. Of the PED reductions, $6 million must come from non-early childhood programs. The bill also applies $2 million of prior general fund appropriations to LEDA projects to infrastructure improvements at the Roswell International Air Center. Finally, the report adopted adjustments to the source and amount of transfers, resulting in a total of $60.1 million in general fund revenue in FY17.

The conference committee disapproved of House Floor Amendment #1.

Synopsis of House Floor Amendments #1 and #2

House Floor Amendment #1 suspends the senior severance tax bond capacity earmarked to the water project fund in FY17 and FY18, and provides for the proceeds to be appropriated to restore past general fund capital outlay expenditures. The amendment also preserves water rights adjudication funding to the Office of the State Engineer and the Administrative Office of the Courts in the amount they would have otherwise received as a result of the 9 percent allocation to the water project fund. Finally, the amendment directs the Board of Finance to revise the 2017 bonding capacity available for severance tax bonds authorized by the Legislature promptly after the effective date of this bill. This amendment results in a $24.4 million increase to general fund balances, with $10.4 million in FY17 and $14 million in FY18.

House Floor Amendment #2 reduces transfers from New Mexico Environment Department funds by $2.4 million, eliminating the transfers from some funds, lowering the amount of other transfers, and increasing the amount from air quality permit fees.

Synopsis of HAFC Amendment

The House Appropriations and Finance Committee (HAFC) amendments eliminated the appropriation from the Game Protection Fund to the Department of Game and Fish for hunting and fishing licensee access to state trust lands and reduced the transfer from the state transportation pool account from $5 million to $1.5 million.

Synopsis of SFC Amendment

The Senate Finance Committee (SFC) amendment lowered the appropriation reduction to the Public Education Department from $22 million to $8 million, renamed Section 4 to "Fiscal Year

2017 Appropriations", increased the transfer amount from the NM Public School Insurance Authority from $6 million to $10 million, and added 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

The bill, as amended by the conference committee report results in a $81.2 million increase in general fund balances in FY17. It reduces general fund appropriations by $21.1 million, including $4 million for Local Economic Development Act (LEDA) projects and $8 million for Public Education Department (PED) special appropriations. Of the PED reductions, $6 million must come from non-early childhood programs. The bill also applies $2 million of prior general fund appropriations to LEDA projects to infrastructure improvements at the Roswell International Air Center to enhance commercial operations. Finally, the report adopted adjustments to the source and amount of transfers, resulting in a total of $60.1 million in general fund revenue in FY17.

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 $28.7 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.
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> 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.
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> Subsection D reduces appropriations to the Public Education Department (PED) special "below-the-line" appropriations by $8 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. This is a recurring reduction.

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. HAFC's amendment removed subsection C which increased 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 $6.5 million from the Rural Infrastructure Revolving Loan Fund. While this will eliminate the fund's unobligated balance, 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 will disrupt the vehicle replacement cycle and the department's efforts to install GPS units in state motor pool fleet vehicles.

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 $7.3 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.

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 $69.1 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 from other state funds to the general fund, DFA and LFC staff worked to identify fund balances that are not budgeted and will not impact agency operations.

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 (HB5/SB112), a bill to align insurance revenue with generally accepted accounting principles (HB4/SB111), and a bill to take credit in the state equalization guarantee for school district cash balances and swaps the credit for general fund appropriations (HB7/SB114). House Bill 6 was introduced as a duplicate of SB113, but amendments have created differences, mainly the amount and source of fund transfers and appropriation reductions.

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/jl/jle

Summary of Fiscal Implications
SB113/CC

Revenues

$	60,148.8	General Fund

GF Appropriaton Reductions

$	4,000.0	Local Economic Development Act Fund
$	7,500.0	DPS & TRD - Replaced with State Road Fund
$	1,600.0	TRD - Replaced with Motor Vehicle Suspense Fund
$	8,000.0	Public Education Department Special Appropriations
$	**21,100.0**	

Offsetting Appropriatons

$	7,500.0	State Road Fund to DPS & TRD
$	1,600.0	Motor Vehicle Suspense Fund to TRD
$	**9,100.0**	

Transfers

$	2,900.0	State Infrastructure Bank
$	6,500.0	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
$	2,635.6	Air Quality Permit Fund
$	400.0	Radiation Protection
$	200.0	Tire Recycling Fund
$	150.0	Underground Storage Tank Fund
$	383.0	Hazardous Waste Emergency Fund
$	285.0	Public Water Supply System OPF
$	313.0	Concealed Handgun Carry Fund
$	2,023.4	Natural Resources Trustee Fund
$	**60,148.8**	

Summary of Economic Development Department
Local Economic Development Act (LEDA) Funds

As of 12/22/16

Project Description	FY	Appropriated Amount	Expended Amount	Encumbered Amount	Remaining Amount	Reversion Date
LEDA 2014 capital outlay appropriation (STB)	15	$5,000,000	$5,000,000	$0	$0	6/30/2018
LEDA 2014 general fund appropriation (Special)	15	$10,000,000	$10,000,000	$0	$0	6/30/2016
LEDA 2015 capital outlay appropriation (STB)	16	$10,000,000		$10,000,000	$0	6/30/2019
LEDA 2015 general fund appropriation ($27M Special, $1.6M capital outlay GF)	16	$28,600,000		$10,283,148	$18,316,852	$27M non-reverting, $1.6M reverts 6/30/2019; Swapped in Nov. 2016: $21.550 STB/ $15.950 GF
LEDA 2015 other state funds appropriation ($10.5M Special, $900K capital outlay OSF)	16	$11,400,000	$316,852	$1,016,852	$10,066,296	$10.5M non-reverting, $900K reverts 6/30/2019
LEDA 2016 capital outlay appropriation (STB)	17	$6,000,000			$6,000,000	6/30/2020
Total LEDA funds		**$71,000,000**	**$15,316,852**	**$21,300,000**	**$34,383,148**	

Source: Economic Development Department, LFC Files

Attachment 2